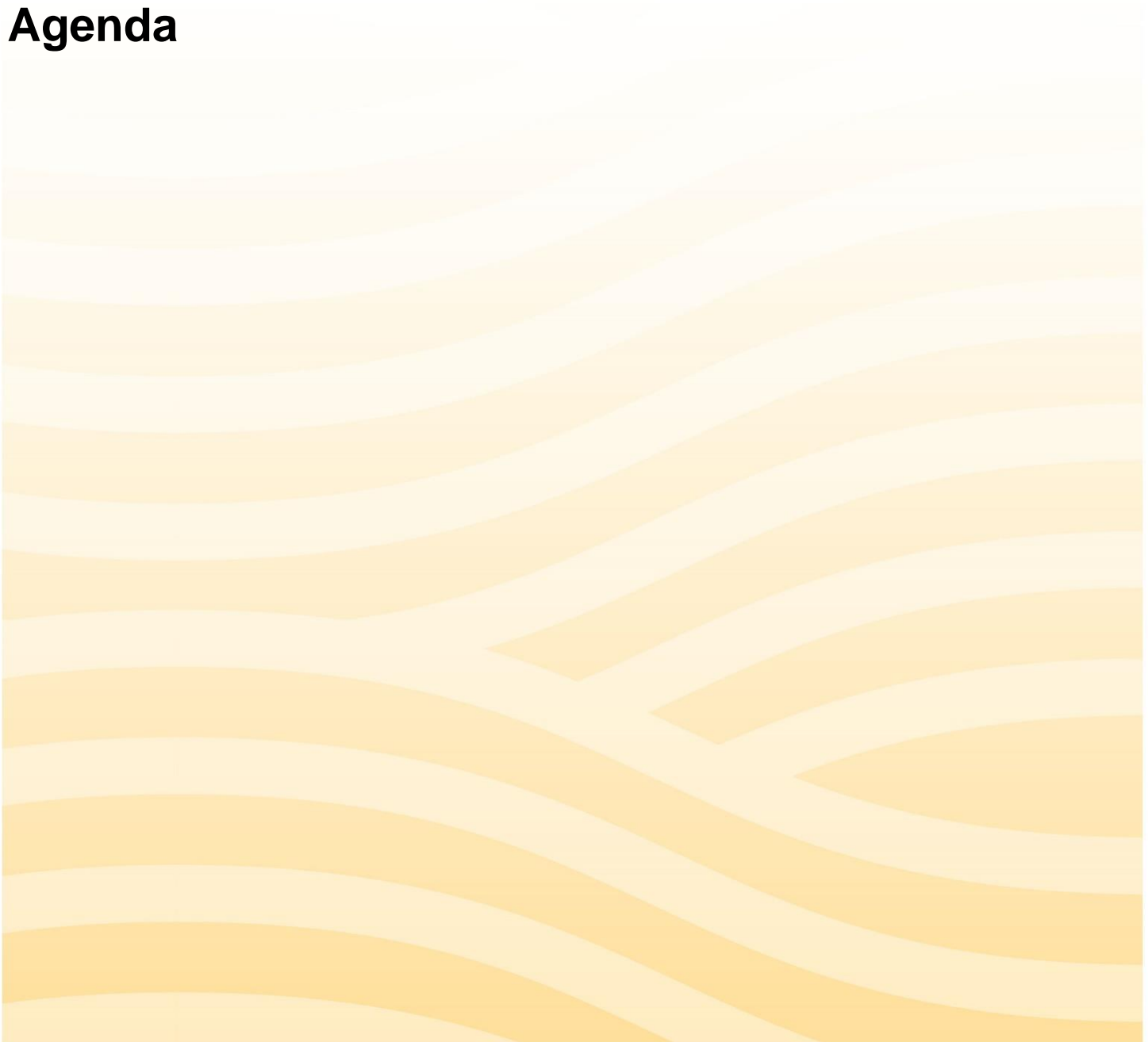




Application Assessment Panel

Tuesday 30 January 2024
3.00pm

Agenda



Compliance with social distancing requirements to limit the spread of COVID-19 virus at Application Assessment Panel (AAP) Meetings:

Woollahra Council will be holding Application Assessment Panel (AAP) meetings using conferencing technology.

The Chair of the Panel, members of the Panel and staff will be participating in meetings in person and members of the public are able to participate in the meeting by audio-visual link instead of attending in person.

Members of the public are invited to listen to meetings using conferencing technology or address the AAP meeting by conferencing technology. Public participation will be managed in accordance with meeting procedures.

- **To watch the meeting live listen to the meeting live at 3.00pm**
Visit Council's website at 3.00pm and watch live via the following link:
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/aap/aap_agendas_and_minutes
- **To request to address the Committee (pre-register by 12noon on the day of the meeting)**
Pre-register to listen to the meeting live or request to address the Panel by 12noon on the day of the meeting by emailing your name, mobile number and the item you are interested in, to records@woollahra.nsw.gov.au or by contacting the Governance team on (02) 9391 7001.
- **To submit late correspondence (submit by 12noon on the day of the meeting)**
Members of the public may submit late correspondence on an agenda item being considered at a Panel Meeting. If you wish to make a written submission on an Item on the Agenda, please email your submission to records@woollahra.nsw.gov.au by 12noon on the day of the meeting.

Once registered you will be forwarded information on how to join the meeting via email.

If you are experiencing any issues in joining the meeting please contact Council's Governance Team on (02) 9391 7001.

Outline of Meeting Protocol & Procedure (COVID-19):

- The Chairperson will call the Meeting to order and ask the Panel/Staff to present apologies and/or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Panel.
- If person(s) wish to address the Panel, they are allowed three (3) minutes in which to do so.
Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (e.g. applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allocated three (3) minutes, the speaker takes no further part in the debate unless specifically called to do so by the Chair.
- If there is more than one (1) person wishing to address the Panel from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- After considering any submissions the Panel will debate the matter (if necessary), and arrive at a resolution.

Disclaimer:

By speaking at the Application Assessment Panel (AAP) Meeting members of the public consent to their voice and personal information (including name and address) being recorded and publicly available on Council's website. Accordingly, please ensure your address to Council is respectful and that you use appropriate language and refrain from making any defamatory statements or discriminatory comments.

Woollahra Council does not accept any liability for statements, comments or actions taken by individuals during a Council meeting. Any part of the meeting that is held in closed session will not be recorded.

People connecting to this meeting by conferencing technology are reminded that under the *Local Government Act 1993*, the recording of meetings by a member of the public using any electronic recording device including a mobile phone or video camera is not permitted. Any person found recording without the permission of Council may be expelled from the meeting.

For further information please visit www.woollahra.nsw.gov.au

Application Assessment Panel Membership: 1 Chair and 2 Panel Members

Quorum: 3 Panel members

Woollahra Municipal Council Notice of Meeting

22 January 2024

To: Scott Pedder (Director Planning & Place) (Chair)
Rosemary Bullmore (Manager Legal, Compliance & Enforcement)
Tom O'Hanlon (Director Infrastructure & Sustainability)
Craig Swift-McNair (General Manager)
Anne White (Manager Strategic Planning & Place)

CC: The Mayor
All Councillors

Application Assessment Panel – 30 January 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Application Assessment Panel** meeting to be held in the **Thornton Room (Committee Room)**, 536 New South Head Road, Double Bay, on **Tuesday 30 January 2024 at 3.00pm**.

Members of the public are advised that we will be holding Application Assessment Panel meetings remotely using conferencing technology (until further notice).

- Register to address the meeting (via Zoom) by completing the relevant form available on Council's website: https://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0012/279957/Registration-Form-to-Address-Planning-Panels-2023-2024.pdf and email the completed form to records@woollahra.nsw.gov.au **by 12 noon day before the meeting**.
- Submit late correspondence for consideration by the Panel by emailing records@woollahra.nsw.gov.au **by 12 noon day before the meeting**.

Information on how to listen and/or address the Panel will be available on Council's website https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/aap.

If you have any difficulties accessing the meeting please contact (02) 9391 7001.

Regards,

Craig Swift-McNair
General Manager

Application Assessment Panel

Agenda

Item	Subject	Page
1.	Opening	
2.	Acknowledgement of Country (Gadigal People and Birrabirragal People)	
3.	Leave of Absence and Apologies	
4.	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 23 January 2024 - 24/10666.....	7
D2	DA574/2022 - 8 Fisher Avenue, 25 Vacluse Road and 25A Vacluse Road, Vacluse - 24/9989.....	9

***See Recommendation Page 23**

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 23 JANUARY 2024**
Author: Sue O'Connor, Governance Officer
File No: 24/10666
Purpose of the Report: The Minutes of the Application Assessment Panel of 23 January 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Recommendation:

THAT the Minutes of the Application Assessment Panel Meeting of 23 January 2024 be taken as read and confirmed.

Executive Summary:

This report presents the Application Assessment Panel Minutes of 23 January 2024 for confirmation. The minutes of the meeting are presented as **Attachment 1** for adoption by the Application Assessment Panel.

Options:

Submission of minutes to the Application Assessment Panel Minutes is a procedural matter for the adoption of the minutes.

Community Engagement and / or Internal Consultation:

No internal or external consultation has taken place in the preparation of this report.

Policy Implications:

There are no direct policy implications as a result of this report.

Financial Implications:

There are no direct financial implications as a result of this report.

Resourcing Implications:

There are no direct resourcing implications as a result of this report.

Conclusion:

The minutes are presented for confirmation by the Application Assessment Panel.

Attachments

Nil

DEVELOPMENT APPLICATION ASSESSMENT REPORT

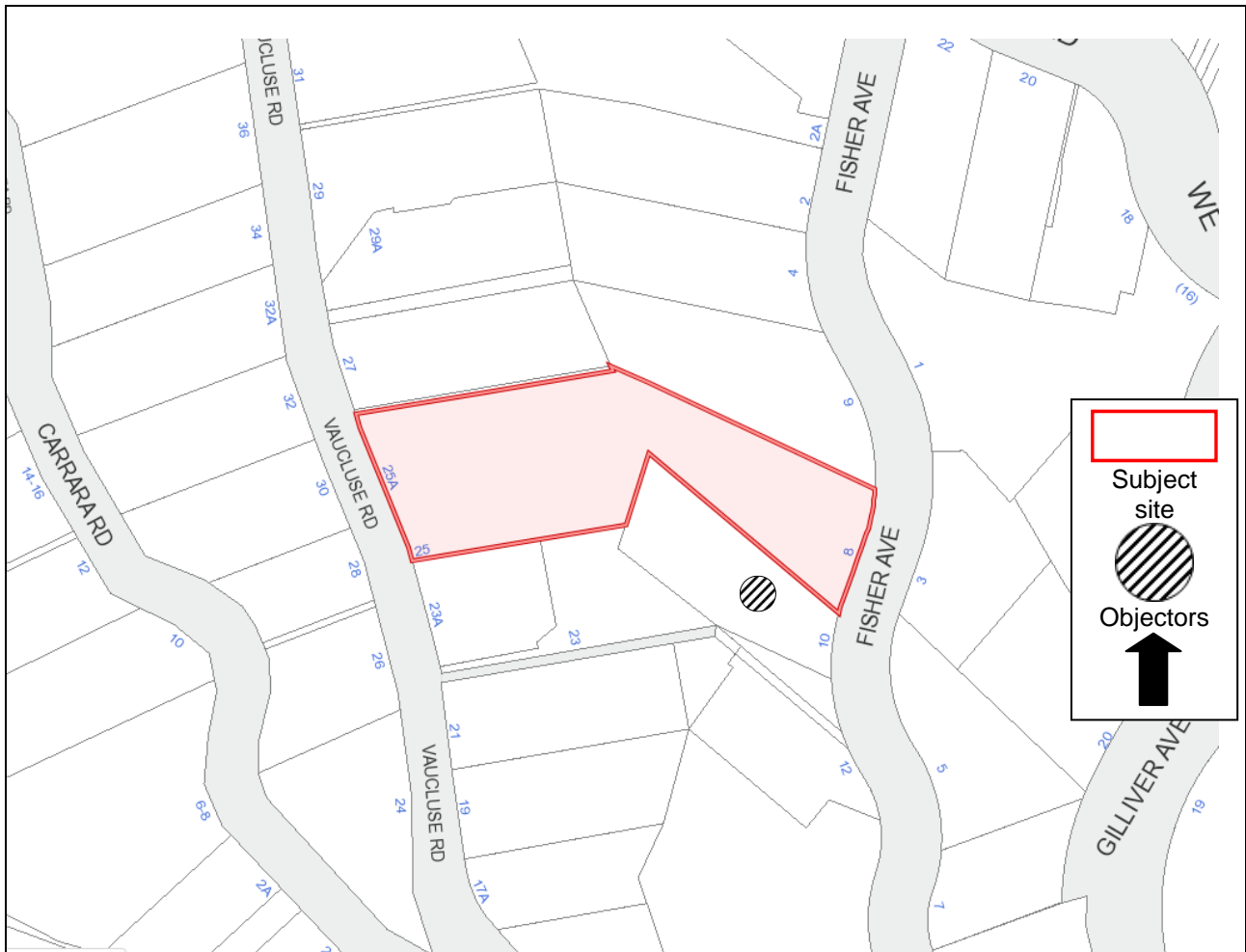
ITEM No.	D2
FILE No.	DA574/2022/1
ADDRESS	8 Fisher Avenue, 25 Vaucluse Road & 25A Vaucluse Road VAUCLUSE
SITE AREA	2,710m ²
ZONING	R2 Low Density Residential
PROPOSAL	Alterations and additions to the approved dwelling (approved under DA442/2020/1 on 25 Vaucluse Road & 8 Fisher Avenue and retention of the existing dwelling at 25A Vaucluse Road for a detached dual occupancy development on the consolidated lot, including removal of trees
TYPE OF CONSENT	Local development
COST OF WORKS	\$7,260,000.00
DATE LODGED	13/12/2022
APPLICANT	Mrs C Penklis
OWNER	Mrs C Penklis
AUTHOR	Ms L Samuels
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	2 (Including 1 submission of support)
RECOMMENDATION	Approval

1. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory;
- The site is suitable for the proposed development; and
- The proposal is in the public interest

2. LOCALITY PLAN



3. LEVEL OF DELEGATION

The application is to be determined by the Application Assessment Panel as:

- The estimated cost of works exceeds \$5M.

4. PROPOSAL

The proposal involves the following works:

- Alterations and additions to the approved dwelling at 8 Fisher Avenue (formerly 2 lots known as 8 Fisher Avenue and 25 Vaucluse Road).
- The alterations comprise the following:
 - 24m² rear extension to the existing ground floor living room. The extension occurs over an existing balcony.
 - The provision of privacy treatments to the northern and southern sides of the extension and the balcony.
 - Removal of the existing access stair between the ground floor level terrace and the lower ground floor level.
 - Amendments to the stairs and lift access between 8 Fisher Avenue and 25 Vaucluse Road.
 - Internal layout modifications.
 - The addition of new skylights to the lower ground floor level.

- 8 Fisher Avenue, 25 Vaucluse Road and 25A Vaucluse Road have recently been amalgamated into one lot. The subject site comprises a detached dwelling on 8 Fisher Avenue/25 Vaucluse Road and the retention of an existing detached dwelling on 25a Vaucluse Road. As a result, the site is now defined as a detached dual occupancy.
- Removal of Cypress Trees.
- The proposal does not involve any physical works to the dwelling at 25A Vaucluse Road.

The proposal amends a previous approval (DA 442/2020/1) which involved development at 8 Fisher Avenue (formerly two lots known as 8 Fisher Avenue and 25 Vaucluse Road) and granted approval to the following works:

- Demolition of the existing dwelling on the lot previously known as 25 Vaucluse Road.
- Substantial alterations and additions to the existing dwelling fronting 8 Fisher Avenue extending it into the 25 Vaucluse Road area of the lot.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

None.

5.2 Primary Issues

Issue	Conclusion	Section
Objector's concerns	The issues raised in the submissions are either addressed by conditions of consent or are insufficient to warrant refusal or modification of the application.	9

5.3 Summary of Submissions

Issue	Conclusion	Section
Conditions imposed under the previous DA should be retained	All the conditions previously imposed under DA 442/2020 remain unchanged by the amending DA.	-

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The site has an area of 2,710m ² and has dual frontages to Fisher Avenue and Vaucluse Road. The subject site is a result of the consolidation of 25 Vaucluse Road, 25A Vaucluse Road and 8 Fisher Avenue.
Topography
8 Fisher Avenue is relatively flat, however the site slopes substantially from the rear of 8 Fisher Avenue to 25 Vaucluse Road frontage.
Existing buildings and structures
8 Fisher Avenue is occupied by a part 2, part 3 storey dwelling house. 25 Vaucluse Road was occupied by a detached dwelling which has now been demolished. 25A Vaucluse Road is occupied by a single storey dwelling.
Surrounding Environment
The surrounding environment is typified by low density residential development.



Aerial image of the three lots



8 Fisher Avenue street frontage



Existing relationship between rear elevations of 8 and 10 Fisher Avenue



Outlook from the rear balcony at 8 Fisher Avenue towards the currently vacant lot at 25 Vacluse Road



Location of the proposed living room extension at 8 Fisher Avenue (looking towards 10 Fisher Avenue)



Location of the proposed living room extension at 8 Fisher Avenue (looking towards 6 Fisher Avenue)

7. RELEVANT PROPERTY HISTORY

Current use
Given the two detached dwellings on the site, the use of the site is now defined as a detached dual occupancy.
Relevant Application History
DA 442/2020/1 approved demolition of the dwelling on the lot previously known as 25 Vaucluse Road and substantial alterations and additions to the dwelling fronting 8 Fisher Avenue extending it into the 25 Vaucluse Road area of the lot.

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Acceptable, subject to conditions.	3
Trees and Landscaping	Acceptable, subject to conditions.	4

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 include the following:

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 25/01/2023 to 09/02/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Karen and Mark Maley, 10 Fisher Avenue, Vaucluse
2. Georgia Moore and Daniel Contos, 6 Fisher Avenue, Vaucluse (letter of support)

The issues raised within the submission are addressed under Section 5.3.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 14/02/2023 declaring that the site notice for DA574/2022/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 Coastal Management

The provisions of Chapter 2 Coastal Management, gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the Coastal Zone.

The subject land is located within the Coastal Environment Area and Coastal Use Area. The proposal is satisfactory with regard to the relevant provisions of Clause 2.10 and 2.11.

Chapter 4 Remediation of Land

The provisions of Chapter 4 Remediation of land requires consideration to be given as to whether the subject land is contaminated. In the absence of any information indicating the potential contamination of the site, further consideration of this issue is not considered warranted in this instance.

The proposal is considered to be satisfactory with regard to the relevant provisions of Chapter 4 Remediation of land.

11. SEPP (BIODIVERSITY AND CONSERVATION) 2021

11.1 Chapter 6 – Water Catchments

Chapter 6 (Water Catchments) of the SEPP applies to the subject land which is located within a regulated catchment being the Sydney Harbour Catchment.

The land is within the Sydney Harbour Catchment but is outside the Foreshores and Waterways Area and therefore only the provisions in Part 6.2 of the SEPP applies.

In deciding whether to grant development consent to development on land in a regulated catchment, matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.

The proposal will have no significant adverse impacts on the Sydney Harbour Catchment, subject to standard conditions including erosion and sedimentation, stormwater and flood risk management control.

12. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard condition.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

The proposal is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

13.2 Land Use Table

The proposal is defined as alterations and additions to a dual occupancy and is permitted and is consistent with the objectives of the R2 Low Density Residential zone.

13.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m.

	Approved DA 442/2020	Proposed	Control	Complies
Maximum Building Height	7.56m – 8.01m	7.4m	9.5m	YES

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014. It is also acceptable with regard to the relevant objectives under Part 4.3(1) of Woollahra LEP 2014 in the following manner:

- The proposed addition is at ground floor level at the rear of the dwelling. The dwelling remains compatible with the neighbouring properties and the desired future character of the precinct.
- The bulk and scale of the development is comparable with the neighbouring properties and is consistent with the character of development within the streetscape.
- The proposed height does not result in any adverse impacts upon the neighbouring properties with regard to privacy, solar access, visual amenity, sense of enclosure and views.

13.4 Part 5.10: Heritage Conservation

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed to a heritage item, building, work, relic or tree, within a heritage conservation area or new buildings or subdivision in a conservation area or where a heritage item is located.

The subject site is not a heritage item and is not located in a heritage conservation area.

13.5. Clause 6.1: Acid Sulfate Soils

Clause 6.1 requires Council to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. The proposal is therefore acceptable with regard to Clause 6.1.

13.6 Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal involves excavation to accommodate the stair and lift access which will link the built form on 8 Fisher Avenue to 25 Vaucluse Road. The excavation volume is approximately 149m³. The excavation is setback 1.2m to 8.4m from the side boundaries.

Council's Development Engineer has no objection to the proposed excavation on technical grounds, subject to the previously imposed conditions and the addition of two new excavation-related conditions.

Subject to conditions, the proposal is acceptable/unacceptable with regard to Part 6.2 of the Woollahra LEP 2014.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B1: Vaucluse West Residential Precinct

The proposal satisfies the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015.

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Vaucluse West precinct, as noted in Part B1 of the Woollahra DCP 2015.

14.2 Chapter B3: General Development Controls

Part B3.2: Building Envelope

Site Area: 2,710m ²	Approved	Proposed	Control	Complies
Rear Setback 8 Fisher Avenue 25 Vaucluse Road	0m – 11.8m 0m – 1.65m	3.5m – 19.7m 0m – 6m	20.3m 21.9m	NO* NO*
Side Boundary Setbacks (north) 8 Fisher Avenue 25 Vaucluse Road	1.3m 2.3m – 3.55m	1.3m 3.55m	3.4m 3.4m	NO* YES
Side Boundary Setbacks (south) 8 Fisher Avenue 25 Vaucluse Road	0.85m 4.5m	1.8m - 2.5m 4.5m	3.4m 3.4m	NO YES
Maximum Wall Height 8 Fisher Avenue 25 Vaucluse Road	>7.2m <7.2m	<7.2m <7.2m	7.2m 7.2m	YES YES
Inclined Plane From Wall Height 8 Fisher Avenue 25 Vaucluse Road	>45° <45°	<45° <45°	45° 45°	YES YES

* Non-compliance approved under DA 442/2020

Part 3.2.2: Front Setback

The proposal does not involve any change to the approved front setback.

Part 3.2.3: Side Setbacks

C1 requires a minimum side setback of 3.4m. The proposed side setbacks are considered to be acceptable for the following reasons:

- The proposed rear extension of the living room (ground floor level) is located fully within the existing balcony/terrace and therefore does not alter the existing side setbacks. Furthermore, the other modifications to the dwelling are consistent with the approved and existing side setbacks of the dwelling.
- The proposed amendments to the part of the dwelling on 25 Vaucluse Road are within the approved building envelope and comply with the control.
- The proposed side setbacks do not result in any adverse amenity impacts with regard to solar access, privacy or sense of enclosure. This is discussed further below.

Part 3.2.4: Rear Setback

C1 states that the rear setback is a consequence of the site depth, front setback and building depth. The proposed rear setbacks are considered to be acceptable for the following reasons:

- While the proposal involves amendments within the rear setback area of 8 Fisher Avenue and 25 Vaucluse Road, this is due to the location of the approved dwelling which spans across the rear boundary between the properties.
- Most of the works within the rear setback area are within the approved building envelope.
- The proposed new stair and lift (while located within the rear setback area), provides improved connectivity between the lower levels of the dwelling and the upper levels of the dwelling. The previously approved lift stopped at lower ground floor level, whereas the new stair/lift configuration provides access between the dwelling on 25 Vaucluse Road and the ground floor level at 8 Fisher Avenue.

Conclusion

The proposal is acceptable with regard to the building envelope controls in Part B3.2 of the Woollahra DCP 2015.

Part B3.3: Floorplates

Site Area: 2,710m ²	Approved	Proposed	Control	Complies
Maximum Floor Plate				
8 Fisher and 25 Vaucluse Road	1436m ²	1485m ²	165% (1432m ²)	NO
8 Fisher, 25 Vaucluse Road & 25A Vaucluse Rd	-	1639m ²	165% (1770.49m ²)	YES

C1 limits the floorplate, being the measurable floor area as a proportion of the buildable area, to 165%. The table above provides two floorplate calculations. The first calculation is based on the combined site area of 8 Fisher Avenue and 25 Vaucluse Road, as this is the site area that applied to DA 442/2020. The second floorplate calculation is based on the combined site area of 8 Fisher Avenue, 25 Vaucluse Road and 25A Vaucluse Road, which is relevant to the current application.

The following comments are provided in this regard:

- Based on the amalgamation of the three sites, the proposal complies with the floorplate control.
- The proposal involves 49m² additional floor plate when compared with the previous approval.
- The additional floorplate is not considered to contribute any significant additional bulk to the approved dwelling and does not result in any significant adverse amenity impacts upon the neighbouring properties or the streetscape.

Conclusion

The proposal is therefore acceptable with regard to the floorplate controls in Part B3.3 of the Woollahra DCP 2015.

Part B3.4: Excavation

Site Area: 2,710m ²	Approved	Proposed	Control	Complies
Maximum Volume of Excavation	627m ³	149m ³	350m ³	YES
Excavation, Piling and Subsurface Wall Setback	<3.4m	1.2m – 8.4m	3.4m	NO (partial)

C1 limits the volume of excavation to 350m³. C6 requires a minimum setback of excavation of 3.4m.

The following comments are made in this regard:

- The volume of excavation proposed under the subject DA complies with the control.
- The excavation for the stair and lift access improves connectivity between the built form on 8 Fisher Avenue and 25 Vaucluse Road and is considered acceptable in this instance.

- While part of the excavation involves non-compliances with the side setback control, the excavation setback is consistent with the excavation approved under DA 442/2020, which was determined to be acceptable by Council's Development Engineer.
- The excavation is acceptable subject to the recommended and previously imposed conditions of consent.

Conclusion

The proposal is therefore acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

Part B3.5: Built Form and Context

Site Area: 2,710m²	Existing	Proposed	Control	Complies
Solar Access to Open Space of Neighbouring Properties	>50%	>50%	50% for 2 hours on 21 June	YES
Solar Access to Nth Facing Living Areas of Neighbouring Properties	>3 Hours	>3 Hours	3 hours on 21 June	YES

Part B3.5.1: Streetscape and Local Character

O1 requires that the built form is compatible with the streetscape and the desired future character of the area. O2 requires that development is of high visual quality and enhances the street. C3 requires that development steps down sloping sites and follows the topography of the land.

The proposed works are located in the central part of the site and will not significantly alter the approved streetscape presentation of the dwelling.

Part B3.5.2: Overshadowing

C1(a) stipulates that sunlight is provided to at least 50% of the main ground level private open space to adjoining properties for a minimum of two hours between 9am and 3pm on June 21. C1 states that north facing windows to habitable rooms of neighbouring dwellings do not have sunlight reduced to less than 3 hours during the same period.

The proposal does not involve significant additional overshadowing when compared with the previous approval. The proposal remains compliant with the overshadowing control and the proposal is therefore acceptable with regard to Part B3.5.2 of the Woollahra DCP 2015.

Part B3.5.3: Public and Private Views

The proposed amendments are located at lower ground and ground floor levels and will not have an adverse impact upon views when compared with the approved development.

Part B3.5.4: Acoustic and Visual Privacy

C4 states that there should not be any sightlines from habitable room windows into habitable room windows or private open space in an adjoining property within 9.0m. This can be achieved via window location, layout and separation, screens or translucent glazing to 1.5m sill height. C7 requires that balconies, terraces, decks and roof terraces are suitably screened to prevent direct views into habitable rooms or private open space of adjoining and adjacent dwellings.

The proposal is considered acceptable in this regard for the following reasons:

- The living room extension has been designed in consultation with the neighbours to minimise any overlooking. This has been achieved as follows:

- Fluted glass (which obscures the outlook) to a height of 1.6m above FFL has been provided on the northern side of the living room.
- Fixed angled privacy screens (full height) have been provided along the southern side of the living room.
- A privacy screen to a height of 1.6m along the northern side of the terrace.
- A previously conditioned non-trafficable planter is provided along the southern side of the terrace.
- The proposed extension of the living room occurs within an existing balcony area and therefore will not significantly alter the existing privacy relationship with the neighbouring properties. In fact, the proposed privacy measures will improve the existing situation.

The proposal is acceptable with regard to the built form and context controls in Part B3.5 of the Woollahra DCP 2015.

Part B3.6: On-Site Parking

The proposal does not involve any change to the approved parking arrangement.

Part B3.7: External Areas

Part 3.7.1: Landscaped Areas and Private Open Space

The proposal does not involve any reduction in deep soil landscaping when compared with the previous approval and is considered to be acceptable in this regard.

Conclusion

The proposal is acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

Part B 3.8.4: Dual occupancy

The development is defined as a detached dual occupancy as a result of the amalgamation of the sites. Nevertheless, this application involves relatively small scale alterations to the previously approved dwelling (on 8 Fisher Avenue and 25 Vacluse Road) and no works to the other dwelling (25A Vacluse Road). The subject application does not involve any works adjacent to the boundary with 25A Vacluse Road and does not significantly alter the approved relationship between these properties. As such, the controls relating to dual occupancies are not relevant to the scope of the proposed works.

14.3 Chapter E2: Stormwater and Flood Risk Management

Subject to the conditions imposed under DA 442/2020, the proposal is acceptable with regard to Chapter E2 of the Woollahra DCP 2015.

14.4 Chapter E3: Tree Management

Council's Trees and Landscaping Officer has provided the following comment in this regard:

"Inspection of the site has revealed that several trees shown for removal on the submitted plans has already taken place in association with demolition of the building.

Inspection of the site has revealed majority of the trees shown for removal on the submitted plans have already been removed under the previous DA conditions.

A total of two (2) remaining trees will require removal to facilitate the works. This includes Tree 10 which has previously been approved for removal and tree 5 which is now dead. The Tree and Landscape team support removal of these trees.

Another eight (8) trees will be retained. The current design will not impact on any of these trees. However to ensure they are not damaged during the works, tree protection measures have been detailed below for inclusion into the DA consent.

A review of the submitted Landscape Plans has revealed extensive planting is proposed across the site. The plans have been updated to address previous design amendments imposed on DA442/2020/1 in relation to alternative species selection.

The Tree and Landscape team support the Landscape Plans and recommends these are included in the DA approval.”

The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

14.5 Chapter E5: Waste Management

Subject to the conditions imposed under DA 442/2020, the proposal acceptable with regard to Chapter E5 of the WDCP 2015.

15. CONTRIBUTION PLANS

Contributions plans allow funds to be raised from approved development applications. The funds are used for the intended provision, extension or augmentation of public facilities, or towards recouping the cost of facilities that have been provided, extended or augmented. These contributions relate to sections 7.11 and 7.12 of the EP&A Act, formerly known as section 94 and section 94A.

15.1 Section 7.12 Contributions Plan

A 1% levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan 2022.

Cost of Works	Rate based on cost of works	Contribution Payable
\$7,260,000	>\$200,000 = 1%	\$72,600

15.2 Application of Contributions

The consent authority cannot impose conditions under both Section 7.11 and Section 7.12 on the same development consent.

In this instance, Section 7.12 contributions have been applied. Accordingly, Section 7.11 contributions are not applicable.

16. APPLICABLE ACTS/REGULATIONS

16.1 Environmental Planning and Assessment Regulation 2021

Clause 61(1) Additional matters that consent authority must consider

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-2001: The demolition of structures. This requirement is addressed by Council's standard condition.

17. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

18. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

19. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

20. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15.

21. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this development application by the applicant or any person who made a submission.

22. RECOMMENDATION: PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the Council, as the consent authority, grant development consent to DA574/2022/1 for alterations and additions to the approved dwelling (approved under DA442/2020/1 on 25 Vaucluse Road & 8 Fisher Avenue and retention of the existing dwelling at 25A Vaucluse Road for a detached dual occupancy development on the consolidated lot including removal of trees on land at 8 Fisher Avenue, 25 Vaucluse Road & 25A Vaucluse Road Vaucluse, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the *BCA*.

Public place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,

- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

Standard Condition: A2 (Autotext AA2)

A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
MOD-A-001 MOD-A-010 MOD-A-100 MOD-A-101 MOD-A-102 MOD-A-103 MOD-A-104 MOD-A-105 MOD-A-106 MOD-A-200 MOD-A-201 MOD-A-202	Architectural Plans	Stafford Architecture	8/12/2022
414_S4.55_02, 414_S4.55_10, 414_S4.55_11, 414_S4.55_12, 414_S4.55_30, 414_S4.55_50	Landscape Plans	Myles Baldwin Design	06.10.22
A373036_03	BASIX Certificate	NSW Department of Planning and Environment	13 Oct 2022

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5 (Autotext AA5)

A.4 Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.
Standard Condition: A8 (Autotext AA8)

A.5 No Underpinning works

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

A.6 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
G14	3x <i>Cupressus x leylandii</i>	Northern side of driveway	5 x 2
T15	<i>Hibiscus rosa-sinensis</i>	Northern side of driveway	5 x 3
T16	<i>Glochidion ferdinandi</i>	Northern side of driveway	6 x 4

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
T5	<i>Ficus rubiginosa</i>	South-eastern boundary of 25 Vaucluse Rd	7 x 7
T10	<i>Magnolia grandiflora</i>	North-western boundary of 25 Vaucluse Rd	5 x 5

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

Note: The species marked (*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Construction Certificate Required Prior to Any Demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 6.6 of the *Act*.

In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the *Act*.

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
Standard Condition: B1 (Autotext BB1)

B.2 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

Standard Condition: B6

B.3 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose

Standard Condition: B7

B.4 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970-2009). Tree protection zones must also comply with the following requirements;

- a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
G14	3x <i>Cupressus x leylandii</i>	Northern side of driveway	Edge of driveway closest to trees
T15	<i>Hibiscus rosa-sinensis</i>	Northern side of driveway	Edge of driveway closest to tree
T16	<i>Glochidion ferdinandi</i>	Northern side of driveway	Edge of driveway closest to tree

Note: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.5 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
TC	Phoenix canariensis	2m	Construction of retaining wall and landscaping works

The project arborist shall provide written certification of compliance with the above condition.

B.6 Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- c) Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

B.7 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development
- Recommended actions to improve site conditions and rectification of non-compliance
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist shall supervise the installation of the new retaining wall within 2 metres of Tree TC, documenting the condition of roots and soil. • The project arborist shall ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter. • The project arborist shall inspect the installed irrigation system to plants in garden beds. The arborist shall certify there is an appropriate distribution of water to planted and existing trees. • Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.
Prior to any occupation or use of the building	<ul style="list-style-type: none"> • Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> • The project arborist shall supervise the dismantling of tree protection measures • After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Modification of Consent (section 4.17(1)(b) and section 4.17(5) of the Act)

A notice of modification of DA442/2020/1 originally granted development consent on 26 August 2021, must be provided to Council in writing by the Owner of the land in compliance with clause 67 of the *Regulation*. The modification of the consent to DA289/2021/1 is to insert the condition below as Condition A.3(a):

All works on the site 8 Fisher Avenue, 25 Vacluse Road & 25A Vacluse Road, Vacluse must be in accordance with DA442/2020/1 as amended by the documented amendments, approved plans and conditions of consent pertaining to DA574/2022/1. Condition C.2 imposed under DA 442/2020/1 is replaced by Condition C.2 imposed under DA 574/2022/1.

No Construction Certificate must be issued until Council has acknowledged in writing that this condition has been satisfied.

C.2 Payment of Long Service Levy, Security, Contributions and Fees

The Certifying Authority must not issue any certificates under section 6.4 of the *Act* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a Construction Certificate, Subdivision Certificate or Occupation Certificate, as will apply.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$174,686	No	T115
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$9,000	No	T113
DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2021 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$72,600 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$480	No	
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$256,968 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The long service levy under section 34 of the *Building and Construction Industry Long Service Payment Act 1986*, must be paid and proof of payment provided to the Certifying Authority prior to the issue of any Construction Certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],

- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2021 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the *Act* and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2021

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No.A373036_03 with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".
Standard Condition: C7

C.4 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- a) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

The Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: The "Do it Right On Site, Soil and Water Management for the Construction Industry" publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.
Standard Condition: C25

C.5 Professional Engineering Details

The Construction Certificate plans and specifications, clause 7 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the Certifying Authority with the application for any Construction Certificate.

Note: This does not affect the right of the developer to seek staged Construction Certificates.
Standard Condition: C36

C.6 Engineer Certification

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.

Any structural design is not to incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc which encroach outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

C.7 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

D. Conditions which must be satisfied prior to the commencement of any development work

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

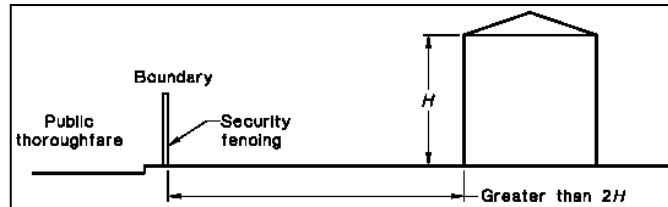
In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1 (Autotext DD1)

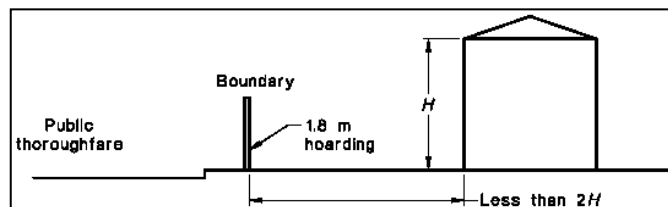
D.2 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

Security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.



Type A Hoarding

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.



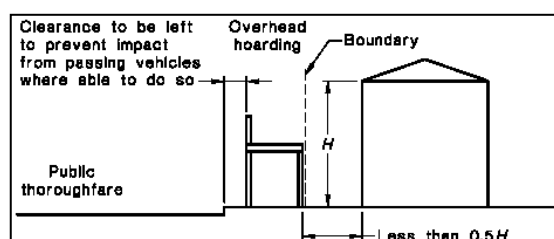
Type B Hoarding

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- have a clear height above the footpath of not less than 2.1m,
- terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW “Code of Practice - Overhead Protective Structures 1995”. This is code available at www.safework.nsw.gov.au/_data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.

Hoardings on Public Land including ‘Creative Hoardings’

The Principal Contractor or Owner-builder must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

A creative hoarding (i.e. an approved artwork or historic image affixed to the hoarding) is required if the hoarding meets the criteria in Council’s Creative Hoardings Policy (adopted March 2020). The cost of printing and affixing the creative hoarding is the responsibility of the Principal Contractor or Owner-builder. The Creative Hoardings Policy can be downloaded from Council’s website www.woollahra.nsw.gov.au

Note: The Principal Contractor or Owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.

Note: Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council’s form “Application for a permit to use a footpath for the erection of a hoarding/scaffolding”.

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council’s Cultural Development Team.

Standard Condition: D11 (Autotext DD11)

D.3 Site Signs

The Principal Contractor or Owner-builder must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

D.4 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.
sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.
Standard Condition: D13 (Autotext DD13)

D.5 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

Note: The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
Standard Condition: D14 (Autotext DD14)

D.6 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:

- appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
- notified the Principal Certifier of any such appointment, and
- unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*. Standard Condition: D15 (Autotext DD15)

D.7 Notification of [Home Building Act 1989](#) requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the [Home Building Act 1989](#).
- b) Residential building work within the meaning of the [Home Building Act 1989](#) must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia. Standard Condition: D17 (Autotext DD17)

D.8 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.
Standard Condition: D6 (Autotext DD6)

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1 (Autotext EE1)

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

Standard Condition: E2 (Autotext EE2)

E.3 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

Standard Condition: E4 (Autotext EE4)

E.4 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5 (Autotext EE5)

E.5 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): *Manual of uniform traffic control devices* and all relevant parts of this set of standards.
- b) Australian Road Rules.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.
Standard Condition: E7 (Autotext EE7)
- (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

E.6 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls,
- f) ablutions.

Standard Condition: E11

E.7 Support of Adjoining Land and Buildings

A person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: **“Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council’s care control or management, or any community or operational land as defined by the *Local Government Act 1993*. Standard Condition: E13 (Autotext EE13)

E.8 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) *“Do it Right On Site, Soil and Water Management for the Construction Industry”* published by the Southern Sydney Regional Organisation of Councils, 2001, and
- c) *“Managing Urban Stormwater - Soils and Construction”* 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15 (Autotext EE15)

E.9 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17 (Autotext EE17)

E.10 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The Principal Contractor or Owner-builder must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier’s satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.

- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

E.11 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

Standard Condition: E21 (Autotext EE21)

E.12 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW.

All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22 (Autotext EE22)

E.13 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.

- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “*Dust Control - Do it right on site*” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23 (Autotext EE23)

E.14 Site Waste Minimisation and Management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly ‘signpost’ the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and
- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31 (Autotext EE31)

E.15 Site Waste Minimisation and Management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,

- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

E.16 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current SafeWork NSW "demolition licence" and a current SafeWork NSW "Class A licence" for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public Standard Condition: E39

E.17 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part 1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal. Standard Condition: E40

E.18 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.

Standard Condition: E41

E.19 Asbestos Removal Signage

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

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.20 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal. Standard Condition: E43

E.21 Tree Preservation

All persons must comply with Chapter E.3 – Tree Management of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.22 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species which complies with the approved Landscape Plans.

The project arborist shall document compliance with the above condition.

E.23 Level changes in the vicinity of trees

No level changes shall occur within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
G14	3x <i>Cupressus x leylandii</i>	Northern side of driveway	2m
T15	<i>Hibiscus rosa-sinensis</i>	Northern side of driveway	2m
T16	<i>Glochidion ferdinandi</i>	Northern side of driveway	2m

The project arborist shall document compliance with the above condition.

E.24 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
TC	Phoenix canariensis	Adjacent northern boundary – within 27 Vaucluse Rd	2m

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 “Pruning of Amenity Trees” and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.25 Footings in the vicinity of trees

Footings for any structure within the specified radius from the trunks of the following trees shall be supported using an isolated pier and beam system.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
TC	Phoenix canariensis	Adjacent northern boundary – within 27 Vaucluse Rd	2m

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

The project arborist shall document compliance with the above condition.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the *Act*) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1 (Autotext FF1)

F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.
Standard Condition: F7 (Autotext FF7)

F.3 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

G. Conditions which must be satisfied prior to the issue of any subdivision certificate

Nil.

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (S6.4(c))

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A373036_03.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
Standard Condition: H7 (Autotext HH7)

H.2 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.
Standard Condition: H12 (Autotext HH12)

H.3 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A373036_03.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
Standard Condition: I24

J. Miscellaneous Conditions

Nil

K. Advising

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.

Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2 (Autotext KK2)

K.3 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website
www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating
Standard Condition: K5 (Autotext KK5)

K.4 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220. Standard Condition: K6 (Autotext KK6)

K.5 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050. Standard Condition: K7 (Autotext KK7)

K.6 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.
Standard Advising: K10 (Autotext KK10)

K.7 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the *Act*.

The securities will not be released until a Final Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Refund of Security Bond Application form can be downloaded from

www.woollahra.nsw.gov.au

Standard Condition: K15 (Autotext KK15)

K.8 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

K.9 Owner-builders

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au or call 133 220.

Standard Condition: K18 (Autotext KK18)

K.10 Pruning or Removing a Tree Growing on Private Property

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.

Standard Condition: K19 (Autotext KK19)

K.11 Appeal





Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Lauren Samuels, Assessment Officer, on (02) 9391 7075.

However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

Attachments

1. Architectural Plans [↓](#) 
2. Plan Survey (Rev 1) [↓](#) 
3. Technical Services Referral [↓](#) 
4. Landscaping Referral [↓](#) 

DEVELOPMENT APPLICATION DOCUMENTS

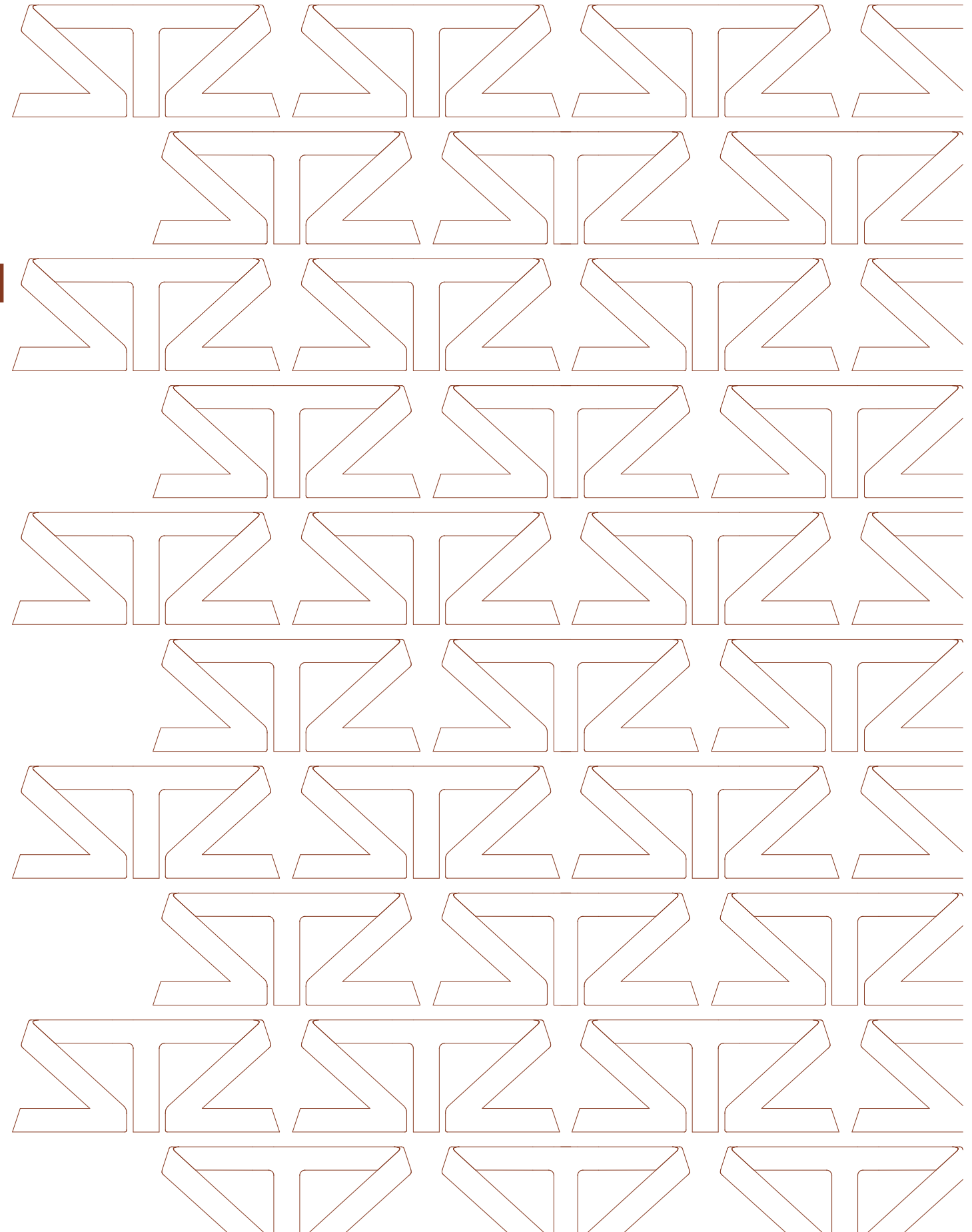
Penklis House - 8 Fisher Avenue

8 Fisher Avenue VAUCLUSE NSW 2030
AUSTRALIA
LOT 1 DP 1285959

George and Christine Penklis
FOR MODIFYING DA - 8 DECEMBER 2022

SMITH & TZANNES

16_081 REV A 8-12-2022



DRAWING No.	DESCRIPTION
MOD-A-000	TITLE
MOD-A-001	NOTES
MOD-A-010	SITE PLAN
MOD-A-100	GROUND - VAUCLUSE RD
MOD-A-101	FIRST FLOOR - VAUCLUSE RD
MOD-A-102	LOWER GROUND - FISHER AVE
MOD-A-103	GROUND - FISHER AVE
MOD-A-104	FIRST FLOOR - FISHER AVE
MOD-A-105	LOFT - FISHER AVE
MOD-A-106	ROOF - FISHER AVE
MOD-A-200	NORTH & WEST ELEVATION
MOD-A-201	SOUTH ELEVATION
MOD-A-202	SECTIONS 1 & 2
MOD-A-800	AREA CALCULATIONS
MOD-A-801	FLOORPLATE CALCULATIONS
MOD-A-850	SHADOWS - WINTER 9am
MOD-A-851	SHADOWS - WINTER 12pm
MOD-A-852	SHADOWS - WINTER 3pm
MOD-A-853	SHADOWS - WINTER 9am ELEVATIONAL
MOD-A-854	SHADOWS - WINTER 12pm ELEVATIONAL
MOD-A-855	SHADOWS - WINTER 3pm ELEVATIONAL
MOD-A-992	SURVEY

BSA File Reference: 15644			
Building Sustainability Assessments enquiries@buildingsustainability.net.au		Ph: (02) 4962 3439 www.buildingsustainability.net.au	
SUMMARY OF BASIX COMMITMENTS - ALTERATIONS AND ADDITIONS			
<i>This is a summary of the BASIX Commitments as detailed in the BASIX Certificate. Refer to the CURRENT BASIX Certificate for complete details. For definitions refer to basix.nsw.gov.au</i>			
FIXTURES AND SYSTEMS			
Hot Water System (if applicable)			
Type	n/a		
Lighting			
A minimum of 40% of new or altered light fixtures must be fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.			
Fixtures			
All new or altered water fixtures (toilet cisterns, shower roses or taps) must have a minimum 3 Star water rating.			
CONSTRUCTION			
Insulation to be installed to all new or altered floors, walls, ceilings and roofs as described below. The recommended values are standard construction practice and will exceed or be equal to minimum BASIX requirements.			
	Added R Value	Other Specifications	
Floors	Concrete	None	
	Suspended with open subfloor	R1.0	
Walls	All	None	
Ceilings	Adjacent to roof space	R3.0	
Roofs	Concrete	None	Light colour
Glazing to all new or altered windows or doors can be as described for clear or toned glazing. Other glazing systems must have U and SHGC values no greater than those listed. All values calculated to NFRC conditions.			
	Glazing & frame	U Value	SHGC Value
	LowE in aluminium	5.70	0.47
	Single clear in aluminium	7.63	0.75
			To all other windows UNO
Shading details (eaves, sunshades, awnings, blinds etc.) are those as drawn on the plans and elevations.			
Skylights to be as described OR no greater than the U and SHGC values listed.			
	Frames	Glazing	U Value
	Timber	LowE internal/Argon fill/Clear external	2.50
			0.456
For construction in NSW the BCA Vol 1 or 2 must also be complied with, in particular the following: - Thermal construction in accordance with Vol 1 Section J1.2 or Vol 2 Part 3.12.1.1 - Thermal breaks in accordance with Section J1.3(d) & 1.5(c) or Part 3.12.1.2(c) & 3.12.1.4(b) - Compensating for loss of ceiling insulation in accordance with Section J1.3(c) or Part 3.12.1.2(e) - Floor insulation in accordance with Section J1.6(c) & (d) or Part 3.12.1.5(a)(iii) or (c) & (d) - Building sealing in accordance with Section J3 or Part 3.12.3.1 to 3.12.3.6.			

SELECTIONS LEGEND

REFER TO SELECTIONS SCHEDULE FOR MORE DETAIL

- AD ALUMINIUM FRAMED DOOR
- AW ALUMINIUM FRAMED WINDOW
- B BOLLARD
- BAL# BALUSTRADE TYPE #
- BG BOX GUTTER
- BLK BLOCKWORK
- BK BRICKWORK
- CAR CARPET
- CONC CONCRETE
- CFT CERAMIC FLOOR TILE FINISH
- CWT CERAMIC WALL TILE FINISH
- D DOOR
- DW DISHWASHER
- DP DOWNPIPE
- EWC EXTERNAL WALL CLADDING
- FB FACE BRICK
- FC FIBRE CEMENT
- FG FIXED GLASS
- FL FLASHING
- FR FIRE RATED
- FW FLOOR WASTE
- FFL FINISHED FLOOR LEVE
- FSL FINISHED SLAB LEVEL
- GD GRATED DRAIN
- GU GUTTER
- HR HANDRAIL
- HW HOT WATER UNIT
- LDY LAUNDRY
- LV OPERABLE/FIXED LOUVRES
- MB METER BOX
- ML METAL LOUVRES
- MR# METAL ROOF SHEET TYPE #
- P PAINT
- PAV PAVING
- PB PLASTERBOARD
- PF POOL FENCE
- POLY POLYURETHANE FINISH
- PR PEBBLED ROOF
- MSC MESH CAGE
- REF REFRIGERATOR
- REN RENDER
- RL RELATIVE LEVEL (TO AUSTRALIAN HEIGHT DATUM)
- RWO RAINWATER OUTLET
- RWT RAINWATER TANK
- STD SLIDING TIMBER DOOR
- SG STEEL GATE
- SK SKIRTING
- SP STONE PAVING
- ST STONE TILES
- TIM TIMBER SCREEN
- TD TIMBER FRAMED DOOR
- TF TIMBER STRIP FLOORING
- TW TIMBER FRAMED WINDOW
- TRG TRANSLUCENT GLAZING (OBSCURE)
- VP VENT PIPE
- WM WASHING MACHINE

MODIFYING DA SCHEDULE OF CHANGES

- GROUND LEVEL - VAUCLUSE ROAD
- 1. ENTRY STAIR AND LIFT AMENDMENT
- 2. BATHROOM AND POOL PLANT AMENDMENT
- LEVEL 1 - VAUCLUSE ROAD
- 3. POOL AMENITY PLAN CHANGES
- 4. COLUMN AMENDMENT
- 5. NEW SCREENED WINDOW
- 6. ROBE AND ENSUITE PLAN CHANGES
- 7. NEW HALL, STAIR AND LIFT CONNECTING TO FISHER AVENUE FRONTAGE
- LEVEL 2 - LOWER GROUND FISHER AVE
- 8. SKYLIGHT
- 9. AMENDED LAUNDRY AND WC
- 10. HALL AND NEW STAIR TO SUBFLOOR CONNECTING TO FISHER AVENUE ENTRY
- GROUND FLOOR - FISHER AVE
- 11. EXTENDED LIVING ROOM
- 12. FIXED PRIVACY SCREENS
- 13. PEBBLED PLANTER - NOT ACCESSIBLE
- LEVEL 1 - FISHER AVE
- 14. PEBBLED ROOF WITH CONCRETE PARAPET
- SITE
- 15. EXEMPT SPECIES TREES LEYLAND CYPRESS (G14) TO BE REMOVED



General Notes
1. NEVER scale off drawings, use figured dimensions only.
2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.

LEGEND
Refer to the notes page for legend that includes further notes and explanation of abbreviation



DOCUMENT
NOTES
DOCUMENT
FOR MODIFYING DA
REV A 8-12-2022
STAGE
FOR DEVELOPMENT APPLICATION ONLY

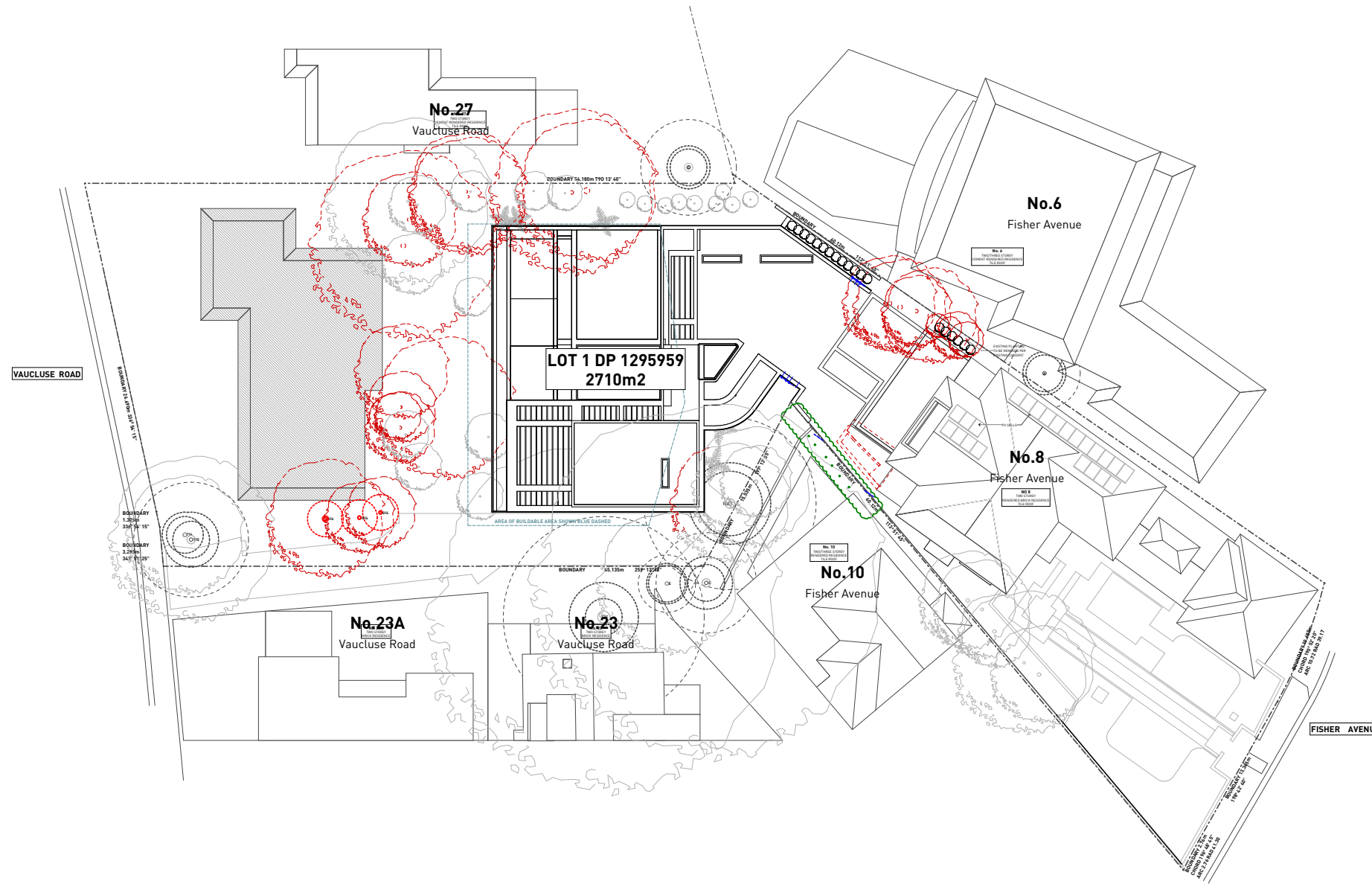
PROJECT
Penkils House - 8 Fisher Avenue
8 Fisher Avenue VAUCLUSE

CLIENT **George and Christine Penkils**

ARCHITECTURE URBAN PLANNING
M/1747 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithzannes.com.au
smithzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



16_081 MOD-A-001



1 SITE PLAN
1:200

General Notes
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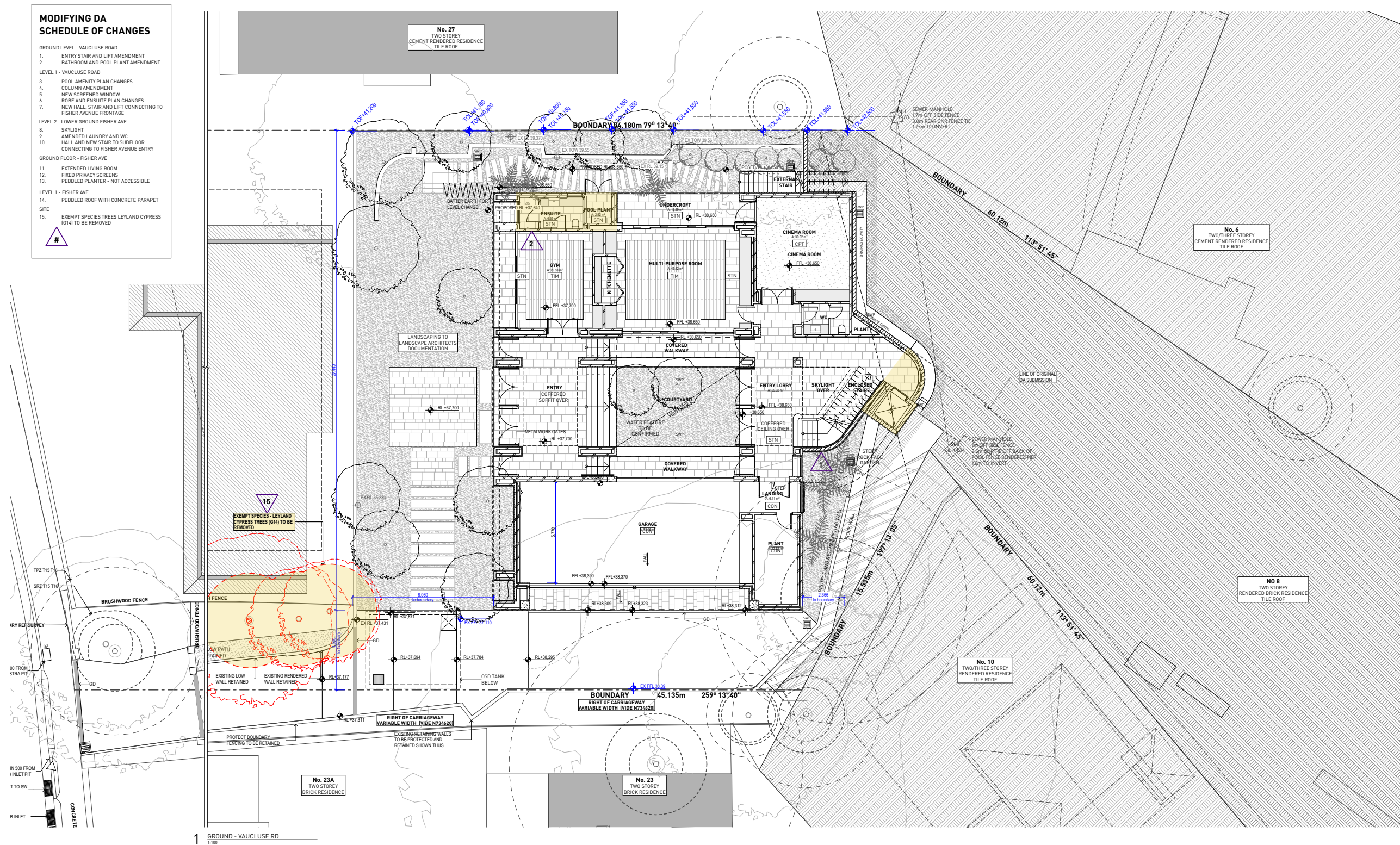
DOCUMENT
SITE PLAN
 DOCUMENT
FOR MODIFYING DA
 REV A 8-12-2022
 STAGE
FOR DEVELOPMENT APPLICATION ONLY

PROJECT
Penkils House - 8 Fisher Avenue
 8 Fisher Avenue VAUCLUSE

CLIENT **George and Christine Penkils**
 ARCHITECTURE URBAN PLANNING
 M1/147 McEvoy St Alexandria NSW 2015
 P 02 9516 2022 E email@smithszannes.com.au
 smithszannes.com.au
 Nominated Architect: Peter Smith (Reg 7024)



16_081 MOD-A-010



General Notes

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DOCUMENT
GROUND - VAUCLUSE RD
DOCUMENT
FOR MODIFYING DA
REV A 8-12-2022
STAGE
FOR DEVELOPMENT APPLICATION ONLY

PROJECT
Penktils House - 8 Fisher Avenue
8 Fisher Avenue VAUCLUSE

CLIENT
George and Christine Penkils

ARCHITECTURE URBAN PLANNING
M/1747 McEvoy St Alexandria NSW 2015
P 02 9514 2022 E email@smithszannes.com.au
smithszannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



16_081 MOD-A-100

**MODIFYING DA
SCHEDULE OF CHANGES**

- GROUND LEVEL - VAUCLUSE ROAD
- 1. ENTRY STAIR AND LIFT AMENDMENT
- 2. BATHROOM AND POOL PLANT AMENDMENT
- LEVEL 1 - VAUCLUSE ROAD
- 3. POOL AMENITY PLAN CHANGES
- 4. COLUMN AMENDMENT
- 5. NEW SCREENED WINDOW
- 6. ROBE AND ENSUITE PLAN CHANGES
- 7. NEW HALL, STAIR AND LIFT CONNECTING TO FISHER AVENUE FRONTAGE
- LEVEL 2 - LOWER GROUND FISHER AVE
- 8. SKYLIGHT
- 9. AMENDED LAUNDRY AND WC
- 10. HALL AND NEW STAIR TO SUBFLOOR CONNECTING TO FISHER AVENUE ENTRY
- GROUND FLOOR - FISHER AVE
- 11. EXTENDED LIVING ROOM
- 12. FIXED PRIVACY SCREENS
- 13. PEBBLED PLANTER - NOT ACCESSIBLE
- LEVEL 1 - FISHER AVE
- 14. PEBBLED ROOF WITH CONCRETE PARAPET
- SITE
- 15. EXEMPT SPECIES TREES LEYLAND CYPRESS (G14) TO BE REMOVED



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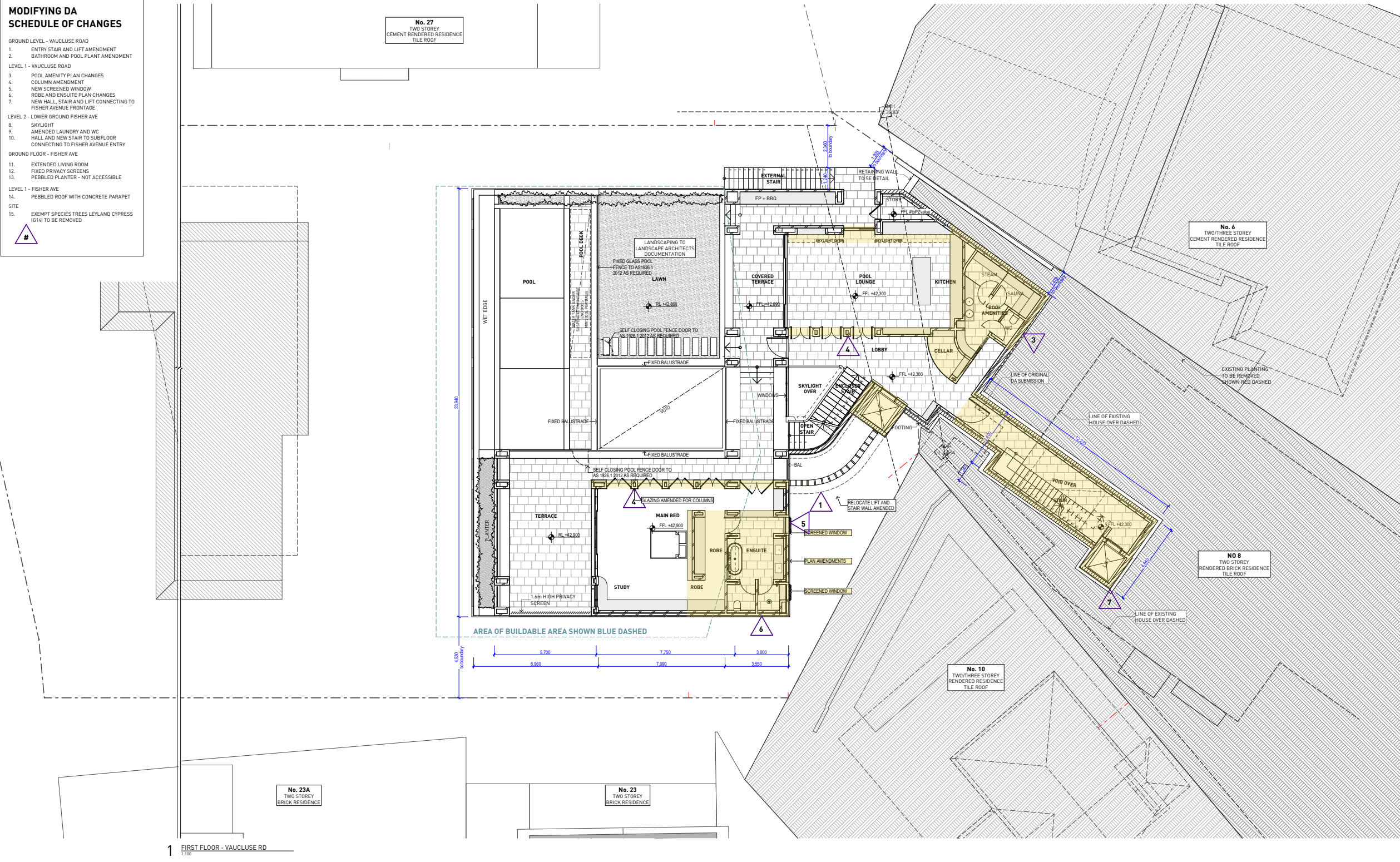
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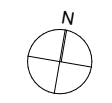
1 FIRST FLOOR - VAUCLUSE RD
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General Notes

- 1. NEVER scale off drawings, use figured dimensions only.
- 2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
- 3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.

LEGEND

Refer to the notes page for legend that includes further notes and explanation of abbreviation



DOCUMENT
FIRST FLOOR - VAUCLUSE RD
DOCUMENT
FOR MODIFYING DA
REV A 8-12-2022
STAGE
FOR DEVELOPMENT APPLICATION ONLY

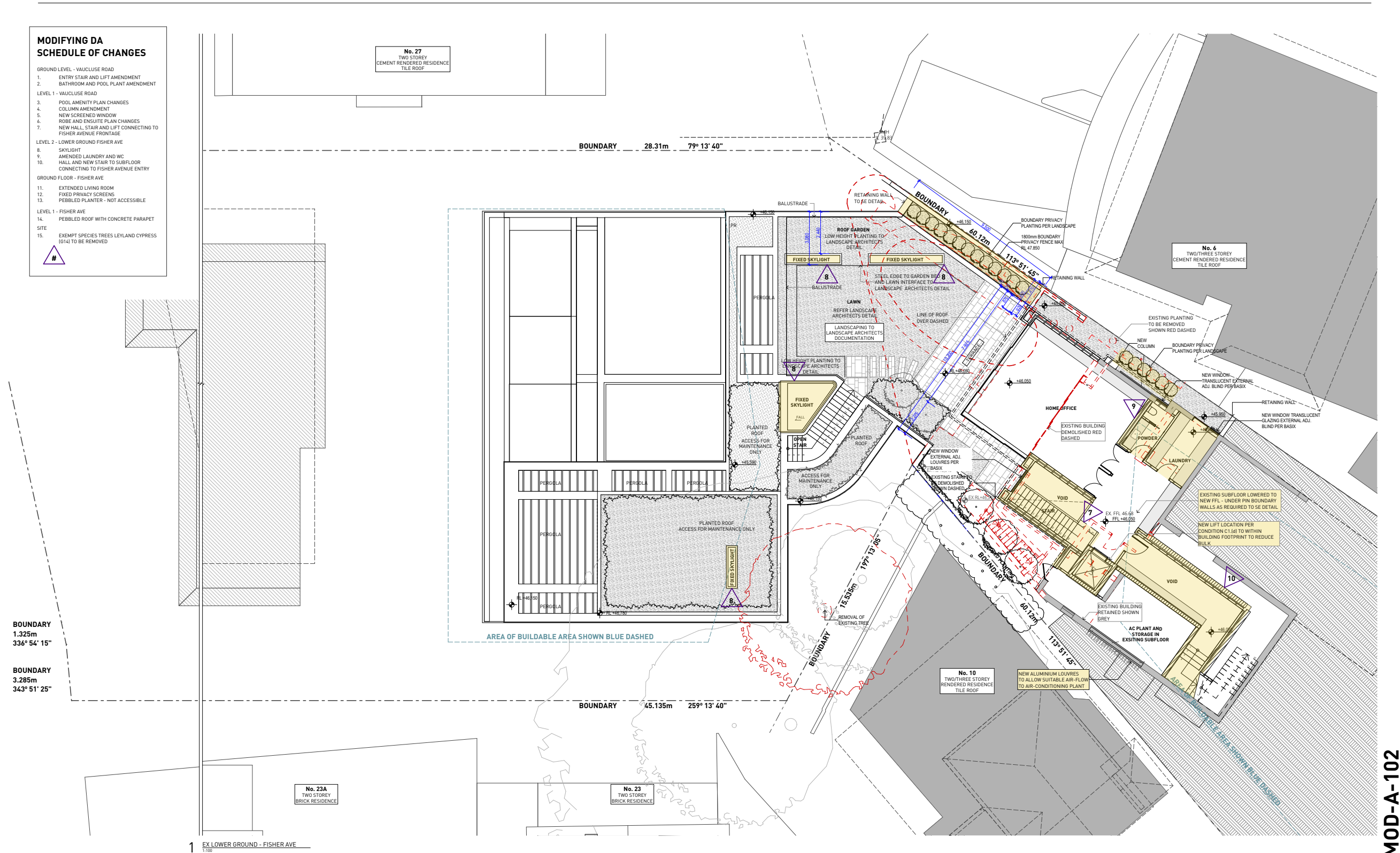
PROJECT
Penkils House - 8 Fisher Avenue
8 Fisher Avenue VAUCLUSE

CLIENT **George and Christine Penkils**

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithszannes.com.au
smithszannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



16_081 MOD-A-101



- MODIFYING DA SCHEDULE OF CHANGES**
- GROUND LEVEL - VAUCLUSE ROAD
 - 1. ENTRY STAIR AND LIFT AMENDMENT
 - 2. BATHROOM AND POOL PLANT AMENDMENT
 - LEVEL 1 - VAUCLUSE ROAD
 - 3. POOL AMENITY PLAN CHANGES
 - 4. COLUMN AMENDMENT
 - 5. NEW SCREENED WINDOW
 - 6. ROBE AND ENSUITE PLAN CHANGES
 - 7. NEW HALL, STAIR AND LIFT CONNECTING TO FISHER AVENUE FRONTAGE
 - LEVEL 2 - LOWER GROUND FISHER AVE
 - 8. SKYLIGHT
 - 9. AMENDED LAUNDRY AND WC
 - 10. HALL AND NEW STAIR TO SUBFLOOR CONNECTING TO FISHER AVENUE ENTRY
 - GROUND FLOOR - FISHER AVE
 - 11. EXTENDED LIVING ROOM
 - 12. FIXED PRIVACY SCREENS
 - 13. PEBBLED PLANTER - NOT ACCESSIBLE
 - LEVEL 1 - FISHER AVE
 - 14. PEBBLED ROOF WITH CONCRETE PARAPET
 - SITE
 - 15. EXEMPT SPECIES TREES LEYLAND CYPRESS (014) TO BE REMOVED

General Notes

1. NEVER scale off drawings, use figured dimensions only.
2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.

LEGEND

Refer to the notes page for legend that includes further notes and explanation of abbreviation



DOCUMENT
LOWER GROUND - FISHER AVE
DOCUMENT
FOR MODIFYING DA
REV A 8-12-2022
STAGE
FOR DEVELOPMENT APPLICATION ONLY

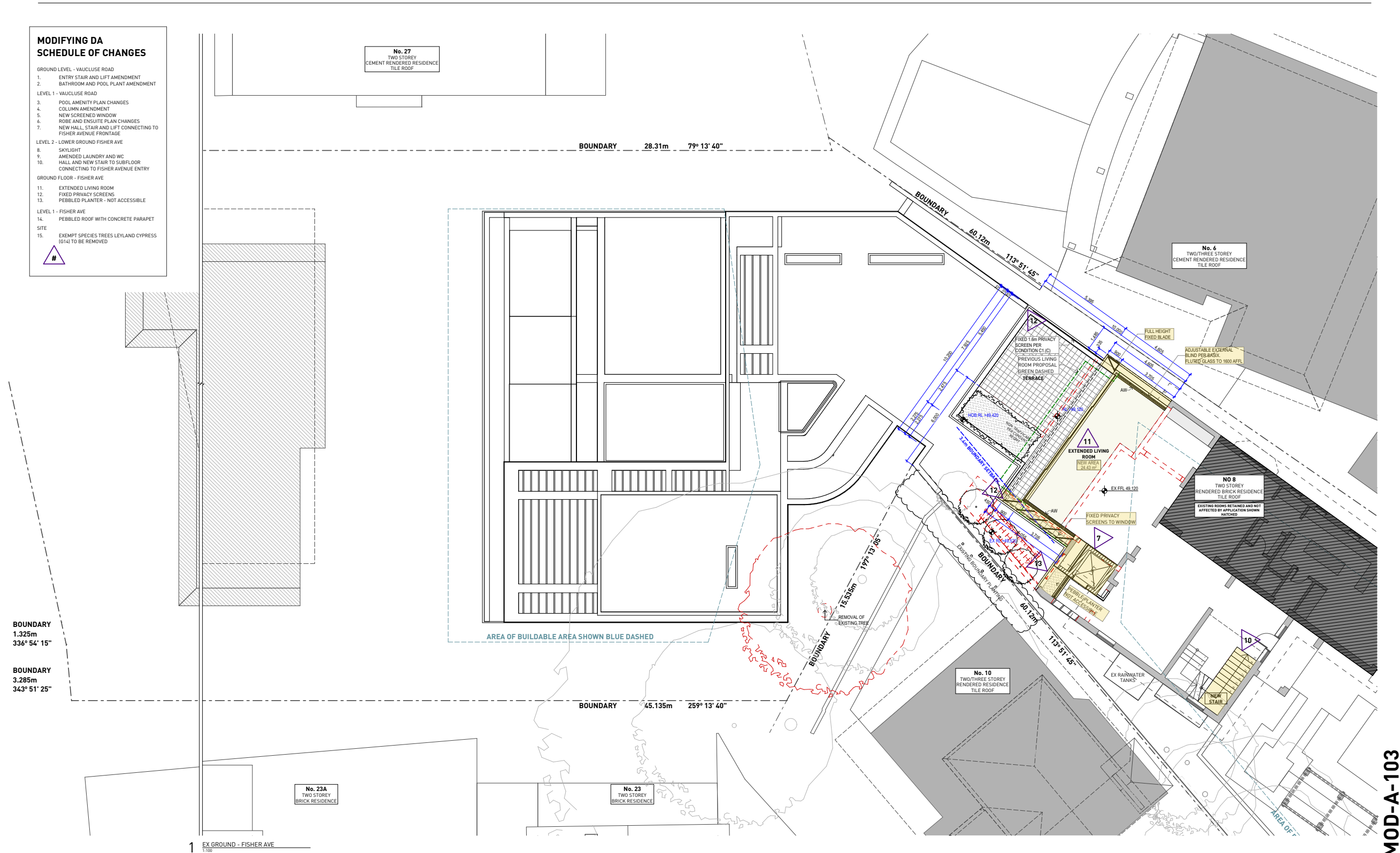
PROJECT
Penktils House - 8 Fisher Avenue
8 Fisher Avenue VAUCLUSE

CLIENT
George and Christine Penktils

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithzannes.com.au
smithzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



16_081 MOD-A-102



- MODIFYING DA SCHEDULE OF CHANGES**
- GROUND LEVEL - VAUCLUSE ROAD
- ENTRY STAIR AND LIFT AMENDMENT
 - BATHROOM AND POOL PLANT AMENDMENT
- LEVEL 1 - VAUCLUSE ROAD
- POOL AMENITY PLAN CHANGES
 - COLUMN AMENDMENT
 - NEW SCREENED WINDOW
 - ROBE AND ENSUITE PLAN CHANGES
 - NEW HALL, STAIR AND LIFT CONNECTING TO FISHER AVENUE FRONTAGE
- LEVEL 2 - LOWER GROUND FISHER AVE
- SKYLIGHT
 - AMENDED LAUNDRY AND WC
 - HALL AND NEW STAIR TO SUBFLOOR CONNECTING TO FISHER AVENUE ENTRY
- GROUND FLOOR - FISHER AVE
- EXTENDED LIVING ROOM
 - FIXED PRIVACY SCREENS
 - PEBBLED PLANTER - NOT ACCESSIBLE
- LEVEL 1 - FISHER AVE
- PEBBLED ROOF WITH CONCRETE PARAPET
- SITE
- EMPTY SPECIES TREES LEYLAND CYPRESS (G14) TO BE REMOVED

General Notes

- NEVER scale off drawings, use figured dimensions only.
- Verify all dimensions on site prior to commencement & report discrepancies to the architect.
- Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.

LEGEND

Refer to the notes page for legend that includes further notes and explanation of abbreviation



DOCUMENT
GROUND - FISHER AVE
FOR MODIFYING DA
REV A 8-12-2022
STAGE
FOR DEVELOPMENT APPLICATION ONLY

PROJECT
Penklis House - 8 Fisher Avenue
8 Fisher Avenue VAUCLUSE

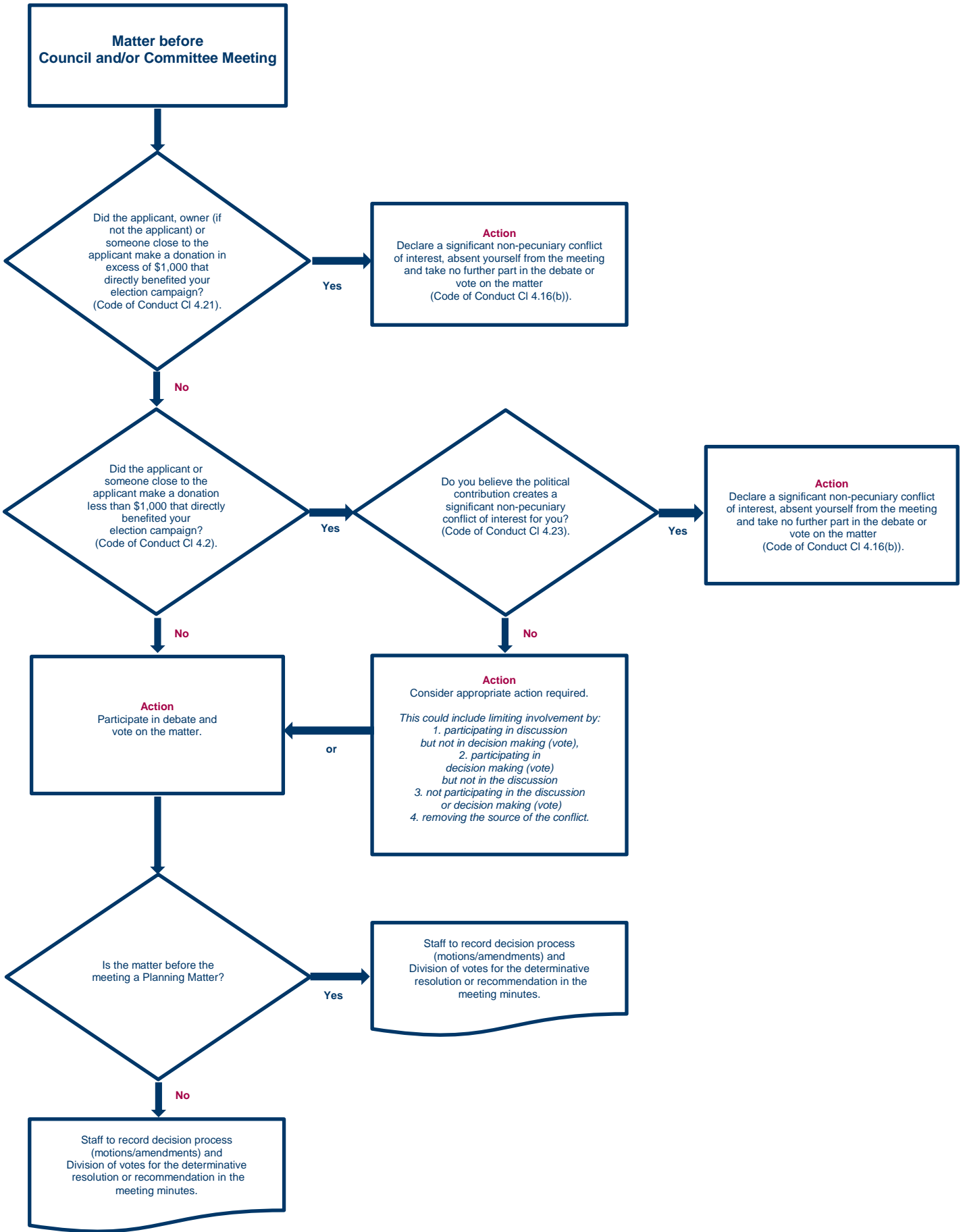
CLIENT
George and Christine Penklis

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



16_081 MOD-A-103

Political Donations: Matters to be considered by Councillors at Council and/or Committee Meetings



Matter before Council and/or Committee Meeting

Did the applicant, owner (if not the applicant) or someone close to the applicant make a donation in excess of \$1,000 that directly benefited your election campaign? (Code of Conduct Cl 4.21).

Yes

Action
 Declare a significant non-pecuniary conflict of interest, absent yourself from the meeting and take no further part in the debate or vote on the matter (Code of Conduct Cl 4.16(b)).

No

Did the applicant or someone close to the applicant make a donation less than \$1,000 that directly benefited your election campaign? (Code of Conduct Cl 4.2).

Yes

Do you believe the political contribution creates a significant non-pecuniary conflict of interest for you? (Code of Conduct Cl 4.23).

Yes

Action
 Declare a significant non-pecuniary conflict of interest, absent yourself from the meeting and take no further part in the debate or vote on the matter (Code of Conduct Cl 4.16(b)).

No

Action
 Participate in debate and vote on the matter.

or

Action
 Consider appropriate action required.
 This could include limiting involvement by:
 1. participating in discussion but not in decision making (vote),
 2. participating in decision making (vote) but not in the discussion,
 3. not participating in the discussion or decision making (vote),
 4. removing the source of the conflict.

Is the matter before the meeting a Planning Matter?

Yes

Staff to record decision process (motions/amendments) and Division of votes for the determinative resolution or recommendation in the meeting minutes.

No

Staff to record decision process (motions/amendments) and Division of votes for the determinative resolution or recommendation in the meeting minutes.