

**NSLPP MEETING HELD ON 04/05/2022****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Statement (Height of Buildings)
4. Heritage Impact Statement

ADDRESS 102 Carabella Street, Kirribilli**APPLICATION No:** 371/21

PROPOSAL: Alterations and additions to an attached dwelling including a ground floor rear addition, internal alterations, conversion of the attic into habitable space with a dormer and skylight addition to the rear.

PLANS REF:

Plan No.	Rev No.	Description	Prepared by	Dated
D.A - 100	A	Site Plan / Site Analysis Plan	GVP Design Studio	11/10/21
D.A - 101	A	Level 1 Floor Plan		11/10/21
D.A - 102	A	Level 2 - Floor Plan		11/10/21
D.A - 103	A	Level 3 - Floor Plan		11/10/21
D.A - 104	A	South West & North East Elevations		11/10/21
D.A - 105	A	Existing North West Elevation		11/10/21
D.A - 106	A	Proposed North West Elevations		11/10/21
D.A - 107	A	South East Elevation		11/10/21
D.A - 108	A	Section A & B / BASIX Specification		11/10/21

OWNER: Mojeeb Arash Sachawars & Shakilla Sachawars & others**APPLICANT:** Hassan Sleiman**AUTHOR:** Thomas Holman, Assessment Officer**DATE OF REPORT:** 21 March 2022**DATE LODGED:** 10 November 2021**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks consent for alterations and alterations to an attached dwelling comprising a ground floor extension, internal alterations, and construction of a dormer and skylight on the rear roof plane at 102 Carabella Street, Kirribilli.

The development application is reported to the North Sydney Local Planning Panel for determination because the development application contravenes a development standard imposed by an environmental planning instrument by more than 10%, which requires determination by the Panel in accordance with the directions from the NSW Minister of Planning, Industry and Environment. The proposal also involves partial demolition of a heritage item being another reason to report the application to the Panel.

The proposed works would have a height of 10.3 m to the internal roof of the converted attic and the dormer addition would have a height of 9.9 m (16.47% variation) above the existing ground level which would not comply with the maximum permitted height of 8.5m not in accordance with clause 4.3 in NSLEP 2013.

The application has been assessed against the relevant provisions and requirements of the relevant planning instruments including the North Sydney LEP 2013 and North Sydney DCP 2013. Consideration has also been given to the Clause 4.6 request for a variation to the height of buildings development standard as submitted by the applicant which was considered to be acceptable in the site circumstances because there would be no view loss, nor any unreasonable overshadowing and/or privacy loss arising from the height non-compliance.

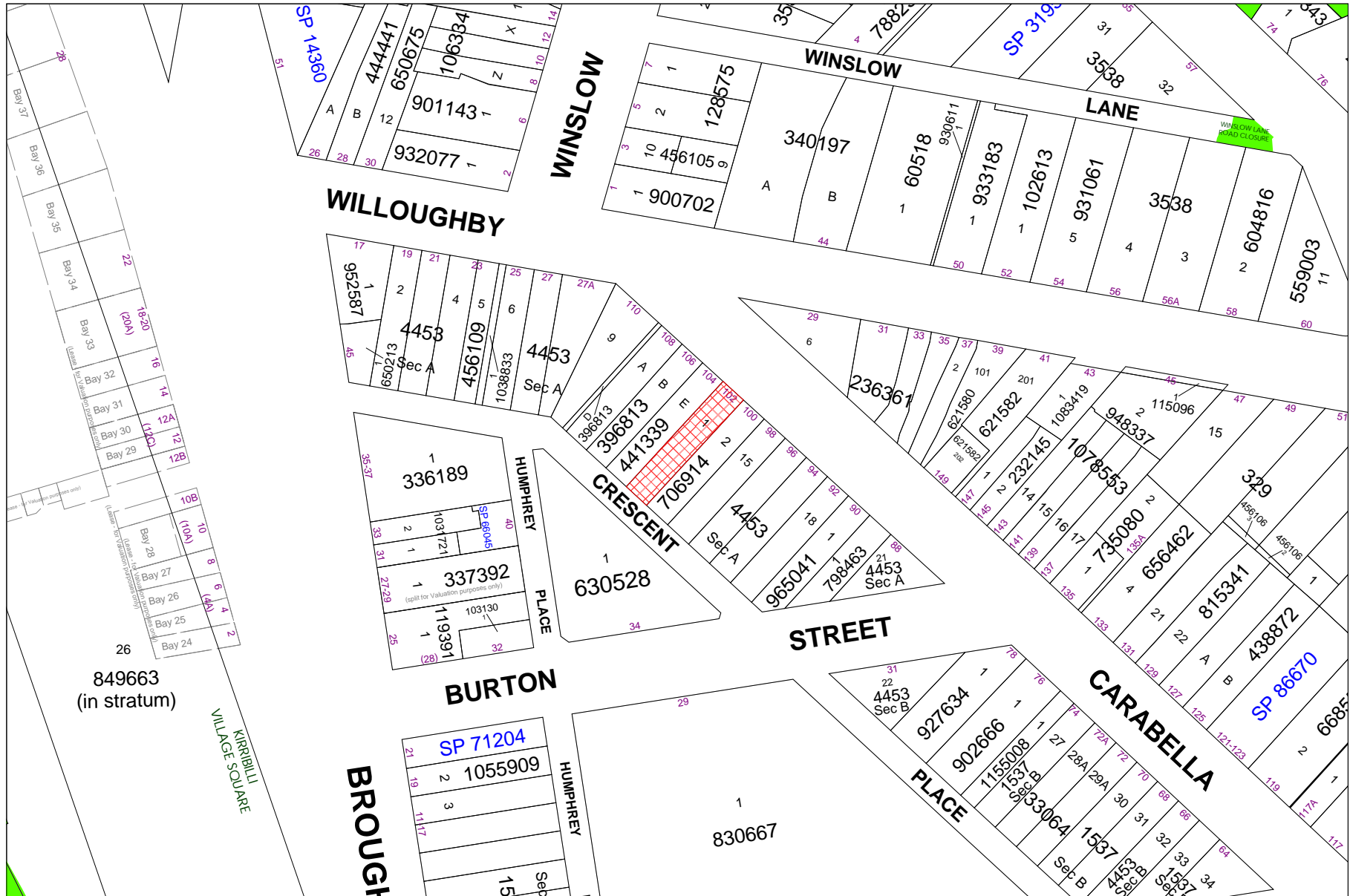
The design of the dormer is acceptable subject to appropriate materials and finishes and a reduced height of dormer to no greater than 1.5 m from its base to its ridge height. Appropriate conditions of consent are recommended to ensure the dormer conserves the significance of the heritage item and surrounding conservation area.

The rear extension is generally supported as it is consistent with the character of the group of attached dwellings. However, a condition of consent is recommended to reduce the length of the extension to be more subservient in scale and reduce the site coverage non-compliance. A condition of consent is also recommended to provide additional landscaping within the site.

One submission was received that raised concerns regarding the potential impact during and post construction to an adjoining property which has been considered in the report and where appropriate conditions of consent are considered to address these concerns.

Following this assessment, the development application is considered to be reasonable in the site circumstances and is recommended for **approval** subject to conditions.

LOCATION MAP



Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The proposed development comprises alterations and additions to an existing attached dwelling. The full scope of the proposed works is outlined below:

Ground Floor Level - RL 25.24

- Alterations to the existing/proposed family and dining room including infill of an existing window and partial demolition of an internal wall to construct a new doorway to provide access from the family room to the proposed open plan kitchen and living area.
- Demolition of the existing partitions including an archway and construction of new wall partitions.
- A single storey side addition at the rear of the dwelling with a nil side setback to the north-western side boundary. The side addition is constructed of brick with a flat metal roof which includes two skylights. The addition would have a height of 3.5 m and width of 1.6 m.
- Alterations are proposed to the rear façade including demolition of the existing glazed doors to construct a larger opening comprising four glazed doors and construction of a double hung timber window.

First Floor Level - RL 28.37/ 28.91

- Demolition of some of the existing partition walls including a doorway and adjoining wall of the master bedroom.
- Alterations to the existing first floor level bedroom and bathroom including removal of the existing wardrobes and joinery to form a walk-in robe and ensuite to serve the primary bedroom.

Second Floor Level - RL 32.11

- Conversion of the existing roof space into a habitable attic room.
- Construction of a dormer and skylight on the rear (south-western) roof plane of the attached dwelling to provide light and ventilation to the proposed attic room.
- The dormer is constructed of fibre cement cladding, a metal skillion roof and the window of the dormer would be aluminium framed.

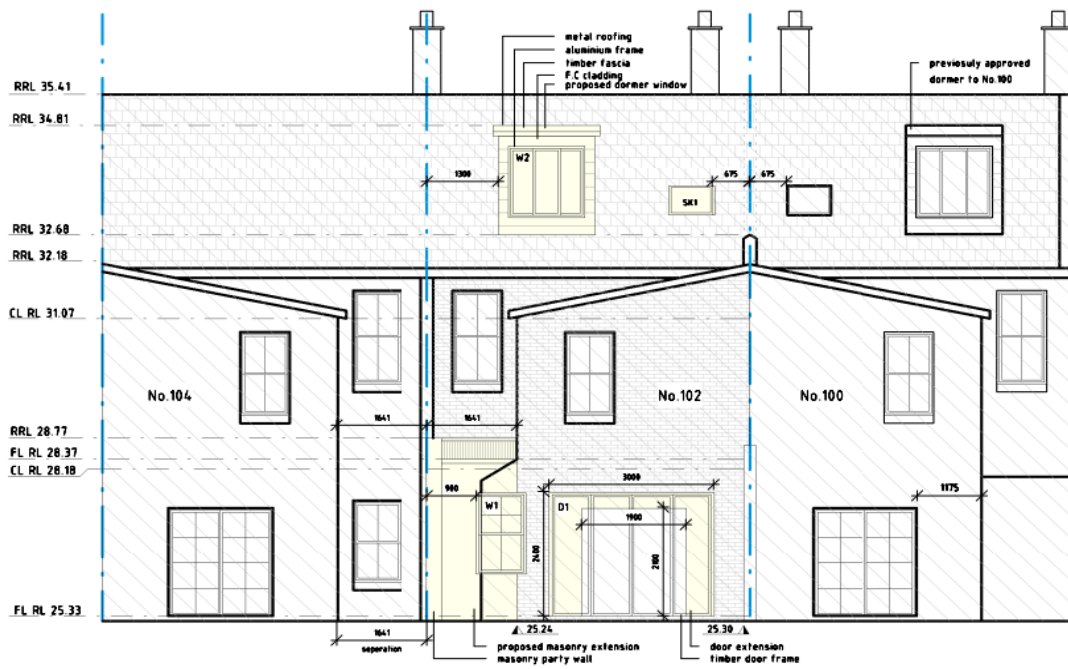


Figure 1 - Proposed South West Elevation (D.A - 104 Issue A)

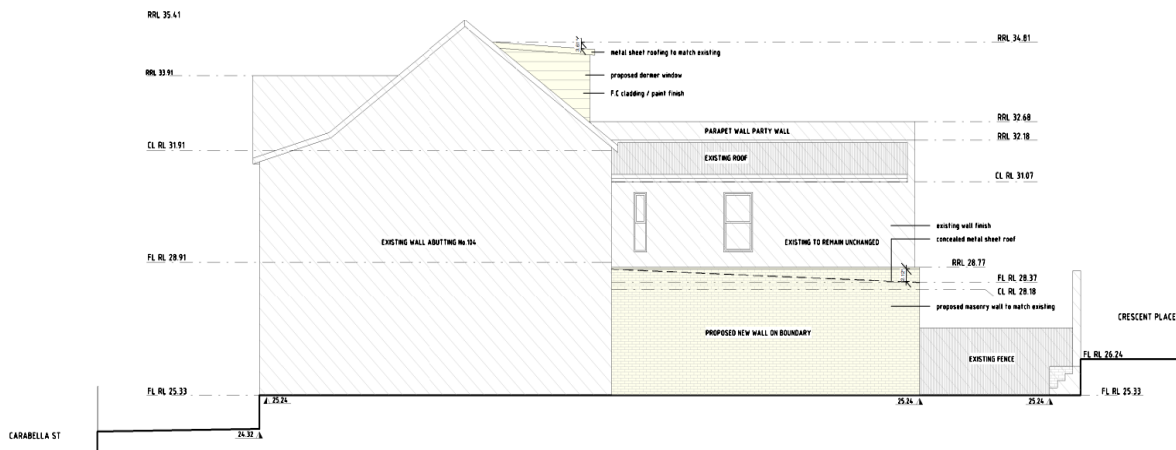


Figure 2 - Proposed North West Elevation (D.A - 106 Issue A)

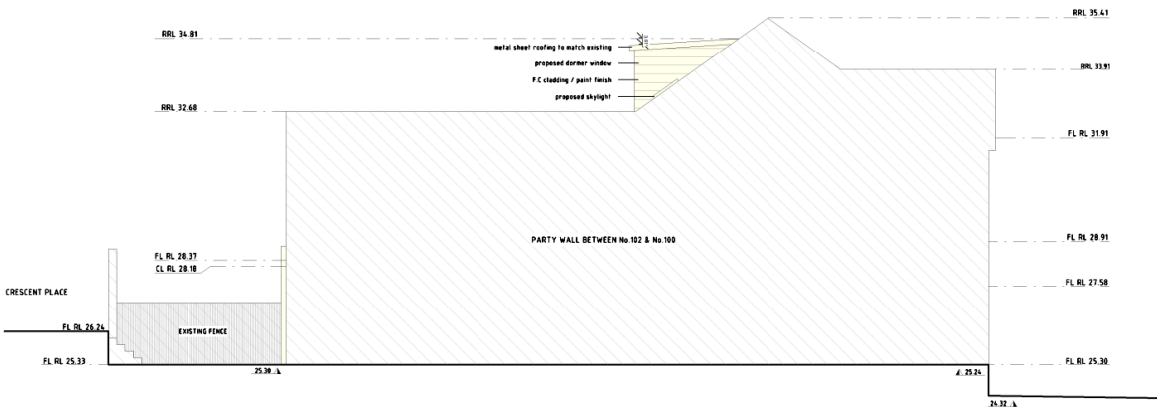


Figure 3 - Proposed South East Elevation (D.A - 107 Issue A)

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning - R2 Low Density Residential Zone
- Item of Heritage - Local Heritage "Item 0206"
- In Vicinity of Item of Heritage - Yes Local Items "0205 –0209" and Local Item "0295"
- Conservation Area - CA10 Careening Cove Conservation Area
- Foreshore Building Line - No

North Sydney Local Infrastructure Contributions Plan 2020

Environmental Planning and Assessment Act 1979 (As amended)

Environmental Planning and Assessment Regulations 2021

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 - Vegetation in non-rural areas
- Chapter 10 - Sydney Harbour Catchment

SEPP (Resilience and Hazards) 2021

- Chapter 4 - Remediation of Land

SEPP (Building Sustainability Index: BASIX) 2004

Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013

North Sydney Local Infrastructure Contributions Plan 2020

Foreshores and Waterways Development Control Plan 2005

Note: A number of new SEPP's came into force on 1 March 2022. These largely comprise amalgamations of previous SEPPs and/or revised SEPPs. For the purpose of this report, the underlying provisions remain largely the same.

DESCRIPTION OF LOCALITY

The site is legally described as Lot 1 in DP 706914 and is known as 102 Carabella Street, Kirribilli. The site is rectangular in shape with a site area of 180.5m² and comprises a two-storey attached dwelling located above Carabella Street accessible via a stairway off the Carabella Street footpath. The attached dwelling also has pedestrian access to the rear laneway known as Crescent Place.



Figure 4 - Aerial Photo of site (edged in red) and surrounds (North Sydney Council, 2018)

The existing building consists of a two-storey attached dwelling constructed of painted brickwork set on a sandstone base. The dwelling has a gable roof form with slate and terracotta ridge tiles. The front elevation of the attached dwelling comprises a gable fronted projecting bay and a two-storey verandah. The first floor of the verandah has a decorative cast iron balustrade. To the rear of the building is a two-storey extension constructed of painted brickwork with a skillion roof.



Figure 5 - Front Façade of 102 Carabella Street and view of site from Carabella Street Footpath (North Sydney Council, 10 March 2022)



Figure 6 - Photos of rear façade of property (top), photo of side setback subject to addition (bottom left) and photo of site from lane (bottom right) - North Sydney Council, 10 March 2022

The site is zoned R2 Low Density Residential and has a maximum permitted building height of 8.5 m. The site is identified as a local heritage item and is part of a group of local heritage items, attached to one another, and is located within the Careening Cove Conservation Area.



Figure 7 - Land Zoning Map (left), Heritage Map (middle) and Land Zoning Map (right)

RELEVANT HISTORY

Previous applications

Date	Action
08/08/1994	Development Application No. 1159/94 was approved on 8 August 1994 for the construction of a bay window addition to the side/rear of the building.
09/07/1997	Development Application No. 1268/97 was approved on 9 July 1997 for the construction of a bathroom and skylight.

Current Application

<i>Date</i>	<i>Action</i>
10/11/2021	The subject Development Application No. DA 371/21 was lodged on 10 November 2021.
10/12/2021	The development application was notified to surrounding properties and the Precinct between 26 November - 10 December 2021.
10/03/2022	A site visit was undertaken by Council Assessment Staff.

INTERNAL REFERRALS

Building

The proposed works have not been assessed in accordance with compliance with the National Construction Code of Australia. This would need to be undertaken prior to the issue of a Construction Certificate. Should significant changes be required to achieve compliance with NCC standards, a section 4.55 application would be necessary.

HERITAGE

The application has been referred to Council's Conservation Planner who provided the following comments (*in italics*):

1. *Heritage status and significance*

No. 102 Carabella Street, Kirribilli is identified as a heritage item in NLEP 2013 [I0206]. It is important as part of a group of houses with common history, scale, style and materials which are evidence of a township subdivision of the Kirribilli area and contrast with the villa and mansion properties elsewhere on the peninsula. Historically, records show that the site is part of the Milson/Ryan grants and is evidence of their different development progress. The southern side of Careening Cove was once an important maritime industrial waterfront and had an intended use for whaling purposes.

The site is located within the Careening Cove Conservation Area (CA10) which is significant for the following reasons:

- (a) as a largely consistent early 20th century residential area with an unusual and irregular pattern of street layout and irregular subdivision pattern that gives the area a particular character.*
- (b) as retaining much of the urban detail and fabric seen in gardens, fencing, street formations, use of sandstone for retaining walls and building bases, sandstone kerbing and natural rock faces.*
- (c) for the amphitheatre like form around the reclaimed Milson Park and the head of the bay.*
- (d) for the remaining waterfront industrial and repurposed industrial development that gives the area much of its character.*

No. 102 Carabella Street is a midblock site and is part of a group with Nos. 100, 104, 106 and 108. This group of terraces sit well above street level.

2. Heritage Assessment and Recommendations

An assessment of the proposal for alterations and additions including the construction of a rear dormer window has been undertaken in relation to NSLEP 2013 Clause 5.10 'Heritage Conservation' and NSDCP 2013 Section 13 'Heritage and Conservation'.

A site inspection was undertaken on 10 March 2022. Most of the changes are proposed to the rear of the building with no changes to the front elevation.



FRONT ELEVATION

It is noted that similar rear facing dormers have been approved at No. 100 Carabella Street [DA 421/18]. It is also noted that some impact has occurred on the pressed metal ceiling at the first floor level to accommodate the staircase to the attic area.

A condition of consent is recommended requiring the proposed dormer to have similar dimensions and detailing as the dormer as approved at No. 100 Carabella Street (as provided below), also a condition relating to the works on the first floor level ceiling arising from the construction of the proposed new staircase.

The refurbishment of the existing first floor level bathroom as an ensuite to the main bedroom is supported. The door opening from the bedroom is to complement the existing door joinery and dimensions. The existing door to the bathroom is to remain in situ but may be covered to allow the works to be reversed if required in the future. The floor plan outside the main bedroom and bathroom is to remain unchanged.

At ground floor level, it is recommended that the existing setback adjacent to the laundry area is to remain to retain the legibility of the existing traditional lightwell area alongside the rear service wing. The proposed rear addition is supported subject to the new addition being stepped back from the rear building line to reinforce its subservient relationship with the service wing.

3. Conclusion and Recommendations

With reference to the above, the proposal is considered to comply with the provisions set out in NSDCP 2013 and with the objectives set out in NSLEP clause 5.10 heritage conservation subject to the following site specific condition set out below and standard conditions [**A3 (No demolition of extra fabric)**, **C11 (Colours, finishes)** **E4 (Removal of extra fabric)**]:-

Non-standard

- a) **Rear Dormer** - the location and siting of the dormer shall remain as shown in the approved South-West Elevation (D.A - 104 Issue A). However, the rear dormer shall be amended so that its height does not exceed more than 1.5m measured from its base to its ridge height.

- b) **Entrance to Master Bedroom** - the existing door and entry including partitions as clouded in red on the approved Level 2 Floor Plan (D.A -102 Issue A) are to remain.
- c) **Level 2 - Proposed Walk in Robe and Ensuite** - the existing door in the hallway shown clouded in red is to remain in situ and may be fixed shut.
- d) **Side Ground Floor Extension at the rear** - the extension is to have a rear setback of 8m from the rear boundary and window W1 is to be deleted as annotated on the Proposed Level 1 Floor Plan (D.A -101 Issue A). (See planning comments below.)
- e) **The existing laundry area** on the ground floor area is to remain in its existing location with no external changes and to retain the legibility of the traditional lightwell.
- f) **Stairs** - The new staircase serving the converted attic is to match the details of the existing stairs. Details of the new stairs should be submitted to Council's Conservation Planner for written approval prior to the issue of the construction certificate. Information should also be provided on how the stairs and the pressed metal ceiling will be treated.

(Reason: To protect the heritage significance of 102 Carabella Street and the heritage group as a whole including to protect the character and significance of the Careening Cove Conservation Area)

Planning Comments: The heritage comments are generally supported particularly with regards to the rear dormer addition. Below is a photo of the rear dormer constructed at 100 Carabella Street and a dimensioned elevation of the dormer that formed part of the development consent DA 421/18 approved by NSLPP.

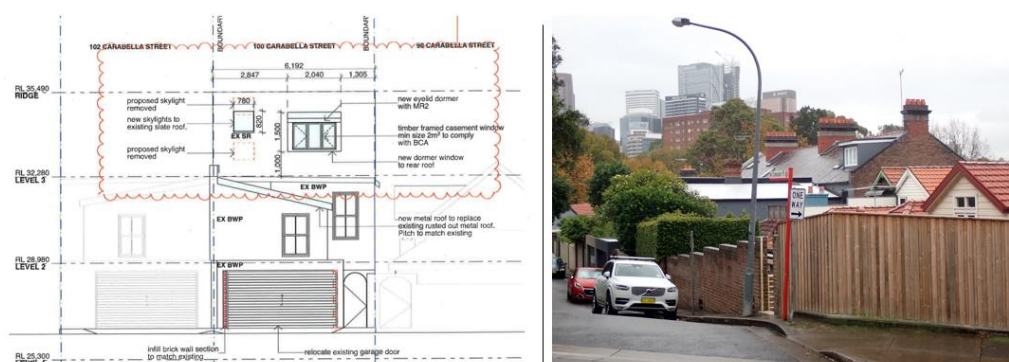


Figure 8 - The approved dormer at 100 Carabella Street (right) as seen from Crescent Place

The proposed dormer for No. 102 Carabella Street has differing dimensions and materials to the adjoining approved dormer at No. 100 Carabella Street and is poorly proportioned as the height measured from the base to the dormer ridge is excessive. The above figure highlights the prominence of the rear roofs of the group of attached dwellings which are highly visible from the public domain and therefore it is important to ensure that the dormer is well-proportioned, similar in size and character to that of No. 100 Carabella Street.

Council’s Conservation Officer also recommends that the proposed side extension be stepped back from the rear building line and part of the existing lightwell adjacent to the laundry is to remain to ensure that the infill addition has a more subservient relationship with the rear service wing and legibility of the existing lightwell is reasonably retained.

In this instance, the design amendments identified in condition C9 are only partly supported noting that the retention of part of the lightwell adjacent to the existing laundry area would form a space that would have poor amenity with limited sunlight and/or ventilation available to the lightwell and retaining part of the light well adjacent to the laundry area would constrain the future potential development of the adjoining property (No. 104 Carabella Street).

Below is a diagram to clarify the proposed design for the rear addition as compared to what is preferred by the assessment officer which is considered a simpler addition and more replicable if the adjoining property 104 Carabella Street were to construct a side extension from their respective service wing.

It should be noted, however, that the visibility of the new infill addition would not be greatly appreciated from Crescent Place with the change in ground levels from the road reserve down to the rear courtyard. Consequently, it is recommended that a 700mm setback be provided for the rear infill addition similar to the approved setback at No. 100 Carabella Street (DA21/18) as approved by the Panel in 2019 to provide an improved heritage outcome with better amenity for the residents at No. 102 Carabella Street.

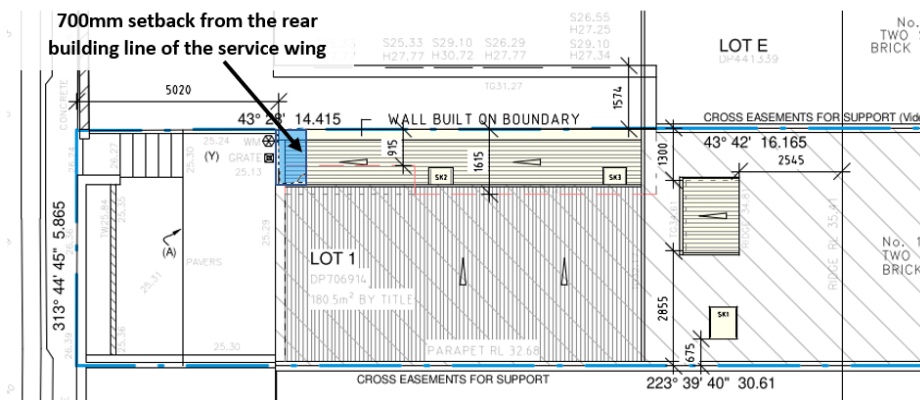


Figure 9 - The preferred planning outcome highlighted in blue

Council’s Conservation Planner required an additional setback for the infill of the service wing from the rear building line which is supported as this would improve the subservience of the addition to the larger two storey rear service wing. **Condition C9 Heritage Requirements** of consent is therefore recommended requiring the infill addition to be set back from the rear building line of the service wing by 0.7m (depth) x 1615 mm (width) at the south-west corner of the building to reinforce its subservient relationship with the service wing and express the descending order of scale that is traditional to such buildings.

ENGINEERING

The application has been referred to Council’s Development Engineer who raised no objection to the proposal subject to appropriate conditions (**C1 - Dilapidation Report & C14 - Bond for Damage to Infrastructure Works**).

SUBMISSIONS

Original proposal

On 17 November 2021, Council notified surrounding properties and the Milson / Bradfield Precinct of the proposed development seeking comment between 26 November and 10 December 2021. Council received one (1) submission. The matters raised in the submission are listed below.

The issues raised in the submissions are summarised below and addressed later in this report. The original submissions may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs and are available for review by NSLPP members.

Basis of Submissions

- The proposed addition to the side boundary must not prevent the adjoining property owner/s from building to the side boundary.
- The proposed side addition must ensure services are maintained to the adjoining property.
- The applicant must give notice to the adjoining properties prior to commencing work that may affect the existing boundary wall.
- During construction the property is to remain secure.
- If it is necessary for persons to enter the adjoining property during construction permission must be granted.
- The side wall of the addition facing the adjoining property must be finished and painted as approved by the adjoining property owners.
- The applicant must prepare a dilapidation survey of the adjoining property and be available for review.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

SEPP (Biodiversity and Conservation) 2021 - Chapter 10 - Sydney Harbour Catchment

On 1 March 2022 the SEPP (Biodiversity and Conservation) 2021 came into effect, consolidating several planning policies including the former SREP (Sydney Harbour Catchment) 2005. The proposed works to the site are not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore area given the predominantly internal scope of works and the substantial distance of the site from the foreshore. As such, the development is acceptable having regard to the provisions contained within SREP 2005 now contained in Chapter 10 of the SEPP (Biodiversity and Conservation) 2021.

SEPP (Resilience and Hazards) 2021 - Chapter 4 - Remediation of Land

On 1 March 2022, the SEPP (Resilience and Hazards) 2021 came into effect, consolidating several planning policies to form chapters within the new SEPP without significant amendment. Chapter 4 of this SEPP comprises the former SEPP 55 - Remediation of Land and requires Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has previously only been used for residential purposes and as such is unlikely to contain any contamination; therefore, the requirements of SEPP 55 and the Draft SEPP have been satisfactorily addressed.

SEPP (Biodiversity and Conservation) 2021 - Chapter 2 - Vegetation in Non-rural Areas

On 1 March 2022, the SEPP (Biodiversity and Conservation) 2021 came into effect, consolidating several planning policies to form chapters within the new SEPP without significant amendment. Under Chapter 2 of this SEPP, which comprises the former SEPP (Vegetation in Non-Rural Areas) 2017, the proposed development meets the aims of the SEPP by preserving existing trees within and adjacent to the site.

SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate (*No. A435776 dated 14 October 2021*) for alterations and additions to the attached dwelling house at No. 102 Carabella Street, Kirribilli has been submitted with the application to satisfy the aims of the SEPP. **(See Condition No. C19, G5)**

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The proposed works can be defined as alterations and additions to an attached dwelling.

Referring to the NSLEP 2013 dictionary, the definition of attached dwelling is:

attached dwelling means a building containing 3 or more dwellings, where -
(a) each dwelling is attached to another dwelling by a common wall, and
(b) each of the dwellings is on its own lot of land, and
(c) none of the dwellings is located above any part of another dwelling.

Attached dwellings are prohibited in the R2 Low Density Residential zone because the use is not specified in item 2 or 3 of the R2 Low Density Residential pursuant to the NSLEP 2013.

The proposal, however, benefits from existing use rights under Section 4.65-4.67 of the *Environmental Planning and Assessment Act 1979* (as amended). Below is consideration on whether the property benefits from existing use rights.

Section 4.65 - Definition of “Existing Use”

The following development history is available on Council’s property file.

DA 356/97 - Development consent was granted for an internal bathroom and skylight at 102 Carabella Street, Kirribilli. DA 356/97 approved architectural plans on Council’s property file identify the dwelling as an attached dwelling in accordance with the definition of an attached dwelling.

Consent for DA 356/97 is the most recent approval prior to the adoption of the NSLEP 2013 which satisfactorily confirms ‘existing use’ rights can be satisfactorily established prior to attached dwellings being prohibited in the R2 Low Density Residential Zone under the current NSLEP 2013.

Section 4.66 of the Act - Continuance of and Limitations on Existing Use

The development application seeks to rely upon the established existing use rights as defined in section 4.66 of the Act to allow the continued use of the site for an attached dwelling.

Section 4.66 of the Act outlines the provisions relating to the continuance of and limitation on, existing use. The site has continually been used as an attached dwelling without abandonment as described in sub-section 4.66(3). The most recent development application DA 356/97 confirmed the description of the property as an attached dwelling which is part of a group of five (5) terraced properties in accordance with the definition of attached dwelling outlined above. Since the granting of development consent to DA 356/97 Council has no information or evidence indicating any discontinuation of the use of the property since the latest approval.

The regulations make provisions for the nature of development that can be undertaken with respect to developments that maintain existing use rights.

Clauses 42-44 of the Environmental Planning and Assessment Regulation 2000 (The regulations)

Clauses 42-44 of the Regulation are also relevant to the proposed development because these clauses set out the nature of development allowed under existing uses, the matters for consideration for enlargement, expansion or intensification of existing uses and the consent requirements for an existing use.

The alterations and additions would be constructed on the land to which the existing use is carried out. The proposed development is therefore considered to engage Clauses 42-44 of the Regulation which allows an existing use to; *be enlarged, expanded or intensified, or be altered or extended, or be rebuilt.*

“Existing Use Assessment” and further case law.

Merits Based Assessment

The application relies on existing use rights, although an assessment is still to be undertaken in accordance with the requirements of s4.15 of the Act.

The recent decision of Chief Judge Preston in *Saffioti v Kiama Council* [2019] NSWLEC 57 outlined that the development standards would not derogate from the incorporated provisions of existing use rights and therefore would not prevent their operation. The decisions effectively overturned the Planning Principle established in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71. The judgment of Commissioner Chilcott in *Made Property Group Pty Limited v North Sydney Council* [2020] NSWLEC 1332 adopted this approach and specifically dealt with the application of the height of buildings development standard. An assessment in accordance with s4.15 of the Act, including those in s 4.15(1)(a)(i) which require an assessment against the provisions of any environmental planning instrument, such as the LEP. On this basis, the proposed development should comply with any development standard or be subject to a written request to vary the development standard pursuant to clause 4.6 in NSLEP 2013.

In addition, it also concluded that the proposed development should be assessed against the relevant DCP provisions as a DCP is not an environmental planning instrument and therefore could not derogate from the incorporated provisions.

Therefore, any future development on the subject site must have regard to the relevant development standards and controls as contained in the LEP and DCP which are assessed below.

2. Objectives of the zone

The objectives for the R2 Low Density Residential zone are stated below (*in italics*):

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal is consistent with the relevant objectives of the zone, proposing works to the building which serve the housing needs of the occupants and does not compromise the amenity of adjoining properties or the surrounding area. The development does not impact on neighbouring amenity as it would not affect existing views, or the privacy of adjoining properties and minimal overshadowing caused by the proposed dormer roof and single storey rear addition.

Part 4 - Principal Development Standards

Principal Development Standards - North Sydney Local Environmental Plan 2013			
Site Area - 180.5m ²	Proposed	Control	Complies
Clause 4.3 - Heights of Building	10.3 m (roof of converted attic)	8.5 m	No - 21.17% variation
	9.9 m (rear dormer)		No - 16.5% variation

3. Height of Building

The objectives of the development standard pursuant to clause 4.3 in NSLP 2013 are stated below:

- to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- to promote the retention and, if appropriate, sharing of existing views,*
- to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*

- (e) to ensure compatibility between development, particularly at zone boundaries,
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The proposed works would have a maximum height of 10.3 m measured to the roof of the proposed attic conversion and the dormer addition would have a maximum height of 9.9 m above the existing ground level, resulting in a variation to the maximum permitted height of 8.5 m pursuant to clause 4.3 in NSLEP 2013. The below annotated Section highlights the exceedances in height of the proposed alterations and additions.

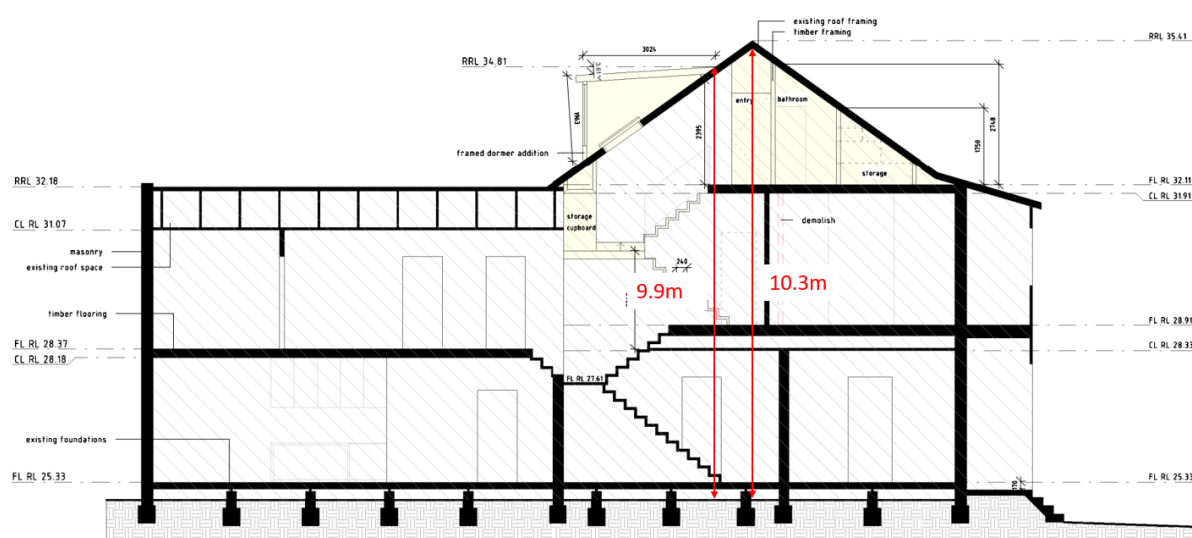


Figure 10 - Annotated Section B, D.A - 108 Issue A

Clause 4.6 - Exceptions to Development Standards

A written request to justify a contravention of the development standard for height has been submitted and considered below.

Clause 4.6(3)(a) Is compliance with the development standard unreasonable and unnecessary in the circumstances of the case?

(1)(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

The existing site comprises a pre-existing attached dwelling with predominantly paved front and rear gardens and the existing topography of the site gradually rises from the front to the rear boundary by approximately 2-3 metres (RL 23.98 to RL 26.24).

The works will have no impact on the topography of the site with works predominantly internalised such as the alterations to the attic located above the maximum building height of 8.5 m. The dormer similarly does not affect the topography of the site located on the rear roof slope.

(1)(b) to promote the retention and, if appropriate, sharing of existing views,

The proposed alterations to the attic above the height limit would maintain the existing building ridge height not affecting the bulk and massing of the attached dwelling. The dormer is located to the rear of the dwelling being modest in size compared to the existing roof slope having no impact on adjoining views from neighbouring properties or the public domain.

(1)(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

The proposed internal alterations above the height limit retain the height, bulk and massing of the building having no overshadowing impact on surrounding dwellings or public areas. The dormer addition to the rear roof slope would only reduce solar access to a converted attic casting shadow over a skylight at No. 100 Carabella Street at 3.00 pm in mid-winter.

The application includes hourly shadow diagrams for 21 June (mid-winter) confirming the existing dwelling subject to alterations and additions (internal alterations and a rear/side addition and dormer) has a limited impact on surrounding dwellings or the streetscape.

Additional shadows cast are predominantly contained within the subject site having an insignificant loss of sunlight to the loft accommodation at 100 Carabella Street at 3.00 pm only. Consequently, the development maintains the existing solar access afforded to existing dwellings in accordance with the objective of promoting solar access for future surrounding development as evidenced in the figures below.

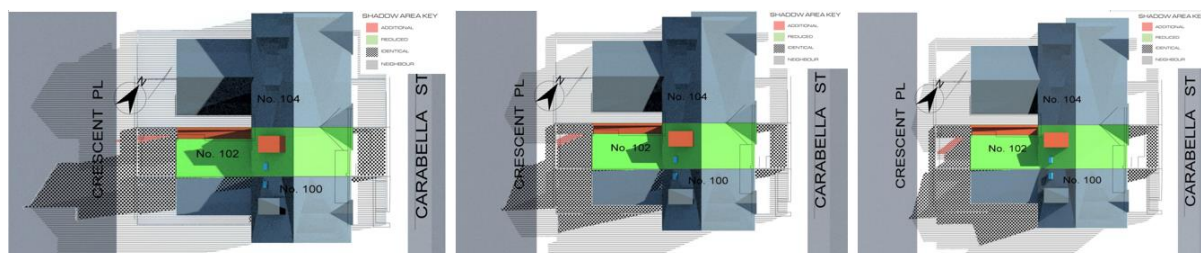


Figure 11 - Shadow Diagrams at 9.00 am (left), 10am (centre) and 11.00 am (right) detailing shadow cast from the dormer affecting the roof of the attached dwelling (SD02-04 Rev 01)

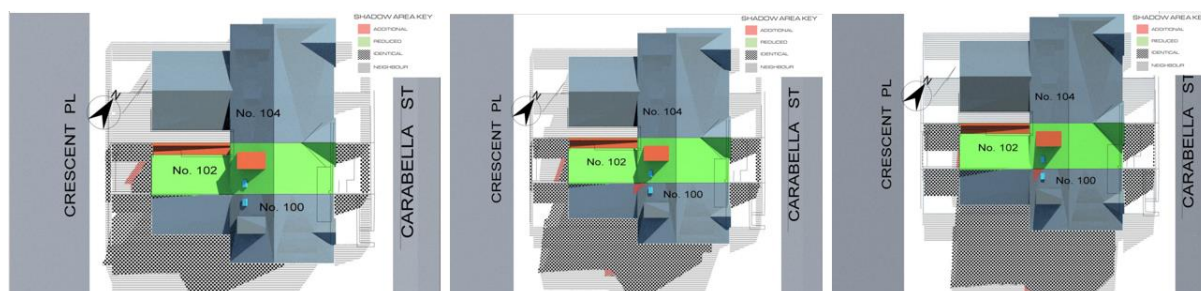


Figure 12 - Shadow Diagrams at 12.00 pm (left), 1.00 pm (centre) and 2.00 pm (right) detailing shadow cast from the dormer affecting the roof of the attached dwelling and partly over the roof of 100 Carabella Street (SD05-07 Rev 01)

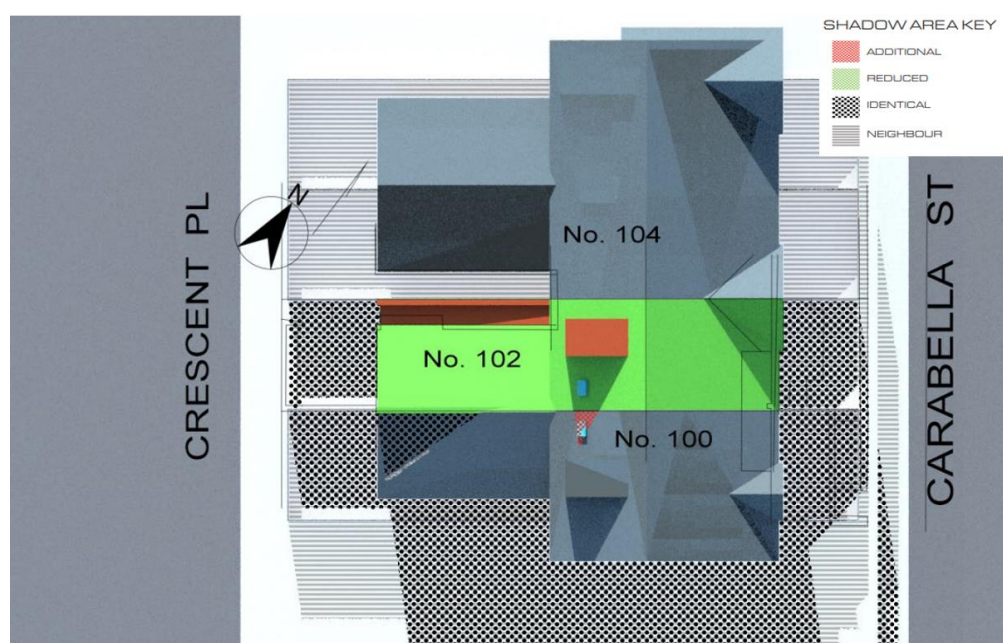


Figure 13 - Shadow Diagram at 3.00 pm detailing shadow cast over the roof and skylight of the attached dwelling and roof and skylight of 100 Carabella Street (SD 08 Rev 01)

(1)(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The proposed alterations to the existing attic to form a bedroom with an ensuite would require the provision of a skylight and dormer window. The skylight would direct views skywards and not towards windows of neighbouring habitable rooms or adjoining properties private open space. The dormer is located away from each side boundary and predominantly directs views to the rear of the subject site and towards the rear laneway (Crescent Place) thereby having minimal impact on the privacy of adjoining properties. The skylight and dormer are appropriately sited on the rear roof and designed to minimise overlooking of adjoining properties with predominant views directed to the streetscape or rear private open space of the subject site.

(1)(e) to ensure compatibility between development, particularly at zone boundaries,

The attached dwelling subject to alterations and additions is compatible with surrounding development noting that the attached dwelling would retain a similar bulk, scale and form to the existing row of attached dwellings. The development does not seek to significantly exacerbate the density of the site with works predominantly internalised and additions restricted to the rear roof slope. It is also noted that the group of attached dwellings have the potential for attic conversions without significant alterations to the roof form, noting the previous determination for No. 100 Carabella Street under DA 421/18 which granted consent for an attic bedroom and new rear dormer.

The subject site does share a zone boundary to the rear adjoining a land zoned B1 Neighbourhood Centre. However, the works do not significantly alter the existing size and character of the attached dwelling having an insignificant impact on the adjoining zone. The subject site is also separated from the range of small-scale retail, business and community uses which form the B1 Neighbourhood Centre by an existing laneway (Crescent Place) which further minimises any visual impact at the zone boundary.

(1)(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The proposed alterations are predominantly contained within the existing building apart from the proposed addition of a skylight and dormer on the rear roof slope and a single-storey rear/side infill addition on the ground level. Therefore, the scale and density of the development would remain consistent with the existing development within the surrounding low density residential area.

The existing property is an attached dwelling forming part of a row of attached dwellings. The proposed additions would result in a minor increase in scale and density of the site and are considered appropriate in context with the existing density of the group of terraced dwellings outlined below.

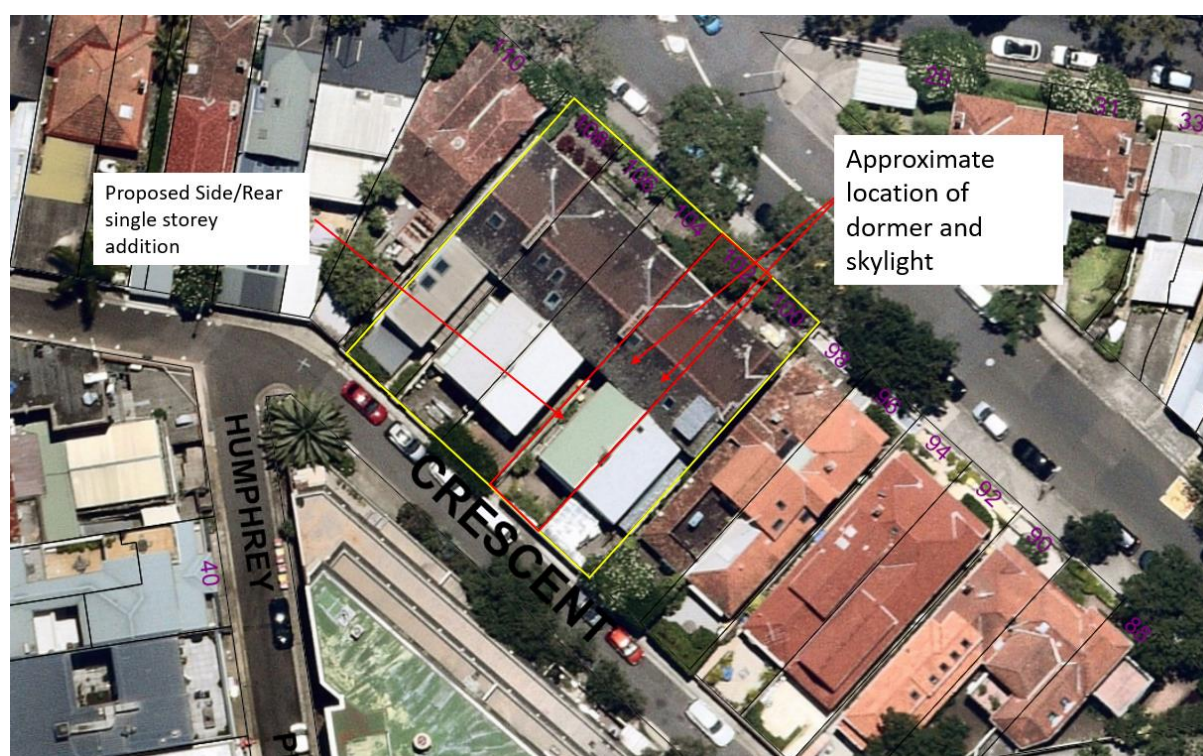


Figure 14 - Annotated aerial photo showing location of additions and surrounding density of development

Whether there are sufficient environmental planning grounds to justify contravening the development standard?

It is considered that there are sufficient environmental planning grounds in the circumstances of the case and Council has duly considered the written request from the applicant seeking to justify the contravention of the development standard. The environmental grounds in support of the height variation prepared by HDC Planning dated 03 November 2021 states the development including the dormer will not adversely affect the heritage item or surrounding conservation area, that the development has negligible amenity impacts and no adverse impact on the public domain.

Furthermore, the written request justifies the contravention of the development standard noting the dormer does not exceed the height of the main roof ridge, works are predominantly internalised and the additions to the rear roof slope would not result in any additional amenity impacts such as overshadowing, loss of privacy or loss of views.

Whether the proposed development will be in the public interest?

The proposed development would be in the public interest given that that it is likely to achieve the relevant objectives of the zone and the objectives of the development standard as discussed above.

Concluding Remarks

The written request to vary the development standard provided by the applicant is considered to be well founded. The written request demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation. The proposed development is, therefore, considered to be in the public interest. It is recommended that the variation be supported in the site context.

4. Heritage Conservation

The subject site is listed as a Local Heritage Item 'I0206' located in the Careening Cove Conservation Area under Schedule 5 in NSLEP 2013 so the following planning objectives apply to the site:

- (a) *to conserve the environmental heritage of North Sydney,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The application has been assessed against the relevant heritage objectives and provisions contained in the North Sydney LEP 2013 and found to be generally satisfactory as indicated in the comments from Council's Conservation Planner subject to amendments to the dimensions of the dormer, retention of internal fabric and amendments to the size of the rear addition (**see Condition C9 Heritage Requirements**).

5. Earthworks

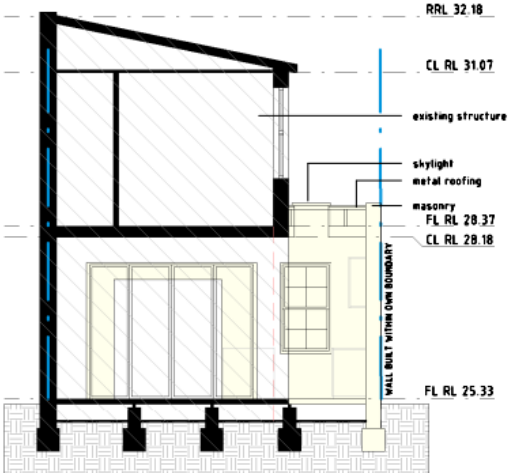
The application involves minor excavation noting that predominant works are internalised and primarily affect the attic with the conversion of the attic for space purposes. A single-storey rear/side infill addition is proposed which would require some earthworks to construct footings. Nevertheless, the scale of the earthworks is minor noting the ground floor addition will be constructed via a pier and beam construction as shown in Section A (D.A - 108 Issue A).

The infill addition has been assessed against the matters for consideration in Cl. 6.10(3) of NSLEP 2013 and in general supportable. Modest earthworks will be required to construct the infill addition therefore the development is unlikely to be detrimental to drainage patterns and/or the stability of soil in the locality. No vegetation will be removed noting that the infill addition will require demolition of a concrete slab and the timber sunroom. Subject to appropriate conditions of consent the earthworks to construct the single-storey addition are unlikely to adversely affect the amenity of the adjoining property No. 104 Carabella Street.

The modest scale of earthworks to construct the single-storey infill addition coupled with appropriate conditions of consent requiring a dilapidation report, structural adequacy report, sediment control plan and stormwater disposal requirements will ensure that there will be no detrimental impact on environment functions, neighbouring uses, heritage items or features of adjoining land meeting the objective of Cl. 6.10(1) of NSLEP 2013.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessment under the following heading within NSDCP 2013:

DEVELOPMENT CONTROL PLAN 2013 - Part B Section 1- Residential Development		
	<i>Complies</i>	<i>Comments</i>
1.3 Environmental Criteria		
1.3.1 Topography	Yes	<p>The proposed development includes a single-storey infill addition to the rear of the attached dwelling. The infill addition will adjoin the north-western boundary with No. 104 Carabella Street. The scale of earthworks to construct the single storey addition is minor which is discussed in detail in the consideration of Cl. 6.10 of NSLEP 2013 and the method of construction comprising pier and beam as shown in Section A of the architectural plans will minimise the extent of earthworks.</p> <div style="text-align: right;">  </div> <p style="text-align: center;">Figure 15 - Section A (D.A - 108 Issue A)</p> <p>Pursuant to Provision P5, s1.3.1 of the NSDCP 2013 Council must not grant consent to excavation within 500 mm of a property boundary unless satisfied that the excavation will not adversely impact the structural integrity of adjoining properties.</p>

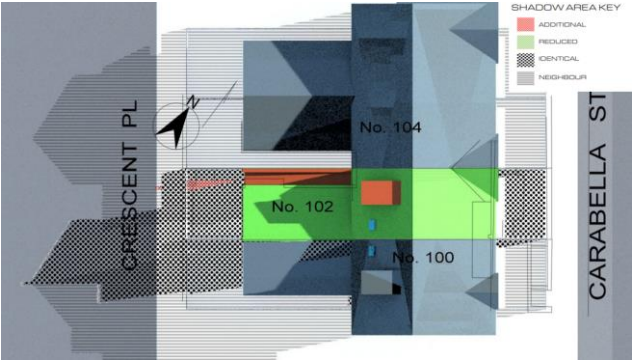
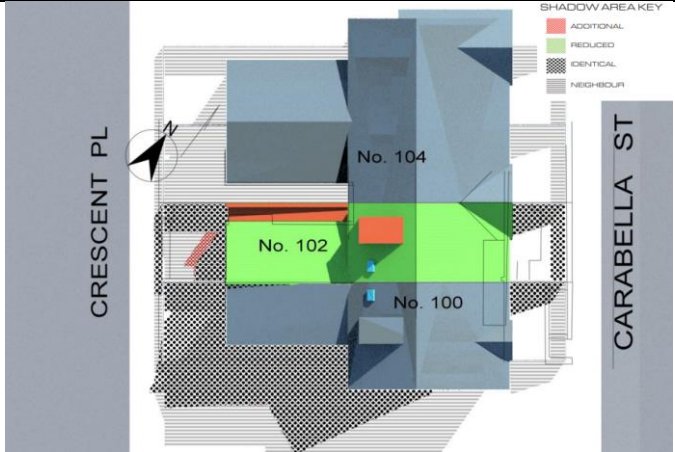
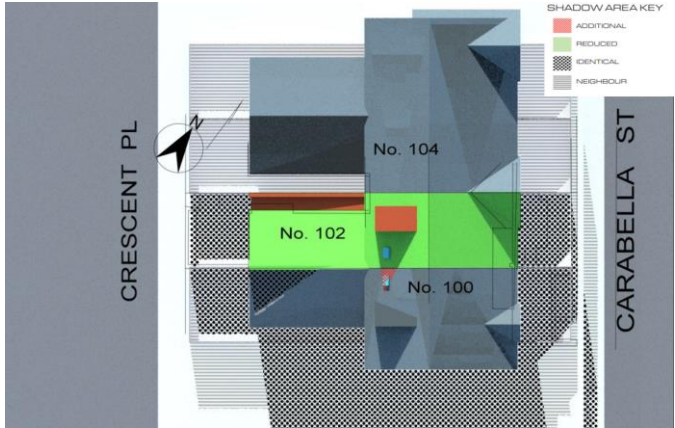

		<p>To ensure the protection and structural integrity of the adjoining property (104 Carabella Street) during excavation for the footings of the infill addition a structural adequacy report must be prepared to be submitted to the Certifying Authority prior to issue of any Construction Certificate (C4 Structural Adequacy of Adjoining Properties - Excavation Works).</p> <p>Subject to appropriate conditions of consent the structural integrity of the adjoining property (No. 104 Carabella Street) will be maintained.</p>
1.3.2 Bushland	N/A	The site is not located in a bushland buffer zone.
1.3.3 Bush Fire Prone Land	N/A	The site is not located on bushfire prone land.
1.3.4 Foreshore Frontage	N/A	The site is not located on foreshore land.
1.3.6 Views	Yes	<p>The works are predominantly internal works or comprise a single-storey rear addition or additions to the rear roof plane which would not impact on views from surrounding properties. The dormer is located to the rear below the ridgeline of the attached dwelling therefore would not affect the views from the surrounding property and public places.</p> <p>The subject site is part of a group of attached dwellings with primary views to Sydney Harbour to the east. The dormer is located on the rear roof plane and would not detract from existing views, maintaining equitable access to views for the surrounding dwellings.</p>
1.3.7 Solar Access	Yes	<p>Hourly mid-winter shadow diagrams were submitted with the development application. The shadow diagrams confirm that the subject site and adjoining sites have limited access to sunlight particularly to the rear of each property due to the orientation of the sites and the existing built forms.</p> <p>The shadow diagrams confirm the proposal would not cause a detrimental impact on the existing levels of solar access for the subject dwelling, including its private open space, and adjoining properties. Below are shadow diagrams at 9.00 am, 12.00 pm and 3.00 pm detailing no additional impact to adjoining properties, with the exception of the over-shadowing caused by the proposed dormer at 3.00 pm, which overshadows a skylight of the adjoining property to the south-east (No. 100 Carabella Street).</p> 

Figure 16 - Shadow Diagram at 9.00 am (SD02 Rev 01)

		 <p>Figure 17 - Shadow Diagram at 12.00 pm (SD05 Rev 01)</p>  <p>Figure 18 - Shadow Diagram at 3.00 pm (SD08 Rev 01)</p>
<p>1.3.8 Acoustic Privacy</p>	<p>Yes</p>	<p>The proposed development predominantly incorporates internal works and a single storey infill addition to the rear. No above ground terraces or balconies are proposed that may require further consideration of potential noise impacts to adjoining properties.</p> <p>The existing residential use of the property would be maintained and there is no indication that the proposed development would result in undue any acoustic impacts to adjoining properties.</p>
<p>1.3.9 Vibration</p>	<p>Yes</p>	<p>The site is not within 60 m of a railway corridor or adjacent to a road corridor capable of an average annual average traffic volume of more than 40,000 vehicles therefore Clause 2.99 'Impact of rail noise' and Clause 2.119 'Impact of road noise' in the SEPP (Transport and Infrastructure) 2021 do not require consideration.</p>

<p>1.3.10 Visual Privacy</p>	<p>Yes</p>	<p>The subject application proposes new openings on the ground floor rear south-western elevation directing views to the existing rear courtyard of the subject site. The new window and enlarged opening off the open plan living room/kitchen would have no impact to the visual privacy of adjoining properties as shown in the below photo that confirms the existing outlook to the rear enclosed courtyard. There are no windows on the north-western side of the new infill addition at ground level adjacent to No. 104 Carabella Street.</p>  <p>Figure 19 - Photo of existing outlook from living room/kitchen</p> <p>The proposed dormer and skylight are located on the rear roof plane. The skylight would direct views skywards and the rear dormer would primarily direct views to the rear of the subject site and adjoining laneway, avoiding direct views to windows, balconies or private open space of adjoining dwellings in accordance with the applicable provisions in s1.3.10 of the NSDCP 2013.</p>
<p>1.4 Quality built form</p>		
<p>1.4.1 Context</p>	<p>Yes</p>	<p>The development generally responds to the issues identified in the character statement for the Careening Cove Conservation Area by preserving the principal elevation facing Carabella Street, locating the dormer and skylight to the rear roof plane and proposing a single storey rear addition which is reduced in scale compared to the existing terrace building.</p>
<p>1.4.2 Subdivision Pattern</p>	<p>Yes</p>	<p>The proposed works would not alter the existing lot size, shape or orientation of the site.</p>
<p>1.4.3 Streetscape</p>	<p>Yes</p>	<p>No works are proposed within the road reserve. However, there is potential for damage to public infrastructure through the course of construction, therefore it is recommended that a dilapidation report of public infrastructure (refer to C1) is prepared via condition of consent and a corresponding bond for damage and completion of infrastructure works (refer to C14) is recommended.</p> <p>An existing street tree (<i>Jacaranda mimosifolia</i>) is located in the Carabella Street footpath in front of the site and various trees (<i>Acacia sp.</i>, <i>Callistemon sp.</i>, <i>Melaleuca sp.</i>, <i>Olea sp.</i>) are located in the Council verge at the rear of No. 102 Carabella Street. To ensure protection of the trees during construction work, conditions of consent are recommended (refer to E8 - No Removal of Trees on Public Property), including a Tree Bond Condition for Public Trees (refer to C15 - Tree Bond for Public Trees).</p>



<p>1.4.4 Laneways</p>	<p>Yes</p>	<p>The appearance of the attached dwelling from the laneway would predominantly be maintained with no works sought to the existing laneway frontage comprising a roller shutter door and brick surrounds.</p>  <p><i>Figure 20 - Photo of site from Crescent Place</i></p> <p>The single-storey rear infill addition would not be highly visible from the laneway. The dormer and skylight would not be visible immediately at the rear of the site and would only be visible from the junction of Crescent Place/Burton Street (refer to image below).</p>  <p><i>Figure 21 - Photo of terrace dwellings roof as viewed from Crescent Place/Burton Street</i></p> <p>The addition of a dormer and skylight is not considered detrimental to the aesthetics of the laneway subject to conditions of consent requiring the dormer to be designed to match the approved dormer at No. 100 Carabella Street (see C9 Heritage Requirements).</p>
<p>1.4.5 Siting</p>	<p>Yes</p>	<p>The subject site generally maintains the characteristic siting of dwellings in the Careening Cove Conservation Area with the dwelling located centrally on the site with a front/rear garden.</p>
<p>1.4.6 Setback - Front</p>	<p>Yes</p>	<p>The front setback of the attached dwelling will be retained in line with the adjoining dwellings.</p>



Figure 22 - Annotated aerial photo showing existing front setback alignment

1.4.6 Setback - Side Merit

Control	Existing	Proposed	Compliance
Zone R2 (Low Density Residential)			
R2 - 1 st storey (Up to 4 m) 900 mm	Nil – 915 mm (NW) Nil (SE)	Nil (NW) Nil (SE)	No (Merit Assessment) Existing
R2 - 2 nd storey (up to 7 m) 1.5 m	Nil - 1.6 m (NW) Nil (SE)	Nil - 1.6 m (NW) Nil (SE)	Existing Existing
R2 - 3 rd storey (Greater than 7 m)	-	Nil (NW) Nil (SE)	Existing Existing

First Storey (Ground Level)

The existing nil setback to the north- western boundary is retained and the proposal seeks an infill addition to the rear, continuing the nil side setback along the north-western boundary to the rear of the dwelling. The proposed infill addition does not comply with the minimum 900 mm setback requirement in Table B-1.5 of s1.4.6 of the NSDCP 2013.

The existing nil setback to the south-eastern boundary is to be maintained.

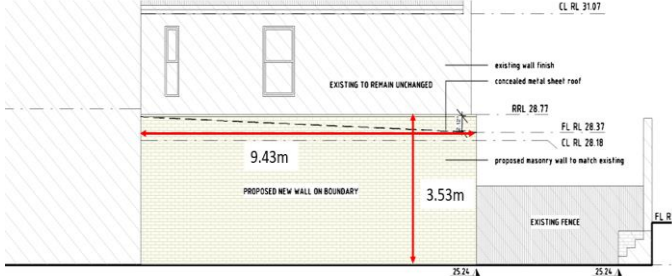
The proposed nil side setback requires consideration of the Land and Environment Court Planning Principle “Building to the side boundary in residential areas” established in Galea v Marrickville Council [2003] as addressed below.

Second Storey (First Floor)

The existing first floor level setbacks are to be retained.

Third Storey (Second Floor)


The existing second floor level setbacks are to be retained.

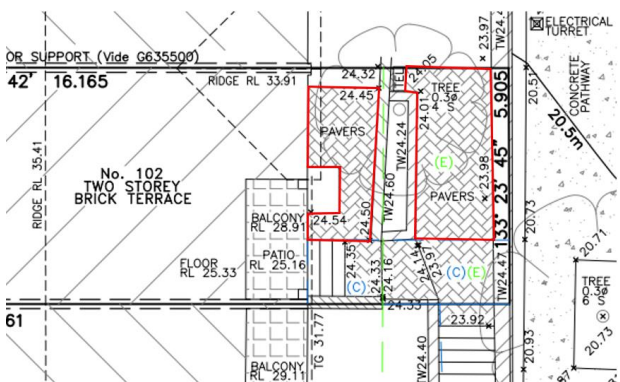
		<p>Is the street characterised by terrace housing?</p> <p>The site is part of a group of terraced properties (100-108 Carabella Street) and the greater locality includes semi-detached dwellings and other properties with nil side setbacks.</p> <p>What is the height and length of the wall on the boundary?</p> <p>The proposed works on the north-western boundary include a single storey rear infill addition which has a height of 3.53 m and a length of 9.43m annotated in the below figure.</p>  <p>Figure 23 - Annotated North-West Elevation showing height and length of the wall</p> <p>Any adverse impact to the adjoining property in terms of overshadowing and visual privacy is minimised as there are no proposed openings on the north-western elevation facing No. 104 Carabella Street and hourly shadow diagrams confirm no shadow would be cast over the adjoining site therefore the amenity of the adjoining property is preserved.</p> <p>Although there are considered to be no adverse impacts in terms of overshadowing or visual privacy the wall at 9.43 m in length is considered substantial and should be reduced to ensure the addition is more subservient to the rear service wing and the scale of the addition is less visually overbearing to the adjoining property No. 104 Carabella Street.</p> <p>Has the applicant control over the adjoining site(s) or the agreement of their owners?</p> <p>The internal works including the alterations to the roof and the single storey rear addition will be contained within the boundary of the subject site and can be constructed wholly within the site. The development application is accompanied by a structural adequacy certificate signed by A.E Consulting Engineers Pty Ltd confirming that the internal works would have no impact on the common party walls.</p> <p>Additionally, an appropriate condition of consent will require a structural adequacy report to be prepared at construction certificate stage and the condition will state under no circumstances shall the common party wall be extended, altered or relied upon without the prior written consent of the adjoining owner (C5 Structural Adequacy - Semi Detached and Terraced Buildings).</p>
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		<p>What are the impacts on the amenity and/or development potential of adjoining sites?</p> <p>The side infill addition to the rear of the dwelling is 3.53 m in height and is not considered to be detrimental to the amenity of the adjoining property. There are no openings proposed in the wall adjoining No. 104 Carabella Street, preventing any overlooking. The proposed nil setback provides the potential for the future development of the adjoining property.</p> <p>The internal works within the dwelling would also not impact the amenity or development potential of the adjoining site.</p> <p>Are there arrangements in place for the maintenance of the wall or gutters?</p> <p>The single storey infill addition would have a brick elevation on the boundary with No. 104 Carabella Street requiring minimal future maintenance and allows the adjoining property the development potential to develop a similar infill addition abutting the proposed brick wall. The proposed metal skillion roof would be concealed behind the brick boundary wall directing stormwater to the rear of the property. The addition has been designed to ensure any stormwater provisions including gutters can be maintained from within the subject site.</p> <p>Consideration of the proposed internal works to the attic and rear/side infill addition against the Planning Principle “Building to the side boundary in residential areas” confirms the works with a nil setback are characteristic of the site and surrounds and would reasonably maintain the amenity of the adjoining properties.</p>
<p>P5 Rear Setback</p>	<p>Yes</p>	<p>The proposed 5 m rear setback of the proposed infill side addition at the rear of the dwelling is not compliant with the characteristic 8 m rear setback stipulated in the character statement for the Careening Cove Conservation Area. However, a condition of consent is recommended requiring an additional rear setback of 700mm from the rear building line for the side infill addition so the addition would be closer to compliance with the stipulated rear setback in the character statement in Part C of the NSDCP 2013 (C9 Heritage Requirements). The recommended condition would create a step in the rear building line and provide some visual relief when viewed from the adjoining property to the north-west (No. 104 Carabella Street).</p> <p>In consideration of the additional 700mm rear setback, the adjoining properties and their respective rear setbacks were examined where it was noted that many of adjoining properties do not comply with the 8 m setback from the rear boundary as required by the character statement for the Careening Cove Conservation Area. It is noted that the rear additions of the adjoining terraced properties were constructed prior to the adoption of the NSDCP 2013 therefore not under the same setback requirements as the existing development application.</p>

		<p>The additional 700mm setback from the rear building line of the dwelling for the new addition at the south-west corner of the building is appropriate because:</p> <ul style="list-style-type: none"> - Greater compliance with Careening Cove Conservation Area Character Statement would be achieved. - It provides visual relief for No. 104 Carabella Street by reducing the length of the wall on the side boundary. - The increased setback would reduce the non-compliance with the site coverage controls in NSDCP 2013. - Council's Heritage Officer supports the additional setback from the rear building line of the service wing as this would improve the subservience of the addition to the larger two-storey rear service wing.
<p>1.4.7 Form Massing Scale</p>	<p>Merit</p>	<p>The height of the proposed dormer and internal works to the attic exceed the maximum height stipulated in clause 4.3 of NSLEP 2013. However, the application is supported by a written request made pursuant to clause 4.6 which provides sufficient justification for the contravention of the development standard as detailed earlier in this report.</p> <p>No alterations are proposed to the front façade facing Carabella Street and no additional glazing is sought to the front of the building.</p> <p>The proposed side infill addition at the rear of the dwelling is single storey and is consistent to the descending scale of the terrace buildings towards the rear.</p>
<p>1.4.8 Built Form Character</p>	<p>Merit</p>	<p>The proposed alterations and additions are to an existing attached dwelling which is reliant on existing use rights noting attached dwellings are prohibited in the R2 Low Density Residential Zone. Provision P4, s1.4.8 of the NSDCP 2013 requires the following matters to be satisfied for development relying on existing use rights.</p> <p><i>(a) material loss of views from other properties or public places</i></p> <p>The alterations and additions are assessed against the provisions in s1.3.6 'Views' of the NSDCP 2013 and supported noting that the proposed works are predominantly internalised and the ground floor infill addition due to its location to the rear and single storey form would not affect views from surrounding properties or public places. The proposed dormer is appropriately located to the rear below the ridge line of the attached dwellings and therefore would not affect views from surrounding properties and public places.</p> <p><i>(b) material overshadowing of other properties or public places</i></p> <p>The alterations and additions are assessed against the provisions in s1.3.7 'Solar Access' and supported because the shadow diagrams confirm only minor additional overshadowing caused by the dormer which would have a negligible impact to the amenity of the adjoining property to the south-east (No. 100 Carabella Street).</p> <p><i>(c) material loss of privacy to other properties</i></p>

		<p>The alterations and additions are assessed against the provisions in s1.3.10 'Visual Privacy' and no concerns are raised noting the proposed openings would have outlooks directed primarily to the rear of the site and laneway, having minimal impact to the visual privacy of adjoining properties.</p> <p><i>(d) increasing of the overall building height</i></p> <p>The maximum height of the attached dwelling remains unchanged as the proposed dormer and skylight are set below the roof ridge.</p> <p><i>(e) landscaped area of the development being below the requirements set out in the DCP, or further decrease the landscaped area where the landscaped area is already below the requirements of the DCP</i></p> <p>The site has a limited provision of landscaping. However, a condition of consent is recommended to improve the provision of landscaping on the site.</p> <p><i>(f) site coverage of the development exceeding the requirements set out in this DCP or further increase the site coverage where the site coverage is already above the requirements of this DCP.</i></p> <p>The site has an existing site coverage of 62% and the infill rear addition would further increase the exceedance in site coverage by 5% to 67% (12.2m²).</p> <p>The size of the addition is considered excessive and a more subservient form to the remainder of the attached dwelling and service wing is recommended by Council's Conservation Planner. The side infill addition at the rear of the dwelling should have a further rear setback of 700mm thereby reducing site coverage, be more compliant with the characteristic rear setback for the Careening Cove Conservation Area and achieve a general reduction in bulk and scale to the rear of the property.</p> <p>The proposed development, subject to conditions of consent is considered to meet Objective O2 in s1.4.8 of the NSDCP 2013 and would not result in an adverse impact on the character of the locality or the amenity of adjoining dwellings.</p>
<p>1.4.9 Dwelling Entry</p>	<p>Yes</p>	<p>No works are proposed to the front elevation. The existing front door and windows of habitable rooms are identifiable from the street (<i>refer to Figure 5 of this report</i>).</p>
<p>1.4.10 Roofs</p>	<p>Yes</p>	<p>The existing gable roof of the attached dwelling will be retained which is a characteristic roof form for the group of attached dwellings (Nos. 100-108 Carabella Street).</p> <p>The ground floor infill would have of a flat roof which is an acceptable roof form for additions to the rear as it would contribute to a descending roof hierarchy per the directions in Provision P5, s1.4.10 of the NSDCP 2013.</p>
<p>1.4.11 Dormers</p>	<p>Compliance subject to Condition</p>	<p>The proposed rear dormer has sufficient setbacks from the roof ridgeline, side party walls and rear wall of the building in accordance with Provision P4, s1.4.11 of the NSDCP 2013.</p> <p>However, the proposed dormer is excessive in height measured from its base to the ridge of the dormer as it is greater than 1.5m which is contrary to Provision P6, s1.4.11 of the NSDCP 2013.</p>

		Council's Conservation Planner recommended a condition requiring the dimensions to match that of the dormer at No. 100 Carabella Street which was approved under DA 371/2021 and has a height of 1.5 m measured from its base to the ridge (C9 Heritage Requirements).
1.4.12 Materials	Yes	A standard condition is recommended requiring the selection of a sympathetic palette of finishes, materials and colours for the new building elements to maintain the existing character of the heritage item (Condition C11).
1.4.14 Front Fences	Yes	The front boundary of the site has an existing metal palisade fence (approx. 1.5 m) which is characteristic of the group of attached dwellings.
1.5 Quality Urban Environment		
1.5.2 Lightwells and Ventilation	Yes	<p>An existing lightwell serving the first-floor bathroom is to be removed. This is noted as not an original feature of the property as it was approved under DA 97/356. Instead of utilising a lightwell the ensuite is to be extended and will utilise an existing rear facing window. This is a positive outcome as it would remove the lightwell as the primary source of daylight and the lightwell is a modern addition with no heritage significance.</p> <p>Below is a picture of the existing lightwell to be removed and the existing bedroom window to provide daylight and ventilation to the proposed bathroom.</p>  <p><i>Figure 24 - Lightwell and skylight approved under DA 97/356 and first floor bedroom window</i></p>
1.5.3 Safety and Security	Yes	Passive surveillance of Carabella Street would be retained. The dormer addition improves views and natural surveillance of the laneway (Crescent Place) to the rear of the site.
1.5.4 Vehicle Access and Parking	N/A	The site does not have off street car parking. The applicant proposes to retain the courtyard at the rear of the property providing a functional area for private outdoor recreation for the occupants of the attached dwelling. This is acceptable given that Council's car parking controls allow minimal parking as specified in section 10 in NSDCP 2013 which is appropriate in the site context given its close proximity to public transport.
1.5.5 Site Coverage	Merit	<p>The site area is 180.5 m². Therefore, a maximum 60% site coverage is permitted as stipulated in Table B-1.6. The site has an existing site coverage of 62% and the proposed infill rear addition would add a further 5% increasing the exceedance in site coverage to 7% (12.2 m²).</p> <p>A condition of consent (C9 Heritage Requirements) increasing the rear setback of the infill addition would reduce site cover as well as the bulk and scale of the dwelling as viewed from the rear. The attached dwelling would retain a similar density to the group of terraced dwellings.</p>

		The development is considered to meet the objectives contained in s1.5.5 of the NSDCP 2013 as the proposal would not significantly impact the site density or increase the building footprint.																
1.5.6 Landscape Area	Merit	<table border="1"> <thead> <tr> <th>Control</th> <th>Existing</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site coverage (Max 60%)</td> <td>112.50 m² 62%</td> <td>120.50 m² 67%</td> <td>No (Merit Assessment)</td> </tr> <tr> <td>Landscaped area (Min 20%)</td> <td>4.35 m² 3%</td> <td>4.35 m² 3%</td> <td>No (Merit Assessment)</td> </tr> <tr> <td>Unbuilt-upon area (Max 20%)</td> <td>63.65 m² 35%</td> <td>55.65 m² 30%</td> <td>No (Merit Assessment)</td> </tr> </tbody> </table> <p>It is noted that the site has limited landscaping and excessive unbuilt upon areas. A condition of consent (C20 Landscape Plan) is recommended to further increase landscaping within the site and improve the site's ability to retain and absorb surface water which are relevant objectives outlined in s1.5.6 of the NSDCP 2013. The areas totalling an additional 13 m² recommended for additional landscaped area are annotated on the Survey Plan below.</p>  <p>Figure 25 - Annotated Survey Plan, areas in red to be landscaped areas</p> <p>The additional areas to be made into soft landscaping have been proposed with a recommended condition of consent to ensure an additional landscaped area is provided (17.35 m² - 10%) being an improvement on the current situation.</p>	Control	Existing	Proposed	Compliance	Site coverage (Max 60%)	112.50 m ² 62%	120.50 m ² 67%	No (Merit Assessment)	Landscaped area (Min 20%)	4.35 m ² 3%	4.35 m ² 3%	No (Merit Assessment)	Unbuilt-upon area (Max 20%)	63.65 m ² 35%	55.65 m ² 30%	No (Merit Assessment)
Control	Existing	Proposed	Compliance															
Site coverage (Max 60%)	112.50 m ² 62%	120.50 m ² 67%	No (Merit Assessment)															
Landscaped area (Min 20%)	4.35 m ² 3%	4.35 m ² 3%	No (Merit Assessment)															
Unbuilt-upon area (Max 20%)	63.65 m ² 35%	55.65 m ² 30%	No (Merit Assessment)															
1.5.7 Landscaping	Yes	The development seeks to retain all existing trees within the subject site. A condition of consent is recommended to improve the provision of landscaped area within the site thereby ensuring a greater provision of landscaping which has various sustainability and amenity benefits. (C20 Landscape Plan).																
1.5.9 Front Gardens	Yes	A condition of consent is recommended to ensure an additional 17.35 m ² landscaping is provided within the site which would contribute to the garden setting of the dwelling.																
1.5.10 Private and Communal Open Space	Yes	<table border="1"> <thead> <tr> <th>Control - lot size</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Dwellings</td> <td></td> <td></td> </tr> <tr> <td>Up to 499 m² – 40 m²</td> <td>20 m²</td> <td>No</td> </tr> </tbody> </table> <p>The existing usable rear private open space equates to 20 m² and is reflective of the small size of the site. The proposed works are either internal or refer to an infill addition and would not affect the existing useable private open space to the rear of the property.</p>	Control - lot size	Proposed	Compliance	Dwellings			Up to 499 m ² – 40 m ²	20 m ²	No							
Control - lot size	Proposed	Compliance																
Dwellings																		
Up to 499 m ² – 40 m ²	20 m ²	No																

1.5.13 Garbage Storage	N/A	No amendments are sought to the existing on-site waste storage and recycling area or the arrangements for waste collection.
1.6 Efficient Use of Resources		
1.6.1 Energy Efficiency	Yes	A BASIX Certificate (A435776) dated 14 October 2021 is submitted accompanying the development application.

Kirribilli Planning Area (Careening Cove Conservation Area) - Part C of NSDCP 2013

The application has been assessed against the relevant controls in the Character Statements in Part C in NSDCP 2013 below:

8.3.5 Characteristic buildings

P1 Two storey late Victorian terraces

The dwelling would remain as a two-storey attached dwelling which is part of a terrace of Victorian dwellings. The proposed works convert the attic for habitable space but retains the existing characteristic two storey form of the terrace dwelling.

8.3.5 Characteristic built elements

- P1 To the middle of the lot with gardens to the front and rear.*
- P2 Front setback of 3-5 m.*
- P3 Side setback of 0-1 m.*
- P4 Rear setback of 8 m.*

The existing 5 m front setback will be retained and the nil side setbacks are characteristic of the attached dwelling. The existing rear setback of the service wing is 5 m. However, a condition of consent is recommended requiring the infill addition to have an additional 700mm rear setback from the rear building line thereby ensuring the rear addition is more subservient to the original attached dwelling, the bulk and scale is reduced and there is a reduction in site coverage.

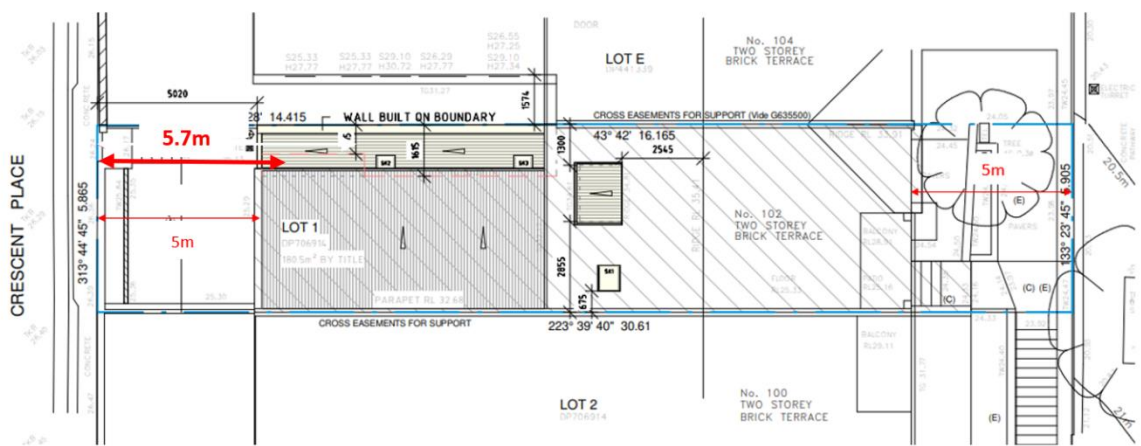


Figure 26 - Annotated Site Plan (D.A - 100 Issue A)

Form, massing and scale

P2 Two storey attached dwellings.

P4 Reduced scale to the rear.

The development would remain a two storey attached dwelling and the scale of the building is reduced to the rear therefore the subject site has a form, massing and scale characteristic of the conservation area.

Roofs

P6 Pitched, hipped and gables roofs pitched between 30 and 45 degrees with skillion roofs to rear.

The proposal does not seek to alter the existing gable roof profile of the attached dwelling. The infill addition to the rear will comprise of a flat roof which is considered acceptable noting that alternative roof forms are acceptable to the rear of sites that are not highly visible from the public domain.

Materials

P9 Walls: Face and rendered brick on sandstone foundations.

P10 Roofs: Slate; terracotta tile and corrugated metal to the rear; flat roofs to residential flat buildings.

P11 Timber verandahs and Federation and Arts and Crafts detailing.

The proposed rear infill addition would have characteristic brick elevations. The dormer is proposed to have a metal roof and fibre cement cladding.

To ensure the finishes, materials and exterior colours are complementary to the character of the heritage item within a conservation area a condition of consent is recommended **(C11 - Colours, Finishes and Materials)**.

8.3.7 Uncharacteristic elements

P1 Over-scaled additions; dormers and skylights to front roof slopes; roof terraces; carports and garages to the street; paved hardstand areas within front setbacks high solid fences to the street; rendering and painting of face brick; loss of original detail; modern infill development and residential flat buildings.

The proposed dormer and skylight are appropriately located on the rear roof plane.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of s7.12 contributions towards the provision of local infrastructure. The reason being that the development cost is more than \$100,000 therefore subject to contributions pursuant to s1.3.3 of the contribution plan. The attached dwelling subject to alterations and additions will not accrue s7.11 contributions because there is no net increase in dwellings on the land. Confirmation of contributions payable in accordance with Council's Contributions Plan is as follows:

Contribution Amounts Payable

Applicable Contribution Type		
s7.12 Contribution details	Development cost:	\$175,000.00
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$875.00

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	N/A
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	N/A
9.	All relevant S4.15 considerations of <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Milson/Bradfield Precinct. Council received one (1) submission where the following matters were raised (*in italics*):

- *The proposed addition to the side boundary must not prevent the adjoining development building to the side boundary.*

The proposed side addition is to be built to the side boundary with No. 104 Carabella Street and the elevation is to comprise of brickwork with parapet walls allowing the adjoining property to also be built to the boundary flush with the proposed brick wall.

- *The proposed side addition must ensure services are maintained to the adjoining property.*

All works are to be maintained within the subject site and not affecting services for the adjoining property. A condition of consent will require all utility services to be adjusted and corrected due to the development (**G3 Utility Services**).

- *The applicant must give notice to the adjoining properties prior to commencing work that may affect the existing boundary wall.*

At least 2 days notice must be given to North Sydney Council of the intention to start works (**D4 Commencement of Works**) and a condition of consent is included within the notice of determination requiring the adjoining neighbour to be kept informed about the proposed commencement of work (**E14 Community Information**).

- *During construction the property is to remain secure.*

The property is to remain secure, and a condition of consent will require appropriate hoarding or site fencing to be erected to secure the site from the adjoining properties and public spaces (**F8 Protection of Public Places**).

- *If it is necessary for persons to enter adjoining properties during construction permission must be granted.*

Permission is required to enter land other than the subject site and various conditions of consent will ensure works are contained within the subject site.

- *The side wall of the proposed addition facing the adjoining property must be finished and painted as approved by the adjoining property owners.*

The masonry wall of the side infill addition is to match the existing materials and appearance of the attached dwelling and the masonry walls including on the north-western elevation is to be painted to match the colour of the existing dwelling rear wing to be appropriate and a sympathetic wall finish.

- *The applicant must prepare a dilapidation survey of the adjoining and be available for review.*

The developer is required to prepare two dilapidations reports, one for excavation and one for above ground works (**C2 Dilapidation Report Private Property - Excavation and C3 Dilapidation Survey Private Property (Neighbouring Buildings)**).

PUBLIC INTEREST

The proposal is considered to be in the public interest for the reasons stated throughout this report.

SUITABILITY OF THE SITE

The subject site is location on land zoned R2 Low Density Residential where attached dwellings are a prohibited form of development. The proposal, however, benefits from existing use rights under Section 4.65 - 4.67 of *the Environmental Planning and Assessment Act 1979*. Council has undertaken an assessment of the proposed development in line with the requirements of s 4.15 of the Act, including assessment against the provisions of relevant environmental planning instruments and relevant provisions in the DCP and the proposal is considered to be suitable for the site having regard to the existing site circumstances and surrounding development within the Careering Cove Conservation Area.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to surrounding properties and the Milson/Bradfield Precinct for 14 days where issues were raised that have been addressed in this report and where appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties and the character of the conservation area.

CONCLUSION + REASONS

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and general found to be satisfactory.

Consideration has also been given to the written request made pursuant to clause 4.6 seeking a variation to the height of buildings development standard in clause 4.3 in NSLEP 2013 as submitted by the applicant.

The variation to the building height development standard is justifiable because the building element above the LEP maximum building height is unlikely to have an adverse impact on the character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and loss of privacy.

The written request to vary the development standard provided by the applicant is considered to be well founded. The written request demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation.

The design of the dormer and side infill addition is generally consistent with the character of the subject heritage item and the conservation area, subject to conditions of consent requiring the size of the dormer to be reduced and a greater rear setback for the side infill addition. Council's Conservation Planner has raised no objection subject to conditions of consent which have been considered and where appropriate included in the conditions of consent.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate standard and site-specific conditions.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and grant consent to Development Application No. 371/21 for alterations and additions to an attached dwelling on land at 102 Carabella Street, Kirribilli subject to the following site specific and attached standard conditions:-

Heritage Requirements

- C9. The following heritage requirements are to be met to ensure that the heritage and character of the attached dwelling is retained:
- a) **Rear Dormer** - the location and siting of the dormer shall remain as shown in the approved South West Elevation (D.A - 104 Issue A). However, the rear dormer shall be amended so that the height must not exceed more than 1.5 m measured from its base to its ridge.
 - b) **Entrance to Master Bedroom** - the existing door and entry including partitions as clouded in red on the approved Level 2 Floor Plan (D.A -102 Issue A) are to remain.
 - c) **Level 2 Proposed Walk-in Robe and Ensuite** - the existing door in the hallway shown clouded in red is to remain in situ and may be fixed shut.
 - d) **Side Ground Floor Extension at the rear** - the rear addition infill is to have an additional setback from the rear building line of 700mm (depth) x 1.618m (width) at the south-western corner of the building. Window W1 is to be deleted as annotated on the Proposed Level 1 Floor Plan (D.A -101 Issue A).
 - e) **Stairs** - The new staircase serving the converted attic is to match the details of the existing stairs. Details of the new stairs should be submitted to Council's Conservation Planner for written approval prior to the issue of the construction certificate. Information should also be provided on how the stairs and the pressed metal ceiling will be treated.

The Certifying Authority must also ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the heritage significance of 102 Carabella Street and the heritage group as a whole including to protect the character and significance of the Careening Cove Conservation Area).

Works to be Contained within the Subject Site

- C10. The approved works must be wholly contained within the site of No. 102 Carabella Street, Kirribilli, and must not result in any encroachment into neighbouring lots or Council's road reserve. Under no circumstances shall the boundary wall/fence and rear extension extend or be altered into adjoining lots.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, in order to fully satisfy the requirements of this condition.

(Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognised)

Landscape Plan

- C20. A Landscape Plan must be prepared to provide an appropriate landscaped setting:

- The Landscape Plan is to detail the existing/proposed landscaped areas as shown in the Compliance Diagram (D.A - 110 Rev A).
- The Landscape Plan is also to include two areas bordered in red within the front garden of the Compliance Diagram (D.A - 110 Rev A) for growing of grasses, groundcovers and/or shrubs.

A Landscape Plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the Landscape Plan and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure an adequate level of planting is provided)

Thomas Holman
ASSESSMENT OFFICER

Robyn Pearson
TEAM LEADER (ASSESSMENTS)

Stephen Beattie
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
102 CARABELLA STREET, KIRRIBILLI
DEVELOPMENT APPLICATION NO.371/21

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan Nos.	Revision No	Description of works	Prepared by	Received
D.A -100	A	Site Plan/Site Analysis	GVP Design Studio	10/11/2021
D.A - 101	A	Level 1 - Floor Plan	GVP Design Studio	10/11/2021
D.A - 102	A	Level 2 - Floor Plan	GVP Design Studio	10/11/2021
D.A - 103	A	Level 3 - Floor Plan	GVP Design Studio	10/11/2021
D.A - 104	A	South West and North West Elevations	GVP Design Studio	10/11/2021
D.A - 106	A	Proposed North West Elevations	GVP Design Studio	10/11/2021
D.A - 107	A	South East Elevation	GVP Design Studio	10/11/2021
D.A -108	A	Section A + B	GVP Design Studio	10/11/2021
D.A - 110	A	Compliance Diagram Existing and Proposed	GVP Design Studio	08/02/2022

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***Dilapidation Report Damage to Public Infrastructure**

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C2. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

**102 CARABELLA STREET, KIRRIBILLI
DEVELOPMENT APPLICATION NO. 371/21**

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All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/i.e., prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A photographic survey and dilapidation report of adjoining properties Nos. 100 and 104 Carabella Street, Kirribilli detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, **SHALL BE** submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Structural Adequacy of Adjoining Properties - Excavation Works

- C4. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property No. 104 Carabella Street, which certifies its ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Structural Adequacy (Semi-detached and Terrace Buildings)

- C5. A report from an appropriately qualified and practising structural engineer, certifying the structural adequacy of the adjoining properties No's. 100 & 104 Carabella Street which certifies their ability to withstand the proposed works and outlines any measures required to be implemented to ensure that no damage will occur to adjoining premises during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

Under no circumstances shall the party or common wall be extended or altered without the prior written consent of the adjoining owner. Any such extension of the party wall shall be noted on title by way of appropriate easement or Section 88B instrument.

(Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognised)

Structural Adequacy of Existing Building

- C6. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Sediment Control

- C7. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

- C8. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and

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- c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Heritage Requirements

C9. The following heritage requirements are to be met to ensure that the heritage and character of the attached dwelling is retained:

- a) **Rear Dormer** - the location and siting of the dormer shall remain as shown in the approved South West Elevation (D.A - 104 Issue A). However, the rear dormer shall be amended so that the height must not exceed more than 1.5 m measured from its base to its ridge.
- b) **Entrance to Master Bedroom** - the existing door and entry including partitions as clouded in red on the approved Level 2 Floor Plan (D.A -102 Issue A) are to remain.
- c) **Level 2 Proposed Walk-in Robe and Ensuite** - the existing door in the hallway shown clouded in red is to remain in situ and may be fixed shut.
- d) **Side Ground Floor Extension at the rear** - the rear addition infill is to have an additional setback from the rear building line of 700mm (depth) x 1.618m (width) at the south-western corner of the building. Window W1 is to be deleted as annotated on the Proposed Level 1 Floor Plan (D.A -101 Issue A).
- e) **Stairs** - The new staircase serving the converted attic is to match the details of the existing stairs. Details of the new stairs should be submitted to Council's Conservation Planner for written approval prior to the issue of the construction certificate. Information should also be provided on how the stairs and the pressed metal ceiling will be treated.

The Certifying Authority must also ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the heritage significance of 102 Carabella Street and the heritage group as a whole including to protect the character and significance of the Careening Cove Conservation Area).

Works to be Contained within the Subject Site

- C10. The approved works must be wholly contained within the site of No. 102 Carabella Street, Kirribilli, and must not result in any encroachment into neighbouring lots or Council's road reserve. Under no circumstances shall the boundary wall/fence and rear extension extend or be altered into adjoining lots.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, in order to fully satisfy the requirements of this condition.

(Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognised)

Colours, Finishes Materials (Heritage Items)

- C11. A traditional palette of finishes, materials and colour schemes must be selected for the new building works appropriate to the architectural style of the original building and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The elevations of the side infill extension including the north western elevation of the extension is to match the finishes, material and colour of the dwelling existing rear wing.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that exterior colours, finishes and materials are sympathetic to the significance of the heritage item.)

Skylight(s)

- C12. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100 mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

Stormwater Disposal

C13. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the BCA and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C14. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,500.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
- c) remedying any defects in any such public work that arise within six months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;

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- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Tree Bond for Public Trees

- C15. Prior to the issue of any construction certificate, security in the sum of \$6,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree	Location	Height (m)	Tree Bond
1 x <i>Jacaranda mimosifolia</i>	Tree on footpath opposite 102 Carabella Street	8 m	\$3,000.00
All trees (including but not limited to <i>Acacia</i> sp., <i>Callistemon</i> sp., <i>Melaleuca</i> sp., <i>Olea</i> sp.) planted in the council verge at the rear of No.102 Carabella Street		5 m - 9 m	\$3,000.00

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Asbestos Material Survey

- C16. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Section 7.12 Contributions

- C17. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$875.00.

Indexation

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: to provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

Security Deposits/Guarantee Schedule

C18. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Footpath Damage Bond	\$2,500.00
Tree Bond	\$6,000.00
TOTAL BONDS	\$8,500.00

Note: The following fees applicable

Fees	Amount (\$)
Section 7.12 Contributions	\$875.00
TOTAL FEES	\$875.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

BASIX Certificate

C19. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A435776 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Landscape Plan

C20. A Landscape Plan must be prepared to provide an appropriate landscaped setting:

- The Landscape Plan is to detail the existing/proposed landscaped areas as shown in the Compliance Diagram (D.A - 110 Rev A).
- The Landscape Plan is also to include two areas bordered in red within the front garden of the Compliance Diagram (D.A - 110 Rev A) for growing of grasses, groundcovers and/or shrubs.

A Landscape Plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the Landscape Plan and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure an adequate level of planting is provided)

D. Prior to the Commencement of any Works (and continuing where indicated)

Public Liability Insurance - Works on Public Land

D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Sydney Water Approvals

D2. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Certifying Authority must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes: **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

Asbestos Material Survey

D3. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Commencement of Works' Notice

- D4. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work**Parking Restrictions**

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E4. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

- E5. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
 - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
 - (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
 - (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E6. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

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Developer's Cost of Work on Council Property

- E7. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

- E8. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Construction Hours

- E9. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
R2 Zone	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

- E10. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

E11. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

E12. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

E13. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

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Community Information

- E14. Measures must be undertaken to inform the neighbouring property at No. 104 Carabella Street regarding commencement of the proposed work so that the adjoining residents are aware of the likely start and duration of the construction works on the site.

Council is to receive evidence confirming that the neighbouring property is appropriately informed prior to construction works.

(Reason: To ensure that residents are kept informed of activities that may affect their amenity)

Prohibition on Use of Pavements

- E15. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

- E16. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

- E17. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

- E18. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

a) in the case of work for which a principal contractor is required to be appointed:

- i) the name and licence number of the principal contractor, and
- ii) the name of the insurer by which the work is insured under Part 6 of that Act, or

(b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Excavation/Demolition

- F7 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8
- 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
 - 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
 - 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9.
- 1) A sign must be erected in a prominent position on the site
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and

- c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate*

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
- b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

Damage to Adjoining Properties

- G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Utility Services

- G3. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Asbestos Clearance Certificate

- G4. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/land is free of asbestos; or
- b) the building/land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

BASIX Completion Certificate

- G5. In accordance with Clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the Certifying Authority must apply to the Director-General for a BASIX completion receipt.

(Reason: To ensure compliance with the specified BASIX Certificate)

Landscaping

- G6. The landscaping shown to be approved via condition C20 - Landscape Plan must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Compliance with Certain conditions

- G7. Prior to the issue of any Occupation Certificate, Conditions C9 and C20 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

I. Ongoing/Operational Conditions

Maintenance of Approved Landscaping

- I1 The owner of the premises is to maintain the landscaping approved and required by this consent.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

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Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering or non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the amenity and tree coverage of the site)

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
102 CARABELLA STREET, KIRIBILLI
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A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan Nos.	Revision No	Description of works	Prepared by	Received
D.A -100	A	Site Plan/Site Analysis	GVP Design Studio	10/11/2021
D.A - 101	A	Level 1 - Floor Plan	GVP Design Studio	10/11/2021
D.A - 102	A	Level 2 - Floor Plan	GVP Design Studio	10/11/2021
D.A - 103	A	Level 3 - Floor Plan	GVP Design Studio	10/11/2021
D.A - 104	A	South West and North West Elevations	GVP Design Studio	10/11/2021
D.A - 106	A	Proposed North West Elevations	GVP Design Studio	10/11/2021
D.A - 107	A	South East Elevation	GVP Design Studio	10/11/2021
D.A -108	A	Section A + B	GVP Design Studio	10/11/2021
D.A - 110	A	Compliance Diagram Existing and Proposed	GVP Design Studio	08/02/2022

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***Dilapidation Report Damage to Public Infrastructure**

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C2. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

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All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/i.e., prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A photographic survey and dilapidation report of adjoining properties Nos. 100 and 104 Carabella Street, Kirribilli detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, **SHALL BE** submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Structural Adequacy of Adjoining Properties - Excavation Works

- C4. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property No. 104 Carabella Street, which certifies its ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Structural Adequacy (Semi-detached and Terrace Buildings)

- C5. A report from an appropriately qualified and practising structural engineer, certifying the structural adequacy of the adjoining properties No's. 100 & 104 Carabella Street which certifies their ability to withstand the proposed works and outlines any measures required to be implemented to ensure that no damage will occur to adjoining premises during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

Under no circumstances shall the party or common wall be extended or altered without the prior written consent of the adjoining owner. Any such extension of the party wall shall be noted on title by way of appropriate easement or Section 88B instrument.

(Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognised)

Structural Adequacy of Existing Building

- C6. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Sediment Control

- C7. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

- C8. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and

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- c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Heritage Requirements

C9. The following heritage requirements are to be met to ensure that the heritage and character of the attached dwelling is retained:

- a) **Rear Dormer** - the location and siting of the dormer shall remain as shown in the approved South West Elevation (D.A - 104 Issue A). However, the rear dormer shall be amended so that the height must not exceed more than 1.5 m measured from its base to its ridge.
- b) **Entrance to Master Bedroom** - the existing door and entry including partitions as clouded in red on the approved Level 2 Floor Plan (D.A -102 Issue A) are to remain.
- c) **Level 2 Proposed Walk-in Robe and Ensuite** - the existing door in the hallway shown clouded in red is to remain in situ and may be fixed shut.
- d) **Side Ground Floor Extension at the rear** - the rear addition infill is to have an additional setback from the rear building line of 700mm (depth) x 1.618m (width) at the south-western corner of the building. Window W1 is to be deleted as annotated on the Proposed Level 1 Floor Plan (D.A -101 Issue A).
- e) **Stairs** - The new staircase serving the converted attic is to match the details of the existing stairs. Details of the new stairs should be submitted to Council's Conservation Planner for written approval prior to the issue of the construction certificate. Information should also be provided on how the stairs and the pressed metal ceiling will be treated.

The Certifying Authority must also ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the heritage significance of 102 Carabella Street and the heritage group as a whole including to protect the character and significance of the Careening Cove Conservation Area).

Works to be Contained within the Subject Site

- C10. The approved works must be wholly contained within the site of No. 102 Carabella Street, Kirribilli, and must not result in any encroachment into neighbouring lots or Council's road reserve. Under no circumstances shall the boundary wall/fence and rear extension extend or be altered into adjoining lots.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, in order to fully satisfy the requirements of this condition.

(Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognised)

Colours, Finishes Materials (Heritage Items)

- C11. A traditional palette of finishes, materials and colour schemes must be selected for the new building works appropriate to the architectural style of the original building and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The elevations of the side infill extension including the north western elevation of the extension is to match the finishes, material and colour of the dwelling existing rear wing.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that exterior colours, finishes and materials are sympathetic to the significance of the heritage item.)

Skylight(s)

- C12. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100 mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

Stormwater Disposal

C13. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the BCA and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C14. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,500.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
- c) remedying any defects in any such public work that arise within six months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;

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- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Tree Bond for Public Trees

- C15. Prior to the issue of any construction certificate, security in the sum of \$6,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree	Location	Height (m)	Tree Bond
1 x <i>Jacaranda mimosifolia</i>	Tree on footpath opposite 102 Carabella Street	8 m	\$3,000.00
All trees (including but not limited to <i>Acacia</i> sp., <i>Callistemon</i> sp., <i>Melaleuca</i> sp., <i>Olea</i> sp.) planted in the council verge at the rear of No.102 Carabella Street		5 m - 9 m	\$3,000.00

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Asbestos Material Survey

- C16. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Section 7.12 Contributions

- C17. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$875.00.

Indexation

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: to provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

Security Deposits/Guarantee Schedule

C18. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Footpath Damage Bond	\$2,500.00
Tree Bond	\$6,000.00
TOTAL BONDS	\$8,500.00

Note: The following fees applicable

Fees	Amount (\$)
Section 7.12 Contributions	\$875.00
TOTAL FEES	\$875.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

BASIX Certificate

C19. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A435776 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Landscape Plan

C20. A Landscape Plan must be prepared to provide an appropriate landscaped setting:

- The Landscape Plan is to detail the existing/proposed landscaped areas as shown in the Compliance Diagram (D.A - 110 Rev A).
- The Landscape Plan is also to include two areas bordered in red within the front garden of the Compliance Diagram (D.A - 110 Rev A) for growing of grasses, groundcovers and/or shrubs.

A Landscape Plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the Landscape Plan and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure an adequate level of planting is provided)

D. *Prior to the Commencement of any Works (and continuing where indicated)***Public Liability Insurance - Works on Public Land**

D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Sydney Water Approvals

D2. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Certifying Authority must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes: **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

Asbestos Material Survey

D3. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Commencement of Works' Notice

- D4. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work**Parking Restrictions**

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E4. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

- E5. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
 - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
 - (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
 - (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E6. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

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Developer's Cost of Work on Council Property

- E7. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

- E8. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Construction Hours

- E9. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
R2 Zone	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

- E10. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

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Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

E11. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

E12. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

E13. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Community Information

- E14. Measures must be undertaken to inform the neighbouring property at No. 104 Carabella Street regarding commencement of the proposed work so that the adjoining residents are aware of the likely start and duration of the construction works on the site.

Council is to receive evidence confirming that the neighbouring property is appropriately informed prior to construction works.

(Reason: To ensure that residents are kept informed of activities that may affect their amenity)

Prohibition on Use of Pavements

- E15. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

- E16. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

- E17. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

- E18. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

- F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:
- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Excavation/Demolition

- F7 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

**102 CARABELLA STREET, KIRRIBILLI
DEVELOPMENT APPLICATION NO. 371/21**

Page 21 of 24

- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8
- 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
 - 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
 - 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9.
- 1) A sign must be erected in a prominent position on the site
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and

- c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate*

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
- b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

Damage to Adjoining Properties

- G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Utility Services

- G3. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Asbestos Clearance Certificate

- G4. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/land is free of asbestos; or
- b) the building/land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

BASIX Completion Certificate

- G5. In accordance with Clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the Certifying Authority must apply to the Director-General for a BASIX completion receipt.

(Reason: To ensure compliance with the specified BASIX Certificate)

Landscaping

- G6. The landscaping shown to be approved via condition C20 - Landscape Plan must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Compliance with Certain conditions

- G7. Prior to the issue of any Occupation Certificate, Conditions C9 and C20 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

I. Ongoing/Operational Conditions

Maintenance of Approved Landscaping

- I1 The owner of the premises is to maintain the landscaping approved and required by this consent.

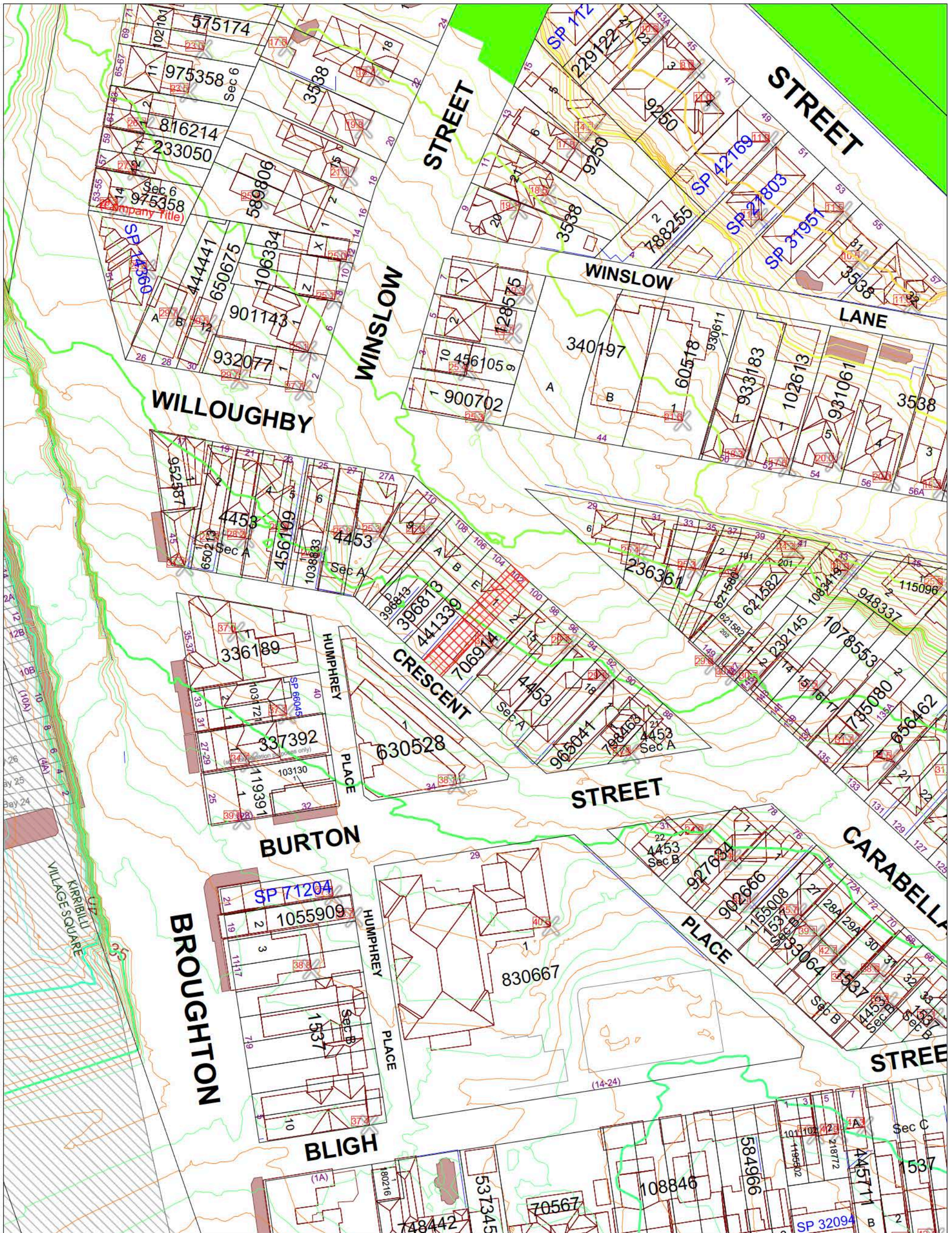
Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

**102 CARABELLA STREET, KIRRIBILLI
DEVELOPMENT APPLICATION NO. 371/21**

Page 24 of 24

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering or non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

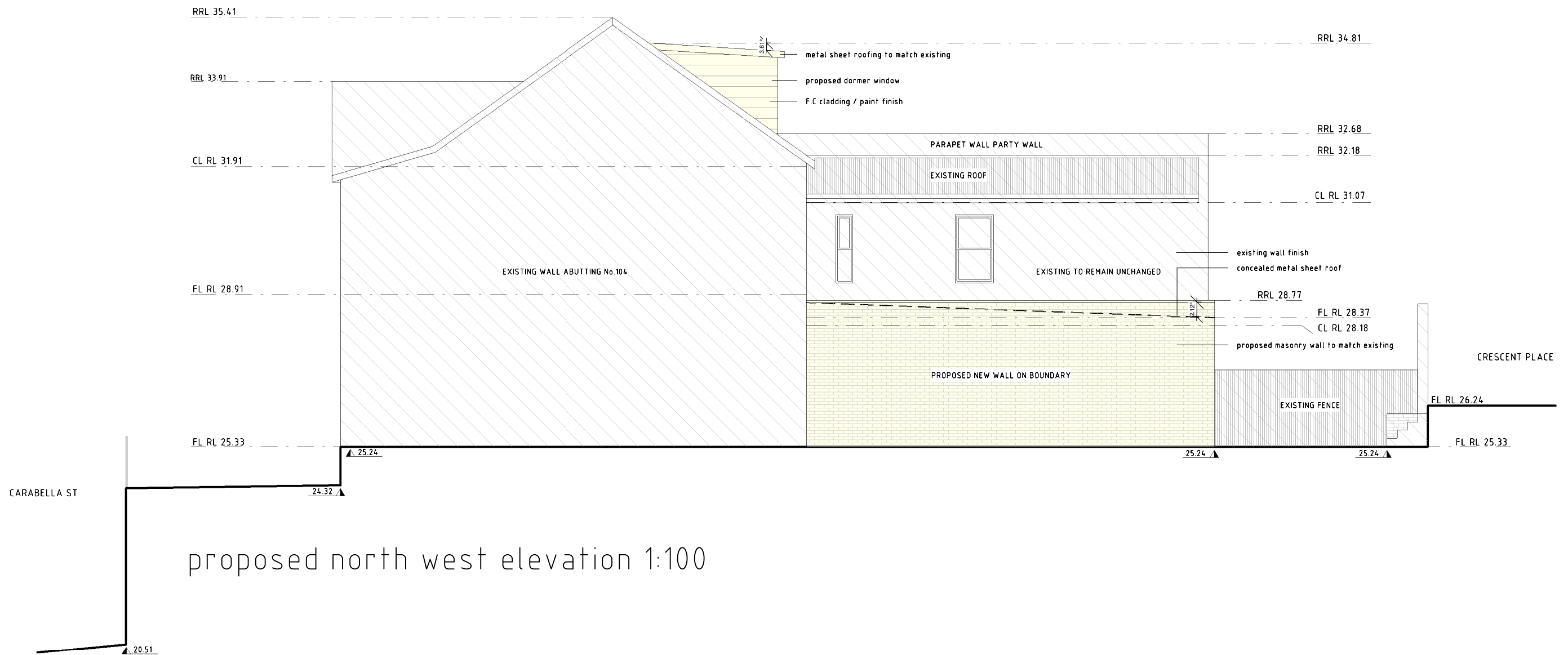
(Reason: To ensure maintenance of the amenity and tree coverage of the site)



North Sydney Council

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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.



proposed north west elevation 1:100

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issue	amendment	date
A	D.A	11/10/21



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lga North Sydney scale 1:100 drawn h.s PN 102/21

project	102 Carabella Street, Kirribilli NSW 2060
	Alterations & Additions
client	Mr.F.S
drawing	Proposed North West Elevations
drawing no.	D.A-106
issue	A

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BASIX SPECIFICATION

102 Carabella Street, Monterey NSW 2061

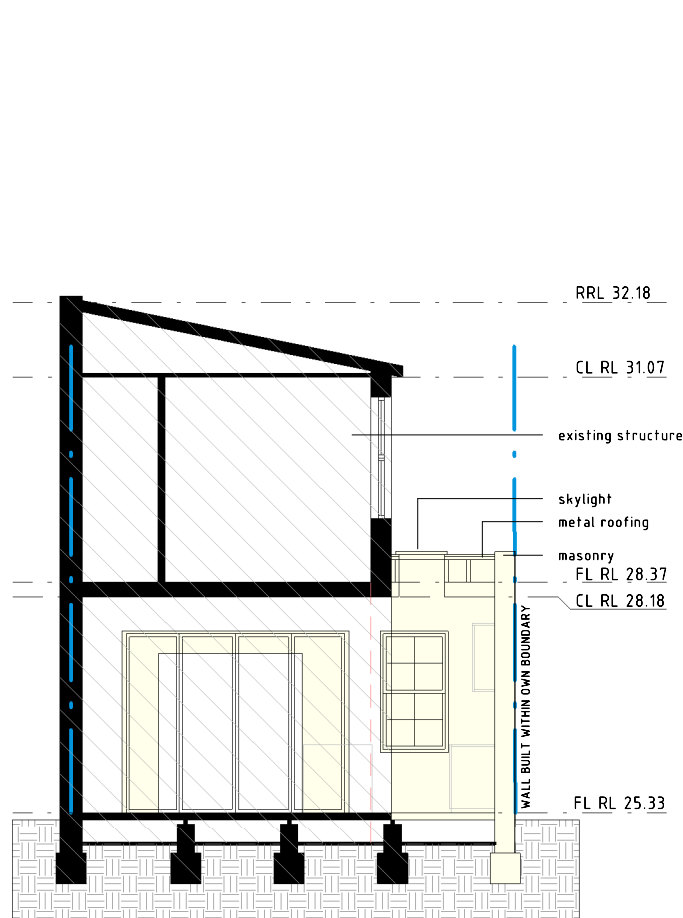
Please note that this specification is to be read in conjunction with the Prepared BASIX certificate for this project. Where discrepancies or Omissions are found, the BASIX certificate will take precedence over the Details in this specification.

Construction

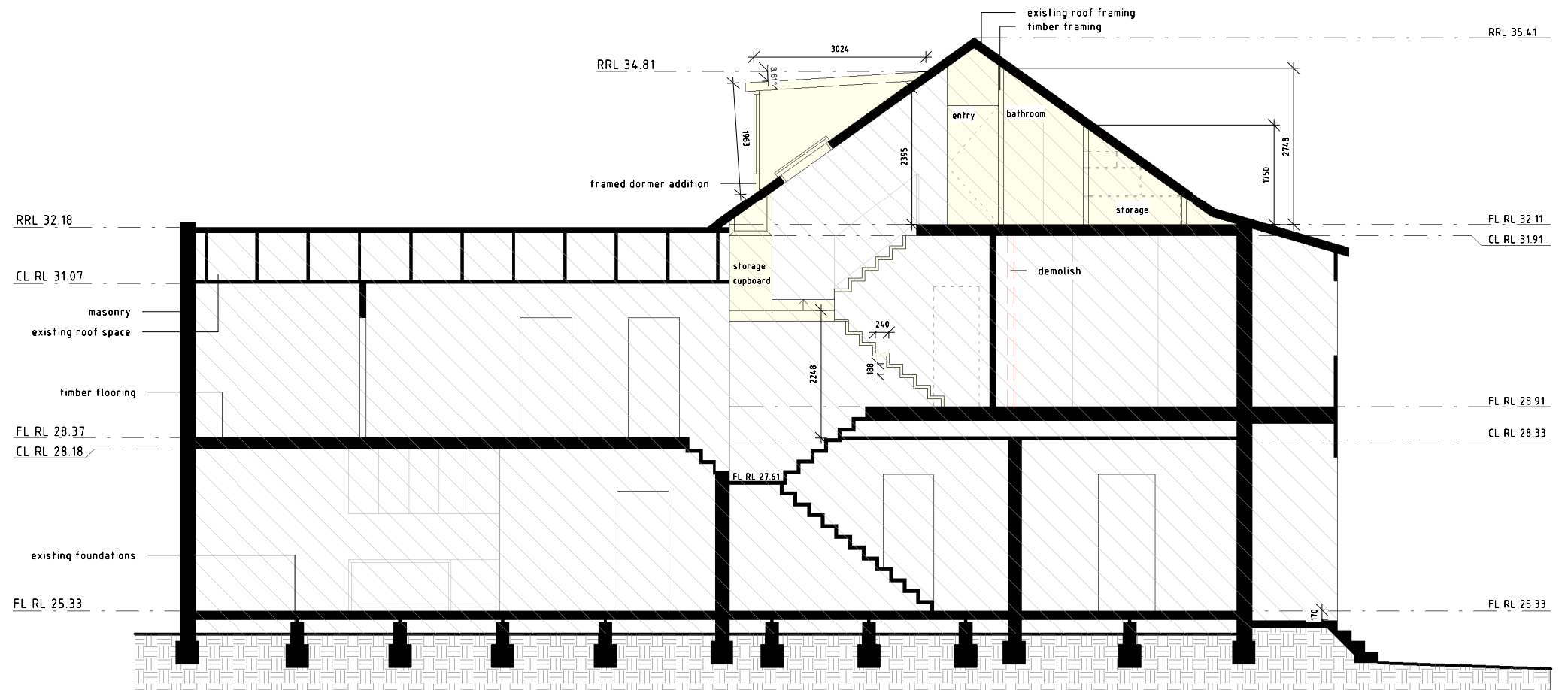
- Suspended floor with enclosed subfloor – framed – (R0.7) + Additional R0.60(down) or (R1.30 including construction)
- External Wall – NIL
- Flat Ceiling / Pitched Roof – Ceiling: R0.95 (UP). Roof: Foil backed blanket (100mm) / Dark solar absorbance > 0.70.

Windows & Doors

- The applicant must follow and install windows & doors in accordance with the table located on page 4 of the BASIX dated 14th October 2021.



section a 1:100



section b 1:100

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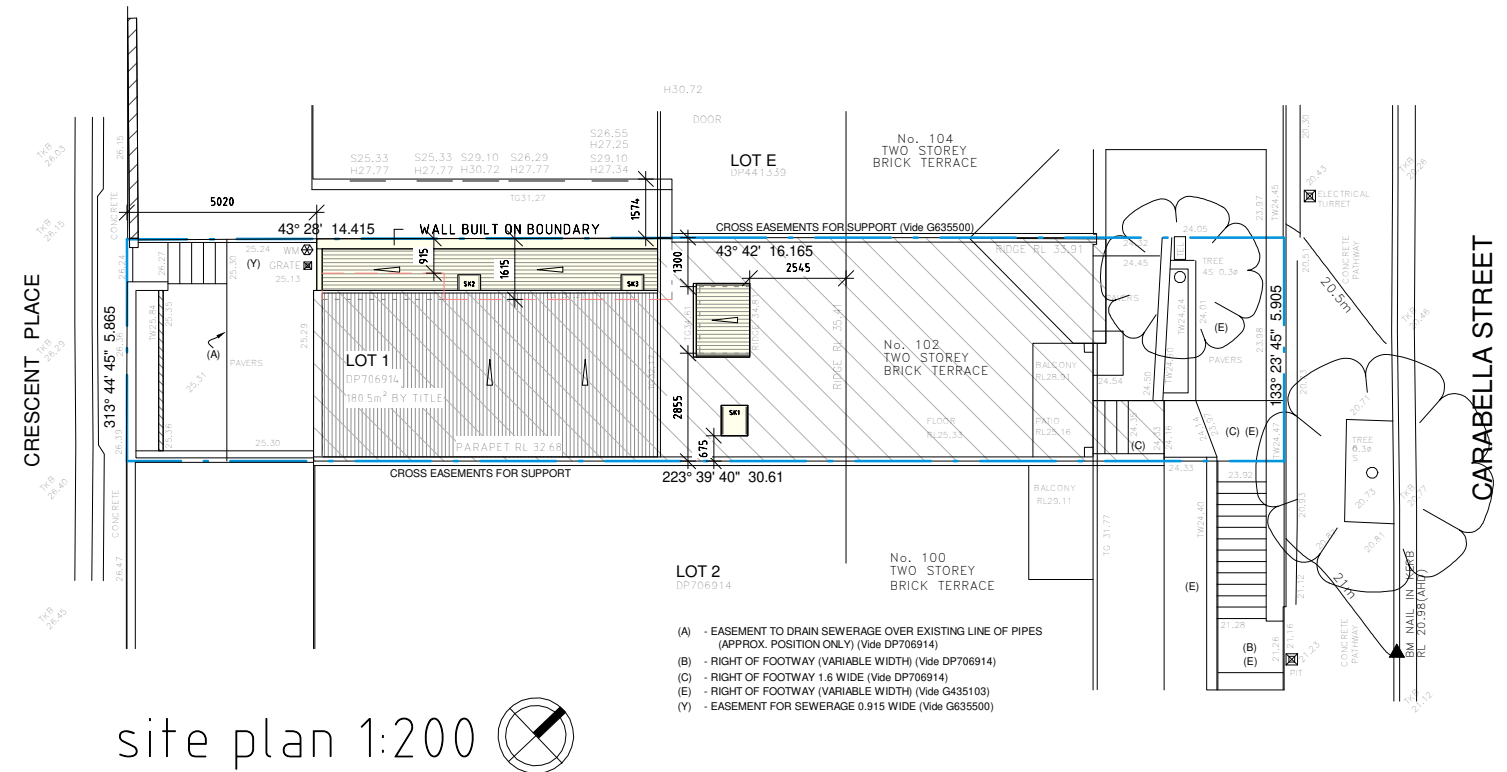
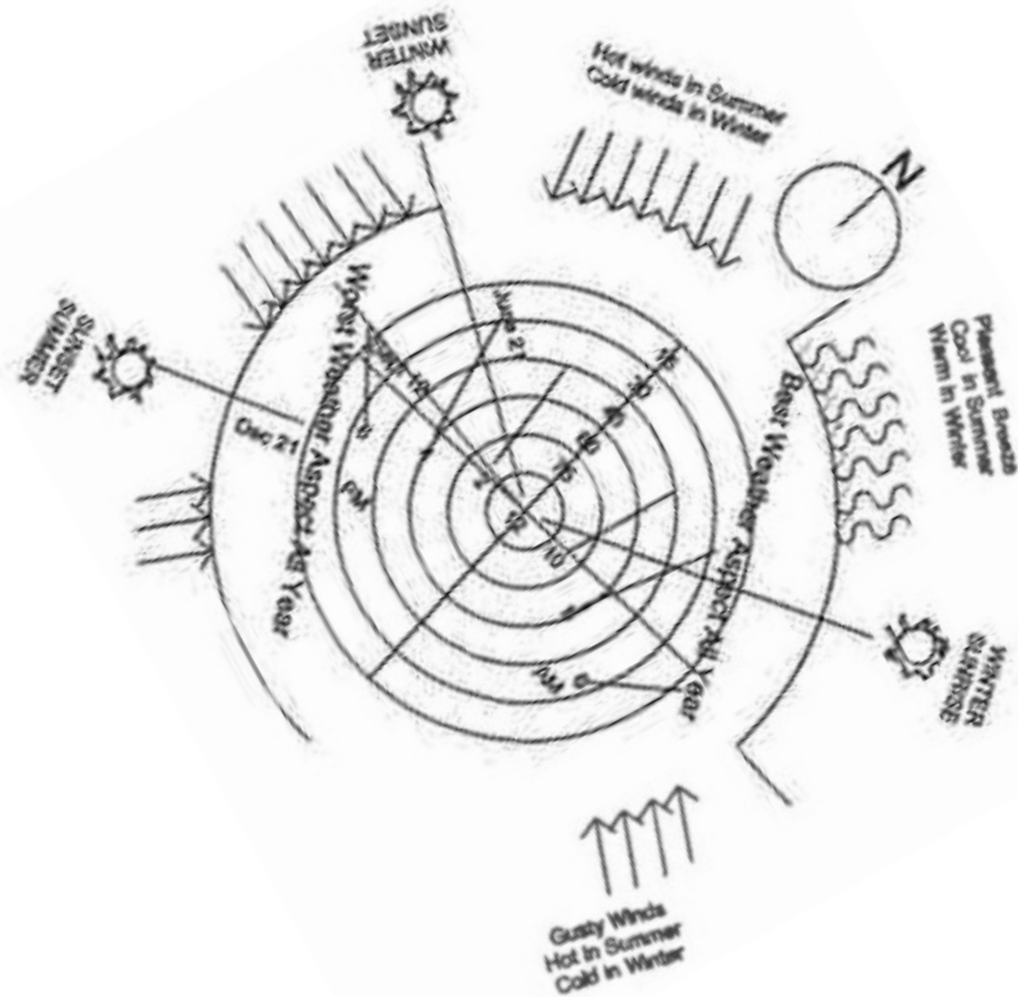
lga scale drawn PN
North Sydney 1:100 h.s 102/21

project 102 Carabella Street, Kirribilli NSW 2060
Alterations & Additions

client Mr.F.S

drawing Section a + b / BASIX Specification

drawing no. D.A-108 issue A



Site Data:

Lot Area 180.5m²

FSR Allowed: refer to *SOEE*

FSR Proposed: refer to *SOEE*

Parking: As Existing

Landscaping: As Existing

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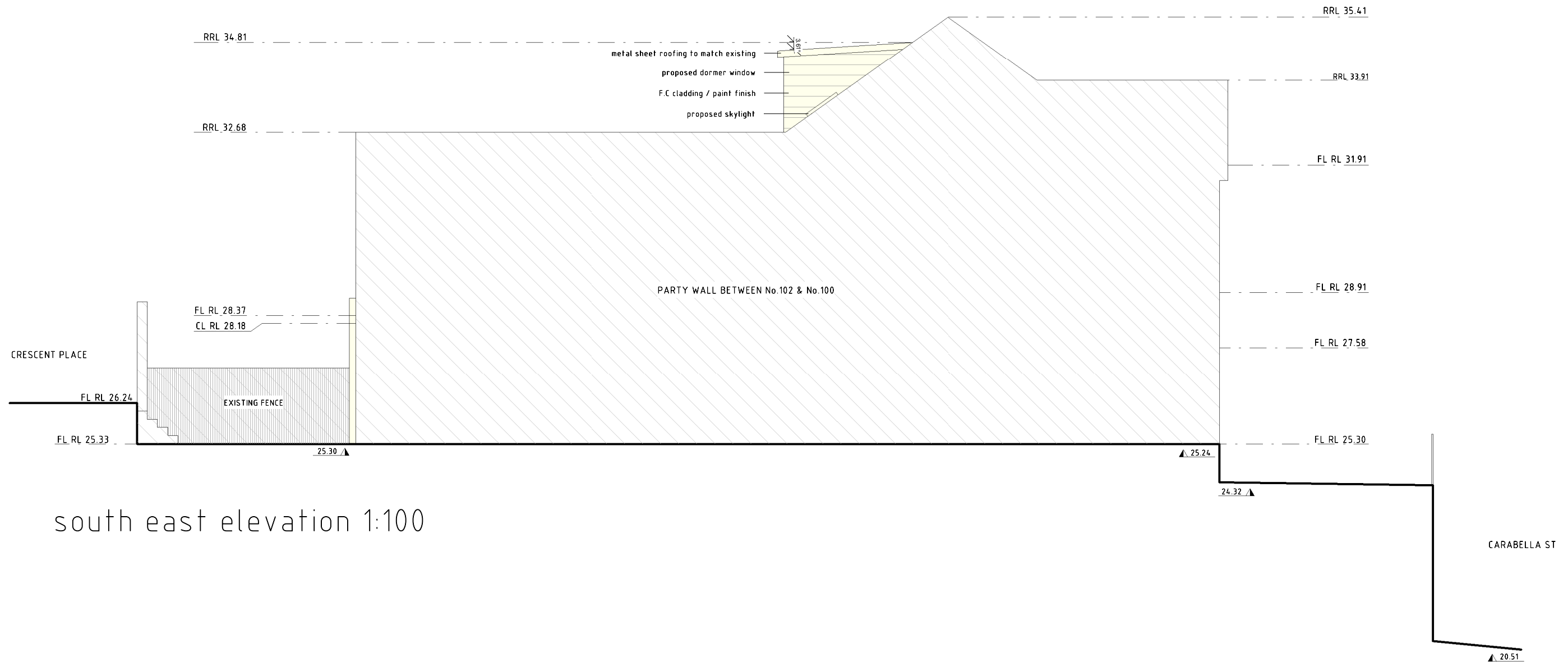
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lga scale drawn PN
North Sydney 1:200 h.s 102/21

project	102 Carabella Street, Kirribilli NSW 2060 Alterations & Additions
client	Mr.F.S
drawing	Site Plan / Site Analysis Plan
drawing no.	D.A-100
issue	A

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south east elevation 1:100

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issue	amendment	date
A	D.A	11/10/21

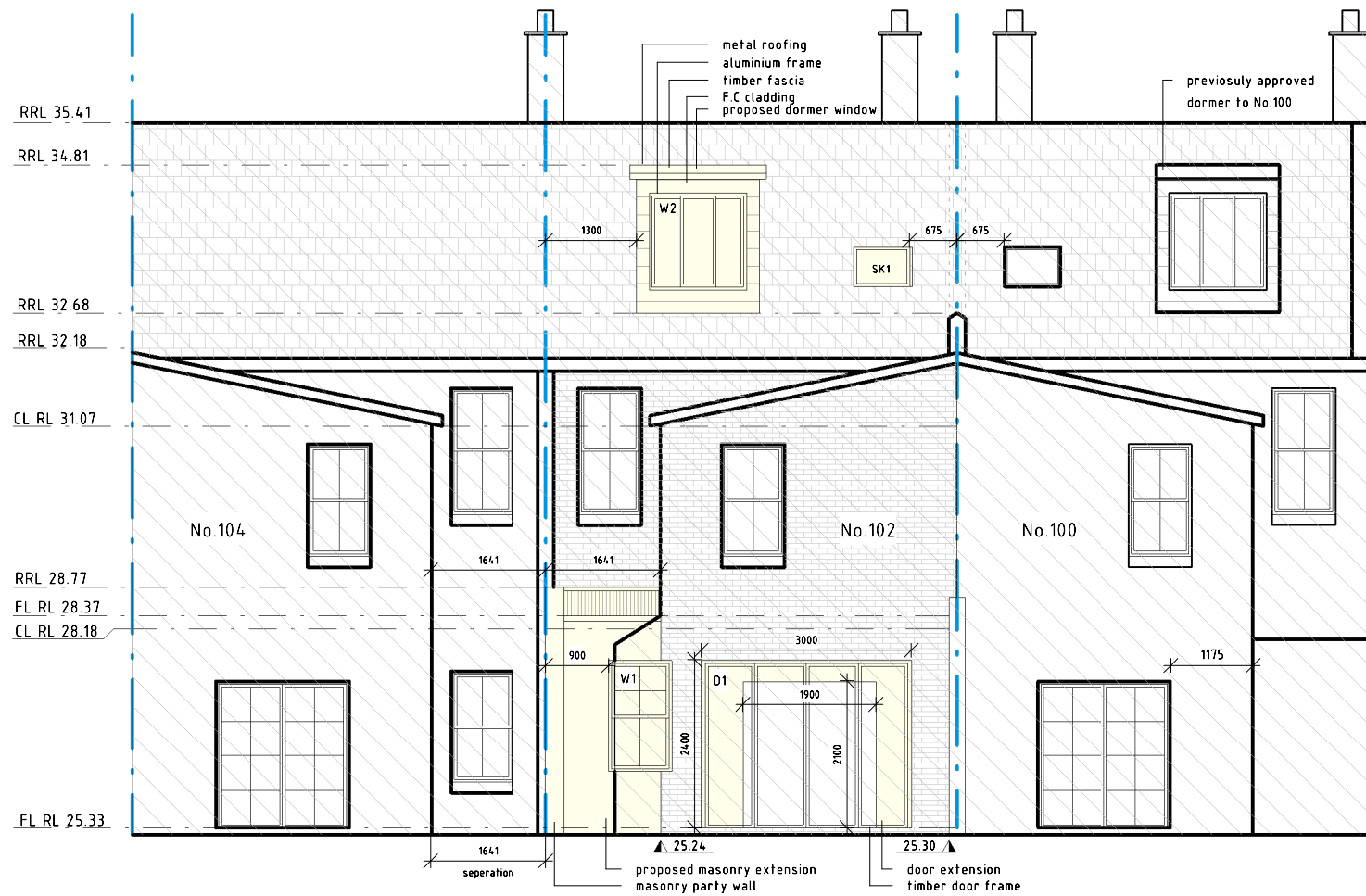
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lga North Sydney scale 1:100 drawn h.s PN 102/21

project 102 Carabella Street, Kirribilli NSW 2060
Alterations & Additions
client Mr.F.S
drawing South East Elevation
drawing no. D.A-107 issue A

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proposed south west elevation 1:100



existing north east elevation 1:100

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lga scale drawn PN
North Sydney 1:100 h.s 102/21

project	102 Carabella Street, Kirribilli NSW 2060 Alterations & Additions
client	Mr.F.S
drawing	South West & North East Elevations
drawing no.	D.A-104
issue	A

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existing north west elevation 1:100

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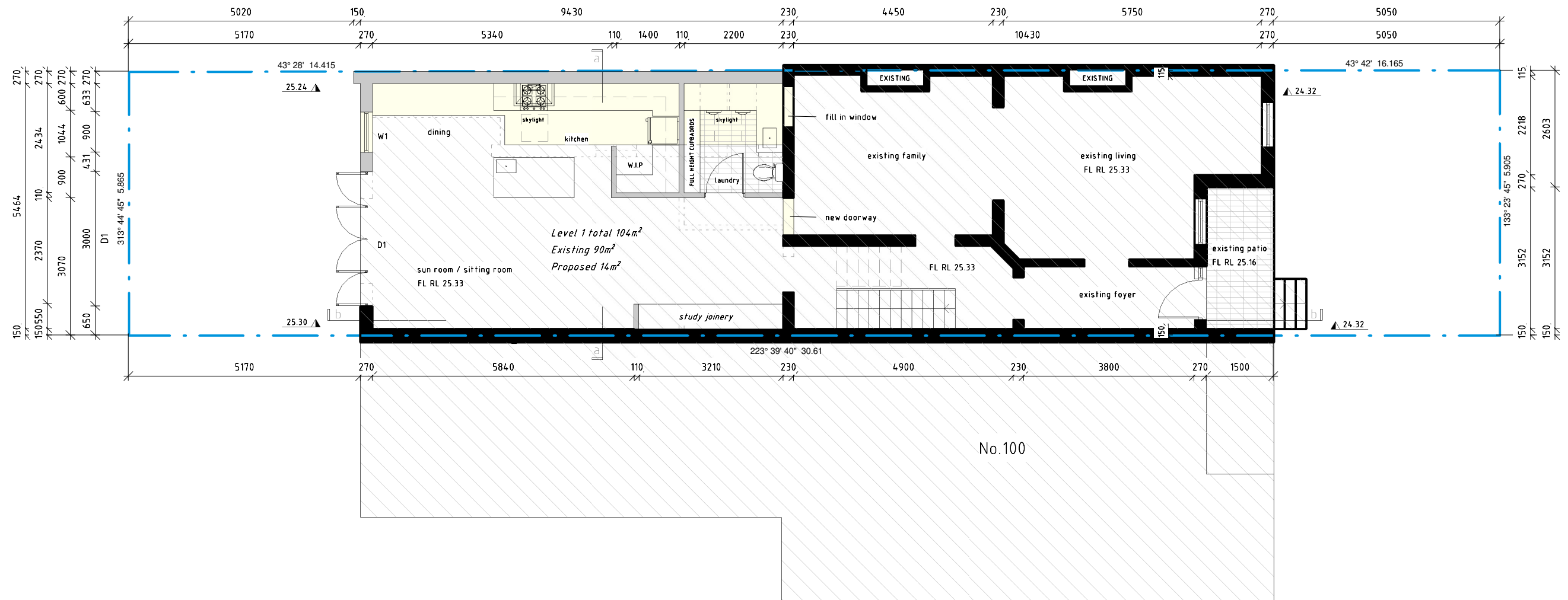
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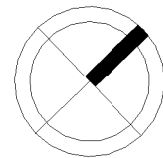
project	102 Carabella Street, Kirribilli NSW 2060	
	Alterations & Additions	
client	Mr.F.S	
drawing	Existing North West Elevation	
drawing no.	D.A-105	issue A

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proposed level 1 1:100



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lga North Sydney scale 1:100 drawn h.s PN 102/21

project 102 Carabella Street, Kirribilli NSW 2060
Alterations & Additions

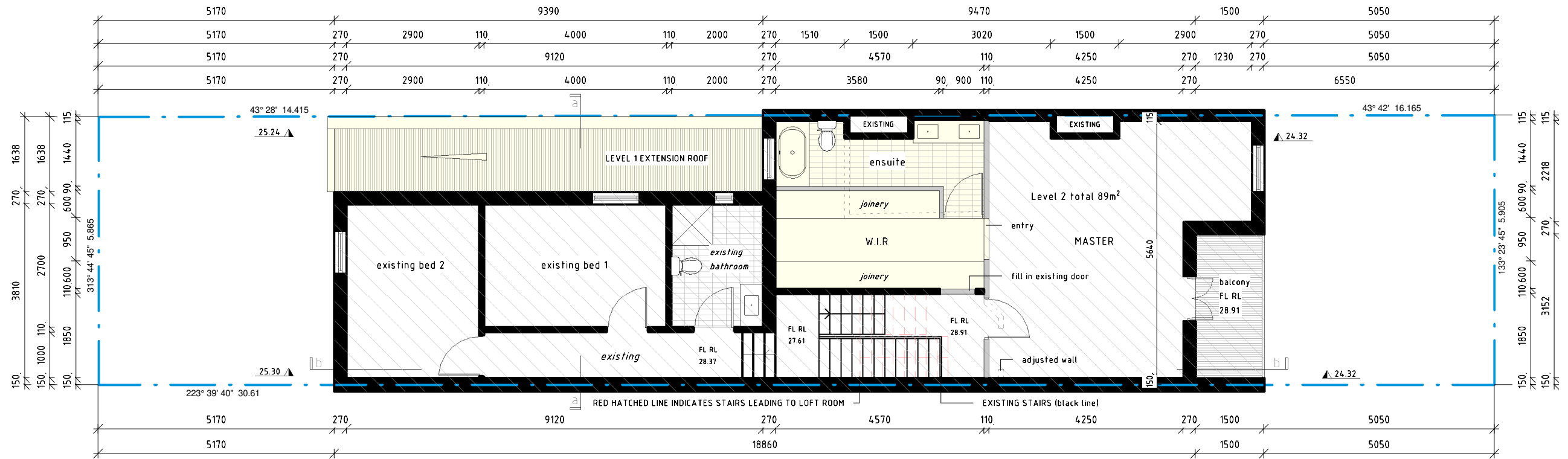
client Mr.F.S

drawing Level 1 - Floor Plan

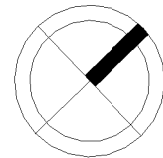
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proposed level 2 1:100



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issue	amendment	date
A	D.A	11/10/21

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lga scale drawn PN
North Sydney 1:100 h.s 102/21

project 102 Carabella Street, Kirribilli NSW 2060
Alterations & Additions

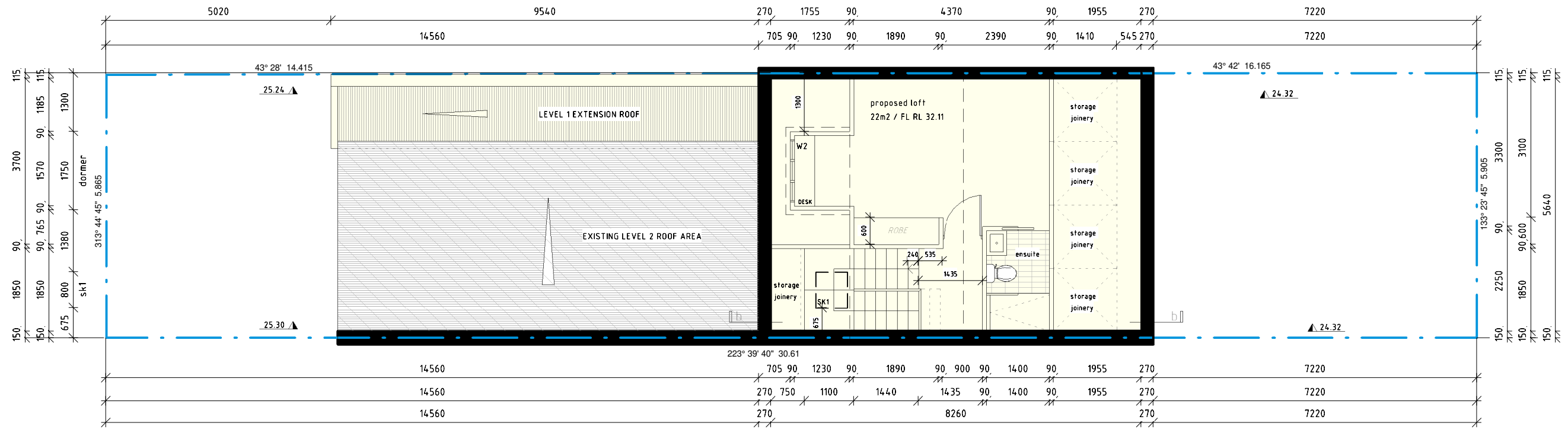
client Mr.F.S

drawing Level 2 - Floor Plan

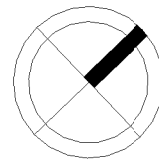
drawing no. D.A-102 issue A

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proposed level 3 1:100



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lga North Sydney scale 1:100 drawn h.s PN 102/21

project 102 Carabella Street, Kirribilli NSW 2060
Alterations & Additions

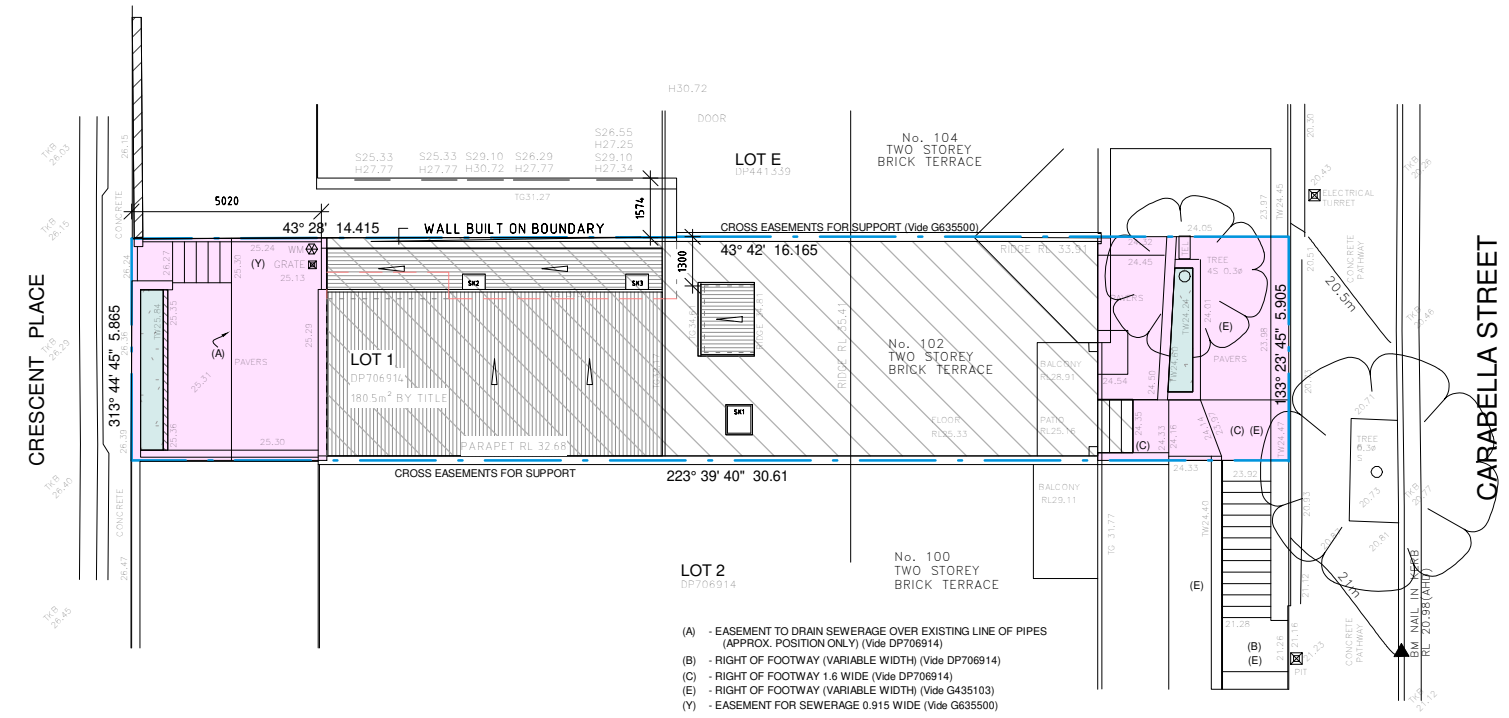
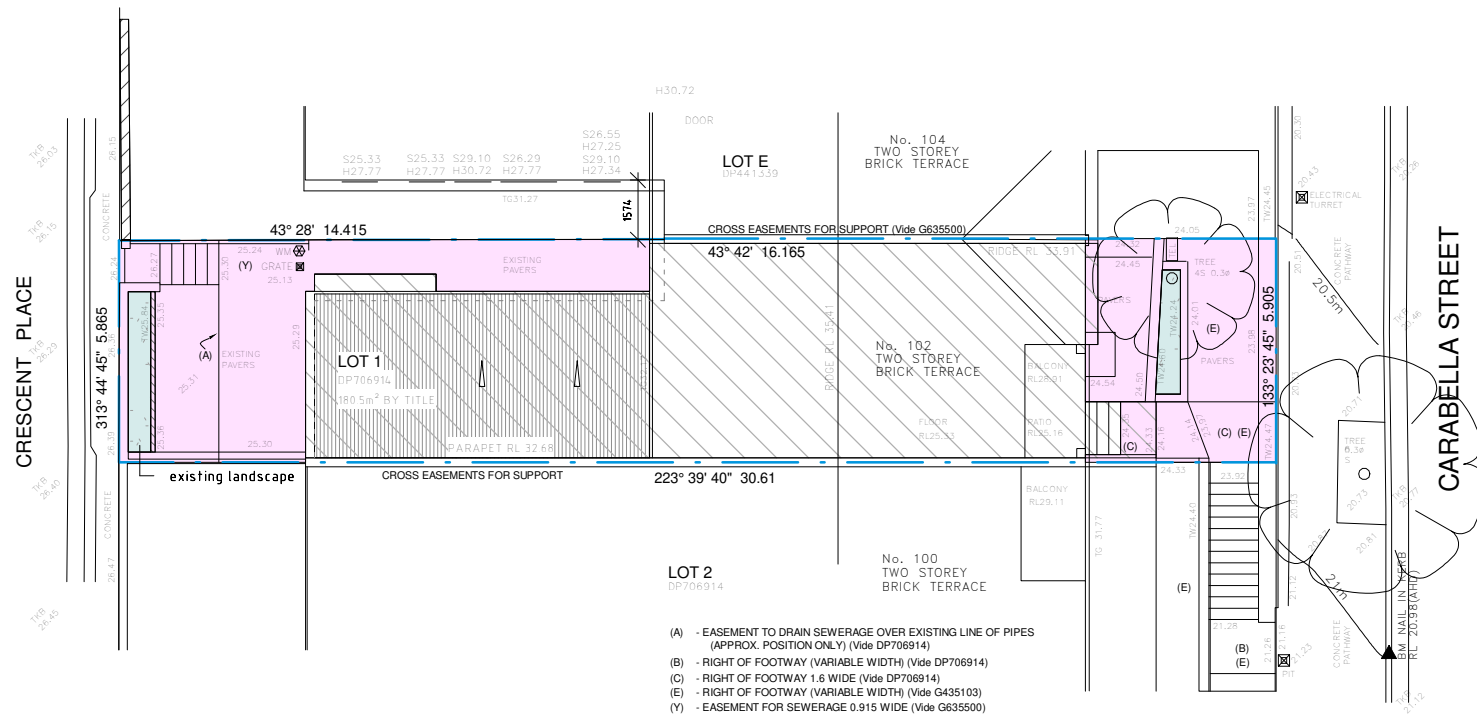
client Mr.F.S

drawing Level 3 - Floor Plan

drawing no. D.A-103 issue A

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compliance diagram existing 1:200

Site Data

- Lot Area 180.5m²
- Site Coverage Allowed 60% = 108.3m²
- Site Coverage Existing = 112.5m² - Non-Compliant
- Landscape Area Existing = 4.35m² - Non-Compliant
- Unbuilt Area = 63.65m²

compliance diagram proposed 1:200

Site Data

- Lot Area 180.5m²
- Site Coverage Allowed 60% = 108.3m²
- Site Coverage Existing = 112.5m² OVER
- Site Coverage Proposed = 8m²
- Site Coverage Total 66.7% = 120.5m² - Non-Compliant
- Landscaping Existing = 4.35m² - Non-Compliant
- Landscaping Proposed = 4.35m² - None-Compliant
- Unbuilt Area = 55.65m² (Reduced 8m²)

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issue	amendment	date
A	D.A	11/10/21



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lga scale drawn PN
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project	102 Carabella Street, Kirribilli NSW 2060 Alterations & Additions
client	Mr.F.S
drawing	Compliance Diagram Existing & Proposed
drawing no.	D.A-110
issue	A

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APPENDIX 2 – Clause 4.6 request for variation – Height of Buildings

This request has been prepared as the Applicant's Written Request for Variation to a Development Standard and is made in accordance with the provisions of clause 4.6 of the *North Sydney Local Environmental Plan 2014 (NSLEP 2013)*.

The Request for Variation is made in respect of a Development Application for the construction of alterations and additions to an existing attached dwelling.

Background and Development Description

This Development Application seeks development consent for the:

- minor demolition and site preparation works;
- alterations and additions to the ground floor, 1st floor and 2nd floor (attic room) of an item of heritage significance, located within a heritage conservation area; and,
- construction of a dormer window on the rear roof plane (facing Crescent Place) to serve the 3rd floor level (attic room).

This proposal relates to Lot 1, DP706914, 102 Carabella Street, Kirribilli NSW 2061.

The subject site has two street frontages and is situated on the southwestern side of Carabella Street and extends through to the northeastern side of Crescent Place. The site comprises one (1) lot. The site is located within the residential precinct of Kirribilli and is approximately 250m east of the commercial and shopping part of Kirribilli, which includes a passenger train station. Kirribilli sits immediately adjoining the CBD of North Sydney and is served by rail, bus routes and also harbour ferry services.

The Carabella Street frontage is 5.905 metres, with frontage of 5.865 metres to Crescent Place. The northwestern boundary is approximately 30.58 metres in length with the southeastern boundary being 30.61 metres in length. The total site area is 180.5 sqm (by title).

The development proposal has been designed to facilitate minor alterations and additions to the existing dwelling, mindful of the heritage status of the building and the locality wherein the site is located. Setbacks of the proposed development while not strictly compliant with the applicable development controls, provides for an appropriate response to site constraints by providing a building envelope that virtually remains unchanged with the ground floor extension to the side boundary and the dormer window serving the new attic room being the exceptions. The additions and alterations are minor and are timely in that the neighbouring dwelling at 100 Carabella Street has undergone a similar approval process for a comparable outcome.

This proposal will see the addition of a 3rd floor level 'attic room' utilising the existing roof space and will integrate a dormer window to be located on the rear roof plane which faces the rear southwestern boundary to Crescent Place. A summary of the proposed alterations and additions is provided following:

GROUND FLOOR (LEVEL 1)

North western side addition with new wall to be erected up to side boundary with internal alterations for dining room, kitchen, sunroom/sitting room and laundry. The south western (rear) elevation has new multiple glazed doors and a new window

1ST FLOOR (LEVEL 2)

Internal alterations to form a new walk-in-robe, and ensuite (serving the master bedroom) New walls to be built with accompanying joinery, new stairwell leading to proposed third floor/loft area and ensuite to be built.

2ND FLOOR (LEVEL 3)

New 'attic room' to be constructed complete with stairs, ensuite, accompanying joinery, skylight and dormer window.

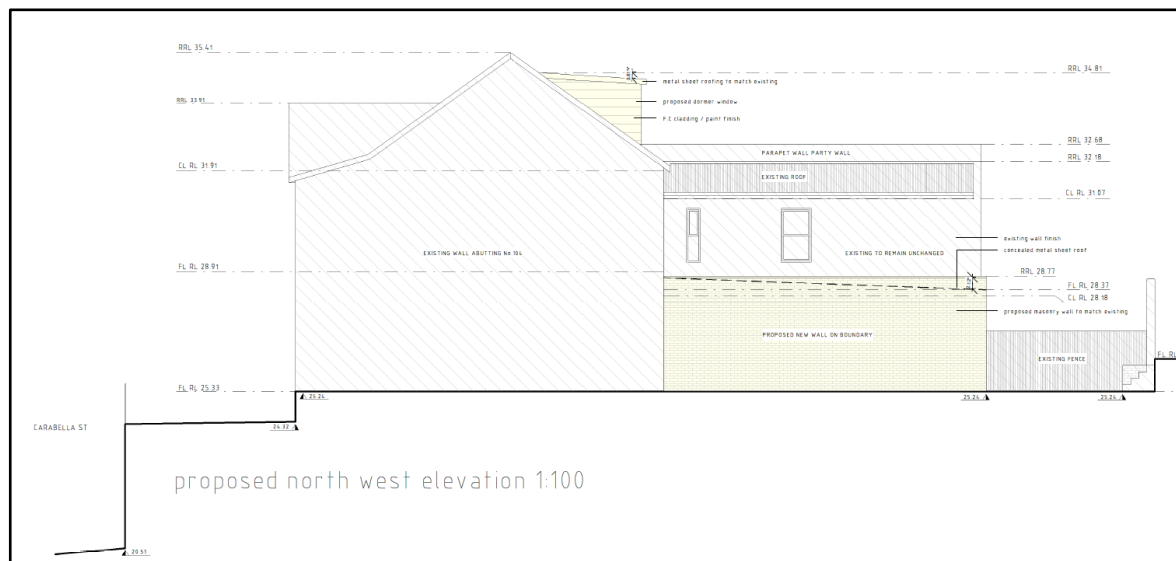


Figure 1: Ground floor addition and attic room dormer window – Northwest elevation

Purpose of Request

This Clause 4.6 variation has been submitted to assess the proposed non-compliance with the Height of Buildings (HOB) standard provided under Clause 4.3 of the NSLEP2013. A maximum HOB of 8.5 metres is applicable to the site.

The proposed development proposes a dormer window built element which by interpolation exceeds the maximum permissible building height of 8.5m:

- measuring conservatively the building height is RRL 34.81 at the highest point of the dormer structure to RL 24.32 (ground level (existing), which measures 10.49m
- notably the highest part of the dormer structure is 600mm below the primary ridgeline of the dwelling which runs between the gable ends at the side boundaries.
- The dormer structure is sited in the middle of the primary roof form which is also central in the width of the site.
- Development to the rear of the site is generally upslope and will not read any roof height increase for the site noting the dormer is on the rear roof plane and 600mm below the ridgeline.

The dormer window roof structure represents an exceedance in height of 1.99 metres.

Figures within this request provide a visual interpretation of the maximum building height proposed.

The Request for Variation has been generally set out in accordance with the structure recommended by the Department of Planning in its publication entitled *Varying Development Standards – A Guide*.

In brief terms, this variation request says that:

- The reason for exceedance building height can be directly attributed to the dormer window roof structure which sits 600mm below the existing dwelling, which was erected in 1902, well before the implementation of the 8.5m height of buildings development standard.
- The extent of proposed non-compliance is not so significant as to have any demonstrable impacts on the desired future character of the area in relation to building bulk, form and scale.
- The proposed development is consistent with the desired future character of the area in relation to the building form and scale as expressed in the North Sydney DCP.
- The portion over height standard does not create additional unacceptable overshadowing above the existing dwelling.

The proposed HOB is in the public interest because it is consistent and compatible with:

- the objectives of the HOB development standard;
- the objectives for development within the Kiribilli residential precinct, and the heritage conservation area in which the development is proposed to be carried out; and,
- permitting the non-compliance with the height of building standard delivers a superior built form compatible with the adjoining and surrounding heritage developments.

Requiring strict compliance with the HOB development standard is unreasonable in the circumstances of the case. This is because:

- the objectives of both the zone and standard are achieved notwithstanding non-compliance with the standard; and
- There are sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6 Request for Variation

Clause 4.6 of NSLEP 2013 allows for variation to development standards. Components of Clause 4.6 relevant to the preparation of a Request for Variation are:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows—

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks 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 development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large

Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 4.3 in relation to land identified as "Area 1" on the [Special Provisions Area Map](#), other than subject land within the meaning of clause 6.19C,

(cab) clause 4.4, 5.6 or 6.19C in relation to land identified as "Area 1" on the [Special Provisions Area Map](#),

(cb) clause 6.3(2)(a) and (b),

(cba) clause 6.19A,

(cc) clause 6.20.

(8A) (Repealed)

Clause 4.3 is not identified as being excluded from the operation of clause 4.6. Therefore a request to vary the development standard may be made by the applicant.

What is the name of the environmental Planning instrument that applies to the land?

North Sydney Local Environmental Plan 2013.

What is the zoning of the Land?

The subject site is zoned R2 Low Density Residential.

What Are the objectives of the zone?

The objectives of the R2 Low Density Residential zone are:

1 Objectives of zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposed development is entirely consistent with the relevant R2 zone objectives. That is, with respect to this proposal includes minor alterations and additions to an existing attached dwelling (terrace/row house) extending the lifespan of the heritage dwelling whilst satisfying the heritage character of the locality. The dwelling will remain a key heritage item in the area and will ensure the integrity of the heritage conservation area is maintained through sensitive design and appropriate built form for the additions and alterations. The development does not likely increase traffic generation and will not give rise to conflict with the desired pedestrian environment.

What Is The Development Standard Being Varied?

The subject Request for Variation relates to the maximum height of building standard pursuant to clause 4.3(2) of the NSLEP2013. Therefore, the proposed development seeks exception to the 8.5m HOB standard.

What are the objectives of the Development Standard?

The height of building development standard is detailed in clause 4.3 Height of buildings.

(1) *The objectives of this clause are as follows—*

(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

(b) to promote the retention and, if appropriate, sharing of existing views,

(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

(e) to ensure compatibility between development, particularly at zone boundaries,

(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,

(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

(2A)–(2C) (Repealed)

The development proposal is consistent with the development standard objectives and the extent of the height breach is noted however does not detract from the appearance and the elevations of the existing dwelling(s). The alterations and additions are considered to satisfactorily address the objectives.

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances

With respect to the objectives of the development standard it is argued that this proposal satisfies the objectives. That is, the proposal:

- is designed to be compatible with the character of the locality. The built form has been guided by the heritage advice and expert design input that has informed the proposed building envelope which has resulted in a proposed built form that is sympathetic to the heritage values of the item in its context;

- does not impact on views nor does the built form cause unreasonable levels of overshadowing to adjoining or surrounding premises;
- is a vastly superior built form outcome over that which is approved.

What Is the Numeric Value of the Development Standard in the Environmental Planning Instrument?

Clause 4.3 prescribes a maximum HOB of **8.5 m (R2 zone)** by reference to the HOB map.

What Is The Numeric Value Of The Development Standard In The Development Application?

The maximum height proposed at the dormer window roof element is 10.49m when measured from existing ground level below the highest part of the dormer built form. This exceeds the building height from 1.99 metres, above the maximum permitted height of buildings. The variation of exceedance is principally due to the existing height of the roof form of the dwelling which has a ridge line running from side boundary to side boundary and forms part of the group of attached dwellings in Carabella Street. Notably these dwellings were constructed in the early 1900's and predated the Council's height of building standard. The new dormer roof element is 600mm lower than the existing roof ridgeline. Having regard to the configuration of the roof, the dormer's location presents no appreciable adverse outcome to adjoining or surrounding neighbouring development with regard to view impact, overshadowing or bulk and appearance. The dormer window roof element is compatible with the character of the dwelling and neighbouring dwellings.

What is the percentage variation between the proposal and the environmental planning instrument?

The proposed maximum building height exceedance is within an R2 zone with a HOB standard of 8.5 metres. The existing height of the dwelling roof is some 600mm higher than the minor dormer window built form proposed exceeding the HOB standard by 1.99 metres representing a per cent exceedance of 23.4%. The existing ridge line exceeds the 8.5m HOB by 2.59 metres representing a per cent exceedance of 30.4%

Whilst the NSW Department of Planning and Environment includes a requirement to identify the percentage variation in its *Guide to Varying Development Standards* there are a

number of case law examples that demonstrate that there is no constraint on the degree to which a consent authority may depart from a numerical standard.

The following examples relate to Floor Space Ratio and Height of Buildings development standards and assist in demonstrating that the degree of exceedance alone is not determinative in assessment of a Request for Variation to a development standard.

Clause 4.6 of the LEP is in similar terms to SEPP 1. Relevantly, like SEPP 1, there are no provisions that make necessary for a consent authority to decide whether the variation is minor. This makes the Court of Appeal's decision in *Legal and General Life* equally applicable to clause 4.6. This means that there is no constraint on the degree to which a consent authority may depart from a numerical standard.

Some examples that illustrate the wide range of commonplace numerical variations to development standards under clause 4.6 (as it appears in the Standard Instrument) are as follows:

- (a) In *Baker Kavanagh Architects v Sydney City Council* [2014] NSWLEC 1003 the Land and Environment Court granted a development consent for a three storey shop top housing development in Woolloomooloo. In this decision, the Court, approved a **floor space ratio variation of 187 per cent**.
- (b) In *Amarino Pty Ltd v Liverpool City Council* [2017] NSWLEC 1035 the Land and Environment Court granted development consent to a mixed use development on the basis of a clause 4.6 request that sought a **38 per cent height exceedance over a 15-metre building height standard**.
- (c) In *Auswin TWT Development Pty Ltd v Council of the City of Sydney* [2015] NSWLEC 1273 the Land and Environment Court granted development consent for a mixed use development on the basis of a clause 4.6 request that sought a **28 per cent height exceedance over a 22-metre building height standard**.
- (d) In *Season Group Pty Ltd v Council of the City of Sydney* [2016] NSWLEC 1354 the Land and Environment Court granted development consent for a mixed use development on the basis of a clause 4.6 request that sought a **21 per cent height exceedance over a 18-metre building height standard**.

In short, clause 4.6 is a performance-based control so it is possible (and not uncommon) for large variations to be approved in the right circumstances.

How is strict compliance with the development unreasonable or unnecessary in this particular case?

The matter of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (21 December 2007) sets out five ways in which strict compliance with a development standard can be demonstrated to be unreasonable or unnecessary in the circumstances of the case.

The 5 ways are:

1. *if the proposed development proffers an alternative means of achieving the [development standard] objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served);*
2. *the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary*
3. *the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable*
4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable*
5. *"the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Compliance with a development standard might be shown as unreasonable or unnecessary in circumstances where the development achieves the objectives of the development standard, notwithstanding non-compliance with the development standard. Demonstrating that the development achieves the objectives of the development standard involves identification of what are the objectives of the development standard and establishing that those objectives are in fact achieved.

Strict compliance with the HOB development standard is considered to be unreasonable and unnecessary in the circumstances of the case for the following reasons:

The proposal achieves the objectives of the Zone.

As detailed above, this proposal achieves the objectives of the zone. That is, with respect to this proposal it includes minor alterations and additions to an existing attached dwelling (terrace/row house) extending the lifespan of the heritage dwelling whilst satisfying the heritage character of the locality. This proposal is compatible with the existing and future development in the locality. The proposed development is entirely consistent with the relevant R2 zone objectives. The dwelling will remain a key heritage item in the area and will ensure the integrity of the heritage conservation area is maintained through sensitive design and appropriate built form for the additions and alterations. The development does not likely increase traffic generation and will not give rise to conflict with the desired pedestrian environment. The development composition and configuration will aid in providing broader housing choice for the local community.

The proposal achieves the objective of clause 4.3

As detailed above, this proposal achieves the objectives of the development standard. That is, the proposal has been designed to be compatible with the character of the locality. The built form has been guided by the expert design and heritage input that establishes a building envelope that enables the delivery of an elegant building while ensuring that the item of heritage significance is integrated within the development. Furthermore, the amenity of adjoining premises has been considered in the design process ensuring that this proposal does not impact on views nor does the built form cause unreasonable levels of overshadowing to adjoining premises.

The proposal has been designed to improve upon an existing development consent to deliver a high quality coastal development with extensive areas of open space, a portion of which will be publicly accessible.

Sufficient environmental planning grounds to justify contravening the development standard

The term "environmental planning grounds" is not defined in GLLEP2014 nor any other environmental planning instrument. It is also not defined in the Department of Planning's Guide to Varying Development Standards

Nevertheless, given that demonstration of sufficient environmental planning grounds is a separate test under clause 4.6(3) to the test of "unreasonable or unnecessary in the circumstances of the case"; and that case law relevant to SEPP 1 such as *Wehbe v Pittwater Council* [2007] NSWLEC 827 (21 December 2007) and *Winten Property v North Sydney* (2001) 130 LGERA 79 deal with demonstration of "unreasonable and unnecessary in the circumstances of the case", it must therefore be concluded that "environmental planning grounds" are a different test which cannot necessarily rely on the same methodology as laid down in SEPP 1 relevant Court decisions.

The matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (30 January 2015) provides some helpful guidance on the subject of "environmental planning grounds", however it is in fact limited to defining some factors which are not environmental planning grounds. Paragraph 60 of Commissioner Pearson's decision states:

*The environmental planning grounds identified in the written request are the public benefits arising from the additional housing and employment opportunities that would be delivered by the development, noting (at p 5) the close proximity to Ashfield railway station, major regional road networks and the Ashfield town centre; access to areas of employment, educational facilities, entertainment and open space; provision of increased employment opportunities through the ground floor retail/business space; and an increase in the available housing stock. I accept that the proposed development would provide those public benefits, however any development for a mixed use development on this site would provide those benefits, as would any similar development on any of the sites on Liverpool Road in the vicinity of the subject site that are also in the B4 zone. **These grounds are not particular to the circumstances of this proposed development on this site.** To accept a departure from the development standard in that context would not promote the proper and orderly development of land as contemplated by the controls applicable to the B4 zoned land, which is an objective of the Act (s 5(a)(ii)) and*

which it can be assumed is within the scope of the "environmental planning grounds" referred to in cl 4.6(4)(a)(i) of the LEP. (emphasis added)

30. On Appeal in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (3 June 2015), the Court considered whether the Commissioner had erred in law in confining environmental planning grounds to those particular to a site or proposed development. The Court held at [29] and [30] that this was a matter which the Commissioner was entitled to consider in her exercising of discretion:

Turning to the first ground of appeal, it refers to a finding of the Commissioner at [60] in relation to the environmental planning grounds identified in the written request, as required by cl 4.6(3)(b). The Commissioner concluded that the grounds referred to were not particular to the circumstances of the proposed development on the particular site. Firstly, it is debatable that this ground of appeal couched as the misconstruction of subclause (4)(a)(i) does identify a question of law. The Commissioner's finding, that the grounds relied on in the written report were not particular to the circumstances of the proposed development on this particular site, is one of fact. That informed her finding of whether the grounds put forward were sufficient environmental planning grounds.

To the extent the issue raised can be described as a question of mixed fact and law, the Commissioner is exercising a discretion under subclause (4)(a)(i) in relation to the written report where the terms in subclause (3)(b) of sufficient environmental planning grounds are not defined and have wide import,

From this we interpret that particular circumstances of the site or development is an appropriate (although not exclusive) filter through which to view the sufficiency of environmental planning grounds.

In the absence of a legislative or other definition we adopt a definition for "environmental planning grounds" as 'any matter arising from consideration of either Section 4.15 of the EP&A Act 1979 or its Objectives which in the circumstances of the particular development on the particular site, warrants variation from the development standard'.

Based on that methodology, the environmental planning grounds which support variation to the HOB standard in this instance are:

Environmental Planning Ground 1 – Heritage Conservation

This proposal responds to the desire to modify and conserve an item of heritage significance which results in an inflexibility in floor plan at ground level. This proposal is supported by detailed heritage impact assessment and has been devised with the benefit of heritage architectural input and demonstrates that with sensitive building design the item of heritage significance can be altered and added to. The design of this proposal, including the submitted Statement of Heritage Impact demonstrates that the proposed development will not adversely affect the item of heritage significance and conversely, will facilitate the conservation and enhancement of a heritage item which, contributes item in the heritage

conservation area. This proposal is supported by a Statement of Heritage Impact and works will occur as an integral part of the redevelopment of the subject site.

The applicant is committed to the carrying out of all defined conservation works and the Council is able to impose the necessary conditions of development consent requiring the satisfactory completion of works. However, it must be acknowledged that conserving heritage requires significant building refurbishment works at considerable cost. Permitting the additional height as proposed is considered to be a reasonable offset.

Environmental Planning Ground 2 – Negligible amenity or visual impacts

Numerically, the HOB exceedance is not considered excessive or unreasonable in the context of the site or surrounding locality. This is especially the case given that the existing dwelling and adjoining attached dwellings on neighbouring sites already exceeds the permitted HOB standard. It is argued that the exceedance in height does not cause impact and satisfies the objectives of the standard. As such, it is considered that the particular design delivers appropriate and sufficient environmental planning grounds to support the additional HOB which is proposed.

Environmental Planning Ground 3 – Street Character

The proposed development represents an excellent design outcome. The particular design, in the context of this particular site means that the excess HOB is not perceived from the public domain and therefore does not have any adverse impact on the streetscape or urban form otherwise anticipated by the controls.

Furthermore, the environmental planning grounds which support variation to the standard in this instance are that the particular design in the context of this particular site means that the non-complying building height is not obvious and therefore does not have adverse effects on the streetscape or urban form otherwise anticipated by the controls. The HOB exceedance allows for the achievement of each of the zone and HOB objectives.

Public Interest

The proposed development will be in the public interest because it is consistent with the objectives of clause 4.3 and the objectives of the zone. As the Court recently reminded in *Initial Action* (2018) at [26] – [27], this is what is required, rather than broad statements about general 'public interest' considerations at large.

The arguments outlined earlier in relation to consistency with clause 4.3, R2 zone objectives of the NSLEP 2013 are relied upon as detailed above.

Secretary's Concurrence

It is understood that the Secretary's concurrence under clause 4.6(4) of NSLEP 2013 has been delegated to Council. Nevertheless, Council may wish to consider the concurrence requirements, being:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

In this matter, for the reasons outlined above – and particularly having regard to the minimal adverse amenity impacts stemming from the non-compliance – there is nothing about this proposed variation that raises any matter of significance for State or regional environmental planning, nor is there any broad public benefit in maintaining the development standard on this site. There are no other relevant matters required to be taken into consideration before granting concurrence.

Conclusion

For the reasons outlined above, the objection to Clause 4.3 of NSLEP 2013 is considered well-founded on the basis that the development in fact demonstrates achievement of the objectives of the development standard and the objectives of the R2 zone. In this regard, strict compliance with the development standard is considered unreasonable or unnecessary, particularly noting the following:

- the proposed development appropriately respects heritage conservation and will facilitate the enhancement and retention (building lifespan extension) of a heritage item, thereby satisfying the conservation incentives in cl. 5.10(10);
- there are no unreasonable impacts associated with the proposed development with respect to overshadowing, amenity and privacy concerns;
- the proposed development is consistent with the existing and future character of the area in relation to the building bulk, form and scale; and,
- the proposed development is a superior outcome when compared to the existing dwelling construction affording greater amenity for the dwelling occupants.

As demonstrated within this submission and the Architectural plans, the overall massing, scale, bulk and height of the proposed development is considered appropriate to the locality.

Council can be satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and that there are

sufficient environmental planning grounds to justify contravening the development standards.

It is therefore requested that the Council not withhold development consent for the proposed development due to a noncompliance with the HOB development standard.

HERITAGE IMPACT STATEMENT



No. 102 Carabella Street, Kirribilli

October 2021 | J5237

**Weir
Phillips**
Heritage
and Planning

Level 19, 100 William Street, Sydney, NSW 2011
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1.0 INTRODUCTION

1.1 Preamble

This Heritage Impact Statement (HIS) has been prepared in conjunction with a Development Application for alterations and additions to an existing dwelling at No. 102 Carabella Street, Kirribilli, New South Wales.

The site is located within the Municipality of North Sydney. The principal planning control for the site is the *North Sydney Local Environmental Plan 2013 (North Sydney LEP 2013)*. The site is listed as a heritage item by Schedule 5 Part 1 of the *North Sydney LEP 2013*. It is also located within the vicinity of a number of heritage items identified by this schedule. The site is also located within the Careening Cove Heritage Conservation Area as defined by Schedule 5 Part 2 of the *North Sydney LEP 2013*. Under Part 5.10 of the *North Sydney LEP 2013*:

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
 - (b) on land that is within a heritage conservation area, or
 - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The appropriate heritage management document in this instance is a Heritage Impact Statement (HIS).

This statement has been prepared at the request of the owners of the site and accompanies plans prepared by GVP Design Studio.

1.2 Authorship

This statement has been prepared by Peter Duggan, B.Sc.(Arch), B.Arch(Hons), M.Herit.Cons, and James Phillips, B.Sc.(Arch), B.Arch, M.Herit.Cons.(Hons), of Weir Phillips Heritage and Planning.

1.3 Limitations

A detailed history of the site and a full assessment of significance to NSW Heritage Division standards were not provided for. The history contained in this statement was compiled from readily available sources listed under Section 1.5 below.

An Aboriginal history and assessment was not provided for. No historical archaeology was carried out on the site.

1.4 Methodology

This HIS has been prepared with reference to the Heritage NSW publication *Statements of Heritage Impact* (2002 update) and with reference to the Council planning documents listed under Section 1.5 below. Site information was obtained from the architect and a desktop review using Google Maps and SIX Maps.

1.5 Documentary Evidence

1.5.1 General References

- Attenbrow, Val, *Sydney's Aboriginal Past: investigating the archaeological and historical records*, NSW, University of New South Wales Press Ltd, 2002.
- Brodsky, Isadore, *North Sydney 1788-1962*, NSW, Municipal Council of North Sydney, 1963.
- Godden Mackay, *North Sydney Heritage Study*. Unpublished report for North Sydney Council, 1993. North Sydney Heritage Collection, Stanton Library.
- John Sands' Ltd, *John Sands, Sydney and Suburban Directories*, Sydney, John Sands' Ltd, various dates.
- North Sydney Council, *From Milson to Medium Density: A Walking Tour of Kirribilli*. Unpublished document. North Sydney Heritage Centre, Stanton Library.
- Russell, Eric, *The Opposite Shore: North Sydney and Its People*, NSW, North Shore Historical Society, 1990.

1.5.2 Historic Maps, Plans, Photographs

- (Aerial photograph over Kirribilli), 1943, maps.six.nsw.gov.au
- New South Wales Lands Department, *Sydney Metropolitan Detail Series, North Sydney, Section 7*, 1891. North Sydney Heritage Centre, Stanton Library.
- *Plan of the Parish of Willoughby, County of Cumberland*, undated. NSW LPI Parish Map Preservation Project.

1.5.3 Heritage Listing Sheets

- Careening Cove Heritage Conservation Area. State Heritage Database No.: 2186339.
- *House*, 29 Willoughby Street, Kirribilli. State Heritage Database No.: 2180147.
- *House*, 31 Willoughby Street, Kirribilli. State Heritage Database No.: 2181899.
- *House*, 100 Carabella Street, Kirribilli. State Heritage Database No.: 2180153.
- *House*, 102 Carabella Street, Kirribilli. State Heritage Database No.: 2181577.
- *House*, 104 Carabella Street, Kirribilli. State Heritage Database No.: 2181578.
- *House*, 106 Carabella Street, Kirribilli. State Heritage Database No.: 2181579.
- *House*, 108 Carabella Street, Kirribilli. State Heritage Database No.: 2181580.

1.5.4 Planning Documents

- *North Sydney Development Control Plan 2013*.
- *North Sydney Local Environmental Plan 2013*.

1.6 Site Location

No. 102 Carabella Street, Kirribilli is located on the southwestern side of Carabella Street between Willoughby Street and Burton Street (Figure 1). The site is identified as Lot 1 of D.P. 706914.



Figure 1: The location of the subject site.
SIX Maps.

2.0 HISTORICAL DEVELOPMENT

2.1 Original Occupation

While an Aboriginal history has not been provided for, it is acknowledged that the northern shores of Sydney Harbour were inhabited by a number of Aboriginal groups at the time of the arrival of the First Fleet in 1788. The Cammeragal and the Wallumedegal, part of the larger Kuring-gai speaking group, who occupied an area from North Head inland to the Hawkesbury River and north to Lake Macquarie, are recognised as the original occupants of the present-day North Sydney Municipality.

2.2 The North Shore of Sydney Harbour

The township of Sydney was established on the southern side of Sydney Harbour in January 1788. All land was declared to be Crown Land. In his *An Account of the English Colony in New South Wales*, published at the end of the eighteenth century, David Collins refers to the North Shore of Sydney Harbour, a designation that remains to this day. From 16 January 1793, successive colonial governors granted land outside the township boundaries in order to further the purposes of settlement. The northern shores of Sydney Harbour were located well outside the first township boundaries.

Beyond use for timber getting and the collection of shells for lime, the North Shore was largely ignored by the first European settlers until a series of small land grants were made in the mid-1790s. Most of these grants were not taken up, but were traded or abandoned for better land elsewhere. Further land grants were made after 1800. Whether occupied or not, most of the land within the present-day North Sydney Council area had been granted by the end of the 1830s.

In early 1794 a grant of 30 acres was made to the emancipist Samuel Lightfoot. The exact location of the grant is not known; Lightfoot's Farm is described as 'laying and situate on the north side of the harbour of Port Jackson, opposite Sydney Cove'.¹ Lightfoot never occupied his grant, dispossessing himself of it by December 1794. The man thought to have obtained the grant was the noted Scottish political prisoner Thomas Muir (1765-99), who named it 'Huntershill' after his family's home on the outskirts of Glasgow.

¹ Cited in Isadore Brodsky, *North Sydney 1788-1962*, NSW, Municipal Council of North Sydney, 1963, p. 22

After Muir's successful escape from the colony in 1798, 'Huntershill' was included in a grant of 120 acres made to former marine and New South Wales Corps soldier Robert Ryan on 26 April, 1800:

'...one hundred acres of land laying and situate on the North side of the Harbour opposite Sydney Cove, the said one hundred and twenty acres of land to be known by the name of Hunters Hill...'²

A memo attached to the 1800 grant records that 90 acres of the subject grant were made in fulfilment of this entitlement; the other 30 were the 'grant of Saml. Lightfoot's, which was purchased by the present proprietor.'³ The subject property stands on part of this grant (Figure 2).

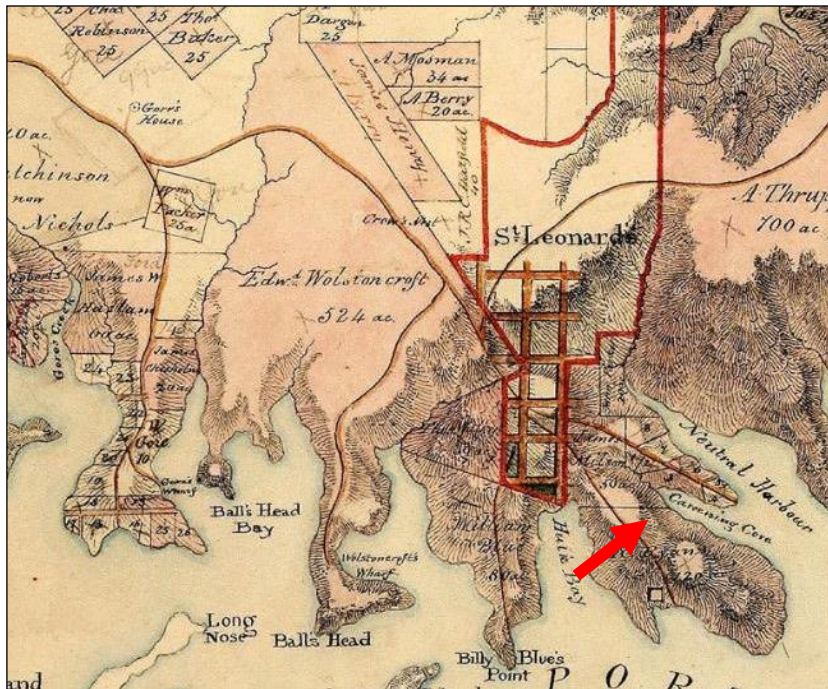


Figure 2: Detail an undated and unattributed plan of the Parish of Willoughby, County of Cumberland, NSW.
Parish Map Preservation Project.

Around 1806 Robert Ryan sold his land to Sydney merchant Robert Campbell, who was then the largest owner of cattle in the colony. Some years later, in 1822, Campbell leased the whole of his grant to James Milson, whose own grant adjoined the Campbell Estate to the north. As early as 1810 Milson was supplying ships with ballast from a quarry near Careening Cove, growing vegetables to supply the ships' crews, running stock and building a number of homes in the area.

In the mid 1830s there was a dispute between Milson and Campbell over ownership of the land. Campbell was eventually recognised as the owner, but without registered title, and Milson, the permissive occupant. He continued to lease a small portion of the land near the southern shoreline in the 1840s on which he planted an orchard.

² Grant under the hand of Governor John Hunter to Robert Ryan, dated 26 April, 1800. NSW LPI.

³ From grant signed under the hand of Governor John Hunter to Robert Ryan, dated 26 April, 1800.

In the late 1830s and early 1840s a number of marine villas were built in Kirribilli Point, some of the earliest included Wotonga (now Admiralty House), Beulah and Carabella, which was built in 1829 for William Shairp, a son-in-law of James Milson. James Milson also built dwellings in the area for himself and his family including Brisbane House, Wia Wia, Elamang and Coreena. It is thought Carabella is the original aboriginal name for Careening Cove. Further development of the area was slow due to the difficulties of obtaining access to Sydney and so the area 'largely attracted merchants and colonial administrators for the cleaner air and environment and proximity to Sydney.'⁴

It was also in this period that the greater development of the North Shore began. The first township on the North Shore, the Township of St Leonards, was declared in 1838. By 1846, the infant township boasted a population of just over 400 people and, by 1851, a population of 737 people.⁵

In September 1854, a second township for the northern shores of Sydney Harbour, North Sydney, was proclaimed and it was predicted that:

'...It is no Little Sydney but a North Sydney, a rival to the southern city intended to be a depot for the produce of the rich tracts of land to be opened up between it and the unexplored north of the County of Cumberland.'⁶

A real estate advertisement from March 1855 claimed that:

'...no town in New South Wales had progressed so rapidly as St. Leonards...(it is)...studded with first class mansions, shops, family houses, cottages and farms in all directions.'⁷

Growth during this period was steady, but slow. Residence on the North Shore at this time depended on being able to obtain local employment or upon having private means to cross the Harbour. Most services or goods required transport across the Harbour; with few licensed watermen, transport was almost exclusively by private means.

2.3 The Campbell Estate and the Growth of North Sydney

The period from 1860 to 1890 was one of general economic and urban expansion across Sydney. Between 1881 and 1895 the population of the North Shore grew from 7,000 people to 25,000 people, an increase brought about by the numerous subdivisions that occurred during these years and by improved transportation and services. The development of North Sydney received a significant boost when the North Shore Railway line, between Hornsby and St. Leonards, opened in January 1890. The line was extended to Milsons Point in 1893.

Sydney was divided into municipalities during this era. The area now the Municipality of North Sydney was initially divided into two, and later three, separate council areas. The first to be established was the Borough of East St. Leonards, declared in 1860; it would not be until 1868, however, that the first Council was elected. The Borough of St. Leonards was declared in 1867. Four years later, however, it split, creating the Borough of Victoria. The three boroughs would eventually combine to create the Municipality of North Sydney in 1890.

⁴ Cited in North Sydney Council, *From Milson to Medium Density: A Walking Tour of Kirribilli. Unpublished document.* North Sydney Heritage Centre, Stanton Library, p.2.

⁵ Cited in Bridges, Barry, *The Crows Nest Estate, 1821-1873*, 1996, p.20.

⁶ *Illustrated Sydney News* 2 September, 1854.

⁷ B. Bridges, *op cit.*, 1996, p.31.

Suburban development on the eastern peninsulas of the modern-day council area during the late Nineteenth Century was noticeably slower than elsewhere within the municipality. This was largely due to the fact that the Milson, Campbell and the Cooper families continued to hold large estates intact. No dwellings are shown in the vicinity of the subject site at the northern end of Carabella Street when it was surveyed as part of the NSW Lands Department's *Metropolitan Detail Series* in 1891 (Figure 3).

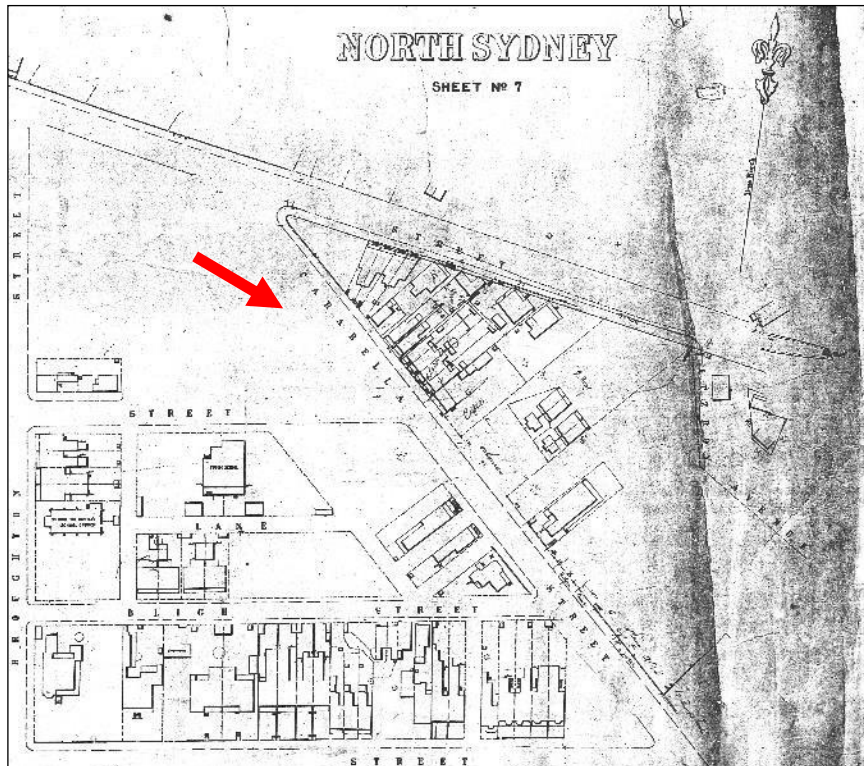


Figure 3: NSW Lands Department, *Sydney Metropolitan Detail Series*, North Sydney, Section 7, 1891 (Detail).
North Sydney Heritage Centre.

2.4 No. 102 Carabella Street and Kirribilli in the Twentieth Century

The first year the subject property at No. 102 Carabella Street can be identified in the *John Sands Sydney and Suburban Directories* is 1903 when the occupant is Mrs. K. Burfield. The property is listed by the name *Moree*. This suggests a construction date of 1902 or the immediate preceding years. A construction date of c. 1902 is consistent with the architectural style of the dwelling. Mrs. Everett would only remain at the property until 1906 when the dwelling was then occupied by George Nyman. In that year the property had been allocated and remains No. 102 Carabella Street. The occupants regularly change during the early Twentieth Century suggesting that the property was tenanted, rather than owner-occupied. The last published Sands Directory of 1932-33 lists the occupant as E. J. Paul.

Kirribilli Point continued to prosper in the early 1900s, with the *Residential Guide to Sydney and Suburbs* describing it as:

'a select rising suburb, situated on the Northern foreshores of Sydney Harbour. There are many handsome residences and fine streets, being of high elevation it commands perfect views of the harbour.'⁸

⁸ Cited in *North Sydney History Walk: From Milson to Medium Density*, Stanton Library, North Sydney Council, p.2.

Developers responded to the popularity of the area by building flats and boarding houses and one of the first of these buildings was erected in 1907 at 1 Waruda Street. Others followed during the next couple of decades and were often built on the sites of former large mansions. By the 1920s the density of the suburb was such that many were pleased to see parts of the suburb cleared for the erection of the Sydney Harbour Bridge, which began construction in 1924. However, this event impacted on the community by dramatically altering streetscapes and fracturing the neighbourhood. Over 400 buildings, many in Kirribilli and Milson's Point, were demolished to make way for the northern approach to the bridge.

By the early 1920s, North Sydney was approaching its limits with regard to suburban development. With the last major subdivision (in the Cammeray area) in the period surrounding World War I the essential character of each area was established. The population of the area reached 52,000 in 1925 and remained fairly stable for the following fifty years.⁹

No historic photographs of the subject property at street level have been located. Figure 4 provides an aerial photograph over Kirribilli from 1943 showing the subject site and the immediate surrounding area. The character of the area is well established by this time. Tree plantings to the street or to front and rear yards was not a dominant feature at this time. The roof form of the dwelling on the subject site, consisting of a gabled main roof with a street facing gable and a lower gable roof to the rear wing is still extant. Visible in this image on the northern approach to the Sydney Harbour Bridge is the original tram platform and line which was later replaced in 1958 with two lanes of traffic for the Cahill Expressway.

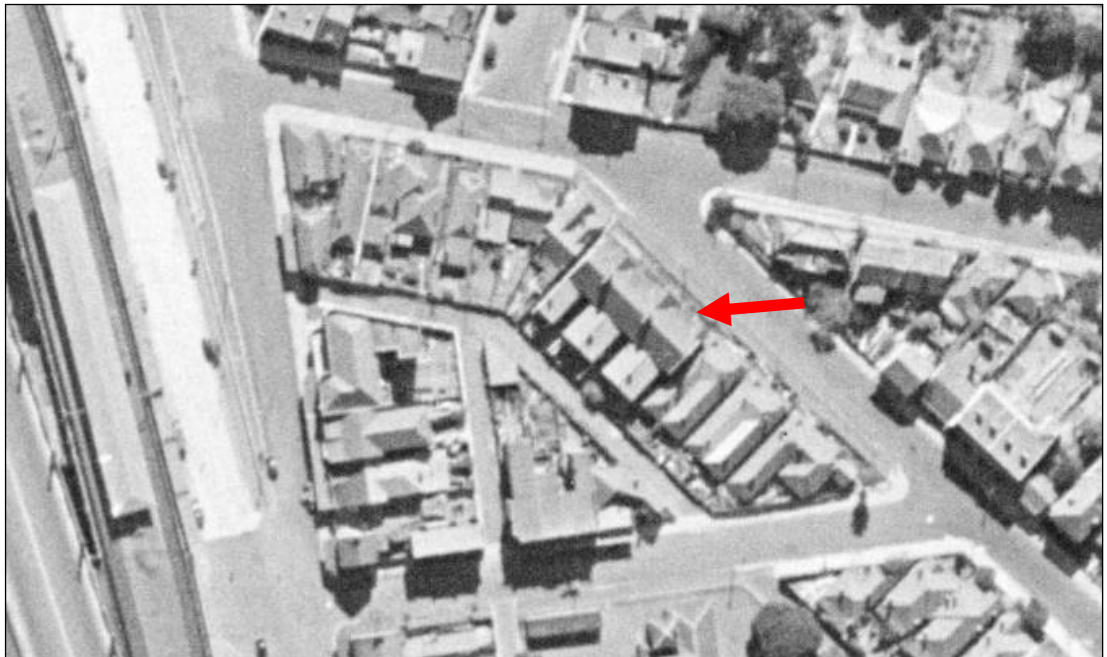


Figure 4: Aerial photograph over the site in 1943.
SIX Maps.

⁹ Godden Mackay, *North Sydney Heritage Study*. Unpublished report for North Sydney Council, 1993, p.43.

3.0 SITE ASSESSMENT

3.1 The Site

For the following, refer to Figure 5, an aerial photograph over the site, and to the survey that accompanies this application.



Figure 5: An aerial photograph showing the subject site and its surrounds.
SIX Maps.

The site is rectangular in shape. It has a north eastern boundary to Carabella Street of approximately 6.2m; south eastern and north western side boundaries of approximately 31m; and a south western boundary to Crescent Place of approximately 6.2m. The site area is approximately 186 square metres. The site rises towards Crescent Lane to the rear. The dwelling, described below, occupies the majority of the site area. The principal building form is built to the side boundaries. The rear wing that extends from the principal building form is set in from the north western boundary.

The dwelling is raised above the level of the street and is set back from its Carabella Street boundary providing for a small paved front garden and paved courtyard to the rear. The front boundary to Carabella Street is defined by a metal palisade fence set on a sandstone retaining wall with sandstone steps leading down to street level. The north western side boundary to the front yard is defined by a metal palisade fence set on a low sandstone wall. The south eastern boundary to the front yard is defined by a metal palisade fence with matching gate.

The rear courtyard is paved with brick pavers. There is a steel roller shutter garage door set within a painted brick wall to the rear boundary. Brick steps lead up to a timber pedestrian gate which provides access to the rear lane on the north western side. A concrete paver surfaced side passageway runs along the north western boundary. There is a painted brick fence with timber lattice screen to the north western boundary and a painted brick wall to the south eastern boundary. There is a brick raised planter bed with vegetation to the rear boundary.

Figures 6 and 7 illustrate the general character of the site.



Figure 6: Detail of the steps leading to the front yard.
GVP Design Studio.



Figure 7: Side passageway, view looking north east.
GVP Design Studio.

3.2 The Dwelling

3.2.1 Exterior

The building on the site is a semi-detached, two storey terrace dwelling constructed of painted brickwork set on a sandstone base. The walls are laid in stretcher bond with some remnant tuckpointing. The main roof is gabled and clad in slate with terracotta ridge tiles. The eaves are shallow and timber lined with exposed timber rafters. There is a face brick and roughcast rendered chimney with eight terracotta chimney pots shared with the adjoining dwelling on the north western side. The rear wing has painted brick walls with a skillion roof clad in corrugated steel.

The principal elevation is the north eastern elevation fronting Carabella Street. This elevation is asymmetrical. A shallow, gable fronted rectangular bay projects forward on the north western side. The gable end to the bay is finished with timber battens and painted roughcast rendered panels with wide timber barge boards and a terracotta finial to the apex. Below the gable are a pair of timber framed double hung windows at ground and first floor levels, each sash divided into two panes with an arch headed fanlight over. A pair of timber shutters have been retained to the first floor window only.

A two storey verandah extends between the bay and the brick party wall. The verandah has a skillion roof broken in pitch from the main roof and is supported on a painted timber verandah beam with decorative cast iron 'lace' valance. The first floor verandah has a timber floor and cast iron 'lace' balustrade and is supported on painted turned timber posts. The brick party wall extends forward on the south eastern side to form the side of the verandah. The end of the party wall is decorated with a stepped corbel at first floor level. A timber framed French door with etched glass fanlight over opens onto the first floor verandah.

At ground floor level the verandah posts are set on engaged brick piers with sandstone capping. The verandah floor is covered in ceramic tiles with a white marble edge. A set of sandstone steps lead up onto the verandah. The front entrance comprises a timber

framed five panel door with coloured glass leaded top panels and sidelight and fanlights. To the right hand of the door there is a timber framed double hung window, each sash divided into two panes with an arch headed fanlight over and set on a rendered and painted masonry sill.

The south western (rear) elevation of the principal building form is two storeys high and constructed of painted brickwork and where not concealed by the narrow, two storey rear wing consists of timber framed double hung windows with two panes to each sash at ground floor and first floor levels.

There is a narrow, two storey, rear wing attached to the south eastern side of the rear of the principal building form and is constructed of painted brickwork with a skillion roof. The roof forms a gable end with the adjoining dwelling to the south east. There is a glazed extension with glazed skillion roof on the north western elevation of the rear wing at ground floor level. At first floor level, in the north western elevation is a pair of timber framed double hung windows. At ground floor level in the south western (rear) elevation of the rear wing is a timber framed double sliding door. At first floor level in this elevation is a timber framed double hung window.

Figures 8 to 10 illustrate the exterior of the dwelling.



Figure 8: Detail of the north east elevation at ground floor level.
GVP Design Studio.



Figure 9: View looking west towards the front bay.
GVP Design Studio.



Figure 10: Detail of the south western (rear) elevation at first floor level.

Google Maps.

3.2.2 Interior

The layout of the dwelling is best understood with reference to Figure 11. The room names in the description below are taken from this plan.

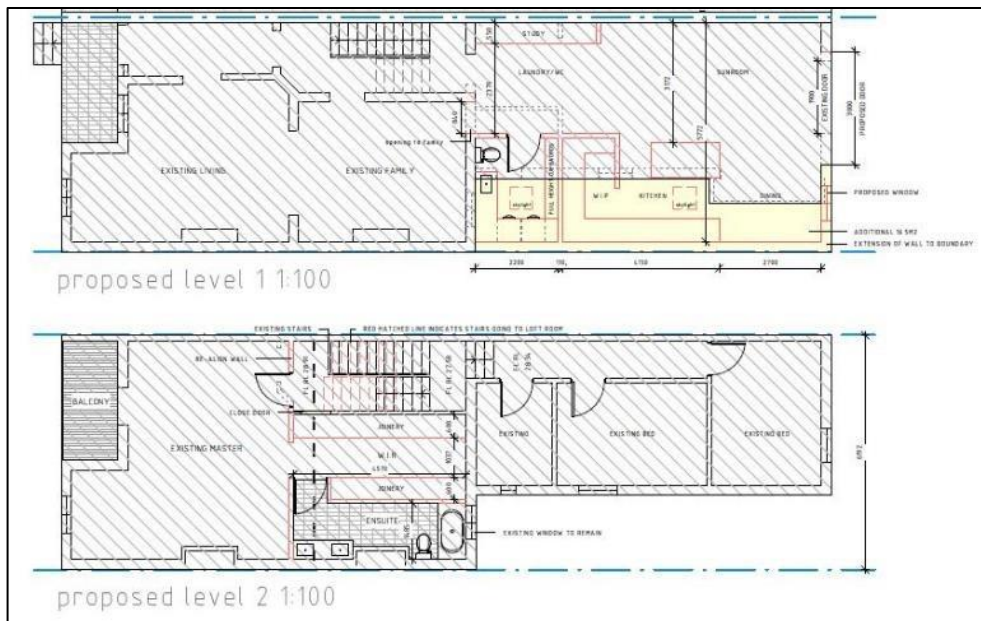


Figure 11: Existing ground and first floor plans.

GVP Design Studio.

At ground floor level, two rooms, in sequence, open from the front entrance hall. Each room has a fireplace with coal grate and marble mantelpiece. The timber architraves, picture rails and skirting boards in these rooms, plaster wall finishes and decorative pressed metal cornices and ceilings are typical of the Federation Queen Anne Style and are original. The painted timber staircase has turned timber balusters and is lined with painted press metal panels beneath. The stair hall opens to the rear wing which contains the kitchen/sun room, laundry/bathroom and a glazed extension to the sun room. The kitchen and bathroom/laundry fittings have been recently demolished and removed.

A selection of photographs showing the character of the rear wing ground floor interior is provided by Figures 12 and 13.



Figure 12: Sun room, looking south west.
GVP Design Studio.



Figure 13: Sun room, looking north.
GVP Design Studio.

The first floor level is split level with a small number of rooms opening off the stair hallway. A hallway leads from the staircase landing to the main bedroom and bedroom 2 at the front of the terrace. The master bedroom occupies the full width of the terrace and opens onto the verandah via a timber framed glazed French door. The master bedroom has plaster walls with pressed metal cornices and ceiling. Directly behind this room is a second bedroom and ensuite. Within the rear wing accessed from the staircase landing is a bathroom and a third and fourth bedrooms beyond.

Figures 14 to 17 illustrate some of the rooms on the first floor.



Figure 14: Stair hall, view looking south west.
GVP Design Studio.



Figure 15: Stair hall, view looking north east.
GVP Design Studio.



Figure 16: Bedroom 2, view looking west.
GVP Design Studio.



Figure 17: Bedroom 2, view looking north east.
GVP Design Studio.

The attic level is accessed via a retractable step ladder within bedroom 2 on the first floor level. This space is part lined with unfinished plasterboard to the underside of the main roof rafters and with a particleboard floor laid over the ceiling joists. Refer to Figure 18.



Figure 18: Attic, looking south east.
GVP Design Studio.

3.3 The Surrounding Area

3.3.1 The General Area

For the following, refer to Figure 19, an aerial photograph over the site and the surrounding area.



Figure 19: Aerial photograph over the subject site and the surrounding area.
SIX Maps

3.3.2 Carabella Street

Carabella Street is a long road that runs from its junction with Willoughby Street in the north to its junction with Kirribilli Avenue in the south. No. 102 Carabella Street is located at the northern end of the street. The road is predominantly residential in character with the exception of Loreto Kirribilli, a Catholic school for girls on the eastern side of the road halfway along its length. The road is wide and carries traffic in both directions with parking on both sides. There are concrete footpaths on both sides of the road. There are mature street trees in this section of the road. The road falls to the north west in the vicinity of the site to its intersection with Willoughby Street.

Carabella Street in the vicinity of the subject site is characterised by a mix of attached two storey Late Victorian and Federation period terraces and semi-detached single storey Federation period dwellings. The street setback is generally shallow, providing for narrow front gardens set above street level behind high sandstone retaining walls. Side setbacks are generally narrow, producing a pattern of closely spaced houses.

Figures 20 and 21 illustrate the general character of the street in the vicinity of the site.



Figure 20: View looking north west along Carabella Street.
Google Maps.



Figure 21: View looking south east along Carabella Street.
Google Maps.

The immediate adjoining property on the south eastern side of the subject site is No. 100 Carabella Street. This dwelling is a mirror image of the subject site and forms part of a terrace house group constructed of painted brick walls with gabled roofs clad in slate. Continuing south east lies Nos. 96 and 98 Carabella Street, a pair of semi-detached single storey Federation period dwellings constructed of face brick walls with hipped and gabled roofs clad in terracotta tiles

The immediately adjoining properties to the south east of the subject site are Nos. 104-108 Carabella Street, forming the remainder of the terrace group.

Figures 22 and 23 illustrate the western side of Carabella Street in the vicinity of the site.



Figure 22: Nos. 100-108 Carabella Street, the terrace house group, of which the subject site forms part.
Google Maps.



Figure 23: Nos. 96 and 98 Carabella Street, the adjoining properties to the south east of the subject site.
Google Maps.

Opposite the site lie the rear wings to a number of two storey terrace house dwellings fronting Willoughby Street variously constructed of face brick and rendered and painted masonry walls. These buildings range in date from the Late Victorian and Federation periods (Figure 24).



Figure 24: Rear wings to terrace houses fronting Willoughby Street opposite the subject site to the north east.
Google Maps.

4.0 ASSESSMENT OF SIGNIFICANCE

4.1 Summary of Existing Citations and Listings for the Site

No. 102 Carabella Street, Kirribilli:

- Is not listed as a heritage item on the State Heritage Register under the auspices of the *NSW Heritage Act 1977*.
- Is listed as an item of local heritage significance by Schedule 5 Part 1 of *North Sydney LEP 2013*.
- Is located within the immediate vicinity of a number of local heritage items identified by Schedule 5 Part 1 of *North Sydney LEP 2013*.
- Is located within the Careening Cove Conservation Area as defined by Schedule 5 Part 2 of *North Sydney LEP 2013*.

4.2 Heritage Items in the Vicinity of the Site

For the following, 'in the vicinity' has been determined with reference to physical proximity, existing and potential view corridors and the nature of the proposed works.

Figure 25 shows the location of heritage items, listed by Schedule 5 Part 1 of the *North Sydney LEP 2013*. Heritage items are coloured brown and numbered. Conservation Areas are hatched and outlined in red and numbered. The site is indicated by the red arrow.

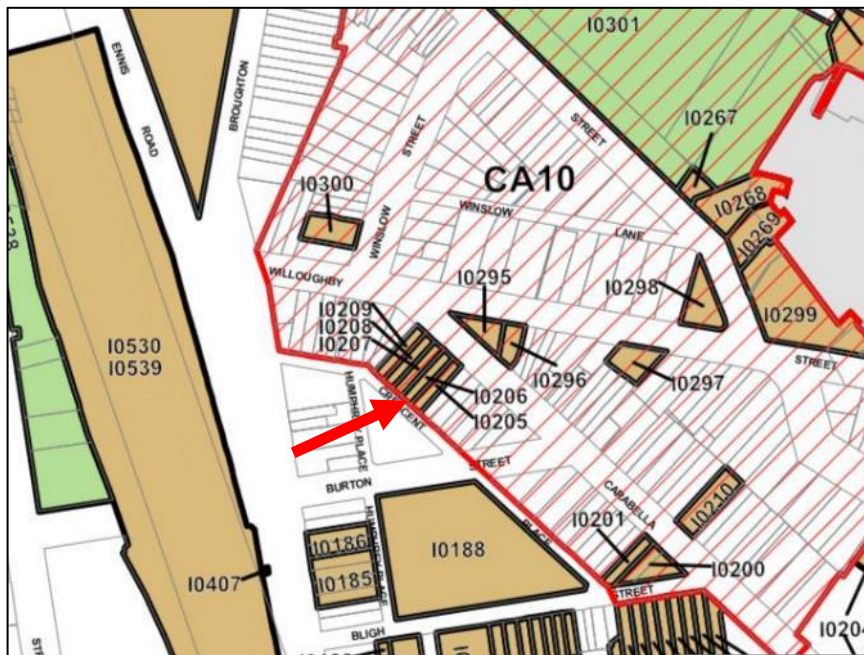


Figure 25: Detail of the North Sydney Heritage Map. The site is indicated by the red arrow.

North Sydney LEP 2013.

The site lies within the general vicinity of the following heritage items:

- *House*, 29 Willoughby Street, Kirribilli (I0295).
- *House*, 31 Willoughby Street, Kirribilli (I0296).
- *House*, 100 Carabella Street, North Sydney (I0205).
- *House*, 104 Carabella Street, North Sydney (I0207).
- *House*, 106 Carabella Street, North Sydney (I0208).
- *House*, 108 Carabella Street, North Sydney (I0209).

There is no statement of significance for the Careening Cove Conservation Area on the State Heritage Inventory. Part C Section 8.3 of the *North Sydney DCP 2013* provides the following description and statement of significance, which sets out the principal characteristics of the area:

Description

The Careening Cove Conservation Area is located around the bay forming Careening Cove and bounded by High Street, Broughton Street and Crescent Place.

The landform slopes to the Bay with a flat area of reclaimed land close to the Cove. The subdivision pattern varies with a grid of rectangular lots that are cut to suit the diagonal street pattern and topography. The Conservation Area is characterised by two storey, late Victorian terraces, single and two storey Federation and Inter-War dwelling houses and residential flat buildings. The area retains groups of picturesque industrial buildings with associated jetties, slipways, moorings and equipment. The Ensemble Theatre was one of the first recycled industrial buildings in Sydney.

Statement of Significance

The Careening Cove Conservation Area is significant:

- (a) as a largely consistent early 20th century residential area with an unusual and irregular pattern of street layout and irregular subdivision pattern that give the area a particular character.
- (b) as retaining much of the urban detail and fabric seen in gardens, fencing, street formations, use of sandstone for retaining and building bases, sandstone kerbing and natural rock faces.
- (c) for the amphitheatre like form around the reclaimed Milson Park and the head of the bay.
- (d) for the remaining waterfront industrial and recycled industrial development that gives the area much of its character.

4.3 View Corridors

The principal view corridors towards the site are obtained from directly outside of the site on Carabella Street. On approach from the south east and north west along Carabella Street, mature street trees partially obscure views towards the front elevation.

Limited views toward the rear of the subject property are available from Crescent Place due to intervening structures and vegetation and the high brick wall on the rear boundary of the site. These views are not significant.

Figures 26 to 28 illustrate the view corridors toward the subject site.



Figure 26: View north west on approach along Carabella Street. The red arrow marks the subject site.
Google Maps.



Figure 27: View looking south from the intersection of Carabella Street and Willoughby Street.
Google Maps.



Figure 28: View towards the rear wings of the subject site and the adjoining terraces in the row.
Google Maps.

4.4 Integrity and Comparative Analysis

The integrity of a site, in terms of its heritage significance, can exist on a number of levels. A site may be an intact example of a particular architectural style or period and thus have a high degree of significance for its ability to illustrate that style or period. Equally, heritage significance may arise from a *lack* of architectural integrity where significance lies in an ability to demonstrate an important evolution or change in use.

Comparative analysis assists in locating a heritage item within patterns of history. It also aids in determining how rare or representative an item is.

The boundaries of the site associated with this dwelling have not been altered since it was constructed. The stone boundary walls along the north eastern front boundary may date from around the time the dwelling was constructed. The brick side and rear boundary walls are later in date.

The dwelling demonstrates a moderate to high degree of external integrity. The original face brick walls with tuckpointed mortar joints have been painted over, as with the adjoining dwellings in the terrace row. The original timber shutters have been lost to the ground floor front window. The original front door is intact.

The basic form of the original dwelling remains clearly discernible as is the original floor plan within the principal building form. The most significant changes to have occurred are at the rear. The internal layout of the rear wing kitchen/sun room is later in date. The rear glazed skillion extension appears to date from the late Twentieth Century.

No. 102 Carabella Street, Kirribilli is one of a number of Federation Queen Anne Style terrace dwellings to survive intact within Kirribilli. Buildings of this period are well represented on the LEP primarily because the period beginning in the early 1900s was one of expansion in this part of Kirribilli following the gradual subdivision of the former marine villa estates.

4.5 Statement of Significance

The State Heritage Inventory listing sheet for No. 102 Carabella Street provides the following statement of significance:

'See Group Listing NSHS0146. A group of houses with common history, scale, style and materials which are evidence of a township subdivision of the Kirribilli area and contrast with the villa and mansion properties elsewhere on the point. Historically records show that the boundary is part of the Milson/Ryan grants, and is evidence of their different developmental progress. Evidence of the particular nature of the Careening Cove gully and the one-time important maritime industrial nature of this waterfront.'¹⁰

5.0 HERITAGE IMPACT STATEMENT

The following should be read in conjunction with the plans prepared by GVP Design Studio that accompany this application.

5.1 Description of Proposal

It is proposed to carry out alterations and additions to the existing dwelling as follow:

¹⁰ House, No. 102 Carabella Street, Kirribilli. State Heritage Inventory Database No. 2181577.

Ground Floor

- Block up existing window and construct new door opening on the south western wall of the existing family room;
- Remove existing walls to the ground floor rear wing and construct new external wall along the north western boundary. Construct new laundry/WC, study, kitchen and dining room as shown;
- Widen the existing door opening and construct new window opening on the south western wall of the existing sun room.

First Floor

- Construct new ensuite and walk in robe within existing bedroom 2. Create new door opening between master bedroom and new walk in robe. Close off existing bedroom 2 door;
- Reconfigure wall between the master bedroom and the stair hall. Rehang existing door;
- Construct new timber stair at first floor level to connect to the new attic level.

Attic

- Carry out alterations to the main roof space to accommodate a new attic level loft with ensuite and storage space. A new skylight and dormer window are proposed overlooking the rear yard to the south west.

5.2 Method of Assessment

The following considers heritage related issues only. It does not consider compliance or otherwise with numerical controls unless non-compliance will result in an adverse heritage impact. For such an assessment, refer to the Statement of Environmental Effects (SEE) that accompanies this application.

The effect of work is assessed with an understanding of the relevant provisions of the *North Sydney LEP 2013* and *North Sydney DCP 2013*.

5.3 Effect of Work

5.3.1 Effect of Work on No. 102 Carabella Street

Each aspect of the proposed works outlined in Section 5.1 above is considered separately below:

Ground Floor

Block up existing window and construct new door opening on the south western wall of the existing family room

Blocking up the existing window and creating a new door opening on the south western wall of the existing family room will have an acceptable impact for the following reasons:

- A full understanding of the original floor plan and the relationship between the principal rooms is retained in the proposal.
- The existing window to be removed is located on an elevation that is not visible from the public domain. The existing dwelling will be still be understood and appreciated as a good example of a Federation period Queen Anne style terrace dwelling in the proposal.

- The new opening will match the existing openings within the principal building form and will be detailed to match the existing architraves, which is an appropriate response.

Remove existing walls to the ground floor rear wing and construct new external wall along the north western boundary. Construct new laundry/WC, study, kitchen and dining room as shown.

The proposed addition is located to the rear of the existing dwelling in an area that has undergone alterations and additions in the past. The rear addition marginally increases the mass and footprint of the rear of the existing dwelling and will be constructed in painted brickwork to compliment the existing principal building form and rear wing which have previously been painted. The addition is marginally taller than the existing glazed room to be replaced. The new work has been designed to match the forms and finishes of the existing dwelling. This is an appropriate response when the addition represents only a minor increase in footprint.

It will have an acceptable impact on the pattern of development at the rear of the properties along Crescent Place which is mixed in character. It will largely not be visible from the public domain along Crescent Place due to intervening structures and vegetation.

It is proposed to construct new kitchen and WC/laundry fitouts in the rear wing on the ground floor. The existing room layout to the ground floor rear wing is later in date and does not contribute to the heritage significance of the subject site. The new rooms within the ground floor of the rear wing will have no impact on understanding the existing building as a good example of a Federation period Queen Anne style terrace dwelling.

Widen the existing door opening and construct new window opening on the south western wall of the existing sun room.

The existing door opening to be widened is a later alteration and does not form part of the significant fabric of the subject dwelling. A greater void to solid ratio is proposed for the ground floor rear elevation than is normally associated with a Federation period dwelling. This maximises amenity and will have no impact on the heritage significance of the subject dwelling because this elevation is substantially concealed from the public domain due to intervening structures and vegetation.

First Floor

Construct new ensuite and walk in robe within existing bedroom 2. Create new door opening between master bedroom and new walk in robe. Close off existing bedroom 2 door.

The proposed ensuite and walk in robe is contained within the existing bedroom 2. The existing bedroom door from the hallway is retained intact but locked shut. The existing chimney shaft is retained. The relationship between the principal rooms and the stair hallway is retained. The ensuite and walk in robe fitouts including the new partition wall are reversible should it be necessary to revert to the original bedroom layout.

The proposed ensuite and walk in robe does not alter the external appearance of the existing dwelling and will have no impact on understanding the existing building as a good example of a Federation period Queen Anne Style terrace dwelling.

Reconfigure wall between the master bedroom and the stair hall. Rehang existing door.

Reconfiguring the wall between the master bedroom and the stair hall is a minor alteration to the dwelling. The new wall is detailed in keeping with the style of the

dwelling. It is proposed to relocate the existing bedroom door. The existing pressed metal ceilings to the bedroom and the stair hall are retained and only slightly modified in the proposal. This will have an acceptable impact as the majority of these ceilings will be retained without modification. A full understanding of the original floor plan is retained in the proposal.

Construct new timber stair at first floor level to connect to the new attic level.

The proposed stair is a minor alteration and is designed to be sympathetic to the style of the terrace. The stairs have been located to minimise the impact on significant fabric. The existing staircase and stair landing are retained. A full understanding of the original floor plan is retained in the proposal.

Attic

Carry out alterations to the main roof space to accommodate a new attic level loft with ensuite and storage space. A new skylight and dormer window are proposed overlooking the rear yard to the south west.

The proposed alterations to the main roof space including a new skylight and dormer window on the rear roof slope will have a minimal and acceptable impact on No. 102 Carabella Street for the following reasons:

- The roof pitch and height will not be altered to accommodate the dormer window and the skylight.
- The proposed dormer has been designed in accordance with the provisions provided by Section 1.4.11 Dormers of the *North Sydney DCP 2013*.
- The scale and design of the proposed dormer window is consistent with dormer window additions elsewhere in the streetscape, for example, the skillion dormer to the adjoining terrace at No. 100 Carabella Street, the gable dormers to No. 149 Carabella Street, opposite the site and those at Nos. 33-39 Willoughby Street.
- The dormer window and skylight will not be readily visible from the public domain as they are located on the rear roof slope and set below the line of the main roof ridge.
- Where visible the dormer window is appropriately designed and proportioned and will not present as being inconsistent with the massing, scale and style of the terrace.
- The proposed dormer will not block significant view corridors towards the existing terrace dwelling from the public domain or otherwise hinder appreciation of the site.
- The roof of the dwelling, as seen from the public domain, will remain gabled in form. The chimney is retained and will remain fully visible.
- The front elevation is retained without alteration. The dwelling will still be able to read and understood as a good example of a Federation period Queen Anne style terrace dwelling.

5.3.2 Effect of Work on Heritage Items in the Vicinity of the Site

The proposed works will have a minimal and acceptable impact on the heritage items in the vicinity of the site for the following reasons:

- The proposed works will have no impact on the ability to understand the heritage items in the vicinity as good examples of their respective type.
- The proposed works will not block significant view corridors towards or from the heritage items in the vicinity of the site.
- The proposed works will largely not be visible from, or in conjunction with, any of the heritage items in the vicinity as they are located to the rear of the subject

dwelling. Views towards and from the rear of the subject site and the adjoining heritage items are not significant.

- The proposed internal works are not visible from these sites.
- The wider setting of the heritage items in the vicinity of the site will continue to be a mixed setting comprised of buildings of various age.
- The contribution that the dwelling makes to the streetscape is derived from the intactness of the principal building form of the dwelling; the rear of the existing dwelling is not readily visible from the public domain. The setting of any heritage items in the vicinity is retained.
- The proposed dormer window on the rear roof plane of the subject site will not be visible in conjunction with significant view corridors towards the heritage items fronting Willoughby Street which are obtained from directly outside of these items on Willoughby Street. Views in conjunction with, towards and from the rear of these items on Carabella Street are not significant. The setting of these items will be maintained.
- The proposed dormer window is not visible from the public domain as viewed from standing outside the terrace row and on approach along Carabella Street as it is located on the rear roof plane. Significant views towards the site are retained in the proposal.
- The proposed dormer window on the rear roof plane of the subject dwelling where visible in conjunction with the rear of other dwellings in the terrace row Nos. 100-108 is appropriately designed and proportioned and will not present as being inconsistent with the massing, scale and style of the rear of the terrace row.
- Where visible when standing outside of the site on Crescent Lane the proposed dormer window will be visually subservient in massing and scale to the main gable roof which is retained intact. Views towards the rear of the terrace row are not significant.

5.3.3 Effect of Work on the Careening Cove Heritage Conservation Area

The proposed new dormer windows to the front and rear roof slopes will have an acceptable impact on the Conservation Area for the following reasons:

- The dormer window on the rear roof slope will not be readily visible from the public domain as it is located on the rear roof slope and set below the line of the main roof ridge. Where visible the dormer is appropriately designed and proportioned and will not present as being inconsistent with the massing, scale and style of the terrace. The setting of the Conservation Area is retained.
- The proposed dormer will not block significant view corridors towards the existing dwelling from the public domain or otherwise hinder appreciation of the site or its contribution to the streetscape.
- The roof of the dwelling, as seen from the public domain, will remain gabled in form. The chimney is retained and will remain fully visible.
- The front elevation is retained without alteration. The dwelling will still be able to read and understood as a good example of a Federation period Queen Anne style terrace dwelling.
- The proposed works are largely internal and will have no impact on the ability to understand the historic and social significance of the Conservation Area and will not block or reduce significant view corridors into or out of the area.

6.0 CONCLUSIONS

This Heritage Impact Statement has considered a proposal for alterations and additions to the existing dwelling at No. 102 Carabella Street, Kirribilli. The site is listed as a heritage item as identified by the *North Sydney LEP 2013*. It is located within the vicinity of a number of heritage items and is located within the Careening Cove Heritage Conservation Area as defined by the *North Sydney LEP 2013*.

Constructed c.1902, as part of a row of terrace dwellings in the Federation period Queen Anne style, No. 102 Carabella Street makes a positive contribution to the streetscape and the Careening Cove Heritage Conservation Area. This contribution is derived from its intact front elevation; the gabled roof with brick and roughcast rendered chimney stack; and intact timber detailing.

The proposed works will have a minimal and acceptable impact on the existing dwelling. The front elevation is retained without alteration; the roof will continue to read from the public domain as a gabled roof clad in slate; the chimney stack is retained and will remain fully visible. The proposed dormer on the rear roof slope will not be readily visible from the public domain due to intervening structures and vegetation. Where visible the dormer is appropriately designed and proportioned and will not present as being inconsistent with the massing, scale and style of the rear of the terrace row. Where visible the level of impact will be minimal and will in no way detract from understanding the existing terrace dwelling as being of the Federation period Queen Anne style.

No. 100 Carabella Street, Kirribilli will continue to make a positive contribution to the streetscape and the Careening Cove Heritage Conservation Area.

The proposed works are largely internal and will have no impact on the significance or setting of heritage items in the vicinity of the site.

The proposal fulfils the objectives for works to a heritage item, in a conservation area and within the vicinity of heritage items as set out by the *North Sydney LEP 2013* and the *North Sydney DCP 2013*.