



# Woollahra Local Planning Panel (Electronic Meeting)

Thursday 21 March 2024

## Agenda

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#### **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](mailto: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](http://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

12 March 2024

To: Woollahra Local Planning Panel Members  
*Chair*  
*Experts*  
*Community Representative*

Dear Panel Members,

### **Woollahra Local Planning Panel (Electronic Meeting) – 21 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 21 March 2024.**

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](mailto: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                               | DA247/2023/1 - 7 Marine Parade Watsons Bay - 24/43657 .....7<br>*See Recommendation Page 48       |      |
| D2                               | DA325/2023/1 - 7 Cranbrook Road Bellevue Hill - 24/43199 .....151<br>*See Recommendation Page 170 |      |
| D3                               | DA338/2022/3 - 12 Tivoli Avenue, Rose Bay - 24/40551 .....285<br>*See Recommendation Page 304     |      |



## **LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT**

|                        |   |
|------------------------|---|
| <b>ITEM No.</b>        | D1  |
| <b>FILE No.</b>        | DA247/2023/1  |
| <b>ADDRESS</b>         | 7 Marine Parade WATSONS BAY   |
| <b>COUNCIL WARD</b>    | Vaucluse  |
| <b>SITE AREA</b>       | 227.6m <sup>2</sup>   |
| <b>ZONING</b>          | R2 Low Density Residential  |
| <b>PROPOSAL</b>        | Alterations and additions to an existing semi-detached dwelling including first floor addition. |
| <b>TYPE OF CONSENT</b> | Local development   |
| <b>COST OF WORKS</b>   | \$1,208,329.00  |
| <b>DATE LODGED</b>     | 12/07/2023  |
| <b>APPLICANT</b>       | Cape Cod Australia Pty  |
| <b>OWNER</b>           | J D Hillman   |
| <b>AUTHOR</b>          | Mr K Qi   |
| <b>TEAM LEADER</b>     | Mr M Moratelli  |
| <b>SUBMISSIONS</b>     | Three (3)   |
| <b>RECOMMENDATION</b>  | Approval, subject to Condition C.1  |

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

The application is to be determined by the Woollahra Local Planning Panel (LPP) as it falls under the category of:

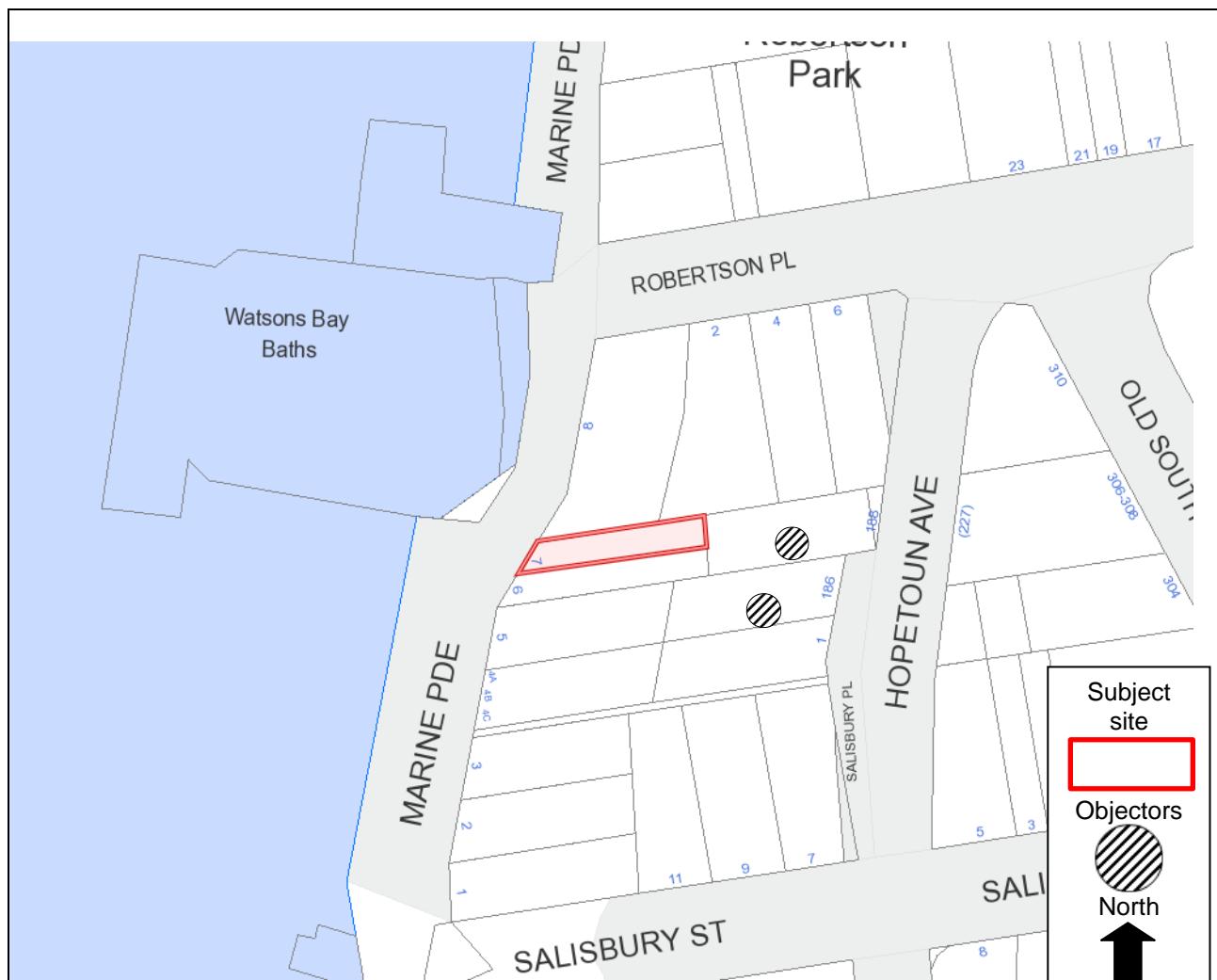
- Departure from development standards
  - (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

### **2. REASONS FOR RECOMMENDATION**

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

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

### 3. LOCALITY PLAN



*Note: Where multiple objections have been received from the same property, these have only been identified once on the above locality plan. See Section 9 of this assessment report for a complete list of objections.*

### 4. PROPOSAL

The proposal involves alterations and additions to the existing semi-detached dwelling, including a first floor addition. The following detailed description of the works is provided:

- **Basement floor**
  - Conversion of the existing subfloor into a storage area;
  - Proposed lift and access hallway;
  - Proposed excavation associated with new storage and access hall;
  - Proposed remote control sliding garage door; and
  - Fill existing garage side opening and proposed external side entry stairs.
- **Ground floor**
  - Reconfiguration of internal walls to accommodate new open planned living, dining and kitchen area, butler's pantry, laundry, shower room and sitting room;
  - Proposed internal lift and access stairs to upper floor;
  - Removal of partial party wall that adjoins 6 Marine Parade and proposed fill with brick;
  - Proposed new side entry and stairs and landing outside side entry;
  - Proposed deck to the front of the building;
  - Proposed external walls to the rear sitting room;

- Proposed ground floor roof;
- Fenestration works throughout; and
- Removal of existing chimneys.
- First floor
  - Proposed two bedrooms, one containing an ensuite;
  - Proposed shower room;
  - Proposed playroom;
  - Proposed party wall that adjoins 6 Marine Parade;
  - Proposed balcony facing towards the west; and
  - Proposed first floor roof.

## 5. ISSUES

### 5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

| Clause   | Development Standard | Departure from Control                          | Conclusion   |
|----------|----------------------|---|--------------|
| Part 4.3 | Height of Buildings  | 0.93m or 11.34% departure from the 8.2m control | Satisfactory |

### 5.2 Primary Issues

| Issue                    | Conclusion   | Section     |
|--------------------------|--|-------------|
| Adverse heritage impacts | Subject to <b>Condition C.1</b> , the proposal is considered acceptable with regards to the heritage requirements under the Woollahra LEP 2014 and the Woollahra DCP 2015. | 13.5 and 14 |
| Objector concerns        | The issues raised in the submissions are either addressed by conditions of consent or are insufficient to warrant refusal or modification of the application.              | 5.3         |

### 5.3 Summary of Submissions

| Issue  | Conclusion   | Section     |
|--|--|-------------|
| The proposal does not comply with the building height limit and a written request is to be submitted under Clause 4.6 of the Woollahra LEP 2014.   | The proposal does not comply with the building height limit under Clause 4.3 of the Woollahra LEP 2014. The applicant's written request under Clause 4.6 of the Woollahra LEP 2014 has demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case. Also, sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard. A variation to the standard is therefore supported in this case. | 13.3 & 13.4 |
| The assessment of heritage impact is inadequate, and the proposal does not respect the heritage character of Watsons Bay and is inconsistent with the Watsons Bay Heritage Conservation Area, in terms of the following: <ul style="list-style-type: none"> <li>• Bulk and scale;</li> <li>• Wall height;</li> <li>• Increase of height of a contributory item;</li> <li>• Existing building footprint and landscape area non-compliances; and</li> <li>• Roof form alteration.</li> </ul> | Subject to <b>Condition C.1</b> , the proposal is considered acceptable with regards to the heritage requirements under the Woollahra LEP 2014 and the Woollahra DCP 2015.   | 13.5 & 14   |
| The proposal would result in view loss for neighbouring properties including:  | View loss concerns have been assessed in accordance with the Planning Principle of   | 14.1.16     |

| Issue  | Conclusion   | Section          |
|--|--|------------------|
| <ul style="list-style-type: none"> <li>186 Hopetoun Avenue Watsons Bay;</li> <li>188 Hopetoun Avenue Watsons Bay; and</li> <li>Properties to the rear within Hopetoun Avenue towards Watsons Bay</li> </ul>  | <i>Tenacity Consulting v Warringah Council</i> . The impacts on views are considered acceptable. Concerns about properties in the general vicinity to the site have not been assessed in detail, as no specific addresses were identified.                                 |                  |
| The applicant is to provide a view impact study for 188 Hopetoun Avenue Watsons Bay and the objector is to have the opportunity to make comment on the additional information.   | The submitted documents are considered adequate and the relevant impacts have been assessed on-site by Council's Assessment Officer, therefore the view impact study for 188 Hopetoun Avenue Watsons Bay is not deemed to be necessary.                                    | 14.1.16          |
| The proposal breaches the relevant building height and wall height controls.   | The proposal is considered acceptable with regards to the building height objectives under Part C3.3.5.3 of the Woollahra DCP 2015.  | 14.1.6 & 14.1.17 |
| The proposal would create adverse overshadowing impact upon neighbouring properties.   | The proposal complies with the solar access requirements under the Woollahra DCP 2015.   | 14.1.17          |
| The proposal would have adverse overlooking impacts to neighbouring properties.  | The proposal is considered satisfactory with regard to the privacy requirements under the Woollahra DCP 2015.  | 14.1.22          |
| The Woollahra DCP 2015 prohibits an additional storey for contributory item.   | Council's Heritage Officer commented the subject item is considered only mildly contributory to the Watsons Bay HCA therefore controls under Part C3.6 of the Woollahra DCP 2015 are not wholly relevant.  | 14.1.23          |
| The proposed development carries forward the existing building footprint and landscaped area non-compliances which would cumulatively result in adverse impacts.   | The existing building footprint and deep soil landscaped area non-compliances are not exacerbated by the proposal. It is considered that the underlying objectives would not be contravened as a consequence of the proposal.  | 14               |
| The proponent's argument that occupants of 6 and 7 Marine Parade Watsons Bay require the proposed works to accommodate a need for additional living areas is invalid.  | Each application is assessed on its own merit. The proposal is considered to enhance the amenity of the subject dwelling and a need for additional living areas has not been relevant in the assessment of this proposal.  | 14               |
| The proposal lacks architectural rigour and a more thoughtful design is required to minimize the amenity impacts on the neighbouring properties.   | The amenity impacts on the neighbouring properties as a result of the proposal are considered acceptable.  | 14               |
| <p>Previous appeal of the development proposal for 6 Marine Parade Watsons Bay was dismissed by the Land &amp; Environmental Court in 2003 and remains relevant to this application for the same reasons, including:</p> <ul style="list-style-type: none"> <li>Breach of the 8.2 metre maximum height standard;</li> <li>Loss of views from 188 Hopetoun Avenue and inadequate view sharing; and</li> <li>Unacceptable detrimental impact on the significance of the surrounding Watsons Bay Heritage Conservation Area.</li> </ul> | Each application is assessed on its own merit. The proposal is assessed and generally complies with objectives of the Woollahra LEP 2014 and Woollahra DCP 2015.   | 13 & 14          |
| The proposal would set up an undesirable precedent that result in adverse view, privacy and solar access impacts.  | Each application is assessed on its own merit. The proposal has been assessed against relevant objectives and controls of the Woollahra LEP 2014 and Woollahra DCP 2015 and would not have any significant adverse impact to the neighbouring properties and the locality. | N/A              |



## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY

|   |
|---|
| <b>Physical features</b>  |
| <p>The subject site is also known as Lot 1 DP 215812.</p> <p>The site is an irregular shaped allotment and comprises the following boundary lengths:</p> <ul style="list-style-type: none"> <li>• 7.811m street frontage to Marine Parade.</li> <li>• 34.712m northern side boundary adjoining 8 Marine Parade Watsons Bay to the west and 2 Robertson Place Watsons Bay to the east.</li> <li>• 6.997m eastern rear boundary adjoining 188 Hopetoun Avenue Watsons Bay.</li> <li>• The southern splayed side boundary that adjoins 6 Marine Parade Watsons Bay has a total length of 39.47m.</li> </ul> <p>The site has an area of 227.6m<sup>2</sup>.</p>   |
| <b>Topography</b>   |
| <p>The site slopes down approximately 3.04m from the rear of the site RL 4.89 towards the front north-west corner of the site RL 1.85.</p>  |
| <b>Existing buildings and structures</b>  |
| <p>The site contains a single storey semi-detached dwelling sited above a basement garage to Marine Parade.</p>   |
| <b>Surrounding Environment</b>  |
| <p>The site is located in the Precinct O: Gibsons Beach Waterfront and Marine Parade South in the Watsons Bay Heritage Conservation Area. On the northern side of the subject site at 8 Marine Parade Watsons Bay are the Watsons Bay Library and Baithouse in the Tea Garden Watsons Bay which have a single storey presentation to the street. Immediately to the south of the subject site at 6 Marine Parade Watsons Bay is a single storey semi-detached dwelling that adjoins the subject semi-detached dwelling sited above a basement garage to Marine Parade frontage. On the eastern side of the subject site at 188 Hopetoun Avenue Watsons Bay is a two storey dwelling house which has a single storey presentation to the street.</p> <p>C3.4.14 Precinct O: Gibsons Beach Waterfront and Marine Parade South of the Woollahra DCP provides the following character statement:</p> <ul style="list-style-type: none"> <li>• <i>This precinct consists of properties with a frontage to Marine Parade, south of Robertson Place.</i></li> <li>• <i>The waterfront promenade is contained visually by a single storey yacht club and the Watsons Bay public baths at the north end and the two storey Pilot Station at the south end (Figure 106 and 107). A flight of steps leads up to Salisbury Road (Figure 109).</i></li> <li>• <i>Marine Parade continues south as a walkway to Gibsons Beach, a small beach semi-detached dwelling enclosed by the Pilot Station to the north and the natural landform to the south (Figure 108). A narrow park along the promenade widens at the southern end to form Gibsons Beach Reserve with an open landscape character. The beach and the park curtilage are protected by a sandstone headland, as well as rock benches and sandstone walls to the properties above. A small creek enters the beach from the southwest. Boat sheds and jetties extend out to the point. The mixed public pathway/private driveway allows access around the small reserve behind the beach to Hopetoun Avenue.</i></li> <li>• <i>The northern part of the precinct contains a variety of built and landscape elements that contribute to its character. These include the distinctive yacht club and Pilot Station buildings with jetties on the western side and the Inter-War period Tea Gardens, formerly the facilities for the Watsons Bay Pool at the north end (Figure 111).</i></li> <li>• <i>Housing includes single storey detached and semi-detached dwellings (c1920s—1930s) with pitched roofs, many of which have been altered (Figure 112). Front gardens are generally set behind low walls and are open in character, elevated above the promenade toward the south end. The two to three storey dwellings above in the southern section (some with remnant cultural plantings) are barely visible from the beach.</i></li> <li>• <i>Street tree plantings of Casuarinas and a topped Norfolk Island pine opposite Tea Gardens enhance the waterfront setting. The tree and shrub plantings at the west end of Salisbury Street are not of heritage significance and obstruct views to the Harbour.</i></li> <li>• <i>Properties have harbour views from the water; there are views to the spire of Our Lady Star of the Sea church and cultural plantings on the ridgeline.</i></li> </ul> |

- *Prominent garages on or close to the street frontage detract from the promenade and views from the waterfront. The visual impact of a contemporary dwelling with an uncharacteristic curved roof is partially mitigated by its relatively low scale and sympathetic landscaping when compared with larger buildings behind.*



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



*Fig. Subject site (left) and adjacent semi-detached dwelling (right) viewed from street*



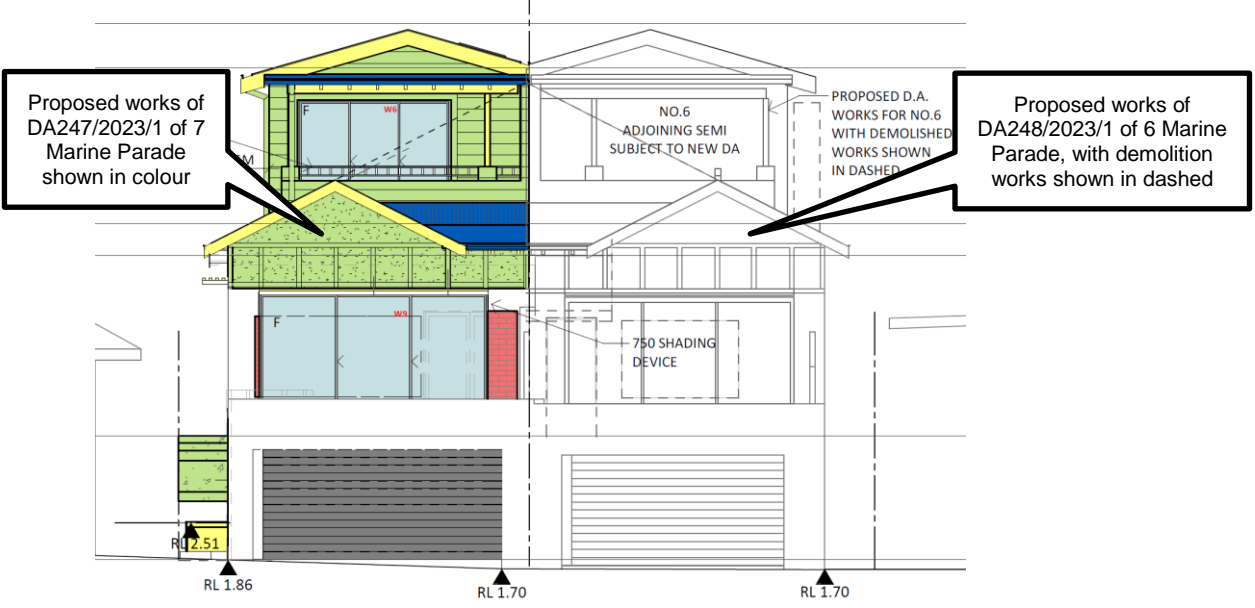


*Fig. 8 Marine Parade viewed from street*



*Fig. 5 Marine Parade viewed from street*

## 7. RELEVANT PROPERTY HISTORY

|  |
|--|
| <b>Current use</b>   |
| Residential development  |
| <b>Relevant Application History</b>  |
| <ul style="list-style-type: none"> <li>A Development Application DA248/2023/1 for the adjoining semi-detached dwelling of 6 Marine Parade Watsons Bay has been lodged with Council and has not yet been determined. It involves alterations and additions to the existing semi-detached dwelling including a first floor addition, and it is considered generally symmetrical to that of the subject development DA247/2023/1. In general, the subject application DA247/2023/1 will result in a cohesive first floor addition that achieves symmetry with the proposed adjoining semi-detached dwelling at 6 Marine Parade Watsons Bay under DA248/2023/1.</li> </ul>   |
|  <p>Proposed works of DA247/2023/1 of 7 Marine Parade shown in colour</p> <p>NO.6 ADJOINING SEMI SUBJECT TO NEW DA</p> <p>PROPOSED D.A. WORKS FOR NO.6 WITH DEMOLISHED WORKS SHOWN IN DASHED</p> <p>Proposed works of DA248/2023/1 of 6 Marine Parade, with demolition works shown in dashed</p> <p>750 SHADING DEVICE</p> <p>RL 1.86 RL 1.70 RL 2.51</p>   |
| <i>Fig. Front elevation – extract from Drawing 10 Rev E</i>  |
| <b>Relevant Compliance History</b>   |
| N/A  |
| <b>Pre-DA</b>  |
| N/A  |
| <b>Requests for Additional Information and Replacement Applications</b>  |
| <p>A Stop the Clock Letter dated 24 July 2023 was issued and requested the following:</p> <ul style="list-style-type: none"> <li>Section AA to show <i>existing ground line</i> and floor levels of any subfloor areas;</li> <li>Geotechnical and Hydrogeological Investigation and Report;</li> <li>Details of Proposed Construction Methodology Involving Excavation and Structural Report / Owners consent from Adjoining Properties</li> </ul> <p>On 16 August 2023, Council's Development Engineer confirmed that the Geotechnical and Hydrogeological Investigation and Report is not required. Section AA and the Construction Methodology Report were received on 16 October 2023.</p> <p>The <i>existing ground line</i> remained unclear in the revised Section AA, and further revised architectural drawings were received on 31 October 2023. Also, the applicant submitted revised shadow diagram and the written request for variation to height of building development standard pursuant to Clause 4.6(3) of the Woollahra LEP 2014 on 30 October 2023.</p> |
| <b>Land and Environment Court Appeal(s)</b>  |
| N/A  |

## 8. REFERRALS

| Referral                | Summary of Referral Response        | Attachment |
|-------------------------|-------------------------------------|------------|
| Development Engineering | Satisfactory, subject to conditions | 3          |
| Drainage Engineer       | Satisfactory, subject to conditions | 4          |
| Trees and Landscaping   | Satisfactory                        | 5          |
| Heritage                | Unsatisfactory                      | 6          |

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

## 9. ADVERTISING AND NOTIFICATION

### 9.1 Submissions

The application was advertised and notified from 02 August 2023 to 17 August 2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Oscar Done – 186 Hopetoun Avenue, Watsons Bay
2. Ian & Kerrie Cornick – 188 Hopetoun Avenue, Watsons Bay
3. Bryant Dinglasan (on behalf of Mr Ian and Kerrie Cornick) – 188 Hopetoun Avenue, Watsons Bay

### 9.2 Amended Plans

The amended drawings noted under Section 7 were not formally re-notified/re-advertised as they involved the correction of errors and provision of additional details and did not involve design changes that would impact adjoining properties.

### 9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 07 March 2024 declaring that the site notice for DA247/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.



## **10. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

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

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

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

### Chapter 2 Coastal Management

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

Whilst the subject land is located within the Coastal Environment Area (Clause 2.10) and the Coastal Use Area (Clause 2.11), subclauses 2.10(3) and 2.11(2) state:

*This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

On the basis that the subject land is located within the *Foreshores and Waterways Area* pertaining to Chapter 6 Sydney Harbour Catchment under SEPP (Biodiversity and Conservation) 2021 which repealed SREP (Sydney Harbour Catchment) 2005, it is only the aims and provisions of Division 5 of the policy that are relevant to the subject development application which essentially involve managing development in the coastal zone and protecting the environmental assets of the coast.

The proposal is considered to be satisfactory with regard to the relevant provisions of Chapter 2 Coastal Management.

A subsequent section of this report contains an environmental assessment of the proposal against the relevant provisions of Chapter 6 Sydney Harbour Catchment under SEPP (Biodiversity and Conservation) 2021 (formerly SREP (Sydney Harbour Catchment) 2005)) and the associated Sydney Harbour Foreshores and Waterways Area DCP.

### Chapter 4 Remediation of Land

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

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

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

### 12.1 Chapter 6 – Water Catchments

#### Chapter 6 Water Catchments

The subject site is located in the Sydney Harbour Catchment and inside of the Foreshores and Waterways Area.

#### Part 6.6 Water Quality and Quantity, Part 6.7 Aquatic Ecology, Part 6.8 Flooding and Part 6.9 Recreation and Public Access

The proposal is satisfactory with regards to the relevant provisions of Part 6.6, 6.7, 6.8 and 6.9 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

#### Part 6.28 General

The proposal is satisfactory with regards to the relevant considerations in deciding whether to grant development consent.

## 13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

### 13.1 Part 1.2: Aims of Plan

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

### 13.2 Land Use Table

#### **R2 Low Density Residential zone**

The proposal is defined as alterations and additions to a semi-detached dwelling and is permitted and is consistent with the objectives of the R2 zone.

### 13.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 8.2m.

|                         | Existing | Proposed | Control | Complies |
|-------------------------|----------|----------|---------|----------|
| Maximum Building Height | 7.70m    | 9.13m    | 8.2m    | No       |

**Note.** This assessment varies from that provided by the applicant in terms of measuring the height of building.

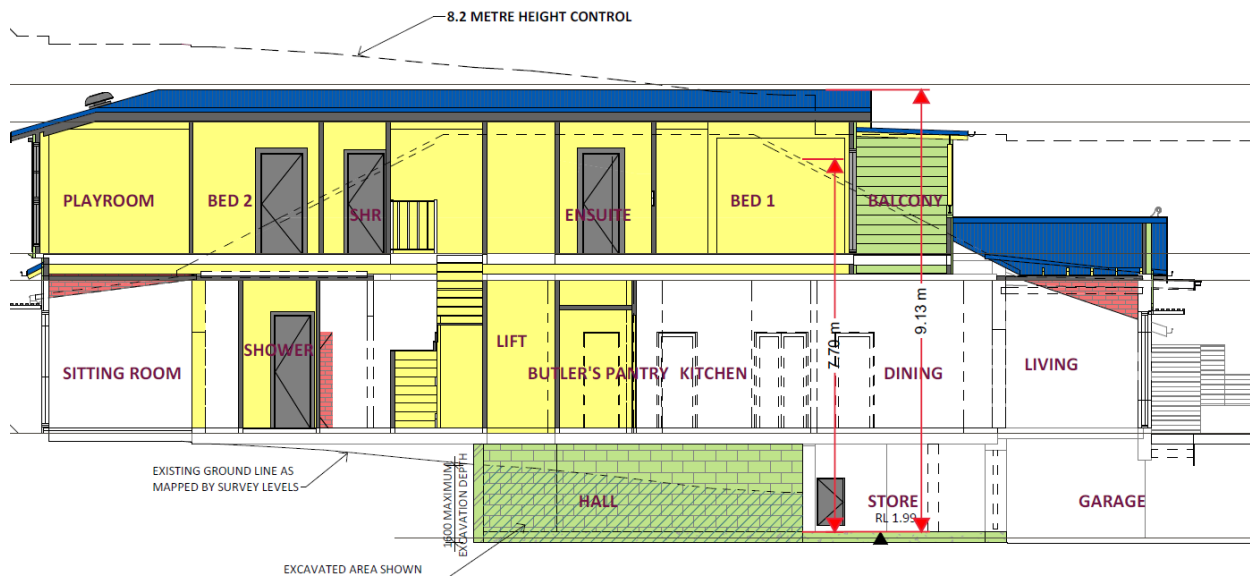
According to *Request for variation to height of buildings* prepared by aSquare Planning Pty Ltd dated 26 October 2023, the maximum height of the building is 9.24m above existing ground level, providing a numeric non-compliance of 1.04m or a percentage variation of 12.68%.

The definition of 'height of building' from Dictionary of the Woollahra LEP 2014 is as follows:

**building height** (or **height of building**) means—

(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



*Fig. Building height analysis – extract from Section AA from Page 12 Rev E*

From the figure above, the proposed building height is measured as 9.13m above existing ground level, providing a numeric non-compliance of 0.93m or a percentage variation of 11.34%. In this instance, the proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in **Part 13.4**.

### 13.4 Part 4.6: Exceptions to Development Standards

The proposal involves a non-compliance with the maximum building height statutory control under Part 4.3 of the Woollahra LEP 2014.

The building height is measured to be 9.13m above the existing ground level. The proposal will exceed the height limit to a maximum extent of 0.93m or 11.34% departure from the 8.2m control.

### Purpose

Clause 4.6 facilitates the potential contravention of a development standard under certain circumstances where it can be adequately demonstrated that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

### Written Request

Clause 4.6(3) stipulates that a written request is required from the applicant that justifies 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.

The applicant has provided a written request in relation to the departure to Cl.4.3. In summary, the Clause 4.6 request makes the case that the non-compliance is reasonable as:

- It is associated with a previously excavated portion of the site which is currently used as a store room;
- It is associated with the pitched ridgeline of the proposed roof, which is an element that is sympathetic to the the Watsons Bay HCA.
- The proposal has been designed to mirror the adjoining development at 6 Marine Parade, which complies with the height limit due to the differing ground levels on that site. To require compliance would result in an incongruous presentation between the pair of semi-detached dwellings.



## 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*

It is considered that the applicant's written request has adequately demonstrated that the objectives of the height of buildings development standard are achieved and that the non-compliance satisfies the unreasonable or unnecessary tests established by the Court in *Wehbe*.

It is considered that the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as required by 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.*

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.

When the proposal is measured from 'natural ground level', the non-compliance is extremely limited, and is restricted to approximately 190mm of the roof ridgeline.

The applicant's written request, which supports the proposed non-compliance with the height of buildings standard, has adequately demonstrated that the proposed development satisfies objective (c), (g) and (h) of the Environmental Planning and Assessment Act 1979 as copied above.

Therefore, it is considered that the applicant's written request has adequately demonstrated sufficient environmental planning grounds 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 Density Residential 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.*

The proposal does not have any significant adverse impact to the streetscape, and it would not create an adverse streetscape outcome and the desired future character would not be compromised.

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

Contextually, the proposal is considered to be of an appropriate scale and form. The subject site is at the interface of areas zoned R2 Low Density Residential and RE1 Public Recreation. The proposal is not considered to have significant adverse impact on the desired character and future development of adjacent RE1 areas. Therefore, the proposal is considered to be consistent with the desired future character of the locality.

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

The proposed variations will not result in any unreasonable adverse overshadowing impacts to adjoining properties and is considered to be consistent with the above-mentioned objective.

*(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 subject variations will not result in any significant view loss, loss of privacy, overshadowing or visual intrusion impacts upon adjoining properties. Accordingly, the above-mentioned objective is upheld.

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

The subject non-compliances will not impact any views from adjoining public areas towards the Sydney Harbour and is considered to be consistent with the above-mentioned objective.

### **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 proposal would facilitate alterations and additions to the dwelling within a low density residential setting.

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

The proposal will not affect the use of any surrounding land to provide services to the local community.

- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*

The proposed works above the height limit will remain compatible with the character of the existing dwelling and the surrounding locality. These works will not adversely impact upon the amenity of surrounding properties.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

The proposed works above the height limit are not of an unreasonable bulk and scale. Accordingly, the proposed variations would not compromise the desired future character of the neighbourhood.

Accordingly, the non-compliance is considered to be consistent with the objectives 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.

In relation to this Part, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) establishes *Planning Principles* which are summarised and assessed as follows:

- i. *Does the applicant’s written request demonstrate non-compliance with the development standard is unreasonable or unnecessary?*

Yes. For the reasons already outlined and discussed in this assessment, the proposal satisfies the objectives which underpin the development standard.

- ii. *Are there sufficient environmental planning grounds to justify contravening the development standard?*

Yes. The submitted Clause 4.6 variation request has demonstrated that there are sufficient environmental grounds to justify contravening the development standard in this instance.

- iii. *The public interest and whether the proposal is consistent with the objectives of the development standard.*

Yes. The proposal is deemed to be in the public interest as it does not contravene the objectives of the development standard.

#### **Conclusion**

The written submission provided by the applicant has adequately demonstrated that the variations of the development standard prescribed by Clause 4.3 are justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

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

The consent authority may also be satisfied that the proposal is not contrary to the public interest as the non-compliances are consistent with the objectives of the development standard and those applicable to development within the subject R2 Low Density zone. Departure from the control is supported.

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

The subject site is located within the Watsons Bay Heritage Conservation Area.

| Contributory items           |  |
|------------------------------|--|
| Marine Parade                | Watsons Bay Pool (Baths) [SREP Sydney Harbour]<br>A concrete arched pool structure with timber balustrades |
| Marine Parade                | Watsons Bay Ferry Pier [SREP Sydney Harbour]<br>A timber and concrete wharf structure                      |
| 2 Marine Parade              | Single storey Edwardian cottage with second storey addition  |
| 3 Marine Parade              | Single storey Edwardian cottage  |
| 5 Marine Parade              | 2 storey house over garages  |
| 6 Marine Parade              | Single storey semi-detached dwelling   |
| 7 Marine Parade              | Single storey semi-detached dwelling   |
| 8 Marine Parade              | Single storey Spanish Mission styled restaurant 'Tea gardens'  |
| Salisbury Street             | Pilot station [SREP Sydney Harbour]  |
| 12 Salisbury Road            | Kaffir Plum, Date palm, sandstone retaining wall to reserve  |
| Within Gibsons Beach Reserve | Coral trees and phoenix palms<br>Exposed rockfaces adjoining the promenade                                 |

Fig. Contributory items table – extract from Part C3 of Woollahra DCP 2015

Part C3.4.14 of the *Woollahra DCP 2015 – Precinct O: Gibsons Beach Waterfront and Marine Parade South*, identifies the subject site as a contributory item described as 'Single storey semi-detached dwelling'.

In comments dated 17 October 2023, Council's Heritage Officer reviewed the proposal and made the following recommendation:

*The proposal is unacceptable and is to be updated based on the following consideration:*

1. *The proposal contravenes Woollahra DCP 2015 Part C Chapter C3 Clause C3.2.5 'Management Policy' which states that "Development shall be assessed having regard to the principles contained in the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter)." Based on the assessment included in points 2 and 3 below, the proposal is considered inconsistent with Article 22 of the Australia ICOMOS Burra Charter 2003:*

*22.1 New work such as additions or other changes to the place may be acceptable where it respects and does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation. New work should respect the significance of a place through consideration of its siting, bulk, form, scale, character, colour, texture and material. Imitation should generally be avoided.*

*22.2 New work should be readily identifiable as such, but must respect and have minimal impact on the cultural significance of the place.*

2. *The lost front gable supported by slender timber columns, formed part of the entry sequence which included the stone steps leading from the entry court to the open verandah that had a balustrade above a stone base. The flat roofed extension to the front and garage have either removed or obscured these defining features of the Federation Arts & Crafts architectural style. In addition, the infilling of original rear verandah and extension have significantly diminished the original architectural style. As a consequence of these modifications, the legibility of the cottage as a pair with 6 Marine Pde has been significantly diminished and is only partly conveyed by the single hipped tiled roof. The impact of partial reinstatement of front gable to match 6 Marine Pde, albeit with uncomplimentary materials such as polystyrene wall cladding, without reinstatement of the original entry sequence would not result in a better understanding of the original form or style. This is contrary to the conservation principles of the Burra Charter.*

3. *The proposed upper level addition features traditional detailing and elements such as a gable with timber barge boards and timber weatherboards; and balcony with timber posts, lining boards and balustrades, which would collectively diminish distinction between new and old elements. The proposal would result in a muddled and misleading understanding of the site by presenting the highly modified cottages as a two-storey traditional pair. This is contrary to the conservation principles of the Burra Charter.*
4. *The HIS places undue emphasis on the alterations and additions to other contributory and non-contributory items in the vicinity. It does not place an equal emphasis on presenting a clear understanding of the historical development of the site, its cultural significance, contribution to the conservation area and appropriateness of proposed alterations and additions. In addition to these, the issues outlined in points 1, 2 and 3 above are to be adequately addressed in an updated HIS. Any updated of the HIS is to be prepared in accordance with Woollahra DA Guide Attachment 2 and be consistent with the conservation principles of the Australia ICOMOS Burra Charter 2003.*
5. *Considering the limited contributory value of the cottages – 6 and 7 Marine Pde, to the conservation area, there is an opportunity to design contemporary alterations and additions that provide a clear distinction between new and old, are consistent with the conservation approach of the charter, and are sympathetic to the conservation area. Any redesign is to be prepared in compliance with Woollahra DCP 2015 Part C Chapter C3.*

In this instance, **Condition C.1** is recommended which requires:

- The proposed front gable is to be constructed in fibre cement base sheet with weatherboard cladding or shingle cladding to match that of the adjoining semi-detached dwelling at 6 Marine Parade Watsons Bay.
- The proposed material of the new window frames is to be in timber.
- The shading device to the front of the building is to be removed.

In relation to the other matters raised in the heritage referral response:

- Given the extent of changes to the front of the property, the original entry arrangement has been lost. The construction of a garage to the street front and decking behind has obscured the legibility of the front elevation, and it is not considered necessary or appropriate to reinstate the front elevation arrangement. Whilst comments in relation to the front gable and entry sequence are noted, the controls of the DCP do not require compulsory reinstatement of previously removed building elements. Although not reinstating the original entry sequence, the partial reinstatement of front gable to match that of the adjoining semi-detached dwelling at 6 Marine Parade, constructed in materials as conditioned in **Condition C.1**, is considered to improve the presentation and symmetry of the existing semi-detached dwellings.
- Having regards to C48 of Part C3.5.5 of the Woollahra DCP 2015, the proposed first floor front balcony is acceptable on the basis that it is sympathetic to the existing building and does not comprise contemporary detailing or glass balustrades.
- In summary, whilst the heritage comments are noted, in this instance the use of traditional materials and forms is considered to be acceptable given that the overall DA would result in the removal of unsympathetic additions to the existing cottage and will result in a cohesive first floor addition that achieves the symmetry with the proposed adjoining semi-detached dwelling at 6 Marine Parade Watsons Bay under DA248/2023/1.

In conclusion, it is considered that the issues raised in the heritage referral response are adequately addressed under **Condition C.1**, or otherwise do not warrant further amendments to the proposal, nor do they preclude the approval of the application.

### 13.6 Part 6.1: Acid Sulfate Soils

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

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

### 13.7 Part 6.2: Earthworks

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

The proposal involves excavation to accommodate the works at the lower ground level. Council's Development Engineer has no objections to the proposed excavation, subject to the conditions of consent. The proposal is therefore acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

## 14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 14.1 Chapter C3: Watsons Bay Heritage Conservation Area

#### 14.1.1. Part C3.2.5: Management Policy

In comments dated 17 October 2023, Council's Heritage Officer reviewed the proposal and made the following comment:

- *The proposal would adversely impact the heritage significance of Watsons Bay HCA. (O1) (O2) (O3) (O4) (O5)*
- *The part demolition of the hipped roof and replacement of tiles with corrugated roof is supported. (O1) (O2) (O3) (O4) (O5)*
- *The flat roofed extension to the front and garage with terrace above have adversely impacted the character of the contributory item, and significantly diminished its legibility as a pair. These modifications have partly obscured the views to the hipped roof from the public domain, in addition to obscuring the rusticated stone base to the earlier verandah. The earlier front gable formed part of the entry sequence which included the stone steps leading to the open verandah with a perimeter fence above a stone base. The partial reinstatement of front gable to match 6 Marine Pde, albeit with uncomplimentary materials such as polystyrene wall cladding, without reinstatement of the original entry sequence is not considered to be the best heritage outcome. (O1) (O2) (O3) (O4) (O5)*
- *The proposed upper level addition is substantially setback and features a traditional pitched/hipped roof form, and would not detract from the character of the conservation area. However, the addition features traditional detailing and elements such as a gable with timber barge boards and timber weatherboards; and balcony with timber posts, lining boards and balustrades, which would collectively diminish the distinction between the new and old elements. (O1) (O2) (O3) (O4) (O5)*
- *The proposal would result in a muddled and misleading understanding of the site by presenting the highly modified cottages as a traditional pair, an understanding that has been largely lost and cannot be adequately reinstated without reinstatement of the original form. (O1) (O2) (O3) (O4) (O5)*
- *The proposal is contrary to Article 22 of the Australia ICOMOS Burra Charter 2003:*

*22.1 New work such as additions or other changes to the place may be acceptable where it respects and does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation. New work should respect the significance of a place through consideration of its siting, bulk, form, scale, character, colour, texture and material. Imitation should generally be avoided.*

*22.2 New work should be readily identifiable as such, but must respect and have minimal impact on the cultural significance of the place.*

*The management policy under Clause C3.2.5 states that “Development shall be assessed having regard to the principles contained in the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter).”*

*There is an opportunity to design additions that provide a clear distinction between new and old, are sympathetic to the conservation area and are consistent with the conservation approach of Burra Charter. (O1) (O2) (O3) (O4) (O5)*

As discussed in **Section 13.5** and subject to **Condition C.1**, the proposal is acceptable with regard to the objectives in Part C3.2.5 of the Woollahra DCP 2015.

#### **14.1.2. Part C3.3.1: Topography and Vegetation Objectives**

The proposal is acceptable with regard to the objectives in Part C3.3.1 of the Woollahra DCP 2015.

#### **14.1.3. Part C3.3.2: Townscape Objectives**

In comments dated 17 October 2023, Council’s Heritage Officer reviewed the proposal and made the following comment:

- *The reconstruction of front gable to match 6 Marine Pde would have a neutral impact on the townscape, but is not supported due to the reasons outlined above. (O1) (O3) (O5)*
- *The removal of sliding door to garage is supported. (O3)*
- *The new upper level addition, although complementary to the townscape, is not supported due to the reasons outlined above. (O1) (O3) (O5)*

Therefore, as discussed in **Section 13.5** and subject to **Condition C.1**, the proposal is acceptable with regard to the objectives in Part C3.3.2 of the Woollahra DCP 2015.

#### **14.1.4. Part C3.3.3: The Waterfront Objectives**

The proposal is acceptable with regard to the objectives in Part C3.3.3 of the Woollahra DCP 2015.

#### **14.1.5. Part C3.3.4: Views and Vistas Objectives**

The proposal is acceptable with regard to the objectives in Part C3.3.4 of the Woollahra DCP 2015.

#### **14.1.6. Part C3.3.5: Built Form Objectives**

##### **3.3.5.5 Building character**

*O3 To promote sympathetic contemporary design that responds to the historic character of the area.*

- As discussed in **Section 13.5** and subject to **Condition C.1**, the proposal is acceptable with regard to O3.



### 3.3.5.6 Building materials and details

*O1 To ensure that development responds to the character of existing development and the significance of the area.*

- As discussed in **Section 13.5** and subject to **Condition C.1**, the proposal is acceptable with regard to O1.

Also, in comments dated 17 October 2023, Council's Heritage Officer reviewed the proposal and made the following comment:

- *Based on the above discussion, the proposed works would result in a muddled understanding of the site. (O1) (O2) (O3)*

#### *3.3.5.2 Building siting and alignment*

- *The proposed alterations and additions conform to the predominant setbacks in the vicinity, and is sympathetic to the streetscape in terms of alignment and orientation. However, the works would result in a muddled understanding of the site, and are not supported. (O1) (O2) (O3)*

#### *3.3.5.3 Building height*

- *The proposed alterations and additions would not visually dominate the streetscape, and would maintain visual consistency of the streetscape. It would not visually dominate contributory items in the street. However, the works would result in a muddled understanding of the site, and are not supported. (O1) (O2) (O3)*

#### *3.3.5.4 Building form*

- *The proposed upper level addition features a pitched/hipped roof and would not adversely impact the village character of the area. It would maintain the visual consistency of building forms and the character of the roofscapes of Watsons Bay, particularly when viewed from the harbour. However, it would adversely impact the character of the existing cottage, and is not supported. (O2) (O3)*

#### *3.3.5.5 Building character*

- *The proposed upper level addition would be harmonious with neighbouring contributory items and respond to the character and style of adjacent and surrounding contributory items. However, the application of traditional forms in traditional detailing such as bargeboards, timber posts to balcony would adversely compete with the reconstructed gable, and diminish the distinction between new and old. Objective O3 promotes sympathetic contemporary design that responds to the historic character of the area, and the proposed design does not comply with this control. (O1) (O2) (O3)*

#### *3.3.5.6 Building materials and details*

- *As discussed above, the proposed materials are not supported. The use of polystyrene wall cladding in the reconstruction of the gable is not supported. (O1)*

Therefore, as discussed in **Section 13.5** and subject to **Condition C.1**, the proposal is acceptable with regard to the objectives in Part C3.3.5 of the Woollahra DCP 2015.

### **14.1.7. Part C3.3.6: Landscaping and Private Open Space Objectives**

The proposal is acceptable with regard to the objectives in Part C3.3.6 of the Woollahra DCP 2015.

### **14.1.8. Part C3.3.7: Fences and Walls Objectives**

The proposal is acceptable with regard to the objectives in Part C3.3.7 of the Woollahra DCP 2015.

#### **14.1.9. Part C3.3.8: Car Parking and Access Objectives**

The proposal is acceptable with regard to the objectives in Part C3.3.8 of the Woollahra DCP 2015.

#### **14.1.10. Part C3.3.9: Site Facilities and Aerial Devices Objectives**

The proposal is acceptable with regard to the objectives in Part C3.3.9 of the Woollahra DCP 2015.

#### **14.1.11. Part C3.3.10: Acoustic and Visual Privacy Objectives**

The proposal is acceptable with regard to the objectives in Part C3.3.10 of the Woollahra DCP 2015.

#### **14.1.12. Part C3.4.14 Precinct O: Gibsons Beach Waterfront and Marine Parade South**

The subject site is located within the Pacific Street Waterfront precinct where the following Character Statement applies:

*This precinct consists of properties with a frontage to Marine Parade, south of Robertson Place.*

*The waterfront promenade is contained visually by a single storey yacht club and the Watsons Bay public baths at the north end and the two storey Pilot Station at the south end (Figure 106 and 107). A flight of steps leads up to Salisbury Road (Figure 109).*

*Marine Parade continues south as a walkway to Gibsons Beach, a small beach semi-detached dwelling enclosed by the Pilot Station to the north and the natural landform to the south (Figure 108). A narrow park along the promenade widens at the southern end to form Gibsons Beach Reserve with an open landscape character. The beach and the park curtilage are protected by a sandstone headland, as well as rock benches and sandstone walls to the properties above. A small creek enters the beach from the southwest. Boat sheds and jetties extend out to the point. The mixed public pathway/private driveway allows access around the small reserve behind the beach to Hopetoun Avenue.*

*The northern part of the precinct contains a variety of built and landscape elements that contribute to its character. These include the distinctive yacht club and Pilot Station buildings with jetties on the western side and the Inter-War period Tea Gardens, formerly the facilities for the Watsons Bay Pool at the north end (Figure 111).*

*Housing includes single storey detached and semi-detached dwellings (c1920s—1930s) with pitched roofs, many of which have been altered (Figure 112). Front gardens are generally set behind low walls and are open in character, elevated above the promenade toward the south end. The two to three storey dwellings above in the southern section (some with remnant cultural plantings) are barely visible from the beach.*

*Street tree plantings of Casuarinas and a topped Norfolk Island pine opposite Tea Gardens enhance the waterfront setting. The tree and shrub plantings at the west end of Salisbury Street are not of heritage significance and obstruct views to the Harbour.*

*Properties have harbour views from the water; there are views to the spire of Our Lady Star of the Sea church and cultural plantings on the ridgeline.*

*Prominent garages on or close to the street frontage detract from the promenade and views from the waterfront. The visual impact of a contemporary dwelling with an uncharacteristic curved roof is partially mitigated by its relatively low scale and sympathetic landscaping when compared with larger buildings behind.*

### Views and vistas

*C7 View sharing from private properties is to be retained within the precinct and with overlooking properties in adjacent precincts.*

- As discussed in **Section 14.1.16** in detail, view impacts from neighbouring properties as a result of the proposal are considered to be acceptable.

### Contributory items

*C10 Heritage items and contributory items are to be retained.*

*C11 Change to contributory items is limited to sympathetic alterations and additions consistent with the controls in Section C3.6.*

| Contributory items           |   |
|------------------------------|---|
| Marine Parade                | <b>Watsons Bay Pool (Baths) [SREP Sydney Harbour]</b><br>A concrete arched pool structure with timber balustrades |
| Marine Parade                | <b>Watsons Bay Ferry Pier [SREP Sydney Harbour]</b><br>A timber and concrete wharf structure                      |
| 2 Marine Parade              | Single storey Edwardian cottage with second storey addition   |
| 3 Marine Parade              | Single storey Edwardian cottage   |
| 5 Marine Parade              | 2 storey house over garages   |
| 6 Marine Parade              | Single storey semi -detached dwelling   |
| 7 Marine Parade              | Single storey semi -detached dwelling   |
| 8 Marine Parade              | Single storey Spanish Mission styled restaurant 'Tea gardens'   |
| Salisbury Street             | Pilot station [SREP Sydney Harbour]   |
| 12 Salisbury Road            | Kaffir Plum, Date palm, sandstone retaining wall to reserve   |
| Within Gibsons Beach Reserve | Coral trees and phoenix palms<br>Exposed rockfaces adjoining the promenade  |

*Fig. Contributory items table – extract from Part C3 of Woollahra DCP 2015*

- From table above, the subject dwelling is identified as a contributory item. Also, in comments dated 17 October 2023, Council's Heritage Officer made the following comment under Section C3.6 *Contributory Items: Additional Built Form Controls*.

*The subject site is identified as a contributory item in the DCP, however based on the assessment in this assessment the item is considered only mildly contributory to Watsons Bay HCA. The controls in this section are therefore not wholly relevant.*

Therefore, given the low contributory value of the subject dwelling, the proposal is not considered to contravene C10 and C11.

### Landscaping and site coverage

*C22 The building footprint and paved surfaces (patios, pathways, tennis courts) and swimming pools together are not to exceed 75% of the site area in order to provide 25% of the site area for landscaped area, including plantings.*

- In general, the proposal would not alter the existing building footprint and the proposed front deck and side steps would not alter the existing landscaped area.

Additionally, in comments dated 17 October 2023, Council's Heritage Officer reviewed the proposal and made the following comment:

- *The upper level addition features a traditional form consistent in the conservation area and would not stand out in a marked contrast to the contributory items in the area. However, the use of traditional forms with traditional detailing would result in diminished distinction between new and old elements. (C5) (C10) (C11) (C15) (C17) (C20) (C21)*

### Conclusion

Therefore, as discussed in **Section 13.5** and subject to **Condition C.1**, the proposal satisfies the precinct guidelines and controls for the Gibsons Beach Waterfront and Marine Parade South precinct as outlined in Section 3.4.14 of Woollahra DCP 2015.

#### **14.1.13. Part C3.5.1: Topography and Vegetation**

The proposal is acceptable with regard to Part C3.5.1.

#### **14.1.14. Part C3.5.2: Townscape**

*C2 The predominant one and two storey scale of the residential precincts is to be retained to protect their character, retain significant views and vistas and to enhance view sharing.*

*C8 Contributory items and natural and landscape features that contribute to the significance of the area are to be retained and conserved.*

- As discussed in **Section 14.1.16** in detail, view impacts from neighbouring properties as a result of the proposal are considered to be acceptable. Also, in comments dated 17 October 2023, Council's Heritage Officer reviewed the proposal and made the following comment:

##### *C3.5.2 Townscape*

*As discussed above, the proposal would result in a muddled understanding of the site, and is not supported. (C2) (C8)*

.....

##### *C3.6 Contributory Items: Additional Built Form Controls*

*The subject site is identified as a contributory item in the DCP, however based on the assessment in this assessment the item is considered only mildly contributory to Watsons Bay HCA. The controls in this section are therefore not wholly relevant.*

Given the low contributory value of the subject dwelling, the proposal is not considered to contravene C8.

Therefore, as also discussed in **Section 13.5** and subject to **Condition C.1**, the proposal is acceptable with regard to Part C3.5.2.

#### **14.1.15. Part C3.5.3: The Waterfront**

The proposal is acceptable with regard to Part C3.5.2.

#### **14.1.16. Part C3.5.4: Views and Vistas**

*C7 Building forms are to enable a sharing of views with surrounding residences (refer to Figures 166 and 167).*

Control C7 above requires the development to be sited and designed to enable view sharing with surrounding properties. Impacts of view loss have been considered from the objecting properties at 186 and 188 Hopetoun Avenue Watsons Bay.

In assessing the reasonableness or otherwise of the degree of view loss, this assessment report has had regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four step assessment of view sharing. The steps are as follows:

1. The assessment of the views affected

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*



Fig. Map indicating the orientations of views from affected properties towards the subject site highlighted in red – extract from WMC Mapping

**186 Hopetoun Avenue, Watsons Bay**

The views affected are the views of Sydney Harbour, and land water interface and land across the harbour towards the north-west.

**Table 1 – Views currently obtained from 186 Hopetoun Avenue, Watsons Bay**

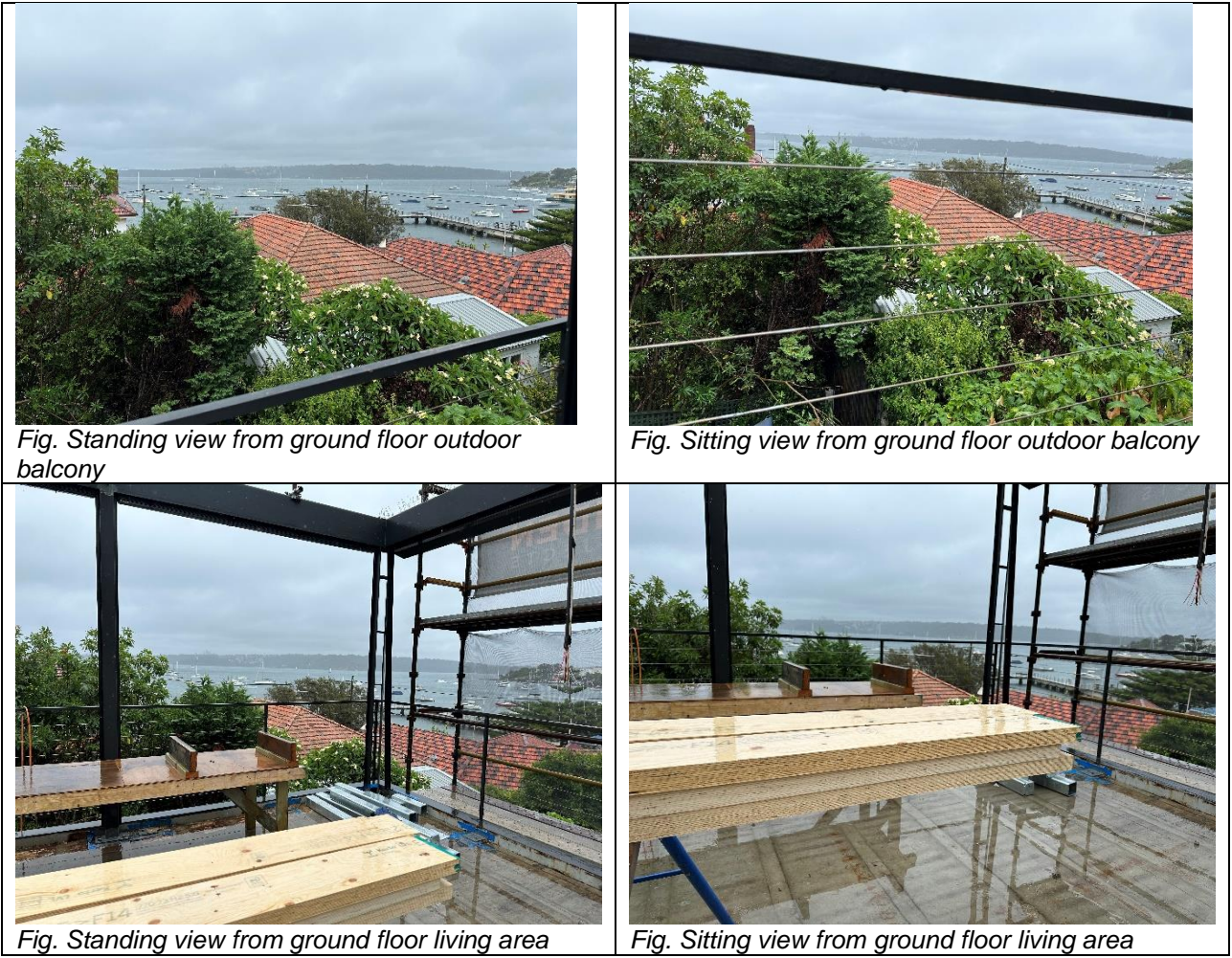


Fig. Standing view from lower ground floor outdoor area



Fig. Sitting view from lower ground floor outdoor area

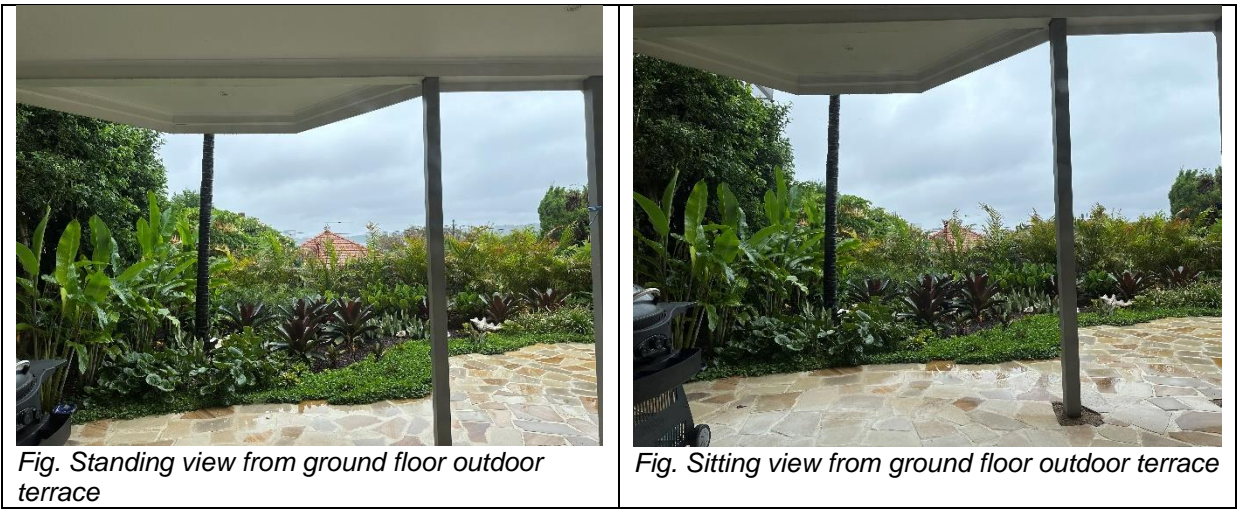




**188 Hopetoun Avenue, Watsons Bay**

The views affected are the Sydney Harbour, distant Sydney Harbour Bridge, and land water interface and land across the harbour views towards the west.

**Table 2 – Views currently obtained from 188 Hopetoun Avenue, Watsons Bay**











*Fig. Standing view from first floor dining area*



*Fig. Sitting view from first floor dining area*



*Fig. Existing view – provided by objector from 188 Hopetoun Avenue*

2. Consideration from what part of the property the views are obtained

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

**186 Hopetoun Avenue, Watsons Bay**

The affected views over the subject site identified in Table 1 are standing and sitting views from the lower ground floor and ground floor:

- Lower ground floor – outdoor area; and
- Ground floor – outdoor balcony and living area.

Following the conversation with the representative of the objector on 20 December 2023 at the objecting site, the affected property is also subject to a first floor addition which also has openings towards 7 Marine Parade Watsons Bay. In this instance, the potential view loss impact for the first floor addition under construction is also considered.



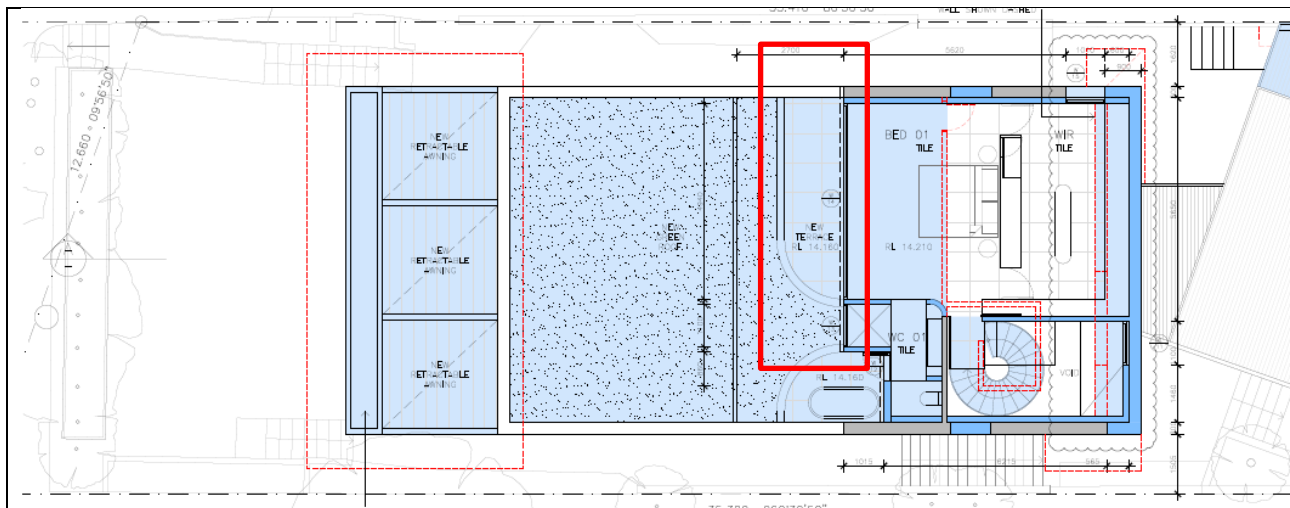


Fig. View loss analysis for first floor addition of 186 Hopetoun Avenue Vacluse – extract from Council's records

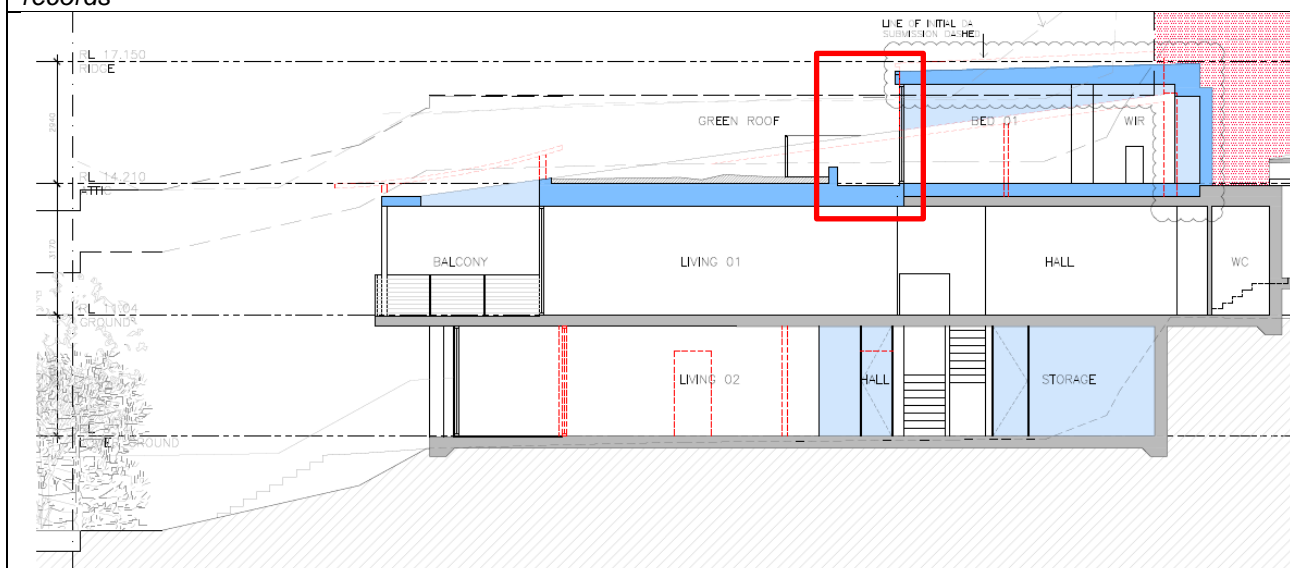


Fig. View loss analysis for first floor addition of 186 Hopetoun Avenue Vacluse – extract from Council's records

### **188 Hopetoun Avenue, Watsons Bay**

The affected views over the subject site identified in Table 2 are standing and sitting views obtained across the rear boundary from the ground floor and first floor:

- Ground floor – outdoor terrace, living area and bedroom; and
- First floor – outdoor balcony, living and dining area.

### **3. The extent of the impact**

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

**186 Hopetoun Avenue, Watsons Bay**

**Table 3 – Extent of view loss from 186 Hopetoun Avenue, Watsons Bay**



*Fig. View from lower ground floor outdoor area*



*Fig. View from ground floor outdoor balcony*

Views from the dwelling house at 186 Hopetoun Avenue Watsons Bay would be affected by the proposed development. Based on the images in Table 1 and 3, views of the Sydney Harbour, land water interface and land across the harbour towards the north-west would be affected from both standing and sitting positions.



The overall extent of view impact to 186 Hopetoun Avenue Watsons Bay can be qualitatively described as moderate for the following reasons:

- From the lower ground floor, views towards the north-west are partially obscured by the existing landscape of the affected property. The proposal would partially obscure the distant view of the land across the harbour that.
- From the ground floor, partial views of the Sydney Harbour, land water interface and land across the harbour towards the north-west would be obscured by the proposal.
- The proposal would not adversely affect the views of Sydney Harbour, land water interface and land across the harbour, and district towards the north from the ground floor of the affected property. Also, the distant view of the Sydney Harbour Bridge, remains unaffected as a result of the proposal.
- The objecting site was subject to ongoing construction therefore no photos from the first floor were obtained. Nevertheless, the view impact on the first floor as a result of the proposal is considered reasonable given the setback of the first floor bedroom and the offset nature of the building locations of 186 Hopetoun Avenue and 7 Marine Parade.
- In this instance, the view impact is considered to be moderate.

Therefore, as also indicated in Table 1, views from this property will not be significantly affected by the proposal. The view loss qualitatively is considered to be moderate.

#### **188 Hopetoun Avenue, Watsons Bay**

**Table 4 – Extent of view loss from 188 Hopetoun Avenue, Watsons Bay**



*Fig. View from ground floor outdoor terrace*



*Fig. View from first floor outdoor balcony*

Views from the dwelling house at 188 Hopetoun Avenue Watsons Bay would be affected by the proposed development. Based on the images in Table 2 and 4, views of the Sydney Harbour, Sydney Harbour Bridge, and land water interface and land across the harbour would be affected from both standing and sitting positions.

The overall extent of view impact to 188 Hopetoun Avenue Watsons Bay can be qualitatively described as moderate for the following reasons:

- From the ground and first floors, partial western views of the Sydney Harbour, land water interface and land across the harbour would be obscured by the proposal. Also, the view of the Sydney Harbour Bridge available from the property is quite distant and is obscured from the ground floor of the affected property.
- The proposal would not adversely impact the views of Sydney Harbour, and land water interface and land across the harbour towards the north-west and south-west from the first floor level of the affected property. Also, the proposal is not considered to have any significant adverse impact on the views of Sydney CBD skyline towards the west from the affected property.
- In this instance, the view impact is considered to be moderate.

Therefore, as also indicated in Table 2, views from this property will not be significantly affected by the proposal. The view loss qualitatively is considered to be moderate.

4. The reasonableness of the proposal that is causing the impact

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The Court poses two questions in *Tenacity Consulting vs Warringah (2004) NSWLEC 140*. The first step is to determine whether a non-compliance with one or more planning controls results in view loss.

Although there are some non-compliances with respect to the controls of the Woollahra DCP 2015, these are not considered to be significant or determinative with regards to view loss and of a nature that would adversely alter the qualitative findings of this assessment. Whilst the proposal breaches the height limit, this is limited to the front of the building and any view impacts would arise from the compliant rear portion of the first floor addition.

The second consideration is whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.

The proposal is generally compliant with the setback controls required by the Woollahra DCP 2015. It is considered likely that the only way to retain the affected views from this property would be to not redevelop the subject site in this area to its potential which would reduce the residential amenity of the subject site, being contrary to Step 4 of the planning principle. On that basis the proposed design and associated impacts are considered acceptable in the circumstances of the case.

The planning principle reinforces that if a more skilful design could not be employed *then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable*, noting that the non-compliances are not determinative to this assessment.

Overall, the view impacts from 186 and 188 Hopetoun Avenue Watsons Bay are considered to be acceptable, when assessed holistically and for the reasons provided throughout this view loss assessment. The proposal at 7 Marine Parade Watsons Bay is supported in this instance, and the following objective of Part C3.3 of the Woollahra DCP 2015 is upheld.

*O6 To encourage view sharing as a means of ensuring equitable access to views from dwellings.*

The proposal is therefore acceptable with regard to Part C3.5.4.

**14.1.17. Part C3.5.5: Built Form**

Building Footprint

*C1 The building footprint is not to exceed 60% of the site area unless stated otherwise in the precinct controls. Total built upon area including paths, driveways, tennis courts, swimming pools and all hardstand areas must not exceed 75% of the site area with a minimum of 25% to be deep soil landscaped area unless stated otherwise in the precinct controls.*

*C2 The proportion of site coverage is to be no greater than that of adjoining properties and surrounding areas.*

- The subject site is located in Precinct O: Gibsons Beach Waterfront and Marine Parade South. C22 of Part C3.4.14 states the following.

*C22 The building footprint and paved surfaces (patios, pathways, tennis courts) and swimming pools together are not to exceed 75% of the site area in order to provide 25% of the site area for landscaped area, including plantings.*

As discussed in **Section 14.1.12**, the proposal would not alter the existing building footprint.

#### Excavation

*C5 For a dwelling house, dual occupancy or semi-detached dwelling – the maximum volume of excavation permitted is no greater than the volume shown in Figure 168.*

- The maximum excavation permitted for the subject site is calculated as 95.52m<sup>2</sup>. The proposed excavation is limited within the building footprint to allow for hallway and access lift on the lower ground floor and is within the maximum permitted excavation.

*C11 Excavation below 2m and/or within 1.5m of the boundary is accompanied by a geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on neighbouring structures.*

*Note: Council may identify other circumstances where these reports are required. All reports must be prepared in accordance with Council's guidelines. Council may also require the preparation and submission of a pre-commencement dilapidation report for properties neighbouring the development.*

- A Stop the Clock Letter dated 24 July 2023 was sent to the applicant, requesting a *Geotechnical and Hydrogeological Investigation and Report*. The applicant responded to Council's Stop the Clock Letter on 27 July 2023, requesting the exemption of this document, and Council's Development Engineer commented the following:

*Based on the submitted additional info, the submission of a Geotech report is not required at this DA stage.*

Also, no objection has been raised by Council's Development Engineer with regard to excavation aspect of the development subject to the recommended conditions of consent.

#### Building siting and alignment

*C13 Development is to conform to the existing pattern of development within the streetscape in terms of setbacks from front boundaries and footprint size.*

*C14 Where there is a uniform building setback, development is to be aligned to the existing setback pattern. Development is not to be built forward of adjacent buildings.*

*C15 Where there are contributory items in the street, development is to match the predominant setback of contributory items.*

*C16 Where there is no uniform or predominant building setback, development is to achieve a transitional front setback between the two properties on either side.*

*C17 The setback of development from side and rear boundaries is to be sufficient to ensure that the residential amenity of neighbouring properties is not unduly affected.*

*C18 Rear setbacks are to relate to the existing building pattern, to provide rear yard space and to maintain the amenity of neighbouring residential property.*

- The proposed elements would not protrude beyond the existing building configuration and the proposal does not alter the existing front and rear setbacks of the dwelling.

*C20 Side setbacks are to be a minimum of 1.2m (and 1.5m on lots greater than 15m in width). A variation to setback controls may be considered where the site is less than 10m wide, comprises an irregular shape allotment, contains a service easement or shares a party wall with an adjoining property.*

- The existing northern external wall of the dwelling is measured as 0.73m from the northern side boundary therefore is not compliant with C20. The fenestration works along the northern façade and new steps and landings would not exacerbate the existing non-compliant north side setback. Also, the proposed first floor northern external wall is setback 1.5m from the northern side boundary and it complies with C20.
- The adjoining semi-detached dwelling at 6 Marine Parade Watsons Bay is located south of the subject dwelling, therefore the proposal does not comply with C20. However, the control allows for variations to setback controls where the site shares a party wall with an adjoining property. An assessment is provided below against the objectives in Part C3.3.5.2 of the Woollahra DCP 2015.

*O1 To ensure that development conforms to the predominant setbacks from front and side boundaries within the vicinity of the site.*

*O2 To ensure that development is sympathetic to the streetscape in terms of alignments, setbacks and orientation.*

*O3 To ensure that the siting and floor levels of buildings are similar to the levels and siting of contributory items within the streetscape.*

*O4 To ensure that the location of development allows for view sharing and preserves the privacy and reasonable sunlight access of neighbouring properties.*

*O5 To encourage retention, or creation, of useable open space at the rear of sites.*

- As discussed above, the proposal does not alter the existing front, side and rear setbacks, and the building configuration remains sympathetic to the streetscape in terms of building alignment and orientation. Therefore, O1, O2 and O3 are upheld.
- The proposal would maintain acceptable privacy, overshadowing and view sharing relationships with surrounding properties. Also, it would not alter the existing private open space and landscaped area. Therefore, O4 and O5 are upheld.

### Building Height

*C23 The height of buildings should not exceed two storeys, except where permitted otherwise by the precinct controls.*

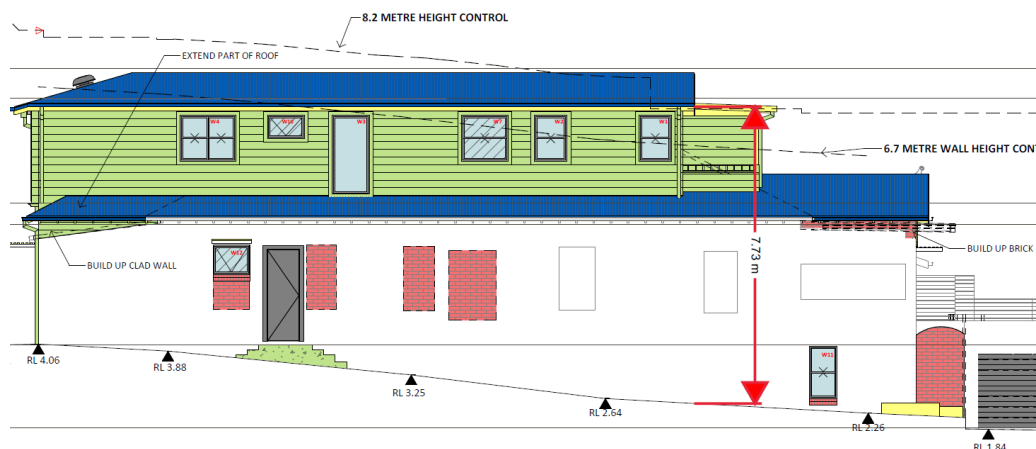
- The proposal involves a first floor addition on the existing single storey semi-detached dwelling that sits above a basement garage, and it has a two storey presentation to Marine Parade.

*C24 New buildings and additions are not to exceed the predominant height of contributory items in the street. Additionally, the height of a proposed new building may be limited to the height of an adjoining contributory item (both along the ridgeline of the roof and the height to the eaves).*

- The existing highest RL of the subject semi-detached dwelling is 10.20 and is calculated as 3.21m lower than the existing roof ridge of 5 Marine Parade to the south and is 2.12m higher than that of the neighbouring change rooms of 8 Marine Parade to the north. The proposal maintains a transitional height between the two properties and does not exacerbate the established visual relationship with the surrounding properties.



*C25 Where a maximum building height of 8.2m applies (as specified in Woollahra LEP 2014)—the maximum external wall height is to be 6.7m to the underside of the eaves or the top of parapet (where proposed).*



*Fig. Maximum wall height analysis – extract from Drawing 10 Rev E*

- The maximum external wall height is measured 7.73m from the existing ground level to the underside of the first floor eave. This non-compliance is influenced by the existing site condition which slopes down from the rear to the front. An assessment is provided below against the objectives in Part C3.3.5.3 of the Woollahra DCP 2015.

*O1 To ensure that development does not visually dominate the streetscape.*

*O2 To maintain existing visual consistency of streetscapes.*

*O3 To ensure that development does not visually dominate contributory items.*

- As discussed above, the proposal maintains the established visual consistency of the streetscape and it does not visually dominate neighbouring contributory items and the streetscape. Therefore, O1, O2 and O3 are upheld.

*C27 Development is to facilitate view sharing with surrounding buildings and from public roads and public spaces.*

- The view impacts as a result of the proposal from neighbouring properties are discussed in **Section 14.1.16** and are considered acceptable.

### Solar Access

*C28 New buildings and additions are to be designed and sited so as to retain sunlight to at least 50% or 35m<sup>2</sup> with minimum dimension of 3m x 3m (whichever is smaller) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June.*

*C30 Windows to north-facing habitable rooms are to receive at least three hours of sun between 9am and 3pm on 21 June over a portion of their surface.*

*C31 North-facing windows to habitable rooms of neighbouring dwellings are not to have sunlight reduced to less than three hours between 9am and 3pm on 21 June over a portion of their surface.*





Fig. 9am existing shadow analysis – extract from WMC 3D mapping

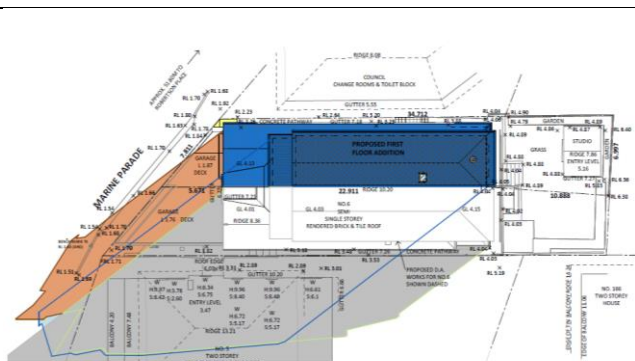


Fig. 9am proposed shadow analysis – extract from Shadow diagrams Page 1 Rev E

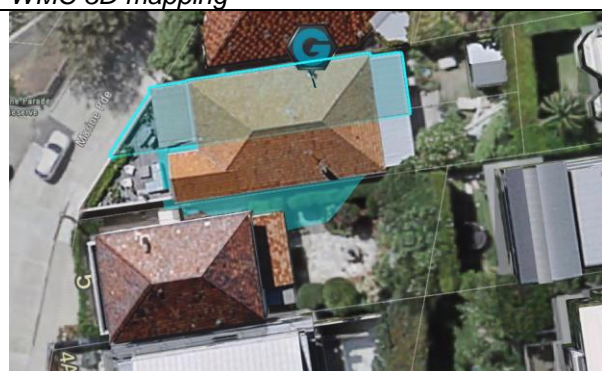


Fig. 12pm existing shadow analysis – extract from WMC 3D mapping

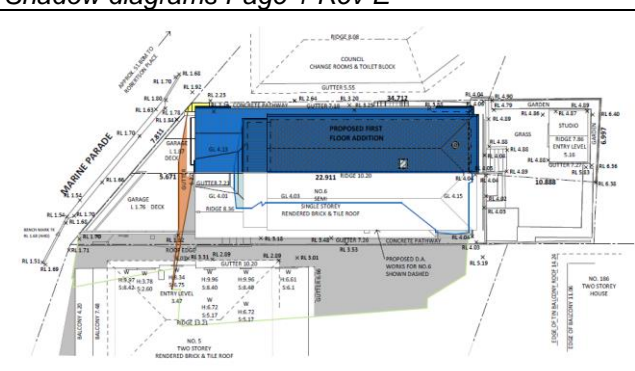


Fig. 12pm proposed shadow analysis – extract from Shadow diagrams Page 2 Rev E



Fig. 3pm existing shadow analysis – extract from WMC 3D mapping

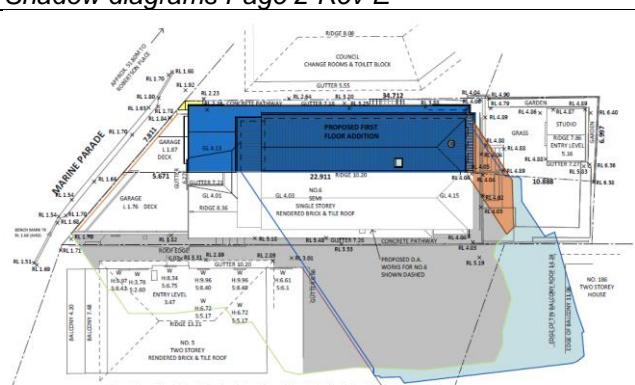


Fig. 3pm proposed shadow analysis – extract from Shadow diagrams Page 3 Rev E





| LEGEND  |                                |
|---|--------------------------------|
|   | DESCRIPTION                    |
|  | EXISTING SHADOWS               |
|  | PROPOSED SHADOWS               |
|  | ADJOINING NEIGHBOURING SHADOWS |
|  | NEIGHBOURING SHADOWS           |

Fig. proposed shadow analysis legend – extract from Shadow diagrams Page 3 Rev E

C28 stipulates that sunlight is provided to at least 50% (or 35m<sup>2</sup> with a minimum dimension of 3m, whichever is the lesser) of the main ground level private open space to adjoining properties for a minimum of two hours between 9am and 3pm on June 21. C31 states that north facing windows to habitable rooms of adjacent dwellings are not to have sunlight reduced to less than 3 hours over a portion of their surface during the same period.

The additional shadows to private open spaces and north facing windows of habitable rooms of neighbouring properties are considered acceptable having regard to C28, C30 and C31.

#### Building character

*C36 The character of new buildings and additions is to be consistent with the character of nearby and surrounding contributory items and the character of the streetscape in which they are located.*

- As discussed in **Section 13.5** and subject to **Condition C.1**, the proposal is consistent with the character of neighbouring contributory items and the streetscape.

#### Skylights

*C41 Skylights are to be of a low profile and flush with the roof surface. Colouring is to merge with the roofing material.*

- As recommended in **Condition C.1**, the proposed skylight frame is to be flush with the roof plane and its colour is to merge with the roofing material.

#### Building materials and details

*C42 Materials, finishes textures and colour schemes are to be appropriate to the architectural style of the building. No fluorescent primary colours are permitted. Intensity and hue of colour is to relate to the style of the building and to the streetscape context. Roofs are to be neutral colour range with the exception of the maintenance of original terracotta tiles.*

*C43 The materials and details used are to reflect but not copy the characteristic materials, colours finishes, textures and details of existing surrounding buildings.*

*C46 Building materials are to be referenced from the predominant materials evident in the streetscape, but detailed in a contemporary manner.*

*C47 External colour schemes and materials should respect the character of the streetscape and not detract from contributory items in the street.*

- The neighbouring contributory items are constructed of different materials, including rendered masonry, timber weatherboards, and tiles and metal roofs. In this instance, there is no predominant material or finish pattern of the surrounding buildings. The materials and finishes as conditioned are appropriate and they will have a cohesive presentation to the streetscape.
- The use of traditional materials and forms is considered to be acceptable given that the overall DA would result in the removal of unsympathetic additions to the existing cottage and will result in a cohesive first floor addition that achieves the symmetry with the adjoining semi-detached dwelling at 6 Marine Parade Watsons Bay.
- As recommended in **Condition C.1**, the front gable is to be constructed in fibre cement base sheet with weatherboard cladding or shingle cladding to match that of the adjoining semi-detached dwelling at 6 Marine Parade Watsons Bay, and the material of the proposed window frames is to be in timber.

*C48 Verandahs and balconies are to be sympathetic, contemporary design tinted or reflective glass balustrades are not permitted.*

- The proposed first floor front balcony is acceptable as it is sympathetic to the existing building and does not comprise contemporary detailing or glass balustrades.

Additionally, in comments dated 17 October 2023, Council's Heritage Officer reviewed the proposal and made the following comment:

- As discussed above, the proposal would result in a muddled understanding of the site, and is not supported. (C12) (C13) (C14) (C15) (C18) (C23) (C24) (C26) (C32) (C33) (C34) (C35) (C36) (C44)
- As discussed above, the proposed materials are not supported. (C42) (C43) (C45) (C46) (C47)

#### Conclusion

Therefore, as discussed in **Section 13.5** and subject to **Condition C.1**, the proposal is acceptable with regard to Part C3.5.5.

#### **14.1.18. Part C3.5.6: Landscaping and Private Open Space**

*C1 Each dwelling located at ground level, including any dwelling house, is to provide private open space comprising a minimum area of 35m<sup>2</sup> with minimum dimensions of 3m. The principal area is to have a minimum area of 16m<sup>2</sup> with minimum dimensions of 4m at any point.*

*C4 Landscaped area is to comprise at least 25% of the site area. At least 40% of the landscaped area is to be deep soil landscaped area.*

- As discussed in **Section 14.1.12**, the proposal would not alter the ground floor landscaped area and private open space to the rear of the subject dwelling. Also, the proposal aims to modify the ground floor deck and propose new first floor balcony to the front of the subject dwelling. Therefore, C1 and C4 are not contravened.

#### Conclusion

The proposal is acceptable with regard to Part C3.5.6.

#### **14.1.19. Part C3.5.7: Fences and Walls**

The proposal is acceptable with regard to Part C3.5.7.

#### **14.1.20. Part C3.5.8: Car Parking**

*C8 Suitable garage doors (in order of preference) are: bi-fold, panelled doors, panel lift doors or roller shutter doors. Roller doors are not permitted without a masonry surround structure.*

- The proposal aims to replace the existing garage door with remote control sliding door which matches that of 6 Marine Parade Watsons Bay, and it is not considered to contravene C8.

The proposal is acceptable with regard to Part C3.5.8.

#### **14.1.21. Part C3.5.9: Site Facilities and Aerial Devices**

The proposal is acceptable with regard to Part C3.5.9.

#### **14.1.22. Part C3.5.10: Acoustic and Visual Privacy**

*C8 In sensitive locations, such as where commercial, retail or other non-residential buildings adjoin or are adjacent to residential properties, or on busy roads, an acoustic report prepared by a suitably qualified and experienced professional may be required as part of the site and context analysis process.*

- The Watsons Bay Library and Baithouse in the Tea Garden Watsons Bay are located at 8 Marine Parade which adjoins the subject site to the north. In this instance, the adjoining change room is not considered to have any significant adverse acoustic impact upon the subject dwelling or vice versa.

*C10 Direct overlooking of the main living areas and private open space areas of adjoining and adjacent properties is to be minimised by the sensitive location of windows, balconies, screening devices and landscaping and the use of opaque glazing.*

*C13 Habitable room windows with a direct sightline to the habitable room windows in an adjacent dwelling within 9m are to:*

- be offset from the edge of one window to the edge of the other by a distance sufficient to limit views into the adjacent windows;*
- have sill heights of 1.7m above floor level;* or
- have fixed obscure glazing in any part of the window below 1.7m above floor level.*

- The proposed works on the lower ground and ground floors would not result in any significant adverse or unreasonable visual privacy impacts that require further privacy measures.

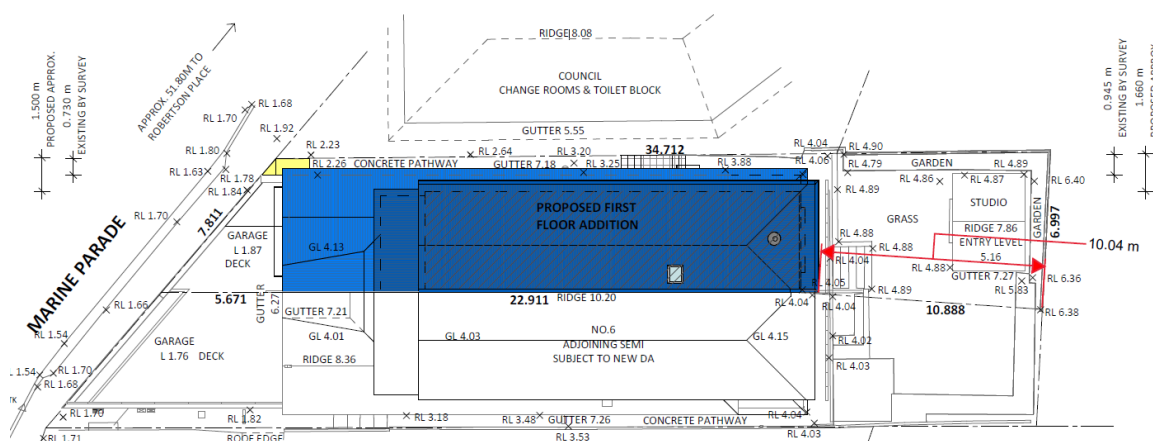


Fig. privacy analysis for 188 Hopetoun Avenue Vaucluse – extract from Drawing 2 Rev E

- The proposed windows are not considered to have direct overlooking into private open spaces and habitable room openings of 186 Hopetoun Avenue and 2 Robertson Place. The proposal would not have any significant adverse overlooking impact upon the change rooms of 8 Marine Parade. Also, the proposed windows are located more than 9m from the private open spaces and habitable room openings of 188 Hopetoun Avenue. They are considered suitably located to minimize any significant adverse overlooking impact upon neighbouring properties.

The proposal is acceptable with regard to Part C3.5.10.

#### 14.1.23. Part C3.6: Contributory Items: Additional Built Form Controls

In comments dated 17 October 2023, Council's Heritage Officer reviewed the proposal and made the following comment:

- The subject site is identified as a contributory item in the DCP, however based on the assessment in this assessment the item is considered only mildly contributory to Watsons Bay HCA. The controls in this section are therefore not wholly relevant.*

Therefore, the objectives under Part C3.6 of the Woollahra DCP 2015 are considered irrelevant to the subject site.

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

The proposal does not alter the existing car parking arrangement.

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

The proposal is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015 subject to the recommended conditions of consent.

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

Council's Trees and Landscaping Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping. Therefore, the proposal is considered to be acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

## **14.5 Chapter E5: Waste Management**

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

The applicant provided a SWMMP with the development application and it was found to be satisfactory.

## **15. CONTRIBUTION PLANS**

### **15.1 Section 7.12 Contributions Plan**

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

| <b>Cost of Works</b> | <b>Rate based on cost of works</b> | <b>Contribution Payable</b> |
|----------------------|------------------------------------|-----------------------------|
| \$1,208,329.00       | >\$200,000 = 1%                    | \$12,083.29                 |

Refer to **Condition C.2.**

## **16. APPLICABLE ACTS/REGULATIONS**

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

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

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

## **17. THE LIKELY IMPACTS OF THE PROPOSAL**

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

## 18. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

## 19. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

## 20. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15

## 21. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the building height development standard under Clause 4.3 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and the zone. 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, grant development consent to Development Application No. 247/2023/1 for alterations and additions to an existing semi-detached dwelling including first floor addition on land at 7 Marine Parade Watsons Bay, subject to the following conditions:

### A. General Conditions

#### A.1 Conditions

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

Standard Condition: A1 (Autotext AA1)

#### A.2 Definitions

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

***Applicant*** means the applicant for this consent.

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

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

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

**Council** means Woollahra Municipal Council

**Court** means the Land and Environment Court

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

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

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

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

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

**PC** means the Principal Certifier under the *Act*.

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

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

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

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

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

**Site** means the land being developed subject to this consent.

**Woollahra LEP** means *Woollahra Local Environmental Plan 2014*

**Woollahra DCP** means *Woollahra Development Control Plan 2015*

**Work** for the purposes of this consent means:

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



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

**Note: Interpretation of conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.  
Standard Condition: A2 (Autotext AA2)

### A.3 Approved Plans and Supporting Documents

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

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

| Reference          | Description                      | Author/Drawn                               | Date(s)     |
|--------------------|----------------------------------|--|-------------|
| Drawing 2 (Rev E)  | Site Plan                        | Cape Cod                                   | 10 Jul 2023 |
| Drawing 4 (Rev E)  | Proposed Lower Ground Floor Plan |  |             |
| Drawing 7 (Rev E)  | Proposed Ground Floor            |  |             |
| Drawing 8 (Rev E)  | Proposed First Floor             |  |             |
| Drawing 9 (Rev E)  | Proposed Roof Plan               |  |             |
| Drawing 10 (Rev E) | Elevations                       |  |             |
| Drawing 11 (Rev E) | Elevations                       |  |             |
| Drawing 12 (Rev E) | Sections                         |  |             |
| Drawing 13 (Rev E) | Sections                         |  |             |
|                    | Waste Management Report          |  | 07 Jul 2023 |
| A493861_02         | BASIX Certificate                | NSW Department of Planning and Environment | 19 Jun 2023 |
| 93182-R1           | Construction Methodology         | Kneebone & Beretta Consulting              | 13 Mar 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*.)  
Standard Condition: A5 (Autotext AA5)

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

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

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



## **A.5 No Underpinning works**

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

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

### **B.1 Construction Certificate Required Prior to Any Demolition**

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

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

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

### **B.2 Identification of Hazardous Material**

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

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

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

**Note:** This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.  
Standard Condition: B6

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

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

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

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and

- drainage structures/pits.

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

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

**Note:** If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose  
Standard Condition: B7

#### **B.4 Archaeological Features – Unexpected Findings**

If unexpected archaeological features are discovered during the works covered by this approval, 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 Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

**Note:** Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).  
Standard Condition: B8

#### **B.5 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.

Standard Condition: B9

#### **B.6 Aboriginal Objects – Unexpected Findings**

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

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

**Note:** The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.  
Standard Condition: B10 (Autotext BB10)

## 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 satisfy the relevant objectives and controls under C3.2.5, C3.3.2, C3.3.5, C3.4.14, C3.5.2 and C3.5.5 of the Woollahra DCP 2015, the proposed front gable is to be constructed in fibre cement base sheet with weatherboard cladding or shingle cladding to match that of the adjoining semi-detached dwelling at 6 Marine Parade Watsons Bay.
- b) In order to satisfy the relevant objectives and controls under C3.2.5, C3.3.2, C3.3.5, C3.4.14, C3.5.2 and C3.5.5 of the Woollahra DCP 2015, the proposed material of the new window frames is to be in timber, and the proposed skylight frame is to be flush with the roof plane and its colour is to merge with the roofing material.
- c) In order to satisfy the relevant objectives and controls under C3.2.5, C3.3.2, C3.3.5, C3.4.14, C3.5.2 and C3.5.5 of the Woollahra DCP 2015, the shading device to the front of the building is to be removed.

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

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

**Note:** Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.  
Standard Condition: C4 (Autotext CC4)

### 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 |
|--|--|---------|------------------|
| <b>LONG SERVICE LEVY</b><br>under <i>Building and Construction Industry Long Service Payments Act 1986</i>   |  |         |                  |
| <b>Long Service Levy</b><br><a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a> | Contact LSL Corporation or use online calculator | No      |                  |
| <b>SECURITY</b><br>under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>  |  |         |                  |
| <b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council  | \$33,080   | No      | T115             |
| <b>DEVELOPMENT LEVY</b>  |  |         |                  |

|   |   |                |     |
|---|---|----------------|-----|
| under Woollahra Section 7.12 Development Contributions Plan 2021<br>This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> |   |                |     |
| <b>Development Levy</b> (section 7.12)  | \$12,083.29 + Index Amount  | Yes, quarterly | T96 |
| <b>INSPECTION FEES</b><br>under section 608 of the <i>Local Government Act 1993</i>   |   |                |     |
| Public Road/Footpath Infrastructure Inspection Fee  | \$645   | No             |     |
| Security Administration Fee   | \$190   | No             | T16 |
| <b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>   | \$45,998.29 plus any relevant indexed amounts and long service levy |                |     |

### Building and Construction Industry Long Service Payment

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

### How must the payments be made?

Payments must be made by:

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

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

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

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

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

### Do you need HELP indexing the levy?

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

**Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 202**

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.A493861\_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".

Standard Condition: C7

### **C.4 Waste Storage – Single Dwelling**

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

- a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling.
  - b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.
- Standard Condition: C15 (Autotext: CC15)

### **C.5 Waste Storage – Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)**

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail provisions for waste management in accordance with the approved SWMMP.

Waste storage areas must meet the following requirements:

- a) Bins must be stored with lids down to prevent vermin from entering the waste containers.
  - b) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
  - c) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
  - d) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
  - e) Odour problems must be minimised by good exhaust ventilation.
  - f) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
  - g) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.
- Standard Condition: C19 (Autotext CC19)

### **C.6 Structural Adequacy of Existing Supporting Structures**

A certificate from a professional engineer (structural engineer), certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be submitted with the Construction Certificate application.

**Note:** This condition is imposed to ensure that the existing structure is able to support the additional loads proposed.

Standard Condition: C35 (Autotext CC35)

### **C.7 Professional Engineering Details**

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

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

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

Standard Condition: C36

## C.8 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) The installation of stormwater outlet pipe across the nature strip must be made 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.  
**Note:** All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP.
- 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*

## C.9 Soil and Water Management Plan – Submission and Approval

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

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

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

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

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

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

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

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



## C.10 Engineer Certification

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

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

## C.11 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.

Standard Condition: C40 (Autotext: CC40)

## C.12 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.13 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 AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2018 – *Off-Street Parking: Commercial Vehicle Facilities* respectively.

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.14 Stormwater Management Plan

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

- a) The discharge of stormwater from the site, by direct connection to the street kerb. The kerb discharge must be located within the frontage of the site. Only one stormwater outlet will be permitted. A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system.

- The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3,
- b) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT 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,
  - c) The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required,
  - d) Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans,
  - e) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system,
  - f) Detail any remedial works required to upgrade the existing stormwater drainage system,
  - g) Dimensions of all drainage pit and access grates must comply with AS3500 and Council's DCP,
  - h) Compliance with the objectives and performance requirements of the BCA, and
  - i) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

#### **Layout plan**

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

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

For the 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.15 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) Permanent brass plaques shall be fixed in the garage indicating the current extreme max sea level (2.02m AHD) and the 2100 extreme max sea level (2.87m AHD) the plaques are to include the warning "This area is subject to inundation during storm events and high seas, please avoid this area during these times."
- b) Flood compatible materials shall be used for all flood exposed construction.
- c) All flood exposed electrical wiring and equipment shall be waterproofed.
- d) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

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.  
Standard Condition C.54 (autotext CC54)

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

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

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

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

This condition does not apply:

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

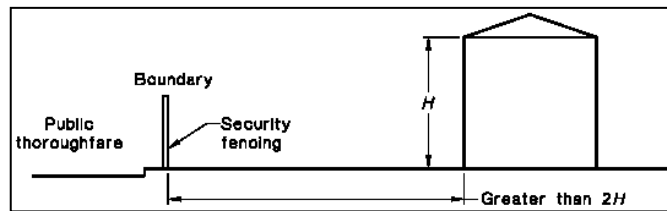
In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

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

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

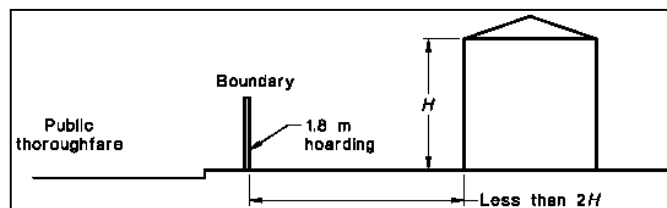
**D.2 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection**

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



### Type A Hoarding

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



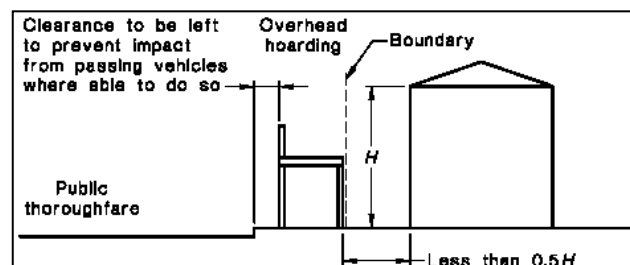
### Type B Hoarding

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

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

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

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



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW "Code of Practice - Overhead Protective Structures 1995". This is code available at

[www.safework.nsw.gov.au/data/assets/pdf\\_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf](http://www.safework.nsw.gov.au/data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf)



### **All Hoardings**

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

### **Hoardings on Public Land including 'Creative Hoardings'**

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

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

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

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

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

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

The Creative Hoardings Policy can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or for more information contact Council's Cultural Development Team.

Standard Condition: D11 (Autotext DD11)

## **D.3 Site Signs**

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

Clause 98A of the *Regulation* provides:

### **Erection of signs**

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

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

Clause 227A of the *Regulation* provides:

**Signs on development sites**

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

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

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

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

Standard Condition: D12 (Autotext DD12)

#### D.4 Toilet Facilities

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

Each toilet provided:

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

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

In this condition:

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

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

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

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

**Note:** This condition does not set aside the requirement to comply with SafeWork NSW requirements.

Standard Condition: D13 (Autotext DD13)

## D.5 Erosion and Sediment Controls – Installation

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

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

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

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

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

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

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

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

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

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

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

- given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

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

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

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

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

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

#### D.7 Notification of Home Building Act 1989 requirements

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

#### D.8 Dilapidation Reports for Existing Buildings

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

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

No. 6 Marine Parade

No. 8 Marine Parade

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

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

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

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

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

Standard Condition: D4 (Autotext DD4)

#### **D.9 Adjoining Buildings Founded on Loose Foundation Materials**

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

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

Standard Condition: D6 (Autotext DD6)

#### **D.10 Piezometers for the Monitoring of Ground Water Levels**

The Principal Contractor must provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

Standard Condition: D7 (Autotext DD7)

#### **D.11 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](http://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:

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

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

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

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

Standard Condition: E13 (Autotext EE13)

## E.9 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

**Warning:** Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.  
Standard Condition: E15 (Autotext EE15)

#### **E.10 Disposal of Site Water During Construction**

The Principal Contractor or Owner-builder must ensure:

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

**Note:** This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.  
Standard Condition: E17 (Autotext EE17)

#### **E.11 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum**

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

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

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

**Note:** This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.  
Standard Condition: E20 (Autotext EE20)



## E.12 Placement and Use of Skip Bins

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

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

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

Standard Condition: E21 (Autotext EE21)

## E.13 Prohibition of Burning

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

All burning is prohibited in the Woollahra local government area.

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

Standard Condition: E22 (Autotext EE22)

## E.14 Dust Mitigation

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

This generally requires:

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

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

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

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

Standard Condition: E23 (Autotext EE23)

## E.15 Site Waste Minimisation and Management – Demolition

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

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

When implementing the SWMMP the Applicant must ensure:

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

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

Standard Condition: E31 (Autotext EE31)

## **E.16 Site Waste Minimisation and Management – Construction**

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

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,
- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

### E.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 Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

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

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

### E.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, Part 1: Classifying Waste, 2014*.

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

### E.19 Disposal of Asbestos and Hazardous Waste

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

**Note:** This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.  
Standard Condition: E41

### E.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 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.23 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.24 Shoring and Adequacy of Adjoining Property**

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 an excavation that extends below the level of the base of the footings of a building on adjoining land.

The person having the benefit of the development consent must, at the person’s own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

**Note:** This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Standard condition: E33 (Autotext: EE33)

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

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

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

**Note:** New building includes an altered portion of, or an extension to, an existing building.

Standard Condition: F1 (Autotext FF1)

### **F.2 Commissioning and Certification of Systems and Works**

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

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

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



- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

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

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

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

## **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.A493861\_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."  
Standard Condition: H7 (Autotext HH7)

### **H.2 Removal of Ancillary Works and Structures**

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

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

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

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

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

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,

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

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

Standard Condition: H13 (Autotext HH13)

#### **H.4 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) that all below ground structures are fully tanked and subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- c) that only one stormwater outlet pipe to kerb has been constructed within the frontage of the site,
- d) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- e) pipe invert levels and surface levels to Australian Height Datum, and
- f) 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:** 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.A493861\_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.

Standard Condition: I24

#### **J. Miscellaneous Conditions**

Nil

#### **K. Advisings**

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

Standard Advising: K1 (Autotext KK1)

## K.2 Dial Before You Dig



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

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

Standard Advising: K2 (Autotext KK2)

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

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

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

**Note:** For more information go to the NSW Fair Trading website

[www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating](http://www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating)

Standard Condition: K5 (Autotext KK5)

#### K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

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

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

#### K.5 SafeWork NSW Requirements

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

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

#### K.6 Dividing Fences

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

**Note:** Further information can be obtained from the NSW Civil and Administrative Tribunal [www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing\\_fences.aspx](http://www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx)

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

#### K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr K Qi, Assessment Officer, on (02) 9391 7016.

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

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

Standard Condition: K14 (Autotext KK14)

## **K.8 Release of Security**

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

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

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

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

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

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

[www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) Standard Condition: K15 (Autotext KK15)

## **K.9 Recycling of Demolition and Building Material**

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials. Standard Condition: K17 (Autotext KK17)

## **K.10 Owner-builders**

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

**Note:** For more information go to the NSW Fair Trading website [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 133 220. Standard Condition: K18 (Autotext KK18)



### K.11 Pruning or Removing a Tree Growing on Private Property

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

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or call Council on 9391 7000 for further advice. Standard Condition: K19 (Autotext KK19)

### K.12 Dilapidation Report

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

- a) The dilapidation report will be made available to affected property owners on 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.13 Roads Act 1993 Application

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

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

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

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

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

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

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

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

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

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

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

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







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





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

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

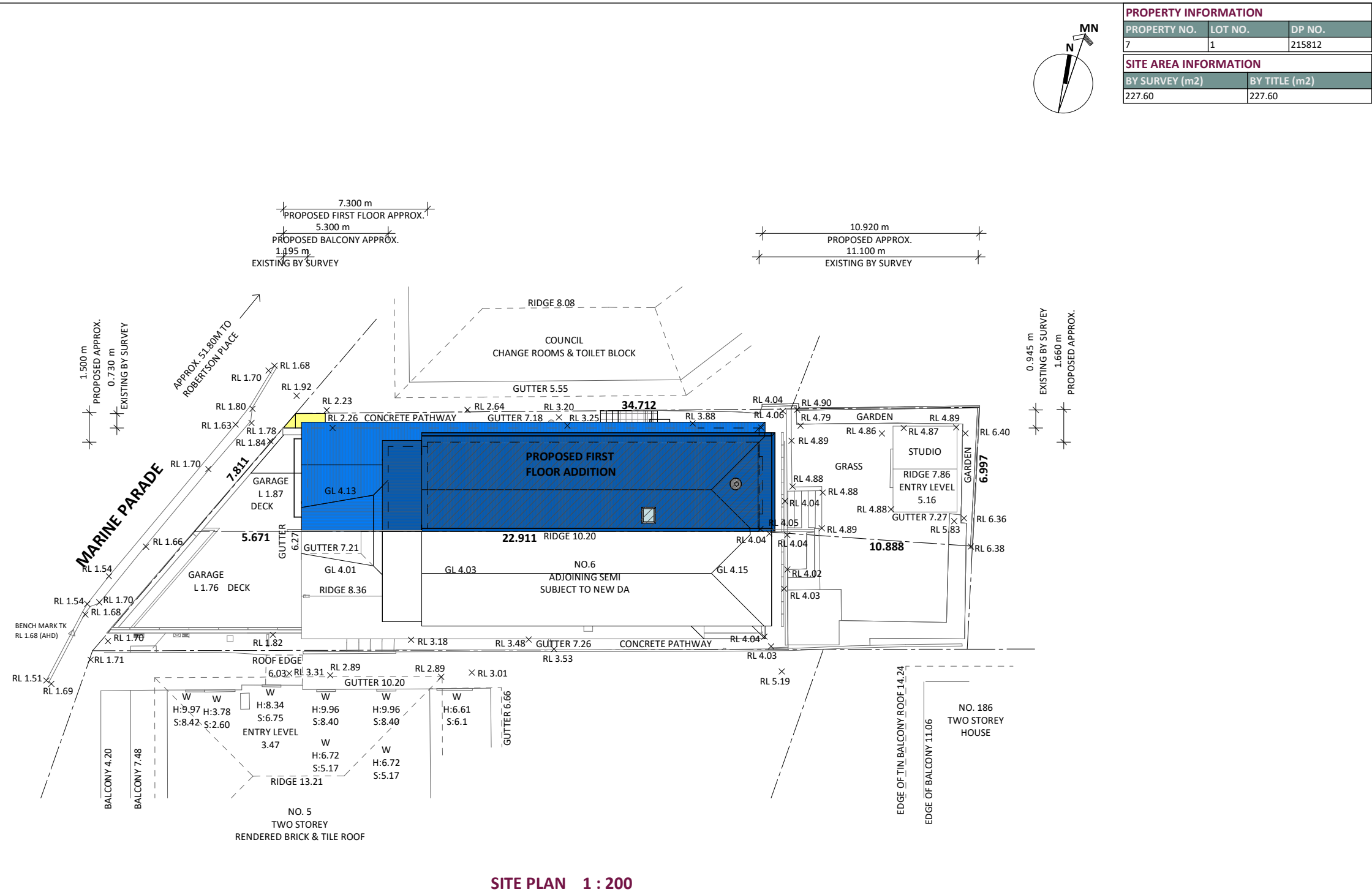
**Note:** The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath,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

## Attachments

1. Plans, elevations, sections, survey, shadow diagrams, photo montages and finishes schedule [↓](#) 
2. Clause 4.6 Variation - Building height [↓](#) 
3. Technical Services Referral Response [↓](#) 
4. Technical Services Drainage Referral Response [↓](#) 
5. Landscaping Referral Response [↓](#) 
6. Heritage Referral Response [↓](#) 

| WORKING PLANS SHEET LIST  |   |  |          |
|---|---|--|----------|
| SHEET NO.   | SHEET TITLE                                   |  |          |
| 1   | TITLE   |  |          |
| 2   | SITE PLAN                                     |  |          |
| 3   | LOWER GROUND FLOOR EXISTING & DEMOLITION PLAN |  |          |
| 4   | PROPOSED LOWER GROUND FLOOR                   |  |          |
| 5   | EXISTING GROUND FLOOR PLAN                    |  |          |
| 6   | GROUND FLOOR DEMOLITION PLAN                  |  |          |
| 7   | PROPOSED GROUND FLOOR PLAN                    |  |          |
| 8   | PROPOSED FIRST FLOOR PLAN                     |  |          |
| 9   | ROOF PROPOSED PLAN                            |  |          |
| 10  | ELEVATIONS                                    |  |          |
| 11  | ELEVATIONS                                    |  |          |
| 12  | SECTIONS                                      |  |          |
| 13  | SECTIONS                                      |  |          |
| 14  | BASIX COMMITMENTS                             |  |          |
| 15  | GENERAL SPECIFICATIONS                        |  |          |
| 16  | GLAZING SPECIFICATIONS                        |  |          |
| VERSION   |   |  |          |
| #   | DESCRIPTION                                   |  | DATE     |
| A   | TECHNICAL                                     | SE   | 31.03.23 |
| B   | TO CLIENT & POV 104328 - 104392               | SE   | 24.04.23 |
| C   | POV 104453 - 104650                           | SE   | 30.05.23 |
| D   | POV & COUNCIL PREP                            | AT   | 22.06.23 |
| E   | TO COUNCIL                                    | AT   | 10.07.23 |
|   |   |  |          |
|   |   |  |          |
| SPECIAL NOTES   |   |  |          |
| GENERAL SPECIAL NOTES   |   |  |          |
| <b>THIS PLAN IS TO BE READ IN CONJUNCTION WITH THE WRITTEN PROPOSAL:</b>  |   |  |          |
| <ul style="list-style-type: none"><li>• PROVIDE MARINE GRADE BRICKS, MORTAR &amp; TIES IN ACCORDANCE WITH AS3700 AS SITE IS WITHIN 1KM OF OCEAN</li><li>• CONNECT/INSTALL TWO (2) 3 IN 1 FAN/LIGHT/HEATER UNITS, SEVENTY-TWO (72) DOWNLIGHT FITTINGS, EIGHT (8) EXTERNAL LIGHT FITTINGS, SIX (6) WALL LIGHTS &amp; FOUR (4) LIGHTS FITTINGS AS SUPPLIED BY OWNER</li><li>• INSTALL THREE (3) CEILING FANS TO FIRST FLOOR &amp; THREE (3) FANS TO GROUND FLOOR AS SUPPLIED BY OWNER</li></ul>  |   |  |          |
| SMOKE DETECTORS   |   |  |          |
|    | LOWER GROUND FLOOR                            | SUPPLIED & INSTALLED BY CAPE COD TO COMPLY WITH NCC STANDARD   | 1        |
|    | GROUND FLOOR                                  | EXISTING TO BE CONFIRMED BY ELECTRICIAN ON SITE TO DETERMINE NCC COMPLIANCE.NEW SMOKE DETECTOR TO BE SUPPLIED & INSTALLED BY CAPECOD TO COMPLY WITH NCC STANDARD IF REQUIRED | 1        |
|    | FIRST FLOOR                                   | SUPPLIED & INSTALLED BY CAPE COD TO COMPLY WITH NCC STANDARD   | 1        |
| WORKS BY OWNER  |   |  |          |
| <ul style="list-style-type: none"><li>• SUPPLY &amp; INSTALLATION OF SOLAR PANELS</li><li>• SUPPLY OF TTWO (2) 3 IN 1 FAN/LIGHT/HEATER UNITS, SEVENTY-TWO (72) DOWNLIGHT FITTINGS, EIGHT (8) EXTERNAL LIGHT FITTINGS, SIX (6) WALL LIGHTS, FOUR (4) LIGHTS FITTINGS &amp; SIX (6) CEILING FANS</li><li>• SUPPLY &amp; INSTALLATION OF LIFT &amp; ASSOCIATED WORKS</li><li>• REMOVAL &amp; REINSTALLATION OF TV ANTENNA (IF REQUIRED).</li><li>• CONNECTION OF NEW COAXIAL CABLE "TV POINT" TO EXISTING AND/OR NEW TV AERIAL, TELEPHONE, INTERNET AND/OR PAY TELEVISION CABLING.</li><li>• RELOCATE AND/OR ADJUSTMENT TO THE EXISTING AIR CONDITIONING SYSTEM IF REQUIRED.</li><li>• SUPPLY &amp; INSTALLATION OF NEW KITCHEN &amp; LAUNDRY CUPBOARDS (INCLUDING ANY BULKHEADS OVER, SINK, TUB, TAPS &amp; ETC. IF REQUIRED)</li><li>• ROBES FIT OUT.</li><li>• BUTLER'S PANTRY FIT OUT</li><li>• SUPPLY &amp; INSTALLATION OF ADJUSTABLE AWNING OVER W5</li></ul> |   |  |          |
| PROPOSED ADDITION FOR:  |   |  |          |
| MS J HILLMAN  |   |  |          |
| 7 MARINE PARADE   |   |  |          |
| WATSONS BAY NSW 2030  |   |  |          |
| JOB NUMBER: 8226  |   |  |          |
| COUNCIL: WOOLLAHRA  |   |  |          |
| PROJECT DESIGNER: DAREK SZYMANSKI   |   |  |          |
|    |   | A.B.N. 54 000 605 407  |          |
|   |   | P O BOX 2002<br>NORTH PARRAMATTA 1750<br>PHONE: (02) 9849 4444<br>BUILDERS LICENCE NO. 5519  |          |

SITE PLAN



| PROPERTY INFORMATION  |               |        |
|-----------------------|---------------|--------|
| PROPERTY NO.          | LOT NO.       | DP NO. |
| 7                     | 1             | 215812 |
| SITE AREA INFORMATION |               |        |
| BY SURVEY (m2)        | BY TITLE (m2) |        |
| 227.60                | 227.60        |        |

PROPOSED ADDITION FOR:  
8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030

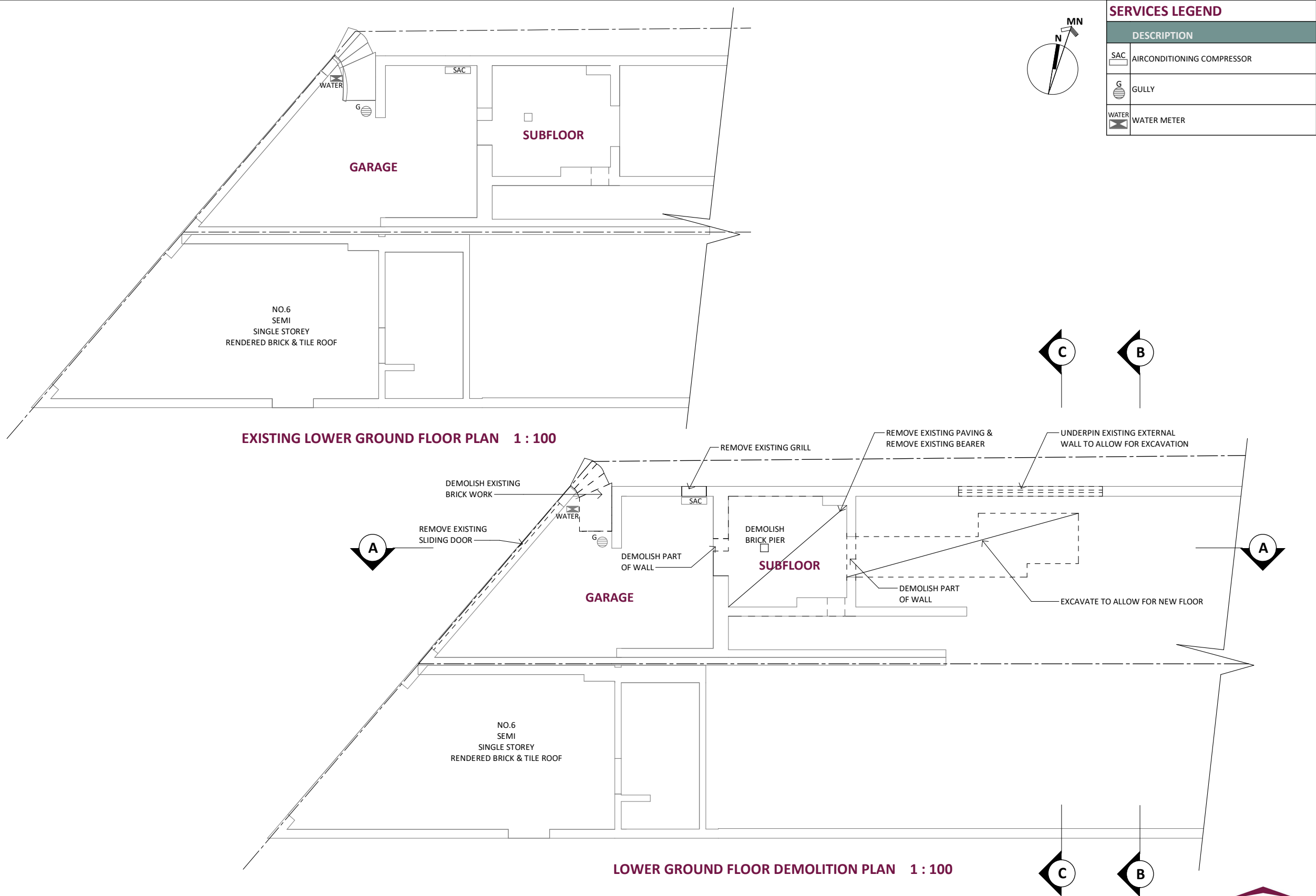
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WORKING PLANS PAGE 2 OF 16 ISSUE E

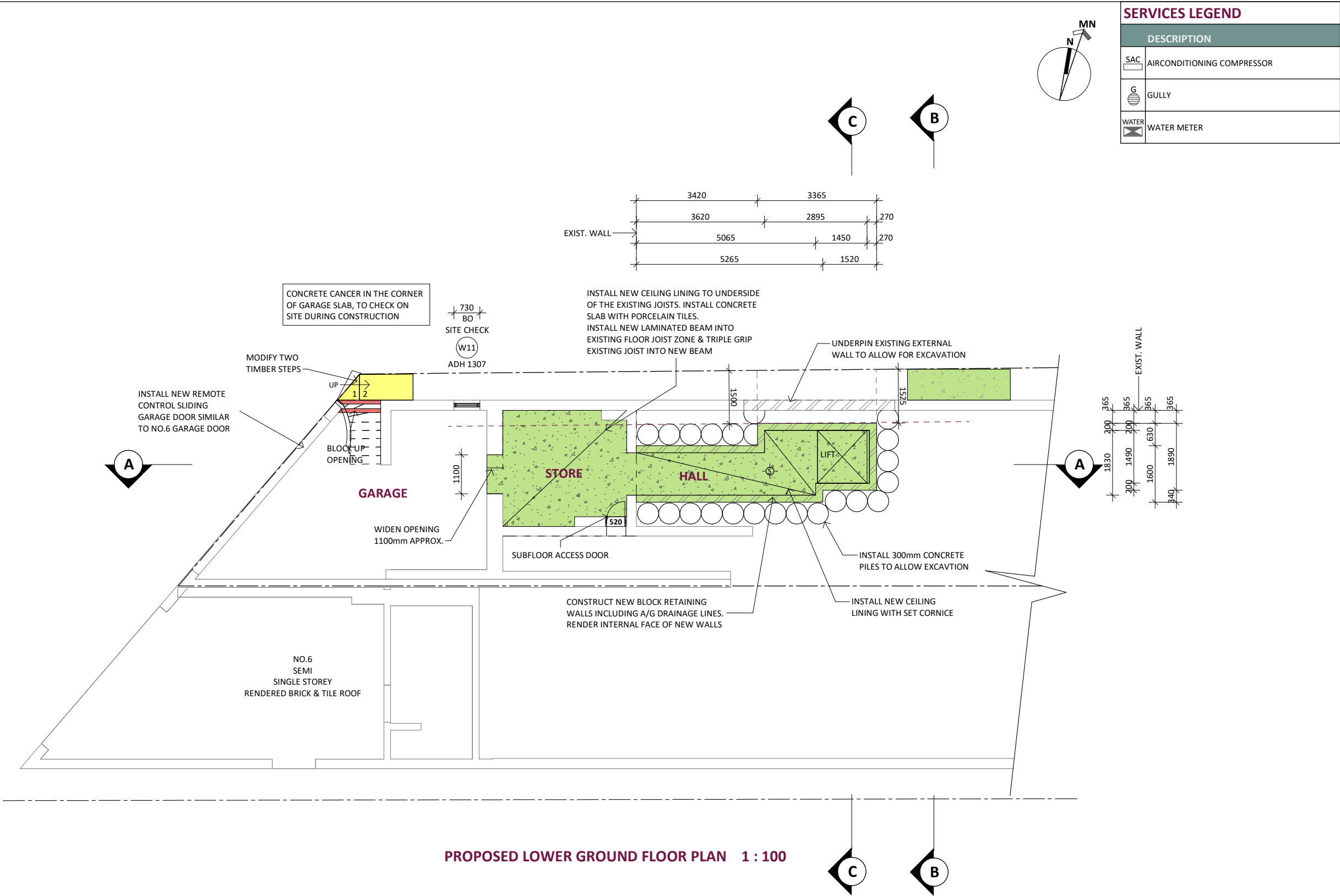
REVIT VERSION V016



LOWER GROUND FLOOR EXISTING & DEMOLITION PLAN

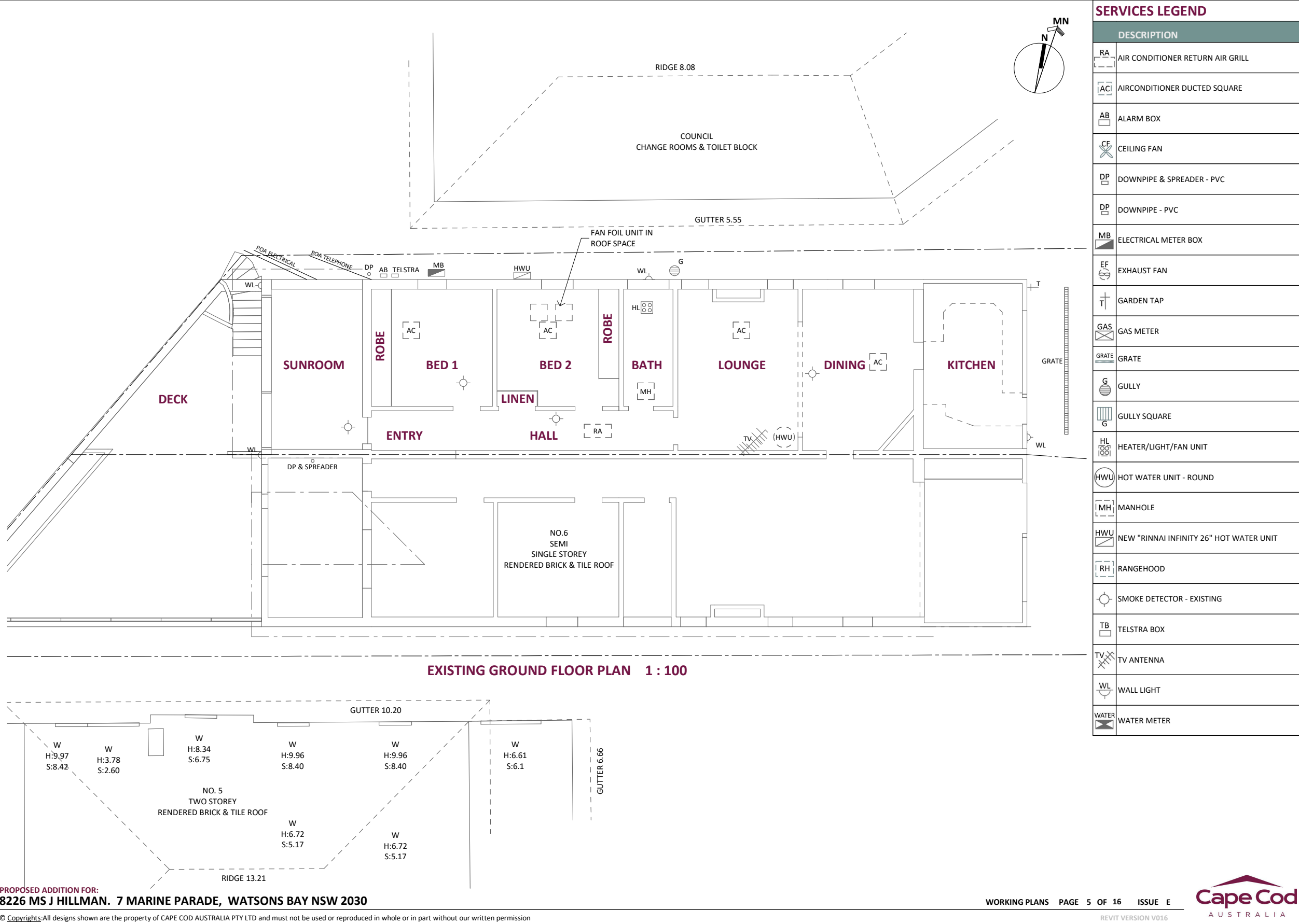


PROPOSED LOWER GROUND FLOOR PLAN

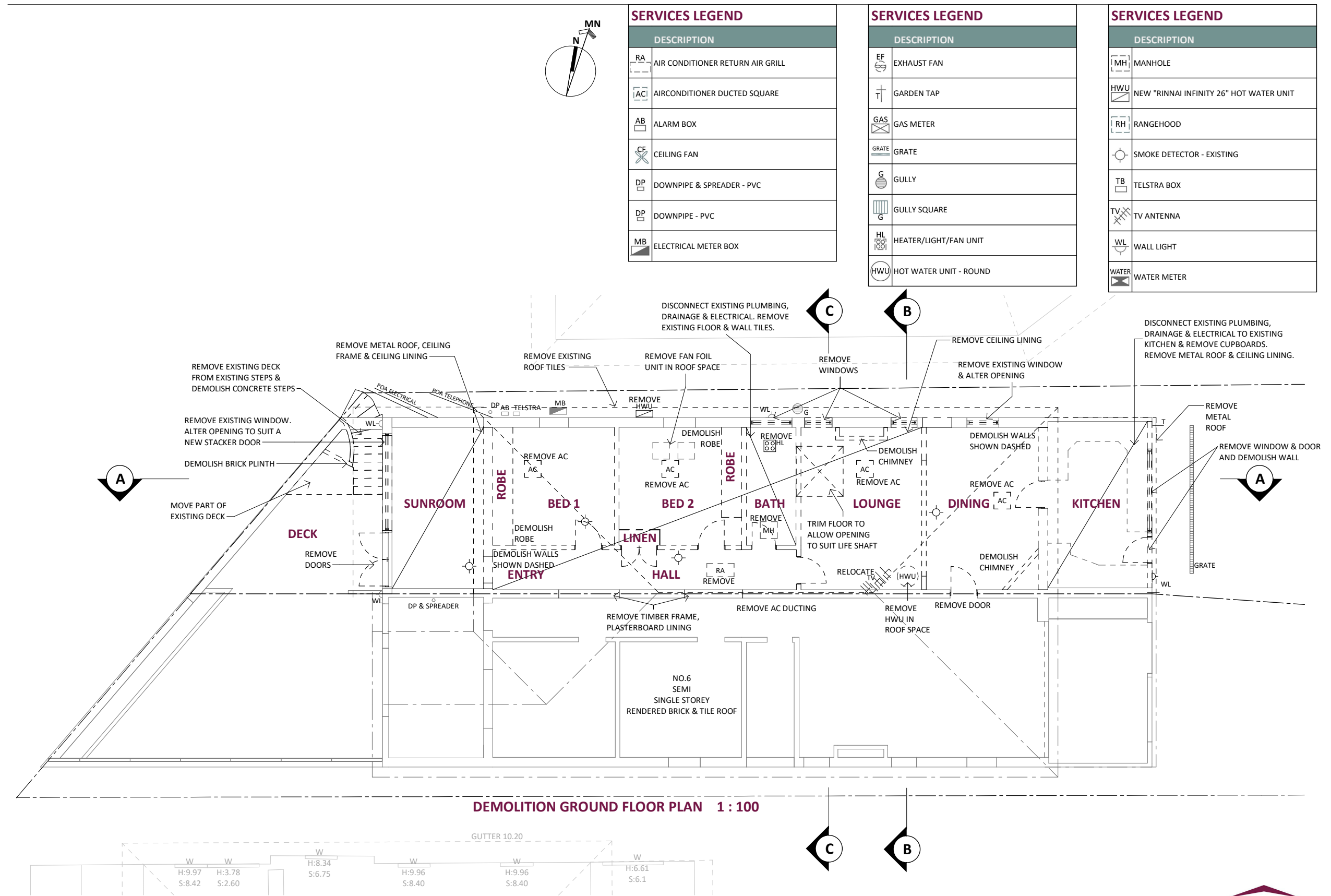




EXISTING GROUND FLOOR PLAN



## GROUND FLOOR DEMOLITION PLAN



**PROPOSED ADDITION FOR:**  
**8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030**

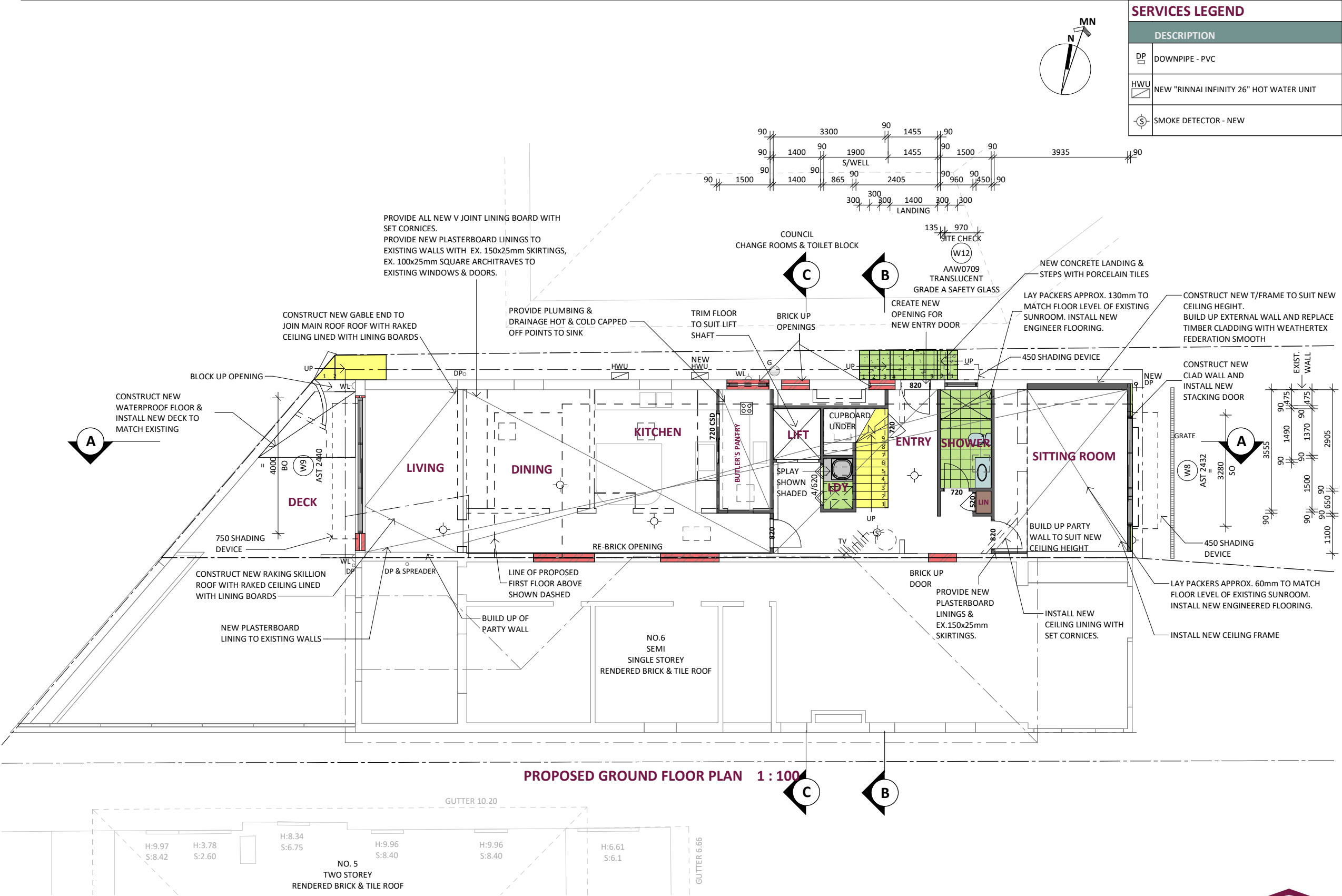
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WORKING PLANS PAGE 6 OF 16 ISSUE E

REVIT VERSION V016



PROPOSED GROUND FLOOR



PROPOSED ADDITION FOR:  
8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030

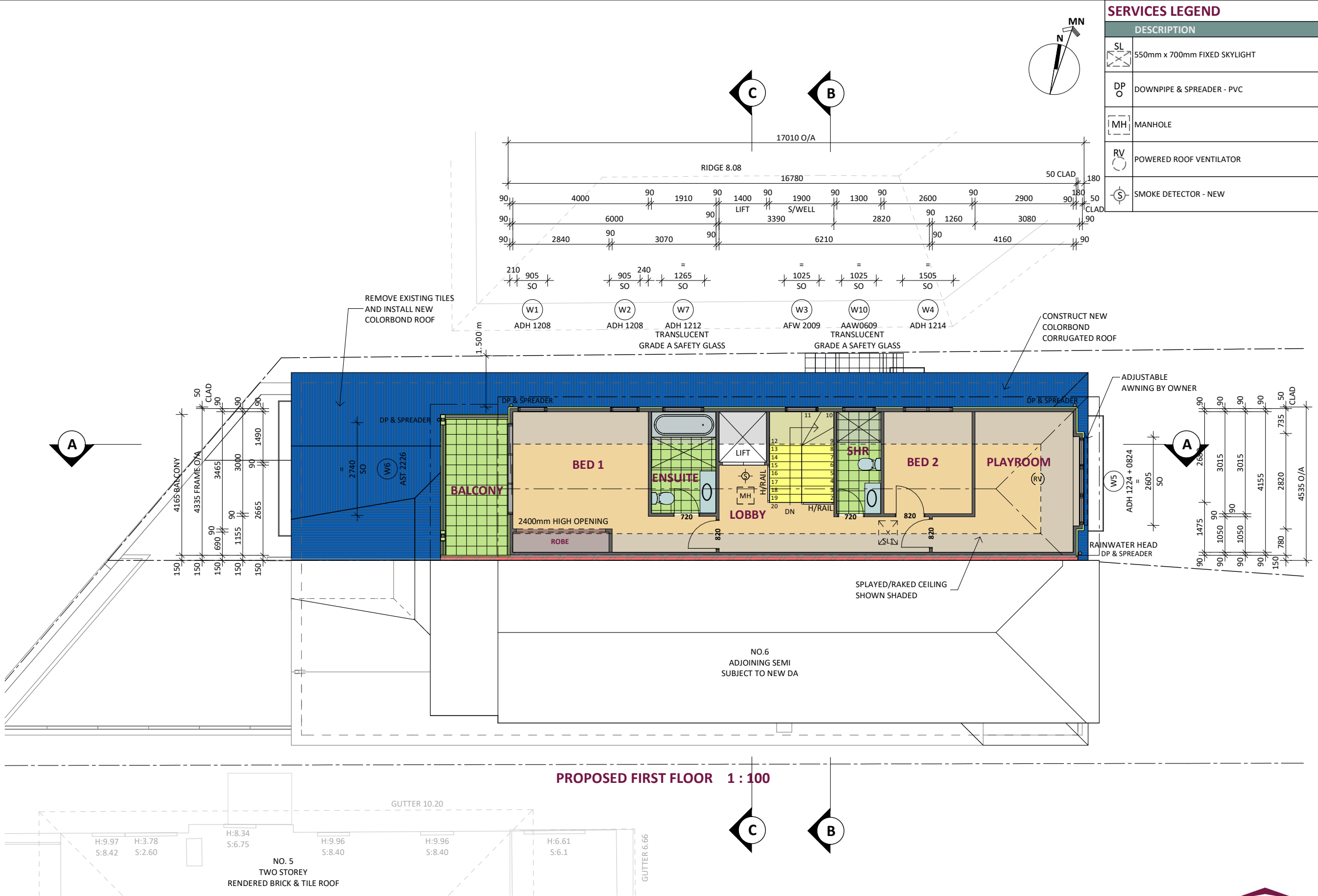
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WORKING PLANS PAGE 7 OF 16 ISSUE E

REVIT VERSION V016



PROPOSED FIRST FLOOR



PROPOSED ADDITION FOR:  
8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030

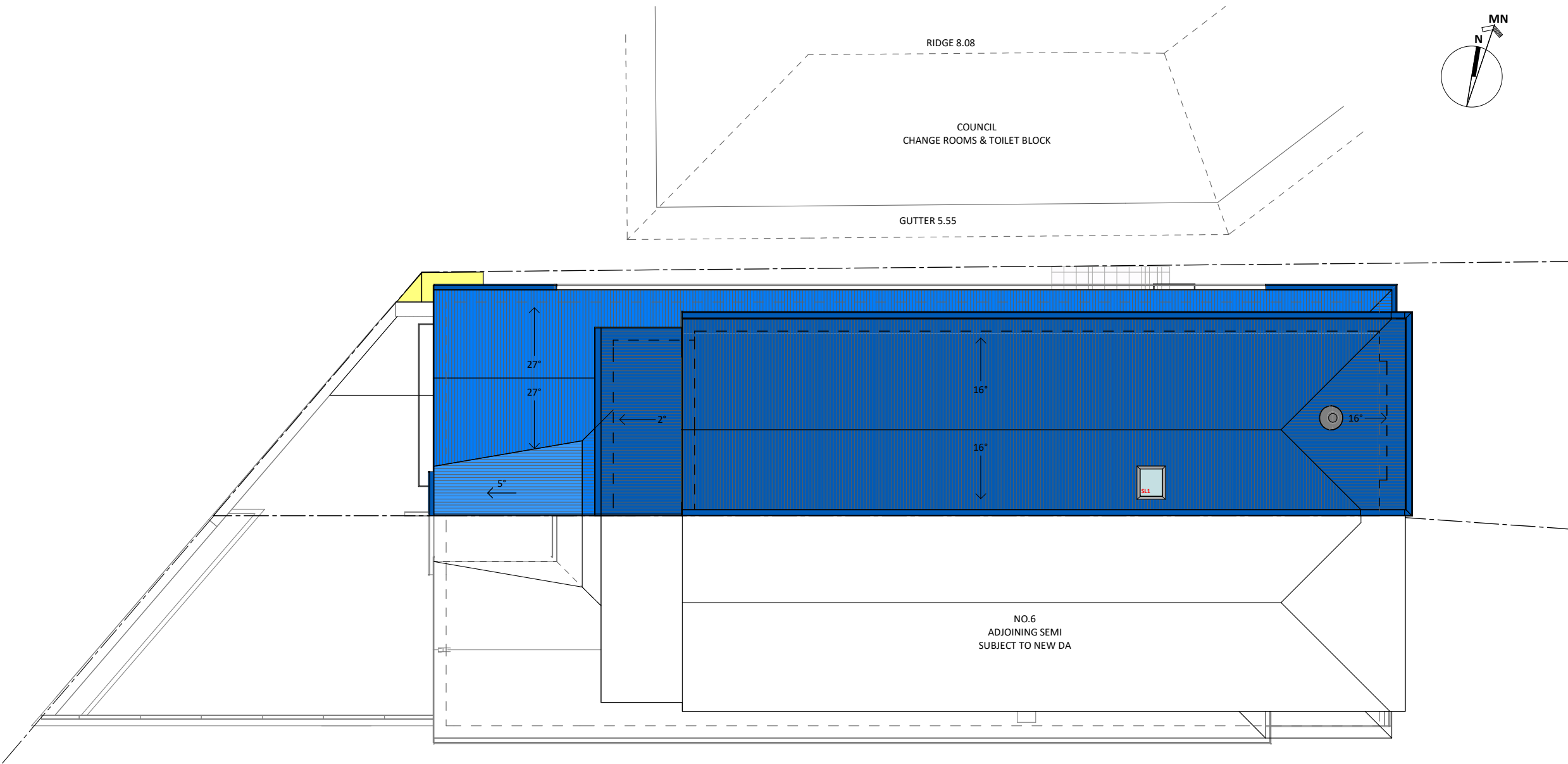
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WORKING PLANS PAGE 8 OF 16 ISSUE E

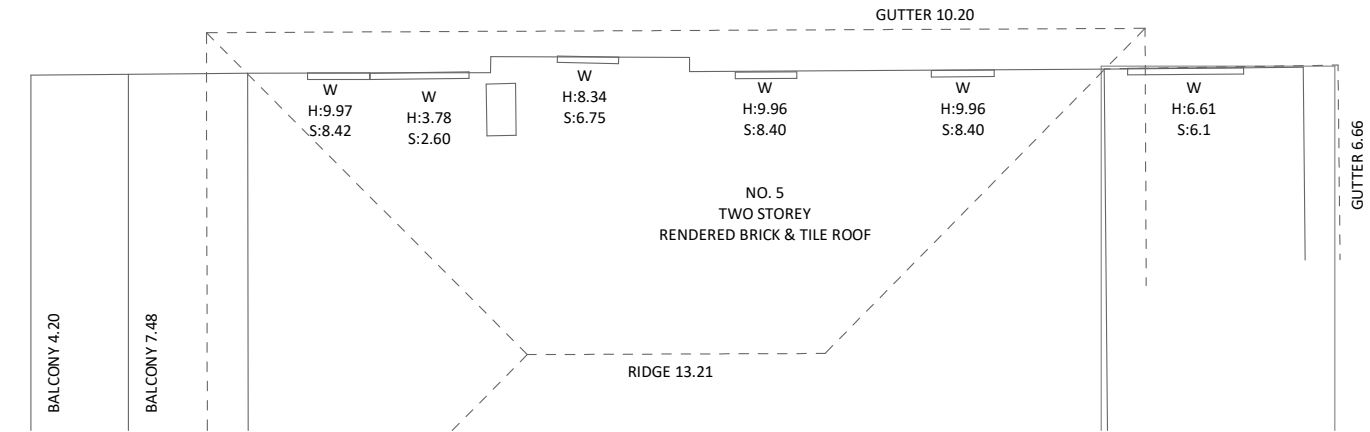
REVIT VERSION V016



PROPOSED ROOF PLAN



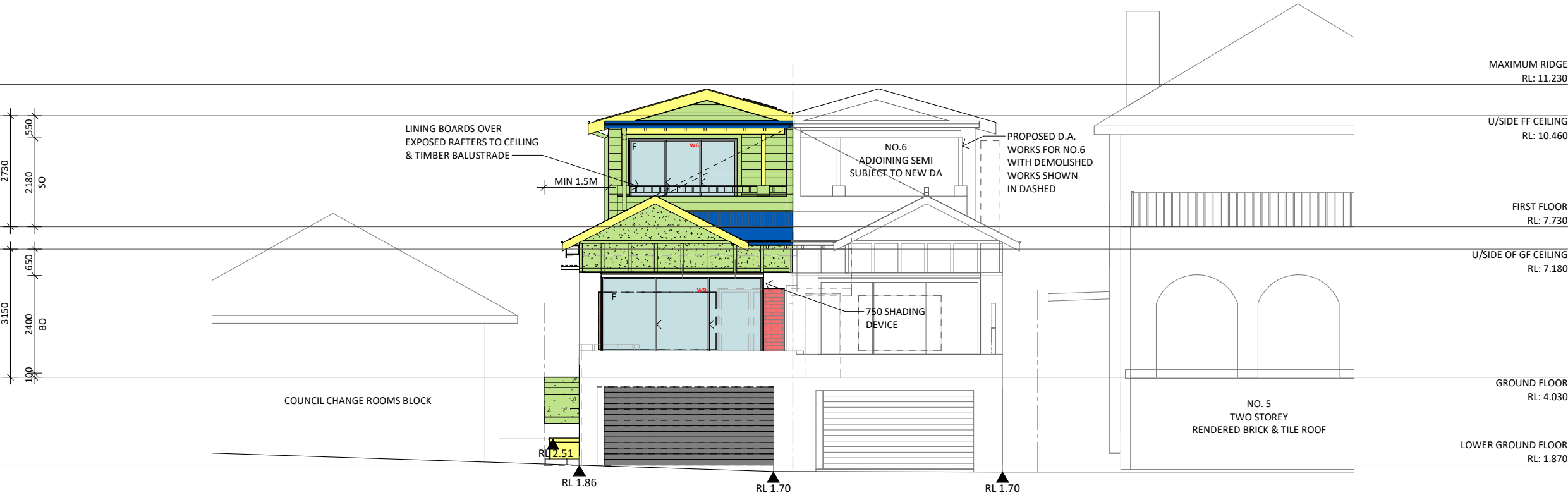
PROPOSED ROOF PLAN 1 : 100



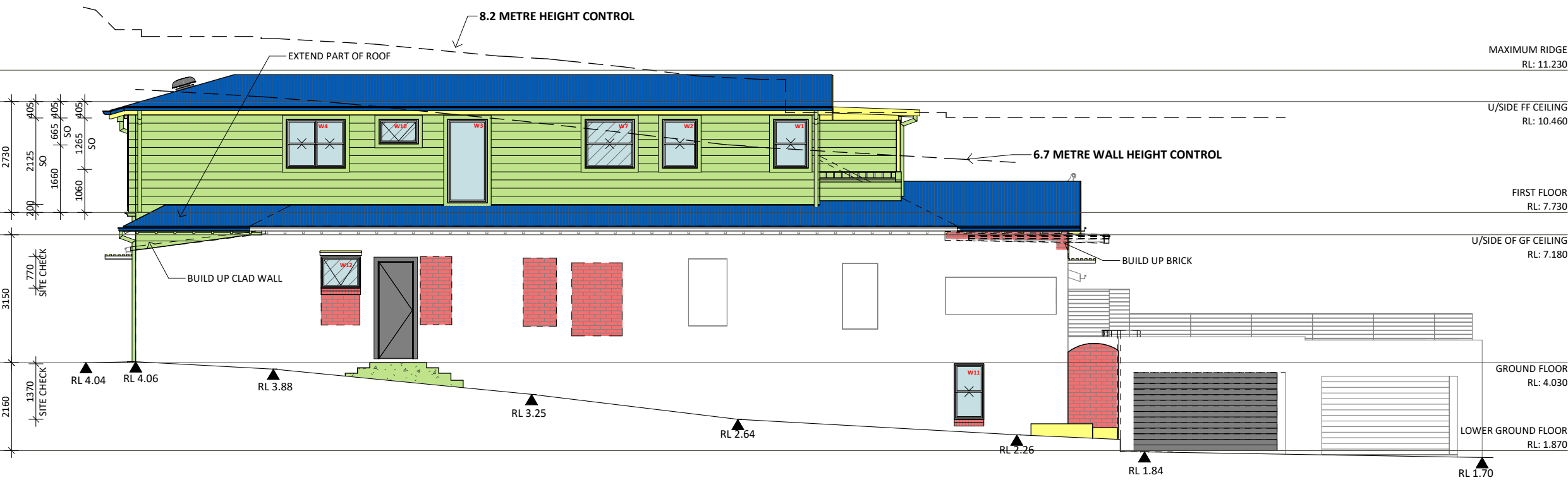
PROPOSED ADDITION FOR:  
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ELEVATIONS



WEST ELEVATION 1 : 100



NORTH ELEVATION 1 : 100

PROPOSED ADDITION FOR:  
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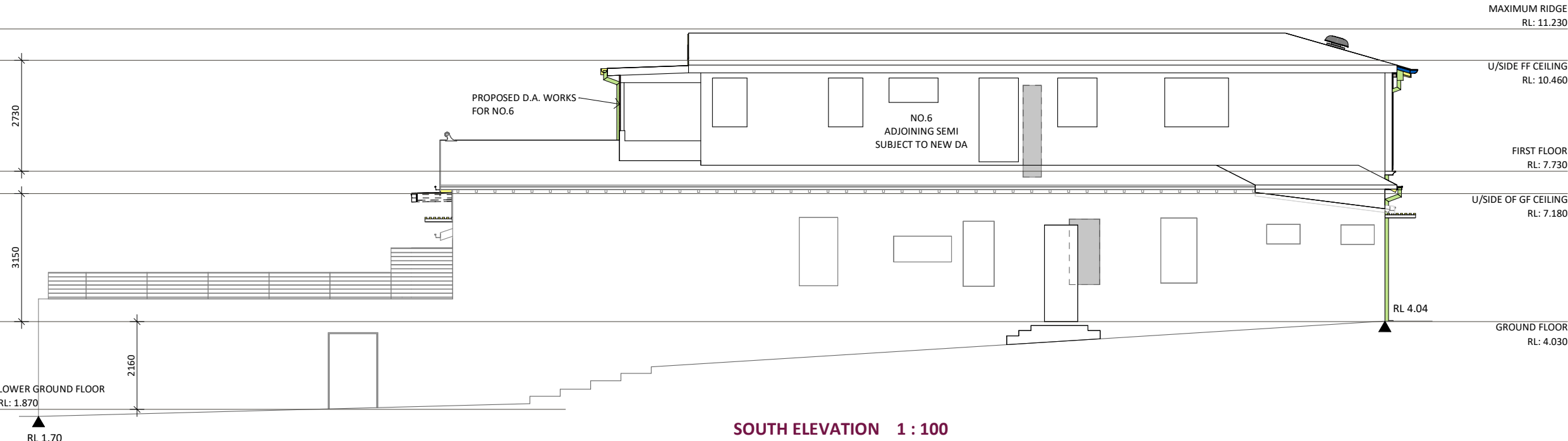
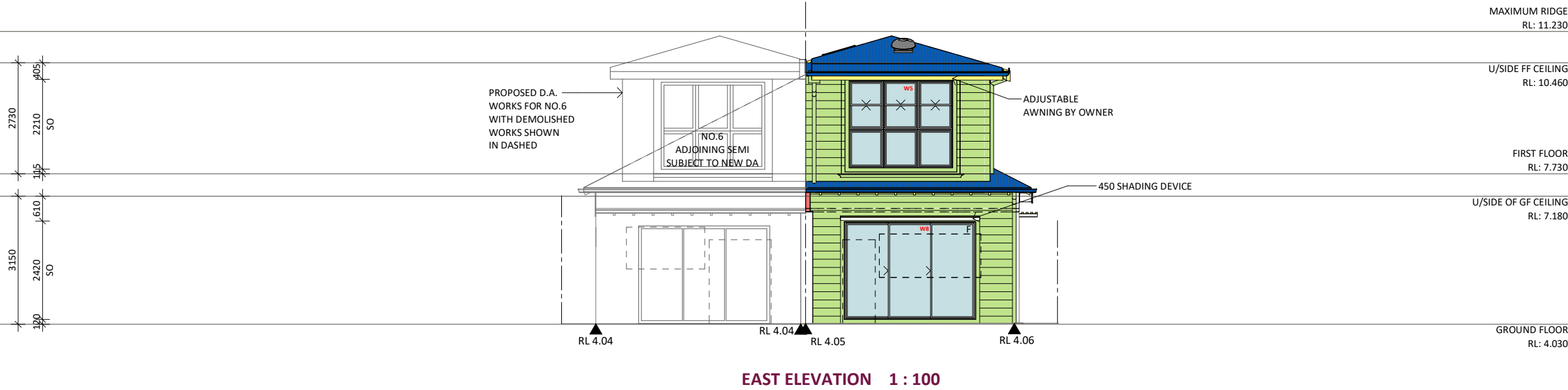
WORKING PLANS PAGE 10 OF 16 ISSUE E

REVIT VERSION V016

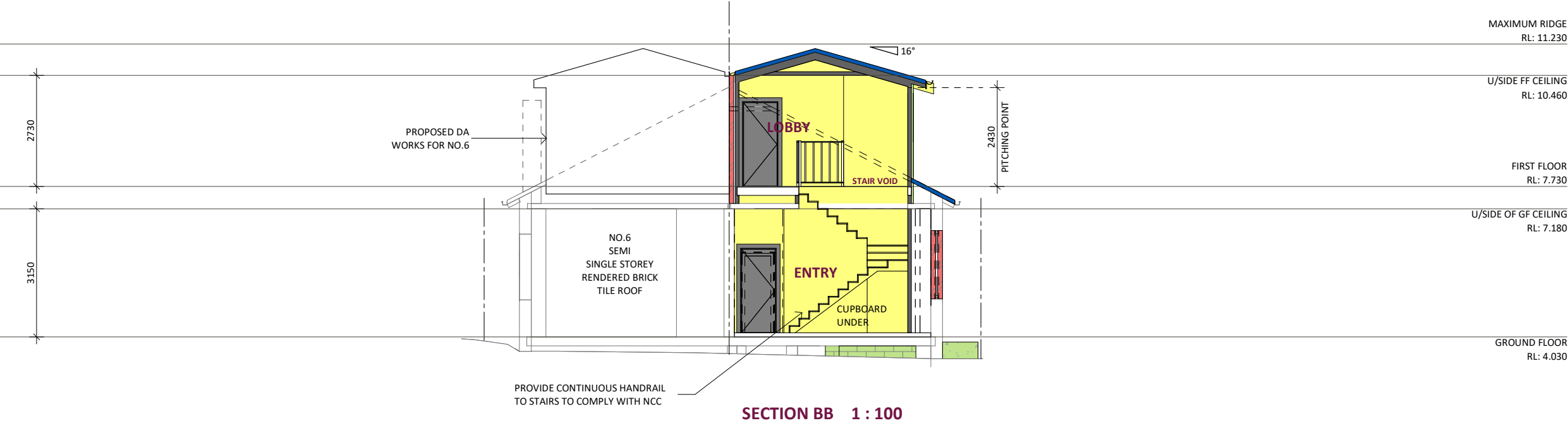
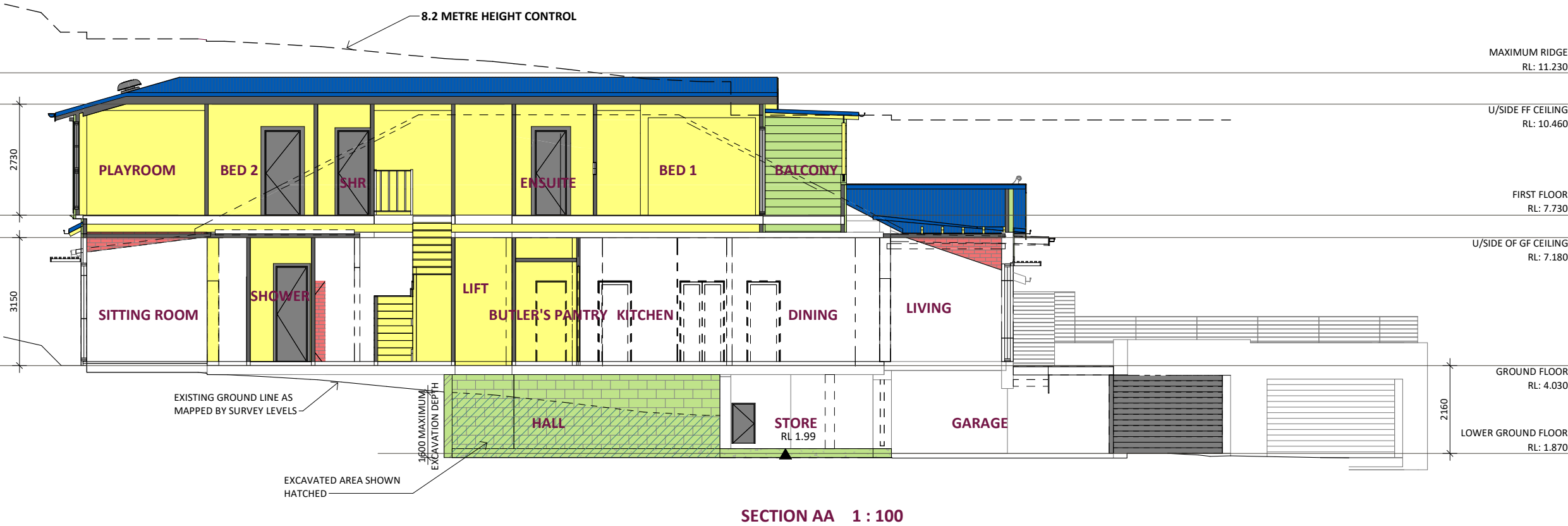




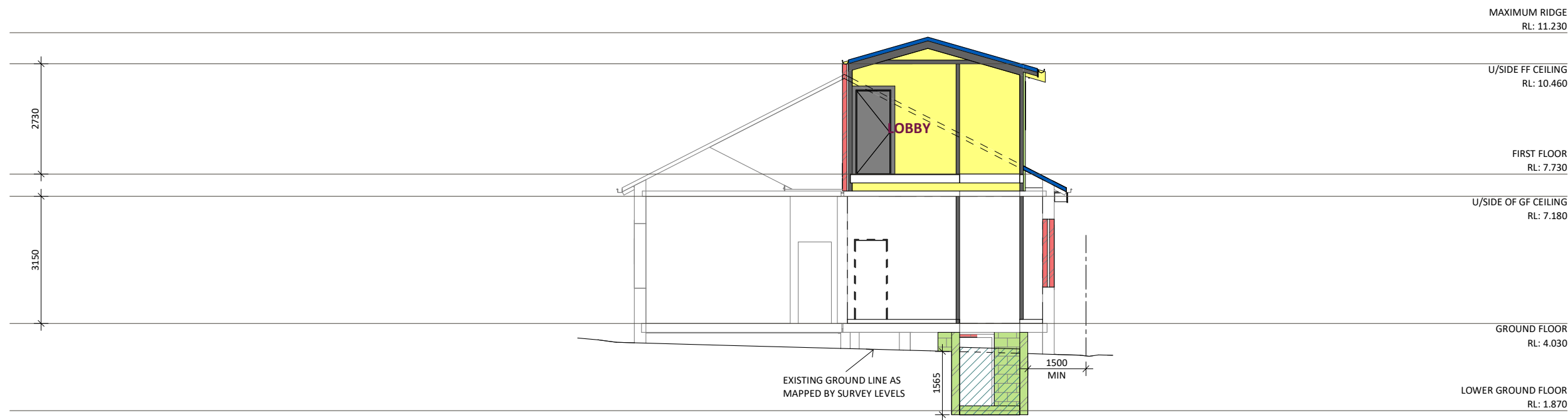
ELEVATIONS



SECTIONS



SECTIONS



SECTION CC 1 : 100

BASIX COMMITMENTS

| COUNCIL   | BASIX NUMBER |
|-----------|--------------|
| WOOLLAHRA | A493861_02   |

| LIGHTING AND SYSTEMS       |   |
|----------------------------|---|
| FIXTURES AND SYSTEMS       |   |
| LIGHTING                   | MIN 40% OF NEW OR ALTERED LIGHT FIXTURES TO BE FITTED WITH FLUORESCENT, COMPACT FLUORESCENT OR LIGHT-EMITTING-DIODE (LED) LAMPS |
| WET AREAS (NEW OR ALTERED) | SHOWER HEADS: 3 STAR RATED<br>TOILETS: 3 STAR RATED<br>TAPS: 3 STAR RATED   |

| INSULATION  |  |                                 |
|---|--|---------------------------------|
| Construction  | Additional insulation required (R-value)               | Other specifications            |
| concrete slab on ground floor.                          | nil  |                                 |
| floor above existing dwelling or building.              | nil  |                                 |
| external wall: framed (weatherboard, fibro, metal clad) | R1.30 (or R1.70 including construction)                |                                 |
| external wall: concrete block/plasterboard              | R1.18 (or R1.70 including construction)                |                                 |
| external wall: brick veneer                             | R1.16 (or R1.70 including construction)                |                                 |
| flat ceiling, pitched roof                              | ceiling: R1.45 (up), roof: foil backed blanket (55 mm) | dark (solar absorptance > 0.70) |
| raked ceiling, pitched/skillion roof: framed            | ceiling: R1.74 (up), roof: foil backed blanket (55 mm) | dark (solar absorptance > 0.70) |

| GLAZING AND SHADING DEVICES |                                 |                |  |
|-----------------------------|---------------------------------|----------------|--|
| Skylight number             | Area of glazing inc. frame (m2) | Shading device | Frame and glass type   |
| S1                          | 0.39                            | no shading     | timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456) |

| GLAZING AND SHADING DEVICES |             |                               |               |              |   |  |
|-----------------------------|-------------|-------------------------------|---------------|--------------|---|--|
| Window / door no.           | Orientation | Area of glass inc. frame (m2) | Overshadowing |              | Shading device                            | Frame and glass type   |
|                             |             |                               | Height (m)    | Distance (m) |   |  |
| W1                          | N           | 1.02                          | 0             | 0            | eave/verandah/ pergola/balcony >=450 mm   | standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47) |
| W2                          | N           | 1.02                          | 0             | 0            | eave/verandah/ pergola/balcony >=450 mm   | standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47) |
| W3                          | N           | 2                             | 0             | 0            | eave/verandah/ pergola/balcony >=450 mm   | standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47) |
| W4                          | N           | 1.74                          | 0             | 0            | eave/verandah/ pergola/balcony >=450 mm   | standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47) |
| W5                          | E           | 5.96                          | 0             | 0            | awning (adjustable) >=900 mm              | standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)       |
| W6                          | W           | 5.75                          | 0             | 0            | eave/verandah/ pergola/balcony >=900 mm   | standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)       |
| W7                          | N           | 1.45                          | 0             | 0            | eave/verandah/ pergola/balcony >=450 mm   | standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47) |
| W8                          | E           | 7.74                          | 0             | 0            | eave/verandah/ pergola/balcony >=450 mm   | standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47) |
| W9                          | W           | 9.6                           | 0             | 0            | eave/verandah/ pergola/balcony >=750 mm   | standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)       |
| W10                         | N           | 0.58                          | 0             | 0            | eave/verandah/ pergola/balcony >=450 mm   | standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)       |
| W12                         | N           | 0.75                          | 0             | 0            | projection/height above sill ratio >=0.43 | standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)       |

PROPOSED ADDITION FOR:  
8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030

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GENERAL SPECIFICATIONS

| ROOF SYSTEMS   |  |   |                |                 |   |                |                    |  |
|--|--|---|----------------|-----------------|---|----------------|--------------------|--|
| ROOF COVERING MATERIAL   | ROOF SARKING                                       | ROOF INSULATION   | BARGE MATERIAL | FASCIA MATERIAL | GUTTER & DP MATERIAL                        | GUTTER PROFILE | EAVE LINING        | CEILING LINING   |
| PRE-FINISHED ZINCALUME ROOF SHEETING - CORRUGATED PROFILE TO GROUND FLOOR ROOF | ALUMINIUM FOIL BACKED "ANTICON" INSULATION BLANKET | R4.1 FIBREGLASS INSULATION BATTS TO GROUND FLOOR CEILING AREA (215mm)         | NOT APPLICABLE | NOT APPLICABLE  | PREFINISHED ZINCALUME GUTTER. PVC DOWNPIPE. | QUAD           | FIBRE CEMENT SHEET | V JOINTED LINING BOARDS. 6.0mm FIBRE CEMENT SHEET TO WET AREAS..                                 |
| PRE-FINISHED ZINCALUME ROOF SHEETING - CORRUGATED PROFILE                      | ALUMINIUM FOIL BACKED "ANTICON" INSULATION BLANKET | R4.1 FIBREGLASS INSULATION BATTS TO FIRST FLOOR ADDITION CEILING AREA (215mm) | DAR TIMBER     | DAR TIMBER      | PREFINISHED ZINCALUME GUTTER. PVC DOWNPIPE. | HALF ROUND     | LINING BOARDS      | 10mm PLASTERBOARD. 6.0mm FIBRE CEMENT SHEET TO WET AREAS. 6.0mm FIBRE CEMENT SHEET TO BALCONIES. |

| FLOOR SYSTEMS                      |                                     |                         |  |
|------------------------------------|-------------------------------------|-------------------------|--|
| FLOOR STRUCTURE                    | FLOORING OVER                       | FLOOR FINISH            | SPECIAL NOTES  |
| FLOOR JOISTS TO STRUCTURAL DETAILS | 19MM STRUCTURAL PARTICLEBOARD       | ENGINEERED FLOOR FINISH | R2.0 "SOUNDSCREEN" INSULATION BATTS TO NEW FIRST FLOOR ADDITION FLOOR AREA |
| FLOOR JOISTS TO STRUCTURAL DETAILS | 15mm STRUCTURAL PLYWOOD FLOOR       | PORCELAIN TILES         | TO BALCONY   |
| FLOOR JOISTS TO STRUCTURAL DETAILS | WATERPROOF STRUCTURAL PARTICLEBOARD | SELECTED TILES          | TO WET AREAS   |

| HOT WATER UNIT |   |  |
|----------------|---|--|
|                | DESCRIPTION                             | CONNECTION   |
| <div>HWU</div> | NEW "RINNAI INFINITY 26" HOT WATER UNIT | SUPPLIED & INSTALLED BY CAPE COD TO COMPLY WITH NCC STANDARD |

| EXTERNAL WALL SYSTEMS                              |   |   |  |
|--|---|---|--|
| WALL STRUCTURE                                     | INSULATION  | INTERNAL LINING   | GABLE FINISH   |
| BLOCK RETAINING WALL                               | R2.0 FIBREGLASS INSULATION BATTS TO LOWER GROUND FLOOR EXTERNAL WALL FRAME (90mm) | 10mm GYPSUM PLASTERBOARD                                  |  |
| 170mm WEATHERTEX FEDERATION "SMOOTH" CLADDING OVER | R2.0 FIBREGLASS INSULATION BATTS TO FIRST FLOOR EXTERNAL WALL FRAME (90mm)        | 10mm GYPSUM PLASTERBOARD. 6mm WET AREA BOARD TO WET AREAS |  |
| COMMON BRICKWORK TO PARTY WALL                     | R2.0 FIBREGLASS INSULATION BATTS TO FIRST FLOOR EXTERNAL WALL FRAME (90mm)        | 10mm GYPSUM PLASTERBOARD                                  | 7.5mm FIBRE CEMENT BASE SHEET OVER POLYSTYRENE CORE WALL INSULATION WITH APPLIED PAINTED TEXTURE COAT FINISH |

| INTERIOR WALLS              |       |   |
|-----------------------------|-------|---|
| WALLS STRUCTURE             | WIDTH | WALL INTERNAL LINING                                      |
| 90 x 35 STUDS @ 450 CENTRES | 90 mm | 10mm GYPSUM PLASTERBOARD. 6mm WET AREA BOARD TO WET AREAS |

| STAIRS        |                                 |                          |               |              |             |
|---------------|---------------------------------|--------------------------|---------------|--------------|-------------|
| STAIR TYPE    | DESCRIPTION                     | WIDTH                    | NO. OF RISERS | RISER HEIGHT | TREAD DEPTH |
| CLOSED TIMBER | FIBREBOARD TREADS & PINE RISERS | 1000 mm OVERALL STRINGER | 20            | 180 mm       | 240 mm      |

| INTERNAL DOORS                                       |            |                    |
|--|------------|--------------------|
| DOOR DESCRIPTION                                     | DOOR TYPE  | FINISH TYPE/MODEL  |
| INTERNAL DOOR - SINGLE HINGED: 520                   | SOLID CORE | CORINTHIAN "FLUSH" |
| EXTERNAL DOOR - SINGLE HINGED: 720 ACCESS DOOR       | SOLID CORE | CORINTHIAN "FLUSH" |
| INTERNAL DOOR - SINGLE CAVITY SLIDING: 720 CSD       | SOLID CORE | CORINTHIAN "FLUSH" |
| INTERNAL DOOR - SINGLE HINGED: 720                   | SOLID CORE | CORINTHIAN "FLUSH" |
| EXTERNAL DOOR - SINGLE HINGED: 820                   | SOLID CORE | CORINTHIAN "FLUSH" |
| INTERNAL DOOR - SINGLE HINGED: 820                   | SOLID CORE | CORINTHIAN "FLUSH" |
| INTERNAL DOOR - BI-FOLD 4S: INTERNAL BI-FOLD DOOR 4S | SOLID CORE | CORINTHIAN "FLUSH" |

| FIXINGS    |                                    |                                     |                               |
|------------|------------------------------------|-------------------------------------|-------------------------------|
| CORNICES   | SKIRTINGS                          | WINDOW ARCHITRAVES (INTERNAL)       | WINDOW ARCHITRAVES (EXTERNAL) |
| SQUARE SET | EX 150mm x 25m FINGER-JOINTED PINE | EX 100mm x 25mm FINGER-JOINTED PINE | EX 100mm x 25mm               |





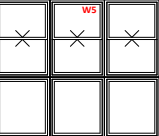
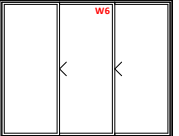


PROPOSED ADDITION FOR:  
8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030

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WINDOW, DOOR & SKYLIGHT SCHEDULE

|   |                 |            |   |
|---|-----------------|------------|---|
| BASIX CERTIFICATE NUMBER: A493861_02  | WIND LOAD: W33N | TERRAIN: 2 | ALUMINIUM STEGBAR WINDOWS: <b>EX-STOCK COLOURS:</b> PEARL WHITE GLOSS, APO GREY GLOSS, STONE BEIGE, WOODLAND GREY, CUSTOM BLACK, ANODISED 20UM CLEAR, NOTRE DAME, SURFMIST. <b>DESIGNER'S COLOURS AVAILABLE:</b> POTTERY SATIN, DEEP OCEAN MATT, WHITE BIRCH GLOSS, HAMERSLEY BROWN SATIN, PRIMROSE GLOSS |
| <b>STANDARD NOTES:</b> <ul style="list-style-type: none"><li>WINDOWS &amp; DOORS ARE DRAWN AS VIEWED FROM OUTSIDE. IMAGE IS NOT TO SCALE.</li><li>ALL WINDOWS COME WITH "KEYED ALIKE" LOCKS</li><li>SOME WINDOW OPENINGS MAY BE RESTRICTED TO COMPLY WITH THE NCC 3.9.2.6 (REFER WINDOW SCHEDULE SPECIAL NOTES)</li></ul> |                 |            |   |

|   |   |   |   |  |   |   |   |  |  |  |  |  |  |  |
|---|---|---|---|--|---|---|---|--|--|--|--|--|--|--|
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|---|---|---|---|--|---|---|---|--|--|--|--|--|--|--|

GLAZED WINDOW & DOOR: FIRST FLOOR

| #   | ROOM       | ELEVATION | WINDOW INFORMATION |                 |                       |              |             |                   |        | WINDOW GLAZING ALUMINIUM         | RESTRICTOR (NCC REQUIRED)                    | INSECT SCREEN INFORMATION |              |               | SPECIAL NOTES                      |
|-----|------------|-----------|--------------------|-----------------|-----------------------|--------------|-------------|-------------------|--------|----------------------------------|--|---------------------------|--------------|---------------|------------------------------------|
|     |            |           | MANUFACT.          | CODE            | FRAME MATERIAL        | FRAME COLOUR | REVEAL SIZE | TYPE              | CONFIG |                                  |  | FRAME MATERIAL            | FRAME COLOUR | MESH MATERIAL |                                    |
| W1  | BED 1      | NORTH     | STEGBAR            | ADH 1208        | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | DOUBLE HUNG       | X      | 6.38 LAMINATED CLEAR LOW E       | RESTRICT OPENING TO 125mm TO COMPLY WITH NCC | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    |                                    |
| W2  | BED 1      | NORTH     | STEGBAR            | ADH 1208        | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | DOUBLE HUNG       | X      | 6.38 LAMINATED CLEAR LOW E       | RESTRICT OPENING TO 125mm TO COMPLY WITH NCC | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    |                                    |
| W3  | STAIR VOID | NORTH     | STEGBAR            | AFW 2009        | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | FIXED             | F      | 6.38 LAMINATED CLEAR LOW E       |  | NA                        | NA           | NA            |                                    |
| W4  | BED 2      | NORTH     | STEGBAR            | ADH 1214        | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | DOUBLE HUNG       | XX     | 6.38 LAMINATED CLEAR LOW E       | RESTRICT OPENING TO 125mm TO COMPLY WITH NCC | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    |                                    |
| W5  | PLAYROOM   | EAST      | STEGBAR            | ADH 1224 + 0824 | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | DOUBLE HUNG FIXED | XXX    | 6.38 LAMINATED CLEAR             | RESTRICT OPENING TO 125mm TO COMPLY WITH NCC | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    |                                    |
| W6  | BED 1      | WEST      | STEGBAR            | AST 2226        | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | STACKING          | FXX    | 6.38 LAMINATED CLEAR             |  | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    |                                    |
| W7  | ENSUITE    | NORTH     | STEGBAR            | ADH 1212        | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | DOUBLE HUNG       | X      | 6.38 LAMINATED TRANSLUCENT LOW E |  | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    | TRANSLUCENT / GRADE A SAFETY GLASS |
| W10 | SHR        | NORTH     | STEGBAR            | AAW0609         | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | AWNING            | X      | 6.38 LAMINATED TRANSLUCENT       |  | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    | TRANSLUCENT / GRADE A SAFETY GLASS |

|   |   |   |  |
|---|---|---|--|
|  |  |  |  |
|---|---|---|--|

GLAZED WINDOW & DOOR: GROUND FLOOR

| #   | ROOM         | ELEVATION | WINDOW INFORMATION |          |                       |              |             |          |        | WINDOW GLAZING ALUMINIUM   | INSECT SCREEN INFORMATION |              |               | SPECIAL NOTES                      |
|-----|--------------|-----------|--------------------|----------|-----------------------|--------------|-------------|----------|--------|----------------------------|---------------------------|--------------|---------------|------------------------------------|
|     |              |           | MANUFACT.          | CODE     | FRAME MATERIAL        | FRAME COLOUR | REVEAL SIZE | TYPE     | CONFIG |                            | FRAME MATERIAL            | FRAME COLOUR | MESH MATERIAL |                                    |
| W8  | SITTING ROOM | EAST      | STEGBAR            | AST 2432 | PREFINISHED ALUMINIUM | PEARL WHITE  | 130mm       | STACKING | XXF    | 6.38 LAMINATED CLEAR LOW E | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    |                                    |
| W9  | LIVING       | WEST      | STEGBAR            | AST 2440 | PREFINISHED ALUMINIUM | PEARL WHITE  | 170mm       | STACKING | FXX    | 6.38 LAMINATED CLEAR       | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    |                                    |
| W12 | SHOWER       | NORTH     | STEGBAR            | AAW0709  | PREFINISHED ALUMINIUM | PEARL WHITE  | 170mm       | AWNING   | X      | 6.38 LAMINATED TRANSLUCENT | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    | TRANSLUCENT / GRADE A SAFETY GLASS |

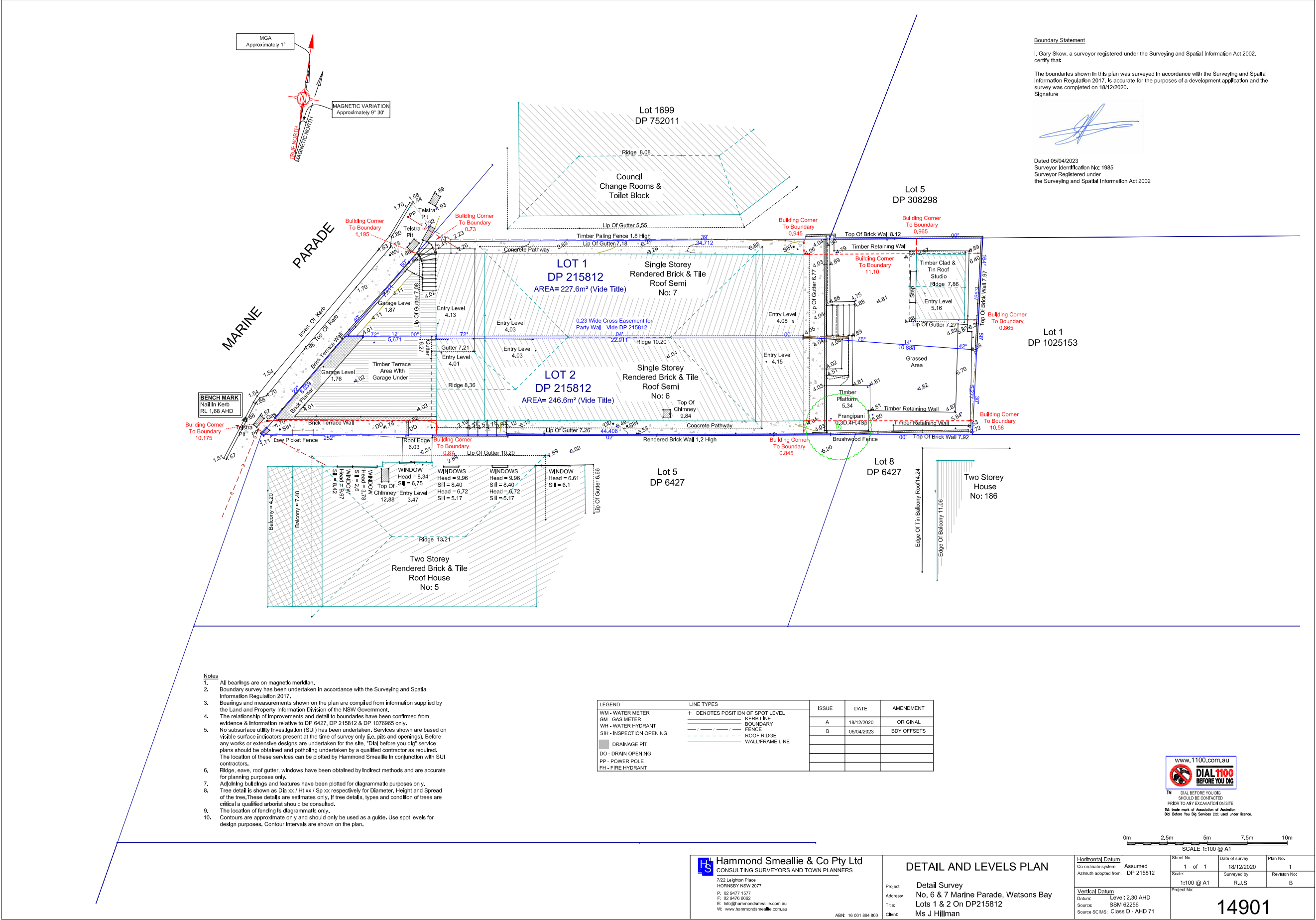
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GLAZED WINDOWS & DOORS: LOWER GROUND FLOOR

| #   | ROOM   | ELEVATION | WINDOW INFORMATION |          |                       |              |             |             |        | WINDOW GLAZING ALUMINIUM | INSECT SCREEN INFORMATION |              |               | SPECIAL NOTES |
|-----|--------|-----------|--------------------|----------|-----------------------|--------------|-------------|-------------|--------|--------------------------|---------------------------|--------------|---------------|---------------|
|     |        |           | MANUFACT.          | CODE     | FRAME MATERIAL        | FRAME COLOUR | REVEAL SIZE | TYPE        | CONFIG |                          | FRAME MATERIAL            | FRAME COLOUR | MESH MATERIAL |               |
| W11 | GARAGE | NORTH     | STEGBAR            | ADH 1307 | PREFINISHED ALUMINIUM | PEARL WHITE  | 170 mm      | DOUBLE HUNG | X      | 6.38 LAMINATED CLEAR     | ALUMINIUM                 | PEARL WHITE  | FIBREGLASS    |               |

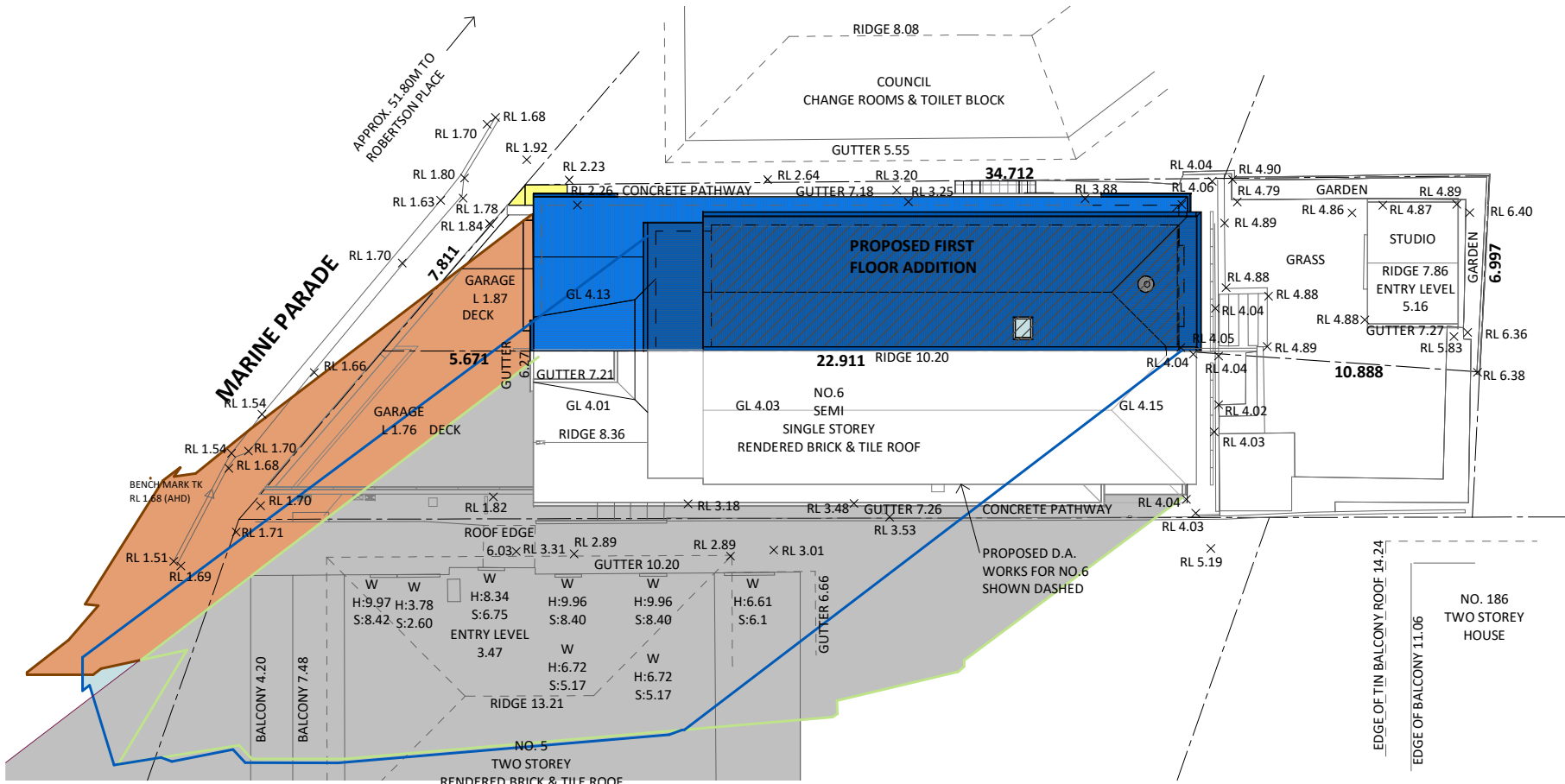
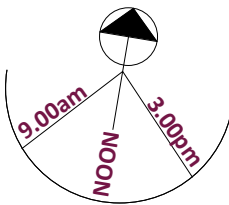
| SKYLIGHTS |               |                  |        |       |  |
|-----------|---------------|------------------|--------|-------|--|
| CODE      | TYPE          | MANUFACT. CODE   | HEIGHT | WIDTH | GLAZING  |
| SL1       | C01 550 X 700 | FS 550x700 FIXED | 550    | 700   | SKYLIGHT TIMBER, INTERNAL/ ARGON FILL/ CLEAR EXTERNAL, (U-VALUE: 2.5, SHGC: 0.456) |





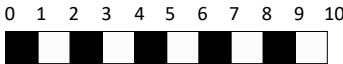
MID WINTER SHADOW DIAGRAM

ON: JUNE 22ND AT 9:00AM  
ALTITUDE: 18 DEG  
BEARING: 43 DEG



EXISTING AND PROPOSED SHADOWS 9AM

NOTE:  
ELEVATIONS NOT REQUIRED. DEVELOPMENT HAS NO IMPACT ON  
NEIGHBOURING PROPERTIES



| LEGEND |                                |
|--------|--------------------------------|
|        | DESCRIPTION                    |
|        | EXISTING SHADOWS               |
|        | PROPOSED SHADOWS               |
|        | ADJOINING NEIGHBOURING SHADOWS |
|        | NEIGHBOURING SHADOWS           |

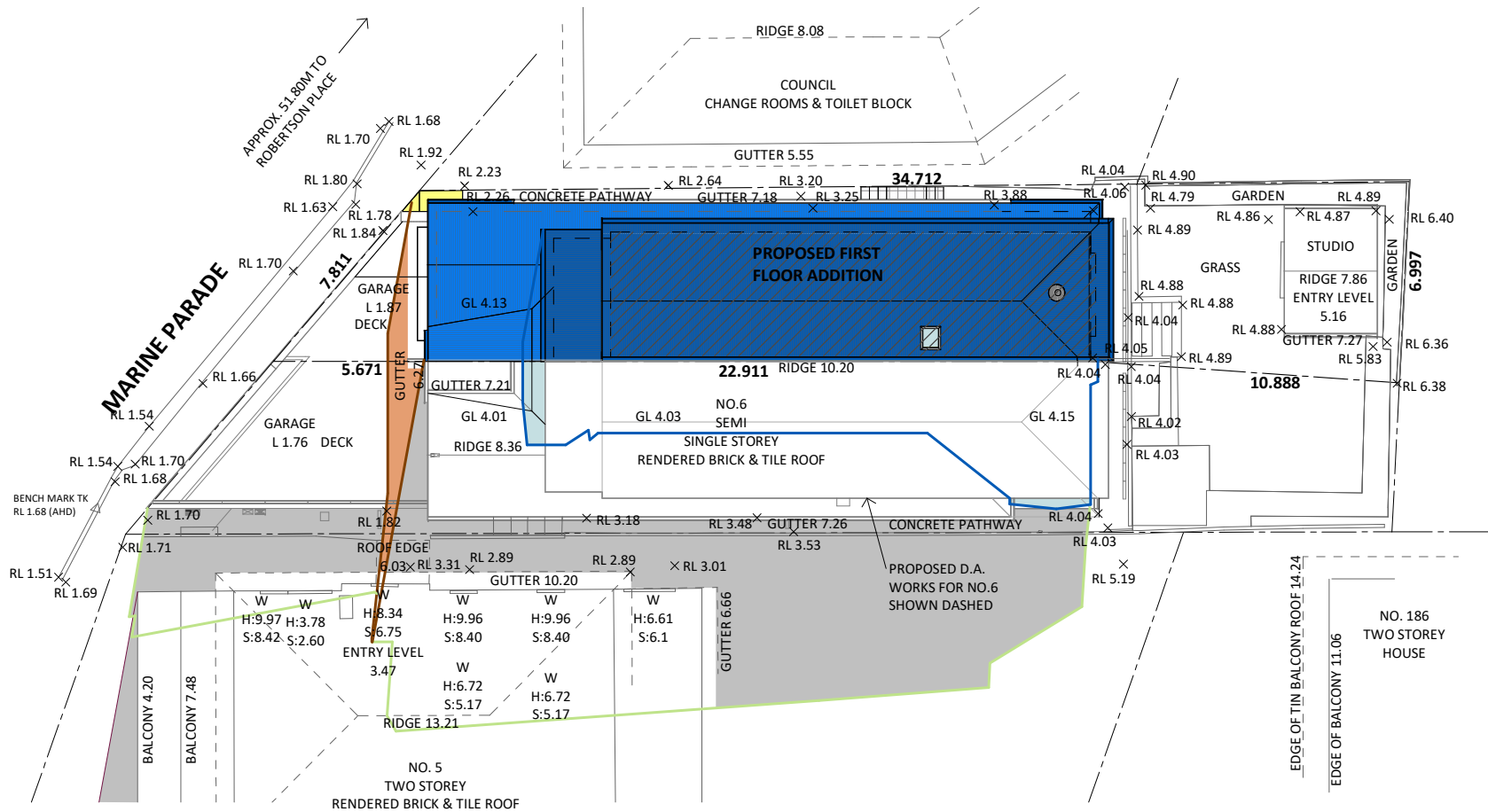
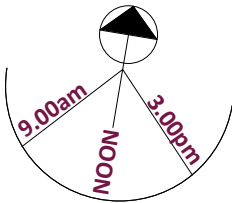
PROPOSED ADDITION FOR:  
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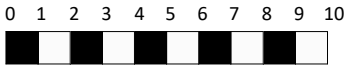
MID WINTER SHADOW DIAGRAM

ON: JUNE 22ND AT 12:00PM  
ALTITUDE: 32 DEG  
BEARING: 00 DEG



EXISTING AND PROPOSED SHADOWS 12PM

NOTE:  
ELEVATIONS NOT REQUIRED. DEVELOPMENT HAS NO IMPACT ON  
NEIGHBOURING PROPERTIES



| LEGEND      |                                |
|-------------|--------------------------------|
| DESCRIPTION |                                |
|             | EXISTING SHADOWS               |
|             | PROPOSED SHADOWS               |
|             | ADJOINING NEIGHBOURING SHADOWS |
|             | NEIGHBOURING SHADOWS           |

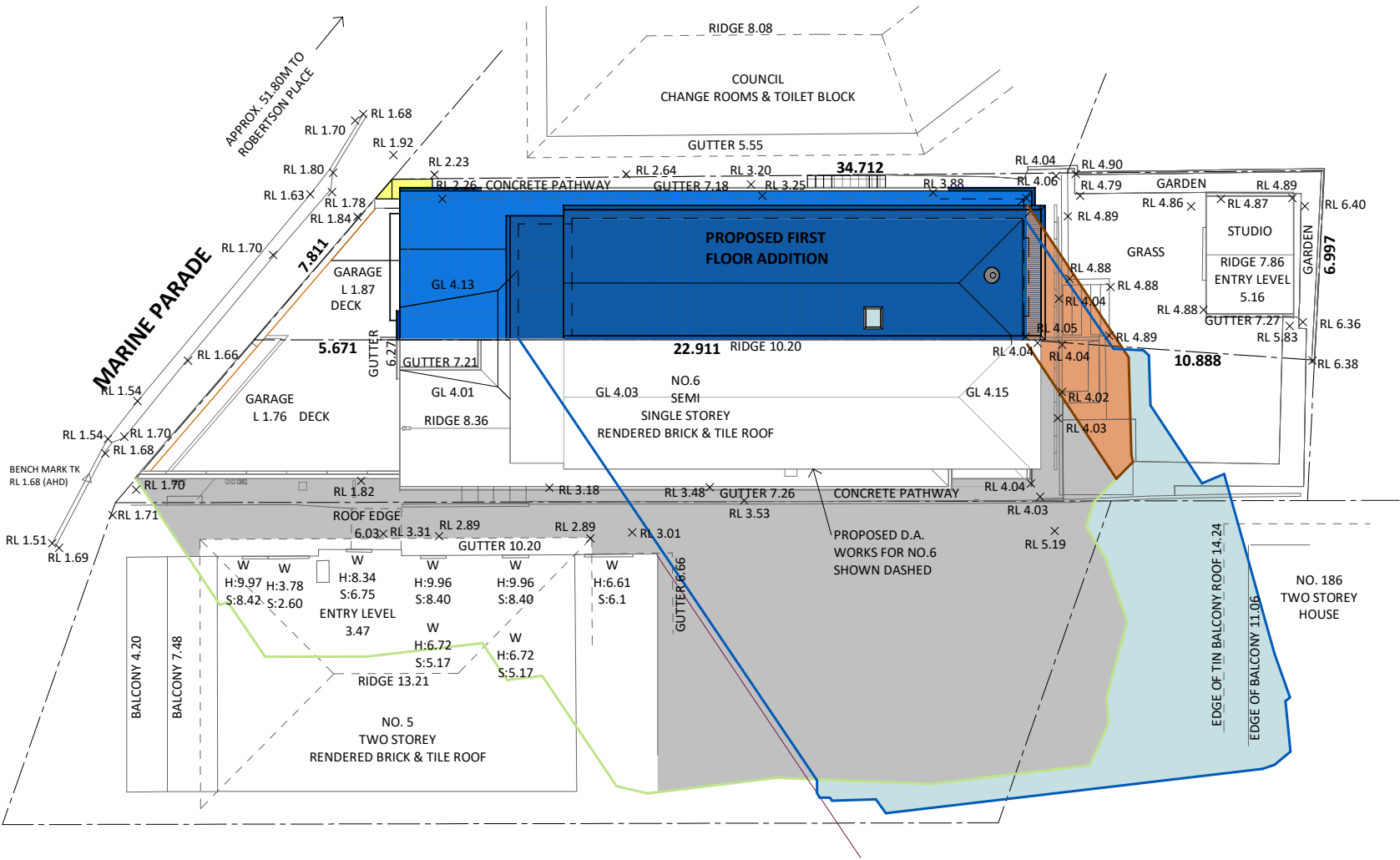
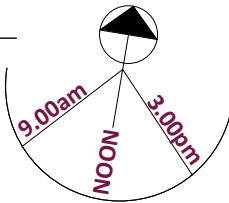
PROPOSED ADDITION FOR:  
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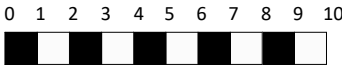
MID WINTER SHADOW DIAGRAM

ON: JUNE 22ND AT 3:00PM  
ALTITUDE: 18 DEG  
BEARING: 43 DEG



EXISTING AND PROPOSED 3PM

NOTE:  
ELEVATIONS NOT REQUIRED. DEVELOPMENT HAS NO IMPACT ON  
NEIGHBOURING PROPERTIES



| LEGEND      |                                |
|-------------|--------------------------------|
| DESCRIPTION |                                |
|             | EXISTING SHADOWS               |
|             | PROPOSED SHADOWS               |
|             | ADJOINING NEIGHBOURING SHADOWS |
|             | NEIGHBOURING SHADOWS           |

PROPOSED ADDITION FOR:  
8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030

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STREETSCAPE

EXISTING  
STREETSCAPE

ADJOINING NEIGHBOUR NO. 8  
PUBLIC AREA

SUBJECT PROPERTY NO. 7

ADJOINING PROPERTY NO. 6  
THE DEVELOPMENT APPLICATION WILL BE LODGED AT THE SAME TIME, AS  
BOTH PROPERTIES HAVE A COMMON OWNER AND WERE DESIGNED  
TOGETHER FOR A HARMONIOUS STREETSCAPE

NEIGHBOURING PROPERTY NO. 5



PROPOSED  
STREETSCAPE



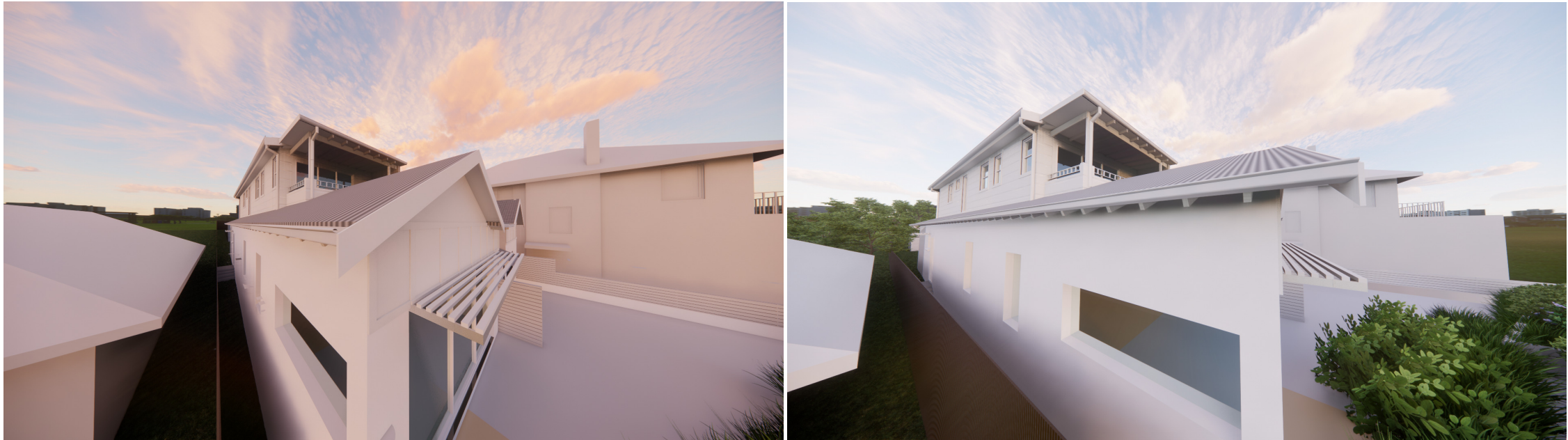
THE PROPOSED ADDITION WAS DESIGNED TO COMPLEMENT THE SCALE, FORM,  
PROPORTIONS, SETBACKS AND MATERIALS IN MIND, SATISFYING COUNCILS DESIGN  
STANDARDS & CONTROLS. THE NATURE OF THE PROPOSED DEVELOPMENT WILL HAVE  
MINIMAL IMPACT ON THE STREETSCAPE OF MARINE PARADE



3D IMAGES - VIEWED FROM MARINE PARADE



FRONT PERSPECTION OF NO.7 SUBJECT PROPERTY, AND ITS AJOINING NEIGHBOUR AT NO. 6.  
THE DEVELOPMENT APPLICATION WILL BE LODGED AT THE SAME TIME, AS BOTH PROPERTIES HAVE  
A COMMON OWNER AND WERE DESIGNED TOGETHER FOR A HARMONIOUS STREETScape



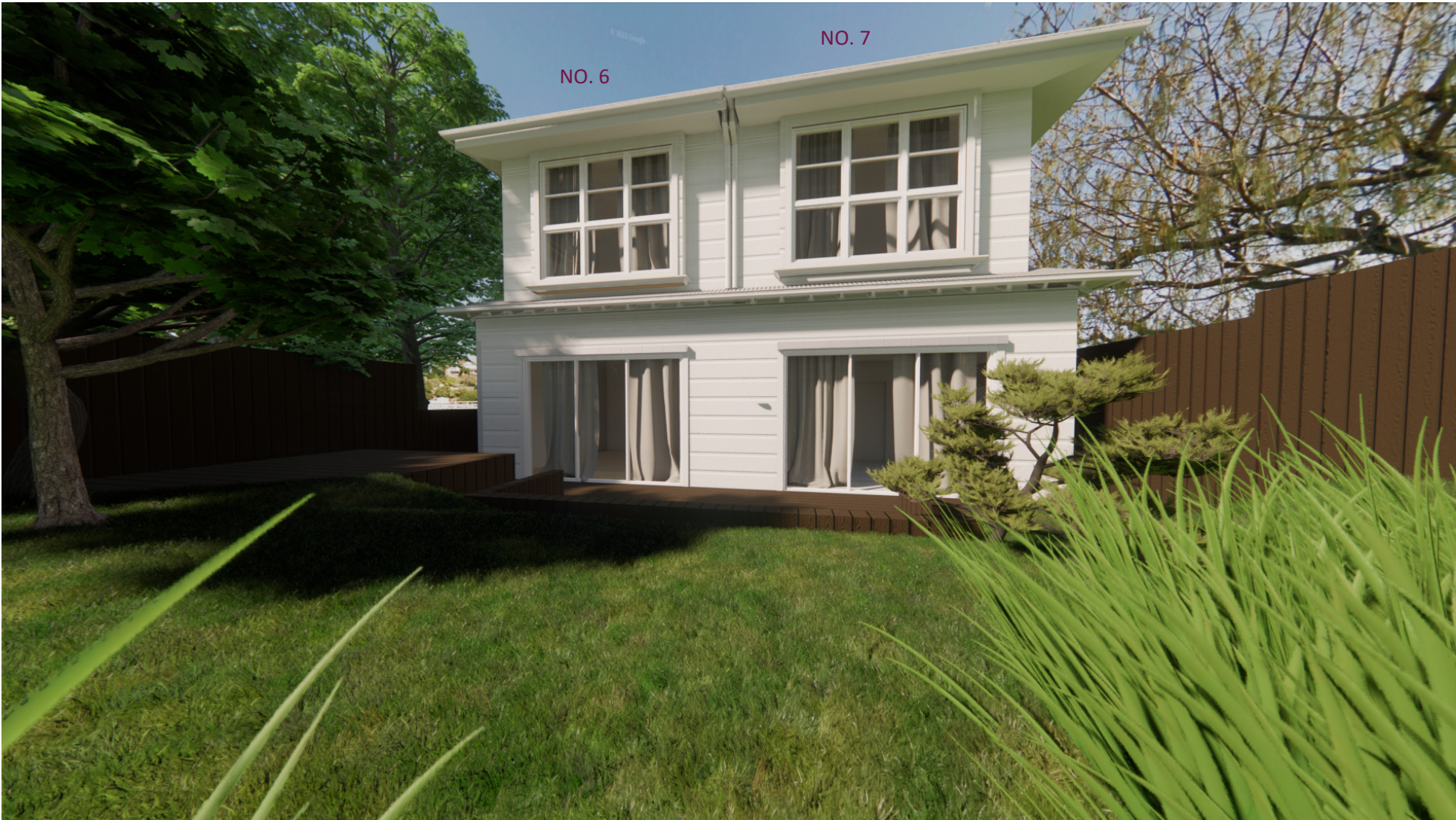
SIDE PERSPECTIVE OF NO. 7 SHOWING ALTERATIONS AND A FIRST FLOOR ADDITION

PROPOSED ADDITION FOR:  
**8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030**

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3D IMAGES



REAR PERSPECTION OF NO.7 SUBJECT PROPERTY, AND ITS AJOINING NEIGHBOUR AT NO. 6  
THE DEVELOPMENT APPLICATION WILL BE LODGED AT THE SAME TIME, AS BOTH PROPERTIES HAVE  
A COMMON OWNER AND WERE DESIGNED TOGETHER FOR A HARMONIOUS MASSING

PROPOSED ADDITION FOR:  
**8226 MS J HILLMAN. 7 MARINE PARADE, WATSONS BAY NSW 2030**

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EXTERNAL FINISHES &  
COLOUR SCHEDULE

**PROPOSED DEVELOPMENT:**

**AT:**

7 Marine Parade  
WATSONS BAY NSW 2030

**FOR:**

Ms J Hillman

**BUILDER:**

Cape Cod Australia Pty Ltd  
PO Box 2002  
North Parramatta NSW 1750

Telephone: 9849 4444  
Facsimile: 9683 2868  
Web: [www.capecod.com.au](http://www.capecod.com.au)

Builders Licence: 5519

|                                       |  |             |
|---------------------------------------|--|-------------|
| ROOF SHEETING:                        | Prefinished Zinalume<br>COLOUR: GULL GREY - ACE                              | <div></div> |
| RAFTER TAILS:                         | 90 x 45mm Treated Pine exposed rafter tails<br>COLOUR: WHITE MARBLE - HAYMES | <div></div> |
| GABLE CLADDING:                       | Polystyrene Wall Cladding<br>COLOUR: WHITE MARBLE - HAYMES                   | <div></div> |
| GABLE BATTENS:                        | DAR Timber<br>COLOUR: WHITE MARBLE - HAYMES                                  | <div></div> |
| WALL CLADDING - HORIZONTAL<br>BOARDS: | Timber Weatherboard<br>COLOUR: WHITE MARBLE - HAYMES                         | <div></div> |
| BRICKWORK:                            | Common Bricks  |             |
| WINDOW FRAMES:                        | Prefinished Aluminium<br>COLOUR: PEARL WHITE - STEGBAR                       | <div></div> |
| INSECT SCREEN:                        | Prefinished Aluminium<br>COLOUR: PEARL WHITE - STEGBAR                       | <div></div> |
| WINDOW ARCHITRAVES:                   | DAR Timber<br>COLOUR: WHITE MARBLE - HAYMES                                  | <div></div> |
| GUTTERS:                              | Prefinished Zinalume<br>COLOUR: GULL GREY - ACE                              | <div></div> |

|                                   |  |
|-----------------------------------|--|
| <b>DOWNPIPES:</b>                 | PVC<br>COLOUR: WHITE MARBLE - HAYMES<br><div></div>  |
| <b>BARGE BOARD:</b>               | DAR Timber<br>COLOUR: WHITE MARBLE - HAYMES<br><div></div>                                   |
| <b>BALUSTRADE:</b>                | Timber<br>COLOUR: WHITE MARBLE - HAYMES<br><div></div>                                       |
| <b>BALCONY POST:</b>              | DAR Timber<br>COLOUR: WHITE MARBLE - HAYMES<br><div></div>                                   |
| <b>BALCONY BEAM:</b>              | DAR Timber<br>COLOUR: WHITE MARBLE - HAYMES<br><div></div>                                   |
| <b>WINDOW SHADE DEVICE FRAME:</b> | Powdercoated colour finished Aluminium frame<br>COLOUR: WHITE MARBLE - HAYMES<br><div></div> |





## 7 Marine Parade, Watsons Bay

### REQUEST FOR VARIATION TO HEIGHT OF BUILDINGS DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF THE WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

This Clause 4.6 variation relates to a proposal for alterations and additions to the existing semi-detached dwelling house at No. 7 Marine Parade, Watsons Bay NSW.

Specifically, the subject application seeks consent for the addition of a new first floor level to the rear of the dwelling on site, a lift and new lower-ground level storage.

The proposal results in a non-compliance with Clause 4.3 of the *Woollahra Local Environmental Plan 2014 (WLEP)* which relates to height of buildings. As such, this Clause 4.6 request has been prepared in accordance with Clause 4.6 of the *WLEP* which applies to the subject site.

The request demonstrates that compliance with the development standard relating to building height is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying clause 4.6(3) of the *WLEP*.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings development standard and the objectives for development within the R2 – Low density residential zone under the *WLEP*, in which the development is proposed to be carried out.

The nature of the exceedance to the development standard relating to height is set out below, followed by consideration of the relevant matters in clause 4.6 of the *WLEP*.

The NSW Department of Planning, Industry and Environment (DPI&E)

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Suite 207 | 59 Great Buckingham Street | Redfern | NSW 2016  
telephone: 02 9360 0989 | [www.a2p.com.au](http://www.a2p.com.au)

provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

### Zoning of the site

The zoning of the land is R2 – Low Density Residential. The objectives of the R2 zone are:

- 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.
- To ensure development conserves and enhances tree canopy cover.

### Clause 4.3 – Building Height

#### The Standard

Clause 4.3 of the WLEP and the associated map prescribe a maximum building height of 8.2 metres for this site.



Figure 1: Extract WLEP Height of Buildings Map HOB\_004 (site = Red)



The proposed additions reach a maximum height of 9.24 metres above existing ground level for the front portion of the site, providing a numeric non-compliance of 1.04m with this control or a percentage variation of 12.68%.

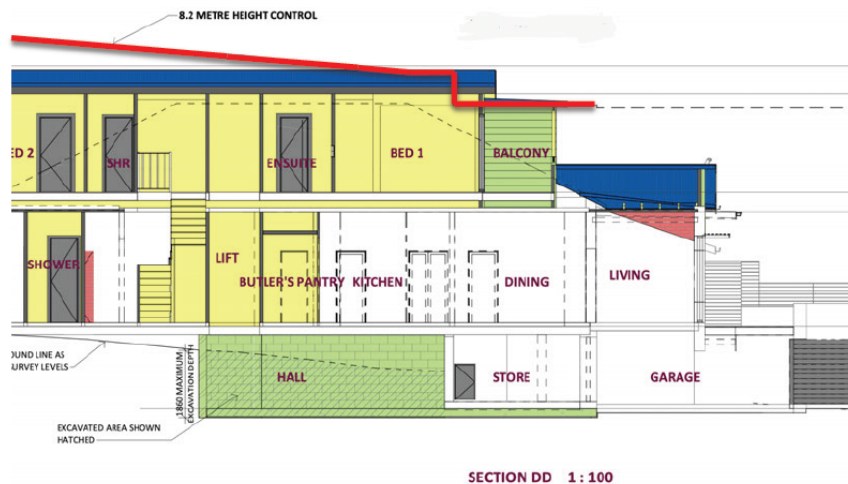


Figure 2: Extract from section showing height non-compliance

#### The objectives of Clause 4.3

The objectives of Clause 4.3 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.

#### Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the WLEP allows for exceptions to Development Standards. The objectives of this Clause 4.6 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by

*allowing flexibility in particular circumstances.*

Clause 4.6 of the WLEP allows for exceptions of Development Standards.  
The objectives of this Clause 4.6 are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

- (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*

Clause 4.6(4) sets out the matters which a consent authority must be satisfied of in order to grant consent to a development that contravenes a development standard:

- (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.*

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the FSR development standard and provides the necessary information for the consent authority to be satisfied of the matters in clause 4.6(4).

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

**1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:**

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways<sup>1</sup>:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that 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; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

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<sup>1</sup> see *Wehbe v Pittwater Council* [2007] NSWLEC 827

These five ways were re-emphasised by the Court<sup>2</sup>. Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance<sup>3</sup>. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with<sup>4</sup>.

Compliance with the objectives of the height standard is addressed under **Point 4 below**.

In addition, the following points are raised:

- The proposed dwelling has been designed to step down the site to follow the topography of the land, with the area varying the control being at the lower part of the site. The proposal is compliant at the highest points of the site.
- The component of the development above the height control is limited to small portion of the pitched roof to the front of the dwelling noting that this area matches the ridge height of the dwelling for the remainder and is compliant based on the existing ground level immediately below.
- The variation arises out of the use of the pitched roof, which is a character element of dwelling houses in the Watsons Bay Heritage Conservation Area. A compliant height could be achieved with a flat roof, however this would ultimately derogate the heritage character of the area and the dwelling (which is contributory to the area) and reduce the amenity of the front bedroom.
- Exceedance of the height control will not create additional unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this height would not create additional benefit for adjoining properties or the locality.
- The proposal has been designed to mirror the development at No. 6 Marine Parade. When viewed by a casual observer on Marine Parade,

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<sup>2</sup> *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

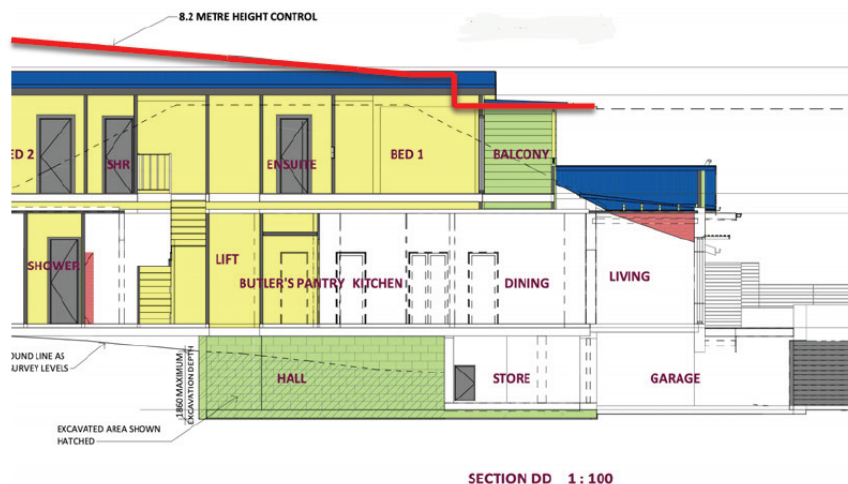
<sup>3</sup> *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

<sup>4</sup> *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

the two dwellings will appear to have matching roof ridge heights, maintaining the integrity of this pair of dwellings.

**2. Clause 4.6(3)(b) - There are sufficient environmental planning grounds to justify contravening the development standard:**

The proposed additions reach a maximum height of 9.24 metres above existing ground level for the front portion of the site, providing a numeric non-compliance of 1.04m with this control or a percentage variation of 12.68%.



**Figure 3: Extract from section showing height non-compliance**

Given the consistency of the proposal against the zone objectives and height objectives (see **Point 4 below regarding both**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard<sup>5</sup>. In addition, the following is noted:

- Overall, the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality.
- The component of the development above the height control is limited to small portion of the pitched roof to the front of the dwelling noting that this area matches the ridge height of the dwelling for the remainder and is compliant based on the existing ground level immediately below. The breach is a consequence of a previously excavated portion of the site, which has created an anomaly in the height plane.

<sup>5</sup> see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]



- Exceedance of the height control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:
  - The proposal will not result in the loss of views from surrounding development or the public domain. Views towards Sydney Harbour and the Harbour Bridge are maintained over and above the property from properties to the rear noting that a reduction in height at the front would not have a benefit in terms of views.
  - The proposal will not result in unreasonable overshadowing of adjoining properties, with majority of shadows cast from the extension falling upon the roofs of properties to the south.
  - The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained; and
  - The proposal will provide a development, which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality.
- The proposed dwelling has been designed to step down the site to follow the topography of the land, with the area varying the control being at the lower part of the site. The proposal is compliant at the highest points of the site.
- The variation arises out of the use of the pitched roof, which is a character element of dwelling houses in the Watsons Bay Heritage Conservation Area. A compliant height could be achieved with a flat roof, however this would ultimately derogate the heritage character and would affect the internal amenity of the front bedroom.
- The height breach relates to the height at the front of No. 7 Marine Parade only and the proposed height at the front of No. 6 Marine Parade, the subject of a separate development application, is compliant. The proposal has been designed to mirror the development at No. 6 Marine Parade. When viewed by a casual observer on Marine Parade, the two dwellings will appear to have matching roof ridge heights, maintaining the integrity of this pair of dwellings.
- The proposal will provide a suitable design and of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act and the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.



**3. Clause 4.6(4)(a)(i) - The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):**

Based on the above, the written request adequately addresses the matters referred to above by Clause 4.6(3).

**4. Clause 4.6(4)(a)(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:**

**Objectives of the Standard**

The proposal will be in the public interest as it meets the objectives of the height development standard as follows:

***Objective (a) to establish building heights that are consistent with the desired future character of the neighbourhood,***

*Comment:*

The court has held that where desired future character is not explicitly defined, it can be determined '*not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard*<sup>6</sup>.' In this regard we note that development that breached the WLEP height of buildings development standard is present in the immediate visual catchment, including at No. 1 Marine Parade (2.35m variation), No. 2 Marine Parade (1.8m variation) and 3 Marine Parade (0.58m variation).

Particular regard should be paid to the development at No. 3 Marine Parade, which has an almost identical variation in that its variation is limited to the top of its roof, stems from the uneven topography of the site and occurs from a choice to maintain a pitched roof form as means to remain in character with surrounding development at the Watsons Bay Heritage Conservation Area.

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<sup>6</sup> Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115

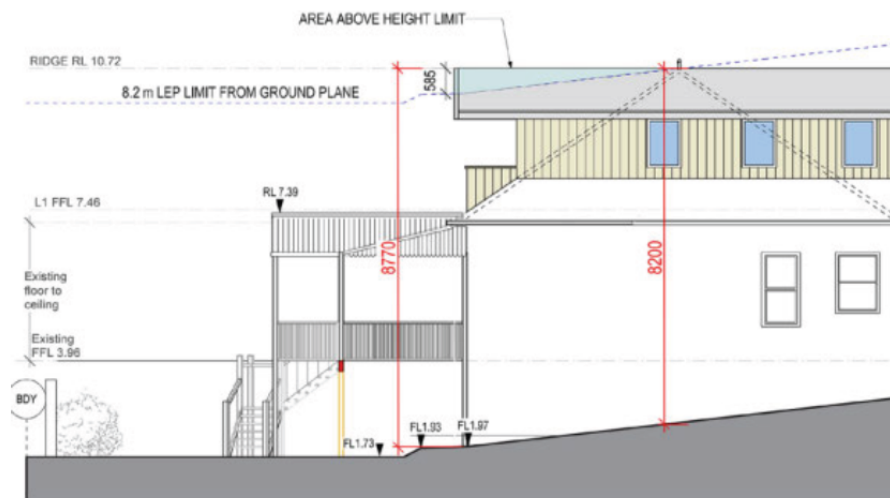


Figure 4: Variation at No. 3 Marine Parade

In accordance with the ruling in *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115, the existence of the above mentioned developments shows that Council considers dwellings with variations to the development standard as consistent with the desired future character of the locality. As such, the proposal must also be considered consistent, especially with regard to the proposal's general alignment with other built form and amenity controls, and its form that exhibits key character elements of the locality including its pitched roof.

***Objective (b) to establish a transition in scale between zones to protect local amenity,***

**Comment:**

The site sits at the interface of areas zoned R2 Low Density Residential and RE1 Public Recreation. In cases such as these *"any development proposal in one zone needs to recognise and take into account the form of existing development and/or development likely to occur in an adjoining different zone."*<sup>7</sup>

Given the adjoining's RE1 zoning and the presence of the Heritage Listed Watsons Bay Tea Rooms and Library on this site, it is unlikely that there will be any substantial redevelopment of the site that will be impacted or constrained by the proposal. The additional height proposed is minor and will have no impacts on the amenity of the tea rooms in terms of overshadowing, overlooking or views.

<sup>7</sup> *Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NSWLEC 117 at [25]

In *Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NSWLEC 117, the court held that the desired future character of neighbouring sites with different zoning can be gleaned from the objectives of an adjoining site's zone<sup>8</sup>. In this regard, the proposal will not have any impacts on the desired future character of adjacent RE1 Zoned areas as:

- The proposal does not compromise the use of adjacent land to be used for public open space or recreation purposes in that it will not overshadow any RE1 spaces, will not block views from the tea rooms towards the harbour and will not lessen the amenity of the tearooms by providing direct sightlines towards its windows or Council changerooms.
- The adjacent land will continue to operate unimpacted as tea rooms and library. No direct sightlines are provided to Council changeroom and toilet block, maintaining the diversity of usable public spaces in Watsons Bay.
- The works do not have any impacts on local vegetation as it currently exists in surrounding RE1 areas.

Accordingly, the proposal does not impact the desired character of adjacent RE1 areas in any way and will have no impacts on the future development of these areas. As such, the transition between these two areas can be said to be appropriate, despite the variation to the height of buildings standard.

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

***Comment:***

Shadow diagrams have been prepared showing the existing and proposed levels of overshadowing caused by development on site for 9am, 12pm and 3pm on the 21 June. As shown in the diagrams, the proposal will marginally increase shadows falling upon Marine parade in morning, avoiding any areas of public open space. At midday new shadows will be contained to the roof of the adjacent dwelling at No. 6 Marine Parade.

In the afternoon there will be some additional overshadowing of the rear yard at No. 5 Marine Parade. However, this property will continue to receive more than 3 hours direct sunlight to the majority this space throughout the day (see extracts of shadow diagrams below). In addition, the shadow plans demonstrate that the difference between a compliant height and that proposed is negligible.

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<sup>8</sup> *Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NSWLEC 117 at [27]

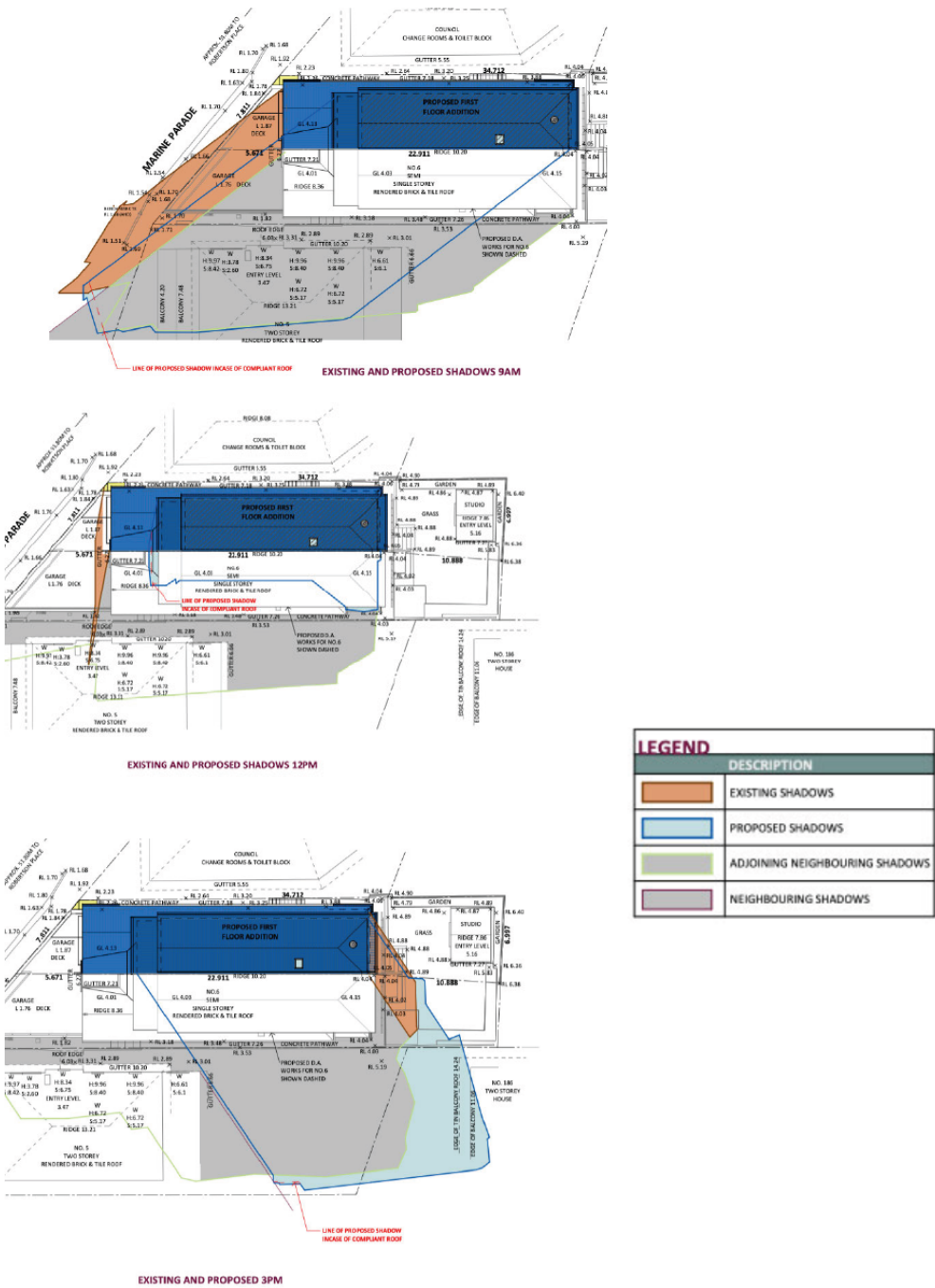


Figure 5: Shadow diagrams (top to bottom: 9am, 12pm, 3pm)

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

*Comment:*

Exceedance of the height control will not create additional unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity.

*Shadows*

In terms of overshadowing, the impacts on nearby properties are minor and all adjacent sites continue to receive a satisfactory area of solar on the 21 June (see response to objective (c) above);

*Visual Privacy*

The height breach will not result in a loss of visual privacy for adjoining properties, given it is limited to the front roof at first floor level and does not include any windows or balconies, with the height line at the gutter of the balcony roof.

*Aural Privacy*

The height breach will not result in a loss of acoustic privacy for adjoining properties, given it is limited to the front roof at first floor level and does not include any windows or balconies, with the height line at the gutter of the balcony roof.

*Views*

Views from properties on Hopetoun Avenue to the east towards Sydney Harbour are maintained at first floor level over and above the dwelling as proposed. Views towards the Harbour are maintained from the first floor windows of No. 188 Hopetoun Avenue (see figure 5), including towards the Harbour Bridge and city skyline as well as to the northwest over the Watsons Bay Tea Rooms.

Whilst views from the ground level of No.188 Hopetoun Avenue will be obstructed, this is as a consequence of the dwelling being below the height standard at the rear, providing a height of 5m at the proposed rear building line. The ridge of the roof at the area varying the standard matches that of the roof at the rear (east) of the dwelling, which is compliant. As such, a reduction in the front roof to comply would not open up the view at ground level. Any two storey development on the site will affect views from ground level.

In addition, the breach relates to the height at the front of No. 7 only and the proposed height at the front of No. 6, the subject of a separate development



application, is compliant.

Accordingly, given the difficulty in protecting ground floor views and the fact that first floor views are maintained, the proposal can be considered reasonable in terms of view impacts.



Figure 6: First floor views from No. 188 Hopetoun Avenue as proposed

#### *Visual Impact*

The proposal has been designed to be of a form commensurate with the character of surrounding development and the Watsons Bay Heritage Conservation Area. Most notably, the proposal pitched roof form which is a key character element of development in the heritage area. It is this pitched roof that leads to the variation. A flat roof could have been proposed which would have been compliant with the height development standard, however, this would be out of step with the character of the area and cause greater visual intrusion.

Furthermore, as mentioned in the response to objective (a), the extended height of the building is compatible with other developments on marine parade, including No. 1, No. 2 and No. 3 and will match the proposed development on No. 6, its adjoining semi-detached dwelling.

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

*Comment:*

The proposal will not impact any views from nearby public spaces towards Sydney Harbour.

**Objectives of the Zone**

The zoning of the property is R2 and the objectives of the zone are:

- *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.*
- *To ensure development conserves and enhances tree canopy cover.*

The proposal is consistent with the zone objectives in the following manner:

- The proposal is for alterations and additions to a low-density dwelling meeting the needs of occupants.
- The proposal will not prejudice the use of any nearby land to provide services to the local community.
- The works do not impact the amenity of any adjacent sites and results in a building that is compatible with the locality.
- As detailed in the response to objective (a) of the height of buildings standard, the proposal is compatible with the desired future character of the area.
- The works do not require the removal of any vegetation.

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the height development standard and the objectives of the R2 zone.

The above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case.

**5. Clause 4.6(4)(b) – the concurrence of the Planning Secretary has been obtained**

Concurrence of the Planning Secretary is taken to have been obtained as a result of written notice dated 5 May 2020 attached to the Planning Circular PS 20-002.

**6. Clause 4.6(5)**

In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

**Conclusion**

The consistency of the development with the zone objectives and the objectives of the height standard together with the absence of adverse impacts arising establish that there are sufficient grounds to support the variation from the development standard and confirm that it is unreasonable and unnecessary for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard.

In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

The proposal is consistent with the objects of Section 1.3 of the EP&A Act, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote good design and amenity of the built environment and to protect the heritage of the built environment.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the height of

buildings development standard and the objectives for development within the R2 – Low Density Residential zone under the WLEP, in which the development is proposed to be carried out.



Jennie Askin  
Director  
[aSquare Planning Pty Ltd](#)

26 October 2023

Completion Date: 14 November 2023

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

**FILE NO:** Development Applications: 247/2023/1  
**ADDRESS:** 7 Marine Parade WATSONS BAY 2030  
**PROPOSAL:** Alterations and additions to an existing semi-detached dwelling including first floor addition.  
**FROM:** W HUYNH  
**TO:** K Qi

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### 1. ISSUES

- None

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, prepared by Cape Cod, dated 07/07/2023.
- Architectural Plans, unreferenced version E, prepared by Cape Cod, dated 10/07/2023.
- Survey, referenced 14901, prepared by Hammond Smeallie & Co, dated 18/12/2020.
- Stormwater Management Plan, unreferenced issue E, prepared by Cape Cod, undated.
- Construction Methodology Report, referenced 93182-R1, prepared by Kneebone & Beretta Consulting, dated 13/10/2023.
- Structural Certificate, referenced 93182-C1, prepared by Kneebone & Beretta Consulting, dated 17/03/2023.

### 3. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

#### a. Site Drainage comments

*This proposal is located within the Council's On-site Stormwater Detention (OSD) exemption area, in which case the installation of OSD system is not required as per Chapter E2.2.4 of the Council's DCP. It is noted from the submitted stormwater management plan that stormwater runoff will be discharged to the street kerb, in which case conditions will be imposed to ensure all below ground structures are fully tanked or appropriately constructed so that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter. The submitted concept stormwater plan is NOT to form part of the approved documents as it was prepared by an architectural designer.*

*Council's Infrastructure and Sustainability 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**

*Council's Drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following conditions:*

**C.54 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) Permanent brass plaques shall be fixed in the garage indicating the current extreme max sea level (2.02m AHD) and the 2100 extreme max sea level (2.87m AHD) the plaques are to include the warning "This area is subject to inundation during storm events and high seas, please avoid this area during these times."*
- b) Flood compatible materials shall be used for all flood exposed construction.*
- c) All flood exposed electrical wiring and equipment shall be waterproofed.*
- d) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.*

**c. Impacts on Council Infrastructure comments**

*The applicant seeks to make minor alterations to the existing parking as part of this application. It is noted from the submitted architectural plans that there are no proposed changes to the existing vehicular crossing. The existing vehicular crossing, layback and gutter is serviceable. There is no requirement for a new vehicular crossing.*

**d. Traffic comments**

*Not relevant*

**e. Vehicle Access & Accommodation comments**

*The proposed parking arrangement is considered satisfactory.*

**f. Geotechnical, Hydrogeological and/or Structural comments**

*It appears from the submitted architectural plans that there is minimal excavation proposed as part of this application. Given that the depth of the proposed excavation does not exceed 2m and is located at a minimum distance of 1.5m from the property boundaries, the submission of a geotechnical report at the DA stage is not required as per Chapter B3.4 of Council's DCP. Relevant conditions will be imposed accordingly.*

**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)    |
|-----------|--------------------------|-------------------------------|------------|
| 93182-R1  | Construction Methodology | Kneebone & Beretta Consulting | 13/03/2023 |

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

**A.31 No Underpinning works**

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

**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 (\$138)                           | \$33,080 | No | T115 |
| Public Road and Footpath Infrastructure Inspection Fee (\$138 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:

- The installation of stormwater outlet pipe across the nature strip must be made 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.  
**Note:** All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP.
- 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
- 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. Advisings* of this Consent titled *Roads Act Application*.  
Standard Condition: C13 (Autotext CC13)

**C.25 Soil and Water Management Plan – Submissions & Approval**

**C.35 Structural Adequacy of Existing Supporting Structures**

**C.36 Professional Engineering Details**

**C.37 Engineer Certification**

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

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

**C.40 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.

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

##### C.51 Stormwater Management Plan

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

- a) The discharge of stormwater from the site, by direct connection to the street kerb. The kerb discharge must be located within the frontage of the site. Only one stormwater outlet will be permitted. A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3,
- b) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT 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,
- c) The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required,
- d) Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans,
- e) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system,
- f) Detail any remedial works required to upgrade the existing stormwater drainage system,
- g) Dimensions of all drainage pit and access grates must comply with AS3500 and Council's DCP,
- h) Compliance with the objectives and performance requirements of the BCA, and
- i) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

#### **Layout plan**

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

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

For the 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.54 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) Permanent brass plaques shall be fixed in the garage indicating the current extreme max sea level (2.02m AHD) and the 2100 extreme max sea level (2.87m AHD) the plaques are to include the warning "This area is subject to inundation during storm events and high seas, please avoid this area during these times."
- b) Flood compatible materials shall be used for all flood exposed construction.
- c) All flood exposed electrical wiring and equipment shall be waterproofed.
- d) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

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.  
Standard Condition C.54 (autotext CC54)

#### 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 must include (but is not limited to):

No. 6 Marine Parade  
No. 8 Marine Parade

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

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



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

- To provide a record of the condition of buildings prior to development being carried out
  - To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
- Also refer to the Dilapidation Report Advising for more information regarding this condition  
Standard Condition: D4 (Autotext DD4)

**D.6 Adjoining buildings founded on loose foundation materials**

**D.7 Piezometers for the Monitoring of Ground Water Levels**

The Principal Contractor must provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).  
Standard Condition: D7 (Autotext DD7)

**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 Public Footpaths – Safety, Access and Maintenance**

**E.11 Maintenance of Environmental Controls**

**E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program**

**E.13 Support of Adjoining Land and Buildings**

**E.14 Vibration Monitoring**

**E.15 Erosion and Sediment Controls – Maintenance**

**E.17 Disposal of Site Water during Construction**

**E.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum**

**E.33 Shoring and Adequacy of Adjoining Property**

**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.13 Road Works (including footpaths)**

**H.20 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) that all below ground structures are fully tanked and subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- c) that only one stormwater outlet pipe to kerb has been constructed within the frontage of the site,
- d) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- e) pipe invert levels and surface levels to Australian Height Datum, and
- f) 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:** 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**

**Nil**

**J. Miscellaneous Conditions**

**Nil**

**K. Advisings**

**K.23 Dilapidation Report**

**K.24 Roads Act Application**

## Memorandum - Drainage

Date 25/07/2023  
File No. Development Applications: DA2023-247-1  
To Mr Robert Lam  
CC  
From Michael Casteleyn  
Address 7 Marine Parade WATSONS BAY

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I refer to the following documents received for this report:

23/129252 Plan - Architectural Plans - DA2023-247-1 - 7 Marine Parade WATSONS BAY

### RECOMMENDATION

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

#### C.54 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. Permanent brass plaques shall be fixed in the garage indicating the current extreme max sea level (2.02m AHD) and the 2100 extreme max sea level (2.87m AHD) the plaques are is to include the warning "This area is subject to inundation during storm events and high seas, please avoid this area during these times."
- b. Flood compatible materials shall be used for all flood exposed construction.
- c. All flood exposed electrical wiring and equipment shall be waterproofed.
- d. All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

11 September 2023

## REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** Development Applications: 247/2023/1  
**ADDRESS:** 7 Marine Parade WATSONS BAY 2030  
**PROPOSAL:** Alterations and additions to an existing semi-detached dwelling including first floor addition.  
**FROM:** Simone Woodman - Tree Management Officer  
**TO:** K Qi

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### I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by , dated **OR** received by Council on
- Survey Plan No. Sheet 1/B, drafted by Hammond Smeallie & Co Pty Ltd, dated 05/04/2023
- Architectural Drawing No.s 2/E – 12/E, drawn by Cape Cod, dated 10/07/2023
- Landscape Plan No. Page 1/E, designed by Cape Cod, dated – not dated


A site inspection was carried out on 11 September 2023.

### Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- 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

### COMMENTS

The proposed development has no impact on prescribed trees. Accordingly no tree protection measures are recommended from Council's Open Space Tree Section.



Simone Woodman  
**Tree Management Officer**



Woollahra  
Municipal  
Council

6<sup>th</sup> October 2023

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications: 247/2023/1

**ADDRESS:** 7 Marine Parade WATSONS BAY 2030

**PROPOSAL:** Alterations and additions to an existing semi-detached cottage including first floor addition.

**FROM:** Sagar Chauhan - Heritage Officer

**TO:** K Qi

### DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Cape Cod, dated 10/07/2023, and numbered
- Heritage Impact Statement by TP Consulting Sydney, dated June 2023
- Statement of Environmental Effects by Cape Cod, dated 07/07/2023
- Survey plan by Hammond Smeallie & Co Pty Ltd, dated 18/12/2020

### SITE INSPECTION / RESEARCH

The review of the following documents and photographic evidence was undertaken in the preparation of this assessment:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

### STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- National Parks & Wildlife Act 1974
- Woollahra LEP 2014
- Woollahra DCP 2015

### ASSESSMENT OF HERITAGE IMPACT

**Compliance with the relevant legislative framework and planning controls**

### SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

The subject site is not a heritage item, but is within Watsons Bay Heritage Conservation Area which is listed as an item of local cultural significance under Woollahra LEP 2014.

Located west of Marine Parade, the narrow lot comprises a semi-detached rendered brick and rusticated stone single storey cottage. The cottage forms a pair with 6 Marine Pde, both surmounted by a single hipped timber roof finished in terracotta tiles. The subject cottage features a single storey flat-roofed east extension opening onto a raised terrace over garage. The fibro-cement extension to the rear features a metal roof.

Attachment to report 2443657 (Title Heritage Referral Response).DOCX



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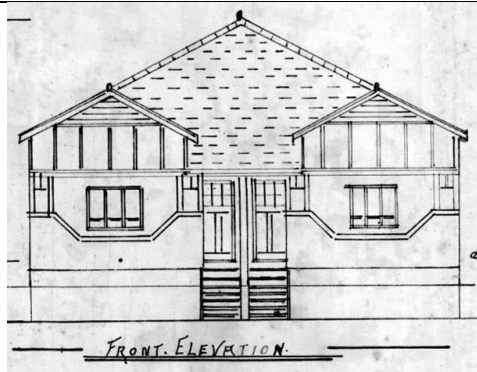


Figure 1. Original front elevation submitted with BA1921/9093.

The site has been the subject of numerous building and development applications – BA1921/9093, BA1962/972, BA1963/81, BA1966/81, BA1967/488, and BA1989/440. Under BA1921/9093, the cottage was constructed as a pair with 6 marine Pde in a Federation Arts & Crafts style, each with four rooms and a front and back verandah to design by architect S. Parkin. (Figures 1, 2 and 3) The two lots were subdivided under subdivision certificate no. 1962/724. It is noted in the documentation included in the property file of BA1962/972, application for certificate of compliance, that the cottages had had alterations and additions, contrary to the approval in 1921.

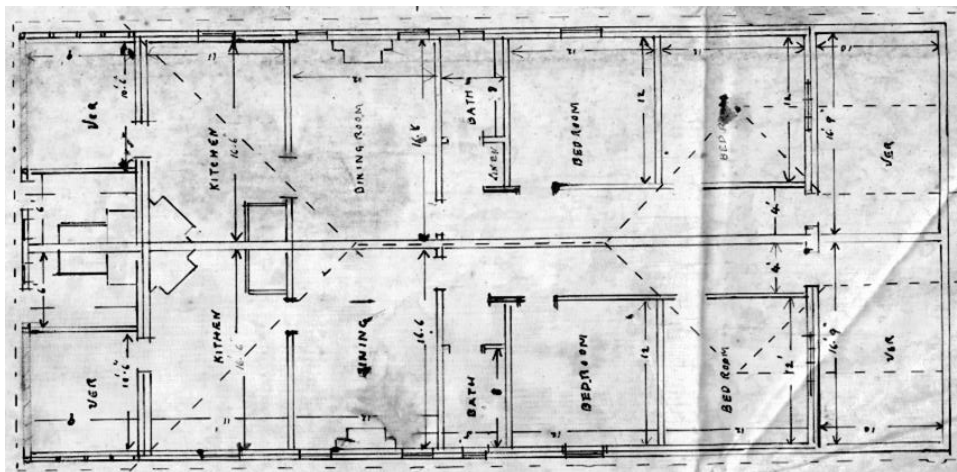


Figure 2. Original site plan submitted with BA1921/9093.

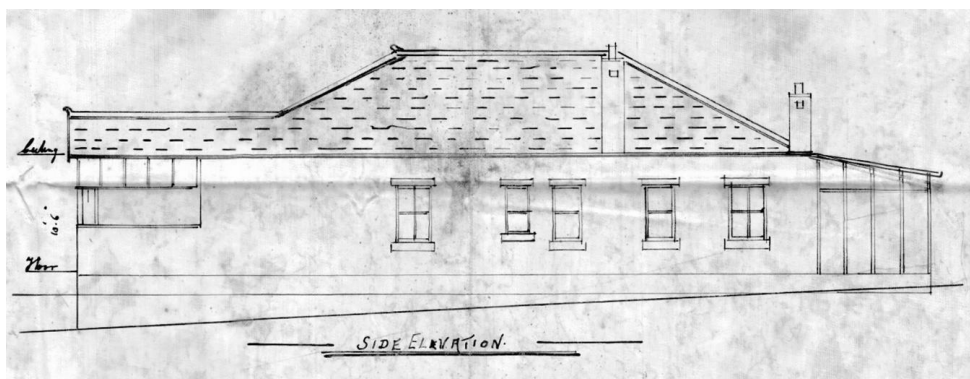


Figure 3. Original side elevation submitted with BA1921/9093.

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By 1962, the front and rear verandahs had been enclosed without approval. Fibro cement additions were constructed to the former verandah to be used as a kitchen, combined with dining as one room. Under BA1963/29, an approval was granted for the erection of a brick side wall to the rear yard. Under BA1966/81, approval was first granted to construct a double carport with brick walls and concrete terrace above with a concrete fence wall to the front. The approval was modified to the present configuration under BA1967/488. The front gable was demolished and replaced in part by a timber framed sunroom / study with a flat metal roof and glazed aluminium doors and windows. The existing stone fence wall to the southern boundary with 6 Marine Parade was retained. A new window opening was introduced to the north wall to the front bedroom adjoining the sunroom. Under BA1989/440, approval was granted for installing an air-conditioning system.

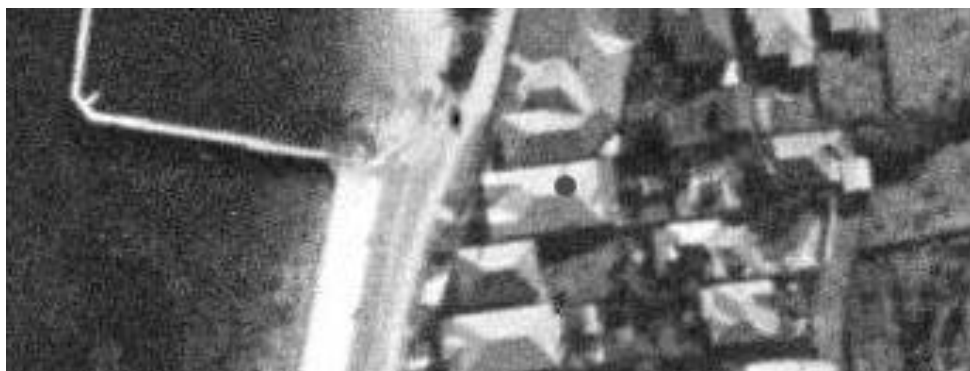


Figure 4. An aerial view of the site in 1943 showing the gable front, shown dotted. (Source: NSW Government Historical Imagery)



Figure 5. The subject site in 1982. (Source: 1982 National Trust Field Survey, *Watsons Bay Field Survey 1982*, 7 Marine Parade, *Watsons Bay*, 1982, photograph, Woollahra Libraries)

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Figure 6. The subject site in 2002. (Source: realestate.com.au)

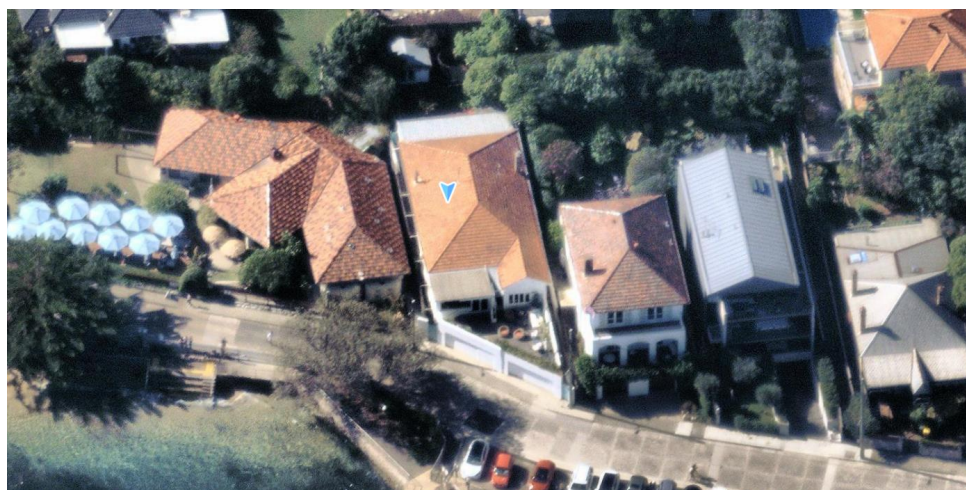


Figure 7. An aerial view of the site in 2023, indicated by blue arrow. (Source: Nearmaps)

The defining features of the Federation style such as chimneys, verandahs, windows and other detailing have been lost. Internally, original walls have been removed to create larger rooms, and bathroom and kitchen have been renovated. Due to unsympathetic alterations and additions, the legibility of the cottage as a pair has been largely lost. The cottage could be considered as mildly contributory to the character of the conservation area in that it does not detract from the neighbouring contributory items.

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National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. Relevant conditions of consent to manage Aboriginal cultural heritage will be provided in response to the updated DA.

Woollahra LEP 2014

*Clause 1.2 Aims of Plan*

*Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage*

The subject site is not a heritage item in Woollahra LEP 2014 and is within Watsons Bay heritage conservation area. The proposal would adversely impact the character of the HCA. This is further addressed below.

*Clause 5.10 Heritage Conservation*

The proposal would adversely impact the character of the conservation area. This is further addressed below.

*Significance of items in the vicinity*

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

Woollahra DCP 2015

The site is within Precinct J: Gibsons Beach Waterfront and Marine Parade South Precinct of Woollahra DCP 2015 Part C Chapter C3, and is identified as a contributory item to the HCA, defined as “single storey semi -detached cottage.”

**PART C – HERITAGE CONSERVATION AREAS – C3 WATSONS BAY HCA DCP**

**SECTION C3.2 UNDERSTANDING THE CONTEXT**

Clause C3.2.5 Management policy

Objectives: O1, O2, O3, O4, O5, O6

- The proposal would adversely impact the heritage significance of Watsons Bay HCA. (O1) (O2) (O3) (O4) (O5)
- The part demolition of the hipped roof and replacement of tiles with corrugated roof is supported. (O1) (O2) (O3) (O4) (O5)
- The flat roofed extension to the front and garage with terrace above have adversely impacted the character of the contributory item, and significantly diminished its legibility as a pair. These modifications have partly obscured the views to the hipped roof from the public domain, in addition to obscuring the rusticated stone base to the earlier verandah. The earlier front gable formed part of the entry sequence which included the stone steps leading to the open verandah with a perimeter fence above a stone base. The partial reinstatement of front gable to match 6 Marine Pde, albeit with uncomplimentary materials such as polystyrene wall cladding, without reinstatement of the original entry sequence is not considered to be the best heritage outcome. (O1) (O2) (O3) (O4) (O5)
- The proposed upper level addition is substantially setback and features a traditional pitched/hipped roof form, and would not detract from the character of the conservation area. However, the addition features traditional detailing and elements such as a gable with timber barge boards and timber weatherboards; and balcony

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with timber posts, lining boards and balustrades, which would collectively diminish the distinction between the new and old elements. (O1) (O2) (O3) (O4) (O5)

- The proposal would result in a muddled and misleading understanding of the site by presenting the highly modified cottages as a traditional pair, an understanding that has been largely lost and cannot be adequately reinstated without reinstatement of the original form. (O1) (O2) (O3) (O4) (O5)
- The proposal is contrary to Article 22 of the Australia ICOMOS Burra Charter 2003:

*22.1 New work such as additions or other changes to the place may be acceptable where it respects and does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation. New work should respect the significance of a place through consideration of its siting, bulk, form, scale, character, colour, texture and material. Imitation should generally be avoided.*

*22.2 New work should be readily identifiable as such, but must respect and have minimal impact on the cultural significance of the place.*

The management policy under Clause C3.2.5 states that “Development shall be assessed having regard to the principles contained in the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter).”

There is an opportunity to design additions that provide a clear distinction between new and old, are sympathetic to the conservation area and are consistent with the conservation approach of Burra Charter. (O1) (O2) (O3) (O4) (O5)

### **SECTION C3.3 OBJECTIVES FOR DEVELOPMENT**

#### **Clause C3.3.2 Townscape**

Objectives: O1, O3, O5

- The reconstruction of front gable to match 6 Marine Pde would have a neutral impact on the townscape, but is not supported due to the reasons outlined above. (O1) (O3) (O5)
- The removal of sliding door to garage is supported. (O3)
- The new upper level addition, although complementary to the townscape, is not supported due to the reasons outlined above. (O1) (O3) (O5)

#### **Clause C3.3.5 Built form**

Objectives: O1, O2, O3

- Based on the above discussion, the proposed works would result in a muddled understanding of the site. (O1) (O2) (O3)

#### **3.3.5.2 Building siting and alignment**

Objectives: O1, O2, O3

- The proposed alterations and additions conform to the predominant setbacks in the vicinity, and is sympathetic to the streetscape in terms of alignment and orientation. However, the works would result in a muddled understanding of the site, and are not supported. (O1) (O2) (O3)

#### **Clause C3.3.5.3 Building height**

Objectives: O1, O2, O3

- The proposed alterations and additions would not visually dominate the streetscape, and would maintain visual consistency of the streetscape. It would not visually dominate contributory items in the street. However, the works would result in a muddled understanding of the site, and are not supported. (O1) (O2) (O3)

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**Clause C3.3.5.4 Building form**

Objectives: O1, O2, O3

- The proposed upper level addition features a pitched/hipped roof and would not adversely impact the village character of the area. It would maintain the visual consistency of building forms and the character of the roofscapes of Watsons Bay, particularly when viewed from the harbour. However, it would adversely impact the character of the existing cottage, and is not supported. (O2) (O3)

**Clause 3.3.5.5 Building character**

Objectives: O1, O2, O3

- The proposed upper level addition would be harmonious with neighbouring contributory items and respond to the character and style of adjacent and surrounding contributory items. However, the application of traditional forms in traditional detailing such as bargeboards, timber posts to balcony would adversely compete with the reconstructed gable, and diminish the distinction between new and old. Objective O3 promotes sympathetic contemporary design that responds to the historic character of the area, and the proposed design does not comply with this control. (O1) (O2) (O3)

**Clause 3.3.5.6 Building materials and details**

Objectives: O1

- As discussed above, the proposed materials are not supported. The use of polystyrene wall cladding in the reconstruction of the gable is not supported. (O1)

**SECTION C3.4 PRECINCTS**

Clause C3.4.14 Precinct O: Gibsons Beach Waterfront and Marine Parade South

Controls: C5, C10, C11, C15, C17, C20, C21

- The upper level addition features a traditional form consistent in the conservation area and would not stand out in a marked contrast to the contributory items in the area. However, the use of traditional forms with traditional detailing would result in diminished distinction between new and old elements. (C5) (C10) (C11) (C15) (C17) (C20) (C21)

**SECTION C3.5 GENERAL CONTROLS FOR ALL DEVELOPMENT**

Clause C3.5.2 Townscape

Controls: C2, C8

- As discussed above, the proposal would result in a muddled understanding of the site, and is not supported. (C2) (C8)

Clause C3.5.5 Built form

Controls: C4, C23, C24, C26, C32, C33, C34, C35, C36, C42, C43, C44, C46, C47, C48

- As discussed above, the proposal would result in a muddled understanding of the site, and is not supported. (C12) (C13) (C14) (C15) (C18) (C23) (C24) (C26) (C32) (C33) (C34) (C35) (C36) (C44)
- As discussed above, the proposed materials are not supported. (C42) (C43) (C45) (C46) (C47)

**SECTION C3.6 CONTRIBUTORY ITEMS: ADDITIONAL BUILT FORM CONTROLS**

The subject site is identified as a contributory item in the DCP, however based on the assessment in this assessment the item is considered only mildly contributory to Watsons Bay HCA. The controls in this section are therefore not wholly relevant.



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## CONCLUSION

### National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage Aboriginal heritage will be provided below.

### Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does not conserve the built heritage of Woollahra.

### Part 5.10

- Clause 1(a) The development does not conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be adverse.
- Clause 4 This referral constitutes an assessment under this clause.

## RECOMMENDATION

The proposal is unacceptable and is to be updated based on the following consideration:

1. The proposal contravenes Woollahra DCP 2015 Part C Chapter C3 Clause C3.2.5 'Management Policy' which states that "Development shall be assessed having regard to the principles contained in the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter)." Based on the assessment included in points 2 and 3 below, the proposal is considered inconsistent with Article 22 of the Australia ICOMOS Burra Charter 2003:

*22.1 New work such as additions or other changes to the place may be acceptable where it respects and does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation. New work should respect the significance of a place through consideration of its siting, bulk, form, scale, character, colour, texture and material. Imitation should generally be avoided.*

*22.2 New work should be readily identifiable as such, but must respect and have minimal impact on the cultural significance of the place.*

2. The lost front gable supported by slender timber columns, formed part of the entry sequence which included the stone steps leading from the entry court to the open verandah that had a balustrade above a stone base. The flat roofed extension to the front and garage have either removed or obscured these defining features of the Federation Arts & Crafts architectural style. In addition, the infilling of original rear verandah and extension have significantly diminished the original architectural style. As a consequence of these modifications, the legibility of the cottage as a pair with 6 Marine Pde has been significantly diminished and is only partly conveyed by the single hipped tiled roof. The impact of partial reinstatement of front gable to match 6 Marine Pde, albeit with uncomplimentary materials such as polystyrene wall cladding, without reinstatement of the original entry sequence would not result in a better understanding of the original form or style. This is contrary to the conservation principles of the Burra Charter.
3. The proposed upper level addition features traditional detailing and elements such as a gable with timber barge boards and timber weatherboards; and balcony with timber posts, lining boards and balustrades, which would collectively diminish distinction between new and old elements. The proposal would result in a muddled and misleading understanding of the site by presenting the highly modified cottages as a two-storey traditional pair. This is contrary to the conservation principles of the Burra Charter.

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4. The HIS places undue emphasis on the alterations and additions to other contributory and non-contributory items in the vicinity. It does not place an equal emphasis on presenting a clear understanding of the historical development of the site, its cultural significance, contribution to the conservation area and appropriateness of proposed alterations and additions. In addition to these, the issues outlined in points 1, 2 and 3 above are to be adequately addressed in an updated HIS. Any updated of the HIS is to be prepared in accordance with Woollahra DA Guide Attachment 2 and be consistent with the conservation principles of the Australia ICOMOS Burra Charter 2003.
5. Considering the limited contributory value of the cottages – 6 and 7 Marine Pde, to the conservation area, there is an opportunity to design contemporary alterations and additions that provide a clear distinction between new and old, are consistent with the conservation approach of the charter, and are sympathetic to the conservation area. Any redesign is to be prepared in compliance with Woollahra DCP 2015 Part C Chapter C3.

Sagar Chauhan  
17<sup>th</sup> October 2023

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## LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                        |  |
|------------------------|--|
| <b>ITEM No.</b>        | D2   |
| <b>FILE No.</b>        | DA325/2023/1                               |
| <b>ADDRESS</b>         | 7 Cranbrook Road BELLEVUE HILL             |
| <b>COUNCIL WARD</b>    | Bellevue Hill                              |
| <b>SITE AREA</b>       | 1758m <sup>2</sup>                         |
| <b>ZONING</b>          | R2 Low Density Residential                 |
| <b>PROPOSAL</b>        | Alterations and additions                  |
| <b>TYPE OF CONSENT</b> | Local development                          |
| <b>COST OF WORKS</b>   | \$702,900.00                               |
| <b>DATE LODGED</b>     | 08/09/2023                                 |
|                        | <b>14/12/2023 – Revised Landscape Plan</b> |
| <b>APPLICANT</b>       | interlock construction australia Pty Ltd   |
| <b>OWNER</b>           | Mr R F H & Mrs K B Berryman                |
| <b>AUTHOR</b>          | Ms L Williams                              |
| <b>TEAM LEADER</b>     | Mr G Fotis                                 |
| <b>SUBMISSIONS</b>     | Nil  |
| <b>RECOMMENDATION</b>  | Conditional Approval                       |

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

The application is to be determined by the Woollahra Local Planning Panel (LPP) as it falls under the category of:

- Departure from development standards
  - (a) Development that contravenes a development standard imposed by an environmental planning instrument 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 of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

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

### 3. LOCALITY PLAN



### 4. PROPOSAL

**As amended on 14/12/2023**, the proposal involves alterations and additions to the existing dwelling, particularly the following works:

#### Ground Floor Level

- Demolition of the northern portion of the existing building and the construction of a new open plan kitchen, walk in pantry and informal dining area.
- Replacement of windows to library/rumpus and formal dining room
- Replacement of external door to the formal living room

#### First Floor Level

- Demolition of the existing northern portion and the construction of a new master bedroom, walk in wardrobe, ensuite and external terrace
- Alterations to the existing bathroom
- Replacement of windows to Bedroom 2
- Parapet walls to be replaced with railings on existing terraces
- Internal stair access to the Second Floor Level

#### Second Floor Level

- Construction of a new lounge/nursery space, a new bathroom and external terrace

#### Garage/Studio

- Minor extension of existing garage
- New studio space above extended garage

## Externals

- Removal of existing paving to pool surrounds and replacement with new decking
- New cabana structure to pool area
- New pool fencing
- Other ancillary landscaping works

## 5. ISSUES

Nil.

### 5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

| Clause   | Development Standard | Departure from Control                         | Conclusion          |
|----------|----------------------|--|---------------------|
| Part 4.3 | Height of Buildings  | 1.45m or 15.3% departure from the 9.5m control | <i>Satisfactory</i> |

## PROPERTY DETAILS AND REFERRALS

## 6. SITE AND LOCALITY

|   |
|---|
| <b>Physical features</b>  |
| The subject site is an irregularly shaped battle-axe lot which may be accessed via both Cranbrook Lane (to the south-west) and a common access driveway shared with 7A Cranbrook Road (to the east). The site has a total area of 1758m <sup>2</sup> , inclusive of the access handle to Cranbrook Lane.  |
| <b>Topography</b>   |
| The site exhibits a fall of approximately 17m in a north-easterly direction between the south-western Cranbrook Lane entrance and the north-eastern boundary.   |
| <b>Existing buildings and structures</b>  |
| The subject site is occupied by a three-storey dwelling house, as well as a single garage structure accessed via Cranbrook Lane and a double garage structure to the southern-most edge of the site. The site also includes an in-ground swimming pool to the north-eastern corner of the site.   |
| <b>Surrounding Environment</b>  |
| The subject site is located within the <i>Bellevue Hill North Residential Precinct</i> , as referenced within Chapter B1 of the Woollahra Development Control Plan 2015.  |
| The surrounding area is characterised as largely residential, with a mixture of both R2 Low Density and R3 Medium Density zoning, comprising of both dwelling houses and residential flat buildings.  |
| <ul style="list-style-type: none"> <li>• <b>To the north of the site</b> is a residential flat building located at 591 New South Head Road.</li> <li>• <b>To the east of the site</b> is a dwelling house at 7A Cranbrook Road, with which the subject property shares an access driveway.</li> <li>• <b>To the west of the site</b> is a dwelling house at 1A Cranbrook Lane.</li> <li>• <b>To the south of the site</b> is a dwelling house at 7 Cranbrook Lane.</li> </ul> |





*Figure 1: Oblique aerial view of the subject site as viewed from a north-eastern aspect (Nearmap)*



*Figure 2: Common access driveway shared with 7A Cranbrook Road (Applicant provided)*





Figure 3: Southern elevation of the existing dwelling (Applicant provided)

## 7. RELEVANT PROPERTY HISTORY

|  |
|--|
| <b>Current use</b>   |
| Dwelling House   |
| <b>Relevant Application History</b>  |
| Nil.   |
| <b>Relevant Compliance History</b>   |
| Nil.   |
| <b>Pre-DA</b>  |
| Nil.   |
| <b>Requests for Additional Information and Replacement Applications</b>  |
| <p>On <b>22 September 2023</b>, a Stop the Clock (STC) letter was issued to the Applicant, requesting the following information:</p> <ul style="list-style-type: none"> <li>• Further details on the proposed vehicular access and parking arrangement</li> <li>• <u>Landscape Plan</u> including an assessment of the existing and proposed tree canopy cover and the required percentage of tree canopy cover and deep soil area relevant to the subject site.</li> <li>• <u>Demolition Report</u> including original/early floor plans of the subject property; comparative analysis of similar style houses or other houses by the same Architect, as well as a full heritage assessment in accordance with the NSW Heritage Officer guidelines.</li> </ul> <p>On <b>26 September 2023</b>, a satisfactory referral response from Council's Drainage Engineer was received.</p> <p>On <b>26 September 2023</b>, the Applicant requested further clarification on the request for a Demolition Report in addition to the already submitted Heritage Impact Statement.</p> <p>Following consultation with Council's Heritage Officer, correspondence was provided to the Applicant in which it was confirmed that the existing Heritage Impact Statement could be updated to include aspects of a Demolition Plan including the comparative analysis, fabric analysis, demolition plan and photographic recording.</p> |



|   |
|---|
| <p>On <b>24 October 2023</b>, the Applicant provided the following information in response:</p> <ul style="list-style-type: none"> <li>Revised Architectural Drawings with parking arrangement details and landscaping requirements.</li> <li>Revised Heritage Impact Statement with comparative analysis, fabric analysis, demolition plan and photographic recording (John Oultram Heritage &amp; Design, dated October 2023)</li> </ul> <p><u>On <b>20 November 2023</b>, an unsatisfactory referral response from Council's Tree and Landscape Officer was received.</u></p> <p><u>On <b>27 November 2023</b>, a satisfactory referral response from Council's Development Engineer was received.</u></p> <p>On <b>4 December 2023</b>, the following additional information was requested on behalf of Council's Tree and Landscape Officer:</p> <ul style="list-style-type: none"> <li><i>The Landscape Plans must include an accurate calculation of canopy cover within the site which addresses the requirements of the DCP. Specifically, 35% shall be provided and the calculation shall reference Figure 20 in Chapter B3.7 the WMC DCP</i></li> <li><i>The design shall ensure at least half of the trees within the site will have a minimum mature height and canopy spread of eight (8) metres.</i></li> <li><i>Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development."</i></li> </ul> <p>On <b>14 December 2023</b>, the following information was provided by the Applicant in response:</p> <ul style="list-style-type: none"> <li>Revised Architectural Drawings addressing landscaping requirements</li> <li>Tree Schedule</li> </ul> <p><u>On <b>5 January 2024</b>, a satisfactory referral response from Council's Heritage Officer was received.</u></p> <p><u>On <b>5 February 2024</b>, a satisfactory referral response from Council's Tree and Landscaping Officer was received.</u></p> |
| <b>Land and Environment Court Appeal(s)</b>   |
| Nil.  |

## 8. REFERRALS

| Referral                | Summary of Referral Response          | Attachments |
|-------------------------|---------------------------------------|-------------|
| Development Engineering | Satisfactory, subject to conditions.  | 3           |
| Drainage Engineering    | Satisfactory, no conditions required. | 4           |
| Trees and Landscaping   | Satisfactory, subject to conditions.  | 5 & 6       |
| Heritage                | Satisfactory, subject to conditions.  | 7           |

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

- The provisions of any environmental planning instrument
- The provisions of any proposed instrument that is/has been the subject of public consultation
- The provisions of any development control plan
- Any planning agreement that has been entered into
- Any draft planning agreement that a developer has offered to enter into
- The regulations
- Any coastal zone management plan
- The likely impacts of that development:
  - Environmental impacts on the natural and built environments
  - Social and economic impacts

9. The suitability of the site
10. Any submissions
11. The public interest

## **9. ADVERTISING AND NOTIFICATION**

### **9.1 Submissions**

The application was advertised and notified from 27/09/2023 to 12/10/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. There were no submissions received.

### **9.2 Replacement Application**

The amendments to the application noted above were not renotified to surrounding residents under Schedule 1 of the Woollahra Community Participation Plan 2019 as they were not considered to have any greater impacts than the previously advertised application.

### **9.3 Statutory Declaration**

The applicant has completed the statutory declaration dated 31/10/2023 declaring that the site notice for DA325/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

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

### Chapter 2 – Coastal Management

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

The subject site is located wholly outside of the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11). Furthermore, sub-clauses 2.10(3) and 2.11(2) state:

*This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

### Chapter 4 – Remediation of Land

The Object of this Chapter aims to *promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Under Clause 4.6(a) of Chapter 4 – Remediation of Land, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 – Remediation Of Land of the Resilience and Hazards SEPP 2021.

The proposal is acceptable with regard to the relevant matters for consideration in Section 4.6 of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021.

## **11. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

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

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

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

### Chapter 6 – Water Catchments

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

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

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

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

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

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

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

### **13.2 Land Use Table**

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

### **13.3 Part 4.3: Height of Buildings**

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

|                         | <b>Existing</b> | <b>Proposed</b> | <b>Control</b> | <b>Complies</b> |
|-------------------------|-----------------|-----------------|----------------|-----------------|
| Maximum Building Height | 10.95m          | 10.95m          | 9.5m           | <b>NO*</b>      |

*\*Clause 4.6 submitted*

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed below.

### **13.4 Part 4.4: Floor Space Ratio**

Part 4.4E limits development to a maximum floor space ratio of 0.5:1 for dwelling houses, dual occupancies and semi-detached dwellings in the R2 and R3 zones.

| Site Area: 1758m <sup>2</sup> | Existing | Proposed | Control | Complies |
|-------------------------------|----------|----------|---------|----------|
| Floor Space Ratio             | 0.28:1   | 0.32:1   | 0.5:1   | YES      |

The proposal complies with the maximum floor space ratio prescribed by Part 4.4E(3) of Woollahra LEP 2014.

### 13.5 Part 4.6: Exceptions to Development Standards

#### Departure

The proposal involves a non-compliance with the Height of Building statutory control under Part 4.3 of the Woollahra LEP 2014.

#### Purpose

Part 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

Part 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided the following written request in relation to the departure – Refer to **Attachment 2**.

#### **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 Cl 4.6(3). There are two separate matters for consideration contained within Cl 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*

**Assessment:** Despite the numerical non-compliance, the applicant's written request has adequately demonstrated that the objectives of the Height of Building development standard are achieved.

The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Cl 4.6(3)(a). The objectives of the development standard is 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.”*

Section 1.3 of the EPA Act reads as follows:

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.*

Assessment: The written request provides explanation of how the proposed development is reasonable and supportable in the circumstances. In doing so, the written request provides sufficient environmental planning ground to justify contravention of the Height of Buildings development standard, as it demonstrates that the proposal achieves aims (c), (g) and (h) of Section 1.3 of the Act.

Conclusion: The written request is considered to have adequately addressed the matters prescribed by Clause 4.6(3) of the Woollahra LEP 2014.

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

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied that:

*(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*

Clause 4.3 – Height of Buildings

The proposal is assessed against sub-clause (1) objectives of Clause 4.3 which specify the following objectives:

- (a) to establish building heights that are consistent with the desired future character of the neighbourhood,*



The proposed non-compliance exceeds the current building height by approximately 1.45m which is not considered unreasonable given that the additions match the height of the existing dwelling, and would remain in keeping with the desired future character of the neighbourhood.

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

The proposal maintains an adequate scale appropriate within the R2 Low Density Zone and continues a transition in scale between the medium density zones located to the north and south of the site.

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

The proposal and subject height non-compliance will not result in any unreasonable adverse overshadowing impacts to adjoining properties.

*(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 subject non-compliance will not result in any view loss, loss of privacy, overshadowing or visual intrusion impacts to adjoining properties. All existing view relationships between the surrounding properties would be maintained, aided by the topography.

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

The subject non-compliance will not impact upon any existing public views.

#### R2 Low Density Residential Zone

The objectives of the zone are:

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

The existing use of the subject site is maintained and will continue to provide for the existing housing needs of the community.

- *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 proposed scope of works.

- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*

The proposal is considered to be consistent with the desired future 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 will continue to respond to the desired future character of the neighbourhood.

- *To ensure development conserves and enhances tree canopy cover.*

The proposal both conserves and enhances tree canopy cover on the site.

### **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 written submission provided by the applicant has adequately demonstrated that the variation of the development standard prescribed by Clause 4.3 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

It is considered that 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 a sufficient environmental planning ground has been demonstrated to justify the proposed contravention of the standard.

It is considered that 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.

It is considered that the non-compliance is considered to be satisfactory with regard to the provisions of Clause 4.6 of Woollahra LEP 2014.

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

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

The subject site is not a heritage item and is not located within a heritage conservation area. The following heritage items are located within the vicinity of the subject site:

- “*Rothesay*”—house and interiors, front garden at 3 Cranbrook Road, Bellevue Hill (Item 19)
- *House and interiors, gardens, front stone wall* at 5 Rose Bay Avenue, Bellevue Hill (Item 52)

Council’s Heritage Officer reviewed the proposal and determined that the proposal is satisfactory and would not adversely impact any heritage items in the vicinity. Notwithstanding, general salvage conditions were recommended and have been included.

The site is in an area of Potential Aboriginal Heritage Sensitivity. Relevant conditions of consent to protect Aboriginal cultural heritage were recommended and have been included.

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

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

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

### 13.8 Part 6.2: Earthworks

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

The proposal involves only minor excavation to accommodate site levelling and footings.

Council's Development Engineer reviewed the proposal and has raised no objection to the proposed works.

The proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

### 13.9 Part 6.9: Tree canopy cover in Zones R2 and R3

Part 6.9 aims to conserve and enhance tree canopy cover in the R2 Low Density Residential zone and R3 Medium Density Residential zone.

Part 6.9(3) requires Council to consider whether the development incorporates planning and design measures to enable the retention and planting of trees to minimise the urban heat island effect, and will avoid, minimise or mitigate adverse impacts on the existing tree canopy.

**As amended**, the proposal provides the required 35% canopy cover that will be provided by trees with a mature height of between 10-20 metres.

The proposal is therefore acceptable with regard to Part 6.9 of Woollahra LEP 2014.

## 14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

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

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

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Bellevue Hill North Residential precinct.

### 14.2 Chapter B3: General Development Controls

#### Part B3.2: Building Envelope

| Site Area: 1758m <sup>2</sup>     | Proposed | Control | Complies |
|-----------------------------------|----------|---------|----------|
| Maximum Wall Height               | <7.2m    | 7.2m    | YES      |
| Maximum Unarticulated Wall Length | <12m     | 12m     | YES      |

#### Part 3.2.2: Front Setback

- C1 is not applicable in this instance, due to the site being a battle-axe allotment. The front setback is assessed against Part B3.9 of the Woollahra DCP 2015 later within this assessment report.
- Resulting from the irregularity and existing topography which characterises the site and surrounds, the subject dwelling is not visible from the streetscape, and therefore will not result in any adverse impact to the streetscape or character of the location (O1, O4).

### Part 3.2.3: Side Setbacks

- Typical side setbacks are inconsequential to the site due to its irregularity and the existing positioning of the dwelling (see assessment under Part B3.9).
- Notwithstanding above, the proposed alterations and additions are assessed against the relevant objectives as follows:
  - The alterations and additions do not result in an unreasonable sense of enclosure to any adjoining properties (O1).
  - Although the proposal reduces building articulation to the north-western 'side' boundary, it is not beyond the maximum unarticulated wall length of 12m (O2).
  - The proposal will not result in any adverse acoustic or visual privacy impact to adjoining properties in excess of existing conditions (O3)
  - The alterations do not result in any adverse overshadowing impact to neighbouring properties (O4).

### Part 3.2.4: Rear Setback

- A typical rear setback is inconsequential to the site due to its irregularity and the existing positioning of the dwelling (see assessment under Part B3.9).
- Notwithstanding above, the proposal is assessed against the relevant objectives as follows:
  - The proposal will not result in any adverse acoustic or visual privacy impact to adjoining properties in excess of existing conditions (O2)
  - The alterations and additions do not result in an unreasonable sense of enclosure or adverse overshadowing impact to any adjoining properties (O3, O4)

### Part 3.2.5: Wall Height and Inclined Plane

- C1 specifies a maximum external wall height of 7.2m with an inclined plane of 45 degrees above this height. The alterations remain compliant with this control. The proposal also achieves compliance with the relevant objectives as follows:
  - As discussed previously, the proposed alterations and additions would not be visible from the surrounding streetscape as a result of existing built structures, topography and the battle axe arrangement. The dwelling generally maintains its existing form and therefore the height of the existing external walls. The bulk and scale relationship with the surrounding properties is considered to have no further impact in excess of the existing which is acceptable (O1).
  - The proposed alterations and additions would not generate any adverse view, privacy or overshadowing impacts (O2, O5).

## **Part B3.5: Built Form and Context**

### Part B3.5.1: Streetscape and Local Character

- The proposal would not have any adverse visual impact upon the streetscape and is considered to be satisfactory with regard to the provisions of Part B3.5.1 of Woollahra DCP 2015.

### Part B3.5.2: Overshadowing

- Most additional overshadowing a result of the proposal falls on the subject site. There is some minor additional overshadowing to the tennis court area attributed to No. 7 Cranbrook Lane at 9am, however generally, the private open space on all surrounding properties will maintain suitable solar access between 9am and 3pm on 21 June (C1(a)).
- There are no upper level north facing windows to surrounding properties which would be impacted by the proposal (C1(b)).

- The proposal is considered to be satisfactory with regard to the relevant objectives and controls under Part B3.5.2 of the Woollahra DCP 2015.

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

- No objections were received on the basis of view loss and all existing view relationships between all surrounding properties would be maintained, aided by the topography.
- The proposal would not result in any impact to public or private views and is considered to be satisfactory with regard to the relevant objectives and controls under Part B3.5.3 of Woollahra DCP 2015.

#### Part B3.5.4: Acoustic and Visual Privacy

- Aided by topography and the existing siting of the dwelling and its private open space, the proposed alterations and additions will maintain existing visual and acoustic privacy conditions between nearby properties which is supported.
- The proposed terraces at first and second floor levels will not have direct view to any habitable rooms or private open space of adjoining properties (C7).
- The proposal is considered satisfactory with regard to the relevant objectives and controls under Part B3.5.4.

#### Part B3.5.5: Internal Amenity

- The alterations and additions will ensure continued residential amenity via layout reconfiguration and new window/door openings. The proposal is considered acceptable with regard to the relevant objectives and controls under Part B3.5.5 of the Woollahra DCP 2015.

#### **Part B3.6: On-Site Parking**

- Generally, the objectives and controls pertaining to on-site car parking are not applicable in this case, as the proposal involves the minor extension and reconfiguration of the existing detached garage structure to the south-eastern portion of the site, which is not visible from any street frontage (see Figure 4).



Figure 4: Existing garage structure to the south-eastern portion of the site (Applicant provided)

- C2 specifies that for parking structures outside the building envelope, roof form, materials and detailing should complement the building design or any important character elements. The design and materials for the alterations to the garage structure will follow that of the existing which will continue to complement the existing dwelling on the site.
- Compliance with the relevant overarching objectives are achieved as follows:
  - The proposal retains the existing vehicular access and parking arrangement on the site, and such will result in no adverse amenity or streetscape impacts (O1, O2, O8).
  - The proposal will not result in any impact to trees or vegetation of landscape value (O5).
  - The garage structure as altered will continue to remain well integrated with the dwelling on the subject site (O7).

#### Part B3.7: External Areas

| Site Area: 1758m <sup>2</sup>                      | Existing                      | Proposed                      | Control                                    | Complies |
|--|-------------------------------|-------------------------------|--|----------|
| Tree Canopy Area                                   | >35%                          | 35%                           | 35%  | YES      |
| Tree Canopy Area Comprising of Canopy Trees        | N/A                           | >50%                          | 50%  | YES      |
| Deep Soil Landscaping –                            | 23.8%<br>(419m <sup>2</sup> ) | 35.8%<br>(630m <sup>2</sup> ) | 35% of Site Area<br>(615.3m <sup>2</sup> ) | YES      |
| Minimum Area of Primary Open Space at Ground Level | >35%                          | >35%                          | 35m <sup>2</sup>                           | YES      |
| Maximum Height of Outbuilding                      | N/A                           | 3.0m                          | 3.6m                                       | YES      |
| Outbuilding Side and Rear Setback                  | N/A                           | >1.5m                         | 1.5m                                       | YES      |



### Part 3.7.1: Landscaped Areas and Private Open Space

- C1 requires that 35% of the site area is to comprise tree canopy area, and at least half of the total tree canopy area on the site is contributed by canopy tree/s. Council's Tree and Landscape Officer reviewed the proposal and confirms that as amended, the proposal is compliant in this regard.
- C2 requires that 35% of the site area is deep soil landscaping. The proposal increases deep soil landscaped area on the site from 419m<sup>2</sup> to 630m<sup>2</sup> which is compliant.
- The proposal will also be compliant with C3, which requires at least 40% of the front setback area to comprise deep soil landscaping.
- The areas around the dwelling will continue to contribute to the desired future character of the location (O1, O2).
- The proposal improves the existing accessible primary open space of the dwelling which is supported (O4, C4).
- Existing canopy trees are retained and incorporated with new and replacement plantings which is supported (O7, C14)

### Part 3.7.4: Ancillary Development – Swimming Pools, Tennis Courts and Outbuildings

- The proposal involves new pool fencing, decking and a new cabana to the existing swimming pool on the subject site.
- In accordance with C2, the proposed cabana is sited more than 1.5 from all boundaries and is a maximum height of 3m. There will be no impact to the amenity of neighbouring properties as a result of the cabana structure (O1).

### **Part B3.9: Additional Controls for Development on a Battle-Axe Lot**

|                           | Existing     | Proposed   | Control           | Complies                            |
|---------------------------|--------------|------------|-------------------|-------------------------------------|
| Setback to All Boundaries |              |            |                   |                                     |
| Primary Frontage          | >6m          | No change. | 6m                | <b>YES</b>                          |
| Side                      | >1.5m        | No change. | 1.5m              | <b>YES</b>                          |
| Rear                      | <6m          | No change. | 6m                | <b>NO – Existing non-compliance</b> |
| Primary Living Areas      | Ground Floor | No change. | Ground Floor Only | <b>YES</b>                          |

- As noted previously, typical setbacks are inconsequential to the proposal due to the irregularity of the site and the existing positioning of the dwelling.
- C3 requires a front setback of 6m from the boundary of the 'primary frontage'. The subject site is characterised uniquely by two access handles, one of which is attributed to the property, and one which is a 'right of way' shared with 7A Cranbrook Road. In this instance however, it is considered that the right of way accessed via Cranbrook Road is the primary frontage, providing the main vehicular access to the site. The dwelling is situated more than 6m from the front boundary which is compliant. The proposed alterations and additions do not extend any further into the north-western side boundary which is compliant with the 1.5m control. The rear of the dwelling is located between 4m and 5.4m from the 'rear setback' which is non-compliant with the 6m control. These non-compliances can be attributed to the alignment of existing dwelling and which are maintained by the proposal.
- The dwelling as altered maintains adequate separation to surrounding properties, and will not result in any adverse amenity impacts (O2).

### 14.3 Chapter E1: Parking and Access

#### 1.1.1 Part E1.4: Residential parking

|   | Existing | Proposed | Control  | Complies                            |
|---|----------|----------|----------|-------------------------------------|
| Max Number of Car Parking Spaces – Dwelling | 3 Spaces | 3 Spaces | 2 Spaces | <b>NO</b> – Existing non-compliance |

- As discussed previously, the proposal seeks to reconstruct the existing double garage, which does not involve any change to the existing vehicular crossing or access provisions. The existing single garage to Cranbrook Lane does not form part of the application.

The proposal is acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

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

Council's Development Engineer reviewed the proposal and provided the following comment:

*"This proposal has increase in impervious areas of less than 40m<sup>2</sup>, in which case the installation of On-site Stormwater Detention (OSD) system is not required as per Chapter E2.2.4 of the Council's DCP. It is assumed that the runoff for the site is disposed of via the existing stormwater system. As the majority of works are internal works or reconstruction works and do not impact the existing drainage of the site, there is no requirement for a stormwater management plan at the development assessment stage.*

*Council's Infrastructure and Sustainability 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."*

Council's Drainage Engineer also reviewed the proposal and determined the proposal as satisfactory with no conditions required.

The proposal is therefore acceptable with regard to Chapter E2 of the Woollahra DCP 2015.

### 14.5 Chapter E3: Tree Management

Council's Tree and Landscape Officer reviewed the proposal and noted a total of 20 trees within and adjacent to the site which could be impacted by the proposal.

The proposal involves the removal of numerous trees, comprising of exempt species as well as both low to medium retention value trees as follows:

- Erythrina x sykesii* (Coral tree) which is listed as exempt from WMC DCP Chapter E.3 - Tree Management and can be removed without consent regardless of the proposed development.
- Tree G2 (various palm species x9) – may be removed subject to sufficient replacement planting.
- Cupressus macrocarpa* (Monterey Cypress) – removal as the tree is in poor structural condition.
- Brachychiton acerifolius* (Illawarra Flame tree) - heavily suppressed by the adjacent more dominate trees. May be removed subject to replacement planting to compensate for the loss of amenity and canopy cover.

See **Attachment 5** - Tree and Landscaping Referral Response for further detail.

**As amended**, the proposal has provided sufficient documentation which indicates that the required 35% canopy cover will be provided by trees with a mature height of between 10-20 metres.

Council's Tree and Landscape Officer provided numerous conditions of consent which have been included.

Therefore as conditioned, the proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

#### **14.6 Chapter E5: Waste Management**

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

The applicant provided a SWMMP with the development application and it was found to be satisfactory.

#### **Part E5.2: Demolition and Construction Phase**

Council's Heritage Officer recommended general salvage conditions for the works which will ensure compliance with the relevant objectives and controls under E.5.2.

See **Condition A.7**.

As conditioned, the proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

### **15. CONTRIBUTION PLANS**

#### **15.1 Section 7.12 Contributions Plan**

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

| <b>Cost of Works</b> | <b>Rate based on cost of works</b> | <b>Contribution Payable</b> |
|----------------------|------------------------------------|-----------------------------|
| \$702,900.00         | >\$200,000 = 1%                    | \$7029.00                   |

Refer to **Condition D.1**.

#### **15.2 Subdivision 4 Housing and Productivity Contributions**

Section 7.24 of the Environmental Planning and Assessment Act 1979 identifies that the object of this subdivision is to facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a housing and productivity contribution to be required.

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2023 sets out the classes of development, which require a housing and productivity contribution.

The proposal does not require a housing and productivity contribution.

### **15.3 Application of Contributions**

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

In this instance, Section 7.12 contributions have been applied.

## **16. APPLICABLE ACTS/REGULATIONS**

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

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

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

## **17. THE LIKELY IMPACTS OF THE PROPOSAL**

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

## **18. THE SUITABILITY OF THE SITE**

The site is suitable for the proposed development.

## **19. THE PUBLIC INTEREST**

The proposal is considered to be in the public interest.

## **20. CONCLUSION**

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

## **21. DISCLOSURE STATEMENTS**

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the Height of Buildings development standard under Clause 4.3 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and the zone. 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. 325/2023/1 for alterations and additions on land at 7 Cranbrook Road Bellevue Hill, subject to the following conditions:

## **ALL DEVELOPMENT TYPES**

### **A. GENERAL CONDITIONS**

|             |   |
|-------------|---|
| <b>A 1.</b> | <p><b>Conditions</b></p> <p>Consent is granted subject to the following conditions imposed under 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 Regulations”) and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (“the Development Certification and Fire Safety Regulations”), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Where there is any breach Council may without any further warning: <ul style="list-style-type: none"> <li>a) Issue Penalty Infringement Notices (On-the-spot fines);</li> <li>b) Issue notices and orders;</li> <li>c) Prosecute any person breaching this consent; and/or</li> <li>d) Seek injunctions/orders before the courts to restrain and remedy any breach.</li> </ul> </li> <li>• Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the relevant legislation that applies to the development.</p> |
| <b>A 2.</b> | <p><b>Definitions</b></p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p><b>Applicant</b> means the applicant for this consent.</p> <p><b>Approved Plans</b> mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p><b>Local native plants</b> means species of native plant endemic to Sydney’s eastern suburbs.</p> <p><b>Owner-builder</b> has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p><b>PC</b> means the Principal Certifier under the <i>Act</i>.</p>   |

**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.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**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.

**Condition Reason:** To ensure all parties are aware of the relevant definitions.

### 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 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    | Date           |
|-----------|-------------------------------|-----------|----------------|
| A000      | Title Page                    | Interlock | All 13/12/2023 |
| A050      | Existing/Demolition Ground    |           |                |
| A051      | Existing/Demolition First     |           |                |
| A052      | Existing/Demolition Second    |           |                |
| A053      | Existing/Demolition Roof Plan |           |                |



|   |   |   |  |            |
|---|---|---|--|------------|
|   | A070  | Proposed Site Plan                      |  |            |
|   | A071  | Proposed Landscape Plan                 |  |            |
|   | A073  | Proposed Tree Canopy                    |  |            |
|   | A100  | Proposed Ground                         |  |            |
|   | A101  | Proposed First                          |  |            |
|   | A102  | Proposed Second                         |  |            |
|   | A103  | Proposed Roof                           |  |            |
|   | A104  | Garage/Studio                           |  |            |
|   | A105  | Proposed Pool Cabana Plan               |  |            |
|   | A200  | Elevation 01                            |  |            |
|   | A201  | Elevation 02                            |  |            |
|   | A202  | Elevation 03                            |  |            |
|   | A203  | Elevation 04                            |  |            |
|   | A204  | Garage Elevations                       |  |            |
|   | A300  | Section 01                              |  |            |
|   | A301  | Section 02                              |  |            |
|   | A302  | Garage Sections                         |  |            |
|   | N/A   | External Material Schedule              | Interlock  | 28/08/2023 |
|   | A500727   | BASIX Certificate                       | NSW Department of Planning, Industry & Environment | 5/09/2023  |
|   | N/A   | Arboricultural Impact Assessment Report | Martin Peacock                                     | 5/9/2023   |
| <b>Notes:</b> <ul style="list-style-type: none"><li>Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must 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 plans.</li><li>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.</li></ul> |   |   |  |            |
| <b>Condition Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.  |   |   |  |            |
| A 4.  | <b>Development Consent is Not Granted in Relation to these Matters</b>  |   |  |            |
|   | This approval does not give consent to any use of the garage studio space as a separate domicile/secondary dwelling.  |   |  |            |
|   | <b>Condition Reason:</b> To ensure all parties are aware of works that have not been granted consent.   |   |  |            |
| A 5.  | <b>Ancillary Aspects of Development (section 4.17(2) of the Act)</b>  |   |  |            |
|   | 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. |   |  |            |
|   | <b>Notes:</b> <ul style="list-style-type: none"><li>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.</li></ul>  |   |  |            |
|   | <b>Condition Reason:</b> To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.  |   |  |            |

| <b>A 6.</b>    | <b>No Underpinning works</b>   |   |                    |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
|----------------|--|---|--------------------|----------------|---------|----------|--------------------|---|----------------------|---|-------|---|---------------------------------|-------|---|------------------------------|-------|---|---------------------------------------|-------|---|-------------------------------|-------|---|------------------------|-------|---|--------------------------|-------|----|---------------------------|-------|----|-------------------------|-------|----|--------------------------|-------|----|---------------------------------|-------|-----|--|-------|----|---------------------------|-------|----|---------------------------------|--------|----|----------------------------|
|                | This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.  |   |                    |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
|                | <b>Condition Reason:</b> To ensure all works are located within the boundaries of the site and to confirm that no consent is granted for underpinning works to any structures on adjoining properties.   |   |                    |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| <b>A 7.</b>    | <b>Salvage</b>   |   |                    |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
|                | Architectural elements to be demolished such as bricks, timber flooring, skirting, cornices, ceiling roses, tiles, doors and windows 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>A 8.</b>    | <b>Tree Preservation and Landscaping Works</b>   |   |                    |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
|                | 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.  |   |                    |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
|                | <p>a) The following trees must be retained:</p> <ul style="list-style-type: none"> <li>Trees on private land:</li> </ul> <table border="1"> <thead> <tr> <th>Council Ref No</th><th>Species</th><th>Location</th><th>Dimension (metres)</th></tr> </thead> <tbody> <tr> <td>3</td><td><i>Syzygium</i> spp.</td><td rowspan="15">Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations.</td><td>8 x 3</td></tr> <tr> <td>4</td><td><i>Brachychiton acerifolius</i></td><td>8 x 2</td></tr> <tr> <td>5</td><td><i>Alectryon subcinereus</i></td><td>7 x 2</td></tr> <tr> <td>6</td><td><i>Archontophoenix cunninghamiana</i></td><td>7 x 2</td></tr> <tr> <td>7</td><td><i>Macadamia integrifolia</i></td><td>8 x 4</td></tr> <tr> <td>8</td><td><i>Cyathea cooperi</i></td><td>5 x 2</td></tr> <tr> <td>9</td><td><i>Podocarpus elatus</i></td><td>5 x 2</td></tr> <tr> <td>10</td><td><i>Strelitzia nicolai</i></td><td>9 x 3</td></tr> <tr> <td>11</td><td><i>Ficus rubiginosa</i></td><td>8 x 4</td></tr> <tr> <td>12</td><td><i>Podocarpus elatus</i></td><td>8 x 2</td></tr> <tr> <td>13</td><td><i>Brachychiton acerifolius</i></td><td>7 x 2</td></tr> <tr> <td>G14</td><td><i>Archontophoenix cunninghamiana</i> (x2)</td><td>6 x 2</td></tr> <tr> <td>17</td><td><i>Strelitzia nicolai</i></td><td>7 x 3</td></tr> <tr> <td>18</td><td><i>Brachychiton acerifolius</i></td><td>10 x 4</td></tr> <tr> <td>19</td><td><i>Cinnamomum camphora</i></td><td>10 x 6</td></tr> </tbody> </table> <p>The tree/s required to be retained must appear coloured green on the Construction Certificate plans.</p> |   |                    | Council Ref No | Species | Location | Dimension (metres) | 3 | <i>Syzygium</i> spp. | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 8 x 3 | 4 | <i>Brachychiton acerifolius</i> | 8 x 2 | 5 | <i>Alectryon subcinereus</i> | 7 x 2 | 6 | <i>Archontophoenix cunninghamiana</i> | 7 x 2 | 7 | <i>Macadamia integrifolia</i> | 8 x 4 | 8 | <i>Cyathea cooperi</i> | 5 x 2 | 9 | <i>Podocarpus elatus</i> | 5 x 2 | 10 | <i>Strelitzia nicolai</i> | 9 x 3 | 11 | <i>Ficus rubiginosa</i> | 8 x 4 | 12 | <i>Podocarpus elatus</i> | 8 x 2 | 13 | <i>Brachychiton acerifolius</i> | 7 x 2 | G14 | <i>Archontophoenix cunninghamiana</i> (x2) | 6 x 2 | 17 | <i>Strelitzia nicolai</i> | 7 x 3 | 18 | <i>Brachychiton acerifolius</i> | 10 x 4 | 19 | <i>Cinnamomum camphora</i> |
| Council Ref No | Species  | Location  | Dimension (metres) |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 3              | <i>Syzygium</i> spp.   | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 8 x 3              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 4              | <i>Brachychiton acerifolius</i>  |   | 8 x 2              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 5              | <i>Alectryon subcinereus</i>   |   | 7 x 2              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 6              | <i>Archontophoenix cunninghamiana</i>  |   | 7 x 2              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 7              | <i>Macadamia integrifolia</i>  |   | 8 x 4              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 8              | <i>Cyathea cooperi</i>   |   | 5 x 2              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 9              | <i>Podocarpus elatus</i>   |   | 5 x 2              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 10             | <i>Strelitzia nicolai</i>  |   | 9 x 3              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 11             | <i>Ficus rubiginosa</i>  |   | 8 x 4              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 12             | <i>Podocarpus elatus</i>   |   | 8 x 2              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 13             | <i>Brachychiton acerifolius</i>  |   | 7 x 2              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| G14            | <i>Archontophoenix cunninghamiana</i> (x2)   |   | 6 x 2              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 17             | <i>Strelitzia nicolai</i>  |   | 7 x 3              |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 18             | <i>Brachychiton acerifolius</i>  |   | 10 x 4             |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |
| 19             | <i>Cinnamomum camphora</i>   |   | 10 x 6             |                |         |          |                    |   |                      |   |       |   |                                 |       |   |                              |       |   |                                       |       |   |                               |       |   |                        |       |   |                          |       |    |                           |       |    |                         |       |    |                          |       |    |                                 |       |     |  |       |    |                           |       |    |                                 |        |    |                            |

b) The following trees may be removed:

| Council Ref No | Species                         | Location  | Dimension (metres) |
|----------------|---------------------------------|---|--------------------|
| 1              | <i>Erythrina x sykessi*</i>     | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 6 x 3              |
| G2             | Various Palm species (x9 trees) |   | 10 x 2             |
| 15             | <i>Cupressus macrocarpa</i>     |   | 15 x 6             |
| 16             | <i>Brachychiton acerifolius</i> |   | 8 x 3              |

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

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

**Condition Reason:** To ensure all landscape works are undertaken in accordance with the approved plans and documents.

## DEMOLITION WORK

### B. BEFORE DEMOLITION WORK COMMENCES

|             |   |
|-------------|---|
| <b>B 1.</b> | <b>Construction Certificate Required Prior to Any Demolition</b>  |
|             | <p>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" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> <li>• Before issue of a construction certificate</li> <li>• Before building work commences</li> </ul> <p>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.</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• See <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [2001] NSWLEC 125.</li> </ul> <p><b>Condition Reason:</b> To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.</p> |
| <b>B 2.</b> | <b>Erosion and Sediment Controls – Installation</b>   |
|             | <p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> <li>“Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>“Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol>  |

|             |   |
|-------------|---|
|             | <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> <li>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.</li> <li>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”.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p> |
| <b>B 3.</b> | <p><b>Identification of Hazardous Material</b></p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> <li>all hazardous materials identified on the site,</li> <li>the specific location of all hazardous materials identified,</li> <li>whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and</li> <li>safety measures to be put in place.</li> </ul> <p><b>Condition Reason:</b> 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.</p>   |
| <b>B 4.</b> | <p><b>Public Road Assets Prior to Any Work/Demolition</b></p> <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> <li>road pavement,</li> <li>street signage including street lights,</li> <li>kerb and gutter,</li> <li>footway including pedestrian crossings, footpath, and driveways,</li> <li>retaining walls, or other significant structures,</li> <li>Heritage Items, including street name inlays,</li> <li>utility service items including historical utility covers, and</li> <li>drainage structures/pits/pipes (CCTV footage).</li> </ul>  |

The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. 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 site works under this consent.

**Condition Reason:** To clarify the condition of the existing public infrastructure prior to the commencement of any site works.

**B 5. Payment of Security and Fees**

Prior to any site works, the following security and fees must be paid in full:

| Description   | Amount       | Indexed | Council Fee Code |
|---|--------------|---------|------------------|
| <b>SECURITY</b><br>under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>     |              |         |                  |
| <b>Property Damage Security Deposit -</b><br>making good any damage caused to any property of the Council | \$21, 250.00 | No      | T115             |
| <b>INSPECTION FEES</b><br>under section 608 of the <i>Local Government Act 1993</i>                       |              |         |                  |
| Security Deposit Administration Fee   | \$225.00     | No      | T16              |
| <b>TOTAL SECURITY AND FEES</b>  | \$21,475.00  |         |                  |

**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 any site works being undertaken, 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.

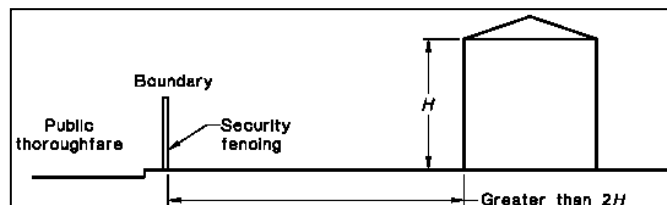
**Notes:**

- 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 the 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.
- The Refund of Security Bond Application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

**Condition Reason:** To ensure any relevant security and fees are paid.

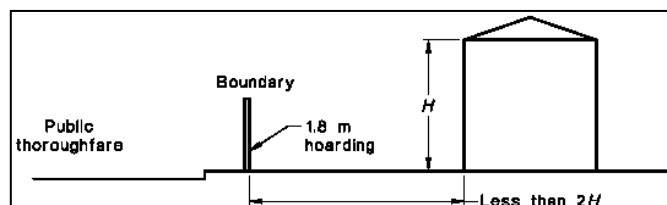
**B 6. Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection**

Before any site work commences, 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**

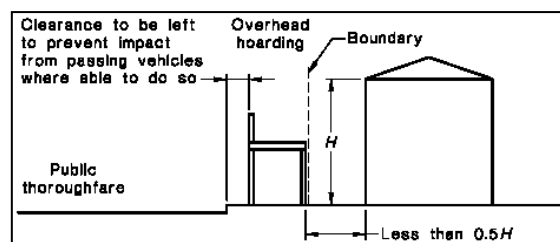
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:



- 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 overhead protective structures must be installed and maintained in accordance with the NSW "Code of Practice - Overhead Protective Structures 1995". This is code available at [www.safework.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf](http://www.safework.nsw.gov.au/__data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf)

### All Hoardings

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

### Hoardings on Public Land including 'Creative Hoardings'

All fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection must be paid in full.

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 person with the benefit of this consent. The Creative Hoardings Policy can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

### Notes:

- A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.
- 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 E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more

OR

|                    |  |
|--------------------|--|
|                    | <p>B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more<br/>OR</p> <p>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:</p> <ol style="list-style-type: none"> <li>1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or</li> <li>2. the land is zoned R2 Low Density Residential, or</li> <li>3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road).</li> </ol> <ul style="list-style-type: none"> <li>• 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 <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure public safety.</p>   |
| <p><b>B 7.</b></p> | <p><b>Site Signs</b></p> <p>Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.</p> <p>Clause 70 of the Regulation provides:</p> <p><b>Erection of signs</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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:             <ol style="list-style-type: none"> <li>a) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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</li> <li>c) stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul> <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p><b>Signs on development sites</b></p> <p>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:</p> |

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|             | <ul style="list-style-type: none"> <li>Each such person <b>MUST</b> 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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with.</li> <li>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 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation.</li> </ul> <p><b>Condition Reason:</b> To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>   |
| <b>B 8.</b> | <p><b>Toilet Facilities</b></p> <p>Before any site work commences, 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.</p> <p>Each toilet provided:</p> <ol style="list-style-type: none"> <li>must be a standard flushing toilet, and</li> <li>must be connected to a public sewer, or</li> <li>if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or</li> <li>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.</li> </ol> <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999.</li> <li>This condition does not set aside the requirement to comply with SafeWork NSW requirements.</li> </ul> <p><b>Condition Reason:</b> To ensure toilet facilities are provided for workers at the work site.</p> |
| <b>B 9.</b> | <p><b>Establishment of Boundary Location, Building Location and Datum</b></p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <ol style="list-style-type: none"> <li>set out the boundaries of the site by permanent marks (including permanent recovery points),</li> <li>set out 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,</li> <li>establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and</li> </ol>   |

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|              | <p>d) provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Where there is 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 site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.</li> <li>On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor.</li> </ul> <p><b>Condition Reason:</b> To ensure that the boundary locations, building location, and a datum point is established by a surveyor.</p>   |
| <b>B 10.</b> | <p><b>Compliance with Australian Standard for Demolition</b></p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p><b>Condition Reason</b> To control the risks of demolition work.</p>   |
| <b>B 11.</b> | <p><b>Dilapidation Reports for Existing Buildings</b></p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer 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 the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ol style="list-style-type: none"> <li>7A Cranbrook Road</li> <li>7 Cranbrook Lane</li> <li>1A Cranbrook Lane</li> </ol> <p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p> <p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p> <p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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 caused by the carrying out of the development.</li> <li>This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.</li> <li>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.</li> </ul> |

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|              | <ul style="list-style-type: none"> <li>• Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.</li> </ul>   |
|              | <p><b>Condition Reason:</b> To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>  |
| <b>B 12.</b> | <p><b>Adjoining Buildings Founded on Loose Foundation Materials</b></p> <p>Before any site work commences, a professional engineer must determine 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 any reasonable direction of the professional engineer must be complied with.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• A failure 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.</li> <li>• The person with the benefit of this consent is 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.</li> </ul> <p><b>Condition Reason:</b> To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>   |
| <b>B 13.</b> | <p><b>Works (Construction) Zone – Approval and Implementation</b></p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>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 site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.</li> <li>• The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.</li> </ul> <p><b>Condition Reason:</b> To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p> |
| <b>B 14.</b> | <p><b>Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)</b></p>  |

Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;

a) Tree Protection Fencing:

| Council Ref No | Species                         | Tree Location   | Fence Radius from Centre of Trunk (Metres)*                           |
|----------------|---------------------------------|---|---|
| 17             | <i>Strelitzia nicolai</i>       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | Around edge of existing driveway as shown in Appendix D of AIA Report |
| 18             | <i>Brachychiton acerifolius</i> |   |   |
| 19             | <i>Cinnamomum camphora</i>      |   |   |

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

Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.

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



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|   | <p><b>Condition Reason:</b> To ensure the protection of existing trees</p>   |   |   |
| <b>B 15.</b>  | <p><b>Construction Management Plan Arborist Review</b></p> <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"> <li>a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;</li> <li>b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.;</li> <li>c) Site construction access, temporary crossings and movement corridors on the site defined;</li> <li>d) Contractors car parking;</li> <li>e) Phasing of construction works;</li> <li>f) The space needed for all foundation excavations and construction works;</li> <li>g) All changes in ground level;</li> <li>h) Space for site sheds and other temporary structures such as toilets;</li> <li>i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and</li> <li>j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.</li> </ul> <p><b>Condition Reason</b> To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p> |   |   |
| <b>B 16.</b>  | <p><b>Arborists Documentation and Compliance Checklist</b></p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> <li>• A record of the condition of trees to be retained prior to and throughout development.</li> <li>• Recommended actions to improve site conditions and rectification of non-compliance.</li> <li>• Recommendations for future works which may impact the trees.</li> </ul> <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="284 1798 1406 1850"> <tr> <td data-bbox="284 1798 663 1850"><b>Stage of arboricultural inspection and supervision</b></td><td data-bbox="663 1798 1406 1850"><b>Compliance documentation and photos must include</b></td></tr> </table>  | <b>Stage of arboricultural inspection and supervision</b> | <b>Compliance documentation and photos must include</b> |
| <b>Stage of arboricultural inspection and supervision</b> | <b>Compliance documentation and photos must include</b>  |   |   |

|                         | <table><tr><td>Prior to any site works</td><td><ul style="list-style-type: none"><li>Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.</li><li>The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</li></ul></td></tr></table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p><b>Condition Reason</b> To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.</p>   | Prior to any site works              | <ul style="list-style-type: none"><li>Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.</li><li>The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</li></ul> |                                      |                |    |                           |    |                                    |    |                            |       |                                    |
|-------------------------|--|--------------------------------------|---|--------------------------------------|----------------|----|---------------------------|----|------------------------------------|----|----------------------------|-------|------------------------------------|
| Prior to any site works | <ul style="list-style-type: none"><li>Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.</li><li>The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</li></ul>  |                                      |   |                                      |                |    |                           |    |                                    |    |                            |       |                                    |
| B 17.                   | <p><b>Permissible work within Tree Protection Zones</b></p> <p>Prior to any site works, the following works are permissible within the Tree Protection Zone:</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Radius from Centre of Trunk (Metres)</th><th>Approved works</th></tr><tr><td>17</td><td><i>Strelitzia nicolai</i></td><td>4m</td><td>Installation of driveway extension</td></tr><tr><td>19</td><td><i>Cinnamomum camphora</i></td><td>10.2m</td><td>Installation of driveway extension</td></tr></table> <p>The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.</p> <p><b>Condition Reason</b> To establish the works which are permissible within the Tree Protection Zones.</p>   | Council Ref No                       | Species   | Radius from Centre of Trunk (Metres) | Approved works | 17 | <i>Strelitzia nicolai</i> | 4m | Installation of driveway extension | 19 | <i>Cinnamomum camphora</i> | 10.2m | Installation of driveway extension |
| Council Ref No          | Species  | Radius from Centre of Trunk (Metres) | Approved works  |                                      |                |    |                           |    |                                    |    |                            |       |                                    |
| 17                      | <i>Strelitzia nicolai</i>  | 4m                                   | Installation of driveway extension  |                                      |                |    |                           |    |                                    |    |                            |       |                                    |
| 19                      | <i>Cinnamomum camphora</i>   | 10.2m                                | Installation of driveway extension  |                                      |                |    |                           |    |                                    |    |                            |       |                                    |
| B 18.                   | <p><b>Archaeological Features – Unexpected Findings</b></p> <p>While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.</p> <p>Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.</p> <p>Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity.</li><li>Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks.</li><li>During an archaeological excavation the term ‘feature’ may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).</li></ul> <p><b>Condition Reason:</b> To protect archaeological features.</p> |                                      |   |                                      |                |    |                           |    |                                    |    |                            |       |                                    |

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| <b>B 19.</b> | <b>Skeletal Remains</b>   |
|              | <p>While site work is being carried out, if any skeletal remains suspected of being human are found, work must cease immediately and no further disturbance of the site must occur. The following must be notified:</p> <ol style="list-style-type: none"> <li>NSW Police, and</li> <li>The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</li> </ol> <p>Details of the remains and their precise location are to be provided.</p> <p>Site work may recommence at a time confirmed in writing by the NSW Police and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</p> <p><b>Condition Reason:</b> To ensure the appropriate management of skeletal remains.</p>  |
| <b>B 20.</b> | <p><b>Aboriginal Objects – Unexpected Findings</b></p> <p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p> <ol style="list-style-type: none"> <li>Not further disturb or move these objects or bones.</li> <li>Immediately cease all work at the particular location.</li> <li>In the case of suspected human remains, notify NSW Police.</li> <li>Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.</li> <li>Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</li> <li>Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under 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.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The Definition of Aboriginal object, as per the National Parks &amp; Wildlife Act 1974, is 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.</li> </ul> <p><b>Condition Reason:</b> To protect Aboriginal objects</p> |
| <b>B 21.</b> | <p><b>Aboriginal Heritage Due Diligence Responsibilities</b></p> <p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks &amp; Wildlife Act 1974. Under the National Parks &amp; 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)].</p>  |

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|              | 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>Condition Reason:</b> To protect Aboriginal heritage.  |
| <b>B 22.</b> | <b>Aboriginal Heritage Induction</b>  |
|              | <p>Prior to any site works:</p> <ul style="list-style-type: none"> <li>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;</li> <li>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</li> <li>c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.</li> </ul> |
|              | <b>Condition Reason:</b> To protect Aboriginal heritage.  |

## REMEDIATION WORK

### C. ON COMPLETION OF REMEDIATION WORK

Nil.

## BUILDING WORK

### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D 1.

Payment of Long Service Levy and S7.12 Contributions

Before the issue of any construction certificate, the original receipt(s) for the payment of all of the following levy and contributions must be provided to the Principal Certifier:

| Description   | Amount  | Indexed        | Council Fee Code |
|---|---|----------------|------------------|
| <b>LONG SERVICE LEVY</b><br>under <i>Building and Construction Industry Long Service Payments Act 1986</i>  |   |                |                  |
| <b>Long Service Levy</b><br><a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>  | Contact LSL Corporation or use online calculator                  | No             |                  |
| <b>SECTION 7.12 DEVELOPMENT LEVY</b><br>under Woollahra Section 7.12 Development Contributions Plan 2022<br>This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> |   |                |                  |
| <b>Development Levy</b> (section 7.12)  | \$7029.00<br>+ Index Amount                                       | Yes, quarterly | T96              |
| <b>TOTAL CONTRIBUTIONS AND LEVIES</b>   | \$7029.00 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 Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au) or the Long Service Corporation on 131 441.

**How must the payments be made?**

Payments must be made by:

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

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

To ensure that the value of 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 2.12 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 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 (e.g. 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 2.9, 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 and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,
- 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 recourse 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, 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.

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|             | <p>Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 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.</p>   |
|             | <p><b>Condition Reason:</b> To ensure any relevant levy and contributions are paid.</p>  |
| <b>D 2.</b> | <p><b>BASIX Commitments</b></p>  |
|             | <p>Before the issue of any construction certificate, BASIX Certificate No.A500727 must be submitted to the Principal Certifier with any application for a construction certificate.</p> <p>All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act.</li> <li>Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any.</li> </ul>   |
|             | <p><b>Condition Reason:</b> To ensure all commitments in the BASIX Certificate are incorporated into the development.</p>  |
| <b>D 3.</b> | <p><b>Erosion and Sediment Control Plan – Submission and Approval</b></p>  |
|             | <p>Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:</p> <ol style="list-style-type: none"> <li>“Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils; and</li> <li>“Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The International Erosion Control Association – Australasia <a href="http://www.austieca.com.au">www.austieca.com.au</a> 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.</li> </ul> |



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|             | <ul style="list-style-type: none"> <li>The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>, and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> <li>Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.</li> </ul>   |
|             | <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>  |
| <b>D 4.</b> | <p><b>Structural Adequacy of Existing Supporting Structures</b></p>  |
|             | <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p>   |
|             | <p><b>Condition Reason:</b> To ensure that the existing structure is able to support the additional loads proposed.</p>  |
| <b>D 5.</b> | <p><b>Professional Engineering Details</b></p>   |
|             | <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety 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, and supporting documentation. Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> |
|             | <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>This does not affect the right of the developer to seek staged construction certificates.</li> </ul>   |
|             | <p><b>Condition Reason:</b> To ensure professional engineering details and technical specifications are provided.</p>  |
| <b>D 6.</b> | <p><b>Engineer Certification</b></p>   |
|             | <p>Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.</p>  |
|             | <p>This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council’s property.</p>  |
|             | <p><b>Condition Reason:</b> To ensure certification is provided that demonstrates all structural works are located within the boundaries of the site and do not include underpinning works to any structures on adjoining properties.</p>  |

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| <p><b>D 7.</b></p> | <p><b>Parking Facilities</b></p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6 Parking facilities - Off-street parking for people with disabilities, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking and AS 2890.2: Off-Street Parking: Commercial Vehicle Facilities respectively.</p> <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier 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.</p> <p><b>Condition Reason:</b> To ensure parking facilities are designed in accordance with the Australian Standard.</p>   |
| <p><b>D 8.</b></p> | <p><b>Stormwater Management Plan</b></p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a chartered professional civil engineer, which detail the following:</p> <ol style="list-style-type: none"> <li>The provision of a minimum 450mm x 450mm boundary junction pit prior to discharging stormwater from the site to the street drainage system. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3.</li> <li>The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.</li> <li>Internal stormwater drainage system including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans.</li> <li>Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.</li> <li>Detail any remedial works required to upgrade the existing stormwater drainage system.</li> <li>Dimensions of all drainage pits and access grates must comply with AS3500.3.</li> <li>Compliance the objectives and performance requirements of the BCA.</li> <li>General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</li> </ol> <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><b>Layout plan</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>All pipe layouts, dimensions, grades, lengths and material specification.</li> <li>Location of proposed rainwater tanks.</li> <li>All invert levels reduced to Australian Height Datum (AHD).</li> </ol> |

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|                    | <p>d) Location and dimensions of all drainage pits.<br/>e) Point and method of connection to Council's drainage infrastructure.<br/>f) Overland flow paths over impervious areas.</p> <p><b>On-site Stormwater Detention (OSD) details:</b></p> <p>a) Any potential conflict between existing and proposed trees and vegetation.<br/>b) Internal dimensions and volume of the proposed detention storage.<br/>c) Diameter of the outlet to the proposed detention storage basin.<br/>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.<br/>e) Details of access and maintenance facilities.<br/>f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.<br/>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.<br/>h) Non-removable fixing details for orifice plates where used.</p> <p><b>Rainwater Reuse System details:</b></p> <p>a) Any potential conflict between existing and proposed trees and vegetation.<br/>b) Internal dimensions and volume of the proposed rainwater storage.<br/>c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.<br/>d) Details of access and maintenance facilities.<br/>e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.<br/>f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks</p> <p>For Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.</p> <p>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).</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".</li> </ul> <p><b>Condition Reason:</b> To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p> |
| <p><b>D 9.</b></p> | <p><b>Tree Protection Plan and Specification</b></p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> <li>shaded green where required to be retained and protected</li> <li>shaded red where authorised to be removed</li> <li>shaded yellow where required to be transplanted</li> <li>shaded blue where required to be pruned</li> </ul>   |

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|                     | <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> <li>• Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected.</li> <li>• The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices.</li> <li>• Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 &amp; 5 of AS4970, providing guidance for the implementation of tree protection methods.</li> <li>• To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist.</li> </ul> <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p><b>Condition Reason:</b> To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> |
| <p><b>D 10.</b></p> | <p><b>Swimming and Spa Pools – Child Resistant Barriers</b></p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety 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.</p> <p>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’ under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure child-resistant swimming and spa pool barriers are provided.</p>  |
| <p><b>D 11.</b></p> | <p><b>Swimming and Spa Pools – Backwash</b></p>   |

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|       | <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety 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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.</p> |
| D 12. | <p><b>Electric vehicle circuitry and electric vehicle charging point requirements</b></p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include an accurate electrical plan of all off-street car parking spaces, prepared by a suitably qualified person, which includes 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.</p> <p><b>Condition Reason:</b> To ensure the provision of electric vehicle circuitry to enable the future installation of electric vehicle charging point(s).</p>   |

## E. BEFORE BUILDING WORK COMMENCES

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| E 1. | <p><b>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</b></p> <p>Before any building work commences, and under 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:</p> <ol style="list-style-type: none"> <li>that the work must be carried out in accordance with the requirements of the Building Code of Australia,</li> <li>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.</li> </ol> <p>This condition does not apply:</p> <ol style="list-style-type: none"> <li>to the extent to which an exemption is in force under the Home Building Regulation 2014, or</li> <li>to the erection of a temporary building.</li> </ol> <p>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.</p> |
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|             | <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> <li>All new guttering is to comply with the provisions of AS3500.</li> </ul> <p><b>Condition Reason:</b> To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.</p>  |
| <b>E 2.</b> | <p><b>Erosion and Sediment Controls – Installation</b></p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> <li>The Soil and Water Management Plan if required under this consent;</li> <li>“Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>“Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The International Erosion Control Association – Australasia (<a href="http://www.austieca.com.au/">www.austieca.com.au/</a>) lists consultant experts who can assist in ensuring compliance with this condition.</li> <li>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.</li> <li>The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> <li>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.</li> <li>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”.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p> |
| <b>E 3.</b> | <p><b>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</b></p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> <li>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</li> <li>The person having the benefit of the development consent has: <ul style="list-style-type: none"> <li>appointed a Principal Certifier for the building work, and</li> <li>notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and</li> </ul> </li> </ol>   |



- 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.

**Notes:**

- **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.
- **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.
- 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.
- Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)
- 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.
- 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.

**Condition Reason:** To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.

## F. DURING BUILDING WORK

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| F 1. | <b>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</b>   |
|      | <p>While site work is being carried out:</p> <ul style="list-style-type: none"> <li>a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),</li> <li>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.</li> </ul> <p>This condition does not apply:</p> |

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|             | <p>a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</p> <p>b) to the erection of a temporary building.</p> <p>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.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>All new guttering is to comply with the provisions of AS 3500.</li> </ul> <p><b>Condition Reason:</b> To ensure compliance with the BCA and Home building Act 1989.</p>  |
| <b>F 2.</b> | <p><b>Requirement to Notify about New Evidence</b></p> <p>While site work is being carried out, any new information that comes to light, 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.</p> <p><b>Condition Reason:</b> To ensure Council and the Principal Certifier are made aware of new information.</p>   |
| <b>F 3.</b> | <p><b>Critical Stage Inspections</b></p> <p>While site work is being carried out, 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, the Development Certification and Fire Safety Regulation, and the Regulation.</p> <p>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.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent.</li> <li>The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development.</li> </ul> <p><b>Condition Reason:</b> To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p> |

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| F 4. | <p><b>Hours of Work –Amenity of the Neighbourhood</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>No work must take place on any Sunday or public holiday.</li> <li>No work must take place before 7am or after 5pm any weekday.</li> <li>No work must take place before 7am or after 1pm any Saturday.</li> <li>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: <ol style="list-style-type: none"> <li>piling,</li> <li>piering,</li> <li>rock or concrete cutting, boring or drilling,</li> <li>rock breaking,</li> <li>rock sawing,</li> <li>jack hammering, or</li> <li>machine excavation.</li> </ol> </li> <li>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.</li> <li>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.</li> <li>No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> <li>Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.</li> <li>The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.</li> <li>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.</li> <li>NSW EPA Noise Guide is available at <a href="http://www.epa.nsw.gov.au/noise/nglg.htm">www.epa.nsw.gov.au/noise/nglg.htm</a></li> </ul> <p><b>Condition Reason:</b> To mitigate the impact of work upon the amenity of the neighbourhood.</p> |
| F 5. | <p><b>Public Footpaths – Safety, Access and Maintenance</b></p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ol style="list-style-type: none"> <li>Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.</li> </ol>  |

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|                    | <p>b) Not use the road or footway for the storage of any article, material, matter, waste or thing.</p> <p>c) Not use the road or footway for any work.</p> <p>d) Keep the road and footway in good repair free of any trip hazard or obstruction.</p> <p>e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.</p> <p>f) Not stand any plant and equipment upon the road or footway.</p> <p>g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.</p> <p>h) Provide a clear safe pedestrian route a minimum of 1.5m wide.</p> <p>i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.</p> <p>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:</p> <p>a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.</p> <p>b) Australian Road Rules.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Section 148B of the Road Transport Act 2013 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.</li> <li>Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> <li>- erect a structure or carry out a work in, on or over a public road, or</li> <li>- dig up or disturb the surface of a public road, or</li> <li>- remove or interfere with a structure, work or tree on a public road, or</li> <li>- pump water into a public road from any land adjoining the road, or</li> <li>- connect a road (whether public or private) to a classified road,</li> <li>- otherwise than with the consent of the appropriate roads authority.</li> </ul> </li> <li>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: <ul style="list-style-type: none"> <li>- Part C Management of waste: <ul style="list-style-type: none"> <li>a) For fee or reward, transport waste over or under a public place</li> <li>b) Place waste in a public place</li> <li>c) Place a waste storage container in a public place.</li> </ul> </li> <li>- Part E Public roads: <ul style="list-style-type: none"> <li>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</li> <li>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.</li> </ul> </li> </ul> </li> </ul> <p><b>Condition Reason:</b> To ensure safe access is maintained to footpaths and roads during building works.</p> |
| <p><b>F 6.</b></p> | <p><b>Maintenance of Environmental Controls</b></p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <p>a) erosion and sediment controls,</p> <p>b) dust controls,</p>  |

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|             | <p>c) dewatering discharges,<br/>d) noise controls,<br/>e) vibration monitoring and controls, and<br/>f) ablutions.</p> <p><b>Condition Reason:</b> To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>   |
| <b>F 7.</b> | <p><b>Support of Adjoining Land and Buildings</b></p> <p>While site work is being carried out, 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).</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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: <ul style="list-style-type: none"> <li>the consent of the owners of such adjoining or supported land to trespass or encroach, or</li> <li>an access order under the Access to Neighbouring Land Act 2000, or</li> <li>an easement under section 88K of the Conveyancing Act 1919, or</li> <li>an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.</li> </ul> </li> <li>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).</li> <li>Clause 17 of the Roads Regulation 2018 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.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To ensure that the support of adjoining land is not removed.</p> |
| <b>F 8.</b> | <p><b>Erosion and Sediment Controls – Maintenance</b></p> <p>While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:</p> <p>a) the Soil and Water Management Plan required under this consent,<br/>b) "Do it Right On Site, Soil and Water Management for the Construction Industry" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</p>  |

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|              | <p>c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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”.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>                      |
| <b>F 9.</b>  | <p><b>Disposal of Site Water During Construction</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993.</li> <li>Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water.</li> <li>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.</li> </ol> <p><b>Condition Reason:</b> To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution.</p>  |
| <b>F 10.</b> | <p><b>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</b></p> <p>While site work is being carried out, a registered surveyor must carry out check surveys and provide 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.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier’s satisfaction:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol> |



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|              | <p>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.</p> <p>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.</p> <p>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.</p> <p>f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works.</p> <p>g) Flood protection measures are in place confirming location, height and capacity.</p> <p><b>Condition Reason:</b> To ensure that development occurs in the location and at the height approved under this consent, which 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.</p> |
| <b>F 11.</b> | <p><b>Placement and Use of Skip Bins</b></p> <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <p>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</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Condition Reason:</b> To ensure waste storage containers are appropriately located.</p>  |
| <b>F 12.</b> | <p><b>Prohibition of Burning</b></p> <p>While site work is being carried out, 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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.</li> </ul> <p><b>Condition Reason:</b> To ensure no burning of waste occurs.</p>   |
| <b>F 13.</b> | <p><b>Dust Mitigation</b></p>  |

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|              | <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <ol style="list-style-type: none"> <li>Dust screens to all hoardings and site fences.</li> <li>All stockpiles or loose materials to be covered when not being used.</li> <li>All equipment, where capable, being fitted with dust catchers.</li> <li>All loose materials being placed bags before placing into waste or skip bins.</li> <li>All waste and skip bins being kept covered when not being filled or emptied.</li> <li>The surface of excavation work being kept wet to minimise dust.</li> <li>Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>“Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> <li>Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from <a href="http://www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> and <a href="http://www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. Other specific conditions and advice may apply.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p> |
| <b>F 14.</b> | <p><b>Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters</b></p> <p>While site work is being carried out, 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.</p> <p>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.</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>This condition does not prevent Council from issuing an order under 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.</li> </ul> <p><b>Condition Reason:</b> To ensure access to swimming pools is effectively restricted to maintain child safety.</p>   |
| <b>F 15.</b> | <p><b>Site Waste Minimisation and Management – Demolition</b></p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> <li>the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,</li> </ol>   |

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|                     | <p>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),</p> <p>c) separate collection bins and/or areas for the storage of residual waste are to be provided,</p> <p>d) the purpose and content of the bins and/or storage areas are to be clearly 'signposted',</p> <p>e) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and</p> <p>f) site disturbance must be minimised, and unnecessary excavation limited.</p> <p>When implementing the SWMMP the Applicant must ensure:</p> <p>a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,</p> <p>b) any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997,</p> <p>c) waste is only transported to a place that can lawfully be used as a waste facility,</p> <p>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</p> <p>e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Materials that have an existing reuse or recycling market must 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.</li> </ul> <p><b>Condition Reason:</b> To maximise resource recovery and minimise residual waste from demolition activities.</p> |
| <p><b>F 16.</b></p> | <p><b>Site Waste Minimisation and Management – Construction</b></p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <p>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,</p> <p>b) deliveries of materials must be arranged so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,</p> <p>c) consideration must be given to returning excess materials to the supplier or manufacturer,</p> <p>d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),</p> <p>e) the purpose and content of the storage areas must be clearly 'signposted',</p> <p>f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,</p> <p>g) separate collection bins or areas for the storage of residual waste must be promoted,</p> <p>h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,</p> <p>i) site disturbance must be minimised and unnecessary excavation limited,</p>   |

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|              | <p>j) all waste must be transported to a place that can lawfully be used as a waste facility, and</p> <p>k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.</p>   |
|              | <p><b>Condition Reason:</b> To maximise resource recovery and minimise residual waste from construction activities.</p>  |
| <b>F 17.</b> | <p><b>Asbestos Removal</b></p>   |
|              | <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>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:</p> <ol style="list-style-type: none"> <li>Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal.</li> <li>Be carried out in accordance with the relevant SafeWork NSW codes of practice.</li> <li>No asbestos products may be reused on the site.</li> <li>No asbestos laden skip or bins must be left in any public place.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence.</li> <li>All removal, repair or disturbance of or to asbestos material must comply with: <ul style="list-style-type: none"> <li>Work Health and Safety Act 2011,</li> <li>Work Health and Safety Regulation 2017,</li> <li>SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and</li> <li>SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).</li> </ul> </li> <li>For more information go to the SafeWork NSW website on asbestos <a href="http://www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos">www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos</a>, and <a href="http://www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice">www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice</a> or call 131 050</li> </ul> |
|              | <p><b>Condition Reason:</b> To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.</p>  |
| <b>F 18.</b> | <p><b>Classification of Hazardous Waste</b></p>  |
|              | <p>While site work is being carried out, and 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.</p>   |
|              | <p><b>Condition Reason:</b> 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.</p>   |
| <b>F</b>     | <p><b>Disposal of Asbestos and Hazardous Waste</b></p>   |

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| 19.   | <p>While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.</p> <p><b>Condition Reason:</b> 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.</p>  |
| F 20. | <p><b>Asbestos Removal Signage</b></p> <p>While site work is being carried out and when asbestos is being removed, 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.</p> <p><b>Condition Reason:</b> To ensure awareness of any hazard to the health and safety of persons working on the site and public.</p>  |
| F 21. | <p><b>Notification of Asbestos Removal</b></p> <p>While site work is being carried out, 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.<br/>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.</p> <p><b>Condition Reason:</b> To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.</p>  |
| F 22. | <p><b>Tree Preservation</b></p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> 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.</p> <p>General Protection Requirements:</p> <ul style="list-style-type: none"> <li>a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.</li> <li>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.</li> <li>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.</li> </ul> <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> |

|  |  | <b>Condition Reason:</b> To protect trees during the carrying out of sitework. |  |                                |   |  |
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| F 23.  | <b>Arborists Documentation and Compliance Checklist</b>  |  |  |                                |   |  |
|  | <p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <p>a) a record of the condition of trees to be retained prior to and throughout development,</p> <p>b) recommended actions to improve site conditions and rectification of non-compliance, and</p> <p>c) recommendations for future works which may impact the trees.</p> <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p>  |  |  |                                |   |  |
|  | <table><tr><th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr><tr><td>While site work is carried out</td><td><ul style="list-style-type: none"><li>The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.</li><li>The project arborist must supervise the installation of the driveway extension within the TPZ of Tree No.17 and 19, documenting the condition of roots and soil.</li><li>The project arborist must ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter.</li><li>The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees.</li><li>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.</li><li>Regular inspections as indicated in the Tree Management Plan.</li></ul></td></tr></table> | Stage of arboricultural inspection and supervision                             | Compliance documentation and photos must include | While site work is carried out | <ul style="list-style-type: none"><li>The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.</li><li>The project arborist must supervise the installation of the driveway extension within the TPZ of Tree No.17 and 19, documenting the condition of roots and soil.</li><li>The project arborist must ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter.</li><li>The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees.</li><li>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.</li><li>Regular inspections as indicated in the Tree Management Plan.</li></ul> |  |
| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include   |  |  |                                |   |  |
| While site work is carried out                     | <ul style="list-style-type: none"><li>The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.</li><li>The project arborist must supervise the installation of the driveway extension within the TPZ of Tree No.17 and 19, documenting the condition of roots and soil.</li><li>The project arborist must ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter.</li><li>The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees.</li><li>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.</li><li>Regular inspections as indicated in the Tree Management Plan.</li></ul>  |  |  |                                |   |  |
|  | <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p>  |  |  |                                |   |  |
|  | <b>Condition Reason:</b> To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.   |  |  |                                |   |  |
| F 24.  | <b>Replacement/Supplementary trees which must be planted</b>   |  |  |                                |   |  |



While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The following replacement tree/s must be planted in deep soil landscaped area and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the criteria outlined below.

| Species/Type                           | Planting Location  | Container Size/Size of Tree (at planting) | Minimum Dimensions at Maturity (metres) |
|--|--|---|---|
| <i>Stenocarpus sinuatus</i>            | Northern corner – as shown on the Canopy Cover Plan (Dwg No A073) prepared by Interlock dated 13/12/23 | 75L                                       | 15 x 8                                  |
| <i>Callistemon salignus</i> (x2 trees) |  | 75L                                       | 10 x 8                                  |
| <i>Lagerstroemia indica</i>            |  | 75L                                       | 6 x 6                                   |
| <i>Ginkgo biloba</i> (x4 trees)        |  | 75L                                       | 15 x 8                                  |

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure the provision of appropriate replacement planting.

**F 25. Paving in the vicinity of trees**

While site work is being carried out, paving works within the specified radius from the trunks of the following trees must be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface must not be skimmed/excavated. The new surface must be established above the former ground level.

| Council Ref No | Species                         | Location  | Radius from centre of trunk (metres) |
|----------------|---------------------------------|---|--------------------------------------|
| 17             | <i>Strelitzia nicolai</i>       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 4m                                   |
| 18             | <i>Brachychiton acerifolius</i> |   | 4.8m                                 |
| 19             | <i>Cinnamomum camphora</i>      |   | 10.2m                                |

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure that paving works would not adversely impact upon the health of existing trees.

**F 26. Level changes in the vicinity of trees**

While site work is being carried out, no level changes must occur within the specified radius from the trunks of the following trees.

| Council Ref No | Species                                    | Location  | Radius from centre of trunk (metres) |
|----------------|--|---|--------------------------------------|
| 3              | <i>Syzygium</i> spp.                       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 3.6m                                 |
| 4              | <i>Brachychiton acerifolius</i>            |   | 3.6m                                 |
| 5              | <i>Alectryon subcinereus</i>               |   | 2.4m                                 |
| 6              | <i>Archontophoenix cunninghamiana</i>      |   | 3m                                   |
| 7              | <i>Macadamia integrifolia</i>              |   | 4.5m                                 |
| 8              | <i>Cyathea cooperi</i>                     |   | 3m                                   |
| 9              | <i>Podocarpus elatus</i>                   |   | 2m                                   |
| 10             | <i>Strelitzia nicolai</i>                  |   | 4m                                   |
| 11             | <i>Ficus rubiginosa</i>                    |   | 3m                                   |
| 12             | <i>Podocarpus elatus</i>                   |   | 2.1                                  |
| 13             | <i>Brachychiton acerifolius</i>            |   | 3.6m                                 |
| G14            | <i>Archontophoenix cunninghamiana</i> (x2) |   | 3m                                   |

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure level changes would not adversely impact upon the health of existing trees.

**F 27. Hand excavation within tree root zones**

While site work is being carried out, demolition of underground structures such as existing footings and approved excavation undertaken within the specified radius from the trunks of the following trees must be carried out by hand.

| Council Ref No | Species                         | Location  | Radius from centre of trunk (metres) |
|----------------|---------------------------------|---|--------------------------------------|
| 17             | <i>Strelitzia nicolai</i>       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 4m                                   |
| 18             | <i>Brachychiton acerifolius</i> |   | 4.8m                                 |
| 19             | <i>Cinnamomum camphora</i>      |   | 10.2m                                |

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

Mechanical excavation is permitted beyond this radius when root pruning by hand along the hand excavated perimeter line is completed. Exposed roots to be retained must 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 must document compliance with the above condition.

|                | <b>Condition Reason:</b> To ensure demolition and excavation works would not adversely impact upon the health of existing trees.  |   |                                      |          |                                      |    |                           |   |    |    |                                 |      |    |                            |       |
|----------------|---|---|--------------------------------------|----------|--------------------------------------|----|---------------------------|---|----|----|---------------------------------|------|----|----------------------------|-------|
| F 28.          | <b>Installation of stormwater pipes and pits in the vicinity of trees</b><br><br>While site work is being carried out, excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees must be carried out by hand.<br><table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Radius from centre of trunk (metres)</th></tr><tr><td>17</td><td><i>Strelitzia nicolai</i></td><td rowspan="3">Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations.</td><td>4m</td></tr><tr><td>18</td><td><i>Brachychiton acerifolius</i></td><td>4.8m</td></tr><tr><td>19</td><td><i>Cinnamomum camphora</i></td><td>10.2m</td></tr></table><br>Any roots equal to or greater than 50mm diameter uncovered for the installation of stormwater pipes and pits must not be severed and remain in situ bridging across the excavated trench. Pipes must be guided under any roots equal to or greater than 50mm bridging across excavated trenches. Stormwater pits must be positioned so that no roots equal to or greater then 50mm diameter are severed.<br><br>The project arborist must document compliance with the above condition.<br><br><b>Condition Reason:</b> To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees. | Council Ref No  | Species                              | Location | Radius from centre of trunk (metres) | 17 | <i>Strelitzia nicolai</i> | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 4m | 18 | <i>Brachychiton acerifolius</i> | 4.8m | 19 | <i>Cinnamomum camphora</i> | 10.2m |
| Council Ref No | Species   | Location  | Radius from centre of trunk (metres) |          |                                      |    |                           |   |    |    |                                 |      |    |                            |       |
| 17             | <i>Strelitzia nicolai</i>   | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 4m                                   |          |                                      |    |                           |   |    |    |                                 |      |    |                            |       |
| 18             | <i>Brachychiton acerifolius</i>   |   | 4.8m                                 |          |                                      |    |                           |   |    |    |                                 |      |    |                            |       |
| 19             | <i>Cinnamomum camphora</i>  |   | 10.2m                                |          |                                      |    |                           |   |    |    |                                 |      |    |                            |       |

## G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

|             |   |
|-------------|---|
| <b>G 1.</b> | <p><b>Occupation Certificate (section 6.9 of the Act)</b></p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>New building includes an altered portion of, or an extension to, an existing building.</li> </ul> <p><b>Condition Reason:</b> To ensure the building is suitable to occupy.</p>  |
| <b>G 2.</b> | <p><b>Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters</b></p> <p>Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:</p> <ol style="list-style-type: none"> <li>Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia.</li> <li>The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register.</li> <li>The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool.</li> <li>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.</li> </ol> |

|             |  |
|-------------|--|
|             | <p>e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3: Swimming pool safety - Water recirculation systems.</p> <p>Backwash must be discharged to the sewer in compliance with AS/NZS 3500.</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>NSW Health guidelines and fact sheets are available at <a href="http://www.health.nsw.gov.au">www.health.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.</p>                     |
| <b>G 3.</b> | <p><b>Swimming Pool Fencing</b></p> <p>Before the issue of any occupation certificate, swimming pool fencing is to be constructed in accordance with AS1926: Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Pools commenced or completed after May 2013 must meet the BCA and AS1926.</li> </ul> <p><b>Condition Reason:</b> To ensure swimming pool safety.</p>  |
| <b>G 4.</b> | <p><b>Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation</b></p> <p>Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No.A500727.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled.</li> </ul> <p><b>Condition Reason:</b> To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.</p> |
| <b>G 5.</b> | <p><b>Removal of Ancillary Works and Structures</b></p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ol style="list-style-type: none"> <li>the site sign,</li> <li>ablutions,</li> <li>hoarding,</li> <li>scaffolding, and</li> <li>waste materials, matter, article or thing.</li> </ol> <p><b>Condition Reason:</b> To ensure that all ancillary matter is removed prior to occupation.</p>  |
| <b>G</b>    | <p><b>Works-As-Executed Certification of Stormwater Systems</b></p>  |

|      |  |
|------|--|
| 6.   | <p>Before the issue of an occupation certificate for the whole of the building, and on the 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:</p> <ul style="list-style-type: none"> <li>a) compliance with conditions of development consent relating to stormwater,</li> <li>b) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,</li> <li>c) that only one stormwater outlet pipe has been constructed,</li> <li>d) that the works have been constructed in accordance with the approved design,</li> <li>e) pipe invert levels and surface levels to Australian Height Datum, and</li> <li>f) 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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.</li> </ul> <p><b>Condition Reason:</b> To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p> |
| G 7. | <p><b>Amenity Landscaping</b></p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p><b>Condition Reason:</b> To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.</p>   |
| G 8. | <p><b>Landscaping</b></p> <p>Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with 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 landscaping and replacement/supplementary tree planting works comply with this consent.</p> <p><b>Condition Reason:</b> To ensure that all landscaping work is completed prior to occupation.</p>   |
| G 9. | <p><b>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</b></p> <p>Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> <li>a) A record of the condition of trees to be retained prior to and throughout development.</li> <li>b) Recommended actions to improve site conditions and rectification of non-compliance.</li> <li>c) Recommendations for future works which may impact the trees.</li> </ul> <p>All compliance certification documents must be kept on site by the site Supervisor.</p>  |

|  | <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="284 282 1406 427"> <tr> <th data-bbox="284 282 639 338">Stage of arboricultural inspection and supervision</th><th data-bbox="639 282 1406 338">Compliance documentation and photos must include</th></tr> <tr> <td data-bbox="284 338 639 427">Prior to the issue of any occupation certificate</td><td data-bbox="639 338 1406 427">Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p><b>Condition Reason:</b> To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p>  | Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | Prior to the issue of any occupation certificate                             | Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.   |
|--|--|--|--|--|---|
| Stage of arboricultural inspection and supervision                           | Compliance documentation and photos must include   |  |  |  |   |
| Prior to the issue of any occupation certificate                             | Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.  |  |  |  |   |
| <p><b>G 10.</b></p>  | <p><b>Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building</b></p> <p>Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.</p> <p>Documentation for each site visit must include:</p> <ol style="list-style-type: none"> <li>A record of the condition of trees to be retained prior to and throughout development.</li> <li>Recommended actions to improve site conditions and rectification of non-compliance.</li> <li>Recommendations for future works which may impact the trees.</li> </ol> <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="284 1384 1406 1641"> <tr> <th data-bbox="284 1384 624 1440">Stage of arboricultural inspection and supervision</th><th data-bbox="624 1384 1406 1440">Compliance documentation and photos must include</th></tr> <tr> <td data-bbox="284 1440 624 1641">Before the issue of any occupation certificate for the whole of the building</td><td data-bbox="624 1440 1406 1641"> <ul style="list-style-type: none"> <li>The project arborist must supervise the dismantling of tree protection measures</li> <li>After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.</li> </ul> </td></tr> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p><b>Condition Reason:</b> To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p> | Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | Before the issue of any occupation certificate for the whole of the building | <ul style="list-style-type: none"> <li>The project arborist must supervise the dismantling of tree protection measures</li> <li>After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.</li> </ul> |
| Stage of arboricultural inspection and supervision                           | Compliance documentation and photos must include   |  |  |  |   |
| Before the issue of any occupation certificate for the whole of the building | <ul style="list-style-type: none"> <li>The project arborist must supervise the dismantling of tree protection measures</li> <li>After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.</li> </ul>  |  |  |  |   |
| <p><b>G 11.</b></p>  | <p><b>Certification of Electric Vehicle Charging System</b></p>  |  |  |  |   |



Before the issue of any occupation certificate, 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 D.12, must be submitted to the satisfaction of the Principal Certifier.

**Condition Reason:** To ensure the certification of the electric vehicle charging system.

## H. OCCUPATION AND ONGOING USE

|      |  |
|------|--|
| H 1. | <b>Maintenance of BASIX Commitments</b>  |
|      | During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No.A500727.<br><br>This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.   |
|      | <b>Condition Reason:</b> To ensure the approved environmental sustainability measures are maintained for the life of development.  |
| H 2. | <b>Maintenance of Landscaping</b>  |
|      | During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.<br><br>This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.<br><b>Notes:</b> <ul style="list-style-type: none"> <li>This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.</li> <li>Owners must have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.</li> </ul> |
|      | <b>Condition Reason:</b> To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.  |
| H 3. | <b>Garage studio space not to be as a separate domicile/secondary dwelling</b>   |
|      | This approval does not give consent to any use of the garage studio space as a separate domicile/secondary dwelling.   |
|      | <b>Condition Reason:</b> To ensure all parties are aware of works/use that have not been granted consent.  |
| H 4. | <b>Outdoor Lighting – Residential</b>  |
|      | During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.   |

|             |   |
|-------------|---|
|             | <b>Condition Reason:</b> To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.  |
| <b>H 5.</b> | <p><b>Noise Control</b></p> <p>During the occupation and ongoing use, 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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Council will generally enforce this condition in accordance with the Noise Guide for Local Government (<a href="http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government">www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government</a>) and the NSW Industrial Noise Policy (<a href="http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise">www.epa.nsw.gov.au/your-environment/noise/industrial-noise</a>) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997.</li> <li>• Useful links: <ul style="list-style-type: none"> <li>- Community Justice Centres—free mediation service provided by the NSW Government <a href="http://www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a>.</li> <li>- NSW Environment Protection Authority— see “noise” section <a href="http://www.environment.nsw.gov.au/noise">www.environment.nsw.gov.au/noise</a>.</li> <li>- 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 2017 is available at <a href="http://www.legislation.nsw.gov.au">www.legislation.nsw.gov.au</a>.</li> <li>- Australian Acoustical Society—professional society of noise related professionals <a href="http://www.acoustics.asn.au">www.acoustics.asn.au</a>.</li> <li>- Association of Australian Acoustical Consultants—professional society of noise related professionals <a href="http://www.aaac.org.au">www.aaac.org.au</a>.</li> <li>- Liquor and Gaming NSW—<a href="http://www.liquorandgaming.nsw.gov.au">www.liquorandgaming.nsw.gov.au</a>.</li> </ul> </li> </ul> <p><b>Condition Reason:</b> To protect the amenity of the neighbourhood.</p> |

## SUBDIVISION WORK

### I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

### J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

### K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil.

## LAND SUBDIVISION

### L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE








Nil.

## STRATA SUBDIVISION

### M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

## Attachments

1. Architectural Plans & Elevations [↓](#) 
2. Clause 4.6 Written Request by Applicant [↓](#) 
3. Development Engineering Referral Response [↓](#) 
4. Drainage Engineering Referral Response [↓](#) 
5. First Trees and Landscaping Referral Response [↓](#) 
6. Second Trees and Landscaping Referral Response [↓](#) 
7. Heritage Referral Response [↓](#) 

7 CRANBROOK ROAD BELLEVUE HILL

ALTERATIONS & ADDITIONS TO

EXISTING DWELLING

LOT 4 D.P28700

| GENERAL NOTES  |  | COMPLIANCE     |  | SPECIFICATION   |  | HERITAGE CONSERVATION NOTES   |  |
|--|--|----------------|--|---|--|---|--|
| <p>1. BUILDER TO MAINTAIN STRICT ACCORDANCE WITH COUNCIL CONDITIONS &amp; REQUIREMENTS . ALL WORKS SHOWN / INDICATED SHALL BE CARRIED OUT IN A TRADESMENLIKE MANNER AND SHALL COMPLY WITH THE BUILDING CODE OF AUSTRALIA, LOCAL GOVERNMENT BY- LAWS AND THE RELEVANT AUSTRALIAN STANDARDS. - CHECK THOROUGHLY ALL DIMENSIONS ON SITE DURING SETTING OUT, PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION WHATSOEVER .</p> <p>2. ALL WORKS SHOWN / INDICATED SHALL BE CARRIED OUT IN A TRADESMENLIKE MANNER AND SHALL COMPLY WITH THE BUILDING CODE OF AUSTRALIA, LOCAL GOVERNMENT BY-LAWS AND THE RELEVANT STANDARDS.</p> <p>3. ALL DIMENSIONS ARE IN MILLIMETER. DIMENSIONS IN REFERENCE TO SCALE.</p> <p>4. ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO ANY PRODUCTIONS. IT IS THE RESPONSIBILITY OF THE BUILDER / CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS, HEIGHTS AND LEVELS PRIOR TO STARTING ANY CONSTRUCTION WHATSOEVER.</p> <p>5. CHECK AND VERIFY ALL DIMENSIONS AND DETAILS ON SITE PRIOR TO THE COMMENCEMENT OF ANY WORKS, AND REPORT ANY DISCREPANCIES OR ANOMALIES TO THE SITE OFFICE FOR CLARIFICATION.</p> <p>6. IT IS THE RESPONSIBILITY OF THE BUILDER / CONTRACTOR READ THIS PLAN IN CONJUNCTION WITH ASSOCIATED CONSULTANT ENGINEERS PLANS, DETAILS AND SPECIFICATIONS.</p> <p>7. ANY WORK SHOWN/INDICATED ON PLAN BUT NOT IN SPECIFICATIONS OR VICE VERSA, AND ANY WORK NOT SHOWN IN EITHER PLAN OR SPECIFICATION BUT WHICH IS OBVIOUSLY NECESSARY AS PART OF PROPER BUILDING CONSTRUCTION AND/OR FINISH IS TO BE CONSIDERED AS SO SHOWN AND IS TO BE CARRIED OUT AS PART OF THE CONTRACT.</p> <p>8. NO RESPONSIBILITY WILL BE ACCEPTED BY THE DESIGNER FOR BUILDER'S DETAILS, METHODS, SETOUT, DESIGN CONTRADICTIONS NOR COUNCIL VARIATIONS AND CONDITIONS.</p> |  |                |  | <b>SITE AREA</b>  |  | 1758m <sup>2</sup>  |  |
|  |  |                |  | <b>FLOOR SPACE RATIO</b>  |  |   |  |
|  |  |                |  | PERMISSIBLE   |  | 0.5:1   |  |
|  |  |                |  | <u>EXISTING</u>   |  | 500m <sup>2</sup>   |  |
|  |  |                |  | <u>PROPOSED</u>   |  | 578m <sup>2</sup>   |  |
|  |  |                |  |   |  | 0.32:1  |  |
|  |  |                |  | <u>LANDSCAPED / PRIVATE OPEN AREA</u>   |  |   |  |
|  |  |                |  | SITE AREA   |  | 1758m <sup>2</sup>  |  |
|  |  |                |  | <u>LANDSCAPED</u>   |  |   |  |
|  |  |                |  | EXISTING  |  | 824m <sup>2</sup>   |  |
| <u>PRIVATE OPEN SPACE</u>  |  |                |  |   |  |   |  |
| EXISTING   |  | m <sup>2</sup> |  |   |  |   |  |
| PROPOSED   |  | UNCHANGED      |  |   |  |   |  |
| <b>SETBACKS</b>  |  |                |  |   |  |   |  |
| <u>Front Setback</u>   |  |                |  |   |  |   |  |
| PROPOSED   |  | 6m             |  |   |  |   |  |
| <u>Side Setback</u>  |  |                |  |   |  |   |  |
| PROPOSED   |  | 3.4m           |  |   |  |   |  |
| <u>Rear Setback</u>  |  |                |  |   |  |   |  |
| PROPOSED   |  |                |  |   |  |   |  |
| <b>HEIGHT</b>  |  |                |  |   |  |   |  |
| PERMISSIBLE  |  | 9.5m           |  |   |  |   |  |
| EXISTING   |  | 10.94m         |  |   |  |   |  |
| PROPOSED   |  | 10.94m         |  |   |  |   |  |
|  |  |                |  | <b>3.1 – Termite Preparation</b>  |  | <p>MAINTAIN AND CONSERVE (MAKE GOOD AS REQUIRED) THE FOLLOW ITEMS BUT NOT LIMITED TO:</p> <ul style="list-style-type: none"><li>• FRONT METAL FENCING, NEW PAINT FINISH</li><li>• FRONT FACADE TO BE PAINTED (REFER FINISHES SCHEDULE)</li><li>• CONSERVE EXISTING TIMBER WINDOWS AND SHUTTERS, MAKE GOOD AND PAINT. ENSURE IN WORKING ORDER</li><li>• EXISTING CORNICES, SKIRTINGS, CEILING ROSES. WHERE REQUIRED MATCH EXISTING PROFILE AND FINISH</li><li>• EXISTING CHIMNEY TO BE REMAIN</li><li>• EXISTING INTERNAL FIREPLACES TO REMAIN, MAKE GOOD AS REQUIRED</li></ul> <div><div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div></div><div>Site Boundary<br/>Existing Structure<br/>New Structure<br/>Proposed Works<br/>Existing Gross Floor Area<br/>Proposed Soft Landscaping<br/>Fabric To Be Demolished<br/>Fabric To Be Retained</div></div> |  |
|  |  |                |  | Termite protection will be undertaken in accordance with:-  |  |   |  |
|  |  |                |  | AS 3660.1 – Protection of buildings from subterranean termites.   |  |   |  |
|  |  |                |  | <b>3.2 – Footings and Slabs</b>   |  |   |  |
|  |  |                |  | All footings and slabs will be designed and constructed in accordance with:-  |  |   |  |
|  |  |                |  | AS 2870.1 – Residential slabs and footings – Construction.  |  |   |  |
|  |  |                |  | AS 3600 – Concrete Structures Code.   |  |   |  |
|  |  |                |  | <b>3.3 – Masonry</b>  |  |   |  |
|  |  |                |  | All masonry walls will be designed and constructed in accordance with:-   |  |   |  |
|  |  |                |  | AS 3700 – Masonry Code.   |  |   |  |
|  |  |                |  | <b>3.4 – Framing</b>  |  |   |  |
|  |  |                |  | All timber framing, bracing and tie-downs will be constructed in accordance with:-  |  |   |  |
|  |  |                |  | AS 1684 – National Timber Framing Code.   |  |   |  |
|  |  |                |  | <b>3.5.1 – Roof Cladding</b>  |  |   |  |
|  |  |                |  | All roof cladding will be undertaken in accordance with:-   |  |   |  |
|  |  |                |  | AS 2049 – Roof Tiles.   |  |   |  |
|  |  |                |  | AS 2050 – Fixing of Roof Tiles.   |  |   |  |
|  |  |                |  | AS 1562 – Design and installation of sheet roof and wall cladding.  |  |   |  |
|  |  |                |  | AS 4256 – Plastic roof and wall cladding materials.   |  |   |  |
|  |  |                |  | <b>3.5.2 – Gutters and Downpipes</b>  |  |   |  |
|  |  |                |  | All gutters and downpipes will accord with:-  |  |   |  |
|  |  |                |  | AS 3500.3.2 – Acceptable solutions.   |  |   |  |
|  |  |                |  | <b>3.6 – Glazing</b>  |  |   |  |
|  |  |                |  | All glazing will be selected and installed in accordance with:-   |  |   |  |
|  |  |                |  | AS 1288 – Glass in buildings – Selection and Installation.  |  |   |  |
|  |  |                |  | <b>3.7 – Fire Safety</b>  |  |   |  |
|  |  |                |  | Smoke alarms will be provided in accordance with:-  |  |   |  |
|  |  |                |  | AS/NZS 3000:2000 – Electrical installations   |  |   |  |
|  |  |                |  | AS 3786 – Smoke alarms.   |  |   |  |
|  |  |                |  | <b>3.8.1 – Wet Areas</b>  |  |   |  |
|  |  |                |  | Waterproofing of wet areas will be undertaken in accordance with:-  |  |   |  |
|  |  |                |  | AS 3740 – Waterproofing of wet areas in residential buildings.  |  |   |  |
|  |  |                |  | <b>3.8.3.3 – Construction of sanitary compartments</b>  |  |   |  |
|  |  |                |  | The door to a fully enclosed sanitary compartment where within 1.2 m of the closet pan, will either open outwards, slide or be readily removable from the outside of the compartment. |  |   |  |
|  |  |                |  | <b>3.8.5 – Ventilation</b>  |  |   |  |
|  |  |                |  | Any internal bathrooms and/or laundries will be mechanically ventilated in accordance with:-  |  |   |  |
|  |  |                |  | AS 1668.2 – Mechanical ventilation for acceptable indoor air quality.   |  |   |  |
|  |  |                |  | <b>3.9 – Safe Movement and Access</b>   |  |   |  |
|  |  |                |  | Construction of stairs will comply with BCA clauses 3.9.1.3 and 3.9.1.4.  |  |   |  |
|  |  |                |  | Construction of balustrades will comply with BCA clauses 3.9.2.3.   |  |   |  |

FOR DEVELOPMENT APPLICATION ISSUE

INTERLOCK | Construction | Design | Project Management | Nominated Architect: Troy Newman No.10699 | E: info@interlockconstruction.co

7 CRANBROOK RD - BELLEVUE HILL

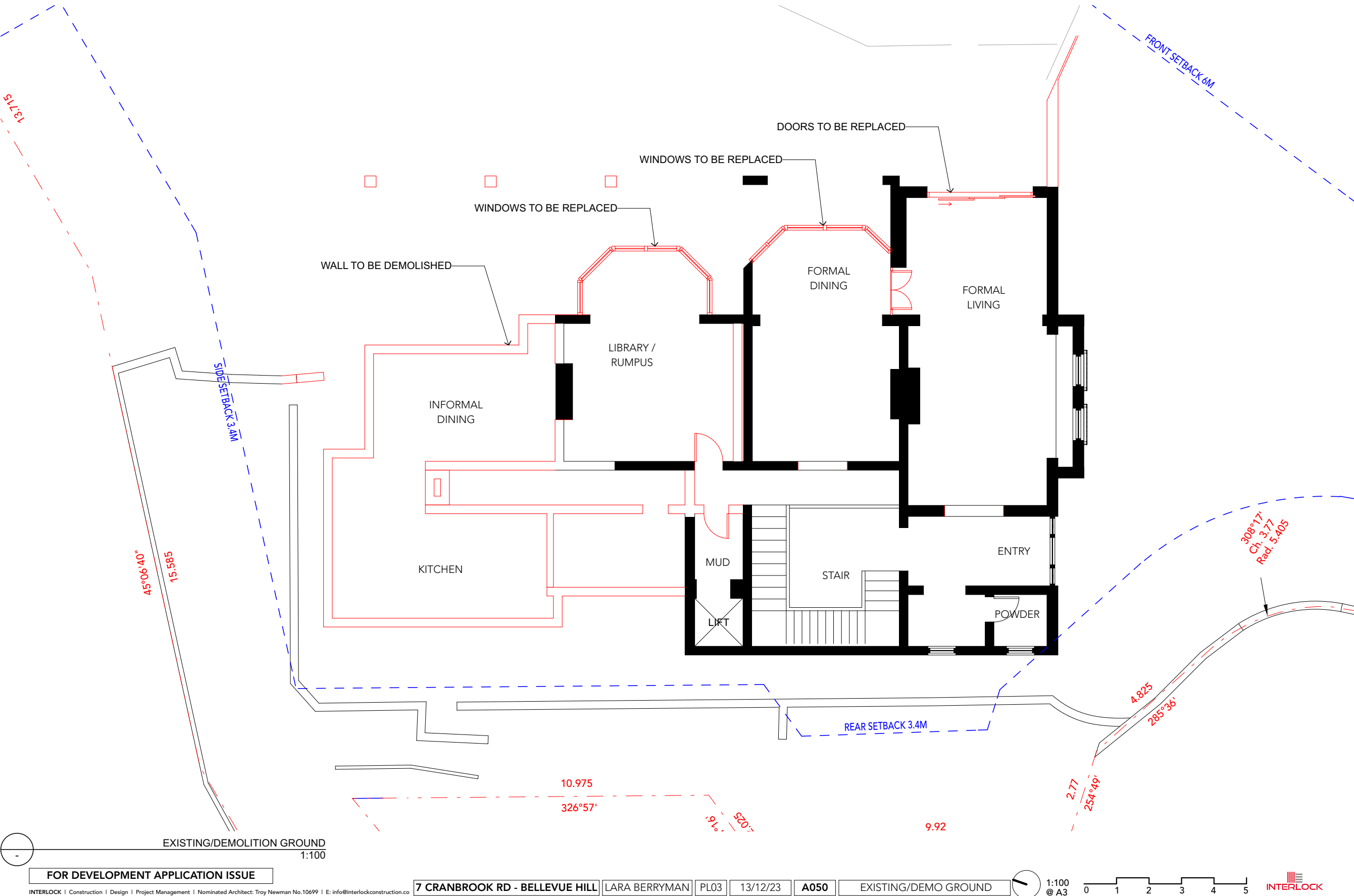
LARA BERRYMAN

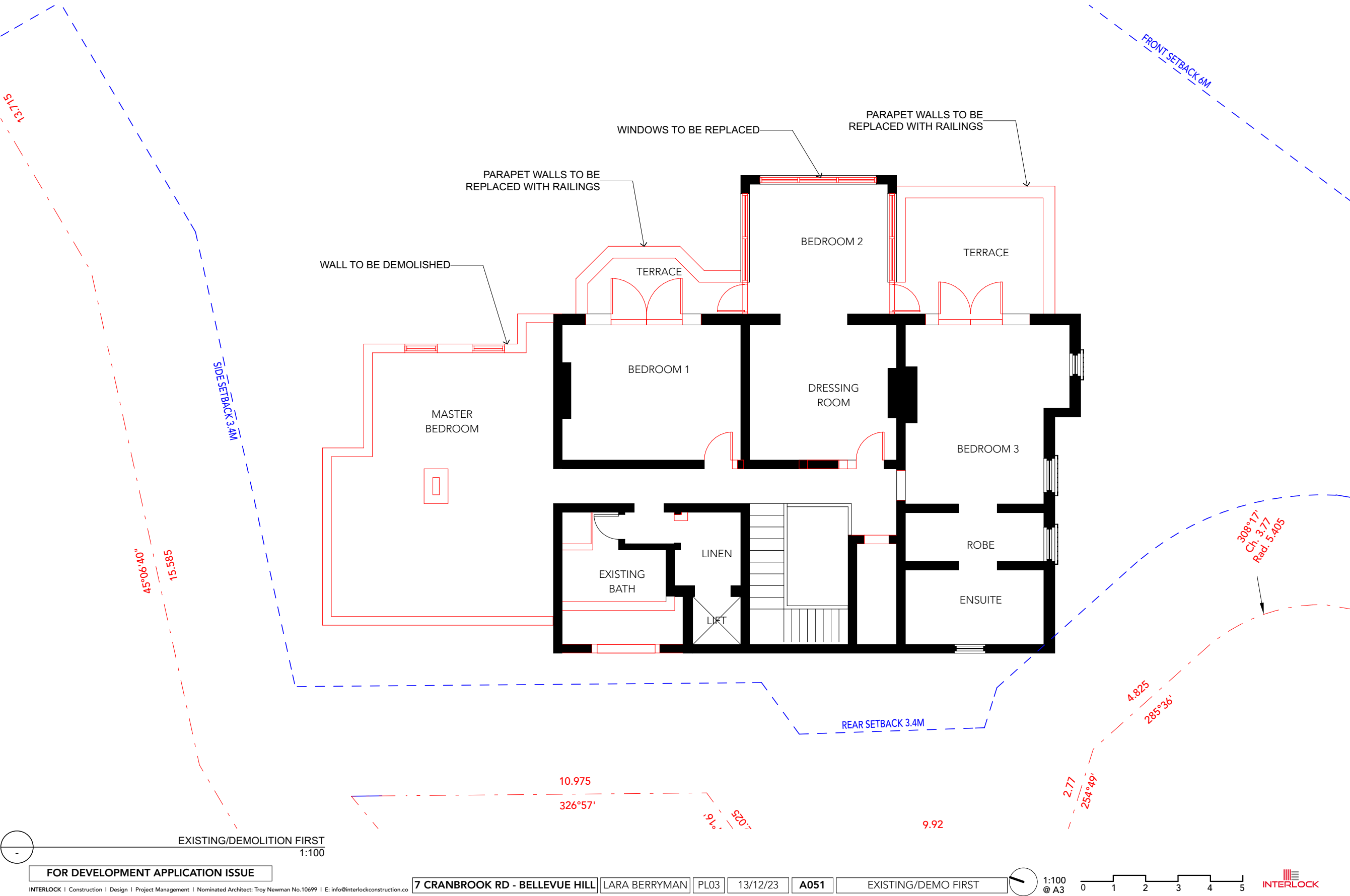
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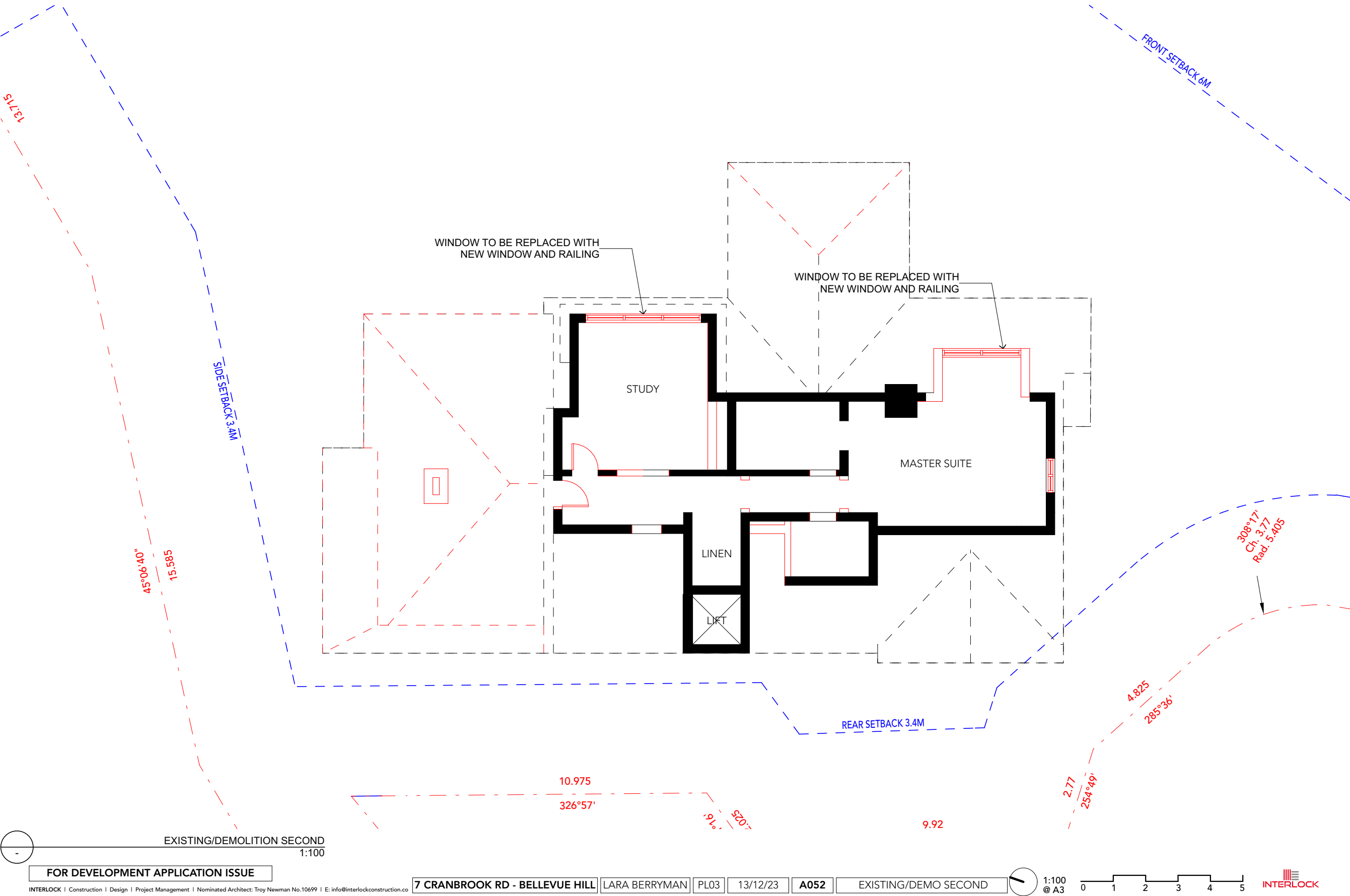
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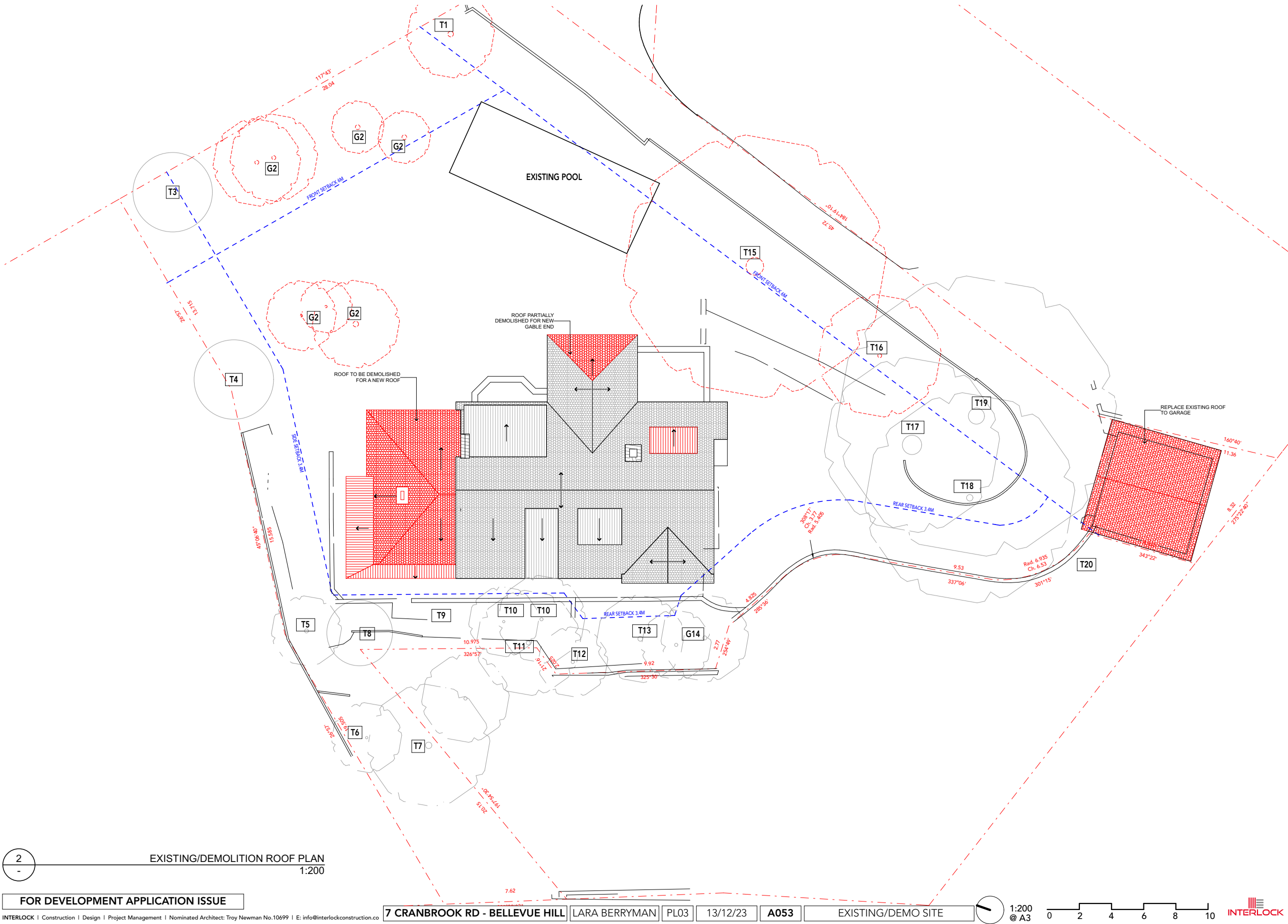
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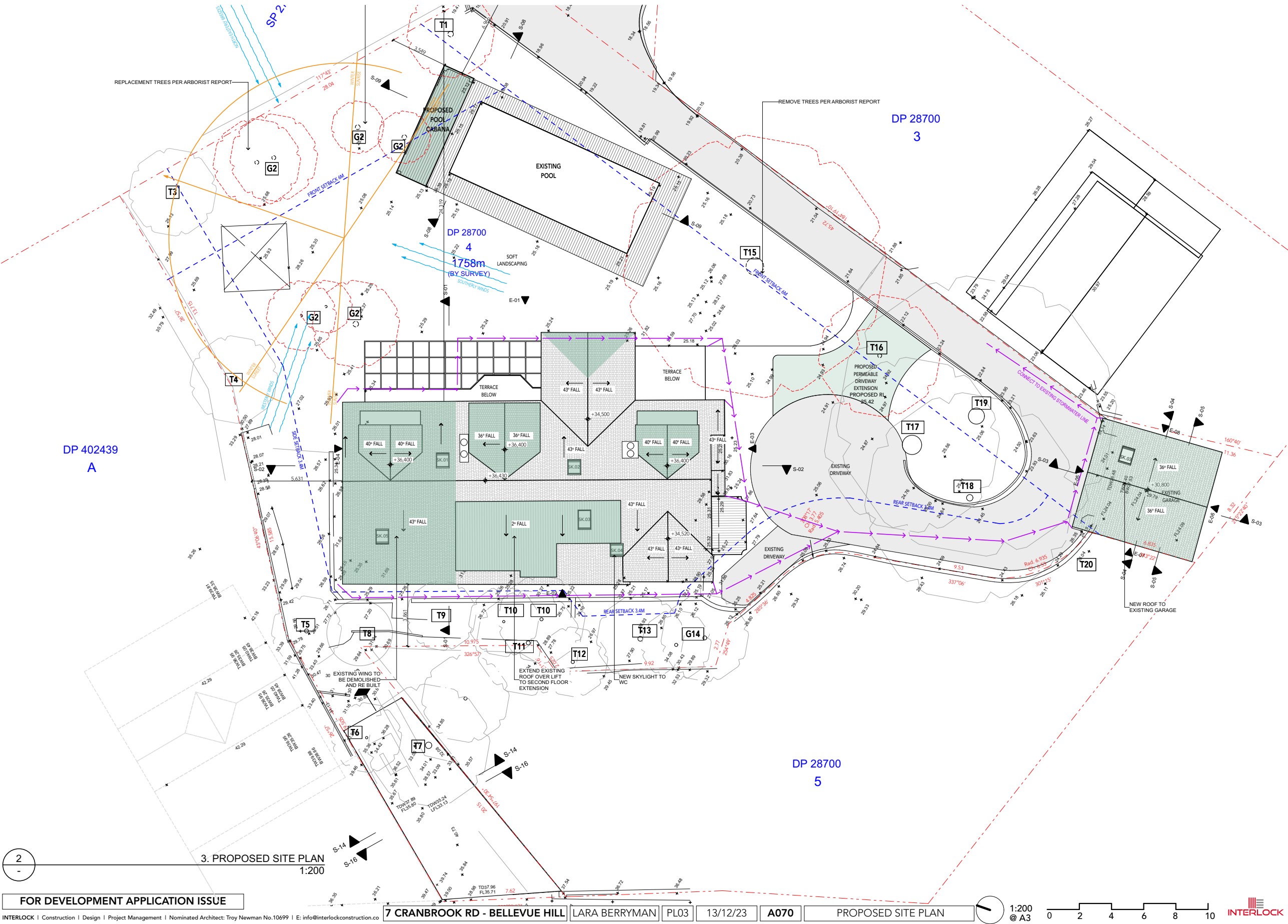


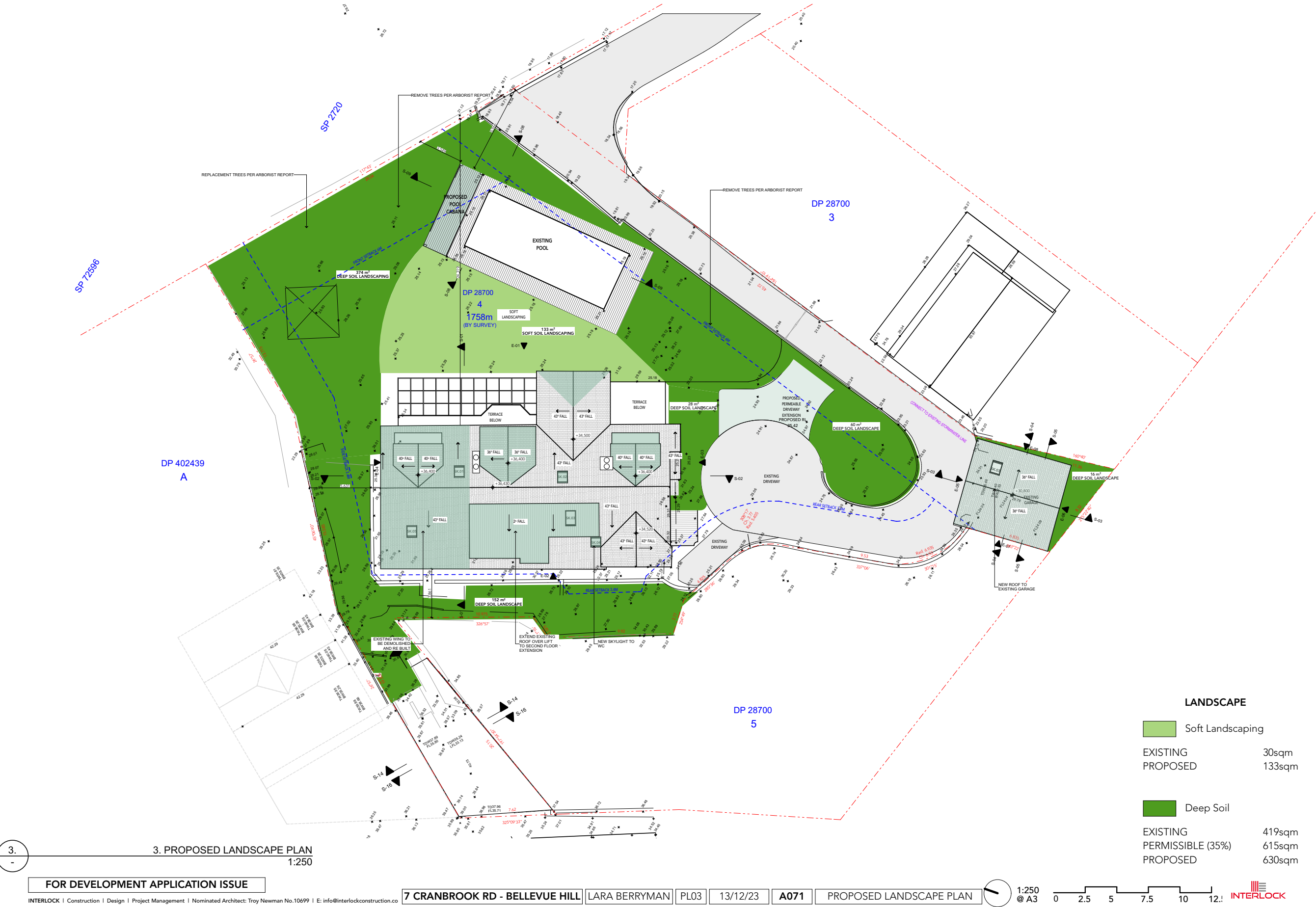




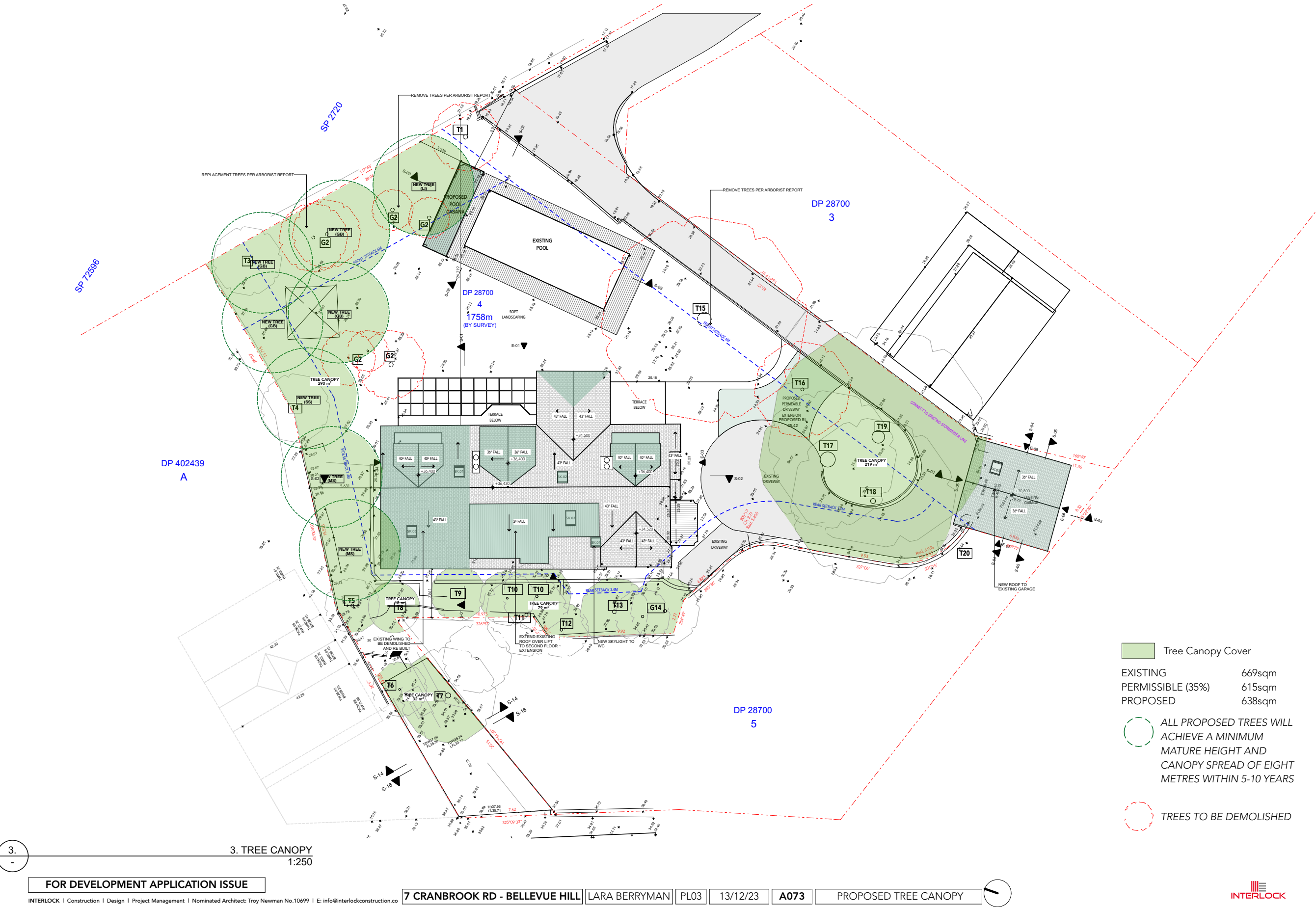


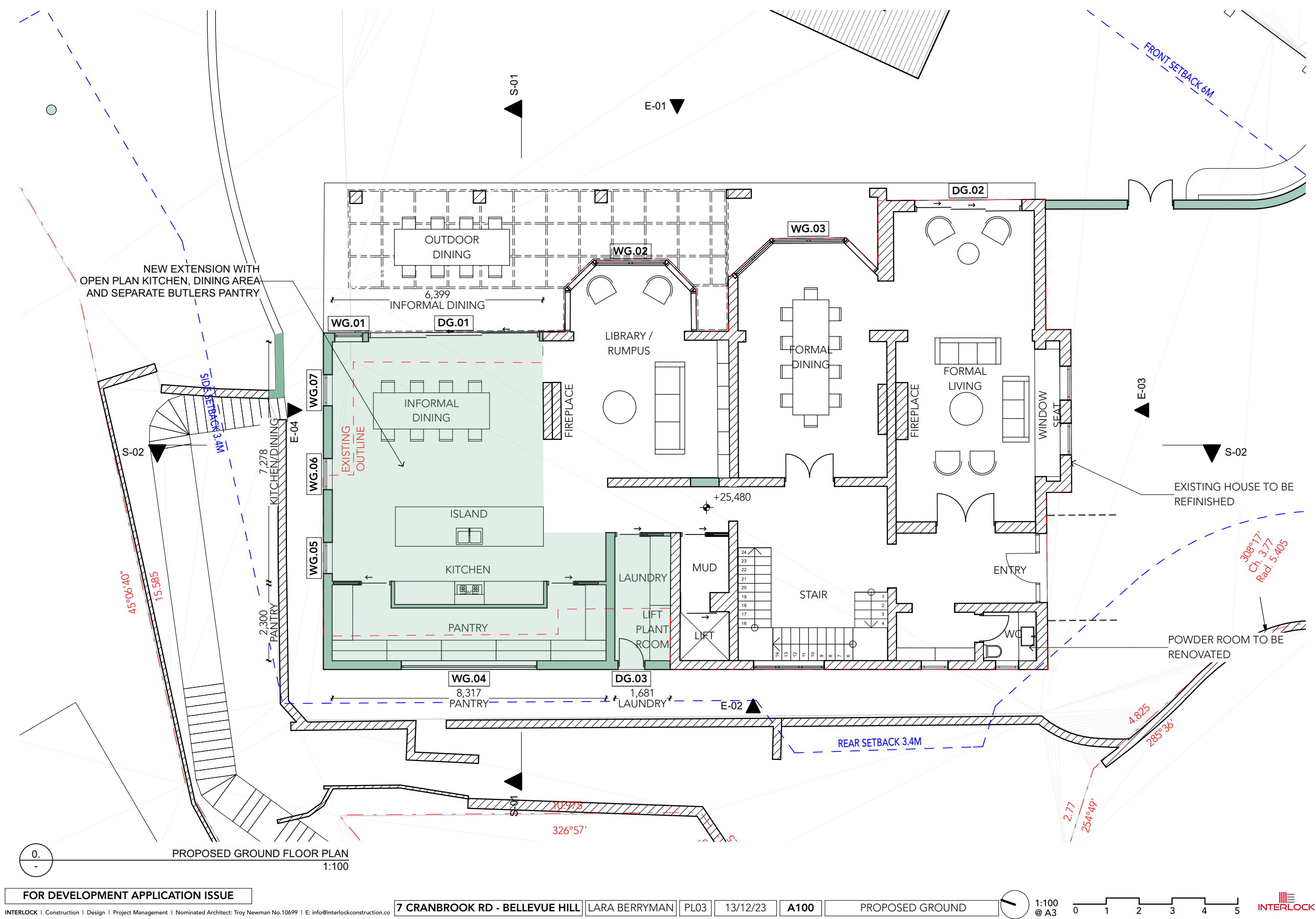




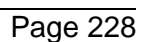


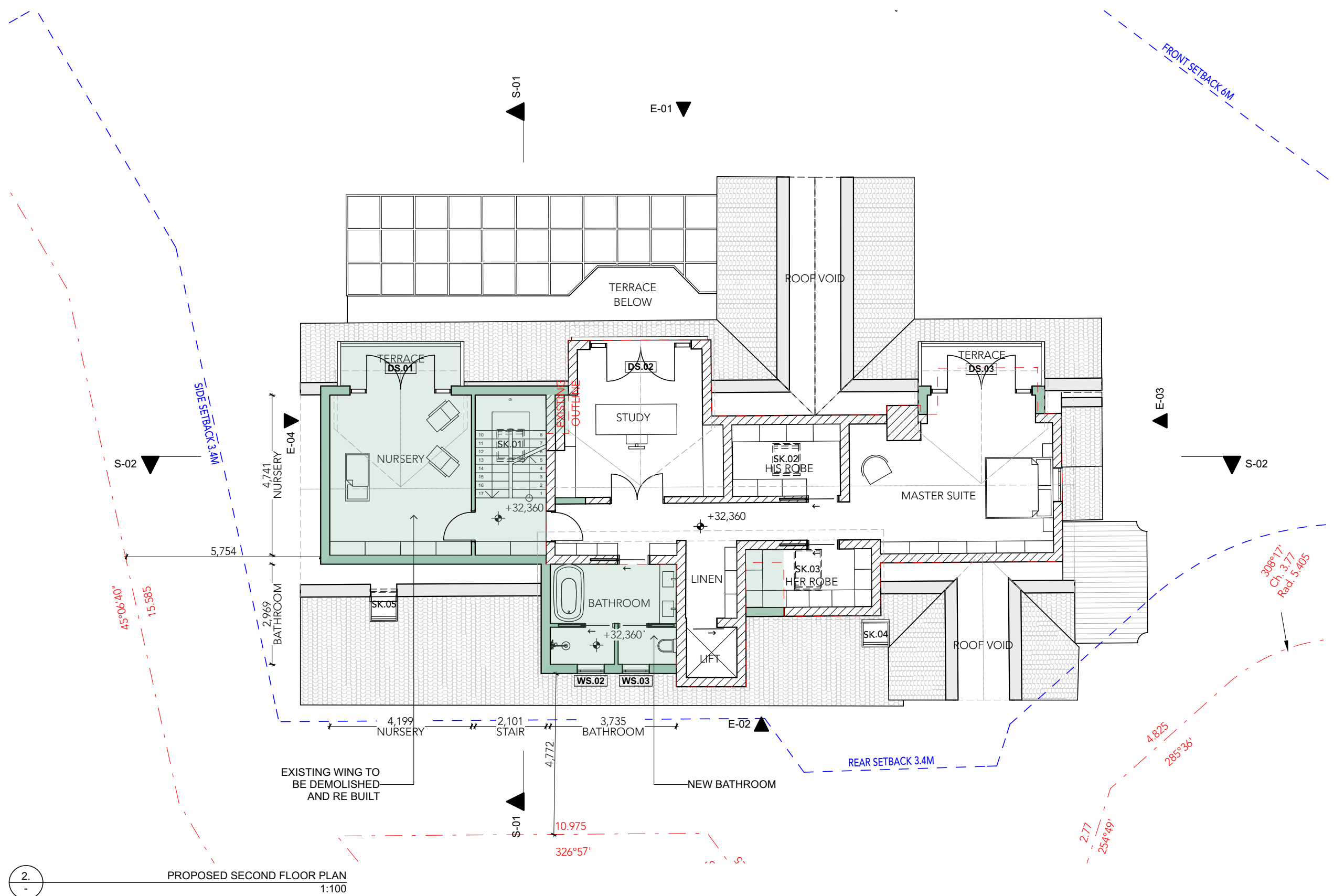




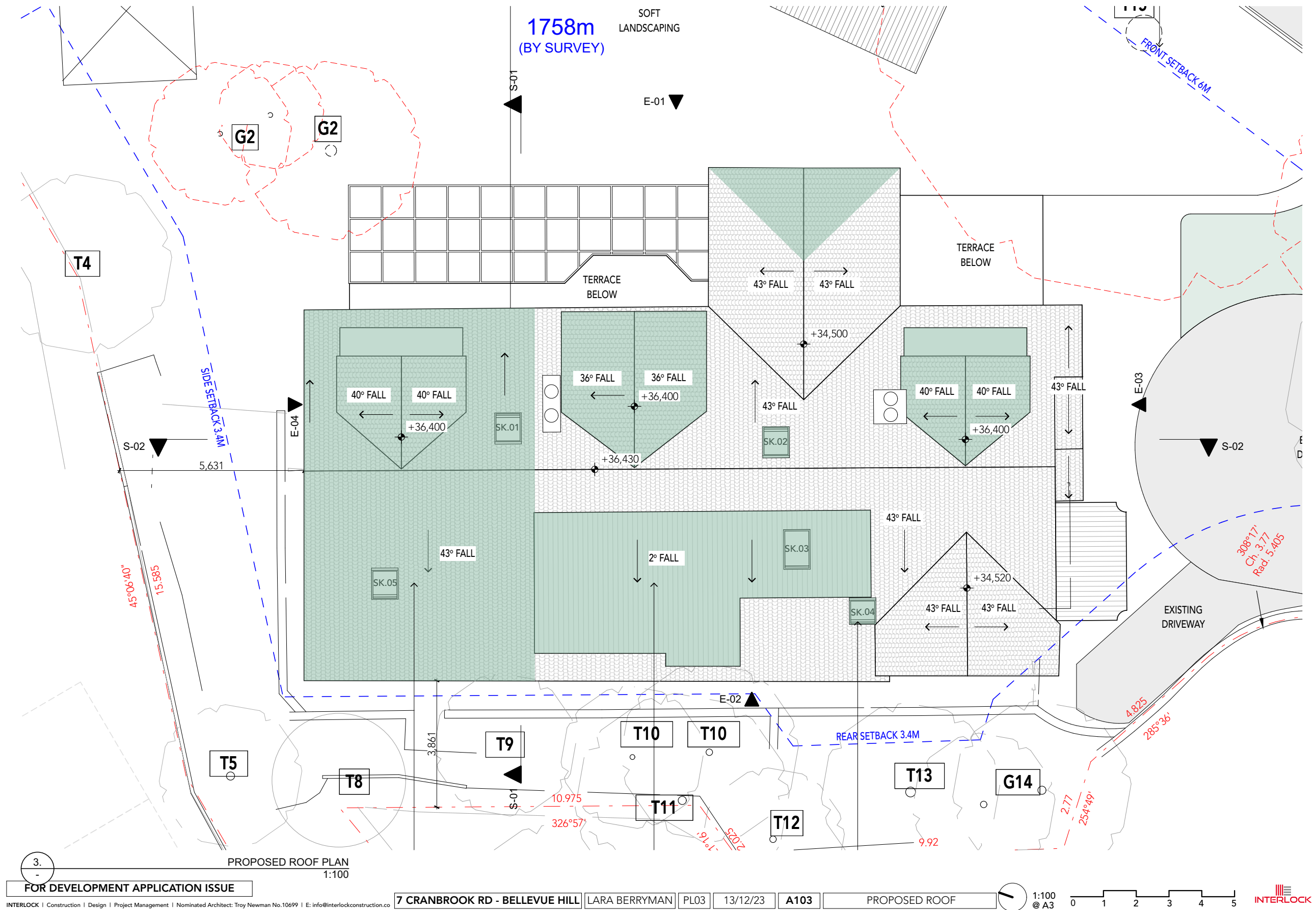


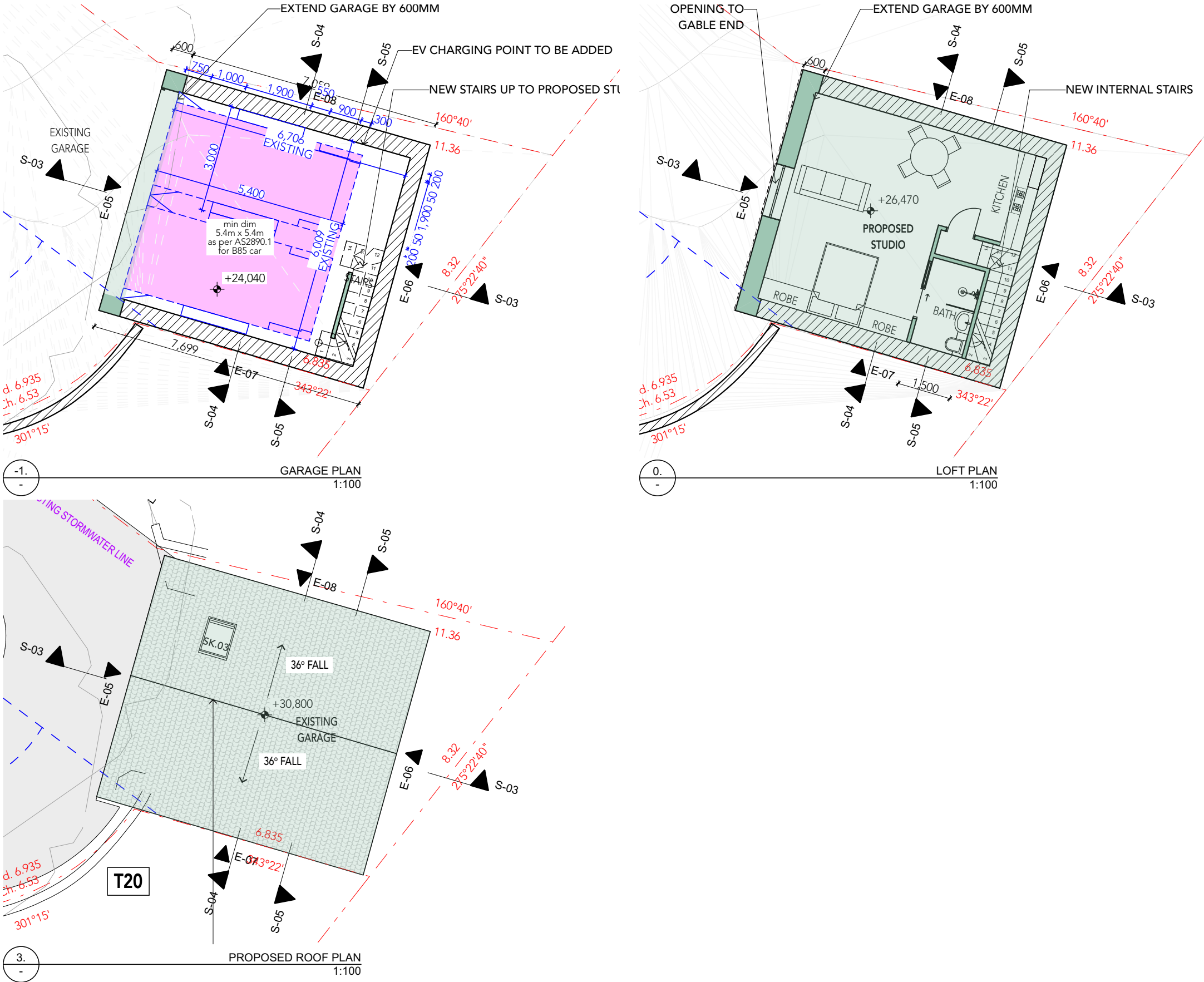


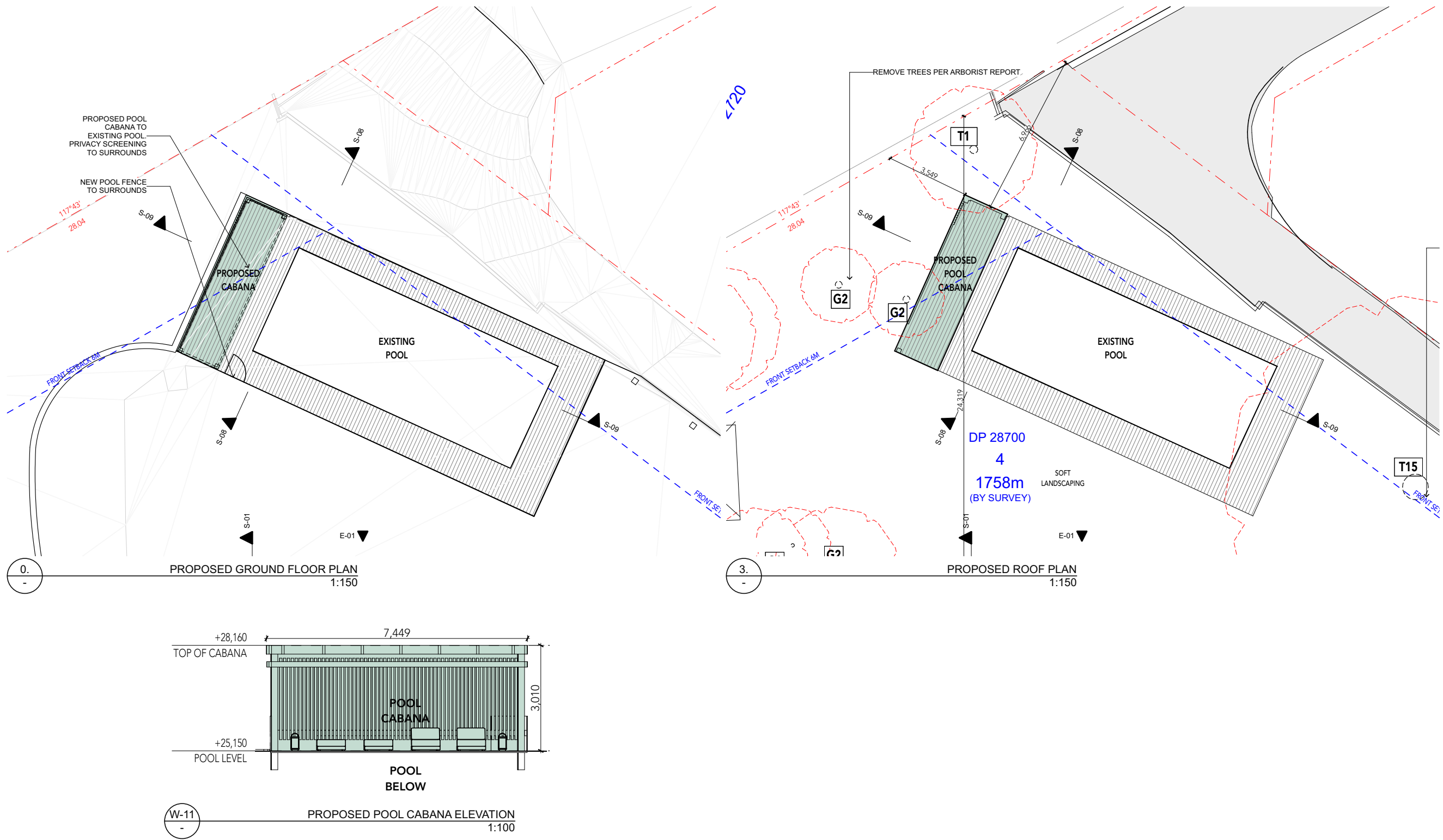




2. PROPOSED SECOND FLOOR PLAN  
1:100

















E-03  
-

ELEVATION 03  
1:100

FOR DEVELOPMENT APPLICATION ISSUE

INTERLOCK | Construction | Design | Project Management | Nominated Architect: Troy Newman No.10699 | E: info@interlockconstruction.co

7 CRANBROOK RD - BELLEVUE HILL

LARA BERRYMAN

PL03

13/12/23

A202

PROPOSED ELEVATIONS

1:100  
@ A3

0 1 2 3 4 5





E-04  
-

ELEVATION 04  
1:100

FOR DEVELOPMENT APPLICATION ISSUE  
INTERLOCK | Construction | Design | Project Management | Nominated Architect: Troy Newman No.10699 | E: info@interlockconstruction.co

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LARA BERRYMAN

PL03

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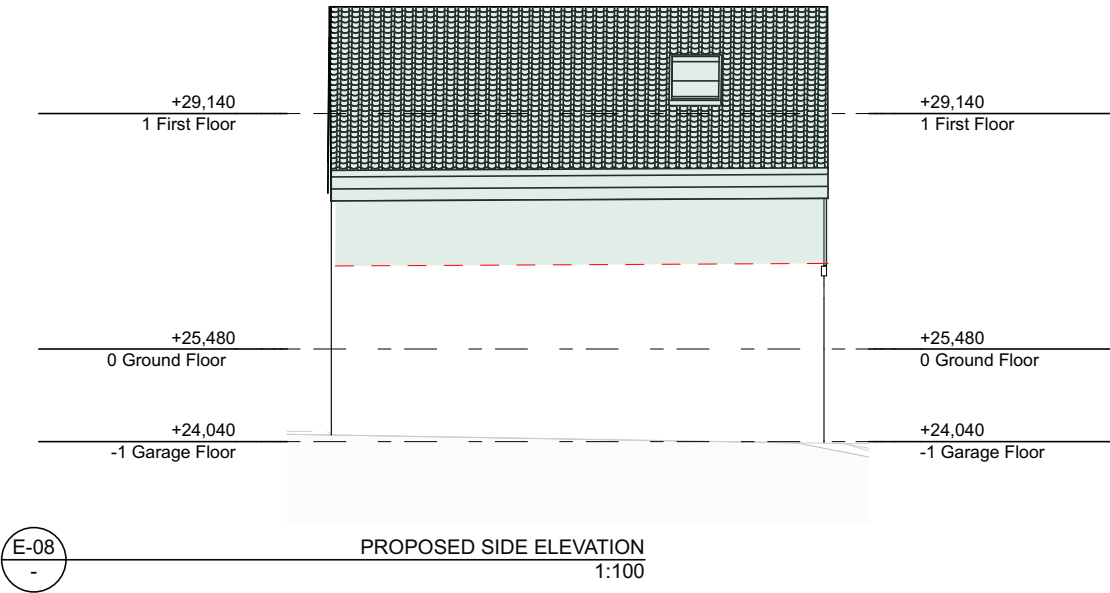
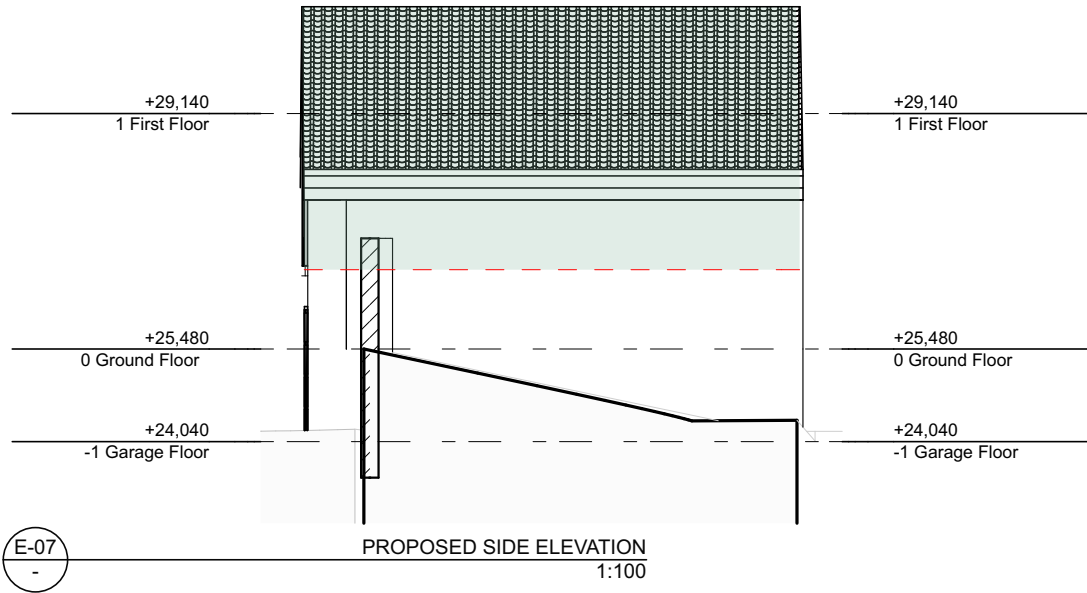
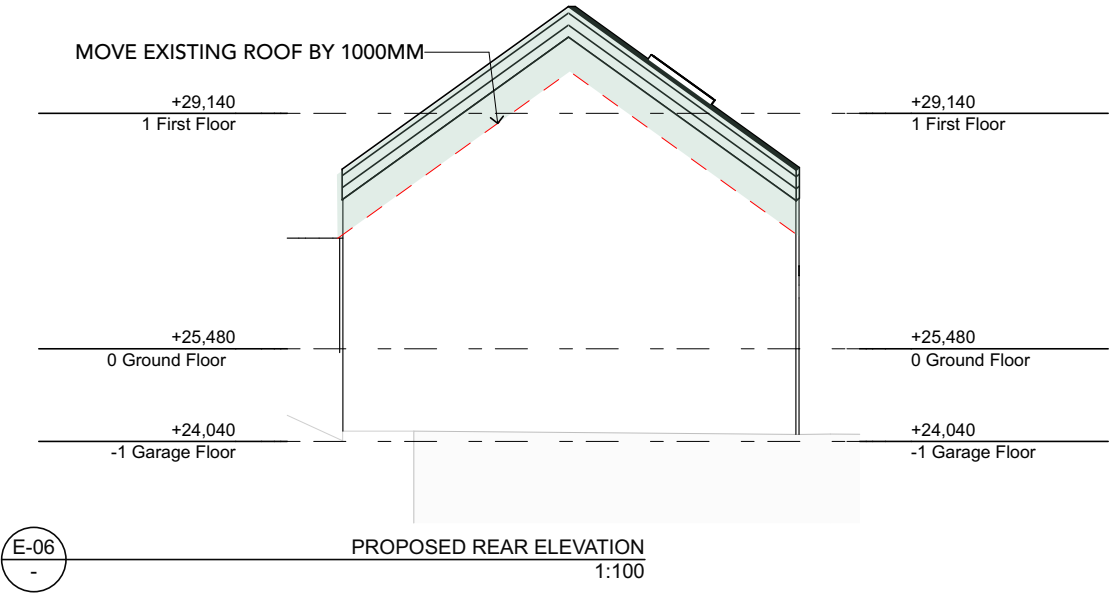
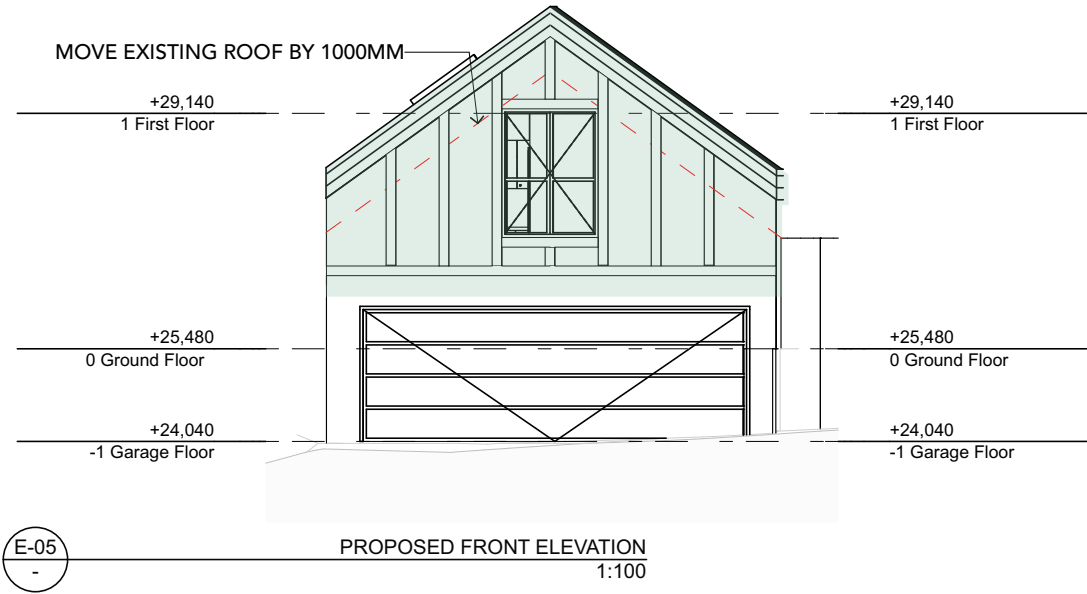
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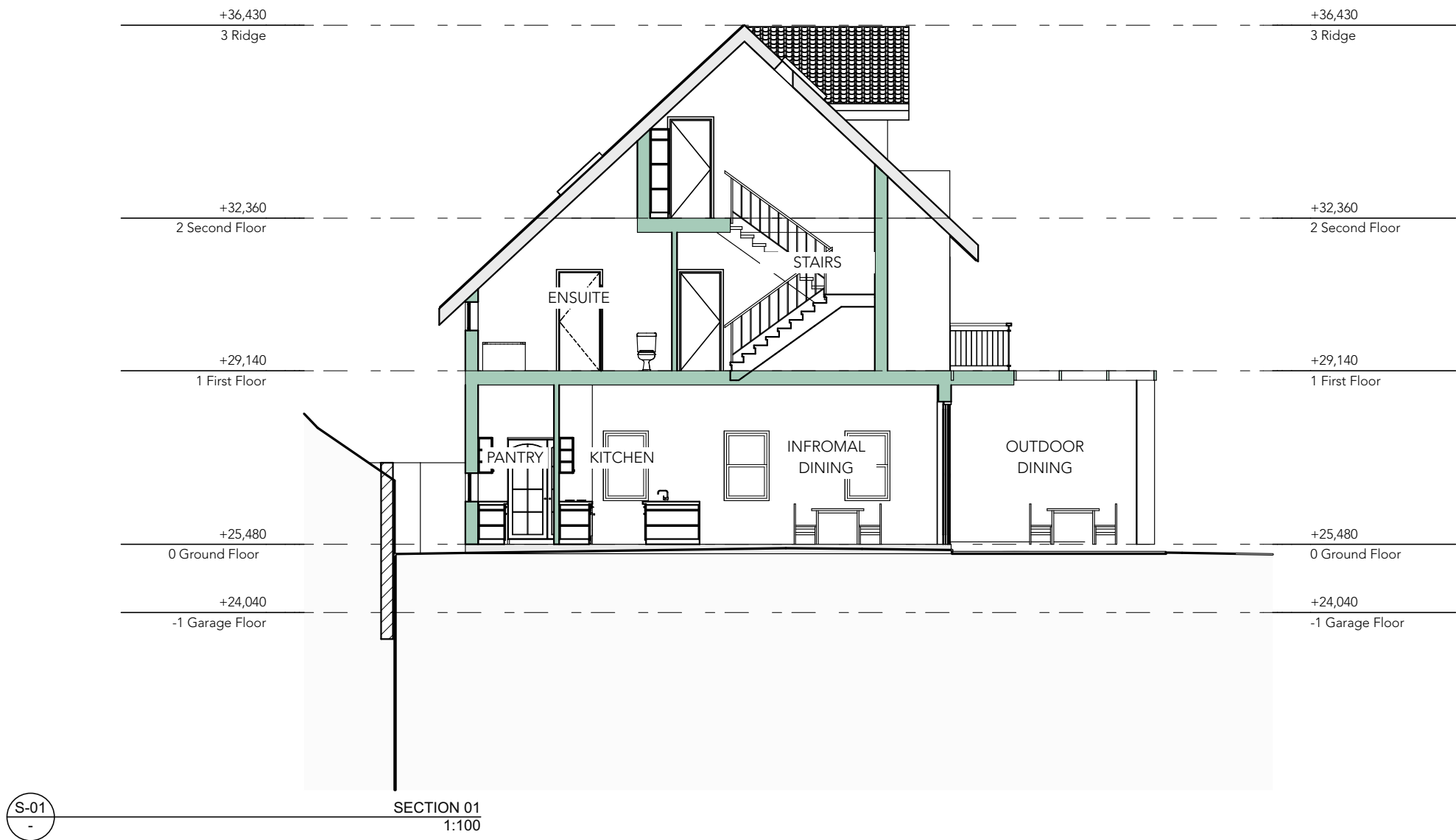
PROPOSED ELEVATIONS

1:100  
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0 1 2 3 4 5





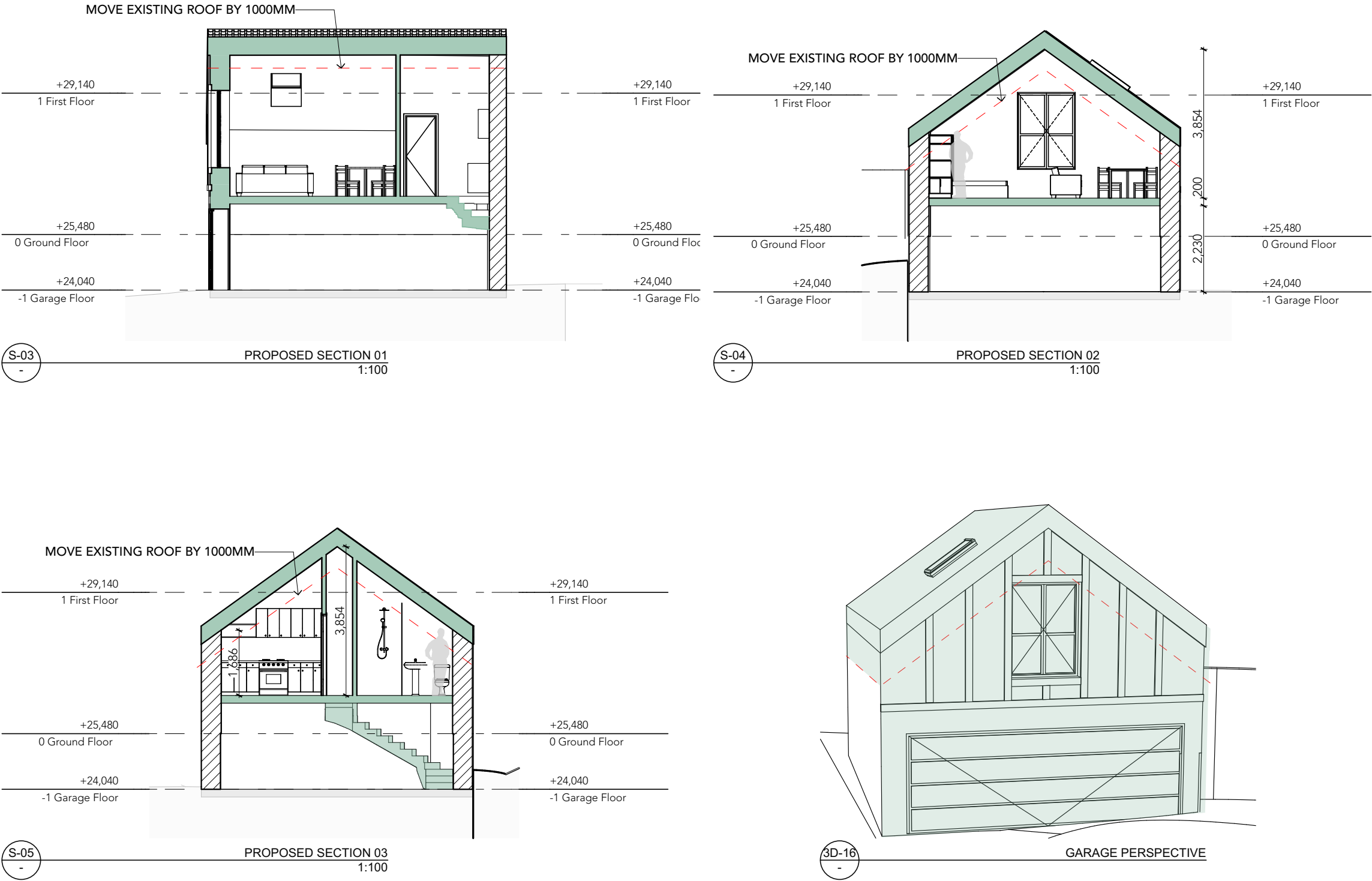




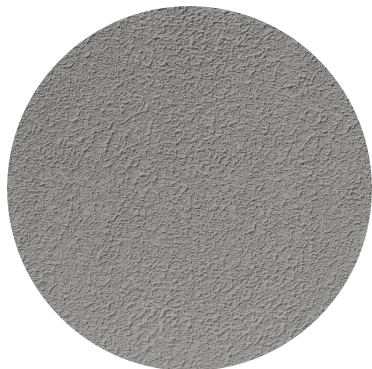
S-02  
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SECTION 02  
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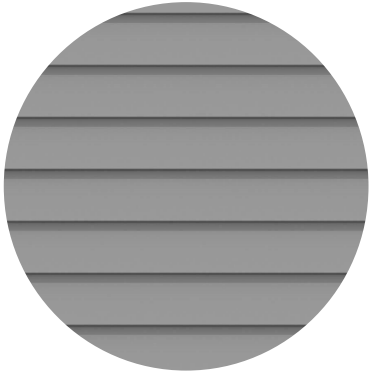




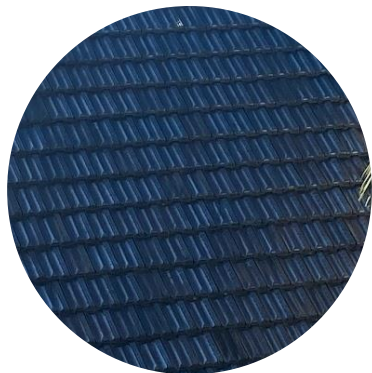
External Finishes



**TRW** - Roughcast Rendered Wall  
Extension Facade - ground floor, first floor and second floor dormer windows  
  
Colour: Light grey



**WBW** - Weatherboard Wall  
Extension Facade - External cladding to second floor bathroom, lift and robe  
  
Colour: Light grey



**RF** - Roof Tiles  
Proposed Roof above extensions  
  
Finish: To match existing

Windows, Doors & Balconies



**TW** - Timber windows to match existing  
  
Colour: Dark brown - Painted



**SKY** - Sky Light Aluminium windows  
  
Finish: White



**RAL** - Steel balustrades to balconies  
  
Colour: Black

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**APPENDIX**  
**CLAUSE 4.6 – MAXIMUM BUILDING HEIGHT**

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*1*

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**WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

**7 CRANBROOK ROAD, BELLEVUE HILL**

**FOR ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING, INCLUDING  
CONSTRUCTION OF A STUDIO ABOVE AN EXISTING DETACHED GARAGE**

**For:** Proposed alterations and additions to an existing dwelling, including  
construction of a studio above a detached garage  
**At:** 7 Cranbrook Road, Bellevue Hill  
**Owner:** Lara Berryman  
**Applicant:** Lara Berryman  
C/- Vaughan Milligan Development Consulting

**1.0 Introduction**

This written request is made pursuant to the provisions of Clause 4.6 of Woollahra Local Environmental Plan 2014. In this regard, it is requested Council support a variation with respect to compliance with the maximum building height as described in Clause 4.3 of the Woollahra Local Environmental Plan 2014 (WLEP 2014).

**2.0 Background**

Clause 4.3 restricts the height of a building and refers to the maximum building height noted within the "*Height of Buildings Map*."

The maximum building height for this locality is 9.5m and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

The proposed development will present a maximum height of 10.94m to the northern extremity of the second-floor extension, which occurs as a direct result of the fall within the site levels and the existing building height and exceeds Council's maximum building height by 1.44m or 15.2%, which therefore does not comply with this control.

The extent of the building which exceeds the 9.5m maximum height control is noted within Figure 1 over.

The controls of Clause 4.3 are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

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*7 Cranbrook Road, Bellevue Hill*

2

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Figure 1: Extract from architectural plans prepared by Interlock indicating breach of the maximum height control to the to the northern end of the dwelling

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**Is clause 4.3 of WLEP 2014 a development standard?**

- (a) The definition of “development standard” in clause 1.4 of the EP&A Act means standards fixed in relation to an aspect of a development and includes:

*“(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work.”*

- (b) Clause 4.3 relates to the maximum building height of a building. Accordingly, clause 4.3 is a development standard.

**3.0 Purpose of Clause 4.6**

WLEP 2014 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the LEP is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the LEP should be assessed. These cases are taken into consideration in this request for variation.

In particular, the principles identified by Preston CJ in *Initial Action Pty Ltd vs Woollahra Municipal Council [2018] NSWLEC 118* have been considered in this request for a variation to the development standard.

**4.0 Woollahra Local Environmental Plan 2014 (“WLEP”)**

**4.1 Clause 2.2 and the Land Use Table**

Clause 2.2 and the Land Zoning Map provide that the subject site is zoned R2 Low Density Residential (the R2 zone) and the Land Use Table in Part 2 of WLEP 2014 specifies the following objectives for the R2 zone:

- *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 proposed development is for the purpose of alterations and additions to an existing dwelling, including construction of a detached studio above an existing detached garage which is a permissible use in the R2 Low Density Residential zone.

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4



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#### **4.2 Clause 4.3 – Height of buildings**

Clause 4.3 of WLEP sets out the maximum height of a building as follows:

- (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.*
- (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) *(2A) Despite subclause (2) and clause 4.3A, the maximum height of a dwelling house, dual occupancy or semi-detached dwelling on land in Zone R3 Medium Density Residential is 9.5 metres.*
- (4) *(2B) Despite subclause (2) and clause 4.3A, the maximum height of a building on a battle-axe lot on land in Zone R3 Medium Density Residential is 9.5 metres.*

The Height of Buildings Map specifies a maximum building height of 9.5m.

- 4.3** The Dictionary to WLEP operates via clause 1.4 of WLEP. The Dictionary defines “building height” as:

***building height (or height of building) means—***

- (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.*

#### **4.4 Objectives of Clause 4.6 – Exceptions to Development Standards**

Clause 4.6(1) of WLEP provides:

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018]

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5

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NSWLEC 118 ("Initial Action") provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [1], [4] & [51] where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of Initial Action the Court held that:

*"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."*

The legal consequence of the decision in Initial Action is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of WLEP provides:

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.3 (the Height of Buildings development standard) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of WLEP.

Clause 4.6(3) of WLEP provides:

- (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.**

The proposed development does not comply with the height of buildings development standard pursuant to clause 4.3 of WLEP which specifies a maximum building height of 9.5m, however strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and it is considered that there are sufficient environmental planning grounds to justify contravening the

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development standard.

The relevant arguments are set out later in this written request. Clause 4.6(4) of WLEP provides:

*(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 Secretary has been obtained.*

In Initial Action the Court found that clause 4.6(4) required the satisfaction of two preconditions ([14] & [28]). The first precondition is found in clause 4.6(4)(a). That precondition requires the formation of two positive opinions of satisfaction by the consent authority. The first positive opinion of satisfaction (cl 4.6(4)(a)(i)) is that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a)(i) (Initial Action at [25]). The second positive opinion of satisfaction (cl 4.6(4)(a)(ii)) is that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out (Initial Action at [27]). The second precondition is found in clause 4.6(4)(b). The second precondition requires the consent authority to be satisfied that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (Initial Action at [28]).

Under cl 55 of the Environmental Planning and Assessment Regulation 2021, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

Clause 4.6(5) of WLEP provides:

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

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

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The Council has the power under cl 4.6(2) to grant development consent for development that contravenes a development standard, if it is satisfied of the matters in cl 4.6(4)(a), without obtaining or assuming the concurrence of the Secretary under cl 4.6(4)(b). Council should consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: *Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at 100; *Wehbe v Pittwater Council* at [41] (Initial Action at [29]).

Clause 4.6(6) relates to subdivision and is not relevant to the development.

Clause 4.6(7) is administrative and requires the consent authority to keep a record of its assessment of the clause 4.6 variation.

Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.3 of WLEP from the operation of clause 4.6.

## **5.0 The Nature and Extent of the Variation**

- 5.1 This request seeks a variation to the height of buildings development standard contained in clause 4.3 of WLEP.
- 5.2 Clause 4.3(2) of WLEP specifies a maximum building height of 9.5m which is noted on the Height of Buildings Map for the subject site.
- 5.3 The proposal has a maximum height of 10.94m to the northern extremity of the second-floor extension. The non-compliance is 1.44m which equates to a variation of 15.2%.

## **6.0 Relevant Caselaw**

In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 continue to apply as follows:

*The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*

*A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*

*A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*

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*A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*

*A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*

*These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

The relevant steps identified in Initial Action (and the case law referred to in Initial Action) can be summarised as follows:

1. Is clause 4.3 of WLEP a development standard?
2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:
  - (a) compliance is unreasonable or unnecessary; and
  - (b) there are sufficient environmental planning grounds to justify contravening the development standard
3. Is the consent authority satisfied that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.3 and the objectives for development for in the R2 Low Density zone?
4. Has the concurrence of the Secretary of the Department of Planning and Environment been obtained?
5. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes clause 4.3 of WLEP?

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## **7.0 Request for Variation**

### **7.1 Is compliance with clause 4.3 of WLEP 2014 a development standard?**

The definition of “development standard” in clause 1.4 of the EP&A Act includes:

*(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*

Clause 4.3 relates to the height of the proposed works and therefore Clause 4.3C(3)(b) is a development standard.

The proposal is considered acceptable and as discussed further within this request, there are sufficient environmental planning grounds to justify contravening the development standard.

The controls of Clause 4.3C of the WLEP 2014 are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

### **7.2 Is compliance with clause 4.3C(3)(b) unreasonable or unnecessary?**

This request relies upon the 1st way identified by Preston CJ in Wehbe.

The first way in Wehbe is to establish that the objectives of the standard are achieved.

In response to the first way in Wehbe, the objective of the maximum building height standard and the reasoning why compliance is unreasonable or unnecessary is set out below:

- ***to establish building heights that are consistent with the desired future character of the neighbourhood,***

The Objective of Clause 4.3 (1)(a) seeks to ensure buildings are consistent with the desired future character of the neighbourhood.

The surrounding area is predominantly characterised by two and three storey development situated on an undulating topography.

The proposal seeks to accommodate the extension within a compatible building form, with the slope of the site towards the east and existing building height resulting in a portion of the extension being up to 10.94m in height.

The overall building height respects the surrounding character, and the design seeks to minimise the visual height by providing for significant setbacks and a landscape buffer.

The proposed external colour and materials palette utilises recessive finishes and is intended to ensure that the building’s visual height and scale is further minimised.

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7 Cranbrook Road, Bellevue Hill

10



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- **to establish a transition in scale between zones to protect local amenity,**

The proposal maintains the significant separation to adjoining properties including nearby dwellings. The proposal will ensure an appropriate transition in scale between nearby zones, including medium density zones to the north and south, thereby protecting local amenity.

- **to minimise the loss of solar access to existing buildings and open space,**

The proposed second floor extension will ensure solar access is provided to adjoining properties, including areas of private open space and principal living areas.

- **to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,**

The building height encroachment will maintain existing view corridors to the north, while existing separation and landscaping will be retained to ensure the loss of privacy or visual intrusion is minimised. As above, overshadowing is minimised to adjoining properties.

- **to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.**

Due to the level changes across the site relative to the nearby public domain, public views of the harbour and surrounding areas will not be adversely affected.

Consistent with the decision of Roseth SC in *Project Ventures Developments v Pittwater Council* [2005] NSWLEC 191, it is my opinion that “most observers would not find the proposed building offensive, jarring or unsympathetic”.

Further, the modulation of the front façade and building elevations where visible from the public domain minimises the visual impact of the development.

The proposal presents a compatible height and scale to the surrounding development and the articulation to the building facades and the flat roof form will suitably distribute the bulk of the new floor area.

### **7.3 Are there sufficient environmental planning grounds to justify contravening the development standard?**

In Initial Action the Court found at [23]-[24] that:

23. *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 [2015] NSWLEC 90 at [26]. 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 s 1.3 of the EPA Act.*

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7 Cranbrook Road, Bellevue Hill

11

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24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

There are sufficient environmental planning grounds to justify contravening the development standard.

The aspect of the development which contravenes the development standard is a minor second floor extension which is well-located and setback from adjacent dwellings to allow for view corridors over the site towards the north, for surrounding neighbouring properties.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposal promotes the orderly and economic use and development of land through the efficient use of the existing infrastructure to meet the housing needs of the community (1.3(c)).
- The proposed development will maintain the general bulk and scale of the existing surrounding newer dwellings and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land (cl 1.3(c)).
- Similarly, the proposed works will provide for excellent residential amenity within a built form which is compatible with the streetscape of Cranbrook Road which also promotes the orderly and economic use of the land (cl 1.3(c)).
- The proposed development is considered to promote good design and enhance the residential amenity of the buildings’ occupants and the immediate area, which is consistent with the Objective 1.3 (g).
- The proposed second-storey extension and in particular the inclusion of consistent and commensurate roof form demonstrates good design and improves the amenity of the built environment by creating improved and functional living area and also suitably maintains the views enjoyed by neighbouring properties and will retain their primary views to the north-east, east and south (1.3(g)).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the provision of a building that provides sufficient floor area for future occupants whilst reducing the height and envelope visible from the street to minimise the

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7 Cranbrook Road, Bellevue Hill

12

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impacts of bulk and scale and maintain and create views over and past the building from the public domain. These are not simply benefits of the development as a whole, but are benefits emanating from the breach of the maximum building height control.

It is noted that in *Initial Action*, the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

*87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

**7.4 Is the proposed development in the public interest because it is consistent with the objectives of clause 4.3 and the objectives of the R2 Low Density Residential zone?**

Section 4.2 of this written request demonstrates that the proposed development meets each of the applicable objectives of clause 4.3. As the proposed development meets the applicable objectives it follows that the proposed development is also consistent with those objectives.

Each of the objectives of the R2 Low Density Residential Zone and the reasons why the proposed development is consistent with each objective is set out below.

- ***To provide for the housing needs of the community within a R2 Low Density Residential environment.***

The R2 Low Density Residential Zone contemplates low density residential uses on the land. The housing needs of the community are appropriately provided for in this instance through the proposed development to an existing dwelling which will provide for an appropriate level of family accommodation and in a form which respect the predominant height and scale of the surrounding dwellings.

The development will see a non-compliance with the building height control of up to 1.44m because of the site's existing levels and established building height with a consistent roof form and structure.

Further, the modulation of the façades and building elevations, together with the varied substantial setbacks and consistent external finishes will ensure the development minimises the visual impact when viewed from the surrounding public and private areas.

The compatible form and scale of the new works to the dwelling will meet the housing needs of the community within a single dwelling house which is a permissible use in this low-density residential zone.

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*7 Cranbrook Road, Bellevue Hill*

13

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

The development does not suggest any alternate land uses and this Objective is not directly relevant to the subject single residential proposal.

- ***To provide for development that is compatible with the character and amenity of the surrounding neighbourhood***

The proposal provides for alterations and additions to an existing dwelling, including the construction of a studio over an existing detached studio in a manner which will continue to complement the single dwelling character of the site and the immediate area.

Further, the modulation and articulation of the built form where visible from the public domain minimises the visual impact of the development and respects the existing single dwelling form.

The proposed extension to the existing dwelling will not result in any unreasonable impacts on adjoining properties in terms of views, privacy or overshadowing.

The view of the dwelling from Cranbrook Road and Cranbrook Lane will be largely screened from view due to the level changes and substantial setback to each frontage. Notwithstanding the variation, the built form will be compatible and consistent with the prevailing height of other buildings in the near vicinity that have been altered and been added to or constructed in order to provide increased floor area.

- ***To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.***

The proposal will be consistent with and complement the existing detached style single dwelling housing within the locality and the wider Bellevue Hill area.

The site will maintain a generous soft landscaped area, which will maintain the balance between landscaping and built form. No significant vegetation requires removal.

The proposal has been well designed to complement the streetscape. The desired future character is not defined in the planning controls, but the proposal is consistent with the existing streetscape and with recent works in the area.

#### **7.5 Has Council obtained the concurrence of the Director-General?**

Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020 to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

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7 Cranbrook Road, Bellevue Hill

14

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**7.6 Has the Council considered the matters in clause 4.6(5) of WLEP?**

The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed development and for the particular site and this design is not readily transferrable to any other site in the immediate locality, wider region of the State and the scale or nature of the proposed development does not trigger requirements for a higher level of assessment.

As the proposed development is in the public interest because it complies with the objectives of the development standard and the objectives of the zone there is no significant public benefit in maintaining the development standard.

There are no other matters required to be taken into account by the Secretary before granting concurrence.

**8.0 Conclusion**

This development proposed a departure from the maximum building height development standard, with the proposed alterations and additions to provide a maximum building height of 10.94m to the proposed northern extremity of the second-floor extension.

This variation occurs as a result of the existing building height and sloping topography of the site as it falls Cranbrook Road.

This written request to vary to the maximum building height standard specified in Clause 4.3 of the Woollahra LEP 2014 adequately demonstrates that the objectives of the standard will be met.

The bulk and scale of the proposed development is appropriate for the site and locality.

Strict compliance with the maximum building height control would be unreasonable and unnecessary in the circumstances of this case.



**VAUGHAN MILLIGAN**  
*Town Planner*



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Municipal  
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16 November 2023

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

**FILE NO:** Development Applications: 325/2023/1  
**ADDRESS:** 7 Cranbrook Road BELLEVUE HILL 2023  
**PROPOSAL:** Alterations and additions  
**FROM:** Mr W Huynh  
**TO:** Ms L Williams

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### 1. ISSUES

- None

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, prepared by Vaughan Milligan Development Consulting, dated August 2023.
- Architectural Plans, unreferenced revision 1, prepared by Interlock Design & Construction, dated 24/10/2023.
- Survey Plan, referenced 64497001A, prepared by Hill & Blume Surveyors, dated 02/03/2023.

### 3. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

#### a. Site Drainage comments

*This proposal has increase in impervious areas of less than 40m<sup>2</sup>, in which case the installation of On-site Stormwater Detention (OSD) system is not required as per Chapter E2.2.4 of the Council's DCP. It is assumed that the runoff for the site is disposed of via the existing stormwater system. As the majority of works are internal works or reconstruction works and do not impact the existing drainage of the site, there is no requirement for a stormwater management plan at the development assessment stage.*

*Council's Infrastructure and Sustainability 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.*





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**b. Flooding & Overland Flow comments**

*Council's Drainage Engineer has determined that the development proposal is generally satisfactory and doesn't require any flood specific conditions.*

**c. Impacts on Council Infrastructure comments**

*The applicant seeks to reconstruct the existing double garage as part of this application. It is noted from the submitted architectural plans that there are no proposed changes to the existing vehicular crossing. The existing vehicular crossing, layback and gutter is serviceable. There is no requirement for a new vehicular crossing.*

**d. Traffic comments**

*Not relevant*

**e. Vehicle Access & Accommodation comments**

*The proposed vehicular access and parking arrangement is considered satisfactory.*

**f. Geotechnical, Hydrogeological and/or Structural comments**

*It appears from the submitted architectural plans that there is minimal excavation proposed as part of this application. Given that the depth of the proposed excavation does not exceed 2m and is located at a minimum distance of 1.5m from the property boundaries, the submission of a geotechnical report at the DA stage is not required as per Chapter B3.4 of Council's DCP.*

**4. RECOMMENDATION**

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

**A. GENERAL CONDITIONS**

**A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)**

**A.31 No Underpinning Works**

**B. BEFORE DEMOLITION WORK COMMENCES**

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

**B.14 Payment of Security and Fees**

|   |          |    |      |
|---|----------|----|------|
| Property Damage Security Deposit (S138) | \$21,250 | No | T115 |
|---|----------|----|------|

|               |   |
|---------------|---|
| <b>B. 16.</b> | <b>Dilapidation Reports for Existing Buildings</b>  |
|               | Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely "zone of influence" |



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of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.

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

- a) 7A Cranbrook Road
- b) 7 Cranbrook Lane

Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.

The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.

No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).

**Notes:**

- 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 caused by the carrying out of the development.
- This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- 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.
- Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.

**Condition Reason:** To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.

**B.18 Adjoining buildings founded on loose foundation materials**

**B.21 Work (Construction) Zone – Approval & Implementation**

**C. ON COMPLETION OF REMEDIATION WORK**

Nil

**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

- D.25 Erosion and Sediment Control Plan – Submissions & Approval**
- D.35 Structural Adequacy of Existing Supporting Structures**
- D.36 Professional Engineering Details**
- D.37 Engineer Certification**
- D.45 Parking Facilities**



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|--------------|--|
| <b>D 51.</b> | <p><b>Stormwater Management Plan</b></p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a chartered professional civil engineer, which detail the following:</p> <ol style="list-style-type: none"> <li>The provision of a minimum 450mm x 450mm boundary junction pit prior to discharging stormwater from the site to the street drainage system. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3.</li> <li>The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.</li> <li>Internal stormwater drainage system including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans.</li> <li>Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.</li> <li>Detail any remedial works required to upgrade the existing stormwater drainage system.</li> <li>Dimensions of all drainage pits and access grates must comply with AS3500.3.</li> <li>Compliance the objectives and performance requirements of the BCA.</li> <li>General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</li> </ol> <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><b>Layout plan</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>All pipe layouts, dimensions, grades, lengths and material specification.</li> <li>Location of proposed rainwater tanks.</li> <li>All invert levels reduced to Australian Height Datum (AHD).</li> <li>Location and dimensions of all drainage pits.</li> <li>Point and method of connection to Councils drainage infrastructure.</li> <li>Overland flow paths over impervious areas.</li> </ol> <p>For Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.</p> <p>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).</p> <p><b>Notes:</b></p> |
|--------------|--|



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|  | <ul style="list-style-type: none"> <li>The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".</li> </ul> |
|  | <b>Condition Reason:</b> To ensure that site stormwater is disposed of in a controlled and sustainable manner.  |

## E. BEFORE BUILDING WORK COMMENCES

### E.14 Erosion and Sediment Controls – Installation

## F. DURING BUILDING WORK

### F.7 Public Footpaths – Safety, Access and Maintenance

### F.11 Maintenance of Environmental Controls

### F.13 Support of Adjoining Land Owners

### F.15 Erosion and Sediment Controls – Maintenance

### F.17 Disposal of Site Water during Construction

### F.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

## G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

### G.7 Commissioning and Certification of Systems and Works

|          |            |  |
|----------|------------|--|
| <b>G</b> | <b>32.</b> | <b>Works-As-Executed Certification of Stormwater Systems</b>   |
|          |            | <p>Before the issue of an occupation certificate for the whole of the building, and on the 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:</p> <ul style="list-style-type: none"> <li>a) compliance with conditions of development consent relating to stormwater,</li> <li>b) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,</li> <li>c) that only one stormwater outlet pipe has been constructed,</li> <li>d) that the works have been constructed in accordance with the approved design,</li> <li>e) pipe invert levels and surface levels to Australian Height Datum, and</li> <li>f) 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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.</li> </ul> |
|          |            | <b>Condition Reason:</b> To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.   |



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**H. OCCUPATION AND ONGOING USE**

**Nil**

**I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE**

**Nil**



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26 September 2023

## REFERRAL RESPONSE – DRAINAGE

**FILE NO:** Development Applications: 325/2023/1

**ADDRESS:** 7 Cranbrook Road BELLEVUE HILL 2023

**PROPOSAL:** Alterations and additions

**FROM:** Michael Casteleyn

**TO:** Ms L Williams

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### 1. ISSUES

None.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- 23/168504 Plan - Architectural Master Set - DA2023/325/1 - 7 Cranbrook Road BELLEVUE HILL

### 3. ASSESSMENT

The DA Submission has been reviewed.

### 4. RECOMMENDATION

Council's Drainage Engineer has determined that the proposal is satisfactory.

Michael Casteleyn  
Drainage Engineer

26 September 2023  
**Completion Date**



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2 November 2023

## REFERRAL RESPONSE – TREES AND LANDSCAPING

**FILE NO:** Development Applications: 325/2023/1

**ADDRESS:** 7 Cranbrook Road BELLEVUE HILL 2023

**PROPOSAL:** Alterations and additions

**FROM:** Sam Knight

**TO:** Ms L Williams

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### 1. ISSUES

- The proposal includes insufficient canopy cover and does not comply with the objectives of the DCP.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Survey Plan, drafted by Hill & Blume, dated 24 February 2023
- Architectural Drawings, drawn by Interlock, dated 24 October 2023
- Arboricultural Impact Assessment Report, written by Matine Peacock Tree Care, dated 5 September 2023

A site inspection was carried out on 6 November 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





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- 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

#### 4. SUMMARY

The proposal includes insufficient canopy cover and does not comply with the objectives of the DCP. Further information is required prior to the approval of this Development Application that addresses the canopy cover requirements.

#### 5. COMMENTS

A review of the plans and documentation has revealed 20 trees within and adjacent to the site could be impacted by the proposal. The following tree numbering has been adopted from the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023.

##### Tree Removal – Exempt Species

The plans indicate tree 1 is proposed for removal. This tree has been identified as a *Erythrina x sykesii* (Coral tree) which is listed as exempt from WMC DCP Chapter E.3 - Tree Management and can be removed without consent regardless of the proposed development.

##### Tree Removal – Low Retention Value

The plans indicate trees G2 and 15 are proposed for removal. These trees have all been rated as having Low Landscape Significance and Low Retention Value for various reasons including underperforming in health, suppressed by more dominate trees or found to be providing minimal amenity value to the immediate area.

Tree G2 have been identified as various palm species located throughout the property. No works are proposed near these trees, and it is unclear why they are proposed for removal. These trees can be retained without affecting the design and also ensuring canopy cover within the site is maintained.

Tree 15 has been identified as a *Cupressus macrocarpa* (Monterey Cypress). The tree has been noted in good health and poor structural condition. The applicants Arborist has undertaken internal diagnostic testing which has revealed internal decay comprising the structural integrity of the tree. Tree removal has been recommended regardless of the proposed works for safety reasons.

The Tree and Landscape team supports removal of tree 15 conditional of replacement planting being undertaken at the completion of the works.

##### Tree Removal – Medium Retention Value

the plans indicate tree 16 is proposed for removal as it is located within the footprint of the new driveway extension. This tree has been identified as a *Brachychiton acerifolius* (Illawarra Flame tree) in good health and condition. The tree has been rated as having Medium Landscape Significance and Medium Retention Value.

However, the tree is heavily suppressed by the adjacent more dominate trees. It is considered that replacement planting within close vicinity to the tree will compensate for the loss of amenity and canopy cover following removal of the tree.



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#### Tree Retention

The plans indicate the remaining 16 trees throughout the property will be retaining. Majority of the trees will not be the subject of any encroachment into their Tree Protection Zones from the proposed works.

Where works are proposed within the Tree Protection Zones of trees to be retained, it has been deemed as a Minor Encroachment as defined by the Australian Standards AS4970 'Protection of trees on development sites' and can be managed through tree sensitive construction methods under the supervision of a Project Arborist.

#### Canopy Cover – Dwellings etc

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 DCP outlines that at least half of the total tree canopy area on the site is to be contributed by canopy tree/s (ie: trees that attain a minimum of eight (8) metres mature height and canopy spread). Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

The submitted Tree Protection Plans prepared by Interlock dated 24 October 2023 has been reviewed in respect to the above canopy cover requirement. The plans indicate the canopy cover will be reduced from 669m<sup>2</sup> (38%) to 395m<sup>2</sup> (22%) as a result of the proposed tree removals.

Several new trees are shown on the plans. However, no details have been provided on the type of species or container size at the time of planting.

given there is a substantial reduction in canopy cover, removal of several trees and lack of information on the plans regarding new trees. It is recommended that additional information is provided on a Landscape Plan that demonstrates the 35% canopy cover will be provided within the site in accordance with the objectives of the DCP.

### **6. RECOMMENDATIONS**

A 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:

- The Landscape Plans must include an accurate calculation of canopy cover within the site which addresses the requirements of the DCP. Specifically, 35% shall be provided and the calculation shall reference Figure 20 in Chapter B3.7 the WMC DCP
- The design shall ensure at least half of the trees within the site will have a minimum mature height and canopy spread of eight (8) metres.
- Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

Sam Knight  
Tree Officer

10 November 2023  
Completion Date



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Council

23 January 2024

## REFERRAL RESPONSE – TREES AND LANDSCAPING

**FILE NO:** Development Applications: 325/2023/1  
**ADDRESS:** 7 Cranbrook Road BELLEVUE HILL 2023  
**PROPOSAL:** Alterations and additions  
**FROM:** Sam Knight  
**TO:** Ms L Williams

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### 1. ISSUES

None.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Survey Plan, drafted by Hill & Blume, dated 24 February 2023
- Amended Architectural Drawings, drawn by Interlock, dated 13 December 2023
- Arboricultural Impact Assessment Report, written by Matine Peacock Tree Care, dated 5 September 2023

A site inspection was carried out on 6 November 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. COMMENTS

Please see previous referral for details comments about existing trees.

The updated plans are acceptable and now provide the required 35% canopy cover that will be provided by trees with a mature height of between 10-20 metres.

As such the Tree and Landscape team supports the proposal subject to the below tree conditions being included into the DA consent.

#### 5. 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.   | <b>Approved Plans and Supporting Documents</b>   |                |             |        |      |     |   |                |        |
|---|--|----------------|-------------|--------|------|-----|---|----------------|--------|
|   | 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 unless modified by any following condition. |                |             |        |      |     |   |                |        |
|   | Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.   |                |             |        |      |     |   |                |        |
|   | <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>n/a</td><td>Arboricultural Impact Assessment Report</td><td>Martin Peacock</td><td>5/9/23</td></tr></table>  | Reference      | Description | Author | Date | n/a | Arboricultural Impact Assessment Report | Martin Peacock | 5/9/23 |
|   | Reference  | Description    | Author      | Date   |      |     |   |                |        |
| n/a   | Arboricultural Impact Assessment Report  | Martin Peacock | 5/9/23      |        |      |     |   |                |        |
| <b>Notes:</b> <ul style="list-style-type: none"><li>• Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must 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 plans.</li><li>• 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.</li></ul> |  |                |             |        |      |     |   |                |        |
| <b>Condition Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.  |  |                |             |        |      |     |   |                |        |
| Standard Condition A.2 (Autotext 2A)  |  |                |             |        |      |     |   |                |        |

|       |  |
|-------|--|
| A. 2. | <b>Tree Preservation and Landscaping Works</b>   |
|       | 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.<br><br>a) The following trees must be retained: <ul style="list-style-type: none"><li>• Trees on private land:</li></ul> |



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| Council Ref No | Species                                    | Location  | Dimension (metres) |
|----------------|--|---|--------------------|
| 3              | <i>Syzygium</i> spp.                       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 8 x 3              |
| 4              | <i>Brachychiton acerifolius</i>            |   | 8 x 2              |
| 5              | <i>Alectryon subcinereus</i>               |   | 7 x 2              |
| 6              | <i>Archontophoenix cunninghamiana</i>      |   | 7 x 2              |
| 7              | <i>Macadamia integrifolia</i>              |   | 8 x 4              |
| 8              | <i>Cyathea cooperi</i>                     |   | 5 x 2              |
| 9              | <i>Podocarpus elatus</i>                   |   | 5 x 2              |
| 10             | <i>Strelitzia nicolai</i>                  |   | 9 x 3              |
| 11             | <i>Ficus rubiginosa</i>                    |   | 8 x 4              |
| 12             | <i>Podocarpus elatus</i>                   |   | 8 x 2              |
| 13             | <i>Brachychiton acerifolius</i>            |   | 7 x 2              |
| G14            | <i>Archontophoenix cunninghamiana</i> (x2) |   | 6 x 2              |
| 17             | <i>Strelitzia nicolai</i>                  |   | 7 x 3              |
| 18             | <i>Brachychiton acerifolius</i>            |   | 10 x 4             |
| 19             | <i>Cinnamomum camphora</i>                 |   | 10 x 6             |

The tree/s required to be retained must appear coloured green on the Construction Certificate plans.

b) The following trees may be removed:

| Council Ref No | Species                         | Location  | Dimension (metres) |
|----------------|---------------------------------|---|--------------------|
| 1              | <i>Erythrina x sykesii</i> *    | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 6 x 3              |
| G2             | Various Palm species (x9 trees) |   | 10 x 2             |
| 15             | <i>Cupressus macrocarpa</i>     |   | 15 x 6             |
| 16             | <i>Brachychiton acerifolius</i> |   | 8 x 3              |

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

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

**Condition Reason:** To ensure all landscape works are undertaken in accordance with the approved plans and documents.

Standard Condition A.22 (Autotext 22A)

## B. BEFORE DEMOLITION WORK COMMENCES

|       |   |
|-------|---|
| B. 1. | <b>Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)</b>  |
|       | Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970). |



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The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;

a) Tree Protection Fencing:

| Council Ref No | Species                         | Tree Location   | Fence Radius from Centre of Trunk (Metres)*                           |
|----------------|---------------------------------|---|---|
| 17             | <i>Strelitzia nicolai</i>       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | Around edge of existing driveway as shown in Appendix D of AIA Report |
| 18             | <i>Brachychiton acerifolius</i> |   |   |
| 19             | <i>Cinnamomum camphora</i>      |   |   |

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

Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.

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



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|  |   |
|  | <b>Condition Reason:</b> To ensure the protection of existing trees |
|  | Standard Condition B.5 (Autotext 5B)                                |

|              |   |
|--------------|---|
| <b>B. 2.</b> | <b>Construction Management Plan Arborist Review</b>   |
|              | <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"> <li>a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;</li> <li>b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.;</li> <li>c) Site construction access, temporary crossings and movement corridors on the site defined;</li> <li>d) Contractors car parking;</li> <li>e) Phasing of construction works;</li> <li>f) The space needed for all foundation excavations and construction works;</li> <li>g) All changes in ground level;</li> <li>h) Space for site sheds and other temporary structures such as toilets;</li> <li>i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and</li> <li>j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.</li> </ul> |
|              | <p><b>Condition Reason</b> To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p> <p>Standard Condition B.28 (Autotext 28B)</p>   |

|              |   |
|--------------|---|
| <b>B. 3.</b> | <b>Arborists Documentation and Compliance Checklist</b>   |
|              | <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> <li>• A record of the condition of trees to be retained prior to and throughout development.</li> <li>• Recommended actions to improve site conditions and rectification of non-compliance.</li> <li>• Recommendations for future works which may impact the trees.</li> </ul> <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> |





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|---|--|
| <b>Stage of arboricultural inspection and supervision</b>   | <b>Compliance documentation and photos must include</b>  |
| Prior to any site works   | <ul style="list-style-type: none"> <li>Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.</li> <li>The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</li> </ul> |
| <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> |  |
| <p><b>Condition Reason</b> To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.</p>   |  |
| Standard Condition B.29 (Autotext 29B)  |  |

B. 4.

**Permissible work within Tree Protection Zones**

Prior to any site works, the following works are permissible within the Tree Protection Zone:

| Council Ref No | Species                    | Radius from Centre of Trunk (Metres) | Approved works                     |
|----------------|----------------------------|--------------------------------------|------------------------------------|
| 17             | <i>Strelitzia nicolai</i>  | 4m                                   | Installation of driveway extension |
| 19             | <i>Cinnamomum camphora</i> | 10.2m                                | Installation of driveway extension |

The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.

**Condition Reason** To establish the works which are permissible within the Tree Protection Zones.

Standard Condition B.30 (Autotext 30B)

**C. ON COMPLETION OF REMEDIATION WORK**

Nil.

**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

|             |   |
|-------------|---|
| <b>D 1.</b> | <b>Tree Protection Plan and Specification</b> |
|-------------|---|



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Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:

- a) Trees to be numbered and coloured 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) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:
  - Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected.
  - The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices.
  - Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods.
  - To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist.
- c) References to applicable tree management plan, arborists report or transplant method statement.

This plan must be kept on site until the issue of the occupation certificate for the whole building.

**Condition Reason:** To ensure the construction certificate includes the approved tree management details, and all measures are implemented.

Standard Condition D.30 (Autotext 30D)

#### E. BEFORE BUILDING WORK COMMENCES

Nil.

#### F. DURING BUILDING WORK

|          |           |  |
|----------|-----------|--|
| <b>F</b> | <b>1.</b> | <b>Tree Preservation</b>   |
|          |           | While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> 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:   |



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Council

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|  | <p>a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.</p> <p>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.</p> <p>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.</p> <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p><b>Condition Reason:</b> To protect trees during the carrying out of sitework.</p> <p>Standard Condition F.8 (Autotext 8F)</p> |
|--|--|

| <p><b>F 2.</b></p>                                 | <p><b>Arborists Documentation and Compliance Checklist</b></p> <p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <p>a) a record of the condition of trees to be retained prior to and throughout development,</p> <p>b) recommended actions to improve site conditions and rectification of non-compliance, and</p> <p>c) recommendations for future works which may impact the trees.</p> <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="427 1444 1209 1554"> <tr> <th data-bbox="427 1444 587 1554">Stage of arboricultural inspection and supervision</th><th data-bbox="587 1444 1209 1554">Compliance documentation and photos must include</th></tr> <tr> <td></td><td></td></tr> </table> | Stage of arboricultural inspection and supervision | Compliance documentation and photos must include |  |  |
|--|--|--|--|--|--|
| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include   |  |  |  |  |
|  |  |  |  |  |  |



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|   |  |
|---|--|
| While site work is carried out  | <ul style="list-style-type: none"> <li>The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.</li> <li>The project arborist must supervise the installation of the driveway extension within the TPZ of Tree No.17 and 19, documenting the condition of roots and soil.</li> <li>The project arborist must ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter.</li> <li>The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees.</li> <li>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.</li> <li>Regular inspections as indicated in the Tree Management Plan.</li> </ul> |
| <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p><b>Condition Reason:</b> To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.</p> <p>Standard Condition F.45 (Autotext 45F)</p> |  |

F 3.

Replacement/Supplementary trees which must be planted

While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The following replacement tree/s must be planted in deep soil landscaped area and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the criteria outlined below.

| Species/Type                           | Planting Location  | Container Size/Size of Tree (at planting) | Minimum Dimensions at Maturity (metres) |
|--|--|---|---|
| <i>Stenocarpus sinuatus</i>            | Northern corner – as shown on the Canopy Cover Plan (Dwg No A073) prepared by Interlock dated 13/12/23 | 75L                                       | 15 x 8                                  |
| <i>Callistemon salignus</i> (x2 trees) |  | 75L                                       | 10 x 8                                  |
| <i>Lagerstroemia indica</i>            |  | 75L                                       | 6 x 6                                   |
| <i>Ginkgo biloba</i> (x4 trees)        |  | 75L                                       | 15 x 8                                  |

The project arborist must document compliance with the above condition.



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**Condition Reason:** To ensure the provision of appropriate replacement planting.

Standard Condition F.46 (Autotext 46F)

**F 4.**

**Paving in the vicinity of trees**

While site work is being carried out, paving works within the specified radius from the trunks of the following trees must be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface must not be skimmed/excavated. The new surface must be established above the former ground level.

| Council Ref No | Species                         | Location  | Radius from centre of trunk (metres) |
|----------------|---------------------------------|---|--------------------------------------|
| 17             | <i>Strelitzia nicolai</i>       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 4m                                   |
| 18             | <i>Brachychiton acerifolius</i> |   | 4.8m                                 |
| 19             | <i>Cinnamomum camphora</i>      |   | 10.2m                                |

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure that paving works would not adversely impact upon the health of existing trees.

Standard Condition F.48 (Autotext 48F)

**F 5.**

**Level changes in the vicinity of trees**

While site work is being carried out, no level changes must occur within the specified radius from the trunks of the following trees.

| Council Ref No | Species                               | Location  | Radius from centre of trunk (metres) |
|----------------|---------------------------------------|---|--------------------------------------|
| 3              | <i>Syzygium</i> spp.                  | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 3.6m                                 |
| 4              | <i>Brachychiton acerifolius</i>       |   | 3.6m                                 |
| 5              | <i>Alectryon subcinereus</i>          |   | 2.4m                                 |
| 6              | <i>Archontophoenix cunninghamiana</i> |   | 3m                                   |
| 7              | <i>Macadamia integrifolia</i>         |   | 4.5m                                 |
| 8              | <i>Cyathea cooperi</i>                |   | 3m                                   |
| 9              | <i>Podocarpus elatus</i>              |   | 2m                                   |
| 10             | <i>Strelitzia nicolai</i>             |   | 4m                                   |
| 11             | <i>Ficus rubiginosa</i>               |   | 3m                                   |
| 12             | <i>Podocarpus elatus</i>              |   | 2.1                                  |
| 13             | <i>Brachychiton acerifolius</i>       |   | 3.6m                                 |



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|  |  |  |    |
|--|--|--|----|
| G14  | <i>Archontophoenix cunninghamiana</i> (x2) |  | 3m |
| The project arborist must document compliance with the above condition.  |  |  |    |
| <b>Condition Reason:</b> To ensure level changes would not adversely impact upon the health of existing trees. |  |  |    |
| Standard Condition F.49 (Autotext 49F)   |  |  |    |

F6.

Hand excavation within tree root zones

While site work is being carried out, demolition of underground structures such as existing footings and approved excavation undertaken within the specified radius from the trunks of the following trees must be carried out by hand.

| Council Ref No | Species                         | Location  | Radius from centre of trunk (metres) |
|----------------|---------------------------------|---|--------------------------------------|
| 17             | <i>Strelitzia nicolai</i>       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 4m                                   |
| 18             | <i>Brachychiton acerifolius</i> |   | 4.8m                                 |
| 19             | <i>Cinnamomum camphora</i>      |   | 10.2m                                |

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

Mechanical excavation is permitted beyond this radius when root pruning by hand along the hand excavated perimeter line is completed. Exposed roots to be retained must 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 must document compliance with the above condition.

**Condition Reason:** To ensure demolition and excavation works would not adversely impact upon the health of existing trees.

Standard Condition F.50 (Autotext 50F)

|                |  |   |                       |  |                |         |          |
|----------------|--|---|-----------------------|--|----------------|---------|----------|
| F              | 7.   | <b>Installation of stormwater pipes and pits in the vicinity of trees</b> |                       |  |                |         |          |
|                | While site work is being carried out, excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees must be carried out by hand. |   |                       |  |                |         |          |
|                | <table><tr><td>Council Ref No</td><td>Species</td><td>Location</td><td>Radius from centre of</td></tr></table>   |   |                       |  | Council Ref No | Species | Location |
| Council Ref No | Species  | Location  | Radius from centre of |  |                |         |          |



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|    |                                 |   | trunk<br>(metres) |
|----|---------------------------------|---|-------------------|
| 17 | <i>Strelitzia nicolai</i>       | Refer to the Arboricultural Impact Assessment prepared by Martin Peacock Tree Care dated 5 September 2023 for tree numbers and locations. | 4m                |
| 18 | <i>Brachychiton acerifolius</i> |   | 4.8m              |
| 19 | <i>Cinnamomum camphora</i>      |   | 10.2m             |

Any roots equal to or greater than 50mm diameter uncovered for the installation of stormwater pipes and pits must not be severed and remain in situ bridging across the excavated trench. Pipes must be guided under any roots equal to or greater than 50mm bridging across excavated trenches. Stormwater pits must be positioned so that no roots equal to or greater than 50mm diameter are severed.

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees.

Standard Condition F.52 (Autotext 52F)

#### G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

|             |   |
|-------------|---|
| <b>G 1.</b> | <b>Amenity Landscaping</b>  |
|             | Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.   |
|             | <b>Condition Reason:</b> To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.<br><br>Standard Condition G.6 (Autotext 6G)  |
| <b>G 2.</b> | <b>Landscaping</b>  |
|             | Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with 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 landscaping and replacement/supplementary tree planting works comply with this consent. |
|             | <b>Condition Reason:</b> To ensure that all landscaping work is completed prior to occupation.<br><br>Standard Condition G.26 (Autotext 26G)  |
| <b>G 3.</b> | <b>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</b>   |





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Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:

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

All compliance certification documents must be kept on site by the site Supervisor.

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

| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include  |
|--|---|
| Prior to the issue of any occupation certificate   | Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent. |

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

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

**Condition Reason:** To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.

Standard Condition G.34 (Autotext 34G)

| <b>G 4.</b>  | <b>Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building</b>  |  |
|--|--|--|
|  | Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:  |  |
|  | <ul style="list-style-type: none"> <li>a) A record of the condition of trees to be retained prior to and throughout development.</li> <li>b) Recommended actions to improve site conditions and rectification of non-compliance.</li> <li>c) Recommendations for future works which may impact the trees.</li> </ul> <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1"> <thead> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> </thead> </table> | Stage of arboricultural inspection and supervision |
| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include   |  |



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|   |   |   |   |   |  |   |  |
|---|---|---|---|---|--|---|--|
|   | <table border="1"> <tr> <td data-bbox="414 407 710 616"> <p>Before the issue of any occupation certificate for the whole of the building</p> </td><td data-bbox="710 407 1259 616"> <ul style="list-style-type: none"> <li>• The project arborist must supervise the dismantling of tree protection measures</li> <li>• After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.</li> </ul> </td></tr> <tr> <td colspan="2" data-bbox="414 616 1259 801"> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> </td></tr> <tr> <td colspan="2" data-bbox="414 801 1259 916"> <p><b>Condition Reason:</b> To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p> <p>Standard Condition G.35 (Autotext 34G)</p> </td></tr> </table> | <p>Before the issue of any occupation certificate for the whole of the building</p> | <ul style="list-style-type: none"> <li>• The project arborist must supervise the dismantling of tree protection measures</li> <li>• After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.</li> </ul> | <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> |  | <p><b>Condition Reason:</b> To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p> <p>Standard Condition G.35 (Autotext 34G)</p> |  |
| <p>Before the issue of any occupation certificate for the whole of the building</p>   | <ul style="list-style-type: none"> <li>• The project arborist must supervise the dismantling of tree protection measures</li> <li>• After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.</li> </ul>   |   |   |   |  |   |  |
| <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> |   |   |   |   |  |   |  |
| <p><b>Condition Reason:</b> To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p> <p>Standard Condition G.35 (Autotext 34G)</p>   |   |   |   |   |  |   |  |

#### H. OCCUPATION AND ONGOING USE

|             |  |
|-------------|--|
| <b>H 1.</b> | <p><b>Maintenance of Landscaping</b></p> <p>During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.</p> <p>This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.</li> <li>• Owners must have regard to the amenity impact of trees upon the site and neighbouring land.</li> </ul> <p><b>Condition Reason:</b> To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.</p> <p>Standard Condition H.25 (Autotext 25H)</p> |
|-------------|--|

#### 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.



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**M. BEFORE ISSUE OF A STRATA CERTIFICATE**

**Nil.**

Sam Knight  
**Tree Officer**

10 November 2023  
**Completion Date**

**From:** [Sagar Chauhan](#)  
**To:** [Lauren Williams](#)  
**Subject:** Referral Response - Heritage - DA2023/325/1 - 7 Cranbrook Road BELLEVUE HILL  
**Date:** Friday, 5 January 2024 11:01:00 AM  
**Attachments:** [image001.jpg](#)

---

Hi Lauren

I have reviewed the following supporting documentation for the application:

- Drawing set by Interlock, dated 06/09/2023
- Statement of Environmental Effects by Vaughan Milligan Development Consulting Pty Ltd, dated August 2023
- Heritage Impact Assessment by John Oultram, dated September 2023
- Supplementary Heritage Assessment by John Oultram, dated October 2023

Based on these documents, I provide following comments in relation to cultural heritage:

**SUBJECT PROPERTY**

The following description of the site has been extracted from the HIS:

7 Cranbrook Road is a two storey (with attic), Edwardian period house in a hybrid Arts and Crafts style set on a large site above Cranbrook Road. The house is partly intact in form and detail but has been modified with a later extension to the north, the internal layout altered, sunrooms infilled and some of the original, internal fabric removed.

**WOOLLAHRA LEP 2014**

**Clause 1.2 Aims of Plan**

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

The subject site is not a heritage item, and is not within a conservation area.

The Supplementary Heritage Assessment concludes:

The majority of the more intact section of the house will be retained and the demolitions are to later elements or in areas that have been heavily altered.

Overall, we consider that the proposals are well considered and will maintain the more intact features of the house while providing for sympathetic alterations. The addition to the house is well-sited and is to a similar scale and hipped roof form as the existing north wing and provides for a contemporary addition that respects the overall form of the current house.

Other changes are occurring in areas that have been previously altered and the major rooms and more intact areas of the house will remain as is.

The proposed works will have a negligible impact on the heritage items and the conservation area in the vicinity and are in accordance with the heritage objectives and controls of the WDCP.

Based on this assessment, the proposed partial demolition is supported. Based on the heritage assessments, the site does not meet the threshold for a local listing on the LEP.

*Significance of items in the vicinity*

The proposed works would not adversely impact the heritage items in the vicinity.

**NATIONAL PARKS & WILDLIFE ACT 1974**

The site is in an area of Potential Aboriginal Heritage Sensitivity. The proposal includes minor excavation for new footings. Relevant conditions of consent to protect Aboriginal cultural heritage are provided below.

**CONCLUSION**

Woollahra LEP Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra, subject to conditions.
- Clause 1(b) The impact upon the cultural heritage significance of the conservation area will be neutral, subject to conditions.
- Clause 4 This referral constitutes an assessment under this clause.

**RECOMMENDATION**

The proposal is supported as it complies with the relevant statutory and policy framework, subject to following conditions:

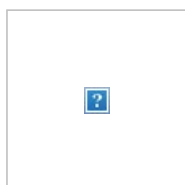
*Standard conditions*

1. B.8 Archaeological Features – Unexpected Findings
2. B.9 Skeletal Remains
3. B.10 Aboriginal Objects – Unexpected Findings
4. B.12 Aboriginal Heritage Due Diligence Responsibilities
5. B.13 Aboriginal Heritage Induction

*Special conditions*

5. Architectural elements to be demolished such as bricks, timber flooring, skirting, cornices, ceiling roses, tiles, doors and windows must be salvaged and where possible reused on the project.
6. 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.

Many Thanks  
Kind Regards



Sagar Chauhan  
Temporary Heritage Officer  
Woollahra Municipal Council  
536 New South Head Road, Double Bay NSW 2028  
t: 9184 1027  
e: [Sagar.Chauhan@woollahra.nsw.gov.au](mailto:Sagar.Chauhan@woollahra.nsw.gov.au) w: [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

## **LOCAL PLANNING PANEL SECTION 4.56 APPLICATION ASSESSMENT REPORT**

|                              |   |
|------------------------------|---|
| <b>ITEM No.</b>              | D3  |
| <b>FILE No.</b>              | DA338/2022/3  |
| <b>ADDRESS</b>               | 12 Tivoli Avenue Rose Bay   |
| <b>SITE AREA</b>             | 1290m <sup>2</sup>  |
| <b>ZONING</b>                | R2 Low Density Residential  |
| <b>EXISTING CONSENT</b>      | The demolition of an existing dwelling house and the construction of a multi-storey dwelling house, swimming pool, landscaping and site works |
| <b>DATE OF CONSENT</b>       | 15 March 2023   |
| <b>TYPE OF CONSENT</b>       | Local development   |
| <b>CONSENT AUTHORITY</b>     | Land and Environment Court  |
| <b>PROPOSED MODIFICATION</b> | Internal and external modifications to the approved dwelling house  |
| <b>TYPE OF MODIFICATION</b>  | Section 4.56  |
| <b>DATE S4.55 LODGED</b>     | 21/12/2023  |
| <b>APPLICANT</b>             | Empire Project Management Pty Ltd   |
| <b>OWNER</b>                 | J A Angelis & M R Angelis   |
| <b>AUTHOR</b>                | Mr D Booth  |
| <b>TEAM LEADER</b>           | Mr M Moratelli  |
| <b>SUBMISSIONS</b>           | Two objections plus one preliminary objection   |
| <b>RECOMMENDATION</b>        | 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 0.5:1 floor space ratio 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 proposed to be modified is considered to be substantially the same as the originally approved development;
- the proposed modifications as conditioned are considered to be satisfactory with all relevant planning policies including WLEP 2014 and WDCP 2015;
- it is considered that the proposed modifications as conditioned will not have any significant adverse impacts upon the local environment;
- 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 as conditioned; 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 south-western side of Tivoli Avenue, Rose Bay. The site has a 20.1m north-eastern street frontage, a north-western side boundary 57.455m in length, a south-eastern side boundary 68.9m in length and a south-western harbour frontage approximately 17.3m in length. The site has a total area of 1290m<sup>2</sup>. The existing dwelling house and ancillary structures have been demolished.

The locality is predominantly characterised by detached dwelling houses and schools. The adjoining property to the south (10A Tivoli Avenue) is occupied by a 3-4 storey dwelling house. The adjoining property to the south-east (10 Tivoli Avenue) is occupied by 1-4 storey dwelling house. The adjoining property to the north-west (14 Tivoli Avenue) is occupied by 1-4 storey attached dual occupancy. Kambala School is located on the opposite side of Tivoli Avenue.

### 5. APPROVED DEVELOPMENT

- The demolition of an existing 2-3 storey dwelling house and ancillary structures.
- The construction of a multi-storey dwelling house with a flat roof form presenting as a single storey to the street and 6 predominantly terraced storeys to the harbour (2 of the 6 storeys being mezzanine levels) and including the following specifics:
  - Arrays of photovoltaic panels to the centre of the roof.



- A car lift facilitating vehicular access from the Tivoli Avenue elevation at the uppermost level to 2 off-street car spaces housed within the predominantly excavated north-eastern sections of Level 3.
  - A partially above-ground, cantilevered terrace consisting of a lawn area and swimming pool attached to the harbourfront elevation at Level 1.
  - 1.5m high palisade front fencing.
- Landscaping works including the proposed removal of 11 trees, extensive new plantings, new pathways/stairs and a deck to the harbor-front landscaped area.
  - Site works primarily involving substantial excavation associated with Levels 0-4.

## 6. PREVIOUSLY REJECTED S4.55 APPLICATION

DA338/2022/2 was rejected on 5 December 2023 the basis that it was incorrectly made as a s4.55(2) application rather than a S4.56 application.

## 7. PROPOSED MODIFICATIONS

- A rear extension to Level 0 to match the rear alignment of the lawn terrace above to facilitate a pool equipment room and the relocation of the rainwater tank from the plant room at Level 2.
- Rear and south-eastern side extensions to the rear terrace at Level 1.
- The forward extension of the Mezzanine at Level 2 into an approved excavated courtyard.
- The reconfiguration of the plant room at Level 2 involving an increase to the south-eastern side boundary setback and an extension toward the north-western side boundary.
- The replacement of *opened louvred* roofing to the rear of Levels 3 & 4 for solid, non-trafficable roofing.
- Modifications to the rear balcony at Level 3 resulting in an 8m<sup>2</sup> net reduction to the trafficable area.
- The deletion of the planter to the rear and side alignments of the rear balcony at Level 3.
- The 9m<sup>2</sup> reduction to the area of the approved screening structure to the north-western side of the rear terrace at Level 4 and the deletion of the residual planters to the terrace.
- Modifications to the balustrading to the rear balconies at Levels 3 & 4 from masonry to glass.
- Fenestration modifications at Levels 3, 4 & 5.
- The thickening of external walls at Levels 3, 4 & 5 involving reduced front and side boundary setbacks.
- The widening of the entry bridge at Level 5.
- Modified external screening material to the north-western elevation (ensuite) at Level 4 & the north-western side of the terrace at Level 5 from stone to bronze mesh.
- Modified external screening material to the south-eastern side elevation (formal dining/stair and void) at Levels 4 & 5 from bronze to bronze mesh.
- Reduced stone screening to the front elevation at Levels 4 & 5.
- The deletion of the driveway entry portal.
- The addition of a skylight to the main roof.
- The modification of the front fencing from metal palisade to stone palisade/thin columns.

## 8. ISSUES

### 8.1 Non-compliance with a Development Standard under Woollahra Local Environmental Plan 2014

| Clause | Development Standard | Departure from Control  | Conclusion   |
|--------|----------------------|---|--|
| 4.4E   | Floor space ratio.   | 0.21:1 /274m <sup>2</sup> or 42.5% departure from Council's 0.5:1 floor space ratio development standard. | Satisfactory due to the proposed additional non-compliance being limited to 15m <sup>2</sup> of which the majority is located under the approved building footprint/ the absence of any significant adverse environmental impacts with the underlying objectives of the standard being upheld. |

### 8.2 Other Issues

| Issue  | Conclusion  | Section |
|--|---|---------|
| Objectors' concerns.   | Addressed by recommended conditions of consent, existing conditions of consent or otherwise are not concurred with. | 10.2    |
| North-western side boundary setback non-compliances and associated wall height non-compliances | Satisfactory as the objectives of the controls are considered to be satisfactorily upheld in this instance.         | 14.3    |
| Visual privacy impacts   | Addressed by recommended modifications to Condition C.1 of the development consent.                                 | 14.10   |

## 9. Referrals

No referrals were required.

## 10. ASSESSMENT UNDER SECTION 4.56 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 4.56 of the Environmental Planning and Assessment Act 1979 (the Act) confers on a consent authority the power and discretion to modify a consent granted by the Court under the Act.

Section 4.56(1) states:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations modify the development consent if:*

- (a) *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*
- (b) *it has notified the application in accordance with:*
  - (i) *the regulations, if the regulations so require, and*
  - (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*
  - (iii) *it has notified, or made reasonable attempts to notify, each who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*

- (c) *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.*

Subsection 4.56 (1A) states:

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

### **10.1 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 as modified previously and as proposed to be further modified is considered to be 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 further modified is considered to be substantially the same as the originally approved development.

### **10.2 Notification/Advertising**

The application was notified and advertised during the period 24/01-08/02 2023. Objections were received from:

1. **Mary-Anne Wiles, Business Manager & CFO Kambala School, 794 New South Head Road & 3 Tivoli Avenue Rose Bay.**
2. **Anthony Boskovitz of Boskovitz Lawyers, PO Box 305, Edgecliff NSW 2027 on behalf of Mr and Mrs Camuglia, 14 Tivoli Avenue Rose Bay.**

The objections raise the following concerns:

- *No height increase to the height of the existing dwelling house should be allowed due to light and view impacts*

No increase to the approved height is proposed and no significant additional view or overshadowing impacts upon adjoining properties beyond that associated with the approved development are envisaged.

- *Construction related impacts*

The proposed modifications do not involve any additional construction related impacts beyond that associated with the approved development.

- *Loss of visual privacy and associated inconsistencies with Council's visual privacy requirements*

The proposed modified rear sections of the roof are considered to be maintained as non-trafficable on the basis that they are adequately separated from the trafficable terrace areas by balustrading.

Potential future modifications/approvals under a CC contrary to the development consent with regard to the proposed modified non-trafficable rear sections of the roof are considered to be beyond the scope of this report.

The Level 4 planter height has not been reduced.

Loss of visual privacy concerns are addressed by recommended modifications to Condition C.1 of the development consent or otherwise are considered to be addressed by existing requirements of Condition C.1 of the development consent or do not involve non-compliances with the visual privacy provisions of Woollahra DCP 2015.

- *Additional bulk and scale*

It is considered that the proposed modifications will not result in any significant increase to the bulk and scale of the approved development or otherwise such concerns relate to potential future modifications to the proposed modified non-trafficable rear sections of the roof which is considered to be beyond the scope of this report.

- *Inconsistency with the objectives of Council's height of buildings development standard*

The proposed modifications are compliant with Council's 9.5m height development standard and therefore the proposed modifications cannot be considered to be consistent with the underlying objectives.

- *Inaccurate architectural drawings and misdescription of the modifications in the statement of environmental effects*

These concerns were raised in a preliminary submission that was not elaborated upon in the subsequent detailed submission. The architectural drawings and statement of environmental effects are considered to be adequate in terms of the documentation of the proposed modifications.

### **10.3 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:

### **11. SEPP (Resilience and Hazards) 2021**

#### **11.1 Chapter 2 Coastal management**

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

Whilst the subject land is located within the Coastal Environment Area (Clause 2.10) and the Coastal Use Area (Clause 2.11), subclauses 2.10(3) and 2.11(2) state:

*This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

On the basis that the subject land is located within the *Foreshores and Waterways Area* pertaining to Chapter 6.3 of SEPP (Biodiversity and Conservation) 2021 which has replaced the repealed SREP (Sydney Harbour Catchment) 2005, it is only the aims and the relevant provisions of Division 5 of Chapter 2 that are relevant to the subject development application.

The proposed modifications are considered to be satisfactory with regard to these provisions on the basis that Council's engineering section have not raised any objection to the proposal in terms of:

- causing an increased risk of coastal hazards on the subject land or other land; and
- the relevant provisions of any certified coastal management program that applies to the land.

The proposed modifications to the development consent are considered to be satisfactory with regard to the relevant provisions of Chapter 2 Coastal Management.

## **11.2 Chapter 4 Remediation of land**

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 to the development consent do not have the potential to alter that conclusion.

## **12. SEPP (Biodiversity and Conservation) 2021**

### **12.1 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.

### **12.2 Chapter 6 Water catchments**

The subject site is located within the Sydney Harbour Catchment. The proposed modifications to the development consent are considered to be satisfactory in terms of the relevant provisions of Clause 6.2 with existing conditions of consent adequately addressing potential environmental impacts upon the catchment including stormwater run-off and sedimentation control.

The subject site is located within the Foreshores and Waterways Area. The proposed modifications do not extend beyond the approved rear (harbour-front) alignment and consequently they are considered to be satisfactory with regard to the relevant provisions of Clause 6.3 and the relevant provisions of and the Sydney Harbour Foreshores and Waterways Area DCP 2005 in terms of not involving the potential for any significant adverse environmental impacts upon Sydney Harbour and adjoining foreshore areas including view impacts to and from the harbour and impacts upon items of environmental heritage, aquatic and terrestrial ecologies, foreshore scenic qualities, landforms or working harbour related uses and functions.

The proposed modifications to the development consent are considered to be satisfactory with regard to the relevant provisions of SEPP (Biodiversity and Conservation) 2021 and the Sydney Harbour Foreshores and Waterways Area DCP 2005.

### **13. Woollahra LEP 2014**

#### **13.1 Clause 1.2: Aims of Plan**

The proposed modifications to the development consent as conditioned are considered to be consistent with the aims stipulated under Clause 1.2(2) of Woollahra LEP 2014.

#### **13.2 Land Use Table**

The proposed modifications to the development consent relate to a dwelling house use which is permissible within the R2 Low Density Residential zone.

#### **13.3 Objectives of the zone**

The proposed modifications as conditioned are considered to be consistent with the objectives of the R2 Low Density Residential zone.

#### **13.4 Clause 4.3: Height of Buildings**

Part 4.3 limits development to a maximum height of 9.5m. The proposed modifications are compliant.

#### **13.5 Clause 4.4: Floor Space Ratio**

Clause 4.4E limits the proposed modifications to the dwelling house to a maximum floor space ratio of 0.5:1. The proposed modifications involve 15m<sup>2</sup> additional gross floor area from that as approved, thereby increasing the floor space ratio associated with the approved development, assessed and determined under Council's floorplate control, from 0.7:1 to 0.71:1.

A Clause 4.6 written request from the applicant to vary Council's floor space ratio development standard is not required for Section 4.55 applications.

The objectives of the floor space ratio development standard under Clause 4.4 (1) (a) are:

- (i) *to ensure the bulk and scale of new development is compatible with the desired future character of the area;*
- (ii) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain; and*
- (iii) *to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space.*

The majority (13m<sup>2</sup>) of the additional 15m<sup>2</sup> gross floor area is the result of the extensions to the front of Level 2 which are located below the approved building footprint and consequently will not result in any amenity impacts upon the locality or reduce the approved deep soil landscaped and private open space areas.

The residual 2m<sup>2</sup> of additional gross floor area is result of the proposed thickening of external walls at Levels 3, 4 & 5. It is considered that these minor modifications will not result in any significant amenity impacts upon the locality or significantly reduce the approved deep soil landscaped and private open space areas.

The proposed modifications are considered to be consistent with the above-mentioned objectives and to be satisfactory with regard to Clause 4.4 of the Woollahra LEP 2014.

### **13.6 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 section have raised no objections to the proposed modifications in terms of heritage impacts upon heritage items located in the vicinity of the subject site. Accordingly, the proposed modifications are considered to be satisfactory with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

### **13.7 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 the proposed modifications are considered to be satisfactory with regard to the provisions of Part 5.21 of Woollahra LEP 2014.

### **13.8 Clause 6.1: Acid Sulfate Soils**

Clause 6.1 requires Council to consider any potential acid sulphate soil affectation where excavation is proposed within the site.

The subject site is located within a Class 5 Acid Sulphate soil area and the proposed modifications are considered to be satisfactory with regard to the provisions of Clause 6.1 of Woollahra LEP 2014.

### **13.9 Clause 6.2: Earthworks**

Clause 6.2 requires Council to consider the impacts of earthworks upon the local environment. Council's Engineering, Tree Management and Heritage sections have raised no concerns in relation to the proposed additional excavation related earthworks.

The proposed modifications do not involve any significant additional earthworks from that as approved and are considered to be satisfactory in terms of the matters for consideration stipulated under Clause 6.2 of Woollahra LEP 2014.

### **13.10 Clause 6.4: Limited Development on Foreshore Area**

The proposed modifications do not encroach within Council's *foreshore area 12* and are therefore considered to be satisfactory with regard to the provisions of Clause 6.4 of Woollahra LEP 2014.

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

The relevant issues with regard to the provisions of Woollahra DCP 2015 are discussed as follows.

### **14.1 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 proposed modifications will not significantly increase the bulk and scale of the development from that as approved, will not impact upon the amenity of the public domain, will not impact upon existing trees and do not involve any significant additional excavation from that as approved.

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.

#### **14.2 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 3.8m in this instance.

The proposed modifications involve a minimum front setback of 4.5m which is compliant.

Compliance with C2 is achieved.

The proposed modifications are considered **to be** satisfactory with regard to the provisions of B3.2.2 of Woollahra DCP 2015.

#### **14.3 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 proposed modifications maintain the provision of adequate articulation to both side elevations such that compliance with C4 is considered to be achieved.

Side boundary setback requirements of 2.7m are required in this instance.

The proposed thickening of walls to the south-eastern side elevation reduce the approved south-eastern side boundary setback by 100mm but maintain a compliant 2.8m minimum side boundary setback.

The proposed thickening of walls to the north-western side elevation reduce the approved north-western side boundary setback to the front section of the north-western side elevation at Levels 4 & 5 by 250mm resulting in a non-compliant 2.454m minimum side boundary setback.

The proposed replacement of *opened louvred* roofing to the rear of Levels 3 & 4 for solid, non-trafficable roofing maintains the approved non-compliant 2.5-2.7 north-western side boundary setback.

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 non-compliances are considered to be sufficiently minor in extent so as not to involve the potential for any significant amenity impacts upon the adjoining property (14 Tivoli Avenue) or the streetscape. The non-compliance will maintain adequate external access and will not significantly reduce opportunities for screen planting to the north-western side setback. Accordingly, the above-mentioned objectives are considered to be upheld and the proposed modifications are considered to be satisfactory with regard to the provisions of B3.2.3 of Woollahra DCP 2015.

#### **14.4 B3.2.4: Rear boundary setback**

*C1 The minimum rear setback control is 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary.*

With a minimum rear setback of 17.6m, the proposed modifications are compliant with Council's rear boundary setback control of 16.8m and are therefore considered to be satisfactory with regard to the provisions of B3.2.4 of Woollahra DCP 2015.

#### **14.5 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.*

*C2 A variation to the wall height of 7.2m may be considered where the slope of the site within the building envelope is greater than 15 degrees.*

*The variation will only be considered to walls located nearest to the downslope section of the building envelope, i.e. the section with the lowest existing ground level.*

*A request for a variation must demonstrate that the increased wall height is consistent with the objectives of this section of the DCP, consistent with the objectives for development within the zone in which the development is proposed to be carried out, and there are sufficient environmental planning grounds to justify the variation.*

The proposed north-western side boundary setback non-compliant modifications discussed above are also non-compliant with C1.

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 the non-compliances uphold the above-mentioned objectives on the basis of being minor in extent and not having the potential for any significant amenity impacts upon the streetscape or the adjoining property to the north-west.

#### **14.6 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 proposed forward extension of the Mezzanine at Level 2 into an approved excavated courtyard does not involve any additional excavation.

Whilst the proposed reconfiguration of the plant room at Level 2 involving an increase to the south-eastern side boundary setback and an extension toward the north-western side boundary results in a net increase to the excavated plant room area by 4m<sup>2</sup>, the increase occurs over the same excavated area/volume below and as such essentially involves the removal of overburden.

As such, the proposed modifications do not involve any significant additional excavation beyond that associated with the approved development and are considered to be satisfactory with the provisions of B3.4 of Woollahra DCP 2015.

#### **14.7 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 modifications are considered to be satisfactory with regard to streetscape impacts and accordingly are considered to be satisfactory with regard to the provisions of B3.5.1 of Woollahra DCP 2015.

#### **14.8 B3.5.2 Overshadowing**

- C1 The development is designed so that:*
  - a) sunlight is provided to at least 50% (or 35m<sup>2</sup> with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space 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 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 modifications maintain compliant solar access to adjoining properties in terms of the requirements of B3.5.2 C1 of Woollahra DCP 2015 and are considered to be satisfactory with regard to the provisions of Part B3.5.2 of Woollahra DCP 2015.

#### **14.9 B3.5.3 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 proposed modifications.

#### 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 proposed modifications.

The proposed modifications are considered to be satisfactory with regard to the provisions of B3.5.3 of Woollahra DCP 2015.

#### **14.10 B3.5.4 Visual and Acoustic 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 owners of the adjoining property to the north-west (14 Tivoli Avenue) have raised concerns that the approved north-west facing window to the living room and the proposed widened rear terrace at Level 1 will facilitate overlooking of the rear pool and associated surrounding private open space area stating:

*It is noted that the terrace and floor level of the internal space on Level 1 are at RL17.00. This means that the eye level of a person standing in these spaces is at between RL18.5-RL18.6. The level of our client's pool and private open space is at approximately RL18.25.*

*On the basis of the extent and difference in the levels and the fact that there is no existing side boundary fence or a proposal for same, our client considers that directly overlooking into their primary open space will be available to the neighbour.*

*It is noted that the distance of the separation is less than 9 metres noting the minimal side setback associated with the proposal and what's more there is no mitigation mechanism.*

*Further, on the basis of the iconic views available across the side boundary in a NW direction, it is likely that issues of privacy will be exacerbated by virtue of the fact that the Applicant will be looking across the side boundary to obtain said view.*

On the basis of the above, it is recommended that privacy screening be required to be provided to the north-west facing window to the living room and to the north-western side of the rear terrace at Level 1 (see recommended **Conditions C.1i & j**) in order to achieve compliance with C4 & C10.

It is recommended that privacy screening be required to be provided to the north-west facing window to the western corner of the ensuite at Level 3 (see recommended **Condition C.1e** as recommended to be modified).

It is recommended that the proposed *non-trafficable planter* to the northern corner of the rear terrace at Level 4 be required to be extended at the same height so as to occupy the proposed 1.36m wide non-trafficable section labelled on Level 4 *Previous Terrace Removed 9m<sup>2</sup>* (see recommended **Condition C.1g** as recommended to be modified).



Acoustic privacy assessment

**Condition I.6** of the development consent requires the control of offensive noise. It is considered that the proposed modifications will not result in any significant additional acoustic privacy impacts upon adjoining properties beyond that associated with the approved development.

The proposed modifications to the development consent as conditioned are considered to be satisfactory with regard to the provisions of Part B3.5.4 of Woollahra DCP 2015.

**14.11 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 proposed modifications are considered to be satisfactory with regard to Council's internal amenity requirements stipulated under B3.5.5 of Woollahra DCP 2015.

**14.12 B3.7.1 Landscaped Areas and Private Open Space**

*These controls apply to development in the R2 and R3 residential zones that alter the existing building footprint and/or building envelope and/or impacts upon existing landscapes.*

- C1 Tree canopy area is at least:*
  - a) 35% of the site area for dwelling houses, dual occupancies, semidetached development and attached dwellings.*

*And at least half of the total tree canopy area on the site is contributed by canopy tree/s.*

- C2 35% of the site area is deep soil landscaped area.*
- C3 At least 40% of the front setback comprises deep soil landscaped area.*
- C4 For a dwelling house—a primary open space area of at least 35m<sup>2</sup> is provided.*
- C6 The primary open space area in C4 above has a gradient of no more than 1 in 10.*
- C7 Excavation or fill is permitted to achieve the required level area of primary open space up to 1.2m from existing ground level.*
- C8 Part of the primary open space area is directly accessible from a habitable room.*
- C10 Development takes advantage of opportunities to provide north-facing private open space to achieve comfortable year round use.*

- C11 Private open space is clearly defined for private use through planting, fencing or landscape features.*
- C12 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.*
- C14 Existing canopy trees and vegetation of landscape value are incorporated into the landscape area and treatment.*
- C15 Native species are preferred and landscape designs are encouraged to provide at least 50% of the plants as native species.*
- C16 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.*
- C17 Landscaping facilitates the linking of open space reserves through wildlife corridors and reduces habitat fragmentation and loss.*
- C18 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 moderately, severely or devastatingly block views in accordance with the Tenacity Land and Environment Court Principle;*
  - c) does not adversely affect the structure of the proposed building or buildings on neighbouring 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 proposed modifications will not result in any significant reduction to the approved deep soil landscaped area, ground level primary private open space area or canopy tree coverage and do not involve any potential for tree impacts.

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.

#### **14.13 B3.7.2: Fences**

- C1 Fencing is designed and located to protect the inhabitants of the property, and allows for casual surveillance from the building to the street.*
- C2 The arrangement of built form, fences, landscaping and other features clearly defines any public, common, and private space.*
- C3 Front fences and walls assist in defining building entrances.*

- C4 *The height of front fences does not exceed:*
- a) *1.2m if solid; or*
  - b) *1.5m if 50% transparent or open;*
- C8 *Where a vehicular entrance is proposed in conjunction with a fence of height greater than 1.2m—a 45° splay or its equivalent is provided either side (as applicable) of the entrance to ensure driver and pedestrian vision. The splay is to have minimum dimensions of 2m x 2m.*
- C9 *The rear and side fences:*
- a) *are located behind the building front setback; and*
  - b) *do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary.*
- C10 *Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side.*
- C15 *The design and materials of front fences and walls are compatible with those fences and walls that contribute positively to the streetscape.*

#### Front fencing

The proposed modification of the approved front fencing from metal palisade to stone palisade/thin columns maintains the approved 1.5m height and involves approximately the same degree of openness as approved. Accordingly, the proposed modifications are considered to be satisfactory with regard to the provisions of B3.7.2 of Woollahra DCP 2015.

#### **14.14 3.10.2 Harbour foreshore development**

- C1 *Development as viewed from Sydney Harbour follows the natural topography and maintains or enhances vegetation cover.*
- C2 *Roofs are below the tree canopy and maintain the prominence of the treed skyline.*
- C3 *Development as viewed from Sydney Harbour, is designed and constructed to blend with the natural landscape setting and the existing built environment through the use of materials, colours, wall articulation, building form and landscaping. Glass elevations and excessive use of windows resulting in reflectivity and glare are avoided.*
- C4 *Pergolas, boatsheds, other outbuildings and structures are designed and constructed to complement the overall appearance of the development. Such structures are no more than one storey in height.*
- C5 *Swimming pools and spa pools are not elevated more than 1.2m above ground level and complement the character of the harbour and foreshore.*
- C6 *Swimming pool and spa pool walls are suitably treated to complement the natural foreshore and where visible, are sandstone clad and incorporate suitable screen landscaping*

The proposed modifications do not extend beyond the approved rear (harbour-front) alignment and do not involve any tree or landscaping impacts upon the rear (harbour-front) setback area. It is considered that the proposed modifications to the rear (harbour-front) elevation do not involve the potential for any significant adverse environmental impacts upon Sydney Harbour and adjoining foreshore areas including foreshore scenic qualities, vegetation or landforms.

Accordingly, the proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of B3.10.2 of Woollahra DCP 2015.

#### 14.15 Chapter E2 Stormwater and Flood Risk Management

Council's Engineering section has raised no objection to the proposed modifications in terms of stormwater management and flood protection.

The proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Chapter E2 of the Woollahra DCP 2015.

#### 15. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report.

#### 16. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposed modified development.

#### 17. 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.

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

THAT the Council, as the consent authority, modify the development consent to DA338/2022 for the demolition of an existing dwelling house and the construction of a multi-storey dwelling house, swimming pool, landscaping and site works on land at 12 Tivoli Avenue Rose Bay as follows:

##### Modification Summary

| DA Application Number<br>(PAN Number) | Determination Date | Modification Description                                 |
|---------------------------------------|--------------------|--|
| DA338/2022/3<br>PAN 396049            | 21/03/2023         | Addition of Condition A.3a<br>Amendment of Condition C.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*.

##### 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                            | Dates       |
|---|--|---|-------------|
| 340_DA_121 Rev 17   | Demolition Plan                          | Collins and Turner                      | 26/07/2022  |
| 340_DA_131 Rev DA01B  | Level 0                                  | Collins and Turner                      | 01/02/2023  |
| 340_DA_132 Rev DA01B  | Level 1                                  |   | 01/02/2023  |
| 340_DA_133 Rev DA01B  | Level 2                                  |   | 01/02/2023  |
| 340_DA_134 Rev DA01B  | Level 3                                  |   | 03/02/2023  |
| 340_DA_135 Rev DA01B  | Level 4                                  |   | 01/02/2023  |
| 340_DA_136 Rev DA01B  | Level 5                                  |   | 01/02/2023  |
| 340_DA_137 Rev DA01B  | Roof plan                                |   | 01/02/2023  |
| 340_DA_211 Rev DA01B  | North elevation                          |   | 01/02/2023  |
| 340_DA_212 Rev DA01B  | East & street elevation                  |   | 01/02/2023  |
| 340_DA_213 Rev DA01B  | South elevation                          |   | 01/02/2023  |
| 340_DA_214 Rev DA01B  | West & harbour elevation                 |   | 01/02/2023  |
| 340_DA_221 Rev DA01B  | North elevation no screens               |   | 01/02/2023  |
| 340_DA_222 Rev DA01B  | East elevations no screens               |   | 01/02/2023  |
| 340_DA_223 Rev DA01B  | South elevation no screens               |   | 01/02/2023  |
| 340_DA_224 Rev DA01B  | West elevations no screens               |   | 01/02/2023  |
| 340_DA_225 Rev DA01B  | Sections C-C D-D no screens              |   | 01/02/2023  |
| 340_DA_311 Rev DA01B  | Section A-A                              |   | 01/02/2023  |
| 340_DA_312 Rev DA01B  | Section B-B                              |   | 01/02/2023  |
| 340_DA_313 Rev DA01B  | Sections C-C D-D                         |   | 01/02/2023  |
| 340_DA_511 Rev 17   | External materials and finishes schedule |   | 26/07/2022  |
| LP01-0322 Rev D<br>LP02-0322 Rev D<br>LP03-0322 Rev D<br>LP04-0322 Rev D<br>LP05-0322 Rev D<br>LP06-0322 Rev D<br>LP07-0322 Rev D<br>LP08-0322 Rev D<br>LP09-0322 Rev D<br>LP10-0322 Rev D<br>LP11-0322 Rev D | Landscape Plans                          | Tanya Wood<br>Landscape<br>Architecture | 01/02/2023  |
| Arboricultural Impact Assessment and Management Plan  | Arboricultural Impact Assessment Report  | George Palmer                           | August 2022 |
| 212555.00   | Geotechnical Report                      | Douglas Partners                        | May 2022    |
| 220082-C001-Rev B   | Stormwater Management Plan               | Richmond+Ross<br>P/L                    | 15/07/2022  |

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

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

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

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

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

| Reference           | Description              | Author/Drawn       | Dates      |
|---------------------|--------------------------|--------------------|------------|
| 340_DA_131 Rev DA02 | Level 0                  | Collins and Turner | 07/12/2023 |
| 340_DA_132 Rev DA02 | Level 1                  |                    |            |
| 340_DA_133 Rev DA02 | Level 2                  |                    |            |
| 340_DA_134 Rev DA02 | Level 3                  |                    |            |
| 340_DA_135 Rev DA02 | Level 4                  |                    |            |
| 340_DA_136 Rev DA02 | Level 5                  |                    |            |
| 340_DA_137 Rev DA02 | Roof plan                |                    |            |
| 340_DA_211 Rev DA02 | North elevation          |                    |            |
| 340_DA_212 Rev DA02 | East & street elevation  |                    |            |
| 340_DA_213 Rev DA02 | South elevation          |                    |            |
| 340_DA_214 Rev DA02 | West & harbour elevation |                    |            |
| 340_DA_311 Rev DA02 | Section A-A              |                    |            |
| 340_DA_312 Rev DA02 | Section B-B              |                    |            |
| 340_DA_313 Rev DA02 | Sections C-C D-D         |                    |            |
| 340_DA_511 Rev DA02 |                          |                    |            |

**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 21/03/2024 under DA338/2022/3 (PAN 396049))

### 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 No Underpinning works

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

## A.6 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

| Council Ref No. | Species               | Location   | Dimension (metres) |
|-----------------|-----------------------|--|--------------------|
| 15              | Glochidion ferdinandi | Refer to Arboricultural Impact Assessment Report prepared by George Palmer dated August 2022 for tree locations and numbers. | 14 x 10            |
| 16              | Glochidion ferdinandi |  | 14 x 10            |
| 19              | Ficus rubiginosa      |  | 8 x 8              |
| 20              | Ficus rubiginosa      |  | 8 x 8              |
| 21              | Ficus rubiginosa      |  | 14 x 8             |
| 22              | Glochidion ferdinandi |  | 10 x 8             |

- Trees on Council Land

| Council Ref No. | Species          | Location    | Dimension (metres) | Tree Value |
|-----------------|------------------|-------------|--------------------|------------|
| 1               | Ulmus parvifolia | Street tree | 8 x 8              | \$20,000   |
| 2               | Ulmus parvifolia | Street tree | 8 x 8              | \$20,000   |
| 3               | Ulmus parvifolia | Street tree | 8 x 8              | \$20,000   |

**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) |
|-----------------------------|-------------------------|--|--------------------|
| 4                           | Brachychiton acerifolia | Refer to Arboricultural Impact Assessment Report prepared by George Palmer dated August 2022 for tree locations and numbers. | 8 x 6              |
| 5                           | Glochidion ferdinandi   |  | 14 x 8             |
| 6, 7, 8, 9, 10, 11, 12 & 13 | Cupressus leylandii     |  | 6 x 2 (each)       |
| 14                          | Glochidion ferdinandi   |  | 14 x 10            |

**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 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.3 Establishment of Tree Protection Zone (TPZ) Fence**

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

a) Tree Protection Zone areas

| Council Ref No. | Species          | Tree Location | Fence Radius from Centre of Trunk (Metres) |
|-----------------|------------------|---------------|--|
| 1               | Ulmus parvifolia | Street tree   | 2m   |
| 2               | Ulmus parvifolia | Street tree   | 2m   |
| 3               | Ulmus parvifolia | Street tree   | 2m   |

**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               |
|-----------------|-----------------------|
| 15              | Glochidion ferdinandi |
| 16              | Glochidion ferdinandi |
| 19              | Ficus rubiginosa      |
| 20              | Ficus rubiginosa      |
| 21              | Ficus rubiginosa      |
| 22              | Glochidion ferdinandi |

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

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- 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.4 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  |
|-----------------|-----------------------|----------------------------|---|
| 15              | Glochidion ferdinandi | 7.2                        | Demolition of foreshore access stairs, installation of new foreshore access stairs, decking and landscape upgrade works |
| 16              | Glochidion ferdinandi | 6.0                        |   |
| 19              | Ficus rubiginosa      | 4.8                        |   |
| 20              | Ficus rubiginosa      | 3.6                        |   |
| 21              | Ficus rubiginosa      | 7.2                        |   |
| 22              | Glochidion ferdinandi | 6.0                        |   |

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

#### B.5 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:

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

#### B.6 Arborists Documentation and Compliance Checklist

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

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

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

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

| Stage of arboricultural inspection and supervision  | Compliance documentation and photos shall be included  |
|---|--|
| Prior to the demolition of any building or construction and prior to the commencement of any development work | <ul style="list-style-type: none"> <li>• Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.</li> <li>• The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</li> </ul>  |
| During any development work   | <ul style="list-style-type: none"> <li>• The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.</li> <li>• The project arborist shall supervise the demolition of the existing foreshore access stairs within the TPZ of trees listed for retention. Ensure tree sensitive methods are utilised and the condition of exposed roots shall be managed and documented.</li> <li>• The project arborist shall supervise the installation of the new foreshore access stairs and decking foreshore access stairs within the TPZ of trees listed for retention. Ensure tree sensitive methods are utilised and the condition of exposed roots shall be managed and documented.</li> <li>• The project arborist shall ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter.</li> <li>• 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.</li> </ul> |
| Prior to any occupation or use of the building  | <ul style="list-style-type: none"> <li>• Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</li> </ul>  |
| Prior to the issue of a Final Occupation Certificate  | <ul style="list-style-type: none"> <li>• The project arborist shall supervise the dismantling of tree protection measures</li> <li>• After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.</li> </ul>  |

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

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

## **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:

### Landscape Amendments

- a) In the event of event of any inconsistencies in the documentation of the proposed dwelling house between the landscape plans and the architectural drawings referenced in Condition A.3, the latter prevail to the extent of any inconsistency.
- b) The *Brachychiton rupestris* is to be removed from the approved landscape plans and approved architectural, and replaced with one of the following suitable species: Murraya, Crêpe Myrtle or Dwarf Lilly Pilly. The tree is to be maintained to a maximum height of 3 metres.

### Privacy Screens

- c) Specification for Privacy Screens

Prior to the issue of a construction certificate, the approved architectural plans shall be amended, so that all privacy screens on the northwest elevation as shown on the architectural plans or as required by paragraphs (d) – (f) below are designed in accordance with the following requirements:

- i. All privacy screens are to be static structures that are unable to be moved or adjusted,
- ii. All privacy screens are to be designed so that they permit views in a westerly direction at an angle of 45 degrees to the side boundary, and
- iii. All screens are to have a minimum depth of 250mm and maximum spacing of 120mm from one vertical element to the next.

- d) Level 2 Mezzanine

Prior to the issue of a construction certificate, the approved architectural plans shall be amended, so the northwest window on Level 2 Mezzanine is screened by privacy screen designed in accordance with paragraph (c) above.

- e) **Level 3**

**Prior to the issue of a construction certificate, the approved architectural plans shall be amended, so that the full extent of all 3 north-west facing windows to the Level 3 WIR/ Dressing and ensuite are screened by privacy screening designed in accordance with paragraph (c) above.**

- f) Level 5 Bedroom Terrace

Prior to the issue of a construction certificate, the approved architectural plans shall be amended, so the privacy screen on the northwest elevation of the Terrace is extended further to the west by 1m from the edge of the proposed balcony. The privacy screen is to be designed in accordance with paragraph (c) above.

### Level 4 Terrace

- g) **Prior to the issue of a construction certificate, the approved architectural plans shall be amended so that the Level 4 Terrace is modified as follows:**

**The proposed *non-trafficable planter* to the northern corner of the rear terrace shall be extended at the same height so as to occupy all of the proposed 1.36m wide non-trafficable section labelled on architectural drawing 340\_DA\_135 Rev DA02 340 *Previous Terrace Removed 9m<sup>2</sup>*.**

### Green Roof

- h) In order to minimise roof top access for garden maintenance purposes and associated potential overlooking impacts upon adjoining properties and to ensure the ongoing health of the roof top landscaping, the green roof shall be provided with an automatic irrigation system.
- i) **In order to mitigate visual privacy impacts upon the adjoining property to the north-west (14 Tivoli Avenue), privacy screening designed in accordance with paragraph (c) above shall be provided to the full extent of the north-west facing living window at Level 1.**
- j) **In order to mitigate visual privacy impacts upon the adjoining property to the north-west (14 Tivoli Avenue), privacy screening designed in accordance with paragraph (c) above shall be provided to the north-western side of the rear terrace at Level 1 to a minimum height of 1.65m above the Level 1 terrace floor level.**

**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 21/03/2024 under DA338/2022/3 (PAN 396049))

## **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 |
|--|--|----------------|------------------|
| <b>LONG SERVICE LEVY</b><br>under <i>Building and Construction Industry Long Service Payments Act 1986</i>   |  |                |                  |
| <b>Long Service Levy</b><br><a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>   | Contact LSL Corporation or use online calculator | No             |                  |
| <b>SECURITY</b><br>under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>  |  |                |                  |
| <b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council  | \$441,420  | No             | T115             |
| <b>Tree Damage Security Deposit</b> – making good any damage caused to any public tree   | \$60,000   | No             | T114             |
| <b>DEVELOPMENT LEVY</b><br>under Woollahra Section 7.12 Development Contributions Plan 2022<br>This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> |  |                |                  |
| <b>Development Levy</b> (section 7.12)   | \$186,587 + Index Amount                         | Yes, quarterly | T96              |



| <b>INSPECTION FEES</b><br>under section 608 of the <i>Local Government Act 1993</i> |   |    |     |
|---|---|----|-----|
| Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)                   | \$615   | No | T45 |
| Public Tree Management Inspection Fee   | \$221   | No | T45 |
| Security Administration Fee   | \$190   | No | T16 |
| <b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>                               | \$689,033 plus any relevant indexed amounts and long service levy |    |     |

### **Building and Construction Industry Long Service Payment**

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

### **How must the payments be made?**

Payments must be made by:

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

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

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

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

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 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. 1320024S\_03 with any application for a Construction Certificate.

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

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

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

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

- a) The removal of the redundant vehicular crossing including layback and gutter and reinstated into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineer.

- b) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification, standard driveway drawing RF2\_D and to the satisfaction of Council's Assets Engineers. The new crossing shall be constructed at right angle to the street kerb in plain concrete and the centreline of the new crossing shall be aligned to the centreline of the internal driveway at the property boundary. Design longitudinal profiles along each edge/side of the proposed driveway, starting from the centreline of the road to the basement entry slab must be submitted for assessment.
- 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.

**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](http://www.austieca.com.au) lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

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

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

## 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 Engineer Certification

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

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

### C.8 Geotechnical and Hydrogeological Design, Certification and Monitoring

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

These details must be certified by the professional engineer to:

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

## C.9 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.

## C.10 Vehicular Access and Parking Arrangement

Prior to issue of the Construction Certificate, the applicant shall submit, for approval by the Certifying Authority, construction Certificate plans, detailing the following:

- a) Pursuant to Clause 3.2.4 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, shall be provided on both sides of the driveway exit. Any proposed structures (such as landscaping, retaining wall, front fence and driveway gate etc) located within these splay areas shall be limited to a maximum height of 0.9m. Alternatively, open palisade fencing which consists of tubular bars (maximum 16mm diameter) with minimum 100mm spacing apart, shall be provided in accordance with Chapter E1.10.6 of Council's DCP.
- b) Dimensions of the proposed basement including all parking spaces shall be provided demonstrating compliance with AS2890.1. These required dimensions and the design envelope around parked vehicles as per Figure 5.2 of AS2890.1 are to be clearly depicted on the architectural plans.
- c) Details including dimensions, type, model and manufacturers specification of the proposed car lift shall be provided on the architectural plans.

## C.11 Stormwater Management Plans

Prior to issue of any Construction Certificate, detailed *Stormwater Management Plan* prepared by a suitably qualified and experienced civil engineer shall be submitted for approval by the Certifying Authority. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater management plans, referenced 220082-Rev B, prepared by Richmond+Ross P/L, dated 15/07/2022, other than amended by this and other conditions;
- b) 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;
- c) The installation of rainwater tank (RWT) with minimum storage capacity of 8kL. Runoff from roof area shall be collected and directed to RWT for non-potable use;
- d) The installation of raingarden with minimum filtration area of 14m<sup>2</sup> to comply with Chapter E2.2.3 of Council's DCP. Detailed design of the proposed raingarden must be provided on the stormwater plans; Stormwater runoff must be directed to the proposed raingarden prior to discharging to the proposed infiltration system;
- e) Any proposed stormwater pipe across the nature strip must have a minimum grade of 1% to comply with Clause 6.3.4 of AS3500.3;
- f) The discharge of stormwater shall be connected to the proposed infiltration trench system by gravity. The system must be designed to cater for a 5% AEP storm event. Detailed design of the proposed infiltration system shall be provided on the stormwater plans;
- g) Dimensions of all drainage pit and access grates must comply with AS3500.3;
- h) Compliance the objectives and performance requirements of the BCA;
- i) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management;

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

**Layout plan**

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the 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 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 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.12 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](http://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](http://www.sydneywater.com.au/SW/plumbing-building-developing/building/building-over-or-next-to-assets/index.htm) or call 1300 082 746.

### C.13 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. Applicants 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.14 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.

### **C.15 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.16 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.17 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*.. 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.18 Acoustic Certification of Mechanical Plant and 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](http://www.acoustics.asn.au)

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

### C.19 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.20 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.21 Tree Management Plan

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

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

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

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

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

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

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

This condition does not apply:

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

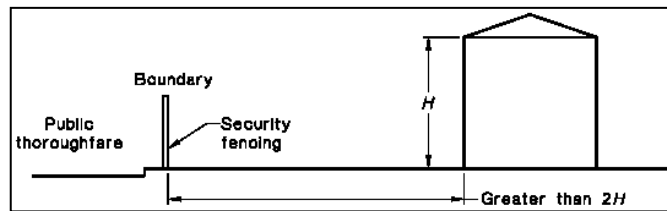
In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

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

**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

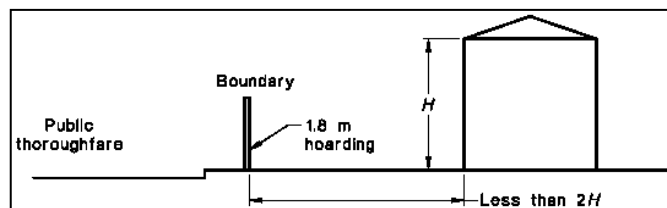
#### D.2 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



### Type A Hoarding

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



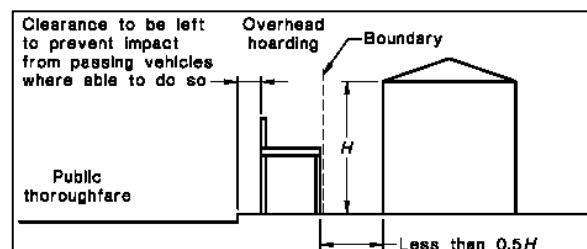
### Type B Hoarding

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

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

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

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



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW "Code of Practice - Overhead Protective Structures 1995". This is code available at

[www.safework.nsw.gov.au/data/assets/pdf\\_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf](http://www.safework.nsw.gov.au/data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf)

### **All Hoardings**

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

### **Hoardings on Public Land including 'Creative Hoardings'**

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

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

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

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

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

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

The Creative Hoardings Policy can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or for more information contact Council's Cultural Development Team.

## **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*.

#### 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.

**D.5 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)**

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

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

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

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

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

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

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

**D.6 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.7 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.

#### 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) 10A & 14 Tivoli 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/](http://www.austieca.com.au/)) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

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

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

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

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

## **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 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.

### 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:

- 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.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 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway**

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

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

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

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

### E.13 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](http://www.epa.nsw.gov.au/noise/nqlg.htm)

### E.14 Dust Mitigation

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

This generally requires:

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

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

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

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

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

### E.15 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.16 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.17 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.18 Compliance with Australian Standard for Demolition**

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

### **E.19 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.20 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.21 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.

#### **E.22 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.23 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.24 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.25 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.26 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

- The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- 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.
- 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 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) |
|-----------------|------------------------------|--|--------------------------------------|
| 1               | <i>Ulmus parvifolia</i>      | Refer to Arboricultural Impact Assessment Report prepared by George Palmer dated August 2022 for tree locations and numbers. | 2.4                                  |
| 2               | <i>Ulmus parvifolia</i>      |  | 3.6                                  |
| 3               | <i>Ulmus parvifolia</i>      |  | 4.8                                  |
| 15              | <i>Glochidion ferdinandi</i> |  | 7.2                                  |
| 16              | <i>Glochidion ferdinandi</i> |  | 6.0                                  |
| 19              | <i>Ficus rubiginosa</i>      |  | 4.8                                  |
| 20              | <i>Ficus rubiginosa</i>      |  | 3.6                                  |
| 21              | <i>Ficus rubiginosa</i>      |  | 7.2                                  |
| 22              | <i>Glochidion ferdinandi</i> |  | 6.0                                  |

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.28 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) |
|-----------------|-----------------------|--|--------------------------------------|
| 1               | Ulmus parvifolia      | Refer to Arboricultural Impact Assessment Report prepared by George Palmer dated August 2022 for tree locations and numbers. | 2.4                                  |
| 2               | Ulmus parvifolia      |  | 3.6                                  |
| 3               | Ulmus parvifolia      |  | 4.8                                  |
| 15              | Glochidion ferdinandi |  | 7.2                                  |
| 16              | Glochidion ferdinandi |  | 6.0                                  |
| 19              | Ficus rubiginosa      |  | 4.8                                  |
| 20              | Ficus rubiginosa      |  | 3.6                                  |
| 21              | Ficus rubiginosa      |  | 7.2                                  |
| 22              | Glochidion ferdinandi |  | 6.0                                  |

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.29 Installation of stormwater pipes and pits in the vicinity of trees

Excavation for the installation of stormwater pipes and pits 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) |
|-----------------|-----------------------|--|--------------------------------------|
| 1               | Ulmus parvifolia      | Refer to Arboricultural Impact Assessment Report prepared by George Palmer dated August 2022 for tree locations and numbers. | 2.4                                  |
| 2               | Ulmus parvifolia      |  | 3.6                                  |
| 3               | Ulmus parvifolia      |  | 4.8                                  |
| 15              | Glochidion ferdinandi |  | 7.2                                  |
| 16              | Glochidion ferdinandi |  | 6.0                                  |
| 19              | Ficus rubiginosa      |  | 4.8                                  |
| 20              | Ficus rubiginosa      |  | 3.6                                  |
| 21              | Ficus rubiginosa      |  | 7.2                                  |
| 22              | Glochidion ferdinandi |  | 6.0                                  |

Any roots greater than 40mm diameter uncovered for the installation of stormwater pipes and pits shall not be severed and remain in situ bridging across the excavated trench. Pipes shall be guided under any roots greater than 40mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 40mm diameter are severed.

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:

- 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.

**F.3 Letter Box**

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

## **F.5 Swimming Pool Fencing**

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

**Note:** Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012

## **F.6 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.16.

## **F.7 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 Fulfilment of BASIX commitments – Clause 154B of the Regulation**

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1320024S\_03.

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

### **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](http://www.woollahra.nsw.gov.au) or obtained from Council's customer service centre.

## H.5 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 rainwater tank,
- c) that the works have been constructed in accordance with the approved design and will provide rainwater tank with minimum 8m<sup>3</sup> storage volume in accordance with the approved drawings,
- d) that the works have been constructed in accordance with the approved design and will provide raingarden with minimum 14m<sup>2</sup> filtration area in accordance with the approved drawings,
- e) that no subsoil drainage/seepage water has been collected and discharged into the kerb and gutter in accordance with the approved design drawings,
- f) pipe invert levels and surface levels to Australian Height Datum, and
- g) 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:** 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. 1320024S\_03.

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

### I.2 Noise from mechanical plant and equipment, including swimming pool plant

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<sub>A90, 15 minute</sub> 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](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/nlg.htm>)

ISBN 1741370671 , dated December 2004.

### 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](http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government)) and the *NSW Industrial Noise Policy* ([www.epa.nsw.gov.au/your-environment/noise/industrial-noise](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise)) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

**Useful links:**

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

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

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

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

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

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

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

#### **I.6 Noise Control - Swimming pool/spa pool pumps and associated equipment**

The swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the Protection of the Environment Operations (Noise Control) Regulation 2017 as follows:

- *Before 8am or after 8pm during Saturdays, Sundays and public holidays;*
- *Before 7am or after 8pm on any other day.*

#### **I.7 Privacy Screens**

All privacy screens are to be maintained and remain fixed in place for the life of the development.

#### **I.8 Green Roof**

The Rooftop cannot be used as a trafficable area in perpetuity (except for maintenance purposes) and there is to be no stairs (except any necessary maintenance ladder), door openings or lift access to the Rooftop area.

#### **I.9 Tree Maintenance**

The replacement tree referred to in Condition C.1(b) is to be maintained to a maximum height of 3 metres.

#### **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](http://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](http://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 appointed 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 SafeWork NSW Requirements

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

**Note:** For more information go to the SafeWork NSW website [www.safework.nsw.gov.au](http://www.safework.nsw.gov.au) or call 131 050.

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





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

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

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

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

## Attachments

1. Architectural drawings, floor space ratio diagram and external finishes schedule [↓](#) 
2. Survey [↓](#) 
3. Sightline analysis Level 3 [↓](#) 
4. Sightline analysis Level 4 [↓](#) 

Location Plan



|                                      |   |
|--------------------------------------|---|
| Location                             | 12 Tivoli Avenue Rose Bay NSW 2029<br>Lot C DP 359938                                     |
| Proposed Work                        | New dwelling and associated external works  |
| Applicant                            | Nathan Gallon<br>Empire Project Management Pty. Ltd.<br>nathan.gallon@empirepmg.com       |
| Surveyor                             | Mitchell Burne<br>South Pos<br>mitchell@southpos.com.au<br>02 4889 9615                   |
| Town Planner                         | City Planning Works<br>office@cityplanningworks.com.au<br>02 9387 1333                    |
| Quantity Surveyor                    | James Doolan<br>Slattery<br>james.doolan@slattery.com.au<br>02 9423 8850                  |
| Heritage Planner                     | Sam Richards<br>Urbis<br>sam.richards@urbis.com.au<br>02 8424 5136                        |
| ESD Consultant                       | Kyle Decker<br>Efficient Living<br>kyle@efficientliving.com.au<br>02 9970 6181            |
| Landscape Architect                  | Tanya Wood<br>Tanya Wood Landscape Architecture<br>tanya@twla.com.au<br>0421 968 038      |
| Arborist                             | George Palmer<br>Botanics Tree Wise People<br>info@botanics.net.au<br>0411 193 366        |
| Stormwater Engineer                  | Stephen Darby<br>Richmond Ross<br>harshadv@richmondross.com.au<br>02 9490 9600            |
| Geotechnical & Hydrological Engineer | Fiona MacGregor<br>Douglas Partners<br>sydney@douglaspartners.com.au<br>02 9809 0666      |
| Traffic Consultant                   | Terry Lawrence<br>Traffic & Urban Planning<br>terry@transurbanplan.com.au<br>02 9545 1411 |

Drawings

|                           |   |        |            |
|---------------------------|---|--------|------------|
| General                   |   |        |            |
| 011                       | Title Sheet                                   | 1:2000 | DA02 - ... |
| GA Plans                  |   |        |            |
| 131                       | Level 0                                       | 1:100  | DA02 - ... |
| 132                       | Level 1                                       | 1:100  | DA02 - ... |
| 133                       | Level 2                                       | 1:100  | DA02 - ... |
| 134                       | Level 3                                       | 1:100  | DA02 - ... |
| 135                       | Level 4                                       | 1:100  | DA02 - ... |
| 136                       | Level 5                                       | 1:100  | DA02 - ... |
| 137                       | Roof Plan                                     | 1:100  | DA02 - ... |
| Elevations                |   |        |            |
| 211                       | North Elevation                               | 1:100  | DA02 - ... |
| 212                       | East and Street Elevation                     | 1:100  | DA02 - ... |
| 213                       | South Elevation                               | 1:100  | DA02 - ... |
| 214                       | West and Harbour Elevation                    | 1:100  | DA02 - ... |
| Elevations - No Screens   |   |        |            |
| 221                       | North Elevation - No Screens                  | 1:100  | DA02 - ... |
| 222                       | East Elevations - No Screens                  | 1:100  | DA02 - ... |
| 223                       | South Elevation - No Screens                  | 1:100  | DA02 - ... |
| 224                       | West Elevations - No Screens                  | 1:100  | DA02 - ... |
| 225                       | Sections C-C D-D - No Screens                 | 1:100  | DA02 - ... |
| Sections                  |   |        |            |
| 311                       | Section A-A                                   | 1:100  | DA02 - ... |
| 312                       | Section B-B                                   | 1:100  | DA02 - ... |
| 313                       | Sections C-C and D-D                          | 1:100  | DA02 - ... |
| Area Calculation Diagrams |   |        |            |
| 411                       | Floor Plate Calculation Diagrams - Option ... | 1:200  | DA02 - ... |
| Materials                 |   |        |            |
| 511                       | External Materials and Finishes Schedule      | N.T.S. | DA02 - ... |

DA 02 - Amendment list

|               |   |                                    |
|---------------|---|------------------------------------|
| Amendment #01 | - | Skylight added                     |
| Amendment #02 | - | Driveway portal removed            |
| Amendment #03 | - | Entry bridge widened               |
| Amendment #04 | - | Front fence amended                |
| Amendment #05 | - | Walls thicker                      |
| Amendment #06 | - | Wall shifted                       |
| Amendment #07 | - | Window removed                     |
| Amendment #08 | - | Front facade layout amended        |
| Amendment #09 | - | Screen material amended            |
| Amendment #10 | - | Window added                       |
| Amendment #11 | - | Window added                       |
| Amendment #12 | - | Terraces reduced, Balustrade glass |
| Amendment #13 | - | Roof louvres removed               |
| Amendment #14 | - | Openings amended                   |
| Amendment #15 | - | Window added                       |
| Amendment #16 | - | Plant room layout amended          |
| Amendment #17 | - | Lower courtyard removed            |
| Amendment #18 | - | Lawn stair amended                 |
| Amendment #19 | - | Rainwater tank moved               |

BASIX Water Commitments

|  |
|--|
| Fixtures   |
| Install showerheads minimum rating of 3 stars-High flow (>7.5 and <= 9 Litres/ min)  |
| Install toilet flushing system with a minimum rating of 4 stars in each toilet   |
| Install tap with minimum rating of 5 stars in the kitchen  |
| Install taps with minimum rating of 5 stars in each bathroom   |
| Alternative Water  |
| Install rainwater tank, minimum 8,000L capacity collected from min. 300m2 roof area. Tank connected to – at least one outdoor tap, laundry and toilets |

BASIX Energy Commitments

|   |
|---|
| Hot water system  |
| Electric Heat Pump – 26-30 STC's  |
| Cooling System  |
| 3-phase air conditioning to living areas and bedrooms: EER 3.0-3.5                    |
| Heating System  |
| 3-phase air conditioning to living areas and bedrooms: EER 3.0-3.5                    |
| Ventilation   |
| Kitchen – Individual fan, externally ducted to roof or façade, manual on/off switch   |
| Bathrooms – Individual fan, externally ducted to roof or façade, manual on/off switch |
| Laundry – Individual fan, externally ducted to roof or façade, manual on/off switch   |
| Other   |
| Gas + induction cooktop & electric oven   |
| Outdoor clothes drying line   |
| Well ventilated fridge space.   |
| Air conditioning day/night zoned  |
| 140kl pool, Electric heat pump, pump controlled by timer                              |
| Alternative Energy  |
| 9.1kW solar Photovoltaic system   |

Legend

|       |                 |   |
|-------|-----------------|---|
| BZ    | Bronze          | Approved DA line                              |
| ST    | Stone           | External line of walls below                  |
| GL-CL | Glazing - Clear | Subject Site Boundary                         |
| BZ    | Bronze Mesh     | Non-Trafficable Zone in DA consent conditions |

12 TIVOLI AVENUE  
ROSE BAY NSW 2029

DEVELOPMENT  
APPLICATION

COLLINS AND TURNER

OCTOBER, 2023

NatHERS Thermal Comfort Inclusions

|  |
|--|
| Floors   |
| 200mm Concrete slab on ground with R1.10 insulation  |
| Concrete between levels, no insulation required where habitable rooms are above and below R2.0 insulation to concrete slab with open subfloor  |
| R2.0 insulation between garage/plant room and habitable rooms above  |
| External Walls   |
| Reverse concrete block veneer - Stone cladding with insulation Minimum Total system R-value of RT5.07  |
| Cavity concrete block (190mm concrete block + 600mm air gap + insulation + 190mm concrete block + rendered internally). Minimum Total system R-value of RT4.93 to all walls to earth (retaining walls) |
| Rendered 190mm concrete block wall with no insulation  |
| Note: No insulation is required to external garage walls   |

|   |
|---|
| External Colour: Light (SA < 0.475)                                       |
| Walls within dwellings  |
| Thermal mass wall around living areas                                     |
| Plasterboard on studs, no insulation required                             |
| Concrete block, no insulation required                                    |
| R2.0 insulation garage walls and plant walls adjacent to habitable spaces |

|  |
|--|
| Glazing Doors/Windows  |
| Glazed windows and doors:  |
| Group A – double hung + fixed + tilt+turn + sliding glazed doors/windows |
| U-value: 2.23 (equal to or lower than) SHGC: 0.39 (±10%)                 |
| Group B – Casement + tilt+turn + awning glazed windows                   |
| U-value: 2.20(equal to or lower than) SHGC: 0.32 (±10%)                  |

|   |
|---|
| Window frames colour: Medium (0.475 < SA < 0.7) |
| Roof Window: U-value: 2.58 and SHGC: 0.24       |

|  |
|--|
| Roof and Ceilings  |
| Concrete roof, with waterproof membrane  |
| Plasterboard ceiling with R6.0 insulation (insulation only value) where concrete roof or balcony above |
| External Colour: Light (SA < 0.75)   |

|  |
|--|
| Ceiling Penetrations   |
| Sealed LED downlights IC Rated not to exceed NatHERS certificate   |
| Insulated and Sealed externally ducted exhaust fans, modelled as 200mm diameter, not to exceed NatHERS certificate |
| Ceiling fans (min 200mm diameter) to bedrooms and living areas   |

|                         |
|-------------------------|
| Floor coverings         |
| Bare concrete to garage |
| Stone tiles throughout  |

|                                 |
|---------------------------------|
| External Shading                |
| Shading as per stamped drawings |

|   |
|---|
| Ventilation   |
| All external doors have weather seals, all exhaust fans and chimneys have dampers, and down lights proposed will have capped fittings |

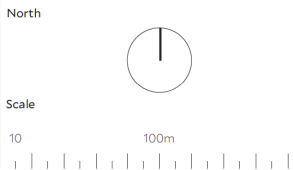
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Registered Architect in NSW  
Penelope Collins ARB 7342

|  |
|--|
| Notes  |
| 01 Do not scale; dimensions govern                           |
| 02 All dimensions are in millimeters                         |
| 03 All dimensions to be verified on site                     |
| 04 Collins and Turner is to be notified of any discrepancies |

|       |           |    |                  |
|-------|-----------|----|------------------|
| No    | Date      | By | Note             |
| DA01  | 29/7/2022 | GG | DA Issue         |
| DA01B | 3/2/2023  | GG | DA Issue Amended |
| DA01C | 16/2/2023 | GG | Amended DA       |
| DA02  | 7/12/2023 | GG | S4.56            |

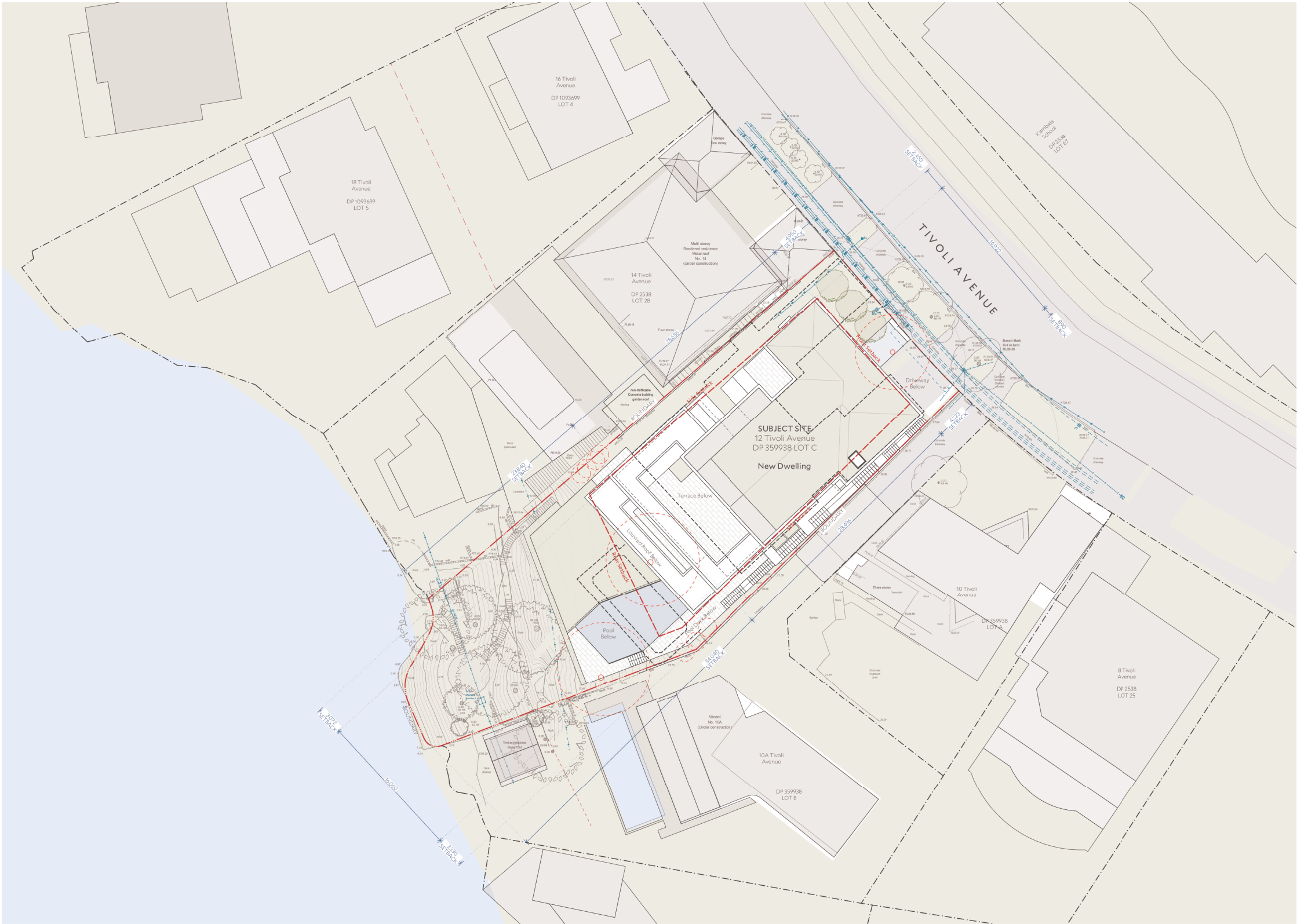
|  |
|--|
| Client   |
| Empire Project Management Pty. Ltd.<br>Nathan Gallon |



|   |
|---|
| Project   |
| 340<br>12 Tivoli Avenue<br>Rose Bay, NSW 2029<br>Lot C DP 359938<br>Copyright Collins and Turner 2023 |

|                          |             |
|--------------------------|-------------|
| Drawing title            | Title Sheet |
| Scale                    | 1:2000 @ A1 |
| Date                     | 23/6/22     |
| Drawn by                 | GG          |
| Drawing Number+ Revision | 340_DA_011  |
|                          | DA02        |





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| DA01 | 29/7/2022 | GG | DA Issue |
| DA02 | 7/12/2023 | GG | S4.56    |

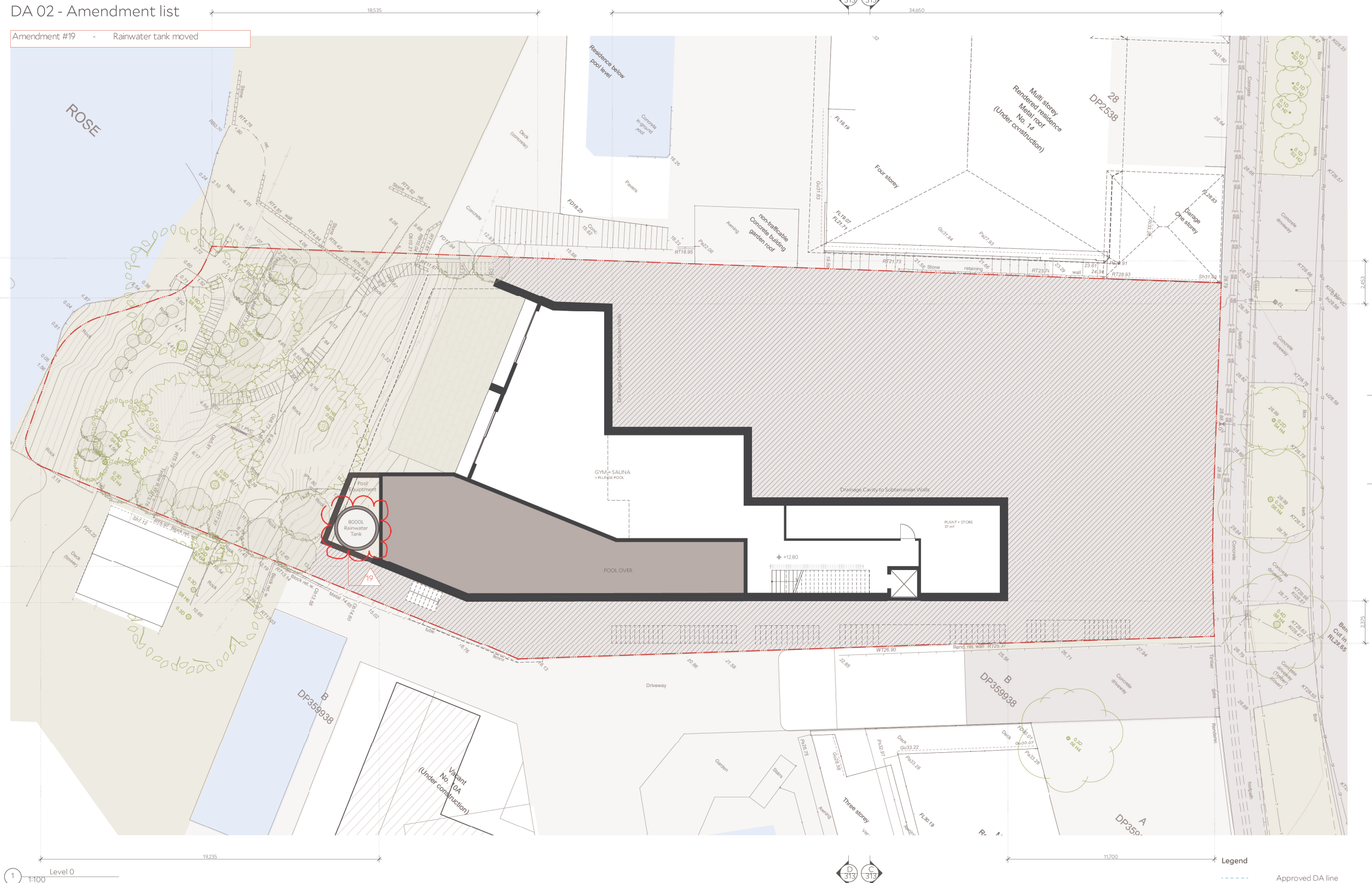
Client  
Empire Project Management Pty. Ltd.  
Nathan Gallon

North

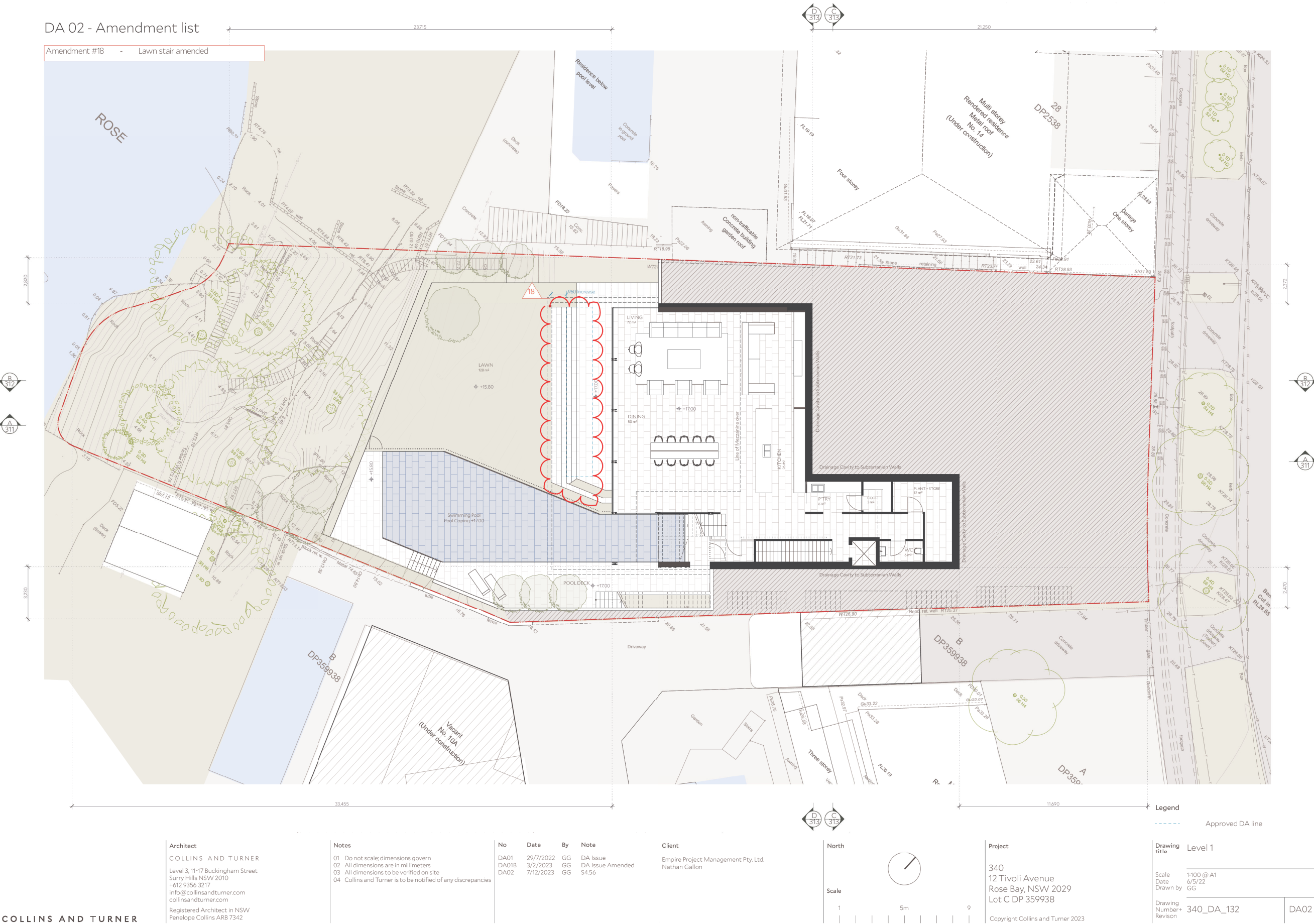
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Project  
340  
12 Tivoli Avenue  
Rose Bay, NSW 2029  
Lot C DP 359938  
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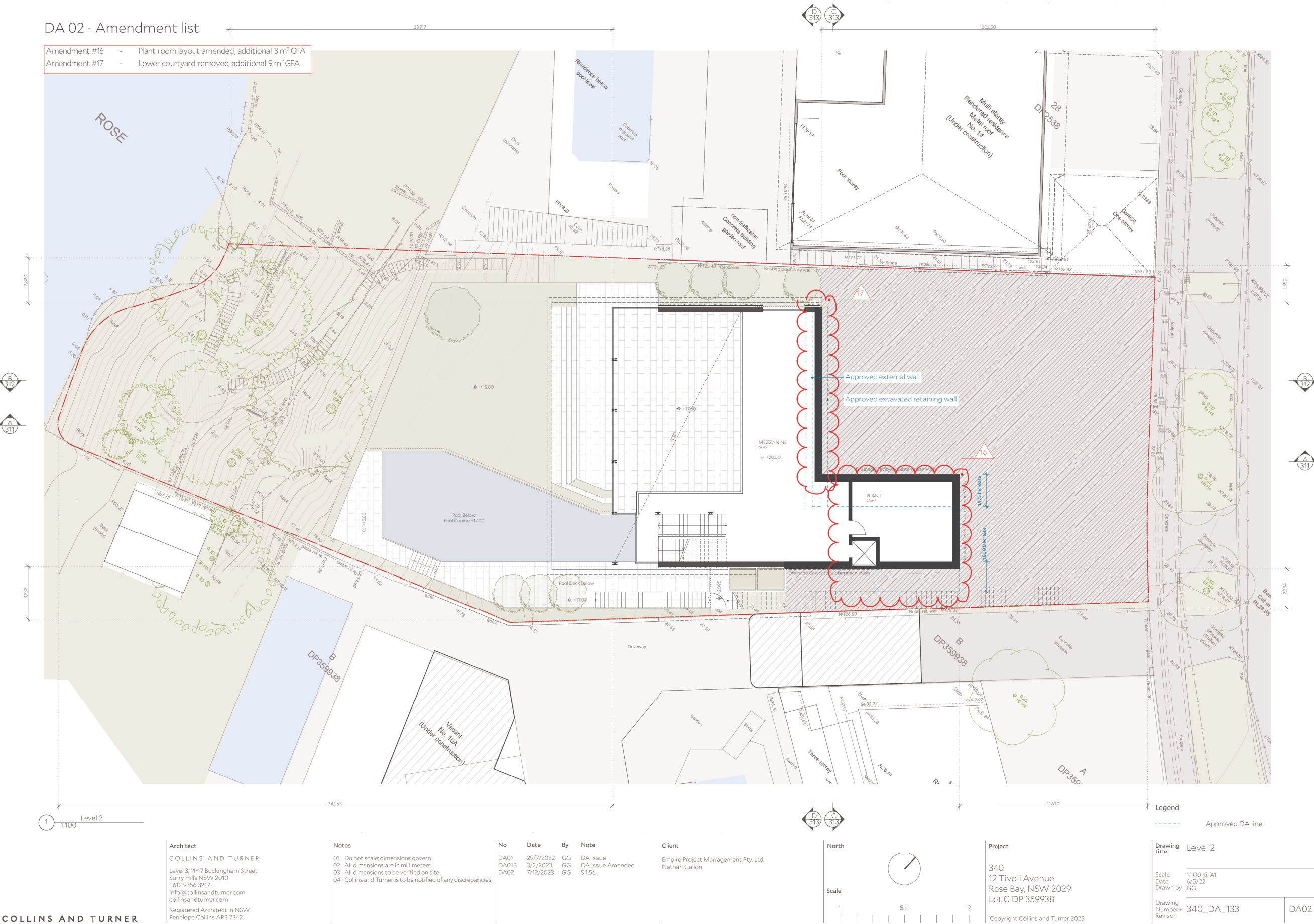
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|----------------|------------|
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| Drawn by       | GG         |
| Drawing Number | 340_DA_111 |
| Revision       | DA02       |



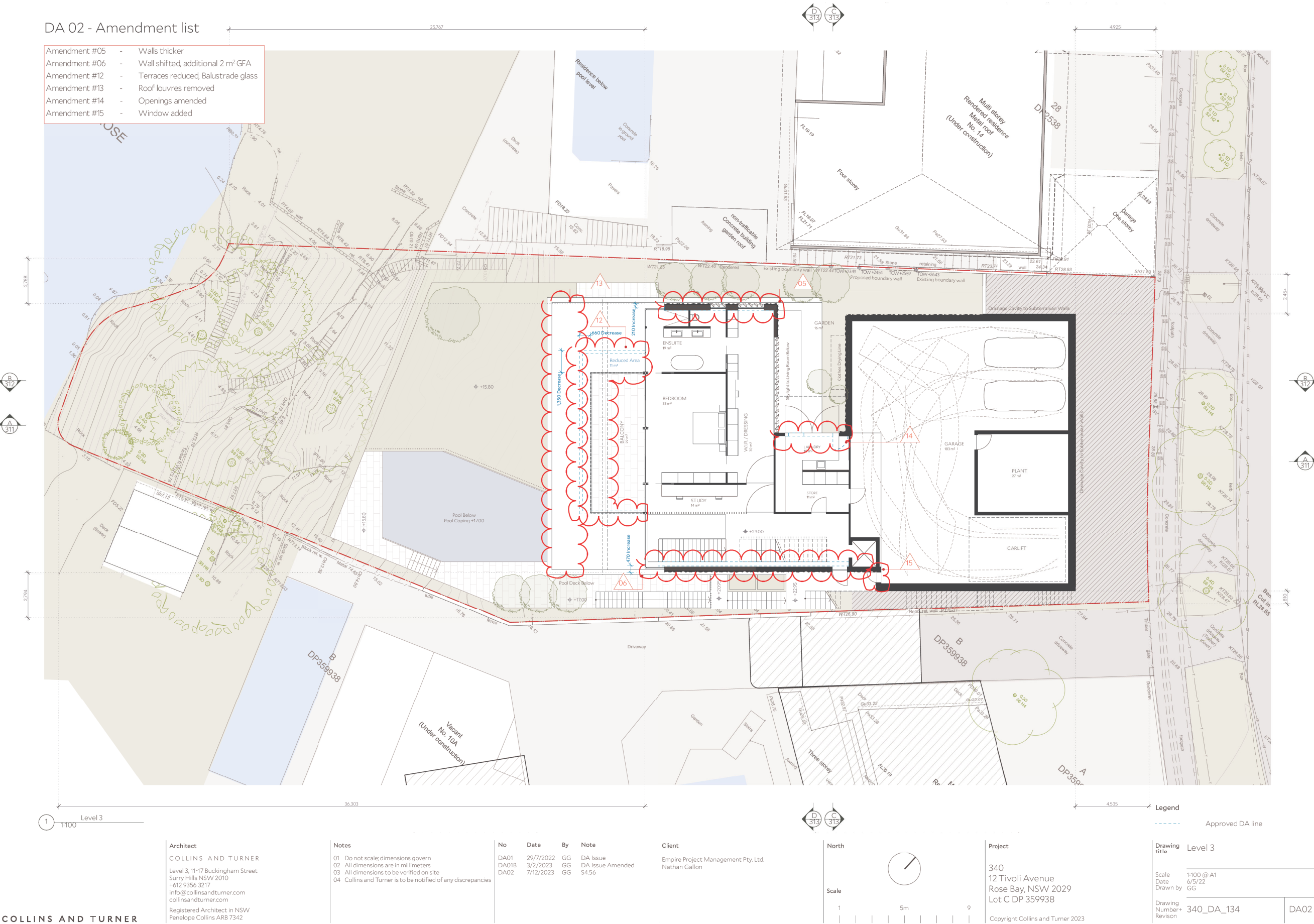




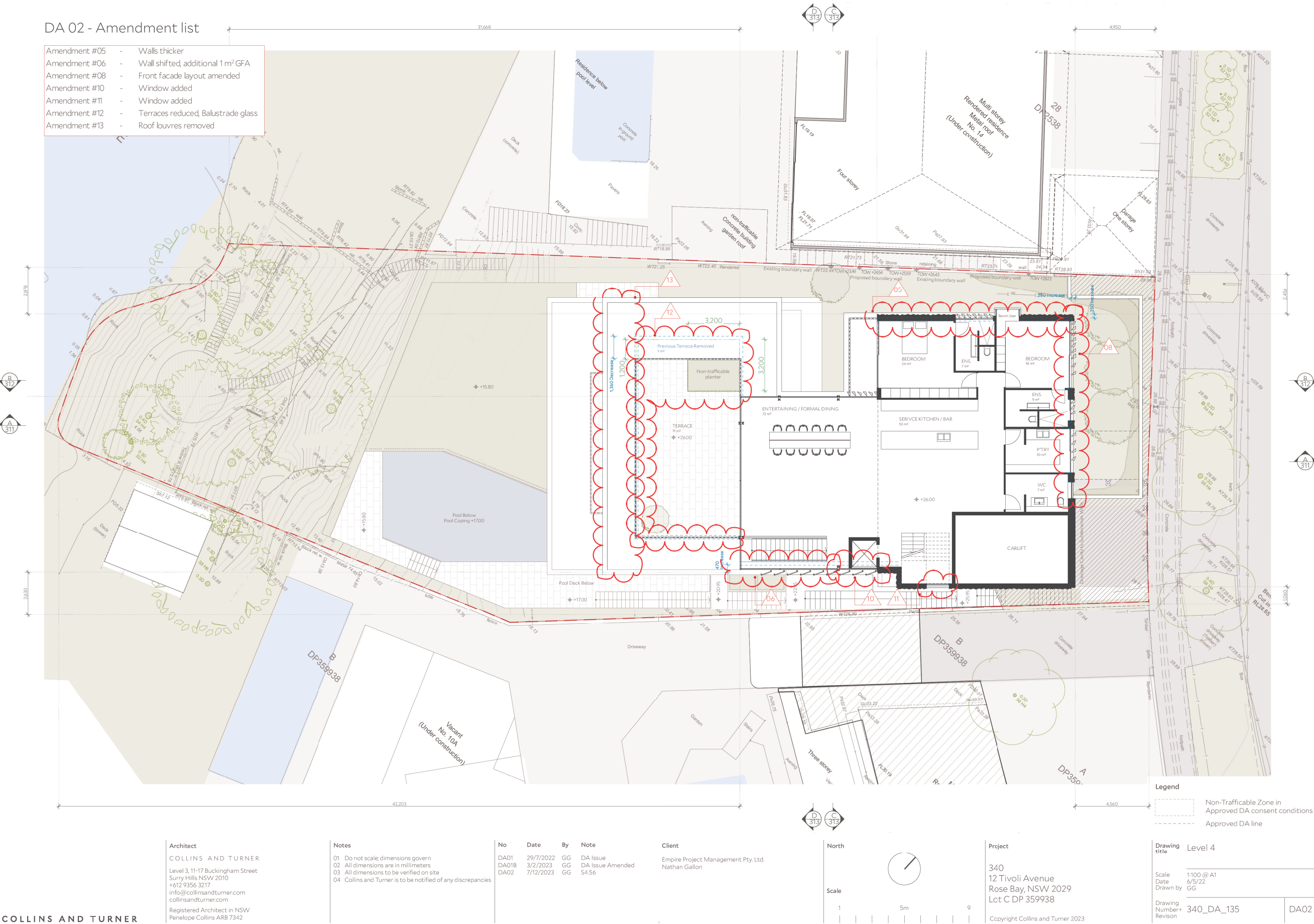


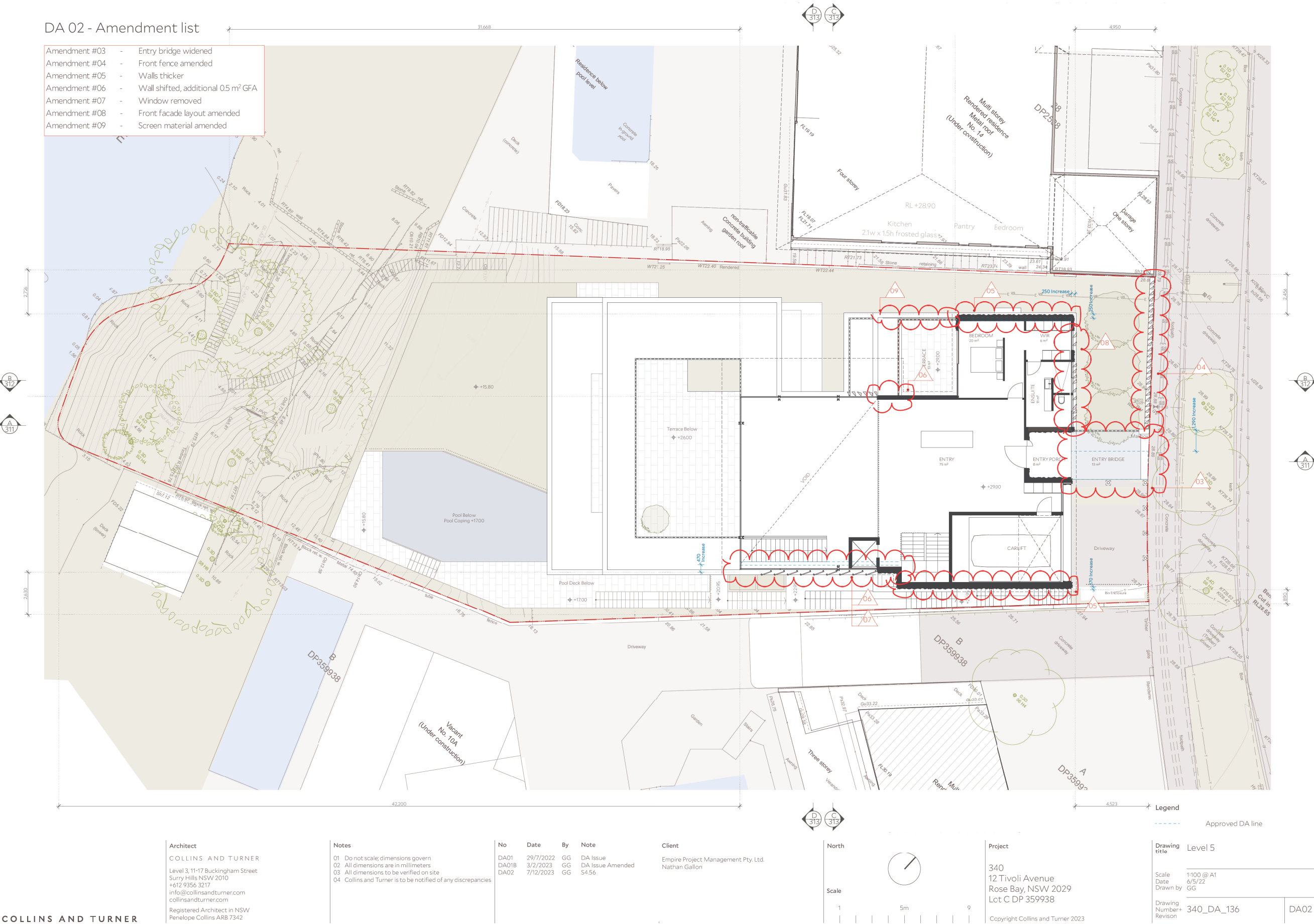




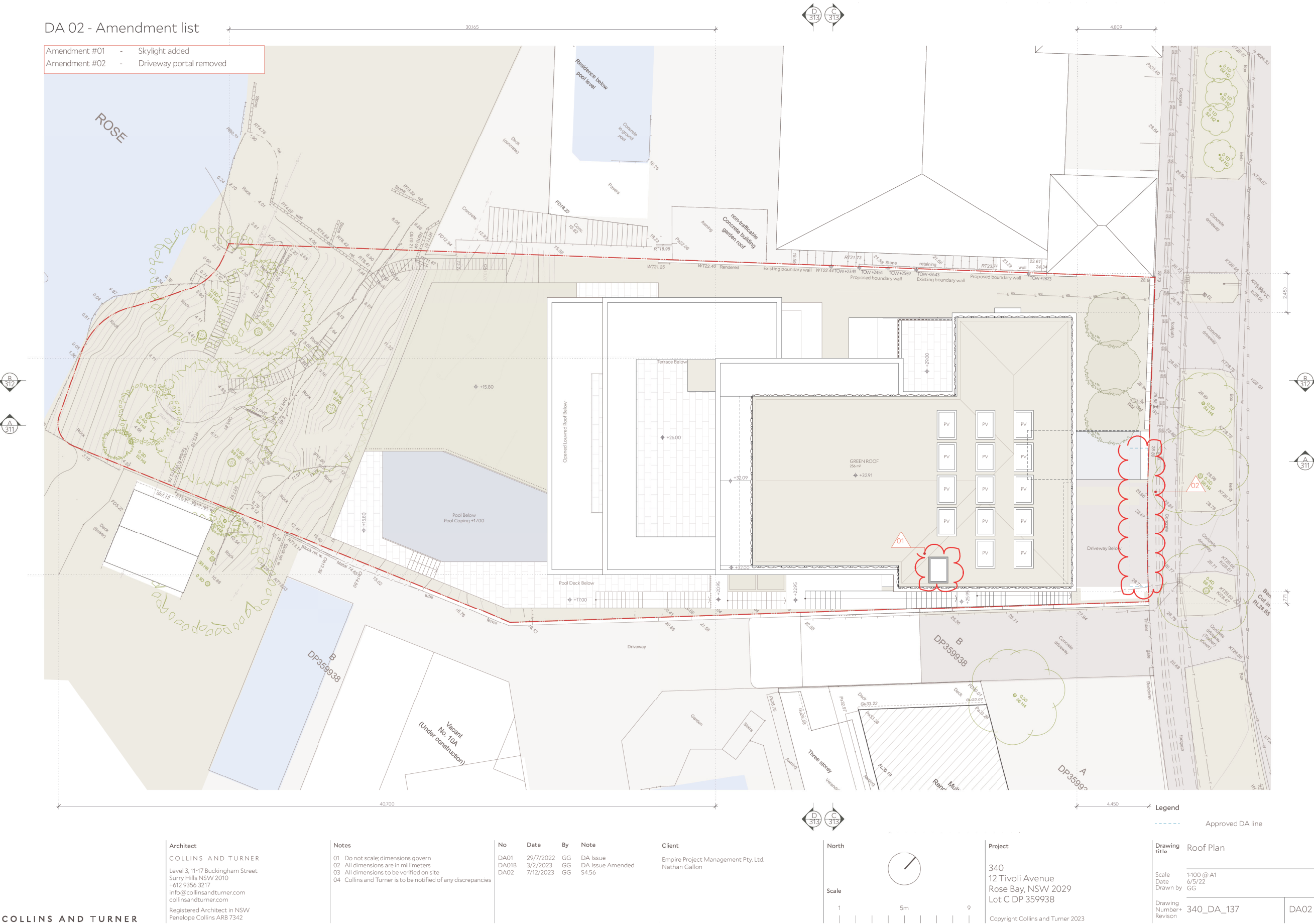




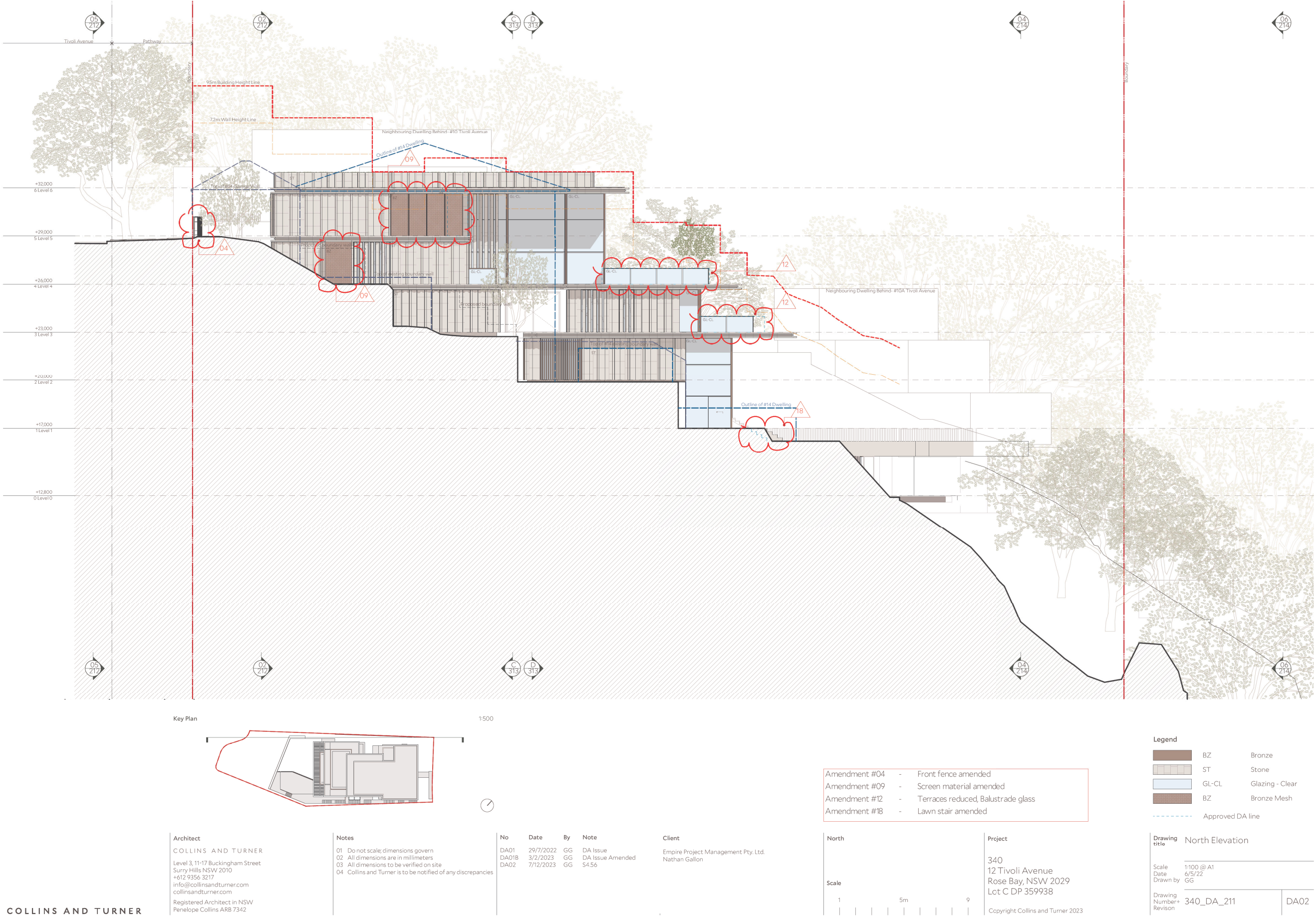




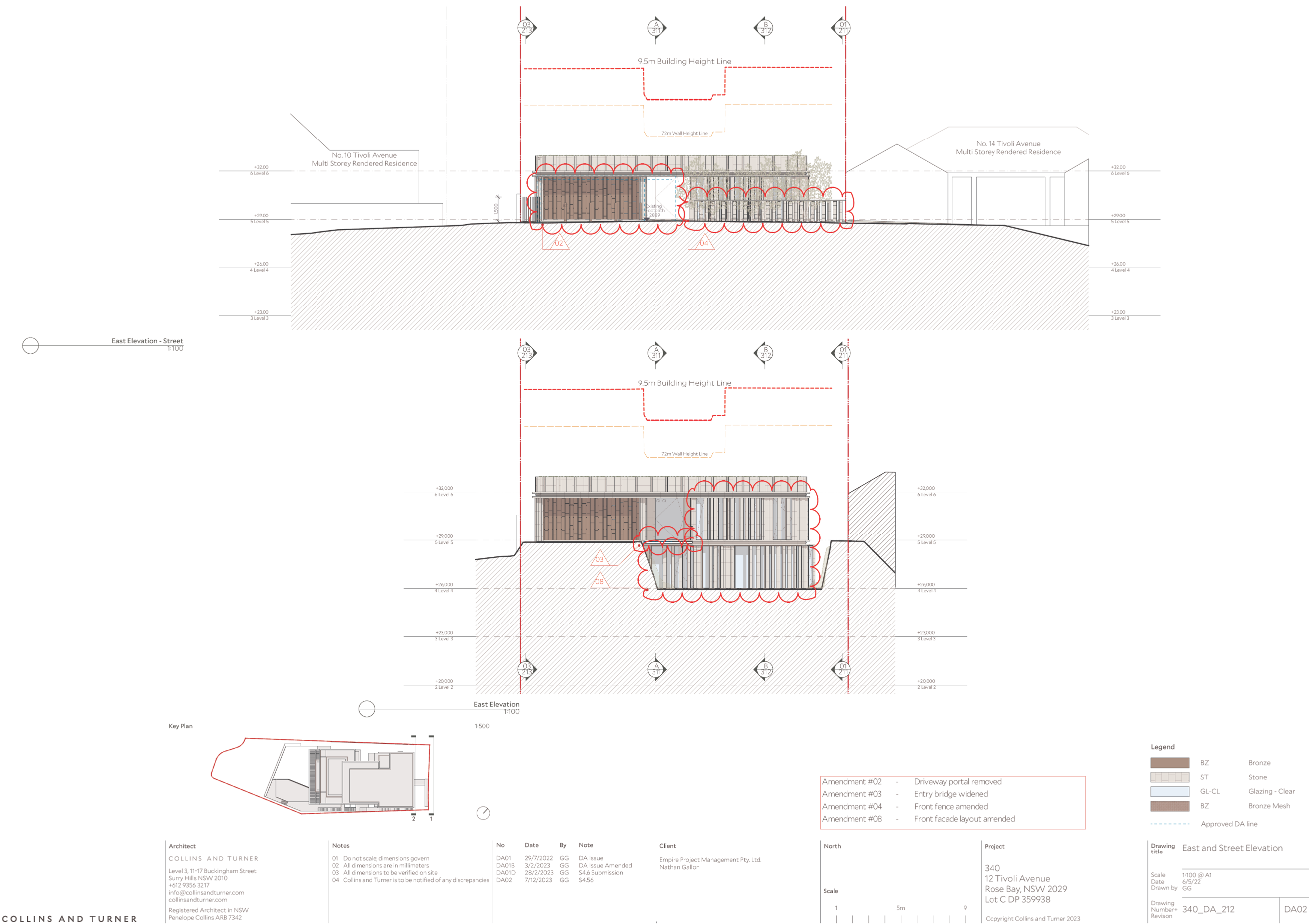


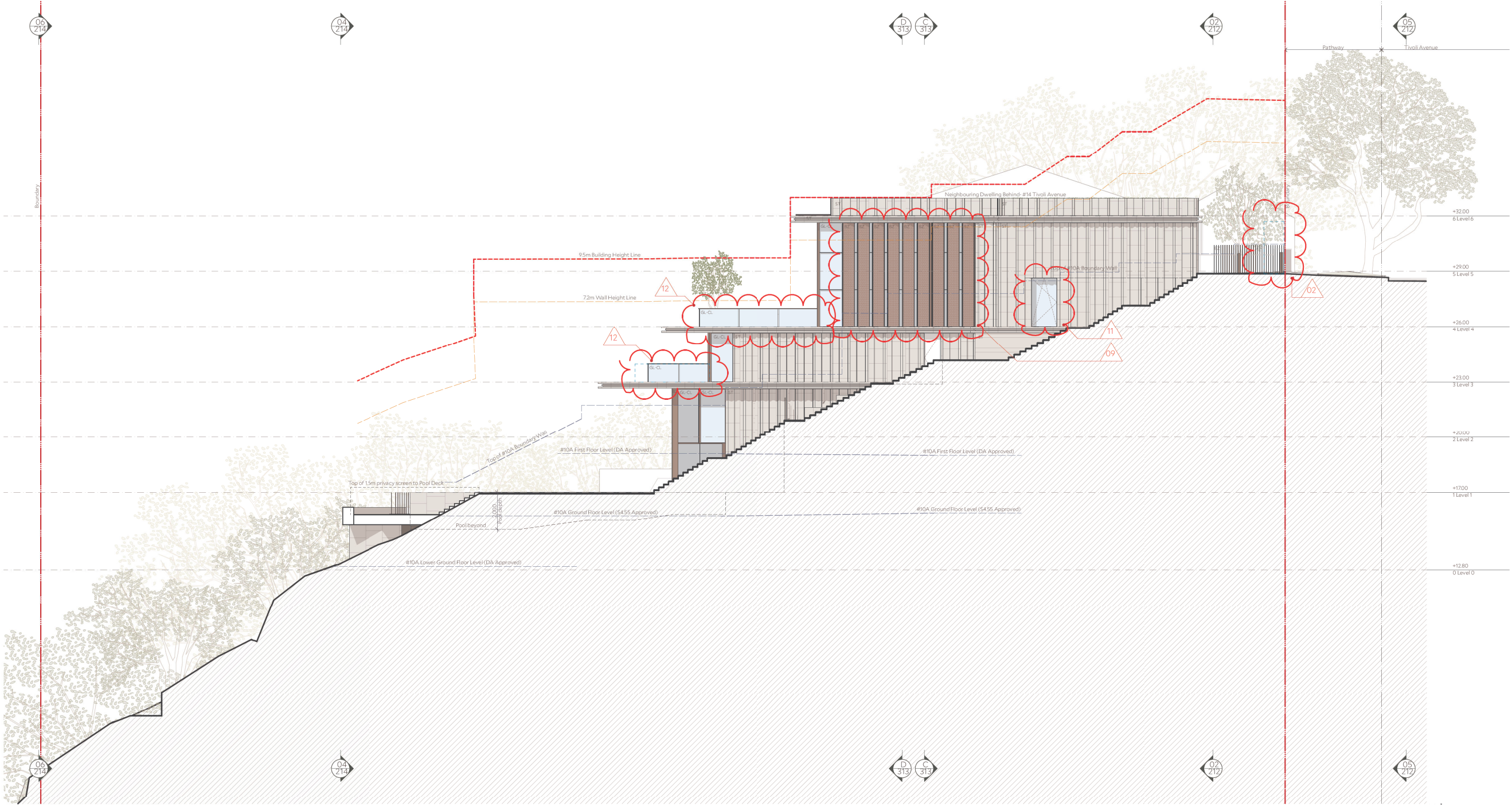












Key Plan

1:500

Amendment #02 - Driveway portal removed

Amendment #09 - Screen material amended

Amendment #11 - Window added

Amendment #12 - Terraces reduced, Balustrade glass

Legend

BZ Bronze

ST Stone

GL-CL Glazing - Clear

BZ Bronze Mesh

Approved DA line

Architect

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Notes

01 Do not scale dimensions govern

02 All dimensions are in millimeters

03 All dimensions to be verified on site

04 Collins and Turner is to be notified of any discrepancies

| No    | Date      | By | Note             |
|-------|-----------|----|------------------|
| DA01  | 29/7/2022 | GG | DA Issue         |
| DA01B | 3/2/2023  | GG | DA Issue Amended |
| DA02  | 7/12/2023 | GG | S4.56            |

Client

Empire Project Management Pty. Ltd.

Nathan Gallon

North

Scale

1 5m 9

Project

340

12 Tivoli Avenue

Rose Bay, NSW 2029

Lot C DP 359938

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Drawing title

South Elevation

Scale 1:100 @ A1

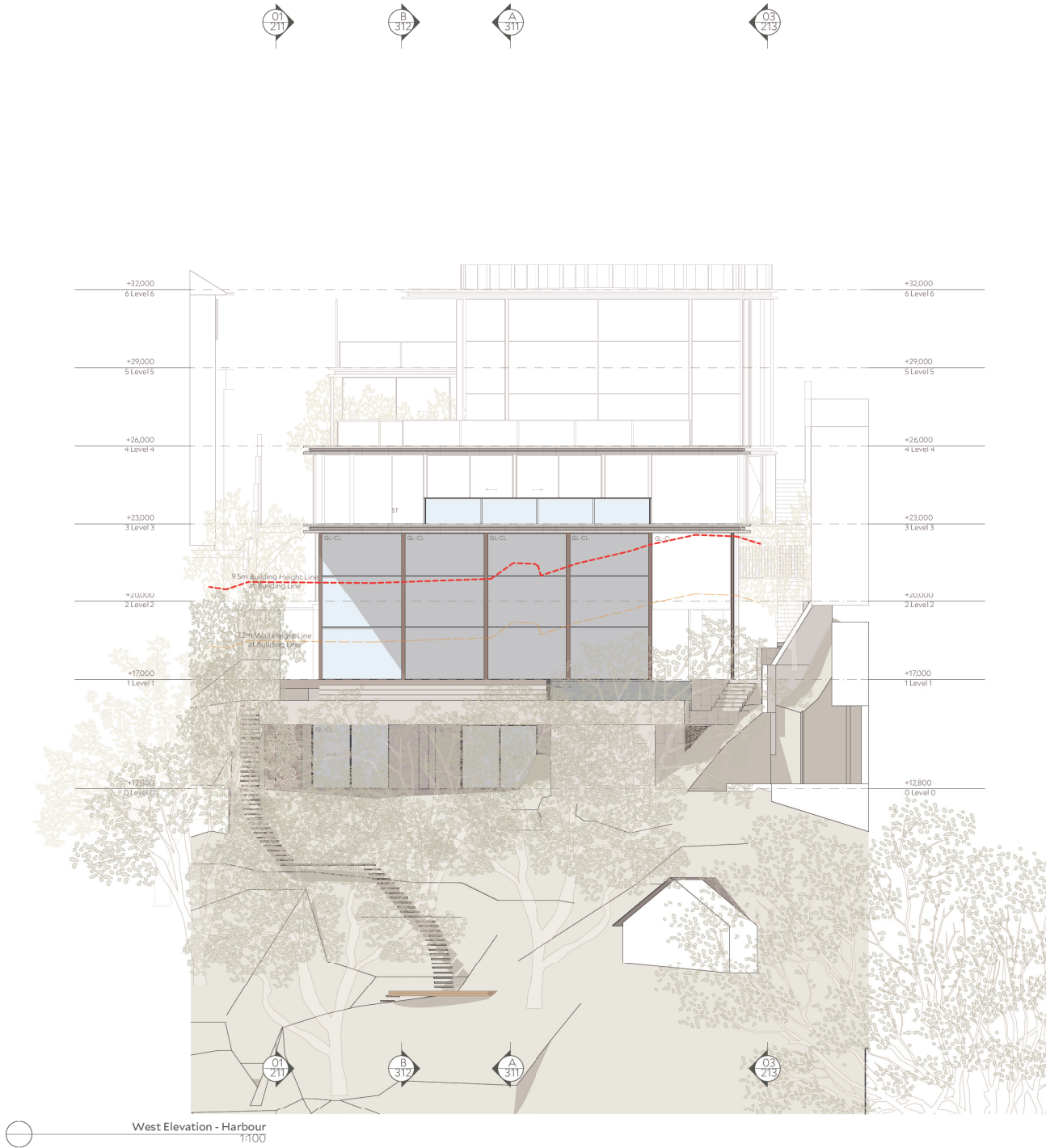
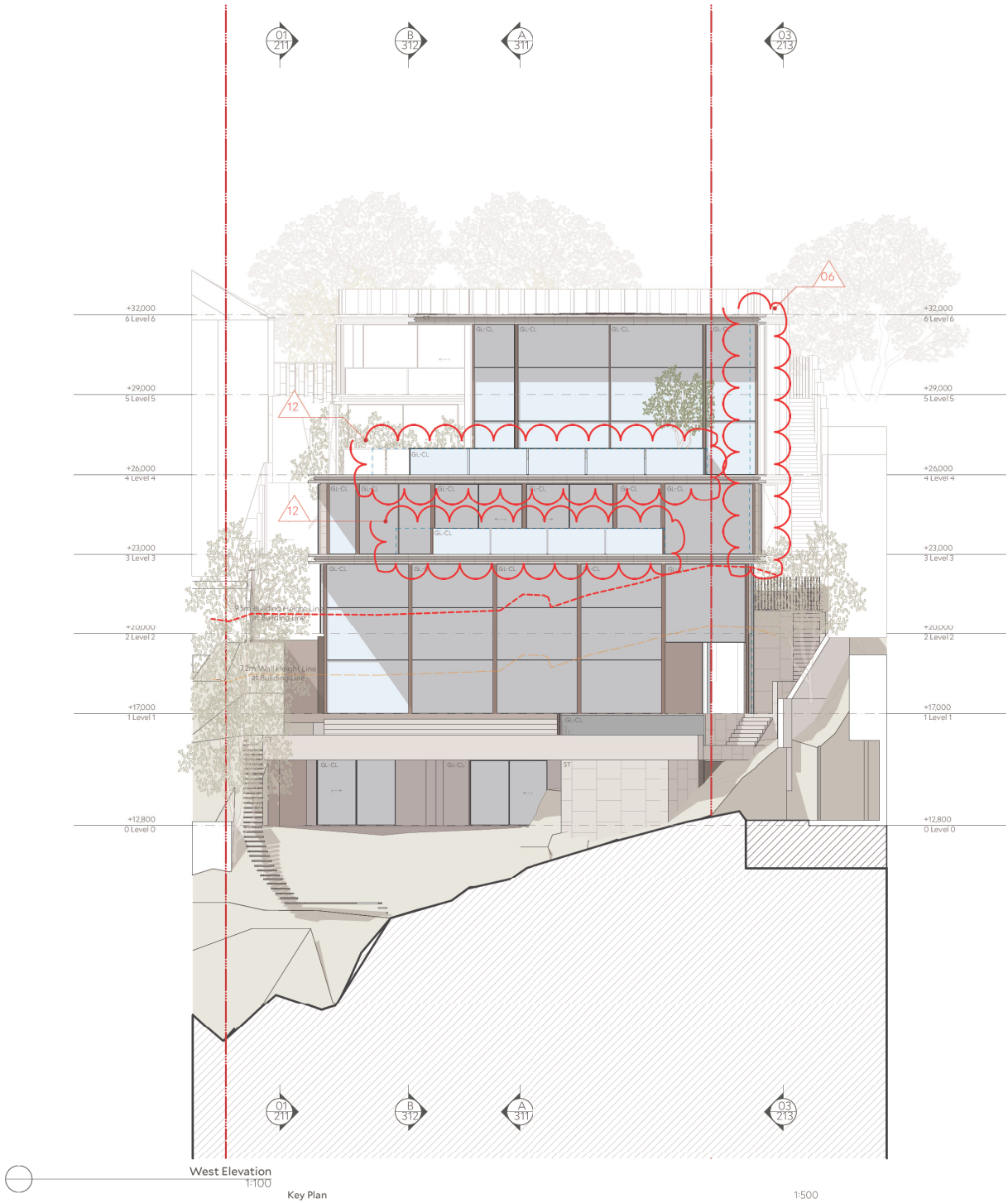
Date 6/5/22

Drawn by GG

Drawing Number 340\_DA\_213

Revision DA02





| Legend |                  |                 |
|--------|------------------|-----------------|
| BZ     | Stone            | Bronze          |
| ST     | Glazing - Clear  | Stone           |
| GL-CL  | Bronze Mesh      | Glazing - Clear |
| BZ     | Approved DA line | Bronze Mesh     |

|               |   |                                    |
|---------------|---|------------------------------------|
| Amendment #06 | - | Wall shifted                       |
| Amendment #12 | - | Terraces reduced, Balustrade glass |

| North | Project   |
|-------|---|
| Scale | 340<br>12 Tivoli Avenue<br>Rose Bay, NSW 2029<br>Lot C DP 359938<br>Copyright Collins and Turner 2023 |

| Drawing title  | West and Harbour Elevation |
|----------------|----------------------------|
| Scale          | 1:100 @ A1                 |
| Date           | 6/5/22                     |
| Drawn by       | GG                         |
| Drawing Number | 340_DA_214                 |
| Revision       | DA02                       |

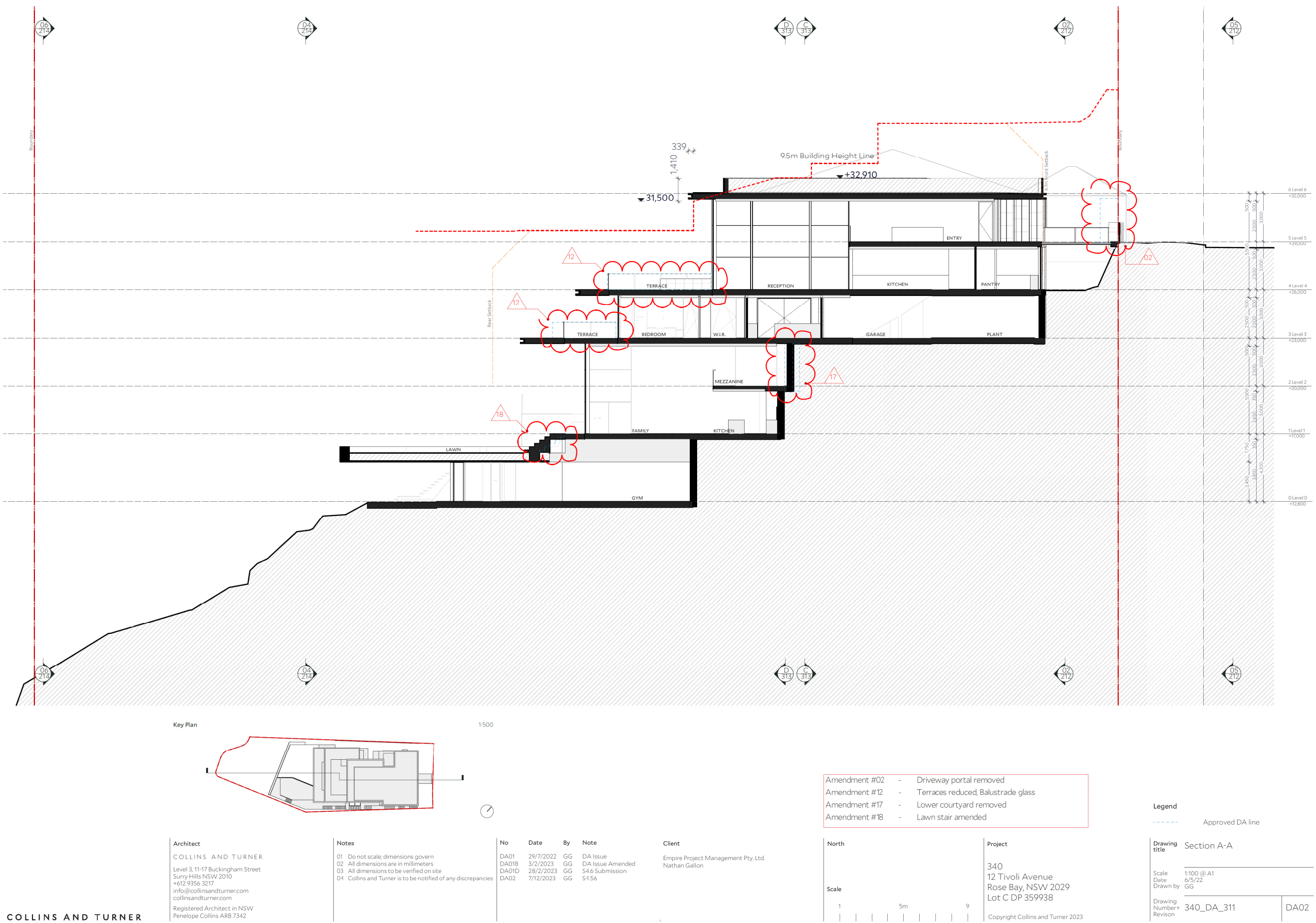
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04 Collins and Turner is to be notified of any discrepancies

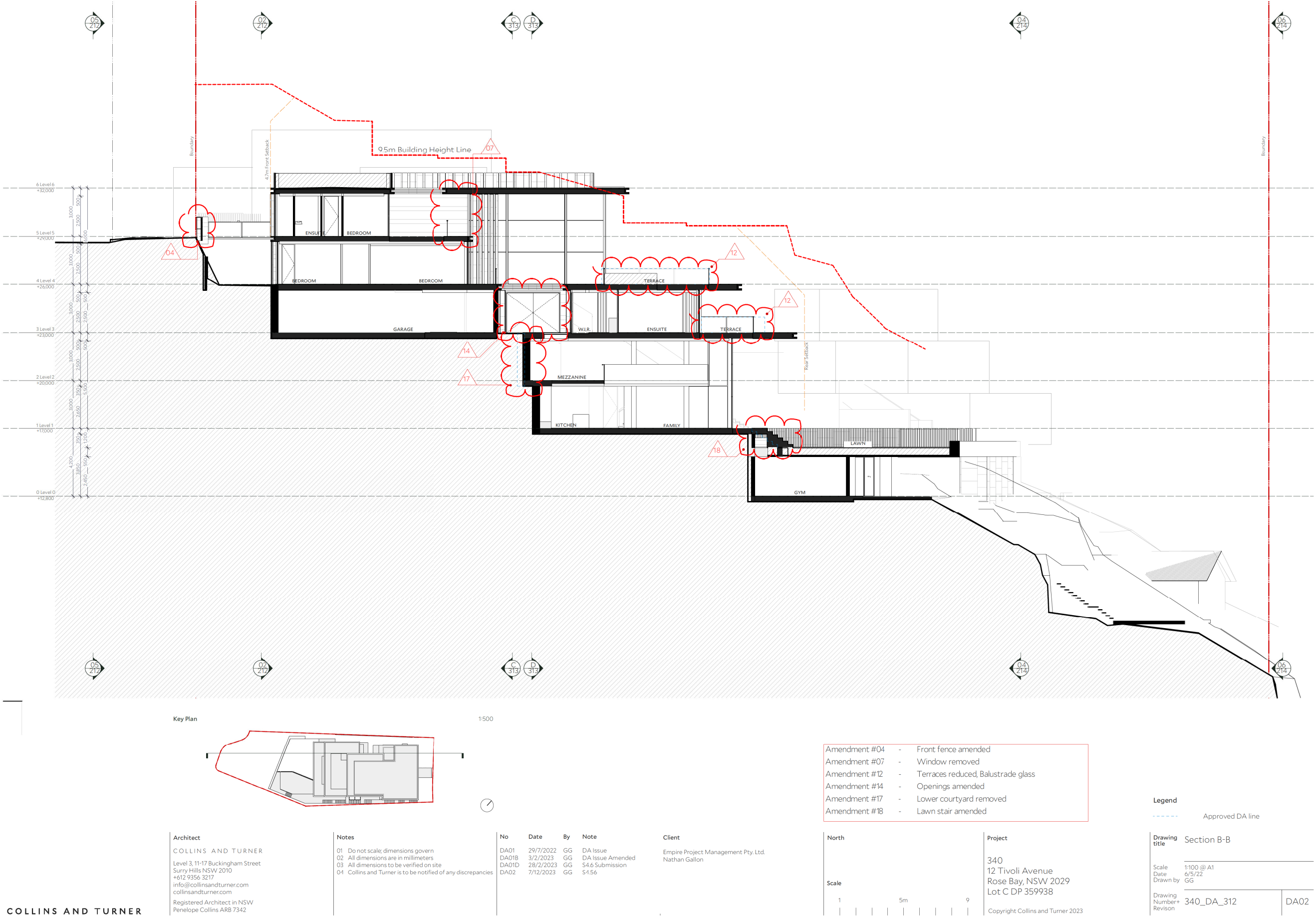
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|-------|-----------|----|------------------|
| DA01  | 29/7/2022 | GG | DA Issue         |
| DA01B | 3/2/2023  | GG | DA Issue Amended |
| DA02  | 7/12/2023 | GG | S4.56            |

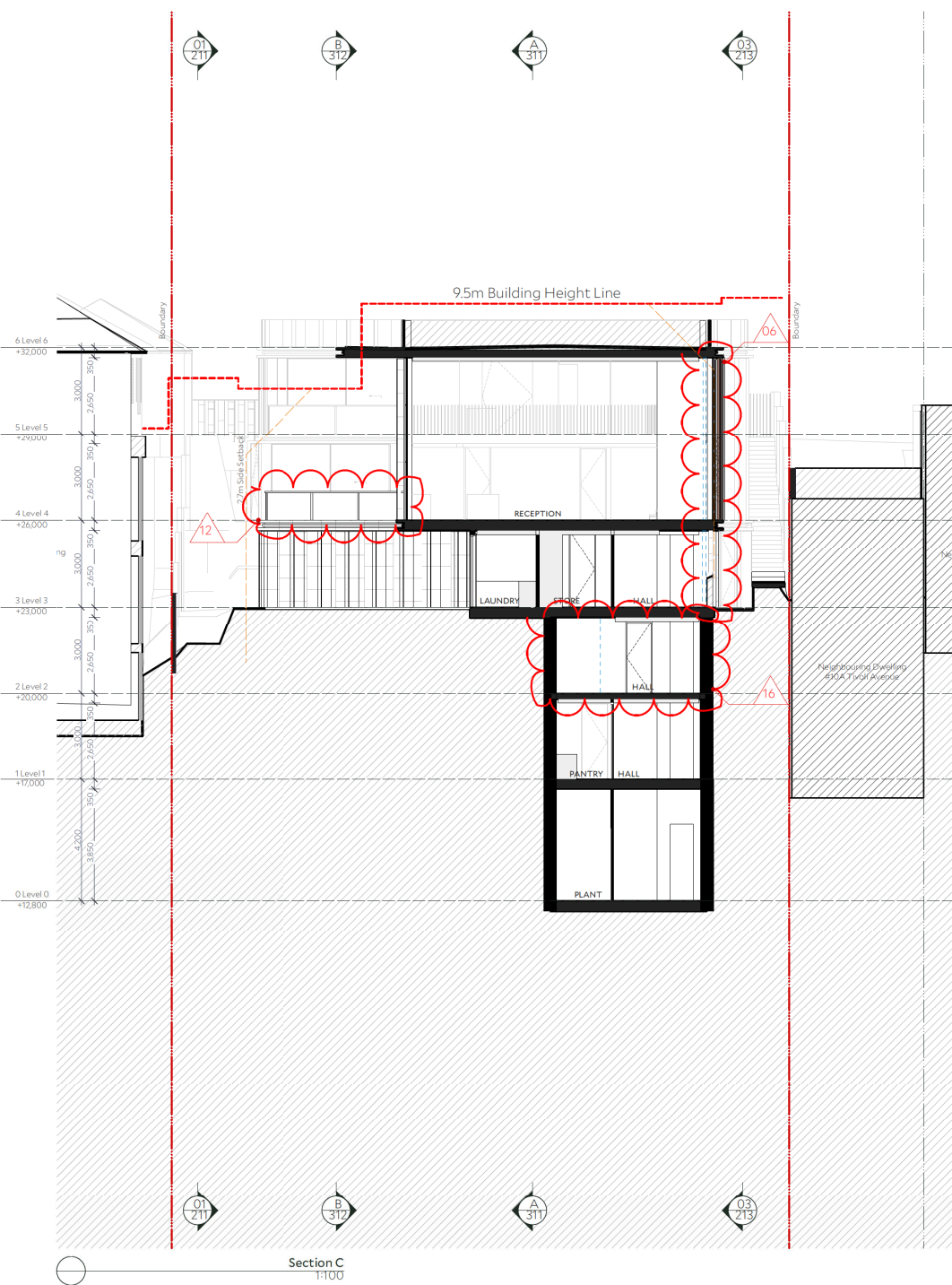
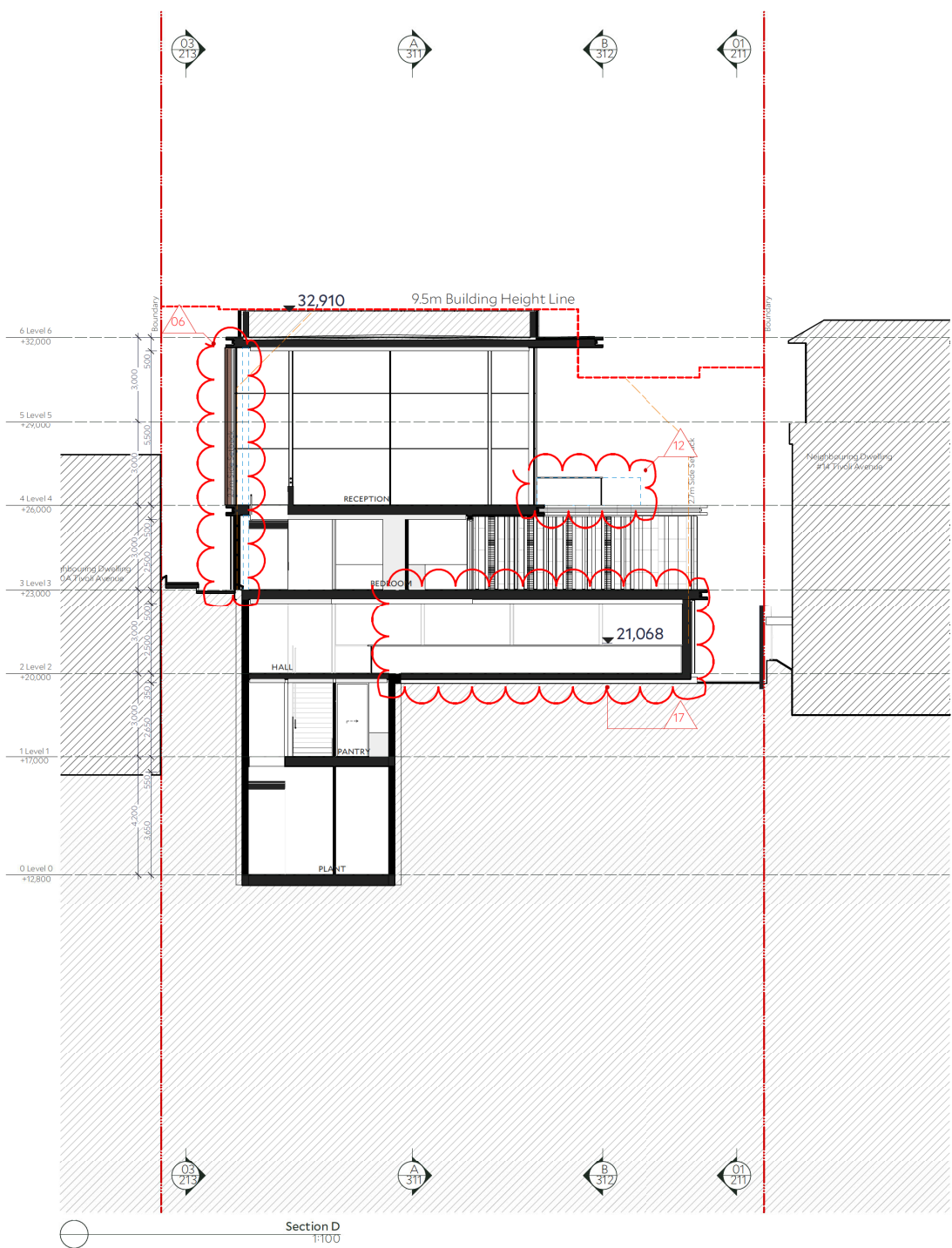
Client  
Empire Project Management Pty. Ltd.  
Nathan Gallon

COLLINS AND TURNER









- Amendment #06 - Wall shifted  
Amendment #12 - Terraces reduced, Balustrade glass  
Amendment #16 - Plant room layout amended  
Amendment #17 - Lower courtyard removed

Legend

Approved DA line

|            |   |
|------------|---|
| North      | Project   |
| Scale      | 340<br>12 Tivoli Avenue<br>Rose Bay, NSW 2029<br>Lot C DP 359938<br>Copyright Collins and Turner 2023 |
| 1   5m   9 |   |

|                |                      |
|----------------|----------------------|
| Drawing title  | Sections C-C and D-D |
| Scale          | 1:100 @ A1           |
| Date           | 6/5/22               |
| Drawn by       | GG                   |
| Drawing Number | 340_DA_313           |
| Revision       | DA02                 |

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| No    | Date      | By | Note             |
|-------|-----------|----|------------------|
| DA01  | 29/7/2022 | GG | DA Issue         |
| DA01B | 3/2/2023  | GG | DA Issue Amended |
| DA01D | 28/2/2023 | GG | S4.6 Submission  |
| DA02  | 7/12/2023 | GG | S4.56            |

Client  
Empire Project Management Pty. Ltd.  
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GFA Table - Previously Approved

| Floor Level       | Gross Floor Area    |
|-------------------|---------------------|
| Level 5           | 114 m <sup>2</sup>  |
| Level 4           | 230 m <sup>2</sup>  |
| Level 3           | 145 m <sup>2</sup>  |
| Level 2           | 86 m <sup>2</sup>   |
| Level 1           | 183 m <sup>2</sup>  |
| Level 0           | 146 m <sup>2</sup>  |
| TOTAL             | 904 m <sup>2</sup>  |
| Site Area         | 1290 m <sup>2</sup> |
| Floor Space Ratio | 0.70 : 1            |

Gross Floor Area Table

| Floor Level       | Gross Floor Area    |
|-------------------|---------------------|
| Level 5           | 114 m <sup>2</sup>  |
| Level 4           | 231 m <sup>2</sup>  |
| Level 3           | 147 m <sup>2</sup>  |
| Level 2           | 98 m <sup>2</sup>   |
| Level 1           | 183 m <sup>2</sup>  |
| Level 0           | 146 m <sup>2</sup>  |
| TOTAL             | 919 m <sup>2</sup>  |
| Site Area         | 1290 m <sup>2</sup> |
| Floor Space Ratio | 0.71 : 1            |
| Control           | 0.5 : 1             |

Legend

- Gross Floor Area
- Gross Floor Area additional to approved
- Approved DA line

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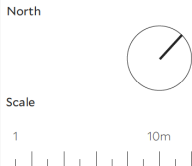
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| No   | Date      | By | Note     |
|------|-----------|----|----------|
| DA01 | 29/7/2022 | GG | DA Issue |
| DA02 | 7/12/2023 | GG | S4.56    |

Client  
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| Drawing title  | Floor Space Ratio Calculation Diagrams |
|----------------|--|
| Scale          | 1:200 @ A1                             |
| Date           | 26/7/22                                |
| Drawn by       | GG                                     |
| Drawing Number | 340_DA_412                             |
| Revision       | DA02                                   |







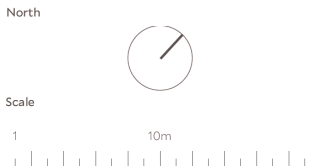
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| No    | Date      | By | Note             |
|-------|-----------|----|------------------|
| DA01  | 29/7/2022 | GG | DA Issue         |
| DA01B | 3/2/2023  | GG | DA Issue Amended |
| DA02  | 7/12/2023 | GG | S4.56            |

Client  
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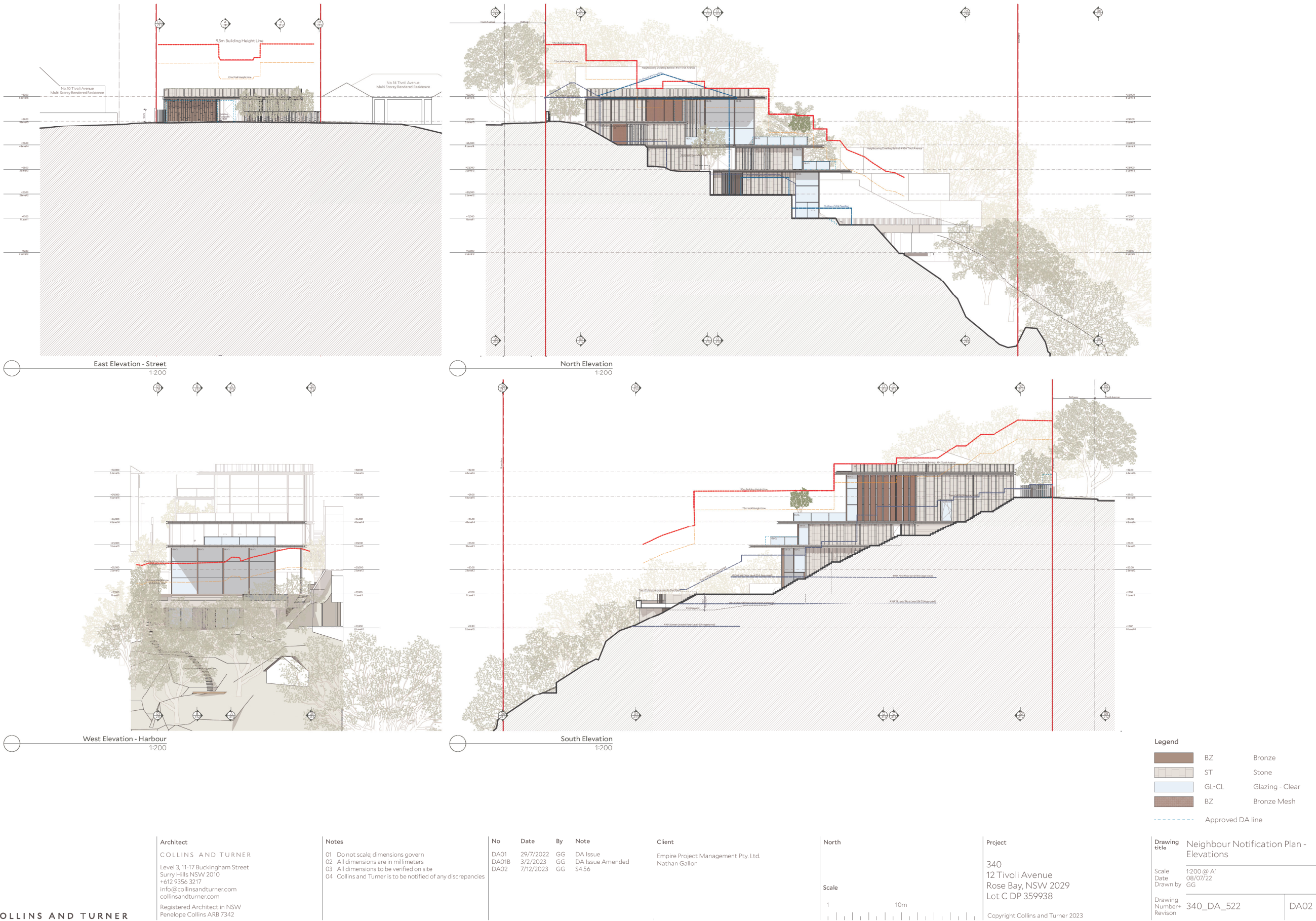


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Lot C DP 359938

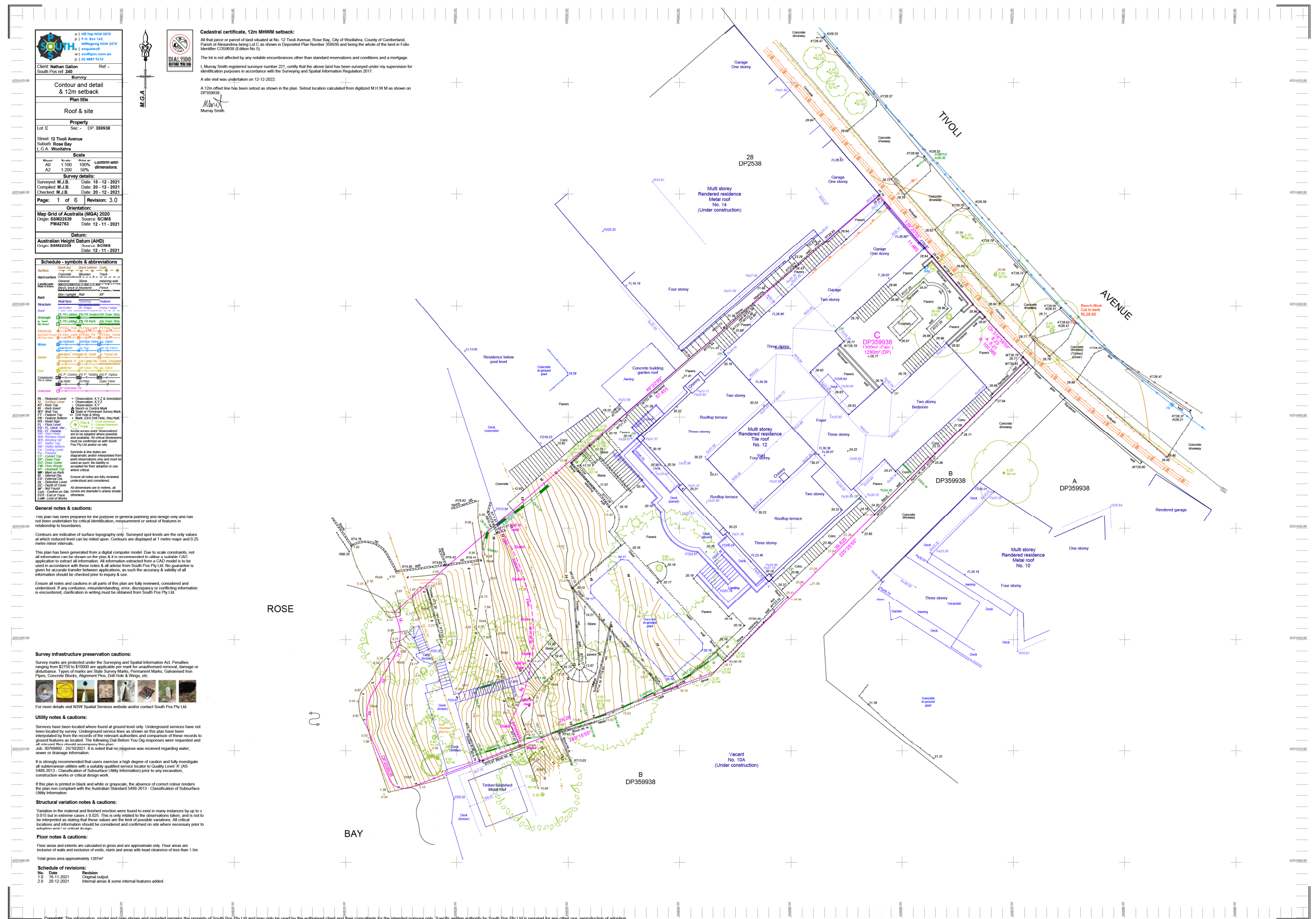
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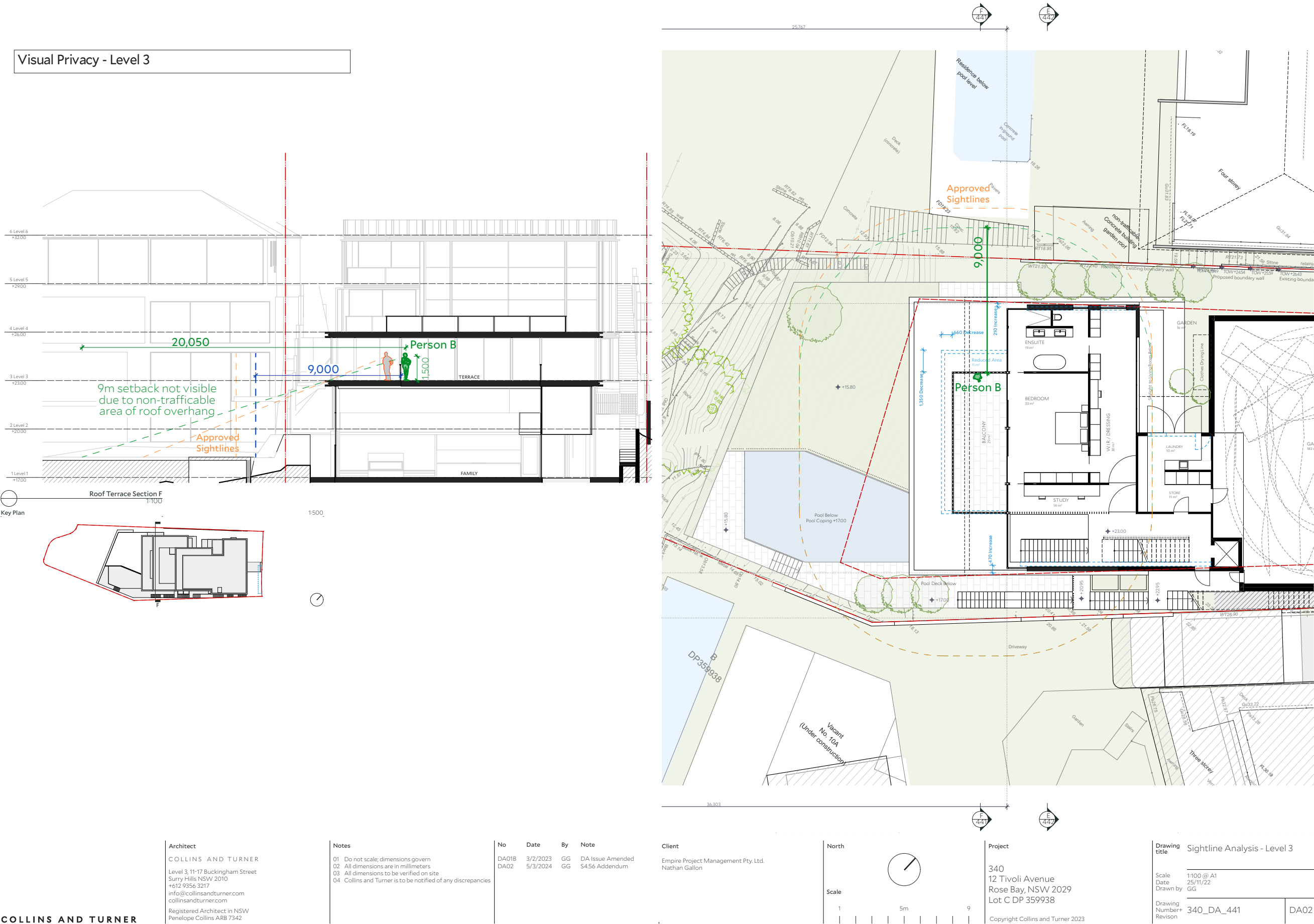
| Drawing title  | Neighbour Notification Plan - Site Plan |
|----------------|---|
| Scale          | 1200 @ A1                               |
| Date           | 26/7/22                                 |
| Drawn by       | GG                                      |
| Drawing Number | 340_DA_521                              |
| Revision       | DA02                                    |



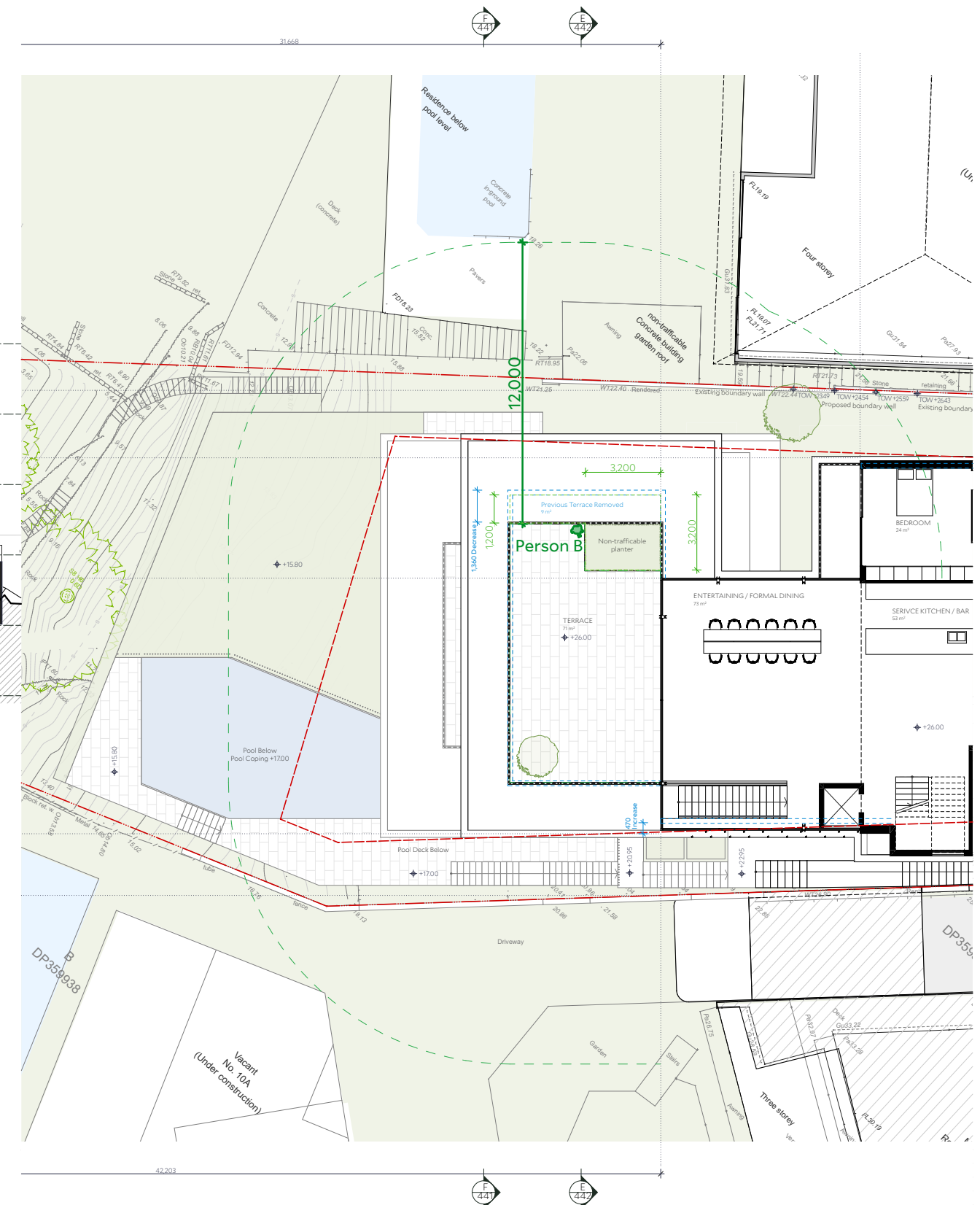
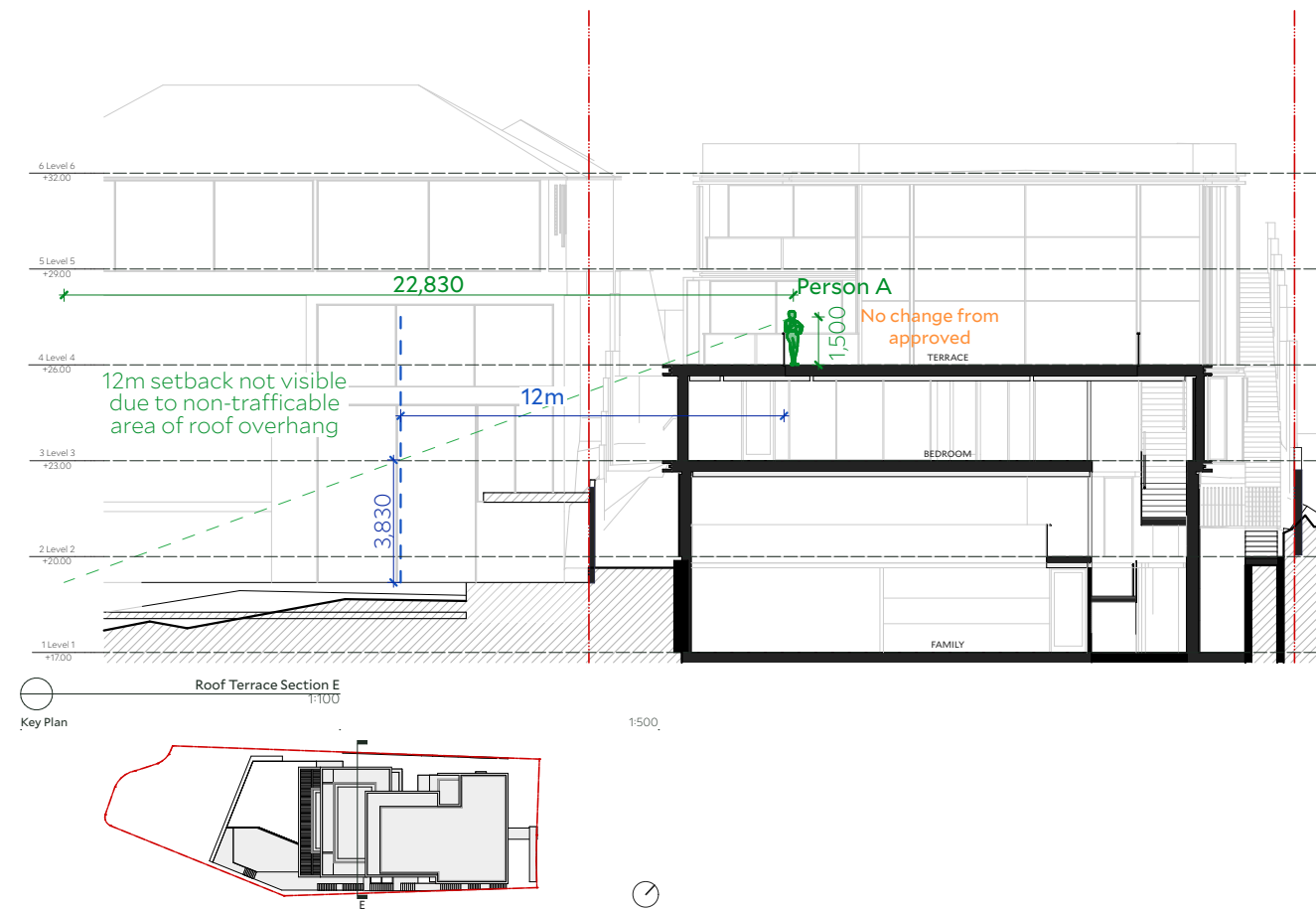








## Visual Privacy - Level 4



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| No    | Date     | By | Note             |
|-------|----------|----|------------------|
| DA01B | 3/2/2023 | GG | DA Issue Amended |
| DA02  | 5/3/2024 | GG | \$4.56 Addendum  |

**Client**  
Empire Project Management Pty. Ltd.  
Nathan Gallon

A compass rose with a circle and a line pointing towards the top-left, labeled 'North'. Below it is a scale bar with markings for 1 and 5m.

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|                          |                              |  |     |
|--------------------------|------------------------------|--|-----|
| Drawing title            | Sightline Analysis - Level 4 |  |     |
| Scale                    | 1:100 @ A1                   |  |     |
| Date                     | 25/11/22                     |  |     |
| Drawn by                 | GG                           |  |     |
| Drawing Number+ Revision | 340_DA_442                   |  | DAC |