

Item 4.**Development Application: 56A Allen Street, Glebe - D/2024/1205****File Number:** D/2024/1205**Summary**

Date of Submission:	2 January 2025, amended plans received 9 May 2025, 9 June 2025, 30 June 2025
Applicant:	Antonio Caminiti Design Pty Ltd
Architect/Designer:	Antonio Caminiti
Owner:	Mr R Danieli
Planning Consultant:	Perica & Associates
Cost of Works:	\$413,050
Zoning:	R1 General Residential Zone. The proposal is for a new residential dwelling which is permissible with consent in the zone.
Proposal Summary:	Demolition of utility shed and garage structures, and construction of a laneway style dwelling and associated landscaping works for the retained residential flat building on the same site.

The application is reported to the Local Planning Panel for determination as the proposal includes variations to the minimum site area control, minimum parking control, and solar access control contained within s19 of State Environmental Planning Policy (Housing) 2021 for in-fill affordable housing. The required minimum site area is 450sqm - the proposed site area is 315sqm which represents a variation of 30% to the control. The required minimum parking is 4 spaces - the proposal does not provide any parking. The required minimum solar access to living rooms and private open space areas is for 3 hours of sunlight to 70% of dwellings mid-winter. The proposal provides solar access to one private open space area (20%) of the dwellings on site. The applicant has submitted clause 4.6 requests to vary these standards in the circumstances of the application.

The application was notified for 14 days between 13 January 2025 to 28 January 2025. 30 properties were notified, and 2 submissions were received. The issues raised in submissions include: solar impacts, privacy, height, parking, and FSR. The issues raised are considered within this report.

The application was amended in response to Council officer feedback in relation to height and solar access, landscaping and accessibility, flooding and heritage and local character, including a reduction from two dwellings to one dwelling.

The application is recommended for approval.

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 (Housing) 2021
- (iv) SEPP (Resilience and Hazards) 2021
- (v) SEPP (Transport and Infrastructure) 2021
- (vi) SEPP (Biodiversity and Conservation) 2021

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Lot Size
- D. Clause 4.6 Variation Request - Parking
- E. Clause 4.6 Variation Request - Solar Access
- F. Submissions

Recommendation

It is resolved that:

- (A) the request to contravene Section 19(2)(a) relating to minimum lot size, of State Environmental Planning Policy (Housing) 2021 in accordance with Section 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the request to contravene Section 19(2)(d) relating to solar access to private open space areas, of State Environmental Planning Policy (Housing) 2021 in accordance with Section 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (C) the request to contravene Sections 19(2)(e) & (f) relating to minimum parking, of State Environmental Planning Policy (Housing) 2021 in accordance with Section 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (D) consent be granted to Development Application Number D/2024/1205 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal is permissible with consent in the R1 General Residential Zone.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
 - (i) the applicant has demonstrated that compliance with the minimum lot size standard in Section 19(2)(a) of State Environmental Planning Policy (Housing) 2021 standard is unreasonable or unnecessary in the circumstances and that there are sufficient planning grounds to justify contravention of the development standard in accordance with the requirements of Section 4.6(3) of Sydney Local Environmental Plan 2012;
 - (ii) the applicant has demonstrated that compliance with the minimum solar access to private open space standard in Section 19(2)(d) of State Environmental Planning Policy (Housing) 2021 standard is unreasonable or unnecessary in the circumstances and that there are sufficient planning grounds to justify contravention of the development standard in accordance with the requirements of Section 4.6(3) of Sydney Local Environmental Plan 2012;
 - (iii) the applicant has demonstrated that compliance with the minimum parking standard in Section 19(2)(e)&(f) of State Environmental Planning Policy (Housing) 2021 standard is unreasonable or unnecessary in the circumstances and that there are sufficient planning grounds to justify contravention of the development standard in accordance with the requirements of Section 4.6(3) of Sydney Local Environmental Plan 2012;

- (C) The proposal exhibits design excellence in accordance with the requirements contained in Section 6.21C of Sydney Local Environmental Plan 2012.
- (D) The proposed development complies with the maximum Floor Space Ratio development standard in accordance with Section 16 of State Environmental Planning Policy (Housing) 2021.

Background

The Site and Surrounding Development

1. The site is identified as Lot 34 in DP 577989 and is located at 56A Allen Street, Glebe. The site is rectangular in shape with a frontage of 9.4m to Allen Street, a secondary frontage of 33.5m to Cotter Lane, a rear frontage of 9.4m to Allen Lane and a site area of 315sqm. The site is located on the eastern side of Allen Street at the intersection of Cotter Lane. Levels on the site fall by approximately 1.5m from east to west.
2. The site contains a 2-storey residential apartment building containing four apartments, and a fire affected garage structure to the rear of the site towards Allen Lane.
3. The surrounding area is characterised by a mixture of land uses, primarily being residential. To the west and south of the site are primarily detached single storey late Federation style houses. Opposite the site to the north across Cotter Lane at 58-58A Allen Street are 7 strata title 2-storey townhouse style dwellings. To the east across Allen Lane at 262-264 Glebe Point Road is a 4-storey hostel building with a communal rooftop garden. To the south adjoining the site at 56 Allen Street is a single storey detached dwelling.
4. The site is located within the Toxteth heritage Conservation Area (C34) and is identified as a neutral building.
5. Heritage items within the vicinity of the site include:
 - (a) At 246-260 Glebe Point Road, local heritage item 'semi-detached house group including interiors and fencing' (I751).
 - (b) At 266 Glebe Point Road, state listed heritage item House "Monteith" (I754).
 - (c) At 244 Glebe Point Road local heritage item "Hartford House" (I750).
 - (d) At 2 Edward Street, state listed heritage item "Sze Yup Chinese Temple" (I680).
6. The site is identified as being subject to flooding along Cotter Lane and Allen Street.
7. A site visit was carried out on 14 February 2025. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from the corner of Allen Street and Cotter Lane looking east



Figure 3: Site viewed from Cotter Lane



Figure 4: Site viewed from the corner of Cotter Lane and Allen Lane looking south



Figure 5: Open space along southern side boundary looking southwest



Figure 6: Rear garage structure



Figure 7: Utility shed located between apartment building and garage



Figure 8: Townhouse development opposite Cotter Lane at 58-58A Allen Street



Figure 9: View along Allen Lane looking southeast

History Relevant to the Development Application

Development Applications

8. The following applications are relevant to the current proposal:
- **D/2023/790** – Development consent was refused on 28 February 2024 by the Local Planning Panel for the demolition of the garage and utility room and construction of two new dwellings.
 - **D/2022/1332** – 56 Allen Street (adjoining site). Development consent was granted on 1 November 2023 by the Local Planning Panel for the demolition of the existing dwelling and construction of a new two storey dwelling with garage and pool.

Compliance Action

9. The site is not subject to a compliance action.

Amendments

10. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 9 April 2025. The requested amendments included:
 - (a) Clarification as to the proposal definition.
 - (b) A reduction in height to the 6m height limit.
 - (c) Further clarification and quantification of solar impacts, and amendments to retain sufficient solar access to neighbouring properties.
 - (d) Amendments to common open space and private open space for the use of the apartment building.
 - (e) Amendments to address heritage character of the heritage conservation area.
 - (f) A revised schedule of materials.
 - (g) Clarification on accessibility compliance.
 - (h) Amendments to waste areas.
 - (i) Updates to bicycle parking.
11. The applicant responded to the request on 9 May 2025, and submitted the following information:
 - (a) Amended plans and solar diagrams.
 - (b) Flood risk statement.
 - (c) Waste management plan.
12. Following assessment of the amended documentation, a request for further amendments was sent to the applicant on the 30 May 2025, including the following:
 - (a) Design amendments to address overshadowing, accessibility, landscaping and heritage.
 - (b) Justification for the change in nominated flood level.
13. The applicant submitted amended plans and information in response on 30 June 2025 including a redesign from 2 dwellings to one dwelling within the proposed laneway dwelling building.

Proposed Development

14. The application seeks consent for the following:
 - Demolition of utility shed and garage structures.

- Construction of a laneway style dwelling to the northeastern end of the allotment with retention of the existing flat building.
- Associated landscaping works.

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

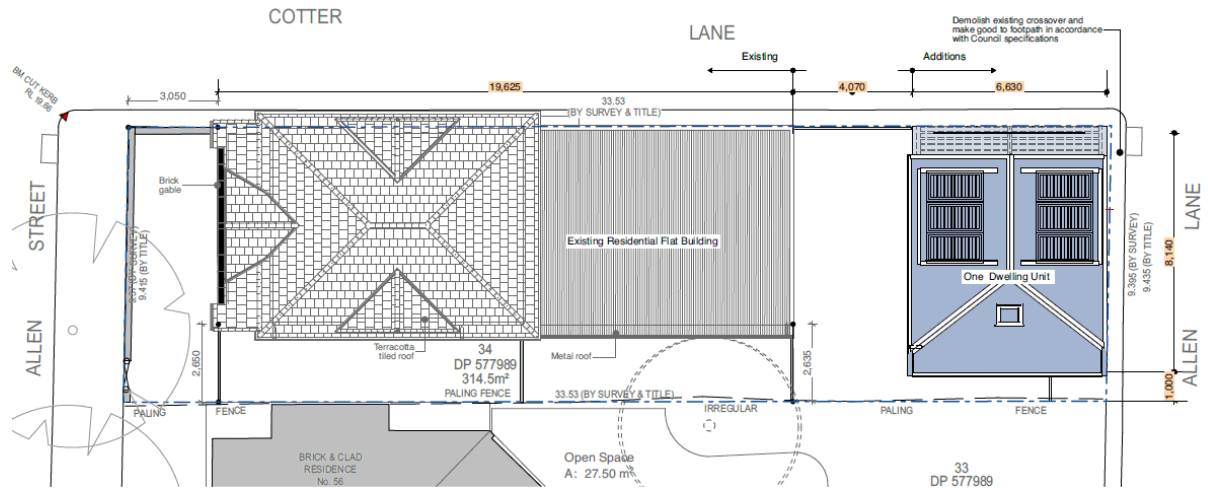


Figure 10: Site plan



Figure 11: Ground floor plan

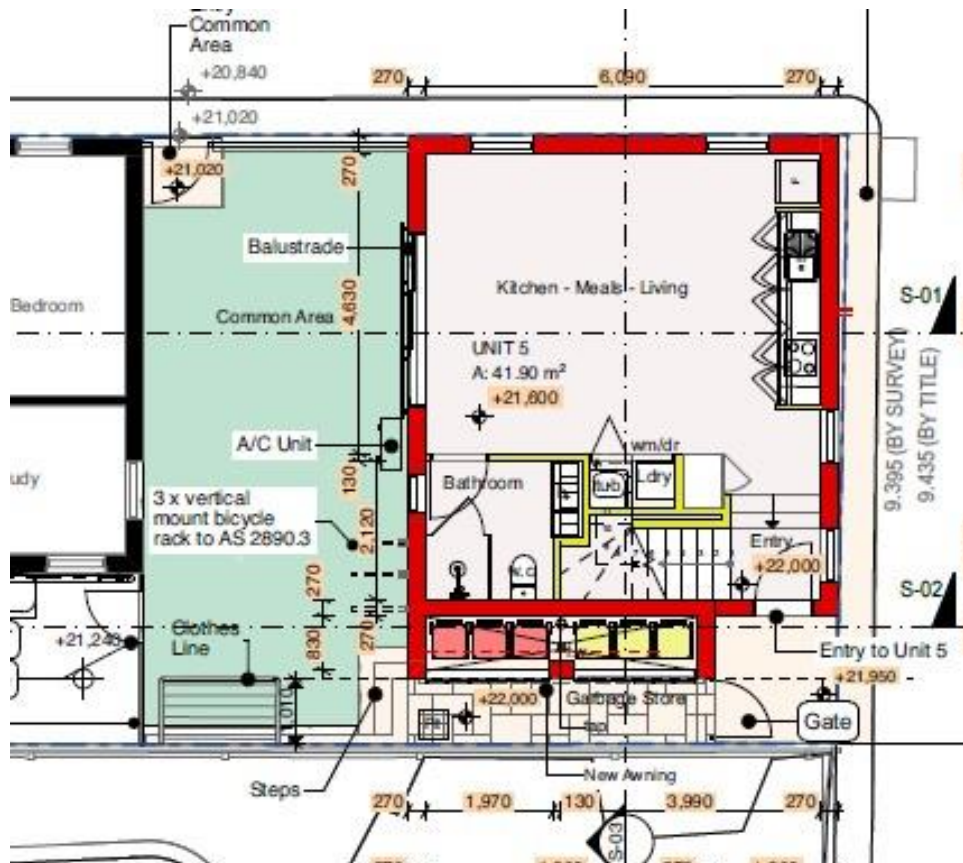


Figure 12: Extract ground floor plan



Figure 13: First floor plan

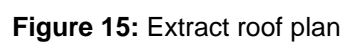




Figure 16: East elevation, Allen Lane

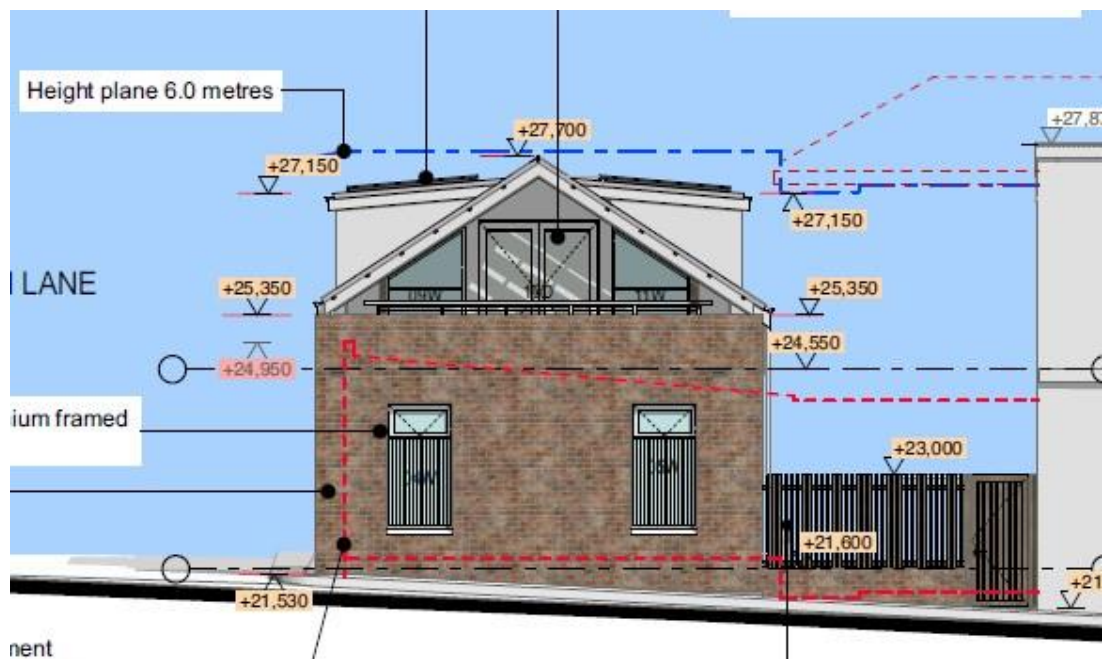


Figure 17: North elevation, Cotter Lane

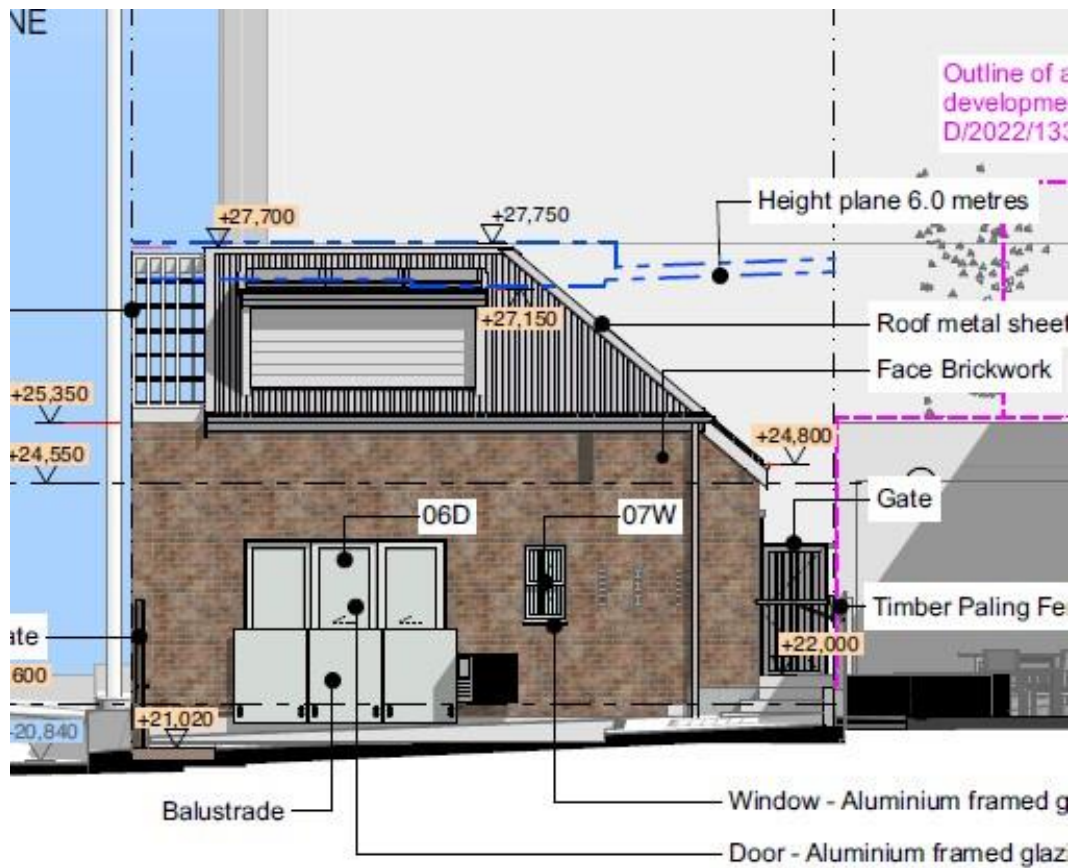


Figure 18: West elevation

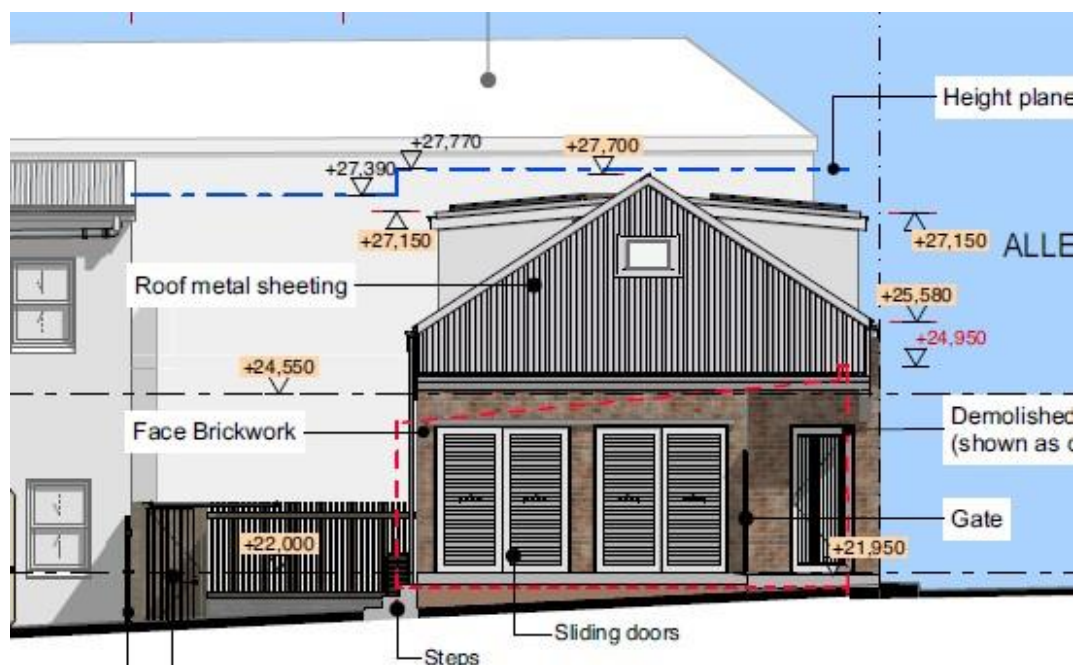


Figure 19: South elevation

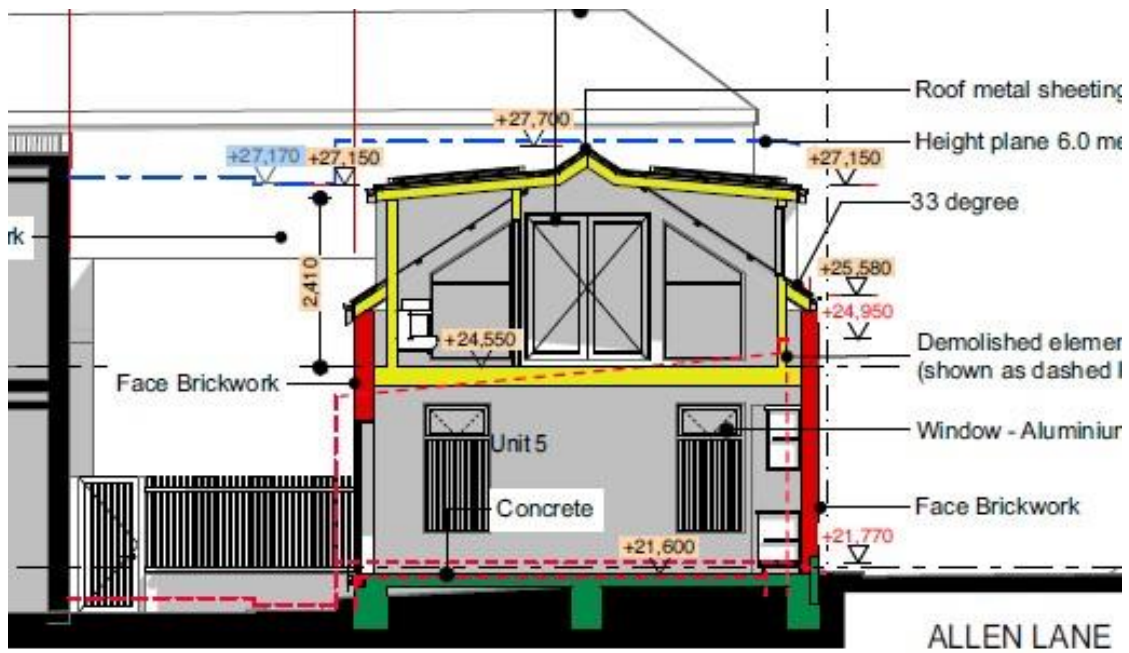


Figure 20: Section plan

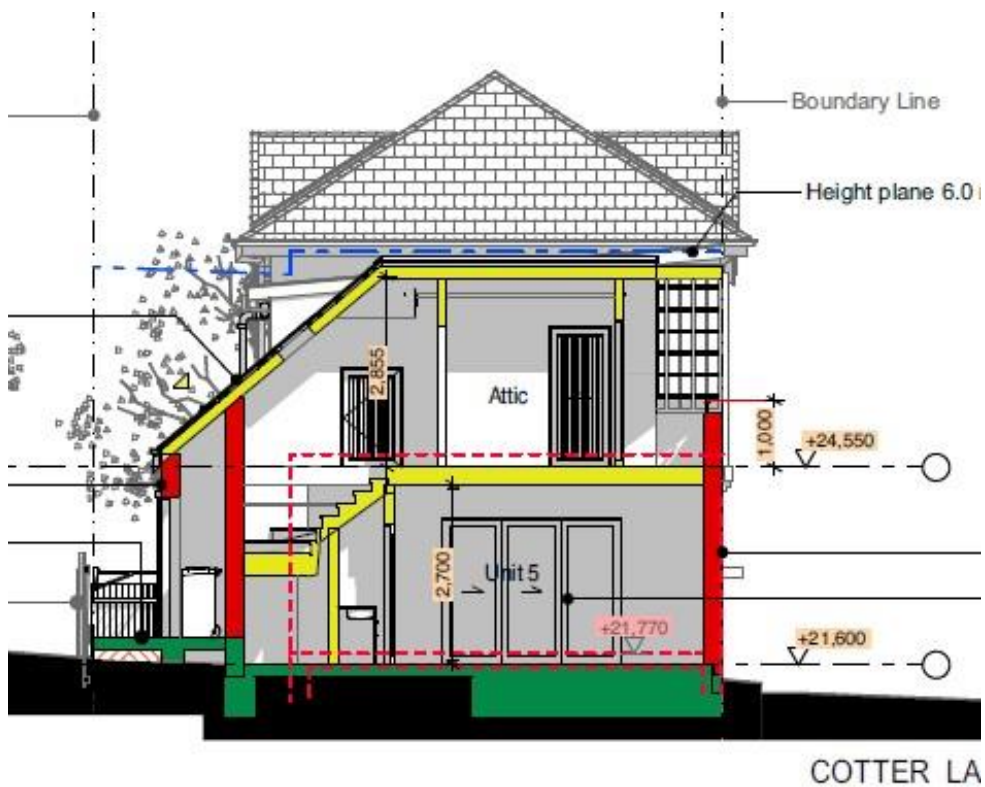


Figure 21: Section plan

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 (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

32. The continued use of the site for residential purposes is consistent with the policy subject to conditions regarding the disposal of materials.

State Environmental Planning Policy (Housing) 2021

33. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

Chapter 2 Affordable Housing

Part 2 Development for affordable housing

Division 1: In-fill affordable housing

34. The application proposes to dedicate one existing unit as affordable housing under the in-fill affordable housing provisions. An assessment against the relevant controls is included in the table below.

Provision	Compliance	Comment
15C Development to which division applies - Development is to be permitted with consent - Affordable housing component at least 10% - Development within an accessible area	Yes	Proposal permitted with consent in R1 Zone. Affordable housing component of the proposal is 18%. Development located within an accessible area as defined within the policy.
16 Affordable housing requirements for additional floor space ratio Affordable housing component = additional FSR (as a percentage) ÷ 2	Yes	30% bonus applies Maximum FSR of 0.91:1 is permitted Proposed FSR 0.88:1

Provision	Compliance	Comment
18 Affordable housing requirements for additional building height - includes RFB or shop top housing, and - does not use additional FSR under s16	N/A	Additional building height does not apply.
19 Non-discretionary development standards		
Minimum site area of 450sqm	No, clause 4.6 request submitted	Site area is 315sqm.
Minimum landscaped area that is the lesser of 35sqm per dwelling or 30% of site area	Yes	94.5sqm required, 113sqm provided
Deep soil zone on at least 15% of site area, with min dimension of 3m	Yes	47sqm required, 100sqm provided
Living rooms and POS in at least 70% of dwellings receive at least 3 hours of direct solar access mid-winter	Partial, cl 4.6 request submitted	Living rooms to 80% of units receive sunlight mid-winter. POS of new dwelling to receive sunlight mid-winter. Existing units do not have POS.
Car parking for dwellings used for affordable housing - For each 1 bedroom dwelling, 0.4 spaces	No, cl 4.6 request submitted	No car parking provided
Car parking for dwellings not used for affordable housing - For each 1 bedroom dwelling, 0.5 spaces - For each 2 bedrooms, 1 parking space	No, cl 4.6 request submitted	No car parking provided
Minimum internal areas specified in ADG for the type of residential development	Yes	New 1 bedroom dwelling sized 64sqm

Provision	Compliance	Comment
20 Design requirements Consent authority to consider whether the design is compatible with the desirable elements of the character of the local area, or the desired future character	Yes	Proposal is subject to the recommended conditions of consent, compatible with the desirable elements of the character of the local area.
21 Must be used as affordable housing for 15 years - Affordable housing component must be used for 15 years from date of OC - Must be managed by registered community housing provider	Yes	Community housing provider, Home Ground Real Estate, nominated as CHP. Conditions of consent are recommended to ensure use for 15 years.
22 Subdivision permitted with consent - Land may be subdivided with development consent	N/A	Subdivision not proposed.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

35. A BASIX Certificate has been submitted with the development application. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in to the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Transport and Infrastructure) 2021

36. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

37. The application is subject to Clause 2.48 of the SEPP as the development will be carried out within 5m of an exposed overhead electricity power line.

38. As such, the application was referred to Ausgrid for a period of 21 days. Ausgrid has provided a response raising no objection to the proposal.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

39. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
40. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

41. 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.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 6m is permitted. A height of 6m is proposed.
4.4 Floor space ratio	Yes	A maximum floor space ratio (FSR) of 0.7:1 is permitted under the LEP. As noted above a FSR of 0.91:1 is permitted under SEPP Housing. The proposed FSR is 0.88:1
4.6 Exceptions to development standards	Yes	Requests have been submitted to address contraventions of SEPP Housing 2021 development standards in

Provision	Compliance	Comment
		relation to lot size, parking and solar access. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is located within the Toxteth Heritage Conservation Area (C34). The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area, subject to minor amendments in relation to windows and materials.
5.21 Flood planning	Yes, subject to minor amendments	Allen Street and Cotter Lane are shown as flood affected within the 1% AEP event. The flooding does not extend to within the site boundaries. Council's Public Domain Unit has reviewed the proposal and has advised that it is generally satisfactory, subject to the deletion of the ground level west facing sliding door that is a potential location for flood ingress, and for additional justification be provided for the nominated flood level.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	The proposal as amended addresses the heritage context, provides improved landscaping to the site, and retains solar access to adjoining sites.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		

Provision	Compliance	Comment
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	The proposal removes two car parking spaces with no parking to be provided on site.
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

42. 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

43. The site is located within the Toxteth locality. The proposed development is in keeping with the unique character and the design principles of the locality. The design of the proposal is in keeping with the scale and character of the locality.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The proposal provides a suitable presentation to both Cotter Lane and Allen Lane.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology. New tree canopy plantings are proposed.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) and discussion section.
3.7 Water and Flood Management	Yes	See discussion under LEP section 5.21 above.
3.9 Heritage	Yes	The site is located within the Toxteth Heritage Conservation Area (C34). The

Provision	Compliance	Comment
		<p>existing building is listed as neutral building.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area, subject to minor amendments in relation to windows and materials.</p>
3.11 Transport and Parking	Yes	<p>The proposed development removes two car parking spaces which is acceptable.</p> <p>The proposal includes 5 bicycle parking spaces, a condition of consent is including requiring the provision of 6 bicycle parking spaces.</p>
3.12 Accessible Design	Subject to conditions	<p>The application is not accompanied by a BCA/NCC or Access report. A report was requested as part of RFIs and has not been submitted.</p> <p>Compliance with the BCA/NCC would be a mandatory requirement as part of any construction certificate approval. Recommended conditions of consent are included.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>The proposed waste facilities are generally satisfactory.</p> <p>A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		

Provision	Compliance	Comment
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The site is permitted a maximum building height of 2 storeys. The proposed development is 2 storeys in height.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposed development achieves the minimum floor to floor height of 2.7m at the ground level and between 2.4m to 2.8m at the second storey / attic level.
4.2.2 Building setbacks	Yes	The proposed built to boundary form for the dwelling to the laneways is consistent with both the existing garage structure and other development in the locality. Built to boundary form to street corners is also considered to be characteristic within the locality.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposal retains more than 2 hours of sunlight to at least 50% of the existing minimum private open space area to the neighbour to the south, mid-winter. The proposal results in a minor improvement to the solar access to the common open space to the existing site.
4.2.3.5 Landscaping	Yes	The proposed landscaping is generally acceptable, with a detailed plan of the common open space area required to be provided as part of the recommended conditions of consent.
4.2.3.6 Deep Soil	Yes	100sqm provided
4.2.3.7 Private open space and balconies	Yes	The proposal provides a level 1 balcony area sized 5.4sqm for the one bedroom dwelling. This is considered to be appropriate for the proposal in the context.
4.2.3.8 Common open space	Acceptable	The existing development provides limited usable common open space. The proposal includes some improvements to the usability of these areas. The proposed door to the western

Provision	Compliance	Comment
		elevation that is recommended to be deleted and changed to a window to address a flooding issue, will also improve the privacy and usability of this internal space.
4.2.5 Types of development	Yes	The proposal has been designed with the appearance of a laneway style dwelling in accordance with s4.1.6 of Sydney DCP 2012 which is appropriate to the site context.
4.2.6 Waste and recycling Management	Yes	<p>The proposal provides for a new waste area for the existing and new development on the site.</p> <p>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.</p>

Discussion

Clause 4.6 Request to Vary a Development Standard - Site Area

44. The site is subject to a minimum site area standard of 450sqm under s19(2)(a) of SEPP (Housing) 2021. The subject site has an area of 315sqm. Development under the provision represents a variation of 30% to the standard.
45. 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 Request - Clause 4.6(3)(a) and (b)

46. The applicant seeks to justify the contravention of the minimum lot size development standard on the following basis:
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) That the underlying objectives of the clause are met despite the contravention. Objective 15A states that:

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

- (ii) The proposal achieves this objective by delivering in-fill affordable housing to be managed by a community housing provider in accordance with the policy.

The principles of the SEPP are also achieved as follows:

- (iii) The proposal will provide diverse housing types and rental housing.
 - (iv) The proposal includes a unit to be management by a community housing provider as affordable housing.
 - (v) The proposal will provide housing with good amenity including cross ventilation, access to sunlight and daylight, appropriate unit size, private open space, outlook and locational amenity and convenience.
 - (vi) The site contains an existing residential flat building that is serviced by utilities and is well located within an inner-city area with good access to services and public transport options.
 - (vii) The proposal will not result in adverse climate impacts.
 - (viii) The proposed design responds to the site and context with the heritage conservation area.
 - (ix) The proposal results in an increase in affordable rental housing.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
- (i) The site already contains a flat building of 4 units and the proposal is for a modest extension to provide an extra unit on a site with a pre-existing RFB.
 - (ii) The site is unusual and unique in that it is located on a corner, with 3 of the 4 sides having frontage to a public road or public laneways. The space provided by the road and laneway frontages helps mitigate potential environmental impacts and provides some design flexibility, despite the site size.
 - (iii) The corner site location minimises the interface with other sites, with the site only sharing one boundary with another privately-owned site.
 - (iv) The nature of the site and setting of the locality favours building to the street/lane edges for the extension, while the 2-storey form is consistent with the scale envisaged for the site within Council's development control plan, so the scale.
 - (v) The second level helps provide passive surveillance to the adjoining public domain/lanes.
 - (vi) The rear addition is complementary to the building design, massing, shape, roof form and materials of the existing building.

- (vii) The proposed additional built form is modest, with the proposal replacing an existing garage structure, with the scale of the proposal being designed to suit to the site size, proportions and characteristics. The height and form have been modulated for visual interest and articulation, combined with high-quality materials.
- (viii) The surrounds are comprised of higher building forms, particularly to the north, north-east and east, such that the resulting built form is not inconsistent with the surrounds. The context of the site and surrounds is in transition from the north and the east, and the height and form is contextually appropriate, while also reinforcing the land form.
- (ix) The area contains a mix of building types on varying site sizes, including on smaller sites.
- (x) The City of Sydney local environmental plan does not have minimum allotment size development standards and the location and setting of the site suits the proposal.
- (xi) The proposal meets key development standards relative to the site size and site generally, including the maximum FSR, building height, private open space and deep soil area.
- (xii) The amenity of the additional unit will be good, with good access to light and solar access, cross ventilation, reasonable ceiling heights, well-sized and oriented private open space, reasonable outlook and excellent locational amenity.
- (xiii) The proposal incorporates an additional affordable rental housing unit, as well as diversity of housing choice, yet in a constrained way suited to the site characteristics.
- (xiv) The proposal achieves an acceptable heritage outcome.
- (xv) The proposal achieves the objectives of the EP&A Act.

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

47. 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 applicant adequately address those issues at Clause 4.6(3) (a)?

48. The applicant's request has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the objectives of the control and SEPP Housing 2021 are achieved despite the not compliance.
49. Whilst there is no stated objective for the particular minimum site area standard, the overall objectives for in-fill affordable housing and principles of SEPP Housing 2021 are stated as follows:
- (a) To facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

- (b) Enabling the development of diverse housing types, including purpose-built rental housing.
 - (c) Encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability.
 - (d) Ensuring new housing development provides residents with a reasonable level of amenity.
 - (e) Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services.
 - (f) Minimising adverse climate and environmental impacts of new housing development.
 - (g) Reinforcing the importance of designing housing in a way that reflects and enhances its locality.
 - (h) Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use.
 - (i) Mitigating the loss of existing affordable rental housing.
50. The inclusion of a minimum lot size standard arguably contributes to the provision of new in-fill housing in providing the other non-discretionary development standards for affordable housing under SEPP Housing 2021 including landscaped area, deep soil, solar access, parking, and dwelling size.
51. The proposal's compliance with these other standards is detailed within this report, with variations to parking and solar access controls addressed separately.
52. Given the existing site characteristics including its corner location, location between higher density development the north and east, the existing residential flat building, the subdivision pattern of the area, the non-compliance with the minimum lot size standard should not preclude consideration of the proposal.
53. The proposal is able to provide housing in a well situated location with access to infrastructure and services with a reasonable level of amenity as discussed within this report. The proposal is therefore considered to achieve the objectives of the standard despite the contravention.

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

54. The applicant has satisfactorily demonstrated that there are sufficient environmental grounds to justify the contravention.
55. The site is an existing allotment with a flat building on site within a context that contains varied building forms, including structures to the subject laneway.
56. The surrounding area is generally characterised by allotments that are under 450sqm in size. Compliance with the standard would require the amalgamation of lots which would impact on the character of the area.

57. The proposal has been considered on the merits of the particulars of the design on the site and within the surrounding context. The amended design is considered to provide sufficient amenity for the proposal, whilst preserving the amenity of adjoining sites, and respecting the character of the locality.
58. Requiring strict compliance with the standard would hinder the objectives of SEPP Housing 2021 to provide additional affordable housing in the area.

Conclusion

59. For the reasons provided above the requested variation to the minimum site area control is supported as the applicant's request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Clause 4.6 Request to Vary a Development Standard - Parking

60. The site is subject to a minimum car parking control of 4 car parking spaces under s19(2)(e) and (f) of SEPP (Housing) 2021. The proposed development does not provide any on site car parking.
61. 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 Request - Clause 4.6(3)(a) and (b)

62. The applicant seeks to justify the contravention of the minimum car parking development standard on the following basis:
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) That the underlying objectives of the clause are met despite the contravention. Objective 15A states that:

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.
 - (ii) The proposal achieves this objective by delivering in-fill affordable housing to be managed by a community housing provider in accordance with the policy.

The principles of the SEPP are also achieved as follows:

- (iii) While no parking is provided, the locational advantages of the site to services and public transport options provides alternative high amenity to offset and outweigh non-provision of parking.
- (iv) The existing location of parking at the site is unsafe, non-compliant with Australian Standards and not ideal. The removal of parking from the site

has traffic and pedestrian safety benefits. There is existing surrounding service and transport infrastructure to support the non-provision of car parking.

- (v) The non-provision of parking does not cause adverse climate or environmental impacts. To the contrary, utilising existing bulk at ground level for accommodation as opposed to parking reduces the environmental impacts compared to providing parking which would otherwise be exempt from GFA calculations.
 - (vi) The proposed design and removal of existing parking and non-provision of parking appropriately responds to the site and context and will provide an improvement to the locality compared to the current situation.
 - (vii) The proposal results in an increase in affordable rental housing.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
- (i) The existing parking provision/structure at the site does not meet Australian Standards, is located on a corner which is unsafe and is within a structure that detracts from the conservation area of which it is part. Its removal is a positive outcome of the proposal.
 - (ii) The proposed living spaces at ground level in lieu of parking is a better outcome for pedestrians and for real and perceived safety around the site. The site is unusual and unique in that it is located on a corner and providing parking at this site would lead to a compromised outcome in terms of safety and built form.
 - (iii) The proposal complies with the FSR. The non-provision of parking allows accommodation at ground levels as opposed to parking which would otherwise be excluded from FSR calculations yet add greater bulk than that proposed.
 - (iv) The approach taken allows minimised additional bulk while allowing improvements to the setting/surrounds.
 - (v) The approach of minimising parking provision and no parking is consistent with the strategic approach at the City of Sydney, and the parking standards in SLEP 2012. This is relevant given the SEPP applies to the State and different local approaches can be taken and are justified by changed circumstances, particularly related to locations, service and transport availability.
 - (vi) The site has excellent locational advantages in terms of access to public transport options (particularly bus and ferry options), and proximity to services that mitigates the need for parking or additional parking.
 - (vii) The conversion of one unit to affordable rental housing reduces theoretical car parking demand for that unit under the SEPP parking provisions.
 - (viii) Despite no parking being provided, the amenity of the additional unit will be good overall, with good access to light and solar access, cross ventilation,

reasonable ceiling heights, well sized and oriented private open space, reasonable outlook and excellent locational amenity.

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

63. 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 Applicant's request adequately address those issues at Clause 4.6(3) (a)?

64. Whilst there is no stated objective for the particular minimum parking standard, the overall objectives for in-fill affordable housing and principles of SEPP Housing 2021 are stated as follows:
- (a) To facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.
 - (b) Enabling the development of diverse housing types, including purpose-built rental housing.
 - (c) Encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability.
 - (d) Ensuring new housing development provides residents with a reasonable level of amenity.
 - (e) Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services.
 - (f) Minimising adverse climate and environmental impacts of new housing development.
 - (g) Reinforcing the importance of designing housing in a way that reflects and enhances its locality.
 - (h) Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use.
 - (i) Mitigating the loss of existing affordable rental housing.
65. Further, it can be inferred that the objective of the parking standard relates to providing sufficient amenity for residents from a transport perspective. As noted by the applicant, the Sydney LEP 2012 parking controls are stated as maximum parking controls, with a preference for alternative transport options being provided for. The site is located within an area serviced by different transport options, and the site provides for 5 bicycle parking spaces. The proposal is therefore considered to be adequately provided for in terms of transport options.
66. The proposal is therefore considered to provide housing in a well-situated location with access to infrastructure and services with a reasonable level of amenity as discussed within this report. The proposal is therefore considered to achieve the objectives of the standard despite the contravention.

Does the applicant's request adequately address those issues at clause 4.6(3)(b)?

67. The applicant has satisfactorily demonstrated that there are sufficient environmental grounds to justify the contravention.
68. The site is located in an area well-serviced by transport options including public transport, cycling and walking.
69. Whilst the SEPP Housing 2021 standard is expressed a minimum parking provision, the Sydney LEP 2012 car parking standards are expressed as maximums, with generally no requirement for providing car parking for residential developments.
70. The non-provision of parking can be considered to be preferable from a design perspective without the bulk associated with garage structures included in the design.

Conclusion

71. For the reasons provided above the requested variation to the parking standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Clause 4.6 Request to Vary a Development Standard - Solar Access

72. The site is subject to the standard under s19(2)(d) that living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm mid-winter. The existing apartments do not currently have any private open space areas, and two newly proposed private open space areas will not receive solar access mid-winter.
73. 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 Request - Clause 4.6(3)(a) and (b)

74. The applicant seeks to justify the contravention of the minimum lot size development standard on the following basis:
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) That the underlying objectives of the clause are met despite the contravention. Objective 15A states that:

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

- (ii) The proposal achieves this objective by delivering in-fill affordable housing to be managed by a community housing provider in accordance with the policy.
- (b) The principles of the SEPP are also achieved as follows:
 - (i) The proposal will provide diverse housing types and rental housing.
 - (ii) The proposal includes a unit to be management by a community housing provider as affordable housing.
 - (iii) The proposal will provide housing with good amenity including cross ventilation, access to sunlight and daylight, appropriate unit size, private open space, outlook and locational amenity and convenience.
 - (iv) The site contains an existing residential flat building that is serviced by utilities and is well located within an inner-city area with good access to services and public transport options.
- (c) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) The solar access requirements for the new unit are achieved and the non-compliance relates to the existing units which do not currently achieve the standard.
 - (ii) For the existing units, more than 70% received solar access to living rooms, and do not currently have any private open space areas.
 - (iii) The overall compliance with the standard is improved by the proposal.
 - (iv) The overall building massing is consistent with over standards relating to building form including height and FSR.
 - (v) Changes have been incorporated into the design to provide ground floor private open spaces areas to existing units to improve the amenity of these units (as suggested by Council).
 - (vi) The proposal achieves the objectives of the EP&A Act.

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

75. 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 request adequately address those issues at Clause 4.6(3) (a)?

76. The applicant's request has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the objectives of the control and SEPP Housing 2021 are achieved despite the not compliance.
77. Whilst there is no stated objective for the particular minimum solar access standard, it can be inferred that it relates to the objective of ensuring housing provides residents

with a reasonable level of amenity. The overall objectives for in-fill affordable housing and principles of SEPP Housing 2021 are stated as follows:

- (a) To facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.
- (b) Enabling the development of diverse housing types, including purpose-built rental housing.
- (c) Encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability.
- (d) Ensuring new housing development provides residents with a reasonable level of amenity.
- (e) Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services.
- (f) Minimising adverse climate and environmental impacts of new housing development.
- (g) Reinforcing the importance of designing housing in a way that reflects and enhances its locality.
- (h) Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use.
- (i) Mitigating the loss of existing affordable rental housing.

78. The proposal achieves these objectives despite the contravention, noting that the existing units to the flat building do not currently provide any private open space areas. The provision of two new private open space areas to the southern side of the flat building would be an overall improvement to the amenity of these units. The provision of these private open space areas results in a contravention of the standard.

79. The other objectives of the SEPP are achieved despite the contravention.

Does the Applicant's request adequately address those issues at clause 4.6(3)(b)?

80. The applicant has satisfactorily demonstrated that there are sufficient environmental grounds to justify the contravention.

81. As noted above, the existing units to the flat building do not currently provide any private open space areas. The provision of two new private open space areas to the southern side of the flat building would be an overall improvement to the amenity of these units. The provision of these private open space areas results in a contravention of the standard.

82. The proposal has been considered on the merits of the particulars of the design on the site and within the surrounding context. The amended design is considered to provide an improved amenity for existing residents and sufficient amenity for the proposed additional housing.

83. Requiring strict compliance with the standard would hinder the objectives of SEPP Housing 2021 to provide additional affordable housing in the area.

Conclusion

84. For the reasons provided above the requested variation to the minimum solar access control is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Design

85. As noted above, the proposed design was amended in response to Council Officer feedback. The key amendments to the proposal include:
- (a) Reduction in building height to be within the Sydney LEP 2012 6m height limit.
 - (b) Reduction in building form to reduce overshadowing impacts.
 - (c) Amendments to common open space and private open space areas for the proposed dwelling and existing apartment building.
 - (d) Reduction in number of proposed dwellings from two to one.
86. A comparison between selected images of the proposal as lodged and as amended is included below.



Figure 22: East elevation (Allen Lane) - as lodged



Figure 23: East elevation - as amended

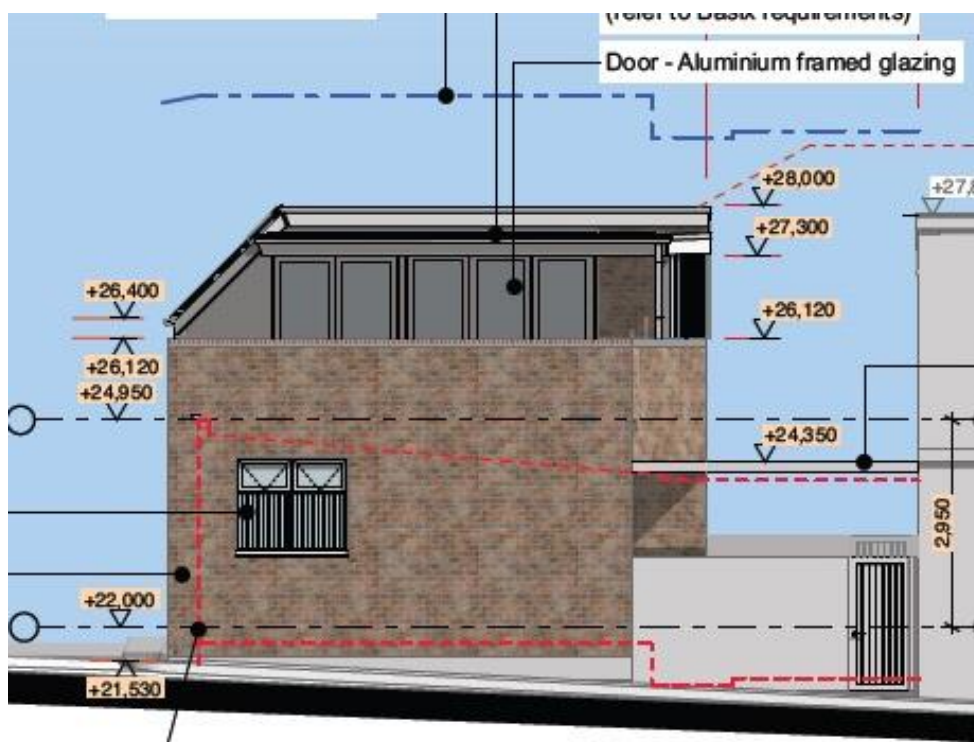


Figure 24: North elevation (Cotter Lane) - as lodged



Figure 25: North elevation - as amended

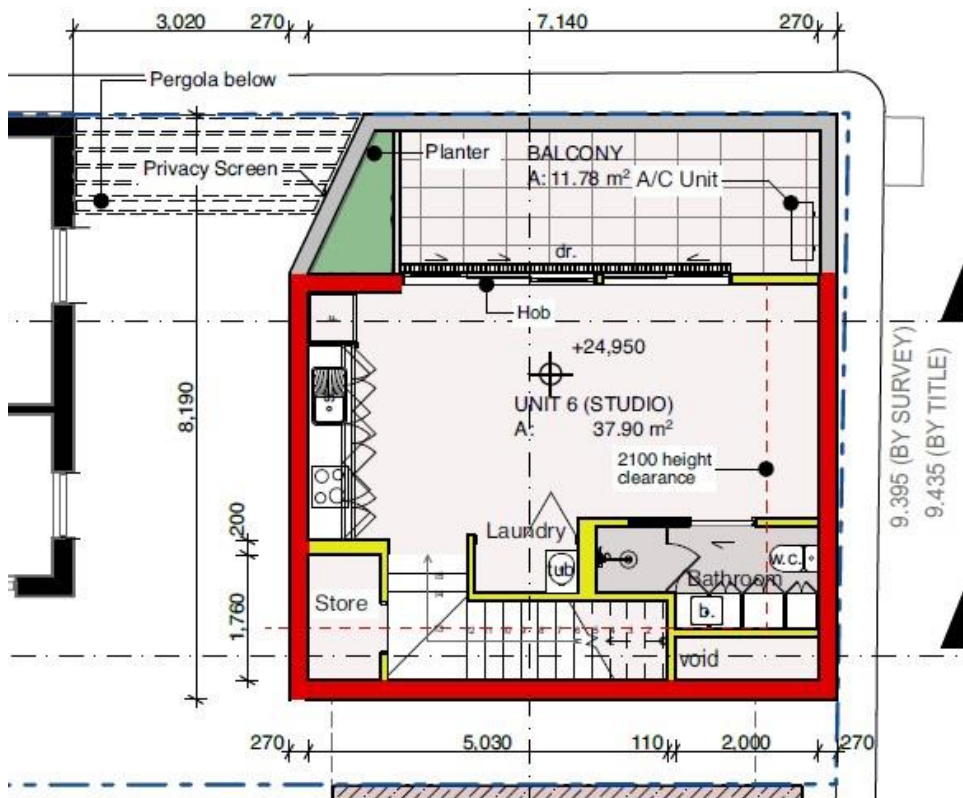


Figure 26: Extract of first floor plan - as lodged

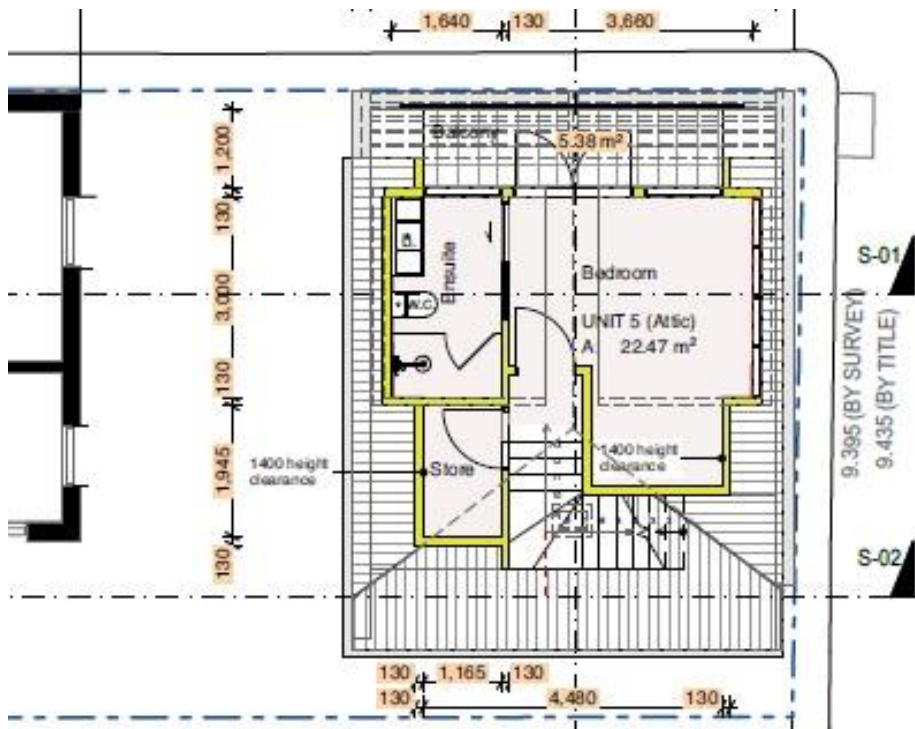


Figure 27: First floor plan - as amended

87. The proposal as amended has addressed the issues raised in relation to shadowing impacts, heritage impacts and other items as discussed above. The proposal as amended is considered to have largely addressed the issues raised during assessment and subject to minor design amendments in relation to flooding, windows and materials.

Consultation

Internal Referrals

88. The application was discussed with Council's internal units as follows.

- (a) Building Services Unit;
- (b) Environmental Health Unit;
- (c) Heritage and Urban Design Unit;
- (d) Public Domain Unit;
- (e) Transport and Access Unit;
- (f) Waste Management Unit.

89. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

Ausgrid

90. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment. As noted above a response was received raising no objections to the proposed development.

Advertising and Notification

91. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 14 days between 13 January 2025 and 28 January 2025. A total of 30 properties were notified and 2 submissions were received.
92. The submissions raised the following issues:

Issue	Response
Solar impacts - Impacts to adjoining POS areas	The proposal as amended retains solar access to adjoining POS areas in accordance with Sydney DCP 2012 controls.
Outlook - Objection to resulting outlook from adjoining properties	Outlooks are not a protected viewing right per se. The impacts and compliance of the proposal with relevant controls are addressed within this report.
Height - Objection to non-compliance with height standard	The proposal has been amended to comply with the height controls as noted within this report.
Parking - Objection to removal of onsite parking and impact on local street network	The SLEP 2012 parking controls are maximums without the requirement to provide parking. The site is located within proximity to public transport and cycling options.
FSR - Objection to non-compliance with FSR controls.	The proposal complies with the applicable FSR controls as addressed within this report.
Bulk - Objection to bulk impacts	<p>The proposal complies with applicable FSR controls as discussed within the report.</p> <p>The proposal as amended is considered to provided a building bulk and scale that fits within the context of the site.</p>

Issue	Response
Heritage - Objection to heritage impacts to the conservation area.	Heritage impacts of the proposal have been considered by the City's Heritage Specialist as discussed within this report.
Setback - Objection to setbacks that do not respond to the established setback pattern.	The subject laneway includes a variety of setbacks including structures built to the boundary. Laneway dwellings are a development type prescribed within Sydney DCP 2012.
Deep soil - Objection to the provision of deep soil.	The proposal provides deep soil in accordance with relevant controls as addressed within the report.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

93. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.
94. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

95. As the development is development for the purposes of residential accommodation that will result in the creation of less than 200 square metres of gross floor area, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

Housing and Productivity Contribution

96. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
97. The site is located within the Greater Sydney region, the development is a type of residential development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
98. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

99. Environmental Planning and Assessment Act 1979.

Conclusion

100. The application proposing demolition of an existing utility shed and garage structures, and construction of laneway style dwelling and associated landscaping works for the retained residential flat building on the same site has been assessed against the relevant planning instruments and controls.
101. The application includes requests to vary standards in relation to site area, minimum parking and solar access as contained in s19 of State Environmental Planning Policy (Housing) 2021. The requests have been considered and are considered to be supportable in the circumstances of the application.
102. Two submissions were received in response to the proposal. The issues raised in submissions include objections to solar impacts, privacy, height, parking, and FSR. The issues raised are considered within this report, and where relevant have been addressed in amended plans.
103. The application was amended in response to Council officer feedback in relation to height and solar access, landscaping and accessibility, flooding and heritage and local character. The application as amended is recommended for approval subject to the conditions included in Attachment A.

ANDREW THOMAS

Executive Manager Planning and Development

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