

ITEM 8. DEVELOPMENT APPLICATION: 1 DARLING STREET GLEBE

FILE NO: D/2009/1773

SUMMARY

Date of Submission: 22 October 2009. Additional information and amendments received 31 October, 24 November 2009 and 18 February 2010.

Applicant: Ursa Komac and Pablo Guillen Alvarez

Architect: Ken Powell Architect

Site: 1 Darling Street, Glebe

Summary: The application proposes a new front dormer, rear roof extension and ground level internal alterations.

The additional floor area proposed is 16.2m² which results in a total FSR of 1.16:1. The existing FSR is 1:1. The total FSR exceeds the maximum of 0.7:1 by 66%. As the FSR is more than 60% over the control, Council is the consent authority. The applicant has requested a variation to the FSR control under SEPP 1. The variation is supported as the proposal will not detract from the conservation area or result in unreasonable amenity impacts.

Two submissions were received and raise concerns about overshadowing and loss of sky views. The design of the rear roof extension has been amended to reduce overshadowing impacts to adjoining properties.

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

Development Controls:

- (i) Leichhardt Local Environmental Plan 2000
- (ii) Leichhardt Development Control Plan 2000
- (iii) City of Sydney Heritage DCP 2006
- (iv) City of Sydney Notification of Planning and Development Applications DCP 2005

Attachments:

- A - Selected Drawings
- B - Shadow Diagrams

RECOMMENDATION:

It is resolved that consent be granted subject to the following conditions:

SCHEDULE 1A

Approved Development/Design Modifications/Covenants and Contributions/Use and Operation

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2009/1773 dated 22 October 2009 and Statement of Environmental Effects prepared by Ken Powell Architect, dated 20 October 2009 and the following drawings:

Drawing Number	Architect	Date
DA.01 B	Ken Powell Architect	17 February 2010

and as amended by the conditions of this consent:

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The rear roof extension glazing is to be obscured to a height of 1600mm.

The modifications are to be submitted to and approved by Council prior to a Construction Certificate being issued.

(3) FRONT DORMER WINDOW

The front dormer is to match the size, detail and material and location within the roof plane of the existing front dormer windows at Nos 5 and 7 Darling Street.

(4) CHIMNEYS

- (a) The existing chimneys are to be retained.

- (b) Prior to the issue of a construction certificate, a structural engineer's report is required for approval of Council. The report is to address the structural integrity of the chimney and advise, as a consequence of the proposed works, any necessary measures to ensure the retention and stability of the chimney. Any such measures are to be adopted and shown on the construction certificate drawings.

(5) DESIGN DETAILS (MINOR DEVELOPMENT)

A materials sample board detailing all proposed finishes must be submitted to and approved by Council prior to a Construction Certificate being issued.

SCHEDULE 1B

Prior to Construction Certificate/Commencement of Work/Health and Building

Note: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

(6) ASBESTOS REMOVAL

All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "Code of Practice for the Safe Removal of Asbestos" and the City of Sydney Asbestos Policy.

(7) ASBESTOS REMOVAL SIGNAGE

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.

(8) CLASSIFICATION OF WASTE

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (April 2008). The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

(9) DISPOSAL OF ASBESTOS

Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Part 6 of the City of Sydney's Asbestos Policy.

(10) NOTIFICATION OF ASBESTOS REMOVAL

All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email address.

(11) PROHIBITION OF ASBESTOS RE-USE

No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).

(12) SIGNAGE LOCATION AND DETAILS

- (a) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.
- (b) The site notice board must include the following:
 - (i) contact person for the site;
 - (ii) telephone and facsimile numbers and email address; and
- (c) site activities and time frames.

(13) SKIPS AND BINS

No asbestos laden skips or bins are to be left in any public place without the approval of Council.

(14) BCA - NEW BUILDING WORKS CLASS 1 AND 10 BUILDINGS

- (a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA) including:
 - (i) Framing - Part 3.4;
 - (ii) Roof and Wall Cladding - Part 3.5;
 - (iii) Glazing - Part 3.6;
 - (iv) Fire Safety - Part 3.7;
 - (v) Health and Amenity - Part 3.8;
 - (vi) Safe Movement and Access (Access and Egress) - Part 3.9;

Prior to a construction certificate being issued, the certifying authority must ensure that the building complied with the Building Code of Australia by achieving compliance with Clause 1.0.4 of the BCA.

(15) FLASHINGS TO BOUNDARY WALLS

A flashing must be provided to prevent water entering between the proposed and existing external boundary walls of the adjoining properties.

Note: Attachments or connections to party walls may require the consent of the adjoining property owner/s.

(16) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).

(17) STRUCTURAL CERTIFICATION FOR PARTY WALLS

Prior to a Construction Certificate being issued, a certificate from a qualified practising structural engineer in accordance with Clause A2.2(a)(iii) of the Building Code of Australia must be submitted to the satisfaction of Council (where Council is the certifying authority). The Certificate must verify the structural integrity of the existing 'Party Wall(s)' as consequence of the additional loads imposed thereon by the proposal.

(18) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE

Demolition or excavation must not commence until a Construction Certificate has been issued.

(19) VENTILATION MINOR WORKS

The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 and AS1668.2-1991.

(20) STORMWATER AND DRAINAGE - MINOR DEVELOPMENT

The drainage system is to be constructed in accordance with Council's standard requirements as detailed in Council's 'Stormwater Drainage Connection Information' document dated July 2006. This information is available on Council's website - www.cityofsydney.nsw.gov.au.

(21) BARRICADE PERMIT

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the Roads Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

(22) SYDNEY WATER CERTIFICATE (QUICK CHECK)

- (a) The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au, (see Building Developing and Plumbing then Quick Check) or telephone 13 20 92.
- (b) The consent authority or a Certifying Authority must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the commencement of work.

(23) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal.

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

(24) BASIX

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to an Occupation Certificate being issued.

(25) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Building Sites Noise Code* and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

(26) PROTECTION OF STREET TREES DURING CONSTRUCTION

All street trees adjacent to the site not approved for removal must be protected at all times during demolition and construction, in accordance with Council's Tree Preservation Order.

Details of the methods of protection must be submitted to and be approved by Council prior to the issue of the Construction Certificate and such approval should be forwarded to the Principal Certifying Authority. All approved protection measures must be maintained for the duration of construction and any tree on the footpath which is damaged or removed during construction must be replaced.

(27) VEHICLE CLEANSING

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

(28) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifying Authority and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(29) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

(30) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

SCHEDULE 2

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.

BACKGROUND

The Site and Surrounding Development

1. The site is rectangular with an area of 103.2m². It has a primary street frontage to Darling Street and rear lane access to Darling Lane. It is the end terrace in a row of two-storey Victorian terraces. The southeast (side) boundary abuts the rear of a row of terraces fronting St Johns Road.
2. The site is located in the Glebe Conservation Area and the 'St Phillip's' Distinctive Neighbourhood. The immediate area is made up predominantly of rows of Victorian terraces.
3. A site location Plan is provided at Figure 1. Photos are provided at Figures 2 to 5.



Figure 1 – Site location plan.



Figure 2 – Subject site.



Figure 3 – Looking towards St Johns Road.



Figure 4 – Looking north to adjoining terraces from rear second storey balcony.



Figure 5 – Darling Lane.

History of Development Applications Relevant to this Site

4. The following development applications are considered relevant to the proposed development:
 - (a) Development application DA01/0702 for alterations and additions including the creation of a new attic was refused by Leichhardt Council on 18 September 2002. The DA was refused principally because of overshadowing impacts to properties to the southeast. The planner's report notes that the shadow diagrams submitted were lacking information as they failed to demonstrate in plan and elevation the impacts of the proposal on the rear window openings and private open space of properties fronting St Johns Road.

PROPOSAL

5. The application proposes alterations and additions to an existing dwelling.
6. In detail, the amended application proposes:
 - (a) a front dormer window;
 - (b) a rear roof extension to provide a third bedroom; and
 - (c) ground level internal alterations to reconfigure kitchen and laundry areas.
7. The proposal will increase the gross floor area of the dwelling to 119.9m² with a FSR of 1.16:1. This represents an additional 16.2m² above the existing floor area.
8. To address overshadowing impacts to adjoining properties, the application was amended to reduce the size of the rear roof extension. This required the deletion of the originally proposed ensuite and internal reconfiguration.
9. Plans of the development are provided at Attachment A.

IMPLICATIONS OF THE PROPOSAL

Section 79C Evaluation

10. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:

Section 79C(1)(a) Environmental Planning Instruments, DCPs and Draft Instruments

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs) and REGIONAL ENVIRONMENTAL PLANS (REPs)

11. The proposed development is not subject to any State or Regional Environmental Planning Policies.

LEPs and DCPs

Leichhardt Local Environmental Plan 2000

12. Compliance of the proposal with the LEP controls is summarised below:

COMPLIANCE WITH LEICHHARDT LEP 2000

Part 4 - Housing

Development Controls	Permissible under Leichhardt Local Environmental Plan 2000	Proposal as assessed Leichhardt Local Environmental Plan 2000
Zoning (Cl 17-18)	Residential	The proposed development is permissible with consent.
Floor Space Ratio (Cl. 19 (2)) (Site Area = 103.2m²)	0.7 : 1 103.2m ²	1.16 : 1 119.9m ² Additional floor area proposed = 16.2m ²
Landscaped Area (Cl. 19(3))	Min. 40% of site to be landscaped 25% of the landscaped area shall be on natural ground, permeable and appropriate for substantial deep planting	18.4% (No change proposed) 23.5% (No change proposed)

SEPP No. 1 Objection

13. The applicant has submitted a SEPP No. 1 objection and is seeking a variation to the controls related to FSR and landscaping. The SEPP 1 objection for FSR is supported and is considered in detail in the Issues section. As the proposal neither reduces nor proposes any change to the amount of landscaped area, the SEPP 1 submitted in relation to landscaping is not required.

Part 3 – Heritage Conservation – Cl. 15-16

14. The site is not listed as a Heritage Item but is located within a Conservation Area.
15. The proposed development does not adversely affect the heritage significance of the Conservation Area.

COMPLIANCE WITH THE LEICHARDT DCP 2000

Part A - Suburb Profile – St Phillip’s

16. The St Phillip’s Distinctive Neighbourhood is characterised by rows of Victorian terraces. Subject to design modifications the proposal will not detract from the character of the Distinctive Neighbourhood.

Part B – Residential Development

17. Compliance of the proposal with DCP Part B is summarised below:

Matter to be Considered	Compliance	Comment
Building Form, Envelope and Setting Part B1.2	✓	Complies. The rear roof extension generally matches the form of existing and approved rear roof extensions to the north. Refer to the Issues section.
Elevation and Materials Part B1.5	✓	Able to comply. Timber panelling and window framing is proposed to the rear roof extension. A materials and sample board will be required prior to the issue of a construction certificate and an appropriate condition is recommended.
Ecologically Sustainable Residential Development Part B2	✓	Complies. A BASIX Certificate was submitted with the application.
Solar Access – Residential Amenity and Energy Efficiency Part B3.1	✓	Complies. The proposal was amended to reduce overshadowing impacts. Shadow diagrams submitted show that the amended proposal will result in minimal impact to adjacent properties. Refer to the Issues section.
Visual Privacy Part B3.3	✓	Able to comply. To prevent overlooking into private open space areas of terraces fronting St Johns Road, a condition is recommended requiring obscured glazing to a height of 1.6m, in accordance with the DCP.
Access to views Part B3.4	✓	Complies. One objection raises concerns about loss of sky views. Refer to the Issues section.

Matter to be Considered	Compliance	Comment
Dormer Windows Part B3.6	✓	Complies. The front dormer matches the detail and proportions of adjoining dormers.
Alterations and Additions to Existing Dwelling Houses Part B4.1	✓	Complies. The front dormer and rear roof extension is consistent with the scale, form and appearance of additions to adjoining buildings. Refer to the Issues section.

Issues

18. The issues identified in the above instruments/policies as non-complying or requiring further discussion in the abovementioned tables are discussed in detail below:

Floor Space Ratio

19. The FSR of the existing dwelling is 1:1. The proposal has a gross floor area of 119.9m² and a FSR of 1.16:1 which exceeds the existing FSR of 1:1 by 16% or 16.2m².
20. The applicant has submitted a SEPP 1 objection seeking a variation to the FSR control as the total FSR exceeds the maximum control by 66%. The SEPP 1 objection is supported as:
- (a) the proposed rear roof extension is consistent with the scale and form of additions to adjoining terraces;
 - (b) the proposal will not detract from the heritage character of the area;
 - (c) the proposal, as amended, will result in minimal shadow impacts to adjoining residents. Potential privacy issues can be mitigated by the use of obscured glazing and appropriate conditions are recommended;
 - (d) the proposal is consistent with the objectives of the Residential Zone and the underlying intent of Clause 23(1)(a) of the Leichhardt LEP 2000 as it will not have any adverse impact on the amenity of adjoining properties; and
 - (e) the proposal has been considered against the Lord Mayor's Minute in Improving Certainty and Transparency in applying Planning Controls. The variation is supported in this case because the increase in floor space above the existing floor space is minor and amenity impacts have been addressed by the amendment of the extension.

Rear roof extension

21. The proposed rear roof extension generally matches the existing and approved rear roof extensions of the adjoining terraces to the north. The extension has been amended to reduce overshadowing impacts and provide a more complying built form. See Figures 6 to 8 below.



Figure 6 – Proposed rear (Northeast) elevation (as amended).

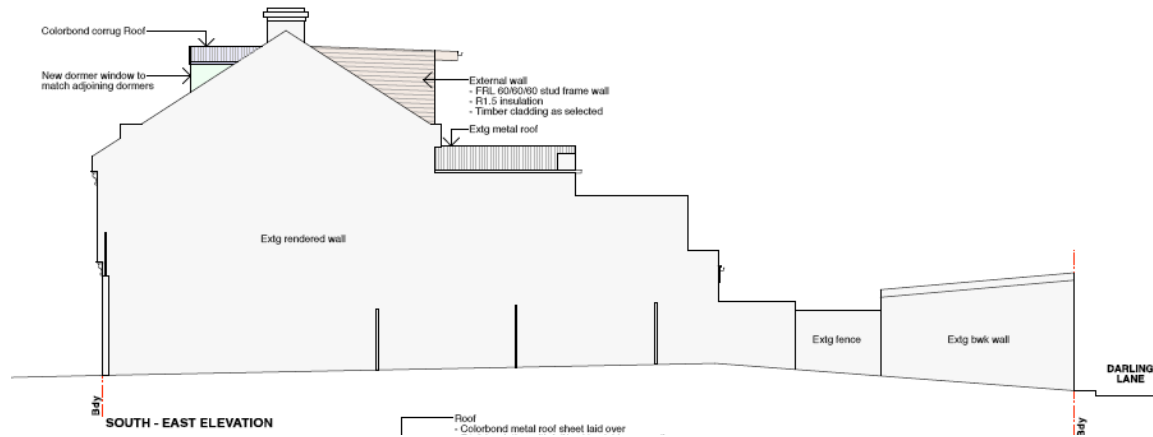


Figure 7 – Southeast (side) elevation (original proposal).

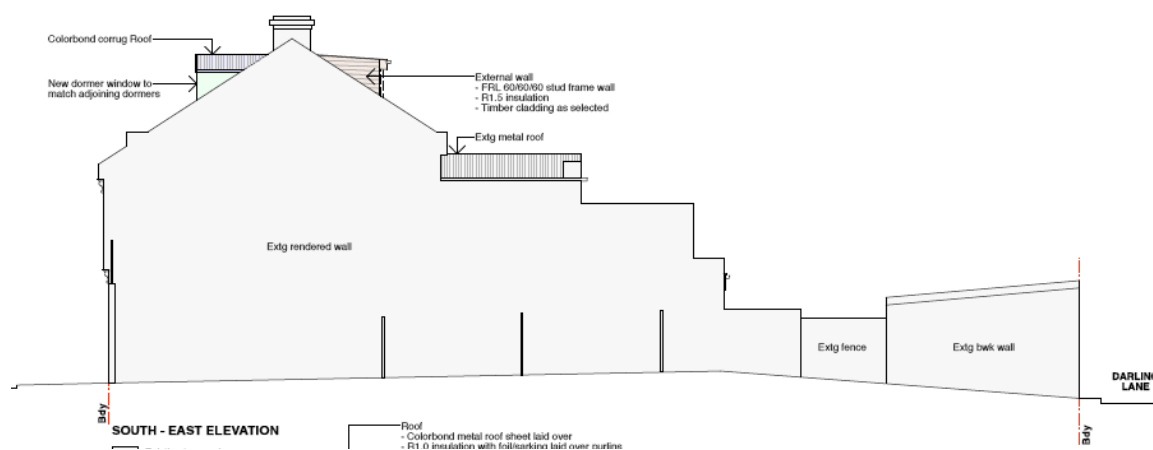


Figure 8 - Southeast (side) elevation (amended proposal).

22. The extension is set below the ridge and from the rear of the roof slope in accordance with the requirements of the Heritage DCP. The proposed setbacks from the side walls are 150mm which is less than the 500mm recommended by the DCP. The intent of the control is to ensure that the main roof form of terraces remains legible.
23. Although not complying with the side setback requirements, the proposed rear extension is considered acceptable as the roof form is consistent with the existing and approved additions to the north at Nos. 3 to 7 Darling Street (see Figure 6). The proposal maintains the most intact rear feature of the row being the strong rhythm of the second storey gable ended rear wings.
24. The variation to the rear roof controls is supported as it will not detract from the heritage character of the area and will not result in unreasonable amenity impacts.
25. Council's Urban Designer and Heritage Specialist raise no objection to the proposed rear roof extension.

Solar access

26. Under the Leichhardt DCP, for existing adjacent properties with a north-south orientation, solar access should be maintained to front and rear habitable rooms for a minimum of 4 hours between 9am and 3pm at the winter solstice. Where solar access is currently provided to private open space, a minimum of 50% of the area is maintained for a 3 hours at the winter solstice.
27. One submission received from the neighbouring property to the southeast (No.11 St Johns Road) raises concern about overshadowing impacts. The submission is concerned that the property will be deprived of any winter sun. In winter the submission states that the only direct sunlight received in living areas is via a rear light well and for only 35 minutes. It is noted that Nos. 11 and 13 St Johns Road are used as a single residence. Photos of the site are below at Figures 9 and 10.

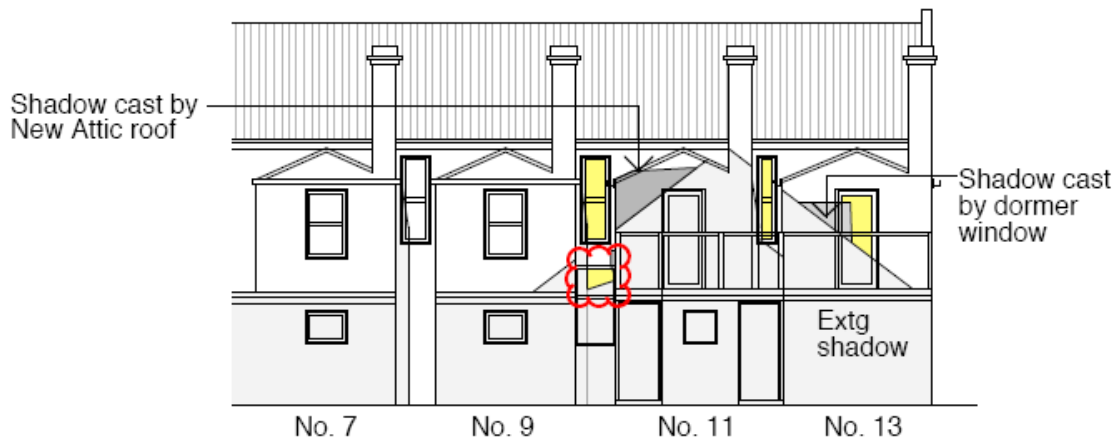


Figure 9 – Rear of Nos. 9 – 13 St Johns Road, taken from the second storey deck of subject site.



Figure 10 – Looking through No. 11's light well from inside the dwelling, toward to subject site.

28. Shadow diagrams are included at Attachment B and show the existing and proposed shadows at the Winter solstice in hourly intervals.
29. At the ground floor, except at 9.00am, the rear facing openings of Nos. 11 and 13 are currently in shadow all day. The proposal does not result in any additional overshadowing to the ground floor openings.
30. At the second storey, between 9.00am and 12 noon, the openings are mostly in sunlight. The proposal does not result in any additional shadows during this time.
31. Minimal shadows are cast from the proposal between 1.00pm and 2.00pm. At 1.00pm, a negligible shadow is cast on the door to No 11's deck. At 2.00pm, the front dormer casts a minor shadow (0.12m²) over No. 13's window.
32. Figure 11 below shows the overshadowing impacts to the light well from the amended proposal. To ensure adjoining properties are not unreasonably impacted on by the loss of sunlight, the proposal was amended to ensure no overshadowing of the light well (shown at Figure 10 above and referred to in the submission). The proposal, as amended, results in negligible shadow impacts and is supported.



**Rear elevation of No. 7-13 St John Rd
showing shadows**

Figure 11 – The existing sunlight received through the top portion of the light well is shown clouded. The rest of the light well is in shade. The amended proposal will not result in any overshadowing to the light well.

Views

33. Under the Leichhardt DCP, one of the principles relating to access to views includes ensuring views and vistas are protected. One submission received from the neighbouring property to the southeast, No. 13 St Johns Road, raises concern about the loss of sky views. A photo taken from the second storey deck is at Figure 12 below.

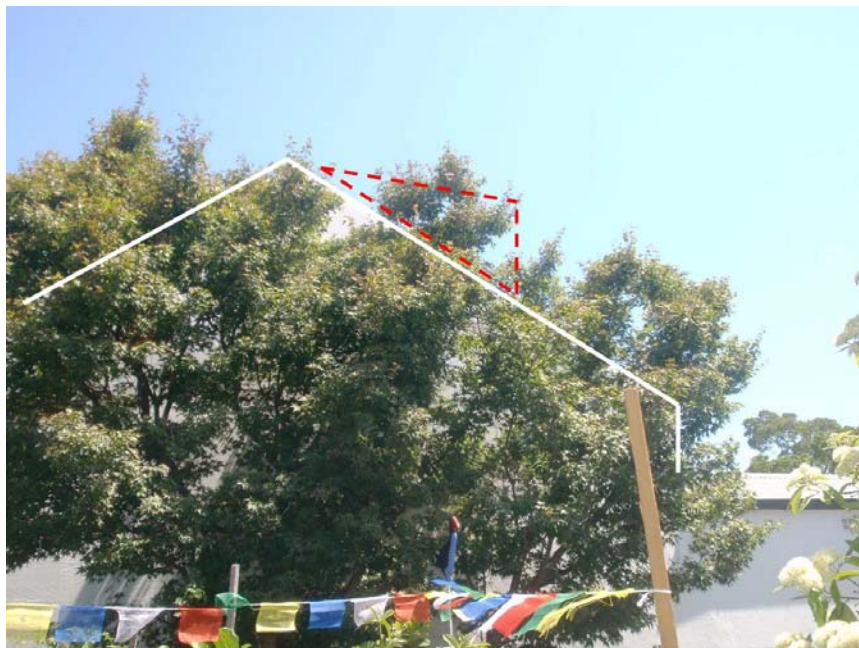


Figure 12 – Amended envelope of rear roof extension shown in red and dashed.

34. The proposed addition will affect some of the sky aspect that Nos. 11 and 13 currently enjoy when looking directly towards No 1 Darling Street. Notwithstanding that the existing sky view is mostly concealed behind a tree, the proposal has been assessed having regard to view loss and is considered acceptable as the side wall that obscures sky views is limited to an area under 1m².

Section 79C(1)(b) Other Impacts of the Development

35. The proposed development will not result in additional impacts other than those already identified and discussed above.

BCA Matters

36. The BCA Classification of the building is Class 1a.
37. The proposal is capable of satisfying the requirements of the BCA without significant modification.

Section 79C(1)(c) Suitability of the site for the development

38. The site is suitable for the proposed development.

Section 79C(1)(e) Public Interest

39. The proposal is acceptable and not inconsistent with the public interest.

POLICY IMPLICATIONS

40. Not applicable to this report.

FINANCIAL IMPLICATIONS/SECTION 94 CONTRIBUTIONS

Section 94 Contributions

41. The development is not subject to a Section 94 Contribution.

PUBLIC CONSULTATION

Section 79C(1)(d)

Notification and Advertising

42. Adjoining and nearby owners and occupiers of buildings were notified of the proposal and invited to comment. In addition, notices were placed on the site and the proposal was advertised in the daily press in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications Development Control Plan 2005.
43. As a result two submissions were received. The grounds for objection are summarised as follows:

- (a) The proposal will almost entirely obscure the already limited aspect to sky views from the rear of No 13 St Johns Road.

Comment: The extent of sky view loss is considered minimal. Most of the wall of the rear roof extension visible from No. 13 is concealed behind an existing tree. This issue is considered in detail in the Issues section above.

- (b) The proposal will deprive No. 11 St Johns Road of any winter solar access as during this time the only direct sunlight received in living areas is via a rear light well and for only 35 minutes. This is under the 4 hours required in Council guidelines.

- (c) Development to the economic detriment of adjoining properties is not warranted. The loss of light would impact on property values.

Comment: The proposal has been amended to ensure that the light well is not overshadowed and maintains access to winter sunlight. This is discussed in detail in the Issues section.

Impacts on property values cannot be considered under the *Environmental Planning and Assessment Act*.

- (d) The proposal exceeds the maximum FSR.

Comment: A SEPP 1 objection has been submitted with the application and can be supported. This is discussed in detail in the Issues section.

- (e) The proposal is an over economic use of the site that has already been extended before.

Comment: The cumulative impact of the proposed additions is considered acceptable and the proposal is generally consistent with the objectives of the relevant planning controls.

- (f) Similar additions to adjacent properties should not be used as a justification for the proposal as the subject site differs in that it has properties which back on to its side wall.

Comment: While a departure from the rear roof extension controls of the Heritage DCP is supported in this case because of the precedent set by the three terraces immediately to the northwest, this variation is only supported because the applicant has demonstrated that amenity impacts, and solar access impacts in particular, are minimal.

EXTERNAL REFERRALS

44. No external referrals were required.

INTERNAL REFERRALS

45. The application was referred to Council's:

- (a) Specialist Surveyor;
(b) Specialist Health Surveyor;

- (c) Heritage Architect;
 - (d) Urban Designer; and
 - (e) Building Services Unit;
46. No objection to the proposed development was raised, subject to the imposition of appropriate conditions.

CONCLUSION

47. The application proposes a new front dormer, rear roof extension and ground level internal alterations.
48. The proposal was amended to reduce the size of the rear roof extension to address overshadowing impacts to adjoining properties.
49. The development proposes variations to the maximum FSR control. The SEPP 1 objection is supported as the development is consistent in scale and built form with surrounding terraces and will not result in unreasonable amenity or heritage impacts.
50. The proposal is recommended for approval.

GRAHAM JAHN

Director City Planning and Regulatory Services

(Silvia Correia, Senior Planner)