

Item 5.**Development Application: 51-53 Wells Street, Redfern - D/2022/792**

File No.: D/2022/792

Summary

Date of Submission:	5 August 2022 Amended plans and information was submitted in June, September and November 2023.
Applicant:	Mr Tung Cat
Architect/Designer:	Superdraft
Owner:	Mr Tung Cat
Planning Consultant:	Planning Direction Pty Ltd
Heritage Consultant:	Weir Phillips Heritage and Planning
Cost of Works:	\$511,700.00
Zoning:	The site is located within the E1 Local Centre zone under the Sydney Local Environmental Plan (SLEP) 2012. The proposal is defined as a single dwelling and a secondary dwelling, both of which are permissible with consent.
Proposal Summary:	<p>Consent is sought to carry out alterations and additions to an existing dwelling and construct a secondary dwelling at the rear of the site.</p> <p>The proposed development is compliant with the principal development standards pursuant to the Sydney Local Environmental Plan 2012.</p> <p>The application is referred to the Local Planning Panel (LPP) for determination as it is contentious development due to more than 25 unique submissions being received.</p> <p>The application was notified for 14 days between 12 August 2022 and 27 August 2022. A total of 26 submissions were received. The issues raised include tree removal, amenity impacts, solar access impacts on</p>

streetscape and character, traffic, waste and construction impacts.

The development application was considered by the Local Planning Panel at the meeting of 1 November 2023 and was deferred.

The application has been amended to address the matters raised by the Local Planning Panel at the 1 November 2023 meeting. The key issues relate to:

- total floor area of secondary dwelling; and
- potential encroachments to the adjoining property to the east.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Building Sustainability Index: BASIX) 2004
- (v) City of Sydney Development Contributions Plan 2015
- (vi) City of Sydney Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Planning Report to the 1 November 2023 Local Planning Panel Meeting

Recommendation

It is resolved that:

- (A) the Panel consider the amended plans and additional information, submitted since the meeting of the Local Planning Panel held on 1 November 2023;
- (B) the Panel consider the previous recommendation for approval, and the updated set of recommended conditions reflecting the amended plans which are set out in Attachment A to the subject report; and
- (C) consent be granted to Development Application No. D/2022/792 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 development is consistent with the objectives of the E1 Local Centre zone contained in Sydney Local Environmental Plan 2012.
- (B) The development responds appropriately to the scale of surrounding buildings, and is compatible with the character of the Prince Alfred Park South locality and the Redfern Estate heritage conservation area.
- (C) The development exhibits design excellence under Clause 6.21C of Sydney Local Environmental Plan 2012.
- (D) The development will not unreasonably compromise the amenity of neighbouring properties.
- (E) The development is generally consistent with the objectives of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. A detailed description of the site, surrounding development, and site photos are contained within the previous Planning Report at Attachment C.

History Relevant to the Development Application

Development Application Deferral

2. The development application D/2022/792 was considered by the Local Planning Panel on 1 November 2023. The Panel deferred determination of the development application and provided the following comments:

The Panel considered it reasonable to defer rather than refuse the application as there appears to be reasonable potential for the additional information required to enable finalisation of the assessment to be provided. Permissibility matters under clause 5.4(9) of the Sydney Local Environmental Plan 2012 need to be resolved before the Panel can determine the application. Further clarification is also required with regards to the common walls with adjoining properties.

Subsequent Development Application Amendments

3. Subsequently, a set of amended plans and additional information were submitted to address the comments made by the Local Planning Panel. The amendments are summarised as follows:
 - (a) reduction in the total floor area of the secondary dwelling to comply with Clause 5.4(9) of the Sydney Local Environmental Plan 2012 by reducing the size of Level 2 balcony by 4.5sqm;
 - (b) updated gross floor area and total floor area calculation plans; and
 - (c) additional information to clarify there are no encroachments to the adjoining property at 134-138 Redfern Street.

Proposed Development

4. The amended application seeks consent for the following:
 - demolition of single storey rear outbuilding currently used as a rumpus room;
 - alterations and additions to the existing dwelling, including a two-storey pavilion addition, reinstatement of original front balcony, and internal alterations; and
 - construction of three storey secondary dwelling at the rear.
5. A set of selected architectural drawings are provided at Attachment B.
6. No amendments are proposed to the ground floor and first floor levels. Level two of the principal dwelling remains unchanged, however there are amendments to level two of the secondary dwelling.

- 7. Selected drawings are reproduced in the figures below, highlighting the amendments to the secondary dwelling.

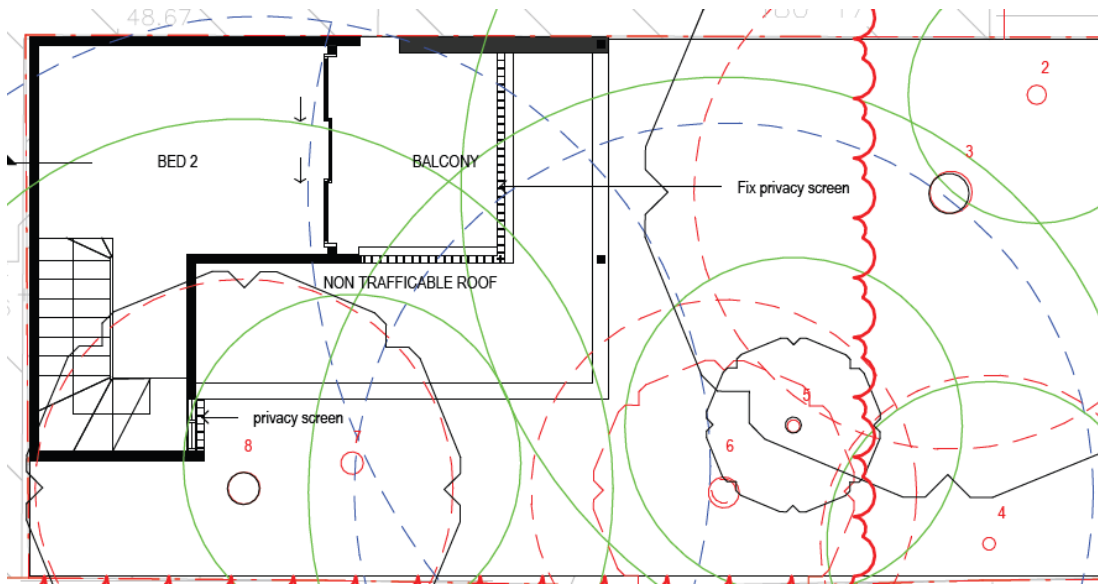


Figure 1: Secondary dwelling level two floor plan, presented at 1 November 2023 LPP Meeting

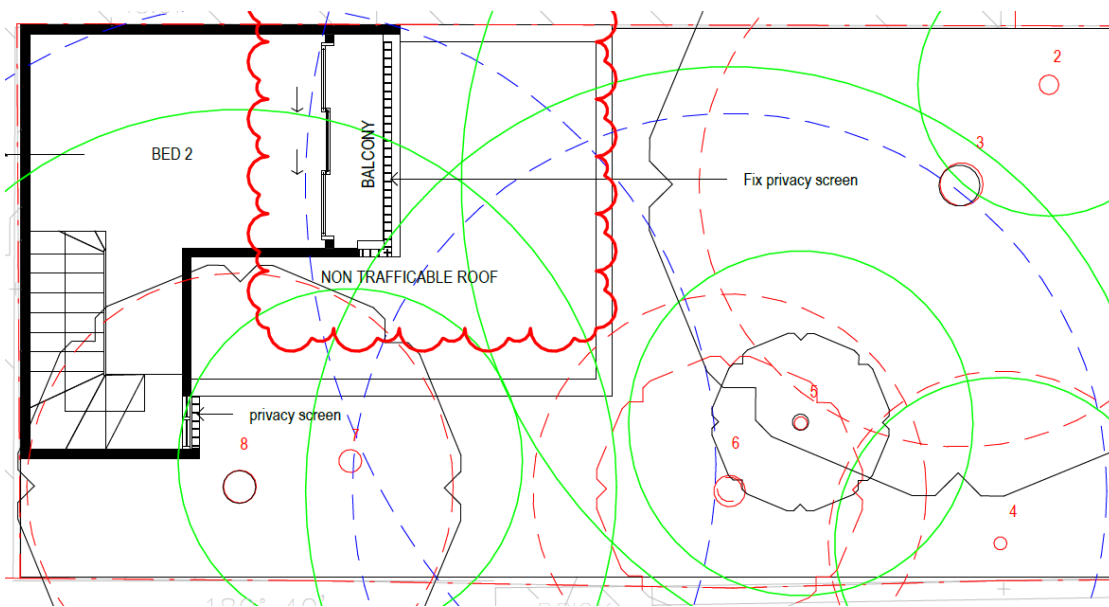


Figure 2: Secondary dwelling, amended level two floor plan



Figure 3: Secondary dwelling east elevation, presented at 1 November 2023 LPP Meeting

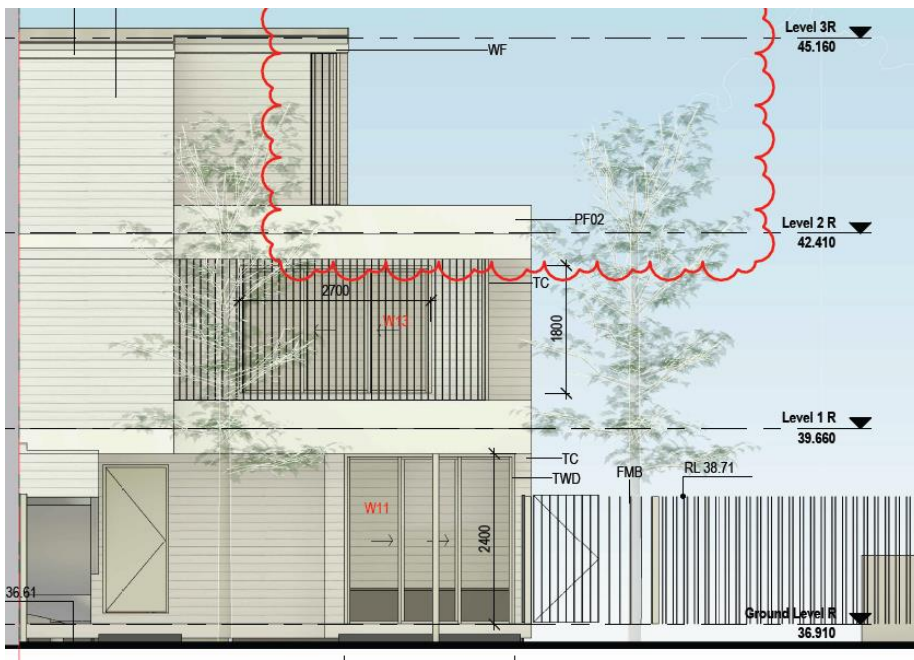


Figure 4: Secondary dwelling, amended east elevation

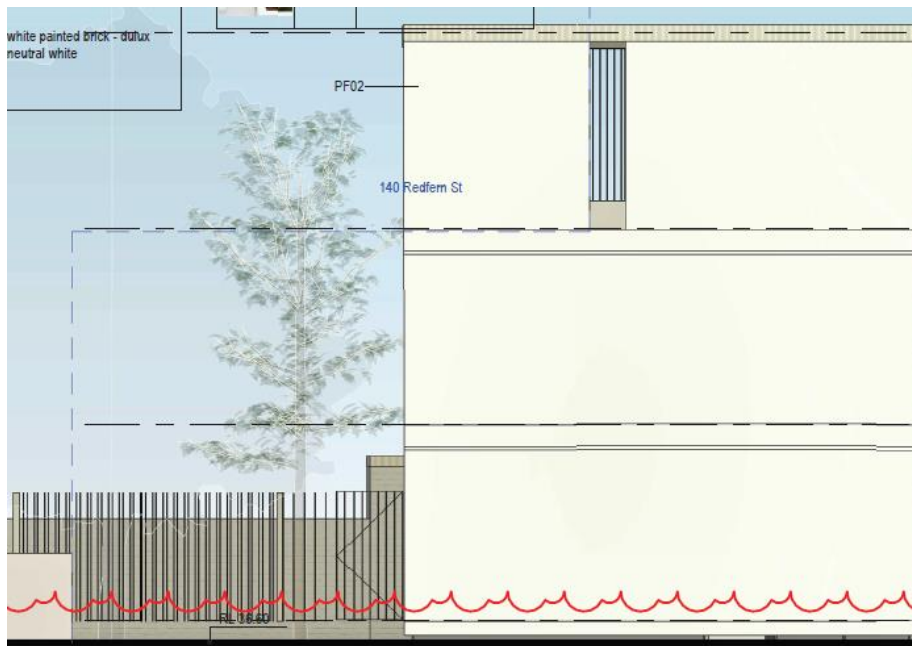


Figure 5: Secondary dwelling west elevation, presented at 1 November 2023 LPP Meeting

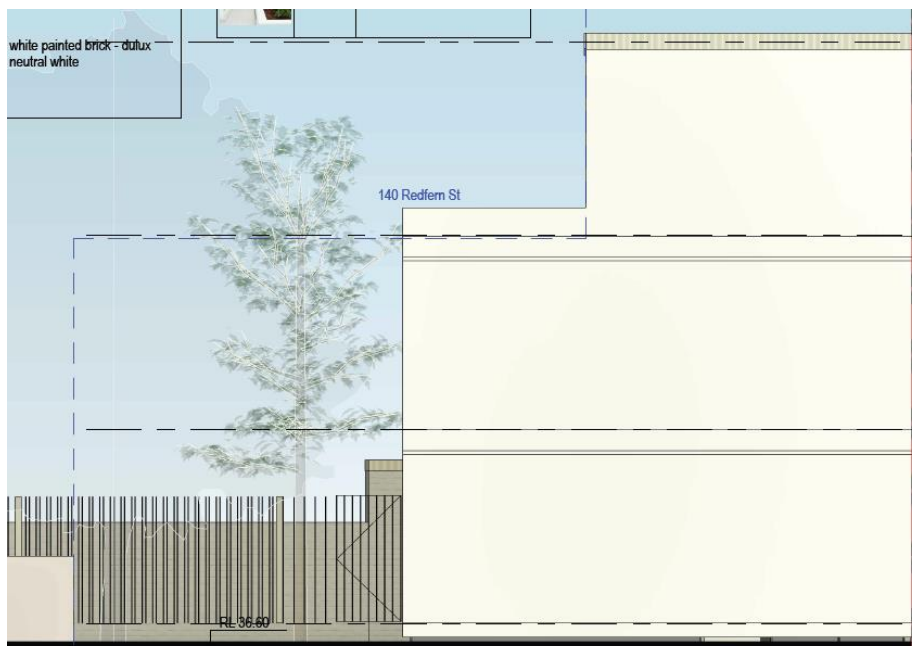


Figure 6: Secondary dwelling, amended west elevation

Assessment

8. 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

9. An assessment of the relevant SEPPs is outlined in the previous assessment report at Attachment C. The previous assessment against the provisions of the SEPPs remains relevant.

Local Environmental Plans

Sydney Local Environmental Plan 2012

10. An assessment of the proposed development, as amended, against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following table sections.
11. An assessment of the provisions not directly affected by the amendments to the proposal are discussed in the previous Planning Report at Attachment C.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.4 Controls relating to miscellaneous permissible uses	Yes	The proposed secondary dwelling, as amended, has a total floor area of 67.85sqm, which is compliant with subclause (9)(b), as it does not exceed 30% of the total floor area of the principal dwelling. The total floor area of the principal dwelling is 229.04 sqm, 30% of 229.04 is 68.71 sqm.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	The proposal, as amended, responds appropriately to the context of neighbouring developments, the heritage conservation area, and the locality. It 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 achieves design excellence.

Development Control Plans

Sydney Development Control Plan 2012

12. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is outlined in the previous Planning Report at Attachment C.

Discussion

Total Floor Area - Secondary Dwelling

13. Clause 5.4(9) of the Sydney Local Environmental Plan (SLEP) 2012 stipulates the controls relating to secondary dwellings. Specifically, the Clause outlines the maximum total floor area (TFA) permissible for a secondary dwelling must not exceed 60 square metres, or 30% of the TFA of the principal dwelling, whichever is greater.
14. The total floor area of the secondary dwelling design presented at the 1 November 2023 Local Planning Panel (LPP) meeting was not compliant with Clause 5.4(9) as an assessment had been carried out based on Gross Floor Area (GFA) rather than the TFA definition. Subsequently, the floor area has been reduced by 4.5sqm in order to comply.
15. The applicant has provided a TFA calculation plan for the secondary dwelling and principal dwelling. The TFA of the principal dwelling is 229.04sqm. The plans demonstrate that the proposed secondary dwelling complies with Clause 5.4(9)(b), in that the proposed TFA of 67.85sqm does not exceed 30% of the TFA of the principal dwelling, being 68.71sqm.
16. As such, the proposal demonstrates compliance with Clause 5.4(9) of the SLEP 2012.

Building Encroachments

17. Further information was requested by the Local Planning Panel in relation to possible encroachments of the proposed development to the adjoining site at 134-138 Redfern Street.
18. A boundary survey has been provided by the applicant, which indicates there is a brick wall running along the eastern boundary of the subject site (see Figure 7 below). However, the wall itself is contained within the allotment of the adjoining site, 134-138 Redfern Street.

Archaeological Heritage

22. It was raised by the Panel during the 1 November 2023 Local Planning Panel meeting that a condition should be imposed in relation to the discovery of archaeological heritage during construction, given the age of the principal dwelling and potential for unexpected discovery of relics.
23. As such, Condition 20 - Archaeological Discovery During Excavation, has been added to the Recommended Conditions of Consent at Attachment A.

Consultation

24. Discussion relating to internal referrals is outlined in the previous Planning Panel Report at Attachment C.

Advertising and Notification

25. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 14 days between 12 August 2022 and 27 August 2022.
26. A total of 107 properties were notified and 26 submissions were received, all of which objected to the proposed development.
27. The amended proposal was not required to be renotified in accordance with the City of Sydney Community Engagement Strategy and Participation Plan 2023, as the amendments do not result in significant additional environmental impacts.
28. Discussion relating to issues raised in submissions is outlined in the previous Planning Report at Attachment C.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

29. The proposed secondary dwelling is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015 as it is considered as a 2-bedroom dwelling that results in a net increase in resident population.
30. The amended development results in a decrease in the total floor area of the proposed secondary dwelling, however, as there is no change to the total number of bedrooms provided by the proposed development (only the balcony has been reduced in size), the development contribution payable remains unchanged.
31. A condition relating to this contribution has been included in Attachment A, requiring payment prior to the issue of a construction certificate.
32. The alterations and additions to the existing dwelling is otherwise excluded from 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.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

33. The development is not subject to a Section 7.13 affordable housing contribution.
34. This is discussed in the previous Planning Panel Report at Attachment C.

Relevant Legislation

35. Environmental Planning and Assessment Act 1979.

Conclusion

36. The proposed alterations and additions are generally consistent with the zone objectives contained in Sydney Local Environmental Plan 2012.
37. The development application was considered by the Local Planning Panel at the meeting of 1 November 2023 and was deferred. Amended plans have been submitted to address the recommendations of the Local Planning Panel.
38. The development, as amended and subject to conditions, achieves an acceptable standard of architectural design, materials, and detailing and achieves design excellence.
39. The development is generally consistent with the design requirements of Section 4.1 of Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the proposed development or can be resolved by the recommended conditions.
40. The buildings, as amended and subject to conditions, have been designed with an acceptable bulk and scale. The proposal is consistent with the objectives and desired future character for the locality and the Redfern Estate heritage conservation area.

ANDREW THOMAS

Executive Manager Planning and Development

Veronique Hoffman, Planner