

Item 6.**Development Application: 12 Mansfield Street, Glebe - D/2021/758****File No.:** D/2021/758**Summary****Date of Submission:** 7 July 2021**Applicant:** Formed Gardens Design & Construction**Designer:** Formed Gardens Design & Construction**Owner:** Mrs K J Pressick-Kilborn**Planning Consultant:** Formed Gardens Design & Construction**Cost of Works:** \$95,000**Zoning:** The site is located within the R1 - General Residential zone. The proposed development involves landscape works and a swimming pool ancillary to a dwelling house, which is permissible with consent in the zone.**Proposal Summary:** Approval is sought for excavation, installation of an inground swimming pool and associated fencing, an open pergola and landscape works, as well as the planting of a new tree within the rear courtyard of the existing dwelling house. No alterations to the existing dwelling house or changes to existing vehicular access arrangements are included in this application.

The site is not identified as a heritage item but is considered to have a 'contributory' character status within the Toxteth Heritage Conservation Area (C34).

The application was notified for a period of 14 days between 13 July and 28 July 2021. No submissions were received.

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

The application is referred to Local Planning Panel (LPP) for determination as the land owner is a relative (within the meaning of the Local Government Act 1993) of a member of Council staff who is principally involved in the exercise of Council's functions under the Environmental Planning and Assessment Act 1979.

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

Development Controls:

- (i) State Environmental Planning Policy No 55 - Remediation of Land
- (ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iii) Sydney Local Environmental Plan 2012
- (iv) 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/2021/758 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 development, subject to conditions, is consistent with the objectives of the R1 - General Residential zone of the Sydney Local Environmental Plan 2012.
- (C) The development provides a suitable landscape design that is compatible with the character of the Toxteth Locality and Toxteth Heritage Conservation Area.
- (D) The proposal contributes to the City's tree canopy targets, providing 18% site canopy coverage.
- (E) The proposal satisfies the design excellence provisions of 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 1 in DP 718497, known as 12 Mansfield Street, Glebe. It is rectangular in shape with area of approximately 220sqm. It has a primary street frontage of 5.97m to Mansfield Street to the west, a secondary street frontage of 6.04m to Mansfield Lane to the east, with north and south side boundaries of approximately 36.3m. The site is located close to the intersection of Mansfield Street and Wigram Road to the south. The site is generally level from Mansfield Street to Mansfield Lane
2. The site contains a two storey brick terrace, with a roller door at the rear to Mansfield Lane, allowing for vehicular access for one car.
3. The subject terrace is not heritage listed but is a contributory building that is located within the Toxteth Heritage Conservation Area (C34). The site is located within the Toxteth locality under the Sydney DCP 2012 and is not identified as being subject to flooding.
4. The surrounding area is characterised by residential dwellings, with two storey terraces adjoining the site to the north and south, and a residential flat building to the corner of Mansfield Street and Wigram Road.
5. A site visit was carried out on 6 August 2021. The owner has also provided additional photographs within the subject site in light of current COVID-19 restrictions.
6. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds. Note: The site no longer contains any trees within the rear courtyard.



Figure 2: Site viewed from Mansfield Street



Figure 3: Site viewed from Mansfield Lane



Figure 4: Rear courtyard looking south-west to the boundary with 8-10 Mansfield Street (supplied by owner). Proposed pool is to be located adjacent to boundary wall.



Figure 5: Rear courtyard looking east to the existing dwelling within the site (supplied by owner)

History Relevant to the Development Application

Development Applications

7. The following applications are relevant to the current proposal:
 - **D/2003/00732** – Development consent was granted on 8 September 2003 for a rear ground floor addition, installation of rear bi-fold doors and window, and landscaping.
 - **D/2012/762** – Development consent was granted on 9 July 2012 for alteration and additions to the existing dwelling, including attic conversion for a study, two front dormer windows, rear roof extension and new pergola.

Compliance Action

8. The site is not subject to a current compliance action.

Proposed Development

9. The application seeks consent for the following:
 - Minor excavation at the south-western corner of the site (<2m);
 - Installation of a swimming pool (5.095m x 1.9m and 450mm above ground) with associated 1200mm glazed pool fence, 1800mm steel mesh pool barrier fence and pool equipment enclosure;
 - Open steel framed pergola over rear ground floor sliding door at a height of 2.4m. Pergola to have climbing species;
 - Brick porous paving to part of private open space, and gravel to outdoor dining area/existing off-street parking space; and
 - Planting of a Water gum which will grow to a height of 7m and canopy spread of 5m at maturity, as well as native grasses, groundcovers and shrubs.
10. No alterations are proposed to the existing roller door to Mansfield Lane, the retaining walls at the north and south side boundaries, or provision of parking within the site.
11. Plans and elevations of the proposed development are provided below.

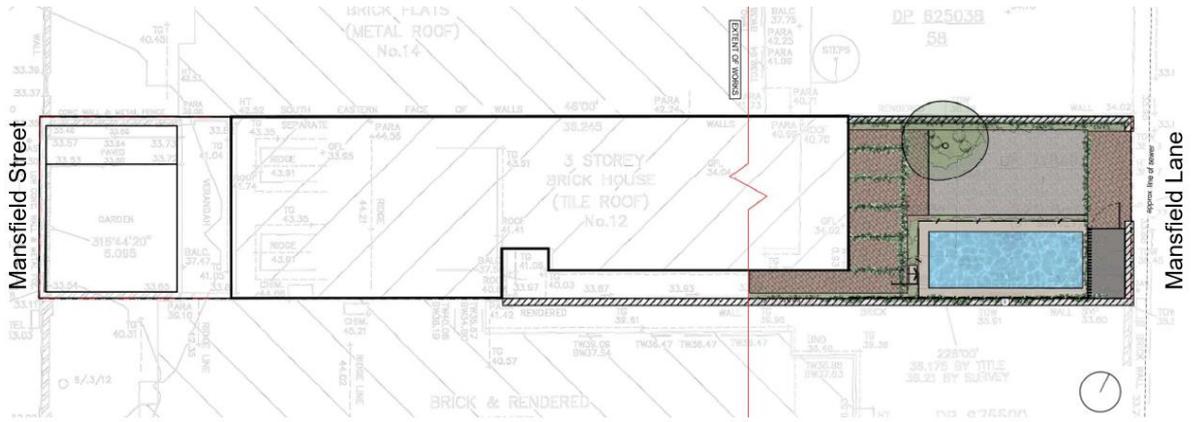


Figure 6: Proposed site plan

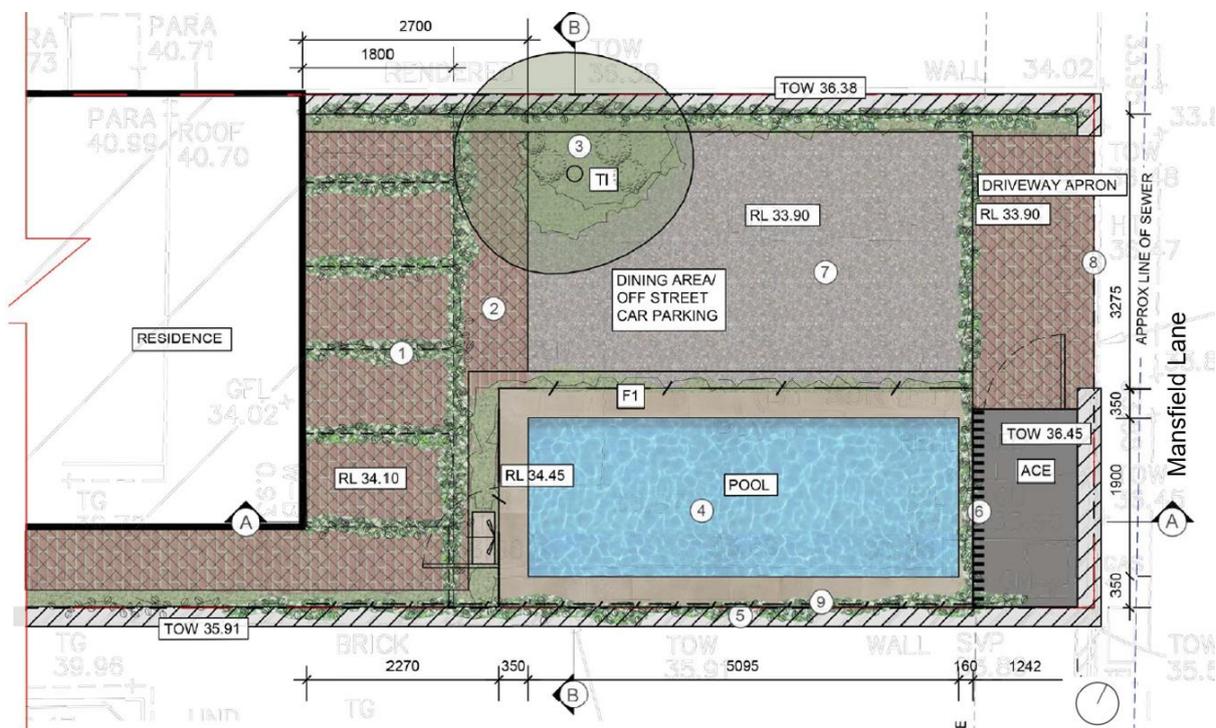


Figure 7: Proposed courtyard plan

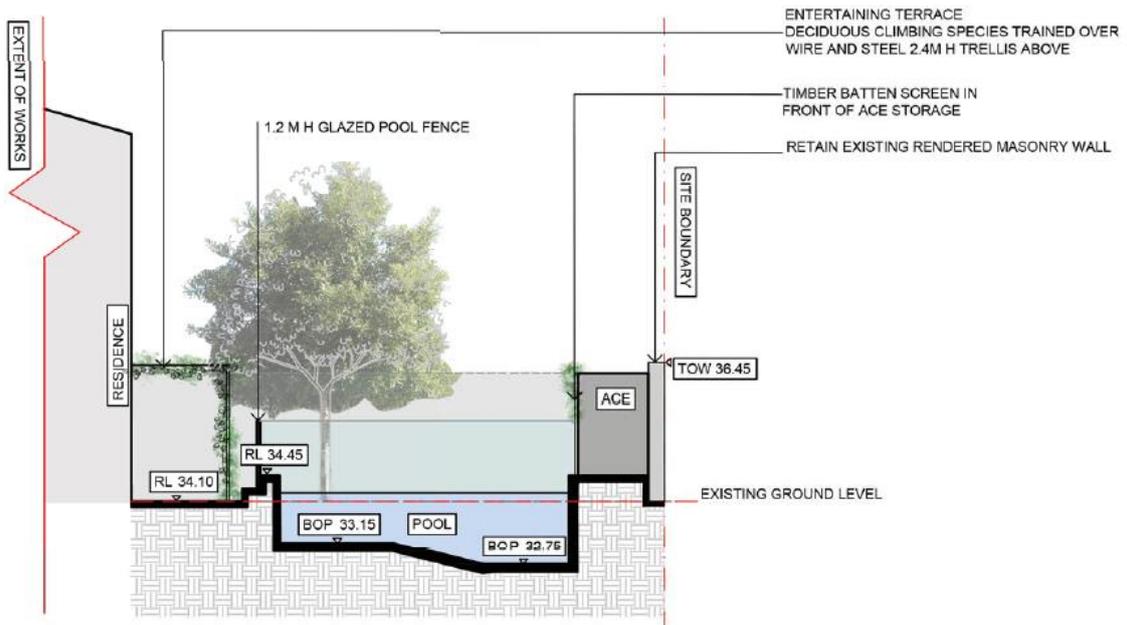


Figure 8: Proposed north-east section

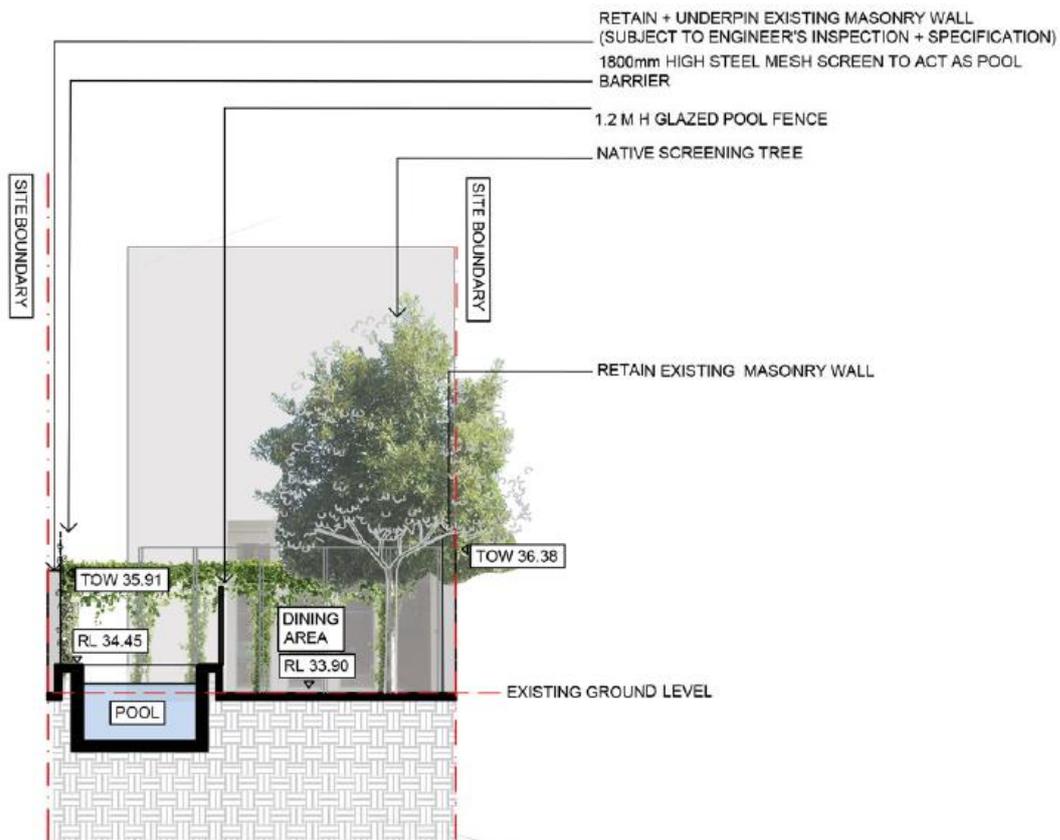


Figure 9: Proposed south-west section

Assessment

12. 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

13. 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.
14. 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 (Building Sustainability Index: BASIX) 2004

15. A BASIX certificate is not required as the volume of the proposed pool is not more than 40,000 litres.

Local Environmental Plans

Sydney Local Environmental Plan 2012

16. 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 | <p>The site is located in the R1 General Residential zone. The proposed development is for a new swimming pool and landscape works ancillary to an existing dwelling, which is permissible with consent within the zone.</p> <p>The proposal generally meets the objectives of the zone.</p> |

Part 4 Principal development standards

| Provision | Compliance | Comment |
|-------------------------|------------|--|
| 4.3 Height of buildings | Yes | <p>A maximum building height of 9m is permitted.</p> <p>The proposal will not alter the height of the existing dwelling, and all works are located within the maximum height limit.</p> <p>The proposed pergola will have a height of 2.4m and the fence associated with the swimming pool will have a height of 1.8m.</p> |
| 4.4 Floor space ratio | Yes | <p>A maximum floor space ratio of 1.25:1 or 275sqm is permitted.</p> <p>The proposal is for the installation of a swimming pool, pergola and landscape works only, and will not alter the gross floor area of the existing dwelling.</p> |

Part 5 Miscellaneous provisions

| Provision | Compliance | Comment |
|----------------------------|------------|--|
| 5.10 Heritage conservation | Yes | <p>The site is located within the Toxteth Heritage Conservation Area (C34).</p> <p>The proposed development is confined to the rear of the property. Although the steel framed pergola can be viewed from the rear lane, it is of lightweight appearance and in keeping with development along Mansfield Lane.</p> <p>The proposal will not have detrimental impact on the significance of the heritage conservation area.</p> |
| 5.21 Flood Planning | Yes | <p>The site is not identified as being subject to flooding. No further assessment under this clause is necessary.</p> |

Part 6 Local provisions – height and floor space

| Provision | Compliance | Comment |
|------------------------------|------------|---|
| Division 4 Design excellence | | |
| 6.21 Design excellence | Yes | <p>The development is of an acceptable standard, providing landscaping that integrates well with the existing dwelling and responds to the topography of the site. The planting of a new tree within the site will positively contribute to canopy targets for the area.</p> <p>The proposal will not adversely affect the rear lane streetscape or overall heritage character of the area and has an acceptable environmental impact with regard to the amenity of adjoining properties. 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 | Yes | <p>A maximum of 2 car parking spaces are permitted.</p> <p>The proposed development will maintain the existing single car space at the rear of the site, which complies with the car parking standard.</p> |
| Division 3 Affordable housing | | |
| 7.13 Contribution for purpose of affordable housing | Yes | <p>The site is identified as residual land for the purpose of calculating affordable housing contributions under Clause 7.13 of the SLEP 2012.</p> <p>A contribution is not payable in this instance, as the proposal does not generate any additional floor space, nor involves a change of use.</p> |

| Provision | Compliance | Comment |
|--------------------------|------------|---|
| Division 4 Miscellaneous | | |
| 7.14 Acid Sulfate Soils | Yes | <p>The site is located on land with class 5 Acid Sulfate Soils. The development proposes excavation to a depth of approximately 2m but is not within 500m of any other class of Acid Sulfate Soils.</p> <p>The application therefore does not require the preparation of an Acid Sulfate Soils Management Plan.</p> |

Development Control Plans

Sydney Development Control Plan 2012

17. 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

18. The site is located within the Toxteth locality. The proposed development is in keeping with the unique character and the design principles of the locality in that it maintains the existing pattern of development in the area, and provides new and mature planting within the rear courtyard that will enhance and contribute to the heritage conservation area.

Section 3 – General Provisions

| Provision | Compliance | Comment |
|-------------------|------------|--|
| 3.5 Urban Ecology | Yes | <p>The application proposes the planting of a mature Water Gum (<i>Tristaniopsis luscious</i>) in the rear garden which is supported by the City's Tree Management Unit.</p> <p>The tree will provide approximately 20sqm of canopy cover at maturity. When considered in conjunction with the Plane tree at the front of the site, the proposal will contribute to a site canopy coverage of 18%.</p> <p>The proposal therefore meets the DCP requirement of 15% canopy coverage within 10 years of development completion.</p> |

| Provision | Compliance | Comment |
|--|------------|---|
| 3.6 Ecologically Sustainable Development | N/A | A BASIX certificate is not required as the volume of the pool is not more than 40,000 litres. |
| 3.9 Heritage | Yes | <p>The site is located within the Toxteth Heritage Conservation Area (C34). The building is identified as a contributory building.</p> <p>The proposal is for the installation of a swimming pool and landscape works, which have been designed and sited to maintain existing side and rear setbacks. The development will have minimal impact on views to and from the site, as all works are confined to ground level and cannot be easily viewed from the rear lane.</p> <p>Excavation will take place in close proximity to the southern boundary wall, with underpinning required. It is recommended that a condition be imposed requiring a dilapidation report to be carried out for adjoining properties. Given the limited area required for excavation, it is not anticipated any major structural works are required.</p> <p>The proposal will not have detrimental impact on the significance of the heritage conservation area.</p> |
| 3.14 Waste | Yes | A condition has been recommended to ensure the proposed development complies 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 | Yes | The proposal will not alter the two storey height of the existing terrace, which complies with the control. |

| Provision | Compliance | Comment |
|--|------------|---|
| 4.1.2 Building setbacks | Yes | The proposal maintains existing rear and side setbacks when viewed from Mansfield Lane. All works are confined to ground level. |
| <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 pool will sit at a height of 450mm above ground at the south-west side boundary of the site. An open pergola extending from the rear ground floor extension is also proposed, with a height of 2.4m, and setback between 0.95m (south) and 1.05m (north) at each boundary.</p> <p>Given the height and location of the proposed swimming pool, as well as the height and setbacks proposed for the open pergola structure, the development is unlikely to result in any additional overshadowing to neighbouring properties.</p> |
| 4.1.3.3 Landscaping | Yes | The proposal is accompanied by a landscape plan that identifies native trees and grasses to be planted within the rear courtyard, as well as groundcovers and climbers that are appropriate for the residential dwelling. |
| 4.1.3.4 Deep soil planting | Yes | The proposal exceeds DCP requirements, maintaining 57sq or 26% of deep soil, located within the front setback of the site to Mansfield Street and the rear courtyard. All deep soil areas are unencumbered by structures above or below, with a minimum dimension of 3m. |
| 4.1.3.5 Private open space | Yes | The proposal maintains 38.4sqm of private open space, with a minimum dimension of 3m at the rear of the site. |

| Provision | Compliance | Comment |
|------------------------|------------|--|
| 4.1.3.6 Visual Privacy | Yes | <p>The proposal will not result in unacceptable privacy impacts given that the swimming pool has been appropriately sited to be as close to existing ground level as possible. At its highest point, the proposed pool is approximately 450mm above existing ground level, with a 1800mm high steel screen around the perimeter that acts as a pool barrier.</p> <p>An appropriate condition is recommended to address acoustic privacy impacts arising from the operation of plant equipment associated with the swimming pool.</p> |
| 4.1.7 Fences | Yes | No changes are proposed to the existing retaining walls or the roller door at the rear of the property. |
| 4.1.9 Car parking | Yes | <p>The existing car space is located at the rear of the dwelling and consistent with the controls.</p> <p>The car space is 5.7m (l) x 2.85m (w), which complies with Section 4.1.9(4) of the SDCP 2012.</p> |

Consultation

Internal Referrals

19. The application was discussed with Council's Heritage Specialist 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

20. No external referrals were required.

Advertising and Notification

21. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 14 days between 13 July 2021 and 28 July 2021. A total of 53 properties were notified and no submissions were received.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

22. 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, being alterations and additions to an existing dwelling. The development is therefore excluded from the need to pay a contribution.

Contribution under Clause 7.13 of the Sydney Local Environmental Plan 2012

23. The site is located within residual land and is subject to the provisions of Clause 7.13 of the Sydney LEP 2012.
24. The proposed development does not involve an increase floor space or change of use, and a contribution is therefore not payable.

Relevant Legislation

25. Environmental Planning and Assessment Act 1979.

Conclusion

26. Approval is sought for minor excavation, installation of a small swimming pool and open pergola, landscape works and the planting of a tree within the rear courtyard of the existing dwelling house.
27. No submissions were received during the exhibition period.
28. The proposal exhibits a suitable design, providing landscaping that integrates well with the existing dwelling and responds to the topography of the site. The planting of a new tree within the site will positively contribute to canopy targets for the area.
29. The proposal will not result in unacceptable amenity impacts on surrounding properties, including solar access and visual and acoustic privacy. The proposal will not adversely affect the rear lane streetscape or overall heritage character of the area.
30. The proposal is generally consistent with the objectives, standards and provisions of the relevant planning controls and is recommended for approval, subject to conditions.

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