

**NSLPP MEETING HELD ON 05/06/2024****Attachments:**

1. Site Plan
2. Architectural Plans & Landscape Plan
3. Heritage Statement
4. Clause 4.6 Variation Request to Maximum Building Height

ADDRESS: 42 & 42A Milson Road, Cremorne Point**APPLICATION NO:** DA 302/23**PROPOSAL:** Substantial alterations and additions to lower ground, ground level and first floor additions and demolition of garage and replacement with a three bay garage with green roof.**PLANS REF:**

| Plan No. | Rev | Description | Prepared by | Dated |
|----------|-----|-----------------------------|----------------------|----------|
| DA-A-021 | G | Proposed Site Plan | Quattro Architecture | 14/08/23 |
| DA-A-022 | G | Proposed Landscape Area | Quattro Architecture | 14/08/23 |
| DA-A-052 | G | Demolition Plans | Quattro Architecture | 14/08/23 |
| DA-A-053 | G | Demolition Elevations | Quattro Architecture | 14/08/23 |
| DA-A-100 | H | Proposed Lower Ground Floor | Quattro Architecture | 14/08/23 |
| DA-A-101 | H | Proposed Ground Floor Plan | Quattro Architecture | 14/08/23 |
| DA-A-102 | H | Proposed Level 1 Floor Plan | Quattro Architecture | 14/08/23 |
| DA-A-103 | H | Proposed Roof Plan | Quattro Architecture | 14/08/23 |
| DA-A-200 | H | Proposed North Elevation | Quattro Architecture | 14/08/23 |
| DA-A-201 | H | Proposed South Elevation | Quattro Architecture | 14/08/23 |
| DA-A-202 | H | Proposed West Elevation | Quattro Architecture | 14/08/23 |
| DA-A-203 | H | Proposed East Elevation | Quattro Architecture | 14/08/23 |
| DA-A-250 | H | Proposed Sections 1 | Quattro Architecture | 14/08/23 |
| DA-A-251 | H | Proposed Sections 2 | Quattro Architecture | 14/08/23 |

OWNER: Amrit Pal Singh & Harpreet Kaur**APPLICANT:** Amrit Pal Singh**AUTHOR:** Report of Thomas Holman, Senior Assessment Officer**DATE OF REPORT:** 14 May 2024**DATE LODGED:** 17 October 2023**RECOMMENDATION:** Refusal

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to a dual occupancy (attached). The works sought are to 42 & 42A Milson Road, Cremorne Point which is situated within the Cremorne Point Conservation Area.

The development application is reported to the North Sydney Local Planning Panel for determination as the proposed development contravenes a development standard imposed by an environmental planning instrument by more than 10% in accordance with the Ministers Direction “Local Planning Panel Direction – Development Applications” dated 30 June 2020, published to the NSW Planning Portal.

The development seeks an over scaled roof addition greater than the maximum height limit not retaining or sharing views from Milson Road, not maintaining existing solar access to neighbouring properties and not maintaining the characteristic scale and density of development within the Cremorne Point Conservation Area and R2 Low Density Residential Area. The height exceedances are therefore not supported contrary to objectives in Cl 4.3 ‘Height of Buildings’ of NSLEP 2013 and there are insufficient planning grounds to justify the variation.

The Sections within the architectural plans are insufficient to determine the full extent of height exceedance. Both Long Sections and Cross Sections contain insufficient detail in relation to existing ground level to enable a full assessment to interpret the height of building above the existing ground level. The height of building is not supported and the written request to justify the contravention of the development standard is not well founded.

The application is recommended for refusal because the development has an excessive bulk and scale with a large roof addition and dormer addition and a large building footprint resulting in a significant exceedance in site coverage.

The development does not conserve the heritage significance of the surrounding Cremorne Point Conservation Area because the proposed dormer is over scaled covering more than one third of the western roof plane and the extent of glazing facing Cremorne Reserve is excessive and overly contemporary. The lower ground glazing facing the Cremorne Reserve is excessive comprising of large glazed window panes.

The development does not satisfy subclauses in Cl. 6.6(2)(b) of NSLEP 2013 because the increase in the bulk and scale of the building is not substantially within the fabric of the existing building, and the appearance of the building would substantially change not conserving the appearance of the existing building.

The form, massing and scale of the building subject to alterations and additions is not of a size consistent with adjoining properties and the scale of additions is excessive not compatible with the R2 Low Density Residential Zone and an uncharacteristic element within the Cremorne Point Conservation Area. The proposed site coverage is excessive and a significant exceedance indicative of a development that has excessive bulk and scale and an overdevelopment for the site and its low density surrounds.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The proposed development comprises substantial alterations and additions to an existing dual occupancy (attached). A detailed scope of works is as follows:

Lower Ground Floor RL 17.180 –

- Construction of habitable space and associated excavation underneath the construction of a three bay garage.
- Extension of habitable floor space within courtyard.
- Part removal of internal partitions and construction of new partitions amending the floor layout and room configuration of the lower ground floor.
- Construction of a new deck and stair to the rear of the dual occupancy.

Upper Ground Floor RL 20.280 –

- Demolition of existing garage and construction of a three bay garage with flat landscaped roof.
- Extension of habitable floor space behind the front garage within an existing courtyard.
- Part removal of internal partitions and construction of new partitions amending the floor layout and room configuration of the ground floor.
- Demolition of existing balcony and view room to be replaced with a new balcony.

Attic / Level 1 Floor RL 23.380 –

- Extension of the attic / level 1 floor area and increasing the size of the roof towards Milson Road. The roof addition will have a pitched roof with a gable end facing Milson Road and a large shed style dormer is proposed to the western roof slope.
- The existing terracotta tile roof is to be replaced with a slate roof.



Figure 1 – Proposed North Elevation, DA-A-200 Rev H

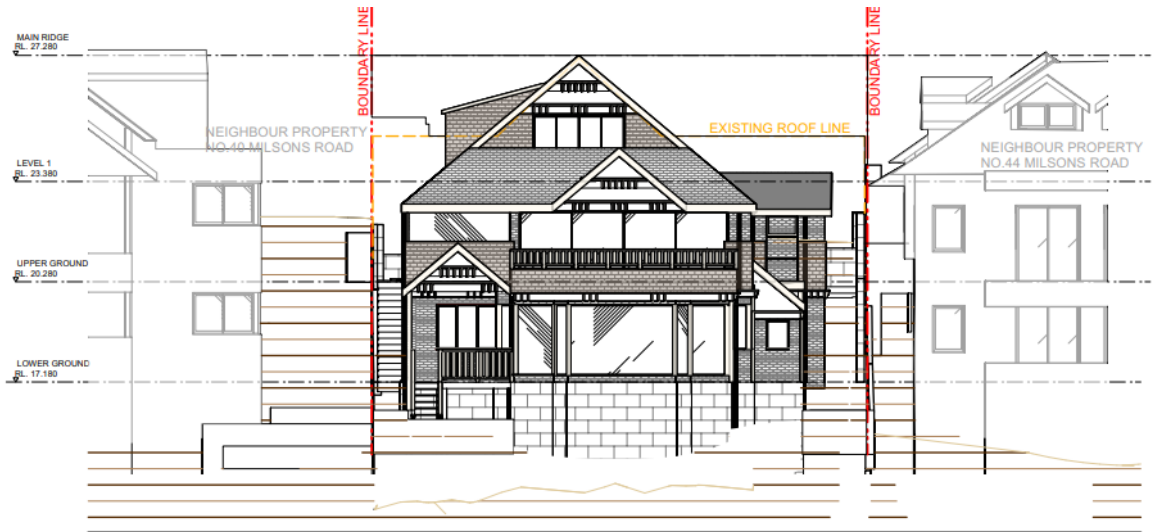


Figure 2 – Proposed South Elevation, DA-A-201 Rev H

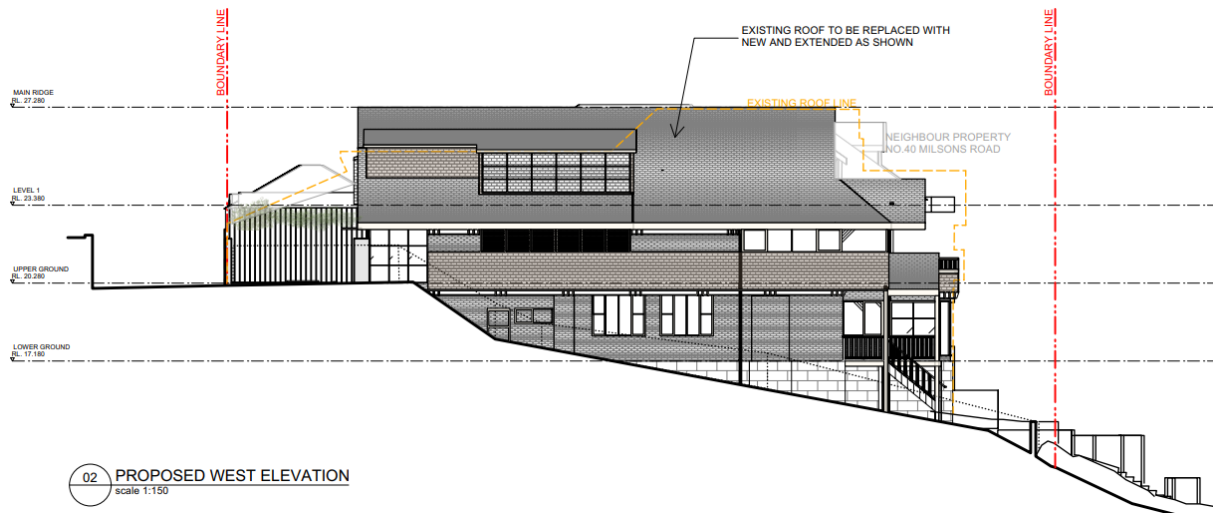


Figure 3 – Proposed West Elevation, DA-A-202 Rev H

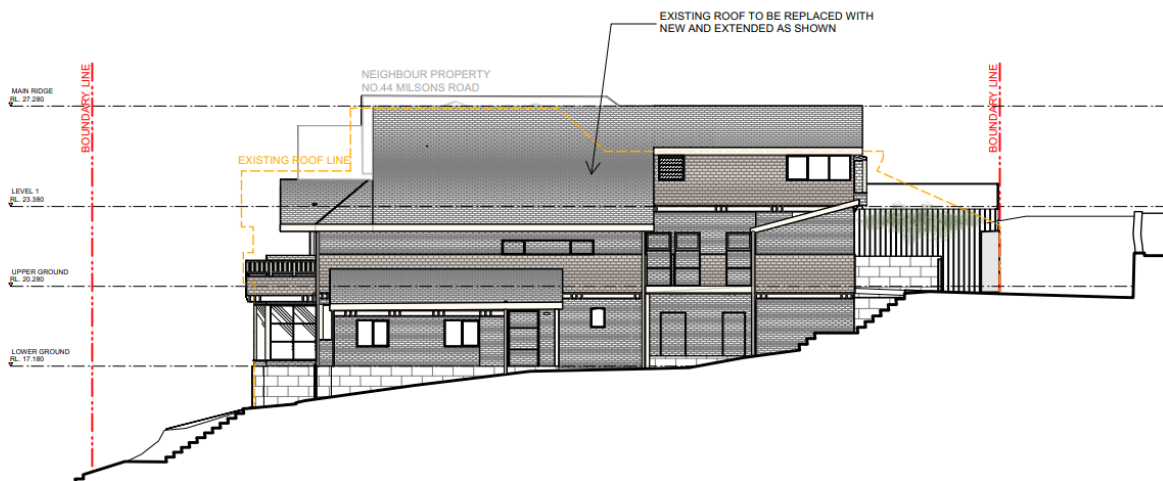


Figure 4 – Proposed East Elevation, DA-A-203 Rev H

Landscaping –

- A rooftop garden is proposed above the garage comprising a variety of shrubs, grasses, and groundcovers.
- Existing path within the eastern and southern setback to be repaved.
- A variety of plants including shrubs and grasses are proposed within the rear garden of the site which currently has limited planting.
- In total 4 x small trees are proposed including 1 x *Magnolia grandiflora* within the rear setback of the site and 4 x *Chamaedorea seifrizii* in the eastern side setback.

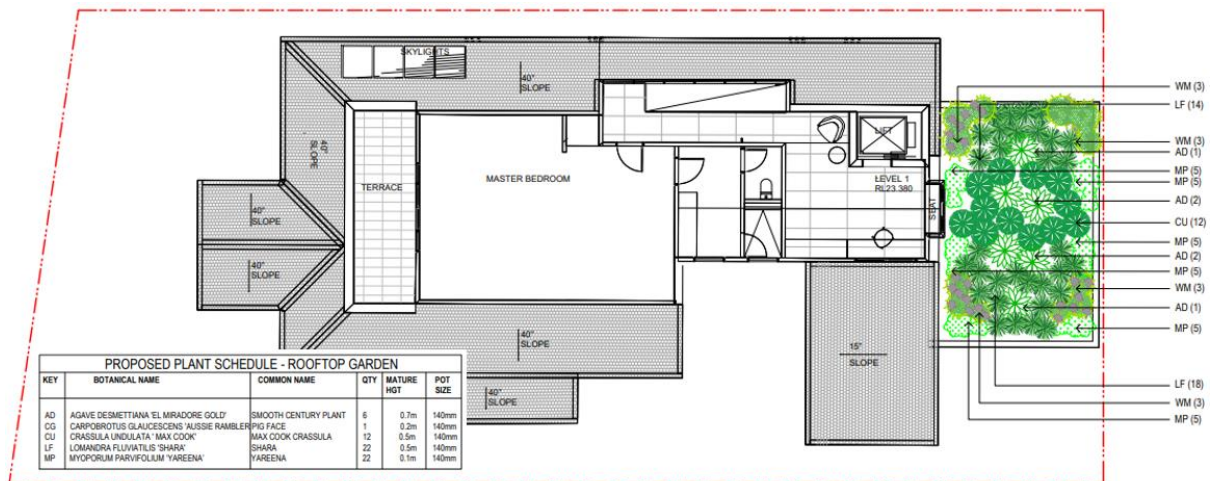


Figure 5 – Proposed Level 1 Roof Garden, Landscape Plan L-02 Rev B

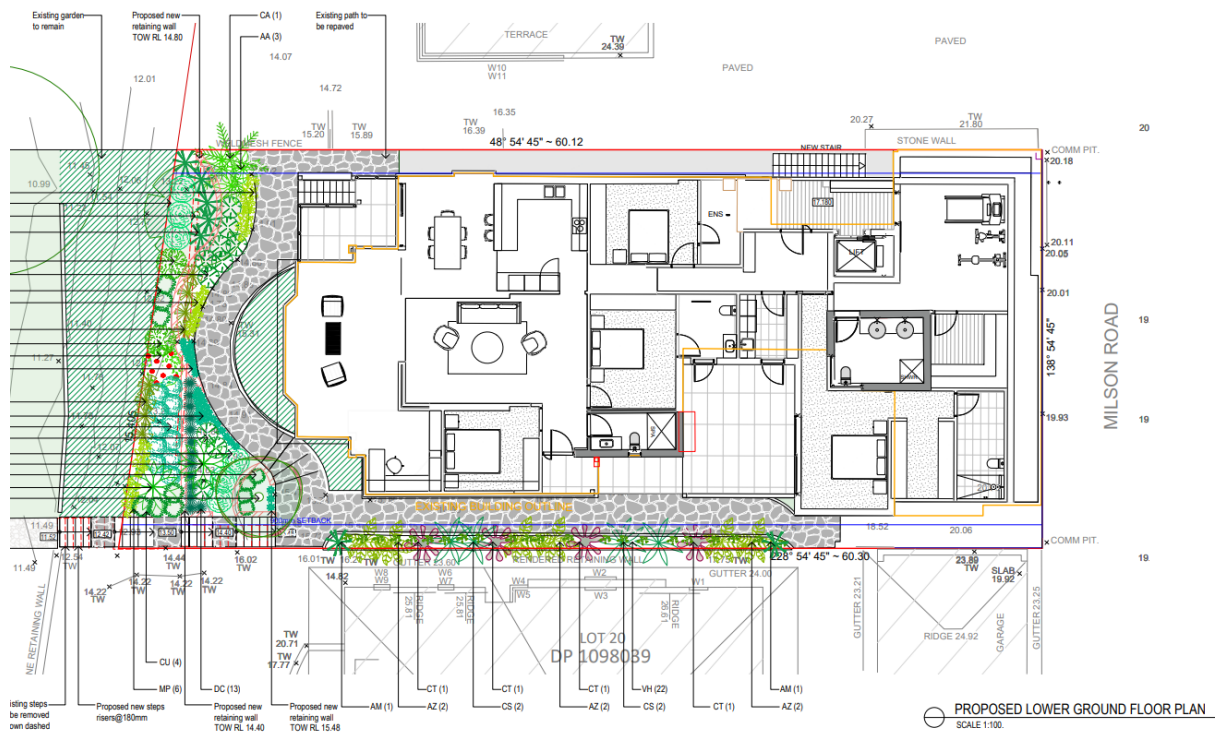


Figure 6 – Proposed Lower Ground Floor Plan, Landscape Plan L-01 Rev C

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – R2 Low Density Residential Zone
- Item of Heritage - No
- In Vicinity of Item of Heritage – Yes ‘Local Item I0117 – 33 Milson Road’ & ‘Local Item I0136 – Cremorne Reserve’
- Conservation Area – CA06 Cremorne Point
- FSBL - No

Environmental Planning & Assessment Act 1979

Environmental Planning & Assessment Regulation 2021

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 Vegetation in non-rural areas
- Chapter 6 Water Catchments

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Resilience and Hazards) 2021

- Chapter 4 Remediation of Land

POLICY CONTROLS

NSDCP 2013

North Sydney Local Infrastructure Contributions Plan

DESCRIPTION OF LOCALITY

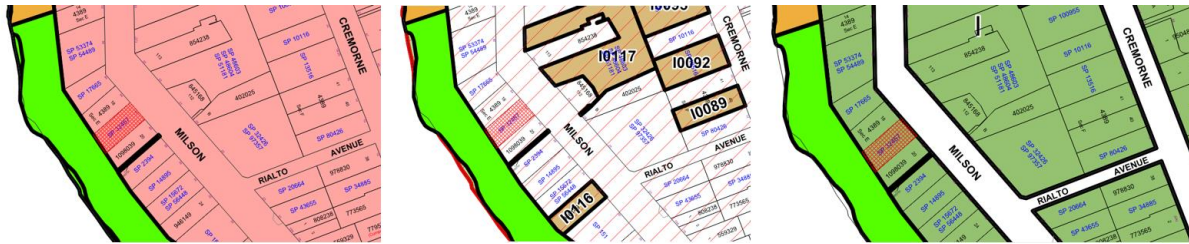
The subject site is legally described as SP 32457 and known as 42 & 42A Milson Road, Cremorne Point NSW 2090.

The site has a total area of 520.9m² with frontages of 15.24m to Milson Road, and 15.405m to the rear boundary. The site is irregular in shape and currently comprises of a two storey dual occupancy (attached) with one dwelling on the lower ground and the second dwelling on the ground level. The front of the site is dominated by an existing four bay garage open to Milson Road and comprising of a terracotta tile roof. The existing side setbacks of the site are primarily paved and the rear garden comprises paving with limited landscaping.



Figures 7 & 8 – Photo of the site from Milson Road (left) and photo of the site from Cremorne Reserve (right)

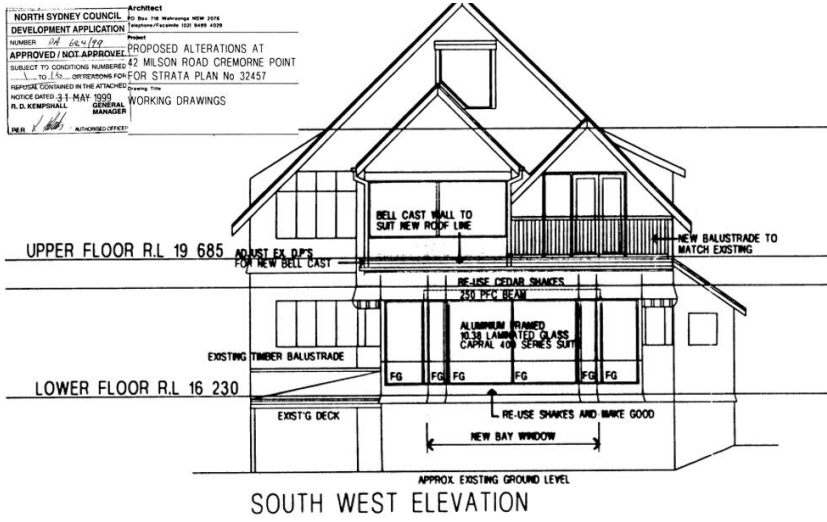
Surrounding development is predominantly residential including single dwellings, attached dwellings and apartment developments, including a number of heritage listed properties. The site is situated within the R2 Low Density Residential Zone and subject to a maximum 8.5m height of building. The site is also situated within the CA06 Cremorne Point Conservation Area and is a neutral item.



Figures 9, 10 & 11 – Land Zoning Map (left), Heritage Map (middle) and Height of Building Map (right) with site hatched in red

RELEVANT HISTORY

Previous applications

| Date | Action |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 31/05/1999 | <p>Development Application No. 684/99 was approved on 31 May 1999 for alterations to the rear façade of the building facing Cremorne Reserve. The approved works entailed a new bay window for the lower ground and a new balustrade for the ground level balcony.</p>  <p>Figure 12 – Rear South West Elevation, DA 684/99 – Dwg No. 3 Rev A</p> |
| 29/06/06 | <p>Development Application No. 285/06 was approved on 29 June 2006 for an extension to the main bedroom for construction of an ensuite bathroom into the existing underfloor foundation of the building. The works were consented for the lower ground dwelling referred in the Notice of Determination as Unit 1, 42 Milson Road.</p> |

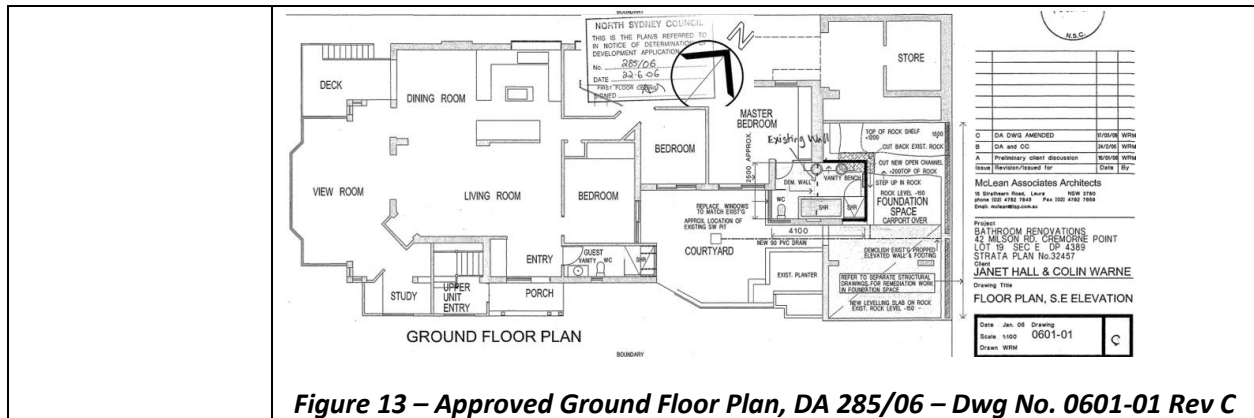


Figure 13 – Approved Ground Floor Plan, DA 285/06 – Dwg No. 0601-01 Rev C

Current Application

| Date | Action |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17/10/2023 | Development Application No. 302/23 for alterations and additions to the existing dual occupancy (attached) was lodged on 17 October 2023. |
| 17/11/2023 | The development was notified to adjoining properties and the Cremorne Point Precinct between 03 November to 17 November 2023. |
| 09/02/2024 | A site visit was completed by the Assessment Officer and Heritage Officer. |
| <p data-bbox="201 992 435 1323">22/03/2024</p> <p data-bbox="201 1066 435 1323">Note – the column on the right contains significant content of the letter issued by Council to the Applicant following a preliminary review.</p> <p data-bbox="201 1357 435 1742">The reason for the content of the letter not being shortened or summarised is to fully convey the issues which have largely not been fully satisfied and are outstanding issues presented to the Panel under this report.</p> | <p data-bbox="459 992 1437 1099">Following a preliminary assessment issues and non-compliances were identified (summarised below) and these were detailed in a letter to the Applicant with the request for amended plans and additional information.</p> <p data-bbox="459 1133 839 1171">Clause 4.3 - Height of Building</p> <ul data-bbox="459 1205 1437 1603" style="list-style-type: none"> - The proposed roof form would enlarge the existing roof form, extend the ridge line to align with the front elevation of the building, would not conserve the existing recessive hipped roof form and therefore the increased bulk of the roof is not appropriate to the scale of development in the immediate vicinity, is out of keeping with the Cremorne Point Conservation Area and the R2 Low Density Zone. - The height exceedances are not annotated on the Sections or Height Plane Diagram and both Long Sections and Cross Sections including a Section detailing the greatest height exceedance measured from the existing ground level was required. <p data-bbox="459 1637 1437 1715">The following design amendments were recommended to ensure a more supportable outcome:</p> <p data-bbox="459 1749 1437 1850"><i>Amendments are required to reduce the form, massing and scale of the development particularly the roof of the building to retain a more recessive roof setback from the principal elevation similar to that of the existing roof.</i></p> <p data-bbox="459 1883 823 1921">Clause 6.6 – Dual Occupancy</p> <p data-bbox="459 1955 1437 2119">The development does not satisfy subclauses under Cl. 6.6(2)(b) of NSLEP 2013 and it has not been substantiated that the works will be situated ‘substantially within’ the fabric of the building, ‘conserve the appearance’ of the building and conserve the majority of significant fabric. Below is Council consideration of the development against the subclauses in Cl. 6.6(2)(b) of NSDCP 2013.</p> |

(b) *the dual occupancy—*

(i) *will be situated substantially within the fabric of an existing building, and*

Comment: substantial partitions would remain for the lower ground floor, however more substantial demolition is proposed to the ground level, including demolition of the existing garage and a larger roof form is proposed. Further consideration and reasoning are required to confirm the works are substantially within the fabric of the building to satisfy Cl. 6.6(2)(b)(i) of NSLEP 2013.

(ii) *will conserve the appearance of the existing building, as visible from a public place, and*

Comment: the works proposed comprise substantial alterations to the existing roof enlarging the existing roof line of the building and providing an extended roof projecting in line with the front (north) elevation of the dual occupancy.

The alterations to the roof would not conserve the appearance of the existing building from Milson Road and any enlargement of the roof should be minimised so as to conserve the appearance of the existing building from Milson Road. The terracotta tile appearance of the roof will be replaced with a slate tile roof and although slate tiles are a characteristic built element within the Cremorne Point Conservation Area further justification is sought as to how amendments to the roof which is very prominent from Milson Road will also conserve the appearance of the existing building from Milson Road.

Council's Heritage Officer has also raised concerns (below) with the works to the southern elevation which is highly visible from Cremorne Reserve. Council's objective for buildings representative of the core period of the conservation area is to improve their heritage status by reinstating lost detailing and by removing elements that detract from the building's significance. Amendments required by the Heritage Officer includes amendments to the size of the dormer addition, amendments to the upper ground balcony to be consistent with the character of an Arts and Crafts style dwelling and the new large glazed windows are required to be more vertically proportioned, multipaned and sympathetic to Federation Arts and Crafts style fenestration.

(iii) *will conserve the majority of the significant fabric of the existing building.*

Council's Heritage Officer following a preliminary review of the development requires the following elements to be retained or reused which would further assist in conserving the significant fabric of the existing building.

- *The upper ground level balcony should be redesigned so that it has proportions consistent with the character and primary façade of an Arts and Crafts style dwelling. The balcony on the Upper Ground Level should be incorporated into the primary building form and not project beyond the Lower Ground Level.*
- *The two existing leadlight windows on the lower ground level and one leadlight window on the upper ground level on the South Elevation are to be retained and noted on the drawings.*

- *The battened ceilings and wainscoting on the Upper Ground and Attic Levels will be retained/reinstated/reused.*

Heritage

Council's Heritage Officer required the following issues to be resolved to ensure a more satisfactory heritage outcome.

- The proposed upper ground level balcony on the southern elevation facing Cremorne Reserve detracts from the significance and character of the building and should not be larger than the existing balcony and not cantilevered so that the proportions of the balcony are consistent with the character of an Arts and Crafts style dwelling on a primary façade facing Cremorne Reserve.
- Amendments are required to the new glazing on the southern elevation facing Cremorne Reserve. The new glazed windows (G10 and LG13) comprise large openings with excessive glazing and amendments are required to ensure the windows are more vertically proportioned, multipaned and sympathetic to Federation Arts and Crafts style fenestration.
- The two existing leadlight windows on the lower ground level and one leadlight window on the upper ground level on the eastern elevation are to be retained and noted on the drawings.
- It is unclear whether the battened ceilings and wainscoting on the Upper Ground and Attic Levels will be retained and retention or reuse of these interior elements is supported.
- The proposed dormer is over scaled in that it will cover more than one third of the roof plane (when measured at the eaves) and does not have traditional proportions. The dormer is to be reduced in length or divided into two dormers where the total length of the dormer/s is no greater than one third of the length of the roof plane.
- Materials, colours and finishes – the new slate roofing is to be a natural slate and all new sandstone should be rock or split faced so that it matches the characteristic rusticated finish used on Federation Arts and Crafts style dwellings.

Views

The proposed form, massing and scale of the roof is not designed to minimise obstruction of views from Milson Road and alterations and additions to the roof should maximise existing views from Milson Road noting the requirements of Objective O1 and Provisions P2 and P4 in s1.3.6 of NSDCP 2013.

Site Coverage, Landscaped Area and Un-built upon area

The set of architectural plans includes a Proposed Calculations Diagram detailing the proposed building footprint (site coverage) and the landscaped area. The proposed calculations diagram does not detail the proposed un-built upon area noting proposed pathways within the setbacks of the site particularly the eastern and southern setback are not accounted for un-built upon area.

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| | <p>Additionally, the set of architectural plans do not include an existing calculations diagram detailing site coverage, landscaped and un-built upon areas which would assist in determining the degree of improvements or additional exceedance to the site coverage, landscaped area and un-built upon area controls.</p> <p>The proposed calculation diagram is not considered sufficiently accurate in determining the full extent of proposed site coverage for instance it appears the lower ground floor is utilised to measure the site coverage/building footprint but the additional site coverage from the garage within the front setback also needs to be accounted which would increase the extent of site coverage.</p> <p>The proposed building footprint/site coverage of 294.5m² (56%) is considered excessive and a substantial exceedance compared to the minimum 45% stipulated in Table B-1.6, Provision P1, s1.5.5 of NSDCP 2013. It is required that careful consideration and design amendments are made to have a net reduction in site coverage compared to the existing site coverage and ensure an improved site coverage outcome is achieved to control site density and limit the building footprint to ensure a development more commensurate to its Low Density Residential Zoning.</p> |
| <p>05/04/2024</p> <p>Comments made on whether changes are positive or issues remain following receipt of amended plans.</p> | <p>Council received amended plans in response to the preliminary review. Notable positive changes include the following:</p> <ul style="list-style-type: none"> - Upper Ground Level Balcony facing Cremorne Reserve was redesigned to match the footprint of the lower ground. - The extent of glazing for the upper ground floor (G14) facing Cremorne Reserve was reduced with more masonry proposed which is a good outcome. - The leadlight windows on the south elevation are shown to be retained and it has been confirmed the owner wishes to retain/re-use as much of the battened ceiling and wainscoting in the upper levels as possible. <p>However, the predominant bulk and scale of the dual occupancy remains and the following issues were not addressed or remain outstanding:</p> <p>Clause 4.3 - Height of Building</p> <ul style="list-style-type: none"> - the amended Sections Sheet 1 & 2 Rev H do not annotate or detail the maximum height of the building and height exceedance, nor does the Height Plane Diagram include RL's and height exceedances. - the existing ground level is not detailed in the Long Section (Section 1, DA-A-250 Rev H) but instead the Natural Ground Line is shown. It is incorrect to measure the height of building on the natural ground line but should be measured as a vertical distance from ground level (existing) to the highest point of the building as per the building height definition in the NSLEP 2013 Dictionary. <p>Cl. 4.3 - Height of Building & Cl. 6.6 Dual Occupancies & Bulk and Scale</p> <ul style="list-style-type: none"> - no change is proposed to the proposed roof maintaining the roof as originally proposed. The Applicant is unwilling to make changes as this roof form is perceived critical to accommodate the lift. |

Heritage

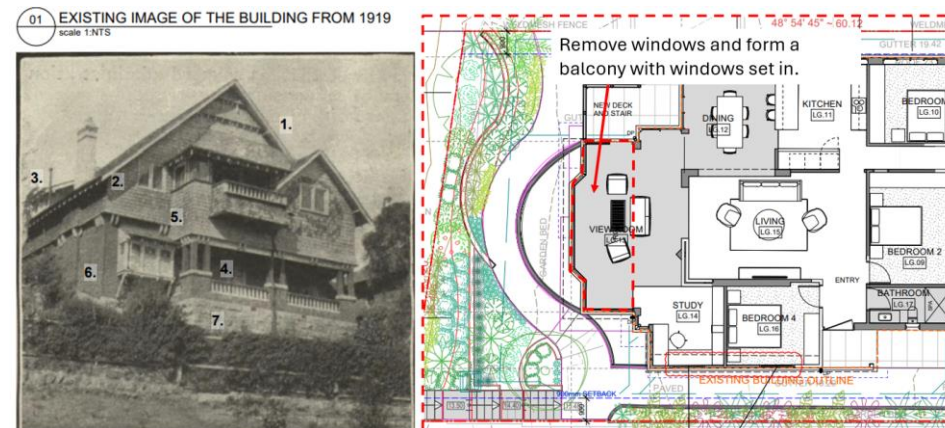
- there are no amendments to improve the lower ground floor glazing with a large glazed window (LG13) proposed not vertically proportioned, multipaned and sympathetic to Federation Arts and Crafts style fenestration. Below is an alternative potential design change discussed with Council's Heritage Officer to address the lower ground floor large glazed window, however it is not the only acceptable heritage outcome.



02 CURRENT PHOTO FROM CREMORNE RESERVE - 2023 scale 1:NTS
 04 PHOTOMONTAGE - FROM CREMORNE RESERVE scale 1:NTS

Figures 14 & 15 – Current Photo from Cremorne Reserve - 2023, DA-A-401 Rev E (left) and Photomontage from Cremorne Reserve, DA-A-401 E (right)

A potential solution could be to remove the lower ground windows and create a lower ground balcony similar to original building circa 1919.



01 EXISTING IMAGE OF THE BUILDING FROM 1919 scale 1:NTS

Figures 16 & 17 – Image of Building in 1919, DA-A-403 Rev E (left) and Annotated Lower Ground Floor Plan, DA-A-100 I (right)

- there is no change sought to the size of the dormer addition on the western roof slope.

Site Coverage, Landscaped Area and Un-built Upon Area

- an additional site coverage diagram was prepared (DA-A-405 Rev A). However, there are errors and inaccuracies with the Site Coverage Diagram. For instance:
 1. Un-built upon area: the existing and Proposed Calculation Diagram counts paving and the terrace as landscaped area which is inaccurate.



If the terrace is to comprise of an open style louvre roof this area is defined as un-built upon.

Figures 18 & 19 – Annotated Site Coverage Diagram, DA-A-405 Rev A (left) and Photo of existing pergola over terrace (right)

2. Landscaped Area: the proposed landscaped area is incorrectly shown accounting paving and paths as landscaped area and also large parts of the lower ground floor dwelling is not identified as site coverage but landscaped area.
3. Site Coverage – the site coverage measures the outline of the dual occupancy roof but does not factor into account the floor footprint of the lower ground floor therefore the site coverage calculation of 316m² is considered inaccurate.



Figures 20 & 21 – Proposed Calculation Diagram, DA-A-405 Rev A (left) and Lower Ground Floor Plan, DA-A-100 I (right)

The amended plans also proposed a double garage compared to an originally sought three bay garage. The garage has no impact on reducing site coverage and the change has no impact on original concerns regarding bulk and scale which primarily focused on the residential property.

15/04/2024

Council’s Team Leader Assessments confirmed to the Applicant that the changes were insufficient and it was recommended a further review of the design with a view to fully addressing the changes requested by Council’s Conservation Planner and addressing the substantive issues of the site coverage non-compliance (inclusive of the new building work contained at the upper end of the site), a significant reduction to the over scaled dormer to the northern roof form, and for additional details to be provided confirming any height variation.

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| | <p>It was reiterated to the Applicant that Council has requested amendments in response to non-compliances with the design that relate to the use of the premises as a duplex in a highly prominent site in a conservation area. The design controls call for restraint in form and style, and therefore amendments must acknowledge the comments of Council's conservation planner and which address design issues fronting Cremorne Reserve.</p> |
| 19/04/2024 | <p>A letter was issued to the Applicant dated 19 April 2023 confirming the amended application comprising of updated architectural plans submitted on 05 April 2024 contains insufficient information and amendments to satisfy the original issues detailed within Council's preliminary review dated 22 March 2024.</p> <p>Given the time elapsed since the issue of concerns raised by Council and given no resolution is forthcoming it was recommended that the application is withdrawn within seven (7) days and Council will be in a position to provide a partial refund of your DA fees up to a maximum of 50% of DA fees paid. However, if the application is not withdrawn, the application will likely be refused on the current plans and information as submitted.</p> |
| 22/04/2024 | <p>An additional set of plans was provided by the Applicant on 22 April 2024 with the following notable changes:</p> <ul style="list-style-type: none">- retaining more heritage features including the lead light windows,- re use of internal timber treatments,- modifying main harbour frontage elevation- revised roof treatment and size of balcony, with the addition of posts.- Use of Low glare windows,- reduction of garage size to decrease site coverage and increase landscape space. <p>The changes made are minor changes which do not address core concerns stipulated in the original preliminary assessment letter dated 22 March 2024. The amendments to the garage size and provision of landscaping adjoining the garage does not reduce site coverage or improve landscaped area noting the building footprint of the lower ground floor remains. On structure landscaping is not defined as landscaped area pursuant to the definition in Provision P2, s1.5.6 in NSDCP 2013.</p> |

INTERNAL REFERRALS

BUILDING

The application was referred to Council's Building Surveyor noted there is no Annual Fire Safety Statement for the Property on Council's records but this will not affect the determination of the development application. The BCA Compliance Capability Report that accompanies the development application identifies significant upgrades are required, however the works can comply with the NCC BCA 2022, Volume 1. More detailed advice provided the Building Surveyor is provided below (*in italics*):

The Development Application seeks approval for alterations and additions to an existing Dual Occupancy residential building.

The building is classified by the NCC BCA as a Class 2 building of Type A construction.

The property does not form part of Council's Annual Fire Safety Statement Register and there is no Annual Fire Safety Statement for the Property contained on Council's records. This matter has been referred to Council's Compliance Department for their investigation and will not affect the DA determination.

The Development Application is also accompanied by a BCA Compliance Capability Report dated 5 October 2023 prepared by Environet which identifies that significant upgrades are required to ensure the building is upgraded to achieve an adequate level of fire safety.

The proposed works represent more than 50% of the buildings total volume and therefore upgrade of the building pursuant to Clause 64 of the Environmental Planning & Assessment Regulations 2021 is recommended.

To prevent any possible need for a future Modified Development Application which may result from Council imposing Council's standard fire safety upgrade Condition, it is recommended that a BCA Upgrade Strategy for the building focusing on Sections C, D and E of the NCC BCA prepared by a Registered Building Surveyor – Unrestricted category under the Building & Development Certifiers Act 2018 be provided.

Generally, the proposed works can comply with the NCC BCA 2022, Volume 1.

A detailed assessment of compliance with the Building Code of Australia 2019 will be undertaken by an appropriately registered certifier at the Construction Certificate Stage of the proposed development. Additionally, a Fire Safety Schedule is to be prepared by the certifier and accompany the Construction Certificate.

It is recommended the following standard conditions be adopted with consideration to the above:

Standard Condition "F1".

Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

(Reason: Prescribed - Statutory)

Standard Condition "C42".

Upgrade of existing building – Fire Spread and Safe Egress

Pursuant to clause 64 of the EP&A Regulation 2021, aspects of the existing building must be brought into conformity with the Building Code of Australia (BCA).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with:

- **Sections C, D & E of the NCC BCA 2022, Volume 1**

*Plans and specifications showing the upgrading works **which must be carried out under this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.***

Notes:

- 1) *The Certifying Authority must be satisfied that the plans and specifications submitted prior to the issue of any Construction Certificate comply with the requirements of this condition.*
- 2) *The Certifying Authority issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.*
- 3) *Where this condition specifies compliance with the performance requirements of the BCA, the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters.*

(Reason: *Application of Regulations relating to Fire and Life Safety*)

HERITAGE

The application has been referred to Council's Heritage Officer who provided the following comments based on the originally submitted plans and documentation (*in italics*):

Heritage Status

The subject property is a Neutral item located in the Cremorne Point Conservation Area. The 1912 dwelling was built for Hugh MacCallum who established MacCallum's Pool in Cremorne Reserve but has been divided into a duplex with alterations and additions. There are also detracting garages on the slip road addressing Milson Road. The house is designed in the Arts and Crafts style and is two storey in scale with rooms in the attic.

Council's objective for buildings from the core period of development of the conservation area that front Cremorne Reserve is to improve their heritage status by reinstating lost detailing and by removing elements that detract from the building's significance. These buildings form part of Tourism NSW's Bondi to Manly Walk and contribute to the cultural heritage significance of not just the North Sydney Council LGA but also the Sydney Harbour foreshore. Council's Historian regularly conducts history walks around the foreshore to promote and advise the public about their significance. It is therefore important that new development at this property has a positive heritage outcome. This is a requirement of clause 5.10 of NSLEP 2013.

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

Assessment

The submitted proposal requires further amendment to ensure that the Arts and Crafts style dwelling is improved with regard to its heritage status. Works to primary facades should be limited to conservation works where detracting elements are removed and original details are reinstated in accordance with these heritage controls:

Part B Section 13.6.1 General Objectives

O1 Ensure that new development is designed to retain and complement the character and significance of the conservation area (refer to Part C of this DCP for a description of the significance of the heritage conservation area).

O3 Enable neutral items to be improved such that they contribute to the character of the heritage conservation area through the removal of unsympathetic and inappropriate elements, and reinstating missing details where appropriate.

O4 Encourage change that will remove uncharacteristic items or reduce the extent of their intrusion.

- *Re-design the Upper Ground Level balcony such that it has proportions consistent with the character and primary façade of an Arts and Crafts style dwelling.*
- *Resolve the glazing such that new glazing to G10 and LG13 is vertically and characteristically proportioned, multipaned and sympathetic to the Federation Arts and Crafts style.*
- *The two existing leadlight windows on the Lower Ground Level and one leadlight window on the Upper Ground Level on the South Elevation are to be retained and noted on the drawings.*
- *The attic level glazing addressing the street is different on the elevation versus the photomontage.*

13.6.2 Form, Massing, Scale

P5 Achieve a neutral outcome to neutral items or improved outcome to neutral items which were constructed in the core period of development by:

- (a) respecting original or characteristic building patterns in terms of bulk, form, scale and height;*
 - (b) minimising changes to original and characteristic features;*
 - (c) removing unsympathetic and uncharacteristic changes and/or;*
 - (d) reinstating characteristic details where there is physical or documentary evidence.*
- *Elements that detract from the significance and character of the building should be removed. It is recommended that the balcony on the Upper Ground level on the waterfront façade not be larger than the existing balcony or preferably, smaller without the cantilevered form.*

13.6.5 Internal Layouts

O1 To ensure that significant interiors are retained.

- *Clarification is sought on the drawings as to whether the battened ceilings and wainscoting on the Upper Ground and Attic Levels will be retained.*

13.9.2 Dormers

O1 To ensure that dormer windows do not detrimentally impact upon the significance of heritage items and heritage conservation areas.

P12 Where side and rear elevations are visible from the street, dormers are to be similar in scale to front dormers.

P6 Dormers on the street elevation of a building must not comprise more than 1/3 of the width of the roof plane upon which they are placed.

P8 The design of the dormer is to complement the style and detailing of the existing building and its roof. Figures B-13.21 and B-13.24 show examples of Victorian and Edwardian dormer windows.

- *The proposed dormer is over scaled in that it will cover more than one third of the roof plane (when measured at the eaves) and does not have traditional proportions.*
- *The dormer is to be reduced in length or divided into two dormers where the total length of the dormer/s is no greater than one third of the length of the roof plane.*

13.9.3 Verandahs and Balconies

P5 The design, proportions and detailing of new balconies is to relate to the style, detail and period of the building, and any characteristic elements of the conservation area identified in the relevant character area statement (refer to Part C of the DCP).

- *The existing balcony on the Upper Ground Level does not have a characteristic form in that it is not incorporated into primary building form, it is over-scaled for a Federation Arts and Crafts style dwelling balcony on a front façade and it projects beyond the Lower Ground Level.*
- *Enlargement of this balcony is not supported and the waterfront façade should be re-designed to resolve this issue.*

13.9.4 Materials, colours and finishes

O1 To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas.

- *All new sandstone should be rock or split faced so that it matches the characteristic rusticated finish used on Federation Arts and Crafts style dwellings.*
- *New slate roofing is to be natural slate.*

- *The new metal roof sheeting proposed over the new tiled terrace and room LG05 should be identified on the Schedule of Finishes as having a corrugated profile. Alternatively zinc or copper with a rolled seam is acceptable. Standing seam will not be supported.*

Part C, Section 6.4 Cremorne Point Conservation Area

P1 Over-scaled additions; dormers and skylights to front roof slopes; roof terraces; carports and garages covering more than 1/3 of the street frontage; high solid fences to the street; rendering and painting of face brick; extensive glazing; glazed balustrades; loss of original detail; modern infill development and residential flat buildings.

- *The current proposal is also contrary to the Area Character Statement at Part C Section 6.4.7*
- *The glazing, as noted above, requires amendment.*

Planning Comment: the heritage concerns stipulated in the original referral were included within a letter to the Applicant dated 22 March 2024. As deliberated in detail within the planning history section of this assessment there are improvements such as the retention of leadlight windows on the southern elevation, amendments to the upper ground balcony facing Cremorne Reserve and retention of battened ceiling and wainscoting to the upper ground and attic.

However, despite the provision of amended plans there are outstanding heritage concerns that remain regarding the size of the dormer and excessive glazing to the lower ground of the property facing Cremorne Reserve.

ENGINEERING

Council's Senior Development Engineer noted the submitted Stormwater Plans prepared by Adcar Consulting seek to use the same lines and stormwater drainage connection. Standard conditions of consent have been recommended requiring a dilapidation report to record the condition of public infrastructure (C1) and dilapidation survey (C3) / structural adequacy reports (C7) for the existing building and appropriate stormwater disposal (C35).

LANDSCAPING

The development proposes landscaping to the rear garden and within the front and side setbacks as well as roof planting above the garage. It is noted that the overall quantity of landscaping would be increased both to the Milson Road frontage and Cremorne Reserve. The application was reviewed by Council's Landscape Development Officer and a formal landscape referral was to be completed subject to satisfying issues stipulated in the original preliminary review letter dated 22 March 2024. Due to outstanding issues and an unsupportable recommendation a formal landscaping referral was not completed.

SUBMISSIONS

On 25 October 2023, Council notified adjoining properties and the Cremorne Point Precinct of the proposed development seeking comment between 03 November to 17 November 2023. Council received no submissions following notification of the development application.

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:

Environmental Planning and Assessment Act 1979 (as amended)

Environmental Planning and Assessment Regulation 2021

SEPP (Biodiversity and Conservation) 2021

- **Chapter 2 Vegetation in non-rural areas**

Section 2.6 of the Policy specifies that a person must not clear declared vegetation in a non-rural area of the State without consent of Council. The Policy confers the ability for Council to declare vegetation that consent is required in a Development Control Plan. Section 16 of Part B in NSDCP 2013 specifies declared trees for the purpose of the SEPP which includes trees over 5m in height or canopy. The proposed development does not entail the removal of trees over 5m in height or canopy therefore not requiring development consent or a tree management permit for removal pursuant to directions in P1, s16.2 'Controls for the Management of Trees and Vegetation' of NSDCP 2013.

SEPP (Biodiversity & Conservation) 2021

- **Chapter 6 Water Catchments**

Having regard to Chapter 6 of the SEPP (Biodiversity and Conservation) 2021 the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given the site's inland location. The proposed development would not adversely affect the quantity or quality of water entering Sydney Harbour, being a regulated catchment for the purpose of Section 6.6 of the Policy. The application satisfies the requirements of the Policy.

SEPP (Resilience and Hazards) 2021

- **Chapter 4 Remediation of Land**

Chapter 4 of this SEPP 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 only previously been used for residential purposes and as such is unlikely to contain any contamination; therefore, the requirements stipulated in Chapter 4 of this SEPP have been satisfactorily addressed.

SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate A503893 dated 07 August 2023 for the alterations and additions has been submitted with the application to satisfy the Aims of the SEPP.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The proposed works can be defined as alterations and additions to a dual occupancy (attached) and are permissible in the zone with development consent.

2. Objectives of the zone

The objectives for a R2 Low Density Residential Zone are stated below:

- *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 development seeks an over scaled roof addition greater than the maximum height limit for the site and a building footprint substantially exceeding the maximum permitted site coverage therefore the development has an excessive bulk and scale not of a low density compatible with the surrounding R2 Low Density Residential Zone. The development therefore does not contribute a low density residential property contrary to objective (bullet point one and three) of the R2 Low Density Residential Zone.

Part 4 – Principal Development Standards

| COMPLIANCE TABLE Principal Development Standards North Sydney Local Environmental Plan 2013 | | | |
|--------------------------------------------------------------------------------------------------------|-----------------|----------------|-----------------|
| Site Area – 520.9m² | Proposed | Control | Complies |
| Clause 4.3 – Heights of Building | 12.4m | 8.5m | NO |
| Clause 6.6 Dual Occupancy: | | | |
| • Appearance as a dwelling house | Complies | | YES |
| • Level of attachment to common wall (80%) or common floor to ceiling (80%) | Complies | | YES |
| • Minimum lot size – 450m ² | Complies | | YES |

3. Height of Building

The following objectives for the permissible height limit 8.5m pursuant to clause 4.3 in NSLP 2013 are stated below:

- (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 C4 Environmental Living.*

Building Height

The definition of building height or height of building as stipulated in the Dictionary of NSLEP 2013 as follows (*in italics*):

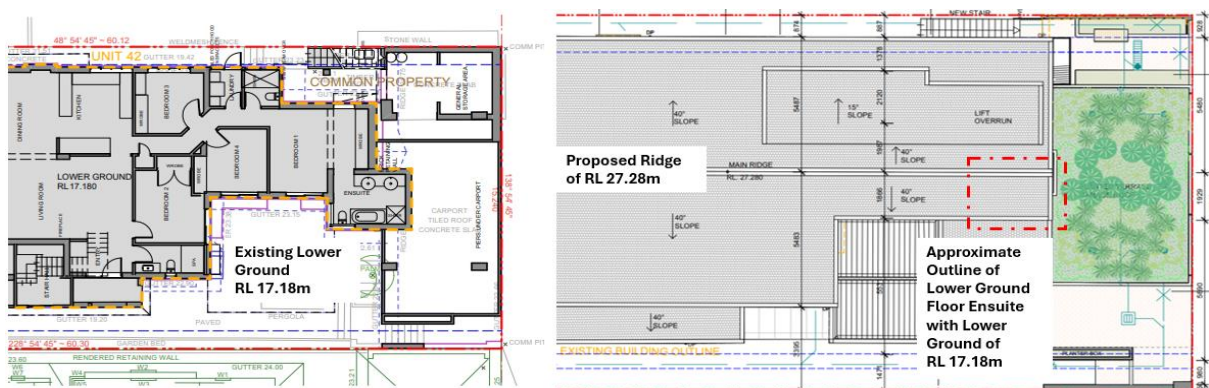
building height (or height of building) means –

- (a) *in relation to the height of a building in metres - the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building - the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The following concerns are raised in terms of the accuracy in determining the extent of height and exceedances:

- The building has a maximum height of 12.4m (46% exceedance) as stipulated within the supporting Clause 4.6 exception statement prepared by Lance Doyle. The height of building at 12.4m is not annotated or detailed within any corresponding Sections or annotated on the Height Plane Diagram.
- The Sections provided within the architectural set prepared by Quattro Architecture are insufficient in determining the extent of height exceedance and both Long Sections and Cross Sections must detail the existing ground level to fully interpret the height of building above the existing ground level.
- To further assist in determining the extent of height exceedances the Sections and Height Plane Diagram should stipulate the RL's of various height exceedances.
- The 8.5m height limit shown on the proposed Section 1 (DA-A-250 & DA-A-251) is not considered a measurement from the existing ground level but more depictive of the topography of the site from the side boundary.

Reference to the existing lower ground floor notes a finished floor level of RL 17.180. The new roof for the dual occupancy would have a ridge height of RL 27.280 therefore it is considered the development measured from the lower ground level ensuite to the proposed roof ridge would have a maximum height of 10.1m which is an exceedance of 18.8%. Below is an annotated plan to try to clarify the discrepancies in the approach to measuring the height of building.



Figures 22 & 23 – Existing Lower Ground Floor Plan, DA-A-050 Rev G (left) and Proposed Roof Plan, DA-A-103 H (right)

Clause 4.6 - Consideration of an Exception to development standard

The height of building is not supported and the written request to justify the contravention of the development standard is not well founded. The written request does not demonstrate compliance with the development standard would be unreasonable and there are insufficient planning grounds to justify the variation. In particular the development does not comply with the following objectives in Clause 4.3 'Height of Buildings' of NSLEP 2013.

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

The Clause 4.6 Exception to a Development Standard variation request includes minimal view analysis not satisfying Clause 4.3, Objective 1(b) of NSLEP 2013. The development subject to increased bulk and scale predominantly due to the large roof addition is considered to have a significant impact to existing views especially water and iconic views from Milson Road. The site visit completed by the Assessment Officer confirmed due to the alterations and additions to the roof of the dual occupancy, views of Sydney Harbour including iconic views (Opera House and Harbour Bridge) will be affected and insufficient view loss assessment is provided to support the height exceedance.

The development application including Clause 4.6 Exception Request therefore fails to consider the retention and sharing of views from Milson Road therefore the development fails to meet the objective (1)(b) of Clause 4.3 'Height of Buildings' of NSLEP 2013.

It is also noted the objectives for Clause 4.3 Height of Buildings is incorrectly stipulated in Section 3.0 of the Clause 4.6 – Exception to a Development Standard Maximum Building Height.

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

The alterations and additions to the roof of the building would cast additional shadow impact to the adjoining property 40 Milson Road notably impacting upon an additional window on the first floor on the western elevation of 40 Milson Road in mid-winter at 3pm. The roof which exceeds the maximum 8.5m should maintain solar access to existing dwellings and not contribute to additional overshadowing of existing dwellings, however, it appears referring to the 3pm mid-winter shadow diagram that an additional window serving habitable space of 40 Milson Road would be affected therefore the development does not comply with objective (1)(c) of Cl. 4.3 'Height of Buildings' in NSLEP 2013 which seeks the maintenance of existing solar access and no additional shadow impact to neighbouring properties.

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

The scale of the building due to a combination of the larger bulkier roof form and increased building footprint to the lower ground and ground level delivers a building that is excessive in scale not promoting the character of the area. The characteristic scale and density of development within the Cremorne Point Conservation Area is single or two storey which is identified in both s6.4.5 'Characteristic Buildings and s6.4.6 'Characteristic Built Elements' in Part C of NSDCP 2013. The additional bulk and scale of the building towards Milson Road is excessive not maintaining the existing single to two storey character of the building which is shared between the adjoining 40 and 44 Milson Road.

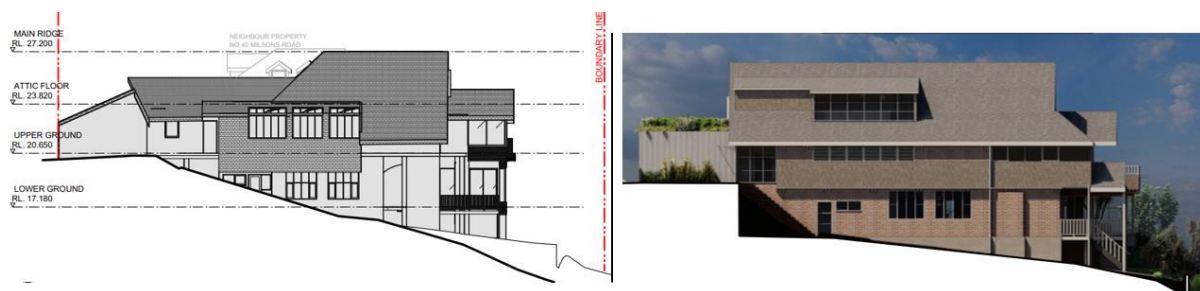
(1)(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.

The alterations to the roof to provide additional habitable floor space including the large dormer is excessive impacting upon the built form of the existing dual occupancy so that the building is more apparent as a three storey building not 1 or 2 storeys which is contrary to both the characteristic number of storeys for buildings within the Cremorne Conservation Area and contrary to objective (1)(g) of Clause 4.3 'Height of Buildings' in NSLEP 2013.

It is also noted excavation to the front of the property to form a lower ground gymnasium, sauna and ensuite plus bedroom extension increases the wall height of the building and making the property appear as three storeys particularly when viewed from either Cremorne Reserve or from lateral angles from Milson Road.



Figures 25 & 26 – Photo of the property from Cremorne Reserve (left) and photo from Milson Road (right)



Figures 27 & 28 – Existing West Elevation (left) and Proposed West Elevation (right)

4. Heritage Conservation

The subject site is located in the Cremorne Point 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.

Although there is the intention to retain fabric which contributes to the significance of the site and surrounding conservation area there are outstanding heritage concerns that remain regarding the size of the dormer and excessive glazing to the lower ground of the property facing Cremorne Reserve therefore the development does not satisfy objective (b) in cl. 5.10 of NSLEP 2013.

5. Dual Occupancies

Clause 6.6(1) includes provisions for dual occupancies generally. The following provisions apply to all dual occupancy development:

- (1) *Development consent must not be granted for the erection of a dual occupancy unless*
 -
 - (a) *the form of the building will appear as a dwelling house, and*
 - (b) *the dwellings in the dual occupancy will be attached by at least 80% of the common wall or 80% of the common floor or ceiling, and*
 - (c) *the area of the lot on which the dual occupancy is to be situated is at least 450 square metres.*

Planning Comment: The form of the building would appear as a dwelling house although it is maintained that amendments are required to reduce the overall bulk and scale of the building additions following consideration of the development against Clause 4.6 Exceptions to development standards. The dwellings in the dual occupancy will be attached by more than 80% of the common ceiling and the area of the lot in which the dual occupancy is situated is at least 450 square metres.

Dual Occupancies in Conservation areas are subject to further provisions outlined at Clause 6.6(2) which requires the following:

- (2) ***A dual occupancy must not be erected on land that is located within a heritage conservation area or on which a heritage item is located unless—***
 - (a) *there is no existing building erected on the land, or*
 - (b) *the dual occupancy—*
 - (i) *will be situated substantially within the fabric of an existing building, and*
 - (ii) *will conserve the appearance of the existing building, as visible from a public place, and*
 - (iii) *will conserve the majority of the significant fabric of the existing building.*

The provisions of Cl. 6.6(1) & (2) of NSLEP 2013 constitute a development standard in accordance with the definition in Cl. 1.4 'Definitions' of the EP&A Act 1979.

The applicant has not provided a Clause 4.6 written request which addresses the requirements of Clause 6.6(2) as outlined above. The absence of a written request for variation which deals with the proposed design this submission prevents Council, and the Panel, from determination of the application in its present form.

Further, it is Council's view that works to substantially increase the external bulk and form of the existing building would not satisfy the underlying purpose of the development standard. That is to permit dual occupancy development in a conservation area which preserves the scale and form of a characteristic building.

Consideration

Clause 6.6(2) 'Dual Occupancies' stipulates the requirements to be satisfied for dual occupancies that are located within a heritage conservation area. For clarification the erection of a dual occupancy includes alterations and additions to an existing building as per the definition in Cl. 1.4 'Definitions' of the Environmental Planning and Assessment Act 1979.

erection of a building includes—

- (a) the rebuilding of, the making of alterations to, or the enlargement or extension of, a building, or*
- (b) the placing or relocating of a building on land, or*
- (c) enclosing a public place in connection with the construction of a building, or*
- (d) erecting an advertising structure over a public road, or*
- (e) extending a balcony, awning, sunshade or similar structure or an essential service pipe beyond the alignment of a public road,*

but does not include any act, matter or thing excluded by the regulations (either generally for the purposes of this Act or only for the purposes of specified provisions of this Act).

Below is consideration of the subclauses under Cl. 6.6(2)(b) of NSLEP 2013.

- (b) the dual occupancy—*
 - (i) will be situated substantially within the fabric of an existing building, and*

Comment: substantial partitions would remain for the lower ground floor, however more substantial demolition is proposed to the ground level, including demolition of the existing garage and a larger roof form is proposed. Insufficient reasoning is provided that the scope of works is substantially within the fabric of the existing building and a particular challenge the Applicant faces with this subclause is the additional bulk and scale and scope of additions transforming the design and bulk and scale beyond that of the existing building. The subclause restricts the scope of work to more minor alterations and additions compared to that currently proposed therefore the works are deemed not to be substantially within the fabric of the building to satisfy Cl. 6.6(2)(b)(i) of NSLEP 2013.

Below are relevant floor plans detailing the additional footprint beyond the fabric of the existing building and a comparison of the photo of the building versus a render confirming the development increases the bulk and scale of the building not reserving works within the fabric of the existing building.

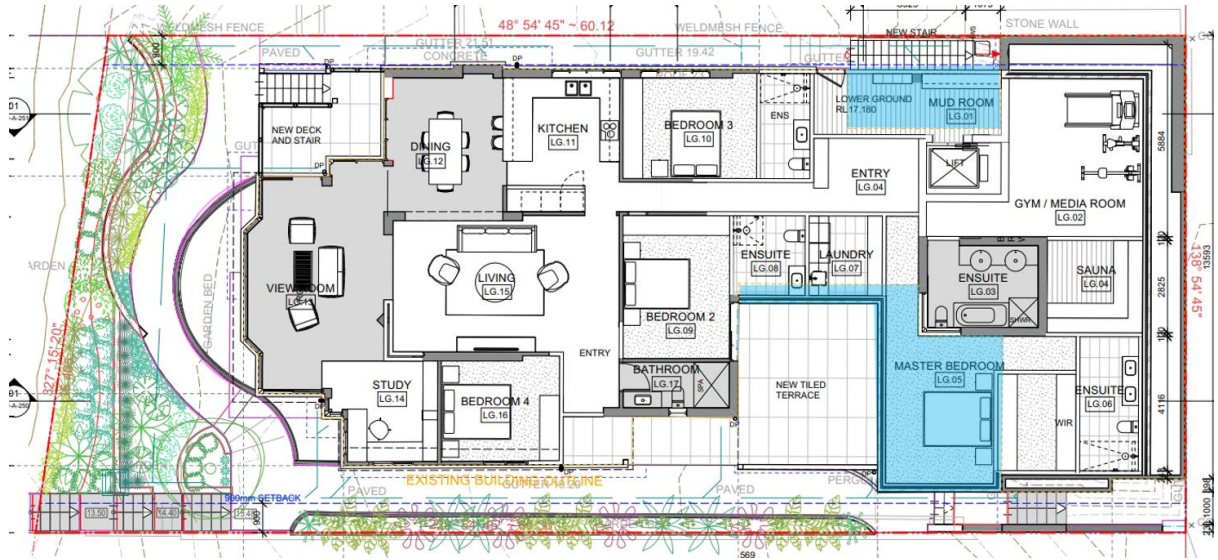


Figure 29 – Proposed Lower Ground Floor Plan with additions shown in blue

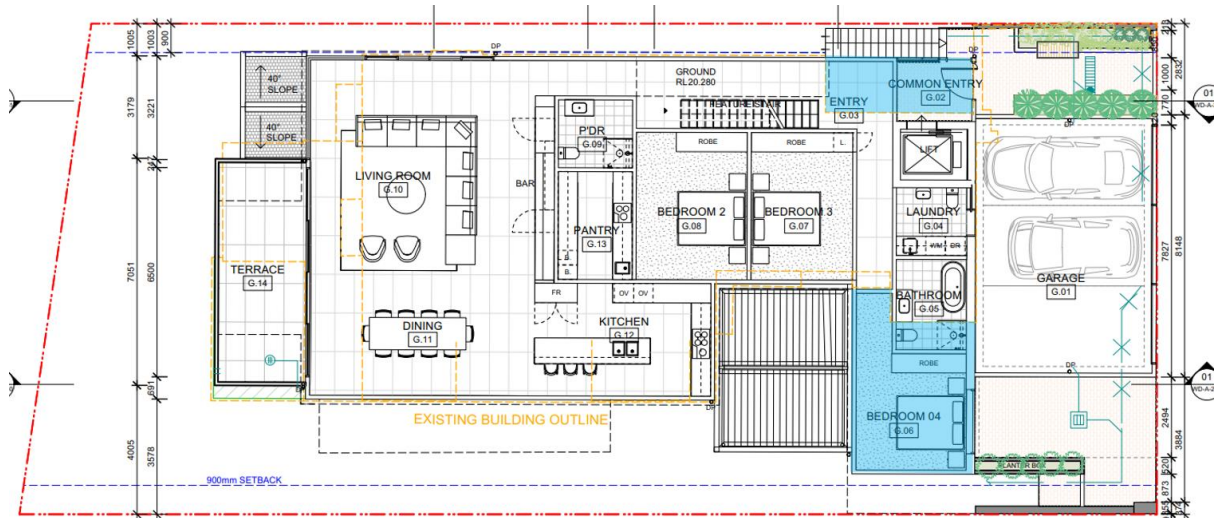


Figure 30 – Proposed Ground Floor Plan with additions shown in blue



Figures 31 & 32 – Existing View (left) and Proposed Render (right), DA-A-400 Rev G

(ii) will conserve the appearance of the existing building, as visible from a public place, and

Comment: the site has two frontages visible from a public place (the rear from a heritage perspective is also a frontage to Cremorne Reserve) therefore an analysis is considered below against both frontages visible from a public place.

Milson Road

The works proposed comprise substantial alterations to the existing roof enlarging the existing roof line of the building and providing an extended roof projecting in line with the principal elevation of the dual occupancy. The alterations to the roof combined with the size of dormer proposed is not supportable not conserving the appearance of the existing building (refer to Figures 31 & 32) from Milson Road and anymore enlargement of the roof should be minimised and the terracotta tile appearance of the roof should be considered as an option to conserve the appearance of the building so as to conserve the appearance of the existing building from Milson Road or Cremorne Reserve.

Cremorne Reserve

Council's Heritage Officer raised concerns with the proposed upper ground balcony on the waterfront façade requiring the balcony not be larger than the existing or preferably, smaller without the cantilevered form. The upper ground balcony should be incorporated into the primary building form and the current balcony proposed is over scaled. Additional concerns were with respect to the excessive glazing to windows G10 and LG13 and glazing should be characteristically proportioned, multipaned and sympathetic to the Federation Arts and Crafts style.

It is noted with updated revisions to the architectural plans improvements were made to the size of the upper ground floor balcony and a reduction in glazing to the upper level window was sought. However, the excessive glazing for the lower ground window is an outstanding issue not satisfied and although the window is existing amendments to reduce the prominence to the lower ground level is important to satisfy Cl. 5.10 (b), Objectives O1, O3 & O4 in Section 13.6.1 of the NSDCP 2013 and remove an uncharacteristic element stipulated in Part C, Section 6.4.7 of NSDCP 2013.

(iii) will conserve the majority of the significant fabric of the existing building.

Council's Heritage Officer following a preliminary review required the following elements to be retained which would further assist in conserving the significant fabric of the existing building.

- *Re-design the Upper Ground Level balcony such that it has proportions consistent with the character and primary façade of an Arts and Crafts style dwelling.*
- *The two existing leadlight windows on the Lower Ground Level and one leadlight window on the Upper Ground Level on the South Elevation are to be retained and noted on the drawings.*
- *Clarification is sought on the drawings as to whether the battened ceilings and wainscoting on the Upper Ground and Attic Levels will be retained.*
- *The existing balcony on the Upper Ground Level does not have a characteristic form in that it is not incorporated into primary building form, it is over-scaled for a Federation Arts and Crafts style dwelling balcony on a front façade and it projects beyond the Lower Ground Level.*

Draft Amended plans were provided to Council on 19 April 2024 which made some positive changes to the upper balcony, partially reduced the extent of glazing to the upper ground floor window facing Cremorne Reserve, and the retention of leadlight windows on the south elevation and retention/re-use of the battened ceiling and wainscoting.

The draft amended plans however were not formally accepted due to significant unresolved issues and an unsatisfactory resolution of the bulk and scale of the development. The justification for the exceedance in height of building, exceedance in site coverage and non-compliance with subclauses Cl. 6.6(2)(b)(i)(ii) of NSLEP 2013 remains unsatisfactory.

On the basis that substantial further amendment is required, the current proposal is not supported. It is recommended that the Panel confirm the recommendations of Council’s Conservation planner which would enable dual occupancy development to be undertaken in a more sensitive manner.

6. Earthworks

The application involves excavation primarily to the lower ground floor under the existing garage to provide additional habitable space so an assessment has been carried out under matters raised in clause 6.10 in NSLEP 2013.

The application is supported by a Structural Report prepared by Bekker Engineers. Bekker inspected the lower ground floor beneath the garage noting the low headroom and dampness due to waste seepage through the bedrock. Structural recommendations include further excavation of the floor beneath the garage and a new drainage system to be installed. Bekker also note excavation will have no effect on the neighbouring property as the excavation into the rock will be sawcut with no ensuing vibrations.

Appropriate conditions of consent can be applied to manage soil stability and structural impact both within the site and adjoining land. The excavation required subject to measures recommended by an appropriately qualified and practising structural engineer will assist in avoiding, minimising, and mitigating against adverse impacts satisfying cl. 6.10 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> |
| 1.2 Social Amenity | | |
| 1.2.2 Universal Design and Adaptable Housing | Yes | The development incorporates adaptable housing features to enable residents to age in place and ensure greater housing choice for seniors, families and people with disabilities. Most notably the lift provides ease of access to various floor levels satisfying the Objectives in s1.2.2 of NSDCP 2013. However, amendments are required to the bulk and scale of the development particularly the roof which would necessitate amendments to the lift. |
| 1.2.3 Maintaining residential accommodation | Yes | The existing dual occupancy will remain comprising of one unit on the lower ground floor and one unit on the ground and level 1 floor. The development would not result in a loss of residential accommodation complying with Objective O1, s1.2.3 of NSDCP 2013. |




| 1.3 Environmental Criteria | | |
|----------------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.3.1 Topography | Yes | <p>Additional excavation is required underneath the existing garage providing additional accommodation more than 1m below ground level. The accommodation located underneath the garage comprises non habitable rooms such as a bathroom and walk in robe/gymnasium which is appropriate compliant with P4 in s1.3.1 given the limited access to light and ventilation.</p> <p>The Applicant has submitted a structural report prepared by a structural engineer as per the requirements of Provision P5, s1.3.1 of NSDCP 2013.</p> <p>The supporting structural letter by Bekker states excavation within the lower ground floor voids underneath the garage will have no effect on neighbouring properties as the excavation into the rock will be sawcut with no ensuing vibration.</p> |
| 1.3.2 Bushland | Yes | <p>The site is situated in a bushland buffer known as Buffer B situated within 300m of bushland.</p> <p>Developments that significantly alter vegetation within the site must ensure at least 50% of planting comprises locally occurring native species.</p> <p>Referring to the plant schedule for the rear garden which is to comprise new landscaping sufficient local native plant species are included such as Viola hederacea (Native Violet), Lomandra longifolia (Mat Rush), Dianella caerulea (Blue Flax Lily), Grevillea Speciosa (Red Spider Flower) and Westringia fruticosa (Westringia).</p> |
| 1.3.3 Bush Fire Prone Land | N/A | The site is not designated as bush fire prone land. |
| 1.3.4 Foreshore Frontage | N/A | The site is not adjacent to the foreshore, however substantial consideration is given to the merits of the development on the significance of the adjoining Cremorne Reserve. |
| 1.3.6 Views | No | <p>Objective O1 in s1.3.6 of the NSDCP 2013 seeks to protect and enhance opportunities for views from streets and other public places. Provision P2 further states development should be designed to <i>maximise</i> the sharing of views from public places.</p> <p>View consideration is provided within the submitted SEE against s1.3.6 of DCP but the view analysis is minimal and primarily concerns the impact to properties opposite the subject site.</p> <p>The site visit confirmed the proposed roof addition would have an impact to both water views and views of iconic items including the Opera House and Harbour Bridge as viewed from Milson Road. Changes at the roof level are required to ensure the proposed roof form is similar to the existing. Improvements are required to assist in maximising views from Milson Road.</p> <p>Below are photos of the site taken from Milson Road confirming the existing building form protects and enhances views from the street.</p>  |

Figure 33 – Existing View from Milson Road – water views and views of the Opera House likely to be significantly affected

| | | |
|--------------------------------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | |  <p>Figure 34 – Existing View from Milson Road – water views likely to be significantly affected</p>  <p>Figure 35 – Existing View from Milson Road – views of the Harbour Bridge to be partly affected</p> <p>The proposed form, massing and scale of the roof is not designed to minimise obstruction of views from Milson Road and alterations and additions to the roof should maximise existing views from Milson Road noting the requirements of Objective O1 and Provisions P2 in s1.3.6 of NSDCP 2013.</p> |
| <p>1.3.7 Solar Access</p> | <p>Yes</p> | <p>Shadow diagrams (including elevations) are provided for mid-winter and the equinoxes.</p> <p>A comparison between the existing and proposed mid-winter shadow diagrams does not indicate any additional shadow impact to adjoining properties or the Cremorne Reserve.</p> <p>The elevational shadows provide the best indication on the impact to the most affected property (40 Milson Road). The development would have no additional impact apart from additional shadow to an upper floor window on the western elevation of 40 Milson Road.</p> <p>The shadow impact is considered to maintain a reasonable access to sunlight and daylight for adjoining properties in accordance with Objective O1, s1.3.7 of NSDCP 2013.</p> |
| <p>1.3.8 Acoustic Privacy</p> | <p>Yes</p> | <p>Subject to condition (F1 National Construction Code) the proposal is considered to be capable of achieving compliance with the required building construction levels to meet acoustic standards.</p> |

| | | |
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| | | <p>Part of the proposed development comprises a new ground level balcony. The balcony subject to revisions shown in the second and third submitted architectural set is modest in size and adequately integrated within the dwelling. The upper level roof addition will have a rear balcony which is also designed to be integrated primarily within the roof of the building.</p> <p>The proposed balconies and their design including size is reasonable and balanced in directing views to the harbour and providing additional amenity space whilst maintaining a reasonable level of acoustic and visual privacy for adjoining properties.</p> |
| 1.3.9 Vibration | Yes | <p>The site is not adjacent to a road with an annual average daily traffic volume of more than 20,000 vehicles therefore consideration of the likely impact of a road noise or vibration is not required pursuant to Cl. 2.120 'Impact of road noise or vibration on non-road development' in the State Environmental Planning Policy (Transport and Infrastructure) 2021.</p> |
| 1.3.10 Visual Privacy | Yes | <p>The development maintains a modest scale and proportion of windows along for the side elevations of the buildings to retain a reasonable level of visual privacy between adjoining properties.</p> <p>Window openings are primarily reserved to the rear of the property which has significant water views and views of the harbour.</p> <p>The site visit confirmed neighbouring properties side elevations facing the subject site has limited glazing or private open space which would be affected with openings and private open space primarily to the rear akin to the subject site.</p> |
| 1.4 Quality built form | | |
| 1.4.1 Context | No | <p>The building design does not adequately respond to the constraints of the site noting additional site coverage is proposed & proposed new roof additions would not comply with the maximum height of building, the dormer is located in a prominent location is excessive in size and extensive glazing is proposed for the dormer and a lower ground window facing Cremorne Reserve.</p> <p>The proposed development does not sufficiently respond to the constraints of the site including its maximum height, site coverage or location within the Cremorne Point Conservation Area or respond to the issues in the character statement not complying with Objective O1 and P1 in s1.4.1 of NSDCP 2013.</p> |
| 1.4.2 Subdivision Pattern | Yes | <p>The proposed work would not alter the existing lot size, shape or orientation of the site.</p> |
| 1.4.3 Streetscape | Yes | <p>No works are proposed within the road reserve. During the course of construction there is potential for damage to public infrastructure through the course of construction. Therefore, if the development were supportable a dilapidation report of public infrastructure (condition C1) is prepared and a corresponding bond for damage and completion of infrastructure works (refer to C41) would be a requirement.</p> |
| 1.4.4 Laneways | Yes | <p>The property faces Milson Road and is served by a lane leading from Milson Road. However, the primary frontage is considered Milson Road therefore the provisions in s1.4.4 'Laneways' are not applicable.</p> |
| 1.4.5 Siting | No | <p>The characteristic siting for buildings in the Cremorne Point Conservation Area as stipulated in s6.4.6, Part C of the DCP is to the middle of the lot with gardens to the front and rear.</p> <p>The development comprising of additional building footprint to the front of the lot and a new larger roof form with additional bulk and scale to the front of the site does not uphold the characteristic siting of buildings in the conservation area.</p> <p>Below is an existing roof plan confirming apart from the garage the bulk of the dual occupancy is centrally sited within the site. However, additional site coverage and a larger roof form degrades the existing characteristic siting of the building.</p> |

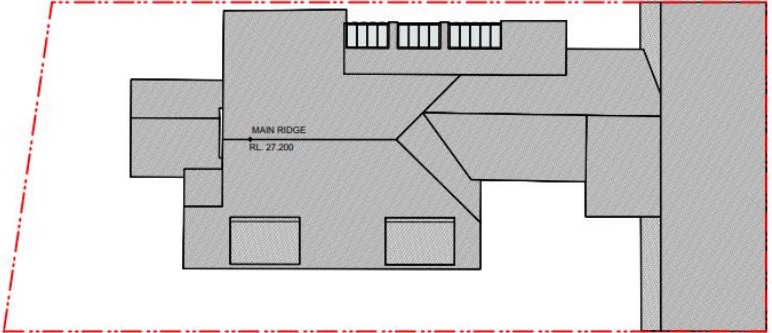
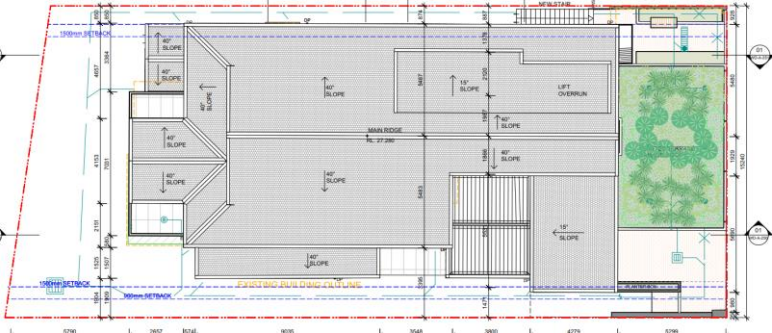

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| | |  <p>Figure 36 – Existing Roof Plan, DA-A-050 Rev G</p>  <p>Figure 37 – Proposed Roof Plan, DA-A-103 Rev H</p> |
| <p>1.4.6 Setback – Front</p> | <p>No</p> | <p>The existing front setback and general siting of the building apart from the garage is recessed from Milson Road.</p> <p>The new roof form and increased bulk and scale of the upper level would be sited to the front boundary of the site immediately behind the new garage.</p> <p>The front additions and increased bulk and scale of the upper level does not sufficiently reinforce the characteristic pattern of setbacks within the street contrary to Objective O1, s1.4.6 of NSDCP 2013.</p> <p>Below is a photo and view photo confirming the recessive character of buildings facing Milson Road and a proposed render confirming the additional bulk to the front of the site considered to undermine the characteristic front setback pattern of buildings facing Milson Road.</p>  <p>Figure 38 – Photo from Milson Road showing a similarity in the recessive built form to Milson Road</p> |



Figure 39 – Proposed Render, DA-A-400 Rev G

1.4.6 Setback – Side


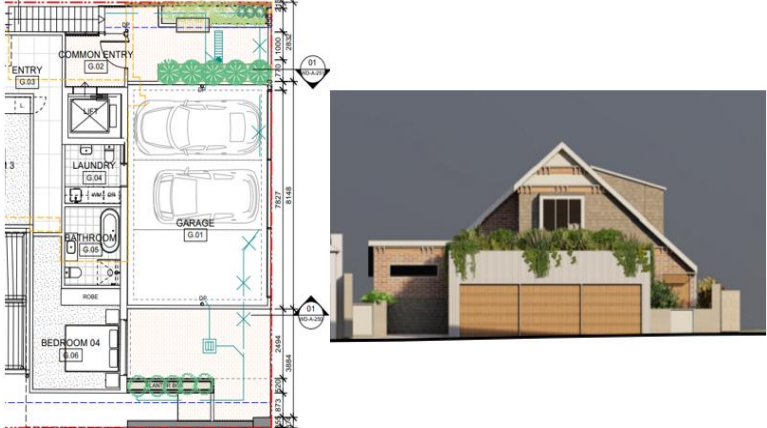
No

| Control | Existing | Proposed | Compliance |
|----------------------------------------------------|----------------|--------------------|------------------------------------|
| Zone R2 (Low Density Residential) | | | |
| R2 - 1 st storey (Up to 4m) 900mm | Min 2.055m (e) | 2.055 – 1.23m (e) | Yes |
| | Min 1.005m (w) | Min 1.005m (w) | Yes |
| R2 - 2 nd storey (up to 7m) 1.5m | Min 3.578m (e) | 1.23m - 3.578m (e) | No |
| | Min 1.005m (w) | Min 1.005m (w) | No – no change to existing setback |
| R2 - 3 rd storey (Greater than 7m) 2.5m | 7m (e) | 5.7 - 7m (e) | Yes |
| | 4.1m (w) | 2.1 – 3.1m (w) | No |

Non compliances with side setbacks due to the additional building footprint and roof form is indicative of a development that does not control bulk and scale not satisfying Objective O2 in s1.4.6 of NSDCP 2013.

Specific non compliances include the bedroom extension within the upper ground level with a setback of 1.23m not compliant with the minimum 1.5m and the dormer is sited 2.1m from the western boundary not compliant within the minimum 2.5m stipulated in Table B-1.5, P2, s1.4.6 of NSDCP 2013.

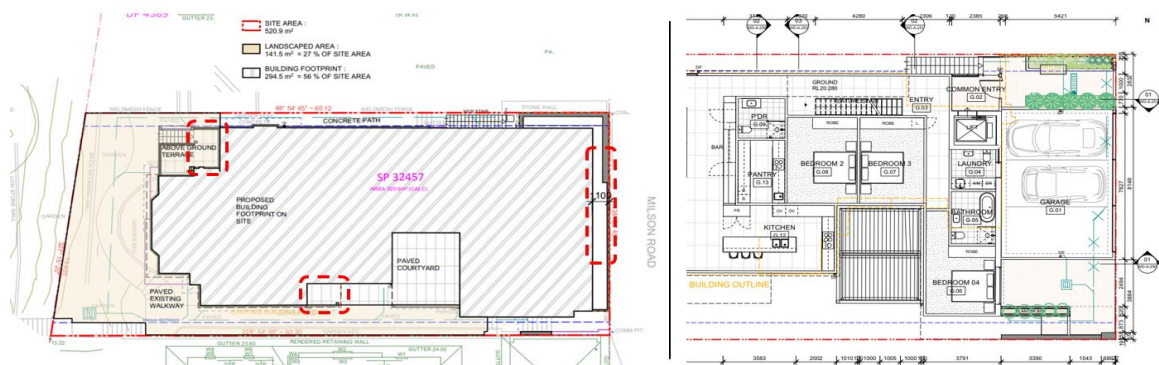
| | | | |
|--------------------------------------|-----------------------------------|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.4.6 | Setback – Rear | Yes | The existing building rear setback would predominantly remain compatible with rear building setbacks of adjoining properties. |
| 1.4.7 | Form Massing Scale | No | <p>The building subject to alterations and additions is of a size not consistent with adjoining properties. The height exceedances and number of storeys (3) is not representative of a building identified in the character statement for the Cremorne Point Conservation Area and alterations and additions should be significantly reduced noting the height, site coverage and conservation status of the site.</p> <p>The development as proposed does not comply with Objective O1, Provisions P1 and P2 in s1.4.7 of NSDCP 2013.</p> |
| 1.4.8 | Built Form Character | No | <p>The proposed roof form albeit comprising of a characteristic gable roof is not compatible with adjoining properties. The existing roof form being recessive and hipped to Milson Road is more compatible and characteristic with adjoining buildings.</p> <p>The development therefore does not comply with Objective O1 and Provision P2 in s1.4.8 of NSDCP 2013.</p> |
| 1.4.9 | Dwelling Entry | Yes | The development provides an improved outcome deleting the existing four bay garage and formalising a common entry from the front of the property which provides a sense of address. |
| 1.4.10 | Roofs | Yes | The gable roof is a roof form identified in the Cremorne Point Conservation Character Statement. Although the roof form is compliant with s1.4.10 there are overriding concerns regarding the size of the roof, the dormer attached to the western roof slope and increased bulk and scale of the dual occupancy resulting from the new roof form which is discussed throughout the report. |
| 1.4.11 | Dormers | No | <p>The dormer is not supported by Council's Heritage Officer because the dormer is over scaled in that it will cover more than one third of the roof plane (when measured at the eaves) and will not have traditional proportions. Furthermore, its glazing has a contemporary appearance and therefore does not comply.</p> <p>Council's Heritage Officer considers it appropriate to delete the lift serving the upper level and this is concurred with to reduce the size of the dormer and overall bulk and scale of the dual occupancy.</p> <p>The dormer does not comply with Provision P2(b) in s1.4.11 of NSDCP 2013.</p> |
| 1.4.12 | Colours and Materials | Yes | Council's Heritage Officer generally accepts the proposed materials and finishes subject to all new sandstone to be rock or split faced, new slate roofing to be natural slate and new metal sheeting over the new tiled terrace and room LG05 to have a corrugated profile. |
| 1.4.14 | Front Fences | Yes | The development will have a small front wall with a low height adjacent to the garage which is supported generally complying with the Objectives and Provisions in s1.4.14 of NSDCP 2013. |
| 1.5 Quality Urban Environment | | | |
| 1.5.4 | Vehicle Access and Parking | Yes | The existing garage comprises of a large 4 bay car parking area to the front of the site. The garage is to be demolished and replaced with a three bay garage with flat/green roof. The garage is considered an improved built form outcome reducing the bulk and scale compared to the existing garage. |

| | | |
|-----------------------------------|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | |  <p style="text-align: center;">Figure 40 – Photo of existing garage</p> |
| | |  <p style="text-align: center;">Figures 41 & 42 – Floor Plan of Garage and Common Entry and Front Elevation Render</p> |
| <p>1.5.5 Site Coverage</p> | <p>No</p> | <p>Below is a detailed consideration of Site Coverage which notes there are inaccuracies with the submitted Calculations Diagram in Dwg No. DA-A-022 Rev G and amended sets of architectural plans.</p> <p>The proposed site coverage of 56% (294.5m²) is considered a significant exceedance greater than the maximum 45% stipulated in s1.5.5 of NSDCP 2013.</p> |

The set of architectural plans includes a Proposed Calculations Diagram (DA-A-022 Rev G) detailing the proposed building footprint (site coverage) and the landscaped area. The proposed calculations diagram does not detail the proposed un-built upon area noting proposed pathways within the setbacks of the site particularly the eastern and southern setback are not accounted for as un-built upon area.

The following errors or discrepancies and lack of information makes it difficult to determine the accuracy of the existing or proposed site coverage, landscaped and un-built upon area:

- The **site coverage** shown in DA-A-022 Rev G does not accurately show the full extent of proposed site coverage. the diagram excludes the lower ground floor which constitutes site coverage/building footprint. The additional site coverage from the garage within the front setback also has not been accounted for which would increase the extent of site coverage (annotated below).



Figures 43 & 44 – Annotated Calculation Diagram highlighting the garage, covered porch and rear part covered terrace defined as site coverage (left) and Upper Ground Floor Plan showing Garage extending to the front boundary of the site (right)

- The Landscaped Area is not properly shown or the un-built upon area as per the definition in Provision P2 in s1.5.6 of NSDCP 2013.

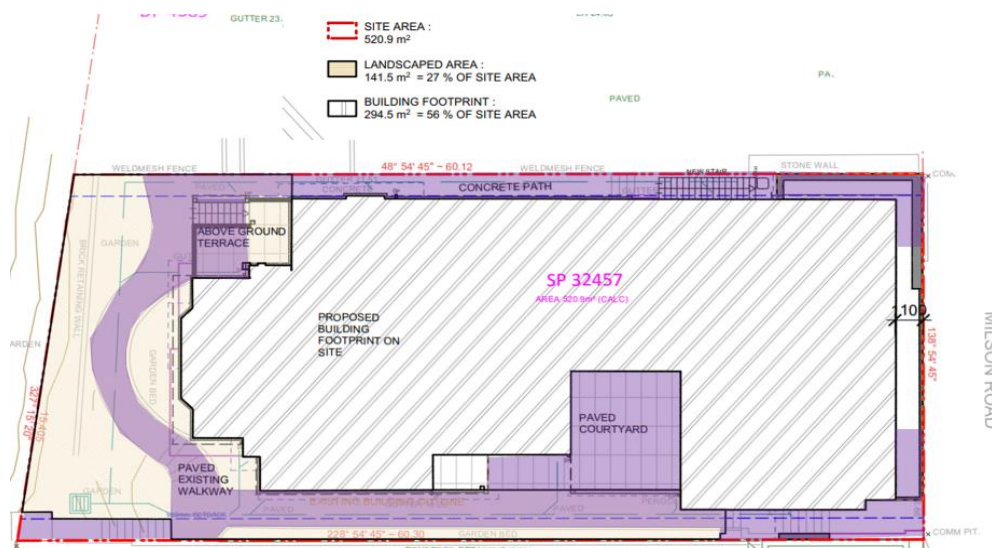


Figure 45 – Annotated Calculation Diagram highlighted in purple detailing the areas of paving, paths and uncovered courtyard defined as un-built upon area

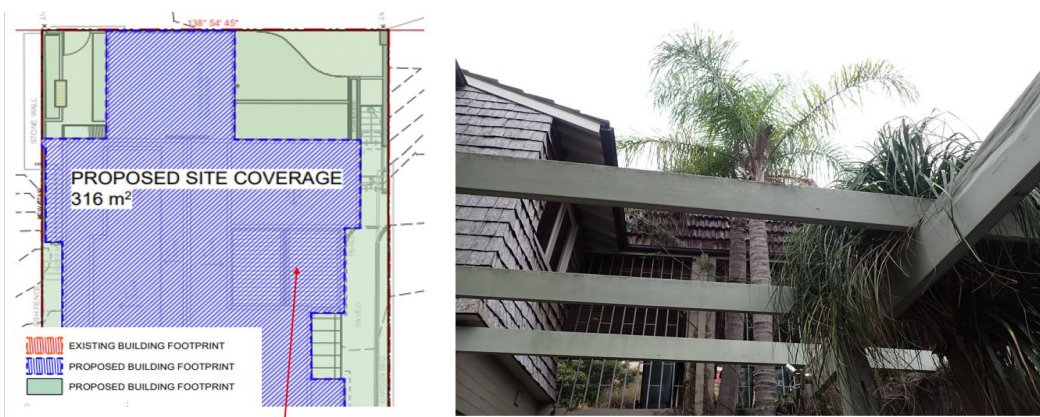
The inaccuracies in calculating site coverage, landscaped area and un-built upon area was stipulated in a letter to the Applicant and as well as provision of an existing calculations diagram amendments were required to have a net reduction in site coverage compared to the existing site coverage and ensure an improved site coverage outcome is achieved to control site density and limit the building footprint to ensure a development more commensurate to its Low Density Residential Zoning.

- Site Coverage – the site coverage measures the outline of the dual occupancy roof but does not factor into account the floor footprint of the lower ground floor therefore the site coverage calculation of 316m2 is considered inaccurate.



Figures 46 & 47 – Proposed Calculation Diagram, DA-A-405 Rev A (left) and Lower Ground Floor Plan, DA-A-100 I (right)

- Landscaped Area & un-built upon area - the proposed landscaped area incorrectly accounts paving and paths as landscaped area and also large part of the lower ground floor dwelling is not identified as site coverage but landscaped area.



If the terrace is to comprise of an open style louvre roof this area is defined as un-built upon.

Figures 48 & 49 – Annotated Site Coverage Diagram, DA-A-405 Rev A (left) and Photo of existing pergola over terrace defined as un-built upon area (right)

For the purposes of assessment of site coverage, landscaped area and un-built upon area the following calculations (as shown in Dwg No. DA-A-022 Rev G) are referred to as the most accurate representation of site coverage despite the inaccuracies highlighted Figures 43 & 44 of this report.

| Control | Proposed | Compliance |
|-------------------|-------------------------------------------------------|------------------------------------------------|
| Landscaped area | 141.5 (27%) | Insufficient accurate information to determine |
| Unbuilt-upon area | No un-built upon area specified in Compliance Diagram | Insufficient accurate information to determine |

The proposed building footprint/site coverage of 294.5m² (56%) is considered excessive and a substantial exceedance compared to the minimum 45% stipulated in Table B-1.6, Provision P1, s1.5.5 of NSDCP 2013. If the additional site coverage of the garage footprint, porch and rear deck were considered the site coverage would increase furthermore. It is required that careful consideration and design amendments are required to not increase additional site coverage but have a net reduction in site coverage to ensure an improved site coverage outcome to control site density and limit the building footprint to ensure a development more commensurate to its Low Density Residential Zoning.

| | | |
|----------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.5.6 Landscape Area | Acceptable on merit | The landscaped areas will remain and new planting is proposed to the existing rear garden. It is noted additional on structure planting is proposed to the garage at the front of the property. |
| 1.5.7 Landscaping | Yes | The development has an improved landscaping outcome with new planting including native planting to the rear of the site (adjoining Cremorne Reserve) and on structure planting proposed. |
| 1.5.8 Front Gardens | Yes | An improved landscape outcome is proposed to both frontages facing Cremorne Reserve and Milson Road. |
| 1.5.9 Private and Communal Open Space | Yes | Both units have access to approximately 80-90m ² of private open space to the rear of the site. Although the private open space is not directly accessible from a main living area such as the living room or kitchen/dining area the private open space is appropriately sited to the rear providing a reasonable level of outdoor amenity to residents. Additionally, each unit has rear balconies providing additional amenity to residents. Both units are considered to have sufficient private open space to ensure a reasonable level of outdoor amenity. |
| 1.5.13 Garbage Storage | Yes | No specific garbage and bin area is identified on the plans. Nevertheless, there is plenty of space for bin accommodation that is sited close to the street to allow ease of access to the collection point. |
| 1.6 Efficient Use of Resources | | |
| 1.6.1 Energy Efficiency | Yes | A valid BASIX Certification has been submitted as part of the development application documentation. |
| 1.6.10 Green Roofs | Yes | The green roof above the garage although a contemporary elements does have positives providing increased amenity, increased biodiversity and is a positive aesthetic outcome for flat roofs. |

South Cremorne Planning Area (Cremorne Point Conservation Area) – Part C of NSDCP 2013

The site is located within the Cremorne Point Conservation Area and below is a consideration of the development against the most applicable controls in the character statement in Part C of the NSDCP 2013.

6.4.6 Characteristic built elements

Siting

P1 To the middle of the lot with gardens to the front and rear.

The development comprising of additional building footprint to the front of the lot and a new larger roof form with additional; bulk and scale to the front of the site does not uphold the characteristic siting of buildings in the conservation area. The issues are further elaborated in detail against Section 1.4.5 of the NSDCP 2013.

P2 Buildings sited to retain slot views above and to the side to harbour.

The proposed roof addition would adversely impact both water views and views of iconic items including the Opera House and Harbour Bridge as viewed from Milson Road. Maintaining a more subordinate roof form similar to the existing roof form would assist in retaining views from Milson Road. Concerns with regards to the additional bulk and scale of the building and impact upon views from Milson Road is also elaborated in detail against Section 1.3.6 of the NSDCP 2013.

Form, massing and scale

P5 Single and two storey detached dwellings. Double elevations to waterfront properties.

The alterations to the roof to provide additional habitable floor space including the large dormer is excessive impacting upon the built form of the existing dual occupancy so that the building is more apparent as a three storey building not 1 or 2 storeys. The scale of the building is further increased by the scope of excavation to construct more floor space to the front of the property underneath the garage. The works are too expansive increasing the overall form, massing and scale of the building. Concerns regarding the form, massing and scale are deliberated throughout the report and the development would no longer resemble the one to 2 storeys characteristic of the Cremorne Conservation Area.

6.4.7 Uncharacteristic elements

Over scaled additions and extensive glazing

The new roof addition and additions to the footprint are excessive resulting in height exceedances and a large site coverage significantly greater than the maximum 45% permitted in Section 1.5.5 of NSDCP 2013.

The windows for the dormer and the lower ground window facing Cremorne Reserve are too extensive and amendments are required by Council's Heritage Officer to the overall size of the dormer and amendments to the design of the glazing for both the dormer and lower ground floor window to be less contemporary in appearance, multi paned with vertical proportions.

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 contributions towards the provision of local infrastructure. The contributions payable has been calculated in accordance with the Council's Contributions Plan as follows:

Contribution amounts payable

| Applicable contribution type | | |
|----------------------------------------------------------------|-------------------|----------------|
| s7.12 contribution details | Development cost: | \$3,380,284.00 |
| <i>(payment amount subject to indexing at time of payment)</i> | Contribution: | \$33,803.00 |

Conditions requiring the payment of contributions at the appropriate time can be included if the development were supported.

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 Environmental Planning and Assessment (Amendment) Act 1979 | Yes |

SUBMITTERS CONCERNS

The application has been notified in accordance with Council's Community Consultation Plan with adjoining properties and the Cremorne Point Precinct notified between 3 November 2023 to 17 November 2023. In response to the notification Council received no submissions to the proposal.

PUBLIC INTEREST

The proposal is not considered to be in the public interest for the reasons stated throughout this report.

SUITABILITY OF THE SITE

The proposal would be located in a R2 Low Density Residential Zone where alterations and additions to a dual occupancy (attached) are a permissible form of development subject to consent.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The application has been notified in accordance with Council's Community Consultation Plan with adjoining properties and the Cremorne Point Precinct notified between 03 November 2023 to 17 November 2023. In response to the notification Council received no submissions to the proposal.

CONCLUSION

The development does not conserve the heritage significance of the surrounding Cremorne Point Conservation Area because the proposed dormer is over scaled covering more than one third of the western roof plane and the glazing is excessive and contemporary. Further, the lower ground glazing facing the Cremorne Reserve is excessive comprising of large glazed window panes.

The Sections within the architectural plans are insufficient in determining the extent of height exceedance and both Long Sections and Cross Sections do not detail the existing ground level to fully interpret the height of building above the existing ground level. The height of building is not supported and the written request to justify the contravention of the development standard is not well founded.

The alterations and additions to the roof of the dual occupancy will not promote the retention and sharing of views from Milson Road, views of Sydney Harbour including iconic views of the Opera House and Harbour Bridge, the height exceedance does not maintain solar access to existing dwellings and the larger bulkier roof form towards Milson Road is excessive not maintaining the existing single to two storey character of the building. The height exceedances are therefore not supported contrary to objectives in Cl 4.3 'Height of Buildings' of NSLEP 2013 and there are insufficient planning grounds to justify the variation.

The development does not satisfy subclauses in Cl. 6.6(2)(b) of NSLEP 2013 because the increase in the bulk and scale of the building is not substantially within the fabric of the existing building, and the appearance of the building would substantially change not conserving the appearance of the existing building.

The form, massing and scale of the building subject to alterations and additions is not of a size consistent with adjoining properties and the scale of additions is excessive not compatible with the R2 Low Density Residential Zone and an uncharacteristic element within the Cremorne Point Conservation Area. The proposed site coverage is excessive and a significant exceedance indicative of a development that has excessive bulk and scale and an overdevelopment for the site and its low density surrounds.

The current application will require a reduction in the form, massing and scale of the development which includes amendments to the roof to retain a more recessive roof setback and inevitable a smaller dormer addition and amendments to reduce the building footprint to limit the exceedance in site coverage and retain a properly that is centrally sited which is a characteristic of the Cremorne Pont Conservation Area.

Having regard to the merits of the proposal, the application is recommended for refusal for the reasons provided below.

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 as the consent authority, resolve to refuse development consent to Development Application No. 302/23 for development of alterations and additions on land at 42 & 42A Milson Road, as shown on plans DA-A000 – DA-A-075 Rev G dated 14 August 2023, for the following reasons:-

1. Heritage Impacts

The subject property is a Neutral Item located in the Cremorne Point Conservation Area. The 1912 building was built for Hugh MacCallum who established MacCallum's Pool in Cremorne Reserve but has been divided into a duplex with alterations and additions. The house is designed in the Arts and Crafts style and is two storey in scale with rooms in the attic. The proposed development does not contribute to the heritage significance of the site and surrounding Cremorne Point Conservation primarily due to the size of the dormer and excessive glazing to the lower ground of the property which faces Cremorne Point.

The below particulars do not include retention of leadlight windows, battened ceilings and wainscoting on the upper ground and attic level as well as the design of the first floor balcony facing Cremorne Reserve as these elements can be satisfied based on receipt of amended plans (Rev H).

Particulars

- a) The proposed dormer is over scaled in that it will cover more than one third of the roof plane being a dominant addition highly visible from the street and detrimental to the significance of the Cremorne Point Conservation Area contrary to Provision P3, P6 and P12 and O1 in s13.9.2 'Dormer windows' of the NSDCP 2013.
- b) The lower ground floor large glazed window (LG13) facing Cremorne Reserve is excessive not vertically proportioned, multipaned and sympathetic to Federation Arts and Crafts style fenestration. The glazing has a detrimental impact upon the heritage conservation area and it is encouraged the balcony is reinstated to that of the original to satisfy Objectives O1 and O2 in s13.9.3.
- c) The dormer windows are also contemporary in appearance and excessive highly visible from the street. Extensive glazing for the dormer and lower ground floor window facing Cremorne Reserve are uncharacteristic elements as stipulated in Section 6.4.7, Part C of the NSDCP 2013.
- d) The characteristic siting for buildings in the Cremorne Point Conservation Area as stipulated in s6.4.6, Part C of the DCP is to the middle of the lot with gardens to the front and rear. The development comprising of additional building footprint to the front of the lot and a new larger roof form with additional bulk and scale to the front of the site does not uphold the characteristic siting of buildings in the conservation area.
- e) The proposed dormer addition, scale and contemporary design of the dormer windows, bulk, scale and siting of the development and the extensively glazed lower ground facing the Cremorne Reserve will detract from the significance of the heritage conservation area contrary to Aims of Plan 1.2(2)(f), Objective 1(b) in Clause 5.10 in NSLEP 2013.

2. Height of Building

The site is subject to a maximum height of buildings standard of 8.5 metres. The proposed additions as stipulated in the Cl. 4.6 exception statement would have a height of 12.4m being a variation of 3.9m (46%) of the standard. The height of building is not supported and the written request to justify the contravention of the development standard is not well founded.

Particulars

- a) The building has a maximum height of 12.4m (46% exceedance) as stipulated within the supporting Clause 4.6 exception statement prepared by Lance Doyle. The height of building at 12.4m is not annotated or detailed within any corresponding Sections or annotated on the Height Plane Diagram.
- b) The Sections provided within the architectural set prepared by Quattro Architecture are insufficient in determining the extent of height exceedance and both Long Sections and Cross Sections must detail the existing ground level to fully interpret the height of building above the existing ground level.
- c) The Clause 4.6 Exception to a Development Standard variation request includes minimal view analysis not satisfying Clause 4.3, Objective 1(b) of NSLEP 2013. The development subject to increased bulk and scale predominantly due to the large roof addition is considered to have a significant impact to existing views especially water and iconic views from Milson Road.
- d) The alterations and additions to the roof of the building would cast additional shadow impact to the adjoining property 40 Milson Road notably impacting upon an additional window on the first floor on the western elevation of 40 Milson Road in mid-winter at 3pm. The roof which exceeds the maximum 8.5m has an additional shadow impact not maintaining solar access to existing dwellings therefore the development does not comply with objective (1)(c) of Cl. 4.3 'Height of Buildings' in NSLEP 2013 which seeks the maintenance of existing solar access and no additional shadow impact to neighbouring properties.
- e) The alterations to the roof to provide additional habitable floor space including the large dormer is excessive impacting upon the built form of the existing dual occupancy so that the building is more apparent as a three storey building not 1 or 2 storeys which is contrary to both the characteristic number of storeys for buildings within the Cremorne Conservation Area and contrary to objective (1)(g) of Clause 4.3 'Height of Buildings' in NSLEP 2013.
- f) The height of building is not supported and the written request to justify the contravention of the development standard is not well founded. The written request does not demonstrate compliance with the development standard would be unreasonable and there are insufficient planning grounds to justify the variation. In particular the development does not comply with the following objectives in Clause 4.3 'Height of Buildings' of NSLEP 2013.

3. Clause 6.6 – Dual Occupancy

The Statement of Environmental Effects and Heritage Impact Statement do not satisfactorily address the Cl. 6.6 provisions. The statements have not contended with Cl. 6.6(2)(b) in a detailed sense, and the plans and written statement have not substantiated the works will be situated 'substantially within' the fabric of the building and 'conserve the appearance' of the building.

Particulars

Clause 6.6(2)(i) 'Dual Occupancies'

(2) A dual occupancy must not be erected on land that is located within a heritage conservation area or on which a heritage item is located unless—

(b) the dual occupancy—

(i) will be situated substantially within the fabric of an existing building.

- a) substantial partitions would remain for the lower ground floor, however more substantial demolition is proposed to the ground level, including demolition of the existing garage and a larger roof form is proposed.
- b) Insufficient reasoning is provided that the scope of works is substantially within the fabric of the existing building and a particular challenge the Applicant faces with this subclause is the additional bulk and scale and scope of additions transforming the design and bulk and scale beyond that of the existing building.
- c) The subclause restricts the scope of work to more minor alterations and additions compared to that currently proposed therefore the works are deemed not to be substantially within the fabric of the building to satisfy Cl. 6.6(2)(b)(i) of NSLEP 2013.

(2) A dual occupancy must not be erected on land that is located within a heritage conservation area or on which a heritage item is located unless—

(b) the dual occupancy—

(ii) will conserve the appearance of the existing building, as visible from a public place.

- d) The works proposed comprise substantial alterations to the existing roof enlarging the existing roof line of the building and providing an extended roof projecting in line with the principal elevation of the dual occupancy. The alterations to the roof combined with the size of dormer proposed is not supportable not conserving the appearance of the existing building from Milson Road.
- e) The application seeks alterations to the façade facing Cremorne Reserve that although seek to alter the appearance of the existing building are supportable most notably changes detailed in the amended set of architectural plans within set of plans in revision H dated 03 April 2024 apart from the excessive glazing to the lower ground floor window LG 13.

4. Site Coverage & Un-built Upon Area

The set of architectural plans (Rev G) includes a Proposed Calculations Diagram (DA-A-022 Rev G) detailing the proposed building footprint (site coverage) and the landscaped area. The proposed calculations diagram does not detail the proposed un-built upon area noting proposed pathways within the setbacks of the site particularly the eastern and southern setback are not accounted for as un-built upon area.

The proposed site coverage of 56% (294.5m²) is considered a significant exceedance greater than the maximum 45% stipulated in s1.5.5 of NSDCP 2013.

Particulars

- a) The proposed calculations diagram comprises errors or discrepancies detailing the site coverage and landscaped area but not the un-built upon area. It is unclear whether the development complies with the un-built upon area requirements stipulated in Table B-1.7, P1 in s1.5.6 of NSDCP 2013.
- b) The site coverage shown in DA-A-022 Rev G does not accurately show the full extent of proposed site coverage for instance it appears the lower ground floor is utilised to measure the site coverage/building footprint but the additional site coverage from the garage within the front setback, the covered porch on the eastern elevation and covered terrace to the rear northern elevation also needs to be accounted which would increase the extent of site coverage.
- c) The proposed building footprint/site coverage stipulated in the Proposed Calculations Diagram (DA-A-022 Rev G) of 294.5m² (56%) is excessive and a substantial exceedance compared to the minimum 45% stipulated in Table B-1.6, Provision P1, s1.5.5 of NSDCP 2013.
- d) The development is not balanced and in keeping with the optimum capacity of the site and is considered over development not controlling site density contrary to Objectives O1 and O3 in s1.5.5 of NSDCP 2013.
- e) The substantial exceedance in site coverage does not maintain the low density character of the zone and the additional building footprint and built form to the front of the site affects the siting of the property contrary to Objective O2 in s1.5.5 of NSDCP 2013.
- f) It is required that careful consideration and design amendments are required to not increase additional site coverage but have a net reduction in site coverage to ensure an improved site coverage outcome to control site density and limit the building footprint to ensure a development more commensurate to its Low Density Residential Zoning.

5. Public Interest

- a) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is not considered to be within the public interest and is likely to set an undesirable outcome due to the detrimental impact to the heritage conservation area and due to the non-compliances with objectives and controls under Council policy including the NSLEP 2013 and NSDCP 2013.

Thomas Holman
SENIOR ASSESSMENT OFFICER

David Hoy
TEAM LEADER

Date: 22 May 2024

Concurrence granted by Manager Development Services on 22 May 2024

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES
