

Item 3.**Development Application: 45 Renwick Street, Alexandria - D/2022/592**

File No.: D/2022/592

Summary

Date of Submission:	4 August 2022
Applicant:	Anastasia Leone
Architect/Designer:	Urban Style Design
Owner:	Ms E M Z Townsend & Mr T Bader
Planning Consultant:	Boston Blyth Fleming Pty Ltd
Heritage Consultant:	Edwards Heritage Consultants
Cost of Works:	\$993,410
Zoning:	R1 General Residential. Development is permitted with consent
Proposal Summary:	The proposal involves the demolition of an existing two storey detached dwelling and rear garage at 45 Renwick Street and construction of a three storey detached dwelling, swimming pool and laneway structure with studio facing Kingsclear Road at the rear of the site.

Notification

The application was notified for 14 days between 12 July 2022 and 27 July 2022. As a result, 21 submissions were received by the City in response. Additional information was provided by the applicant on 13 January 2023 and as a result was renotified for 14 days between 2 February 2023 and 17 February 2023, 40 submissions were received. The submissions raised the following concerns:

- The proposed bulk and scale is out of character for the area and streetscape;
- Demolition should not occur to a contributory building within a heritage conservation area;

- Significant impacts on the conservation values of the Kingsclear Heritage Conservation Area;
- The proposed three storey design and front dormers result in a building that is out of character with the area and have an imposing and negative impact on the streetscape and neighbouring properties;
- Loss of amenity to neighbouring sites, including solar access, privacy and bulk and scale;
- The proposed third storey and roof form will result in unnecessary bulk and scale impacts and the rooftop terrace will result in significant privacy impacts to neighbouring sites; and
- Impact of neighbouring tree.

The application is recommended for refusal as it fails to deliver a design that is consistent with the design criteria of the Sydney Development Control Plan 2012, despite providing adequate justification to demolish a contributory building.

Reason for referral to LPP

The application has been referred to the Local Planning Panel for determination as over 25 objecting submissions were received.

Assessment

The proposal does not exhibit design excellence as required by Clause 6.21C(1), having regard to the mandatory factors set out at Clause 6.21C(2) of Sydney Local Environmental Plan 2012. Nor does the proposal meet the requirements of Clause 5.10 (1) and (4) of the Sydney Local Environmental Plan 2012 and Provision 3.9 and 4.1 of the Sydney Development Control Plan 2012.

This assessment finds that the proposal fails to provide a sympathetic infill development that responds to existing neighbouring contributory buildings. The proposed bulk and scale results in adverse impacts to the Kingsclear heritage conservation area and does not respond to the objectives of the locality as outlined in the Erskineville Oval locality statement.

This assessment is consistent with the comments made by the City's Urban Designer, Heritage Officer and Planner within the *Request to Withdraw* letter dated 26 September 2022. The letter concluded that the proposed development does not exhibit design excellence as it fails to respond to the sensitive nature of the conservation area, ignores the design objectives of the DCP, and results in a much larger

and more imposing development than the existing contributory building, creating additional impacts on neighbouring sites.

The applicant was advised of the concerns during a meeting held on 18 October 2022 and advised of their intention to not withdraw the application and submit an amended scheme based off the comments provided. Amended drawings and a structural report were provided on 13 January 2023 which included minor changes to the original design. Most issues raised in the withdrawal letter remain outstanding.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Biodiversity and Conservation) 2021
- (iv) SEPP (Building Sustainability Index: BASIX) 2004

Attachments: A. Selected Drawings

Recommendation

It is resolved that consent be refused for Development Application No. D/2022/592 for the reasons outlined below.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

Failure to exhibit design excellence

- (A) The proposed development fails to demonstrate design excellence, as it:
- (i) fails to deliver a high standard of architectural and urban design that is appropriate for the location;
 - (ii) has a form and external appearance that will detract from the quality and amenity of the public domain;
 - (iii) detrimentally impacts on the view corridor of Renwick Street and Dibbs Street; and
 - (iv) fails to respect the heritage significance of the Kingsclear heritage conservation area.

As such, the proposed development is contrary to and fails to satisfy:

- (i) Clause 1.2(2) of the Sydney Local Environmental Plan 2012, including the aims at parts (h), (j), and (k);
- (ii) Clause 6.21 of the Sydney Local Environmental Plan 2012, including the objective of the clause;
- (iii) Clause 6.21C(2) of the Sydney Local Environmental Plan 2012, including the matters for consideration at parts (a), (b), (c) and (d); and
- (iv) Section 4.1 of the Sydney development Control Plan 2012, including the objectives of 4.1.1 (a)-(c), and Provisions (1)-(5); Objectives 4.1.2(a) and (b); Objectives 4.1.3 (a) and (b); Section 4.1.3.6 (1) and (2), Sections 4.1.6 and 4.1.8.

Unacceptable impacts on the significance of the heritage conservation area

- (B) The proposed development fails to:
- (i) establish and respond to the objectives of the Kingsclear heritage conservation area;
 - (ii) provide a sympathetic infill development in accordance with objectives of Provision 3.9 of the Sydney Development Control Plan 2012; and

- (iii) provide a built form that represents a modern interpretation of the existing single storey contributory building as viewed from Renwick Street.

As such, the proposed development is contrary to and fails to satisfy:

- (i) Clause 1.2(2) of the Sydney Local Environmental Plan 2012, including the aim at part (k);
 - (ii) Clause 5.10(1) of the Sydney Local Environmental Plan 2012, including the objectives of part (b);
 - (iii) Clause 5.10(4) of the Sydney Local Environmental Plan 2012; and
 - (iv) Provision 3.9 of the Sydney Development Control Plan 2012, including the objectives at parts (a) and (b).
- (C) The proposal is not in the public interest.
- (D) In light of the above, approval of the application is not in accordance with the public interest, as required under Clause 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979

Background

Site and Surrounding Development

1. The site has a legal description of Lot 28 Sec 5 in DP2307, known as 45 Renwick Street, Alexandria. It is rectangular in shape with area of approximately 221sqm. It has a primary street frontage of 6m to Renwick Street and a secondary street frontage of 7.6m to Kingsclear Road. The site is located at the intersection of Renwick Street and Dibbs Street.
2. The site contains a two storey detached weatherboard dwelling with garage fronting Kingsclear Road at the rear of the site.
3. The surrounding area is characterised by a mixture of land uses, primarily being residential. Neighbouring sites consists of single storey terraces and detached dwellings with single and two storey rear additions that are not visible from Renwick Street. On the southern side of Renwick Street opposite the site at No. 14 Renwick Street, is St Lazarus Orthodox Church.
4. The site is located within the Kingsclear heritage conservation area (C3). The site is identified as a contributing building.
5. The site is located within the Erskineville Oval locality and is not identified as being subject to flooding.
6. A site visit was carried out on 10 August 2022. Photos of the site and surrounds are provided below:
7. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of the site and surrounds



Figure 2: Existing dwelling as viewed from Renwick Street demonstrating the consistent bulk and scale within predominantly single storey streetscape



Figure 3: Existing garage and separate roller door as viewed from Kingsclear Road. It is proposed to demolish the existing structures and construct a laneway structure with ground floor garage with studio above.



Figure 4: Site viewed from the rear private open space showing a significant magnolia within the rear private open space

History Relevant to the Development Application

Development Applications

8. The following applications are relevant to the current proposal:
 - **D/1989/241** – Development consent was granted on 13 July 1989 to construct a 2 storey extension for use as a studio and garage.
 - **XOLDBA/1989/527** – Development consent was granted on 13 October 1989 for an additional floor to the dwelling.
 - **WOLDBA/1990/236** – Development consent was granted on 14 November 1990 construct a den over the rear garage.

Development Application - Request to Withdraw and amendments

9. An assessment by Council officers concluded that the development fails to comply with the relevant provisions of the Sydney Local Environmental Plan 2012 (LEP) and Sydney development Control Plan 2012 (DCP). A request for withdrawal was sent to the applicant on 26 September 2022.

10. It was noted that a substantially different development was required that would respect the heritage significance of the site and surrounding area, would reflect the desired character of the Erskineville Oval locality and reduce bulk, scale and amenity impacts to neighbouring properties.
11. The applicant responded on 29 September 2022, confirming the application will not be withdrawn. On 18 October 2022, a meeting was held with the applicant and their consultants as well as the City's Planner, Urban Designer and Heritage Officer where the issues of the proposal were discussed. Instead, the applicant has requested Council consider an amended scheme supported by an updated structural report which was required to provide additional information on the structural integrity of the building, demonstrating why it could not be retained. The issues discussed are as follows:
 - The submitted structural report did not contain sufficient justification for demolition of a contributory building.
 - The proposal does not demonstrate compliance with Clause 6.21C Design Excellence of Sydney Local Environmental Plan 2012.
 - The proposal does not demonstrate compliance with several design requirements of Section 4.1 of the DCP including:
 - sympathetic design and built form with existing dwellings in the street;
 - consistent setbacks with the predominate building line in the street;
 - amenity impacts to neighbouring sites;
 - privacy impacts; and
 - unacceptable overshadowing to neighbouring sites.
 - Inconsistent bulk and scale with the existing and desired character of the area.
 - The middle section of the proposed development is 3 storeys in height. The 'attic' has created bulk instead of utilising a roof space in the traditional sense. The 'mansard roof' form to Renwick Street also has a 2 storey presentation. These are contrary to the 1 storey frontage height and 2 storey maximum height recommended by Section 4.1.1 of the DCP.
 - The proposed architectural expression of the development would result in an undesirable presentation to the streetscape when viewed from Renwick Street, Dibbs Street, Allen Avenue and Kingsclear Road and inconsistent built form with the Kingsclear heritage conservation area.
 - The proposed infill development reduces its front setback from the street and does not provide an interpretation of the existing verandah.
 - The removal of the front verandah reduces the visual depth in the ground floor elevation, which is a consistent feature along this section of Renwick Street regardless of the architectural style of the building.
 - The silhouette of the proposed development does not respond to the neighbouring built form at No. 69-73 Renwick Street or the existing dwelling.

- The proposed rooftop terrace and first floor rear balcony are inconsistent with Section 4.1.8 of the DCP and will result in significant privacy impacts to neighbouring sites.
- The proposed side boundary windows on the western elevation rely on borrowing amenity from No. 47 including solar access, ventilation and outlook and are not supported.
- The large internal void area also contributes to significant additional bulk. While the intent to maximise natural light to the middle of the terrace is positive, alternative designs which do not rely solely on amenity provided outside the property boundary, such as reducing the depth of the floor plate and providing additional skylights should be explored.
- The proposed laneway structure at the rear of the site fronting Kingsclear Road does not comply with Section 4.1.6 of the DCP. This includes a noncompliance with the required single storey built form with a studio within a gable roof form. It is also noted that the 'studio' will be assessed as a secondary dwelling, given the provision of bathroom on the ground floor and a kitchen on the first floor.
- The proposed stormwater infrastructure within the rear private open space falls within the existing tree's Tree Protection Zone and is to be realigned to be as close to the proposed pool, reducing impacts on the tree.

Amendments

12. The applicant provided additional information and amendments on 13 January 2023, and submitted the following changes and information:
 - an updated structural report, including additional information to support the demolition of the existing dwelling; and
 - an amended scheme including:
 - a slight reduction of 3.7sqm in floor space on the third floor;
 - a slight increase of 230mm of the front setback to Renwick Street;
 - changes to the front dormer windows including decrease in size and repositioned within the roof form; and
 - changes to the laneway structure including repositioning the gable roof, siting the studio within the roof form and remove the kitchenette.
13. However, the changes outlined above are minor and do not sufficiently address the key and detrimental impacts of the proposal.

Proposed Development

14. The application seeks consent for the following:

- Demolition of all structures on site, including the existing dwelling and rear garage.
- Construction of a 3-storey detached dwelling including:
 - Four (4) bedrooms;
 - Rooftop terrace off the second floor (third storey) at the rear;
 - First floor rear balcony; and
 - Large internal void.
- Construction of a laneway structure on Kingsclear Road, consisting of a ground floor garage with studio bedroom and ensuite.
- Construction of a 7m long inground swimming pool;
- Landscaping within the rear private open space and front yard.

15. Plans and elevations of the proposed development are provided below.

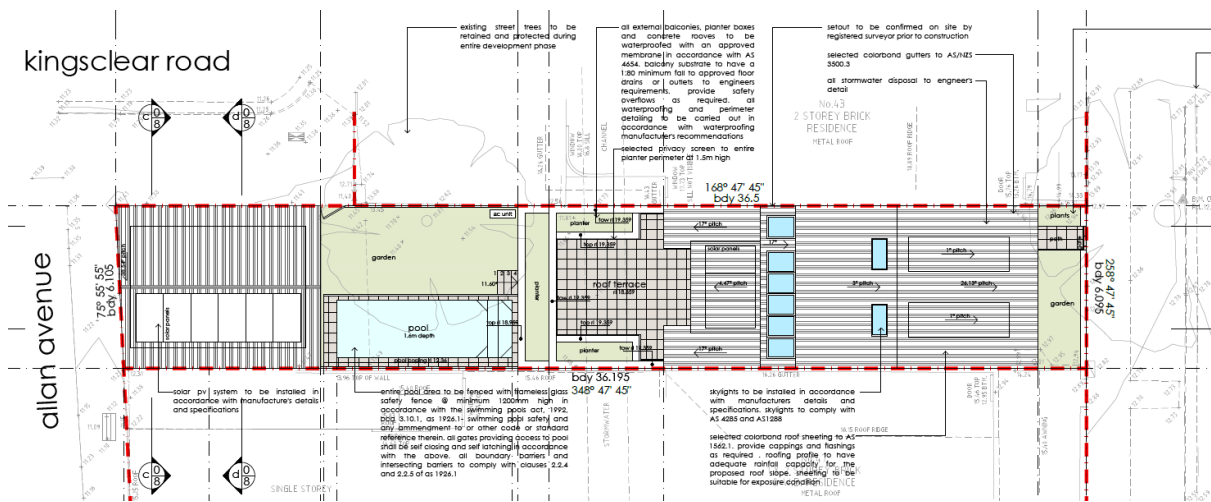


Figure 5: Proposed Roof Plan demonstrating the proposed rooftop terrace, swimming pool and laneway structure

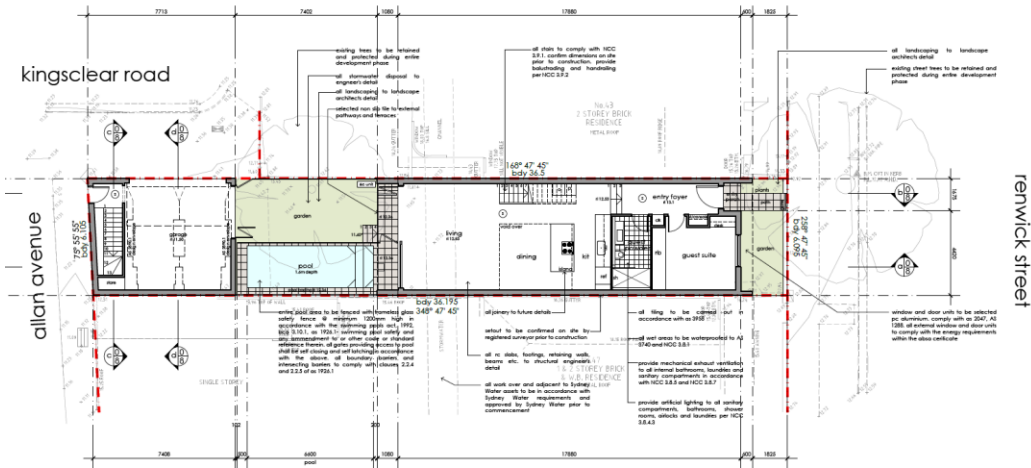


Figure 6: Proposed ground floor plan demonstrating the internal void above the kitchen/ dining area

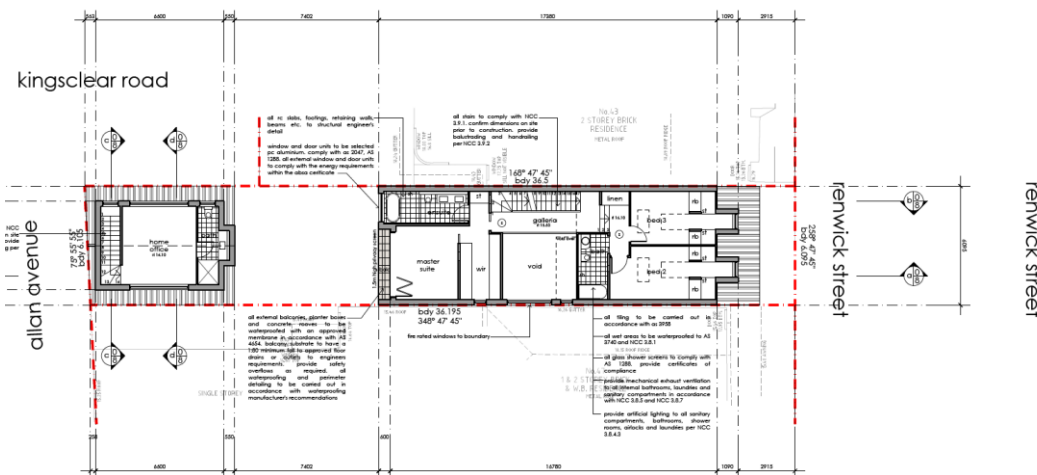


Figure 7: Proposed first floor plan demonstrating the large internal void at the centre and rear balcony

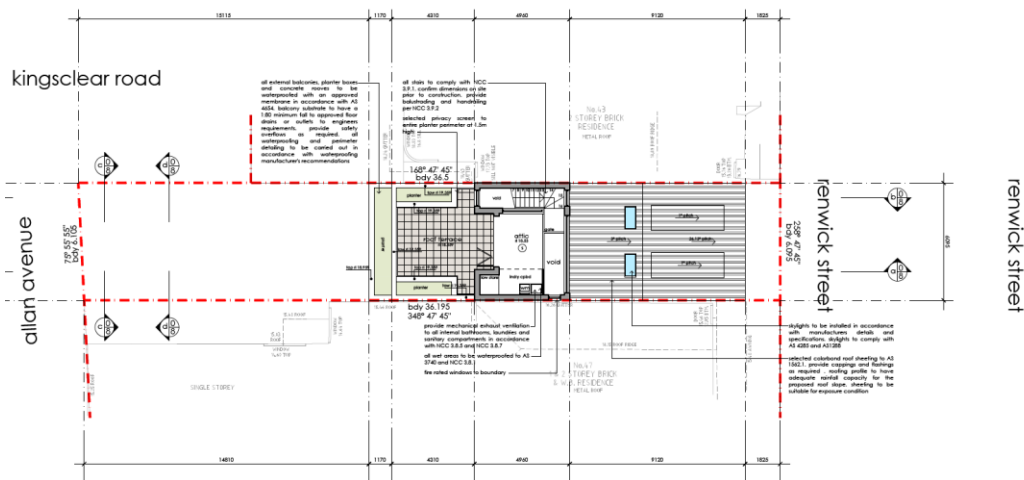


Figure 8: Proposed second floor plan demonstrating the 18sqm rooftop terrace

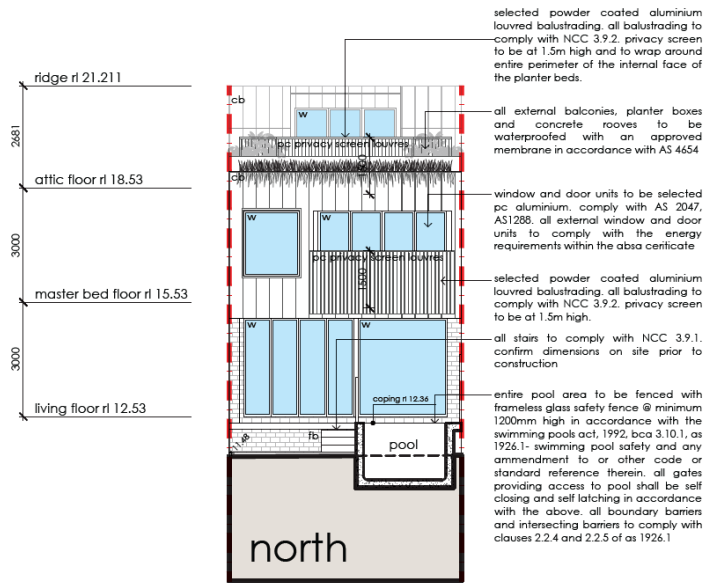


Figure 9: Proposed north elevation (main dwelling) showing the first floor balcony and rooftop terrace

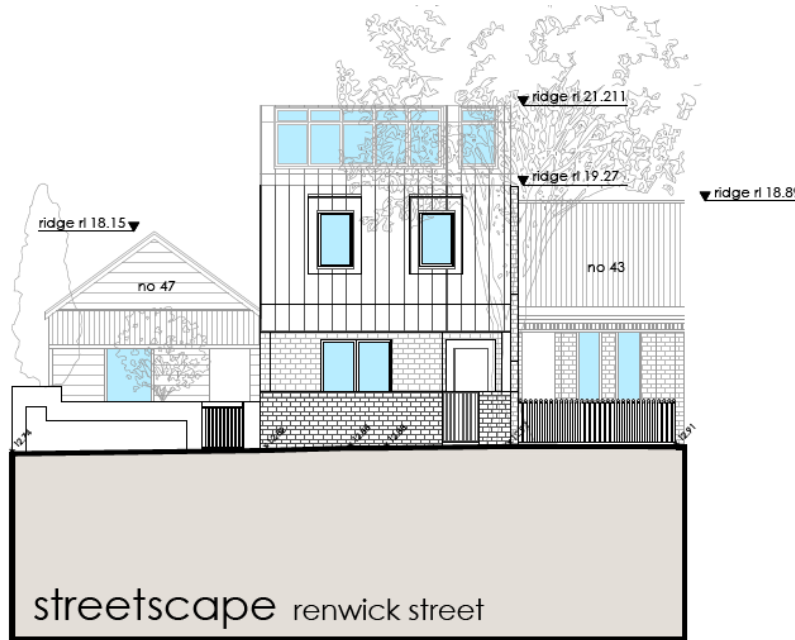


Figure 10: Proposed south elevation (Renwick Street) showing the proposed bulk and scale compared to neighbouring dwellings

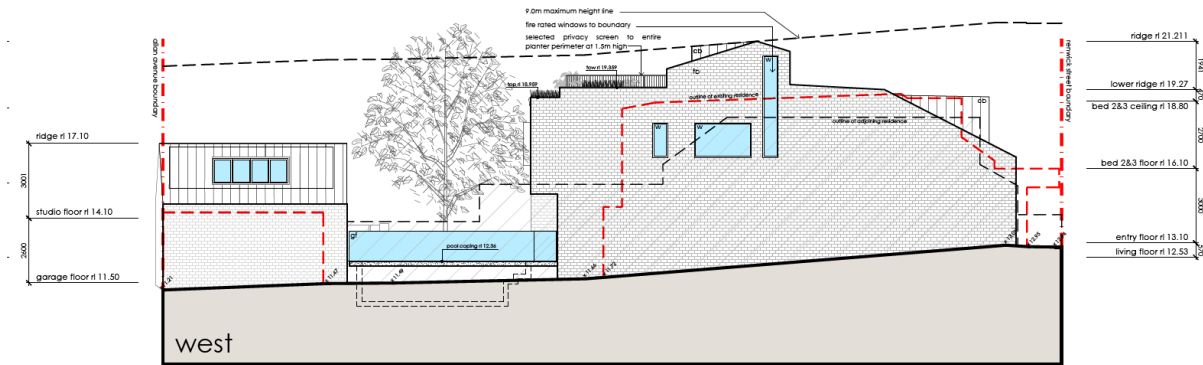


Figure 11: Proposed west elevation demonstrating the extent of the three storey dwelling and several side boundary windows

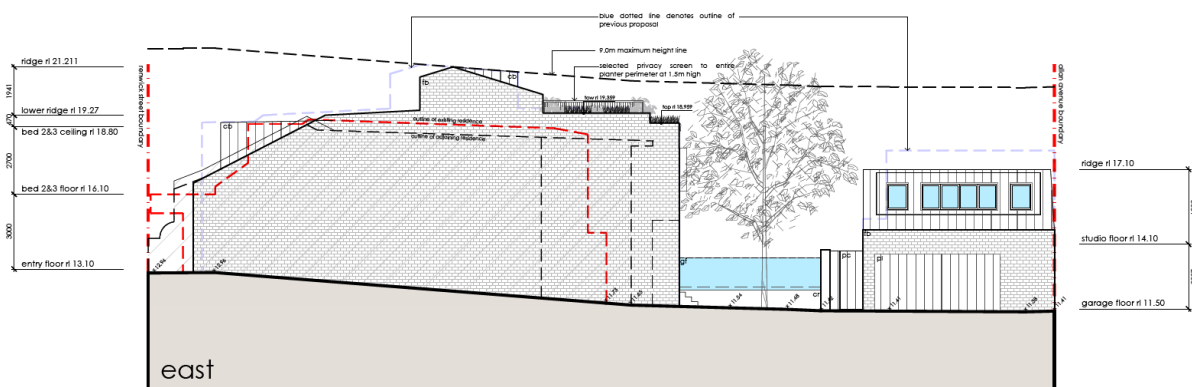


Figure 12: Proposed east elevation demonstrating outline comparison with the existing neighbouring dwelling

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 (Building Sustainability Index: BASIX) 2004

17. A BASIX Certificate has been submitted with the development application.
18. No updated BASIX was provided for the amended scheme.

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 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 9m is proposed. 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 is permitted. A floor space ratio of 0.97:1 or 215.9sqm 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	No	The site is located within the Kingsclear heritage conservation area C3. The proposed development will have a detrimental impact on the heritage significance of the 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	No	The proposed development does not demonstrate design excellence. See further details in the 'Assessments' section above and 'Discussion' section below.

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	A maximum of 2 car parking spaces are permitted. The proposed development includes 2 car parking spaces and complies with the relevant development standards.
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.

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 Oval locality. The proposed development is not in keeping with the unique character and the design principles of the locality for the following reasons:
- Removal of a two storey contributory building that presents as single storey at the Renwick Street interface and construction of a three storey development does not retain the low scale residential character of the area and does not present a cohesive design as outlined in the character statement.

- The proposed proportions of the proposed development does not provide a cohesive built form and scale with the streetscape.
- The proposal does not respond and compliment surrounding contributory buildings within the Kingsclear heritage conservation area, which are generally single storey in nature at street frontage.
- The proposal does not retain the low scale built form of the streetscape.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	No	The proposed development will have an impact on the Magnolia tree root system from the proposed pool and stormwater drains. Further information was requested to demonstrate that the tree will be able to be retained and not impacted during construction. The submitted Arborist report indicates that stormwater pipes fall within the tree "Tree Protection Zone". It was requested that the stormwater pipe alignment and pit location be pushed towards the perimeter of the TPZ.
3.6 Ecologically Sustainable Development	No	No updated BASIX has been provided for the amended scheme. Therefore, the clause has not been complied with.
3.9 Heritage	No	The site is located within the Kingsclear heritage conservation area C3. The building is identified as a contributing building. The proposed development will have an impact on the heritage conservation area. Refer to "Discussion" section below.

Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	No	The site is permitted a maximum building height of two (2) storeys and 1 storey at street frontage. The proposed development is three (3) storeys in height and does not comply with the building height in storeys control. See further details under the sub-heading

Provision	Compliance	Comment
		Design and Bulk and scale' in the 'Discussion' section below.
4.1.2 Building setbacks	No	<p>The proposed development does not have a consistent front of rear setback with neighbouring sites.</p> <p>The proposed first floor building line exceeds the first floor building line of No. 43 Renwick Street by 1.8m, resulting in built form impacts, privacy issues and impacts to the amenity of the rear private open space of No. 43 Renwick Street.</p> <p>The front wall alignment is inconsistent with the predominate pattern of terrace housing within the street.</p>
<p>4.1.3 Residential amenity</p> <p>As demonstrated below, the proposed development will not have an acceptable residential amenity and will have unreasonable impacts on the residential amenity of neighbouring properties.</p>		
4.1.3.1 Solar access	No	The proposal results in additional overshadowing to the site and neighbouring sites that would result in non-compliance with the section. See subheading "solar access" in the discussion section below.
4.1.3.3 Landscaping	Yes	A landscape plan has been submitted and includes landscape areas within the front and rear of the site as well as the proposed planters on the rooftop terrace. The proposed landscaping at ground level is supported and retains the existing Magnolia tree, however the rooftop terrace landscaping does not comply with provision 4.1.8 of the DCP and is not supported.
4.1.3.4 Deep soil planting	Yes	The proposal provides 34.6sqm of deep soil areas and complies with the provision.
4.1.3.5 Private open space	Yes	The proposal provides 22sqm of private open space that is directly accessible from the living area.
4.1.3.6 Visual privacy	No	The proposed rooftop terrace, first floor rear balcony and first and second floor boundary windows will result in significant visual privacy issues to neighbouring

Provision	Compliance	Comment
		sites. See subheading "privacy" under the discussion section below.
4.1.6 Secondary and laneway dwellings	Yes	<p>The proposal includes a laneway structure to the rear of the site above a garage with a total height of 5.6m and does not comply with the maximum 5.4m height as per the provision.</p> <p>The laneway structure will result in a loss of amenity and solar access to neighbouring properties and is not supported.</p>
4.1.8 Balconies, verandahs and decks	No	<p>The proposed rooftop terrace accessible from level 3 at the rear of the site and first floor rear balcony will result in significant visual privacy and amenity impacts to neighbouring sites. Therefore, the proposed elements are not supported.</p> <p>Refer to the subheading "Privacy" in the discussion section below.</p>
4.1.9 Car parking	Yes	The car space is located at the rear of the dwelling and consistent with the controls.

Discussion

Design Excellence:

22. The built form proposed is inappropriate for the site and prominent positioning at the end of Dibbs Street and that the proposal fails to contribute to the significance of the heritage conservation area and the public domain.
23. The three storey presentation to the street results in an overbearing and inconsistent built form with existing dwellings within Renwick Street and results in several amenity impacts to neighbouring sites.
24. The proposal fails to address the matters of Section 6.21C (2)(a), (b) and (c) of the LEP as follows:
 - The proposed design does not demonstrate a high standard of architectural design for the conditions of the site and proposes a form that is not appropriate for the streetscape and conservation area.
 - The proposal will have a detrimental impact on the streetscape, whilst the bulk and scale is inappropriate for the site and has an overbearing impact on neighbouring sites which are single storey at street frontage.
 - The proposal has a form and external appearance that will detract from the quality and amenity of the public domain.

- The proposal will have a detrimental impact on the view corridor looking north along Dibbs Street.
25. The proposal fails to address the following relevant matters of Section 6.21C (2)(d) of the LEP:
- The proposed three (3) storey development results in an inconsistent built form with neighbouring contributory buildings and results in adverse environmental impacts to the site and neighbouring sites and is therefore not suitable.
 - The proposal does not respond to the heritage objectives of the Kingsclear heritage conservation area and does not provide a sympathetic design to the Renwick streetscape.
 - The proposed bulk and massing of the building will result in a substantially larger development than the existing dwelling and results in amenity impacts to neighbouring sites.
 - The proposed three (3) storey building height is inconsistent with the single storey building street frontage height in storeys as per Section 4.1.1 of the DCP and is inconsistent with neighbouring buildings.
 - The proposal will result in adverse environmental impacts including additional overshadowing, privacy, acoustic and amenity impacts to neighbouring sites.
 - As noted above, the proposal presents as a three storey building at the street interface, providing an inconsistent presentation to Renwick Street.
26. The development therefore fails to satisfy design excellence provisions.

Design, Bulk and Scale:

27. The proposal fails to respond to the objectives of Sections 3.9 and 4.1.1 of the DCP by providing a modern interpretation of a single storey dwelling and does not complement the existing and desired built form of the streetscape and heritage conservation area.
28. The proposed 3 storey built form results in significant bulk and scale impacts to the site and neighbouring properties and given the sites highly visible location at the intersection of Dibbs and Renwick Streets, would create an undesirable presentation to the streetscape and would significantly impact on the heritage conservation area.
29. The proposed mansard roof form, height (overall ridge height and the lack of reference to the datum line established by the verandah), bulk, and detailing (including the use of exposed steel column framing the ground floor) are unsympathetic to the neighbouring contributory buildings. Figure 13 below demonstrates the original proposal and updated proposal, showing changes to the front dormer windows allowing for a consistent roof break and a minor decrease in height. However, issues remain resulting in a built form and presentation to the street that is inconsistent with neighbouring dwellings and the objectives of the heritage conservation area.

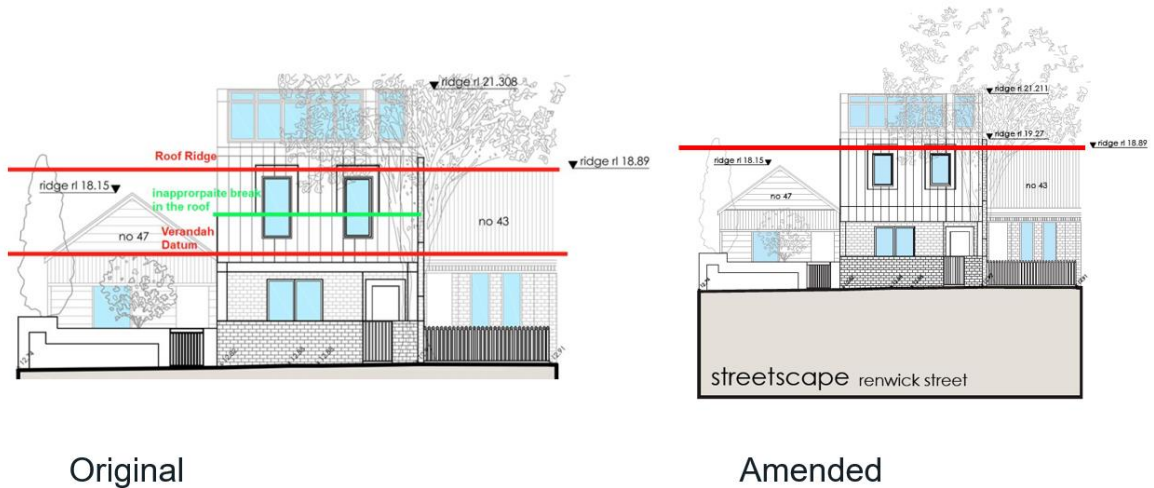


Figure 13: The silhouette of the original and amended proposal does not respond to the neighbouring properties at 69-73 Renwick Street or the existing building being replaced.

30. The first floor rear setback does not comply with Provision 4.1.2 of the DCP. The first floor rear building line is inconsistent with the predominate building line established by Nos. 39-43 Renwick Street, exceeding this by 1.8m and resulting in additional overshadowing and amenity impacts to No. 43.
31. The proposed internal layout, including the large void (Figure 14 below) 12 sqm in area between the ground and first floors does not demonstrate good design and contributes to the excessive bulk of the dwelling whilst relying on borrowed amenity from No. 43 through proposed boundary windows on the western elevation.

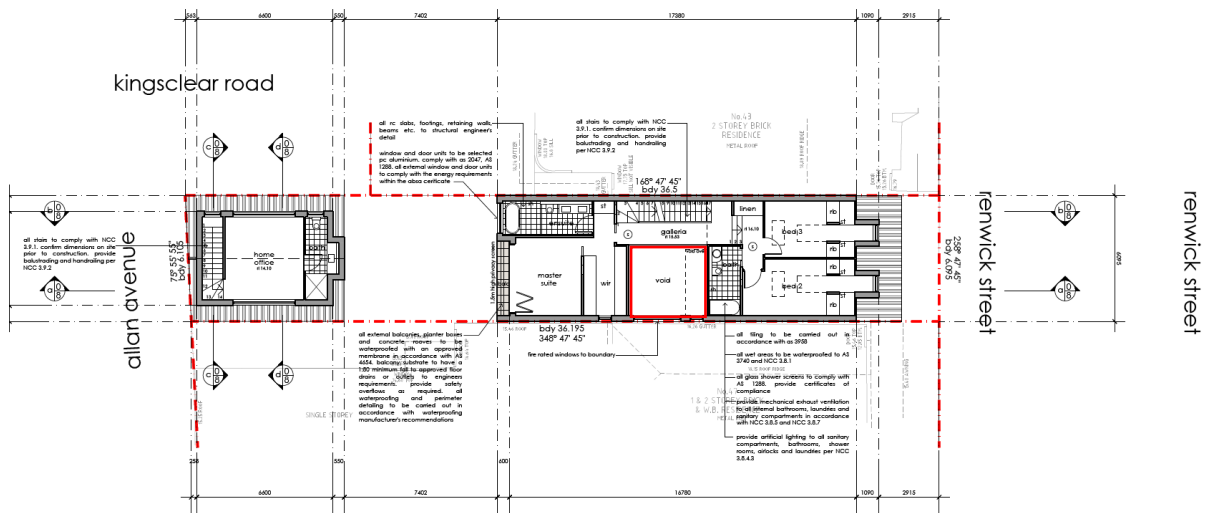


Figure 14: Proposed first floor plan showing large void (red outline) in the centre of the building.

32. The proposal results in significant built form, overshadowing, privacy, amenity and noise impacts to the site and neighbouring sites when compared to the existing dwelling and therefore fails to satisfy the design objectives of the DCP.

Heritage:

33. The proposed built form does not demonstrate a modern interpretation of an infill development as per Provision 3.9.6 of the DCP for the following reasons:
- The proposed 3 storey built form does not compliment the single storey street frontage of neighbouring sites and results in a much larger built form than the existing dwelling.
 - The proposal does not compliment the character of the heritage conservation area as does not respond to the established building alignment with neighbouring dwellings, including height and setbacks.
 - The proposed design fails to take cues from neighbouring dwellings by aligning the main roof ridge with that of the unmodified neighbouring terrace to provide a unified and modern infill development within the established conservation area.
 - The proposal fails to comply with the Kingsclear Heritage Inventory Assessment Report.
34. For the above reasons the proposal also fails to address the matters of 5.10(1) and (4) of the LEP as follows:
- fails to establish and respond to the objectives of the Kingsclear heritage conservation area;
 - fails to provide a sympathetic infill development in accordance with objectives of Provision 3.9 of the Sydney Development Control Plan 2012; and
 - fails to provide a built form that represents a modern interpretation of the existing single storey contributory building as viewed from Renwick Street.
35. The development therefore fails to satisfy the heritage requirements of the LEP and DCP.

Privacy:

36. The proposal would result in significant visual privacy issues to neighbouring sites as a result of the proposed rooftop terrace and first floor rear balcony.
37. As per Provision 4.1.8 of the DCP, first floor balconies and rooftop terraces are to be avoided at the rear and side of a dwelling. The proposed 18sqm rooftop terrace accessible from the third level at the rear of the site would result in significant visual privacy and amenity impacts to Nos 49, 47, 43 and 41 Renwick Street and No. 91 Kingsclear Road.
38. Whilst the terrace includes planters around the perimeter of the space, these will only support small plantings and will not provide adequate privacy and noise mitigation.
39. First floor rear balconies are to be avoided under provision 4.1.8 of the DCP. The proposed first floor balcony is 19 square metres in area and extends across the width of the rear elevation. The height and expansive area would likely result in visual privacy and amenity impacts to neighbouring sites and is not required in order to provide adequate private open space to the subject dwelling.

40. For the reasons outlined above, the rooftop terrace and first floor rear balcony are considered to detract from the design quality of the building and are not supported.

Windows:

41. The proposal includes three (3) large windows on the first and second floors of the western elevation. The windows are located on the boundary with No. 47 Renwick Street which is currently single storey in nature. The windows would provide light to the proposed internal void and first floor walk in wardrobe. The windows rely on borrowed amenity from the neighbouring site at No. 47 Renwick Street and are not supported. The positioning of the windows on the boundary would also unfairly impact any future development at No. 47 which is permissible to have a first floor rear addition.
42. The requirement to have side boundary windows is not considered necessary as it would predominantly support the internal void which in itself is not supported as discussed under the above subheading 'Bulk and Scale'.

Solar access

43. Section 4.1.3 of the Sydney DCP 2012 recommends that 8sqm of the principle private open space and 1sqm of the primary living room of residential dwellings achieve a minimum of 2 hours of direct sunlight between 9.00am and 3.00pm at the winter solstice.
44. The applicant has provided shadow diagrams, however the diagrams provided do not provide an accurate assessment of the additional overshadowing caused by the proposed development. This includes:
- Shadows cast by all existing structures have not been provided in the shadow diagrams. For example, diagrams need to include sheds and fences.
 - Diagrams do not provide adequate details of the built form of neighbouring properties.
 - Sunlight to the area of the private open space to No. 47 Renwick Street has not been measured to confirm that 50% of the minimum area of private open space receives the minimum sunlight as per Provision 4.1.3.1 (1) of the DCP.
 - The living room glazing of No. 47 Renwick Street has not been correctly identified (the current analysis shows dining room windows), however a review identified this to consist of large bifold doors providing the only source of solar access to the living area and kitchen/ dining.
 - Adequate solar access to the proposed private open space and living room glazing of the subject proposal has not been demonstrated.
45. For the reasons listed above, the submitted diagrams are considered inaccurate and an adequate assessment of additional overshadowing impacts and solar access requirements as per the Provision 4.1.3.1 of the DCP cannot be undertaken.

Consultation

Internal Referrals

46. The application was discussed with Council's Heritage and Urban Design Unit, Landscape Unit and Tree Management Unit. Relevant comments have been included in this report.

Advertising and Notification

47. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 14 days between 12 July 2022 and 27 July 2022. A total of 24 properties were notified and 22 submissions were received. The application was renotified as a result of an amended scheme for a period of 14 days between 2 February 2023 and 17 February 2023 and 40 submissions were received.
48. The submissions raised the following issues:

Bulk and Scale:

- Issue:** The proposed bulk and scale will impact neighbouring properties and impact the streetscape.
- **Issue:** The proposed secondary dwelling built form impacts on neighbouring sites.
- **Issue:** Other development applications in the area have been required to strictly comply with various heritage controls. The application does not demonstrate compliance with any heritage controls of guides.
- The proposed third storey is much higher and larger than neighbouring sites and is inconsistent with the street.
 - **Response:** The proposal incorporates excessive bulk and scale and therefore inappropriate for the subject site. The proposal is recommended for refusal. See 'Discussion - Bulk and Scale' section above for details.

Design Excellence:

- **Issue:** The proposal is setback too far and is inconsistent with No. 47 on the first floor level resulting in amenity impacts to neighbouring sites.
- **Issue:** The internal design of the dwelling adds to the bulk of the development, including the large internal void.
- **Issue:** The design of the rear private open space, including the location of the pool and associated pumps will impact the amenity of neighbouring properties.
- **Issue:** The proposed laneway structure is out of character with the Kingsclear Road streetscape.

- **Response:** The proposal provides a design that is not appropriate for the site and street and does not demonstrate design excellence and therefore. See 'Discussion - Design Excellence' section above for details.

Privacy:

Issue: The proposed rooftop terrace and first floor balcony present privacy and noise issues for neighbouring properties.

- **Issue:** The proposed studio bedroom and side facing windows will result in privacy issues to neighbouring sites.
- **Issue:** The proposed side windows will impact the neighbouring property at No. 43 Renwick Street.
- **Response:** The proposed rooftop terrace, rear first floor balcony and side boundary windows result in privacy impacts and therefore is inappropriate for the subject site. See 'Discussion - Privacy' section above for details.

Solar:

- **Issue:** The proposal results in loss of solar access to neighbouring sites and does not comply with the requirements of the DCP.
- **Issue:** The submitted shadow diagrams are not accurate and do not show all structures on the site, including shadows cast by fences.
- **Response:** The proposal is considered inappropriate for the subject site. See 'Discussion - Solar access' section above for details.

Other:

- **Issue:** The studio above the proposed garage is considered a secondary dwelling which does not comply with the Housing SEPP.
- **Response:** The proposed studio within the rear laneway structure does not include a kitchenette on the amended plans and is therefore not self-sufficient. The structure is not considered to be a secondary dwelling. Regardless, the proposal is considered inappropriate for the subject site.
- **Issue:** Demolition of the contributory building should not be allowed. Insufficient justification has been provided.
- **Response:** A revised structural report was provided which demonstrated that the dwelling is infested with termites which has resulted in an unstable structure and the inability to confine works to just alterations and additions to the original structure. In this instance the dwelling has been modified several times, removing many original elements of the building. Therefore, demolition of the dwelling is supported.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

49. The proposed development, if recommended for approval, would be subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

50. The site is located within the 'residual land' affordable housing contribution area. The proposed development, if recommended for approval, would be subject to an affordable housing contribution under the City of Sydney Affordable Housing Program 2020.

Relevant Legislation

51. Environmental Planning and Assessment Act 1979.

Conclusion

52. The application fails to demonstrate design excellence, in that it does not deliver a high standard of architectural and urban design. The proposed built form and architectural language is inappropriate for the site and impacts the desired character of the Erskineville Oval locality.
53. The proposal results in significant heritage impacts, failing to respond to the relevant heritage considerations of Clause 1.2(2)(k) and 5.10 of the Sydney Local Environmental Plan 2012.
54. The proposal fails to demonstrate compliance with Section 4.1 of the Sydney Development Control Plan 2012, in that it does not respond and respect existing built forms within the streetscape, does not respond to the predominate front and rear setbacks established in the street, results in additional overshadowing to neighbouring sites and results in privacy and amenity impacts.

55. The proposed three (3) storey built form fails to comply with Provision 4.1.1 *Building Height in Storeys* of the Sydney Development Control Plan 2012 which applies a two (2) storey height control and single storey street frontage height control to the subject site.
56. Having regard to the above, the development is not in the public interest and is recommended for refusal.

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