

**Item 5.****Development Application: 36 Union Street, Erskineville - D/2021/372**

File No.: D/2021/372

**Summary**

<b>Date of Submission:</b>	15/04/2021  Amended plans and documentation received on 15 July 2021 and 30 July 2021.
<b>Applicant:</b>	Mr Daniel Thorpe
<b>Owner:</b>	Mr Daniel Thorpe
<b>Cost of Works:</b>	\$158,400
<b>Zoning:</b>	The site is zoned R1 General Residential and the proposal is permissible with consent.
<b>Proposal Summary:</b>	<p>Alterations and addition to dwelling house, including demolition of rear of ground floor and construction of ground floor and first floor additions.</p> <p>The application is reported to the Local Planning Panel for determination as the applicant/land owner of the site is a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.</p> <p>The application was notified for a 14 day period between 19 April 2021 and 4 May 2021. Three submissions were received. Key matters raised in the submissions relate to overshadowing, impact of the works on the structural stability of neighbouring properties, impact to the shared sewer line and impact to the shared rear wall.</p> <p>The application has been amended during the assessment to provide a corresponding lightwell with No. 38 Union Street and vertically proportioned rear first floor windows. Additional information including amended architectural plans, landscape section, green roof and maintenance plan, materials and finishes schedule and updated shadow diagrams was received during the assessment of this development application.</p>

The proposal, as amended, has been assessed as being generally consistent with the planning controls applicable to the site.

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

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEP)
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012

**Attachments:**

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

**Recommendation**

It is resolved that consent be granted to Development Application No. D/2021/372 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that it achieves the objectives of the planning controls for the site and does not result in adverse environmental impacts for the reasons outlined in this report.
- (B) The proposal is consistent with the objectives of the R1 General residential zone and will have an acceptable impact on neighbouring amenity.
- (C) The proposal complies with Sydney Local Environmental Plan 2012 Clause 4.3 Height of Buildings control and 4.4 Floor Space Ratio control.
- (D) The proposal does not adversely impact on the heritage significance of the conservation area.
- (E) For the reasons above and as outlined in this report, the proposed development is in the public interest.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 4 DP 553291, known as 36 Union Street, Erskineville. It is rectangular in shape with area of approximately 132.8sqm. It has a primary street frontage of 5.03 metres to Union Street. The site is located close to the intersection of Union Street and Newman Lane. Levels on the site fall by 0.5m from the site's Union Street frontage to the site's eastern boundary.
2. The site contains a semi-detached two storey dwelling constructed in the early 20th century. The original layout of the dwelling is generally intact although many of the original features including chimneys, fireplaces, front ironwork, original timber windows have been removed. A single storey masonry addition is provided at the rear and an attic conversion is located on the first floor, above the front room of the dwelling.
3. The surrounding area is characterised by predominantly residential uses. Further to the north of the site, situated along Erskineville Road, are a number of commercial and mixed use developments.
4. The site is not identified as a local heritage item but is located within the Toogood and White's Estate heritage conservation area (C26). The site is identified as a contributing building.
5. The site is located within the Erskineville Neighbourhood South locality and is not identified as being subject to flooding.
6. A site visit was carried out on 11 May 2021. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



**Figure 2:** Site viewed from Union Street, outlined in red, with neighbouring pair (No. 34 Union Street) on left-hand side of photo



**Figure 3:** Site viewed from Union Street, outlined in red, and residential development adjoining the site to the south



**Figure 4:** Site viewed from Union Street looking north, subject site on right-hand side of photo with adjoining residential development to the north



**Figure 5:** View looking west along the site's southern boundary adjacent to No. 38 Union Street



**Figure 6:** Site viewed from the rear, showing subject site outlined in red and two storey development to the immediate south (Nos. 38 and 40 Union Street)



**Figure 7:** Site viewed from the rear, showing subject site outlined in red and rear of adjoining terrace pair (No. 34 Union Street)

## History Relevant to the Development Application

### Development Applications

7. There is no relevant planning history for the site.

### Amendments

8. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 8 June 2021. The request identified issues with the documentation, leading to uncertainty and an inability to carry out a full assessment. Amendments to the design were requested, including the provision of a corresponding lightwell with No. 38 Union Street and amendment to the rear first floor windows to be vertically proportioned and centred along this elevation.
9. The applicant responded to the request on 15 July 2021 and submitted the following information:
  - amended architectural plans;
  - landscape section;
  - green roof design and maintenance plan;
  - materials and finishes schedule; and
  - shadow diagrams.
10. A further request for additional information was sent to the applicant on 27 July 2021. Specifically, the following information was requested:
  - the new works are not adequately distinguished from the existing building;
  - the section plan does not demonstrate the extent of demolition;
  - drawings are to include rainwater goods, e.g. gutters and downpipes;
  - more RLs to be provided on the drawing relating to the new addition;
  - air conditioning condenser not accurately depicted on the plans;
  - BASIX commitments not depicted on the plans; and
  - materials and finishes – roof cladding is not specified, rear louvres are not included and no colour is provided for the painting of the front roof depicted on the plans.
11. The applicant responded on 30 July 2021 and submitted the following information:
  - amended architectural plans; and
  - amended materials and finishes schedule.

**Proposed Development**

12. The application seeks consent for alterations and additions to the existing dwelling, including the construction of a two-storey rear addition. Specifically, the following works are proposed:

**Ground Level**

- (a) demolition of the rear portion of the existing dwelling (kitchen, bathroom/laundry and bedroom);
- (b) replacement of the front window with a double hung timber front window to Union Street;
- (c) reduction in the extent of the front brick wall and replacement of the front fence to timber paling fence;
- (d) construction of a new rear addition, extending the width of the site;
- (e) open plan kitchen, dining room and living area with WC and laundry located under stairwell;
- (f) landscaping to the rear private open space;
- (g) air conditioner and water heater screened and located on southern boundary; and
- (h) slimline water tank located under rear of dwelling.

**First Floor Level**

- (i) additional two bedrooms and two bathrooms in first floor addition, connected to the original dwelling by a glazed walkway; and
- (j) retention of the existing attic bedroom and front dormer window of original dwelling.

**Roof Level**

- (k) installation of solar photovoltaic cells on the roof of the first floor addition;
  - (l) green roof located on the first floor addition; and
  - (m) replacement of original dwelling roof with sheets from existing rear roof.
13. Plans and elevations of the proposed development are provided below.

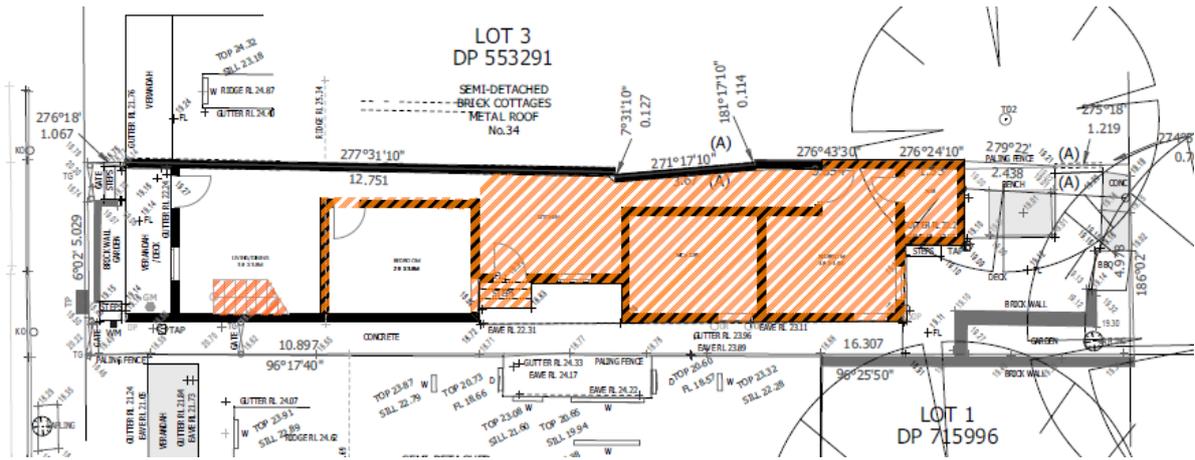


Figure 8: Demolition Plan - Ground Level (extent of demolition hatched orange)

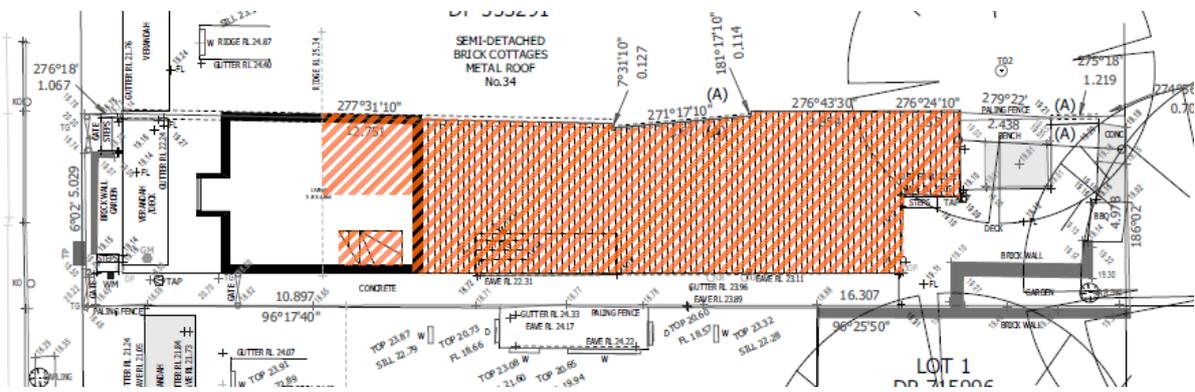


Figure 9: Demolition Plan - First Level (extent of demolition hatched orange)

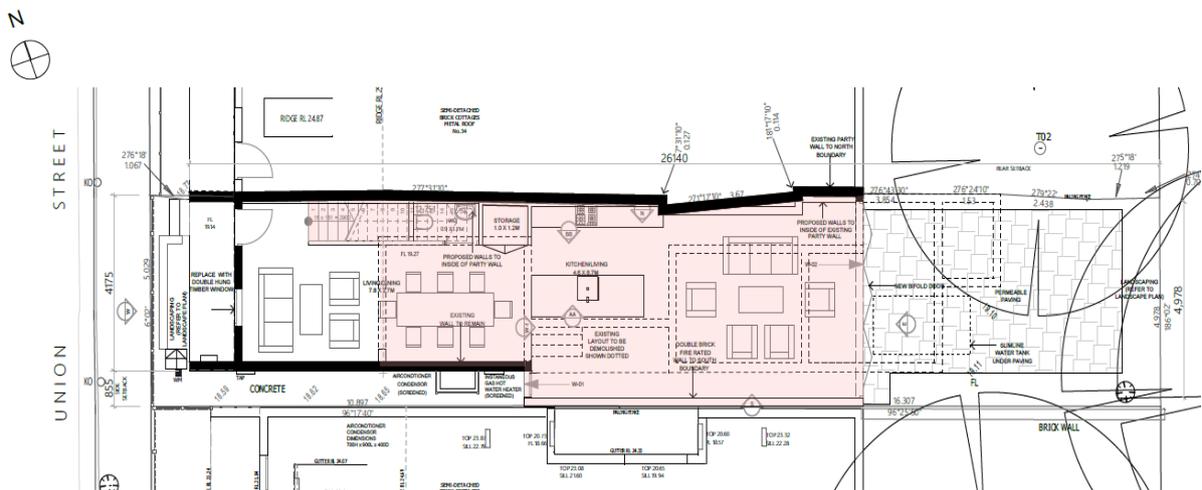


Figure 10: Proposed Ground Floor Level (extent of new works outlined in red)

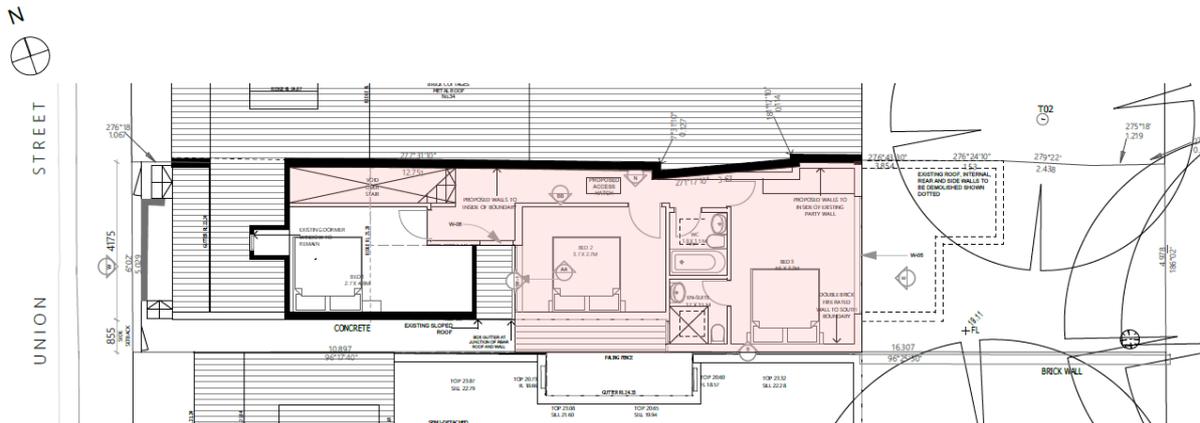


Figure 11: Proposed First Floor Level (extent of new works outlined in red)

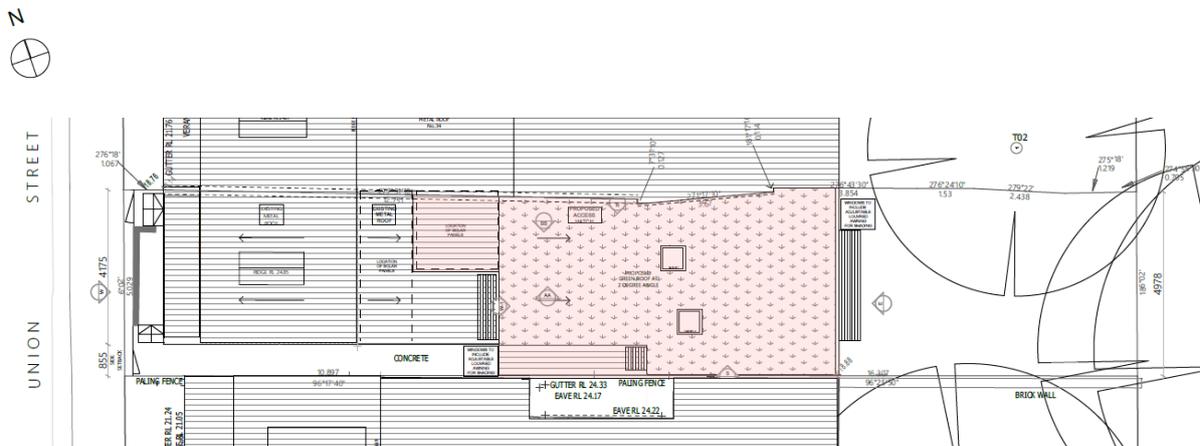


Figure 12: Proposed Roof Plan (extent of new works outlined in red)

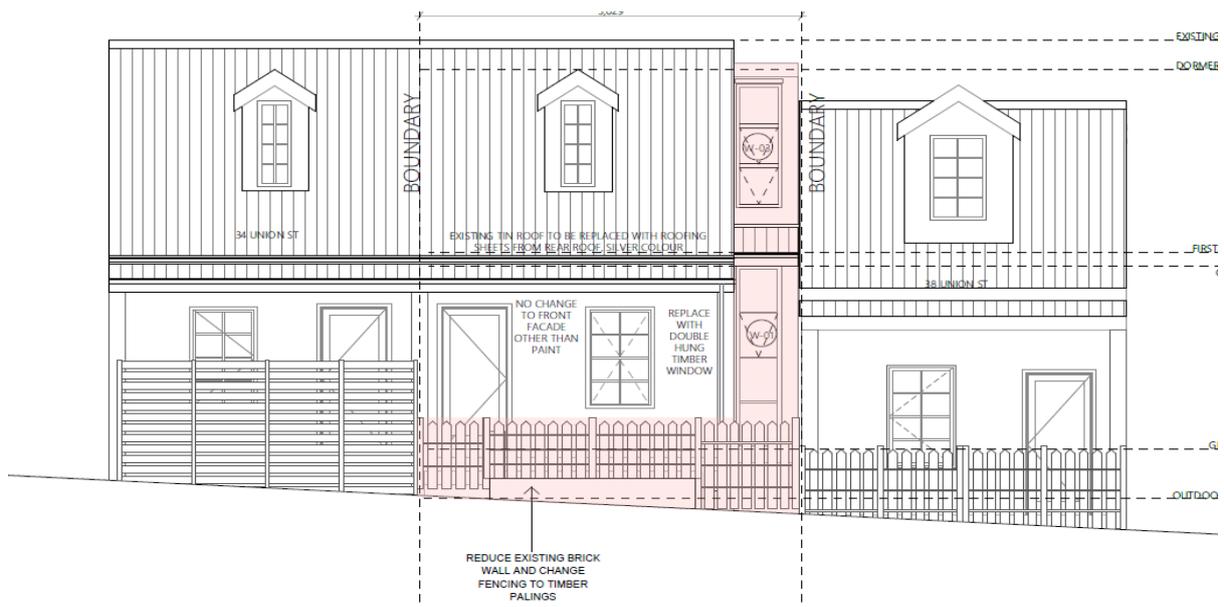


Figure 13: Proposed Union Street Facade (extent of new works outlined in red)

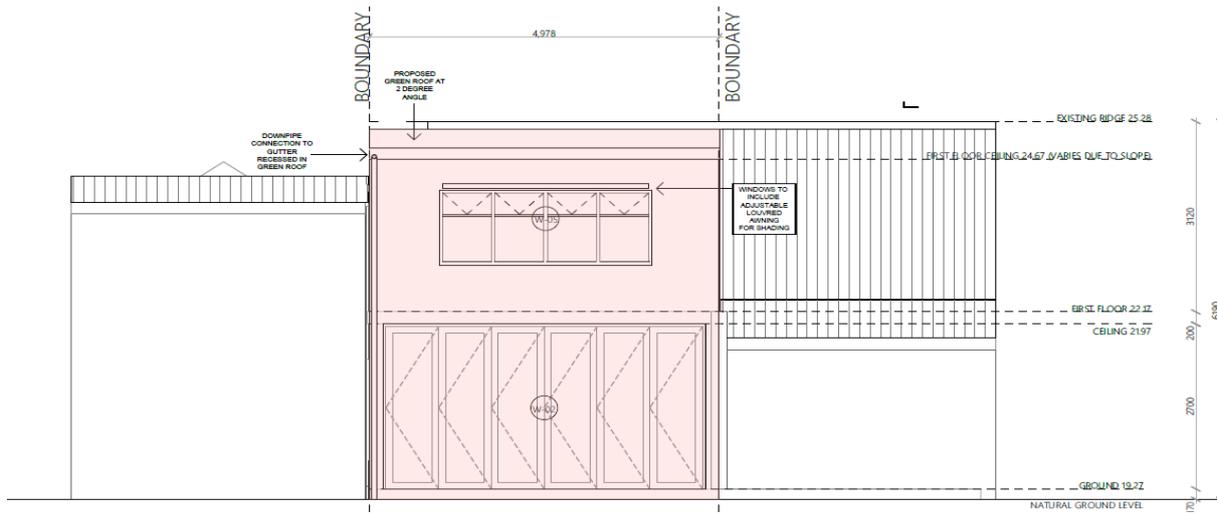


Figure 14: Proposed East Elevation (extent of new works outlined in red)

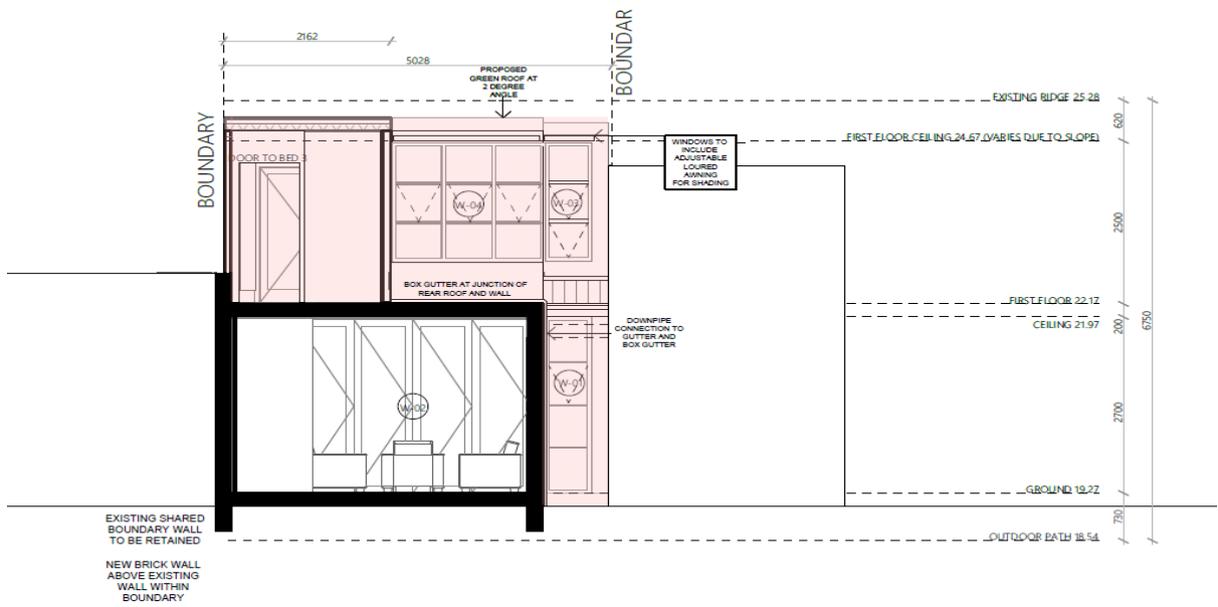


Figure 15: Proposed West Internal Elevation (extent of new works outlined in red)

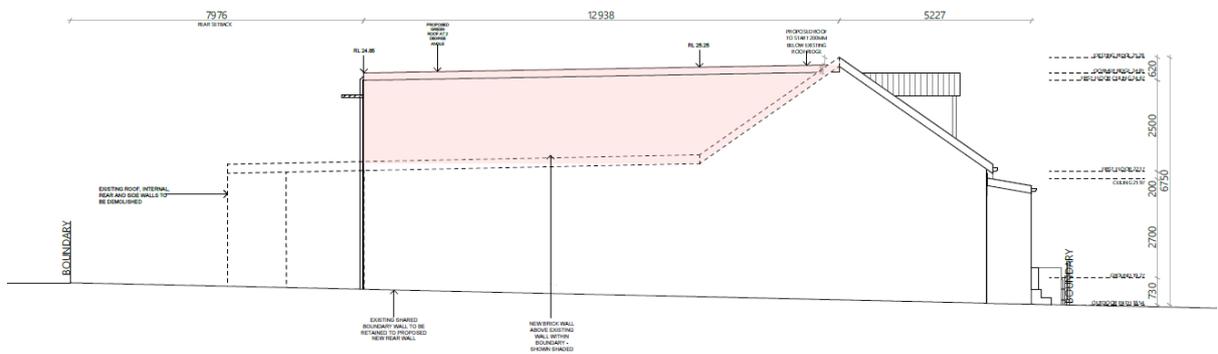


Figure 16: Proposed North Elevation (extent of new works outlined in red)

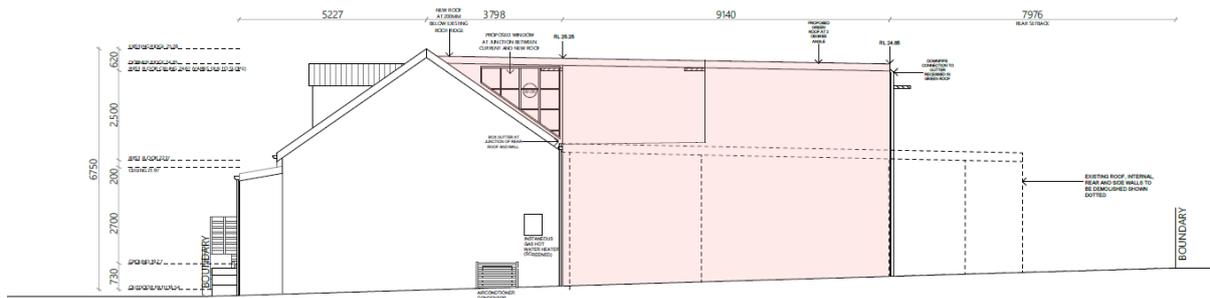


Figure 17: Proposed South Elevation (extent of new works outlined in red)

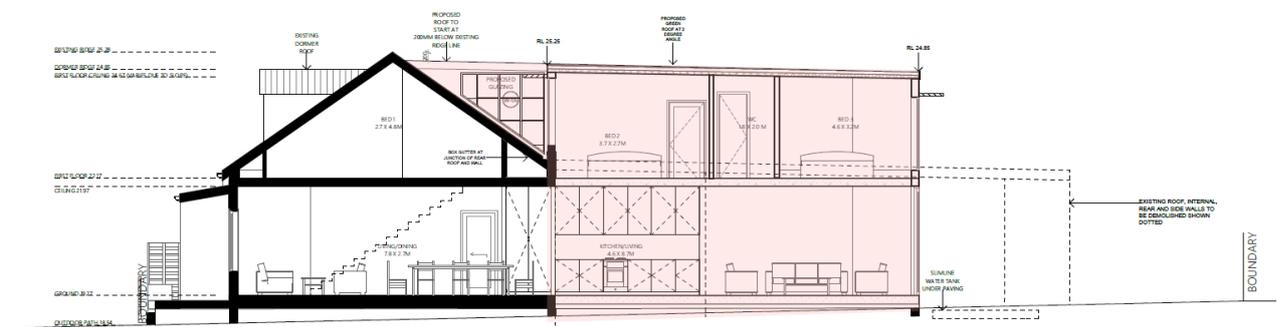


Figure 18: Proposed Section Plan (extent of new works outlined in red)

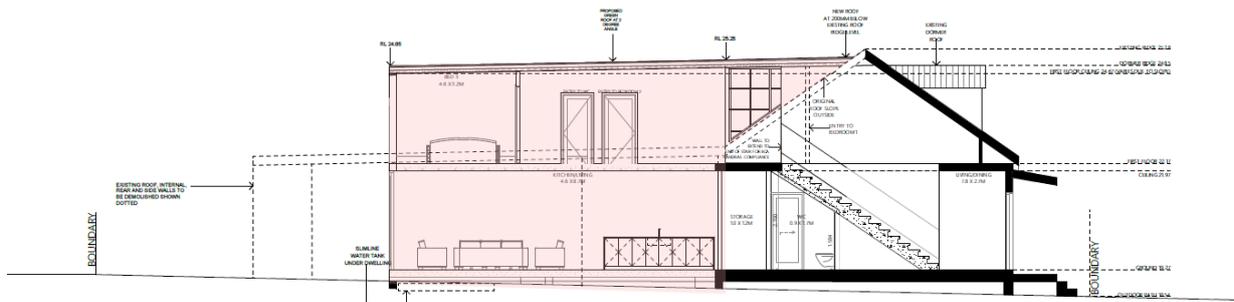
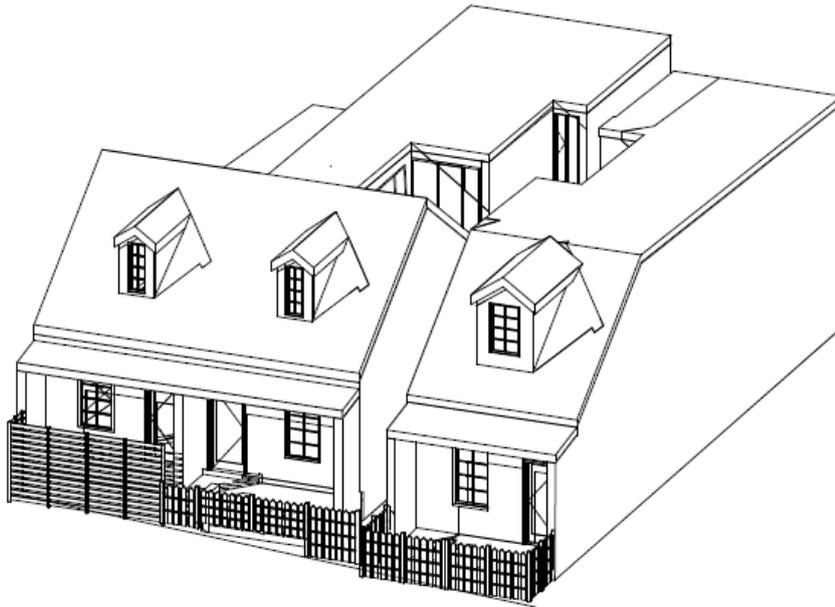


Figure 19: Proposed Section Plan (extent of new works outlined in red)



**Figure 20:** Proposed 3D view

## Assessment

14. 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 (Building Sustainability Index: BASIX) 2004

15. A BASIX Certificate has been submitted with the development application (A399221-02).
16. 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.

### Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

17. 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.
18. 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.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

19. 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 alterations and additions to 'dwelling house', and is permissible with consent in the zone. The proposal generally 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 9m is permitted. A height of 6.68m is proposed, measured to the ridge of the existing dwelling. The first floor addition has a maximum building height of 6.44m. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 1:1 or 132.8sqm is permitted. A floor space ratio of 0.90:1 or 120sqm is proposed. The proposed development complies with the maximum floor space ratio development standard.

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is a contributory building located within the Toogood and White's heritage conservation area (C26).

Provision	Compliance	Comment
		<p>The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area.</p> <p>The proposed development retains the dwelling's single storey street frontage to Union Street, including the front dormer and existing ridge height. Conservation works are proposed to the front roof and dormer window, ground floor window, verandah and front fence, which will improve the appearance of the dwelling to the street and its contribution to the heritage conservation area.</p> <p>The two-storey addition provides a bulk and scale which is commensurate with the adjoining dwellings to the south and respects the rear building setback patterns of the adjoining development.</p> <p>The proposed addition has been assessed as being of an appropriate scale, proportion and location at the rear of the building. The new two storey development does not exceed the ridge height of the existing dwelling.</p> <p>Only a small portion of the new addition is visible from the streetscape, along the side passage on the southern boundary. This portion of the development is setback over 10m at ground floor and 14m at first floor level. s from the site's front boundary to Union Street. The proposed addition is contemporary in form and simple in its style and form. The proposed addition will not detract from the streetscape and will not impact the primary facade when viewed from Union Street.</p> <p>The materials, finishes and colours are appropriate to the subject building and the conservation area.</p>

Provision	Compliance	Comment
		The proposal is an acceptable form that is consistent with the planning controls and is not out of character with nearby properties or within the streetscape. The proposed works do not adversely impact on the heritage significance of the building, streetscape and conservation area and therefore, is considered acceptable.

### Part 6 Local provisions – height and floor space

Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The conservation works to the front of the existing dwelling are of a high standard and use materials and detailing which will contribute positively to the character of the area.</p> <p>The addition to the rear is compatible with the existing development in the locality and will have minimal visual impact from the street.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.</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	N/A	<p>A maximum of two car parking spaces are permitted.</p> <p>The proposed development does not include any car parking.</p>

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.13 Contributions for purpose of affordable housing	N/A	<p>This clause relates to the imposition of an affordable housing levy contribution which came into effect on 1 July 2021.</p> <p>The development application was lodged prior to 1 July 2021 and subject to the savings provisions at clause 1.8A(4), the development application is not required to pay an affordable housing contribution.</p> <p>Notwithstanding, it is noted that the development does not result in the creation of more than 200sqm of gross floor area and therefore the clause would not apply.</p>
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.

## Development Control Plans

### Sydney Development Control Plan 2012

20. 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

21. The site is located within the Erskineville Neighbourhood South locality. The proposed alterations and additions to the existing dwelling are considered to be in keeping with the unique character of the area and design principles in that it retains the scale and form of the locality and is appropriate to the conservation area and streetscape.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.

Provision	Compliance	Comment
3.9 Heritage	Yes	Refer to discussion under clause 5.10 of the Sydney LEP 2012.
3.11 Transport and Parking	N/A	No car parking is proposed.

## Section 4 – Development Types

### 4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Yes	<p>The site is permitted a maximum building height of two storeys.</p> <p>The proposed development is two storeys in height and complies.</p>
4.1.2 Building setbacks	Yes	<p>No change is proposed to the site's front setback to Union Street.</p> <p>The proposal seeks to partly infill the existing side passage located on the southern boundary to 38 Union Street. This infill occurs at the centre and rear of the site to create a boundary to boundary addition at ground floor level and first floor levels. The proposed zero side setback is consistent with setback patterns of adjoining residential dwellings, including the adjacent dwelling pair at 38 and 40 Union Street.</p> <p>The proposal removes built form currently located at the rear of the site (beyond the rear setback of adjoining properties) and provides a rear setback which aligns with the adjoining properties to the south at 38 and 40 Union Street. The rear addition will only be visible from the street when viewed along the side passage located on the site's southern boundary.</p> <p>The proposal relates to existing setback patterns along the street and respects the predominant rear building line.</p>
4.1.3 Residential amenity		<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>

Provision	Compliance	Comment
4.1.3.1 Solar access	Yes	<p>The development site and neighbouring dwellings achieve a minimum of two hours of direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and at least 50% of the minimum amount of private open space.</p> <p>Refer to "Discussion" section below for further information.</p>
4.1.3.2 Solar collectors	Yes	<p>The photovoltaic solar panels are appropriately located on the roof of the central part of the new addition.</p> <p>No photovoltaic cells are provided on the adjoining dwellings.</p>
4.1.3.3 Landscaping	Yes	<p>The proposal increases the quantum of private open space at the rear of the dwelling. The proposal incorporates permeable planters and planter boxes within the private open space which will assist with on-site management of stormwater.</p> <p>At roof level, a green roof is proposed. A recommended condition of consent has been imposed requiring that a detailed plan of the green roof, drawn to scale, by a qualified landscape architect or landscape designer, is submitted to and approved by Council prior to the issue of a Construction Certificate.</p>
4.1.3.5 Private open space	Yes	<p>Private open space in excess of 40sqm is provided in the form of a rear patio accessed from the living room which complies with the requirement of this provision.</p>
4.1.3.6 Visual privacy	Yes	<p>At ground floor level, the site comprises a boundary to boundary addition with no openings orientated along the northern and southern boundaries.</p>

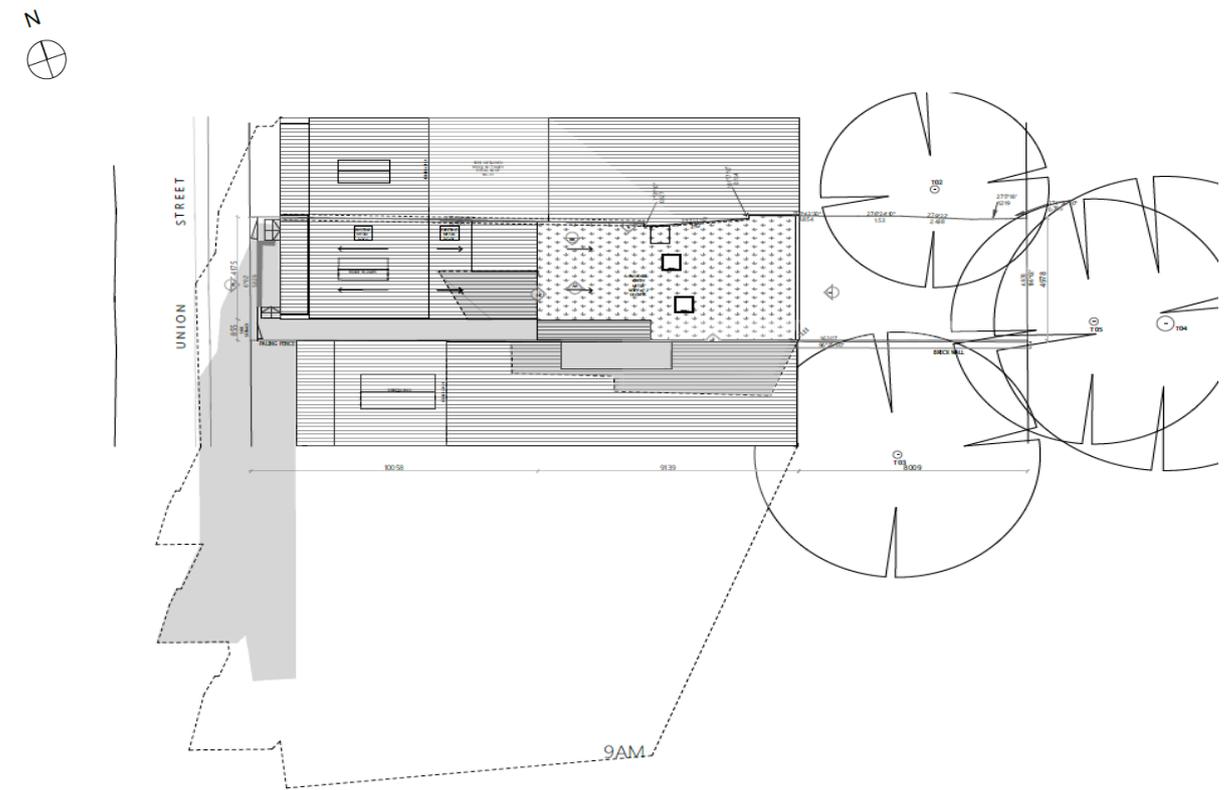
Provision	Compliance	Comment
		<p>At first floor level, the windows to the bedroom and bathrooms are orientated to the west (Union Street) and east. The window to the landing is orientated south but is offset against the existing opening to 38 Union Street. This window is set back from the southern boundary and view lines to openings to 38 Union Street are obscured by the new built form to ensure visual privacy is maximised.</p> <p>At the rear, bifold doors are provided to the living room at ground floor level and windows to Bedroom 3 are provided at first floor level. These openings are orientated east, towards the rear of the site. The addition is setback 8m from the site's rear boundary and is physically separated from the properties beyond the site's eastern boundary by a solid boundary fence and mature vegetation. It is noted that glazing at the rear is not uncharacteristic with neighbouring dwellings similarly incorporating glazing at first floor level. Further, it is noted a bedroom is not a highly frequented room and would not result in a significant overlooking issue.</p>
4.1.4 Alterations and additions		
4.1.4.1 General	Yes	<p>The proposed development maintains the profile and form of the original building, including the roof form, allowing the original building to be discerned.</p> <p>The addition seeks the removal of a non-original ground floor addition which protrudes beyond the rear building alignment of the dwelling pair and adjoining dwellings. The addition seeks to provide a two storey addition which is consistent with the rear building alignment of the adjoining dwellings at 38 and 40 Union Street.</p>
4.1.4.6 Additional storeys	Yes	<p>The proposed development includes a rear two storey addition that adjoins the existing cottage on the site, connected by a glazed connection on the first floor.</p>

Provision	Compliance	Comment
		<p>The two storey addition is set 240mm below the ridge of the existing roof and its height will not be visible from the public domain.</p> <p>The proposal includes the partial infill of the existing side passage located on the southern boundary to 38 Union Street. This infill occurs at the centre and rear of the site to create a boundary to boundary addition at ground floor level and first floor levels. The additional built form at first floor level is set back over 14m from the site's Union Street frontage. Importantly, the height, form and scale of the original dwelling will be maintained from the streetscape, with the additional built form sufficiently set back from the street's frontage.</p>
4.1.5 Roof alterations and additions		
4.1.5.4 Traditional front dormers	Yes	An existing dormer window is located in the pitched roof of the existing cottage fronting Union Street. The proposed development does not seek to change the proportions, form and materials of the existing front dormer.
4.1.5.5 Rear roof extensions	Yes	<p>The rear addition is to be connected to the roof and attic of the existing dwelling. The roof of the connection is set down 240mm below the ridgeline of the existing roof of the existing dwelling.</p> <p>The rear addition is located adjacent to the northern boundary and will not be visible from the public domain.</p>
4.1.5.6 Skylights	Yes	The proposal incorporates the provision of skylights to provide daylight to the bathrooms and hallway. A condition of consent is recommended requiring the skylights are flush to the rear-facing roof plane and are not visible from the streetscape.
4.1.7 Fences	Yes	A timber palisade fence is proposed to the front boundary which is in keeping with the character of the area.

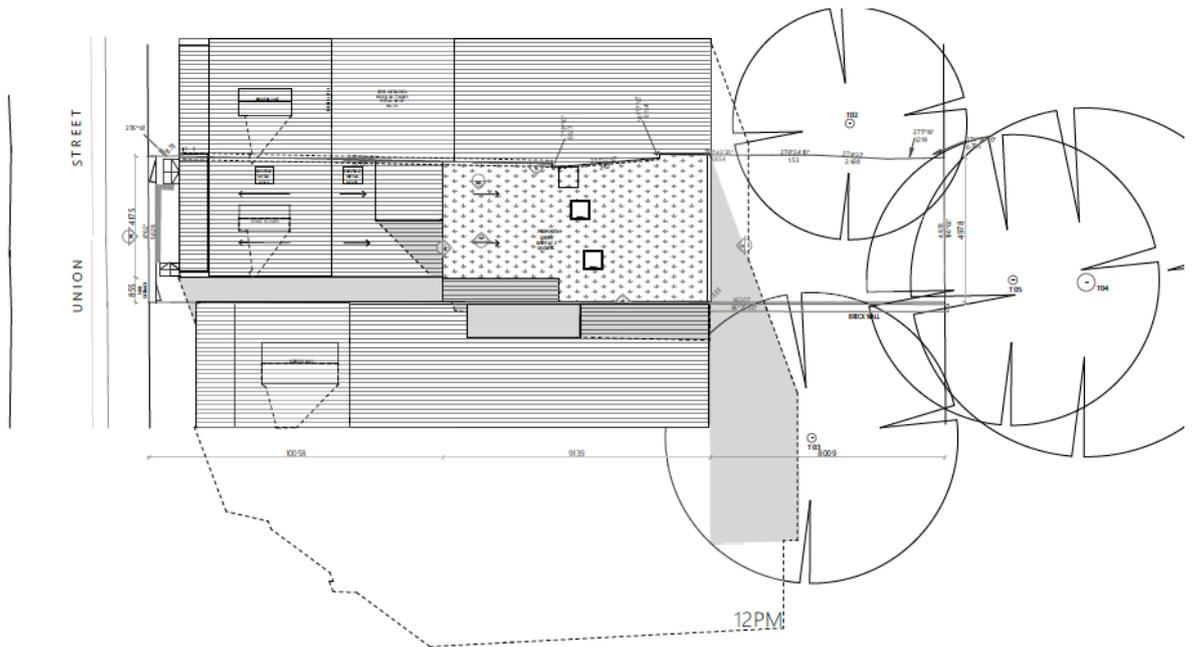
## Discussion

### Solar Access

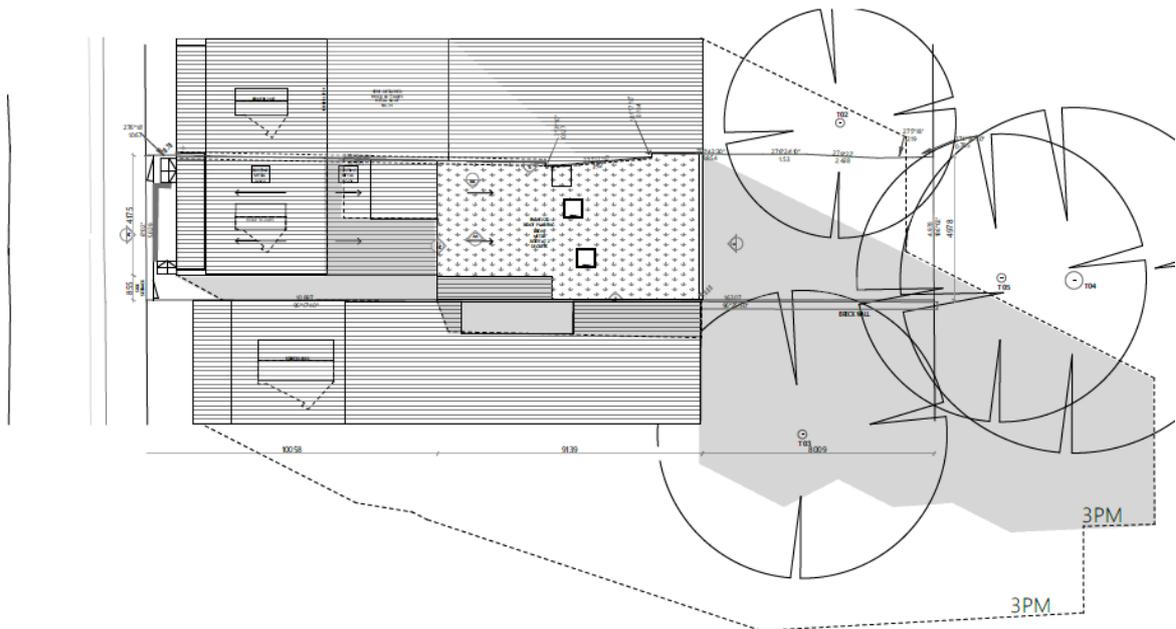
22. The Sydney DCP 2012 requires that development sites and neighbouring dwellings are to achieve a minimum of two hours' direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and at least 50 per cent of the minimum amount of private open space.
23. The application is accompanied by shadow diagrams which demonstrate the solar impact to the subject site and neighbouring properties. The proposed shadow diagrams at midwinter at 9am, 12pm and 3pm are provided in the figures below.



**Figure 21:** Proposed overshadowing at 9am on 21 June, extent of additional shadowing outlined in grey



**Figure 22:** Proposed overshadowing at 12pm on 21 June, extent of additional shadowing outlined in grey



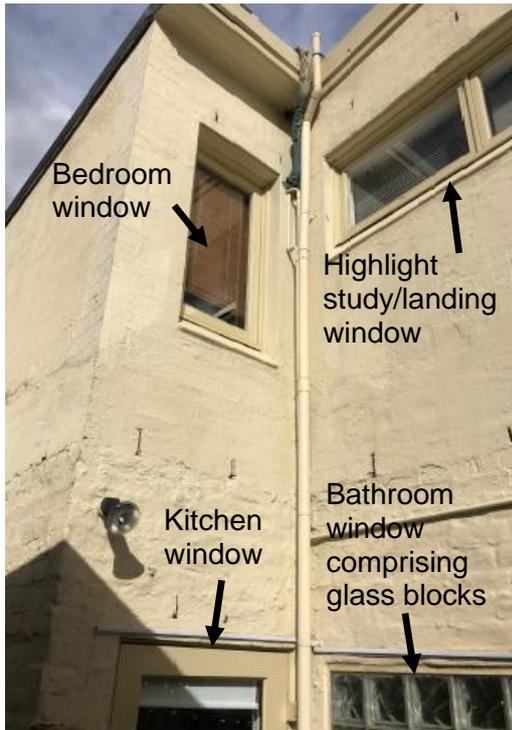
**Figure 23:** Proposed overshadowing at 3pm on 21 June, extent of additional shadowing outlined in grey

24. The private open space of the subject site is located at the rear of the dwelling and receives in excess of two hours of solar access at midwinter.
25. The proposal results in additional overshadowing to the properties to the south and east of the subject site at midwinter. The adjoining property at 38 Union Street receives in excess of two hours of solar access at midwinter to at least 8sqm of its private open space. This is achieved between 9am and 12pm on 21 June. The living room of 38 Union Street is located along the Union Street frontage and maintains two hours of solar access at midwinter to at least 1sqm of the living room windows.
26. The proposal results in additional overshadowing to the properties to the southeast (fronting Rochford Street) at 3pm. These properties maintain in excess of two hours of solar access at midwinter to at least 8sqm of their private open space. This is achieved between 9am and 12pm on 21 June.
27. The proposal results in additional overshadowing to the lightwell of 38 Union Street, which is located beyond the southern boundary of the subject site. At midwinter, the proposal restricts solar access to the windows of the lightwell between 9am and 3pm. The location of the lightwell and its openings are shown in the figures below.

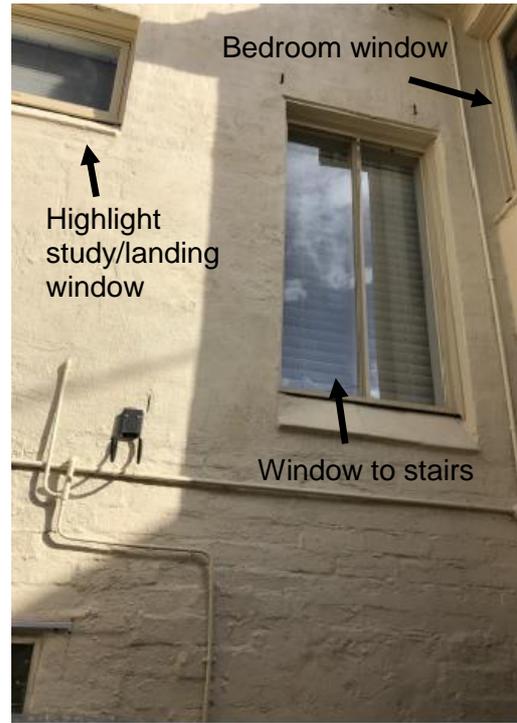


Location of 38 Union Street  
lightwell location beyond southern  
boundary of subject site

**Figure 24:** Photograph looking west along southern site boundary



**Figure 25:** Lightwell of 38 Union Street viewed from subject site showing location of rooms and windows



**Figure 26:** Lightwell of 38 Union Street viewed from subject site showing location of rooms and windows



**Figure 27:** Lightwell of 38 Union Street viewed from kitchen window of 38 Union Street showing location of rooms and windows

28. Part 4.1.3.1 of the Sydney DCP 2012 states that overshadowing of windows alongside boundaries by new development is permissible, except in the circumstances in provision 6. Provision 6 states that daylight access is to be addressed where:
  - (a) the side windows of an adjoining dwelling are facing and/or perpendicular to the boundary and are less than 1.5m from the side boundary; and
  - (b) the side windows in (a) are the only windows to the primary living area of a neighbouring dwelling.
29. The side windows in the adjoining lightwell are located 1.16m from the shared boundary. As shown in the figures above, seven windows are located on the lightwell and provide daylight access to: the kitchen, study, bathroom (glass blocks provided to the lightwell), landing areas and bedrooms. However, in accordance with Provision 6 (b) it is noted that none of these rooms comprise the primary living area.
30. On this basis a setback of the ground floor adjacent to the lightwell is not required in this instance. It is noted that the first floor has been setback adjacent to the lightwell to provide a corresponding lightwell. While the proposal will reduce direct solar access to the lightwell, daylight will still be retained, and all rooms will continue to receive light and air through the lightwell.
31. As such, the overshadowing of the lightwell is considered acceptable in accordance with Part 4.1.3.1 of the Sydney DCP 2012.

## Consultation

### Internal Referrals

32. The application was discussed with Council's Heritage and Urban Design Unit who advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the recommended conditions of consent.

## Advertising and Notification

33. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 14 days between 19 April 2021 and 4 May 2021. A total of 50 properties were notified and three submissions were received.
34. The submissions raised the following issues:
  - (a) **Issue:** Solar impact to adjoining property's lightwell resulting in loss of natural light.  
  
**Response:** While the proposal will result in direct solar access to the lightwell of 38 Union Street, for the reasons mentioned in the discussion section above, the overshadowing to the lightwell is considered acceptable in accordance with the Sydney DCP 2012.
  - (b) **Issue:** Reduction in solar access to neighbouring properties, particularly between 10am-12pm at midwinter.

**Response:** The proposal results in additional overshadowing to the properties to the south and east of the subject site at midwinter. For the reasons mentioned in the discussion above, the overshadowing impacts are considered acceptable in accordance with the Sydney DCP 2012.

The proposed overshadowing impacts are considered acceptable.

- (c) **Issue:** Extent of excavation, including additional depth for a water tank and concerns regarding damage to property during excavation and construction.

**Response:** Excavation is proposed along the southern boundary of the site and at the rear of the site. With the exception of the underground tank located at the rear of the site, excavation will be limited for new footings and foundations only. The underground tank is located towards the southern boundary of the site and is set back from the common boundary with 38 Union Street. It is not anticipated that extensive excavation is required for the slimline water tank.

The applicant has advised that no works to the party walls are proposed. All works are within the site boundaries, including an additional row of bricks along the northern boundary to provide support. If any works are required to the party walls, owners consent from the neighbouring property will be required.

Recommended conditions address issues of potential property damage during excavation and construction. Dilapidation reports are to be prepared of the adjoining buildings prior to the commencement of demolition/excavation works and on completion of construction works. A further condition is recommended requiring a certificate from a practising structural engineer is provided which verifies the structural integrity of the existing 'Party Wall(s)' as a consequence of the additional loads imposed thereon by the proposal.

- (d) **Issue:** Impact to shared rear garden wall with No. 38. Existing wall is cracked, and proposal should address this.

**Response:** The proposal includes landscaping works to the existing rear garden. Remediation works to address an existing cracked wall to the adjacent property is not proposed as part of this development.

- (e) **Issue:** Neighbourly dispute regarding repair of a leak in the shared sewer/ wastewater. Clarification regarding whether the shared sewerage/ wastewater line will be demolished to facilitate proposed development and who is liable for payment of this.

**Response:** The existing sewer line servicing the adjoining property at 34 Union Street is located beneath the current dwelling at 36 Union Street. It is understood the existing sewer line is damaged and is causing subsidence to the rear addition at 36 Union Street. From review of the proposal, it is not anticipated that the works will have an additional impact on the sewer line. A condition is recommended requiring that the shared sewer line is protected at all times during demolition and construction unless the owners of 34 Union Street and 36 Union Street agree to undertake works to repair and replace the shared sewer line.

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

35. The development is not subject to a Section 7.11 development contribution as it 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.

## Relevant Legislation

36. Environmental Planning and Assessment Act 1979.

## Conclusion

37. The applicant seeks consent for alterations and additions to the dwelling house comprising alterations and addition to dwelling house including demolition of rear of ground floor and construction of ground floor and first floor additions.
38. The application was notified in accordance with the Sydney DCP 2012 and three submissions were received. Issues raised include solar access, impacts during construction and excavation and the provision of adequate sewer/ wastewater line. These concerns have been addressed in the report.
39. During the assessment, the application has been amended to address the preliminary concerns raised by City staff in relation to design amendments including a corresponding lightwell with No. 38 Union Street and amendment to the rear first floor windows to be vertically proportioned and centred along this elevation. Additional information in the form of amended architectural plans, landscape section, green roof and maintenance plan, materials and finishes schedule and updated shadow diagrams was received during the assessment of this development application.
40. The proposal has been assessed as being consistent with the relevant planning legislation and policies applicable to the site and type of development.
41. The application is recommended for approval, subject to the imposition of conditions.

## ANDREW THOMAS

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