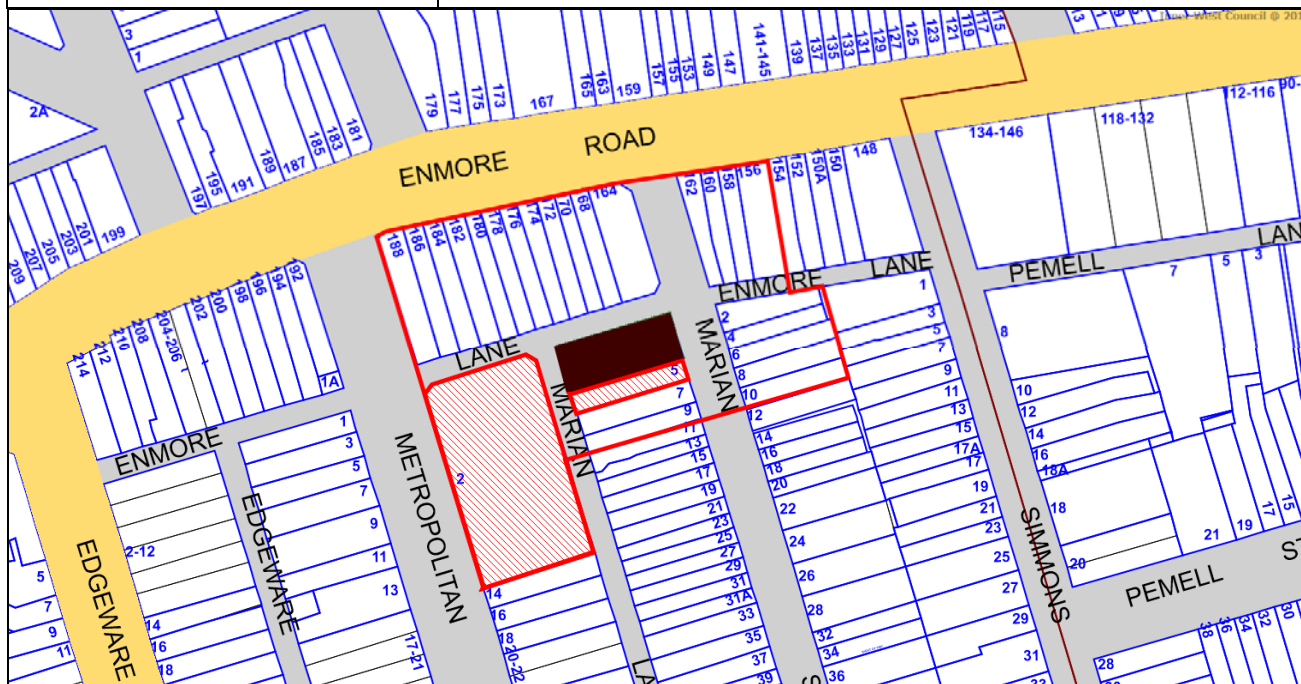




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA201700503
Address	1-3 Marian Street, Enmore
Proposal	To construct a part 2 and part 3 storey dwelling house and a new garage with roof terrace above.
Date of Lodgement	13 October 2017
Applicant	Seemann Rush Architects
Owner	Garry McInerney and Gladys Bridget McInerney
Number of Submissions	3 submissions
Value of works	\$497,750
Reason for determination at Planning Panel	The extent of departure from the building height development standard exceeds staff delegation.
Main Issues	Building Height
Recommendation	Approval subject to conditions



Subject Site:		Objectors:	
Notified Area:			

1. Executive Summary

This report is an assessment of an application submitted to Council to construct a part 2 and part 3 storey dwelling house and a new garage with roof terrace above at 1 Marian Street, Enmore.

The main issue that has arisen from the assessment of the application is that the development exceeds the maximum permitted height of 9.5 metres on the site by having a proposed height of 10.7 metres being approximately 12.6% over the height standard under Clause 4.3 of Marrickville Local Environmental Plan 2011 (MLEP 2011).

The plans submitted with the application on 13 October 2017 were notified in accordance with Council's notification policy and 3 submissions were received. During the assessment of the application, amended documentation was submitted on 20 December 2017 and 21 December 2017 to address concerns raised by Council Officers, including heritage and urban design, privacy in relation to the roof terrace, landscaping and solar access and overshadowing. The amended plans did not require re-notification in accordance with Council's notification policy.

A written request in relation to the contravention to the height of buildings development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011 was requested to be submitted with the application. A Clause 4.6 was submitted on 20 December 2018 accompanied with the amended documentation. The Clause 4.6 was requested to be revised to include the percentage the development proposed is exceeding which was submitted on 21 December 2017.

The proposal is considered to be an appropriate design outcome for the site and the Clause 4.6 submission demonstrates that there are sufficient environmental planning grounds in the particular circumstances of the case to justify the height departure. The Clause 4.6 submission demonstrates that compliance with the height development standard is unreasonable and unnecessary in the circumstances of the case.

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011).

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the amended development are considered to be acceptable given the context of the site and the desired future character of the precinct. The application is suitable for approval subject to the imposition of appropriate conditions.

2. Proposal

Approval is sought to construct a part 2 and part 3 storey dwelling house and a new garage with roof terrace above at 1 Marian Street, Enmore. The proposal includes the following works:

Ground Floor

- Demolition of the existing rear garage and the construction of a new garage with roof terrace and roof garden. Construction of a study, kitchen, dining and living area and small bathroom.

First Floor

- Construction of 3 bedrooms with the third bedroom being used as a bedroom/ living area, construction of one bathroom, one ensuite, storage area and walk in robe.
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Attic Level

- Provision of a bedroom and bathroom.

3. Site Description

The site is located on the western side of Marian Street, between Enmore Road and Sarah Street, Enmore. The site consists of a double lot which is a pre-existing subdivision with one portion of the lot known as Lot 106 in Deposited Plan 1166 as 3 Marian Street containing a two storey terrace and the subject lot which is vacant known as Lot 107 in DP 1166 which will be known as 1 Marian Street. The lots are generally rectangular shaped with a total area of 187.9sqm.

The site has a 6.09 metre frontage to Marian Street and a depth of 30.820 metres. The site is a vacant lot where currently the lot provides some landscaping and open space for the dwelling located on 3 Marian Street. The rear of the site contains an existing garage across both lots in which the garage is proposed to be demolished. The garage has direct access to Enmore Lane to the north of the subject site.

The site is located on a corner lot of Marian Street with the northern side boundary adjoining Enmore Lane which contains the rear of the commercial tenancies fronting Enmore Road. The wider local context comprises of a mix of single storey dwelling houses and 2 storey Victorian terraces. To the immediate north of the site is 164 Enmore Road which was originally used as the Commonwealth Bank Branch and is now currently used as a food market. To the immediate south of the site is a 2 storey Victorian terrace house at 3 Marian Street, and adjoining number 3 is a two storey Victorian terrace house at 5 Marian Street.

4. Background

4(a) Site history

The site contains relevant development history that provides background to the current development application on the property.

Lot 106 – 3 Marian Street

DA201300586 dated 17 February 2014 determined an application to demolish part of the premises and carry out a minor ground floor alteration and addition to a dwelling house and erect new boundary fencing. The works included a new extension to the bathroom, new wrought iron front fencing and general façade upgrades.

DA201600656 dated 26 April 2017 determined an application as deferred commencement consent to demolish part of the premises and carry out ground and first floor alterations and additions to a dwelling house with a double carport at the rear. The application was determined as deferred commencement consent so as to ensure pervious landscaping is of at least 50% of the total area for the private open space and to delete one car parking space at the rear of the property.

Lot 107 - 1 Marian Street

DA201600657 dated 26 April 2017 refused an application to demolish existing structures and construct a new 2 storey dwelling house. The development application was refused based on some of the reasons below:

1. The side and rear setbacks, building form and roof form and the lack of architectural resolution of the proposal is contrary to the objectives and controls regarding Heritage Conservation contained within Part 5.10 of Marrickville Local Environmental Plan 2011 and the Enmore House Estate Heritage Conservation Area No. 13 planning controls contained within Part 8.3 of Marrickville Development Control Plan 2011.
2. The proposed development does not comply with parking controls. The two car parking spaces exceeds the controls contained in Part 2.10 of Marrickville Development Control Plan 2011 and the additional car parking space and roller door is not consistent with the predominate character of Marian Lane.
3. The proposed dwelling does not comply with Part 4.1.5 of Marrickville Development Control Plan 2011 .The proposed development detracts from the streetscape of Marian Street and the overall massing and form of the Northern Side Elevation (Enmore Lane Elevation), including the proposed roof form, is inconsistent with the predominant built form of Victorian Terraces.
4. The proposed development does not comply with Part 4.1.12 of Marrickville Development Control Plan 2011 Details, materials and colour schemes for period buildings. The materials such as the aluminium framed windows are unsympathetic and will degrade the appearance of the proposed new dwelling from the streetscape and to the existing dwelling at 3 Marian Street.

A Pre-Development Application was submitted with Council and a meeting was held on 5 September 2017 and a letter was issued on 12 September 2017 raising the following matters for the applicant's consideration:

- It is recommended that [1] a portion of the side masonry boundary wall (north boundary) and vines be preserved – the portion of the side wall between the study and kitchen area could be demolished; [2] a 900mm side setback be provided to the new rear wind addition (skillion roof) – this means that the external walls to the dinning/living space at Ground Level should be setback 900mm from the side boundary. Level 1 may project forward, closer to the side boundary to compensate for the setback on Ground Level.
- The provision of two front dormers for the bathroom and walk-in robe at Level 1 is not justifiable from a streetscape perspective and will not create a desirable precedent - nearby buildings do not have front dormers. It is recommended the 2 front dormers be removed. It is acknowledged that internal planning at Level 2 will need to be reconsidered.
- It is recommended that the side gable wall (northern boundary) be designed as a parapet wall – similar to the one at 3 Marian Street – so that the roof is hidden behind

the gable parapet, rather than the use of flashings/cappings. Consideration should be given to the provision of a nib to the side gable wall to interpret, in a contemporary way, the existing nib/corbels at 3 Marian Street. Further architectural finesse should be applied to the Front Elevation.

It is considered that the current proposed development has addressed the nine reasons of refusal from the previous development application and has considered the Pre DA advice provided for the site. The current development application has demonstrated a high quality architectural design which is sympathetic to the streetscape and heritage conservation area and designed with a high quality of materials and finishes and is therefore recommended for approval by Council Officers.

4(a) Application history

The following table outlines the relevant history of the subject application.

Date	Additional Information
7 December 2017	<p>Council requested the following additional information and amended plans to address the following:</p> <ul style="list-style-type: none"> • A note on all relevant plans, cross sections and elevations that the existing side boundary wall on the northern boundary will be preserved and protected during construction; • Set back the new northern wall to the living/dining area at Ground Level so that it is 500mm measured from the internal face of the existing side boundary wall to ensure the preservation and structural stability of the wall or provide a drawing by a structural engineer showing how excavation and footings to the new building structure will not damage the structural integrity of the side boundary wall; • Provide a cross-section in 1:50 or 1:20 showing the interface between the existing side boundary wall and the new building structure to ensure the preservation and • structural stability of the side boundary wall; • Provide a demolition plan; • Amend the roof plan, cross-section 1 and garden elevation to provide complete dimensions of the rear dormers; • Delete the front dormer for the bathroom on the first floor as the front dormer is not justifiable from a streetscape perspective and will not create a good precedent • Schedule of finishes: state the profile of the metal sheeting to the roof. • Provide drawings in 1:50 or 1:20 with detailed description/dimensions of W9, W10, W11, W12 and front door, including type of opening, materials, colours and type of screens • Similar information should be provided for all the other windows, doors and screens. Appearance and materiality of proposed • Window sills to W1, W2, W3, W5, W6, W7 and W8 should be provided as part of the application. <p>A Clause 4.6 statement addressing the exceedance in the maximum height standard.</p>

	<p>A Landscape plan and maintenance schedule identifying the vegetation proposed for the private open space including the roof terrace.</p> <p>Privacy screens to the northern and western elevation should be installed to address overlooking to the adjoining properties at 3 and 5 Marian Street.</p> <p>Shadow diagrams to show the effect in plan view of the proposed overshadowing for 21 March/September, at hourly intervals between 9am and 3pm.</p>
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5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Marrickville Local Environmental Plan 2011

The following provides further discussion of the relevant issues:

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

A BASIX Certificate was submitted with the application indicating that the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

5(a)(ii) Marrickville Local Environment Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of the Marrickville Local Environmental Plan 2011 (MLEP 2011):

- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio
- Clause 4.6 – Exceptions to development standards
- Clause 6.2 – Earthworks
- Clause 6.5 – Development in areas subject to aircraft noise

The following table provides an assessment of the application against the development standards:

Standard	Proposal	% of non - compliance	Compliance
Floor Space Ratio Permitted: 1:1 187.9sqm	0.98:1 185.2sqm	N/A	Yes
Height of Building Permitted: 9.5 metres	10.7 metres	12.6%	No

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R2 – Low Density Residential under the provisions of MLEP 2011. The development is permissible with Council's consent under the zoning provisions applying to the land. The development is acceptable having regard to the objectives for development in the zone under Marrickville Local Environmental Plan 2011.

(i) Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

(ii) Height (Clause 4.3)

A maximum building height of 9.5 metres applies to the property as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a height of approximately 9.7 metres, which varies from the height development standard. The height proposed is 10.7 metres which is 1.2 metres higher than the maximum building height or 12.6%.

A written request, in relation to the development's non-compliance with the height development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The submission is discussed below under the heading "Exceptions to Development Standards (Clause 4.6)".

(iii) Floor Space Ratio (Clause 4.4)

Clause 4.4(2A) of MLEP 2011 specifies a maximum floor space ratio for a dwelling house on land labelled "F" on the Floor Space Ratio Map that is based on site area as follows:

Site area	Maximum floor space ratio
>150sqm but ≤200sqm	1:1

The property has a site area of 187.9sqm. The development has a Gross Floor Area (GFA) of 185.2sqm and an FSR of 0.98:1, which complies with the development standard.

(iv) Clause 4.6 Exceptions to Development Standards

A written request in relation to the contravention to the height development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011 was submitted with the application.

The applicant considers compliance with the development standard to be unreasonable and unnecessary for the following reasons:

- A compliant height for the proposed new dwelling would result in unsatisfactory massing of the new building which would not contribute positively to the streetscape;
- A height compliant development would result in an unsatisfactory character of the urban streetscape of Marian Street.
- A height that complied with the height standard would ignore the reasons for the design of the dwelling that resulted in the exceedance of the building height.
- The height variation does not impact other buildings or public areas to exposure to the sky and solar access. The orientation of the building presents limited additional overshadowing to the surrounding context.

The Clause 4.6 variation request is supported for the reasons summarised below:

- The additional height above the height controls is contributed to by the height of the ridge to match the adjoining terrace at 3 Marian Street. The ridge RL on 3 Marian Street and the subject site is proposed at 45.13 to ensure the dwellings read as a pair. The additional height of 1.2 metres is designed on the site in a manner which will not result in unreasonable adverse impacts upon adjacent properties or the public realm by way of overshadowing, visual massing, view loss or privacy impacts and negatively impacting the streetscape.
- The existing terrace located at 3 Marian Street is a significantly intact two-storey Victorian Terrace and the proposed new dwelling compliments the row of terraces and massing of the dwellings.
- Strict compliance with the built form controls will result in an inconsistent urban design outcome and it is considered that the reduction of height to the maximum building height of 9.5 metres would result in an inferior planning and urban design outcome. The additional height provides a built form and urban design outcome that is sympathetic to Marian Street, the adjoining property at 3 Marian Street and the group of Victorian terraces which have a uniform building type and height and is contributory to the Heritage Conservation Area
- The proposed development satisfies the objectives of the height development standard for reasons discussed throughout this analysis.

The justification provided in the applicant's written submission is considered to be well founded and worthy of support. It is considered that there are sufficient environmental planning grounds as to why the height development standard should be varied in this particular circumstance based on the outcomes of planning law precedents such as those contained in *Wehbe v Pittwater Council [2007] NSWLEC827*, *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90* and *Moskovich v Waverley Council [2016]*.

It is considered that the contravention of the development standard does not raise any matter of significance for State and regional environmental planning, and that there is no public benefit in maintaining the development standard for the proposed development.

Based on the above, it is assessed that the variation to the height development standard under MLEP 2011 is reasonable. Comparatively, the proposal will create a dwelling that is comparable to the building types and heights in the streetscape and will form part of the row of terraces in Marian Street. The architectural style of the development is consistent with the adjoining dwellings on Marian Street and is considered acceptable.

(v) Earthworks (Clause 6.2)

The earthworks proposed are for a smaller scale residential development, and as such, are reasonable having regard to Clause 6.2 of MLEP 2011.

(vi) Development in areas subject to Aircraft Noise (Clause 6.5)

The property is located within the 20-25 Australian Noise Exposure Forecast (2033) Contour. The development is likely to be affected by aircraft noise.

The development would need to be noise attenuated in accordance with AS2021:2000. An Acoustic Report accompanied the application. The report concludes that the development could be noise attenuated from aircraft noise to meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2000. Conditions are included in the recommendation to ensure that the development is appropriately noise attenuated.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

Marrickville Development Control Plan 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 - Acoustic and Visual Privacy	Yes.
Part 2.7 - Solar Access and Overshadowing	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Yes
Part 2.11 – Fencing	Yes

Marrickville Development Control Plan 2011	Compliance
Part 2.18 – Landscaping and Open Spaces	Yes
Part 2.20 – Tree Management	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 4.1 – Low Density Residential Development	Yes
Part 8 - Heritage	Yes
Part 9 – Strategic Context (Marrickville and Morton Park Planning Precinct)	Yes

The following provides discussion of the relevant issues.

(i) Acoustic and Visual Privacy (Part 2.6)

Part 2.6 of MDCP 2011 contains objectives and controls relating to acoustic and visual privacy. The following section assesses the visual and acoustic privacy impacts of the proposed windows and overall development on the surrounding locality.

The proposed development includes a number of new windows on the ground, first floor and attic. These are discussed individually below:

Ground floor level

Three windows are proposed on the northern elevation (identified as W1, W2 and W3). The three windows service a study and the kitchen area. The windows are located on the northern boundary facing Enmore Lane. As the windows overlook Enmore Lane, they have been designed with double glazing and open inwards. Security screen are proposed as the windows are located at ground level onto Enmore Lane. The three windows are 1.8 metres in length and are considered acceptable where passive surveillance of the laneway is provided. The windows are considered acceptable and a suitable level of privacy is maintained.

One highlight window (identified as W4) is proposed on the northern elevation servicing the dining and living area at the rear. The painted brick garden wall with vegetation located on the northern boundary adjoining Enmore Lane is proposed to be retained. Therefore, a level of privacy is retained to the rear portion of the dwelling. The highlight window is setback off the northern boundary and is located above the garden wall and is approximately 400mm in width. No visual privacy concerns are raised regarding this window.

One window and one french door (identified as W9 and W10) are proposed on the front elevation on the ground floor on the eastern elevation. W9 services the hallway and is a fixed sidelight which is attached to the entrance door. The sidelight is the same height as the door being 2.7 metres in height. W10 services the study and is a french door with a height of 2.6 metres. The sidelight and french doors are considered sympathetic to the streetscape. The windows overlook the front landscaped area of the dwelling and are considered acceptable.

Glass bi-fold doors (identified as W15) and a floor ceiling window (identified as W14) is proposed on the western rear elevation. The doors and window overlook the rear private open space of the site including the paved outdoor dining area. W14 overlooks the side boundary of the private open space. The windows and doors are located at natural ground level, and given existing/ proposed boundary fencing to the side boundaries, no visual privacy concerns are raised.

First floor level

Four windows (identified as W5, W6, W7 and W8) are proposed on the northern elevation on the first floor servicing bedroom 3 living area, bedroom 2 and one of the bathrooms. The windows are double glazed windows with security screens and match the windows on the ground floor on the northern elevation. The three windows are the same proportions and style as the windows on the ground floor. The windows are located on the first floor and service rooms to be primarily used as bedrooms as well as a bathroom which are considered to be low activity rooms, and thus, no visual privacy concern is raised in regards to these windows.

Two french doors (identified as W11 and W12) are proposed on the front elevation. The doors open onto a balcony on the first floor fronting the street. The doors service bedroom 3/ living room. Two blade walls are proposed on the northern and southern elevations for the balcony which mitigates privacy loss to the adjoining property at 3 Marian Street. The french doors overlook the street and are considered acceptable.

One window (identified as W16) is proposed on the western rear elevation servicing the walk in robe. The window is a narrow floor to ceiling window which does not service a habitable room and this no visual privacy concerns are raised.

Two openings (identified as W17 and W18) are proposed on the western elevation at the rear of the property and open onto Juliet balconies that will overlook the subject site's private open space. The sizes of the Juliet balconies ensure minimal overlooking to the adjoining property 3 Marian Street is achieved. Further, the Juliet balconies are located approximately 2.3 metres behind the rear building alignment of the adjoining dwelling at 3 Marian Street further restricting view lines. Therefore, a considerable distance is achieved to mitigate overlooking into the private open space to the adjoining property. The windows service bedroom 1 which is considered to be a low activity room and it is considered that no significant visual privacy impacts will be caused by these windows and is deemed acceptable.

Attic

A window is proposed on the northern elevation servicing bedroom 4 (identified as W8). A condition has been imposed to correct the numbering of the window. The window is proposed to be double glazed and matches the proportions of the other windows on the northern boundary. The window services a bedroom which is to be considered a low activity room and this no visual privacy concerns is raised in regards to this window.

Two windows are proposed on the western elevation (identified as W19 and W20). One window services bedroom 4 and W20 services a stairwell. W19 has been designed as a rear dormer and overlooks the roof of the first floor, whilst the window

servicing the stairwell also overlooks the roof below. The rear dormer is considered an acceptable window. A suitable level of privacy is retained and no significant visual privacy impacts will be caused by these windows and is deemed acceptable.

In view of the above assessment, the application is acceptable regarding visual and acoustic privacy under Part 2.6 of MDCP 2011.

Roof Terrace

A roof terrace is proposed at the rear of the property above a garage on the ground floor. The existing garage is proposed to be replaced with a new garage. The height of the structure is 4.6 metres and the roof terrace can be accessed from the stairs in the private open space accessing the terrace. A seat is proposed along the eastern, southern and western boundaries in front of the vegetation proposed. Bushes and shrubs are located along the boundaries of the roof terrace which acts as a buffer for the terrace. No seat is proposed along the northern boundary which is along Enmore Lane. The roof terrace is approximately 10 sqm and contains a landscaped area on the southern side of the terrace where a number of plans are proposed.

A detailed landscape plan and maintenance schedule was requested to be submitted with the application identifying the vegetation proposed for the private open space including the roof terrace. The first floor plan identifies vegetables and a shallow garden bed with succulents and ground covers. Intensive planting and extensive planting is proposed around the edges of the roof terrace and along the borders of the roof terrace which acts as a visual buffer for the terrace.

Concerns were raised in written submissions in relation to noise and privacy of the roof terrace above the garage. A number of roof terraces are located in close proximity to the subject site that back onto Enmore Lane such as properties at 158,172,174,176 and 180 Enmore Road which are mixed use buildings with commercial premises on the ground floor and residential on the first floor. Additionally, a residential roof terrace is located in close proximity to the subject site at 5 Marian Street.

The roof terrace of 1 Marian Street is above a garage with a roller door accessing Marian Lane. The roof terrace has been designed to ensure the whole area of the roof top is not to be used for seating, with part of the roof top used for vegetation such as a vegetable garden, which limits its entertainment section.

Privacy screens are proposed along the side boundaries of the roof terrace to prevent overlooking and to ensure privacy measures to the adjoining properties are mitigated. The privacy screens are 2.1 metres in height and are perforated corten metal panels. Concerns were raised regarding visual privacy impacts attributed to the roof terrace on the northern and western elevations. Privacy screens on the northern and western elevations were requested as part of the amended plans to address overlooking from the adjoining properties at 3 and 5 Marian Street. The privacy screens are located on the northern boundary adjoining Enmore Lane and are located on the south east corner and south west corner and located on the western boundary adjoining Marian Lane. The heights of the privacy screens are considered an acceptable height to mitigate privacy loss. The terrace has been designed to have the seating area closer to the northern boundary adjoining Enmore Lane. However, vegetation is proposed as a buffer around the terrace and roof as a

privacy measure. The garden bed is proposed on the southern portion of the terrace to maintain privacy to the adjoining rear private open space of 3 Marian Street and to ensure the seating area is not located alongside the boundary adjoining 3 Marian Street.

Notwithstanding, the elevated terrace is located in close proximity to the subject site at 5 Marian Street. The terrace overlooks into the rear private open space of 3 Marian Street and approximately 7 metres separates the terrace at 5 Marian Street to the proposed new roof terrace at 1 Marian Street. Although some overlooking will be created from the roof terrace, the distance between the proposed roof terrace and the terrace at 5 Marian Street is considered acceptable. Some overlooking is inevitable from 5 Marian Street to the roof terrace at 1 Marian Street however the distance between the dwelling at 5 Marian Street and the roof terrace is considered acceptable. View lines from 5 Marian Street to the roof terrace would be cast across the rear private open space of 3 Marian Street, however privacy screens have been proposed on the south east corner and south west corner boundaries of the terrace to mitigate view lines.

Acoustic Privacy

Concerns were raised regarding noise from the proposed terrace. A number of terraces are located in close proximity to the subject site. Roof terraces are located above commercial tenancies fronting Enmore Road and are larger in size. 5 Marian Street has a larger raised terrace which forms an extension of the first floor. The roof terraces of these properties act as the main private open space for the tenancies therefore could possibly be used more regularly for entertainment purposes than the proposed roof terrace.

The roof terrace proposed for 1 Marian Street is relatively compact and is not the main private open space for the proposed dwelling. The terrace is considered appropriate and designed in a way to ensure adequate acoustic privacy for nearby properties is maintained. The seating area is restricted to a portion of the terrace and the other half of the terrace will be used as a garden bed therefore the area for using the space is restricted to the 10 sqm. The size of the terrace is considered to not warrant a large number of people using the space for entertainment purposes and therefore noise will be minimal from the terrace.

(ii) Solar Access and Overshadowing (Part 2.7)

Solar Access – Adjoining Property – 3 and 5 Marian Street

The shadow diagrams submitted with the application illustrate the extent of overshadowing on adjacent residential properties.

Control C2(i) specifies that direct solar access to windows of principal living areas and principal areas of open space of nearby residential accommodation must not be reduced to less than 2 hours between 9:00am and 3:00pm on 21 June.

The neighboring property, 3 Marian Street, is situated south of the site. As demonstrated in the shadow diagrams accompanying the application, on 21 June, the rear private open space of 3 Marian Street does not receive at least 2 hours of solar access between 9.00am and 3.00pm on 21 June with only partial solar access

being received between 11.00am to 3.00pm. Therefore shadow diagrams were requested for 21 March/September.

Notwithstanding, the additional overshadowing to the rear private open space of 3 Marian Street is similar from the existing overshadowing with the main reductions in solar access at 10.00am on 21 June.. The following table provides the percentage of solar access received to the private open space on 21 June for 3 Marian Street.

Time	Solar Access currently received (percentage)	Overshadowing Impact from proposed development (percentage)
9.00am	0%	0%
10.00am	24%	9%
11.00am	27%	25%
12.00pm	40%	40%
1.00pm	16%	16%
2.00pm	16.6%	13.6%
3.00pm	0%	0%

Table 1: Percentage of solar access to the private open space at 3 Marian Street on 21 June

Overshadowing on 21 June to the rear private open space of 3 Marian Street (to the immediate south of the site) would not result in at least two hours of solar access on 21 June, therefore shadow diagrams for 21 March/September were requested. As demonstrated in the shadow diagrams accompanying the application, the rear private open space of 3 Marian Street will maintain at least 2 hours of solar access between 12.00pm and 3:00pm on 21 March/September, which satisfies the solar access and overshadowing objectives of Part 2.7 of MDCP 2011.

At 9.00am on 21 March/September additional shadowing would be cast to the rear northern boundary of 3 Marian Street whilst the majority of the rear private open space is currently overshadowed. From 10.00 am to 1.00pm additional overshadowing to the northern boundary is cast to 3 Marian Street from the proposed new garage at the rear of the adjoining property 1 Marian Street. The private open space on 21 March/September receives a minimum two hours of direct sunlight over 50% between 11.00am to 2.00pm.

Concern was raised regarding overshadowing to 5 Marian Street. The additional overshadowing is cast to the adjoining property to the south of the subject site being 3 Marian Street. The shadow diagrams show the boundary between 3 and 5 Marian Street; however the additional shadow is being cast to the immediate neighbour to the south at 3 Marian Street and therefore shadow diagrams to show 5 Marian Street is not considered to warrant the need for further shadow diagrams.

Additional shadowing is cast to the subject site on 21 June, notwithstanding on 21 June Solar access is maintained for the subject's site private rear open space with at least two hours of solar access being achieved on 21 March/September which is considered acceptable for the site.

An existing garage is located at the rear of the property which casts existing overshadowing to the adjoining property to the south of the subject site being 3 Marian Street. The garage is proposed to be replaced with a new garage with additional overshadowing created by the roof terrace above the garage casting additional shadows to 3 Marian Street. As the garage is being replaced the additional overshadowing from the roof terrace is minimal and is considered acceptable. The roof terrace is an open structure with screens located on the northern, eastern and southern corners and the western boundary onto Marian Lane and is not considered to create excessive bulk and additional shadowing from the overshadowing currently already cast from the existing garage located on the site. It is noted that the proposed dwelling at 1 Marian Street does not extend beyond the rear alignment of the other dwellings in Marian Street and as such does not create any additional overshadowing impacts onto the adjoining sites.

In view of the above, the development is considered reasonable having regard to overshadowing under MDCP 2011.

Solar Access – Proposed Dwelling at 1 Marian Street

The dwelling house has been designed in an energy efficient manner for the following reasons:

- The site's east/west orientation limits the ability to orient principle living area windows within 30 degrees east and 20 degrees west of true north to allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June. Notwithstanding the above, the development accommodates a high level, north facing window within the ground floor family area (W4), and north facing kitchen windows (W2 and W3) which will receive the minimum prescribed solar access for the living areas of the property in mid-winter. These arrangements promote energy efficiency and passive solar design in accordance with Council's solar access objectives.
- The private open space of the proposed dwelling will not receive at least two hours of solar access on 21 June as required by Council's solar access controls. The site has an existing garage located at the western end of the site which causes existing overshadowing impacts to the private open space at 1 Marian Street. This development proposes to replace this garage with a new garage with a small open roof top terrace above. This structure results in the private open space receiving partial solar access. Given that there is no substantial change to the existing overshadowing impacts the proposal is considered to be appropriate in this case.

Three solar panels are proposed on the roof of the dwelling which is considered acceptable for the site.

In view of the above, the proposed development complies with the solar access objectives O1 and O2 and the controls under Part 2.7 of MDCP 2011.

(iii) Parking (Part 2.10)

Part 2.10 of MDCP 2011 requires one car parking space be provided for the development. One car parking space is proposed for the site at the rear with a terrace above. The application was referred to Council's Development Engineer who raised no issues subject to conditions. The proposal therefore complies with this requirement.

(iv) Fencing (Part 2.11)

The development proposes to retain the existing garden wall with exterior climbers on the northern boundary adjoining Enmore Lane which is approximately 2.3 metres in height. A roller door to access the garage is proposed off Enmore Lane adjacent to the new painted brick wall of the garage which is approximately 2.5 metres in height. A number of roller doors are located in Enmore and Marian Lane and the roller door is considered acceptable. Although the rear boundary wall is higher than 1.8 metres, the proposed brick wall is replacing the existing garage brick wall currently on the site. Marian Lane contains a range of roller doors and varying heights of brick walls and fences. The brick wall has a minimal impact on the lanescape and is considered acceptable with Part 2.11 of MDCP 2011.

(v) Landscaping and Open Spaces (Part 2.18)

Control C12, Part 2.18.11.1 of MDCP 2011 requires the following private open space provisions:

- i. The greater of 45sqm or 20% of the total site area with no dimension being less than 3 metres, must be private open space.
- ii. A minimum 50% of private open space must be pervious.

Based on a site area of 187.9sqm, 36.9 sqm is proposed as private open space for the development with 16.9 sqm being pervious. A roof terrace is proposed above the garage and is approximately 27sqm in area and includes a seat, garden bed and an area for vegetables.

The total private open space including the roof terrace is 63.9 sqm which complies with Part 2.18 of MDCP 2011 and contains more private space than the adjoining property at 3 Marian Street which has a landscaped area of 17.4 sqm. Additionally, the private open space of the site acts as an extension of the principle living area, provides sufficient amenity for occupants of the dwelling and achieves solar access and thus acceptable.

(i) Tree Management (Part 2.20)

The proposal seeks removal of a number of trees located at the rear of the property. The application was referred to Council's Tree Management Officer who provided the following comments:

"The proposed development requires the removal of the honey locust and the camellia hedge. Two trees are proposed as compensatory tree planting. The proposed tree removal and replacement planting is considered acceptable.

Tree protection will be required for the street trees in the bed in front of property nos. 1 and 3".

Council's Tree Management Officer has agreed to the removal of the honey locust and the cameillia hedge from the site subject to the imposition of appropriate conditions.

(vii) Site Facilities and Waste Management (Part 2.21)

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application.

(viii) Good Urban Design Practice (Part 4.1.4)

The development maintains the height, bulk and scale of the period dwelling house as perceived from the street and is in keeping with the character of the area. Given the above the development is reasonable having regard to the objectives and controls relating to good urban design contained in MDCP 2011.

The development has been designed to reflect the typology of the two storey terraces on Marian Street. The roof form, the building height and preservation of the vegetation including the fence and garden wall along the northern boundary is sympathetic to the heritage conservation area.

(ix) Streetscape and Design (Part 4.1.5)

The development satisfies the streetscape and design controls outlined in MDCP 2011 in that:

- The development complements the uniformity and visual cohesiveness of the bulk, scale and height of the existing streetscape;
- The proposal is a contemporary design at the rear that complements the generally mixed contemporary and industrial character of the building structures that are visible from the rear laneway; and

(x) Floor Space Ratio and Height (Part 4.1.6.1)

The development satisfies the floor space ratio and height controls outlined in MDCP 2011 in that:

- The FSR complies with the FSR standard under MLEP 2011;
- While the proposal exceeds the maximum height development standard prescribed under MLEP 2011 the variation is supported for the reasons outlined under heading 5(a)(ii)(v) above.
- The bulk and relative mass of development is acceptable for the street and adjoining dwellings in terms of overshadowing and privacy, streetscape (bulk and scale), building setbacks, parking;
- The development does not unreasonably impact on the existing views of adjacent properties and maintains a reasonable level of view sharing;
- The alterations and additions to the period building do not detract from the individual character and appearance of the dwelling being added to and the wider streetscape character; and
- The development allows adequate provision to be made on site for infiltration of stormwater, landscaping and areas of private open space for outdoor recreation.

(xi) Building Setbacks (Part 4.1.6.2)**Side Setback**

The proposal provides the following ground, first floor and attic level side boundary setbacks:

- Ground Floor- nil setback on the northern boundary and 800mm inset from the dining room to the rear setback.
- First Floor- Nil to the northern boundary and nil to the southern boundary; and
- Attic Level- Nil to 1.1m at the rear portion where the rear dormer is proposed and 600mm on the southern boundary at the rear portion of the attic.

The development satisfies the side setback control outlined in MDCP 2011 in that:

- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation;
- The proposal does not create an unreasonable impact upon adjoining properties in relation to overshadowing and visual bulk; and
- The proposal is satisfactory in relation to the street context.

Rear Setback

The proposed garage and roof terrace has a nil rear and side setback. The rear structure is considered acceptable due to the lanescape of Marian Lane which contains a range of structures and garages and is considered acceptable for the following reasons:

- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation; and
- The proposal integrates new development with the established setback character of the street and maintains established gardens, trees and vegetation networks.

(xii) Site Coverage (Part 4.1.6.3)

The proposal:

- Results in a site coverage that is generally consistent with the existing character of neighbouring dwellings; and
- Allows adequate provision for uses such as outdoor recreation, footpaths, other landscaping, off-street parking, waste management, clothes drying and stormwater management.

The development is reasonable having regard to the objectives and controls relating to site coverage contained in MDCP 2011.

(xiii) Part 8 Heritage

The property is located within a Heritage Conservation Area under MLEP 2011 (Heritage Conservation Area C13 – Enmore House Estate Conservation Area).

The development was referred to Council's Heritage and Urban Design Advisor who requested changes to the proposed development which have been amended. The following comments from the Heritage and Urban Design Advisor below:

“With regard to the MLEP 2011 height non-compliance, the proposed built form, roof form and height is consistent with the existing Victorian Terrace at 3 Marian Street to the south and in harmony with the overall height of nearby terraces along Marian Street. Thus, the height non-compliance can be justifiable from a heritage and urban design perspective”.

The roof material is to be amended and a condition of consent is included in the determination. The application is supported from a Heritage and Urban Design perspective and is reasonable having regard to the objectives and controls outlined for the Heritage Conservation Area under MLEP 2011.

Concern was raised regarding the design of the proposed development in the HCA. The application was referred to Council's Heritage and Urban Design Advisor as discussed above who supports the application. A schedule of finishes was requested with the amended plans which are considered to be appropriate. A condition has been imposed to amend the roof material. The proposed development is sympathetic to the streetscape and as discussed throughout the report the development compliments the visual cohesiveness of Marian Street and complies with Part 8.2.15 of MDCP 2011.

PART 9 – STRATEGIC CONTEXT

The property is located in the Camdenville (Precinct 14) under Marrickville Development Control Plan 2011. The development satisfies the desired future desired character of the area in that:

- The development protects and preserves the period buildings within the precinct;
- The development protects the significant streetscapes and/or public domain elements within the precinct including landscaping, fencing, open space, sandstone kerbing and guttering, views and vistas and prevailing subdivision patterns.
- The development protects the identified values of the Enmore-Newtown Heritage Conservation Area,

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(e) The suitability of the site for the development

The site is zoned R2- Low Density Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Council's Notification policy for a period of 14 days to surrounding properties and 3 submissions were received. The following issues raised in the submissions have been discussed in this report:

- Loss of Acoustic and Visual Privacy from the roof terrace – see Section 5 (c) of this report (Visual and Acoustic Privacy - Part 2.6 of MDCP 2011);
- Excessive solar access and overshadowing from the proposed development including the roof terrace– see Section 5 (c) of this report (Solar Access and Overshadowing - Part 2.7 of MDCP 2011);
- Impact on the significance on the Heritage Conservation Area from the proposed development – see Section 5 (c) of this report (Heritage - Part 8 of MDCP 2011);
- Impact of the proposed development on the streetscape – see Section 5 (c) of this report (Streetscape and Design - Part 4.1.5 of MDCP 2011);
- Bulk of the proposed development to the streetscape – see Section 5 (c) of this report (Good Urban Design Practice - Part 4.1.4 of MDCP 2011);
- Materials of the proposed development – see Section 5 (c) of this report (Heritage - Part 8 of MDCP 2011); and
- Streetscape of Enmore Lane and Marian Street – see Section 5 (c) of this report (Fencing - Part 2.11 of MDCP 2011).

In addition to the above issues, the submission raised the following concerns which are discussed under the respective headings below:

- (i) Deficiencies in the submitted survey plan

Comment:

Concern was raised regarding the adequacy of the survey plan as the plan did not identify structures and windows of 5 Marian Street. Council considers that it is not necessary for the survey plan to show the property at 5 Marian Street as it does not adjoin the subject site at 1 Marian Street. The survey plan shows the context of 1-3 Marian Street which is considered acceptable. The survey plan submitted with the application is considered acceptable. The plan complies with Part A.1.2.5 of MDCP 2011 and shows the details of 1-3 Marian Street.

- (i) Overdevelopment of the site

Comment:

Concern was raised regarding the proposed development being an overdevelopment of the site. The development complies with the majority of the controls particularly the FSR control apart from the breach of height and is considered an acceptable outcome to the built environment.

In view of the above, the development is considered reasonable in relation to view sharing.

5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Heritage and Urban Design Advisor
- Tree Management Officer
- Development Engineer

7. Section 94 Contributions

A Section 94 levy of \$20,000.00 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014 and a condition requiring the above levy to be paid has been included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The variation to Clause 4.3 Height of Buildings of Marrickville Local Environmental Plan 2011 be supported under the provisions of Clause 4.6 Exceptions to Development Standards.
- B. That Council, as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application No: 201700503 to construct a 2 part 3 storey dwelling house and a roof terrace above an existing garage subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

RECOMMENDATION

- A. THAT the development application to construct a part 2 and part 3 storey dwelling house and a new garage with roof terrace above be **APPROVED** subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans and details listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
A02, B, 1702	Ground Floor Plan & Section 1-1	19 December 2017	Seeman Rush Architects	20 December 2017
A03, B, 1702	First Floor, Attic & Roof Plan	19 December 2017	Seeman Rush Architects	20 December 2017
A04, B, 1702	Elevations 1	19 December 2017	Seeman Rush Architects	21 December 2017
A05, 1702, B	Elevations 2	19 December 2017	Seeman Rush Architects	20 December 2017
A06, 1702, B	Elevations 3	19 December 2017	Seeman Rush Architects	20 December 2017
A09, 1702, B	Materials and Finishes & Basix	19 December 2017	Seeman Rush Architects	20 December 2017
A10, 1702, B	Landscape Plan	19 December 2017	Seeman Rush Architects	20 December 2017
A12, 1702, B	Demolition Plan	19 December 2017	Seeman Rush Architects	20 December 2017
A13, 1702, B	Window & Sill Details	19 December 2017	Seeman Rush Architects	20 December 2017
	Marian Wall Structural Engineer Drawing	16 December 2017	Leigh Bachmann Structural Engineer Pty. Ltd.	20 December 2017
838831S	BASIX Certificate	11 October 2017	Seeman Rush Architects	

and details submitted to Council on 13 October 2017, 20 January 2018 21 January 2017 with the application for development consent and as amended by the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

2. Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:
- the plans and/or information approved under this consent; or
 - any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.

Reason: To ensure the development is carried out in accordance with this Determination.

3. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.

Reason: To ensure that the development is adequately serviced.

4. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the National Construction Code (Building Code of Australia).

5. All prescribed trees shall be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 unless their removal, pruning or other works is explicitly approved under the terms of this consent. The *Gleditsia tricanthos* (honey locust) and camellia hedge may be removed.

Reason: To clarify that prescribed trees must be retained unless explicit approval is given for their removal.

6. All reasonable directions in writing by the project arborist in relation to tree management and tree protection shall be complied with.

Reason: To ensure that tree protection is able to be reactive to unforeseen risks and impacts.

7. During construction the project arborist shall undertake periodic inspections of trees and tree protection measures, as detailed in the tree protection plan.

Reason: To ensure that conditions relating to tree removal, tree protection and tree planting are complied with.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the National Construction Code (Building Code of Australia).

8. No work must commence until:

- a) A PCA has been appointed. Where Council is appointed ensure all payments and paper work are completed (contact Council for further information). Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
- b) A minimum of 2 days written notice given to Council of the intention to commence work.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

9. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
Reason: To comply with the provisions of the Environmental Planning and Assessment Act.
10. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.
Facilities must be located so that they will not cause a nuisance.
Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.
11. The person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to include colour photographs and is to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the property owner of the identified property, before work commences, on the buildings on the adjoining property at 3 Marian Street, Enmore if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.
Reason: To catalogue the condition of the adjoining property for future reference in the event that any damage is caused during work on site.
12. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.
Reason: To secure the area of the site works maintaining public safety.
13. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign is to be maintained at all times until all work has been completed. The sign must include:
a) The name, address and telephone number of the PCA;
b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.
14. Sediment control devices must be installed before the commencement of any work and must be maintained in proper working order to prevent sediment discharge from the construction site.
Reason: To prevent soil erosion and sedimentation of Council's stormwater drainage system.
15. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit must be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations must be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised openings as provided for in Council's adopted fees and charges.
Reason: To ensure that all restoration works are in accordance with Council's Code.

16. Alignment levels for the site at all pedestrian and vehicular access locations must be obtained from Council before the commencement of construction. The alignment levels must match the existing back of footpath levels at the boundary. Failure to comply with this condition will result in vehicular access being denied.
Reason: In accordance with Council's powers under the Roads Act, 1993, alignment levels at the property boundary will be required to accord with Council's design or existing road and footpath levels.
17. If new street numbers or a change to street numbers (this includes unit and shop numbers) are required, a separate application must be made to and approved by council prior to those street numbers being displayed.
Reason: To ensure that the building is easily identifiable.
18. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit shall be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised openings in the amount as provided for in Council's adopted fees and charges.
Reason: To ensure that all restoration works are in accordance with Council's Code.
19. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged to prepare a Tree Protection Plan, which shall be submitted to and approved by Council before work commences. The Tree Protection Plan shall include the two street trees in front of properties numbers 1 and 3.
Reason: To ensure trees being retained are effectively protected and managed and their stability and ongoing viability are not compromised.
Note: Council requirements for a tree protection plan are detailed in Marrickville Development Control Plan, Clause 2.20 Appendix 1.
20. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged before work commences for the duration of site preparation, demolition and construction.
Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.
21. The contact details of the project arborist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.
Reason: Council requires details of the project arborist to facilitate communication if required.
22. The tree protection measures detailed in the council-approved tree protection plan shall be established before work commences.
Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised.
23. The project arborist shall inspect the tree protection measures and certify in writing to the Principal Certifying Authority that they comply with the council-approved tree protection plan before work commences.
Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.

24. Evidence of payment of the building and construction industry Long Service Leave Scheme must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

NOTE: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.
http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

25. This condition is imposed in accordance with Section 94 of the Environmental Planning and Assessment Act 1979.
- b) Before the *issue of a Construction Certificate, the Council must be paid a monetary contribution of \$20,000.00 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 19 January 2018.

***NB** Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

(CONTRIBUTION PAYMENT REFERENCE NO. DC002153)

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:
- | | |
|-----------------------|-------------|
| Community Facilities | \$2,142.73 |
| Plan Administration | \$392.16 |
| Recreation Facilities | \$17,095.64 |
| Traffic Facilities | \$369.47 |
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.
- e) The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card*.

*NB A 1% credit card transaction fee applies to all credit card transactions.

Reason: To ensure provision is made for the increase in demand for public amenities and services required as a consequence of the development being carried out.

26. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

NOTE: The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate issued no earlier than 3 months before the date of lodgement of the application for the Construction Certificate. (Refer to Clause 6A of Schedule 1 to the Regulation).

Reason: To ensure that the BASIX commitments are incorporated into the development.

27. Before the issue of a Construction Certificate an amended Schedule of Colours and Finishes must be submitted to the Certifying Authority's satisfaction indicating: Zinalume corrugated metal roof shall be replaced by corrugated galvanized steel or corrugated colourbond roof sheeting.

Reason: To ensure the roof is of a non- reflective material.

28. Before the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction indicating

- a) Plan A03 is to be amended with W8 on the northern elevation of the first floor servicing the bathroom to be corrected with the numbering W21.
- b) Window & Sill Details plan is to be amended with W5, W6 and W7 to delete the security screens for these selected windows

Reason: To ensure consistency in the architectural plans.

29. Prior to the commencement of demolition works or before the issue of a Construction Certificate (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$2100.00
Inspection fee (FOOT)	\$225.00

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

30. Sediment control devices must be constructed and maintained in proper working order to prevent sediment discharge from the construction site. Sediment control plans and specifications complying with the 'Urban Erosion and Sediment Control' Handbook, published by the NSW Department of Conservation and Land Management (CALM) must be submitted to the Principal Certifying Authority before the issue of a Construction Certificate.
Reason: To prevent soil erosion and sedimentation of Council's stormwater drainage system.
31. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2000 in relation to interior design sound levels, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2000. Plans fully reflecting the selected commitments must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
Reason: To reduce noise levels within the development from aircraft.
32. Lighting details of the entrance to the dwelling house must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
Reason: To ensure appropriate lighting is provided to create a safe living environment.
33. Before the issue of a Construction Certificate, the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.
Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

SITE WORKS

34. All excavation, demolition, construction, and deliveries to the site necessary for the carrying out of the development, must be restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work must be carried out on any Saturday that falls adjacent to a Public Holiday.
Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.
35. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.
36. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

37. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:

- a) after excavation for, and prior to the placement of, any footings;
- b) prior to pouring any in-situ reinforced concrete building element;
- c) prior to covering of the framework for any floor, wall, roof or other building element;
- d) prior to covering waterproofing in any wet areas;
- e) prior to covering any stormwater drainage connections, and
- f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the National Construction Code (Building Code of Australia).

38. All demolition work must be carried out in accordance with the following:

- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
- b) all works involving the demolition, removal, transport and disposal of material containing asbestos must be carried out by suitably qualified persons in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
- c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
- d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
- e) the generation of dust and noise on the site must be controlled;
- f) the site must be secured to prohibit unauthorised entry;
- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

39. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:

- a) protect and support the adjoining premises from possible damage from the excavation;
- b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents shall be obtained prior to the required works commencing; and
- c) at least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received shall be forwarded to the PCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

40. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.
Reason: To provide for adequate site drainage.
41. If the proposed work is likely to cause obstruction of the public place and/or is likely to endanger users of the public place, a suitable hoarding or fence approved by Council must be erected between the work site and the public place.
Reason: To provide protection to the public place.
42. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.
Reason: To ensure all works are contained within the boundaries of the allotment.
43. The person acting on this consent must comply with the requirements of the Dividing Fences Act in respect to the alterations and additions to the boundary fences.
Reason: To ensure that the provisions of this Act are observed.
44. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
Reason: To ensure dust and other particles are not blown from vehicles associated with the use.
45. Tree protection measures detailed in the council-approved tree protection plan and in Section 4 of Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 shall be implemented and complied with for the duration of works including site preparation, demolition and construction (except where these conditions permit otherwise). Any reasonable directions in writing by the Project Arborist relating to tree protection shall be complied with.
Reason: To ensure trees being retained are effectively protected and managed and their stability and ongoing viability are not compromised.

46. Trees to be removed shall be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with the Safe Work Australia *Guide to Managing Risks of Tree Trimming and Removal Work*, July 2016.
Reason: To ensure trees are removed in a safe and environmentally responsible manner.
47. Following completion of construction and prior to the issue of the Occupation Certificate, two new trees shall be planted.
Reason: To sustain the urban forest canopy across the LGA.
48. The new trees shall be planted in accordance with the following criteria:
- The new trees shall be located in accordance with the ground floor plan (Seemann Rush Architects, 11/10/17), and shall be at least 1.5 metres from any boundary and at least 2.0 metres from any building.
 - The species of trees shall be as detailed in ground floor plan (Seemann Rush Architects, 11/10/17).
 - The planting stock size shall be at least 100 litres.
 - The planting stock shall comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
 - The new trees shall be planted in accordance with the tree planting detail included in the Marrickville Street Tree Master Plan 2014.
Please note that planting holes for trees shall not be excavated deeper than the root ball and that new trees shall not be staked.
 - The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
 - Each replacement tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
 - If either tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.
- Reason: To ensure that the new trees provide adequate and appropriate compensation, are planted in a suitable location and maintained properly.

BEFORE OCCUPATION OF THE BUILDING

49. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
- A copy of the determination;
 - Copies of any documents that were lodged with the Occupation Certificate application;
 - A copy of Occupation Certificate, if it was issued;
 - A copy of the record of all critical stage inspections and any other inspection required by the PCA;
 - A copy of any missed inspections;
 - A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
- Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.
50. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction.
Reason: To ensure adequate landscaping is maintained.

51. The Certifying Authority must be satisfied that each of the commitments listed in Aircraft Noise Assessment Report required by this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
Reason: To ensure that all of the commitments associated with Aircraft Noise Assessment Report have been fulfilled.
52. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
Reason: To ensure that all of the BASIX commitments have been fulfilled and to comply with the requirements under Section 154B of the Environmental Planning and Assessment Regulations 2000.
53. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.
Reason: To ensure compliance with the requirements under Section 154C of the Environmental Planning and Assessment Regulations 2000.
54. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed before the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
Reason: To ensure that the person acting on this consent completes all required work.
55. Before the issue of an Interim or Final Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of council before being displayed.
Reason: To ensure that the building is easily identifiable.
56. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
Reason: To ensure that the person acting on this consent completes all required work.
57. The project arborist shall certify in writing to the Principal Certifying Authority (PCA) before the issue of the Occupation Certificate that the conditions of consent relating to tree removal, tree pruning, tree protection and tree planting have been complied with and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Inner West Council.
Reason: To ensure that conditions that aim to ensure the sustainability of Inner West urban forest are complied with.

USE OF THE BUILDING

58. The premises must be used exclusively as a single dwelling house and must not be adapted for use as a residential flat building or boarding house and must not be used for any industrial or commercial purpose.
Reason: To ensure that the premises are used exclusively as a single dwelling house.

59. The garage must be used exclusively in association with the dwelling house on the property and must not be adapted for use for habitable purposes and must not be used for any industrial or commercial purpose.
Reason: To ensure that the structure is not used for any habitable, industrial or commercial purpose.
60. The structure must be used exclusively in association with the dwelling house on the property and must not be adapted for use for habitable purposes and must not be used for any industrial or commercial purpose.
Reason: To ensure that the structure is not used for any habitable, industrial or commercial purpose.

ADVISORY NOTES

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- Contact "Dial Before You Dig" before commencing any building activity on the site.

• Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diySAFE.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au
Sydney Water	☎ 13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	☎ 1300 651 116 www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS)

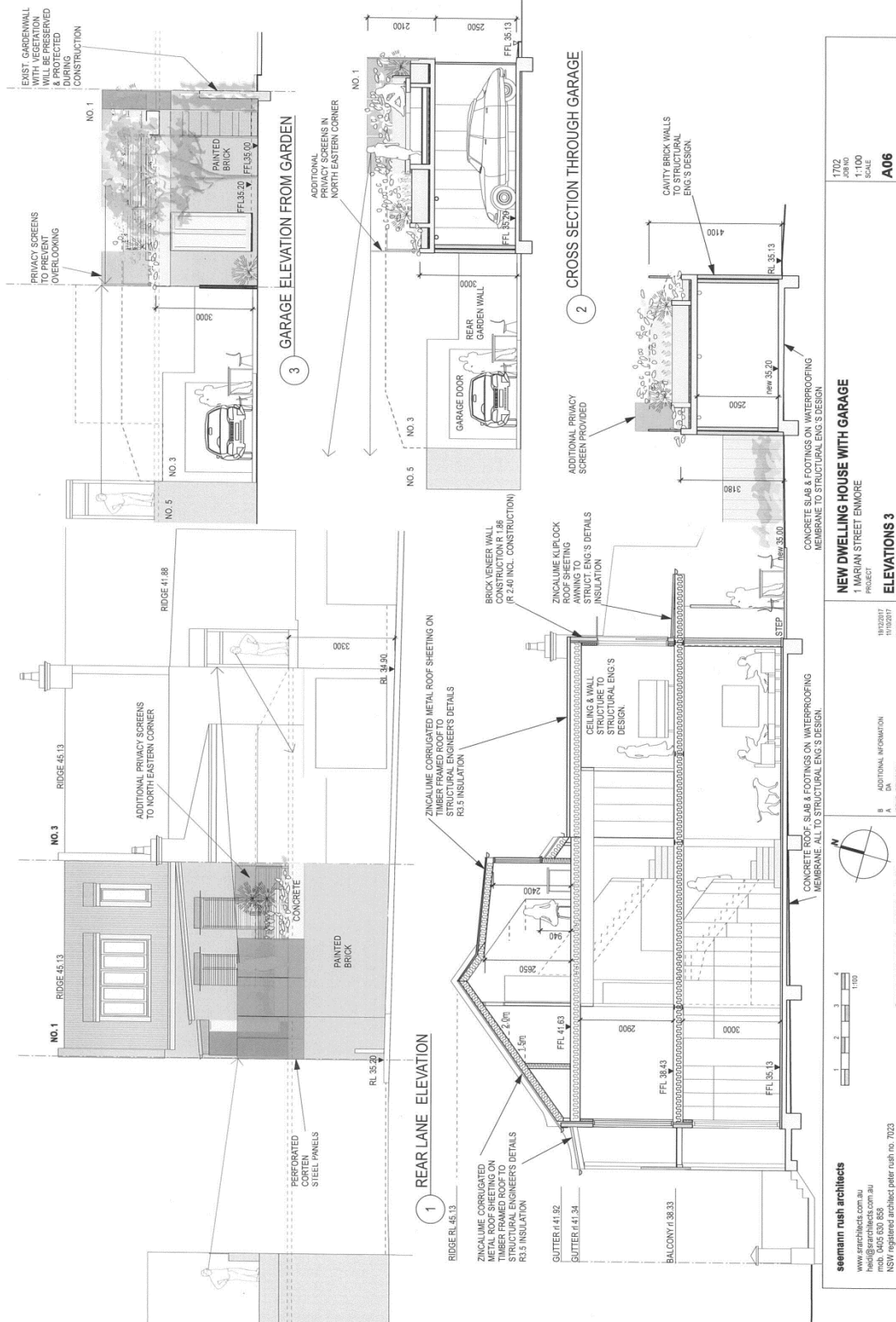
www.waterrating.gov.au

WorkCover Authority of NSW

☎ 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.



EROSION & SEDIMENT CONTROL

THIS PLAN SHALL BE READ IN CONJUNCTION WITH THE ARCHITECTURAL AND ENGINEERING PLANS AND ANY OTHER PLANS OR WRITTEN INSTRUCTIONS THAT MAY BE ISSUED BY THE CONTRACTOR. THE CONTRACTOR SHALL ENSURE THAT ALL SOIL AND WATER MANAGEMENT WORKS ARE LOCATED AS SHOWN ON THIS DRAWING. PROTECT ALL NEW PITS FROM SEDIMENT INFILTRATION PROGRESSIVELY AS THEY ARE CONSTRUCTED. ALL DOWNSTREAM STORMWATER PITS ARE TO BE PROTECTED FROM SEDIMENT INFILTRATION DURING CONSTRUCTION.

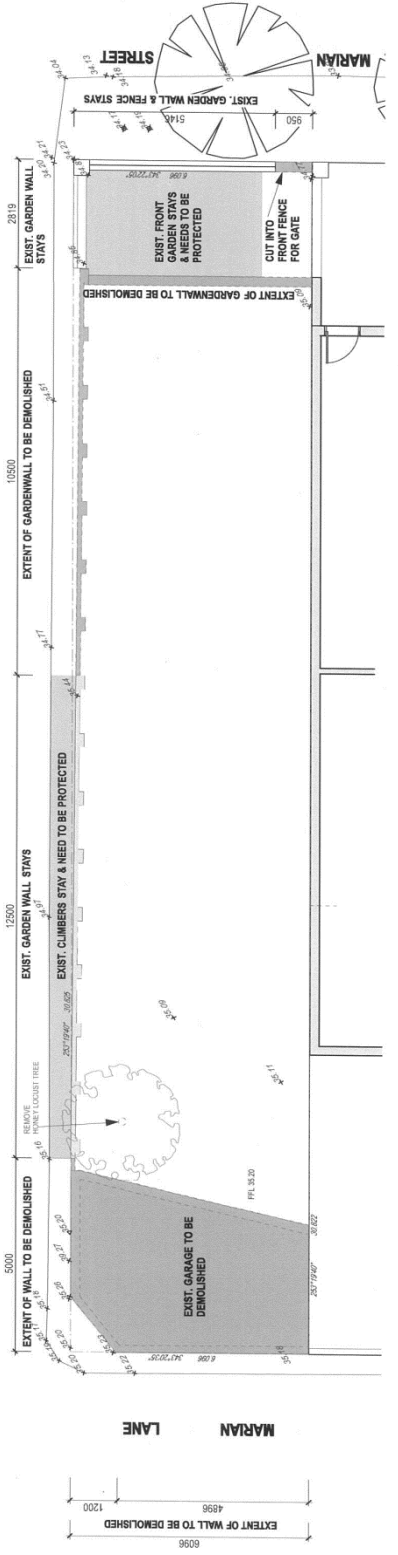
ALL SUB-CONTRACTORS ON SITE SHALL BE MADE AWARE OF THE RISK OF EROSION AND POLLUTION TO WATER COURSES AND SOIL WHERE PRACTICAL, THE SOIL EROSION HAZARD ON THE SITE SHALL BE KEPT AS LOW AS POSSIBLE TO ACHIEVE. WORKS SHOULD BE CARRIED OUT AS FOLLOWS:
 1) INSTALL ANY NECESSARY SECURITY/BOUNDARY FENCES FOR THE SITE.
 2) CONSTRUCT 'SILT' MEASURES AS DETAILED ALONG BOTH DOWNSLOPE BOUNDARIES.
 DURING WINDY WEATHER, LARGE UNPROTECTED AREAS SHALL BE KEPT MOST (NOT MET) BY SPRINKLING WITH WATER TO KEEP JUST UNDER CONTROL.

THE CONTRACTOR SHALL PROVIDE ACCEPTABLE RECEPTORS FOR CONCRETE & MORTAR SLURRIES, PAINTS, ACID WASHINGS, LIGHTWEIGHT WASTE MATERIALS AND LITTER.
 RECEPTORS FOR CONCRETE AND MORTAR SLURRIES, PAINTS, ACID WASHINGS, LIGHTWEIGHT WASTE MATERIALS AND LITTER, SHALL BE IN A MANNER APPROVED BY THE SITE SUPERINTENDENT.
 EVERY WEEK, FOR THE DURATION OF WORKS THE CONTRACTOR SHALL INSPECT THE SITE FOR THE FOLLOWING ITEMS:
 -REMOVAL OF SPILLED SAND OR OTHER MATERIALS FROM HAZARD AREAS, INCLUDING LANDS CLOSER THAN 2 METRES FROM AREAS, INCLUDING LANDS CLOSER THAN 2 METRES FROM AREAS.

OF CONCENTRATED OR HIGH-VELOCITY FLOWS SUCH AS WATERCOURSES, OVERLAND FLOW PATHS, GUTTERS, PAVED AREAS AND DRIVEWAYS.
 CONSTRUCT ADDITIONAL EROSION AND/OR SEDIMENT WORKS NECESSARY TO ENSURE THE DESIRED PROTECTION IS GIVEN TO ALL WATERWAYS AND DRIVEWAYS. MAKE ONGOING CHANGES TO THE PLAN.
 MAINTAIN EROSION AND SEDIMENT CONTROL MEASURES IN A FUNCTIONING CONDITION UNTIL ALL EARTHWORK ACTIVITIES ARE COMPLETED AND THE SITE REHABILITATED.
 REMOVE TEMPORARY SOIL CONSERVATION STRUCTURES AS A LAST ACTIVITY IN THE CONSTRUCTION PROGRAMME.

ENMORE

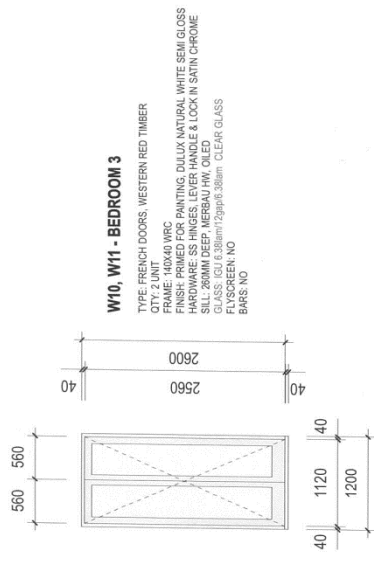
LANE



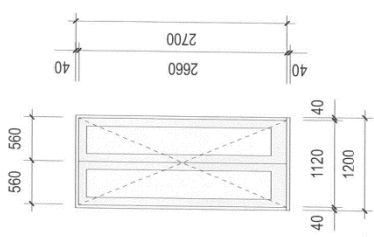
ALL DEMOLITION TO BE CARRIED OUT IN ACCORDANCE WITH AS 2801-2001 - DEMOLITION OF STRUCTURES

1 GROUND FLOOR PLAN

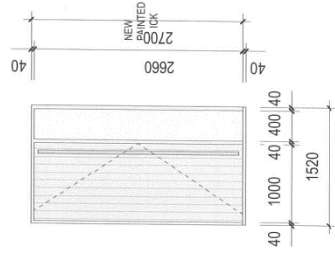
<p>seemann rush architects www.sraarchitects.com.au heidi@seemannrush.com.au mob: 0415 630 858 NSW registered architect/interior design no. 7023</p>	<p>1:100 SCALE</p> <p>A12 DWG NO.</p>
<p>DATE: 11/03/2017 ISSUE: REVISION</p>	<p>DATE: 11/03/2017 ISSUE: REVISION</p>



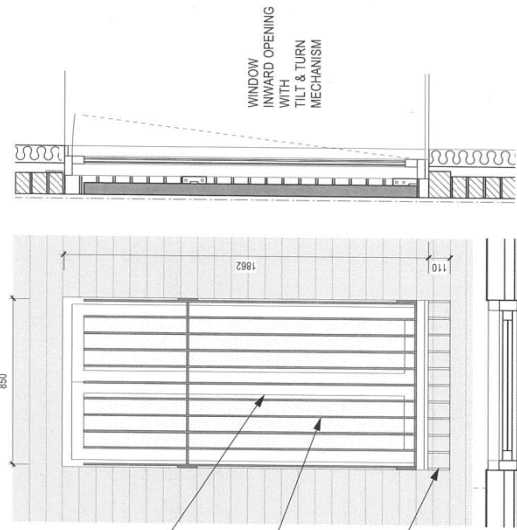
W10, W11 - BEDROOM 3
 TYPE: FRENCH DOORS, WESTERN RED TIMBER
 QTY: 2 UNIT
 FRAME: 140x40 WRC
 FINISH: PRIMED FOR PAINTING, DULUX NATURAL WHITE SEMI GLOSS
 HARDWARE: USE BRASS LEVER HANDLE & LOCK IN SATIN CHROME
 SILL: 200MM DEEP, MERBAU HW, OILED
 GLASS: 10x1.6, 38mm/129pp/0.38mm CLEAR GLASS
 FLYSCREEN: NO
 BARS: NO



W12 - STUDY
 TYPE: FRENCH DOORS, WESTERN RED TIMBER
 QTY: 1 UNIT
 FRAME: 140x40 WRC
 FINISH: PRIMED FOR PAINTING, DULUX NATURAL WHITE SEMI GLOSS
 HARDWARE: USE BRASS LEVER HANDLE & LOCK IN SATIN CHROME
 SILL: 200MM DEEP, MERBAU HW, OILED
 GLASS: 10x1.6, 38mm/129pp/0.38mm CLEAR GLASS
 FLYSCREEN: NO
 BARS: NO



W9 - ENTRANCE DOOR WITH FIXED SIDELIGHT
 TYPE: PIVOTING DOOR WITH FIXED SIDE LIGHT,
 WESTERN RED CEDAR TIMBER, 100% PROTECTION,
 VERTICAL WRC BOARDS WITH 5MM SHADOW JOINTS.
 QTY: 1 UNIT
 FRAME: 140x40 WRC
 FINISH: PRIMED FOR PAINTING, DULUX DOBINO SEMI GLOSS
 HARDWARE: USE BRASS LEVER HANDLE & LOCK IN SATIN CHROME
 SILL: 200MM DEEP, MERBAU HW, OILED
 GLASS: 10x1.6, 38mm/129pp/0.38mm CLEAR GLASS
 FLYSCREEN: NO
 BARS: NO



W1, W2, W3, W4, W5, W6, W7, W8 & W21
 (ALL WINDOWS ON ENMORE LANE SIDE)
 WILL BE HIGH QUALITY PVC WINDOWS,
 DOUBLE GLAZED WITH EUROPEAN
 INWARD OPENING AND TILT & TURN
 MECHANISM.
 COLOUR WHITE.
 SECURITY SCREENS WILL BE MADE OF
 10x60MM FLAT METAL BARS,
 GALVANISED AND POWDERCOATED
 IN MONUMENT MAIT.
 SILL DETAIL WILL BE A SOLDIER COURSE
 SET FLUSH WITH THE WALL.
 BRICK WALL WILL HAVE FLUSH MORTAR
 FINISH & WILL BE PAINTED IN
 MASONRY WALL PAINT (VERY MATT FINISH)
 IN DULUX ECRU.

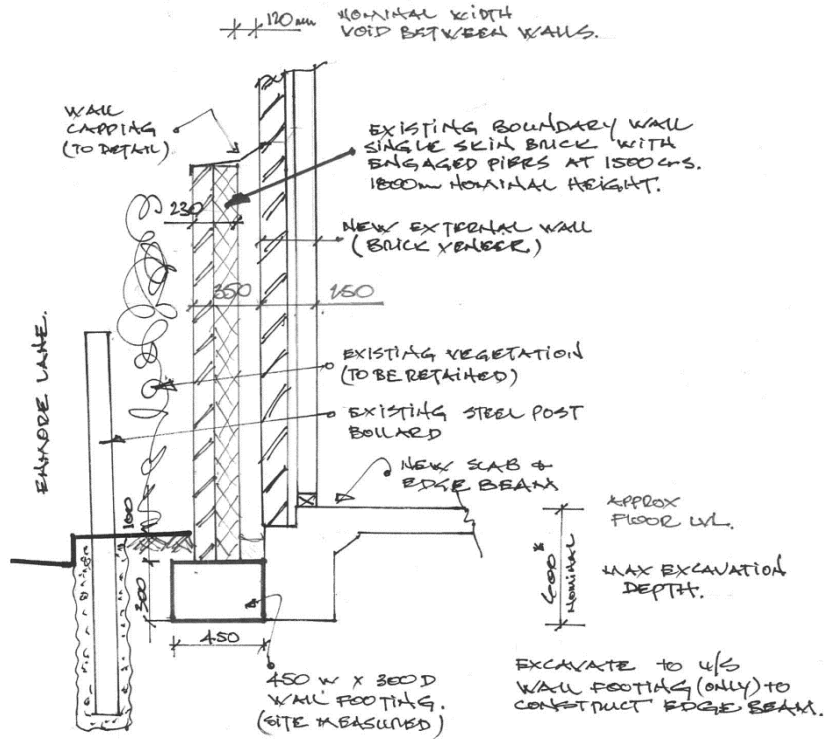
WINDOW
 INWARD OPENING
 WITH
 TILT & TURN
 MECHANISM

1 WINDOW SCHEDULE FOR WINDOWS FACING MARIAN STREET
 1:50

2 TYPICAL LANE WINDOW ELEVATION, SECTION & PLAN
 1:20

<p>seemann rush architects www.sranarchitects.com.au hseid@srarchitects.com.au mob. 0405 630 858 NSW registered architect peter rush no. 7023</p>	<p>19122017 18/12/2017 DATE</p>	<p>18/12/2017 18/12/2017 DATE</p>	<p>1770 JOB NO 1:50 & 1:20 SCALE A13 DATE 19/12</p>

LEIGH BACHMANN STRUCTURAL ENGINEER PTY. LTD. ABN 50 002 082 019
51 Dalton Road, Mosman, NSW 2088
phone 02 99681767 mobile 0414 681 767 e-mail lbachman@bigpond.net.au



TYPICAL SECTION
BOUNDARY WALL.

No 3 MARIAN STREET ENMORE
BOUNDARY WALL INTERFACE & STABILITY.

Leigh Bachmann B Eng MEngSc MIEAust CPEng NPER-3 Rtd, Membership No 164355

R. Bach
16/11/2017.

Attachment C - Written request in relation to the contravention to the Height of Buildings standard in accordance with Clause 4.6 (Exceptions to Development Standards)

100 juliett street
marrickville nsw 2204

m 0424 382 153
nsw architect 7023

peter@srarchitects.com.au
www.srarchitects.com.au

seemann rush architects

December 8 2017

Inner West Council

PROPOSED NEW DWELLING HOUSE
1 MARIAN STREET ENMORE
Lot 107 DP 1166 SEC 1

1.0 Request for a variation to a development standard under clause 4.6 Exceptions to development standards of the Marrickville Local Environmental Plan 2011.

1.1 Overview of Justification of Building Height Variation Request

4.6 Exceptions to development standards

3. (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 1. (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 2. (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. (4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

1. (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
2. (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

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

(5) *In deciding whether to grant concurrence, the Secretary must consider:*

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

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

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

Consistency with Common Law Guidance

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Assistance on the approach to justifying a development standard variation is found in certain defining decisions of the NSW Land and Environment Court, in particular in the judgements for:

1. *WehbevPittwaterCouncil*[2007]NSWLEC827;
2. *Four2FivePtyLtdvAshfieldCouncil*[2015]NSWLEC1009;
3. *MicaulHoldingsPtyLimitedvRandwickCityCouncil*[2015]NSWLEC1386; 4. *MoskovichvWaverleyCouncil*[2016]NSWLEC1015; and
5. *ZhangandanorvCounciloftheCityofRyde*[2016]NSWLEC1179.

In accordance with the statutory requirements, and as guided by the above case law, this clause 4.6 request:

- identifies the development standard to be varied (**Section 2**);
- identifies the extent of the variation sought (**Section 2**);
- establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances (**Section 3.1**);
- demonstrates that there are sufficient environmental planning grounds to justify the variation (**Section 3.2**);
- demonstrates such that the consent authority can be satisfied that the proposal is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the B8 zone (**Section 3.1**); and
- provides an assessment of the matters the Secretary is required to consider before granting concurrence (**Section 3.4**) namely:
 - whether the contravention of the development standard raises any matter of significance for State or regional environmental planning; and
 - the public benefit of maintaining the development standard; and
 - any other matters required to be taken into consideration by the Secretary before granting concurrence.

Accordingly, development consent can be granted to the proposal despite the proposed deviation of the development standard because, pursuant to clause 4.6(4)(a), the consent authority can be satisfied that:

- this written request has reasonably addressed the matters required to be demonstrated by clause 4.6(3); and
- the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone. Refer to **Section 3.3**.

Development standard to be varied:

The requested exception to a development standard is **4.3 Height of Buildings** of the Marrickville Local Environmental Plan 2011 under the Environmental Planning and Assessment Act 1979

4.3. Height of Buildings

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

- (a) *to establish the maximum height of buildings,*
- (b) *to ensure building height is consistent with the desired future character of an area,*
- (c) *to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight ,*
- (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*

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

The subject land on the Height of Buildings Map HOB_003 is zoned J with a 9.5m height limit.

Extent of the variation:

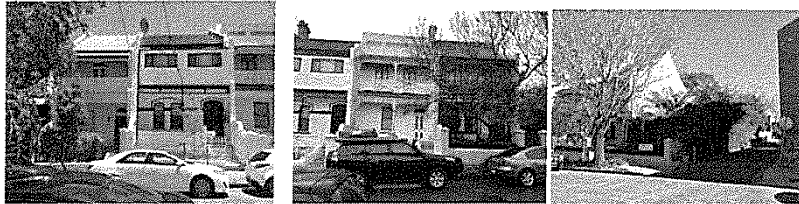
The building height of the proposal exceeds this height limit by 1.2m on the gable side. This variation is 12.6% to the prescribed height limit of 9.5m.

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Description:

The proposal is to construct a four bedroom, single dwelling house with garage on a vacant allotment.

The allotment is located on the northern side of Marian Street. It is the first lot on Marian Street, bordering Enmore Lane. The dwellings on Marian Street follow the topography. The land is currently vacant and has never been built upon. It serves as a garden to No. 3 and addresses the street as belonging to No. 3 due to the common front period fence facing Marian Street and returning into Enmore Lane for the length of the front garden.



No. 9, No. 7, No. 5, No. 3 & No. 1 Marian Street Enmore – view from the street

Reason for variation:

No. 1 is the contemporary pendant to No. 3 and it is the 5th member in a row of 4 two storey Victorian terraces.

The existing 4 dwellings show different detailing, one of them has a parapet roof towards the street. However they present as an ensemble due to their common urban design aspect. They are sited on a higher elevation from the street with several steps leading up to the ground floor entry. They are two storey buildings with front balconies and front verandahs.

No. 1 needs to complement this group. The built form needs to keep the strong street presence and cannot become weaker and lower.

The detailing needs to be similar in its importance. The parapet detail needs to visually accentuate and terminate the group of buildings.

Compliance with the Development standard is unreasonable or unnecessary in the circumstances:

Compliance with the development standard would result in an unsatisfactory massing of the new building, which would not contribute positively to the streetscape.

Compliance with the development standard would result in an unsatisfactory character of the urban streetscape that this part of Marian Street corner Enmore Lane represents.

Compliance with the development standard does not hinder other buildings or public areas to have satisfactory exposure to sky and sunlight. Given the orientation of the building there is very limited additional overshadowing on public areas.

Compliance with the development standard would ignore the reasons specific to the site that resulted in the exceeding of the building height.

Yours sincerely

Heidi Seemann
Seemann Rush Architects

