



Woollahra Local Planning Panel (Electronic Meeting)

Thursday 7 March 2024
at the Conclusion of the Public Meeting

Agenda

Woollahra Local Planning Panel (Electronic Meetings):

Woollahra Council will be holding Woollahra Local Planning Panel (Electronic Meetings) remotely using conferencing technology.

The Chair of the panel, members of the Panel and staff will be participating in meetings by an audio-visual link instead of attending in person.

In response to the Directive issued by the Minister for Planning & Public Spaces on 30 June 2020, the Woollahra Local Planning Panel was required to change the way applications are considered from 1 August 2020.

In this regard, the applications listed on this Agenda will not be considered at a public meeting but rather considered **electronically** by the Panel.

When considering applications electronically, the Panel will be provided with an assessment report, relevant attachments and submissions (including copies of any submissions made by members of the public).

Meetings held electronically by the Panel, are not public meetings, and therefore members of the public are **unable** to address the panel meeting.

Late correspondence may be submitted for consideration by the Panel. All late correspondence must be received by **12 noon on the day before the meeting**. Late correspondence is to be emailed to records@woollahra.nsw.gov.au

The Woollahra Local Planning Panel (Electronic Agenda), including the assessment report on the development application, will be publically available on Council's website six (6) days prior to the meeting at: www.woollahra.nsw.gov.au/council/meetings_and_committees/agendas_and_minutes

Minutes of the Woollahra Local Planning Panel (Electronic Meeting) will be posted to Council's website once finalised.

If you have any questions in relation to the above mentioned changes, please contact Council's Governance department on (02) 9391 7001.

Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

Quorum:

3 Panel members

Woollahra Municipal Council

Notice of Meeting

28 February 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Electronic Meeting) – 7 March 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel (Electronic Meeting)** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Thursday 7 March 2024 at the Conclusion of the Public Meeting.**

The applications listed on this Agenda will not be considered at a public meeting but rather considered **electronically** by the Panel.

When considering applications electronically, the Panel will be provided with an assessment report, relevant attachments and submissions (including copies of any submissions made by members of the public). Meetings held electronically by the Panel, are not public meetings, and therefore members of the public are **unable** to address the panel meeting.

Members of the public are however invited to submit late correspondence for consideration by the Panel by emailing records@woollahra.nsw.gov.au by **12 noon on the day prior to the meeting.**

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

Regards,

Craig Swift-McNair
General Manager

Woollahra Local Planning Panel

(Electronic Meeting)

Agenda

Item	Subject	Page
1	Opening	
2	Acknowledgement of Country (Gadigal People and Birrabirragal People)	
3	Leave of Absence and Apologies	
4	Disclosures of Interest	
Items to be Decided by the Panel		
D1	DA157/2023/1 - 6 Hopetoun Avenue Vaucluse - 24/323477 *See Recommendation Page 50	
D2	DA261/2020/4 - 8 Conway Avenue, Rose Bay - 24/32661227 *See Recommendation Page 235	
D3	DA600/2021/2 - 27 Wilberforce Avenue Rose Bay - 24/32139.....297 *See Recommendation Page 308	

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA157/2023/1
ADDRESS	6 Hopetoun Avenue Vaucluse
COUNCIL WARD	Vaucluse
SITE AREA	726m ²
ZONING	R2 Low Density Residential
PROPOSAL	The demolition of a dwelling house, the construction of a new dwelling house and swimming pool, landscaping and site works
TYPE OF CONSENT	Integrated development (Water Management Act 2000)
COST OF WORKS	\$4,047,862
DATE LODGED	10/05/2023 original lodgement 28/06/2023 first amended application 02/11/2023 second amended application 21/12/2023 amended landscape plans
APPLICANT	C G Benjamin
OWNER	K J Kelly & C G Benjamin
AUTHOR	Mr D Booth
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	Six unique submissions (four from the owners of one adjoining property)
RECOMMENDATION	Conditional approval

1. REASON FOR REPORT TO LOCAL PLANNING PANEL (LPP)

The application is to be determined by the Woollahra Local Planning Panel as it contravenes Council's 9.5m height of buildings development standard by more than 10%.

2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is recommended for approval because it is considered that:

- subject to recommended **Condition C.1a** requiring the removal of built form elements exceeding 9.5m above natural ground level, the Clause 4.6 written statement to vary Council's 9.5m height development standard is considered to be well-founded and is supported in this instance due to satisfactory environmental impacts and the existence of an acceptable environmental planning ground;
- it is satisfactory with regard to all relevant planning policies including the provisions of WLEP 2014 and WDCP 2015 subject to conditions;
- it does not have the potential for significant adverse impacts upon the local built and natural environment subject to conditions;
- it will not have any significant adverse social and economic impacts upon the locality;

- the site is suitable for the proposed development, as conditioned; and
- that the proposal is not contrary to the public interest.

3. LOCALITY PLAN



Note: The map above does not account for multiple objections from the one property.

4. SITE AND LOCALITY

The subject site has a 20.3m frontage to Hopetoun Avenue, a 17.7m rear boundary, an eastern side boundary 42.2m in length, a western side boundary 42.7m in length and a site area of 726m².

The topography falls approximately 18.3m from the Hopetoun Avenue frontage to the rear boundary.

The subject site is currently occupied by a 2 storey dwelling house.

Both adjacent side properties, 2 & 8 Hopetoun Avenue, are occupied by 2 storey dwelling houses and garaging extending to the street alignment.

The immediate locality is characterised by 2 storey dwelling houses with garaging located within the front setbacks.

5. DESCRIPTION OF THE PROPOSAL

The development application was initially amended on 28 June 2023 in an effort to mitigate impacts upon an existing rock shelter of aboriginal heritage significance. The amendments involved adjusting the pool location, raising the pool level by 300mm, removing existing external stairs and infill currently covering the rock shelter and constructing new stairs in another location.

The development application was further amended on 2 November 2023 to mitigate impacts upon the existing rock shelter. The amendments involved retaining the existing external stair and sandstone retaining walls that currently encase the rock shelter, the reconfiguration of the pool undercroft and plant room, the lowering of the pool by 2.2m, the relocation of the pool towards the northern (rear) boundary and the addition of a bridge linking the pool surround with the lower landing of the existing stair.

Due to the owners of downstream properties refusing to facilitate an easement, the proposed stormwater management was also amended on 28 June 2023 from downstream drainage to on-site detention/discharge to Hopetoun Avenue.

Amended landscape plans providing additional screen planting adjacent to the rear alignment of the raised lawn area to the rear section of the site were submitted to Council on 21 December 2023.

The proposal involves the demolition of existing hipped roofed, two storey dwelling house and the construction of a flat roofed, four storey dwelling house with an attached double garage to the front of the ground floor level and an above-ground swimming pool to the rear section of the site.

Below are photomontages of the proposal





6. ISSUES

6.1. Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
4.3	Height of buildings	5.9m or 62% departure from Councils 9.5m development standard.	Satisfactory, subject to recommended Condition C.1a on the basis that the residual non-compliances are due to previous excavation of the site.

6.2. Other issues

Issue	Conclusion	Section
Objectors' concerns.	Addressed by recommended conditions of consent including Conditions C.1a-e or otherwise are not considered to warrant further design amendments or the refusal of the application.	8.1
Western side boundary setback non-compliance.	Satisfactory.	13.2
External wall height/inclined plane non-compliances.	Satisfactory, subject to recommended Condition C.1a .	13.2
Floorplate non-compliance.	Satisfactory, subject to recommended Condition C.1a .	13.2
Deep soil landscaped area non-compliances	Satisfactory, subject to recommended Condition C.1b .	13.2
Excavation non-compliances.	Satisfactory, subject to recommended Conditions C.1d & e .	13.2
Height of primary open space area above existing ground level non-compliance	Satisfactory, subject to recommended Condition C.1c .	13.2
Height of swimming pool above existing ground level non-compliance	Compliance is achieved by recommended Condition C.1f .	13.2

7. REFERRALS

Referral	Summary of Comment	Attachment
Development Engineer	Satisfactory, subject to conditions.	3
Tree Officer	Satisfactory, subject to conditions.	4
Heritage Officer	Satisfactory, subject to conditions.	5
WaterNSW	Satisfactory, subject to conditions.	6

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15(1) 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. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts.
8. The suitability of the site.
9. Any submissions.
10. The public interest.

8. ADVERTISING AND NOTIFICATION

8.1. Submissions

The original development application was advertised and notified during the period 31 May to 30 June 9 2023. The development application as initially and further amended was subsequently renotified on 7-22 July and 8-23 November 2023.

Objections were received from

1. **Clare Crawford – 31 Olola Avenue Vaucluse (4 unique submissions);**
2. **Chris Meyer – 2 Wentworth Road Vaucluse; and**
3. **Michael and Jacque Goldberg - 32 Olola Avenue Vaucluse.**

The objections raised the following concerns:

- *Stormwater management concerns including the originally proposed downstream easement/reduced water absorbing deep soil landscaped area from that as existing including from the proposed on-site detention tanks will result in increased run-off beyond the rear boundary of the subject site*

Due to the owners of downstream properties refusing to facilitate a downstream drainage easement, the proposed stormwater management was amended on 28 June 2023 to on-site detention/ discharge to Hopetoun Avenue.

Council's Development Engineer considers the amended development application to be satisfactory in terms of stormwater management subject to conditions.

The addition of the on-site detention tank to the rear section of the site has reduced the originally proposed overall deep soil landscaped area by approximately 49m² from 265m² down to 216m² thereby resulting in a non-compliance of 3m² with Council's overall deep soil landscaped area requirement of 219m².

It is recommended that approximately 10m² of additional deep soil landscaped area be required to be provided to the front setback area via the deletion of the proposed path adjacent to the front elevation of the attached garage structure in order to adequately reduce the extent of the non-compliance with Council's minimum deep soil landscaped area to the front setback requirement (see recommended **Condition C.1b**) and such will achieve full compliance with Council's overall deep soil landscaped area requirement.

The proposal is compliant with Council's deep soil landscaped area to the rear setback area requirement.

- *Construction related parking impacts*

Council's Development Engineer considers the development application to be satisfactory in terms of construction related parking impacts subject to recommended **Condition D.10** requiring work (construction) zone approval and implementation.

- *Heritage related impacts/ an Aboriginal Heritage Impact Assessment (AHIA) has not been submitted*

An updated Aboriginal Archaeological Technical Report (AATR) was submitted to Council on 24 November 2023. The application has been amended in an effort to mitigate potential heritage related impacts. Council's Heritage Officer considers the amended development application to be satisfactory in this regard subject to conditions. This issue is discussed in greater depth under section 15.3.

- *Privacy impacts upon an adjoining property to the rear (31 Olola Avenue)*

The proposed dwelling house is compliant with Council's visual privacy related distances of separation from 31 Olola Avenue. Acoustic privacy impacts are addressed by a recommended standard condition of development consent. This issue is discussed in greater depth under section 13.2.

The proposed swimming pool is elevated a maximum of approximately 4.1m above existing ground level which is non-compliant with Council's 1.2m maximum control. It is recommended that the pool be required to be lowered to comply with Council's control (see recommended **Condition C.1f**).

It is considered that the pool as conditioned will not result in any significant overlooking of the adjoining property to the rear 31 Olola Avenue on the basis that it does not have an accessible surround to the rear alignment of the pool.

The proposed rear lawn area is elevated up to 1.8m above existing ground level which is non-compliant with Council's 1.2m control. Whilst screen planting has been provided to the rear 1m of the proposed elevated rear lawn area to supplement the proposed plantings adjacent to the rear boundary, it is an established planning principle that planting cannot be relied upon for privacy screening. Discounting the screen planting, the elevated lawn area would facilitate lines of sight to the rear elevation of 31 Olola Avenue. Accordingly, it is recommended that privacy screening be required to be provided to the rear alignment of the elevated lawn area (see recommended **Condition C.1b**).

- *Excessive floorplate*

The proposal is non-compliant with Council's floorplate control by 153m². Recommended **Condition C.1a** achieves a reduction to the proposed floorplate of approximately 60m² which reduces the extent of the non-compliance to 93m².

The residual non-compliance is considered to be satisfactory on the basis that the proposal satisfies the objectives of the control and compliance with Council's floor space ratio control would be achieved if the development application was withdrawn and re-lodged.

- *Non-compliance with Council's rear boundary setback requirements*

The proposal is fully compliant with Council's rear boundary setback controls.

- *Excessive height/non-compliance with Council's 9.5m height development standard/ excessive excavation/ the proposal does not respond to the topography/step down the site and will present excessive bulk and scale to 31 Olola Avenue, an adjoining property to the rear /inconsistency with the desired future character objective "to ensure development is of a height and scale that achieves the desired future character of the neighbourhood"*

The proposal is non-compliant with Council's 9.5m height development standard by 5.9m or 62%. The non-compliances are primarily due to the previous excavation of the site and the steeply falling topography of the site from front to rear. Residual areas of non-compliance beyond 9.5m above natural ground level (prior to previous excavation of the site) are considered to be unreasonable and are required to be deleted via recommended **Condition C.1a**.

The proposal is non-compliant with Council's volume of excavation control by approximately 164m³. Approximately 109m³ of fill is proposed on-site. Recommended **Condition C.1d** requires the fill to be sourced from the proposed excavated material. It is recommended that the residual 55m³ of non-compliant excavation be deleted from the proposal (see recommended **Condition C.1e**).

On the basis that the proposal as conditioned is considered to be satisfactory with regard to the height, floorplate and excavation, it follows that the proposal is considered to be satisfactory in terms of responding to the topography of the site and bulk and scale presented to adjoining properties.

The proposal as conditioned is considered to be consistent with the relevant future desired character objectives.

These issues are further discussed under subsequent sections of the report.

8.2. Statutory declaration

The applicant has completed a statutory declaration declaring that the site notice was erected and maintained during the original notification/advertising period.

9. SEPP (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate 1362091S_02 committing to environmental sustainability measures. These requirements have been addressed by recommended conditions of consent.

10. SEPP (RESILIENCE AND HAZARDS) 2021

Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, requires consideration to be given as to whether the subject land is contaminated. In the absence of any information indicating the potential contamination of the site, further consideration of this issue is not warranted in this instance. The subject application is considered to be satisfactory with regard to the relevant provisions of SEPP (Resilience and Hazards) 2021.

11. SEPP (BIODIVERSITY AND CONSERVATION) 2021

11.1. Chapter 2 Vegetation in non-rural areas

The provisions of Chapter 2 Vegetation in non-rural areas require the consideration of the proposal with regard to tree impacts.

Council's Tree Officer has provided the following tree impact assessment of the proposal.

Summary

The Arboricultural Impact Assessment (AIA) has included a number of trees that are not prescribed. The report proposes the removal of a number of trees, most of them located within the Council verge. This is not supported. All trees outside of the property boundary have been conditioned to be retained.

One tree at rear proposed to be retained has been approved for removal in order to provide sufficient space for the rainwater tank to be relocated and installed and protect a large palm tree.

A total of 23 trees have been identified within and adjacent to the site. Three have been approved for removal and 20 for retention and protection.

An amended Landscape Plan (LP) has been conditioned to be prepared to include an additional replacement tree and show trees approved for removal and trees conditioned to be retained.

Arboricultural Impact Assessment

The following tree numbering has been adopted from the Arborist Report prepared by George Palmer, Botanics P/L, dated March 2023. Additional numbering has been adopted to include additional trees not included on the AIA.

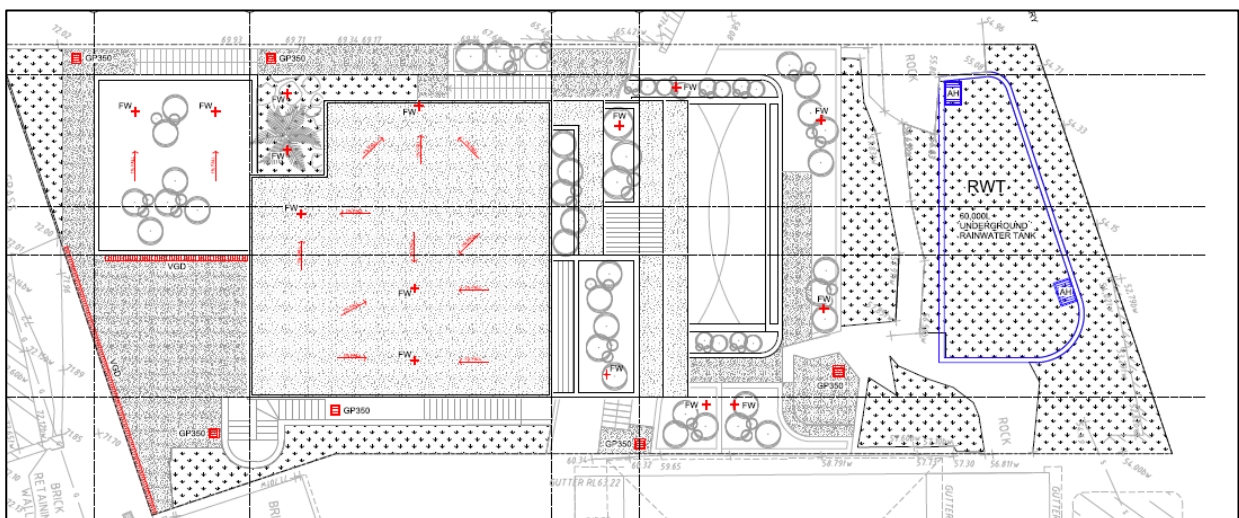
Located within the Council reserve – All must be retained and protected.

- *Tree No.1 Glochidion ferdinandii (Cheese tree) is a large mature tree located within the road reserve and proposed to be retained. Existing landscape within the road reserve is proposed to be maintained as current. To be retained and protected during works.*
- *Tree Nos.2 & 3 Olea europea var. africana (African Olive). They are proposed to be removed. However they are located outside the property boundary and within the road reserve and shall be retained.*
- *Tree No.4 Glochidion ferdinandii (Cheese tree). It has been misidentified by the consulting arborist and propose for removal. It is an over mature tree in fair health and average condition. It is located within the Council verge and shall be retained and protected.*
- *Tree No.5 Ficus microcarpa var. 'Hillii' (Hills Weeping Fig) is proposed to be removed. It is located within the Council verge and shall be retained and protected.*
- *Tree Nos. 6 & 7 Olea europea var. africana (African Olive). They are proposed to be removed. However they are located outside the property boundary and within the road reserve and shall be retained and protected.*
- *Tree No.8 Ficus pumila (Creeping Fig) is proposed to be removed. It is not a prescribed tree, however it is located within the Council verge and shall be retained and protected.*
- *Tree No.9 Glochidion ferdinandii (Cheese tree) is proposed to be removed. It is not a prescribed tree, however it is located within the Council verge and shall be retained and protected.*
- *Tree No.9a Eucalyptus microcorys (Tallowwood). This tree has not been included in the report. This tree is located within the road reserve and adjacent to the existing driveway to east. This tree shall be protected during works to avoid trunk and branch damage.*



Located within and adjacent to the subject property

- Tree No.10 *Syagrus romanzoffiana* (Cocos palm) is a mature tree located within the front setback of the property and proposed to be removed. It is an exempt species under Woollahra DCP 2015 (the DCP) and removal is supported subject to appropriate replacement.
- Tree No. 11 *Hibiscus rosa-sinensis* (Rose of China) is a shrub not prescribed under the DCP. It will not be included on the assessment.
- Tree No.12 *Archontophoenix cunninghamiana* (Bangalow palm). This is a palm tree located on the adjacent property. It is proposed to be retained and protected. Both the AIA and the LP show structural root zones (SRZ) and tree protection zones (TPZ) that are incorrect. No objections to proposed works.
- Tree No.13 *Strelitzia reginae* (Bird of Paradise). This is a monocot plant (similar to Palms) located on the adjacent property. It is proposed to be retained and protected. Both the AIA and the LP show SRZ and TPZ that are incorrect. No objections to the proposed works.
- Tree No.14 *Dypsis lutescens* (Golden Cane palm). This is a monocot plant (similar to Palms) located on the adjacent property. It is proposed to be retained and protected. Both the AIA and the LP show SRZ and TPZ that are incorrect. No objections to proposed works.
- Tree No.15 *Plumeria acutifolia* (Frangipani) is proposed to be removed. This tree is considered to be of low significance and removal will be supported.
- Tree Nos. 16-18 *Musa sp.* (Banana) are located on the adjacent property. No objection to proposed works.
- Tree No.19 *Washingtonia robusta* (Mexican Fan palm). This is a palm tree is located within the rear setback of the property. It is proposed to be retained and protected on the AIA and LP, however the Stormwater Plan Rev. C shows a Rainwater (RW) tank being installed at rear requiring the removal of the tree.



The AIA indicates “the tree is a well established Washingtonia robusta located within the lower garden. This will have been planted as part of the sites earliest works and has been considered as being of High Value and documented for retention.” Therefore, the Stormwater Plan (SP) must be modified to retain the tree.



Please note both the AIA and the LP show SRZ and TPZ that are incorrect. The dimensions of the tree are also incorrect. The tree has a height of approximately 16m with a crown diameter of 4m. Therefore, the TPZ is 3m.

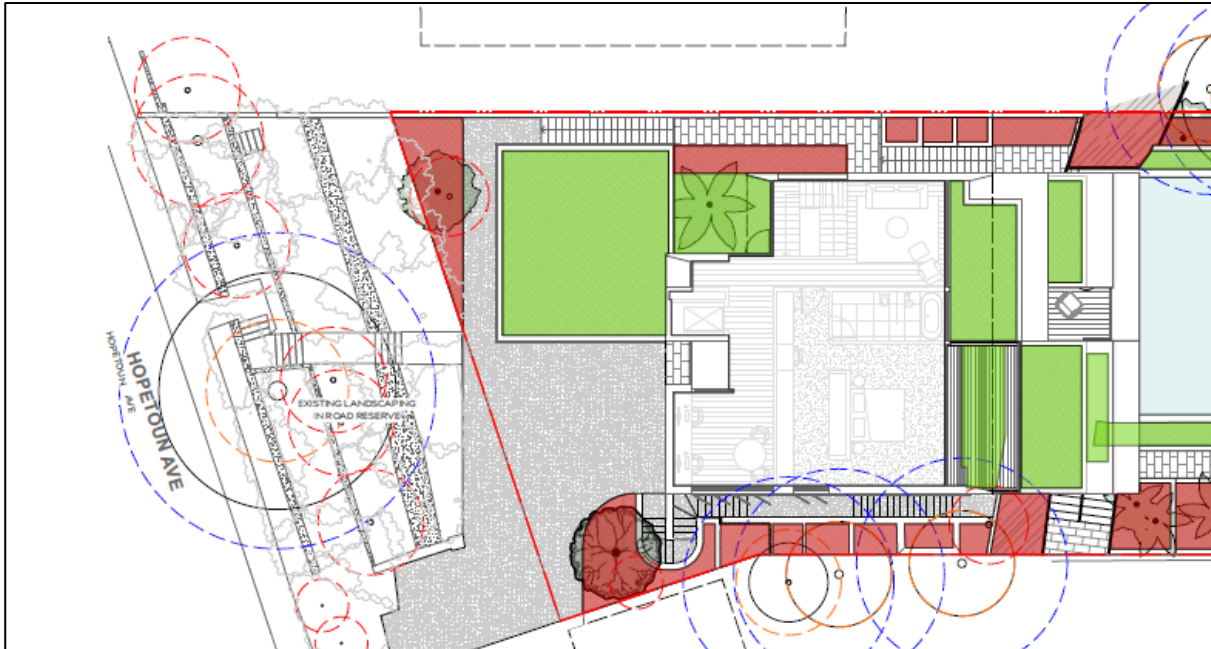
- *Tree No.20 Syzygium australe (Brush Cherry Lillypilly) is located within the rear setback of the neighbouring property at 31 Olola Avenue, Vaucluse. It is proposed to be retained and protected. No objection to proposed works. Excavation within the TPZ will be reduced if the RW tank is modified.*
- *Tree No.21 Livistona chinensis (Chinese Fan palm) located within the rear setback of the neighbouring property at 31 Olola Avenue, Vaucluse. It is proposed to be retained and protected. Please note both the AIA and the LP show SRZ and TPZ that are incorrect. No objection to proposed works.*
- *Tree No.22 Archontophoenix cunninghamiana (Bangalow palm) is located within the rear setback of the neighbouring property at 31 Olola Avenue, Vaucluse. It is proposed to be retained and protected. Please note both the AIA and the LP show SRZ and TPZ that are incorrect. No objection to proposed works.*
- *Tree No. 23 Brachychiton acerifolius (Illawarra Flame tree) is a mature tree located within the rear setback of the property. It is proposed to be retained; however, excavation works are required within the TPZ and within the SRZ for the proposed RW tank.*

The AIA indicates the tree is considered to be of moderate significance. As the RW tank has to be modified requiring additional space to the east and considering this tree has a lower significance than Tree No.21, Council will approve the removal of the tree to facilitate development and subject to additional replacement.

- *Tree No.24 Monstera deliciosa (Fruit Salad Plant) Morus nigra (Mulberry tree) is not a prescribed tree under the DCP. It will not be included on the final referral.*

Landscape Plan

The plan shall be modified to show all existing trees outside of the property and/or within the road reserve to be shown for retention and for consistency with SW Plans required to be modified.



Stormwater Plan

Amended SW Plan Rev. 2 shows a RW tank proposed at rear requiring the removal of Tree No.21. In order to retain this tree, the tank shall be modified.

Council would allow the removal of Tree No.23 to facilitate the redesign of the tank. However, alternative designs might be explored if the applicant prefers to retain Tree No.23.

Tree damage security deposit

As per Thyer Tree Evaluation methodology, Tree No.9a value is \$10,700. Considering average tree replacement costs, a nominal value of \$2500 will be applied for the other street trees.

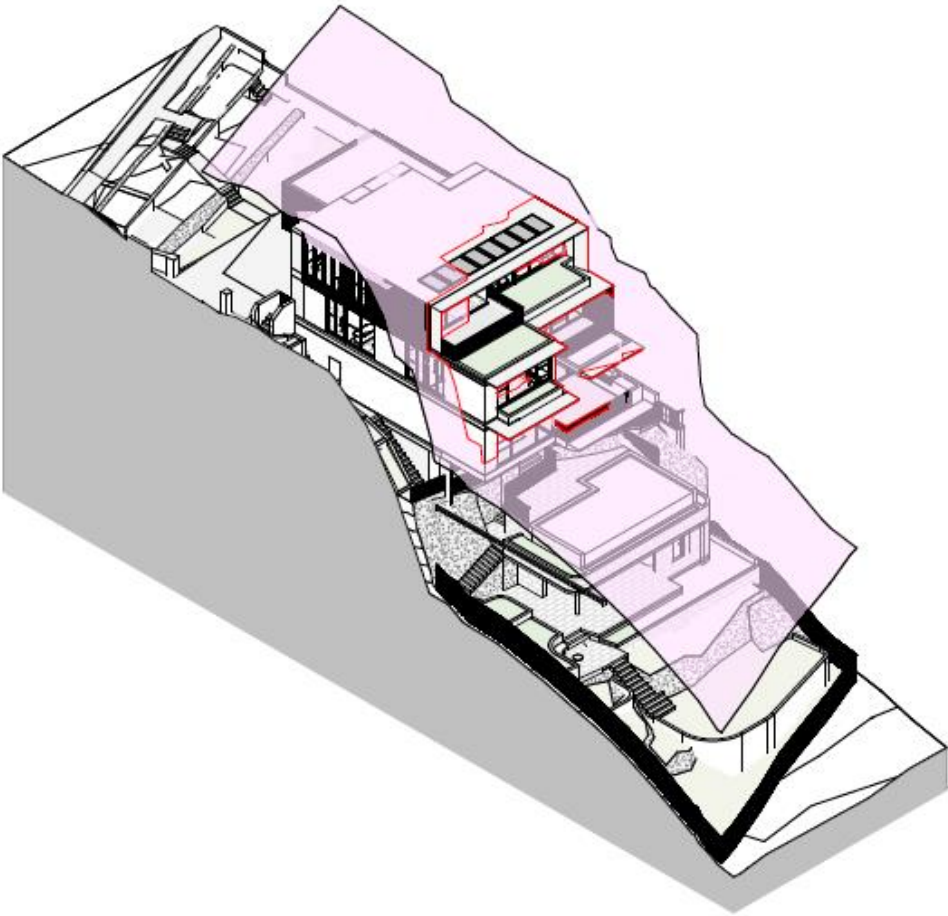
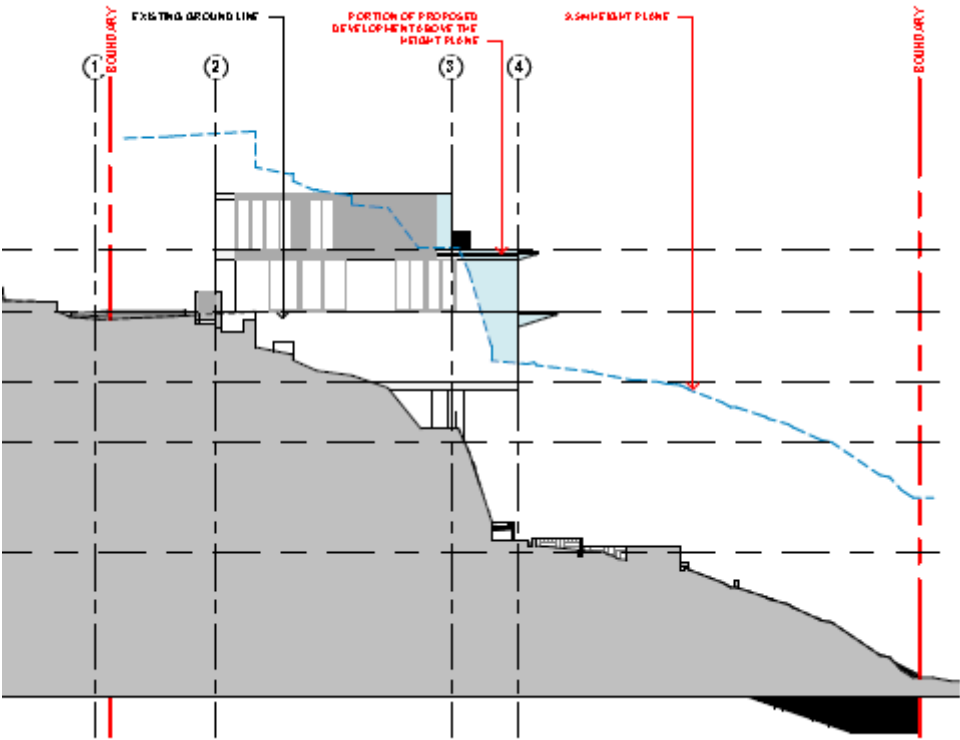
Council's Tree Management Officer considers the subject application to be satisfactory in terms of tree impacts subject to conditions.

11.2. Chapter 6 Water catchments

The land is located within the Sydney Harbour Catchment, outside the Foreshores and Waterways Area of the Catchment.

The proposal is considered to be satisfactory in terms of the *Division 2 Controls on development* generally subject to Council's standard conditions addressing stormwater run-off and sedimentation control.

The proposal as conditioned is considered to be satisfactory with regard to the relevant provisions of SEPP (Biodiversity and Conservation) 2021.



12.5 Clause 4.6: Exceptions to Development Standards

Departure

The rear sections of the lower ground floor, ground floor and first floor levels are non-compliant with the 9.5m maximum building height development standard under Clause 4.3 of Woollahra LEP 2014 as detailed above under Section 12.4.

Purpose

Clause 4.6 allows a contravention of a development standard with the objectives being to allow an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Written Request

Clause 4.6(3) requires the consent authority to consider the applicant's written request that seeks to justify the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

A Clause 4.6 written statement submitted with the development application in summary makes the case that:

- The non-compliances are due to the falling topography the site.
- The built form of the proposal is contextually compatible within the locality.
- The non-compliances will not result in any significant adverse amenity impacts upon the public domain.
- The non-compliances will not result in any adverse amenity impacts upon adjoining properties in terms of privacy, overshadowing, view or visual impacts.

The Clause 4.6 written statement submitted with the development application is included in full as Attachment 7.

On the basis of the above, the case is made that compliance with the development standard is unreasonable/unnecessary and that there exists a sufficient environmental planning ground to justify contravening the development standard.

Clause 4.6(4) Assessment

Clause 4.6 (4) Consent must not be granted for development that contravenes a development standard unless:

- a) *The consent authority is satisfied that:*
 - i. *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) *The concurrence of the Secretary has been obtained.*

Clause 4.6(4)(a)(i) - Assessment

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be addressed by CI 4.6(3). There are two separate matters for consideration contained within CI 4.6(3) and these are addressed as follows:

- a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Subject to recommended **Condition C.1a** requiring the removal of built form elements exceeding 9.5m above natural ground level, it is considered that the residual non-compliances satisfy the unreasonable or unnecessary tests established by the Court in *Wehbe* and the provisions of cl 4.6(3)(a).

The objectives of the development standards are discussed further in the assessment of Clause 4.6(4)(a)(ii).

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

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be 'environmental planning grounds' by their nature: See Four2Five Pty Ltd. v Ashfield Council. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act.

S1.3 of the EPA Act states:

1.3 Objects of Act

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*

- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

Subject **Condition C.1a** requiring the deletion of elements of the dwelling house that extend beyond 9.5m above natural ground level (prior to any excavation of the site), it is considered that the residual non-compliances above existing ground level adequately uphold the above-mentioned objects of the Act that on the basis that:

- They are the result of the previous excavation of the site.
- They are considered to be contextually compatible within the locality.
- It is considered that they will not result in any significant amenity impacts upon adjoining properties or the public domain.
- They are considered to be consistent with the objectives of Council's height of buildings development standard and the desired future character for the locality.

With regard to the establishment of an environmental planning ground based upon height above natural ground level i.e. the ground level that existed prior to previous excavation of the site, the interpretation of height was considered by the Court in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070. There was discussion in *Bettar* concerning the interpretation of *existing ground level* and *basement* which are separately defined.

The LEP definition of *building height* requires a measurement from existing ground level, rather than the ground level that existed prior to the previous excavation of the site.

In considering application of the height development standard, it was indicated by the Court that relying on existing basement levels would result in the height control artificially rising and falling across the site. In *Bettar*, the Court took the approach of measuring height with the intent, in part, of relating the development proposal to its context in the streetscape.

The Court made the following relevant comments:

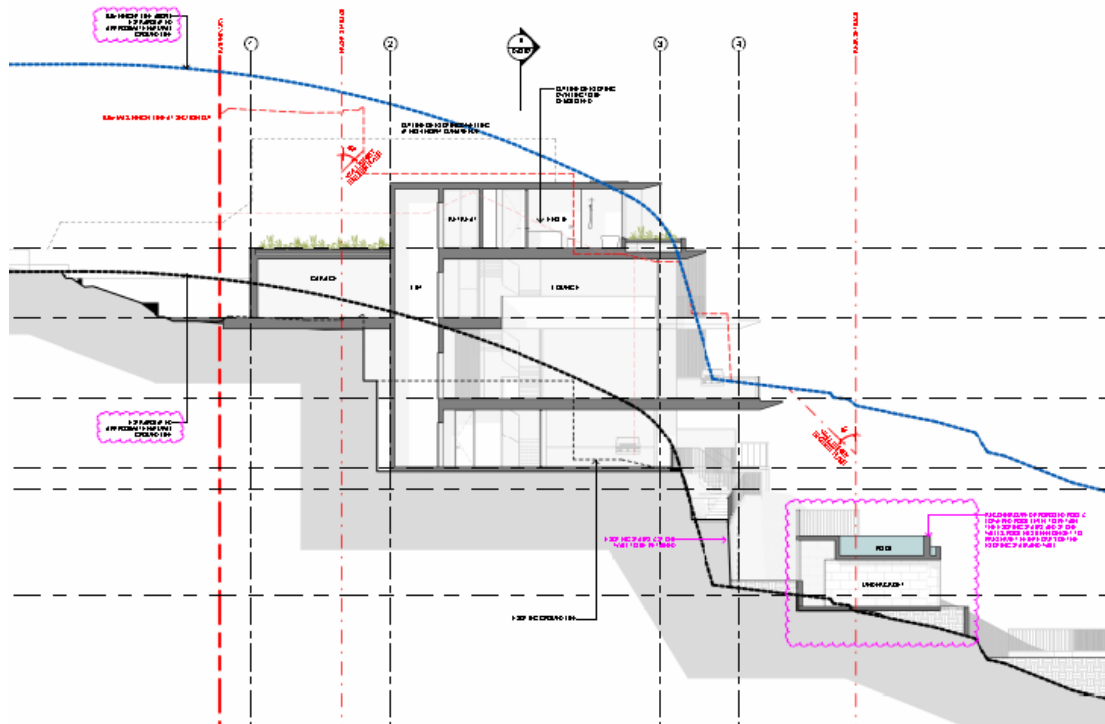
"It is relevant to consider the objectives of the building height development standard in considering how best to determine the maximum height of the building using the dictionary definitions in LEP 2012....As one of the purposes of the development standard is to relate the proposal to its context, it follows that the determination of the existing ground level should bear some relationship to the overall topography that includes the site..."

The definition of basement in LEP 2012 is the space of a building where the floor level of that space is predominantly below existing ground level and where the floor level of the storey immediately above is less than 1 metre above existing ground level [italics added]. From this definition, it does not follow that existing ground level becomes the level of the basement floor or the soil beneath the basement following the construction of a basement. A basement is, by definition, below ground level and so the level of the basement floor cannot be taken to be existing ground level.

For these reasons, I do not accept [the] approach of defining existing ground level as the ground floor level of the existing building and then dropping it down to the basement level in the north-eastern corner of the site where the existing basement is located. This... relates only to a building that is to be demolished and has no relationship to the context of the site...

I prefer [the alternate] approach to determining the existing ground level because the level of the footpath at the boundary bears a relationship to the context and the overall topography that includes the site and remains relevant once the existing building is demolished." (emphasis added).

In light of the above judgement, regard has been given to the height of the non-compliant components above natural ground level, i.e. the ground level that existed prior to previous excavation of the site. The image below is a longitudinal section taken through the centre of the site looking west documenting an estimation of the natural ground level. The 9.5m height plane above natural ground level is indicated by the blue broken line. The below image does not document the extent to which the eastern half of the proposal extends beyond the 9.5m height plane above natural ground level. Such has been estimated by referencing the relative rear alignments via the floor plans.



The height non-compliant elements of the dwelling house that extend beyond 9.5m above both existing and natural ground level are considered to be unjustifiable particularly in light of the substantial non-compliance with Council's floorplate control and accordingly are recommended to be predominately deleted via the following requirements of recommended **Condition C.1a**.

- An increase to the rear setback to the rear deck/bbq at lower ground floor level by 1m.
- The deletion of the rear roof overhangs at lower ground floor level and the rear western planter at ground floor level.
- The deletion of the rear roof overhangs at ground floor level and the rear western planter at first floor level.
- The deletion of the upper 1.5m of the western side fin wall to the western rear balcony at ground floor level. Whilst the rear half of the lower section is non-compliant, it is necessary to provide privacy to the compliant western rear balcony.
- The deletion of the rear roof overhangs at first floor level.
- The deletion of the upper 1.5m of the both side fin walls at first floor level.

The residual non-compliances with Council's 9.5m height development standard are considered to be contextually compatible with development within the locality and accordingly is considered to uphold objects 1.3(c) and (g) of the EPA Act.

On the basis of the above-mentioned contextual compatibility with surrounding development, it is also considered that there exists a sufficient environmental planning ground in this instance to justify the contravention of the development standard as required by Clause 4.6(3)(b) and the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6(4)(a)(ii) - Assessment

Clause 4.6(a)(a)(ii) requires the consent authority to be satisfied that:

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

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the height of buildings development standard and the objectives of the subject R2 Low Residential Density zone. An assessment against these objectives is provided below:

The objectives underlying Clause 4.3 – Height of Buildings

(a) *To establish building heights that are consistent with the desired future character of the neighbourhood.*

(b) *To establish a transition in scale between zones to protect local amenity.*

Subject to recommended **Condition C.1a**, the residual non-compliances are considered to be of an appropriate scale and form contextually so as to be compatible with the character and amenity of the surrounding neighbourhood. Accordingly, the residual non-compliances are considered to be consistent with the above-mentioned objectives of the height of buildings development standard.

(c) *To minimise the loss of solar access to existing buildings and open space.*

The residual non-compliances will not result in any significant overshadowing to adjoining properties and solar access will be maintained to adjoining properties in accordance with Council's requirements. Accordingly, the residual non-compliances are considered to be consistent with the above-mentioned objective of the height of buildings development standard.

(d) *To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion.*

The residual non-compliances will not result in any significant view loss, loss of privacy, overshadowing or visual intrusion to adjoining properties. Accordingly, the residual non-compliances are considered to be consistent with the above-mentioned objective of the height of buildings development standard.

(e) *To protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*

The residual non-compliances will not result in any significant loss of public views.

Accordingly, the residual non-compliances are considered to be consistent with the above-mentioned objective of the height of buildings development standard.

The objectives of the R2 Low Density Residential zone

- *To provide for the housing needs of the community within a low density residential environment.*

The dwelling house use is permissible within the subject R2 Low Density Residential zoning. The residual non-compliances are considered to be compatible with the low-density residential surrounds. Accordingly, the residual non-compliances are considered to be consistent with the above-mentioned objective of the zone.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

This objective is not relevant to the subject application.

- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood; and*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

Subject to recommended **Condition C.1a**, it is considered that the residual non-compliances adequately uphold the above-mentioned objectives on the basis that:

- They are the result of previous excavation of the site.
- They are considered to be contextually compatible within the locality.
- They will not result in any significant amenity impacts upon adjoining properties.

Accordingly, the residual non-compliances are considered to be consistent with the above-mentioned objective of the zone.

Clause 4.6(4)(a)(b) - Assessment

The Department issued Planning Circular No.PS20-002 (dated 5 May 2020) which notified Councils of arrangements "...where the Director General's concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...". Clause 64 of the EPA Regulations provides that Council may assume the Director-General's [Secretary's] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

Conclusion

The consent authority may be satisfied that the applicant's written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that sufficient environmental planning grounds have been demonstrated to justify the proposed contravention of the standard.

The consent authority may also be satisfied that the proposal is not contrary to the public interest as the non-compliance is deemed to be consistent with the objectives of the development standard and those applicable to development within the subject R2 Low Density Residential zone. The proposal is therefore considered to be satisfactory with regard to the provisions of Clause 4.6 of Woollahra LEP 2014.

12.6 Clause 5.10: Heritage Conservation

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

The subject site is not heritage affected with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

Council's Heritage Officer has raised no objection to the proposal in terms of the demolition of existing dwelling house or impacts upon the local heritage items located within the vicinity of the subject site.

Accordingly, the proposal is considered to be satisfactory with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

12.7 Clause 5.21: Flood Planning

Clause 5.21 seeks to minimise the flood risk to life and property development, allow development on land that is compatible, consider projected changes as a result of climate change and avoid significant adverse impacts on flood behaviour and the environment in flood prone areas.

The subject site is not located within Council's flood planning area and is considered to be satisfactory with regard to the provisions of Clause 5.21 of Woollahra LEP 2014.

12.8 Clause 6.1: Acid Sulfate Soils

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

The subject site is located within a Class 5 area as specified in the Acid Sulfate Soils Map. The subject works will not lower the water table below 1m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, a preliminary assessment is not required in this instance.

12.9 Clause 6.2: Earthworks

Clause 6.2(1) requires Council to ensure that any earthworks and associated groundwater dewatering will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. In deciding whether to grant consent for earthworks and associated groundwater dewatering, the consent authority must consider the following matters:

- (a) *The likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.*
- (b) *The effect of the development on the likely future use or redevelopment of the land.*
- (c) *The quality of the fill or the soil to be excavated, or both.*
- (d) *The effect of the development on the existing and likely amenity of surrounding properties.*
- (e) *The source of any fill material and the destination of any excavated material.*
- (f) *The likelihood of disturbing relics.*
- (g) *The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.*
- (h) *Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposal involves substantial earthworks.

Council's Development Engineer considers the proposed earthworks to be satisfactory in terms of geotechnical/ hydrogeological issues subject to recommended conditions of consent.

Council's Tree Officer considers the proposed earthworks to be satisfactory in terms of tree impacts, subject to conditions.

Council's Heritage Officer considers the proposed earthworks to be satisfactory in terms of potential disturbance of relics, subject to conditions.

Additional conditions of consent have been recommended limiting the times and duration of machine excavation and requiring adequate dust mitigation.

The proposal as conditioned is considered to be acceptable with regard to the provisions of Clause 6.2 of the Woollahra LEP 2014.

13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

13.1 Chapter B1.10: Vaucluse West Residential Precinct

The desired future character objectives of the Vaucluse West Precinct are as follows:

- O1 *To respect and enhance the streetscape character and key elements of the precinct.*
- O2 *To retain the scenic qualities provided by the dramatic topography and natural vegetation that provide an attractive setting on Sydney Harbour.*
- O3 *To maintain the evolution of residential building styles through the introduction of good contemporary buildings incorporating modulation and a varied palette of materials.*
- O4 *To minimise building bulk and scale of three storey development by designing development to generally present as a two storey form to the street.*
- O5 *To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 *To protect important views from the public spaces of the precinct to the harbour and the city skyline including view corridors between buildings.*
- O7 *To reinforce the landscape setting and maintain the existing tree canopy.*
- O8 *To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

Streetscape character and key elements of the Vaucluse West Precinct:

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

- a) *the relationship of the precinct to the harbour;*
- b) *the rich mixture of architectural styles, and the emphasis on their connection to the landform;*
- c) *buildings set within highly visible gardens;*
- d) *buildings addressing the street; and*
- e) *the harbour and iconic views available from the streets of the precinct, including view corridors between buildings.*

The proposal presents a 2 storey, adequately articulated form to Avenue.

A sufficiently varied palette of external materials is proposed including white painted rendered masonry, glass and white aluminium vertical screening.

The proposal as conditioned is considered to be contextually appropriate and satisfactory in terms of streetscape visual impacts.

Subject to recommended **Conditions C.1d & e**, the proposed residual excavation is not considered to be excessive.

No significant loss of public views is envisaged.

Council's Tree Officer considers the proposal to be satisfactory in terms of tree impacts, subject to conditions.

The proposal as conditioned is considered to be consistent with the desired future character objectives for the Vacluse West precinct.

13.2 Chapter B3: General Development Controls

Part B3.2.2: Front boundary setback

C1 The front setback of the building envelope is determined by averaging the three most typical setbacks of the four closest residential buildings that face the same side of the street. Note: The setback is determined by the distance between the primary street boundary and the outside face of the front building wall, or any protruding balcony deck or the like (excluding car parking structures).

C2 The building has a maximum unarticulated width of 6m to the street frontage.

Council's front setback requirement (C1) is 5.3m in this instance.

The proposed double garage attached to the south-western corner of the ground floor level involves a 1.1-3.2m front setback which is non-compliant.

The objectives of Council's front setback control are as follows:

- O1 To reinforce the existing streetscape and character of the location.*
- O2 To provide consistent front setbacks in each street.*
- O3 To provide for landscaped area and deep soil planting forward of the building.*

It is considered that the front setback of the attached double garage is consistent with adjacent development and contextually compatible within the locality.

It is recommended that additional deep soil landscaped area be required to be provided to the front setback area to achieve Objective O3 (see recommended **Condition C.1b**).

Compliance with C2 is achieved.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of B3.2.2 of Woollahra DCP 2015.

Part B3.2.3: Side boundary setbacks

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

C4 The building has a maximum unarticulated wall length of 12m to the side elevation.

The proposal is compliant with C4.

The side boundary setbacks required by C1 are 2.3m in this instance. The proposal is compliant with the exception of the attached garage which is setback 1.25m from the western side boundary. The objectives of the side boundary setback control are:

- O1 *To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.*
- O2 *To ensure the side elevation of buildings are well articulated.*
- O3 *To protect the acoustic and visual privacy of residents on adjoining properties.*
- O4 *To facilitate solar access to habitable windows of adjoining properties.*
- O5 *To facilitate views between buildings.*
- O6 *To provide opportunities for screen planting.*
- O7 *To allow external access between the front and rear of the site.*

The western alignment of the attached garage is consistent with the western setback of the existing dwelling house, would not have any significant adverse amenity impacts upon the adjoining property to the west (4 Hopetoun Avenue) and provides adequate external access adjacent to the western side boundary. Screen planting adjacent to the western elevation of the attached garage is not considered to be necessary in this instance due to the limited potential for associated visual impacts upon the adjoining property.

The proposal is considered to be satisfactory with regard to the provisions of B3.2.3 of Woollahra DCP 2015.

Part B3.2.4: Rear boundary setback

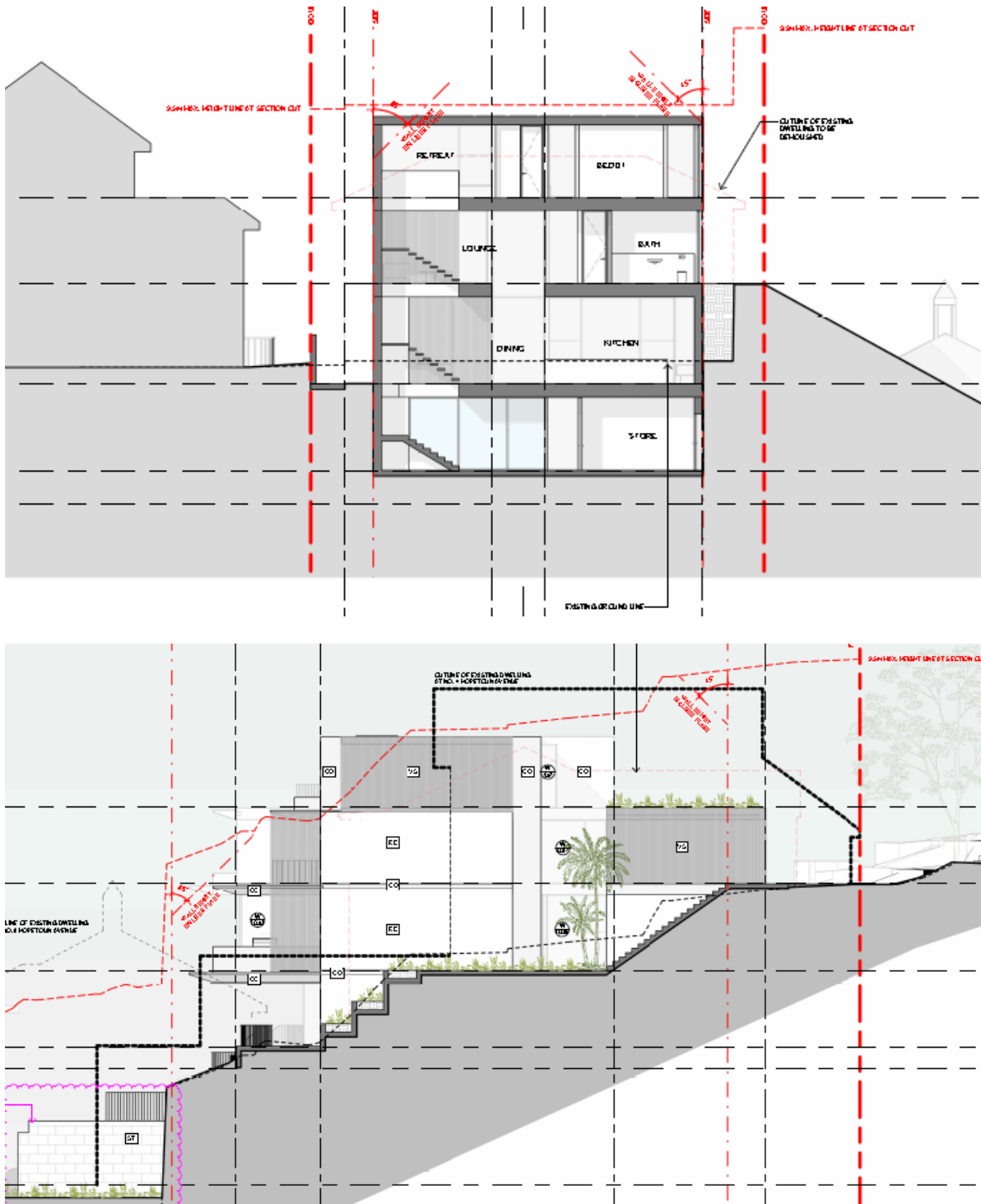
- C1 *The rear setback is a consequence of the site depth, front setback and building depth.*
- C4 *Notwithstanding C1 above, the minimum rear setback is 3m.*

A rear boundary setback of 13.5m is required in this instance. The proposed dwelling house is fully compliant with a proposed minimum rear boundary setback of approximately 14.9m. The proposal is considered to be satisfactory with regard to the provisions of B3.2.4 of Woollahra DCP 2015.

Part B3.2.5: Wall height and inclined plane

- C1 *On land zoned R2 Low Density Residential and for a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone:*
 - a) *the wall height is 7.2m above existing ground level; and*
 - b) *an inclined plane is taken from a point 7.2m above existing ground level at each of the setbacks (the inclined plane is at 45 degrees from horizontal); and*
 - c) *roof eaves may protrude into the setback if below the inclined plane.*

The upper portions of both sides of the first floor level and the rear elevations of the ground and first floor are non-compliant with Council's 7.2m wall height/ 45° inclined plane control as indicated in the images below. Council's 45° inclined plane control is documented as red broken lines.



Additionally, the front and western boundary setback non-compliant elevations to the attached garage do not comply with Council's 7.2m wall height/ 45° inclined plane control.

The objectives of Council's wall height and inclined plane control are as follows:

- O1 To limit the bulk, scale and visual impact of buildings as viewed from the street and from adjoining properties.
- O2 To limit overshadowing of adjoining properties across side boundaries.
- O3 To limit overshadowing to south facing rear yards.
- O4 To provide acoustic and visual privacy to adjoining and adjacent buildings.
- O5 To facilitate views between buildings.

It is considered that subject to recommended **Condition C.1a** requiring an additional rear setbacks, the non-compliances adequately uphold the above-mentioned objectives with no significant amenity impacts upon the adjoining properties or the streetscape envisaged.

The proposal as conditioned is considered to be satisfactory with regard to the above-mentioned objectives of B3.2.5 of Woollahra DCP 2015.

Part B3.3: Floorplate

- C1 The total floorplate of a development does not exceed 165% of the buildable area.*
- C2 New floorplate is to be wholly within the building envelope.*
- C3 The floorplates at each level are distributed to:
 - a) respond to the predominant character of the immediate streetscape;*
 - b) retain public views; and*
 - c) provide for view sharing of private views.**
- C4 The built form complies with solar access and privacy controls in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.*
- C5 Where car parking is provided within the building envelope, the garage area (up to 40m²) is added to the permitted total floorplate.*

The proposal is non-compliant with Council's floorplate control (C1) by 153m² (627m² proposed v 473m² permitted). Recommended **Condition C.1a** achieves a reduction to the proposed floorplate of approximately 60m² which reduces the extent of the non-compliance to 93m².

The residual non-compliance is considered to be satisfactory on the basis that compliance with Council's floor space ratio control would be achieved if a development application was withdrawn and re-lodged.

Further, the residual non-compliance is considered to be consistent with the following objectives of the control with no significant amenity impacts upon adjoining properties or the streetscape envisaged.

The objectives of Council's floorplate control are as follows:

- O1 To ensure the bulk and scale of buildings are consistent with the desired future character of the area.*
- O2 To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.*

The proposal as conditioned is considered to be satisfactory with regard to the provisions of B3.3 of Woollahra DCP 2015.

Part B3.4: Excavation

- C1 For a dwelling house, dual occupancy or semi-detached dwelling (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 14A.*
- C6 Basement walls and any piling (or similar structural elements) must be no closer to the boundary than permitted by the setback controls.*

The dwelling house involves approximately 359.6m³ of excavation which exceeds Council's 195.2m³ maximum permissible volume of excavation by approximately 164 m³.

Further, the proposed 1.4-1.7m setback of the excavation from the eastern and western side boundaries respectively are non-compliant with Council's 2.3m side boundary setback requirement.

Accordingly, the proposal is non-compliant with C1 & C4.

The objectives underlying the excavation controls are:

O1 To set maximum acceptable volumes of excavation which:

- a) require buildings to be designed and sited to relate to the existing topography of the site;*
- b) ensure excavation, including the cumulative impacts of excavation, does not adversely impact land stabilisation, ground water flows and vegetation;*
- c) avoid structural risks to surrounding structures; ensure noise, vibration, dust and other amenity impacts to surrounding properties during construction are reasonable;*
- d) enable deep soil planting in required setbacks;*
- e) ensure traffic impacts and impacts on local infrastructure arising from the transfer of excavated material from the development site by heavy vehicles are reasonable; and*
- f) satisfy the principles of ecologically sustainable development (including the energy expended in excavation and transport of material and the relative energy intensity of subterranean areas in dwellings).*

The proposal is non-compliant with Council's volume of excavation control by approximately 164m³. Approximately 109m³ of fill is proposed on-site. Recommended **Condition C.1d** requires the fill to be sourced from the proposed excavated material. It is recommended that the residual 55m³ of non-compliant excavation be deleted from the rear section of the undercroft level (see recommended **Condition C.1e**).

The proposed excavation is considered to be satisfactory by Council's Development Engineer and Tree Management Officer in terms of geotechnical and tree impacts subject to conditions.

Council's standard conditions addressing dust and noise impacts have been recommended.

The proposed excavation as conditioned is considered to be adequately consistent with the above-mentioned objectives and satisfactory with regard to the provisions of B3.4 of Woollahra DCP 2015.

Part B3.5.1: Streetscape and local character

- C1 The building is consistent with the desired future character of the area set out in the precinct controls in Parts B1 and B2 of this DCP.*
- C2 Development retains vegetation of landscape value.*
- C3 Development steps down sloping sites and follows the topography of the land.*
- C4 External building materials and colours do not detract from the streetscape. Bright or obtrusive colour schemes are avoided.*
- C5 Roof forms and roof structures (including roof terraces, lifts, lift overruns, stairwells, access hatches, and other like structures) are well-designed, contribute positively to the streetscape, and are well-integrated with the architecture of the building.*

- C6 *The use of reflective materials is minimal (including windows, access hatches, skylights and balustrades).*
- C7 *In heritage conservation areas or where the existing the immediate streetscape is predominantly characterised by pitched roof forms, new development incorporates pitched roof forms.*
- C8 *Roof materials are non-reflective and do not cause excessive glare to adjacent properties.*
- C9 *The building addresses the street and provides opportunities for casual surveillance. At least one habitable room window overlooks the street.*

The proposed flat roof form to the dwelling house is considered to be satisfactory with regard to C7 be contextually compatible within the locality.

The concrete roof material/finish is considered to be satisfactory in terms of the reflectivity.

The proposed external materials and finishes consisting of white painted rendered masonry, glass and white aluminium vertical screening are considered to be acceptably unobtrusive due to the high level of articulation provided to the front elevation mitigating associated visual impacts upon the streetscape.

Council's Tree Officer considers the proposal to be satisfactory with regard to tree impacts subject to conditions.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of B3.5.1 of Woollahra DCP 2015.

Part 3.5.2: Overshadowing

- C1 *The development is designed so that:*
- a) *sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; and*
 - b) *north-facing windows to upper level habitable rooms of adjacent dwellings receive at least all 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface.*
- C2 *Lot orientation may make C1 above difficult to achieve so a reduced amount of solar access may be considered, provided the proposed building complies with all setback controls.*

The proposed development is compliant with Council's solar access controls and is considered to be satisfactory with regard to the provisions in Part B.3.5.2 of Woollahra DCP 2015.

Part 3.5.3: Public and Private Views

Public views

- C1 *Development is sited and designed so that the following public views are maintained or enhanced:*
- a) *significant views and vistas identified in the precinct maps in this Chapter B1 Residential Precincts and Chapter B2 Neighbourhood HCAs of this DCP; and*

- b) views from other public open space areas, particularly from ridgelines to Sydney Harbour and the Sydney CBD skyline.*

C2 Vistas along streets are preserved or enhanced through sensitive development location and form.

C3 Development on the low side of the street preserves district, iconic and harbour views from the street by:

- a) providing substantial breaks between buildings, front fences, car parking and other structures; and*
- b) incorporating fences with transparent or open end panels at each side boundary to provide for views.*

C4 Roof forms on the low side of streets are designed to allow public views and add interest to the scenic outlook. Flat expansive roofs with vents, air conditioning units, plant equipment (including lifts and lift overruns) and similar structures are inappropriate.

Public views

No significant loss of public views are envisaged as a result of the proposal.

Private views

The controls applicable to private views are as follows:

C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms.

C6 Development steps down the hillside on a sloping site.

C7 The design of the roof form (including roof terraces, lifts, lift overruns, stairwells, access hatches, screens, and other like structures) provides for view sharing.

C8 Roof terraces are uncovered to provide for view sharing. All elements on roof terraces are to comply with the maximum building height control. Note: Access to roofs should not comprise visually prominent stand-alone structures such as lifts or large stairways, particularly on flat roofs.

The objective underlying the above-mentioned private views controls states:

O3 To encourage view sharing as a means of ensuring equitable access to views from private property.

No significant loss of private views are envisaged as a result of the proposal.

Landscaping based private view loss

C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to block views.

O4 To ensure that views are not compromised by landscaping.

The proposed landscaping is considered to be satisfactory in terms of view impacts.

The proposal is considered to be satisfactory with regard to the provisions of Part B3.5.3 of Woollahra DCP 2015.

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.*
- C2 *Dwellings located close to high noise sources, such as a busy road or railway line are to:*
- a) be designed to locate habitable rooms and private open space away from the noise source; and*
 - b) include sound attenuation measures, such as acoustic glazing and insulation.*
- C3 *Electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 either within or at the boundaries of any property at any time of the day.*
- 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.*

Note: Applicants may be required to demonstrate how privacy impacts are resolved by way of view line diagrams, photographs and other suitable means.

- C5 *Windows to bathrooms and toilet areas have translucent glazing where these have a direct view to, and from, habitable rooms and private open space on adjoining and adjacent properties.*
- C6 *Architectural design solutions and screening devices referred to in C4 (c) above are integrated with the overall design and contribute to the architectural merit of the building, having particular regard to:*
- a) aesthetics of the building including impacts on visual bulk;*
 - b) compliance with minimum boundary setback controls;*
 - c) appearance from adjoining properties; and*
 - d) views from adjoining or adjacent properties.*
- C7 *Private open spaces and the trafficable area of roof terraces (at or below the second storey) are to be suitably located and screened to prevent direct views to neighbouring:*

- a) *habitable rooms (including bedrooms) within 9m; and*
- b) *private open space within 9m.*

Note: Private open space includes an area external to a building including land, terrace, balcony or deck.

- 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

- C9 *Windows and balconies of an upper-level dwelling are designed to prevent overlooking of the private open space of a dwelling below within the same development.*

- C10 *The trafficable area of a roof terrace (above the second storey) 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.*

- C11 *Lighting installations on a roof terrace or upper level deck are:*

- a) *contained within the roof terrace area and located at a low level; or*
- b) *appropriately shaded and fixed in a position so light is projected downwards onto the floor surface of the terrace.*

Note: Lighting of roof terraces must be designed in compliance with Australian Standards 4282-1997 Control of obtrusive effects of outdoor lighting.

Visual privacy assessment

The proposed dwelling house is considered to be compliant with the above-mentioned visual privacy provisions with proposed screening measures achieving compliant distances of lines of sight to privacy sensitive areas of adjoining properties.

Council's standard condition pertaining to the control of outdoor lighting has been recommended (see **Condition I.3**).

Acoustic privacy assessment

It is considered that the proposal will not result in any significant acoustic privacy impacts upon adjoining properties subject to the imposition of Council's standard condition relating to the control of offensive noise (see **Condition I.4**).

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.5.4 of Woollahra DCP 2015.

Part B3.5.5: Internal amenity

- C1 *All habitable rooms in a dwelling must have at least one external wall primarily above the existing ground level which provides an unobstructed window opening.*
- C2 *All habitable rooms and sanitary compartments in a dwelling must have direct natural light and direct natural ventilation.*
- C3 *The area of unobstructed window openings should be equal to at least 20% of the room floor area for habitable rooms.*

- C4 Light wells must not be the primary air source for habitable rooms.*
- 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 twice the ceiling height.*

The proposal is considered to be satisfactory with regard to Council's internal amenity requirements stipulated under B3.5.5 of Woollahra DCP 2015.

Part B3.6: On-Site Parking

- C1 On-site parking is designed and located so that it:*
- a) does not dominate the street frontage;*
 - b) preserves significant trees and vegetation of landscape value; and*
 - c) is located within the buildable area.*
- C2 For garages facing the street frontage, the maximum garage width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.*
- C3 Where possible on-site parking is to be accessed from the rear.*
- C4 Where there is no rear lane access, on-site parking is located within the building envelope.*
- C6 Notwithstanding C4, car parking structures may be located in the front setback (i.e. outside the building envelope) where:*
- a) the rise or fall measured to a distance of 7m from the street frontage is greater than 1 in 3 (refer to Figure 20A); and*
 - b) the car parking structures is incorporated into a podium or street wall; and*
 - c) the car parking structures is not more than 40m² in area.*
- C7 For garages located in the front setback, the maximum height of the garage structure is 2.7m above the footpath level.*
- C9 For separate structures, the roof form, materials and detailing complement the principal building.*
- C10 Garage doors are designed to complement the building design and any important character elements within the street.*
- C11 The width of driveways is minimised. Generally the width is no more than the minimum width required to comply with the relevant Australian Standards (see Section E1).*
- C12 Only one driveway entrance is provided. For example, development involving more than one dwelling shares the driveway access.*

As discussed previously under the front and side boundary setback assessment, the proposed attached double garage is located outside the permissible buildable area and is therefore non-compliant with C.1c).

It also has a front elevation 7.2m in length, an area of approximately 45m² and a height of 3.1m including the parapet/green roof above which is non-compliant with C2, C.6c) & C7.

The relevant objectives of the controls are:

- O1 *To minimise the visual impact of garages, car parking structures and driveways on the streetscape.*
- O2 *To ensure that on-site parking does not detract from the streetscape character and amenity.*
- O3 *To minimise loss of on-street parking.*
- O4 *To retain trees and vegetation of landscape value.*

The proposed attached garage is considered to be contextually appropriate within the streetscape and of the appropriate dimensions relative to the remainder of the front elevation of the proposed dwelling house.

Council's Development Engineer has raised no objection to the proposal in terms of impacts upon on street parking.

Council's Tree Officer has raised no objection to the proposal in terms of impacts upon on trees subject to conditions

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.6 of Woollahra DCP 2015.

Part B3.7: External Areas

Part 3.7.1: Landscaped Areas and Private Open Space

	Proposed	Control	Complies
C1 Deep Soil External to Buildable Area	217m ²	50% (219.5m ²)	No
C2 Deep Soil in Front Setback	21.4m ²	40% (54.5m ²)	No
C4 Deep Soil in Rear Setback	110m ²	50% (110m ²)	Yes

- C1 *For development in the R2 and R3 residential zones—at least 50% of the site area outside the buildable area is deep soil landscaped area.*
- C2 *At least 40% of the front setback comprises deep soil landscaped area.*
- C4 *At least 50% of the rear setback comprises deep soil landscaped area.*
- C5 *The deep soil landscaped area is free of garaging, paving, outbuildings, tennis courts, swimming pools, above ground and below ground structures including stormwater works.*
- C6 *For a dwelling house—a primary open space area of at least 35m² is provided.*
- C8 *The primary open space area in C6 above has a gradient of no more than 1 in 10.*
- C9 *Excavation or fill is permitted to achieve the required level area of primary open space up to 1.2m from existing ground level.*
- C10 *Part of the primary open space area is directly accessible from a habitable room.*
- C12 *Development takes advantage of opportunities to provide north-facing private open space to achieve comfortable year round use.*
- C13 *Private open space is clearly defined for private use through planting, fencing or landscape features.*

C14 The location of private open space:

- a) takes advantage of the outlook and natural features of the site;*
- b) reduces the adverse privacy and overshadowing impacts; and*
- c) addresses surveillance and privacy where private open space abuts public space.*

C16 Existing trees and vegetation of landscape value are incorporated into the landscape area and treatment.

C17 Native species are preferred, and landscape designs are encouraged to provide at least 50% of the plants as native species.

C18 Landscaping provides for a diversity of native species and a complexity of habitat through vertical layering. Note: Vertical layering, by planting a variety of vegetation in different sizes and heights provides more cover and feeding opportunities for wildlife species.

C19 Landscaping facilitates the linking of open space reserves through wildlife corridors and reduces habitat fragmentation and loss.

C20 The landscape design:

- a) uses vegetation types and landscaping styles which contribute to the streetscape and desired future character objectives for the locality;*
- b) uses vegetation types that will not block views;*
- c) does not adversely affect the structure of the proposed building or buildings on adjoining properties;*
- d) considers personal safety by ensuring good visibility along paths and driveways and avoiding shrubby landscaping near thoroughfares;*
- e) contributes to energy efficiency and amenity by providing substantial shade in summer, especially to west facing windows and open car park areas and admitting winter sunlight to outdoor and living areas and other habitable rooms;*
- f) improves privacy between dwellings;*
- g) minimises risk of damage to overhead power lines and other services; and*
- h) provides adequate sight lines for vehicles and pedestrians, especially near street corners and intersections.*

The addition of the on-site detention tank to the rear section of the site has reduced the originally proposed overall deep soil landscaped area by approximately 49m² from 265m² down to 216m² thereby resulting in a non-compliance of 3m² with Council's overall deep soil landscaped area requirement of 219m².

The proposed deep soil landscaped area to the front setback is non-compliant (21.4m² proposed v 54.5m² required).

It is recommended that approximately 10m² of additional deep soil landscaped area be required to be provided to the front setback area via the deletion of the proposed path adjacent to the front elevation of the attached garage structure in order to adequately reduce the extent of the non-compliance with Council's minimum deep soil landscaped area to the front setback requirement (see **Condition C.1b**) and such will achieve full compliance with Council's overall deep soil landscaped area requirement.

The residual deep soil landscaped area to the front setback non-compliance of approximately 23m² is considered to be satisfactory on the basis that 31.4m² provided will be well in excess of the existing 13.4m² provided.

The proposal is compliant with Council's deep soil landscaped area to the rear setback area requirement (110m² excluding the OSD proposed v 110m² required).

The proposed rear lawn area extends a maximum of 1.8m above existing ground level which is non-compliant with the maximum of 1.2m permitted by C9. Whilst the non-compliance is considered to be justifiable on the basis of achieving a level area of primary open space, concern is raised that it would result in potential lines of sight to the rear elevation of the adjoining property to the rear (31 Olola Avenue).

Whilst screen planting has been provided to the rear 1m of the proposed elevated rear lawn area to supplement the proposed plantings adjacent to the rear boundary, it is an established planning principle that planting cannot be relied upon for privacy screening. Discounting the screen planting, the elevated lawn area would facilitate lines of sight to the rear elevation of 31 Olola Avenue. Accordingly, it is recommended that privacy screening be required to be provided to the rear alignment of the elevated lawn area (see recommended **Condition C.1b**).

The proposed plantings are considered to be satisfactory in terms of amenity impacts upon adjoining properties.

Council's Tree Officer considers the proposal to be satisfactory in terms of tree impacts and proposed landscaping subject to conditions.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.7.1 of Woollahra DCP 2015.

Part 3.7.3: Site Facilities

- C1 Lockable mail boxes are provided close to the street and are integrated with front fences or building entries.*
- C3 Development that includes a residential component provides opportunity for at least one external clothes drying area.*
- C4 External clothes drying areas have access to sunlight, and are located in a secure place away from public spaces and screened from public view. Note: External drying areas may be located in the deep soil landscaped area.*
- C7 Mechanical plant equipment (including lift overruns) are not be visible from the streetscape or public domain.*
- C8 Mechanical plant equipment (including lift overruns) do not unreasonably impact on the visual or acoustic amenity of adjoining properties. The impact on neighbours is less than the impact on the occupants of the site where the air-conditioning unit is located.*
- C9 Mechanical plant equipment (including lift overruns) are suitably enclosed or screened to minimise noise impacts to adjoining properties. Note: Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the Protection of the Environment Operations Act 1997 apply.*
- C10 New fireplaces burn non-solid fuels, e.g. gas or electricity.*
- C12 Site services are suitably integrated with the development including the landscape design and are not visually intrusive within the streetscape.*

C13 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be:

- a) enclosed with doors if located in the building façade, or*
- b) housed in a cabinet or enclosure if located external to the building.*

The location, design, colour and material of the doors, cabinet or enclosure are visually unobtrusive and suitably integrated with the development, including fencing and landscaping.

The proposal is considered to be compliant with the above-mentioned provisions, subject to Council's standard conditions relating to the design of letterboxes and the adequate sound attenuation of mechanical plant (see recommended **Conditions F.3, I.2 & I.5**).

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.7.3 of Woollahra DCP 2015.

Part 3.7.4: Ancillary Development - Swimming pools

C1 The swimming pool does not occupy the deep soil landscaped area.

C2 Excavation beyond the controls in Section B3.4 is permitted to accommodate a backyard swimming pool, where the pool is outside the building envelope.

C3 The swimming pool (measured from the water edge) is at least 1.8m from property boundaries.

C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.

C5 The swimming pool is no deeper than 2m from the pool surround level.

C6 The location and design of the swimming pool and associated works do not adversely impact on prescribed trees.

The proposed swimming pool is elevated a maximum of approximately 4.1m above existing ground level which is non-compliant with Council's 1.2m maximum control C4.

The proposed 1.5m setback of the pools water edge from the western side boundary is non-compliant with the 1.8m setback prescribed under C3.

The objectives of the control state:

- O1 To provide for recreational opportunities for swimming without compromising the amenity of the adjoining properties.*
- O2 To limit excavation.*
- O3 To retain trees and vegetation of landscape value.*

In order to mitigate potential visual amenity impacts upon adjoining properties, it is recommended that the pool be required to be lowered to comply with Council's control (see recommended **Condition C.1f**).

It is considered that the pool as conditioned will not result in any significant amenity impacts upon the adjoining property to the west as a result of the non-compliant western side boundary setback.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.7.4 of Woollahra DCP 2015.

13.3 Chapter E1: Parking and Access

Part E1.4: Residential parking

The proposal provides 2 off-street car parking spaces which does not exceed Council's maximum requirement for 2 car parking spaces for a dwelling house development as per E1.4.2.

Part E1.10: Parking and access design standards

Council's Development Engineer considers the proposal to be satisfactory in terms of parking and access design subject to recommended conditions.

Part E1.11: Electric vehicle charging points

C1 Electric circuitry to accommodate 'Level 2' electric vehicle charging points must be integrated into all off-street car parking of new residential and non-residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future. This must include:

- a) Ensuring adequate electrical capacity and infrastructure (cable size, distribution board size etc.) for the electric vehicle charging point system; and*
- b) Providing either buried cables underground or cable trays sufficient to accommodate electric circuitry to each car space.*

C2 Minimum electric circuitry for a 'Level 2' electric vehicle charging point is required to be:

- a) Privately available spaces: 'Level 2' slow – single phase with 7kW power; and*
- b) Publicly available spaces: 'Level 2' fast – three-phase with 11-22kW power.*

C3 The installation of a 'Level 2' electric vehicle charging point is encouraged for new dwelling houses, semi-detached dwellings or dual occupancies.

The above-mentioned provisions are addressed by recommended conditions requiring the installation of electrical circuitry to support the installation of a Level 2 electric vehicle charger point and certification of that circuitry.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part E1 of Woollahra DCP 2015.

13.4 Chapter E2: Stormwater and Flood Risk Management

The provisions of this chapter require the adequate provision of sustainable stormwater management, the controlled release of stormwater to prevent flooding downstream and the prevention of stormwater pollution to Sydney Harbour and waterways and to protect land and property from flooding.

Council's Development Engineer considers the proposal to be satisfactory in terms of stormwater management subject to a condition.

The subject site is not located within Council's flood planning area.

The proposal as conditioned is considered to be acceptable with regard to the provisions of Part E2 of Woollahra DCP 2015.

13.5 Chapter E5: Waste Management

The provisions of this chapter aim to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

Council's standard conditions to adequately address the provisions of Chapter E5 of Woollahra DCP 2015 have been recommended.

13.6 Chapter E8: Adaptable Housing

C2 states that dwelling-houses and dual occupancies are encouraged to provide adaptable housing design.

The proposal provides internal lift access and is considered to be satisfactory with the relevant provisions of Chapter E8 of Woollahra DCP 2015.

14. CONTRIBUTION PLAN

The Section 7.12 Contributions Plan is applicable. A 1% levy (of the total cost of works) applies. With a cost of works of approximately \$4,047,862, a payment of \$40,478 is required by condition which will be used for a variety of works as outlined in the Section 7.12 Contributions Plan.

15. APPLICABLE ACTS/REGULATIONS

15.1 Clause 61(1) of the EPA Regulation 2021

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-1991: The demolition of structures. This requirement is addressed by Council's standard condition.

15.2 Swimming Pools Act 1992

A swimming pool is at all times to be surrounded by a child-resistant barrier that separates the swimming pool from any residential building and that is designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations. Additional provisions relate to:

- a) The swimming pool must be registered in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance issued pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash must be discharged to the sewer

These requirements are addressed by recommended conditions.

15.3 National Parks and Wildlife Act 1974

Council's Heritage Officer has provided the following assessment of the proposal with regard to the relevant provisions of the National Parks and Wildlife Act 1974.

An updated Aboriginal Archaeological Technical Report (AATR) was provided to Council on Friday 24 November 2023 from Artefact Heritage with regards to DA 2023/157/1, 6 Hopetoun Avenue Vaucluse.

The updated report constitutes an update to the recommendations for the management of AHIMS item ID 45-6-1588. The update specifically concerns the earlier recommendation that an ACHAR (Aboriginal Cultural Heritage Assessment Report) is required as a next step.

Artefact have revised their recommendation, now recommending a ACVA (Aboriginal Cultural Values Assessment) report. This differs from the ACHAR in that it does not require further research on the site to determine the impacts. The AATR has adequately assessed that there is unlikely potential for impacts to Aboriginal objects. Therefore, the recommendation has been changed to a ACVA which will involve the identification of appropriate knowledge holders and a workshop/meeting to discuss the values of the area and any impacts of the proposed works to intangible cultural values. The scope covered by this proposal will include the following elements:

1. **Engagement Plan:** Engage with the La Perouse LALC and any specific knowledge holders identified by the LALC. Completion of this stage will determine the methodology of the engagement process and will accord knowledge holders a leading role shaping the process. Includes background research into existing known cultural values.
2. **Engagement and analysis:** A site visit or meeting. The nature of the engagement will follow the methodology outlined in Stage 1 and may include; Walks on Country, cultural mapping, interviews with individuals or groups. Interviews may be recorded, so later analysis of data can be undertaken.
3. **Report Writing for Cultural Values Report:** Mapping, report writing, internal review and response to knowledge holder review.

The site contains one registered Aboriginal site, AHIMS ID 45-6-1588 and associated PAD (potential archaeological deposits). The Aboriginal feature is a rock shelter with art, the feature is located on the western boundary of the property and extends more completely in the adjacent properties immediately west/northwest.

The nature of the Aboriginal feature on this property is on the western boundary of the property, where the (known) eastern extent of the rock shelter is present behind a sandstone block retaining wall (blue circle). The below aerial indicates the estimated extent of AHIMS 45-6-1588 in the AHIMS site card.



However it should be noted that the above is estimated only, and there is potential for a sandstone overhang feature on the eastern boundary of the site to also form part of this significant rock formation. The below aerial is a revised estimate provided by Artefact Heritage in the Due Diligence report, based on their site investigation.



Significance of the site

Based on the Due Diligence report, it is apparent that the Aboriginal site that is present on this property is highly significant. Not only is it a registered Aboriginal site i.e. it has been inspected, researched, tested and confirmed as a site of Aboriginal use by archaeologists and LALC, but the significance of it as a rock art site is significant –

“In a recent AHIMS site search from South Head down to Bondi and west to Rose Bay, 11 of the 98 sites are rockshelters with art (about one third are rockshelters) ... there may not be any rockshelters with more rock art except perhaps at Nielsen Park. One might say the same for the potential extent of undisturbed archaeological deposit – although Irish suggests that there are a few other rockshelters of similar size, they may not have as much potential deposit. The site is therefore not just rare, but also not at all well represented elsewhere and (crucially to Bowdler’s point) not with such good conservation prospects.” (Oliver Brown, April 2023 AHIMS Site 45-6-1588 Site Update Information for Due Diligence for 1 Wentworth Ave Vaucluse).

Due Diligence Report (DD)

The general findings of the DD are as follows:

- *The southern portion of the property fronting Hopetoun Ave, comprised mostly of the house and landscaping is largely disturbed.*
- *To the north/rear of the house is a sandstone outcrop with stairs leading down to the rear yard. The sandstone outcrop is precipitous, with a drop of approximately 3 metres.*
- *Towards the base of the stairs is an area of rubble and a small opening to a natural shelter formation behind the stairs (blue circle). A natural shelter formation has been enclosed behind the stairs and partially backfilled with introduced fill (yellow square). Inspection of the western boundary of the property (red circle) indicated that the sandstone shelter formation associated with AHIMS ID 45-6-1588 continues behind the stairs into 6 Hopetoun Avenue.*



Below is view of the area indicated in red circle above, AHIMS ID 45-6-1588 rock shelter looking west into 4 Hopetoun Ave.



The DD report recommended that due to the works taking place above and in front of AHIMS ID 45-6-1588, as well as involving removal of fill from within AHIMS ID 45-6-1588, further archaeological investigation and consultation with Aboriginal stakeholders must be undertaken.

In the first instance and prior to DA approval being granted, it was recommended that an Aboriginal Archaeological Assessment (AAA) is undertaken to assess the presence, potential harm, and correct management of Aboriginal cultural heritage on the site. This full AAA will develop predictive modelling for the nature and distribution of archaeological material, include archaeological survey and testing involving the LPLALC, re-evaluation of likely impacts, and mitigation/management measures.

Following the AAA, further reporting (such as an ACHAR or ACVA) may be required. The ACHAR may also require an AHIP.

The ACHAR (Aboriginal Cultural Heritage Assessment Report) will involve comprehensive Aboriginal stakeholder consultation. The potential to harm objects and values must be considered and addressed in consultation with these stakeholders. An archaeological management plan (AHMP or CHMP) must also be prepared, either separately or potentially part of the ACHAR.

The ACVA (Aboriginal Cultural Values Assessment) focuses more strongly on consulting with knowledge-holders about the intangible values of the site.

The recommendations of either of these assessments may involve necessary design changes to avoid/mitigate harm.

A vibration assessment is also recommended, and an archaeologist and Registered Aboriginal Parties (the stakeholders, or RAPs) must also be part of this assessment process.

Subsequent Aboriginal Archaeological Technical Report (AATR)

In response to the recommendations of the DD Report that further Aboriginal Archaeological investigations be undertaken, an AATR report was prepared by Artefact Heritage in November 2023. The AATR is a form of the Aboriginal Archaeological Assessment requested in the DD.

The AATR expanded further on the potential Aboriginal archaeological values of the site, and assess the potential for harm to Aboriginal objects and determine final Aboriginal heritage management requirements for the DA process. The AATR included a predictive model for the nature and distribution of archaeological evidence, and an additional archaeological survey with a member of the LPLALC to test the predictions.

Some of the predictions for the site were that:

- *Art sites within rock shelters would be the most common site type at this property.*
- *Stone artefacts within this property were likely to comprise of quartz.*
- *The presence of rock shelters would be constrained by the associated topography and landforms. i.e., topography which is too steep, or not steep enough will be less likely to contain rock shelters.*
- *Archaeological deposits are likely to have either been destroyed, or redeposited from their primary context through disturbance, however Archaeological deposits within rock shelters are likely to be better preserved.*

The predictions were tested through a pedestrian archaeological survey. All ground exposures were examined for Aboriginal objects and old growth trees were examined for signs of cultural scarring and marking. The study area was then walked in parallel transects, beginning at the rear of the property, from the base of the stairs, to the far northern study area boundary. Archaeological survey was conducted of the portion of a rock shelter that is recorded as AHIMS ID 45-6-1588. The portion of the study area from the base of the stairs, through to the southern study area boundary was then walked, where accessible.

The findings of the AATR were that:

- *AHIMS ID 45-6-1588, an Aboriginal site comprising art and an area previously identified as a potential archaeological deposit was situated within 6 Hopetoun Avenue and within the works area.*
- *Natural landforms were found to be significantly disturbed, and consistently modified throughout the majority of the study area.*
- *Given the extent of disturbance observed during site survey (involving terracing, importing of fill, and installation of subsurface utilities), in conjunction with the mid slope landform, it was determined that if present, archaeological deposits within the 10m buffer curtilage of AHIMS ID 45-6-1588 have likely been redeposited downslope through fluvial processes, outside the study area. As the topography transitions to level land and low slopes towards Olola Avenue, those landforms are more likely to contain redeposited material. Clearing of native vegetation and replacement with exotic species, likely accelerating the erosion of archaeological deposits.*
- *Consultation with Steven Ella (Site Officer, La Perouse Local Aboriginal Land Council) during the survey has informed the results of this assessment.*

Based on the AATR findings, the recommendations are:

- *Based on the information provided to date, both direct and indirect harm to AHIMS ID 45-6-1588 is considered unlikely from the proposed works. Therefore, no mitigation measures are recommended.*
- *To manage the risk of unexpected harm to AHIMS ID 45-6-1588, the quantitative vibration monitoring controls recommended in the Vibration Assessment prepared by JKGeotechnics (2023) should still be implemented.*
- *Since the potential for impacts to Aboriginal objects is considered to be low/unlikely given the extent of disturbance on the site, as well as a more sensitive redesign that has avoided the rockshelter, the AATR recommends a Aboriginal Cultural Values Assessment. This type of assessment is to address concerns of impacts to intangible cultural values. The aims of this assessment will be to provide a deeper understanding of the cultural values of the place and the potential impact on these values of the development, to inform potential appropriate mitigation for AHIMS ID 45-6-1588.*
- *The scope covered by this proposal will include the following elements:*
 - **Engagement Plan:** *Engage with the La Perouse LALC and any specific knowledge holders identified by the LALC. Completion of this stage will determine the methodology of the engagement process and will accord knowledge holders a leading role shaping the process. Includes background research into existing known cultural values.*
 - **2. Engagement and analysis:** *A site visit or meeting. The nature of the engagement will follow the methodology outlined in Stage 1 and may include; Walks on Country, cultural mapping, interviews with individuals or groups. Interviews may be recorded, so later analysis of data can be undertaken.*
 - **3. Report Writing for Cultural Values Report:** *Mapping, report writing, internal review and response to knowledge holder review.*
- *An unexpected finds procedure should be prepared ahead of the proposed works commencing. This procedure can either be included in the ACHAR, or must be reviewed by a heritage professional.*
- *While the findings of the AATR are that there are unlikely to be impacts to AHIMS ID 45-6-1588 and no mitigations are required, AHIMS ID 45-6-1588 must not be harmed without an AHIP issued by Heritage NSW under the National Parks and Wildlife Act 1974.*

Conclusion

The potential for intact Aboriginal objects and sites within the 10m buffer curtilage of AHIMS ID 45-6-1588, is unlikely due to various disturbances. Additionally any deposits within the buffer are likely to have been redeposited downslope.

No mitigations with regard to protecting Aboriginal cultural heritage are therefore required.

The current amended proposal has avoided direct impacts to the Aboriginal item, AHIMS ID 45-6-1588.

The proposal is considered acceptable, subject to conditions.

Council's Heritage Officer considers the amended proposal to be satisfactory with regard to the relevant provisions of the National Parks and Wildlife Act 1974 subject to recommended conditions relating to the mitigation of excavation related vibration, the protection of unexpected findings of Aboriginal archaeological objects and skeletal remains and associated training requirements.

15.4 Water Management Act 2000

WaterNSW considers the proposal to be satisfactory with regard to the relevant provisions of the Water Management Act 2000 subject to compliance with General Terms of Approval relating to dewatering which have been incorporated into recommended **Condition A.5**.

16. DISCLOSURE STATEMENTS

Under Section 10.4 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

17. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report.

18. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposed development as conditioned.

19. CONCLUSION

This assessment has considered the application in terms of the relevant matters under Section 4.15(1) of the Environmental Planning and Assessment Act and other relevant considerations and the proposal is considered to be satisfactory in this regard, subject to conditions.

20. RECOMMENDATION PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been adequately demonstrated and that consent may be granted to the development application, which contravenes the height development standard prescribed under Clause 4.3 of Woollahra LEP 2014. The Panel assumes the concurrence of the Secretary, Department of Planning and Environment.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 157/2023/1 for the demolition of a dwelling house, the construction of a new dwelling house and swimming pool, landscaping and site works on land at 6 Hopetoun Avenue Vaucluse, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2021* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

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.

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
DA001 Rev A DA003 Rev A DA101 Rev A DA102 Rev A DA103 Rev A DA104 Rev C DA105 Rev C DA201 Rev A DA202 Rev C DA203 Rev C DA204 Rev C DA301 Rev C DA302 Rev A DA601 Rev A	Architectural drawings & external finishes schedule	Smyth & Smyth	17/04/2023 Rev A 03/10/2023 Rev C
35656FrptRev1	Geotechnical Report	JK Geotechnics	11 July 2023
2941 S01-C S02-C S03-C S04-C S05-C S06-C	Stormwater Management Plans	Zimmerman Engineers	6/06/2023 6/06/2023 6/06/2023 6/06/2023 6/06/2023 6/06/2023
DA_01-07 Rev 02 & associated tree & plant schedule/cover page	Landscape Plans	Wyer & Co	20/12/2023
	Arboricultural Impact Assessment Report	George Palmer, Botanics P/L	March 2023

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*.)

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.

A.5 General Terms of Approval – *Water Management Act 2000* (WaterNSW)

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
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	Dewatering
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GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
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GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the <i>Water Management Act 2000</i> or <i>Water Act 1912</i> , for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity. Advisory Note: 3. An approval under the <i>Water Management Act 2000</i> is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required <i>Water Access Licence</i> (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
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- GT0117-00001 A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement – see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
- GT0118-00001 If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- GT0119-00001 All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- GT0120-00001 The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10% above the pre-development level; and (c) any elevated water table from rising to within 1.0m below the natural ground surface.
- GT0121-00001 Construction phase monitoring bore requirements GTA: a) A minimum of 3 monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.

- GT0122-00001 Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the 6 months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control; v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
- GT0123-00001 (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website
www.watarnsw.com.au/customer-service/waterlicensing/dewatering.
- GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site – Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) –

Laboratory test results for soil sampling testing for ASS. If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.

- GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA157/2023/1 as provided by Council:

- Architectural Drawings - 6 Segments prepared by Smyth & Smyth Pty Ltd, Project No. 987 dated 22 August 2022.
- Statement of Environmental Effects prepared by BBC Consulting Planners, Job No. 21-122 May 2023.
- Geotechnical Investigation prepared by JK Geotechnics, Ref No. 35656SFrpt 7 February 2023.
- Revised Geotechnical Investigation prepared by JK Geotechnics, Ref No. 35656SFrptRev1 11 July 2023.

Note: These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

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)
19	<i>Washingtonia robusta</i> (Mexican Fan palm)	Rear	16 x 4

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Glochidion ferdinandii</i> (Cheese tree)	Council verge	9 x 5	\$2500
2	<i>Olea europea</i> var. <i>africana</i> (African Olive).	Council verge	6 x 4	\$2500
3	<i>Olea europea</i> var. <i>africana</i> (African Olive).	Council verge	6 x 4	\$2500
4	<i>Glochidion ferdinandii</i> (Cheese tree).	Council verge	7 x 5	\$2500
5	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Council verge	6 x 5	\$2500
6	<i>Olea europea</i> var. <i>africana</i> (African Olive).	Council verge	6 x 4	\$2500
7	<i>Olea europea</i> var. <i>africana</i> (African Olive).	Council verge	6 x 4	\$2500
8	<i>Ficus pumila</i> (Creeping Fig)	Council verge	4 x 2	-
9	<i>Glochidion ferdinandii</i> (Cheese tree)	Council verge	3 x 2	-
9a	<i>Eucalyptus microcorys</i> (Tallowwood)	Council verge east of crossover	11 x 15	\$10700

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)
10	<i>Syagrus romanzoffiana</i> (Cocos palm)	Front	7 x 3
15	<i>Plumeria acutifolia</i> (Frangipani)	Side	6 x 3
23	<i>Brachychiton acerifolius</i> (Illawarra Flame tree)	Rear	8 x 5

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

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

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

B.1 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.

B.2 Aboriginal Objects, unexpected finds

As per the recommendations of the AATR, an Unexpected Heritage Finds Procedure must be prepared and in place prior to the commencement of works. This must be prepared by a heritage professional. The procedure must take into consideration the following:

- If an Aboriginal object is discovered during project works, all ground-disturbing works in the area of the Aboriginal object(s) cease immediately on discovery of the Aboriginal object.
- The person who identifies the object will notify machinery operators, the site supervisor, the project manager, and the client to ensure work is halted.
- The Aboriginal object will not be removed from the area.
- Inform the project archaeologist of the discovery and provide photographic evidence. The project archaeologist will advise whether the item is or likely to be an Aboriginal object.
- If it is determined that the item is not an Aboriginal object, works can re-commence.
- If it is determined that it is or likely to be an Aboriginal object, all works will cease in the area and an AHIP would be required to authorise harm
- The AHIP application would need to be supported by a revised report that assesses the harm in accordance with the Code of Practice and the Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW (DECCW 2011).

B.3 Skeletal Remains

As per the recommendations of the AATR, an Unexpected Heritage Finds Procedure must be prepared and in place prior to the commencement of works. The procedure must take into consideration the following:

- If human remains, or suspected human remains, are discovered during project works, all ground-disturbing works in the area of the remains will cease immediately following the discovery. The discoverer of the remains will notify machinery operators in the area to ensure work is halted.
- The remains will not be removed from the area or disturbed in any other way.
- The area will be secured by use of protective barriers to ensure no harm can occur to the remains.

- The site supervisor, the project manager, and the client will be immediately informed of the discovery.
- The project archaeologist will be informed of the discovery. The project archaeologist will determine if further assessment of the suspected remains is required. A specialist in the identification of human remains will need to be engaged to undertake this assessment.
- If it is determined that the suspected remains are not human, work can recommence.
- If it is determined that the suspected remains are human, or are likely to be, the following steps must occur, in accordance with the relevant legislation (including the Coroners Act 2009, the National Parks and Wildlife Act 1974, and the Heritage Act 1977).
- Notify the following organisations:
 - NSW Police
 - Heritage NSW – 1300 361 967
- The NSW Police will determine if the suspected human remains are human and if they represent a crime scene. If the human remains are determined to represent a criminal act, the NSW Police will direct proceedings, including deciding when works may continue.
- If NSW Police determine that the suspected human remains are human and are Aboriginal Ancestral Remains, or non-Aboriginal Ancestral Remains, Heritage NSW will be responsible for determining the next course of action.
- All activities will be directed by Heritage NSW.
- Works cannot proceed on site until Heritage NSW determine that it is appropriate to do so.

B.4 Aboriginal Heritage – Induction

- All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;
- An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
- Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.

B.5 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.

B.6 Establishment of Tree Protection Zone (TPZ) Fence

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk
1	<i>Glochidion ferdinandii</i> (Cheese tree)	Council verge	2.5
2 & 3	<i>Olea europea var. africana</i> (African Olive).	Council verge	2.5
4	<i>Glochidion ferdinandii</i> (Cheese tree).	Council verge	2.5
5	<i>Ficus microcarpa var. 'Hillii'</i> (Hills Weeping Fig)	Council verge	2.5
5	<i>Ficus microcarpa var. 'Hillii'</i> (Hills Weeping Fig)	Council verge	2.5
6 & 7	<i>Olea europea var. africana</i> (African Olive).	Council verge	2.5
8	<i>Ficus pumila</i> (Creeping Fig)	Council verge	1.0
9	<i>Glochidion ferdinandii</i> (Cheese tree)	Council verge	1.0
12	<i>Archontophoenix cunninghamiana</i> (Bangalow palm).	Site setback at 8 Hopetoun Av	At boundary
13	<i>Strelitzia reginae</i> (Bird of Paradise).	Site setback at 8 Hopetoun Av	At boundary
14	<i>Dypsis lutescens</i> (Golden Cane palm)	Site setback at 8 Hopetoun Av	At boundary
16-18	<i>Musa sp. (Banana)</i>	Site setback at 4 Hopetoun Av	At boundary
19	<i>Washingtonia robusta</i> (Mexican Fan palm).	Rear	2.0

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
9a	Eucalyptus microcorys (Tallowwood)

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 and a minimum height of 5m for three branches over the crossover.

- 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.
- f) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- h) The project arborist shall provide written certification of compliance with the above condition.

B.7 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Approved works
1	<i>Glochidion ferdinandii</i> (Cheese tree)	None
2 & 3	<i>Olea europea</i> var. <i>africana</i> (African Olive).	None
4	<i>Glochidion ferdinandii</i> (Cheese tree)	None
5	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	None
6	<i>Olea europea</i> var. <i>africana</i> (African Olive)	None
7	<i>Olea europea</i> var. <i>africana</i> (African Olive)	Crossover paving
8	<i>Ficus pumila</i> (Creeping Fig)	Crossover paving
9	<i>Glochidion ferdinandii</i> (Cheese tree)	Crossover paving
9a	<i>Eucalyptus microcorys</i> (Tallowwood)	None
12	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Landscape works
13	<i>Strelitzia regina</i> (Bird of Paradise)	Landscape works
14	<i>Dypsis lutescens</i> (Golden Cane palm)	Landscape works
16-18	<i>Musa sp.</i> (Banana)	Landscape works
19	<i>Washingtonia robusta</i> (Mexican Fan palm)	Landscape works
20	<i>Syzygium austral</i> (Brush Cherry Lillypilly)	Landscape works
21	<i>Livistona chinensis</i> (Chinese Fan palm)	Landscape works
22	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Landscape works

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

B.8 Demolition and Construction Management Plan

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

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

B.9 Arborists Documentation and Compliance Checklist

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

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

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

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

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

	<ul style="list-style-type: none"> The project arborist shall supervise the construction of the Rainwater Tank within 2 metres of Tree No.19, documenting the condition of roots and soil. Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.
Prior to any occupation or use of the building	<ul style="list-style-type: none"> Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> The project arborist shall supervise the dismantling of tree protection measures. After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

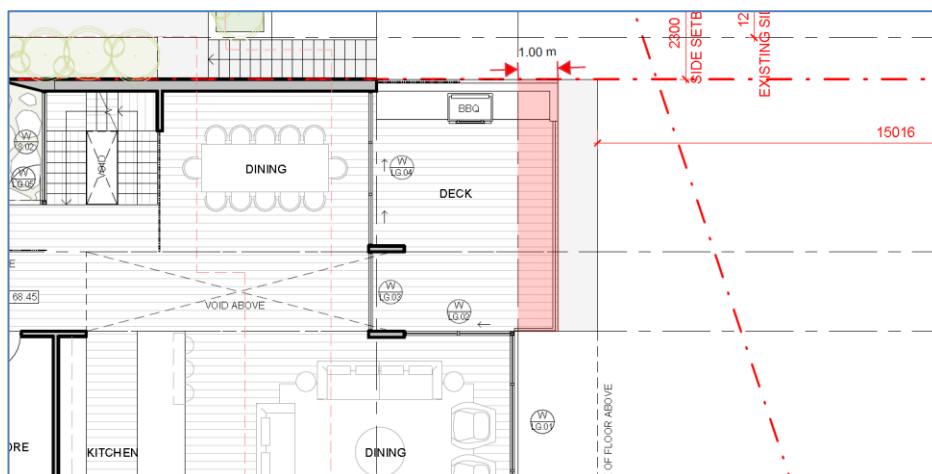
Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

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

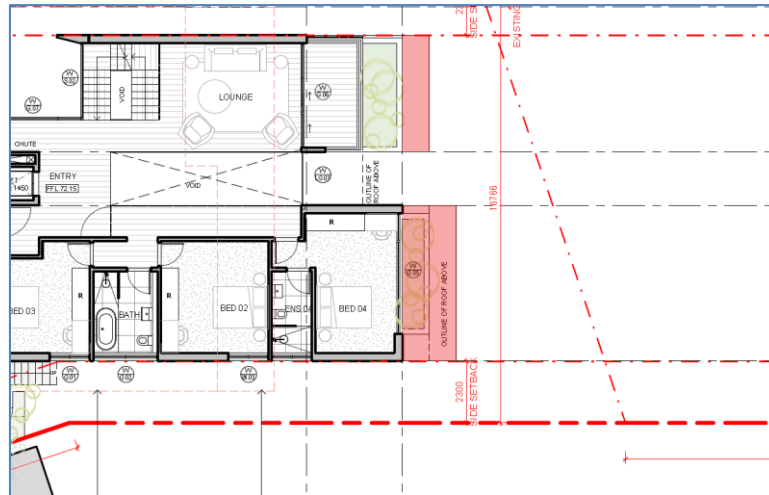
C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

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:

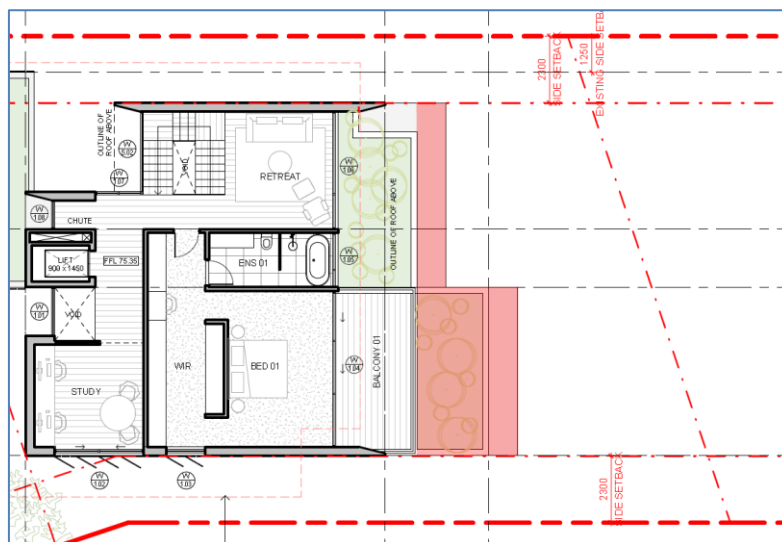
- a) In order to adequately mitigate visual impacts upon the locality and to uphold the provisions of Council's height of buildings development standard, floorplate and inclined plane controls, the following amendments to the rear elevation of the dwelling house must be implemented:
 - i. An increase to the rear setback to the rear deck/bbq at lower ground floor level by 1m as indicated in the image below:



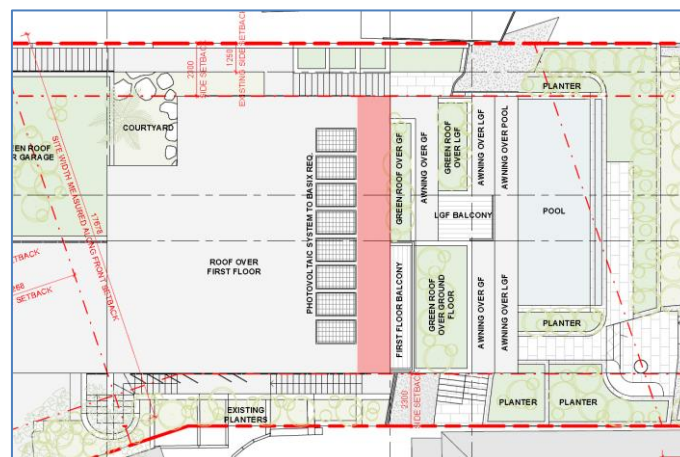
- ii. The deletion of the rear roof overhangs at lower ground floor level and the rear western planter at ground floor level as shaded in red in the image below:



- iii. The deletion of the rear roof overhangs at ground floor level and the rear western planter at first floor level as shaded in red in the image below:



- iv. The deletion of the rear roof overhangs at first floor level as shaded in red in the image below:



- v. The deletion of the upper 1.5m of the western side fin wall to the western rear balcony at ground floor level. Whilst the rear half of the lower section is non-compliant, it is necessary to provide privacy to the compliant western rear balcony.
- vi. The deletion of the upper 1.5m of the both side fin walls at first floor level.
- b) In order to adequately reduce the extent of the non-compliance with Council's minimum deep soil landscaped area to the front setback requirement and achieve full compliance with Council's overall deep soil landscaped area requirement, approximately 10m² of additional deep soil landscaped area must be provided to the front setback area via the deletion of the proposed path adjacent to the front elevation of the attached garage structure.
- c) In order to prevent overlooking into the rear elevation of the adjoining property to the rear 31 Olola Avenue from the proposed raised rear lawn area, 1.65 m high privacy screening must be provided to the northern (rear) alignment of the lawn area.
- d) In order to uphold the provisions of Council's maximum volume of excavation control, 109m³ of excavated material is to be used on site as fill.
- e) In order to uphold the provisions of Council's maximum volume of excavation control, 55m³ of excavation shall be deleted from the front section of the undercroft floor level from the store, laundry or plant room.
- f) In order to mitigate potential visual amenity impacts upon adjoining properties, the pool shall be lowered so as to extend a maximum of 1.2m above existing ground level. Amendments to proposed access bridge, stairs and pool undercroft are permitted to accommodate this requirement.
- g) The Rainwater/OSD Tank proposed within the rear setback of the property shall be modified to retain and protect Tree No.19. Amended Stormwater Plans shall show the tank to be located at a minimum distance of 2.0m from the trunk of the palm tree or at 6.0m from the western boundary within the TPZ of the palm tree.
- h) The Landscape Plans shall be modified to show trees approved for removal and trees conditioned to be retained and protected. The plan shall also show the correct TPZ of palm trees conditioned to be retained calculated as per AS4970-2009.

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.

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	

SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit - making good any damage caused to any property of the Council	\$99,525	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$28,200	No	T114
DEVELOPMENT LEVY Council's Section 7.12 Contributions Plan.			
Development Levy (section 7.12)	\$40,478 + Indexed Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee (\$138 Fee)	\$645	No	T45
Public Tree Management Inspection Fee	\$221	No	T45
Security Administration Fee	\$190	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$169,259 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

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

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

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 7.12 Development Contributions Plan 2022 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 7.12 Development Contributions Plan 2022

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.

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1362091S_02 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".

C.4 Road and Public Domain Works – Council Approval Required

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 issue of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- a) A stormwater outlet charged pipe across the nature strip shall be constructed by using 150mm x 75mm galvanised RHS in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. The kerb discharge must be located within the frontage of the site. Details showing the reinstatement of the nature strip due to the installation of the stormwater outlet pipe must be provided to the satisfaction of Council's Assets Engineers. Design longitudinal profile of the proposed stormwater outlet pipe, starting from the boundary junction pit to the street kerb must also be submitted for assessment,
- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers, and
- 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.

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: Refer to the advising titled *Roads Act Application* under Section *K Advisings* of this consent.

C.5 Soil and Water Management Plan – Submission and Approval

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

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

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

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

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

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

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

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

C.6 Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, 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.

C.7 Geotechnical and Hydrogeological Design, Certification and Monitoring

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical and hydrogeological report prepared by a Chartered Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Councils document "*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*" and Chapter E2.2.10 of Council's DCP. In particular, minimum two cored boreholes drilling to the depth of excavation must be carried out. The report must also include 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 details of cut-off walls or similar controls 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 to all below ground structures to prevent the entry of ground water/seepage water such that subsoil drainage/ seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of Council's DCP.
- 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.

C.8 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.9 Parking Facilities

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) Minimum dimensions of 5.4m x 5.4, clear of any obstructions, shall be provided for the proposed double garage to comply with AS2890.1. These required dimensions and the design envelope around parked vehicle as per Figure 5.2 of AS2890.1 are to be clearly depicted on the revised architectural plans.

The proposed off-street parking spaces and vehicular access shall be designed in compliance with AS/NZS 2890.1: *Parking Facilities - Off-Street Car Parking*. Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking space(s) required to be provided and maintained by this consent.

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.

C.10 Stormwater Management Plan

Prior to issue of any 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 detail the following:

- a) General design in accordance with stormwater management plans, referenced 2941-Issue C, prepared by Zimmerman Engineers, dated 6/06/2023, other than amended by this and other conditions,
- b) The installation of rainwater retention and reuse system (RWT) and a pumpout system with minimum storage volume of 77.4m³ 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. Details for the non-potable uses including notation to this requirement must be clearly depicted on the drawings.
- c) A minimum operating head of 2.5 metres must be provided for the charged system. All invert levels demonstrating compliance with this requirement must be clearly depicted on the elevation,
- 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) Only one stormwater outlet charged pipe with maximum discharge of 20 l/s will be permitted to comply with Council's DCP. An inspection opening must be
- f) Dimensions of all drainage pits and access grates must comply with AS3500,
- g) Compliance the objectives and performance requirements of the BCA, and
- h) 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"*.

C.11 Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water

The approved plans must be submitted to Sydney Water Tap In™ online service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met.

The Tap In™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Note: For more information go to Sydney Water www.sydneywater.com.au/tapin/index.htm and www.sydneywater.com.au/SW/plumbing-building-developing/building/building-over-or-next-to-assets/index.htm or call 1300 082 746.

C.12 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

C.13 Utility Services Generally

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the *Act* to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any Construction Certificate application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the Construction Certificate plans and/or detailed within the Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the Construction Certificate plans.

Note: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Water's sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

C.14 Waste Storage – Per 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.

C.15 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.

C.16 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*.

C.17 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.

C.18 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
- b) One to two page, site specific Tree Protection Plan prepared by an AQF 5 Consulting Arborist detailing the following:
 - Site plan indicating the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained.
 - Tree protection measures as per approved conditions of consent.
 - Additional protection measures may be included as per Appendix 1 – Protection of Trees on Development Sites of the Arboricultural Impact Assessment.
- c) Specific to the site 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.

D.2 Protection of Aboriginal Heritage

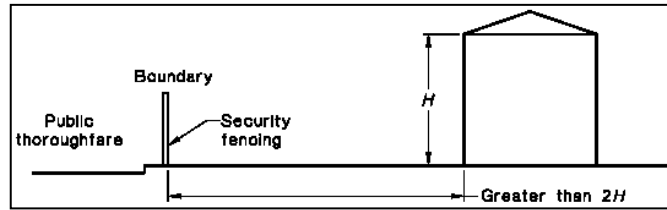
As per the recommendations of the Aboriginal Archaeological Technical Report (Artefact Heritage, November 2023), an Aboriginal Cultural Values Assessment (ACVA) is to be undertaken to investigate, assess and manage intangible Aboriginal cultural resources within the study area. This cultural values assessment is to include consultation with relevant Aboriginal knowledge-holders.

Any conditions and management recommendations resulting from the ACVA are to be incorporated into the development design and implemented during works.

Changes to the approved design arising from the recommendations of the ACVA are to be the subject of a 4.55 modification as appropriate.

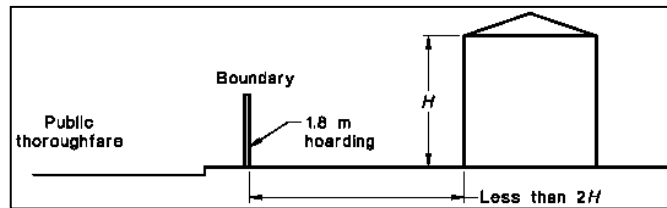
D.3 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



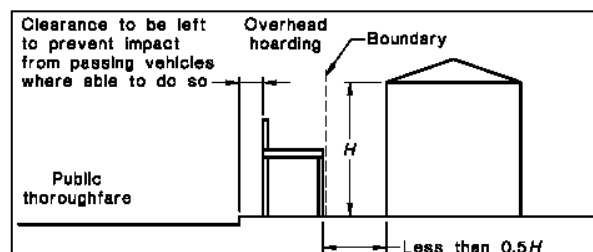
Type B Hoarding

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

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

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

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



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

All Hoardings

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

Hoardings on Public Land including 'Creative Hoardings'

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

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

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

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

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

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

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

D.4 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*.

D.5 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.

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

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

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

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

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

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

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

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

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.

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 to be assessed by the Structural Engineer must include (but are not limited to):

- 4 & 8 Hopetoun Avenue;
- 31 & 32 Olola Avenue.

All required dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy 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.

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*.

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.

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

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

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

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

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

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.

E.2 Protection of Aboriginal Heritage

To manage the risk of unexpected harm to AHIMS ID 45-6-1588 it is recommended that the controls outlined in JKGeotechnics (2023) are implemented:

- Quantitative vibration monitoring to be completed in the initial stages of demolition/excavation.
- Peak Particle Velocity (PPV) be limited to 5mm/s at the overhang and on adjoining sites
- Alternatively, non-percussive excavation methods may be adopted. These methods may consist of the use of rock saws, rotary grinders or ripping tynes in which case quantitative vibration monitoring would not be required.
- Vibration monitors are attached to sandstone are attached using non-invasive techniques such as beeswax.
- It is recommended that vibration monitoring and assessments are continued as required throughout the works to ensure there are no impacts to AHIMS ID 45-6-1588 from the proposed works, including indirect harm to those portions of AHIMS ID 45-6-1588 outside 6 Hopetoun Avenue, Vaucluse. Where it is found that harm to AHIMS ID 45-6-1588 is likely as a result of the vibration monitoring, works must cease and an Aboriginal Heritage Impact Permit (AHIP) issued by Heritage NSW under the National Parks and Wildlife Act 1974 must be obtained to authorise harm to the site.

E.3 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.

E.4 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.

E.5 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.

E.6 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*.

E.7 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*.

E.8 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

E.9 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

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

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

E.10 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.

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.

E.12 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/nqlg.htm

E.13 Dust Mitigation

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

This generally requires:

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

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

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

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

E.14 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.

E.15 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.

E.16 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.

E.17 Compliance with Australian Standard for Demolition

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

E.18 Site waste minimisation and management – Demolition

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

- a) 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)
- b) Provide separate collection bins and/or areas for the storage of residual waste
- c) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- d) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- e) Minimise site disturbance, limiting unnecessary excavation

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 EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- 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.

E.19 Site waste minimisation and management – Construction

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

- a) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- b) Consider organising to return excess materials to the supplier or manufacturer
- c) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- d) Clearly 'signpost' the purpose and content of the storage areas
- e) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- f) Promote separate collection bins or areas for the storage of residual waste
- g) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- h) Minimise site disturbance and limit unnecessary excavation
- i) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- j) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW.

E.20 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.

E.21 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.

E.22 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.

E.23 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.

E.24 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*.

E.25 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.26 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)
1 x <i>Glochidion ferdinandi</i> (Cheese tree)	Northeast corner of the property	75L
5 x <i>Banksia integrifolia</i> (Coastal Banksia)	As per the Landscape Plan Nos.DA_01-07 Rev.1, designed by Wyer & Co, dated 02/05/2023	
2 x <i>Brachychiton rupestris</i> (Narrow-leaved Bottle Tree)		
4 x <i>Howea forsteriana</i> (Kentia Palm)		

The project arborist shall document compliance with the above condition.

E.27 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)
19	<i>Washingtonia robusta</i> (Mexican Fan palm)	Rear	1.5

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.

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.
- 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.

F.3 Letter Box

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 *Mailboxes* and to Australia Post's satisfaction.

Note: This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

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

F.5 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.17**.

F.6 Amenity Landscaping

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

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

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

Nil.

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

H.1 Fulfillment of BASIX commitments – Clause 154B of the Regulation

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1362091S_02.

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."

H.2 Removal of Ancillary Works and Structures

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

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

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.

H.3 Landscaping

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

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

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 or obtained from Council's customer service centre.

H.5 Positive Covenant & 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 reuse and pumpout systems,
- c) that a rainwater retention and reuse system and pumpout system with minimum storage capacity of 77.4m³ have 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 toilets, laundry car washing and garden irrigation etc,
- e) that only one stormwater outlet charged pipe with maximum discharge rate of 20 l/s has been constructed in accordance with the approved stormwater plans,
- f) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- g) pipe invert levels and surface levels to Australian Height Datum, and
- h) 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. The PC must supply a copy of the WAE plans to Council together with the Final Occupation Certificate.

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. 1362091S_02.

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.

I.2 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

I.3 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.

I.4 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) and the *NSW Industrial Noise Policy* (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.

NSW Environment Protection Authority— see “noise” section

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.

Australian Acoustical Society—professional society of noise related professionals

www.acoustics.asn.au.

Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au.

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

I.5 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

I.6 Ongoing Maintenance of the On-Site Stormwater Retention System

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

- a) permit stormwater to be temporarily retained and reused by the System;
- b) keep the system clean and free of silt rubbish and debris;
- c) maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- e) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- f) 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;
- g) 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
- h) 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

- a) 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
- b) 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.

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Criminal Offences – Breach of Development Consent & 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. You can obtain further information from the following web sites: <http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.

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.dialbeforeyoudig.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.

K.3 Builders Licences and Owner Builders Permits

Section 81A 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. Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html>. The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is 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.

K.4 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA 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 "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8 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 PCA does not undertake this role. The NSW Office of Fair Trading have published a "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124. The Guide can be down loaded from: <http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf> Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

K.5 Workcover requirements

The *Occupational Health and Safety Act 2000 No 40* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: Further information can be obtained from Workcover NSW's website:

<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office: Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

K.6 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995, Guide to Lead Paint Management—Industrial Applications, or AS 4361.2–1998, Guide to Lead Paint Management—Residential and Commercial Buildings. Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings. Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained.

Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

K.7 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*. The securities will not be released until a *Final Occupation Certificate* has 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 Application for Refund of Security form can be downloaded from
<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with:

- a) The Occupational Health and Safety Act 2000;
- b) The Occupational Health and Safety Regulation 2001;
- c) The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];
- d) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>;
- e) The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.

K.9 Pruning or Removing a Tree Growing on Private Property

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

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

K.10 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.

K.11 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.








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.

Attachments

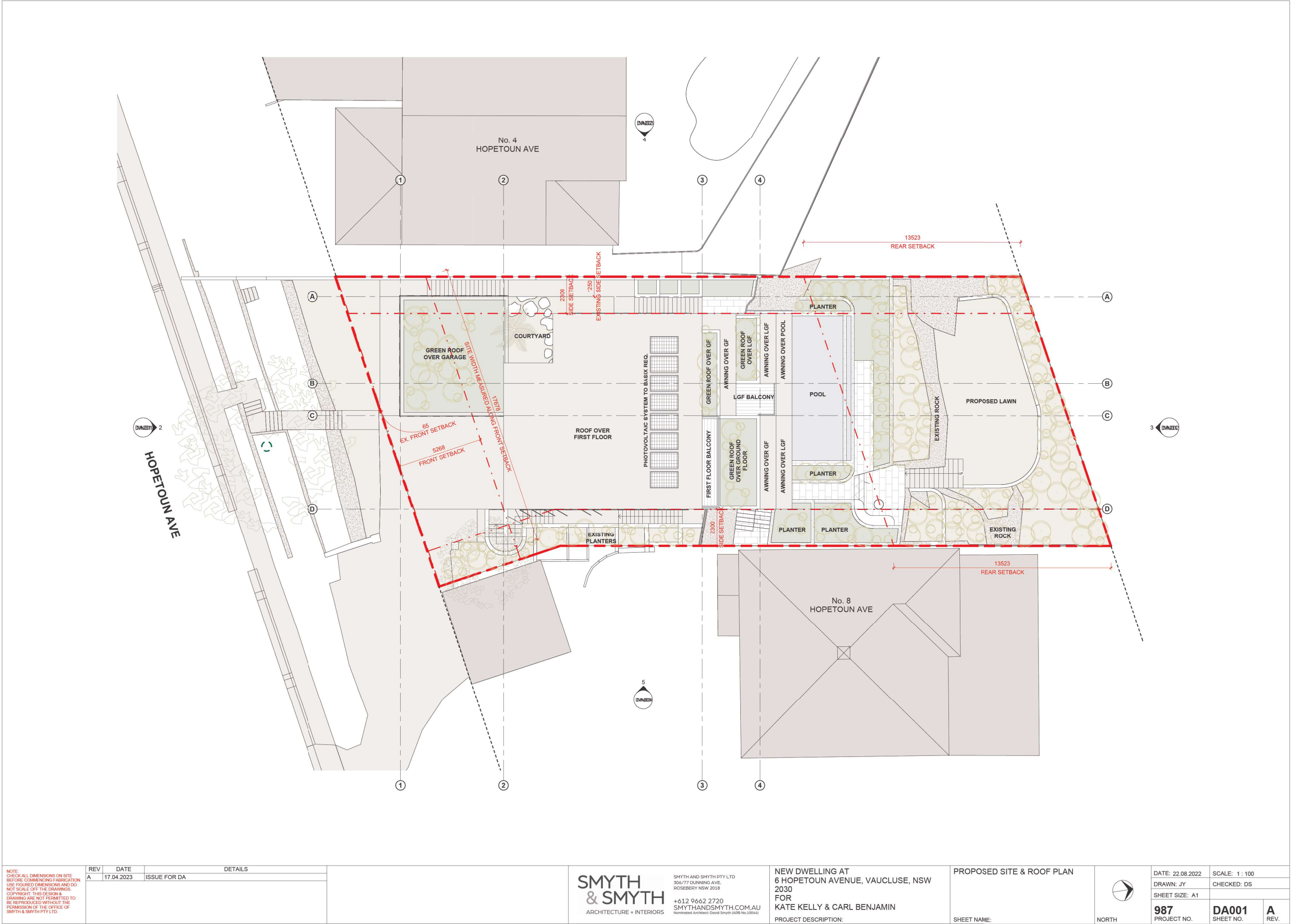
1. Architectural drawings, DCP control diagrams, external finishes schedule, shadow diagrams, photomontages and visual impact diagrams [↓](#) 
2. Survey plans and landscape plans [↓](#) 
3. Development Engineer's referral response [↓](#) 
4. Tree Officer's referral response [↓](#) 
5. Heritage Officer's referral response [↓](#) 
6. WaterNSW General Terms of Approval [↓](#) 
7. Clause 4.6 written statement [↓](#) 

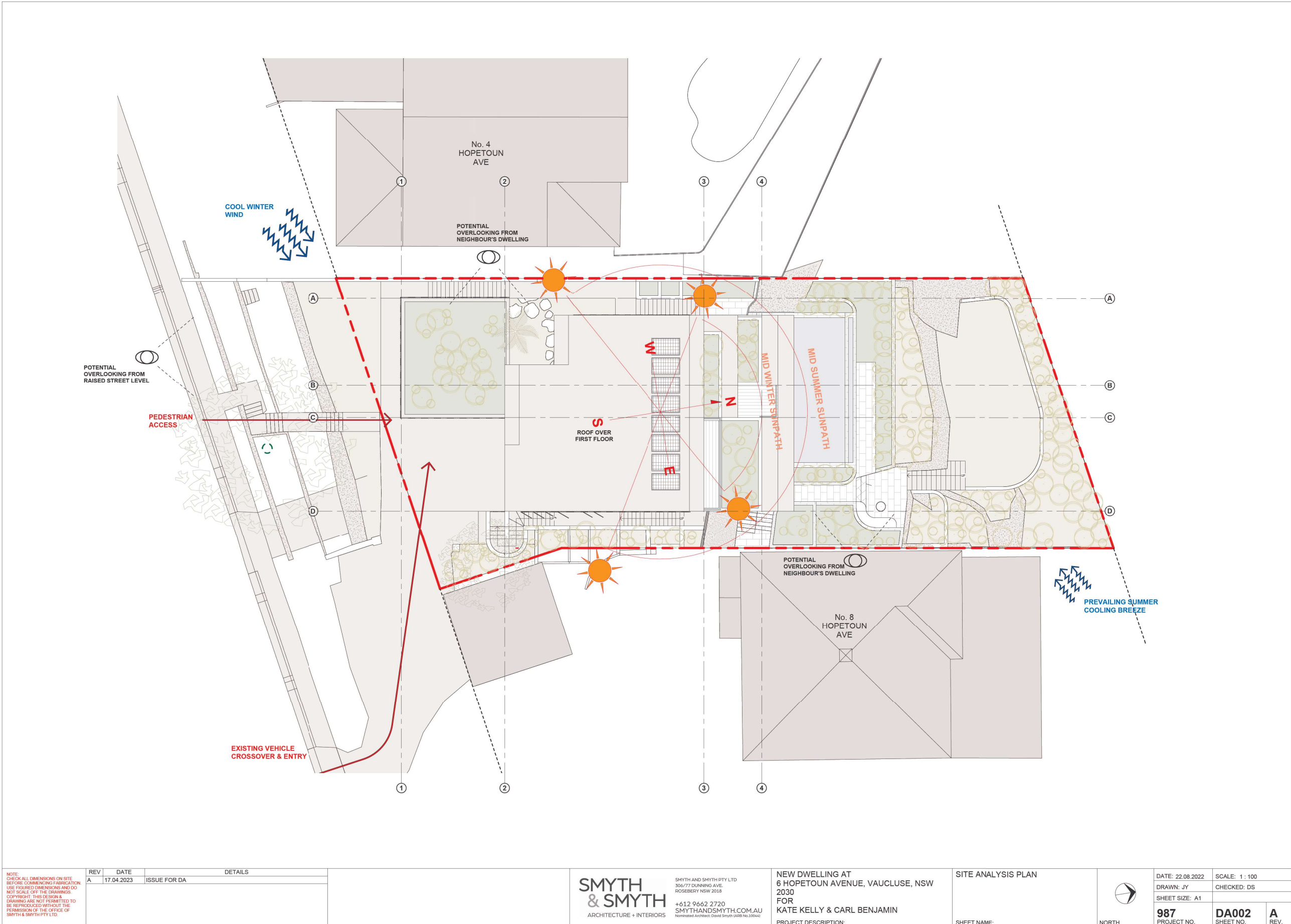
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6 HOPETOUN AVENUE, VAUCLUSE NSW 2030

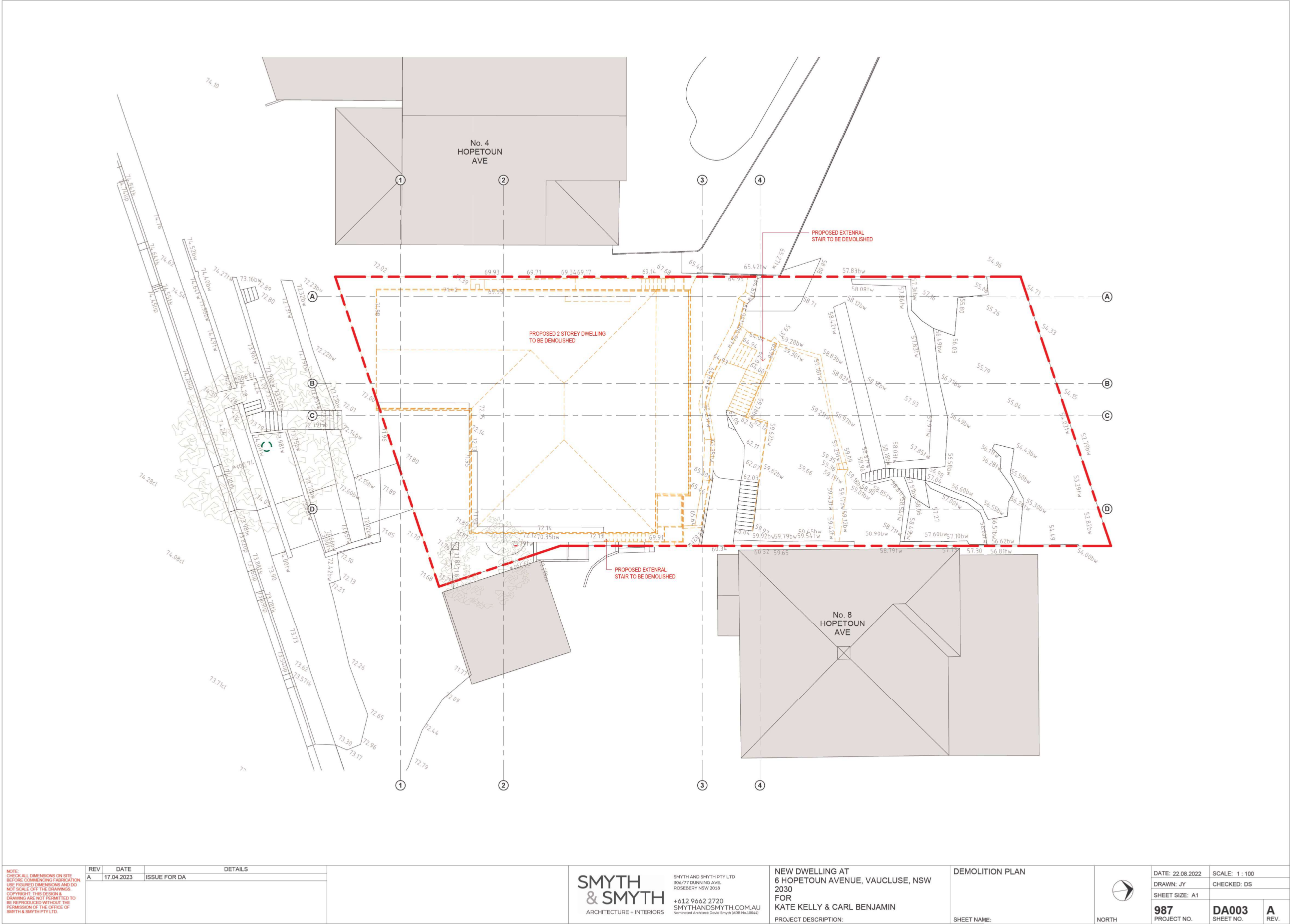
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DA000	TITLE SHEET	B	DA502	AREA CALCULATIONS - FLOORPLATE AREA	A
DA001	PROPOSED SITE & ROOF PLAN	A	DA510	HEIGHT PLANE 3D	A
DA002	SITE ANALYSIS PLAN	A	DA511	HEIGHT PLANE SECTIONS	A
DA003	DEMOLITION PLAN	A	DA521	EXCAVATION 3D	A
DA004	FRONT SETBACK CALCULATION DIAGRAM	A	DA601	SCHEDULE OF EXTERNAL MATERIALS & COLOURS	A
DA101	FIRST FLOOR PLAN	A	DA701	SHADOW DIAGRAMS - JUNE 21 9AM	A
DA102	GROUND FLOOR PLAN	A	DA702	SHADOW DIAGRAMS - JUNE 21 12PM	A
DA103	LOWER GROUND FLOOR PLAN	A	DA703	SHADOW DIAGRAMS - JUNE 21 3PM	A
DA104	UNDERCROFT FLOOR PLAN	B	DA801	PHOTOMONTAGE - VIEW FROM HOPETOUN AVE	A
DA105	GARDEN LEVEL PLAN	B	DA802	3D MODEL IMAGES	A
DA201	ELEVATIONS - SOUTH	A	DA811	VISUAL IMPACT DIAGRAM - VIEW FROM HOPETOUN AVE	A
DA202	ELEVATIONS - NORTH	B	DA812	VISUAL IMPACT DIAGRAM - VIEW FROM HOPETOUN AVE (WEST)	A
DA203	ELEVATIONS - WEST	B	DA813	VISUAL IMPACT DIAGRAM - VIEW FROM NEW SOUTH HEAD ROAD	A
DA204	ELEVATIONS - EAST	B	DA814	VISUAL IMPACT DIAGRAM - VIEW FROM No.4 HOPETOUN AVE	A
DA301	BUILDING SECTION A-A	B	DA821	VISUAL IMPACT DIAGRAM - VIEW OVERLOOKING No.8 HOPETOUN AVE	A
DA302	BUILDING SECTION B-B	A	DA831	CONSTRUCTION MANAGEMENT PLAN	A
DA501	AREA CALCULATIONS - GFA	A	DA850	BASIX COMMITMENTS	A



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	B	27.08.2023	AMENDED POOL & GARDEN						<small>SHEET SIZE: A1</small>		
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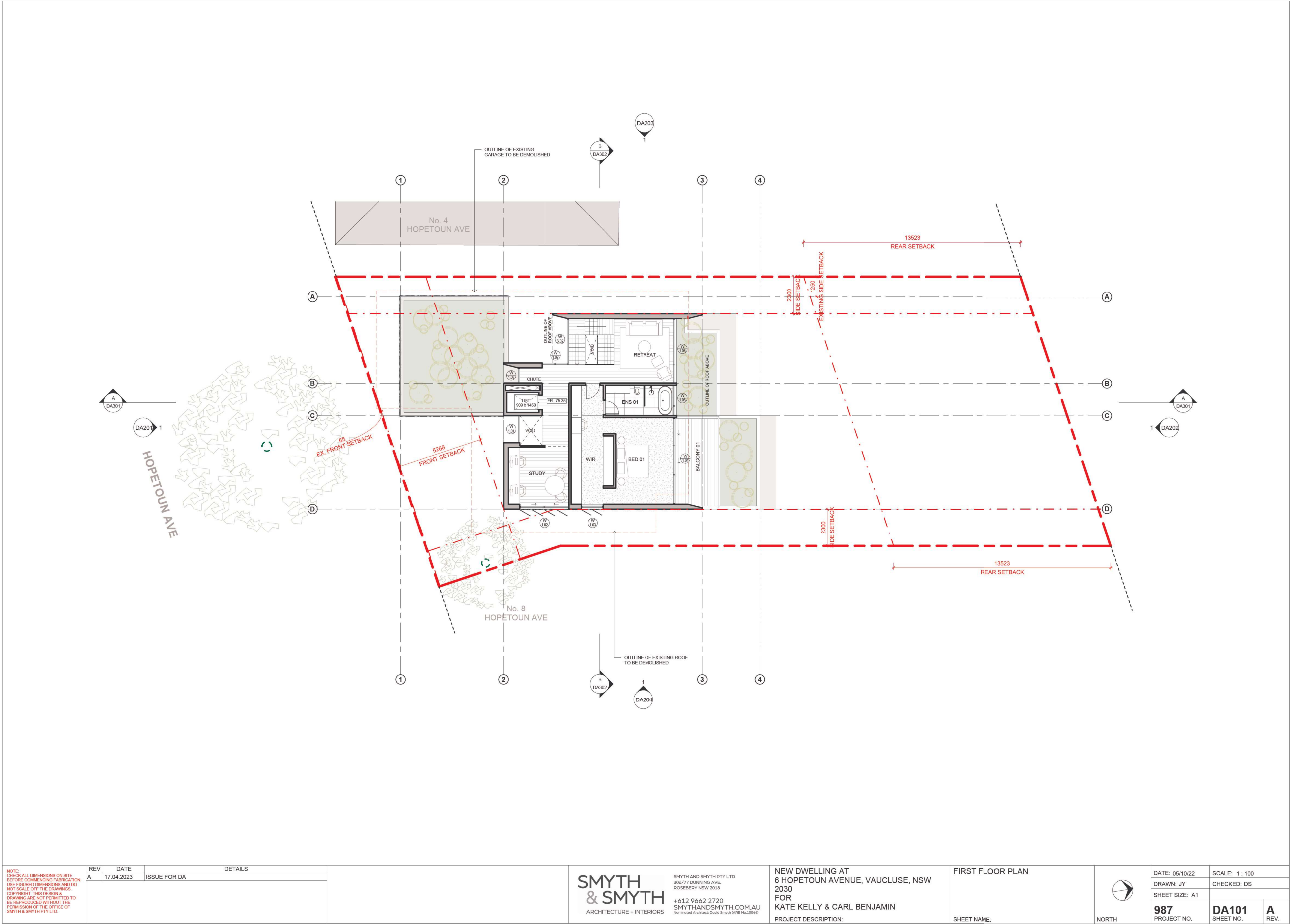


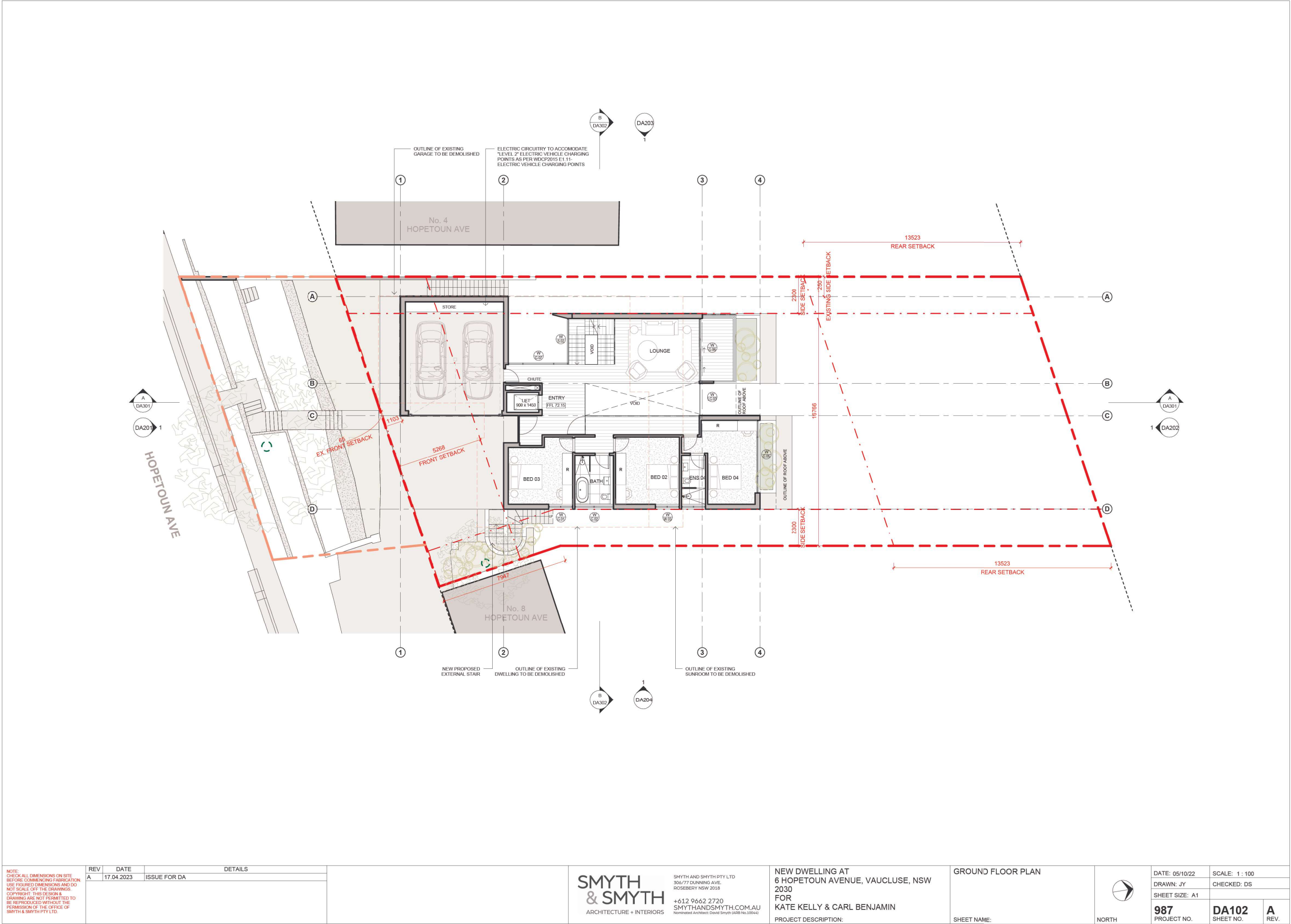


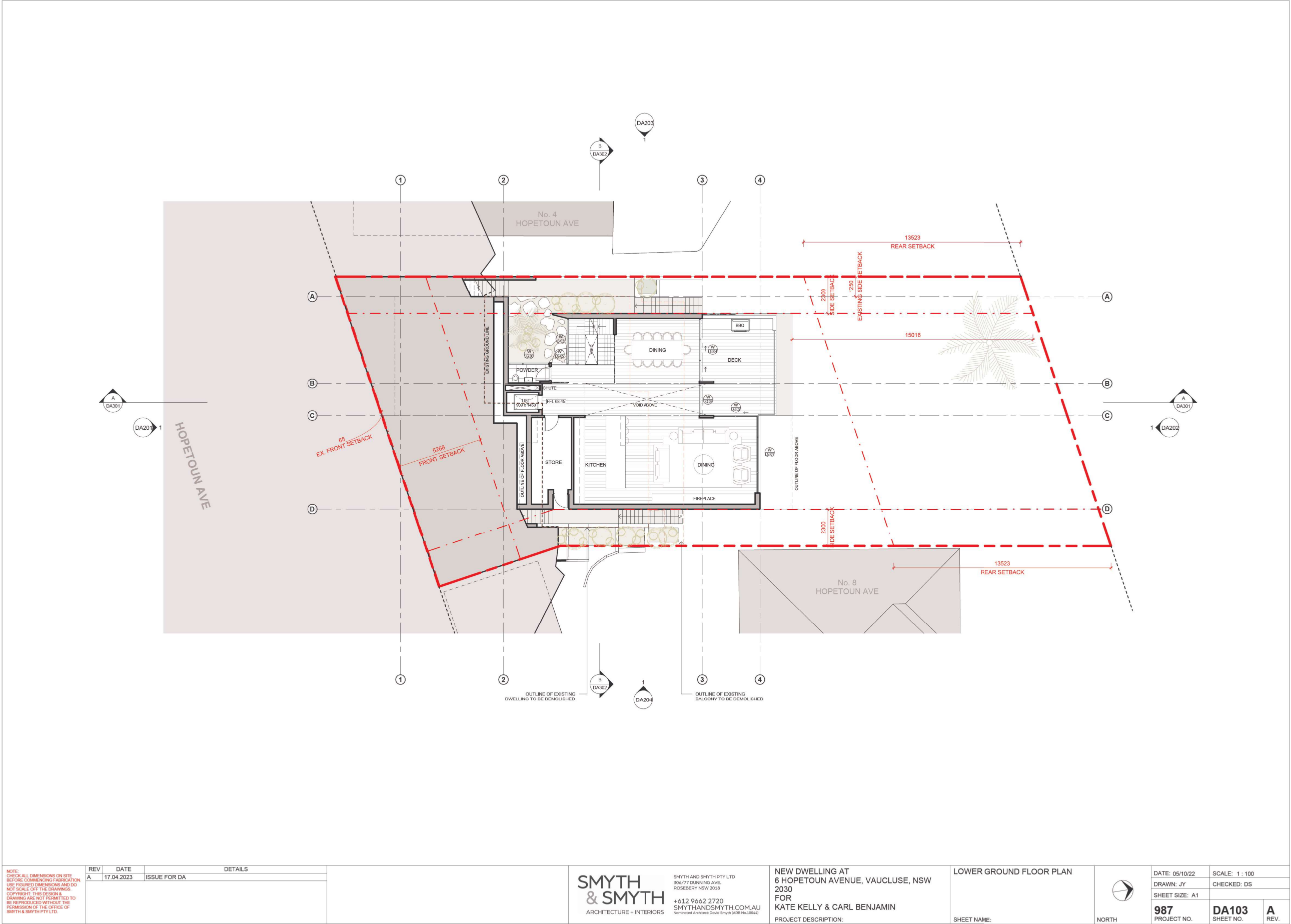


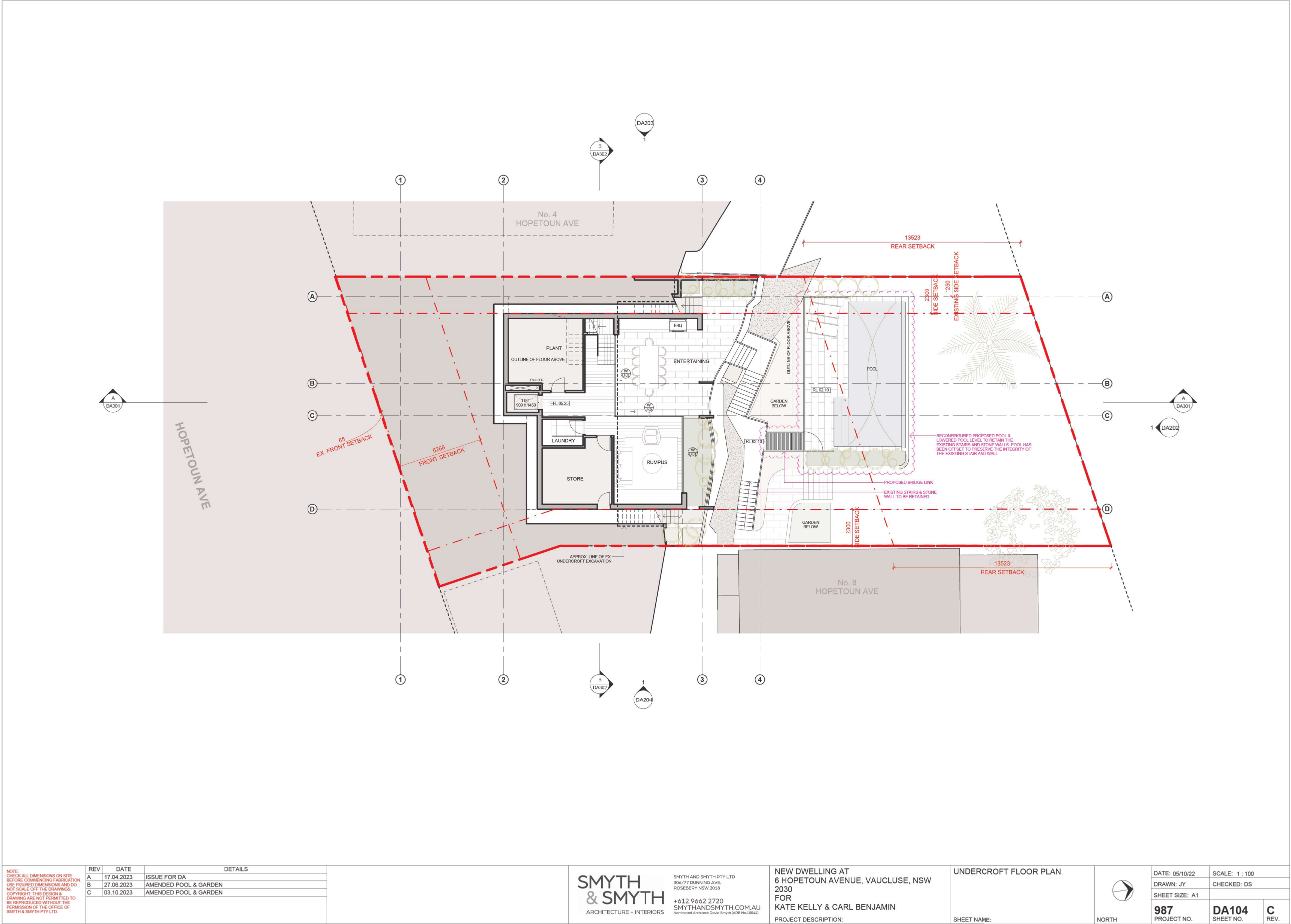


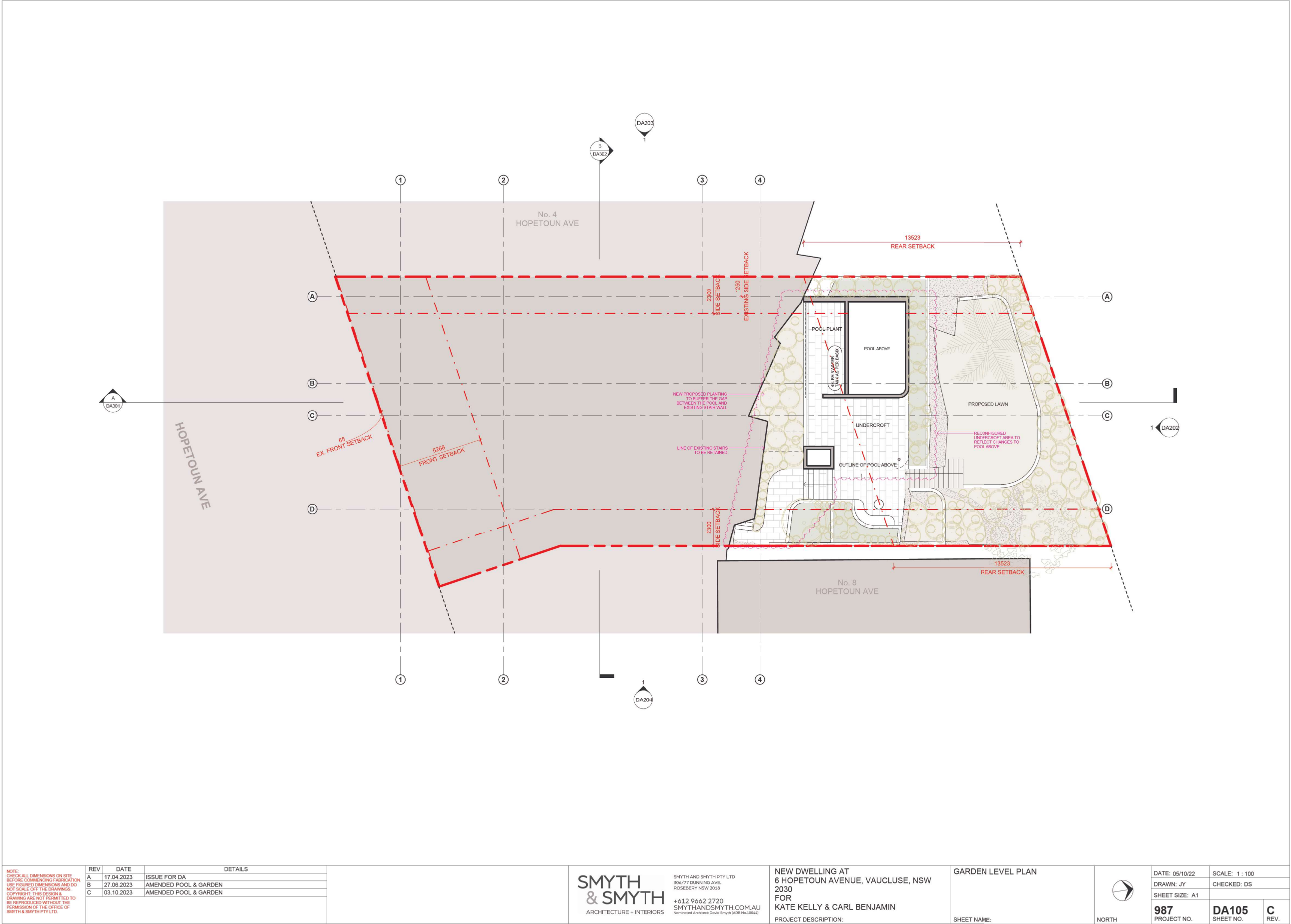
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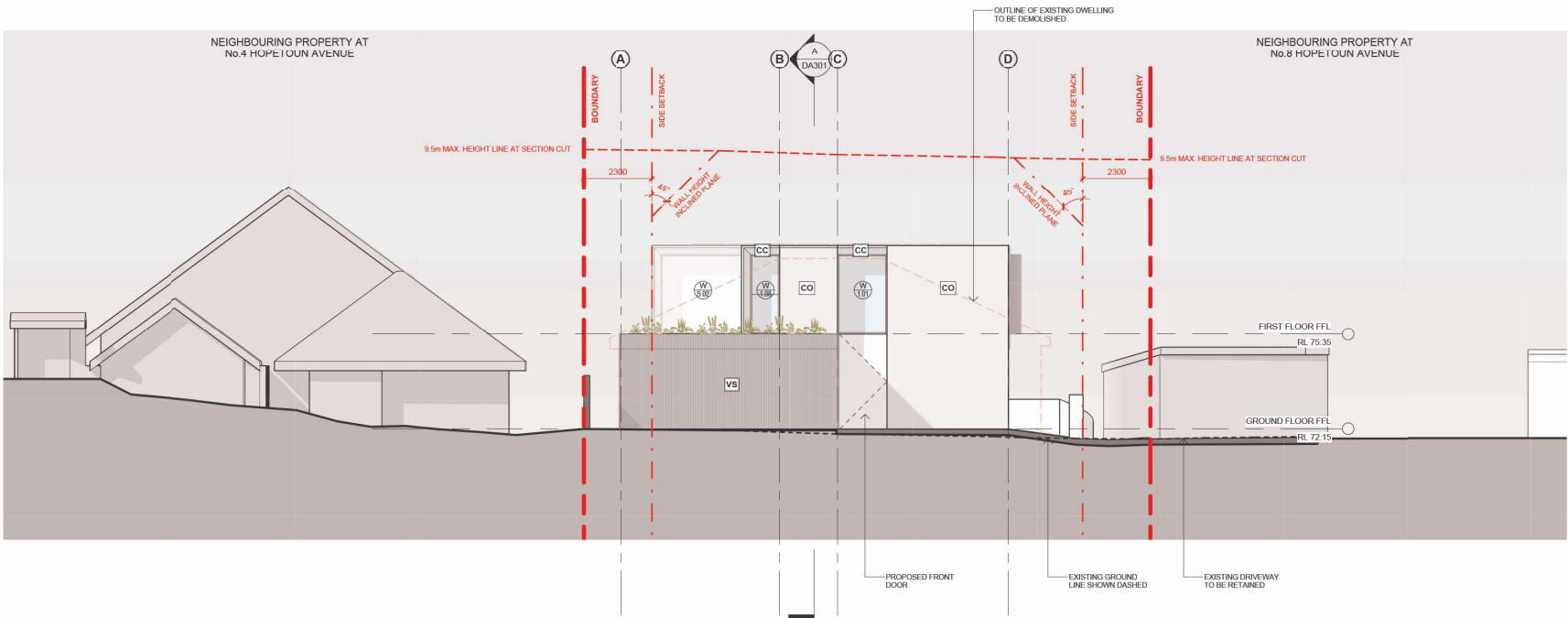








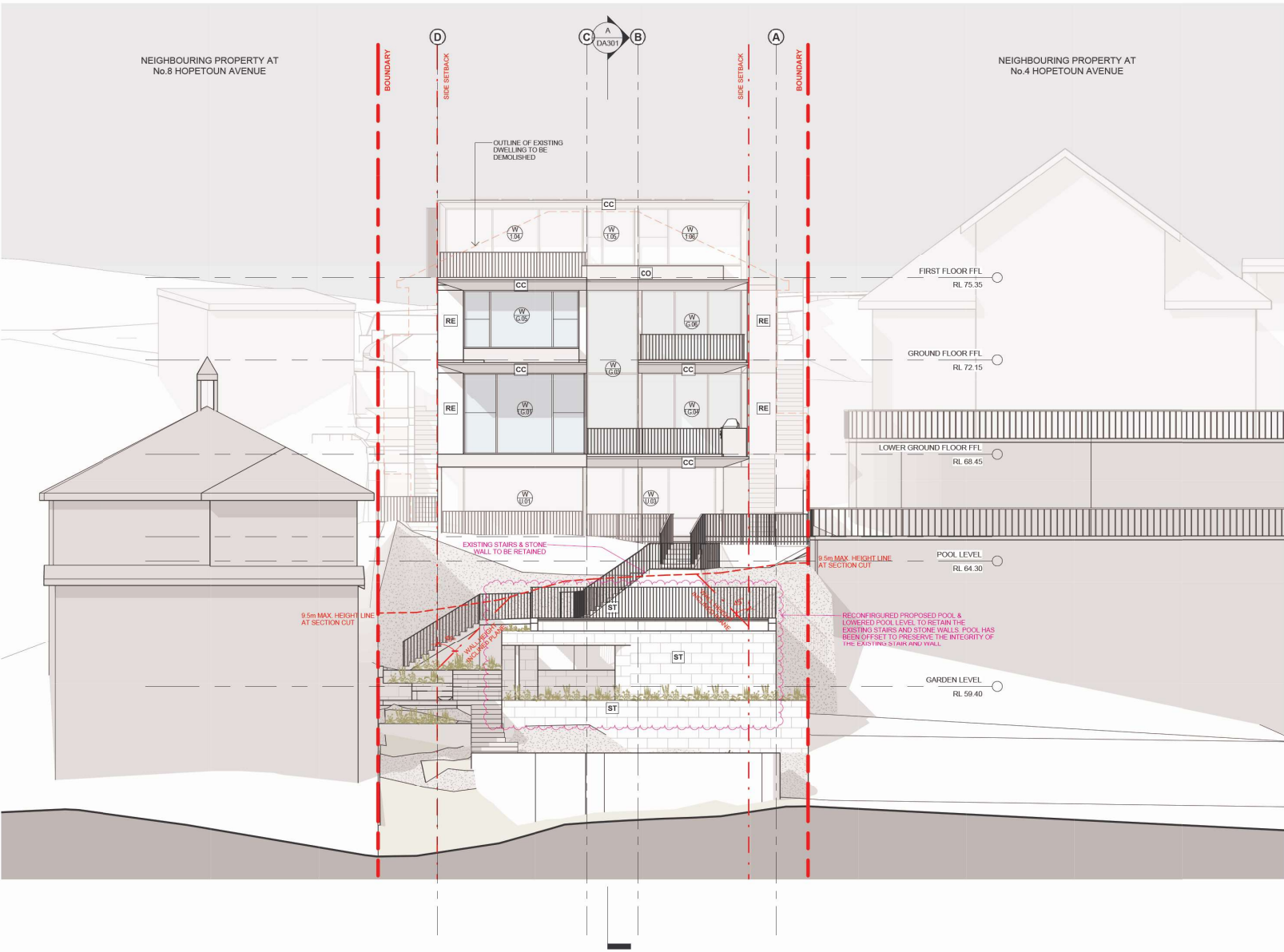




1 SOUTHERN ELEVATION (HOPETOUN AVENUE)
1 : 100

PROPOSED EXTERNAL MATERIAL PALETTE	
PL	- PLANTING AS SELECTED
PV	- CRAZY PAVING TO BE SELECTED
CC	- CONCRETE CEILINGS & SOFFITS
ST	- STONE PAVING
PS	- STONE POOL SURROUNDS
VS	- WHITE ALUMINIUM VERTICAL SCREENING
RP	- CONCRETE PLANTERS WITH OVERFLOW PLANTING
RE	- RENDERED BRICKWORK PAINTED WHITE

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1 NORTHERN ELEVATION
1 : 100

PROPOSED EXTERNAL MATERIAL PALETTE	
PL	PLANTING AS SELECTED
PV	CRAZY PAVING TO BE SELECTED
CC	CONCRETE CEILINGS & SOFFITS
ST	STONE PAVING
PS	STONE POOL SURROUNDS
VS	WHITE ALUMINIUM VERTICAL SCREENING
RP	CONCRETE PLANTERS WITH OVERFLOW PLANTING
RE	RENDERED BRICKWORK PAINTED WHITE

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C	03.10.2023	AMENDED POOL & GARDEN

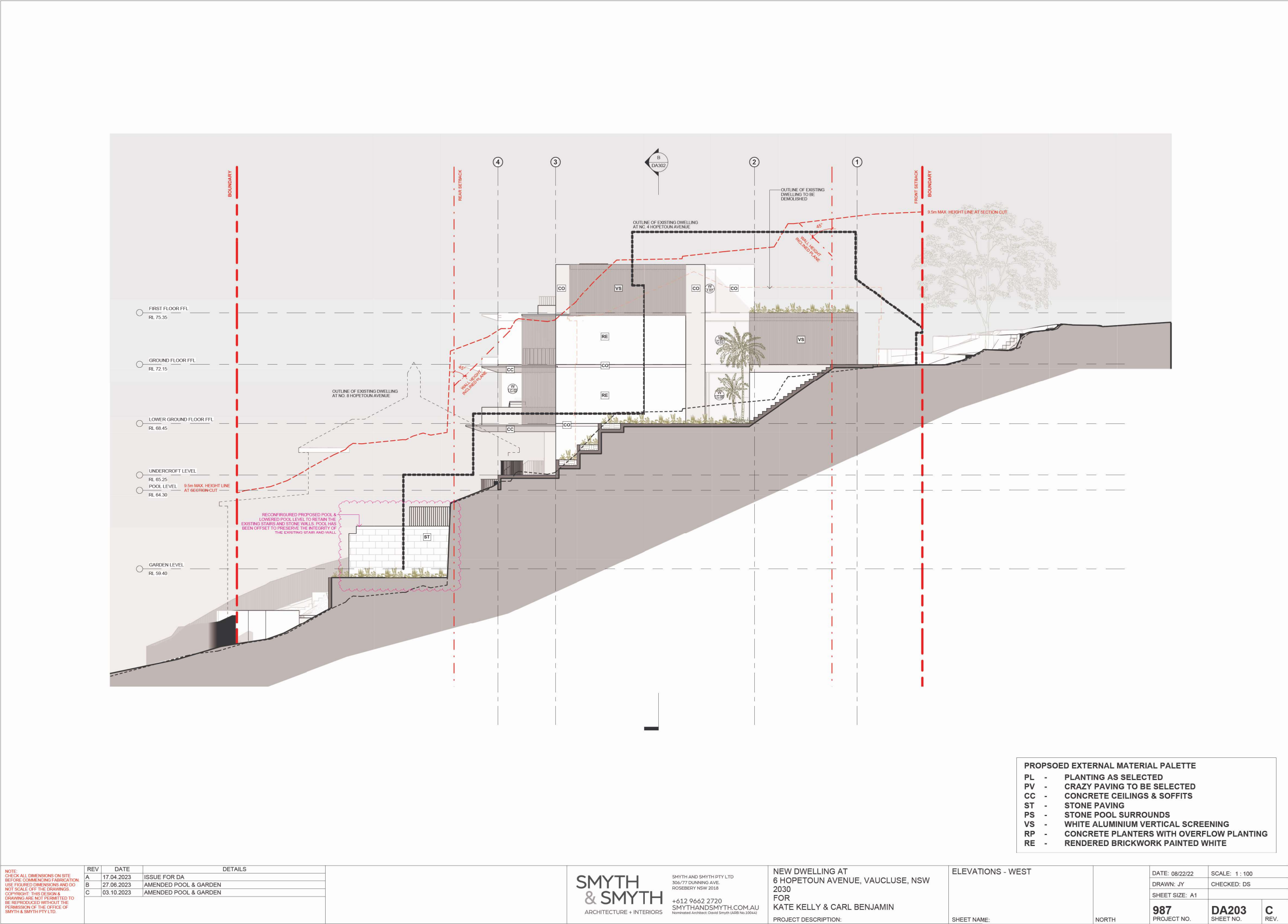
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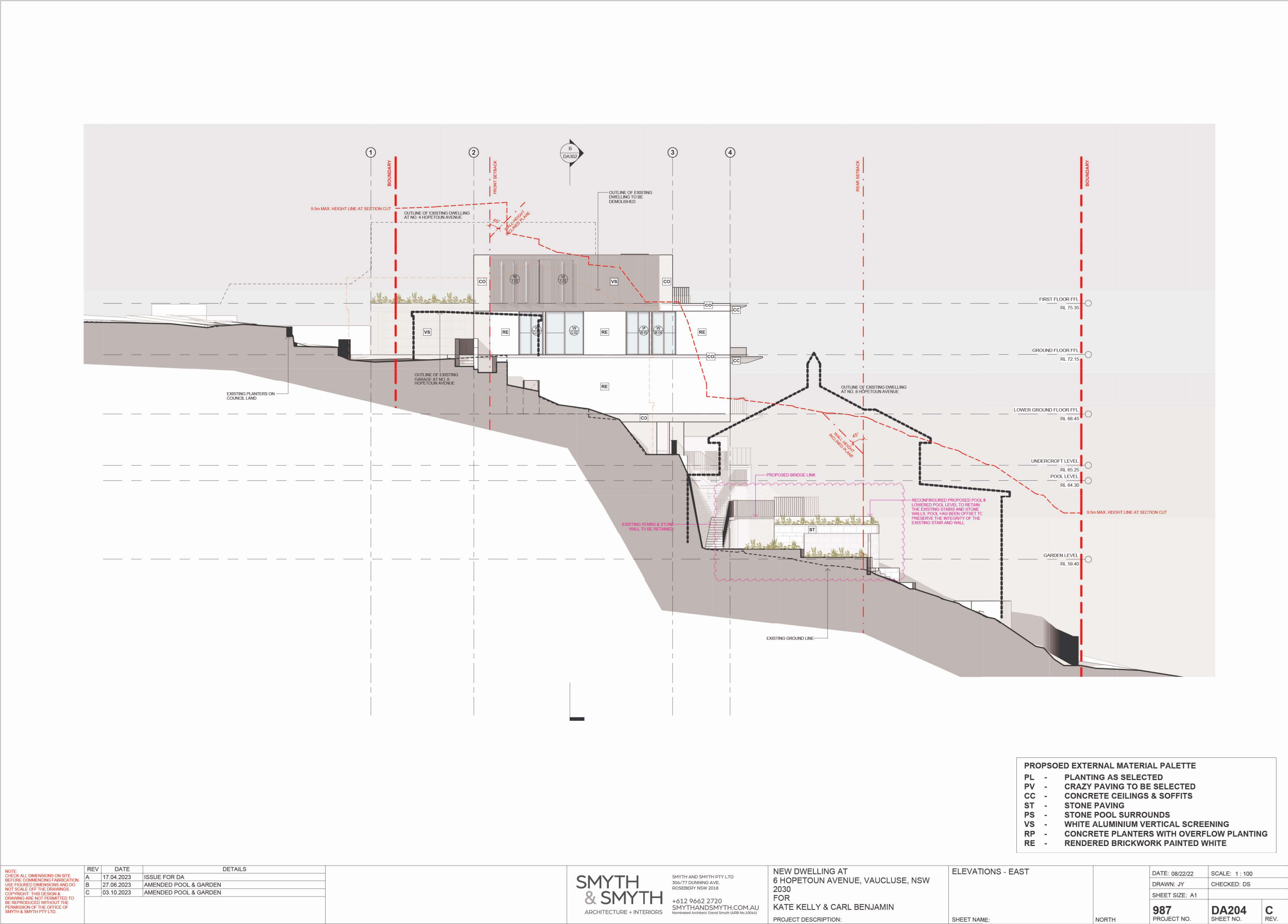
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ROSEBERY NSW 2018
+612 9662 2720
SMYTHANDSMYTH.COM.AU
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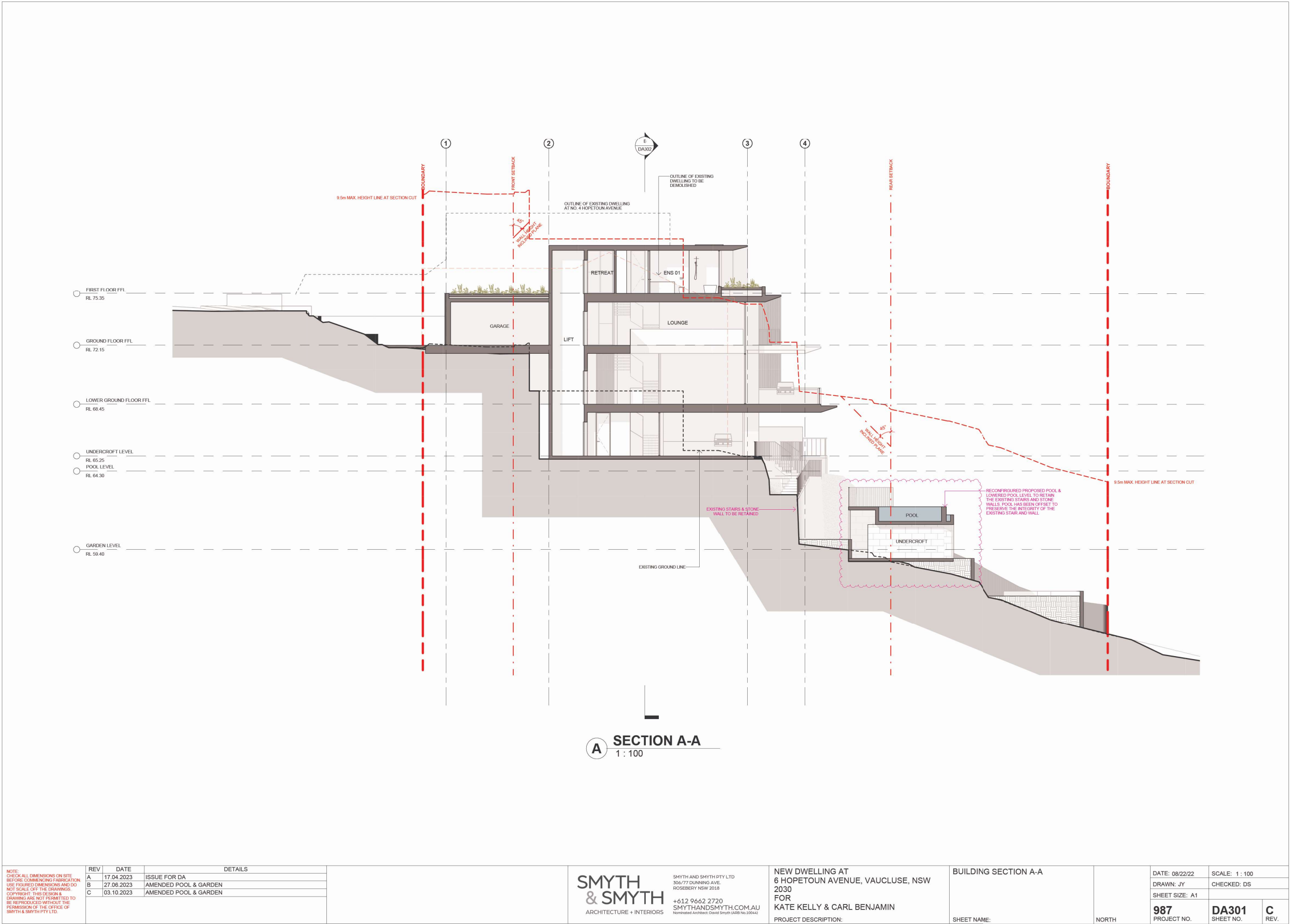
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6 HOPETOUN AVENUE, VAUCLUSE, NSW
2030
FOR
KATE KELLY & CARL BENJAMIN
PROJECT DESCRIPTION:

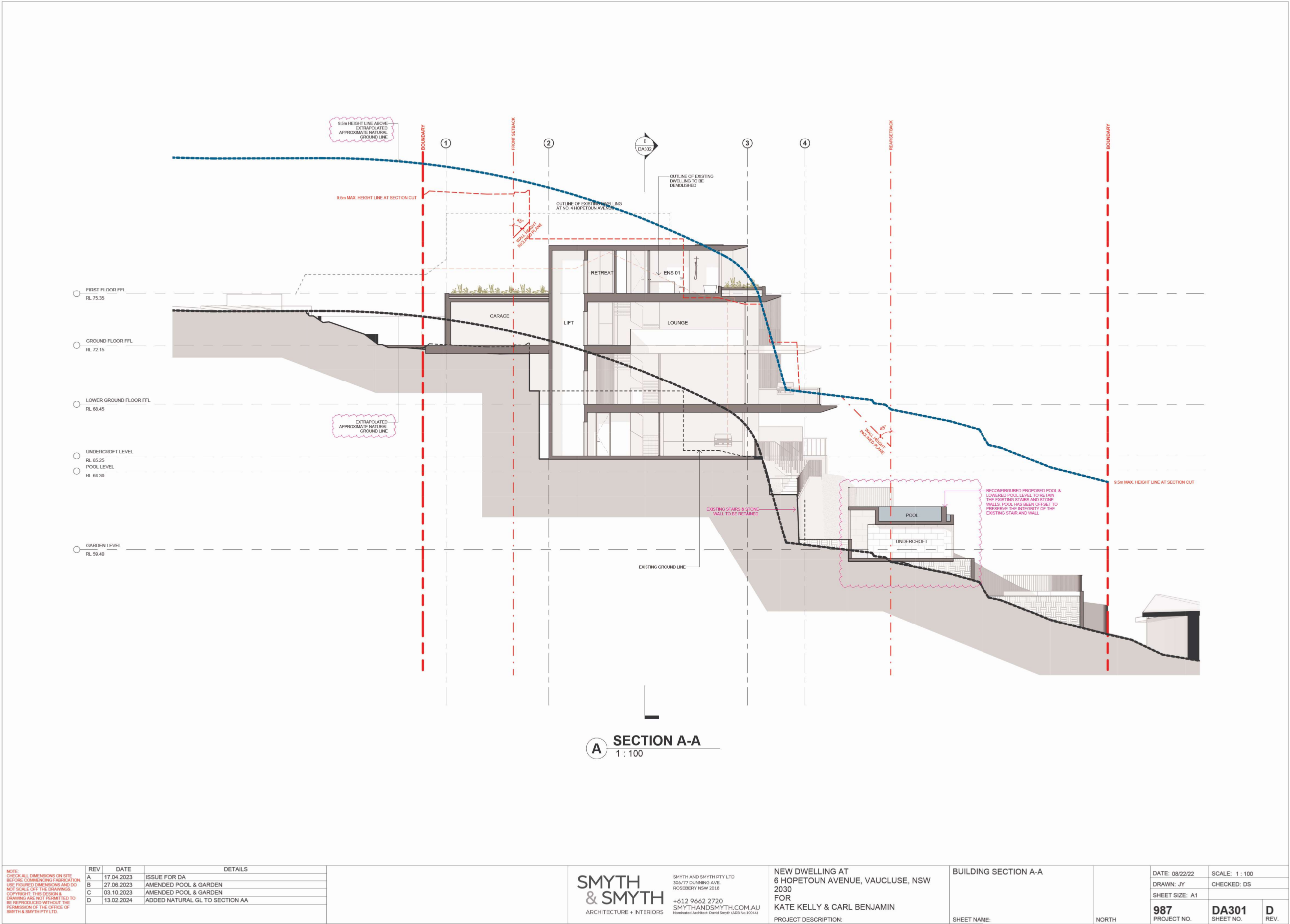
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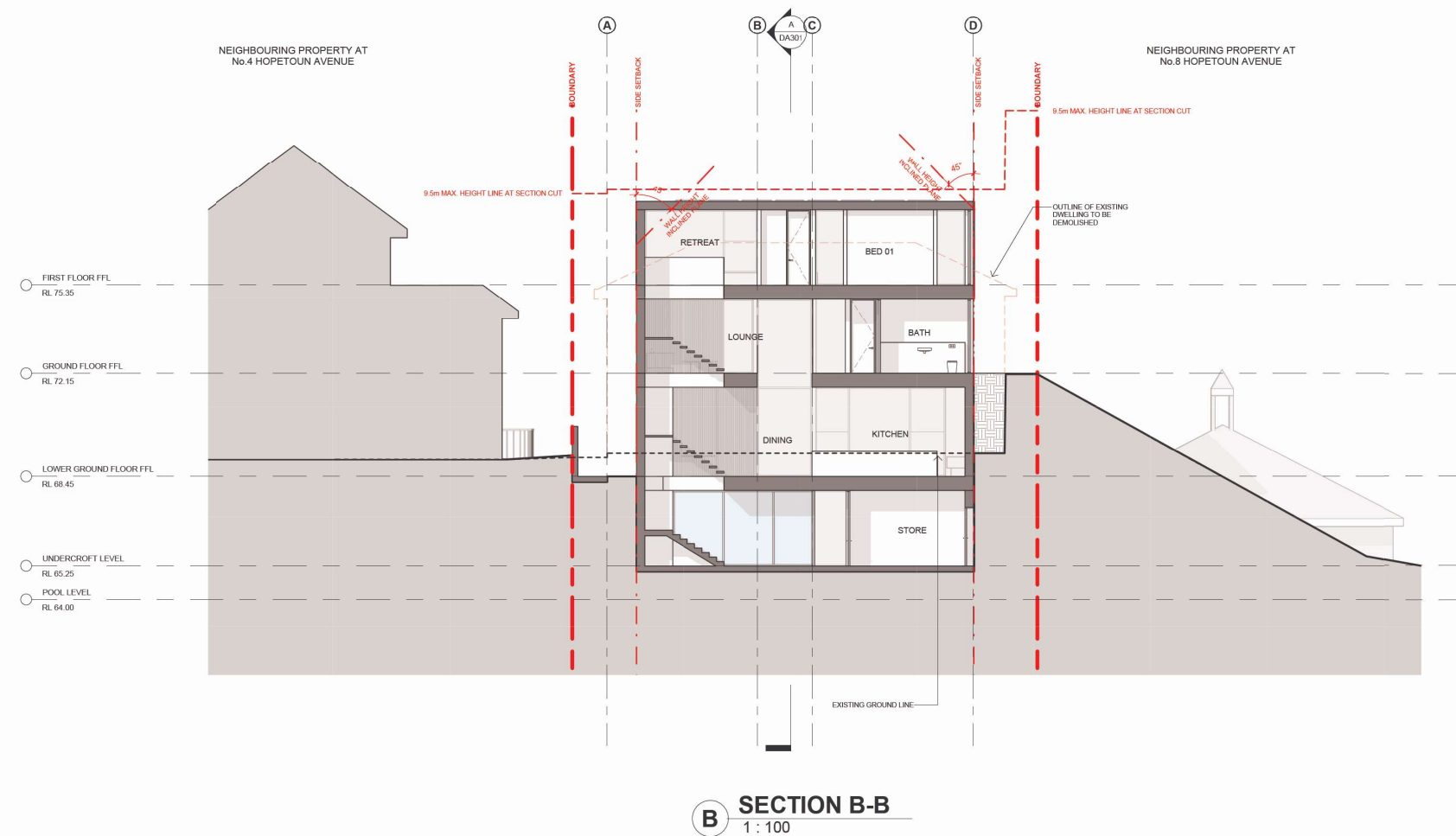
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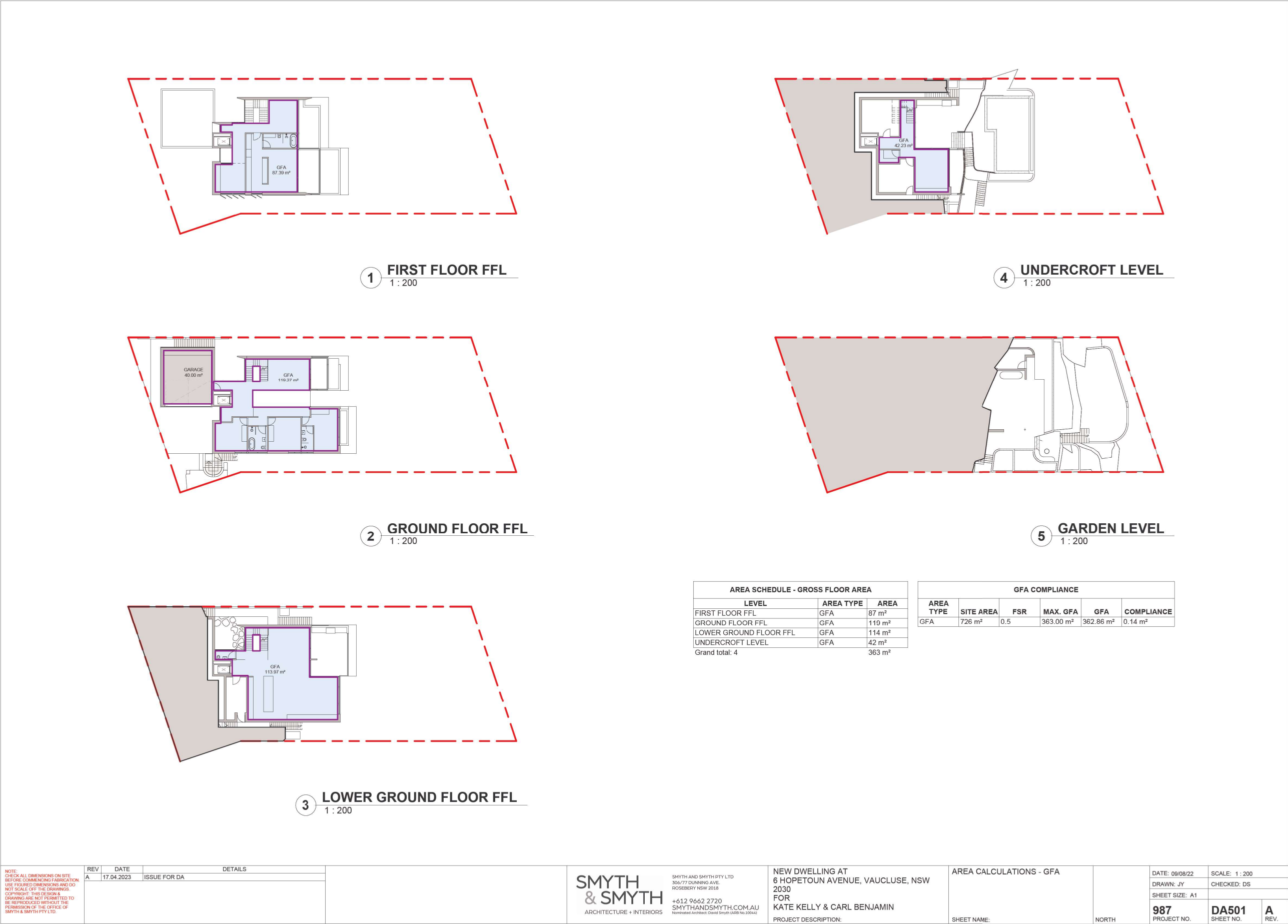


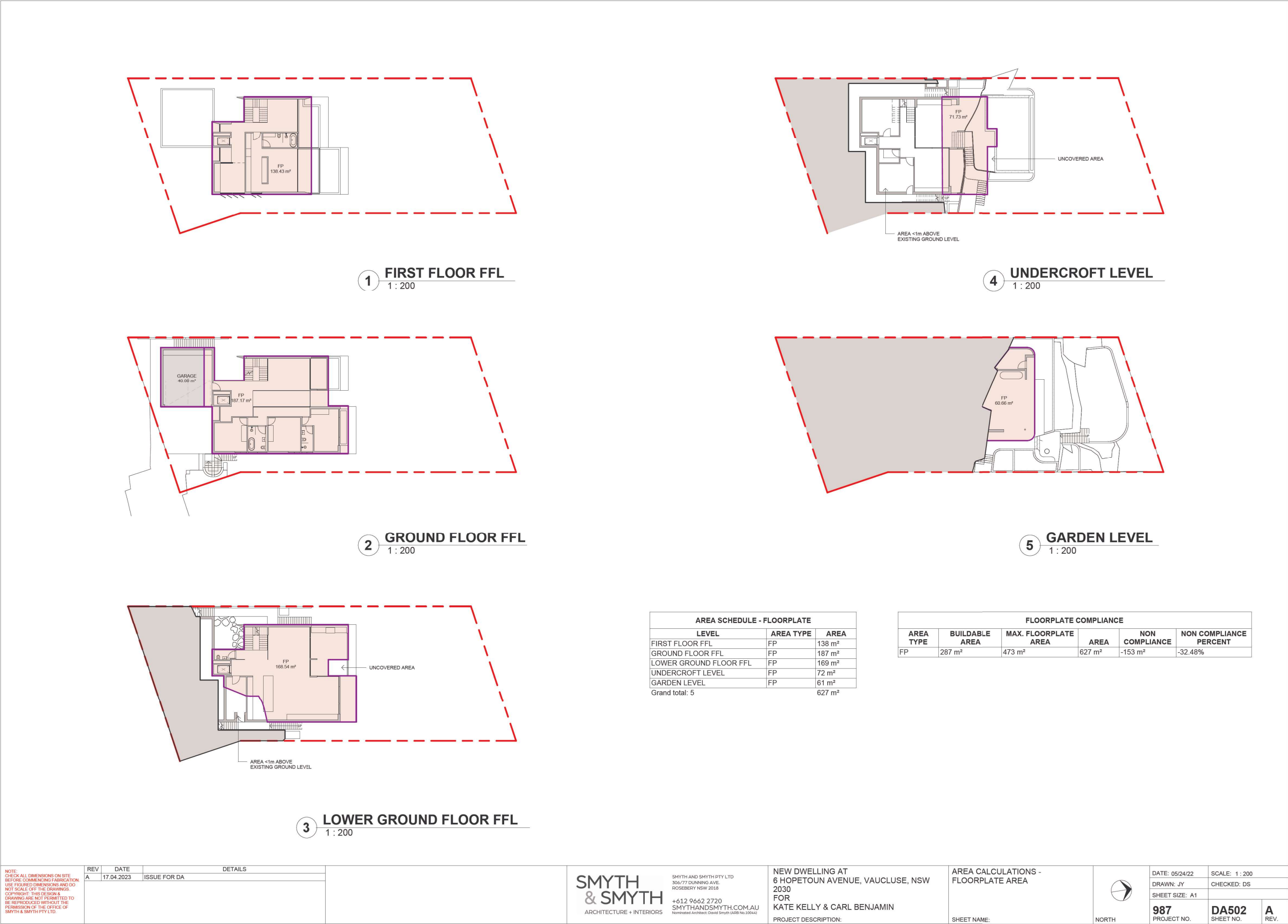


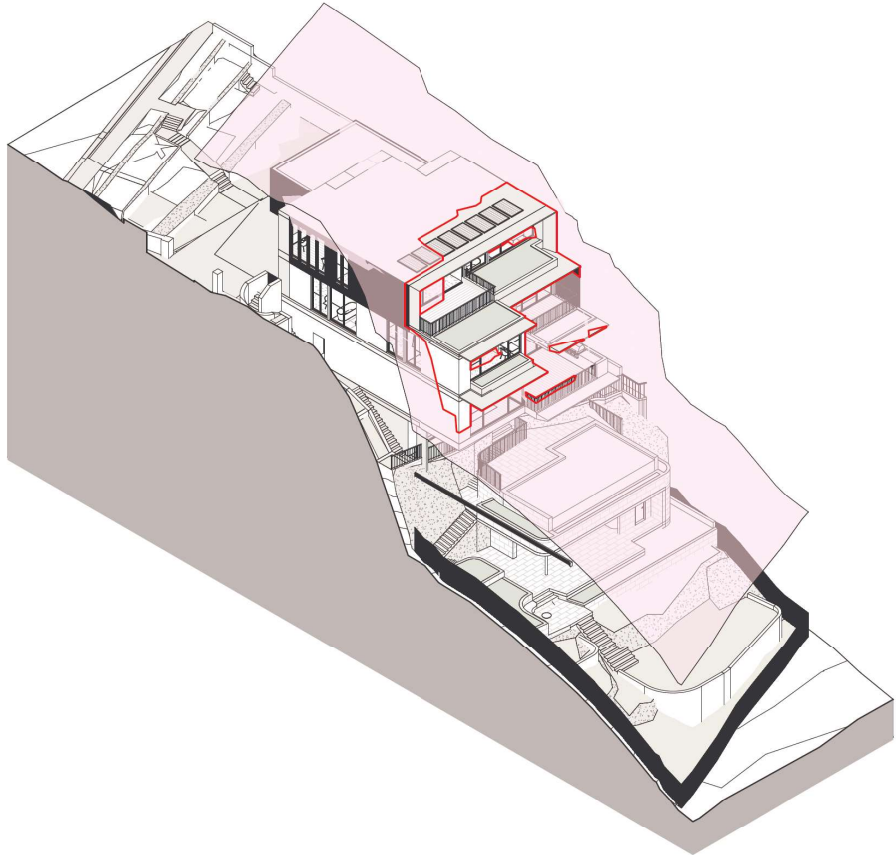




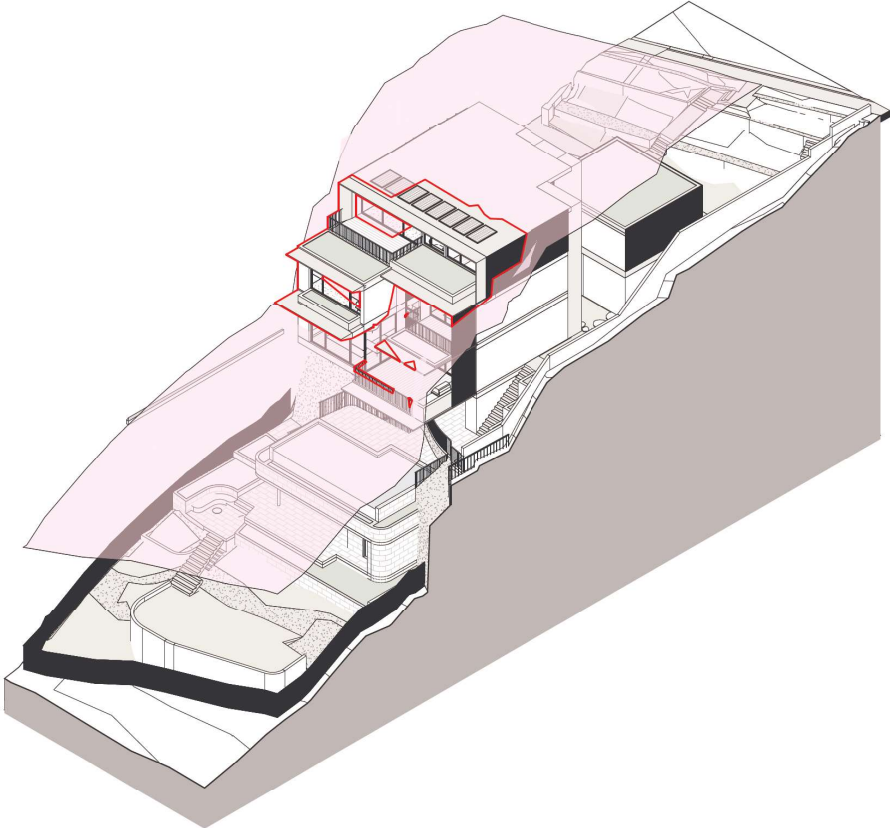
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	A	17.04.2023	ISSUE FOR DA										





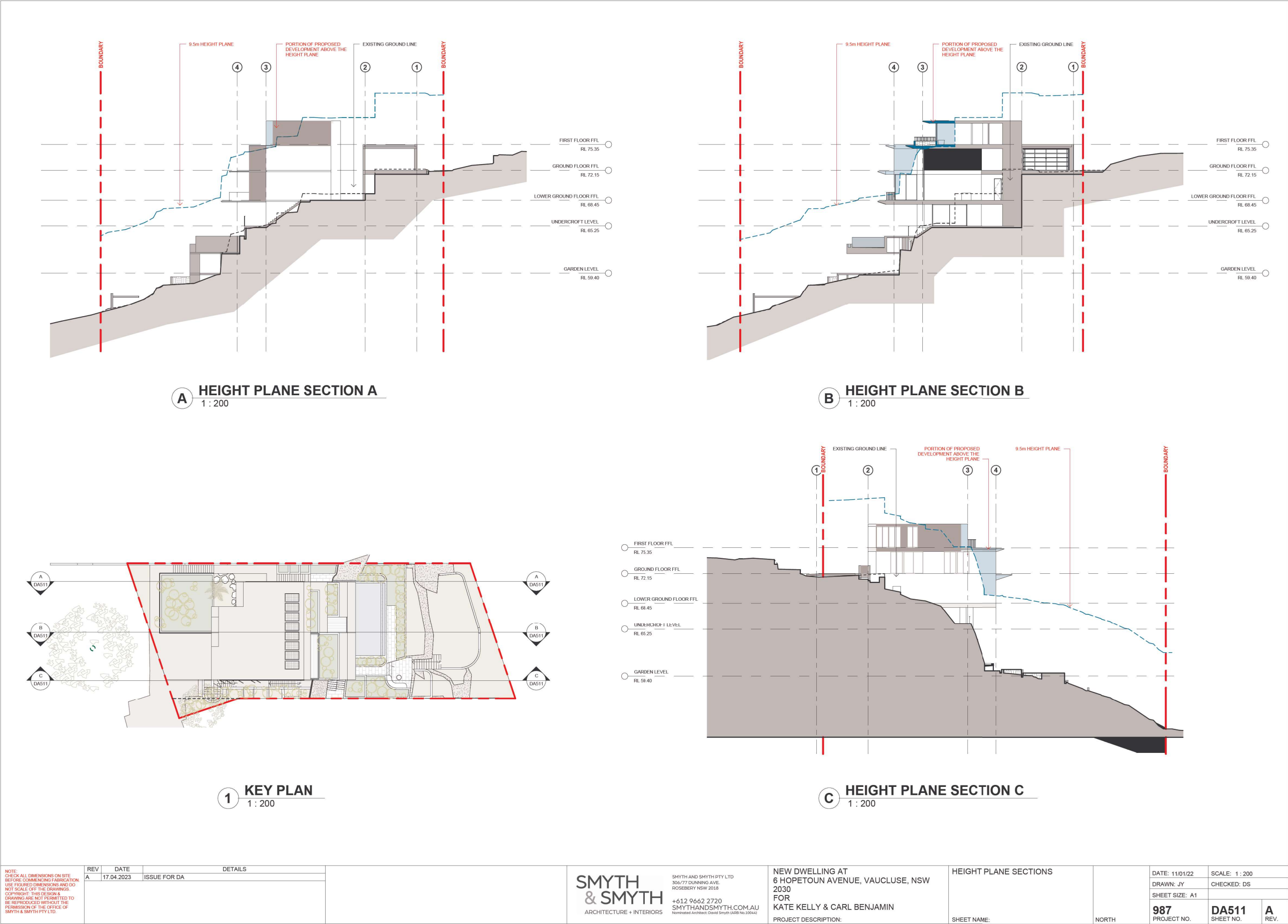










1 HEIGHT PLANE - 3D VIEW FROM NORTH EAST



2 HEIGHT PLANE - 3D VIEW FROM NORTH WEST

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	A	17.04.2023	ISSUE FOR DA	DRAWN: JY						CHECKED: DS			
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				987						DA510	A		
										PROJECT NO.	SHEET NO.	REV.	

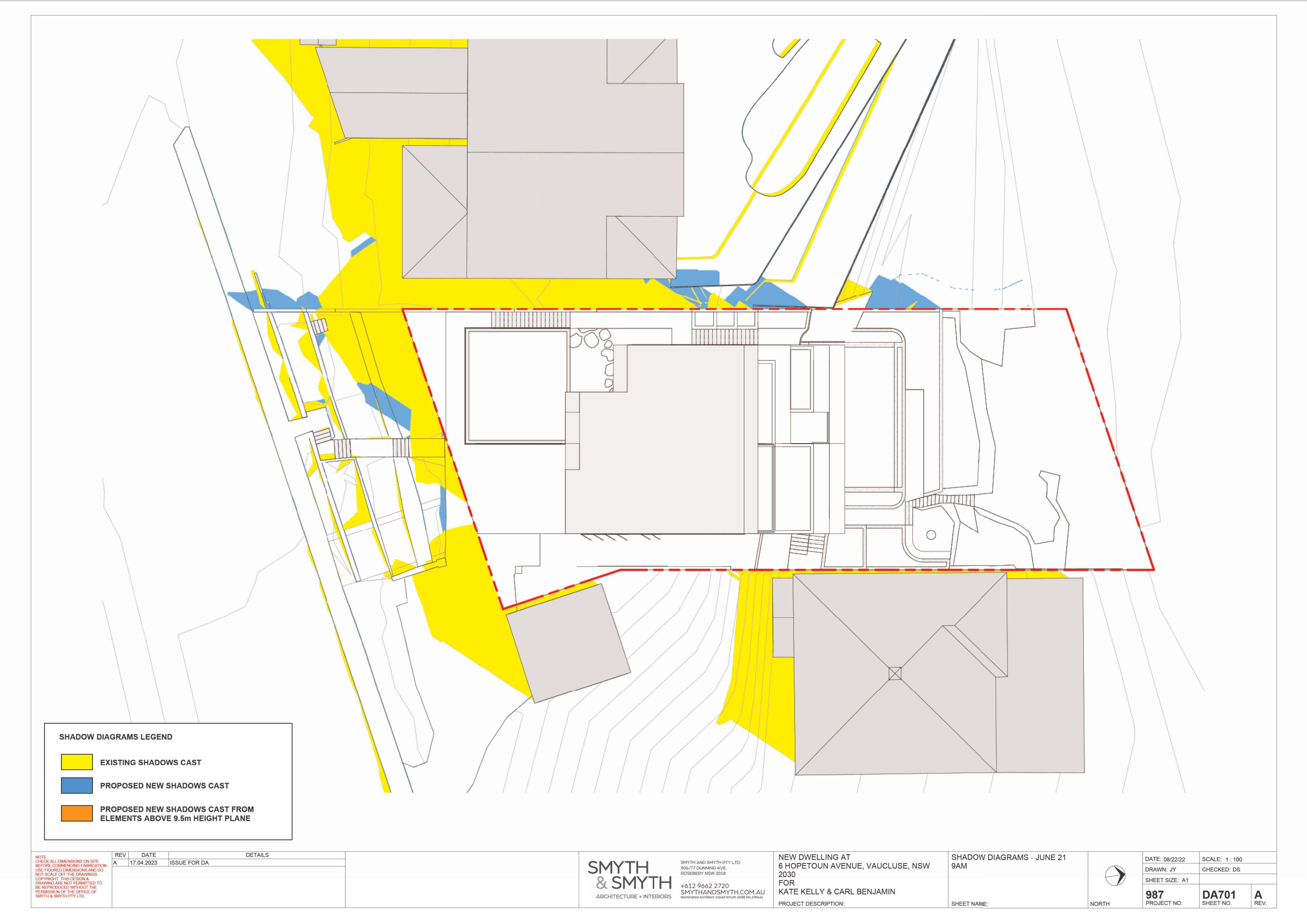


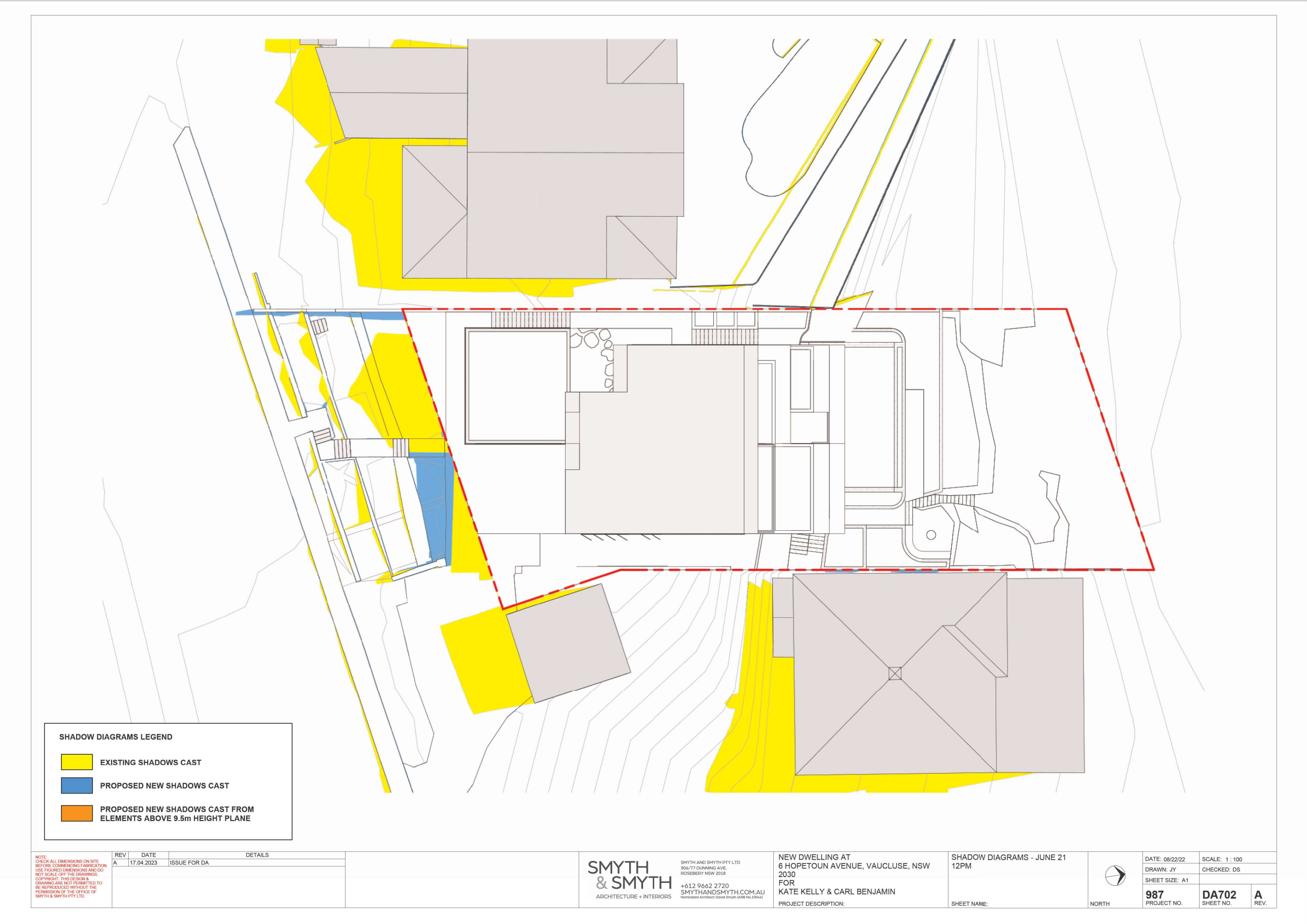


PROPSOED EXTERNAL MATERIAL PALETTE

PL - PLANTING AS SELECTED
PV - CRAZY PAVING TO BE SELECTED
CC - CONCRETE CEILINGS & SOFFITS
ST - STONE PAVING
PS - STONE POOL SURROUNDS
VS - WHITE ALUMINIUM VERTICAL SCREENING
RP - CONCRETE PLANTERS WITH OVERFLOW PLANTING
RE - RENDERED BRICKWORK PAINTED WHITE

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	A	17.04.2023	ISSUE FOR DA			PROJECT DESCRIPTION:		DRAWN: JY		CHECKED: DS			
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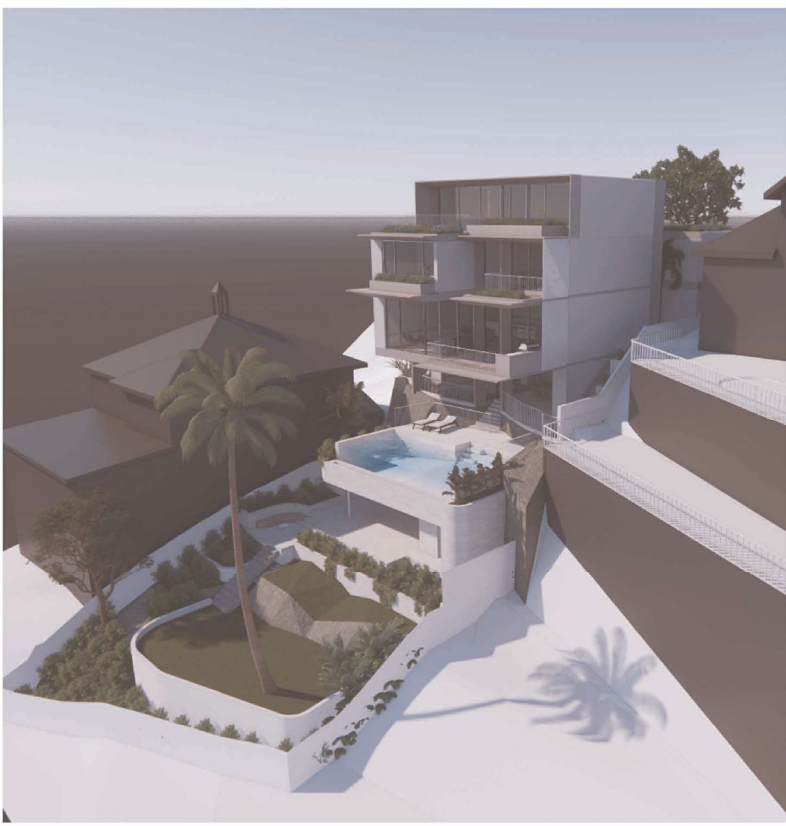




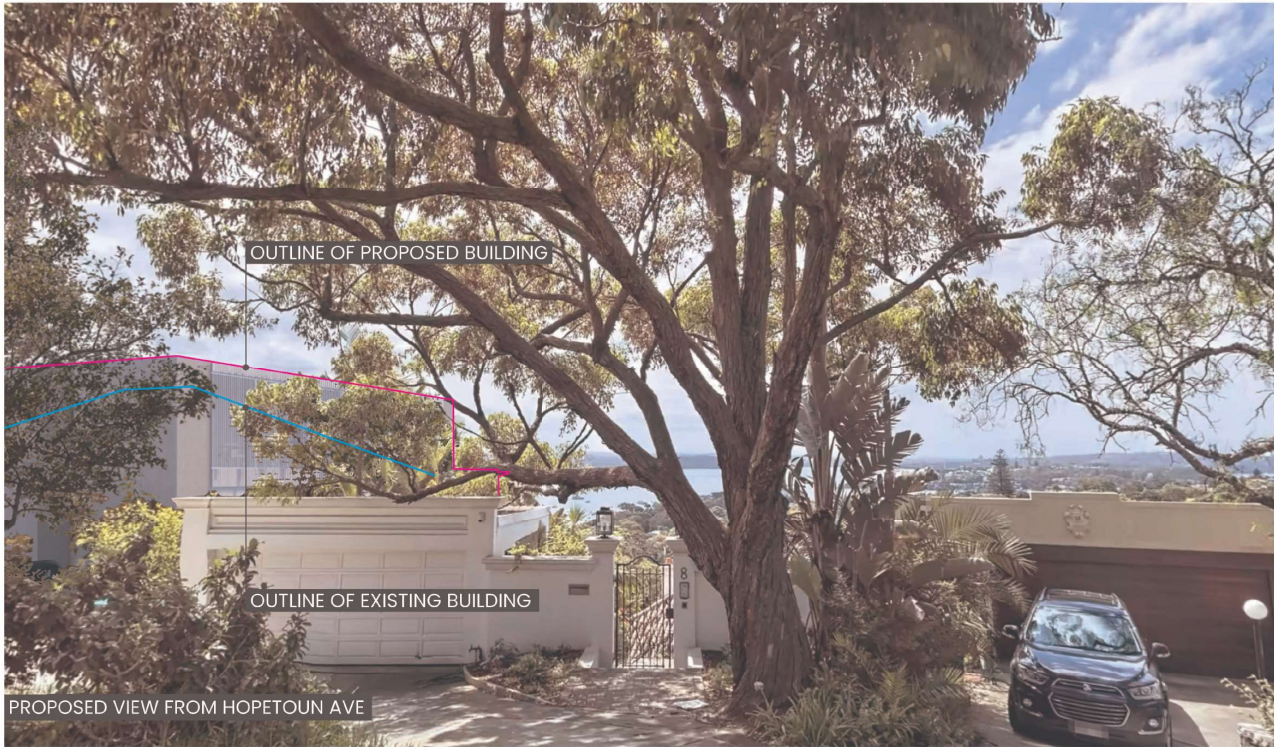




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	A	17.04.2023	ISSUE FOR DA						DRAWN: JY	CHECKED: DS
									SHEET SIZE: A1	
									987 PROJECT NO.	DA801 SHEET NO.
									A REV.	



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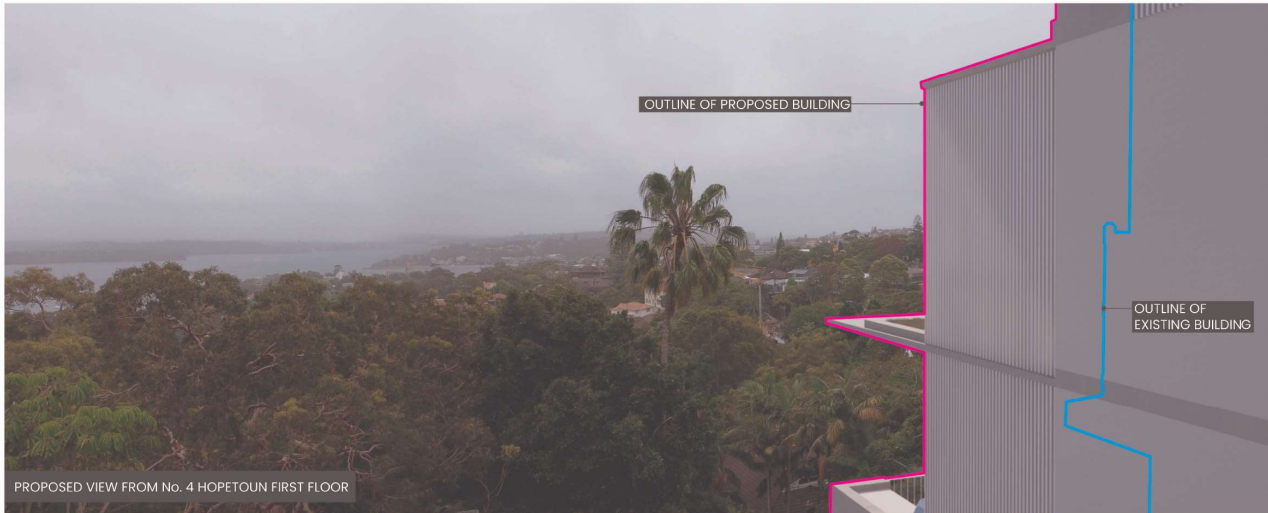


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										987 PROJECT NO.	DA811 SHEET NO.

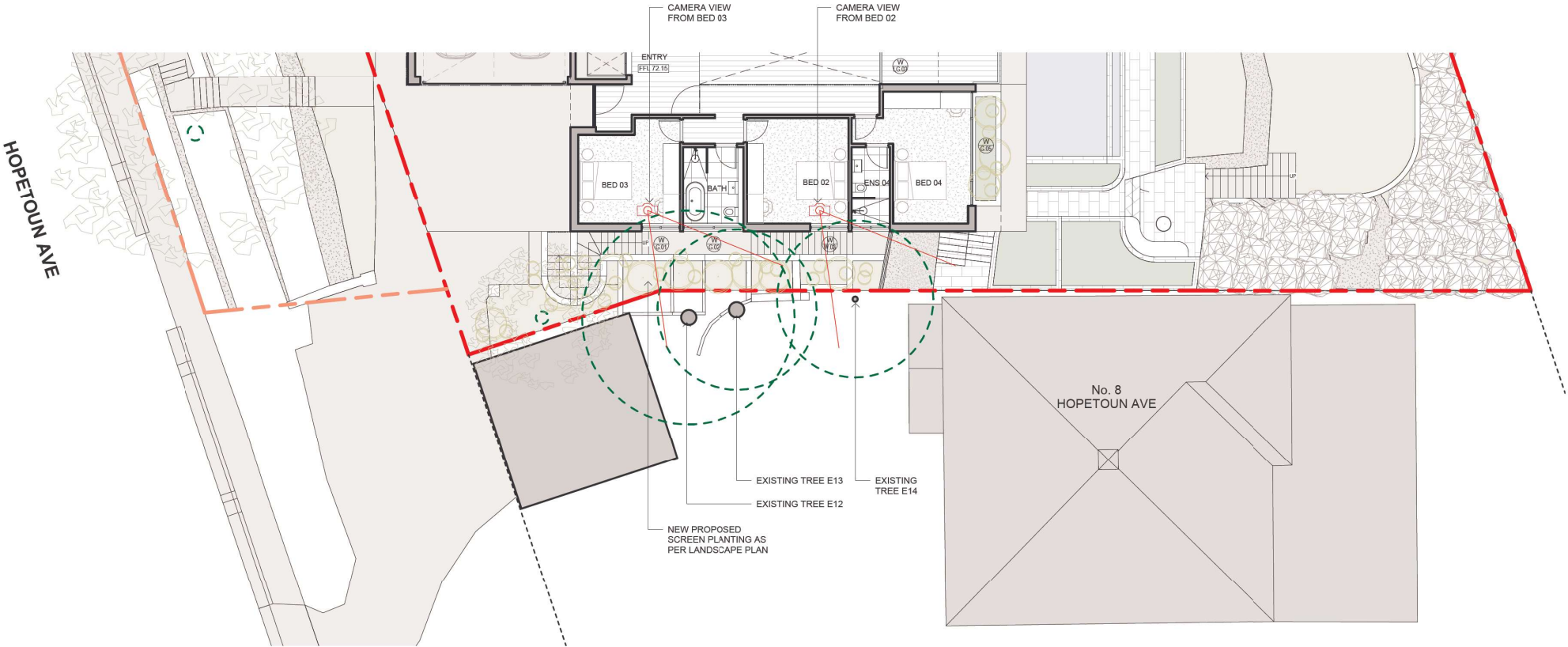


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								SHEET SIZE: A1	
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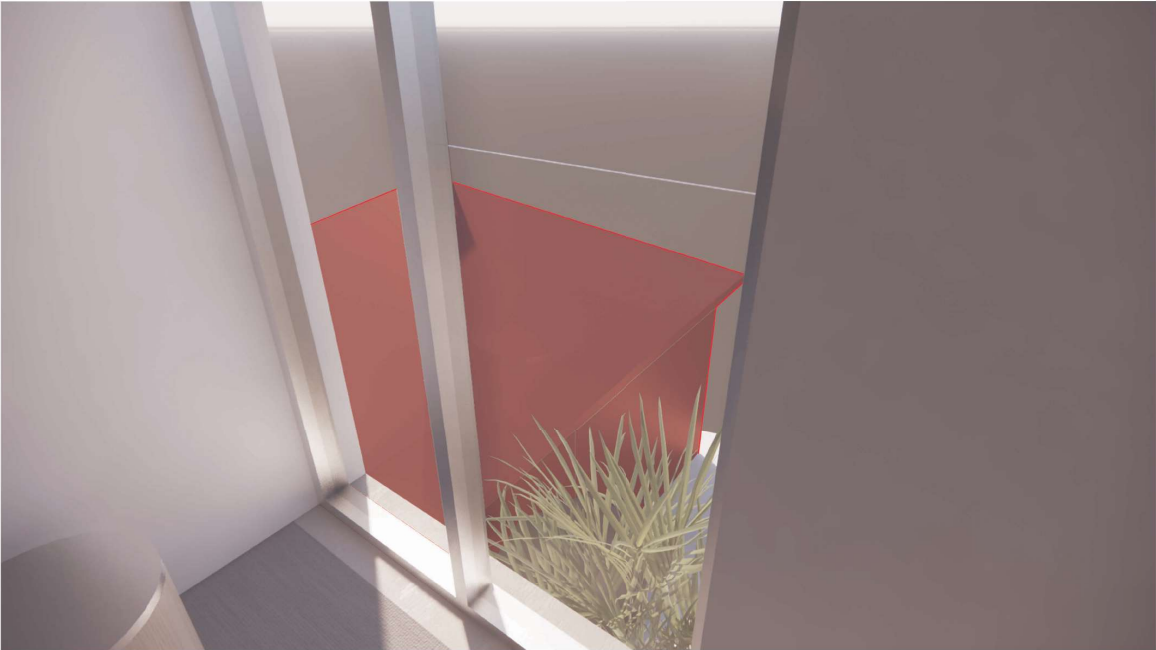
<small>NOTE: CHECK ALL DIMENSIONS ON SITE BEFORE COMMENCING FABRICATION. USE FIGURED DIMENSIONS AND DO NOT SCALE OFF THE DRAWINGS. COPYRIGHT: THIS DESIGN & DRAWING ARE NOT PERMITTED TO BE REPRODUCED WITHOUT THE PERMISSION OF THE OFFICE OF SMYTH & SMYTH PTY LTD.</small>	REV	DATE	DETAILS	SMYTH & SMYTH ARCHITECTURE + INTERIORS	<small>SMYTH AND SMYTH PTY LTD 305/77 DUNNING AVE. ROSEBERY NSW 2018 +612 9662 2720 SMYTHANDSMYTH.COM.AU <small>Nominated Architect: David Smyth (A259 No.100544)</small></small>	NEW DWELLING AT 6 HOPETOUN AVENUE, VAUCLUSE, NSW 2030 FOR KATE KELLY & CARL BENJAMIN PROJECT DESCRIPTION:	VISUAL IMPACT DIAGRAM - VIEW FROM No.4 HOPETOUN AVE SHEET NAME:	 NORTH	DATE: 01/10/23	SCALE:
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									987 PROJECT NO.	DA814 SHEET NO.
									A REV.	



1 KEY PLAN
1 : 100



VIEW FROM BED 03



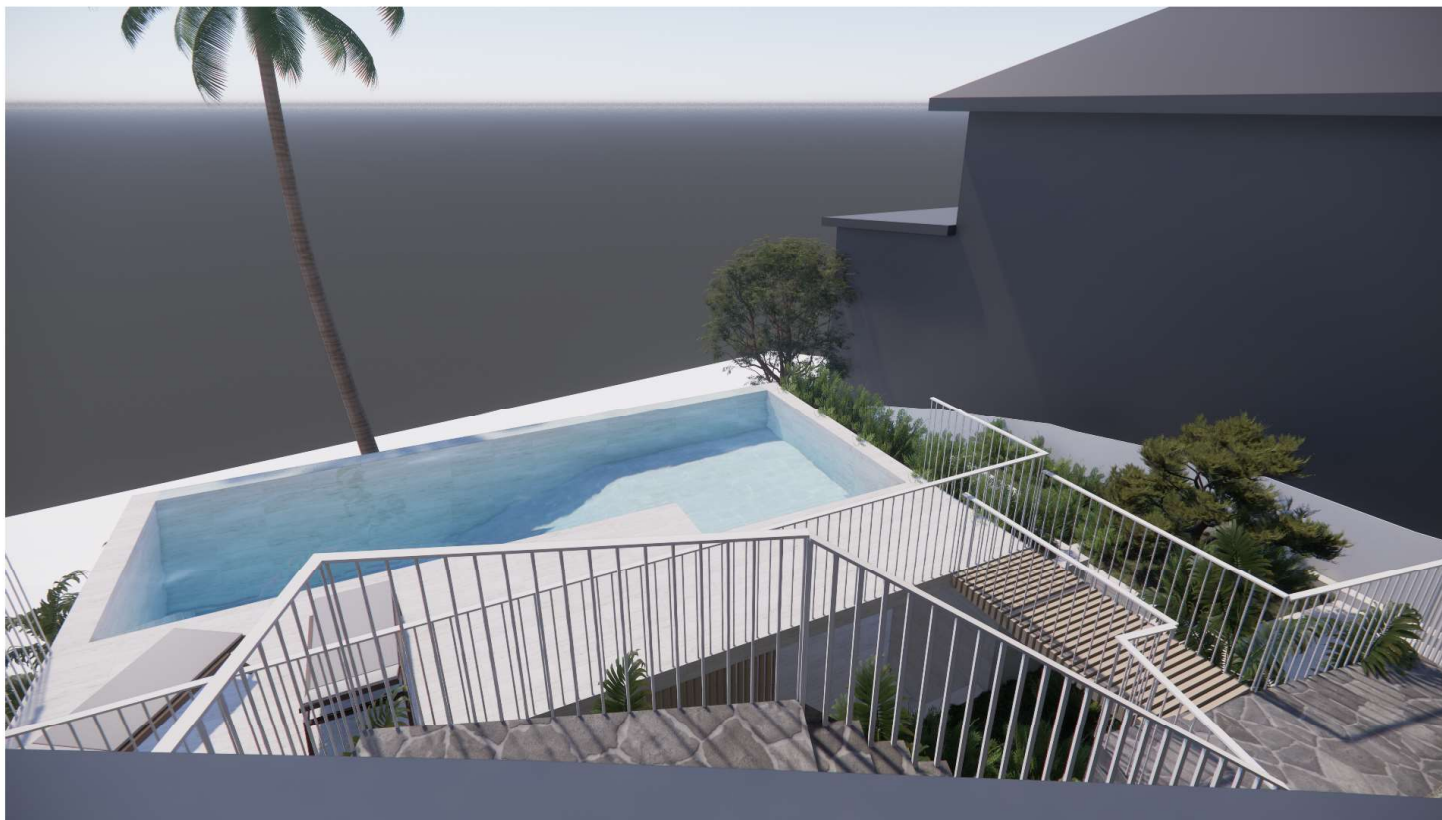
VIEW FROM BED 02

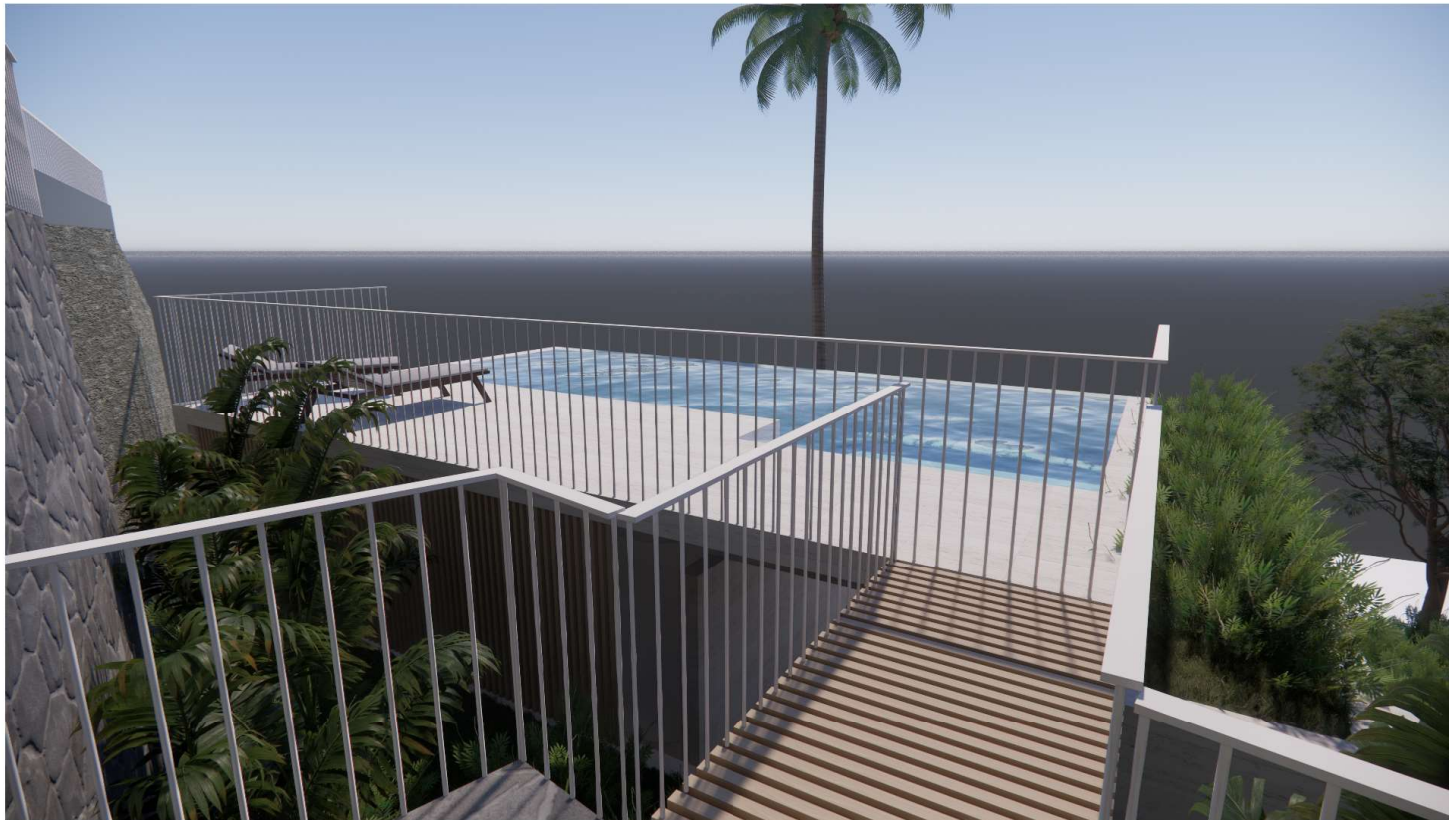
<div>NOTE: CHECK ALL DIMENSIONS ON SITE BEFORE COMMENCING FABRICATION. USE FIGURED DIMENSIONS AND DO NOT SCALE OFF THE DRAWINGS. COPYRIGHT: THIS DESIGN & DRAWING ARE NOT PERMITTED TO BE REPRODUCED WITHOUT THE PERMISSION OF THE OFFICE OF SMYTH & SMYTH PTY LTD.</div>	REV	DATE	DETAILS		<div>SMYTH & SMYTH</div> <div>ARCHITECTURE + INTERIORS</div>	<div>SMYTH AND SMYTH PTY LTD</div> <div>306/777 DUNNING AVE.</div> <div>ROSEBERY NSW 2038</div> <div>+612 9662 2720</div> <div>SMYTHANDSMYTH.COM.AU</div> <div>Nominated Architect: David Smyth (A258 No.100643)</div>	<div>NEW DWELLING AT</div> <div>6 HOPETOUN AVENUE, VAUCLUSE, NSW 2030</div> <div>FOR</div> <div>KATE KELLY & CARL BENJAMIN</div> <div>PROJECT DESCRIPTION:</div>	<div>VISUAL IMPACT DIAGRAM - VIEW OVERLOOKING No.8 HOPETOUN AVE</div> <div>SHEET NAME:</div>	<div></div> <div>NORTH</div>	DATE: 03/31/23	SCALE: 1 : 100
	A	17.04.2023	ISSUE FOR DA	DRAWN: JY						CHECKED: DS	
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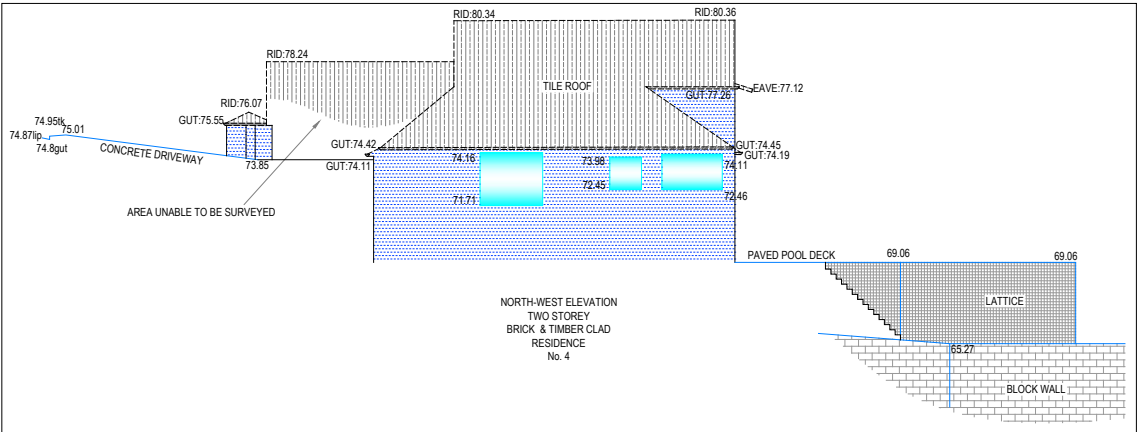
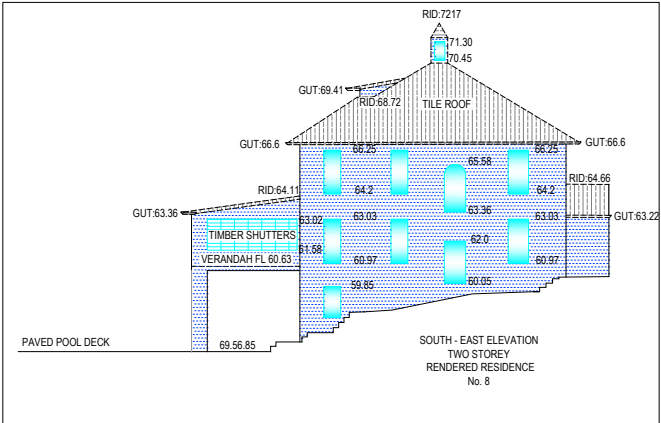






SHEET 2 OF 2 SHEETS

A1



WARNING

- THIS SURVEY HAS ADOPTED MGA 2020 COORDINATES WHICH ARE BASED ON THE NEW GDA2020 DATUM.
- THESE MGA2020 EASTING AND NORTHING COORDINATES ARE APPROXIMATELY 1.8 METRES DIFFERENT TO THE MGA94 COORDINATES BASED ON THE GDA94 DATUM.
- GDA2020 IS A STATIC DATUM - JUST LIKE GDA94 - THE COORDINATES OF FEATURES DO NOT CHANGE WITH TIME.
- FROM 2022 MGA94 COORDINATES WILL NO LONGER BE AVAILABLE.
- HEIGHTS SHOWN ON THIS PLAN ARE STILL RELATED TO THE AUSTRALIAN HEIGHT DATUM (AHD71).

ISSUE	DATE	AMENDMENT	SURV	CHK
A	03/11/20	ORIGINAL ISSUE	PB	BJ
B	02/02/23	ADDITIONAL DETAIL AND FRONT SETBACKS	JM	CT



NICHOLAS CASSIDY (ID: SU009019)
REGISTERED LAND SURVEYOR

GENERAL NOTES

ONLY TREES GREATER THAN 3.5 METRES IN HEIGHT ARE SHOWN ON THIS PLAN AND THEIR POSITIONS ARE DIAGRAMMATIC ONLY AND MAY REQUIRE ADDITIONAL SURVEY WHERE CRITICAL TO DESIGN.

CONTOURS ARE INDICATIVE AT GROUND FORM ONLY. SPOT LEVELS ONLY SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION.

LEVELS ARE ON AUSTRALIAN HEIGHT DATUM (AHD).

ALL SETOUT LEVELS MUST BE REFERRED TO THE BENCH MARK SHOWN ON THIS PLAN.

BOUNDARY NOTES

A BASIC BOUNDARY SURVEY HAS BEEN DONE SUITABLE FOR DA LODGEMENT PURPOSES.

BOUNDARIES HAVE NOT BEEN MARKED.

SURVEY INFORMATION NOTES

THE ORIGIN OF COORDINATES COMES FROM SSM42767 E340478.837 N625117.908 CLASS B POSITIONAL UNCERTAINTY (PU) N/A (MGA2020) ADOPTED FROM SCIMS DATED 30/10/2020.

THE ORIGIN OF LEVELS COMES FROM SSM42767 RL80 256 CLASS LB POSITIONAL UNCERTAINTY (PU) 0.01 ADOPTED FROM SCIMS DATED 30/10/2020.

THE ORIENTATION OF THIS PLAN IS MGA NORTH WHICH HAS BEEN DETERMINED BY DP1262428.

CERTIFICATE OF TITLE NOTES

THE FOLLOWING INFORMATION RELATES TO THE RESPECTIVE CERTIFICATE OF TITLE OF EACH LOT:

- LOT 8 IN DP378667 (CT EDITION 6 DATED 23/03/2022 SEARCH DATE 09/02/2023)
- AFFECTED BY:
 - COVENANT (60915)
 - COVENANT (A695685)
 - POSITIVE COVENANT (AG918669)

COVENANTS AND RESTRICTIONS NOTED ON THE TITLE HAVE NOT BEEN INVESTIGATED. THESE SHOULD BE INVESTIGATED PRIOR TO DESIGN TO ENSURE ANY FUTURE DEVELOPMENT COMPLIES.

SERVICES NOTES

ONLY THOSE SERVICES VISIBLE AT THE TIME OF SURVEY HAVE BEEN LOCATED AND ARE QUALITY LEVEL A AS DEFINED BY AS 5488.1:2019.

UNDERGROUND SERVICES HAVE BEEN PLOTTED FROM 'DIAL-BEFORE-YOU-DIG' PLANS, ARE QUALITY LEVEL D AS DEFINED BY AS 5488.1:2019 AND ARE ONLY CURRENT AT THE DATE OF SEARCH.

ALL RELEVANT AUTHORITIES MUST BE CONTACTED TO DETERMINE THE FULL EXTENT OF SERVICES PRIOR TO ANY PLANNING OR WORKS NEAR THE SITE.

LEGEND

TAG	DESCRIPTION
BRW	BRICK RETAINING WALL
BR	BOTTOM OF WALL
CL	CENTRAL LINE
COM	COMMUNICATIONS PIT
GUT	KERB GUTTER
LIP	LIP LINE
PP	POWER POLE
SIP	SEWER INSPECTION SHAFT
SM	SEWER MANHOLE
SSRW	SANDSTONE RETAINING WALL
SUB	SUBSTATION
TK	TOP OF KERB
TW	TOP OF WALL
VC	VEHICLE CROSSING

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PROJECT:

DETAIL AND LEVEL SURVEY OF LOT 8 IN DP378667

6 HOPETOUN AVENUE
VAUCLUSE

CLIENT: POREBSKI ARCHITECTS MICHELLE COE

FILE: 8312 6 HOPETOUN AVE VAUCLUSE CONTOURS REV B

LGA: WOOLLAHRA

REF: 8312 CONTOURS: 0.5m

ISSUE: B DATUM: AHD

SURVEY DATE: 02/02/2023 AZIMUTH: MGA2020

SCALE: NTS SHEET 2 OF 2 SHEETS



SDG Pty Ltd
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t: (02) 9630 7955 w: sdg.net.au
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WYER & CO

LANDSCAPE DA DOCUMENTATION - REV 02 - 20.12.2023

6 Hopetoun Avenue,
Vaucluse, NSW 2030

COUNCIL REQUIREMENT'S - WOOLLAHRA MUNICIPAL COUNCIL RESIDENTIAL DEVELOPMENT APPLICATION
THE LANDSCAPE PLAN IS IN GENERAL ACCORDANCE WITH COUNCIL PLANNING CONTROLS:
• DCP (WOOLLAHRA RESIDENTIAL DEVELOPMENT CONTROL PLAN 2015 AMENDMENT 2I) CHAPTER B3 - GENERAL DEVELOPMENT CONTROLS & CHAPTER E3 - TREE MANAGEMENT.

LANDSCAPE AREA CALCULATIONS - REFER TO DRAWING DA_07 FOR LANDSCAPE AREA, DEEPSOIL AND TREE CANOPY CALCULATIONS

ARBORICULTURAL ASSESSMENT - REFER TO ARBORICULTURAL IMPACT ASSESSMENT PREPARED BY BOTANICS, TREE PEOPLE PTY LTD DATED MARCH 2023

LANDSCAPE INSTALLATION SPECIFICATION

- PLANTER BEDS
- Soil for plantings over slab or contained areas. Minimum soil depths for planting on any slab:
 - Trees: Min 1000mm excluding 75mm mulch
 - Shrubs: Min 600mm excluding 75mm mulch
 - Turf: Min 300mm
 - Suitable drainage implemented through use of ag lines, drainage flow cell and geotech fabric.
 - Soil to be ANL Planter Box Mix, or equivalent. Blend of soil, coarse sand, graded ash, nepean sand, composted sawdust, botany humus and composted pine bark.
 - Soil to be between 20-50mm below top of retaining wall height, to allow for dropping.

- TURFING
- Turf to be laid on minimum 100mm turf underlay.
 - Turf underlay to be ANL Sand / Soil Blend, or equivalent.
 - Turf to be Sir Walter Turf – Premium Buffalo Grass (Registered PBR), supplied by President Turf, or equivalent.

- MULCHING
- Place mulch to minimum depth of 75mm, clear of plant stems, and rake to an even surface flush with the surrounding finished levels and consistent in depth.
 - Trees in lawn areas to have 750mm diameter of mulch surrounding.
 - Mulch for general garden areas, pots, and planters to be Australian Native Landscapes (ANL) Greenlife Mulch and Compost’, or equivalent.

- TREE PLANTING
- Excavate holes in accordance with dimension of container. The depth of the holes is to be equivalent to the container height plus 100mm and the width of the hole is to be twice that of the container.
 - Locate tree to centre of hole and backfill with soil. Firm about root ball.
 - All plant material, 45 Litres or over, to be staked.

- IRRIGATION
- Automated irrigation system to be implemented. Reputable irrigation brands are to be sourced.
 - Use drip lines with emitters at 300mm spacing’s for all garden beds.
 - Use pop-up spray heads for all lawn areas. Pop-up spray heads are to be spaced according to product specification.
 - Conceal irrigation below the mulch layer in planting areas and 150mm below the surface of turf areas. Conceal all components including pipework, fittings, valves, and control equipment.

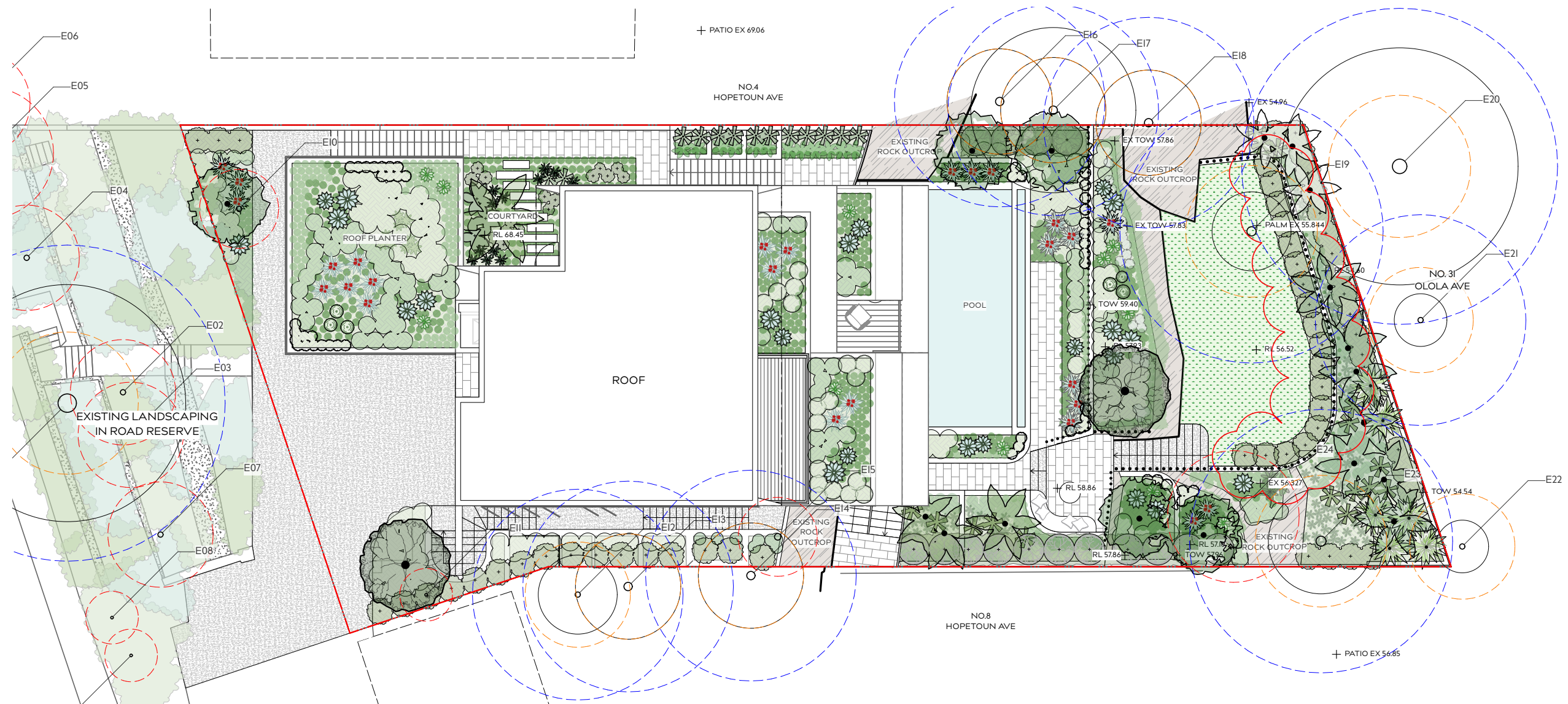
CONTROLS

Minimum % required of Native Species of the Plant Schedule:	50%
Proposed % of Australian Native Species of the Plant Schedule:	91%
Proposed % of Indigenous to Woollahra Area Species of the Plant Schedule:	62%

EXISTING TREE SCHEDULE					
TREE NO.	GENUS SPECIES	COMMON NAME	HEIGHT	CANOPY	ACTION/COMMENT
E01	Glochidion ferdinandi	Cheese Tree	9000	9000	Retain
E02	Olea europaea	Olive	6000	4000	Remove
E03	Olea europaea	Olive	6000	4000	Remove
E04	Pittosporum undulatum	Sweet Pittosporum	4000	4000	Remove
E05	Ficus macrocarpa hillii	Hills Weeping Fig	6000	5000	Remove
E06	Olea europaea	Olive	6000	4000	Remove
E07	Olea europaea	Olive	6000	4000	Remove
E08	Ficus pumila	Climbing Fig	4000	2000	Remove
E09	Glochidion ferdinandi	Cheese Tree	3000	2000	Remove
E10	Syagrus romanzoffianum	Cocos Palm	7000	3000	Remove
E11	Hibiscus rosinensis	Hibiscus	3000	2000	Remove
E12	Archontophoenix cunninghamiana	Bangalow Palm	7000	3000	Retain
E13	Strelitzia	Bird of Paradise	5000	4000	Retain
E14	Dypsis lutescens	Golden Cane Palm	6000	4000	Retain
E15	Plumeria acutifolia	Frangipani	6000	3000	Remove
E16	Musa acutifolia	Banana Tree	5000	4000	Retain
E17	Musa acutifolia	Banana Tree	5000	4000	Retain
E18	Musa acutifolia	Banana Tree	5000	4000	Retain
E19	Washingtonia robusta	Mexican Fan Palm	12000	3000	Retain
E20	Syzygium australis	Brush Cherry	12000	9000	Retain
E21	Livistona australis	Cabbage-free Palm	5000	2000	Retain
E22	Archontophoenix cunninghamiana	Bangalow Palm	7000	2000	Retain
E23	Brachychiton populous	Kurrajong	8000	4000	Retain
E24	Monstera deliciosa	Philodendron	8000	5000	Remove

REFER TO ARBORICULTURAL ASSESSMENT FOR DETAILS

PLANT SCHEDULE							
ID	QTY	BOTANICAL NAME	COMMON NAME	SCHEDULED SIZE	MATURE SPREAD	MATURE HEIGHT	REMARKS
Trees							
Bin	5	Banksia integrifolia	Coastal Banksia	75 Ltr	6.0 - 8.0 m	5.0 - 8.0 m	AN
Bru	2	Brachychiton rupestris	Narrow-leaved Bottle Tree	200 Ltr	6.0 - 8.0 m	4.0 - 8.0 m	AN
Palms - Cycads							
Hfo	4	Howea forsteriana	Kentia Palm	75 Ltr	3.5 - 5.0 m	4.0 - 5.0 m	AN
Rex	13	Rhapis excelsa	Lady Palm	75 Ltr	1.0 - 2.0 m	3.0 - 4.0 m	
Shrubs							
Sau	57	Syzygium australe	Lilly Pilly	400 mm	1.2 - 2.0 m	1.5 - 3.0 m	AN, maintained at specified height
Wfl	15	Waterhousea floribunda	Weeping Lilly Pilly	400 mm	3.5 - 6.0 m	2 - 3.0 m	WI, maintained at specified height
Wfr	98	Westringia fruticosa	Coast Rosemary	200 mm	0.6 - 0.8 m	0.6 - 0.8 m	WI
Perennials							
Abr	3	Alocasia brisbanensis	Cunjevoi	300 mm	1.5 - 2.0 m	1.5 - 2.0 m	AN
Aca	12	Alpinia caerulea	Native Ginger	200 mm	0.8 - 1.0 m	1.0 - 1.5 m	AN
Ael	12	Aspidistra elatior	Cast Iron Plant	200 mm	0.3 - 0.4 m	0.5 - 1.0 m	
Ani	16	Asplenium nidus	Birds Nest Fern	200 mm	0.6 - 1.0 m	0.6 - 1.0 m	AN
Dex	6	Doryanthes excelsa	Gymea Lily	300 mm	1.5 - 2.0 m	1.5 - 3.0 m	AN
Lre	16	Ligularia reniformis	Leopard Plant	200 mm	0.1 - 0.4 m	0.1 - 0.4 m	
Grasses							
Llo	157	Lomandra longifolia	Spiny-headed Mat Rush	140 mm	0.6 - 0.8 m	0.6 - 0.8 m	WI
Dco	87	Dianella congesta	Flax Lily	140 mm	0.4 - 0.6 m	0.4 - 0.6 m	WI
Groundcovers							
Carpo	261	Carpobrotus glaucescens	Pig Face	140 mm	0.6 - 0.9 m	0.2 - 0.4 m	AN
Cgl	52	Casuarina glauca 'Cousin It'	Casuarina 'Cousin It'	200 mm	0.3 - 1.0 m	0.0 - 0.3 m	AN
Dre	732	Dichondra repens	Kidney Weed	140 mm	0.9 - 1.2 m	0.0 - 0.3 m	WI
Succulents							
Agb	13	Agave "Blue Glow"	Century plant 'Blue Glow'	200 mm	0.6 - 0.8 m	0.6 - 0.8 m	Low water consumption
Agm	28	Agave geminiflora	Twin Flowered Agave	200 mm	0.6 - 1.0 m	0.6 - 1.0 m	Low water consumption
Arb	26	Aloe 'Ruby Blaze'	Dwarf Aloe	200 mm	0.6 - 0.9 m	0.6 - 0.9 m	Low water consumption
Crp	1	Cereus peruvianus	Peruvian Apple Cactus	300 mm	0.6 - 1.0 m	2.0 - 2.5 m	Low water consumption
Ein	3	Euphorbia ingens "Cowboy"	Euphorbia Cowboy	300 mm	0.3 - 0.5 m	2.0 m	Low water consumption
PaP	7	Pachycereus pringlei	Mexican Giant Cardon	300 mm	0.6 - 0.8 m	2.0 - 3.0 m	Low water consumption
Sse	41	Senecio serpens	Blue Chalk Sticks	140 mm	0.3 - 0.6 m	0.3 - 0.6 m	Low water consumption
Ferns							
Cco	7	Cyathea cooperi	Coin Spot Tree Fern	75 Ltr	3.0 - 5.0 m	4.5 - 6.0 m	AN
Dan	3	Dicksonia antarctica	Smooth Tree Fern	75 Ltr	2.5 - 3.0 m	4.5 - 6.0 m	AN
Das	69	Doodia aspera	Prickly Rasp Fern	140 mm	0.4 m	0.6 m	AN
Total:	1746						
KEY: AN: AUSTRALIAN NATIVE WI: WOOLLAHRA INDIGENOUS							



PROJECT

BENJAMIN-KELLY RESIDENCE
6 HOPETOUN AVENUE,
VAUCLUSE NSW

DRAWING TITLE:

DEVELOPMENT APPLICATION
Landscape Site Plan

DRAWN BY
AD
REVISION
02

DATE
20.12.2023

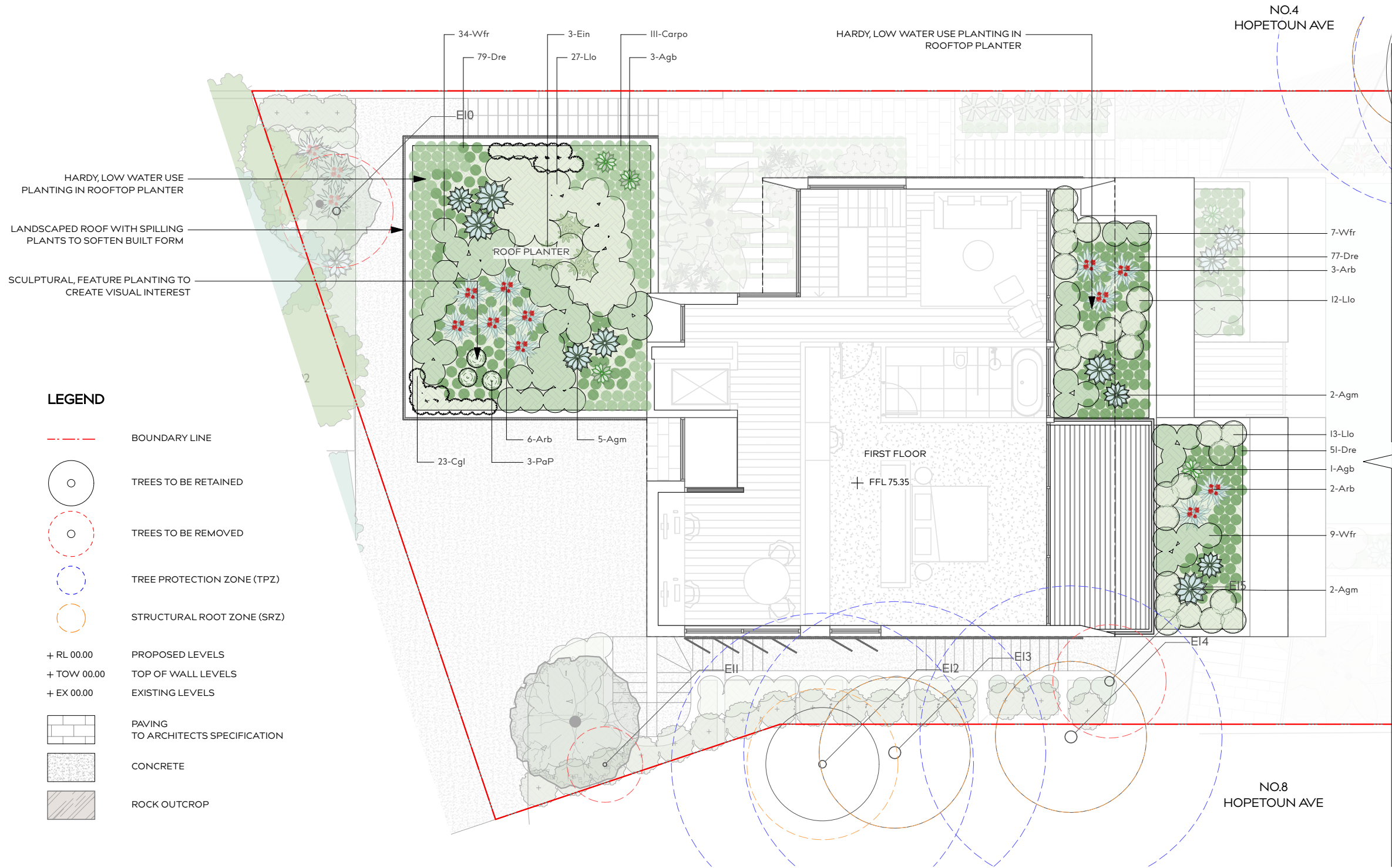
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JOB NUMBER
22.090

DRAWING NUMBER
DA_01

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PROJECT
BENJAMIN-KELLY RESIDENCE
6 HOPETOUN AVENUE,
VAUCLUSE NSW

DRAWING TITLE
DEVELOPMENT APPLICATION
Landscape Plan - First Floor

DRAWN BY
AD
REVISION
02

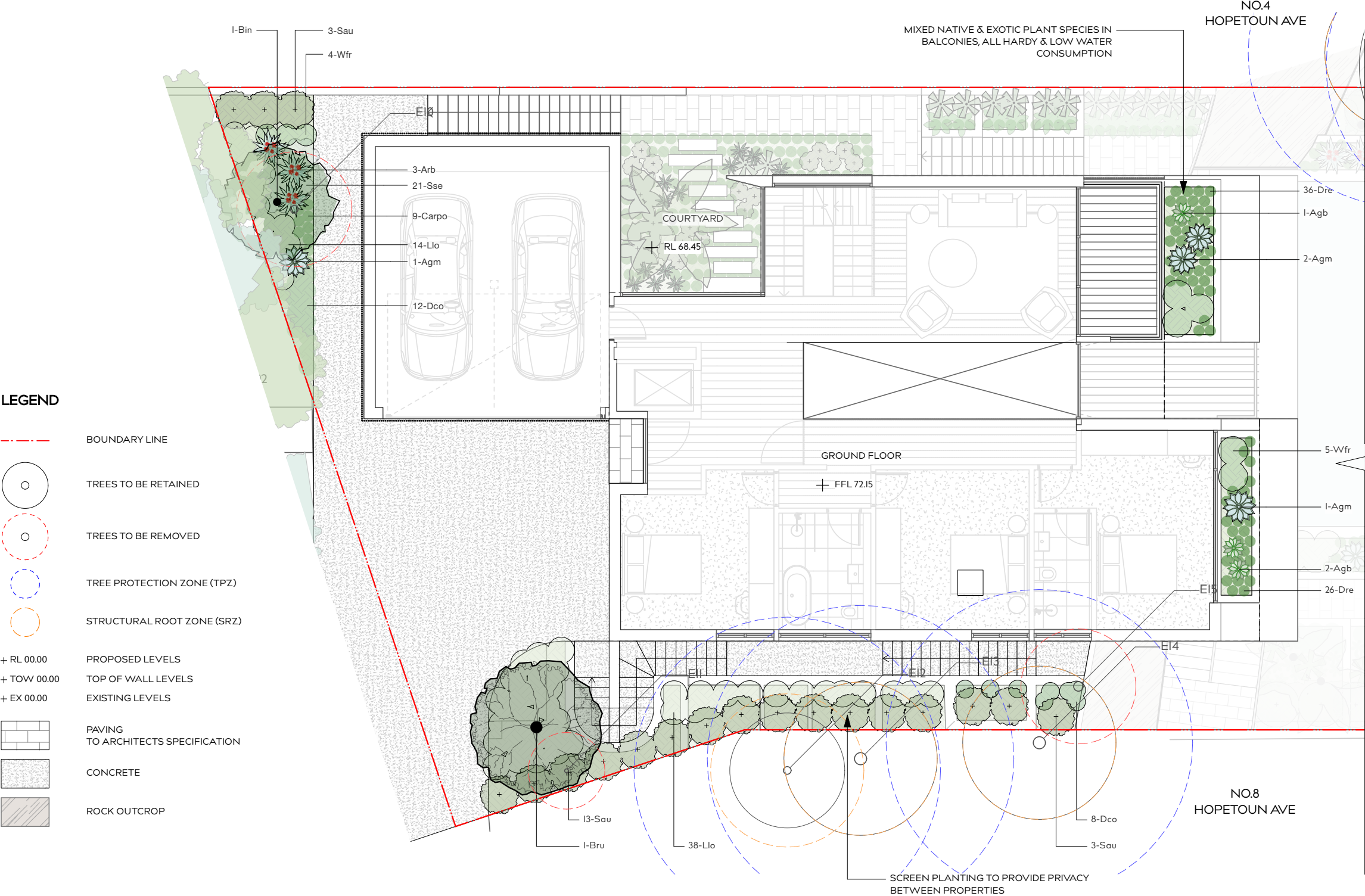
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JOB NUMBER
22.090

DRAWING NUMBER
DA_02

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PROJECT

BENJAMIN-KELLY RESIDENCE
6 HOPETOUN AVENUE,
VAUCLUSE NSW

DRAWING TITLE

DEVELOPMENT APPLICATION
Landscape Plan - Ground Floor

DRAWN BY

AD

REVISION

02

DATE

20.12.2023

SCALE

1:100 @ A3

JOB NUMBER

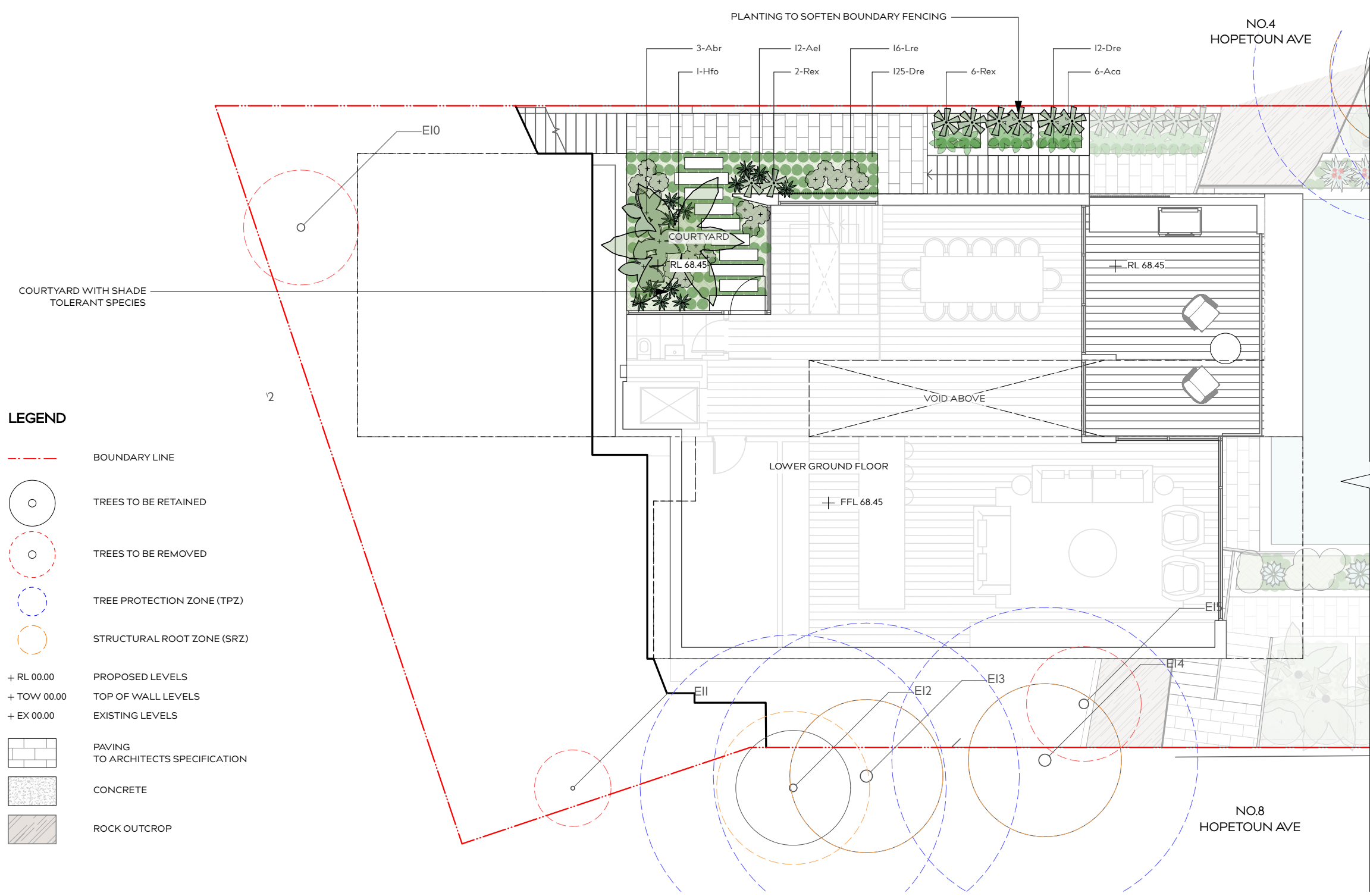
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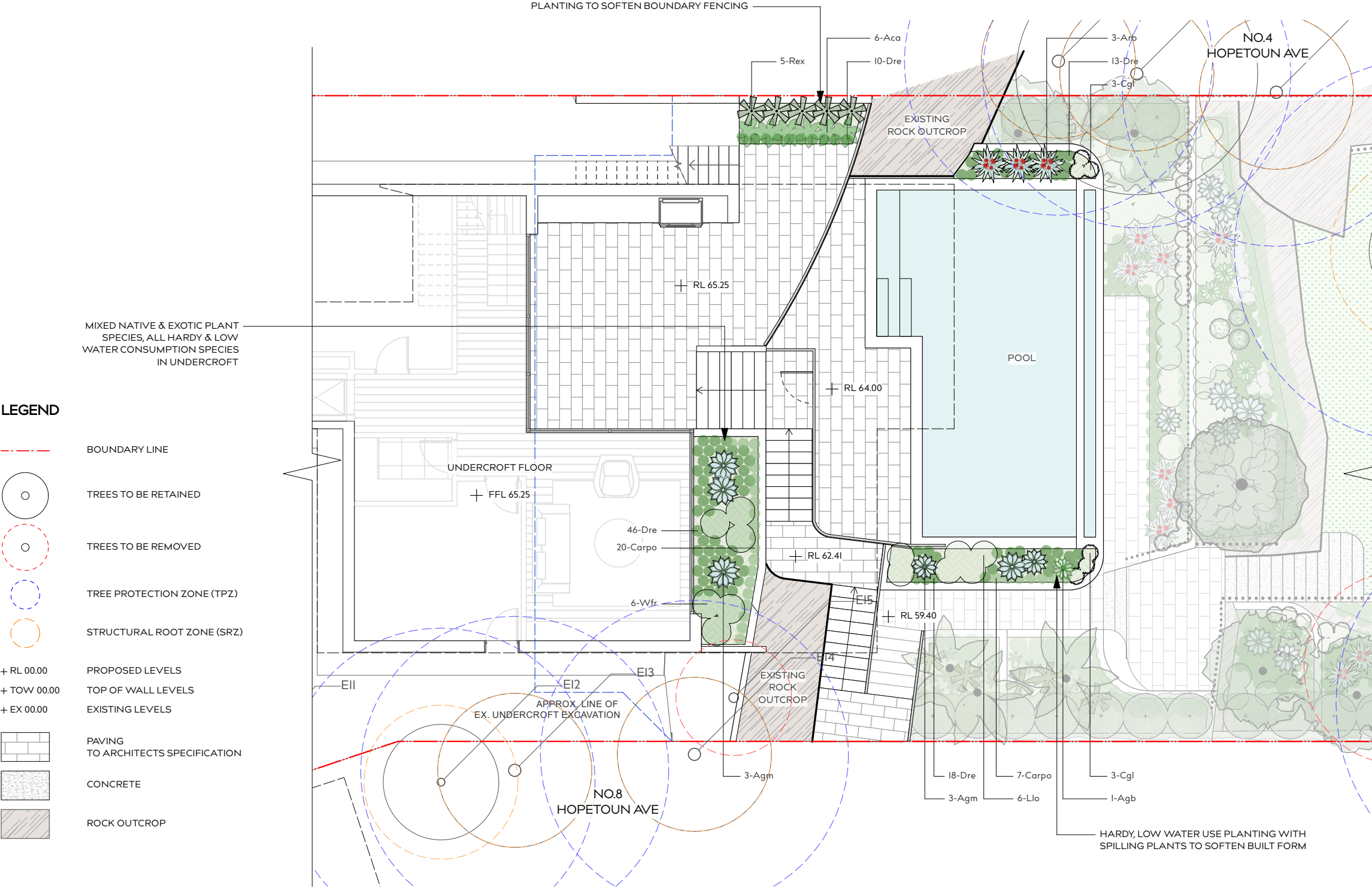
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PROJECT	DRAWING TITLE	DRAWN BY	DATE	JOB NUMBER	DRAWING NUMBER	WYER & CO
BENJAMIN-KELLY RESIDENCE 6 HOPETOUN AVENUE, VAUCLUSE NSW	DEVELOPMENT APPLICATION Landscape Plan - Lower Ground	AD	20.12.2023	22.090	DA_04	
		REVISION 02	SCALE 1:100 @ A3	THIS DRAWING IS PROTECTED BY COPYRIGHT. INFORMATION PROVIDED WITHIN THESE DRAWINGS MUST BE CONFIRMED BY CONTRACTOR TO MEET SITE CONDITIONS AND BUILDING STANDARDS. ALL DIMENSIONS MUST BE VERIFIED ON SITE.		



PROJECT	DRAWING TITLE.	DRAWN BY	DATE	JOB NUMBER	DRAWING NUMBER	WYER & CO
BENJAMIN-KELLY RESIDENCE 6 HOPETOUN AVENUE, VAUCLUSE NSW	DEVELOPMENT APPLICATION Landscape Plan - Undercroft	AD	20.12.2023	22.090	DA_05	
		REVISION 02	SCALE 1:100 @ A3	THIS DRAWING IS PROTECTED BY COPYRIGHT. INFORMATION PROVIDED WITHIN THESE DRAWINGS MUST BE CONFIRMED BY CONTRACTOR TO MEET SITE CONDITIONS AND BUILDING STANDARDS. ALL DIMENSIONS MUST BE VERIFIED ON SITE.		



PROJECT

BENJAMIN-KELLY RESIDENCE
6 HOPETOUN AVENUE,
VAUCLUSE NSW

DRAWING TITLE:

DEVELOPMENT APPLICATION
Landscape Plan - Garden Level

DRAWN BY
AD
REVISION
02

DATE
20.12.2023

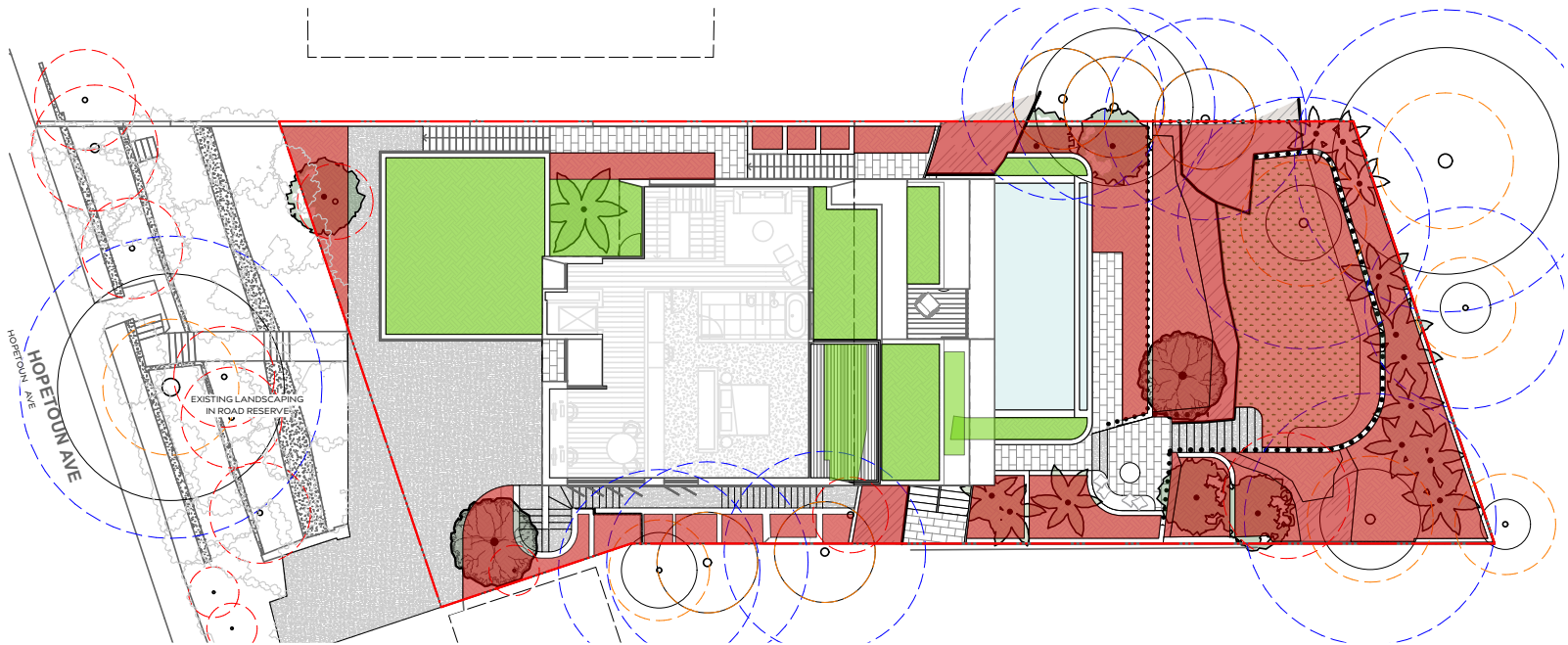
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JOB NUMBER
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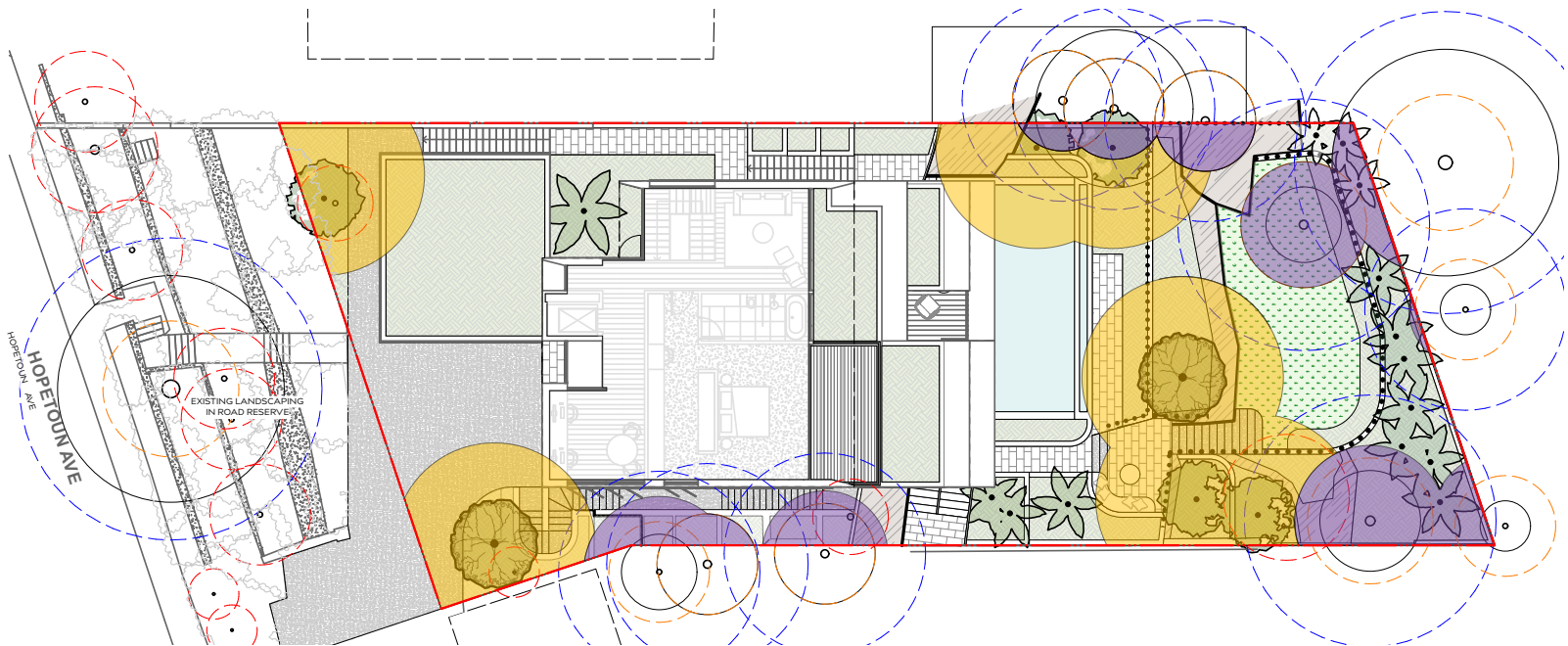
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DA 06

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01 | DEEP SOIL LANDSCAPED AREAS



02 | TREE CANOPY

LANDSCAPE AREA CALCULATIONS

SITE AREA = 726 m²

LANDSCAPED AREA:
REQUIRED DEEP SOIL LANDSCAPE AREA OF SITE = 35% (254.1 m²)
PROPOSED DEEP SOIL LANDSCAPE AREA OF SITE = 36.5% (265 m²)

FRONT SETBACK:
FRONT SETBACK AREA = 136.2 m²
REQUIRED DEEP SOIL LANDSCAPED AREA OF FRONT SETBACK = 40% (54.5 m²)
EXISTING DEEP SOIL LANDSCAPED AREA OF FRONT SETBACK = 40% (13.4 m²)
PROPOSED DEEP SOIL LANDSCAPED AREA OF FRONT SETBACK = 15.7% (21.4 m²)
PROPOSED DEEP SOIL LANDSCAPED AREA OF FRONT SETBACK IMPROVED FROM EXISTING

TREE CANOPY:
REQUIRED TREE CANOPY AREA = 35% OF SITE AREA (254.1 m²)
EXISTING TREE CANOPY AREA = 11% (79.2 m²)
PROPOSED TREE CANOPY AREA = 26% (177.4 m²)
TOTAL PROPOSED TREE CANOPY AREA = 35.3% OF SITE AREA (256.6 m²)

LEGEND

- BOUNDARY LINE
- TREES TO BE RETAINED
- TREES TO BE REMOVED
- TREE PROTECTION ZONE (TPZ)
- STRUCTURAL ROOT ZONE (SRZ)
- PLANTER/LANDSCAPED AREA
- DEEP SOIL LANDSCAPED AREA
- EXISTING TREE CANOPY AREA
- PROPOSED TREE CANOPY AREA

PROJECT
BENJAMIN-KELLY RESIDENCE
6 HOPETOUN AVENUE,
VAUCLUSE NSW

DRAWING TITLE
DEVELOPMENT APPLICATION
Landscape Calculations

DRAWN BY
AD

REVISION
02

DATE
20.12.2023

SCALE
NTS @ A3

JOB NUMBER
22.090

DRAWING NUMBER
DA_07

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Completion Date: 29 November 2023

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 157/2023/1
ADDRESS: 6 Hopetoun Avenue VAUCLUSE 2030
PROPOSAL: Demolition of existing house and erection of a new multi-storey dwelling house, swimming pool, landscaping and siteworks.
FROM: Mr S Lujang
TO: Mr D Booth

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Revised Statement of Environment Effects, referenced 21-122-SEE Final 2, prepared by BBC Consulting Partners, dated May 2023.
- Revised Architectural Plans, referenced 987, prepared by Smyth and Smyth P/L, dated 03.10.2023.
- Survey, referenced 8312, prepared by SDG P/L, dated 02/02/2023.
- Revised Stormwater Management Plan, referenced 2941, prepared by Zimmerman Engineers, dated 6/06/2023.
- Geotechnical Report, referenced 35656SFrptRev1, prepared by JK Geotechnics, dated 11 July 2023.

3. ASSESSMENT

Comments have been prepared on the following.

a. Site Drainage comments

The submitted revised stormwater management plans are considered satisfactory in principle subject to refinements at the CC stage. It is noted that the applicant has submitted a stormwater letter stating easement rejection from the downstream property owner and highlighting stormwater controls proposed in consultation with Council's Drainage Engineer, Michael Casteleyn. The proposal has been considered acceptable by Michael given that the situation was a bit unique. (HPE 23/223340).

The site is within OSD required area and a rainwater tank has been proposed as an alternative to comply with Chapter E2.2.9 of the Council's DCP. Stormwater runoff from the site will be discharged to the street kerb and gutter by charged means via a stand pipe. .

Council's Infrastructure & Sustainability Services Division is satisfied that adequate provision could be made for the disposal of stormwater from the land it is proposed to develop and complies with Chapter E2 "Stormwater and Flood Risk Management" DCP.

b. Flooding & Overland Flow comments

The site is not subject to flood related controls.

c. Impacts on Council Infrastructure comments

There are no works proposed within the Council's road reserve other than the construction of a stormwater outlet charged pipe. This charged pipe was considered acceptable in principle by Council's Drainage Engineer. This work will be subject to S138 assessment which will be conditioned accordingly.

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

Condition will be imposed to ensure the proposed double garage will meet the minimum dimensions requirement set in AS2890.1. Vehicular access for the proposed development will be made by using the existing shared crossing.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by JK Geotechnics, ref 35656FrptRev1, dated 11 July 2023 has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 7.0 metres from the existing ground surface for the proposed lowest finished floor level.

The report identified that the subsurface conditions as:

- a) Concrete pavement was encountered at the surface in BH1 and BH2 with 250mm and 100mm thickness respectively.*
- b) Silty sand fill was encountered below pavement to a depth of 1.1m below existing surface level with gravel inclusions causing refusal in BH2. The fill comprised of sand and silty sand with sandstone gravel, sandstone cobbles and root fibres.*
- c) Sandstone bedrock was encountered at a shallow depth of 1.6m in BH1 and BH2.*
- d) Groundwater was not encountered during and on completion of drilling. PVC standpipe was installed in BH2 with groundwater measured at 1.4m below surface ground level two weeks after the installation date. However, given the site elevation this is not considered to be groundwater table but rather seepage flowing along the soil-rock interface downslope that was captured by the well.*

The report made comments and recommendations on the following:

- Retention and Support,*
- Vibration Monitoring,*
- Excavation method,*
- Hydrogeological Considerations,*
- Basement Slab,*
- Subgrade Preparation,*
- Further Geotechnical input.*

Council's Infrastructure and Sustainability Division has no objections to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.

4. RECOMMENDATION

Council's Development Engineer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
35656FrptRev1	Geotechnical Report	JK Geotechnics	11 July 2023
2941	Stormwater Management Plans	Zimmerman Engineers	6/06/2023
S01-C			6/06/2023
S02-C			6/06/2023
S03-C			6/06/2023
S04-C			6/06/2023
S05-C			6/06/2023
S06-C			6/06/2023

A.8 Ancillary Aspect of the Development (Repair Damaged Infrastructure)

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

B.7 Public Road Assets Prior to Any Work/Demolition

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

C.5 Payment of Security, Levies and Fees

Property Damage Security Deposit (S138)	\$99,525	No	T115
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$645	No	T45

C.13 Road and Public Domain Works – Council Approval Required

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 issue of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- A stormwater outlet charged pipe across the nature strip shall be constructed by using 150mm x 75mm galvanised RHS in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. The kerb discharge must be located within the frontage of the site. Details showing the reinstatement of the nature strip due to the installation of the stormwater outlet pipe must be provided to the satisfaction of Council's Assets Engineers. Design longitudinal profile of the proposed stormwater outlet pipe, starting from the boundary junction pit to the street kerb must also be submitted for assessment,
- The reinstatement of all damaged footpath, kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers, and

- 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.

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.25 Soil and Water Management Plan – Submissions & Approval

C.36 Professional Engineering Details

C.40 Geotechnical and Hydrogeological Design, Certification & Monitoring

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical and hydrogeological report prepared by a Chartered Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Councils document "*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*" and Chapter E2.2.10 of Council's DCP. In particular, minimum two cored boreholes drilling to the depth of excavation must be carried out. The report must also include 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 details of cut-off walls or similar controls 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 to all below ground structures to prevent the entry of ground water/seepage water such that subsoil drainage/ seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of Council's DCP.
- 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.41 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.45 Parking Facilities

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) Minimum dimensions of 5.4m x 5.4, clear of any obstructions, shall be provided for the proposed double garage to comply with AS2890.1. These required dimensions and the design envelope around parked vehicle as per Figure 5.2 of AS2890.1 are to be clearly depicted on the revised architectural plans.

The proposed off-street parking spaces and vehicular access shall be designed in compliance with AS/NZS 2890.1: *Parking Facilities - Off-Street Car Parking*. Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking space(s) required to be provided and maintained by this consent.

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.51 Stormwater Management Plan

Prior to issue of any 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 detail the following:

- a) General design in accordance with stormwater management plans, referenced 2941-Issue C, prepared by Zimmerman Engineers, dated 6/06/2023, other than amended by this and other conditions,
- b) The installation of rainwater retention and reuse system (RWT) and a pumpout system with minimum storage volume of 77.4m³ 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. Details for the non-potable uses including notation to this requirement must be clearly depicted on the drawings.
- c) A minimum operating head of 2.5 metres must be provided for the charged system. All invert levels demonstrating compliance with this requirement must be clearly depicted on the elevation,
- 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) Only one stormwater outlet charged pipe with maximum discharge of 20 l/s will be permitted to comply with Council's DCP. An inspection opening must be
- f) Dimensions of all drainage pits and access grates must comply with AS3500,
- g) Compliance the objectives and performance requirements of the BCA, and
- h) 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 Council's 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.52 Non-gravity Drainage Systems

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

D.4 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 to be assessed by the Structural Engineer must include (but is not limited to):

No. 4 & 8 Hopetoun Avenue
No. 31 & 32 Olola Avenue

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. An approved copy of the 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 Section 6.6(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.6 Adjoining buildings founded on loose foundation materials

D.10 Work (Construction) Zone – Approval & Implementation

D.14 Erosion and Sediment Controls – Installation

E. Conditions which must be satisfied during any development work

E.7 Maintenance of Vehicular and Pedestrian Safety and Access

E.11 Maintenance of Environmental Controls

E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

E.13 Support of Adjoining Land Owners

E.14 Vibration Monitoring

E.15 Erosion and Sediment Controls – Maintenance

E.17 Disposal of Site Water during Construction

E.19 Site Cranes

E.20 Check Surveys

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.7 Commissioning and Certification of Systems and Works

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (section 6.4 (c))

H.12 Removal of Ancillary Works and Structures

H.13 Road Works (including footpaths)

H.20 Positive Covenant & 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 reuse and pumpout systems,

- c) that a rainwater retention and reuse system and pumpout system with minimum storage capacity of 77.4m³ have 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 toilets, laundry car washing and garden irrigation etc,
- e) that only one stormwater outlet charged pipe with maximum discharge rate of 20 l/s has been constructed in accordance with the approved stormwater plans,
- f) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- g) pipe invert levels and surface levels to Australian Height Datum, and
- h) 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. The PC must supply a copy of the WAE plans to Council together with the Final Occupation Certificate.

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

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

I.29 Ongoing Maintenance of the On-Site Stormwater Retention System

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

- a) permit stormwater to be temporarily retained and reused by the System;
- b) keep the system clean and free of silt rubbish and debris;
- c) maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- e) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- f) 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;
- g) 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
- h) 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

- a) 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

- b) 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

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation Report

K.24 Roads Act Application

13 July 2023

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 157/2023/1
ADDRESS: 6 Hopetoun Avenue VAUCLUSE 2030
PROPOSAL: Demolition of existing house and erection of a new multi-storey dwelling house, swimming pool, landscaping and siteworks.
FROM: David Prieto - Tree Officer
TO: Mr D Booth

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by BBC Consulting Planners Job.No.21-122 Rev.2, dated May 2023.
- Survey Plan No.1 & 2, Rev.B, drafted by SDG P/L, dated 02/02/2023
- Architectural Drawing Nos. DA000 Rev.B, DA001-004 Rev.A, DA101-103 Rev.A, DA104-105 Rev.B, DA201 Rev.A, DA202-203 & DA204 Rev.B, DA301 Rev.B, DA302 Rev.A, DA501-502 Rev.A, DA510-511 Rev.A, DA521 & DA601 Rev.A, DA701-703 Rev.A, DA801-802 Rev.A, DA811-814 Rev.A, DA821 & DA831 Rev.A and DA850 Rev.A, drawn by Smyth & Smyth, dated 27/06/2023
- Stormwater drainage Plan Nos. S01-S06 Rev.C, drawn by Zimmerman Engineers, dated 06/06/23
- Arboricultural Impact Assessment Report, written by George Palmer, Botanics P/L, dated March 2023
- Landscape Plan Nos.DA_01-07 Rev.1, designed by Wyer & Co, dated 02/05/2023

A site inspection was carried out on 29/06/2023.

Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

SUMMARY

The proposal is for demolition of the existing dwelling and garage and the erection of a new dwelling with garage, landscaping and a swimming pool at the rear. The new dwelling will extend over four levels, with ground and first floor level respectively at and above existing ground level at the front of the site, and with a lower ground level and an undercroft level at the rear.

The Arboricultural Impact Assessment has included a number of trees that are not prescribed. The report proposes the removal of a number of trees, most of them located within the Council verge. This is not supported. All trees outside of the property boundary have been conditioned to be retained.

One tree at rear proposed to be retained has been approved for removal in order to provide sufficient space for the rainwater tank to be relocated and installed and protect a large palm tree.

A total of twenty-three (23) trees have been identified within and adjacent to the site. Three (3) have been approved for removal and twenty (20) for retention and protection.

An amended Landscape Plan has been conditioned to be prepared to include an additional replacement tree and show trees approved for removal and trees conditioned to be retained.

The Tree and Landscape team support the proposal subject to the below tree conditions being included in the Development Application consent.

COMMENTS

Arboricultural Impact Assessment

The following tree numbering has been adopted from the Arborist Report prepared by George Palmer, Botanics P/L, dated March 2023. Additional numbering has been adopted to include additional trees not included on the AIA.

Located within the Council reserve – All must be retained and protected.

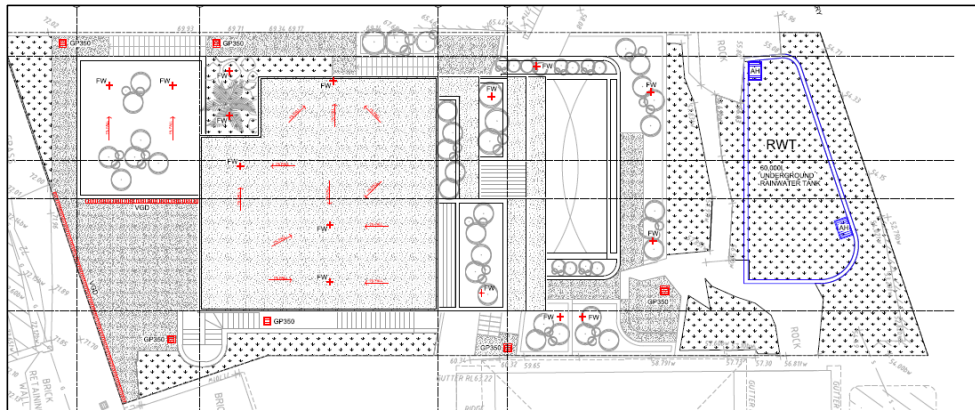
- Tree No.1 *Glochidion ferdinandii* (Cheese tree) is a large mature tree located within the road reserve and proposed to be retained. Existing landscape within the road reserve is proposed to be maintained as current. To be retained and protected during works.
- Tree Nos.2 & 3 *Olea europea var. africana* (African Olive). They are proposed to be removed. However they are located outside the property boundary and within the road reserve and shall be retained.
- Tree No.4 *Glochidion ferdinandii* (Cheese tree). It has been misidentified by the consulting arborist and propose for removal. It is an over mature tree in fair health and average condition. It is located within the Council verge and shall be retained and protected.
- Tree No.5 *Ficus microcarpa var. 'Hillii'* (Hills Weeping Fig) is proposed to be removed. It is located within the Council verge and shall be retained and protected.
- Tree Nos. 6 & 7 *Olea europea var. africana* (African Olive). They are proposed to be removed. However they are located outside the property boundary and within the road reserve and shall be retained and protected.
- Tree No.8 *Ficus pumila* (Creeping Fig) is proposed to be removed. It is not a prescribed tree, however it is located within the Council verge and shall be retained and protected.

- Tree No.9 *Glochidion ferdinandii* (Cheese tree) is proposed to be removed. It is not a prescribed tree, however it is located within the Council verge and shall be retained and protected.
- Tree No.9a *Eucalyptus microcorys* (Tallowwood). This tree has not been included in the report. This tree is located within the road reserve and adjacent to the existing driveway to east. This tree shall be protected during works to avoid trunk and branch damage.



Located on and adjacent to the property

- Tree No.10 *Syagrus romanzoffiana* (Cocos palm) is a mature tree located within the front setback of the property and proposed to be removed. It is an exempt species under the DCP and removal is supported subject to appropriate replacement.
- Tree No. 11 *Hibiscus rosa-sinensis* (Rose of China) is a shrub not prescribed under the DCP. It will not be included on the assessment.
- Tree No.12 *Archontophoenix cunninghamiana* (Bangalow palm). This is a palm tree located on the adjacent property. It is proposed to be retained and protected. Both the AIA and the LP show SRZ and TPZ that are incorrect. No objections to proposed works.
- Tree No.13 *Strelitzia reginae* (Bird of Paradise). This is a monocot plant (similar to Palms) located on the adjacent property. It is proposed to be retained and protected. Both the AIA and the LP show SRZ and TPZ that are incorrect. No objections to proposed works.
- Tree No.14 *Dypsis lutescens* (Golden Cane palm) This is a monocot plant (similar to Palms) located on the adjacent property. It is proposed to be retained and protected. Both the AIA and the LP show SRZ and TPZ that are incorrect. No objections to proposed works.
- Tree No.15 *Plumeria acutifolia* (Frangipani) is proposed to be removed. This tree is considered to be of low significance and removal will be supported.
- Tree Nos. 16-18 *Musa* sp. (Banana) are located on the adjacent property. No objection to proposed works.
- Tree No.19 *Washingtonia robusta* (Mexican Fan palm). This is a palm tree is located within the rear setback of the property. It is proposed to be retained and protected on the AIA and LP, however the Stormwater Plan Rev.C shows a Rainwater tank being installed at rear requiring the removal of the tree.



The AIA report indicates “the tree is a well established *Washingtonia robusta* located within the lower garden. This will have been planted as part of the site’s earliest works and has been considered as being of High Value and documented for retention.” Therefore, the Stormwater Plan shall be modified to retain the tree.



Please note both the AIA and the LP show SRZ and TPZ that are incorrect. The dimensions of the tree are also incorrect. The tree has a height of approximately 16m with a crown diameter of 4m. Therefore, the TPZ is 3m.

- Tree No.20 *Syzygium australe* (Brush Cherry Lillypilly) is located within the rear setback of the neighbouring property at 31 Olola Avenue, Vacluse. It is proposed to be retained and protected. No objection to proposed works. Excavation within the TPZ will be reduced if the RW tank is modified.
- Tree No.21 *Livistona chinensis* (Chinese Fan palm) located within the rear setback of the neighbouring property at 31 Olola Avenue, Vacluse. It is proposed to be retained and protected. Please note both the AIA and the LP show SRZ and TPZ that are incorrect. No objection to proposed works.

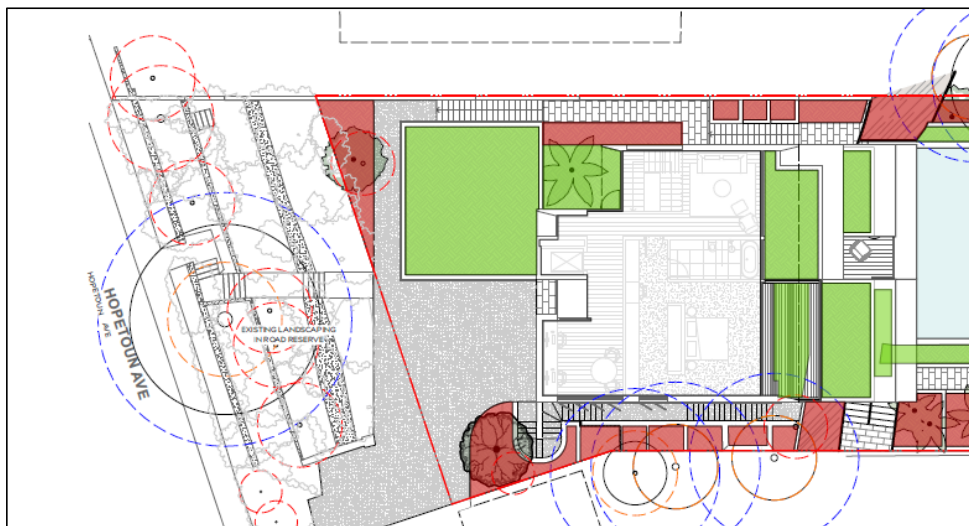
- Tree No.22 *Archontophoenix cunninghamiana* (Bangalow palm) is located within the rear setback of the neighbouring property at 31 Olola Avenue, Vaucluse. It is proposed to be retained and protected. Please note both the AIA and the LP show SRZ and TPZ that are incorrect. No objection to proposed works.
- Tree No. 23 *Brachychiton acerifolius* (Illawarra Flame tree) is a mature tree located within the rear setback of the property. It is proposed to be retained; however, excavation works are required within the TPZ and within the SRZ for the proposed RW tank.

The AIA indicates the tree is considered to be of moderate significance. As the RW tank has to be modified requiring additional space to the east and considering this tree has a lower significance than Tree No.21, Council will approve the removal of the tree to facilitate development and subject to additional replacement.

- Tree No.24 *Monstera deliciosa* (Fruit Salad Plant) *Morus nigra* (Mulberry tree) is not a prescribed tree under the DCP. It will not be included on the final referral.

Landscape Plan

The plan shall be modified to show all existing trees outside of the property and/or within the road reserve to be shown for retention and for consistency with SW Plans required to be modified.



Stormwater Plan

Amended SW Plan Rev.2 shows a RW tank proposed at rear requiring the removal of Tree No.21. In order to retain this tree, the tank shall be modified.

Council would allow the removal of Tree No.23 to facilitate the redesign of the tank. However, alternative designs might be explored if the applicant prefers to retain Tree No.23.

Tree damage security deposit

As per Thyer Tree Evaluation methodology, Tree No.9a value is \$10700. Considering average tree replacement costs, a nominal value of \$2500 will be applied for the other street trees.

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that for the development proposal to be satisfactory in terms of tree preservation and landscaping, compliance with the following Conditions of Consent are recommended.

CONDITIONS OF CONSENT

Please note that the standard conditions of consent are generally modified by the Technical Services Department to suit a particular development application. Please ensure all Technical Services conditions of consent are cut and pasted from this document only, and not inserted as standard conditions using the automatically generated (F3) function

A. General Conditions

A.1 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)
19	<i>Washingtonia robusta</i> (Mexican Fan palm)	Rear	16 x 4

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Glochidion ferdinandii</i> (Cheese tree)	Council verge	9 x 5	\$2500
2	<i>Olea europea</i> var. <i>africana</i> (African Olive).	Council verge	6 x 4	\$2500
3	<i>Olea europea</i> var. <i>africana</i> (African Olive).	Council verge	6 x 4	\$2500
4	<i>Glochidion ferdinandii</i> (Cheese tree).	Council verge	7 x 5	\$2500
5	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Council verge	6 x 5	\$2500
6	<i>Olea europea</i> var. <i>africana</i> (African Olive).	Council verge	6 x 4	\$2500
7	<i>Olea europea</i> var. <i>africana</i> (African Olive).	Council verge	6 x 4	\$2500
8	<i>Ficus pumila</i> (Creeping Fig)	Council verge	4 x 2	-
9	<i>Glochidion ferdinandii</i> (Cheese tree)	Council verge	3 x 2	-
9a	<i>Eucalyptus microcorys</i> (Tallowwood)	Council verge east of crossover	11 x 15	\$10700

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)
10	<i>Syagrus romanzoffiana</i> (Cocos palm)	Front	7 x 3
15	<i>Plumeria acutifolia</i> (Frangipani)	Side	6 x 3
23	<i>Brachychiton acerifolius</i> (Illawarra Flame tree)	Rear	8 x 5

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

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

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
DA_01-07 Rev.1	Landscape Plan	Wyer & Co	02/05/20 23

Attachment to report 2432347 (Title Tree Officers referral response).DOCX

Page 8

-	Arboricultural Impact Assessment Report	George Palmer, Botanics P/L	March 2023
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B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Establishment of Tree Protection Zone (TPZ) Fence

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Glochidion ferdinandii</i> (Cheese tree)	Council verge	2.5
2 & 3	<i>Olea europea var. africana</i> (African Olive).	Council verge	2.5
4	<i>Glochidion ferdinandii</i> (Cheese tree).	Council verge	2.5
5	<i>Ficus microcarpa var. 'Hillii'</i> (Hills Weeping Fig)	Council verge	2.5
5	<i>Ficus microcarpa var. 'Hillii'</i> (Hills Weeping Fig)	Council verge	2.5
6 & 7	<i>Olea europea var. africana</i> (African Olive).	Council verge	2.5
8	<i>Ficus pumila</i> (Creeping Fig)	Council verge	1.0
9	<i>Glochidion ferdinandii</i> (Cheese tree)	Council verge	1.0
12	<i>Archontophoenix cunninghamiana</i> (Bangalow palm).	Site setback at 8 Hopetoun Av	At boundary
13	<i>Strelitzia reginae</i> (Bird of Paradise).	Site setback at 8 Hopetoun Av	At boundary
14	<i>Dyopsis lutescens</i> (Golden Cane palm)	Site setback at 8 Hopetoun Av	At boundary
16-18	<i>Musa sp. (Banana)</i>	Site setback at 4 Hopetoun Av	At boundary
19	<i>Washingtonia robusta</i> (Mexican Fan palm).	Rear	2.0

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 brought 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
9a	<i>Eucalyptus microcorys</i> (Tallowwood)

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 and a minimum height of 5m for three branches over the crossover.

- 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.
- f) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- h) The project arborist shall provide written certification of compliance with the above condition.

B.2 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Approved works
1	<i>Glochidion ferdinandii</i> (Cheese tree)	None
2 & 3	<i>Olea europea</i> var. <i>africana</i> (African Olive).	None
4	<i>Glochidion ferdinandii</i> (Cheese tree)	None
5	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	None
6	<i>Olea europea</i> var. <i>africana</i> (African Olive)	None
7	<i>Olea europea</i> var. <i>africana</i> (African Olive)	Crossover paving
8	<i>Ficus pumila</i> (Creeping Fig)	Crossover paving
9	<i>Glochidion ferdinandii</i> (Cheese tree)	Crossover paving
9a	<i>Eucalyptus microcorys</i> (Tallowwood)	None
12	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Landscape works
13	<i>Strelitzia regina</i> (Bird of Paradise)	Landscape works
14	<i>Dyopsis lutescens</i> (Golden Cane palm)	Landscape works
16-18	<i>Musa sp.</i> (Banana)	Landscape works
19	<i>Washingtonia robusta</i> (Mexican Fan palm)	Landscape works
20	<i>Syzygium austral</i> (Brush Cherry Lillypilly)	Landscape works
21	<i>Livistona chinensis</i> (Chinese Fan palm)	Landscape works
22	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Landscape works

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

B.3 Demolition and Construction Management Plan

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

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

B.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">• Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.• The project arborist shall install or supervise the installation of tree

	protection fencing, trunk protection and branch protection.
During any development work	<ul style="list-style-type: none"> The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. The project arborist shall supervise the construction of the Rainwater Tank within 2 metres of Tree No.19, documenting the condition of roots and soil. Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.
Prior to any occupation or use of the building	<ul style="list-style-type: none"> Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> The project arborist shall supervise the dismantling of tree protection measures. After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

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

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

C.1 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
- b) One to two page, site specific Tree Protection Plan prepared by an AQF 5 Consulting Arborist detailing the following:
 - Site plan indicating the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained.
 - Tree protection measures as per approved conditions of consent.
 - Additional protection measures may be included as per Appendix 1 – Protection of Trees on Development Sites of the Arboricultural Impact Assessment.
- c) Specific to the site 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.

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) The Rainwater Tank proposed within the rear setback of the property shall be modified to retain and protect Tree No.19. Amended Stormwater Plans shall show the tank to be located at a minimum distance of 2.0m from the trunk of the palm tree or at 6.0m from the western boundary within the TPZ of the palm tree.
- b) The Landscape Plan shall be modified to show trees approved for removal and trees conditioned to be retained and protected. The plan shall also show the correct TPZ of palm trees conditioned to be retained calculated as per the AS4970-2009.

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.

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
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Tree Damage Security Deposit – making good any damage caused to any public tree	\$28200	No	T114
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$221.34	No	T45
Security Administration Fee	\$190	No	T16

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

Nil

E. Conditions which must be satisfied during any development work

E.1 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.2 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)
1 x <i>Glochidion ferdinandi</i> (Cheese tree)	Northeast corner of the property	75L
5 x <i>Banksia integrifolia</i> (Coastal Banksia)	As per the Landscape Plan Nos.DA_01-07 Rev.1, designed by Wyer & Co, dated 02/05/2023	
2 x <i>Brachychiton rupestris</i> (Narrow-leaved Bottle Tree)		
4 x <i>Howea forsteriana</i> (Kentia Palm)		

The project arborist shall document compliance with the above condition.

E.3 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)
19	<i>Washingtonia robusta</i> (Mexican Fan palm)	Rear	1.5

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 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Amenity Landscaping

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

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

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

H.1 Landscaping

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

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

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Pruning or Removing a Tree Growing on Private Property

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

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

David Prieto

A handwritten signature in black ink, appearing to read 'D Prieto', enclosed within a circular scribble.

Tree Management and Landscape Officer

Heritage Officer's Referral Response

I note that an updated Aboriginal Archaeological Technical Report (AATR) was provided to Council on Friday 24 November 2023 from Artefact Heritage with regards to DA 2023/157/1, 6 Hopetoun Avenue Vaucluse.

The updated report constitutes an update to the recommendations for the management of AHIMS item ID 45-6-1588. The update specifically concerns the earlier recommendation that an ACHAR (Aboriginal Cultural Heritage Assessment Report) is required as a next step.

Artefact have revised their recommendation, now recommending a ACVA (Aboriginal Cultural Values Assessment) report. This differs from the ACHAR in that it does not require further research on the site to determine the impacts. The AATR has adequately assessed that there is unlikely potential for impacts to Aboriginal objects. Therefore, the recommendation has been changed to a ACVA which will involve the identification of appropriate knowledge holders and a workshop/meeting to discuss the values of the area and any impacts of the proposed works to intangible cultural values. The scope covered by this proposal will include the following elements:

1. **Engagement Plan:** Engage with the La Perouse LALC and any specific knowledge holders identified by the LALC. Completion of this stage will determine the methodology of the engagement process and will accord knowledge holders a leading role shaping the process. Includes background research into existing known cultural values.
2. **Engagement and analysis:** A site visit or meeting. The nature of the engagement will follow the methodology outlined in Stage 1 and may include; Walks on Country, cultural mapping, interviews with individuals or groups. Interviews may be recorded, so later analysis of data can be undertaken.
3. **Report Writing for Cultural Values Report:** Mapping, report writing, internal review and response to knowledge holder review.

I have revised my referral below (highlighted in Yellow) to respond to this new recommendation.

I am providing an UPDATED heritage referral response for the DA for 6 Hopetoun Avenue Vaucluse. If you recall, my previous referral could not provide an approval as the Aboriginal Due Diligence report identified the need for an additional Aboriginal Archaeological Assessment to determine whether impacts were likely to occur.

The additional reporting has now been provided and I've incorporated my review of its findings into this response.

For this response, I have reviewed the following documents:

- *Aboriginal Heritage Due Diligence Report* prepared by Artefact Heritage, June 2023. (DD Report)
- *Aboriginal Archaeological Technical Report v2* prepared by Artefact Heritage, 23 November 2023 (AATR Report)
- *Demolition Report, 6 Hopetoun Avenue* by NWT Heritage Consulting, January 2023
- *Landscape Plans* by Wyer & Co, May 2023
- *Architectural drawings* by Smyth and Smyth Architects, August 2022
- *Amended Architectural drawings* by Smyth and Smyth Architects, 3 October 2023
- *Geotechnical Investigation* by JK Geotechnics, July 2023

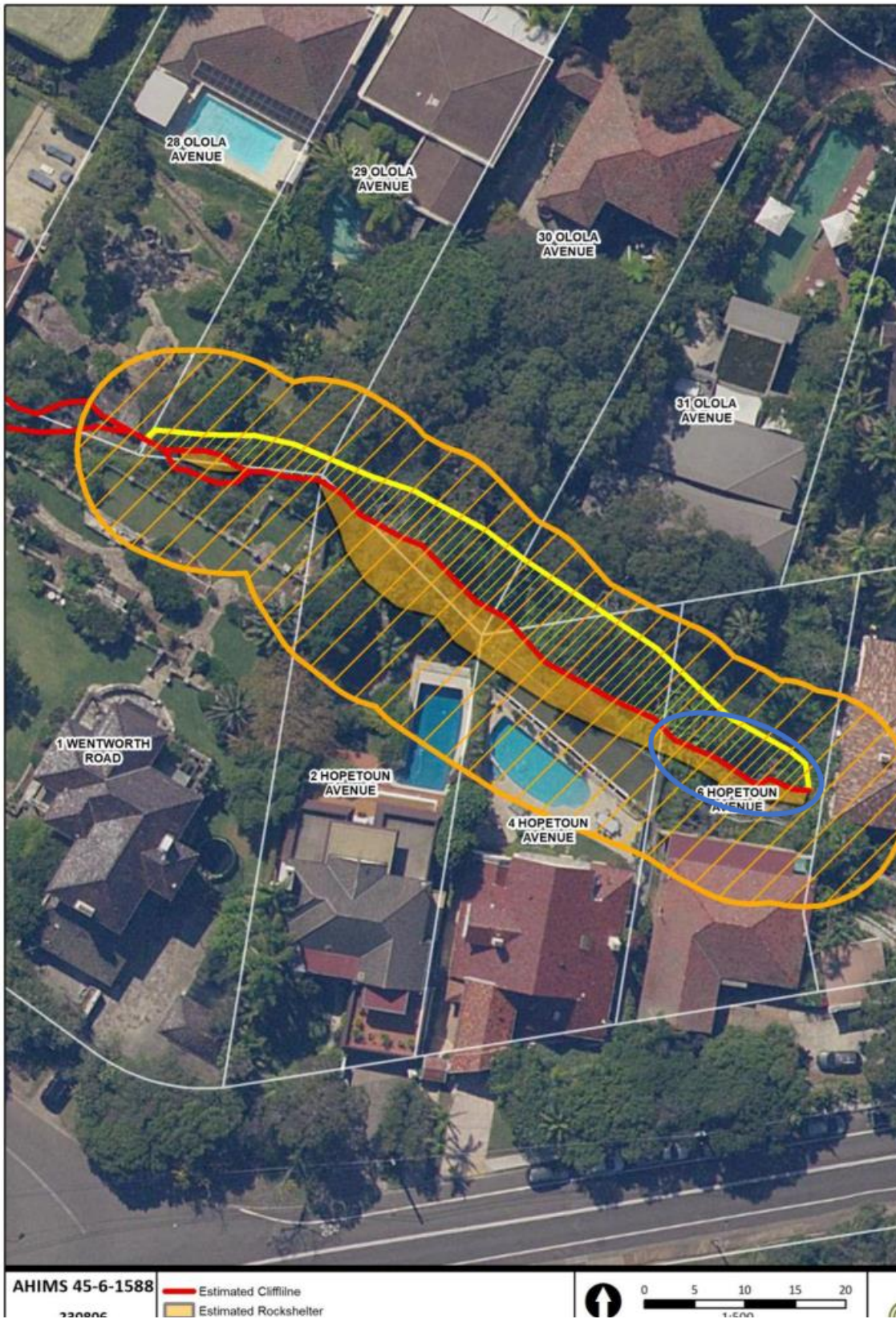
Site – 6 Hopetoun Avenue

- The site is not a local heritage item on the Woollahra LEP 2014 Schedule 5.

- Based on some minor research and the demolition report, the current dwelling on the site appears to have been built in the mid-1950s. The architectural style of the building is typical of mid-20th century design, but not at all exemplary or outstanding. The building is not significant such that it would require retention or heritage listing.
- The site is not within a heritage conservation area.
- The site is in the vicinity of a local heritage item, "Sydney Pink Gum", item I378, located at 33 Olola Avenue Vaucluse. The proposal will have no impact on this heritage item.
- The site contains one registered Aboriginal site, AHIMS ID 45-6-1588 and associated PAD (potential archaeological deposits). The Aboriginal feature is a rock shelter with art, the feature is located on the western boundary of the property and extends more completely in the adjacent properties immediately west/northwest.
- The nature of the Aboriginal feature on this property is on the western boundary of the property, where the (known) eastern extent of the rock shelter is present behind a sandstone block retaining wall (blue circle). The below aerial indicates the estimated extent of AHIMS 45-6-1588 in the AHIMS site card.



- However it should be noted that the above is estimated only, and there is potential for a sandstone overhang feature on the eastern boundary of the site to also form part of this significant rock formation. The below aerial is a revised estimate provided by Artefact Heritage in the Due Diligence report, based on their site investigation.



Significance of the site

Based on the DD report, it is apparent that the Aboriginal site that is present on this property is highly significant. Not only is it a registered Aboriginal site i.e. it has been inspected, researched, tested and confirmed as a site of Aboriginal use by archaeologists and LALC, but the significance of it as a rock art site is significant -

"In a recent AHIMS site search from South Head down to Bondi and west to Rose Bay, 11 of the 98 sites are rockshelters with art (about one third are rockshelters) ... there may not be any rockshelters with more rock art except perhaps at Nielsen Park. One might say the same for the potential extent of undisturbed archaeological deposit – although Irish suggests that there are a few other rockshelters of similar size, they may not have as much potential deposit. The site is therefore not just rare, but also not at all well represented elsewhere and (crucially to Bowdler's point) not with such good conservation prospects." (Oliver Brown, April 2023 AHIMS Site 45-6-1588 Site Update Information for Due Diligence for 1 Wentworth Ave Vacluse).

Due Diligence Report

- Prepared by Artefact Heritage for the proposed works as per **DA 2023/157**.
- Aboriginal Due Diligence report prepared in accordance with the NSW Due Diligence Code of Practice.
- Site inspection carried out by Artefact, with Steven Ella from LPLALC.
- General findings of the DD are as follows:
 - Southern portion of the property fronting Hopetoun Ave and comprising mostly of the house and landscaping is largely disturbed.
 - To the north/rear of the house, is a sandstone outcrop with stairs leading down to the rear yard. The sandstone outcrop is precipitous, with a drop of approximately 3 metres.
 - Towards the base of the stairs is an area of rubble and a small opening to a natural shelter formation behind the stairs (blue circle). A natural shelter formation has been enclosed behind the stairs and partially backfilled with introduced fill (yellow square). Inspection of the western boundary of the property (red circle) indicated that the sandstone shelter formation associated with AHIMS ID 45-6-1588 continues behind the stairs into 6 Hopetoun Avenue.



Below is view of the area indicated in red circle above, AHIMS ID 45-6-1588 rock shelter looking west into 4 Hopetoun Ave,



- The DD report recommended that due to the works taking place above and in front of AHIMS ID 45-6-1588, as well as involving removal of fill from within AHIMS ID 45-6-1588, further archaeological investigation and consultation with Aboriginal stakeholders must be undertaken.
- In the first instance and prior to DA approval being granted, it was recommended that an **Aboriginal Archaeological Assessment** (AAA) is undertaken to assess the presence, potential harm, and correct management of Aboriginal cultural heritage on the site. This full AAA will develop predictive modelling for the nature and distribution of archaeological material, include archaeological survey and testing involving the LPLALC, re-evaluation of likely impacts, and mitigation/management measures.
- Following the AAA, further reporting (such as an ACHAR or ACVA) may be required. The ACHAR may also require an AHIP.
 - The ACHAR (Aboriginal Cultural Heritage Assessment Report) will involve comprehensive Aboriginal stakeholder consultation. The potential to harm objects and values must be considered and addressed in consultation with these stakeholders. An archaeological management plan (AHMP or CHMP) must also be prepared, either separately or potentially part of the ACHAR.

- The ACVA (Aboriginal Cultural Values Assessment) focuses more strongly on consulting with knowledge-holders about the intangible values of the site.
- The recommendations of either of these assessments may involve necessary design changes to avoid/mitigate harm.
- A vibration assessment is also recommended, and an archaeologist and Registered Aboriginal Parties (the stakeholders, or RAPs) must also be part of this assessment process.

Subsequent Aboriginal Archaeological Technical Report (AATR)

- In response to the recommendations of the DD Report that further Aboriginal Archaeological investigations be undertaken, an AATR report was prepared by Artefact Heritage in November 2023. The AATR is a form of the Aboriginal Archaeological Assessment requested in the DD.
- The AATR expanded further on the potential Aboriginal archaeological values of the site, and assess the potential for harm to Aboriginal objects and determine final Aboriginal heritage management requirements for the DA process. The AATR included a predictive model for the nature and distribution of archaeological evidence, and an additional archaeological survey with a member of the LPLALC to test the predictions.
- Some of the predictions for the site were that:
 - Art sites within rock shelters would be the most common site type at this property.
 - Stone artefacts within this property were likely to comprise of quartz.
 - The presence of rockshelters would be constrained by the associated topography and landforms. i.e., topography which is too steep, or not steep enough will be less likely to contain rock shelters.
 - Archaeological deposits are likely to have either been destroyed, or redeposited from their primary context through disturbance, however Archaeological deposits within rock shelters are likely to be better preserved
- The predictions were tested through a pedestrian archaeological survey. All ground exposures were examined for Aboriginal objects and old growth trees were examined for signs of cultural scarring and marking. The study area was then walked in parallel transects, beginning at the rear of the property, from the base of the stairs, to the far northern study area boundary. Archaeological survey was conducted of the portion of a rock shelter that is recorded as AHIMS ID 45-6-1588. The portion of the study area from the base of the stairs, through to the southern study area boundary was then walked, where accessible.
- The findings of the AATR were that:
 - AHIMS ID 45-6-1588, an Aboriginal site comprising art and an area previously identified as a potential archaeological deposit was situated within 6 Hopetoun Avenue and within the works area.
 - Natural landforms were found to be significantly disturbed, and consistently modified throughout the majority of the study area.
 - Given the extent of disturbance observed during site survey (involving terracing, importing of fill, and installation of subsurface utilities), in conjunction with the mid slope landform, it was determined that if present, archaeological deposits within the 10m buffer curtilage of AHIMS ID 45-6-1588 have likely been redeposited downslope through fluvial processes, outside the study area. As the topography transitions to level land and low slopes towards Olola Avenue, those landforms are more likely to contain redeposited material. Clearing of native vegetation and replacement with exotic species, likely accelerating the erosion of archaeological deposits.

- Consultation with Steven Ella (Site Officer, La Perouse Local Aboriginal Land Council) during the survey has informed the results of this assessment.
- Based on the AATR findings, the recommendations are:
 - Based on the information provided to date, both direct and indirect harm to AHIMS ID 45-6-1588 is considered unlikely from the proposed works. Therefore, no mitigation measures are recommended.
 - To manage the risk of unexpected harm to AHIMS ID 45-6-1588, the quantitative vibration monitoring controls recommended in the Vibration Assessment prepared by JKGeotechnics (2023) should still be implemented.
 - Since the potential for impacts to Aboriginal objects is considered to be low/unlikely given the extent of disturbance on the site, as well as a more sensitive redesign that has avoided the rockshelter, the AATR recommends a Aboriginal Cultural Values Assessment. This type of assessment is to address concerns of impacts to intangible cultural values. The aims of this assessment will be to provide a deeper understanding of the cultural values of the place and the potential impact on these values of the development, to inform potential appropriate mitigation for AHIMS ID 45-6-1588.
 - The scope covered by this proposal will include the following elements:
 - **1. Engagement Plan:** Engage with the La Perouse LALC and any specific knowledge holders identified by the LALC. Completion of this stage will determine the methodology of the engagement process and will accord knowledge holders a leading role shaping the process. Includes background research into existing known cultural values.
 - **2. Engagement and analysis:** A site visit or meeting. The nature of the engagement will follow the methodology outlined in Stage 1 and may include; Walks on Country, cultural mapping, interviews with individuals or groups. Interviews may be recorded, so later analysis of data can be undertaken.
 - **3. Report Writing for Cultural Values Report:** Mapping, report writing, internal review and response to knowledge holder review.
 - An unexpected finds procedure should be prepared ahead of the proposed works commencing. This procedure can either be included in the ACHAR, or must be reviewed by a heritage professional.
 - While the findings of the AATR are that there are unlikely to be impacts to AHIMS ID 45-6-1588 and no mitigations are required, AHIMS ID 45-6-1588 must not be harmed without an AHIP issued by Heritage NSW under the National Parks and Wildlife Act 1974.

Conclusions of this referral

- Based on Council's assessment of the Demolition Report, the existing dwelling on the site at 6 Hopetoun Avenue consisting of a 1950s post-war brick house, is not considered to have heritage significance such that it warrants further heritage investigation or statutory listing. Demolition of the building is considered acceptable.
- As the site is not contained within a Heritage Conservation Area, nor will it have any impact on a heritage item in the vicinity, the proposed new dwelling can be assessed under the relevant development controls for the site. There are no further heritage considerations with regards to the new dwelling outside of its interaction with the potential Aboriginal heritage of the site.
- With regards to Aboriginal heritage, and based on the findings of the AATR:
 - The potential for intact Aboriginal objects and sites within the 10m buffer curtilage of AHIMS ID 45-6-1588, is unlikely due to various disturbances. Additionally any deposits within the buffer are likely to have been redeposited downslope.

- No mitigations with regard to protecting Aboriginal cultural heritage are therefore required.
- The current amended proposal has avoided direct impacts to the Aboriginal item, AHIMS ID 45-6-1588.
- The proposal is considered acceptable on heritage grounds, subject to conditions.

Conditions of Consent

Prior to the commencement of works

- Development consent is granted subject that this consent is not to operate until the Applicant satisfies the Council, in accordance with the Regulations, as to all matters specified in this condition:
 - As per the recommendations of the Aboriginal Archaeological Technical Report (Artefact Heritage, November 2023), an Aboriginal Cultural Values Assessment (ACVA) is to be undertaken to investigate, assess and manage intangible Aboriginal cultural resources within the study area. This cultural values assessment is to include consultation with relevant Aboriginal knowledge-holders.
 - Any conditions and management recommendations resulting from the ACVA are to be incorporated into the development design and implemented during works.
 - Changes to the approved design arising from the recommendations of the ACVA are to be the subject of a 4.55 modification as appropriate.

Prior to demolition works

- **Standard Condition B10 – Aboriginal Objects, unexpected finds.** As per the recommendations of the AATR, an Unexpected Heritage Finds Procedure must be prepared and in place prior to the commencement of works. This must be prepared by a heritage professional. The procedure must take into consideration the following:
 - If an Aboriginal object is discovered during project works, all ground-disturbing works in the area of the Aboriginal object(s) cease immediately on discovery of the Aboriginal object.
 - The person who identifies the object will notify machinery operators, the site supervisor, the project manager, and the client to ensure work is halted.
 - The Aboriginal object will not be removed from the area.
 - Inform the project archaeologist of the discovery and provide photographic evidence. The project archaeologist will advise whether the item is or likely to be an Aboriginal object.
 - If it is determined that the item is not an Aboriginal object, works can recommence.
 - If it is determined that it is or likely to be an Aboriginal object, all works will cease in the area and an AHIP would be required to authorise harm
 - The AHIP application would need to be supported by a revised report that assesses the harm in accordance with the Code of Practice and the Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW (DECCW 2011).
- **Standard Condition B9 – Skeletal Remains.** As per the recommendations of the AATR, an Unexpected Heritage Finds Procedure must be prepared and in place prior to the commencement of works. The procedure must take into consideration the following:
 - If human remains, or suspected human remains, are discovered during project works, all ground-disturbing works in the area of the remains will

- cease immediately following the discovery. The discoverer of the remains will notify machinery operators in the area to ensure work is halted.
- The remains will not be removed from the area or disturbed in any other way.
 - The area will be secured by use of protective barriers to ensure no harm can occur to the remains.
 - The site supervisor, the project manager, and the client will be immediately informed of the discovery.
 - The project archaeologist will be informed of the discovery. The project archaeologist will determine if further assessment of the suspected remains is required. A specialist in the identification of human remains will need to be engaged to undertake this assessment.
 - If it is determined that the suspected remains are not human, work can recommence.
 - If it is determined that the suspected remains are human, or are likely to be, the following steps must occur, in accordance with the relevant legislation (including the Coroners Act 2009, the National Parks and Wildlife Act 1974, and the Heritage Act 1977).
 - Notify the following organisations:
 - NSW Police
 - Heritage NSW – 1300 361 967
 - The NSW Police will determine if the suspected human remains are human and if they represent a crime scene. If the human remains are determined to represent a criminal act, the NSW Police will direct proceedings, including deciding when works may continue.
 - If NSW Police determine that the suspected human remains are human and are Aboriginal Ancestral Remains, or non-Aboriginal Ancestral Remains, Heritage NSW will be responsible for determining the next course of action.
 - All activities will be directed by Heritage NSW.
 - Works cannot proceed on site until Heritage NSW determine that it is appropriate to do so.
- **Standard Condition B13 - Aboriginal Heritage – Induction.** Prior to any site works:
 - All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;
 - An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
 - Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.

During Construction Works

- To manage the risk of unexpected harm to AHIMS ID 45-6-1588 it is recommended that the controls outlined in JKGeotechnics (2023) are implemented:
 - Quantitative vibration monitoring to be completed in the initial stages of demolition/excavation.
 - Peak Particle Velocity (PPV) be limited to 5mm/s at the overhang and on adjoining sites
 - Alternatively, non-percussive excavation methods may be adopted. These methods may consist of the use of rock saws, rotary grinders or ripping tynes in which case quantitative vibration monitoring would not be required.

- Vibration monitors are attached to sandstone are attached using non-invasive techniques such as beeswax.
- It is recommended that vibration monitoring and assessments are continued as required throughout the works to ensure there are no impacts to AHIMS ID 45-6-1588 from the proposed works, including indirect harm to those portions of AHIMS ID 45-6-1588 outside 6 Hopetoun Avenue, Vaucluse. Where it is found that harm to AHIMS ID 45-6-1588 is likely as a result of the vibration monitoring, works must cease and an Aboriginal Heritage Impact Permit (AHIP) issued by Heritage NSW under the National Parks and Wildlife Act 1974 must be obtained to authorise harm to the site.

Eleanor Banaag
Senior Strategic Heritage Officer



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1149840
Issue date of GTA:	18 October 2023
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	6 Hopetoun Avenue Vaucluse NSW 2030
DA Number:	2023/157
LGA:	Woollahra Municipal Council
Water Sharing Plan Area:	Greater Metropolitan Region Groundwater Sources 2023

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Dewatering	
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity. Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@watnsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of

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General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1149840
Issue date of GTA:	18 October 2023
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	6 Hopetoun Avenue Vaucluse NSW 2030
DA Number:	2023/157
LGA:	Woollahra Municipal Council
Water Sharing Plan Area:	Greater Metropolitan Region Groundwater Sources 2023
	the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
GT0119-00001	All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0121-00001	Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
GT0123-00001	(a) Prior to the issuing of the occupation certificate, and following the completion
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General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1149840
Issue date of GTA: 18 October 2023
Type of Approval: Water Supply Work
Description: 80mm submersible pump
Location of work/activity: 6 Hopetoun Avenue Vaucluse NSW 2030
DA Number: 2023/157
LGA: Woollahra Municipal Council
Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.watarnsw.com.au/customer-service/water-licensing/dewatering

- GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
- GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

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SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with 2023/157 as provided by Council:

- Architectural Drawings - 6 Segments prepared by Smyth & Smyth Pty Ltd, Project No. 987 dated 22 August 2022.
- Statement of Environmental Effects prepared by BBC Consulting Planners, Job No. 21-122 May 2023.
- Geotechnical Investigation prepared by JK Geotechnics, Ref No. 35656SFrpt 7 February 2023.
- Revised Geotechnical Investigation prepared by JK Geotechnics, Ref No. 35656SFrptRev1 11 July 2023.



CLAUSE 4.6 VARIATION REQUEST

WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

CLAUSE 4.3: HEIGHT OF BUILDINGS

DEVELOPMENT APPLICATION FOR DEMOLITION OF EXISTING IMPROVEMENTS AND THE ERECTION OF A NEW DWELLING WITH GARAGE AND SWIMMING POOL, AND THE CARRYING OUT OF NEW LANDSCAPING, DRAINAGE, AND ASSOCIATED WORKS

6 HOPETOUN AVENUE, VAUCLUSE

**Prepared for
Smyth and Smyth Architecture & Interiors**

**By
BBC Consulting Planners**

Job No. 21-122
Clause 4.6-Height Final.docx
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1. INTRODUCTION

1.1 The Proposal

This Clause 4.6 variation request has been prepared in support of a DA for the demolition of existing improvements and for the erection of a new dwelling with garage and swimming pool, as well as new landscaping, drainage, and associated works ("the proposal") at No. 6 Hopetoun Avenue, Vaucluse ("the site"). All relevant aspects of the proposal are described and assessed in the Statement of Environmental Effects ("SEE") and its appendices.

Pursuant to Clause 4.3(2) of Woollahra Local Environmental Plan 2014 ("WLEP"), the site is subject to a maximum building height of 9.5m.

"Building height (or height of building)" is defined in the LEP to mean:-

"(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."

Existing ground level is defined as:-

"ground level (existing)" means the existing level of a site at any point."

Measured in accordance with the above definition the proposal predominantly complies with the 9.5m height limit. However, the site falls steeply from south to north, from around RL72.0mAHD as the mid-point of the site's road frontage to around RL54.0mAHD at the rear boundary. The fall is around 18m or 23%.

Whereas the dwelling presents as one storey to the street it has two storeys and an undercroft at the rear, all above a high retaining wall. These contrasting height conditions can be seen on the photos overleaf.



Photo 1: View towards site from Hopetoun Avenue

At the rear of the dwelling are retaining walls with stairs leading down to the rear garden.



Photo 2: View of rear of dwelling and retaining walls with stairs leading down into the rear garden



Accordingly, as a result of the steep topography of the site over the rear part of both the existing dwelling and the proposed new dwelling there are areas of non-compliance with the 9.5m height standards as detailed below: -

- on the first floor level, where the roof over the parent's retreat is located and part of the master bedroom exceeds the height limit by up to 3m;
- on the ground floor level where Bedroom No.4 is located along the eastern side of the new dwelling exceeds the height limit by up to 5.9m; and
- on the lower ground floor level, where the roof and space beneath exceed the height limit by up to 2.8m.

Provided in **Attachment 1** is a 3D height plane diagram which clearly identify the parts of the new dwelling which are in breach of the 9.5m height standard.

This Clause 4.6 variation request has been prepared in relation to the non-compliances with the 9.5m maximum height standard which applies to the site.

1.2 Site, Zoning, Zone Objectives and Permissibility

The location and boundaries of the site are identified on **Figures 1 and 2**.

The immediate and wider contexts of the site are shown on **Figures 3A and 3B**.

The site is zoned R2 Low Density Residential (see **Figure 4A**), the objectives of which are as follows:-

- “• *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.”*

The proposal is consistent with the above objectives.

Dwelling houses are permissible with consent in the R2 zone.

1.3 The height standard in WLEP 2014

Clause 4.3(2) WLEP 2014, by reference to the height map (see **Figure 4B**), establishes a maximum building height of 9.5m for the site.



Clause 4.6 of WLEP 2014 allows approval to be granted to a DA, even though the proposal contravenes a development standard in WLEP 2014, including the maximum building height standard in Clause 4.3(2).

This written request addresses the requirements of Clause 4.6 of WLEP 2014.

1.4 Context

The site is located on the northern site of Hopetoun Avenue, a short distance to the east of its intersection with New South Head Road, in Vaucluse (see **Figures 1 and 2**).

The site forms part of a high amenity harbourside residential area predominantly characterised by low density housing.

The majority of the dwellings in the immediate vicinity of the site are designed and oriented to take advantage of views to the north including Vaucluse House and gardens, and wherever possible, the waters of Sydney Harbour.

The context of the site in relation to the other residential buildings on the same side of the road is evident from the aerial photos (May 2021) in **Figures 3A and 3B**.

1.5 Principles and relevant authorities

The principles and relevant authorities which have been considered in the preparation of this Clause 4.6 variation request are those found in:-

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;
- Wehbe v Pittwater Council [2007] NSWLEC 827 ("Wehbe");
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ("Four2Five No 1");
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 ("Four2Five No 2");
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 248 ("Four2Five No 3");
- Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386;
- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7;
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118;
- Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245;
- Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61; and
- Rebel MH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130.



2. RELEVANT DEVELOPMENT STANDARD

The relevant development standard is the 9.5m maximum building height control in Clause 4.3(2) of WLEP 2014.

Clause 4.3(2) states as follows: -

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



3. EXCEPTION TO DEVELOPMENT STANDARDS (CLAUSE 4.6)

Clause 4.6 of WLEP 2014 permits consent to be granted for a development application even though the development proposed in the development application would contravene a development standard imposed by WLEP 2014.

Clause 4.6 relevantly states:-

- “(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless—*
- (a) the consent authority is satisfied that—*
- (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Planning Secretary has been obtained.*
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.”*

Accordingly, Clause 4.6 can be used to vary (to the extent required) the 9.5m maximum building height standard in Clause 4.3(2) of WLEP 2014 in respect of a non-compliance with the building height limit.



4. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE AND ARE THERE SUFFICIENT PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE STANDARD?

4.1 Extent of non-compliance

The proposal results in a maximum building height of approximately 15.4m which exceeds the maximum permitted height by approximately 5.9m.

No significant or unreasonable adverse impacts arise from the non-compliances and the proposal results in a better planning outcome for the whole site which is steeply sloping.

The extent of the non-compliances is identified on the height plane diagram in **Attachment 1**.

4.2 What is the Purpose/Object of the Standard?

The objectives of the height standard are set out as follows in Clause 4.3(1) of the WLEP:

“(1) The objectives of this clause are as follows—

- (a) to establish building heights that are consistent with the desired future character of the neighbourhood,*
- (b) to establish a transition in scale between zones to protect local amenity,*
- (c) to minimise the loss of solar access to existing buildings and open space,*
- (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.”*

The proposed development is consistent with these objectives notwithstanding the non-compliances.

4.3 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case

4.3.1 Consistency with the objectives of the height standard

The proposal is consistent with the objectives of the height standard for the following reasons:-

- the proposal appropriately responds to the existing topography of the site;



- the extent of the non-compliances is limited to the northern parts of the new dwelling and arise because of the fall of the site;
- the height of the proposal, notwithstanding the requested variation to the height standard, is appropriate for the conditions of the site and its context;
- the built form, bulk and scale of the proposal are appropriate and in context;
- the proposal will make a positive contribution to the streetscape and public spaces;
- the proposal has been designed to complement and enhance the existing streetscape character of Hopetoun Avenue and the Vaucluse West area;
- the bulk and scale of the proposal is compatible within the existing context of the surrounding R2 Low Density Residential zoned area of which the site forms part;
- the height of the proposal is compatible with the heights of nearby buildings;
- the form, massing, and design of the proposal ensures that the new building will make a positive contribution to the area with a high quality design presentation;
- the non-compliances will have no adverse visual or acoustic privacy impacts;
- the non-compliances will have no adverse solar access, overshadowing or view sharing impacts;
- the proposal, with the non-compliances, exhibits high quality design and will have no adverse visual impact.

4.3.2 The extent of the non-compliance is acceptable and reasonable

The non-compliances with the 9.5m maximum height standard in Clause 4.3(2) of the WLEP 2014 which applies to the site are considered to be acceptable and reasonable in the circumstances of the case for the following reasons: -

- the proposal is consistent with the overall planning intent for the surrounding R2 Low Density Residential zoned area;
- the proposed non-compliances will neither be out of character in the local context nor unreasonable in relation to the scale, location, footprint or other aspects of nearby dwellings;
- no adverse environmental impacts arise from the non-compliant height; and
- there would be no adverse impacts on any 'significant views and vistas', no adverse impact on views from Hopetoun Avenue and no loss of valued views from private properties. There will be a minor reduction in water views (from New South Head Road), however, significant water views will still be retained from this view point.

4.3.3 There is a lack of adverse amenity impact

There is a lack of any adverse amenity impact associated with the non-compliances for the reasons set out above in 4.3.2 above. In this regard, in *Initial Action Pty Ltd v Woollahra*



Municipal Council [2018] NSWLEC 118, Preston CJ expressly held that “...one way of demonstrating consistency with the objectives of a development standard is to show a lack of adverse amenity impacts (see Randwick City Council v Micaul Holdings Pty Ltd at [34])”.

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

The proposal exceeds the 9.5m height limit in large part because of the significant fall of the site. As the land falls away from south to north the non-compliance becomes more pronounced.

The proposal represents a balanced planning outcome, having regard to the existing controls, the constraints and opportunities of the site, existing development in the locality and the need to consider the amenity of neighbouring properties.

The proposal is contextually appropriate in its size, height and setbacks.

The height limit non-compliances which are proposed constitute a small proportion of the overall built form. The proposal is highly consistent with the desired future character of the Vaucluse West area and with the relevant regulatory controls applicable to development of the type proposed.

The non-compliances will not set an unreasonable precedent or standard in the context of the site and its surrounds.

The proposal will deliver a well-designed, high-quality, dwelling house with excellent amenity which will contribute positively to the area and to the built form environment of this part of Vaucluse.

No significant or unreasonable environmental or amenity impacts arise from the proposed height non-compliances.

4.5 Has this written request adequately addressed the matters required to be demonstrated by sub-clause 4.6(3)?

Yes. See Section 4.1 – 4.4 above.



5. IS THE DEVELOPMENT IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE HEIGHT STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT?

5.1 Consistency with the objectives of the standard

The proposal is consistent with the objectives of the height standard for the reasons set out in Section 4.3.1 and having regard to all other relevant considerations is therefore in the public interest.

5.2 Consistency with the objectives of the zone

The development is consistent with the objectives of the R2 Low Density Residential zone as set out in Section 1.2. As stated therein, the proposal is relevantly consistent with these objectives and having regard to all other relevant considerations is therefore in the public interest.



6. THE “FIVE PART TEST”

In addition to the above requirements, a consent authority may choose to not only use the principles of Clause 4.6 but also the “five part test” established by the Land and Environment Court.

Court cases dealing with requests to vary development standards resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded. The “five part test” is outlined as follows:-

- “1. the objectives of the standard are achieved notwithstanding noncompliance with the standard;*
- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. the development standard has been virtually abandoned or destroyed by the council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.”*

In relation to test (1): the proposal meets the objectives of the maximum height standard, notwithstanding the non-compliances, as detailed above in Section 4.2.

In relation to test (2): no reliance is placed on this test.

In relation to test (3): the proposal meets the objectives of the maximum height standard, notwithstanding the non-compliances, as detailed above in Section 4.2.

In relation to test (4): no reliance is placed on this test.

In relation to test (5): no reliance is placed on this test.



7. CONCLUSION

It can be concluded that strict compliance with the 9.5m maximum building height standard in Clause 4.3(2) of WLEP 2014 is unreasonable and unnecessary in the circumstances of the case, that there are sufficient environmental planning grounds to justify the requested variation (including the limited extent of the building over which the non-compliances arise, the compatibility of the built form to the site and its surrounds, and the absence of any significant or unreasonable environmental impacts) and that the proposal is in the public interest.

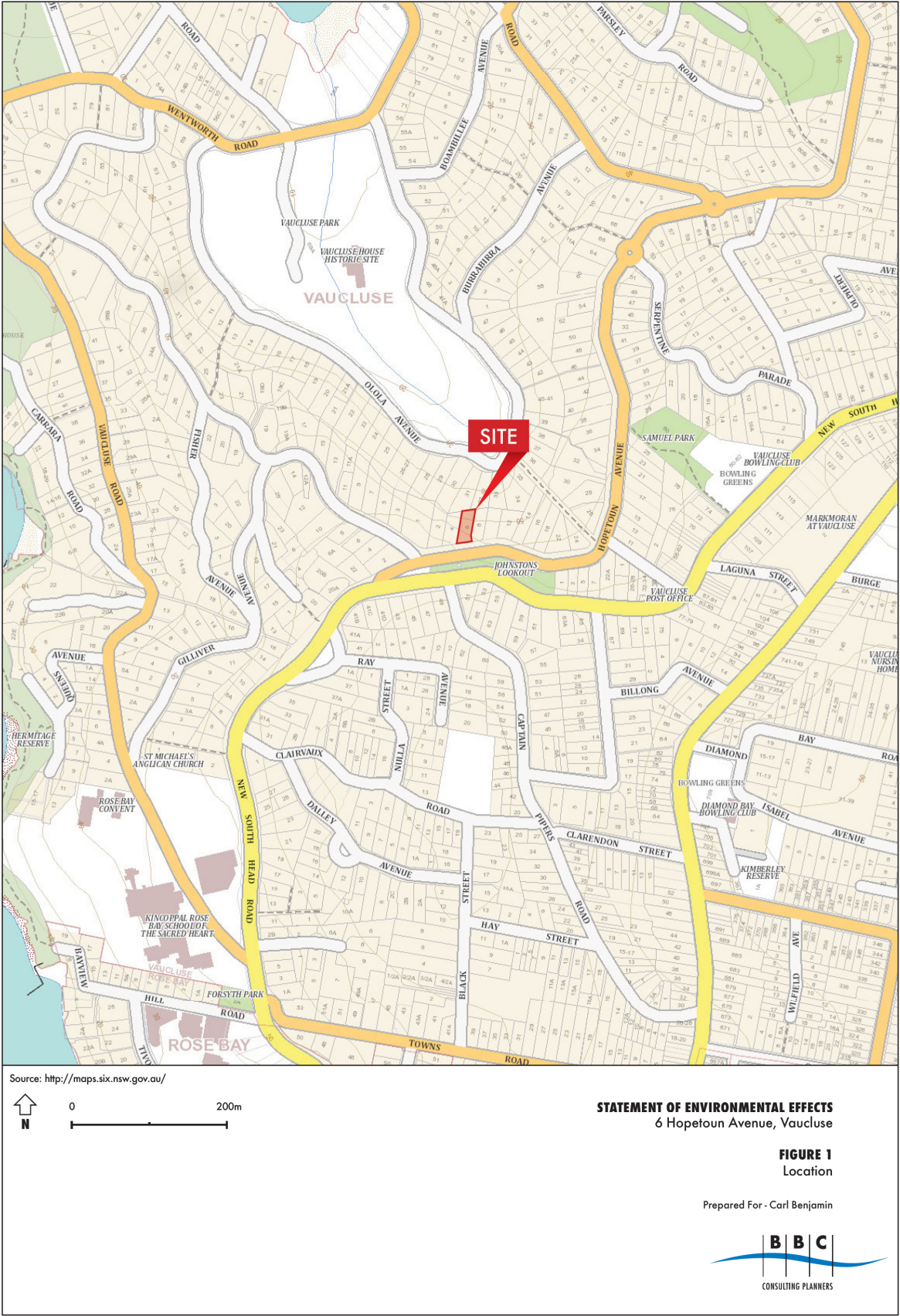
The proposal will have a positive planning outcome in that the proposal will deliver a well-designed, high-quality dwelling house with excellent amenity which will contribute positively to the Vaucluse West area and to the built form environment of this part of Vaucluse.

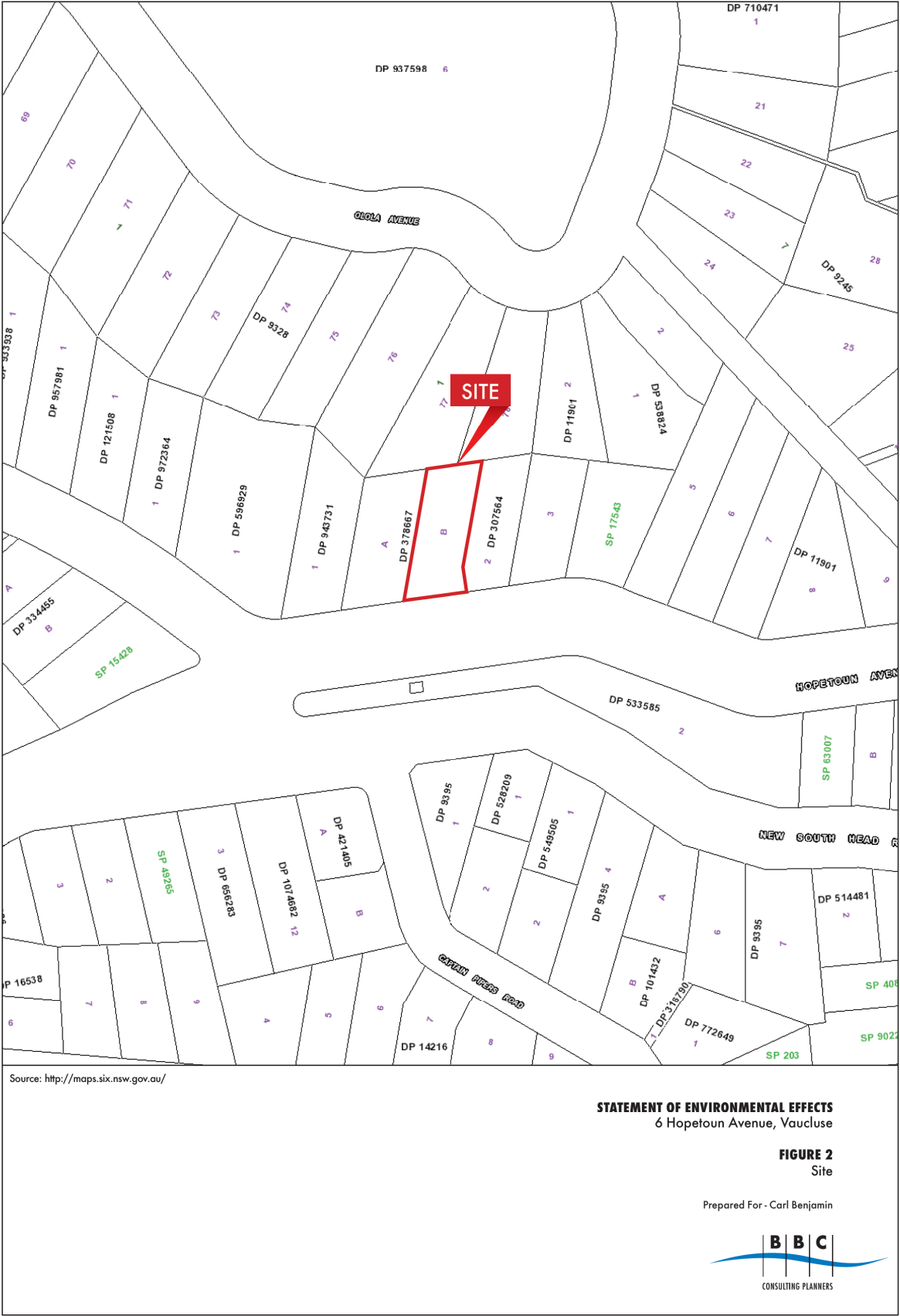
The proposal, notwithstanding the non-compliances with the maximum height standard, is in the public interest because it is consistent with the objectives of the height standard and of the R2 Low Density Residential zone in the LEP.

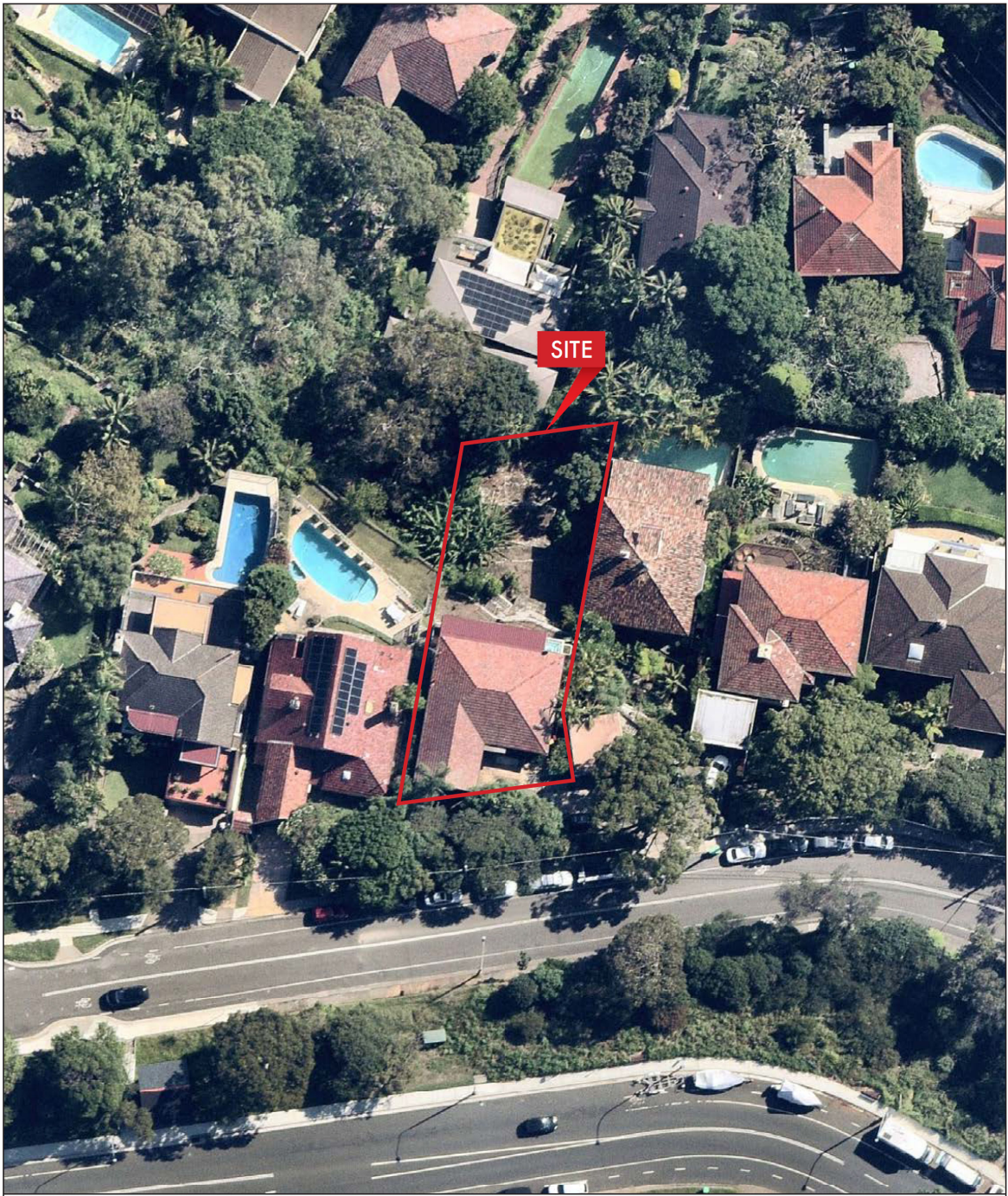
The Clause 4.6 variation request should therefore be supported.



FIGURES







Source: NearMap 19 Mar 2023

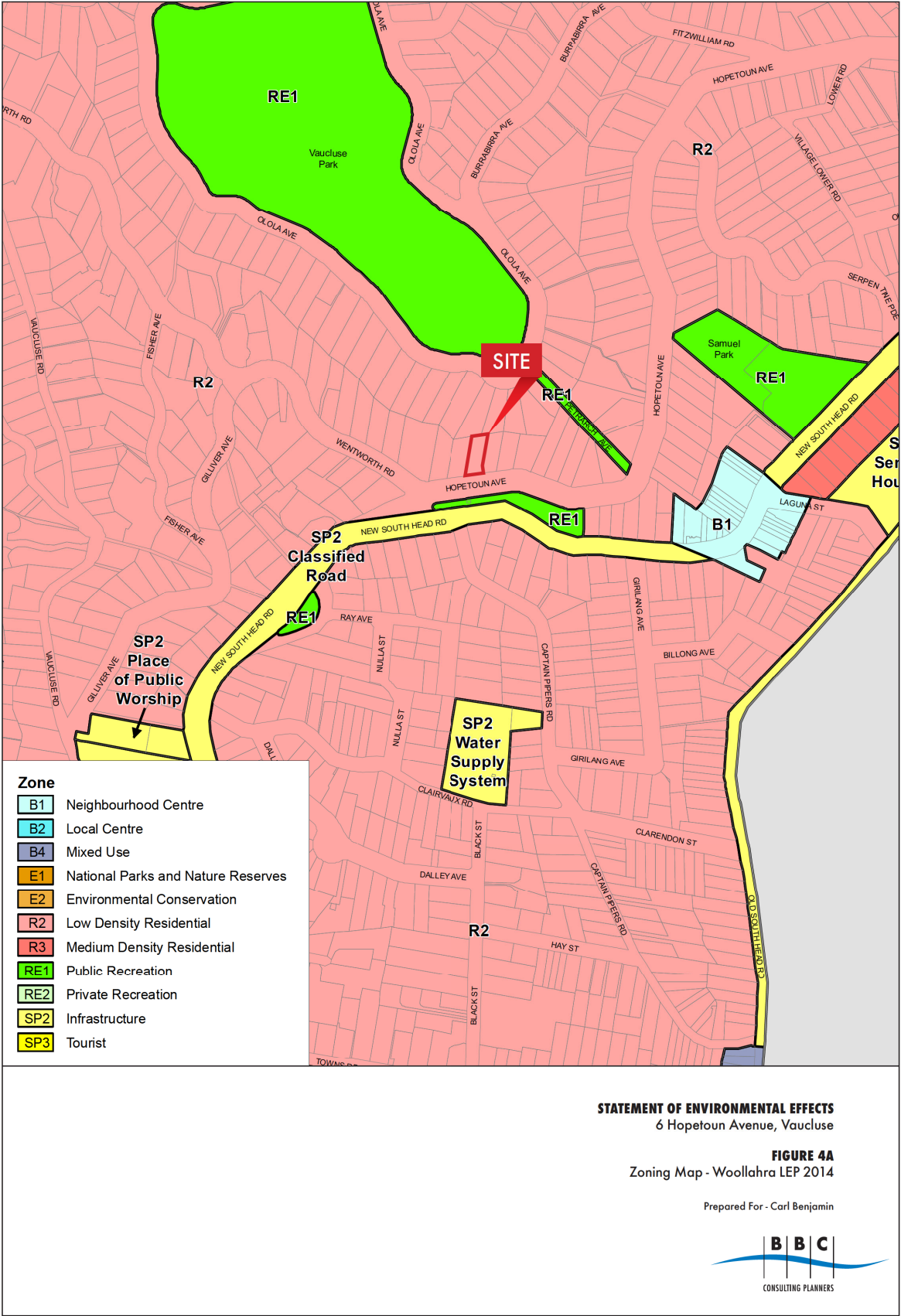
STATEMENT OF ENVIRONMENTAL EFFECTS
6 Hopetoun Avenue, Vaucluse

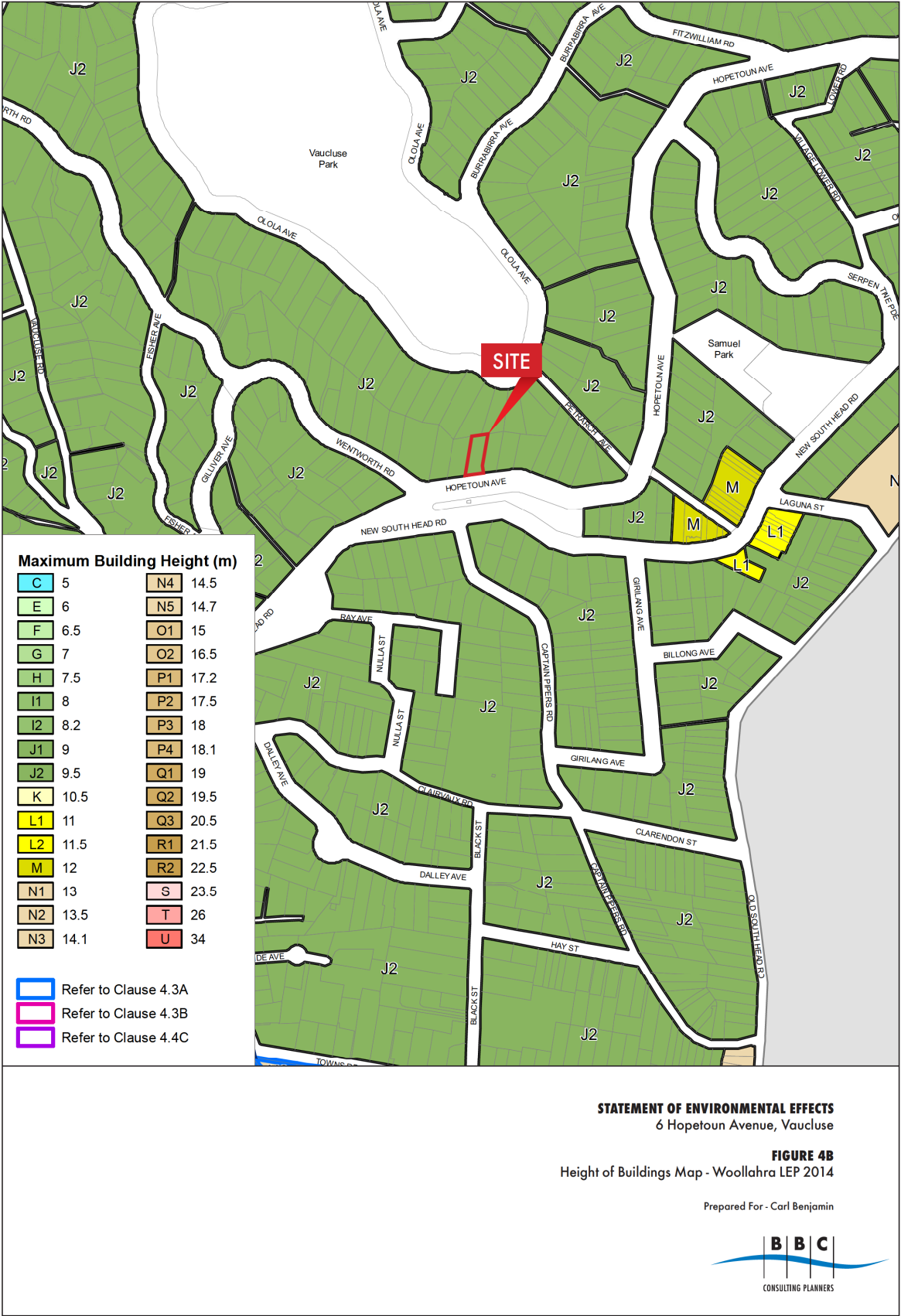
FIGURE 3A
Aerial Photo - Detail

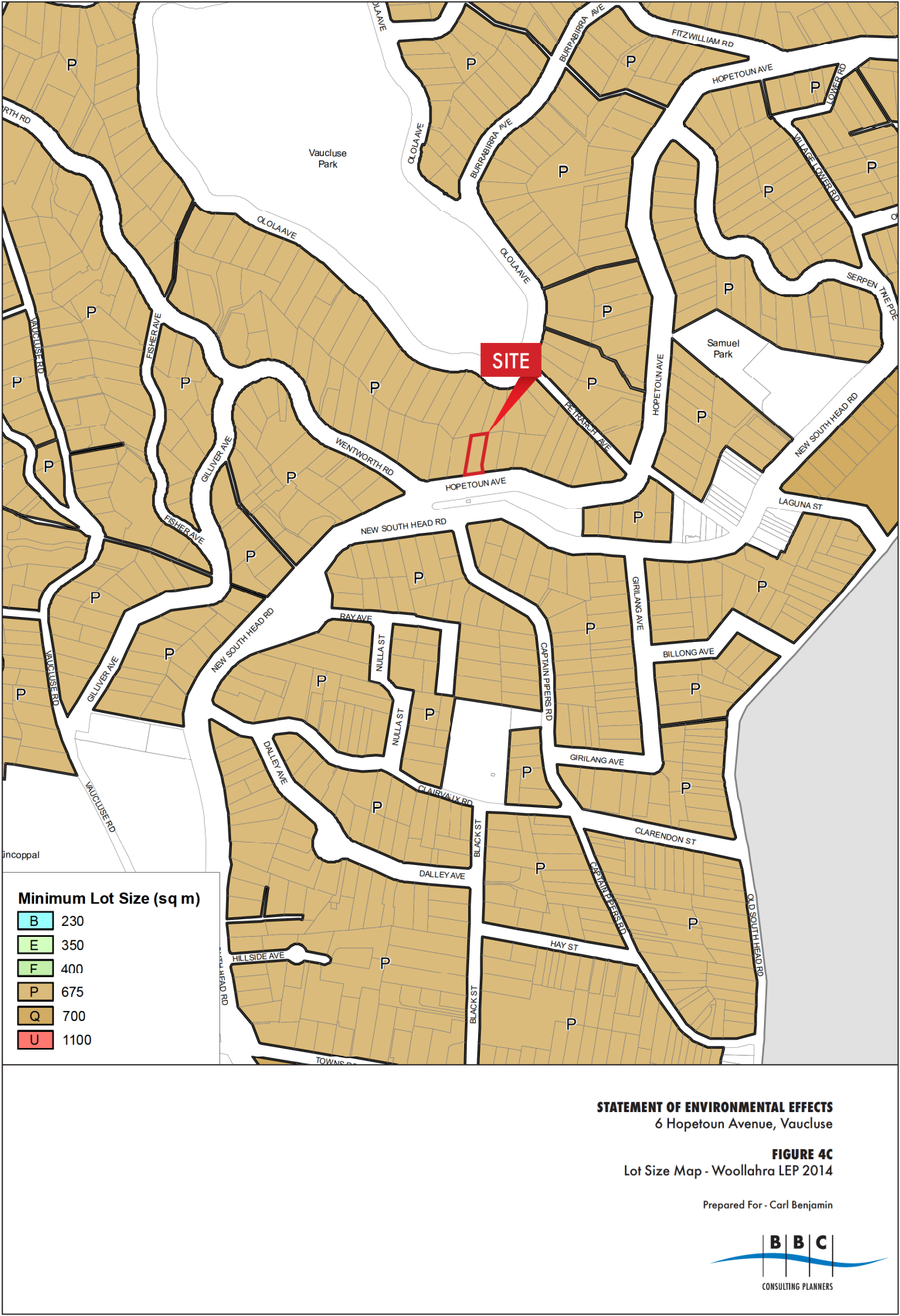
Prepared For - Carl Benjamin

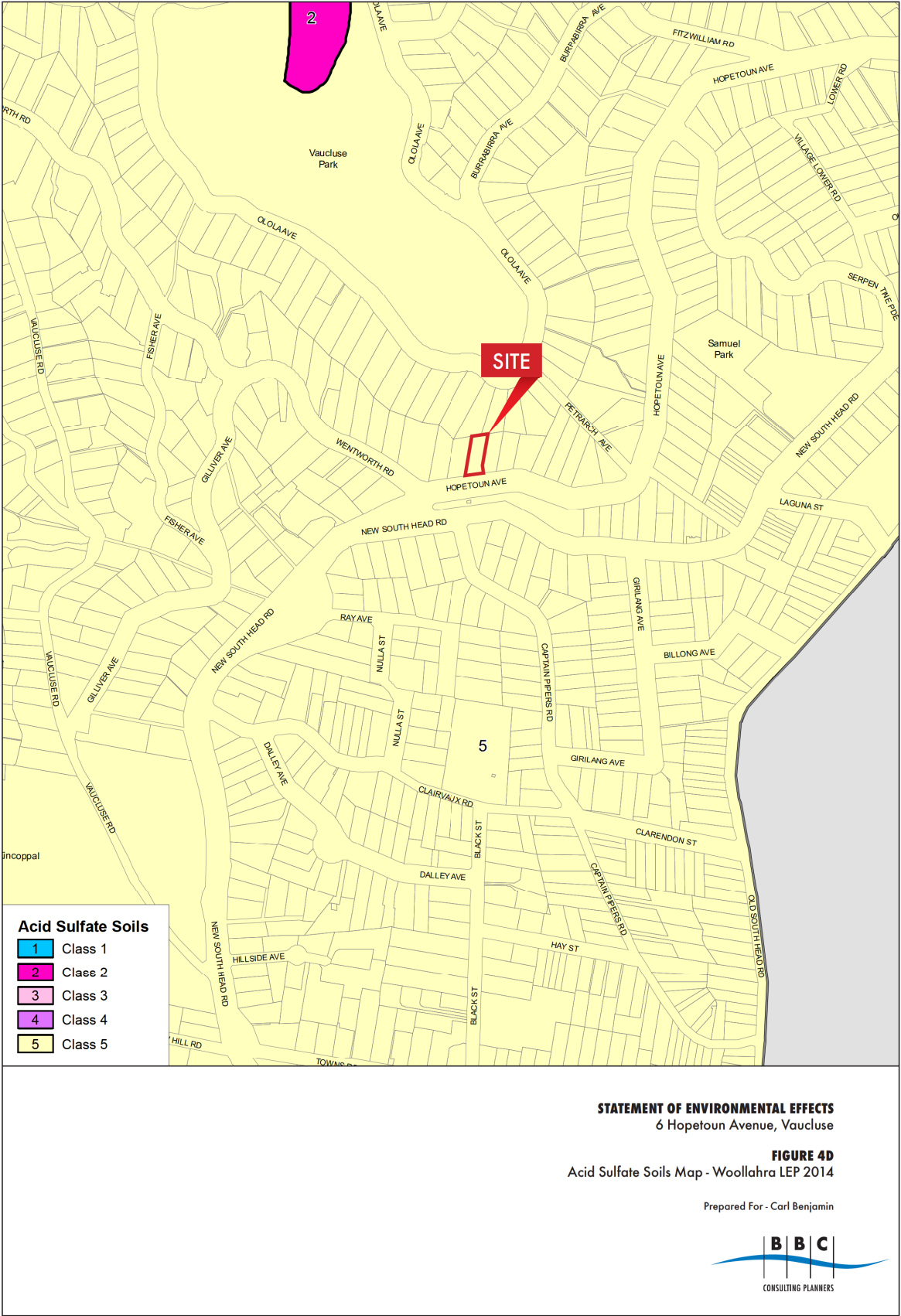
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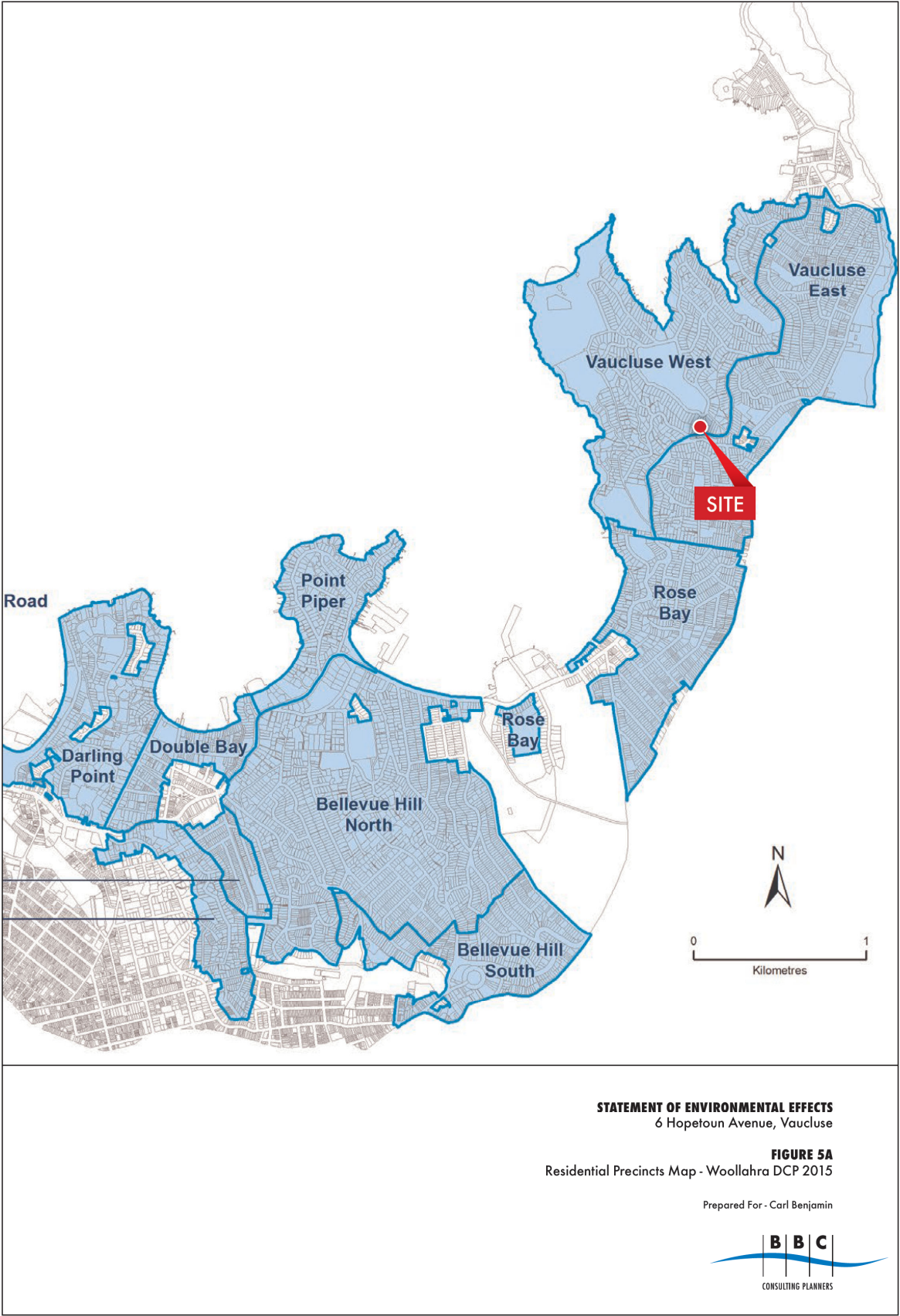


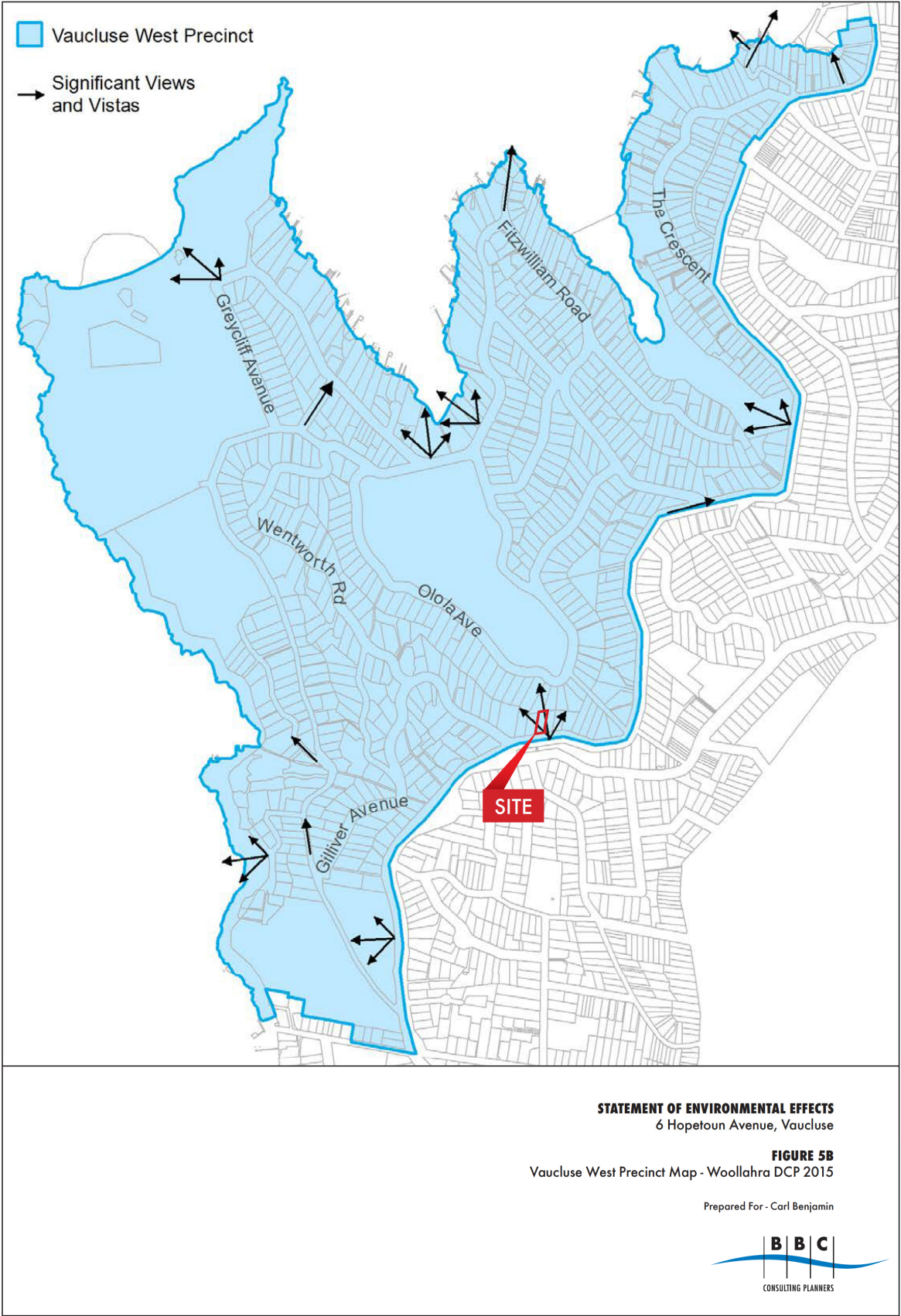


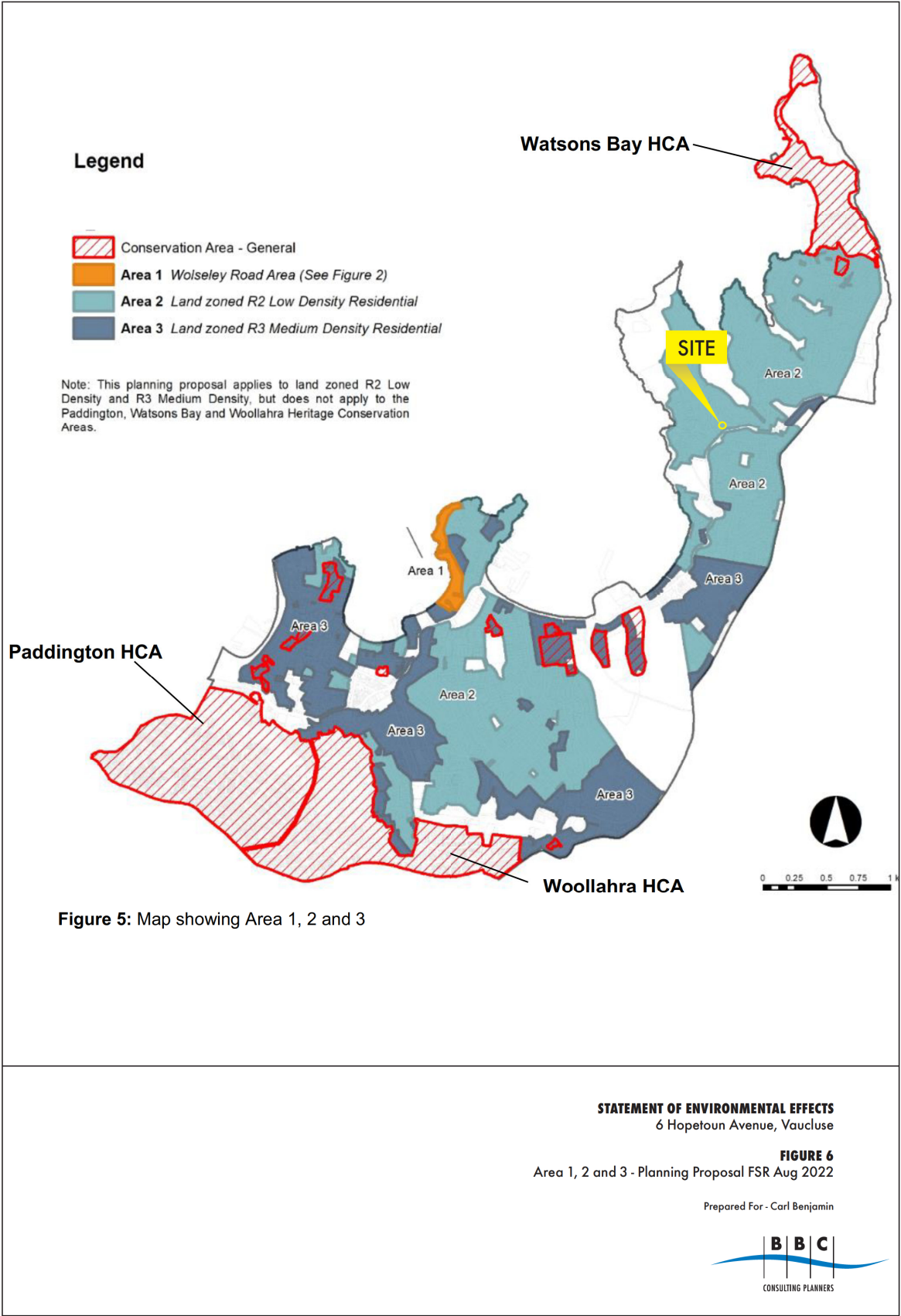








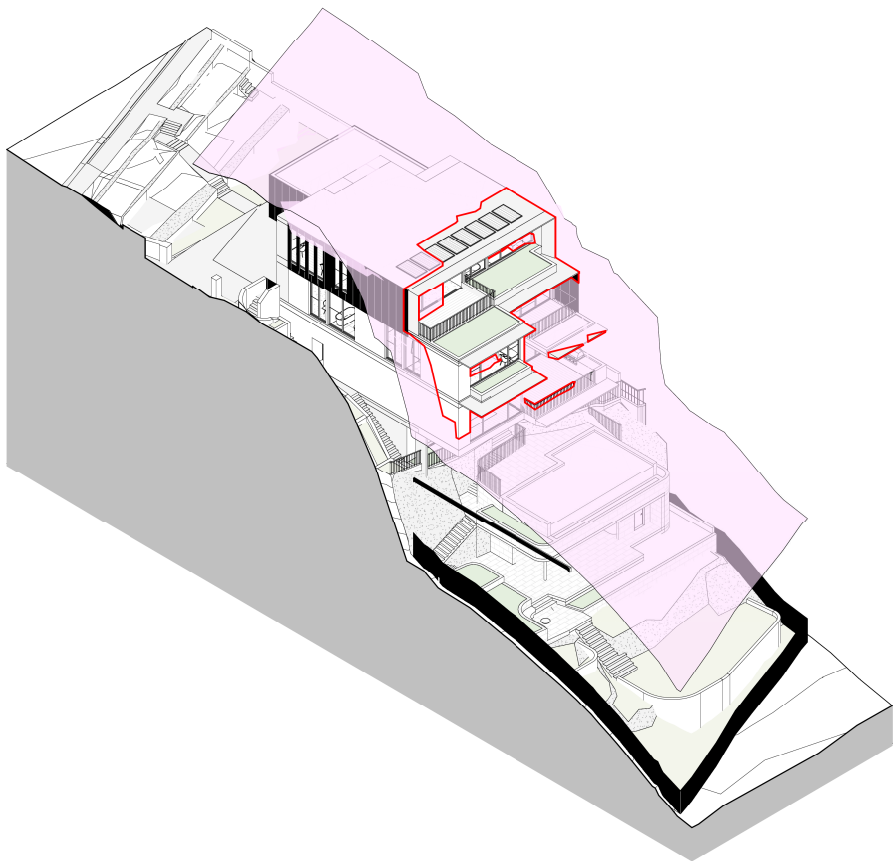




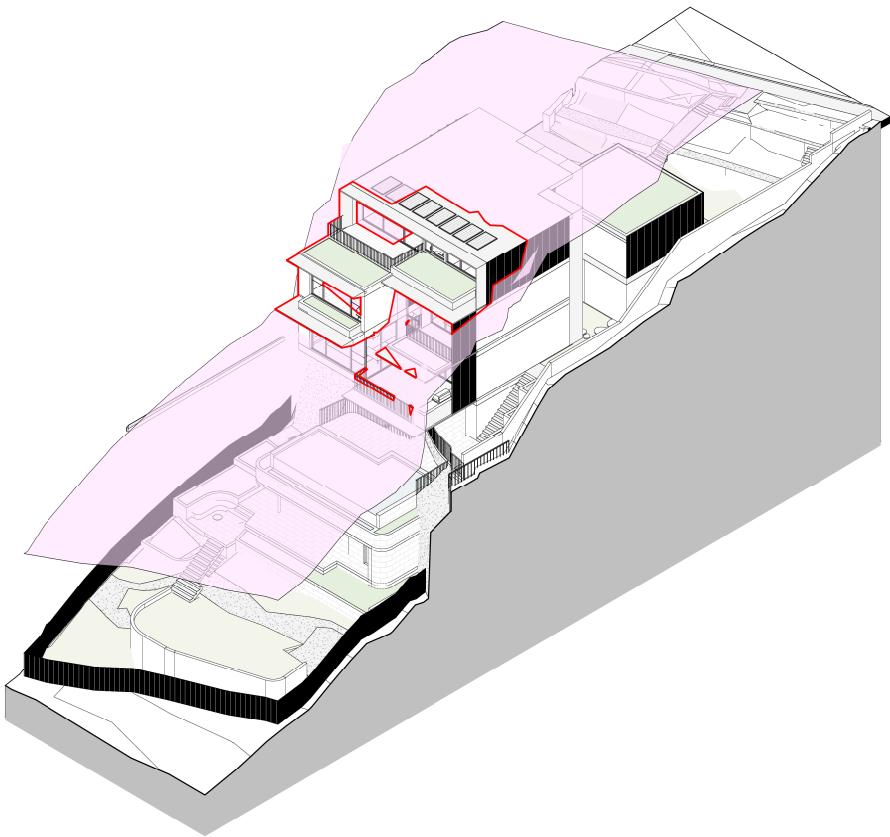


ATTACHMENT 1

3D Height Plane Diagram



1 HEIGHT PLANE - 3D VIEW FROM NORTH EAST



2 HEIGHT PLANE - 3D VIEW FROM NORTH WEST

<div>NOTE: CHECK ALL DIMENSIONS ON SITE BEFORE COMMENCING FABRICATION. USE FIGURED DIMENSIONS AND DO NOT SCALE OFF THE DRAWINGS. COPYRIGHT: THIS DESIGN & DRAWING ARE NOT PERMITTED TO BE REPRODUCED WITHOUT THE PERMISSION OF THE OFFICE OF SMYTH & SMYTH PTY LTD.</div>	REV	DATE	DETAILS		<div>SMYTH & SMYTH</div> <div>ARCHITECTURE + INTERIORS</div>	<div>SMYTH AND SMYTH PTY LTD 306/777 DUNNING AVE. ROSEBERY NSW 2018 +612 9662 2720 SMYTHANDSMYTH.COM.AU <small>Nominated Architect: David Smyth (ASB No.120044)</small></div>	<div>NEW DWELLING AT 6 HOPETOUN AVENUE, VAUCLUSE, NSW 2030 FOR KATE KELLY & CARL BENJAMIN</div> <div>PROJECT DESCRIPTION:</div>	<div>HEIGHT PLANE 3D</div> <div>SHEET NAME:</div>	<div>NORTH</div>	DATE: 22.08.2022	SCALE: 1 : 100					
	A	17.04.2023	ISSUE FOR DA	DRAWN: JY						CHECKED: DS						
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LOCAL PLANNING PANEL

SECTION 4.55 APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA261/2020/4
ADDRESS	8 Conway Avenue Rose Bay
COUNCIL WARD	Vaucluse
ZONING	R3 Medium Density Residential
EXISTING CONSENT	The construction of a residential flat building with basement parking and associated landscaping and site works to replace the existing house on the site which is approved for demolition under a Complying Development Certificate
DATE OF CONSENT	16/02/2021
TYPE OF CONSENT	Local development
CONSENT AUTHORITY	Woollahra Council
PROPOSED MODIFICATION	Modifications to the approved roof terrace access
TYPE OF MODIFICATION	Section 4.55(2)
DATE S4.55 LODGED	27/11/2023
APPLICANT	Porebski Architects Pty Ltd
OWNER	W Zhang & J Wang & W Zhang
AUTHOR	Mr D Booth
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	One
RECOMMENDATION	Approval

1. REASON FOR REPORT TO LOCAL PLANNING PANEL (LPP)

The application is to be determined by the Woollahra Local Planning Panel as it contravenes Council's 10.5m height of buildings development standard by more than 10%.

2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- the development consent as modified previously and as proposed to be further modified is considered to be substantially the same as the originally approved development;
- the proposed modifications are considered to be satisfactory with all relevant planning policies;
- it is considered that the proposed modifications will not have any significant adverse impacts upon the local environment including residential amenity and streetscape impacts;
- it is considered that the proposed modifications will not have any social or economic impacts;
- the site is considered to be suitable for the proposed modified development; and
- the proposed modifications are considered to not be contrary to the public interest.

3. LOCALITY PLAN



4. SITE AND LOCALITY

The site is located on the northern side of Conway Avenue. The subject site has an 18.8m frontage to Conway Avenue, an 18.8m rear boundary fronting Fernleigh Avenue, an eastern side boundary 42.1m in length, a western side boundary 44.2m in length and a site area of 806.3m².

The site rises approximately 4.5m from the front to rear boundaries.

The subject site is currently vacant.

To the east is 6 Conway Avenue, a two-storey rendered dwelling house elevated above basement parking.

To the west is 10 Conway Avenue, a three-storey multi dwelling housing development of three attached rendered dwellings with pitched roofs, elevated above three garages on the street alignment.

5. ORIGINALLY APPROVED DEVELOPMENT

- Construction of a 3-storey residential flat building (3 x 3 bedroom units) with roof terrace.
- Basement parking for 6 cars, 6 bicycles and 1 motorcycle with vehicular access to the basement from Conway Avenue.
- Landscaping and site works.

6. APPROVED MODIFICATIONS /PREVIOUS S4.55 APPLICATIONS

DA261/2020/2 involved the following modifications to the development consent:

Changes to Satisfy Conditions of Consent

- Reduction of the garden pergola. - Condition No. C.1 (a).
- Addition of a low retaining wall to the western boundary near Tree 30A, keeping the ground level reduction within 500mm. - Condition No. C.1(e).

Basement Level

- Widening of the pedestrian entry
- Replacement of an open garage wall with a solid wall

Ground Level

- Extension of Bedroom 1 within part of the covered southern terrace
- Deletion of the study
- Rearrangement of the dressing area and ensuite bathroom
- Reduction in windows
- Addition of a water closet adjacent to the lift
- Relocation of the laundry internally
- Introduction of a curved wall to the south-western corner of Bedroom 2
- Rearrangement of ensuites 2 and 3 to accommodate a new window to each
- Reduction of the length of the approved water feature and extension of the rear covered terrace over this area.

First & Second Floor Levels

- Introduction of an additional ensuite bedroom within the northern part of the side terrace/balcony and planter in order to align with the bedroom below
- Deletion of the study to facilitate an open-plan living/dining/kitchen area
- Relocation of the laundry internally

DA261/2020/3 was rejected on 13 November 2023 on the basis that it was deemed to have been inappropriately lodged as a Section 4.55(1A) application.

7. PROPOSED MODIFICATIONS

The replacement of the approved glazed hydraulic roof terrace access hatch structure in part with an access *hut* structure that is approximately 1.6m higher than the approved access hatch and the replacement of the remainder of the approved access hatch with a section of concrete roof at approximately the same level as the approved access hatch.

The proposed access *hut* structure is sited immediately above the internal stairwell and landing and consists of a concrete eastern/part southern elevations, glazed residual elevations and a flat concrete roof.

8. ISSUES

8.1 Non-compliances with Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
4.3	Height of buildings.	1.19m or 11% departure from Councils 10.5m development standard.	Satisfactory due to the absence of any significant adverse environmental impacts.

8.2 Other issues

Issue	Conclusion	Section
Objector's concerns.	Not considered to warrant the refusal of the application.	12

9. REFERRALS

No referrals were required.

ASSESSMENT UNDER SECTION 4.55

10. SECTION 4.55(2): OTHER MODIFICATIONS

The subject application has been made under Section 4.55(2).

11. SUBSTANTIALLY THE SAME DEVELOPMENT

The qualitative and quantitative aspects of the original consent have been compared to the proposal, and the following comments are made:

- The proposed modifications do not radically change the original proposal.
- The proposed development is essentially and materially the same development.
- The proposed modifications would not substantially change how the development is to be carried out.
- The proposed modifications do not alter any aspect of the development which was essential to the development when it was originally approved.

The development consent, as modified previously and as proposed to be further modified, is considered to be substantially the same as the approved development.

12. NOTIFICATION/ADVERTISING

The application was notified and advertised from 17/01/2024 to 01/02/2024. An objection was received from:

1. Steven Monaco - 6 Conway Avenue, Rose Bay.

The following concerns were raised:

- *Privacy impacts*

The subject modifications do not have the potential to result in any additional loss of privacy to the adjoining property beyond that associated with the approved development.

- *Excessive height and associated visual impacts upon the streetscape*

The proposed access *hut* structure is considered to be of sufficiently minor dimensions and sited adequately from the approved front and rear elevations so as to not have the potential for any significant adverse visual impacts upon the Conway Avenue or Fernleigh Avenue streetscapes.

- *Additional overshadowing*

The proposed access *hut* structure will not result in any significant additional overshadowing to the concerned property (the adjoining property to the east) with solar access maintained in accordance with Council's requirements.

13. STATUTORY DECLARATION

The applicant has completed a statutory declaration declaring that the site notice was erected and maintained during the notification period.

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15(1)

The relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act* 1979 as required by Section 4.55(3) of the Act are assessed under the following headings:

14. SEPP (RESILIENCE AND HAZARDS) 2021

Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, requires consideration to be given as to whether the subject land is contaminated. The assessment of the original development application concluded that there was not a site contamination issue and it is considered that the proposed modifications do not have the potential to alter that conclusion.

15. SEPP (BIODIVERSITY AND CONSERVATION) 2021

15.1 Chapter 2 Vegetation in non-rural areas

The provisions of *Chapter 2 Vegetation in non-rural areas* require the consideration of the proposed modifications with regard to tree impacts.

The proposed modifications to the development consent do not involve the potential for any tree impacts.

15.2 Chapter 6 Water catchments

The land is located within the Sydney Harbour Catchment, outside the Foreshores and Waterways Area of the Catchment.

The proposed modifications to the development consent are considered to be satisfactory in terms of the *Division 2 Controls on development generally* with existing conditions of consent adequately addressing stormwater run-off and sedimentation control.

The proposed modifications to the development consent are considered to be satisfactory with regard to the relevant provisions of SEPP (Biodiversity and Conservation) 2021.

16. SEPP (SUSTAINABLE BUILDINGS) 2022

Chapter 2 Standards for residential development—BASIX

Chapter 2 applies to the subject application in terms of commitments in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The subject application was accompanied by BASIX Certificate 1116836M_04 demonstrating compliance with the SEPP. These requirements are addressed by recommended modified conditions of development consent.

17. WOOLLAHRA LEP 2014

17.1 Clause 1.2: Aims of Plan

The proposed modifications to the development consent are considered to be consistent with the aims stipulated under Clause 1.2(2) of Woollahra LEP 2014.

17.2 Land Use Table

The proposed modifications to the development consent relate to a residential flat building use which is permissible within the R3 Medium Density Residential zone.

17.3 Objectives of the zone

The proposed modifications to the development consent are considered to be consistent with the objectives of the R3 Medium Density Residential zone.

17.4 Clause 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m. The upper approximately 1.19m of the proposed 4.1m long x 3m wide access *hut* structure extends above Council's 10.5m height plane to a maximum height of 11.69m. The remainder of the proposed modifications are compliant.

A Clause 4.6 written request from the applicant to vary Council's height development standard is not required for S.4.55 applications.

The objectives of the height development standard under Clause 4.3 (1) are:

- (a) *To establish building heights that are consistent with the desired future character of the neighbourhood.*
- (b) *To establish a transition in scale between zones to protect local amenity.*
- (c) *To minimise the loss of solar access to existing buildings and open space.*
- (d) *To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion.*
- (e) *To protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*

The non-compliant upper 1.19m section of the 4.1m long access *hut* structure is considered to be of sufficiently minor dimensions and sited adequately from the approved front and rear elevations so as to not have the potential for any significant adverse visual impacts upon the Conway Avenue or Fernleigh Avenue streetscapes. Visual impacts upon adjoining properties are also considered to be sufficiently minor as to not warrant the refusal of the application.

The non-compliant upper 1.19m component of the roof access structure will not have any significant view impacts upon surrounding properties, does not have the potential to result in any additional loss of privacy to adjoining properties beyond that associated with the approved development and will not result in any significant additional overshadowing to adjoining properties with solar access maintained in accordance with Council's requirements.

No significant loss of public views are envisaged.

The non-compliance is therefore considered to be satisfactory in terms of upholding the above-mentioned objectives and is supported in this instance.

Accordingly, the proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Clause 4.3 of Woollahra LEP 2014.

17.5 Clause 4.4: Floor Space Ratio

Clause 4.4 stipulates a maximum floor space ratio of 0.75:1. The approved development involves a floor space ratio of 0.81:1. The proposed modifications do not involve any additional gross floor area from that as approved on the basis that the definition of *gross floor area* excludes:

- (d) any area for common vertical circulation, such as lifts and stairs; &*
- (j) voids above a floor at the level of a storey or storey above.*

Accordingly, the proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Clause 4.4 of Woollahra LEP 2014.

17.6 Clause 5.10: Heritage Conservation

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

The subject site is not heritage affected. Council's Heritage Officer who reviewed the application upon lodgement (via DARC) provided the following written comment:

There will be no adverse impact on heritage item located in close proximity to the site.

Accordingly, the proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

18. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

The relevant issues with regard to the provisions of Woollahra DCP 2015 are discussed as follows.

18.1 Chapter B1.9: Rose Bay Residential Precinct

B1.9.2: The desired future character objectives of the Rose Bay precinct are as follows:

- O1 *To respect and enhance the streetscape character and key elements of the precinct.*
- O2 *To encourage development at a scale which relates to the function and role of the streets they address, i.e. larger scale development on the major streets (Old South Head Road and New South Head Road adjacent to the commercial centre) and a range of housing types on the minor streets.*
- O3 *To provide for an evolution of building stock from dwelling houses to medium density development in the R3 zoned areas.*
- O4 *To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*
- O5 *To reinforce a consistent building scale within streets.*
- O6 *To design and site buildings to respond to the topography and minimise cut and fill.*
- O7 *To protect important iconic and harbour views from the public spaces of the precinct.*
- O8 *To reinforce the landscape setting and maintain the existing tree canopy.*

The streetscape character and key elements of the Rose Bay precinct requires that:

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 pattern of rectilinear residential streets within the valley basin, and curvilinear streets in the steeper areas;*
- c) *dwelling houses set within highly visible gardens;*
- d) *the visual relief within streetscapes provided by the separation of buildings, the articulation of facades and building forms;*
- e) *the tree canopy formed by both street and private yard plantings;*
- f) *sandstone garden walls at the street;*
- g) *the relationship of residential development to the open spaces (including Lyne Park and the Royal Sydney Golf Club) and the harbour; and*
- h) *the iconic and harbour views available from the streets and other public spaces, including view corridors between buildings.*

The approximately 1.6m high x 4.1m long x 3m wide access *hut* structure is considered to be of sufficiently minor dimensions and sited adequately from the approved front and rear elevations so as to not have the potential for any significant adverse visual impacts upon the Conway Avenue or Fernleigh Avenue streetscapes. The other modification relating to the proposed lower flat concrete roof form at the same height as the approved access hatch and will not be visible from streetscape perspectives.

The proposed modifications to the development consent are considered to be satisfactory with regard to the desired future character objectives for the Rose Bay residential precinct.

18.2 B3.2 Building Envelope

The proposed modifications are fully compliant with Council's boundary setback requirements including Council's 2m side boundary setback requirement with an eastern side boundary setback of approximately 2.5m proposed.

The proposed modifications are considered to be satisfactory with regard to the provisions of Part B3.2 of Woollahra DCP 2015.

18.3 B3.5.1 Streetscape and local character

The approximately 1.6m high x 4.1m long x 3m wide access *hut* structure is considered to be of sufficiently minor dimensions and sited adequately from the approved front and rear elevations so as to not have the potential for any significant adverse visual impacts upon the Conway Avenue or Fernleigh Avenue streetscapes. The other modification relating to the proposed lower flat concrete roof form at the same height as the approved access hatch and will not be visible from streetscape perspectives.

The proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Part B.3.5.1 of Woollahra DCP 2015.

18.4 B3.5.2 Overshadowing

The proposed access *hut* structure will not result in any significant additional overshadowing to the adjoining properties with solar access maintained in accordance with Council's requirements.

The proposed modifications are considered to be satisfactory with regard to the provisions of B3.5.2 of Woollahra DCP 2015.

18.5 B3.5.3 Public and Private Views

No significant loss of public or private views are envisaged as a result of the proposed modifications.

The proposed modifications are considered to be satisfactory with regard to the provisions of B3.5.3 of Woollahra DCP 2015.

18.6 B3.5.4 Visual and acoustic privacy

The proposed modifications do not have the potential to impart any significant adverse privacy impacts upon adjoining properties and are considered to be satisfactory with regard to the provisions of B3.5.4 of Woollahra DCP 2015.

18.7 B3.8.6 Additional controls for residential flat buildings

The proposed modifications are considered to be satisfactory with regard to the provisions of Part B3.8.6 of Woollahra DCP 2015.

19. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report.

20. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposed modifications to the development consent.

21. CONCLUSION

The proposed modifications to the development consent are considered to be acceptable against the relevant considerations under S.4.15 and S.4.55 of the Environmental Planning and Assessment Act, 1979.

22. DISCLOSURE STATEMENTS

Under Section 10.4 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

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

That the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, modify the development consent to DA261/2020 for the construction of a residential flat building with basement parking and associated landscaping and site works to replace the existing house on the site which was approved for demolition under a Complying Development Certificate on land at 8 Conway Avenue Rose Bay in the following terms:

Modification Summary

DA Application Number (PAN Number)	Determination Date	Modification Description
DA261/2020/2 PAN 97524	31/08/2021	Addition of Condition A.6 Amendment of Conditions C.1, C.3, H.1 and I.1
DA261/2020/4 PAN 389675	07/03/2024	Addition of Condition A.6a Amendment of Conditions C.3, H.1 and I.1

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)
597.A.01 (C) 597.A.02 (D) 597.A.03 (C) 597.A.04 (D) 597.A.05 (D) 597.A.06 (D) 597.A.07 (C) 597.A.08 (D)	Architectural Plans	Porebski Architects	15.10.20 28.01.21 15.10.20 28.01.21 28.01.21 28.01.21 15.10.20 28.01.21
1116836M	BASIX Certificate	NSW Department of Planning and Infrastructure	24 July 2020
7000-1.1R Revision A	Acoustic Report	Day Design Pty Ltd	31 July 2020
LP01-D6120 - LP06-D6120,	Landscape Plan	Dangar Barin Smith	30/7/2020
	Arboricultural Impact Assessment	Russell Kingdom	22/7/2020
20089RP01	Geotechnical Report	Fortify Geotech	26 May 2020

Reference	Description	Author/Drawn	Date(s)
SYD2020014 SW01-Rev B SW03-Rev B SW04-Rev B SW05-Rev B SW06-Rev B	Stormwater Management Plans	G&A Consulting Group	24/08/2020 24/08/2020 24/08/2020 24/08/2020 24/08/2020
20032	Traffic Report	Terraffic P/L	18 July 2020

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

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A5 (Autotext AA5)

A.4 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 Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
28	<i>Tristanopsis laurina</i> (Water gum)	Front of property on Council nature strip (West of proposed driveway)	5 x 3 metres	\$3000

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
2 - 11	10 x <i>Juniperus sp.</i> (Juniper)	Rear boundary of property	4 x 1 metres
12 & 13	<i>Cupressocyparis leylandii</i> 'Leighton Green' (Leightons Green)	Rear Eastern boundary	6 x 2 metres
14- 21	7 x <i>Juniperus sp.</i> (Juniper)	Rear Eastern boundary	6 x 2 metres
22 - 26	5 x <i>Cupressus sempervirens</i> 'Stricta' (Pencil pine)	Front garden	10 x 1 metres
27	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	Front of property on Council nature strip (East of proposed driveway)	3 x 4 metres

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

A.5 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.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)
597.A.01 (Issue D) Dated 28/1/21	Site/Roof Plan	Porebski Architects	April 2020
597.A.02 (Issue F) Dated 21/7/21	Garage Entry Plan/Ground Floor Plan		
597.A.03 (Issue D) Dated 28/1/21	First Floor Plan/ Second Floor Plan		
597.A.04 (Issue E) Dated 16/4/21	Long Elevations		
597.A.05 (Issue E) Dated 16/4/21	Short Elevations		
597.A.06 (Issue E) Dated 16/4/21	Long Sections		
597.A.07 (Issue D) Dated 28/1/21	Short Sections		
597.A.08 (Issue E) Dated 16/4/21	Boundary Elevations		
1116836M_02	BASIX Certificate	NSW Department of Planning, Industry & Environment	03/05/2021

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*.)

(Added on 31/08/2021 under DA261/2020/2 (PAN 97524))

A.6a 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)
597.A.01 (Issue L)	Site/Roof Plan	Porebski Architects	21/09/23
597.A.04 (Issue K)	East and West Elevations		
597.A.05 (Issue J)	South and North Elevations		
597.A.06 (Issue J)	Sections AA & BB		
597.A.07 (Issue J)	Section CC & DD Fernleigh Avenue elevation (rear)		

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*.)

(Added on 07/03/2024 under DA261/2020/4 (PAN 389675))

B. Conditions Which Must Be Satisfied Prior to the Demolition of Any Building or Construction

B.1 Construction Certificate Required Prior to Any Demolition

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

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

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

B.2 Identification of Hazardous Material

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

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

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

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.
Standard Condition: B6

B.3 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects are found during the works covered by this approval, all work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. 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

B.4 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

B.5 Establishment of Tree Protection Zone (TPZ) Fence

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk
28	<i>Tristaniopsis laurina</i> (Water Gum)	Front of property on Council nature strip (west of proposed driveway)	3 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 brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm.

The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.

- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.6 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

C. Conditions Which Must Be Satisfied Prior to the Issue of Any Construction Certificate

C.1 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) Deleted.
- b) The removal of existing street tree referenced 27 (*Callistemon viminalis*) located on the nature strip east of the proposed driveway.
- c) The planting of 1 x 200 litre *Banksia integrifolia* (Coast Banksia) within the Council nature strip 2 metres east of the proposed driveway as a replacement to Tree 27.
- d) The most Northern *Viburnum* specimen in the row of *Viburnum* shrubs currently referenced collectively as Tree 30 within the Russell Kingdom arboricultural report and located on the Eastern boundary of 10 Conway Avenue must be referenced individually as tree 30A and plotted on site plans.
- e) Deleted.
- f) Neighbouring trees referenced 1, 29, 30 & 30A must be referenced and plotted on construction drawings.

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.

(Amended on 31/08/2021 under DA261/2020/2 (PAN 97524))

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$76,803	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$3000	No	T114
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$50,800	No	T113
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$30,769 + Index Amount	Yes, quarterly	T96

INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$200	No	T95
Public Road/Footpath Infrastructure Inspection Fee	\$480	No	T45
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$162,254 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

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

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

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 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 2011

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

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,

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

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

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

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

Standard Condition: C5

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1116836M_04 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 07/03/2024 under DA261/2020/4 (PAN 389675))

C.4 Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, 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.5 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That off-street car parking will be constructed with the capacity to have 100% of car spaces to install at a minimum 'Level 2' electric vehicle charging point, including:
 - identify power capacity to each car space.
 - identify load management system on each level of parking such as distribution board or sub-level.
 - identify conduit system to allow each car space to install an electric vehicle charging point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charging points and allow internet access (run Ethernet cable or install 4G modem).
- b) The location of electric vehicle charging points, consistent with the provision of 1 car parking space or 10% of all car parking spaces – whichever is greater - to have a 'Level 2' electric vehicle charging point installed.
- c) The principal certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
 - b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power
- Standard Condition: C57 (Autotext CC57)

C.6 Waste Storage – Residential Flat Buildings

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

- a) The storage of waste and recycling bins behind the building line or within non-habitable areas of the building as close as possible to the service road collection point.
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs.

Standard Condition: C16 (Autotext: CC16)

C.7 Utility Services Generally

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the *Act* to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any Construction Certificate application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the Construction Certificate plans and/or detailed within the Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the Construction Certificate plans.

Note: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.
Standard Condition: C20 (Autotext CC20)

C.8 Provision for Energy Supplies

The Applicant must provide to the Certifying Authority a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site.

Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the *Act* is required to be submitted to Council. Council will assess the proposed location of the required substation.

The Construction Certificate plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required, the Construction Certificate plans and specifications must provide:

- a) A setback not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.

- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

Note: If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Note: This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Energy Australia's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

Note: Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*.

The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.

Note: Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land*.

Standard Condition: C21

C.9 Detailed Acoustic Report – Mechanical Plant

A Detailed Acoustic Assessment shall be carried out by a suitably qualified acoustic consultant prior to the issue of a Construction Certificate, once the plant selection has been finalised to ensure that the acceptable noise criteria, as described in the *Environmental Noise Assessment prepared Day Design P/L. Report No. 7000-1.1R Revision A. Dated 31 July 2020* is satisfied.

C.10 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert evidence of suitability. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.11 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will 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.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au). Standard Condition: C62

C.12 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The basement carpark in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Australian Standard 1668.2-2012. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement carpark must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement carpark and provide details to the Certifying Authority accordingly. Except as varied, the carpark enclosure shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-2012.

C.13 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

C.14 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.

C.15 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:

1. Road & Footpath Works

- a) The construction of a new 3.5 metres wide vehicular crossing including the replacement of 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 internal driveway at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway must be submitted for assessment.
- b) The reconstruction of the existing 1.8m wide concrete footpath for the full frontage of the site to Council's Specification for Roadworks, Drainage and Miscellaneous Works. Detailed long section and cross section at every 5m interval shall be prepared by a suitably qualified and experienced civil engineer.
- c) The reinstatement of all damaged kerb and gutter and road pavement to match existing.
- d) 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.
- e) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

2. Drainage Works

- a) The construction of two new kerb inlet pits with 2.1m precast lintel and double grates for the proposed stormwater connection in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and standard drawing DR1. One of the new kerb inlet pits must be located within the frontage of the site and be at least 0.5m away from any vehicular crossing. The grates must be Class D and "bicycle friendly" type.

- b) The existing Council's in-ground system shall be extended by using minimum Class 2, 375mm RRJ steel reinforced concrete pipes (RCP) with a minimum fall of 1% in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and AS3725. 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 to be defective, the applicant must reconstruct this existing kerb inlet pit to the satisfaction of Council's Assets Engineer.
- c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

3. Bonds

- a) A bond of \$50,800 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.
- b) 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.
- c) 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.16 Soil and Water Management Plan – Submission and Approval

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

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

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

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

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

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

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

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

C.17 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, if deemed necessary by the geotechnical engineer upon detailed investigation, 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, if deemed necessary by the geotechnical engineer upon detailed investigation, 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.18 Ground Anchors

This development consent does **NOT** give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors 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. 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.19 Parking Facilities

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively.

The plans must satisfy the following requirement(s):

- a) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1-2004.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

Standard Condition: C45 (Autotext: CC45)

C.20 Stormwater Management Plan (site greater than 500m²)

The *Construction Certificate* plans and specifications, required by Clause 139 of the Regulation, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans prepared by G&A Consulting Group, referenced SYD2020014, dated 24 August 2020, other than amended by this and other conditions;
- b) The installation of minimum 3m³ rainwater tank for non-potable uses;
- c) The installation of proprietary 7 x 460mm PSORB Stormfilter Cartridges by Ocean Protect to achieve the water quality targets for stormwater treatment system stipulated in Chapter E2.2.3 of Council's DCP;

- d) Compliance the objectives and performance requirements of the BCA;
- e) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

OSD Requirements

The minimum Site Storage Requirements ("SSR") for the proposed on-site detention system shall be 16.1m³. The Permissible Site Discharge (PSD) including the bypassing area discharging to the kerb and gutter must not exceed 27 l/s.

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 Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 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.

On-site Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

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 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,

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)

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.

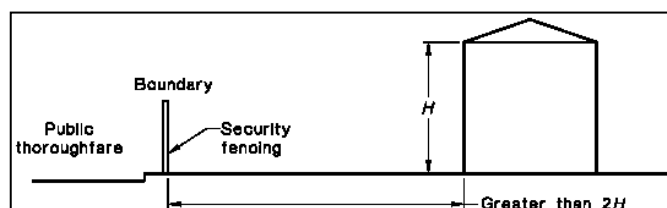
In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

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)

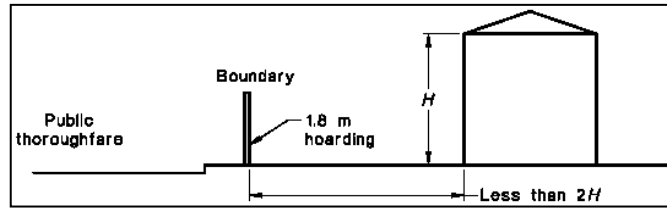
D.2 Security Fencing, Hoarding and Overhead Protection

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.



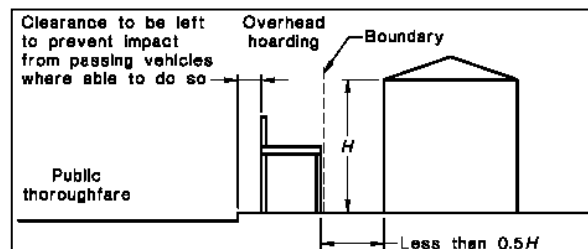
Type B Hoarding

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:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) 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:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) 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
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



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

All Hoardings

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

Hoardings on Public Land

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

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

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

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

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

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

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

Standard Condition: D11 (Autotext DD11)

D.3 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

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

- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

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

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

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

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

Standard Condition: D12 (Autotext DD12)

D.4 Toilet Facilities

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

Each toilet provided:

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

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

In this condition:

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

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

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

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

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

D.5 Erosion and Sediment Controls – Installation

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

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

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

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

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

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

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

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

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

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

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

- unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

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

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

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

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

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

D.7 Notification of Home Building Act 1989 requirements

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

D.8 Establishment of Boundary Location, Building Location and Datum

Prior to the commencement of any work the Principal Contractor or Owner-builder must ensure that a surveyor registered under the *Surveying and Spatial Information Act 2002* sets out:

- a) the boundaries of the site by permanent marks (including permanent recovery points),
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,

- c) establishes a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and
- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the Principal Certifier.

Note: Where the Principal Contractor or Owner-builder notes any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the Principal Contractor or Owner-builder should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.
Standard Condition: D18 (Autotext DD18)

D.9 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 to be assessed by the Structural Engineer must include (but is not limited to):

No. 6 & 10 Conway Avenue

All required dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy 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.10 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.11 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.

- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.
Standard Condition: D9 (Autotext: DD9)

D.12 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)

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/nqlg.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 to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

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

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

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

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

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

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

Standard Condition: E13 (Autotext EE13)

E.9 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

Standard Condition: E15 (Autotext EE15)

E.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 or obtained from Council’s office.

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

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23 (Autotext EE23)

E.15 Site Waste Minimisation and Management – Demolition

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

- a) Stone, bricks, roof tiles, joinery and decorative architectural elements to be demolished, which include stairs, windows and doors, chimney pieces and ceiling roses must be salvaged and where possible reused on the project.
Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.
- 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.

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.16 Site Waste Minimisation and Management – Construction

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

- a) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- b) consider organising to return excess materials to the supplier or manufacturer,
- c) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- d) clearly 'signpost' the purpose and content of the storage areas,
- e) 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,
- f) promote separate collection bins or areas for the storage of residual waste,
- g) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- h) minimise site disturbance and limit unnecessary excavation,
- i) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- j) 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.17 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 Part B, 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.18 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, Part1: 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.19 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the conditions 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.20 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.21 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.22 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management 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.23 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 a *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 is protected by Council's Tree Preservation Order, 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
1 x <i>Banksia integrifolia</i> (Coast Banksia)	Front of property on Council nature strip, east of proposed driveway.	200 litres	6 x 4 metres
1 x <i>Jacaranda mimosifolia</i> (Jacaranda)	As plotted on the submitted Dangar Barin Smith Landscape Plan	200 litres	9 x 6 metres

The project arborist shall document compliance with the above condition.

E.24 Hand excavation within tree root zones

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

Council Ref No.	Species	Location	Radius from centre of trunk
1	<i>Murraya paniculata</i> (Mock Orange)	Eastern boundary of 10 Conway avenue. Refer to Appendix 1 of the submitted Advanced tree consulting tree report – <i>Site plan with trees and proposed development</i>	2 metres
29	<i>Murraya paniculata</i> (Mock Orange)	Eastern boundary of 10 Conway avenue. Refer to Appendix 1 of the submitted Advanced tree consulting tree report - <i>Site plan with trees and proposed development</i>	2 metres
30	5 x <i>Viburnum odoratissimum</i> (Sweet Viburnum)	Eastern boundary of 10 Conway avenue. Refer to Appendix 1 of the submitted Advanced tree consulting tree report - <i>Site plan with trees and proposed development</i>	2 metres
30A	<i>Viburnum odoratissimum</i> (Sweet Viburnum)	Eastern boundary of 10 Conway avenue.	2 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.25 Footings for boundary walls in the vicinity of trees

Footings for boundary walls 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
1	<i>Murraya paniculata</i> (Mock Orange)	Eastern boundary of 10 Conway avenue. Refer to Appendix 1 of the submitted Advanced tree consulting tree report – <i>Site plan with trees and proposed development</i>	2 metres
29	<i>Murraya paniculata</i> (Mock Orange)	Eastern boundary of 10 Conway avenue. Refer to Appendix 1 of the submitted Advanced tree consulting tree report - <i>Site plan with trees and proposed development</i>	2 metres
30	5 x <i>Viburnum odoratissimum</i> (Sweet Viburnum)	Eastern boundary of 10 Conway avenue. Refer to Appendix 1 of the submitted Advanced tree consulting tree report - <i>Site plan with trees and proposed development</i>	2 metres
30A	<i>Viburnum odoratissimum</i> (Sweet Viburnum)	Eastern boundary of 10 Conway avenue.	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.

E.26 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.
Standard Condition: E3 (Autotext EE3)

E.27 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.28 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.29 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.30 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
Standard Condition: E24 (Autotext EE24)

F. Conditions Which Must Be Satisfied Prior to Any Occupation or Use of the Building (Part 4A 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 New Waste Services

No Occupation Certificate must be issued until the Owner/developer has procured the provision of required wastes services including purchase of all waste and recycling storage containers (bins and crates) from Council or otherwise in accordance with the approved Waste Management Plan.

Standard Condition: F19 (Autotext FF19)

F.3 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 charging points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by the conditions in Part C of this consent.

Standard Condition: F22 (Autotext FF22)

F.4 Acoustic Controls – Mechanical Plant

To alleviate the level of noise emission from the operation of mechanical plant, the **acoustic controls** detailed in *Section 7 of the Environmental Noise Assessment prepared Day Design P/L. Report No. 7000-1.1R Revision A. Dated 31 July 2020* are to be fully implemented prior to the occupation of the building.

F.5 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.

F.6 Commissioning and Certification of Systems and Works

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

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

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

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

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

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

F.7 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)

G. Conditions Which Must Be Satisfied Prior to the Issue of Any Subdivision Certificate

Nil.

H. Conditions Which Must Be Satisfied Prior to the Issue of a Final Occupation Certificate (Section 6.4 (C))

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1116836M_04.

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 07/03/2024 under DA261/2020/4 (PAN 389675))

H.2 Removal of Ancillary Works and Structures

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

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

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

H.3 Landscaping

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

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

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 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

On completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site detention system (OSD),
- c) that the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations,
- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) 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 and/or absorption trenches, 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. The PC must supply a copy of the WAE plans to Council together with the Final Occupation Certificate.

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

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. 1116836M_04.

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 07/03/2024 under DA261/2020/4 (PAN 389675))

I.2 Outdoor Lighting – Residential

Outdoor lighting must comply with AS 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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

I.3 Waste Management - Residential

Waste management must comply with the approved site waste minimisation and management plan (SWMMP) and with Woollahra DCP 2015, Chapter E5–Waste Management.

The occupier of the site must place waste and recycling bins/crates on the footpath for collection but not earlier than 12 hours prior to the designated collection time.

The occupier of the site must remove waste and recycling bins/crates from the footpath within 12 hours of being emptied by Council's waste service and they must be stored within the site in the approved waste storage area.

No commercial waste must be placed within residential waste and recycling bins/crates.

Note: This condition has been imposed to ensure that the provisions of the approved SWMMP and Woollahra DCP are complied with during the ongoing operations of the development.

Note: For further residential wastes management policy information go to

www.woollahra.nsw.gov.au

Standard Condition: I52

I.4 Garbage Collection

The garbage area must be maintained at all times to ensure that a breeding ground is not created for pests and must be capable of being easily and effectively cleaned.

All garbage containers must have tight fitting lids and be large enough or in sufficient numbers to contain all the waste produced by the business while awaiting the next removal from the premises.

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

Standard Condition: I16 (Autotext: I116)

I.5 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*.

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* (<http://www.environment.nsw.gov.au/noise/nlgq.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. 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).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: I56

I.6 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.

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

Note: Words in this condition have the same meaning as in the:

NSW Industrial Noise Policy

(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)

ISBN 0 7313 2715 2, dated January 2000, and

Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nlgq.htm>)

ISBN 1741370671 , dated December 2004.

Standard Condition: I59

I.7 Ongoing Maintenance of the On-Site-Detention System

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

- a) Permit stormwater to be temporarily detained by the system.
- b) Keep the system clean and free of silt rubbish and debris.
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain.
- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by Council.
- e) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.
- g) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime 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.
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice.
- i) Where the owner fails to comply with the owner's obligations under this covenant, permit 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.
- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the owners in respect of the owner's obligations under this condition.

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.8 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:1993 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car Parking (Residents)	6
Car Parking (Visitors)	1
Bicycle parking	3
Motorcycle parking	1

This condition has been imposed to ensure adequate on-site parking is maintained.
Standard Condition: I21

I.9 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

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:

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



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

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

Standard Advising: K2 (Autotext KK2)

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

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

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

Note: For more information go to the NSW Fair Trading website

www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating

Standard Condition: K5 (Autotext KK5)

K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

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

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW

Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.

Standard Condition: K6 (Autotext KK6)

K.5 SafeWork NSW Requirements

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

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.

Standard Condition: K7 (Autotext KK7)

K.6 Dividing Fences

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

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

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

Standard Advising: K10 (Autotext KK10)

K.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

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 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 or call Council on 9391 7000 for further advice.

Standard Condition: K19 (Autotext KK19)

K.12 Mailboxes

Council has been alerted to an increase in mailbox theft, and as such, all new development, being new dwelling houses and residential flat buildings, are encouraged to have lockable mail boxes.

Standard Advising: K25 (Autotext KK25)

K.13 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 requested 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.14 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.

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.

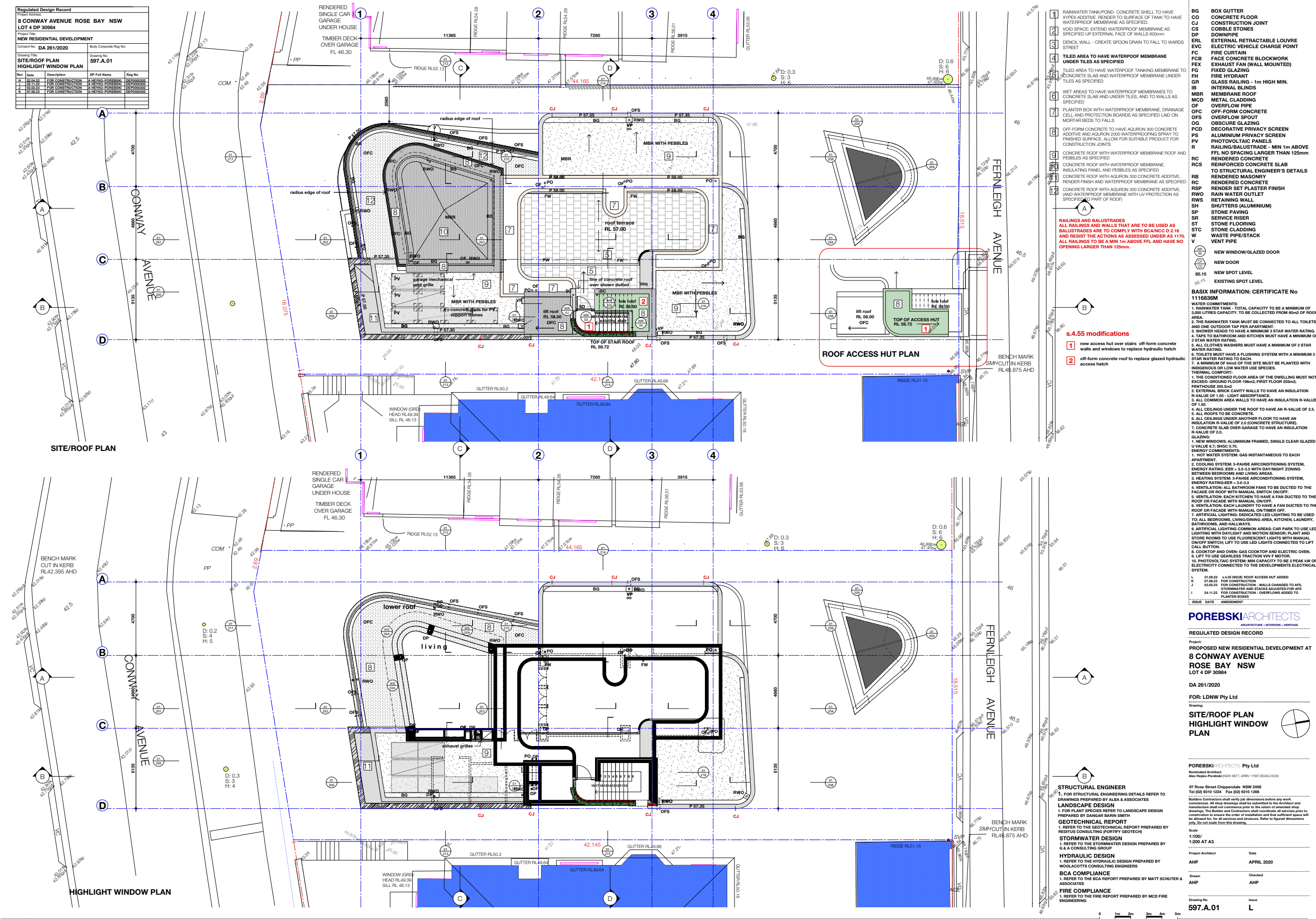
Note: *road* has the same meaning as in the *Roads Act 1993*.

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)

Attachments

1. Architectural drawings and shadow diagrams  



Regulated Design Record				
Project Address: 8 CONWAY AVENUE ROSE BAY NSW LOT 4 DP 30984				
Project Title: NEW RESIDENTIAL DEVELOPMENT				
Consent No: DA 261/2020		Body Corporate Reg No:		
Drawing Title: EAST ELEVATION WEST ELEVATION		Drawing No: 597.A.04		
Rev	Date	Description	DP Full Name	Reg No
1	22.04.22	FOR CONSTRUCTION	A HETKO-POREBSKI	1067000002
2	25.02.23	FOR CONSTRUCTION	A HETKO-POREBSKI	1067000002

parapet level RL 58.00

roof terrace level RL 57.00

second floor level RL 53.70

first floor level RL 50.40

ground floor level RL 47.10

garage/entry level RL 43.40

east elevation

parapet level RL 58.00

roof terrace level RL 57.00

second floor level RL 53.70

pergola level RL 51.00

first floor level RL 50.40

ground floor level RL 47.10

garage/entry level RL 43.40

west elevation

RAILINGS AND BALUSTRADES
ALL RAILINGS AND WALLS THAT ARE TO BE USED AS
BALUSTRADES ARE TO COMPLY WITH BCA/NCC D 2.16
AND RESIST THE ACTIONS AS ASSESSED UNDER AS 1170.
ALL RAILINGS TO BE A MIN 1m ABOVE FFL AND HAVE NO
OPENING LARGER THAN 125mm.

s.4.55 modifications

- 1 new access hut over stairs off-form concrete walls and windows to replace hydraulic access hatch
- 2 off-form concrete roof to replace glazed hydraulic access hatch

BG	BOX GUTTER
CO	CONCRETE FLOOR
CJ	CONSTRUCTION JOINT
CS	COBBLE STONES
DP	DOWNPIPE
ERL	EXTERNAL RETRACTABLE LOUVER
EVC	ELECTRIC VEHICLE CHARGE POINT
FC	FIRE CURTAIN
FCB	FACE CONCRETE BLOCKWORK
FEX	EXHAUST FAN (WALL MOUNTED)
FH	FIXED GLAZING
FH	FIRE HYDRANT
GR	GLASS RAILING - 1m HIGH MIN.
IB	INTERNAL BLINDS
MBR	MEMBRANE ROOF
MCD	METAL CLADDING
OF	OVERFLOW PIPE
OFC	OFF-FORM CONCRETE
OFS	OVERFLOW SPOUT
OG	OBSCURE GLAZING
PCD	DECORATIVE PRIVACY SCREEN
PS	ALUMINIUM PRIVACY SCREEN
PV	PHOTOVOLTAIC PANELS
R	RAILING/BALUSTRADE - MIN 1m ABOVE FFL NO SPACING LARGER THAN 125mm
RC	RENDERED CONCRETE
RCS	REINFORCED CONCRETE SLAB TO STRUCTURAL ENGINEER'S DETAILS
RB	RENDERED MASONRY
RC	RENDERED CONCRETE
RSP	RENDER SET PLASTER FINISH
RWO	RAIN WATER OUTLET
RWS	RETAINING WALL
SH	SHUTTERS (ALUMINIUM)
SP	STONE PAVING
SR	SERVICE RISER
ST	STONE FLOORING
STC	STONE CLADDING
W	WASTE PIPE/STACK
V	VENT PIPE

NEW WINDOW/GLAZED DOOR

NEW DOOR

NEW SPOT LEVEL

EXISTING SPOT LEVEL

BASIX INFORMATION: CERTIFICATE No 1116836M

WATER COMMITMENTS:
1. RAINWATER TANK - TOTAL CAPACITY TO BE A MINIMUM OF 3,000 LITRES CAPACITY. TO BE COLLECTED FROM 60m² OF ROOF AREA.
2. THE RAINWATER TANK MUST BE CONNECTED TO ALL TOILETS AND ONE OUTDOOR TAP PER APARTMENT.
3. SHOWER HEADS TO HAVE A MINIMUM 3 STAR WATER RATING.
4. TAPS TO BATHROOM AND KITCHEN MUST HAVE A MINIMUM OF 3 STAR WATER RATING.
5. ALL CLOTHES WASHERS MUST HAVE A MINIMUM OF 3 STAR WATER RATING.
6. TOILETS MUST HAVE A FLUSHING SYSTEM WITH A MINIMUM 3 STAR WATER RATING TO EACH.
7. A MINIMUM OF 64m² OF THE SITE MUST BE PLANTED WITH INDIGENOUS OR LOW WATER USE SPECIES.
THERMAL COMFORT:
1. THE CONDITIONED FLOOR AREA OF THE DWELLING MUST NOT EXCEED: GROUND FLOOR 18m²; FIRST FLOOR 20m²; PERHOUSE 205.5m².
2. EXTERNAL BRICK CAVITY WALLS TO HAVE AN INSULATION R-VALUE OF 1.50 - LIGHT ABSORPTANCE.
3. ALL COMMON AREA WALLS TO HAVE AN INSULATION R-VALUE OF 1.50.
4. ALL CEILINGS UNDER THE ROOF TO HAVE AN R-VALUE OF 2.5.
5. ALL ROOFS TO BE CONCRETE.
6. ALL CEILINGS UNDER ANOTHER FLOOR TO HAVE AN INSULATION R-VALUE OF 2.0 CONCRETE STRUCTURES.
7. CONCRETE SLAB OVER GARAGE TO HAVE AN INSULATION R-VALUE OF 2.0.
GLAZING:
1. NEW WINDOWS: ALUMINIUM FRAMED, SINGLE CLEAR GLAZED U VALUE 6.7; SHGC 0.70.
ENERGY COMMITMENTS:
1. HOT WATER SYSTEM: GAS INSTANTANEOUS TO EACH APARTMENT.
2. COOLING SYSTEM: 3-PHASE AIRCONDITIONING SYSTEM, ENERGY RATING - EER - 3.0-3.5 WITH DAY/NIGHT ZONING BETWEEN BEDROOMS AND LIVING AREAS.
3. HEATING SYSTEM: 3-PHASE AIRCONDITIONING SYSTEM, ENERGY RATING - EER - 3.0-3.5.
4. VENTILATION: ALL BATHROOM FANS TO BE DUCTED TO THE FACADE OR ROOF WITH MANUAL SWITCH ON/OFF.
5. VENTILATION: EACH KITCHEN TO HAVE A FAN DUCTED TO THE ROOF OR FACADE WITH MANUAL ON/OFF.
6. VENTILATION: EACH LAUNDRY TO HAVE A FAN DUCTED TO THE ROOF OR FACADE WITH MANUAL ON/TIMER OFF.
7. ARTIFICIAL LIGHTING: DEDICATED LED LIGHTING TO BE USED TO: ALL BEDROOMS, LIVING/DINING AREA, KITCHEN, LAUNDRY, BATHROOMS, AND HALLWAYS.
8. ARTIFICIAL LIGHTING COMMON AREAS: CAR PARK TO USE LED LIGHTING WITH DAYLIGHT AND MOTION SENSOR; PLANT AND STORE ROOMS TO USE FLUORESCENT LIGHTS WITH MANUAL ON/OFF SWITCH; LIFT TO USE LED LIGHTS CONNECTED TO LIFT CALL BUTTON.
9. COOKTOP AND OVEN: GAS COOKTOP AND ELECTRIC OVEN.
10. LIFT TO USE GEARLESS TRACTION VV F MOTOR.
11. PHOTOVOLTAIC SYSTEM: MIN CAPACITY TO BE 2 PEAK kW OF ELECTRICITY CONNECTED TO THE DEVELOPER'S ELECTRICAL SYSTEM.

K 21.04.23 s.4.55 ISSUE: ROOF ACCESS HUT ADDED

J 07.04.23 FOR CONSTRUCTION

I 22.04.22 FOR CONSTRUCTION

H 17.02.22 CONSTRUCTION ISSUE

G 01.04.21 CONSULTANT ISSUE

ISSUE DATE AMENDMENT

REGULATED DESIGN RECORD

Project: PROPOSED NEW RESIDENTIAL DEVELOPMENT AT

8 CONWAY AVENUE

ROSE BAY NSW

LOT 4 DP 30984

DA 261/2020

FOR: LDNW Pty Ltd

Drawing:

EAST ELEVATION

WEST ELEVATION

STRUCTURAL ENGINEER

1. FOR STRUCTURAL ENGINEERING DETAILS REFER TO

DRAWINGS PREPARED BY ALBA & ASSOCIATES

LANDSCAPE DESIGN

1. FOR PLANT SPECIES REFER TO LANDSCAPE DESIGN

PREPARED BY DANGAR BARN SMITH

GEOTECHNICAL REPORT

1. REFER TO THE GEOTECHNICAL REPORT PREPARED BY

REDTUS CONSULTING (FORTIFY GEOTECH)

STORMWATER DESIGN

1. REFER TO THE STORMWATER DESIGN PREPARED BY

G & A CONSULTING GROUP

HYDRAULIC DESIGN

1. REFER TO THE HYDRAULIC DESIGN PREPARED BY

WOOLACOTT CONSULTING ENGINEERS

BCA COMPLIANCE

1. REFER TO THE BCA REPORT PREPARED BY MATT SCHUTER &

ASSOCIATES

FIRE COMPLIANCE

1. REFER TO THE FIRE REPORT PREPARED BY MCD FIRE

ENGINEERING

97 Rose Street Chippendale NSW 2008

Tel (02) 9310 1234 Fax (02) 9310 1280

Builders Contractors shall verify job dimensions before any work

commences. All shop drawings shall be submitted to the Architect and

manufacture shall not commence prior to the return of amended shop

drawings. The Builder and Contractors shall coordinate all services prior to

construction to ensure the order of installation and that sufficient space will

be allowed for, for all services and structures. Refer to figure dimensions

5000. Do not erect from this drawing.

Scale

1:100/

1:200 AT A3

Project Architect

Date

AHP APRIL 2020

Drawn

Checked

AHP AHP

Drawing No

Issue

597.A.04 K

Regulated Design Record				
Project Address: 8 CONWAY AVENUE ROSE BAY NSW LOT 4 DP 30984				
Project Title: NEW RESIDENTIAL DEVELOPMENT				
Consent No: DA 261/2020		Body Corporate Reg No:		
Drawing Title: SOUTH ELEVATION NORTH ELEVATION		Drawing No: 597.A.05		
Rev	Date	Description	DP Full Name	Reg No
1	22.04.22	FOR CONSTRUCTION	A HETVOC-PORBSKI	DP0000000
2	25.07.22	FOR CONSTRUCTION	A HETVOC-PORBSKI	SEP0000000

parapet level RL 58.00

roof terrace level RL 57.00

second floor level RL 53.70

first floor level RL 50.40

ground floor level RL 47.10

garage/entry level RL 43.40

south elevation

parapet level RL 58.00

roof terrace level RL 57.00

second floor level RL 53.70

first floor level RL 50.40

ground floor level RL 47.10

garage/entry level RL 43.40

north elevation

RAILINGS AND BALUSTRADES
ALL RAILINGS AND WALLS THAT ARE TO BE USED AS
BALUSTRADES ARE TO COMPLY WITH BCA/NCC 2.5.16
AND RESIST THE ACTIONS AS ASSESSED UNDER AS 1170.
ALL RAILINGS TO BE A MIN 1m ABOVE FFL AND HAVE NO
OPENING LARGER THAN 125mm.

s.4.55 modifications

- new access hut over stairs off-form concrete
walls and windows to replace hydraulic hatch
- off-form concrete roof to replace glazed hydraulic
access hatch

BG	BOX GUTTER
CO	CONCRETE FLOOR
CJ	CONSTRUCTION JOINT
CS	COBBLE STONES
DP	DOWNPIPE
ERL	EXTERNAL RETRACTABLE LOUVER
EVC	ELECTRIC VEHICLE CHARGE POINT
FC	FIRE CURTAIN
FCB	FACE CONCRETE BLOCKWORK
FEX	EXHAUST FAN (WALL MOUNTED)
FG	FIXED GLAZING
FH	FIRE HYDRANT
GR	GLASS RAILING - 1m HIGH MIN.
IB	INTERNAL BLINDS
MBR	MEMBRANE ROOF
MCD	METAL CLADDING
OF	OVERFLOW PIPE
OFC	OFF-FORM CONCRETE
QFS	OVERFLOW SPOUT
OG	OBSCURE GLAZING
PCD	DECORATIVE PRIVACY SCREEN
PS	ALUMINIUM PRIVACY SCREEN
PV	PHOTOVOLTAIC PANELS
R	RAILING/BALUSTRADE - MIN 1m ABOVE FFL NO SPACING LARGER THAN 125mm
RCS	RENDERED CONCRETE
RC	REINFORCED CONCRETE SLAB TO STRUCTURAL ENGINEER'S DETAILS
RB	RENDERED MASONRY
RC	RENDERED CONCRETE
RSP	RENDER SET PLASTER FINISH
RWO	RAIN WATER OUTLET
RWS	RETAINING WALL
SH	SHUTTERS (ALUMINIUM)
SP	STONE PAVING
SR	SERVICE RISER
ST	STONE FLOORING
STC	STONE CLADDING
W	WASTE PIPE/STACK
V	VENT PIPE

NEW WINDOW/GLAZED DOOR

NEW DOOR

NEW SPOT LEVEL

EXISTING SPOT LEVEL

BASIC INFORMATION: CERTIFICATE No

1116836M

WATER COMMITMENTS:
1. RAINWATER TANK - TOTAL CAPACITY TO BE A MINIMUM OF
3,000 LITRES CAPACITY. TO BE COLLECTED FROM 60m² OF ROOF
AREA.
2. THE RAINWATER TANK MUST BE CONNECTED TO ALL TOILETS
AND ONE OUTDOOR TAP PER APARTMENT.
3. SHOWER HEADS TO HAVE A MINIMUM 3 STAR WATER RATING.
4. TAPS TO BATHROOM AND KITCHEN MUST HAVE A MINIMUM OF
3 STAR WATER RATING.
5. ALL CLOTHES WASHERS MUST HAVE A MINIMUM OF 3 STAR
WATER RATING.
6. TOILETS MUST HAVE A FLUSHING SYSTEM WITH A MINIMUM 3
STAR WATER RATING TO EACH.
7. A MINIMUM OF 64m² OF THE SITE MUST BE PLANTED WITH
INDIGENOUS OR LOW WATER USE SPECIES.

THERMAL COMFORT:
1. THE CONDITIONED FLOOR AREA OF THE DWELLING MUST NOT
EXCEED: GROUND FLOOR 180m²; FIRST FLOOR 200m²;
PENTHOUSE 200.5m².
2. EXTERNAL BRICK CAVITY WALLS TO HAVE AN INSULATION
R-VALUE OF 1.50 - LIGHT ABSORBANCE.
3. ALL COMMON AREA WALLS TO HAVE AN INSULATION R-VALUE
OF 1.50.
4. ALL CEILINGS UNDER THE ROOF TO HAVE AN R-VALUE OF 2.5.
5. ALL ROOFS TO BE CONCRETE.
6. ALL CEILINGS UNDER ANOTHER FLOOR TO HAVE AN
INSULATION R-VALUE OF 2.0 CONCRETE STRUCTURES.
7. CONCRETE SLAB OVER GARAGE TO HAVE AN INSULATION
R-VALUE OF 2.0.

GLAZING:
1. NEW WINDOWS: ALUMINIUM FRAMED, SINGLE CLEAR GLAZED
U VALUE 6.7; SHGC 0.70.

ENERGY COMMITMENTS:
1. HOT WATER SYSTEM: GAS INSTANTANEOUS TO EACH
APARTMENT.
2. COOLING SYSTEM: 3-PHASE AIRCONDITIONING SYSTEM,
ENERGY RATING: EER - 3.0-3.5 WITH DAY/NIGHT ZONING
BETWEEN BEDROOMS AND LIVING AREAS.

3. HEATING SYSTEM: 3-PHASE AIRCONDITIONING SYSTEM,
ENERGY RATING: EER - 3.0-3.5
4. VENTILATION: ALL BATHROOM FANS TO BE DUCTED TO THE
FACADE OR ROOF WITH MANUAL SWITCH ON/OFF.

5. VENTILATION: EACH KITCHEN TO HAVE A FAN DUCTED TO THE
ROOF OR FACADE WITH MANUAL ON/OFF.
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J 21.09.23 s.4.55 ISSUE: ROOF ACCESS HUT ADDED

I 07.08.23 FOR CONSTRUCTION

H 22.04.22 FOR CONSTRUCTION

G 01.09.21 CONSULTANT ISSUE

F 13.07.21 CONSULTANT ISSUE

ISSUE DATE AMENDMENT

POREBSKI ARCHITECTS

ARCHITECTURE - INTERIORS - HERITAGE

REGULATED DESIGN RECORD

Project:
PROPOSED NEW RESIDENTIAL DEVELOPMENT AT
8 CONWAY AVENUE
ROSE BAY NSW
LOT 4 DP 30984

DA 261/2020

FOR: LDNW Pty Ltd

Drawing:

SOUTH ELEVATION
NORTH ELEVATION

Scale:

1:100/
1:200 AT A3

Project Architect

Date

AHP

APRIL 2020

Drawn

Checked

AHP

Issue

J

STRUCTURAL ENGINEER

1. FOR STRUCTURAL ENGINEERING DETAILS REFER TO
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WOOLACOTT'S CONSULTING ENGINEERS

BCA COMPLIANCE

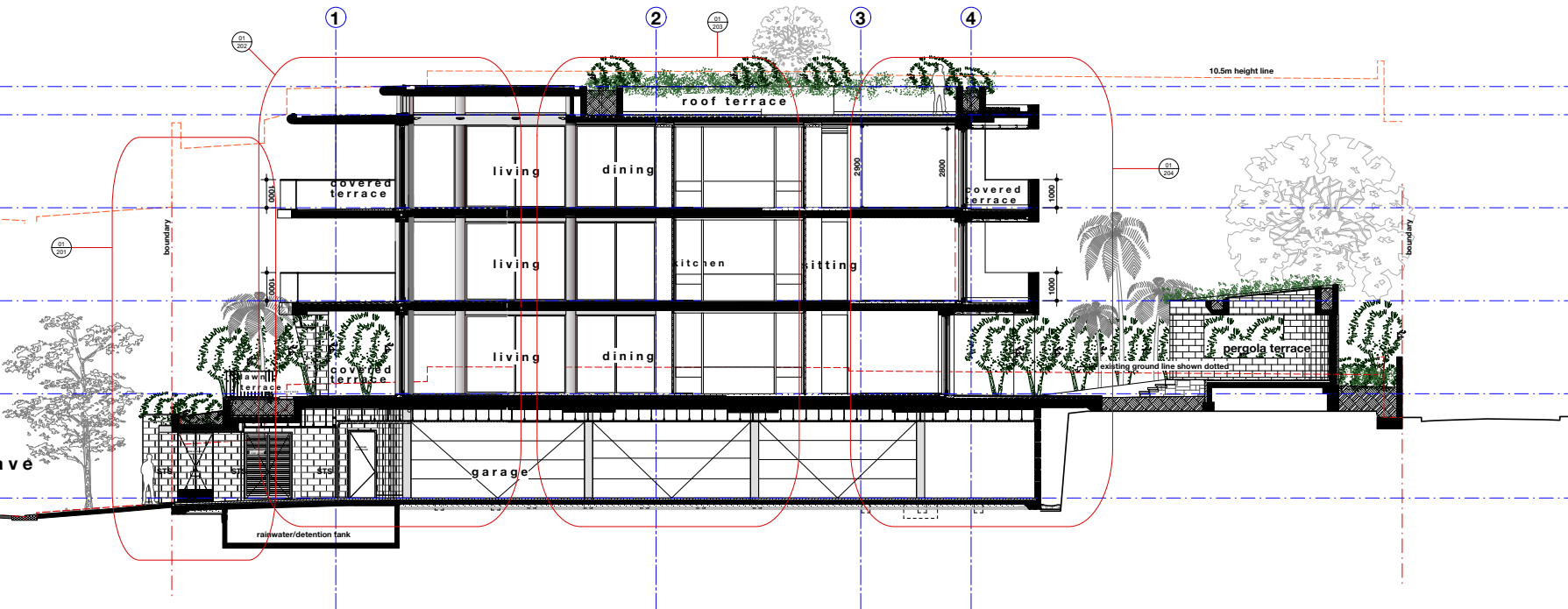
1. REFER TO THE BCA REPORT PREPARED BY MATT SCHUTER &
ASSOCIATES

FIRE COMPLIANCE

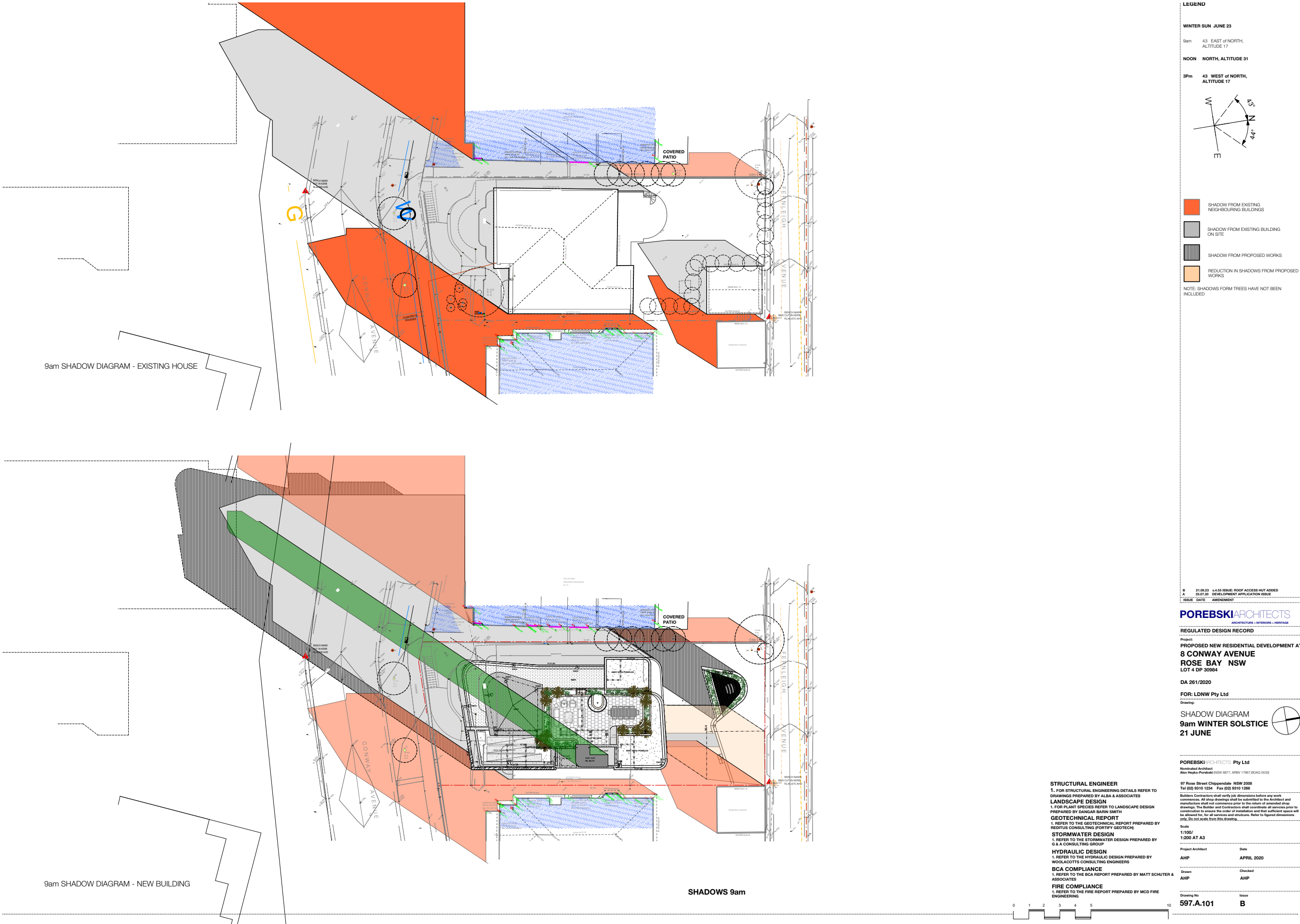
1. REFER TO THE FIRE REPORT PREPARED BY MCD FIRE
ENGINEERING

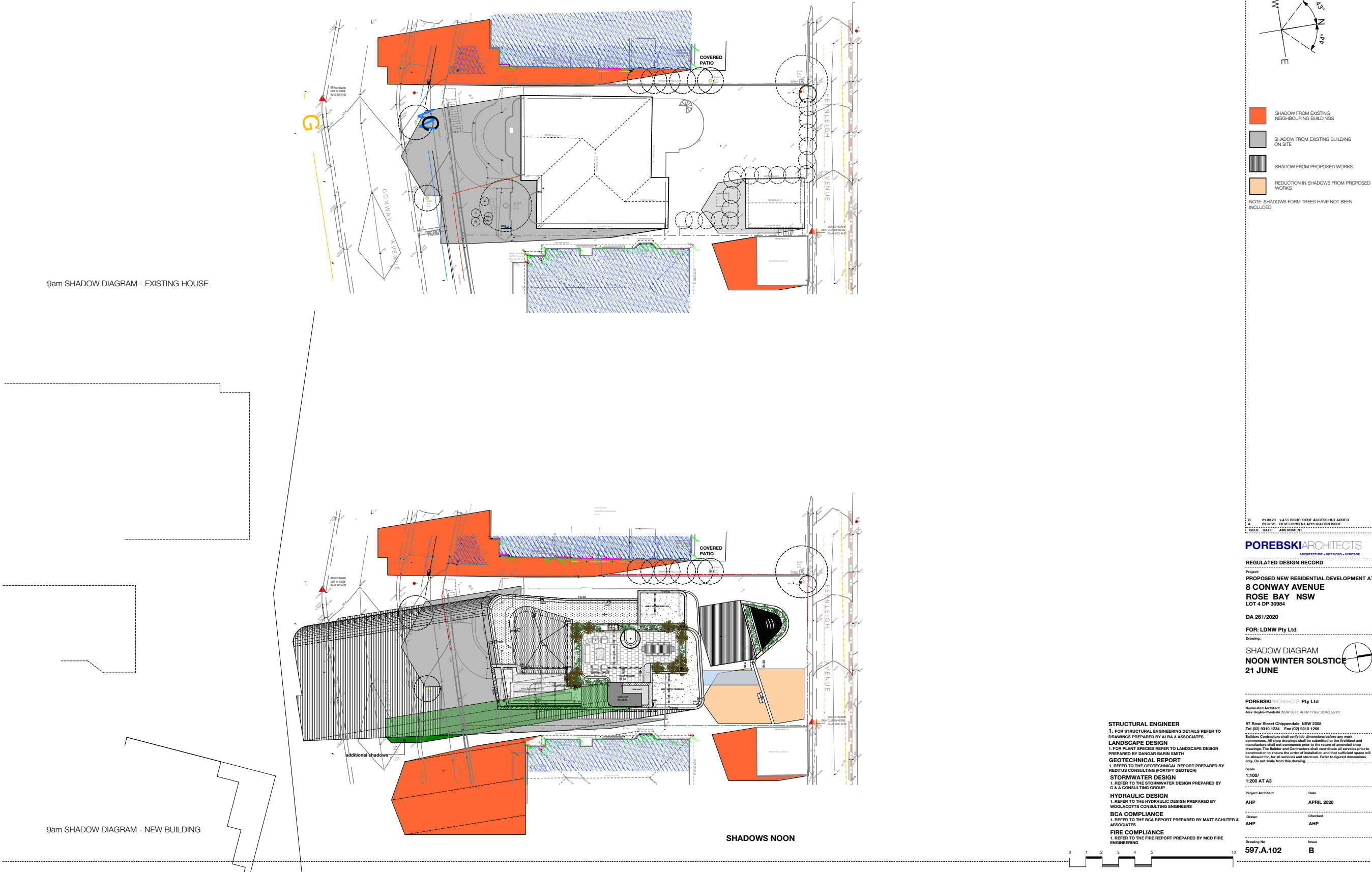
0 1m 2m 3m 4m 5m

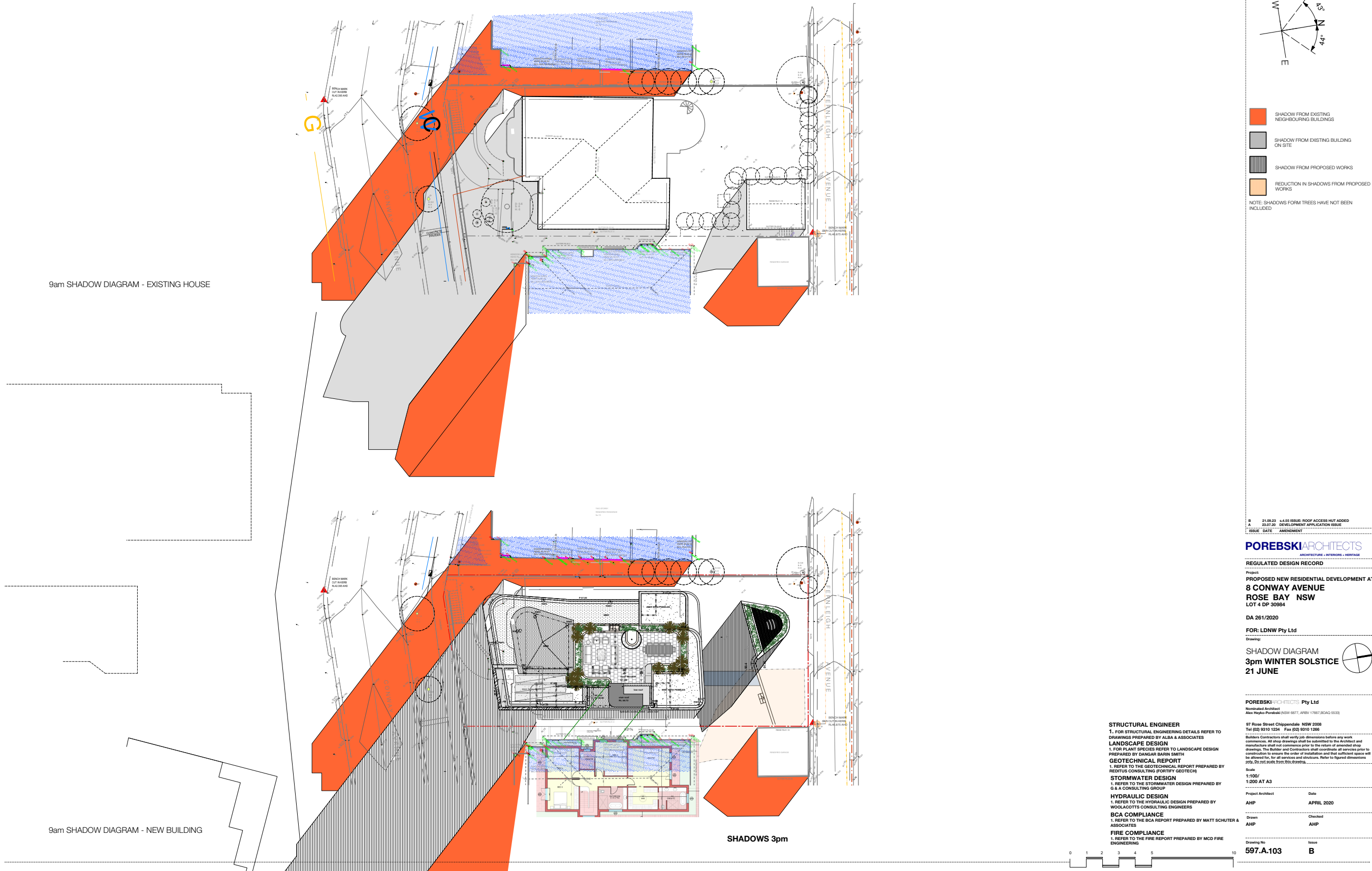
section B-B

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LOCAL PLANNING PANEL

SECTION 4.55 APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA600/2021/2
ADDRESS	27 Wilberforce Avenue Rose Bay
COUNCIL WARD	Vaucluse
ZONING	R3 Medium Density Residential
EXISTING CONSENT	The demolition of an existing dwelling house and the construction of a 2 storey dwelling house, pool and landscaping works
DATE OF CONSENT	7 July 2022
TYPE OF CONSENT	Local development
CONSENT AUTHORITY	Woollahra Council
PROPOSED MODIFICATION	The removal of an additional Macadamia Tree (Tree 5) from the rear section of the site
TYPE OF MODIFICATION	Section 4.55(1a)
DATE S4.55 LODGED	02/11/2023
APPLICANT	Luxitecture Pty Limited
OWNER	Mr Y & Mrs A L Geredov
AUTHOR	Mr D Booth
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	Four (1 in support & 3 objections)
RECOMMENDATION	Approval

1. REASON FOR REPORT TO LOCAL PLANNING PANEL (LPP)

The application is to be determined by the Woollahra Local Planning Panel as it involves the deletion of Condition C.15 requiring the retention of Tree 5 (a Macadamia tree) and associated modifications to other tree protection related conditions, imposed by the Woollahra Local Planning Panel contrary to the staff recommendation.

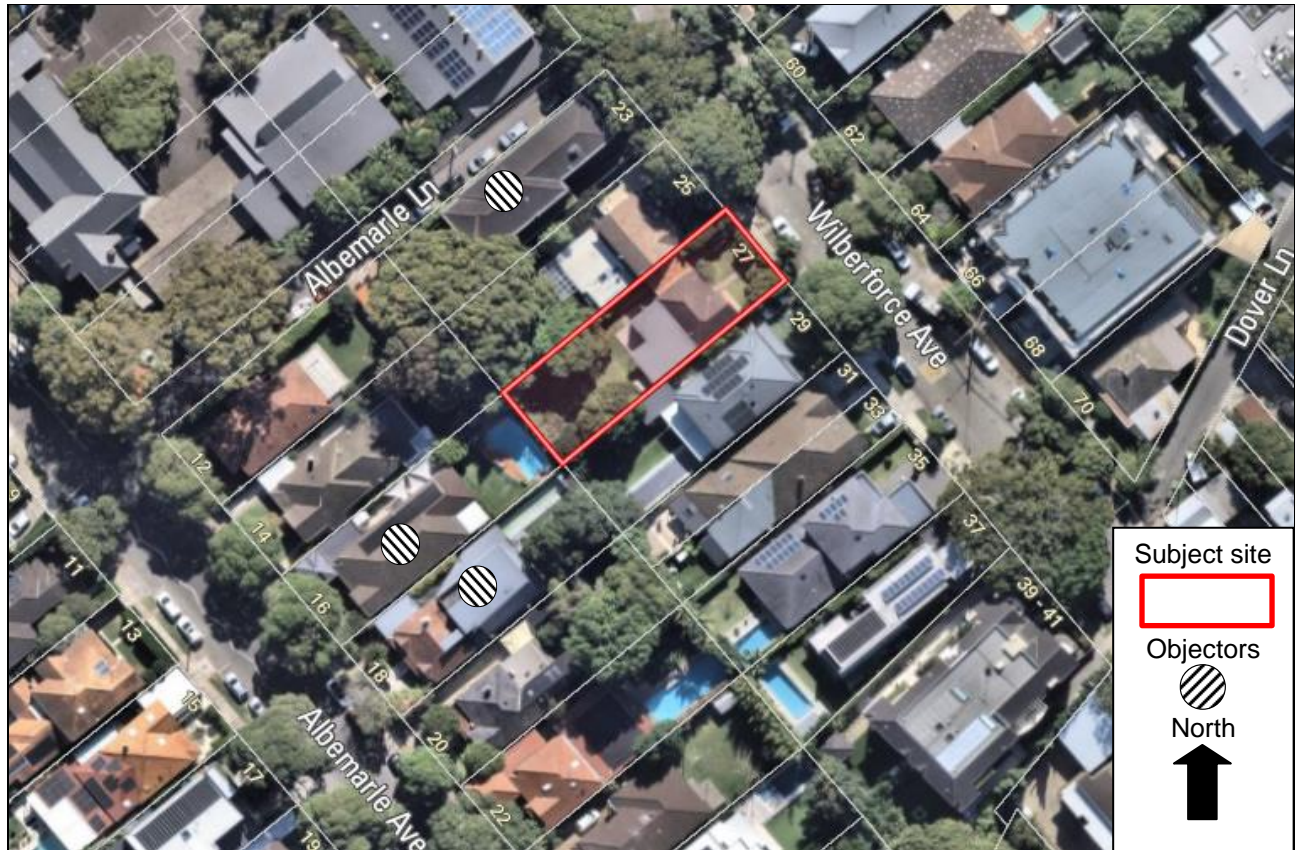
2. REASONS FOR THE RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15(1) 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 proposed modifications to the development consent are considered to be satisfactory with all relevant planning policies including WLEP 2014 and WDCP 2015 subject to conditions;
- it is considered that the proposed modifications to the development consent will not have any significant adverse impacts upon the local environment;
- it is considered that the proposed modifications to the development consent will not have any social or economic impacts;

- the site is considered to be suitable for the proposed modifications to the development consent as conditioned; and
- the proposed modifications to the development consent are considered to not be contrary to the public interest.

3. LOCALITY PLAN



4. SUMMARY OF THE APPROVED DEVELOPMENT

The approved development involves the demolition of an existing dwelling house and the construction of a 2 storey dwelling house, pool and landscaping works.

The following condition was imposed by the Woollahra Local Planning Panel contrary to the staff recommendation:

C.15 Modifications of the development to retain tree 5 (section 4.17(1)(g) of the Act)

- a) An amended Arboricultural Impact Assessment should be provided to Council's Tree Officer for assessment. The AIA shall detail:***

- 1. Tree 5 to be retained***
 - i. Methodology for the removal or re-design of proposed structures within TPZ.*
 - ii. No level changes within TPZ.*
 - iii. All built elements (driveways and dwellings) to be constructed with tree and soil sensitive techniques and materials within TPZ of this tree.*

b) Amended Landscape Plans

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and submitted to Council's Tree Officer for further assessment. The amended landscape plan must include the following:

- i. Retention of Tree 5
- ii. No grade alterations within TPZ of Tree 5

c) Amendment of architectural drawings approved under this consent as referenced under Condition A.3 and modified by Condition C.1 to reflect the amended AIA.

The approved documents 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 amendments detailed above.

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.*

The following conditions were amended by the Woollahra Local Planning Panel, from that as recommended by staff, in terms of requiring the retention and protection of Tree 5:

A.5 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	Dimensions
5	<i>Macadamia spp</i>	Rear Yard	8 x 4
6	<i>Macadamia spp</i>	Rear Yard	8 x 4
8	<i>Elaeocarpus reticulatus</i>	25 Wilberforce Ave	10 x 3
9	<i>Elaeocarpus reticulatus</i>	25 Wilberforce Ave	10x 3
10	<i>Unknown species</i>	25 Wilberforce Ave	4 x 2
11	<i>Jacaranda mimosifolia</i>	25 Wilberforce Ave	9 x 4
12	<i>Jacaranda mimosifolia</i>	25 Wilberforce Ave	9 x 4
13	<i>Lagerstroemia indica</i>	25 Wilberforce Ave	5 x 2
14	<i>Lagerstroemia indica</i>	25 Wilberforce Ave	5 x 2

• **Trees on Council Land**

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Lophostemon confertus</i>	Street tree	4 x 2	\$5000

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

Note: Reference shall be made to the Arboricultural Impact Assessment Report prepared by Urban Arbor dated 26 November 2021 for tree locations.

- b) The following trees may be removed:

Council Ref No.	Species	Location	Dimensions
2	<i>Plumeria spp</i>	Front Yard	4 x 2
3	<i>Camellia sasanqua</i>	Front Yard	3 x 3
4	<i>Macadamia spp</i>	Rear Yard	8 x 4
7	<i>Plumeria spp</i>	Rear Yard	5 x 3

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

*This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

Note: Reference shall be made to the Arboricultural Impact Assessment Report prepared by Urban Arbor dated 26 November 2021 for tree locations.

B.8 Establishment of Tree Protection Zone (TPZ) Fence

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

- a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	TPZ Radius from Centre of Trunk
1	<i>Lophostemon confertus</i>	Street tree	2m
5	<i>Macadamia spp</i>	Rear Yard	4.3m
6	<i>Macadamia spp</i>	Rear Yard	4.3m
8	<i>Elaeocarpus reticulatus</i>	25 Wilberforce Ave	2.4m
9	<i>Elaeocarpus reticulatus</i>	25 Wilberforce Ave	2.4m
10	Unknown species	25 Wilberforce Ave	3m
11	<i>Jacaranda mimosifolia</i>	25 Wilberforce Ave	4.8m
12	<i>Jacaranda mimosifolia</i>	25 Wilberforce Ave	4.8m
13	<i>Lagerstroemia indica</i>	25 Wilberforce Ave	2.4m
14	<i>Lagerstroemia indica</i>	25 Wilberforce Ave	3m

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 brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm.

The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.

- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.

- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in **Condition B.9** of this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.9 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk	Approved works
5	<i>Macadamia spp</i>	4.3m	Construction of veranda & pool decking
6	<i>Macadamia spp</i>	4.3m	Construction of veranda & pool decking
8	<i>Elaeocarpus reticulatus</i>	2.4m	Construction of Pool Decking
10	Unknown species	3m	Construction of Pool Decking
11	<i>Jacaranda mimosifolia</i>	4.8m	Construction of veranda & pool decking
12	<i>Jacaranda mimosifolia</i>	4.8m	Construction of veranda
14	<i>Lagerstroemia indica</i>	3m	Construction of building

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

E.28 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
5	<i>Macadamia spp</i>	Rear Yard	4.3m
6	<i>Macadamia spp</i>	Rear Yard	4.3m
8	<i>Elaeocarpus reticulatus</i>	25 Wilberforce Ave	2.4m
10	Unknown species	25 Wilberforce Ave	3m
11	<i>Jacaranda mimosifolia</i>	25 Wilberforce Ave	4.8m
12	<i>Jacaranda mimosifolia</i>	25 Wilberforce Ave	4.8m
14	<i>Lagerstroemia indica</i>	25 Wilberforce Ave	3m
6	<i>Macadamia spp</i>	25 Wilberforce Ave	4.3m

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.29 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)
5	<i>Macadamia spp</i>	Rear Yard	4.3m
6	<i>Macadamia spp</i>	Rear Yard	4.3m
8	<i>Elaeocarpus reticulatus</i>	25 Wilberforce Ave	2.4m
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6	<i>Macadamia spp</i>	25 Wilberforce Ave	4.3m

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.

5. SUMMARY OF PROPOSED MODIFICATIONS

The subject Section 4.55(1a) application proposes to delete Condition C.15 and modify Conditions A.5, B.8, B.9, E.28 & E.29 in terms of facilitating the removal of Tree 5 so as to enable the construction of the rear alfresco at ground floor level to the south-eastern extent originally proposed (refer to **Attachment 1**).

6. ISSUES

Issue	Conclusion	Section
The removal of Tree 5	Council's consultant arborist has reiterated support for the removal of Tree 5.	15.1
Objectors' concerns primarily relating to the removal of Tree 5	Council's consultant arborist has reiterated support for the removal of Tree 5.	12

7. SITE AND LOCALITY

Physical features
The subject site is located on the south-western side of Wilberforce Avenue between the junctions of Newcastle Street and Old South Head Road. The site is legally described as Lot 43, Section B in Deposited Plan 4567. The site is rectangular in its shape and has a single frontage to Wilberforce Avenue equalling 13.71m in length, the rear boundary also provides for the same length. The site's side boundaries each measure 42.67m in length, respectively with the total site area equalling 585.3m ² .
Topography
The site is relatively flat and experiences a gentle fall from the south-east to the north-west along Wilberforce Avenue of 0.08m with a fall of 0.03m experienced from the north-west to the south-east along the rear boundary. The site also has a fall from the south-west to the north-east of 0.04m.

Existing buildings and structures
At present, the site is occupied by a single storey rendered dwelling with a pitched and tiled roof. The site also consists of a car port structure, detached storage structure including a washroom and a shed.
Surrounding Environment
The surrounding environment consist of low to medium density residential development, a school, community facilities along with commercial and retail development along nearby Old South Head Road. Development is a mix of older and more contemporary styles with residential development typically being one to two storeys. There are also examples of residential flat buildings in the locality which are four storeys in height.

8. REFERRAL

Referral	Summary of Comment	Attachment
Council's consultant arborist	Satisfactory, subject to a replacement planting requirement.	2

ASSESSMENT UNDER SECTION 4.55

9. 4.55(1A) MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (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, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

10. EXTENT OF ENVIRONMENTAL IMPACT

The proposed modifications are considered to be sufficiently minor in to fall under the ambit of Section 4.55(1A).

11. SUBSTANTIALLY THE SAME DEVELOPMENT

The qualitative and quantitative aspects of the original consent have been compared to the proposal, and the following comments are made:

- The proposed modifications do not radically change the original proposal.
- The proposed development is essentially and materially the same development.
- The proposed modifications would not substantially change how the development is to be carried out.
- The proposed modifications do not alter any aspect of the development which was essential to the development when it was originally approved.

The development consent as proposed to be modified is considered to be substantially the same as the originally approved development.

12. NOTIFICATION/ADVERTISING

The application was notified and advertised from 22 November to 7 December 2023. A submission in support was received from:

1. Aviva & Richard Levine – 29 Wilberforce Avenue Rose Bay.

The grounds given supporting the application relate to reduced overshadowing and reduced nut fall.

Objections were received from:

- 2. Andrew Carr & Anne Lynch – 2/23 Wilberforce Avenue Rose Bay;**
- 3. Tom Cutbush - 18 Albermarle Avenue Rose Bay; and**
- 4. Rachael Scharrer - 16 Albermarle Avenue Rose Bay.**

The submissions raised the following concerns.

- *The tree provides habitat, shade, canopy cover and privacy screening. The tree can be retained without impacting upon the scope of the proposed development and should be retained.*

Council's consultant arborist has reiterated support for the removal of the tree, subject to a replacement planting, in order to facilitate the proposed development including the rear alfresco at ground floor level.

This is discussed in greater depth under the section 15.2 of this report. It is considered that adequate habitat, shade and screening are provided by the retained trees as supplemented by the required replacement planting (a *Waterhousea floribunda* required to be planted within the front section of the site by Condition C.1e of the development consent).

It is an established planning principle that trees should not be relied upon for privacy screening.

Council's consultant arborist considers that the proposal is compliant with Council's canopy cover requirements.

- *The subject conditions should have been appealed instead of being made the subject of a modification application*

The proposed s4.55(1a) application is a legal form of applying for the proposed modifications to the development consent.

13. STATUTORY DECLARATION

The applicant has completed a statutory declaration declaring that the site notice was erected and maintained during the notification period.

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15(1)

The relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* as required by Section 4.55(3) of the Act are assessed under the following headings:

14. SEPP (RESILIENCE AND HAZARDS) 2021

Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, requires consideration to be given as to whether the subject land is contaminated. The assessment of the original development application concluded that there was not a site contamination issue and it is considered that the proposed modification does not have the potential to alter that conclusion.

15. SEPP (BIODIVERSITY AND CONSERVATION) 2021

15.1 Chapter 2 Vegetation in non-rural areas

The provisions of *Chapter 2 Vegetation in non-rural areas* require the consideration of the proposed modifications with regard to tree impacts.

Council's consultant arborist has provided the following comments in this regard:

The removal of Tree 5 was previously supported via the referral dated 14 February 2022. The below comments were included in that referral response.

Tree Removal – Medium Retention Value

Trees 4 and 5 have been identified as Macadamia trees located in the rear yard of the property. The trees have been noted in good health and fair condition. The trees have been rated as having medium retention value in the applicant's Arborist Report. The trees provide a fair contribution to the amenity of the immediate area.

Both trees require removal as they are located within the building footprint. Consideration has been given to design modifications required to allow for retention of these trees. However, there are no feasible alternatives that can be recommended to mitigate adverse impacts on the trees due to the location of the new building and substantial reduction of the building footprint that would be required to allow retention.

Therefore, to compensate for the loss of amenity resulting from the removal of the trees, replacement planting is to be undertaken.

The proposed modifications to the development consent are considered to be satisfactory with regard to tree impacts.

15.2 Chapter 6 Water catchments

The land is located within the Sydney Harbour Catchment, outside the Foreshores and Waterways Area of the Catchment.

The proposed modifications to the development consent are considered to be satisfactory in terms of the *Division 2 Controls on development generally* with existing conditions of consent adequately addressing stormwater run-off and sedimentation control.

The proposed modifications to the development consent are considered to be satisfactory with regard to the relevant provisions of SEPP (Biodiversity and Conservation) 2021.

16. WOOLLAHRA LEP 2014

16.1 Clause 1.2: Aims of Plan

The proposed modifications to the development consent are considered to be consistent with the aims stipulated under Clause 1.2(2) of Woollahra LEP 2014.

16.2 Land Use Table

The proposed modifications to the development consent relate to a dwelling house use which is permissible within the R3 Medium Density Residential zone.

16.3 Objectives of the zone

The proposed modifications to the development consent are considered to be consistent with the objectives of the R3 Medium Density Residential zone.

16.4 Clause 5.10: Heritage Conservation

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

The subject site is not heritage affected. Council's heritage section have raised no objections to the proposed modifications. Accordingly, the proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

17. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

The relevant issues with regard to the provisions of Woollahra DCP 2015 are discussed as follows.

17.1 Chapter B1.9: Rose Bay Residential Precinct

B1.9.2: The desired future character objectives of the Rose Bay precinct are as follows:

- O1 *To respect and enhance the streetscape character and key elements of the precinct.*
- O2 *To encourage development at a scale which relates to the function and role of the streets they address, i.e. larger scale development on the major streets (Old South Head Road and New South Head Road adjacent to the commercial centre) and a range of housing types on the minor streets.*
- O3 *To provide for an evolution of building stock from dwelling houses to medium density development in the R3 zoned areas.*
- O4 *To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*
- O5 *To reinforce a consistent building scale within streets.*
- O6 *To design and site buildings to respond to the topography and minimise cut and fill.*
- O7 *To protect important iconic and harbour views from the public spaces of the precinct.*
- O8 *To reinforce the landscape setting and maintain the existing tree canopy.*

The streetscape character and key elements of the Rose Bay precinct requires that:

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 pattern of rectilinear residential streets within the valley basin, and curvilinear streets in the steeper areas;*
- c) *dwelling houses set within highly visible gardens;*
- d) *the visual relief within streetscapes provided by the separation of buildings, the articulation of facades and building forms;*
- e) *the tree canopy formed by both street and private yard plantings;*
- f) *sandstone garden walls at the street;*

- g) *the relationship of residential development to the open spaces (including Lyne Park and the Royal Sydney Golf Club) and the harbour; and*
- h) *the iconic and harbour views available from the streets and other public spaces, including view corridors between buildings.*

Council's consultant arborist has reiterated the position that the removal of Tree 5 is satisfactory subject to the replacement planting required by existing **Condition C.1e** of the development consent.

The proposed modifications to the development consent are considered to be satisfactory with regard to the desired future character objectives for the Rose Bay residential precinct.

17.2 B3.5.1 Streetscape and local character

Council's consultant arborist has reiterated support for the removal of Tree 5 to be satisfactory subject to the replacement planting required by existing **Condition C.1e** of the development consent.

The proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Part B.3.5.1 of Woollahra DCP 2015.

17.3 B3.7.1 Landscaped Areas and Private Open Space

Council's consultant arborist has reiterated support for the removal of Tree 5 to be satisfactory subject to the replacement planting required by existing **Condition C.1e** of the development consent.

Council's consultant arborist has provided the following assessment of the proposed modifications to the development consent against Council's canopy cover requirements:

Chapter B3.7.1 Landscape area and private open space of the WMC DCP outlines under Control 1 that 35% canopy cover is to be provided within sites for dwelling houses, dual occupancy, semi-detached development and attached dwellings.

The submitted Tree Canopy Plan indicates that the approved Landscape Plans will provide 206m² or 35% canopy cover and complies with the requirements of the Woollahra DCP controls.

The proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of B3.7.1 of Woollahra DCP 2015.

18. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report.

19. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposed modifications to the development consent.

20. CONCLUSION

The proposed modifications to the development consent are considered to be acceptable against the relevant considerations under S.4.15 and S.4.55 of the Environmental Planning and Assessment Act, 1979.

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

That the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, modify the development consent to DA600/2021 for the demolition of an existing dwelling house and the construction of a 2 storey dwelling house, pool and landscaping works on land at 27 Wilberforce Avenue Rose Bay in the following terms:

Modification Summary

DA Application Number (PAN Number)	Determination Date	Modification Description
DA600/2021/2 PAN 384408	07/03/2024	Amendment of Conditions A.5, B.8, B.9, E.28 & E.29. Deletion of Condition C.15

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*.

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.

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)
DA A006 (Rev 3)	Construction Management Plan	Luxitecture	26.05.22
DA A007 (Rev 3)	Demolition Plan		
DA A009 (Rev 3)	Site Plan		
DA A100 (Rev 3)	Ground Floor Plan		
DA A101 (Rev 3)	First Floor Plan		
DA A102 (Rev 3)	Pool Plan		
DA A103 (Rev 3)	Roof Plan		
DA A200 (Rev 3)	Elevations		
DA A201 (Rev 3)	Elevations		
DA A202 (Rev 3)	Elevations		
DA A203 (Rev 3)	Elevations		
DA A204 (Rev 3)	Front Fence Details		
DA A300 (Rev 3)	Sections		
DA A301 (Rev 3)	Sections		
DA A302 (Rev 3)	Sections		
DA A303 (Rev 3)	Sections		
DA A304 (Rev 3)	Pool Sections		
DA A400 (Rev 3)	Material Finishes Schedule		
DA A601 (Rev 3)	Window Schedule		
DA A602 (Rev 3)	Window Schedule		
211116 C000-Rev A C001-Rev A	Stormwater Management Plan	SDS Engineering	03/11/2021 03/11/2021
1253016S_02	BASIX Certificate	NSW Department of Planning & Environment	09/12/2021
Drawing 01 (Rev A)	Cover Page	Studio Botanica	19.11.21
Drawing 10 Revision B	Landscape Plan		07.12.21
	Waste Management Plan	Luxitecture	

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*.)

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.

A.5 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)
6	Macadamia spp	Rear Yard	8 x 4
8	Elaeocarpus reticulatus	25 Wilberforce Ave	10 x 3
9	Elaeocarpus reticulatus	25 Wilberforce Ave	10x 3
10	Unknown species	25 Wilberforce Ave	4 x 2
11	Jacaranda mimosifolia	25 Wilberforce Ave	9 x 4
12	Jacaranda mimosifolia	25 Wilberforce Ave	9 x 4
13	Lagerstroemia indica	25 Wilberforce Ave	5 x 2
14	Lagerstroemia indica	25 Wilberforce Ave	5 x 2

• Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	Lophostemon confertus	Street tree	4 x 2	\$5000

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

Note: Reference shall be made to the Arboricultural Impact Assessment Report prepared by Urban Arbor dated 26 November 2021 for tree locations.

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
2	Plumeria spp	Front Yard	4 x 2
3	Camellia sasanqua	Front Yard	3 x 3
4	Macadamia spp	Rear Yard	8 x 4
5	Macadamia spp	Rear Yard	8 x 4
7	Plumeria spp	Rear Yard	5 x 3

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

*This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

Note: Reference shall be made to the Arboricultural Impact Assessment Report prepared by Urban Arbor dated 26 November 2021 for tree locations.

(Amended on 07/03/2023 under DA600/2021/2 (PAN 384408))

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

B.1 Construction Certificate Required Prior to Any Demolition

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

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

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

B.2 Identification of Hazardous Material

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

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

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

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

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

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

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

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

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

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

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

B.4 Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

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.

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.

B.7 Aboriginal Heritage Induction

- a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the *National Parks and Wildlife Act 1974*;
- b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council or by a heritage consultant with Aboriginal heritage expertise, if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
- c) Documentary evidence demonstrating compliance with a. and b. above being submitted to Council and the Principal Certifier.

B.8 Establishment of Tree Protection Zone (TPZ) Fence

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	TPZ Radius from Centre of Trunk (Metres)
1	Lophostemon confertus	Street tree	2m
6	Macadamia spp	Rear Yard	4.3m
8	Elaeocarpus reticulatus	25 Wilberforce Ave	2.4m
9	Elaeocarpus reticulatus	25 Wilberforce Ave	2.4m
10	Unknown species	25 Wilberforce Ave	3m
11	Jacaranda mimosifolia	25 Wilberforce Ave	4.8m
12	Jacaranda mimosifolia	25 Wilberforce Ave	4.8m
13	Lagerstroemia indica	25 Wilberforce Ave	2.4m
14	Lagerstroemia indica	25 Wilberforce Ave	3m

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 brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm.
The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in **Condition B.9** of this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) The project arborist shall provide written certification of compliance with the above condition.

(Amended on 07/03/2023 under DA600/2021/2 (PAN 384408))

B.9 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
6	Macadamia spp	4.3m	Construction of veranda & pool decking
8	Elaeocarpus reticulatus	2.4m	Construction of Pool Decking
10	Unknown species	3m	Construction of Pool Decking
11	Jacaranda mimosifolia	4.8m	Construction of veranda & pool decking
12	Jacaranda mimosifolia	4.8m	Construction of veranda
14	Lagerstroemia indica	3m	Construction of building

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

(Amended on 07/03/2023 under DA600/2021/2 (PAN 384408))

B.10 Demolition and Construction Management Plan

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

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

B.11 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; and
- 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	Compliance documentation and photos shall be included
Installation of tree protection fencing	Compliance with tree protection measures
Inspection of pier holes for new pool decking	Piers positioned to avoid the severance of and damage to roots greater than 50mmø
Construction of veranda	Condition of roots and soil
Exaction of the new pool within TPZ of trees to be retained	Condition of roots and soil
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures

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

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

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

C.1 Modification of 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. In order to protect the privacy of the adjoining property and to comply with the Woollahra Development Control Plan 2015 Part B3.5.4 Objective O2 and Control C4 & C6, Window 04 to the ground floor rumpus room, is to be treated with translucent glazing up to a minimum height of 1.5m above the finished floor level. Alternatively, the sill height of this window can be raised to be a minimum of 1.5m above the finished floor level.
- b. In order to protect privacy of the adjacent properties and to comply with the Part B3.5.4 Objective O2 and Control C5 of the Woollahra Development Control Plan 2015, Window 07 to the ground floor bathroom is to incorporate translucent glazing for its full extent.
- c. In order to adequately protect the health and amenity of the locality and to comply with the Woollahra Development Control Plan 2015 Part B3.7.3 Objective O9 and Control C10, all new proposed fireplaces are to burn non-solid fuel only.
- d. In order to mitigate an adverse visual impact upon the streetscape and to comply with the Woollahra Development Control Plan 2015 Part B3.7.2 Objectives O1, O2 and Control C4, the proposed front fencing shall be amended to be a maximum height of 1.5m from ground level (existing) and a minimum of 50% transparent/open design.
- e. An amended landscape plan to compensate for the loss of canopy cover, replacement trees shall be included in the design in accordance with the following specifications:

Species/Type	Planting/ Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
Waterhousea floribunda	Front yard	100L	15m x 8m

- f. Pursuant to Clause 3.2.4 and Figure 3.3 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, shall be provided on both sides of the driveway exit. Any structures (such as landscaping, retaining wall, front fence and driveway gate etc) located within these splay areas must be redesigned to prevent obstructions to visibility. Exceptions to this requirement may be acceptable for this type of development where the height of any landscaping, solid front fencing and driveway gate in these splay areas are limited to a maximum of 0.9m in accordance with Chapter E1.10.6 of Council's DCP.

In this regard, the proposed 42mm x 42mm timber batten fencing must either be removed or be replaced with 16mm diameter tabular bars with 100mm spacing in between bars which may then be permitted to install over the 900mm solid fencing.

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.

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit (S138)	\$43,412	No	T115
Tree Damage Security Deposit – Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$5,000	No	T114
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$16,500 + Index Amount	Yes, quarterly	T96

INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Tree Inspection Fee	\$200	No	T45
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$494	No	T45
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$65,808 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

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

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

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 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 2011

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.

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No.1253016S_02 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".

C.4 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) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3.5 metres wide vehicular crossing in accordance with Council's standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineer. 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 internal driveway at the property boundary. Design longitudinal profiles along each edge/side of the proposed driveway must be submitted for assessment.

- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to match existing.
- 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.

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*.

C.5 Soil and Water Management Plan – Submission and Approval

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

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

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

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

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

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

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

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

C.6 Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, 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.

C.7 Geotechnical and Hydrogeological Design, Certification and Monitoring

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, a Geotechnical Report which includes 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 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 collection of subsoil drainage/seepage water which discharges to Council's kerb and gutter or 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.

C.8 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors 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. 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.

C.9 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant shall submit, for approval by the Certifying Authority, *Stormwater Management Plan* for the site which must detail:

- a) General design in accordance with stormwater management plans, referenced 211116-Rev A, prepared by SDS Engineering, dated 03/11/2021, other than amended by this and other conditions;
- b) All below ground structures are to be fully tanked. No subsoil drainage/seepage water is to be collected and discharged into Council's kerb and gutter to comply with Chapter E2.2.5 of Council's DCP;
- c) Only one stormwater outlet per property with a maximum discharge rate of 20 l/s is permitted to comply with Chapter E2.2.5 of Council's DCP;
- d) Compliance the objectives and performance requirements of the BCA;
- e) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management; and

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 Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of On-Site Detention,
- 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.

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"*.

C.10 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. The garage floor shall be set at or above the flood planning level of RL11.45m AHD.
- c. Flood compatible materials shall be used for all flood exposed construction.
- d. All flood exposed electrical wiring and equipment 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.

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.

C.11 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.

C.12 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:

C.13 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.

C.14 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.

C.15 Modifications of the development to retain tree 5 (section 4.17(1)(g) of the Act)

- a) **An amended Arboricultural Impact Assessment should be provided to Council's Tree Officer for assessment. The AIA shall detail:**

1. Tree 5 to be retained
 - i. Methodology for the removal or re-design of proposed structures within TPZ.
 - ii. No level changes within TPZ.
 - iii. All built elements (driveways and dwellings) to be constructed with tree and soil sensitive techniques and materials within TPZ of this tree.

b) Amended Landscape Plans

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and submitted to Council's Tree Officer for further assessment. The amended landscape plan must include the following:

- i. Retention of Tree 5
- ii. No grade alterations within TPZ of Tree 5

c) **Amendment of architectural drawings approved under this consent as referenced under Condition A.3 and modified by Condition C.1 to reflect the amended AIA.**

The approved documents 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 amendments detailed above.

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.

(Deleted on 07/03/2023 under DA600/2021/2 (PAN 384408))

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.

D.2 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 to be assessed by the Structural Engineer must include (but are not limited to):

No. 25 & 29 Wilberforce Avenue
No. 16 Albemarle Avenue

All required dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy 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.

D.3 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*.

D.4 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.

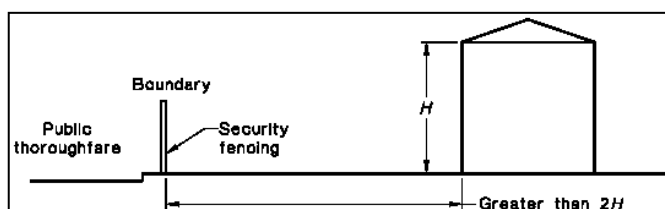
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are 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.

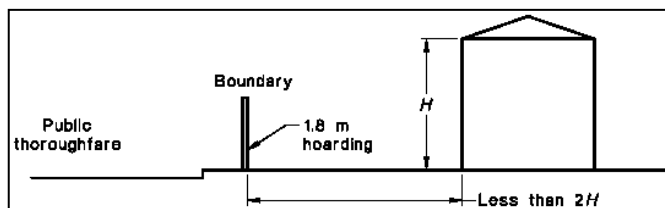
D.5 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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.



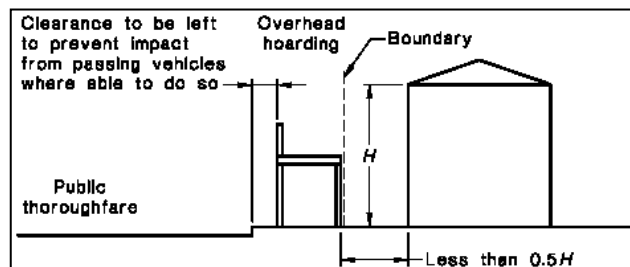
Type B Hoarding

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:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) 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:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) 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
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



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

All Hoardings

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

Hoardings on Public Land including 'Creative Hoardings'

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

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

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

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

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

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

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

D.6 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*.

D.7 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.

D.8 Erosion and Sediment Controls – Installation

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

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

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

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

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

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

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

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

D.9 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the *Act*)

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

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days’ notice to the Council of the person’s intention to commence the erection of the building.

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

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

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

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

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

D.10 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.

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.

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*.

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.

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.

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

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.

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.

E.8 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.

E.9 Support of Adjoining Land and Buildings

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

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

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

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

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

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

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

E.10 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*.

E.11 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

E.12 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.

E.13 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.

E.14 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 buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

E.15 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 position 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.

E.16 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.

E.17 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 in bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

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

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

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

E.18 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*.

E.19 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.

E.20 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.

E.21 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

E.22 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.

E.23 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.

E.24 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.

E.25 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.

E.26 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management 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.27 Replacement/Supplementary trees which must be planted

Any new tree planting within site shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in a *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 is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the approved Landscape Plan.

The project arborist shall document compliance with the above condition.

E.28 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)
6	Macadamia spp	Rear Yard	4.3m
8	Elaeocarpus reticulatus	25 Wilberforce Ave	2.4m
10	Unknown species	25 Wilberforce Ave	3m
11	Jacaranda mimosifolia	25 Wilberforce Ave	4.8m
12	Jacaranda mimosifolia	25 Wilberforce Ave	4.8m
14	Lagerstroemia indica	25 Wilberforce Ave	3m
6	Macadamia spp	25 Wilberforce Ave	4.3m

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.

(Amended on 07/03/2023 under DA600/2021/2 (PAN 384408))

E.29 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)
6	Macadamia spp	Rear Yard	4.3m
8	Elaeocarpus reticulatus	25 Wilberforce Ave	2.4m
10	Unknown species	25 Wilberforce Ave	3m
11	Jacaranda mimosifolia	25 Wilberforce Ave	4.8m
12	Jacaranda mimosifolia	25 Wilberforce Ave	4.8m
14	Lagerstroemia indica	25 Wilberforce Ave	3m
6	Macadamia spp	25 Wilberforce Ave	4.3m

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.

(Amended on 07/03/2023 under DA600/2021/2 (PAN 384408))

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.

F.2 Commissioning and Certification of Systems and Works

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

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

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) Certification from the civil engineer that all flood protection measures listed in the flood risk management report and condition have been implemented.
- c) All garage, driveways have been constructed to comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) A 2m x 2.5m sight splay, clear of any obstructions to visibility, has been provided on both sides of the driveway exit to comply with Figure 3.3 of AS2890.1.
- e) All stormwater drainage and storage systems.
- f) All mechanical ventilation systems.
- g) All hydraulic systems.
- h) All structural work.
- i) All acoustic attenuation work.
- j) All waterproofing.
- k) Such further matters as the Principal Certifying Authority 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.

F.3 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

F.4 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

F.5 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.13**.

F.6 Amenity Landscaping

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

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

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil.

H. Conditions which must be satisfied prior to the issue of 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. 1253016S_02.

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."

H.2 Removal of Ancillary Works and Structures

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

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

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.

H.3 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 or obtained from Council's customer service centre.

H.4 Works-As-Executed Certification of Stormwater Systems

Prior to issue of any Occupation Certificate, the applicant must submit, for approval by the Principal Certifying Authority, certification from a professional engineer for the as-built stormwater management system and works-as-executed drawings prepared by registered surveyor. The certification must include but not limited to the following:

- a) confirming compliance with conditions of development consent relating to stormwater,

- b) that any below ground structures have been fully tanked and no subsoil drainage/seepage water have been collected and discharged into Council's kerb and gutter,
- c) that the stormwater works have been constructed in accordance with the approved stormwater management plans and comply with Council's DCP and AS3500.3,
- d) verifying pipe invert levels and surface levels to Australian Height Datum, and
- e) 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.

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

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

H.5 Landscaping

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

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

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

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1253016S_02.

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.

I.2 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

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 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

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.

K.2 Dial Before You Dig



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

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

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

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-renoate/guide-to-standards-and-tolerances or call 133 220.

K.5 SafeWork NSW Requirements

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

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.

K.6 Dividing Fences

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

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

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

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

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.

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 or call 133 220.

K.11 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Development Control Plan (DCP) 2015, Chapter E.3 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 DCP from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

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 requested 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.

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.





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.

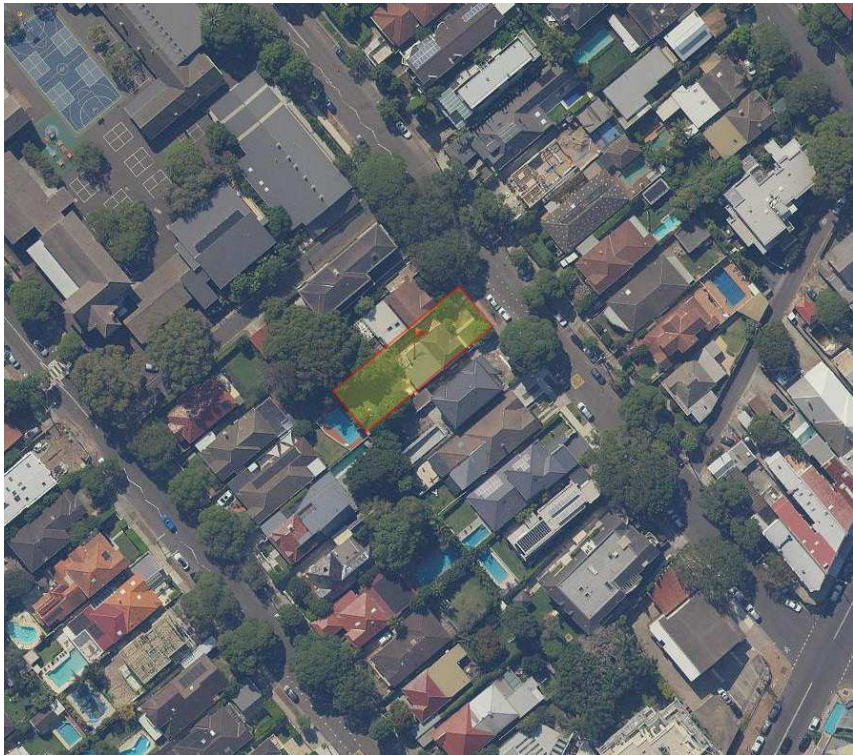
Attachments

1. Architectural drawings indicating the position of the subject tree and the affected south-eastern section of the rear alfresco  
2. Council's consultant arborist's referral response  

27 WILBERFORCE AVENUE, ROSE BAY
FOR MODIFICATION OF DA2021/600/1

COUNCIL: WOOLLAHRA MUNICIPAL COUNCIL
Lot: 43 Section: B DP: 4567 Zoning: R3

DRAWING LIST				DRAWING LIST			
A001	COVER SHEET	4	15.08.23	A103	ROOF PLAN	4	15.08.23
A002	BASIX COMMITMENTS	4	15.08.23	A200	ELEVATIONS	4	15.08.23
A003	FLOOR PLATE	4	15.08.23	A201	ELEVATIONS	4	15.08.23
A004	SITE CALCULATIONS	4	15.08.23	A202	ELEVATIONS	4	15.08.23
A005	DEEP SOIL PLAN	4	15.08.23	A203	ELEVATIONS	4	15.08.23
A006	CONSTRUCTION MANAGEMENT PLAN	4	15.08.23	A300	SECTIONS	4	15.08.23
A008	SITE ANALYSIS PLAN	4	15.08.23	A301	SECTIONS	4	15.08.23
A009	SITE PLAN	4	15.08.23	A302	SECTIONS	4	15.08.23
A010	TREE CANOPY	4	15.08.23	A303	SECTIONS	4	15.08.23
A100	GROUND FLOOR PLAN	4	15.08.23	A400	MATERIAL FINISHES SCHEDULE	4	15.08.23
A101	FIRST FLOOR PLAN	4	15.08.23				



NOTE : ARTIST IMPRESSION ONLY. DESIGN, ITEMS AND MATERIALS TO BE
CONFIRMED WITH BUDGETARY REQUIREMENTS AND SUBJECT TO
BUILDERS QUOTE

DEVELOPMENT APPLICATION

Notes

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1	ISSUED TO COUNCIL FOR DA	26.11.21
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3	ISSUED TO COUNCIL FOR RFI	26.05.22
4	ISSUED TO COUNCIL FOR 4.55	15.08.23

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anthony@luxitecture.com.au

LUXITECTURE

True North

Drawn: JF

Checked: AM

Project
**2118
ROSE BAY HOUSE**
Client
ANGELA & YAN GEREDOV
Address
**27 WILBERFORCE AVE
ROSE BAY**

Drawing Title
COVER SHEET

NOT FOR CONSTRUCTION

Scale @A3 Date: 15.08.23

2011	DA	A001	4
Project no.	Drawing Phase.	Drawing No.	Rev

Project summary		
Project name	211116	
Street address	27 Wilberforce Avenue Rose Bay 2029	
Local Government Area	Woollahra Municipal Council	
Plan type and plan number	deposited 4567	
Lot no.	43	
Section no.	-	
Project type	separate dwelling house	
No. of bedrooms	5	
Project score		
Water	✔ 40	Target 40
Thermal Comfort	✔ Pass	Target Pass
Energy	✔ 54	Target 50

Project address	
Project name	211116
Street address	27 Wilberforce Avenue Rose Bay 2029
Local Government Area	Woollahra Municipal Council
Plan type and plan number	Deposited Plan 4567
Lot no.	43
Section no.	-
Project type	
Project type	separate dwelling house
No. of bedrooms	5
Site details	
Site area (m²)	585
Roof area (m²)	215
Conditioned floor area (m2)	284.0
Unconditioned floor area (m2)	60.0
Total area of garden and lawn (m2)	135

Assessor details and thermal loads		
Assessor number	101512	
Certificate number	0006719488	
Climate zone	56	
Area adjusted cooling load (MJ/m².year)	26	
Area adjusted heating load (MJ/m².year)	38	
Ceiling fan in at least one bedroom	No	
Ceiling fan in at least one living room or other conditioned area	Yes	
Project score		
Water	✔ 40	Target 40
Thermal Comfort	✔ Pass	Target Pass
Energy	✔ 54	Target 50

Water Commitments
Fixtures
The applicant must install showerheads with a minimum rating of 4 star (> 4.5 but <= 6 L/min plus spray force and/or coverage tests) in all showers in the development.
The applicant must install a toilet flushing system with a minimum rating of 4 star in each toilet in the development.
The applicant must install taps with a minimum rating of 4 star in the kitchen in the development.
The applicant must install basin taps with a minimum rating of 4 star in each bathroom in the development.
Alternative water
Rainwater tank
The applicant must install a rainwater tank of at least 2000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.
The applicant must configure the rainwater tank to collect rain runoff from at least 100 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).
The applicant must connect the rainwater tank to: <ul style="list-style-type: none">all toilets in the developmentat least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)a tap that is located within 10 metres of the swimming pool in the development
Swimming pool
The swimming pool must not have a volume greater than 38 kilolitres.
The swimming pool must have a pool cover.

Thermal Comfort Commitments

Simulation Method

The applicant must attach the certificate referred to under "Assessor Details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for an occupation certificate for the proposed development.

The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.

The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX certificate, including the Cooling and Heating loads shown on the front page of this certificate.

The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Assessor Certificate requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor to certify that this is the case. The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.

The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.

The applicant must show on the plans accompanying the development application for the proposed development, the locations of ceiling fans set out in the Assessor Certificate. The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), the locations of ceiling fans set out in the Assessor Certificate.

The applicant must construct the floors and walls of the dwelling in accordance with the specifications listed in the table below.

Floor and wall construction	Area
floor - concrete slab on ground	All or part of floor area square metres
floor - suspended floor above garage	All or part of floor area

Energy Commitments
Hot water
The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 4 stars.
Cooling system
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area: 3-phase airconditioning; Energy rating: EER 3.0 - 3.5
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 bedroom: 3-phase airconditioning; Energy rating: EER 3.0 - 3.5
Heating system
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: 3-phase airconditioning; Energy rating: EER 3.0 - 3.5
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 bedroom: 3-phase airconditioning; Energy rating: EER 3.0 - 3.5
Ventilation
The applicant must install the following exhaust systems in the development: At least 1 Bathroom: individual fan, ducted to façade or roof; Operation control: manual switch on/off Kitchen: individual fan, ducted to façade or roof; Operation control: interlocked to light Laundry: individual fan, ducted to façade or roof; Operation control: manual switch on/off
Artificial lighting
The applicant must ensure that the "primary type of artificial lighting" is fluorescent or light emitting diode (LED) lighting in each of the following rooms, and where the word "dedicated" appears, the fittings for those lights must only be capable of accepting fluorescent or light emitting diode (LED) lamps: <ul style="list-style-type: none">at least 6 of the bedrooms / study; dedicatedat least 3 of the living / dining rooms; dedicatedthe kitchen; dedicatedall bathrooms/toilets; dedicatedthe laundry; dedicatedall hallways; dedicated
Natural lighting
The applicant must install a window and/or skylight in 4 bathroom(s)/toilet(s) in the development for natural lighting.
Swimming pool
The development must not incorporate any heating system for the swimming pool.
The applicant must install a timer for the swimming pool pump in the development.
Alternative energy
The applicant must install a photovoltaic system with the capacity to generate at least 1.5 peak kilowatts of electricity as part of the development. The applicant must connect this system to the development's electrical system.
Other
The applicant must install a gas cooktop & electric oven in the kitchen of the dwelling.
The applicant must construct each refrigerator space in the development so that it is "well ventilated", as defined in the BASIX definitions.

DEVELOPMENT APPLICATION

Notes

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LUXITECTURE

True North

Drawn: JF

Checked: AM

Project
**2118
ROSE BAY HOUSE**
Client
ANGELA & YAN GEREDOV
Address
**27 WILBERFORCE AVE
ROSE BAY**

Drawing Title
BASIX COMMITMENTS

NOT FOR CONSTRUCTION

Scale @A3 Date: 15.08.23

2011
Project no.

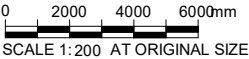
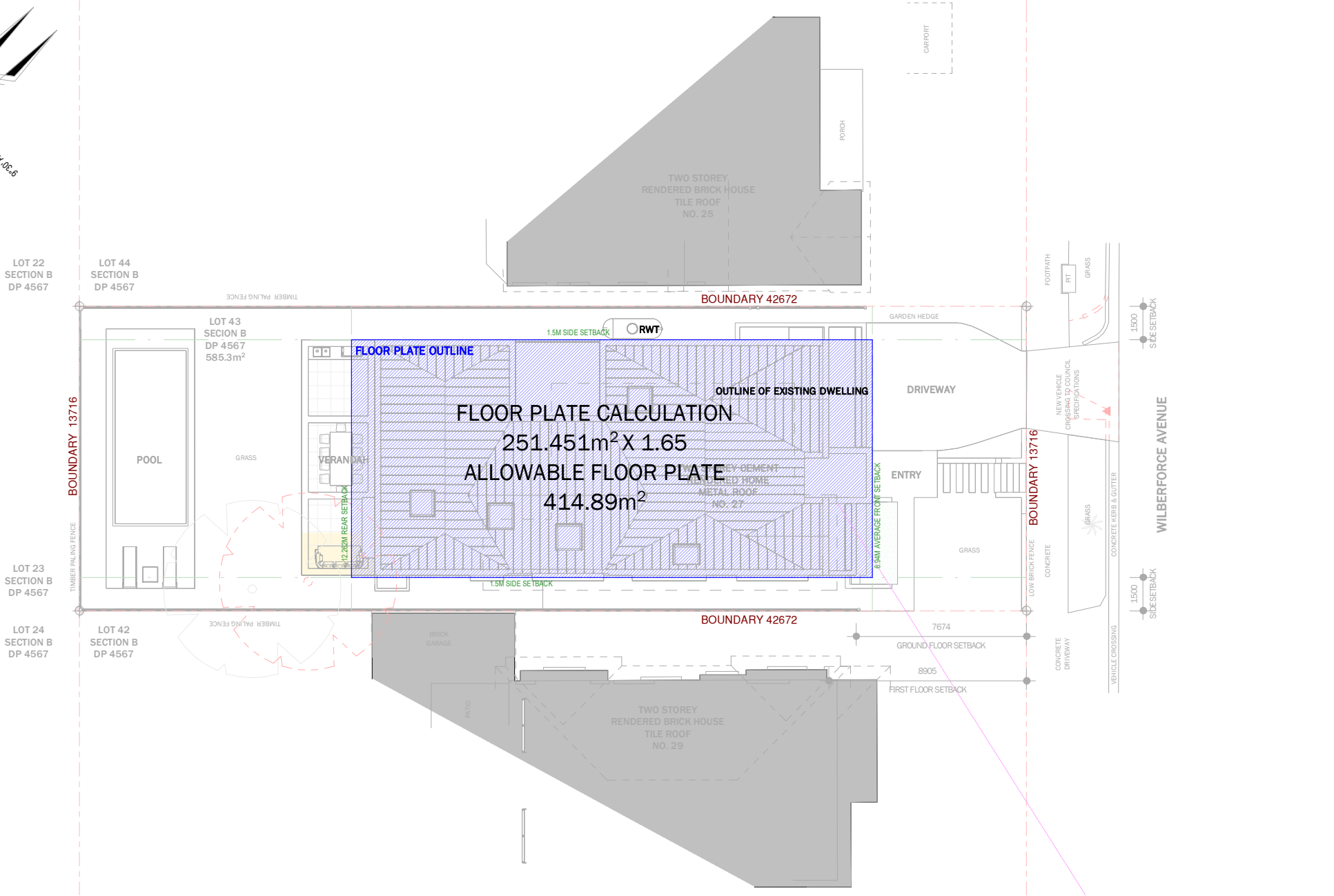
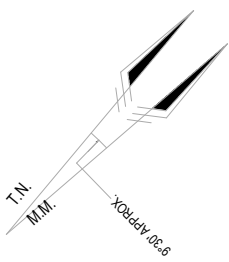
DA
Drawing Phase.

A002
Drawing No.

4
Rev

SITE SUMMARY

WOOLHARA COUNCIL	
SITE AREA	585.3m² PER SURVEY
GROSS FLOOR AREA	
	PROPOSED
GROUND FLOOR	198.2m²
FIRST FLOOR	202.1m²
TOTAL	400.3m²
BUILDABLE AREA	
	251.451m²
OUTSIDE OF BUILDABLE AREA	333.838m²
FLOOR PLATE	
	251.451m² X 1.65 = 414.89415m²
PROPOSED	400.3m²
DEEP SOIL	
	50% of 333.8m² / 166.9m²
PROPOSED	177.3m²
TREE CANOPY	
	35% / 205m²
PROPOSED	206m²



1 FLOOR PLATE
1 : 200

DEVELOPMENT APPLICATION

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Drawn: JF Checked: AM

Project
2118 ROSE BAY HOUSE
Client
ANGELA & YAN GEREDOV
Address
27 WILBERFORCE AVE ROSE BAY

Drawing Title
FLOOR PLATE

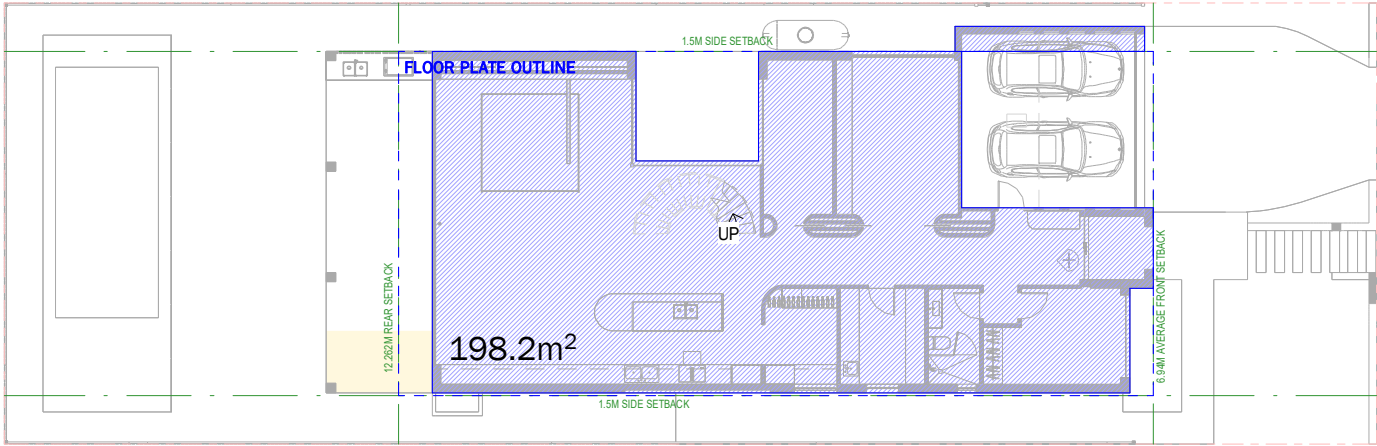
NOT FOR CONSTRUCTION

Scale 1 : 200 @A3 Date: 15.08.23

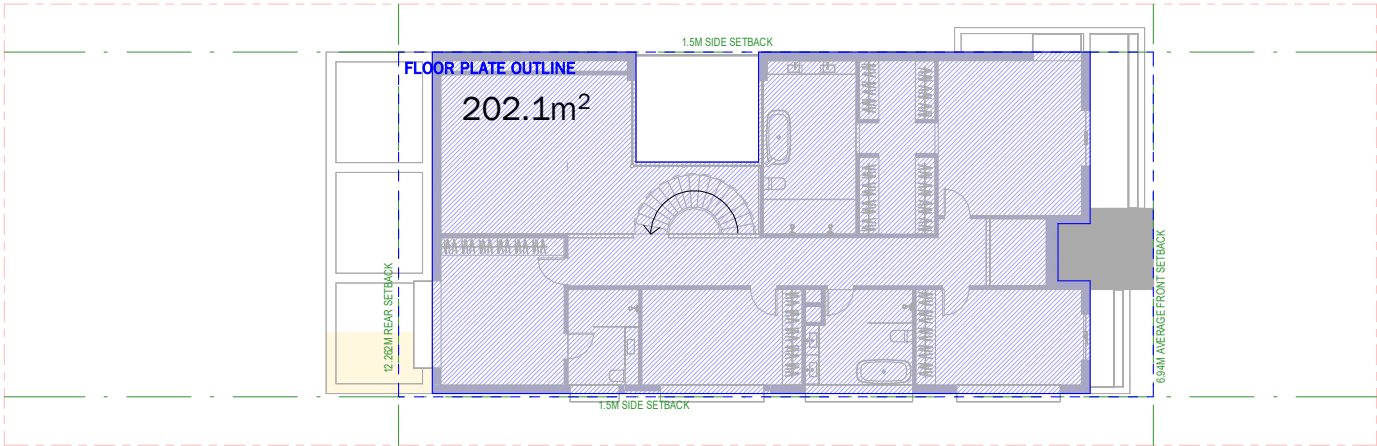
2011 Project no.	DA Drawing Phase.	A003 Drawing No.	4 Rev
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SITE SUMMARY

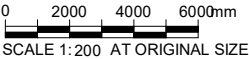
WOOLHARA COUNCIL	
SITE AREA	585.3m² PER SURVEY
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	PROPOSED
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DEEP SOIL	
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PROPOSED	177.3m²
TREE CANOPY	
	35% / 205m²
PROPOSED	206m²



1 GROUND FLOOR
1 : 200



2 FIRST FLOOR
1 : 200



DEVELOPMENT APPLICATION

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True North

Drawn: JF

Checked: AM

Project
**2118
ROSE BAY HOUSE**

Client
ANGELA & YAN GEREDOV

Address
**27 WILBERFORCE AVE
ROSE BAY**

Drawing Title
SITE CALCULATIONS

NOT FOR CONSTRUCTION

Scale 1 : 200 @A3

Date: 15.08.23

2011
Project no.

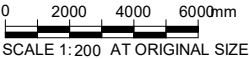
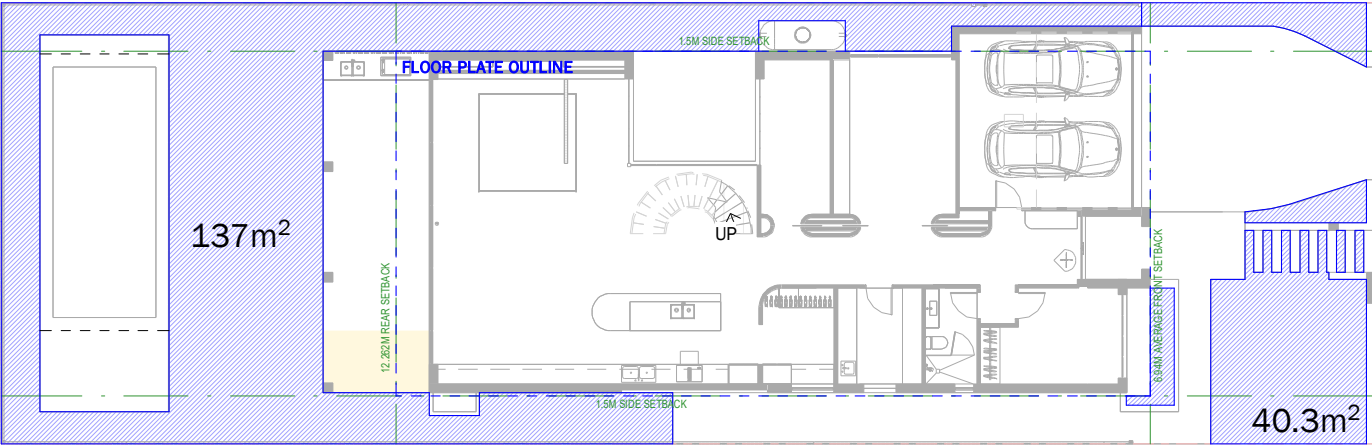
DA
Drawing Phase.

A004
Drawing No.

4
Rev

SITE SUMMARY

WOOLHARA COUNCIL	
SITE AREA	585.3m² PER SURVEY
GROSS FLOOR AREA	
	PROPOSED
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FIRST FLOOR	202.1m²
TOTAL	400.3m²
BUILDABLE AREA	
	251.451m²
OUTSIDE OF BUILDABLE AREA	333.838m²
FLOOR PLATE	
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PROPOSED	400.3m²
DEEP SOIL	
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TREE CANOPY	
	35% / 205m²
PROPOSED	206m²



DEVELOPMENT APPLICATION

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Project
**2118
ROSE BAY HOUSE**

Client
ANGELA & YAN GEREDOV

Address
**27 WILBERFORCE AVE
ROSE BAY**

Drawing Title
DEEP SOIL PLAN

NOT FOR CONSTRUCTION

Scale 1 : 200 @A3

Date: 15.08.23

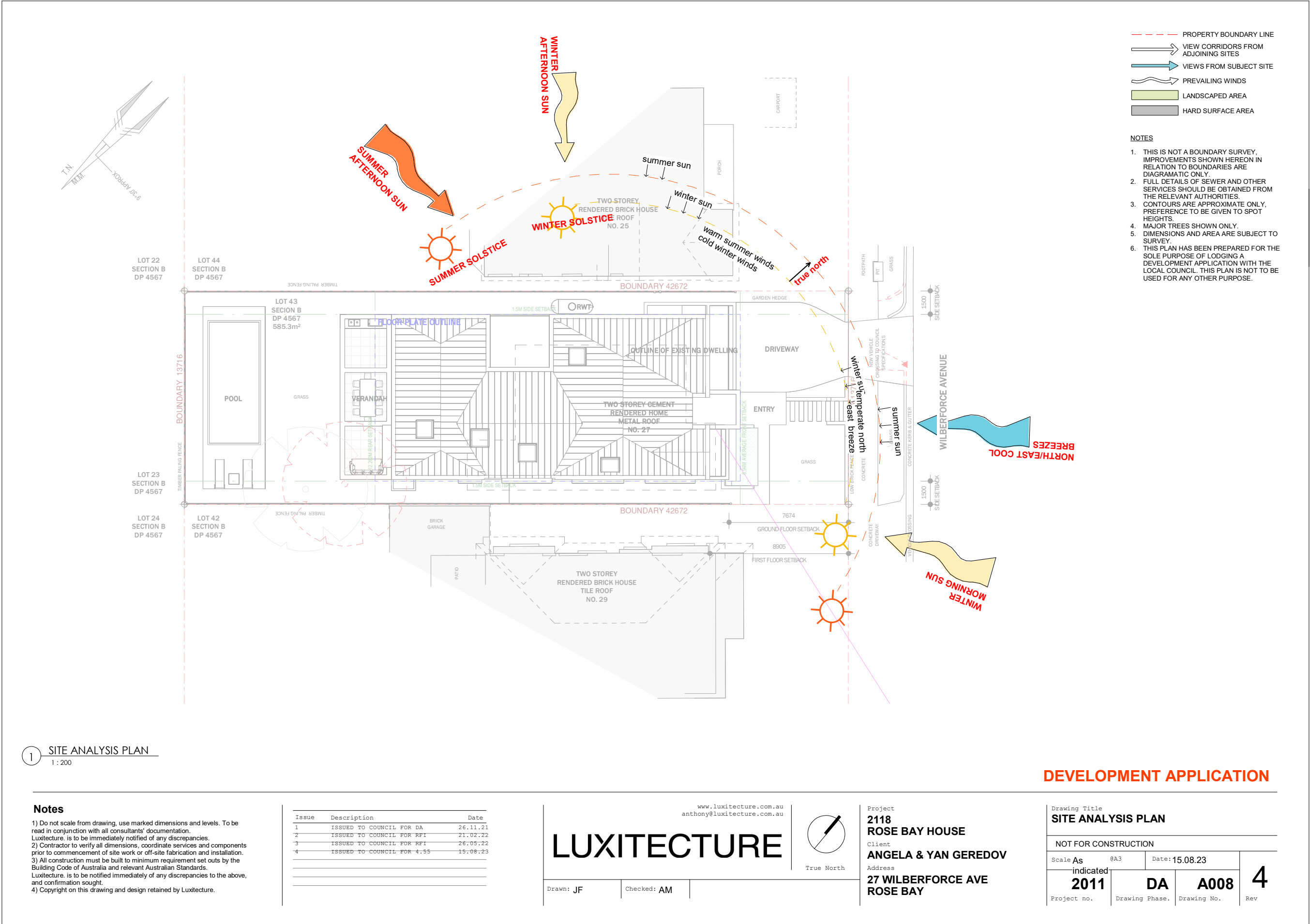
2011
Project no.

DA
Drawing Phase.

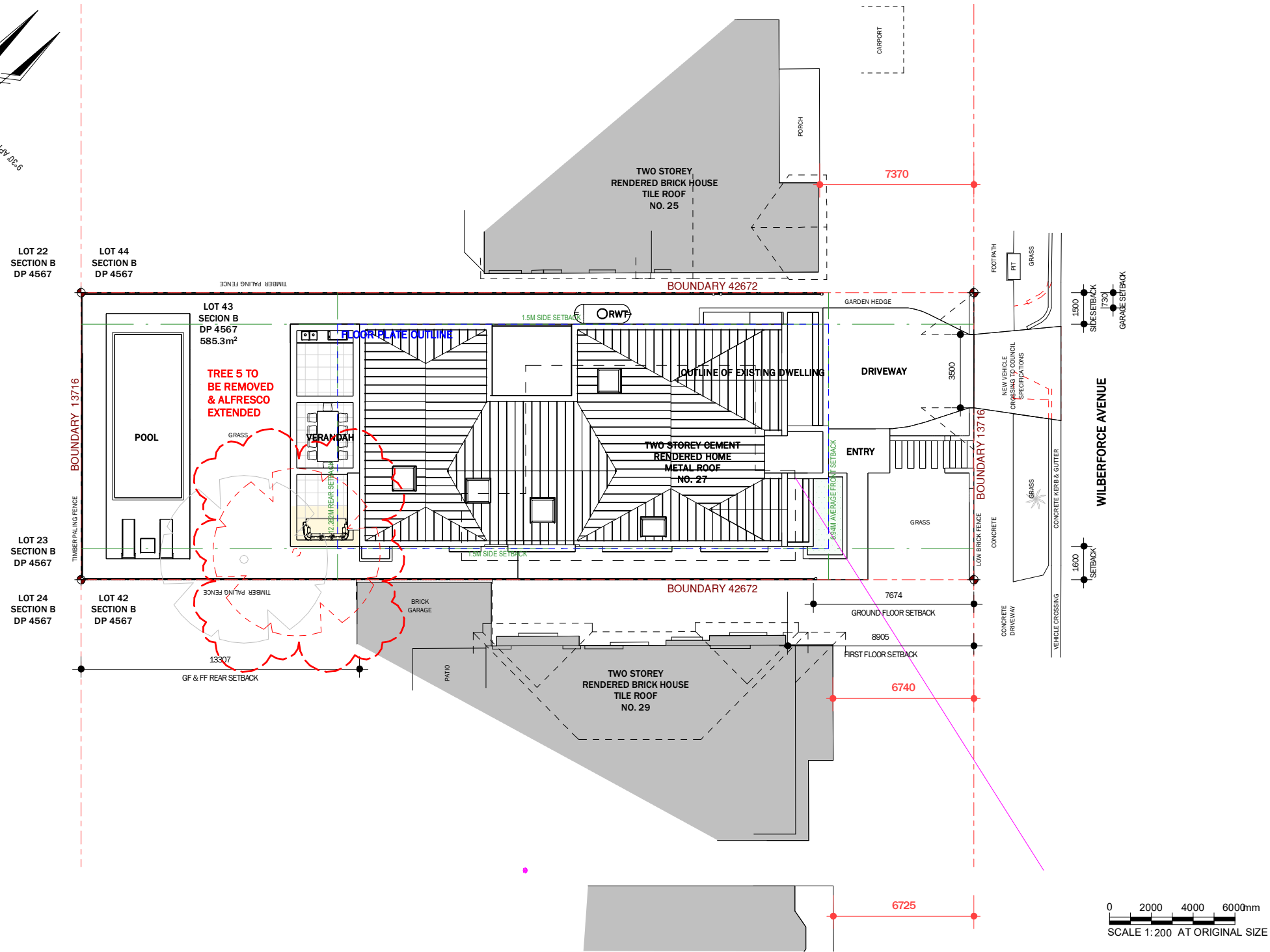
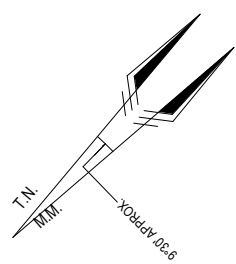
A005
Drawing No.

4
Rev





WOOHLARA COUNCIL	
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GROSS FLOOR AREA	
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FIRST FLOOR	202.1m²
TOTAL	400.3m²
BUILDABLE AREA	
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OUTSIDE OF BUILDABLE AREA	333.838m²
FLOOR PLATE	
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PROPOSED	400.3m²
DEEP SOIL	
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PROPOSED	177.3m²
TREE CANOPY	
	35% / 205m²
PROPOSED	206m²



1 SITE PLAN
1 : 200

DEVELOPMENT APPLICATION

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LUXITECTURE



True North

Project
2118
ROSE BAY HOUSE
Client
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27 WILBERFORCE AVE
ROSE BAY

Drawing Title
SITE PLAN

NOT FOR CONSTRUCTION

Scale 1 : 200 @A3

Date: 15.08.23

2011

Project no.

DA

Drawing Phase.

A009

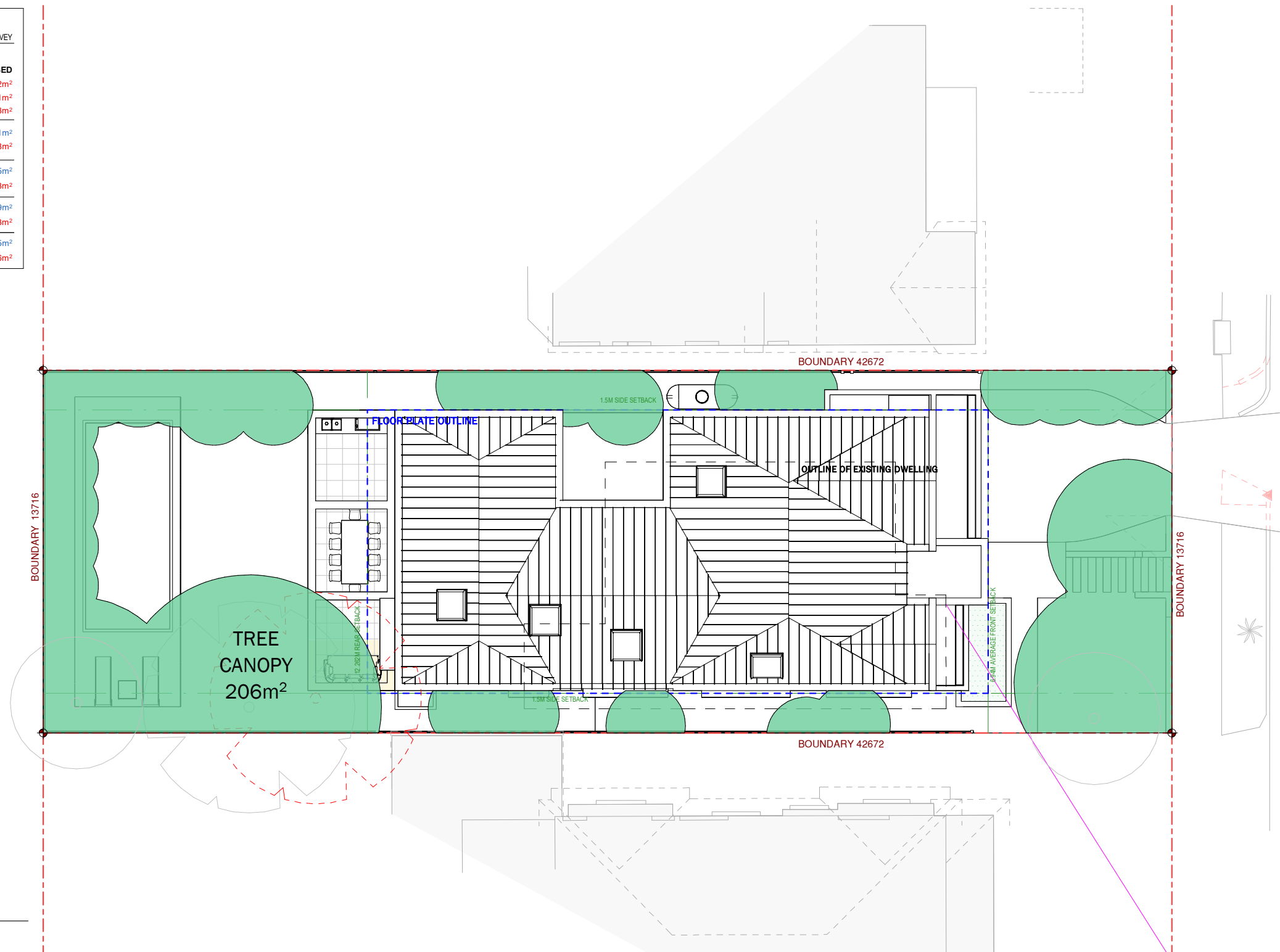
Drawing No.

4

Re

SITE SUMMARY

WOOLHARA COUNCIL	
SITE AREA	585.3m ² PER SURVEY
GROSS FLOOR AREA	
	PROPOSED
GROUND FLOOR	198.2m ²
FIRST FLOOR	202.1m ²
TOTAL	400.3m ²
BUILDABLE AREA	
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OUTSIDE OF BUILDABLE AREA	333.838m ²
FLOOR PLATE	
	251.451m ² X 1.65 = 414.89415m ²
PROPOSED	400.3m ²
DEEP SOIL	
	50% of 333.8m ² / 166.9m ²
PROPOSED	177.3m ²
TREE CANOPY	
	35% / 205m ²
PROPOSED	206m ²



1	TREE CANOPY
A010	SCALE1 : 150

Notes

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Rev	DESCRIPTION	Date
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LUXITECTURE



True North

Project
2118
ROSE BAY HOUSE

Client
ANGELA & YAN GEREDOV

Address
27 WILBERFORCE AVE
ROSE BAY

Drawing Title

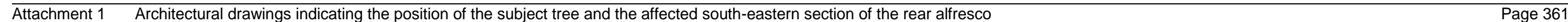
TREE CANOPY

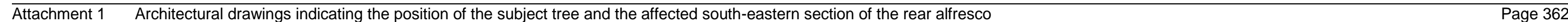
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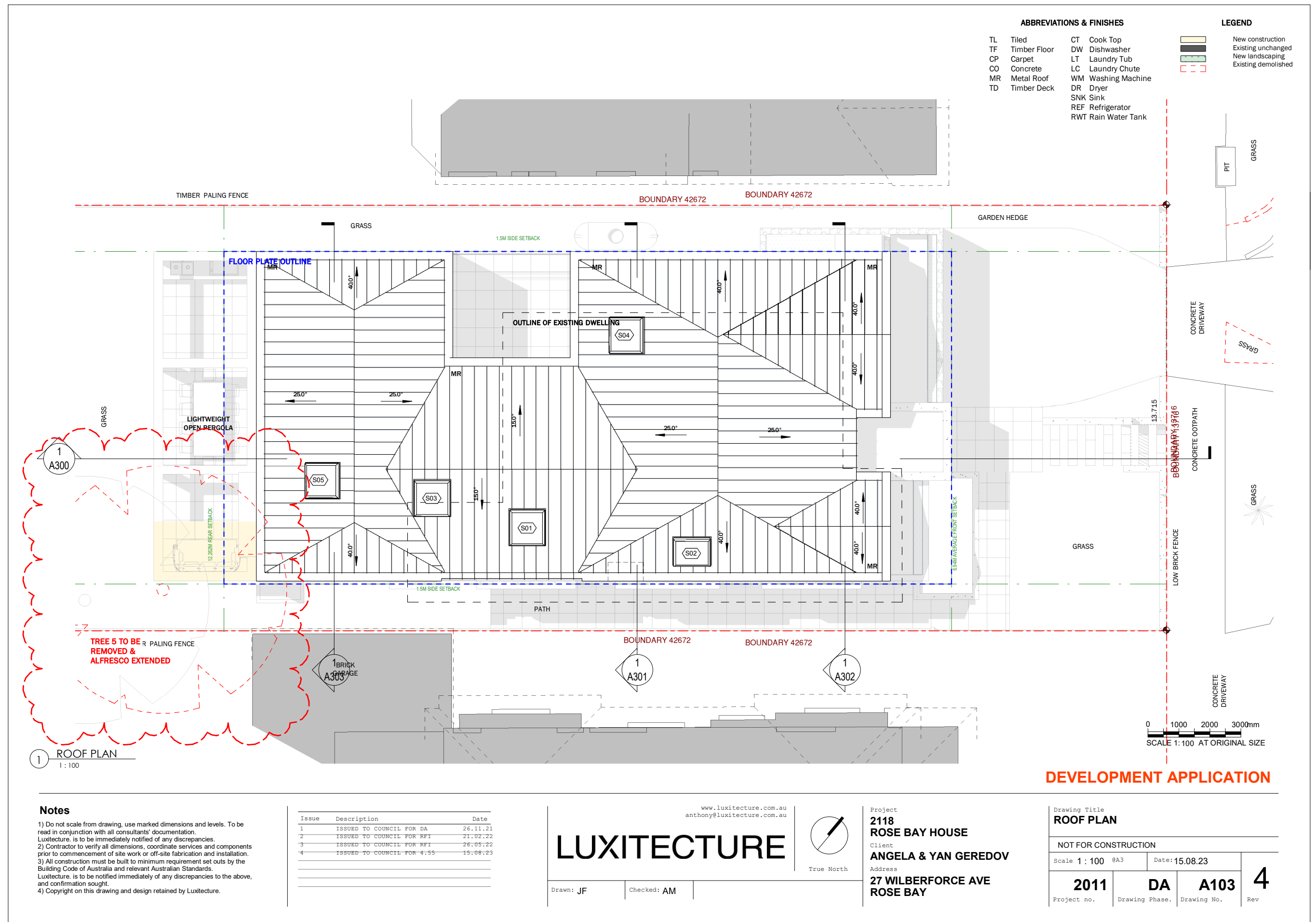
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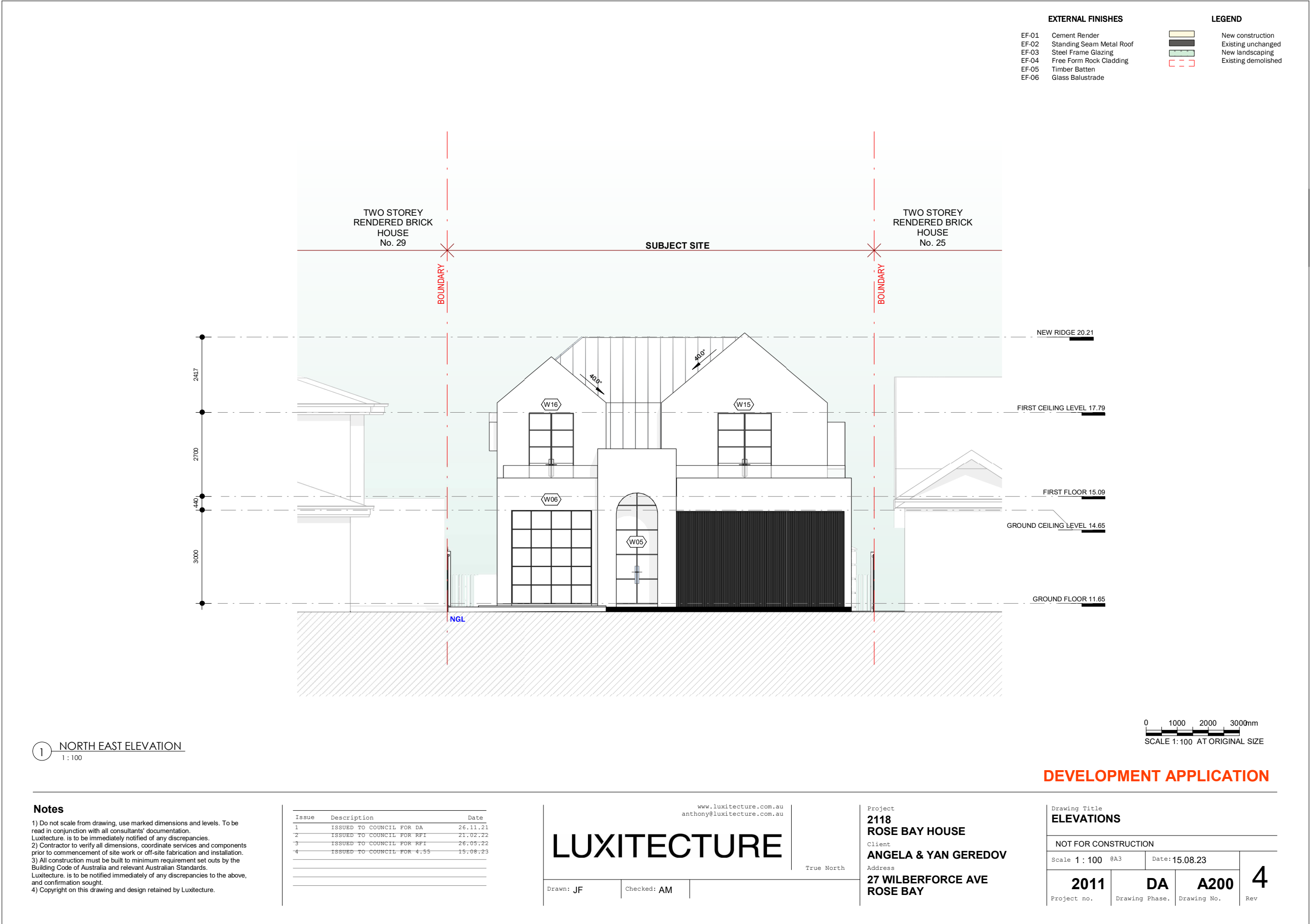
2011	DA	A010
Project no.	Drawing Phase.	Drawing No.

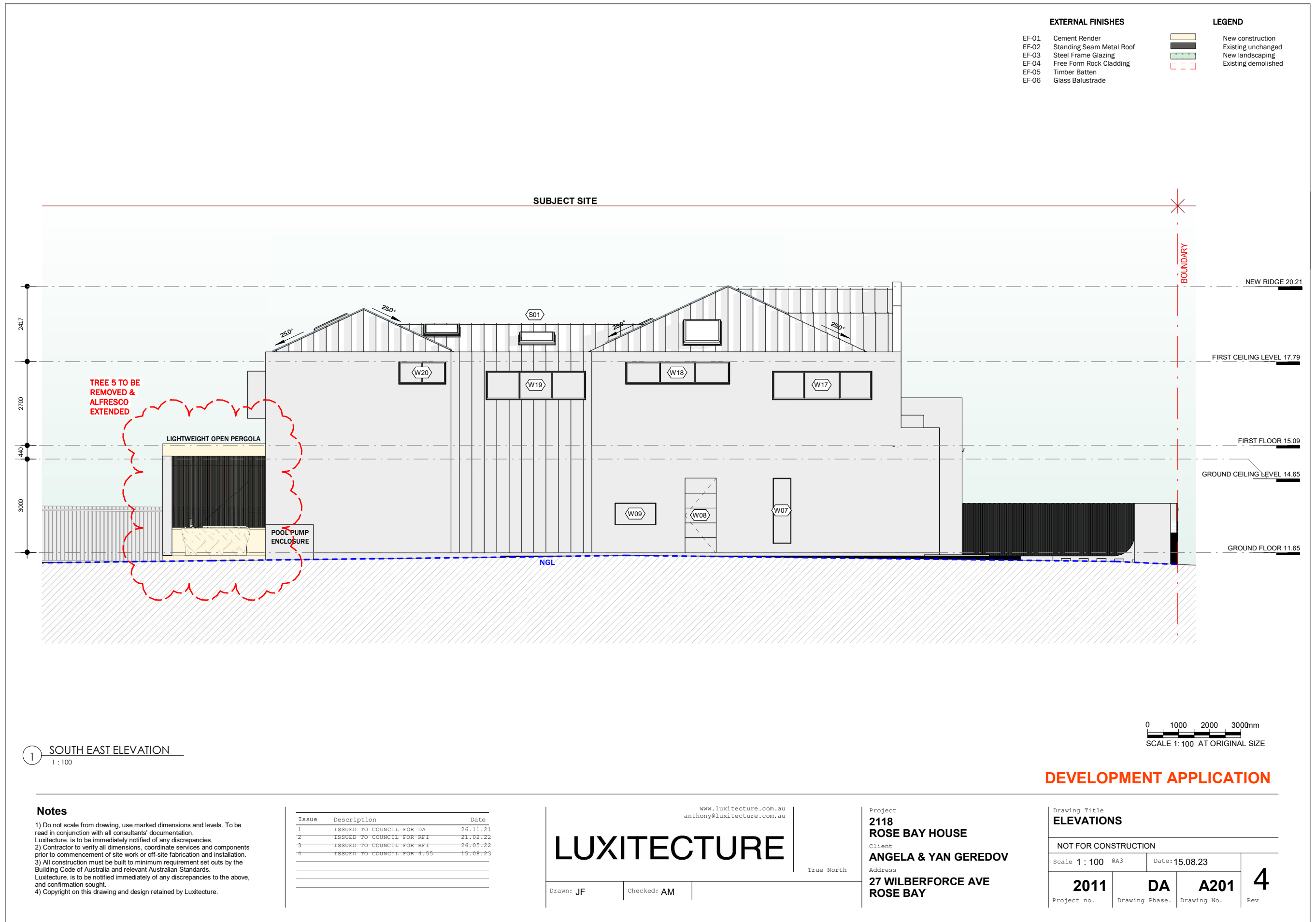
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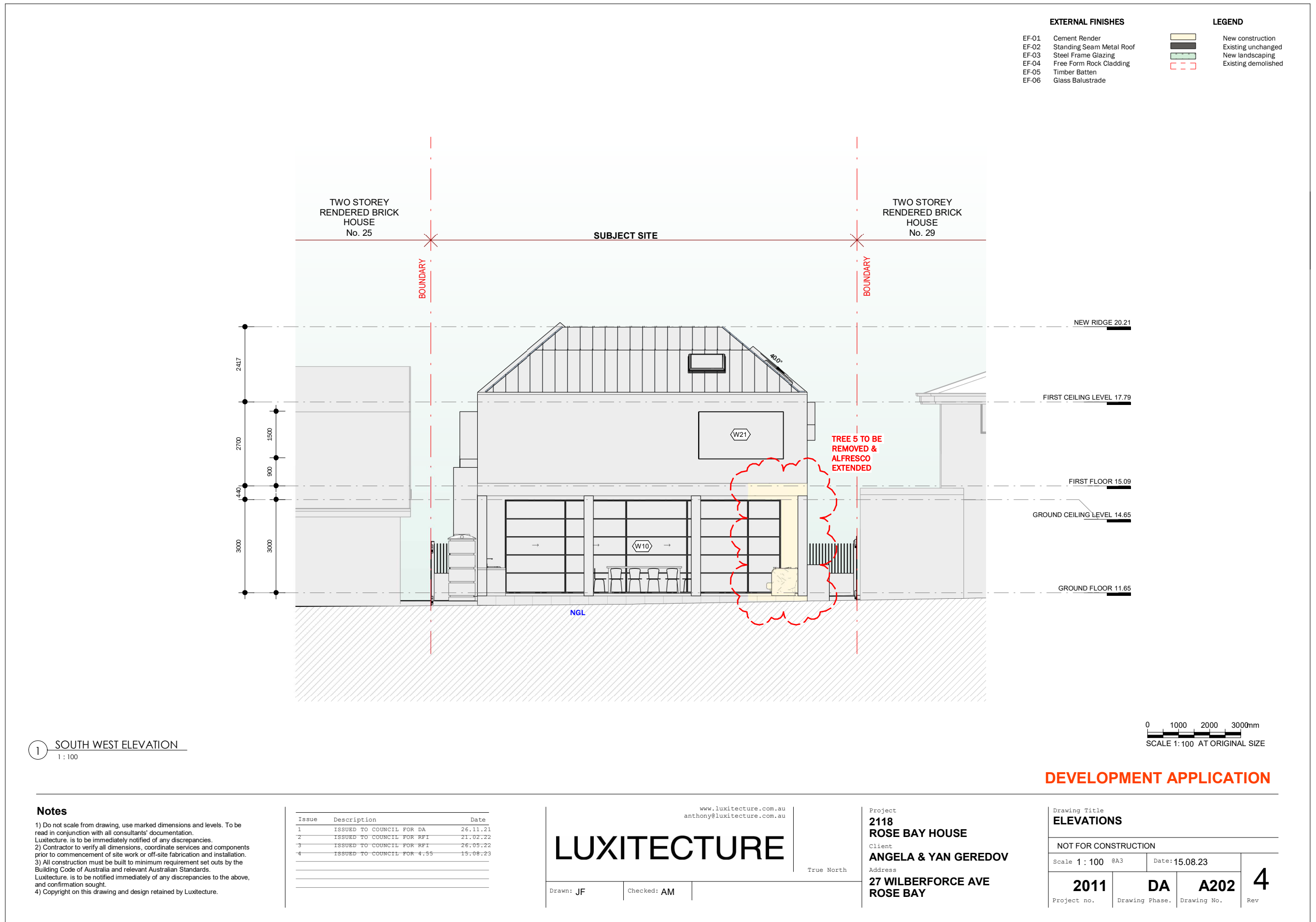


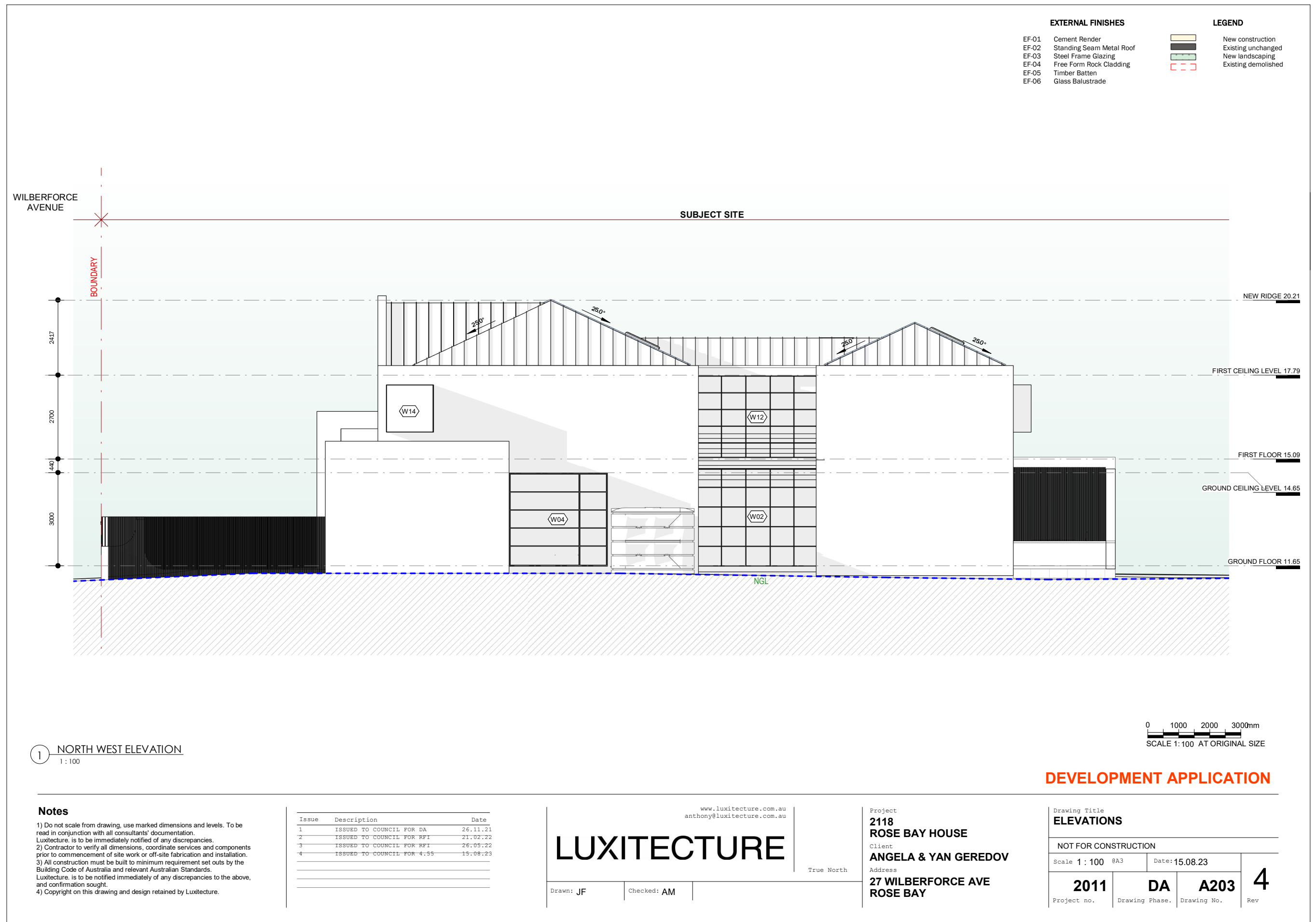


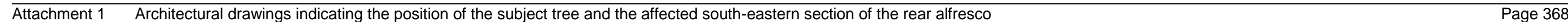


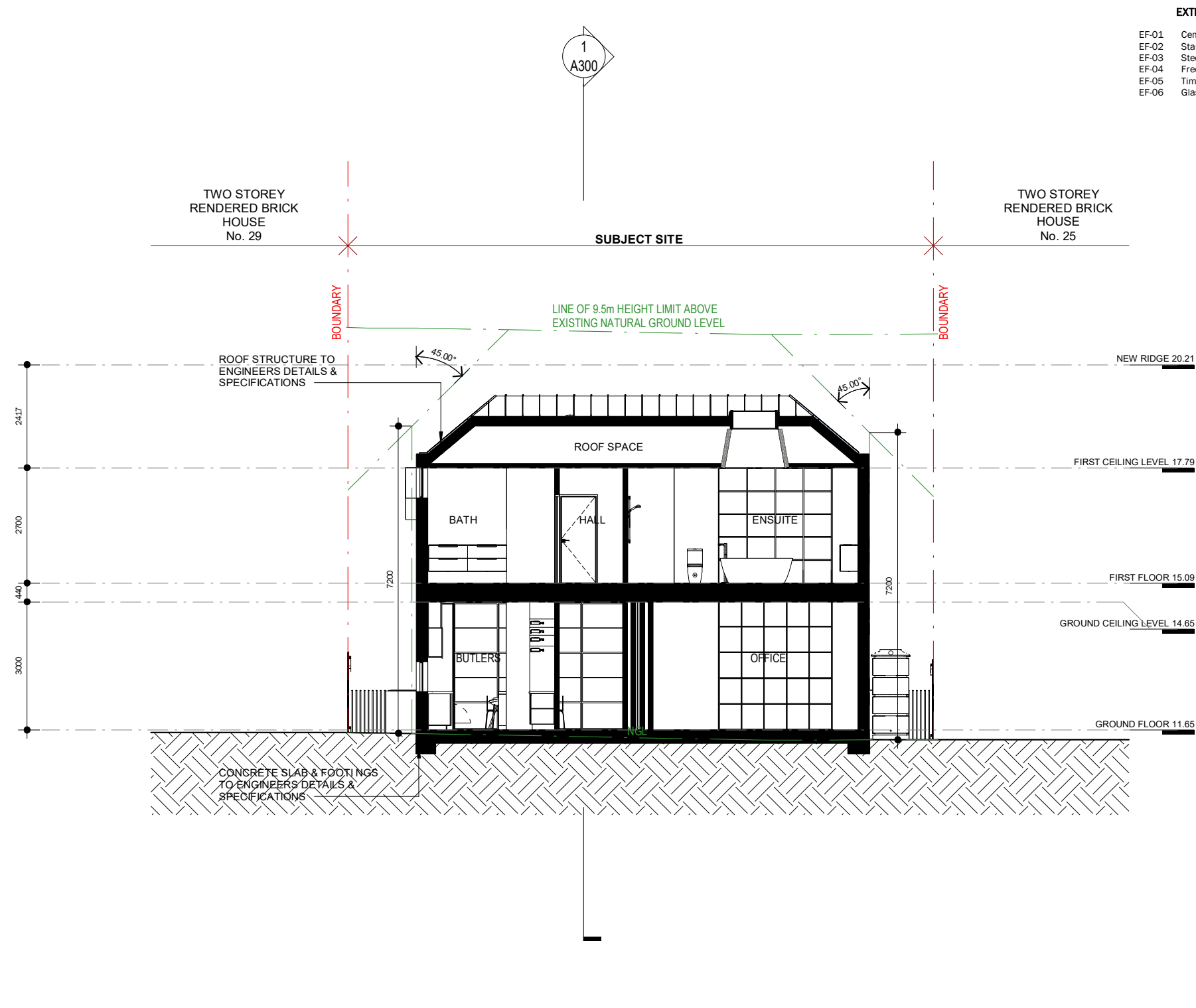












1 Section 2
1 : 100

Notes

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- 5) Luxstructure is to be notified immediately of any discrepancies to the above, and confirmation sought.
- 6) Copyright on this drawing and design retained by Luxstructure.

Issue	Description	Date
1	ISSUED TO COUNCIL FOR DA	26.11.21
2	ISSUED TO COUNCIL FOR RFI	21.02.22
3	ISSUED TO COUNCIL FOR RFI	26.05.22
4	ISSUED TO COUNCIL FOR 4.55	15.08.23

www.luxitecture.com.au
anthony@luxitecture.com.au

LUXITECTURE

True North

Drawn: JF

Checked: AM

| Project

**2118
ROSE BAY HOUSE**

Client	
--------	--

ANGELA & YAN GEREDOV

Address

27 WILBERFORCE AVE
ROSE BAY

Drawing Title
SECTIONS

NOT FOR CONSTRUCTION

Scale 1 : 100 @A3

Date: 15.08.23

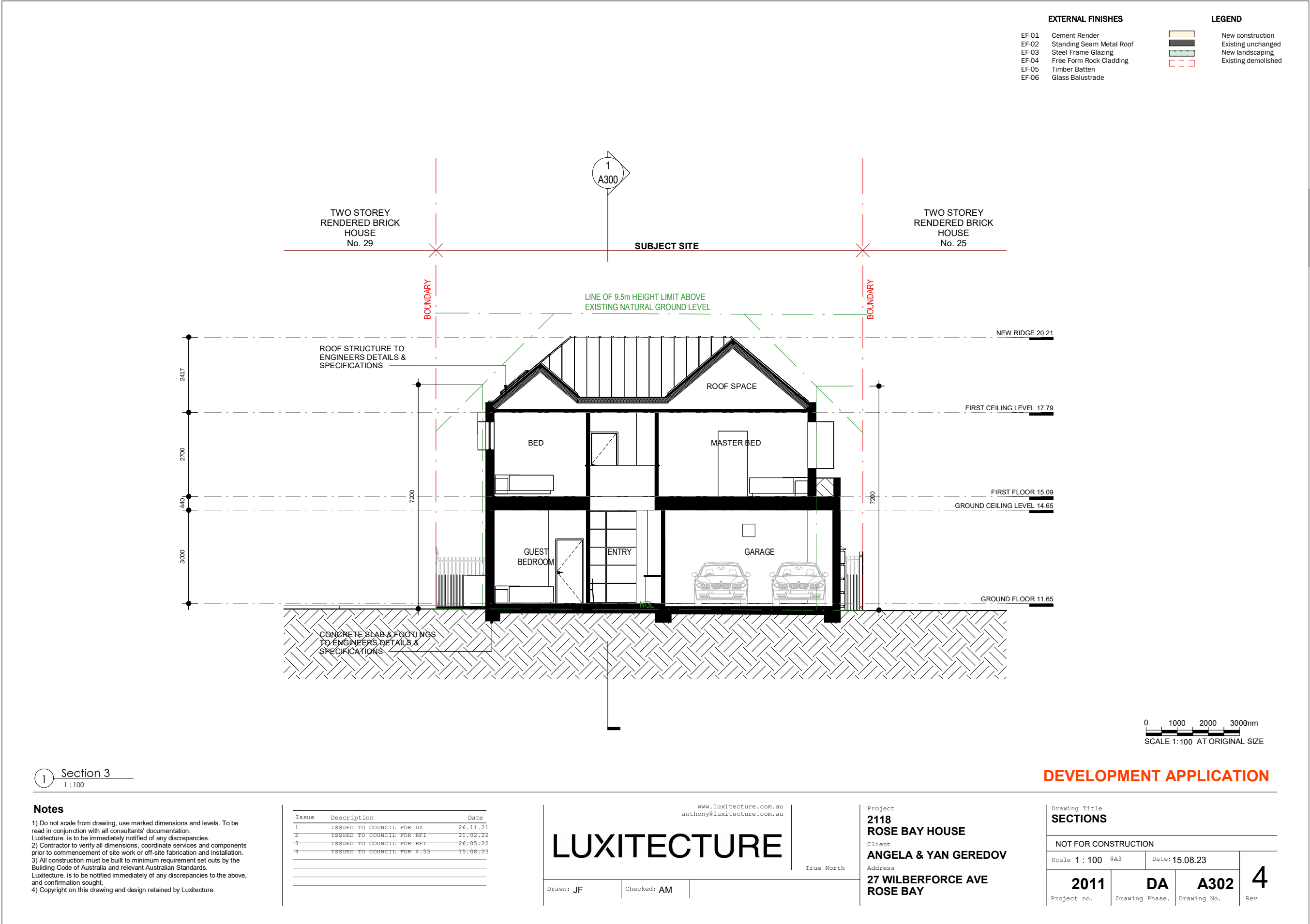
2011

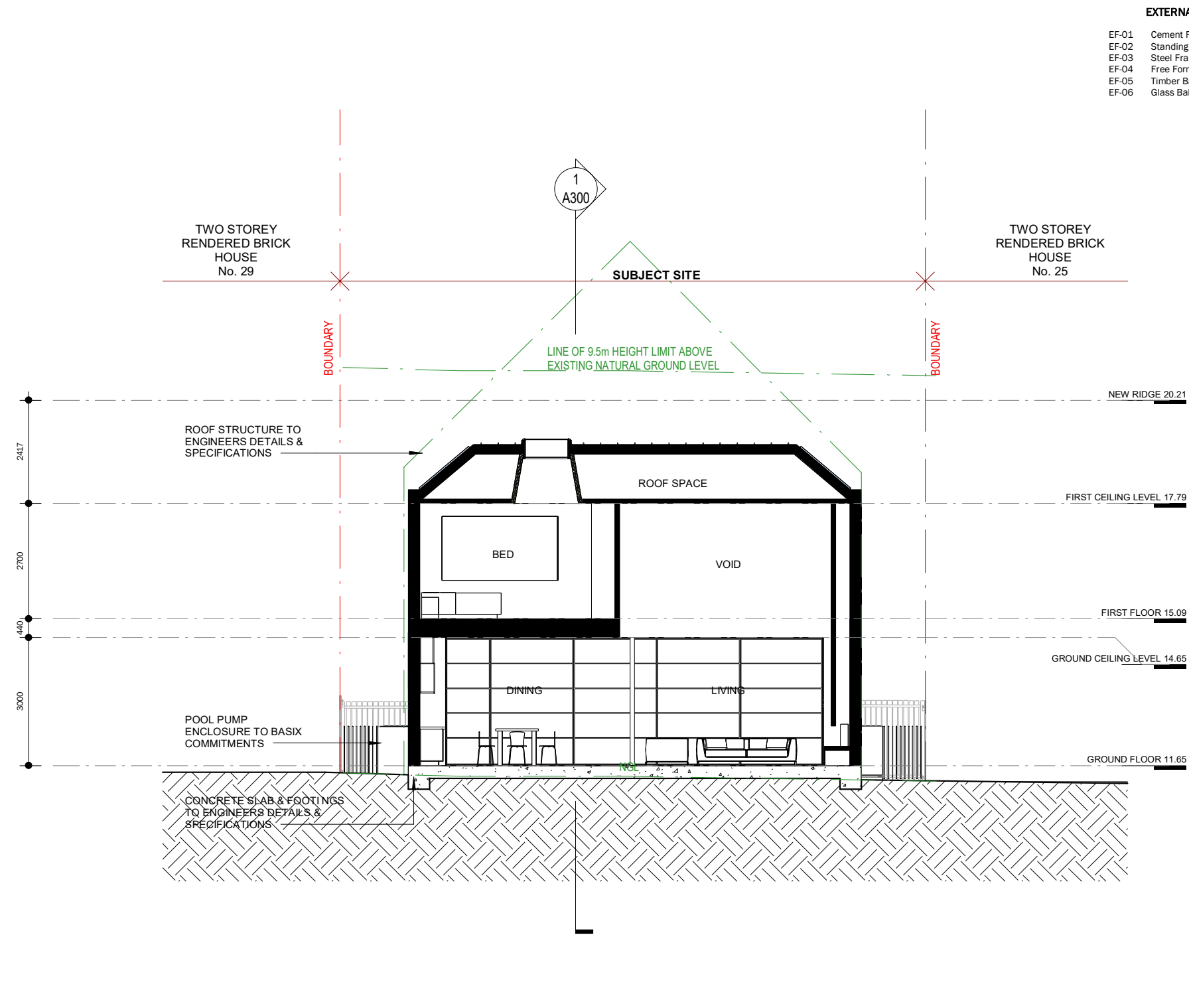
DA
Drawing Phase.

A301

4

DEVELOPMENT APPLICATION





1 Section 4
1 : 100

Notes

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| Project

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ANGELA & YAN GEREDOV





Address

27 WILBERFORCE AVE
ROSE BAY

EXTERNAL FINISHES

EF-01	Cement Render
EF-02	Standing Seam Metal Roof
EF-03	Steel Frame Glazing
EF-04	Free Form Rock Cladding
EF-05	Timber Batten
EF-06	Glass Balustrade

LEGEND

 New construction
 Existing unchanged
 New landscaping
 Existing demolished

DEVELOPMENT APPLICATION

Drawing Title
SECTIONS

NOT FOR CONSTRUCTION

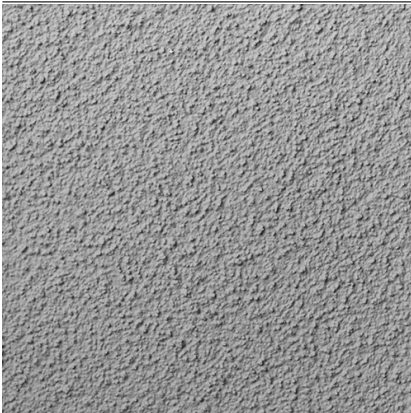
Date: 15.08.23

2011

DA

A303

4



EF-01 - Cement Render
COLOUR - Dulux Vivid White or similar



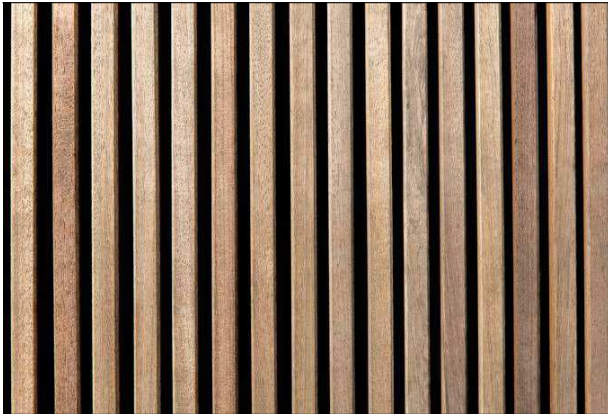
EF-02 - Standing Seam Metal Roof
COLOUR - Zinc or Similar



EF-03 - Steel Frame Glazing
COLOUR - Matte Black or similar



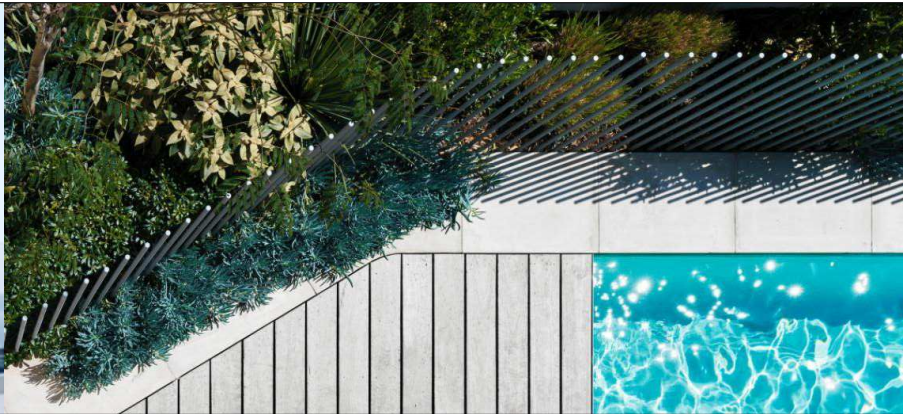
EF-04 - Free Form Rock Cladding
COLOUR - Eco Outdoor - Ashlar Clancy



EF-05 - Hardood Timber Batten 42mm x 42mm
COLOUR - Spotted Gum



EF-06 - Glass Balustrade
COLOUR - NA



EF-06 - Steel Rod Fence
COLOUR - NA

DEVELOPMENT APPLICATION

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LUXITECTURE

True North

Drawn: JF Checked: AM

Project
**2118
ROSE BAY HOUSE**
Client
ANGELA & YAN GEREDOV
Address
**27 WILBERFORCE AVE
ROSE BAY**

Drawing Title
MATERIAL FINISHES SCHEDULE

NOT FOR CONSTRUCTION

Scale @A3 Date: 15.08.23

2011 Project no.	DA Drawing Phase.	A400 Drawing No.
----------------------------	-----------------------------	----------------------------

4
Rev



Woollahra
Municipal
Council

23 January 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 600/2021/2

ADDRESS: 27 Wilberforce Avenue ROSE BAY 2029

PROPOSAL: Removal of Macadamia Tree within the rear yard and extension of alfresco area.

FROM: Sam Knight

TO: Mr D Booth

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Survey Plan, drafted by Onesight Surveys, dated 14 July 2021
- Architectural Drawings, drawn by Luxitecture, dated 15 August 2023
- Arborist Statement, written by NSW Trees, dated 5 October 2023

3. RELEVANT CONTROLS

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites
- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

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4. SUMMARY

The proposal is supported subject to the below tree conditions being included into the DA consent.

5. COMMENTS

The removal of tree 5 was previously supported by the Tree and Landscape team in the referral dated 14 February 2022. The below comments were included in the referral, along with conditions that specified tree 5 was approved for removal. It is unclear why this tree was conditioned for retention.

Tree Removal – Medium Retention Value

Tree 4 and 5 have been identified as Macadamia trees located in the rear yard of the property. The trees have been noted in good health and fair condition. The trees have been rated as having medium retention value in the applicants Arborist Report. The trees provide a fair contribution to the amenity of the immediate area.

The proposed indicate both trees will require removal as they are located within the building footprint. consideration has been given to design modifications required to allow for retention of these trees. However, there are no feasible alternatives that can be recommended to mitigate adverse impacts on the trees due to the location of the new building and substantial reduction of the building footprint that would be required to allow retention.

Therefore, to compensate for the loss of amenity resulting from the removal of the trees, replacement planting is to be undertaken in accordance with the details below.

Please note all other tree conditions previously imposed shall remain unchanged.

Canopy Cover

Chapter B3.7 Landscape area and private open space of the WMC DCP outlines under Control 1 that 35% canopy cover is to be provided within sites for dwelling houses, dual occupancy, semi-detached development and attached dwellings.

The submitted Tree Canopy Plan indicates that the approved Landscape Plans will provide 206m² or 35% canopy cover and complies with the requirements of the Woollahra DCP controls.

6. RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.

A. GENERAL CONDITIONS

A. 1.	Tree Preservation and Landscaping Works
	While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable. a) The following trees may be removed:



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Council Ref No	Species	Location	Dimension (metres)
5	<i>Macadamia</i> spp.	Rear Yard – southern boundary	8 x 4
<p>The tree/s that may be removed must appear coloured red on the Construction Certificate plans.</p> <p>The species marked (*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.</p> <p>Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.</p> <p>Standard Condition A.22 (Autotext 22A)</p>			

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	Construction Management Plan Arborist Review
	<p>Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.</p> <p>The plan must address:</p> <ul style="list-style-type: none"> a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding; b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.; c) Site construction access, temporary crossings and movement corridors on the site defined; d) Contractors car parking; e) Phasing of construction works; f) The space needed for all foundation excavations and construction works; g) All changes in ground level; h) Space for site sheds and other temporary structures such as toilets; i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas. <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p> <p>Standard Condition B.28 (Autotext 28B)</p>

C. ON COMPLETION OF REMEDIATION WORK



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Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

Nil

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Nil

H. OCCUPATION AND ONGOING USE

Nil

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)

Nil.

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Sam Knight
Tree Officer

29 January 2024
Completion Date