

**Item 5.****Development Application: 7 Rennie Street, Redfern - D/2024/69**

File No.: D/2024/69

**Summary**

<b>Date of Submission:</b>	2 February 2024
<b>Applicant:</b>	Martyn Calleia
<b>Architect/Designer:</b>	Martyn Calleia
<b>Owner:</b>	Thomas Hagglund and Alice Hagglund
<b>Planning Consultant:</b>	Damian O'Toole
<b>Heritage Consultant:</b>	Cad Draft P/L
<b>Cost of Works:</b>	\$326,300.00
<b>Zoning:</b>	R1 - General Residential. The proposed works include alterations and additions to the existing residential terrace which is permissible with consent in the zone.
<b>Proposal Summary:</b>	<p>The application seeks development consent for alterations and additions to the existing residential dwelling. The proposed works include the construction of a rear addition to the first floor of the dwelling and will provide for the provision of a new study room (within the first floor of the existing dwelling) and a bathroom and bedroom.</p> <p>The application is referred to the Local Planning Panel for determination as the proposal will result in a development that contravenes the maximum floor space ratio development standard by more than 25 per cent. The development will result in a 43 per cent variation to the development standard. A written request to vary the floor space ratio standard has been submitted with the application in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 for the proposed variation.</p> <p>The statement demonstrates that compliance with the standard is unreasonable and unnecessary in the specific circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard. The reasons contained in the Clause 4.6</p>

variation request are acceptable and the variation is supported.

The application was placed on public exhibition for a period of 14 days between 6 February and 21 February 2024 in accordance with the City of Sydney Community Participation Plan 2023. A total of 87 properties were notified and one submission was received. The submission noted in-principle support for the proposal but raised concerns in relation to parking, traffic and drainage.

The application has been amended to address issues identified by Council Officers during assessment in relation design concerns, residential amenity and visual privacy impacts. These issues have been addressed through the submission of amended drawings and additional information received by the City on 24 April, 8 and 10 May 2024.

The proposed dwelling is of a scale and nature that is in keeping with the area. The proposal is considered to achieve compliance with the desired future character of the area. Subject to conditions, the proposal is acceptable.

**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) State Environmental Planning Policy (Sustainable Buildings) 2021

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Floor Space Ratio
- D. Submission

## Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.4 'Floor Space Ratio' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application Number D/2024/69 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 R1 General Residential zone of the Sydney Local Environmental Plan 2012.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the 'Floor Space Ratio' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.4 of the Sydney Local Environmental Plan 2012.
- (C) The proposed development complies with the maximum Height of Buildings development standard contained in Clause 4.3 of the Sydney Local Environmental Plan 2012.
- (D) The proposed development exhibits design excellence in accordance with the requirements contained in Clause 6.21C of Sydney Local Environmental Plan 2012.
- (E) The proposed development provides an appropriate response to the Thurlow Street special locality of the site, is compatible and commensurate with the built form, scale and character of the adjoining contributory terraces within the Rennie and Mount Streets heritage conservation area.
- (F) The development will not result in any adverse significant environmental impacts and does not compromise the amenity of neighbouring properties.
- (G) The proposal is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 14 DP 32301, known as 7 Rennie Street, Redfern. It is rectangular in shape with area of approximately 63.5sqm. It has a primary street frontage of 3.19m to Rennie Street, a secondary street frontage to an unnamed lane at the rear, and length of 19.7m.
2. The site contains an existing two-storey terrace. The existing dwelling forms part of a row of six similar two-storey terraces (1-11 Rennie Street). The terrace shares party walls with both Nos. 5 and 9 Rennie Street which adjoin the north and south.
3. The site does not contain any large or significant trees. Several street trees are located along Rennie Street including a Coast Myall (*Acacia binervia*) street tree located in front of the subject dwelling. A single Magnolia (*Magnolia sp*) tree is located within the rear private open space of the site and a Frangipani tree (*Plumera rubra*) is located within the private open space of the adjoining terrace to the south at No. 9 Rennie Street.
4. The surrounding area is characterised by a mixture of land uses, primarily being groups of two-storey terraces within the immediate vicinity of the site with commercial and mixed-use developments located to the south along Charles Street. To the north-east is the Chelsea Street Playground.
5. The site is located within the Thurlow Street special character locality and is not identified as a heritage item but is located within the Rennie and Mount Streets heritage conservation area (C57). The existing terrace and adjoining dwellings are identified as contributory buildings within the heritage conservation area.
6. The site is located within the Alexandra Canal drainage catchment. The rear of the site is identified as being flood affected in the 1 per cent Annual Exceedance Probability flood plain (less than a depth of 0.4m) and is identified as being within the Probable Maximum Flood Area subject to low hazard flooding along the east and western boundaries of the site.
7. A site visit was carried out on 27 February 2024. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Rennie Street



Figure 3: Site viewed from Rennie Street



Figure 4: Site viewed from the Unnamed Lane



Figure 5: Site viewed from the Unnamed Lane



**Figure 6:** Existing interface of subject site and southern adjoining terraces (Nos. 9 and 11 Rennie Street)



**Figure 7:** View from Charles Street facing north to the Unnamed Lane, showing the rear interface of terraces 1-11 Rennie Street and 2-12 Mount Street





**Figure 8:** View from the existing bedroom facing east towards the Unnamed Lane showing existing rear first floor extension of No. 9 Rennie Street

## History Relevant to the Development Application

### Development Applications / Building Information Certificates

8. The following applications are relevant to the current proposal:
  - **BC/2020/12** – A Building Information Certificate was issued on 20 April 2022 to remove and replace the structurally dangerous rear roof.
9. The following applications at the neighbouring site (No. 9 Rennie Street) are relevant to the current proposal:
  - **D/2009/798** - Development consent was granted on 24 August 2009 for alterations and additions to a two-storey dwelling including a second storey rear extension with rear veranda and privacy screen (refer to Figure 9 below). This addition has been constructed.

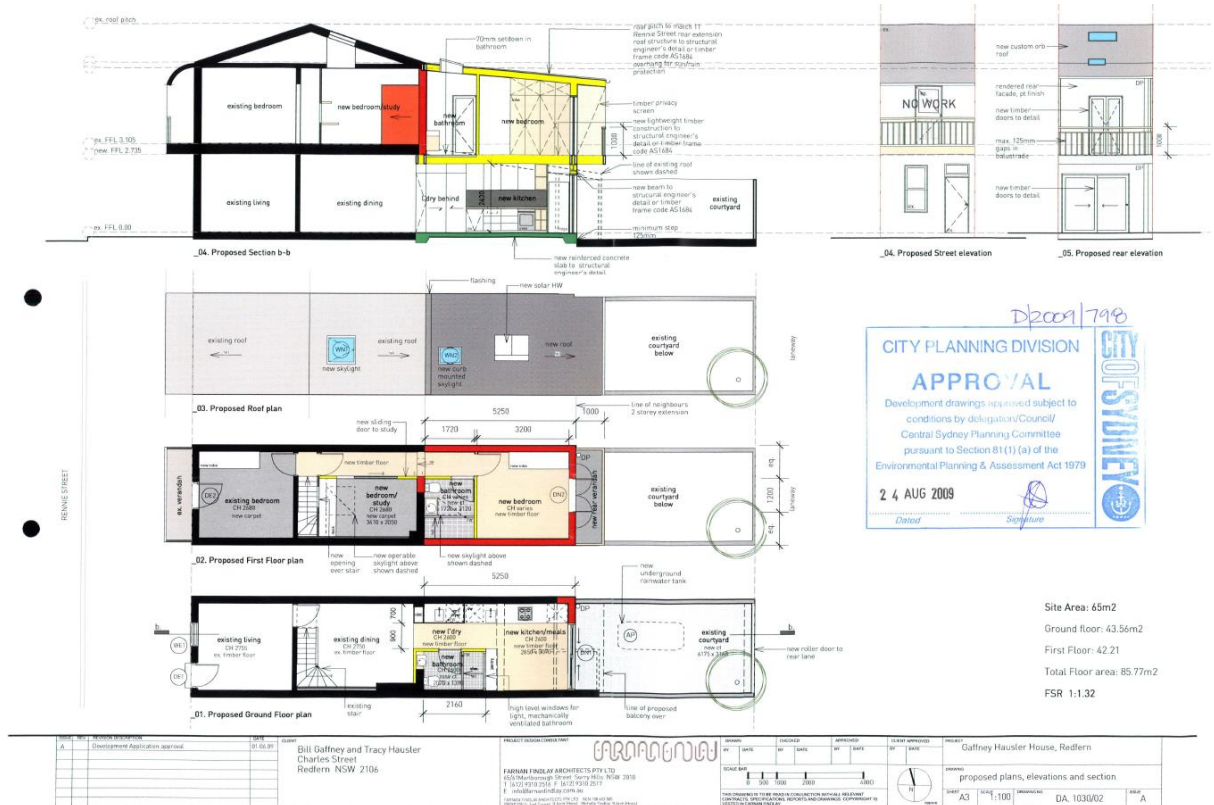


Figure 9: Stamped approved plan at No. 9 Rennie Street (D/2009/798)

**Compliance Action**

10. The site is not subject to any ongoing compliance action or investigations.

**Amendments**

11. Following a preliminary assessment a request for additional information and amendments was sent to the applicant on 22 March and 3 May 2024 to seek:

- Design modifications to amend the roof form, address residential amenity, visual privacy and deletion of the rear balcony. The applicant was requested to explore alternatives to the design of the second bedroom and new bathroom on the first floor to provide enhanced access to light and air to the room, such as the creation of a light well.
- Revised Clause 4.6 written variation request and updated Statement of Environmental Effects to address the relevant controls of Section 4.1 of Sydney DCP 2012.
- Updated BASIX Certificate to reflect design amendments.
- Confirmation of where the existing air conditioning condenser will be relocated.
- Shadow diagrams, survey plan and title documents showing any restrictions, covenants or easements on title.

12. The applicant responded to the request on 24 April, 8 and 10 May 2024 and submitted the following information:
  - Design amendments to the proposed first floor extension including replacement of the second bedroom with a new study, deletion of the rear balcony, roof and privacy treatments to the rear window.
  - Additional justification on the level of amenity achieved for the new study including the provision of sun eye diagrams.
  - Revised Clause 4.6 written variation request, Statement of Environmental Effects and BASIX Certificate to reflect the design amendments.
  - Amended shadow diagrams, survey plan and title documents.
  - Confirmation that the existing air conditioning condenser will be removed and will not be reinstalled as it is not currently used.
13. The assessment as following is based on the amended documents received on 24 April, 8 May and 10 May 2024.

### **Proposed Development**

14. The application seeks consent for internal and external alterations and additions to the existing terrace house.
15. Specifically, the following works are proposed:

#### Ground floor

- partial demolition of the existing roof above the kitchen and replacement with a new ceiling;
- connection of services for the new bathroom on level 1 to the existing bathroom on ground;
- replacement of the existing floor with a new timber floor; and
- re-installation of the bathroom sliding door.

#### First floor

- rear extension of the first floor level including demolition of the existing bed 2 window. The addition will increase the gross floor area of the existing terrace by 17.1 square metres; and
- conversion of the existing Bed 2 to a new study and construction of a new bedroom and bathroom.

#### Roof

- new metal roof with a fall of 3 degrees to the first-floor extension;

- installation of two new square operable skylights above the new study (labelled SL1, measuring 1.1m in width and length) and new bathroom (SL2, measuring 0.6m in width and length); and
- installation of a new sun tunnel lens above the existing stair.

16. Selected plans and elevations highlighting the proposed works are provided below.

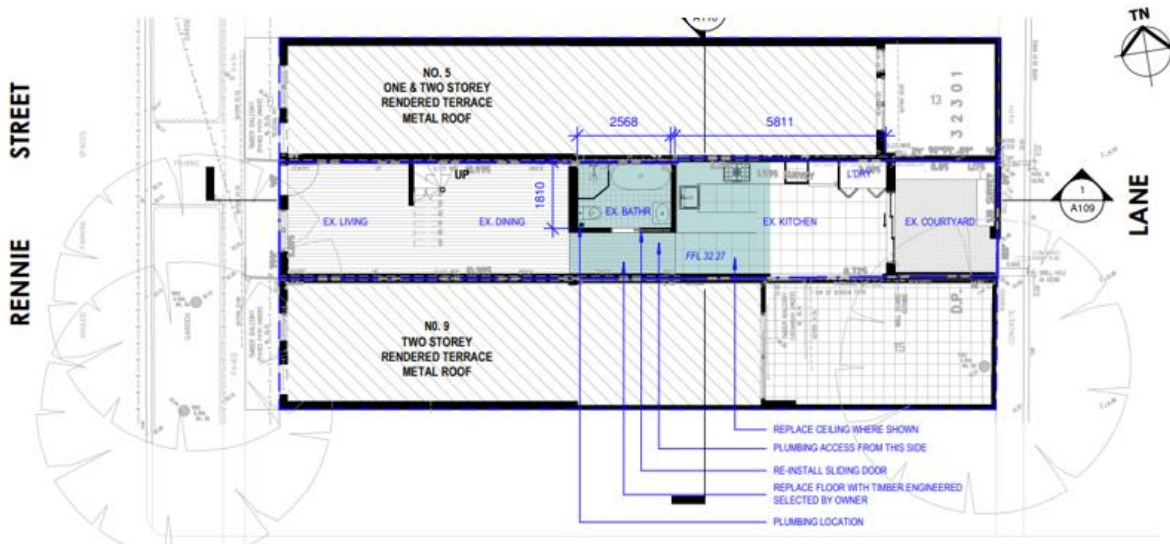


Figure 10: Proposed Ground Floor Plan

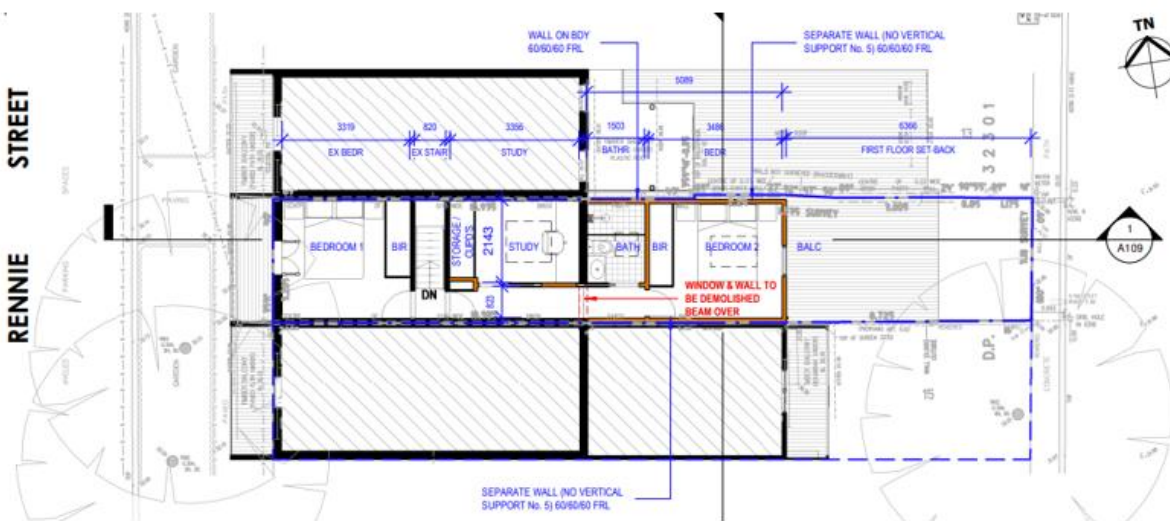


Figure 11: Proposed First Floor Plan

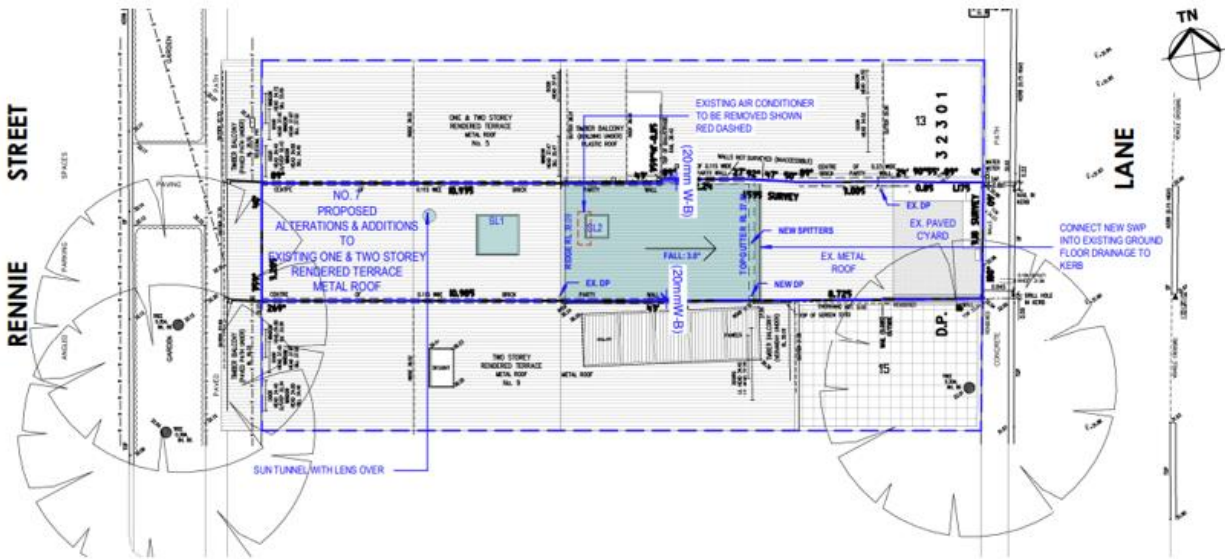


Figure 12: Proposed Roof Plan

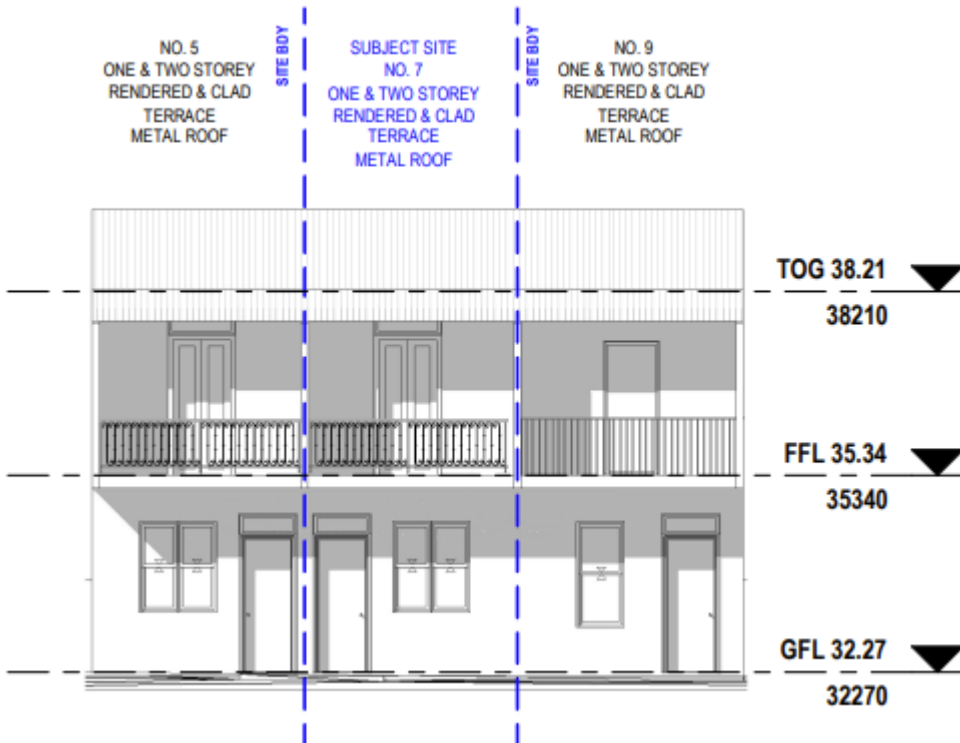


Figure 13: Existing West Elevation (Rennie Street), no change

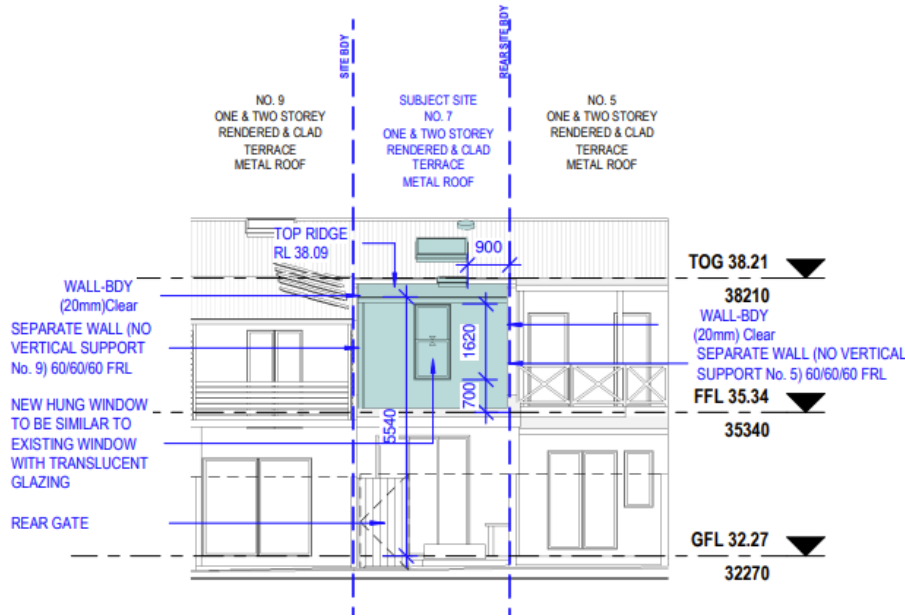


Figure 14: Proposed East Elevation (Unnamed Lane)

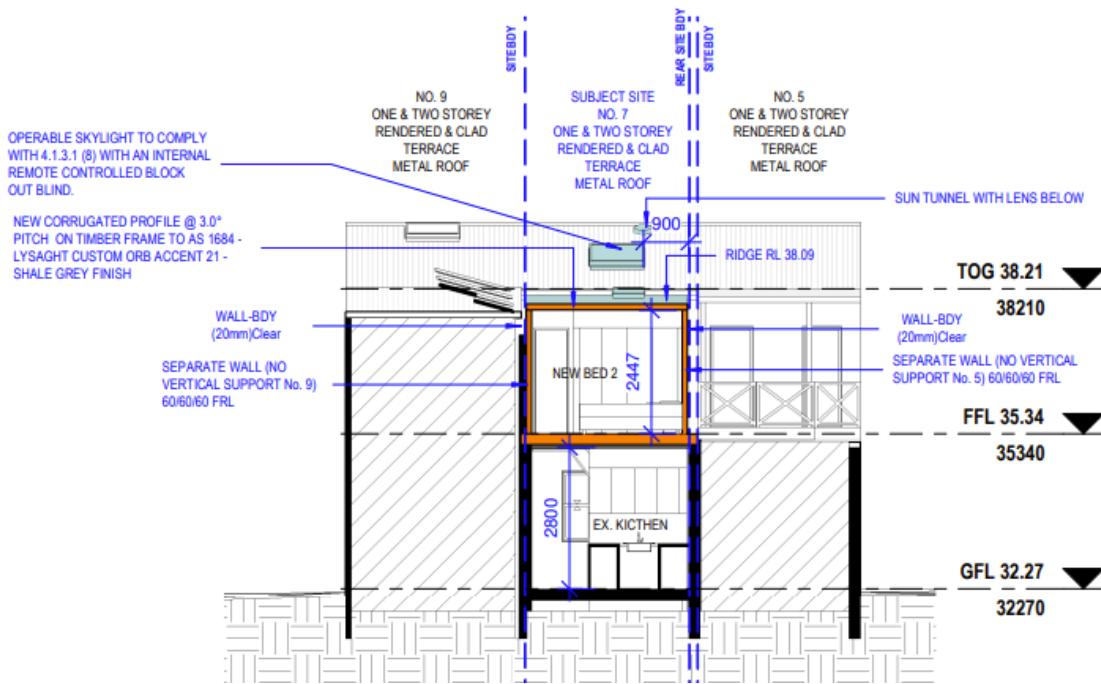


Figure 15: Proposed Section 1

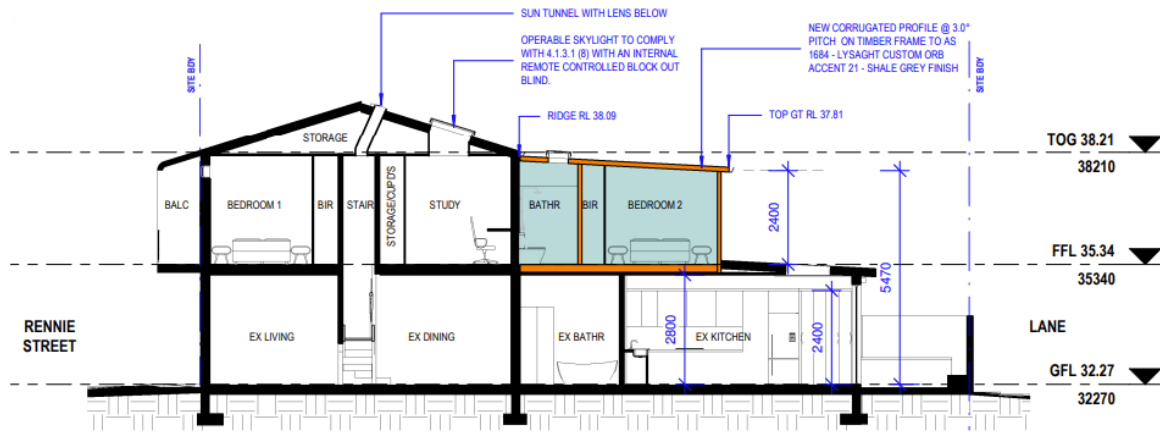


Figure 16: Proposed Section 2

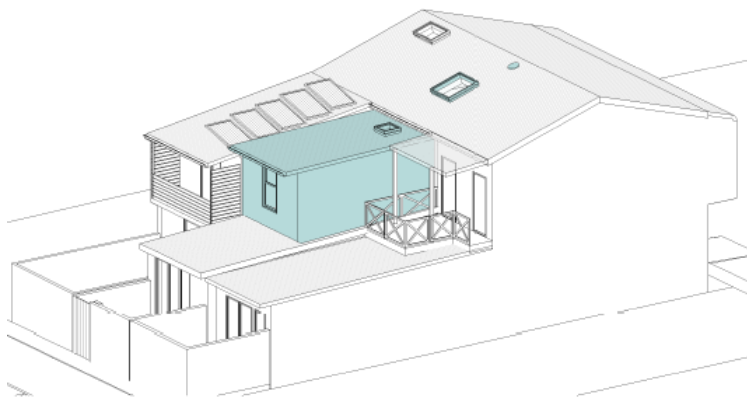


Figure 17: Proposed Perspective (extension highlighted in blue)

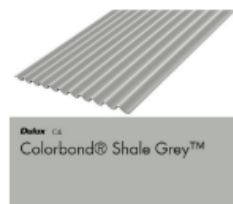
**MATERIALS & FINISHES**



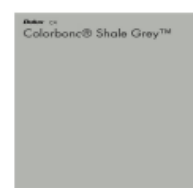
1. DULUX LOW SHEEN ACRYLIC - COLORBOND SHALE GREY



2. HUNG WINDOW - SURFMIST.



3. CORRUGATED PROFILE - CUSTOM ORB ACCENT 21 - SHALE GREY FINISH



4. FASCIA BOARD - SHALE GREY. "COLORBOND"

Figure 18: Proposed Materials and Finishes

**Assessment**

17. 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 (Sustainable Buildings) 2022

18. The aims of this Policy are as follows:
- (a) to encourage the design and delivery of sustainable buildings;
  - (b) to ensure consistent assessment of the sustainability of buildings;
  - (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored;
  - (d) to monitor the embodied emissions of materials used in construction of buildings;
  - (e) to minimise the consumption of energy;
  - (f) to reduce greenhouse gas emissions;
  - (g) to minimise the consumption of mains-supplied potable water; and
  - (h) to ensure good thermal performance of buildings.

### Chapter 2 Standards for residential development - BASIX

19. A revised BASIX Certificate has been submitted with the development application (Certificate No. A1732992\_02).
20. 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.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

21. 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 a dwelling and is permissible with consent in the zone. The proposal meets the objectives of the zone.



**Part 4 Principal development standards**

<b>Provision</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of buildings	Yes	<p>A maximum building height of 9m is permitted.</p> <p>The proposal does not project above the existing height of the dwelling which has a maximum height of 7.25m.</p> <p>The proposed development complies with the maximum height of buildings development standard.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio (FSR) of 1:1 or gross floor area (GFA) of 63.5sqm is permitted.</p> <p>The existing terrace has a FSR of 1.16:1, equating to a GFA of 73.6sqm.</p> <p>The proposal seeks an increase of 17.1sqm of GFA to accommodate the new first floor extension, equating to a proposed FSR of 1.43:1 (GFA of 90.7sqm).</p> <p>The proposed development does not comply with the maximum floor space ratio development standard.</p> <p>A request to vary the floor space ratio development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.4 (Floor Space Ratio). A Clause 4.6 variation request has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

**Part 5 Miscellaneous provisions**

<b>Provision</b>	<b>Compliance</b>	<b>Comment</b>
5.10 Heritage conservation	Yes	<p>The existing two storey terrace is not identified as an item of heritage significance but is a contributory building within the Rennie and Mount Streets heritage conservation area (C57). The</p>

Provision	Compliance	Comment
		<p>subject terrace forms part of a row of six terraces at Nos. 1-11 Rennie Street, all of which are identified as contributory buildings.</p> <p>The proposed lean-to-addition form is confined to the rear of the site fronting the unnamed lane. The first-floor addition, as amended, is designed with a skillion roof with a low 3-degree pitch that falls away from the existing terrace. The proposed form and configuration of internal areas results in a similar presentation to previous extensions undertaken at the immediately adjoining terraces to the south of the site at Nos. 9 and 11 Rennie Street.</p> <p>Council's Heritage Specialist has advised that the proposal is acceptable subject to recommended conditions in relation to the new rear window, profile of the skylights and sun tunnel. These conditions will require:</p> <ul style="list-style-type: none"> <li>• the new rear facing window to be timber framed and double hung; and</li> <li>• flush fitting sun tunnel and skylights.</li> </ul> <p>Subject to conditions, the proposed development will not have a detrimental impact on the heritage significance of the heritage conservation area.</p>
5.21 Flood planning	Yes	<p>The site is located within the Alexandra Canal drainage catchment. The rear of the site is identified as being flood affected in the 1 per cent Annual Exceedance Probability flood plain (less than a depth of 0.4m) and is identified as being within the Probable Maximum Flood (PMF) Area subject to low hazard flooding along the east and western boundaries of the site.</p> <p>The proposed development comprises relatively minor building additions located at the first-floor level only and</p>

Provision	Compliance	Comment
		<p>does not result in more than 40sqm of habitable floor area. It is noted that the first-floor level at 35.34m is located above the PMF level (AHD) of 33.45m.</p> <p>The development is subject to Section 3.2 of the City of Sydney Interim Floodplain Management Policy 2014 as concessional development for minor additions to the dwelling. The proposal does not alter the roof surface area or footprint of the existing attached terrace. The development will not adversely affect the flood behaviour on the land and will not be a risk to life in the event of a flood in accordance with Clause 5.21 of Sydney LEP 2012.</p>

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

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposed development, as amended, is of a high standard and uses materials and detailing which are compatible with the existing development along Rennie Street and will contribute positively to the character of the Rennie and Mount Streets heritage conservation area.</p> <p>Subject to conditions, the development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants, locality and heritage conservation area. 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-attached dwellings	Yes	A maximum of two car parking spaces are permitted. The existing development does not contain any parking. No parking is proposed as part of this application.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Not applicable	The proposed development is not subject to an affordable housing contribution. Refer to the heading 'Financial Contributions' section below.
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**

22. 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**

23. The site is located within the Thurlow Street special character area. The proposed development is in keeping with the unique character and the design principles of the locality under Section 2.13.2 of Sydney DCP 2012, in that it:
- retains the predominant two storey scale;
  - responds to and complements the contributory buildings within the Rennie and Mount Street heritage conservation area;
  - retains the vertically proportioned facade characteristic of the narrow terrace form; and
  - is consistent with the rear presentation of the terraces fronting Rennie Street, where the first floor addition is setback above the ground floor extension to the unnamed laneway.

## Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees. Three trees are located within proximity to the site and may be affected by the subject works. These trees include:</p> <ul style="list-style-type: none"> <li>• A street tree in front of the site - Coast Myall (<i>Acacia binervia</i>) of a high retention value.</li> <li>• Rear of the subject site - Magnolia (<i>Magnolia</i> sp) of a low retention value.</li> <li>• Rear of the adjoining site at 9 Rennie Street - Frangipani (<i>Plumera rubra</i>) of a medium retention value.</li> </ul> <p>The proposal has been reviewed by Council's Tree Specialist who raised no objections subject to recommended conditions. The proposed works do not encroach into the Tree Protection Zones (TPZ) of any of the above trees. Conditions are recommended to protect the trees throughout construction and development.</p> <p>Section 3.5.2(2) of Sydney DCP 2012 requires a minimum of 15 per cent canopy coverage of the site within 10 years from the completion of the development. The proposal does not seek any alterations to the existing ground floor nor within the private open space area. Notwithstanding, the existing tree within the property achieves the minimum site canopy coverage.</p> <p>The proposal is in keeping with the objectives of Section 3.5.2. Subject to conditions, the proposal will not have an adverse impact on the local urban ecology.</p>

Provision	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	<p>The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) and discussion section. The proposal is consistent with the objectives of Section 3.6 of the Sydney DCP 2012.</p> <p>The proposed operable skylights will be fitted with remote-controlled block out blinds to avoid excessive heat loading.</p>
3.7 Water and Flood Management	Not Applicable	<p>As discussed above within Clause 5.21 of Sydney LEP 2012, the site is subject to low hazard flooding along the east and west boundaries. The proposal is subject to Section 3.2 of the City of Sydney Interim Floodplain Management Policy 2014 as concessional development for minor additions to the dwelling as the addition is less than 40sqm.</p> <p>The proposed first floor extension (at RL 35.34) is located above the minimum PMF level of 33.45m. The proposal does not seek any changes to the existing ground floor levels and does not alter the existing footprint of the development on the site. The proposed development does not result in any additional flood impacts and will maintain the existing conditions of the site.</p> <p>The new gutters and downpipes for the addition will be connected to existing stormwater drainage. A condition is recommended to ensure the drainage system is constructed in accordance with Council's drainage requirements.</p>
3.9 Heritage	Yes	<p>The site is not identified as a heritage item but is a contributory building within the Rennie and Mount Streets heritage conservation area.</p> <p>Council's Heritage Specialist advised the proposal is acceptable subject to recommended conditions to require:</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>the new rear facing window to be timber framed and double hung; and</li> <li>flush fitting sun tunnel and skylights.</li> </ul>
3.14 Waste	Yes	A condition is 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	<p>The site is permitted a maximum building height of two storeys.</p> <p>The proposed development is two storeys in height and complies. The rear addition does not project above the existing height of the principal building form and will not be visible when viewed from the Rennie Street frontage.</p>
4.1.2 Building setbacks	Yes	<p>The proposal does not seek any amendments to the existing front setback fronting Rennie Street or nil side setbacks.</p> <p>A rear first floor setback of 6.36m to the unnamed lane (eastern site boundary) is proposed. No changes are proposed to the existing ground floor rear setback.</p> <p>Section 4.1.2 of Sydney DCP 2012 requires alterations and additions to relate to existing setback patterns, respect and be sympathetic to the predominant rear building line. Section 4.1.2(2) of Sydney DCP 2012 stipulates that new development within heritage conservation areas are to relate to the established development pattern including front, side and rear setbacks.</p> <p>The row of contributory two storey terraces, in which the site forms part of, does not have a consistent established rear setback at the ground or to the first</p>

Provision	Compliance	Comment
		<p>floor. A rear first floor setback of approximately 4.3m - 8.5m is provided to Nos. 1, 3 and 5 Rennie Street to the north, and a setback of 5.2m is provided to the southern adjoining terraces Nos. 9 and 11 Rennie Street (measured to the external face of balconies).</p> <p>The proposed lean-to addition has been designed to align with rear wall of the southern adjoining terraces. As noted under the heading 'Amendments' above, the rear balcony at the first floor was deleted from the proposal to mitigate overlooking and visual privacy impacts to the neighbouring properties.</p> <p>The proposed first floor rear setback is considered appropriate as:</p> <ul style="list-style-type: none"> <li>• The proposal, as amended, is commensurate with the existing form and development pattern of the southernmost properties within the terrace row. The extension aligns with the existing rear additions of the southern adjoining terraces.</li> <li>• The new extension is modest in scale, has been sympathetically designed, does not detract from the architectural integrity of the principal elevation of the contributory terrace row and ensures the original main roof is clearly discerned.</li> <li>• The proposal results in negligible overshadowing impacts (refer to assessment under Section 4.1.3.1 of Sydney DCP 2012 and the 'Discussion' section below).</li> <li>• No visual privacy impacts (refer to discussion under Section 4.1.3.6 of Sydney DCP 2012 below).</li> <li>• Council's Urban Designer or Heritage Specialist advised the proposal is acceptable, subject to recommended conditions.</li> </ul>



Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>Having regard to the site constraints and limitations of the site being a narrow lot of 3.175m wide and small site area of 63.5sqm.</li> </ul> <p>The proposal accords with the objectives and provisions of Section 4.1.2 of Sydney DCP 2012.</p>
<p><b>4.1.3 Residential amenity</b></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	No but acceptable	<p>The proposed development does not alter the existing level of solar access achieved to the private open space or openings of the subject site or neighbouring dwellings.</p> <p>Refer to further assessment under the heading 'Discussion', sub-heading 'Solar access' below.</p>
4.1.3.2 Solar collectors	Yes	<p>The proposal does not seek the installation of any photovoltaic solar panels.</p> <p>There are existing solar panels located on the first-floor extension of the southern adjoining neighbour at No. 9 Rennie Street. The proposal will result in minor overshadowing the easternmost solar panel due to a marginal difference in height (of approximately 0.26m) and slope of the roof.</p> <p>As shown in Figure 19 below, the proposed overshadowing impact on the neighbouring solar collectors is negligible. The proposal does not result in unreasonable overshadow impacts, and will maintain the performance, efficiency and economic viability the existing solar panels at No. 9 Rennie Street.</p>
4.1.3.3 Landscaping	Not Applicable	No new works are proposed to the existing landscape area.

Provision	Compliance	Comment
4.1.3.5 Private open space	Not Applicable	The proposal does not seek to alter the existing private open space area.
4.1.3.6 Visual privacy	Yes	<p>Section 4.1.3.6 of Sydney DCP 2012 requires the design of developments to maximise visual privacy to side and rear boundaries.</p> <p>The proposal seeks a new single opening at the rear of the first-floor addition. The new double hung window is proposed to be of a similar design to the existing rear facing window but will be constructed of translucent glazing to its bottom pane to mitigate overlooking and visual privacy impacts to the private open space areas of the adjoining terraces.</p> <p>The proposal provides an improved visual privacy outcome.</p>
4.1.4 Alterations and additions		
4.1.4.1 General	Yes	The proposed development does not remove significant building elements and respects the form, scale and setbacks of the dwelling and terrace row.
4.1.4.2 Lean-to additions	Yes	<p>The application proposes a lean-to addition with a low pitch skillion roof of 3 degrees that slopes away from the dwelling in accordance with the control.</p> <p>The proposed addition is of a form and scale that respects the existing dwelling. The addition will not be visible from Rennie Street and will not detract from the character and amenity of the surrounding Rennie and Mount Streets heritage conservation area.</p>
4.1.4.6 Additional storeys	Yes	The addition is proposed at the rear of the dwelling and is located below the gutter line of the main roof form. The proposal is consistent with Section 4.1.4.6 of Sydney DCP 2012.
4.1.5 Roof alterations and additions		
4.1.5.1 Ensuring sympathetic roof alterations and additions	Yes	As discussed above, the proposal maintains the architectural integrity of the principal elevation of the contributory

Provision	Compliance	Comment
		terrace along Rennie Street and terrace row within the heritage conservation area. The proposed addition is of a form that is simple and subservient in design, and commensurate with the development pattern of neighbouring properties along the unnamed lane.
4.1.5.6 Skylights	Yes	<p>The proposal, as amended, seeks the installation of two (2) new skylights and a sun tunnel. The skylights are proposed above the new study and bathroom. The sun tunnel is proposed to provide additional amenity and light to the existing stairwell. The new skylights and sun tunnel are not proposed on the front roof plane of the contributory terrace.</p> <p>A condition is recommended to ensure the new skylights and sun tunnel fitted flush with the roof plane and constructed with unobstructive detailing with the colour of the frame to be of the same colour of the roofing material in accordance with the requirements of Section 4.1.5.6(2) and (3) of Sydney DCP 2012.</p>
4.1.7 Fences	Not applicable	<p>The proposal does not seek any works to the existing boundary fences at the ground floor.</p> <p>New separate side external walls are proposed for the first-floor addition. The proposal includes the construction of new separate walls along the side boundary and will not rely upon the party walls (shared with the adjoining terraces at Nos. 5 and 9 Rennie Street) for vertical or lateral support.</p> <p>Conditions are recommended to:</p> <ul style="list-style-type: none"> <li>• ensure the structural integrity of the existing party walls are maintained.</li> <li>• flashings to be provided to boundary walls to prevent water entering between the walls of adjoining properties.</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>the set out of the all works are undertaken by a registered surveyor to ensure the development does not encroach onto neighbouring properties.</li> </ul>

## Discussion

### Solar Access

24. The objectives of Section 4.1.3 of Sydney DCP 2012 require buildings to be designed to provide solar access to the private open space and habitable rooms of the site and adjoining dwellings. Section 4.1.3(1) stipulates a minimum of two hours of direct sunlight to be achieved between 9am and 3pm at midwinter to at least 1sqm of living room windows, and at least 8sqm of the private open space area. Provision (2) states new development must not create any additional overshadowing where solar access is less than two hours between 9am and 3pm at midwinter.
25. The overshadowing impact resulting from the first-floor addition is shown in the accompanying hourly shadow diagrams, reproduced below at Figure 19. The diagrams identify the existing shadows created by the existing surrounding buildings hatched in grey, existing shadows of the subject site diagonally shaded, and additional overshadowing caused by the new first floor addition hatched in red.

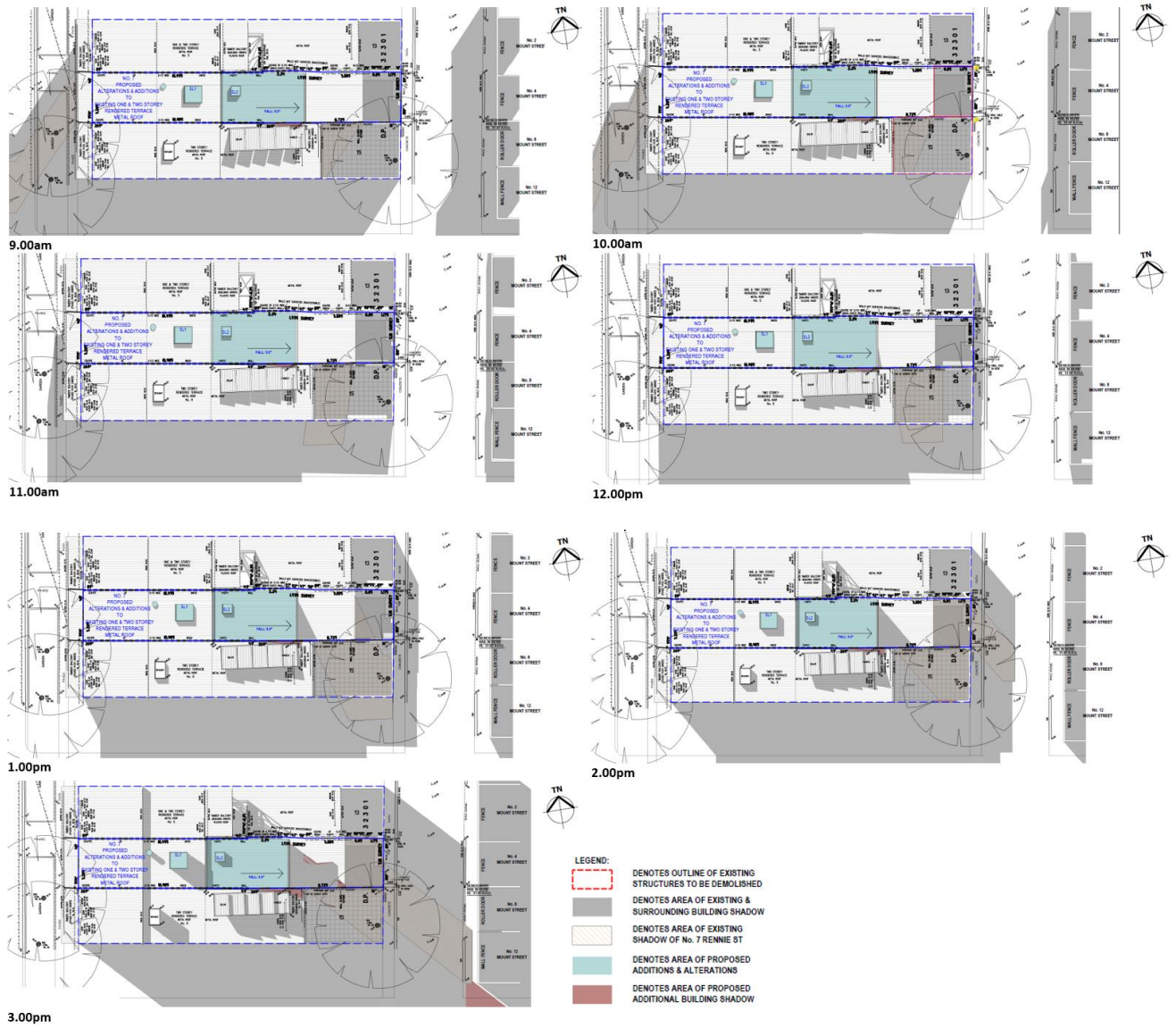


Figure 19: Shadow diagrams

26. The existing rear private open space area of the subject dwelling and neighbouring dwellings, in particular terraces located to the south and south-east of the site (Nos. 9 and 11 Rennie Street, 10 and 12 Mount Street) do not currently receive the minimum required sunlight. The extent of existing overshadowing on the site and neighbouring lots are predominately caused by the existing dividing fence, existing ground floor alignment, narrow lot width and site orientation.

27. The shadow diagrams demonstrate:

- (a) The additional overshadowing caused by the proposal predominantly falls on the roof of the adjoining terrace to the south.
- (b) The proposal does not result in any additional overshadowing impacts to the private open space or living room windows of the subject site or neighbouring properties to the south. The proposal is in keeping with Section 4.1.3.1(2) of Sydney DCP 2012.

- (c) The proposal will maintain the existing hour of direct sunlight obtained to approximately 8sqm of the private open space of No. 9 Rennie Street between 11.00am to 12.00pm.
28. The proposed overshadowing impacts are negligible and do not affect the existing level of solar access achieved by neighbouring dwellings or subject site. As discussed under Section 3.1.3.2 of Sydney DCP 2012 above, the minor overshadowing impacts to the roof of No.9 Rennie Street is acceptable given the compact nature of the terrace row, narrow width of the site, compliant building height and rear alignment of the addition that is commensurate with the development pattern of neighbouring properties.

#### **Clause 4.6 Request to Vary a Development Standard**

29. The site is subject to a maximum floor space ratio control of 1:1 or 63.5sqm. The proposed development creates an additional 17.1sqm of gross floor area and has a floor space ratio of 1.43:1 or 90.7sqm (representing a variation of 43 per cent).
30. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) that there are sufficient environmental planning grounds to justify contravening the standard;

#### **Applicant's Written Request - Clause 4.6(3)(a) and (b)**

31. The applicant seeks to justify the contravention of the floor space ratio development standard (Clause 4.4 of Sydney LEP 2012) on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) The applicant's statement refers to the five tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The written request relies upon Test 1, which is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical standard.
    - (ii) Each objective of the floor space ratio standard and the applicants justification why compliance is unreasonable or unnecessary is set out below:
      - (i) ***To provide sufficient floor space to meet anticipated development needs for the foreseeable future.***

The proposal seeks to provide for the needs of the owners. The works provide a new rear first floor addition that contains a study and a bathroom. The first floor does not currently contain a bathroom.

- (ii) ***To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic.***

The intensification of the existing single dwelling, vehicular and traffic generation is not materially altered by the proposed addition. The proposal does not result in any material intensification of the single dwelling use.

- (iii) ***To provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.***

The works are too modest to have any adverse bearing on the capacity of infrastructure.

- (iv) ***To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.***

The degree of non-compliance largely results due to the small area of the lot (63.5sqm), rather than any unreasonable building bulk. The proposal is modest in scale seeking an additional gross floor area of 17.1sqm. The proposed built form and rear setback is consistent with other terraces in this row.

The contributory front elevation and principal building form of the dwelling facing Rennie Street and row of terraces is unaffected by the works. The first-floor addition to the rear aligns with the surrounding development. Contextually, the resulting form is reasonable and will not appear out of place. The character and appearance of the Thurlow Street special character area and Rennie and Mount Streets heritage conservation area is not adversely affected given that the resultant form mimics the surrounding development, and contributory aspects of the site are unaffected.

Furthermore, the existing level of amenity is maintained by the proposal in terms of solar access and the outlook of neighbouring properties.

- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
- (i) The non-compliance assists with providing improved internal amenity for residents.
  - (ii) The resultant form will result in built form consistency with surrounding development. The rear building line aligns with the rear first floor building line to the southern neighbour at No. 9 Rennie Street as well as No. 11 Rennie Street further to the south.

- (iii) The contributory front form of the terrace and the appearance of the adjoining front form of the contributory row of terraces is unaffected by the works. The works are to the rear of the site in an area where the row has already been extensively modified. The character and appearance of the Thurlow Street special character area, and Rennie and Mount Streets heritage conservation area is not adversely affected as the contributory aspects of the site are unaffected and the resultant form mimics that of surrounding development.
- (iv) Adjoining sites are not unreasonably impacted in terms of privacy.
- (v) The non-compliant floor space ratio does not result in any unreasonable overshadowing impacts as demonstrated in the accompanying submitted shadow diagrams. The diagrams show that the proposal will result in no additional overshadowing to the open space or windows of neighbours, including the southern neighbour.

#### Consideration of Applicant's Written Request - Clause 4.6 (3)

32. Development consent must not be granted unless the consent authority is satisfied that that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

Does the written request adequately address those issues at Clause 4.6(3) (a)?

33. The applicant has referred to the five tests established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The applicant's statement has demonstrated that the development meets the objectives of Clause 4.4 of Sydney LEP 2012 in accordance with Test 1, notwithstanding non-compliance with the numerical standard.
34. The applicant states the increase in gross floor area is of a modest scale (17.1sqm comprising a corridor, bathroom and study), and will not result in an intensification of the use of the dwelling. The proposal will improve the overall amenity of the dwelling to meet the needs of the occupants.
35. The applicant demonstrates the additional gross floor area will not result in an increase in vehicular or pedestrian traffic by virtue of its modest scale. The proposal does not intensify the existing dwelling use and will not place any additional demands on the capacity of existing or planned infrastructure.
36. The applicant adequately demonstrates the proposed built form is commensurate with that of the existing terrace row. The new first floor addition is designed to align with the existing rear wall of the southern adjoining terraces at Nos. 9 and 11 Rennie Street. The contributory characteristics of the building and Thurlow Street locality is maintained, and the development remains in keeping with the built form and rear presentation of the terrace row within the Rennie and Mount Streets heritage conservation area.
37. The proposal does not result in any adverse impacts on the amenity of the location, including in terms of overshadowing, view loss or visual privacy.



Does the written request adequately address those issues at clause 4.6(3)(b)?

38. The statement provides environmental planning grounds specific to the circumstances to justify the extent of non-compliance with the floor space ratio development standard.
39. The existing dwelling already exceeds the permissible floor space ratio development standard by 0.16:1 (gross floor area of 10.1sqm). The additional floor space ratio of 0.27:1 (gross floor area of 17.1sqm) will accommodate a modest addition comprising a second bathroom and study to meet the needs of its existing occupants does not result in development incompatible with the R1 General Residential zone. The new study will provide an opportunity for modern/ life balance and work from home requirements.
40. The applicant adequately demonstrates the proposal is commensurate with the existing development pattern and building form. The proposed addition is consistent with previous alterations/additions undertaken at the rear of the terrace group and provides an appropriate rear setback which aligns with the rear wall of the southern adjoining terraces at Nos. 9 and 11 Rennie Street. The proposal maintains the contributory front building elevation and retains the characteristics of the predominate two storey narrow terrace scale of development within the Rennie and Mount Streets heritage conservation area.
41. The addition will improve the overall functionality and amenity of the terrace for its existing occupants, without resulting in adverse overshadowing, visual or other environmental impacts.
42. The applicant has demonstrated there are sufficient environmental planning grounds to support the extent of variation proposed.

#### Conclusion

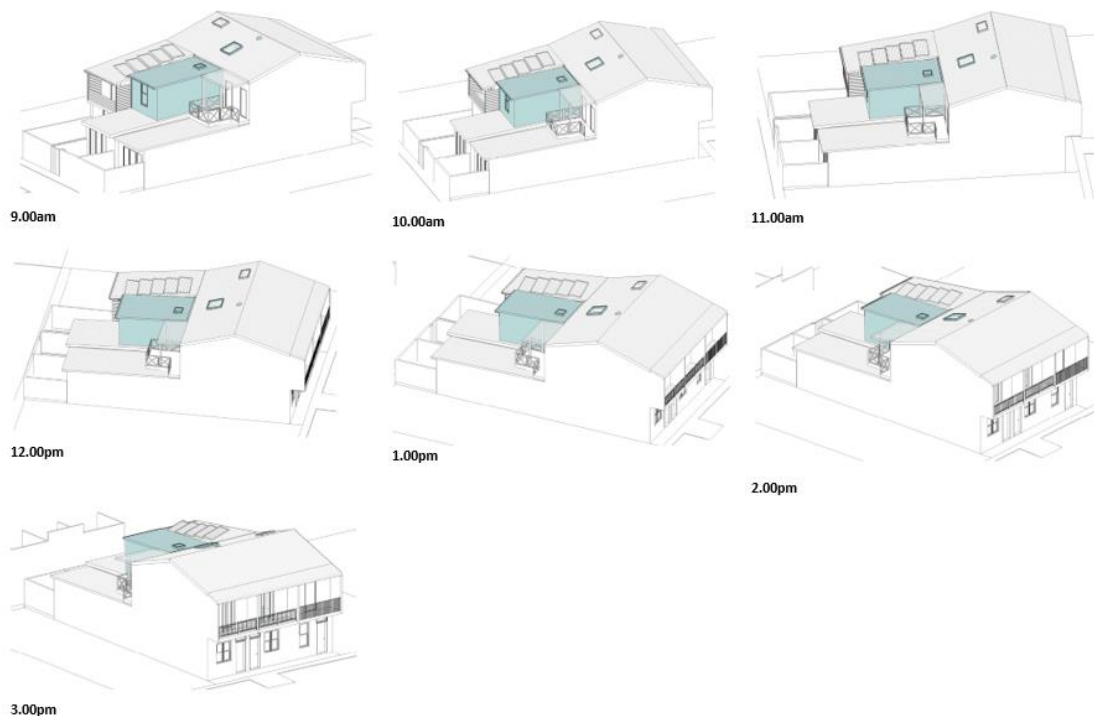
43. For the reasons provided above the requested variation to the floor space ratio development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012.

## Consultation

### Internal Referrals

44. The application was discussed with Council's Construction and Building Unit, Heritage and Urban Design Unit, Public Domain Unit, and Tree Management Unit.
45. The above units advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination as discussed elsewhere in this report.
46. It is noted that Council's Heritage and Urban Design Unit raised initial concerns regarding the amenity of the new study (originally proposed as a bedroom) given its reliance on an operable skylight in lieu of the creation of a lightwell with a window to accommodate light and air.

47. The objectives of Section 4.1.3 of Sydney DCP 2012 require dwellings to be designed to ensure enhanced residential amenity for the occupants with adequate solar access and ventilation. Section 4.1.3.4(4) stipulates developments to address solar access by optimising orientation and placement of windows and habitable rooms, as well as providing skylights or clerestory windows to improve solar access and provide shared light to poorly lit parts of a dwelling.
48. The proposed reliance on the skylight for amenity to the room is considered acceptable in this instance for the following reasons:
- The sun eye diagrams (refer to Figure 20) demonstrate that the proposed operable skylight to the study optimises solar access achieved to the room, when compared to a window in a light well. The new skylight receives six hours of sunlight in comparison to a window in a light well which would receive less than two hours of sunlight due to the orientation of the site and narrow lot width (of 3.19m). The proposal optimises solar access through the placement of the opening in response to Section 4.1.3.1(4) of Sydney DCP 2012;
  - The proposal complements and mirrors the layout of the southern adjoining dwelling at No. 9 Rennie Street (approved under D/2009/798);
  - Confirmation from Lorus Building Approvals and Certification the skylight will provide sufficient natural light and ventilation to the study and complies with the deemed to satisfy provisions of Sections 3.8.4 and 3.8.5 of the NCC;
  - Having regard to the compact nature of the terrace row and constraints of the site.



**Figure 20:** Sun eye diagrams, new addition hatched in blue

## Advertising and Notification

49. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified for a period of 14 days between 6 February and 21 February 2024. A total of 87 properties were notified and one (1) submission was received.
50. The submission noted in-principle support for the proposal but raised concerns primarily in relation to parking and drainage in respect to the subject application, and other matters relating to the surrounding developments and locality of the site. These issues are summarised and addressed below.
51. In accordance with the City of Sydney Community Participation Plan 2023, it is noted that the amended application does not result in any additional environmental impacts to neighbouring dwellings and were not required to be re-notified.
52. The submission raised the following issues:

- (a) **Issue:** Additional cars, exhaust and parking spaces resulting from the new bedroom.

**Response:** The proposal has been amended to provide a new study (instead of a bedroom as originally proposed). The addition of a room will improve the overall amenity of the existing terrace to meet the needs of its existing occupants. The addition is modest in scale and does not intensify the existing single dwelling use, nor result in additional vehicular parking or traffic generation. Furthermore, it is noted that the objectives of Clause 7.1 and 7.4 of Sydney LEP 2012 seeks to minimise the amount of vehicular traffic generated related to a development as to encourage use of sustainable modes of transport. The proposal does not result in any change to existing parking arrangements.

- (b) **Issue:** Drainage and downpipes

**Response:** The proposed addition does not change the existing footprint of the dwelling nor result in additional roof surface area. The new gutters and downpipes will be connected to the existing stormwater drainage design for the dwelling. A condition is recommended to ensure the stormwater drainage design is constructed in accordance with Council's requirements. Refer to further details under Clause 5.21 of Sydney LEP 2012 and Section 3.7 of Sydney DCP 2012 above.

- (c) **Issue:** Fire safety, parking exhaust fumes, and sub floor ventilation issues relevant to Nos. 1, 3 and 5 Rennie Street

**Response:** These matters are not directly relevant to the subject application. Any issues relating to works undertaken at the neighbouring sites may be raised with the City's Compliance Unit to investigate. The proposal does not result in significant adverse fire safety, parking exhaust fumes or sub floor ventilation related issues.

## Financial Contributions

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

53. 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 (alterations and additions to the existing dwelling) and is excluded from the need to pay a contribution.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

54. The site is located within the Residual Lands affordable housing contribution area.
55. The proposed development is not subject to an affordable housing contribution as it does not involve:
- (a) the erection of a new building resulting in a gross floor area (GFA) greater than 200sqm;
  - (b) alterations to an existing building resulting in the creation of more than 60sqm of GFA for the purpose of residential accommodation; or
  - (c) change of use of more than 60sqm of existing floor area of a building.

### Housing and Productivity Contribution

56. The development is not subject of a Housing and Productivity Contribution under the provisions of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
57. The proposed development does not increase the demand for infrastructure in a region as it does not comprise a new residential dwelling or lots, nor the creation of gross floor area for commercial or industrial development.

## Relevant Legislation

58. Environmental Planning and Assessment Act 1979.

## Conclusion

59. The application seeks consent for the alterations and additions to the existing residential terrace and is consistent with the R1 General Residential zone objectives contained in Sydney Local Environmental Plan 2012.
60. The applicant has submitted a written request pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012 which relates to the floor space ratio development standard (Clause 4.4 of Sydney Local Environmental Plan 2012). The request to vary the development standard is supported.
61. The proposed development is compliant with the applicable height of building control and accords with the relevant provisions of the Sydney Local Environmental Plan 2012.

62. The proposal has been amended during assessment and responds positively to concerns raised by Council's assessing officers in relation to the built form, design, rear alignment and residential amenity of the site and surrounds.
63. The proposed addition provides a sympathetic response to the Rennie and Mount Streets heritage conservation area and is commensurate with the built form and development pattern of the contributory terrace row. The proposal contributes to the character of the Thurlow Street special character area.
64. The proposal, as amended, is appropriate in its setting and is generally compliant with the relevant provisions of the Sydney Development Control Plan 2012. The proposal will provide enhanced amenity to meet the needs of its occupants and will not have any significant environmental impacts for neighbouring properties.
65. The proposal is recommended for approval, subject to conditions.

**ANDREW THOMAS**

Executive Manager Planning and Development

Jessica Joseph, Senior Planner