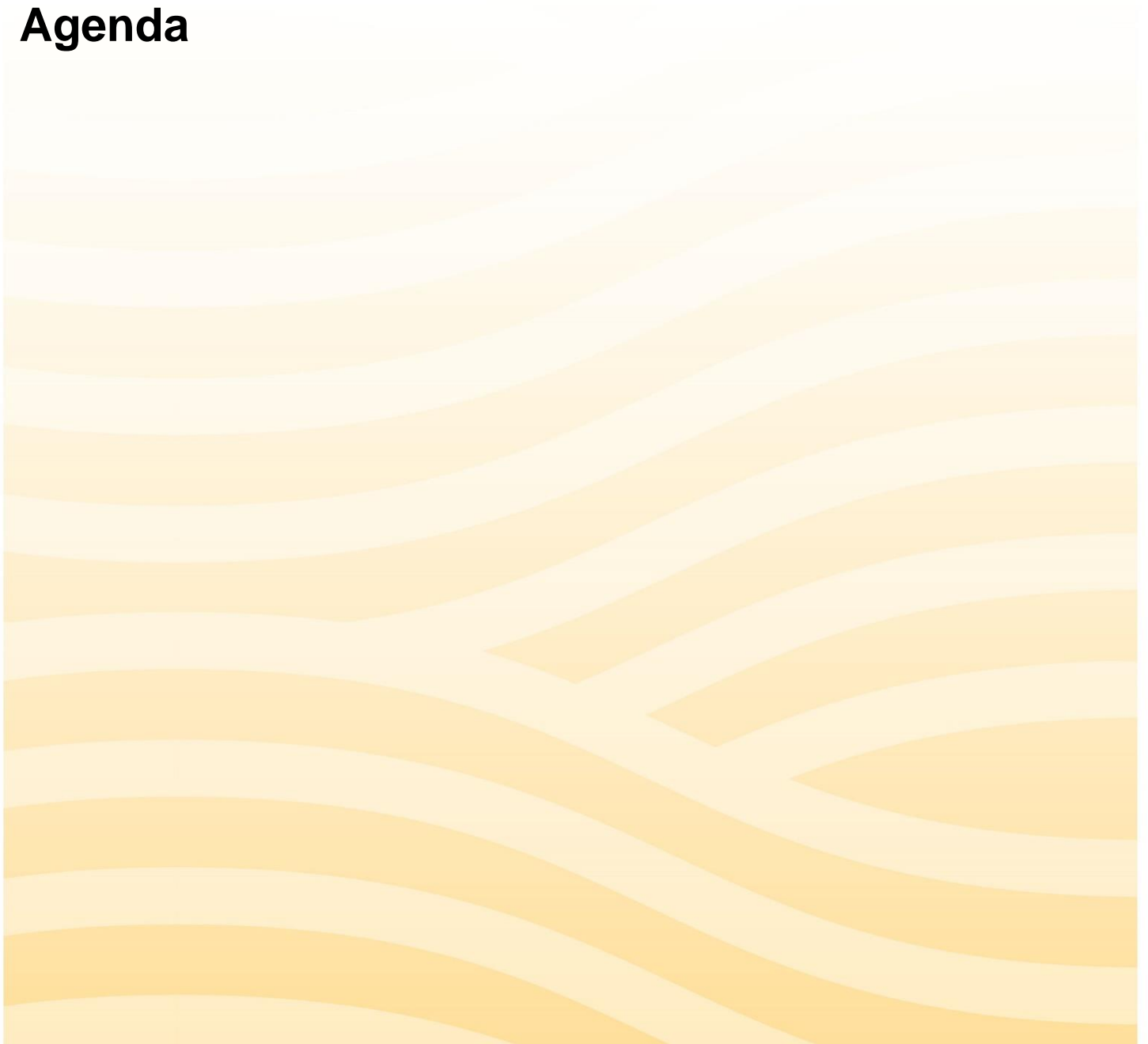




# Application Assessment Panel

Tuesday 12 March 2024  
3.00pm

## Agenda



### 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](https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/aap/aap_agendas_and_minutes)
- **To request to address the Panel (pre-register by 12noon the day before the meeting)**  
Pre-register to listen to the meeting live or request to address the Panel by 12noon the day before the meeting by emailing your name, mobile number and the item you are interested in, to [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au) or by contacting the Governance team on (02) 9391 7001.
- **To submit late correspondence (submit by 12noon the day before 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](mailto:records@woollahra.nsw.gov.au) by 12noon the day before 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:

- 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](http://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

4 March 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 – 12 March 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 12 March 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](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](mailto: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](mailto: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](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	
<b>Items to be Decided by this Committee using its Delegated Authority</b>		
D1	Confirmation of Minutes of Meeting held on 20 February 2024 - 24/38209 .....	7
D2	DA517/2022/2 - 85A Victoria Road Bellevue Hill - 24/37681 ..... <b>*See Recommendation Page 34</b>	9
D3	DA227/1995/2 - 111-113 Queen Street Woollahra - 24/38379 ..... <b>*See Recommendation Page 120</b>	111



**Item No:** D1 Delegated to Committee  
**Subject:** **CONFIRMATION OF MINUTES OF MEETING HELD ON 20 FEBRUARY 2024**  
**Author:** Sue O'Connor, Governance Officer  
**File No:** 24/38209  
**Purpose of the Report:** The Minutes of the Application Assessment Panel of 20 February 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 20 February 2024 be taken as read and confirmed.

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**Executive Summary:**

This report presents the Application Assessment Panel Minutes of 20 February 2024 for confirmation.

**Discussion:**

The Application Assessment Panel Minutes are presented to the Committee as a procedural matter. Any matter arising from the Minutes can be discussed.

**Options:**

Submission of minutes to the Application Assessment Panel 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



## APPLICATION ASSESSMENT PANEL SECTION 4.55 APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	D2
<b>FILE No.</b>	DA517/2022/2
<b>ADDRESS</b>	85A Victoria Road BELLEVUE HILL
<b>SITE AREA</b>	1,441.9m <sup>2</sup>
<b>ZONING</b>	R2 Low Density Residential
<b>EXISTING CONSENT</b>	Demolition of the existing dwelling and construction of a new dwelling, including basement carparking, roof terrace and associated landscaping
<b>DATE OF CONSENT</b>	30/05/2023
<b>TYPE OF CONSENT</b>	Local development
<b>CONSENT AUTHORITY</b>	Woollahra Council
<b>PROPOSED MODIFICATION</b>	Internal and external modifications to the approved new dwelling, including the addition of a roof terrace.
<b>TYPE OF MODIFICATION</b>	Section 4.55(2)
<b>DATE S4.55 LODGED</b>	12/01/2024
<b>APPLICANT</b>	Archian Pty Ltd
<b>OWNER</b>	Ms Y F Xu
<b>AUTHOR</b>	Mr K Qi
<b>TEAM LEADER</b>	Mr M Moratelli
<b>SUBMISSIONS</b>	Two (2)
<b>RECOMMENDATION</b>	Approval, subject to Condition C.2

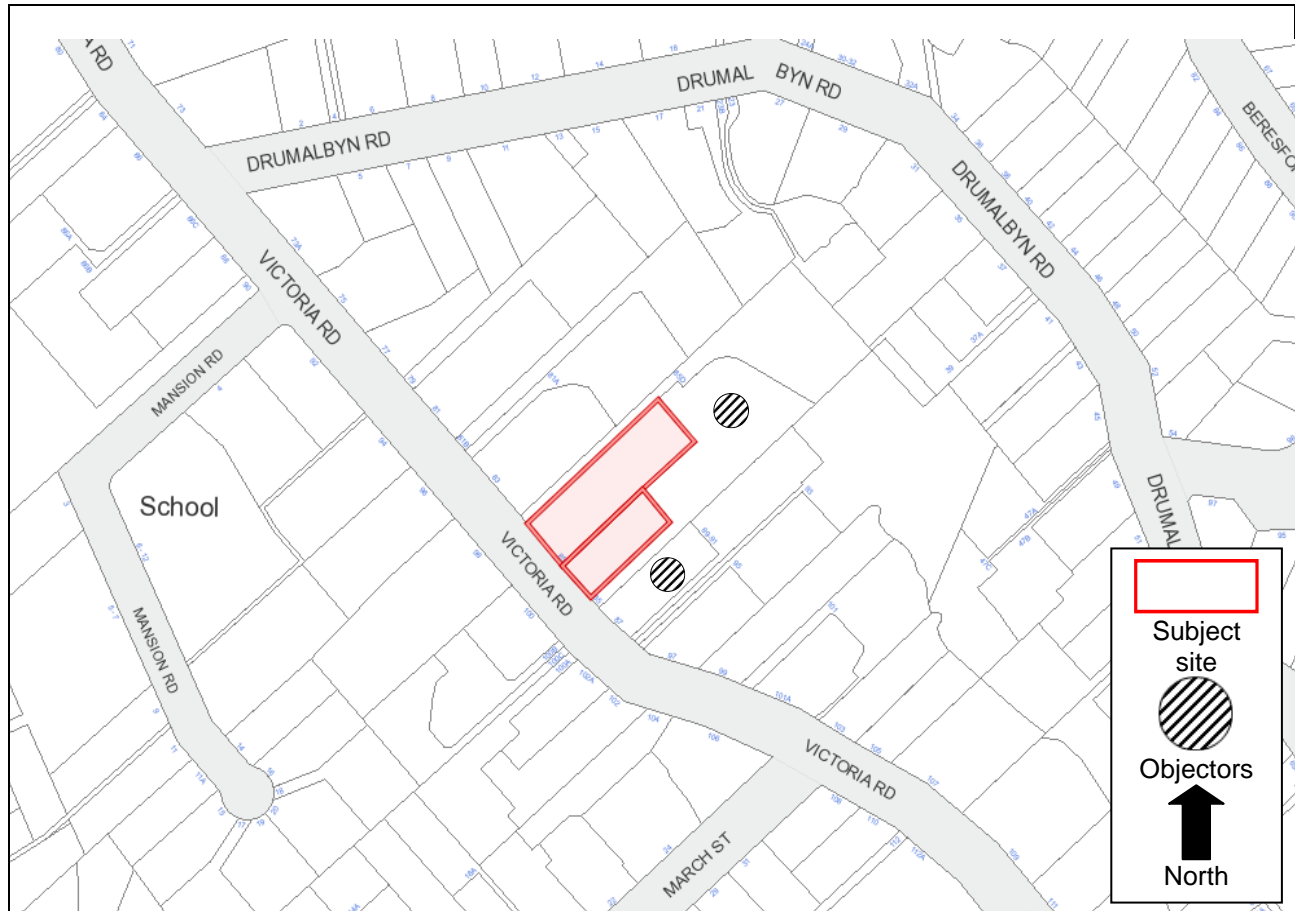
### 1. REASONS FOR RECOMMENDATION

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:

- The development consent as proposed to be modified, is considered to be substantially the same as the originally approved development;
- The proposal satisfies section 4.55 of the Environmental Planning and Assessment Act 1979;
- 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.

## SUMMARY

### 2. LOCALITY PLAN



It is noted that the address 85A Victoria Road Bellevue Hill contains two lots. The north-western lot is defined as Lot 3 DP 365516 with an area of 1441.9m<sup>2</sup>, and the southern lot is defined as Lot 1 DP 606212 with an area of 674.8m<sup>2</sup>. The proposed modifications are located in Lot 3 DP 365516.

### 3. LEVEL OF DELEGATION

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

- It involves a modification application under s4.55 (2) of the Act, which seeks to delete a condition of consent which was previously imposed by the AAP.

### 4. SUMMARY OF APPROVED DEVELOPMENT

The approved development involves the demolition of the existing dwelling, carport and outbuilding, and the construction of a new three storey dwelling on Lot 3 DA 365516. Specifically, the new dwelling involves the following works:

*Basement level:*

- Four car spaces with turntable
- Multi-purpose room
- Gym
- Storage area
- Toilet
- Wine cellar

- *Bike rack*
- *Stair and lift access*

*Ground floor:*

- *Open living, dining and kitchen area with access to balcony extending the width of the front façade*
- *Bedrooms 2 & 3 with separate ensuites*
- *Laundry, storage and bathroom areas*
- *Guest bedroom*
- *Office*
- *Stair and lift access*
- *Retention of pool to the rear.*
- *Associated landscaping and paving.*

*First floor:*

- *Open living and dining area with bar*
- *Master bedroom with walk in wardrobe and ensuite*
- *Bedroom 4 with ensuite*
- *Laundry and bathroom areas*
- *Bedroom 5*
- *Study with access to balcony extending the width of the rear façade*
- *Large partial wrap around balcony on front façade and side elevations*
- *Stair and lift access*

*Roof plan:*

- *Roof terrace with planting*
- *Skylights*
- *Solar panels*

It was approved subject to the following modifying conditions in Condition C.2:

**a) *Window Treatment***

*The following windows are to be fitted with fixed and obscured glazing to a minimum height of 1.5m measured from the respective finished floor levels*

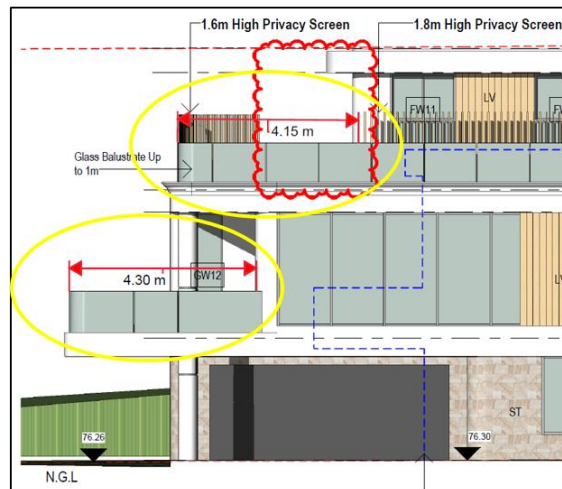
- North Elevation – GW08, GW09, & GW10 (as shown on the Ground Floor Plan)*
- South Elevation – FW15*

**b) *Privacy Screens – North Elevation***

*First Floor - The proposed privacy screen located on the First Floor, North Elevation measuring to a height of 1.8m must be extended by 4.15m towards the northeast along the entire length of the balcony.*

*Ground Floor – The proposed privacy screen on the Ground Floor, North Elevation measuring to a height of 1.6m must be incorporated along the rear balcony for a length of 4.3m.*

*The above requirements are depicted in the areas in yellow lines and arrows in red colour in the figure below.*



**c) Privacy Screens – South Elevation**

*First Floor – The proposed privacy screen located on the First Floor, South Elevation measuring to a height of 1.6m must be extended by 4.15m southwest along the length of the balcony.*

*Ground Floor – In order to protect visual privacy and avoid direct line of sights from the proposed ground floor rear balcony to the tennis court area of No. 85 Victoria Road, a privacy screen to a minimum height of 1.6m (measured from the finished floor level) must be erected along the full length of the south-eastern edge of the balcony. This privacy screen is then extended with a return up to 1.8m in length along the north-eastern edge in the same way as the approved wrap-around privacy screen to the first floor rear balcony above.*

**d) Site Facilities**

*A clothes line shall be indicated within the side or rear setbacks.*

**e) Solar Panels**

*To ensure the proposed solar panels uphold the provisions in Part E6.3 of the Woollahra DCP 2015, they must not:*

- i. Project above the roof surface by more than 300mm; and*
- ii. Involve mirrors or lenses to reflect or concentrate sunlight.*

**f) Pool Equipment**

*The pool pump and associated equipment must be housed within an acoustically controlled enclosure and situated 1.5m from any boundary.*

**g) Landscaping**

- i. To ensure appropriate documentation of all trees potentially impacted by works the submitted Arboricultural Impact assessment must be updated to include a Tree Location Plan. The location of all trees must be plotted accurately and referenced in accordance with Council's conditions of consent. The Tree Location Plan must be submitted to Council's Tree Officer for approval.*
- ii. To ensure the preservation of tree roots and the viable retention of trees to be retained plans must specify 'arborist supervision required' for all demolition and excavation works located within the following radial distances of the following trees;*



<b>Council Ref No.</b>	<b>Species</b>	<b>Location</b>	<b>Radius from centre of trunk (metres)</b>
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, Araucaria tree closest to driveway entrance	6 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	4 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	4 metres

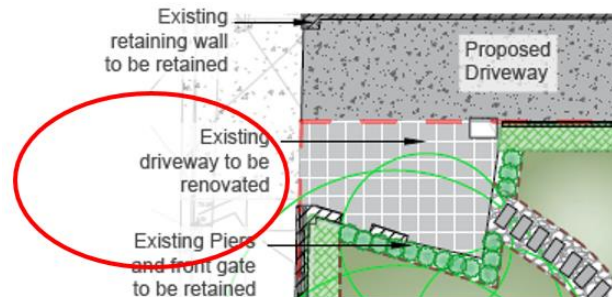
- iii. To ensure the preservation of tree roots and the viable retention of trees to be retained plans must specify 'no level changes' within the radial distances of the following trees;

<b>Council Ref No.</b>	<b>Species</b>	<b>Location</b>	<b>Radius from centre of trunk (metres)</b>
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, Araucaria tree closest to driveway entrance	6 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	4 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	4 metres

- iv. To ensure the preservation of tree roots and the viable retention of trees to be retained stormwater plans must be amended to show no pipes or pits located within the radial distances of the following trees;

<b>Council Ref No.</b>	<b>Species</b>	<b>Location</b>	<b>Radius from centre of trunk (metres)</b>
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, Araucaria tree closest to driveway entrance	4 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	3 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	3 metres
7	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip.	4 metres
8	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	4 metres
9	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	4 metres

- v. *To ensure the viable retention of trees to be retained the existing concrete driveway entrance specified on the submitted Landscape Plan as 'existing driveway to be renovated' (circled red) must be resurfaced using a totally permeable surface such as paving or bitumen (AC5) and not concrete.*



**h) Deletion of roof Terrace**

*The trafficable roof terrace, access stairs and associated balustrading must be deleted.*

**5. SUMMARY OF PROPOSED MODIFICATION**

The architectural drawings were amended on 20 February 2024 comprising the following modifications:

- Partial lowering of the balustrade and roof level of the south-eastern section of the roof terrace to comply with the height control;
- Proposed privacy screens to the rear balconies of the ground and first floors; and
- Proposed external timber batten claddings.

As amended, the Section 4.55 application involves the following works:

**Basement level**

- Relocation of garage entry and driveway;
- Relocation of parking spaces;
- Proposed gym at the northern corner and external access stair from basement to ground floor balcony;
- Modification of internal access stair;
- Reconfiguration of internal walls; and
- Fenestration works throughout.

**Ground floor level**

- Proposed arch doorways to the entry porch and modification of front façade;
- Reconfiguration of internal walls;
- Proposed privacy screens to the rear balcony;
- Modified external timber batten claddings; and
- Fenestration works throughout.

**First floor level**

- Modification of front façade;
- Proposed external access stair to rooftop terrace;
- Proposed sun shade to the north-east of the dwelling;
- Reconfiguration of internal walls;
- Proposed privacy screens to the rear balcony;
- Modified external timber batten claddings; and
- Fenestration works throughout.

Roof level

- Proposed rooftop terrace with balustrade.

The proposed modifications will require Condition C.2 to be modified as follows:

- Deletion of part b) which requires privacy screens along the north elevation
- Amendment of part c) which requires privacy screens along the south elevation as follows.

Ground Floor – In order to protect visual privacy and avoid direct line of sights from the proposed ground floor rear balcony to the tennis court area of No. 85 Victoria Road, a privacy screen to a minimum height of 1.6m (measured from the finished floor level) must be erected along the full length of the south-eastern edge of the balcony. This privacy screen is then extended with a return up to 1.8m in length along the north-eastern edge in the same way as the approved wrap-around privacy screen to the first floor rear balcony above.

- Deletion of part h) which requires the deletion of roof terrace.

## 6. ISSUES

### Primary Issues

Issue	Conclusion	Section
Objector 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.	10.1

## PROPERTY DETAILS AND REFERRALS

### 7. SITE AND LOCALITY

<b>Physical features</b>
The subject site is located at the north-eastern side of Victoria Road between Mansion Road and March Street.
The address 85A Victoria Road Bellevue Hill contains two lots. The north-western lot is defined as Lot 3 DP 365516 with an area of 1441.9m <sup>2</sup> , and the southern lot is defined as Lot 1 DP 606212 with an area of 674.8m <sup>2</sup> and contains a tennis court. It is noted that both lots are under the same ownership. The proposed modifications are located in Lot 3 DP 365516.
The site (Lot 3 DP 365516) is approximately rectangular in shape comprising the following boundary lengths: <ul style="list-style-type: none"><li>• 21.030m south-western street frontage to Victoria Road;</li><li>• 68.580m north-western side boundary adjoining the battle-axe handle of 85D Victoria Road Bellevue Hill;</li><li>• 21.030m north-eastern rear boundary adjoining 85 Victoria Road Bellevue Hill; and</li><li>• 68.580m south-eastern side boundary, which southern and northern sections adjoin Lot 1 DP 606212 and 85 Victoria Road Bellevue Hill respectively.</li></ul>
<b>Topography</b>
The site slopes down approximately 4.11m from the front south-western corner of the site to the rear north-eastern corner of the site.
<b>Existing buildings and structures</b>
The site contains a two storey dwelling with a carport to the front, and in-ground swimming pool and an outbuilding at the rear.
<b>Surrounding Environment</b>
The site is located in the Bellevue Hill North Precinct. The surrounding locality comprises two to three storey dwelling houses.
B1.8.1 of the Woollahra DCP provides the following precinct character statement:

*The Bellevue Hill North precinct is sited on the slopes and plateau of Bellevue Hill. New South Head Road, the main arterial road, forms the northern edge of the precinct.*

*The precinct contains three distinct settings:*

- *the edge development fronting New South Head Road (between Bellevue Road and Victoria Road) which contains predominantly substantial residential flat buildings set behind sandstone walls, garages and steps;*
- *development opposite the Rose Bay promenade on New South Head Road, typically large detached buildings within a landscape setting; and*
- *the one to three storey dwelling houses and residential flat buildings set in the winding streets that follow the contours of Bellevue Hill.*

*As with many of the higher parts of the municipality, significant views and vistas are available from many of the public spaces. This precinct also contains two large private school campuses: Cranbrook School and Scots College.*



*Fig. Surrounding development – extract from WMC 3D Mapping*

## 8. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Residential development
<b>Relevant Application History</b>
<ul style="list-style-type: none"> <li>• <b>DA517/2022/1</b> – The proposal involves the demolition of the existing dwelling, carport and outbuilding, and the construction of a new three storey dwelling.</li> </ul> <p>This application was approved on 30 May 2023 subject to the modifying conditions in Condition C.2 as detailed in <b>Section 3</b>.</p>
<b>Relevant Compliance History</b>
N/A
<b>Pre-DA</b>
N/A
<b>Requests for Additional Information and Replacement Applications</b>
N/A
<b>Land and Environment Court Appeal(s)</b>
N/A

## 9. REFERRALS

No formal referrals undertaken.

## ASSESSMENT UNDER SECTION 4.55

The application is assessed under Section 4.55 of the Environmental Planning and Assessment Act 1979.

### 10. SECTION 4.55(2): OTHER MODIFICATIONS

Section 4.55(2) relates to the modification of a development consent for all other modifications. The application involves internal and external modifications to the approved new dwelling, including the addition of a roof terrace.

The considerations in Section 4.55(2) require Council to consider the following:

- a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)*

The test for establishing whether a development is 'substantially' the same as that which was originally granted consent is established by the *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298; [1999] NSWLEC 280 judgement. The judgement provides the following:

*The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is 'essentially or materially' the same as the (currently) approved development.*

*The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).*

...

*Qualitatively appreciated, that difference is in respect of material and essential features of the approved development, that materiality involving the importance attributed to the physical features of the approved development sought to be modified.*

With regard to the above case law, an assessment is provided using the following quantitative and qualitative tests to determine whether the proposal is substantially the same development.

#### Quantitative Test

Considerations include changes such as:

- a. ***the intensity of the development including any increase in gross floor area, the number of units including their size or number of bedrooms,***

The amended proposal increases the total gross floor area by 50.13m<sup>2</sup> and involves two additional bedrooms. Notwithstanding this, this results from the change of basement rooms from those which are excluded from the gross floor area calculation to those which are included in the gross floor area calculation. The proposed modification does not involve significant change of floor areas of the ground and first floor compared to that approved under DA517/2022/1. The amended proposal is sensitively located in such a way that it does not exacerbate the overall bulk and scale of the proposal as viewed from surrounding properties and the streetscape.

**b. height or number of storeys,**

The amended proposal would not alter the number of storeys, and the maximum building height complies with the maximum building height control required by the Woollahra LEP 2014.

**c. landscaped area, communal open space, or private open space**

The amended proposal increases the overall deep soil landscaped area by 1.77m<sup>2</sup>. It also involves a roof terrace with an area of 66.39m<sup>2</sup>, which is 36.4m<sup>2</sup> smaller in size compared to that proposed as part of DA517/2022/1 which was subject to be removed by Condition C.2.

**d. any other numerically quantifiable measure of the proposed modification.**

The amended proposal would not adversely alter any other numerically quantifiable measurement of the proposal as approved.

Assessment:

The does not result in any substantial quantitative variances from the originally approved development.

Qualitative Test Assessment:

**1. any change in the functionality of the development,**

The amended proposal maintains the same overall functionality of the dwelling house as approved.

**2. any material change in internal and expert amenity and environmental impacts,**

The amended proposal would not adversely impact the amenity of future residents of the subject site. This would be comparable to the approved condition. Also, the proposed modification is considered to provide reasonable amenity relationships with surrounding properties and would not have significant adverse streetscape impacts.

**3. where the approved development previously complied with a development standard or control that was of material importance in the assessment of the DA, but is no longer compliant as proposed to be modified.**

It is considered that compliance with the relevant considerations under the Woollahra DCP 2015 is achieved subject to the requirements of Condition C.2.

Conclusion

Based on the quantitative and qualitative observations made above, the proposed modification is considered to be substantially the same as that which was originally granted consent.

- b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent*
- c) *It has notified the application in accordance with:*
  - i) *The regulations, if the regulations so require, or*



- ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent*
- d) *It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be*

#### Planning Response:

Provision (b) is not relevant to this application. Provisions (c) and (d) have been satisfied as outlined in Section 10 of this assessment report.

Furthermore, consideration must be given to the reasons for why development consent was originally granted as is required by Section 4.55(3) which reads as follows:

*(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

In this regard reference has been made to the assessment report pertaining to DA517/2022/1 which considered the original application. The approved proposal was considered acceptable subject to the requirements of Condition C.2. Although the amended proposal involves a roof terrace which was to be removed subject to Condition C.2 of the original consent, the proposed modification does not contravene the issues and concerns which were found to be adequately addressed as detailed in the original assessment report.

## **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

## **11. ADVERTISING AND NOTIFICATION**

### **Submissions**

The application was advertised and notified from 31 January 2024 to 15 February 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Judy Swan – 87 Victoria Road, Bellevue Hill;
2. Anthony Boskovitz (on behalf of Mr Kontopos) – 85 Victoria Road, Bellevue Hill.

The submissions raised the following issues:

Issue	Conclusion	Section
The proposed roof terrace would set up an undesirable precedent that would not be in the public interest.	Each application is assessed on its own merit. The presentation of the proposed modification has been considered and would not have a significant adverse impact to the streetscape.	15.1
The proposed excavation is excessive.	The proposed modification does not involve any significant excavation works. Subject to the original conditions of consent, the excavation is compliant with the requirements under Part B3.4 of the Woollahra DCP 2015.	15.2.2
The proposal would have adverse acoustic privacy impacts on the neighbouring properties.	Subject to <b>Condition I.2</b> , the proposal is considered acceptable regarding acoustic privacy.	15.2.3
The proposal would have adverse overlooking impacts upon habitable room opening and private open space of neighbouring properties.	Subject to <b>Condition C.2</b> which requires further privacy measures, the proposal is considered to be satisfactory with regard to the privacy requirements under the Woollahra DCP 2015.	15.2.3
Necessity of the proposed roof terrace as the approved dwelling has views from external balconies.	The necessity of the proposed roof terrace has been assessed in accordance with the Planning Principle of <i>Super Studio vs Waverley Council</i> . The impacts of the roof terrace are considered acceptable.	15.2.3
Size of proposed roof terrace is excessive.	There are no controls which limit the maximum area for a roof terrace.	15.2.3
A tree is to be removed, and the plans do not show sufficient canopy trees.	The proposed modification does not involve removal of any trees. Subject to the original conditions of consent, the proposed modification is considered to be satisfactory with regard to the landscaping requirements under the Woollahra DCP 2015.	15.2.5
The proposed excavation would require dilapidation reports and vibration monitors for 87 Victoria Road Bellevue Hill.	<b>Condition D.8 (dilapidation reports for existing buildings)</b> was imposed as part of the original consent for neighbouring dwellings which may be affected by the proposed excavation. Also, <b>Condition E.25 (vibration monitoring)</b> was included as part of the original consent to minimize vibration impacts on neighbouring properties.	20

### Amended Application

The amended plans noted in Section 4 were not renotified to surrounding residents/previous objectors because they were considered to have no greater environmental or amenity impact.

### Statutory Declaration

The applicant has completed the statutory declaration dated 16 February 2024 declaring that the site notice for DA517/2022/2 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

## 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 Section 4.55 application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard condition.

### **13. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

#### **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 proposed modification will have no significantly adverse impacts on the Sydney Harbour Catchment, subject to standard conditions including erosion and sedimentation, stormwater and flood risk management control of the original consent.

### **14. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

#### Chapter 2 Coastal Management

The provisions of this chapter that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

It is considered that the proposal, as conditioned, will not have any significant adverse environmental impact upon the harbour coastal locality and is therefore satisfactory with regard to the relevant provisions of the planning instrument subject to the original conditions of consent.

#### Chapter 4 Remediation of Land

Under Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Clause 4.6(1) (b) and (c) of SEPP (Resilience and Hazards) 2021. The amended proposal is therefore acceptable with regard to SEPP (Resilience and Hazards) 2021 subject to the original conditions of consent.

### **15. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

#### **Part 1.2: Aims of Plan**

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

#### **Land Use Table**

The proposal is defined as alterations and additions to an approved dwelling house and is permitted and is consistent with the objectives of the R2 Low Density Residential zone.

### Part 4.3: Height of Buildings

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

	Existing	Proposed	Control	Complies
Maximum Building Height	9.38m	9.42m	9.5m	Yes

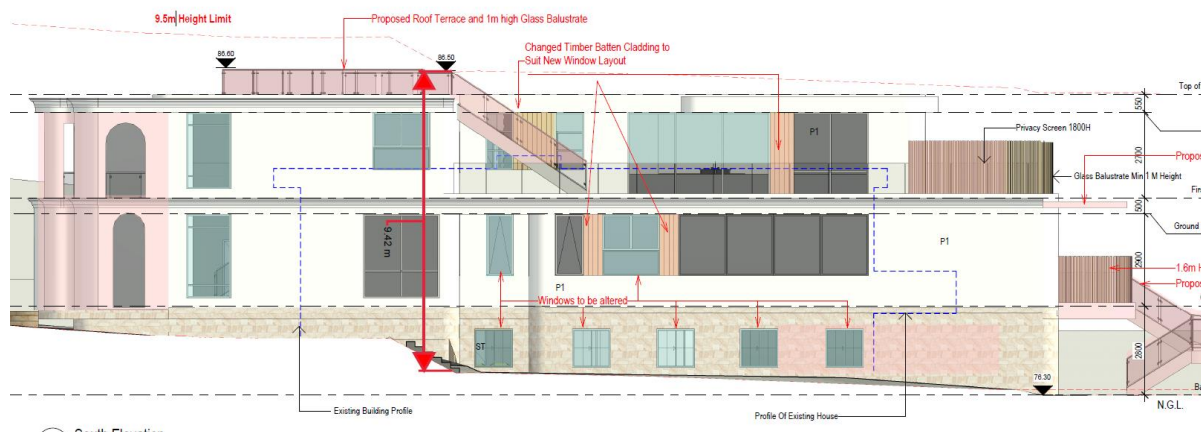


Fig. maximum building height analysis - extract from DA 24

Subject to Part (h) of Condition C.2 of the original consent which requires the deletion of the trafficable roof terrace and associated stairs and balustrade, the approved maximum building height is measured as 9.38m from existing ground level to the top of approved roof structure. All proposed modifications are below the 9.5m height limit. The amended proposal therefore complies with Part 4.3 of the Woollahra LEP 2014.

### Part 4.4E: Floor Space Ratio

Part 4.4E limits development to a maximum floor space ratio of 0.5:1 for a dwelling house.

Site Area: 1441.9m <sup>2</sup>	Approved	Proposed	Control	Complies
Floor Space Ratio	0.58:1 (835.9m <sup>2</sup> )	0.61:1 (886.03m <sup>2</sup> )	0.5:1 (720.95m <sup>2</sup> )	No

The definition of *building height* by the Woollahra LEP 2014 is as follows:

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes—

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.



Therefore, the proposal does not comply with Part 4.4E(3) of Woollahra LEP 2014.

It is noted that the original development application DA517/2022/1 was not subject to the floor space ratio control. The proposed modification increases the gross floor area by 50.13m<sup>2</sup>. Notwithstanding this, this non-compliance is influenced by the change of basement rooms from those which are excluded from the gross floor area calculation to those which are included in the gross floor area calculation. The proposed modification does not significantly alter the approved floor areas of the ground and first floor. An assessment against the objectives of clause (1) is provided below:

(a) to ensure the bulk and scale of development is compatible with the desired future character of the area,

The proposed modification is sensitively located in such a way that it does not exacerbate the overall bulk and scale of the amended proposal as viewed from surrounding properties and the streetscape and is considered to be compatible with the desired future character of the area

(b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

The proposed modification does not have any significant adverse environmental and amenity impacts on the adjoining properties and public domain.

*(c) to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.*

The proposed modification maintains suitable provision for landscaping features and private open space.

### Conclusion

The non-compliance with clause (3) of Part 4.4E of the Woollahra LEP 2014 is considered to be consistent with the above-mentioned objectives of the floor space ratio development standard.

### **Part 5.10: Heritage Conservation**

The subject site is not located within the Woollahra Heritage Conservation Area and is not identified as a heritage item under the Woollahra Local Environment Plan 2014. There are no listed heritage items in the vicinity of the subject site that would be adversely impacted by the proposal.

Council's Heritage Officer reviewed this application at the Development Application Review Committee (DARC) Stage and raised no objections subject to the conditions of consent.

Therefore, subject to conditions, the proposal is acceptable with regard to the Part 5.10 of the Woollahra LEP 2014.

### **Part 5.21: Flood Planning**

The objectives of Part 5.21 are:

- a) to minimise the flood risk to life and property associated with the use of land,*
- b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- a) is compatible with the flood function and behaviour on the land, and*
- b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

In deciding whether to grant development consent on land to which Part 5.21 applies, the consent authority must consider the following matters:

- a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- b) the intended design and scale of buildings resulting from the development,*
- c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion*

Subject to the original conditions of consent, the proposal is acceptable with regard to Part 5.21 of Woollahra LEP 2014.

### **Part 6.1: Acid Sulfate Soils**

Part 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. It is therefore acceptable with regard to Part 6.1.

### **Part 6.2: Earthworks**

The proposed modification does not involve any significant excavation works. Council's Development Engineer reviewed this application at the Development Application Review Committee (DARC) Stage and raised no objections subject to the original conditions of consent.

Therefore, subject to the original conditions of consent, the proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

## **16. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**

### **Chapter B1: Bellevue Hill North Residential Precinct**

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

The following extract from the Desired Future Character of Part B1.8.2 of the Woollahra DCP 2015 states:

*The Bellevue Hill North precinct is an established residential area with a rich mixture of architectural styles and forms. Development is to be compatible with the existing built fabric, subdivision pattern and other prevailing characteristics in the street, such as setbacks and roof forms.*

*On sloping sites, development should step down the site to maintain views, protect the privacy and solar access of adjoining and adjacent properties, and minimise cut and fill. The design of roofs and fences should also facilitate view sharing opportunities, and carports and other parking structures must not to dominate the streetscape.*

*There are pockets of Inter-War flat buildings along Drumalbyn Road that contribute to the precinct character, and the retention of these buildings is encouraged. Alterations and additions to the Inter-War flat buildings are to retain the character of the original building through appropriate use of materials, and should not significantly alter significant and traditional building elements visible from the street.*

*Development is to retain views of the harbour from public spaces and provide for view sharing from private properties. Development adjacent to the heritage conservation areas must also suitably respond to the significance of the HCA.*

The relevant streetscape character and key elements of the precinct are:

*Development respects and enhances the existing elements of the neighbourhood character that contribute to the precinct including:*

- a) *the rich mixture of residential architectural styles and forms, including dwelling houses and residential flat buildings;*
- b) *the relationship of development along New South Head Road to the promenade and the harbour;*
- c) *buildings set within highly visible gardens;*
- d) *the tree canopy formed by both street and private yard plantings;*
- e) *mature street trees, grassed verges and sandstone walls;*
- f) *harbour views available from the streets within the precinct;*
- g) *the heritage significance of the adjoining Aston Gardens, Beresford Estate and Balfour Road Heritage Conservation Areas; and*
- h) *Inter-War flat buildings.*

The relevant desired future character objectives are:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*
- O3 To maintain a transition of development scale from the residential flat buildings that address New South Head Road, to the dwelling houses that dominate the majority of the precinct.*
- O4 To reinforce a consistent building scale with streets.*
- O5 To ensure that development responds in form and siting to the street and subdivision pattern.*
- O6 To design and site buildings to respond to the topography and minimise cut and fill.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.*
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.*
- O9 To protect important views from the public spaces of the precinct to the harbour and city skyline, including view corridors between buildings.*
- O10 To ensure that development facilitates view sharing to adjoining and adjacent private properties.*
- O11 To ensure on-site parking does not dominate the streetscape.*
- O12 To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.*

The proposed modification meets the streetscape character and key elements of the precinct and desired future character objectives of the Bellevue Hill North precinct, as noted in Part B1.8.2 of the Woollahra DCP 2015.

## **Chapter B3: General Development Controls**

### **Part B3.2: Building Envelope**

#### **Part 3.2.3: Side Setbacks**

*C1 The minimum side setback for dwelling houses, semi-detached dwellings and dual occupancies is determined by the table in Figure 5A.*

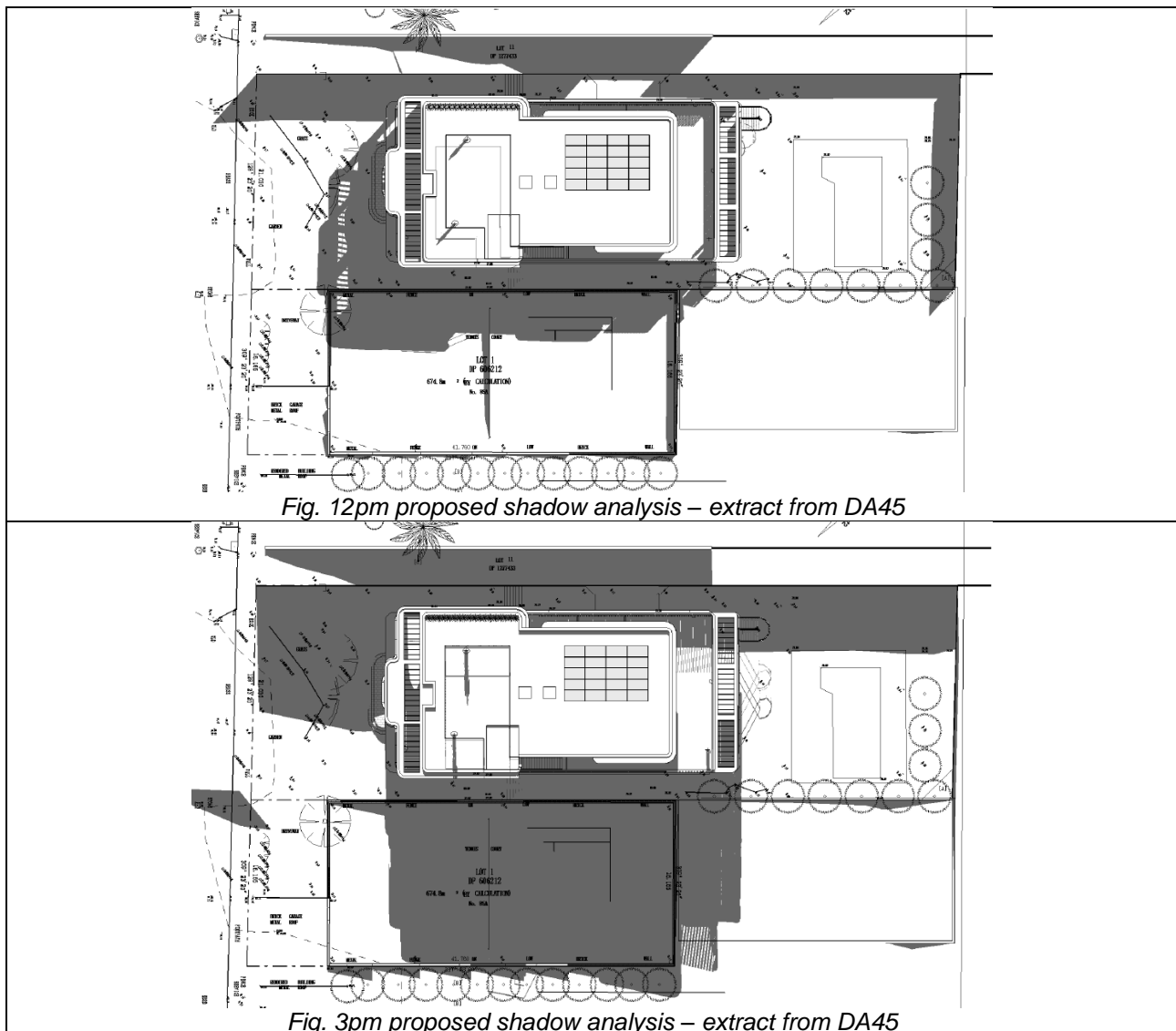
- With a lot width of 21.030m, C1 requires a minimum side setback of 3.1m. The amended proposal involves works and fenestration works within the north-western and south-eastern side setbacks, however they would not protrude beyond the established side setback configurations.

C1 specifies a maximum external wall height of 7.2m with an inclined plane of 45 degrees above this height. The approved maximum wall height and any associated protrusions into the inclined plane under DA517/2022/1 would be maintained and are not exacerbated by the proposed modification. It is considered that the underlying objectives would not be contravened as a consequence of the amended proposal.

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

The proposed modification does not involve any significant excavation works and it reduces the total excavation from 320.2m<sup>3</sup> to 302.55m<sup>3</sup>. The amended proposal is considered acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

The proposed modification is generally considered to provide a satisfactory response to the desired future character provisions of the Bellevue Hill North Precinct.



C1(a) stipulates that sunlight is provided to at least 50% (or 35m<sup>2</sup> with a minimum dimension of 2.5m, whichever is the lesser) 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(b) states that north facing windows to upper level habitable rooms of adjacent dwellings receive at least 3 hours of sun during the same period.

Shadows to private open spaces of neighbouring properties are considered generally consistent with the approved development and are therefore acceptable having regard to C1(a). Also, the additional shadows would not further restrict solar access to upper level north facing windows of surrounding properties as required by C1(b).

The amended proposal is considered to be satisfactory with regard to the solar access requirements in Part B3.5.2 of Woollahra DCP 2015.

#### Part B3.5.3: Public and Private Views

No public and private views were identified during this assessment that would be significantly impacted by the proposed modification.



Part B3.5.4: Acoustic and Visual Privacy

*C1 Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.*

- The objectors raised concerns for the noise that would be generated from the proposed modification. The proposed roof terrace is for a single dwelling, and it is not characterised as an entertainment area that is directly accessible from lower levels. As such, it is likely to be used at a lesser frequency and intensity than approved balconies at the ground and first floor levels. Also, **Condition I.2** of the original consent was imposed in order to provide suitable acoustic privacy relationships with surrounding properties.

*C4 New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.*

*This may be achieved by options including, but not limited to (in order of preference):*

- a) Window location—primary windows to habitable rooms are located and designed to provide an outlook to the front and rear setbacks, not the side boundaries.*
  - b) Layout and separation—offsetting windows from the windows/private open spaces of the adjoining dwelling to limit views between the windows/private open space.*
  - c) Architectural design solutions and devices—redirecting and limiting sightlines using deep sills with planter boxes, fixed horizontal or vertical louvres, or other screening devices set off the windows internally or externally.*
  - d) Glazed opening windows—using windows with translucent glazing to a height of 1.5m above floor level and fitted with a winder mechanism to control the maximum angle of the opening to limit views.*
  - e) Glazed fixed windows or high sills—using fixed windows with translucent glazing in any part of the window below 1.5m above floor level, or window sill heights of 1.5m above floor level.*
- The proposed modification would not result any significant adverse impact upon private open space and habitable room windows of neighbouring properties.

*C8 For a dwelling house, dual occupancy, semi-detached dwelling, or attached dwelling— the acceptability of any elevated balcony, deck, or terrace will depend on the extent of its impact, its reasonableness and its necessity.*

*Note: Refer to Super Studio vs Waverley Council, (2004) NSWLEC 91*

- C8 requires the consideration of *Super Studio vs Waverley Council, (2014) NSWLEC 91*, where the following planning principle was established:
  - 1. The first is that the acceptability of an impact depends not only on the extent of the impact but also on reasonableness of, and necessity for, the development that causes it. For example, the privacy impact of a second-storey side window in an area of two-storey buildings should be accorded a higher threshold of acceptability than the impact of a second-storey balcony in a house that already has three other balconies. Applying this principle to the present case, I note that the approved proposal already has three outdoor areas. The surrounding houses do not have roof terraces, so a roof terrace would be a new element in the area. This does not mean that it is inappropriate, only that its impact should be assessed with heightened sensitivity. A roof terrace would be acceptable only if its impact were minor or negligible.*

The development approved under DA517/2022/1 benefits from ground floor rear balcony and first floor front and rear balconies. Given that the subject site benefits from approved balconies, the privacy impacts from a further roof terrace should be accorded a higher threshold of acceptability than the impact of a roof terrace to a house with no other roof terraces or balconies. Notwithstanding this, the amended proposal is considered to be acceptable for the following reasons:

- The amended roof terrace has an area of 66.39m<sup>2</sup>. It is 36.4m<sup>2</sup> smaller in size compared to the proposed roof terrace as part of DA517/2022/1 which was subject to be removed in Condition C.2.
  - With regards to necessity, the proposed roof terrace would provide the subject site a greater degree of views than those available from the approved ground and first floor balconies. The proposed modification would not have any significant adverse view sharing impact upon surrounding properties.
  - Having regard to the planning principle, it is noted that in a situation where an approved development benefits from existing outdoor areas, and the neighbouring dwellings do not have roof terraces, a further outdoor space is not inappropriate, but the roof terrace would only be acceptable if its impact were minor or negligible. Although there are no other examples of roof terrace in the immediate vicinity, each proposed roof terrace must be assessed on its own merit.
  - Subject to **Condition I.2** of the original consent, the visual and acoustic privacy impacts arising from the proposed roof terrace are considered to be minor.
  - The proposed modification is compliant with the maximum building height controls required by the Woollahra LEP 2014. It is considered that amended proposal maintains adequate visual privacy for neighbours whilst providing a roof terrace at the subject site that would not have any significant adverse view sharing impact upon neighbouring properties. On balance, the proposal is considered to be reasonable.
2. *The second principle is that where proposed landscaping is the main safeguard against overlooking, it should be given minor weight. The effectiveness of landscaping as a privacy screen depends on continued maintenance, good climatic conditions and good luck. While it is theoretically possible for a council to compel an applicant to maintain landscaping to achieve the height and density proposed in an application, in practice this rarely happens.*
- The proposed modification involves screen plants along the north-western edges of the roof structure, however the overlooking impact of the roof terrace is acceptable notwithstanding this feature.
3. *The third principle relates to the extent to which an approval for this application would be used as a precedent in favour of approving other applications for roof terraces.*
- There are no other examples of roof terrace in the immediate vicinity. However, any such application would be assessed on its own individual merit.

In view of the above, the amended proposal as conditioned satisfies the three (3) part test established by the planning principle *Super Studio vs Waverley Council, (2014) NSWLEC 91*, and therefore C8 is upheld.

*C10 The trafficable area of a roof terrace (above the second storey) (refer to Figure 18) is setback so that there is no direct line of sight, from that part of the building where the terrace or deck is, to:*

- a) *neighbouring private open space within 12m; or*
- b) *windows of habitable rooms in neighbouring dwellings within 12m.*

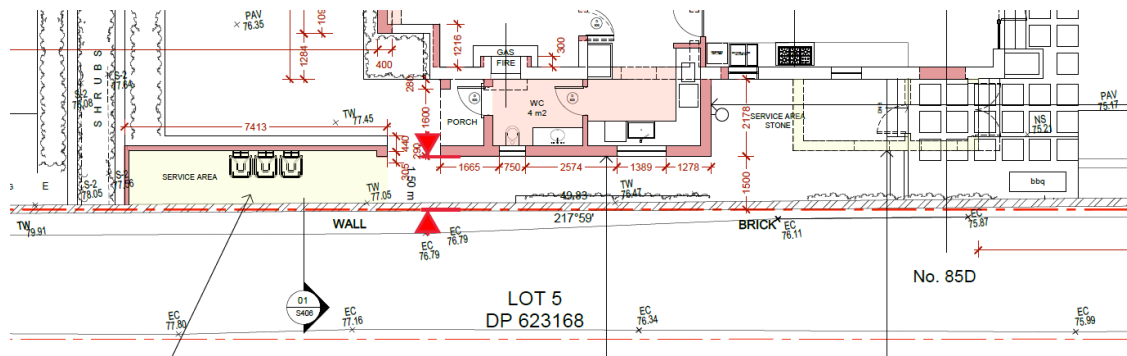


Fig. Approved floor plan of 83 Victoria Road - extract from DA199/2021/2 from Council's records

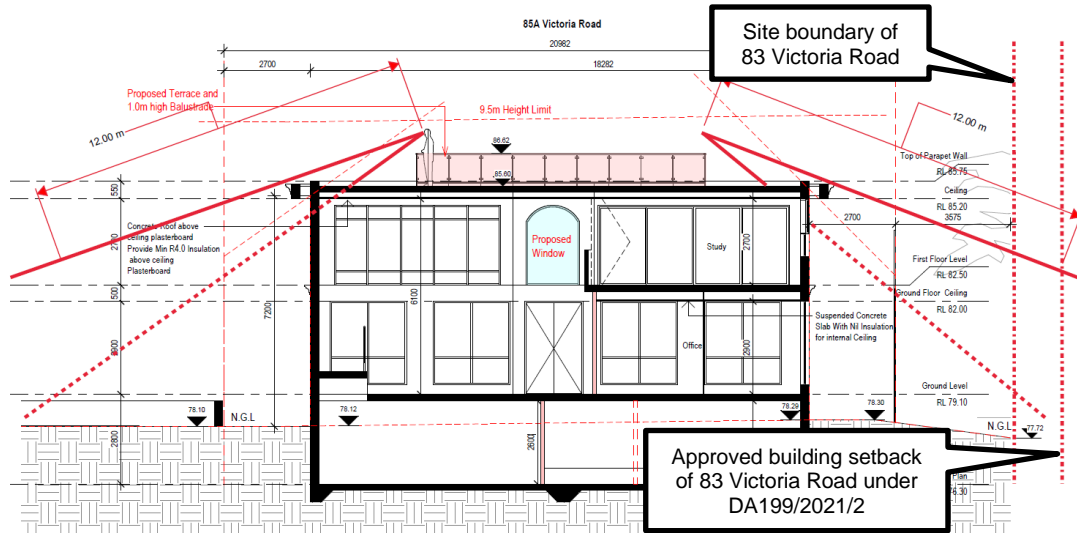


Fig. visual privacy analysis – extract from DA 31

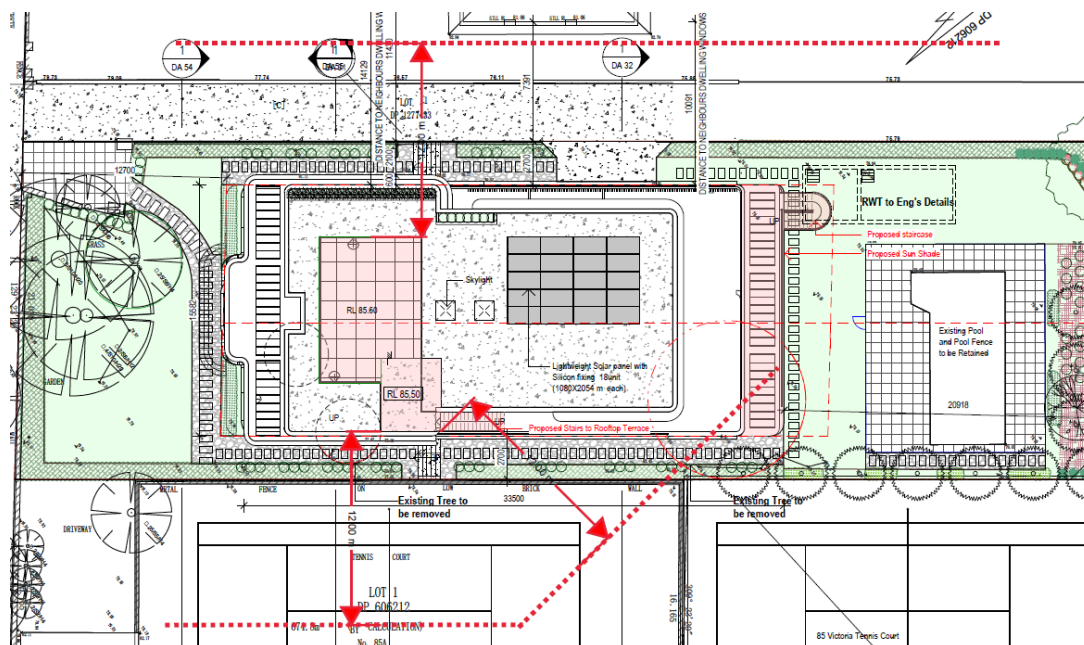


Fig. visual privacy analysis – extract from DA 01

- As shown in figures above, there will be no direct sightlines (at 1.6m eye level) from the closest north-western edge of the proposed roof terrace to approved windows of 83 Victoria Road Bellevue Hill under DA199/2021/2 within 12m, as the views would be blocked by the roof structure of the subject site. Also, the sightline distances are greater than 12m from the proposed roof terrace to the private open spaces of 85 and 87 Victoria Road Bellevue Hill.

**C12** For a roof terrace within the roof a building:

- no part of the roof terrace or associated structures, such as a balustrade, projects beyond the roof profile; and
- the roof terrace and opening within the roof are clearly subservient in form and size when compared with the roof plane in which they are located.

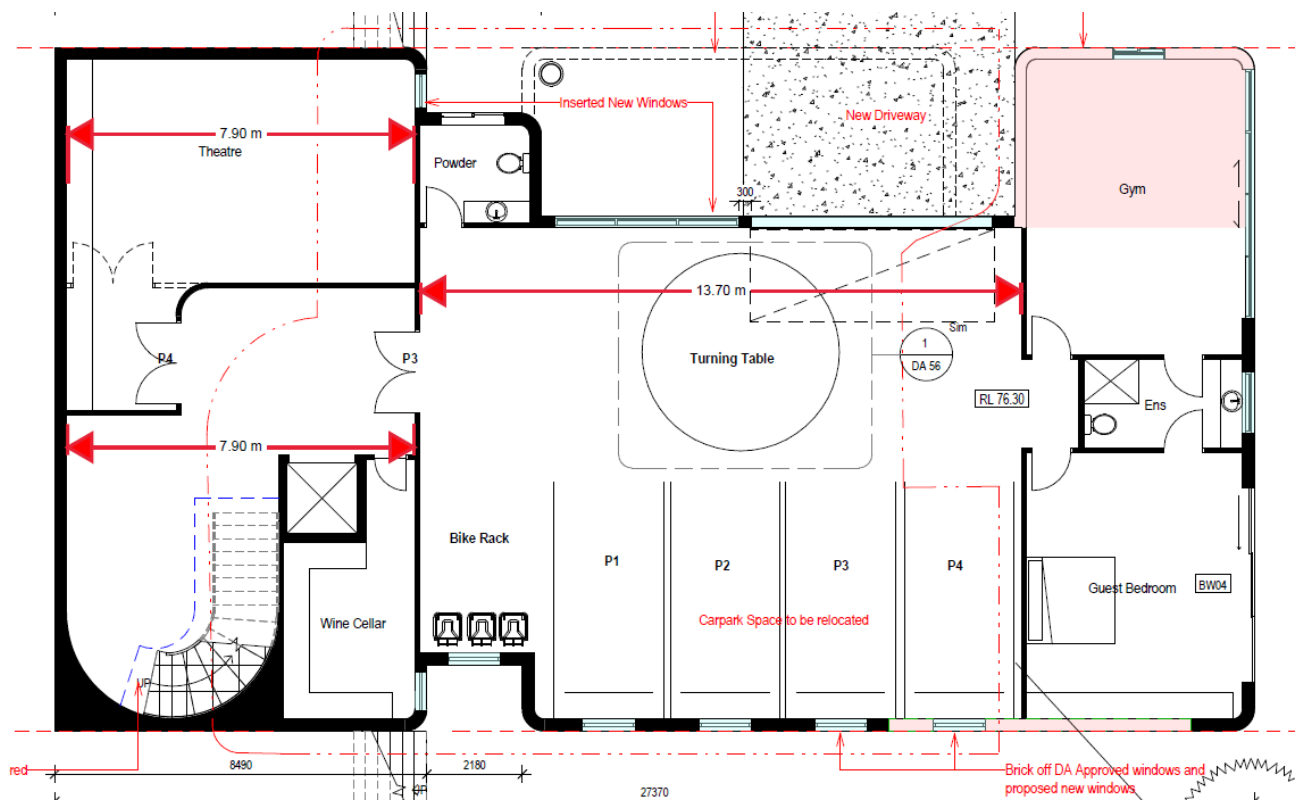
*Note: Screening to roof terraces will only be considered where the screening is consistent with the streetscape and will have no impact on views or overshadowing of neighbouring properties.*

- The balustrades associated with the north-western and south-eastern sections of the proposed roof terrace are 0.85m and 0.75m higher than the roof parapet wall respectively. Also, the top levels of the proposed balustrade associated with the roof terrace are 1m higher than the finished roof levels respectively. Although non-compliant with C12, the proposed roof terrace is setback 18.55m from the street frontage and it is not considered to be readily discernible from Victoria Road. The roof terrace is not considered to have any significant adverse impact on the roof profile and it would not be intrusive when viewed from public space and neighbouring properties. Therefore, the following objective is upheld.

**O4** To ensure that where roof terraces are inserted into roofs, they do not impact on the roof profile.

#### Part B3.5.5: Internal amenity

**C5** Any room of a dwelling either partially or fully below existing ground level (excluding basement parking and storage areas) is limited to a maximum room depth of 2 X the ceiling height.



*Fig. Internal amenity analysis – extract from DA11 Rev E*

- The widths of the theatre and stair room of the basement level of the proposed modification are calculated more than 2 times the basement ceiling height which is measured as 2.6m, and therefore is non-compliant with C5. An assessment is provided below against the objectives in Part B3.2.5 of the Woollahra DCP 2015:

*O1 To encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation.*

*O2 To encourage buildings that are designed to maximise natural light provision in habitable rooms.*

- The proposed modification achieves a high level of internal amenity by providing open planned living areas and habitable rooms with direct access to natural light and ventilation. Most sanitary compartments above the basement floor have direct access to natural light and ventilation. Although the proposed modification is not compliant with C5, the basement theatre has access to natural light and ventilation, and the stair room is to be used at a relative low frequency. Therefore, O1 and O2 upheld.

### Conclusion

The amended 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 proposed modification relocates the approved driveway, entry and parking spaces of the basement garage. The car parking spaces remain located within the approved building envelope, and the proposed modification would not significantly alter the approved parking outcome under DA517/2022/1.

### **Part B3.7: External Areas**

#### Part B3.7.3: Site facilities

C2 Lockable storage space of at least 8m<sup>3</sup> per dwelling is provided.

- **Condition C.2** is recommended to design a lockable storage space of at least 8m<sup>3</sup>. Given the size of the dwelling, there is ample ability to achieve this modification with a minimal impact on the proposed design.

### Conclusion

Subject to **Condition C.2**, the amended proposal is acceptable with regard to the external area controls in Part B3.7 of the Woollahra DCP 2015.

### **Chapter E1: Parking and Access**

The proposed modification would not generate additional car parking demands, and is acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015, subject to the original conditions of consent.

### **Chapter E2: Stormwater and Flood Risk Management**

The proposed modification is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015, subject to the original conditions of consent.

### **Chapter E3: Tree Management**

The proposed modification is acceptable with regard to the objectives and controls in Chapter E3 of the Woollahra DCP 2015, subject to the original conditions of consent.

## **Chapter E5: Waste Management**

The proposed modification is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015, subject to the original conditions of consent.

## **Chapter E6: Sustainability**

The proposed modification is acceptable with regard to the objectives and controls in Chapter E6 of the Woollahra DCP 2015, subject to the original conditions of consent.

## **17. APPLICABLE ACTS/REGULATIONS**

### **Environmental Planning and Assessment Regulation 2021**

#### **Clause 61: Additional matters that consent authority must consider**

Clause 61 of the Environmental Planning and Assessment Regulation 2021 requires Council to consider Australian Standard AS 2601-2001: The Demolition of Structures. The proposal is considered to be acceptable, subject to the conditions of consent.

## **18. 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.

## **19. THE PUBLIC INTEREST**

The proposal is considered to be in the public interest.

## **20. 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 application by the applicant or any person who made a submission.

## **21. RECOMMENDATION: PURSUANT TO SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

### **Approval**

THAT the Council, as the consent authority, modify development consent to Development Application No. 517/2022/1 for internal and external modifications to the approved new dwelling, including the addition of a roof terrace on land at 85A Victoria Road Bellevue Hill, subject to the following:

### **Modification Summary**

DA Application Number (PAN Number)	Determination Date	Modification Description
DA517/2022/2 (PAN-402317)	12 March 2024	Amendment of Condition C.2, C.4, H.1 and I.1. Addition of Condition A.3A, B.5 and B.6

## 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)
DA03, DA11 DA12, DA13 DA14, DA21 DA22, DA23 DA24, DA31 DA32, DA33 DA43 All Issue D	Architectural Plans	All by Archian	All dated 04/04/2023
1347890S	BASIX Certificate	NSW Department of Planning, Industry and Environment	25/10/2022
ESWN-PR- 2022-1536	Geotechnical Report	ESWNMAN	12/10/2022
Rev A	Flood Risk Management Plan	MBC Engineering P/L	16/10/2022
85A VIC HYD-1-Rev C HYD-2-Rev C HYD-3-Rev C HYD-4-Rev C	Stormwater Management Plans	Allied Consultants P/L	23/01/2023 23/01/2023 23/01/2023 23/01/2023 23/01/2023



Reference	Description	Author/Drawn	Date(s)
HYD-5-Rev C			
LA-01 & LA-02 (Issue C)	Landscape Plan	BJ Studio	17/10/2022
-	Arborist Report	Growing My Way	10/2022
-	Site Waste Minimisation and Management Plan	Colin Jiang	24/10/2022

**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.3A Approved Amended (section 4.55) Plans and Supporting Documents

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp “Approved” and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

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

Reference	Description	Author/Drawn	Date(s)
DA01 (Rev F)	Site Plan	Archian	20 Feb 2024
DA11 (Rev F)	Basement Plan		
DA12 (Rev F)	Ground Floor Plan		
DA13 (Rev F)	First Floor Plan		
DA14 (Rev F)	Roof Terrace		
DA21 (Rev F)	East Elevation		
DA22 (Rev F)	North Elevation		
DA23 (Rev F)	West Elevation		
DA24 (Rev F)	South Elevation		
DA31 (Rev F)	Section 1		
DA32 (Rev F)	Section 2		
DA33 (Rev F)	Long Section		
1347890S_03	BASIX Certificate	NSW Department of Planning, Industry and Environment	22 Dec 2023

**Note:** These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)  
Standard Condition: A6 (Autotext AA6)

*Added on 12 March 2024 under DA517/2022/2 (PAN-402317)*

### 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 and Council's property.

## 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)
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, <i>Araucaria</i> tree closest to driveway entrance.	14 x 6 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	14 x 6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front, south of the existing concrete driveway entrance.	7 x 3 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2.	5 x 2 metres

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance	7 x 4 metres	\$5000
7	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	7 x 4 metres	\$5000
8	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	8 x 5 metres	\$5000
9	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	8 x 5 metres	\$5000

**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)
1	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Rear garden, rear of existing dwelling.	6 x 7 metres
10	<i>Butia capitata</i> (Jelly Palm)	Rear south eastern boundary, adjacent pool.	7 x 2 metres
11	* <i>Cupressocyparis leylandii</i> 'Leighton Green' (Leightons Green)	Boundary hedging at rear	7 x 2 metres

**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 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.2 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.3 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 Fenced areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, <i>Araucaria</i> tree closest to driveway entrance	4 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	4 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front, south of the existing concrete driveway entrance.	2 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	2 metres
7	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip.	2 metres
8	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	2 metres
9	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	2 metres

**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) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)
4	<i>Brachychiton rupestris</i> (Bottle tree)
5	<i>Ulmus parvifolia</i> (Chinese Elm)
6	<i>Lophostemon confertus</i> (Brush Box)
7	<i>Lophostemon confertus</i> (Brush Box)
8	<i>Lophostemon confertus</i> (Brush Box)
9	<i>Lophostemon confertus</i> (Brush Box)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) 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.
- e) 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.

#### B.4 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"> <li>• 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.</li> <li>• The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</li> </ul>
During any development work	<ul style="list-style-type: none"> <li>• The project arborist shall supervise the demolition of the existing concrete 'driveway to be renovated' within a <b>6 metre</b> radial distance from Trees 2 &amp; 3, <b>4 metre</b> radial distance from Trees 4 &amp; 6 and <b>2 metre</b> radial distance from Tree 5. The condition of exposed roots shall be managed and documented.</li> <li>• The project arborist shall supervise the installation of the new surface for the driveway to be renovated within a <b>6 metre</b> radial distance from Trees 2 &amp; 3, <b>4 metre</b> radial distance from Trees 4 &amp; 6 and <b>2 metre</b> radial distance from Tree 5, documenting the condition of roots and soil.</li> <li>• 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.</li> </ul>
Prior to any occupation or use of the building	<ul style="list-style-type: none"> <li>• Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</li> </ul>

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"><li>• The project arborist shall supervise the dismantling of tree protection measures.</li><li>• 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.</li></ul>

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

### B.5 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.
- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

**Note:** The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Standard Condition: B10 (Autotext BB10)

*Added on 12 March 2024 under DA517/2022/2 (PAN-402317)*

### B.6 Aboriginal Heritage Due Diligence Responsibilities

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

Standard Condition: B12 (Autotext BB12)

*Added on 12 March 2024 under DA517/2022/2 (PAN-402317)*

**C. Conditions which must be satisfied prior to the issue of any Construction Certificate**

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

A notice of surrender of DA544/2007/1 dated 27/3/2008 must be provided to Council in writing by the Owner of the land in compliance with clause 68 of the *Regulation*.

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

Standard Condition: C1 (Autotext CC1)

**C.2 Modification of Details of the Development (section 4.17(1)(g) of the Act)**

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

**a) Window Treatment**

The following windows are to be fitted with fixed and obscured glazing to a minimum height of 1.5m measured from the respective finished floor levels

- i. North Elevation – GW08, GW09, & GW10 (as shown on the Ground Floor Plan)
- ii. South Elevation – FW15

Reason: To protect the visual privacy of 83 & 85 Victoria Road Bellevue Hill and ensure compliance with the requirements under Part B3.5.4 of the Woollahra DCP 2015.

**b) Privacy Screens – South Elevation**

Ground Floor – In order to protect visual privacy and avoid direct line of sights from the proposed ground floor rear balcony to the tennis court area of No. 85 Victoria Road, a privacy screen to a minimum height of 1.6m (measured from the finished floor level) must be erected along the full length of the south-eastern edge of the balcony. This privacy screen is then extended with a return up to 1.8m in length along the north-eastern edge in the same way as the approved wrap-around privacy screen to the first floor rear balcony above.

Reason: To protect the visual privacy of 85 Victoria Road Bellevue Hill and ensure compliance with the requirements under Part B3.5.4 of the Woollahra DCP 2015.

**c) Site Facilities**

A clothes line shall be indicated within the side or rear setbacks.

Reason: To ensure compliance with the requirements under Part B3.7 of the Woollahra DCP 2015.

**d) Solar Panels**

To ensure the proposed solar panels uphold the provisions in Part E6.3 of the Woollahra DCP 2015, they must not:

- i. Project above the roof surface by more than 300mm; and
- ii. Involve mirrors or lenses to reflect or concentrate sunlight.

Reason: To ensure compliance with the requirements under Part E6.3 of the Woollahra DCP 2015.

**e) Pool Equipment**

The pool pump and associated equipment must be housed within an acoustically controlled enclosure and situated 1.5m from any boundary.

Reason: To mitigate acoustic impacts and ensure compliance with Part B3.7 of the Woollahra DCP 2015.

**f) Landscaping**

- i. To ensure appropriate documentation of all trees potentially impacted by works the submitted Arboricultural Impact assessment must be updated to include a Tree Location Plan. The location of all trees must be plotted accurately and referenced in accordance with Council's conditions of consent. The Tree Location Plan must be submitted to Council's Tree Officer for approval.
- ii. To ensure the preservation of tree roots and the viable retention of trees to be retained plans must specify 'arborist supervision required' for all demolition and excavation works located within the following radial distances of the following trees;

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, <i>Araucaria</i> tree closest to driveway entrance	6 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	4 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	4 metres

- iii. To ensure the preservation of tree roots and the viable retention of trees to be retained plans must specify 'no level changes' within the radial distances of the following trees;

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, <i>Araucaria</i> tree closest to driveway entrance	6 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	4 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	4 metres



- (i) To ensure the preservation of tree roots and the viable retention of trees to be retained stormwater plans must be amended to show no pipes or pits located within the radial distances of the following trees;

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, <i>Araucaria</i> tree closest to driveway entrance	4 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	3 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	3 metres
7	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip.	4 metres
8	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	4 metres
9	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip	4 metres

- (ii) To ensure the viable retention of trees to be retained the existing concrete driveway entrance specified on the submitted Landscape Plan as 'existing driveway to be renovated' (circled red) must be resurfaced using a totally permeable surface such as paving or bitumen (AC5) and not concrete.



**g) Addition of lockable storage space**

The dwelling is to incorporate a lockable storage space of at least 8m<sup>3</sup>.

Reason: To ensure compliance with the requirements under Part B3.7 of the Woollahra DCP 2015.

**Note:** The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the Act.

**Note:** Clause 146 of the Regulation prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

**Note:** Clause 145 of the Regulation prohibits the issue of any Construction Certificate that is inconsistent with this consent.

Standard Condition: C4 (Autotext CC4)

Amended on 12 March 2024 under DA517/2022/2 (PAN-402317)

### C.3 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
<b>LONG SERVICE LEVY</b> under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
<b>Long Service Levy</b> <a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b> under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council	\$104,600.00	No	T115
<b>Tree Damage Security Deposit</b> – making good any damage caused to any public tree	\$ 20,000.00	No	T114
<b>Infrastructure Works Bond</b> -completing any public work required in connection with the consent.	\$49,700 .00	No	T113
<b>DEVELOPMENT LEVY</b> under Woollahra Section 7.12 Development Contributions Plan 2021 This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>			
<b>Development Levy</b> (section 7.12)	\$42,648.10 + Index Amount	Yes, quarterly	T96
<b>INSPECTION FEES</b> under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$221.34	No	T45
Public Road/Footpath Infrastructure Inspection Fee	\$615.00	No	T45
Security Administration Fee	\$215.00	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$217,999.44 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](http://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.4 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1347890S\_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

*Amended on 12 March 2024 under DA517/2022/2 (PAN-402317)*

## C.5 Waste Storage – Single Dwelling

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must make provision for:

- a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling.
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

Standard Condition: C15 (Autotext: CC15)

## C.6 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.7 Swimming and Spa Pools – Child Resistant Barriers

The Construction Certificate plans and specifications required by clause 139 of the *Regulation* must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act 1992* and the Building Code of Australia.

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' pursuant to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**Note:** A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.  
Standard Condition: C55 (Autotext CC55)

## C.8 Swimming and Spa Pools – Backwash

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** The plans must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.  
Standard Condition: C56 (Autotext CC56)

## C.9 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan of all off-street car parking spaces must be prepared by a suitably qualified person and it must include details and specifications to illustrate how the off-street car parking spaces will be constructed with the capacity to install at a minimum, a 'Level 2' (single phase, 7Kw power) electric vehicle charger point. This plan must be submitted to the certifier, prior to the issue of the construction certificate.  
Standard Condition: C58 (Autotext CC58)

## C.10 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act 1993* is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- a) If the existing vehicular crossing is damaged during construction, the applicant must replace the existing vehicular crossing including the existing gutter in accordance with Council's Crossing Specification and standard driveway drawing RF2\_D. The new crossing shall be constructed at right angle to the street kerb in plain concrete. The centreline of the new crossing shall be aligned with the centreline of the garage door. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the car lift must be submitted for assessment.
- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to the satisfaction of Council's Engineers.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.
- d) The construction of a new kerb inlet pit with 1.8m precast lintel with the extension of the existing Council's in-ground system by using minimum Class 4, 375mm RRJ steel reinforced concrete pipes (RCP) with minimum 1% grade in accordance with Council's Specification and to the satisfaction of Council's Assets Engineers. The grates shall be Class D, "bicycle friendly" type. Detailed design including longitudinal section of the proposed 375mm RCP shall be prepared by a suitably qualified civil engineer. Trench details shall be included in the design drawings to comply with Council's Specification and AS3725. Should the existing kerb inlet pit is found defective, the applicant must reconstruct this existing kerb inlet pit to the satisfaction of Council's Assets Engineers.

- e) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.
- f) A bond of \$49,700 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- g) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- h) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

**Note:** To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

**Note:** The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

**Note:** See condition K24 in *Section K. Advising of this Consent titled Roads Act Application*.  
Standard Condition: C13 (Autotext CC13)

### C.11 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](http://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](http://www.woollahra.nsw.gov.au), and *The Blue Book* is available at [www.environment.nsw.gov.au/stormwater/publications.htm](http://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.12 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.13 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.14 Geotechnical and Hydrogeological Design, Certification and Monitoring

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must be accompanied by a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
  - will detect any settlement associated with temporary and permanent works and structures,
  - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
  - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
  - will detect groundwater changes calibrated against natural groundwater variations,
  - details the location and type of monitoring systems to be utilised,
  - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
  - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
  - details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

## C.15 Ground Anchors

This development consent does **NOT** give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths. Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Minimum Four weeks should be allowed for assessment.

**Note:** To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

**Note:** Clause 20 of the *Roads (General) Regulation 2000* 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.

Standard Condition: C41 (Autotext: CC41)

## C.16 Vehicular Access and Parking Arrangement

Prior to issue of any Construction Certificate, Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed architectural plans and specifications showing the following:

- a) Details including dimensions, type, model and manufacturers specification of the proposed turntable,
- b) Pursuant to Clause 3.2.4 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, shall be provided on the southern side of the driveway exit. This sight splay shall be clearly depicted on the drawings showing compliance with this requirement.

**Note:** The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

**Note:** Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

**Note:** Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

Standard Condition: C45 (Autotext: CC45)



## C.17 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer, which include the following:

- a) General design in accordance with stormwater management plans, referenced 85AVIC-Rev C, prepared by Allied Consultants, dated 23/01/2023, other than amended by this and other conditions,
- b) The installation of rainwater retention and reuse system (RWT) with minimum storage volume of 86.5m<sup>3</sup> to comply with Council's DCP. Runoff from all roof areas shall be directed to the proposed RWT for non-potable uses such as toilet flushing, laundry device, pool top-up, car washing and garden irrigations etc. Notation to this requirement must be clearly depicted on the drawings. Overflow from the RWT shall be directed to the proposed pumpout system.
- c) The installation of a pumpout system with minimum storage volume of 17.3m<sup>3</sup> to comply with Council's DCP and AS3500.3; All surface runoff and overflow from the RWT shall be directed to the proposed pumpout system,
- d) Any below ground structures are to be fully tanked. Subsoil drainage/seepage water is NOT to be collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- e) In order to prevent any backwater effects, invert level of the stormwater outlet pipe at the boundary junction pit must be designed so that it is set above the HGL of the downstream drainage system where the top of kerb level is to be used as the tailwater level when connecting into the underground drainage system. The tailwater level must be higher than the top of kerb where the point of connection is affected by mainstream or overland flooding. No submerged condition and/or the use of non-return valve will be permitted.
- f) Only one stormwater outlet pipe with maximum discharge of 20 l/s will be permitted to comply with Council's DCP. Any proposed stormwater pipe across the nature strip must have a minimum grade of 1% to comply with AS3500.3,
- g) Dimensions of all drainage pit and access grates must comply with AS3500,
- h) Compliance the objectives and performance requirements of the BCA, and
- i) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

The *Stormwater Management Plan* must also include the following specific requirements:

### **Layout plan**

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, *Australian Rainfall and Run-off*, 2019 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

### **Rainwater Reuse System details:**

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,

- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

Where any new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to the issue of any Construction Certificate.

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

**Note:** This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

**Note:** The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.  
Standard Condition: C.51 (Autotext CC51)

### C.18 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a) A permanent flood risk management plan shall be installed in a prominent area of the garage,
- b) Flood compatible materials shall be used for all flood exposed construction,
- c) All flood exposed electrical wiring and equipment is shall be waterproofed.

Flood protection is to comply with Woollahra DCP 2015, Part E "General Controls for All Development" Chapter E2 "Stormwater and Flood Risk Management" DCP

**Note:** The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1 (Off-street car parking). The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.  
Standard Condition C.54 (autotext CC54)

### C.19 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.

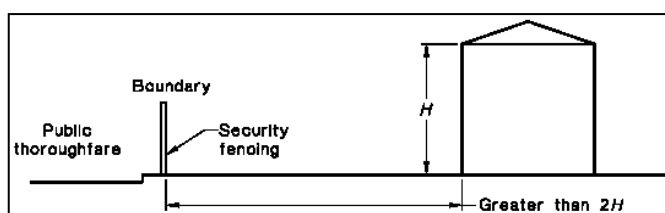
In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

**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)

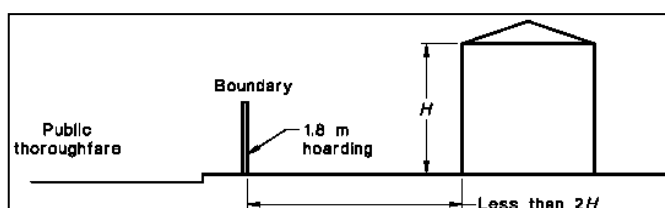
**D.2 Security Fencing, Hoarding (including ‘Creative Hoardings’) and Overhead Protection**

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.



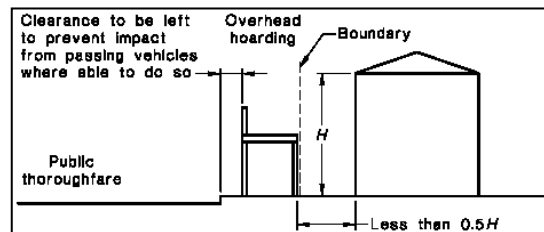
### Type B Hoarding

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](http://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](http://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](http://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/](http://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](http://www.woollahra.nsw.gov.au) and *The Blue Book* is available at [www.environment.nsw.gov.au/stormwater/publications.htm](http://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](http://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 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties must include (but is not limited to):

- No. 83 Victoria Road; and
- No. 85 Victoria Road.

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. A copy of the approved reports shall be submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

**Note:** The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition

Standard Condition: D4 (Autotext DD4)



## D.9 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)

## D.10 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

**Note:** The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

**Note:** The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.  
Standard Condition: D10 (Autotext DD10)

## D.11 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/](http://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](http://www.woollahra.nsw.gov.au) and *The Blue Book* is available at [www.environment.nsw.gov.au/stormwater/publications.htm](http://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)

## **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 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
  - (i) piling,
  - (ii) piercing,
  - (iii) rock or concrete cutting, boring or drilling,
  - (iv) rock breaking,
  - (v) rock sawing,
  - (vi) jack hammering, or
  - (vii) machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

**Note:** The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

**Note:** Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

**Note:** The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

**Note:** Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

**Note:** NSW EPA Noise Guide is available at [www.epa.nsw.gov.au/noise/nglg.htm](http://www.epa.nsw.gov.au/noise/nglg.htm)

Standard Condition: E6 (Autotext EE6)

## E.6 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)

## E.7 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.8 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:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- 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.9 Erosion and Sediment Controls – Maintenance

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

- the Soil and Water Management Plan required under this consent,
- "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001, and
- "*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.10 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.11 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.12 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.13 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.14 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](http://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](http://www.safework.nsw.gov.au) and [www.epa.nsw.gov.au](http://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.15 Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and Building Code of Australia where any swimming pool or spa pool, as defined by the *Swimming Pools Act 1992*, contains more than 300mm in depth of water at any time.

Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.  
Standard Condition: E26

### E.16 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.17 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.18 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.19 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.20 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.21 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.22 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.23 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)

## E.24 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

**Note:** The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12 (Autotext EE12)

## E.25 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

**Note:** *professional engineer* has the same mean as in clause A1.1 of the BCA.

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

**Note:** *supported land* has the same meaning as in the *Conveyancing Act 1919*.  
Standard Condition: E14 (Autotext EE14)

## E.26 Site Cranes

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

**Note:** Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

**Note:** Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.  
Standard Condition: E19 (Autotext EE19)

## E.27 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The Owner, Principal Contractor or Owner-builder must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within roads and other public places.

**Note:** A copy of Council's *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)  
Standard Condition: E24 (Autotext EE24)

## E.28 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.29 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 criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
<i>Angophora costata</i> (Sydney Pink Gum)	Northern corner of rear garden, as illustrated on the submitted BJ Studio Landscape Plan.	100 litre	10 x 7 metres

The project arborist shall document compliance with the above condition.

### E.30 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)
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, <i>Araucaria</i> tree closest to driveway entrance	6 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	4 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	4 metres

The project arborist shall document compliance with the above condition.

### E.31 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)
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, <i>Araucaria</i> tree closest to driveway entrance	6 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	4 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres
6	<i>Lophostemon confertus</i> (Brush Box)	Front of property on Council nature strip. Street tree closest to driveway entrance.	4 metres

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.32 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)
2	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, <i>Araucaria</i> tree closest to driveway entrance	6 metres
3	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Front garden, south east of Tree 2.	6 metres
4	<i>Brachychiton rupestris</i> (Bottle tree)	Front entrance, south of the existing concrete driveway entrance.	4 metres
5	<i>Ulmus parvifolia</i> (Chinese Elm)	Front garden, east of Tree 2	2 metres

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:

- Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- All flood protection measures.
- All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- All stormwater drainage and storage systems.
- All mechanical ventilation systems.
- All hydraulic systems.
- 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.

Standard Condition: F6 (Autotext FF6)

### F.4 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Prior to filling any swimming pool, as defined by the *Swimming Pools Act 1992*:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register.
- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued pursuant to section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public pools must comply with the *NSW Health Public Swimming Pool and Spa Pool Guidelines* in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2010: *Swimming pool safety - Water recirculation systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

**Note:** NSW Health guidelines and fact sheets are available at

[www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx](http://www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx)

Standard Condition: F13 (Autotext FF13)

### F.5 Swimming Pool Fencing

Swimming pool fencing is to be constructed in accordance with AS1926-2012 Australian Standard Swimming Pool Safety Part 1 – *Safety Barriers for Swimming Pools*.



**Note:** Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012  
Standard Condition: F20 (Autotext FF20)

## **F.6 Commissioning and Certification of Public Infrastructure Works**

The Principal Contractor or Owner-builder must submit, to the satisfaction of Council, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

Standard Condition F9 (Autotext FF9)

## **F.7 Certification of Electric Vehicle Charging System**

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition C.9.

Standard Condition: F22 (Autotext FF22)

## **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 the Occupation Certificate for the whole of the building**

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1347890S\_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)

*Amended on 12 March 2024 under DA517/2022/2 (PAN-402317)*

### **H.2 Landscaping**

All landscape work including all planting must be completed by the Principal Contractor or Owner in compliance with the approved landscape plan, arborist report, transplant method statement and tree management plan.

The Principal Contractor or Owner must provide to the Principal Certifier and to Council 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 as completed 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.

Standard Condition: H9 (Autotext HH9)

### H.3 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.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works (2012)* unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

**Note:** Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or obtained from Council's customer service centre.  
Standard Condition: H13 (Autotext HH13)

### H.5 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

Prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted, for approval by the Principal Certifying Authority, certifying:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site retention and pumpout systems,
- c) that a rainwater retention and reuse system with minimum storage of 86.5m<sup>3</sup> has been constructed in accordance with the approved stormwater plans,
- d) that runoff from all roof areas have been collected and directed to the as-built rainwater retention and reuse system which have plumbed into all toilet, laundry and garden irrigation etc,
- e) that a pumpout system with minimum storage of 17.3m<sup>3</sup> has been constructed in accordance with the approved stormwater plans,
- f) that only one stormwater outlet pipe with maximum discharge rate of 20 l/s has been constructed in accordance with the approved stormwater plans,

- g) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- h) pipe invert levels and surface levels to Australian Height Datum, and
- i) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site detention system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

**Note:** The required wording of the Instrument can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au). The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

**Note:** Occupation Certificate must not be issued until this condition has been satisfied.  
Standard Condition: H20 (Autotext HH20)

## **H.6 Positive Covenant & Works-As-Executed certification of mechanical system**

Prior to issue of any Occupation Certificate, mechanical turntable installation works are to be certified by the accredited installer and submitted for approval by the PCA detailing:

- a) That the turntable has been constructed in accordance with manufacturer's specification;
- b) That the works have been constructed in accordance with the approved design;

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, for the on-going maintenance of the mechanical turntable incorporated in the development. The Instrument must be registered with the NSW Land Registry Services.

**Note:** Occupation Certificate must not be issued until this condition has been satisfied.

## **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. 1347890S\_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

*Amended on 12 March 2024 under DA517/2022/2 (PAN-402317)*

### **I.2 Noise Control**

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

**Note:** This condition has been imposed to protect the amenity of the neighbourhood.

**Note:** Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* ([www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government](http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government)) and the *NSW Industrial Noise Policy* ([www.epa.nsw.gov.au/your-environment/noise/industrial-noise](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise)) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

**Useful links:**

**Community Justice Centres**—free mediation service provided by the NSW Government  
[www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au).

**NSW Environment Protection Authority**— see “noise” section  
[www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise).

**NSW Government legislation**- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

**Australian Acoustical Society**—professional society of noise related professionals  
[www.acoustics.asn.au](http://www.acoustics.asn.au).

**Association of Australian Acoustical Consultants**—professional society of noise related professionals  
[www.aaac.org.au](http://www.aaac.org.au).

**Liquor and Gaming NSW**—[www.liquorandgaming.nsw.gov.au](http://www.liquorandgaming.nsw.gov.au).

Standard Condition: I56

### I.3 Noise from Mechanical Plant and Equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the  $L_{A90, 15 \text{ minute}}$  level measured by a sound level meter.

**Note:** This condition has been imposed to protect the amenity of the neighbourhood.

**Note:** Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017))

and *Noise Guide for Local Government* (2013) [www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government](http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government)

Standard Condition: I59

### I.4 Swimming and Spa Pools – Maintenance

Swimming and spa pools must be maintained:

- a) in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,
- b) in compliance with the NSW Health “Public Swimming Pools and Spa Pools Advisory Document” in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,
- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- before 8 am or after 8 pm on any Sunday or public holiday, or
- before 7 am or after 8 pm on any other day.

**Note:** Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

**Note:** The NSW Health public swimming pools and spa pools guidelines are available at

[www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx](http://www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx)

Standard Condition: I30

## I.5 Ongoing Maintenance of the On-Site Stormwater Rainwater Retention System

The owner(s) must in accordance with this condition and any positive covenant:

- permit stormwater to be temporarily retained and reused by the System;
- keep the system clean and free of silt rubbish and debris;
- maintain renew and repair as reasonably required from time to time the whole or part of the systems so that it functions in a safe and efficient manner;
- carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the systems or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and
- where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

- indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (**Claims**) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and
- releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.

**Note:** This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

**Note:** This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. Standard Condition: I29

## I.6 Outdoor Lighting – Residential

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

**Note:** This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

**Note:** This condition has been imposed to control the obtrusive effects of outdoor lighting.  
Standard Condition: I49

## J. Miscellaneous Conditions

Nil.

## K. Advisings

### 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](http://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](http://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](http://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](http://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](http://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](http://www.cjc.nsw.gov.au) or call 1800 990 777.  
Standard Advising: K10 (Autotext KK10)

## K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ellie Peedom, Assessment Officer, on (02) 9391 7155.

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)

## K.8 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](http://www.woollahra.nsw.gov.au)

Standard Condition: K15 (Autotext KK15)



## K.9 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.10 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](http://www.fairtrading.nsw.gov.au) or call 133 220. Standard Condition: K18 (Autotext KK18)

## K.11 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](http://www.woollahra.nsw.gov.au) or call Council on 9391 7000 for further advice.

Standard Condition: K19 (Autotext KK19)

## K.12 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

## K.13 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system

- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

**Note:** To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

**Note:** When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

**Note:** *road* has the same meaning as in the *Roads Act 1993*.

**Note:** The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.  
Standard Advising: K24 (Autotext KK24)

#### **K.14 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](http://www.woollahra.nsw.gov.au) or call Council on 9391 7000 for further advice.

#### **Attachments**

1. Plans, elevations, sections and shadow diagrams [↓](#) 



COMPLIANCE TABLE

	Proposed	Required
ZONE	R2	
SITE AREA	1441.8 m3	
LOT TYPE	Standard Lot	
FRONTAGE	21.0 m	
TOTAL Floor Plate	1072.3 m2	970.4 m2 + Max. 40 m2 Garage
LANDSCAPE DEEP		
SOIL AREA	641.10 m2	Minimum 427.1 m2
AREA TOTAL		
LANDSCAPE AREA		
FORWARD	228.00 m2	Minimum 105.12 m2
FRONT SETBACK		
LANDSCAPE AREA		
REAR SETBACK	235.90 m2	Minimum 190.00 m2
Front Setback	12.7 m	Minimum 12.42 m
(87 Victoria Road	7.64m)	
(83 Victoria Road	19.18m)	
(81 Victoria Road	10.44m)	
(Average	12.5m)	
Side Setback	2.7 m to Walls 2.1 m to Eave	Minimum 2.7 m
Rear Setback	20.9m	Minimum 18.16 m

- BASIX Thermal Comfort:
- Walls:
    - External walls
      - Brick Walls, provide min R2.5 insulation
    - Internal walls
      - Brick Walls, Nil insulation
  - Roof/Ceilings:
    - External roof/exposed external ceiling:
      - Concrete roof above ceiling plasterboard – provide min R4.0 insulation above ceiling plasterboard.
    - Internal ceilings
      - Concrete above plasterboard, nil insulation
  - Floors:
    - External Floors:
      - GF: Slab on Ground, Nil insulation
      - Upper levels: Suspended concrete slab, provide min R2.0 insulation
    - Internal Floors:
      - Suspended concrete slab
  - Floor covering:
    - BF – Bare Concrete and Tile for games rooms
    - Kitchen/Dining/Living – Timber
    - Wet areas – Tiles
    - Other Areas – Carpets
  - Glazing
    - For Awning/Casement Types: Total U-value=4.5 & Total SHGC=0.50 – Standard DGUs Neutral/Clear or the like
    - For Sliding/Fixed Types: Total U-value=3.6 & Total SHGC=0.47 – Standard DGUs Neutral/Clear or the like
- LED DOWNLIGHTS TO ALL DWELLINGS WITH DEDICATED FITTINGS.  
ALL DOWNLIGHTS AND EXHAUST FANS TO BE SEALED.  
ALL WORKS TO BE IN ACCORDANCE WITH BCA/NCC & RELEVANT AS/NZS STANDARDS.

<b>Notes:</b> This drawing is copyright of Archian Architects  All work is to be in accordance with the NCC (formerly BCA), relevant SAA Codes, Conditions of Council and other relevant Authorities requirements. DO NOT scale drawings and always refer to dimensions. Check all dimensions on site before commencing work. Always refer all discrepancies and enquiries to the Architect			
A	Issue for DA	CJ	22.10.18
C	DA Amendment	CJ	23.02.20
D	DA Amendment	CJ	23.04.04
E	Issue for S4.55	CJ	23.10.17
F	Issue for S4.55 (2)	CJ	24.02.20
Issue	Description	By	Date

PLOT DATE & TIME: 2/23/2024 2:19:21 PM PLOTTED & CHECKED BY: SY

Proposed House  
85a Victoria Road Bellevue Hill  
Client: Cindy & Frank

Proj No.  
202206

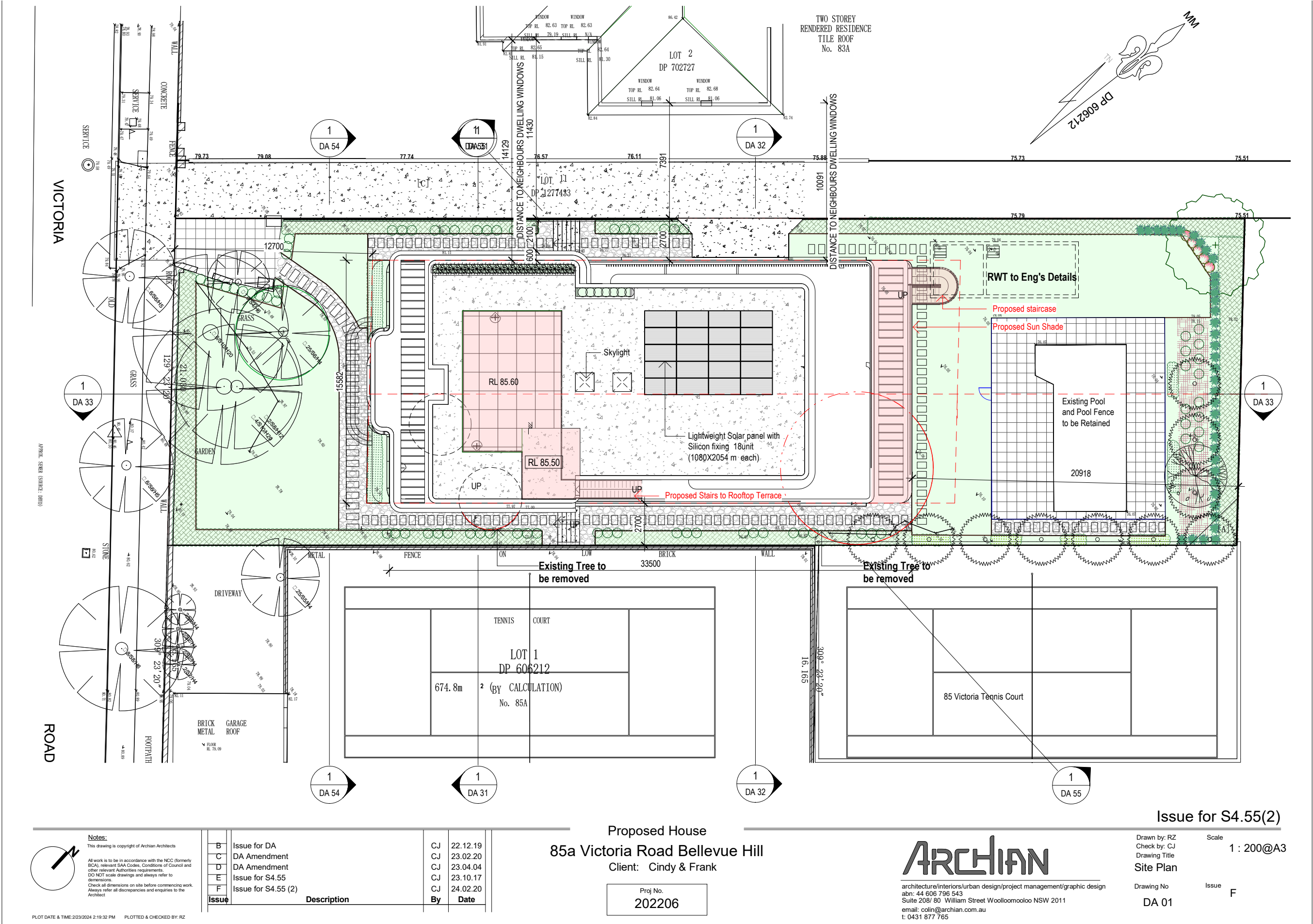
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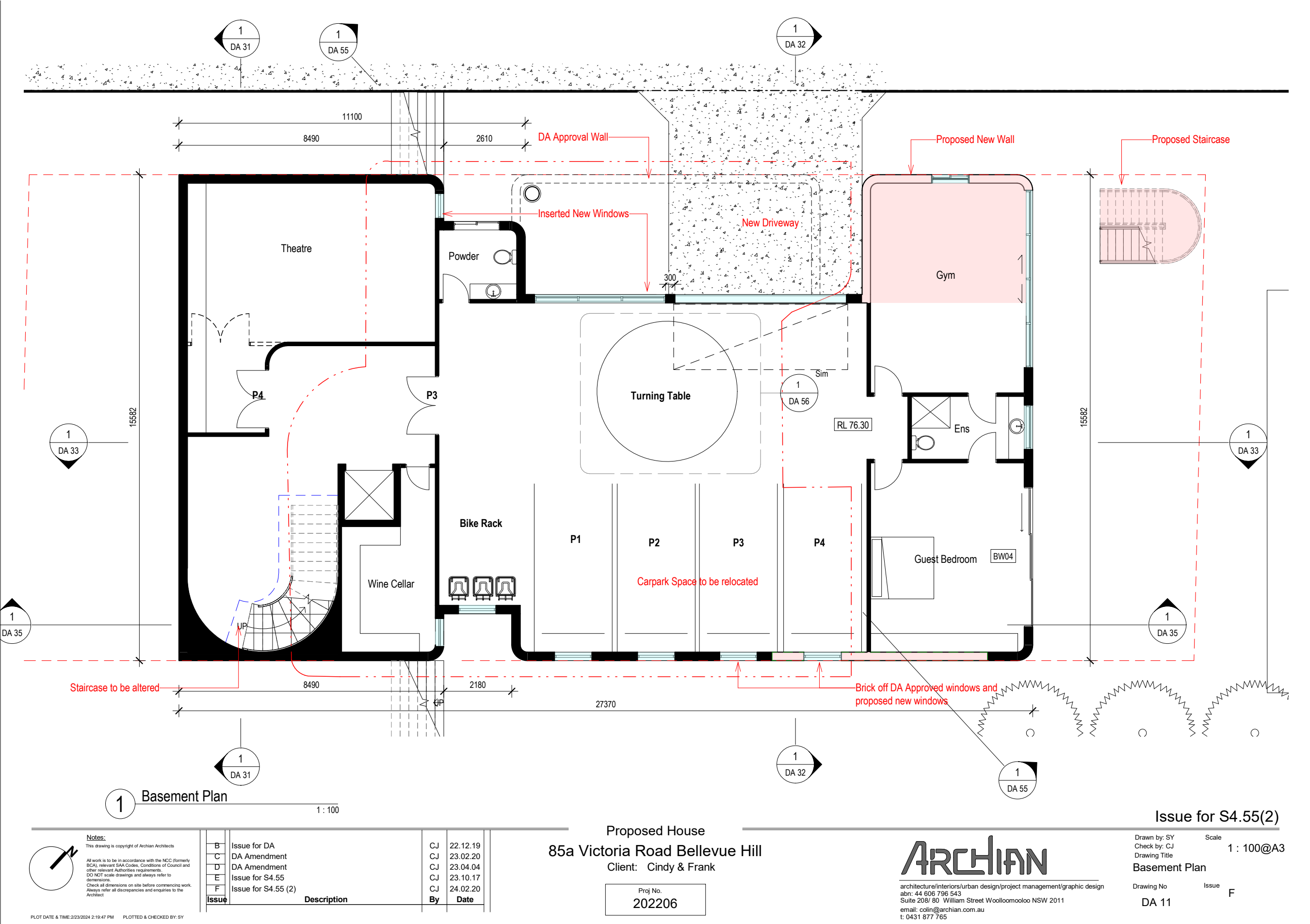
architecture/interiors/urban design/project management/graphic design  
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email: colin@archian.com.au  
t: 0431 877 765

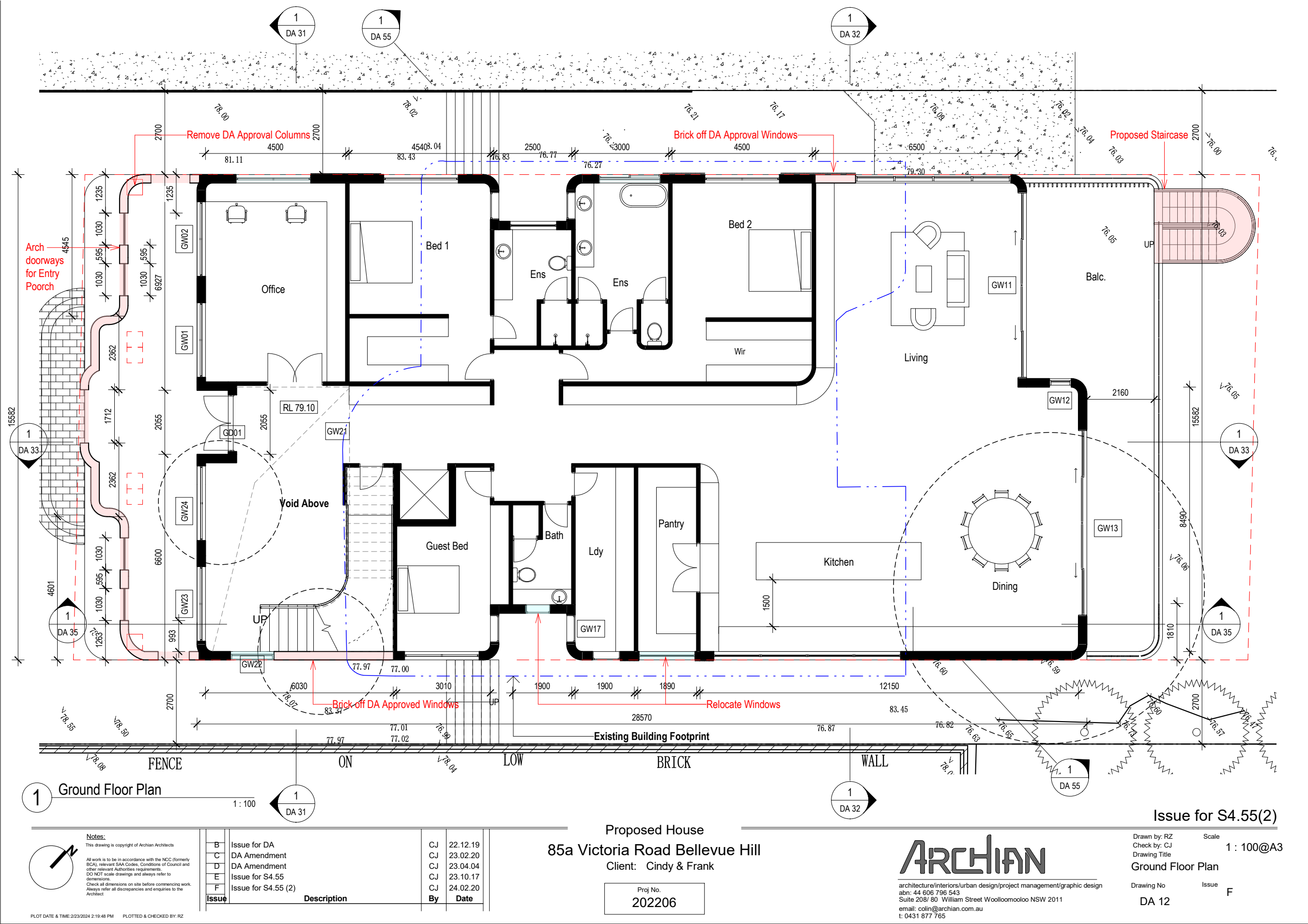
Issue for S4.55(2)

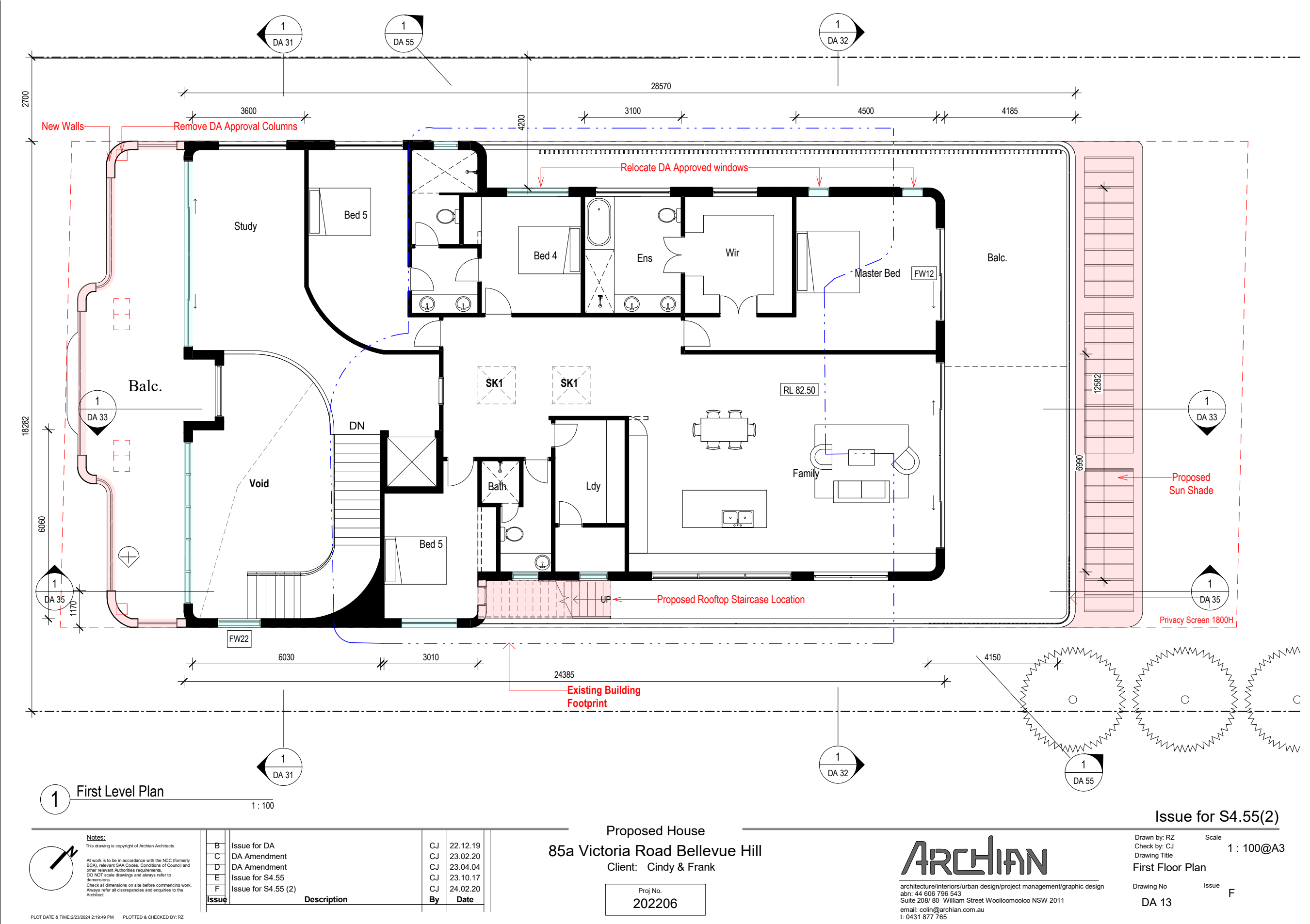
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Check by: CJ  
Drawing Title  
Cover Page  
Drawing No  
DA 00  
Scale  
1 : 200@A3  
Issue  
F



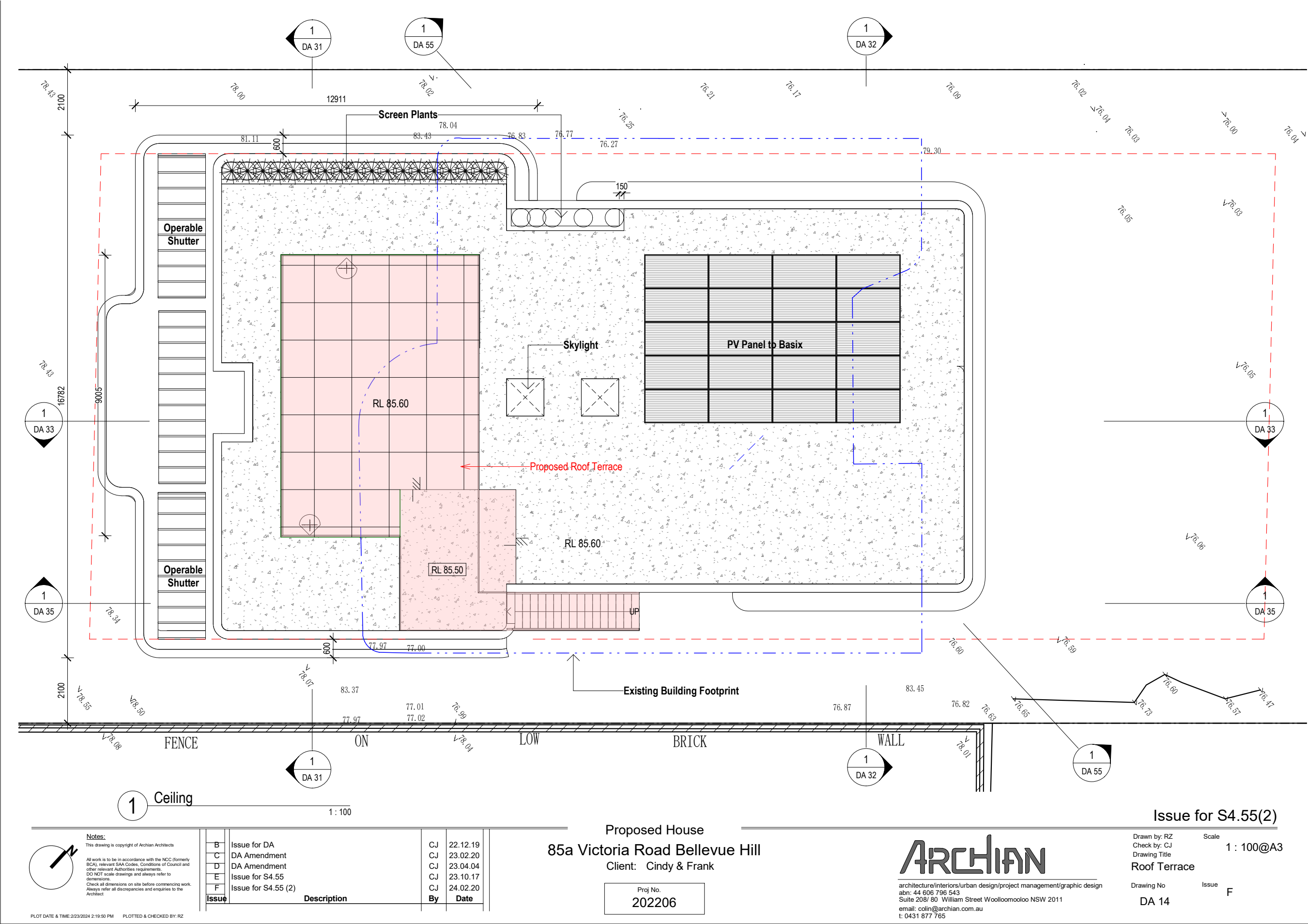


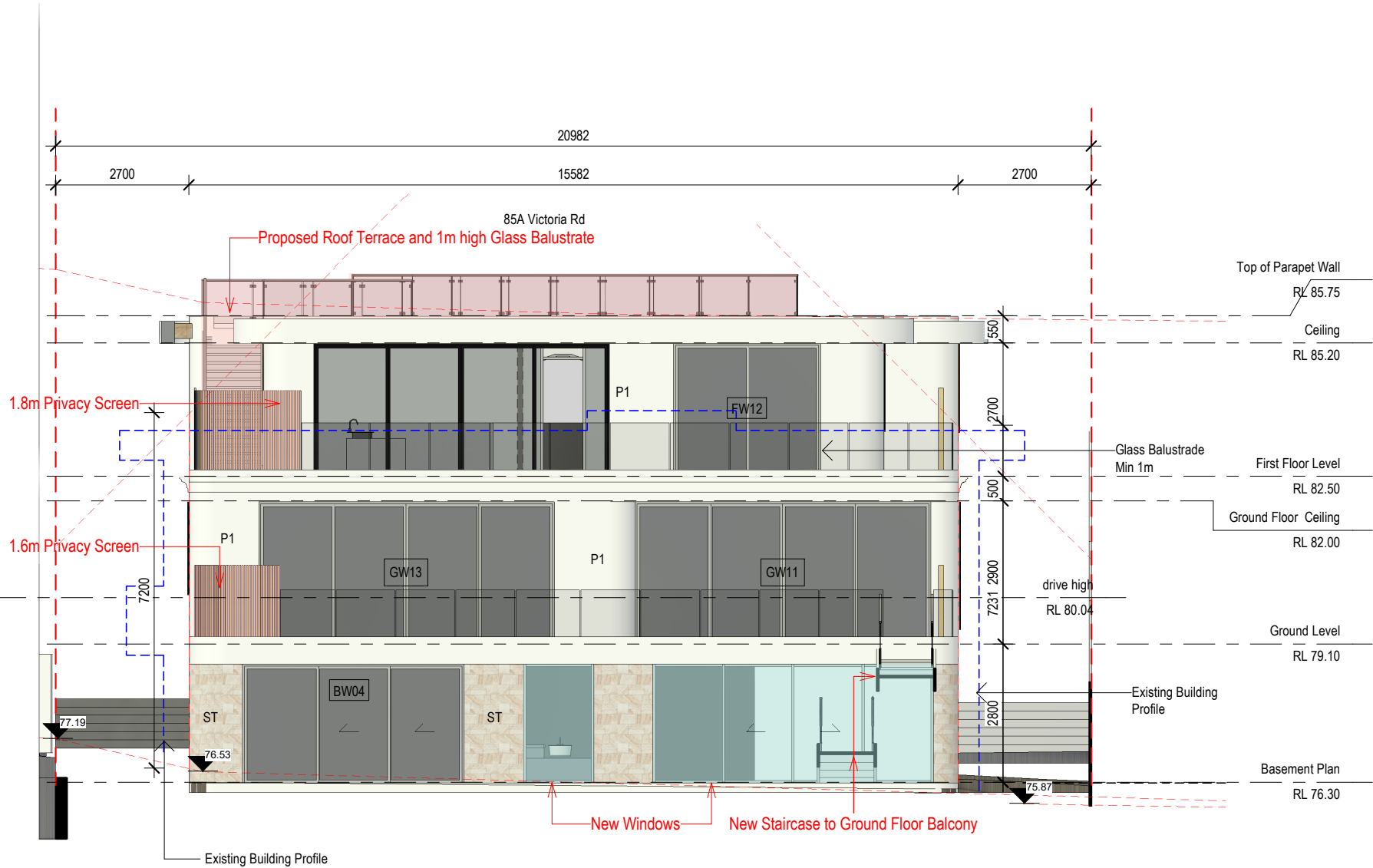












### SCHEDULE OF FINISHES

#### ROOFING

- (CR) GUTTER, FASCIA & DOWNPIPE  
COLORBOND  
SURFMIST



#### SCREEN

- (LV) TIMBER BATTAN  
SCREENWOOD  
WESTERN RED CEDAR: NATURAL  
(or EQV.)



#### WALL

- (ST) SAND STONE CLADDING



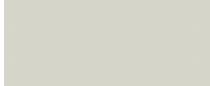
#### PAINT

- (P1) PAINTED TIMBER COLUMN  
TAUBAMANS  
GREY MIST T08 174-1



#### WINDOW & DOOR FRAME

- (AL) ALUMINIUM WITH  
POWDER COATINGS  
DULUX DURALLOY  
SURFMIST MATT 95984758



### Schedule of Finishes

1 : 100

2 East Elevation

1 : 100

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Issue	Description	By	Date
A	Issue for DA	CJ	22.10.18
B	Issue for DA	CJ	22.12.19
C	DA Amendment	CJ	23.02.20
D	DA Amendment	CJ	23.04.04
E	Issue for S4.55	CJ	23.10.17
F	Issue for S4.55 (2)	CJ	24.02.20

#### Proposed House

85a Victoria Road Bellevue Hill

Client: Cindy & Frank

Proj No.  
202206

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Suite 208/ 80 William Street Woolloomooloo NSW 2011  
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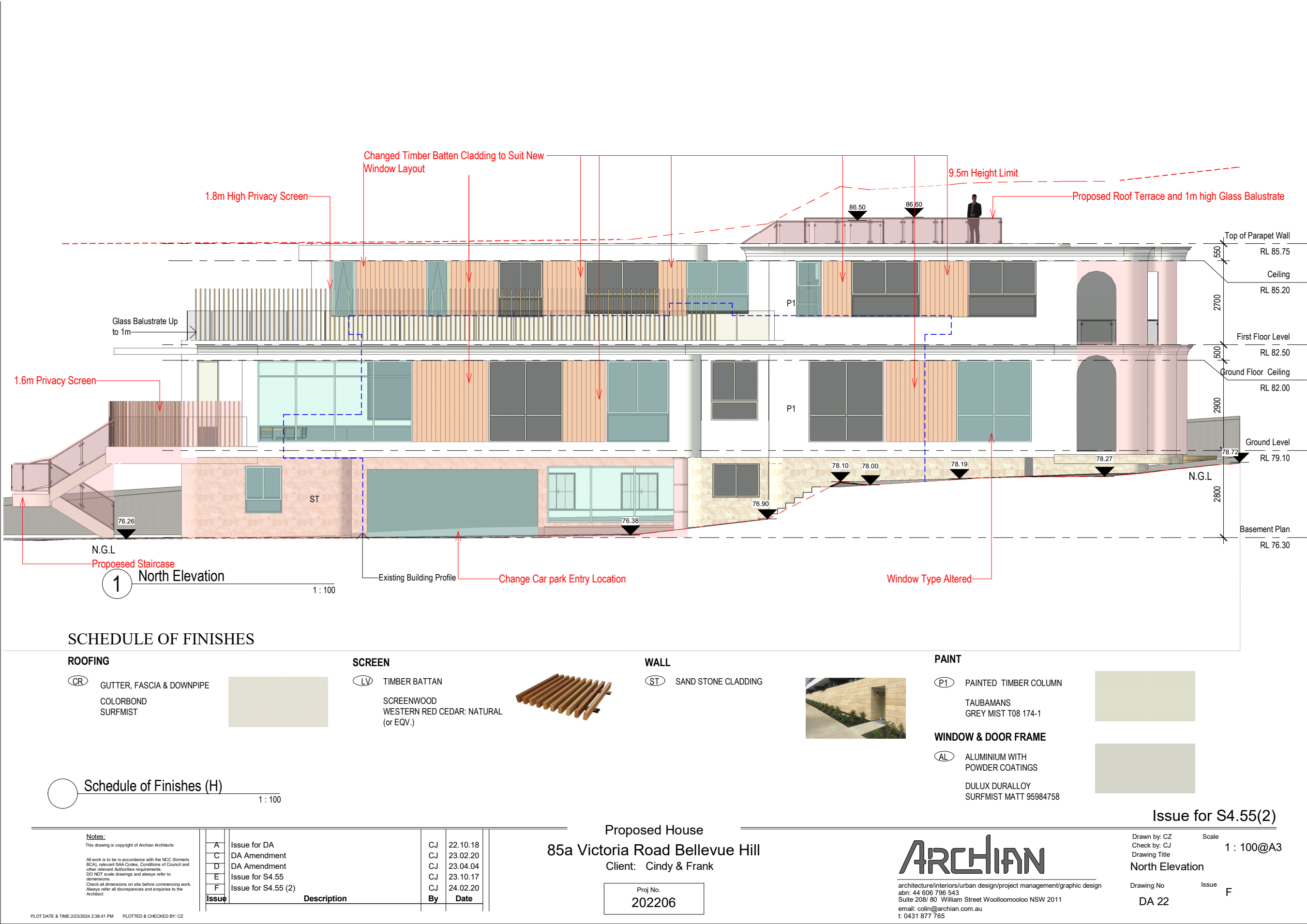
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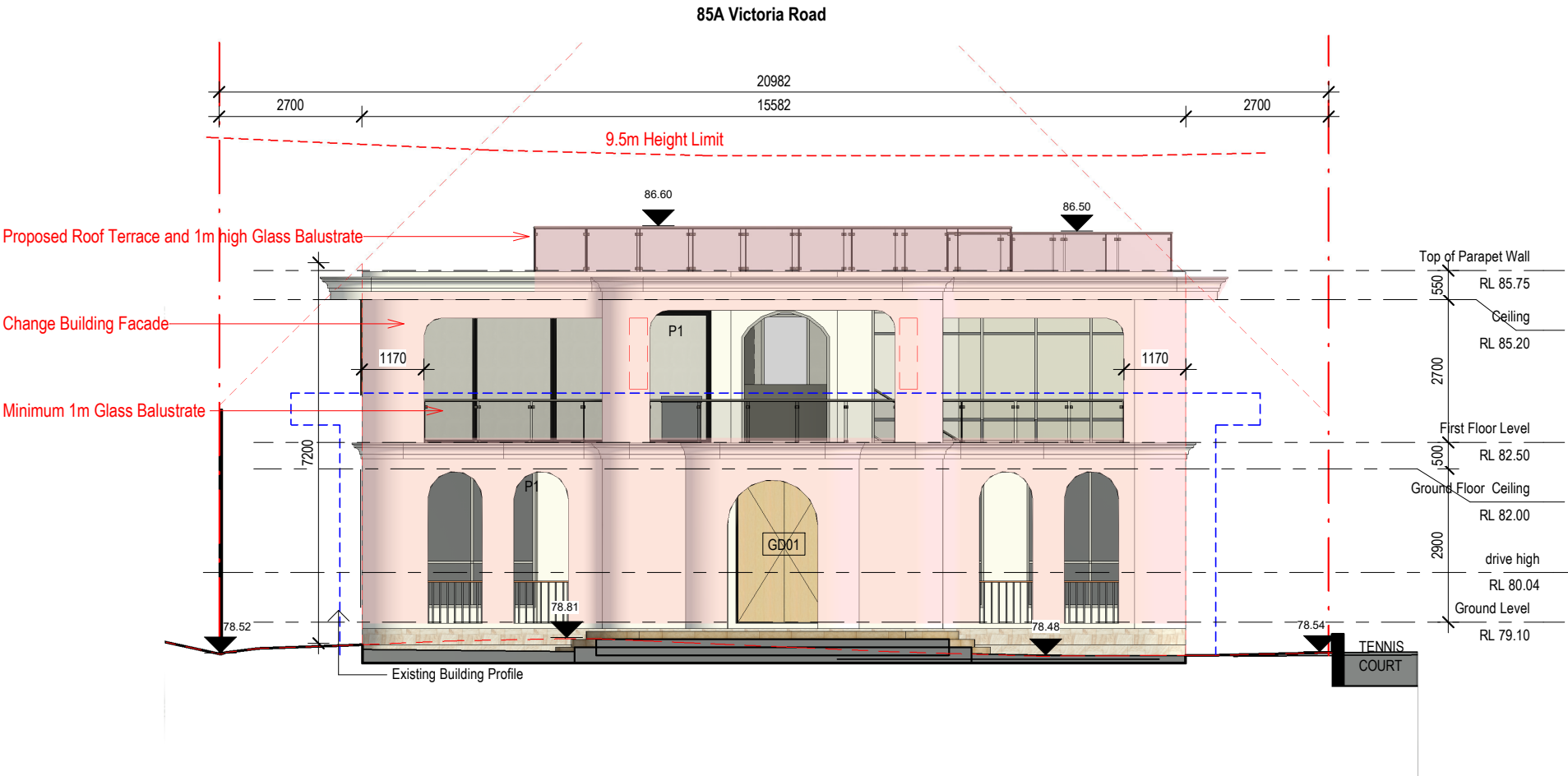
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Check by: CJ 1 : 100@A3  
Drawing Title

East Elevation

Drawing No  
DA 21

Issue  
F





1 West Elevation  
1 : 100

SCHEDULE OF FINISHES

ROOFING

- CR GUTTER, FASCIA & DOWNPIPE
- COLORBOND
- SURFMIST

SCREEN

- LV TIMBER BATTAN
- SCREENWOOD
- WESTERN RED CEDAR: NATURAL (or EQV.)

WALL

- ST SAND STONE CLADDING

PAINT

- P1 PAINTED TIMBER COLUMN
- TAUBAMANS
- GREY MIST T08 174-1

WINDOW & DOOR FRAME

- AL ALUMINIUM WITH POWDER COATINGS
- DULUX DURALLOY
- SURFMIST MATT 95984758

Schedule of Finishes (H)  
1 : 100

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F	Issue for S4.55 (2)	CJ	24.02.20

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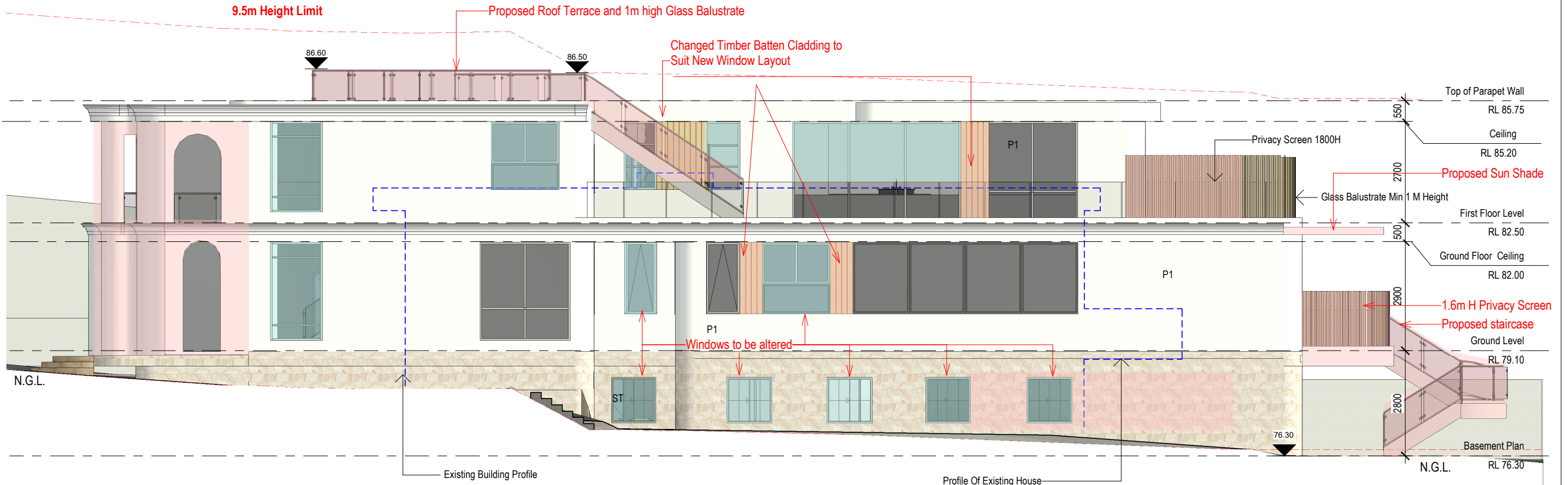
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Issue for S4.55(2)

Drawn by: RZ  
Check by: CJ  
Drawing Title  
West Elevation  
  
Drawing No  
DA 23  
  
Scale  
1 : 100@A3  
  
Issue  
F





1 South Elevation 1 : 100

## SCHEDULE OF FINISHES

## ROOFING

CR GUTTER, FASCIA & DOWNPIPE  
COLORBOND  
SURFMIST

**SCREEN**

(LV) TIMBER BATTAN  
SCREENWOOD  
WESTERN RED CEDAR: NATURAL  
(or EQV.)

WALL

(ST) SAND STONE CLADDING

## PAINT

**P1** PAINTED TIMBER COLUMN  
TAUBAMANS  
GREY MIST T08 174-1

## WINDOW & DOOR FRAME

**AL** ALUMINIUM WITH  
POWDER COATINGS

DULUX DURALLOY  
SURFMIST MATT 95984758

### Schedule of Finishes (H)

---

1 : 100

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C	DA Amendment	CJ	23.02.20
D	DA Amendment	CJ	23.04.04
E	Issue for S4.55	CJ	23.10.17
F	Issue for S4.55 (2)	CJ	24.02.20
<b>Issue</b>	<b>Description</b>	<b>By</b>	<b>Date</b>

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Issue for S4.55(2)

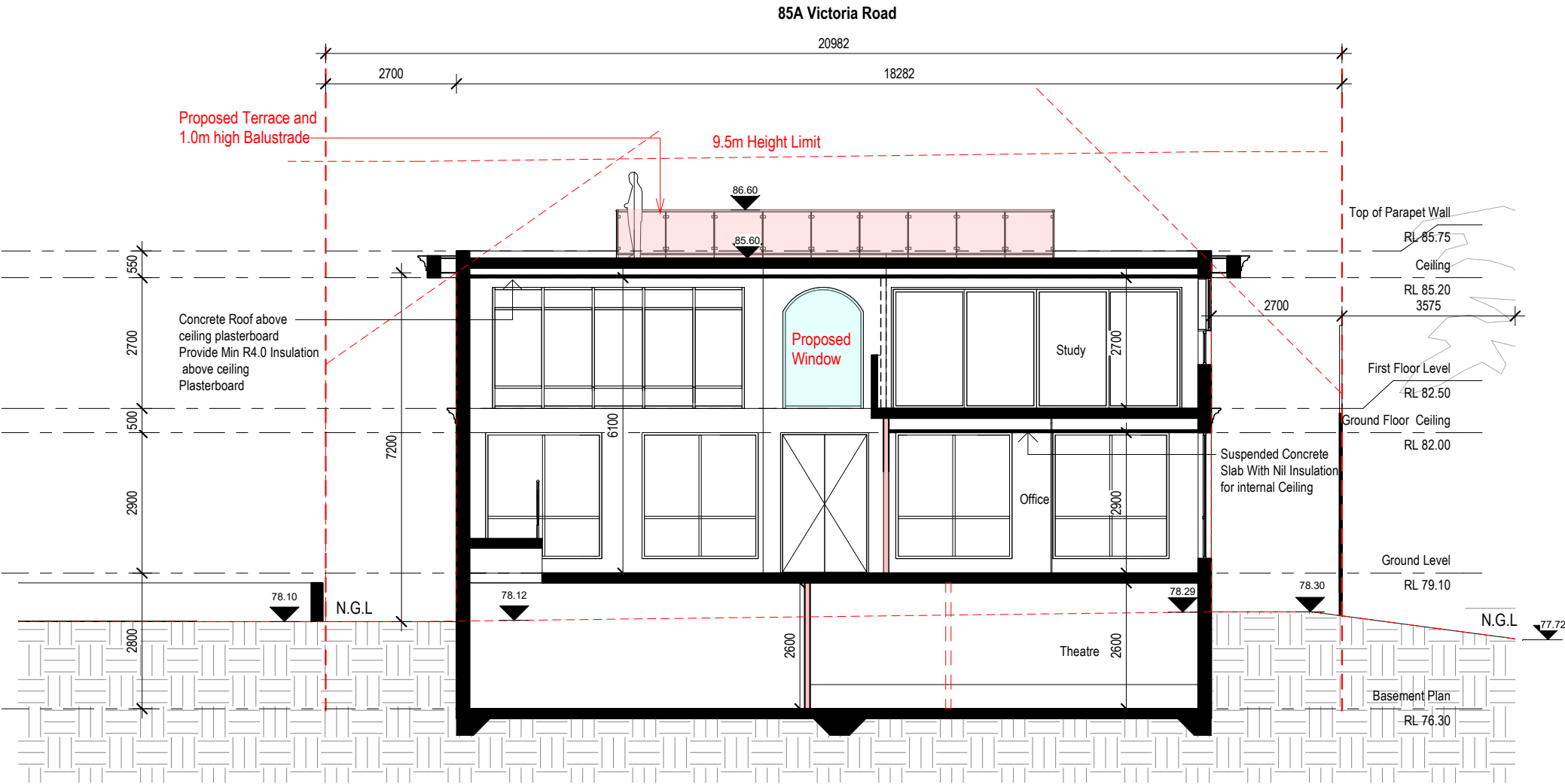
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Check by: CJ  
Drawing Title

Scale  
1 : 100@A3

South Elevation

Drawing No  
DA 24

Issue **F**



1 Section 1  
1 : 100

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F	Issue for S4.55 (2)	CJ	24.02.20
Issue	Description	By	Date

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email: colin@archian.com.au  
t: 0431 877 765

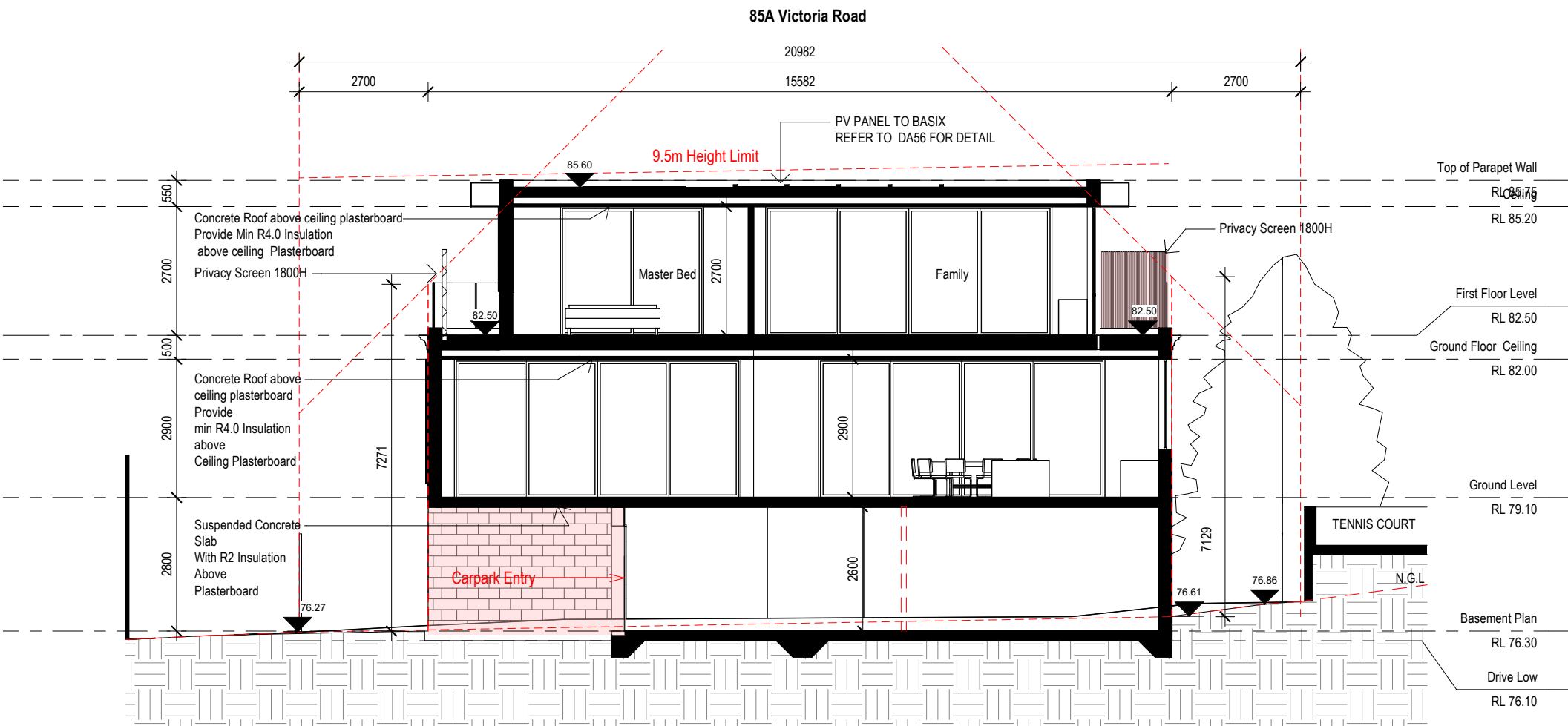
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Drawn by: CZ  
Check by: CJ  
Drawing Title  
Scale  
1 : 100@A3

Section 1

Drawing No  
DA 31

Issue  
F



1 Section 2  
1 : 100

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Issue	Description	By	Date

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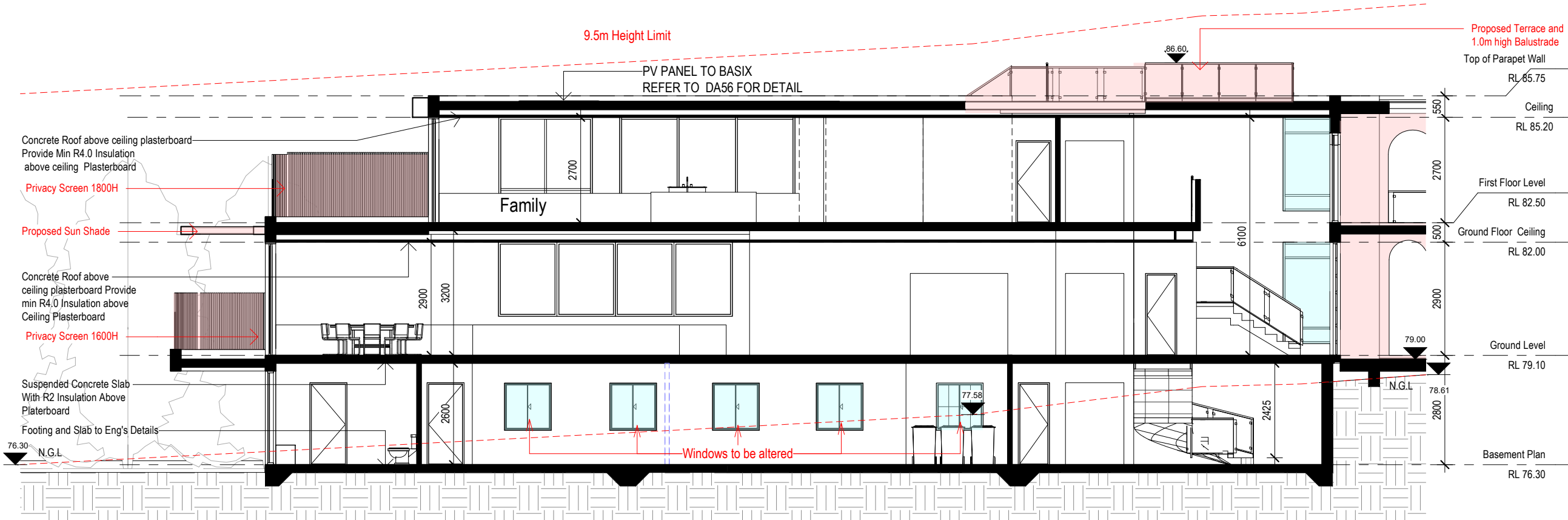
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Drawn by: CZ  
Check by: CJ  
Drawing Title  
Section 2

Drawing No  
DA 32

Scale  
1 : 100@A3

Issue  
F



1 Long Section  
1:100

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		F	Issue for S4.55 (2)	CJ	24.02.20
		Issue	Description	By	Date

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Issue for S4.55(2)

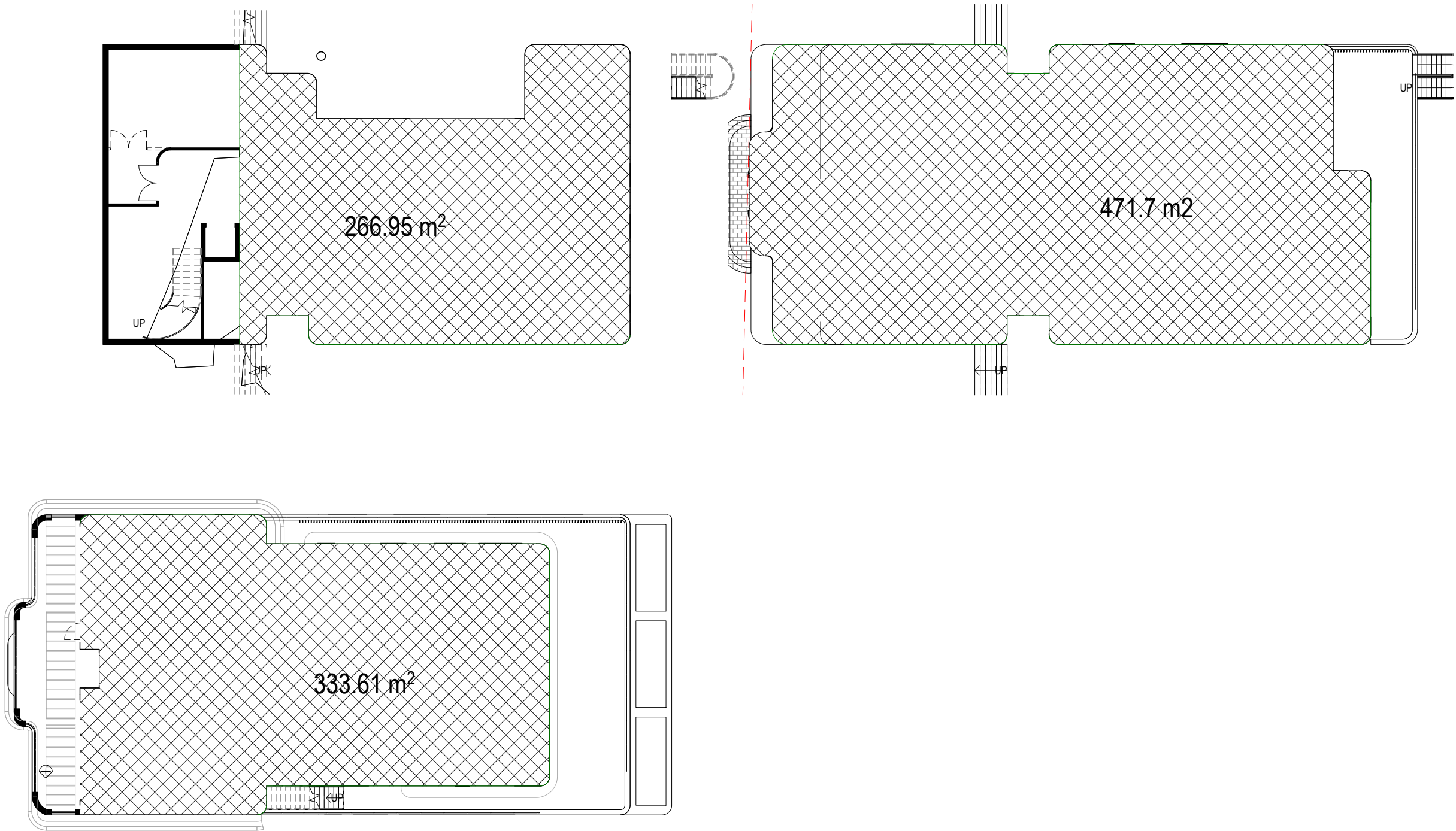
Drawn by: RZ  
Check by: CJ  
Drawing Title  
Long Section

Drawing No  
DA 33

Scale  
1 : 100@A3

Issue  
F





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Issue	Description	By	Date
A	Issue for DA	CJ	22.10.18
C	DA Amendment	CJ	23.02.20
D	DA Amendment	CJ	23.04.04
E	Issue for S4.55	CJ	23.10.17
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Suite 208/ 80 William Street Woolloomooloo NSW 2011  
email: colin@archian.com.au  
t: 0431 877 765

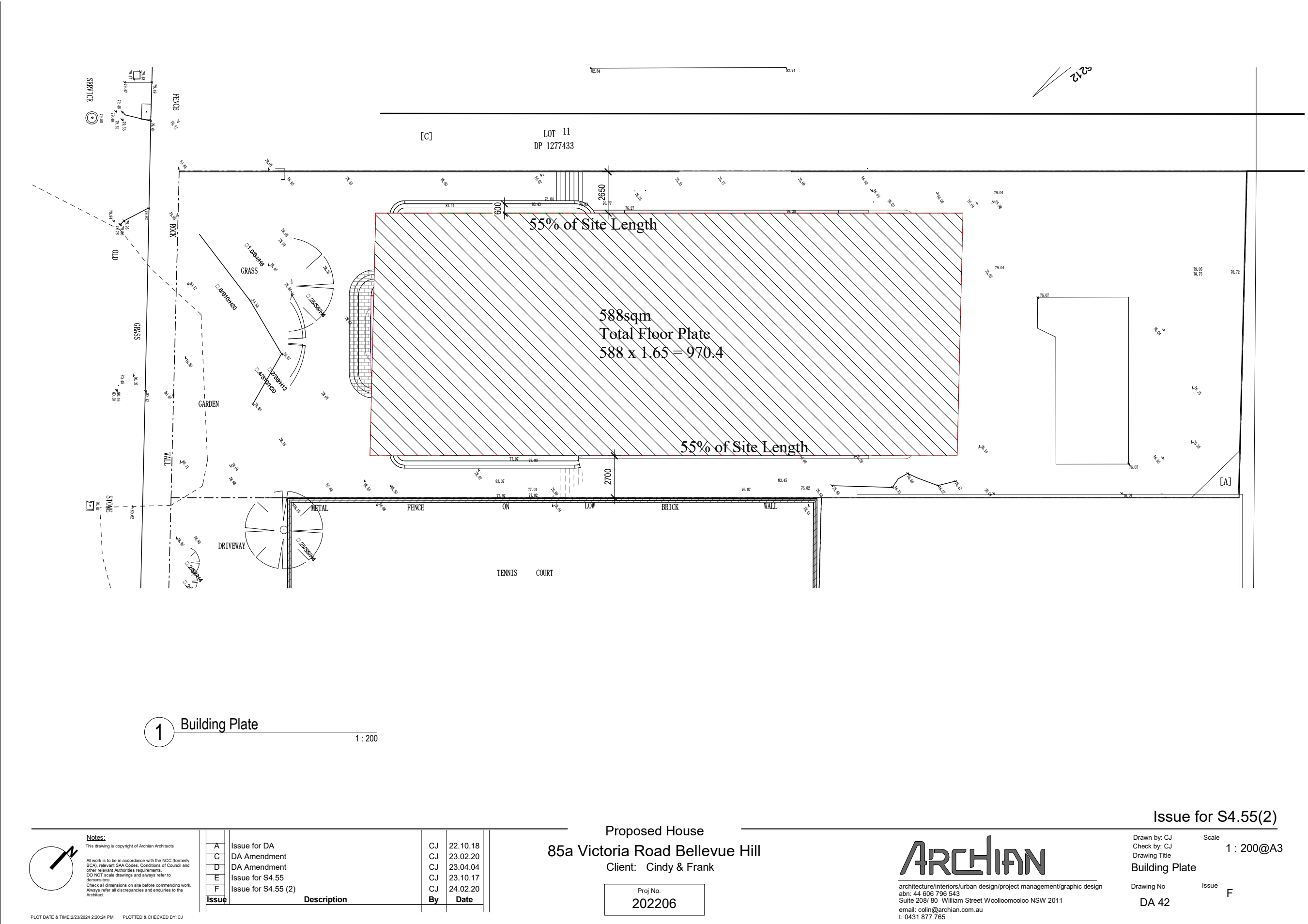
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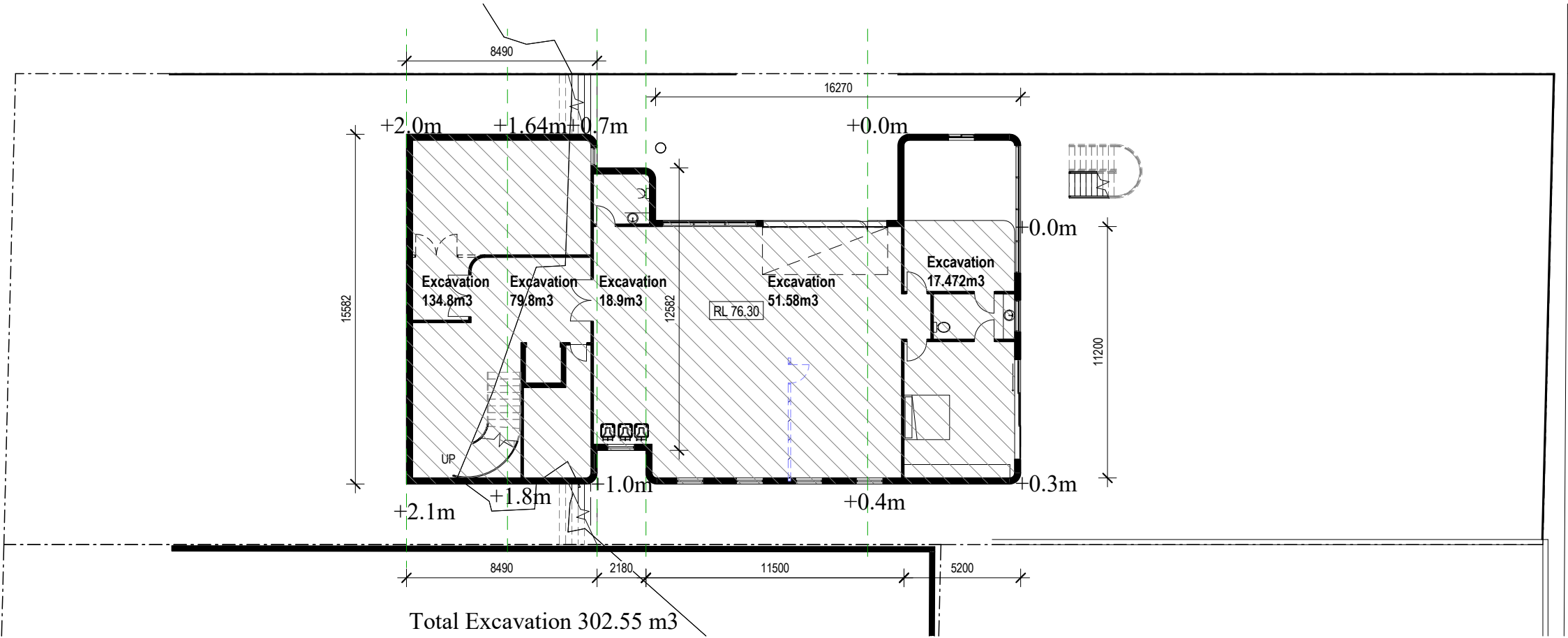
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Check by: CJ  
Drawing Title  
Building Plate Calculation

Scale  
1 : 200@A3

Drawing No  
DA 41

Issue  
F





1 Excavation Plan 1 : 200

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PLOT DATE & TIME: 2/23/2024 2:20:24 PM PLOTTED & CHECKED BY: CJ

A	Issue for DA	CJ	22.10.18
C	DA Amendment	CJ	23.02.20
D	DA Amendment	CJ	23.04.04
E	Issue for S4.55	CJ	23.10.17
F	Issue for S4.55 (2)	CJ	24.02.20
Issue	Description	By	Date

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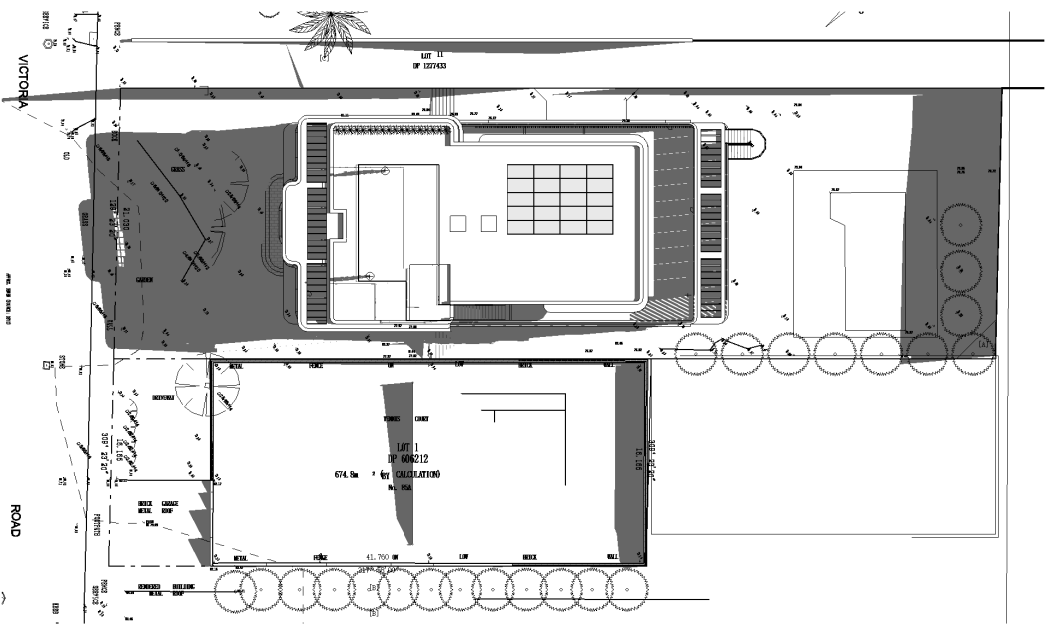
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Drawn by: CJ  
Check by: CJ  
Drawing Title  
Excavation Plan

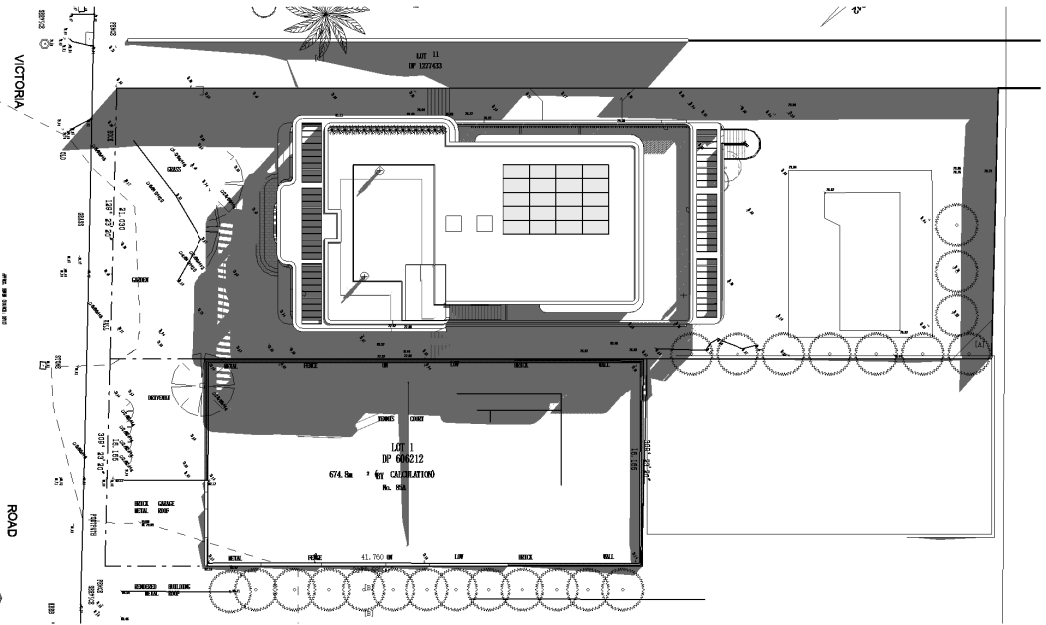
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Drawing No  
DA 43

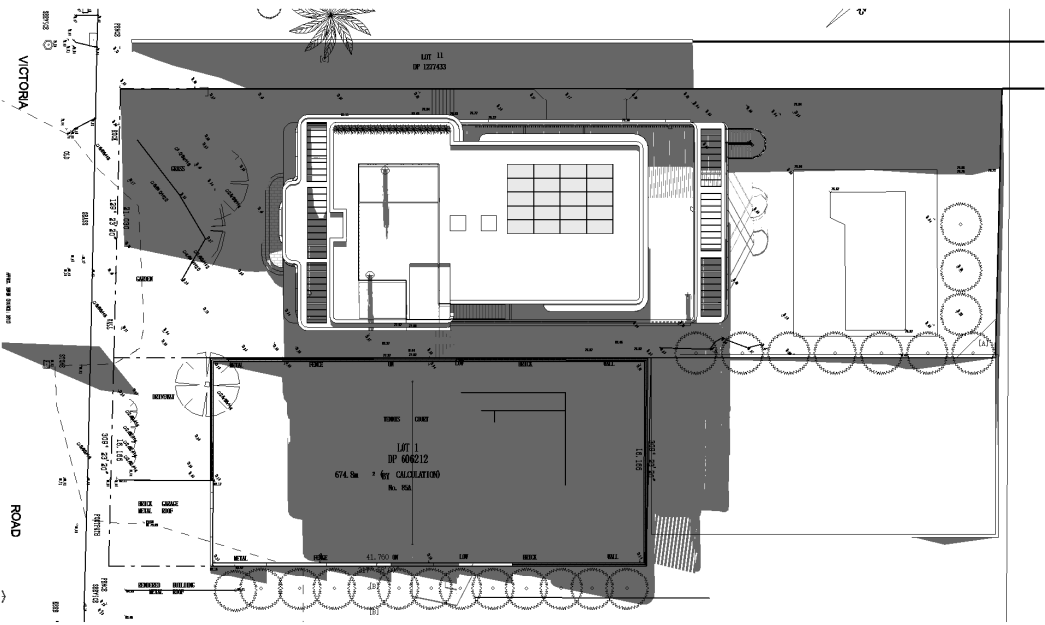
Issue  
F



1 June 21 - 9am 1 : 500



4 June 21 - 12pm 1 : 500



7 June 21 - 3pm 1 : 500

The Shadow on 83 Victoria Road Remains no Change  
No Shadow cast on Neighbouring Properties



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F	Issue for S4.55 (2)	CJ	24.02.20
Issue	Description	By	Date

Proposed House  
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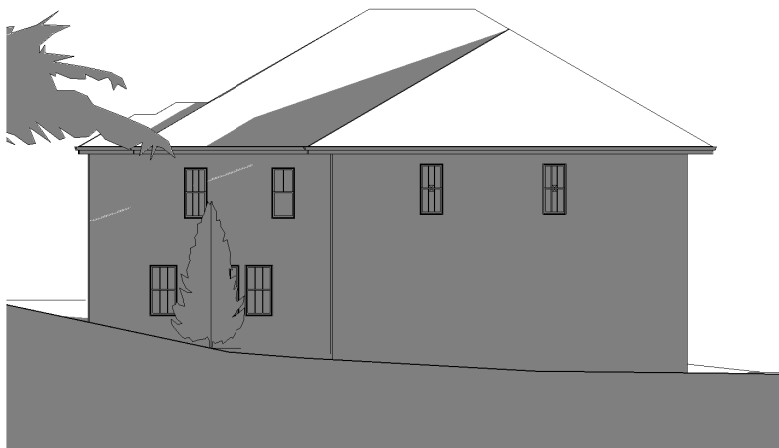
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Issue for S4.55(2)

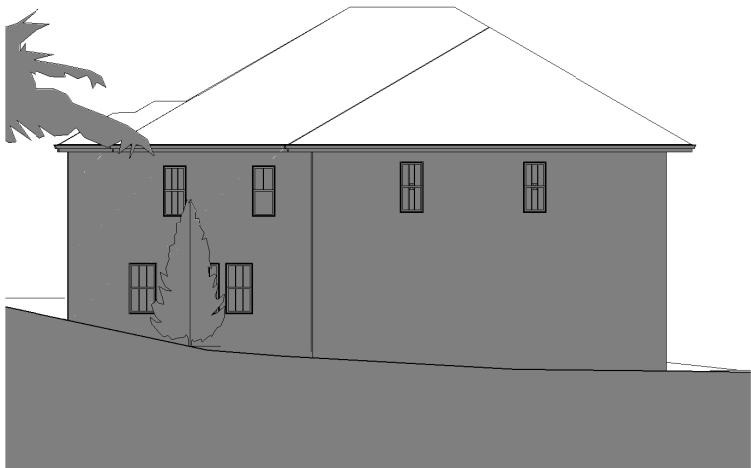
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Drawing Title

Shadow Diagram Horizontal

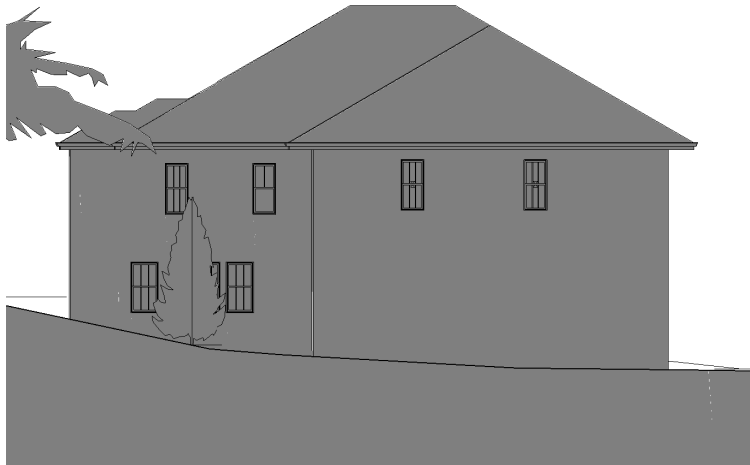
Drawing No Issue  
DA 45 F



1 9am 21 June 2022 1 : 200



2 12pm 21 June 2022 1 : 200



3 3pm 21 June 2022 1 : 200

The Shadow on 83 Victoria Road Remains no Change  
No Shadow cast on Neighbouring Properties

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PLOT DATE & TIME: 2/23/2024 2:20:28 PM PLOTTED & CHECKED BY: SY

A	Issue for DA	CJ	22.10.18
C	DA Amendment	CJ	23.02.20
D	DA Amendment	CJ	23.04.04
E	Issue for S4.55	CJ	23.10.17
F	Issue for S4.55 (2)	CJ	24.02.20
Issue	Description	By	Date

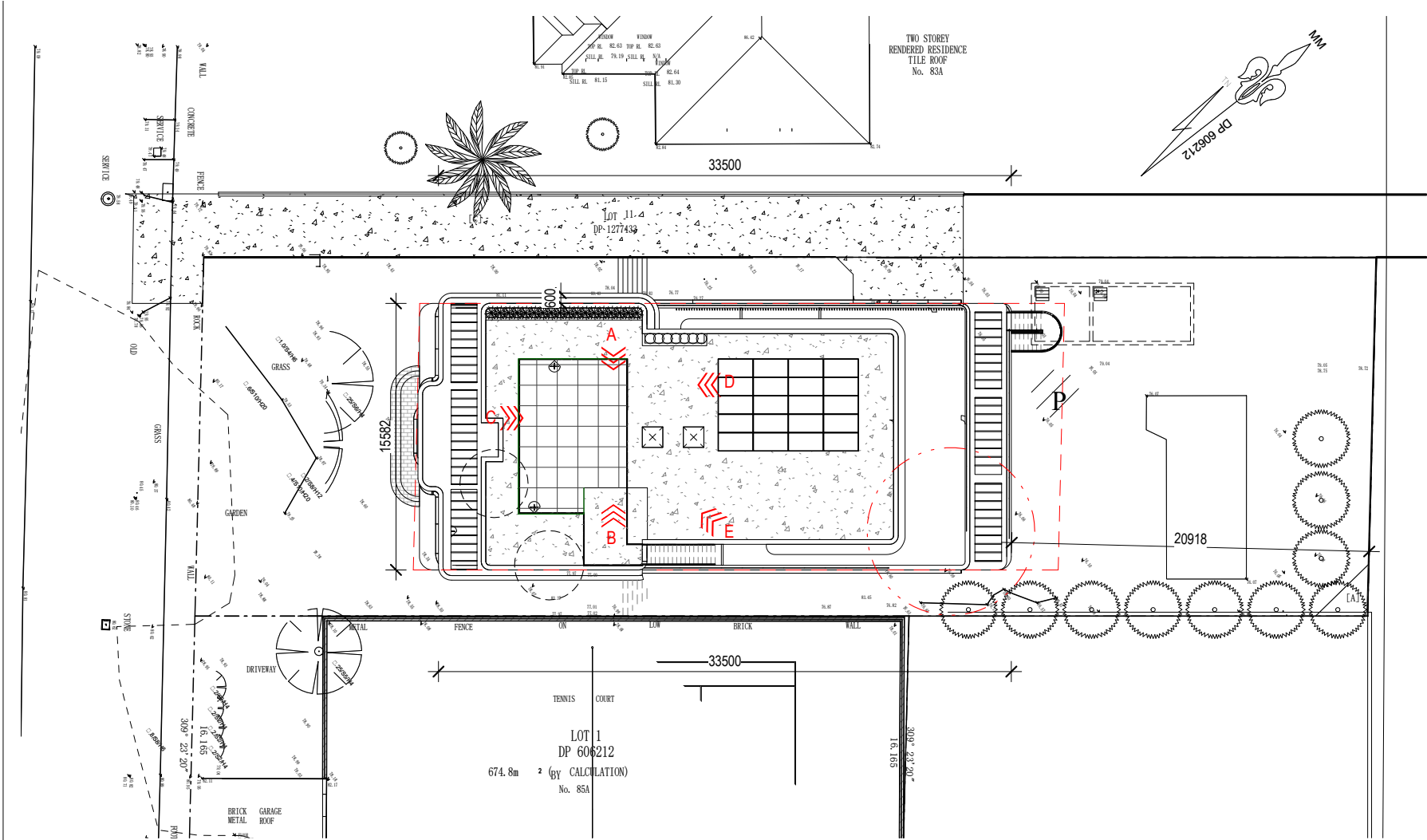
Proposed House  
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Client: Cindy & Frank

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Issue for S4.55(2)  
Drawn by: SY Scale  
Check by: CJ 1 : 200@A3  
Drawing Title  
Shadow Diagram Vertical  
Drawing No Issue  
DA 46 F





1 View Analysis Plan  
1 : 300



View A (North West) : with min. 6m setback, view of 83 Victoria Road



View B (South East) : View of the tennis court only



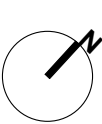
View C (South West) : View of Victoria Road



View D (North East) : no privacy issue raised



View E (East) : no overlooking over neighboring properties



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Issue	Description	By	Date

Proposed House  
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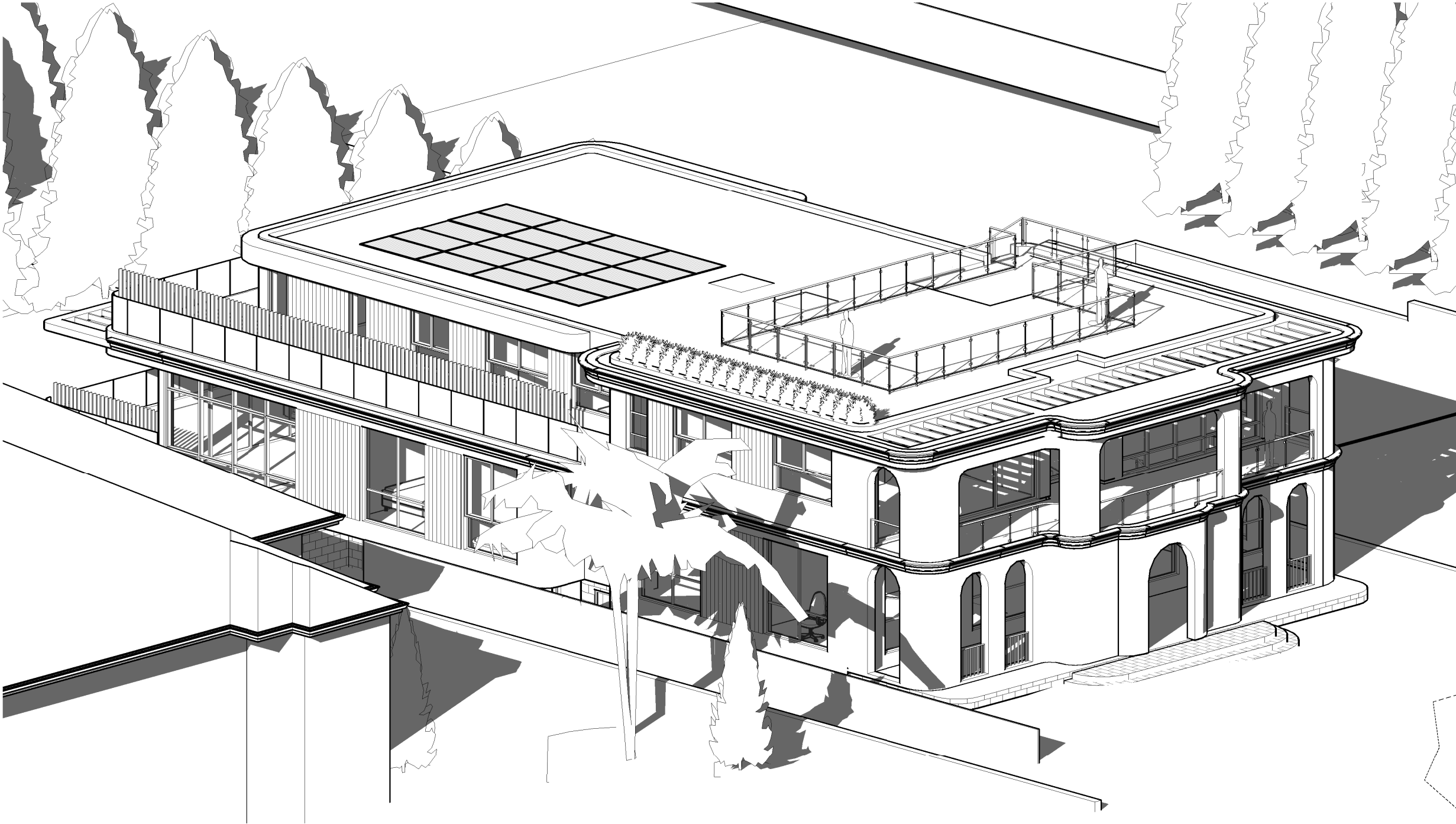
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Suite 208/ 80 William Street Woolloomooloo NSW 2011  
email: colin@archian.com.au  
t: 0431 877 765

Issue for S4.55(2)

Drawn by: CJ Scale  
Check by: CJ 1 : 300@A3  
Drawing Title

View Analysis 1

Drawing No Issue  
DA 52 F



1 Axometric View

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C	DA Amendment	CJ	23.02.20
F	Issue for S4.55 (2)	CJ	24.02.20
Issue	Description	By	Date

Proposed House  
85a Victoria Road Bellevue Hill  
Client: Cindy & Frank

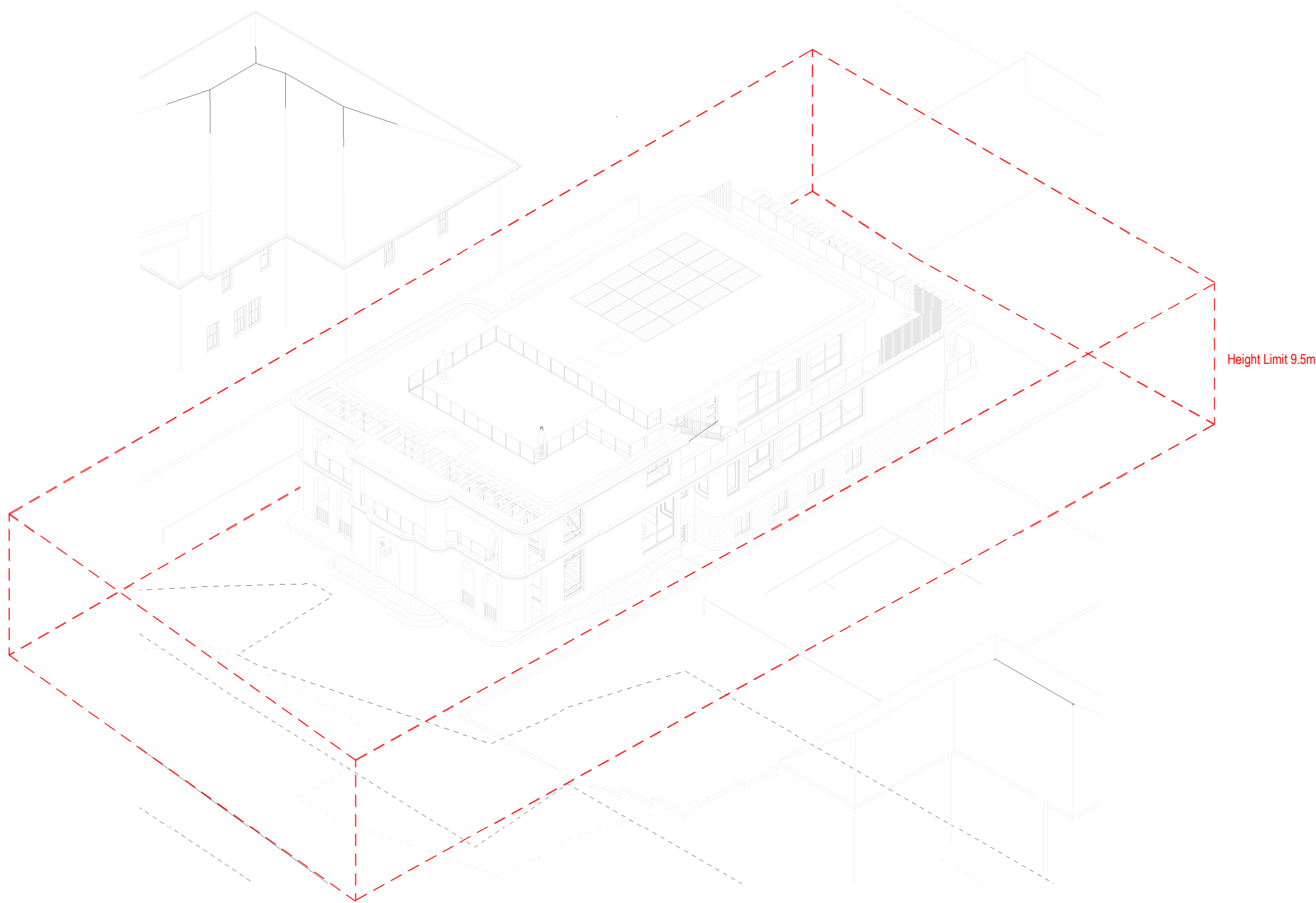
Proj No.  
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email: colin@archian.com.au  
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Issue for S4.55(2)

Drawn by: SY  
Check by: CJ  
Drawing Title  
Axometric View  
  
Drawing No  
DA 93  
  
Scale  
@A3  
  
Issue  
F





1 Height Limit Envelope

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F	Issue	Issue for S4.55 (2)	CJ	24.02.20
		Description	By	Date

Proposed House  
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Issue for S4.55(2)

Drawn by: CZ  
Check by: CJ  
Drawing Title  
Height Limit Envelope  
  
Drawing No  
DA 94  
  
Scale  
@A3  
  
Issue  
F



## SECTION 4.55 APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	D3
<b>FILE No.</b>	DA227/1995/2
<b>ADDRESS</b>	111-113 Queen Street WOOLLAHRA
<b>SITE AREA</b>	810m <sup>2</sup>
<b>ZONING</b>	R2 Low Density Residential
<b>EXISTING CONSENT</b>	Change of Use from a Shop to a Café and internal alterations
<b>DATE OF CONSENT</b>	09/11/1995
<b>TYPE OF CONSENT</b>	Local development
<b>CONSENT AUTHORITY</b>	Woollahra Council
<b>PROPOSED MODIFICATION</b>	Extension of trading hours to Shop 2, to trade from 7:00am - 10:30pm Monday to Sunday
<b>DATE S4.55 LODGED</b>	01/09/2023
<b>APPLICANT</b>	Mr A Di Marte
<b>OWNER</b>	The National Council of Jewish Women of Australia NSW Division
<b>AUTHOR</b>	Mrs L Holbert
<b>TEAM LEADER</b>	Mr G Fotis
<b>SUBMISSIONS</b>	0
<b>RECOMMENDATION</b>	Conditional 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:

- The development consent as proposed to be modified, is considered to be substantially the same as the originally approved development;
- The proposal satisfies section 4.55 of the Environmental Planning and Assessment Act 1979;
- 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.

## SUMMARY

### 2. LOCALITY PLAN



### 3. LEVEL OF DELEGATION

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

- The application is for a licensed hotel (pub) or club, or a development application which increases the hours of operation or patron numbers or the licensed floor area of a licensed club (pub) or club

### 4. SUMMARY OF APPROVED DEVELOPMENT

The approved development involved a change of use from a Shop to a Café and internal alterations. The approved hours of operation were 8:30am to 6pm Monday to Saturday.

### 5. SUMMARY OF PREVIOUS SECTION 4.55 MODIFICATIONS

The following modifications were made on 04/11/1996:

- The hours of operation were increased to 8.30am to 10:30pm Monday to Saturday;
- The car parking area at the rear of the premises was to be made available to Café patrons with an intercom system installed at the entrance to facilitate access to this parking area.

## 6. SUMMARY OF PROPOSED MODIFICATION

This Section 4.55 application seeks to modify **Condition No.2** of the approved development to facilitate changes to the hours of operation of the existing café/restaurant. The hours of operation are proposed to be changed from 8:30am to 10:30pm Monday to Saturday to the following:

- 7am to 10.30pm Monday to Sunday.

## 7. ISSUES

### 7.1 Primary Issues

Issue	Conclusion	Section
Increased trading hours	The proposed increased trading hours to the existing café/restaurant is consistent with the trading hours of surrounding café/restaurants and is not considered to result in any adverse impacts on the amenity of surrounding properties. This is further discussed below in Section 14.5 of this report.	14.5

## PROPERTY DETAILS AND REFERRALS

## 8. SITE AND LOCALITY

<b>Physical features</b>
The subject site is located at Nos.111-113 Queen Street Woollahra, and the land is described as lot 1 in DP 797771. The land has a rectangular shape with a total area of 806.3m <sup>2</sup> . The property is bounded by Queen Street to the north-west and by Dorhauer and Morton Lanes to the south-west and south-east respectively. Vehicular access to the property is provided via two vehicular entry points from Dorhauer Lane (one to the loading area and one to car park).
<b>Topography</b>
The natural topography of the site slopes approximately 2.5m from Morton Lane at the rear of the site (RL 65.8) toward Queen Street at the front of the site (RL 63.3). The existing excavated ground level is located partially below the level of Morton Lane. At the rear of the site to Morton Lane there is a cross fall of approximately 1m. There is no significant landscaping within the site. A street tree is located to the front of the site on the Queen Street frontage.
<b>Existing buildings and structures</b>
<p>The subject site contains a 1960s part one storey, part two storey, part three storey mixed use building known as Council House. This building contains a community facility for the NCJWA, one retail shop and a café/restaurant.</p> <p>The original building is comprised of a Sydney functional modernist design with an external portal frame structure, and consisted solely of a community facility. Alterations and additions were undertaken to the building in the 1980s in a Post-Modern style, to provide two ground floor retail spaces to the Queen Street frontage. The additions were designed to fit within the discipline of the original external portal frame structure.</p> <p>The building currently comprises of the following uses:</p> <ul style="list-style-type: none"><li>• At ground floor level, two retail spaces (comprising of a shop and a café) are accessed from Queen Street. Behind the retail spaces are lifts, stairwell, loading area, services and a storage area, which are accessed from the vehicle entry from Dorhauer Lane. Further to the rear is a car parking area, which is accessed via a second vehicle entrance from Dorhauer Lane. The parking area provides 12 spaces. The existing development consent allocates 3 spaces for the café.</li><li>• At first floor level, a community facility comprises of a community meeting hall in the centre of the building, toilets and stage at the south-eastern end. A boardroom, offices and a kitchen are located at the north-western end. There is a balcony area fronting Queen Street.</li><li>• At the second floor level, a mezzanine floor located at the rear of the building provides a storage area for the community facility.</li></ul>

Surrounding Environment	
<p>At the Queen Street frontage, the subject site is largely surrounded by mixed commercial/retail uses and residential premises. To the north-east of the subject site is a heritage listed house (No.115 Queen Street). Further to the north-east are two additional heritage listed houses (Nos. 117, and 119 Queen Street). Development located to the south of the property is predominantly residential (with frontages to Moncur Street and John Street, and rear laneways to Dorhauer Lane and Morton Lane). A public car park and further mixed use developments are located to the south-west of the site on the opposite side of Dorhauer Lane.</p>	
 <p><b>Photo 1:</b> Existing Café/Restaurant as viewed from Queen Street.</p>	 <p><b>Photo 2:</b> South-western elevation of the existing building showing car park entry from Dorhauer Lane.</p>

## 9. RELEVANT PROPERTY HISTORY

Current use
Community facility, café/restaurant, shop
Relevant Application History
<p>A Building Application 701/62 for a new building (the subject building) comprising of a community centre was approved in 1962.</p> <p>In the 1980s approval was granted to extend the building at ground floor level towards Queen Street to accommodate two shops, each with a frontage to Queen Street. At first floor level a balcony was located above the two shops, which is accessed from the first floor level administration and board rooms.</p> <p>DA95/1557 was approved on 07 November 1995, to change the use of one of the shops to a café.</p> <p><b>Condition No.4</b> of the development consent required: <i>'the car parking area at the rear of the premises being available to patrons of the café at all times. The gates of the parking area to be open while the café is open, and appropriate signage to be placed at the entrance to the car parking'.</i></p> <p><b>Condition No.5</b> of the development consent required: <i>'A minimum of three parking spaces being permanently allocated to the premises'.</i></p> <p>On 04 November 1996, <b>Condition No.4</b> of DA95/1557 was modified to state: <i>'the car parking area at the rear of the premises being available to patrons of the café at all times. An intercom system to be installed at the entrance to the car park and patrons are to be given immediate entry on request. The availability of parking to be clearly indicated by appropriate signage of minimum dimensions of 0.5m x 0.5m at both the entrance to car park and on the shopfront'.</i></p>
Relevant Compliance History
N/A
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
N/A

Land and Environment Court Appeal(s)
N/A

## 10. REFERRALS

Referral	Summary of Referral Response	Attachments
NSW Police	Satisfactory.	2

## ASSESSMENT UNDER SECTION 4.55

The application is assessed under Section 4.55 of the Environmental Planning and Assessment Act 1979.

### 11. SECTION 4.55(2): OTHER MODIFICATIONS

Section 4.55(2) relates to the modification of a development consent for all other modifications. This application involves the modification of **Condition No.2** to allow for an increase to the trading hours of the existing café/restaurant.

The considerations in Section 4.55(2) require Council to consider the following:

- a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)*

Complies.

- b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent*

N/A

- c) *It has notified the application in accordance with:*  
i) *The regulations, if the regulations so require, or*  
ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent*

Complies.

- d) *It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be*

No submissions were received.

## 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

## **12. ADVERTISING AND NOTIFICATION**

### **12.1 Submissions**

The application was advertised and notified from 20/09/2023 to 05/10/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. No Submissions were received.

### **12.2 Statutory Declaration**

The applicant has completed the statutory declaration dated 12/10/2023 declaring that the site notice for DA227/1995/2 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

## **13. SEPP (BIODIVERSITY AND CONSERVATION) 2021**

### **13.1 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 significantly adverse impacts on the Sydney Harbour Catchment, subject to standard conditions including erosion and sedimentation, stormwater and flood risk management control.

## **14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

### **14.1 Part 1.2: Aims of Plan**

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

### **14.2 Land Use Table**

The existing food and drink use is considered to be an ancillary use to the main permissible use of a community facility within the R2 Low Density Residential zone. Further to this, the proposed development is consistent with the relevant objectives of the R2 Zone.

**Note:** Is also noted that this S.4.55 application seeks to modify DA1995/227, which is a valid consent allowing for the use of part of the site for a café.

### 14.3 Part 4.3 Building Height

There is no numerical change in statutory compliance with regards to Part 4.3 (Height of Buildings).

### 14.4 Part 5.10: Heritage Conservation

The subject site is within the Woollahra Heritage Conservation Area and is located in the vicinity of a number of Heritage Items, including the following:

- No.97 Queen Street, Woollahra
- Nos.101-103 Queen Street, Woollahra
- No.115 Queen Street, Woollahra
- No.116 Queen Street, Woollahra
- No.117 Queen Street, Woollahra
- No.119 Queen Street, Woollahra

As the proposed development does not involve any physical works the proposal is acceptable with regard to the relevant objectives in Parts 5.10 of the Woollahra LEP 2014.

## 15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 15.1 Chapter C2: Woollahra Heritage Conservation Area

#### Part C2.5.12: Acoustic and Visual Privacy

The proposed increase to the trading hours of the existing café/restaurant is considered acceptable in terms of acoustic privacy for the following reasons:

- The extended trading hours are consistent with the trading hours of surrounding café/restaurants, this is discussed further below;
- The proposed changes to the trading hours relates to the internal space;
- The submitted Plan of Management (POM) includes measures to mitigate noise impacts on surrounding properties. This POM forms part of the approved documentation, refer to **Condition No.6**;
- Conditions of consent have been recommended to minimise noise impacts on surrounding properties, refer to **Conditions Nos. 7 to 11**.

The proposal is acceptable with regard to Part C2.5.12 of the Woollahra DCP 2015.

### 15.2 Chapter E1: Parking and Access

#### Non-Residential Parking

Use	GFA	Rate	Multiplier	Spaces Required	Spaces Provided
Café/Restaurant existing	81m <sup>2</sup>	7 spaces/100m <sup>2</sup>	X 0.7	4	3
Café/Restaurant proposed	81m <sup>2</sup>	7 spaces/100m <sup>2</sup>	X 0.7	4	3
<b>Net Change</b>	0m <sup>2</sup>		-		0

Parking for non-residential uses is calculated using the generation rates specified in E1.5.2 and applied by the multiplier rate in E1.5.3.

The existing premises has a total gross floor area of 81m<sup>2</sup> resulting in a car parking generation rate of four spaces, when accounting for the relevant multiplier. The subject site contains 12 car spaces, 3 of these car spaces are allocated to the existing café use, in accordance with **Condition No.5** of the approved development. The proposed S.4.55 does not seek to make any changes to the existing car parking arrangements or to increase the floor space of the existing café/restaurant. It is further noted that existing 40 patron capacity of the café/restaurant will remain unchanged. Therefore car parking demand will remain unchanged.

## **Conclusion**

The proposal is acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

## **15.3 Chapter E5: Waste Management**

The subject café/restaurant will utilise the existing waste storage room located at the rear of the site. No changes to the existing waste collection arrangements from Dorhauer Lane have been proposed. The proposal is acceptable with regard to Chapter E5 of the Woollahra DCP 2015.

## **15.4 Chapter E7: Signage**

No changes to the existing signage has been proposed. The proposal is acceptable with regard to Chapter E7 of the Woollahra DCP 2015.

## **15.5 Chapter F3: Licensed Premises**

### **Rating**

The premises comprises a café/restaurant and has a rating level of HIGH in accordance with Table F3.2.

### **Assessment**

In accordance with C1, assessment of the licensed premises must consider the following:

a) *The location of the premises and the proximity of residential and other sensitive uses*

The café/restaurant is located within the residential R2 Low Density Zone and is surrounded by a mixture of commercial and residential uses.

It is noted that there is footway approval to allow for outdoor seating to occupy the footpath adjacent to the front of the existing Café/Restaurant. The trading hours of this outdoor seating is Monday to Sunday: 7am to 10pm.

b) *The type of licensed premises*

Café/Restaurant.

c) *The size and capacity of the premises*

The existing café/restaurant has a floor area of 81m<sup>2</sup> and a total patron capacity of 40. No changes to the existing floor area or to the patron capacity has been proposed.



d) *Trading hours*

The proposed development seeks to extend the existing trading hours from 8:30am to 10:30pm Monday to Saturday to 7am to 10:30pm Monday to Sunday.

The proposed additional trading hours extends outside of the prescribed base trading hours of 8am to 10pm.

A comparative list of the existing/approved trading hours of other similar establishments in the immediate vicinity of the site has been provided below:

Business Name	Business Address	Trading Hours
Zey Queen St	101/103 Queen Street	6am-4:30pm (Mon-Thurs) 6am-5:30pm (Fri-Sun)
Bistro Moncur	116 Queen Street	12pm-3pm and 6pm-12midnight
Tapas Café/Restaurant	128 Queen Street	7am-10pm
Chargrill Charlies	134 Queen Street	8am-6pm (9pm on Thursday)
Pasta Pantry	140 Queen Street	7am-8pm (From 8am on Sunday)
Kuk Thai	144 Queen Street	8am-8:30pm
Queen Street Kitchen	146 Queen Street	7am-5pm (Mon-Sun) <i>Approved Hours</i> 7am-11:30pm (Mon-Sat) 7am-9:30pm (Sun-PH)

The proposed extended trading hours are considered acceptable for the following reasons:

- The extended 1.5 hours of trading hours in the mornings is consistent with the trading hours of similar uses within the locality, as detailed above;
- The proposed Sunday trading hours is consistent with the trading hours of similar uses within the locality as detailed above;
- The evening trading hours will remain as existing with the exception of Sundays;
- The NSW Police have not raised any objection to the proposed extended trading hours;
- Council has not received any noise complaints in relation to the existing restaurant/café use of the site;
- The extended trading hours only relates to the internal space within Shop 2 of the building;
- A Plan of Management (POM) has been submitted, which details measures to mitigate adverse impacts on the amenity of surrounding properties;
- **Conditions Nos.7 to 11** have been recommended to minimise amenity impacts on surrounding properties.

e) *Existing and likely cumulative impacts, including social impacts, of licensed premises on the amenity of surrounding areas*

C7(a) requires the submission of a Plan of Management. C9 requires revisions where there is an extension of trading hours, patrons or a review of these limitations.

The cumulative impacts are considered to be negligible given, this application relates to an existing licensed premises. A Plan of Management has been submitted, which provides mitigation strategies to minimise amenity impacts on surrounding properties.

f) *Existing and proposed management practices relating to the operation of the premises and of the areas in the vicinity of the premises*

A Plan of Management has provided mitigation strategies to minimise amenity impacts on surrounding properties, refer to **Attachment 1**.

*g) The density of licensed premises in the vicinity of the proposed development*

The proposed application relates to an existing licensed premise and is acceptable in this regard.

*h) Availability of car parking and proximity and access to public transport*

Three (3) car spaces are available onsite for the use of the existing café/restaurant. In addition the subject site is serviced by the public transport corridor on Oxford Street some 200metres from the site. There is also a bus-stop immediately in front of the premises on Queen Street. The Bondi Junction commercial centre, including a Bus/Rail Interchange is within a 10min walk from the site.

*i) Any recommendations/comments provided by NSW Police*

The NSW Police did not raise any objection to the proposed S.4.55 application.

### **Conclusion**

The proposal is acceptable with regard to the objectives and controls in Chapter F3 of the Woollahra DCP 2015.

### **16. 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.

### **17. THE PUBLIC INTEREST**

The proposal is considered to be in the public interest.

### **18. 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 application by the applicant or any person who made a submission.

### **19. RECOMMENDATION: PURSUANT TO SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

THAT the Council, as the consent authority, modify development consent to Development Application No. 227/1995/1 for change of use from a shop to a café and internal alterations on land at 111-113 Queen Street Woollahra, subject to the following:

**The following condition is added.**

#### **6. Approved Amended (section 4.55) Plans and Supporting Documents**

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp "Approved" and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

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

Reference	Description	Author/Drawn	Date(s)
Not specified	Plan of Management (POM)	Antonio Di Marte	August 2023

**Note:** These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)  
Standard Condition: A6 (Autotext AA6)

## 7. Maximum Patron Capacity

The total number of patrons on the premises at any time shall not exceed **40** patrons.

Any person/s attending the premises for the purpose of 'takeaway' products/services will not be considered a 'patron' as detailed above, provided no food and or drink is consumed by those persons on the premises.

Standard Condition: I6 (Autotext: II6)

## 8. Neighbourhood Amenity – Licensed Premises

The Management of the premises:

- a) Shall ensure persons entering and leaving the premises do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the Management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council or by NSW Police, the Management is to employ private security staff to ensure that this condition is complied with.
- c) Shall record in a Register full details of any disturbance complaint/s made by a person to Management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
- d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by Management / staff to resolve such complaint/s shall be recorded in the Register.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

**Note:** The lead agency for the enforcement of this condition is NSW Police.

Standard Condition: I10 (Autotext: II10)

## 9. Copies of Consents, Registers and Management Plans – Licensed Premises

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on the premises and made available for inspection immediately upon request by Council, NSW Police and/or Liquor and Gaming NSW authorised officers.

Standard Condition: I12 (Autotext: II12)

## 10. Sale/Consumption of Liquor

### Licensed Restaurant (On-Premises License)

- a) No liquor may be sold, supplied or consumed on the premises except with the approval and authorisation from Liquor and Gaming NSW. This may involve the amendment of an existing liquor licence that applies to the subject tenancy.
- b) The primary use of the premises must be that of a restaurant with the provision of genuine meals, prepared upon the premises, to patrons seated at comfortable dining positions. This will include a seat and access to table / bench space generally in accordance with the approved plans
- c) Liquor may only be sold and/or supplied to patrons on the premises with or ancillary to a genuine meal.
- d) Patrons shall be seated whilst consuming liquor.
- e) The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation for the specified indoor and outdoor seating areas.
- f) No patron shall be permitted to take glasses or open containers of liquor off the premises.
- g) Management is responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in **Condition No.7**.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.  
Standard Condition: I14 (Autotext: II14)

## 11. Operation in Accordance with Plan of Management (POM)

- a) The operation and management of the premises shall be in accordance with the POM prepared by Antonio Di Marte.
- b) The POM shall be filed with the Licensing Police of the Eastern Suburbs Police Area Command prior to the commencement of operations.
- c) The POM cannot be altered without the written consent of Council.

Standard Condition: I15 (Autotext: II15)

### The followings Conditions are to be modified:

## 5. Hours of Use

The hours of use are limited to the following:




- a) Monday to Sunday: 7am to 10:30pm (indoors)

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

**Note:** Deliveries to or dispatches from the site must not be made outside these hours. Trading hours may be more onerous than these general hours of use. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling then such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I1 (Autotext: II1)

## Attachments

- 1. Plan of Management [↓](#) 
- 2. NSW Police Referral Response [↓](#) 
- 3. Liquour Licence [↓](#) 

## **PLAN OF MANAGEMENT**

**‘QUEEN STREET ITALIAN’**

**Shop 2, Nos. 111-113 Queen St,  
Woollahra**

**Prepared by the Operator:  
Antonio Di Marte**

Date: August 2023

Plan of Management

August 2023

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Shop 2, 111-113 Queen St, Woollahra

Plan of Management

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## 1.0 Executive Summary

This Plan of Management has been prepared to accompany documentation submitted to Council as part of a Section 4.55 Modification Application which proposes an extension of approved operating hours for the café/restaurant use at Shop 2, No. 111-113 Queen Street, Woollahra. The proposed trading hours are from 7:00am – 10:30pm Monday to Sunday.

Consent is separately sought for a liquor license with regard to the proposal, which will be obtained through Liquor and Gaming NSW.

The preparation of this document has been undertaken in accordance a Statement of Environmental Effects ('SEE') that has been submitted to Council to support the proposal. Further, this Plan of Management demonstrates that the site can be effectively and safely managed in perpetuity, and would not adversely affect the amenity, safety, and wellbeing of visitors to the site, surrounding premises and the wider community.

Shop 2, 111-113 Queen St, Woollahra

Plan of Management

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## 2.0 General Objectives, Background Information and Details of the Proposal

This Plan of Management provides guidelines and management practices for the day-to-day operation of the café/restaurant at Shop 2, No. 111-113 Queen Street, Woollahra ('**subject site**').

This Plan of Management aims to communicate the purpose of the café/restaurant to ensure that its operation:

- Is well managed;
- Is undertaken with regard to the surrounding area; and
- Takes a proactive role in being a responsible neighbour within the local area.

The proposed operational changes sought by a Section 4.55 Modification are as follows:

- Section 4.55 for extension of approved operating hours from 8:30am – 10:30pm Monday to Saturday, to 7:00am – 10:30pm Monday to Sunday.

For information, other operational aspects include:

- Seating within the café/restaurant is limited to forty (40) patrons.
- The café/restaurant will employ three (3) staff. There would be a maximum of three (3) staff rostered on at any given time.
- The extended operating hours relate to internal dining areas only. A separate application will be sought for footway dining.

Shop 2, 111-113 Queen St, Woollahra



Plan of Management

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### 3.0 Business and Operational Information

#### 3.1 Business information

The details of the site operator are as follows:

- Name: Antonio Di Marte
- Email address: antoniodimarte@yahoo.com
- Phone number: 0411 394 980

General contact information (including a phone number, contact form and email address) will be determined prior to the issue of the liquor licence, should members of the public need to contact staff. Such information will be made publicly available on the premises.

#### 3.2 Area of the site occupied by the café/restaurant.

For reference, the café/restaurant occupies the ground floor level of the building:

- Toilet facilities are located at ground level.
- Access to the site is obtainable via the ground level street front (to Queen Street).

#### 3.3 Hours of operation

The café/restaurant is proposed to operate during the following times:

- 7:00am – 10:30pm, Monday to Sunday.

#### 3.4 Number of patrons

Seating capacity within the café/restaurant is for maximum of forty (40) patrons with tables and chairs to accommodate the approved number of internal patrons located within the internal seating area.

Given that acoustic amenity of surrounding residential sites is paramount, staff are not to provide additional seating for patrons should they arrive once maximum seating capacity has been reached. Should advance bookings be taken, staff should be mindful of the patron numbers detailed above and are to stop taking bookings in the event that capacity is reached.

Shop 2, 111-113 Queen St, Woollahra

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### **3.5 Staffing**

#### **3.5.1 Staff numbers**

The café/restaurant employs a total of three (3) staff. There would be a maximum of three (3) staff rostered on at any given time.

There are no permanent daily cleaning staff employed by the operator. General trade-related cleaning duties would be undertaken by the abovementioned staff.

Shop 2, 111-113 Queen St, Woollahra

Plan of Management

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### **3.5.2 Staff training**

All café/restaurant staff are required to undergo training to ensure they are appropriately qualified to undertake tasks associated with relevant roles. Such training includes familiarity with the contents and protocols of this Plan of Management, in addition to other considerations that include (but may not be limited to):

- Workplace practices and procedures;
- The responsible service of alcohol;
- Occupational health and safety requirements;
- Emergency events and contacts;
- Evacuation procedures; and
- Identification and reporting of building maintenance issues and potential risks to both patrons and employees.

If not already undertaken, then all new staff serving alcohol shall undertake training in the Responsible Service of Alcohol (RSA) where required to satisfy the requirements of Liquor and Gaming NSW.

If not already done, then a training guide for staff is to be implemented. Once undertaken, new staff will be required to provide a signature indicating that they have undertaken training to address each of the requirements listed above, in addition to any other specific training if/where necessary. The signed documents shall be placed within the personnel file of each employee, so that it can be presented to relevant authorities upon request.

### **3.5.3 Delegation of responsibilities**

The designated manager of the café/restaurant will be nominated as Fire Warden.

Shop 2, 111-113 Queen St, Woollahra

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## **4.0 Safety, Security and Emergencies**

### **4.1 Security**

Having regard to the proposed manner of operation of the café/restaurant it is not envisaged there would be any need to provide licensed security personnel. Sufficient staff will be employed at the site during trading hours to monitor patrons to ensure they behave in an orderly manner and do not cause any undue noise disturbance. At closing time staff will request that patrons leave the area quickly and quietly having regard to neighbours, and do not loiter or linger in the immediate vicinity of the café/restaurant.

In the event that patrons enter the site in what appears to be an intoxicated state, then management of such patrons shall be undertaken in accordance with Appendix A, which is attached to this Plan of Management.

Groups of people within seating areas will be capable of being actively observed by staff. Should particularly loud individuals and/or groups be identified (either by staff observations or through reports by other staff/patrons or off-site complaints), then the following procedure would be followed:

- The person/group would be approached by the manager on duty and politely asked to reduce the volume of their voice or activity.
- Should excessive noise continue to be generated by the individual/group, then they would be approached a second time and be given a warning that the site adjoins residential areas, and that excessive noise is affecting such areas.
- Should a third warning be required, then staff will request that the individual/group pay their bill and leave the site.

Approaches taken by staff would be like those when dealing with an intoxicated person, as detailed within Appendix A. If such requests to lower noise are met with verbal aggression, then the manager (if not the person issuing the warnings) will be notified. In the event of any threats and/or physical aggression, then the police are to be contacted to assist with the eviction of the person(s).

### **4.2 Security of service areas**

During operating hours, areas where alcohol is stored will be observed by staff at all times to unauthorised persons from potentially accessing alcoholic products. All staff tasked with running the establishment will be appropriately trained in the Responsible Service of Alcohol (RSA).

Shop 2, 111-113 Queen St, Woollahra

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### **4.3 Emergency events**

#### **4.3.1 Fire**

In the event of a fire, then evacuation procedures are to be initiated. Procedures associated with a fire evacuation are contained within Appendix B, which is attached to the end of this document.

#### **4.3.2 Evacuation procedures**

The site operator must provide certified fire equipment commensurate with applicable standards; all such equipment is to be certified as required by law.

The site operator must document Emergency Evacuation Plans and have evacuation diagrams on display throughout the entire site. Both the site operator and staff must also conduct emergency drills and provide staff with information about emergency procedures at regular intervals.

Emergency evacuation procedures for the site are contained within Appendix B, which is attached to this document.

Shop 2, 111-113 Queen St, Woollahra

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## 5.0 Noise Management

It is acknowledged that the site is surrounded by a variety of land-uses, including residential development to the east of the subject site. The site operator wishes to demonstrate their commitment to maintaining the amenity of the locality. The Section 4.55 Modification proposes an earlier opening time than approved, and any internal patrons at the earlier hours (i.e. from 7:00am) are unlikely to generate additional noise to neighbours, noting that majority of café/restaurant uses surrounding the subject site along Queen Street open earlier than 7:00am. The evening operating hours until 10:30pm are consistent with the previous DA approval for the site, with the exception of opening on Sundays.

A detailed house policy (which details the Responsible Service of Alcohol) is contained within Appendix A which is attached to this document. Measures of addressing potentially intoxicated (and therefore noisy) patrons is further detailed within Section 4 of this document. Staff and the operator will ensure these policies are adhered to in order to maintain acoustic amenity for neighbours. Furthermore, signs will be erected on site to instruct patrons to leave the premises in a quiet and orderly manner, to respect the amenity of surrounding neighbours.

## 6.0 Cleaning Procedures

### 6.1 General hygiene

Any food handling and hygiene practices shall be undertaken in accordance with the legislation, regulations, guidelines and directions of the NSW Food Authority and Council.

### 6.2 General cleaning practices

General cleaning practices would be undertaken by staff; however, some cleaning activities may also be contracted to a private cleaning service.

All areas within the café/restaurant will be cleaned daily, though staff would be available to clean any additional/unexpected mess that is created at other times. Bathrooms would be kept clean using standard chemicals (i.e., disinfectants, bleach, etc.) that would be stored within existing storage areas, well away from any food and beverage products. There will be no bulk-storage of chemicals within the site.

The contents of this Plan of Management will be passed on to any contracted cleaning services, and it is expected that any such business will follow the requirements of this document where they apply.

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## **7.0 Waste Management Procedures**

Waste and recycling shall be stored within receptacles within the café/restaurant until they are transported to the main waste storage area. During trading hours, the doors of the waste storage area are to remain closed except when in use.

The transfer of any waste between internal bins and main waste storage area should only occur between the hours of 9:00am to 6:00pm, Monday to Saturday. No bottle or glass sorting, recycling or collection shall take place between 8.00pm and 8.00am Monday to Sunday.

For collection, the bins are to be transported to Dorhauer Lane at an appropriate kerbside location that does not block public walkways. The bins will only be transferred for collection and moved back to the waste storage area as soon as possible following collection.

The bin storage area is to be kept clean and tidy at all times; any spilled food waste is to be removed immediately, to prevent vermin being attracted to this area.

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## 8.0 Complaint Management

Contact information will be made available on site. Contact from complainants will be capable of being received during business hours. Any complaints that are received will be managed as follows:

- A documented complaints process including a Complaints Register will be kept onsite at all times. Any complaints received will include the following information:
  - The name and contact details of the complainant(s), and the means by which the complaint was made (i.e. phone, email, in person, etc.);
  - The name and position of the employee who received the complaint;
  - The nature of the inquiry and/or complaint; and
  - Details and descriptions of the complaint (e.g. for noise complaints, documented information will include the type and duration of the noise, the location of the caller at the time that the complaint is received, the general area where the noise source was located, etc.).
- The responsible person (i.e., the manager) is to call back the complainant(s) as soon as practical and keep them informed of action(s) that are to be taken to address the issue(s) raised. Once the issue is resolved/finalised, the complainant is to be notified, with the details and content of any response to the complainant to be recorded within the Complaint Register.
- The responsible person is to document the status of the enquiry (i.e., open/closed) and what action(s) has been taken to resolve and finalise the issue.

Should any resolution of a complaint require a modification(s) to be made to the Plan of Management, then the person(s) who made the complaint should be consulted about any such changes.

The complaint register shall be made available to relevant authorities (i.e. Council, NSW Police, Liquor and Gaming NSW) upon request.

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## **9.0 Deliveries**

Deliveries occur during normal business hours. Deliveries of other produce and materials occurs when required and would therefore not occur at a specific time or frequency. Delivery vehicles utilise the adjoining Dorhauer Lane entrance between 9:00am to 6:00pm Monday to Saturday.

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## **10.0 Review**

This Plan of Management should be used as a general guide to the day to day operations of the premises. It is possible that the Plan of Management will be refined by the manager to suit the business's specific needs and internal policies. For this reason, the detail and contents of this Plan of Management should be considered adaptable.

Unless onsite activities require that this document be modified sooner, management will review the Plan of Management every twelve (12) months to determine whether the objectives of this document have been achieved. This is considered necessary to assess the effectiveness of the operational management plans and ensure its ongoing relevance to the day to day running of the premises.

The Plan of Management must remain consistent with community and Council expectations and the changing requirements of users. If at any time, it is apparent that the provisions of the Plan of Management require significant amendments, a new operational management plan must be prepared in consultation with Woollahra Council.

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## **Appendix A: House Policy for the Responsible Service of Alcohol**

### **INTRODUCTION**

This policy has been prepared to promote operational and staff awareness of responsibilities concerning the responsible service of alcohol which includes, but not limited to:

- Prevention of intoxication on the licensed premises;
- Harm Minimisation;
- Signs of intoxication; and
- Strategies for prevention and management of intoxicated patrons.

Where required by relevant authorities (i.e. Council, NSW Police, Liquor & Gaming NSW, etc.), both the Plan of Management and this House Policy will be updated as necessary.

'Responsible Service Practices' is a term that covers house policies, and will ensure that service of alcohol:

- Complies with the law;
- Helps staff deal with problem customers; and
- Maximises the profitability and the reputation of the business

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### **EMPLOYEES' RESPONSIBILITIES**

Licensees and employees have a statutory responsibility to ensure that patrons do not become intoxicated on their premises, and to prevent such patrons from entering or remaining on licensed premises.

Although none of these situations are easy to deal with, management and staff may, at times, have to deal with problem customers who may:

- Be observed as being loud and/or abusive;
- Be observed as being too drunk to drive; and/or
- Not care about themselves or others around them.

It is therefore critical to have policies and practices in place to prevent intoxication.

### **RESPONSIBLE SERVICE OF ALCOHOL STRATEGIES**

#### Observations and Signs of intoxication:

To determine intoxication, it is first necessary to have a reference point. Staff need to make an assessment of whether alcohol has been consumed prior to arrival at the premises. If none has, then the behaviour of people when they arrive can be used as a reference point.

Staff should observe and note the appearance and condition of the patron who is sold or supplied with liquor, as well as the period of time the patron has been consuming liquor on the premises. This assessment needs to consider that:

- Everyone, and their ability to be affected by alcohol, is different; and
- Physical factors such as weight, gender, height, age, health and fitness all affect the body's ability to absorb alcohol and remove it from the bloodstream.

#### The adoption of a house policy and the service of alcohol

The proposed house policy is a framework within which the business operates by outlining practices, procedures and conditions. It serves to guide the behaviour of staff to assist in serving liquor responsibly and to deal with difficult situations when they arise.

The following principles must be considered when serving alcoholic products:

- Liquor is not to be served to anyone under the age of 18 years. Where the age of the patron is unclear, then they are to be asked for appropriate identification (i.e. a passport, driver's licence, proof of age card, etc.);

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- The signs of intoxication are to be recognised, which may include, but are not limited to, being excessively loud and/or abusive, slurring of speech, acting inappropriately or in a manner that may cause harm to themselves or others, physical illness, etc;
- Staff are to try and not serve anyone to the point of intoxication;
- Management and staff are not to run promotions that facilitates and/or encourages the significant consumption of alcohol and/or intoxication of patrons'
- Staff are to not serve alcohol to anyone who is already intoxicated;
- Try to discourage people from engaging in activities that may harm themselves or others; and
- Engage in dialogue to prevent drink driving, including offering to call a taxi for patrons who may be too intoxicated to drive.

Approaches for the management of intoxicated persons

A tactful approach should always be employed to remove intoxicated persons from the premises. These may include:

- Verbal communication with the customer, which includes outlining any concerns followed by continual observation;
- Informing customers of the legal obligations of staff with regard to the service of liquor;
- Seeking assistance from the patron's friends;
- Intervening tactfully and peacefully;
- Consulting with the manager on duty or more experienced staff members and seeking their assistance;
- Avoiding physical contact with the patron;
- Offering to arrange safe transportation from the site; and/or
- Remaining calm and courteous at all times.

Should the person(s) become abusive and/or violent, then staff are to avoid physical confrontation with that person(s) and the police are to be called immediately by dialing 000.

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## Appendix B: Evacuation Procedures

The following procedures are to be followed in the event of a fire, gas leak, or any other event that requires all staff and guests to immediately vacate the premises.

### Procedures:

The R.A.C.E. (Rescue, Alarm, Contain, Extinguish) procedure. This would involve:

- Ensuring that all guests are remove immediate danger;
- Raising the alarm;
- Ringing the Fire Brigade on 000 from safe area;
- Containing fire by closing doors and windows, if safe to do so; and
- Evacuating all persons to a nominated assembly area(s) and ensuring all persons (including staff) are accounted for.

For evacuations of the premises, the nominated Fire Warden will organise for all guests and staff to assemble at the evacuation assembly point.

Where it is safe to do so, the preferred evacuation point should be within Guilfoyle Park, so that evacuated persons can be easily seen to by emergency personnel if required. Should it not be safe to evacuate to Guilfoyle Park via Guilfoyle Avenue, then all persons are to evacuate via the Bay Street entrance point to Bay Street at the front of the site (i.e. public areas to the front of the site). Should evacuation to the latter point be required and a person(s) requires medical assistance, then where possible that person(s) should be taken to William Street to meet with emergency services.

Once it is confirmed that all staff have been accounted for, if safe to do so a nominated member of staff should watch the side entranceway to Guilfoyle Avenue to prevent unauthorised access to the site via retail tenancy and car lift. The side entrance doorway is not to be closed at any time during an emergency, to prevent the obstruction of emergency personnel who may need to enter the site via this point.

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**Duties:**

**Duty Manager, Site Operator (if present):**

- If safe, check upstairs, toilets and storage rooms to ensure that all patrons and staff have evacuated.
- Move to assembly area as quickly as possible.
- Where safe to do so, close doors behind you to contain fire.

**General Staff:**

- Perform R.A.C.E. procedures where required.
- If safe, collect the staff attendance book to verify that all staff are present and accounted for; and
- Direct guests to the assembly area as quickly as possible.
- Once at the emergency evacuation point, liaise with the Fire Warden to confirm that staff are accounted for.

**Exit Procedures**

The following points must be considered by all staff:

- Exit procedures are to be followed, unless they lead to the source of the fire/problem;
- Staff should only consider using a fire extinguisher if it is safe to do so and they are trained in the use of such equipment;
- Staff and guests may not be able to re-enter the building after evacuation for some time if at all; and
- Points for the Fire Warden or equivalent to consider:
  - The assembly area may not be safe due to other circumstances (e.g. flooding, building collapse, etc.).
  - Both emergency assembly areas must be identified and brought to the attention of all staff.

Remember that evacuation procedures may apply for a variety of situations and not just fire. Such situations may include chemical spillage, bomb threat, storm, aircraft crash, flooding, earthquake, riot, building collapse, gas leak, hostage and/or siege situations.

Any fire drills should incorporate different scenarios, with evacuations being acted out accordingly, highlighting problems that may not have been envisaged.

Shop 2, 111-113 Queen St, Woollahra

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**Larissa Holbert**

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**From:** Angus Franks <fran1ang@police.nsw.gov.au>  
**Sent:** Wednesday, 17 January 2024 3:32 PM  
**To:** Larissa Holbert  
**Subject:** RE: CM: DA1995/277/1 111-113 Queen Street Woollahra [SEC=OFFICIAL]

Dear Larissa,

Police do not object to the S.4.55 application.

Kind Regards



A/Sergeant Angus Franks  
Licensing Unit  
Eastern Suburbs Police Area Command  
1 Wunulla Road, Point Piper NSW 2027  
P: 02 9362 6399 E/N: 44399  
E: [fran1ang@police.nsw.gov.au](mailto:fran1ang@police.nsw.gov.au) E: [eslicensing@police.nsw.gov.au](mailto:eslicensing@police.nsw.gov.au)

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**From:** Larissa Holbert <Larissa.Holbert@woollahra.nsw.gov.au>  
**Sent:** Monday, 4 December 2023 10:42 AM  
**To:** Peter Bolt <bolt1pet@police.nsw.gov.au>  
**Cc:** Angus Franks <fran1ang@police.nsw.gov.au>  
**Subject:** FW: CM: DA1995/277/1 111-113 Queen Street Woollahra

Hi Peter,

See email below I have been leaving messages and I have sent the email below a couple of weeks ago. Can you please provide an update as the applicant is following me up. It should be very straight forward.

Regards,



**Larissa Holbert**  
**Senior Assessment Officer Team South West (Mon-Thu)**

Woollahra Municipal Council  
536 New South Head Road, Double Bay NSW 2028  
t: 02 9391 7118  
e: [larissa.holbert@woollahra.nsw.gov.au](mailto:larissa.holbert@woollahra.nsw.gov.au) w: [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

**Our Values:** Respect | Open | Accountable | Responsive | Excellence

*We acknowledge the Gadigal and Birrabirragal people as the traditional custodians of the land in our local area.*



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**From:** Larissa Holbert  
**Sent:** Monday, 20 November 2023 2:23 PM



To: [bolt1pet@police.nsw.gov.au](mailto:bolt1pet@police.nsw.gov.au)  
Cc: [fran1ang@police.nsw.gov.au](mailto:fran1ang@police.nsw.gov.au)  
Subject: CM: DA1995/277/1 111-113 Queen Street Woollahra

Hi Peter,

Im following up the referral response for this application that was sent on 19<sup>th</sup> September. Just wondering when this referral will be provided? as the applicant has been chasing it. It is noted that it should be fairly straight forward as it is only a S.4.55 application to allow the approved operating hours to include an additional 1.5 hours of operation in the mornings and operation of the café/restaurant on Sundays. This results in operating hours from 7.00am – 10.30pm Monday to Sunday.

I tried to call a couple of times, however I wasn't able to get through. Thanks for your help.

Regards,



**Larissa Holbert**  
**Senior Assessment Officer Team South West (Mon-Thu)**

Woollahra Municipal Council  
536 New South Head Road, Double Bay NSW 2028  
t: 02 9391 7118  
e: [larissa.holbert@woollahra.nsw.gov.au](mailto:larissa.holbert@woollahra.nsw.gov.au) w: [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

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## Independent Liquor & Gaming Authority

*A statutory board established under the Gaming and Liquor Administration Act 2007*

contact.us@liquorandgaming.nsw.gov.au  
www.liquorandgaming.nsw.gov.au

### **Key liquor licence details recorded as at 29 November 2023**

**Licence number:** LIQO660034987  
**Licence name:** Plane Tree Cafe  
**Licence type:** Liquor - on-premises licence  
**Business type:** Restaurant  
**Licence status:** Current  
**Duration:** Unlimited duration  
**Licence start date:** 05/06/2019  
**Licence expiry date:**

#### **Licensee**

**Title:** Mr  
**Surname:** Pradhan  
**Given name:** Neel  
**Middle name:** Bhushan  
**Website:**  
**Phone - daytime:**  
**Mobile:** 0416100030 **Fax number:**  
**Email address:** neelkaka@gmail.com  
**Start date:** 29/11/2023

#### **Premises**

**Address:** 113 Queen St WOOLLAHRA NSW 2025  
**Phone number:** **Fax number:**  
**Email address:** planetreecafe@gmail.com  
**Website:**  
**LGA:** Woollahra  
**SA2:** Woollahra  
**Start date:** 05/06/2019

#### **Trading Hours**

##### **Consumption on premises - Indoor dining**

Day	Start Time	End Time	Start Date	End Date
Monday	10:00 AM	- 10:30 PM		
Tuesday	10:00 AM	- 10:30 PM		
Wednesday	10:00 AM	- 10:30 PM		
Thursday	10:00 AM	- 10:30 PM		
Friday	10:00 AM	- 10:30 PM		

**Licence number:** LIQO660034987

**Date Printed:** 29/11/2023

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Independent Liquor & Gaming Authority

Saturday 10:00 AM - 10:30 PM

**Consumption on premises - Outdoor dining**

Day	Start Time	End Time	Start Date	End Date
Monday	10:00 AM	- 10:30 PM		
Tuesday	10:00 AM	- 10:30 PM		
Wednesday	10:00 AM	- 10:30 PM		
Thursday	10:00 AM	- 10:30 PM		
Friday	10:00 AM	- 10:30 PM		
Saturday	10:00 AM	- 10:30 PM		

**Conditions**

Licence conditions imposed by the Liquor Act and Regulation apply. To view a copy of these conditions, go to [www.liquorandgaming.nsw.gov.au](http://www.liquorandgaming.nsw.gov.au)

Additional licence conditions.

**Condition type:** Condition **Condition source:** Authority  
**Reference:** 50  
**Condition:** Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 04:00 AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.  
**Start date:** 05/06/2019

**Condition type:** Condition **Condition source:** Liquor Act 2007  
**Reference:** 101  
**Condition:** Consumption on premises  
Good Friday 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)  
Christmas Day 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)  
December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later  
  
Note: Trading is also allowed at other times on Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.  
**Start date:** 05/06/2019

**Business owner**

**Title:** Mr  
**Surname:** Cullen  
**Given name:** David  
**Middle name:** William  
**Start date:** 05/06/2019

Independent Liquor & Gaming Authority

**Business owner**

**Organisation name:** QUEEN ST ITALIAN PTY LTD  
**ABN:** 50 667 941 488 **ACN:** 667 941 488  
**Phone - daytime:** 0411394980 **Fax number:**  
**Email address:** antoniodimarte@yahoo.com  
**Website:**  
**Business address:** 111-113 QUEEN ST WOOLLAHRA NSW 2025  
**Postal address:** 111-113 QUEEN ST WOOLLAHRA NSW 2025  
**Start date:** 29/11/2023

**Premises owner**

**Organisation name:** THE NATIONAL COUNCIL OF JEWISH WOMEN OF AUSTRALIA NEW SOUTH WALES DIVISION  
**ABN:** **ACN:** ACN 000 364474  
**Phone - daytime:** 0293630257 **Fax number:**  
**Email address:** admin@ncjwnsw.org  
**Website:**  
**Business address:** 111-113 Queen St WOOLLAHRA NSW 2025  
**Postal address:** 111-113 Queen St WOOLLAHRA NSW 2025  
**Start date:** 05/06/2019

This licence is subject to a risk-based fee, payable annually. If the fee is not paid on time, the licence will be suspended or cancelled. Visit <https://www.onegov.nsw.gov.au/licencecheck> to find out the status of the licence.

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

