

Item 3.**Development Application: 43 Avona Avenue, Glebe - D/2020/1453**

File No.: D/2020/1453

Summary

Date of Submission:	4 January 2021
Applicant:	Heesun Kim
Architect/Designer:	3EM Architects
Owner/Developer:	Heesun Kim
Planning Consultant:	Chapman Planning Pty Ltd
Heritage Consultant:	John Outram Heritage & Design
Cost of Works:	\$2,413,915
Zoning:	R1 General Residential. The proposed residential accommodation (being a dwelling house and secondary dwelling) is permissible with consent.
Proposal Summary:	<p>Approval is sought for the demolition of the existing dwelling house, excavation, and construction of a new 3-4 storey dwelling with attached secondary dwelling fronting Avona Avenue. The development also includes a basement garage accessed from Strathmore Lane, swimming pool and associated landscape works.</p> <p>The proposal complies with the maximum height of buildings development standard of 12m and the maximum permitted floor space ratio of 1:1 contained in the Sydney LEP 2012.</p> <p>The site is not identified as a heritage item but is considered to have a 'neutral' character status within the Glebe Point Heritage Conservation Area (C28).</p>

The application was notified for a period of 20 days between 6 January 2021 and 25 January 2021. An extension of 7 days notification was provided due to the Christmas holiday period. A total of 69 submissions were received following public exhibition of the application. Issues raised include view loss, height, bulk and scale, detrimental impacts on the streetscape and heritage conservation area, demolition of a building with heritage significance, overshadowing, visual and acoustic privacy, and construction impacts. These concerns are addressed in the report.

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

The application is referred to the Local Planning Panel (LPP) for determination as it is contentious development, being a development receiving 25 or more unique submissions by way of objection.

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

Development Controls:

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

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Shadow Diagrams

Recommendation

It is resolved that consent be granted to Development Application No. D/2020/1453 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 the 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. The site has a legal description of Lot 18 in DP 3577, known as 43 Avona Avenue, Glebe. It is rectangular in shape with an area of approximately 525sqm. It has south frontage of 43.325m, part of which fronts Avona Avenue and an east secondary street frontage of 5.71m with vehicular access to Strathmore Lane. The site is located at the end of Avona Avenue and the majority of the site is elevated approximately 3m above Avona Street and Strathmore Lane. There is a drop in levels at the eastern end of the property whereby the garage sits approximately 3m below the main dwelling
2. As a consequence, the site sits just below the adjoining flat buildings to the immediate north and is visually separated from lower level dwellings to the south in Avona Avenue and Strathmore Lane. This is reflected in planning controls that designate this area with 12m height control and dwellings to the immediate south with a 9m height control.
3. The site contains a single storey dwelling accessed from Avona Avenue and a secondary dwelling (garage and single level above) to Strathmore Lane.
4. The surrounding pattern of development varies from single storey and two storey dwellings along the eastern side of Avona Avenue through to multi-storey apartment buildings along the western side of Avona Avenue and to the north of the site. The rear lane is generally a service lane providing access to rear car parking areas. There is also an apartment building which has a frontage (and access) onto Strathmore Lane.
5. The site is not heritage listed, but is a neutral building located in the Glebe Point Heritage Conservation Area (C28).
6. The site is located within the Glebe Point locality and is not identified as being subject to flooding.
7. Photos of the site and surrounds are provided below:

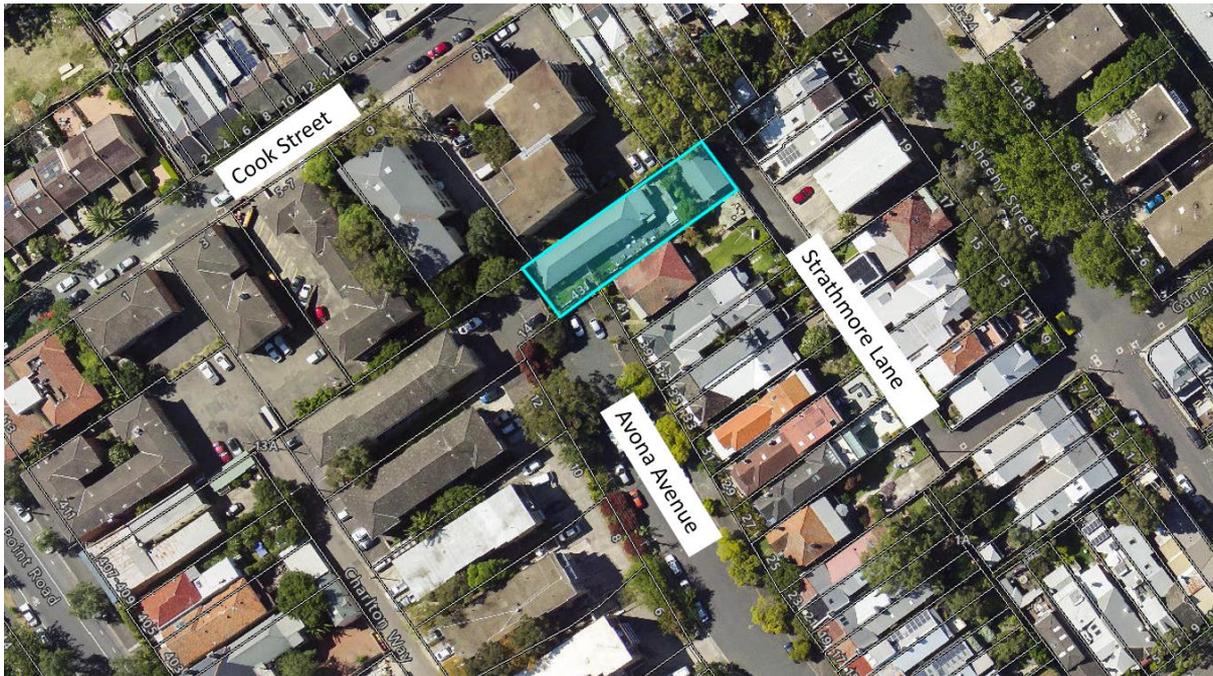


Figure 1: Aerial view of subject site and surrounding area



Figure 2: South (Avona Avenue) elevation of the subject site. The apartment building, 9A Cook Street, is located in the background.



Figure 3: Southern (side) elevation of subject site looking east



Figure 4: Existing setback between subject site at 9A Cook Street (north elevation)



Figure 5: South side elevation of 9A Cook Street and its relationship to the subject site



Figure 6: 9A Cook Street - east elevation. Subject site is to the south



Figure 7: South (side) elevation of 9 Cook Street - to the north-west of the subject site



Figure 8: Avona Avenue apartment buildings Nos. 14, 12, 10 and 8, to the west and south-west of the subject site



Figure 9: Avona Avenue terraces, with No. 41 located directly adjacent to (and below) the subject site



Figure 10: Avona Avenue streetscape looking north-east



Figure 11: Avona Avenue streetscape looking south-west to the escarpment. Apartment buildings are located behind the vegetation.



Figure 12: Strathmore Lane elevation of subject site, including existing garage and upper level secondary dwelling



Figure 13: Strathmore Lane elevation of subject site, with 9A Cook Street to the north and 41 Avona Avenue to the south



Figure 14: Rear of Avona Avenue terraces to Strathmore Lane, with subject site closest in frame



Figure 15: Rear of terraces directly opposite on Strathmore Lane looking north-east



Figure 16: Rear of terraces directly opposite to Strathmore Lane looking south-east

History Relevant to the Development Application

Development Applications

8. The following applications are relevant to the current proposal:
 - **D/2009/2003** – Development consent was granted on 21 May 2010 for the construction of a single bedroom dwelling above an existing garage onto Strathmore Lane.
 - On 11 July 2011, a Section 4.55 modification was approved to construct a new concrete wall along part of the rear boundary to Strathmore Lane to replace a collapsed wall. The works have since been completed.
9. In August 2020, Council issued pre-DA advice to the applicant with regard to a proposed single dwelling and secondary dwelling. Concerns were raised about the layout of the development appearing as that of a residential flat building, the scale of the development appearing as 4-5 storeys in the streetscape rather than 3 storeys, the calculation of floor space ratio, privacy and overshadowing impacts. The proposal has been amended from the scheme that was considered at pre-DA stage.

Compliance Action

10. The site is not subject to any compliance action.

Amendments

11. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information was sent to the applicant on 11 March 2021. It was requested that the applicant provide a structural report, a deep soil plan and for the hot water system specified in the BASIX certificate to be indicated in plan.
12. The applicant responded to the request on 22 March 2021, providing the necessary documentation for assessment.

Proposed Development

13. The application seeks consent for the following works:
 - Demolition of existing dwelling, studio addition and garage;
 - Removal of 2 x trees (Camelia and Cheese trees) within the site;
 - Construction of a 3-4 storey dwelling comprising 6 bedrooms and an attached secondary dwelling containing 1 bedroom. Openings face north, south, east and west, with balconies to the east and south and a roof terrace with solar panels and air conditioning units. Pedestrian access is provided from both Avona Avenue (for the secondary and main dwelling) and Strathmore Lane (for the main dwelling only); and

- Excavation for a basement garage to provide storage areas, rainwater tank and 2 x car parking spaces accessed from Strathmore Lane. A swimming pool and private open space are to be located above the garage.
14. The development is predominantly masonry in construction, with the ground floor to be finished in off form concrete, brick at first floor and metal cladding at second floor. The Strathmore Lane garage elevation is to be constructed of masonry, rendered and painted in white and grey
 15. Sections, elevations and a photomontage of the proposed development are provided below.

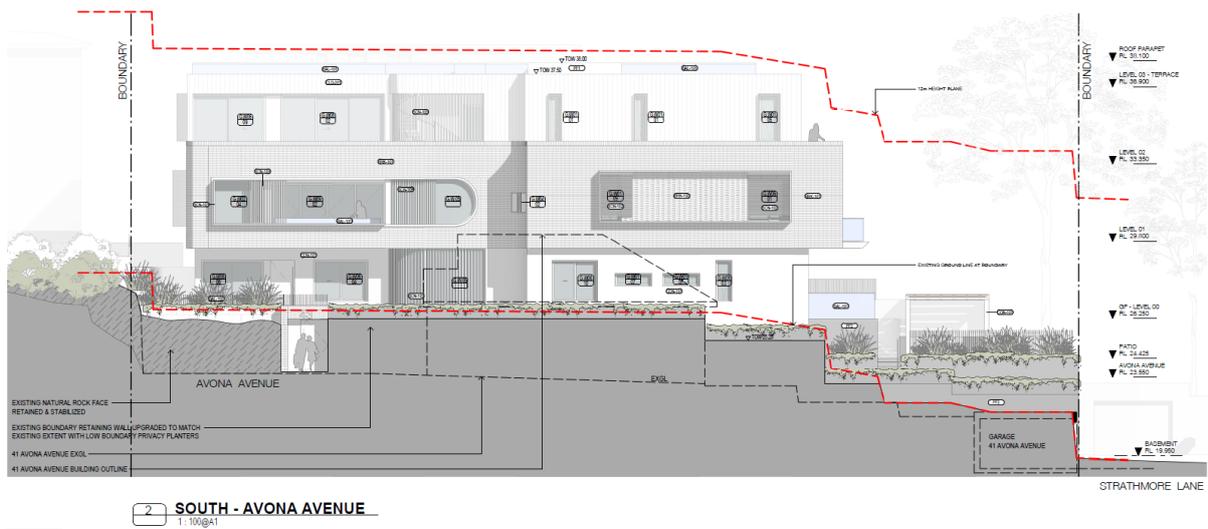


Figure 17: Proposed south (Avona Avenue) elevation

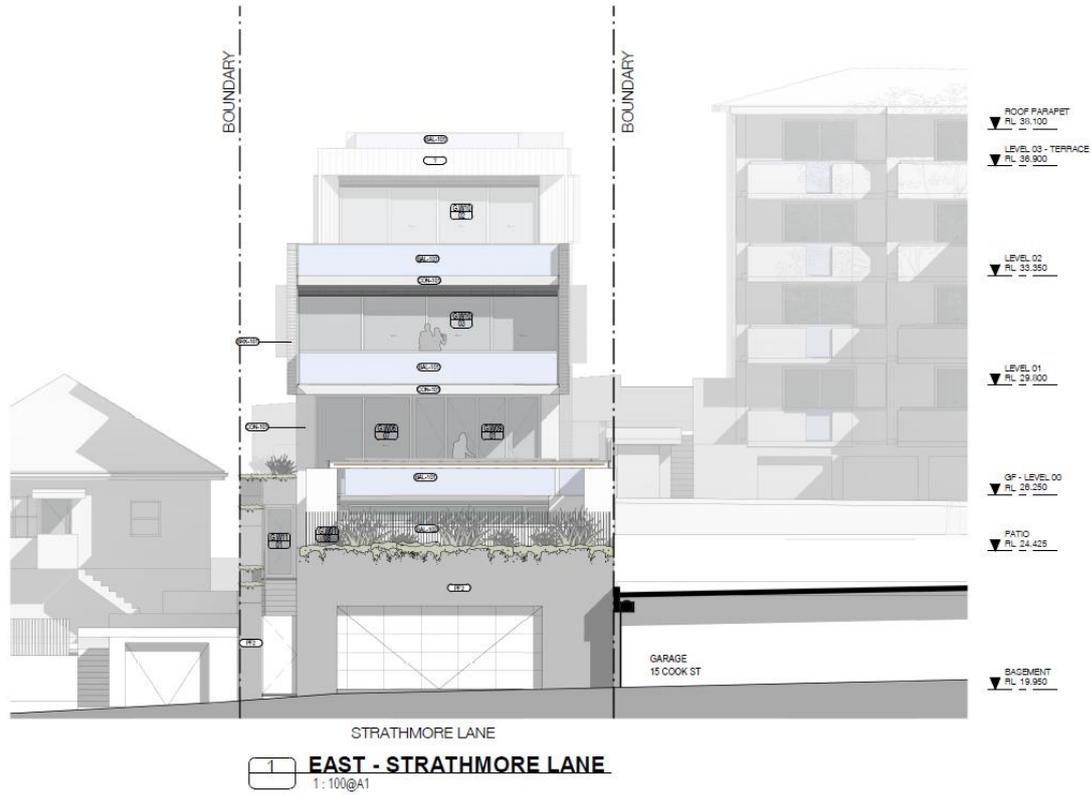


Figure 18: Proposed east (Strathmore Lane) elevation

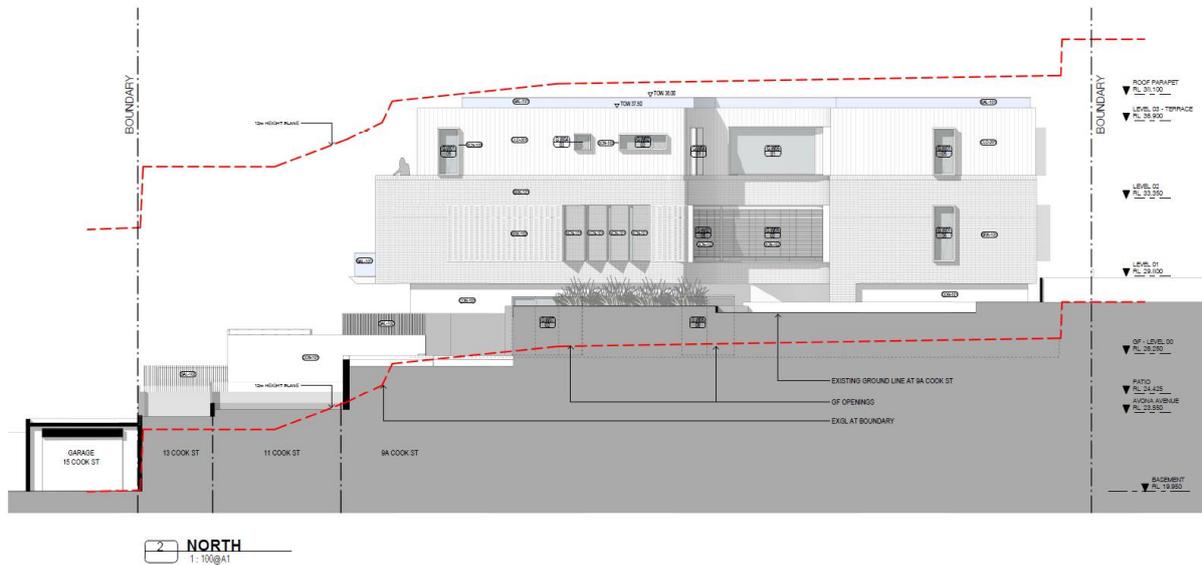


Figure 19: Proposed north elevation

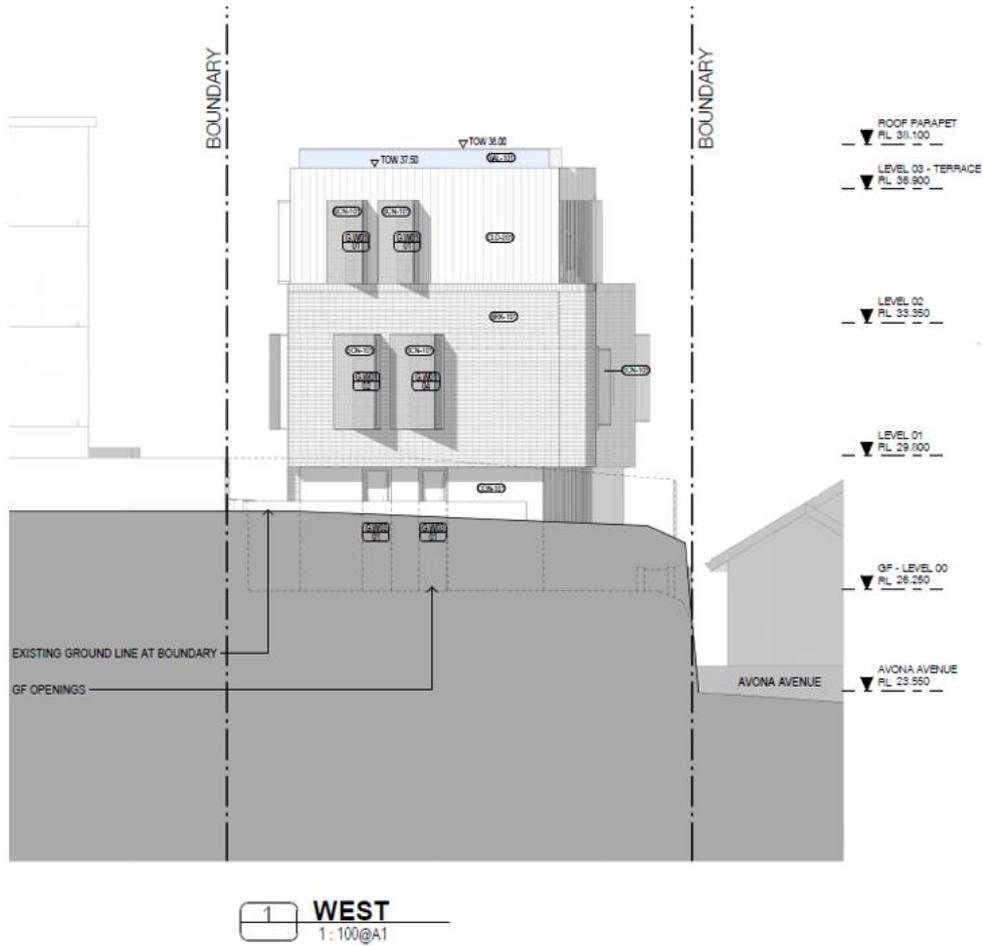


Figure 20: Proposed west elevation

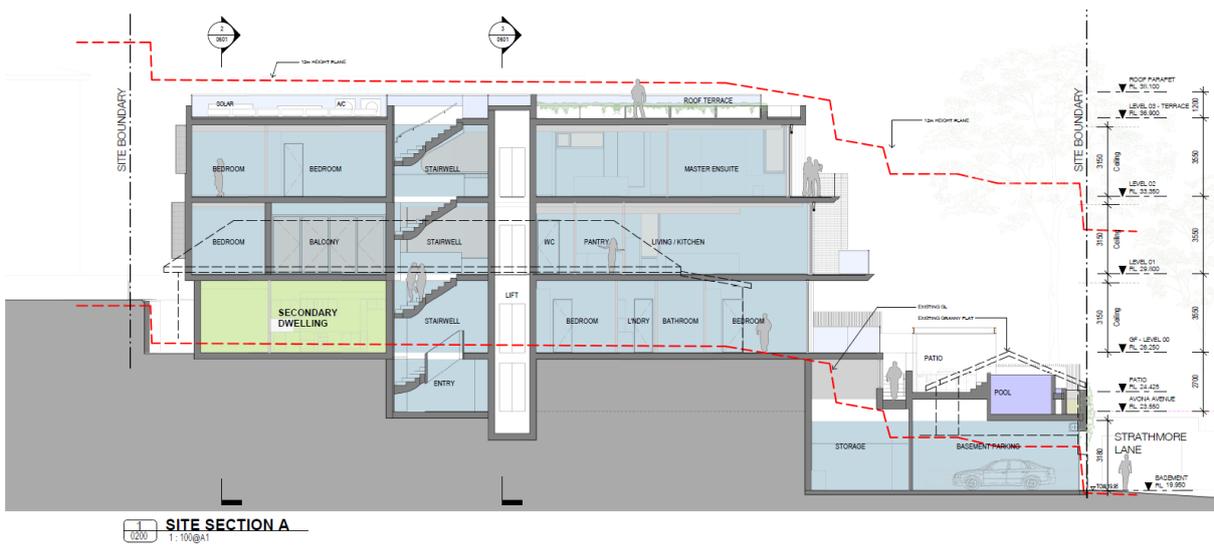
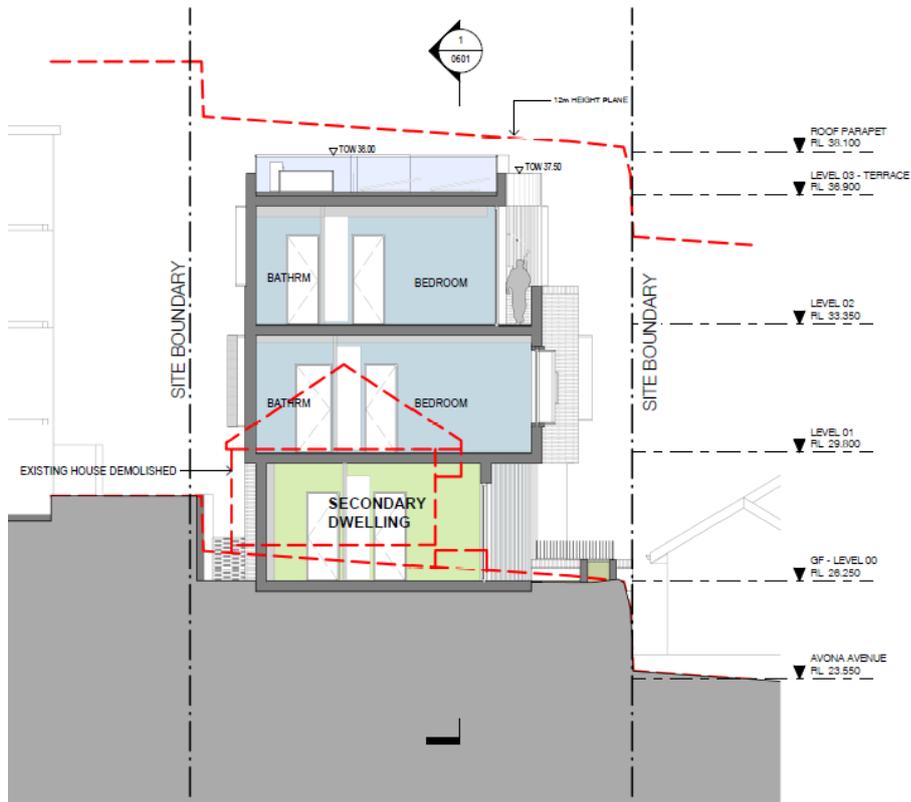


Figure 21: Proposed section (east-west)



2 SITE SECTION B
0200 1:100@A1

Figure 22: Proposed section (north-south)

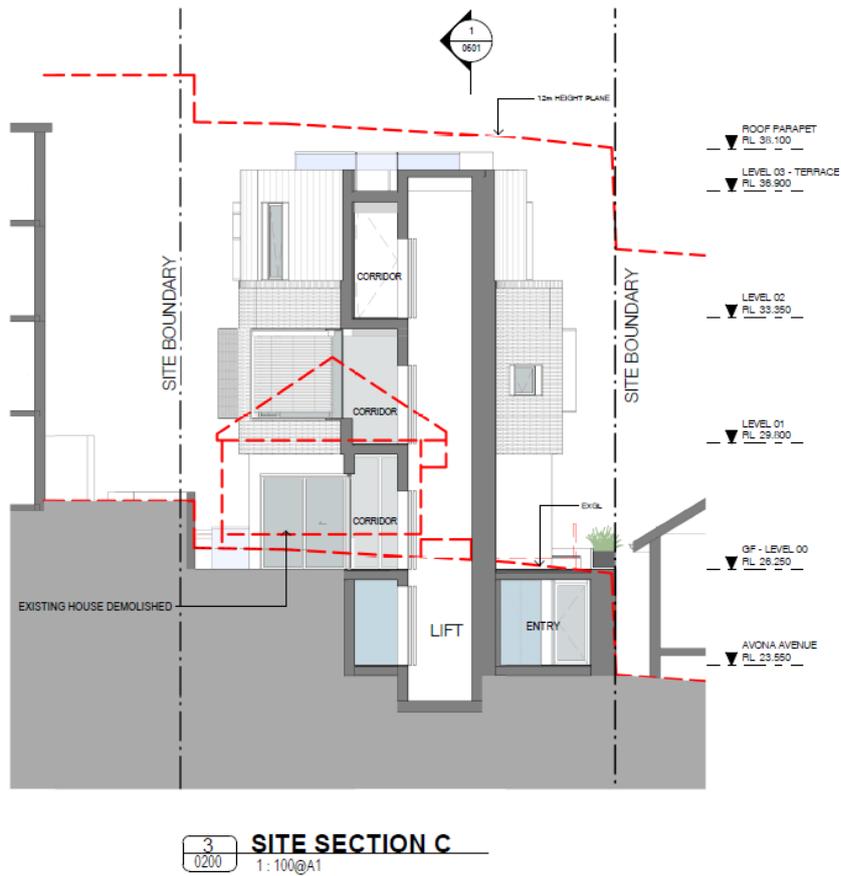


Figure 23: Proposed section (north-south, midway through the site)



Figure 24: Proposed photomontage - Avona Avenue

Assessment

16. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy No 55 - Remediation of Land

17. The aim of State Environmental Planning Policy (SEPP) No 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
18. The subject site has a history of residential use and is unlikely to contain contamination or imported fill. The proposal is therefore not subject to the provisions of SEPP 55.

State Environmental Planning Policy (Affordable Rental Housing) 2009

19. The aim of State Environmental Planning Policy (SEPP) (Affordable Rental Housing) is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

Division 2: Secondary Dwellings

20. Division 2 of the SEPP sets out provisions for new secondary dwellings, including gross floor area and subdivision.
21. The proposal is consistent with the SEPP in that the proposed secondary dwelling will be under 60sqm (at 50.6sqm) and will not result in any new dwelling or building on the site other than the principal dwelling and the secondary dwelling.
22. No subdivision is proposed as part of the subject development application. An appropriate condition requiring the secondary dwelling to remain within the same lot as the principal dwelling is recommended. Refer to Attachment A.

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

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

State Environmental Planning Policy (Infrastructure) 2007

25. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

Clause 45 Determination of development applications – other development

26. The application is subject to Clause 45 of the SEPP as the development involves the penetration of ground within 2m of an electricity distribution pole .

27. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised. Ausgrid has noted that the design submission must comply with the relevant network standards with regard to construction works near existing electrical assets. A condition is recommended, as per Attachment A.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

28. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The SREP requires the Sydney Harbour Catchment Planning Principles to 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.
29. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017

30. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
31. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.
32. The application proposes the removal of two trees within the site, a Small Leaf Camellia (3.5 metres in height) and a Cheese tree (approximately 5-8 metres in height).
33. Council officers support the removal of the Camellia as it is not a protected tree under the Sydney DCP 2012. The Cheese tree is considered to be of moderate retention value given its health and limited root soil volume, and may also be removed.
34. The removal of both trees is assessed in greater detail in the 'Discussion' section of this report.

Local Environmental Plans

Sydney Local Environmental Plan 2012

35. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the R1 General Residential zone. The proposed development is defined as residential accommodation (being a dwelling house and a secondary dwelling) and is permissible with consent in the zone. The proposal meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 12m is permitted. A height of 12m is proposed.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 1:1 or 525.2sqm is permitted. A floor space ratio of 1:1 or 525sqm is proposed.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.4 Controls relating to miscellaneous permissible uses	Yes	The maximum floor area permitted for the secondary dwelling is 60sqm. The proposed floor area for the secondary dwelling is 50.6sqm.
5.10 Heritage conservation	Yes	The subject site is located within a heritage conservation area. See further details in the 'Discussion' section below.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposed development satisfies the requirements of Clause 6.21(4) of the Sydney LEP 2012.</p> <p>The proposal presents an acceptable built form that is not out of character with the existing streetscape in so far that it is consistent with the scale of adjoining flat buildings with the same height and FSR controls, and as it is elevated above lower level terrace housing.</p> <p>The proposed development does not detrimentally impact on public view corridors. Further discussion on view loss from private properties is included in the discussion section of this report.</p> <p>The proposal will not result in unacceptable amenity impacts on surrounding development including overshadowing and solar access. Additional privacy impacts have been appropriately addressed.</p> <p>See 'Discussion' section below.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.4 Dwelling houses, attached dwellings and semi-detached dwellings	Yes	<p>A maximum of 2 car parking spaces are permitted.</p> <p>The proposed development includes 2 car parking spaces accessed from Strathmore Lane which complies with the development standard.</p>

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.15 Flood planning	N/A	The site is not identified as being subject to flooding. No further assessment of the flooding provisions is required.

Development Control Plans

Sydney Development Control Plan 2012

36. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

37. The site is located within the Glebe Point locality. The proposed development is in keeping with the unique character and the design principles of the Glebe Point locality. The proposal contributes to Glebe Point's mix of building types and steps with the topography of the site, enabling view sharing to the water and City skyline. The bulk and scale of the development, and view sharing are discussed in further detail within this report.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The application proposes the removal of 2 x trees on-site, a 3m high Camelia and an 8m high Cheese tree. The removal of these trees is supported. Refer to 'Discussion' section.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	No subdivision is proposed. A condition is recommended to ensure the secondary dwelling remains within the same lot as the principal dwelling. Refer to Attachment A.

Provision	Compliance	Comment
3.9 Heritage	Yes	The site is not heritage listed but is identified as a neutral building in a heritage conservation area. Refer to Discussion section.
3.11 Transport and Parking	Yes	A maximum of 2 car parking spaces is permitted. 2 car parking spaces are proposed, accessed from Strathmore Lane. The car spaces have appropriate dimensions that satisfy the Australian Standards.
3.14 Waste	Yes	Standard conditions are recommended requiring the proposal to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Assessed as acceptable	The site is permitted a maximum building height of 3 storeys. The infill building presents as a 3 storey development to Avona Avenue, with an entry proposed at lower ground (street level). When viewed from Strathmore Lane, lower ground level sits above the basement garage, creating what appears to be a part additional storey due to the sloping of the site. This is acceptable from a streetscape point of view and is contained within the overall height limit. See further details in the 'Discussion' section below.
4.1.2 Building setbacks	Yes	No setbacks are prescribed for the site under the Sydney DCP 2012 as a single dwelling.

Provision	Compliance	Comment
		<p>The subject site is unique in that it does not form part of the row of terraces on the eastern side of Avona Avenue and has no existing relationship with the apartment buildings to the north and west. The existing dwelling on-site sits forward of both 41 Avona Avenue and the closest wing of 9A Cook Street.</p> <p>There are no heritage items within the vicinity of the development, and no predominant front or rear building line for the site to follow.</p> <p>The proposed development is sited so that it is setback approximately 2.5m at the rear, 1.5m at the northern side boundary (closest to the apartment buildings), and 1.8m to the single storey terraces along Avona Avenue.</p>
<p>4.1.3 Residential amenity</p> <p>As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties.</p>		
4.1.3.1 Solar access	Yes	<p>The development will not adversely overshadow adjoining properties.</p> <p>Refer to 'Discussion' section.</p>
4.1.3.3 Landscaping	Partial compliance	<p>The proposal is accompanied by a landscape plan. As discussed under 'Tree Removal', it is recommended that new replacement tree plantings be provided. A condition is recommended for the landscape plan to be updated accordingly. Refer to 'Discussion' section and Attachment A of this report.</p>
4.1.3.4 Deep soil planting	Partial compliance	<p>The development provides 79sqm of deep soil planting and permeable paving which results in 15% of the site. It is noted however, that some of these areas are only to a depth of 300mm, due to the site being regraded and cut along the western boundary.</p> <p>It is recommended that deep soil areas be provided with at least 1000mm soil depth. Refer to 'Tree Removal' heading in the Discussion section.</p>

Provision	Compliance	Comment
4.1.3.5 Private open space	Yes	The development provides at least 16sqm of private open space at the northern boundary for the secondary dwelling, and 20sqm at the rear of the site for the main dwelling. Both areas are directly accessed from living rooms.
4.1.3.6 Visual privacy	Partial compliance	The application proposes balconies to the rear eastern elevation at levels 1 and 2, and a roof terrace that will result in adverse amenity impacts to adjoining development. It is recommended that the roof terrace and the level 2 balcony be deleted, and the level 1 balcony be modified to reduce privacy impacts. Refer to 'Discussion' section.
4.1.6 Secondary and laneway dwellings	Yes	The proposal includes an attached secondary dwelling that is to be located on the same land title as the principal dwelling, accessed via Avona Avenue. The controls relate to secondary dwellings on a laneway, which are not applicable in this instance. It is noted however, that the secondary dwelling complies with Clause 5.4 of the Sydney LEP 2012 regarding zoning and maximum size, as reiterated in Section 4.1.6 of the DCP.
4.1.9 Car parking	Yes	The application proposes an excavated basement garage, which is acceptable in this instance as the 2x car spaces are accessed from Strathmore Lane and not the primary frontage of the site.

Discussion

Heritage

38. The subject site is not a heritage item and is identified as a neutral building. The subject site is located within a heritage conservation area.
39. The proposal is for the full demolition of the existing single storey dwelling and studio/garage addition, and construction of a new dwelling and attached secondary dwelling.

Demolition and Excavation

40. The current dwelling was constructed around 1914 (or earlier) and has since undergone extensive alterations and additions. As such, the building has little significance and its demolition is supported.
41. Excavation is proposed at a depth of 5.7m in order to accommodate 2x car parking spaces at the rear of the site. Additional excavation is also proposed at Avona Avenue for a lift pit at a depth of 3.7m.
42. The application is accompanied by a Geotechnical report confirming no groundwater will be encountered as a result of excavation. Additionally, the structural report outlines a shoring system to address any potential adverse impacts to adjoining properties. Standard construction conditions of consent are recommended including dilapidation reports and sediment control measures during excavation and demolition.

New infill dwelling

43. The new development responds positively to the character of nearby dwellings and residential flat buildings, striking a balance of bulk and scale as the streetscape transitions from 4 storeys to single storey dwellings. The form of the infill development appropriately complies with the relevant LEP controls, including height of buildings and FSR.
44. No setbacks are prescribed for the site under the Sydney DCP 2012 as a single dwelling. The subject site is unique in that it does not form part of the row of terraces on the eastern side of Avona Avenue, but rather, relates more closely to the apartment buildings to the north and west, which have similar height, bulk and FSR controls. The existing dwelling on-site sits forward of both 41 Avona Avenue and the closest wing of 9A Cook Street. Whilst there is no predominant rear building line for the site to follow, it generally sits in line with the terrace row to the south, with the exception of 41 Avona Avenue. See site plan below.

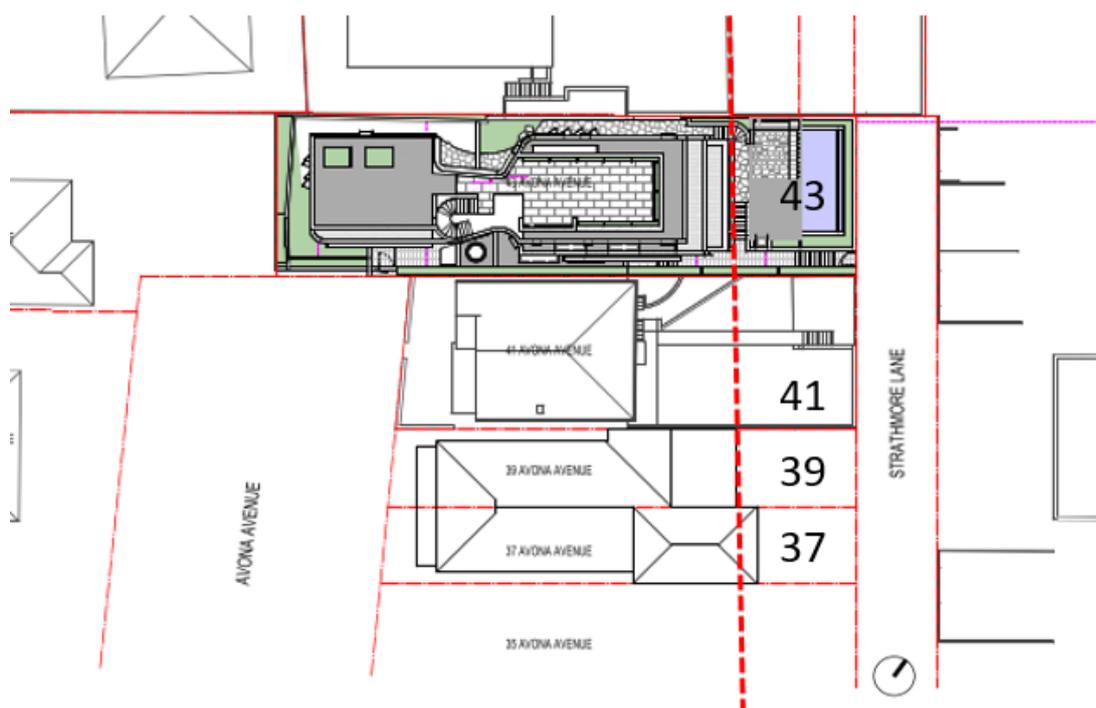


Figure 25: Proposed site plan depicting subject site and terrace row

- 45. The proposal presents as a 3 storey development to Avona Avenue, with an entry proposed at lower ground (street level).
- 46. When viewed from Strathmore Lane, the lower ground level sits above the basement garage, creating a part additional storey due to the sloping of the site. This is acceptable from a streetscape point of view, as this part of the development is not visible from Avona Avenue and is contained within the overall height limit. This element of the proposal has no impact on view sharing (discussed in further detail below), given that it sits at a level below that of the nearest ground floor apartment at 9A Cook Street.

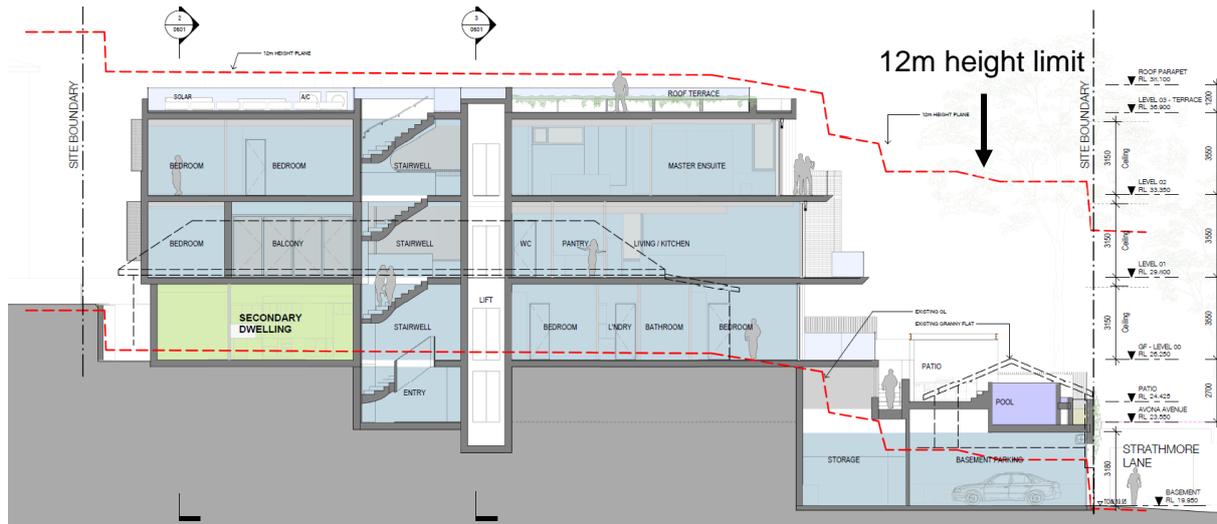


Figure 26: Proposed section through the site (east-west) indicating the 12 metre maximum building height limit and the height in storeys of the development

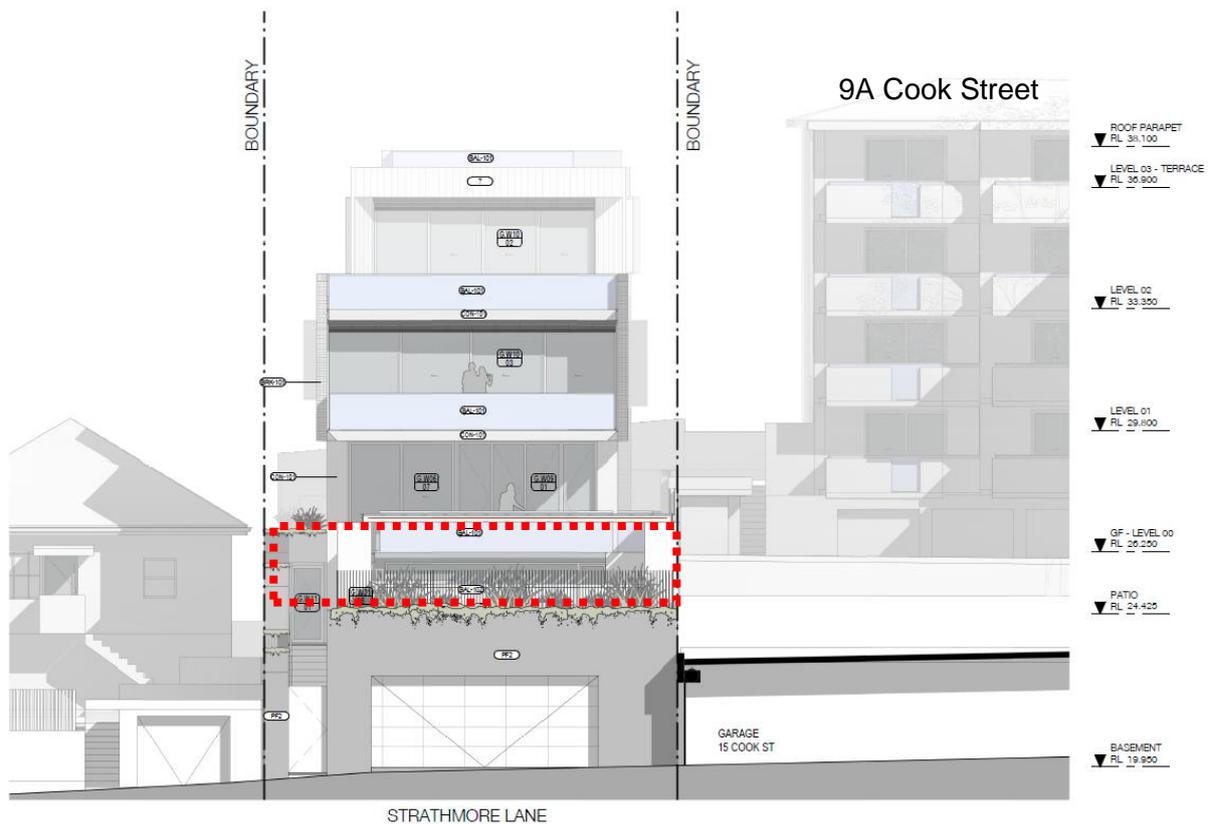


Figure 27: Proposed Strathmore Lane elevation depicting the partial additional storey. Note: the ground floor windows of the closest apartment within 9A Cook Street sits above the lower ground floor level of the subject site.

47. The proposal relates appropriately to the existing apartment buildings to the north and west and provides a 3 storey presentation within the Avona Avenue streetscape, creating a transition to the low-scale terraces. The proposal will not detract from the heritage conservation area and satisfies the objectives and provisions of the DCP with regard to height, bulk and scale.

Materials and finishes

48. The materials, colours and finishes are predominantly masonry and neutral in composition. To Avona Avenue, the ground floor is to be finished in off form concrete, with brick at first floor and metal cladding at second floor. The Strathmore Lane garage elevation is to be constructed of masonry, rendered and painted in white and grey.

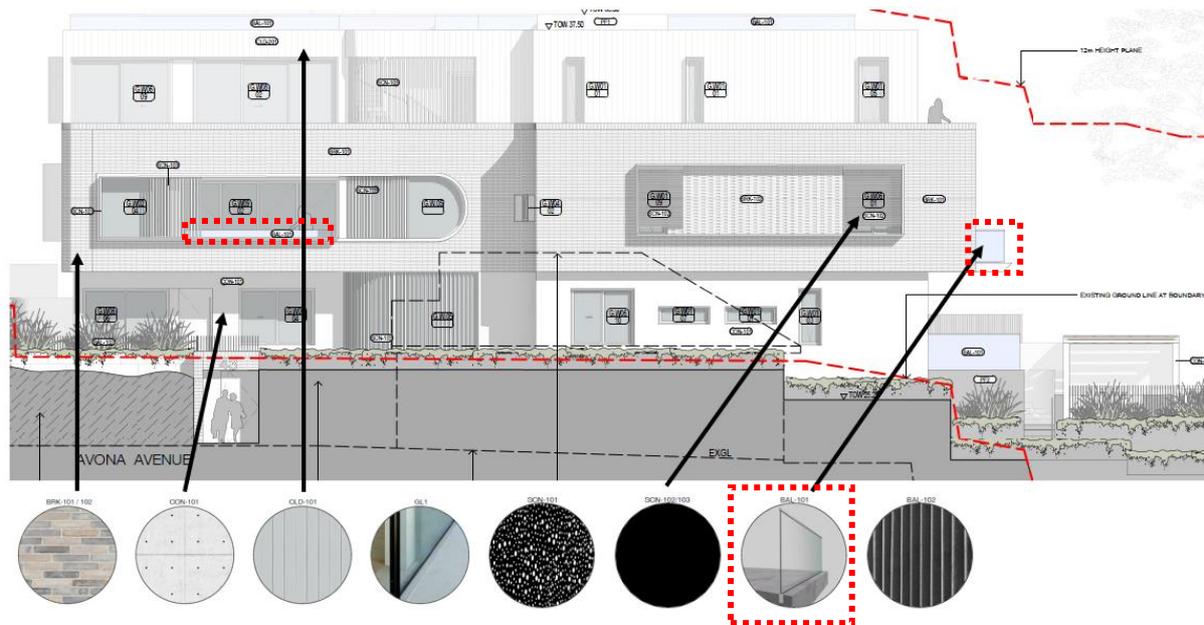


Figure 28: Proposed material schedule for the Avona Avenue elevation. Note; GL1 (glazing) and SCN-101 (perforated screen) are location on the north (side) and west (rear) elevations. Glass balustrades to be replaced are highlighted by red dashed lines.

49. The external finishes are considered to be generally acceptable, subject to the submission of more specific details of materials and colours. It is noted that glass balustrades are proposed for the balconies to Avona Avenue and the eastern elevation, which is not characteristic of the heritage conservation area. It is recommended that the glass balustrades be replaced with a contemporary metal balustrade with vertical balusters.
50. With the recommended design modification conditions relating to the replacement balustrades, the proposed materials and colour scheme will result in a contemporary building that transitions between unit development to the north and lower level single 'contributory' buildings to the south.

Overshadowing

51. Section 4.1.3.1 of the Sydney DCP 2012 recommends the proposed development and neighbouring developments achieve a minimum 2 hours' direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and a minimum of 50% of the required minimum area of private open space. This control does not apply to windows on a side boundary or windows only separate from a side boundary or passageway. The DCP also does not allow for the protection of rooms other than living rooms, such as kitchens, dining rooms, bathrooms, laundries or bedrooms.
52. It should be noted that access to sunlight for habitable rooms and private open space is measured in mid-winter (21 June) as this is when the sun is lowest in the sky, representing the 'worst case' scenario for solar access.
53. Immediately to the south of the subject site is a row of single storey terraces that are located at street level with Avona Avenue. Being elevated above Avona Avenue, the subject site has the potential to create additional solar access impacts, particularly during mid-winter.

- 54. The applicant has undertaken a detailed overshadowing analysis in plan at hourly intervals for the entire period prescribed by the Sydney DCP 2012, and in elevation at Strathmore Lane elevation between 9am and 11am at the winter solstice to examine the impact to 41 Avona Avenue to the direct south.
- 55. An excerpt of the shadow study is provided below. Shadow diagrams are provided at Attachment C.



Figure 29: Existing and proposed shadows at 9am - 21 June showing at least 8sqm of private open space of adjoining terraces retaining solar access



Figure 30: Existing and proposed shadows at 12 midday - 21 June showing at least 8sqm of private open space of adjoining terraces retaining solar access



Figure 31: Existing and proposed shadows at 3pm - 21 June

56. The study demonstrates the majority of shadows fall across roofs of the terrace row, and the Avona Avenue roadway. Nos. 39 and 41 Avona Avenue, the two closest terraces directly south of the subject site, retain at least 2 hours of solar access to at least 8sqm of their private open space at the rear between 9am and 12 midday at the winter solstice. Additionally, 41 Avona Avenue retains solar access to its living room window at the rear during the same time period.
57. A review of the floor plans, site visits and photographs supplied demonstrate 14 Avoca Avenue (the residential flat building) located directly west of the site, has one unit per floor facing the site. The living room windows are located closest to the northern side boundary, with levels 1 and 2 also containing a balcony. The building is setback approximately 17.3 metres from the western boundary of the subject site.
58. The shadow study demonstrates the proposal will have increased overshadowing to living room window of unit 12 at ground floor, however from 10am to 12 midday, and again from 2pm to 3pm, solar access is retained. 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 21 June.

Privacy

59. Section 4.1.3.6 of the Sydney DCP 2012 requires development to maximise visual privacy to side and rear boundaries via a number of measures, including offsetting the location of windows, building to the boundary where appropriate, setting back floors, providing high sill heights and screening devices.
60. Section 4.1.8 of the Sydney DCP 2012 additionally requires new balconies, verandahs and decks to respect the visual and acoustic privacy of neighbours.

Windows

61. The main dwelling includes new windows at all elevations at levels 1 and 2. Bedroom and bathroom windows are to be located at levels 1 and 2 to the west elevation (facing 14 Avona Avenue) and are set back 250mm from the boundary. Windows to the music room and dining areas at level 1 and the childrens' retreat and parents retreat at level 2 at the north elevation are to be set back 150mm.

62. The majority of windows are to be fitted with angled screening to avoid direct sightlines to and from the site. Those windows that are not screened are generally highlight windows set 1.8 metres above the finished floor level. It is noted however, that the large window to the corridor of level 2 at the northern elevation is not fitted with any screening or obscure glazing. Although not a highly trafficable space, this window will be in close proximity to balconies of 9A Cook Street, creating privacy impacts. It is therefore recommended that this window (labelled G W05-01 in elevation) either becomes a highlight window or be fitted with louvres or an obscure glazed treatment.

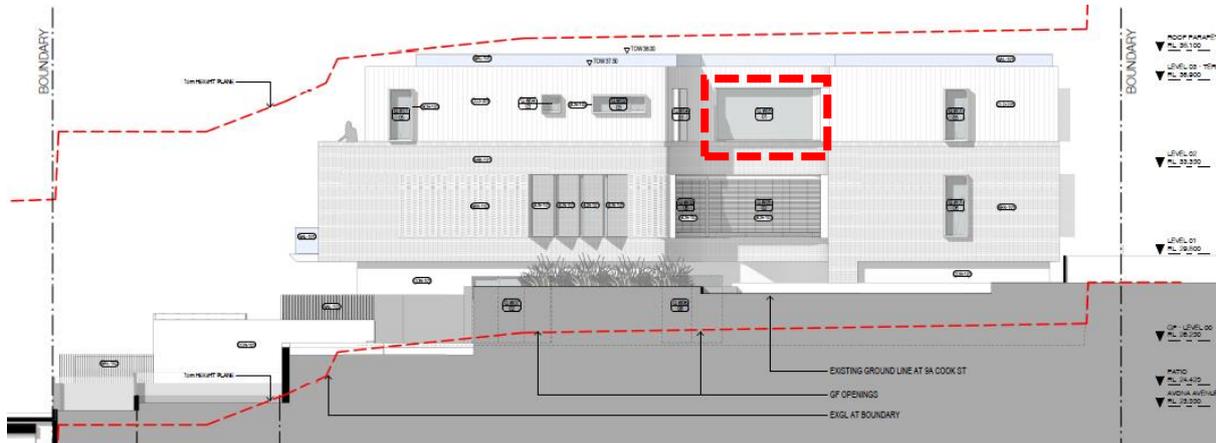


Figure 32: Proposed north elevation. Window GW05-01 is highlighted by red dashed lines.

63. The south elevation of the dwelling, to Avona Avenue, contains numerous windows associated with habitable rooms at ground, first floor and second floor. Most of these windows face the Avona Avenue roadway.
64. Windows G W06-10 and G W01-03 at ground floor are associated with bedrooms and sit in line with the roof level of 41 Avona Avenue. Both windows are setback 1.8m from the boundary, providing oblique views to the adjoining terrace rather than direct sightlines. This is considered acceptable given that these windows are to bedrooms rather than highly trafficable rooms, such as living areas.

Balconies

65. The proposed infill dwelling is to contain two balconies facing east to Strathmore Lane, at levels 1 and 2. The balcony at level 1 is associated with a living room area, with a depth of 2.5m, an area of approximately 18.3sqm, and projects 1.2m beyond the side blade walls. The balcony at level 2 (coming off the parents' retreat) has a depth 2m, an area of approximately 15.5sqm. There are no side walls and no roof at level 2.

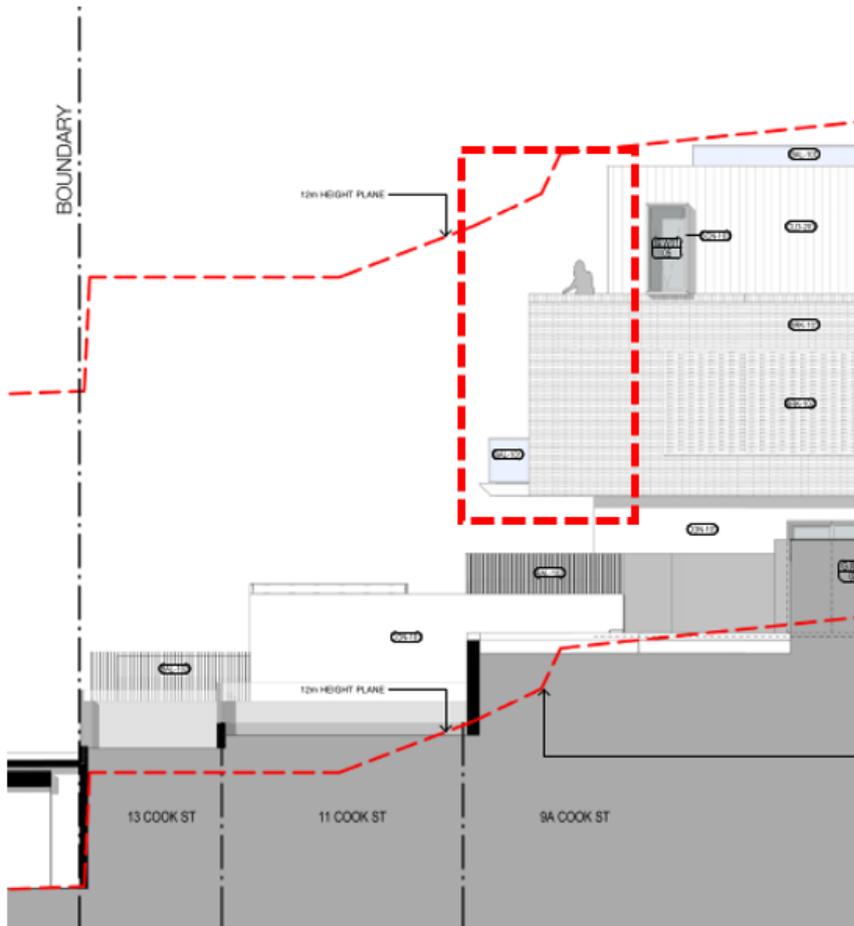


Figure 33: Proposed northern elevation of subject site. Balconies at levels 1 and 2 are highlighted by red dashed lines

66. The balcony at level 1 will result in overlooking of dwellings to both side boundaries which can be avoided with design modifications. It is recommended that the balcony be amended so that it does not project any further than the side blade walls (i.e. removing approximately 1.4m width). See north elevation below with projected balcony to be removed.

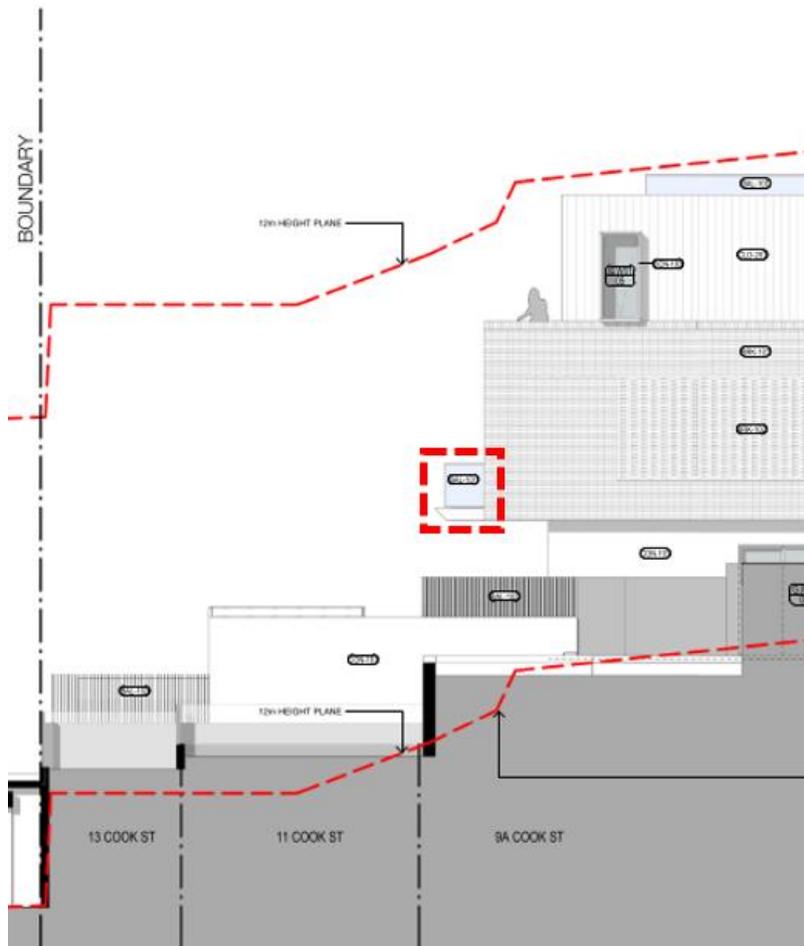


Figure 34: Proposed northern elevation of subject site. Balcony projection at level 1 to be removed is highlighted by dashed lines.

67. At level 2, the balcony extends the full width of the building envelope, creating adverse privacy impacts to both 41 Avona Avenue and Nos. 11-19 Cook Street due to its large area and its location above surrounding properties. Privacy measures, such as screening or blade walls are unlikely to mitigate impacts to neighbouring dwellings. Such measures rather, will add to view loss impacts, and increase bulk and scale at level 2 which is not supported. It is therefore recommended that whilst floor to ceiling glazing may remain in place at this elevation, a balustrade can be installed that sits flush to the glass line, and the remaining balcony area be blocked off with roofing so it cannot be used.

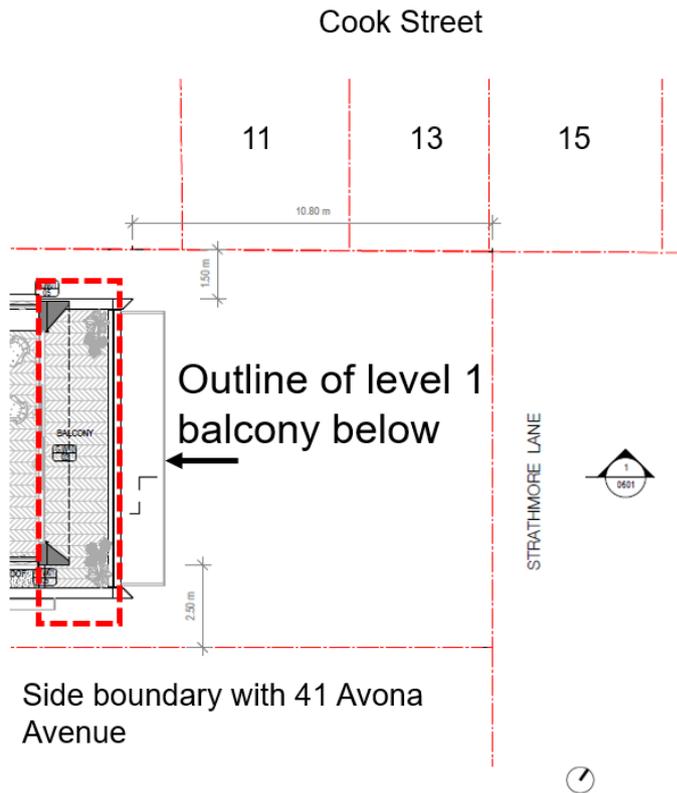


Figure 35: Proposed level 2 plan. Level 2 balcony to be modified is outlined by red dashed lines.

68. Conditions incorporating the above amendments are provided in Attachment A.

Roof terrace

69. A 61sqm terrace is proposed at roof level, set in 2.8m from the north and 3.4m from the southern side boundary.

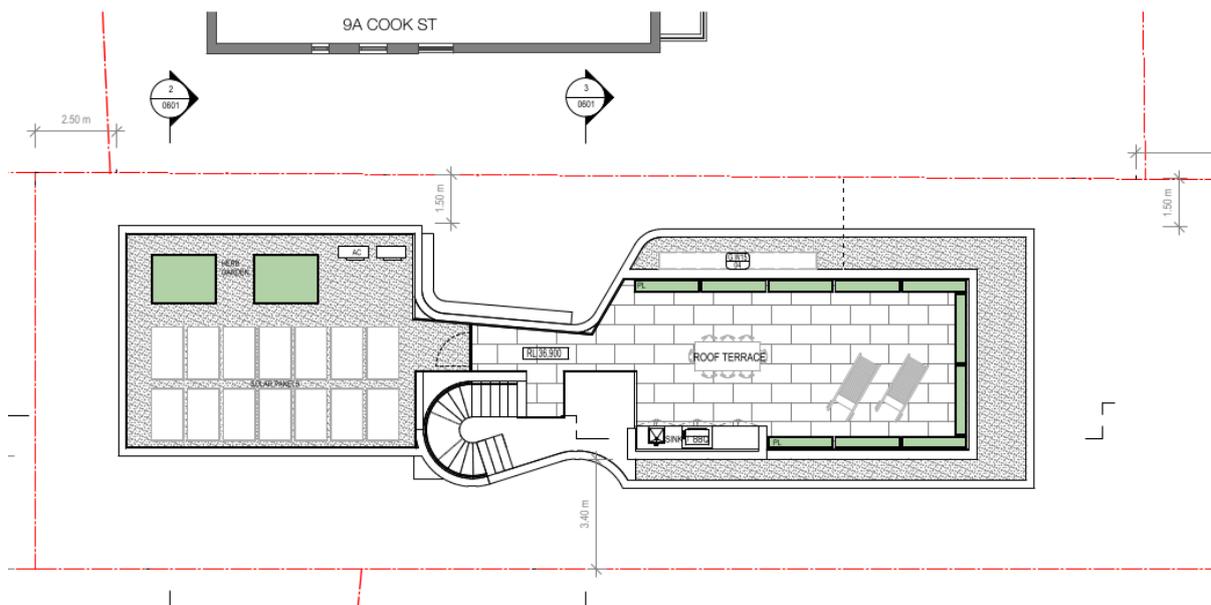


Figure 36: Proposed roof plan depicting terrace area

70. The large roof terrace is considered inappropriate in the context of apartment buildings and terraces in such a dense urban environment. The terrace allows for the congregation of large groups of people, creating adverse visual and acoustic privacy impacts to surrounding development, contrary to Section 4.1.8(b) of the Sydney DCP 2012. It is recommended that the roof terrace be deleted, noting that ample private open space is provided at ground level in excess of DCP requirements.
71. The deletion of the terrace area means a large staircase to the roof is no longer required, removing some bulk from the second floor of the development. Given that there are solar panels, air conditioning units and a herb garden also proposed at rooftop, it is recommended that an amended level 2 and roof plan be submitted showing the relocation of the solar panels, air conditioning units and herb garden.

View Sharing

72. The application proposes the demolition of an existing single storey dwelling and studio addition, and the construction of a 3-4 storey dwelling with attached secondary dwelling.
73. The site has a maximum building height of 12 metres and FSR of 1:1. The proposed development meets the 12 metre height limit and proposes an FSR consistent with the maximum at 1:1.
74. 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*.
75. The site is located in a pocket of the Glebe Point locality where the subject site and the sites to the north, west and south-west have a permitted height limit of 12 metres under the Sydney LEP 2012 (see Height in metres map below). Sites to the north-east and south have a permitted height limit of between 6 metres and 9 metres.



Figure 37: Building height map showing sites surrounding the site with varying height controls. Sites that are affected by view loss are outlined in red along to the north, west and south-west of the subject site.

76. The cluster of sites with a 12 metre height limit have views across the site in part as a result of the subject block not being developed and the existing building being at a level far below the permitted height limit. Some of these views are partial views from living rooms and balconies 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.
77. The subject development is to be set back 1.5 metres from the northern and southern boundaries, 2.5 metres from the western boundary. With conditions recommended regarding the reduction in size of the level 1 eastern elevation balcony, the building is set back approximately 10.8 metres from the eastern boundary. As discussed elsewhere in this report, it is also recommended that the roof terrace and the second level eastern elevation balcony be removed. This will further assist with areas of unnecessary view loss.

78. While the relevant planning controls make no provision for the protection of private views, in order to understand the impact of the proposal on existing views, an assessment has been undertaken based on the principles of view sharing established by Senior Commissioner Roseth in the Land and Environment Court decision of *Tenacity Consulting v Warringah Council [2004] NSWLEC 140 (Tenacity)*. The four-step assessment is set out as follows:
- 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.
 - 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.
 - 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.
 - 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.
79. In the submissions received in response to the public exhibition of the proposal, concerns were raised about loss of views from neighbouring residential properties contained within 9, 9A Cook Street, 12 and 14 Avona Avenue. These apartment buildings are to the north, west and south west of the subject site.
80. All sites have views to the east across the subject site towards the city skyline. Some have a partial view of the Sydney Harbour Bridge pylon and arch. Some buildings have views to the north towards the Anzac Bridge.



Figure 38: Aerial map depicting subject site in red circle and view corridors

81. The impact on views from all four buildings is discussed below.

9 Cook Street - west of the subject site

82. Number 9 Cook Street is a 4 storey apartment building (with a car park at ground floor) located to the west of the site containing 7 units. 9A Cook Street is located directly in front of the building, meaning that only the two units at level 3 have any views.

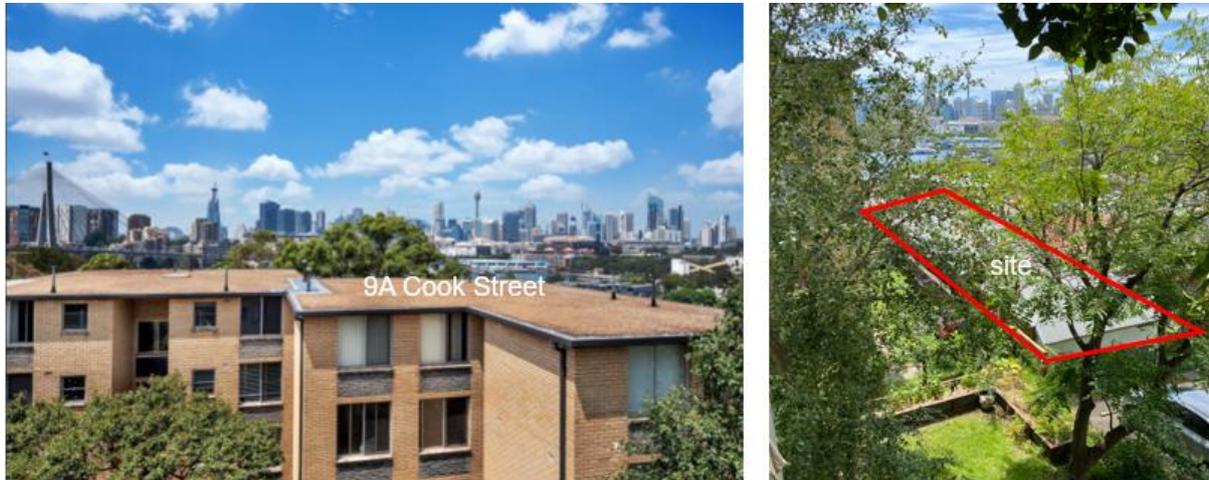


Figure 39: Photographs taken from living room window and side balcony (standing) of level 3 units within 9 Cook Street (resident supplied)

- (a) Views to be affected: Partial views to the east across the side boundary of the site towards the city skyline and Blackwattle Bay at level 3.
- (b) Part of property viewed from: Standing at the balcony located on the south elevation, being the rear of 9 Cook Street.
- (c) Extent of impact: As a result of the proposal, the unit obtaining views across 9A Cook Street will not be affected. The proposal however, will remove views obtained from the level 3 balcony of the unit at the rear of the apartment block. The city skyline will no longer be visible, although views to the sky remain.
- (d) Reasonableness: The view impacted upon is from the side boundary, which is difficult to protect. The protection of such views is not considered reasonable in this instance. The proposal complies with the relevant planning controls relating to height, bulk and scale, including height in metres, solar access and height in storeys. Introduction of setbacks at the northern boundary of the subject site, whilst alleviating some view impacts to this particular unit, will not result in the retention of a meaningful portion of the existing view. Rather, it will negatively affect other apartment buildings in close proximity.

9A Cook Street - north of the subject site

83. 9A Cook Street is a 5 storey apartment building (with ground floor garages) located to the north of the site containing 24 units. Corner and southern wing apartments that are affected are located at levels 3 and 4 of the building, with three windows to the side boundary, and balconies at levels 3 and 4 that have a view to the east and south-east across the side boundary to the subject site.

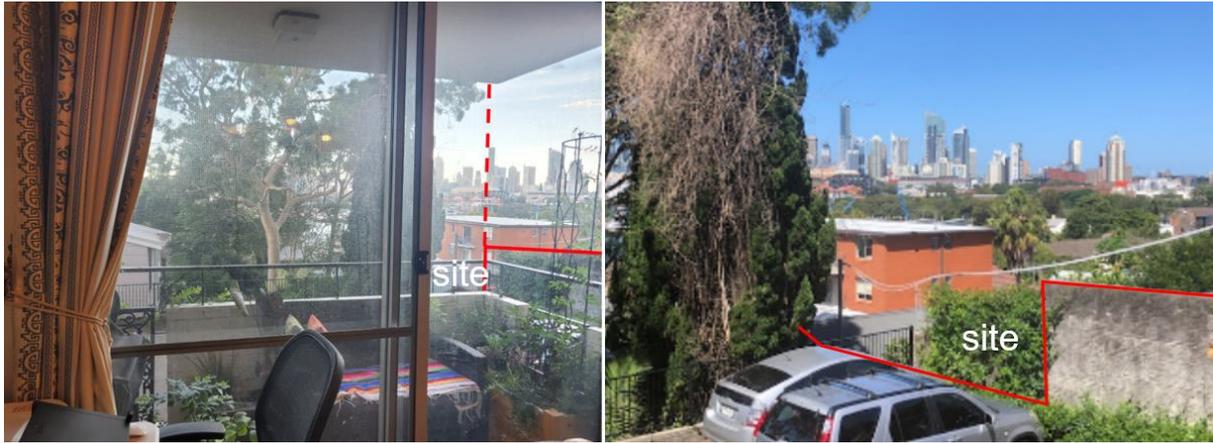


Figure 40: View from study and balcony (standing) of first floor apartment (resident supplied). Roof of studio addition within subject site can be seen in both images.

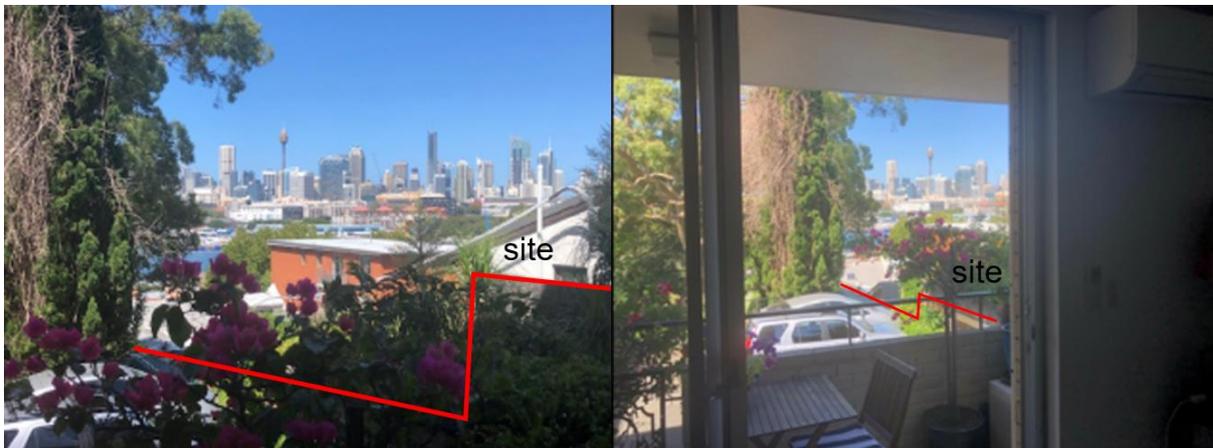


Figure 41: View from balcony and living room (standing) of first floor corner apartment (resident supplied)

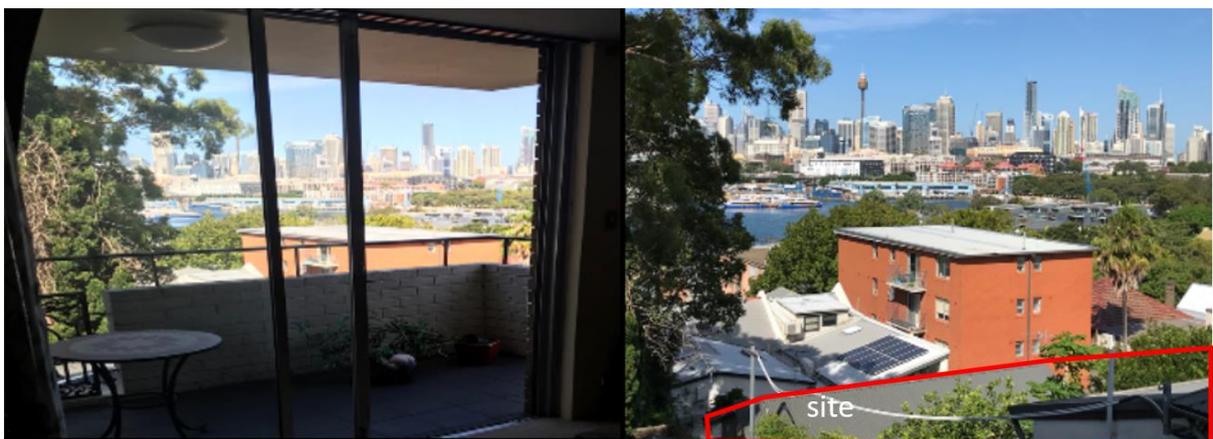


Figure 42: View from living room and balcony (standing) of second floor corner apartment (resident supplied). Roof of studio addition within subject site can be viewed in second image, outlined in red.



Figure 43: View from balcony (standing) of fourth floor apartment (resident supplied). Studio addition roof and roof of main dwelling of the subject site can be seen in image.

- (a) Views to be affected: Views of the city skyline, Blackwattle Bay to the east, across the side boundary of the site at levels 1, 2 and 3 of 9A Cook Street.
- (b) Part of property viewed from: Views are obtained when standing from balconies, living rooms and studies at all three upper levels.
- (c) Extent of impact: As a result of the development, the extent of impact at level 1 will be extensive as the city skyline will be obscured completely. At level 2 and 3 however, the impact is considered to be moderate as the tops of buildings forming the city skyline will be in view.
- (d) Reasonableness: Similarly, to 9 Cook Street, the views impacted upon are obtained from the side boundary, which are difficult to protect. The tops of city skyline buildings will be retained for levels 2 and 3. The only way to protect views at level 1 of 9A Cook Street is to prohibit any development above the height of the existing building. Opportunities for a more skilful design to reduce the view impact for level 1 are limited. It is therefore unreasonable to require all views at all levels across the side boundary to be maintained.

12 Avona Avenue - south-west of the subject site

84. 12 Avona Avenue is a 3 storey apartment building located to the south-west of the site containing 18 units. Photographs have been supplied for affected apartments located at ground, level 1 and level 2 of the building, with windows and balconies to the side boundary at level 2, as well as windows and balconies at ground floor and level 1 that have a view to the north-east and east across the side boundary to the subject site.



Figure 44: View from living room window (standing) of ground floor apartment at front of building (resident supplied). Roof of main dwelling of the subject site can be seen in image.



Figure 45: View from balcony and living room (standing) of first floor apartment at front of building (resident supplied). Roof of main dwelling of the subject site can be seen in first image.



Figure 46: View from balcony (standing) of second floor apartment at rear, side elevation of building (resident supplied). Roof of main dwelling of the subject site can be seen in image.



Figure 47: View from window (standing) of second floor apartment at rear, side elevation of building (resident supplied). Roof of main dwelling of the subject site can be seen in image.

- (a) Views to be affected: Views of Barangaroo, the city skyline, Blackwattle Bay and partial views of the Harbour Bridge across the side and front boundaries of 12 Avona Avenue to the east, across the subject site in some instances.
- (b) Part of property viewed from: Views are obtained when standing from the ground floor living room window, balconies, living rooms and bedrooms at level 1 front elevation and windows and balconies at the rear side boundary at level 2.
- (c) Extent of impact: The extent of impact is considered to be moderate in all instances given the building's position in relation to the subject site. Views obtained from the side boundary will be partially obscured by the proposal, although views to Barangaroo and Blackwattle Bay will remain. The apartments at ground and first floor at the front of the site will lose iconic views to the Harbour Bridge, however views to Barangaroo, Blackwattle Bay and the city skyline will remain.

Reasonableness: The impact is reasonable as the majority of views obtained from apartments in this block are maintained, allowing for view sharing between sites.

14 Avona Avenue - west, directly behind the subject site

85. 14 Avona Avenue is a 3 storey apartment building located to the west of the site (being directly behind it), containing 18 units. Photographs have been supplied for affected apartments located at ground, level 1 and level 2 of the building, with windows and balconies facing east across the subject site.

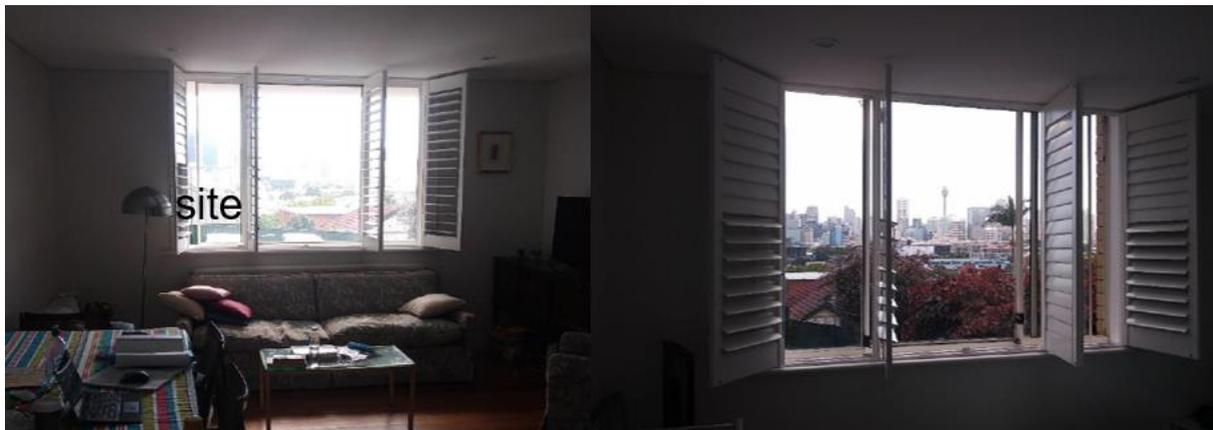


Figure 48: View from living room and bedroom (standing) of ground floor apartment at front of building (resident supplied). Roof of main dwelling of the subject site can be seen in first image.



Figure 49: View from kitchen and living room (standing) of first floor apartment at front of building (resident supplied). Roof of main dwelling of the subject site can be seen in image.



Figure 50: View from living room and bedroom (standing) of second floor apartment at front of building (resident supplied). Roof of main dwelling of the subject site can be seen in images.

- (a) Views to be affected: Views to Barangaroo, Blackwattle Bay and the city skyline. At second floor, apartments are able to see the top of the Anzac Bridge.
- (b) Part of property viewed from: Standing at living room windows and balconies located at east elevation, looking directly across the site.

- (c) Extent of impact: As a result of the proposal, the extent of impact is considered to be moderate. Views obtained across the site to Barangaroo and part of Blackwattle Bay will be obscured by the proposal, however views to the city skyline (i.e. Sydney Tower) will remain. Additionally, views to Anzac Bridge for the upper level apartment will be maintained.

Reasonableness: The planning controls allow for development of a height and density that will result in some impact to existing views across the subject site. The units will maintain partial views of the city skyline from balcony areas and living areas. The view impact is acceptable.

86. The view sharing assessment has found that the protection of views from adjoining properties is not considered reasonable in this instance. As mentioned above, most of the affected sites are obtaining views as the subject block has not been developed and as the existing building is at a level far below the permitted height limit.
87. The view loss is a result of a development that is compliant with the LEP height and floor space ratio controls. The proposal does not result in any adverse overshadowing impacts to surrounding development.
88. The views impacted upon for the most part are from the side boundary. Side boundary views are difficult to protect. It is noted however, that although some views of Blackwattle Bay and the Harbour Bridge are lost as a result of the proposed development, high value iconic views of the Sydney Tower and city skyline are maintained.
89. 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 proposal are reasonable for the reasons described above.

Tree removal

90. The application proposes the removal two trees within the site to facilitate the construction of the new dwelling:
- (a) a 3.5 metre tall Camellia tree located close to the Avona Avenue frontage of the site (No. 3 on the site plan); and
- (b) a 5-8 metre tall Cheese tree located at the rear of the existing dwelling (No. 4 on the site plan).

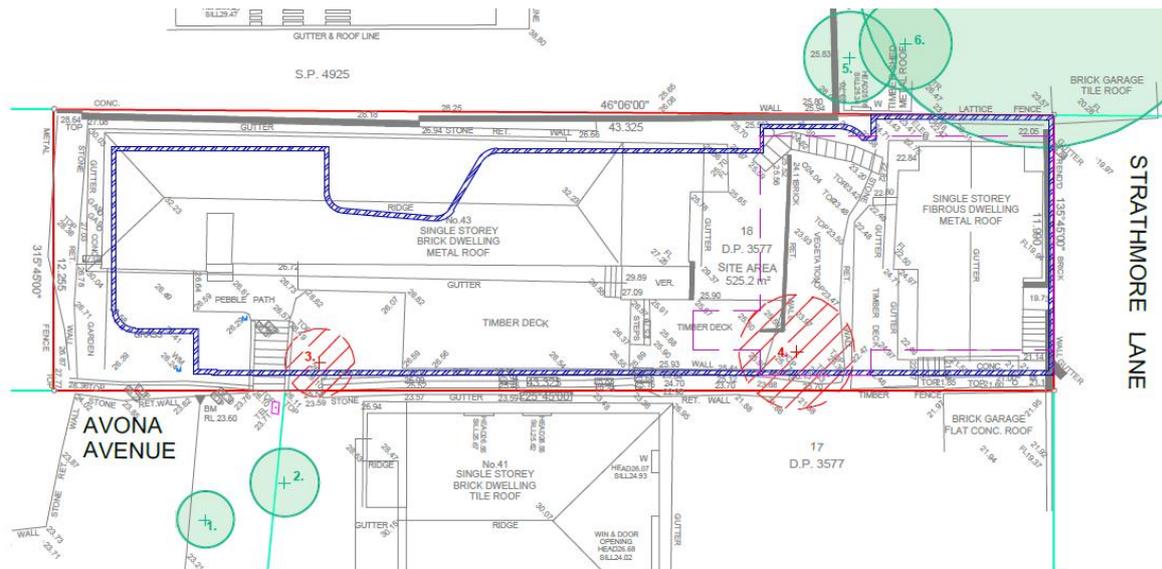


Figure 51: Site plan of existing trees

91. Section 3.5.3(1) of the Sydney DCP 2012 requires development consent to remove a tree with a height of 5 metres or more; a canopy spread of over 5 metres, has a trunk diameter of more than 300mm (measured at ground level) or is listed in the Register of Significant Trees.
92. Neither tree is listed as a significant tree nor heritage listed under the Sydney LEP 2012. The Camellia tree, being less than 5 metres in height, is exempt under the Sydney DCP 2012 and can be removed.
93. City staff have undertaken a site inspection to view the specifications and health of the Cheese tree. The tree is located on a small sandstone shelf on the eastern side of the property. The tree has previously been lopped and has limited root soil volume. As such, the tree has a moderate retention value. The City's Tree Management Unit does not object to its removal, subject to replacement trees being planted.
94. It is therefore recommended that 3 trees in total be planted within the site:
 - (a) 2 x trees that will reach a minimum height of 5 metres, canopy spread of 5 metres; and
 - (b) 1 x tree that will reach a mature size of 8 metres and a canopy spread of 8 metres.
95. The proposed plans provide deep soil areas in some parts that are only to a depth of 300mm over sandstone, due to the site being regraded and cut along the western boundary. It is recommended that plans be provided depicting deep soil areas with a minimum depth of 1000mm over sandstone to allow for the planting of these trees.
96. Appropriate conditions are recommended in Attachment A addressing the above tree removal/replacement and deep soil concerns.

Consultation

Internal Referrals

97. The application was discussed with Council's Environmental Health Unit, Heritage and Urban Design Unit, Surveyors, Transport and Access Unit, and Tree Management Unit who advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

98. The application was referred to Ausgrid in accordance with Clause 45(2) of the Infrastructure SEPP. Comments were received on 19 January 2021 as discussed within this report.

Advertising and Notification

99. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 20 days between 6 January and 25 January 2021 due to the exhibition falling within the Christmas/New Year extended notification period. A total of 251 properties were notified and 69 submissions were received.

100. The submissions raised the following issues:

Views

- (a) The view loss analysis is incorrect. View loss impacts are considered severe to devastating depending on the units in question.
- (b) The development fails to satisfy Tenacity principles.
- (c) Views are obtained from private open space, living areas and communal areas where this is the primary outlook.
- (d) Views to the Harbour Bridge, Blackwattle Bay, Anzac Bridge, the CBD skyline will be lost.
- (e) Views will be diminished for the benefit of one owner which isn't fair.
- (f) In obstructing views to valuable, iconic elements, the proposal unacceptably exacerbates the impact of the development. All views ought to be preserved as much as possible, regardless of whether they are at the ground floor or top floor of an apartment building.

Response: View loss impacts have been assessed in detail in the Discussion 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 proposal is not unacceptable.

Property values

- (g) Loss of views will lead to a reduction in property values.
- (h) The proposed development will compromise the local character, resulting in a considerable depreciation of the market value of the neighbourhood.

Response: The proposal complies with planning controls and conditions are recommended to remove the level 2 balcony and roof terrace which will further reduce view loss impacts. The assessment of potential reduction in property value as a result of the proposal is not a matter of consideration for this development application, as per Section 4.15 of the Environmental Planning and Assessment Act 1979.

Bulk and scale

- (i) The bulk and scale of the proposal is out of context with surrounding development and the Heritage Conservation Area
- (j) The proposal does little to provide an appropriate transition to the single storey terraces.
- (k) A building of similar height and scale to the existing building should be proposed.
- (l) The proposal represents an overdevelopment of the site.
- (m) Being of similar scale to the apartment buildings should not be a reason to support the proposal.
- (n) The proposal will set an undesirable and dangerous precedent that will encourage similar proposals.

Response: The proposed bulk and scale of the development is considered appropriate. The development complies with height and FSR controls prescribed for the site and has been designed as such to limit significantly adverse amenity impacts, particularly relating to overshadowing, on neighbouring developments. Conditions are recommended to remove the level 2 balcony and roof terrace, and to reduce the size of the level 1 balcony to ameliorate visual and acoustic privacy concerns. The development presents as 3 storeys to Avona Avenue, providing an appropriate transition between the apartment buildings surrounding the site and the contributory low scale terraces to the south.

- (o) The controls are inappropriate for the neighbourhood.

Response: The controls were established when the LEP was gazetted in 2012 following extensive urban design studies and public consultation. As detailed elsewhere, the proposal complies with the applicable development standards for the site.

- (p) Height has been measured incorrectly. It should be measured from Avona Avenue and not the existing ground level within the site.

Response: The Sydney LEP 2012 defines 'building height' as the vertical distance from ground level (existing) to the highest point of the building. In this instance, ground level relates to the site and not Avona Avenue.

- (q) The site is in an R1 zone, where multiple dwellings are discretionary. The excessive scale of the proposal raises questions as to whether consent should be granted to the second dwelling.

Response: The secondary dwelling complies with the relevant provisions of the ARHSEPP and the Sydney LEP 2012 with regard to size and is considered acceptable.

Setbacks

- (r) The proposal does not follow the rear building line set by 41 Avona Avenue.
- (s) The proposal does not provide any setbacks.

Response: As discussed within this report, no setbacks are prescribed for the site under the Sydney DCP 2012 as a single dwelling. The existing dwelling on-site sits forward of both 41 Avona Avenue and the closest wing of 9A Cook Street. As such, there is no predominant front or rear building line for the site to follow.

The proposed development is setback approximately 2.5m at the western boundary, 1.5m at the northern side boundary (closest to the apartment buildings), 1.8m to the single storey terraces along Avona Avenue, and the bulk of the building setback 9-10.8m from the eastern boundary.

- (t) The proposal will present as 4 storeys to the lane and not 3 storeys as described in the documentation submitted by the applicant.

Response: Agreed. The 4 storey presentation of the development is discussed in further detail within this report. The bulk of the building site is setback 9-10.8m from the eastern boundary. This is acceptable from a streetscape point of view, as this part of the development is not visible from Avona Avenue, is contained within the overall height limit, and does not create adverse overshadowing impacts.

FSR

- (u) No documentation has been provided to determine FSR.

Response: The applicant has submitted gross floor area plans in order to determine FSR for the development.

Heritage

- (v) The development application does not demonstrate that the building cannot be restored and that restoration would be unreasonable.
- (w) The replacement building compromises the heritage significance of the Heritage Conservation Area.

- (x) The detracting alterations from the 1960s can be reversed.

Response: The proposal has been reviewed by the City's Heritage Specialist who supports the demolition of the existing dwelling.

Privacy

- (y) The roof terrace relies upon screen planting to prevent overlooking which will be useless.
- (z) The proposed roof terrace results in significant privacy impacts, with major views of rear gardens.

Response: Agreed. The roof terrace is not supported and conditions are recommended for it to be deleted.

- (aa) Th eastern balconies are elevated and not fully screened to prevent overlooking.

Response: Agreed. As outlined in the Discussion section, it is recommended that the level 1 balcony be reduced in size and the level 2 balcony be deleted to limit overlooking of neighbouring properties.

Overshadowing

- (bb) There will be significant overshadowing of neighbouring properties, public footpaths and the streetscape.

Response: An assessment of the shadow impacts is provided within this report. The controls specify that only living room windows and private open space be considered when determining the impact of overshadowing on neighbouring properties. The diagrams demonstrate adjoining properties maintain at least 2 hours of solar access to living rooms and the minimum required private open space at the winter solstice, which complies with the DCP.

- (cc) Shadows have been assessed at mid-winter only.

Response: The DCP requires an assessment at mid-winter only, as this is the worst-case scenario for overshadowing.

- (dd) The proposal will block direct sunlight to common areas and windows to apartments to the north of the site.

Response: The south facing apartments and common areas of Cook Street apartments are not affected by the proposal in terms of solar access.

- (ee) The proposal will stop other properties from installing solar panels in the future.

Response: While the shadow diagrams demonstrate that shadows fall across roofs to the south regardless of existing and proposed site conditions, solar access controls in the DCP can only consider solar panels that have been installed.

Rear garage

- (ff) The rear elevation presents as a blank facade for the most part, limiting passive surveillance and increasing safety risks.

Response: The development provides a pedestrian entry to Strathmore Lane and maintains vehicular access to the laneway which is considered to adequately activate the rear elevation.

Landscaping and tree removal

- (gg) There have been trees removed over the years that have never been replaced.

Response: Noted. Conditions are recommended in Attachment A for the development to provide 3 replacement trees that will reach a height at maturity of at least 5-8 metres, and a canopy spread of between 5-8 metres.

- (hh) There is inadequate landscaping within the site. There is an opportunity to provide a green corridor here, but there is a swimming pool instead.

- (ii) The proposal reduces landscaping on the site.

Response: The applicant has submitted a plan indicating extensive landscaping. Trees that are proposed for removal are to be replaced with new trees, as per the recommended conditions of consent.

Stormwater

- (jj) Strathmore Lane already struggles with stormwater during rainfall. The proposal will exacerbate stormwater issues.

Response: A condition is recommended for the proposal to comply with stormwater guidelines. If on-site detention is required, there are additional requirements for the applicant to address, including approval from Sydney Water.

Construction impacts

- (kk) Construction noise, dust and vibration for extended periods will be hard to cope with.

- (ll) No Construction Management Plan has been submitted.

- (mm) There will be noise from construction works.

Response: Appropriate conditions are recommended to limit construction impacts, including the preparation of a Construction Environmental Management Plan to address noise, dust, vibration and odours and a sediment control plan. Standard hours of construction work and noise criteria for the use of high noise emission appliances apply to the development.

Geotechnical issues

- (nn) The geotechnical report acknowledges difficulties that will arise during excavation with regard to structural stability of the retaining walls and stability of rock.

- (oo) Subsidence has already occurred in some surrounding properties and will continue as a result of the proposal.
- (pp) The rock base is unstable, with rockfall occurring.

Response: Noted. Given the existing site conditions and extensive construction works to take place, dilapidation reports are recommended to be carried out by the applicant for all properties in close proximity. The dilapidation reports are to be commissioned before and after works are completed.

Swimming pool / A/C noise

- (qq) There will be constant noise from the use of A/C units at rooftop and the swimming pool pump.

Response: Appropriate conditions are recommended to ensure mechanical ventilation and swimming pump operation can comply with the relevant noise criteria.

Parking

- (rr) The area has limited on-street parking available. This development will cause increased parking pressure.

Response: The proposal provides 2 car parking spaces accessed from Strathmore Lane, complying with the maximum car parking standard contained in the Sydney LEP 2012. It is noted that the site already provides parking at the rear, and is not removing on-street parking as a result of the proposal.

- (ss) The development does not provide any on-site loading for furniture removalists.

Response: The proposal is for a single dwelling and is not required to provide any on-site loading facilities.

Misrepresentation of proposal

- (tt) This building could be 3 separate residences and is thinly disguised as a single dwelling.
- (uu) The proposal aligns more closely with a residential flat building.
- (vv) The development could be used as an Airbnb.

Response: The proposal has been assessed as a single dwelling and secondary dwelling. Any proposal for a residential flat building and/or Airbnb type accommodation is subject to a merit-based assessment under a separate development application.

- (ww) The proposal was lodged at Christmas time, when residents are usually away.

Response: The notification period was extended by approximately 1 week in light of lodgement over the Christmas/New Year period. Extensions for submissions have been granted where requested. It is also noted that the documentation for the development has been available on the City of Sydney website during the assessment of the application.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

101. The development is subject to a Section 7.11 development contribution under the City of Sydney Development Contributions Plan 2015 as the proposal includes a secondary dwelling. The following contributions apply:

Open Space	\$9,906.55
Community Facilities	\$3,222.39
Traffic and Transport	\$25.50
Stormwater Drainage	\$0.00
Total	\$13,154.44

Relevant Legislation

102. Environmental Planning and Assessment Act 1979.

Conclusion

103. Approval is sought for demolition of existing structures, excavation for basement car parking and construction of a 3-4 storey single dwelling with attached secondary dwelling.
104. A total of 69 objections were submitted as a result of notification of the proposal. Issues raised include view loss, height, bulk and scale, detrimental impacts on the streetscape, solar access, privacy and construction impacts. These concerns are addressed within the report.
105. While the proposal will result in some view sharing impacts to adjoining properties, the view sharing assessment concludes that view loss from adjoining properties as a result of the new development is acceptable.
106. The proposal exhibits a suitable built form, design and materiality in the context of the heritage conservation area and is appropriate within the streetscape.

107. The proposal will not result in unacceptable amenity impacts on surrounding properties, including solar access. A design modification condition is recommended to remove the proposed roof terrace and level 2 balcony, and reduce the size of the level 1 balcony, addressing visual and acoustic privacy impacts to adjoining development.
108. The application also proposes the removal of 2 x trees within the site. Appropriate conditions are recommended for 3 x replacement trees to be planted that will reach a height at maturity of 5-8 metres.
109. The proposal is generally consistent with the objectives, standards and provisions of the relevant planning controls and is recommended for approval, subject to conditions.

ANDREW THOMAS

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