
Bayside Planning Panel

13/03/2018

Item No	6.2
Application Type	Alterations and additions and first floor addition to semi detached dwelling
Application Number	2017/1120
Lodgement Date	13 September 2017
Property	63 Dougherty Street, Rosebery Lot 51 in DP 226188
Owner	Warwick Bruce Dickinson & Rebecca Mary Vassel
Applicant	Warwick Bruce Dickinson
Proposal	Alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport.
No. of Submissions	One (1) objection to amended plans
Cost of Development	\$250,000.00
Report by	Andrew Ison – Consultant Planner

Officer Recommendation

- 1 That Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of *Botany Bay Local Environmental Plan 2013* and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard and the objectives for the R2 Low Density Residential zone.
 - 2 That the alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport at 63 Dougherty Street, Rosebery be approved.
 - 3 That any objectors be notified of the determination made by the Planning Panel.
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Attachments

- 1 Supplementary Planning Assessment Report
 - 2 Amended Architectural Plan
 - 3 Original Architectural Plan
 - 4 Previous Bayside Planning Panel Report
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Location Plan

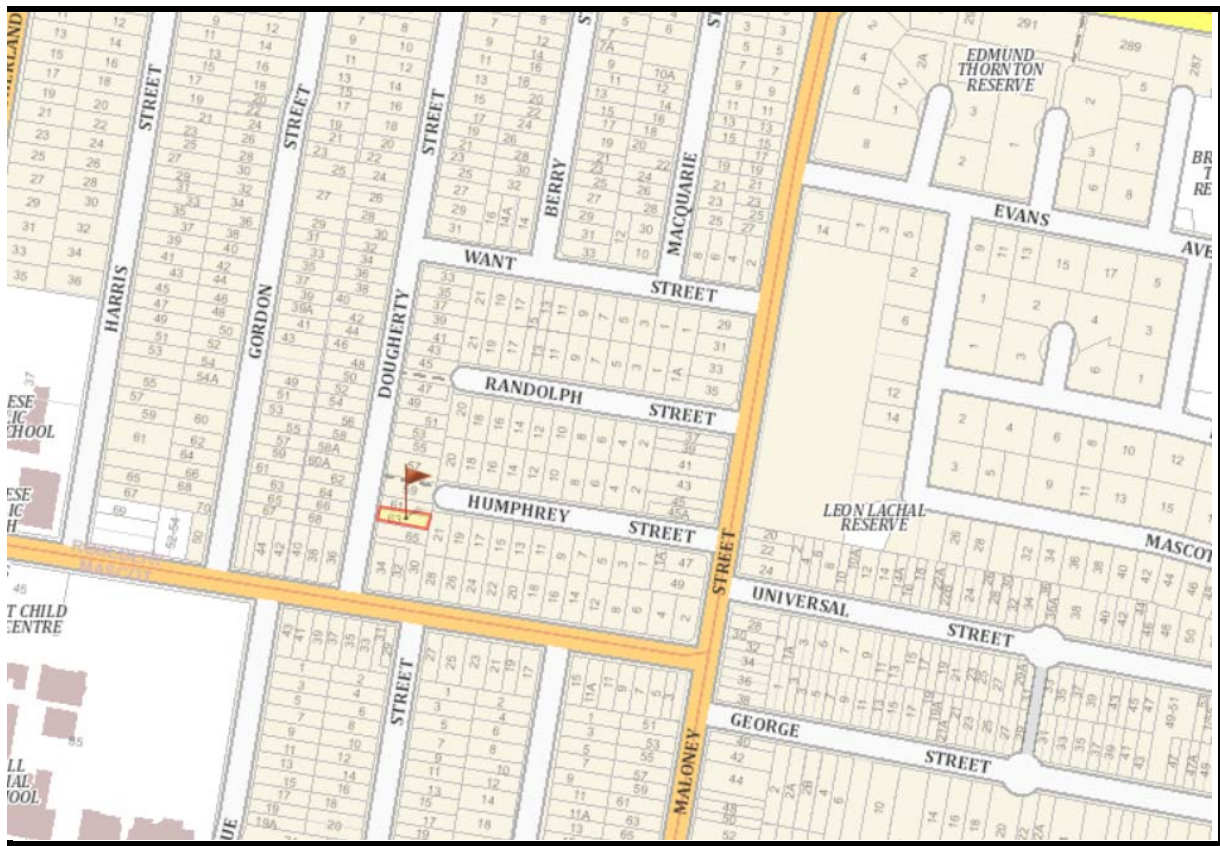


Figure 1: Locality Plan

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Number:	DA-2017/1120
Date of Receipt:	1 August 2017
Property:	63 Dougherty Street, Rosebery Lot 51 in DP 226188
Owners:	Warwick Bruce Dickinson & Rebecca Mary Vassel
Applicant:	Warwick Bruce Dickinson
Proposal:	Alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport.
Recommendation:	Approve the development, subject to conditions
No. of Submissions:	One objection (First round) One objection (Second round)
Cost of Development:	\$250,000.00
Author:	Andrew Ison, Senior Development Assessment Officer
Date of Report:	19 February 2018

Key Issues

On 14 November 2017, the subject Development Application was referred to the Bayside Planning Panel (BPP) for determination. The BPP deferred the development application to allow the applicant the opportunity to reconsider the form of the extension in terms of its architectural language and details in particular with respect to the roof form and fenestrations to provide a better relationship with the existing semi-detached dwelling in the streetscape including the relationship with the adjoining semi.

It is to be noted that the subject development application had a Clause 4.6 variation to the Floor Space Ratio, however, the BPP appeared to be supportive in principle of this variation.

This Supplementary report provides a response to the amended information provided by the applicant to address the outstanding matters raised by the Panel.

On 5 December 2017, the applicant provided Council with amended plans, demonstrating a different roof design. No other changes were included in the amended plans. Revised shadow diagrams were then received by Council on 15 December 2017.

The amended plans were placed on notification, in accordance with the Botany Bay DCP 2013, with one submission received.

The additional information submitted in response to the Panel's concerns has been reviewed and the application is recommended for approval subject to the conditions attached in this Supplementary Report.

Recommendation

It is RECOMMENDED that Council, resolve:

1. That Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of *Botany Bay Local Environmental Plan 2013* and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard and the objectives for the R2 Low Density Residential zone.
2. To approve the alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport at 63 Dougherty Street, Rosebery.
3. That any objectors be notified of the determination made by the Planning Panel.

Assessment of the Panel's deferment

1. *The form of the extension in terms of its architectural language and details in particular with respect to the roof form and fenestrations to provide a better relationship with the existing semi-detached dwelling in the streetscape including the relationship with the adjoining semi.*

Botany Bay Local Environmental Plan (LEP) 2013

The amended plans presents a proposal which has increased the height of the building from a maximum of 7.05m above the natural ground level up to 7.79m. However, it remains compliant with the Height of Building development standard of 9m that is prescribed for the subject site.

There are no other provisions in the LEP that are relevant to the assessment of these amended plans.

Botany Bay Development Control Plan (DCP) 2013

In accordance with Part 4A of the DCP, it is considered that the amended roof form complements and maintains the existing streetscape, as it is consistent with controls of Part 4A.3.2 – Roofs and Attic Dormers. The amendments submitted to Council for the Panels consideration maintains the traditional roof form as identified from the street frontage, and in particular the neighbouring semi-detached dwelling at 61 Dougherty Street and the detached dwelling at 65 Dougherty Street to the south. Additionally, it is considered that it complies with Part 4A.4.3 – Solar Access of the DCP with regards to solar access, in that approximately 2 hours of solar access is achieved between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge

and kitchens) and to 50% of the primary private open space areas of both the subject site and adjoining properties.

Furthermore, the amended plans result in a proposal that is consistent with the Desired Future Character provisions as prescribed in Part 8.6 of the DCP for Rosebery, with respect to the form, massing, scale and streetscape, and also solar access.

Submissions

As discussed earlier in this report, the amended plans were placed on notification, with one submission received. Whilst not objecting to the proposed amendments, however, the following matters were raised:

Window W2 which is on the western side of the first floor addition has not been modified as requested. Please ensure that the window is conditioned to either have a minimum sill height of 1.5 metres or the bottom section of the window up to 1.5m height is fixed opaque glass.

Condition 8 of the draft conditions of consent as presented in the Bayside Planning Panel in the report dated 14 November 2017 prescribed that prior to the issue of a Construction Certificate by the Principal Certifying Authority, a number of minor amendments were to be made to the approved plans, including “the proposed window on the western elevation of the rear (southern) bedroom on the first floor is to comprise a highlight window with a minimum sill height of 1.5 metres”.

It is considered that this condition still satisfies this matter. It is to be noted that the applicant was not required to amend the plan to address this issue, however it was left open to be amended even though it was not included within the reasons listed for this matter to be deferred by the Panel.

Additionally, we have noted that the structure has increased in height as a result of the change in the roof form from skillion to pitched roof. We do not have an issue with the roof form however Council will need to guarantee that the neighbouring sites can still receive the minimum 2 hours solar amenity.

The applicant has submitted amended elevational shadow diagrams which have been assessed against the solar access controls as prescribed under Part 4A.4.3 of the DCP. These plans indicate that the first floor kitchen window at No. 65 Dougherty Street to the immediate south, will be in shadow at 9:00am and will then receive direct sunlight from 12 noon through to 3:00pm.

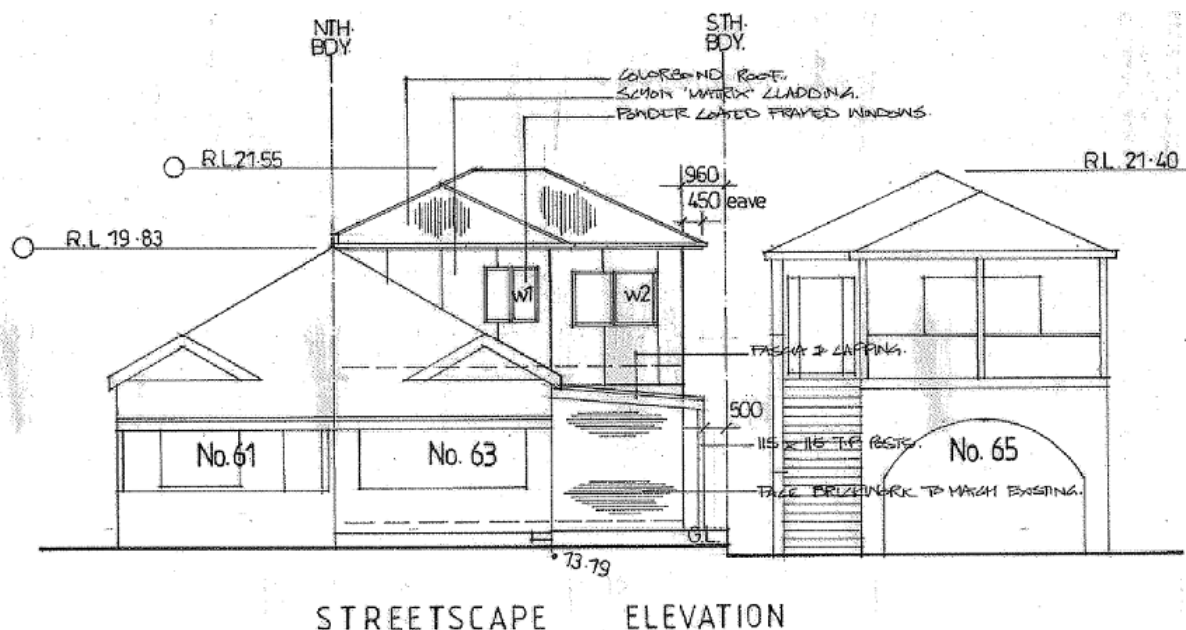


Figure 1. Amended streetscape elevation plans

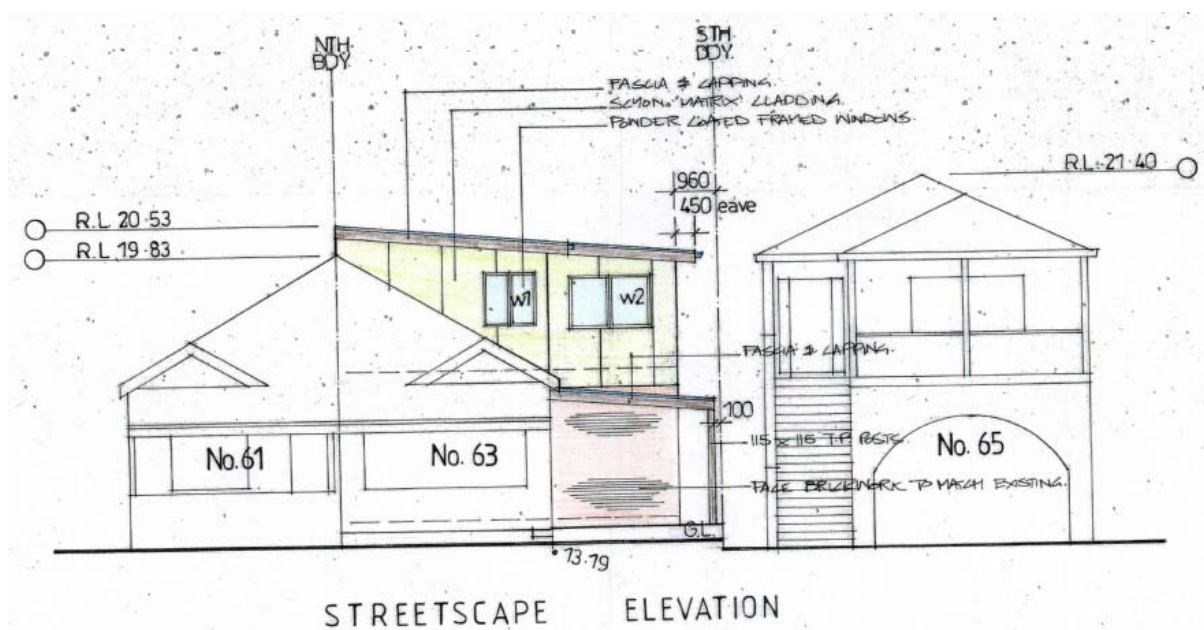


Figure 2. Original streetscape elevation plans

Conclusion

Amended plans requested by the Panel for Development Application No. 2017/1120 at 63 Dougherty Street, Rosebery have been considered and have addressed the Panels key concerns that were raised at the Panel meeting of 14 November 2017. The amended proposed roof form has been notified to the adjoining owner and despite the remaining concern in relation to the window, which is to be addressed by way of a condition, there is no objection to the amendment. Amended shadow diagrams submitted to Council indicate the minimum 2 hours of direct sunlight will be maintained for 50% of the private open space at No. 65

Dougherty Street and is also maintained for windows of living areas. On this basis, the development proposal is recommended for approval.

Attachment

Schedule 1 – Conditions of Consent

Premises: 63 Dougherty Street, Rosebery

DA No: 2017/1120

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing N°	Author	Date Received
Site Plan, Floor plans, Elevations and Sections – Drawing 6/17A	Peter Banfield Building Design/Plan Service	5 December 2017
Shadow Diagrams – 21 June	Peter Banfield Building Design/Plan Service	15 December 2017
Shadow Diagrams – 21 September	Peter Banfield Building Design/Plan Service	15 December 2017
Elevational Shadow Diagrams	Peter Banfield Building Design/Plan Service	15 December 2017

Documents	Author	Dated
Statement of Environmental Effects	Peter Banfield	Dated - Received 1 August 2017
Clause 4.6 Variation - FSR	-	Dated August 2017 Received 1 August 2017
Survey Plan (Ref:9191-17)	Paul A Lawson (Registered Surveyor)	Dated - 27 March 2016 Received 1 August 2017
BASIX Certificate No A287105	Peter Banfield Building Design/Plan Service	Dated 14 July 2017 Received 1 August 2017

2. This Consent relates to land in Lot 51 in DP 226180 as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. A287105 dated 14 July 2017 received by Council on 1 August 2017 for the development are fulfilled.
- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii) The person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

6. The applicant must prior to the issue of the Construction Certificate pay the following fees:
 - a) Damage Deposit \$2,570.00
 - b) Development Control \$875.00
7. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$2,570.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
8. Prior to the issue of the Construction Certificate, amended plans must be provided which reflect the following changes:
 - a) The proposed window on the western elevation of the rear (southern) bedroom on the first floor is to comprise a highlight window with a minimum sill height of 1.5 metres;
 - b) The southern side of the carport is to be setback 500mm off the boundary, remain open (with no wall) and to be noted on the plan as having no wall; and
 - c) The concrete edge of the existing planter beds in the rear yard forming part of a retaining wall along the southern boundary is to be retained.
9. Prior to the issue of the Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so will result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
10. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
11. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

12. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water's Tap in online service (<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>) to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

13. Prior to the issue of the Construction Certificate, a report is required from a qualified plumber certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.

Where the existing system is determined deficient, damaged and/or not operational, a new system shall be designed and constructed by a suitably qualified Civil Engineer in accordance with Council's Stormwater Management Technical Guidelines (SMTG) & AS 3500.

14. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

The design should be submitted to the PCA for approval. The approved design form part of the future road opening permit application.

15. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.

16. Prior to the issue of the Construction Certificate, a Waste Management Plan in accordance with the requirements of Part 3N - Waste Minimisation and Management of the *Botany Bay Development Control Plan 2013* must be submitted and approved by the Certifying Authority.

17. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

18. The Principal Certifying Authority must be satisfied that:
- a) In the case of work to be done by a licensee under the *Home Building Act 1989*:
 - i) Has been informed in writing of the licensee name and contractor licence number; and
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the *Home Building Act 1989*; or
 - b) In the case of work to be done by any other person:

- i) Has been informed in writing of the person's name and owner-builder permit number; or
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 of the *Home Building Act 1989*.
- 19. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if:
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
- 20. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 21. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 22. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- 23. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the

development and for a minimum one (1) month period after the completion of the development, where necessary.

24. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under *Road Act 1993* and *Local Government Act 1993* as appropriate:-

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
- c) Permit for roads and footways occupancy (long term/ short term);
- d) Permit to install temporary ground anchors in public land;
- e) Permit to discharge ground water to Council's stormwater drainage system;
- f) Permit for roads and footways occupancy (long term/ short term);
- g) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve;
- h) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever such as relocation / re-adjustments of utility services;
- i) Permit to place skip/waste bin on footpath and/or nature strip;
- j) Permit to use any part of Council's road reserve or other Council lands.

DURING WORKS

25. The proposed development shall comply with the following:

- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after-hours contact telephone number.
- b) Any such sign is to be removed when the work has been completed.

26. Precautions to be taken shall include compliance with the requirements of the SafeWork NSW, including but not limited to:

- a) Protection of site workers and the general public;
- b) Erection of hoardings where appropriate;
- c) Asbestos handling and disposal where applicable;

- d) Any disused service connections shall be capped off;
 - e) The disposal of refuse is to be to an approved waste disposal depot.
27. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete;
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete;
 - c) Formwork inspection of Council's footpath prior to laying of concrete;
 - d) Final inspection of driveway layback and adjacent kerb and gutter;
 - e) Final inspection of Council's kerb and gutter;
 - f) Final inspection of Council's footpath.
28. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site except where amended by this consent.
29. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
30. Any material containing asbestos found on site shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) *Protection of the Environment Operations Act 1997*;
 - c) *Protection of the Environment Operations (Waste) Regulation 2014*;
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
31. During excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
32. The following shall be complied with during construction:
- a) Construction Noise
 - Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the *Protection of the Environment Operations Act 1997*.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

- ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

- c) Time Restrictions

- i) Monday to Friday 07:00am to 05:00pm

- ii) Saturday 08:00am to 01:00pm

- iii) No Construction to take place on Sundays or Public Holidays.

- d) Silencing

All possible steps should be taken to silence construction site equipment.

33.

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

34. During excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

35. All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated and/or adjusted to match the proposed/existing levels as required by the development.

36. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - b) Negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
 - 1 The additional load on the system; and
 - 2 The relocation and/or adjustment of the services affected by the construction.
 - c) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
37. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
38. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Construction Management Plan at all times.
39. Any new information that comes to light during construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
40. Results of the monitoring of any field parameters such as soil, groundwater, surface water, and dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

41. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the *Environmental Planning and Assessment Act, 1979*.
42. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
43. All landscaping works outlined in the approved Landscape Plan are to be carried out prior to the issue of the Occupation Certificate.

44. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
45. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
46. Prior to release of the Occupation Certificate, the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report required by this consent have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

47. All intruder alarms shall be fitted with a timing device in accordance with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008, and AS2201, *Parts 1 and 2 - 1978 Intruder alarm systems*.
48. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.
49. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

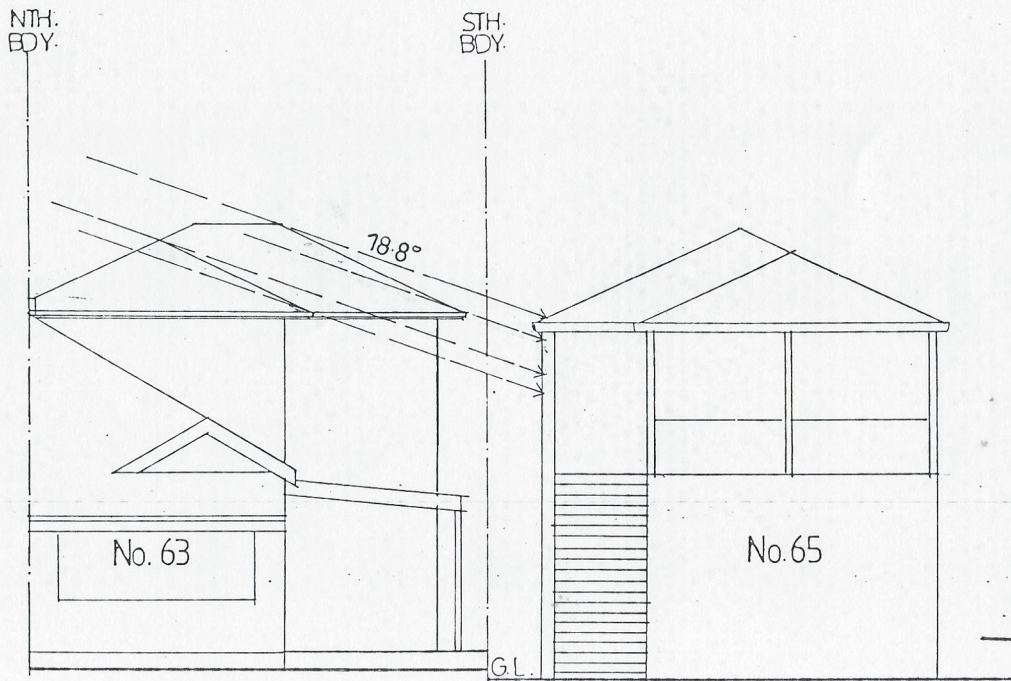
The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

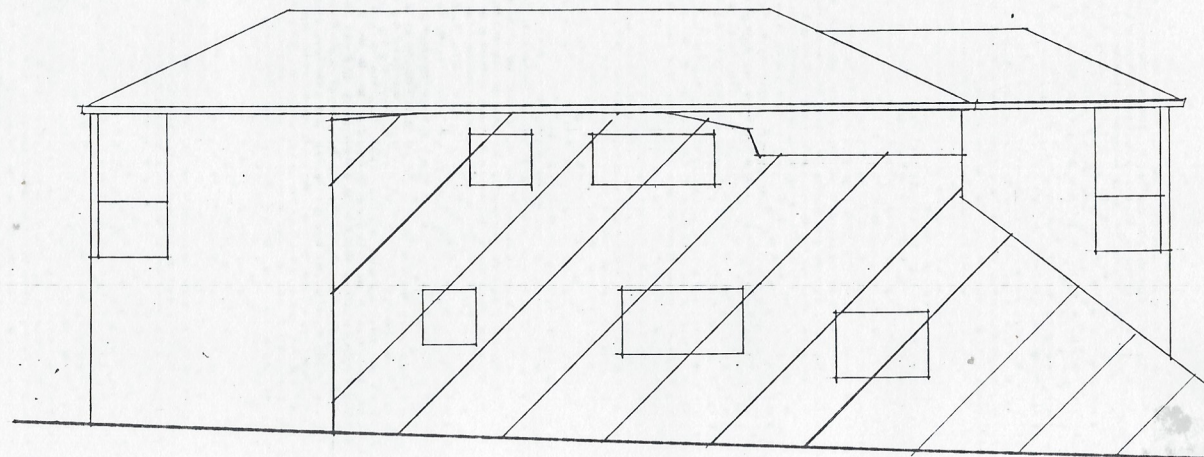
For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

50. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid

waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.



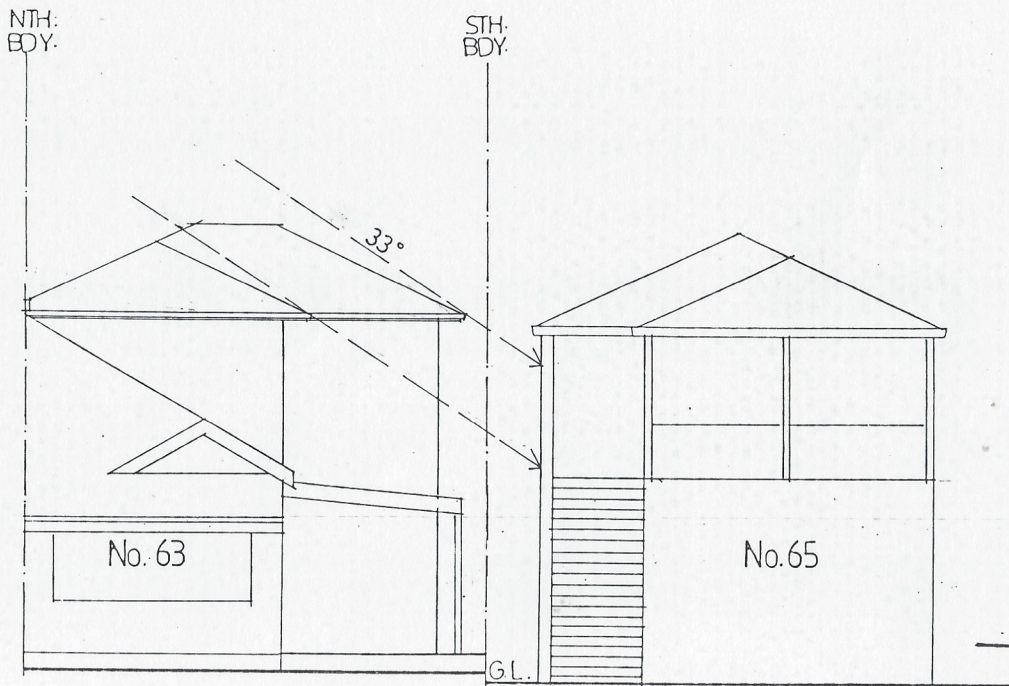
FRONT ELEVATION



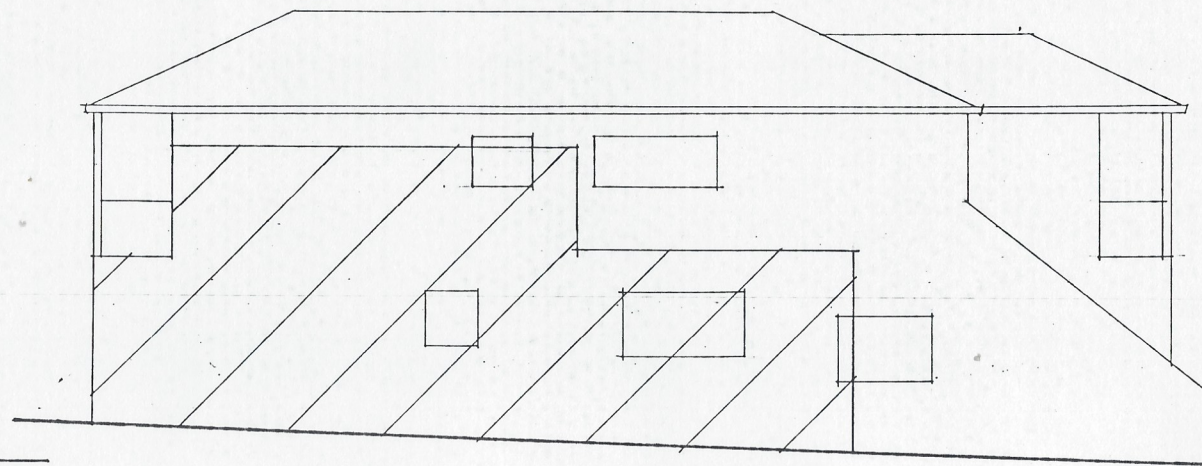
NORTHERN ELEVATION of No. 65

9:00A.M. PROPOSED - 21st of JUNE - SCALE: 1: 100

DIAGRAM SHOWING IMPACT OF THE EXPECTED OVERSHADOWING
ON THE NORTHERN FACADE OF No. 65 DUGHERTY STREET, ROSEBERY.
NOTE: THESE DIAGRAMS TO BE READ IN CONJUNCTION WITH THE
FOOTPRINT SHADEN DIAGRAMS ATTACHED.



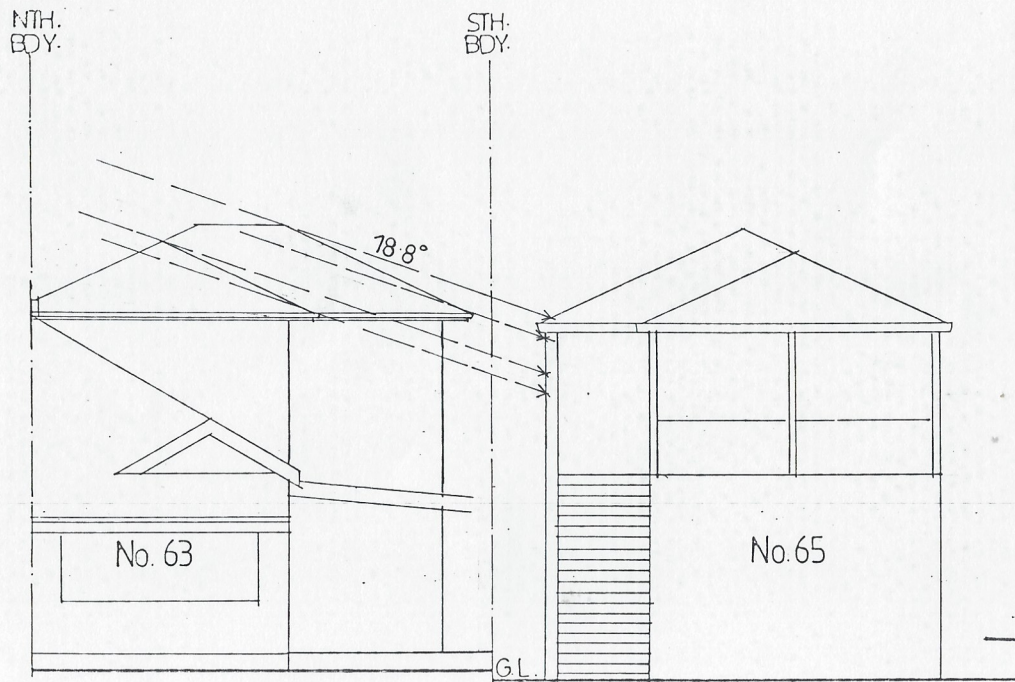
FRONT ELEVATION



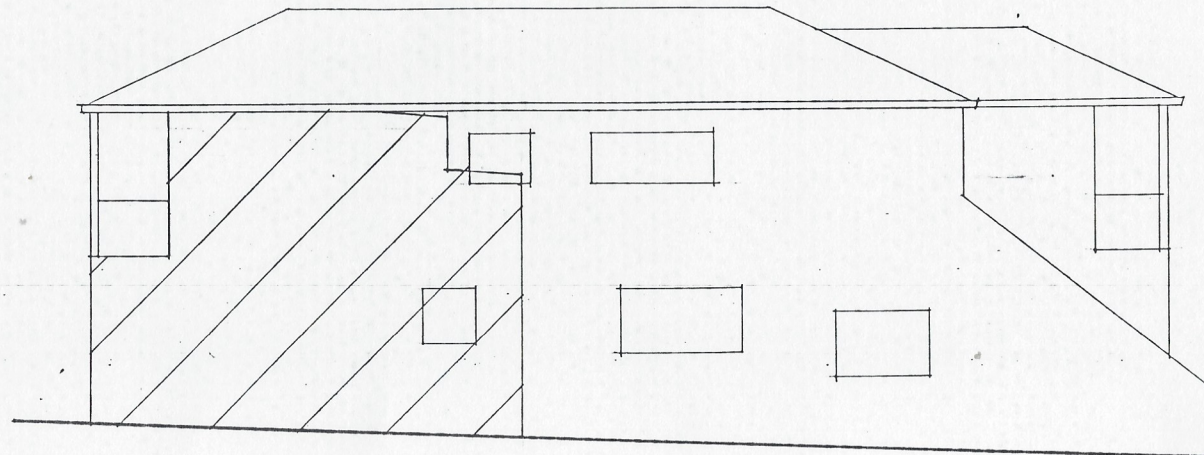
NORTHERN ELEVATION of No. 65

12:00noon PROPOSED - 21st of JUNE - SCALE: 1: 100

DIAGRAM SHOWING IMPACT OF THE EXPECTED SHADOWING
ON THE NORTHERN FACADE OF NO. 65 DUGHERTY STREET, ROSEBERY.
NOTE: THESE DIAGRAMS TO BE READ IN CONJUNCTION WITH THE
FOOTPRINT SHADOW DIAGRAMS ATTACHED.



FRONT ELEVATION



NORTHERN ELEVATION of No. 65

3:00 P.M. PROPOSED - 21st of JUNE - SCALE: 1:100

DIAGRAM SHOWING IMPACT OF THE EXPECTED OVERTHROWING
ON THE NORTHERN FACADE OF NO. 65 DUGHERTY STREET, ROSEBERY.
NOTE: THESE DIAGRAMS TO BE READ IN CONJUNCTION WITH THE
FOOTPRINT SHADOW DIAGRAMS ATTACHED.

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2017/1120
Date of Receipt:	1 August 2017
Property:	63 Dougherty Street, Rosebery Lot 51 DP 226180
Owners:	Warwick Bruce Dickinson & Rebecca Mary Vassel
Applicant:	Warwick Bruce Dickinson
Proposal:	Alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport.
Recommendation:	Approve the development, subject to conditions.
Value:	\$250,000.00
No. of submissions:	One (1) submission (objection)
Author:	Kim Johnston, Consultant Planner
Date of Report:	9 October 2017

Key Issues

Council received Development Application No. 17/1120 on 1 August 2017 seeking consent for the construction of alterations and additions to an existing semi-detached dwelling, including a first floor addition at 63 Dougherty Street, Rosebery.

The application was placed on public exhibition for a fourteen (14) day period from 14 August 2017 to 1 September 2017. There was one (1) submission received.

The key issues in the assessment of the development application included the compatibility of the proposed alterations and additions with the existing development on the site and in the street and the consistency of the proposal with the planning controls. Following a thorough assessment, it is considered that the proposal is satisfactory in relation to these issues.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and is recommended for approval, subject to conditions of consent.

Recommendation

As per attached cover page.

Background

History

There are no historic applications relating to the subject site and the site has an extended history of residential use.

Development Application History

On 14 August 2017, the application was referred to Council's engineer for comment and was also notified to the adjoining and adjacent property owners. On 20 August 2017, a submission from the adjoining property was received by Council and on 5 September 2017, a site inspection was carried out on the site. The application is referred to the Bayside Planning Panel as the proposal involves a variation to the maximum floor space ratio (FSR) development standard of more than 10%.

Proposal

The development application seeks consent for alterations and additions to the existing semi-detached dwelling on the site. Specifically, the proposal involves the following:

- Alterations and additions to the existing semi-detached dwelling including the following:
 - Demolition of the awning on the southern side of the dwelling;
 - Relocation and reconstruction of the bathroom, laundry and kitchen areas on the ground floor;
 - Construction of internal stairs to the proposed first floor along the northern elevation;
 - Construction of larger living room (in location of the former awning) with an additional 15m² of gross floor area (approx.); and
 - Construction of a paved terrace area adjoining the living area at the rear (east) of the dwelling.
- Construction of a new first floor to the existing semi-detached dwelling comprising two (2) additional bedrooms, a small storage area, a bathroom and a sitting room; and
- Construction of a metal carport adjoining the southern boundary with skylights in the roof to allow light into the dwelling (open on all sides).

The additions are proposed to be constructed of face brick on the ground floor to match the existing dwelling with the first floor to be constructed of cladding on the southern side and face brick to the northern wall adjoining the semi-detached dwelling to the north.

A skillion dark grey colourbond roof is proposed over the first floor addition. Powder coated aluminium windows are also proposed for the new addition to the dwelling.

The height of the proposed building is 7.05 metres, which complies with the maximum permissible building height of 9 metres under Clause 4.3(1) of the *Botany Bay Local Environmental Plan 2013* (BBLEP 2013). The overall gross floor area (GFA) for the proposal is **158.97m²** with a resulting FSR of **0.58:1**, exceeding the maximum floor space ratio (FSR) development standard of 0.5:1 under Clause 4.4A (3)(d) of BBLEP 2013. Accordingly, a

Clause 4.6 variation has been submitted (considered below in the BBLEP 2013 assessment). The proposal provides for one (1) car parking space, consistent with the planning controls. In terms of the proposed uses, the proposal is for a *semi-detached dwelling*, which is permissible in the zone with consent.

The proposal is illustrated in **Figures 1, 2 and 3** below.

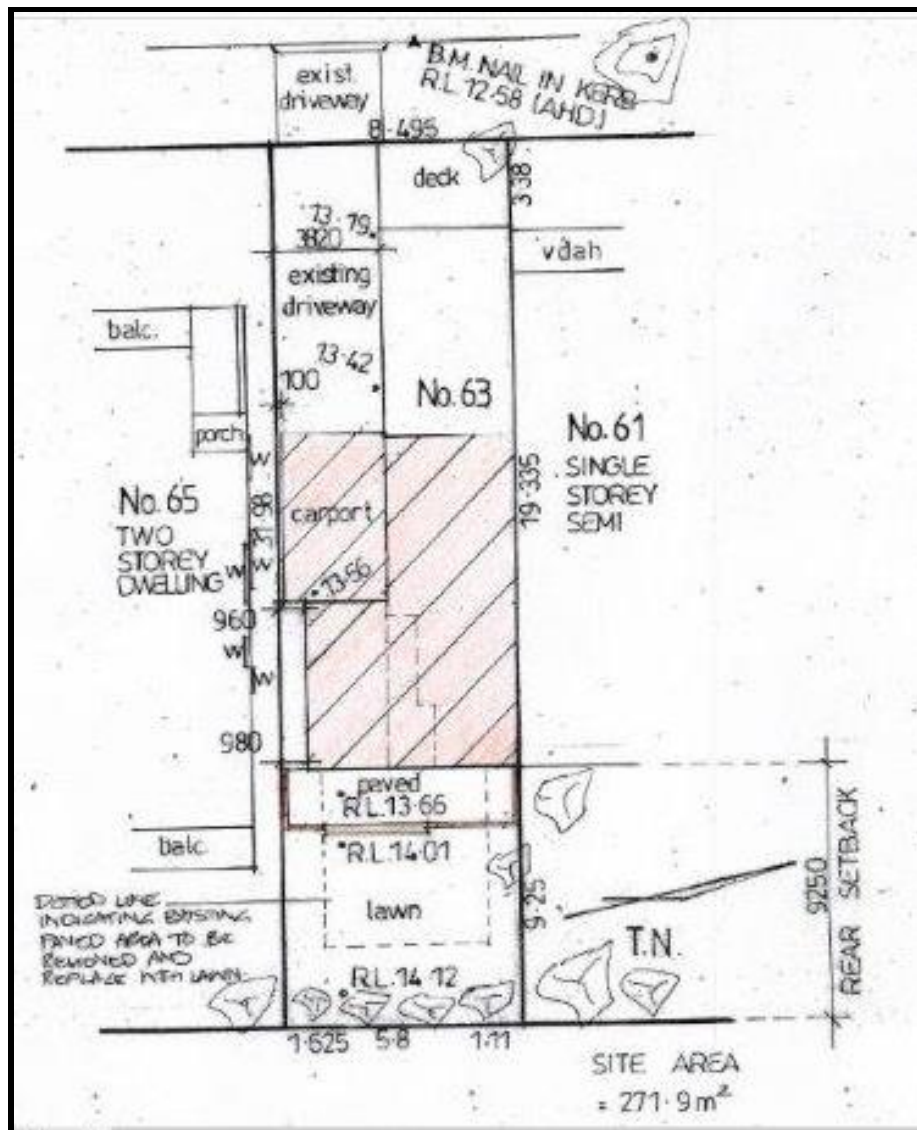


Figure 1: Proposed Site Plan (Source: Peter Banfield, 3 July 2017)

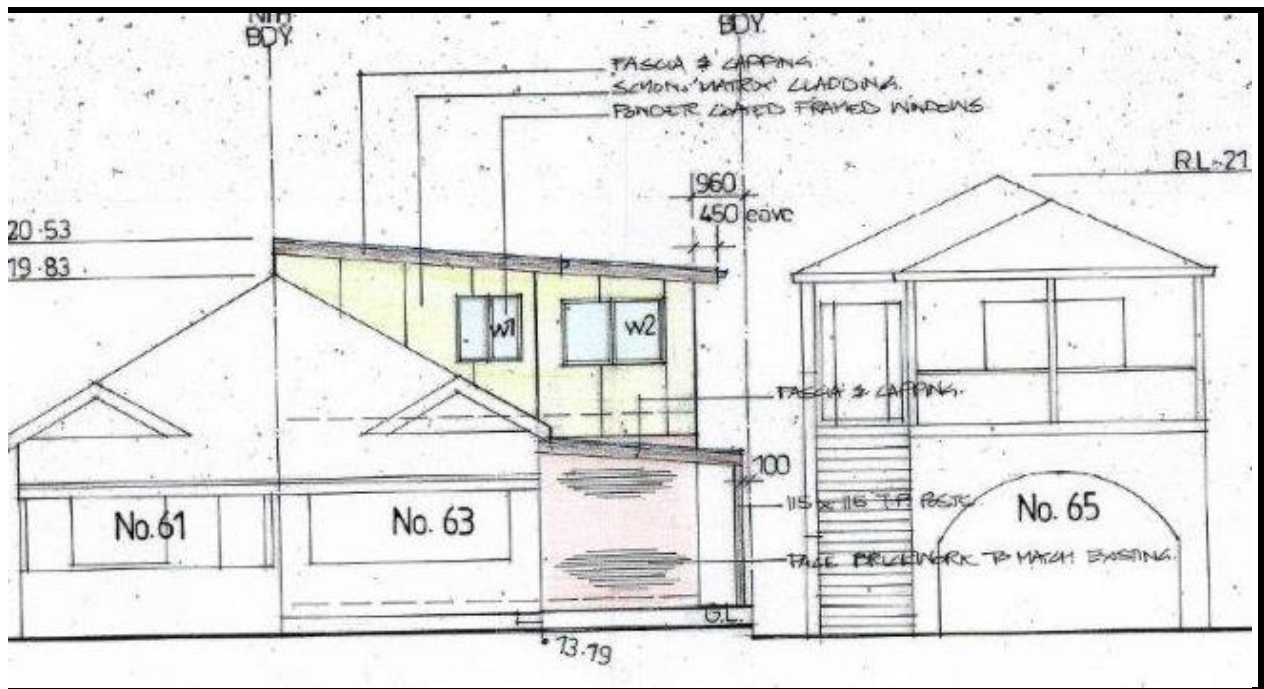


Figure 2: Proposed Streetscape Elevation (Source: Peter Banfield, 3 July 2017)

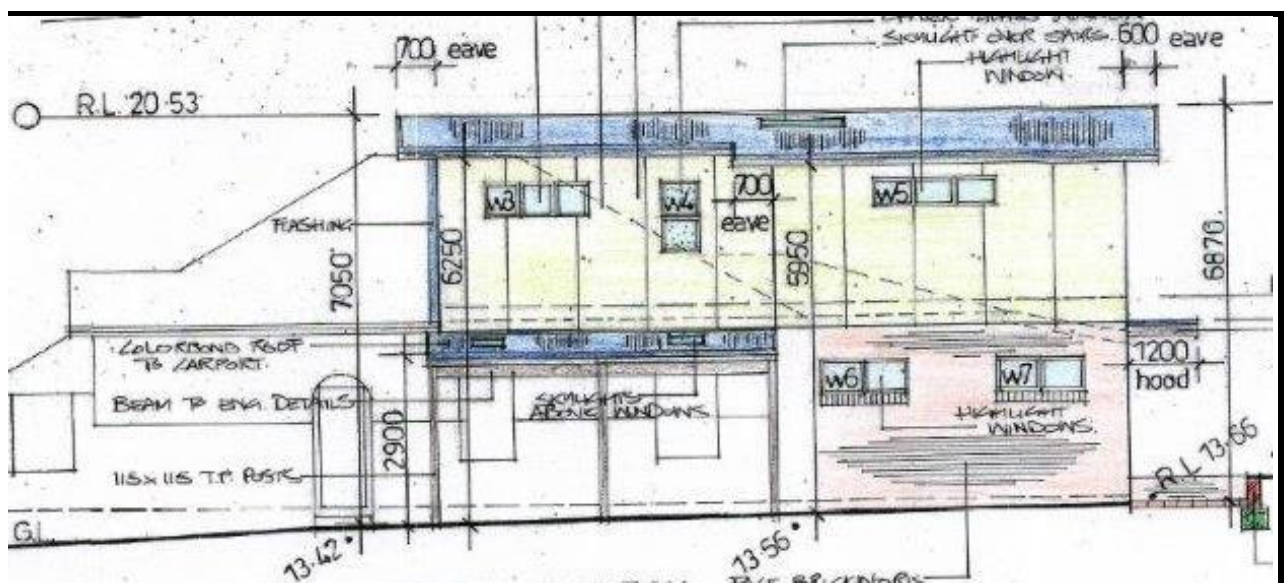


Figure 3: Proposed Southern Elevation (Source: Peter Banfield, 3 July 2017)

Key Controls

The key controls relevant to the proposal are provided in **Table 1** below:

Table 1: Key Controls

Control	Required	Proposal	Complies (Yes/No)
Site Area	-	Site Area: 271.9sqm	N/A
BBLEP 2013			
Zone	R2	Semi-detached dwelling	Yes
FSR/ GFA	0.5:1 (Cl 4.4A) Max GFA = 135.95m ²	0.58 :1 158.97m ²	No Refer to Note 1
Height	9 metres (maximum)	7.05 metres	Yes
BBDCP 2013			
Car Parking	<u>Residential</u> 1 space/ semi-detached dwelling	<u>Residential</u> 1 r car spaces provided (carport)	Yes
Site Coverage	60% (Site area = 250m ² - 300m ²)	47.8%	Yes
Building Setbacks	Front – prevailing or 6m Side – on merit Rear - 4m	Front – no change (prevailing) Side – 0-960mm Rear – 9.25m	Yes
Landscaped Area	20% (Site area = 250m ² - 350m ²)	21.9% (59m ²)	Yes
Solar Access	2 hours of sunlight to living room windows and 50% of private open space of adjoining properties	Achieved – outlined on shadow diagrams	Yes
Private Open Space	36m ²	52m ²	Yes

Site Description

The site comprises one (1) allotment known as 63 Dougherty Street, Rosebery and is legally described as Lot 51 in DP 226180. The site is located on the eastern side of Dougherty Street, between Want Street to the north and Coward Street to the south, in Rosebery. The site is a regularly shaped allotment with an overall site area of 271.9m². The site has an east-west orientation, with the land falling gently by around 1.2 metres from the south-east corner along the rear boundary to the front south-western corner.

The site location is illustrated in **Figure 4**.

The site has a regular shape and is located within the R2 Low Density Residential zone. The site has an 8.495 metre frontage to Dougherty Street (western boundary) and a side boundary of 31.98 metres (northern and southern boundaries). The rear boundary is 8.535 metres wide (eastern boundary). The site is located in a well-established low density residential area.

There are a number of shrubs on the site, in both the front and rear yards. There are no other natural site features located on the site.



Figure 4: Site location (Source: SIX Maps)

Existing development on the site comprises a single storey semi-detached brick dwelling with a tiled roof and an attached awning. A detached timber shed also exists in the rear yard. A low height brick fence with timber panel infills above exists along the front boundary and a driveway exists along the southern boundary.

The existing development on the site is illustrated in **Figures 5 and 6**



Figure 5: Existing Development on the site



Figure 6: The existing semi-detached on the site - No 61 & 63 Dougherty Street

Description of the Surrounding Development

Development surrounding the area comprises of low density detached and semi-detached dwellings.

Adjoining development to the north of the site comprises a single storey brick and rendered cottage with a pitched tiled roof, being the other half of the existing semi-detached dwelling on the subject site (No 61). The adjoining development to the south comprises a two storey brick dwelling with a pitched tiled roof (No 65) (refer to **Figures 7 & 8**).



Figure 7: Adjoining development (No 61 Dougherty Street – adjoining semi)



Figure 8: Adjoining development to the south (No 65)

Development located opposite the site on the western side of Dougherty Street comprises single storey weatherboard cottages as well as a number of more recent two (2) storey brick dwellings. There is no particular architectural style in the street, with a mix of original and more recent constructions with a number of two (2) storey dwellings existing in the street, as illustrated in **Figures 9** and **10**.



Figure 9: Existing development on the western side of Dougherty Street comprising other 2 storey dwellings

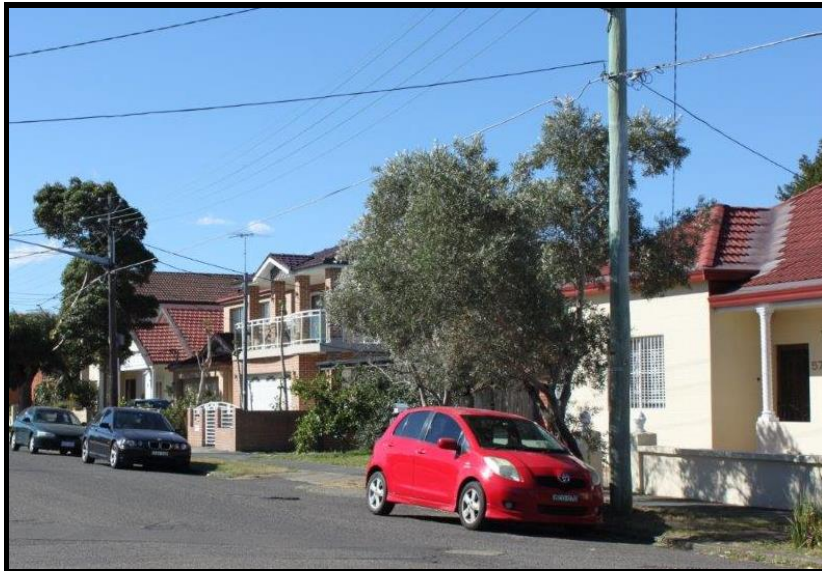


Figure 10: Existing development eastern side of Dougherty Street comprising other 2 storey dwellings

The site is well serviced with shopping and other commercial uses in the Mascot shopping area to the south-west of the site along Botany Road. Recreational opportunities are provided at Jos Wiggins Park, a short distance to the south-west of the site. The site is also serviced with public transport including various bus stops to the west along Maloney Street which provides services to Eastgardens and the city.

Referrals

Internal

The development application was referred to Council's development engineer. Appropriate comments have been provided relating to the stormwater management and construction details.

External

The development application was not required to be referred to any external agencies for comment.

Relevant conditions have been imposed in Schedule 1 in **Attachment A**.

Statutory Considerations

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure across the State and among other things, identifies matters to be considered in the assessment of development adjacent to particular types of development. The relevant clauses of the Infrastructure SEPP to this proposal are considered below:

Clause 101 – Development with frontage to a Classified Road and Clause 102 – Impact of road noise or vibration on non-road development

The site does not have frontage to a classified road and is not located near a classified road in relation to acoustic impacts and accordingly, these provisions are not relevant to the current application.

Clause 104 – Traffic-generating development

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services (RMS) for comment based on the type, capacity or location of the proposal. In this instance the proposal does not meet this criteria and accordingly, a referral to the RMS is not required.

The proposal is consistent with the Infrastructure SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposal. The application was accompanied by BASIX Certificate No. A287105 dated 14 July 2017 prepared by *Peter Banfield Building Design/Plan Service* committing to environmental sustainable measures. The Certificates demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. Accordingly, a condition has been imposed on the consent to ensure that these requirements are adhered to. The proposal is consistent with the BASIX SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* (SEPP 55), along with the requirements of Part 3K Contamination of the BBDCP 2013, have been considered in the assessment of the development application. Clause 7 of SEPP 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The likelihood of encountering contaminated soils on the subject site is considered to be low given the following:

1. The site appears to have been continuously used for residential purposes;
2. The adjoining and adjacent properties are currently used for residential purposes;
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary. The proposal is generally consistent with SEPP 55, with relevant conditions being imposed on the consent to ensure compliance with this Policy.

Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 (BBLEP 2013) has been considered in the assessment of the Development Application and the following information is provided:

Table 2: Consideration of BBLEP 2013

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<i>Land use Zone</i>	N/A	The site is R2 Low Density Residential under the BBLEP 2013.
<i>Is the proposed use/works permitted with development consent?</i>	Yes	The proposed use is permissible with Council's consent under the BBLEP 2013 as a <i>semi-detached dwelling</i> .
<i>Does the proposed use/works meet the objectives of the zones?</i>	Yes	<p>The proposed development is consistent with the following zone objectives in the BBLEP 2013:</p> <ul style="list-style-type: none">• <i>To provide for the housing needs of the community within a low density residential environment.</i>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>• <i>To encourage development that promotes walking and cycling.</i> <p>The proposal is generally consistent with these zone objectives in that it provides for</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		the housing needs of the community within a low density environment and encourages walking and cycling being located in an area close to services and public transport (buses).
<i>Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site? If so what additional uses are permitted on the site?</i>	N/A	Schedule 1 does not apply to the site.
<i>Is demolition proposed? Consent is required (CI 2.7)</i>	Yes	Minor demolition is proposed in this application. Relevant conditions have been recommended to be imposed to ensure this is carried out in accordance with the relevant requirements.
<i>What is the height of the building? (CI 4.3)</i> <i>Does the height of the building exceed the maximum building height?</i>	Yes	A maximum height of 9m applies to the subject site. The proposed maximum height of the proposal is 7.05 metres (highest point of roof at RL 20.53).
<i>Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m² min and maximum height of 22 metres and maximum FSR of 1.5:1? (CI 4.3(2A))</i>	N/A	The site is not in the R3 or R4 zone.
<i>What is the proposed FSR? (CI 4.4). Does the FSR of the building exceed the maximum FSR?</i>	N/A	The site is located in Area 3 and therefore this clause is not relevant to the proposal.
<i>Is the site within land marked “Area 3” on the FSR Map? If so, does it comply with the sliding scale for FSR in Clause 4.4A?</i>	No Refer to Note 1	The site is located within Area 3. The maximum permissible FSR is 0.50:1 pursuant to CI 4.4A(3)(d) as <i>other development for the purpose of residential accommodation</i> Total site area = 271.9m ² . Maximum permissible GFA = 135.95m ² . Proposed overall GFA = 158.97m ² (0.58:1). Exceedance of 23.02m ² (16.93% variation).
<i>Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m² min; maximum height of 22 metres; affected by ASS, contamination and noise, and maximum FSR of 1.65:1? (CI 4.4B)</i>	N/A	The site is not located within the R3 or R4 zone.
<i>Development in the R3 and R4 zone (CI 4.4C).</i>	N/A	The site is not in the R3 or R4 zone.
<i>Is the land affected by road widening? (Clause 5.1 – Relevant Acquisition)</i>	N/A	The site is not affected by any land acquisition.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<i>Trees or vegetation to be removed? (Cl 5.9 & 5.9AA).</i>	Yes	There is no vegetation to be removed for the proposal.
<i>Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area? (Cl 5.10).</i>	Yes	The subject site is not heritage listed, is not located within a heritage conservation area and there are no heritage items in the vicinity of the site. The proposal will not result in any adverse impact on any heritage values.
<p>The following provisions in Part 6 of the LEP apply to the development–</p> <ul style="list-style-type: none"> 6.1 – Acid sulfate soils 	Yes	<ul style="list-style-type: none"> 6.1 – Acid Sulfate Sols - The subject site is located on Class 5 land with the following consent requirements:- <p><i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land</i></p> <p>There is limited excavation proposed (only for footings) which is likely to require only 500mm of excavation, and the lowest point on the site is 13.64. There is no requirement for an ASS management Plan.</p>
<ul style="list-style-type: none"> 6.2 – Earthworks 	Yes	<ul style="list-style-type: none"> 6.2 – Earthworks - The proposed development involves only minor excavation for footings.
<ul style="list-style-type: none"> 6.3 – Stormwater management 	Yes	<ul style="list-style-type: none"> 6.3 – Stormwater Management – The proposal involves discharging stormwater to the existing system. Council's Engineer has reviewed the application and raised no objections, subject to relevant conditions. The development is considered to be consistent with this Clause subject to relevant conditions.
<ul style="list-style-type: none"> 6.8 - Airspace Operations 	Yes	<ul style="list-style-type: none"> 6.8 - Airspace operations – The site is within an area defined in the schedules of the Civil Aviation (Building Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The maximum height of the

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> 6.9 – Development in areas subject to aircraft noise 	Yes	<p>existing dwelling is 7.05 metres and therefore does not exceed this maximum height.</p> <ul style="list-style-type: none"> 6.9 – Development in areas subject to aircraft noise - The subject site is affected by aircraft noise being located within the ANEF 20-25 contour. This issue will need to be addressed prior to the issue of a Construction Certificate with relevant conditions recommended in Schedule 1.
<ul style="list-style-type: none"> 6.15 – Active Street Frontage 	N/A	<ul style="list-style-type: none"> 6.15 – Active Street Frontage – The site is not affected by this clause.
<ul style="list-style-type: none"> 6.16 – Design excellence 	N/A	<ul style="list-style-type: none"> 6.16 – Design excellence - This clause does not apply to the subject site

Note 1 – Clause 4.6 variation relating to FSR exceedance

The site has a maximum Floor Space Ratio (FSR) of 0.5:1 pursuant to Clause 4.4A(3)(d) of BBLEP 2013 as *other development for the purpose of residential accommodation*. The proposal involves a gross floor area of 158.97m² and an FSR of 0.58:1, resulting in an exceedance of 23.02m² in gross floor area/FSR.

The maximum permissible FSR is lower for the proposal as the site is located within Area 3 and it involves residential accommodation which does not fall within the definition of a dwelling house under BBLEP 2013. A dwelling house would have a maximum FSR of 0.75:1.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...

(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) That there are sufficient environmental planning grounds to justify contravening the development standard.

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written

request justifying the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

The Applicant has provided a Clause 4.6 variation to justify contravening the FSR standard. The salient points of their justification are provided below:

“The bulk and scale of the proposal will be well within the immediate surrounding development due to the setback and size of the proposal will maintain the objectives of the LEP.

Consistency with the FSR Objectives

The form of development in the immediate and surrounding area is characterised by single and two storey dwellings and in this regard the proposal is modest in bulk and scale.

The proposed addition will be screened by the existing dwelling and will provide greater consistency with neighbouring buildings in the area.

The proposal is of a simple contemporary design so as not to detract from the original dwelling and keep the bulk and scale to a minimum due to its single scale development to the rear.

Due to the design and siting to the rear of the existing dwelling, the proposal will have no adverse effect on the street.

The proposal, due to its siting and design, will not have any adverse effect on the amenity of the adjoining premises as it will comfortably comply with the controls for solar access and privacy

This objective has been achieved as the proposed FSR marginally exceeds the control. As previously stated, the premises are within area 3 on the FSR map which allows for an FSR of .75:1 for sites between 251 and 300 square metres.

The upgrading of the dwelling to accommodate the growing needs of the occupants will ensure that people will remain in the area and patronise shopping and infrastructure.

Consistency with the Zone Objectives

The proposed FSR variation does not create an inconsistency with the zone objective as the proposed FSR does not result in a bulk or large scale development.

While the proposed alterations and additions exceed the FSR control, by definition it is considered unreasonable to comply as the area allows for an FSR of .75:1 for the same site area.

The provision of the additional accommodation is in a sympathetic manner and provides a positive outcome.

Consistency with State and Regional Planning Policies

The proposed FSR variation is not inconsistent with State or Regional Policy. On the contrary, the State Policy of Urban Consolidation seeks to provide for greater heights and densities in areas that are well serviced. Notwithstanding this, the FSR variation does not create any adverse impact with regard to bulk, scale, solar access or shadowing. As stated above, the site is well suited to accommodate an expansion of the dwelling. The definition of a semi-detached cottage is inconsistent with adjoining Council's, which deems a semidetached dwelling to be a dwelling house.

Better Planning Outcome

While the proposed alterations and additions exceed the FSR control, it is considered acceptable due to the dwelling's siting and footprint. The site is currently dwarfed by neighbouring buildings, which limits development potential. Notwithstanding this, the proposed alterations and additions will not pose any adverse bulk, scale, shadow or privacy impacts due to the first floor addition being 7.05 metres in height. The proposed alterations and additions will provide the subject dwelling with greater consistency with neighbouring buildings in the area and will provide a better utilised site.

Sufficient Environmental Grounds

The lack of impact to surrounding properties, particularly in relation to privacy and visual amenity demonstrates the suitability of the proposed FSR variation.

The Public Interest

The proposed FSR variation is considered to be in the public interest as it provides for a better utilisation of the existing dwelling. All proposed alterations and additions will be accommodated to the rear of the site and the increased scale will not have any adverse effect on the streetscape”.

Officers Comment:

The Clause 4.6 variation to the FSR development standard has been assessed in accordance with the BBLEP 2013 as outlined below.

Is the development standard unreasonable or unnecessary in the circumstances of the case?

Officer's Comments:

The applicant has provided justification for the variation to the FSR, in that it is viewed as a minor exceedance and that the bulk and scale of the proposal is compatible with existing housing in the area. The additional FSR does not result in a significantly increased bulk given it is only 23 square metres above the development standard and does not result in a significant increase to overlooking or overshadowing. The height of the proposal complies with the development standard, with the increase in FSR allowing for an additional two (2) bedrooms and a sitting room on the first floor of the semi-detached dwelling. The FSR exceedance is approximately the size of the proposed front bedroom.

Locating the proposed addition to the rear of the existing building and the provision of a skillion roof form towards the rear allows for the retention of the existing pitched roof over the front portion of the dwelling, in line with the streetscape. The development standard would therefore be unreasonable in this instance in order to accommodate the proposed additions to the semi-detached dwelling on the subject site.

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

Officer's Comments:

- The proposal, notwithstanding this non-compliance with the FSR controls, does not result in any significant impacts to the adjoining properties.
- The built form proposed is in keeping with similar development in the streetscape, in terms of bulk and scale, given the presence of various other two (2) storey dwellings in the street and is compliant with the height development standard.
- Setbacks to the street, sides and rear are compliant and provide sufficient landscaping to be of an appropriate scale to the proposal and present a positive street form.
- The proposed development incorporates a number of design features and wall articulation to reduce the bulk of the proposal and proposes this variation for a small portion of the dwelling.

Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The following matters pursuant to Clause 4.6 also considered:-

- Objectives of Clause 4.6.
- Objectives of the FSR development standard.
- Public interest and public benefit of maintaining the development standard.
- Concurrence is assumed per planning circular PS 08-003.

Objectives of Clause 4.6

The objectives of Clause 4.6 (pursuant to Clause 4.6(1) of BBLEP 2013) are:

- a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Officer's Comments:

The proposal responds to the site characteristics in terms of the existing building features and location on the site as well as limiting impacts on adjoining properties. Council recognises that the proposal meets the objectives of Clause 4.6 and those of the FSR development standard notwithstanding the proposed non-compliance. The proposal will facilitate a part single and part two (2) storey semi-detached dwelling within the R2 Low Density Residential zone, which generally meets the required desired future character of the Rosebery Precinct.

Objectives of the FSR Development Standard

The objectives of Clause 4.4(1) FSR of BBLEP 2013 are:

- (a) to establish standards for the maximum development density and intensity of land use,*
- (b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*

- (d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- (e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (g) to facilitate development that contributes to the economic growth of Botany Bay.*

Officer's Comments:

The proposal is consistent with the objectives of the FSR development standard for the following reasons:

- The non-compliant FSR does not create inappropriate scale or bulk for the development.
- The proposal is compatible with the bulk and scale of surrounding residential dwellings, with the proposed addition being largely confined to the rear portion of the existing building and therefore limiting the potential impact of the additional FSR on the streetscape and adjoining properties.
- An appropriate visual relationship between this proposal (new development) and the existing character of the area is achieved by the proposal given the proposed additions are largely contained to the rear of the dwelling and similar materials and roof lines are incorporated.
- The proposal will not adversely affect the streetscape, given the front portion of the existing semi-detached dwelling is to be retained, while the bulk of the roof form can be retained due to the addition comprising a skillion roof to the rear of the dwelling.
- The proposal minimises adverse impacts on adjoining properties in that the proposal is adequately setback from the southern boundary and will not result in any significant overlooking given the majority of windows are highlight windows or frosted.
- The proposal provides an appropriate correlation between the size of a site and the extent of the proposed development on the site in that the built form is not of an excessive scale and does not contribute to any significant impacts on adjoining properties.
- The proposal will facilitate development that contributes to the economic growth of the area in that construction of the proposal will assist the local economy.
- The proposal has been designed to be compatible with the streetscape and has taken into consideration the amenity of the adjoining property regarding solar access and privacy and contributes to the Rosebery Precinct desired future character.

Objectives of the zone

The Objectives of the R2 Low Density Residential zone is as follows:

- *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 that promotes walking and cycling.*

Officer's Comments:

The proposed alterations and additions to the existing semi-detached dwelling are a permissible use within the R2 Low Density Residential Zone and are in keeping with the zone

objectives. The proposal provides low density housing. The proposed development is consistent with the objectives within the zone.

Public Interest and Public Benefit

The proposed variation is in the public interest as it will facilitate alterations and additions to an existing semi-detached dwelling on the site without adverse impact on the streetscape, locality and adjoining dwellings. The proposal is compatible with the existing development of the street and is in accordance with BBDCP 2013 with regard to the Part 8 Desired Future Character for the Rosebery Precinct. There was one (1) objection received during the public notification period for the proposal, which has been considered in this report. These concerns have been addressed either in the application or in the recommended conditions in Schedule 1 as discussed in this report.

Summary

The Clause 4.6 exception to the FSR development standard has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council* [2007] NSW LEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*). The proposal is consistent with the underlying objectives of the standard identified. The proposed development has been assessed against Councils' BBLEP2013 and BBDCP 2013 controls which are compliant with the majority.

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary. Maintaining and enforcing the development standard in this case is viewed as unreasonable.

The applicant's Clause 4.6 is well-founded and the minor departure in FSR development standard for 63 Dougherty Street is in the public interest. On this basis, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4A(3)(d) of BBLEP 2013 should be varied in the circumstances as discussed above.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016

The draft State Environmental Planning Policy (Infrastructure) 2016, has been considered in the assessment of the Development Application. The proposed use of the residential development meets the objectives of the draft Infrastructure SEPP and thus satisfies the requirements of the said instrument.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the *Botany Bay Development Control Plan 2013* (BBDCP 2013) as follows:

Part 3 - General Provisions

The development application has been assessed against the controls contained in Part 3 of the DCP – General Provisions as it applies to low density residential development:

Table 3: Consideration of Part 3 General Controls of BBDCP 2013

Part	Proposal	Comply
3A Parking & Access 3A.2 Parking Provisions of Specific Uses C2 Table 1 – <ul style="list-style-type: none"> Semi-detached dwelling - 1 space/dwelling. 	<p>A single carport is proposed – 1 space.</p>	Yes
3A.3.1 Car Park Design C1 All off-street parking designed in accordance with current Australian Standards AS2890.1 & AS2890.6, AS2890.2.	<p>The proposed single carport has an opening of 3.74m and a depth of 6 metres.</p>	Yes
C28 Minimum width of the access driveway for dwelling is 3 metres.	<p>The driveway is 3.74 metres wide and is an existing driveway to be retained.</p>	Yes
3C Access and Mobility	<p>The proposal is for alterations and additions to an existing semi-detached dwelling. This Part of the DCP states the following is required:-</p> <ul style="list-style-type: none"> <i>Adaptable Housing: Livable housing guidelines is encouraged for all Class 1a and 1b detached and semi detaching housing (including secondary dwellings) –</i> The proposal generally achieves the liveable guidelines. <i>General access requirements - Encourage visitor access to the dwelling –</i> The proposal allows level access from the street to the ground floor. <i>Accessible Parking: Encourage compliance with AS2890 Part 6 -</i> There is level access to the car parking provided on the site. <p>The proposal is consistent with this Part of the DCP.</p>	Yes
3E. Subdivision & Amalgamation	<p>The application does not involve any subdivision.</p>	N/A
3G Stormwater Management	<p>Stormwater is proposed to be discharged to the street system. Council's Engineer has raised no objection to this proposed stormwater system and has recommended conditions which have been included. The proposal is consistent with this Part of the DCP subject to the recommended conditions relating to stormwater. Relevant conditions have been imposed in Schedule 1 in the Attachment. The proposal is consistent with this Part of the DCP.</p>	Yes

3H Sustainable Design	A BASIX Certificate has been provided which satisfies the requirements of this Part of the DCP. Refer to the BASIX SEPP assessment.	Yes
3I – Crime Prevention	The proposed development involves an additional storey, which includes bedroom areas overlooking the street, which provides adequate casual surveillance of entry areas. The proposal is consistent with this Part of the DCP.	Yes
3J Aircraft Noise & OLS	The subject site is affected by aircraft noise being located within the ANEF 20 – 25 contour. In relation to the Obstacle limitation surface (OLS), the proposal involves building works below 15 metres and is therefore below the OLS. The proposal is consistent with this Part of the DCP.	Yes
3K Contamination	The provisions of Part 3K of the BBDCP 2013 have been considered above under Section 79(C)(a) <i>State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land</i> . The proposal is satisfactory in terms of Part 3K.	Yes
3L Landscaping & Tree Management	Landscaping is provided in the front and rear yard areas, which is considered to be satisfactory. The proposed landscaping is outlined on the Site Plan. The proposal complies with the objectives of Part 3L of the DCP.	Yes
3N Waste Minimisation & Management		
3N.3.1 General Requirements		Yes
C1 Waste management plan required.	A Waste Management Plan will be required prior to the issue of a Construction Certificate as outlined in the recommended conditions in Schedule 1.	
C8 Separate containers of sufficient size must be provided to accommodate the storage of waste and recycling likely to be generated on the premises between collections and any associated equipment.	Bins can be stored on the property appropriate for the dwelling.	Yes
3N.3.2 Residential Development		Yes
C1 Residential Development must provide recycle/waste bins in accordance with Table 3.	One (1) bin for each – waste, recycling and green waste – is required. These can be provided on the site.	
C2 Waste and recycling storage areas must be located in a position convenient for both users	Provided on the site.	Yes

Part 4A – Dwelling Houses

The development application has been assessed against the controls contained in Part 4A of the DCP – Dwellings as it applies to low density residential development such as semi-detached dwellings in the R2 Low Density Residential zone (among other zones):

Table 4: Consideration of Part 4A Controls of BBDCP 2013

Part	Control	Proposed	Comply
4A.2.4 Streetscape Presentation	C1 New dwellings designed to reflect relevant Desired Future Character Statement in Part 8 and reinforce architectural features and identity which contributes to its character.	The proposal is compatible with existing development in Dougherty Street where there are other two storey detached and semi-detached dwellings including Nos 51, 52, 53, 56, 58A, 60A & 65 Dougherty, Street. While the street is predominantly characterised by single storey dwellings, there are several two storey dwellings which set a precedent for this proposal.	Yes
	C2 Development designed to reinforce and maintain existing character of streetscape.	The proposal is generally consistent with existing development in the street, notwithstanding there are no other current examples of semi-detached dwellings with only one half having a second storey. This is fairly common in the wider area.	Yes
	C3 Development must reflect dominant roof lines and patterns of existing streetscape.	The proposal involves a flat roof over the addition to the rear and the proposed first floor, which is evident in other semi-detached dwellings in the wider area. There are minimal changes to the roof line to the street given the majority of the proposed additions are located behind the front roofline.	Yes
	C4 Buildings to appropriately address street.	There are no changes to the existing ground floor of the existing streetscape elevation of the existing dwelling which retains the front entry on the side of the dwelling characteristic of semi-detached dwellings. The proposed first floor addition provides windows to the street.	Yes
	C6 The entrance to a dwelling must be readily apparent from the street.	The front door/entry is generally in the same location, which is on the side elevation, characteristic of semi-detached dwellings.	Yes
	C7 Dwelling houses to have windows to street from a habitable	There are no changes to the existing streetscape elevation of the ground floor of the existing dwelling	Yes

Part	Control	Proposed	Comply
	<p>room to encourage passive surveillance.</p> <p>C8 Skylights are to be flush with the roof surface and located to the rear of a building.</p> <p>C10 Development must retain characteristic design features prevalent in houses in the street including: verandas, front gables, window awnings, bay windows, face brickwork or stone details.</p> <p>C11 New windows must be in keeping with scale and proportion of original windows. Windows on a first floor extension are to be aligned with those on the ground floor.</p> <p>C12 Painting, rendering and bagging of existing face brickwork must be consistent with existing character of street.</p> <p>C13 New extensions must be consistent with existing materials.</p> <p>Two Storey Dwellings</p> <p>C15 A two storey dwelling house is not considered appropriate where the majority of surrounding dwelling houses in a street are single storey.</p> <p>C16 Where it is proposed to build a two storey dwelling or carry out a first floor addition to an existing house in a predominantly single storey streetscape, then it is essential that the new additions</p>	<p>which retains a bedroom at the front for surveillance of the street.</p> <p>Skylights are proposed to the side of the roof away from the street.</p> <p>Similar building materials are to be used including face brick on the adjoining wall and panelling for detail on the other (southern) wall. The general design and scale of the proposal is consistent with surrounding development. Characteristic features are retained.</p> <p>Windows are satisfactory and generally do not overlook adjoining properties. There are new windows proposed on the street elevation which are satisfactory whilst the majority of windows to the southern (side) and eastern (rear) are highlight windows. The windows are further discussed below.</p> <p>There is no rendering or painting of brickwork proposed.</p> <p>The proposed alterations at ground level are to be face brick to match the existing semi-dwelling.</p> <p>There are a significant number of single storey dwellings in the street, however, the emerging character is second storeys being added to the existing housing stock or new two (2) storey dwellings being the dominant form in the area.</p> <p>The proposed first floor addition is setback from the principal street frontage such that there is a substantial portion of the existing roof unaltered over the front of the building. The proposed first floor is also located behind the main roof to the street frontage.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Part	Control	Proposed	Comply
	<p>maintain the perceived scale and character of the house and the immediate streetscape as predominantly single storey. This can be achieved by considering one or more of the following design measures:</p> <p>(i) Disguising any proposed first floor addition within the roof form;</p> <p>(ii) Ensuring that any upper floor levels are setback from the principal street frontage of the building, in order to maintain a substantial portion of the existing roof unaltered over the front of the building; and</p> <p>(iii) Ensuring that first floor addition is located behind the main gable or hipped feature of the roof to the street frontage.</p> <p>Semi- Detached Dwellings</p> <p>C17 Any alteration to an individual semi-detached dwelling must recognise it as being one of a pair.</p> <p>C18 Extensions must integrate with the existing building. Extensions must address the likelihood that the adjoining semi may be developed in the future.</p> <p>C19 Uncharacteristic roof forms and details (such as Mansard roofs) will not be allowed if they have an impact on the streetscape</p> <p>C20 As identified in Figure 5, the two dwellings that constitute the semi form must be as consistent as possible in scale and material.</p> <p>C21 Roof design must prevent the flow of stormwater onto the adjoining semi.</p>	<p>The proposal is for a single storey addition to the side and a first floor addition which is considered compatible with the existing semi. There is scope for the same type of extension to be carried out on the other half of the building.</p> <p>There are minor changes to the roof form to the street through the new first floor, although there are no changes to the front portion of the existing roof to the street.</p> <p>The proposal is for a single storey addition to the side and first floor addition, which proposes a skillion roof, which is not considered to adversely impact on the streetscape.</p> <p>The proposal includes a skillion roof with panelling for detail to the street elevation, which is generally consistent in scale and materials to the adjoining semi, which has been rendered.</p> <p>A new box gutter is proposed along the front elevation which will direct the stormwater from the roof to the site (and away from the adjoining site) for disposal to the street system.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Part	Control	Proposed	Comply
	Special Areas	The subject site is not located in any special areas.	
4A.2.5 Height	<p>C1 Maximum height of buildings in accordance with the Height of Buildings Map and Clause 4.3 of BBLEP 2013.</p> <p>Single Storey Streetscape</p> <p>C5 Where single storey dwellings are the predominant form of housing in the street, the height and scale of the streetscape should be maintained, by undertaking second storey extensions at the rear of the property or undertaking ground floor extensions only.</p>	<p>A maximum building height of 9m metres applies to the site. The maximum height of the proposal is 7.05 metres (proposed highest point of roof).</p> <p>A second storey addition is proposed in a predominately single storey streetscape, however, there are various examples of other two storey dwellings on the street and the proposal is setback from the street to ensure the proposed addition does not overwhelm the existing dwelling on the site (refer to C16 in Part 4A.2.4 above).</p>	<p>Yes</p> <p>Yes</p>
4A.2.6 Floor Space Ratio	C1 Max FSR must comply with FSR Map and CI 4.4 & 4.4A of BBLEP 2013.	Maximum permissible FSR is 0.5:1 (CI 4.4A) and proposed FSR is 0.58:1.	No Refer to Note 1
4A.2.7 Site Coverage	C2 Sites (250m ² -300m ²) not to exceed site coverage of 60%.	The site area is 271.9m ² and site coverage is 130m ² (47.8%).	Yes
4A.2.8 Building Setbacks	<p>C1 Dwelling houses must comply with following minimum setbacks (lot width <12.5m):-</p> <ul style="list-style-type: none"> • Front – prevailing or 6m; • Side – assessed on merit – depending on visual impact to the street, pattern of adjoining development, sunlight and natural daylight access, privacy, visual amenity of adjoining residential properties and streetscape. • Rear – 4m; • Eaves – 450mm 	<ul style="list-style-type: none"> • Front – no change – aligns with prevailing setback; • Side – follows alignment of existing which is 0m to the north and 960mm for the ground and first floors to the south. It is considered that this setback is reasonable on merit given there are no privacy impacts due to their being minimal windows, which are highlight windows and no significant overshadowing given the first floor is small and is setback from the ground floor level. There are no impacts on the streetscape as the proposal is predominately located behind the roof line of the existing dwelling • Rear – 9.25m 	<p>Yes</p> <p>Yes</p> <p>Yes Yes</p>

Part	Control	Proposed	Comply
	<p>Side and Rear Setbacks</p> <p>C5 To avoid appearance of bulky or long walls side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements, or a variation in materials.</p>	<ul style="list-style-type: none"> Eaves – no eaves on zero side setback side as the roof drains to within the subject site. <p>The proposed addition to the rear on the ground floor comprises 5.5 metre long wall to the southern boundary while the first floor addition comprises an 11.85 metre length wall to the northern boundary and a 7.615m wall length to the eastern (rear) boundary. Accordingly there will be minimal impacts to the adjoining property.</p>	Yes
4A.2.9 Landscaped Area	<p>C2 Development shall comply with minimum landscaped area:- (250m² – 350m² = 20% (min 54.38m²).</p> <p>C3 Landscaped Area to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes.</p> <p>C4 Any building, ancillary structure such as swimming pools, garages, sheds and cabanas, secondary dwellings, retaining/masonry walls and driveways must be sited to retain and protect existing trees, including street trees and trees on adjoining properties.</p> <p>C5 Landscape Plan identifying proposed areas of open space and landscaped areas on a site submitted with all applications.</p> <p>Landscaping within Setbacks</p> <p>C8 The front setback to be fully landscaped with trees and shrubs and not to contain paved areas other than driveways and entry paths. Paving restricted to max 50% of front setback area.</p> <p>C9 The front setback area must contain at least one tree for frontages up to 11.5 metres in width and 2 trees for frontages greater than this and properties located on corner blocks.</p>	<p>Landscaped area = 59m² (21.7%).</p> <p>The landscaped area is deep soil.</p> <p>There are no trees proposed to be removed.</p> <p>The proposed landscaping is outlined on the site plan.</p> <p>There are no changes proposed to the front setback area.</p> <p>There is an existing tree in the front setback area which is to be retained by the proposal.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Part	Control	Proposed	Comply
4A.3.1 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade.	The plans indicate the finishes and materials for the proposal.	Yes
	C3 Materials, colours, architectural details and finishes must be sympathetic to the surrounding locality.	The proposed materials are sympathetic to the surrounding area with brick and panelling proposed.	Yes
4A.3.2 Roofs and Attics/Dormers	Roof Form C1 Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch. Roof pitches are to be between 22.5 degrees and 40 degrees.	The proposed roof over the addition is consistent with the roof lines of existing development in that it is a sloping roof. A full pitched roof cannot be accommodated as the existing roof line of the front of the existing dwelling is to be retained.	Yes
	C2 Flat or skillion roof forms may be located to the rear of a development site provided it is not a corner location and does not detract from the streetscape.	A skillion roof is proposed over the new first floor towards the rear of the existing dwelling, which is satisfactory.	Yes
	C3 A variety of roof forms will be considered, provided that they relate appropriately to the architectural style of the proposed house and respect the scale and character of adjoining dwellings.	The proposed roof is suitable for the site and its location towards the rear of the existing dwelling.	Yes
4A.3.3 Fences	Front Fences and Side and Rear Fences	There is no new front or side fences in front of the site proposed.	N/A
4A.4.1 Visual Privacy	C1 The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling and where appropriate incorporate the privacy measures.	Privacy has been considered in that the proposed new windows are generally highlight windows where they face adjoining properties as outlined below:- To the north, there are no windows proposed as this is the adjoining wall to the adjoining semi-detached dwelling at No 61. To the south, on the ground floor, are highlight windows to the living room and highlight windows to the bedrooms on the first floor. A frosted window to the bathroom on the first floor is also provided. These windows are unlikely to result in any significant overlooking into the adjoining southern property.	Yes

Part	Control	Proposed	Comply
	<p>Balconies</p> <p>C4 First floor balconies are only permitted when adjacent to a bedroom.</p>	<p>To the east (rear), there are sliding doors from the living room to the rear terrace while at the first floor there is a highlight window from the sitting room. These windows will not adversely impact on the privacy of the adjoining eastern neighbour given they are highlight windows or are at ground level which will be screened by fencing and vegetation.</p> <p>Given there are no windows in the adjoining semi facing the subject site, there will be no adverse privacy impacts resulting from these proposed windows.</p> <p>The proposed new windows are generally offset from windows of adjoining dwellings, comprise highlight windows and limit direct views onto adjoining properties.</p> <p>There are no balconies proposed on the first floor.</p>	Yes
4A.4.2 Acoustic Privacy	<p>C1 Dwellings close to high noise sources such as busy roads, railway lines and airports should be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.</p> <p>C4 New dwellings on land within the Australian Noise Exposure Forecast (ANEF) Contour 20 or higher shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).</p>	<p>The subject site is not located on any busy roads or in close proximity to a railway line.</p> <p>Refer to Part 3J of the DCP.</p>	<p>Yes</p> <p>Yes</p>
4A.4.3 Solar Access	<p>C1 Buildings (incl alts/adds/extensions) to maintain approx... 2 hours of solar access between 9am & 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and to 50% of primary</p>	<p>The proposal is for a small ground floor addition to the southern side of the building and a first floor addition to the rear.</p> <p>The only affected property in terms of overshadowing is the adjoining</p>	<p>Yes</p> <p>Refer to Note 2</p>

Part	Control	Proposed	Comply
	<p>private open space areas of both site and adjoining properties.</p> <p>C2 Solar panels on adjoining houses that are used for domestic needs within that dwelling must not be overshadowed for more than two hours between 9am to 3pm in mid-winter.</p>	<p>property to the south, No 65 Dougherty Street.</p> <p>This adjoining dwelling to the south receives adequate sunlight to its area of private open space in the rear yard, generally between 9am and midday when the additional shadow resulting from the proposal will be cast towards the front portion of the dwelling at No 65. The front open space area, comprising a balcony, will receive solar access between midday and 3pm.</p> <p>In terms of the living room windows, which are assumed to be the front windows adjoining the front balcony/private open space, these windows will receive solar access from midday until 3pm. Between 9am and midday; the window in the central portion of the ground floor will be overshadowed by the proposal, however, the living areas are likely to be adjoining the balcony areas which receive adequate solar access.</p> <p>Accordingly, there is adequate solar access to these windows throughout the day in mid-winter. There is already some overshadowing of this adjoining dwelling from the existing dwelling on the site, with the increase to this shadow resulting in an acceptable impact on solar access as outlined above. Accordingly, there is sufficient solar access to this adjoining dwelling in mid-winter.</p> <p>There are no solar panels on the adjoining dwelling.</p>	<p>Yes</p>
4A.4.4 Private Open Space	C1 Each dwelling is to have a private open space that: (i) Has at least one area with a minimum area of 36m ² ;	The proposed rear terrace has an area of 16.8m ² while the rear yard has an area of approximately 61.63m ² , providing a total area of private open space, directly	Yes

Part	Control	Proposed	Comply
	<p>(ii) Is located at ground level with direct access to the internal living areas of the dwelling;</p> <p>(iii) Maximises solar access;</p> <p>(iv) Is visible from a living room door or window of the subject development;</p> <p>(v) Minimises overlooking from adjacent properties;</p> <p>(vi) Is generally level;</p> <p>(vii) Is oriented to provide for optimal year round use;</p> <p>(viii) Is appropriately landscaped; and</p> <p>(ix) Is located or screened to ensure privacy;</p> <p>C3 For terraces and decks to be included in calculations of areas for private open space, these must be of a usable size (min 10m²) with one length or width dimension being a minimum of 2 metres, and be accessible from a communal or living area of the dwelling. Note: To be included in a calculation of private open space, decks are not to be located more than 500mm above natural ground level.</p> <p>C4 Areas within setbacks are not to be included as private open space unless they have a minimum width of 3 metres.</p> <p>C5 The primary private open space area is to be located at the rear of the property.</p>	<p>accessible from the rear living area of 78.43m². Adequate solar access is provided to this area and minimises overlooking into adjoining properties given it is provided at ground level.</p> <p>The deck proposed within the addition satisfies this criteria (16.8m²)</p> <p>Areas within setbacks have not been included in this calculation.</p> <p>The private open space is located in the rear yard.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4A.4.5 Safety and Security	C1 Comply with Part 3I.	The proposal provides bedrooms facing the street to provide natural surveillance.	Yes
4A.4.7 Vehicle Access	C1 Driveways within a property shall have a minimum width of 3 metres.	There is currently an existing driveway and vehicle crossing to the site, which is 3.82m wide. This is to be retained in the proposal and is satisfactory.	Yes
4A.4.8 Car Parking	C1 Development to comply with Part 3A - Car Parking.	Refer to Part 3A.	Yes

Note 2 - 4A.4.3 Solar Access

The proposal is considered to allow for sufficient solar access to the adjoining southern

property (No 65 Dougherty Street) as outlined Table 3. The applicant provided the relevant shadow diagrams and elevational shadow plans which demonstrate this (refer figures below). The front and rear private open space areas with balconies will receive adequate solar access throughout the day. The front area receives solar access in the afternoon while the rear open space receives solar access in the morning during mid-winter.

In relation to the living area windows, it is considered that these windows are likely to be those directly behind the front balcony area towards the front of the dwelling which will receive sunlight from midday in mid-winter. The other living areas are considered to be directly adjoining the rear private open space area which does not contain windows on the northern elevation. It is considered that adequate solar access, in accordance with the BBDCP 2013 controls is achieved by the adjoining southern property as demonstrated below.



Figure 11: Proposed Shadow at 9am in Mid-winter (Source: Peter Banfield, August 2017)

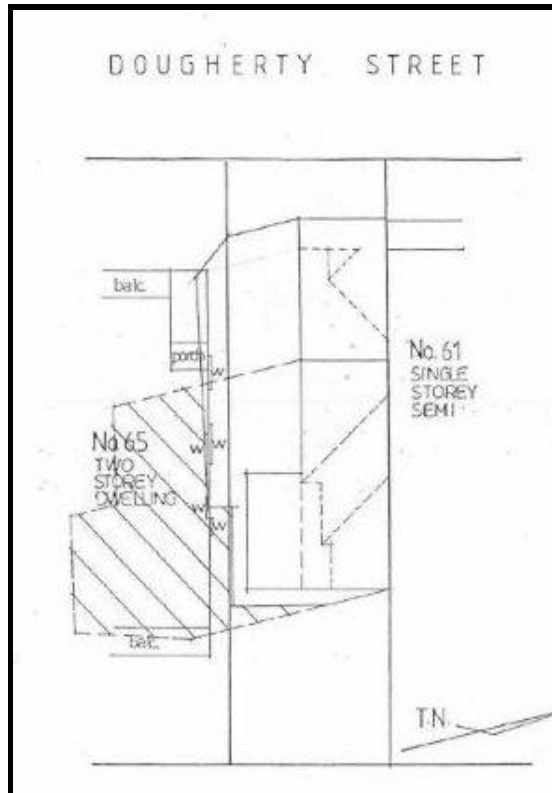


Figure 12: Proposed Shadow at Middy in Mid-Winter (Source: Peter Banfield, August 2017)

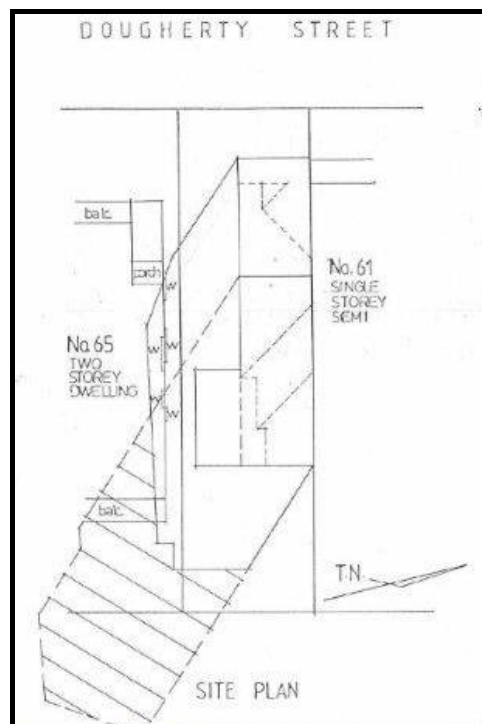


Figure 13: Proposed Shadows at 3pm in Mid-winter (Source: Peter Banfield, August 2017)

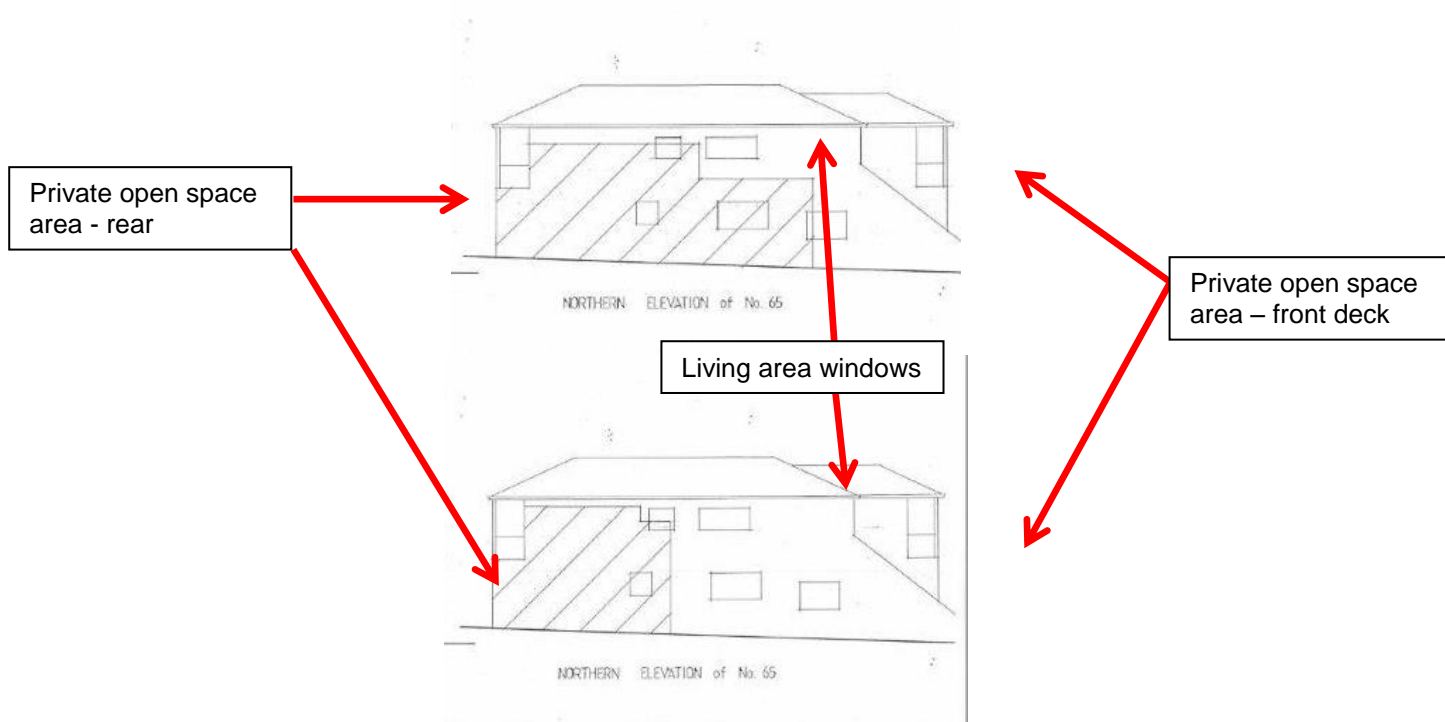


Figure 14: Proposed Elevational Shadows at Midday and 3pm in Mid-winter Source: Peter Banfield, August 2017

Part 8 – Character Precincts

The development application has been assessed against the relevant controls contained in Part 8.6 of the DCP as the subject site is located in the Rosebery Character Precinct (Note: the subdivision, heritage and risk controls of this Part of the DCP are not relevant to the current proposal).

The subject site is located in a low density area of Rosebery, which is envisaged to remain a low density environment with dwellings of maximum height of two storeys, with roof forms reflecting the characteristics of the prevailing designs in the street. This is achieved by the proposal.

The function and diversity controls encourage new development to enhance the public domain and streetscape within the Precinct as well as enhancing connections of public domain and open space areas with recreational facilities, enhancing neighbourhood amenity and pedestrian comfort. The controls also seek to retain the distinct housing styles of dwelling houses, comprising detached and semi-detached of one and two storey detached dwelling houses.

It is considered that the proposal is consistent with surrounding development in that there are no significant changes to the streetscape as the proposed alterations and additions are generally compatible with existing dwellings in the street by retaining the basic shape of the roof to the street and providing the addition away from the street façade.

The proposal is considered to be consistent with the form, massing, scale and streetscape controls in that the proposal follows the topography of the land and maintains the established

low density residential accommodation in the form of semi-detached dwellings with a maximum height of two storeys. While the street is dominated by single storey dwellings, the height limit allows for two storey dwellings and there are other examples of two storey dwellings in the street.

A skillion roof is proposed, allowing retention of the existing pitched roof across the front of the semi-detached dwelling (including No 61) which is consistent with existing roof lines in the streetscape. The proposal is considered to be of a sympathetic design to maintain and complements the prevalent architectural style of the buildings. The proposal provides vehicle access and car parking which does not dominate the streetscape given the proposed carport is integrated into the dwelling design.

The proposal retains the front setbacks which are consistent within a street and promotes landscaping to soften the built form. The side setbacks are consistent with existing development in the street. The landscaping provided in the front setback is to be retained, which assists in softening the built form and provides privacy to adjoining properties. Street trees are to be retained.

The proposal also allows solar access to be provided to adjoining properties by limiting the height of the building to below the maximum height for solar access to the adjoining southern property. The proposal is also unlikely to have any significant impact on traffic in the area given the proposal is for alterations and additions to an existing semi-detached dwelling incorporating two (2) additional bedrooms. There are no significant views to be obstructed by the proposal.

Accordingly, the proposal is considered suitable for the subject site and is compatible with the desired future character as described in the BBDCP 2013 for the Rosebery Precinct.

S.79C(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

S.79C(1)(b) - Likely Impacts of Development

As outlined in the assessment above, the proposed development is unlikely to have any significant impacts as outlined below:

- Context and setting – The proposed development has been designed to be a compatible addition to the locality and is of an appropriate size and density to the surrounding development. There is likely to be minimal adverse impacts on the adjoining properties in terms of privacy loss or acoustic impacts given the proposal has limited windows facing the adjoining properties which would allow direct overlooking of the adjoining or nearby residential dwellings (as outlined in this report). There will be no view loss arising from the proposal and the overshadowing towards the adjoining property to the south, are considered acceptable. This adjoining property will receive adequate solar access as outlined in this report.
- Noise generation – The potential for noise generation from the proposed development is likely to be standard residential noise and is unlikely to adversely affect the amenity of the area.

- Access, Traffic and Transport – There is sufficient car parking provided within the site and the level of traffic generated from the proposal would be readily absorbed by the adjacent road network with minimal impact, in terms of traffic flow efficiency, road safety and residential amenity. Public transport is located in close proximity of the site comprising bus stops along Maloney Street. Vehicles can enter and leave the site in a forward direction.
- Public Domain – The proposal will not impede pedestrian access in the area and will not impinge on any public areas.
- Utilities – All utilities are available to the site and as a consequence there are no impacts on utilities.
- Heritage – The proposed development will not adversely affect any heritage values or items.
- Natural environment – The proposed development will have minimal impact on the natural environment, as it is located in an area already zoned and cleared for development and there are no significant healthy trees being removed. All construction will be undertaken having regard to best practice sediment and erosion control techniques.
- Built environment - In relation to potential impacts on the built environment, it is considered that there is adequate articulation of the built form and that the bulk and scale of the proposal is compatible with existing development in the area. The proposal is for residential development which is compatible with existing development in the area. It is considered that the proposal is likely to have a positive impact on the built environment.
- Social impact – The provision of a larger dwelling with additional bedrooms in a well serviced location provides positive social impacts of the proposal to the area.
- Economic Impact – The proposal will provide various short-term beneficial economic impacts in terms of the engagement of building and construction personnel. This will result in the proposal having positive economic impacts in the area.
- Site design and internal design – The proposed development is appropriately set out within the site to minimise adverse impacts on adjoining properties as outlined in this report. The provision of landscaping assists in providing an appropriately designed development.
- Construction – The proposed development will be constructed in accordance with the requirements of the *Building Code of Australia*.
- Cumulative impacts – The proposed development will not result in any adverse cumulative impacts as the proposed development generally complies with the zone objectives and development standards and controls as outlined in this report.

Accordingly, it is considered that there will be no significant adverse impacts arising from the proposed development on the site.

S.79C(1)(c) - Suitability of the site

The site is not known to be affected by any site constraints or other natural hazards likely to

have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long-standing use of the land for residential purposes, onsite investigation is not warranted.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significant given the relatively small scale of the development and no significant planning issues are raised that would warrant the refusal of the proposed development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of BBDCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 14 August 2017 to 1 September 2017. One objection was received.

Issue: Visual Privacy

Concern is raised regarding to visual privacy with the location of one of the windows on the first-floor addition looking directly into our kitchen window. The window in question is on the western side of the first-floor addition closest to us. Our first-floor window that is in the centre of our house is our kitchen window. We have taken two photos demonstrating looking out of our window to the north and to the north-east. Due to the proximity of the first-floor addition and it being setback behind our window, the degree of overlooking into our kitchen is significant and as we utilise the kitchen area all the time, we do not want to be looking into their dwelling and vice versa. We recommend that this window be a highlight window with a minimum sill height of 1.5 metres.

Comment: There are three (3) new windows proposed on the first floor along the southern side of the proposed additions which comprise W3 (front bedroom), W4 (bathroom) and W5 (Bedroom). Both bedroom windows are proposed to be highlight windows of 0.6m x 1.8m and 0.5m x 2m dimensions respectively while the bathroom window is proposed to be an opaque glass window. It is considered that these windows will not adversely impact on the privacy of No 65.

There is also a window proposed on the western elevation (W2) of this southern bedroom which, while it faces the street, is located in close proximity to the kitchen window of No. 65, as illustrated in the photographs attached to this submission and in **Figure 15**.

A window in this location has an important streetscape function and therefore the removal of this window and its replacement on the eastern (rear) elevation is undesirable from a streetscape perspective. Therefore, to ensure there is minimal overlooking opportunities into No 65, it is considered warranted that a condition be imposed that this window on the western elevation of the southern bedroom on the first floor, comprise a highlight window with a minimum sill height of 1.5 metres as suggested in this submission.



Figure 15: Photo from Objector - Existing kitchen window of adjoining property to the south (No 65) looking towards proposed window on the south-western corner of the proposed addition (1st floor)

Issue: Location of the Carport

The plans demonstrate that the proposed carport located along the southern side of their dwelling has a side setback of what looks to be either nil or 100mm from our boundary. We are concerned that this is not in accordance with the regulations of the Building Code of Australia as the carport will be enclosed on all three sides and there will be issues regarding to fire safety. We recommend that the carport be setback from the boundary at least 500mm or as the BCA requirement allows, if greater. Additionally, setting back the carport away from the boundary will allow for greater sunlight to one of the bedrooms which is directly opposite this carport in mid-winter.

Comment: The objection is concerned with potential BCA non-compliance in terms of fire safety as well as future light penetration being blocked to their dwelling arising from the carport. A standard condition requiring compliance with the Building Code of Australia is imposed on all consents, however there is ample room to accommodate a 500mm setback to this boundary. Therefore, it is considered that matters relating to fire safety and other building matters will be adequately addressed at the Construction Certificate stage. In terms of light penetration to the adjoining dwelling, the proposed carport has an open side along the southern (common) boundary with this adjoining property and therefore it is considered that adequate sunlight will enter this adjoining dwelling at No 65 following the construction of the carport. A condition has been recommended to be imposed to further ensure this southern side of the carport is open form.

Issue: Retaining wall between the two properties

Clarification is required relating to the proposed landscaping in the rear yard. Currently, the neighbouring property at 63 Dougherty Street contains planter beds. The concrete edge of these planter beds form part of a retaining wall. We have taken photographs of this retaining wall from our side of the fence which demonstrates that our colorbond fence has been built above this retaining wall. We are concerned that if the concrete or retaining wall is removed, then there will be a large gap between the two fences. It is not clear from the plans whether the landscaped area will be levelled or reduced. We do not want any soil or debris to fall onto our property.

Comment: The plans are unclear as to whether this wall is to be removed or retained. There is no reason why this wall needs to be removed. Accordingly, a condition has been recommended to be imposed in Schedule 1 ensuring this concrete edge of the existing planter beds in the rear yard forming part of a retaining wall along the southern boundary is to be retained.

The issues raised in this submission have been adequately addressed and relevant conditions have been recommended to be imposed in Schedule 1 where relevant and discussed above.

S.79C(1)(e) - Public interest

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

Section 94 Contributions

The proposal does not require Section 94 Contributions to be levied as outlined in the *Section 94 Contributions Plan 2016*.

Conclusion

Development Application No. 17/1120 was received on 1 August 2017 for alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport.

The development departs from the FSR development standard by 23.02m². The applicant has provided a Clause 4.6 variation to address this issue and it is considered that the variation is well founded and should be supported.

Other key issues relating to compatibility with the existing development on the site and in the street have been addressed in the report above and have been found to be acceptable.

The development is suitable for the site as the proposed additions and the adjoining properties will receive adequate solar amenity and privacy, and provides ample private open space. The proposal will be compatible with existing development in the area.

The proposed development generally complies with the future character of the Rosebery Character Precinct and provides a built form that is desirable in the street and is not considered to contribute to excess bulk and scale. The amount of landscaped area provided on the site balances out the built form which is desirable. For these reasons, the development application is recommended for approval subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 63 Dougherty Street, Rosebery

DA No: 17/1120

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

- The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing N°	Issue	Author	Dated
Site Plan, Floor plans, Elevations and Sections – Drawing 6/17	-	Peter Banfield Building Design/Plan Service	Dated 3 July 2017 Received 1 August 2017
Shadow Diagrams – 21 June	-	Peter Banfield Building Design/Plan Service	Dated 3 July 2017 Received 1 August 2017
Shadow Diagrams – 21 September	-	Peter Banfield Building Design/Plan Service	Dated 3 July 2017 Received 1 August 2017
Elevational Shadow Diagrams	-	Peter Banfield Building Design/Plan Service	Dated - Received 1 August 2017

Documents	Author	Dated
Statement of Environmental Effects	Peter Banfield	Dated - Received 1 August 2017
Clause 4.6 Variation - FSR	-	Dated August 2017 Received 1 August 2017
Survey Plan (Ref:9191-17)	Paul A Lawson (Registered Surveyor)	Dated - 27 March 2016 Received 1 August 2017
BASIX Certificate No A287105	Peter Banfield Building Design/Plan Service	Dated 14 July 2017 Received 1 August 2017

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

2. This Consent relates to land in Lot 51 in DP 226180 as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. A287105 dated 14 July 2017 received by Council on 1 August 2017 for the development are fulfilled.
 - a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:-
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent: -
 - i) Has appointed a principal certifying authority; and,

- ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
- iii) The person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

6. The applicant must prior to the issue of the Construction Certificate pay the following fees:-
 - a) Damage Deposit \$2,570.00
 - b) Development Control \$875.00
7. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$2,570.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
8. Prior to the issue of the Construction Certificate, amended plans must be provided which reflect the following changes:
 - a) The proposed window on the western elevation of the rear (southern) bedroom on the first floor is to comprise a highlight window with a minimum sill height of 1.5 metres.
 - b) The southern side of the carport is to be setback 500mm off the boundary, remain open (with no wall) and to be noted on the plan as having no wall; and
 - c) The concrete edge of the existing planter beds in the rear yard forming part of a retaining wall along the southern boundary is to be retained.
9. Prior to the issue of the Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so will result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
10. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence

of the development and associated construction works shall be restored or repaired at the applicant's expense.

11. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
12. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water's Tap in online service (<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>) to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.
13. Prior to the issue of the Construction Certificate, a report is required from a qualified plumber certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.

Where the existing system is determined deficient, damaged and/or not operational, a new system shall be designed and constructed by a suitably qualified Civil Engineer in accordance with Council's Stormwater Management Technical Guidelines (SMTG) & AS 3500.

14. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

The design should be submitted to the PCA for approval. The approved design form part of the future road opening permit application.

15. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
16. Prior to the issue of the Construction Certificate, a Waste Management Plan in accordance with the requirements of Part 3N - Waste Minimisation and Management of the *Botany Bay Development Control Plan 2013* must be submitted and approved by the Certifying Authority.
17. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

18. The Principal Certifying Authority must be satisfied that:

- a) In the case of work to be done by a licensee under the *Home Building Act 1989*: -
 - i) Has been informed in writing of the licensee name and contractor licence number; and
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the *Home Building Act 1989*; or
 - b) In the case of work to be done by any other person:
 - i) Has been informed in writing of the person's name and owner-builder permit number; or
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 of the *Home Building Act 1989*.
19. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if:
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
20. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
21. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
22. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

23. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
24. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under *Road Act 1993* and *Local Government Act 1993* as appropriate:-

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
 - c) Permit for roads and footways occupancy (long term/ short term);
 - d) Permit to install temporary ground anchors in public land;
 - e) Permit to discharge ground water to Council's stormwater drainage system;
 - f) Permit for roads and footways occupancy (long term/ short term);
 - g) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve;
 - h) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever such as relocation / re-adjustments of utility services;
 - i) Permit to place skip/waste bin on footpath and/or nature strip;
 - j) Permit to use any part of Council's road reserve or other Council lands.

DURING WORKS

25. The proposed development shall comply with the following:
 - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after-hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.

26. Precautions to be taken shall include compliance with the requirements of the SafeWork NSW, including but not limited to:
 - a) Protection of site workers and the general public;
 - b) Erection of hoardings where appropriate;
 - c) Asbestos handling and disposal where applicable;
 - d) Any disused service connections shall be capped off;
 - e) The disposal of refuse is to be to an approved waste disposal depot.
27. Inspections must be conducted by Council's Engineer at the following occasions:
 - a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete;
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete;
 - c) Formwork inspection of Council's footpath prior to laying of concrete;
 - d) Final inspection of driveway layback and adjacent kerb and gutter;
 - e) Final inspection of Council's kerb and gutter;
 - f) Final inspection of Council's footpath.
28. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site except where amended by this consent.
29. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
30. Any material containing asbestos found on site shall be removed and disposed of in accordance with:
 - a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) *Protection of the Environment Operations Act 1997*;
 - c) *Protection of the Environment Operations (Waste) Regulation 2014*;
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
31. During excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
32. The following shall be complied with during construction:
 - a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the *Protection of the Environment Operations Act 1997*.

b) Level Restrictions

i) Construction period of 4 weeks and under:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

c) Time Restrictions

i) Monday to Friday 07:00am to 05:00pm

ii) Saturday 08:00am to 01:00pm

iii) No Construction to take place on Sundays or Public Holidays.

d) Silencing

All possible steps should be taken to silence construction site equipment.

33.

a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.

b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

34. During excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

35. All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated and/or adjusted to match the proposed/existing levels as required by the development.

36. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - b) Negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
 - 1 The additional load on the system; and
 - 2 The relocation and/or adjustment of the services affected by the construction.
 - c) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
37. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
38. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Construction Management Plan at all times.
39. Any new information that comes to light during construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
40. Results of the monitoring of any field parameters such as soil, groundwater, surface water, and dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

41. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the *Environmental Planning and Assessment Act, 1979*.
42. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
43. All landscaping works outlined in the approved Landscape Plan are to be carried out prior to the issue of the Occupation Certificate.

44. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
45. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
46. Prior to release of the Occupation Certificate, the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report required by this consent have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

47. All intruder alarms shall be fitted with a timing device in accordance with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008, and AS2201, *Parts 1 and 2 - 1978 Intruder alarm systems*.
48. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.

49. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

50. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid

waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

51. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 17/1120 dated as 1 August 2017 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.