



NSLPP MEETING HELD ON 01/10/2025

Attachments:

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Statement Request
4. Geotechnical Report and Structural Statement
5. Additional Information Letter inc. View Loss
6. Heritage Impact Statement

ADDRESS: 47 East Crescent Street, Lavender Bay

APPLICATION No: DA 150/2025

PROPOSAL: Alterations and additions to a heritage item

PLANS REF:

Plan No.	Rev	Description	Prepared by	Dated
DA-10	B	Site Plan	MBA	11.09.2025
DA-19	A	Basement Plan	MBA	17.07.2025
DA-20	B	Ground Floor Plan	MBA	08.09.2025
DA-21	B	First Floor Plan	MBA	08.09.2025
DA-22	B	Attic Plan	MBA	08.09.2025
DA-23	B	Roof Plan	MBA	08.09.2025
DA-24	B	West Elevation	MBA	08.09.2025
DA-25	B	North Elevation/Section	MBA	11.09.2025
DA-26	A	East Elevation	MBA	11.09.2025
DA-27	A	South Elevation	MBA	08.09.2025
DA-28	A	Section S-01	MBA	08.09.2025
DA-29	A	Section S-02	MBA	08.09.2025
DA-30	A	Section S-03	MBA	11.09.2025
DA-31	A	Section S-06	MBA	08.09.2025

OWNER: Amanda and Christopher Smith

APPLICANT: Amanda Smith

AUTHOR: Thomas Holman, Senior Assessment Officer

DATE OF REPORT: 01 August 2025

DATE LODGED: 28 May 2025

AMENDED: 11 September 2025

RECOMMENDATION: Approval

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to a heritage listed dwelling house at 47 East Crescent Street, Lavender Bay which is situated within the McMahons Point North Conservation Area. The proposed work includes excavation and new underpinning of foundations to provide a basement, demolition of the existing rear wing and construction of a new storey addition with garage, a rear dormer addition, alterations both internally and externally to the core of the semi-detached dwelling and landscaping is proposed to the side and rear setbacks as well as on structure landscaping.

The application is reported to the North Sydney Local Planning Panel for determination as the proposal involves part demolition/removal of a heritage item; the notification has resulted in greater than 10 submissions by way of objection; and the development contravenes a development standard by more than 10%. The application requires determination by the Panel in accordance with Directions of the NSW Minister of Planning Housing & Infrastructure.

The following assessment includes consideration of the potential effect on the significance of the heritage item, consideration of objections received and the contravention of a development standard.

A total of fifteen (15) unique submissions were received raising concerns regarding several issues but principally concerns included the impact of the two storey addition and subsequent view loss to three affected residences and an adverse impact to visual privacy to adjoining properties.

The two storey addition is assessed to be an appropriate heritage design and response to the heritage significance of the building, with new work being clearly distinguishable secondary built form to the principal building form. The two storey addition will have a brick rendered façade characteristic of the heritage item and stipulated in the character statement as a characteristic built element. The revised dormer is a more acceptable outcome secondary in scale to the roof and complementing the style of the existing building. The development therefore generally satisfies the objectives in cl. 5.10 'Heritage Conservation' of NSLEP 2013.

A detailed view loss assessment has been completed and it is deemed that the two storey additions, comprising a flat roof and height of 6.33m, is an appropriate design response which has appropriately minimised height and thereby minimise the obstruction of neighbouring views. A further reduction in overall height of the two storey addition is recommended, noting the floor to ceiling height of either the ground floor and first floor can be reduced without significant internal amenity impact and subsequently a design condition is recommended to achieve a reasonable view sharing outcome for the affected properties at 49 East Crescent Street, 2 Waiwera Street and 4 Waiwera Street satisfying Objective O2, s1.3.6 'Views' of NSDCP 2013.

The Applicant has also made design changes to improve the visual privacy to the affected 1A Waiwera Street by an extension to a roof garden and increase in height of a boundary wall plus deletion of a window that had a potential outlook to a bedroom window of 1A Waiwera Street.

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

[illegible]

Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The development comprises substantial alterations and additions to an existing heritage item. The property is subject to the following scope of works.

Earthworks and Excavation

- Existing wine cellar and basement is subject to excavation with a new floor RL of 31 840 and RL 32 395 which will require excavation of between 735mm to 1m in parts.
- A new basement is proposed with a casual living/gym area, bathroom and store.
- A new courtyard is proposed at RL 31 740 which will requires excavation of approximately 3.2m.

Demolition – Ground Floor

- Demolition of an existing carport and workshop and demolition of existing garage entry.
- Demolition of existing paved courtyard, garden beds and partial demolition of boundary wall.
- Partial demolition of existing two storey addition, including partitions and northern and eastern walls.
- Demolition of an existing dining room.
- Partial demolition of wall between entry corridor and living room and alterations to openings between living room, corridor and existing dining room.

Demolition – First Floor and Attic

- The existing verandah and bathroom are to be demolished and a partial demolition to form an opening is proposed between the existing bedrooms.
- For the attic minor demolition work is proposed including removal of existing stairs and a partition for an existing store.

Proposed Basement

- Subject to excavation and earthworks a basement will entail casual living/gym, bathroom and storage with windows providing outlook to a landscaped courtyard subject to excavation.

Proposed Ground Floor

- A new rear addition is proposed comprising a single storey extension providing a link to a new two storey addition. The ground floor of the two storey addition will comprise a new garage and kitchen.
- The hallway wall to be partly demolished will have a new archway and provide a more open plan living area.

Proposed First Floor

- The first floor room layouts will be amended providing a master bedroom and ensuite. A new enclosed verandah is proposed and a roof garden to the rear of the dwelling.
- The first floor of the two storey addition will comprise of two bedrooms and a new balcony.

Proposed Attic

- The existing attic is subject to alterations to create a new ensuite and new stairs benefitting from the proposed dormer addition to the northern roof of the dwelling.

Landscaping

- A new courtyard is proposed in the north eastern corner of the site. The courtyard will have a new lawn and border planting comprising mix of small trees, shrubs and groundcovers.
- A new courtyard is proposed in the western side setback comprising an array of small shrubs and groundcovers.
- Two roof gardens are proposed with planting.

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – R3 Medium Density Residential Zone
- Item of Heritage – Local Item I0324 '47 East Crescent Street'
- In Vicinity of Item of Heritage – Local Items I0325 '47 East Crescent Street', I0323 '43 East Crescent Street' & I0352 '1 Waiwera Street'
- Conservation Area – CA13 McMahons Point North Conservation Area
- FSBL - No

Environmental Planning & Assessment Act 1979

Environmental Planning and Assessment Regulation 2021

SEPP (Biodiversity and Conservation) 2021

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

SEPP (Resilience and Hazards) 2021

- Chapter 4 Remediation of Land

SEPP (Transport & Infrastructure) 2021

- Chapter 2 Infrastructure

SEPP (Sustainable Buildings) 2022

POLICY CONTROLS

NORTH SYDNEY DCP 2013

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The site legal description is Lot A DP 383325 and also addressed as 47 East Crescent Street, Lavender Bay. The site has an area of 231.5m² and it is an irregular shaped lot on the corner of East Crescent Street and Waiwera Street.

The site comprises a Victorian period two storey semi-detached dwelling plus an attic and basement. The dwelling is significant as a good quality, well-built late-nineteenth century house exhibiting a combination of stylistic features of the period in a well-composed manner. The dwelling has a prominent corner position that reinforces the building's importance to the streetscape and it is an important introduction to the nineteenth century houses on Waiwera Street.



Figures 1 & 2 – Photos of subject site from East Crescent and Waiwera Street

East Crescent Street is characterised by one and two storey Victorian and Federation period dwellings, two storey Inter-War period residential flat buildings and a four storey contemporary apartment building. The most immediate adjoining neighbour to the eastern boundary is No. 45 East Crescent Street which is a two storey modified Federation period dwelling.

Waiwera Street has a varied mix of residential properties including two storey Victorian period dwellings, three storey Inter-War residential buildings and more contemporary dwellings.

The site is located within a R3 Medium Density Residential Zone, the McMahons Point North Conservation Area and the subject site is a local heritage item in the vicinity of many other local heritage items. The site is also subject to a maximum 8.5m height of building development standard.

RELEVANT HISTORY

Previous Applications

Date	Action
09/09/2003	Development Application No. 335/03 was approved for the replacement of existing ground level window wall and window at rear with bi-fold doors and larger double hung frameless windows, extend existing planter box and elevate rear paved garden outdoor terrace by up to 450mm.
30/10/2003	Modification Application No. 335/03/2 was approved to the consent involving alterations to approved plans to provide an extended bi-fold door in lieu of double hung windows to rear ground level elevation of existing end terrace dwelling house, and replace part of the approved planter at rear with paving.

Current Application

Date	Action
28/05/2025	Development Application No. 150/2025 was lodged for alterations and additions to an existing Victorian terrace including a two storey addition.
31/07/2025	A site visit was completed by the Assessment Officer and Heritage Officer.
26/06/2025	Council requested a detailed Stormwater Management Plan and civil engineering plans to be provided to allow an assessment by Council's Development Engineer to be completed.
27/06/2025	The development was notified to the local Precinct and neighbouring properties between 13 June to 27 June 2025.

17/07/2025	A Stormwater Management Plan was submitted by the Applicant, however civil engineering design drawings were not provided as there was uncertainty with the requirements for an acceptable outcome for the vehicular crossing.
21/08/2025	Following a preliminary assessment a letter was issued to the Applicant via the Portal detailing issues of concern which are summarised below: Heritage – the dormer was required to be deleted because the dormer does not maintain the form of the roof and will have a detrimental impact upon the significance of the McMahons Point North Conservation Area. Council’s Heritage Officer also required the garage door to be slightly recessed, more detailing to be provided of the French doors, plans are required to show retention of the hallway wall bulkhead and other directions in terms of sympathetic heritage alterations were recommended. Views – a more detailed view loss assessment is required considering views from the affected neighbouring properties. Adjoining land owners consent – the excavation works and new underpinning of the party wall will have a direct effect to the party wall foundations between 45 and 47 East Crescent Street therefore works that affects a party wall must be accompanied by the written consent of owners of all party walls involved. Visual Privacy – the two storey addition and associated balcony plus the verandah extension does not avoid direct views to windows and private open space of adjoining properties. Landscaped Area and Landscaping – the crushed granite is to be replaced with plants, grasses and groundcovers to be considered landscaped area and consideration should be given to planting of one canopy tree (min 7m)
10/09/2025	Amended Architectural plans were received which included a cover letter outlining amendments made in response to Council’s concerns. Heritage – the previously submitted skillion style dormer on the northern roof slope was modified to a more traditional Victoria style dormer. The garage door was setback further 400mm from the main façade wall. The Architect provided greater clarity with the design of the proposed French doors as well as additional information of the new archway between the entry hallway and existing living room. Further information was also provided concerning retention of fabric in bedroom 2. Views – attempts were made by the Applicant to carry out view loss studies to affected neighbours but entry was not ascertained. The view loss study therefore utilised photos from objectors to determine the impact to affected properties. Additional information provided by the Applicant conveyed the merits of the two storey extension in minimising view loss impact and the view loss assessment provided by the Applicant deemed obstruction of views from the alterations and additions at 47 East Crescent Street to be minimal with no impact to iconic elements. Adjoining landowners consent – the Applicant provided adjoining landowners consent for works which will affect the shared party wall between 45 & 47 East Crescent Street.

	Visual Privacy – amendments are proposed to mitigate the visual privacy impact to 1A Waiwera Street such as raising the existing masonry boundary wall, the roof garden is extended to create greater distance between the two storey addition balcony and 1A Waiwera Street and there is less openings proposed with a reduction from two to one set of double doors on the North Elevation. The Applicant also provided a Site Line Section to confirm no significant overlooking issues to the rear private open space of 45 East Crescent Street. Landscaped Area and Landscaping – the granite surface is to be replaced with lawn to improve the landscaped area. However, the Applicant did not wish to plant a minimum 7m tree because the tree would adversely impact surrounding properties views.
--	--

INTERNAL REFERRALS

BUILDING

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

HERITAGE

The application has been referred to Council's Heritage Officer who provided the following comments:

Heritage Status and Significance

47 East Crescent Street LAVENDER BAY 2060 is identified as a locally significant heritage item under Part 1, Schedule 5 of North Sydney LEP 2013 (I 0324). The dwelling is significant as a good quality, well-built late-nineteenth century house exhibiting a combination of stylistic features of the period in a well-composed manner. The dwelling has a prominent corner position that reinforces the building's importance to the streetscape and it is an important introduction to the nineteenth century houses on Waiwera Street.

The site is also located within the McMahons Point North conservation area (CA13). It is significant on the following basis:

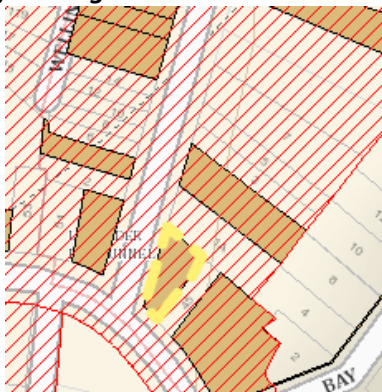
- (a) For its consistent character and unity that derives from its dense urban subdivision pattern and history and which is still clearly seen in the development of the area.*
- (b) As a predominantly early 20th century precinct with a mix of Federation and 1920's one and two storey housing and a very fine grouping of early 20th century buildings along Blues Point Road.*
- (c) For the streetscape qualities of the Blues Point Road shops.*
- (d) For its high quality streetscapes, particularly in Princes and Waiwera Streets.*

The following assessment considers the proposal against applicable planning controls and relevant elements relating to the statement(s) of significance.

Heritage Impact Assessment

The proposal has been assessed in relation to Part 5 Clause 5.10 Heritage Conservation of the North Sydney LEP 2013 and relevant provisions of Section 13 Heritage and Conservation of the North Sydney DCP 2013 and is considered to be satisfactory. The following table assesses the proposal with respect to Part B Section 13 being the development controls for development affected by or affecting identified heritage and conservation.

Compliance Table – B13.4 – Development in the Vicinity of Heritage Items

Compliance Table		
Heritage and Conservation	Complies	Comments
B13.4 Development in the Vicinity of Heritage Items		
13.4 Development in the Vicinity of Heritage Items 	Yes	The replacement of the existing secondary rear addition with a new rear addition with a contemporary form is acceptable (see below). Whilst it is noted that the massing and scale are larger than existing, the relationship of this element will continue to retain a secondary relationship with the principal dwelling, the character of which will remain intact. The impact on the heritage items in the vicinity of the site is minimal and acceptable in this instance.

Compliance Table – B13.5 – Heritage Items

Compliance Table		
Heritage and Conservation	Complies	Comments
B13.5 Heritage Items – Council adopts a whole property approach for heritage items		
13.5.1 Protecting heritage significance		
Objectives		
O1 Ensure changes to heritage items are based on an understanding of the heritage significance of the heritage item O3 Ensure significant features of heritage items are retained and that development is sympathetic to these features with particular regard to bulk, form, style, character, scale, setbacks, and materials O6 – Allow changes to the rear of heritage items where the new work does not impact the heritage significance of the heritage item. O8 Encourage changes to be reversible where possible and appropriate	Yes	The existing two storey addition with its gabled roof is a later addition. The built form of the new addition will be of a more contemporary design but with a larger overall scale. However, it will retain a clearly distinguishable secondary built form in relation to the principal building form. The overall approach of the development is sympathetic to the heritage significance of the subject heritage item and the heritage context within which it is located. The proposed dormer in the rear facing roof plane is not supported as it is in a highly visible position given the corner location of the site and juxtaposition in terms of visibility within Waiwera Street.

Compliance Table		
Heritage and Conservation	Complies	Comments
B13.5 Heritage Items – Council adopts a whole property approach for heritage items		
Provisions		
P1 Retain features that contribute to the significance of the item P4 Retain features significant fabric, features or part of the heritage item that represent key periods of the item's history.	Yes	
13.5.2 Form, massing and scale		
Objectives		
O1 To allow alterations and additions to heritage items, where the new work does not impact on the heritage significance of the heritage item O2 To maintain and promote the original built form of the heritage item as viewed from the public domain	Yes	New external changes to the principal dwelling form involve - the insertion of a window on the ground and first floor levels in the western elevation that will match the existing windows in the same elevation. - The excavation of the ground level along the western side of the dwelling to that of the basement and create a bay window with the same profile as the bay window on the ground floor level above. These works will not adversely impact on heritage significance and will continue to promote the original built form from the public domain.
Provisions		
P2 Ensure that alterations and additions are smaller in scale, height and massing than the existing building. P4 Maintain the integrity of the building form so that the original building is retained and can be clearly discerned.	Yes	See above.
13.5.3 Additional storeys		
Objectives		
O1 To minimise the visual dominance of any new work from public places	Yes	See s15.2 O1/O2 above.
13.5.4 Roofs		
Objectives		
O1 To ensure that original roofs, their hierarchy and materials are retained.	Yes	Subject to the deletion of the proposed dormer (s s13.6.2 below) in the rear roof plane, the original roof form will be retained.

Compliance Table		
Heritage and Conservation	Complies	Comments
B13.5 Heritage Items – Council adopts a whole property approach for heritage items		
13.5.5 Interior layouts		
Objectives		
<i>O1 To ensure that significant interior elements are retained and preserved.</i>	Yes	<i>Appropriate conditions to ensure modifications do not adversely impact on significant interiors are recommended.</i>
Provisions		
<i>P1 Consideration is given to the internal layouts of buildings. P2 Minimise change to original or significant internal configuration so that the evolution of the building remains discernable. This can be achieved by retaining wall nibs, decorative ceilings, joinery and original features such as fireplaces.</i>	Yes	<i>Proposed changes to interiors appropriately reflect the significant uses and layout of the building. Existing and original features are appropriately retained or will be protected. Conditions are recommended to ensure wall nibs, decorative ceilings, joinery and significant fireplaces will be protected and retained. Where replacement is required, conditions have been recommended ensure appropriate detailing will be achieved.</i>
<i>P3 Kitchens or bathrooms (generally) not to be located within primary rooms of significance</i>	Yes	
<i>P4 Retain access and relationship to original building entrances and associated hallways.</i>	Yes	
<i>P5 Retain significant internal original features including joinery, door sets, fireplaces, flooring, cornices and ceilings.</i>	Yes	
<i>P6 Locate alterations away from rooms that have intact or significant features.</i>	Yes	
<i>P7 Ensure new openings have similar dimensions or are compatible with existing openings, such as width and height of double doors.</i>	Yes / No	
<i>P8 Provide for reversibility of internal changes (where appropriate and reasonable).</i>	Yes / No	

Compliance Table – B13.9 – Controls for specific building elements

Compliance Table		
Heritage and Conservation	Complies	Comments
B13.6 Heritage Conservation Areas		
13.5.6.1 General Objectives		
Objectives		
O1 Ensure that new development is designed to retain and complement the character and significance of the heritage conservation area	Yes	There will be no significant changes to the Union Street elevation whereby the contribution of the subject dwelling to the character and significance of the Union, Bank and Thomas Streets conservation area will remain positive.

Compliance Table – B13.9 – Controls for specific building elements

Compliance Table		
Heritage and Conservation	Complies	Comments
B13.9 Controls for specific building elements		
13.9.2 Dormer windows O1 To ensure that dormer windows do not detrimentally impact upon the significance of heritage items and heritage conservation areas.	No	The overall approach of the development is sympathetic to the heritage significance of the subject heritage item and the heritage context within which it is located. The proposed dormer in the rear facing roof plane is not supported as it is in a highly visible position given the corner location of the site and juxtaposition in terms of visibility within Waiwera Street.
13.9.4 Materials, colours and finishes		
Objectives		
O1 To ensure that the materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation area	Yes	The schedule of colours and materials is appropriate to the context of the site. A condition is recommended to ensure the materials, colours and finishes are consistent and complement the conservation area.

Compliance Table – B13.10 – Guidelines for Residential Building Types

Compliance Table		
Heritage and Conservation	Complies	Comments
B13.10 Guidelines for Residential Building Types		
13.10.4 Two storey detached and attached dwellings		
Objectives O1 To retain the integrity and form of the original building.	Yes	

Conclusion and recommendation

With reference to the above, an assessment of the proposal has been undertaken in terms of NSLEP 2013 Clause 5.10 Heritage conservation and NSDCP 2013 Part B: s13 Heritage and Conservation. The proposal is acceptable on heritage grounds, subject to the attached conditions to ensure appropriate management of stormwater, excavation management and shoring (where required):

NON STANDARD CONDITIONS RECOMMENDED

1. *That details relating to the following elements and revisions be submitted to Council for approval:*

External

- a. *A recessed garage door to at least the inside face of the masonry wall to reduce its dominance in the streetscape.*
- b. *The proposed new windows on the ground and first floor in the western (side) elevation of the principal building facing Waiwera Street*
- c. *An elevational drawing showing the junction between the existing dwelling and new addition and how it is to be distinguished from the principal dwelling (eg through the use of a vertical glazed element/ a keyed indent to the masonry detailing etc.)*
 - o *Deletion of the proposed dormer window in the rear roof plane*
- d. *A schedule of all conservation works to be undertaken are to be submitted to Council.*

Internal

- e. *The proposed French doors in lieu of the existing door linking the existing dining/living room to the new dining room*
 - f. *Retention of the bulkhead above the proposed expansion of the door opening between the entry hallway and the existing living room. The height of the new opening is to remain as existing, and the new opening is to repeat the existing architectural detail of the architrave molding*
 - g. *Details of how the interior details of bedroom 2 will be retained as part of its adaptation to create two bathrooms and for the work to retain full reversibility of the room to its original use.*
2. *That the existing period doors are to be reused within the dwelling where applicable and/or stored on site for future use.*
 3. *That a subserviently proportioned new door opening between the main bedroom and ensuite be created at a height no taller than the existing door opening to the bedroom.*
 4. *That the existing door and architrave detailing to the existing bedroom 2 be retained insitu and be boarded over such that the door can be operational in the future.*
 5. *That the installation of utilities to the adaptation of bedroom 2 to x2 bathrooms be such that the work is reversible. All utilities are to be installed through between the floors to avoid penetration of walls and cornices and the ceiling rose details are to be retained insitu.*

(Reason: To protect the heritage significance and setting of the heritage item and ensure its details are compatible with the character and significance of the original dwelling)

STANDARD CONDITIONS RECOMMENDED

6. A4 No Demolition of Extra Fabric
7. C12 Colours, Finishes and Materials (Heritage items)
8. C15 Heritage Architect to be commissioned
9. C17 No External Ducts
10. E11 Removal of Extra Fabric

(Reason: *To protect the heritage significance of the site including views and setting of the heritage items within the vicinity of the site as well as retain the character and significance of the Lavendar Bay conservation area.*

Planning Comment: The amended application proposes a smaller dormer which has Victorian characteristics appropriate to the property and similar in character to the front dormer facing East Crescent Street. The dormer is considered to be a much improved design outcome, being less dominant on the roofscape, and retaining more of the character of the existing roof form.

Section 13.9.2 'Dormer Windows' in Section 13 of NSDCP 2013 the dormer would not have a detrimental impact upon the significance of the heritage item and surrounding conservation area because it is secondary in scale to the roof, setback from the eaves and ridge line and is a more complementary design to the existing building and roof.

The Applicant has also considered the internal and external requirements and provided further supplementary information concerning the proposed French doors, retention of the arched bulkhead on the ground floor and has shown a considered approach to works to Bedroom 2 on the first floor.

ENGINEERING

The application has been referred to Council's Development Engineers Team who assessed the proposal in relation to stormwater, parking and access, sediment and erosion control and excavation.

Conditions of consent have been recommended including the requirement for dilapidation surveys both to the public infrastructure and to adjoining properties. Structural conditions of consent are recommended for adequacy of adjoining properties and the existing building. Further, a Geotechnical Report will be required to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures during and after construction.

Council's Development Engineer also requires the Applicant to obtain a driveway crossing permit and the requirements of the permit are stipulated as a condition of consent.

LANDSCAPING

The application has been referred to Council's Landscape Development Officer who supported the proposal because of the increase in landscaping and the addition of plants and small trees. Conditions of consent are recommended for street tree protection.

SUBMISSIONS

On 28 May 2025, Council notified adjoining properties and the Lavender Bay Precinct of the proposed development seeking comment between 13/06/2025 – 27/06/2025. Council received fifteen (15) submissions by way of objection. The matters raised in the submissions are listed below.

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

Basis of Submissions

- The mass and scale of the extension is too large for the land and the surrounding properties.
- The proposed new wing on the top of the existing single level garage looks large and hideous from Waiwera Street and does not blend with the streetscape of Lavender Bay.
- The proposal will negatively impact the iconic views of the streetscape.
- This extension will ruin the beautiful views of the neighbourhood.
- The proposed development, particularly the addition of a second storey on the garage, introduces an excessive mass and scale that is inconsistent with the character of the surrounding area.
- There are privacy concerns to adjoining neighbours of the elevated outbuilding.
- The plans show that the rear extension will be brought significantly closer to my boundary at No. 1A Waiwera Street and includes a new balcony and rooftop garden, both elevated and positioned in proximity to my home. These outdoor spaces will have direct sightlines into key rooms of my dwelling, including bedrooms, bathroom and kitchen. The outcome is inconsistent with the North Sydney DCP 2013 particularly Section 1.3.8 Acoustic Privacy and Section 1.3.10 Visual Privacy which require new development to minimise noise transmission and overlooking to neighbouring homes particularly to habitable rooms and private open space.
- Excavation works are excessive and inconsistent with Section 1.3.1 of the NSDCP 2013 which requires excavation to respond appropriately to site conditions and minimise adverse impacts on neighbouring properties. Council should require substantial design revisions to reduce excavation intensity and insist on independently verified documentation to confirm that neighbouring heritage properties, including mine will not be compromised.
- Section 9.7.7 of Part C of the NSDCP 2013, outlines key principles for development within the precinct. It specifically highlights that modern design elements, alterations to original roof forms, and over-scaled dormers should be avoided. The proposal in its current form includes all of these elements. As such, the proposed scale, height, and siting of the development are inappropriate for the site and the surrounding context.
- Our property at 2 Waiwera Street has a first floor living room with two windows, a second floor balcony adjoining the master bedroom and a rooftop terrace. These areas enjoy a view corridor of several iconic landmarks including the Sydney Harbour, the Sydney Harbour Bridge and Luna Park and the proposed development would substantially obstruct this view corridor from our property.
- The view analysis diagram submitted by the applicant relies on a single image obtained without our consent. The photograph appears to be taken from an elevated position on our second floor balcony and does not consider views from other windows or from our living room.
- The design exacerbates previous unsympathetic alterations by further increasing the bulk and scale of the rear portion of the building. This includes the addition of a flat-roofed dormer that breaches the 8.5m height control, creating a discordant built form that interrupts key view corridors and undermines the integrity of the heritage streetscape.

- The proposed new wing has two new bedrooms with very large windows which would look directly across at our bedroom.
- The views from our property at No. 4 Waiwera Street has been entirely omitted from the application. The SEE limits its analysis to No. 2 Waiwera Street and No. 49 East Crescent Street, completely disregarding the likely view impacts on our home. Based on a review of the architectural plans it appears likely that the proposed rear extension will intrude into our existing view corridor.
- The proposed development has a site coverage of 70% which significantly exceeds the maximum allowable 50% as stipulated in the DCP.
- The driveway width of 5.9m exceeds the DCP requirement of 2.5m.
- The proposed ceiling heights for the kitchen and the dining areas are 2.57m which does not comply with the DCP.
- The proposed ground floor rear addition fails to comply with the side setback requirement for an R2 Low Density Residential Zone.
- The proposed north facing dining area on the ground floor as well as the existing living rooms will fail to achieve the minimum 3 hours of direct solar access between 9.00am and 3.00pm on the winter solstice as required by the DCP.
- We object to the proposal regarding view loss as it will result in significant loss of iconic and highly valued views from our home and those of our neighbours. The view loss assessment included in the SEE is superficial and inadequately prepared. The applicant relies on a single image taken from No. 2 Waiwera Street and has not provided any analysis from within our own property – 49 East Crescent Street.

Amended Proposal

The applicant submitted amended plans which have not been renotified to adjoining properties, previous submitters and the precinct because the information provided is primarily supplementary information inclusive of a more detailed view loss assessment, adjoining land owners consent and additional information to address Heritage and a smaller more appropriate dormer akin to the character of the heritage item is proposed.

The amendments and additional information are considered to not warrant further notification as they seek to address issues raised by submitters and the amendments do not introduce new or different concerns. The decision not to renotify is in accordance with directions in the North Sydney Community Engagement Strategy.

CONSIDERATION

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

Environmental Planning and Assessment Act 1979 (as amended) Environmental Planning and Assessment Regulation 2021

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

The proposal seeks no tree removal within or adjoining the site therefore the development protects the biodiversity value and does not detract from the amenity of the surrounds in accordance with the aims of the chapter.

Chapter 6 - Water Catchments

Having regard to Chapter 6 of the SEPP (Biodiversity and Conservation) 2021, the subject site is located within the Sydney Harbour Catchment Area. However, due to the location of the proposed works inland and not located along the foreshore, it can be deemed that the proposal will have no detrimental impacts on the surrounding waterways and its quality and quantity. The development will have no impact on aquatic ecology, recreational areas, public access and the characteristic of the foreshore. The application satisfies the requirements of this Policy.

SEPP (Resilience and Hazards) 2021

The provisions of SEPP (Resilience and Hazards) require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has only previously been used for residential purposes and as such is unlikely to contain any contamination; therefore, the requirements of the above SEPP have been satisfactorily addressed.

SEPP (Transport & Infrastructure) 2021

Council has not referred the development application to TfNSW requesting concurrence in accordance with Section 2.99 of SEPP (Transport and Infrastructure) 2021.

Section 2.99 applies to development that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land -

- (a) *within, below or above a rail corridor, or*
- (b) *within 25m (measured horizontally) of a rail corridor, or*
- (c) *within 25m (measured horizontally) of the ground directly below a rail corridor, or*
- (d) *within 25m (measured horizontally) of the ground directly above an underground rail corridor.*

Excavation is proposed to the existing basement at an approximate depth of 1.7m including for the piers and footings. However, greater excavation is proposed if approximately 3.2m for the new courtyard which adjoins Waiwera Street. Although there is excavation in part which is greater than 2m below ground level the site is located just outside the 25m buffer from the Lavender Bay Tunnel rail corridor. In deducing whether the development needed referral to TfNSW reference was made to the Sydney Trains Corridor Protection Zone Map in the NSW Planning Portal Spatial Viewer. Written notice of the application to the rail authority has not been made based on the development being not within 25m of an underground rail corridor.

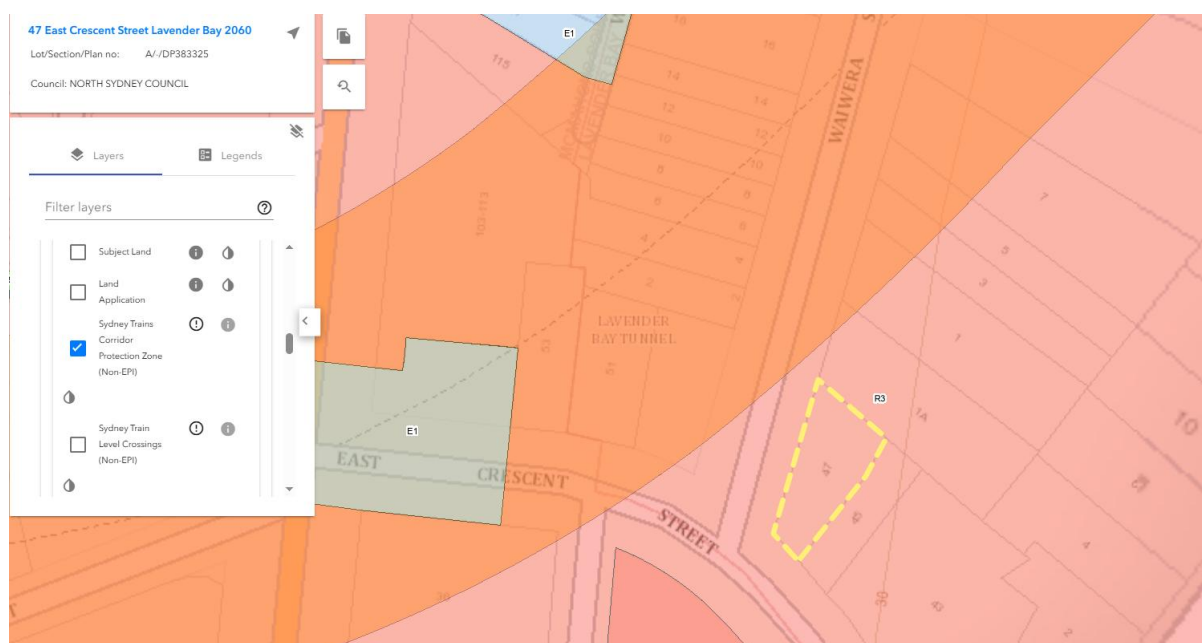


Figure 3 – NSW Planning Portal Spatial Viewer Sydney Trains Corridor Protection Zone

SEPP (Sustainable Buildings) 2022

A valid BASIX Certificate (No. A1796778 dated 23 May 2025) for alterations and additions was originally submitted with the application to satisfy the Aims of the SEPP. It is however noted that there are minor changes to the window openings including deletion of windows in response to privacy concerns and heritage requirements. An updated BASIX Certificate has not been submitted therefore if the application is supported a BASIX standard condition of consent will need to reflect the approved plans.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The proposed works can be defined as alterations and additions to a semi-detached dwelling house and are permissible in the zone with development consent.

2. Objectives of the zone

The objectives for a R3 Medium Density Residential Zone are stated below:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To provide for a suitable visual transition between high density residential areas and lower density residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal is consistent with the relevant objectives of the zone because the alterations and additions provide for housing needs without compromising the amenity of the surrounding area and maintaining a high level of residential amenity. As detailed throughout the assessment neighbouring amenity is a core issue which has been adequately achieved subject to design changes during the assessment of the development and via conditions of consent.

Part 4 – Principal Development Standards

COMPLIANCE TABLE Principal Development Standards North Sydney Local Environmental Plan 2013			
Site Area – 231.5m ²	Proposed	Control	Complies
Clause 4.3 – Heights of Building	11.8m (Dormer Addition)	8.5m	No (subject to Cl 4.6 Assessment)

3. Height of Building

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

- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) *to promote the retention and, if appropriate, sharing of existing views,*
- (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) *to ensure compatibility between development, particularly at zone boundaries,*
- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*
- (g) *to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.*

The proposed dormer would have a height of 11.8m that fails to comply with the permissible height limit of 8.5m not in accordance with clause 4.3 in NSLEP 2013. Below is an annotated Section detailing the maximum height of the dormer from the existing ground level.

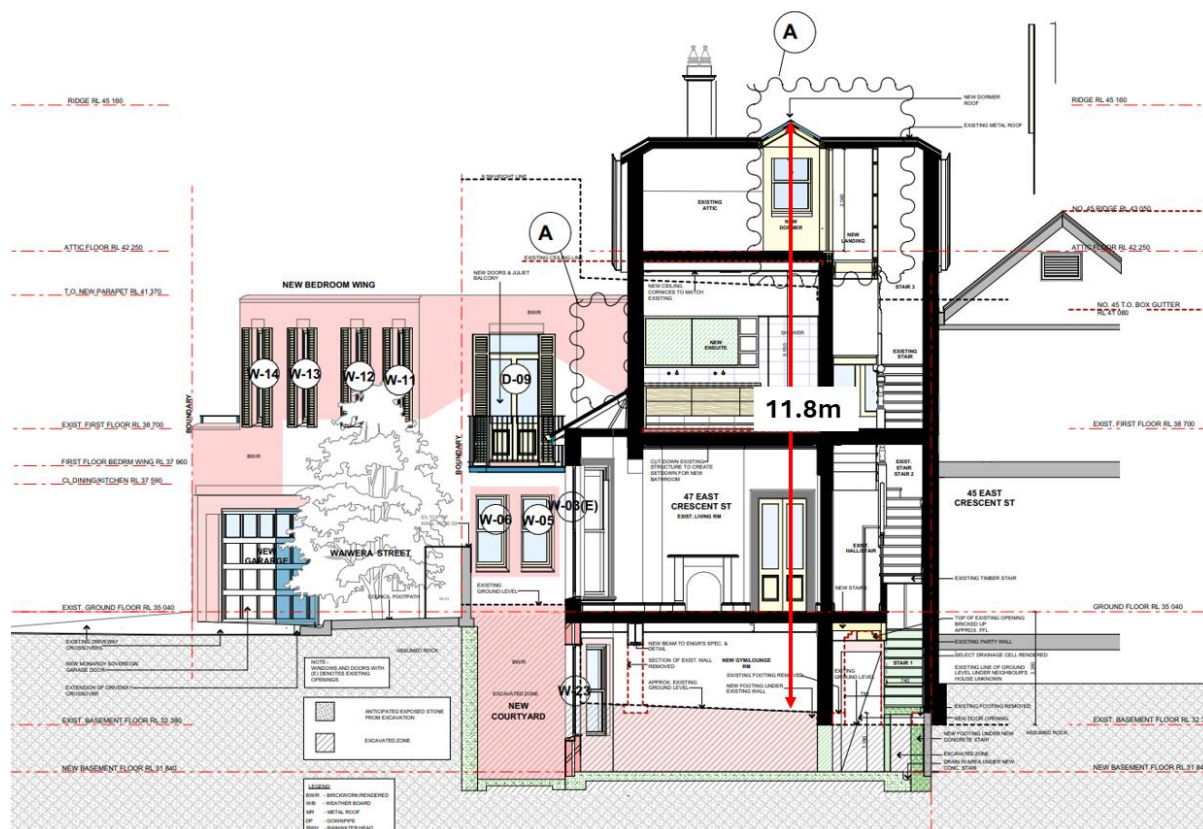


Figure 4 – Annotated S-06 Cross Section, Dwg No. DA-31A

The dormer exceeds the maximum height of building by 38.2%. Under the Minister's Directive this would require the application to be referred to NSLPP for determination because it is sought to construct a dormer addition which departs by more than 10% of the development standard.

Below is a detailed consideration of the justification of the height exceedance primarily against the objectives of cl. 4.3 'Height of Buildings'.

Clause 4.6 – Exceptions to Development Standards.

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

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

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council* (2007) LEC 827 are considered.

In respect of the building height standard, the first method in *Wehbe vs Pittwater Council* (2007) is invoked below which considers whether the objectives of the development standard are achieved notwithstanding the non-compliance.

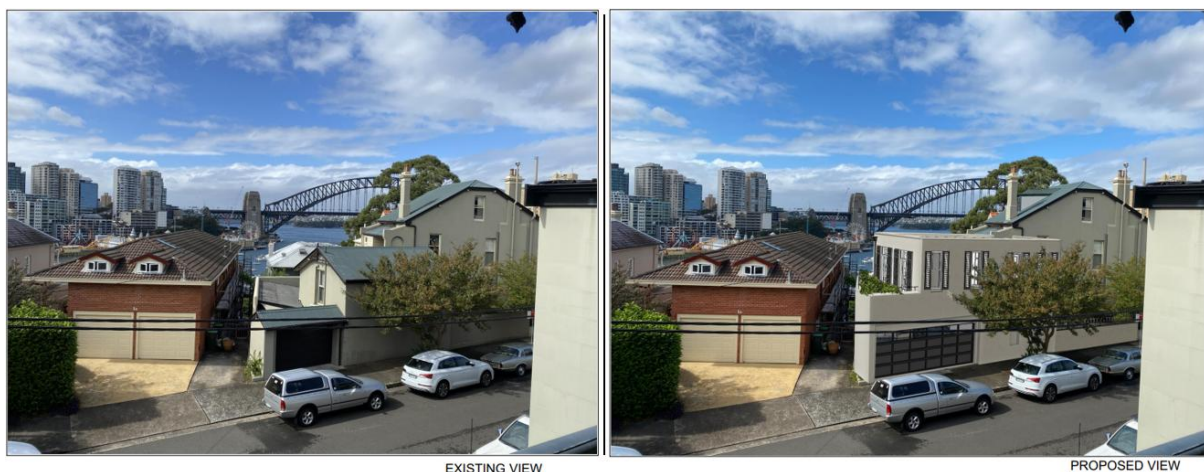
(1)(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

The dormer addition would affect the rear north facing roof only not impacting upon the topography of the site. There are works proposed to excavate further the basement but the objective concerns the emphasis on stepping development to follow the gradient of the land which is not applicable to the development and circumstances.

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

A detailed review and consideration is provided concerning impact to views within the planning assessment especially in the DCP compliance table against Section 1.3.6 'Views' of NSDCP 2013. The dormer addition is sufficiently scaled to not be a dominant addition to the roof which would adversely impact upon neighbouring views and a detailed view loss assessment has primarily focused on the impact of the two storey addition on views rather than a notable impact on views from the rear dormer.

Below is an existing view and proposed view encompassing the dormer addition confirming indiscernible views impacts due to the dormer addition with greater impacts for views from the first floor of 2 Waiwera Street being the two storey addition substantially below the maximum height of building.



Figures 5 & 6 – Existing View from first floor of 2 Waiwera Street & Proposed View with dormer addition from first floor of 2 Waiwera Street Dwg No. DA-31A

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

The dormer addition would have a negligible impact to the private open space of 45 East Crescent Street at 3pm in mid-winter and shadows cast at 9am and midday in mid-winter will affect the existing northern roof of the subject site only. The dormer addition is therefore considered to achieve the objective to maintain solar access to existing dwellings, public reserves and streets.

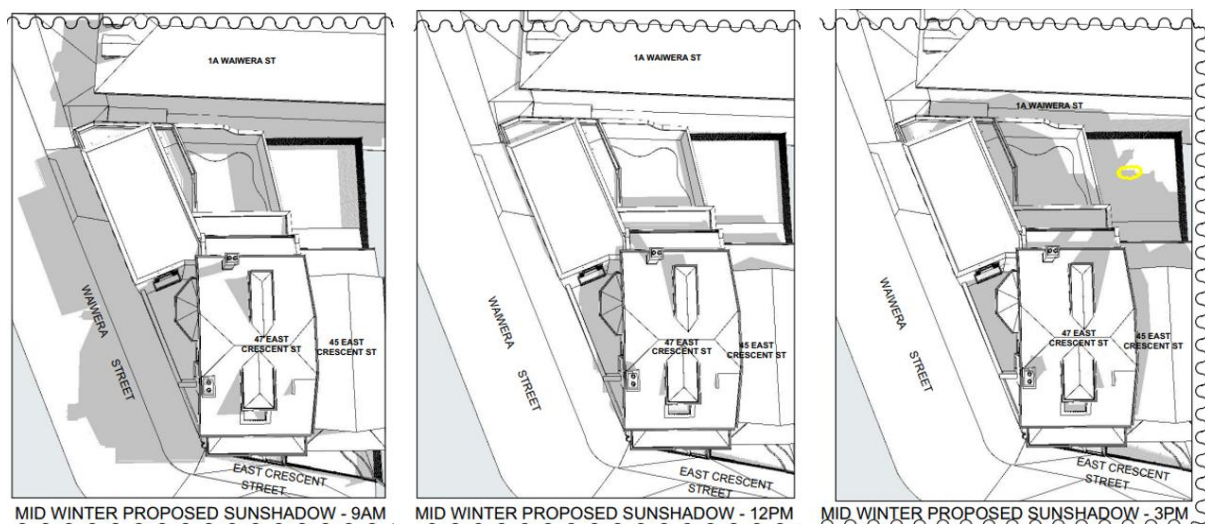


Figure 7 & 8 – Proposed Mid-winter shadow diagram at 9am (left), proposed mid-winter shadow diagram at midday (centre) and proposed mid-winter shadow diagram at 3pm (right)

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

The proposed rear dormer would generally provide greater views of the Harbour and North Sydney skyline with no direct or close views affecting the privacy of residents of adjoining properties. The window for the dormer is modest in size and the outlook would not pose a privacy concern for residents of adjoining properties.

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

The subject site does not share a zone boundary apart to the south across East Crescent Street where the zoning is R4 High Density Residential. The dormer to the rear northern roof slope is designed to be secondary in scale and not dominant in the context of the roof and is compatible with its surrounds.

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

The proposed dormer is not compatible and appropriate in scale with the dormers within the McMahons Point North Conservation Area. The dormer does not adversely impact upon the heritage significance of the surrounding McMahons Point North Conservation Area.

Clause 4.6(3)(b) are there sufficient environmental planning grounds to justify the contravention of the development standard?

The written request has provided environmental planning grounds to justify the variation which are briefly summarised below:

- The building height departure is limited to the rear dormer at Attic Level. The remainder of the development complies with the building height development standard.
- The height variation at the rear dormer at the Attic Level is due to the existing excavation of the Basement Level, which has been established in the LEC judgement of Merman Investments v Woollahra Council [2021].

- The building height non-compliance is small in scale and will be indiscernible from the streetscape and surrounding properties.
- The proposed rear dormer at Attic Level, which does not comply with the building height control, is a minor element of the overall built form and will not generate any adverse streetscape, visual bulk or amenity impacts. The dormer is located at the rear of the dwelling, behind and below the ridge line of the existing dwelling and is submissive in scale.
- The proposed exceedance of the height control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this height would not create additional benefit for adjoining properties or the locality.

It is considered that there are sufficient environmental planning grounds in the circumstances of the case to justify the contravention of the development standard as the proposed dormer addition which exceeds the maximum 8.5m building height has been designed to be secondary and subordinate in scale to the roof and has minimal environmental impact. The dormer addition preserves the heritage significance of the heritage item and surrounding conservation area.

Clause 4.6(2) Exceptions to development standards

The written request prepared by ABC Planning Pty Ltd adequately addresses the matters required by subclause (3) particularly in providing sufficient environmental planning grounds. The dormer will be compatible with its surrounds and will not have an adverse impact on the heritage significance of the semi-detached dwelling and surrounding McMahon's Point North Conservation Area.

Pursuant to subclause (2) it is considered development consent may be granted for the contravention of a development standard meeting the objectives in subclause (1). The dormer which exceeds the maximum height of building merits a degree of flexibility. Pursuant to subclause (3) sufficient environmental grounds and demonstration is provided within the Clause 4.6 written request to justify the contravention of the development standard.

4. Heritage Conservation

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

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

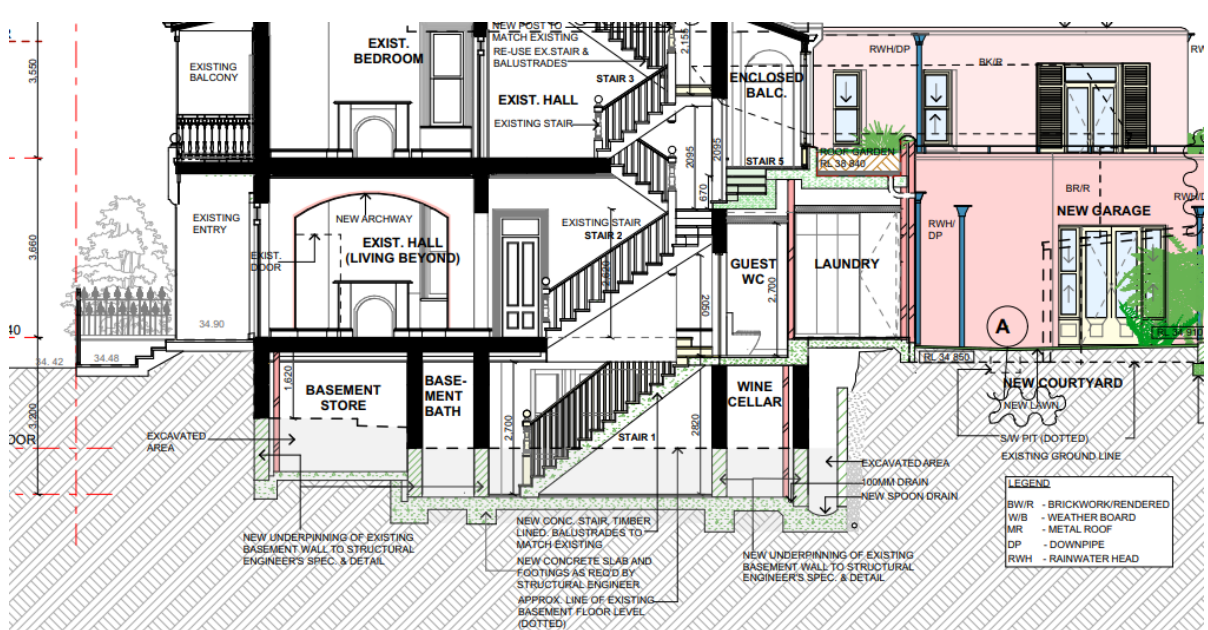
The two storey addition is an appropriate heritage response to the heritage item being a clearly distinguishable secondary built form to the principal building form and the revised dormer is a more acceptable outcome secondary in scale to the roof and complementing the style of the existing building. The development therefore generally satisfies the objectives in cl. 5.10 'Heritage Conservation' of NSLEP 2013.

5. Earthworks

The application involves excavation to an existing basement and courtyard to create more living space and the associated courtyard to be excavated will provide an outlook/ ventilation plus landscaping to improve the amenity of the site and proposed habitable space within the basement. An assessment has been carried out under matters raised in Clause 6.10(3) in NSLEP 2013 and the development is considered to generally satisfy the matters for consideration. The works are contained within the site and under an existing basement not disrupting drainage patterns and soil stability in the locality. The earthworks will not have an impact upon existing vegetation on the site and to vegetation on adjoining land and subject to various conditions of consent and the engagement of structural and geotechnical services a methodology will be designed and implemented with regard to structural integrity of both the subject heritage item and the adjoining 45 East Crescent Street.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

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

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1 - Residential Development		
	<i>complies</i>	<i>Comments</i>
1.3 Environmental Criteria		
1.3.1 Topography		
The existing basement has limited floor to ceiling heights of approximately 1.6 – 1.7m. Excavation is proposed to increase the floor to ceiling height by approximately another metre (2.7m). Due to the excavation new underpinning is required for the existing basement. Below are two sections showing the scope of excavation and earthworks and the various structural work including new footings. 		
Figure 9 – Section S-03 detailing the proposed earthworks and structural work to the basement		

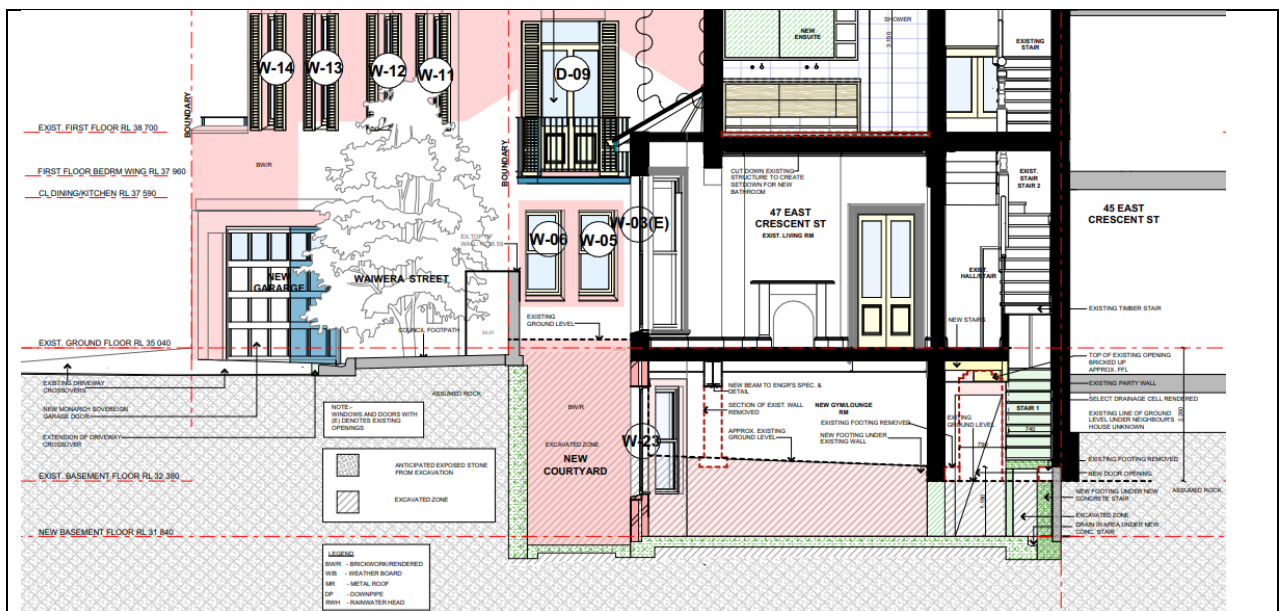
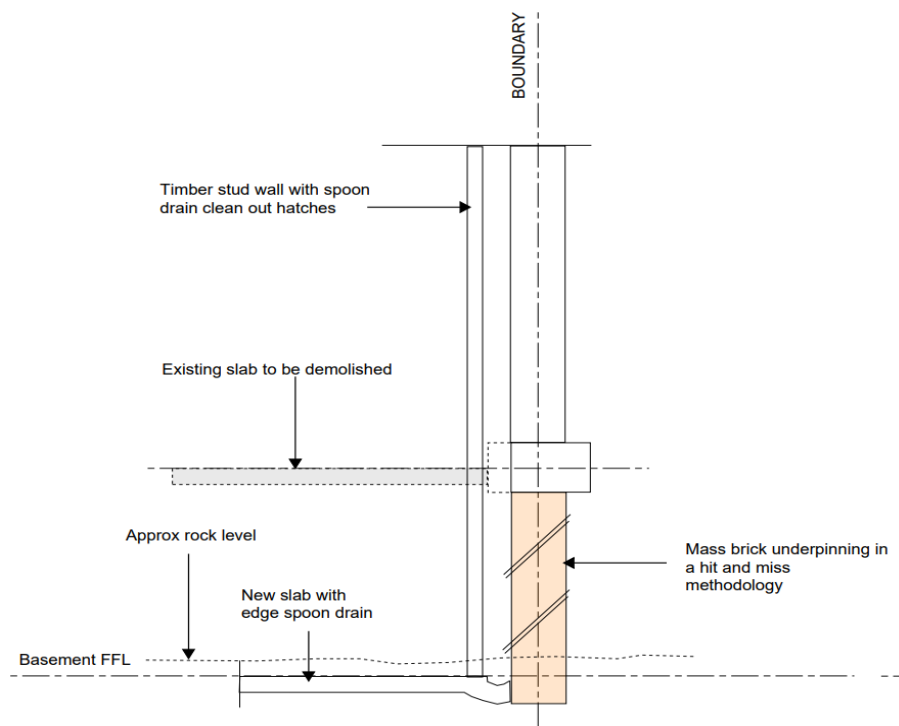


Figure 10 – Section S-06 Cross Section Basement Stairs/Party Wall

The application is supported by a Structural Statement prepared by Acor Consultants Pty Ltd and a Preliminary Geotechnical Investigation by JKGeotechnics. The structural statement details various requirements during excavation and structural underpinning requirements which includes a traditional mass brick or concrete underpinning of the existing party wall in a hit and miss methodology. A Typical Party Wall Underpinning detail is provided within the Structural Statement as follows.



Typical Party wall underpinning detail

Section A

Figure 11 – Structural Services Concept Construction Methodology, SK01 Issue B, ACOR Consultants

The Geotechnical Report acknowledges that the deepening of the existing basement will require excavation below existing footings and the footings will need to be underpinned to below the proposed bulk excavation level prior to bulk excavation.

The excavation works and new underpinning of the basement walls will have a direct effect to the party wall between 45 and 47 East Crescent Street. The application which proposes works that affect a party wall or relies on a party wall for lateral or vertical support is accompanied by the written consent of all owners of all party walls involved. The application includes party wall consent for works that affect the party wall specifically the proposed underpinning underneath the party wall of 45 and 47 East Crescent Street.

The application is supported by a structural statement and geotechnical assessment providing a potential methodology for the necessary excavation and underpinning of the building. The inherent challenges are carefully noted by the Structural and Geotechnical Engineer and appropriate conditions of consent have been recommended by Council's Development Engineer including the requirement for a Structural Engineer to be engaged outlining measures to be implemented to prevent damage to adjoining properties and also a Geotechnical Report to be prepared to ensure a reasonable level of protection to adjacent properties. Also, another condition of consent of significance is the requirement for a Geotechnical Engineer to oversee the excavation procedure (E7 Geotechnical Stability during Works).

1.3.2 Bushland	N/A	The site is not identified as within a bushland buffer.
1.3.3 Bush Fire Prone Land	N/A	The site is not bush fire prone land.
1.3.4 Foreshore Frontage	N/A	The site is not foreshore land.

1.3.6 Views

A view loss assessment is provided within the supporting cover letter dated 05 September 2025.

Council noted in the preliminary assessment concerns raised from adjoining properties including 49 East Crescent Street and 2 & 4 Waiwera Street and these concerns were conveyed to the Applicant and a site visit was completed by the Assessment Officer to the subject properties to evaluate potential view impacts from the proposed development. Below is a detailed consideration of the impact to the most affected properties taking into consideration the increased height and bulk of the rear wing extension as well as the dormer addition and subsequent potential impact on the views of adjoining properties towards Sydney Harbour and the Harbour Bridge. It is noted the properties opposite of the site (49 East Crescent Street and 2 & 4 Waiwera Street) are affected.

49 East Crescent Street

1. What is the impact? Water views? Iconic Views?

The ground floor rooms including a bathroom and library/study have minimal views beyond the streetscape and no water or iconic views. The first floor has varying views of the Harbour Bridge and glimpses of water views depending on the location viewed from two first floor bedrooms and kitchenette.

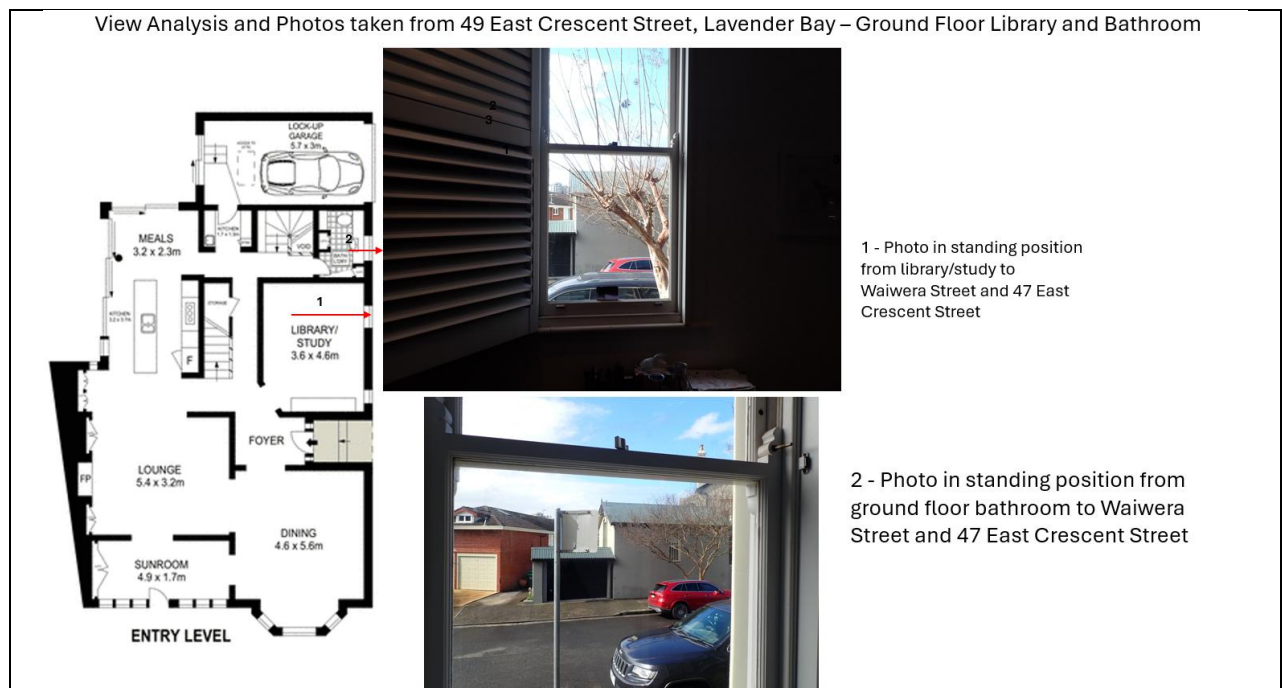


Figure 12 – View Analysis and Photos taken from Ground floor rooms with an eastern outlook to the Sydney Harbour (North Sydney Council View Analysis)

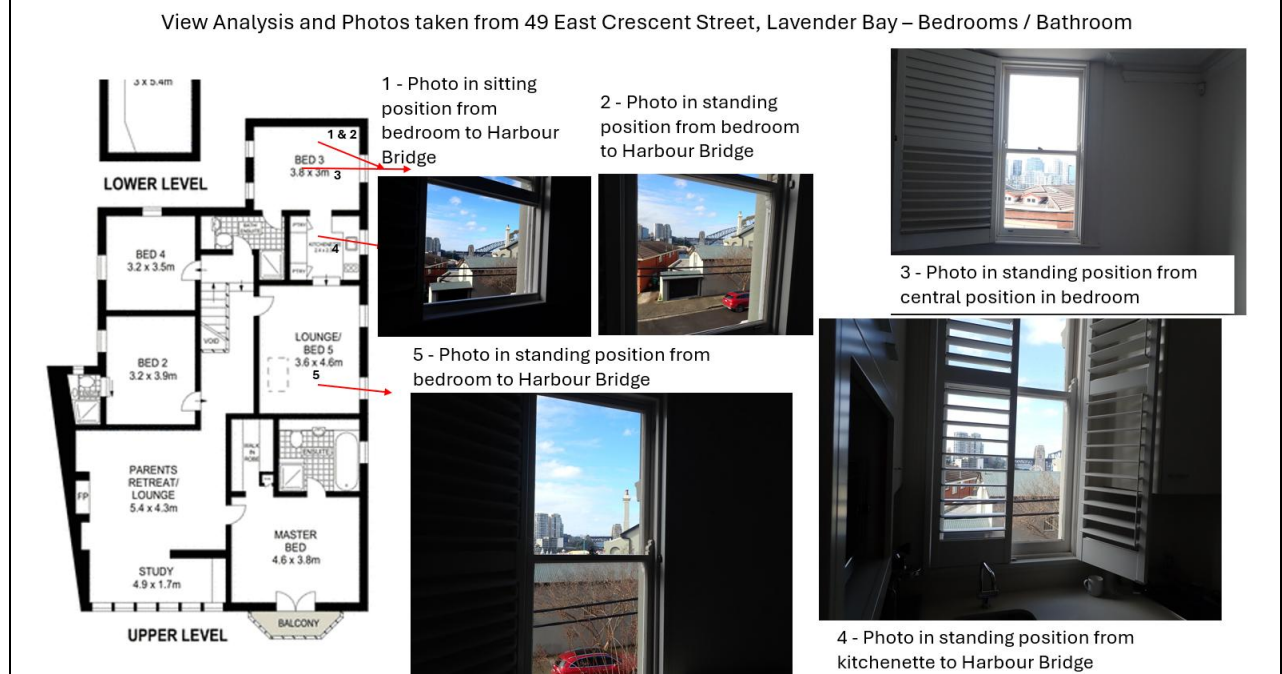


Figure 13 – View Analysis and Photos taken from First Floor rooms with an eastern outlook to the Sydney Harbour (North Sydney Council View Analysis)

2. What part of the property are the views obtained?

Views of merit concern the first floor windows that serve two bedrooms and a small kitchenette. Photos were taken showing at a standing position from bedroom 3 there is more potential for water views. 49 East Crescent Street is a corner lot and the windows that front Waiwera Street are considered to merit similar protection that would be afforded to windows that face a front boundary.

3. What is the extent of impact?

It is noted that the main living areas such as living areas (kitchen, living room, dining room and lounge) are cited on the ground floor with no aspect affected by the proposed development. The affected windows serve two first floor bedrooms and a secondary kitchenette. Despite views from these rooms having less significance according to the LEC Planning Principle there is sufficient evidence that the impact to views from the respective first floor windows would not be significant but moderate likely to affect water views rather than impacting views of the Harbour Bridge.

4. What is the reasonableness of the proposal causing the impact and can a more skilful design be provided to reduce impact on the views of neighbours?

The view assessment provided by the Applicant concerning 49 East Crescent Street does not sufficiently consider view impacts from windows associated with the first floor bedrooms and kitchenette and it is noted a site visit has not been completed relying on real estate plans and associated photographs to determine the view impact to 49 East Crescent Street. However, the Assessment Officer site visit did affirm the potential impact to water views from the first floor bedrooms and kitchenette and a design amendment which as suggested by the Applicant to lower the two storey addition by 200mm is supported to ensure an improved outlook to water views of the Sydney Harbour. It is noted the Applicant refers to lowering of the parapet which is not supportable due to its aesthetic contribution in obscuring the flat roof but a reduction in height will require lowering of either/or ground and first floor to ceiling heights.

2 Waiwera Street

1. What is the impact? Water views? Iconic Views?

The ground floor rooms include an open plan living and dining room that have minimal views beyond the streetscape and no water or iconic views. The first floor has varying views of the Harbour Bridge and glimpses of water views depending on the location viewed from within the master bedroom and associated balcony. A site visit was completed by the Assessment Officer which detailed the following views from the first floor bedroom and balcony.

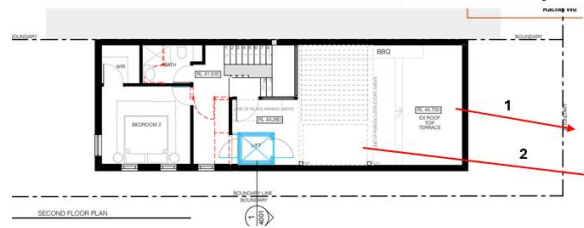
View Analysis and Photos taken from 2 Waiwera Street, Lavender Bay – First Floor Main Bedroom



Figure 14 – View Analysis and Photos taken from First Floor rooms with an eastern outlook to the Sydney Harbour (North Sydney Council View Analysis)

Below are photos detailing views from various vantage points on the roof terrace of 2 Waiwera Street.

View Analysis and Photos taken from 2 Waiwera Street, Lavender Bay – Second Floor Roof Top Terrace



1 - Photo in standing position from edge of Roof Top Terrace to water views and Harbour Bridge and Opera House



2 - Photo in standing position on Roof Top Deck to water views, Opera House and Harbour Bridge

Figure 15 – View Analysis and Photos taken from Roof Terrace with an eastern outlook to the Sydney Harbour (North Sydney Council View Analysis)

2. What part of the property are the views obtained?

Views of merit concern the first floor windows that serve the first floor master bedroom and associated balcony. There are no views impacted on the ground floor and no view impact from the roof terrace of 2 Waiwera Street. The views from the first floor bedroom and balcony are to the front of the property.

3. What is the extent of impact?

It is noted that the main living areas such as living areas (kitchen, living room, dining room and lounge) are cited on the ground floor with no aspect affected by the proposed development. The affected windows serve a first floor master bedroom and associated balcony. Despite views from this room having less significance according to the LEC Planning Principle the room as a master bedroom with an outlook to the front of the property and therefore views are not to be undermined. The Applicant within the submitted view loss assessment provided an annotated photo detailing the impact of the two storey addition to views from the first floor balcony of 2 Waiwera Street which indicates the bulk of views to the Harbour Bridge and Luna Park will remain but there would be a significant impact to water views. It is noted that the view loss is based on photos received from submitters and that despite attempts to enter the property access has not been obtained to conduct a more in depth view loss assessment.



Figure 21b. View 2A
Waiwera St-Current
proposal

Figure 16 – View from First Floor Balcony of 2 Waiwera Street and current proposed two storey addition is shown in red

The view impact from the master bedroom and balcony is considered moderate due to the loss of water views of the Sydney Harbour but not severe or devastating noting much of the Harbour Bridge and distant water/land views will remain. Nevertheless, there is potential for an improved outcome to lower the two storey addition by 200mm to improve the balance between sharing of views and providing a two storey addition with acceptable internal amenity.



Figure 21c. View 2A
Waiwera St- Parapet
Lowered 200mm

Figure 17 – View from First Floor Balcony of 2 Waiwera Street and current proposed two storey addition minus 200mm in height is shown in red

4. What is the reasonableness of the proposal causing the impact and can a more skilful design be provided to reduce impact on the views of neighbours?

The two storey addition comprising a flat roof and height of 6.33m is indicative of an appropriate design to minimise height and thereby minimise the obstruction of neighbouring views. Although the two storey addition is substantially below the maximum building height a further reduced height by 200mm would achieve a more optimum outcome in view sharing without compromising the internal amenity of the two storey addition. It is noted the two storey addition comprises a floor to ceiling height of 2.4m for the garage and a floor to ceiling height of 2.85m for the first floor and amendments can be made to reduce either levels and improve views from the first floor bedroom and balcony of 2 Waiwera Street.

4 Waiwera Street

1. What is the impact? Water views? Iconic Views?

The ground floor living room of 4 Waiwera Street does not have any water or iconic views with views primarily to the street. However, views of the Harbour Bridge can be obtained diagonally from the living room as per the below.

View Analysis and Photos taken from 4 Waiwera Street, Lavender Bay – Ground Floor Living Room

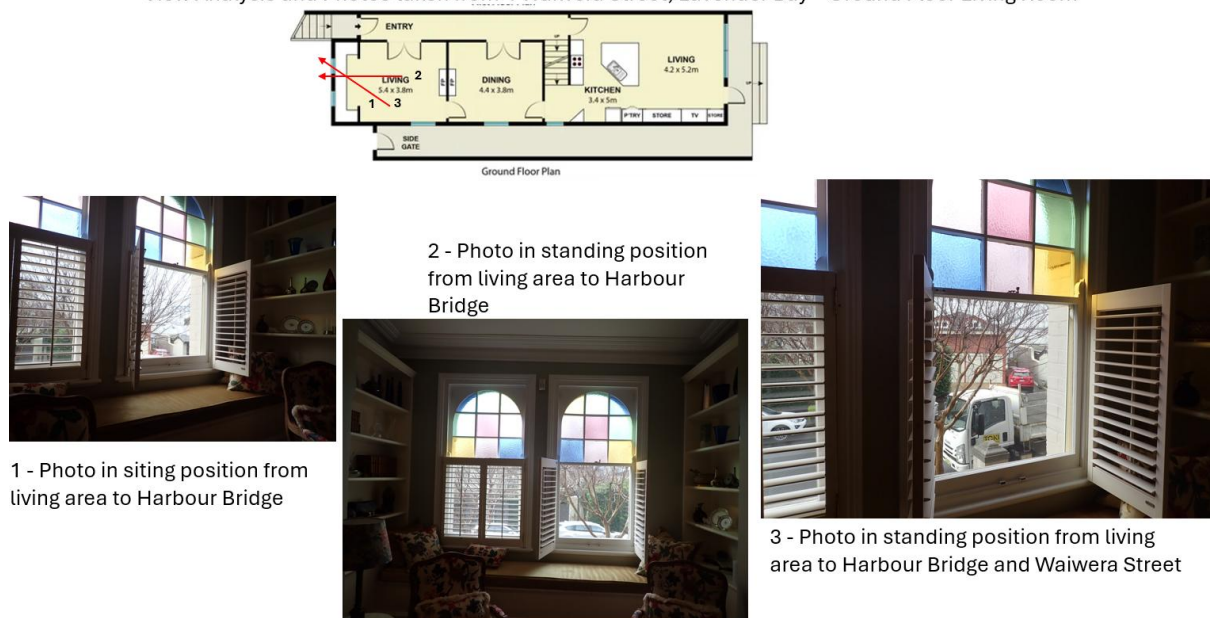


Figure 18 – View Analysis and Photos taken from the Ground Level Living Room (North Sydney Council View Analysis)

There are significant views from the main bedroom and associated first floor balcony of both the Harbour Bridge/ Opera House and water views of the Harbour. This was noted during a site visit completed by the Assessment Officer dated 07 August 2025.

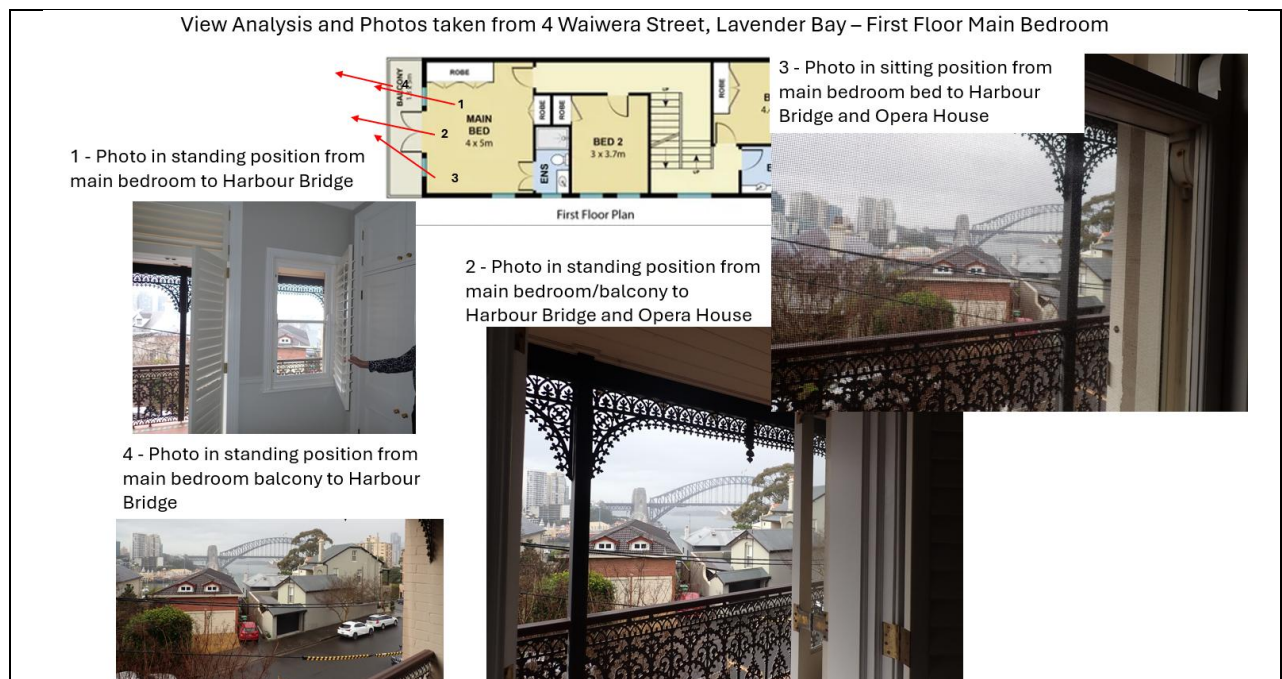


Figure 19 – View Analysis and Photos taken from the First Floor Bedroom and associated balcony (North Sydney Council View Analysis)

2. What part of the property are the views obtained?

Due to the location of 4 Waiwera Street views are quite expansive and views are achieved on the ground level of the Harbour Bridge and views are obtained of the Opera House, Harbour Bridge and the Harbour from the first floor bedroom and balcony. Views are from the front rooms of the house albeit in a diagonal direction predominantly across 47 East Crescent Street.

3. What is the extent of impact?

It is noted due to the diagonal view angle from 4 Waiwera Street a greater expanse of views is achievable with less impact from the two storey addition at 47 East Crescent Street. View loss consideration is provided within the view loss assessment provided by the Applicant indicating that the two storey addition would not impact upon views of the Harbour Bridge, Opera House and have a minor impact on water views. It is noted the view loss provided by the Applicant is an estimate and no access has been obtained to 4 Waiwera Street to conduct a thorough view loss assessment.

4. What is the reasonableness of the proposal causing the impact and can a more skilful design be provided to reduce impact on the views of neighbours?

The two storey addition comprising a flat roof and height of 6.33m is indicative of an appropriate design to minimise height and thereby minimise the obstruction of neighbouring views. Although the two storey addition appears to be below the sightline from the bedroom and balcony of 4 Waiwera Street it is reasonable to further reduce the height of the two storey addition by 200mm to avoid uncertainty and maximise the retention of views particularly of the Opera House. As previously discussed, the two storey addition comprises a floor to ceiling height of 2.4m for the garage and a floor to ceiling height of 2.85m for the first floor and amendments can be made to reduce either levels and improve views from the first floor bedroom and balcony of 4 Waiwera Street.

Conclusion There is sufficient view assessment conducted by both the Applicant and reaffirmed by the Assessment Officer to indicate views from either 49 East Crescent Street, 2 Waiwera Street and 4 Waiwera Street are reasonably retained and subject to a further reduction in height by 200mm the development is considered achieve a reasonable view sharing outcome satisfying Objective O2, s1.3.6 'Views' of NSDCP 2013.		
1.3.7 Solar Access	Yes	The development benefits from being a corner lot therefore the impact to adjoining properties are minimised with additional shadow cast over Waiwera Street at 9am and minimal shadow affecting neighbouring properties and Waiwera Street at midday. The greatest impact is at 3pm in mid-winter where shadows would be cast within the rear private open space of the subject site, the setback between the subject site and 1A Waiwera Street and additional shadows will be cast to the rear private open space of 45 East Crescent Street. The impact from shadows cast at 3pm in mid-winter is not dissimilar to existing shadows cast and noting the impact is mostly due to an existing northern boundary wall of 47 East Crescent Street. To conclude, sufficient evidence is provided to confirm adjoining dwellings will retain a reasonable is access to sunlight and daylight satisfying Objective O1, s1.3.7 of NSDCP 2013.
1.3.8 Acoustic Privacy & 1.3.9 Vibration	Yes	The site is located adjacent to a rail corridor being the Lavender Bay rail line. The Lavender Bay line is used for stabling electric trains during off peak periods. Consideration has been given to Section 2.100 'Impact of rail noise or vibration on non-rail development' as well as the Planning Circular (PS 21-018) 'Development near rail corridors and busy roads – interim guideline' plus the NSW Government Development Near Rail Corridors and Busy Roads – Interim Guideline. It is noted that the Lavender Bay Rail Line is utilised for stabling of trains and not a functioning regular line and also the semi-detached dwelling is sited on sandstone therefore the dwelling subject to alterations and addition is to be far less affected by rail vibration. There is sufficient reasoning for no further measures being necessary for mitigation of rail noise or vibration.

1.3.10 Visual Privacy

Yes

The application has been amended to mitigate against potential loss of privacy to the nearest window on the southern elevation of 1A Waiwera Street subject to the following:

- Extension of roof garden – the roof garden extends further wrapping around balcony providing some additional separation and visual screening to 1A Waiwera Street.
- Increase in height of boundary wall – the Applicant proposed to increase the height of part of the boundary wall from RL 36.69m / RL 37.61m to RL 38.810m which is an increase of 1.2m - 2.12m. The change to the boundary wall height ensures a balance between privacy and outlook for the most affected bedroom window of 1A Waiwera Street which currently has limited privacy afforded to the room.



Figure 20 – Montage of proposed partially raised boundary wall

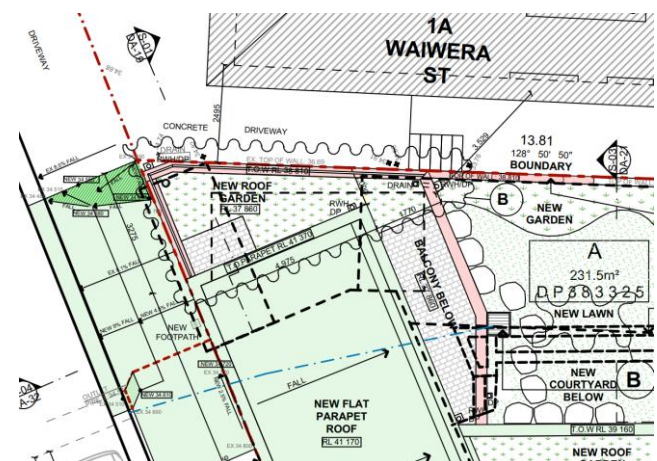


Figure 21 – Part of Site Plan showing increase in RL of boundary wall and increased roof garden

- The existing rear verandah is to be enclosed and considered to have a better privacy outcome subject to the screen planting from a large roof garden. Below is a photo of the existing balcony from 1A Waiwera Street and below is an elevation of the verandah subject to enclosure and planter bed.



Figure 22 – Photo from bedroom of 1A Waiwera Street to existing verandah of 47 East Crescent Street

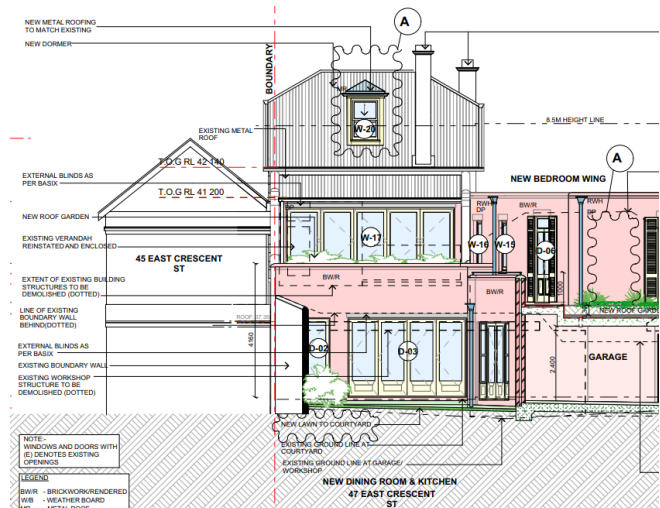


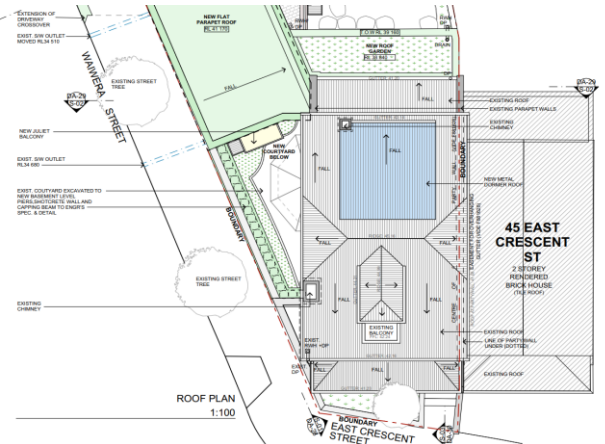
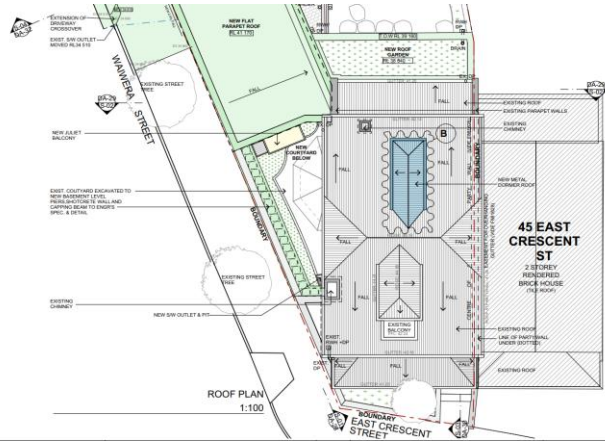
Figure 23 – Proposed North Elevation of 47 East Crescent Street

Visual Privacy of 45 East Crescent Street

The Applicant has suitably conveyed subject to additional information that use of the proposed balcony of the two storey addition would maintain a reasonable level of visual privacy to residents using the private open space at 45 East Crescent Street due to the distance to the neighbour and height of the existing boundary wall.

		 Figure 24 – Sightline Section from balcony to private open space of 45 East Crescent Street
1.4 Quality built form		
1.4.1 Context	Yes	The development is considered to respond appropriately to the existing characteristics, opportunities and constraints of the site and wider context by ensuring a two storey addition that is low in scale and submissive in bulk and scale to the main dwelling. The development also proposes a better landscaped outcome proposing planting instead of existing paving and the dormer addition is appropriate in scale and character to the semi-detached dwelling. The development therefore meets Objective O1 in s1.4.1 of NSDCP 2013.
1.4.2 Subdivision Pattern	Yes	The lot size, shape and orientation will remain.
1.4.3 Streetscape	Yes	Works are proposed which would impact upon the footpath and street due to the removal of existing crossover and replacement with a slightly larger crossover. Council's Development Engineer has recommended appropriate conditions including the requirement to prepare a Dilapidation Report for Damage to Public Infrastructure and the requirement to Obtain a Driveway Crossing Permit.
1.4.5 Siting	Yes	The siting of the semi-detached dwelling will remain with its principal façade facing East Crescent Street and the two storey addition largely replaces an existing one storey addition therefore the existing orientation and siting of the built elements within the site will remain.
1.4.6 Setback – Front	Yes	There are no additions with the front setback in alignment with the adjoining 45 East Crescent Street.

1.4.6 Setback – Side	Yes	The existing side setback of the main dwelling will remain comprising a nil side setback and shared party wall with 45 East Crescent Street. The two storey addition will have a nil setback to the secondary frontage being Waiwera Street and an approximate setback of 6m to the eastern side boundary adjoining 45 East Crescent Street. The two storey addition is considered an appropriate design response maintaining a similar siting to the addition to be demolished and the bulk and scale combined with separation to 45 East Crescent Street is considered an appropriate response to mitigate against loss of privacy and overshadowing to neighbouring properties.
1.4.6 Setback – Rear	Yes	The rear boundary is the northern boundary adjoining 1A Waiwera Street. The development demolishes an existing carport located in the north eastern corner of the site and orientates bulk and scale to the street and proposes landscaping within an improved rear private open space. The two storey addition is considered an appropriate outcome by having a nil rear setback for the garage and a varying rear setback combined with a rear roof garden to soften the built form of the addition in context with 1A Waiwera Street. It is noted that 47 East Crescent Street is an unusual site irregular in shape not sharing much similarity in rear setbacks to adjoining properties but the development does utilise the existing building footprint and consolidates an improved rear garden and therefore a supportable outcome.
1.4.7 Form Massing Scale	Yes	The semi-detached dwelling will remain consistent in scale to surrounding buildings with the primary part of the semi-detached dwelling subject to mostly internalised works and basement excavation. The two storey addition replaces a later addition and albeit it is larger it remains subordinate in size and scale to the main semi-detached dwelling and surrounding properties.
1.4.8 Built Form Character	Yes	The new two storey addition is complementary to the heritage item and surrounding conservation area. It is modest in scale and the flat roof ensures it is a secondary addition in context to the principal semi-detached dwelling. Its exterior is simple and neutral in context with the streetscape comprising rendered brickwork and double hung windows with timber shutters.

		The development therefore satisfies Objective O1, s1.4.8 'Built Form Character' of NSDCP 2013.
1.4.9 Dwelling Entry	Yes	The primary dwelling entry off East Crescent Street will remain.
1.4.10 Roofs	Yes	The two storey addition comprises a flat roof which is considered an appropriate outcome particularly to minimise view impact to affected neighbouring properties. The parapet wall is considered a positive outcome improving the aesthetics of the flat roof.
1.4.11 Dormers	Yes	The amended dormer is considered a much improved outcome appropriate in style to the building and it is reduced in scale fitting more comfortably on the northern roof slope akin to the existing dormer situated on the front southern roof. Below is a compare and contrast of the originally proposed dormer and the amended dormer. The amended dormer generally satisfies the Objective and Provisions in s1.4.11 of NSDCP 2013.  Figure 25 – Roof Plan inclusive of the originally proposed dormer  Figure 26 – Roof Plan inclusive of the amended proposed dormer

1.4.12 Colours and Materials	Yes	Council's Heritage Officer has reviewed the schedule of colours and materials and considers them appropriate to the site. A condition of consent is recommended to ensure the colours, finishes and materials are appropriate to the heritage item.
1.4.14 Front Fences	Yes	The existing metal palisade fence with low brick rendered wall facing East Crescent Street will remain and is not subject to works.
1.5 Quality Urban Environment		
1.5.4 Vehicle Access and Parking	Yes	A new garage is proposed as part of the two storey addition facing Waiwera Street. The garage can accommodate two cars which is the maximum permitted in Part B: Section 10 of the NSDCP 2013. The location of the garage and vehicular access is appropriate being the secondary frontage and replaces an existing vehicular entry and parking area. Separate pedestrian entry to the site is maintained with access from East Crescent Street. The proposed parking is considered to generally satisfy the provisions and objectives in s1.5.4 of NSDCP 2013.
1.5.5 Site Coverage	No (Merit)	The site coverage and landscaped area diagrams in Dwg No. DA-11A detail that subject to the proposed development there is a small increase in site coverage of 5.51m². The existing site coverage is 68.5% and the proposed is 70.7% which is an exceedance of 20.7%. Although this may appear as an excessive exceedance there are no concerns with regards to site coverage exceedance for the following reasons: • The site currently has a fractured accumulation of built form and the proposal seeks to consolidate buildings to two distinctive parts being the old and the new which allows for a more opportunity for landscaping. • The site area is 231.5m² which is notable for being only 2m² more than a lot size which is afforded a greater provision of site coverage (60%). • It is often a challenge for compliance with site coverage on smaller sized lots and especially heritage lots whereby the existing building footprint already exceeds the maximum site coverage. • The development is considered to rationalise the building footprint within the site without resulting in overdevelopment of the site.

1.5.6 Landscape Area	No (Merit)	Control	Existing	Proposed	Compliance
		Site coverage	68.5% 158.23m ²	70.7% 163.74m ²	No (Merit)
		Landscaped area	3.45% 8.0m ²	19.27% 44.6m ²	No (Merit / improved)
		Unbuilt-upon area	28.05% 65.27m ²	10.03% 23.16m ²	Yes
		The development provides a positive outcome in substantially increasing the provision of landscaped areas and reducing un-built upon areas within the site. The development is considered to generally comply with the objectives in s1.5.6 of NSDCP 2013 improving private open space, improving absorption of surface drainage water on site and generally promoting landscaping within the site.			
1.5.8 Landscaping	Yes	The site currently has a limited provision of landscaping and no tree canopy. The new landscaped areas will encompass a wide variety of grasses, groundcovers and shrubs and a small tree (<i>Buckinghamia celsissima</i>). The development generally satisfies the objectives and provisions in s1.5.7 of NSDCP 2013.			
1.5.9 Front Gardens	Yes	The existing front garden and associated landscaping will remain.			
1.5.10 Private and Communal Open Space	Yes	The development provides two consolidated private open space areas totalling slightly more than the minimum 40m² stipulated in Table B-1.8, s1.5.9 of NSDCP 2013. The proposed courtyard and rear landscaped private open space will ensure a reasonable level of outdoor amenity that is appropriate in size satisfying Objectives O1 and O2 in s1.5.9 of NSDCP 2013.			
1.5.13 Garbage Storage	Yes	The bins are appropriately located within the garage to allow ease of manoeuvring to the street for pick up.			
1.6 Efficient Use of Resources					
1.6.1 Energy Efficiency	Yes	Subject to condition the development will achieve BASIX commitments.			
1.6.10 Green Roofs	Yes	Two roof gardens are proposed which includes one to the rear of the semi-detached dwelling and one in the north western corner adjacent to the boundary with 1A Waiwera Street.			

		The roof gardens are positive additions notable for improving amenity and aesthetics a soft approach to adding to visual privacy, improving stormwater management and a method for increasing biodiversity and thermal efficiency.
--	--	--

Lavender Bay Planning Area (McMahons Point North Conservation Area) – Part C of NSDCP 2013

The two storey addition will have a brick rendered façade characteristic of the heritage item and stipulated in the character statement as a characteristic built element. The amended dormer is a better outcome compared to the original proposal which was deemed over-scaled and an uncharacteristic contribution to the conservation area.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of contributions towards the provision of local infrastructure. The contributions payable have been calculated in accordance with Council's Contributions Plan as follows:

Applicable Contribution Type		
S7.12 contribution detail	Development cost:	\$ 2,400,000.00
(payment amount subject to indexing at time of payment)	Contribution:	\$ 24,000.00

Conditions requiring the payment of contributions at the appropriate time are included in the attached conditions.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	N/A
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes

8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Lavender Bay Precinct. Council received fifteen (15) submissions where the following matters were raised:-

- **The mass and scale of the extension is too large for the land and the surrounding properties.**

Comment: the extension is designed to be subordinate in height, bulk and scale to the main semi-detached dwelling and the setback to the rear boundary further assists in reducing bulk and scale of the addition. A design condition to reduce the overall height of the addition by 200mm is a small but important measure to further minimise bulk and scale and improve view sharing for adjoining properties.

- **The proposed new wing on the top of the existing single level garage looks large and hideous from Waiwera Street and does not blend with the streetscape of Lavender Bay.**

Comment: the two storey addition has been considered from an urban design and heritage perspective and is supported by the Assessment Planner and Council's Heritage Officer. The extension will encompass rendered brickwork to match the main semi-detached dwelling and is a characteristic built element of the McMahons Point North Conservation Area.

- **The proposal will negatively impact the iconic views of the streetscape.**

Comment: The extension is designed with a setback to the rear boundary to allow a slot view from the streetscape to Sydney Harbour and associated iconic items.

- **This extension will ruin the beautiful views of the neighbourhood.**

Comment: The extension is not considered to ruin views of the neighbourhood or the character of the McMahons Point North Conservation Area. The height and bulk and scale are secondary to the main semi-detached dwelling and the materiality and finishes complement that of the existing building and surrounding buildings.

- **The proposed development, particularly the addition of a second storey on the garage, introduces an excessive mass and scale that is inconsistent with the character of the surrounding area.**

Comment: the two storey addition with a height of 6.33m (6.13m subject to condition) would the setback to the rear boundary is not considered excessive in mass and scale.

- **The plans show that the rear extension will be brought significantly closer to my boundary at No. 1A Waiwera Street and includes a new balcony and rooftop garden, both elevated and positioned in proximity to my home. These outdoor spaces will have direct sightlines into key rooms of my dwelling, including bedrooms, bathroom and kitchen. The outcome is inconsistent with the North Sydney DCP 2013 particularly Section 1.3.8 Acoustic Privacy and Section 1.3.10 Visual Privacy which require new development to minimise noise transmission and overlooking to neighbouring homes particularly to habitable rooms and private open space.**

Comment: the rear extension will be brought closer to the rear boundary that adjoins 1A Waiwera Street. However, mitigation measures are proposed to ensure a reasonable retention of privacy to 1A Waiwera Street including a non-trafficable roof garden, a modest sized balcony and the rear boundary is proposed to be raised to partially obscure direct overlooking to the most affected and nearest window on the southern elevation of 1A Waiwera Street.

- **Excavation works are excessive and inconsistent with Section 1.3.1 of the NSDCP 2013 which requires excavation to respond appropriately to site conditions and minimise adverse impacts on neighbouring properties. Council should require substantial design revisions to reduce excavation intensity and insist on independently verified documentation to confirm that neighbouring heritage properties, including mine will not be compromised.**

Comment: The existing basement has limited floor to ceiling heights of approximately 1.6 – 1.7m. Excavation is proposed at approximately 1m to increase the floor to ceiling height by approximately another metre (2.7m). Due to the excavation new underpinning is required for the existing basement including underpinning of the party wall between 45 & 47 East Crescent Street.

The application is supported by a structural statement and geotechnical assessment providing a potential methodology for the necessary excavation and underpinning of the building. The inherent challenges are carefully noted by the Structural and Geotechnical Engineer and appropriate conditions of consent have been recommended by Council's Development Engineer including the requirement for a Structural Engineer to be engaged outlining measures to be implemented to prevent damage to adjoining properties and also a Geotechnical Report to be prepared to ensure a reasonable level of protection to adjacent properties. Also, another condition of consent of significance is the requirement for a Geotechnical Engineer to oversee the excavation procedure (E7 Geotechnical Stability during Works).

- **Section 9.7.7 of Part C of the NSDCP 2013, outlines key principles for development within the precinct. It specifically highlights that modern design elements, alterations to original roof forms, and over-scaled dormers should be avoided. The proposal in its current form includes all of these elements. As such, the proposed scale, height, and siting of the development are inappropriate for the site and the surrounding context.**

Comment: the two storey addition although contemporary in form is aesthetically improved with the adoption of a parapet wall obscuring the flat roof and the contemporary form the addition helps maintenance the subordinate form of the addition compared to the main semi-detached dwelling. The previously proposed over-scaled dormer has been reduced in scale with a new dormer that is more characteristic and appropriate to the Victorian Filligree/ Victorian Italianate style semi-detached dwelling.

- Our property at 2 Waiwera Street has a first floor living room with two windows, a second floor balcony adjoining the master bedroom and a rooftop terrace. These areas enjoy a view corridor of several iconic landmarks including the Sydney Harbour, the Sydney Harbour Bridge and Luna Park and the proposed development would substantially obstruct this view corridor from our property.

Comment: a detailed review of views from various parts of 2 Waiwera Street is addressed in the DCP assessment table. Findings indicate the biggest impact is to the first floor bedroom and balcony affecting some water views of the Sydney Harbour but views of the Harbour Bridge and Luna Park would be unaffected. It is considered the views retained subject to condition reducing the height of the addition by 200mm would improve water views and that an acceptable outcome will be achieved with regards to a balance between development and view sharing.

- The view analysis diagram submitted by the applicant relies on a single image obtained without our consent. The photograph appears to be taken from an elevated position on our second floor balcony and does not consider views from other windows or from our living room.

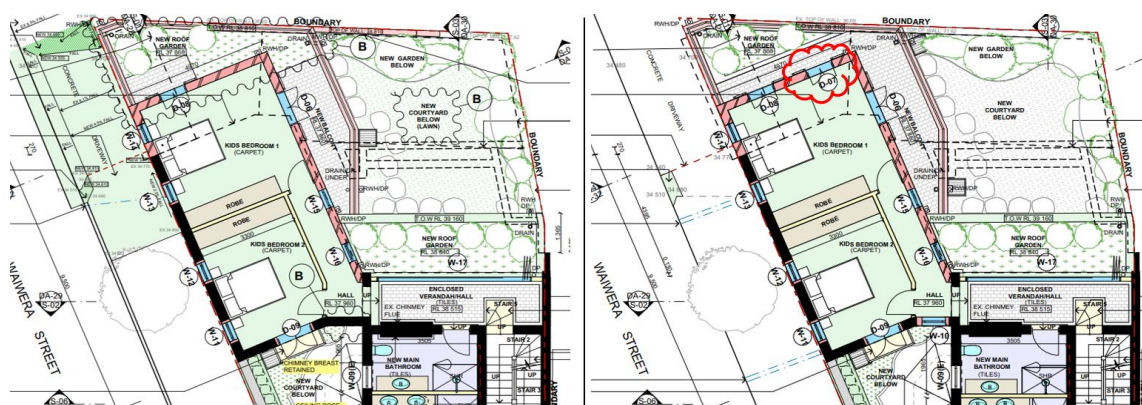
Comment: this issue has been noted and the Applicant was requested to provide an improved view loss assessment and a more thorough view loss assessment is detailed within the cover letter dated 05 September 2025. In addition, the Assessment Officer has visited all affected properties in deliberation of potential view loss.

- The design exacerbates previous unsympathetic alterations by further increasing the bulk and scale of the rear portion of the building. This includes the addition of a flat-roofed dormer that breaches the 8.5m height control, creating a discordant built form that interrupts key view corridors and undermines the integrity of the heritage streetscape.

Comment: the flat roof dormer was not supportable and was considered over scaled. The revised dormer is smaller in scale and more appropriate less dominant in context to the roof and will have minimal impact to views.

- The proposed new wing has two new bedrooms with very large windows which would look directly across at our bedroom.

Comment: a window has been deleted on the side elevation of the two storey addition to reduce potential overlooking to the affected bedroom window of 1A Waiwera Street.



Figures 27 & 28 – Amended First Floor Plan with deleted side window and originally lodged First Floor Plan with window clouded in red now deleted

- **The views from our property at No. 4 Waiwera Street has been entirely omitted from the application. The SEE limits its analysis to No. 2 Waiwera Street and No. 49 East Crescent Street, completely disregarding the likely view impacts on our home. Based on a review of the architectural plans it appears likely that the proposed rear extension will intrude into our existing view corridor.**

Comment: the Architect has prepared a further view loss assessment which includes consideration of views from No. 4 Waiwera Street and the Assessment Officer has also undertaken a site visit to the subject property.

- **The proposed development has a site coverage of 70% which significantly exceeds the maximum allowable 50% as stipulated in the DCP.**

Comment: the site coverage exceedance is deliberated in detail within the DCP compliance table and is supportable subject to the merits of the development and constraints of the site.

- **The driveway width of 5.9m exceeds the DCP requirement of 2.5m.**

Comment: the driveway crossover is already greater than 2.5m and the proposal is to increase the width by 500mm which is not excessive or detrimental to the streetscape including on street parking.

- **The proposed ceiling heights for the kitchen and the dining areas are 2.57m which does not comply with the DCP.**

Comment: the kitchen and dining room floor to ceiling heights comply with the minimum BCA standard of 2.4m and sometimes variety in floor to ceiling heights creates internalised aesthetic creativity and subject to access to sunlight and ventilation a high level of residential amenity can be achieved.

- **The proposed ground floor rear addition fails to comply with the side setback requirement for an R2 Low Density Residential Zone.**

Comment: the site is in the R3 Medium Density Residential Zone. The ground floor addition with a nil side setback to 45 East Crescent Street is acceptable not adding excessive bulk and scale and not having an adverse amenity impact with regards to views, access to sunlight and privacy.

- **The proposed north facing dining area on the ground floor as well as the existing living rooms will fail to achieve the minimum 3 hours of direct solar access between 9.00am and 3.00pm on the winter solstice as required by the DCP.**

Comment: the ground floor dining room has large bifold glazed doors to maximise access to sunlight. There are limitations to increasing openings to maximise sunlight to heritage items where there would be an unreasonable loss of heritage fabric.

- **We object to the proposal regarding view loss as it will result in significant loss of iconic and highly valued views from our home and those of our neighbours. The view loss assessment included in the SEE is superficial and inadequately prepared. The applicant relies on a single image taken from No. 2 Waiwera Street and has not provided any analysis from within our own property – 49 East Crescent Street.**

Comment: a more detailed view loss assessment has been provided by the Architect in a letter to Council dated 05 September 2025. Further, the Assessment Officer has attended the affected properties within the DCP assessment against Section 1.3.6 'Views' is a thorough assessment.

PUBLIC INTEREST

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

SUITABILITY OF THE SITE

The proposal would be located in a R3 Medium Density Residential Zone where semi-detached dwellings are a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

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

CONCLUSION

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and generally found to be satisfactory.

The two storey addition is an appropriate heritage response to the heritage item being a clearly distinguishable secondary built form to the principal building form. The two storey addition will have a brick rendered façade characteristic of the heritage item and stipulated in the character statement as a characteristic built element. The revised dormer is a more acceptable outcome secondary in scale to the roof and complementing the style of the existing building. The development therefore generally satisfies the objectives in cl. 5.10 'Heritage Conservation' of NSLEP 2013.

The development is considered to respond appropriately to the existing characteristics, opportunities and constraints of the site and wider context by ensuring a two storey addition that is low in scale and submissive in bulk and scale to the main dwelling. The development also proposes a better landscaped outcome proposing planting instead of existing paving and the dormer addition is appropriate in scale and character to the semi-detached dwelling.

The application involves excavation to an existing basement and courtyard to create more living space and the associated courtyard to be excavated will provide an outlook/ ventilation plus landscaping to improve the amenity of the site and proposed habitable space within the basement. The application is supported by a structural statement and geotechnical assessment providing a potential methodology for the necessary excavation and underpinning of the building. Appropriate conditions of consent have been recommended by Council's Development Engineer including the requirement for a Structural Engineer to be engaged outlining measures to be implemented to prevent damage to adjoining properties and also a Geotechnical Report to be prepared to ensure a reasonable level of protection to adjacent properties.

The excavation works and new underpinning of the basement walls will have a direct effect to the party wall between 45 and 47 East Crescent Street and the application includes party wall consent for works that affect the party wall specifically the proposed underpinning underneath the party wall of 45 and 47 East Crescent Street. The development subject to conditions of consent address matters for consideration in Clause 6.10(3) in NSLEP 2013 as well as objectives and provisions in s1.3.1 of NSDCP 2013.

A total of fifteen (15) unique submissions were received raising concerns regarding several issues but principally concerns included the impact of the two storey addition and subsequent view loss to three affected residences and an adverse impact to visual privacy to adjoining properties.

A detailed view loss assessment has been completed and it is deemed that the two storey addition comprising a flat roof and height of 6.33m is indicative of an appropriate design to minimise height and thereby minimise the obstruction of neighbouring views. It is however, considered a further reduction in overall height of the two storey addition is achievable noting the floor to ceiling height of either the ground floor and first floor can be reduced without significant internal amenity impact and subsequently a design condition is recommended to achieve a reasonable view sharing outcome for the affected properties at 49 East Crescent Street, 2 Waiwera Street and 4 Waiwera Street satisfying Objective O2, s1.3.6 'Views' of NSDCP 2013.

The Applicant has also made design changes to improve the visual privacy to the affected 1A Waiwera Street by an extension to a roof garden and increase in height of a boundary wall plus deletion of a window that had a potential outlook to a bedroom window of 1A Waiwera Street.

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

RECOMMENDATION

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

A. THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority grant consent to Development Application No. 150/2025 for alterations and additions to a semi-detached dwelling on land at 47 East Crescent Street, Lavender Bay subject to the attached site specific and standard conditions.

B. THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Housing, and Infrastructure and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and grant consent to Development Application No. 150/2025 for alterations and additions on land at 47 East Crescent Street subject to the attached site specific and standard conditions:-

Thomas Holman
SENIOR ASSESSMENT OFFICER

Isobella Lucic
TEAM LEADER ASSESSMENTS

Date: 17 September 2025

David Hoy
A/MANAGER DEVELOPMENT SERVICES

Date: 17 September 2025

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the tables to this condition, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Rev	Title	Drawn by	Dated
DA-10B	B	Site Plan	MBA	11/09/2025
DA-17		Demolition Plans	MBA	11/09/2025
DA-18A	A	Demolition Plans	MBA	11/09/2025
DA-19A	A	Basement Plan	MBA	17/07/2025
DA-20B	B	Ground Floor Plan	MBA	08/09/2025
DA-21B	B	First Floor Plan	MBA	08/09/2025
DA-22B	B	Attic Plan	MBA	08/09/2025
DA-23B	B	Roof Plan	MBA	08/09/2025
DA-24B	B	West Elevation	MBA	08/09/2025
DA-25A	B	North Elevation/Section	MBA	11/09/2025
DA-26A	A	East Elevation	MBA	11/09/2025
DA-27A	A	South Elevation	MBA	08/09/2025
DA-28A	A	Section S-01	MBA	08/09/2025
DA-29A	A	Section S-02	MBA	08/09/2025
DA-30A	A	Section S-03	MBA	11/09/2025
DA-31A	A	Cross Section S-06	MBA	08/09/2025
DA-32B	B	S-04 Garage /Driveway Section 1	MBA	11/09/2025
DA-33B	B	S-05 Garage/Courtyard Section 2	MBA	11/09/2025
DA-41A	A	Landscape Plan	MBA	08/09/2025
DA-42A	A	Landscape Details	MBA	11/09/2025
DA-43A	A	Exterior Finishes/Schedule	MBA	11/09/2025

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

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 2 of 33

Plans on Site

- A2. A copy of all plans endorsed with Council's approval stamp, specifications and documents (including the plans, specifications and documents submitted and approved with all Construction Certificates) must be always kept on site and be readily available for perusal by an officer of Council or the Principal Certifier.

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

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

No Demolition of Extra Fabric

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

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A4. External finishes and materials must be in accordance with the submitted schedule prepared by Michael Bell Architects and dated 11/09/2025 unless otherwise modified by Council in writing. Substitution of materials must not be undertaken, except where otherwise approved in writing by Council.

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

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***Design Change – Reduction in Height of Two Storey Addition**

- C1. The following changes must be made to the plans prior to the issue of the construction certificate and submitted to the principal certifier. The building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate must fully satisfy the requirements of this condition.

The height of the two storey addition shall be reduced by 200mm from RL 41 370 to RL 41 170m. The alteration in height should not include a change to the parapet height or form but should be achieved with either/or a reduction of the ground floor or first floor, floor to ceiling heights.

The overall form, bulk and scale and design shall remain as per the approved plans cited in Condition A of the development consent apart from a reduction in overall height by 200mm.

(Reason: To ensure view sharing and equitable access to views for adjoining dwellings)

Dilapidation Report Damage to Public Infrastructure

- C2. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the predeveloped condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any infrastructure damaged before development commences, so Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

The Applicant shall be responsible for the cost of repairing any public infrastructure damaged during the course of the development. No occupancy of the development shall be permitted until all such damage has been rectified.

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

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

Dilapidation Report Private Property (Excavation)

- C3. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer and a copy to be given to the owner of the relevant affected adjoining property.

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

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 4 of 33

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

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

(Reason: To record the condition of property/ies prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C4. A photographic survey and dilapidation report of adjoining property Nos. 1A Waiwera Street and 45 East Crescent Street detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of the relevant Construction Certificate.

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

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

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

(Reason: Proper management of records)

Shoring for Adjoining Property

- C5. Where shoring for excavation is to be located on or is supporting Council's property, or adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and destressing of shoring elements, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. A copy of this documentation must be provided to the Council for record purposes.

Note: Approval of engineering drawings for shoring works to be located on adjoining property by the Principal Certifier does not authorise a trespass on private or public land. All relevant permissions/legal rights must be obtained to undertake works on adjoining land.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

Structural Adequacy of Adjoining Properties - Excavation Works

- C6. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties 1A Waiwera Street and 45 East Crescent Street, which certifies its ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the works, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The measures outlined in the certified report must be complied with at all times.

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

Structural Adequacy (Semi-detached and Terrace Buildings)

- C7. A report from an appropriately qualified and practising structural engineer, certifying the structural adequacy of the adjoining property No. 45 East Crescent Street which certifies its ability to withstand the proposed works and outlines any measures required to be implemented to ensure that no damage will occur to adjoining premises during the works, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The measures outlined in the certified report must be complied with at all times.

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

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

Structural Adequacy of Existing Building

- C8. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Principal Certifier for approval prior to issue of the relevant Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

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

Geotechnical Report

- C9. Prior to issue of the relevant Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:
- a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
 - b) the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
 - c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
 - d) the existing groundwater levels in relation to the basement structure, where influenced;
 - e) the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and

- f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydrogeological engineer with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended, and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 8 of 33

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Erosion and Sediment Control

- C10. Where any works authorised by this consent require disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication, *Managing Urban Stormwater: Soils and Construction*, (4th Edition, Landcom, 2004) commonly referred to as the “Blue Book,” or a suitable and effective alternative method.

An Erosion and Sediment Control Plan must be prepared and implemented prior to any works commencing. The Erosion and Sediment Control Plan must be consistent with the Blue Book and disclose:

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

All works must be undertaken in accordance with the approved Erosion and Sediment Control Plan.

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

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

Waste Management Plan

- C11. A Waste Management Plan prepared in accordance with the provisions of Part B Section 19 of the *North Sydney DCP 2013*, must be submitted for approval by the Principal Certifier prior to the issue of the relevant Construction Certificate. The plan must include, but not be limited to:

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 9 of 33

- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
- b) The design of the on-site waste storage and recycling area; and
- c) Administrative arrangements for waste and recycling management during the construction process.

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

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

Colours, Finishes and Materials (Heritage Item)

- C12. A traditional palette of finishes, materials and colour schemes must be selected for the new building works, appropriate to the architectural style of the original building, and submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Heritage Architect to be Commissioned

- C13. An appropriately qualified and experienced heritage architect must be commissioned to assist the design development, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to heritage matters.

Written details of the engagement of the experienced heritage architect must be submitted to the Principal Certifier prior to the issue of the relevant Construction Certificate.

Note: If advice provided by the heritage architect is to the effect that works requiring development consent be carried out, such works would require a Modification under s4.55 of the *Environmental Planning and Assessment Act 1979*, or further development application. This condition, and any advice given by the heritage architect, should not be construed as authorising the carrying out of development with/otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to significant fabric and spaces are resolved and recorded using best practice for heritage conservation)

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 10 of 33

External Finishes and Materials

- C14. The external colours and finishes must be in accordance with the approved schedule of finishes and materials, prepared by Michael Bell Architects and dated 11/09/2025. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of development)

Work Zone

- C15. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of any Construction Certificate.

Note: For major development, an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Principal Certifier to enable issue of the relevant Construction Certificate.

Where approval of the Work Zone is given by the Committee, the requirements of the Committee, including installation of the necessary "Work Zone" signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the Applicant is required to remove the Work Zone signs and reinstate any previous signs, all at the Applicant's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Maintain Property Boundary Alignment Levels

- C16. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure interface between property and public land remains uniform)

Obtain Driveway Crossing Permit under S.138 Roads Act 1993

- C17. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of the relevant Construction Certificate. In order to obtain a permit under s.138 of *the Roads Act 1993*, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the Applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum:

- a) the vehicular accessway must comply with AS 2890.1 and Council's current *Vehicular Access Application Guidelines and Specification* (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor;
- b) the width of the vehicular layback must be 13.30 metres (including the southern wing);
- c) the vehicular layback must be set square to the kerb;
- d) the crossing (between the layback and the property boundary) must be placed on a single straight grade of approximately 4.5%, falling to the back of the layback;
- e) the gutter levels and boundary footpath levels must match the existing levels and shall not be altered;
- f) transitioning works of at least two footpath panels on southern side of the driveway crossing are required to ensure uniformity in the footpath;
- g) the footpath, kerb gutter, and road shoulder must be transitioned 1m on southern side of the driveway crossing are required to ensure uniformity in the road reserve;
- h) the road shoulder must be reconstructed at least 600mm (AC-10, 50 mm thick) wide to gutter lip, adjacent to all new gutter works;
- i) any twisting of driveway access must occur entirely within the subject property;
- j) all inspection openings, utility services must be adjusted to match the proposed driveway levels;
- k) sections along centreline and extremities are required at a scale of 1:50 to be taken from the centreline of the roadway through to the parking area itself and must include all changes of grade and levels both existing and proposed;

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 12 of 33

- l) a longitudinal section along the gutter line at a scale of 1:50 showing how it is intended to blend the vehicular crossing with the existing kerb and gutter;
- m) a longitudinal section along the footpath property boundary at a scale of 1:50 is required;
- n) the sections must show the calculated clearance to the underside of any overhead structure; and
- o) a swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking."

The permit must be granted by Council prior to the issue of the relevant Construction Certificate.

All driveway and infrastructure work on the road reserve must be undertaken in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified. The Principal Certifier issuing the relevant Construction Certificate must ensure that the permit issued by Council is obtained and referenced on and accompanies the relevant Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Stormwater Disposal - Drainage Plan

C18. Prior to the issue of the relevant Construction Certificate, site drainage plans must be prepared by a licensed plumber or drainage engineer. The site drainage plans must -be designed in accordance with the following criteria:

- a) compliance with NCC drainage requirements and current Australian Standards and guidelines;
- b) stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to kerb outlet in Waiwera Street;
- c) new pipelines within council land shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres;
- d) the design and installation of the Rainwater Tanks shall comply with BASIX and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system; and
- e) prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 13 of 33

Drainage plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: Proper disposal of stormwater)

Pump-out System Design for Stormwater Disposal

C19. The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- a) the pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20- year storm;
- b) the pump system shall be regularly maintained and serviced, every six (6) months; and
- c) any drainage disposal to the street gutter from a pump system, must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Engineering details demonstrating compliance with these criteria and certified by an appropriately qualified and practising civil engineer shall be provided to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure adequate provision is made for the discharge of sub-surface stormwater from the excavated parts of the site)

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

C20. Prior to the issue of the relevant Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$16,000.00 to be held by Council for the payment of the cost for the following relevant matters:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent,
- c) remedying any defects in any such public work that arise within 6 months after the work is completed, and
- d) Council reserves the right to retain all bonds on infrastructure works relating to the completion of required Infrastructure work for a 12-month defect liability period. Council may elect to provide a lesser period for minor residential work.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 14 of 33

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

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

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

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the Applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Principal Certifier must ensure that security is provided to North Sydney Council prior to issue of the relevant Construction Certificate.

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

Bond for Public Trees

- C21. Prior to any works authorised by this consent commencing, security in the sum of \$6,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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

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

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

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement trees in streets and other public places.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 15 of 33

SCHEDULE

Tree Number and Species	Location	Bond
2 x Crepe Myrtle	Street trees on the Waiwera Street frontage	\$3,000.00 each

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

Protection of Trees

- C22. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location	Height
2 x Crepe Myrtle	Street trees on the Waiwera Street frontage	\$3,000.00 each

Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Asbestos and Hazardous Material Survey

- C23. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

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

- the removal of asbestos must be undertaken by a SafeWork NSW licensed contractor;
- all removal must be in strict accordance with the requirements of the SafeWork NSW in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 16 of 33

- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Principal Certifier as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Local Infrastructure Contributions

- C24. A monetary contribution pursuant to the provisions of section 7.12 of the *Environmental Planning and Assessment Act 1979* is to be paid to Council, in accordance with the North Sydney Council's Local Infrastructure Contributions Plan, to provide for local infrastructure improvements.

Based on the cost of development \$2,400,000.00 at the date of determination, the total contribution payable to Council is \$24,000.00

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

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

A copy of the *North Sydney Local Infrastructure Contribution Plan 2020* can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, NORTH SYDNEY, or downloaded via Council's website at www.northsydney.nsw.gov.au.

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

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 17 of 33

Security Deposit/Guarantee Schedule

- C25. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of the relevant Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$6,000.00
Footpath Damage Bond	\$16,000.00
TOTAL BONDS	\$22,000.00

Note: The following fees applicable

Fees	
Local Infrastructure Contributions	\$24,000.00
TOTAL FEES	\$24,000.00

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

(Reason: Compliance with the development consent)

BASIX Certificate

- C26. The BASIX Certificate shall be amended to reflect the approved semi-detached dwelling subject to alterations and additions. Under section 75 of the *Environmental Planning and Assessment Regulation 2021*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A1796778 dated 23 May 2025 (to be revised as per approved plans) for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

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

Protection of Trees

- D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation, and construction on the site, in accordance with AS4970-2009 (Protection of trees on development sites).

The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist must be established before work commences and be maintained at all times during construction activity.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 18 of 33

Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings shall be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut. No stormwater or any underground services shall be directed through the TPZ of any protected tree.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Temporary Fences and Tree Protection

- D2. All protected trees on-site that are specifically nominated to be retained by notation on plans or by a condition of this consent must be tagged with luminous tape or the like, for purposes of identification prior to demolition, excavation, or construction works, and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), must be installed to the satisfaction of the Project Arborist prior to commencement of any works and must be maintained for the duration of the works.

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance - Works on Public Land

- D3. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

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

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

Sydney Water Approvals

- D4. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 19 of 33

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

(Reason: To ensure compliance with Sydney Water requirements)

Commencement of Works' Notice

- D5. Works in accordance with this development consent must not be commenced until the Applicant has given at least two days' notice to North Sydney Council of the person's intention to commence works in accordance with this development consent.

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

E. During Demolition and Building Work

Parking Restrictions

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

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

Road Reserve Safety

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

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

(Reason: Public Safety)

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 20 of 33

Temporary Disposal of Stormwater Runoff

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

(Reason: Stormwater control during construction)

Structures Clear of Drainage Easements

- E4. It is the full responsibility of the Applicant and their contractors to:
- a) Ascertain the exact location of the Council drainage infrastructure traversing the site in the vicinity of the works;
 - b) Take full measures to protect the in-ground Council drainage system; and
 - c) Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Drainage pipes can be damaged through applying excessive loading (such as construction plant, material storage and the like). All proposed structures and construction activities are to be located clear of Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated overland flow paths must not be impeded or diverted by fill or structures unless otherwise approved.

In the event of a Council drainage pipeline being uncovered during construction, all work is to cease, and the Principal Certifier and Council (if it is not the Principal Certifier) must be contacted immediately for advice. Any damage caused to a Council drainage system must be immediately repaired in full as directed, and at no cost to Council.

(Reason: Protection of Public Drainage Assets)

Geotechnical Stability during Works

- E5. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the approved geotechnical report and all subsequent geotechnical inspections carried out during the excavation and construction phase.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 21 of 33

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Council Inspection of Public Infrastructure Works

E6. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:

a) Formwork for layback, kerb/gutter, footpaths;

All works must proceed in accordance with *the Roads Act 1993* approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Removal of Extra Fabric

E7. Should any portion of the existing building, trees, or curtilage of the site, which is indicated on the approved plans to be retained, be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

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

Dust Emission and Air Quality

E8. The following must be complied with at all times:

- a) Materials must not be burnt on the site.
- b) Vehicles entering and leaving the site with soil or fill material must be covered.
- c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with *the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction*.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 22 of 33

- d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

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

Noise and Vibration

- E9. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

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

No Work on Public Open Space

- E10. No work can be undertaken within adjoining public lands (i.e., parks, reserves, roads, etc.) without the prior written consent of Council. In this regard the Applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land, and to ensure public safety and proper management of public land)

Developer's Cost of Work on Council Property

- E11. The Developer or the person, company or other entity that is acting upon this consent, must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

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

No Removal of Trees on Public Property

- E12. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

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

Benchmarks

- E13. All permanent survey markers must be retained, undamaged, and not relocated.

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

Special Permits

- E14. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The Applicant, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

For example, cranes, concrete pumps, cherry-pickers, etc., - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the Applicant's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made, and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours (All Other Zones)

- E15. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours	
Day	Hours
Monday - Friday	7.00am - 5.00pm
Saturday	8.00am - 1.00pm
Sunday Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above, *the EPA Noise Policy for Industry 2017* and any Construction Noise Management Plan required under this consent. In the event of breach to the approved hours of construction, Council take may take enforcement action under Part 9 of *the Environmental Planning and Assessment Act 1979* and in accordance with Council's adopted Compliance and Enforcement Policy.

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

Installation and Maintenance of Erosion and Sediment Controls

- E16. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and Erosion Control Plan submitted and approved with the relevant Construction Certificate.

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

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

Sediment and Erosion Control Signage

- E17. Most development consents require a durable sign to be displayed in a prominent location on construction sites during building works which displays information and warning of penalties should appropriate erosion and sedimentation control measures not be maintained.

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

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 25 of 33

Site Amenities and Facilities

- E18. Where work involved in the erection and/or demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

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

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

Health and Safety

- E19. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

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

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

Prohibition on Use of Pavements

- E20. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

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

Plant and Equipment Kept Within Site

- E21. All plant and equipment used in the undertaking of the development/works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc., must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 26 of 33

Waste Disposal

- E22. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environment Protection Authority.

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

Asbestos Removal

- E23. All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current SafeWork NSW Asbestos or "Demolition Licence," and a current SafeWork NSW "Class 2 (Restricted) Asbestos Licence" (or equivalent). Removal must be carried out in accordance with National Occupational Health and Safety Commission requirements.

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

Service Adjustments

- E24. The adjustment or inclusion of any new utility service or facilities must be carried out by an appropriately qualified contractor in accordance with the requirements of the relevant utility authority.

These works shall be at no cost to Council. It is the Applicant's responsibility to contact the relevant utility authorities to ascertain the impacts of the proposal upon utility services prior to the commencement of any work, including demolition (including water, phone, gas and the like).

Council accepts no responsibility for any impact on, or influence upon, utility services provided by another authority.

(Reason: To ensure the service requirements are met)

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

National Construction Code

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

(Reason: Prescribed - Statutory)

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 27 of 33

Home Building Act

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

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

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifier

- F3. Building or excavation works in accordance with the development consent must not be commenced until the Applicant has appointed a Principal Certifier for the building work in accordance with the provisions of *the Environmental Planning and Assessment Act 1979* and its Regulation.

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

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 28 of 33

Construction Certificate

- F4. Building or excavation works in accordance with the development consent must not be commenced until the Construction Certificate for the relevant part of the work has been issued.

Note: For clarity, this condition does not apply to demolition of whole buildings and works. A Construction Certificate is not required for these works. Demolition is controlled by AS 2601-2001 - Demolition of Structures. This Australian Standard requires safeguards to be in place before demolition commences, including traffic control and management, which may form part of the Construction Traffic Management Plan. Vegetation may also be removed or cleared unless the development consent requires that specified vegetation must not be removed.

(Reason: Statutory, to ensure appropriate safeguards are in place prior to the commencement of any works)

Occupation Certificates

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

(Reason: Statutory compliance)

Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifier at the critical stages prescribed by the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*, and as directed by the appointed Principal Certifier.

(Reason: Statutory)

Excavation/Demolition

- F7. Excavation and demolition shall be carried out as follows:
- a) All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
 - b) All excavation associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 29 of 33

- c) Demolition work must be undertaken in accordance with the provisions of AS2601 - Demolition of Structures.

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

Protection of Public Places

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

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

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

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site:
- a) stating that unauthorised entry to the work site is prohibited;
- b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- c) showing the name, address and telephone number of the Principal Certifier for the work.
- 2) Any such sign must be maintained while building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate***Infrastructure Repair and Completion of Works**

G1. Prior to the issue of the relevant Occupation Certificate, any and all works relating to the development:

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

to the satisfaction of Council Engineers at no cost to Council. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

Certification - Civil Works

G2. An appropriately qualified and practising Civil Engineer must certify to the Principal Certifier that the vehicular crossing and associated works, and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council. A copy of the certificate must be submitted to Council (if it is not the Principal Certifier), upon completion of the development works and prior to the issue of the relevant Occupation Certificate.

(Reason: Compliance with the Consent)

Damage to Adjoining Properties

G3. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

Utility Services

G4. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of the relevant Occupation Certificate. This shall be at no cost to Council.

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

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 31 of 33

Covenant and Restriction (Stormwater Control Systems)

- G5. An Instrument pursuant to section 88B and/or section 88E of the *Conveyancing Act 1919* and one copy must be submitted to Council in registrable form, providing for:
- a) a restriction-as-to-user and positive covenant as-to-user as appropriate in favour of North Sydney Council burdening 47 East Crescent Street requiring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines);
 - b) North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;
 - c) the wording on the Instrument making reference to the Council file(s) which hold:
 - a) the Construction plans; and
 - b) the "Work As Executed" (as built) plans;

The terms of the Instrument must be executed by an authorised delegate of North Sydney Council prior to submission to the NSW Land Registry Services for registration.

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of the relevant Occupation Certificate or commencement of use of the site, whichever is the earlier. Typical wording for the Instrument can be sourced from Council's "Specification for the Management of Stormwater."

Evidence of the registration of the Instrument referred to in this condition is to be provided to Council prior to the issue of the relevant Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: Compliance and adequate maintenance of drainage system)

Basement Pump-out Maintenance

- G6. Prior to issue of the relevant Occupation Certificate, a Maintenance Plan must be prepared for the basement stormwater pump-out system and submitted to the Principal Certifier for approval with the relevant Occupation Certificate documentation. The regime must specify that the system is to be regularly inspected and checked by qualified practitioners.

The basement stormwater pump-out system must be maintained in accordance with the approved Maintenance Regime at all times.

(Reason: To ensure future provision for maintenance of the drainage system)

**47 EAST CRESCENT STREET, LAVENDER BAY
DEVELOPMENT APPLICATION NO. 150/25**

Page 32 of 33

Asbestos Clearance Certificate

- G7. For building works where asbestos-based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of the relevant Occupation Certificate. The asbestos clearance certificate must certify the following:

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

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

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

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

Certification of Tree Condition

- G8. Prior to the issue of the relevant Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Principal Certifier, describing the health of the tree(s) specifically nominated to be protected and retained within this consent.

The report must detail the condition, health, vigour & longevity of all nominated tree(s) prior to first occupation of the building.

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

BASIX Completion Certificate

- G9. In accordance with section 45 *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, prior to issuing the relevant Occupation Certificate the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

Landscaping

- G10. The landscaping shown in the approved landscape documentation in DA-41A and DA-42A and cited in condition A1, must be completed prior to the issue of the relevant Occupation Certificate.

(Reason: To ensure compliance)

Damage to Adjoining Properties

G11. On completion of the development the subject of this consent and prior to the issue of the relevant Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Principal Certifier (and a copy to Council if it is not the Principal Certifier) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Principal Certifier in accordance with this consent.

A copy of the report and certification required by this condition must be submitted to Council with the relevant Occupation Certificate. All costs incurred in achieving compliance with this condition shall be borne by the Applicant.

(Reason: To record the condition of adjoining properties prior to completion of the development and to facilitate claims against damage)

Compliance with Certain Conditions

G12. Prior to the issue of the relevant Occupation Certificate Condition C1 Design Change – Reduction in Height of Two Storey Addition, must be certified as having been implemented on site and complied with.

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

I. Ongoing/Operational Conditions**Single Occupancy**

I1. Nothing in this consent authorises the use of the premises other than for a single occupancy.

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

Minimum Headroom for Car Parking

I2. Minimum headroom of 2.2m must be provided over all car parking areas.

(Reason: To ensure compliance with relevant standards and provide appropriate headroom)

