

Woollahra Local Planning Panel (Electronic Meeting)

Thursday 2 May 2024 at the Conclusion of the Public Meeting



Woollahra Local Planning Panel (Electronic Meetings):

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

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

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

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

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

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

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

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

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

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

Woollahra Local Planning Panel Membership: 1 Chair, 2 Experts and 1 Community Representative

Quorum: 3 Panel members

Woollahra Municipal Council Notice of Meeting

23 April 2024

To: Woollahra Local Planning Panel Members Chair Experts

Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Electronic Meeting) - 2 May 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 2 May 2024 at the Conclusion of the Public Meeting.

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

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

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

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

Regards,

Craig Swift-McNair General Manager

Woollahra Local Planning Panel (Electronic Meeting)

Agenda

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	Items to be Decided by the Panel	
D1	DA321/2014/4 - 2A Spencer Street Rose Bay - 24/66732* *See Recommendation Page 29	7
D2	DA323/2023/1 - 116 Edgecliff Road, Woollahra - 24/69569*See Recommendation Page 161	119
D3	DA9/2024/1 - 110 Victoria Road Bellevue Hill - 24/69759*See Recommendation Page 306	271
D4	DA249/2023/1 - 34 Cranbrook Road Bellevue Hill - 24/70211*See Recommendation Page 474	425
D5	Woollahra Local Planning Panel Ongoing Delegations - Exceptions to Development Standards - 24/58323* *See Recommendation Page 583	583

LOCAL PLANNING PANEL SECTION 4.55 APPLICATION ASSESSMENT REPORT

ITEM No. D1

FILE No. DA321/2014/4

ADDRESS 2A Spencer Street Rose Bay

COUNCIL WARD Vaucluse SITE AREA 556.4m²

ZONING R3 Medium Density Residential

EXISTING CONSENT The demolition of an existing dwelling house & the construction of

a residential flat building with a car parking level with access off Spencer Street and three storeys of residential units above (one unit per storey), new swimming pool, landscaping and site works

TYPE OF CONSENT

CONSENT AUTHORITY

26 October 2015

Local development

Woollahra Council

PROPOSED Modifications to the approved residential flat building including the

MODIFICATION adjustment of levels and an increase to the roof height

TYPE OF MODIFICATION Section 4.55(2)

DATE \$4.55 LODGED 08/02/2024

APPLICANT Common Office Pty Ltd

OWNER Lamar 36 Pty Ltd

AUTHOR Mr K Qi
ACTING TEAM LEADER Mr D Booth

SUBMISSIONS Two
RECOMMENDATION Approval

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

The application is to be determined by the Woollahra Local Planning Panel as it 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%

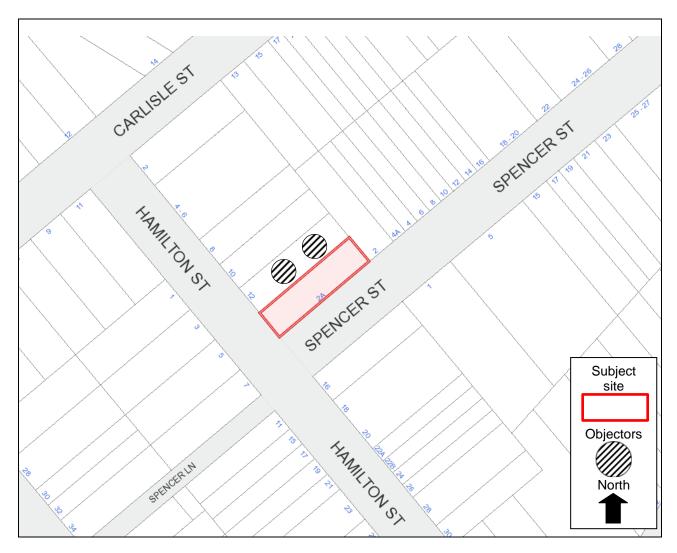
2. REASONS FOR RECOMMENDATION

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:

- The development consent as proposed to be modified, is considered to be substantially the same as the originally approved development;
- The proposal satisfies section 4.55 of the Environmental Planning and Assessment Act 1979;
- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;

- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties including any submissions made have been addressed in the report or are considered to be satisfactory;
- The site is suitable for the proposed development; and
- The proposal is not contrary to the public interest.

3. LOCALITY PLAN



4. SUMMARY OF APPROVED DEVELOPMENT

The development DA321/2014/1 was approved by the Council's Development Control Committee, involving the demolition of the existing dwelling and construction of a new residential flat building with a car parking level accessed from Spencer Street, and comprising three storeys of residential units above (one unit per storey). Specifically, the approved development comprised the following works:

Basement level

- Off-street parking for 4 cars.
- Store, lift motor room, electrical distribution board, lift and internal stair access.

Ground floor level

- Unit 1 comprises 3 bedrooms (2 with ensuites), a study, rumpus room and bar, bathroom/laundry, living/dining room and kitchen, lift and stair access.
- Terraces are located to the east and west.
- A communal swimming pool and deck to the east.

First floor level

- Unit 2 comprises 3 bedrooms (1 with an ensuite), family room, kitchen/dining and living room, bathroom/laundry, lift and stair access.
- A terrace is located to the west off the family room and bedroom 1.
- A terrace and planter are located to the east off the dining and living area.

Second floor level

- Unit 3 comprises 3 bedrooms (1 with an ensuite), bathroom/laundry, kitchen/dining and living, lift and stair access.
- A terrace wraps around the south-eastern and north-western elevations.

Other site works:

- New boundary fences including front fences and gates on the Hamilton Street and Spencer Street frontages.
- Site works and landscaping including removal of a street tree and planting of four new trees on the site.

It was approved subject to the following modifying condition in Condition C1:

- a) A splay or equivalent is to be provided either side (as applicable) of the garage entrance to ensure safe vision for both drivers and pedestrians in accordance with Woollahra Residential DCP Clause C 5.4.8.
- b) A privacy screen to a height of 1.5m from finished floor level is to be provided for the length of the second floor level eastern balcony along the northern elevation in order to minimise overlooking to the private open space of the adjoining property to the north (12 Hamilton Street)
- c) In order to maximise permeable surfaces and in lieu of a shortfall of deep soil landscaping, an additional $44m^2$ of permeable paving is to be provided on the site as agreed by the applicant

5. SUMMARY OF PREVIOUS SECTION 4.55 MODIFICATIONS

The application DA321/2014/2 was rejected on 20 March 2023 as it was not properly characterised as a Section 4.55(1A) application, but instead must be lodged as a Section 4.55(2) application.

The application DA321/2014/3 was approved by Council on 10 October 2023 and involved the following modifications:

Basement level

- Relocation and slight extension of the basement carpark from east to west to accommodate an additional car space (5 in total), 1 motorcycle space and 2 bicycle spaces.
- Construct a splay to the basement carpark entrance in order to achieve sight distances as required by Condition C.1(a).

Ground floor level

- Remove the open rumpus room and bar in the south-western corner of this floor level to accommodate a relocated ensuite/walk-in wardrobe (for the adjoining master bedroom) and separate bathroom.
- Swap the study and Bedroom 2 and relocate the laundry to the opposite side of the hallway.
- The study becomes a recessed alcove overlooking a new landscaped recess.

- Provide a new pantry adjacent to the open-plan living/kitchen and dining area.
- External changes to the building include the partial squaring-off of the building, with increased articulation including concave-type recesses at both ends of the Spencer Street façade.
- A new landscaped recess is to be provided at the middle of the Spencer Street façade.
- Other external changes include the reduction of terrace in the front setback, partly replaced by non-trafficable deep soil landscaping, and similar redesign of the terrace at the rear.

First floor level

- Internal works at this level generally replicates the ground floor below.
- The Hamilton Street terrace is proposed to be replaced by an internal ensuite/walk-in wardrobe, combined with a reduced terrace at the rear.
- External changes to the building include increased articulation including 'concave-type' recesses at both ends of the Spencer Street façade.
- A recess is also provided at the centre of the Spencer Street façade.

Second floor level

- The covered wrap-around terrace and planter along the NE elevation is to be removed, with a smaller rear terrace to be retained.
- Internal and external alterations along the SW end will allow for the internal layout and external articulation to be similar to that proposed on the ground and first floor levels.

Other amendments

In addition to the design amendments stated above, the applicant has requested amendments to the following conditions of consent:

- Condition C.9 (Geotechnical and Hydrogeological Design, Certification & Monitoring), is to be
 deleted or modified to state conventional sub-soil drainage is acceptable or no tanking is
 required, especially if the site stormwater discharge connection is to Council's below ground
 pipe;
- Condition C.12 (Stormwater management plan (Site greater than 500m2)(Clause 25(2) WLEP 1995), is to be modified to remove the onsite detention;
- Condition C.13 (Flood protection), is to be modified to include a flood barrier;
- Condition H.5 (Positive Covenant & Works-As-Executed certification of stormwater systems), is to be deleted or modified to remove onsite detention if a covenant is required of the rainwater tank: and
- Condition I.1 (On-going maintenance of the on-site-detention system), is to be deleted.

The modification application has also been accompanied with an amending BASIX Certificate which necessitates amendments to Conditions C.3, H.1 and I.2.

6. SUMMARY OF PROPOSED MODIFICATION

The architectural drawings were amended on 02 April 2024 as follows:

- Removal of the previously proposed additional basement car space; and
- Removal of the previously amended basement bin storage, and motorcycle and bicycle spaces.

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

Ground floor level

Finished floor level is raised by 0.285m from RL 22.600 to RL 22.885;

- Removal of external steps of Unit 1 garden to the south-west, and the garden level is raised by 0.475m from RL 22.22 to RL 22.695; and
- Amendment of the north-western step ramp to a 7% ramp.

First floor level

- Finished floor level is raised by 0.425m from RL 25.530 to RL 25.955;
- Extension of north-eastern external wall towards the north-east by 0.35m;
- Extension of north-eastern balcony structure towards the north-east by 0.825m; and
- Relocation of window W2.1.

Second floor level

- Finished floor level is raised by 0.565m from RL 28.46 to RL 29.025;
- Proposed new wall and relocation of Unit 3 entry door at the landing of stair from first floor (Unit 2) to second floor (Unit 3);
- Extension of north-eastern external wall towards the north-east by 0.35m;
- Extension of north-eastern balcony structure towards the north-east by 0.825m; and
- Relocation of window W3.1

Roof level

- Extension of the roof towards the north-east to match the floor extensions below:
- The roof level is raised to RL 32.025 and the parapet level is raised to RL 32.12;
- The lift overrun RL is raised to 32.70;

Other amendments

As stated in the Statement of Environmental Effects dated 05 February 2024, the applicant has also requested to amend the following conditions of consent:

- **Condition A.7** (Approved Amended Plans and Supporting Documents), is to be modified to reflect the proposed design changes that form part of the modification.
- Condition C.3, H.1 and I.2 (BASIX Commitments, Fulfilment of BASIX Commitments and Maintenance of BASIX Commitments), are to be modified to reflect the updated BASIX Certificate.
- Condition C.12 (Stormwater Management Plan), is to be modified to reflect the revised Civil and Stormwater Plans prepared by RTS Civil Consulting Engineers dated 21 December 2023.

An email from the applicant dated 04 April 2024 has clarified that **Condition C.12** does not need to be modified as the amended proposal removes the previously proposed amendments to the basement level.

In addition to the consideration of the above amendments and following a detailed review of the extent of the modifications proposed, any amendments to the conditions of consent are included in **Section 22**.

7. ISSUES

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

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	1.25m or 13.16% departure from the 9.5m control	Satisfactory

7.2. Primary Issues

Issue	Conclusion	Section
Objector	The issues raised in the submissions are either addressed by conditions of	5.3
concerns	consent or are insufficient to warrant refusal or modification of the application.	

7.3. Summary of Submissions

Issue	Conclusion	Section
The proposal does not comply with the building height limit. The height increase is significant. The proposal is 2m above the height limit to the street front, and the lift overrun is even higher. Also, 75% of the roof line is above the height limit. The proposal aims to raise the floor levels. The justification to contravening the height limit in reference to 12 Hamilton Street is invalid as its ground level is higher compared to that of the subject site.	The proposed modification aims to raise the floor levels to satisfy the new National Construction Code (NCC) 2022 and align with the Apartment Design (ADG) criteria and, as a result, the height of building is increased by 0.65m to 1.25m departure from the 9.5m building height control. The building height non-compliance under Part 4.3 of the Woollahra LEP 2014 is considered to be consistent with the relevant objectives of the building height development standard.	16.4
The proposal would set up an undesirable precedent that does not adhere to Council's height requirement.	Each application is assessed on its own planning merit. The proposal is considered acceptable with regards to the objectives under Part 4.3 of the Woollahra LEP 2014, and it would not have a significant adverse impact to the streetscape.	16.4 and 17.1
The proposal would have adverse overlooking impacts upon habitable room openings and private open space of neighbouring properties.	The proposal is considered to be satisfactory with regard to the privacy requirements under the Woollahra DCP 2015.	17.2.5

PROPERTY DETAILS AND REFERRALS

8. SITE AND LOCALITY

Physical features

The subject site is also known as LOT 26 SEC A DP 4247, and has an area of 556.4m².

The site is a regular shaped allotment and comprises the following boundary lengths:

- 12.24m street frontage to Hamilton Street.
- 45.68m north-western side boundary adjoining 12 Hamilton Street Rose Bay.
- 12.24m north-eastern rear boundary adjoining 2 Spencer Street Rose Bay.
- 45.68m street frontage to Spencer Street.

Topography

The site slopes down approximately 3.35m from the rear of the site RL 23.40 towards the front of the site RL 20.05.

Existing buildings and structures

At the time of this assessment, works on the site associated with the approved development had commenced and were underway.

Surrounding Environment

The site is located in the Rose Bay Residential Precinct. The surrounding locality comprises dwelling houses, semi-detached dwellings and residential flat buildings which exhibit a range of architectural styles and roof forms. On the north-western side of the subject site at 12 Hamilton Street Rose Bay is a three storey rendered residential flat building above basement parking, and immediately to the north-east at 2 Spencer Street is a single storey brick dwelling above a garage.

B1.9.1 of the Woollahra DCP provides the following precinct character statement:

- The Rose Bay residential precinct incorporates the hillside at the neck of the eastern suburbs peninsula and the lowest part of the Rose Bay basin (adjacent to the large park and recreational area). The street block system in the low lying areas is generally rectilinear, allowing for regular building lots. On the hillsides, irregular street and block patterns occur reflecting the topography.
- Prominent building types within the precinct include Inter-War detached housing and Art Deco flat buildings. More recent development, particularly in Spencer and Carlisle Streets, has seen the subdivision pattern altered to create larger lots for residential flat buildings.
- The Rose Bay residential precinct is sited between the two main urban connectors of Old South Head Road and New South Head Road. The Rose Bay Centre is located on New South Head Road in the western part of the precinct. The mixed use centres of Rose Bay North and Rose Bay South are located on Old South Head Road. These centres frame the precinct and serve the daily and weekly shopping needs of the local community.
- This precinct also includes the Kambala School, Lyne Park and the Royal Sydney Golf Club.



Fig. Surrounding development – extract from WMC 3D Mapping

9. RELEVANT PROPERTY HISTORY

Current use

Residential development.

Relevant Application History

DA321/2014/1 – The proposal involves demolition of existing dwelling & construction of a new residential flat building with a carparking level with access off Spencer Street and three storeys of residential units above.

This application was approved on 26 October 2015 by the Council's Development Control Committee, subject to the following modifying condition in Condition C1:

- a) A splay or equivalent is to be provided either side (as applicable) of the garage entrance to ensure safe vision for both drivers and pedestrians in accordance with Woollahra Residential DCP Clause C 5.4.8.
- b) A privacy screen to a height of 1.5m from finished floor level is to be provided for the length of the second floor level eastern balcony along the northern elevation in order to minimise overlooking to the private open space of the adjoining property to the north (12 Hamilton Street)
- c) In order to maximise permeable surfaces and in lieu of a shortfall of deep soil landscaping, an additional 44m2 of permeable paving is to be provided on the site as agreed by the applicant
- DA321/2014/2 The proposal involves internal and external modifications to the approved residential flat building.

This application was rejected on 20 March 2023 as it was not properly characterised as a Section 4.55(1A) application, but instead must be lodged as a Section 4.55(2) application.

 DA321/2014/3 – The proposal involves internal and external modifications to the approved residential flat building.

This application was approved on 10 October 2023.

Relevant Compliance History

N/A

Pre-DA

N/A

Requests for Additional Information and Replacement Applications

An email sent to the applicant dated 20 March 2024 requested the proposal to be amended in terms of the following:

- The overall deep soil landscaped area and that in the front setback should comply with the relevant controls under the WDCP 2015.
- The proposed excavation should comply with the relevant controls under the WDCP 2015.

Drawings of the amended proposal were received on 03 April 2024.

Land and Environment Court Appeal(s)

N/A

10. REFERRALS

No formal referrals required.

ASSESSMENT UNDER SECTION 4.55

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

11. SECTION 4.55(2): OTHER MODIFICATIONS

Section 4.55(2) relates to the modification of a development consent for all other modifications. The application involves modifications to the approved residential flat building, including the adjustment of levels and increase to roof height.

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

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

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

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

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

. . .

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

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

Quantitative Test

Considerations include changes such as:

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

The proposed modification increases the total gross floor area of the approved residential flat building by 7.03m² and it remains compliant with Part 4.4 of the Woollahra LEP 2014. It does not increase the number of units including their number of bedrooms. Also, the size of each unit is not significant altered. The proposed modification is sensitively located in such a way that it does not significantly exacerbate the overall bulk and scale of the proposal as viewed from surrounding properties and the streetscape.

b. height or number of storeys,

The proposed modification would not alter the number of storeys, however it aims to increase the maximum building height by 0.65m from 10.1m to 10.75m. Notwithstanding this, the proposed maximum building height is considered to satisfy objectives of the building height development standard under Clause 4.3 of the Woollahra LEP 2014.

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

The deep soil landscaped areas remain unaltered. The north-eastern balconies of Unit 2 and 3 are increased by 3.1m².

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

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

Assessment:

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

Qualitative Test Assessment:

1. any change in the functionality of the development,

The proposed modification maintains the same overall functionally of the residential flat building as approved.

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

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

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

It is considered that compliance with the relevant considerations under the Woollahra DCP 2015 is achieved subject to the requirements of Conditions C.1.

Conclusion

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

- b) It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent
- c) It has notified the application in accordance with:
 - i) The regulations, if the regulations so require, or
 - ii) A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent
- d) It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be

Planning Response:

Provision (b) is not relevant to this application. Provisions (c) and (d) have been satisfied as outlined in Section 12 of this assessment report.

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

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

In this regard reference has been made to the assessment report pertaining to DA321/2014/1 and DA321/2014/3 which considered the original application and previous modification. The approved proposals were considered acceptable subject to the requirements of Condition C.1 and the amended proposal does not contravene the issues and concerns which were found to be adequately addressed as detailed in the original assessment report.

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

12. ADVERTISING AND NOTIFICATION

12.1. Submissions

The application was advertised and notified from 28 February 2024 to 14 March 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

- 1. Richard White 12 Hamilton Street, Rose Bay.
- 2. Mourice Wermut 3/12 Hamilton Street, Rose Bay.

12.2. Decision not to re-notify amendments made to the application

The amendments made to the application as noted in Section 6 were not re-notified as it was considered that they did not involve any potential for significant environmental impacts upon the locality.

12.3. Statutory declaration

The applicant has completed the statutory declaration dated 18 March 2024 declaring that the site notice for DA321/2014/4 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

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

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

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

14. SEPP (BIODIVERSITY AND CONSERVATION) 2021

14.1. Chapter 6 - Water Catchments

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

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

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

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

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

Chapter 2 Coastal Management

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

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

Chapter 4 Remediation of Land

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

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

16. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

16.1. Part 1.2: Aims of Plan

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

16.2. Land Use Table

The proposal is defined as alterations and additions to the approved residential flat building and is permitted and is consistent with the objectives of the R3 Medium Density Residential zone.

16.3. Part 4.3: Height of Buildings

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

	Existing (Approved under DA321/2014/1)	Proposed	Control	Complies
Maximum Building Height	10.1m	10.75m	9.5m	No

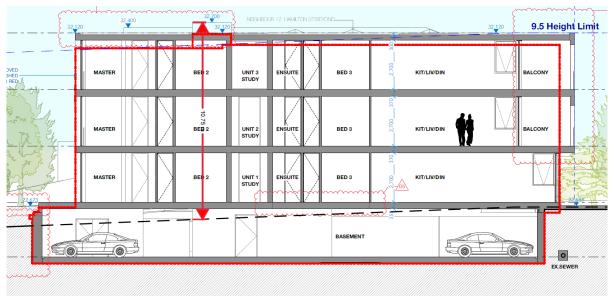


Fig. Maximum building height analysis – extract from S4.55_12

The definition of 'building height' 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.

In this instance, the proposed maximum building height is measured 10.75m from the top of the lift overrun to the existing ground level. Therefore, the proposed modification does not comply with Part 4.3 of the Woollahra LEP 2014.

It is noted that the approved application DA321/2014/1 was not compliant with the maximum building height development standard under the Woollahra LEP 1995. The proposed modification further exacerbates the existing non-compliance by 0.65m from 10.1m to 10.75m. An assessment against the objectives of clause (1) is provided below:

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

The proposed modification aims to raise the floor levels to satisfy the new NCC 2022 and align with the ADG criteria and as a result the height of building is increased by 0.65m.

The proposed modification will continue to present as a three-storey residential flat building above a basement parking level when viewed from the streets. The proposal does not significantly exacerbate the approved bulk and scale under DA321/2014/1 and DA321/2014/3 as viewed from surrounding properties and the streetscape. In general, the approved built form will be retained, and the proposed modification is considered to be compatible with the desired future character of the area.

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

Contextually, the proposed modification is considered to be of an appropriate scale and form and is considered to be consistent with the desired future character of the locality. Notably, the existing non-compliances are generally upheld with the variations pertaining to the residential flat building having no unreasonable bulk and scale impacts.

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

The proposed modification will not result in any unreasonably adverse overshadowing impacts to adjoining properties. Accordingly, the non-compliance 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 proposed modification 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 proposed modification will not result in any significant loss of public views and is considered to be consistent with the above-mentioned objective.

Conclusion

The non-compliance with clause (1) of Part 4.3 of the Woollahra LEP 2014 is considered to be consistent with the above-mentioned objectives of the building height development standard.

16.4. Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio of 1:1 for a residential flat building.

Site Area: 556.4m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	0.986:1 (548.6m²)	0.999:1 (555.63m ²)	1:1 (556.4m²)	Yes

Note. This assessment varies from that provided by the applicant in terms of calculating the gross floor area of the subject development.

The definition of *gross floor area* under Woollahra LEP 2014 is as follows:

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

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

but excludes—

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and

- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.



The proposed modification complies with the maximum floor space ratio prescribed by Part 4.4(2) of Woollahra LEP 2014.

16.5. Part 5.10: Heritage Conservation

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

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

16.6. Part 5.21: Flood Planning

The objectives of Part 5.21 are:

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

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

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

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

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

The subject site is located in a flood planning area. Subject to the original conditions of consent, the proposal is acceptable with regard to Part 5.21 of Woollahra LEP 2014.

16.7. 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.

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

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

17. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

17.1. Chapter B1.9: Rose Bay Residential Precinct

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

The following extract from the Desired Future Character of Part B1.9.2 of the Woollahra DCP 2015 states:

This precinct includes land zoned R2 Low Density Residential and R3 Medium Density Residential. Most of the R3 Medium Density Residential land is located near the business centres and the main connector roads. Although much of this R3 zoned land currently contains many dwelling houses, this area is identified for change and will be redeveloped for medium density residential uses such as residential flat buildings, manor houses, multi dwelling housing, multi dwelling housing (terraces) and attached dwellings.

In particular, there is opportunity for redevelopment along Old South Head Road, with a view to providing a greater intensity of development adjacent to this classified road.

The residential areas zoned R2 Low Density Residential will continue to experience an evolution of residential building styles through the introduction of well-designed contemporary dwelling houses, which reinforce the natural topography and provide opportunities for view sharing.

On the hillsides and steeply sloping sites, the built form should step with the land to ensure development reflects the existing topography and minimises the need for excavation.

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

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

- a) the rich mixture of residential architectural styles and forms, including dwelling houses and residential flat buildings;
- b) the 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;

- h) the iconic and harbour views available from the streets and other public spaces, including view corridors between buildings; and
- i) Inter-War flat buildings.

The relevant desired future character objectives are:

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O2 To 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.
- O9 To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Rose Bay precinct, as noted in Part B1.9.2 of the Woollahra DCP 2015.

17.2. Chapter B3: General Development Controls

17.2.1. Part B3.2: Building Envelope

In general, the amended proposal does not alter the approved front and side setbacks of the dwelling; the proposed modifications would not protrude beyond the established approved building setbacks. The amended proposal aims to extend the building towards the north-east and the proposed works comply with the required rear setback. Therefore, the proposal is acceptable with regard to the building envelope controls in Part B3.2 of the Woollahra DCP 2015.

17.2.2. Part B3.4: Excavation

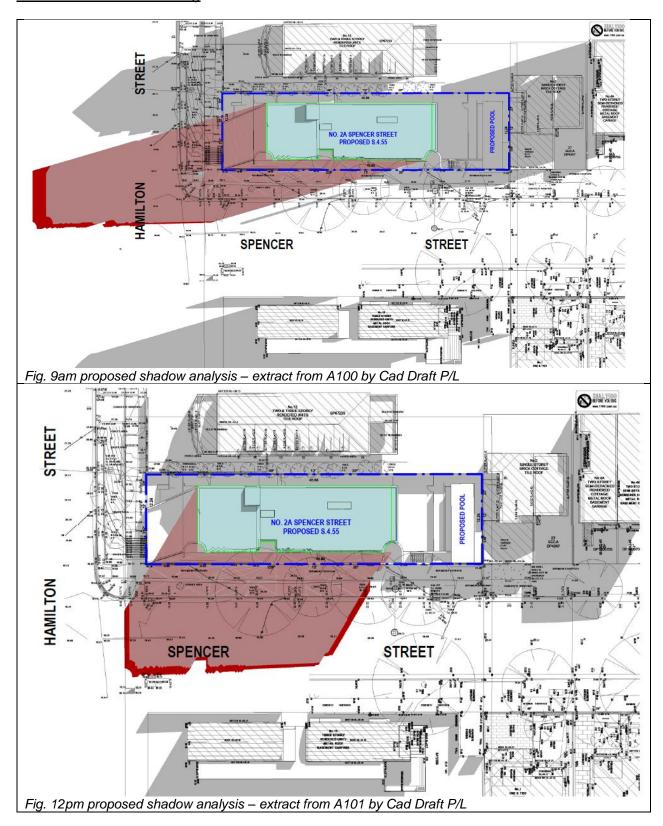
The amended proposal does not involve any additional bulk excavation work. Therefore, the proposed modification is acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

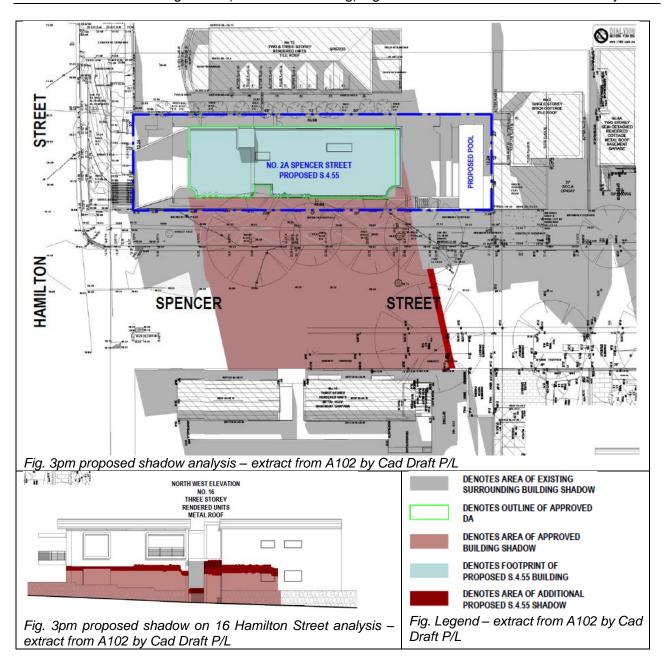
17.2.3. Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

As discussed under Part B1, the amended proposal is generally considered to provide a satisfactory response to the desired future character provisions of the Rose Bay precinct. The proposal is considered a suitable development along the street and within the locality.

Part B3.5.2: Overshadowing





C1(a) stipulates that sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space to adjoining properties for a minimum of two hours between 9am and 3pm on June 21. Also, C1(b) states that north facing windows to upper level habitable rooms of adjacent dwellings receive at least 3 hours of sun during the same period.

The proposed modification would not result any additional shadows to private open spaces or north facing windows of upper level habitable rooms of neighbouring properties for more than 2 hours between 9am and 3pm on June 21, and it is considered acceptable having regard to C1(a) and (b).

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

Part B3.5.3: Public and private views

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

Part B3.5.4: Acoustic and Visual Privacy

The proposed modification would not alter the approved privacy relationships with the neighbouring properties which were considered acceptable.

Conclusion

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

17.2.4. Part B3.6: On-Site Parking

The amended proposal does not alter the approved parking configuration. The proposal is acceptable with regard to the parking controls in Part B3.6 of the Woollahra DCP 2015.

17.2.5. Part B3.7: External Areas

Part 3.7.1: Landscaped Areas and Private Open Space

C2 35% of the site area is deep soil landscaped area with the exception of the Wolseley Road area (Figure 22) where 30% of the site area is deep soil landscaped area. Refer Figure 21 for the calculation of deep soil landscaped area.

C3 At least 40% of the front setback comprises deep soil landscaped area.

• The amended proposal does not reduce the approved overall deep soil landscaped area and that in the front setback.

Part B3.7.3: Site facilities

C7 Mechanical plant equipment (including lift overruns and air conditioners) must be located internally within the principal building in a suitably designed plant room or the like.

C8 Mechanical plant equipment (including lift overruns and air conditioners) must be wholly contained within the permissible building envelope and must not be located externally or on the roof unless Council is satisfied that it:

- a) cannot be reasonably located elsewhere; and
- b) is thoughtfully located, sized, enclosed, concealed and integrated into the building design (including when viewed from above) and roof form so it:
 - i. is not visible from the streetscape or public domain:
 - ii. is consistent with the overall building design, roof form and materials;
 - iii. is visually discreet and unobtrusive when viewed from adjoining properties; and
 - iv. minimises acoustic impacts to adjoining properties.

Note: Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the Protection of the Environment Operations Act 1997 apply.

The lift overrun as part of the original application DA321/2014/1 was located on the rooftop and it also breached Council's 9.5m maximum building height. Notwithstanding this, it was approved under DA321/2014/1.

The proposed modification aims to increase the top RL of the lift overrun. Although it is located externally on the rooftop and breaches Council's maximum building height control, the lift overrun is considered to be sited adequate distances from both street frontages to mitigate adverse visual impacts. The further height non-compliance pertaining to the lift overrun is discussed in Section 16.4.

With regard to mechanical plant acoustic attenuation, Condition I.6 of the development consent addresses this issue.

Conclusion

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

17.2.6. Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Part 3.8.6: Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces)

The proposed modification is considered to be acceptable with regard to the residential flat building requirements in Part B3.8.6 of Woollahra DCP 2015.

17.3. Chapter E1: Parking and Access

	Existing	Proposed	Control	Complies
E1.4.2 Max Number of Car Parking Spaces – Residential flat building	5 Space	5 Space	7 Spaces	Yes

The amended proposal does not involve any additional car parking space.

The proposal is acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

18. APPLICABLE ACTS/REGULATIONS

18.1. Environmental Planning and Assessment Regulation 2021

Clause 61: Additional matters that consent authority must consider

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

19. 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.

20. THE PUBLIC INTEREST

The proposal is considered to not be contrary to the public interest.

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

22. RECOMMENDATION PURSUANT TO SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, modify development consent to Development Application No. 321/2014 for modifications to the approved residential flat building including the adjustment of levels and an increase to the roof height on land at 2A Spencer Street Rose Bay, subject to the following:

Modification Summary

DA Application Number	Determination	Modification Description
(PAN Number)	Date	·
DA321/2014/3 (PAN-315817)	10 October 2023	Addition of Conditions A.7, A.8, C.25, C.26, C.27, D.11, E.23, F.8, H.6 and I.9. Amendments to Conditions C.2, C.3, C.4, C.9, C.12, C.13, E.22, H.1, H.5, I.1 and I.2.
DA321/2014/4 (PAN-409030)	02 May 2024	Addition of Condition A.7A. Amendments to Condition C.3, H.1 and I.2.

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 80 of the Environmental Planning & 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 79C of the Act.

Standard Condition: A1

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.

PCA means the *Principal Certifying Authority* 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.

WLEP 1995 means Woollahra Local Environmental Plan 1995

WLEP 2014 means Woollahra Local Environmental Plan 2014

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, piering, 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

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 the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp "Approved DA Plans" 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)
AR.DA.02 Rev D	Ground floor, site and basement plans	TKD Architects	20/11/2014
AR.DA.03 Rev C	First floor, second floor and roof plans	TKD Architects	24/09/2014
AR.DA.04 Rev B	Elevations and Sections 01	TKD Architects	24/09/2014
AR.DA.A4.02	Elevations and Sections 02	TKD Architects	24/09/2014
Rev B			
15505_L_002	Landscape plan	Context	03/02/2015
Rev A			
14109	Flood Assessment Report	CPM Engineering	14/01/2015
15347VB(T)rpt	Geotechnical Report	Jeffery and Katauskas P/L	25/08/2001
15347SBlet	Geotechnical Review	JK Geotechnics	23/10/2014
H01 A	Stormwater Management Plan	Llpscombe & Associates	13/02/2001
522780M	BASIX Certificate	Planning & Infrastructure	18/06/2014
-	Site Waste Minimisation and	Mark Byrne of Gosse Bros	20/11/2014
	Management Plan		

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 80A(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

A.4 Ancillary Aspect of the Development (s80A(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" dated February 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

A.5 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

• Trees on Private Land

Council Ref No	Species	Location	Dimension (metres)
1	Ulmus parvifolia (Chinese Weeping Elm)	Rear boundary	10 x 11

Trees on Council Land

Council Ref No	Species	Location	Dimension (metres)	Tree Value
6, 7	2 x Robinia pseudoacacia 'Frisia' (Golden Robinia)	Council verge – Hamilton Street	4 x 4 each	\$0
8	Lophostemon confertus (Brush Box)	Council verge most south western specimen – Spencer street	10 x 10	\$5000.00
10	Lophostemon confertus (Brush Box)	Council verge most north eastern specimen – Spencer street	11 x 10	\$5000.00
11	Eucalyptus sp. (Gum tree)	Council verge – Spencer street	8 x 5	\$5000.00

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)
9	Harpephyllum caffrum (Wild Plum)	Council verge— Spencer street	8 x 8

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

A.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	Compliance documentation including photos shall be included
Installation of tree protection fencing	Compliance with tree protection
metallation of the protection remaining	measures
Excavation for approved pool	Condition of exposed roots
Installation of replacement trees	Condition of roots and soil, ensure the
installation of replacement trees	tree is planted correctly
Prior to the issue of a Final Occupation	Supervise the dismantling of tree
Certificate	protection measures

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

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

A.7 Approved Amended (section 4.55) Plans and Supporting Documents

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

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

Reference	Description	Author/Drawn	Date(s)
S4.55_05, Rev 01	Basement Plan	Mowa studio	5/3/23
S4.55_06, Rev 01	Ground Floor Plan		
S4.55_07, Rev 01	First Floor Plan		
S4.55_08, Rev 01	Second Floor Plan		
S4.55_09, Rev 01	Site Roof Plan		
S4.55_10, Rev 01	Elevations		
S4.55_11, Rev 01	Elevations		
S4.55_12, Rev 01	Sections		
S4.55_13, Rev 01	Street Fence Elevation		
220902	Stormwater Concept	RTS Civil Consulting	7 Mar 2023
	Design Statement	Engineers	
220902	Stormwater Management	RTS Civil Consulting	
CP100; CP101; SE100;	Plans	Engineers	
SE200, issue C			3 Mar 2023
CP102, SW100 – SW102;			
SW200 – SW202, issue B			3 Mar 2023
220902	Civil Works Plans	RTS Civil Consulting	
CP100; CP101; CW200;		Engineers	
CW201, issue C			3 Mar 2023
CP102, issue B			3 Mar 2023
CW100; CW300, issue D			3 Mar 2023
33271S Let1	Geotechnical Letter	JK Geotechnics	7 Mar 2023
	(Groundwater issues)		
220902, issue C	Flood Impact Risk	RTS Civil Consulting	3 Mar 2023
	Assessment Report	Engineers	

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

Standard Condition: A6

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

A.7A Approved Amended (section 4.55) Plans and Supporting Documents

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

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

Reference	Description	Author/Drawn	Date(s)
S4.55_03, Rev 03 S4.55_05, Rev 03 S4.55_06, Rev 03 S4.55_07, Rev 03 S4.55_08, Rev 03 S4.55_09, Rev 03 S4.55_10, Rev 03 S4.55_11, Rev 03	Site Analysis Basement Plan Ground Floor Plan First Floor Plan Second Floor Plan Site_Roof Plan Elevations Elevations	Mowa studio	02 April 2024
S4.55_12, Rev 03 S4.55_13, Rev 03	Sections Street Fence Elevation		
1373179M_02	BASIX Certificate	NSW Department of Planning and Environment	03 April 2024

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

Standard Condition: A6

Added on 02 May 2024 under DA321/2014/4 (PAN-409030)

A.8 No Underpinning works (Special Condition)

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

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

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 81A(2) 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 PCA 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

B.2 Establishment of Tree Protection Zones (TPZ)

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	Location	Radius from Centre of Trunk (Metres)*
1	Ulmus parvifolia (Chinese Weeping Elm)	Rear boundary	*An area measuring 1.5 metres from the rear boundary into the subject property and extending from side boundary to side boundary
6, 7	2 x Robinia pseudoacacia 'Frisia' (Golden Robinia)	Council verge – Hamilton Street	2
8	Lophostemon confertus (Brush Box)	Council verge most south western specimen – Spencer street	3
10	Lophostemon confertus (Brush Box)	Council verge most north eastern specimen – Spencer street	3
11	Eucalyptus sp. (Gum tree)	Council verge – Spencer street	3

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No	Species
8	Lophostemon confertus (Brush Box)
10 Lophostemon confertus (Brush Box)	
11 Eucalyptus sp. (Gum tree)	

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.

^{*} Not a radius measurement.

- 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 Condition B.2 of this consent.
- f) Establishment of Ground protection 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 Conditions of this consent. Appropriate ground protection shall be installed under the supervision of the site arborist.
- g) All site personnel and contractors must be made aware of all tree protection requirements associated with these conditions of consent.
- h) The project arborist shall provide written certification of compliance with the above condition.

Standard Condition: B5

B.3 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
1	Ulmus parvifolia (Chinese Weeping Elm)	Rear boundary	Approved soft landscaping

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

B.4 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

B.5 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 <u>any work</u> 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, stairs and driveways;
- retaining walls within the footway or road; and
- drainage structures/pits.

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

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

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

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

C.1 Modification of details of the development (s80A(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) A splay or equivalent is to be provided either side (as applicable) of the garage entrance to ensure safe vision for both drivers and pedestrians in accordance with Woollahra Residential DCP Clause C 5.4.8.
- A privacy screen to a height of 1.5m from finished floor level is to be provided for the length of the second floor level eastern balcony along the northern elevation in order to minimise overlooking to the private open space of the adjoining property to the north (12 Hamilton Street)
- c) In order to maximise permeable surfaces and in lieu of a shortfall of deep soil landscaping, an additional 44m² of permeable paving is to be provided on the site as agreed by the applicant
- **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 79C 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

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

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

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

SECURITY			
under section 4.17(6) of the Environmen	ntal Planning and Asse	essment Act 1	979
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$80,603	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$15,000	No	T114
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$54,750	No	T113
DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2021 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$35,338.92 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the Local Government Act 1993			
Public Tree Management Inspection Fee	\$180	No	T45
Public Road/Footpath Infrastructure Inspection Fee	\$418	No	
Security Administration Fee	\$185	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$186,474.92 plus an amounts and long se		exed

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

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

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

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

Do you need HELP indexing the levy?

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

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

Amended on 20 October 2023 under DA321/2014/3 (PAN-315817)

C.3 BASIX commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No.1373179M_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

Amended on 02 May 2024 under DA321/2014/4 (PAN-409030)

C.4 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. Detailed engineering drawings prepared by a suitably qualified and experienced civil engineer for the following infrastructure works which must be carried out at the applicant's expense:

- a) A new 4.0m wide vehicular crossing, including layback, shall be constructed in accordance with Council's standard driveway drawing RF2_D and to the satisfaction of Council's Asset Engineer. 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 with the centreline of the internal driveway at the property boundary.
- b) Design longitudinal surface profiles (Scale 1:20) along each edge for the proposed vehicular crossing and access driveway, starting from the centreline of the road to the proposed garage (include provision of Council's standard layback and footpath), must be submitted to Council for assessment.
- c) The existing power pole on Spencer Street shall be relocated in accordance with Ausgrid requirements. The new power poles shall be no closer than 1.0m from the proposed new vehicular crossing.
- d) The existing 1.2m wide footpath shall be removed and replaced in concrete for the full width of the Spencer Street frontage in accordance with Council's standard drawing RF3.
- e) All vehicular crossing and layback that are no longer required shall be removed.
- f) All damaged footpath, kerb and gutter and road pavement shall be reinstated to match the existing.
- g) 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.
- h) The stormwater connection from the site to the existing kerb inlet pit on Spencer Street shall be made by using minimum Class 4, 375mm RRJ steel reinforced concrete pipes (RCP) with a minimum fall of 1% to comply with Council's Specification. Detailed design including longitudinal section of the proposed 375mm RCP shall be prepared by a suitably qualified civil engineer. Trench details shall be included in the design drawings to comply with Council's Specification and AS3725. The existing downstream kerb inlet pit is to be reconstructed if deemed defective during construction by Council's Assets Engineers. The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

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

Amended on 20 October 2023 under DA321/2014/3 (PAN-315817)

C.5 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 96 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 Waters 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, such that clause 25(1) of WLEP 1995 be satisfied. Further, leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest

Standard Condition: C20

C.6 Provision for Energy Supplies

The applicant must provide to the *Certifying Authority* a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site. Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans a section 96 application is required to be submitted to Council. Council will assess the proposed location of the required substation.

The *Construction Certificate* plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required the *Construction Certificate* plans and specifications must provide:

- a) A set back not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the substation from view within the streetscape,
- b) A set back not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3),
- c) A set back to and not within the drip line of any existing tree required to be retained,
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors are not to intrude onto the public road reserve.
- Note: If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Certifying Authority* prior to issue of the *Construction Certificate*. The *Certifying Authority* must be satisfied that the requirements of energy authority have been met prior to issue of the *Construction Certificate*.
- **Note:** This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Energy Australia's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.
- **Note**: Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the *BCA* respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 96 of the *Act* to allow assessment under section 79C of the *Act*.
- **Note**: Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 Parking Facilities Set whether such driveways service the site or any adjoining land.

 Standard Condition: C21

C.7 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

C.8 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, hydro-geological, 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.9 Geotechnical and Hydrogeological Design, Certification & Monitoring

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical and hydrogeological report prepared by a Chartered Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Councils document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports" and Chapter E2 of Council's DCP. The report must 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 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

Amended on 20 October 2023 under DA321/2014/3 (PAN-315817)

C.10 Ground Anchors

This development consent does <u>NOT</u> give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

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

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act* 1993. Application forms and Council's "Rock Anchor Policy" are available from Councils web-site http://www.woollahra.nsw.gov.au. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

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

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

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary)) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Standard Condition: C41

C.11 Parking Facilities

The Construction Certificate plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for any bicycle, car and commercial vehicle parking demonstrating compliance with AS2890.3:1993 Parking Facilities - Bicycle Parking Facilities, AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking and AS 2890.2:2002 – Off-Street Parking: Commercial Vehicle Facilities respectively.

- Woollahra Residential DCP Clause C 5.4.8 requires that a splay or equivalent be provided either side (as applicable) of the entrance to ensure safe vision for both drivers and pedestrians.
- 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

C.12 Stormwater management plan (Site greater than 500m2)(Clause 25(2) WLEP 1995)

Before the issue of the 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:

- a) general design in accordance with stormwater management plans, prepared by RTS Civil Consulting Engineers, referenced 220902, drawing CP100 CP101; SE100; SE200, issue C, dated 3 Mar 2023 and drawing CP102, SW100 SW102; SW200 SW202, issue B, dated 3 Mar 2023, with the following amendments:
 - In order to comply with Chapter E2.2.3 Control C1(b) of Woollahra DCP, a stormwater treatment system meeting the water quality reduction targets in C7 of Chapter E2.2.3 of Woollahra DCP shall be provided wholly in the property. MUSIC modelling results shall also be attached to the stormwater management plans to demonstrate the compliance of the targets.
 - A minimum area of 5.6m² rain gardens shall be provided to the site to comply with Chapter E2.2.3 Control C4 (a) of Council's DCP.
- b) the discharge of stormwater from the site, by direct connection to the existing kerb inlet pit in Spencer Street, via minimum Class 4, 375mm RRJ steel reinforced concrete pipes (RCP);
- a minimum 450x450 boundary junction pit must be provided prior to connecting the stormwater outlet pipe to the street drainage system. The stormwater outlet pipe to the kerb and gutter must have a minimum grade of 1% to comply with Council's DCP and AS3500.3;
- d) dimensions of all drainage pits and access grates must comply with AS3500.3,
- e) compliance the objectives and performance requirements of the BCA,
- f) interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 Stormwater and Flood Risk Management, and
- g) general compliance with the Council's Woollahra DCP 2015 Chapter E2 Stormwater and Flood Risk Management.

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.

Stormwater Treatment System, Rain Gardens and Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation.
- b) Internal dimensions and volume of the proposed stormwater treatment system, rain gardens and rainwater storage,
- c) Plans, elevations and sections showing stormwater treatment system, rain gardens and rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all stormwater treatment system, rain gardens and rainwater reuse system 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 stormwater treatment system, rain gardens and rainwater tanks.

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.

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".*

Amended on 20 October 2023 under DA321/2014/3 (PAN-315817)

C.13 Flood protection

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

- a. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b. The driveway entry shall be protected by a mechanical flood barrier with the threshold set to the flood planning level of 20.8m AHD.
- c. Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.
- d. Flood compatible materials shall be used for all flood exposed construction.
- e. All flood exposed electrical wiring and equipment shall be waterproofed.
- f. All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

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: C54

Amended on 20 October 2023 under DA321/2014/3 (PAN-315817)

C.14 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 & Complying Development Codes)* 2008.

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

Standard Condition: C55

C.15 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 Waters sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act* 1997. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act* 1997.

Standard Condition: C56

C.16 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) Regulation2000 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.

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

Standard Condition C59

C.17 Acoustic Certification of all Mechanical Plant & Equipment

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the Regulation must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while all 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 $L_{A90,\ 15\ minute}$ level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

- **1. Australian Acoustical Society**—professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- 2. Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au). Standard Condition: C62

C.18 Noise Control - Swimming pool/spa pool pumps and associated equipment

The siting of the swimming pool/spa pool pump(s) and associated equipment are to be located as far as possible from the neighbour's dwelling to minimise the impact on adjoining residents. The pump(s) and associated equipment are to be housed in an acoustically treated enclosure so noise from the operation of the pump(s) and associated equipment are not audible beyond the boundaries of the site.

C.19 Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant

The applicant must ensure that the operation of any proposed Air Conditioning System(s) and associated plant does not create interior noise intrusion and vibration to occur within any adjoining residential unit.

C.20 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The basement car park in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement car park must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the *(nominate enclosure)* and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the *(nominate enclosure)* shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

C.21 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 *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. 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.22 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

C.23 Tree Management Plan

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must 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, transplant method statement or bush regeneration management plan.

This plan shall be kept on site until the issue of the final occupation certificate. Standard Condition: C30

C.24 Amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide. This plan shall be submitted to Council for further assessment. The amended landscape plan must include the following:

a) Replacement/Supplementary trees which must be planted Any replacement or supplementary tree shall be grown in accordance with NATSPEC Specifying Trees. The replacement tree shall be maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting Location	Container Size/ Size of Tree (when planting)	Minimum Dimensions at Maturity
1 x Magnolia x soulangeana (Saucer Magnolia)	In accordance with Landscape Plan No.LWD01, designed by Context Landscape Design, dated June 2000	100 litre	5 metres in height x 4 metres in canopy spread
3 x Betula pendula (Silver Birch)	In accordance with Landscape Plan No.LWD01, designed by Context Landscape Design, dated June 2000	100 litre	5 metres in height x 3 metres in canopy spread
1 x Tristaniopsis laurina (Water gum)	Council verge in the footprint of existing driveway that must be demolished to allow for replacement tree planting	100 litre	6 metres in height x 4 metres in canopy spread

C.25 Soil and Water Management Plan – Submissions & Approval

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

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

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

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

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

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

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

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

Standard Condition: C25

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

C.26 Engineer Certification

This development consent does <u>NOT</u> 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.

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

C.27 Non-gravity Drainage Systems

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Stormwater Management Plan for the site.

The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with section 6.2.4 – "Non-gravity drainage systems" of Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Note: The Woollahra DCP is available from Council's website www.woollahra.nsw.gov.au. Standard Condition: C.52 (Autotext CC52)

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

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

D.1 Dilapidation Reports for existing buildings

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration.

These properties must include (but is not limited to)

- 12 Hamilton Street
- 2 Spencer Street

The dilapidation reports must be completed and 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

D.2 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

D.3 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The principal contractor or owner must submit an application for approval of the Construction Management Plan by Council's Traffic Engineer and pay all fees associated with the application. The plan must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:-

- a) Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- e) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- f) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- g) Provide for the standing of vehicles during construction.
- h) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- i) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- k) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- I) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- m) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion? (Note: Oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.
- n) Show the location of any proposed excavation and estimated volumes.

- o) When excavation works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- p) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

Standard Condition: D9

D.4 Works (Construction) Zone – Approval & Implementation

A works zone is required for this development. The *principal contractor* or *owner* must apply for a works zone. If the works zone is approved the *principal contractor* or *owner* must pay all fees for and implement the required works zone before commencement of any work.

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 Rangers and Police before commencement of any work. Signs are not erected until full payment of works zone fees.

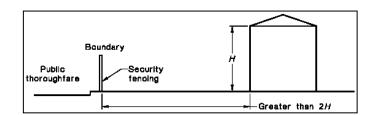
Note: The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation* 2000 to exercise those functions delegated by the Roads and Traffic Authority 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.

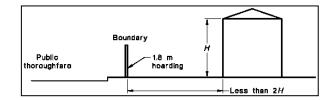
Standard Condition: D10

D.5 Security Fencing, Hoarding and Overhead Protection

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



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 1.8 m adjacent to the thoroughfare.

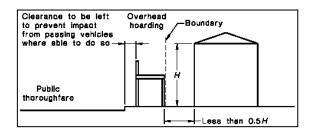


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

- a) The vertical height above footpath level of the structure being demolished is less than 4.0 m; 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 2.1 m;
- 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 0.5 m above the platform surface; and
- d) Together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The *principal contractor* or *owner builder* must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:

http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/oheadprotstructs.htm.

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.

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.

D.6 Site Signs

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

Clause 98A of the Regulation provides:

Erection of signs

- For the purposes of section 80A (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:
 - showing the name, address and telephone number of the principal certifying authority 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 116G of the Act, to comply with the technical provisions of the State's building laws."

Clause 227A of the Regulation provides:

Signs on development sites

If there is a person who is the PCA 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 PCA 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

D.7 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" published by the NSW Department of Housing 4th Edition" ('The Blue Book').

Where there is any conflict The Blue Book takes precedence.

- **Note**: The International Erosion Control Association Australasia (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" publications can be down loaded free of charge from www.woollahra.nsw.gov.au.
- **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

D.8 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 Workcover NSW requirements. Standard Condition: D13

D.9 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

 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 certifying authority for the building work, and
 - Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- c) The principal certifying authority 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 certifying authority 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 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 109H 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 82A(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, PCA Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au .

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 81A(2) of the Act.

Standard Condition: D15

D.10 Notification of *Home Building Act* 1989 requirements

- a) For the purposes of section 80A (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 <u>Home Building Act 1989</u> must not be carried out unless the principal certifying authority 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 certifying authority 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 116G of the Act, to comply with the technical provisions of the State's building laws. Standard Condition: D17

D.11 Dilapidation Reports for public infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the Principal Contractor must submit a dilapidation report, prepared by a Chartered Professional Engineer, on Council's infrastructure within and near the development site.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) and report of the public stormwater drainage system traversing/adjoining the site, and
- f) the full name and signature of the Chartered Professional Engineer.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. 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 Principal Contractor fails to submit the dilapidation 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: D5 (Autotext DD5)

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

E. Conditions which must be satisfied during any development work

E.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

For the purposes of section 80A (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.

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

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, published by Standards Australia, and as in force at 13 September 2001.

Standard Condition: E2

E.3 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved construction management plan. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the *PCA* or *Council* on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

Standard Condition: E3

E.4 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 Certifying Authority..

Standard Condition: E4

E.5 Critical Stage Inspections

Critical stage inspections must be called for by the *principal contractor* or *owner builder* as required by the PCA, any PCA service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the PCA 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 109E(3)(d) of the *Act* or as required by the *PCA* and any PCA Service Agreement.

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

Note: The PCA may, in addition to inspections, require the submission of Com*pliance 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

E.6 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) Piering;
 - (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 separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement out side 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* 2000.

Note: EPA Guidelines can be down loaded from http://www.epa.nsw.gov.au/noise/nglg.htm .

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.7 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 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 73 of the *Road Transport (Safety and Traffic Management) Act* 1999, section 138 of the *Roads Act* 1993 or section 94 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 to the extent they are adopted under the *Road Transport* (Safety and Traffic Management) (Road Rules) Regulation 1999.

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

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."
 - c. Any work in, on or over the Road or Footway requires *Council* Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.

 Standard Condition: E7

E.8 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;

Note: See http://www.epa.nsw.gov.au/small_business/builders.htm for additional information. Standard Condition: E11

E.9 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

E.10 Support of adjoining land and buildings

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

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

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

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the Access to Neighbouring Land Act 2000, or
- c. an easement under section 88K of the Conveyancing Act 1919, or
- d. an easement under section 40 of the Land & 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 (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.

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

E.11 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 subcontractor 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 Certifying Authority* 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 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 section 88K of the Conveyancing Act 1919. Standard Condition: E14

E.12 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" published by the NSW Department of Housing 4th Edition ("The Blue Book").

THE DRAIN IS JUST FOR RAIN

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

E.13 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

E.14 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 & Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments. Standard Condition: E19

E.15 Placement and use of Skip Bins

The *principal contractor* or *owner builder* must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 94 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 to the extent they are adopted under the *Road Transport* (Safety and Traffic Management) (Road Rules) Regulation 1999.

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

E.16 Prohibition of burning

There must be no burning of any waste or other materials. The burning of CCA (copper chrome arsenate) or PCP (pentachlorophenol) 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 (Control of Burning) Regulation* 2000 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

E.17 Dust Mitigation

Dust mitigation must be implemented in accordance with "Dust Control - Do it right on site" published by the Southern Sydney Regional Organisation of Councils. This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed 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 down loaded free of charge from Council's web site 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.workcover.nsw.gov.au and www.epa.nsw.gov.au. Other specific condition 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

E.18 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* dated February 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 down loaded free of charge from Council's website www.woollahra.nsw.gov.au Standard Condition: E24

E.19 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

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

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

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

E.20 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
- 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 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 land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31

E.21 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. 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
- k) 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 Standard Condition: E32

E.22 Tree Preservation

All persons must comply with Council's Tree Preservation Order (TPO) other than where varied by this consent. The order applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

a) There shall be no excavation or work within a TPZ. The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.

- b) Excavation must cease where tree roots with a diameter exceeding 30mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*. Standard Condition: E8

d) Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with NATSPEC Specifying Trees. The replacement tree shall be maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting Location	Container Size/ Size of Tree (when planting)	Minimum Dimensions at Maturity
1 x Magnolia x soulangeana (Saucer Magnolia)	In accordance with Landscape Plan No.LWD01, designed by Context Landscape Design, dated June 2000	100 litre	5 metres in height x 4 metres in canopy spread
3 x Betula pendula (Silver Birch)	In accordance with Landscape Plan No.LWD01, designed by Context Landscape Design, dated June 2000	100 litre	5 metres in height x 3 metres in canopy spread
1 x Tristaniopsis laurina (Water gum)	Council verge in the footprint of existing driveway that must be demolished to allow for replacement tree planting	100 litre	6 metres in height x 4 metres in canopy spread

The project arborist shall document compliance with the above condition.

e) Level changes in the vicinity of trees

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

Council Ref No:	Species	Radius from Trunk (metres)
1	Ulmus parvifolia (Chinese	*An area measuring 1.5 metres from the rear
	Weeping Elm)	boundary into the subject property and extending
		from side boundary to side boundary

The project arborist shall document compliance with the above condition.

f) 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	Radius from Trunk (metres)
1	Ulmus parvifolia (Chinese Weeping Elm)	4
4X	Cupressus spp. (Adjacent northern corner of existing dwelling – within 12 Hamilton St)	3m

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 30mm 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 4 or recognised equivalent).

The project arborist shall document compliance with the above condition.

g) 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	Radius from centre of trunk (metres)
1	Ulmus parvifolia (Chinese Weeping Elm)	4

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 30mm 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 30mm.

The project arborist shall document compliance with the above condition.

Amended on 20 October 2023 under DA321/2014/3 (PAN-315817)

E.23 Check Surveys

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:

- 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

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 109M 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 109H (4) 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

F.2 Street Numbering

The development must be provided with street and sole occupancy unit numbers determined by Council. This condition has been imposed to ensure that emergency services, utility services, and the general public are able to clearly and readily locate any property. Further, this condition has been imposed to protect the integrity of street numbering and land information.

Note: Applications for the allocation of street and sole occupancy unit numbers should be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest. Standard Condition: F11

F.3 Letter Boxes

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

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

Standard Condition: F12

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 at www.swimmingpoolregister.nsw.gov.au.
- 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 1926.3-2003: Swimming pool safety Water recirculation and filtration systems.

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

- a) 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:
- b) 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: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf Standard Condition: F13

F.5 Fire Safety Certificates

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a new building, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed new building, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation. final fire safety certificate has the same meaning as it has in Part 9 of the Regulation. new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

F.6 Amenity Landscaping

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

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

Standard Condition: F6

F.7 Commissioning and Certification of Systems and Works

The *principal contractor* or *owner builder* must submit to the satisfaction of the *PCA* 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 ("WAE") 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 Certifying Authority may require.

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

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

F.8 Commissioning and Certification of Public Infrastructure Works

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

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

Standard Condition F9 (Autotext FF9)

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

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

G.1 Electricity Substations – Dedication as road and/or easements for access

If an electricity substation, is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors are not to intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Principal Certifying Authority* prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any Statutory Corporation requiring access to the electricity substation.

Standard Condition: G4

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1373179M 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

Amended on 02 May2024 under DA321/2014/4 (PAN-409030)

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

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.

Standard Condition: H9

H.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in accordance with the Roads Act 1993 approvals and comply with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated February 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
- i) New or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 80A(6) of the Act will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the *Final Occupation Certificate* to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

Standard Condition: H13

H.5 Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

- a) compliance with conditions of development consent relating to stormwater and flooding,
- that the flood protection measures in the flood impact risk assessment report for the major flooding have been fully implemented;
- c) the structural adequacy of the following stormwater structures:
 - mechanical flood barriers;
 - stormwater treatment system;
 - rain gardens;
 - rainwater tank; and
 - pump-out system
- d) that the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations,

- 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.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the on-going maintenance of the on-site-detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The property owner must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant.

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

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

Amended on 20 October 2023 under DA321/2014/3 (PAN-315817)

H.6 Dilapidation Report for Public Infrastructure Works

The Principal Contractor must submit a follow up dilapidation report to Council. The report must be prepared by a Chartered Professional Engineer, on Council's infrastructure within and near the development site to Council upon completion of the work.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- closed circuit television/video inspection (in DVD format) of public stormwater drainage system adjoining the site, and
- f) the full name and signature of the professional engineer.

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

Before the issue of any Occupation Certificate, written correspondence must be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier before the issue of any Occupation Certificate.

Note: If the Principal Contractor fails to submit the dilapidation 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: H14 (AutotextHH14)

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

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

I.1 On-going maintenance of the on-site-detention system

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

a) Permit stormwater to be temporarily detained by the system, including stormwater treatment system, rain gardens, rainwater tanks and pump-out tank.

- b) Keep all the system clean and free of silt rubbish and debris.
- c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by Council.
- d) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- e) Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.
- f) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice.
- h) Where the owner fails to comply with the owner's obligations under this covenant, permit Council or its agents at all times and on reasonable notice at the owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.
- i) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the owners in respect of the owner's obligations under this condition.

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

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

Standard Condition: 129

Amended on 20 October 2023 under DA321/2014/3 (PAN-315817)

I.2 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.1373179M_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

Amended on 02 May 2024 under DA321/2014/4 (PAN-409030)

I.3 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 Pool and Spa Pool Guidelines" in force at that time. Private pools are encouraged to comply with the same standards as applicable:
- c) In compliance with AS 1926.3-2003: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 Pool and Spa Pool Guidelines can be down loaded free from: http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf Standard Condition: 130

I.4 Waste Management - Residential

Waste Management must comply with the approved Site Waste Minimisation and Management Plan (SWMMP) and with the requirements of Council's Site Waste and Minimisation Development Control Plan 2010.

The occupier of the site must place waste and recycling bins/crates on the footpath for collection but not earlier than 12 hours prior to the designated collection time.

The occupier of the site must remove waste and recycling bins/crates from the footpath within 12 hours of being emptied by Council's waste service and they must be stored within the site in the approved waste storage area.

No commercial waste must be placed within residential waste and recycling bins/crates.

This condition has been imposed to ensure that the provisions of the approved SWMMP and of Council's Site Waste Minimisation and Management Development Control Plan, 2010 are complied with during the ongoing operations of the development.

Note: For further residential wastes management policy information go to <u>www.woollahra.nsw.gov.au</u> or contact Council's Waste Education Officer. Standard Condition: I52

I.5 Noise Control

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

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (http://www.environment.nsw.gov.au/noise/nglg.htm) and the *Industrial Noise Guidelines* (http://www.environment.nsw.gov.au/noise/industrial.htm) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act* 1997.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au /index.php).

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

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: I56

I.6 Noise from mechanical plant and equipment

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

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

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

Note: Words in this condition have the same meaning as in the:

NSW Industrial Noise Policy

(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)

ISBN 0 7313 2715 2, dated January 2000, and

Noise Guide for Local Government (http://www.environment.nsw.gov.au/noise/nglg.htm)

ISBN 1741370671, dated December 2004.

Standard Condition: 159

I.7 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 2008 as follows:

- Before 8am of after 8pm during Saturdays, Sundays and public holidays;
- Before 7am or after 8pm on any other day.

I.8 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an essential fire safety measure is applicable must provide an annual fire safety statement to Council and the Commissioner of the NSW Fire Brigades. The annual fire safety statement must be prominently displayed in the building.

Note: Essential fire safety measure has the same meaning as in clause 165 of the Regulation. Annual fire safety statement has the same meaning as in clause 175 of the Regulation. Part 9 Division 5 of the Regulation applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety www.woollahra.nsw.gov.au. Standard Condition: 122

I.9 Ongoing Maintenance of the Flood Protection Measures

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

- a) Not take any act, matter or thing which would prevent the flood protection measures (e.g. mechanical flood barriers) from operating in a safe and efficient manner.
- b) Not make any alterations to the flood protection measures or elements thereof without prior consent in writing of the Council and not interfere with the flood protection measures or by its act or omission cause it to be interfered with so that it does not function or operate properly:
- c) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;

- d) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- e) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- f) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the flood protection measures and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for the flood protection measures and overland flow path.

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

Added on 20 October 2023 under DA321/2014/3 (PAN-315817)

J. Miscellaneous Conditions

No conditions.

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.

Standard Advising: K1

K.2 Dial before you dig



The *principal contractor*, *owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit www.dialbeforeyoudig.com.au.

When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation. Standard Advising: K2

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.

Standard Condition: K5

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.

Standard Condition: K6

K.5 Workcover requirements

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

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

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

Standard Condition: K7

K.6 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW.

Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with:

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

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice. Standard Advising: K8

K.7 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. Standard Advising: K9

K.8 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ms S Richards, Senior Assessment Officer, on (02) 9391 7064.

However, if you wish to pursue your rights of appeal in the Land & 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

K.9 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 Standard Condition: K15

K.10 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

K.11 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 the Office of Fair Trading. See www.fairtrading.nsw.gov.au.

Standard Condition: K18

K.12 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's *Tree Preservation Order* 2006 (TPO) 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 TPO from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19

K.13 Dilapidation Report Condition

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 PCA 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

K.14 Roads Act 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 roadway
- Installation of soil/rock anchors under the roadway

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 counter. 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 & 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.

<u>Note</u>: 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 Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and

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

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

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

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

Note: When a large *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

Attachments

1. Plans, elevations, sections, shadow diagrams and survey 🗓 🖺

RESIDENTIAL APARTMENTS

2A SPENCER ST, ROSE BAY NSW 2029

NEW 3 STOREY RESIDENTIAL APARTMENTS AND BASEMENT

JRAWING NO	DRAWING NAME	SCALE	REV
34.55_00	COVER PAGE		03
34.55_01	CONTEXT		03
34.55_02	LOCATION		03
34.55_03	SITE ANALYSIS	1:200	03
34.55_04	BASIX		03
34.55_05	BASEMENT PLAN	1:100	03
34.55_06	GROUND FLOOR PLAN	1:100	03
34.55_07	FIRST FLOOR PLAN	1:100	03
34.55_08	SECOND FLOOR PLAN	1:100	03
34.55_09	SITE_ROOF PLAN	1:100	03
34.55_10	ELEVATIONS	1:100	03
34.55_11	ELEVATIONS	1:100	03
34.55_12	SECTIONS	1:100	03
34.55_13	STREET FENCE ELEVATION	1:75	03
34.55_14	FINISHES SCHEDULE	1:125	03
34.55_15	TREE CANOPY COVERAGE	1:100	03
34.55_19	WINDOW SCHEDULE		03
34.55_20	WINDOW SCHEDULE		03
34.55_22	GFA DIAGRAMS	1:125	03
34.55_23	EXCAVATION/FILL DIAGRAMS	1:125	03
34.55_24	LANDSCAPE DEEP SOIL DIA	1:125	03
34.55_25	WASTE MANAGEMENT PLAN	1:100	03
34.55_30	NOTIFICATION	1:400	03



CODE477270 CJ Apr 2024

Control contro

FOR S4.55 - NOT FOR CONSTRUCTION



Common Office

L1, 45 Hutchinson St
Stury Hill
NSW Australia
Www.common-office.com



TO BE IN ACCORDANCE WITH THE

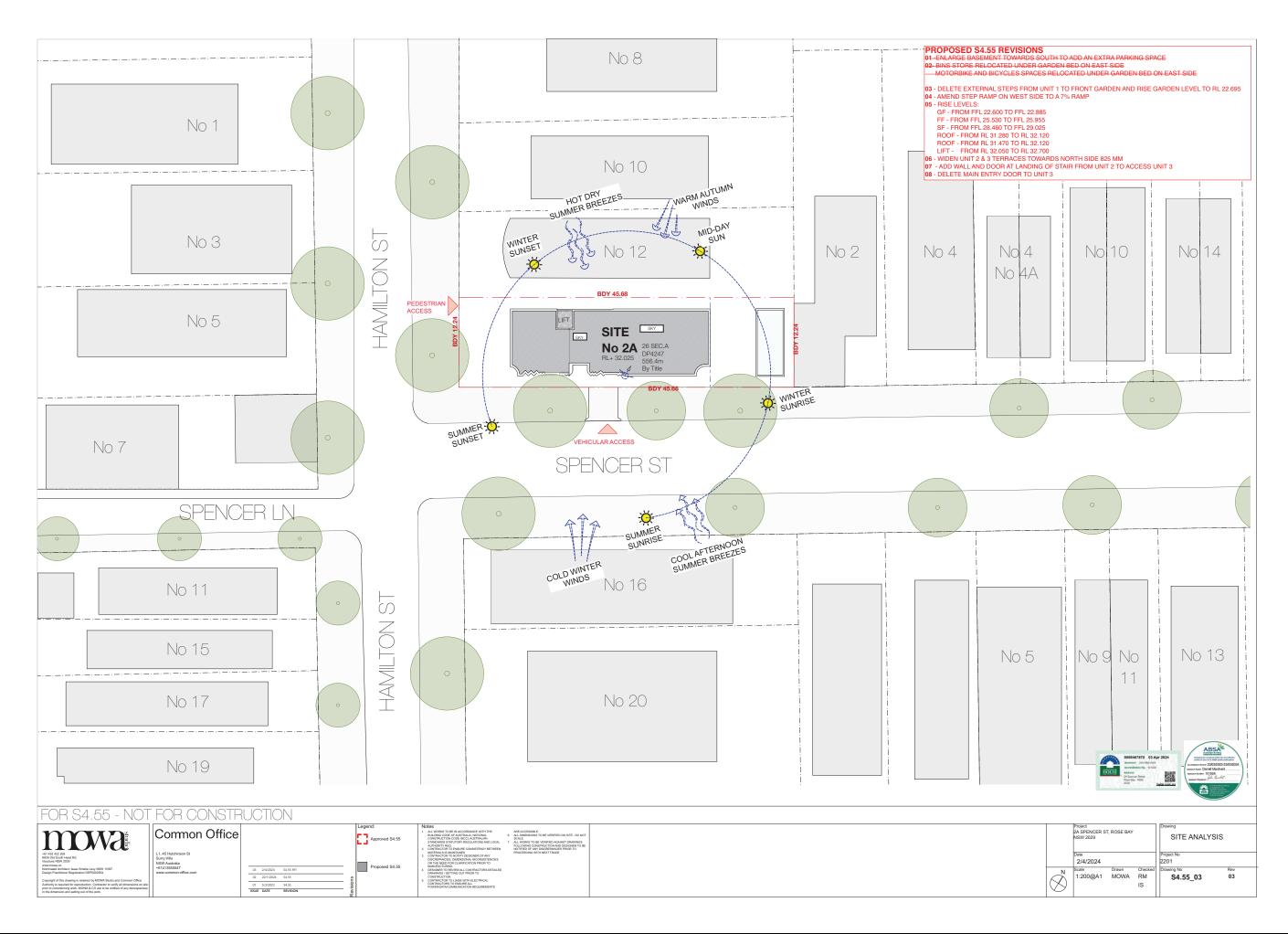
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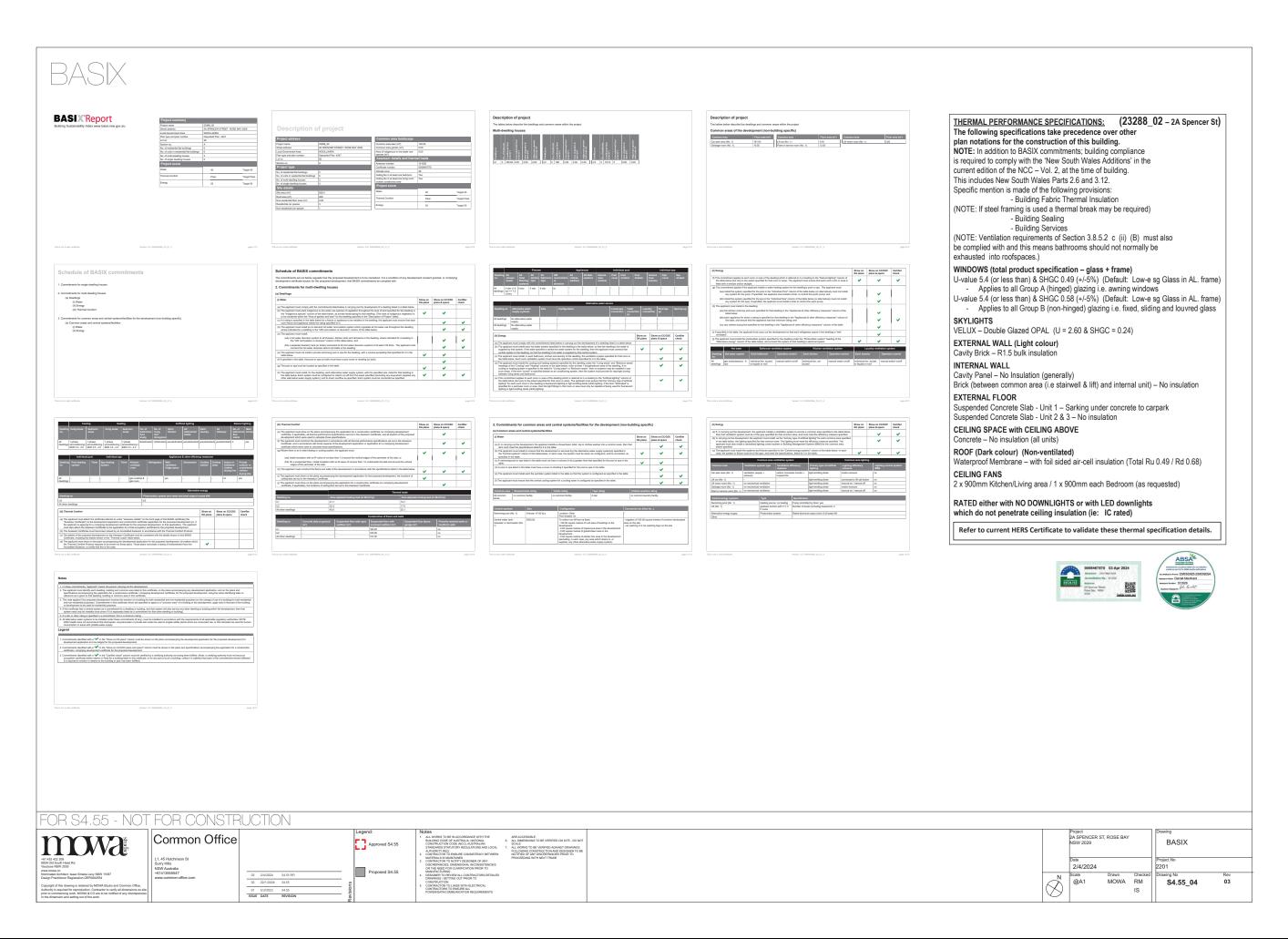
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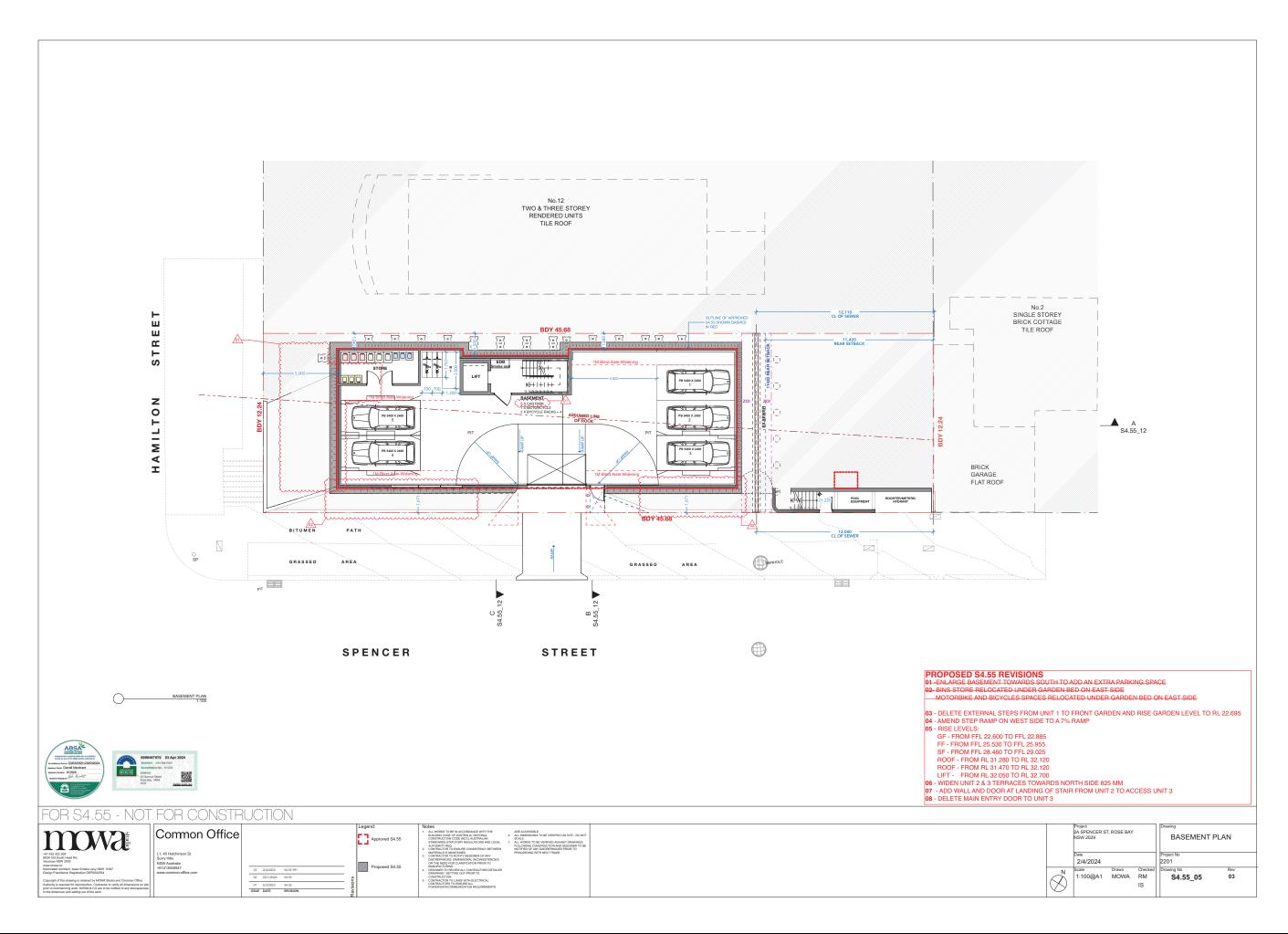
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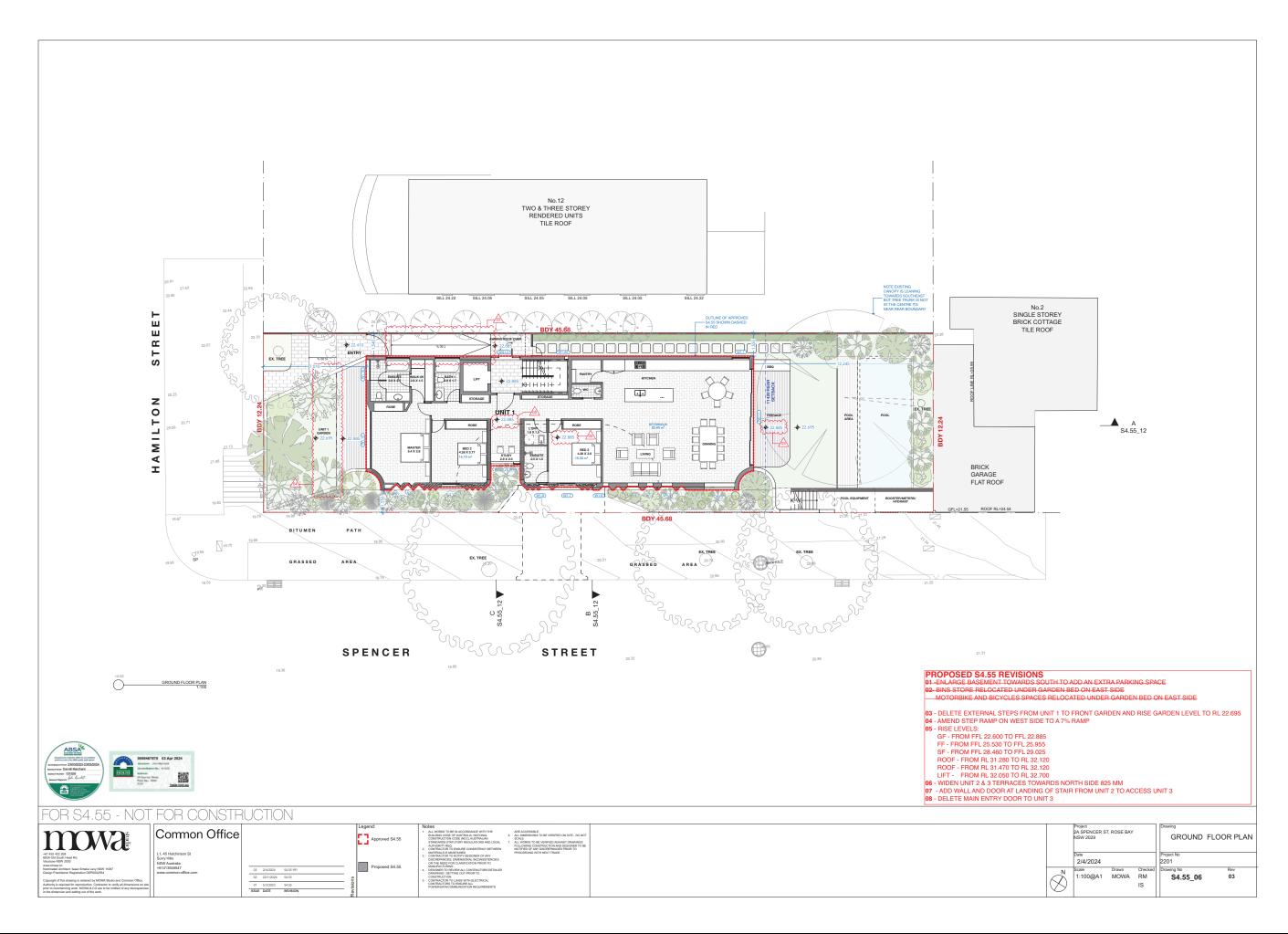


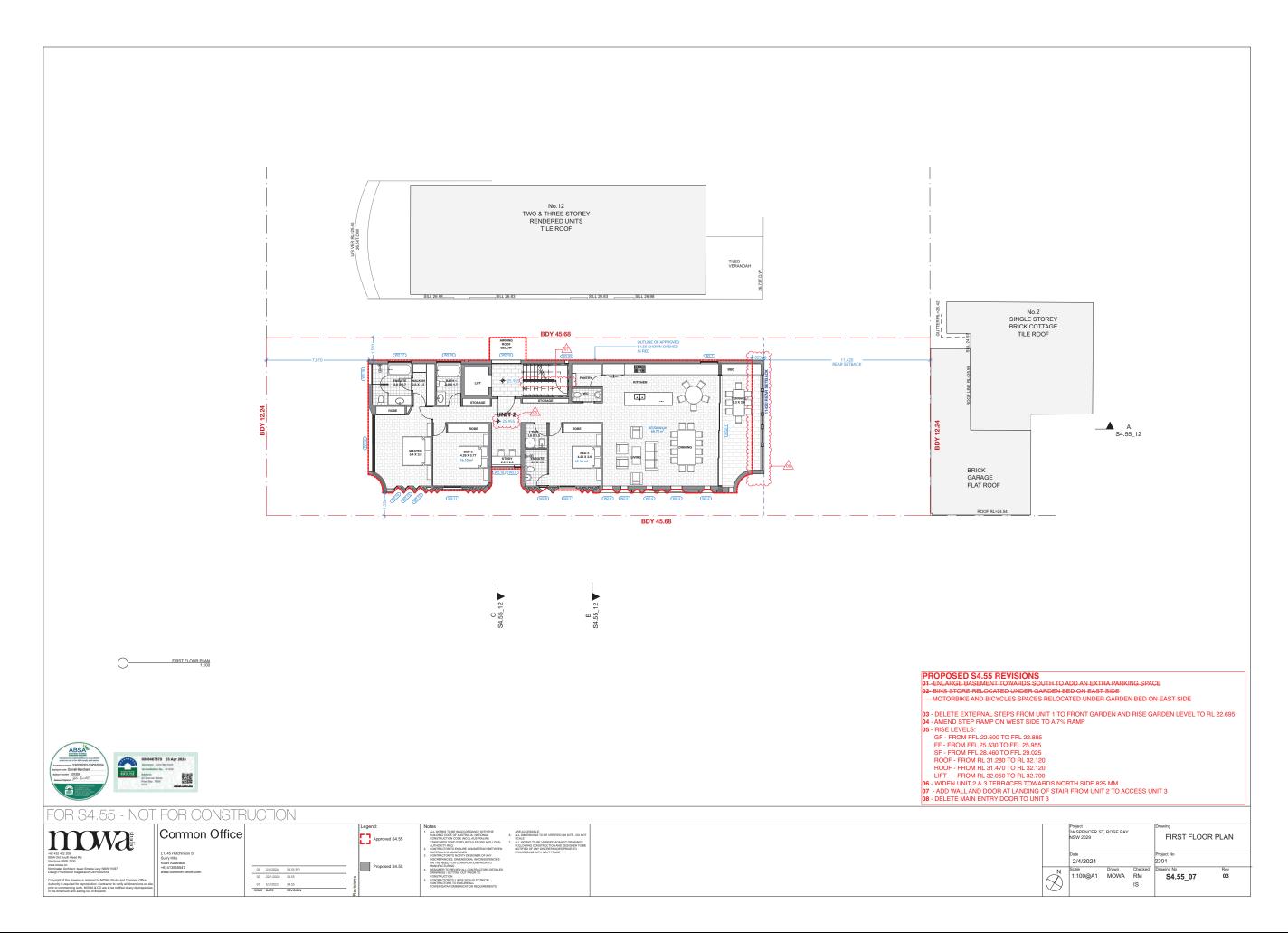


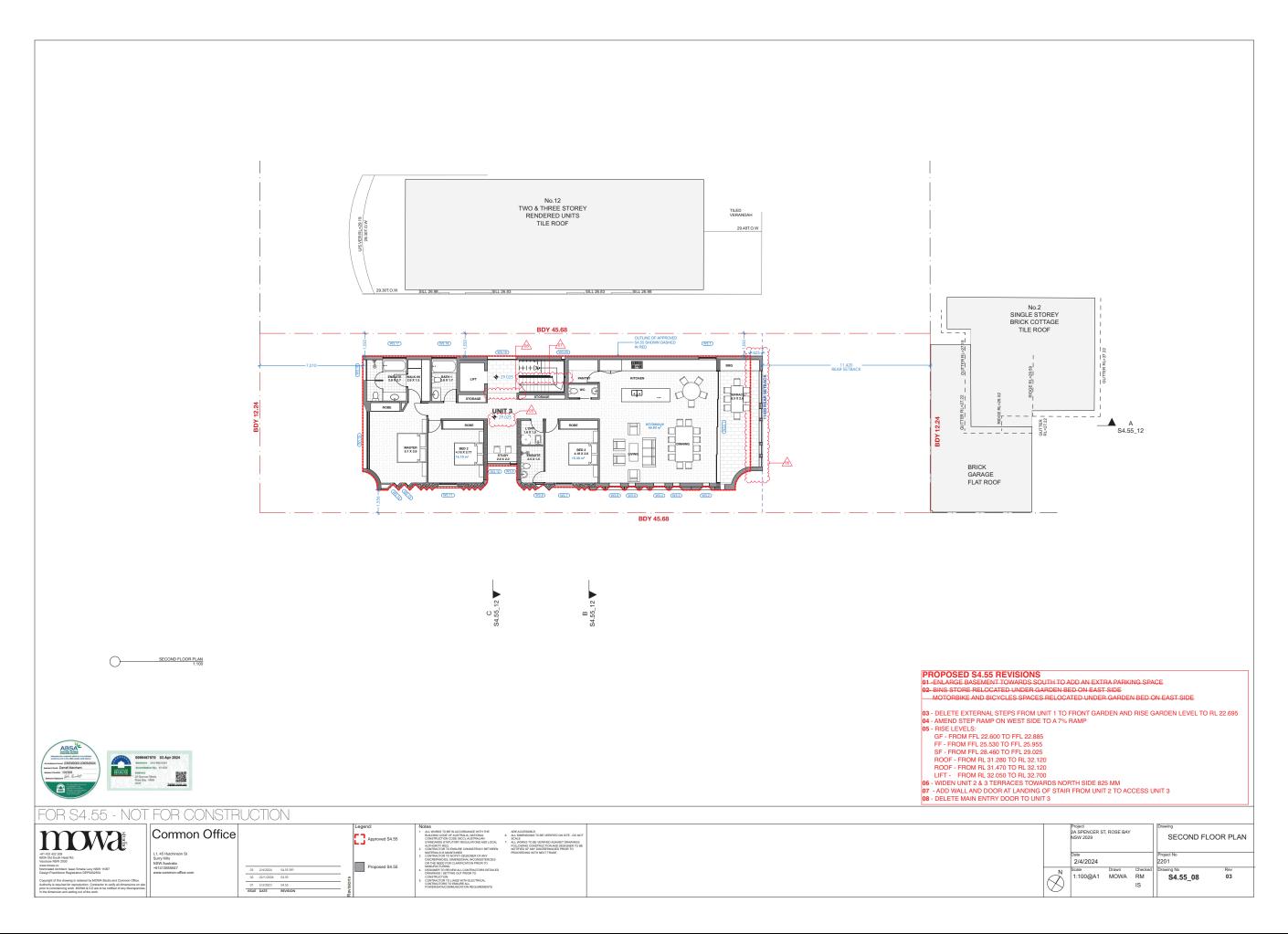


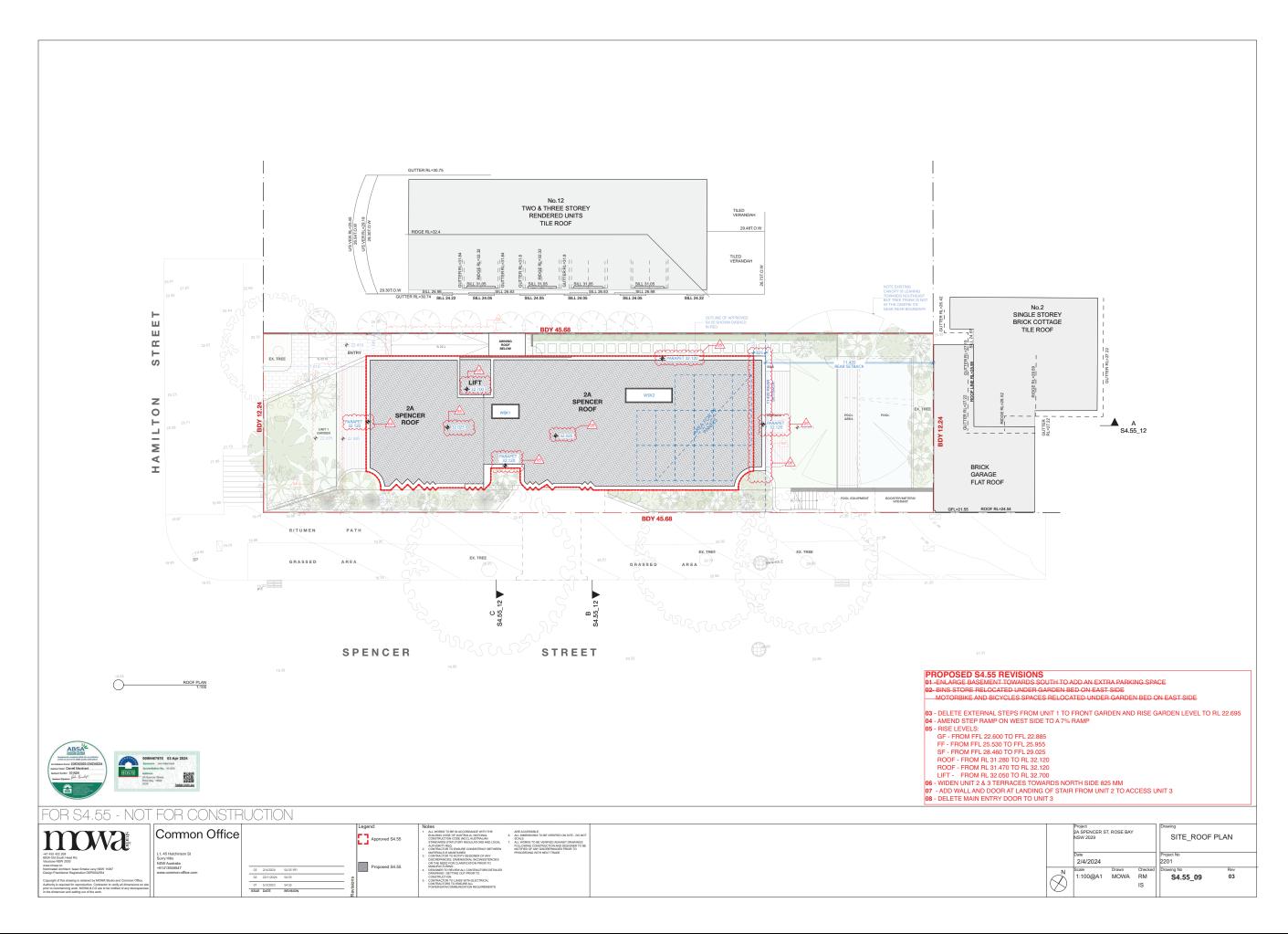


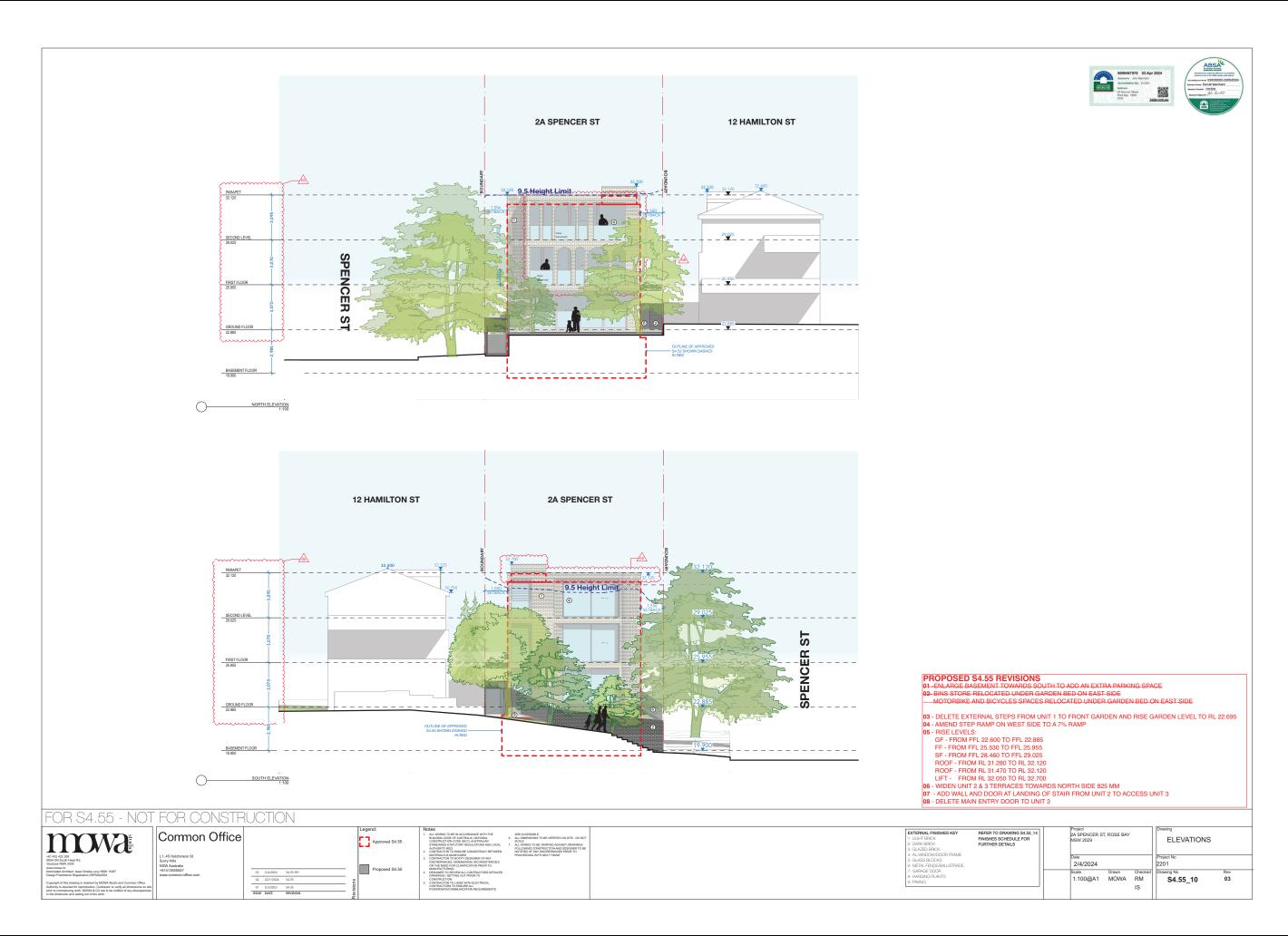


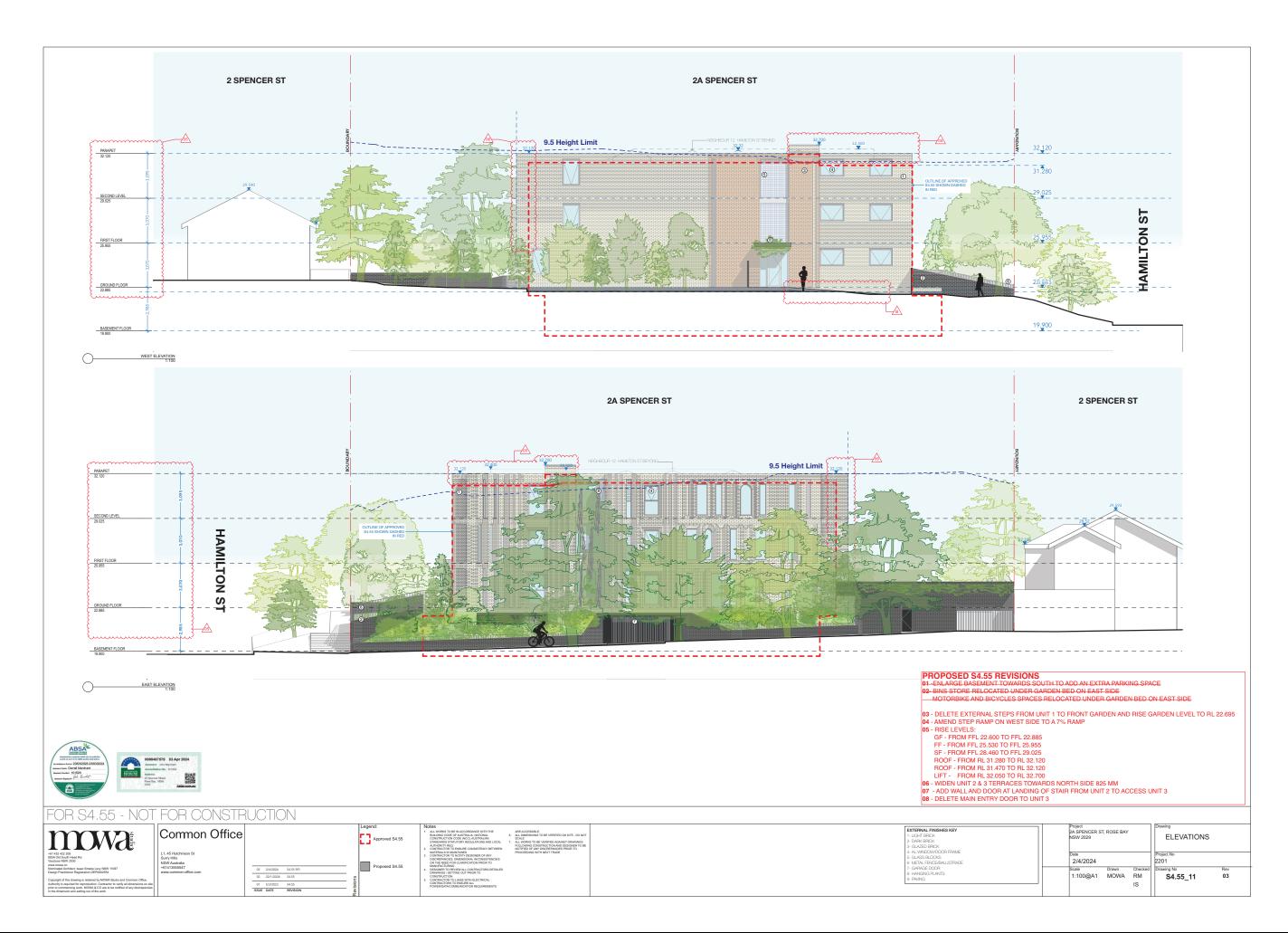


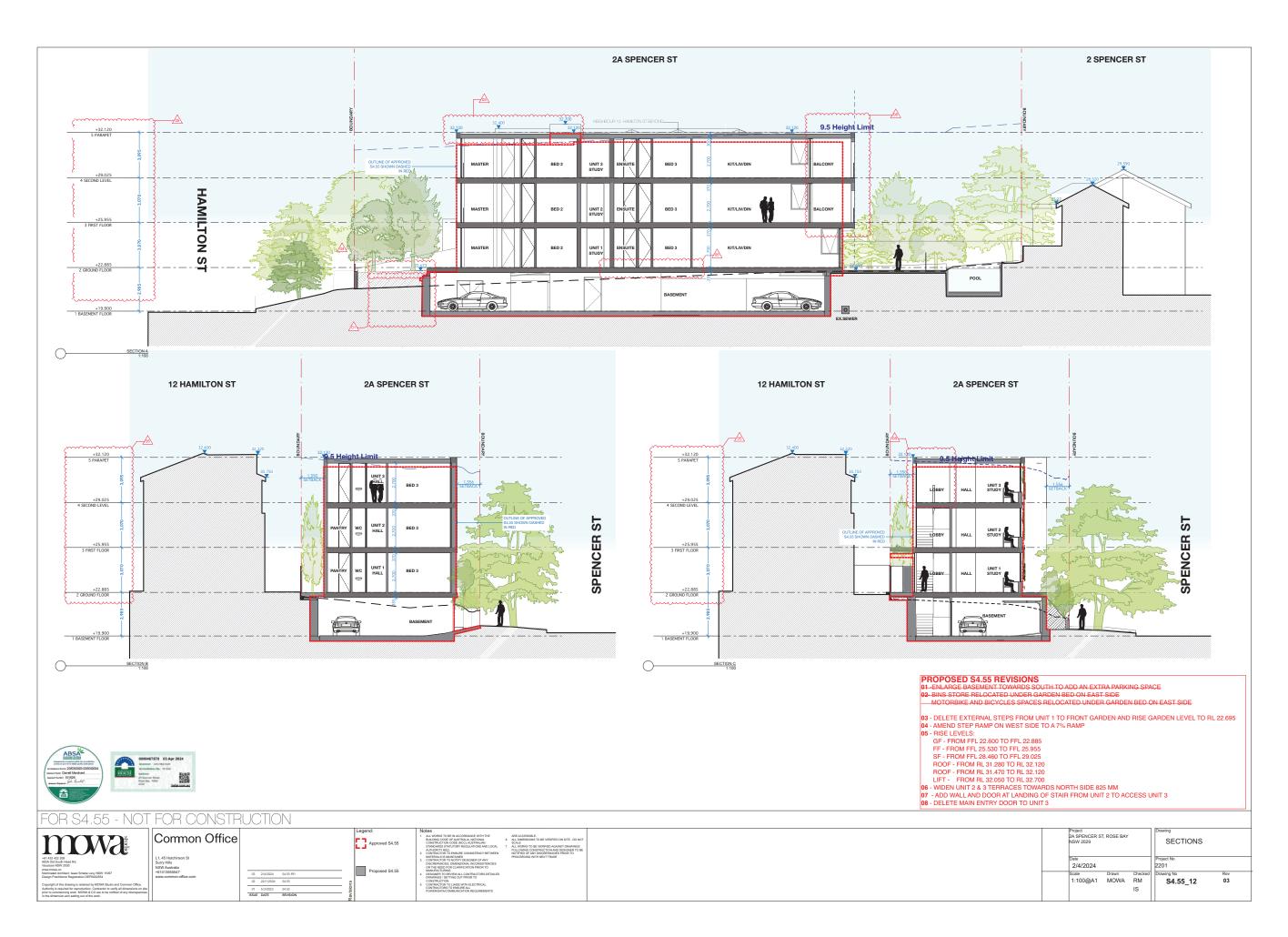






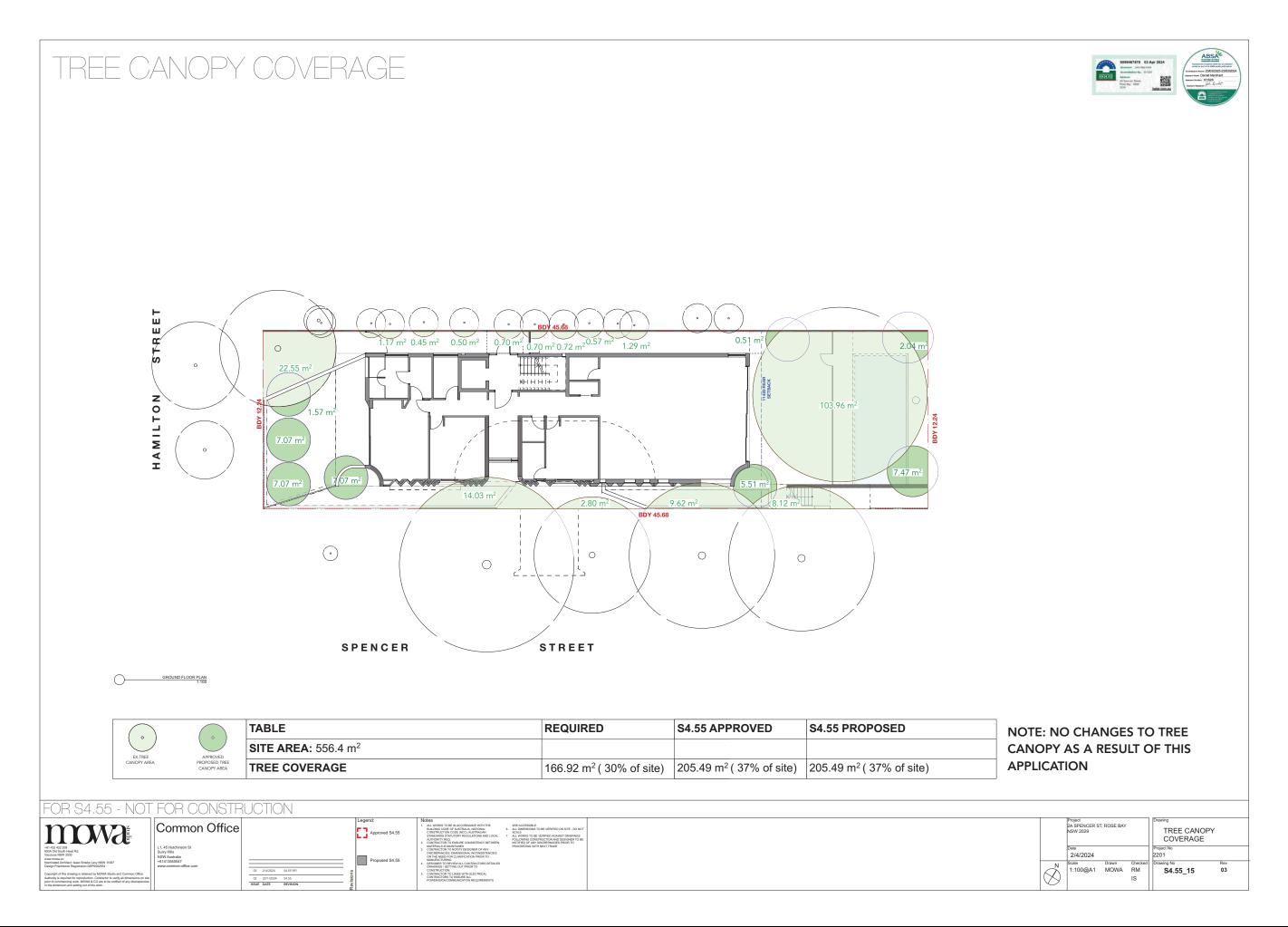


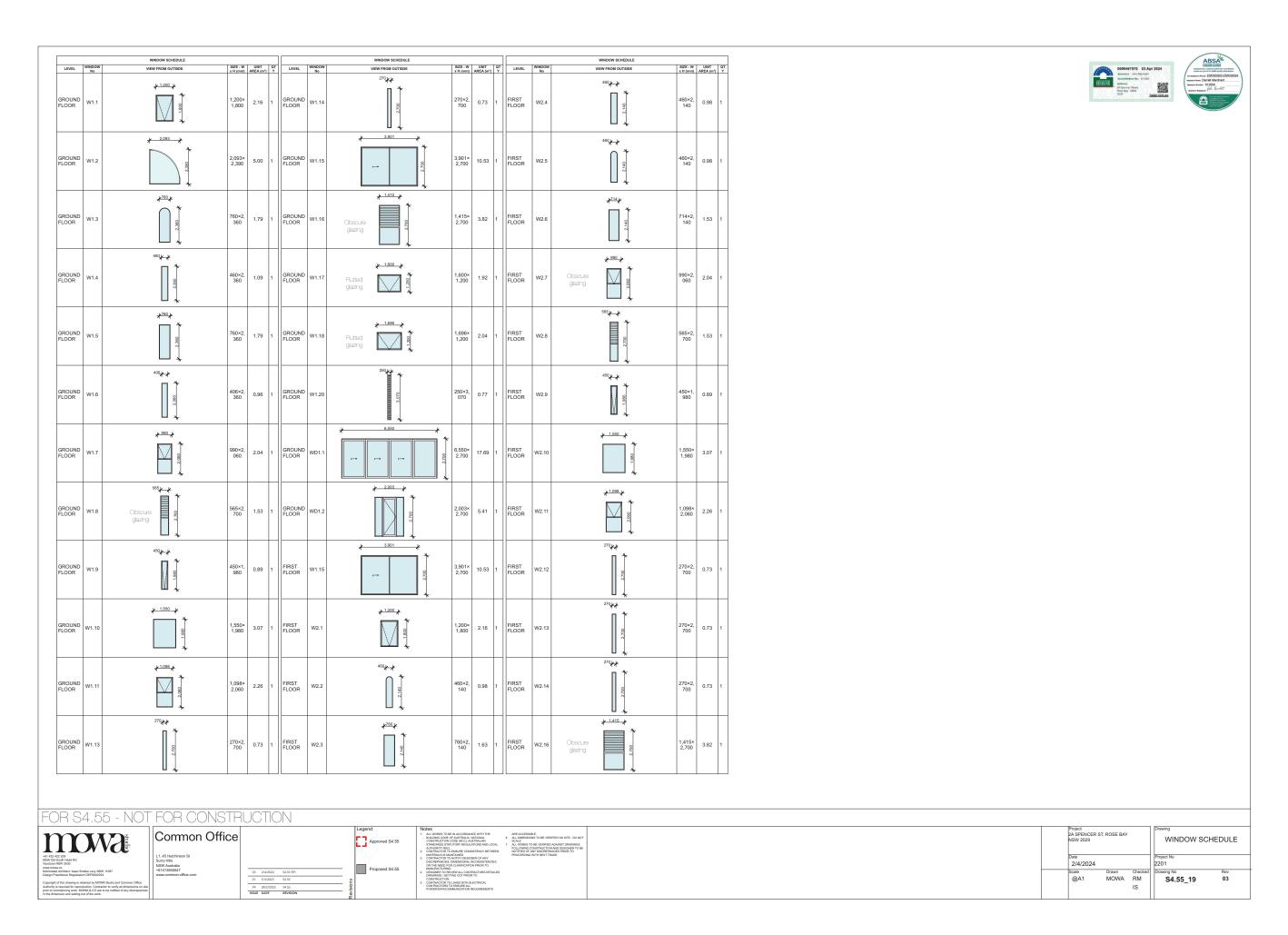


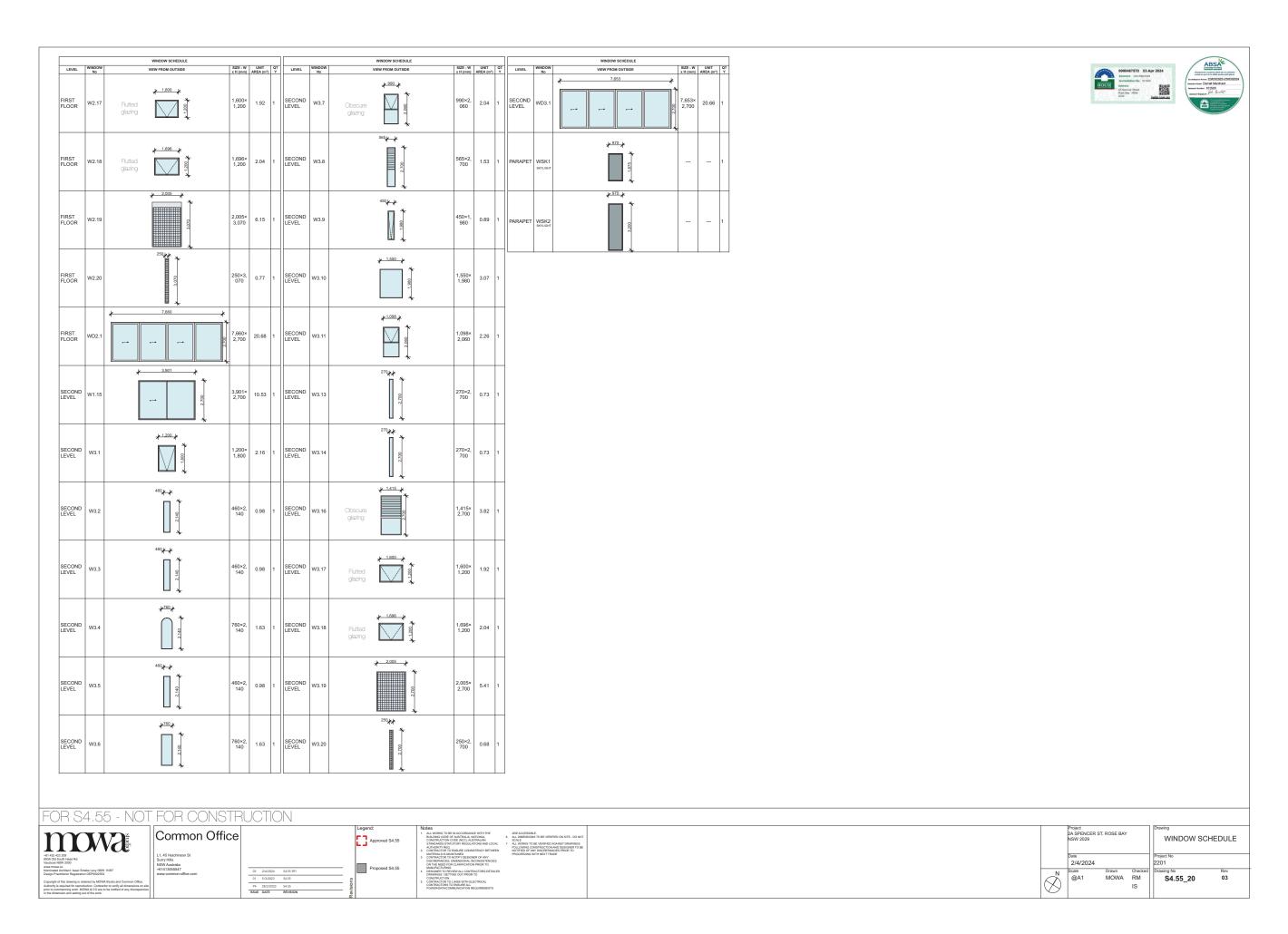


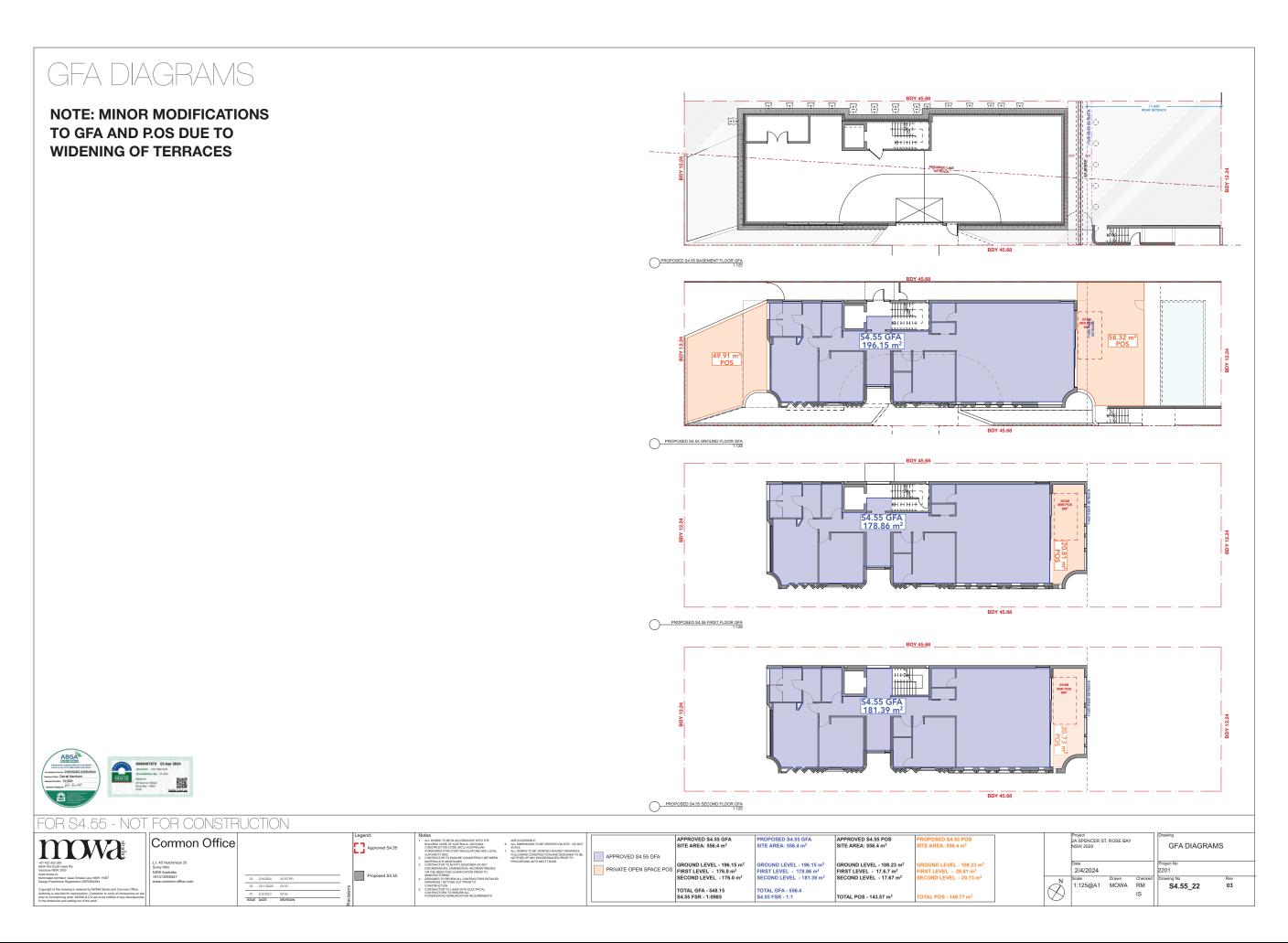


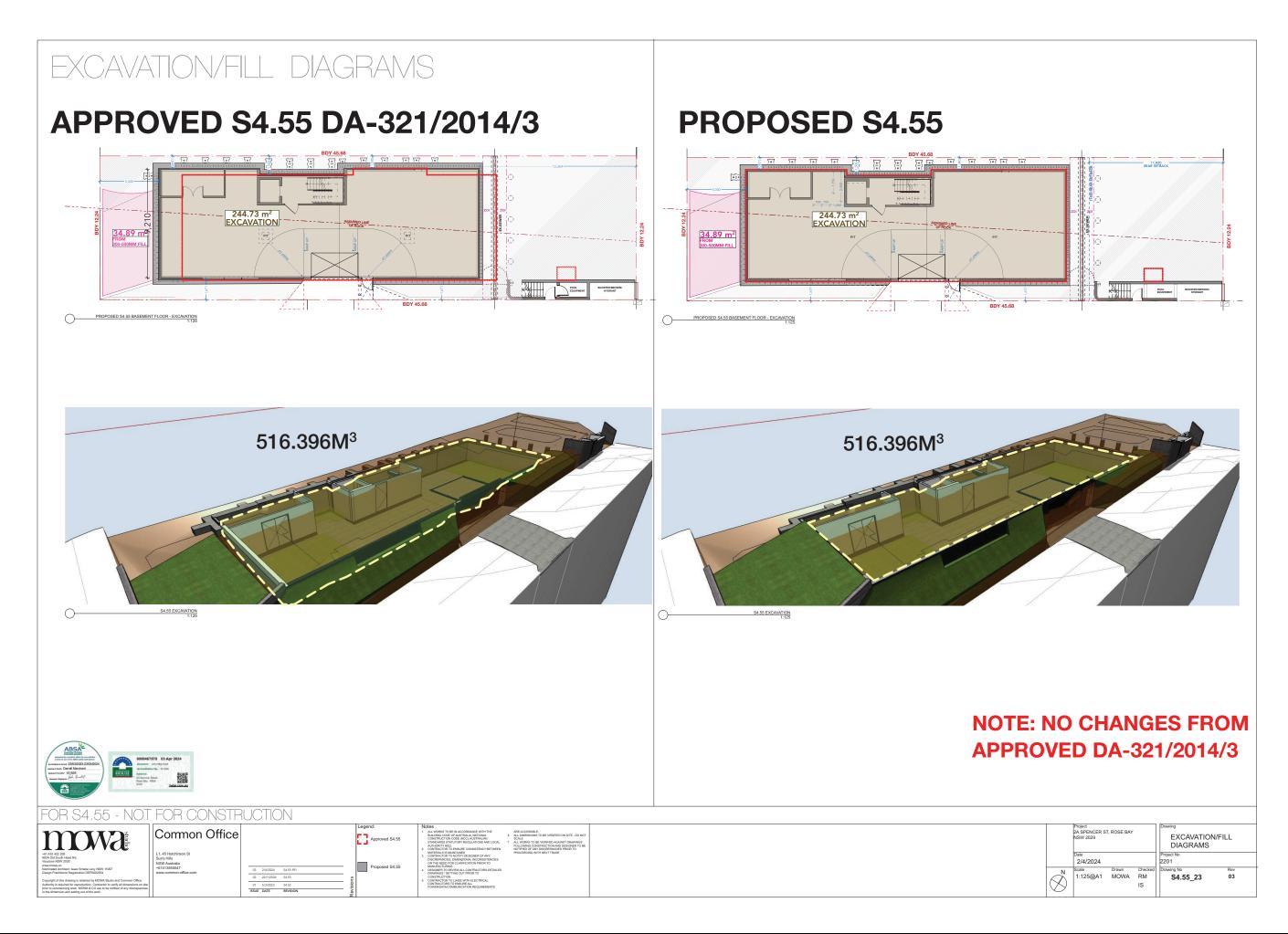






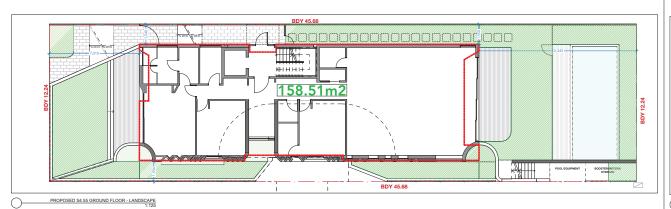




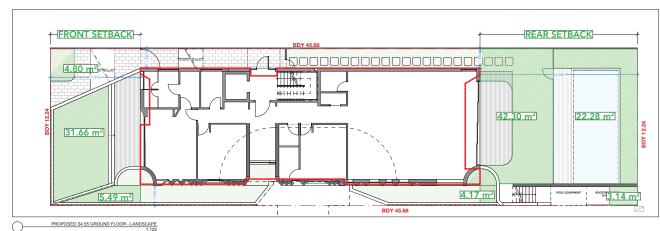


LANDSCAPE DIAGRAMS

APPROVED S4.55 DA-321/2014/3



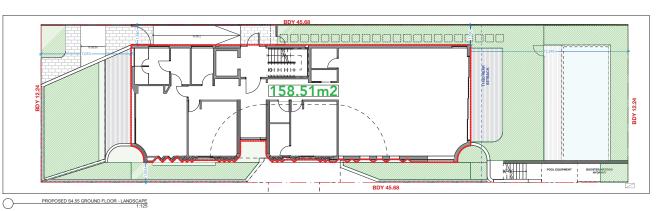
S4.55 - DEEP SOIL LANDSCAPE OUTSIDE BUILDING AREA = 158.51M2



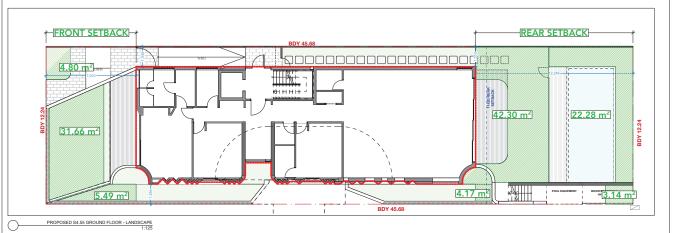
DEEP SOIL LANDSCAPE FRONT SETBACK = 41.95M2

S4.55
DEEP SOIL LANDSCAPE REAR SETBACK = 71.89M2

PROPOSED S4.55



S4.55 - DEEP SOIL LANDSCAPE OUTSIDE BUILDING AREA = 158.51M2



S4.55
DEEP SOIL LANDSCAPE FRONT SETBACK = 41.95M2

S4.55
DEEP SOIL LANDSCAPE REAR SETBACK = 71.89M2

TABLE	REQUIRED	S4.55 APPROVED DA-321/2014/3	S4.55 PROPOSED
SITE AREA: 556.4 m ²			
DEEP SOIL LANDSCAPE OUTSIDE BUILDABLE AREA	161.56 m ²	158.51 m ²	158.51 m ²
FRONT SETBACK DEEP SOIL (85.81 m ²)	34.324 m ² (40% of front setback)	41.95 m ² (48.8% of front setback)	41.95 m ² (48.8% of front setback)
REAR SETBACK DEEP SOIL (149.89m²)	74.94 m ² (50% of rear setback)	71.89 m ² (47.96% of rear setback)	71.89 m ² (47.96% of rear setback)

NOTE: NO CHANGES FROM APPROVED DA-321/2014/3



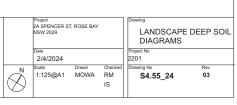
FOR S4.55 - NOT FOR CONSTRUCTION

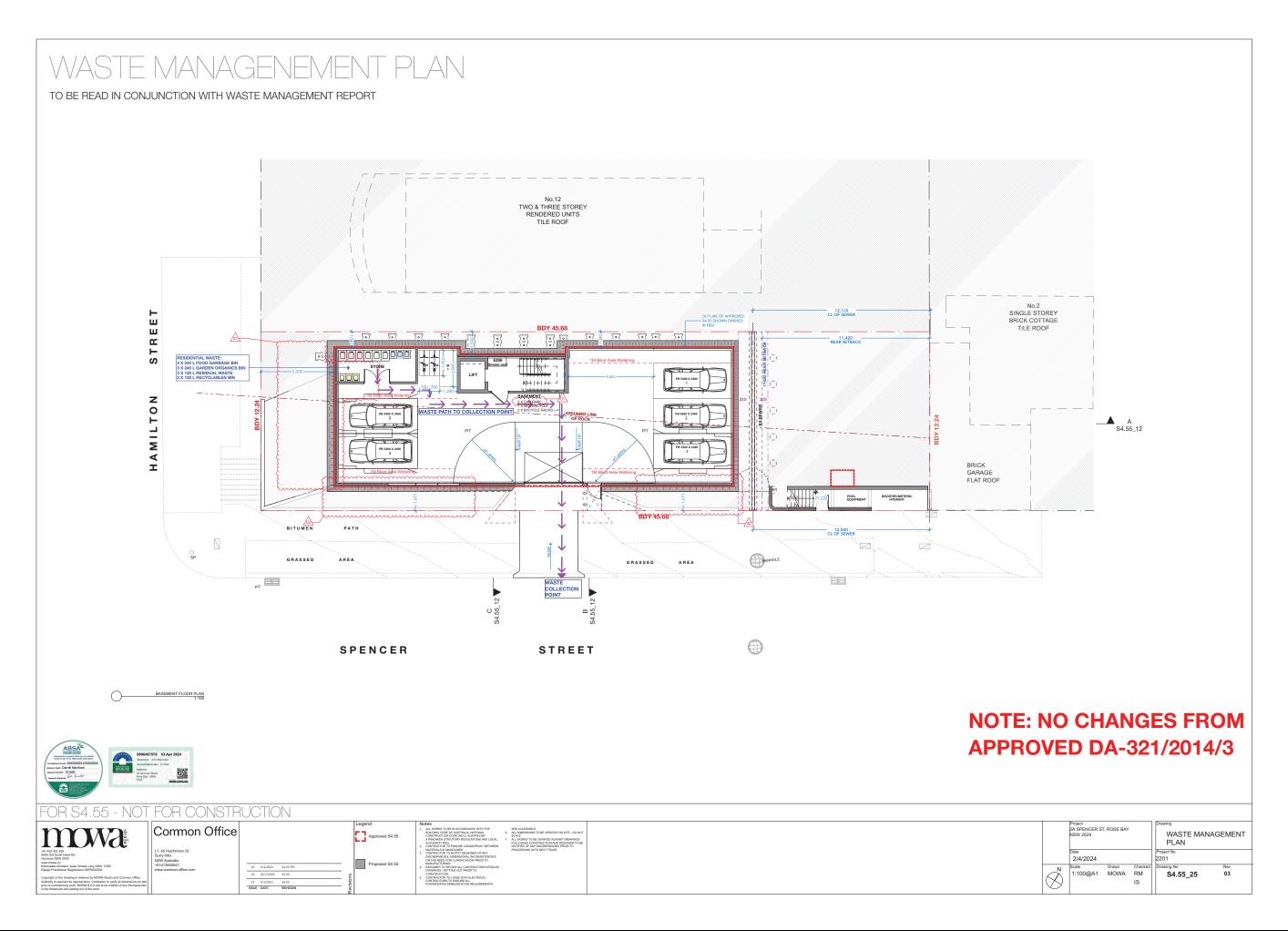


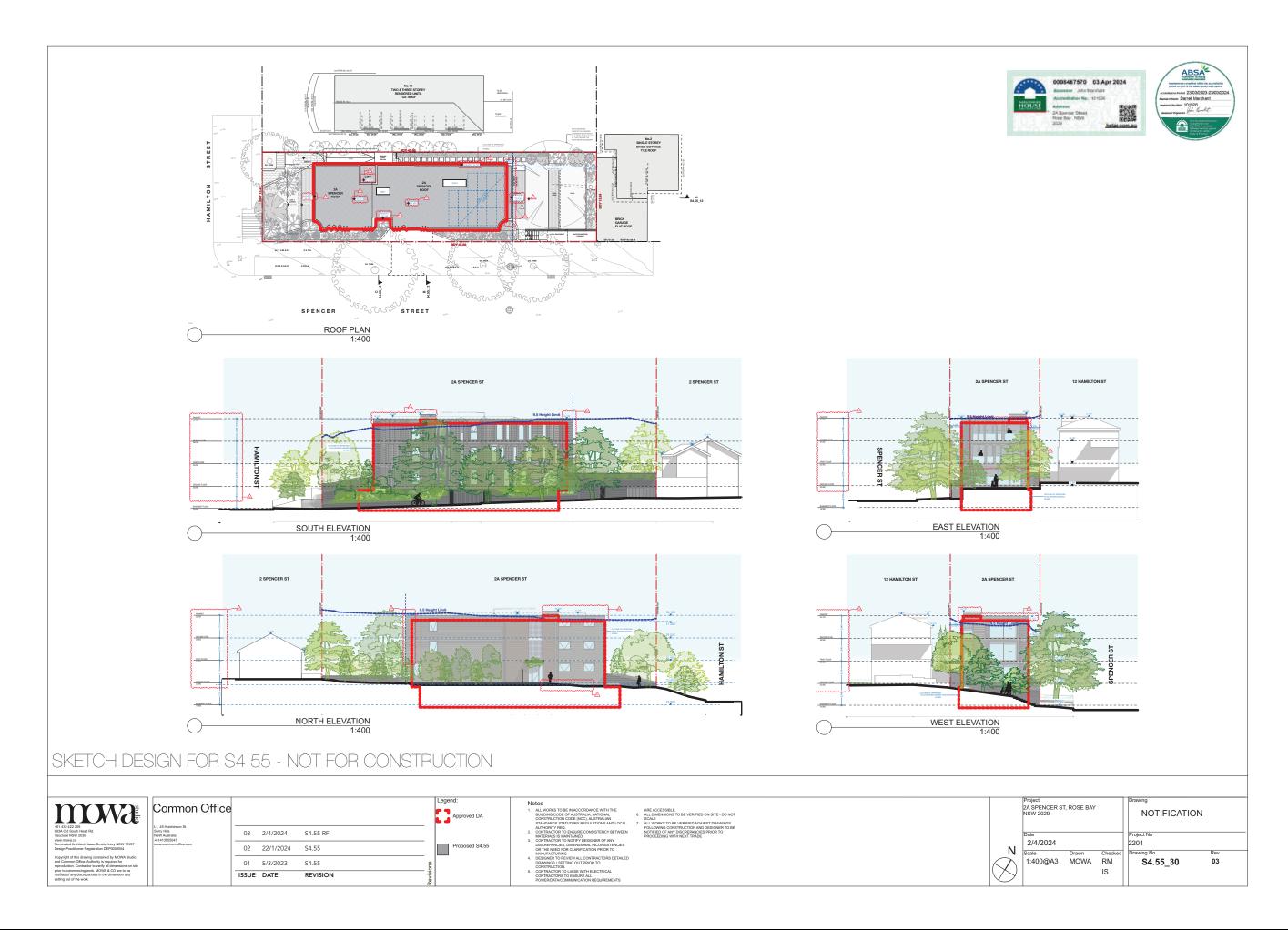


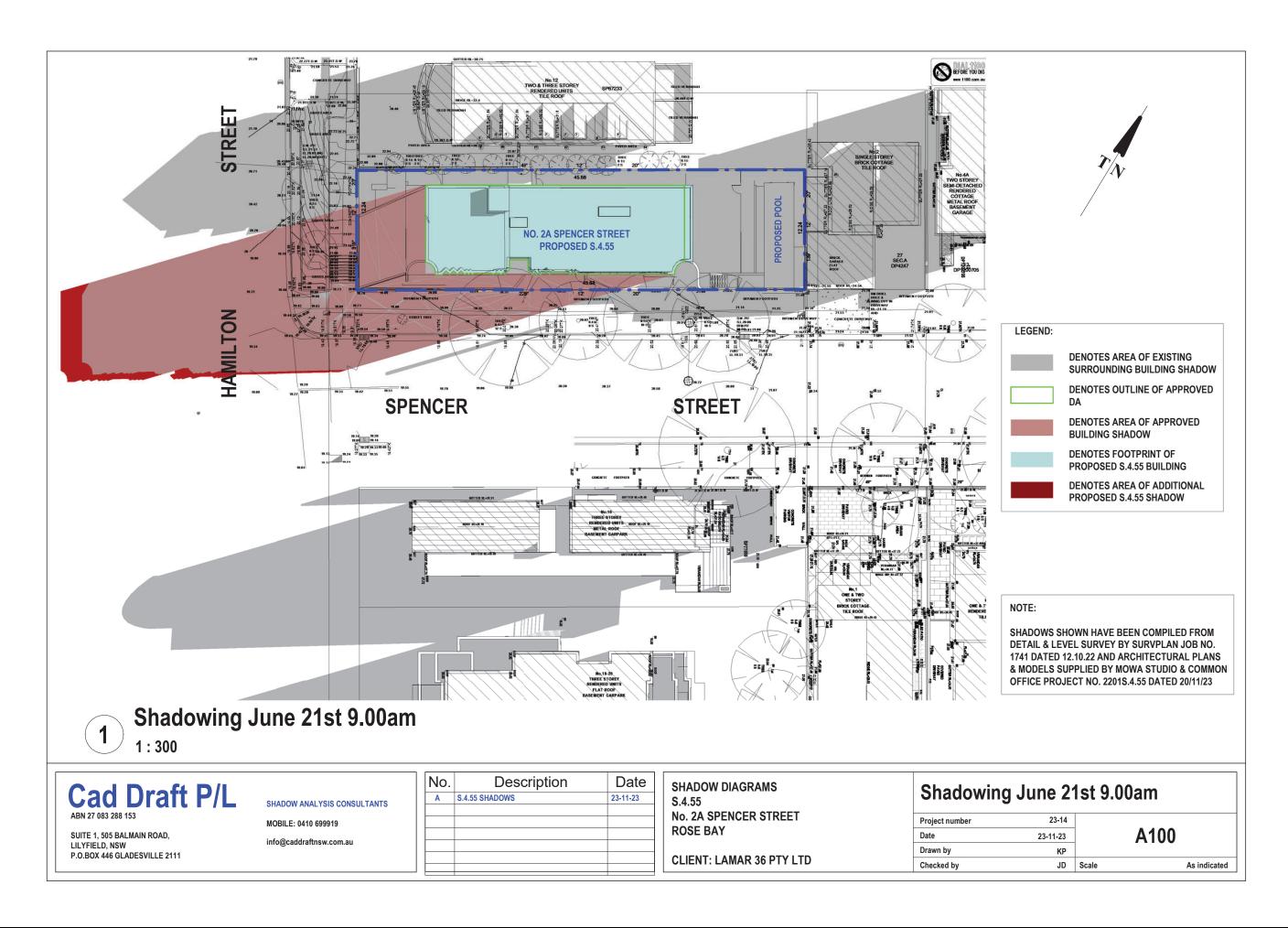


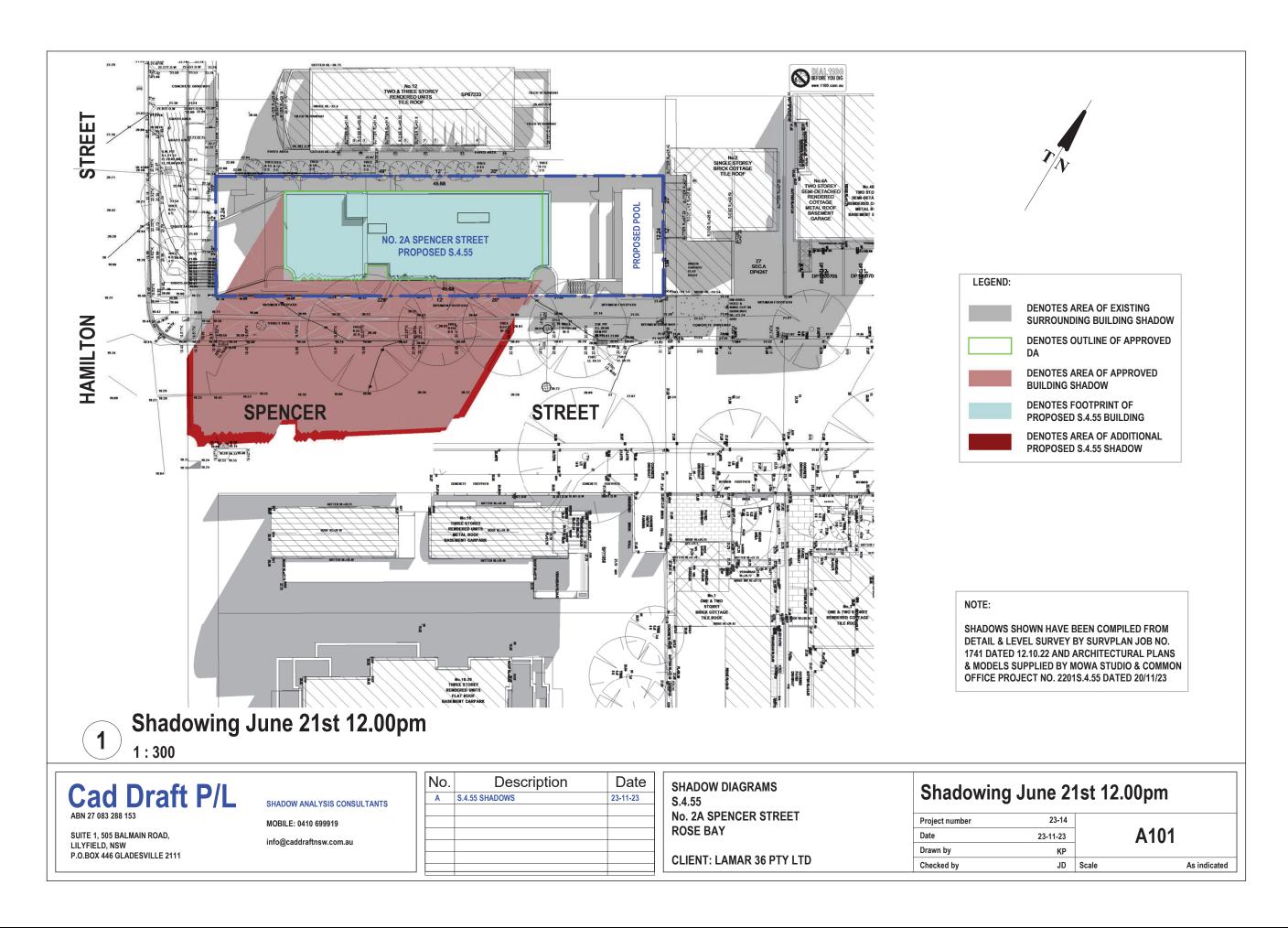


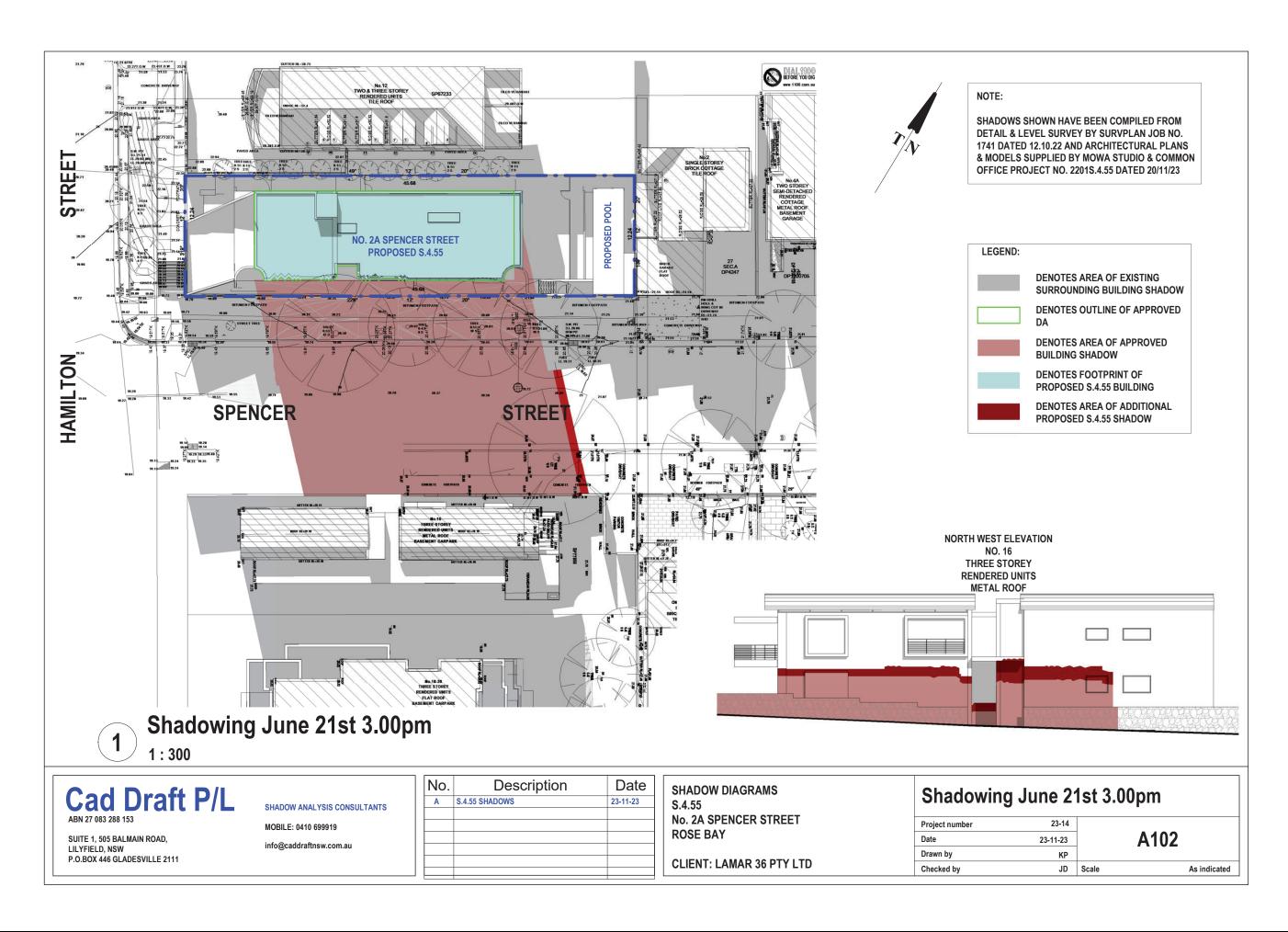


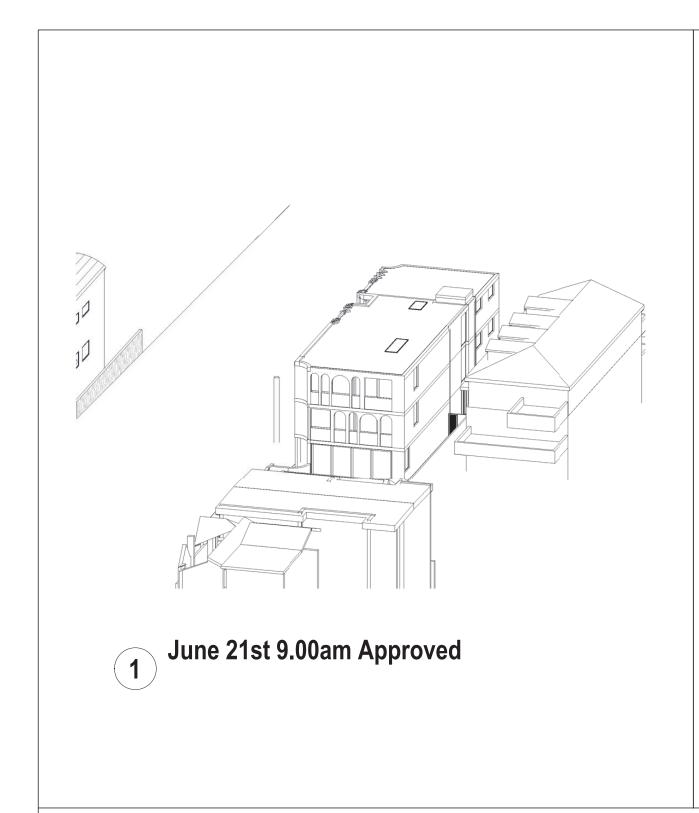


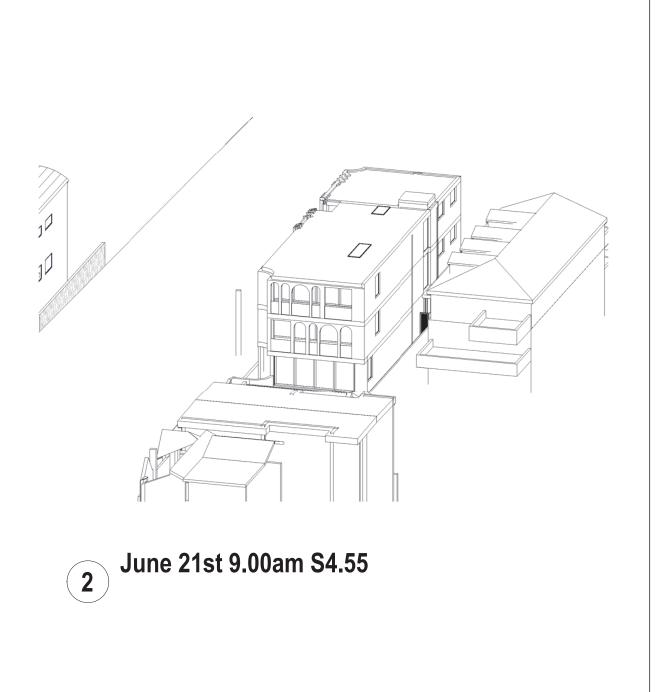












SUITE 1, 505 BALMAIN ROAD, LILYFIELD, NSW P.O.BOX 446 GLADESVILLE 2111 SHADOW ANALYSIS CONSULTANTS

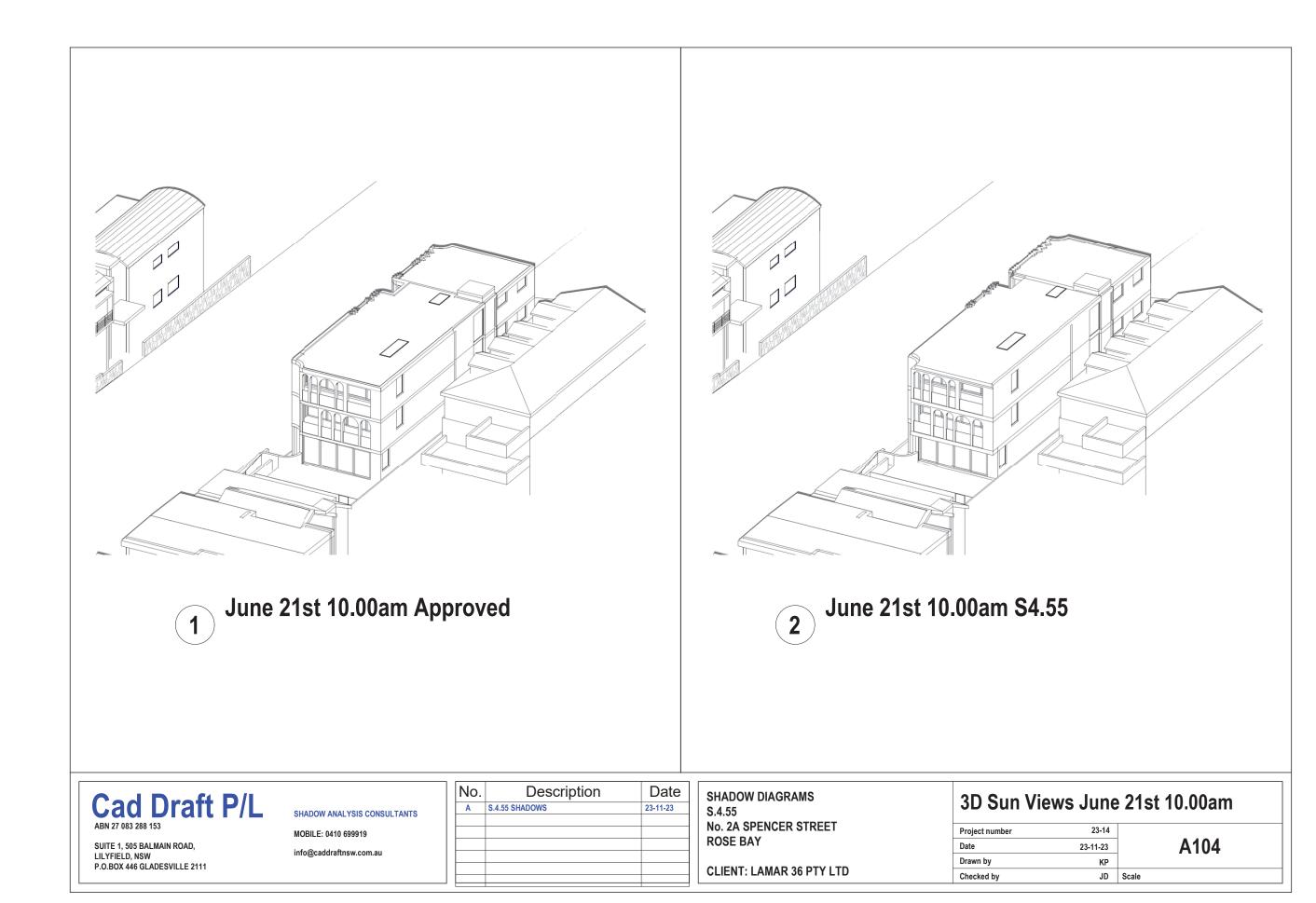
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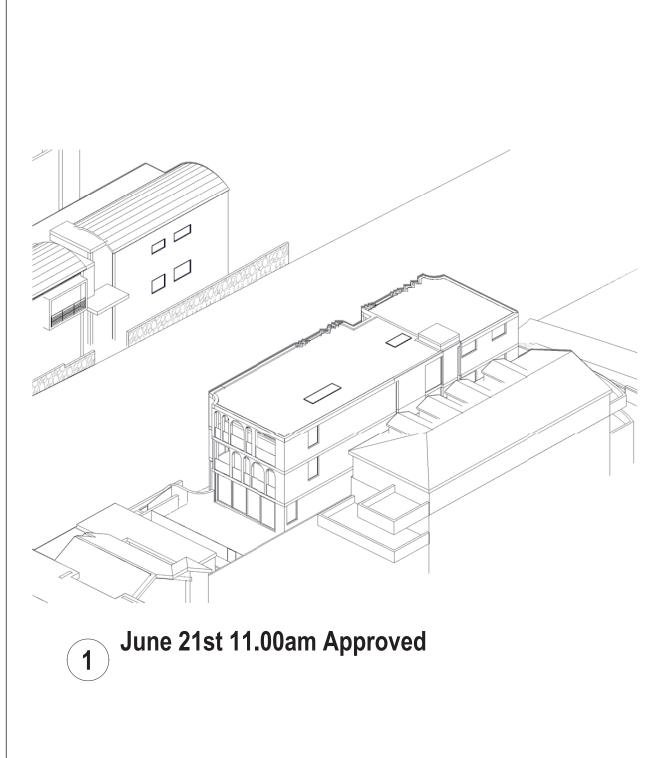
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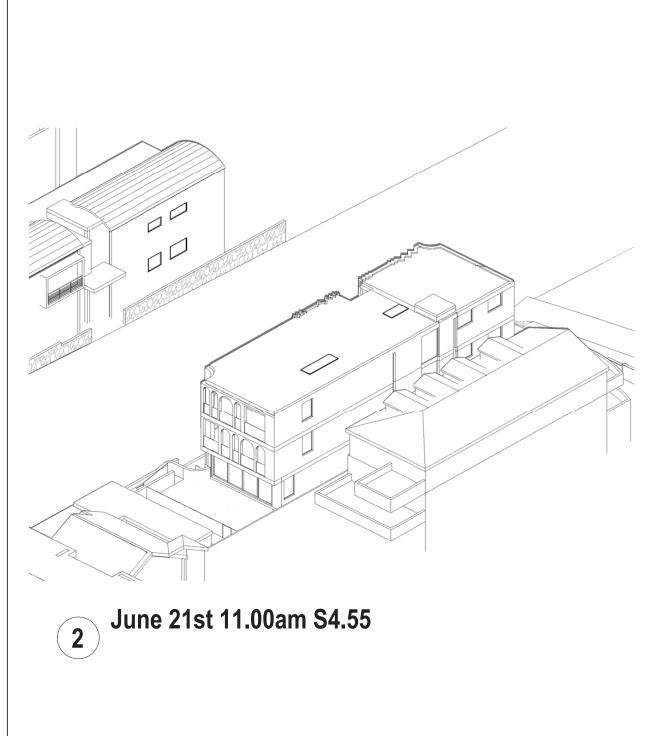
SHADOW DIAGRAMS S.4.55 No. 2A SPENCER STREET ROSE BAY

CLIENT: LAMAR 36 PTY LTD

3D Sun	Views June	21st 9.00am	
Project number	23-14		







SUITE 1, 505 BALMAIN ROAD, LILYFIELD, NSW P.O.BOX 446 GLADESVILLE 2111 SHADOW ANALYSIS CONSULTANTS

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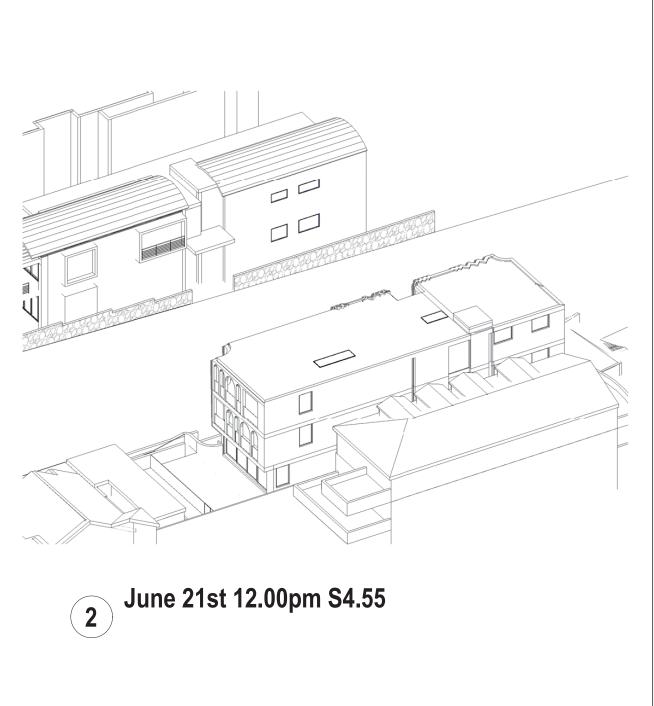
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Α	S.4.55 SHADOWS	23-11-23

SHADOW DIAGRAMS S.4.55 No. 2A SPENCER STREET ROSE BAY

CLIENT: LAMAR 36 PTY LTD

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Project number	23-14	
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SUITE 1, 505 BALMAIN ROAD, LILYFIELD, NSW P.O.BOX 446 GLADESVILLE 2111 SHADOW ANALYSIS CONSULTANTS

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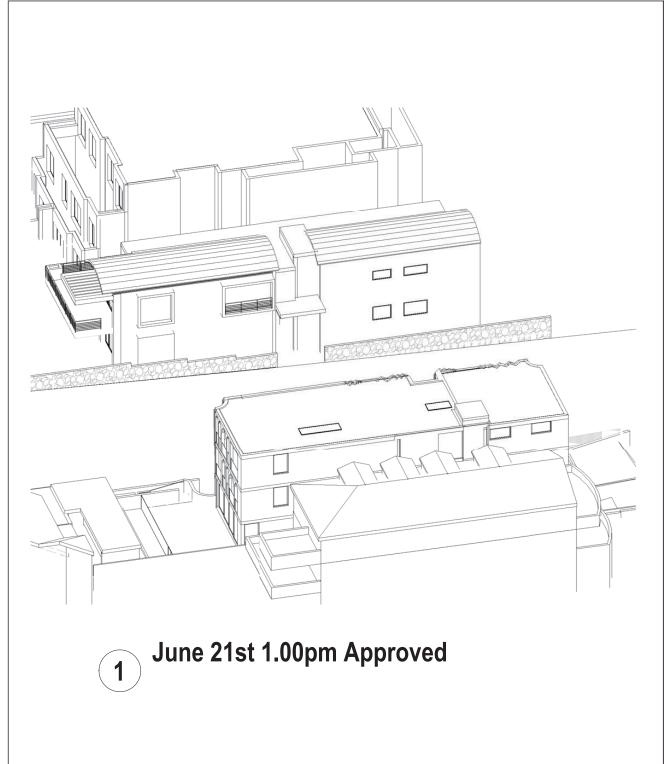
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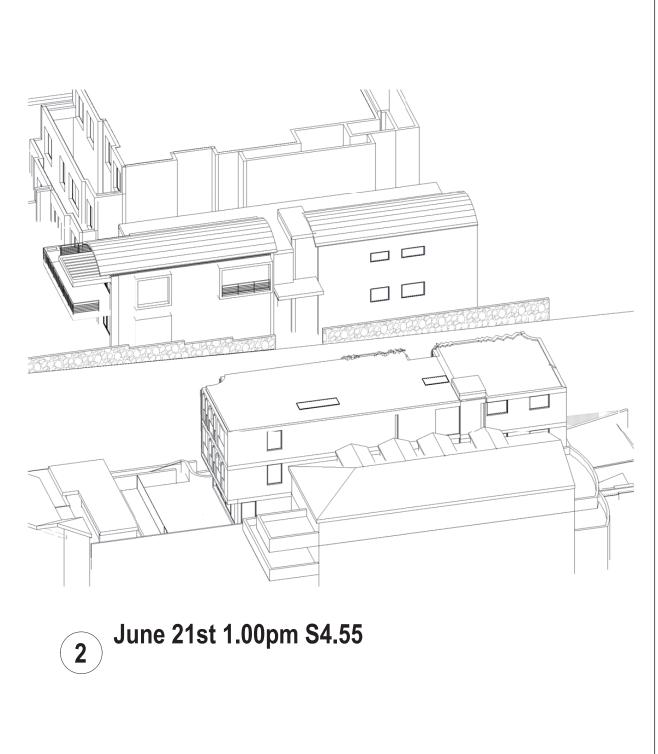
SHADOW DIAGRAMS S.4.55 No. 2A SPENCER STREET ROSE BAY

CLIENT: LAMAR 36 PTY LTD

3D Sun Views June 21st	12.00pm
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Project number	23-14	
Date	23-11-23	A106
Drawn by	KP	
Checked by	JD	Scale





SUITE 1, 505 BALMAIN ROAD, LILYFIELD, NSW P.O.BOX 446 GLADESVILLE 2111 SHADOW ANALYSIS CONSULTANTS

MOBILE: 0410 699919 info@caddraftnsw.com.au

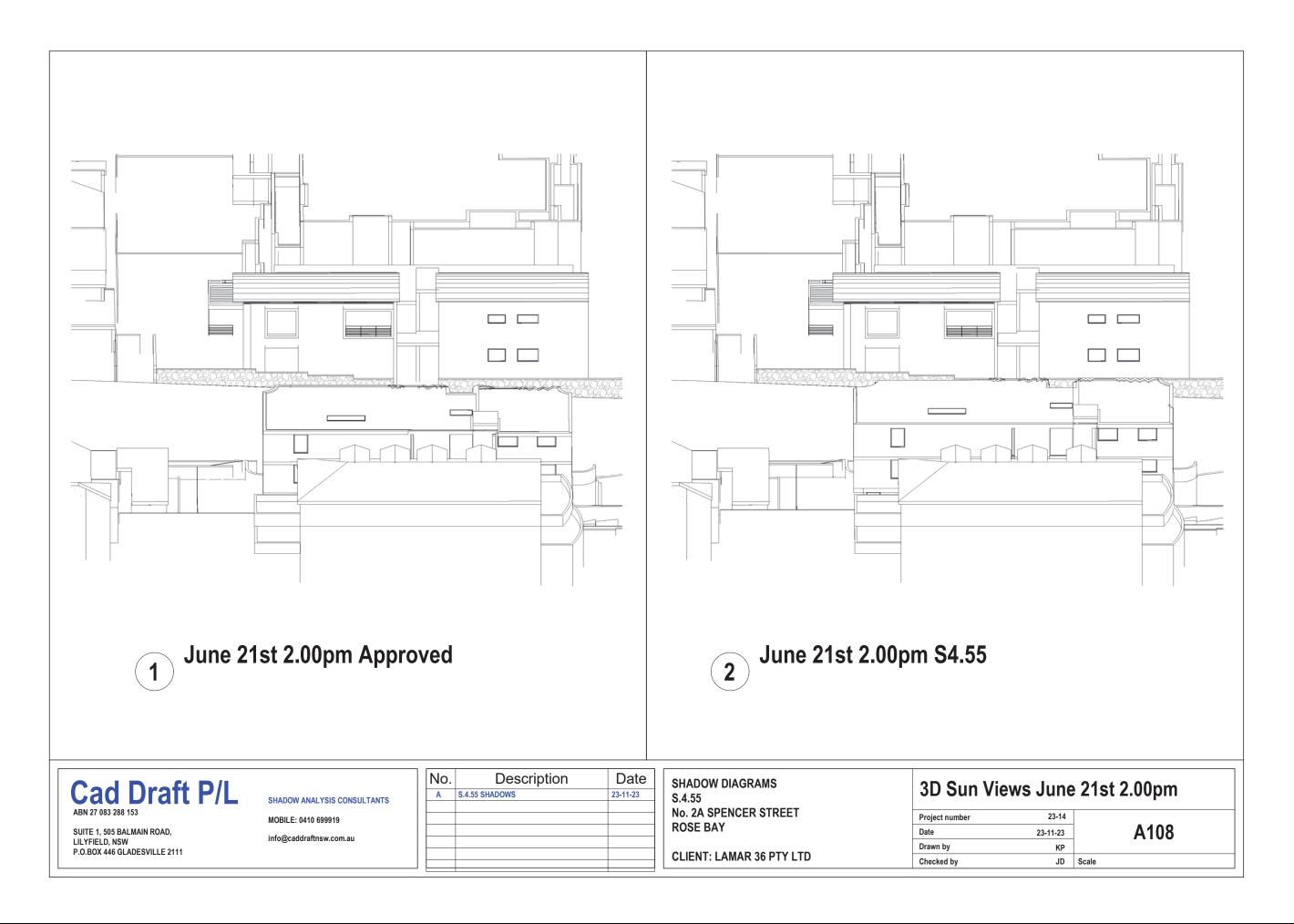
No.	Description	Date
Α	S.4.55 SHADOWS	23-11-23

SHADOW DIAGRAMS S.4.55 No. 2A SPENCER STREET ROSE BAY

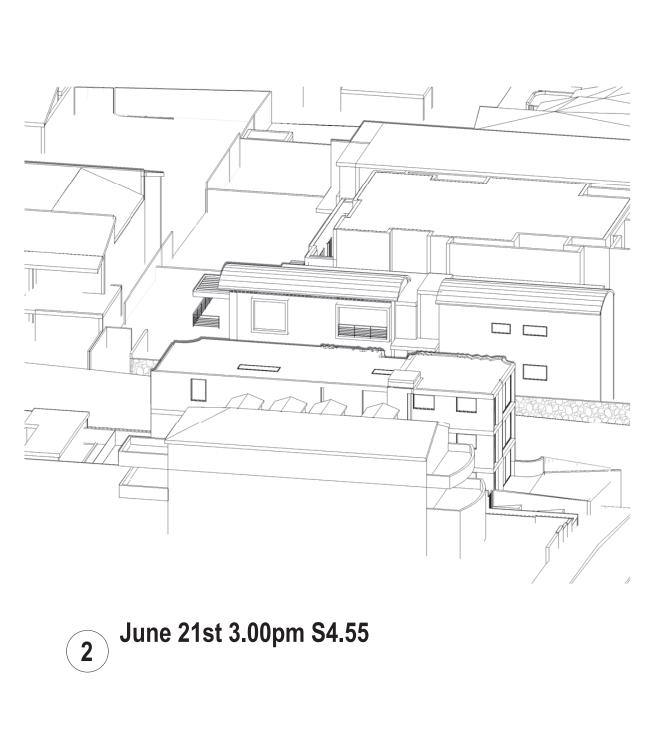
CLIENT: LAMAR 36 PTY LTD

3D Sun	Views .	June 2	21st	1.00pm
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Project number	23-14		
Date	23-11-23	A107	
Drawn by	KP		
Checked by	JD	Scale	







SUITE 1, 505 BALMAIN ROAD, LILYFIELD, NSW P.O.BOX 446 GLADESVILLE 2111 SHADOW ANALYSIS CONSULTANTS

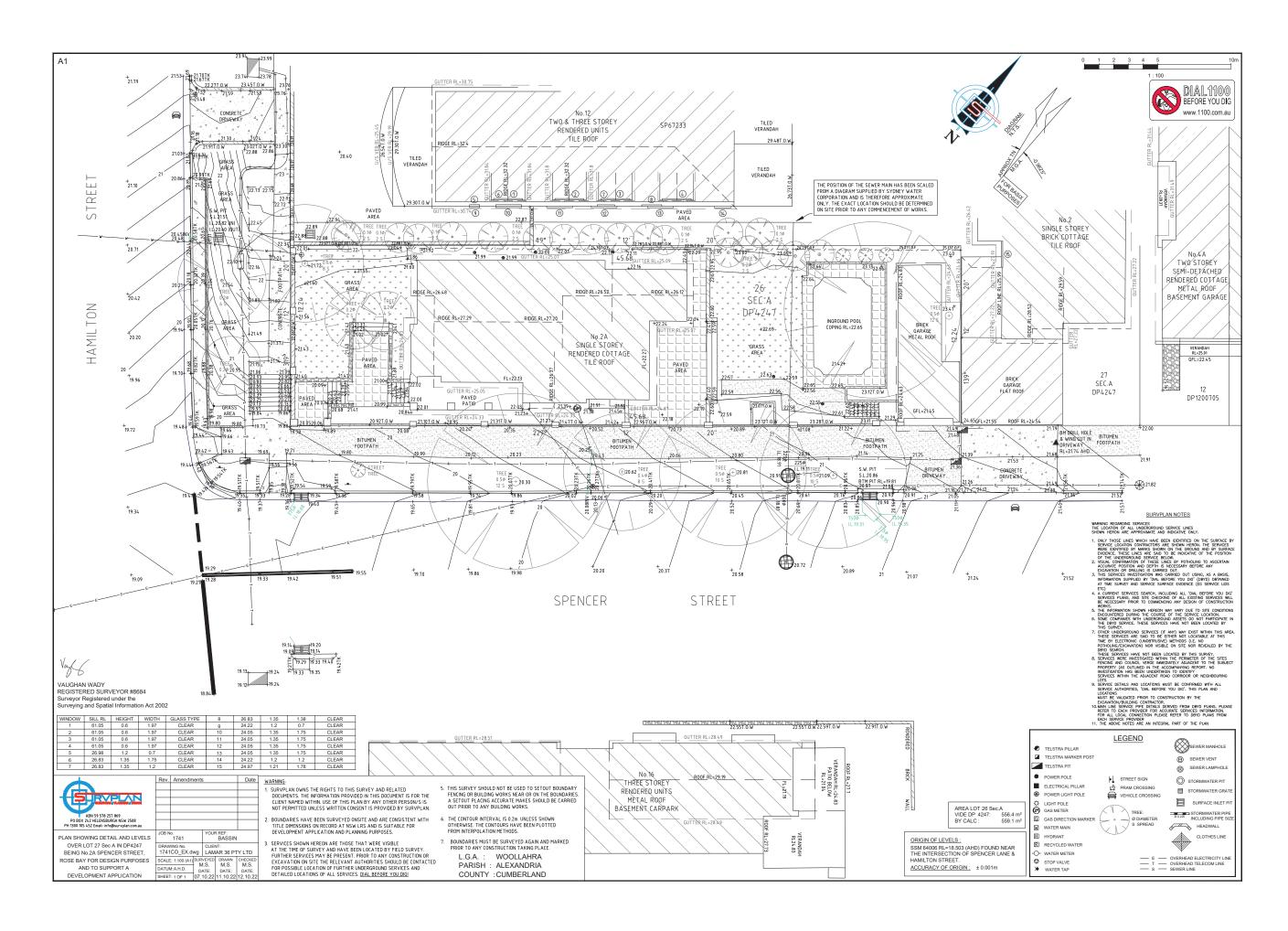
MOBILE: 0410 699919 info@caddraftnsw.com.au

No.	Description	Date
Α	S.4.55 SHADOWS	23-11-23

SHADOW DIAGRAMS S.4.55 No. 2A SPENCER STREET ROSE BAY

CLIENT: LAMAR 36 PTY LTD

3D Sun Views June 21st 3.00pm			
Project number	23-14		
Date	23-11-23	A109	
Drawn by	KP		
Checked by	JD	Scale	



LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D2

FILE No. DA323/2023/1

ADDRESS 116 Edgecliff Road WOOLLAHRA

COUNCIL WARD Cooper SITE AREA 255.9m²

ZONING R3 Medium Density Residential

PROPOSAL Alterations and additions of existing dwelling including new garage

and pool

TYPE OF CONSENT Local development

COST OF WORKS \$806,086.00

DATE LODGED 07/09/2023

APPLICANT Mr A MacKay

OWNER A H Mackay & L M Mackay

AUTHOR C Hartas
TEAM LEADER T Wong
SUBMISSIONS One (1)

RECOMMENDATION 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.

LOCALITY PLAN 3. 133 3 EDGECLIFF **EDGECLIFF RD** RD JUNCTION ST 126 128 134-142 DYSONLN EVESSONLN Subject EVESSON LN site EVESSON LN Objectors 26 24 22



Aerial view - Subject site highlighted. Source: nearmap

4. PROPOSAL

The proposal is for alterations and additions to the existing dwelling, including the construction of a new single garage accessible from Evesson Lane with a new cellar below and associated landscaping works. The scope of works also include a new pool and removal of tree.

The main elements of the proposal are listed below:

Demolition Ground Floor

- Existing stairs;
- Internal walls;
- Kitchen:
- Southern elevation external wall; and
- Rear courtyard, including associated stairs and landscaping.

Demolition First Floor

- Existing stairs;
- Internal walls;
- Bathroom & Laundry;
- 2 x Juliette balconies associated with existing bedroom 2 and office; and
- Southern elevation external wall

Proposed Ground Floor

- Stairs;
- Internal walls and doors;
- Indoor garden and light well;
- Plunge pool in the existing internal courtyard and associated pool fencing and surrounds;
- Laundry;
- Open plan kitchen and study area;
- Outdoor dining area, including landscaping and associated structures; and
- Cellar.

Proposed First Floor

- Bedroom 1;
- Bedroom 2:
- Stairs:
- Bedroom 3;
- Master bedroom and associated walk-in robe;
- Ensuite associated with Master bedroom;
- Stairs associated with rear yard; and
- New garage.

Proposed Attic

Internal walls to form attic storage.

Proposed Roof

- New roof over central stairs;
- New roof over southern extension; and
- New roof over proposed garage.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion	
Part 4.4	Floor Space Ratio	76.465m ² or 46% departure from the	Satisfactory	
		166.335m ² control		

5.2 Primary Issues

Issue	Conclusion	Section
Non-compliance with	Acceptable, the submitted written request pursuant to Clause 4.6	14.4 &
the Floor Space Ratio	of the WLEP 2014 is considered to be well founded.	14.5
development standard		
Deep soil landscaping	Acceptable, subject to DA Conditions requiring amended	Throughout
non-compliance and	Landscape Plans prior to CC showing minimum 15% deep soil	report &
unauthorised lopping of	landscaped area and additional tree planting.	Conditions.
prescribed trees.		

5.3 Summary of Submissions

Issue	Conclusion	Section
Visual Intrusion	Satisfactory. The 1.2m extension to the existing dwelling is assessed as acceptable.	15.7
Overshadowing	Satisfactory. Additional overshadowing would largely fall on adjoining stairs, planters and car parking spaces.	15.7
Rear building alignment	Satisfactory. The proposed rear building alignment would not unreasonably impact the character or setting of the adjoining contributory group.	15.6
Overlooking and visual impact of the proposed garage structure	Satisfactory. This concern has been indirectly addressed through deletion of the proposed garage structure.	Throughout report & Conditions.
Heritage Impact	Satisfactory. Subject to relevant DA Conditions, the proposal is considered acceptable with regards to Heritage.	Throughout the report.
Encroachment onto the adjoining property at 114 Edgecliff Road	Condition A.4 is recommended requiring all works to be within the boundaries of the subject site.	NA
Errors in submitted architectural plans	The submission raised an issue relating to the incorrect identification of the adjoining property to the east as 112 Edgecliff Road instead of 114 Edgecliff Road. This error is noted and this assessment gives regard to 114 Edgecliff Road as the immediately adjoining property to the east of the subject site.	NA
Property Value Property value is not a relevant matter for consideration under Section 4.15 of the Act.		NA

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features

The subject site is located at 116 Edgecliff Road, Woollahra and is legally described as Lot 12 DP 614025. It is a generally rectangular shaped lot, with pedestrian access provided from Edgecliff Road and vehicular access provided from Evesson Lane to a single open-air parking space. The area of the subject site measures 255.9m² in extent, with a northern boundary fronting Edgecliff Road measuring 6.185m, an eastern side boundary adjoining 114 Edgecliff Road measuring 41.66m, a western side boundary adjoining 118 Edgecliff Road measuring 41.865m and a rear southern boundary fronting Evesson Lane measuring 6.09m.

Topography

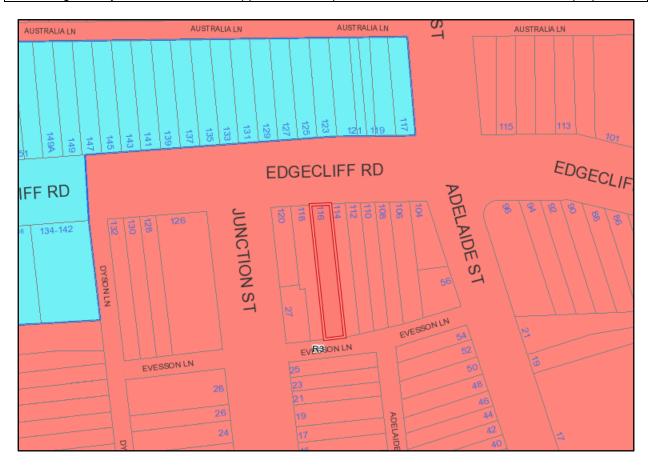
There is an overall slope of approximately 2.9m from Evesson Lane down to Edgecliff Road. The subject site falls gradually from the rear courtyard area down to the front boundary by approximately 1.45m as a result of what is assumed to be historic excavation to accommodate the existing dwelling. Stairs provide access from the existing courtyard up to the existing single parking space, which sits a further 1.45m (approximately) above the existing rear courtyard.

Existing buildings and structures

The subject site is occupied by a 2 storey single dwelling with an existing mezzanine level within the roof space of the principle dwelling. A 2m high rendered masonry wall sits on the front boundary. A rear roller door and associated masonry surrounds located at the southern boundary allows vehicular access from Evesson Lane. The front and rear yards provide minimal deep soil landscaped areas, with hard paved areas constituting the majority of the rear setback area.

Surrounding Environment

The immediate locality is characterised by a mix of residential development, including dwelling houses; semi-detached dwellings; multi-dwelling housing; and residential flat buildings of varying type and period. The adjoining property to the west at 118 Edgecliff Road has a history of residential use, but is currently used as a business premises. Notwithstanding its current use, the adjoining property at 118 Edgecliff Road is consistent with the residential character of the immediate locality and the existing built form remains generally consistent with the approved development under DA2001/678 for residential purposes.





Edgecliff Road Frontage - Subject site highlighted. Source: WMC



Evesson Lane frontage - Subject site highlighted. Source: WMC



Development to the west along Edgecliff Road. Source: WMC



Development to the east along Edgecliff Road. Source: WMC



Development to the west along Evesson Lane. Source: WMC



Development to the east along Evesson Lane. Source: WMC



Existing rear (south) elevation subject site. Source: WMC



Adjoining properties to the west. Source: WMC



Adjoining properties to the east. Source: \mbox{WMC}



Internal courtyard subject site. Source: WMC

7. RELEVANT PROPERTY HISTORY

Current use

Dwelling House

Relevant Application History

 DA2003/399/1 was approved by Council on 27/06/2003 for "Alteration and/or Additions to existing Dwelling House Internal alterations to create loft room".

Relevant Compliance History

None

Pre-DA

None

Requests for Additional Information and Replacement Applications

Additional information was requested on 27/09/2023 by way of a Stop the Clock (STC) letter. The following additional information was requested:

- 1. Revised Stormwater Management Plans and DRAINS Model;
- 2. Vehicular Access and Parking Arrangement;
- 3. Details of Proposed Construction Methodology Involving Excavation and Structural Report/Owners Consent from Adjoining Properties;
- 4. Amended Plans (showing correct colouring no requested design amendments); and
- 5. Owners Consent.

The above information was provided to Council on 06/11/2023.

A further request for additional information was sent to the applicant by email dated 19/02/2024. A Clause 4.6 Request was required to address the proposed non-compliance with the Floor Space Ratio development standard under Woollahra LEP 2014.

A Clause 4.6 Written Request was provided on 08/03/2024.

Land and Environment Court Appeal(s)

None

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Satisfactory, subject to conditions.		3
Engineering		
Trees and Landscaping	Satisfactory, subject to conditions. Conditions D.2(a), (b) and	4
	(c) have been recommended relating to the provision of deep	
	soil landscaping within the rear setback area and tree planting.	
Heritage	Satisfactory, subject to conditions.	5

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 04/10/2023 to 19/10/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Louise Napier – 114 Edgecliff Road, Woollahra.

Issues raised by the above objector are summarised at part 5.3 of this assessment report.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 19/02/2024 declaring that the site notice for DA323/2023/1 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 (SUSTAINABLE BUILDINGS) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 (SB SEPP) encourages the design and construction of more sustainable buildings across NSW. This policy generally applies to all residential developments (excluding alterations and additions less than \$50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

The SB SEPP came into effect on 1 October 2023. Pursuant to Section 4.2 entitled *Savings and Transitional Provisions*, development applications submitted on the NSW Planning Portal but not finally determined before 1 October 2023 are not subject to assessment under the SB SEPP.

The proposal was submitted on the NSW Planning Portal on 7 September 2023. As such, the SB SEPP does not apply to the proposed development. Refer to Part 7 of this assessment report for assessment under State Environmental Planning Policy (Building Sustainability Index BASIX) 2004.

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

The development application was accompanied by a BASIX Certificate No. A496954 demonstrating compliance with the SEPP.

12. SEPP (BIODIVERSITY AND CONSERVATION) 2021

12.1 Chapter 2 – Vegetation in Non-rural Areas

Chapter 2 of the Biodiversity and Conservation SEPP applies to the subject site.

Furthermore, Clause 2.9(1) defers assessment to the appropriate development control plan in determining vegetation to which Chapter 2 applies. Accordingly, *Chapter E3 Tree Management* under WDCP 2015 is applicable.

Assessment of the current DA has raised concerns regarding unauthorised lopping of two prescribed trees on or around 6 August 2021. The trees, described as Lili Pilly by Council's Trees and Landscape Officer, are shown below:



Image 1. Existing Lili Pilly trees (lopped) identified with red arrow. Source: WMC

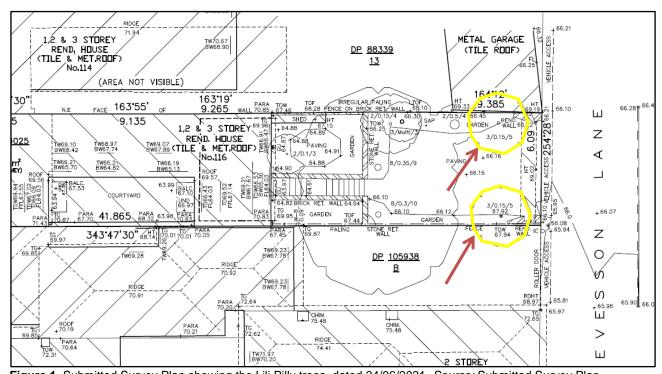


Figure 1. Submitted Survey Plan showing the Lili Pilly trees, dated 24/06/2021. Source: Submitted Survey Plan



Image 2 & 3. Aerial images showing the Lili Pilly trees with full foliage (left image in January 2021) and foliage lopped (right image in August 2021). *Source:* Nearmap



Image 4. Google streetview dated <u>August 2020</u> With full foliage of the Lili Pilly trees (depicted by the yellow lines) Source: Google maps

Council's Trees and Landscaping Officer has reviewed the application and comments as follows:

Existing prescribed vegetation includes:

Trees 1 & 2 (semi mature Frangipanis) proposed for retention and Tree 3 (Kentia Palm) proposed for removal.

The removal of Tree 3 is supported as this is a semi mature Palm of low landscape significance that can be replaced by the canopy of Trees 1 & 2 as they mature

Two additional small trees (Lili Pilly) close to the rear boundary, have been lopped at around 2m with only the main scaffold stems remaining.

Review of Nearmaps aerial imagery and google street view shows that these Lili Pilly trees were of dimensions (prior to May 2021) that would have rendered them prescribed under Council's DCP.

No record of an application to Council has been found allowing the lopping of these two trees.

Should the planning department consider that the proposed deep soil is not DCP compliant and should be increased, consideration should be given to including a landscape scheme that would help replacing the canopy lost from the two lopped Lili Pillys.

Replacement with one small tree (in addition to the already proposed tree) should be included in the plans in a minimum 5m2 deep soil area to compensate for the loss of these trees. Possible species including Tristaniopsis laurina 'Luscious' Watergum, Pyrus sp. (Ornamental Pear) or Lagerstroemia indica (Crepe Myrtle).

<u>Deep soil</u> controls should be strictly applied to ensure any substantial vegetation can reach mature sizes.

The SEE indicates that The proposed development will provide 38.5m2 (15% of site area) deep soil landscaping in the front and rear courtyards.

This calculation should be carefully checked as there is little detail of landscape treatment at the front, and very little deep soil provided at the rear, where a medium size tree is proposed.

Background:

Tree Work Application TWA 2021/270/1 was determined in Oct 2021, by allowing the removal of two medium size canopy trees (Weeping Lili Pilis) at the rear of the property due to damage to a retaining wall.

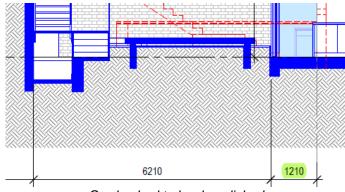
A condition was included in the permit for tree replacement with a medium size tree (Pistacia chinensis - Chinese Pistachio).

The current DA includes planting of one Chinese Pistachio at the rear in accordance with the TWA Determination, however, the proposal reduces the existing 6.3m² deep soil garden bed along the western boundary, to just 2.5m².

The proposed species has the potential to grow into a medium size tree around 8m high x 6m wide

The proposed deep soil area is considered insufficient to provide enough soil volume for the tree to develop into maturity.

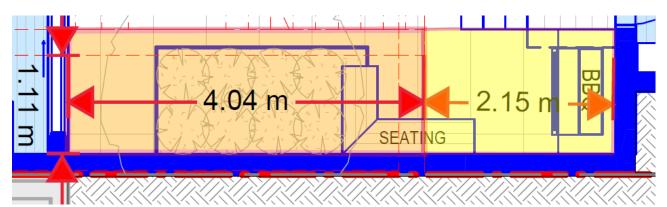
The northern section of the existing garden bed is within the footprint of the proposed 1.21m kitchen extension, however the entire garden bed is proposed for demolition with lower ground levels proposed for the area.



Garden bed to be demolished

Retention of the remaining section of the garden bed outside of the kitchen extension as deep soil is recommended to allow the tree to grow to its potential.

To compensate for the loss of deep soil for the kitchen extension, the area south of the garden bed where a BBQ area is proposed should be converted to deep soil.



Hatched area with existing garden bed and additional deep soil to the south

A condition is recommended below to amend the plans prior to CC issue as per the above.

Subject to **Conditions D.2(a), (b) and (c)**, the proposal is considered to be acceptable pursuant to Chapter 2 of the Biodiversity and Conservation SEPP.

12.2 Chapter 6 - Water Catchments

Chapter 6 of the Biodiversity and Conservation SEPP applies to the subject land. The subject land is within the Sydney Harbour Catchment, but is outside the Foreshores and Waterways Area. Therefore, only the provisions in Part 6.2 of the SEPP apply to the proposal. 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 satisfies the relevant criteria prescribed by Chapter 6 – Water Catchments of the Biodiversity and Conservation SEPP 2021.

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

13.1 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:

- a) By specifying when consent is required, and when it is not required, for a remediation work
- b) By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular
- c) By requiring that a remediation work meet certain standards and notification requirements

Consideration with respect to Clause 4.6(a) of Chapter 4 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 of the Resilience and Hazards SEPP 2021.

Accordingly, the proposal is considered to be acceptable with regard to the relevant matters for consideration under Section 4.6, Chapter 4 of the Resilience and Hazards SEPP 2021.

14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

14.1 Part 1.2: Aims of Plan

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

14.2 Land Use Table

R3 Medium Density Residential zone

The proposal is for alterations and additions to an existing dwelling house. Development for the purposes of a dwelling house is permissible with consent in the R3 Medium Density Residential zone.

Clause 2.3(2) requires Council to have regard to the R3 zone objectives when determining the DA. It is considered that the proposal is consistent with the objectives of the R3 zone. An assessment of the objectives is provided at Part 14.5 of this assessment report.

14.3 Part 4.3: Height of Buildings

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

	Existing	Proposed	Control	Complies
Maximum Building Height	11.39m (to the existing chimney)	9.33m	9.5m	Yes

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

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

<u>Assessment</u>

The proposal would not result in any increase to the maximum building height of the existing dwelling, nor would it increase the maximum height of the existing rear addition, thereby maintaining consistency with Objective a).

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

Assessment

The northern side of Edgecliff Road is zoned E1 Local Centre. The proposal works would not be readily visible from Edgecliff Road, thereby maintaining an appropriate transition in scale and consistency with Objective b)

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

Assessment

The level of solar access afforded to adjoining properties resulting from the proposal is considered acceptable in this instance, thereby achieving consistency with Objective c).

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

Assessment

The proposal is not considered to result in any unreasonable impacts upon existing views, privacy, overshadowing or visual intrusion associated with adjoining properties or the public domain, thereby maintaining consistency with Objective d).

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

Assessment

The proposal would not impact upon public views of Sydney Harbour, nor any significant views in the immediate locality, thereby maintaining consistency with Objective e).

14.4 Part 4.4: Floor Space Ratio

Clause 4.4 limits development to a maximum floor space ratio of 0.65:1 for any building in the R3 zone and identified on the Floor Space Ratio (FSR) Map under Woollahra LEP 2014.

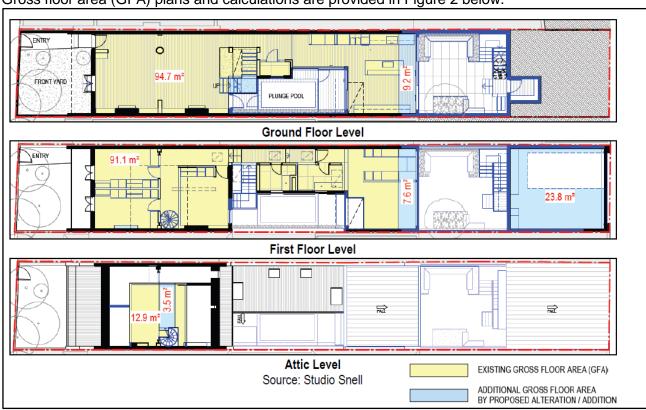
Site Area: 255.9m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	0.8:1 (204.9m²)	0.95:1 (242.8m²)	0.65:1 (166.335m²)	No

The proposal does not comply with Part 4.4(2) of Woollahra LEP 2014 as detailed and assessed in Part 14.5 of this assessment report.

14.5 Part 4.6: Exceptions to Development Standards

Departure

The proposal contravenes the FSR development standard under Part 4.4 of the Woollahra LEP 2014, resulting in a non-compliance of 76.46m² or 46%.



Gross floor area (GFA) plans and calculations are provided in Figure 2 below.

Figure 2: GFA Plans and Calculations (Source: Submitted Clause 4.6 Request)

Purpose

Clause 4.6 provides the consent authority with the ability to grant development consent for development that contravenes a development standard imposed by WLEP 2014. In doing so, the consent authority must be satisfied that compliance with the development standard is unreasonable or unnecessary, and that there are sufficient environmental planning grounds to justify contravening a development standard.

Written Request

Clause 4.6(3) stipulates that a consent authority must consider a written request from an applicant, which justifies contravention of a development standard by demonstrating consistency with the matters described above. Additionally, the consent authority must be satisfied that the applicant's written request has adequately addressed these matters, as required by Clause 4.6(4)(a)(i).

The applicant has provided a written request pursuant to Clause 4.6 of WLEP 2014 (Refer to **Attachment 2**)

Assessment

Part 4.6(4) requires Council to be satisfied that the written request has adequately addressed the relevant matters, the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and zone and the concurrence of the Director-General has been obtained.

Clause 4.6(4)(a)(i)

Clause 4.6(4)(a)(i) refers to the matters under subclause (3)(a) and (b) for which justification of contravening a development standard is to be demonstrated. These matters are as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Comment:

The applicant's written request states that a strict reading of the clause means the exemption from FSR does not apply to attached dwellings in the HCA, and therefore, Clause 4.4(2) of the LEP applies.

This assessment does not adopt a strict nor lenient approach, but rather applies the relevant statutory requirements applicable at the time of lodgement of the current DA, as follows:

- The subject site is zoned R3 Medium Density Residential;
- Clause 4.4 applies to a building on any land in the R3 zone identified on the FSR Map;
- The subject site is identified on the FSR Map under Woollahra LEP 2014 as being subject to a 0.65:1 FSR development standard; and
- Clause 4.4 is applicable to the current DA and none of the subsequent exceptions to the FSR development standard under Woollahra LEP 2014 apply.

The applicant's written request has demonstrated that the objectives of the FSR Standard are achieved, notwithstanding the proposal's non-compliance. However, this is contingent on relevant DA Condition, being **Condition D.2(c)**, requiring deletion of the proposed garage structure, due to the resultant impacts of the GFA upon deep soil landscaped area and existing trees. This is discussed further under the assessment of Clause 4.6(4)(a)(ii).

As such, the applicant's written request provides reasonable justification that compliance with the FSR Standard is unreasonable or unnecessary in the circumstances of this case, as required by Clause 4.6(3)(a).

The objectives of the FSR Standard are discussed later in this assessment report, under the assessment of Clause 4.6(4)(a)(ii).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance 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 (para. 23).

Accordingly, the objects in s1.3 of the EPA 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.

The applicant's written request has provided adequate justification that the proposal promotes the orderly and economic use and development of land - (c); that the proposal will promote good design and amenity of the built environment - (g); and that the proposal will promote the proper construction and maintenance of buildings, including the protection of health and safety of their occupants (h).

Clause 4.6(4)(a)(ii)

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied of the following:

(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

<u>Assessment</u>

The departure from the FSR development standard is in the public interest in the following manner:

- The proposal would be consistent with the relevant objectives of the R3 Medium Density Residential zone under Woollahra LEP 2014; and
- The proposal would achieve the relevant objectives of the FSR development standard under Clause 4.4 of Woollahra LEP 2014.

The objectives of the FSR development standard under Clause 4.4 are:

(i) To ensure the bulk and scale of new development is compatible with the desired future character of the area

Comment:

The proposal is considered to achieve the desired future character objectives of the Woollahra Heritage Conservation Area, as outlined in Part 15.2 of this assessment report

(ii) To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain

Comment:

For the reasons referred to throughout this assessment report, the proposal would not result in unreasonable environmental impact upon adjoining properties or the public domain.

(iii) To ensure that development allows adequate provision on site for deep soil planting, tree canopy cover and areas of private open space

Comment:

As discussed at Part 12.1 of this assessment report, the two (2) Lili Pilly trees described in Council's Trees and Landscape Referral have been lopped without consent to a height that no longer qualifies them as a prescribed tree under Chapter E3 of Woollahra DCP 2015. The proposal seeks removal of these trees to accommodate the new garage structure and associated additional GFA, which is not supported in this instance. **Condition D.2(c)** is recommended requiring deletion

of the proposed garage structure in order to provide adequate deep soil landscaping and one (1) additional compensatory tree.

Subject to **Condition D.2(c)**, the proposal will provide adequate deep soil planting, tree canopy cover and areas of private open space

The development is also consistent with the R3 zone objectives as follows:

- To provide for the housing needs of the community within a medium density residential environment
- To provide a variety of housing types within a medium density residential environment

Comment:

The proposal would maintain the current use a dwelling house on the subject site, thereby providing for the housing needs of the community and contributing to the variety of housing types within a medium density residential environment.

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

Comment:

Not relevant.

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

Comment:

The proposal is considered to achieve the desired future character objectives of the Woollahra Heritage Conservation Area, as outlined in Part 15.2 of this assessment report

To ensure development conserves and enhances tree canopy cover

Comment

As outlined above, the proposed garage structure is required to be deleted in order to provide additional tree planting and adequate deep soil landscaped area.

Subject to recommended DA Conditions, the proposal is considered to conserve and enhance tree canopy cover.

Clause 4.6(4)(b)

The Department issued Planning Circular No. PS20-002 (dated 05 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 submitted written request has adequately demonstrated that variation of the FSR development standard prescribed by Clause 4.4 is justified, pursuant to the relevant matters for consideration under Clause 4.6.

Council is satisfied that the submitted written request has demonstrated that compliance with the FSR development standard prescribed by Clause 4.4 is unreasonable or unnecessary in the circumstances of this case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention.

Furthermore, Council is satisfied that the proposal is in the public interest because it is consistent with the objectives of the development standard under Clause 4.4 and the objectives of the R3 Medium Density Residential Zone.

Accordingly, departure from the FSR development standard is justified in this instance.

14.6 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 proposed development is located in the Woollahra Heritage Conservation Area and is part of the Grafton Precinct.

Council's Heritage Officer has provided the following assessment:

The internal demolition proposed is appropriate as the building has been heavily modified over the course of its life, first being converted to apartments in the early 20th Century and subsequently further altered in the latter part of the 20th Century. It is clear that original fabric is minimal.

The proposed external additions will not be visible from the street, with the exception of the proposed garage at the rear lane. This proposed garage is in keeping with other garages in the lane and will have no notable impact.

- Clause 1(a) The development does not unduly impact the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

The proposal is, therefore, acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

14.7 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.

14.8 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 excavation to accommodate a proposed swimming pool and cellar, which will require a maximum depth of excavation of 1.8m and 2.8m respectively and is setback by approximately 0.5m from the western side boundary. The supporting documentation does not provide a total volume of excavation for the proposal.

The geotechnical report indicates that the subsurface conditions consists of:

- a) Silty sand to a depth of 0.7m, 1.1m, and 1m at location of BH101, BH102 and BH103 respectively.
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 0.9m and 1.4m in BH101 and BH102.
- c) Sandstone bedrock was inferred beneath the natural sand at a depth ranging from 0.9m to 1.4m.
- d) Groundwater was not observed during investigation.

The following provides an assessment of the proposed excavation against the relevant objective set out under Part 6.2(1) of the Woollahra LEP 2014, and the matters of consideration set out under Part 6.2(3) of the Woollahra LEP 2014.

Part 6.2(1) states:

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Part 6.2(3) states:

In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

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

The following comments are made in this regard:

- The following documents have been submitted in support of the application:
 - i. Geotechnical and Hydrogeological Assessment, prepared by Martens Consulting Engineers, dated May 2023.
 - ii. Construction Methodology Report, referenced N0220013 -SLTR.01A, prepared by JN Engineering, dated 02/11/2023.

Council's Development Engineer has reviewed these documents and is satisfied that the proposal would not have a detrimental effect on drainage patterns or soil stability in the locality, subject to recommended DA conditions.

Standard DA conditions requiring structural certification and the like prior to issuing of a construction certificate would be required ensuring structural risk/s to adjoining property, and impacts are minimised (a).

• The proposed excavation is not considered to effect the likely future use or redevelopment of the land (b).

- Subsurface conditions are have been assessed in Part 13.1 Remediation of Land (Chapter 4 in Resilience and Hazards SEPP 2021) and Part 14.7 Acid Sulfate Soils (Part 6.1 Acid Sulfate Soils of the WLEP 2014) of the report. Relevant DA Conditions are recommended to ensure the recommendations outlined in the submitted Geotechnical Report are adhered to prior to and during development work (c).
- Excavation works are considered to be temporary in nature, therefore minimising associated
 noise, vibration, dust and other amenity impacts arising from jackhammering, rock breaking,
 truck movements, and the like to the short-term. Standard DA Conditions requiring noise and
 dust mitigation measures are recommended in order to ensure impacts on amenity are
 minimised (d).
- The proposal does not involve fill. The destination of excavated material will need to be in accordance with relevant guidelines, relating to management of any soils that are Acid Sulfate Soils and/or Contaminated Land. The application is not accompanied by a Site Waste Minimisation and Management Plan and, as such, relevant DA Conditions are recommended requiring the submission of a SWMMP detailing methods to dispose of excavated materials (e).
- Council's Heritage Officer has not raised any concerns relating to the potential for disturbing relics. A recommended DA condition would be imposed requiring the protection of Aboriginal Objects and procedure to be followed in the unlikely event such objects are found during work (f).
- The subject site is not located proximate to any drinking water catchments and de-watering is not required. Council's Development Engineer is satisfied the submitted Stormwater Management Plan is acceptable with regards to Part E2.2 of the WDCP 2015 which considers water sensitive urban design and stormwater treatment. The site is not identified as being located within an environmentally sensitive area (g).
- Standard DA Conditions requiring structural certification prior to issuing of a construction certificate and vibration monitoring to be in place during work are required. These would ensure structural risk/s to adjoining property and impacts are minimised (h).

Conclusion

Based on the above assessment and subject to relevant DA Conditions, the proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

14.9 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.

Council's Trees and Landscape Officer provides the following comment:

The removal of Tree 3 is supported as this is a semi mature Palm of low landscape significance that can be replaced by the canopy of Trees 1 & 2 as they mature

Two additional small trees (Lili Pilly) close to the rear boundary, have been lopped at around 2m with only the main scaffold stems remaining.

Review of Nearmaps aerial imagery and google street view shows that these Lili Pilly trees were of dimensions (prior to May 2021) that would have rendered them prescribed under Council's DCP.

No record of an application to Council has been found allowing the lopping of these two trees.

Should the planning department consider that the proposed deep soil is not DCP compliant and should be increased, consideration should be given to including a landscape scheme that would help replacing the canopy lost from the two lopped Lili Pillys.

Replacement with one small tree (in addition to the already proposed tree) should be included in the plans in a minimum 5m2 deep soil area to compensate for the loss of these trees. Possible species including Tristaniopsis laurina 'Luscious' Watergum, Pyrus sp. (Ornamental Pear) or Lagerstroemia indica (Crepe Myrtle).

The current DA includes planting of one Chinese Pistachio at the rear in accordance with the TWA Determination, however, the proposal reduces the existing 6.3m² deep soil garden bed along the western boundary, to just 2.5m².

The proposed species has the potential to grow into a medium size tree around 8m high x 6m wide. The proposed deep soil area is considered insufficient to provide enough soil volume for the tree to develop into maturity.

Conditions D.2(a), (b) and (c) are recommended requiring an amendment to the architectural plans and landscape plans prior to the issue of a construction certificate, to show additional deep soil landscaped area and one (1) additional tree, in addition to the TWA requirement, to be planted at the rear of the subject site.

Subject to the imposition of **Conditions D.2(a)**, **(b) and (c)**, the proposal is acceptable with regard to Part 6.9 of Woollahra LEP 2014.

15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

15.1 Chapter C2: Woollahra Heritage Conservation Area

15.2 Part C2.2.5 Desired Future Character of the Woollahra HCA

The desired future character objectives of the Woollahra HCA are:

- O1 To retain its heritage significance and its recognition as a rare and distinctive urban area.
- O2 To retain and promote evidence of the historical development of the Woollahra HCA and its individual precincts and enables the interpretation of that historical development.
- O3 To maintain the residential character that has been predominant from the earliest phase of its development.
- O4 To maintain the character and significance of its identified precincts.
- O5 To retain the distinctive building types characteristic of the area and its precincts.
- O6 To continue to cater for a variety of uses and building types within a predominantly residential area.
- O7 To exhibit contemporary design excellence.

Assessment

The proposal is considered to uphold the relevant Objectives of this part, as follows:

- The proposal would not be readily visible from the public domain and, subject to relevant DA Conditions, the proposed works are not considered to diminish the contribution of the existing dwelling to the Woollahra HCA (O1).
- Council's Heritage Officer considers the proposal to be *complementary to the precinct, and in any case will not be visible from the street* (O2).
- The residential character of the existing dwelling be retained (O3).
- Council's Heritage Officer considers the proposal to be complementary to the precinct (04 & O5).

- The use and building typology of the existing dwelling house will be retained and enhanced (O6).
- The contemporary nature of the additions would be distinguishable from and would not dominate the principle building (O7).

15.3 Part C2.2.7: Contemporary Design in Woollahra

Part C2.2.7 permits contemporary buildings within the heritage conservation area as follows:

'Part of the cultural significance of the HCA stems from its ability to demonstrate the important historical phases of its development between the mid-19th and mid-20th centuries. The HCA's surviving built and natural fabric retains the potential to reveal further evidence of ways of life, building and land uses which have now changed or disappeared.

Council does not advocate replication of historic architectural styles or the use of pseudoperiod detail in new development. By adding a layer of development which illustrates the ways of life and design approaches of the early 21st century, contemporary design can contribute to the rich history of the HCA and the expression of this history in the area's built fabric. Inventive and interpretive contemporary design solutions of high architectural quality may be quite different in spirit and appearance from existing fabric while still providing a positive contribution to the continued history of the HCA.

Contemporary design for infill development and for additions to significant items is therefore encouraged as long as it respects its context and achieves a cohesive relationship with historically significant existing fabric. In some locations and circumstances, a traditional design approach may be required. Such an approach may be appropriate, for example, where alterations are proposed to a highly intact section of a building that has a high level of significance.

A thorough understanding of the historical background and physical context of the site will act as a guide to the appropriateness of the design approach. Designers will be required to demonstrate that the application of contemporary forms, materials or detailing provides an appropriate response to the streetscape, the precinct and the HCA as a whole.'

This approach has been applied in the comments provided by Council's Heritage Officer and the assessment of the application against the building controls below.

15.4 Part C2.3.7: Grafton Precinct Controls

The relevant objectives of this part are as follows:

O2 To ensure new development, including infill, complements the predominantly late Victorian Edwardian and Inter-War character of the precinct.

Council's Heritage Officer provides the following comments:

• The proposed development is complementary to the precinct, and in any case will not be visible from the street.

The proposal is acceptable with respect to maintaining the significant characteristics and conforming to the objectives as outlined in Part C2.3.7 of the Woollahra DCP 2015.

15.5 Part C2.4.2: Multi Storey Dwelling Houses

The relevant objectives and controls of this part are as follows:

Objectives

- O1 To ensure that additions to multi-storey dwelling houses do not compromise or dominate the original main front section of the house, and are suited to the architectural style of the building.
- O2 To retain the curtilage, setting and principal building form, including original layouts and roof forms of the principal building form.

Controls

C2 Additional storeys may be permitted to the rear wing if an appropriate traditional roof form can be located below the gutter line of the principal building form. Additions must not dominate the original principal building form of the house and should retain the breezeway.

Assessment

The proposal is considered to achieve the objectives and controls of this part, as follows:

- The proposal would generally retain the architectural style of the existing dwelling and would not unreasonably impact upon the principle building form (O1);
- The proposal does not involve any additional storeys and the proposed works would not be readily visible from the public domain. Furthermore, the proposal would not dominate the original principle building on the subject site (O1 & C2);
- The streetscape presentation of the principle building will be retained, including the original roof form (O2); and
- The proposal involves significant internal alterations and additions and would not retain the
 original internal layout of the principle building. However, Council's Heritage Officer notes
 that the original interior fabric has been greatly altered and is therefore supportive of the
 proposed internal works, further stating that:

the proposal generally retains the understanding of the principal building form. The impact on the heritage significance of the place is modest, and can be mitigated by partial retention of demolished walls as nibs (O2).

On this basis, the proposal is acceptable with regard to Part C2.4.2 of the Woollahra DCP 2015.

15.6	Part (C2 4 4-	Terrace	House	Controls
13.0	I alt	UZ.T.T.	ICHACE	HOUSE	COLLUGIS

Site Area: 255.9m ²	Existing	Proposed	Control	Complies
	Not Beyond	Not Beyond	Not Beyond	
Rear Setback	Established	Established	Established	Yes
	Setback	Setback	Setback	
Length of Rear Addition	Less Than	Less Than Original	Less Than	Yes
Length of Real Addition	Original Building	Building	Original Building	162
Location of Rear Addition Below Ridgeline	3.06m	3.06m	0.3m	Yes
Boundary to Boundary Addition at Ground Floor Level	Yes	Yes	Permitted	Yes

The existing dwelling is described as "Victorian house" under the Schedule of contributory items under part C2.7 of Chapter C2. It adjoins a group of four (4) Victorian terrace houses, being 108-114 Edgecliff Road, but is not part of this group.

Nonetheless, Council's Heritage Officer has provided an assessment under this part, as follows:

Objectives O1, O2, O3, O4 Controls C2, C5, C6, C7, C8, C10

Not being part of a terrace group, this building does not have a setback to which to conform.
 The proposed rear building line is in line with the neighbouring building and therefore appropriate.

The existing dwelling is characteristic of terrace style housing, but does not share a common party wall with another dwelling and is considered to be freestanding; however, for abundant caution, an assessment of the relevant objectives and controls of this part is provided, as follows:

Objectives

- O1 To ensure that additions to the rear of terrace buildings do not compromise or dominate the principal building form.
- O2 To retain the curtilage, setting and principal building form, including original layouts and roof forms of the principal building form.

Controls

- C2 requires that additions retain the profiles of original party walls and parapets.
- C5 states that additions must not extend beyond the established rear building setback.
- C6 states that the overall length of any addition must be less than that of the original building and appear secondary to the principal building form.
- C7 notes that the height of an additional storey to the rear of a single-storey terrace must be 300mm below the ridgeline of the principal roof form. The linking structure should be located below the principal eaves line, and should use lightweight construction to differentiate the new work from the original.
- C8 states that the height of an addition to the rear of a double or triple storey terrace must be below the gutter line of the principal building form of the terrace.
- C10 allows boundary to boundary extensions on the ground-floor level if it would not adversely affect the privacy, ventilation, light or amenity of the adjoining property and would not disrupt an existing significant pattern of a group of buildings.
- C12 requires that additions retain traditional solid-to-void ratios on elevations visible from the public domain. Large expanses of glass on the upper levels are not permitted.

Assessment

Concerns were raised by the adjoining owner at 114 Edgecliff Road with regard to overshadowing; however, the proposal is considered to achieve the objectives and controls of this part, as follows:

- For the reasons discussed in part 15.5 of this assessment report, the proposal achieves the relevant objectives of this part
- The existing east and west parapets will be extended by 1.2m, however, the proposal will retain the height and profile of the existing parapets (C2);
- The existing dwelling is not part of the adjoining group of terraces and is not required to conform to the established rear setback of the group. The proposed rear setback is consistent with the adjoining detached dwelling to the west and, consistent with the comments of Council's Heritage Officer, would not unreasonably impact the character or setting of the adjoining contributory group (C5);
- The proposal would not be readily visible from the public domain and would remain secondary to the principle building (C6);
- The height of the proposal would be well below the ridgeline of the principle roof form (C7);
- The proposal would extend the existing rear addition, but would not increase the maximum height of the addition, which is equivalent to the height of the existing rear gutter of the principle building (C8);
- The existing rear addition extends boundary to boundary at ground and first floor. The proposal will maintain the existing side setbacks. (C10); and
- The first floor glazing at the proposed rear facade is considered excessive, as discussed at part 15.9 of this assessment report and is conditioned accordingly. With regard to the proposed "glass curtain wall" associated with the central staircase, this element would not be visible from the public domain and is therefore acceptable (C12).

The proposal is therefore acceptable with regard to Part C2.4.4 of the Woollahra DCP 2015.

15.7 Part C2.5.1: Building Height, Form and Character

Site Area: 255.9m ²	Existing	Proposed	Control	Complies
Rear Setback	Not Extending	Not Extending	Not Extending	Yes
Real Selback	Beyond	Beyond	Beyond	165
Maximum Number of Storeys	2 Storeys	2 Storeys	2 Storeys	Yes
Solar Access to Ground Level Open	<minimum 50%<="" td=""><td><minimum 50%<="" td=""><td>Minimum 50%</td><td>No</td></minimum></td></minimum>	<minimum 50%<="" td=""><td>Minimum 50%</td><td>No</td></minimum>	Minimum 50%	No
Space of Adjacent Properties	For 2 hours	For 2 hours	For 2 hours	NO

The relevant objectives and controls of this part are as follows:

Objectives

- O1 To ensure that the established historical pattern of development is continued in terms of siting, levels and front, side and rear building setbacks.
- O3 To retain the patterns of height, bulk and scale distinctive to individual streetscapes and precincts.
- O4 To protect the privacy and amenity of adjoining or adjacent residential uses.
- O5 To encourage the retention or creation of useful open space at the rear of sites.
- O7 To minimise overshadowing of private and public open spaces.

Controls

Building Location

C6 requires that the rear setback must not extend beyond the established pattern with sufficient provision for useable private open space and landscaped area.

Building Height and Form

- C7 states that the height, bulk, scale, dominant roof forms, ridge line and building envelope of new development must be consistent. The bulk of new buildings should be distributed to minimise overshadowing of adjoining properties.
- C8 states that the character of new development is to be consistent with the character of nearby significant items and the streetscape. Solid to void ratios are to be similar to other significant buildings.

Solar Access and Ventilation

C13 stipulates that sunlight is provided to at least 50% of the main ground level private open space to adjoining properties for a minimum of two hours between 9am and 3pm on June 21. Where existing overshadowing is greater than this, sunlight is not further reduced.

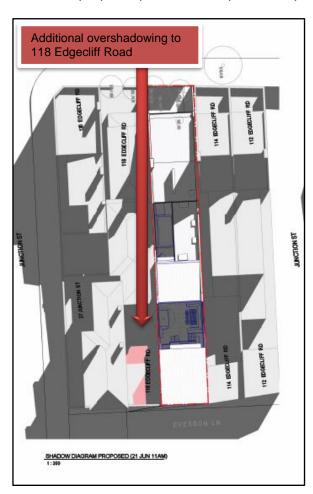
Assessment

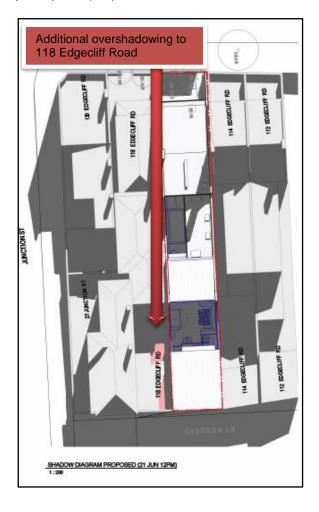
Concerns were raised by the adjoining owner at 114 Edgecliff Road with regard to inadequate consideration of impacts and unreasonable reliance on 118 Edgecliff Road as a comparable property. Notwithstanding this, the proposal is considered to achieve the objectives and controls of this part, as follows:

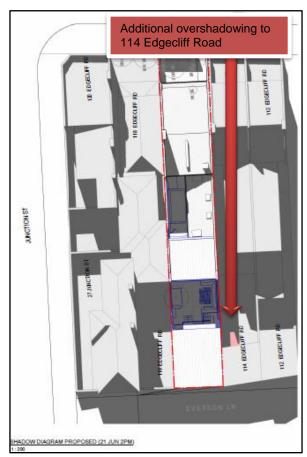
- The subject site and 118 Edgecliff Road to the west both contain contributory items, described as "Victorian House" under Woollahra DCP 2015. Notwithstanding its current use, 118 Edgecliff Road retains its original residential character and therefore provides a relevant comparison in determining the reasonableness of the proposal, particularly in circumstances where it shares the same description as the subject site as a contributory Victorian House.
- Council's Heritage Officer has determined that the proposal is satisfactory with regard to objectives O1, O2, O3, O4, O5, O6, O7 and controls C6, C7, C8, C9, C10, C11 of this part, stating that:

I agree with the Heritage Impact Assessment that the proposal complies with these objectives and controls. I note that the proposed rear setback is in line with that of an adjacent building.

- The height, bulk and scale of the proposal would be generally consistent with surrounding development and would be consistent with the rear setback of the adjoining detached dwelling at 118 Edgecliff Road (O1, O3, O4 & C6);
- The proposal would increase the existing non-compliance with C13, with regard to solar access to the rear private open space at 114 Edgecliff Road. Notwithstanding this, the additional overshadowing between 2pm and 3pm during mid winter would largely fall on the existing stairs, northern garage wall and planter below and is not considered to be unreasonable, as these areas do not generally form part of the useable space within the rear courtyard at 114 Edgecliff Road. Refer to images below. (O7, C7 & C13);
- The submitted shadow diagrams indicate additional overshadowing to the rear setback area of the adjoining property at 118 Edgecliff Road between 11am and 12pm. This property is currently used for commercial purposes and overshadowing is therefore not considered under this part. However, the existing building maintains a residential character and could reasonably expect a future residential use. In this regard, the overshadowing impact is assessed as acceptable as it would not reduce solar access to the small rear courtyard and would largely fall on the rear car parking space. Refer to images on the following page (O7, C7 & C13).
- The proposal provides adequate rear private open space (O5).







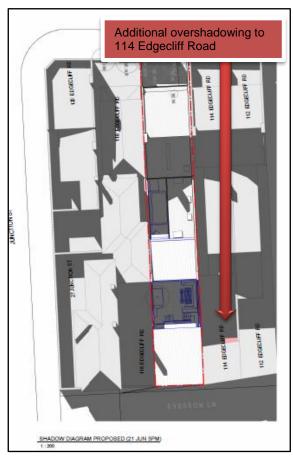


Figure 3. 11am, 12pm, 2pm & 3pm Shadow Diagrams. Source: Submitted Architectural Plans, annotated by: WMC



Image 5. Aerial image – Subject site highlighted green. Source: Nearmap



Image 6. 114 Edgecliff Road - Rear private open space. Source: Real estate website, 2019

For the reasons set out above, the proposal is acceptable with regard to Part C2.5.1 of the Woollahra DCP 2015.

15.8 Part C2.5.2: Conservation of Contributory Items

Council's Heritage Officer has determined that the proposal is satisfactory with regard to the relevant objectives and controls of this part.

The proposal is acceptable with regard to Part C2.5.2 of the Woollahra DCP 2015.

15.9 Part 2.5.4: Materials, Finishes and Colours

	Existing	Proposed	Control	Complies
Proportions of Windows	1.5m (H) x 2m (W)	W07 = 2.4m x 3.1m W08 = 2.4m x 2m	Between 1.4 and 2 times the width	No

The relevant objectives and controls of this part are as follows:

Objectives

- O1 To achieve external materials, finishes and colour schemes appropriate to the context.
- O2 To retain and conserve original external finishes and colour schemes to buildings within the Woollahra HCA.
- O3 To encourage finishes and colour schemes of additions to contributory items to be appropriate to the building type, architectural style and construction period.

Controls

- C1 requires development to comprise appropriate materials, finishes, textures and colours that are similar to but not identical to other buildings. Contemporary materials may be used.
- C2 requires materials and finishes that do not contribute to an increase in building bulk.
- C5 states that external finishes must complement the architectural style of the existing building. C6 continues by stating that external colour schemes should have hue and tonal relationships similar to those of traditional colour schemes.

Windows, Shutters and Doors

C10 states that windows, shutters and doors to additions are to be designed with contemporary detailing and materials appropriate to the architectural style of the existing building and the proportions of its openings. The height of a new window must be greater than 1.4 times the width and less than twice the width.

Table 1 outlines design controls for external finishes. The proposal is acceptable with respect to these requirements as the proposal will incorporate colours and materials that are generally consistent with the requirements for alterations and additions to Victorian style buildings.

Assessment

The proposal would result in non-compliance with C1, C5 and C10. Subject to DA Conditions, the proposal is considered to achieve the relevant objectives, as follows:

 Council's Heritage Officer has determined that the proposal is satisfactory with regard to objective O1 and controls C1 C2 C3 C4 C5 C6 C7 C10 C11 C12 C14, stating that:

The proposal generally complies. The use of a glazed wall on the proposed staircase is not technically complying with the controls and objectives, but in this case it will be largely if not entirely obscured from the street, and is therefore not a concern.

- The colour of the east and west elevations of the proposed rear extension and the proposed garage structure will match the existing colour (O1 & O2).
- The proposal will incorporate dark tones to the proposed roofing, gutters, minor cladding and window frames to the rear elevation. Dark tones are considered acceptable in this instance, as these elements would not be readily visible from the public domain and would be comparable to the dark tones of the windows, shutters and cladding associated with the dwelling at 25 Junction Street, directly across Evesson Lane to the south (Image 3) (O3).



Image 7. 25 Junction Street. Source: WMC

• The proposed windows W07 and W08 at the first floor rear (southern) elevation would not achieve the requirements under C10, as detailed in the table above. According to the BASIX Certificate, the combined proposed glazed area of the rear façade at ground and first floor (including W07, W08, W09, W10 & D05) is equal to approximately 32.1m², whilst the approximate total area of the rear façade is 35m². Therefore, the proposal would provide glazing to approximately 91% of the proposed rear façade, which is excessive and not consistent with the scale and proportions of the openings associated with the principle dwelling or surrounding and adjoining contributory dwellings. **Condition D.2(d)** is recommended requiring windows W07 and W08 at first floor level to be vertically proportioned in order to comply with C10.

Subject to DA Conditions, the proposal is acceptable with regard to Section 2.5.4 of the Woollahra DCP 2015.

15.10Part C2.5.5: Roofs and Skylights

	Existing	Proposed	Control	Complies
Maximum Area of Transparent Material	<25%	No Change	25%	Yes
Chimneys	Retained	Retained	Retained	Yes

Council's Heritage Officer has determined that the proposal is satisfactory with regard to objective O1 and controls C2. C3. C4. C5. C8, stating that:

The proposal complies. The distinctive conical chimney pots should be retained and protected

The proposal is acceptable with regard to Part 2.5.5 of the Woollahra DCP 2015.

15.11 Part C2.5.6: Open Space and Landscaping

Site Area: 255.9m ²	Existing	Proposed	Control	Complies
Deep Soil Landscaped Area	20.7% (Approx 53m²)	9.4% (Approx 24m²)	15% (38.385m²)	No
Private Open Space at Ground Level – Total Area Minimum Dimension	56m²	56m²	35m²	Yes
Private Open Space at Ground Level – Principal Area Minimum Dimension	15m²	18m²	16m²	Yes
Location of Swimming Pool	NA	Central courtyard	Rear Setback	No
Swimming Pool Excavation, Piling and Subsurface Wall Setback	NA	0.6m	1.5m	No
Swimming Pool Height Above Ground Level Adjacent to Adjoining Property	NA	Flush with Ground Level	0.3m	Yes

The relevant objectives and controls of this part are as follows:

Objectives

- O1 To ensure that adequate provision is made for accessible and useable private open space.
- O2 To retain important existing mature trees, vegetation and other landscape features.
- O3 To ensure the provision of permeable and semi-permeable areas of open space to assist with stormwater management.
- O4 To ensure that swimming pools, spa pools and tennis courts are located where they are not visible from the public domain.

O5 To ensure that private open space areas, plantings, swimming pools, spa pools and tennis courts are designed to minimise adverse impacts on the heritage significance of the area, services infrastructure, the fabric of buildings and the amenity of neighbours.

Controls

- C1 requires sufficient deep soil landscaping, no impact upon established patterns and a suitable setback from trees to ensure their protection.
- C3 requires a minimum deep soil landscaped area of 15% (38.385m²).
- C4 requires a minimum total private open space area of 35m² with a principal private open space area of 16m².
- C8 recommends that part of the private open space be capable of being used as an extension to the main living areas of the dwelling.
- C11 requires that mature trees on private land are to be retained and incorporated into the landscape treatment.
- C14 states that where significant trees are to be removed due to ill health, the tree should be replaced with the same species or a species of appropriate size at maturity.

Swimming Pools and Spas

- C25 does not permit swimming pools in the rear yard is it involves the removal of a tree or compliance with the deep soil landscaping requirement is not achieved.
- C27 requires that swimming pools must not cause damage to the fabric or adverse impact on the amenity of adjoining properties through noise from pool equipment, flood lighting or discharge of backwash.
- C28 stipulates that excavation for swimming pools shall not be less than 1.5m from side or rear boundaries.
- C30 requires that plant equipment satisfy the design, construction and operation requirements in terms of drainage of waste water, filtration equipment, fencing, and containment of water from overflow and splashing, BCA, identification of levels and heights to AHD and structural adequacy.

Assessment

The proposal would result in non-compliance with C1, C3, C11, C14, C28 and C30. Subject to DA Conditions, the proposal is considered to achieve the relevant objectives, as follows:

- As discussed at part 12.1 of this assessment report, Council's Trees and Landscape Officer has determined that the proposal is satisfactory, subject to relevant DA Conditions.
- As previously advised, the two (2) Lili Pilly trees described in Council's Trees and Landscape Referral have been lopped without consent to a height that no longer qualifies them as a prescribed tree under Chapter E3 of Woollahra DCP 2015. The proposal seeks removal of these trees to accommodate the proposed garage structure, which is not supported in this instance. Condition D.2(c) is recommended requiring deletion of the proposed garage structure in order to provide adequate landscaping and one (1) additional compensatory tree. (O2, O3).
- The submitted SEE states that the proposed deep soil landscaped area complies with C3. This is incorrect and also inconsistent with the submitted landscape calculations shown in Figure 4 below.

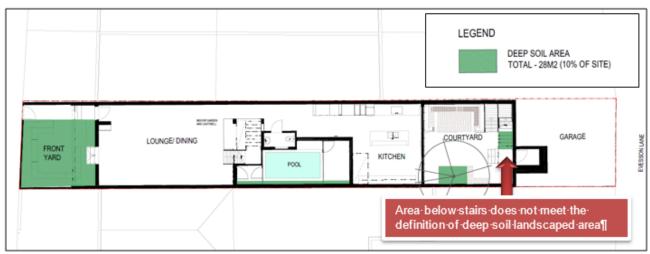


Figure 4. Deep soil calculations. Source: Submitted Landscape Plans.

- The proposal would result in a significant reduction in deep soil landscaping, taking it from exceedance to well below the required 15% of the site area, with just 9.4%. Council's Trees and Landscape Officer also notes this reduction and suggests that *Deep soil controls should* be strictly applied to ensure any substantial vegetation can reach mature sizes.
- Condition D.2(c) is recommended requiring deletion of the proposed garage structure to provide adequate area for additional deep soil landscaping, ensuring sufficient landscape features are retained and adequate permeable area is provided for stormwater management (O2 &O3).
- Adequate private open space is proposed (O1).
- The proposed plunge pool is to be located in the existing central courtyard and would not be visible from the public domain (O4).
- Excavation for the proposed plunge pool will be within 0.5m of the western boundary, which does not comply with C28. Notwithstanding this, Council's Development Engineer has determined that the proposal is satisfactory, subject to DA Conditions (O5).
- The proposal does not specify a location of plant and equipment associated with the proposed plunge pool nor acoustic treatment of any such plant and equipment. Notwithstanding, **Condition H.4** and **H.5** have been recommended with respect to noise from any mechanical plant and equipment associated with the proposed plunge pool (O5).

Subject to DA Conditions, the proposal is acceptable with regard to Part 2.5.6 of the Woollahra DCP 2015.

15.12 Part C2.5.8: Parking and Garages

	Existing	Proposed	Control	Complies
Location of Car Parking Structures	Behind Front Building Line	Behind Front Building Line	Behind Front Building Line	Yes
Garage to Rear Laneway – Property Width Exceeding 4.25m	No Visual Connection	No Visual Connection	Visual Connection Required	No
Garage to Rear Laneway – Minimum Lot Width	6.09m	6.09m	3.2m	Yes
Garage to Rear Laneway – Minimum Rear Setback to Dwelling	>10m	>10m	10.0m	Yes
Garage to Rear Laneway – Minimum Lane Width	>5m	>5m	5.0m	Yes
Garage to Rear Laneway – Minimum Garage Width	5m	5m	3.2m	Yes

	Existing	Proposed	Control	Complies
Car Parking Spaces – Dwelling	1 space	1 space	1-2 spaces	Yes
Laneway Garages –	2.3m	2.3m	2.2m	No
Maximum Door Height	5m	5m	2.4m-3.3m	No
Single Door Width	2.8m	2.98m	2.7m	No
Maximum Eaves/Parapet Height	0.58m (west)	0.58m (west)	0.47m or 1:1	No
Maximum Width of Pillars (Flat Roof)				
Single Garage Roof Form	NA	Skillion	Flat or Pitched	No
Garage Materials	Rendered	Rendered	Rendered	Yes
Door Materials	Metal Roller	Metal Roller	Variable	Yes

The relevant objectives and controls of this part are as follows:

Objectives

- O1 To protect the amenity of the property, neighbouring properties and public open space in terms of visual and acoustic privacy and sunlight access.
- O3 To ensure that on-site vehicle parking is not provided at the expense of landscaped area and useable open space.

Controls

- C2 requires parking to be provided behind the front building alignment.
- C8 stipulates that vehicular access is to be from the rear where a rear laneway exits. Where the property is wider than 4.25m, a pedestrian gate or fencing panel with a minimum width of 900mm and maximum height of 1.8m is to be provided
- C9 discourages high blank walls and excessively wide garage doors on rear lane frontages.
- C16 allows bi-fold panelled doors, panel-lift doors, vertical steel gates and roller shutter doors. Roller shutter doors without a surrounding masonry structure are not permitted.

Assessment

Concerns were raised by the adjoining owner at 114 Edgecliff Road with regard to visual impact and privacy impacts resulting from the proposed garage structure. The proposed garage structure is assessed as follows:

- The existing metal roller shutter door and masonry surround result in a number of existing non-compliances. However, no works are proposed to this structure under the current DA and it is therefore acceptable.
- The proposal would result in a garage structure at the expense of existing deep soil landscaping and trees, inconsistent with Objective O3.

The proposal is unacceptable with regard to Part C2.5.8 of the Woollahra DCP 2015 and, for the reasons referred to in Part 15.11 of this assessment report, **Condition D.2(c)** is recommended requiring deletion of the proposed garage structure.

15.13 Part C2.5.9: Security

The proposal is acceptable with regard to Part C2.5.9 of the Woollahra DCP 2015.

15.14Part C2.5.10: Excavation

	Existing	Proposed	Control	Complies
Location of Excavation	NA	Central courtyard	Behind the Front Alignment	No

Excavation has been assessed under Part 14.8 of this assessment report.

For the reasons referred to in Part 14.8, the proposal is acceptable with regard to Part C2.5.10 of the Woollahra DCP 2015.

15.15Part C2.5.12: Acoustic and Visual Privacy

The relevant objectives and controls of this part are as follows:

Objectives

- O1 To ensure an adequate degree of acoustic and visual privacy in building design.
- O2 To minimise the impact of new development, which includes alterations and additions to existing buildings, on the acoustic and visual privacy of existing development on neighbouring land.

Controls

- C5 stipulates that electrical, mechanical, hydraulic and plant equipment are to be suitably housed so as to not create an 'offensive noise', either within or at the boundaries of any property at any time of the day.
- C6 stipulates that windows, balconies, screening devices and landscaping must be located to minimise direct overlooking of neighbouring properties.
- C7 states that windows to bathrooms, toilets, laundries and storage rooms must be fitted with obscure glazing if there are views to or from neighbouring properties.
- C9 states that habitable room windows with a direct sightline to another dwelling's habitable room window within 9.0m must be offset by a distance sufficient, have sill heights of at least 1.5m or have fixed obscure glazing above 1.5m.
- C10 states that direct overlooking of the main living areas or private open space of an existing dwelling from windows, balconies, stairs, landings, terraces and decks or other private, communal or public areas within a development is to be obscured or screened. Screening is not required where windows are in non-habitable rooms or have a sill height above 1.5m.

Assessment

Concerns were raised by the adjoining owner at 114 Edgecliff Road regarding overlooking of their rear private open space from the proposed garage structure. The recommendation to delete the proposed garage structure has indirectly mitigated this concern.

Nonetheless, the following points are noted:

- The floor level of the proposed garage structure would be equivalent to the ground level of the existing parking space.
- No sightlines are currently available into the adjoining rear private open space at 114
 Edgecliff Road, due to the intervening boundary fence at a height of approximately 1.9m
 above existing ground level (Image 8).



Image 8. Rear view from existing parking level. Source: WMC

• The existing boundary fence is proposed to be replaced by screening to an equivalent height, ensuring existing levels of visual privacy are retained.

Further to the above, the proposed dwelling is considered to achieve the relevant Objectives of this part, as follows:

- Mechanical plant and equipment has not been indicated on the submitted Architectural Plans
 or any supporting documentation. It is therefore assumed that plant and equipment
 associated with the proposed plunge pool does not form part of the current DA. Condition
 A.4 is recommended stating that development consent is not granted to pool plant and
 equipment.
- Direct sightlines would be available into the adjoining private open space at 114 Edgecliff Road from the proposed first floor windows. .
- Excessive glazing to the rear façade of the proposed dwelling has been addressed by the
 recommendation of Condition D.2(d). Subject to a reduction in the size of W07 and W08,
 coupled with the passive use of the associated bedroom, visual privacy to adjoining
 properties is considered acceptable.

Subject to DA Conditions, the proposal is acceptable with regard to Part C2.5.12 of the Woollahra DCP 2015.

15.16 Part C2.5.13: Site Facilities and Aerial Devices

The relevant objectives and controls of this part are as follows:

Objectives

- O1 To retain the character of the original roofscape of the Woollahra HCA.
- O2 To protect the original fabric and details of roofs and chimneys.
- O3 To ensure that satellite dishes, aerials and similar devices, air-conditioning units, external condensers and other site facilities do not detrimentally impact on the character and significance of individual buildings and the streetscape.

Controls

C2 notes that satellite dishes, solar water heaters, solar electricity generators, air conditioning units and ducts should consider visual impact, impact on the amenity of adjoining properties and the architectural and heritage character of the building. It must not be visually disruptive in the streetscape or from adjoining properties.

Assessment

Three (3) existing air conditioning condensers are located on the roof above the existing office and are largely obscured from view by the upper most portion of the eastern parapet.

The proposal would require the removal of these condenser units to undertake the proposed works to the roof above the proposed master bedroom. An alternate location has not been indicated on the submitted Architectural Plans or in any supporting documentation.

It is therefore assumed that plant and equipment associated with air conditioning does not form part of the current DA. **Condition A.4** is recommended stating that development consent is not granted to externally located air conditioning plant and equipment.

15.17 Chapter E1: Parking and Access

As conditioned, the existing parking and access arrangements are to be retained.

The proposal is acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

15.18 Chapter E2: Stormwater and Flood Risk Management

Satisfactory – The proposal complies with relevant controls and is satisfactory with regard to the objectives and/or is adequately addressed via the recommended conditions of consent.

15.19 Chapter E3: Tree Management

Tree management has been addressed at parts 12.1 and 15.11 of this assessment report.

Appropriate DA Conditions are recommended to compensate for the loss of tree canopy resulting from the unauthorised pruning of prescribed trees.

Subject to DA Conditions, the proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

15.20 Chapter E4: Contaminated Land

The proposal is acceptable with regard to Chapter E4 of the Woollahra DCP 2015.

15.21 Chapter E5: Waste Management

The applicant has not provided a SWMMP with the development application. However, given the extensive scope of demolition and construction works, it is necessary in this instance, as detailed in **Condition D.14**.

16. CONTRIBUTION PLANS

16.1 Section 7.12 Contributions Plan

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

Cost of Works	Rate based on cost of works	Contribution Payable
\$806,086.00	Up to \$100,000 = Nil >\$100,000 to \$200,000 = 0.5% >\$200,000 = 1%	\$8,060.86

Refer to **Condition D.1**.

16.2 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.

16.3 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. Accordingly, Section 7.11 contributions are not applicable.

17. APPLICABLE ACTS/REGULATIONS

17.1 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.

17.2 Swimming Pools Act 1992

The Swimming Pools Act 1992, requires swimming pools to be surrounded by a child-resistant barrier, which separates the swimming pool from any residential building. The barrier must be designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Additional provisions relate to:

- a) Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash discharge to the sewer

These requirements are imposed by standard condition.

18. THE LIKELY IMPACTS OF THE PROPOSAL

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

19. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

20. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

21. CONCLUSION

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

22. 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.

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the Floor Space Ratio development standard under Clause 4.4 of Woollahra LEP 2014. The Panel assumes the concurrence of the Secretary, Department of Planning, Industry 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. 323/2023/1 for alterations and additions of existing dwelling including new garage and pool on land at 116 Edgecliff Road Woollahra, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

A. 1. Conditions

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.

Notes:

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

Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.

A. 2. Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulations*, the *Development Certification and Fire Safety Regulations* 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.

Local native plants means species of native plant endemic to Sydney's eastern suburbs.

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.

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, piering, 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. 2 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
DA 1002 Rev C DA 1202 Rev C DA 1302 Rev C DA 1503 Rev C DA 1602 Rev E DA 1507 Rev C	Proposed Site Plan Proposed Floor Plans (GF & FF) Proposed Attic & Roof Plans Proposed Elevations Proposed Sections Materials and Schedule	All drawn by Studio Snell	2/11/2023 2/11/2023 2/11/2023 2/11/2023 13/03/2024 2/11/2023
No.L0102	Landscape Plan	Jennifer Forbes	12/6/2023
A496954	BASIX Certificate	NSW Department of Planning and Environment	21/07/2023
P2108273JR01 V02	Geotechnical Report	Martens Consulting Engineers	16/05/2023
N0220013 - SLTR.01A	Construction Methodology Report	JN Engineering	02 Nov 2023
N0220013 C050-Rev 3 C200-Rev 3	Stormwater Management Plan	JN Engineering	11/10/2023 11/10/2023

Notes:

- 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.
- 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.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

A. 3. Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to:

- Any works outside the property boundaries; and
- Externally located air conditioning condenser units.

Condition Reason: To ensure all parties are aware of works that have not been granted consent.

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.

Notes:

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.

Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.

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.

Condition Reason: 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.

A. 6. Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

- a) The following trees must be retained:
 - Trees on private land:

Council Ref No	Species	Location	Dimension
1	Plumeria sp. (Frangipanni)	Front garden	6m x 4m
2	Plumeria sp. (Frangipanni)	Front garden	6m x 4m

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
3	Howea forsteriana (Kentia)	Front garden	7m x 3m

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

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. 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" under section 6.6 of the Act.

In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:

- Before issue of a construction certificate
- · Before building work commences

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.

Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.

B. 2. Erosion and Sediment Controls – Installation

Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:

- a) "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
- 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.

Notes:

- The "Do it Right On Site, Soil and Water Management for the Construction Industry" publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au
- 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.
- 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.

Condition Reason: To prevent potential water pollution and dust nuisance.

B. 3. Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)

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) Tree Protection Fencing:

Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk*
1	Plumeria sp. (Frangipanni)	Front garden	1.5m
2	Plumeria sp. (Frangipanni)	Front garden	1.5m

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 bought 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.
- 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.

Condition Reason: To ensure the protection of existing trees

B. 4. Identification of Hazardous Material

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.

In this regard, prior to any site works, Council must 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.

Condition Reason: 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. 5. Public Road Assets Prior to Any Work/Demolition

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.

The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- · street signage including street lights,
- kerb and gutter,
- footway including pedestrian crossings, footpath, and driveways,
- · retaining walls, or other significant structures,
- Heritage Items, including street name inlays,
- · utility service items including historical utility covers, and
- drainage structures/pits/pipes (CCTV footage).

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. 6. Archaeological Features – Unexpected Findings

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.

Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.

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.

Notes:

- 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).

Condition Reason: To protect archaeological features.

B. 7. Skeletal Remains

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:

- a) NSW Police, and
- b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

Details of the remains and their precise location are to be provided.

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.

Condition Reason: To ensure the appropriate management of skeletal remains.

B. 8. Aboriginal Objects – Unexpected Findings

While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:

- Not further disturb or move these objects or bones.
- · Immediately cease all work at the particular location.
- In the case of suspected human remains, notify NSW Police.
- 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.
- Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.
- 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.

Notes:

The Definition of Aboriginal object, as per the National Parks & 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.

Condition Reason: To protect Aboriginal objects

B. 9. Aboriginal Heritage Due Diligence Responsibilities

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 & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

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

Condition Reason: To protect Aboriginal heritage.

B. 10. 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	
SECURITY under section 4.17(6) of the Environmental Planning and Assessment Act 1979				
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$23,665.00	No	T115	
Tree Damage Security Deposit – making good any damage caused to any public tree	Nil	No	T114	
INSPECTION FEES under section 608 of the Local Government Act 1993				
Public Tree Management Inspection Fee	Nil	No	T95	
Street Tree Planting and Maintenance Fee	Nil	No		
Security Deposit Administration Fee	\$225.00	No	T16	
TOTAL SECURITY AND FEES	\$23,890.00			

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

Condition Reason: To ensure any relevant security and fees are paid.

B. 11. Dilapidation Reports for Existing Buildings

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.

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

- a) 114 Edgecliff Road
- b) 118 Edgecliff Road

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. 12. Adjoining Buildings Founded on Loose Foundation Materials

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.

Notes:

- 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.
- 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.

Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.

B. 13. Works (Construction) Zone – Approval and Implementation

If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.

If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.

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.

Notes:

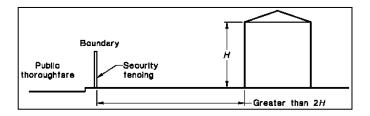
 A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.

 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.

Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.

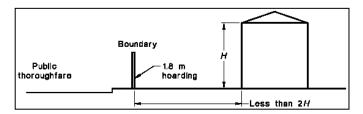
B. 14. Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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

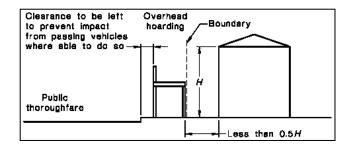
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- 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:

- 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,
- 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

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

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
 - 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:
 - 1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or
 - 2. the land is zoned R2 Low Density Residential, or
 - 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)

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

Condition Reason: To ensure public safety.

B. 15. Site Signs

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.

Clause 70 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
 - 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 75 of the Development Certification and Fire Safety 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.

Notes

- 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.
- 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.

Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.

B. 16. Toilet Facilities

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.

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.

Notes:

- In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999.
- This condition does not set aside the requirement to comply with SafeWork NSW requirements.

Condition Reason: To ensure toilet facilities are provided for workers at the work site.

B. 17. Establishment of Boundary Location, Building Location and Datum

Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:

- a) set out the boundaries of the site by permanent marks (including permanent recovery points),
- 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,
- establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and
- 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.

Notes:

- 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.
- 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.

Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.

B. 18. Compliance with Australian Standard for Demolition

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.

Condition Reason To control the risks of demolition work.

B. 19. Construction Management Plan Arborist Review

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.

The plan must address:

- a) 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.;
- c) Site construction access, temporary crossings and movement corridors on the site defined:
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.

B. 20. Arborists Documentation and Compliance Checklist

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:

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

All compliance certification documents must be kept on site.

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 any site works	 Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.

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

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

Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.

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	
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986				
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other- information/levy-calculator	Contact LSL Corporation or use online calculator	No		
SECTION 7.12 DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2022 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au				
Development Levy (section 7.12)	\$8,060.86 + Index Amount	Yes, quarterly	T96	
TOTAL CONTRIBUTIONS AND LEVIES	\$8,060.86 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 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.

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.

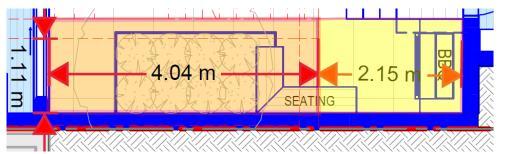
Condition Reason: To ensure any relevant levy and contributions are paid.

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

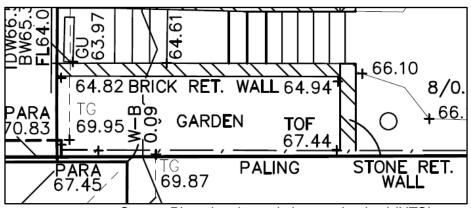
Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:

a) Deep Soil Landscaped Area

The remaining section of the existing deep soil garden bed along the western boundary (4m x 1.1m), outside of the kitchen extension must be retained. Additionally the area south of the existing garden bed must be converted to deep soil landscaped area. The following diagrams indicate the location of the required deep soil landscaped area.



Hatched area where deep soil is required (NTS)



Survey Plan showing existing garden bed (NTS)

b) Amended Landscape Plan

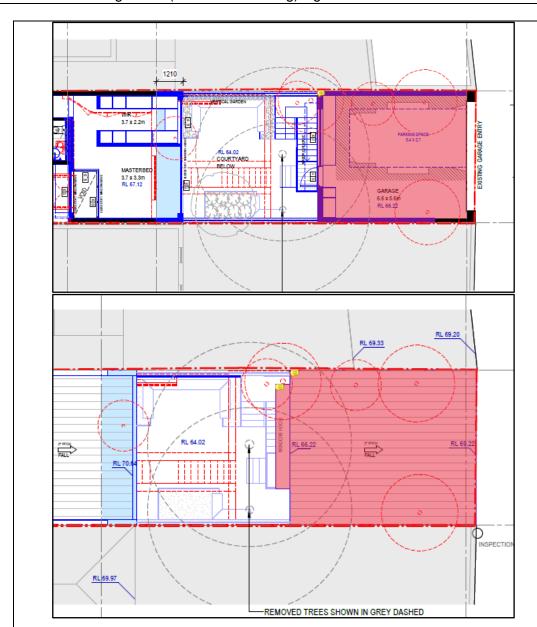
The approved landscape plans must be amended and provided to incorporate the following:

- A minimum 15% or 38.385m² of deep soil landscaped area throughout the subject site. The required deep soil landscaped area must be free of above ground and below ground structures and hard paved areas.
- At least one (1) small tree (in addition to the proposed Chinese Pistachio tree) to be planted at the rear of the subject site in a minimum 5m² deep soil landscaped area. The tree is to be one of the following species:
 - i. Tristaniopsis laurina 'Luscious' Watergum
 - ii. Pyrus sp. (Ornamental Pear)
 - iii. Lagerstroemia indica (Crepe Myrtle)

Reason: This condition is imposed to address the minimum requirement for deep soil landscaped area under Woollahra DCP 2015 and to address replacement planting for the unauthorised lopping of two (2) prescribed trees under Woollahra DCP 2015.

c) Deletion of Garage

The proposed garage and all associated works must be deleted. This must be achieved by deleting all proposed structures in the area highlighted in red on the proposed First Floor and Proposed Roof Plans extracted below.



Reason: This condition addresses replacement planting and required deep soil area for the unauthorised lopping of two (2) prescribed trees under Woollahra DCP 2015.

d) First Floor Rear Windows

The proposed First Floor windows at the proposed rear (south) elevation identified as W07 and W08 must be amended to be vertically proportioned. The height of the amended windows must be greater than 1.4 times the width and less than twice the width.

Reason: To ensure compliance with C10 under Part C2.5.4 of Woollahra DCP 2015, Chapter C2 Woollahra Heritage Conservation Area, and to protect the amenity of adjoining properties.

Notes:

Clause 20 of the Development Certification and Fire Safety Regulations prohibits the issue
of any construction certificate subject to this condition unless the Principal Certifier is
satisfied that the condition has been complied with.

 Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.

Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.

D. 3. BASIX Commitments

Before the issue of any construction certificate, BASIX Certificate No A496954 must be submitted to the Principal Certifier with any application for a construction certificate.

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

Notes:

- 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.
- 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.

Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development.

D. 4. Road and Public Domain Works

Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. 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 rectangular hollow section (RHS) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. 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 the existing, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the Environmental Planning and Assessment Act 1979			
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ Nil	No	T113
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113
INSPECTION FEES under section 608 of the Local Government Act 1993			
Public Road and Footpath Infrastructure Inspection Fee	\$ 645	No	T45
TOTAL SECURITY AND FEES	\$ 645		

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:

- Road has the same meaning as in the Roads Act 1993.
- 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.
- 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). 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.
- 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 must 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.
- When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
- 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.
- When determining whether the works within public land are satisfactory, Council will
 consider the ownership, construction quality, maintenance, operations, and public utility of
 such item/s.
- 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.

Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.

D. 5. Erosion and Sediment Control Plan – Submission and Approval

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:

- a) "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
- 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 Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.

Notes:

- The International Erosion Control Association Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.
- The "Do it Right On Site, Soil and Water Management for the Construction Industry" publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au, and The Blue Book is available at www.environment.nsw.gov.au
- Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.

Condition Reason: To prevent potential water pollution and dust nuisance.

D. 6. Structural Adequacy of Existing Supporting Structures

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.

Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.

D. 7. Professional Engineering Details

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. In particular, all preliminary geotechnical reports must be reviewed and certified by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years.

Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.

Notes:

• This does not affect the right of the developer to seek staged construction certificates.

Condition Reason: To ensure professional engineering details and technical specifications are provided.

D. 8. Engineer Certification

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.

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.

Condition Reason: 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.

D. 9. Geotechnical and Hydrogeological Design, Certification and Monitoring

Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must 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 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 to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter.
- 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 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.

Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.

D. 10. Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths.

Before the issue of any construction certificate, if ground anchors are proposed:

- a) 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.
- b) 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.
- c) 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. A minimum of four weeks should be allowed for assessment.

Notes:

- To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.
- · Road has the same meaning as in the Roads Act 1993.
- Clause 17 of the Roads (General) 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.

Condition Reason: To ensure the relevant approval is gained for any temporary ground anchors.

D. 11. Parking Facilities

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.

Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.

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.

Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.

D. 12. Stormwater Management Plan

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:

- a) General design in accordance with stormwater management plans, referenced N0220013-Rev 3, prepared by JN Engineering, dated 11/10/2023, other than amended by this and other conditions,
- b) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- c) The proposed pump out system must direct collected runoff to a minimum 450x450mm boundary junction pit prior to discharging to the street kerb by gravity. The pump out system must be designed in accordance with AS3500.3,
- d) 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,
- e) 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,
- f) 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,
- g) 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,
- h) Detail any remedial works required to upgrade the existing stormwater drainage system,
- 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,
- j) Dimensions of all drainage pits and access grates must comply with AS3500.3,

- k) Compliance with the objectives and performance requirements of the BCA,
- 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.
- f) Overland flow paths over impervious areas.

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.

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).

Notes:

• The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".

Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.

D. 13. Non-Gravity Drainage Systems

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 a Stormwater Management Plan for the site.

The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Notes:

The Woollahra DCP is available from Council's website www.woollahra.nsw.gov.au

Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.

D. 14. Submission of a Site Waste Minimisation and Management Plan

Before the issue of any construction certificate, a Site Waste Minimisation and Management Plan, prepared in accordance with Woollahra Development Control Plan 2015 Chapter E5 – Waste Management, is to be submitted to Council for approval.

Notes:

- The site waste minimisation and management is not listed under clause 73 of the
 Development Certification and Fire Safety Regulation as a matter that a Principal Certifier
 may certify. Hence, the Site Waste Minimisation and Management Plan must be referred to
 Council for its approval prior to the issue of any construction certificate for such works.
- 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.

Condition Reason: To ensure that the Waste Minimisation and Management Plan is assessed and approved by Council.

E. BEFORE BUILDING WORK COMMENCES

E. 1. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

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:

- 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 2014, 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.

Notes:

- 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.
- All new guttering is to comply with the provisions of AS3500.

Condition Reason: To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.

E. 2. Erosion and Sediment Controls – Installation

Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained 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" and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, 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.

Notes:

- The International Erosion Control Association Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition.
- Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.
- The "Do it Right On Site, Soil and Water Management for the Construction Industry" publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au
- 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.
- 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.

Condition Reason: To prevent potential water pollution and dust nuisance.

E. 3. Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

Building work must not commence, 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.

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
- 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

F. 1. Compliance with BCA and Insurance Requirements under the Home Building Act 1989

While site work is being carried out:

- a) 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 the Development Certification and Fire Safety Regulations, 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.

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.

Notes:

• All new guttering is to comply with the provisions of AS 3500.

Condition Reason: To ensure compliance with the BCA and Home building Act 1989.

F. 2. Requirement to Notify about New Evidence

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.

Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.

F. 3. Critical Stage Inspections

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.

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 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.

Notes:

- 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.
- 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.

Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.

F. 4. Hours of Work – Amenity of the Neighbourhood

While site work is being carried out:

- 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. piering,
 - 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 interval break within every hour.

Notes:

- 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.
- Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.
- 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.
- 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.
- NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm

Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.

F. 5. Public Footpaths – Safety, Access and Maintenance

While site work is being carried out, any person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence that swings out, or encroaches 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) 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.
- f) Not stand any plant and equipment upon the road or footway.
- 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.
- h) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- 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.

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.

Notes:

- 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.
- 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.
- 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.

Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.

F. 6. Tree Preservation

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

General Protection Requirements:

- a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- 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.

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

Condition Reason: To protect trees during the carrying out of sitework. Standard Condition F.8 (Autotext 8F)

F. 7. Maintenance of Environmental Controls

While site work is being carried out, the following monitoring, measures and controls must be maintained:

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

Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.

F. 8. Compliance with Geotechnical / Hydrogeological Monitoring Program

While site work is being carried out, 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.

Notes:

 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.

Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.

F. 9. Support of Adjoining Land and Buildings

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).

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.

Notes:

- 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.
- 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).
- 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.
- 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.

Condition Reason: To ensure that the support of adjoining land is not removed.

F. 10. Vibration Monitoring

While site work is being carried out, 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.

Notes:

- Professional engineer has the same mean as in Schedule 1 of the BCA.
- **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...."
- Supported land has the same meaning as in the Conveyancing Act 1919.

Condition Reason: To monitor and manage vibration impacts from development.

F. 11. Erosion and Sediment Controls – Maintenance

While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained 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" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, 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.

Notes:

- 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.
- 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.

Condition Reason: To prevent potential water pollution and dust nuisance.

F. 12. Disposal of Site Water During Construction

While site work is being carried out:

- a) 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.
- b) 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.
- 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.

Condition Reason: 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.

F. 13. Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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.

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 are in place 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.

Condition Reason: 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.

F. Shoring and Adequacy of Adjoining Property

14.

While site work is being carried out, 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.

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.

Notes:

 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.

Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.

F. 15. Placement and Use of Skip Bins

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:

- 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.

Notes

 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.

Condition Reason: To ensure waste storage containers are appropriately located.

F. 16. Prohibition of Burning

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.

Notes:

 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.

Condition Reason: To ensure no burning of waste occurs.

F. 17. Dust Mitigation

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.

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.

Notes:

- "Dust Control Do it right on site" and the accompanying factsheets can be downloaded from Council's website www.woollahra.nsw.gov.au
- Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.
- 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.

Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.

F. 18. Site Waste Minimisation and Management – Demolition

While site work is being carried out, 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),
- separate collection bins and/or areas for the storage of residual waste are to be provided,
- d) the purpose and content of the bins and/or storage areas are to be clearly 'signposted',
- e) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and
- f) site disturbance must be minimised, and unnecessary excavation limited.

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,
- 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.

Notes:

 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.

Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.

F. 19. Site Waste Minimisation and Management – Construction

While site work is being carried out, 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,
- deliveries of materials must be arranged so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- consideration must be given to returning excess materials to the supplier or manufacturer.
- 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),
- e) the purpose and content of the storage areas must be clearly 'signposted',
- 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,
- g) separate collection bins or areas for the storage of residual waste must be promoted.
- h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,
- i) site disturbance must be minimised and unnecessary excavation limited,
- j) all waste must be transported to a place that can lawfully be used as a waste facility, and
- 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.

Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.

F. 20. Asbestos Removal

While site work is being carried out, 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 must be left in any public place.

Notes:

- 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.
- All removal, repair or disturbance of or to asbestos material must comply with:
 - Work Health and Safety Act 2011,
 - Work Health and Safety Regulation 2017,
 - SafeWork NSW "Code of Practice: How to Safely Remove Asbestos" (2016), and
 - SafeWork NSW "Code of Practice: How to Manage and Control Asbestos in the Workplace" (2016).
- For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050

Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.

F. 21. Classification of Hazardous Waste

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.

Condition Reason: 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.

F. 22. Disposal of Asbestos and Hazardous Waste

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.

Condition Reason: 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.

F. 23. Asbestos Removal Signage

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.

Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.

F. Notification of Asbestos Removal

24.

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.

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.

Condition Reason: To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.

F. 25. Arborists Documentation and Compliance Checklist

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:

- 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 noncompliance, and
- 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
While site work is carried out	 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. 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. Regular inspections during construction (minimum bimonthly).

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 have been implemented.

F. 26. 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
Pistacia chinensis (Chinese Pistachio)	Rear garden bed	100L	8m x 6m

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the provision of appropriate replacement planting.

F. 27. Paving in the vicinity of trees

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
1	Plumeria sp. (Frangipanni)	Front garden	2m
2	Plumeria sp. (Frangipanni)	Front garden	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. 28. 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
1	Plumeria sp. (Frangipanni)	Front garden	2m
2	Plumeria sp. (Frangipanni)	Front garden	2m

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. 29. Installation of stormwater pipes and pits in the vicinity of trees

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.

Council Ref No	Species	Location	Radius from centre of trunk
1	Plumeria sp. (Frangipanni)	Front garden	2m
2	Plumeria sp. (Frangipanni)	Front garden	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 then 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.

F. 30. Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

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.

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.

Notes:

 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.

Condition Reason: To ensure access to swimming pools is effectively restricted to maintain child safety.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 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.

Notes:

· New building includes an altered portion of, or an extension to, an existing building.

Condition Reason: To ensure the building is suitable to occupy.

G. 2. Commissioning and Certification of Systems and Works

Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 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 must be submitted to the satisfaction of the Principal Certifier.

Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:

- Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- 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.

Notes:

- 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).
- The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate.

Condition Reason: To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.

G. 3. Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation

Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. A496954.

Notes

• 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.

Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.

G. 4. Landscaping

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.

Condition Reason: To ensure that all landscaping work is completed prior to occupation.

G. 5. Removal of Ancillary Works and Structures

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:

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

Condition Reason: To ensure that all ancillary matter is removed prior to occupation.

G. 6. Works within Public Land (including Council, State or Federal owned land or property)

Before the issue of any occupation certificate, the following works within public land, whether new/existing/renewed 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 person with the benefit of this consents expense:

- a) stormwater pipes, pits, structures and connections to public stormwater systems within the road,
- b) driveways and vehicular crossings,
- c) renew/new retaining structures,
- d) overhang structures,
- e) encroachments or occupation or alienation of public land or property,
- f) removal of redundant driveways and any other structure,
- g) new footpaths, pathways, walkways, or dunny lanes,
- h) relocation of existing power/light pole, if applicable,
- i) relocation/provision of street signs, if applicable,
- j) new or replacement street trees, if applicable,
- k) verge landscape items, 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
- m) new or reinstated road surface pavement within the road.

Notes:

- When determining whether the works within public land are satisfactory, Council will
 consider the ownership, construction quality, maintenance, operations, and public utility of
 such item/s.
- Security held by Council under section 4.17(6) of the Act will not be released until
 compliance has been achieved with this condition. An application for the refund of security
 must be submitted with the occupation certificate to Council. This form can be downloaded
 from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer
 service centre.

Condition Reason: To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.

G. 7. Positive Covenant and Works-As-Executed Certification of Stormwater Systems

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:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the pump out system,
- 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,
- d) that a pump out system with minimum storage capacity has been installed to comply with AS3500.3,
- e) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,
- f) that the works have been constructed in accordance with the approved design,
- g) pipe invert levels and surface levels to Australian Height Datum, and
- h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the pump out system. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant

Notes:

- The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate.
- The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.

Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.

G. 8. Arborists Documentation and Compliance Checklist – Prior to any occupation certificate

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 record of the condition of trees to be retained prior to and throughout development.
- b) Recommended actions to improve site conditions and rectification of noncompliance.
- c) Recommendations for future works which may impact the trees.

All compliance certification documents must be kept on site by the site Supervisor.

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. The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the required trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.

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.

G. 9. Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Before the issue of any occupation certificate, and 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 under 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: Swimming pool safety Water recirculation systems.

Backwash must be discharged to the sewer in compliance with AS/NZS 3500.

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.

Notes:

NSW Health guidelines and fact sheets are available at <u>www.health.nsw.gov.au</u>

Condition Reason: To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.

G. 10. Swimming Pool Fencing

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.

Notes:

Pools commenced or completed after May 2013 must meet the BCA and AS1926.

Condition Reason: To ensure swimming pool safety.

H. OCCUPATION AND ONGOING USE

H. 1. Maintenance of BASIX Commitments

During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No A496954.

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

Condition Reason: To ensure the approved environmental sustainability measures are maintained for the life of development.

H. 2. Maintenance of Landscaping

During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

Notes:

- 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.
- Owners must have regard to the amenity impact of trees upon the site and neighbouring land.

Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

H. 3. Ongoing Maintenance of the Pump Out System

During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:

- a) Permit stormwater to be temporarily detained by the System;
- b) Keep the system clean and free of silt rubbish and debris.
- c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner.

- d) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense.
- e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.
- f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.
- h) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The owner:

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

Notes:

 This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.

H. 4. Swimming and Spa Pools – Maintenance

During the occupation and ongoing use, 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,
- 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,
- in compliance with AS 1926 Swimming pool safety Water recirculation and filtration systems,
- d) with backwash being discharged to the sewer in compliance with AS/NZS 3500, 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.

Notes:

- 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.
- The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au

Condition Reason: To ensure public health and safety.

H. 5. Noise from Mechanical Plant and Equipment

During the occupation and ongoing use, 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 LA90, 15 minute level measured by a sound level meter.

Notes:

 Words in this condition have the same meaning as in the Noise Policy for Industry (2017) www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

Condition Reason: To protect the amenity of the neighbourhood.

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

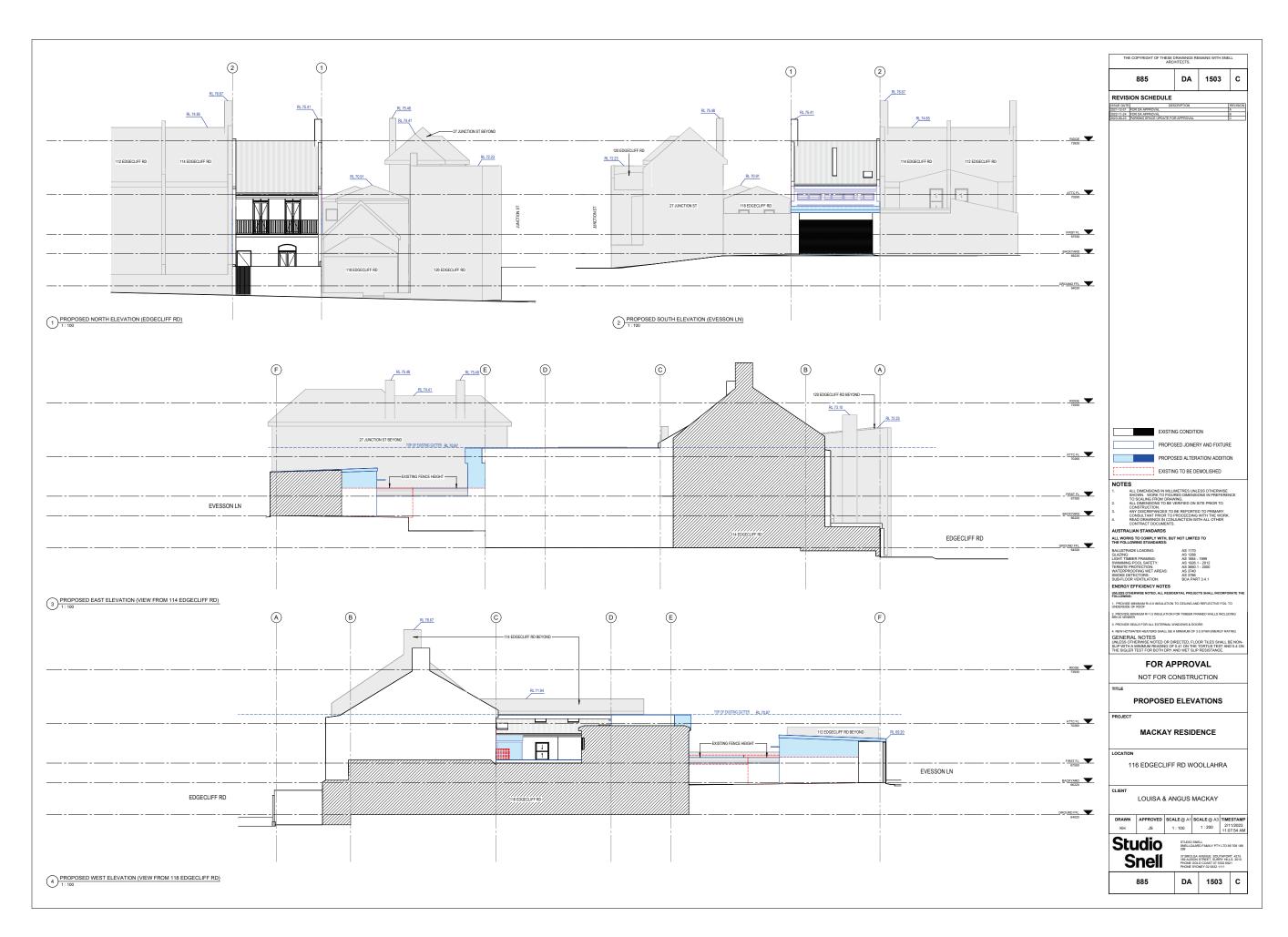
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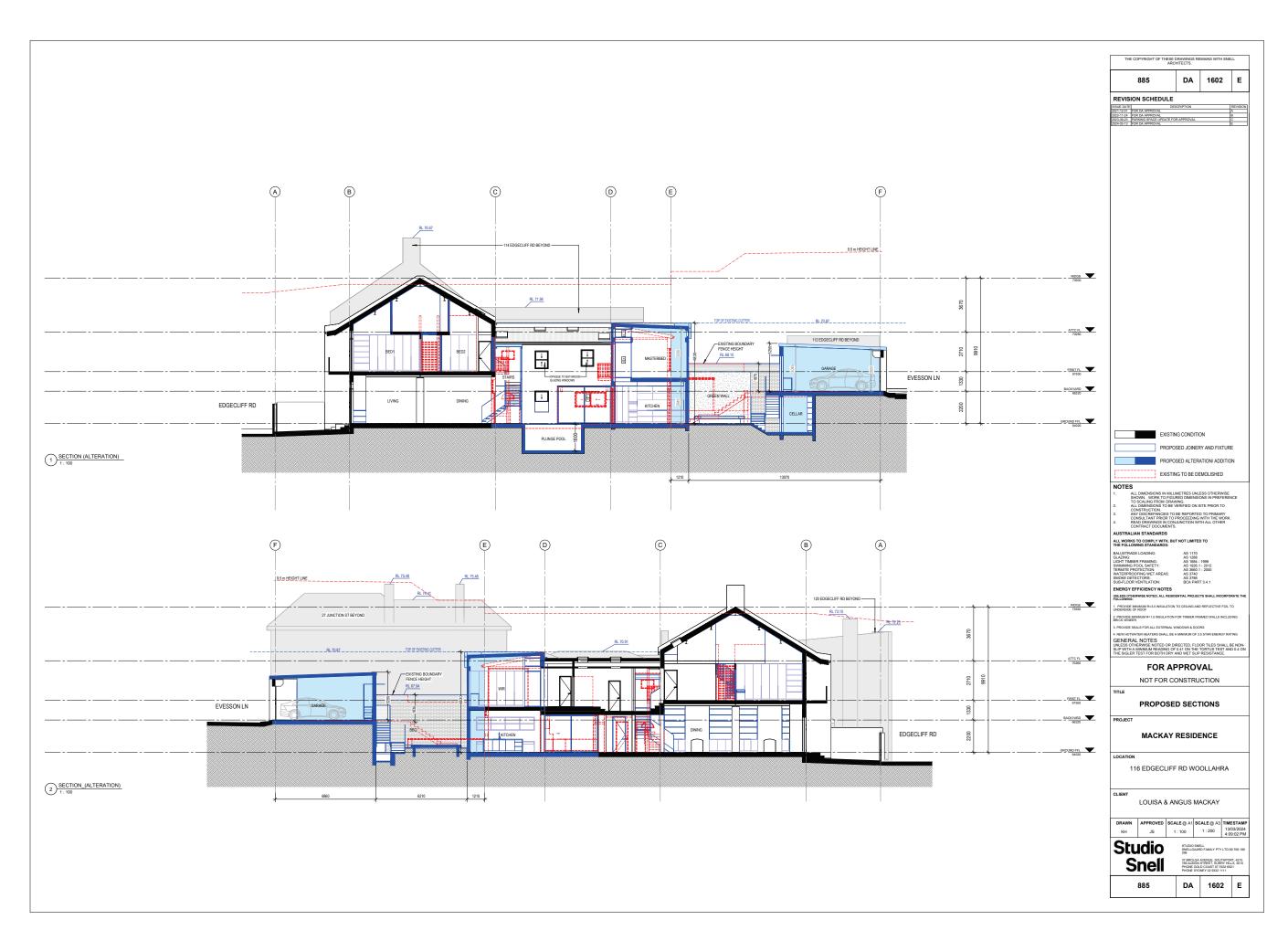
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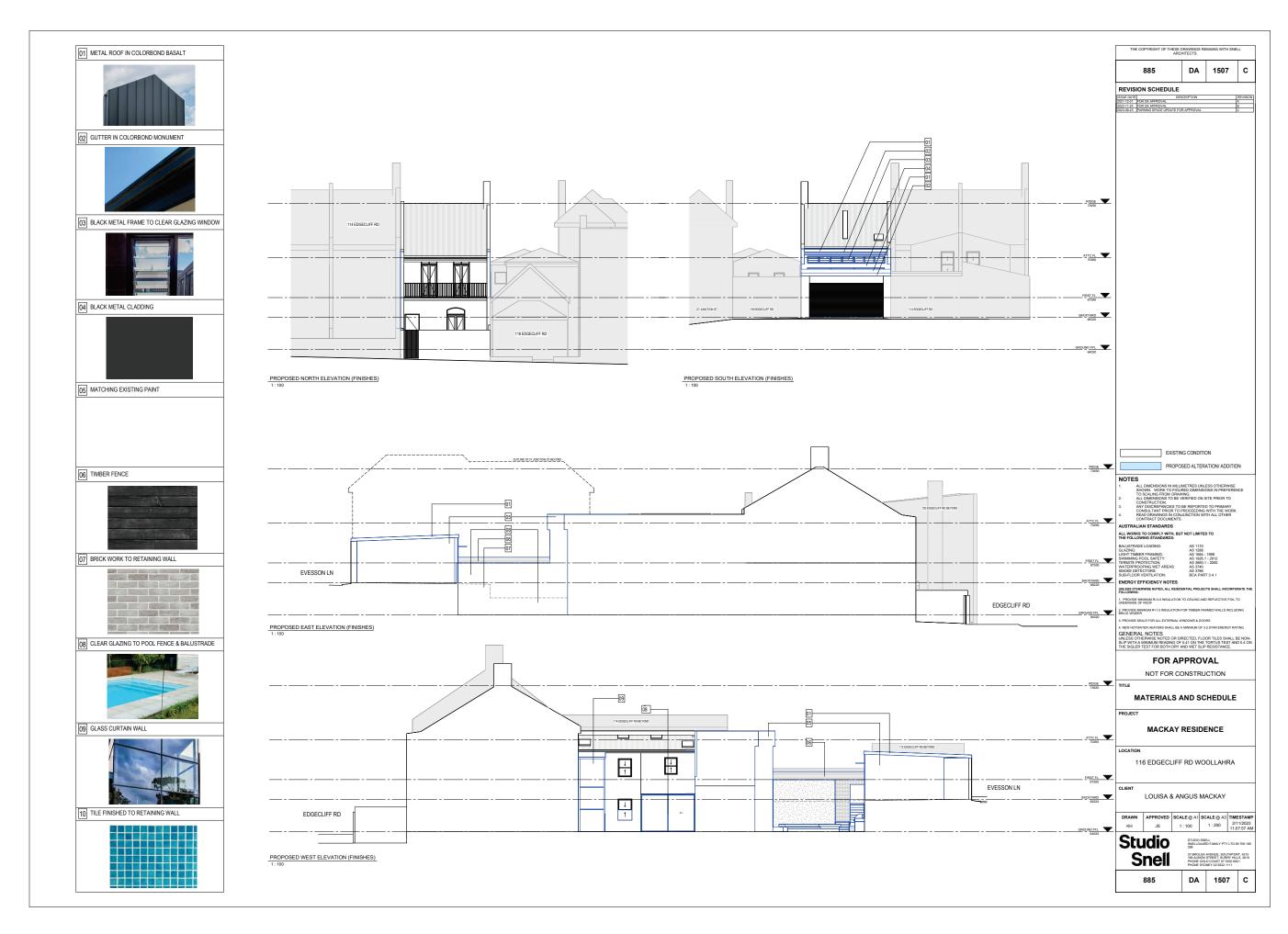
- 1. Plans, sections and elevation, including landscape plans and shadow diagrams 🗓 🖺
- 2. Clause 4.6 Written Request FSR J
- 3. Referral Response Development Engineering J.
- 4. Referral Response Trees and Landscaping J
- 5. Referral Response Heritage 🗓 🖺

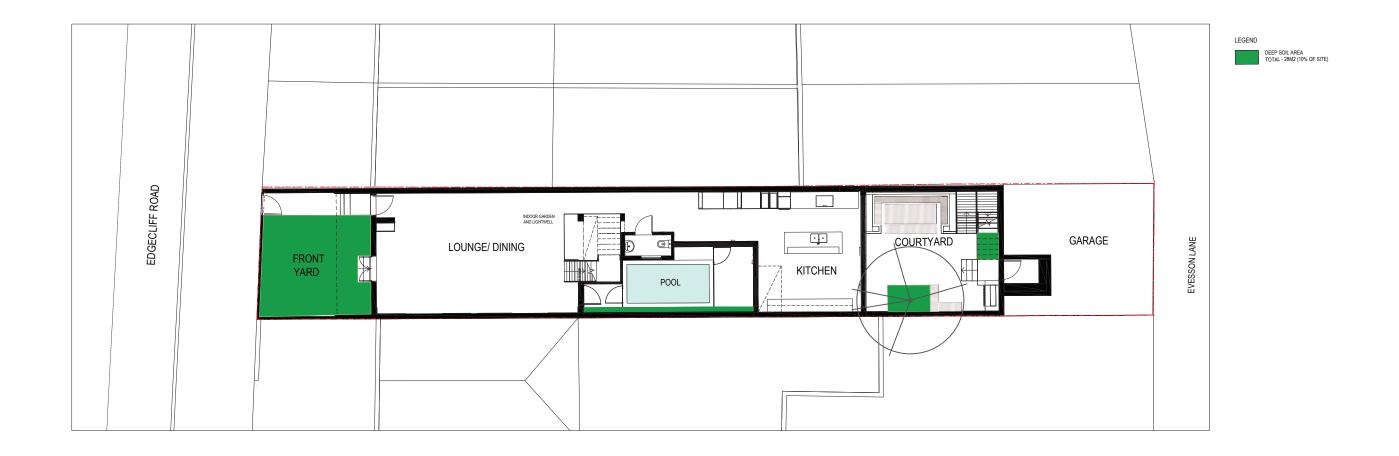






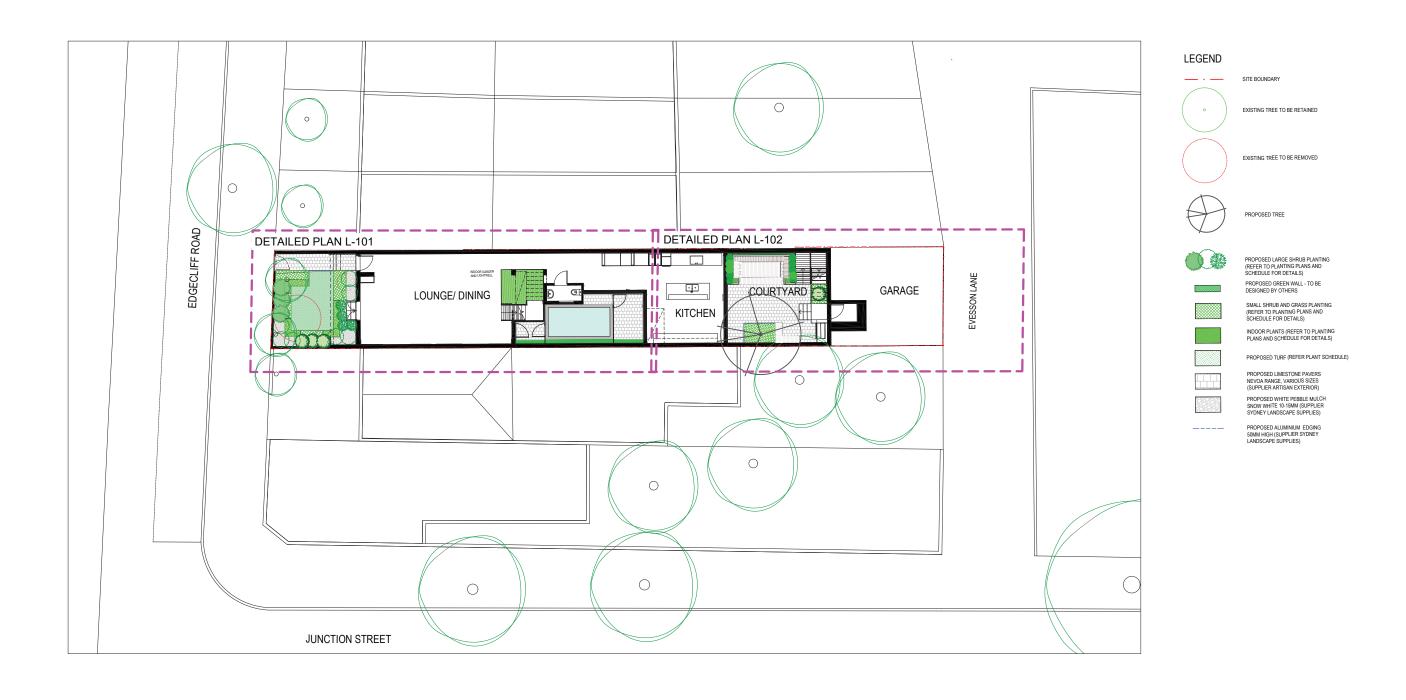






JENNIFER FORBES LANDSCAPE ARCHITECT AILA 9986 CLIENT
ANGUS AND LOUISA MCKAY
116 EDGECLIFF ROAD WOOLLAHRA 2025
PROJECT
DEVELOPMENT APPLICATION

DRAWING TITLE
DEEP SOIL CALCULATION
DRAWING NO.
L-002
SCALE
1:75 @ A1
DATE 12/06/2023 REVISION A



JENNIFER FORBES

LANDSCAPE ARCHITECT

AILA 9986

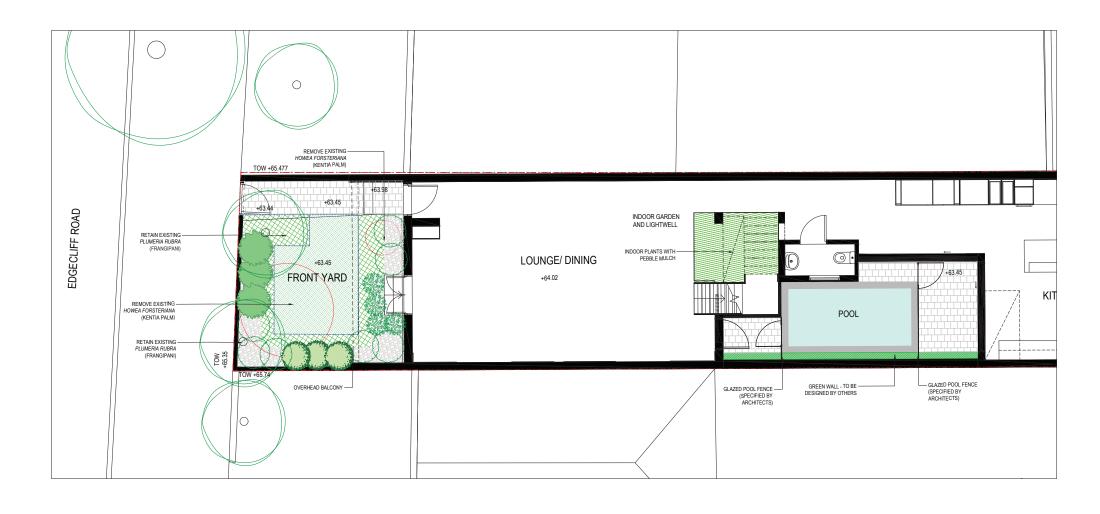
CLIENT ANGUS AND LOUISA MCKAY

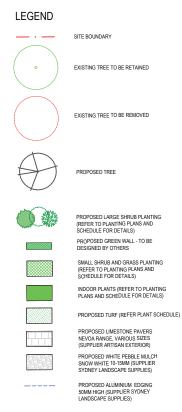
DEVELOPMENT APPLICATION

116 EDGECLIFF ROAD WOOLLAHRA 2025

DRAWING TITLE SITE PLAN DRAWING NO. L-0100

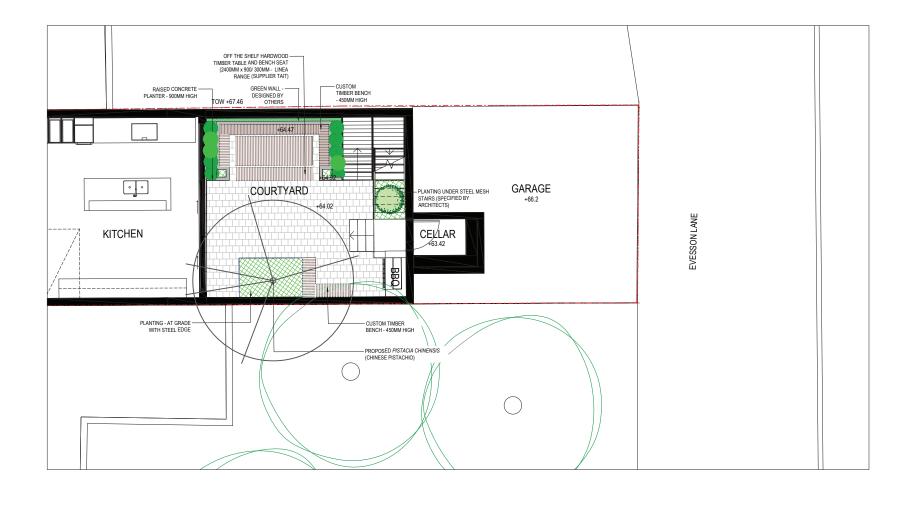
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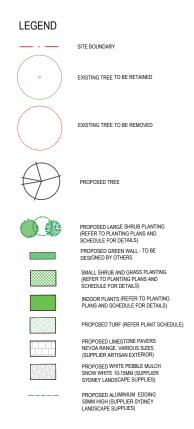




JENNIFER FORBES LANDSCAPE ARCHITECT AILA 9986 CLIENT
ANGUS AND LOUISA MCKAY
116 EDGECLIFF ROAD WOOLLAHRA 2025
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DEVELOPMENT APPLICATION

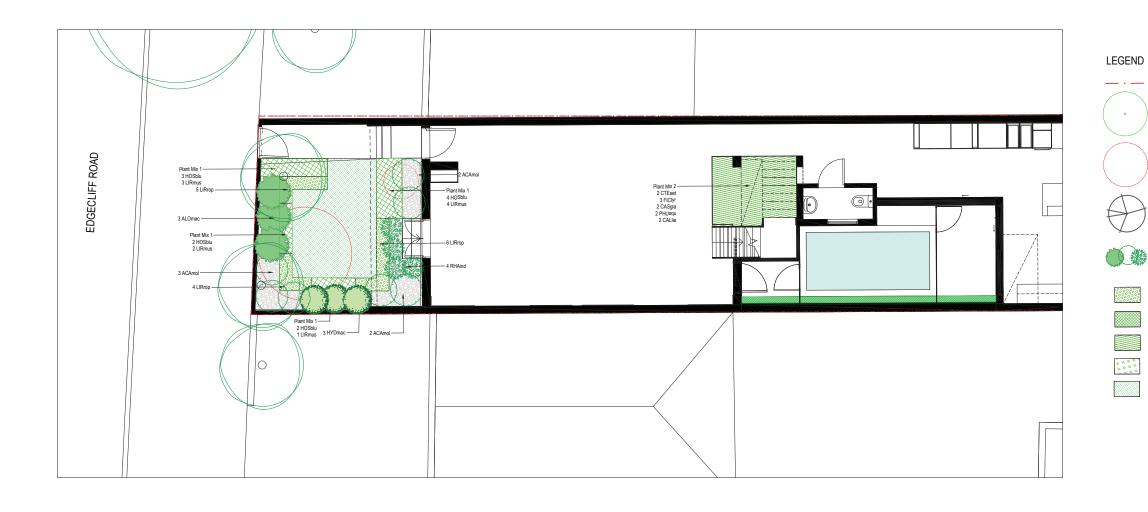
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DRAWING NO.
L-0101
SCALE
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DATE 12/06/2023 REVISION A





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DEVELOPMENT APPLICATION

DRAWING TITLE
DETAILED PLAN 2
DRAWING NO.
L-0102
SCALE
1:50 @ A1
DATE 12/06/2023 REVISION A



CLIENT
ANGUS AND LOUISA MCKAY
116 EDGECLIFF ROAD WOOLLAHRA 2025
PROJECT
DEVELOPMENT APPLICATION

SITE BOUNDARY

EXISTING TREE TO BE RETAINED

EXISTING TREE TO BE REMOVED

MASS GRASS PLANTING (LIRIOPE MUSCARI'ROYAL PURPLE') PLANT MIX 1 - HOSTA 'BLUE MOUSE', LIRIOPE MUSCARI'JUST RIGHT''

DRAWING TITLE
PLANTING PLAN 1
DRAWING NO.
L-0201
SCALE
1:50 @ A1
DATE 12/06/2023 REVISION A

JENNIFER FORBES LANDSCAPE ARCHITECT AILA 9986



SITE BOUNDARY

EXISTING TREE TO BE RETAINED

EXISTING TREE TO BE REMOVED

EXISTING TREE TO BE REMOVED

PROPOSED PISTACIA CHINENSIS (CHINESE PISTACHIO)

PROPOSED LARGE SHRUB PLANTING (REFER TO PLANTING PLANS AND SCHEDULE FOR DETAILS)

MASS GRASS PLANTING (LIRIOPE MUSCAR' ROYAL PURPLE)

PLANT MIX 1 - HOSTA BLUE MOUSE; LIRIOPE MUSCAR' INSTRICT

PLANT MIX 2 - INDOOR PLANTS (REFER TO PLANT SCHEDULE)

PLANT MIX 3 - PENISETUM SETACEUM AND RUDRUM PENINISETUM ALOPECUROIDES

PROPOSED TURF (SAPPHIRE SOFT LEAF BUFFALO TURF — LOW ALLERGEN STENOTAPHRUM SECUNDATUM BILL

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JENNIFER FORBES LANDSCAPE ARCHITECT AILA 9986 CLIENT
ANGUS AND LOUISA MCKAY
116 EDGECLIFF ROAD WOOLLAHRA 2025
PROJECT
DEVELOPMENT APPLICATION

DRAWING TITLE
PLANTING PLAN 2
DRAWING NO.
L-0202
SCALE
1:50 @ A1
DATE 12/06/2023 REVISION A

PLANT SCHEDULE

CODE	BOTANICAL NAME	COMMON NAME	MATURE SIZE (HxW) M	POT SIZE	DENSITY	QUANTITY
TREES						•
PC	Pistacia chinensis	Chinese Pistachio	9 x 6	200L	As shown	1
SHRUBS						
ACAmol	Acanthus mollis	Oyster Plant	1 x 1.3	140mm	1/m²	6
ALOmac	Alocasia macrorrhiza	Giant Elephants Ear	2 x 2	200mm	1/m²	3
HYDmac	Hydrangea macrophylla 'White Ball'	Hydrangea	1.5 x 1.2	200mm	2/m²	4
RHAind	Rhaphiolepis indica 'Oriental Pearl'	Indian Hawthorn	1.0 x 1.0	120mm	2/m²	4
SHRUBS						
PITten	Pittosporum tenuifolium 'Golf Ball'	Golf Ball	0.8 x 0.8m	200mm	2/m²	2
RHOcon	Rhododendron hybrid 'CONLEN' PBR	Autumn Bravo	0.75 X 1	140mm	2/m²	6
GRASSE	S .					
LYCrad	Lycoris radiata	Japanese Spider Lily	0.2 x 0.45	200ML	6/m²	10
LIRrop	Liriope muscari 'Royal Purple'	Lily Turf	0.45 x 0.45	140mm	5/m²	15
PLANT N	 1IX 1					
HOSblu	Hosta 'Blue Mouse'	Plantain Lilies	0.3 x 0.4	140mm	5/m²	11
LIRmus	Liriope muscari 'Isabella'	Lily Turf	0.45 x 0.45	140mm	5/m²	11
PLANT N	 IIX 2 (INDOOR PLANTS)					
CTEset	Ctenanthe setosa 'Grey Star'	Never Never Plant	1.2mH x 1.2mW	140ML	2/m²	2
FIClyr	Ficus lyrata	Fiddle Leaf Fig	1-10 x 0.5-5	200ML	2/m²	3
CASgla	Monstera deliciosa	Swiss Cheese Plant	1-5 x 0.5-5	140mm	2/m²	2
PHIsqu	Philodendron squamiferum	Red Bristle Philodendron	1 x 2	140mm	2/m²	2
CALlie	Calathea lietzei	Peacock Plant	1 X 1.2	140mm	2/m²	2
PLANT N	IIX 3					
PENset	Pennisetum setaceum 'Rubrum'	Purple Fountain Grass	1 x 1	200ML	2/m²	24
PENalo	Pennisetum alopecuroides	Fountain Grass	1 x 1	140mm	2/m²	24
TURF	I					
Turf	Sapphire Soft Leaf Buffalo Turf – low allergen St	enotaphrum Secundatum 'B12"				

PLANT PALETTE

TREE

SHRUBS

Acanthus mollis Oyster Plant



Pistacia chinensis

















Rhododendron Hybrid 'Conlen' PBR

Hosta 'Blue Mouse











Pennisetum setaceum 'Rubrum' Purple Fountain Grass

Liriope muscari 'Royal Purple' Lily Turf



Ficus lyrata Ficus lyrata







Pennisetum alopecuroides Foxtail Grass



Ctenanthe setosa 'Grey Star'

JENNIFER FORBES LANDSCAPE ARCHITECT AILA 9986

CLIENT ANGUS AND LOUISA MCKAY 116 EDGECLIFF ROAD WOOLLAHRA 2025 DEVELOPMENT APPLICATION

DRAWING TITLE
PLANT SCHEDULE AND PALETTE
DRAWING NO.
L- 0203
SCALE
NTS
DATE 12/06/2023 REVISION A

WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)

Proposed Alterations and Additions to an Existing Terrace at

No. 116 Edgecliff Road, Woollahra

Prepared for:

Angus & Louisa Mackay

c/- Studio Snell 169 Albion Street Surry Hills NSW 2010

Prepared by:

GSA PLANNING

Urban Design, Environmental & Traffic Planners (A.B.N 89 643 660 628)
95 Paddington Street, Paddington NSW 2021 p: 02 9362 3364

e: info@gsaplanning.com.au

JOB NO. 21603 March 2024

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WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014 CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

APPLICANT'S NAME: Angus and Louisa Mackay

SITE ADDRESS: No. 116 Edgecliff Road, Woollahra

PROPOSAL: Alterations and additions to the existing terrace

1.

(i) Name of the applicable planning instrument which specifies the development standard:

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

R3 Medium Density Residential. The objectives of the R3 Medium Density Residential Zone are as stated:

- To provide for the housing needs of the community within a medium density residential environment.
- · To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- 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.

(iii) The number of the relevant clause therein:

Clause 4.4 – Floor Space Ratio which is stated as follows:

- (1) The objectives of this clause are as follows—
- (a) for development in Zone R3 Medium Density Residential—
- (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and
- (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, tree canopy cover and areas of private open space,
- (b) for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the <u>Floor Space Ratio Map</u>.
- (2A) (Repealed)

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

3. Background

The Woollahra LEP was amended in July 2023 to include a FSR development standard for dwelling houses, dual occupancies and semi-detached dwellings in the R2 and R3 Zones (to replace the floorplate control).

The LEP FSR clause previously stated, inter alia:

- 4.4 Floor space ratio
- (1) The objectives of this clause are as follows—
- (a) for development in Zone R3 Medium Density Residential—
- (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and
- (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.
- (b) for buildings in Zone B1 Neighbourhood Centre, Zone B2 Local Centre, and Zone B4 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.
- (2A) Despite subclause (2), the floor space ratio for a building on land shown on the Floor Space Ratio Map does not apply to a building that is a dwelling-house, dual occupancy or semi-detached dwelling.

The current FSR clauses of the LEP state inter alia (noting below that Clause 2A is repealed and Clause 4.4E is introduced):

- 4.4 Floor space ratio
- (1) The objectives of this clause are as follows—
 - (a) for development in Zone R3 Medium Density Residential—
 - (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and
 - (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, tree canopy cover and areas of private open space,
- (b) for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.
- (2A) (Repealed)
- 4.4E Exceptions to floor space ratio—dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3
- (1) The objectives of this clause are as follows-
 - (a) to ensure the bulk and scale of development is compatible with the desired future character of the area,
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
- (c) to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.
- (2) This clause applies to land in the following zones—
- (a) Zone R2 Low Density Residential,
- (b) Zone R3 Medium Density Residential.

Clause 4.6 Exceptions to Development Standards – FSR No. 116 Edgecliff Road, Woollahra - Job No. 21603

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(3) The maximum floor space ratio for a dual occupancy, dwelling house or semi-detached dwelling is—
  (a) for land identified as "Area 6" on the Floor Space Ratio Map-0.75:1, or
  (b) for other land—the floor space ratio specified for the lot size in the table to this subclause.
 Lot size
                     Maximum floor space ratio
 <150m2
                     1.05:1
 ≥150m2<200m2
                    0.95.1
 ≥200m2<250m2
                    0.85.1
 ≥250m2<300m2
                    0.75:1
 \geq300m2<350m2
                    0.65:1
 ≥350m2<400m2
                    0.55.1
 ≥400m2 0.5:1
```

(4) This clause does not apply to a dual occupancy, dwelling house or semi-detached dwelling in the Paddington, Watsons Bay or Woollahra heritage conservation areas identified on the Heritage Map.

Under Clause 4.4E(4), FSR does not apply to a dual occupancy, dwelling house or semi-detached dwelling in a HCA. However, a strict reading of the clause means the exemption from FSR does not apply to attached dwellings in the HCA, and therefore, Clause 4.4(2) applies. This means, the site is subject to the FSR shown on the LEP map, which in this instance is 0.65:1.

It is understood that the application of FSR to attached dwellings in a HCA is an error in the amended LEP. It is understood that this error will be rectified so that FSR does not apply to attached dwellings in a HCA within the R3 Zone that have a marked FSR on the LEP map.

On this basis, the FSR breach is technical and should be supported by Council staff.

4. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.4 of the LEP – Floor Space Ratio. This Clause operates in conjunction with the FSR Map which indicates a maximum 0.65:1 applies to the subject site. Clause 4.4 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The existing building on site has a GFA of 204.9m², which based on a site area of 255.9m² equates to an FSR of 0.8:1, which exceeds the development standard by 23.2%. As a result of the existing built form which exceeds the allowable FSR, it is inevitable that any improvement works to the building would also exceed the FSR development standard by technicality. The proposal seeks 44.1m² of additional GFA on site to accommodate a ground and first floor rear extension to align with No. 118 Edgecliff Road and to accommodate a single car garage at the rear. The proposal will have a GFA of 242.8m² and a FSR of 0.95:1, representing a 46% breach of the development standard (see **Figure 1** on the following page).

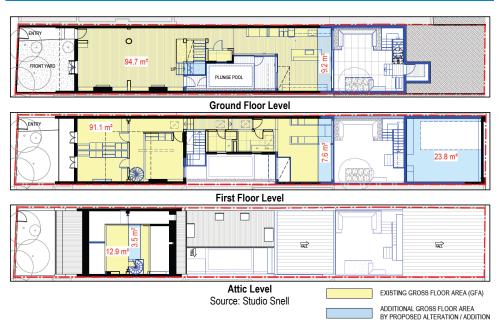


Figure 1: Proposed Floor Space Ratio Plans

The proposed alterations and additions are to accommodate extensions at the rear of the ground and first floor levels which will align with No. 118 Edgecliff Road and will substantially enhance the internal amenity and functionality of the existing terrace. Of the additional floor space proposed, 20.3m² is at the rear of the terrace. An additional 23.8m² is proposed in the garage to Evesson Lane surrounding the single car parking space. The proposed FSR will provide an enhanced built form that sits comfortably within the streetscape and is in keeping with the existing and emerging pattern of surrounding development. Importantly, given the new FSR is located at the rear of the existing terrace or within the proposed garage it will not be visible from the primary street frontage to Edgecliff Road or from Evesson Lane given a single storey garage appearance will be maintained.

5. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

Objective (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

Clause 4.6 Exceptions to Development Standards – FSR No. 116 Edgecliff Road, Woollahra - Job No. 21603

Objective (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances

The proposal seeks flexibility in the application of the FSR development standard to the development in the circumstances of this particular case. The site is located in the R3 Medium Density Residential Zone which allows for a range of permissible uses. The proposal is for sympathetic alterations and additions to the existing terrace to upgrade the dwelling and enhance internal amenity and functionality. The new FSR has been designed and sited to ensure consistency with surrounding development through compatibility with the rear building line of No. 118 Edgecliff Road and will provide a consistent rear façade and alignment with the neighbouring development. The additional FSR located in the garage is a result of the garage enclosure only being able to accommodate a single compliant car parking space, and the surrounding storage space being calculated as GFA. As such, the new FSR does not result in adverse additional bulk when compared to the existing situation. Also, given the additions are located at the rear, they will not be visible from the primary street frontage to Edgecliff Road and the bulk of the building to Edgecliff Road will be maintained as existing. As such, the proposal provides an appropriate balance of bulk and scale relative to the existing situation and surrounding development.

Flexibility in this particular circumstance allows a better outcome both for and from the site. The proposed additional floor space is to accommodate sympathetic alterations and additions at the rear of the ground and first floor levels of the existing terrace that will ensure improved internal amenity and a rear building line consistent with neighbouring development. Additional FSR is also located within the proposed garage structure at the rear to accommodate required on site store space. Reducing the FSR for compliance would unreasonably restrict development of the site without any noticeable benefits and would require additional built form works overcomplicating the proposed development. Flexibility in the development standard does not result in adverse amenity impacts to surrounding development.

6. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

6.1 Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

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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 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.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Despite the proposed development's non-compliance with the applicable FSR development standard, the proposal achieves the desired medium density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed development achieves the objectives of the FSR standard are explained below.

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

The site is located in the R3 Medium Density Residential Zone within the Grafton Precinct of the Woollahra HCA. The locality is characterised by a mix of residential and commercial terraces. Many buildings in the vicinity of the site have been substantially altered internally and at the rear and have a high site coverage which in many instances would appear to exceed the FSR development standard.

The proposal significantly upgrades the existing terrace with architecturally designed alterations and additions that will provide a bulk, scale and character in keeping with surrounding development, the Grafton Precinct and the wider Woollahra HCA.

The building will continue to present as two storeys to Edgecliff Road and will continue to be obscured by a garage to Evesson Lane at the rear (see **Figure 2** on the following page). In addition, given the site currently appears to comprise a single storey garage to Evesson Lane the additional FSR in the garage will not be readily visible when compared to the existing situation (see **Photograph 1** on the following page). The additions at the rear of the terrace have been designed to align with the predominant rear setback and will ensure consistency with the rear building line of No. 118 Edgecliff Road. The proposed FSR will result in a substantially improved design and amenity outcome at the rear of the ground and first floor levels and through the provision of a new garage that will be compatible with existing and emerging built forms in the precinct.



Figure 2: The Proposal as viewed from Evesson Lane



Photograph 1: The site as viewed from Evesson Lane

Importantly, the works are in keeping with the relevant desired future character objective of the Grafton Precinct, as stated below:

O2 To ensure new development, including infill, complements the predominantly late Victorian Edwardian and Inter-War character of the precinct.

Response:

The proposed alterations and additions have been designed to complement the Victorian Edwardian and Inter-War character of the precinct, through sympathetic alterations and additions at the rear and maintenance of the Italianate façade of the principal built form. The proposal is compatible with the character of the Grafton Precinct.

Accordingly, in our opinion the proposed FSR provides a development in keeping with the desired future character of the Grafton Precinct and compatible the bulk and scale of existing and emerging development in the area.

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

The proposed additional FSR is unlikely to result in adverse environmental effects on the use or enjoyment of adjoining properties or the public domain when compared to the existing situation.

Aural and Visual Privacy

At the ground floor level, the rear extension will be protected by side and rear boundary fencing and will not result in overlooking opportunities to neighbouring develoment when compared to the existing situation. At the first floor level, the rear facing windows to the master bedroom associated with the FSR increase are unlikely to result in adverse aural or visual privacy impacts when compared to the existing situation given their orientation to the rear of the site. Importantly, no new side facing windows are proposed in the area of additional FSR.

Solar Access

At 9:00am, the proposal will not result in any additional overshadowing when compared to the existing situation. At 12 noon, the proposal will cast a minor shadow to the rear yard of No. 118 Edgecliff Road, however, it is noted that this property is occupied by a commercial building, with the rear yard utilised as a storage and car parking area. At 3:00pm, the proposal will cast a minor shadow to the rear yard of No. 114 Edgecliff Road.

The proposal has been designed to ensure solar access is maintained to at least 50% of the ground floor level private open space of adjoining develoment for a minimum of two hours. It is also noted that the proposal will not result in overshadowing of neighbouring north facing windows in accordance with the DCP. Accordingly, the proposed development is considered appropriate in regard to solar access.

Views

There are no significant views across or adjacent to the site that have been identified in a site inspection or in the DCP. As the proposal will retain the existing overall building height and will have a built form that is in keeping with the bulk and scale of existing and emerging development, the proposed FSR is unlikely to affect neighbouring development in respect of views.

(iii) to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space,

Notwithstanding the FSR breach, the proposal provides compliant deep soil landscaping and open space.

6.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

There are a number of environmental planning grounds that justify the additional FSR in this particular circumstance. In addition to compliance with the objectives of the zone and the development standard, environmental planning grounds include the error in the application of the FSR development standard to the site within the Woollahra HCA; and consistency with the surrounding context.

Application of FSR Development Standard

Under Clause 4.4E(4) of the Woollahra LEP, FSR does not apply to a dual occupancy, dwelling house or semi-detached dwelling in a HCA. However, a strict reading of the clause means the exemption from FSR does not apply to attached dwellings in the HCA, and therefore, Clause 4.4(2) of the LEP applies. This means, the site is subject to the FSR shown on the LEP map, which in this instance is 0.65:1.

Clause 4.6 Exceptions to Development Standards – FSR No. 116 Edgecliff Road, Woollahra - Job No. 21603

It is understood that the application of FSR to attached dwellings in a HCA is an error in the amended LEP, and it is understood that this error will be rectified so that FSR does not apply to attached dwellings in a HCA within the R3 Zone that have a marked FSR on the LEP map. On this basis, the FSR breach is technical and should be supported by Council staff.

Consistent with Surrounding Context

The extent of new GFA is located behind the principal built form and simply accommodates an extension at the rear of the ground and first floor levels to align with No. 118 Edgecliff Road. The works do not exceed the predominant rear setback and maintain the number of storeys and building height as existing. The development will continue to appear as two storeys to Edgecliff Road and Evesson Lane.

Enforcing strict compliance would prohibit the proposed alterations and additions which have been sympathetically designed to enhance the internal amenity and functionality of the ground and first floor levels and to provide required storage space around the car space in the garage. The proposal will result in a built form that is consistent with the surrounding and desired density of the area. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

As mentioned throughout, it appears that many of the surrounding residential and commercial terraces in the vicinity of the site that also have a high site coverage appear to exceed the FSR development standard. The proposal is consistent with the bulk and scale of surrounding development.

Other Matters for Consideration:

It should also be noted that the proposal improves the amenity of the subject site while maintaining the amenity of neighbouring development; achieves the objectives of the R3 Medium Density Residential Zone and the relevant DCP built form and amenity provisions; and results in an improved streetscape outcome for the site. While these factors may not strictly constitute environmental planning grounds, they should be considered in the assessment of the FSR breach.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

7. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the R3 Medium Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.4 should be upheld.

Clause 4.6 Exceptions to Development Standards – FSR No. 116 Edgecliff Road, Woollahra - Job No. 21603

	Table 1: Compliance Matrix						
Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied			
10	Is it a development standard (s.1.4)	1	Yes				
11	What is the development standard	1	Clause 4.4: FSR				
12	What is the control	1 & 2	0.65:1				
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES			
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES			
16-22	First Aspect is Clause 4.6(3)(a) - That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in Wehbe.	5.1	The proposal satisfies Test 1 of Wehbe: The objectives of the standard are achieved notwithstanding the non-compliance with the standard	YES			
23-24	Second Aspect is Clause 4.6(3)(b) — 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 that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus 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. b) 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.	5.2	Sufficient environmental planning grounds include, inter alia: The existing terrace has a FSR that breaches the development standard. As such, it is inevitable that any improvement works to the terrace would also breach the FSR development standard by technicality; It is understood that the application of FSR to attached dwellings in a HCA is an error in the amended LEP. It is understood that this error will be rectified so that FSR does not apply to attached dwellings in a HCA within the R3 Zone that have a marked FSR on the LEP map; and The proposed FSR has been designed to ensure consistency with the surrounding context and the desired future character of the area.	YES			
26-27	2 nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development achieves the objectives of the FSR standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the 4.4 Zone.	YES			

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28-29	Second Precondition to Enlivening the Power –	7	As the relevant matters for consideration under Clause 4.6 have	
	That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the		been satisfied as outlined above, the Council can grant development	YES
	Court has the power to grant development consent, subject to being satisfied of the relevant		consent.	153
	matters under Clause 4.6.			

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Clause 4.6 Exceptions to Development Standards – FSR No. 116 Edgecliff Road, Woollahra - Job No. 21603



30 November 2023

REFERRAL RESPONSE - DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 323/2023/1

ADDRESS: 116 Edgecliff Road WOOLLAHRA 2025

PROPOSAL: Alterations and additions of existing dwelling including new garage

and pool

FROM: W HUYNH

TO: C HARTAS

1. ISSUES

None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 21603, prepared by GSA Planning, dated July 2023.
- Revised Architectural Plans, referenced 885-Rev C, prepared by Studio Snell, dated 23/09/2023.
- Survey Plan, referenced 63138001A, prepared by Hill & Blume Surveyors, dated 24/06/2021
- Revised Stormwater Management Plan, referenced N0220013-Rev 3, prepared by JN Engineering, dated 11/10/2023.
- Geotechnical Report, referenced P2108273JR01V02, prepared by Martens Consulting Engineers, dated 16/05/2023.
- Construction Methodology Report, referenced N0220013 -SLTR.01A, prepared by JN Engineering, dated 02/11/2023.

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

The subject property has a total site area of less than 500m², 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. A pump out system is proposed to collect and convey runoff from the courtyard

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to the existing stormwater system. The pump out system is considered to be an acceptable solution due to the site constraints and the minor catchment area.

It is also noted that stormwater runoff will be discharged to the street kerb. In this regard, 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. Conditions will be imposed to ensure the kerb discharge is limited to 20l/s to comply with Chapter E2.2.5 of the Council's DCP.

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

Not relevant

c. Impacts on Council Infrastructure comments

The applicant seeks to construct a new garage using the existing vehicular access as part of this application. It is noted from the submitted architectural plans that there are no proposed changes to the existing vehicular crossing. Based on Council's own assessment, the existing vehicular crossing, layback and gutter is deemed to be serviceable. Therefore, the applicant is not required to upgrade the existing crossing as part of this application.

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

Dimensions of a single parking space have been shown in the revised architectural drawings demonstrating that the proposed parking arrangement is satisfactory. The existing vehicular access opening is compliant.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Martens Consulting Engineers, Ref: P2108273JR01V02, dated 16 May 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 2.8 metres and 1.8 metres from the existing ground surface levels for the proposed cellar and plunge pool.

The report identified that the subsurface conditions as:

- a) Silty sand to a depth of 0.7m, 1.1m, and 1m at location of BH101, BH102 and BH103 respectively.
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 0.9m and 1.4m in BH101 and BH102.
- Sandstone bedrock was inferred beneath the natural sand at a depth ranging from 0.9m to 1.4m.
- d) Groundwater was not observed during investigation.

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The report made comments and recommendations on the following:

- Shoring and support,
- Vibration Monitoring,
- Excavation method,
- Further Geotechnical input.

The applicant has also submitted a construction methodology report confirming that the proposal will have no adverse impacts to structures on adjoining properties. In this regard, Council's Infrastructure & Sustainability Services Division has no objections to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A.5 Approved Plans and Supporting documents

Reference	Description	Author	Date
P2108273JR01V02	Geotechnical Report	Martens Consulting Engineers	16/05/2023
N0220013 -	Construction Methodology Report	JN Engineering	02 Nov 2023
SLTR.01A			
N0220013	Stormwater Management Plan	JN Engineering	
C050-Rev 3			11/10/2023
C200-Rev 3			11/10/2023

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)	\$23,665	No	T115

B. 16. Dilapidation Reports for Existing Buildings 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. These properties must include (but is not limited to): a) 114 Edgecliff Road b) 118 Edgecliff Road

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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 13. Road and Public Domain Works Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. 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 rectangular hollow section

(RHS) in accordance with Council's Specification for Roadworks, Drainage

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and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.

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 the existing, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

Description	Amount	Indexed	Council Fee Code	
SECURITY under section 4.17(6) of the Environmental Planning and Assessment Act 1979				
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ Nil	No	T113	
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113	
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>				
Public Road and Footpath Infrastructure Inspection Fee	\$ 645	No	T45	
TOTAL SECURITY AND FEES	\$ 645	•		

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:

- Road has the same meaning as in the Roads Act 1993.
- 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.
- 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). 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.
- 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".

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- 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 must 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.
- When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
- 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.
- When determining whether the works within public land are satisfactory, Council
 will consider the ownership, construction quality, maintenance, operations, and
 public utility of such item/s.
- 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.

Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.

D.25 Erosion and Sediment Control Plan – Submissions & Approval D.35 Structural Adequacy of Existing Supporting Structures

D 36. Professional Engineering Details

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. In particular, all preliminary geotechnical reports must be reviewed and certified by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years. Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.

Notes

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 This does not affect the right of the developer to seek staged construction certificates

Condition Reason: To ensure professional engineering details and technical specifications are provided.

D.37 Engineer Certification

40. Geotechnical and Hydrogeological Design, Certification and Monitoring

Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must 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 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 to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter.
- 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 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

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· details a contingency plan.

Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.

D.41 Ground Anchors

D 45. Parking Facilities

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 AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking.

Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.

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.

Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.

D 51. Stormwater Management Plan

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:

- a) General design in accordance with stormwater management plans, referenced N0220013-Rev 3, prepared by JN Engineering, dated 11/10/2023, other than amended by this and other conditions,
- b) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- c) The proposed pump out system must direct collected runoff to a minimum 450x450mm boundary junction pit prior to discharging to the street kerb by gravity. The pump out system must be designed in accordance with AS3500.3,
- d) 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,
- e) 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,

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- f) 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,
- g) 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,
- h) Detail any remedial works required to upgrade the existing stormwater drainage system,
- i) 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,
- j) Dimensions of all drainage pits and access grates must comply with AS3500.3,
- k) Compliance with the objectives and performance requirements of the BCA,
- 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.
- f) Overland flow paths over impervious areas.

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.

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).

Notes:

 The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".

Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.

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D.52 Non-gravity Drainage Systems

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.12 Compliance with Geotechnical/Hydrogeological Monitoring Program
- F.13 Support of Adjoining Land and Buildings
- F.14 Vibration Monitoring
- 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
- F.33 Shoring and Adequacy of Adjoining Property

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

- G.7 Commissioning and Certification of Systems and Works
- G.29 Works within Public land (formerly Road Works including footpaths)

G 32. Positive Covenant and Works-As-Executed Certification of Stormwater Systems

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:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the pump out system,
- 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,
- d) that a pump out system with minimum storage capacity has been installed to comply with AS3500.3,
- e) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,
- f) that the works have been constructed in accordance with the approved design,
- g) pipe invert levels and surface levels to Australian Height Datum, and
- h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits

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A positive covenant under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the pump out system. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant

Notes:

- The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate.
- The occupation certificate for the whole of the building must not be issued until this
 condition has been satisfied.

Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.

H. OCCUPATION AND ONGOING USE

H 29. Ongoing Maintenance of the Pump Out System

During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:

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

The owner:

 a) Indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the

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Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and

arises because of the Council's negligence or default; and
b) releases the Council from any Claim it may have against the Council arising
in connection with the performance of the Owner's obligations under this
covenant except if, and to the extent that, the Claim arises because of the
Council's negligence or default.

Notes:

This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil



13 December 2023

REFERRAL RESPONSE - TREES AND LANDSCAPING

FILE NO: Development Applications: 323/2023/1

ADDRESS: 116 Edgecliff Road WOOLLAHRA 2025

PROPOSAL: Alterations and additions of existing dwelling including new garage

and pool

FROM: Gorka Ojeda - Trees & Landscape Officer

TO: C Hartas

1. ISSUES

Insufficient deep soil for proposed tree at rear

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA, dated July 2023
- Survey Plan, drafted by Hill & Blume, dated 24/6/2021
- Architectural Drawing Set, Rev C, dated 23/9/2023, drawn by Studio Snell
- Stormwater drainage Plan No.C200/3, drawn by JN, dated 10/10/2023
- Landscape Plan No.L0102, designed by Jennifer Forbes, dated 12/6/2023

A site inspection was carried out on 6/12/2023.

3. RELEVANT CONTROLS

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

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4. SUMMARY

Deep soil area is being reduced from existing conditions.

The proposed tree at the rear requires a larger deep soil area than the proposed 2.4m² Two small trees have been recently lopped without consent and are also proposed for removal.

5. COMMENTS

No street trees are located in front of the property.

Existing prescribed vegetation includes:

Trees 1 & 2 (semi mature Frangipanis) proposed for retention and Tree 3 (Kentia Palm) proposed for removal.

The removal of Tree 3 is supported as this is a semi mature Palm of low landscape significance that can be replaced by the canopy of Trees 1 & 2 as they mature

Two additional small trees (Lili Pilly) close to the rear boundary, have been lopped at around 2m with only the main scaffold stems remaining.

Review of Nearmaps aerial imagery and google street view shows that these Lili Pilly trees were of dimensions (prior to May 2021) that would have rendered them prescribed under Council's DCP. No record of an application to Council has been found allowing the lopping of these two trees.

Should the planning department consider that the proposed deep soil is not DCP compliant and should be increased, consideration should be given to including a landscape scheme that would help replacing the canopy lost from the two lopped Lili Pillys.

Replacement with one small tree (in addition to the already proposed tree) should be included in the plans in a minimum 5m² deep soil area to compensate for the loss of these trees. Possible species including *Tristaniopsis laurina* 'Luscious' Watergum, *Pyrus* sp. (Ornamental Pear) or *Lagerstroemia indica* (Crepe Myrtle).

Deep soil

Deep soil controls should be strictly applied to ensure any substantial vegetation can reach mature sizes.

The SEE indicates that The proposed development will provide 38.5m2 (15% of site area) deep soil landscaping in the front and rear courtyards.

This calculation should be carefully checked as there is little detail of landscape treatment at the front, and very little deep soil provided at the rear, where a medium size tree is proposed.

Background:

TWA 2021/270/1 was determined in Oct 2021, by allowing the removal of two medium size canopy trees (Weeping Lili Pilis) at the rear of the property due to damage to a retaining wall.

A condition was included in the permit for tree replacement with a medium size tree (*Pistacia chinensis* - Chinese Pistachio).

The current DA includes planting of one Chinese Pistachio at the rear in accordance with the TWA Determination, however, the proposal reduces the existing 6.3m² deep soil garden bed along the western boundary, to just 2.5m².

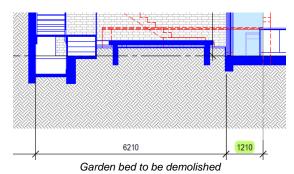
The proposed species has the potential to grow into a medium size tree around 8m high x 6m wide.

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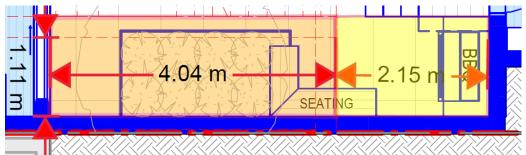
The proposed deep soil area is considered insufficient to provide enough soil volume for the tree to develop into maturity.

The northern section of the existing garden bed is within the footprint of the proposed 1.21m kitchen extension, however the entire garden bed is proposed for demolition with lower ground levels proposed for the area.



Retention of the remaining section of the garden bed outside of the kitchen extension as deep soil is recommended to allow the tree to grow to its potential.

To compensate for the loss of deep soil for the kitchen extension, the area south of the garden bed where a BBQ area is proposed should be converted to deep soil.



Hatched area with existing garden bed and additional deep soil to the south

A condition is recommended below to amend the plans prior to CC issue as per the above.

6. RECOMMENDATIONS

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

<Insert standard conditions using autotext under the headings below>

A. GENERAL CONDITIONS

A.	1.	Approved Plans and Supporting Documents

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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
No.L0102	Landscape Plan	Jennifer Forbes	12/6/2023

Notes:

- 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.
- 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.

Condition Reason: 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. Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

- a) The following trees must be retained:
 - Trees on private land:

Council Ref No Species		Location	Dimension
1	Plumeria sp. (Frangipanni)	Front garden	6m x 4m
2	Plumeria sp. (Frangipanni)	Front garden	6m x 4m

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
3	Howea forsteriana (Kentia)	Front garden	7m x 3m

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.

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Standard Condition A.22 (Autotext 22A)

B. BEFORE DEMOLITION WORK COMMENCES

B. 1. Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)

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) Tree Protection Fencing:

Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk*
1	Plumeria sp. (Frangipanni)	Front garden	1.5m
2	Plumeria sp. (Frangipanni)	Front garden	1.5m

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 bought 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.

Condition Reason: To ensure the protection of existing trees

Standard Condition B.5 (Autotext 5B)

B. 2. Construction Management Plan Arborist Review

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.

The plan must address:

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

Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.

Standard Condition B.28 (Autotext 28B)

B. 3. Arborists Documentation and Compliance Checklist

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:

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

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All compliance certification documents must be kept on site.

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 any site works	Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.
	The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.

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

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

Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.

Standard Condition B.29 (Autotext 29B)

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D

1.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

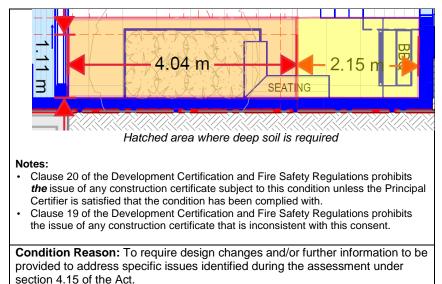
Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:

a) The remaining section of the deep soil garden bed along the western boundary (4m x 1.1m), outside of the kitchen extension must be retained.

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

Additionally the area south of the existing garden bed indicated in the clip below must be converted to deep soil.





Standard Condition D.4 (Autotext 4D)

E. BEFORE BUILDING WORK COMMENCES

Nil.

DURING BUILDING WORK

Wh - 7 tha	tile site work is being carried out, all persons must comply with Chapter E.3 Tree Management of Council's Development Control Plan (DCP) 2015, other
- 7 tha	7 1 17 1
gre	n where varied by this consent. The DCP applies to any tree with a height ater than 5 metres or a diameter spread of branches greater than 3 metres.
a) b) c)	The tree protection Requirements: The tree protection measures 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.

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

Condition Reason: To protect trees during the carrying out of sitework.

Standard Condition F.8 (Autotext 8F)

F 2. Arborists Documentation and Compliance Checklist

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:

- 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 noncompliance, and
- 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
While site work is carried out	 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.
	 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. Regular inspections during construction (minimum bimonthly).

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 have been implemented.

Standard Condition F.45 (Autotext 45F)

3. Replacement/Supplementary trees which must be planted

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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
Pistacia chinensis	Rear garden	100L	8m x 6m
(Chinese Pistachio)	bed		

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the provision of appropriate replacement planting.

Standard Condition F.46 (Autotext 46F)

F 4. Paving in the vicinity of trees

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
1	Plumeria sp. (Frangipanni)	Front garden	2m
2	Plumeria sp. (Frangipanni)	Front garden	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

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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
1	Plumeria sp. (Frangipanni)	Front garden	2m
2	Plumeria sp. (Frangipanni)	Front garden	2m

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.

Standard Condition F.49 (Autotext 49F)

F 6. Installation of stormwater pipes and pits in the vicinity of trees

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.

Council Ref No	Species	Location	Radius from centre of trunk
1	Plumeria sp. (Frangipanni)	Front garden	2m
2	Plumeria sp. (Frangipanni)	Front garden	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 then 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

G 1. Arborists Documentation and Compliance Checklist – Prior to any occupation certificate

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.
- Recommended actions to improve site conditions and rectification of noncompliance.

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c) Recommendations for future works which may impact the trees.

All compliance certification documents must be kept on site by the site Supervisor.

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
	 Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of any occupation certificate	The project arborist must supervise the dismantling of tree protection measures
	After all demolition, construction and landscaping works are complete the project Arborist must assess that the required trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.

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)

H. OCCUPATION AND ONGOING USE

H 1. Maintenance of Landscaping

During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

Notes

- 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.
 - Owners must have regard to the amenity impact of trees upon the site and neighbouring land.

Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Standard Condition H.25 (Autotext 25H)

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I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)

Nil.

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Gorka Ojeda Trees & Landscape Officer

18/12/2023 **Completion Date**



6 October 2023

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 323/2023/1

ADDRESS: 116 Edgecliff Road WOOLLAHRA 2025

PROPOSAL: Alterations and additions of existing dwelling including new garage

and pool

FROM: Tristan Ryan

TO: C Hartas

1. DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Studio Snell, dated January through July 2023, and numbered 1001 9005.
- Heritage Impact Statement by John Oultram Heritage and Design, dated July 2023
- Statement of Environmental Effects by GSA Planning, dated July 2023
- Survey plan by Hill & Blume, dated June 2021

2. SITE INSPECTION / RESEARCH

• A site inspection was considered unnecessary for this assessment.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps street view

3. 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

4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

5. SIGNIFICANCE OF SUBJECT PROPERTY TO THE CONSERVATION AREA

116 Edgecliff Road, Woollahra is identified as a contributory item in Map 9 and the Schedule of Contributory Items in the Woollahra DCP. It is named 'Victorian house' and is part of the Grafton Precinct.

National Parks and Wildlife Act 1974

Page 1 of 6



The site is not in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was not required as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 6 October 2023 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites recorded within a 50m buffer in or near the above location.

The site does not contain landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

Despite the above, ordinary precautions must be taken during excavation.

Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' but is within the Woollahra heritage conservation area.

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

The Heritage Impact Assessment provided by the applicant contends that the only significant fabric of the property that remains is the façade. In my view, the whole principal building form is significant, though I accept the argument of the applicant's consultant that the interior fabric has been greatly altered, as shown in the images provided.

However, despite the demolition of the rear wall at the ground floor, the proposal generally retains the understanding of the principal building form. The impact on the heritage significance of the place is modest, and can be mitigated by partial retention of demolished walls as nibs.

Clause 5.10 Heritage Conservation

The proposal includes the following works:

Demolition:

- Ground floor: existing staircase, kitchen, bathroom, internal courtyard and internal walls. This includes demolition of the rear wall of the principal building form.
- First-floor: staircase, bathrooms, internal walls, fireplace and fitted storage.
- Attic: staircase.
- Garden and parking: roller door on boundary, courtyard landscaping.

Alterations and additions:

- Rebuilt interior and rear walls at ground level to extend the existing house/
- New staircase over two levels, and new circular stairs to attic.
- New enclosed courtyard with plunge pool.
- Two car garage with cellar below.

Page 2 of 6



- External stairs to garage and cellar.
- New courtyard landscaping.

The internal demolition proposed is appropriate as the building has been heavily modified over the course of its life, first being converted to apartments in the early 20th Century and subsequently further altered in the latter part of the 20th Century. It is clear that original fabric is minimal.

The proposed external additions will not be visible from the street, with the exception of the proposed garage at the rear lane. This proposed garage is in keeping with other garages in the lane and will have no notable impact.

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 subject site is within the Grafton precinct of the Woollahra Chapter of the DCP.

The subject site is listed in Part C2.7 'Schedule of Contributory Items' of the Woollahra DCP 2015 and described as 'Victorian house'.

Part C - Heritage Conservation Areas - C2 Woollahra HCA DCP

PRECINCTS

Clause 2.3.7 Grafton Precinct

Objectives O2, O3

 The proposed development is complementary to the precinct, and in any case will not be visible from the street.

BUILDING TYPE CONTROLS

Clause 2.4.4 Terrace style housing Objectives O1, O2, O3, O4 Controls C2, C5, C6, C7, C8, C10

 Not being part of a terrace group, this building does not have a setback to which to conform. The proposed rear building line is in line with the neighbouring building and therefore appropriate.

GENERAL CONTROLS FOR ALL DEVELOPMENT

Clause 2.5.1 Building height, form and character Objectives O1, O2, O3, O4, O5, O6, O7 Controls C6, C7, C8, C9, C10, C11

I agree with the Heritage Impact Assessment that the proposal complies with these
objectives and controls. I note that the proposed rear setback is in line with that of an
adjacent building.

Clause 2.5.2 Conservation of Contributory Items Objectives O1, O2, O3, O4, O5, O6 Control C1, C2, C3

The proposal complies.

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Clause 2.5.4 Materials, finishes and colours

Objective O1

Control C1 C2 C3 C4 C5 C6 C7 C10 C11 C12 C14

• The proposal generally complies. The use of a glazed wall on the proposed staircase is not technically complying with the controls and objectives, but in this case it will be largely if not entirely obscured from the street, and is therefore not a concern.

Clause 2.5.5 Roofs, skylights and chimneys

Objectives O1

Controls C2. C3. C4. C5. C8

 The proposal complies. The distinctive conical chimney pots should be retained and protected..

6. 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 unduly impact the built heritage of Woollahra.

Part 5.10

- Clause 1(a) The development does not unduly impact the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

7. RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions, is recommended.

Standard Conditions

Archaeological Features - Unexpected Findings

	B. 8.	8. Archaeological Features – Unexpected Findings	
While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in affected area(s) and the Heritage Council must be notified.		archaeological features are discovered, work must cease immediately in the	
		Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.	

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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.

Notes:

- 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).

Condition Reason: To protect archaeological features.

(Autotext 8B)

Skeletal Remains

B. 9. Skeletal Remains

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:

- a) NSW Police, and
- b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

Details of the remains and their precise location are to be provided.

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.

Condition Reason: To ensure the appropriate management of skeletal remains.

(Autotext 9B)

Aboriginal Objects – Unexpected Findings

B. 10. Aboriginal Objects – Unexpected Findings

While site work is being carried out, if unexpected Aboriginal objects or bones are found, 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.

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- d) 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.
- e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.
- f) 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.

Notes:

 The Definition of Aboriginal object, as per the National Parks & 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.

Condition Reason: To protect Aboriginal objects

Aboriginal Heritage Due Diligence Responsibilities

B. 11. Aboriginal Heritage Due Diligence Responsibilities

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 & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

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

Condition Reason: To protect Aboriginal heritage.

(Autotext 12B)

Tristan Ryan Senior Strategic Heritage Officer 24 November 2023 **Completion Date**

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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D3

FILE No. DA9/2024/1

ADDRESS 110 Victoria Road BELLEVUE HILL

COUNCIL WARD Bellevue Hill

SITE AREA 645m²

ZONING R2 Low Density Residential

PROPOSAL Alterations and additions to an existing house, pool cabana,

swimming pool and related landscaping

TYPE OF CONSENT Local development

COST OF WORKS \$590,000.00 **DATE LODGED** 04/01/2024

APPLICANT Bruce Stafford & Associates Pty Ltd

OWNER M P Freeman
AUTHOR Mr B McIntyre
TEAM LEADER Mr T Wong
SUBMISSIONS Three (3)

RECOMMENDATION 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, as conditioned, is in the public interest

3. LOCALITY PLAN



4. PROPOSAL

The proposal is for alterations and additions to the existing dwelling (including an extension to the Attic level towards the rear), a new swimming pool, cabana and associated landscaping. A detailed description of the proposed works is provided below.

Basement Floor Level

 No works are proposed to the basement level under this application. The basement floor level will maintain the approved arrangement which accommodates car parking space for two vehicles, hallway, storage, internal staircase providing access to the Ground Floor Level above, and the basement, approved under DA 512/2022/1.

Ground Floor Level

- Minor reconfiguration of the internal layout to accommodate a the entry foyer, staircase, casual living, dining, kitchen, scullery, laundry, powder room, and a plant room at the rear next to the outdoor living area
- Minor modifications to window and door openings to match internal reconfiguration
- New in-ground swimming pool within the rear setback
- Alterations to the existing outbuilding and conversion to a cabana within the rear setback
- Associated landscaping

First floor level

- Minor reconfiguration of the internal layout to accommodate the existing foyer, bathroom, and three bedrooms as well as the new bedroom and ensuites.
- Minor modifications to window and door openings to match internal reconfiguration

Attic Level

- Enlargement of the roof space towards the rear by the introduction of a new dormer window and reconfiguration to accommodate a bedroom with study space, ensuite, WIR and reconfigured internal staircase
- A new street facing balcony located off the master bedroom, within the existing roof profile

Roof

- Deletion of seven (7) skylights from the rear roof plane
- New copper roof cladding to the rear dormer window addition
- Four (4) new skylights

Amended plans were received on 15th and 18th April 2024 incorporating the following changes:

- Reducing the size of the dormer to the attic level at the rear
- Change in materiality of the privacy screens to the rear facing windows to the new dormer window
- Change in materiality of the roof cladding to the rear dormer window extension

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	1.52m or 16% departure from the 9.5m control	Satisfactory*
Part 4.4(E)	Floor Space Ratio (FSR)	42.3m ² or 13.14% departure from the 0.5:1 control	Satisfactory*

^{*}The amended submitted cl4.6 written requests are considered to be well founded.

5.2. Primary Issues

Issue	Conclusion	Section/s
Non-compliance with the	Satisfactory. The submitted written request pursuant to Clause	11.3 &
Height of Buildings	4.6 of the WLEP 2014 is considered to be well founded.	11.4
development standard		
Non-compliance with the	Satisfactory. The submitted written request pursuant to Clause	11.3 &
Floor Space Ratio (FSR)	4.6 of the WLEP 2014 is considered to be well founded.	11.4
development standard		
Wall height and inclined	Satisfactory. The non-compliance is considered to be	12.2.1
plane	acceptable as the proposal satisfies the relevant objectives of	
	the control.	
View loss	Satisfactory. The proposal, as amended, is considered to be	12.2.3
	acceptable as the proposal satisfies the relevant objectives of	
	the control.	
Tree canopy	Satisfactory. The numerical non-compliances are considered to	11.9,
	be acceptable as the proposal satisfies the relevant objectives	12.2.5 &
	of the control.	12.4
Deep soil landscaping	Satisfactory. The minor numerical non-compliances are	12.2.5
	considered to be acceptable as the proposal satisfies the	
	relevant objectives of the control.	
Outbuildings	Satisfactory. The non-compliance is considered to be	12.2.5
	acceptable as the proposal satisfies the relevant objectives of	
	the control.	

5.3. Summary of Submissions

Issue	Conclusion	Section
The proposal is contrary to the	The proposal, as amended, satisfies the Aims of the	Throughout
Aims of the LEP	Woollahra LEP 2014	the report
The proposal is contrary to the objectives of the R2 Low Density Residential zone	The proposal, as amended, satisfies the objectives of the R2 Low Density Residential zone.	Throughout the report
Height non-compliance Incorrect considerations of 'ground level existing'. Height breach stated in the SEE and Cl4.6 is incorrect	An updated CI 4.6 has been provided which references the correct height breach above the existing ground level. Whilst the development exceeds the maximum Height of Buildings development standard, the updated Clause 4.6 written request is considered to be well founded and the development is considered to be of a height which is compatible and consistent with development in this locality. The proposal, as amended, satisfies the relevant objectives of the development standard and the R2	11.3 & 11.5
	Low Density Residential zone. Accordingly, the proposal is considered acceptable in terms of Part 4.3 of WLEP 2014.	
FSR non-compliance	Whilst the development exceeds the maximum Floor Space Ratio (FSR) development standard, the amended Clause 4.6 written request is considered to be well founded and the development is considered to be of a bulk and scale which is compatible and consistent with development in this locality. The proposal, as amended, satisfies the relevant objectives of the development standard and the R2 Low Density Residential zone. Accordingly, the proposal is considered acceptable in terms of Part 4.4(E) of WLEP 2014.	11.4 & 11.5
The clause 4.6 variation requests in support of the LEP variations are not well founded	It is considered the updated Clause 4.6 written requests are well founded.	11.5
Inconsistent with the desired future character and streetscape in the locality	The proposal meets the streetscape character and desired future character objectives of the Bellevue Hill North Residential precinct, as noted in Part B1.8.2 of the Woollahra DCP 2015.	12.1 & 12.2.3
Overdevelopment – Bulk, scale and visual intrusion	The proposal, as amended, is considered to be of a height, bulk and scale which is consistent with properties in the immediate locality and the existing streetscape. The proposal is considered to be satisfactory, achieving the relevant objectives of the Woollahra LEP 2014 and the Woollahra DCP 2015.	Throughout the report
 Several DCP non-compliances: Side setbacks Unacceptable building separation Wall height and inclined plane Outbuilding (cabana) not compliant with controls for outbuildings 	The proposal is compliant with the side setbacks and achieves acceptable building separation between the subject site and adjoining properties. Notwithstanding the non-compliances with regards to the wall height and setbacks of the outbuilding (cabana), the proposal satisfies the relevant objectives of the Woollahra DCP 2015.	12

Issue	Conclusion	Section
Excavation and Geotechnical	A Geotechnical Report was submitted with the	11.8 &
issues:	application and reviewed by Council's Development	12.2.2
Impacts upon adjoining	Engineer who raised no issues on engineering grounds	
properties	with regard to the proposed excavation, subject to	
The proposal fails to achieve	conditions requiring measures to insure the	
an acceptable geotechnical	maintenance of amenity on the surrounding	
engineering	neighbourhood and structural integrity of any existing	
outcome	and supporting structures during the	
 incomplete consideration on 	excavation/construction phase of the development.	
the construction of the pool	The proposal, as conditioned, achieves the relevant	
immediately adjacent to their	objectives of the Woollahra LEP 2014 and the	
boundary;	Woollahra DCP 2015.	
incomplete consideration on	Woonama Bor 2010.	
the location and structural		
support of the new		
 cabana immediately adjacent to their boundary 		
Insufficient detailed contained		
in the Geotech report.		
View loss and no view loss	The proposal, as amended, is considered to be	12.2.3
photomontages have been	satisfactory with regards to view sharing, achieving the	
provided	relevant objectives of Part B3.5.3 of the Woollahra	
	DCP 2015.	
Visual privacy impacts upon	The proposal is compliant with the controls outlined in	12.2.3
adjoining properties	of Part B3.5.4 of the Woollahra DCP 2015. In addition,	
	privacy screening has been incorporated to the new	
	dormer window openings to further mitigate visual	
	privacy impacts upon adjoining properties.	
	The prepared as amonded and conditioned prevides a	
	The proposal, as amended and conditioned, provides a	
	reasonable level of privacy to and from adjoining private open space and living areas, and therefore	
	satisfies the relevant objectives outlined in Part B3.5.4	
	of the Woollahra DCP 2015.	
Acoustic privacy:	The proposal, as conditioned, ensures that all	12.2.3
The Pool Plant has not been	mechanical plant equipment associated with the	
identified to being in an	development must be acoustically treated so that noise	
acoustic enclosure.	from any plant and equipment shall not exceed ambient	
External Water features emit	background noise levels measured at the common	
significant noise, and are	boundaries.	
unsuitable being positioned on		
neighbours' boundary		
Excessive swimming pool	The proposed extent and location of the proposed	12.2.5
envelope	swimming pool satisfies the relevant objectives and	
	controls of Part B3.7.4 of the Woollahra DCP 2015.	
Incufficient/inconurate information:	The decumentation, and subsequent undeted	
Insufficient/inaccurate information:	The documentation, and subsequent updated	-
Spot survey levels and contour lines from the	documentation, provided with the application is considered adequate to enable an informed	
contour lines from the	assessment of the proposal to be carried out.	
Registered Surveyors drawings have not been	assessment of the proposal to be carried out.	
adequately transferred to the		
proposed DA drawings of		
plans, sections, and elevations		
to enable an assessment of		
height and the relationship		
and impact to adjoining		
neighbours.		

Issue	Conclusion	Section
 Neighbour's dwellings have not been accurately located on plans, sections and elevations, including windows and decks, to enable a full assessment of the DA. The plans and documentation are misleading as they do not clearly portray the true extent of works proposed. The plans include inaccuracies and inconsistencies and insufficient information has not been provided in order to enable a detailed assessment, including incomplete dimensional set-out and incomplete levels on drawings to define the proposed building envelope. There is incomplete analysis provided including view loss, solar loss and privacy loss. 		
Reflectivity of the proposed materiality - glare	The proposal, as amended, ensures external finishes are non-reflective.	-
Not in the public interest	For reasons discussed the throughout the report, the proposal, as amended and conditioned, is in the public interest.	
Undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community	Each applicant is assessed on its own merit. The proposal, as amended and conditioned, is considered to be satisfactory, achieving the relevant objectives of the Woollahra LEP 2014 and the Woollahra DCP 2015.	-

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features

The subject site is located on the south-western side of Victoria Road. The site is generally rectangular in configuration with a splayed site frontage to Victoria Road of 17.7m, a side (north-western) boundary of 36.06m, a side (south-eastern) boundary of 41.1m and a rear (south-western) boundary 16.5m. The site measures 645m² in extent.

Topography

The site has a fall of 3.56 metres (87.83 AHD to 84.27 AHD) from south-west to north-east.

Existing buildings and structures

The site is currently occupied by a 3 storey dwelling house with a pitched tiled roof, an outbuilding located in the eastern corner which contains a large a large single garage accessed via a driveway adjacent to the north-western side boundary and associated landscaping.

Surrounding Environment

The surrounding development is characterised by large detached dwelling houses with a mix of pitched and flat roofs, sandstone/ masonry front planters with high, formal hedging above.

The adjoining property to the north-west (108 Victoria Road) is occupied by a 3 storey dwelling house with lower-level garaging within the building footprint, accessed via March Street.

Adjoining the subject site to the south-east is the access handle to the battle-axe shaped allotment 112 Victoria Road. Further to the south-east is 112A Victoria Road occupied by a 3 storey dwelling house, with attached garaging located within the building footprint, and a tennis court to the front section of the site.

The adjoining property to the south-west (31 March Street) is occupied by a 2/3 storey dwelling house with lower-level garaging within the building footprint. The private open space area is located immediately adjacent the rear private open space area of the subject site.



Aerial view of the subject site



View of the subject site from Victoria Road





Views of the front (north-eastern) façade of the existing dwelling (left) and private open space area (right) within the front setback area of the site





Views of the existing driveway entrance (left), driveway and garage (right) located towards the rear of the site





Views of the rear (south-western) façade of the existing dwelling (left) and private open space area (right) within the rear setback area of the site





Views of the private open space area and existing outbuilding located within the rear setback area of the site



View of the existing attic level

7. RELEVANT PROPERTY HISTORY

Current use

Dwelling

Relevant Application History

DA512/2022/1 was refused under delegation on 16 May 2023 for the demolition of ancillary structures, the construction of an attached double garage, alterations and additions to the existing dwelling house, landscaping and site works. A Section 8.2 review of the determination was then submitted to Council and subsequently approved on 23 September 2023 by the Application Assessment Panel.

Relevant Compliance History

Nil.

Pre-DA

Nil

Requests for Additional Information and Replacement Applications

19/01/2024 – A Stop the Clock Letter was sent to the applicant identifying the following deficiencies / lack of information:

- 1. Demolition Report
- 2. Pool Details and Equipment

Responses to the Stop the Clock Letter were received on 1 February 2024 and 8 March 2024 with regard to the deficiencies / lack of information.

Land and Environment Court Appeal(s)

Nil

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Satisfactory, subject to conditions.	4
Trees and Landscaping	Satisfactory, subject to conditions.	5
Heritage	Satisfactory, subject to conditions.	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 **24 January 2024 to 8 February 2024** in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

- 1. Bill Tulloch on behalf of Benjamin & Katherine Jonker, 31 March Street, Bellevue Hill
- 2. David Crow, 112 Victoria Road, Bellevue Hill
- 3. Anthony & Sharon Lee, 112A Victoria Road, Bellevue Hill

The submissions are acknowledged and have been summarized in Section 5.3 of this report.

9.2. Amended Plans

The amended plans noted in Section 4 were not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.3. Statutory Declaration

The applicant has completed the statutory declaration dated 13 February 2024 declaring that the site notice for DA9/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICIES

10.1. 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).

On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

Chapter 4 – Remediation of Land

The aims of Chapter 4 of the Resilience and Hazards SEPP are 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 of the SEPP, 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 and in the absence of any information in the contrary indicating that the land is contaminated. It is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 of the Resilience and Hazards SEPP 2021.

The proposal is therefore acceptable with regard to the relevant matters for consideration in Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP 2021.

10.2. 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 satisfies the relevant criteria prescribed by Chapter 6 – Water Catchments of the Biodiversity and Conservation SEPP 2021.

10.3. State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2: Standards for residential development—BASIX

Chapter 2 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. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

11.1. Part 1.2: Aims of Plan

The proposal, as amended and conditioned, is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

11.2. Land Use Table

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

11.3. Part 4.3: Height of Buildings

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

	Existing	Proposed	Control	Complies
Maximum Building Height	11.26m*	11.02m	9.5m	No

^{*}Existing non-compliance

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Part 11.5 below.

11.4. Part 4.4: Floor Space Ratio

Part 4.4E limits development to a maximum floor space ratio of 0.5:1 for dwelling houses in the R2 zones.

Site Area: 645m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	0.57 (Approx. 370m ²)*	0.56 (364.88m²)	0.5 (322.5m²)	No

^{*}Existing non-compliance

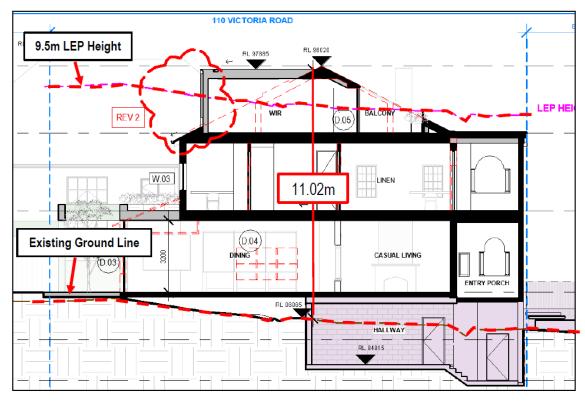
The proposal does not comply with Part 4.4E(3) of Woollahra LEP 2014 as detailed and assessed in Part 11.5 below.

11.5. Part 4.6: Exceptions to Development Standards

11.5.1. Departure

The proposal involves the following non-compliances with the Woollahra LEP 2014, as detailed in Sections 11.3 and 11.4 of this report:

- Height of Buildings development standard under Clause 4.3; and
- Floor Space Ratio (FSR) development standards under Clause 4.4(E).



Section showing the non-compliance with the Height of building development standard (Source: Updated Cl 4.6 prepared by GSA Planning)

11.5.2. 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.

11.5.3. Written Request – Clause 4.6(3)

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 it is unreasonable or unnecessary ($Clause\ 4.6(3)(a)$) and there are sufficient environmental planning grounds to justify the contravention ($Clause\ 4.6(3)(b)$).

The applicant has provided written requests in relation to the departures (Attachments 2 & 3).

11.5.4. Assessment

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

<u>Comment</u>: The applicant's written requests have adequately demonstrated that the objectives of the development standards are achieved and that compliance with the development standards are unreasonable or unnecessary.

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

<u>Comment</u>: In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides guidance to inform the consent authority's finding that the applicant's written requests have adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. Paragraph 23 of the judgement states in part:

"...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..."

The objects in s1.3 of the EPA Act are stated 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."

The applicant's written requests, which support the proposed non-compliance with the height of buildings and FSR development standards, have adequately demonstrated that the proposed development promotes good design and local amenity of the built environment (for reasons detailed throughout this report), in accordance with object 1.3(g) of the EPA Act.

The applicant's written requests have therefore demonstrated sufficient environmental planning grounds to justify the contravention of the development standards as required by Clause 4.6(3)(b) and the consent authority cannot be satisfied that the applicant's written requests have adequately addressed the matters required to be demonstrated by Clause 4.6(3).

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

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* and *FSR* development standards, and the zone objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Development standard objectives

Clause 4.3(1) - Height of Buildings

The proposal is assessed against the *Objectives of the Development Standard* prescribed by *Clause 4.3* which state:

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

Assessment:

The non-compliant element (rear dormer addition to the attic level) with the height of building development standard is proposed below the non-compliant ridgeline of the existing roof of the dwelling. Therefore the proposed height does not extend beyond the existing non-compliant ridgeline. The proposal, as amended and conditioned, is of a height, bulk and scale which is consistent with development on surrounding and adjacent properties and is consistent with the desired future character of the neighbourhood, as discussed throughout this report.

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

Not relevant. The site is surrounded by land zoned R2 Low Density Residential.

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

The proposal will not result in any additional unacceptable solar access impacts to existing adjoining buildings and open space areas.

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

For reasons discussed throughout the report, the proposal, as amended and conditioned, will not result in unacceptable adverse impacts on adjoining or nearby properties in terms of disruption of views, loss of privacy or overshadowing arising from the proposed development.

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

The proposal fails to satisfy this objective, as discussed previously in relation to objective (e).

Clause 4.4(E)(1) – Floor Space Ratio

The objectives of the development standard are:

To ensure the bulk and scale of new development is compatible with the desired future character of the area.

<u>Assessment</u>: As discussed throughout this report, the proposal does not significantly alter the bulk and scale of the existing building. The proposed works are largely located towards the rear of the site and are not readily visible from the street. The proposal, as amended, is considered to be compatible with the desired future character of the area. The proposal therefore satisfies this objective.

• To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.

<u>Assessment</u>: As discussed throughout this report, the proposal, as amended and conditioned, does not result in any unreasonable impacts upon adjoining properties with regards to views, privacy, overshadowing and visual intrusion. The proposal therefore satisfies this objective.

• To ensure that development allows adequate provision on the land for deep soil planting and areas of private open space.

<u>Assessment</u>: The proposal significantly increases the amount of deep soil landscaping within the subject site. Overall the proposal, as conditioned, provides for a reasonable level of landscaping, makes provision for additional trees and ensures existing significant trees are protected and maintained. The proposal therefore satisfies this objective.

Objectives of the R2 Low Density Residential zone

The objectives applying to the R2 Low Density Residential zone and assessment against the objectives is provided below:

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

Assessment: The development will retain the use of the subject site for residential purposes.

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

Assessment: Not relevant to the scope of works proposed.

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

<u>Assessment:</u> The proposal as amended, does not significantly alter the built form, with most of the proposed works towards the rear of the subject site, and is therefore considered to achieve compatibility with the character of the surrounding neighbourhood.

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

<u>Assessment:</u> The proposal does not extend beyond the non-compliant height of the development. The proposal maintains consistency with the scale of other buildings surrounding the subject site, thereby achieving consistency with the desired future character of the neighbourhood.

To ensure development conserves and enhances tree canopy cover.

<u>Assessment:</u> The proposed works are largely contained within the existing building footprint. Overall the proposal provides for a reasonable level of landscaping, makes provision for additional trees and ensures existing significant trees are protected and maintained.

Conclusion:

The departure from the standards is considered to be in the public interest for the following reasons:

- The objectives of the Clause 4.3 Height of buildings development standard have been satisfied;
- The objectives of the Clause 4.4E Floor Space Ratio (FSR) development standard have been satisfied;
- The objectives of the R2 Low Density Residential zone have been satisfied; and
- There are sufficient environmental planning grounds to justify contravening the development standards in this instance.

Clause 4.6(4)(b) - Assessment

Clause 4.6(4)(b) requires the consent authority to be satisfied that:

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

The Department issued a 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.

11.5.5. Conclusion

The written submissions from the applicant have adequately demonstrated that the contravention of the *height of buildings* and *floor space ratio* development standards prescribed by Clauses 4.3, and 4.4(E) respectively are justified pursuant to the relevant matters for consideration prescribed by this clause.

Accordingly, departures from the *height of buildings* and *floor space ratio* development standards are supported.

11.6. 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 in the WLEP 2014; or
- located within a heritage conservation area; or
- located adjacent, or in close proximity to, any conservation areas

Council's Heritage Officer has undertaken a review of the application and has advised that the proposal is acceptable, subject to conditions: The commentary provided by Council's Heritage Officer is provided, in part, below:

"WOOLLAHRA LEP 2014"

... The Demolition Report provides the following statement of significance for the site:

The land was originally part of Sir Daniel Cooper's land grant which was gradually broken up from 1883. Resulting from a much later 1921 subdivision, the land is not representative of any historic subdivisions. The two storey rendered brick and tile Spanish Mission style house on the land was built in c. 1930. The fabric of the house has been extensively altered although its streetscape presentation is largely intact. The house had an uneventful history and it is an unremarkable example of the Spanish Mission Style. The Inter-war residential character of the house is not expressed at a culturally significant level.

The report concludes:

Partial demolition of 110 Victoria Road, Bellevue Hill will not generate any adverse heritage conservation impacts for the cultural heritage of the municipality.

This assessment is concurred with and the proposed partial demolition is supported, subject to archival recording.

NATIONAL PARKS & WILDLIFE ACT 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) of Heritage NSW on 12/03/2024 has revealed that there are 0 recorded Aboriginal sites within a 50m buffer in or near the above location and no Aboriginal sites within a 50m buffer in or near the above location.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The AHIA concludes:

- 'Harm' to an 'Aboriginal object' (as defined in the NPW Act) is considered unlikely to occur as a result of the proposed work;
- No further Aboriginal cultural heritage investigation is required;
- Council is advised to update the Aboriginal Heritage Sensitivity map for all of the property to reflect that it is now not partly or wholly located within an area of 'Aboriginal Heritage Sensitivity' or 'Potential Aboriginal Heritage Sensitivity'.
- This report should be retained for five years and may be re-used as due diligence for future proposals as long as it is updated with a new AHIMS search and an invitation to LPLALC to affirm their comments.
- A copy of this report should be forwarded to LPLALC (<u>Admin@laperouse.org.au</u>);
- A copy of this report should be submitted to AHIMS (<u>ahims @environment.nsw.gov.au</u>)
- Stop work measures should still be in place for any unanticipated finds. This includes:
 - If any artefacts are observed during excavation, particularly being any flaked stone in deep sand;

- o If any large flat sandstone exposures are revealed during excavation that may contain engraved rock art. Sandstone exposed prior to the 1800s may be identified by having a relatively clear boundary between flat sandstone and overlying under fill, as opposed to being naturally buried bedrock that will lie under clayey subsoil and sandstone fragments.
- In the event that any bones are observed that may be human. This also a legal requirement under the Coroner's Act and additionally requires notifying the Police.
- In all cases, if in any doubt, a Heritage Officer from LPLALC or a qualified archaeologist should be engaged to inspect the find.
- Contractors should be advised that failing to stop work in the event of uncovering any material that is defined as an 'Aboriginal object' is an offence under the National Parks and Wildlife Act). Any slight, initial, unanticipated harm may be considered to have been done 'unknowingly' and subject to a due diligence defence, but any harm after failing to stop work would be a 'knowing offence' that may lead to prosecution and harsh penalties. The maximum penalty for knowingly harming an Aboriginal object is \$275,000 (1yr imprisonment) for individuals, \$1,100,000 for Corporations.

Based on these recommendations, relevant conditions of consent are provided below."

Given the commentary provided by Council's Heritage Officer, and subject to conditions, the proposal satisfies the relevant objectives of this part

Conclusion:

The proposal, as conditioned, is acceptable with regard to the objectives in Part 5.10 of the Woollahra LEP 2014.

11.7. 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.

11.8. 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 excavation works to accommodate the proposed new swimming pool and footings for the new structures at the ground floor level.

The extent of the proposed works has been considered by Council's Development Engineer and is considered to be satisfactory, subject to the imposition of **Conditions** requiring measures to insure the maintenance of amenity on the surrounding neighbourhood and structural integrity of any existing and supporting structures during the excavation/construction phase of the development.

Conclusion:

The proposal, as conditioned, is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

11.9 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.

Councils Tree Officer has undertaken an assessment of the proposal (see **Annexure 5**) and has provided the following commentary with regards to tree canopy cover:

"An AIA report has been provided, including three (3) palm trees proposed to be transplanted. The trees are considered to be of low landscape significance and may be removed and replaced by other trees. Considering the trees are mature specimens in partially paved garden beds, Council preference is for the tree to be removed and other 3 x kentia palms, new or transplanted, conditioned to be located on the property.

The applicant has not demonstrated compliance with canopy cover controls. Therefore, an amended landscape plan will be conditioned to be prepared before CC to include additional trees."

Given the commentary provided by Councils Tree Officer, and subject to conditions, the proposal satisfies the objective of this part.

Conclusion:

The proposal, as conditioned, is acceptable with regard to Part 6.9 of Woollahra LEP 2014.

12. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

12.1. Chapter B1: Bellevue Hill North Residential Precinct

The streetscape character and key elements of the precinct encourages development which respects and enhances the existing elements of the neighbourhood character that contribute to the precinct including:

- the rich mixture of residential architectural styles and forms, including dwelling houses and residential flat buildings;
- buildings set within highly visible gardens;
- the tree canopy formed by both street and private yard plantings;
- mature street trees, grassed verges and sandstone walls; and
- harbour views available from the streets within the precinct.

The relevant desired future character objectives read as follows:

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.
- O4 To reinforce a consistent building scale with streets.
- O5 To ensure that development responds in form and siting to the street and subdivision pattern.
- O6 To design and site buildings to respond to the topography and minimise cut and fill.
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.
- O10 To ensure that development facilitates view sharing to adjoining and adjacent private properties.

O11 To ensure on-site parking does not dominate the streetscape.

The immediately surrounding environment is characterised by a mixture of large detached dwelling houses. The proposal maintains the part two part three storey presentation to Victoria Road and ensures that the development is compatible with development on adjoining and surrounding properties in this locality. The proposed roof terrace, fronting Victoria Road, is located within the existing roof profile of the dwelling and is subservient in form and size when compared with the roof plane in which the roof terrace is located. The rear dormer window addition at the attic level, as amended, is not readily visible from the street and has been skillfully integrated within the development. The proposal respects the streetscape character and key elements of the precinct, thereby achieving consistency with the built form in the street.

Given the commentary provided above, 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, as noted in Part B1.8.2 of the Woollahra DCP 2015.

12.2. Chapter B3: General Development Controls

12.2.1. Part B3.2: Building Envelope

Site Area: 645m ²	Existing	Proposed	Control	Complies
Front Setback	7.4m	>7.4m	7.4m	Yes
Rear Setback	9.6m	9.6m	9.6m	Yes
Side Boundary Setbacks (NW)	>1.9m	>1.9m	1.9m	Yes
Side Boundary Setbacks (SE)	1.9m	1.9m	1.9m	Yes
Maximum Wall Height	>7.2m	>7.2m (less than existing breach)	7.2m	No
Inclined Plane From Wall Height	>45°	45° (less than existing breach)	45°	No
Maximum Unarticulated Length to Street	<6.0m	<6.0m	6.0m	Yes
Maximum Unarticulated Wall Length	<12m	<12m	12m	Yes

Part 3.2.2: Front Setback

The proposal satisfies the relevant objectives and controls of this part.

Part 3.2.3: Side Setbacks

The proposal satisfies the relevant objectives and controls of this part.

Part 3.2.4: Rear Setback

The proposal satisfies the relevant objectives and controls of this part.

Part 3.2.5: Wall Height and Inclined Plane

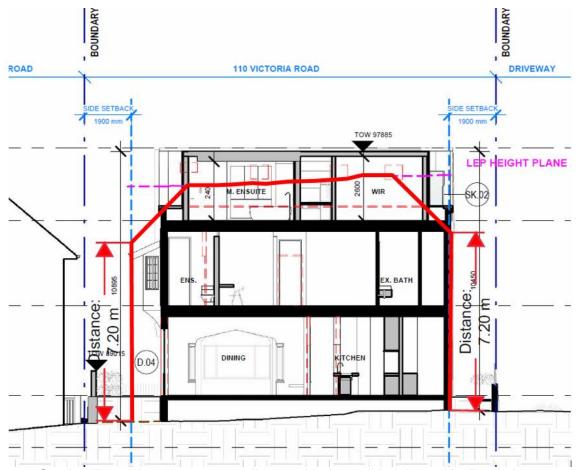


Figure: Section illustrating the non-compliance with the wall height and inclined plane controls (Source: Stafford Architecture)

Control C1 of this part specifies a maximum external wall height of 7.2m with an inclined plane of 45° above this height. The proposal results in non-compliance with Control C1 with the proposed maximum wall height breaching the 7.2m control as illustrated in the **Figure** above.

The relevant objectives of Part B3.2.5 of the Woollahra DCP 2015 require the development to be of a bulk and scale which does not adversely impact on adjoining properties in terms of acoustic and visual privacy, overshadowing and views between buildings. The rear dormer window addition to the rear of the existing dwelling is considered a skilful design which is consistent with the bulk and scale of development in this locality.

Notwithstanding, the non-compliance is considered acceptable as the proposal satisfies the relevant objectives in the following manner:

- As discussed throughout this report, the proposal, as amended, achieves consistency with the bulk and scale of development in this locality.
- The proposal ensures adequate separation between the buildings on the subject site and those on adjoining properties is achieved.
- The proposal will not result in any significant additional overshadowing on adjoining properties.
- The proposal, as conditioned, will ensure acoustic and visual privacy impacts to adjoining properties are mitigated.
- The proposal, as amended, will not obscure any existing significant views from adjoining properties.

In this instance, and on merit, the non-compliance is considered reasonable as the proposal achieves consistency with the relevant objectives of this part.

Conclusion

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

12.2.2. Part B3.4: Excavation

The proposal involves excavation works to accommodate the proposed new swimming pool and footings for the new structures at the ground floor level.

The extent of the proposed works has been considered by Council's Development Engineer and is considered to be satisfactory, subject to the imposition of **Conditions** requiring measures to insure the maintenance of amenity on the surrounding neighbourhood and structural integrity of any existing and supporting structures during the excavation/construction phase of the development.

The proposal, as conditioned, satisfies the relevant objectives and controls of this part.

Conclusion

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

12.2.3. Part B3.5: Built Form and Context

Site Area: 645m ²	Existing	Proposed	Control	Complies
Colour Scheme	Consistent	Consistent	Consistent	Yes
Solar Access to Open Space of Neighbouring Properties	>50% for 2 hours on 21 June	>50% for 2 hours on 21 June	50% for 2 hours on 21 June	Yes
Solar Access to Nth Facing Living Areas of Neighbouring Properties	>3 hours on 21 June	>3 hours on 21 June	3 hours on 21 June	Yes
Distance of Habitable Room Windows to Neighbouring Dwellings	9.0m	9.0m	9.0m	Yes
Setback of Roof Terraces from Open Space/Habitable Room Windows of Neighbouring Properties	12.0m	12.0m	12.0m	Yes

Part B3.5.1: Streetscape and Local Character

For reasons discussed in Section 11.1 of this report, the proposal, as amended is considered to be of a height, bulk and scale which is compatible with and sympathetic to adjoining development in this locality. Overall the proposal is considered to be compatible with the desired future character of the area.

The proposal satisfies the relevant objectives and controls of Part B3.5.1 of the Woollahra DCP 2015.

Part B3.5.2: Overshadowing

The proposal satisfies the relevant objectives and controls of this part.

Part B3.5.3: Public and Private Views

Concerns were raised by the adjoining properties at No's 31 March Street and 112 Victoria Road with regards to potential view loss as a result of the attic addition towards the rear.

31 March Street

The images provided in the assessment under visual privacy of this report below, clearly demonstrate that there will be negligible to no view loss from the first storey bedroom windows as a result of the proposal, as amended.

112 Victoria Road

The submission provided by the owner of 112 Victoria Road demonstrated that there would be potential loss of water views from the upper level terraces and habitable room windows as a result of the proposed dormer window addition to the attic, towards the rear.





Views of the terraces and habitable room windows of the adjoining dwelling at No. 112 Victoria Road

The images below are taken from the first floor study, bedrooms and terraces of the adjoining property located at No. 112 Victoria Road, looking in a northerly towards the subject site.





















To address the concerns raised by the neighbour, amended plans were submitted which substantially the reduced the bulk of the dormer window to ensure view corridors currently afforded the adjoining property at No. 112 Victoria Road, were maintained. A photomontage prepared by Stafford Architecture below, demonstrates the proposal as originally submitted in comparison to the amended proposal, when viewed from one of the upper level terraces, where it was considered the views would be most impacted.





Photomontage demonstrating the proposal as originally submitted (left) versus the amended proposal (right), as viewed from one of the upper level terraces of the adjoining property at No. 112 Victoria Road (Source: Stafford Architecture)

It is considered that the proposal, as amended, satisfies the relevant objectives and controls of this part, ensuring that view sharing is achieved.

Part B3.5.4: Acoustic and Visual Privacy

Acoustic Privacy

The proposal continues the use of the subject site as a dwelling and is unlikely that significant additional acoustic impacts associated with the proposal would arise. In addition, the following points are noted:

The proposed swimming pool is located in close proximity to similar uses on the adjoining properties at No's 112A Victoria Road and 31 March Street (see Figure below).



Aerial view of the subject site demonstrating the locality of swimming pools and private open space areas adjoining the subject site (Source: Council Maps)

Concerns were raised regarding the potential acoustic impacts upon the adjoining property at 31 March Street as a result of the mechanical plant associated with the pool and water feature located on the south-western boundary. In this regard, relevant conditions are recommended to be imposed requiring that all mechanical plant equipment associated with the development be acoustically treated so that noise from any plant and equipment shall not exceed ambient background noise levels measured at the common boundaries, thereby mitigating potential acoustic impacts on adjoining properties.

Given the commentary provided above, and subject to conditions, it is considered that the proposal will not result in any unacceptable adverse acoustic impacts on adjoining properties.

The proposal, as conditioned, satisfies the relevant controls and objectives of this part.

Visual Privacy

The relevant objective and controls of this part read as follows:

- O2 To ensure adequate visual privacy for occupants and neighbours while balancing the need to provide for reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes.
- O3 To minimise the impacts of private open space.
- C4 New windows in habitable rooms are designed to prevent a <u>direct sightline</u> to the habitable room windows or private open space of an adjacent dwelling within 9m.
- 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: aesthetics of the building including impacts on visual bulk; compliance with minimum boundary setback controls; appearance from adjoining properties; and views from adjoining or adjacent properties.

Concerns were raised by the adjoining properties at No's 112 and 112A Victoria Road and 31 March Street with regards to potential visual privacy impacts on habitable room windows and private open space areas, as a result of the proposed new rear dormer window to the attic level.

In this regard, the following points are noted:

- As illustrated in the compliance table above, the proposal complies with the relevant controls
 of this part.
- The windows to the proposed dormer are to an en-suite and WIR and not habitable rooms.
- To further mitigate visual privacy impacts upon adjoining neighbours, the proposal includes privacy screens to the south-western window openings to the attic level. It is noted however, that the notation on the plans for screening does not indicate if the vertical louvres are fixed. In this regard, Condition D.1(a) is recommended to be imposed requiring the louvres be fixed angled overlapping louvres to further mitigate visual privacy impacts upon adjoining properties.
- In addition, established landscaping between the subject site and adjoining properties exists
 which serves as an additional layer of screening, thereby further mitigating visual privacy
 impacts.
- Due to the topography in this location, overlooking from upper level windows and terraces already exists, is mutually consistent between dwellings and is not unreasonable in this location (see **Figures** below).

Given the commentary provided above, the proposal, as amended and conditioned, provides a reasonable level of privacy to and from adjoining private open space and living areas, and therefore satisfies the relevant objectives outlined in Part B3.5.4 of the Woollahra DCP 2015.

Conclusion:

The proposal, as conditioned, is acceptable with regard to Part B3.5 of the Woollahra DCP 2015.

31 March Street

The images below are taken from the ground floor living rooms and rear private open space area of the adjoining property located at 31 March Street, looking towards the rear elevation of the subject site.





Views from the ground floor living rooms and private open space areas of the adjoining property located at 31 March Street, with the dwelling of the subject site in the foreground



Views from the ground floor private open space areas of the adjoining property located at 31 March Street, with the dwelling of the subject site in the foreground



Views of the private open space area of the adjoining property located at 31 March Street

The images below are taken from the first floor bedrooms of the adjoining property located at 31 March Street, looking towards the rear elevation of the subject site.













112 Victoria Road

The images below are taken from the ground floor level private open space areas of the adjoining property located at No. 112 Victoria Road, looking towards the rear of the subject site. The sightlines from the first floor level windows and terraces have been provided in the assessment related to private views of this report.









112A Victoria Road

The images below are taken from the ground floor level private open space areas and first floor level windows of bedrooms of the adjoining property located at No. 112A Victoria Road, looking towards the side (south-eastern) façade of the subject site.













12.2.4. Part B3.6: On-Site Parking

The proposal does not alter the on-site parking and access arrangement approved under DA 512/2022/1.

12.2.5. Part B3.7: External Areas

Site Area: 645m²	Existing	Approved under DA 512/2022/1	Proposed	Control	Complies
Tree Canopy Area	8.23% (53.14m²)*	No Change	18.56% (119.75m²)	35% Site Area (226m²)	No
Deep Soil Landscaping –	21% (Approx. 135m²)*	14.6% (105m²)	34% (220m²)	35% Site Area (226m²)	No
Deep Soil Landscaping – Front Setback (130m²)	63% (Approx. 82m²)	40% (52m²)	40% (52m² - no change)	40% (52m²)	Yes
Minimum Area of Primary Open Space at Ground Level	>35m²	>35m²	>35m²	35m²	Yes
Primary Open Space at Ground Level – Maximum Gradient	1:10	1:10	1:10	1:10	Yes
Swimming Pool Water Edge Setback	N/A	N/A	>1.8m to all boundaries	1.8m	Yes
Level of Swimming Pool Above or Below Ground Level	N/A	N/A	<1.2m	Maximum 1.2m Change	Yes
Maximum Depth of Swimming Pool	N/A	N/A	2.0m	2.0m	Yes
Location of Outbuilding	Within Rear Yard	No Change	Within Rear Yard	Within Building Envelope or Rear Yard	Yes
Maximum Height of Outbuilding	Approx. 4.2m*	No Change	<3.6m	3.6m	Yes
Outbuilding Side and Rear Setback	0.3-0.35m on rear boundary 0.5-0.55m on side boundary*	No Change	0.3-0.35m on rear boundary 0.5-0.55m on side boundary (no change)	1.5m	No

^{*}Existing and approved non-compliances

Part 3.7.1: Landscaped Areas and Private Open Space

As illustrated in the compliance table above the proposal result in non-compliances with Controls C1 and C2.

However the non-compliance is considered acceptable for the following reasons:

- The existing development is already non-compliant with the controls.
- Overall the proposal results in a substantial increase in the deep soil landscaping within the subject site, in particular within the rear and side setbacks, resulting in an improved outcome.
 The proposal does not alter the extent or location of the approved deep soil landscaping within the front setback area.
- In addition, the approved development under DA512/2022/1 included a roof top garden above the garage, which further softens the built form when viewed from Boronia Road.
- The additional landscaping within the side and rear setbacks, together with the roof top garden above the garage, ensures the areas outside the building contribute positively to the streetscape and the desired future character of the location.
- The proposal does not significantly increase the building footprint beyond any of the hard paving/surfaces and also ensures the planting of additional trees to increase the existing non-compliant tree canopy cover.
- Councils Tree and Landscape Officer has raised no objections to the proposal subject to the
 planting of additional trees and conditions which will ensure the protection of trees to be
 retained on the site.
- The proposal ensures that more than adequate accessible and useable primary open space areas are achieved.
- The proposed landscaping ensures views from adjoining properties are maintained.

On merit, and in this instance, it is considered that the proposal satisfies the relevant objectives of this part.

Part 3.7.2: Fences

The proposal does not alter the front, side or rear fences and is therefore acceptable with this part.

Part 3.7.4: Ancillary Development – Swimming Pools and Outbuildings

Swimming pools

The proposal satisfies the relevant objectives and controls of this part.

Outbuildings

The relevant objectives of this part read as follows:

- O1 To ensure that outbuildings do not unreasonably compromise the amenity of the occupants or the neighbouring properties.
- O2 To ensure that the required deep soil landscaped area and level area of private open space are achieved.

The proposal includes a) the partial demolition of the existing outbuilding which is located right up against the side (north-western) and rear (south-western) boundaries in the south-western corner of the site; and b) the construction of a pool cabana in a similar location to the existing outbuilding.

Whilst the proposed pool cabana is non-compliant with Control C2, which requires the outbuilding to be sited a minimum of 1.5m from the side and rear boundaries, the location of the proposed cabana is considered acceptable for the following reasons:

- The proposed pool cabana structure will incorporate the existing north-western and southwestern walls of the existing outbuilding (to be retained) which are already non complaint with the control and is similar in size to the existing outbuilding.
- The height of the outbuilding complies with Control C2 which requires a maximum height of the outbuilding not exceed 3.6m in height. It is noted the existing outbuilding measures 4.2m in height.
- The proposal results in a substantial increase in the extent of deep soil landscaping within the rear setback.
- A pool cabana is considered to be a common ancillary structure associated with a swimming pool.
- The proposal retains the use of the site as a residential dwelling with the proposed pool cabana being located within the rear private open space area of the subject site. The proposed pool and cabana are located adjacent to similar uses, within the private open space areas, on adjoining properties. In this regard, it is considered the proposal will not unreasonably compromise the amenity of the neighbouring properties.

Given the commentary provided above, the proposal satisfies the relevant objectives of this part.

Conclusion

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

12.3. Chapter E2: Stormwater and Flood Risk Management

Council's Development and Drainage Engineers have determined that the proposal is satisfactory, subject to Conditions.

The proposal, as conditioned, is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015.

12.4. Chapter E3: Tree Management

As discussed throughout this report, Council's Tree and Landscaping Officer has raised no objections to the proposal, subject to the imposition of suitable conditions to ensure the planting of additional trees to achieve the tree canopy cover controls and the protection of trees to be retained on the site.

The proposal, as conditioned, is acceptable with regard to the objectives and controls in Chapter E3 of the Woollahra DCP 2015.

12.5. 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 ongoing 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.

Conclusion

The proposal is acceptable with regard to Chapter E5 of the Woollahra DCP 2015.

13. CONTRIBUTION PLANS

13.1. Section 7.12 Contributions Plan

In accordance with Schedule 1, 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. Refer to **Condition D.2**.

Cost of Works	Rate	Contribution Payable
\$590,000.00	1%	\$5,900.00

14. APPLICABLE ACTS/REGULATIONS

14.1. 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.

14.2. Swimming Pools Act 1992

The Swimming Pools Act 1992, requires swimming pools to be surrounded by a child-resistant barrier, which separates the swimming pool from any residential building. The barrier must be designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Additional provisions relate to:

- a) Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash discharge to the sewer

These requirements are imposed by standard condition.

15. 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.

16. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

17. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

18. CONCLUSION

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

19. 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.

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the height of buildings and Floor Space Ratio (FSR) development standards under Clauses 4.3 and 4.4(E) of the Woollahra LEP 2014. The Panel assumes the concurrence of the Secretary, Department of Planning, Industry 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. 9/2024/1 for alterations and additions to an existing house, pool cabana, swimming pool and related landscaping on land at 110 Victoria Road Bellevue Hill, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

A. 1. Conditions

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.

Notes:

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

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.

Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.

A. 2. Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulations*, the *Development Certification and Fire Safety Regulations* 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.

Local native plants means species of native plant endemic to Sydney's eastern suburbs.

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.

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, piering, 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
DA-110 Rev 1 DA-201 Rev – DA-202 Rev 1 DA-203 Rev – DA-204 Rev 1 DA 205 Rev 1 DA 301 Rev 2 DA 302 Rev 2 DA 321 Rev 2	Demolition Plan Approved Basement Level Ground Floor Plan First Floor Plan Attic Floor Plan Roof Plan North & South Elevations East & West Elevations Sections AA, BB & CC	All by Stafford Architecture	15/04/2024 08/12/2023 01/02/2024 08/12/2023 15/04/2024 15/04/2024 15/04/2024 15/04/2024 15/04/2024
DA 121 Rev 2 No. DA 01 Rev	Materials Board Landscape Plan	Volker Klemm	18/04/2024 12/2023
B No Reference	Arboricultural Impact Assessment Report	Landscape Design Bluegum	Dec 2023
36400Srpt DR-001-Rev 1 DR-002-Rev 1	Geotechnical Report Stormwater Management Plans	JK Geotechnics Stellen	22/11/2023 01/12/2023 01/12/2023
A1378445	BASIX Certificate	NSW Department of Planning, Industry and Environment	04/12/2023

Notes:

- 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.
- 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.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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.

Notes:

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.

Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.

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.

Condition Reason: 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.

A. 6. Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1, 2 & 3	Howea forsteriana (Kentia palm)	Rear	5-7 / 2

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

This consent does not permit the holder, or any other person or agent, to enter any property for the purpose of undertaking approved tree works, without the consent of the owner of the property.

Only a Council authorised contractor will be allowed to undertake the pruning of trees located on Council managed land under the instruction of Council's Coordinator of Trees Maintenance in accordance with Council's Tree Management Policies and AS 4373-2007 Pruning of Amenity Trees. All costs associated with the approved pruning will be the responsibility of the applicant. Contact Council's Coordinator of Trees Maintenance on 9391 7000 to arrange the approved pruning works.

To facilitate the assessment of Council's tree assets for pruning, a physical outline of the approved works (if not already constructed) must be provided at the time of inspection via the use of height poles or scaffolding. The outline of the approved works will enable Council's Arboricultural Technical Officer to correctly identify the branches that require pruning to provide clearance for the approved works.

Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.

B. BEFORE DEMOLITION WORK COMMENCES

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" under section 6.6 of the Act.

In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:

- Before issue of a construction certificate
- Before building work commences

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.

Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.

B. 2. Erosion and Sediment Controls – Installation

Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:

- "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
- 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.

Notes:

- The "Do it Right On Site, Soil and Water Management for the Construction Industry" publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au
- 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.

- 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.

Condition Reason: To prevent potential water pollution and dust nuisance.

B. 3. Identification of Hazardous Material

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.

In this regard, prior to any site works, Council must 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.

Condition Reason: 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. 4. Public Road Assets Prior to Any Work/Demolition

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.

The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- street signage including street lights,
- kerb and gutter,
- footway including pedestrian crossings, footpath, and driveways,
- retaining walls, or other significant structures,
- Heritage Items, including street name inlays,
- utility service items including historical utility covers, and
- drainage structures/pits/pipes (CCTV footage).

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. Recording of Buildings with Little or No Heritage Significance that are to be Demolished

Prior to any site works and prior to the issue of any Construction Certificate, a photographic archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer.

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature, and
 - views to the subject property from each street and laneway or public space.

Notes:

 Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digitalcapture.pdf

Condition Reason: To ensure existing building and landscape elements are recorded.

B. 6. Skeletal Remains

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:

- a) NSW Police, and
- b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

Details of the remains and their precise location are to be provided.

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.

Condition Reason: To ensure the appropriate management of skeletal remains.

B. 7. Aboriginal Objects – Unexpected Findings

While site work is being carried out, if unexpected Aboriginal objects or bones are found, 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 Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.

- e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.
- f) 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.

Notes:

The Definition of Aboriginal object, as per the National Parks & 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.

Condition Reason: To protect Aboriginal objects

B. 8. Aboriginal Heritage – Induction

Prior to any site works, all construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974. This must be implemented as a heritage induction programme provided by a heritage consultant with Aboriginal heritage expertise.

Condition Reason: To protect Aboriginal heritage.

B. 9. Aboriginal Heritage Due Diligence Responsibilities

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 & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

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

Condition Reason: To protect Aboriginal heritage.

B. 10. 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	
SECURITY under section 4.17(6) of the Environmental Planning and Assessment Act 1979				
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$18,610.00	No	T115	

INSPECTION FEES under section 608 of the Local Government Act	1993		
Security Administration Fee	\$225.00	No	T16
TOTAL SECURITY AND FEES	\$18,835.00	•	

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

Condition Reason: To ensure any relevant security and fees are paid.

B. 11. Dilapidation Reports for Existing Buildings

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.

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

- a) No. 108 Victoria Road
- b) No. 112 Victoria Road
- c) No. 31 March Street

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. 12. Adjoining Buildings Founded on Loose Foundation Materials

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.

Notes:

- 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.
- 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.

Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.

B. 13. Works (Construction) Zone – Approval and Implementation

If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.

If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.

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.

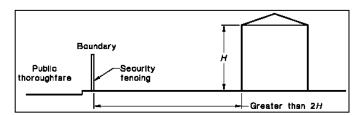
Notes:

- 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.
- 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.

Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.

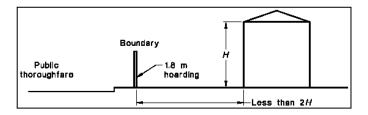
B. 14. Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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.



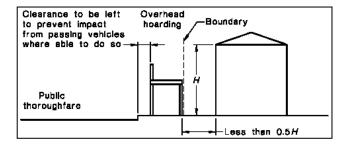
Type B Hoarding

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:

- 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

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

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
- 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:
 - 1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or
 - 2. the land is zoned R2 Low Density Residential, or
 - 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).
- 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

Condition Reason: To ensure public safety.

B. 15. Site Signs

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.

Clause 70 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
 - 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 75 of the Development Certification and Fire Safety 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.

Notes:

- 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.
- 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.

Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.

B. 16. Toilet Facilities

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.

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.

Notes:

- In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999.
- This condition does not set aside the requirement to comply with SafeWork NSW requirements.

Condition Reason: To ensure toilet facilities are provided for workers at the work site.

B. 17. Establishment of Boundary Location, Building Location and Datum

Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:

a) set out the boundaries of the site by permanent marks (including permanent recovery points),

- b) 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,
- c) establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and
- 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.

Notes:

- 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.
- 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.

Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.

B. 18. Compliance with Australian Standard for Demolition

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.

Condition Reason To control the risks of demolition work.

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:

a) Amended Landscape Plan

The submitted landscape plan shall be amended to include the following prior to the issue of the Construction Certificate.

- One (1) *Jacaranda mimosifolia* (Jacaranda) x 75L shall be located near the boundary to south, between the pool and the pool cabana.
- One (1) Lagerstroemia indica (Crepe Myrtle) x 75L shall be located on the proposed new lawn near the east boundary, between the outdoor living and the pool.
- One (1) Eucalyptus botryoides (Bangalay) x 75L shall be located on existing front lawn at a minimum distance of 1.5m from the east boundary.

b) Window Treatments to the Attic Level Dormer Window

The proposed privacy screens to the rear (south-west facing) dormer window at the Attic Level are to be fixed vertical angled with blades overlapping each other to ensure that no direct sightline to the adjoining properties is achieved.

Notes:

- Clause 20 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with.
- Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.

Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.

D. 2. 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		
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986					
Long Service Levy www.longservice.nsw.gov.au/b ci/levy/other-information/levy- calculator	Contact LSL Corporation or use online calculator	No			
SECTION 7.12 DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2022 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au					
Development Levy (section 7.12)	\$5,900.00 + Index Amount	* *			
TOTAL CONTRIBUTIONS AND LEVIES	\$5,900.00 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 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.

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.

Condition Reason: To ensure any relevant levy and contributions are paid.

D. 3. BASIX Commitments

Before the issue of any construction certificate, BASIX Certificate No. A1378445 must be submitted to the Principal Certifier with any application for a construction certificate.

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

Notes:

- 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.
- 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.

Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development.

D. 4. Road and Public Domain Works

Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. 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 rectangular hollow section (RHS) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. 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 Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

Description	Amount	Indexed	Council Fee Code	
SECURITY under section 4.17(6) of the Environmental Planning and Assessment Act 1979				
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ Nil	No	T113	
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113	
INSPECTION FEES				

under section 608 of the Local Government Act 1993			
Public Road and Footpath Infrastructure Inspection Fee \$ 645 No T45			
TOTAL SECURITY AND FEES	\$ 645		

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:

- Road has the same meaning as in the Roads Act 1993.
- 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.
- 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). 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.
- 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 must 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.
- When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
- 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.
- When determining whether the works within public land are satisfactory, Council will
 consider the ownership, construction quality, maintenance, operations, and public utility of
 such item/s.
- 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.

Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.

D. 5. | Erosion and Sediment Control Plan – Submission and Approval

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:

 a) "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

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 Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.

Notes:

- The International Erosion Control Association Australasia www.austieca.com.au lists
 consultant experts who can assist in ensuring compliance with this condition. Where
 erosion and sedimentation plans are required for larger projects it is recommended that
 expert consultants produce these plans.
- The "Do it Right On Site, Soil and Water Management for the Construction Industry" publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au, and The Blue Book is available at www.environment.nsw.gov.au
- Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.

Condition Reason: To prevent potential water pollution and dust nuisance.

D. 6. Structural Adequacy of Existing Supporting Structures

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.

Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.

D. 7. Professional Engineering Details

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. In particular, all preliminary geotechnical reports must be reviewed and certified by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years.

Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.

Notes:

• This does not affect the right of the developer to seek staged construction certificates.

Condition Reason: To ensure professional engineering details and technical specifications are provided.

D. 8. Engineer Certification

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.

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.

Condition Reason: 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.

D. 9. Geotechnical and Hydrogeological Design, Certification and Monitoring

Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must 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 below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter.
- 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 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.

Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.

D. 10. Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths.

Before the issue of any construction certificate, if ground anchors are proposed:

- a) 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.
- b) 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.
- c) 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. A minimum of four weeks should be allowed for assessment.

Notes:

- To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.
- Road has the same meaning as in the Roads Act 1993.
- Clause 17 of the Roads (General) 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.

Condition Reason: To ensure the relevant approval is gained for any temporary ground anchors.

D. 11. Stormwater Management Plan

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:

- a) General design in accordance with stormwater management plans, unreferenced-Rev 1, prepared by Stellen Consulting, dated 01/12/2023, other than amended by this and other conditions.
- b) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings.
- c) The discharge of stormwater from the site, by direct connection, to the street kerb. The kerb discharge must be located generally within the frontage of the site. Only one stormwater outlet with a maximum discharge rate of 20 l/s in the 1% AEP storm event will be permitted. Full supporting calculations must be included in the stormwater management plans.
- d) 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.
- e) 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.
- f) 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.
- g) 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.
- h) Detail any remedial works required to upgrade the existing stormwater drainage system.
- i) Dimensions of all drainage pits and access grates must comply with AS3500.3.
- i) Compliance with the objectives and performance requirements of the BCA.
- k) 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/existing 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.
- f) Overland flow paths over impervious areas.

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.

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).

Notes:

• The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".

Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.

D. 12. Tree Protection Plan and Specification

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 red where authorised to be removed.
- b) 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.

D. 13. Swimming and Spa Pools – Child Resistant Barriers

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.

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.

Notes:

 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.

Condition Reason: To ensure child-resistant swimming and spa pool barriers are provided.

D. 14. Swimming and Spa Pools – Backwash

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.

Notes:

- 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.
- 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.

Condition Reason: To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.

D. 15. Acoustic Certification of Mechanical Plant and Equipment

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 be accompanied by a certificate from a professional 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 LA90, 15 minute level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Notes:

- Further information including lists of Acoustic Engineers can be obtained from:
 - Australian Acoustical Society professional society of noise-related professional www.acoustics.asn.au
 - Association of Australian Acoustical Consultant professional society of noise related professionals www.aaac.org.au

Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.

E. BEFORE BUILDING WORK COMMENCES

E. 1. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

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:

- 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:

- to the extent to which an exemption is in force under the Home Building Regulation 2014, 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.

Notes:

- 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.
- All new guttering is to comply with the provisions of AS3500.

Condition Reason: To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.

E. 2. Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

Building work must not commence, 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.

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
- 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.

E. 3. Notification of Home Building Act 1989 requirements

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:

- a) 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,

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- b) 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.

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.

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.

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.

Condition Reason: To ensure Council is notified of the Home Building Acts 1989 requirements.

E. 4. Erosion and Sediment Controls – Installation

Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained 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" and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, 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.

Notes:

- The International Erosion Control Association Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition.
- Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.
- The "Do it Right On Site, Soil and Water Management for the Construction Industry" publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au
- 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.
- 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.

Condition Reason: To prevent potential water pollution and dust nuisance.

F. DURING BUILDING WORK

F. 1. Compliance with BCA and Insurance Requirements under the Home Building Act 1989

While site work is being carried out:

- a) 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 the Development Certification and Fire Safety Regulations, or
- 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.

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.

Notes:

• All new guttering is to comply with the provisions of AS 3500.

Condition Reason: To ensure compliance with the BCA and Home building Act 1989.

F. 2. Requirement to Notify about New Evidence

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.

Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.

F. 3. Critical Stage Inspections

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.

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 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.

Notes:

- 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.
- 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.

Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.

F. 4. Hours of Work – Amenity of the Neighbourhood

While site work is being carried out:

- 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. piering,
- 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 interval break within every hour.

Notes:

- 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.
- Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.
- 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.
- 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.
- NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm

Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.

F. 5. Public Footpaths – Safety, Access and Maintenance

While site work is being carried out, any person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence that swings out, or encroaches 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) 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.
- Not stand any plant and equipment upon the road or footway.

- 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.
- h) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- 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.

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.

Notes:

- 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.
- 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.
- 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.

Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.

F. 6. Maintenance of Environmental Controls

While site work is being carried out, the following monitoring, measures and controls must be maintained:

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

Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.

F. 7. Compliance with Geotechnical / Hydrogeological Monitoring Program

While site work is being carried out, 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.

Notes:

 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.

Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.

F. 8. Support of Adjoining Land and Buildings

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).

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.

Notes:

- 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.
- 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).
- 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.
- 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.

Condition Reason: To ensure that the support of adjoining land is not removed.

F. 9. Vibration Monitoring

While site work is being carried out, 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.

Notes:

- Professional engineer has the same mean as in Schedule 1 of the BCA.
- **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..."
- Supported land has the same meaning as in the Conveyancing Act 1919.

Condition Reason: To monitor and manage vibration impacts from development.

F. 10. Erosion and Sediment Controls – Maintenance

While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained 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" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, 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.

Notes:

- 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.
- 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.

Condition Reason: To prevent potential water pollution and dust nuisance.

F. 11. Disposal of Site Water During Construction

While site work is being carried out:

- a) 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.
- b) 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.
- 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.

Condition Reason: 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.

F. 12. Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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.

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.
- 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 are in place 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.

Condition Reason: 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.

F. 13. Shoring and Adequacy of Adjoining Property

While site work is being carried out, 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.

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.

Notes:

• 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.

Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.

F. 14. Placement and Use of Skip Bins

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:

- 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.

Notes:

 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.

Condition Reason: To ensure waste storage containers are appropriately located.

F. 15. Prohibition of Burning

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.

Notes:

• 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.

Condition Reason: To ensure no burning of waste occurs.

F. 16. Dust Mitigation

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.

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.

Notes:

- "Dust Control Do it right on site" and the accompanying factsheets can be downloaded from Council's website www.woollahra.nsw.gov.au
- Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.
- 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.

Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.

F. 17. Site Waste Minimisation and Management – Demolition

While site work is being carried out, 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) separate collection bins and/or areas for the storage of residual waste are to be provided,

- c) the purpose and content of the bins and/or storage areas are to be clearly 'signposted',
- d) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and
- e) site disturbance must be minimised, and unnecessary excavation limited.

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.

Notes:

 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.

Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.

F. 18. Site Waste Minimisation and Management – Construction

While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:

- deliveries of materials must be arranged so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- b) consideration must be given to returning excess materials to the supplier or manufacturer,
- 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),
- d) the purpose and content of the storage areas must be clearly 'signposted',
- 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,
- separate collection bins or areas for the storage of residual waste must be promoted.
- measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,
- h) site disturbance must be minimised and unnecessary excavation limited,
- i) all waste must be transported to a place that can lawfully be used as a waste facility, and
- 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.

Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.

F. 19. Asbestos Removal

While site work is being carried out, 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:

- 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 must be left in any public place.

Notes:

- 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.
- All removal, repair or disturbance of or to asbestos material must comply with:
 - Work Health and Safety Act 2011,
 - Work Health and Safety Regulation 2017,
 - SafeWork NSW "Code of Practice: How to Safely Remove Asbestos" (2016), and
 - SafeWork NSW "Code of Practice: How to Manage and Control Asbestos in the Workplace" (2016).
- For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050

Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.

F. 20. Classification of Hazardous Waste

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.

Condition Reason: 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.

F. 21. Disposal of Asbestos and Hazardous Waste

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.

Condition Reason: 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.

F. 22. Asbestos Removal Signage

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.

Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.

F. 23. Notification of Asbestos Removal

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.

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.

Condition Reason: To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.

F. 24. Tree Preservation

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

General Protection Requirements:

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

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

Condition Reason: To protect trees during the carrying out of sitework.

F. 25. 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 <delete this if planted in a planter box on a structure> 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)
1 x <i>Jacaranda</i> <i>mimosifolia</i> (Jacaranda)	Near the boundary to south, between the pool and the pool cabana	75L	10 x 9
1 x Lagerstroemia indica (Crepe Myrtle)	On the proposed lawn near the east boundary, between the outdoor living and the pool	75L	6 x 4
1 x Eucalyptus botryoides (Bangalay)	At existing front lawn at a minimum distance of 1.5m from the east boundary	75L	9 x 8
12 x Elaeocarpus eumundii (Quandong)	As per the Landscape Plan No. DA 01 Rev B, designed by Volker Klemm Landscape Design, dated 12/2023		12 x 4
7 x Xanthostemon chrysanthus (Golden Penda)			8 x 4
9 x Howea forsteriana (Kentia palm)			6 x 3

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the provision of appropriate replacement planting.

F. 26. Salvage Building Materials

- a) Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, 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.

Condition Reason: To maximise reuse of existing fabric.

F. 27. Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

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.

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.

Notes:

 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.

Condition Reason: To ensure access to swimming pools is effectively restricted to maintain child safety.

G. BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

G. 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.

Notes:

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

Condition Reason: To ensure the building is suitable to occupy.

G. 2. Commissioning and Certification of Systems and Works

Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 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 must be submitted to the satisfaction of the Principal Certifier.

Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:

- a) All structural work.
- b) Such further matters as the Principal Certifier may require.

Notes:

- 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).
- The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate.

Condition Reason: To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.

G. 3. Works within Public Land (including Council, State or Federal owned land or property)

Before the issue of any occupation certificate, the following works within public land, whether new/existing/renewed 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 person with the benefit of this consents expense:

- a) stormwater pipes, pits, structures and connections to public stormwater systems within the road,
- b) driveways and vehicular crossings,
- c) renew/new retaining structures,
- d) overhang structures,
- e) encroachments or occupation or alienation of public land or property,
- f) removal of redundant driveways and any other structure,
- g) new footpaths, pathways, walkways, or dunny lanes,
- h) relocation of existing power/light pole, if applicable,
- i) relocation/provision of street signs, if applicable.
- i) new or replacement street trees, if applicable,
- k) verge landscape items, 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
- m) new or reinstated road surface pavement within the road.

Notes:

- When determining whether the works within public land are satisfactory, Council will
 consider the ownership, construction quality, maintenance, operations, and public utility of
 such item/s.
- Security held by Council under section 4.17(6) of the Act will not be released until
 compliance has been achieved with this condition. An application for the refund of security
 must be submitted with the occupation certificate to Council. This form can be downloaded
 from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer
 service centre.

Condition Reason: To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.

G. 4. Works-As-Executed Certification of Stormwater Systems

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:

- a) compliance with conditions of development consent relating to stormwater,
- b) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter.
- c) that only one stormwater outlet pipe to kerb has been constructed within the frontage of the site,

- d) that the works have been constructed in accordance with the approved design,
- 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.

Notes:

The occupation certificate for the whole of the building must not be issued until this
condition has been satisfied.

Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.

G. 5. Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation

Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. A1378445.

Notes:

• 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.

Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.

G. 6. Removal of Ancillary Works and Structures

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:

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

Condition Reason: To ensure that all ancillary matter is removed prior to occupation.

G. 7. Amenity Landscaping

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.

Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.

G. 8. Landscaping

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.

Condition Reason: To ensure that all landscaping work is completed prior to occupation.

G. 9. Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building

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.

G. 10. Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Before the issue of any occupation certificate, and 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 under 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: Swimming pool safety Water recirculation systems.

Backwash must be discharged to the sewer in compliance with AS/NZS 3500.

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.

Notes:

NSW Health guidelines and fact sheets are available at www.health.nsw.gov.au

Condition Reason: To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.

H. OCCUPATION AND ONGOING USE

H. 1. Maintenance of BASIX Commitments

During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. A1378445.

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

Condition Reason: To ensure the approved environmental sustainability measures are maintained for the life of development.

H. 2. Noise from Mechanical Plant and Equipment

During the occupation and ongoing use, 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 LA90, 15 minute level measured by a sound level meter.

Notes:

 Words in this condition have the same meaning as in the Noise Policy for Industry (2017) www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

Condition Reason: To protect the amenity of the neighbourhood.

H. 3. Outdoor Lighting – Residential

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.

Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

H. 4. Noise Control

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.

Notes:

- Council will generally enforce this condition in accordance with the Noise Guide for Local Government (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the NSW Industrial Noise Policy (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997.
- Useful links:
 - Community Justice Centres—free mediation service provided by the NSW Government www.cjc.nsw.gov.au.
 - NSW Environment Protection Authority— see "noise" section www.environment.nsw.gov.au/noise.
 - NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at www.legislation.nsw.gov.au.
 - Australian Acoustical Society—professional society of noise related professionals www.acoustics.asn.au.
 - Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au.
 - Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

Condition Reason: To protect the amenity of the neighbourhood.

H. 5. Maintenance of Landscaping

During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

Notes:

- 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.
- Owners must have regard to the amenity impact of trees upon the site and neighbouring land.

Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

H. 6. Swimming and Spa Pools – Maintenance

During the occupation and ongoing use, 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 Swimming pool safety Water recirculation and filtration systems,

- d) with backwash being discharged to the sewer in compliance with AS/NZS 3500, 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.

Notes:

- 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.
- The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au

Condition Reason: To ensure public health and safety.

H. 7. Noise from Mechanical Plant and Equipment

During the occupation and ongoing use, 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 LA90, 15 minute level measured by a sound level meter.

Notes:

Words in this condition have the same meaning as in the Noise Policy for Industry (2017)
 <u>www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)</u> and Noise Guide for Local Government (2013)

 <u>www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government</u>

Condition Reason: To protect the amenity of the neighbourhood.

I. BEFORE THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE (SUBDIVISION WORKS)

Nil

L. BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE (NO SUBDIVISION WORKS)

Nil.

M. BEFORE THE ISSUE OF A STRATA CERTIFICATE

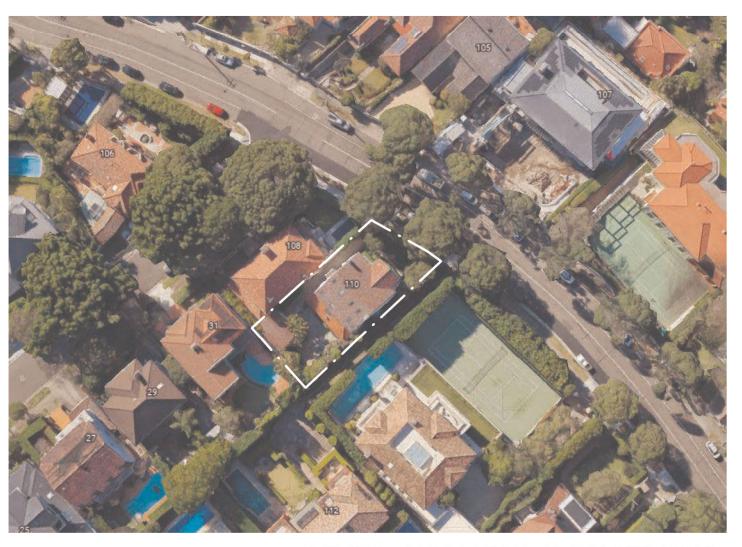
Nil.

Attachments

- 1. Plans, Elevations and Sections J
- 2. Clause 4.6 (Height) J
- 3. Clause 4.6 (FSR) <u>J</u>
- 4. Referral Response Development Engineering J. 🖫
- 5. Referral Response Trees and Landscaping U
- 6. Referral Response Heritage 🗓 🖺

DA DRAWING LIST

NO.	REV.	NAME
DA-000		COVER PAGE
DA-000	5	BASIX COMMITMENTS
	-	DI IODI COMMITTINE ITTO
DA-002	-	EXISTING DEEP SOIL PLAN
DA-003	-	PROPOSED DEEP SOIL PLAN
DA-004	=	EXISTING CANOPY AREA
DA-005	-	PROPOSED CANOPY
DA-006	12	FSR - EXISTING
DA-007	-	FSR - PROPOSED
DA-101	5	PROPOSED SITE PLAN
DA-102	-	SITE ANALYSIS
DA-110	-	DEMOLITION PLAN
DA-121	-	MATERIAL BOARD
DA-122	-	PHOTO MONTAGE
DA-201	-	BASEMENT FLOOR PLAN
DA-202	-	GROUND FLOOR PLAN
DA-203	-	FIRST FLOOR PLAN
DA-204	-	ATTIC FLOOR PLAN
DA-205	-	ROOF PLAN
DA-301	-	NORTH & SOUTH ELEVATION
DA-302	-	EAST & WEST ELEVATION
DA-321	-	SECTION AA & BB



110 VICTORIA ROAD, BELLEVUE HILL

DEVELOPMENT APPLICATION



GENERAL NOTES

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DEVELOPMENT APPLICATION

DATE REV AMENDMENT 08.12.23 - DA Submiss

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DRAWING COVER PAGE		Drawn: Checked:	AA JJ	Scale: Date:	08.12.23

BASIX CERTIFICATE NUMBER: A1378445

BASIX COMMITMENTS

WATER COMMITMENTS SWIMMING POOL MUST NOT HAVE A VOLUME GREATER THAN 35 KILOLITRES AND MUST BE OUTDOORS. SWIMMING POOL MUST NOT INCORPORATE HEATING SYSTEM AS PART OF THIS DEVELOPMENT.

LIGHTING 40% OF NEW OR ALTERED LIGHT FIXTURES TO BE FITTED WITH FLURESCENT, COMPACT FLUORESCENT OR LED LAMPS.

FIXTURES NEW OR ALTERED SHOWERHEADS AND TAPS TO HAVE A FLOW RATE NO GREATER THAN 9L PER MINUTE OR A MIN. 3 STAR WATER RATING. NEW OR ALTERED TOILETS TO HAVE A FLOW RATE NO GREATER THAN 4L PER AVERAGE

FLUSH OR A MIN. 3 STAR WATER RATING.

THERMAL COMFORT COMMITMENTS

EXTERNAL WALLS CONCRETE 200MM PANEL AND PLASTERBOARD INTERNALLY

TIMBER FRAMED WALLS WITH R1.30 INSULTAION, EXTERNAL METAL CLADDING AND PLASTERBOARD INTERNALLY

ROOF FLAT ROOF WITH FOIL/SARKING - MEDIUM COLOUR WITH SOLAR ABSORPTANCE 0.475 - 0.70

CEILINGS PLASTERBOARD FLAT CEILING WITH R2.5 INSULTATION

FLOORS CONCRETE SLAB ON GROUND

WINDOWS & GLAZED DOORS ALL WINDOWS, GLAZED DOORS AND SHADING DEVICES MUST BE INSTALLED IN ACCORDANCE WITH THE SPECIFICATIONS LISTED WITHIN THE BASIX REPORT. RELEVANT OVERSHADOWING SPECIFICATIONS MUST BE SATISFIED

ACH WINDOW AND GLAZED DOO

FOR PROJECTIONS DESCRIBED IN MILLIMETRES, THE LEADING EDGE OF EACH EAVE, PERGOLA, VERANDAH, BALCONY OR AWNING MUST BE NO MORE THAN 500MM ABOVE THE HEAD OF THE WINDOW OR GLAZED DOOR AND NO

MORE THAN 2400MM ABOVE THE SILL.

ALL NEW DOORS & WINDOWS (WITH THE EXCEPTION OF W05 AND D04): U $_{\rm W}$ VALUE ≤ 6.44 SHGC $_{\rm W}$ = 0.75

ALL REMAINDER OF NEW WINDOWS (W05): U $_{\rm W}$ VALUE ≤ 4.09 SHGC $_{\rm W}$ = 0.47 ALL REMAINDER OF NEW DOORS (D04): U $_{\rm W}$ VALUE ≤ 6.39 SHGC $_{\rm W}$ = 0.56

ALL SKYLIGHTS: $U_W VALUE \le 2.5 SHGC_W \le 0.456$



GENERAL NOTES

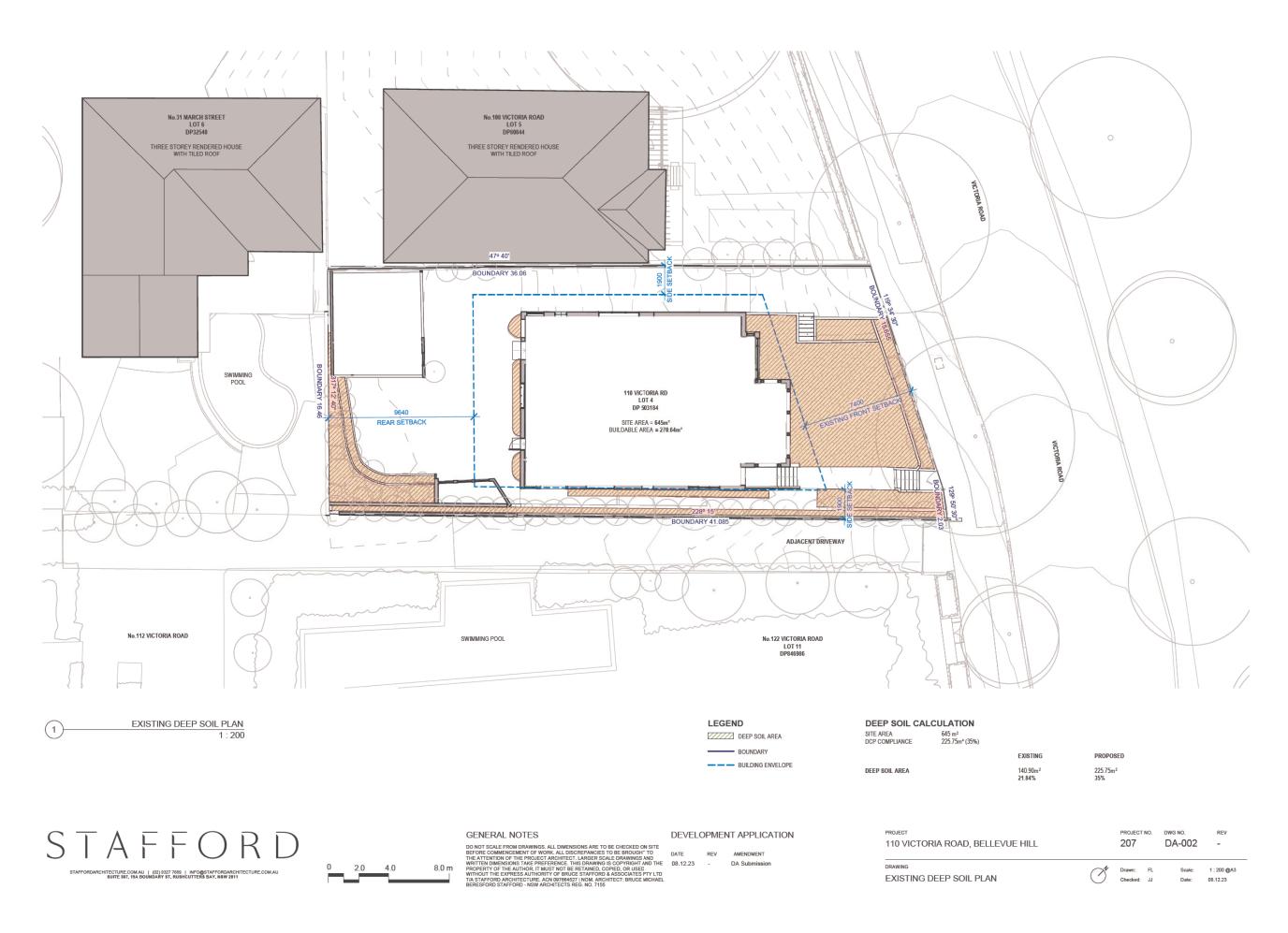
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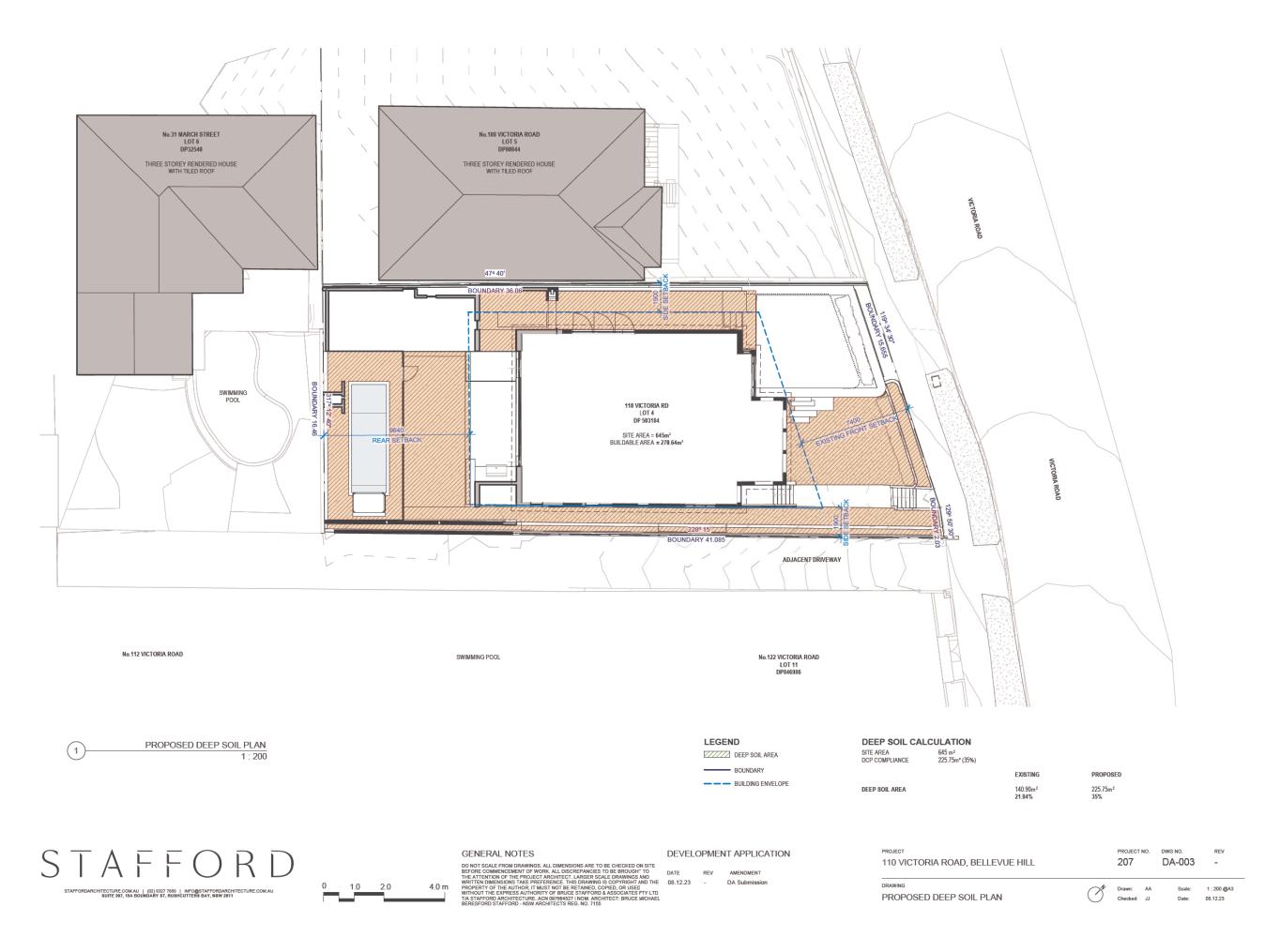
DEVELOPMENT APPLICATION

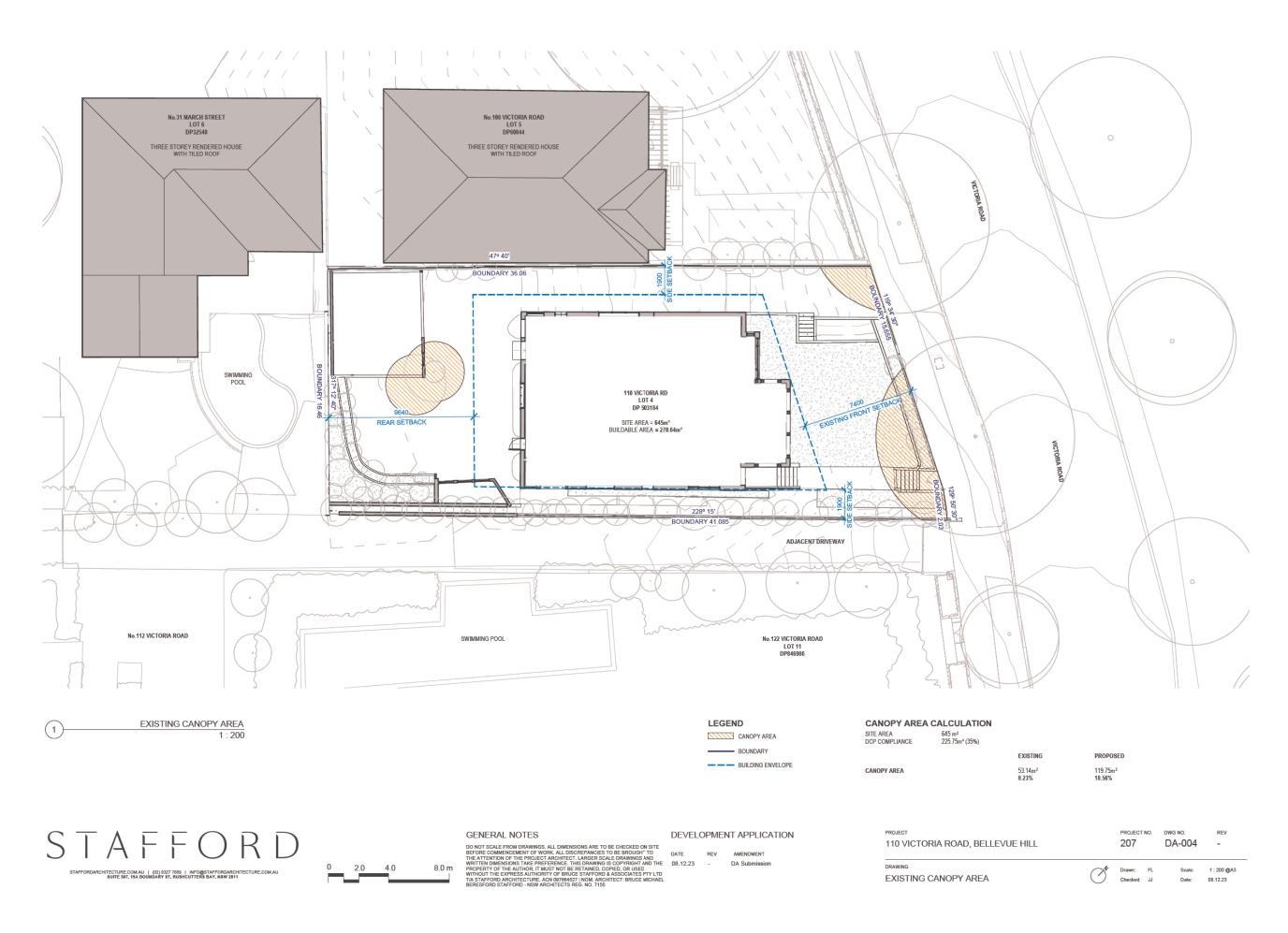
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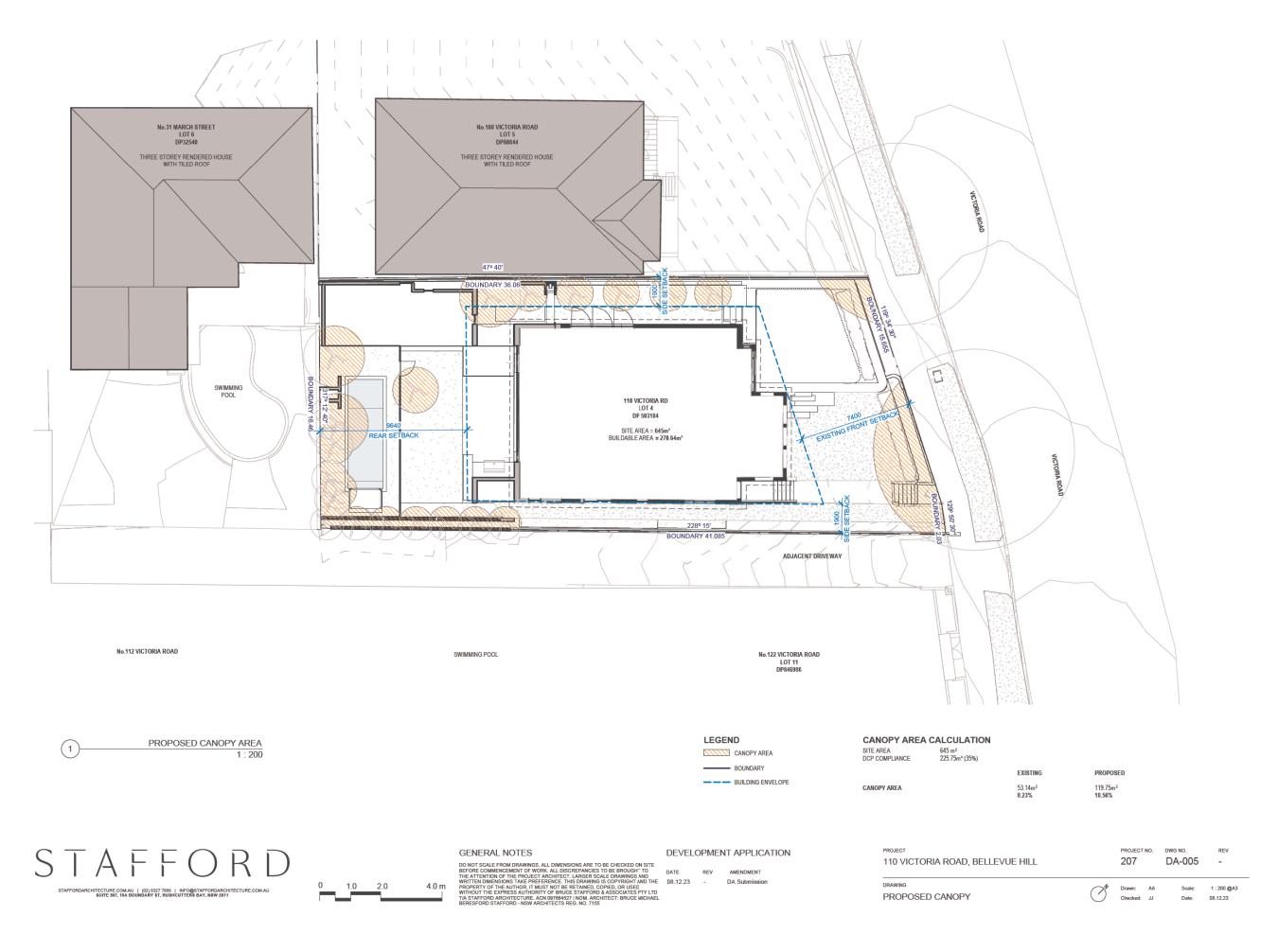
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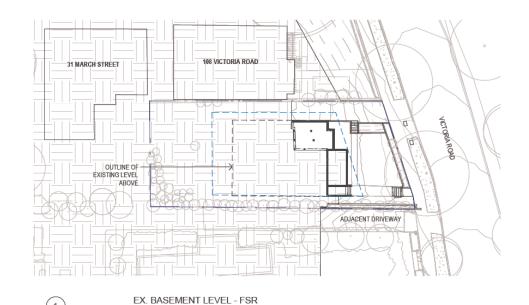
PROJECT 110 VICTORIA ROAD, BELLEVUE HILL	PROJECT NO. 207	DWG NO. DA-001	REV -
DRAWING BASIX COMMITMENTS	Drawn: CS Checked: JJ	Scale: Date:	08.12.23

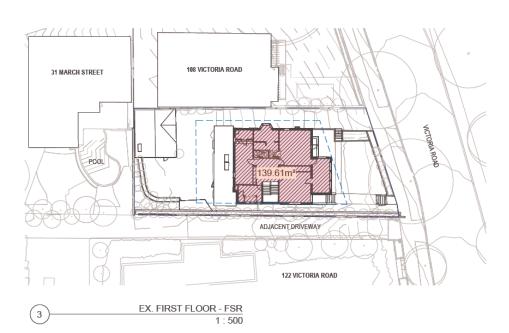


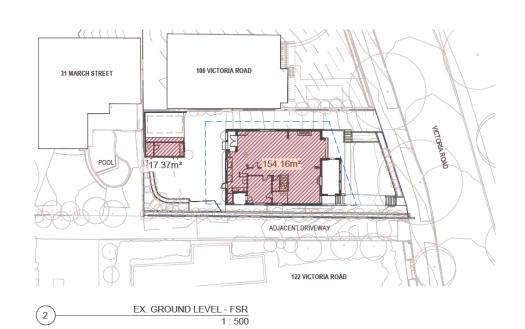


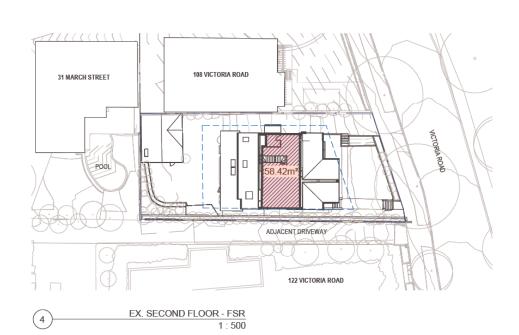
















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DEVELOPMENT APPLICATION

LEGEND

GROSS FLOOR AREA

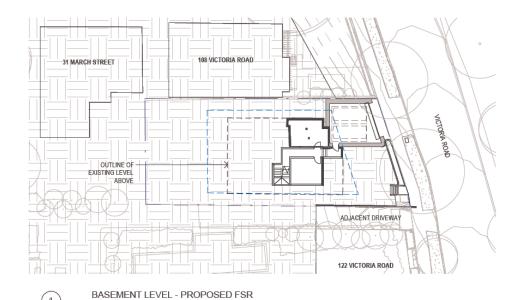
--- BUILDING ENVELOPE

DATE REV AMENDMENT
08.12.23 - DA Submission

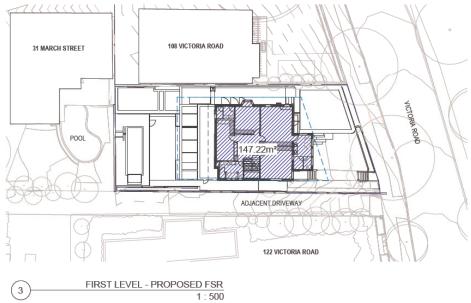
FSR CALCULATIONS

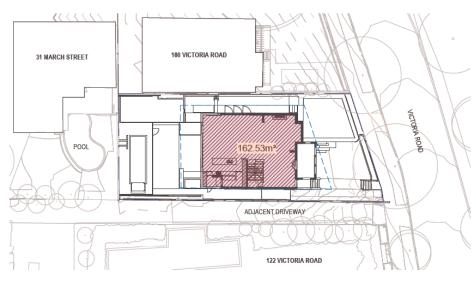
FSR - EXISTING

TORTOALCOLATIONS				
SITE AREA = 645m ² PERMISSABLE FSR = 0.5:1 (322.5m ²)				
EXISTING GROSS FLOOR AREA (GFA)		PROPOSED FLOORPLA	TE AREA	
EX. SECOND FLOOR = EX. FIRST FLOOR = EX. GROUND FLOOR = EX. OUTBUILDING (EXCL. CAR PARKING):	58.42 m² 139.61 m² 154.16 m² = 17.37 m²	PR. SECOND FLOOR = PR. FIRST FLOOR = PR. GROUND FLOOR=	55.13 n 147.22 162.53	m²
TOTAL EXISTING GFA=	369.56m² (FSR 0.57:1)	TOTAL =	364.88	m² (FSR 0.56:1
PROJECT		PROJECT NO.	DWG NO.	REV
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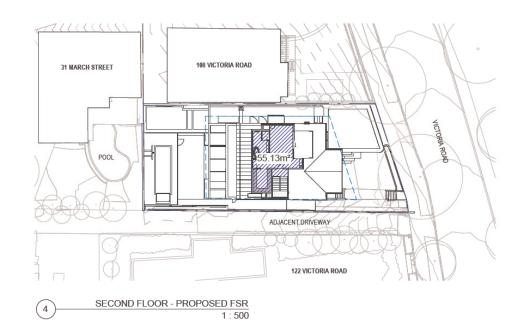








GROUND LEVEL - PROPOSED FSR



LEGEND GROSS FLOOR AREA

- BOUNDARY --- BUILDING ENVELOPE

FSR CALCULATIONS

SITE AREA = 645m² PERMISSABLE FSR = 0.5:1 (322.5m²) EXISTING GROSS FLOOR AREA (GFA) EX. SECOND FLOOR = 58.42 m²
EX. FIRST FLOOR = 139.61 m²
EX. GROUND FLOOR = 154.16 m²
EX. OUTBUILDING (EXCL. CAR PARKING) = 17.37 m² TOTAL EXISTING GFA=

PROPOSED FLOORPLATE AREA PR. SECOND FLOOR =

FSR - PROPOSED

PROJECT NO. DWG NO.

207

110 VICTORIA ROAD, BELLEVUE HILL

08.12.23

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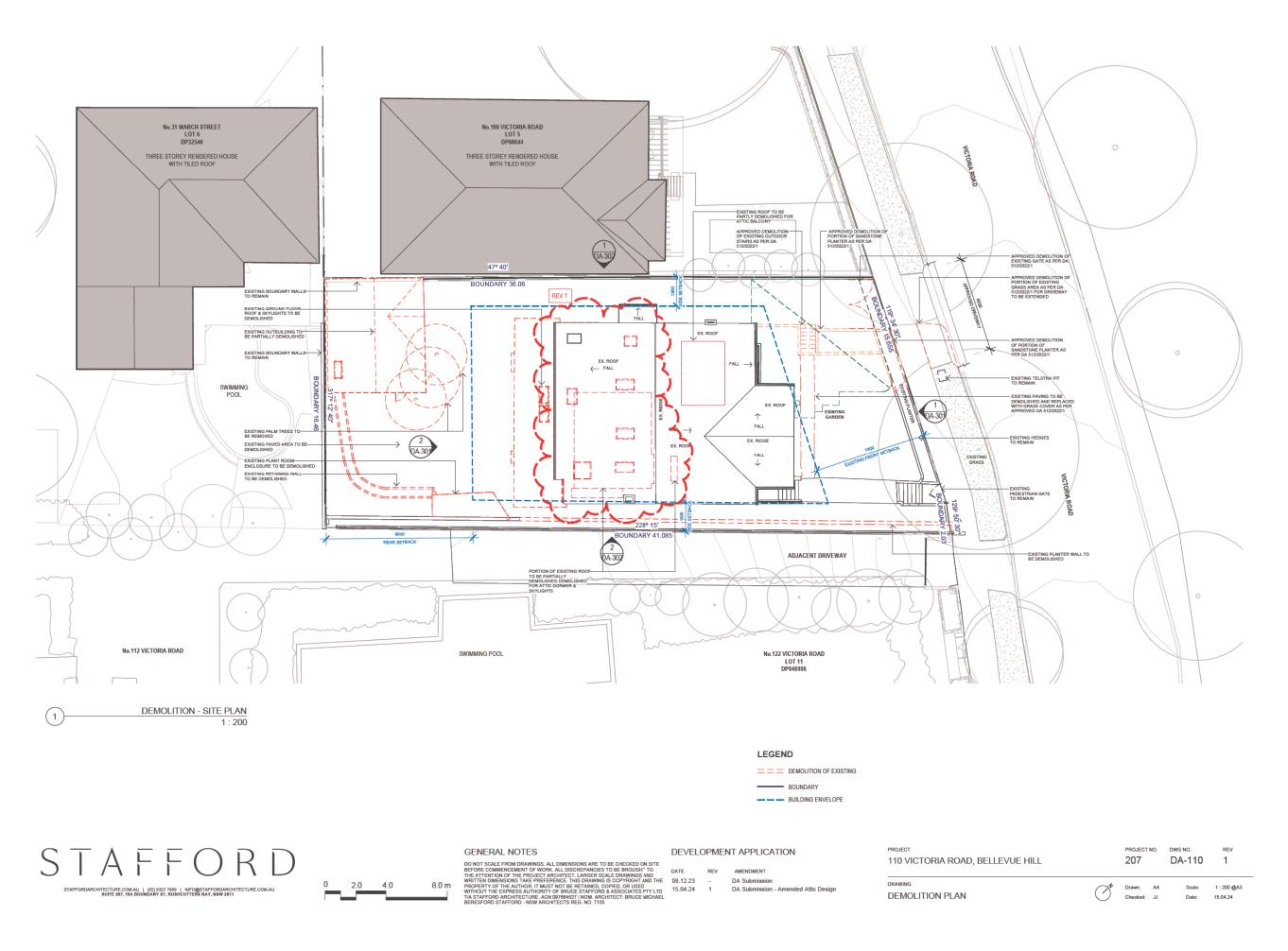


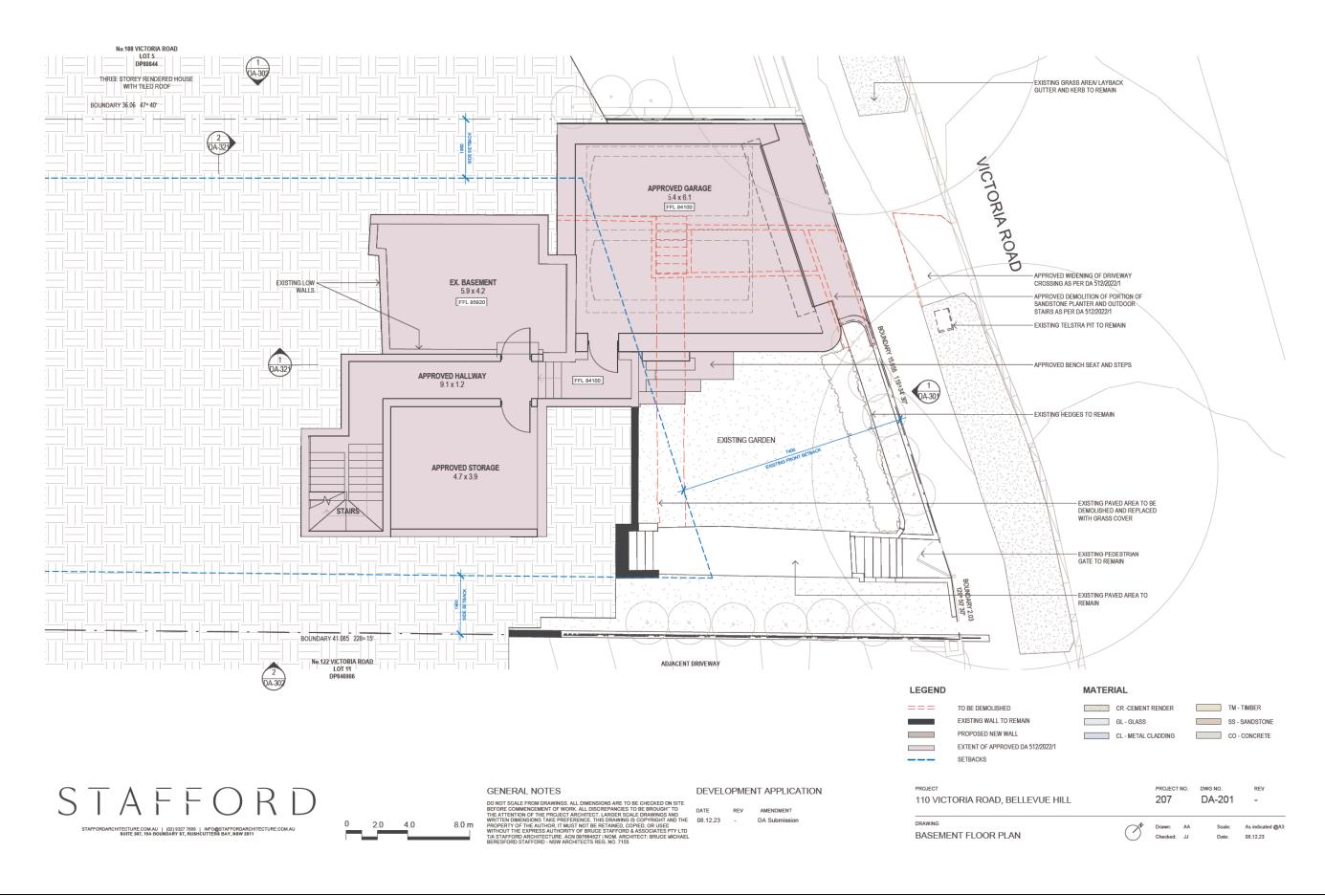
GENERAL NOTES

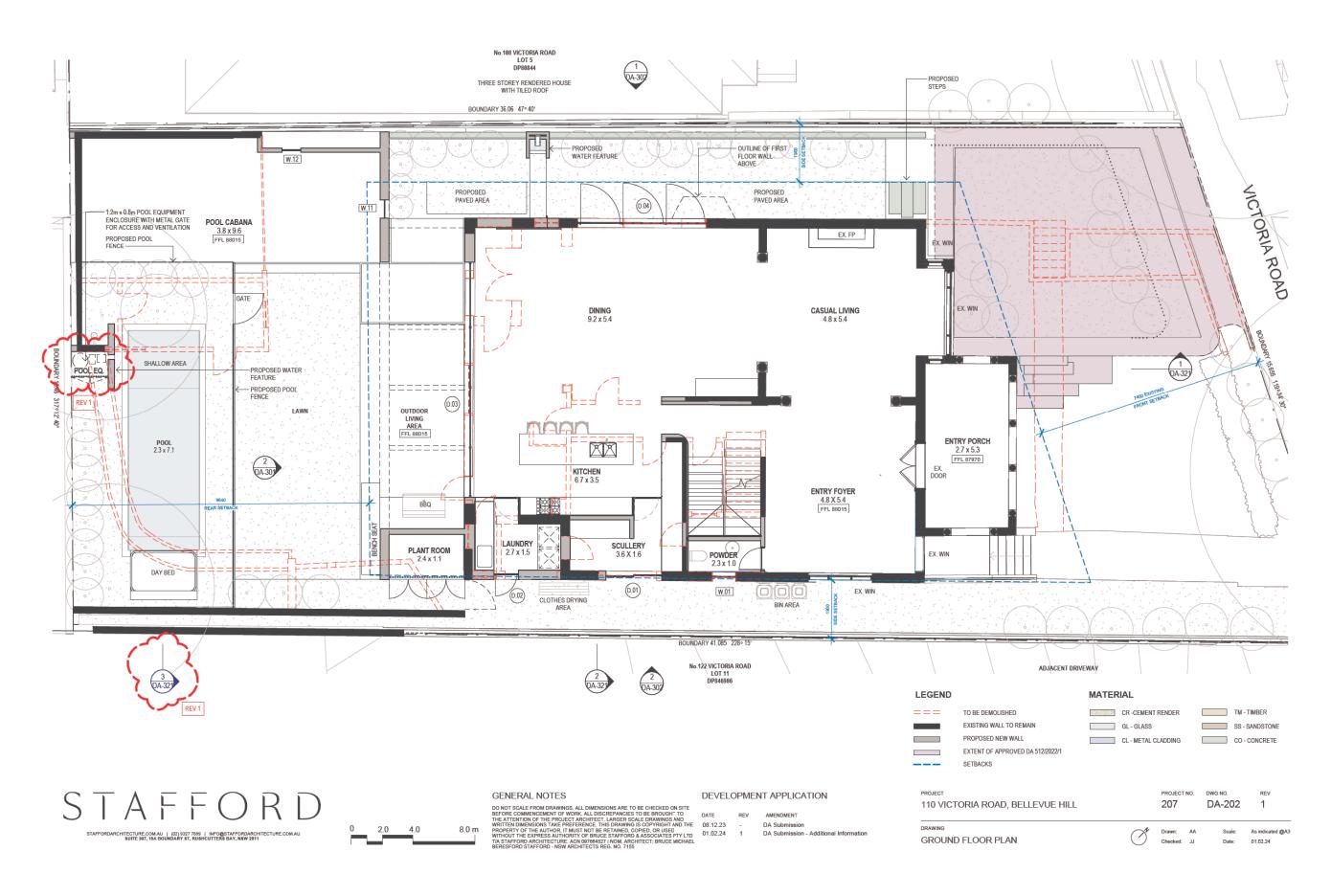
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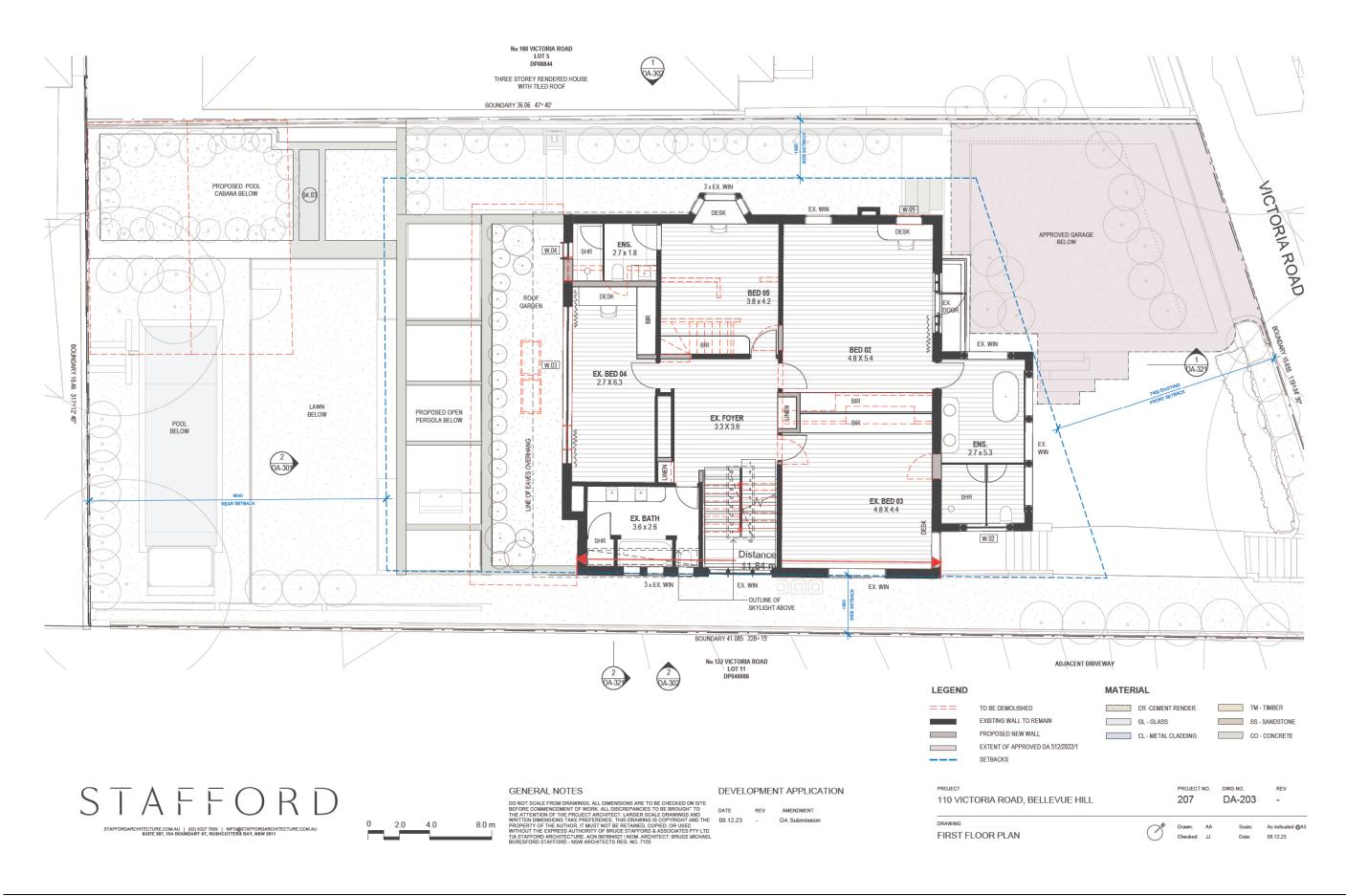
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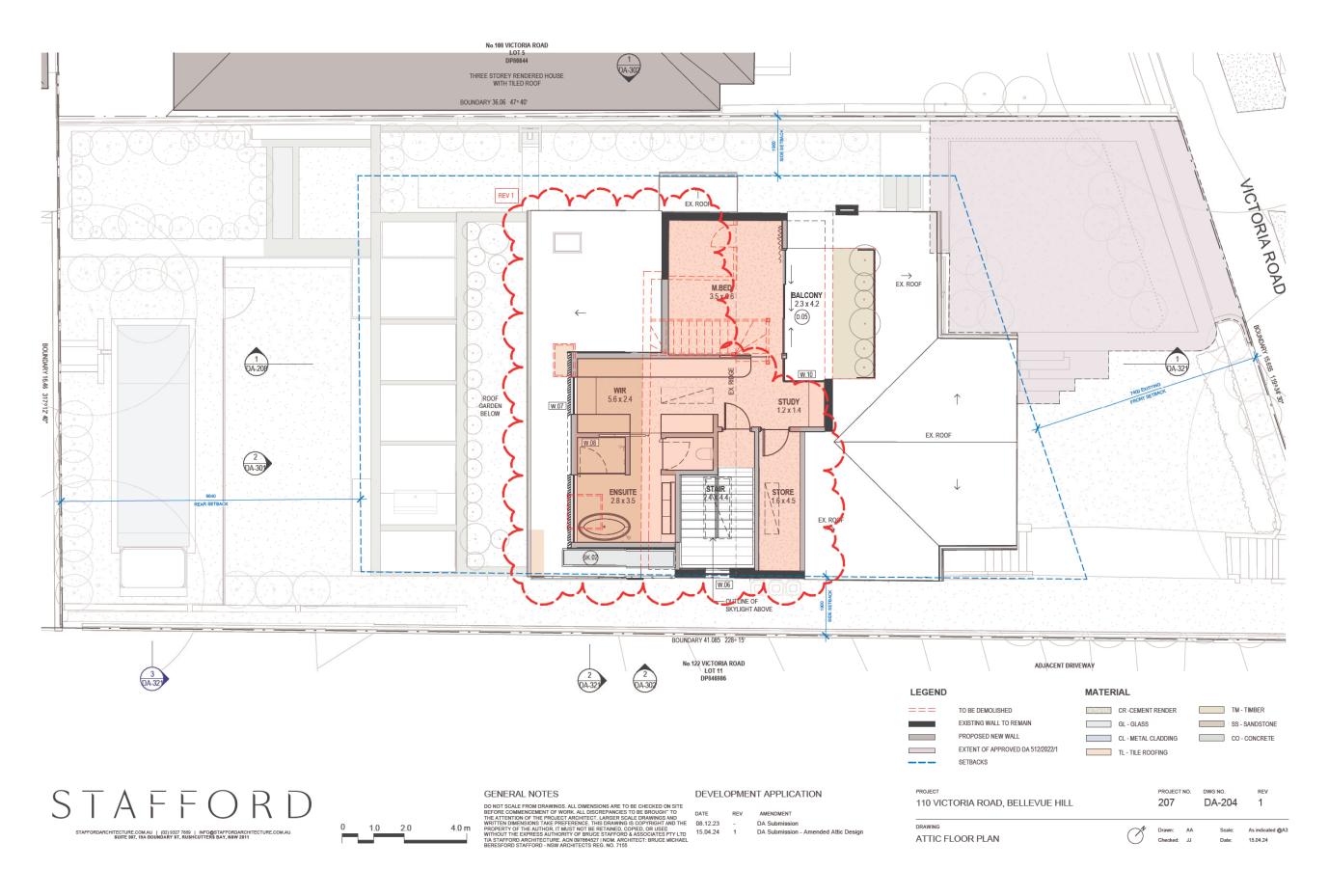
DEVELOPMENT APPLICATION

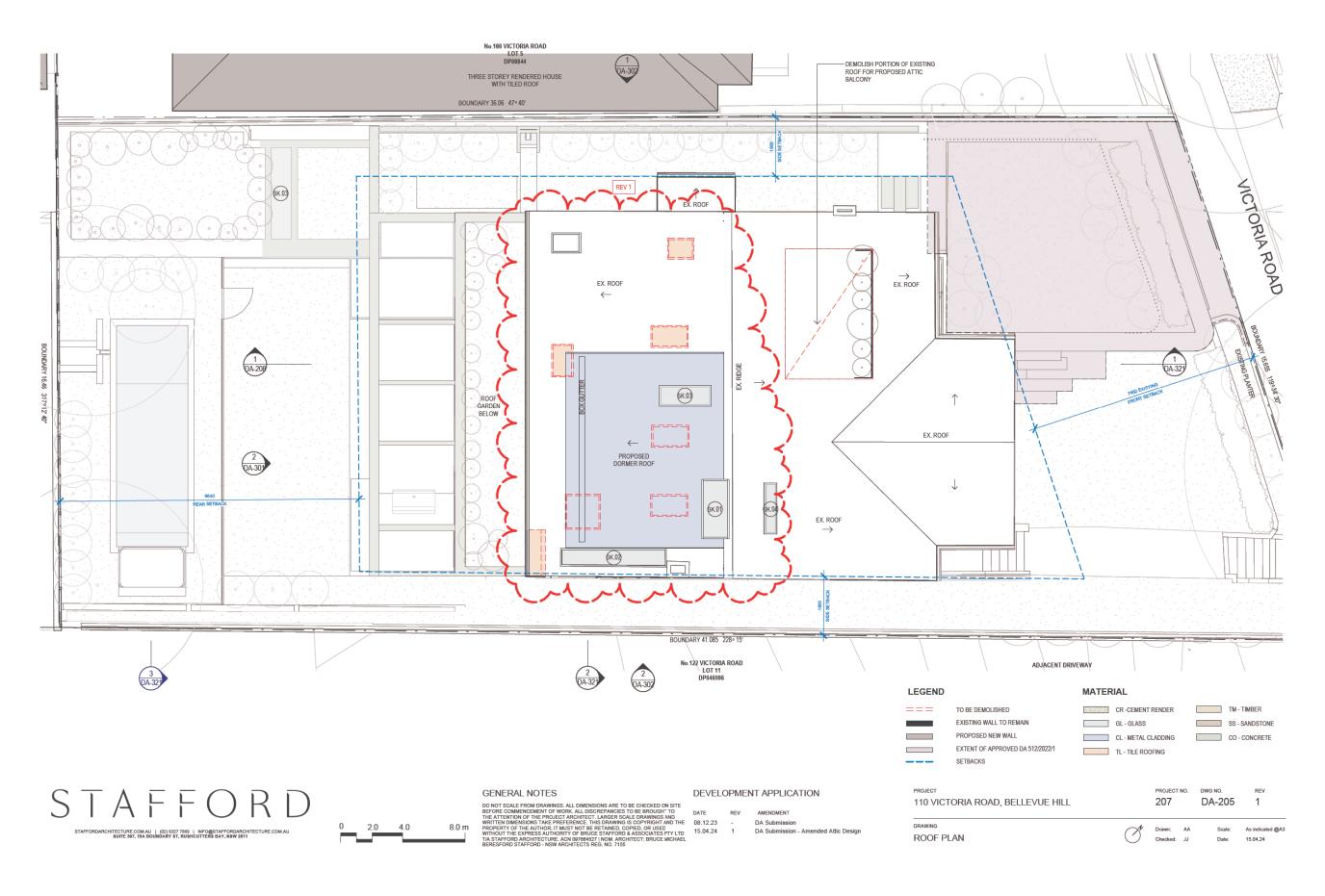


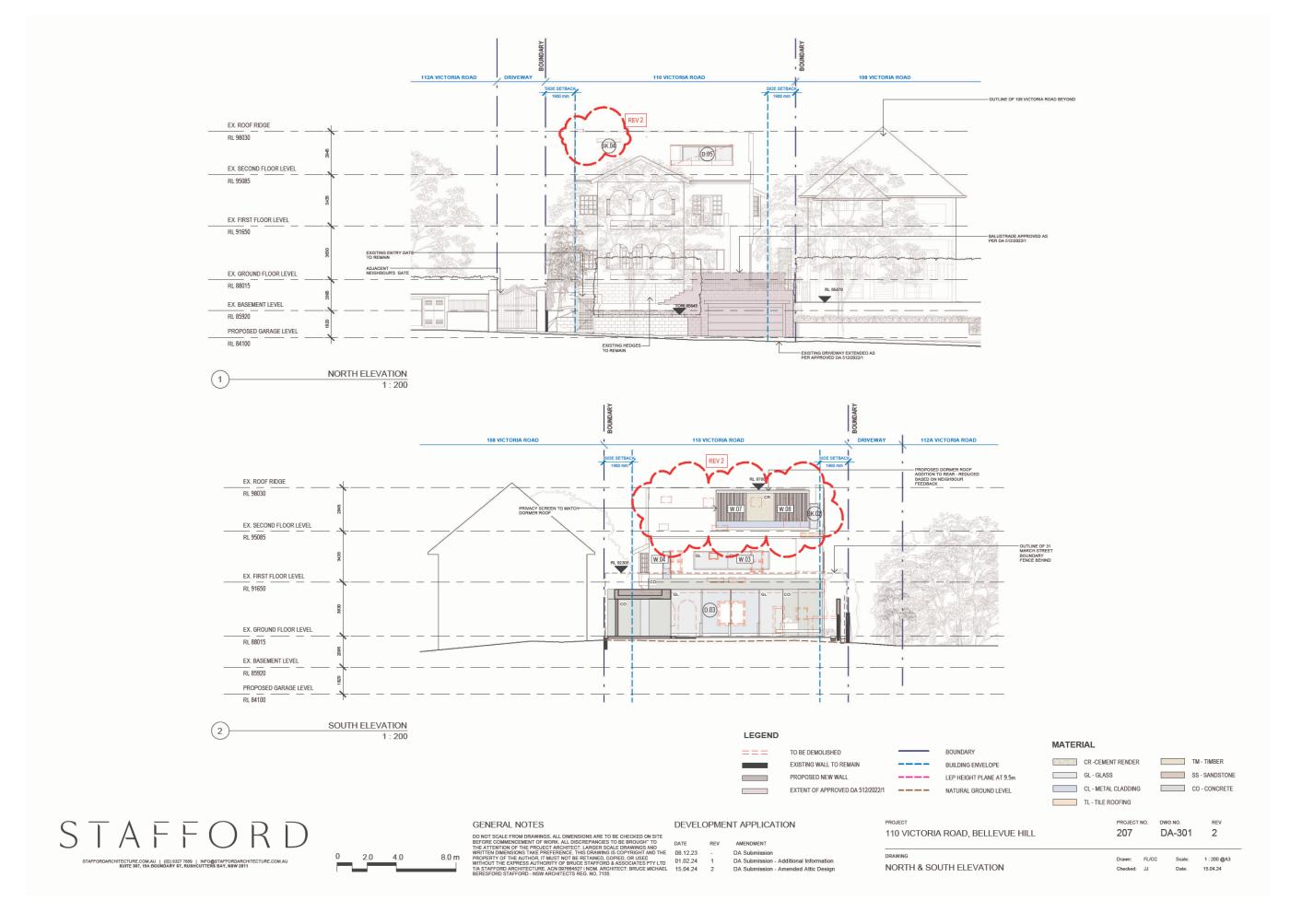


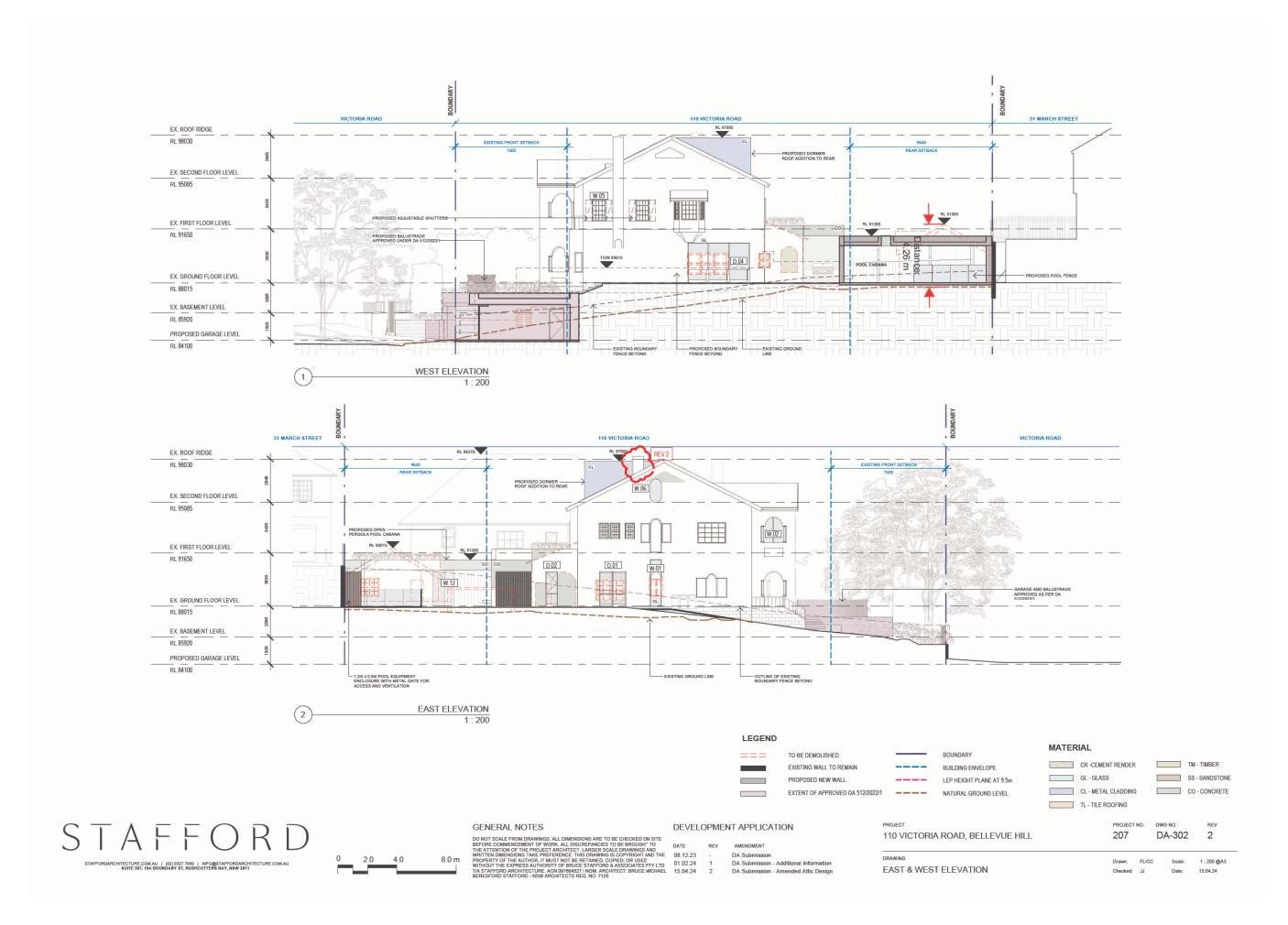


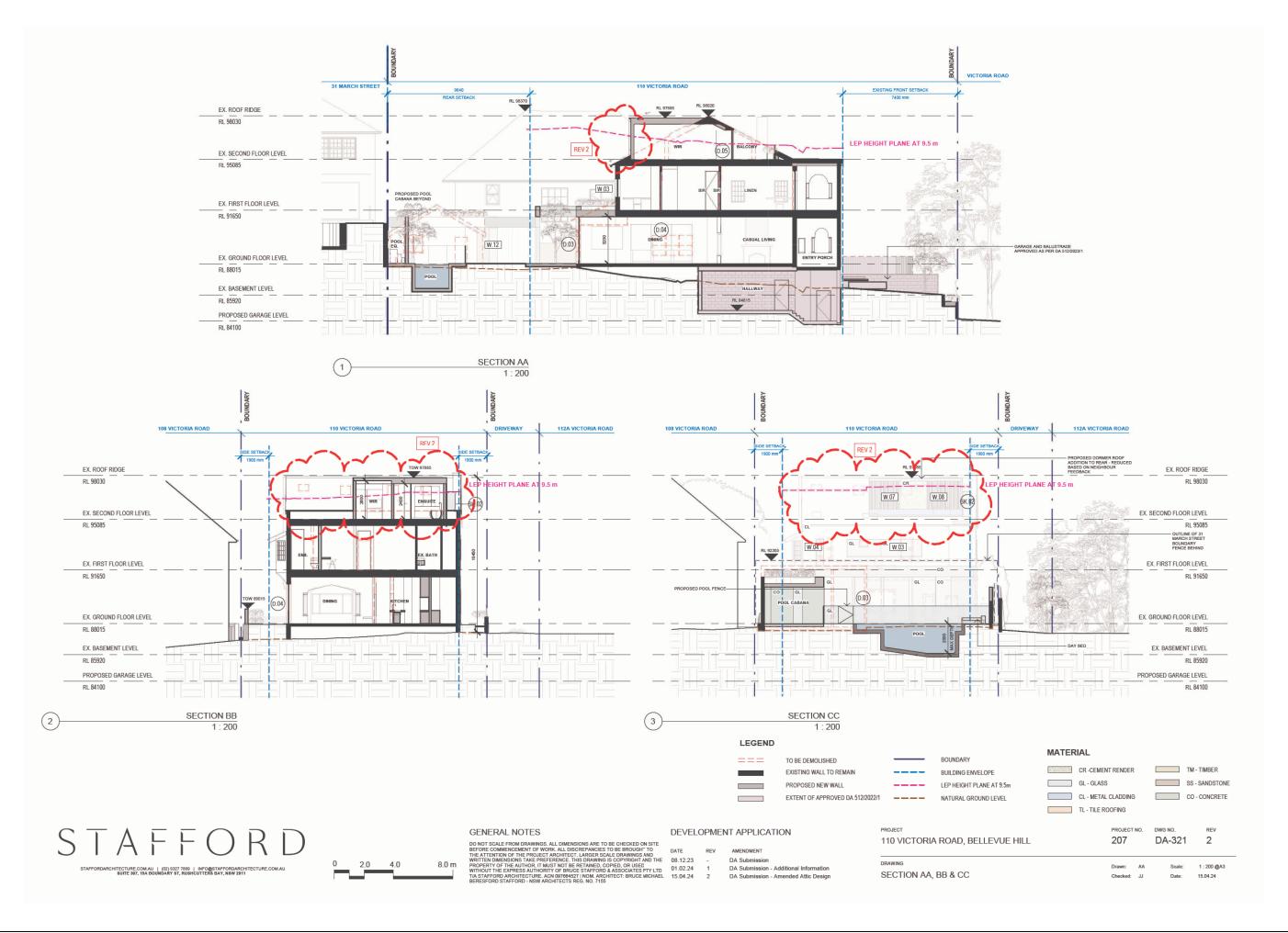


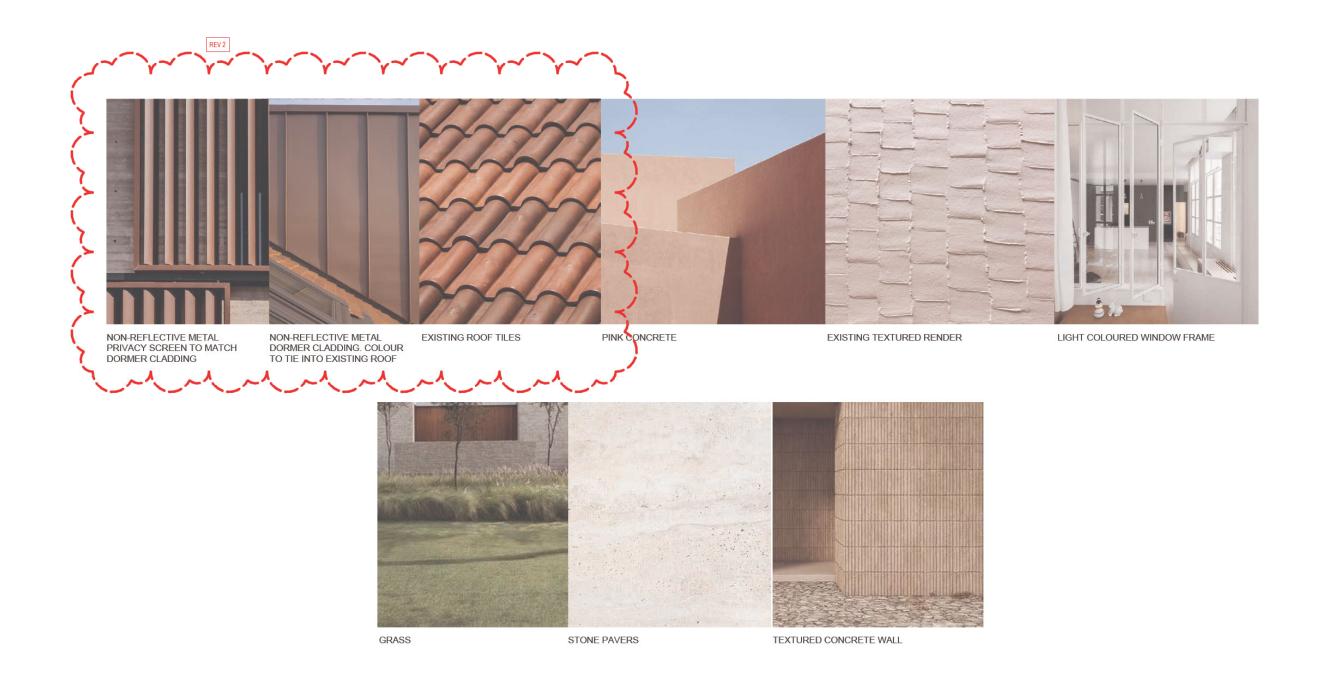












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IAS STAFFORD ARCHITECTURE. ACN 097084627 I NOM. ARCHITECT: BRUCE MICHAEL
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18.04.24

DEVELOPMENT APPLICATION

DATE REV AMENDMENT

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PROJECT PROJECT NO. DWG NO. REV
110 VICTORIA ROAD, BELLEVUE HILL

DRAWING

Drawn: FL/CC Scale: @A3

MATERIAL BOARD

DWG NO. REV

DDWG NO. REV

DA-121 2

DRAWING Scale: @A3

A Checked: JJ Date: 18.04.24



110 VICTORIA ROAD - EXISTING STREET PRESENTATION





110 VICTORIA ROAD - APPROVED STREET PRESENTATION 110 VICTORIA ROAD - PROPOSED STREET PRESENTATION

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DEVELOPMENT APPLICATION

DATE REV AMENDMENT
08.12.23 - DA Submissio

PROJECT 110 VICTORIA ROAD, BELLEVUE HILL	PROJECT 207	NO.	DWG NO. DA-122	REV -	
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Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Height of Building

Alterations and Additions to an Existing Dwelling House at

No. 110 Victoria Road, Bellevue Hill

Prepared for:

Marc Freeman

Suite 307, 19a Boundary St Rushcutters Bay 2011

Prepared by:

GSA PLANNING

Urban Design, Environmental & Traffic Planners (A.B.N 89 643 660 628)
95 Paddington Street, Paddington NSW 2021 p: 02 9362 3364

e: info@gsaplanning.com.au

JOB NO. 21588 April 2024

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Attachment 2 Clause 4.6 (Height) Page 377

WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014 CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

APPLICANT'S NAME: Marc Freeman

SITE ADDRESS: No. 110 Victoria Road, Bellevue Hill

PROPOSAL: Alterations and Additions to an Existing Dwelling House

 (i) Name of the applicable planning instrument which specifies the development standard:

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

R2 Low Density Residential. The objectives of the R2 Low Density Residential are as stated:

- 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.

(iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings which is stated 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.
- (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.
- (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.

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

Clause 4.6 Exceptions to Development Standards –Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588

Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

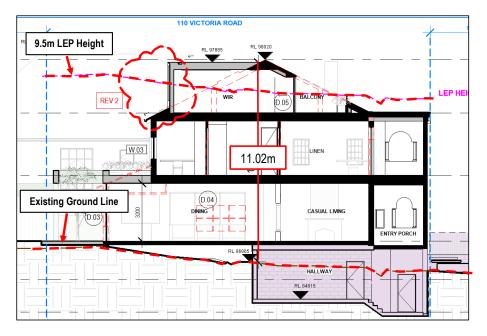
3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.3 of the LEP - Height of Building. This Clause operates in conjunction with the Height of Buildings Map which indicates a maximum 9.5 metres applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The existing dwelling will remain a three storey built form with an attic to the streetscape and neighbouring properties. The existing dwelling house has a maximum building height of 11.26m, measured from the roof ridge at RL 98.02 AHD to the existing ground line immediately below. This represents an existing departure of 1.76m (18.5%) from the LEP standard.

The proposed roof dormer at the rear of the principal roof form has an overall height of 11.02m, featuring a departure of 1.52m (16%), and relates to the attic roof structure. Due to the existing breach, it is inevitable that any improvement works within the attic or roof would require a Clause 4.6 Variation.

As indicated, the proposal is for alterations and additions to the existing dwelling house. While the majority of the proposed works will be below the Council's LEP height plane line, a portion of the proposed new works within the attic level will occur above the height development standard (see **Figure 1**).



Clause 4.6 Exceptions to Development Standards –Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

Objective (a) to provide an appropriate degree of flexibility in applying certain development standards

to particular development,

Objective (b) to achieve better outcomes for and from development by allowing flexibility in particular

circumstances.

Flexibility is sought in the application of the height development standard to the proposed development in the circumstance of this particular case. The proposed roof dormer that exceeds the maximum LEP height plane will contribute to improving the amenities of the existing bedroom at the attic level. Given the existing height non-compliance area, it is inevitable that any works associated with the attic level would exceed the LEP height plane.

Despite the technical height departure, the external expression of the proposed works above the height limit is minimal. At the street frontage, the new works will not be readily discernible as they are mainly located at the rear of the site. As such, the works above the height standard not only will not adversely affect the character of the Bellevue Hill North Precinct but will reinforce the existing bulk and scale in the area.

The proposed works will maintain the key attributes of the dwelling house such as maximum building height, wall height, and front and side setbacks. The proposal also involves improving deep soil landscaping and tree canopy coverage on the subject site. As such, strict compliance would not achieve a better outcome for or from development and would also require the complete removal of the attic level. Notably, the proposed works at the Attic Level will also not create adverse impacts on neighbouring properties.

Accordingly, flexibility will achieve a better outcome for and from the development for the area.

Clause 4.6 Exceptions to Development Standards –Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (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.

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

5.1 Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

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 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.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard:

Despite the proposed development's non-compliance with the applicable height development standard, the proposal achieves the desired low-density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed development achieves the objectives of the height standard are explained below.

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

'Desired future character' is not defined in the LEP. In Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 [63] ('SJD'), Preston CJ states, inter alia:

...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.

Clause 4.6 Exceptions to Development Standards –Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588

Accordingly, the desired future character is shaped by the text and context of the LEP and recent approvals in the vicinity. Each of these will now be discussed. The relevant clauses in the LEP which relate to urban character and built form are:

- a. The zoning of the land (Clause 2.2 and the Land Zoning Map);
- b. The zone objectives (Clause 2.3);
- c. The land use table (at the end of Part 2); and
- d. The development standards in Part 4:
 - i. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 9.5m.
 - ii. Clause 4.4 Floor space ratio which prescribes a maximum floor space ratio of 0.5:1.

The R2 Low Density Residential zoning envisages dwelling houses which is both existing and proposed on the site.

The new works are within the existing pitched roof form that already represents a departure of 1.76m (18.53%), indicating the non-compliance is mainly a result of the existing situation. The proposal will utilise the existing attic level to improve the amenities and ceiling height of the attic by adding a dormer at the rear. Although the proposed dormer will result in additional bulk, given its location at the rear and the fact that it will be entirely below the existing roof ridge at RL 98.02 AHD, the streetscape appearance and character will be largely maintained. At the street frontage, given the proposed 9.66m² balcony is inset within the roof structure, the new works will not be readily discernible in the streetscape, when compared to the existing. The proposal at the attic level will allow for natural light and cross ventilation to this new living space. Accordingly, the subject site will largely appear as existing when viewed from Victoria Road and the dwelling remain consistent with the surrounding development.

In any case, the extent of the proposed non-compliance is at the rear, below the existing roof ridge, and occurs within a height limit that is existing on the subject site and is already deviating from the LEP development height standard. Considering this, it is in our opinion, the proposal is consistent with the desired future character of the locality.

Accordingly, although the proposal involves works above the height standard, it will contribute to the desired future character of the neighbourhood.

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

N/A- The site does not directly adjoin any other land zones.

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

To assess the effect of the proposed development in terms of solar access, shadow diagrams, prepared by Cad Draft (separately submitted), have been created for 9:00am, 12 noon and 3:00pm on June 21st. The proposed alterations and additions have been thoughtfully designed to minimise the adverse impacts of the development.

The proposal will only result in minor areas of overshadowing to neighbouring properties, which is considered reasonable. Overshadowing is limited to a minor driveway area of No. 112 Victoria Road at (9:00 am) and part of the pool and grassed open space area of No. 114 Victoria Road (at 12 noon and 3:00 pm). Importantly, the proposal will maintain sunlight to at least 50% of main ground floor level private space areas of adjoining properties for 2 hours. No windows or habitable areas will be affected by the proposed alterations.

Clause 4.6 Exceptions to Development Standards –Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588

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

Views

The proposal will continue to allow views from neighbouring properties across the site. This is mainly because the additional bulk, as a result of the proposed roof dormer, is located at the rear and inset within the roof form. Also, the proposed balcony at the attic floor level will be constructed within the existing roof slope.

Therefore, given the proposed works at the attic level will be entirely below the existing roof ridge and the proposal will maintain the existing bulk and scale at the front as well as the front and side setbacks, it is unlikely that the existing views be affected as a result of the partial non-compliant area. We note DCP does not identify any specific views or vistas in close vicinity of the subject site.

Accordingly, it is in our opinion that the proposal is considered appropriate in respect of views.

Privacy

The design and layout of the proposal will maintain aural and visual privacy for residents of neighbouring sites. The proposed balcony at the attic floor level does not have direct sightlines to POS or habitable rooms of adjoining properties within 12m (see **Figure 2**). The new works above the 9.5m LEP height plane are mainly located towards the rear and do not include openings on either side. At the rear, the proposed windows at the attic level consist of a wide perforated screen privacy screen, ensuring privacy to adjoining properties will be maintained.

Given the continuing residential use, it is unlikely that there would be significant additional noise generation associated with the proposal.

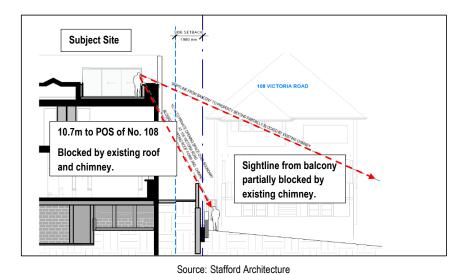


Figure 2: Diagram Demonstrating Privacy Between Dwellings

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Solar access

The proposal has been thoughtfully designed to minimise any adverse impacts for neighbouring properties. To assess the effect of the proposed development in terms of solar access, shadow diagrams, have been created for winter solstice. The shadow diagrams, separately submitted, indicate the proposal will only result in minor areas of overshadowing, which is considered reasonable. Overshadowing is limited to a minor driveway area of No. 112 Victoria Road at (9:00 am) and part of the pool and grassed POS area of No. 114 Victoria Road (at 12 noon and 3:00 pm). Importantly, the proposal will maintain sunlight to at least 50% of main ground floor level private space areas of adjoining properties for 2 hours. No windows or habitable areas will be affected by the proposed alterations.

Therefore, in our opinion, the proposal will achieve Objective (d) of the control.

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

N/A - No public views or vistas identified in the DCP map across the site.

Accordingly, although the proposed new works are above the height standard, this is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope.

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

Existing non-compliance

The proposed height non-compliance area is associated with the attic level, which is currently located above the LEP height development standard. Therefore, it is inevitable that any new works at this level would require a Clause 4.6 Variation. The thoughtful design has aimed to use this space to contribute to improving the amenities of the existing bedroom at the attic level, increasing the built form amenity and longevity. We note the highest point of the proposed works at RL 97.88 AHD is lower than that of the existing ridge line at RL 98.02 AHD. The majority of the proposed works are below the height standard and the technical departure from the height standard is directly a result of the existing height non-compliance.

Character and Context

As the main external change to the dwelling pertains to the dormer, which is located at the rear, the height non-compliance will not represent an overdevelopment to the streetscape, and the bulk and scale of the development at the front and character of the area will be maintained.

At the street frontage, the proposal involves a small balcony constructed within the roof profile facing Victoria Road, which will not be readily visible, and therefore, will not be readily discernible when compared to the existing. The balcony provides an additional POS, improving amenity whilst increasing casual surveillance and safety over the street. The proposed works above the height standard will not increase the existing building height and wall height of the dwelling. Also, the front and side setbacks will remain as existing. The alterations are largely within the existing building envelope and mainly involves internal reconfigurations.

Accordingly, the proposal represents a built form that reinforces the bulk and scale at the street frontage and is consistent within the context of Bellevue Hill North Precinct (see **Figure 3** on the following page).

Clause 4.6 Exceptions to Development Standards –Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588



Approved (Existing Dwelling)



Proposed

Source: Stafford Architecture

Figure 3: Existing and Proposed Street View

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

Clause 4.6 Exceptions to Development Standards –Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588

6. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page). On that basis, the request to vary Clause 4.3 should be upheld.

Clause 4.6 Exceptions to Development Standards –Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588

	Table 1: Compliance Matrix				
Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied	
10	Is it a development standard (s.1.4)	1	Yes		
11	What is the development standard	1	Clause 4.3: Height of Buildings		
12	What is the control	1 & 2	9.5m		
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES	
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES	
16-22	First Aspect is Clause 4.6(3)(a) - That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in Wehbe.	5.1	The proposal satisfies Tests 1 of Wehbe: The objectives of the standard are achieved notwithstanding the non-compliance with the standard.	YES	
23-24	Second Aspect is Clause 4.6(3)(b) – 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 Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus 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. b) 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.	5.2	Sufficient environmental planning grounds include, inter alia: Existing non-compliance; and Consistency in the context.	YES	
26-27	2 nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development achieves the objectives of the height standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the R2 Low Density Residential Zone.	YES	
28-29	Second Precondition to Enlivening the Power –	7	As the relevant matters for consideration under Clause 4.6 have	YES	

Clause 4.6 Exceptions to Development Standards – Height of Buildings No. 110 Victoria Road, Bellevue Hill - Job No. 21588

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Attachment 2 Clause 4.6 (Height) Page 387

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	That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the	been satisfied as outlined above, the Council can grant development	i l
	Court has the power to grant development consent, subject to being satisfied of the relevant	consent.	i l
	matters under Clause 4.6.		i l

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Attachment 2 Clause 4.6 (Height) Page 388

Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)

Alterations and Additions to an Existing Dwelling House at

No. 110 Victoria Road, Bellevue Hill

Prepared for:

Marc Freeman

Suite 307, 19a Boundary St Rushcutters Bay 2011

Prepared by:

GSA PLANNING

Urban Design, Environmental & Traffic Planners (A.B.N 89 643 660 628)
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JOB NO. 21588 April 2024

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Attachment 3 Clause 4.6 (FSR) Page 389

WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014 CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

APPLICANT'S NAME: Marc Freeman

SITE ADDRESS: No. 110 Victoria Road, Bellevue Hill

PROPOSAL: Alterations and Additions to an Existing Dwelling House

 (i) Name of the applicable planning instrument which specifies the development standard:

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

R2 Low Density Residential. The objectives of the R2 Low Density Residential Zone are as stated:

- 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.

(iii) The number of the relevant clause therein:

Clause 4.4E – Exceptions to floor space ratio—dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3, which is stated as follows:

- (1) The objectives of this clause are as follows—
 - (a) to ensure the bulk and scale of development is compatible with the desired future character of the area.
 - (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.
 - (c) to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.
- (2) This clause applies to land in the following zones—
 - (a) Zone R2 Low Density Residential,
 - (b) Zone R3 Medium Density Residential.
- (3) The maximum floor space ratio for a dual occupancy, dwelling house or semi-detached dwelling is—
 - (a) for land identified as "Area 6" on the Floor Space Ratio Map—0.75:1, or
 - (b) for other land—the floor space ratio specified for the lot size in the table to this subclause.

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

Lot size	Maximum floor space ratio
<150m ²	1.05:1
≥150m ² <200m ²	0.95:1
≥200m²<250m²	0.85:1
≥250m²<300m²	0.75:1
≥300m²<350m²	0.65:1
≥350m²<400m²	0.55:1
≥400m²	0.5:1

⁽⁴⁾ This clause does not apply to a dual occupancy, dwelling house or semi-detached dwelling in the Paddington, Watsons Bay or Woollahra heritage conservation areas identified on the Heritage Map.

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.4E of the LEP – Floor Space Ratio. This Clause operates in conjunction with the FSR Map which indicates a maximum FSR of 0.5:1 applies to the subject site. Clause 4.4E is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The subject site has an area of 645.30m², which equates to a maximum Gross Floor Area (GFA) of 322.5m². The existing built form features a total GFA of 369.56m², which equates to a total FSR of 0.57:1 and a departure of 14%. The proposed development will have a GFA of 364.88m² and an FSR of 0.56:1, representing a variation of 12%. However, the departure is largely a result of the existing situation on site and the proposal will in fact improve the departure through a 4.68m² reduction to the existing GFA.

In addition to a reduction to the FSR non-compliance, the proposal will considerably improve the deep soil landscaping and tree canopy areas whilst minimising adverse impacts on the existing levels of amenity, in terms of solar access, privacy, and views, to neighbouring properties and public domain. This is mainly because the thoughtful design has limited the alterations to the existing envelope (see **Figure 1** on the following page).

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588



Source: Stafford Architecture

Figure 1: Existing and Proposed Gross Floor Area

At the Ground Level the proposal will replace the existing outbuilding with a pool cabana, which is not included in the GFA calculation as per the updated controls. The proposal includes internal modifications to the main dwelling at the ground floor level which result in in-filling areas which weren't previously counted as GFA, resulting in minor increase to the existing GFA. At the First Floor, the modifications will result in a minor additional GFA to the existing situation through the inclusion of the staircase. However, at the Attic Level, the proposal will reduce the existing GFA, resulting in a reduction to the overall GFA and FSR, denoting a reduction to the existing non-compliance.

Accordingly, the DA proposal reduces the existing degree of non-compliance with the FSR development standard and largely maintains the dwelling's overall bulk and scale to the streetscape at the front. On this basis, the proposal represents an improved planning outcome.

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

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Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

Objective (a) to provide an appropriate degree of flexibility in applying certain development standards

to particular development,

Objective (b) to achieve better outcomes for and from development by allowing flexibility in particular

circumstances.

Flexibility is sought in the application of the FSR development standard to the proposed development in the circumstance of this particular case. The non-compliance is a result of the existing built form configuration (existing FSR of 0.57:1), which exceeds the 0.5:1 FSR standard. The proposed alterations and additions will improve this situation by resulting in a 4.68m² reduction to the total GFA, equating to an FSR of 0.56:1.

Given the technical departure is largely a result of the existing FSR non-compliance, flexibility in this particular case would result in a better planning outcome for the site. The FSR non-compliance is part of a proposal that considerably improves the deep soil landscaping and tree canopy on site, which contributes to reducing Urban Heat Island Effect (UHI), facilitates stormwater absorption, and aligns with the future character of the area, amongst others. Also, the proposed alterations and additions have been thoughtfully designed to minimise the adverse impacts on the existing levels of amenity to neighbouring properties and public domain. This is mainly achieved by restricting the majority of the alterations and additions to internal reconfigurations, which will largely occur within the existing envelope, or works towards the rear, which will maintain the existing bulk and scale of the dwelling at the front. The proposal, therefore, will predominantly maintain the streetscape appearance and character whilst improving the built form quality and amenity. The maximum building height and front and side setbacks will also be retained.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (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.

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

5.1 Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

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 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.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard:

Despite the proposed development's non-compliance with the applicable FSR development standard, the proposal achieves the desired low-density character of the area. The proposal maintains the overall existing building height and the additional bulk and scale is contained at the rear of the site. Reasons why the proposed development achieves the objectives of the FSR standard are explained below.

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

'Desired future character' is not defined in the LEP. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63] ('SJD'), Preston CJ states, inter alia:

...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.

Accordingly, the desired future character is shaped by the text and context of the LEP and recent approvals in the vicinity. Each of these will now be discussed. The relevant clauses in the LEP which relate to urban character and built form are:

- a. The zoning of the land (Clause 2.2 and the Land Zoning Map);
- b. The zone objectives (Clause 2.3);
- c. The land use table (at the end of Part 2); and
- d. The development standards in Part 4:
 - i. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 9.5m.
 - ii. Clause 4.4E, Exceptions to floor space ratio—dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3, which prescribes a maximum floor space ratio of 0.5:1.

The R2 Low Density Residential zoning envisages dwelling houses which is both existing and proposed on the site. The zone objectives relate to providing housing to meet the needs of the community and encouraging development of a height and scale to meet the desired future character of the precinct and the low density area.

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

The proposal incorporates changes to the built form that result in a reduction to the existing departure from the FSR standard by reducing the total GFA. The proposal also improves the built form quality by providing ample light and ventilation to the internal areas, enhancing the indoor-outdoor relationship, and compliant deep soil landscaping area, which together shape the characteristics of the area aligned with key characteristic elements of Bellevue Hill North Precinct.

The proposal will largely occur with the existing building envelope and maintain key characteristic elements of the dwelling house, including building height, front setback, and side setbacks, which minimise impact on the existing levels of amenity to neighbouring properties and public domain in terms of views, solar access, and privacy.

Accordingly, the proposed development is considered to be compatible with the desired future character of the surrounding area and achieves Objective (a).

(b) To minimise adverse environmental effects on the use or enjoyment of adjoining properties

Privacy

The design and layout of the proposal will maintain aural and visual privacy for residents of neighbouring sites. The majority of new proposed new works are internal. At the rear, the development considers using a wide perforated screen privacy screen for the proposed rear roof dormer windows at the attic level, ensuring privacy to adjoining properties will be maintained.

Given the continuing residential use, it is unlikely that there would be significant additional noise generation associated with the proposal.

Views

The proposal will continue to allow views from neighbouring properties across the site. This is mainly because the additional bulk, as a result of the proposed roof dormer, is located at the rear and inset within the roof form (see **Figure 2** on the following page). Therefore, given the proposed works at the attic level will be entirely below the existing roof ridge, it is unlikely that the existing views be affected. We note DCP does not identify any specific views or vistas in close vicinity of the subject site.

Accordingly, it is in our opinion that the proposal is considered appropriate in respect of views.

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

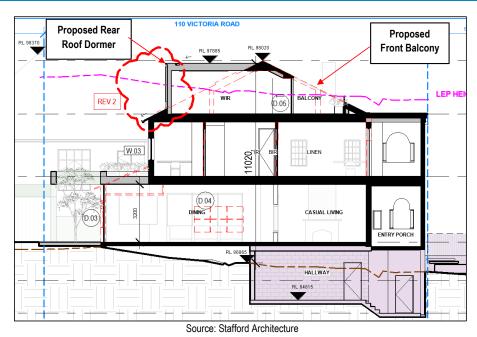


Figure 2: Section Demonstrating New Works within the Existing Roof

Solar access

To assess the effect of the proposed development in terms of solar access, shadow diagrams, prepared by Cad Draft (separately submitted), have been created for 9:00am, 12 noon and 3:00pm on June 21st. The proposed alterations and additions have been thoughtfully designed to minimise the adverse impacts of the development.

The proposal will only result in minor areas of overshadowing to neighbouring properties, which is considered reasonable. Overshadowing is limited to a minor driveway area of No. 112 Victoria Road at (9:00 am) and part of the pool and grassed open space area of No. 114 Victoria Road (at 12 noon and 3:00 pm). Importantly, the proposal will maintain sunlight to at least 50% of main ground floor level private space areas of adjoining properties for 2 hours. No windows or habitable areas will be affected by the proposed alterations.

Accordingly, it is in our opinion, despite the FSR technical departure, the proposal will achieve Objective (b) of the standard.

(c) To ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space.

The proposed FSR non-compliance is part of a development that considerably improves the existing situation. The proposal will result in an 84.85m² increase to the total deep soil landscaping area, making it compliant with the DCP control. Also, the deep soil landscaping area proposed along the side boundaries will soften the streetscape appearance, aligned with the area's characteristics. In respect of tree canopy, although the development involves removal of tree Palm trees at the rear to accommodate the proposal, it will considerably improve the exiting situation by increasing the existing

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

tree canopy coverage on the site from 53.14m² (8.23%) to 119.75m² (18.56%), which will contribute to improving the existing coverage on site.

The proposal will alter the outbuilding at the rear, which, as of existing situation, contributes to the total GFA. This space will be changed to an open pool cabana, enhancing the rear garden amenity and visual appeal.

Accordingly, in our opinion, the proposal achieves Objective (c) of the controls because it considerably improves the deep soil landscaping on site as well as reduction to the existing FSR departure.

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

There are several environmental planning grounds specific to the site and the FSR non-compliance which justify contravening the development standard in this instance. Reduction to the existing FSR departure and maintaining existing building envelope in general and consistency within the context will now be discussed.

Reduction to the Existing FSR Departure

Despite the technical departure, the proposal will result in a 4.68m² reduction to the existing GFA. It is important to note that as of current situation, the existing built form on site features a 14% departure from the 0.5:1 FSR standard, and the proposal will in fact improve the existing situation.

However, despite the reduction to the existing GFA and FSR, the proposal falls short in meeting the numerical standard. The proposed design intends to maintain the existing arrangement on site, upholding the building's characteristics as well as the neighbouring properties' amenity in terms of privacy, views, and solar access. Therefore, the technical departure is attributed to the exiting non-compliance (369.56m² equal to an FSR of 0.57:1), which will be improved by the proposal (364.88m² equal to an FSR of 0.56:1).

The proposed new works will remove the existing enclosed outbuilding adjoining the rear boundary at the ground level and replace it with an open cabana. Also, the development features a 3.29m² GFA reduction at the attic level. The proposed alterations will largely occur within the existing building envelope and are solely for the purpose of improving functionality and amenity of the existing dwelling for the occupants. A floor by floor description is outlined below (see **Figure 1** on page 4 and **Table 1** on the following page).

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

TABLE 1: PROJECT COMPLIANCE – PROPOSED GROSS FLOOR AREA			
Site Area: 645.30m ²			
Level	Existing (m ²)	Proposed (m²)	
Basement Level	N/A	N/A	
Ground Floor Level	171.69	162.53	
First Floor Level	139.61	147.22	
Attic Level	58.42	55.13	
Total GFA	369.65	364.88	
Total FSR	0.57:1	0.56:1	

Existing Envelope and Consistency within the Context

The proposed alterations and additions mainly relate to internal reconfigurations and are largely within the existing building envelope. The proposed modifications, including the FSR exceedance areas, will maintain the bulk and scale at the front, building height, and front and side setbacks of the existing building. Also, the openings will largely remain as existing.

All of these indicate that the proposal is substantially same as existing and the proposal will not materially alter the appearance of the dwelling, when viewed from the street and nearby private properties. Therefore, the area of FSR exceedance will not be readily discernible in the streetscape and the proposal in addition to reinforcing the bulk and scale along Victoria Road, will achieve consistency with the context.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

6. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page). On that basis, the request to vary Clause 4.4E should be upheld.

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

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	Table 1: Complia	nce Mat	rix	
Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.4E: Exceptions to floor space ratio—dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3	
12	What is the control	1 & 2	0.5:1	
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) - That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in Wehbe.	5.1	The proposal satisfies Tests 1 of Wehbe: The objectives of the standard are achieved notwithstanding the non-compliance with the standard.	YES
23-24	Second Aspect is Clause 4.6(3)(b) — 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 Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus 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. b) 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.	5.2	Sufficient environmental planning grounds include, inter alia: The proposed FSR facilitates a low density development achieves the planning objectives of the area; Reduction to the existing FSR departure; and Alterations are mainly within the existing building envelope and the proposal is consistent within the context.	YES
26-27	2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the	6	The proposed development achieves the objectives of the FSR standard as addressed under Test 1 of Wehbe. The proposal also achieves the objectives of the R2 Low Density Residential Zone.	YES

Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

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Attachment 3 Clause 4.6 (FSR) Page 399

gsa planning

	objectives for development for the zone in which the development is proposed to be carried out.			
28-29	Second Precondition to Enlivening the Power – That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.	7	As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, the Council can grant development consent.	YES

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Clause 4.6 Exceptions to Development Standards – FSR No. 110 Victoria Road, Bellevue Hill - Job No. 21588

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Attachment 3 Clause 4.6 (FSR) Page 400



15 February 2024

REFERRAL RESPONSE - DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 9/2024/1

ADDRESS: 110 Victoria Road BELLEVUE HILL 2023

PROPOSAL: Alterations and additions to an existing house, pool cabana,

swimming pool and related landscaping

FROM: W HUYNH

TO: Mr B McIntyre

1. ISSUES

None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 21588-DA, prepared by GSA Planning, dated 14/12/2023.
- Architectural Plans, referenced 207-Rev 1, prepared by Stafford Architecture, dated 01/02/2024.
- Survey Plan, referenced 20432-22-Rev 2, prepared by C&A Surveyors, dated 05/03/2022.
- Stormwater Management Plan, unreferenced-Rev 1, prepared by Stellen Consulting, dated 01/12/2023.
- Geotechnical Report, referenced 36400Srpt, prepared by JK Geotechnics, dated 22/11/2023.

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 an increase in impervious areas of less than 40m², 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 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. Conditions will be imposed to ensure the kerb discharge is limited to 20l/s to comply with Chapter E2.2.5 of the Council's DCP.

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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

Not relevant

c. Impacts on Council Infrastructure comments

The applicant has not proposed a new vehicular crossing or any alterations to the approved parking arrangement under DA 512/2022. Therefore, the vehicular crossing has not been assessed.

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

The applicant has not proposed a new vehicular crossing or any alterations to the approved parking arrangement under DA 512/2022. Therefore, the parking arrangement has not been assessed.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by JK Geotechnics, Ref: 36400Srpt, dated 22 November 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 2 metres from the existing ground surface for the proposed swimming pool.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 0.5m and 0.4m in BH101 and BH103 respectively.
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 3m in BH101 and BH103.
- Sandstone bedrock was inferred beneath the natural sand at depth ranging between 3.5m and 3.6m.
- d) Groundwater was not observed during the investigation.

The report made comments and recommendations on the following:

- Shoring and support,
- Vibration Monitoring,
- Excavation method,
- Further Geotechnical input.

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

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A.5 Approved Plans and Supporting documents

Reference	Description	Author	Date
36400Srpt	Geotechnical Report	JK Geotechnics	22/11/2023
DR-001-Rev 1	Stormwater Management	Stellen	01/12/2023
DR-002-Rev 1	Plans		01/12/2023

A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)

A.31 No Underpinning Works

B. BEFORE DEMOLITION WORK COMMENCES

- B.4 Erosion and Sediment Controls Installation
- B.7 Public Road Assets Prior to Any Work/Demolition

B.14 Payment of Security and Fees

Property Damage Security Deposit (S138)	\$18,610	No	T115

B. 16. Dilapidation Reports for Existing Buildings 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. These properties must include (but is not limited to): a) No. 108 Victoria Road b) No. 112 Victoria Road c) No. 31 March Street 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

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:

development work.

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- 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 13. Road and Public Domain Works

Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. 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 rectangular hollow section (RHS) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
 - 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 Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

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Description	Amount	Indexed	Council Fee Code	
SECURITY under section 4.17(6) of the Environmental Pla	nning and Assess	ment Act 19	79	
Infrastructure Works Bond - completing any public work required in connection with the consent.				
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113	
INSPECTION FEES under section 608 of the Local Government Act 1993				
Public Road and Footpath Infrastructure Inspection Fee	\$ 645	No	T45	
TOTAL SECURITY AND FEES \$ 645				

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:

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

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

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- When determining whether the works within public land are satisfactory, Council
 will consider the ownership, construction quality, maintenance, operations, and
 public utility of such item/s.
- 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.

Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.

D.25 Erosion and Sediment Control Plan – Submissions & Approval

D.35 Structural Adequacy of Existing Supporting Structures

D 36. Professional Engineering Details

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. In particular, all preliminary geotechnical reports must be reviewed and certified by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years. Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.

Notes

 This does not affect the right of the developer to seek staged construction certificates.

Condition Reason: To ensure professional engineering details and technical specifications are provided.

D.37 Engineer Certification

D 40. Geotechnical and Hydrogeological Design, Certification and Monitoring

Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must 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

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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 below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter.
- 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 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.

Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.

D.41 Ground Anchors

D 51. Stormwater Management Plan

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:

- a) General design in accordance with stormwater management plans, unreferenced-Rev 1, prepared by Stellen Consulting, dated 01/12/2023, other than amended by this and other conditions.
- b) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged

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- to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings.
- c) The discharge of stormwater from the site, by direct connection, to the street kerb. The kerb discharge must be located generally within the frontage of the site. Only one stormwater outlet with a maximum discharge rate of 20 l/s in the 1% AEP storm event will be permitted. Full supporting calculations must be included in the stormwater management plans.
- d) 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.
- e) 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.
- f) 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.
- g) 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.
- b) Detail any remedial works required to upgrade the existing stormwater drainage system.
- Dimensions of all drainage pits and access grates must comply with AS3500.3.
- j) Compliance with the objectives and performance requirements of the BCA.
- k) 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/existing 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.
- f) Overland flow paths over impervious areas.

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.

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).

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Notes:

 The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".

Condition Reason: 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.12 Compliance with Geotechnical/Hydrogeological Monitoring Program
- F.13 Support of Adjoining Land and Buildings
- F.14 Vibration Monitoring
- 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

33. Shoring and Adequacy of Adjoining Property

While site work is being carried out, 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.

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.

Notes:

 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.

Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

- G.7 Commissioning and Certification of Systems and Works
- G.29 Works within Public Land (including Council, State or Federal owned land or property)

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G 32. Works-As-Executed Certification of Stormwater Systems

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:

- a) compliance with conditions of development consent relating to stormwater,
- b) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,
- c) that only one stormwater outlet pipe to kerb has been constructed within the frontage of the site,
- d) that the works have been constructed in accordance with the approved design,
- 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.

Notes:

The occupation certificate for the whole of the building must not be issued until this
condition has been satisfied.

Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.

H. OCCUPATION AND ONGOING USE

Nil

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil



5 February 2024

REFERRAL RESPONSE - TREES AND LANDSCAPING

FILE NO: Development Applications: 9/2024/1

ADDRESS: 110 Victoria Road BELLEVUE HILL 2023

PROPOSAL: Alterations and additions to an existing house, pool cabana,

swimming pool and related landscaping

FROM: David Prieto - Tree Management & Landscape Officer

TO: Mr B McIntyre

1. ISSUES

 The proposal has not met the minimum canopy cover for the site. An amended landscape plans will be conditioned to be prepared before CC to include three additional trees.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA Planning, dated 14/12/2023
- Survey Plan No.20432-22 Rev.02, drafted by C&A Surveyors, dated 05/03/2022
- Architectural Drawing Nos. DA-000, DA-001, DA-002, DA-003, DA-004, DA-005, DA-006, DA-007, DA-101, DA-102, DA-110, DA121, DA-122, DA-201, DA-202, DA-203, DA-204, DA-205, DADA301, DA-302, DA321, drawn by Stafford, dated 08/12/2023
- Stormwater drainage Plan Nos.DR-000, DR-001, DR-002, drawn by Stellen Consulting, Rev.1 01/12/2023
- Arboricultural Impact Assessment Report, written by Bluegum, dated Dec 2023
- Landscape Plan No. DA 01 Rev B, designed by Volker Klemm Landscape Design, dated 12/2023

A site inspection was carried out on 30/01/2024.

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)

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- 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

4. SUMMARY

The proposal is for alterations and additions to an existing dwelling house, including a pool, pool cabana and landscaping works. A garage at the front of the property was recently approved under a DA2022/512/1 that included a security bond for the street trees.

An AIA report has been provided, including three (3) palm trees proposed to be transplanted. The trees are considered to be of low landscape significance and may be removed and replaced by other trees. Considering the trees are mature specimens in partially paved garden beds, Council preference is for the tree to be removed and other 3 x kentia palms, new or transplanted, conditioned to be located on the property.

The applicant has not demonstrated compliance with canopy cover controls. Therefore, an amended landscape plan will be conditioned to be prepared before CC to include additional trees.

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

5. COMMENTS

Trees & Arboricultural Impact Assessment report

An AIA report has been provided, including three (3) palm trees proposed to be transplanted. Tree Nos. 1, 2 & 3 are considered to be of low landscape significance and may be removed and replaced by other trees.

A discussion with taken with the owner during the inspection to confirm the reasons why they have proposed transplantation. The owner confirmed there was not sentimental attachment and the decision was likely taken by the landscape architect.

Considering the trees are mature specimens in partially paved garden beds, there will be substantial root disturbance during the transplanting process with the uncertainty of appropriate management during construction works. If the trees die, the approved DA would have to modified. To avoid these problems, three (3) kentia palms will be conditioned to be planted, new or, if prefer, transplanted.

There is other vegetation on the property, mainly overgrown shrubs located along the eastern boundary. A number of trees were found on the adjacent properties to south and east, however existing retaining walls at rear and existing landscape to east are proposed to be maintained, minimising any root disturbance. Therefore, they will not be included on the report.

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Canopy Cover & Landscape Plan

Canopy Control C.1 of B.3.7.1 Landscaped area and private open space of the DCP applies to the site.

Proposed Canopy Dwg No. DA-005 of the Architectural Plans, show that the existing canopy 8.23% will be increased to 18.56%, well below the required 35%.

Considering Attachment 11 Tree Species List of the DA Guide, three (3) additional trees will be conditioned to be planted:

- One large canopy tree near the pool cabana and near the boundary where the tree would be able to grow over the cabana minimising shade to the pool.
- One deciduous medium size tree within the proposed lawn at rear.
- One native canopy size tree within the existing lawn at the front.

Amended Plan must be prepared before the issue of a Construction Certificate to include the additional trees.

Deep Soil

B3.7.1 Landscape area and private open space - Control C2, requires a 35% deep soil landscaped area for the site.

Proposed Deep Soil Plan Dwg No. DA-003 of the Architectural Plans, indicates that the proposal complies with the control.

6. RECOMMENDATIONS

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

A. GENERAL CONDITIONS

A. 1. 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

Reference	Description	Author	Date
No. DA 01	Landscape Plan	Volker Klemm	12/2023
Rev B		Landscape	
		Design	
	Arboricultural Impact Assessment	Bluegum	Dec 2023
	Report		

Notes:

 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

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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.

 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.

Condition Reason: 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. Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1, 2 & 3	Howea forsteriana (Kentia palm)	Rear	5-7 / 2

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

This consent does not permit the holder, or any other person or agent, to enter any property for the purpose of undertaking approved tree works, without the consent of the owner of the property.

Only a Council authorised contractor will be allowed to undertake the pruning of trees located on Council managed land under the instruction of Council's Coordinator of Trees Maintenance in accordance with Council's Tree Management Policies and AS 4373-2007 Pruning of Amenity Trees. All costs associated with the approved pruning will be the responsibility of the applicant. Contact Council's Coordinator of Trees Maintenance on 9391 7000 to arrange the approved pruning works.

To facilitate the assessment of Council's tree assets for pruning, a physical outline of the approved works (if not already constructed) must be provided at the time of inspection via the use of height poles or scaffolding. The outline of the approved works will enable Council's Arboricultural Technical Officer to correctly identify the branches that require pruning to provide clearance for the approved works.

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

Nil.

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D 1. Tree Protection Plan and Specification

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 red where authorised to be removed.
- 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)

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

Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:

- a) Amended Landscape Plan. The submitted landscape plan shall be amended to include the following prior to the issue of the Construction Certificate.
 - One (1) Jacaranda mimosifolia (Jacaranda) x 75L shall be located near the boundary to south, between the pool and the pool cabana.
 - One (1) Lagerstroemia indica (Crepe Myrtle) x 75L shall be located on the proposed new lawn near the east boundary, between the outdoor living and the pool.
 - One (1) Eucalyptus botryoides (Bangalay) x 75L shall be located on existing front lawn at a minimum distance of 1.5m from the east boundary.

Notes:

Clause 20 of the Development Certification and Fire Safety Regulations prohibits
 the issue of any construction certificate subject to this condition unless the Principal
 Certifier is satisfied that the condition has been complied with.

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 Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.

Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.

Standard Condition D.4 (Autotext 4D)

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F 1. Tree Preservation

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

General Protection Requirements:

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

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

Condition Reason: To protect trees during the carrying out of sitework.

Standard Condition F.8 (Autotext 8F)

F 2. 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 <delete this if planted in a planter box on a structure> 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

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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)
1 x Jacaranda mimosifolia (Jacaranda)	Near the boundary to south, between the pool and the pool cabana	75L	10 x 9
1 x Lagerstroemia indica (Crepe Myrtle)	On the proposed lawn near the east boundary, between the outdoor living and the pool	75L	6 x 4
1 x Eucalyptus botryoides (Bangalay)	At existing front lawn at a minimum distance of 1.5m from the east boundary	75L	9 x 8
12 x Elaeocarpus eumundii (Quandong)	As per the Landscape Plan No. B, designed by Volker Klemm La Design, dated 12/2023		12 x 4
7 x Xanthostemon chrysanthus (Golden Penda)			8 x 4
9 x Howea forsteriana (Kentia palm)			6 x 3

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the provision of appropriate replacement planting.

Standard Condition F.46 (Autotext 46F)

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G 1. Amenity Landscaping

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.

Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.

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Standard Condition G.6 (Autotext 6G)

G 2. Landscaping

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.

Condition Reason: To ensure that all landscaping work is completed prior to occupation.

Standard Condition G.26 (Autotext 26G)

G 3. Arborists Documentation and Compliance Checklist – Prior to any occupation certificate

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.
- Recommended actions to improve site conditions and rectification of noncompliance.
- 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)

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H. OCCUPATION AND ONGOING USE

H 1. Maintenance of Landscaping

During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

Notes:

- 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.
- Owners must have regard to the amenity impact of trees upon the site and neighbouring land.

Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Standard Condition H.25 (Autotext 25H)

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)

Nil.

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

David Prieto

Tree Management & Landscape Officer

06/02/2024 Completion Date

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From: Sagar Chauhan
To: Brett McIntyre

Subject: Referral Response - Heritage - DA2024/9/1 - 110 Victoria Road BELLEVUE HILL

Date: Tuesday, 12 March 2024 11:12:00 AM

Attachments: image001.jpg

Hi Brett

I provide the following comments in relation to the proposed development with regards to cultural heritage:

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Tonkin Stafford Architecture, dated 08/12/2023
- Heritage Impact Statement by Zoltan Kovacs Architect, dated February 2024
- Statement of Environmental Effects by GSA Planning, dated 14/12/2023
- Aboriginal Heritage Impact Assessment by Associates Archaeology and Heritage, dated 12/07/2022

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 a not a heritage item, and is not within a conservation area.

The Demolition Report provides the following statement of significance for the site:

The land was originally part of Sir Daniel Cooper's land grant which was gradually broken up from 1883. Resulting from a much later 1921 subdivision, the land is not representative of any historic subdivisions. The two storey rendered brick and tile Spanish Mission style house on the land was built in c. 1930. The fabric of the house has been extensively altered although its streetscape presentation is largely intact. The house had an uneventful history and it is an unremarkable example of the Spanish Mission Style. The Inter-war residential character of the house is not expressed at a culturally significant level.

The report concludes:

Partial demolition of 110 Victoria Road, Bellevue Hill will not generate any adverse heritage conservation impacts for the cultural heritage of the municipality.

This assessment is concurred with and the proposed partial demolition is supported, subject to archival recording.

NATIONAL PARKS & WILDLIFE ACT 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) of Heritage NSW on 12/03/2024 has revealed that there are 0 recorded Aboriginal sites within a 50m buffer in or near the above location and no Aboriginal sites within a 50m buffer in or near the above location.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The AHIA concludes:

- 'Harm' to an 'Aboriginal object' (as defined in the NPW Act) is considered unlikely to occur as a result of the proposed work;
- No further Aboriginal cultural heritage investigation is required;
- Council is advised to update the Aboriginal Heritage Sensitivity map for all of the property to reflect that it is now not partly or wholly located within an area of 'Aboriginal Heritage Sensitivity' or 'Potential Aboriginal Heritage Sensitivity'.
- This report should be retained for five years and may be re-used as due diligence for future proposals as long as it is updated with a new AHIMS search and an invitation to LPLALC to affirm their comments.
- A copy of this report should be forwarded to LPLALC (Admin@laperouse.org.au);
- A copy of this report should be submitted to AHIMS (ahims@environment.nsw.gov.au)
- Stop work measures should still be in place for any unanticipated finds. This includes:
 - o If any artefacts are observed during excavation, particularly being any flaked stone in deep sand;
 - o If any large flat sandstone exposures are revealed during excavation that may contain engraved rock art. Sandstone exposed prior to the 1800s may be identified by having a relatively clear boundary between flat sandstone and overlying under fill, as opposed to being naturally buried bedrock that will lie under clayey subsoil and sandstone fragments.
 - o In the event that any bones are observed that may be human. This also a legal requirement under the Coroner's Act and additionally requires notifying the
 - o In all cases, if in any doubt, a Heritage Officer from LPLALC or a qualified archaeologist should be engaged to inspect the find.
 - o Contractors should be advised that failing to stop work in the event of uncovering any material that is defined as an 'Aboriginal object' is an offence under the National Parks and Wildlife Act). Any slight, initial, unanticipated harm may be considered to have been done 'unknowingly' and subject to a due diligence defence, but any harm after failing to stop work would be a 'knowing offence' that may lead to prosecution and harsh penalties. The maximum penalty for knowingly harming an Aboriginal object is \$275,000 (1yr imprisonment) for individuals, \$1,100,000 for Corporations.

Based on these recommendations, relevant conditions of consent are provided below.

CONCLUSION

Woollahra LEP 2014

Relevant conditions are provided below.

National Park & Wildlife Act 1974

Relevant conditions are provided below.

RECOMMENDATION

The proposal is supported, subject to following conditions:

Standard conditions

1. B.3 Recording of Buildings with Little or No Heritage Significance that are to be Demolished (Autotext 3B)

2.	B.9	Skeletal	Remains	(Autotext 9B)
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- 3. B.10 Aboriginal Objects Unexpected Findings (Autotext 10B)
- 4. B.12 Aboriginal Heritage Due Diligence Responsibilities (Autotext 12B)
- 5. B.13 Aboriginal Heritage Induction (Autotext 13B)

Special conditions

6. Salvage Building Materials

- a) Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows must be salvaged and where possible reused on the project.
- b) 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.

Condition Reason: To maximise reuse of existing fabric.

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 w:

Our Values: Respect | Open | Accountable | Responsive | Excellence We acknowledge the Gadigal and Birrabirragal people as the traditional custodians of the land in our local area.

www.woollahra.nsw.gov.au



LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D4

FILE No. DA249/2023/1

ADDRESS 34 Cranbrook Road BELLEVUE HILL

COUNCIL WARD Bellevue Hill SITE AREA 870.9m²

ZONING R2 Low Density Residential

PROPOSAL Demolition of the existing residential flat building and construction of

a new residential flat building with four (4) apartments and

landscaping

TYPE OF CONSENT Integrated development

COST OF WORKS \$4,528,717.00 **DATE LODGED** 12/07/2023

26/12/2023 - Amended Plans

APPLICANT MHN Design Union Pty Ltd

OWNER 34 Cranbrook Road Pty Ltd

AUTHOR Ms L Williams
TEAM LEADER Mr G Fotis
SUBMISSIONS Three (3)
RECOMMENDATION Refusal

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:

- Sensitive development
 - (a) Development to which State Environmental Planning Policy No 65 Design Quality of Residential Apartment applies

2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15, 4.66 and 4.67 of the Environmental Planning and Assessment Act 1979 and is recommended for refusal because:

- The Proposal is not considered acceptable with regard to all relevant provisions contained in the Apartment Design Guide (ADG);
- The Applicant has not provided sufficient information to allow the proposed development to be assessed against the relevant provisions contained in the WLEP 2014 and WDCP 2015;

3. LOCALITY PLAN



4. PROPOSAL

The proposal, **as amended**, involves the demolition of the existing four-unit residential flat building and the construction of a new three-storey, four-unit residential flat building, with associated landscaping as follows:

Basement Floor Level (RL17.90)

- Provision of seven (7) parking spaces (inclusive of one (1) visitor space), a car lift and vehicle turntable for access;
- Bin room;
- Internal lift and stair access to above floors

Ground Floor Level (RL21.05)

- Two (2) two-bedroom units (G01 and G02)
- G01 includes the following:
 - o Open plan living, kitchen and dining area
 - o Two (2) bedrooms, each with an ensuite and walk-in-robe
 - One (1) separate WC and laundry bench space
 - Balcony terrace to the rear with spa
- G02 includes the following:
 - Open plan living, kitchen and dining area
 - Two (2) bedrooms, one with an ensuite and walk-in-robe, and the remaining bedroom with a standard robe space
 - One (1) separate bathroom and laundry bench space
 - Balcony terrace to the rear with spa

- Shared lift and lobby area
- Main internal access stair
- Secondary internal access stair to pedestrian entry located in the north-western corner of the building

First Floor Level (RL24.20)

- One (1) three-bedroom unit (L01)
- L01 includes the following:
 - Open plan living, kitchen and dining area with separate pantry space
 - Three (3) bedrooms, each with an ensuite, one with a walk-in-robe, and the remaining two bedrooms with a standard robe space
 - One (1) separate bathroom and laundry room
 - Large wrap-around balcony terrace
 - Shared lift and lobby area
- Internal access stair
- Pumproom and services area beneath driveway

Second Floor Level (RL27.35)

- One (1) three-bedroom unit and associated facilities (L02)
- L02 includes the following:
 - Open plan living, kitchen and dining area with separate pantry space
 - Three (3) bedrooms, each with an ensuite, one with a walk-in-robe, and the remaining two bedrooms with a standard robe space
 - One (1) separate bathroom and laundry room
 - Large wrap-around balcony terrace
- Shared lift and lobby area with external pedestrian entry
- Internal access stair
- Driveway and car lift entry

5. ISSUES

5.1 Summary of Primary Issues

Issue	Conclusion
Excavation	Unsatisfactory - The development proposes a total excavation volume of 1835m ³ in
	order to accommodate basement parking, access to, and associated plant areas.
	This is excessive in relation to the maximum permitted volume of 870.9m ³ .
Streetscape Impact	Unsatisfactory – The development proposes a large driveway width with little
	landscaping, therefore not minimising the impact of driveways to the streetscape.
Pedestrian Access	Unsatisfactory – The proposed pedestrian access to the building is not legible and
	would not assists in way finding, as the natural tendency of pedestrian visitors would
	be to use the vehicle driveway and level 2 building entry as it is the most prominent
	part of site access from Cranbrook Road. This would also create vehicle and
	pedestrian conflicts at the building entry.
Privacy Impact	Unsatisfactory - The design and locations of the level 1 and level 2 east facing
	balconies overlook the north and south boundaries to No 32 and No 34A Cranbrook
	Road and do not achieve the minimum required setback and separation distances.
Inadequate	Unsatisfactory – The proposal does not provide adequate storage for residents as
Storage	per the Apartment Design Guide.
Vehicle Access	Unsatisfactory – The proposal does not minimise the width of the driveway access
	and does not relieve the visual impact of two conjoined driveways within the
	streetscape (at 34A).
Insufficient	See Reasons for Refusal.
Information	

5.2 Summary of Submissions

Issue	Conclusion	Section
Objection to the sale of Council owned land to 34 Cranbrook Road – received first rights to ownership, however have not paid for the ownership. Approval of any development on the site should not be permitted until the final sale of this land. Road reserve should instead be used for the widening of Cranbrook Road at that corner.	Whilst acknowledged, the matter discussed goes beyond the scope of this assessment.	N/A
Noise and disturbance arising from the proposed car lift early in the morning or late at night; close proximity to the property and bedroom areas at 34A Cranbrook Road.	Acknowledged and noted. Insufficient information has been submitted with the application in order to assess the potential acoustic impact from the proposed car lift and door.	Part 4H (Acoustic Privacy) Part B3.5.4 (Acoustic and visual privacy)
Design and slope of the proposed carpark entry may cause disturbance with headlights shining into the bedrooms located at 34A Cranbrook Road; request for an increase in height to the wall to block any vehicle headlights.	Headlight glare to the upper level habitable rooms of 34A Cranbrook Road is a possibility given the slope and location of the driveway in relation to this neighbouring dwelling. An obscure wall and landscaping is proposed to the southern edge of the driveway entry, which will work to mitigate glare entering the property at 34A. In addition, the dwelling at 34A is sited further east, beyond the siting of the driveway/garage entry. Based on the estimated traffic generation of the development and the reasons above, any impact arising would be negligible and/or infrequent.	Part 3H (Vehicle Access)
Loss of solar access to bedrooms and study at 34A Cranbrook Road.	Analysis of the submitted Shadow Diagrams indicate that the northern elevation of the property at 34A Cranbrook Road experiences existing overshadowing on 21 June. Resulting from the increased rear setback, as well as the reduced building height of the proposal, the property at 34A would enjoy increased morning sunlight on 21 June to the windows of its northern elevation.	Part 3B (Orientation) Part B3.5.2 (Overshadowing)
"The SEE places considerable weight on the Land and Environment Court of NSW cases of Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71 ("Fodor") and Stromness v Woollahra Municipal Council [2006] NSWLEC 587 ("Stromness") However, the cases date from 2005-2006, and there have been important recent judgements that have evolved and clarified the approach that should be taken in instances where EUR applies. This is particularly the case for the term "derogate"	The submitted Statement of Environmental Effects and its analysis of Existing Use Rights was deemed acceptable for the purposes of assessment.	Existing Use Rights Assessment

Issue	Conclusion	Section
Incorrect conclusions made regarding	It is acknowledged that the submitted	SEPP 65
the applicability of SEPP 65, and other	Statement of Environmental Effects	Assessment
controls	incorrectly states that SEPP 65 is not	
	applicable to the development.	
	Supplementary documentation submitted	
	with the application provided a detailed	
	analysis of the SEPP provisions which was	
	deemed acceptable for the purposes of	
	assessment.	
	The SEE does acknowledge the	
	relationship between existing use rights and	
	applicable planning controls.	
Omissions in the Affordable Rental	The submitted Affordable Rental Housing	SEPP (Housing
Housing Report	Report and its analysis of was deemed	2021 Assessment
,	acceptable for the purposes of assessment.	
Non-compliances warranting refusal of	The development proposed includes a total	B3.4 (Excavation)
the application	excavation volume of 1835m3 in order to	, , ,
- WDCP excavation non-	accommodate basement parking, access to,	
compliance	and associated plant areas. This is	
- ADG side setback non-compliance	excessive in relation to the maximum	
- WDCP floorplate non-compliance	permitted volume as specified by C2	
	(870.9m3). Insufficient information has been	
	submitted with the application for it to be	
	considered against O1 and relevant controls	
	as contained under B3.4 of the WDCP	
	2015.	Part 3F (Visual
		Privacy)
	The ADG side privacy setback is	
	acknowledged and forms part of the	
	Reasons for Refusal.	DO 0 (Flanciale (a)
	The proposed flooring to of the development	B3.3 (Floorplate)
	The proposed floorplate of the development is deemed acceptable in this instance. See	
	detailed assessment.	
Access, Traffic and Safety Issues	Council's Traffic and Transport Engineer	Chapter E1:
1.55556, Frame and Galoty 155655	reviewed the proposal and deemed it	Parking and
	generally satisfactory, notwithstanding the	Access
	width of the access driveway.	
Privacy Issues	The locations of the level 1 and level 2 east	Part 3F (Visual
	facing balconies where they overlook the	Privacy)
	northern boundary towards No.32	
	Cranbrook, do not achieve the minimum	
	setback and separation distances as per the	
	ADG and would require screening.	
Flood and Stormwater Management	Council's Stormwater and Environment	Part 5.21 (Flood
Issues	Engineer reviewed the proposal and	Planning)
	determined that the proposal is satisfactory,	
	subject to a recommended Flood Protection	
	condition, which would have been included	
	if approval was recommended.	

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features

The subject site is located to the lower, eastern side of Cranbrook Road, oriented in an east-west direction. The site is generally regular in shape, with a total area of 870.9m². The site boundaries are 38.1m to the north, 38.1m to the south; 22.86m to the east and 22.86m to its western frontage at Cranbrook Road.

Topography

The site exhibits a fall from the street of approximately 4 metres from the kerb to the site frontage (33 metres to 29 metres) and then a further fall of approximately 10 metres from the front boundary to the rear boundary (29 metres to 19 metres). The site has a north to south crossfall of approximately 1.0 metre (22 to 21 metres) which varies along the side boundaries.

Existing buildings and structures

The subject site is currently occupied by a part two, part three storey residential flat building comprising of four units, and a roof terrace. Pedestrian entry to the site is currently via a gate and narrow path accessed from Cranbrook Road. There are no car-parking provisions on the site currently. The upper, western portion of the site is characterised largely by planter beds and large trees.

The western, front section of the property is separated from the lower section of the property by a concrete retaining wall which incorporates a separate subterranean laundry/storage area. The lower section of the site is accessed via stairs, whilst the second floor level is accessed by a pedestrian bridge.

The eastern, rear section of the property falls away steeply and is dominated by dense vegetation.

Surrounding Environment

The subject site is located within the *Bellevue Hill North Residential Precinct* as referenced within Part B1.8 of the Woollahra Development Control Plan 2015.

Development in the vicinity is comprised of one to three storey single dwelling houses and numerous multi-storey residential flat buildings, incorporating a mix of architectural styles and ages. To the western side of Cranbrook Road all developments are elevated from street level and sit with the steep topography, while those on the eastern side fall from street level.

To the north of the site is No.32 Cranbrook Road. The closest point of the dwelling is located 0.78 metres from the common side boundary. A double garage is located on the common boundary in the northern setback of the dwelling. However, the garage also appears to be partly constructed in the road reserve (as is most of the landscaped front garden and driveway of the property). Detail in the survey notes a number of first floor windows in the side (south facing) elevation overlooking the site, while a swimming pool and courtyard is located in the rear setback area. Dwelling configuration addresses views to the east.

To the east of the site is a series of large, detached dwellings addressing Beresford Road. While the dwellings are generally configured to address Beresford Road, many include landscaped private open space areas in the rear setback, some with swimming pools, below the common boundary and overlooked by the site.

To the south of the site is No. 34A Cranbrook Road, a three storey detached dwelling with attic space. Survey detail notes the presence of windows to habitable rooms at all levels of the northern elevation of the property that address the site. The northern elevation is estimated to be setback from the common boundary with the site approximately a minimum of 4 metres. The setback area includes a stepped concrete path that provides access to the rear of the site. The front setback is comprised of a paved car park area that is accessed via a private driveway that descends from the Cranbrook Road kerb to the parking area in front of the subject site.

To the west of the site is No. 45 Cranbrook Road. No. 45 Cranbrook Road is across the road from the site. It comprises an elevated two storey detached dwelling of recent construction with a semi basement garage below the dwelling addressing the street. The dwelling thus exhibits a three storey form within the streetscape. To its north and south are similar recently constructed three storey dwellings (when viewed from the road). Windows in the east facing elevations of buildings (above the garage) offer high level views across the site.



Figure 1: Subject property as viewed from the south-east (Nearmap)



Figure 2: Existing building as viewed from the western entry (Author)



Figure 3: Looking south-west from the subject site up Cranbrook Road (Author)



Figure 4: Looking north-west from the subject site down Cranbrook Road (Author)



Figure 5: Adjacent driveway of No.34A Cranbrook Road (Author)



Figure 6: Photomontage of proposed development as viewed from Cranbrook Road (MHNDUnion)

7. RELEVANT PROPERTY HISTORY

Current use

Residential Flat Building

Relevant Application History

DA429/2021/1 - Subdivision of a section of road reserve along Cranbrook Road for the purpose of road closure and sale to the adjoining owner of 34 Cranbrook Road (Approved LPP, 16/12/2021)

DA229/2023/1 - Demolition of existing residential flat building and construction of a new residential flat building and strata subdivision (Rejected, 12/07/2023)

Relevant Compliance History

Nil.

Pre-DA

Nil.

Requests for Additional Information and Replacement Applications

On **26 July 2023**, a Stop the Clock (STC) letter was issued to the Applicant in which the following information was requested:

- Aboriginal Heritage Impact Assessment
- Amended Traffic and Parking matters
- Amended Vehicular Access and Parking Arrangement
- Flood Study
- Title Documents
- Amended Geotechnical and Hydrogeological Investigation Report

On **8 August 2023**, the Applicant provided the following information in response to the Stop the Clock Letter.

- Aboriginal Heritage Impact Assessment (Danny O'Brien, dated July 2023)
- Letter response to Traffic and Vehicular Access issues (PTC., dated 27 July 2023)
- Flood Management Report (Xavier Knight, dated 8 August 2023)
- Stormwater Management Plan (Xavier Knight, dated 8 August 2023)
- Carlift Specifications (Hercules, dated 28 July 2023)
- Geotechnical Investigation (JK Geotechnics, dated 18 July 2023)
- Amended Architectural Drawings (Rev B) (MHN Design Union, dated 2 August 2023)
- Title Documents

On 9 August 2023, WaterNSW issued a request for further information to the Applicant.

On 29 August 2023, the Applicant provided a letter in response to the request from WaterNSW.

A satisfactory referral response dated 29 August 2023 was received from Council's Drainage Engineer.

A satisfactory referral response dated 11 September 2023 was received from Council's Tree and Landscaping Officer.

On **20 September 2023**, Council's Heritage Officer requested an amended Aboriginal Heritage Impact Assessment which follows the guidelines set out in Council's DA Guide.

A satisfactory referral response dated 27 September 2023 was received from WaterNSW.

On **23 October 2023**, the Applicant provided an amended Aboriginal Heritage Impact Assessment as requested.

A satisfactory referral response dated 27 October 2023 was received from Council's Heritage Officer.

An unsatisfactory referral response dated **2 December 2023** was received from Council's Traffic & Transport Engineer.

On **12 December 2023**, amendments and additional information were requested on behalf of Council's Traffic & Transport Engineer.

On **22 December 2023**, the Applicant provided a letter response and revised Architectural Plans in response to the request.

An unsatisfactory referral response dated **27 February 2024** was received from Council's Development Engineer.

On **28 February 2023**, amendments and additional information were requested on behalf of Council's Development Engineer. There was no response received from the Applicant.

A satisfactory re-referral response dated **20 March 2024** was received from Council's Traffic & Transport Engineer.

There has been no response from the La Perouse Aboriginal Land Council to date.

Land and Environment Court Appeal(s)

On **23 February 2024**, the Applicant filed the Class 1 Application to the Court appealing the deemed refusal of the development application.

Council has filed the Statement of Facts and Contentions on 9th April 2024.

This matter is listed for s34 conciliation conference on 19th August 2024.

8. REFERRALS

Referral	Summary of Referral Response	Attachments
Development Engineering	Unsatisfactory, refusal recommended.	2
Traffic	Satisfactory, subject to conditions.	3 and 4
Trees and Landscaping	Satisfactory, subject to conditions.	5
Heritage	Satisfactory, subject to conditions.	6
Urban Design	Unsatisfactory, refusal recommended.	7
WaterNSW	Satisfactory, subject to conditions.	8
La Perouse LALC	No response received.	N/A

EXISTING USE RIGHTS

SECTIONS 4.66 AND 4.67 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND CLAUSES 162-167 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021

The subject property is located within the R2 Low Density Residential Zone.

The use of the subject land as a residential flat building is prohibited under the R2 Low Density Residential zone. The application therefore relies upon the site benefiting from existing use rights regulated under Sections 4.66 and 4.67 of the Environmental Planning and Assessment Act 1979 and Clauses 162-167 of the Environmental Planning & Assessment Regulation 2021.

Clause 4.65: Definition of "existing use"

Clause 4.65 states the following:

In this Division, existing use means—

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and
- (b) the use of a building, work or land—
 - (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and

(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

Clause 4.66: Continuance of and Limitations on Existing Use

Clause 4.66 states:

- (1) Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.
- (2) Nothing in subsection (1) authorises—
 - (a) any alteration or extension to or rebuilding of a building or work, or
 - (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or
 - (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or
 - (d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17(1)(b), or
 - (e) the continuance of the use therein mentioned where that use is abandoned.
- (3) Without limiting the generality of subsection (2)(e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.
- (4) During the period commencing on 25 March 2020 and ending on 25 March 2022, the reference to 12 months in subsection (3) is taken to be a reference to 3 years.

In establishing existing use rights, there are therefore three key aspects to be established as follows:

- The use was lawfully commenced
- The use was made prohibited by a subsequent LEP
- The use has been continuous and not been abandoned for more than 12 months.

The Applicant provided the following statement, inter alia:

"Pursuant to the Land Use Table within Part 2 of the LEP, 'residential flat buildings' are not permissible within the R2 Low Density Residential Zone. Regarding establishing existing use rights, the most relevant approval relates to 1921 consent for residential flats, among a list of historical applications relating to the flat use...

However, within the meaning of Section 4.65, the 1921 approval, and the subsequent approvals, provides the lawful basis for use of the Site as a residential flat building as at the commencement of the 1995 LEP and, again, as at the commencement of the 2015 LEP. Residential flat buildings were first prohibited on the sites by the Woollahra LEP 1995.

Existing use rights applies to the site as the original residential flat building was approved and has continued to operate since that time. Therefore, the land use has not been 'abandoned'."

Assessment: Council concurs with the above conclusion of the Applicant as detailed below:

• It is evident from Council records and the evidence brought forward by the Applicant that several consents have been granted, particularly BA258/1921 which involved the construction of the existing building.

- The use as a residential flat building was therefore lawfully commenced prior to the operation of the Woollahra LEP 2014, in which the use is now prohibited, which commenced on 23 May 2015.
- There are no relevant applications for a change of use applying to the subject site and/or buildings which suggest that the current use of the site as a residential flat building has ever been abandoned or discontinued.

Clause 4.67: Regulations respecting existing use

Clause 4.67 states the following:

- The regulations may make provision for or with respect to existing use and, in particular, for or with respect to—
 - (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and
 - (b) the change of an existing use to another use, and
 - (c) the enlargement or expansion or intensification of an existing use.
 - (d) (Repealed)
- (2) The provisions (in this section referred to as the incorporated provisions) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.
- (3) An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.
- (4) Any right or authority granted by the incorporated provisions or any provisions of an environmental planning instrument extending, expanding or supplementing the incorporated provisions do not apply to or in respect of an existing use which commenced pursuant to a consent of the Minister under section 4.33 to a development application for consent to carry out prohibited development.

Clause 163 of the Environmental Planning and Assessment Regulation 2021 stipulates the following restrictions in relation to existing use rights applications:

163 Certain development allowed

- (1) An existing use may, subject to this Part -
 - (a) be enlarged, expanded or intensified, or
 - (b) be altered or extended, or
 - (c) be rebuilt, or
 - (d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or
 - (e) if it is a commercial use—be changed to another commercial use, including a commercial use that would otherwise be prohibited under the Act, or
 - (f) if it is a light industrial use—be changed to another light industrial use or a commercial use, including a light industrial use or commercial use that would otherwise be prohibited under the Act.

The subject proposal is therefore permissible with consent and does not involve a change of use.

Clause 164 of the Environmental Planning and Assessment Regulation 2021 stipulates the following in relation to existing use rights applications:

164 Enlargement, expansion and intensification of existing uses

- (1) Development consent is required for any enlargement, expansion or intensification of an existing use.
- (2) The enlargement, expansion or intensification must be—
 - (a) for the existing use and for no other use, and
 - (b) carried out only on the land on which the existing use was carried out immediately before the relevant day.

The proposal satisfies the abovementioned provisions.

Clause 165 of the Environmental Planning and Assessment Regulation 2021 stipulates the following in relation to existing use rights applications:

165 Alteration of buildings and works

- (1) Development consent is required for an alteration of a building or work used for an existing use.
- (2) The alteration must be—
 - (a) for the existing use of the building or work and for no other use, and
 - (b) erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.

The proposal satisfies the abovementioned provisions.

Clause 166 of the Environmental Planning and Assessment Regulation 2021 stipulates the following in relation to existing use rights applications:

166 Rebuilding of buildings and works

- (1) Development consent is required for any rebuilding of a building or work used for an existing use.
- (2) The rebuilding must be -
 - (a) for the existing use of the building or work and for no other use, and
 - (b) carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.

The proposal satisfies the abovementioned provisions.

What is "the land on which the building or work was erected or carried out" for the purposes of cl 164(2)(b) of the Environmental Planning and Assessment Regulation 2021 ("the EP&A Regulation")?

Meagher JA in Steedman v Baulkham Hills Shire Council [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "that if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose".

Having regard to the above case law, it is considered that as the residential flat building is the sole use of the subject land, the existing use rights apply to the whole of the subject site.

2. EXISTING USE RIGHTS PLANNING PRINCIPLE

The following planning principle (in relation to the environmental assessment of proposals on land with existing use rights) was established in the Fodor Investments vs Hornsby Shire Council Land and Environment Court case. The four principles adopted by the court in this case have general application in dealing with DAs that rely on existing use rights.

2.1 How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.

The existing residential flat building located on the site is a part two, part three storey residential flat building including a roof terrace, which is currently non-compliant with the Height control which would apply to the site. The proposal complies with the 9.5m height control applicable to the subject site and those surrounding, resulting in an appropriate scale to the area. The topography of the site and those surrounding results in developments to the lower side of the street which are not largely visible form the streetscape. The proposal is appropriate to the topography of the site and would not result in any adverse bulk presented to properties behind.

See detailed assessments under Part B3.2 (Building Envelope) and Part B3.3 (Floorplate) which specify key controls relating to setbacks, bulk and scale.

2.2 What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building is likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

The proposal seeks a complete demolition of the existing building on the subject site and replacement with a new residential flat building which will largely be of the same proportions. Importantly, it has been found that 'existing use rights' apply to the whole of the subject site and that therefore the 'existing use' may be enlarged, expanded or rebuilt. The proposed replacement building would be considered appropriate in its context as established above.

2.3 What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Detailed merit assessment under the relevant provisions of the Apartment Design Guide, and the Woollahra Development Control Plan 2015 addressed elsewhere in this report indicate that the proposed building would have an acceptable impact on adjoining land in terms of overshadowing, visual and acoustic privacy, and views.

2.4 What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Detailed merit assessment under the relevant provisions of the Apartment Design Guide, and the Woollahra Development Control Plan 2015 addressed elsewhere in this report indicate that the proposed building would have an acceptable level of internal amenity across all Units.

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

As included above in the Existing Use Rights assessment, Clause 4.67 of the Environmental Planning and Assessment Act 1979 states that the provisions of any environmental planning instrument that derogate (detract) from the existing use rights provisions have no force or effect whilst existing rights remain. Established case law has held that the provisions of environmental planning instruments do not apply to the assessment of applications on sites with existing use rights.

Therefore planning objectives and controls that limit the size of a proposal such as height, setbacks, building footprint, number of storeys, minimum allotment size, minimum site frontage and floor space ratio cannot be applied to the proposal. The Land and Environment Court judgment in the *Stromness P/L v Woollahra Municipal Council* handed down in October 2006 underscores this.

As such, the following environmental assessment of the proposal under the provisions of Section 4.15 of the Environmental Planning and Assessment Act does not refer to statutory and policy building envelope controls and objectives which derogate from the existing use rights provisions. Nonetheless, assessment against these controls is provided for comparative purposes.

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 2/08/2023 to 1/09/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

- 1. Des & Jeanette Wilson No. 43 Cranbrook Road, Bellevue Hill
- 2. Wei Lin & Yun Lin Gao No. 34A Cranbrook Road, Bellevue Hill
- 3. Jason Perica obo Owners No. 32 Cranbrook Road, Bellevue Hill

The submissions are summarised above in 5.2.

9.2 Application Amendments

The amendments to the subject application were not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 as the proposal, as amended, was considered to have no greater impacts than the previously advertised application.

9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 29/01/2024 declaring that the site notice for DA249/2023/1 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 & 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 65: DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

SEPP 65: Design Quality of Residential Flat Development applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings. In this instance, the proposed residential flat building comprises three (3) storeys and four (4) self-contained dwellings.

Note: This development application was lodged prior to the consolidation of SEPP 65 into the provisions of the Housing SEPP on 14 December 2023.

Clause 2: Aims and Objectives

The aim of the SEPP is to improve the design quality of residential apartment development:

- a) To ensure that it contributes to the sustainable development of New South Wales:
 - (i) By providing sustainable housing in social and environmental terms, and
 - (ii) By being a long-term asset to its neighbourhood, and
 - (iii) By achieving the urban planning policies for its regional and local contexts
- b) To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and
- c) To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and
- d) To maximise amenity, safety and security for the benefit of its occupants and the wider community, and
- e) To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions
- f) To contribute to the provision of a variety of dwelling types to meet population growth
- g) To support housing affordability
- h) To facilitate the timely and efficient assessment of applications for development to which this Policy applies

The proposed residential flat building would be considered generally acceptable with the above aims.

Design Quality Principles

Clause 30(2) of SEPP 65 requires the assessment of the application against the design quality principles in Schedule 1. This assessment has been undertaken by Council's Urban Design Consultant. Where relevant, comment from Council's Assessment Officer is also included.

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character.

Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Urban Design Comment

The proposed development is located in a precinct zoned for low density residential development. It is distant from facilities at Double Bay.

Neighbourhood character is defined by a mix of building forms, heights, densities and architectural styles established, essentially by three eras: when the suburb was established in the 1920s; a period of significant redevelopment in the 1960-70s; and the current era of contemporary infill development where opportunities exist.

It is located on a steeply sloping east facing site capitalising on the fall of the site. Its siting and its character at its boundary interfaces provide a compatible response to the other neighbouring developments.

The close proximity of buildings to the side and rear has been considered in site planning and architectural design.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Urban Design Comment

The proposed development sits slightly lower in the site than the existing development and its building envelope scale, bulk and height are slightly smaller than the existing building.

The proposed height achieves the maximum height standard in the WLEP.

The building provides an appropriate address and contribution to the public domain within the confines of its recessed siting.

Configuration of living areas provides good internal amenity and outlook.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Urban Design Comment

The proposal relies on existing use rights to achieve the density proposed in the low density zoning.

The level of amenity for the proposed apartments is good. Apartments are dual aspect with good ventilation and generous balcony sizes, internal areas, and private open space.

The site is not conveniently close to services and facilities.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

Urban Design Comment

The proposal adopts a number of measures that facilitate a good response to the need for sustainability.

Apartments enjoy good solar access and cross ventilation. Facilities for rainwater reuse are proposed. Provision for roof top solar is not proposed but can be achieved.

Potential conflicts between the deep soil zone and stormwater infrastructure require addressing. This is discussed below.

Means of alternative transport are encouraged as conveniently located facilities for motorcycle and bicycle storage are provided.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.

Urban Design Comment

There is a good provision of landscaping, with sufficient dimensions in the side and rear setback areas. Existing canopy trees in the front setback area are retained.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.

Urban Design Comment

The design of each floor plan and building siting contributes to a development that offers a good standard of amenity. All apartments are dual (corner) aspect and all enjoy access to an eastern aspect.

There is no provision of useful communal open space except the front setback area and no communal facilities. However, given the small number of apartment and nature of the development I consider this to be acceptable.

Screening to balcony edges addressing side boundaries on levels 1 and 2 may be required to ensure appropriate levels of internal visual privacy will be achieved. This can be addressed by condition.

Pedestrian access to the development can be improved.

Principle 7: Safety

Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Urban Design Comment

The design provides negligible surveillance of the public domain as a result of building siting and sunken elevation.

Similarly, the pedestrian entrance enjoys limited exposure.

Principle 8: Housing diversity and social interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.

Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

Urban Design Comment

The proposed development offers 2x2 and 2x3 - bedroom apartments.

While the proposal does not offer a mix of housing sizes or variety it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill. It presents opportunities for downsizers and families who seek an alternative form of living to a large, detached dwelling, but with access to similar amenities.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Urban Design Comment

The subdued modern architectural displays a suitable aesthetic.

2.5 Apartment Design Guide

Part 3A: Site Analysis

Responsive to opportunities and constraints of site conditions and streetscape. Each element in the Site Analysis Checklist should be addressed.

Urban Design Comment

Generally, the proposal responds well to the sloping topography of the site and its east facing aspect.

Assessment Officer Comment

The development application is accompanied by documentation which satisfies the requirements of the Site Analysis Checklist.

Part 3B: Orientation

	Proposed	Control	Meets
	Units oriented East	Face the Street and Provide Direct Access	YES
Building Orientation	90° to the Boundary	90° to the Boundary with Adjoining Properties	YES
Minimum Solar Access to Adjoining Properties	Not Reduced by >20%	Where < 3 hours, Not to be Reduced by > 20%	YES

Urban Design Comment:

The building design prioritises solar access to, and outlook for, apartments to the east, which is appropriate.

The proximity of the northern elevation of No. 34A to the southern side boundary of the site, together with the presence of windows in that elevation suggests that that this would be the most impacted by overshadowing. This is particularly relevant given the proposal seeks to rely on existing use rights.

The shadow/solar assessments suggest that, as the proposed height is below that of the existing building and the building footprint is setback, solar and shadow impacts are reduced and an improved outcome results from the proposed development.

Part 3C: Public Domain Interface

Urban Design Comment

The proposed building design and siting present an appropriate relationship to Cranbrook Road and achieves the criteria and requirements in this part.

The necessary presence of fire equipment at the front boundary has not been shown. More detail is required.

Part 3D: Communal and Public Open Space

Site Area: 870.9m ²	Proposed	Control	Meets
Minimum Communal Open Space	227m²	25% of the Site (217.7m²)	YES
Minimum Solar Access to the Principal Useable Portion of Communal Space	50% for 2 Hours Between 9am and 3pm on June 21	50% for 2 Hours Between 9am and 3pm on June 21	YES
Minimum Dimension of Communal Open Space	>3m	3m	YES
Access to Communal Open Space	Access from Internal Common Area	Direct Access From Common Areas	YES
Boundaries of Communal Open Space	Well Defined	Defined Boundaries Between Public and Private	YES

<u>Urban Design Comment</u>

212.9sgm of communal area is nominated in the front setback area.

Given the small number of apartments in the development I consider the area proposed to be acceptable.

Part 3E: Deep Soil Zones

Site Area: 870.9m ²	Proposed	Control	Meets
Minimum Deep Soil Zone	284m²	7% of the Site (60.96m²)	YES
Minimum Dimensions of Deep Soil Zone	>3m	3.0m	YES
Existing Significant Trees	Retained	Retained	YES

Urban Design Comment

The site has an area of 870.9sqm. There is a minimum width requirement of 3 metres for a site of this size.

The total areas of deep soil nominated in the development application is 57% (SEE).

It is also possible that the calculations provided include areas that are impacted by below ground stormwater infrastructure and retaining walls.

Notwithstanding this, the 7% minimum is achieved.

Assessment Officer Comment

As included above, the proposal provides adequate deep soil landscaped area for the site.

In addition, Council's Tree and Landscape Officer reviewed the proposal and determined it is satisfactory with regard to tree preservation and landscaping.

The submitted stormwater details with the application indicate below ground infrastructure located in areas specified as 'deep soil landscaped area'. Whilst it is likely that the proposal will still achieve compliance, further clarification is required in this regard.

Part 3F: Visual Privacy

	Proposed	Control	Meets
Minimum Separation From Buildings – Habitable Rooms and Balconies	<6m	6m	NO – See assessment below.
Line of Sight Across Corners	Corner Line of Sight to No.32 Cranbrook Road	Avoided	NO
Location of Bedrooms	Separated from Access Areas	Separated from Access and Service Areas	YES
Location of Balconies and Terraces	Off Living Areas	In Front of Living Rooms	YES
Location of Windows	Offset & Rear Facing	Offset from Windows of Adjacent Properties	YES

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage are overridden by controls in SEPP 65.

Urban Design Comment

The building has a height of 3 storeys for this assessment.

Generally windows and balconies to habitable rooms address the north, east and west boundaries.

The locations of the level 1 and level 2 east facing balconies where they overlook the north and south boundaries do not achieve the minimum setback and separation distances and may require screening.

Part 3G: Pedestrian Access and Entries

	Proposed	Control	Meets
Building Entrances	Multiple Entries	Multiple Entries	YES
Communal Entries	All apartments accessed internally	Clearly Defined from Private Entries	YES
Location of Lift Lobbies, Stairwells and Hallways	Not Visible due to topography	Visible From Public Domain/Communal Spaces	NO - Acceptable
Ground Floors and Underground Car Parks	No Level Change	Minimise Level Changes	YES

	Proposed	Control	Meets
Pedestrian Links	Connections not clear	Clear Connections	NO – See
redestriali Liliks	and legible	Clear Connections	assessment below.

<u>Urban Design Comment</u>

The proposed development offers a good level of connectivity, entry, access and visibility with Cranbrook Road given the constraints of the site.

However, the configuration of the level 2 lobby pedestrian connection to the driveway at the entry and the obscured lower level 1 pedestrian access via the footpath, sets up the Level 2 to be the principle entry. It may create, in effect, competing pedestrian entries. This introduces confusion and does not assist legibility and way finding, as the natural tendency of pedestrian visitors and couriers will be to use the vehicle driveway as it is the most prominent part of site access. Given this, the primary pedestrian footpath should align and be at the same level as the driveway (with any required steps/ ramp and a kerb and possible handrail if necessary).

Part 3H: Vehicle Access

Site Area: 870.9m ²	Proposed	Control	Meets
Location of Car Park Entries	Well Integrated	Integrated into Facade	YES
Location of Vehicle Entries	Higher level access to	At the Lowest Point	NO -
Location of verticle Entitles	Car Lift	of the Site	Acceptable
Vehicle Standing Areas	Proposed Waiting Bay	Avoided	NO
Location of Access Points	Potential Headlight Glare	Avoid Headlight Glare to Habitable Rooms	NO
Pedestrian and Vehicle Access	Partly Separated/ Legibility Issues	Separated and Distinguishable	NO

<u>Urban Design Comment</u>

The proposed development adopts a thoughtful approach to vehicle access. Streetscape and pedestrian impact is minimised.

It would be useful to explore opportunities to increase the planting between the driveway to No. 34A and the proposed driveway where they adjoining to relieve the visual impact of the conjoined two driveways within the streetscape. This will require civil design interrogation, which I am not qualified to undertake, in order to determine the feasibility of achieving this.

Assessment Officer Comment

Access to the proposed car lift and basement car park is well integrated with the façade of the development, and generally works well within the building form and layout.

The proposal involves a wide driveway to Cranbrook Road in order to facilitate a waiting bay at street level which is not consistent with the design guidance of the ADG. In addition, Council's Traffic Engineer reviewed the proposal and has advised that this aspect is to be removed in order to reduce the loss of on-street car parking.

Headlight glare to the upper level habitable rooms of 34A Cranbrook Road is a possibility given the slope and location of the driveway in relation to this neighbouring dwelling. An obscure wall and landscaping is proposed to the southern edge of the driveway entry, which will work to mitigate glare entering the property at 34A. In addition, the dwelling at 34A is sited further east, beyond the siting of the driveway/garage entry. Based on the estimated traffic generation (See assessment under **Chapter E1: Parking and Access**) of the development and the reasons above, any impact arising would be negligible and/or infrequent.

Part 3J: Bicycle and Car Parking

	Proposed	Control	Meets
Motorcycle/Scooter Park	Sufficient Provision	Sufficient Provision	YES
Bicycle Parking	Provided in Basement Level	Required, Undercover and Accessible	YES
Access to Ancillary Basement Rooms	Not Accessed via Parking Spaces	Not Accessed via Parking Spaces	YES
Lobby Spaces within Basement	Provided	Provided	YES
Ventilation Grills/Screening Devices For Car Parking Openings	Integrated	Integrated into Façade and Landscape Design	YES

Under Clause 30(1) of SEPP 65, refusal cannot occur if car parking is equal to, or greater than that specified in Part 3J.

Urban Design Comment

The proposed development provides undercover bicycle and bike storage. It is hidden from view.

Part 4A: Solar and Daylight Access

	Proposed	Control	Meets
Sunlight to Living Rooms and Private Open Spaces of At Least 3 Hours Between 9am and 3pm on June 21	100%	Minimum 70% of Apartments	YES
No Sunlight to Apartments Between 9am and 3pm on June 21	Nil.	Maximum 15% of Apartments	YES
Single Storey Units	All predominantly Eastern Aspect	Northern or Eastern Aspect	YES
Design Features for Sunlight Access	All Dual/Corner Aspect	Dual Aspect	YES
Minimum Direct Sunlight to Living Rooms and Private Open Space	>1m ² for >15m in all apartments	1m ² at 1m above Floor Level for Min 15 Mins	YES

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to solar and daylight access overridden by controls in SEPP 65.

Urban Design Comment

The proposed orientation of all apartments to the east ensures that 100% of living rooms and principal private open spaces of all apartments meet the solar and daylight criteria.

Part 4B: Natural Ventilation

	Proposed	Control	Meets
Minimum Cross Ventilation	100%	60% of Apartments	YES
Maximum Building Depth	<18m	18m	YES
Unobstructed Window Openings	>5%	Minimum 5% of the Floor Area	YES

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to natural ventilation are overridden by controls in SEPP 65.

Urban Design Comment

All apartments are dual or corner aspect and offer good opportunities for cross ventilation.

Part 4C: Ceiling Heights

	Proposed	Control	Meets
Minimum Ceiling Height – Habitable Rooms	3.15m	2.7m	YES
Minimum Ceiling Height – Non-Habitable Rooms	3.15m	2.4m	YES

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to ceiling heights, are overridden by controls in SEPP 65.

Under Clause 30(1) of SEPP 65, refusal cannot occur if the ceiling heights are equal to, or greater than Part 4C.

Urban Design Comment

The nominated floor to floor height is 3.15 metres which may not achieve the 2.7 metre floor to ceiling height once floor materials and possible plumbing or ceiling AC ducting is installed.

Part 4D: Apartment Size and Layout

	Proposed	Control	Meets
Minimum Apartment Layout – 2 Bedroom	>70m²	70m²	YES
Minimum Apartment Layout – 3 Bedroom	>90m²	90m²	YES
Maximum Depth of Kitchen from a Window	<8m	8m	YES
Minimum Bedroom Size (Excluding Wardrobes)	>9m² (Master and other Bedrooms)	9m ² and10m ²	YES
Minimum Bedroom Dimension (Excluding Wardrobes)	>3m	3m	YES
Kitchens in Larger Apartments	Complies.	Not Included in Main Circulation Space	YES
Windows Within Habitable Rooms	Complies.	Visible From Any Point	YES
Main Living Spaces	Complies.	Located Away from Noise Sources	YES
Living Areas and Bedrooms	Complies.	Outer Edge of Building	YES

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to apartment size and layout are overridden by controls in SEPP 65.

Under Clause 30(1) of SEPP 65, refusal cannot occur if the internal area for each apartment is equal to, or greater than that specified in Part 4D.

Urban Design Comment

All apartments achieve the minimum area.

Part 4E: Private Open Space and Balconies

	Proposed	Control	Meets
Private Open Space (Ground Floor Units) G01 and G02 Minimum Area	>15m²	15m²	YES
Private Open Space (Ground Floor Units) G01 and G02 Minimum Dimension	>3m	3m	YES
Minimum Balcony Area Unit L01 Unit L02	42.20m ² 42.20m ²	12m² 12m²	YES YES
Minimum Balcony Dimensions Unit L01 Unit L02	2m 2m	2.4m 2.4m	NO - Acceptable NO - Acceptable
Location of Primary Open Space and Balconies	Off Living Areas	Adjacent to Main Living Areas	YES
Orientation of Primary Open Space	East	North, East or West	YES
Proportions of Primary Open Space	Long Edge Faces Outwards	Long Side Facing Outwards	YES
Provision of Screens Within Balcony	Only to South	Used to Control Sun and Wind	NO - Partially

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to private open space are overridden by controls in SEPP 65.

Urban Design Comment

All balconies for upper level apartments and the private open space to the two ground floor units meet the minimum area and depth requirements.

Assessment Officer Comment

The upper level balconies of Units L01 and L01, do not comply with the minimum depth of 2.4m and are measured instead at 2m. This is considered acceptable on the basis that the balconies are well-beyond the minimum balcony area.

Part 4F: Common Circulation and Spaces

	Proposed	Control	Meets
Maximum Number of Units in a Corridor	One (1) or Two (2)	Eight (8)	YES
Maximum Number of Units Serviced by a Single Lift (> 10 Storeys)	Four (4)	40	YES

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to circulation and spaces are overridden by controls in SEPP 65.

Urban Design Comment

The circulation core (essentially the lift lobby area) on each floor provides access to only 1 or 2 apartments.

Part 4G: Storage

	Proposed	Control	Meets
Minimum Storage Area - Unit G01 Unit G02 Unit L01 Unit L02	8.23m ² 8.23m ² 12.44m ² 12.44m ²	8m ² 8m ² 10m ² 10m ²	YES – See below.
Provision of Storage Within Apartment – Unit G01 Unit G02 Unit L01 Unit L02	100%	50%	YES – See assessment below.
Access to Storage	Located in both Circulation and Living Areas	Accessible from Circulation or Living Areas	YES
Storage for Bulky or Less Used Items	Not Provided.	Provided	NO
Location of Storage in Basement	Nil.	Rear of Side of Car Spaces	N/A

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to storage are overridden by controls in SEPP 65.

Urban Design Comment

Storage for apartments is proposed internally within units. However, no locations are shown beyond suggestions that lounge room and kitchen cupboards and laundries will suffice. This is inconsistent with the objective.

Part 4H: Acoustic Privacy

	Proposed	Control	Meets
Window and Door Openings	Generally away from any noise sources	Away From Noise Sources	YES
Distance of High Noise Sources from Bedrooms	>3m (Unit G02)	Minimum 3m	NO
Location of Rooms	Similar Rooms are Grouped	Similar Rooms Grouped Together	YES
Party Walls	Minimised	Minimised	YES

<u>Urban Design Comment</u>

No acoustic assessment is provided. The potential source of any external noise issues would most likely be from the traffic using Cranbrook Road.

Given the observed use of the Road, together with the setback of the proposed building from the road, no concerns are apparent.

The proposal, being a residential use, is not expected to generate any unreasonable or unexpected noise. The activities that often cause noise concerns (communal areas, swimming pool, carparking and driveways/ roller doors are generally undercover and / or obscured by screening/ built form, thus limiting any potential acoustic concerns for residents in both the site and the neighbouring sites.

That said, the basement car park lift door and the operation of the lift require provision of acoustic report or application of conditions to ensure that noise impacts are minimised.

Apartment sizes are large and, with the exception of levels 1 and 2, each building level comprises 1 apartment only.

Thus separation between apartments is high and there are minimal common walls.

Assessment Officer Comment

As noted above, the proposal generally achieves compliance with the relevant objectives under Part 4H. Concern is raised regarding the location of the bedroom to Ground floor Unit G02, directly adjacent to the car lift, which does not comply with Objective 4H-1.

Part 4J: Noise and Pollution

Urban Design Comment

No air quality assessment is provided. The potential source of any air quality and external noise issues would most likely be from the traffic using Cranbrook Road.

Given the observed use of the Road, together with the setback of the proposed building from the road, no air quality concerns are apparent.

Part 4K: Apartment Mix

	Proposed	Control	Meets
Apartment Mix	2 x 2 Bedroom and 2 x 3 Bedroom	Variety of Apartment Types	YES – See assessment below.
Location of Larger Apartments	Level 1 and 2	Ground Level or Roof	YES

Urban Design Comment

While the proposal does not offer a mix of housing sizes or variety, it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill.

Part 4L: Ground Floor Apartments

Urban Design Comment

The ground floor apartments do not directly address the street. This is a result of the topography of the site and the existing excavation. Given the eastern aspect, I consider the outcome to be reasonable.

Part 4M: Facades

	Proposed	Control	Meets
Building Services	Insufficient information	Integrated into Design	NO

Urban Design Comment

The building façade will not be visible from the street.

Building services are not visible from the public domain. However, the location of firefighting booster equipment cabinet in the front setback needs consideration to maintain the presentation of the development to Cranbrook Road.

Part 4N: Roof Design

Urban Design Comment

The roof is not trafficable and rooftop plant is proposed to be integrated into the building design.

Part 40: Landscape Design

Site Area: 870.9m ²	Proposed	Control	Meets
On-going Maintenance Plans	Would be Conditioned	Required	NO
Tree Planting in the Deep Soil Zone	Large and Medium Trees across the whole site	1 Large Tree or 2 Medium Trees per 90m ² of deep soil area	YES

Urban Design Comment

The retention of Trees T1, T3 and T4 will contribute to the distinctive green tree canopy in the area.

Part 4P: Planting on Structures

<u>Urban Design Comment</u>

No planting is proposed on the roof top or the separate roof at the top of the car lift.

Part 4Q: Universal Design

Urban Design Comment

The private open space areas, vertical access, apartment sizes and layout and amenity of each unit generally provide a high level of flexibility to evolve as households evolve.

Part 4U: Energy Efficiency

Urban Design Comment

The proposed development offers high levels of natural ventilation and there are opportunities for rooftop solar provision.

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Assessment Officer Comment

The proposal was accompanied by a BASIX Certificate detailing that the proposal is compliant with the energy efficiency requirements of the BASIX SEPP and therefore generally satisfies the relevant objectives and design guidelines prescribed by this Part of the ADG.

Part 4V: Water Management and Conservation

Assessment Officer Comment

Council's Development Engineer reviewed the proposed stormwater management plan and determined that there is insufficient information submitted with the application to allow full assessment against the relevant provisions.

Part 4W: Waste Management

	Proposed	Control	Meets
Location of Bin Storage	Basement	Away From The Front or in Basement	YES
Location of Bill Storage	Enclosed	Well Ventilated	NO – See assessment below.
Access Between Bin Storage and Collection Point	Car Lift and Ramp	Easy Manoeuvrability to Collection Point	NO – See assessment below.
Waste Management Plan	Included	Required	YES
Internal Waste Storage in Each Dwelling	Included	Storage Space for Two Days of Garbage	YES

Urban Design Comment

Arrangements for waste management are proposed.

Assessment Officer Comment

The proposed bin storage is located within the basement which is supported in principle. The submitted Waste Management Plan indicates that the bins will be manually moved between the bin storage and the street level via the car lift and vehicle ramp. This is deemed acceptable given the site constraints.

Waste Management is also assessed in detail under Chapter E5 (Waste Management) of the Woollahra DCP 2015.

Part 4X: Building Maintenance

Urban Design Comment

While no information has been provided with regards to the building maintenance, I consider the proposed materials selected, will not require excessive maintenance.

No roof hatch access to the roof is shown. However the roof is accessible via external ladder at the driveway.

CONCLUSION

Except where specified within the above assessment, the proposed residential flat building is generally considered acceptable with regard to relevant Objectives of the Apartment Design Guide.

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

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

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

13. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY & 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.

14. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

SEPP (Housing) 2021 relates to development that includes, but is not limited to, boarding houses, build-to-rent housing, seniors housing, retention of existing affordable rental housing, secondary dwellings (granny flats), social and affordable housing and short-term rental accommodation.

Chapter 2 (Affordable Housing), Part 3 (Retention of existing affordable rental housing), is considered below to establish the implications a result of the proposed demolition of the existing non-strata residential flat building.

Clause 45

A 'low-rental dwelling, and 'low rental residential building' are defined by the SEPP as follows:

Low-rental dwelling means a dwelling that was let at a rental not exceeding the median rental level at any time during the relevant period, as specified in the Rent and Sales Report, in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.

low-rental residential building means a building used, during the relevant period, as a residential flat building containing a low-rental dwelling or as a boarding house, and includes a building that—

- (a) is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or (b) was used as a residential flat building containing a low-rental dwelling or as a boarding
- (b) was used as a residential flat building containing a low-rental dwelling or as a boarding house, but that use has been changed unlawfully to another use, or
- (c) is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house.

relevant period means the period commencing 5 years before the day on which the development application involving the building is lodged and ending on that day.

The applicant has provided a financial summary of the rentals available between July 2018 and June 2023 in the submitted Affordable Rental Housing Report prepared by GSA Planning as follows:

						g Units Co	•					
			Figur	es provide	d by current o	wner to Ju	ne 2023 unl	ess otherw	ise stated			
Unit No.	No. of Bedrooms	Average Rent (Jul 22 - Jun 23)	Median Rent (Jul 22 - Mar 23)	Average Rent (Jul 21 - Jun 22)	Median Rent (Jul 21 - Jun 22)	Average Rent (Jul 20 - Jun 21)	Median Rent (Jul 20 - Jun 21)	Average Rent (Jul 19 - Jun 20)	Median Rent (Jul 19 - Jun 20)	Average Rent (Jul 18 - Jun 19)	Median Rent (Jul 18 - Jun 19)	Identified a 'Low Renta
1	0	\$840	\$730-860	\$840	\$680-730	\$840	ቀርደብ ርብብ	\$840	eceo 700	\$840	\$705-720	NO
2	2	\$550	\$130-800	\$440	φοσυ-730	\$370	\$650-692	\$380	\$650-700	\$450	\$100-120	YES
3	4	\$2,000	\$1,173-1,450 (3 bed)	\$1,740	\$1,150-1,250 (3 bed)	\$1,670	\$1,000- 1,250 (3 bed)	\$1,700	\$1,000-1,151 (3 bed)	\$1,670	\$1,100- 1,200 (3 bed)	NO
4	Studio	\$350	\$378-425	\$350	\$350-450	\$350	\$300-373	\$350	\$335-380	\$335	\$373-400	Potential

Based on the submitted financial summary of the rentals available as prepared by GSA Planning, Units 2 and 4 of the existing residential flat building would be considered a low-rental dwellings as defined in Clause 47 of the SEPP.

In accordance with Clause 47 of the SEPP, the subject residential flat building is an existing "low-rental residential building".

Clause 47

Clause 47(2) specifies that a consent authority is to take into account the guidelines for retention of existing affordable rental housing and the listed provisions as detailed in the following assessment:

(a) whether the development will reduce the amount of affordable housing in the area,

Based on the Affordable Rental Housing Report prepared by GSA Planning there will be a loss of 2 Units.

The Affordable Rental Housing Report prepared by GSA Planning has provided the following justification:

"It is noted that the existing building's rental prices were likely to be affected by the lack of amenities such as lifts, parking or well-maintained open space.

The owner has advised us that they decided to not increase the rents for Units 2 and 4. This decision was made in anticipation of the current DA, as the owner was aware they would be demolishing the building and would consistently be disturbing the tenants to obtain access for the DA consultant team.

On this basis, the owner considered it prudent not to increase the rent to keep relations with the tenants as friendly as possible.

In our view, if this DA was not pursued and the existing building were retained and/or upgraded, it is likely that the rents would have been above the median rates. Therefore, the lower rent is not necessarily reflective of the market rate or quality of Units 2 and 4."

<u>Assessment:</u> The justification provided by the applicant does not satisfy criterion (a) in terms of whether the development will reduce the amount of affordable housing in the area. Notwithstanding this, the following observations are made:

• As discussed above, Units 2 and 4 of the existing residential flat building would be considered a low-rental dwellings as defined in Clause 47 of the SEPP.

• Unit 2 (a two bedroom unit) was the only Unit in the subject building which was <u>consistently</u> let below the median rental level. In this instance, based on the evidence put forth by the Applicant, it is considered that this Unit was not let below the median rental level under normal circumstances (being a special arrangement).

In this instance, these Units are therefore not considered as affordable housing.

(b) whether there is available sufficient comparable accommodation to satisfy the demand for the accommodation,

Clause 45(1) defines comparable accommodation as follows:

comparable accommodation means accommodation comparable with accommodation provided within an existing low-rental residential building the subject of a development application to which this Part applies (Part 3 accommodation) because—

- (a) it is in the same or a neighbouring suburb, and
- (b) it is let at the same rental level as, or not more than 5% higher than the rental level of, the Part 3 accommodation, and
- (c) it is available for occupation on the day the development application is lodged, and
- (d) for residential flat buildings—it comprises dwellings with the same number of bedrooms as the dwellings in the Part 3 accommodation.

Assessment: The applicant has provided examples of both studios and two bedroom units advertised to rent as of 26 and 27 June 2023 (Price range: \$290 – \$340 for studios and \$650 – \$720 for two bedroom units in surrounding suburbs) to demonstrate that there is sufficient comparable accommodation available to satisfy the demand for such accommodation.

(c) whether the development is likely to result in adverse social and economic effects on the general community,

Assessment: The proposal is not considered to create an adverse social impact.

(d) whether adequate arrangements have been made to assist the residents who are likely to be displaced to find comparable accommodation,

The submitted Affordable Rental Housing Report prepared by GSA Planning specifies as follows:

"We note half of existing units are not currently classified as low-rental dwellings. Nonetheless, assistance will be provided by the applicant in locating new accommodation through the applicant's real estate agent, and a contribution towards removal costs of \$250 per dwelling".

<u>Assessment:</u> Notwithstanding the justification above, if approval were being recommended, conditions of concern to ensure the applicant assist tenants would be imposed.

(e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area,

The submitted Affordable Rental Housing Report prepared by GSA Planning specifies as follows:

- (f) whether the building is structurally sound, including—
- (i) the extent to which the building complies with relevant fire safety requirements, and
- (ii) the estimated cost of carrying out work necessary to ensure the building is structurally sound and complies with relevant fire safety requirements,

The submitted Affordable Rental Housing Report prepared by GSA Planning specifies as follows:

"The existing building has poor access for people with limited mobility, original services, lack of open space, landscaping lacking in maintenance and no parking. Additionally, the building has not been regularly maintained and does not appear to confirm to current building standards. However, it is in a desirable, leafy location. This is reflected in the rental prices charged.

Structural and other repairs would be required to upgrade the current building to achieve compliance with BCA fire regulations, accessibility requirements and the like. This includes the improvements proposed such as compliant private open space, lift access, etc.

To undertake the scope of works would not be economically feasible unless improvements are made including the additional units, otherwise the works would fail to provide an appropriate return on investment. The cost of remedial works would be expected to increase the weekly rent of the upgraded and refurbished units further.

Even if any of the existing units are deemed 'affordable' and retained, the cost of remedial works would also result in a loss of affordable housing in any event."

<u>Assessment:</u> Council records do not indicate that the subject property (34 Cranbrook Road, Bellevue Hill) is subject to an outstanding order or notice in terms of BCA compliance.

g) whether the imposition of an affordable housing condition requiring the payment of a monetary contribution would adequately mitigate the reduction of affordable housing resulting from the development,

The Applicant has provided the following justifications in terms of it not being necessary to apply the required contribution:

"It would seem onerous to require a monetary contribution where the units have been let for a lower rental during the relevant period because it was continuing in a special, friendly arrangement with a family member, given the quarterly median rental figures do not acknowledge such arrangement of tenancies, particularly as the owners will be burdened with the costs of upgrading to BCA compliance, repairing structural damage and improvements to accessibility. These upgrading costs should be offset against any contributions Council might otherwise consider.

From our review, it would appear Council has not yet exhibited or endorsed a public policy relating to affordable housing. Any contributions made in relation to affordable housing are unlikely to be used in the Woollahra LGA, which then does not contribute to affordable rental housing in the area. Additionally, secondary dwellings approved under the SEPP are also not required to be 'affordable'.

Given the current building is in need of upgrades; and is not accessible to people with limited mobility; it is inevitable that the building would be significantly refurbished or rebuilt in time."

<u>Assessment:</u> As discussed above, the proposal will not result in a loss of affordable housing for the following reasons:

- Unit 2 (a two bedroom unit) was the only Unit in the subject building which was <u>consistently</u> let below the median rental level. In this instance, based on the evidence put forth by the Applicant, it is considered that this Unit was not let below the median rental level under normal circumstances (being a special arrangement).
- The Applicant has demonstrated that there is sufficient comparable accommodation available to satisfy the demand for such accommodation.

• The proposal is not considered to create an adverse social impact.

Monetary contribution is not recommended.

2.6 Conclusion

The proposal is considered acceptable with regard to SEPP (Housing) 2021.

15. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

15.1 Part 1.2: Aims of Plan

While the provisions of the clause have no force with regard to the proposal, in so far as they derogate (detract) from the 'existing use rights' the proposal is not considered acceptable with regard to the following aims in Part 1.2(2) of the Woollahra LEP 2014:

(m) to minimise excavation and manage impacts, including the potential impact of construction dewatering,

15.2 Land Use Table

The proposal is defined as the demolition of an existing residential flat building and subsequent construction of a new three-storey, four-unit residential flat building which is not permitted within the R2 Low Density Residential zone. As such, the proposal relies upon *Existing Use Rights* (assessed above).

15.3 Part 4.1A: Minimum Lot Sizes for a Dual Occupancies, Multi Dwelling Housing and Residential Flat Building

Whilst Part 4.1A of the WLEP 2014 has no force with regards to the proposal in so far that it derogates (detracts) from the existing use rights provisions, it specifies a minimum lot size of 700m².

Site Area: 870.9m ²	Proposed	Control	Complies
Minimum Lot Size – Multi-Unit/Residential Flat Building (in R3 Zone)	870.9m ²	700m²	YES

The proposal complies with 4.1A(2) of Woollahra LEP 2014.

15.4 Part 4.3: Height of Buildings

Whilst Part 4.3 of the WLEP 2014 has no force with regards to the proposal in so far that it derogates (detracts) from the existing use rights provisions, development is limited to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	>9.5m	9.48m	9.5m	YES

The proposal would comply with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014.

OTHER PROVISIONS

The other provisions of Woollahra LEP 2014, Woollahra DCP 2015 and relevant Acts and/or Regulations that do not derogate (detract) from the existing use rights provisions applicable to the site, aim to mitigate adverse environmental impacts including upon the natural foreshore processes, heritage related impacts, earthworks related impacts, potential acid sulphate soil affectation, traffic and parking impacts, landscaping impacts, stormwater drainage impacts, flood protection and amenity impacts upon the public domain.

An assessment of these provisions, as contained within the WLEP, WDCP and relevant acts and/or regulations is provided below.

15.5 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 in Woollahra Local Environment Plan 2014 'the LEP' and is not located within a heritage conservation area.

Council's Heritage Officer reviewed the proposal and offered the following assessment of potential heritage significance against the NSW Heritage Criteria:

Criterion (a) Historical - An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area

34 Cranbrook Road is an Inter-war flat building, constructed c. 1921 and designed by Mr G
Garton, architect. It is an early example of apartment building development in the local area,
but does not reach the threshold for listing.

Criterion (b) Historical Association - An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area

The architect is not a person of importance in NSW's cultural or natural history, though he
appears to have designed at least one grand house for the Tucker family at Kirribilli Point, it
does not appear to be listed and may have been demolished. No other associations with
important persons have been noted.

Criterion (c) Aesthetic - An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)

 34 Cranbrook Road dates from the early Inter-war period, and is a curious mix of styles, embodying elements of Arts and Crafts, and Old English, with perhaps early influence of the Spanish Mission. The original drawings display a competent but not particularly distinguished design, which has been substantially altered since its construction. The building does not meet the threshold for listing under this criterion.

Criterion (d) Social - An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons

• There is no identified social significance.

Criterion (e) Technical/Research - An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area

• Any information obtained from this building would be more readily obtained elsewhere.

Criterion (f) Rarity

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

 As an early Inter-War flat building, the place is somewhat rare in the local area, but there are other examples.

Criterion (g) Representativeness - An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or the local area's cultural or natural environments.

The building is not highly representative.

Integrity

• The integrity of the building is poor, with substantial alteration inside and out.

As per above, Council's Heritage Officer has noted that there is no undue or unacceptable impact from the demolition of the building on the heritage of Woollahra.

The following listed heritage item is located in proximity of the site:

• 'Allala – house and interiors, gateposts, gate' (No. I20) at 26-28 Cranbrook Road, Bellevue Hill.

There would be no adverse impact arising to this heritage item as a result of the proposal.

Council's Heritage Officer has had regard to the potential for impact on Aboriginal Heritage, and has provided the following comment:

"The potential for impact on Aboriginal heritage, though noted in the due diligence report to be unlikely, is not without precedent. Therefore, unless other advice is received from the La Perouse Local Aboriginal Land Council in the interim and provided to Council to satisfy the relevant condition, it is recommended that an officer of the La Perouse LALC be present for initial excavation of the escarpment, and any other excavation as La Perouse LALC sees fit."

Appropriate conditions of consent to manage Aboriginal heritage would have been imposed if approval were being recommended.

The proposed development would be considered acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

15.6 Part 5.21: Flood Planning

The objectives of Part 5.21 are:

- a) to minimise the flood risk to life and property associated with the use of land,
- b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
- c) to avoid adverse or cumulative impacts on flood behaviour and the environment,

d) to enable the safe occupation and efficient evacuation of people in the event of a flood.

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

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

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

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

Council's Stormwater and Environment Engineer reviewed the proposal and determined that the proposal is satisfactory, subject to a recommended Flood Protection condition, which would have been included if approval was recommended.

15.7 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.

15.8 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 excavation to accommodate a new car lift, basement car parking level and associated service areas.

Council's Development Engineer reviewed the application and has advised that insufficient information has been provided to allow the geotechnical considerations associated with the proposal to be assessed. See **Reasons for Refusal** for further detail.

There is insufficient information with the application to facilitate consideration of the relevant matters set out in cl.6.2(3) of WLEP.

The proposal is therefore unacceptable with regard to Part 6.2 of the Woollahra LEP 2014.

16. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

16.1 Chapter B1: Bellevue Hill North Residential Precinct

The proposal is inconsistent with the following objectives set out in Part B1.8.2 of WDCP:

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O6 To design and site buildings to respond to the topography and minimise cut and fill.
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.
- O11 To ensure on-site parking does not dominate the streetscape.

Except where specified above, the proposal would otherwise meet the streetscape character and key elements of the precinct and desired future character objectives of the Bellevue Hill North Residential precinct, as noted in Part B1.8.2 of the Woollahra DCP 2015.

16.2 Chapter B3: General Development Controls

Part B3.2: Building Envelope

Site Area: 870.9m ²	Existing	Proposed	Control	Complies
Front Setback				
Basement		9.9m		
Ground Floor	10.5m - 19.8m	9.9m	8.4m	YES
First Floor		13.75m		
Second Floor		10.35m		
Rear Setback (All Levels)	3.6m – 11m	8.74m	8.74m	YES
Side Boundary Setbacks (Northern)	1.4m – 8.1m	2.5m	2.5m	YES
Side Boundary Setbacks (Southern)	1.4m – 8.1m	2.5m	2.5m	YES
Maximum Unarticulated Length to	<6m	>6m	6.0m	NO
Street	<0111	>0111	0.0111	NO
Maximum Unarticulated Wall Length	<12m	<12m	12m	YES

Part 3.2.2: Front Setback

The Proposal is assessed against the relevant Objectives and Controls as follows:

- The proposed building would generally reinforce the existing streetscape and character of the location (O1).
- The proposed front setback would be appropriate within the immediate streetscape (O2).
- The proposal provides for sufficient landscaped area and deep soil planting within the front setback (O3).
- The proposed setback between the primary street frontage and the building is compliant, and considered appropriate in the immediate context as front setbacks are varied within the streetscape (C1).
- The building does not include a maximum unarticulated width of 6m to the street frontage, however, on the basis that the frontage will not be directly visible from the streetscape, this is considered acceptable (C2).

Part 3.2.3: Side Setbacks

The Proposal is assessed against the relevant Objectives and Control as follows:

- The building generally avoids an unreasonable sense of enclosure to adjoining properties (O1).
- The proposed building would be well articulated to the side elevations (O2).

- With a site width of between 21-28m, Figure 5B specifies a side setback of 2.5m which the development complies with (except at basement level) (C2).
- The building is well articulated to the side elevation and does not go beyond a length of 12m which complies (C4).

Part 3.2.4: Rear Setback

The Proposal is assessed against the relevant Objectives and Controls as follows:

- The proposal will include private open space and landscaped area for the two ground floor units (G01 and G02) to the rear which is supported (O1).
- Acoustic and visual privacy between adjoining sites will generally be maintained (except where specified)
- The siting of the proposed building will avoid an unreasonable sense of enclosure to adjoining properties (O3)
- The building complies with the rear setback calculated as a consequence of the site depth, front setback and building depth (C1, C2).

Conclusion

The proposal would be considered generally acceptable with regard to the building envelope controls in Part B3.2 of the Woollahra DCP 2015.

Part B3.3: Floorplates

Site Area: 870.9m ² Buildable Area: 374m ²	Existing	Proposed	Control	Complies
Maximum Floor Plate	660m²	738.5m ²	617m ²	NO – See
	(176%)	(197%)	(165%)	assessment below.

The Proposal is assessed against the relevant Objectives and Controls as follows:

- The proposed residential flat building is generally consistent with the desired future character of the area (except where specified in this assessment) (O1).
- The Floorplate control applies to development on land in the R2 Low Density Residential Zone. Although the proposed residential flat building relies upon existing use rights, the building is assessed against the controls to gauge how the building may compare to a scheme which may be achieved under the controls in the vicinity.
- As previously established, the existing building on the site pre-dates planning controls and therefore exhibits a non-compliance with the numerical control. The proposed scheme does not comply with the numerical control (C1), however is considered acceptable for the following reasons:
 - All proposed floorplate is located wholly within the buildable area (C2)
 - The building is designed as to allow for view sharing and minimise any solar access impacts (O2, C3, C4).
 - It is considered that the proposed building achieves better siting and balance in relation to adjoining properties.
- The proposed basement car parking would be located within the building envelope, and is designed in a way which responds to the topography and context (O5).

Part B3.4: Excavation

Site Area: 870.9m ²	Proposed	Control	Complies
Maximum Volume of Excavation	1835m³	870.9m ³	NO
Geotechnical Report	Insufficient Information	Required	NO

The Proposal is assessed against the relevant Objectives and Controls as follows:

- The development proposed includes a total excavation volume of 1835m³ in order to accommodate basement parking, access to, and associated plant areas. This is excessive in relation to the maximum permitted volume as specified by C2 (870.9m³).
- C4 would allow in this instance (for a residential flat building) a variation to the volume control in order to accommodate maximum car parking rates, and any reasonable access thereto, as well as storage.

Notwithstanding above, Council's Development Engineer reviewed the proposal and has advised that insufficient information has been provided to allow the geotechnical considerations associated with the proposal to be assessed. See **Reasons for Refusal** for further detail.

 As such, insufficient information has been submitted with the application for it to be considered against O1 and relevant controls as contained under B3.4 of the WDCP 2015.

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

Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

The Proposal is assessed against the relevant Objectives and Controls as follows:

- Generally, the proposed built form could be considered compatible with the desired future character of the area (O1, C1).
- The roof form would be considered appropriate in the context (O4, C5)
- The proposal seeks excavation to achieve an appropriate height on the site, rather than following the topography (C3).
- The building does not address the street as a result of topography (O5).

Part B3.5.2: Overshadowing

Note: Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to solar access are overridden by controls in SEPP 65.

As per the Apartment Design Guide, all apartments meet the solar access and daylight criteria. Notwithstanding, an assessment against the relevant Objectives is provided for merit purposes:

- Shadow Diagrams submitted with the application indicate that the development reduces and therefore minimises overshadowing to adjoining properties (O1).
- The proposal result in some additional overshadowing to the upper, western portion of 34A Cranbrook Road. Notwithstanding this, sunlight will continue to be provided to at least 50% of the main ground level private open space of adjoining properties will receive adequate sunlight for a minimum of 2 hours on 21 June (C1(a)).
- North facing windows at the upper level of 34A Cranbrook Road will receive adequate sunlight between 9am and 3pm on 21 June (C1(b)).

Part B3.5.3: Public and Private Views

The development application has not been accompanied by a visual impact assessment in this instance. Notwithstanding this, the Proposal is assessed against the relevant Objectives and Controls as follows:

- The proposed building would sit below the street level of Cranbrook Road, aided by the topography of the site, and would not result in any adverse impact to views or vistas from the public domain (O1, C1, C2, C3).
- The proposed roof form is well designed and free of plant equipment which is supported (C4)
- Views from private properties in the vicinity are largely to the east (outlook of the site) or are located above the development (from properties to the west). Generally, the proposal achieves a smaller building envelope than that of the existing, features a greater rear setback and enables view sharing with the adjoining properties, particularly No.34A Cranbrook Road (O3, C5, C6).

In addition to above, there were no Objections received relating to potential View Loss.

Part B3.5.4: Acoustic and Visual Privacy

Note: Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to visual privacy, are overridden by controls in SEPP 65.

As per the Apartment Design Guide, issues have been identified with regard to visual and acoustic privacy impacts. Although the ADG overrides the WDCP controls, an assessment against the relevant Objectives is provided for merit purposes:

- Insufficient information has been provided with the application to assess the potential acoustic impact from the proposed car lift and door (O1, C3).
- Windows to the proposed development are generally have a rear outlook, rather than being located to the side boundaries, mitigating any direct sightlines to habitable room windows or private open space which is acceptable (C4).
- The proposed balconies to the first and second floors which serves as private open space are adequately screened to the south (towards 34A Cranbrook), however, would result in overlooking to the private open space of No.32 (located within 9m). The proposal is not considered acceptable with regard to O3 and C7.

Part B3.5.5: Internal Amenity

All residential units will have an acceptable residential amenity as required by the Apartment Design Guide and therefore the proposal is deemed to satisfy the relevant controls and objectives under this Part.

Part B3.6: On-Site Parking

- The proposal does not seek to minimise the visual impact of the driveway to the streetscape (O1, C1).
- As proposed, the driveway width would detract from the streetscape character and would result in loss of on-street parking (O2, O3)
- The proposal does seek to facilitate on-site parking on the sloping site which is supported in principle (O5)
- The basement parking and associated entry is generally well-designed and integrated with the building (O6)
- As discussed above, the proposal does not seek to minimise the width of the driveway (C11). Council's Traffic and Transport Engineer has recommended that the proposed waiting bay is removed from the entry to reduce the driveway width.

Part B3.7: External Areas

Site Area: 870.9m ² Area Outside Buildable Area: 496.9m ²	Proposed	Control	Complies
Deep Soil Landscaping –	57% (284m²)	50% (248.45m²)	YES
Deep Soil Landscaping –	49%	40%	YES
Front Setback (192m²)	(94m²)	(76.8m²)	
Deep Soil Landscaping –	77.5%	50%	YES
Rear Setback (200m²)	(155m²)	(100m²)	
Private Open Space (Upper Floor Units) Total Area Minimum dimension	>8m²	8m²	YES
	>8m²	2m	YES

Note: Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to private open space are overridden by controls in SEPP 65.

As per the Apartment Design Guide, all apartments generally meet the private open space criteria. Notwithstanding, an assessment against the relevant Objectives is provided for merit purposes:

Part 3.7.1: Landscaped Areas and Private Open Space

- C1 stipulates that development in the R2 Low Density Residential zone should provide at least 50% of the site area outside the buildable area as deep soil landscaped area. The proposal provides a total of 57% (284m²) which complies (C1).
- As per C2, the proposal provides a total of 49% (94m²) of deep soil area to the front setback (C2).
- In accordance with C4, the proposal provides a total of 77.5% (155m²) of deep soil area to the rear setback (C4).
- Notwithstanding above, insufficient information has been submitted with the application to determine whether or not the proposed deep soil area is free of below ground structures (particularly any stormwater infrastructure) (C5).
- Each apartment within the proposed residential flat building is provided with adequate private open space with regards to area and dimensions in accordance with C11 (O5, C11).
- The private open space is generally well defined across the development which is acceptable (C13).
- Council's Tree and Landscape Officer reviewed the proposal and determined it to be satisfactory in terms of landscaping (O7-O10, C16-C20).

Part 3.7.2: Fences

The development application does not contain adequate information as to the height and design
of side and rear boundary fencing. The Applicant should provide an elevation which depicts the
height and design of any side and rear boundary fencing.

Part 3.7.3: Site Facilities

As per the Apartment Design Guide, issues have been identified with regard to storage provision and site facilities. Although the ADG overrides the WDCP controls, an assessment against the relevant Objectives is provided for merit purposes:

- Mail boxes are provided close to the street and integrated with the front fencing which is considered acceptable (O1, C1)
- Storage is only provided internally within each of the proposed apartments. Storage provision is not considered adequate in this instance (O2, C2).
- Generally, unless where specified, the proposed development does not include any mechanical plant equipment to the exterior of the building which would result in adverse acoustic impact (O6-08, C7, C8).
- Insufficient information has been submitted with the application to assess the site services (hydraulic services) installation to the front of the property (O11, C12, C13).

Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Minimum Lot Width

C1 requires a minimum lot width of 21m for a residential flat building containing 4 or more dwellings. The subject site provides for a width of 22.86m and complies with C1.

Residential Flat Buildings and Multi Dwelling Housing

The provisions under this Part of the Woollahra DCP 2015 align with those of the Apartment Design Guide which have been discussed earlier within this assessment report.

16.3 Chapter E1: Parking and Access

Part E1.4: Residential parking

Council's Traffic & Transport Engineer reviewed the proposal and provided the following assessment in accordance with Chapter E1: Parking and Access.

Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Permitted Parking
2 bedroom	2	1.5	3
3 bedrooms	2	2	4
Visitors	4	0.25	1
Total permitted			8
Proposed provision			7

The proposed provision of seven (7) car parking spaces, including one (1) visitor parking space, complies with DCP's maximum requirement and is deemed satisfactory.

Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	4 dwellings	1 per dwelling	4
Residential Visitors	4 dwellings	1 per 10 dwellings	0.4 (0)
Total required			4
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	7	1 per 10 car spaces	0.7 (1)
Total required			1

In response, the proposal includes 5 wall-mounted bicycle parking spaces and 1 motor bike parking space, which complies with DCP's minimum requirement and is deemed satisfactory.

Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with RMS Guide to Traffic Generating Developments 2002, and RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a.

Proposed Development

Medium Density Residential - Smaller unit

- Weekday peak hour vehicle trips: 2 dwellings x 0.4-0.5 per dwelling = 0.8-1 trips
- Daily vehicle trips: 2 dwellings x 4-5 per unit = 8-10 trips

Medium Density Residential - Larger Units

- Weekday peak hour vehicle trips: 2 dwellings x 0.5-0.65 per dwelling = 1-1.3 trips
- Daily vehicle trips: 2 dwellings x 5.0-6.5 per dwelling = 10-13 trips

Total

- Weekday peak hour vehicle trips = 1.8-2.3 trips
- Daily vehicle trips = 18-23 trips

It is noted that the existing use consists of four (4) residential units. Whilst the current unit mix is unclear, it is anticipated that the proposed four (4) residential units, including two (2) two-bedroom units and two (2) three-bedroom units, will remain the low level of traffic as the current use. Sidra analysis also confirms the proposal will not create significant change of traffic conditions than existing. Future traffic generated by the proposal therefore is unlikely to create unacceptable adverse impacts on the surrounding road network.

Access Driveway

It is measured that the width of the access driveway is not reduced at the property boundary and remains 18m which substantially exceeds the maximum width requirement and is excessive considering the scale and nature of the development. Future traffic generated by the development is minor and is unlikely to exceed beyond property boundary, particularly with the proposed provision of traffic light system to manage traffic and give priorities to vehicles entering the site. As such, the waiting bay is considered unnecessary and should be removed, noting the removal of the waiting bay can significantly reduce width of the access driveway, as indicated by the updated swept path analysis. This would have been included by way of condition if approval were being recommended.

Conclusion

As per above, the proposal is generally acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015. Council's Traffic and Transport Engineer recommended a number of conditions which were to be included if approval of the application was recommended.

16.4 Chapter E2: Stormwater and Flood Risk Management

Council's Development Engineer reviewed the proposed stormwater management plan and determined that there is insufficient information submitted with the application to allow full assessment against the relevant provisions. See **Reasons for Refusal** for further detail.

In addition, Council's Stormwater and Environment Engineer reviewed the proposal and determined that the proposal is satisfactory, subject to a recommended Flood Protection condition, which would have been included if approval was recommended.

16.5 Chapter E3: Tree Management

A total of 21 trees have been identified within and adjacent to the site that will be affected by the proposal. This includes 14 trees proposed for removal and seven (7) trees proposed for retention. See **Attachment 4** for further detail.

Council's Tree and Landscape Officer reviewed the proposal and determined it satisfactory in terms of tree preservation and landscaping, subject to conditions which would have been included if approval were being recommended.

16.6 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 ongoing 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.

Part E5.3: On-Site Waste and Recycling Controls for all Development

The development application was accompanied by an Operational Waste Management Plan (Elephants Foot, dated 29 June 2023) and a Waste Management Plan (MHNDUnion, dated 26 June 2023) which clearly identify the waste and recycling storage areas and all other relevant matters (O1, C1).

- The waste storage area would facilitate the separation of garbage and recycling (C2).
- The waste storage area is located to the basement level, is would therefore not detract from the design of the development (C3, C4).
- As proposed, it is considered that the waste collection point would not interfere with traffic or pedestrian safety. Notwithstanding this, Council's Traffic Engineer has recommended a narrowing of the proposed driveway width, which would in turn result in a change to the collection point.

Part E5.5: Multi Dwelling Housing and Residential Flat Buildings

The proposal is consistent with the relevant Objectives and Controls under this Part.

17. CONTRIBUTION PLANS

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

17.1 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 would have been applied. Notwithstanding, the application is recommended for refusal.

18. APPLICABLE ACTS/REGULATIONS

18.1 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.

19. 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.

20. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development, however is unacceptable for the reasons listed in the **Reasons for Refusal.**

21. THE PUBLIC INTEREST

The proposal in its current form is not considered to be in the public interest.

22. CONCLUSION

The proposal is unacceptable against the relevant considerations.

23. 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

24. 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, refuse development consent to Development Application No. 249/2023/1 for demolition of the existing residential flat building and construction of a new residential flat building with four (4) apartments and landscaping on land at 34 Cranbrook Road Bellevue Hill, for the following reasons:

1. Excavation

The proposed development is contrary to the relevant provisions of the Woollahra LEP 2014 and Woollahra DCP 2015 regarding excavation.

- a) Pursuant to Control C2 of Part 3.4 of WDCP, the maximum permitted excavation volume equals 870.9m3.
- b) The proposal will result in an excavation volume of 1835m² to accommodate store, parking and access.
- c) The proposal fails to achieve aim (m) of Part 1.2 of the WLEP as the proposed volume of excavation is excessive due to its non-compliant volume and is therefore not minimised in this case.
- d) The proposal does not satisfy the desired future character Objective O6, of the Bellevue Hill North residential precinct in Part B1.8.2 of WDCP as the extent of excavation volume is not minimised in this case.
- e) The proposal is inconsistent with Objective O1 of B3.4 of WDCP.
- f) The applicant has not provided sufficient information to facilitate consideration of the relevant matters set out in cl.6.2(3) of WLEP.
- g) The proposal therefore fails to achieve the objective set out in cl.6.2(1) of WLEP.

2. Streetscape Impacts

The proposed development is contrary to the relevant provisions of SEPP 65, the Apartment Design Guide, and the Woollahra DCP 2015, relating to streetscape.

- a) The proposal is inconsistent with Principles 1 'Context and Neighbourhood Character' and 9 'Aesthetics' of SEPP 65 as the visual appearance of proposal does not adequately respond to the existing local context, particularly the desirable elements of the streetscape.
- b) The proposal is inconsistent with the objectives and guidelines in Parts 3C, 3H and 4O of the ADG, as it does not provide an appropriate transition with the public domain, particularly with regard to the design of vehicle access and landscaping.
- c) The proposal is inconsistent with objectives O1, O4, O5, O6, O8 and O11 set out in Part B1.8.2 of WDCP and controls for residential development in the Bellevue Hill North Precinct as it does not have regard to its context and is not compatible with the desired future character for the precinct.
- d) The proposal does not comply with Parts B3.5.1 and B3.6 of WDCP as it does not recognise predominant streetscape qualities, ensure a cohesive streetscape character and minimize impact of driveways on the streetscape.
- e) The proposed driveway in the road verge in front of the site is generally aligned with the driveway that serves to access No. 34A to the south. As a result, a large expanse of concrete driveway with minimal landscaping will be visually prominent within the streetscape of Cranbrook Road, particularly in views to the south along the road.
- f) No fire hydrant booster equipment or cabinet is shown at the front boundary. The development application has not demonstrated that the provision of the cabinet will not impact on the function of the driveway and the character of Cranbrook Road.

3. Inadequate Pedestrian Access

The proposed development is contrary to the relevant provisions of SEPP 65, the Apartment Design Guide and the Woollahra DCP 2015, relating to pedestrian access.

- a) The proposal is inconsistent with Principles 6 'Amenity' and 7 'Safety' in SEPP 65 as it does not provide safe and easy access for all age groups and degrees of mobility.
- b) The proposal is inconsistent with the objectives and guidelines in Parts 3C and 3G of the ADG as it does not provide a visible and direct pedestrian access that provides a safe transition between the private and public domain.
- c) The proposal is inconsistent with objective O6 set out in Part B1.8.2 of WDCP and controls for residential development in the Bellevue Hill North Precinct as its design and siting does not respond to the topography. The observable connection of the level 2 building lobby to the driveway at the entry when viewed from Cranbrook Road, and the obscured lower level 1 principal pedestrian entry accessed via the imperceptible footpath, sets up the Level 2 entry to be the principal pedestrian entry. This arrangement will not assist legibility and way finding, as the natural tendency of pedestrian visitors and couriers will be to use the vehicle driveway and level 2 building entry as it is the most prominent part of site access from Cranbrook Road. This will also create vehicle and pedestrian conflicts at the building entry.

4. Privacy Impacts

The proposed development is contrary to the relevant provisions of SEPP 65, the Apartment Design Guide and the Woollahra DCP 2015, relating to visual and acoustic privacy.

- a) The proposal is inconsistent with Principles 1 'Context and Neighbourhood Character', 2 'Built Form and Scale' and 6 'Amenity' in SEPP 65 as it is not responsive to its context including protection of internal amenity for residents and external privacy for neighbours.
- b) The proposal is inconsistent with objectives and guidelines in Parts 3F, 4E and 4H of the ADGF as it does not maintain and provide appropriate levels of visual and acoustic privacy between the development and its neighbours.
- c) The proposal does not comply with Part B3.5.4 of WDCP as it does not ensure adequate acoustic privacy for occupants and neighbours.
- d) The design and locations of the level 1 and level 2 east facing balconies overlook the north and south boundaries to No 32 and No 34A Cranbrook Road and do not achieve the minimum required setback and separation distances.

5. Inadequate Storage

The proposed development is contrary to the relevant provisions of SEPP 65 and the Apartment Design Guide, relating to storage.

- a) The proposal is inconsistent with Principle 6 'Amenity' in Chapter 4 of SEPP 65 and the objectives and guidelines in 4G of the ADG as it does not provide adequate storage for residents.
- b) The proposal for storage to be provided in lounge room cabinets / cupboards and laundries is insufficient.

6. Unsatisfactory Vehicle Access

a) The proposal is inconsistent with the objectives 3H-1 in Part 3H: Vehicle access of the ADG as it does not minimise the width of the driveway access and does not relieve the visual impact of two conjoined driveways within the streetscape (at 34A Cranbrook Road).

- b) The proposal is inconsistent with objectives O1, O2, O3 and O8 in Part B3.6 of the WDCP as it does not minimise the width or visual impact of the driveway to the streetscape and does not minimise the loss of on-street parking.
- c) The width of the access driveway is 18m which substantially exceeds the maximum width requirement and is excessive considering the scale and nature of the development. Future traffic generated by the development is minor and is unlikely to exceed beyond the property boundary, particularly with the proposed provision of a traffic light system to manage traffic and give priorities to vehicles entering the site. The waiting bay is considered unnecessary and should be removed, noting the removal of the waiting bay can significantly reduce width of the access driveway, as indicated by the updated swept path analysis. The width of access driveway should be reduced to 5m to comply with the width requirement and minimise loss of on-street parking.

7. Insufficient Information

Stormwater Management Plan

The Applicant has not provided sufficient information to allow the proposed stormwater management to be properly assessed.

- a) The Stormwater Management Plan, Job No. 230601, Revision C, prepared by Xavier Knight, dated 08/08/2023 is unsatisfactory and must be revised to address the following requirements:
 - The plans demonstrate construction of a new Kerb Inlet Pit (KIP) over Council's existing belowground drainage system on Beresford Road.

Although the site <u>must</u> drain to Council's belowground drainage system on Beresford Road through the existing intern-allotment drainage system, the mere connection and depicted on plans (including the long-section) does not suffice. The plans must provide section details with all levels, demonstrating how the pipeline through the drainage easement over No. 40 Beresford Road, above the existing garage structure, will connect to Council's belowground drainage system. Please note that the pipeline must not be exposed along the building connecting to Council's road reserve and any new KIP must have a clearance of minimum 0.5 from any vehicular crossings.

- A Survey Plan, prepared by a registered surveyor must be provided for the frontage of downstream property No. 40 Beresford Road. Inclusion of the existing inter-allotment drainage easement section may also be required as this is intended for all stormwater works draining to Beresford Road.
- The plans are to demonstrate that the existing inter-allotment drainage easement has capacity for a 1 in 100 year stormwater event and will safely convey overland flow without any adverse effect to No.40 Beresford Road and other adjoining properties.
- Utilisation of any basement pump-out system must demonstrate that no other surface water other than the basement area which cannot drain under gravity, is draining to the basement pump-out system.

Geotechnical and Hydrogeological Report

The Applicant has not provided sufficient information to allow the geotechnical considerations associated with the proposal to be properly assessed.

- a) The submitted Geotechnical Report, referenced 36102BrptRev1, prepared by JK Geotechnics, dated 18 July 2023 is unsatisfactory as it has failed to address Council's previous request for additional information dated 26 July 2023. The report must be amended to address the following requirements:
 - The report must be revised to address <u>all</u> requirements outlined in Woollahra Council's DCP Document - Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports, predominantly, but not limited, to the following;
 - Demonstrate that there will be no adverse impact on surrounding property and infrastructure as a result of changes in local hydrogeology (behaviour of groundwater) created by the method of construction. This includes the short-term effects resulting from construction practices, including the method and rate of dewatering (if any) and the long-term effects resulting from the support and retention of property and infrastructure after construction has been completed.
 - Demonstrating that ground settlement in areas adjacent to the development site resulting from temporary and permanent site support and retention measures will have no adverse impact on the surrounding properties and infrastructure.
 - Demonstrate that permanent support and retention measures will be set back a minimum of 900mm (or minimum as advised in the relevant Development Control Plan) from the adjacent property boundaries. Please note it may be possible for the development to be built up to the boundary however it will require the geotechnical/hydrogeological report to confirm the structural adequacy of any adjacent structures.
 - Whilst the report has somewhat mentioned vibration, the report must demonstrate that there will be no adverse impact on the surrounding properties and infrastructure as a result of vibration created by the method of construction used for the development. As a minimum, reports must demonstrate compliance with the requirements of AS2187.2 Appendix J.
 - o Demonstrate that permanent earth or ground anchors will not be required on or below any road reserve or other Council property. Council may accept the use of temporary anchors if the applicant can adequately demonstrate that the use of temporary anchors would sufficiently improve the safety of the retention of excavations that may be proposed. The installation of such temporary anchors must comply with the Council's Rock Anchor Policy. (Use of permanent and/or temporary anchors on private property is not allowed without written confirmation by the property owners). Further, where required ground anchors will encroach onto private properties, written approval from the properties must be provided prior to DA approval, otherwise an alternative option must also be provided.
 - The report must be revised to ensure <u>all</u> requirements within Council's Chapter E2 "Stormwater and Flood Risk Management" DCP - Section E2.2.10 have been addressed:
 - The report must include a site-specific risk assessment matrix with appropriate definitions for qualitative measures of likelihood and consequences for assessing the risk of damage to existing development by the new development.
 - The report must also contain an Implementation Plan, including a Monitoring Program, Contingency Plan and Construction Methodology.
 - Structural Report including design statement and supporting drawings must also be submitted showing design measures to minimise risks and to ensure that no adverse impacts will occur.

Acoustic Impact Assessment

An acoustic impact assessment should be provided with the development application to address potential noise impact from the proposed car lift and door.

Boundary Fencing

The development application does not contain adequate information as to the height and design of side and rear boundary fencing. The Applicant should provide an elevation which depicts the height and design of any side and rear boundary fencing.

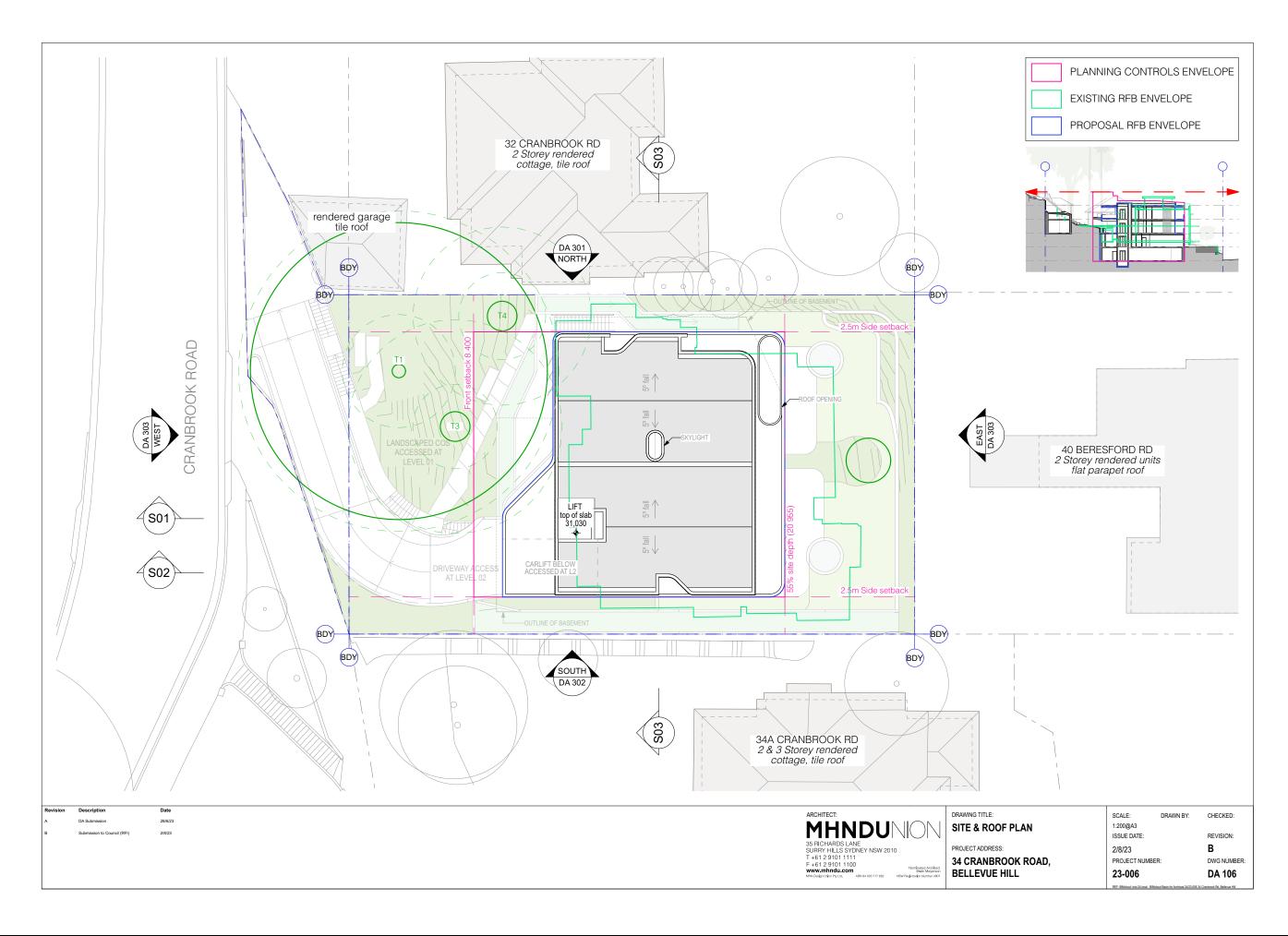
Deep Soil Landscaping

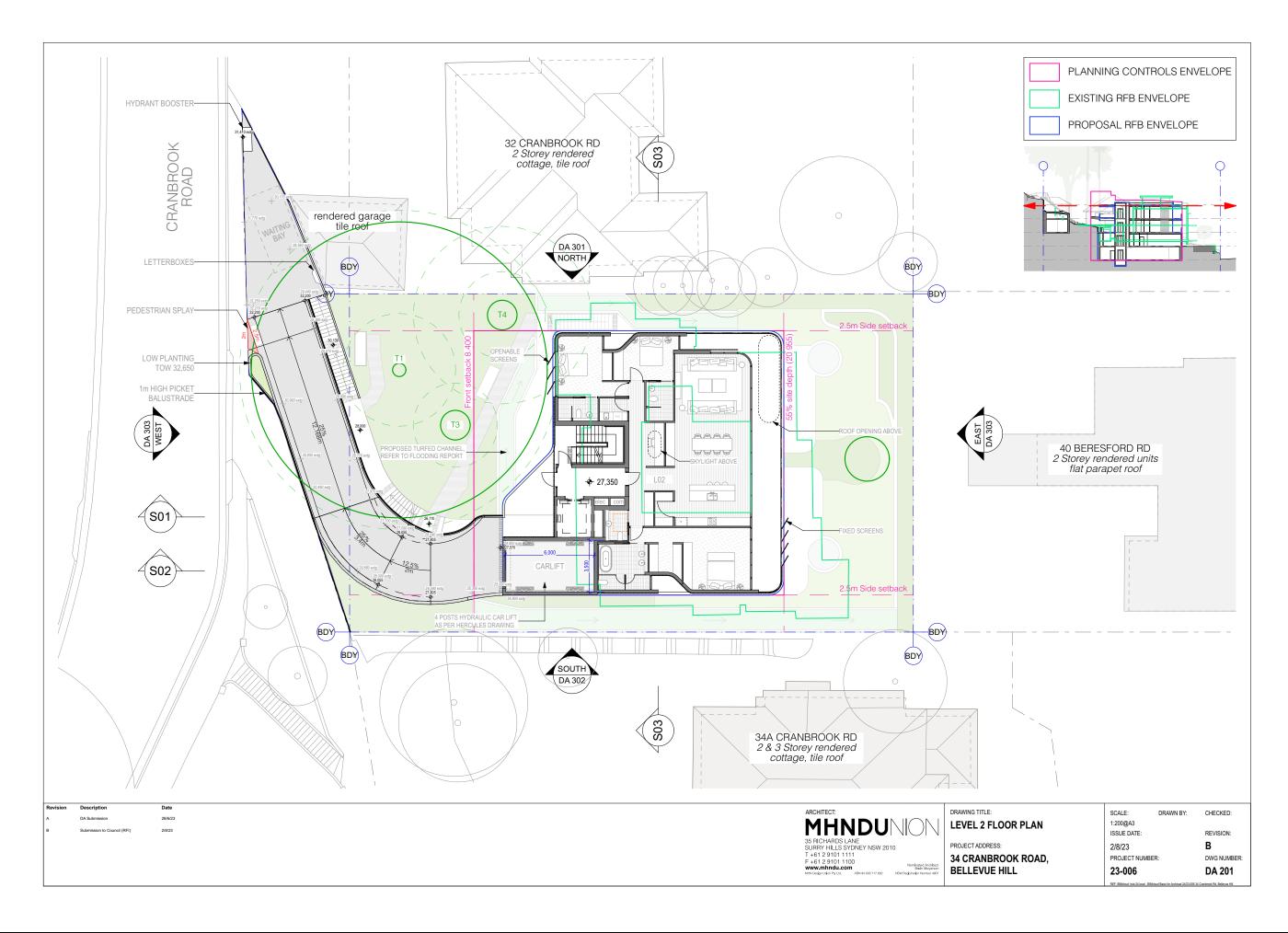
Further information and clarification confirming that the proposed deep soil landscaped area is not compromised by stormwater infrastructure.

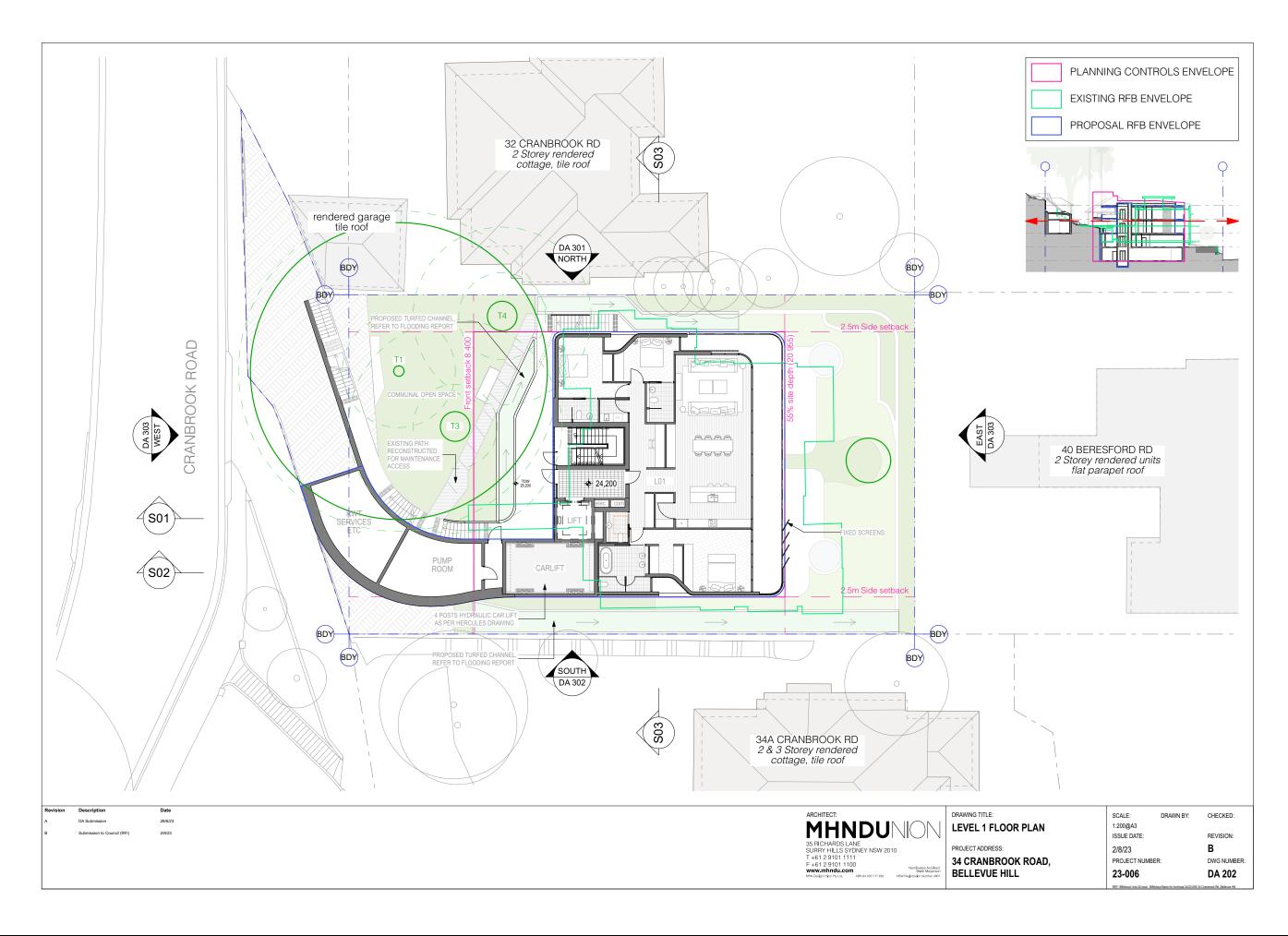
Attachments

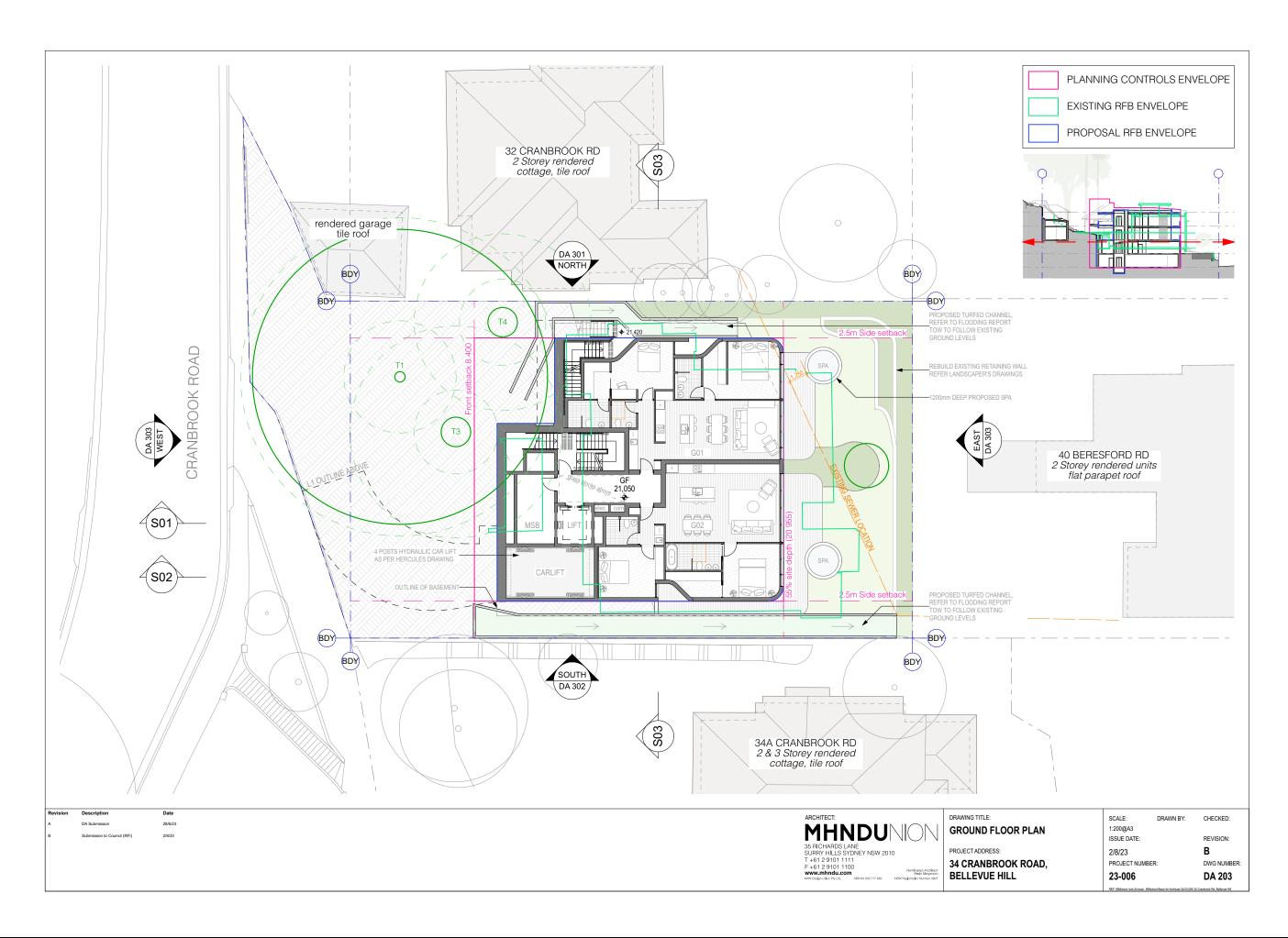
- 1. Architectural Plans and supporting documents J
- 2. Development Engineering Referral J
- 3. Traffic Referral Response U
- 4. Traffic Re-Referral Response 🗓 🖫
- 5. Trees and Landscaping Referral Response J.
- 6. Heritage Referral Response J
- 7. Urban Design Referral Response 🗓 🖺
- 8. Water NSW General Terms of Approval J. 🖺

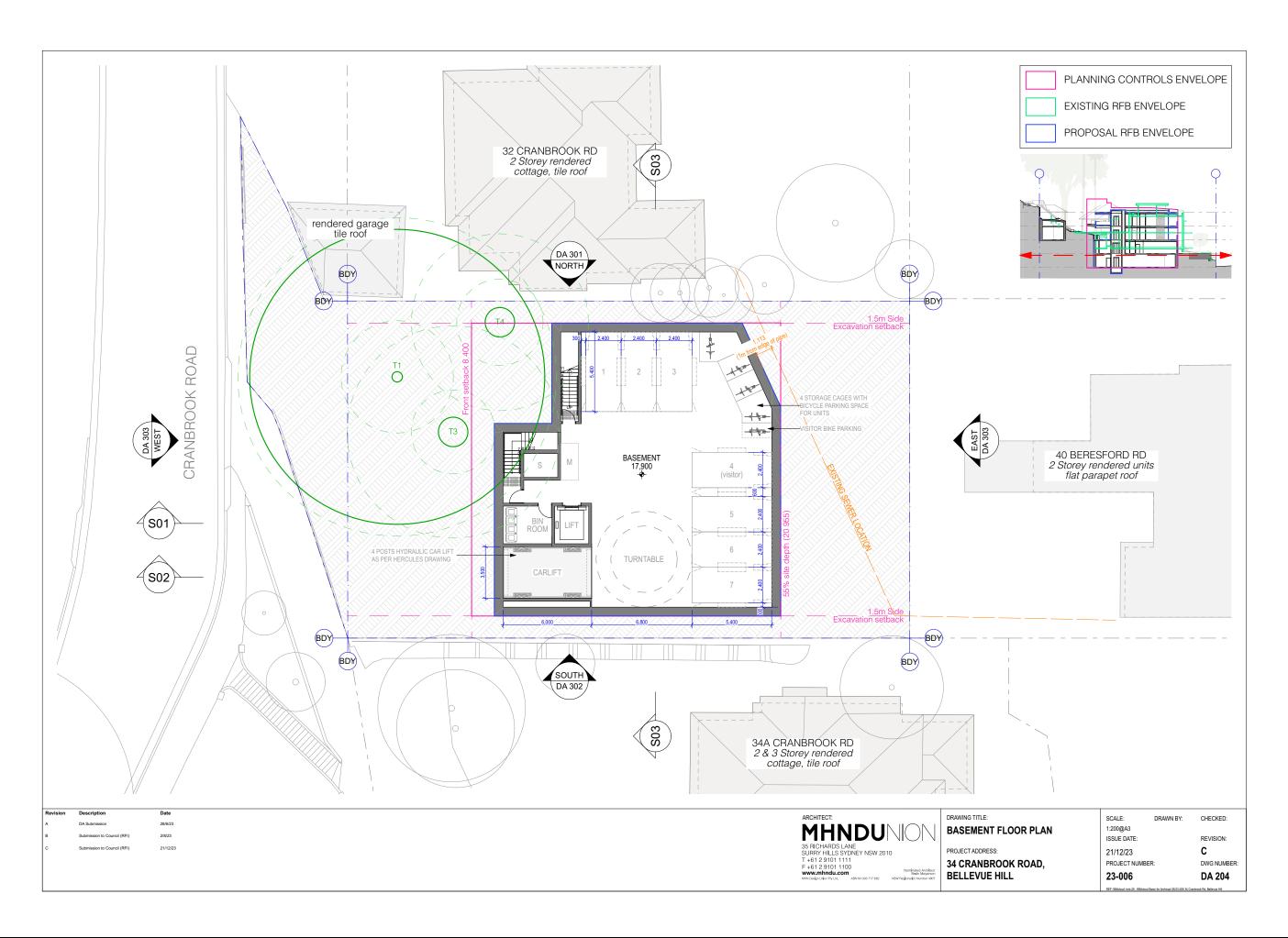
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A A	DA 101 SITE CONTROLS SUMMARY	1:300 1:300			
A	DA 102 SITE ANALYSIS PLAN (EXISTING) DA 103 FRONT SETBACK	1.300			
A	DA 104 SITE CONTEXT				
Α	DA 105 ENVELOPE COMPARISON				
В	DA 106 SITE & ROOF PLAN	1:200			
	RAL ARRANGEMENT PLAN				
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В	DA 202 LEVEL I FLOOR PLAN DA 203 GROUND FLOOR PLAN	1:200			
В	DA 204 BASEMENT FLOOR PLAN	1:200			
DA 30 ELEVAT	TIONS				
A	DA 301 ELEVATION NORTH	1:200			
Α	DA 302 ELEVATION SOUTH	1:200			
A	DA 303 ELEVATION EAST/WEST	1:200			
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A A	DA 313 RAMP SECTION 01 DA 314 RAMP SECTION 02	1:100, 1:350 1:100, 1:350			
A	DA 314 RAMIP SECTION 02 DA 315 SECTIONS THROUGH RAMP	1:500, 1:200			
A	DA 316 SECTION 03	1:200			
В	DA 311 SECTION 01	1:200			
В	DA 312 SECTION 02	1:200			
DA 40 EXTERN	INAL FINISHES DA 401 EXTERNAL FINISHES	1:100			
	DA 401 EXTERNAL FINISHES	1.100			
DA 50 COUNC	CIL CONTROLS				
A	DA 501 SETBACKS				
Α	DA 502 FLOOR PLATE	1:200			
Α	DA 504 HEIGHT PLANE				
A	DA 505 ENVELOPE COMPARISON				
A A	DA 506 SEPP 65 DA 507 DEEP SOIL AREA CALCULATIONS				
A	DA 508 POS / COS CALCULATIONS				
В	DA 503 EXCAVATION				
DA 51 OTHER	SUPPORTING DOCUMENTS				
Α	DA 511 SOLAR ACCESS - WINTER SOLSTICE EXIST				
A	DA 512 SOLAR ACCESS - WINTER SOLSTICE PROP	POSED			
A	DA 513 TREE TPZ	1,200			
A A	DA 514 WASTE MGT PLAN DA 515 PERSPECTIVE	1:200			
A	DA 516 NOTIFICATION PLAN	1:400			
Revision Description	Date				
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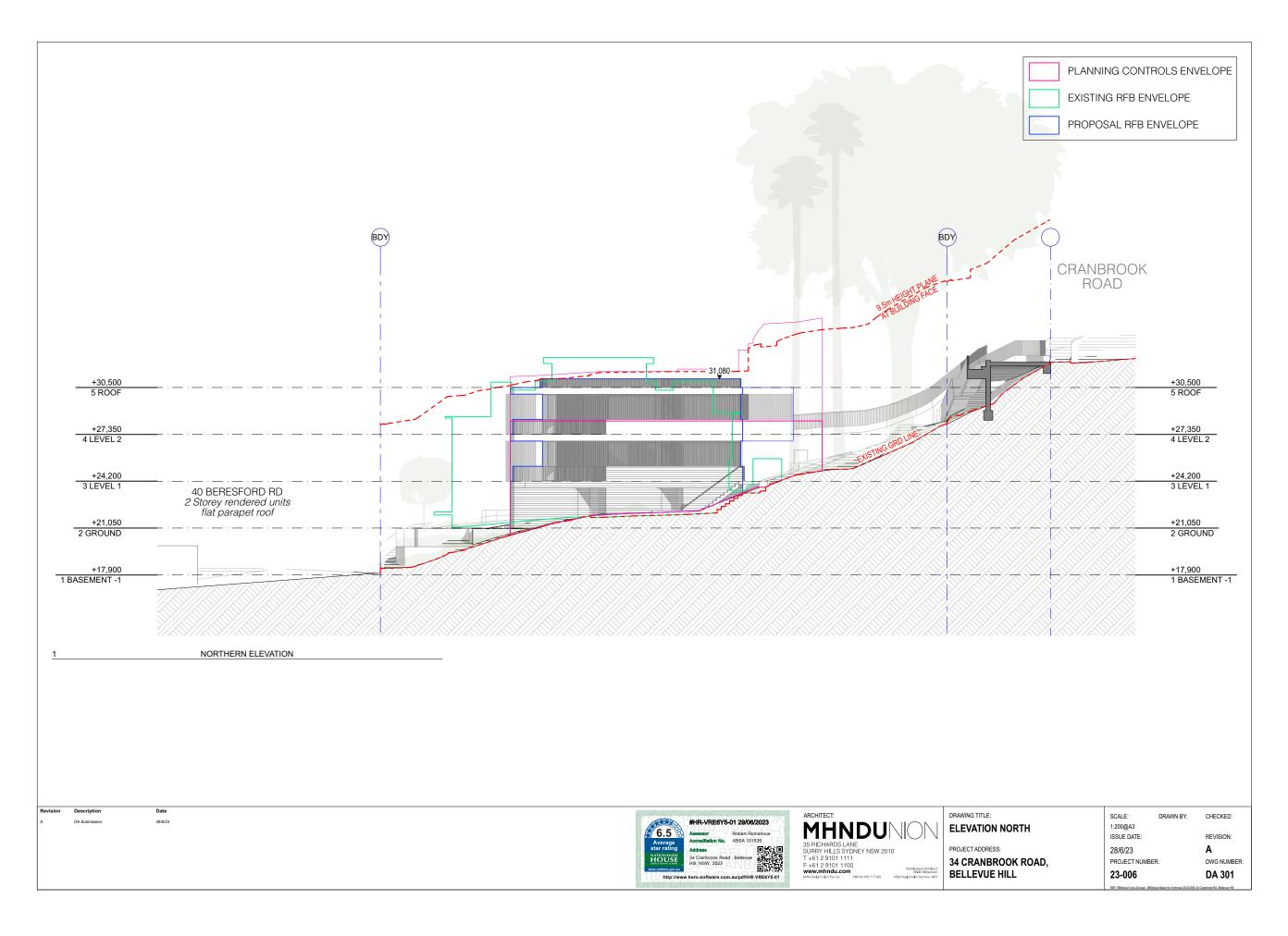


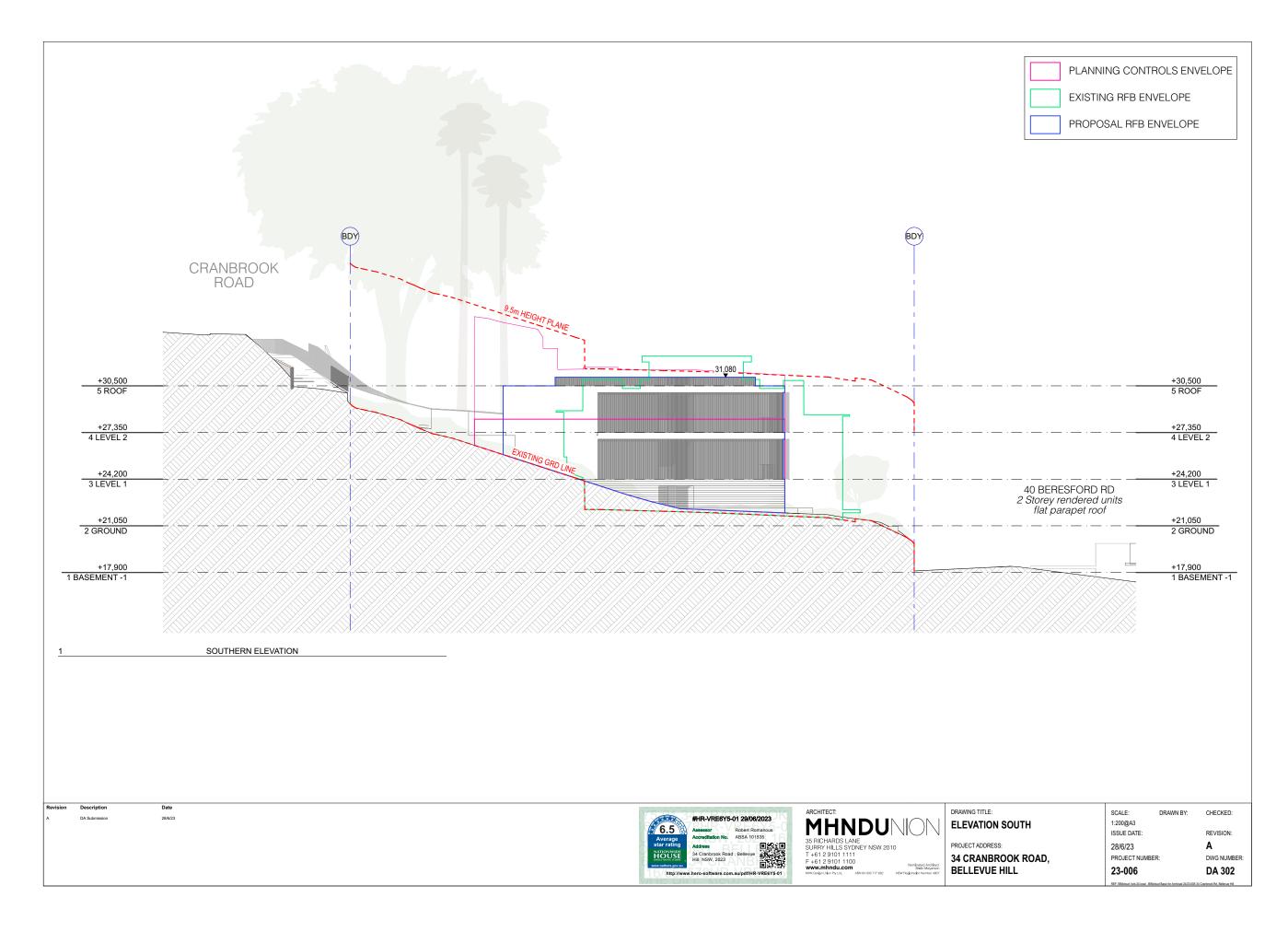


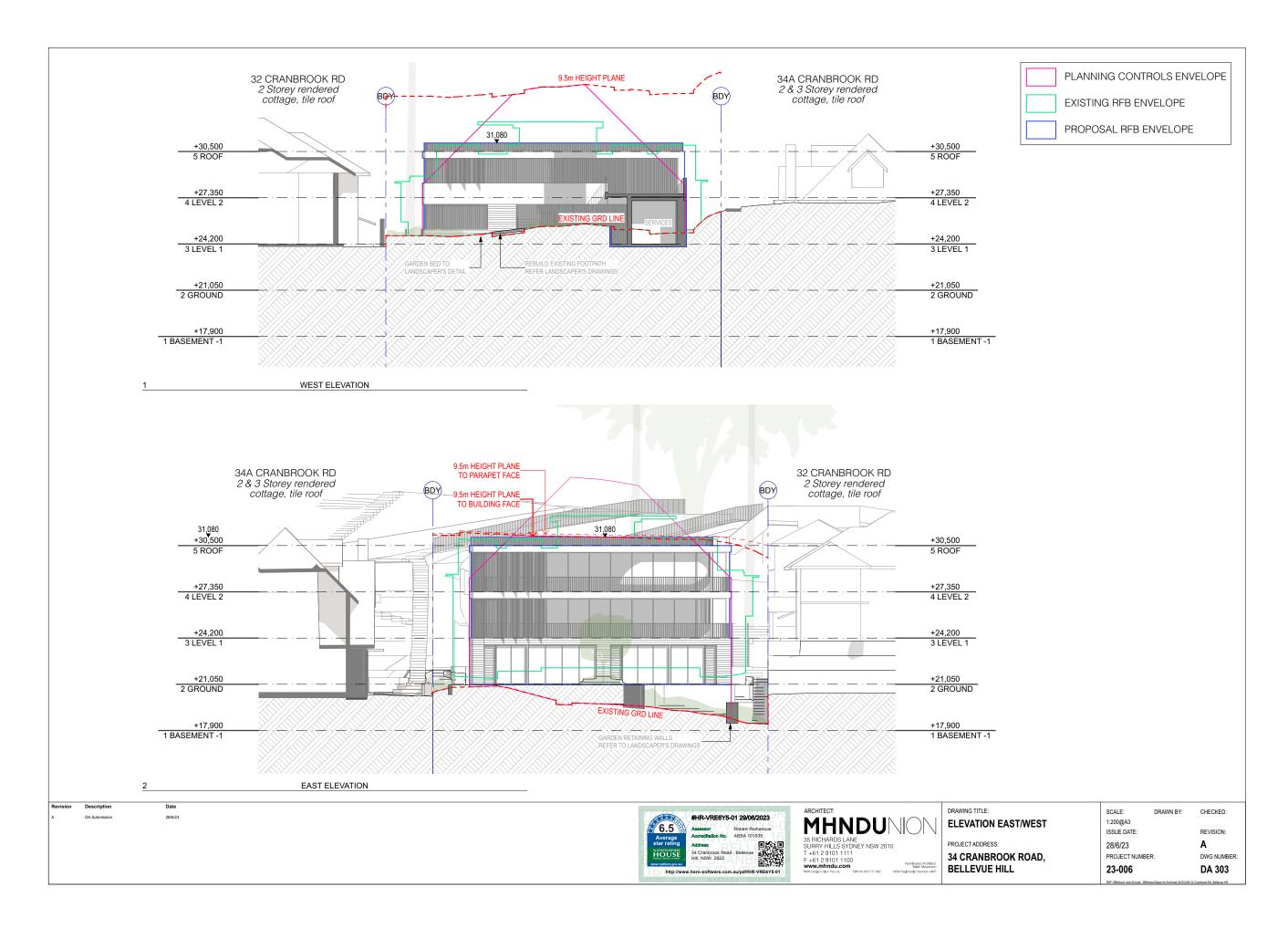


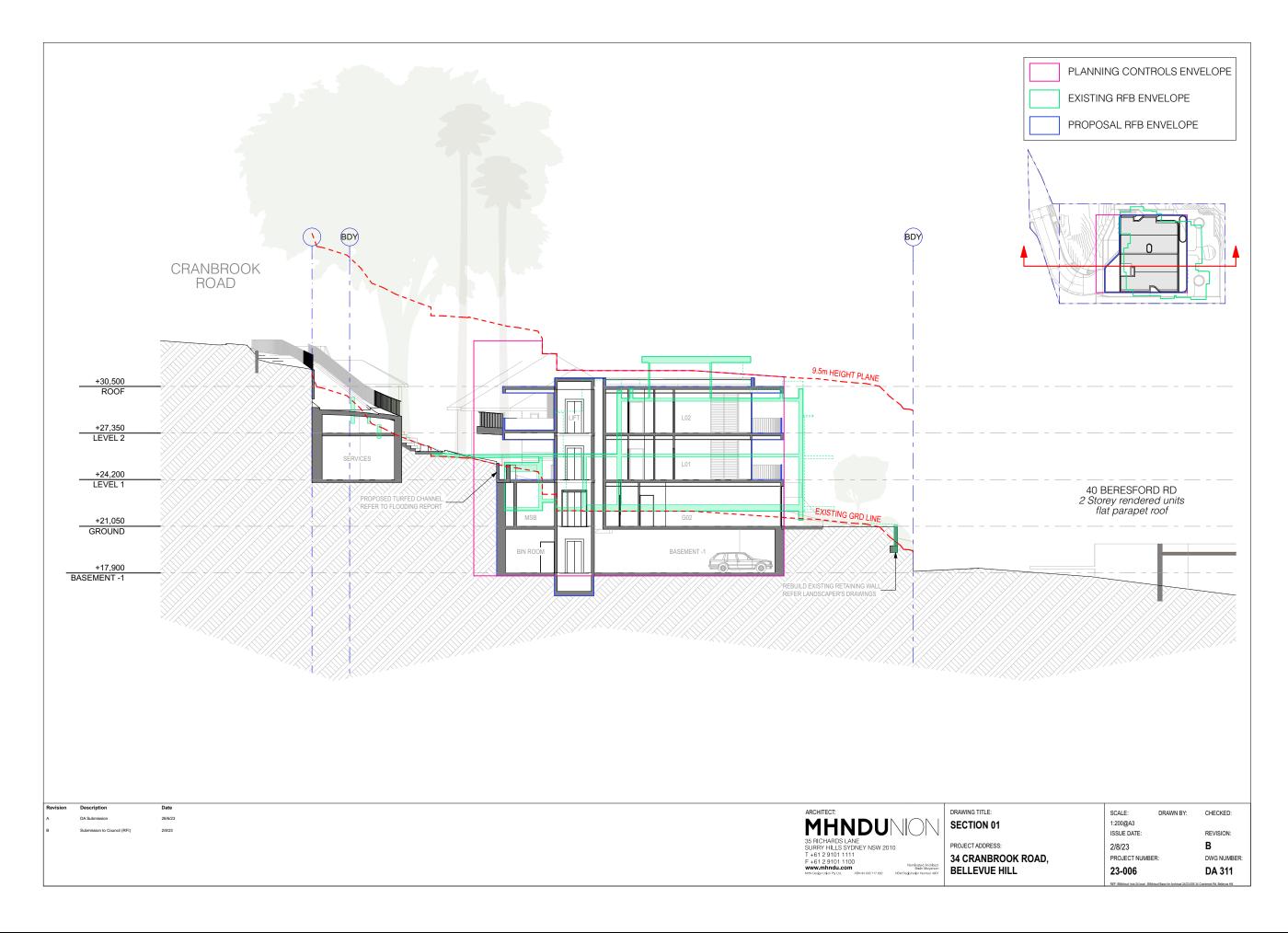


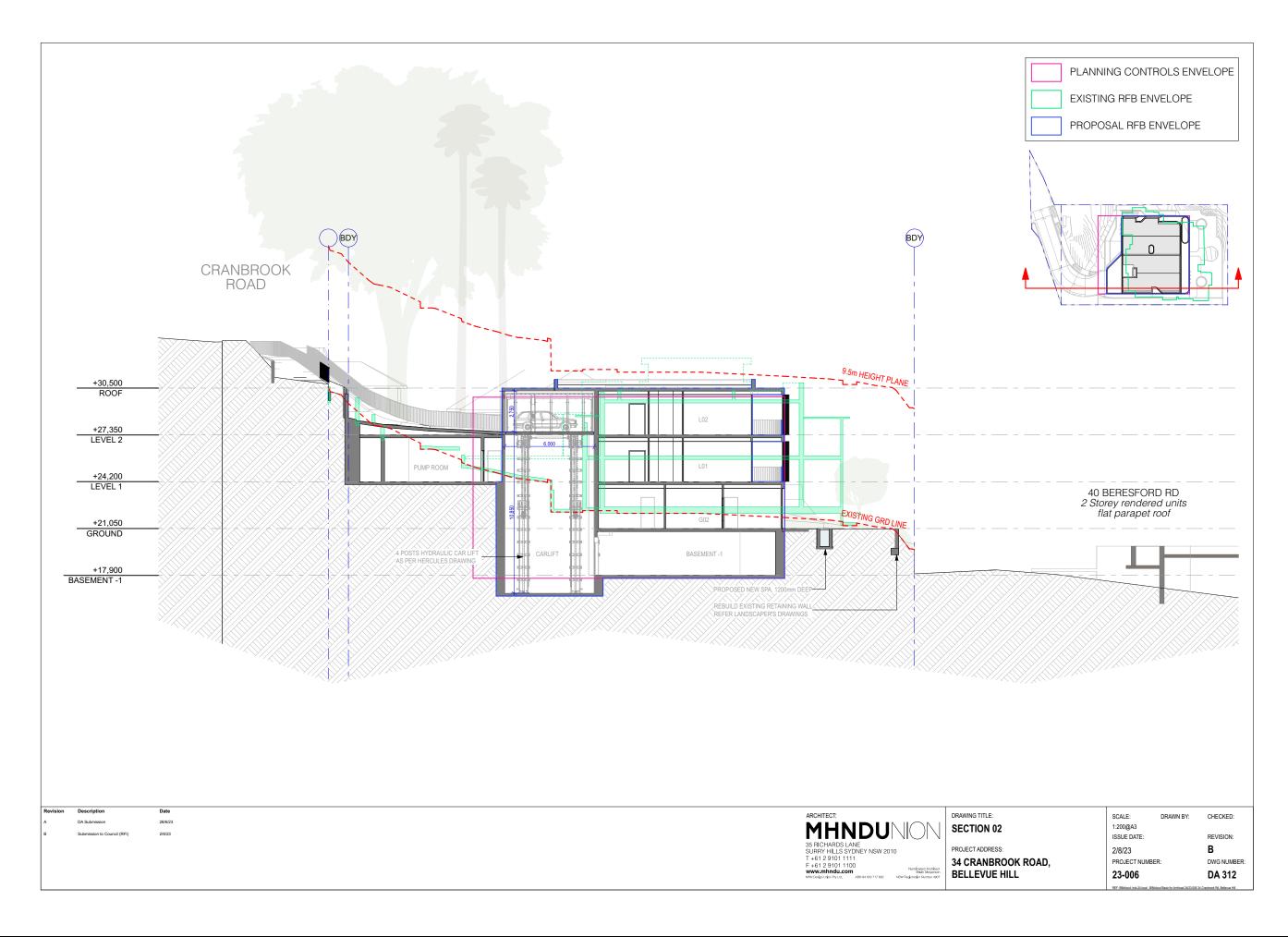


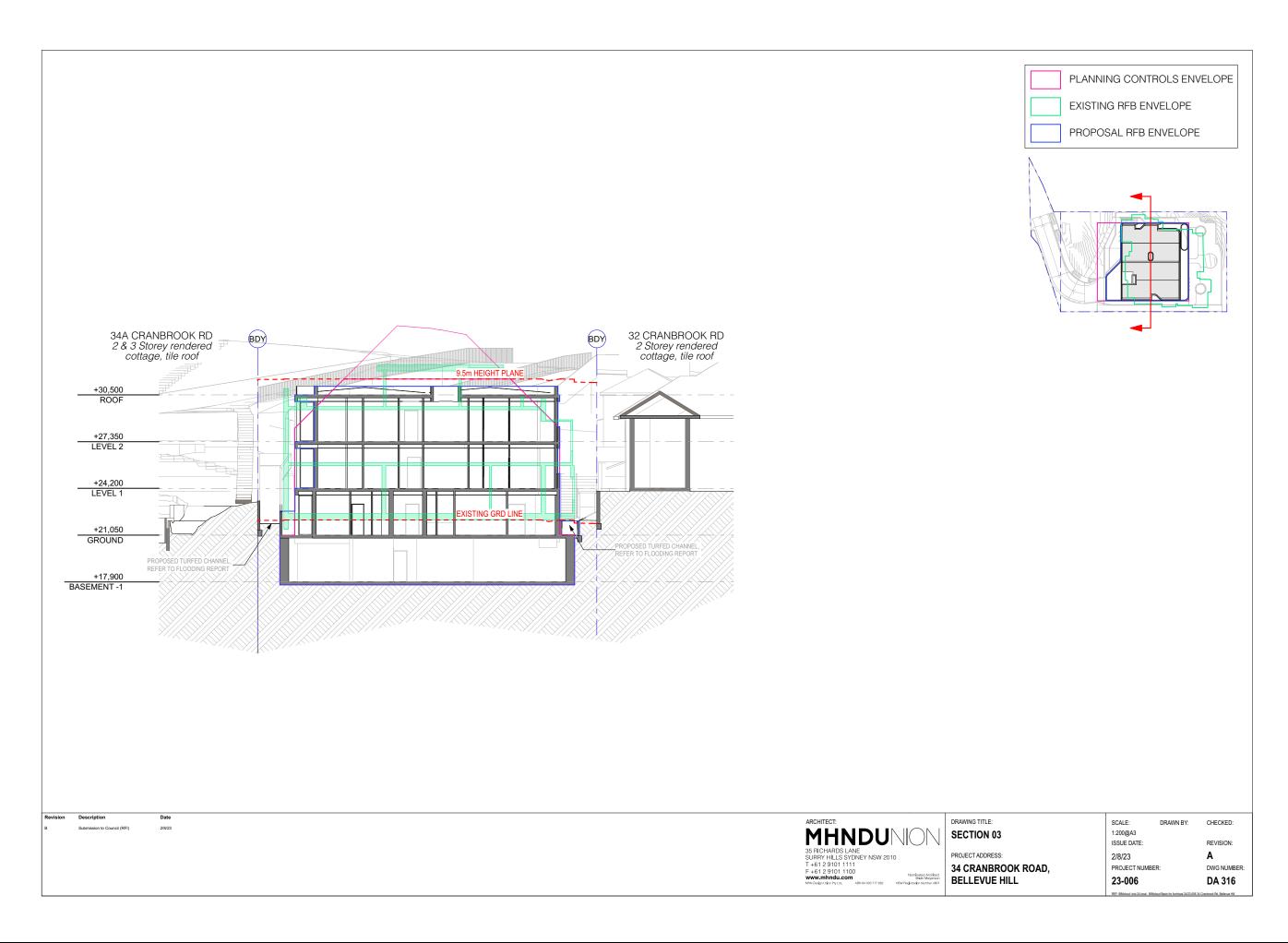












34 CRANBROOK ROAD, BELLEVUE HILL



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DA 10 ANALYSIS			1.000		
		SITE CONTROLS SUMMARY	1:300		
		SITE ANALYSIS PLAN (EXISTING)	1:300		
	DA 103	FRONT SETBACK			
	DA 104	SITE CONTEXT			
		ENVELOPE COMPARISON	4.000		
	DA 106	SITE & ROOF PLAN	1:200		
DA 20 GENERAL	ARRANG	EMENT PLAN			
	DA 201	LEVEL 2 FLOOR PLAN	1:200		
	DA 202	LEVEL 1 FLOOR PLAN	1:200		
	DA 203	GROUND FLOOR PLAN	1:200		
	DA 204	BASEMENT FLOOR PLAN	1:200		
DA 30 ELEVATIO	NS				
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	DA 302	ELEVATION SOUTH	1:200		
		ELEVATION EAST/WEST	1:200		
DA 31 SECTIONS		CECTION 04	4.200		
		SECTION 01	1:200		
		SECTION 02 RAMP SECTION 01	1:200 1:100, 1:350	Thermal Comfort - Average 6	.5 Stars
				Glazing	
		RAMP SECTION 02	1:100, 1:350		
	DA 315	SECTIONS THROUGH RAMP	1:500, 1:200		
DA 40 EXTERNAL	. FINISHE	is .		Double	e glazed Low-e Ne
	DA 401	EXTERNAL FINISHES	1:100		
DA 50 COUNCIL (CONTROL	e		Dou	ible glazed Low-e
DA 30 COORGIE (SETBACKS			
		FLOOR PLATE	1:200		
	DA 503	EXCAVATION		External Walls	Double Glazed
	DA 504	HEIGHT PLANE		External Walls of Units	
	DA 505	ENVELOPE COMPARISON		(Including walls to open stairs)	Concrete - Addi
	DA 506	SEPP 65		Internal Walls	I
				Walls Between Unit and Lobby /	Hobel or Coner
	DA 507	DEEP SOIL AREA CALCULATIONS		Corridors	nebel of Colicie
		DEEP SOIL AREA CALCULATIONS POS / COS CALCULATIONS		Corridors Walls Between Units and Lift Shaft /	
	DA 507			Walls Between Units and Lift Shaft / Fire Stairs	Concrete - Addi
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Thermal Comfort – Average 6	.5 Stars	
Glazing		
	G01 and G02	
	Max U-value 3.04	
	SHGC 0.33 (± 10%)	
Doubl	e glazed Low-e Neutral (Viridian Lightbridge neutral or similar)	
	L01 and L02	
Max U-value 3.21		
SHGC 0.48 (± 10%)		
Do	uble glazed Low-e Clear (Comfort plus clear, Ar. gap, clear)	
	L02 Skylight	
Max U-value 2.61		
	Max SHGC 0.21	
	Double Glazed – Low e 366 (Ventilated opening)	
External Walls		
External Walls of Units	0 4 4155 170.00	
(Including walls to open stairs)	Concrete - Additional R2.00 insulation	
Internal Walls		
Walls Between Unit and Lobby / Corridors	Hebel or Concrete - Additional R1.50 insulation	
Walls Between Units and Lift Shaft / Fire Stairs	Concrete - Additional R2.00 insulation	
Internal Walls Inside Units	No additional insulation modelled	
Unit Floors		
Floors To Internal Areas		
(Units / Enclosed Lobby and Corridors Areas)	Concrete - No Additional Insulation	
Floors To Basement / Outside Air / Highly Ventilated Areas	Concrete – Additional R1.00 Insulation Board	
Unit Roof	1	
Roof To Any Unconditioned / Outside Air	Concrete - Additional R2.30 Insulation Board	
	End of Therma	





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	PROJECT ADDRESS:
	34 CRANBROOK RO

SCALE: CHECKED: @A3 ISSUE DATE: REVISION: 28/6/23 PROJECT NUMBER: DWG NUMBER: 23-006 DA 001

SITE CONTROLS SUMMARY

34 Cranbrook Road, Bellevue Hill 2023 16/-/DP655578

870.9m²





Additional site area to be purchased 124.2m²



Buildable area 374m²

Planning controls

Building depth

Woollahra LEP 2014 R2 Low Density Residential

Land Zoning
Height of Building
Min. Lot size: 9.5m 675m²

> 55% of site depth 2.5m

Site setbacks Front setback 8.400m Buildable area x1.65 Floor plate

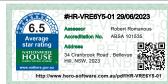
 $374x1.65 = 617m^2$ 870.9m³

Excavation permitted

50% of site area outside of BA Deep soil

127m²

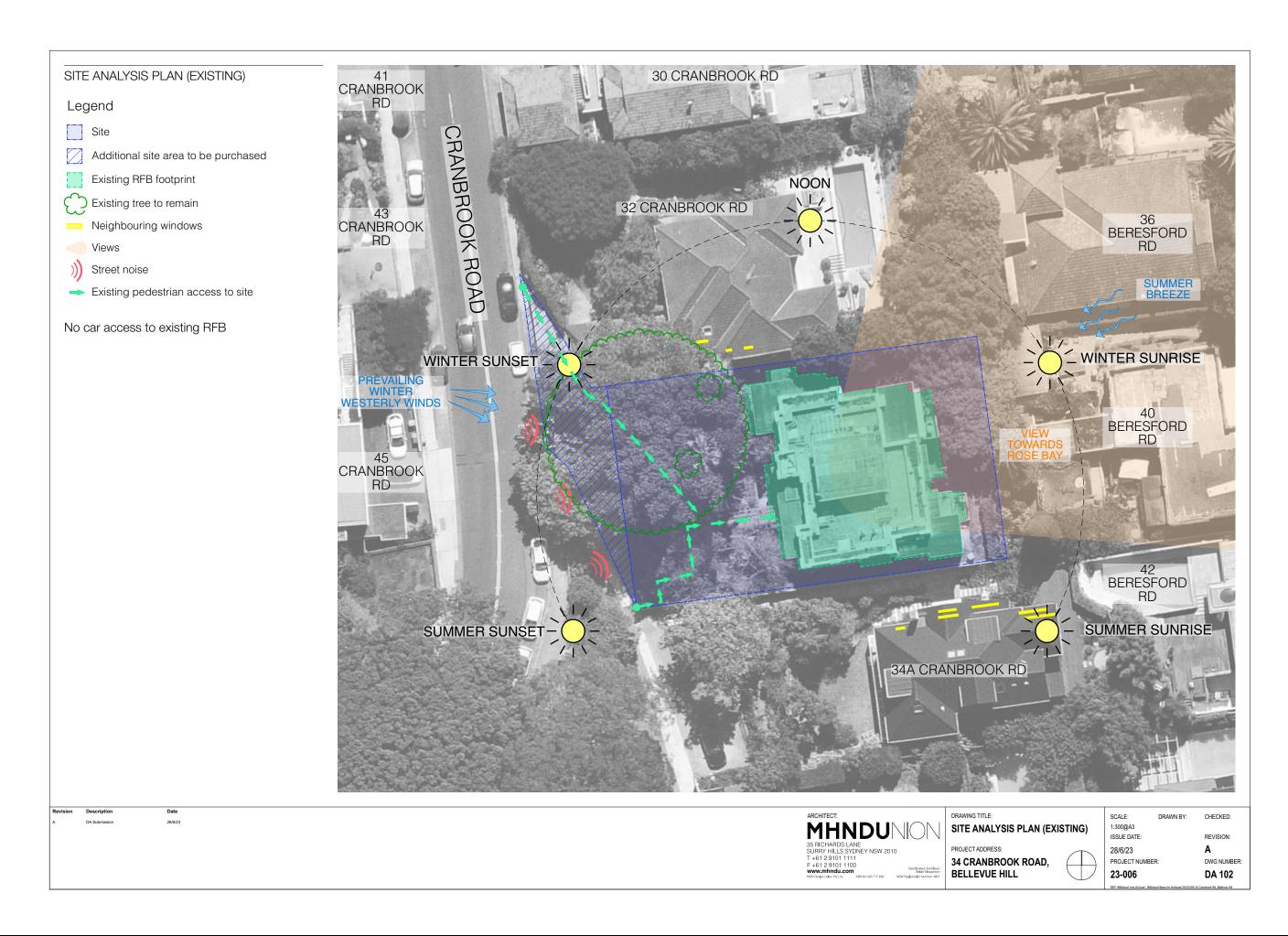








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FRONT SETBACK

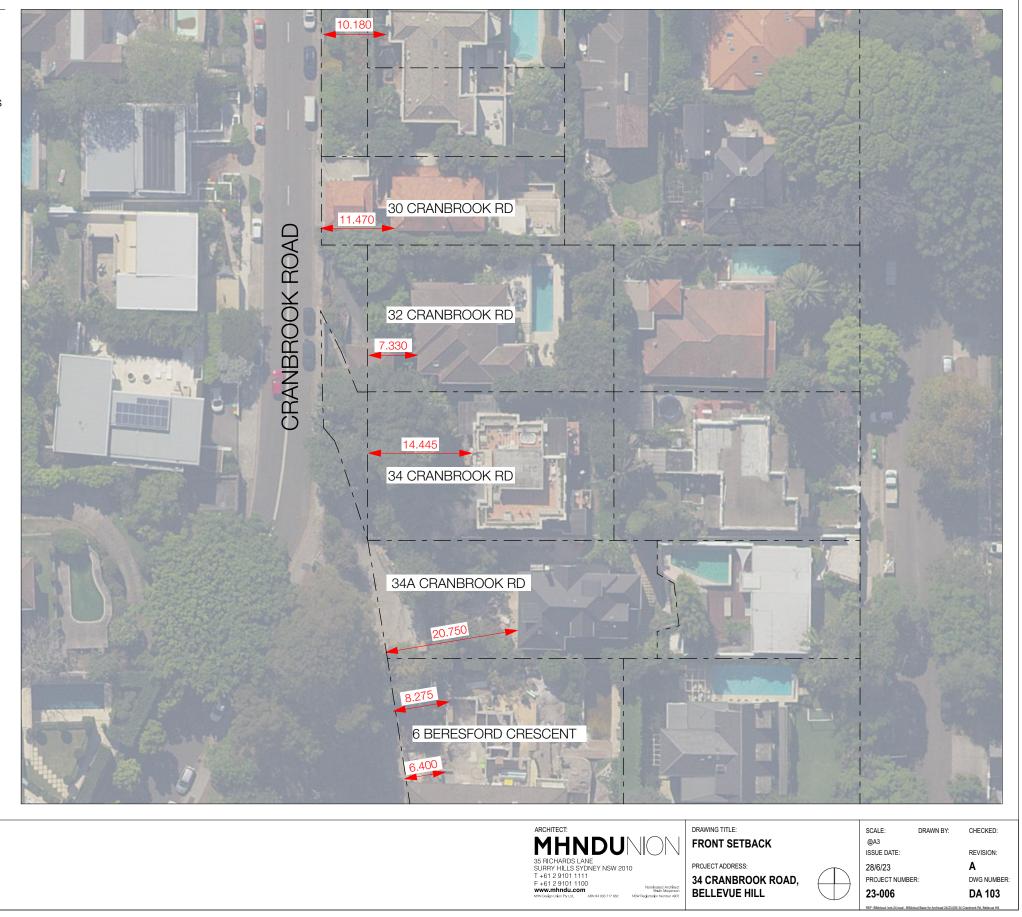
The front setback of the building envelope is determined by averaging the three most typical setbacks of the four closest residential buildings that face the same side of the street

30 Cranbrook Road 11.470 32 Cranbrook Road 7.330

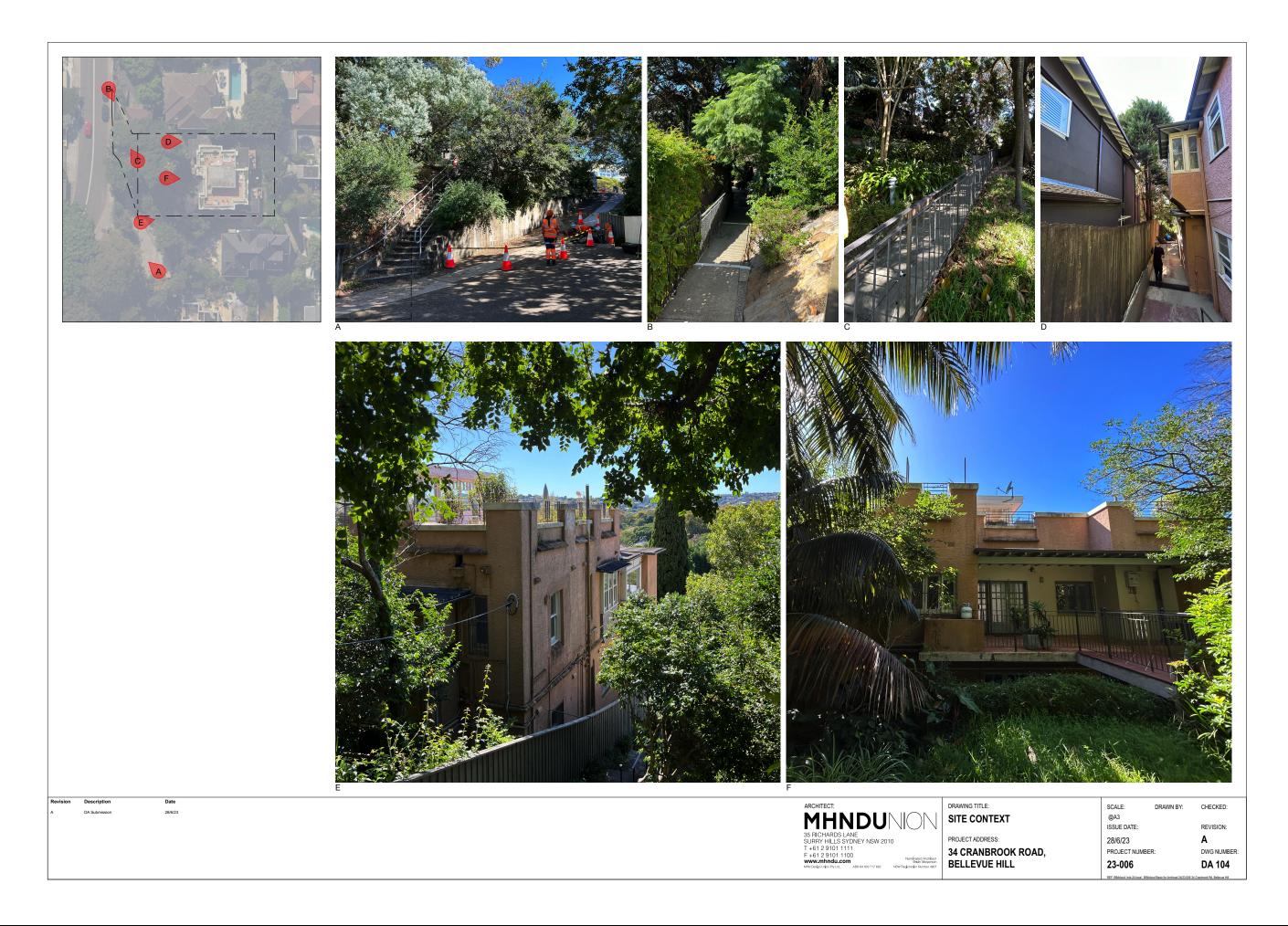
6 Beresford Crescent 6.400

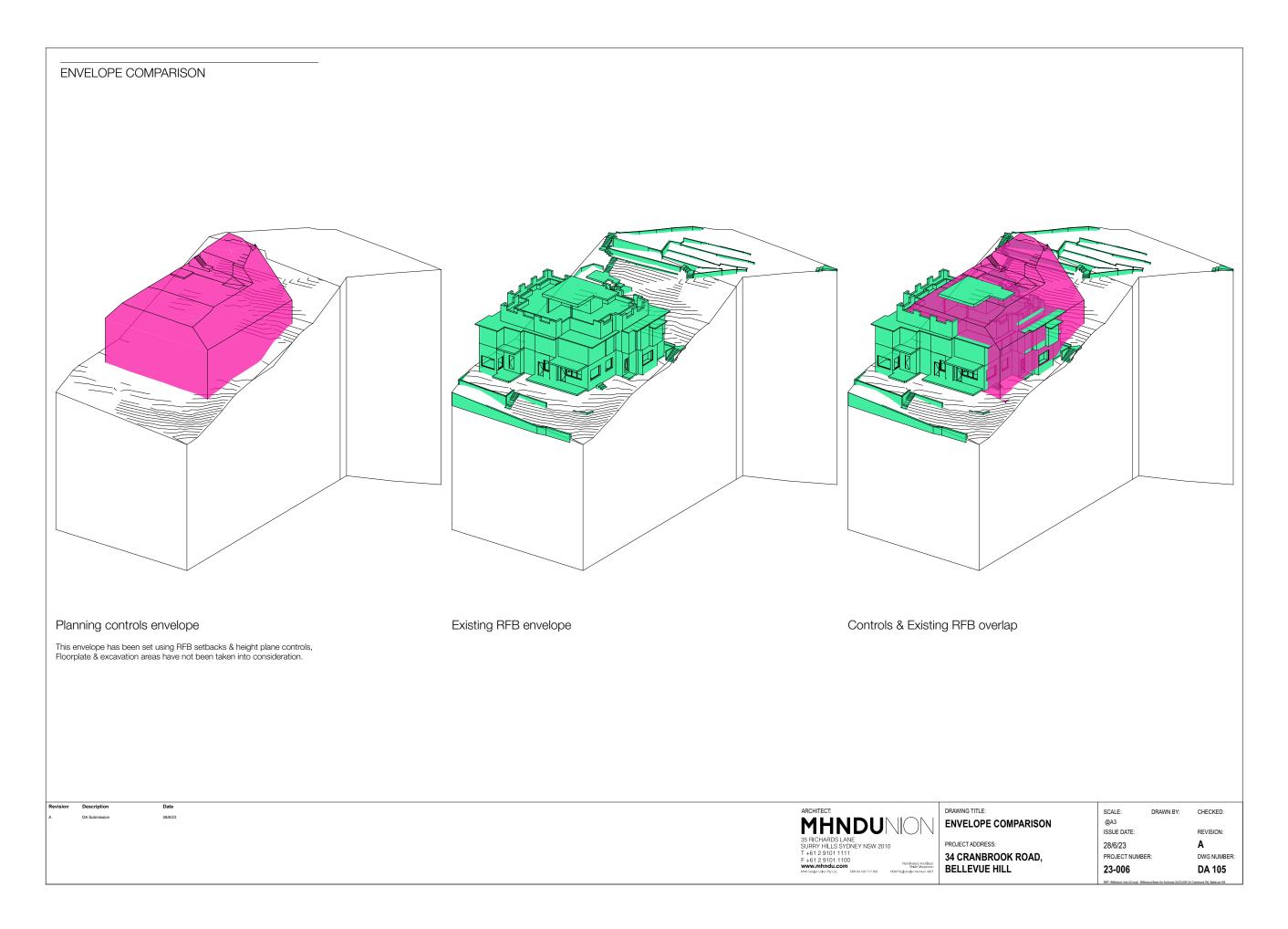
Total 25.200/3

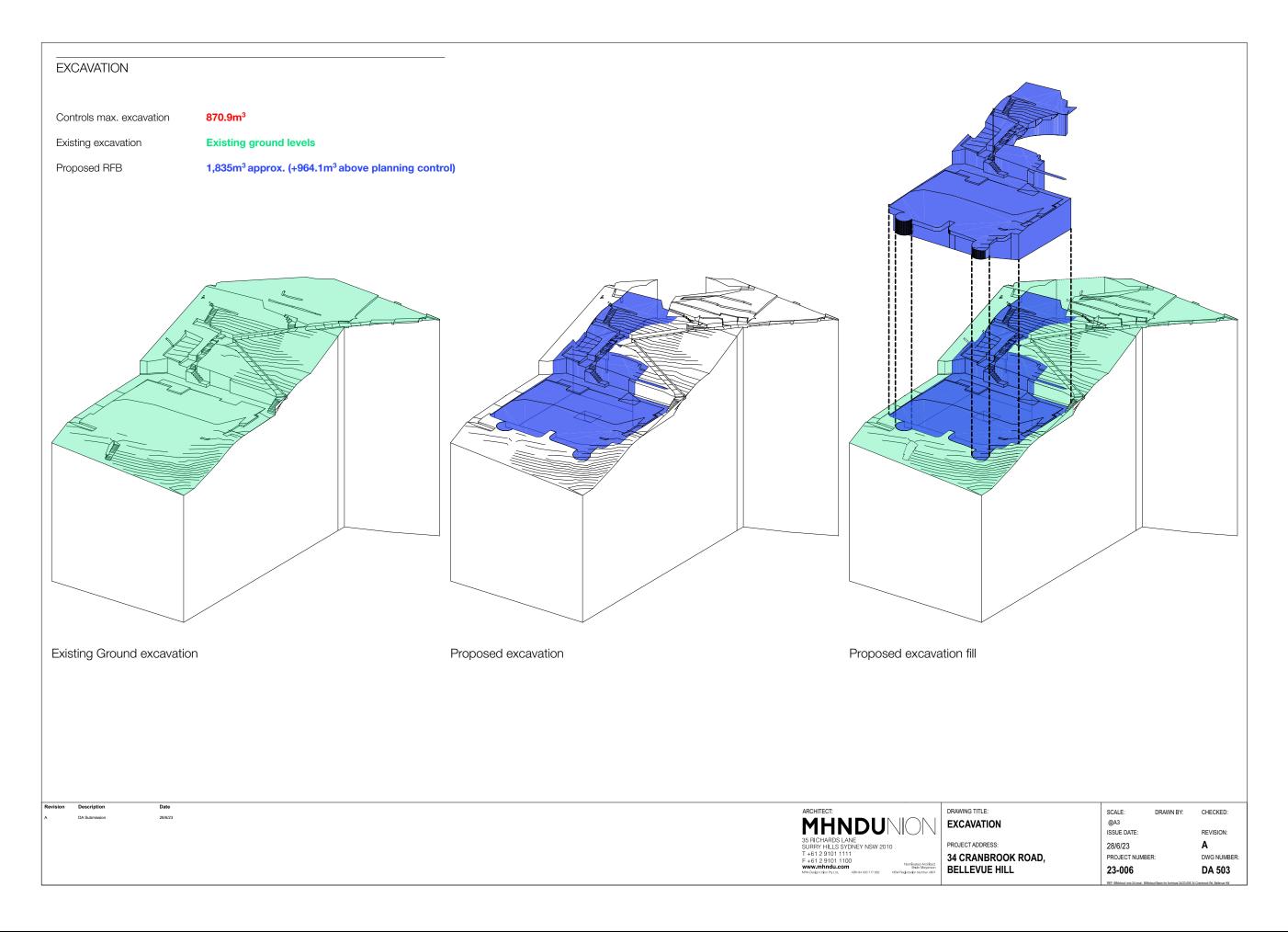
PROPOSED FRONT SETBACK 8.400

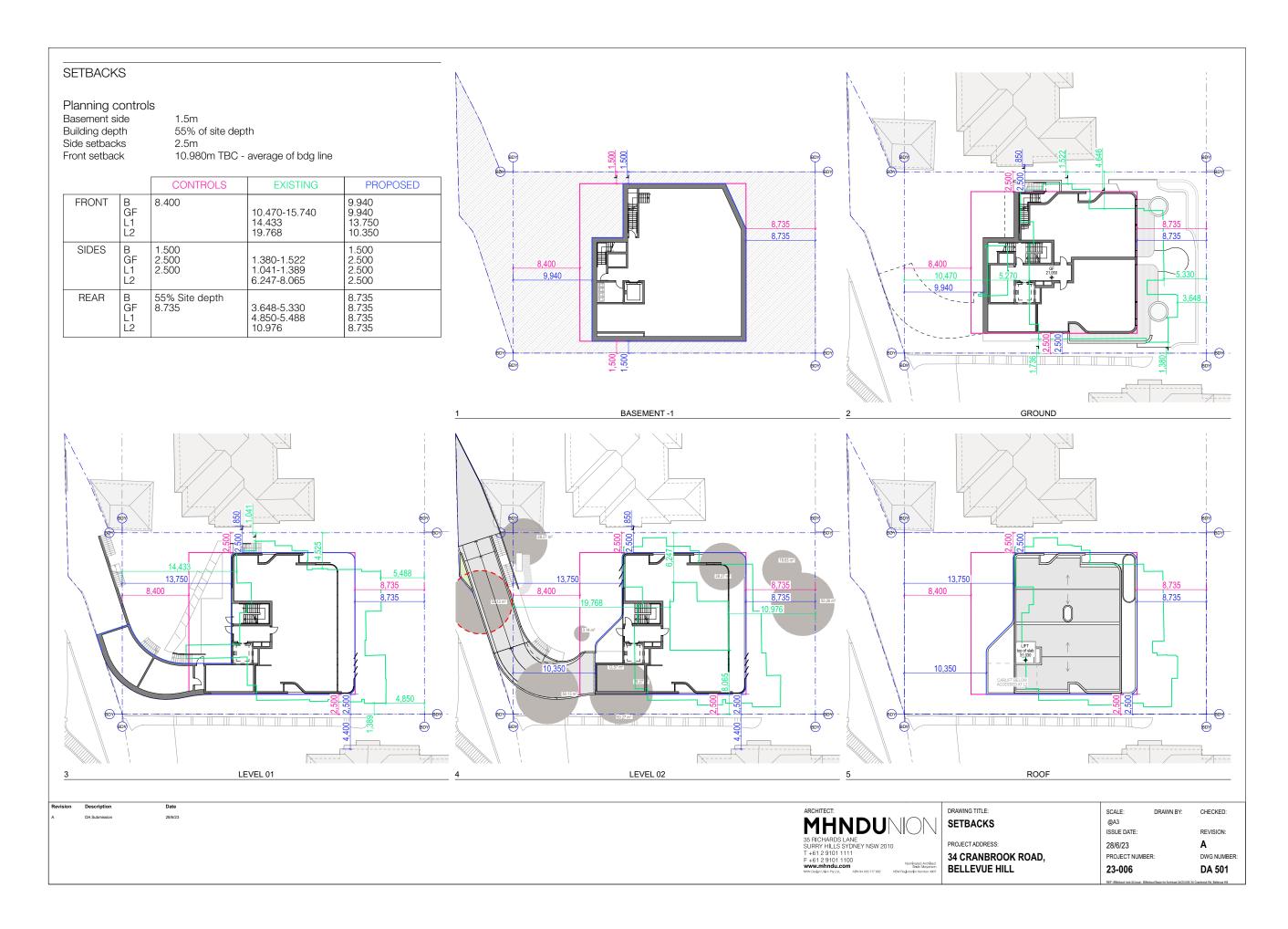


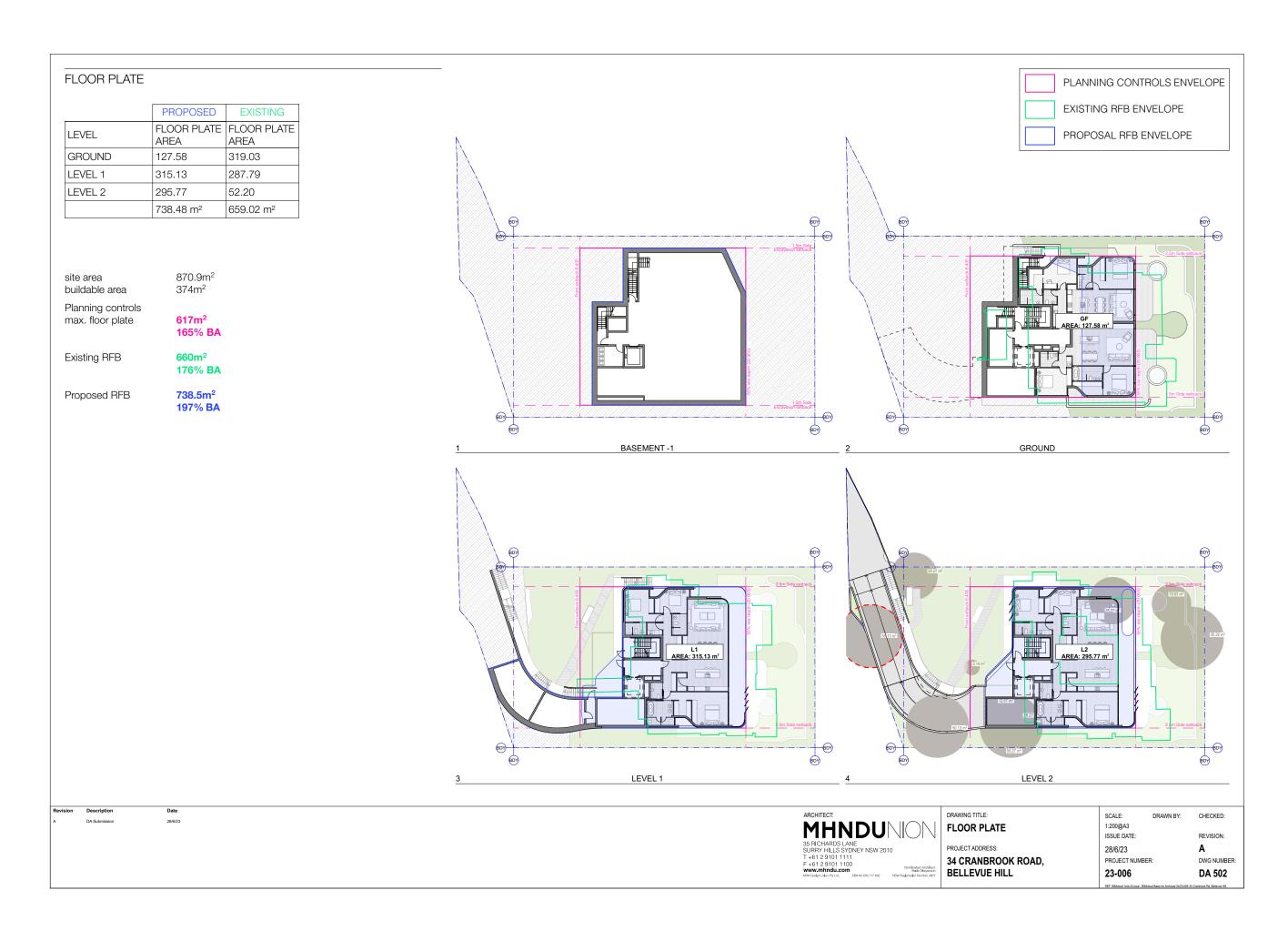
Attachment 1

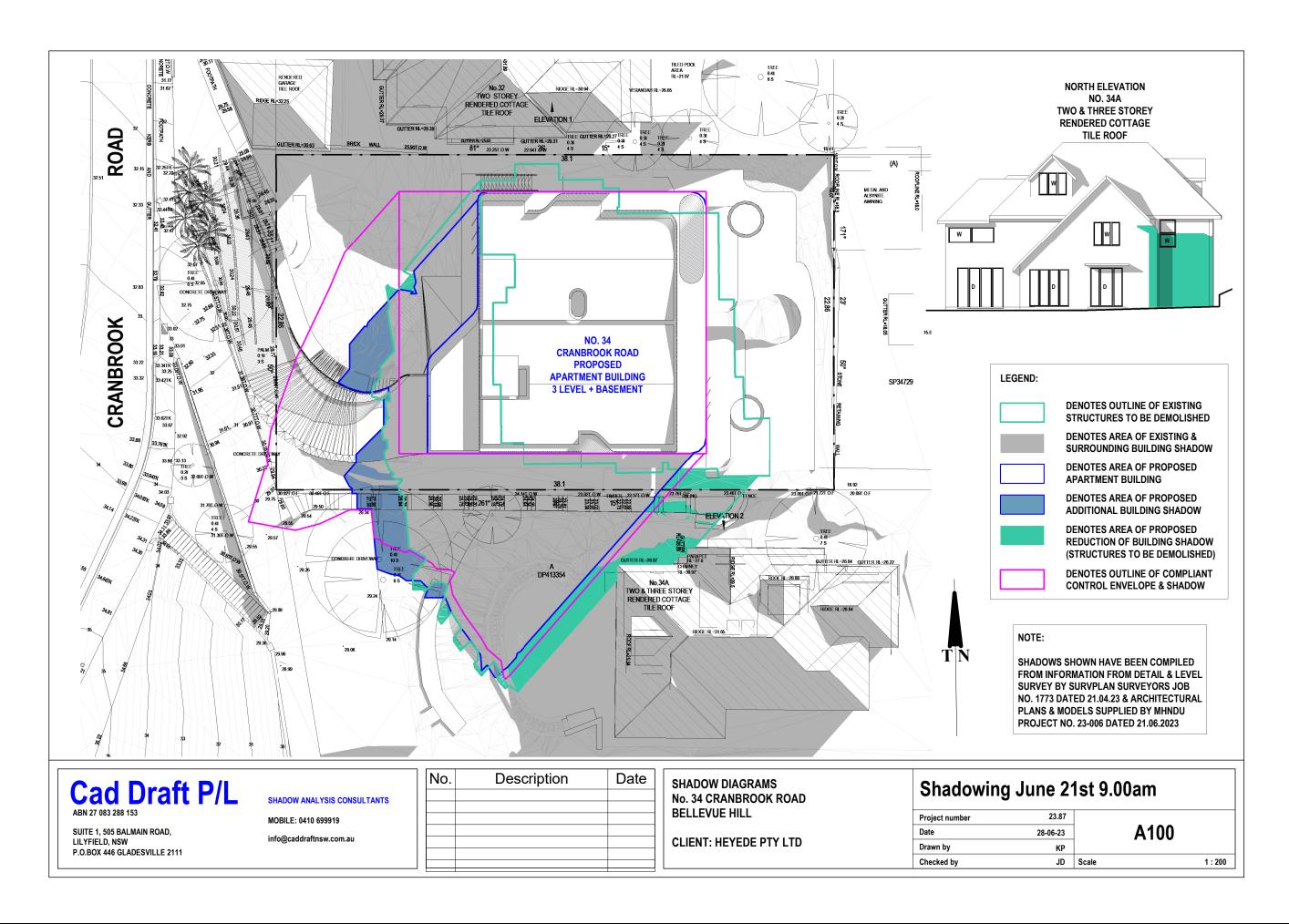


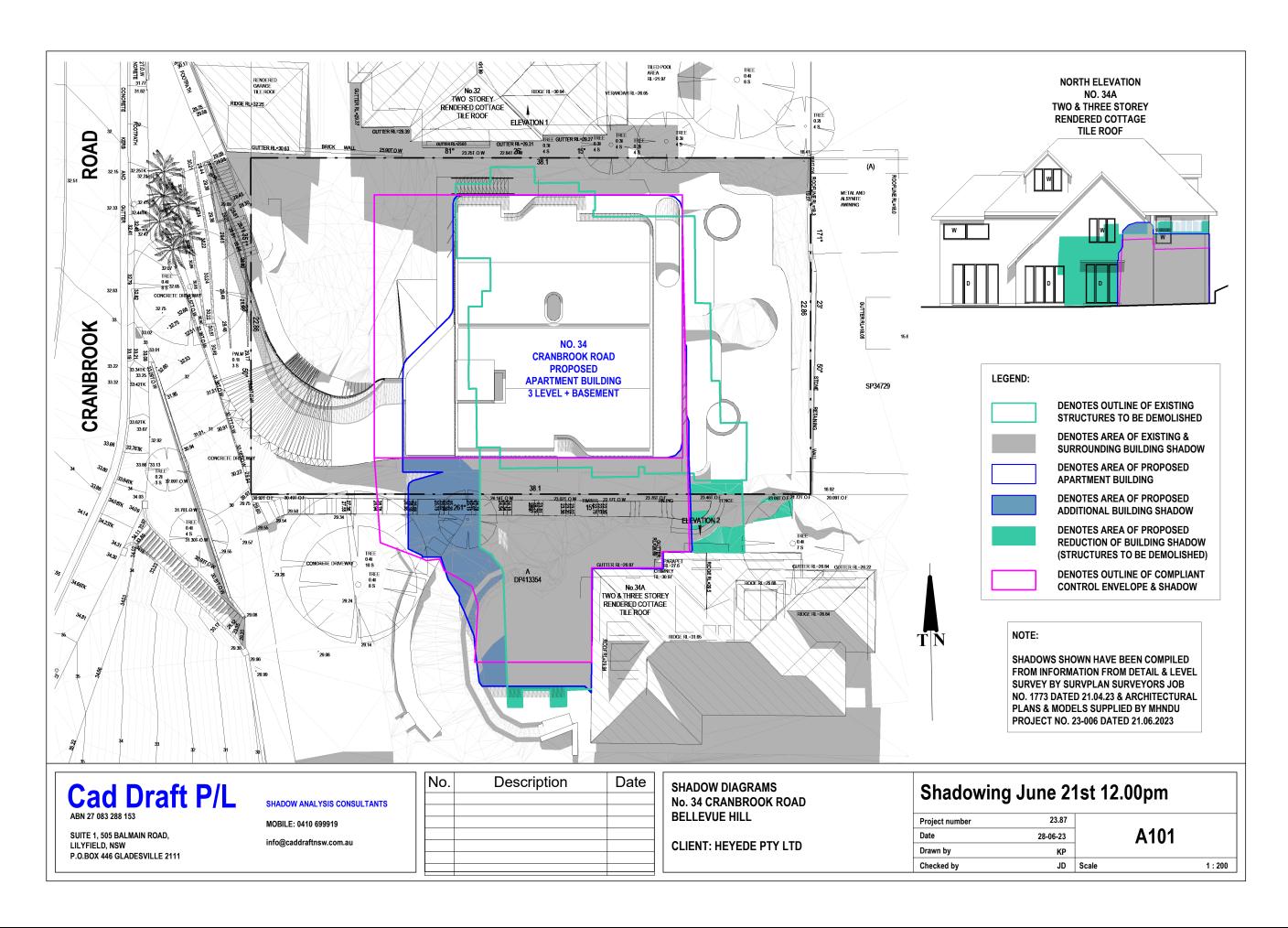


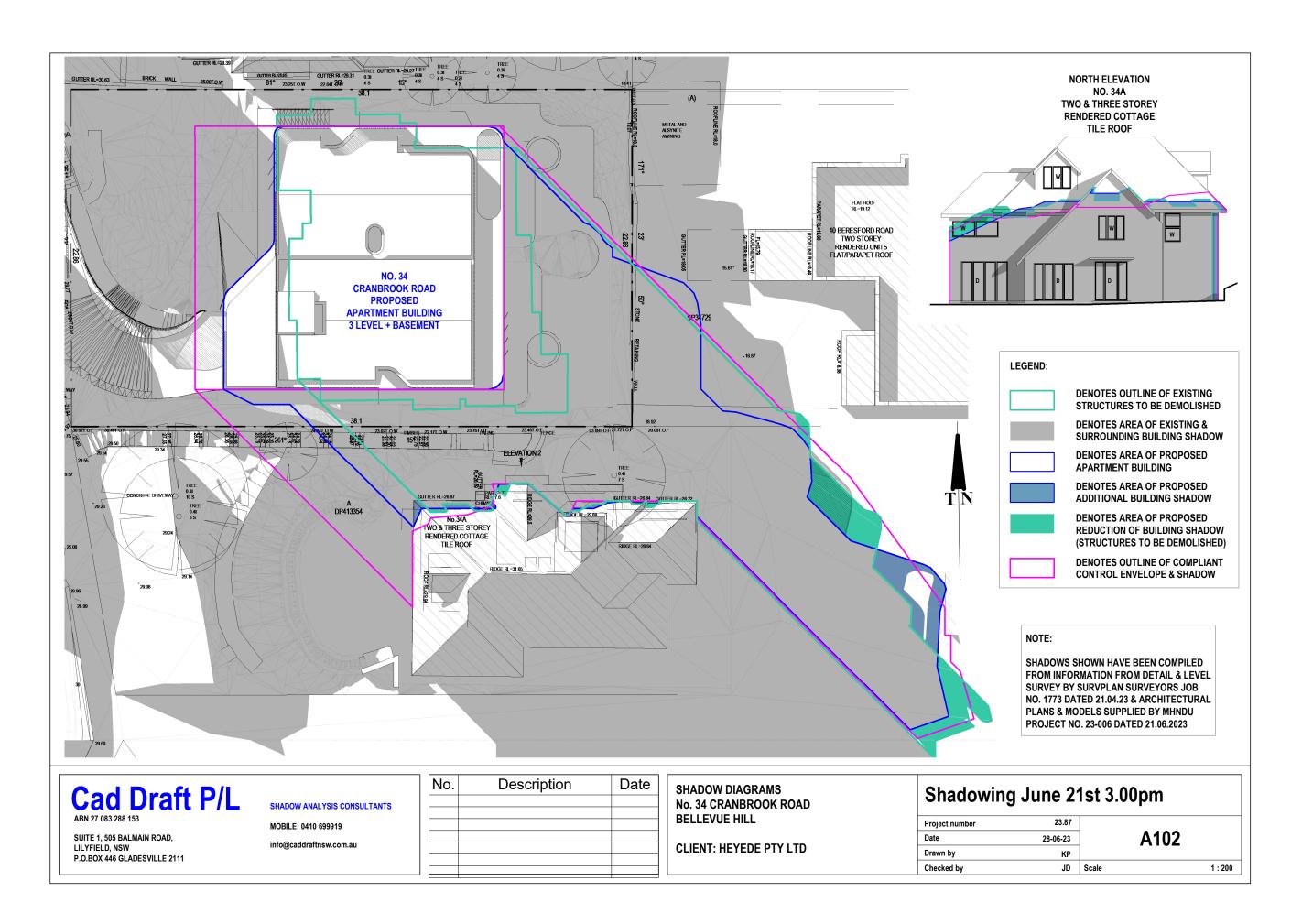


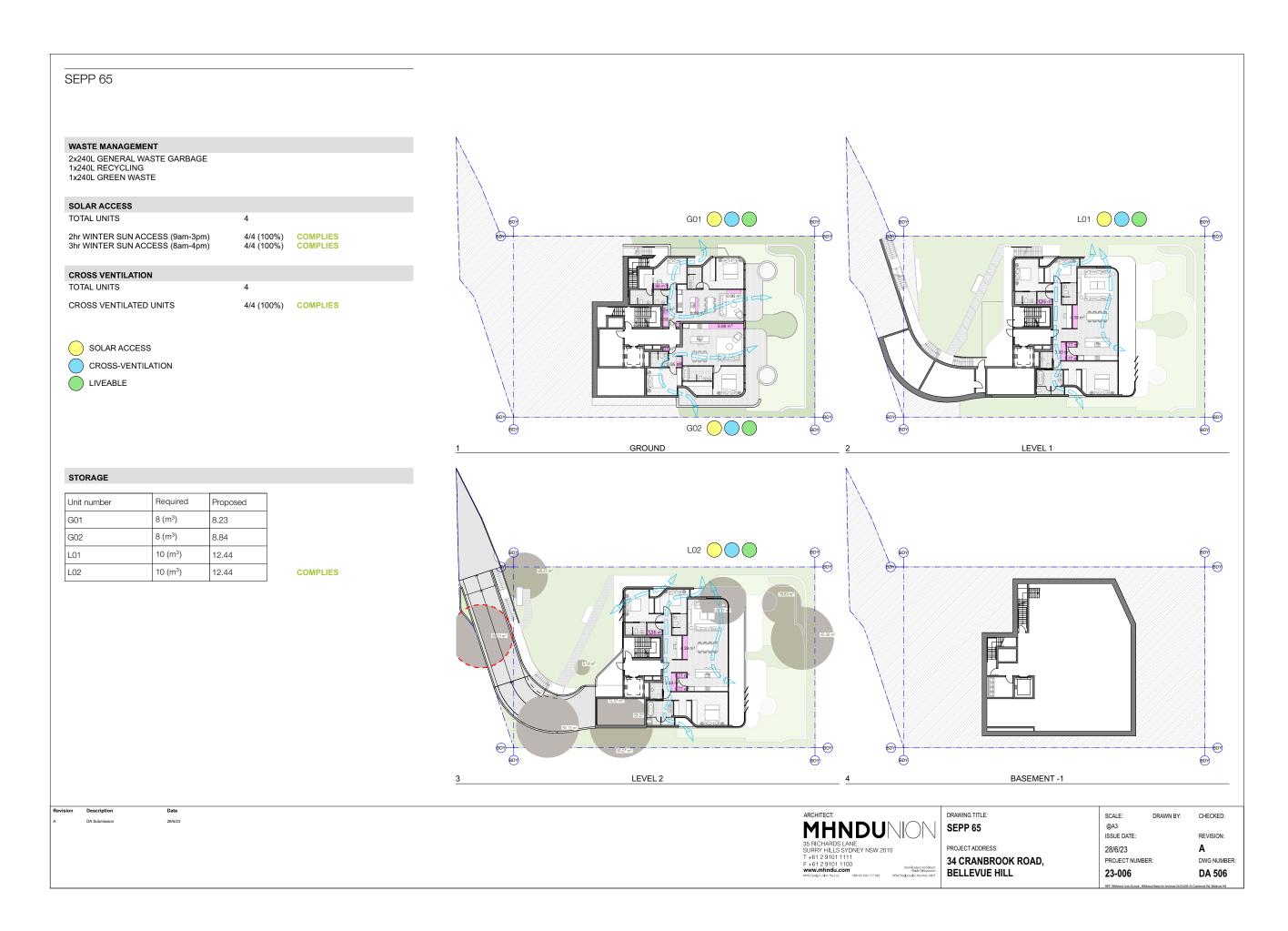


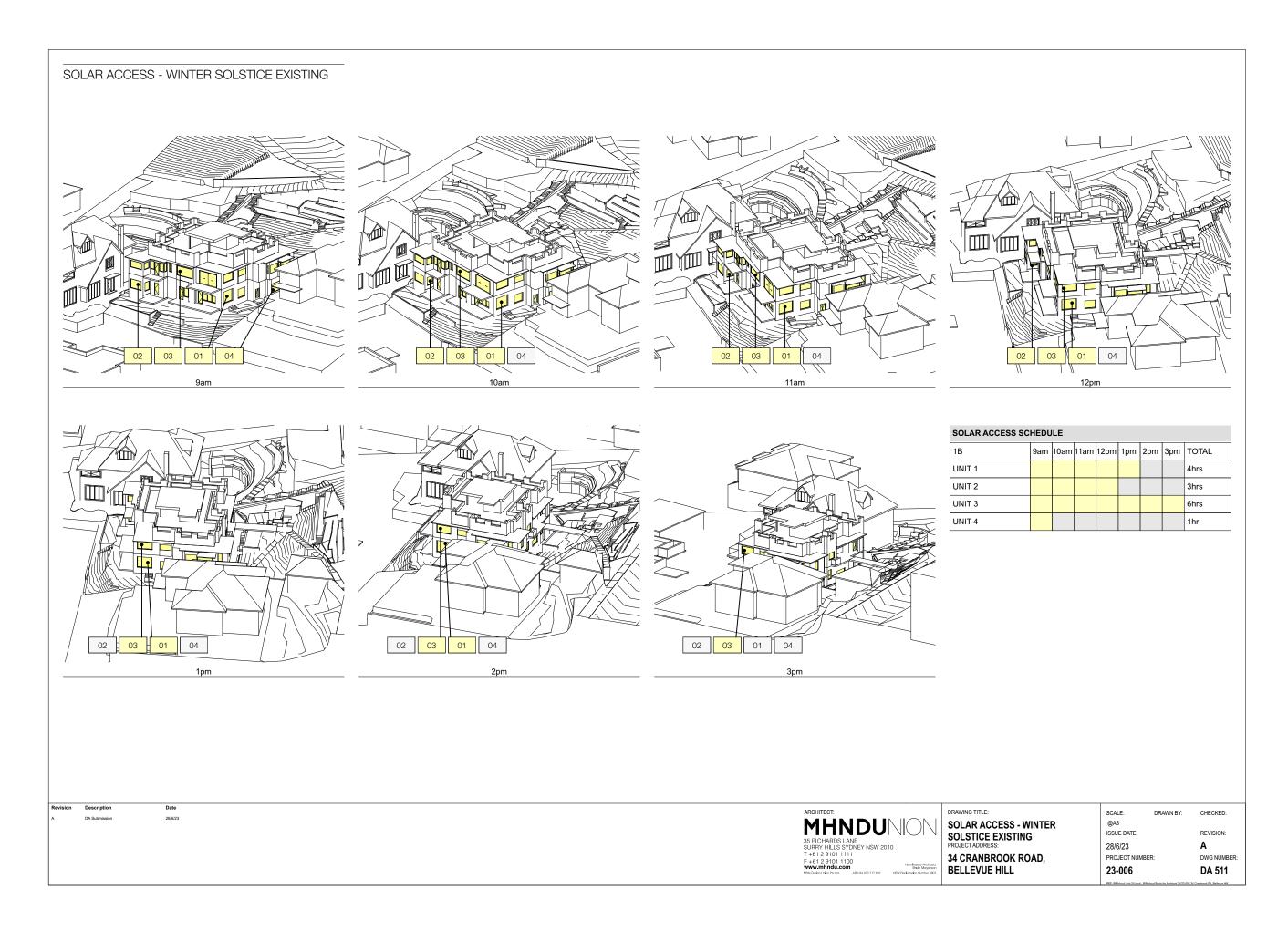


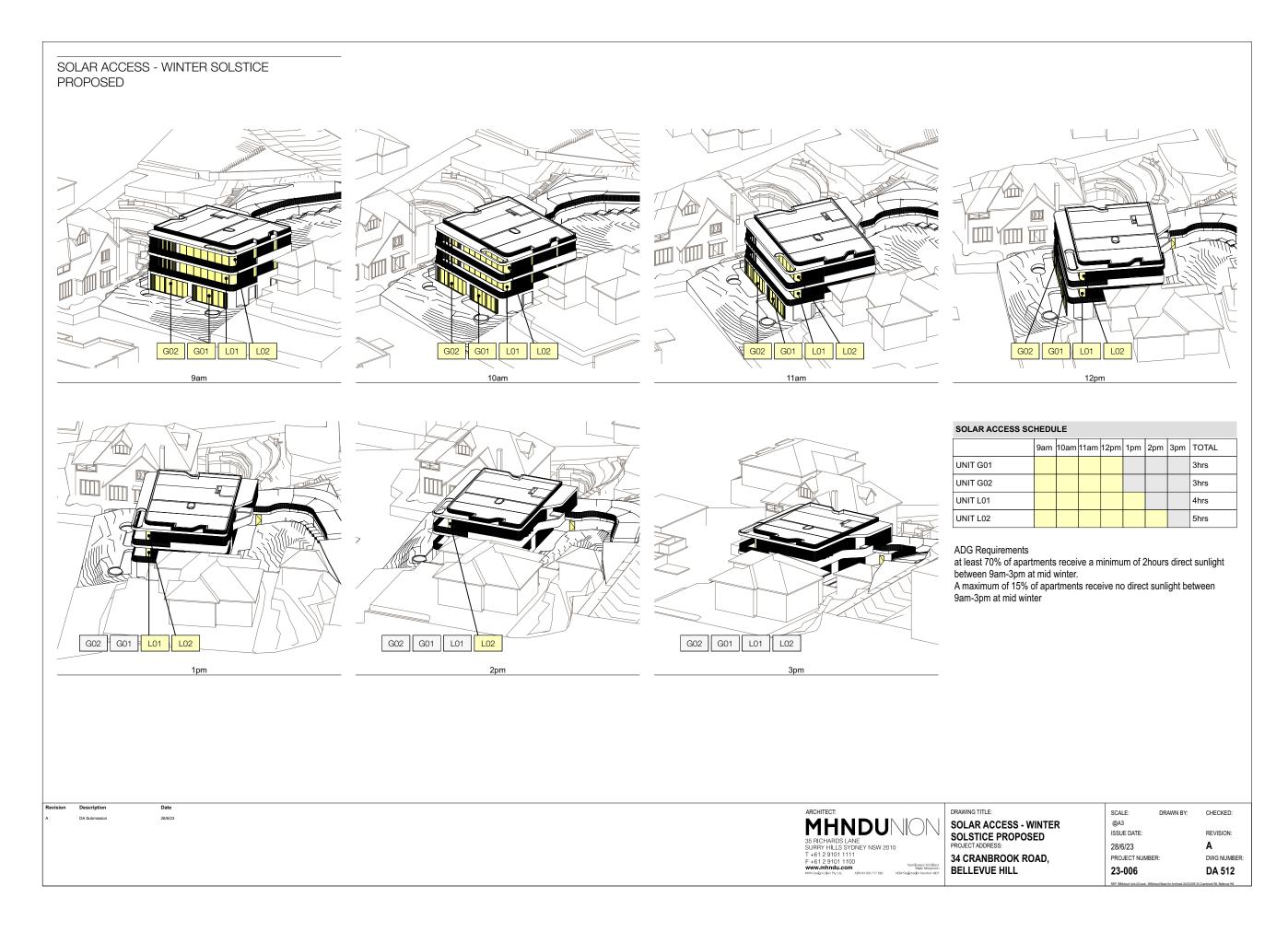












DEEP SOIL AREA CALCULATIONS

PROPOSED

LEVEL	AREA	
GROUND	155.01	
LEVEL 1	128.77	
TOTAL	283.78 m ²	

For development in the R2 and R3 residential zones—at least 50% of the site area outside the buildable area is deep soil landscaped area.

site area 870.9m² buildable area 374m² site area outside of BA 496.9m²

Planning controls

min. deep soil 248.45m²

50% Site area outside of BA

Proposed deep soil 284m²

57% Site area outside of BA

At least 40% of the front setback comprises deep soil landscaped area, and: for a residential flat building at least one consolidated area of the deep soil area is

at least 20m2

min. deep soil 77m²

Front setback 40% Front setback

Proposed deep soil 94m²

49% Front setback

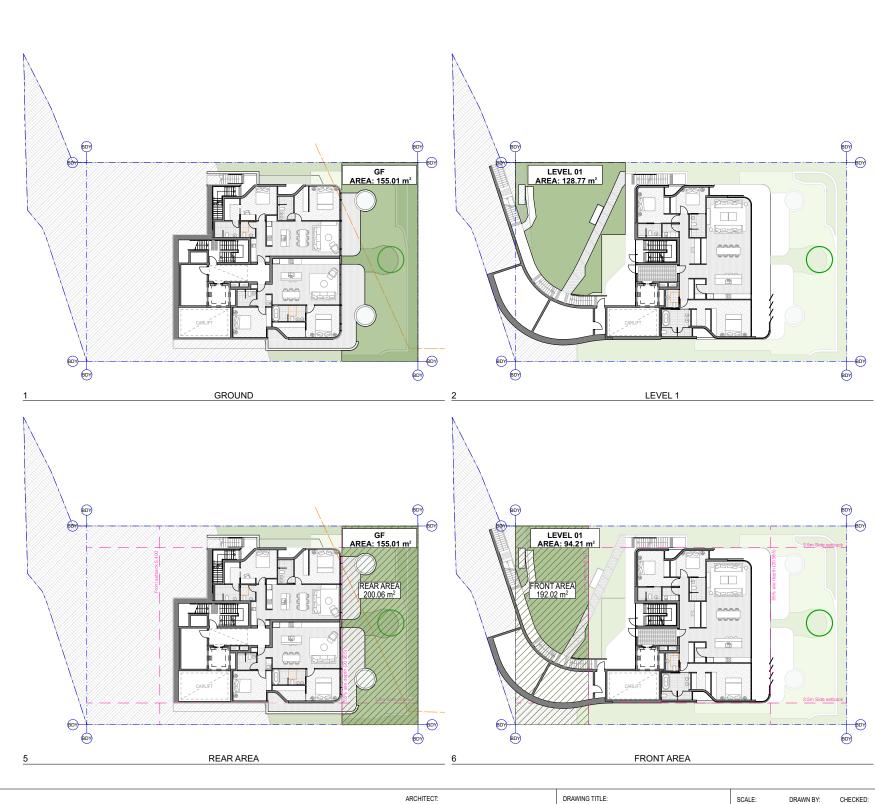
At least 50% of the rear setback comprises deep soil landscaped area.

min. deep soil 10

Rear setback 50% Rear setback

Proposed deep soil 155m²

77.5% Rear setback



ARCHITECT:

MHNDU

35 RICHARDS LANE
SURRY HILLS SYDNEY NSW 2010
T +61 2 9101 1110
#Ww.mlnndu.com
MR 0 Geight Urbin Pty Lot.
MR 948 40 50 77 665

1887 Regiments Management
MR 10 Geight Urbin Pty Lot.

DRAWING TITLE:

DEEP SOIL AREA CALCULATIONS

PROJECT ADDRESS:

34 CRANBROOK ROAD, BELLEVUE HILL

POS / COS CALCULATIONS

each dwelling is provided with private open space which has a minimum area of 8m2 and minimum dimensions of 2m x 2m. For dwellings above ground level, this may be in the form of a balcony, verandah or uncovered roof terrace and the like.

	GFA	POS	BED
G01	98	94	2
G02	92	103	2
L01	206	42	3
L02	206	42	3

Communal open space has a minimum area equal to 25% of the site

870.9m² site area

Planning controls

min. COS 217.725m²

25% Site area

Proposed COS 227m²

26% Site area



23-006 DA 508

Attachment 1

PROJECT: 34 Cranbrook Road, Bellevue Hi

Landscape Architectural Drawing Schedule for Development Application

- L 100 Landscape Cover Page 1:250 at A2.
- L 101 Landscape DA Master Plan 1:200 at A2.
- Landscape Details Sheet 1. 1:20 at A2
- L_502 Landscape DA Planting A2

LANDSCAPE DEVELOPMENT APPLICATION PHASE - NOTES - 26 Salisbury Road, Rose Bay

• ALL TREES AND PLANTS ARE TO MEET AS2303-2018 TREE STOCK FOR LANDSCAPE USE.

- LANDSCAPE AROUND SPA (WITH LOCKABLE LID) FOR COMPLIANCE IS TO MEET AS1926.1-2012 INCLUDING FOR NON-CLIMBABLE ZONES.
 THE ABOVE BASEMENT 'GREEN ROOF' IS DESIGNED TO BE FOR MAINTENANCE ACCESS ONLY WITH SHALLOW SOIL PROFILE OF 350mm AND GROUDNCOVERS OR SUCCLENTS ONLY. ENSURE ANCHOR POINTS AS REQUIRED FOR COMPLIANCE ARE INSTALLED AND MEET AS/NZS 1891.4.2021. FALL ARREST SYSTEMS AND DEVICES.
- MAINTAIN ALL EXISTING AND NEW LANDSCAPE FOR 12 MONTHS FROM PRACTICAL COMPLETION SIGN OFF BY PROJECT LANDSCAPE ARCHITECT. ONGOING LANDSCAPE MAINTENANCE IS REQUIRED AND PROPOSED TO BE ACHEIVED BY OWNERS.
- FINAL PLANT SPECIES. LAYOUT AND LOCATIONS TO BE DOCUMENTED BY PROJECT LANDSCAPE ARCHITECT (FOLLOWING COUNCIL APPROVAL) AND DESIGN DEVELOPMENT.
- RETAIN AND PROTECT EXISTING TREES (SHOWN TO BE RETAINED PER ARBORIST REPORT), GENERALLY NO WORKS OR SOIL LEVEL CHANGES OR CONSTRUCTION WORKS WITHIN THE TREE PROTECTION ZONES (TPZ) OF TREES TO BE RETAINED UNLESS



Landscape Architectural Design Statement for Development Application

COUNCIL: Woollahra Council. 34 Cranbrook Road, Bellevue Hill.

The landscape slopes steeply from Cranbrook Road down towards the east and comprises several retaining walls within the landscape which are proposed to either be retained or rebuilt and new plants to retain the embankments.

The existing Ficus macrocarpa within the front of the site is proposed to be retained along with several Washington Palms.

Replacement trees are proposed, and the Woollahra Council Native planting species list has been utilised in formulating the proposed planting schedule as well as based on the site context and the sites surrounds as well as the proposed architectural style and character, materials and colour. The landscape is to be of a high quality, lush and verdant to meet the proposed architectural offering.

The front landscape character is proposed to predominantly consist of understorey shade tolerant plants that are up-lit and proposed to provide a lush and cool environment under the large mature Ficus tree.

The rear (lower) landscape character proposed is of two private open spaces with a densely planted garden bed dividing the two garden units, useable lawn zone and visual

THE LANDSCAPE PLAN IS TO BE DETAILED AT THE CONSTRUCTION DOCUMENTATION PHASE TO PROVIDE FURTHER DETAIL AND INCORPORATE ANY DA CONSENT CONDITIONS.

SOIL, IRRIGATION AND MULCH KEY: 34 Cranbrook Road, Bellevue Hill

THE SOIL TYPES STATED CORELLATE WITH THE SOIL PERFORMANCE SPECIFICATIONS IN: Leake and laege, 2018, Soils for Landscape Development, CSIRO Publishing.

RETAIN AND PROTECT SOIL AROUND TREES AND AMELIORATE.

FOR ON GRADE GARDEN ZONES: AMELIORATE EXISTING SOIL TO MEET REQUIREMENTS:
A HORIZON: TO MEET <u>SOIL TYPE</u>: <u>D2</u> SPECIFICATIONS: 'GARDEN BED PLANTING SOIL'. TOP 300mm DEPTH.
B HORIZON (BELOW 300mm): LIKELY USE OF EXISTING SUBGRADE TO MEET <u>SPECIFICATION B2</u>.
SITE SOIL AMELIORATION IS PROPOSED OVER DISPOSAL OF EXISTING AND IMPORTING NEW SOIL. THIS IS
TO BE DOCUMENTED AND CONFIRMED (ALLOW FOR SOIL LAB TESTING BOTH A AND B HORIZONS AND
RECOMMENDATIONS). IT IS NOTED THAT THE SITE WILL LIKELY RESULT IN HEAVILY DISTURBED SOIL FOLLOWING CONSTRUCITON / EARTHWORKS AND INTENSIVE AMELIORATION REQUIRED TO MEET THE

NEW TURF AND MAKE GOOD VERGE AND ADJACENT LANDSCAPE AS REQUIRED. INSTALL FENCE OFF/PROTECT AROUND EXISTING TREES (AS DIRECTED BY PROJECT CONSULTING ARBORIST). GENERALLY AROUND EXISTING TREES: NO PARKING OF VEHICLES OR STORING MATERIALS OR WASHING WASTE (SUCH AS PAINT OR CONCRETE SLURRY).

ON PODIUM GARDEN ZONES (ABOVE BASEMENT).
THERE ARE TWO ZONES FOR THIS PROJECT WHICH ARE TO BE TREATED DIFFERENTLY DUE TO WEIGHT LOADINGS AND PROPOSED SOIL DEPTHS. THESE ARE TO BE SUITABLY DOCUMENTED BY THE LANDSCAPE ARCHITECT WITH SUITABLE SOIL SPECIFICATIONS, TYPES AND SOIL PROFILES - DURING

ALLOW FOR INSTALLED IRRIGATION TO ALL ON GRADE, PODIUM AND RAISED PLANTERS AND ALL NEW AND EXISTING LANDSCAPE GARDEN BEDS. PROGRAM IRRIGATION ON SEPERATE TIMERS, CONNECT TO RAINWATER TANKS WITH MAINS BACKUP. IRRIGATION TO BE SPECIFIED AT DOCUMENTATION PHASE. PROVIDE SEPERATE TAP HEADS FOR MAINTENANCE AT 15m INTERVALS. *TO BE DOCUMENTED). ADD LABELS TO 'GREYWATER' AND RAINWATER TANK TAPS AS APPLICABLE (REQUIRED FOR

MULCH TO ALL GARDEN PLANTED AREAS (EXCEPT LAWN/TURF ZONES): 75mm DEPTH. TYPE: APPROVED EQUIVALENT TO ANL Eucy Mulch.

THE SOIL SPECIFICATION IS TO BE DOCUMENTED, CONFIRMED AND SIGNED OFF BY THE PROJECT LANDSCAPE ARCHITECT AT DOCUMENTATION AND INSTALL PHASE. (ALLOW FOR SOIL LAB TESTING AND



elke LANDSCAPE ARCHITECT + CONSULTING ARBORIST. m: 0410 456 404 The Phoenix Studio 6, Level 1.1 Moncur Street, Woollahra, NSW 2025 elke@elkeh.com.au www.elkeh.com.au 300



however, and were a work on a law termy as work on site (including work by the others) before commencing the indicate, installation. Any discrepancies are to be reported to the Project Manager or Landscape Architect prior to commencing well. Do not scale this drawing. Any required dimensions in a commencing work. Do not scale this drawing. Any required dimensions in Contractor not not construct from this drawing unless it marked tissue for Construction. The Contractor down wholegoes this drawing may be one of number of drawings which together document the landscape design and works.



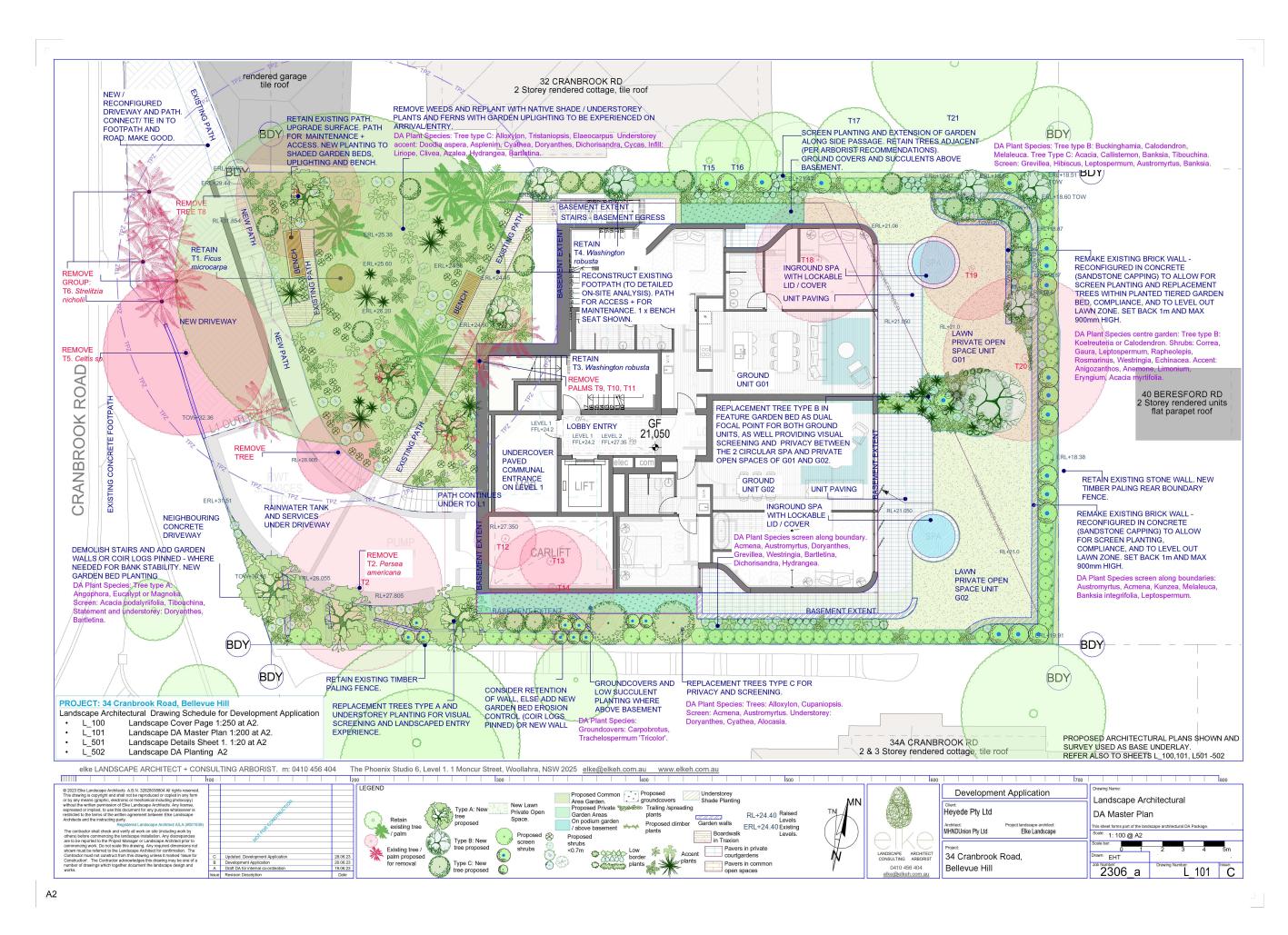


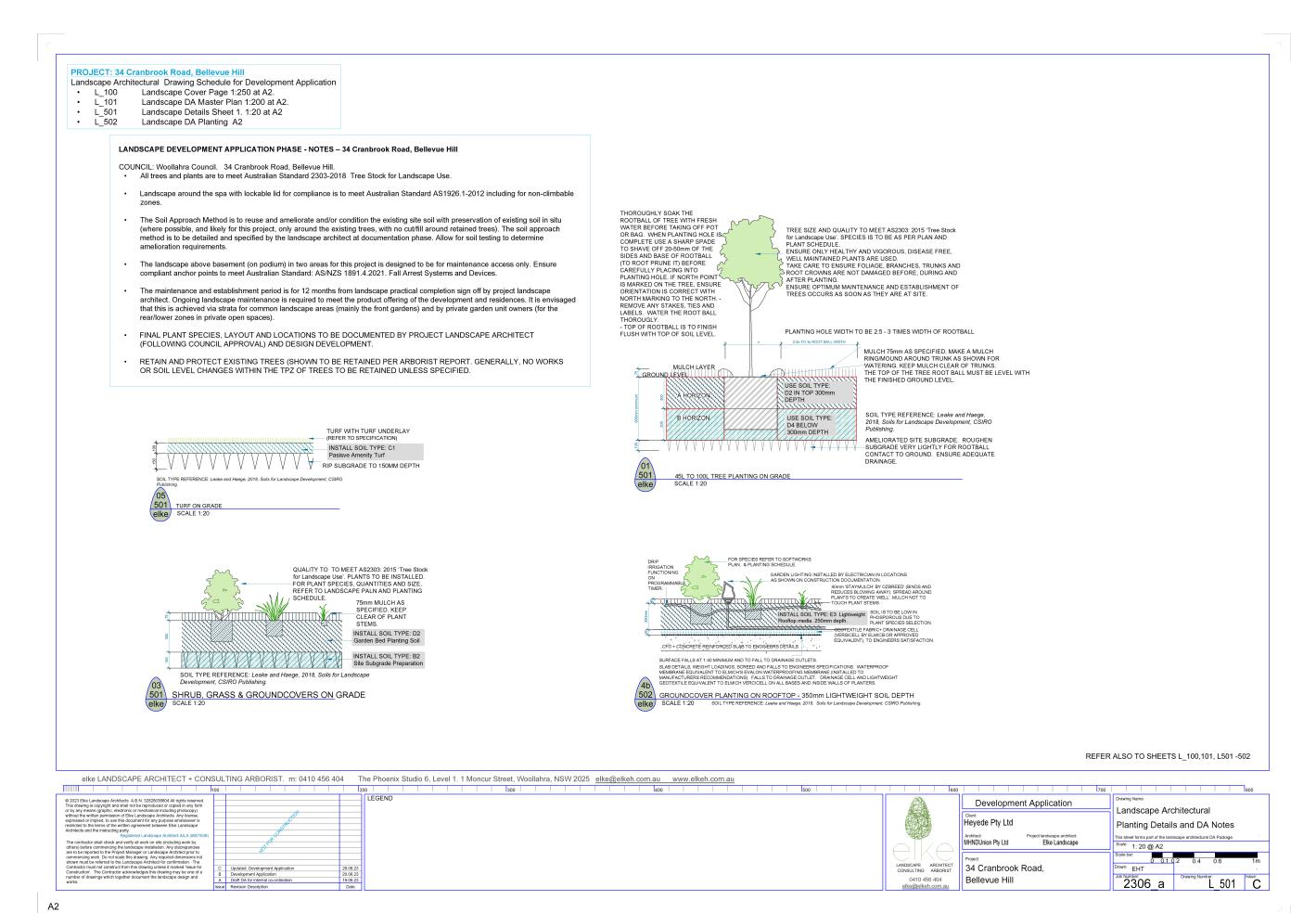
Heyede Pty Ltd MHNDUnion Pty Ltd 34 Cranbrook Road,

Development Application Elke Landscape Bellevue Hill

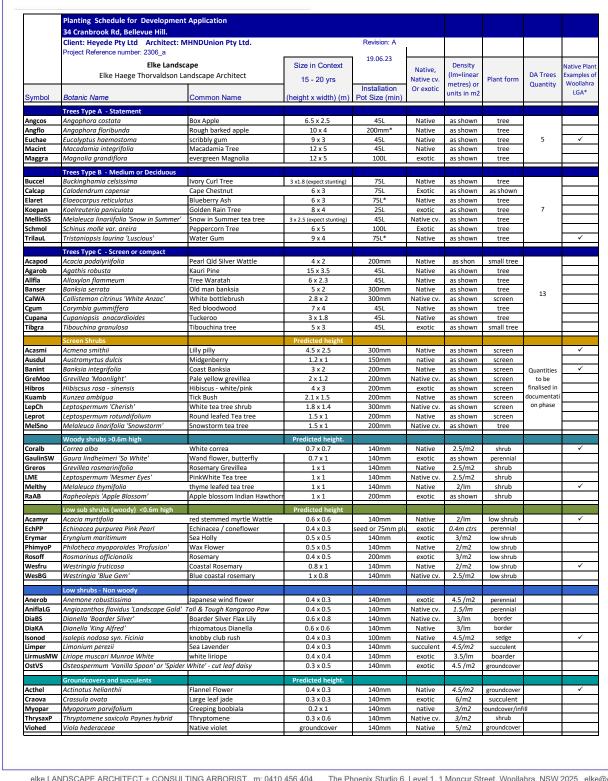
Landscape Architectural Cover Page 1: 200 @ A2 2306 a Ĺ 100

A2





Architectural Plans and supporting documents













5

Plant images from left to right: Eucalyptus haemastoma, Angophora ftoribunda, 200L pot size eucalypt, Elaeocarpus retidulatus. Bottom row : 2 x close up of Eucalyptus haemostoma









Plant images from left to right: Callistemon citrinus White Anzac, Buckinghamia celcissima, Clerodendrum capense x 2







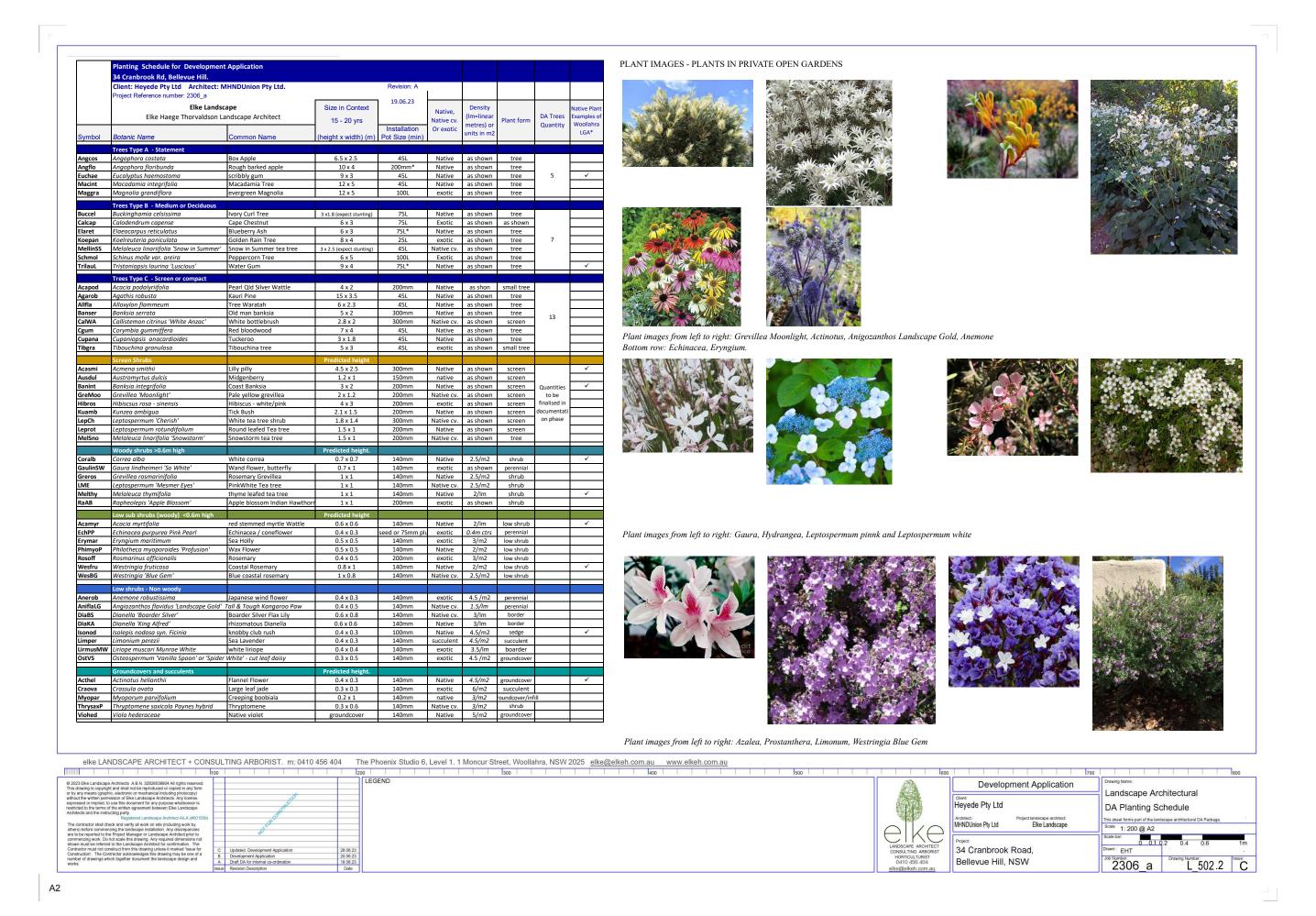


Plant images from left to right: Tristaniopsis, Elaeocarpus, Acacia podalyriifolia x 2.

elke LANDSCAPE ARCHITECT + CONSULTING ARBORIST. m: 0410 456 404

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Attachment 1 Architectural Plans and supporting documents



Attachment 1 Architectural Plans and supporting documents



Completion Date: 27/02/2024

REFERRAL RESPONSE - DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 249/2023/1
ADDRESS: 34 Cranbrook Road BELLEVUE HILL 2023

PROPOSAL: Demolition of the existing residential flat building and construction of

a new residential flat building with four (4) apartments and

landscaping

FROM: Mehrnaz Jamali - Development Engineer

TO: Ms L Williams

1. ISSUES

Unsatisfactory. Please refer to Recommendations for issues.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, Job No. 23252, prepared by GSA Planning, dated July 2023.
- Architectural Plans, Project No. 23-006, Revision C, prepared by MHN Design Union, dated 21/12/2023.
- Survey, Job No. 1773, prepared by Survplan, dated 21/04/2023.
- Stormwater Management Plan, Job No. 230601, Revision C, prepared by Xavier Knight, dated 08/08/2023.
- Flood Management Report, Project No. 230601, Issue A, prepared by Xavier Knight, dated 08/08/2023.
- Geotechnical Report, referenced 36102BrptRev1, prepared by JK Geotechnics, dated 18 July 2023.
- Hercules Car Parking System, referenced P23-109, dated 28 July 2023.
- Deposited Plans and Title Documents.
- Traffic Report to be referenced by Council's Traffic Engineer.
- Drainage referral response, dated 29 August 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

The Stormwater Management Plan, Job No. 230601, Revision C, prepared by Xavier Knight, dated 08/08/2023 is unsatisfactory and must be revised to address the following requirements:

 The plans demonstrate construction of a new Kerb Inlet Pit (KIP) over Council's existing belowground drainage system on Beresford Road.

Referral Response - Technical Services - DA20232491 - 34 Cranbrook Road BELLEVUE HILL.DOCX

1 of 5

Whilst the site <u>must</u> drain to Council's belowground drainage system on Beresford Road through the existing intern-allotment drainage system, the mere connection and depicted on plans (including the long-section) does not suffice. The plans must provide section details with all levels, demonstrating how the pipeline through the drainage easement over No. 40 Beresford Road, above the existing garage structure, will connect to Council's belowground drainage system. Please note that the pipeline must not be exposed along the building connecting to Council's road reserve and any new KIP must have a clearance of minimum 0.5 from any vehicular crossings.

- A Survey Plan, prepared by a registered surveyor must be provided for the frontage
 of downstream property No. 40 Beresford Road. Inclusion of the existing interallotment drainage easement section may also be required as this is intended for all
 stormwater works draining to Beresford Road.
- The plans are to demonstrate that the existing inter-allotment drainage easement has capacity for a 1 in 100 year stormwater event and will safely convey overland flow without any adverse effect to No.40 Beresford Road and other adjoining properties.
- Utilisation of any basement pump-out system must demonstrate that no other surface water other than the basement area which cannot drain under gravity, is draining to the basement pump-out system.

b. Flooding & Overland Flow comments

The site is within a flood affected zone. As such Council's Drainage Engineer has provided the following comments:

I refer to the following documents received for this report:

- 23/143781 document Stormwater Management Plan DA2023/249/1 34 Cranbrook Road BELLEVUE HILL
- 23/143787 plan Architectural Drawings (Rev B) DA2023/249/1 34 Cranbrook Road BELLEVUE HILL
- 23/143779 document Flood Management Report DA2023/249/1 34 Cranbrook Road BELLEVUE HILL

1. RECOMMENDATION

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

D 1. Flood Protection

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 a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).

Flood Warning:

a) A permanent flood risk management plan must be installed in a prominent area of the garage,

Fencing

a) All fences traversing the over land flow path must be designed to be flow through,

Flood Proof Material

a) Flood compatible materials must be used for all flood exposed construction,

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Electricals

a) All flood exposed electrical wiring and equipment must be waterproofed,

Overland Flow Paths

- Clear overland flow paths must be provided as detailed on Stormwater Management plan Job230601 Xavier Knight 08/08/2023
- A permanent informative sign must be mounted adjacent to the overland flow path indicting that the area is an overland flow path and must be keep clear and unobstructed at all times,

Certification

a) All flood protection measures must 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.

Notes:

 The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1, 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.

Condition Reason: To ensure the development incorporates flood inundation protection measures.

c. Impacts on Council Infrastructure comments

Comments will be provided upon receipt of the requested additional information.

d. Traffic comments

Please refer to Council's Traffic referral response for comments and conditions.

e. Vehicle Access & Accommodation comments

The access and parking layout is generally satisfactory subject to conditions.

Please also refer to Council's Traffic referral response for other comments and conditions.

f. Geotechnical, Hydrogeological and/or Structural comments

The submitted Geotechnical Report, referenced 36102BrptRev1, prepared by JK Geotechnics, dated 18 July 2023 is unsatisfactory as it has not failed to address Council's previous request for additional information dated 26 July 2023. As such the report must be amended to address the following requirements:

- The report must be revised to address <u>all</u> requirements outlined in Woollahra Council's DCP Document - Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports, predominantly, but not limited, to the following;
 - Demonstrate that there will be no adverse impact on surrounding property and infrastructure as a result of changes in local hydrogeology (behaviour of

Referral Response - Technical Services - DA20232491 - 34 Cranbrook Road BELLEVUE HILL.DOCX

groundwater) created by the method of construction. This includes the short-term effects resulting from construction practices, including the method and rate of dewatering (if any) and the long-term effects resulting from the support and retention of property and infrastructure after construction has been completed.

- Demonstrating that ground settlement in areas adjacent to the development site resulting from temporary and permanent site support and retention measures will have no adverse impact on the surrounding properties and infrastructure.
- Demonstrate that permanent support and retention measures will be set back a minimum of 900mm (or minimum as advised in the relevant Development Control Plan) from the adjacent property boundaries. Please Note it may be possible for the development to be built up to the boundary however it will require the geotechnical/hydrogeological report to confirm the structural adequacy of any adjacent structures.
- Whilst the report has somewhat mentioned vibration, the report must demonstrate that there will be no adverse impact on the surrounding properties and infrastructure as a result of vibration created by the method of construction used for the development. As a minimum, reports must demonstrate compliance with the requirements of AS2187.2 Appendix J.
- Demonstrate that permanent earth or ground anchors will not be required on or below any road reserve or other Council property. Council may accept the use of temporary anchors if the applicant can adequately demonstrate that the use of temporary anchors would sufficiently improve the safety of the retention of excavations that may be proposed. The installation of such temporary anchors must comply with the Council's Rock Anchor Policy. (Use of permanent and/or temporary anchors on private property is not allowed without written confirmation by the property owners). Further, where required ground anchors will encroach onto private properties, written approval from the properties must be provided prior to DA approval, otherwise an alternative option must also be provided.
- The report must be revised to ensure <u>all</u> requirements within Council's Chapter E2
 "Stormwater and Flood Risk Management" DCP <u>Section E2.2.10</u> have been
 addressed;
 - The report must include a site-specific risk assessment matrix with appropriate definitions for qualitative measures of likelihood and consequences for assessing the risk of damage to existing development by the new development.
 - The report must also contain an Implementation Plan, including a Monitoring Program, Contingency Plan and Construction Methodology.
 - Structural Report including design statement and supporting drawings must also be submitted showing design measures to minimise risks and to ensure that no adverse impacts will occur.

g. Other matters

None.

4. RECOMMENDATION

Council's Development Engineer has determined that the proposal is unsatisfactory for the following reasons:

- Provision of additional information and amended Stormwater Management Plan as detailed in <u>Section a.</u> 'Site Drainage comments'.
- Provision of additional information and revised Geotechnical and Hydrogeological Report, as detailed in <u>Section f.</u> 'Geotechnical, Hydrogeological and/or Structural comments'.

Note: please be advised that the above comments do not diminish Council's right to seek further clarification, information and/or amendments through future assessments and/or upon receipt of additional information.

Completion Date: 2 December 2023

REFERRAL RESPONSE - TRAFFIC

FILE NO: Development Applications: 249/2023/1 ADDRESS: 34 Cranbrook Road BELLEVUE HILL

PROPOSAL: Demolition of the existing residential flat building and construction of

a new residential flat building with four (4) apartments and

landscaping

FROM: Ms E Fang
TO: Mr L Williams

I refer to the memo from the Planning Department dated 15 August 2023 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, referenced 23252, prepared by GSA Planning, dated July 2023;
- Transport Impact Assessment, unreferenced, prepared by PTC, dated 29 June 2023;
- Car Lift Specifications, referenced P23-109, prepared by Hercules, dated 28 July 2023;
- Revised Architectural Drawings, Rev B, referenced 23-006, prepared by MHN Design Union, dated 2 August 2023.

2. ISSUES

Access Driveway

3. ASSESSMENT

3.1 Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council's DCP 2015 Chapter E1 Parking and Access:

Table 1: Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Permitted Parking
2 bedroom	2	1.5	3
3 bedrooms	2	2	4
Visitors	4	0.25	1
Total permitted			8
Proposed provision			7

The proposed provision of seven (7) parking spaces, including one (1) for visitors, comply with DCP's maximum requirement and is considered acceptable. It is however noticed two (2) spaces are proposed at the north-eastern corner of the car park and are described as 'shared space' in the SEE report. The proposal does not include adaptable unit and does not

Planning Portal - Traffic - Referral Response - DA20232491 - 34 Cranbrook Road BELLEVUE HILL.DOCX

require accessible parking. The shared space is therefore considered redundant. In addition, provision of nine (9) spaces exceeds the maximum permitted number of parking for the proposal. As such, the two accessible parking spaces should be converted to general parking and the shared space should be removed.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE				
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	
Residential Residents	4 dwellings	1 per dwelling	4	
Residential Visitors	4 dwellings	1 per 10 dwellings	0.4 (0)	
Total required			4	
MOTORBIKE	MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	
Car Spaces	7	1 per 10 car spaces	0.7 (1)	
Total required			1	

In response, the proposal includes 5 wall-mounted bicycle parking spaces and 1 motor bike parking space, which complies with DCP's minimum requirement and is deemed satisfactory.

3.2 Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with RMS Guide to Traffic Generating Developments 2002, and RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a.

Proposed Development

Medium Density Residential - Smaller unit

- Weekday peak hour vehicle trips: 2 dwellings x 0.4-0.5 per dwelling = 0.8-1 trips
- Daily vehicle trips: 2 dwellings x 4-5 per unit = 8-10 trips

Medium Density Residential - Larger Units

- Weekday peak hour vehicle trips: 2 dwellings x 0.5-0.65 per dwelling = 1-1.3 trips
- Daily vehicle trips: 2 dwellings x 5.0-6.5 per dwelling = 10-13 trips

Total

- Weekday peak hour vehicle trips = 1.8-2.3 trips
- Daily vehicle trips = 18-23 trips

It is noted that the existing use consists of four (4) residential units. Whilst the current unit mix is unclear, it is anticipated that the proposed four (4) residential units, including two (2) two-bedroom units and two (2) three-bedroom units, will remain the low level of traffic as the current use. Sidra analysis also confirms the proposal will not create significant change of traffic conditions than existing. Future traffic generated by the proposal therefore is unlikely to create unacceptable adverse impacts on the surrounding road network.

3.3 Mechanical Parking Installations

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A car lift and a turntable are proposed to assist with vehicular manoeuvrability. Swept path diagrams demonstrate successful movements and are considered acceptable.

Queuing analysis is not provided in the traffic report. It is however noted that an on-site waiting bay and traffic light system have been incorporated to manage ingress and egress traffic. Given the nature and scale of the development, 98th percentile traffic is highly unlikely to exceed the capacity of one (1) waiting bay and queue beyond the property boundary. Swept path analysis indicates that B99 vehicles can manoeuvre off the site when another vehicle is standing in the waiting bay and the waiting vehicle can then directly enter the site without reversing onto the footpath or public road, which is deemed satisfactory. Should the development be approved, conditions will be imposed to ensure priorities be given to vehicles entering the site to minimise disruptions to traffic along the frontage road.

3.4 Access Driveway

A series of design deficiencies are identified in the proposed access driveway and are detailed below:

1) Excessive Width

The architectural drawings do not annotate width of the access driveway however by measurement it is approximately 18m which significantly exceeds the maximum width requirement of 5.5m for a Category 1 access facility as per Clause 3.2.1 and Table 3.2 of AS/NZS 2890.1:2004.

2) Steep Slope

Elevations show the external radius along the southern side of the driveway is flat for the first 1.75m, the gradient then transits to 1 in 8 (12.5%) for 2m and further increases to 1 in 4 (25%) for the next 12m, which significantly exceeds the maximum gradient for the first 6m being 1 in 20 as stipulated in AS/NZS 2890.1. Whilst the proposed driveway can accommodate two-way traffic at access point, the desire line where vehicles are anticipated to leave the site and enter the frontage road will be along the southern side of the driveway, considering the stairway at the northern side and the proposed 'No Left Turn' control when exiting the site.

3) Angled Driveway

Driveways are typically perpendicular to the road carriageway to achieve sufficient sight distance. It is noted that 'No Left Turn' control has been proposed which avoids vehicles from abruptly turning at the access point and joining the southbound traffic, the dramatically angled driveway however impairs sight line as required in Clause 3.2.4 and Figure 3.2 of AS/NZS 2890.2:2004 and creates blind spot which substantially increases safety risks when vehicles are exiting the site and entering the northbound traffic, noting incoming traffic are travelling downhill around the bend.

As such, Council's Traffic Engineers raise serious safety concerns on the proposed access driveway. The access driveway should be redesigned to comply with associated design requirements as per AS/NZS 2890.1 and minimise safety issues risks to vehicular and pedestrian traffic along the frontage road.

4. RECOMMENDATION

Council's Traffic Engineer has reviewed the application and recommend that the development not be supported at this stage until the following issues are addressed:

 Parking Provision – The proposal does not include adaptable unit and does not require accessible parking. The shared space is considered redundant and should be removed.

Planning Portal - Traffic - Referral Response - DA20232491 - 34 Cranbrook Road BELLEVUE HILL.DOCX

 Access Driveway – A series of design deficiencies are identified which results in serious safety concerns, as detailed in the report. The access driveway should be redesigned to comply with associated design requirements as per AS/NZS 2890.1 and minimise safety issues risks to vehicular and pedestrian traffic along the frontage road.

Ever Fang Traffic & Transport Engineer 2/12/2023 **Completion Date**

Completion Date: 20 March 2024

REFERRAL RESPONSE - TRAFFIC

FILE NO: Development Applications: 249/2023/1
ADDRESS: 34 Cranbrook Road BELLEVUE HILL

PROPOSAL: Demolition of the existing residential flat building and construction of

a new residential flat building with four (4) apartments and

landscaping

FROM: Ms E Fang **TO:** Mr L Williams

I refer to the memo from the Planning Department dated 8 January 2024 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Traffic Response to Council's Request for Information, unreferenced, prepared by PTC, dated 21 December 2023;
- Revised Basement Plan, Rev C, referenced DWG No.DA204, prepared by MHN Design Union, dated 21 December 2023.

2. ISSUES

Access Driveway

3. ASSESSMENT

3.1 Parking Provision

Parking provision has been previously assessed, refer to TRIM #23/222376. It is noted that architectural drawings have been updated to remove the redundant accessible parking and the adjacent shared area, which is considered acceptable.

The proposed provision of seven (7) car parking spaces, including one (1) visitor parking space, complies with DCP's maximum requirement and is deemed satisfactory.

The proposed provision of one (1) motorbike parking space, five (5) bicycle parking spaces including four (4) in secure storage and one (1) in common area for visitor parking, complies with DCP's minimum requirement and is deemed satisfactory.

3.2 Access Driveway

It is measured that the width of the access driveway is not reduced at the property boundary and remains 18m which substantially exceeds the maximum width requirement and is excessive considering the scale and nature of the development. Future traffic generated by the development is minor and is unlikely to exceed beyond property boundary, particularly with the proposed provision of traffic light system to manage traffic and give priorities to vehicles entering the site. As such, the waiting bay is considered unnecessary and should be removed, noting the removal of the waiting bay can significantly reduce width of the access driveway, as indicated by the updated swept path analysis.

 $Re\text{-}Referral\ Response - TS\ Traffic - DA 20232491 - 34\ Cranbrook\ Road\ BELLEVUE\ HILL. DOCX$

The width of access driveway should be reduced to 5m to comply with the width requirement and minimise loss of on-street parking.

4. RECOMMENDATION

Should this development be approved, it is recommended that the following modifications to the original conditions be included:

A. General Conditions

A.5 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 the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp "Approved DA Plans" 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)
Unreferenced	Traffic Response to Council's Request for Information	PTC	21 December 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 80A(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.)

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

C.4 Modification of Details of the Development (section 4.17(1)(g) of the Act)

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

- a) The proposed waiting bay at entry point be removed and the access driveway be reduced to 5m in width at property boundary to comply with maximum width requirement stipulated in AS/NZS 2890.1:2004 and minimise loss of on-street parking.
- 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.13 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 for infrastructure works prior to the issuing of any Construction Certificate. The following infrastructure works must be carried out at the applicant's expense:

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- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 5.0 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 with the centreline of the internal driveway at the property boundary.
- b) Design longitudinal profiles along each edge/side of the proposed crossing must be submitted for assessment. A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- c) Other conditions imposed by Council's Development Engineers.

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 *section K. Advisings* of this consent titled *Roads Act Application*. Standard Condition: C13 (Autotext CC13)

C.45 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 and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking respectively.

The plans must satisfy the following requirement(s):

- a) A 2m x 2.5m driveway sightline splay be provided, clear of obstruction, along both sides of the access driveway wholly within the property boundary. Any structure within the splay area shall be lower than 600mm to ensure visibility;
- b) Traffic light system be incorporated to manage traffic between ground level and basement. Priority must be given to vehicles entering the site to minimise adverse impact on traffic flow on frontage road;
- c) 'No Left Turn' signs be installed at entry point wholly within the property boundary;
- d) Convex mirror be installed at entry point wholly within the property boundary.

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.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act* 1993.

Standard Condition: C45 (Autotext: CC45)

- D. Conditions which must be satisfied prior to the commencement of any development work
- **D.9 Construction Management Plan**
- D.10 Works (Construction) Zone Approval & Implementation
- E. Conditions which must be satisfied during any development work
- E.3 Compliance with Construction Management Plan

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

I.21 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:2015 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car parking (resident)	6
Car parking (visitor)	1
Bicycle parking (storage cage)	4
Bicycle parking (common area)	1
Motorbike parking	1

This condition has been imposed to ensure adequate on-site parking is maintained. Standard Condition: I21

I.31 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

Future requests to install additional parking restrictions along the frontage road to facilitate vehicular movements accessing/egressing the site will not be supported.

Ever Fang Traffic & Transport Engineer 20/3/2024 Completion Date

 $Re\text{-}Referral\ Response - TS\ Traffic - DA 20232491 - 34\ Cranbrook\ Road\ BELLEVUE\ HILL. DOCX$

11 September 2023

REFERRAL RESPONSE - TREES & LANDSCAPING

FILE NO: Development Applications: 249/2023/1

ADDRESS: 34 Cranbrook Road BELLEVUE HILL 2023

PROPOSAL: Demolition of the existing residential flat building and construction of

a new residential flat building with four (4) apartments and

landscaping

FROM: Sam Knight

TO: Ms L Williams

I refer to the following documents received for this report:

- Survey Plan, drafted by Survplan, dated 21 April 2023
- Architectural Drawings, drawn by MHNDUnion, dated 2 August 2023
- Tree TPZ Plan, drawn by MHNDUnion, dated 28 June 2023
- Arboricultural Impact Assessment Report, written by Dr Treegood, dated July 2023
- Landscape Plans, designed by Elke, dated 28 June 2023

A site inspection was carried out on 9 September 2023.

Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites
- Apartment Design Guide Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

SUMMARY

The proposal is for demolition of the existing residential flat building and construction of a new residential flat building with four (4) apartments and landscaping.

A total of 21 trees have been identified within and adjacent to the site that will be affected by the proposal. This includes 14 trees proposed for removal and seven (7) trees proposed for retention.

The Tree and Landscape team has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the below conditions.

COMMENTS

Inspection of the site and a review of the plans and documentation has revealed 21 trees within and adjacent to the site will be affected by the proposal.

The following tree numbering has been adopted from the Arboricultural Impact Assessment prepared by Dr Treegood dated July 2023.

Tree Removal – less than 5 metres

The plans indicate tree 7 is proposed for removal as it is located within the footprint of the new driveway.

This tree has been noted as being less than 5 metres in height and is not protected by the provisions of the WMC DCP Chapter E.3 – Tree Management and can be removed without Council consent regardless of the proposed development.

Tree Removal - Exempt Species

The plans indicate trees 6, 14, 19 and 20 are proposed for removal due to them being species that are exempt from the provisions of the WMC DCP Chapter E.3 – Tree Management.

The Tree and Landscape supports their removal as it will allow more appropriate tree species to be planted that achieve the required canopy cover targets required by the DCP.

Tree Removal – Low Retention Value

The plans indicate trees 2, 5, 8, 9, 12, 13 and 18 are proposed for removal as they are located within footprint of either the new building, driveway, or landscape areas.

These tree have been rated as having Low Retention Value for various reasons including underperforming in health, low heights, or found to be providing minimal amenity value to the immediate area.

The Tree and Landscape team supports removal of these trees due to their low value provide replacement planting is undertaken in accordance with the submitted Landscape Plans to compensate for the loss of canopy cover.

Tree Removal – Medium Retention Value

The plans indicate trees 10 and 11 are proposed for removal as they are located within the footprint of the new building. Whilst these trees have been rated as having Medium Retention Value in the applicants Arborist Report, their removal will have minimal impact on the amenity and canopy cover due to them being small palms that are not visible from the street or surrounding properties.

Tree Retention

The plans indicate trees 1, 3, 4, 15, 16, 17 and 21 are proposed for retention.

Tree 1 has been identified as a Morten Bay Fig located within front yard. The tree was noted in good healthy condition and provides a high contribution to the amenity and canopy cover of the immediate area.

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The plans indicate works are proposed within Tree Protection Zone of the tree which has been calculated as being 10.8 metres (radius from tree trunk). This includes excavation for the basement, services and pump room. A raised driveway will also be installed within the TPZ. The proposed works represent a Major Encroachment (34%) as defined by the Australian Standards AS4970 'Protection of trees on development sites'. Majority of the encroachment is from the suspended driveway that will involve minimal excavations.

The excavations for the basement, service and pump rooms result in a 3.3% encroachment into the TPZ which is within acceptable limits provided excavation is undertaken by hand under the supervision of a Project Arborist. Tree protection measures will also need to be installed and maintained to ensure the tree remains viable. This has been detailed in the conditions below for inclusion into the DA consent.

Trees 3 and 4 have been identified as Washinton Palms located in the front yard. The palms were noted in good health and conditions. The TPZ and Structural Root Zone (SRZ) calculations provided in the Arborist Report and Tree TPZ plan are incorrect. As detailed in AS49870, the TPZ for palms should not be less than 1m outside the crown projection. SRZ do not apply to palms. The TPZ for these palms should therefore be 3 metres (not 7.2m and 6m as shown on the TPZ plan). This means the proposed works represents a Minor Encroachments as defined by AS4970 and is within acceptable limits.

Trees 15, 16, 17 and 21 have been identified as Leyland Cypress trees located adjacent to the northern boundary within 32 Cranbrook Rd. The trees were noted in good health and conditions. There are no bulk excavations proposed within their TPZs. All new landscaping within the TPZ of these trees must ensure tree sensitive measures are implemented in accordance with the details included in the conditions below.

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.

CONDITIONS OF CONSENT

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

A. General Conditions

A.1 Tree Preservation & Approved Landscaping Works

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

- a) The following trees shall be retained
 - Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
1	Ficus macrophylla	Front Yard	20 x 20
3	Washingtonia robusta	Front Yard	20 x 4
4	Washingtonia robusta	Front Yard	20 x 4

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

b) The following trees may be removed:

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Council Ref No.	Species	Location	Dimension (metres)
2	Persea americana		10 x 8
5	Celtis sinensis		12 x 10
6	Strelitzia nicolai*		10 x 8
7	Jacaranda mimosifolia*		4 x 4
8	Plumeria spp	Refer to the Landscape	5 x 3
9	Howea forsteriana	Architectural DA Master	6 x 2
10	Howea forsteriana	Plan prepared by Elke	5 x 2
11	Howea forsteriana	dated 28 June 2023 for	5 x 2
12	Glochidion ferdinandi	tree numbers and	6 x 4
13	Ligustrum lucidum	locations.	6 x 6
14	Celtis sinensis*		9 x 8
18	Plumeria spp		6 x 2
19	Celtis sinensis*		8 x 5
20	Celtis sinensis*		8 x 6

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

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

A.2 Approved Plans and supporting documents

Re	ference	Description	Author/Drawn	Date(s)
L	100,			
L	101,	Landscape Plan	Elke	28/6/23
L	501,	Landscape i lan	LIKE	20/0/23
1 1	502			

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

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

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	Ficus macrophylla	Front yard	Edge of existing pathway and full extent of front yard

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

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

b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist

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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	
3	Washingtonia robusta	
4	Washingtonia robusta	

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.
- g) 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.
- h) 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.
- The project arborist shall provide written certification of compliance with the above condition.

B.2 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
1	Ficus macrophylla	10.8m	Construction of new driveway, excavation and construction of new building and landscape upgrade works
3	Washingtonia robusta	3m	Landscape upgrade works
4	Washingtonia robusta	3m	Landscape upgrade works

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

B.3 Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by Referral Response - Landscaping - DA20232491 - 34 Cranbrook Road BELLEVUE HILL.DOCX

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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;
- b) 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;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

B.4 Arborists Documentation and Compliance Checklist

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

- A record of the condition of trees to be retained prior to and throughout development
- Recommended actions to improve site conditions and rectification of noncompliance
- 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	 Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. 		
During any development work	The project arborist shall supervise all demolition and excavation works		

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within the Tree Protection Zones or

	specified distances of nominated trees listed in this consent.
	The project arborist shall supervise the demolition of the existing driveway within the TPZ of tree 1. The condition of exposed roots shall be managed and documented.
	The project arborist shall supervise the installation of the new driveway within the TPZ of tree 1, ensuring tree sensitive construction methods are implemented and documenting the condition of roots and soil.
	The project arborist shall ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter.
	The project arborist shall inspect the installed irrigation system to plants in garden beds. The arborist shall certify there is an appropriate distribution of water to planted and existing trees.
	Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.
Prior to any occupation or use of the building	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	The project arborist shall supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.
Inspections and compliance documentation	on shall be made by an arborist with A

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

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

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

C.1 Tree Management Plan

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

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- 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.

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

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

General Protection Requirements

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

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

E.2 Replacement/Supplementary trees which must be planted

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

The project arborist shall document compliance with the above condition.

E.3 Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall 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 shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	Ficus macrophylla	Front Yard	10.8m
3	Washingtonia robusta	Front Yard	3m
4	Washingtonia robusta	Front Yard	3m

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 shall document compliance with the above condition.

E.4 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	Ficus macrophylla	Front Yard	10.8m
3	Washingtonia robusta	Front Yard	3m
4	Washingtonia robusta	Front Yard	3m
15, 16 and 21	Cupressus x leylandii	Adjacent northern boundary – within 32 Cranbrook Rd	3m

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

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

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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.5 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	Ficus macrophylla	Front Yard	10.8m

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.7 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	Ficus macrophylla	Front Yard	10.8m
3	Washingtonia robusta	Front Yard	3m
4	Washingtonia robusta	Front Yard	3m
15, 16 and 21	Cupressus x leylandii	Adjacent northern boundary – within 32 Cranbrook Rd	3m

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

F.1 Amenity Landscaping

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

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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

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

H.1 Landscaping

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

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

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

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

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

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

Sam Knight Tree Officer

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27 October 2023

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 249/2023/1

ADDRESS: 34 Cranbrook Road BELLEVUE HILL 2023

PROPOSAL: Demolition of the existing residential flat building and construction of

a new residential flat building with four (4) apartments and

landscaping

FROM: Tristan Ryan – Senior Strategic Heritage Officer

TO: Ms L Williams

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by MHNDUnion, dated 2/8/23, and numbered DA 00 DA516
- Demolition Report by Ruth Daniel, dated June 2023
- Statement of Environmental Effects by GSA Planning, dated July 2023.
- Updated Aboriginal Heritage Due Diligence Assessment Report by Danny O'Brien, dated July 2023

SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

The site was inspected on 29 September 2023, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- 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

National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was required as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal.

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A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 27 October 2023 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites recorded within a 50m buffer in or near the above location.

The site contains landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

While the subject site is disturbed land, the escarpment, which has been terraced to some degree, may include subsurface material that is relatively undisturbed. Substantial excavation is proposed in this area. For this reason, more than usual care is required for excavation. As no advice has yet been received from the La Perouse LALC, an officer of the LALC should be present on site for initial excavation and for further excavation as they recommend.

Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area.

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

Assessment of potential heritage significance against the NSW Heritage Criteria

Criterion (a) Historical

An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area

• 34 Cranbrook Road is an Inter-war flat building, constructed c. 1921 and designed by Mr G Garton, architect. It is an early example of apartment building development in the local area, but does not reach the threshold for listing.

Criterion (b) Historical Association

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area

The architect is not a person of importance in NSW's cultural or natural history, though he
appears to have designed at least one grand house for the Tucker family at Kirribilli Point, it
does not appear to be listed and may have been demolished. No other associations with
important persons have been noted.

Criterion (c) Aesthetic

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)

 34 Cranbrook Road dates from the early Inter-war period, and is a curious mix of styles, embodying elements of Arts and Crafts, and Old English, with perhaps early influence of the Spanish Mission. The original drawings display a competent but not particularly distinguished

Referral Response - Heritage - DA20232491 - 34 Cranbrook Road BELLEVUE HILL.DOCX



design, which has been substantially altered since its construction. The building does not meet the threshold for listing under this criterion.

Criterion (d) Social

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons

There is no identified social significance.

Criterion (e) Technical/Research

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area

Any information obtained from this building would be more readily obtained elsewhere.

Criterion (f) Rarity

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

 As an early Inter-War flat building, the place is somewhat rare in the local area, but there are other examples.

Criterion (g) Representativeness

An item is important in demonstrating the principal characteristics of a class of NSW's

- · cultural or natural places; or
- · cultural or natural environments.

(or a class of the local area's

- · cultural or natural places; or
- cultural or natural environments.)
- The building is not highly representative.

Integrity

• The integrity of the building is poor, with substantial alteration inside and out.

Clause 5.10 Heritage Conservation

In consideration of the above, there is no undue or unacceptable impact from the demolition of the building on the heritage of Woollahra, though the loss of an inter-war apartment building has some impact.

Significance of items in the vicinity

The following listed heritage items/heritage conservation areas are located in proximity of the site/There are no listed heritage items in close proximity that would be adversely affected by the proposal:

 'Allala – house and interiors, gateposts, gate' (No. I20) at 26-28 Cranbrook Road, Bellevue Hill.

As the proposed new building is substantially similar in height and massing to the existing, there is no impact on the item arising from the proposal.

Woollahra DCP 2015

Part B – General Residential – B3 General Development Controls

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CLAUSE B3.8 ADDITIONAL CONTROLS FOR DEVELOPMENT OTHER THAN DWELLING HOUSES

B3.8.7 Inter-War flat buildings

Objectives All

Controls All

 The proposal includes the demolition of an Inter-War flat building, contrary to these controls.

CONCLUSION

Although the proposal is contrary to the controls around inter-war flat buildings, in this case the heritage impact is not so great as to be unacceptable.

The potential for impact on Aboriginal heritage, though noted in the due diligence report to be unlikely, is not without precedent. Therefore, unless other advice is received from the La Perouse Local Aboriginal Land Council in the interim and provided to Council to satisfy the relevant condition, it is recommended that an officer of the La Perouse LALC be present for initial excavation of the escarpment, and any other excavation as La Perouse LALC sees fit.

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 negatively impact the heritage of Woollahra.

Part 5.10

- Clause 1(a) The development does not impact the heritage of Woollahra.
- Clause 4 This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions is recommended.

Standard Conditions

Recording of Building and Landscape Prior to any Demolition or Alteration

Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer.

The archival record must be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage, or by a suitably qualified consultant who demonstrates a working knowledge of archival principles.



Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- c) Coloured photographs of:
 - · each elevation,
 - · each structure and landscape feature,
 - internal images of each room which retains any significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

Notes:

 Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digitalcapture.pdf

Condition Reason: To ensure existing contributory building and landscape elements are recorded.

Archaeological Features – Unexpected Findings

B. 1. Archaeological Features – Unexpected Findings

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.

Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.

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.



Notes:

- 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).

Condition Reason: To protect archaeological features.

(Autotext 8B)

Skeletal Remains

B. 2. Skeletal Remains

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:

- a) NSW Police, and
- b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

Details of the remains and their precise location are to be provided.

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.

Condition Reason: To ensure the appropriate management of skeletal remains.

(Autotext 9B)

Aboriginal Objects - Unexpected Findings

B. 3. Aboriginal Objects – Unexpected Findings

While site work is being carried out, if unexpected Aboriginal objects or bones are found, 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 Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.



f) 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.

Notes:

 The Definition of Aboriginal object, as per the National Parks & 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.

Condition Reason: To protect Aboriginal objects

(Autotext 10B)

Aboriginal Heritage Due Diligence Responsibilities

B. 4. Aboriginal Heritage Due Diligence Responsibilities

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 & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

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

Condition Reason: To protect Aboriginal heritage.

(Autotext 12B)

Aboriginal Heritage Induction

В.	5.	Aboriginal Heritage Induction
		Prior to any site works:
		 a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;
		b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage



expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and

c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.

Condition Reason: To protect Aboriginal heritage.

(Autotext 13B)

Special Conditions

Presence of La Perouse Local Aboriginal Land Council during excavation

An officer of the La Perouse Local Aboriginal Land Council must be given access to the site during the initial excavation, and any further excavation as required. If required, the La Perouse LALC must be able to request the assistance of an archaeologist on the site at the proponent's expense.

This condition may be otherwise satisfied by advice from La Perouse LALC that they consider their attendance during excavation unnecessary (proof of this advice must be provided to Council).

The reason for this condition is to ensure the protection of Aboriginal heritage.

Salvage

Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second-hand building material dealer for recycling.

The reason for this condition is the minimisation of waste. This is in accordance with Chapter E5.2 of the Woollahra DCP 2015.

Completion Date: Version 1, 18 March 2024

REFERRAL RESPONSE URBAN DESIGN

FILE NO: Development Application: 249/2023/1

ADDRESS: 34 Cranbrook Road, Bellevue Hill

PROPOSAL: Demolition of the existing building and the construction of a new three storey

residential flat building with four residential apartments and basement

parking for 7 parking space and associated landscaping.

ASSESSMENT: Complex, with minor SEPP (Housing) & ADG

FROM: Stephen McMahon, Director Inspire Planning

TO: Anne White

Information

Architectural drawings: MHNDUnion Architects Project No. 23-006, DA 000 – 516

Rev B and C, 02.08.2023.

Landscape Plan: Elke, Project 2306a, Drawings L-100 to 502, Issue C,

28.06.23.

Statement of Environmental Effects: GSA Planning, Job 23252, July 2023.

Survey: Survplan, Job 1773. 12.04.23

Part 1: Site and Context

1.1 The Site and Existing Development

The site comprises one lot (16/655678) that has a site area of 870.9 sqm (by calculation as noted in the survey). The site rectangular in shape and oriented in an east-west direction. The site boundaries are: North (to No. 32) 38.1 metres; South (to No. 34A) 38.1 metres; East (to No. 40) 22.86 metres and West (frontage to Cranbrook Road) 22.86 metres.

Numerical setback detail and level observations below have been estimated from the information provided. An aerial photograph and views are presented below.

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Aerial Photograph (source www.six.nsw.gov.au) and Place Views of Site and Neighbours:

- (Top): Pedestrian entry from Cranbrook Road (Site is to south and entry is in road reserve).
- (Top middle) west upwards from No. 36 Beresford.
- (Middle):Site east from driveway of No. 34A.
- (Bottom middle): South along driveway of No. 34A.
- (Bottom): south west along Cranbrook Rd showing relationship with properties on opposite side of Cranbrook Rd.

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It is difficult to gain an appreciation of the existing development in the site and its relationship with its neighbours due to the density of existing vegetation, the recessed location of the site below Cranbrook Road and the presence of the vehicle driveway of the adjoining property to the south (no. 34A) in front of the property. As such much of the site analysis relies on information provided in the reports that accompany the development application.

The site accommodates a two story residential apartment building with four apartments of varying sizes including a roof top accessible terrace and room to serve the apartment below (No. 3). A small single storey building comprising an external laundry is located in the front setback. The building is located at the rear of the site. There is no parking on site and access is only achieved via a pedestrian pathway that commences in the verge of the road reserve (and includes a front wall, gate and letterboxes in the road reserve), that descends into the site some five and a half metres where the path splits into two to access the apartments. Secondary pedestrian access is available via a stairway that connects to the vehicle driveway of No. 34A to the south. The vehicle driveway is also located in the road reserve verge in front of the site (though does not provide access to the site).

The existing building was built around 1921. The development application notes that it does not exhibit strong characteristics of an inter war functionalist style of architectural design, and deems it to have no heritage significance (Daniell R, June 2023, "Demolition Report").

The building is located on a steep site that has been modified via construction of a series of retaining walls in the road reserve in front of, and also behind, the front boundary to Cranbrook Road and at the rear boundary to No. 40 Beresford Road. Retaining walls are also present on the side boundaries. Landform falls approximately 4 metres from the kerb to the site front boundary in the road reserve (33 metres to 29 metres) and then a further approximately 10 metres from the front boundary top the rear boundary. (29 metres to 19 metres). The site has a north to south crossfall of approximately 1.0 metre (22 to 21 metres). However this varies along the side boundaries

The walls support the excavation and fill that have taken place. Part of the rear courtyard is retained by a maximum 1.3 metre (approx.) retaining wall above ground level setback from the rear boundary and adjoining the southern boundary in the south east corner of the site.

The ground floor level of the existing building is located below street level (at 22.5 metres FL) and the roof of the top floor terrace room is located at 32.51 metres. The arrangement results in the building not being visually evident when viewed from Cranbrook Road.

The rear of the building is setback from the eastern boundary (with No. 40 Beresford Road) by an estimated 4.8 metres (approx.).

The minimum setback at the northern side boundary to no. 32 is approximately 1.0 metre and to the southern boundary, No. 34A, is approximately a minimum of 1.8 metres. The front setback (to the rear of the laundry building) is approximately 10.4 metres. The western elevation of the principle building is setback 15.7 metres from the front boundary.

According to the arborist report (Dr. Treegood, July 2023) there are 21 trees within or directly adjoining the site. These include a ficus macrocarpa (Tree No. 1, height +18 metres) and two Washington Robusta (Trees 3 and 4, height 22 – 24 metres). Eleven of the 21 trees have a height of over 10 metres. Six trees within the site are considered to have high preservation value. Three trees are located within the front (western) setback, while 3 trees adjoin the northern side boundary in No. 32.

The vegetation provides some measure of privacy protection between ground floor windows in the building in the site and opposing windows in the adjoining buildings on the side boundaries.

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1.2 The Locality

This part of Bellevue Hill was established in the 1900 – 1920s. Many of the surrounding properties have experienced periodic redevelopment, particularly in the 1960 -70s and more recently, such that the locality is, today, distinguished by a mix of building forms, heights and architectural styles. Generally, the prevailing residential development comprises large, detached dwellings on original lots or scattered low scale inter war apartment buildings generally constructed when the suburb was established.

1.3 Adjoining Road

Cranbrook Road is a local road that exhibits an attractive treed streetscape. However, adjoining and in the vicinity of the site a tree canopy is notably absent.

For the majority of the day the road is a quiet local street. However the presence of two K-12 schools to the north and west (Cranbrook School and Scots College) can create localised short term traffic congestion during school dop off and pick up times. During the afternoon site inspection for this review the road was congested with a number of idling school buses.

The site does not enjoy any convenient access to higher order public transport or retail / commercial / employment/ community services. However it is within 300 metres walking distance of a bus stop on bus route 326 and 800 metres walking distance of Rose Bay Wharf.

1.4 Adjoining Development

To the West:

Negligible detail is provided on the survey for adjoining developments to the west of the site, on the opposite side of Cranbrook Road. No. 45 Cranbrook Road is across the road from the site. It comprises an elevated two storey detached dwelling of recent construction with a semi basement garage below the dwelling addressing the street. The dwelling thus exhibits a three storey form within the streetscape. To its north and south are similar recently constructed 3 storey dwellings (when viewed from the road). Windows in the east facing elevations of buildings (above the garage) offer high level views across the site.

To the north:

To the north of the site is a two storey detached dwelling (No. 32). The closest point of the dwelling is located 0.78 metres from the common side boundary. A double garage is located on the common boundary in the northern setback of the dwelling. However the garage also appears to be partly constructed in the road reserve (as is most of the landscaped front garden and driveway of the property). Detail in the survey notes a number of first floor windows in the side (south facing) elevation overlooking the site, while a swimming pool and courtyard is located in the rear setback area. Dwelling configuration addresses views to the east.

To the east:

To the east of the site are a series of large, detached dwelling addressing Beresford Road. While the dwellings are generally configured to address Beresford Road, many include landscaped private open space areas in the rear setback, some with swimming pools, below the common boundary and overlooked by the site.

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To the south:

Directly to the south of the site is a three storey detached dwelling with attic space (No. 34A). Survey detail notes the presence of windows to habitable rooms at all levels of the northern elevation of the property that address the site. The northern elevation is estimated to be setback from the common boundary with the site approximately a minimum of 4 metres. The setback area includes a stepped concrete path that provides access to the rear of the site.

The front setback is comprised of a paved car park area that is accessed via a private driveway that descends from the Cranbrook Road kerb to the parking area in front of the subject site.

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Part 2: The Proposal

The proposed development comprises the demolition of the existing buildings on the site, removal of some vegetation and construction of a new three storey residential flat building with one level of basement car parking accessed via a car lift.

Of relevance to this assessment:

- Demolition includes removal of the majority of vegetation within the site with the exception of the three trees in the front setback area (T1, T3 and T4) and the trees adjoining the common northern side boundary with no. 32 located just inside the boundary of No. 32;
- The proposed building envelope is smaller in depth and footprint than the existing building. The proposed ground floor is lower in height than the existing building and it is located further west in the site closer to the western front boundary;
- Accommodation comprises two two x bedroom at ground floor level and one three bedroom
 dwelling on levels 1 and 2 above ground (total four apartments). Apartment areas range from
 92 sqm to 167 sqm. The apartments occupy the whole floor with the exception of the ground
 floor. Apartments are accessed via internal stairs and a passenger lift between floors;
- The living areas in each apartment on each level have access to useable east facing private
 open space The two apartments at ground floor each have direct access to a large private
 open space courtyard with spa. The private open space areas at ground level are not
 separated by a screen or wall;
- A single width driveway 4 metre wide with a controlled (signalised) ramp is proposed to the
 basement car park from Cranbrook Road in the road verge in front of the site, generally
 aligned with the driveway that serves to access No. 34A to the south. Pedestrian access is
 proposed from Cranbrook Road to the communal lobby on level 1 via a separate sweeping
 curved pathway partly along the edge of the driveway that connects the front boundary to level
 1. It is located above the ground floor apartments;
- The basement car park provides 7 parking spaces (not 9 as noted in pgs. 10 and 21 of the Statement of Environmental Effects), storage, bike parking and waste room. Beneath the driveway there are utility and pump rooms accessed from the ground floor;
- Fire stairs to a surface exit are indicated in the basement plan;
- Building placement capitalises on the existing site modification. The ground level (the ground floor of the two x two-bed apartments G01 and G02) has a proposed floor level of RL of 21.05.
 Additional excavation to proposed RL 17.9 accommodates the basement car parking level;
- Due to the fall of the land, the lower ground floor level is located slightly lower than the existing
 ground level (22.5 existing versus 21.05 proposed); while the roof level is also proposed to be
 lower (32.51 existing versus 31.03 proposed to the top of the lift over run). Thus the proposed
 building will be slightly lower in the ground than the existing and will not be visually evident in
 the Cranbrook Road streetscape;
- A 3.15 metre floor to floor height is proposed;
- A communal area is proposed in the front setback;
- The roof top above the top floor (above level 2) is not trafficable. It accommodates the lift overrun and skylight to unit L02. There is no obvious method of access (e.g. hatch) and the location of the mechanical exhaust riser adjoins the lift and offers a direct connection for ducting between basement and roof level;
- Privacy measures are proposed to windows along the side boundaries by use of recessed windows oriented to the east, away from the side boundaries;

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- The maximum proposed height of the building is nominated in the Statement of Environmental Effects as 9.48 metres. Thus the proposed building is located below the maximum LEP height limit of 9.5 metres:
- The proposed "floorplate" is nominated as 732.6 sqm in the Statement of Environmental Effects. If it is assumed that the 'floorplate" is GFA the proposed development has a proposed FSR of 0.84:1 (with a site area of 870.9 sqm according to the survey plan). The Statement of Environmental Effects notes 0.64:1 (p.17). This requires clarification;
- Building siting maintains a minimum 2.5 metres setback to the side, 10 metres to the rear boundary and 8.4 metres to the front boundary;
- No windows or balconies have aspect to Cranbrook Road and a window to the second bedroom to Apartment L02 on Level 2 overlooks the building entry. It includes operable screens. It is assumed that this is to give privacy to L02, rather than preserve privacy to existing neighbouring apartness as the window does not overlook neighbours;
- A location for post boxes is indicated in the plan. However no locations for the fire hydrant booster assembly cabinet is shown (if it is required);
- Generally, the landscape plan adopts a muted approach to site landscaping in setback areas.
 New planting comprises a regular pattern and series of low height (generally <1.0 metre)
 bushes and shrubs along all boundaries. Three medium height trees (maximum height 10-15 metres) are proposed in the southern side setback area;
- Below ground stormwater infrastructure and surface pits are proposed in side and rear setback areas. The site proposes to discharge via inter-allotment drainage through No. 40 Beresford Road:
- Building design exhibits a subdued modern architectural style to Cranbrook Road and adjoining properties that does not seek to compete with buildings within the vicinity of the site;
- The dominant visual elements of the nominated building materials comprise brick and powder coated balustrade and screen finishes with concrete smooth finish to spandrels and pink toned concrete and dark powder coated battens to walls.

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Part 3: Controls and Compliance

The proposal is assessed against the urban design components of the following pieces of legislation:

- Chapter 4 of State Environmental Planning Policy (housing) 2021 (formerly No. 65—Design Quality of Residential Apartment Development (SEPP 65) & Apartment Design Guide (ADG)
- Woollahra Local Environment Plan 2014 (Woollahra LEP 2014)
- Woollahra Development Control Plan 2015 (Woollahra DCP 2015)

The following is an assessment of the proposal against the relevant controls above.

3.1 SEPP (Housing) 2021 Chapter 4

Environmental Planning and Assessment Regulation 2021

Part 3 Clause 29 Design Verification Statement,	Comment	Complies
(1) A development application that relates to residential apartment development must be accompanied by a statement by a qualified designer. (2) The statement must— (a) verify that the qualified designer designed, or directed the design of, the development, and (b) explain how the development addresses— (i) the design principles for residential apartment development, and (ii) the objectives in Parts 3 and 4 of the Apartment Design Guide.	The Design Verification Statement provided in the development application is dated 28 June 2023, and precedes the submission of amended plans dated 02 August 2023. The Statement addresses the objectives in Parts 3 and 4 of the Apartment Design Guide.	No, requires updating and finalisation.

Assessment Against Schedule 9 Design Principles

Schedule 9 Principle & Statement	Comment	Complies
Principle 1: Context and Neighbourhood Character (1) Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions. (2) Responding to context involves identifying the desirable elements of	The proposed development is located in a precinct zoned for low density residential development. It is distant from facilities at Double Bay. Neighbourhood character is defined by a mix of building forms, heights, densities and architectural styles established, essentially by three eras: when the suburb was established in the 1920s; a period of significant redevelopment in the 1960-70s; and the current era of contemporary infill development where opportunities exist.	Yes.

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Schedule 9 Principle & Statement	Comment	Complies
an area's existing or future character. (3) Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. (4) Consideration of local context is important for all sites, including sites in the following areas— (a) established areas, (b) areas undergoing change,	It is located on a steeply sloping east facing site capitalising on the fall of the site. Its siting and its character at its boundary interfaces provide a compatible response to the other neighbouring developments. The close proximity of buildings to the side and rear has been considered in site planning and architectural design.	
(c) areas identified for change.	The prepared development site climbthy lower in	Yes.
Principle 2: Built Form and Scale (1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. (2) Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following— (a) building alignments and proportions, (b) building type, (c) building articulation, (d) the manipulation of building elements. (3) Appropriate built form— (a) defines the public domain, and (b) contributes to the character of streetscapes and parks, including their views and vistas, and (c) provides internal amenity and	The proposed development sits slightly lower in the site than the existing development and its building envelope scale, bulk and height are slightly smaller than the existing building. The proposed height achieves the maximum height standard in the WLEP. This is discussed in Part 3.3 below. The building provides an appropriate address and contribution to the public domain within the confines of its recessed siting. Configuration of living areas provides good internal amenity and outlook.	res.
outlook Principle 3: Density (1) Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. (2) Appropriate densities are consistent with the area's existing or projected population. (3) Appropriate densities are sustained by the following— (a) existing or proposed infrastructure, (b) public transport, (c) access to jobs, (d) community facilities, (e) the environment	The proposal relies on existing use rights to achieve the density proposed in the low density zoning. The proposed nominated gross floor area in the building envelope is discussed in Part 3.3 below. The level of amenity for the proposed apartments is good. Apartments are dual aspect with good ventilation and generous balcony sizes, internal areas, and private open space. The site is not conveniently close to services and facilities	No. Relies on existing use rights.
Principle 4: Sustainability	The proposal adopts a number of measures that facilitate a good response to the need for sustainability.	Yes, subject to condition.

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Schedule 9 Principle & Statement	Comment	Complies
(1) Good design combines positive environmental, social and economic outcomes. (2) Good sustainable design includes— (a) use of natural cross ventilation and	Apartments enjoy good solar access and cross ventilation. Facilities for rainwater reuse are proposed. Provision for roof top solar is not proposed but can be achieved.	
(a) use of natural cross ventilation and sunlight for the amenity and liveability of residents, and (b) passive thermal design for ventilation, heating and cooling, which reduces reliance on technology and operation costs. (3) Good sustainable design also includes the following— (a) recycling and reuse of materials	Potential conflicts between the deep soil zone and stormwater infrastructure require addressing. This is discussed below. Means of alternative transport are encouraged as conveniently located facilities for motorcycle and bicycle storage are provided.	
and waste, (b) use of sustainable materials, (c) deep soil zones for groundwater recharge and vegetation.		
Principle 5: Landscape (1) Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity. (2) A positive image and contextual fit of well-designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood. (3) Good landscape design enhances the development's environmental performance by retaining positive natural features that contribute to the following— (a) the local context, (b) co-ordinating water and soil management, (c) solar access, (d) micro-climate, (e) tree canopy, (f) habitat values, (g) preserving green networks. (4) Good landscape design optimises the following— (a) usability, (b) privacy and opportunities for social interaction, (c) equitable access, (d) respect for neighbours' amenity. (5) Good landscape design provides for practical establishment and long term management.	There is a good provision of landscaping, with sufficient dimensions in the side and rear setback areas. Existing canopy trees in the front setback area are retained.	Yes.
Principle 6: Amenity (1) Good design positively influences internal and external amenity for residents and neighbours.	The design of each floor plan and building siting contributes to a development that offers a good standard of amenity. All apartments are dual	Yes, subject to condition.

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Schedule 9 Principle & Statement	Comment	Complies
(2) Good amenity contributes to positive living environments and resident well-being.	(corner) aspect and all enjoy access to an eastern aspect.	
(3) Good amenity combines the following—	There is no provision of useful communal open space except the front setback area and no	
(a) appropriate room dimensions and shapes,	communal facilities. However, given the small number of apartment and nature of the development I consider this to be acceptable.	
(b) access to sunlight, (c) natural ventilation,		
(d) outlook, (e) visual and acoustic privacy,	Screening to balcony edges addressing side boundaries on levels 1 and 2 may be required to ensure appropriate levels of internal visual privacy	
(f) storage, (g) indoor and outdoor space,	will be achieved. This can be addressed by condition.	
(h) efficient layouts and service	Condition.	
areas, (i) ease of access for all age groups and degrees of mobility.	Pedestrian access to the development can be improved. This is discussed below.	
Principle 7: Safety	The design provides negligible surveillance of the public domain as a result of building siting and	No, but acceptable in
(1) Good design optimises safety and security within the development and the public domain.	sunken elevation. Similarly, the pedestrian entrance enjoys limited	the circumstance s.
(2) Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose.	exposure.	
(3) Opportunities to maximise passive surveillance of public and		
communal areas promote safety. (4) A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the		
location and purpose. Principle 8: Housing Diversity and	The proposed development offers 2x2 and 2x3 -	Yes.
Social Interaction	bedroom apartments.	
(1) Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.	While the proposal does not offer a mix of housing sizes or variety it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue	
(2) Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.	Hill. It presents opportunities for downsizers and families who seek an alternative form of living to a large, detached dwelling, but with access to similar amenities.	
(3) Good design involves practical and flexible features, including—		
(a) different types of communal spaces for a broad range of people, and		
(b) opportunities for social interaction among residents.		
Principle 9: Aesthetics	The subdued modern architectural displays a suitable aesthetic.	Yes.

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Schedule 9 Principle & Statement	Comment	Complies
(1) Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.		
(2) Good design uses a variety of materials, colours and textures.		
(3) The visual appearance of well- designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.		

3.2 Apartment Design Guide Assessment

Part 3: Siting the Development

This part provides guidance on the design and configuration of apartment development at a site scale. It is to be used during the design process and in the preparation and assessment of development applications.

Requirement Objective or Guidance	Comment	Complies
3A – Site analysis Responsive to opportunities and constraints of site conditions and streetscape - Each element in the Site Analysis Checklist should be addressed.	Generally, the proposal responds well to the sloping topography of the site and its east facing aspect.	Yes.
 3B - Orientation Responsive to streetscape character while optimising solar access within the development. Overshadowing of neighbouring properties in minimised during mid-winter. Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%. If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums. A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings. 	The building design prioritises solar access to, and outlook for, apartments to the east, which is appropriate. The proximity of the northern elevation of No. 34A to the southern side boundary of the site, together with the presence of windows in that elevation suggests that that this would be the most impacted by overshadowing. This is particularly relevant given the proposal seeks to rely on existing use rights. The shadow/ solar assessments suggest that, as the proposed height is below that of the existing building and the building footprint is setback, solar and shadow impacts are reduced and an improved outcome results from the proposed development.	Yes.
3C – Public domain interface - Transition between private and public domain is achieved without compromising safety and security.	The proposed building design and siting present an appropriate relationship to Cranbrook Road and achieve the criteria and requirements in this part.	No.

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Red	uirement Objec	tive or (Guidance	Comment	Complies
-	Upper level balconies and windows should overlook the public domain.			The necessary presence of fire equipment	
-	Amenity of the public domain is retained and enhanced.			at the front boundary has not been shown. More detail is required.	
-	Length of solid walls should be limited along street frontages.				
-	Terraces, balconie apartments should entry, where appro	d have dir	•		
-	Opportunities for p should be minimis		be concealed		
-	Substations, pump storage areas and requirements show basement car park	other sei	rvice cated in		
-	Where developme open space or bus positively addresse	shland, th	ne design		
3D	- Communal and			212.9 sqm of communal area is nominated	Yes.
-	Minimum commun site area.	nal space	area 25% of	in the front setback area.	
-	- Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (midwinter).			Given the small number of apartments in the development I consider the area proposed to be acceptable.	
-	 Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions. Communal open space should be consolidated into a well-designed, easily identified and usable area. Where communal open space cannot be provided at ground level, it should be provided on a podium or roof. 		and larger ider greater ould be signed, easily ace cannot be should be		
3E -	- Deep soil zones Deep soil zones th healthy plant and t	at allow f		The site has an area of 870.9 sqm. There is a minimum width requirement of 3 metres for a site of this size.	Yes.
	ite area	Min Dim.	Deep soil zone (% of site area)	The total areas of deep soil nominated in the development application is 57% (SEE).	
6 > s	650m ² 50 m ² – 1,500m ² 1,500m ² 1,500m ² 1,500m ² with ignificant existing ee cover	- 3m 6m 6m	7%	It is also possible that the calculations provided include areas that are impacted by below ground stormwater infrastructure and retaining walls. Notwithstanding this, the 7% minimum is achieved.	
3F	3F – Visual privacy - Minimum separation distances from buildings to side and rear boundaries:			The building has a height of 3 storeys for this assessment. Generally windows and balconies to habitable rooms address the north, east and west boundaries.	Yes, subject to screen condition.

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Requirement Objective or Guidance				Comment	Complies
	Building	Habitable	Non-	The locations of the level 1 and level 2 east	
h	eight	rooms and balconies	habitable	facing balconies where they overlook the	
-	lp to 12m (4	6m	rooms 3m	north and south boundaries do not achieve	
	toreys)	OIII	om	the minimum setback and separation	
U	lp to 25m 5-8 storeys)	9m	4.5m	distances and may require screening.	
_	Over 25 m +9 storeys)	12m	6m		
-	buildings si separation accordance Gallery acc treated as i	hould provide distances to e with the de cess circulation habitable spa	the boundary in sign criteria. on should be		
		eighbouring p			
-	commercia distances s for retail, or		eparation asured as follows: and commercial		
-	increased s addition to design crite different zo residential	the requirement eria 1) when one that perm development on scale and in	stance of 3m (in lents set out in adjacent to a lits lower density to provide for a		
-	and access from private	s paths shoul e open space	common areas d be separated e and windows to habitable room		
-	windows of	hould be offs f adjacent bu	ildings.		
3G	i – Pedestri	an access a	nd entries	The proposed development offers a good	No, but can
-			destrian access ses the public	level of connectivity, entry, access and visibility with Cranbrook Road given the constraints of the site.	be remedied by redesign.
-	Access are domain.	eas clearly vis	ible from public	However, the configuration of the level 2	
-	building en floor entrie activate the	tries and ind s) should be street edge		lobby pedestrian connection to the driveway at the entry and the obscured lower level 1 pedestrian access via the footpath, sets up the Level 2 to be the	
-	undergroui	,	oor and minimise level s and entries.	principle entry. It may create, in effect, competing pedestrian entries. This introduces confusion and does not assist	
-	clear sight habitable re dwellings, l	lines, be ove ooms or priva	ate open spaces of lacontain active	legibility and way finding, as the natural tendency of pedestrian visitors and couriers will be to use the vehicle driveway as it is the most prominent part of site access. Given this, the primary pedestrian footpath should align and be at the same level as the driveway (with any required steps/ ramp and a kerb and possible handrail if necessary).	

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Requirement Objective or Guidance	Comment	Complies
3H – Vehicle access	The proposed development adopts a	May be
Vehicle access points designed and located to achieve safety.	thoughtful approach to vehicle access. Streetscape and pedestrian impact is	opportunities for
 Car park access should be integrated with the building's overall facade. 	minimised.	improvement.
The width and number of vehicle access points should be limited to the minimum.	It would be useful to explore opportunities to increase the planting between the	
Car park entry and access should be located on secondary streets or lanes where available.	driveway to No. 34A and the proposed driveway where they adjoining to relieve the visual impact of the cojoined two driveways	
- Garbage collection, loading and servicing areas are screened.	within the streetscape. This will require civil design interrogation, which I am not	
Designed to minimise conflict with pedestrians and vehicles.	qualified to undertake, in order to determine the feasibility of achieving this.	
- Create high quality streetscapes.		
3J – Bicycle and car parking	The proposed development provides	Yes.
Car parking needs of the development provided off-street.	undercover bicycle and bike storage. It is hidden from view.	
 Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites. 		

Part 4: Designing the Building

This part addresses the design of apartment buildings in more detail. It focuses on building form, layout, functionality, landscape design, environmental performance and residential amenity. It is to be used during the design process and in the preparation and assessment of development applications.

Requirement	Comment	Complies
4A – Solar and daylight access Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at midwinter in the Sydney Metropolitan Area. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.	The proposed orientation of all apartments to the east ensures that 100% of living rooms and principal private open spaces of all apartments meet the solar and daylight criteria.	Yes.
At least 60% of apartments are naturally cross ventilated in the first 9 storeys. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	All apartments are dual or corner aspect and offer good opportunities for cross ventilation.	Yes.
C - Ceiling heights Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	The nominated floor to floor height is 3.15 metres which may not achieve the 2.7 metre floor to ceiling height once floor materials and possible plumbing or ceiling AC ducting is installed. This can be dealt	Yes, subject to condition.
Apartment Minimum ceiling height Habitable rooms 2.7m Non-habitable 2.4m	with by condition.	

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Requirement	Comment	Complies
Attic spaces 1.8m with 30°		
minimum ceiling slope		
- Minimum floor to floor height 3.1m (4C.5).		
4D – Apartment size and layout	All apartments achieve the minimum area.	Yes.
 Apartments are required to have the 		
following minimum internal areas:		
Apartment type Minimum		
internal area		
Studio 35m ²		
1 bedroom 50m ² 2 bedrooms 70m ²		
3 bedrooms 90m ²		
3 Deal dollis 30111		
 Every habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room. 		
 Habitable room depths are limited to a maximum of 2.5 x the ceiling height. 		
 In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. 		
 Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space). 		
- A window should be visible from any point in a habitable room.		
- Bedrooms have a minimum dimension of 3m (excluding wardrobe space).		
 Living rooms or combined living/dining rooms have a minimum width of: 		
Apartment type Minimum width		
1 bedroom 3.6m		
2 bedrooms 4m		
3 bedroom 4m		
- The width of cross-over or cross-through apartments are at least 4m internally to		
avoid deep narrow apartment layouts.		
4E – Private open space and balconies	All balconies for upper level apartments and	Yes.
- All apartments are required to have	the private open space to the two ground	* ***
primary balconies as follows:	floor units meet the minimum area and	
E	depth requirements.	
Apartment Min. Min.		
type width depth		
1 bedroom 8m ² 2m		
2 bedroom 10m² 2m		
3+ bedroom 12m² 2.4m		
 For apartments at ground level, a private open space area shall be provided instead of a balcony with minimum area of 15m² 		
and minimum depth of 3m.		
4F – Common circulation and spaces	The circulation core (essentially the lift	Yes.
- Maximum number of apartments off a	lobby area) on each floor provides access	

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Requirement	Comment	Complies
circulation core on a single level is eight (8). - Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.	to only 1 or 2 apartments.	
Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:		
a series of foyer areas with windows and spaces for seating; wider areas at apartment entry doors		
and varied ceiling heights. 4G – Storage	Storage for apartments is proposed	No, but
- In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Dwelling type Storage size volume	internally within units. However, no locations are shown beyond suggestions that lounge room and kitchen cupboards and laundries will suffice. This is inconsistent with the objective. This can be dealt with by condition.	subject to condition.
Note: At least 50% of the required storage is to be located within the apartment.		
Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated within apartments through layout and acoustic	No acoustic assessment is provided. The potential source of any external noise issues would most likely be from the traffic using Cranbrook Road.	Yes, subject to condition.
treatments. - Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and	Given the observed use of the Road, together with the setback of the proposed building from the road, no concerns are apparent.	
section 3F Visual privacy).	The proposal, being a residential use, is not expected to generate any unreasonable or unexpected noise. The activities that often cause noise concerns (communal areas, swimming pool, carparking and driveways/ roller doors are generally undercover and / or obscured by screening/ built form, thus limiting any potential acoustic concerns for residents in both the site and the neighbouring sites.	
	That said, the basement car park lift door and the operation of the lift require provision of acoustic report or application of conditions to ensure that noise impacts are minimised.	
	Apartment sizes are large and, with the exception of levels 1 and 2, each building level comprises 1 apartment only.	
	Thus separation between apartments is high and there are minimal common walls.	

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Requirement	Comment	Complies
4J – Noise and Pollution The impacts of external noise and pollution are minimised through careful siting and layout of buildings. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	No air quality assessment is provided. The potential source of any air quality and external noise issues would most likely be from the traffic using Cranbrook Road. Given the observed use of the Road, together with the setback of the proposed building from the road, no air quality concerns are apparent.	Yes.
4K – Apartment mix - A range of apartment types and sizes is provided.	While the proposal does not offer a mix of housing sizes or variety, it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill.	Yes.
4L – Ground floor apartments - Street frontage activity is maximised where ground floor apartments are located. - Apartments deliver amenity and safety for residents. - Direct street access should be provided to ground floor apartments	The ground floor apartments do not directly address the street. This is a result of the topography of the site and the existing excavation. Given the eastern aspect, I consider the outcome to be reasonable.	Yes.
 4M - Facades Building facades provide visual interest along the street while respecting the character of the local area. Entries are clearly defined. Building services should be integrated within the overall façade. 	The building façade will not be visible from the street. Building services are not visible from the public domain. However, the location of firefighting booster equipment cabinet in the front setback needs consideration to maintain the presentation of the development to Cranbrook Road.	Yes, subject to condition.
4N – Roof design - Roof treatments are integrated into the building design and positively respond to	The roof is not trafficable and rooftop plant is proposed to be integrated into the building design.	Yes.
the street 40 - Landscape design - Landscape design is viable and sustainable. - Landscape design contributes to the streetscape and amenity.	The retention of Trees T1, T3 and T4 will contribute to the distinctive green tree canopy in the area.	Yes.
4P – Planting on structure Appropriate soil profiles are provided. Plant growth is optimised with appropriate selection and maintenance. Planting on structures contributes to the quality and amenity of communal and public open spaces	No planting is proposed on the roof top or the separate roof at the top of the car lift.	N/A.
Q – Universal design Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are provided.	The private open space areas, vertical access, apartment sizes and layout and amenity of each unit generally provide a high level of flexibility to evolve as households evolve.	Yes.

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Requi	irement	Comment	Complies
	partment layouts are flexible and ccommodate a range of lifestyle needs.		
20 th	Developments achieve a benchmark of 0% of the total apartments incorporating the Liveable Housing Guideline's silver evel universal design features.		
4R –	Adaptive reuse	The application is for a new development.	N/A
ei pi	lew additions to existing buildings are ontemporary and complementary and nhance an area's identity and sense of lace.		
aı	dapted buildings provide residential menity while not precluding future daptive reuse.		
4S -	Mixed use	The application is for a residential use.	N/A
a _j st	fixed use developments are provided in ppropriate locations and provide active treet frontages that encourage pedestrian novement.		
in Sa	desidential levels of the building are nategrated within the development, and afety and amenity are maximised for pesidents.		
4T –	Awnings and signage	No awnings at street level are proposed.	NA
	wnings are well located and complement nd integrate with the building design.		
d	ignage responds to the context and esired streetscape character.		
4U –	Energy efficiency	The proposed development offers high	Yes.
	evelopment incorporates passive nvironmental design.	levels of natural ventilation and there are opportunities for rooftop solar provision.	
d	levelopment incorporates passive solar esign to optimise heat storage in winter nd reduce heat transfer in summer.	The proposal satisfies the relevant objectives or design criteria prescribed by	
n	dequate natural ventilation minimises the eed for mechanical ventilation.	this Part.	
	Water management and conservation	The Stormwater Plan provides information	Yes.
- U	otable water use is minimised. Irban stormwater is treated on site before	to demonstrate appropriate rainwater collection and reuse.	
- F	eing discharged to receiving waters. lood management systems are ntegrated into site design.		
	- Waste management	Arrangements for waste management are	Yes
m b	Vaste storage facilities are designed to ninimise impacts on the streetscape, uilding entry and amenity of residents.	proposed.	
Sá	Omestic waste is minimised by providing afe and convenient source separation nd recycling.		
	Building maintenance	While no information has been provided	Yes.
fr	uilding design detail provides protection om weathering. Systems and access enable ease of	with regards to the building maintenance, I consider the proposed materials selected, will not require excessive maintenance.	
	ystems and access enable ease of naintenance.		
- M	Material selection reduces ongoing naintenance costs.	No roof hatch access to the roof is shown. However the roof is accessible via external ladder at the driveway.	

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3.3 Woollahra Local Environment Plan 2014 (WLEP2014)

The proposed development is assessed against the relevant provisions of WLEP 2014 in the table below.

	Clause Objective / Control	Assessment	Complies
Zoning	R2 Low Density Residential Objectives: To provide for the housing needs of	The proposed use relies on existing use rights. Notwithstanding this, the	Generally yes.
	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.	characteristics of the proposal can meet the following objectives of the zone: • To provide for the housing needs of the community within a low density residential environment. • 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 Height of Buildings	(a) to establish building heights that are consistent with the desired future character of the neighbourhood, (b) to establish a transition in scale between zones to protect local amenity, (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.	Maximum height limit is 9.5 metres. The proposal complies with the height limit.	Yes.
Clause 4.4E Floor Space Ratio	the harbour and surrounding areas. The maximum FSR for a dual occupancy, dwelling house or semidetached dwelling in zones R2 & R3 is: (a) for land identified as "Area 6" on the Floor Space Ratio Map—0.75:1, or (b) for other land— Lot size Maximum floor space ratio <150m2 1.05:1 ≥150m2<200m2 0.95:1 ≥200m2<250m2 0.85:1	The proposed FSR is 0.64:1 or 0.84:1 (refer discussion above). However a residential flat building is not a permissible use in the zone and the proposal relies on existing use rights.	N/A

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	Clause Objective / Control	Assessment	Complies
Clause 5.10	≥250m2<300m2 0.75:1 ≥300m2<350m2 0.65:1 ≥350m2<400m2 0.55:1 ≥400m2 0.5:1 (4) This clause does not apply to a dual occupancy, dwelling house or semidetached dwelling in the Paddington, Watsons Bay or Woollahra heritage conservation areas identified on the Heritage Map. Clauses 5.10 (4) and (5) require	N/A	N/A
Heritage	Council to consider the effect of a proposed development on the heritage significance of a heritage item or conservation area.		
Clause 6.4 Limited developmen t on foreshore area	The Foreshore Building Line (FBL) provisions contained in Clause 6.4 require a setback of 30m from the MHWM.	N/A	N/A
Clause 6.9 Tree Canopy Cover in Zones R2 and R3	Clause 6.9 requires development in R2 and R3 zones to plant trees, and retain and minimise; disturbance and adverse impacts on existing canopy trees which are to be retained. (The Clause does not apply to certain HCAs)	The proposal seeks to retain the ficus macrocarpa (Tree No. 1, height +18 metres) and two Washington Robusta (Trees 3 and 4, height 22 – 24 metres) in the front setback area.	Yes.

3.4 Woollahra Development Control Plan 2015 (WDCP 2015)

The proposed development is assessed against the relevant provisions of WDCP 2015 in the table below.

Control	Objective / Control Summary	Assessment	Complies
Chapter B1 Desired Future Character	The site is located in the Bellevue Hill North Precinct. Part B1.8.2 presents the Precinct Character Statement and the Desired Future Character and objectives sought for development in the site. Extracts of the statement of Desired Future Character are as follows. "The Bellevue Hill North precinct is an established residential area with a rich mixture of architectural styles and forms. Development is to be compatible with the existing built fabric, subdivision pattern and other prevailing characteristics in the street, such as setbacks and roof forms.	Notwithstanding the reliance on existing use rights, the proposal offers a well-designed contemporary building which is consistent with the approach sought for redevelopment in the Precinct. Amendments to the vehicle and pedestrian entry are proposed to improve the presentation and functionality of these elements within the streetscape.	Yes with redesign.

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Control	Objective / Control Summary	Assessment	Complies
	On sloping sites, development should step down the site to maintain views, protect the privacy and solar access of adjoining and adjacent properties, and minimise cut and fill. The design of roofs and fences should also facilitate view sharing opportunities, and carports and other parking structures must not to dominate the streetscape		
	The relevant Desired Future Character objectives are: O1 To respect and enhance the		
	streetscape character and key elements of the precinct. O2 To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings incorporating modulation and a varied palette of materials.		
	O3 O4 To reinforce a consistent building scale with streets		
	O5 To ensure that development responds in form and siting to the street and subdivision pattern.		
	O6 To design and site buildings to respond to the topography and minimise cut and fill.		
	O7 To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts		
	O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.		
	O10 To ensure that development facilitates view sharing to adjoining and adjacent private properties		
	O11 To ensure on-site parking does not dominate the streetscape. O12		
B3.2 Building Envelope Setbacks	Part B 3.2.1 presents building envelope controls for residential buildings in the R2 zone.	The application provides an analysis of the average typical front setbacks of the closest residential buildings. I	Yes.

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Control	Objective / Control Summary	Assessment	Complies
		consider the proposed front setback of 8.4 metres to be acceptable. The site frontage is 22.86 metres. The proposed minimum 2.5 metre side setbacks achieve Figure 5B.	
		The site depth is 38.1 metres. The proposed 10 metre rear setback achieves Figure 6.	
Part 3.3 Floor Plate	Applies to development on land in the R2 Low Density Residential Zone.	N/A	
Part 3.5.1 Streetscape Character	A quality streetscape provides good public amenity and contributes to the character and identity of the locality. As character can vary from street to street, it is important that development recognises predominant streetscape qualities, such as building form to ensure a cohesive streetscape character.	This is discussed in Parts 3.1, 3.2 and 3.3 above.	Yes, subject to amendments.
Part B.3.5.2 Overshadowin g	Sunlight is provided to at least 50% (or 35 sqm min dim 2.5m) of the main ground level POS for a min. 3 hours between 9 am and 3.00pm on 21 June. North facing windows to upper level habitable rooms of adjacent dwellings receive min. 3 hours between 9 am and 3.00pm on 21 June on portion of surface.	The proposal achieves the controls.	Yes.
Part B.3.5.3 Public and Private Views	To protect and enhance existing views to and from public domain areas and encourage view sharing. Significant views and vistas identified in the precinct maps are maintained / enhanced. Vistas along streets are preserved or enhanced. Development and roof forms to low side of street preserves district, iconic and harbour views. Development enables view sharing.	I have not been able to observe views from inside neighbouring properties and no visual impact assessment has been provided with the development application. However, within this constraint I note: 1. that most views of adjoining buildings are located to the east, while views from the west are located above the proposed development; 2. the building envelope is smaller and exhibits a greater rear setback: and 3. there are no obvious existing views from adjoining buildings that may be potentially obstructed by the proposed development.	Unknown.
Part B3.5.4 Acoustic and Visual Privacy	To ensure adequate acoustic privacy for occupants and neighbours.	Acoustic and visual privacy is addressed in Part 3.2 above.	Yes.

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Objective / Control Summary	Assessment	Complies
To encourage high levels of nternal amenity through the provision of direct natural light and direct natural ventilation.	The design of the proposed development delivers good internal amenity.	Yes.
To minimise the visual impact of garages, car parking structures and driveways on the streetscape.	The design of the car park integrates well into the development and the site at the site frontage.	Yes.
To ensure that the areas outside the floorplate contribute to the desired future character of the ocation. Tree canopy area is at least 30% of the site area for residential development other than dwelling houses, dual occupancies, semidetached development and attached dwellings. At least half of the total tree canopy area on the site (i.e. 50%) is contributed by canopy tree/s. 35% of the site area is deep soil andscaped area. At least 40% of the front setback comprises deep soil landscaped area. Tree canopy area is the part of the site covered by the combined ateral spread of tree crowns of all rees above 3 metres in height and spread. A canopy tree is a tree that attains a minimum crown diameter of 8 metres at maturity, and is planted in a deep soil landscaped area with a minimum dimension of 4 metres.	No tree canopy area is nominated in the development application. The proportion of that area for canopy trees is not nominated. 57% of the site is deep soil area; while 94% and 77.5 % of the front and rear setbacks are identified as deep soil area. However, as noted elsewhere in this review, the location of stormwater infrastructure needs to ensure that there is a provision of effective deep soil zone in the setback areas. This requires clarification.	Yes, subject to clarification.
Fo ensure that dwellings in residential flat buildings are provided with adequate private open space that enhances the amenity of the dwellings.	The proposed development offers generous private open space areas.	Yes.
To ensure fences and walls mprove amenity for existing and new residents, are not visually intrusive, do not unreadably restrict views and contribute positively to streetscape and adjacent buildings. The height of front fences does not exceed: 1.2m if solid; or 1.5m if 50% transparent or open;	No details are provided on wall / fence heights to the side and rear boundaries. No wall is proposed at the front boundary. Notwithstanding the existing sloping character of the site's landform, boundary wall heights at the side and rear boundaries of the site should	Yes, subject to condition.
ndjad The I not e 1.2m 1.5m	eent buildings. height of front fences does xceed: if solid; or	boundary. height of front fences does exceed: If solid; or If 50% transparent or open; houndary. Notwithstanding the existing sloping character of the site's landform, boundary wall heights at the side and rear boundaries of the site should achieve the DCP requirements for

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Control	Objective / Control Summary	Assessment	Complies
	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.		
	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 (refer to Figure 26). For sloping streets—the height of fences and walls may be averaged and fences and walls may be regularly stepped.		
B.3.7.3 Site Facilities	To ensure that mechanical plant equipment including lift overruns, air-conditioning units and external condensers, do not have adverse streetscape or amenity impacts. To ensure that development incorporates adequate garbage and recycling collection areas.	Waste facilities have been identified in the plans of proposed development. As noted earlier the location for the fire hydrant booster assembly cabinet requires resolution.	No.
B.3.7.4 Ancillary Development	To provide recreation facilities and opportunities that do not compromise the amenity of adjoining properties and retain deep soil zones, trees and vegetation of landscape value.	No ancillary development is proposed.	N/A
B.3.8 Residential Flat Buildings	To ensure that dwellings within the development provide good amenity. Single aspect dwellings are limited in depth to 8m from a window. The back of the kitchen is no more than 8m from a window. The width of a cross-over or cross-through dwelling over 15m deep is 4m or greater. Deep and narrow dwelling layouts are avoided.	Deep and narrow dwelling layouts are avoided and the objective is achieved by the dual frontage and east facing character of apartments.	Yes.

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Part 4: Urban Design Review

4.1 Summary

The proposed development comprises an infill three storey (4 apartment) medium density residential building that seeks to capitalise on the redevelopment opportunity offered by the existing 3 storey 4 apartment building that exists within the site. It seeks to do so by relying on the "Existing use Right" provisions in the legislation.

Notwithstanding this, the redevelopment will result in an improved building within the site in terms of internal residential amenity, and potentially improvements to privacy and solar access to neighbours. The preservation of the significant canopy trees within the front setback is commendable.

By generally staying within the existing building envelope of the existing building, any potential building form, scale and height impacts are minimised. In particular the close proximity of No. 34A to the south has been considered.

As a result, the proposed development generally achieves a contextual fit in terms of minimising the impact of the new building envelope on environmental considerations including visual impact, acoustic and visual privacy, solar and shadow impact and views.

I come to this conclusion cautiously as I have been unable to determine potential view impacts as no visual impact assessment has been provided within the development application. This is relevant as ordinarily it could be expected that there may be some level of loss of views from the building to the west on Cranbrook Road and south (No. 34A).

However, within the parameters of this lack of information I have not been able to discern any apparent significant existing views from adjoining buildings that may have a potential to be obstructed by the proposed development.

I do not consider that the building pedestrian and vehicle entry design has fully appreciated the opportunity to facilitate legibility (way finding) and the building entry sense of addresses. I provide suggestions below.

Finally, there are also a number of inconsistencies with the requirements of the Apartment Design Guide and the WDCP 2015. However, these can be addressed with amendments that I list below.

4.2 Recommendation

The proposal is supported subject to the following:

- The vehicle ramp and adjoining pedestrian pathway should be re-designed by joining them
 together so that the pedestrian entry to the level 2 building lobby is immediately obvious from
 Cranbrook Road, removing potential confusion that may arise from the split pathway
 configuration currently proposed. The level 2 building lobby should be the formal 'front door'
 to the development;
- The ability to separate the proposed driveway with the existing adjoining driveway serving
 No. 34A where they join should explored with the objective of introducing a landscaped
 element (minimum of say 500 mm and cognisant of the difference in level) between them that
 separates and softens the two visually prominent concrete surfaces within the Cranbrook
 Road streetscape.

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The following observations raised in the review should be addressed (in no particular order of priority and not purporting to be complete):

- (i) Introduce amendments that may have the potential to remove the privacy impact to adjoining buildings on side boundaries from the sides of the rear balconies at Levels 1 and 2. This could be achieved by providing screening, amending balcony design and / or increasing the setback;
- (i) Demonstrate that a minimum 2.7 metre floor to ceiling height can be achieved;
- (ii) Provision of appropriately located and configured apartment storage to achieve the objectives of Part 4G of the ADG;
- (iii) Separation of the ground floor outdoor private open space areas attached to the ground floor units with suitable privacy and acoustic screening;
- (iv) Show the location of the fire hydrant booster assembly cabinet;
- (v) Provide revised stormwater infrastructure plans that ensure that sufficient dimensions and functionality of the deep soil area in the setback areas are not compromised;
- (vi) Side and rear boundary walls /fences should have a maximum height of 1.8 metres (or 1.2 metres) consistent with the requirements of Part B3.7.2 of WDCP;
- (vii) The Design Verification Statement should be updated with the submission of amended architectural plans;
- (i) A visual impact assessment should be provided;
- (ii) An acoustic impact assessment should be provided to address potential noise impact from the car lift and door; and
- (iii) Clarification of the areas of the gross floor area and FSR should be provided.

Stephen McMahon Director, Inspire Urban Design and Planning Pty Ltd

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Contact: Mandy Phyland

Email: mandy.phyland@waternsw.com.au

General Manager Woollahra Municipal Council 536 New South Head Road DOUBLE BAY NSW 2028

Attention: Lauren Williams

27 September 2023

Our Ref: IDAS1150640

Our File: A-69246

Dear Lauren

Re: Integrated Development Referral – General Terms of Approval

DA249/23 (CNR-58129)

Description: 80mm submersible pump

Location: 34 Cranbrook Road, Bellevue Hill NSW 2023

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the above location. Attached, please find the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.47 (3) of the *Environmental Planning* and Assessment Act 1979 (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council's development consent. Please also note WaterNSW requests notification:

if any plans or documents are amended and these amendments significantly change the
proposed development or result in additional works or activities that relate to any excavation
which interferes with an aquifer.

WaterNSW will ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.55 of the EP&A Act to modify the development consent and the modifications change the proposed work or activities described in the original DA
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:

P O Box 398, Parramatta NSW 2124 Phone: (1300) 662-077 The attached GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

Application forms are available from the WaterNSW website.

www.waternsw.com.au > Customer Services > Applications & Fees

WaterNSW requests that Council provides a copy of this letter to the development consent holder.

WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47 (6) of the EP&A Act.

Information to the proponent:

- A work approval application will need to be lodged and the approval obtained prior to the determination of a construction certificate.
- Detailed information required to permit a hydrogeological assessment to be carried out by the Department of Planning and Environment is to be provided for any further application related to the subject property according to the minimum requirements for building site groundwater investigations and reporting.
- Any such report (such as a site hydrogeology report or dewatering management plan) that is
 provided at the time of the work approval application must demonstrate that new or
 additional site information has been incorporated into a refined groundwater
 conceptualisation and more detailed water take predictions for the proposed development
 in accordance with the published minimum requirements.
- A minimal harm assessment in the form required to comprehensively satisfy the requirements of the NSW Aquifer Interference Policy is to be included in the supporting documents supplied at the time of the work approval application.
- An extraction limit will be determined by the Department of Planning and Environment following a hydrogeological assessment using the accompanying site-specific evidence supplied at that time and the amount will be included on the conditions applied to the approval.
- The approval will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of permission for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.

Yours sincerely

Manuda Dhadanad

Mandy Phyland Water Regulation Officer DENILIQUIN

> P O Box 398, Parramatta NSW 2124 Phone: (1300) 662-077



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

Reference Number: IDAS1150640 Issue date of GTA: 27 September 2023 Type of Approval: Water Supply Work

Description: 80mm submersible pump

Location of work/activity: 34 Cranbrook Road BELLEVUE HILL NSW 2023 DA Number: DA249/23

LGA: Woollahra Municipal Council

Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

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

Condition Number	Details
	Dewatering
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of

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General Terms of Approval

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

Reference Number: IDAS1150640
Issue date of GTA: 27 September 2023
Type of Approval: Water Supply Work

Description: 80mm submersible pump

Location of work/activity: 34 Cranbrook Road BELLEVUE HILL NSW 2023

DA Number: DA249/23

LGA: Woollahra Municipal Council

Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an

earlier date, by that date.

GT0119-00001 All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any

applicable trade waste agreement.

GT0120-00001 The design and construction of the building must prevent: (a)any take of

groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0

m below the natural ground surface.

GT0121-00001 Construction phase monitoring bore requirements GTA: a) A minimum of three

monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring

bores must be protected from construction damage.

GT0122-00001 Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply

work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the

(a) Prior to the issuing of the occupation certificate, and following the completion

water supply work approval (Approved Monitoring Programme)

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GT0123-00001



General Terms of Approval

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

Reference Number: IDAS1150640
Issue date of GTA: 27 September 2023
Type of Approval: Water Supply Work

Description: 80mm submersible pump

Location of work/activity: 34 Cranbrook Road BELLEVUE HILL NSW 2023

DA Number: DA249/23

LGA: Woollahra Municipal Council

Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

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

licensing/dewatering

GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July

to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual

GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by

WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be

applied for within 6 months of the expiry of Term.

GT0155-00001 The following construction phase monitoring requirements apply (Works

Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

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SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA249/23 as provided by Council:

- GSA Planning, 2023. Statement of Environmental Effects, Demolition of existing residential flat building and construction of a new residential flat building and landscaping works (integrated development) at No. 34 Cranbrook Road, Bellevue Hill. Project 23252 report prepared by George Karavanas Planning Pty Ltd t/a GSA Planning for MHN Design Union. July.
- JK Geotechnics, 2023a. Geotechnical Assessment for Proposed Residential Development at 34 Cranbrook Road, Bellevue Hill, NSW. Report 36102Brpt prepared by JK Geotechnics Pty Ltd for Heyede Pty Ltd. June.
- JK Geotechnics, 2023b. Geotechnical Investigation for Proposed Development at 34 Cranbrook Road, Bellevue Hill, NSW. Report 36102BrptRev1 prepared by JK Geotechnics Pty Ltd for Heyede Pty Ltd. July.
- JK Geotechnics, 2023c. Groundwater Comments, Proposed Residential Development at 34
 Cranbrook Road, Bellevue Hill, NSW. Letter report 36102Blet prepared by JK Geotechnics Pty
 Ltd for Heyede Pty Ltd c/o MHNDU, dated 22 August 2023.

Item No: D5

Subject: WOOLLAHRA LOCAL PLANNING PANEL ONGOING DELEGATIONS -

EXCEPTIONS TO DEVELOPMENT STANDARDS

Authors: Fiona Aghili, Strategic Planner

Lyle Tamlyn, Acting Team Leader Strategic Planning

Approvers: Anne White, Manager Strategic Planning & Place

Nick Economou, Manager Development Assessment

Scott Pedder, Director Planning & Place

File No: 24/58323

Purpose of the That the Woollahra LPP provide an ongoing delegation to Council planning

Report: staff to determine specified development applications.

Alignment to Strategy 4.5: Ensure that planning and building requirements are

Delivery Program: complied with.

Recommendation:

THAT the Woollahra Local Planning Panel, under the provisions of section 2.20(8) of the *Environmental Planning and Assessment Act 1979*, provide an ongoing delegation of its function to determine development applications to planning staff in perpetuity where:

- A. There is a pre-existing non-compliance of more than 10% for building height under clause 4.3 of the *Woollahra Local Environmental Plan 2014* and the application does not result in an increase in the non-compliance; and/or
- B. There is a pre-existing non-compliance of more than 10% for floor space ratio under clause 4.4 of the *Woollahra Local Environmental Plan 2014* and the application does not:
 - i) Result in changes to the extent of the building envelope, and
 - ii) Is only a minor increase to the gross floor area, e.g. a balcony closure or similar.

Executive Summary:

This report seeks to update the Woollahra Local Planning Panel (Woollahra LPP) on the NSW Government's recent reforms related to clause 4.6 of the Standard Instrument LEP that came into effect on 1 November 2023 (known as the Variations review¹).

The changes related to clause 4.6 were supported by legislative updates including an update to the Ministerial direction, *Local Planning Panel – Development Applications and Applications to Modify Development Consent* (Direction) (see **Attachment 1**). The updated Direction removes the need to request concurrence from the Planning Secretary (Secretary). This change allows the Woollahra LPP to delegate the determination of development applications (DAs) to planning staff for development with pre-existing non-compliances of greater than 10% for height of building and floor space ratio (FSR) standards. Previously, and since 2019, Council staff have requested a yearly concurrence from the Secretary and delegation from the Woollahra LPP.

Based on the above information, we recommend a best practice and long-term solution for this matter to ensure the Woollahra LPP fulfils its function to only determine complex and contentious DAs, and to improve the efficiency and effectiveness of our DA assessment process. On this basis, we recommend that the Woollahra LPP provide Council planning staff with an ongoing delegation for the determination of specified DAs.

^{1 &}lt;a href="https://www.planning.nsw.gov.au/policy-and-legislation/under-review-and-new-policy-and-legislation/variations-review">https://www.planning.nsw.gov.au/policy-and-legislation/under-review-and-new-policy-and-legislation/under-review-and-new-policy-and-legislation/variations-review

Discussion:

Background

In 2017, the NSW Government introduced legislation requiring councils to form Local Planning Panels (LPPs). The function of LPPs is to determine contentious, complex and sensitive DAs and to provide advice on planning proposals.

On 23 February 2018, a Ministerial Direction for LPPs was introduced, being the *Local Planning Direction – Development Applications and Applications to Modify Development Consent* (Direction). The Direction outlined the referral criteria for DAs to be determined by LPPs. At this time, the Secretary could grant concurrence to Council staff for contravening development standards. Then under section 2.20(8) of the *Environmental Planning and Assessment Act 1979* (the Act) LPPs could delegate these matters back to staff for determination.

On 29 March 2018, the Woollahra LPP commenced operation and held its first meeting.

On 26 June 2019, staff reported on the first year of the Woollahra LPPs operation from 29 March 2018 to 21 March 2019 (see **Attachment 2**). Staff found that DAs referred with pre-existing noncompliances greater than 10% for height of building and FSR were minor in nature and the development proposed did not increase the non-compliance. Therefore, the referral to the Woollahra LPP was unnecessary in these specific circumstances.

Examples of such DAs include:

Department from height of building standard

- New air conditioning system with a condenser unit:
- Alterations and additions incorporating a conversion of the roof space of an attic including a new dormer window.

Departure from FSR development standard

- Balcony enclosure including an additional 8sqm of gross floor area. The works proposed did not vary the building envelope. The existing non-compliance was 63/5% and the proposed development added 0.2% to the variation, and
- Alterations and additions to an apartment building including a swimming pool and associated facilities. The works proposed did not vary the building envelope.

Subsequently, on 26 June 2019 the Woollahra LPP resolved to support the following recommendation:

THAT the Woollahra Local Planning Panel supports a submission to the Secretary of the Department of Planning and Environment that seeks to allow concurrence to be assumed by Council staff for development applications that contravene development standards where:

- A. There is a pre-existing non-compliances of more than 10% for height of building and floor space ratio under clause 4.3 and clause 4.4 of the Woollahra Local Environmental Plan 2014; and
- B. Development applications do not result in either;
 - 1. Increases in the non-compliance, or
 - 2. Changes to the extent of the building envelope.

In June 2019, staff wrote to the Secretary requesting concurrence to allow the Woollahra LPP to delegate the determination of DAs with pre-existing non-compliances. On 15 October 2019, the Secretary granted staff a temporary 12 month concurrence and advised Council to review the existing development standards in the *Woollahra Local Environmental Plan* 2014 (Woollahra LEP 2014) to find a permanent solution.

On 7 November 2019, based on the concurrence received from the Secretary and under section 2.20(8) of the Act, the Woollahra LPP granted delegation for DA non-compliances of more than 10% for height of building and FSR to Council staff. Since that time, whilst staff have been investigating opportunities to amend the Woollahra LEP 2014 the Secretary has granted a yearly extension and the Woollahra LPP has continued to grant an annual delegation.

In the request to the Secretary in July 2021 for an extension on the temporary concurrence, staff provided feedback on a review of the suitability of an amendment to Woollahra LEP 2014 (which was based on independent legal advice). The review found that an amendment to the Woollahra LEP 2014 would weaken Council's planning controls relating to height of building, FSR and Clause 4.6, and may have unintended consequences beyond Council's intended outcome. Accordingly, staff recommended the Secretary consider an exception within the Direction to address Council's concerns.

However, on 11 October 2022 the Secretary granted a temporary concurrence for 18 months (from 17 November 2022 to 3 May 2024) and advised no further extensions would be granted (see **Attachment 3**). As with previous feedback provided by the Secretary, Council was again advised to review the Woollahra LEP 2014 to find a solution to this issue and that an amendment to the Direction was considered inappropriate. In November 2022, the Woollahra LPP provided a further delegation to staff for a period of 18 months, with this delegation ending on 3 May 2024 (see **Attachment 4**).

Variations review

On 15 September 2023, the *Department of Planning, Housing and Infrastructure* (DPHI) introduced a Variation review² which included changes relating to clause 4.6 that came into effect on 1 November 2023. The changes were introduced to provide more certainty about when and how development standards may be varied. The changes included updating the matters to be considered by consent authorities, simplifying controls, moving to an online clause 4.6 register (rather than reporting to the Woollahra LPP) and introducing an exclusion framework. A key change was made to clause 4.6(3) of the *Standard Instrument—Principal Local Environmental Plan (2006)*, being that the Secretary's concurrence is no longer required for DAs that contravene development standards.

On 6 March 2024 in response to the above changes, an updated Direction was issued (see **Attachment 1**). This included the removal of the requirement for the Secretary's concurrence for DAs with departures from development standards under *Schedule 1* of the Direction, *Referral Criteria 3*. The Direction was updated as follows with the text removed in yellow strikethrough, see below:

Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical standards.

Note: If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the panel can delegate these applications to council staff to determine.

Next steps

Due to the recent Variations review, a concurrence from the Secretary is no longer required for DAs with pre-existing non-compliances greater than 10% for height of building and FSR. Accordingly, the Woollahra LPP may now provide an ongoing delegation of these functions to staff to determine DAs solely under the provisions of section 2.20(8) of the Act.

 $^{2\ \}underline{\text{https://www.planning.nsw.gov.au/policy-and-legislation/under-review-and-new-policy-and-legislation/variations-review}$

With the current delegation to Council's planning staff ending on 3 May 2024, staff recommend the Woollahra LPP provide an ongoing delegation to planning staff for DAs where:

- There is a pre-existing non-compliance of more than 10% for building height under clause
 4.3 of the Woollahra Local Environmental Plan 2014 and the application does not result in an increase in the non-compliance; and/or
- There is a pre-existing non-compliance of more than 10% for floor space ratio under clause 4.4 of the *Woollahra Local Environmental Plan 2014* and the application does not:
 - o Result in changes to the extent of the building envelope, and
 - o Is only a minor increase to the gross floor area, e.g. a balcony closure or similar.

This is the best practice approach to ensure the Woollahra LPP fulfils its function to only determine complex and contentious DAs, and improves the efficiency and effectiveness of our DA assessment process.

Options:

As a consequence of this report, the Woollahra LPP may decide to delegate DAs with pre-existing non-compliances greater than 10% where the non-compliance is not increased. Alternatively, the Woollahra LPP may decide not to support the staff recommendation, or direct staff make amendments to the recommendation.

Community Engagement and / or Internal Consultation:

Staff consulted with Council's Legal, Compliance and Enforcement department on the implications of the Variations review including changes relating to clause 4.6 and the recommended next steps.

Policy Implications:

Should the Woollahra LPP resolve to provide an ongoing delegation to staff, this would replace the existing delegation that lapses on 3 May 2024. Alternatively, if the Woollahra LPP resolves not to provide an ongoing delegation, then staff will no longer be able to determine the applications with pre-existing non-compliances greater than 10% described in the **Discussion** section above.

Financial Implications:

Nil.

Resourcing Implications:

Should the Woollahra LPP support the staff recommendation, the delegations will significantly reduce the administrative work for Council planning staff who would otherwise be required to prepare LPP agendas for minor works.

Conclusion:

The Variations review made changes relating to clause 4.6, which removed the Secretarial concurrence requirement to allow the Woollahra LPP to delegate staff its' function to determine DAs for minor works. Accordingly, it is now only necessary for the Woollahra LPP to provide an ongoing delegation for these DAS, rather than the previous annual approach. We recommend that the Woollahra LPP use the provisions under section 2.20(8) of the Act to provide for the ongoing delegation of its functions to planning staff to determine specified DAs. This is a best practice approach to ensure the Woollahra LPP fulfils its function to determine complex and contentious DAs, and improves the efficiency and effectiveness of our DA assessment process.

Attachments

- 1. Ministerial Direction Local Planning Panels Direction Development Applications and Applications to Modify J.
- 2. WLPP Report Proposed Delegation for Pre-existing Non-compliances for Height of Building and Floors Space Ratio Development Standards 6 June 2019 3
- 4. WLPP Report Woollahra Local Planning Panel (WLPP) Delegations Assumed Concurrence 3 November 2022 J

LOCAL PLANNING PANELS DIRECTION - DEVELOPMENT APPLICATIONS AND APPLICATIONS TO MODIFY DEVELOPMENT CONSENTS

I, the Minister for Planning and Public Spaces, give the following direction under section 9.1 of the Environmental Planning and Assessment Act 1979.



Dated: 6/5/24

Objective

The objective of this direction is to identify the development applications and applications to modify development consents that are to be determined by local planning panels on behalf of councils.

Application

This direction applies to councils in the Greater Sydney Region, Wollongong and Central Coast. It also applies to any other council that constitutes a local planning panel under the *Environmental Planning and Assessment Act 1979* (the Act).

Interpretation

A word or expression used in this direction has the same meaning as it has in the standard local environmental plan prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* made under the Act, unless it is otherwise defined in this direction.

Direction

 Local planning panels of councils in the areas identified in the Table below are to determine development applications for development of a kind specified in the corresponding Schedule to this direction.

Table -

Council	Development
Bayside, Blue Mountains, Burwood, Camden, Campbelltown, Canada Bay, Georges River, Hawkesbury, Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Randwick, Ryde, Strathfield, Waverley, Willoughby, Wollondilly, Woollahra, and any other council that constitutes a local planning panel under the Act	Schedule 1
Blacktown, Canterbury-Bankstown, Central Coast, Cumberland, Fairfield, Inner West, Liverpool, Northern Beaches, Parramatta, Penrith, Sutherland, The Hills, Wollongong	Schedule 2
City of Sydney	Schedule 3

- 2. Local planning panels are to determine applications under section 4.55(2) of the Act for the modification of development consents granted by the panel that:
 - propose amendments to a condition of development consent recommended in the council assessment report but which was amended by the panel, or
 - propose amendments to a condition of development consent that was not included in the council assessment report but which was added by the panel, or
 - meet the criteria for development applications set out in the Schedules to this direction relating to conflict of interest, contentious development or departure from development standards.

Note: Councils in the areas identified in the Table to this direction are generally precluded from exercising consent authority functions by operation of section 4.8(2) of the Act. This means councils should make arrangements for the determination of all other modification applications under section 4.55(2), as well as sections 4.55(1) and (1A) of the Act, by council staff. Councils should also make arrangements for the determination of modification applications under section 4.56 of the Act by either the local planning panel or council staff.

This direction takes effect on the date of this direction and applies to development applications and applications to modify development consents lodged but not determined before the date of this direction.

SCHEDULE 1

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the Local Government Act 1993) of a person referred to in (b) to (d).

but not development for the following purposes:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- in the case of a council having an approved submissions policy is the subject of the number of submissions set by that policy, or
- (b) in any other case is the subject of 10 or more unique submissions by way of objection.

An *approved submissions policy* is a policy prepared by the council and approved by the Secretary of the Department of Planning, Housing and Infrastructure which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number and nature of submissions received about development.

A *unique submission* means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

4. Sensitive development

- (a) Designated development.
- (b) Development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment development) applies.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the Registered Clubs Act 1976,
 - (ii) a hotel (general bar) licence under the Liquor Act 2007, or
 - (iii) an on-premises licence for public entertainment venues under the Liquor Act 2007.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

SCHEDULE 2

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the Local Government Act 1993) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- in the case of a council having an approved submissions policy is the subject of the number of submissions set by that policy, or
- (b) in any other case is the subject of 10 or more unique submissions by way of objection.

An *approved submissions policy* is a policy prepared by the council and approved by the Secretary of the Department of Planning, Housing and Infrastructure which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

A *unique submission* means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

4. Sensitive development

- (a) Designated development.
- (b) Development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the Registered Clubs Act 1976,
 - (ii) a hotel (general bar) licence under the Liquor Act 2007, or
 - (iii) an on-premises licence for public entertainment venues under the Liquor Act 2007.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

SCHEDULE 3

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the Local Government Act 1993) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item,
- (d) development for the purpose of end of journey facilities, or
- (e) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy is the subject of the number of submissions set by that policy, or
- (b) in any other case is the subject of 25 or more unique submissions by way of objection.

An *approved submissions policy* is a policy prepared by the council and approved by the Secretary of the Department of Planning, Housing and Infrastructure which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

A *unique submission* means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

For development for the purpose of dwelling houses, dual occupancies and attached dwellings, development that contravenes a development standard imposed by an environmental planning instrument by more than 25% or non-numerical development standard.

For all other development, development that contravenes a development standard

imposed by an environmental planning instrument by 10% or non-numerical development standards.

4. Sensitive development

- (a) Designated development.
- (b) Development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the Registered Clubs Act 1976,
 - (ii) a hotel (general bar) licence under the Liquor Act 2007, or
 - (iii) an on-premises licence for public entertainment venues under the Liquor Act 2007.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

6 June 2019

Item No: **D**5

PROPOSED DELEGATION FOR PRE-EXISTING NON-

Subject: COMPLIANCES FOR HEIGHT OF BUILDING AND FLOOR

SPACE RATIO DEVELOPMENT STANDARDS

Fiona O'Dell, Strategic Planner **Authors:**

Anne White, Team Leader - Strategic Planning

Nick Economou, Manager Development Control **Approvers:**

Allan Coker, Director - Planning & Development

19/54231 File No:

To ask the Woollahra Local Planning Panel to support a submission to the **Reason for Report:**

> Secretary of the Department of Planning and Environment, seeking assumed concurrence on development applications with pre-existing non-compliances with Councils Height of Building and Floor Space Ratio development standards

and consequent delegation for Council officers to determine applicable

development applications.

Recommendation:

THAT the Woollahra Local Planning Panel supports a submission to the Secretary of the Department of Planning and Environment that seeks to allow concurrence to be assumed by Council staff for development applications that contravene development standards where:

- There is a pre-existing non-compliances of more than 10% for height of building and floor space ratio under clause 4.3 and clause 4.4 of the Woollahra Local Environmental Plan 2014; and
- B. Development applications do not result in either;
 - Increases in the non-compliance, or 1.
 - 2. Changes to the extent of the building envelope.

1. Background

In 2017 the NSW State Government introduced legislation requiring all councils in the Greater Sydney Region and Wollongong to have Local Planning Panels (LPPs) in place by 1 March 2018. The first meeting of the Woollahra Local Planning Panel took place on 29 March 2018.

The Woollahra LPP is an independent assessment body and is not subject to the instruction or control of Council, except on matters relating to operational procedures and matters set out in directions issued by the Minister under the Environmental Planning and Assessment (EP&A) Act 1979.

On 23 February 2018, the Minister for Planning issued a Local Planning Panel Direction -Development Applications stating referral criteria for certain development types to be determined by LPPs, including:

- Conflict of interest development for which the applicant or land owner is the council, a councillor, member of Parliament, and certain council staff or their relatives,
- Contentious development development that is subject to 10 or more unique submissions of objection, or in the case of a council having an approved submission policy – the number set by that policy,

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- Departure from development standards development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or nonnumerical development standards,
- Sensitive development including the following development types; designated development, development to which State and Environmental Planning Policy No 65- Design Quality of Residential Apartment Development applies, demolition of a heritage item, certain new licensed premises that require a liquor licence (a club, a hotel with a general bar, public entertainment venue), sex services and restricted premises, development applications for which the developer has offered to enter into a planning agreement.

One of the key objectives of this direction is to have LPPs determine the most sensitive and complex development applications. This improves planning outcomes and probity in the planning system.

Under this direction, if the Secretary allows concurrence to be assumed by council staff for contravening development standards, under Section 2.20(8) of the EP&A Act 1979 there is an option that allows LPPs to delegate these matters back to council staff for determination.

2. Discussion

The Local Planning Panel Direction - Development Applications referral criteria for Departure from development standards for non-compliances over 10%, does not differentiate between a preexisting non-compliance and a new non-compliance as a result of the development application. Any development application that contravenes a development standard by more than 10%, whether a pre-existing non-compliance or not, is required to be determined by the LPP.

A development application with a pre-existing non-compliance of more than 10% has been subject to assessment by the development standards in place at the time of consent. As such, the noncompliance is of far less significance in the assessment and determination of a current application, particularly in the case that the proposed development does not increase the pre-existing noncompliance.

Between 29 March 2018 and 21 March 2019, the Woollahra LLP considered:

- 128 individual development applications or related applications; and
- 34% of which were required to be considered by the Woollahra LPP due to pre-existing noncompliances with the height of building and floor space ratio development standards.

(A summary table is attached at *Annexure 1*)

All of these development applications considered by the Woollahra LPP were approved, consistent with the council officer's recommendation. In giving reasons for their decision, the Woollahra LPP considered that the non-compliance with the development standard was pre-existing and being that there was no additional impact, there were no grounds to change the officer's recommendation.

All of the applications determined with pre-existing non-compliances greater than 10% with height and floor space development standards under clause 4.3 and clause 4.4 of the Woollahra Environmental Plan 2014 were minor in nature, such as:

Departure from height development standard

- New air conditioning system with a condenser unit,
- Alteration and additions incorporating a conversion of the roof space of an attic including a new dormer window,

6 June 2019

Alteration and additions including increasing width of existing loggia/verandah structure.

Departure from FSR development standard

- Balcony enclosure including an additional 8sqm of gross floor area. The works proposed did not vary the building envelope. The existing non-compliance was 63.5% and the proposed development added 0.2% to the variation.
- Alterations and additions to an apartment building including a swimming pool and associated facilities. The works proposed did not vary the building envelope. The existing FSR noncompliance was 27% and the proposed development added 0.11% to the variation.

As at 21 March 2019, Council had 65 pending applications required to be considered by the Woollahra LPP. Of the pending applications, 30% of these consist of pre-existing non-compliances with the height of building and floor space ratio development standards.

Monitoring the results of the operation of the Woollahra LPP over the past year, shows the criteria for referring applications with pre-existing non-compliances for height of building and floor space ratio did not increase the non-compliance or the building envelope. Hence, making the referral of these applications to the LPP unnecessary and do not meet the function of the panel to determine complex and sensitive development.

3. Costs and time delays

Referring a development application to Woollahra LPP has significant financial costs to Council and adds time delays in the assessment process.

In accordance with the EP&A Act 1979, the Woollahra LPP comprises four voting members:

- One Chair
- Two Independent Expert Members
- One Community Representative member representing the ward where the DA is located

Each panel member is remunerated for their role on the panel at the expense of Council. Council also funds the travel costs for the panel members, servicing the meeting and advertising.

Woollahra LPP meetings are held fortnightly with a meeting estimated to cost approximately \$7,500. There are no additional fees charged for a development application that must be determined by the Woollahra LPP. Each application that is referred to the Woollahra LPP costs Council approximately \$1,400 (this figure excludes staff resourcing).

As of 1 April 2019, council had 244 pending development applications and 59 modification applications under consideration. These figures are high, and referring development applications to the Woollahra LPP causes unnecessary time delays to the assessment process. It is estimated that the requirement for an application to be considered by the Woollahra LPP can add an additional 8-10 weeks to the assessment time due to the following reasons; a detailed staff report, cycle of meetings and limited agenda capacity and extra administrative work required for agenda preparation.

Based on the data collected on Woollahra LPP referrals over the past year (1 March 2018-1 April 2019), an exemption from referring development applications with pre-existing non-compliances for height and floor space ratio development standards could reduce up to 5 referrals a month. This would represent a major reduction in assessment timeframes and represent a cost saving to Council.

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4. **Conclusion:**

LPPs determine the most sensitive and complex development applications. The operation of the Woollahra LPP shows that the criteria for referring applications with pre-existing non-compliances is unnecessary and does not enhance the function of the panel. It unnecessarily causes delays in the assessment process and adds significant financial costs to council.

It is recommended that the Woollahra LPP support a submission stating that Council requests the Secretary of the Department of Planning and Environment to allow concurrence to be assumed by council staff for contravening the height of building and floor space ratio development standards where pre-existing non-compliance result in a departure of more than 10%, and the non-compliance is not further increased by the development proposed. Following concurrence the applicable development applications may be determined by Council staff under delegation from the Woollahra

Annexures

Summary Table of DA matters before the WLPP 29 March 2018 to 21 March 2019 & 1.



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WLPP Decision	Approval	Refusal	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval, with variations	Refusal
Staff Recommendation	Approval	Refusal	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval, with variations	Refusal
Sensitive Development 4	NA	₹.	NA	Ψ.	AN A	NA	NA	NA	NA	AA	AN	SEPP65
Pre- Existing	>	>	`	`	>	,	`	AN	,	`	AN	AN
Departure from Development Standard 3	Height: 11%	Height: 13.7%	Height: 10.4%	Height: 33.68%	Height: 11.6%	FSR: 27%	Height: 42.6%	Lot Size: 78.57%	Height: 45%	Height: 29%	NA.	Height: 10%
Contentious Development 2	NA	NA	NA	NA	Ψ.	AN	NA	NA	NA	AA	15 submissions original DA and 10 submissions amended DA	10 submissions
Conflict of Interest 1	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	A A
Pioposal	Alts & adds	Alts & adds	New glass lift	Alts & adds	Alts & adds to existing 4- storey terrace	Alts & adds to the existing RFB.	Extensive alls & adds	Strata subdivision of existing building	Construction of two rear balconies on level 3 & 4 of the Mena Apartments	Alts & adds	Alts & adds, new attic space with a new rear facing dormer and detached single storey studio	Demolition of an existing dual occupancy and construction of a new seriors housing development containing nine self-contained units, basement level car parking, and landscaning works.
Address	69 Latimer Rd Bellevue Hill	25-27 Fairfax Rd Bellevue Hill	3 Queens Ave Vaucluse	162 Sutherland St Paddington	114 Paddington St Paddington	5-11 Thornton St Darling Point	32 Mona Rd Darling Point	10 William St Double Bay	295A Edgecliff Rd Woollahra	39 Wallaroy Rd Woollahra	30 Dudley St Paddington	63 New South Head Rd Vaucluse
Reference	222/2017/1	557/2017/1	606/2017/1	576/2017/1	162/2017/1	275/2017/1	249/2017/1	595/2017/1	497/2017/1	611/2017/1	282/2017/1	404/2017/1
Meeting	29/03/18	29/03/18	29/03/18	29/03/18	29/03/18	29/03/18	29/03/18	29/03/18	29/03/18	29/03/18	12/04/18	12/04/18

Departure from FSR Standard

Departure from Height and FSR Standard

Annexure 1 Summary Table of DA matters before the WLPP 29 March 2018 to 21 March 2019

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

WLPP Decision	Approval, with variations	Refusal	Deferred	Approval, with variations	Approval
Staff Recommendation	Approval, with variations	Refusal	Deferred	Approval, with variations	Approval
Sensitive Development 4	SEPP65	SEPP65	ΨV	SEPP65	NA
Pre- Existing	ď Z	₹ Z	A A	d Z	`
Departure from Development Standard 3	Height: 20%	٧×	A A	∀	Height: 34%
Contentious Development 2	V	42 Submissions	19 submissions	10 submissions	d X
Conflict of Interest 1	Ą	AA	A	۷ ۷	A
Proposal	develing, reconfiguration of develing, reconfiguration of lot boundaries (subdivision). construction of a new seniors housing development containing fire develing and abasement or parking and landscaping works	develling and ancillary structures and constituent of a may a structures and construction of a may a structure of a may a structure or a may a structure or a may a structure or a major and a structure or a structure	Change of use from a food and drink premises (approved under a Complying Developmen. Certificate –No 17/1417/01; to a licensed restaurant with 70 patrons	Demolition of existing building on Nos. 80-7, & 90 New South Head 3d, lot consolidation & construction of seven story mixed use devolopment with basement care parking léasigned as simple of the propriet of the basement designed as a short-top housing!, and mechanism for the basement ear parking léasters to the rear yard of No. 9 Mona Rd.	Refinishing of existing loggia/verands structure in conjunction with increasing with of structure, new oxternal siding doors to replace existing windows, two new skylights & kitchen existing under ouths.
Address	29 New South Head Rd Vaucluse	448 Edgecliff Rd Edgecliff	2-8 Elizabeth St Paddington	Nos 80-84 & gO New South Head Rd & No 9 Mona Rd Edgecliff	13/8 Young St Paddington
Reference	402/2017/1	558/2016/1	621/2017/1	2/2017/1	566/2017/1
Meeting Date	12/04/18	19/04/18	19/04/18	19/04/18	03/05/18

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	Departure from FSR Standard
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Woollahra Municipal Council Woollahra Local Planning Panel Agenda

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WLPP Decision	Approval	Withdrawn	Approval, with variations	Approval	Refusal	Approval	Approval	Approval, with variations	Approval	Refusal
Staff Recommendation	Approval	Withdrawn	Approval, with variations	Approval	Refusal	Approval	Approval	Approval, with variations	Approval	Refusal
Sensitive Development 4	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Pre- Existing	NA	AA	ΨN.	>	NA	`	`	AN	A A	A
Departure from Development Standard 3	NA	Height: 14.53%	NA	Height: 17.1%	NA	FSR: 63.5%	FSR: 63.5%	Height: 49.5%	NA	Height: 36.5%
Contentious Development 2	17 submissions original DA then 12 amended	AM	13 submissions	NA	14 Submissions	NA	AN	NA	NA	35 Submissions
Conflict of Interest 1	NA	NA	NA	NA	NA	NA	NA	NA	Council owned land	NA
Pioposal	Remediation of the site and construction of a two x three storey attached residential dwellings (infill development) at Nos. 7 an 9 Belmore Place Paddington.	Alts & adds ncluding a new first floor level	Demolition of the existing dwelling and construction of a new dwelling	A new vergda (awning) louvered roo! system with sliding glass panels to the third floor level terrace area of the axisting unit	Demolition of existing house and garage and the construction of a new two storey dwelling with new garage, swimming pool, landscaping and siteworks.	Enclose the existing balcony with full height glazing.	Enclosure of balcony with full height glazing.	Alts & adds	Seasonal market of 120 stalls and rides (including a licensed area) to be held in Robertson Park, on Sun 3rd Jun from 10am to 3pn., and on fri 7th Dec from 3pn to 9pm.	Construction of seniors housing development comprising T/ independent living units (self-contained living units (self-contained basement capark providing 40 spaces.
Address	Nos. 7 & 9 Belmore PI Paddington	14 Bulkara Rd Bellevue Hilll	117-119 O'Sullivan Rd Bellevue Hill	12/45-49 Bellevue Rd Bellevue Hill	404 Edgecliff Rd Woollahra	810/180 Ocean St Edgecliff	1011/180 Ocean St Edgecliff	37 Wentworth Rd Vaucluse	22 Military Rd Watsons Bay	58-60 Newcastle St Rose Bay
Reference	478/2016/1	637/2017/1	114/2017/1	37/2018/1	389/2017/1	84/2018/1	105/2018/1	339/2017/1	97/2018/1	649/2017/1
Meeting Date	03/05/18	03/05/18	03/05/18	17/05/18	17/05/18	17/05/18	17/05/18	17/05/18	17/05/18	17/05/18

Departure from FSR Standard

Departure from Height and FSR Standard

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WLPP Decision	Approval	Refusal	Approval	Approval	Approval, with variations	Refusal	Approval, with variations	Approval, with variations
Staff Recommendation	Refusal	Approval	Approval	Approval	Approval	Refusal	Approval	Approval
Sensitive Development 4	₹.	A A	NA	NA	SEPP65	NA	ĄN	NA
Pre- Existing	ď Z	A A	`	>	Ą	A N	`	`
Departure from Development Standard 3	₹ 2	Height: 38.4%	Height: 30% FSR: 13%	Height: 18%	FSR: 12%	Lot Size: 53.2%	Height: 69%	Height: 16%
Contentious Development 2	10 submissions	NA	NA	NA	25 Submissions	NA	NA A	NA
Conflict of Interest 1	۷ ۷	NA	NA	NA	NA	NA	NA	NA
Proposal	Change of use from food and drink premises to a licensed restaurant with 70 patrons and operating hours from Mondays to Saturdays 7:00am to nidnight and Sundays 7:00am to 10:00pm including signage & liquor license	Construction of a new three- storey dwelling (infill development) including car stacker for two vehicles and swimming pool to rear of site	Alts & adds to existing shop top housing terrace including attic dormer window and new external stalicase	Alts & adds	Demolition of existing buildings and construction of shop top housing development comprising 27 appartments, 3 retail units & two levels or basement car parking.	Two dual occupancies with basement parking, pool and strata subdivision.	Installation of vergola louvre awning to the roof terrace area.	Alts & adds
Address	2-8 Elizabeth St Paddington	11 Stephen St Paddington	74 Oxford St Paddington	4 Conway Ave Rose Bay	520-536 Old South Head Rd Rose Bay	37 Bundarra Rd Bellevue Hill	70 Edgecliff Rd Woollahra (Reddam House College)	9 Etham Ave Darling Point
Reference	621/2017/1	283/2017/1	496/2017/1	630/2017/1	449/2017/1	57/2018/1	49/2018/1	490/2017/1
Meeting	24/05/18	07/06/18	07/06/18	07/06/18	07/06/18	21/06/18	21/06/18	21/06/18

	Departure from FSR Standard
March 2018 to 21 March 2019	/80786 Legend: Departure from Height Standard
WLPP 29 I	Legend:
Summary Table of DA matters before the	Trim Record No: 19/80786

6 June 2019

WLPP Decision

Staff

Conflict of Interest 1

Approval Approval Approval ¥ AN AN AN NA AN FSR: 31% ¥ AN AN AN AN NA Alts & adds to existing RFB to convert 4 existing units into 9 units, internal reconfiguration, new balconies and entry, and, strata subdivision Subdivision of a portion of the Rd reserve adjoining 3 Queens Ave Vaucluse containing 3 apartments; demolition or rear brick garage and construction of 2 attached garages with mechanical car stacker; and Change of use & alts & adds to existing building (St Brigids) including internal and external works; the use of the first floor level as an art Subdivision of Sydney Water land, on lanc at Clairvaux Rd Vaucluse Substantial demolition and alts & adds to existing 2 storey building and conversion to 3 storey RFB Alts & adds to the existing boarding house building Alts &adds changes to the existing 548 New South Head Rd Double Bay (St Brigids) 6 New Beach Rd Darling Point Paddington 37/42 Flinton Gurner St 204/2018/1 155/2018/1 506/2017/1 604/2017/1 69/2018/1 21/06/18 05/07/18 05/07/18

	Departure from FSR Standard
March 2018 to 21 March 2019	No: 19/80786 Legend: Departure from Height Standard
natters before the WLPP 29 I	:Pegend:
mmary Table of DA r.	m Record No: 19/80786

Departure from Height and FSR Standard

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Annexure 1 Summary Table of DA matters before the WLPP 29 March 2018 to 21 March 2019

Woollahra Local Planning Panel Agenda

Woollahra Municipal Council

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

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WLPP Decision	Approval	Approval	Approval	Refusal	Refusal	Approval	Approval	Approval	Approval
Staff Recommendation	Approval	Approval	Approval	Refusal	Refusal	Approval	Approval	Approval	Approval
Sensitive Development 4	SEPP65	NA	AA	NA	NA	NA	NA	NA	NA
Pre- Existing	A A	NA A	NA	NA	NA	,	`	>	NA
Departure from Development Standard 3	Height: 43.6%	Height: 18%	NA	Height: 30.7%	Height: 15%	Height: 64%	Height: 15.6%	FSR: 33.7%	NA
Contentious Development 2	22 unique submissions received;	14 Submissions received	NA	NA	NA	NA	NA	NA	NA
Conflict of Interest 1	A	NA	Council is the applicant	NA	NA	NA	NA	, A	Council is applicant
Proposal	Demolition of existing buildings, construction of a new part 5, aart 6 storey RFB containing 5 units with easement carparking for 11 easement carparking and siteworks.	Substantial alts & adds (new dwelling), a new carport, landscaping and site works and rectification works to existing sea wall	Subdivide a portion of the Rd reserve withn Gilliver Avenue (Lot 100 of DP 1222164) adjoining land at 9 Fisher Avenue, Vaccluse	Alts & adds to dwelling to provide a new 50m2 roof terrace and '5m2 terrace room with lift access	Roof terrace addition to existing detached dwelling	Alts & adds	Alts & adds to existing terrace houss including a new attic level and skylights	Alts & adds to an existing building containing a shop on the ground foor and a separate residential component above	Subdivide a portion of Rd reserve withn Cranbrook Rd
Address	2 Wentworth St Point Piper	4 Cove St Watsons Bay	Gilliver Ave Vaucluse (Lot 100 of DP 1222164)	144 Old South Head Rd Vaucluse	256 - 258 Old South Head Rd Vaucluse	14 Tivoli Ave Rose Bay	44 Glenmore Rd Paddington	462 Oxford St Paddington	26-28 Cranbrook Rd Bellevue Hill
Reference	369/2017/1	533/2017/1	149/2018/1	1/2018/1	628/2017	583/2017/1	126/2018/1	638/2017/1	251/2018/1
Meeting Date	19/07/18	19/07/18	19/07/18	19/07/18	19/07/18	19/07/18	19/07/18	19/07/18	02/08/18

Departure from FSR Standard

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

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WLPP Decision	Deferred	Refusal	Approval	Refusal	Approval	Refusal	Approval	Approval
Staff Recommendation	Approval	Refusal	Approval	Approval	Approval	Refusal	Approval	Approval
Sensitive Development 4	SEPP65	NA	NA	SEPP65	SEPP65	SEPP65	NA	NA
Pre- Existing	4 Z	NA	NA A	A	A A	NA	`	`
Departure from Development Standard 3	Height - 18%	NA	NA	NA	Height: 8.2% building and 16.2% lift	Height: 16.45	Height: 17%	Height: 23%
Contentious Development 2	19 submissions	14 submissions received	11 submissions received	NA	Ψ	36 submissions (one in support) and a petition of 948 signatories		NA
Conflict of Interest 1	V	NA	NA	NA	NA	NA	NA	NA
Pioposal	Demolition of existing 2 story commercial building and construction of new 5 storey shop to housing evelopment comprising 4 retail spaces and ancillary areas at ground floor level areas at ground 3 x 1, 7 x 2 and 1 x 3 bedrooms.	Alts & adds to existing building including the provision of a two bedroom unit above the existing single strorey western wing of the building	Demolition of existing dwelling and construction of a RFB with basement car parking	on of existing house and tion of a RFB basement parking a subdivision	Demolition of existing dwellings and construction of a 3 storey R-B containing 9 apartments and basement parking	Shop-top housing including 10 residential apartments, 2 retail units, a community facility and the adaptive re- use of the 1995 Uniting Church buildings	Alts & adds to existing roof terrace	Demolition of existing buildings; construction and fit out of new service station & convanience store; revised service station layout
Address	357-359 New South Head Rd Double Bay	97-99 Queen St Woollahra	673 New South Head Rd Rose Bay	584 Old South Head Rd Rose Bay	31-35 Newcastle St Rose Bay	518A Old South Head Rd Rose Bay	7 Serpentine Pde Vaucluse	No. 73-79 & 81-83 New South Head Rd, Edgecliff,
Reference	303/2017/1	512/2017/1	423/2017/1	513/2017/1	5/2018/1	160/2018/1	2/2018/1	446/2016/1
Meeting Date	02/08/18	02/08/18	16/08/18	16/08/18	16/08/18	16/08/18	16/08/18	06/09/18

Departure from FSR Standard

Departure from Height and FSR Standard

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

WLPP Decision	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Deferred	Approval
Staff Recommendation	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval
Sensitive Development 4	NA	NA A	NA	∀ Z	SEPP65	NA	NA	AN	NA
Pre- Existing	`	`	`	ď Z	A	>	>	A	`
Development Standard 3	Height: 33%	Height: 11%	FSR: 63.7%	Height: 16% Min Lot Size: 36% Min Subdivision: 79%	Height: 20%	FSR: 23%	Height: 41%	NA	Height: 50%
Contentious Development 2	NA	AA.	NA	10 submissions received received received application) Nil (Most recent replacement application)	NA	NA	A A	12 unique submissions received	NA
Conflict of Interest 1	NA	V	NA	٧×	NA	NA	NA	NA	۷.
Proposal	Alts & adds to the dwelling house.	Alts & adds to existing dwelling including enlargement of study, new pergola and shading devices	Enclosure of the balcony with full height glazing	Substantial (emplition of, and major alts & adds to, the existing two storey building and its conversion to a 3 storey RE 13 accommodate 3 apartments; demolition of assting rear brink garage and the construction of 2 attached garages with merchanical (as stacker; and strats subdivision	Demolition of existing building and construction of a new 4 storey shop-top housing development comprising retail on the ground floor, 3 levels of residentia units above and a communal rooftop garden a communal rooftop	Change of shop-front to the ground floor tenancy	Alts & adds to existing boarding house building including an additional 2 boarding house units & outdoor area on the top level	Alts & adds to existing dwelling including the addition of a new top floor level and new lift.	Proposed alts & adds to the existing dwelling and the erection of a secondary dwelling to the rear
Address	6 Pacific St Watsons Bay	6 Black St Vaucluse	904/180 Ocean St Edgecliff	6 New Beach Rd Darling Point	384 New South Head Rd Double Bay	124 Queen St Woollahra	3 Gurner StPaddington	14 Wyuna Rd Point Piper	22 Olola Ave Vaucluse
Reference	56/2018/1	128/2018/1	177/2018/1	418/2017/1	140/2017/1	299/2018/1	69/2018/1	364/2017/1	556/2017/1
Meeting Date	06/09/18	06/09/18	06/09/18	81/60/90	06/09/18	20/09/18	20/09/18	20/09/18	20/09/18

Departure from FSR Standard

Departure from Height and FSR Standard

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Woollahra Municipal Council Woollahra Local Planning Panel Agenda

6 June 2019

WLPP Decision	Approval	Approval	Approval	Approval	Approval	Mcdify	Approval	Approval	Refusal
Staff	Approval	Approval	Approval	Approval	Approval	Approval, with variations	Approval	Approval	Refusal
Development 4	SEPP65	NA	NA	NA	NA	NA	AN	SEPP65	AN A
Existing	AM	NA	,	`	NA	AN	AN	A A	NA
Development Standard 3	Min Subdivision Lot Size: 93%	NA	Height: 411.11%	Height: 242%	NA	AA A	Ą	A	Height: 12.6%-
Contentious Development 2	δ _N	NA	NA	NA NA	NA	∀	NA	12 objections plus a petition signed by 32 people.	27 submissions
Conflict of	₹.	Council is the applicant	NA	NA	Council is the applicant	Developmen t for which the applicant or land owner is a councillor	Council is the applicant	NA	NA
Loposai	Demolition of existing dwellings and ancillary structures, Amalgamation of three lots into one lot; Construction of a new RFB.	Latin American cultural celebration to be held on Sat 27 Oct 2018 at Lyne Park Rose Bay, including entertalment, food, beverage, and artisan markets	Air Conditioner condenser unit	Installation of wall mounted air-conditioning condenser unit & associated works	Subdivide a portion of Rd reserve withn Soudan Street Paddington	Change of trading hours - Internal: Mon to Sun 6:00am to midnight with alcohol: External (footpath): Mon to Sat 6am to midnight & Sun 6am to 10pm with alcohol 6am to 10pm with alcohol 8pm	Construction of double carport, concrete crossover and turntable on the Rd reserve	Alts & adds to an existing RFB and strata subdivision under existing use rights	Alts & adds
Address	33, 35 and 37 Carlisle St Rose Bay	550 New South Head Rd Rose Bay	18A/23 Thornton St Darling Point	15A/21 Thornton St Darling Point	Soudan St Paddington	225 Glenmore Rd Paddington	18 Hopetoun Ave Vaucluse	686 Old South Head Rd Rose Bay	71 Yarranabbe Rd Darling Point
hererence	642/2017/1	308/2018/1	325/2018/1	324/2018/1	306/2018/1	45/2010/4	109/2018/1	594/2017	203/2018/1
Meeting	20/09/18	20/09/18	04/10/18	04/10/18	04/10/18	04/10/18	04/10/18	04/10/18	04/10/18

WLPP Decision	Approval	Approval	Approval	Approval	Refusal	Refusal
Staff Recommendation	Approval	Approval	Approval	Approval	Refusal	Refusal
Sensitive Development 4	SEPP65	V V	NA	NA	AN A	NA
Pre- Existing	4 Z	d Z	>	\	`	AN
Departure from Development Standard 3	NA.	∀V V	Height: 31.26%	Height: 21.9%	Height: 60%	Minimum Subdivision Lot Size: 10.17%
Contentious Development 2	19 submissions (initial DA) 20 submissions (submissions (subsequent application)	NA	NA	NA	A A	A A
Conflict of Interest 1	NA	Council owned land	NA	NA	NA	NA
Proposal	Demolition of 2 storey commercial building and construction of 5 storey shop top housing jevelopment top housing jevelopment and ancillary areas at ground floor level and 11 residential units consisting of 3 x 1, 7 x 2 and 1 x 3 sedrooms on the levels.	Double Bay Street Festival event to be held in various Streets in Double Bay on Streets in Double Bay on Streets in Double Bay on Nov 2019, 1 Novr 2020, to include the additional street include the additional street Street between Bay Street and Gumtree Lane for and Gumtree Lane for testing	Alts & adds	Conversion of existing RFB to single divelling and alts and adds to the building including lift, enroved to verendah infilis, garage, front fence to Yarranabbe Rd, swimming ool and associated landscaping	Alts & adds to dwelling including construction of boat shed, raised planters, removal of trees and landscape works	Subdivision of 212-214 Old South Head 3d Bellevue Hill into two separate allotments
Address	357-359 New South Head Rd Double Bay	1A Guilfoyle Ave Double Bay	15 Neild Ave Paddington	1 Yarranabbe Rd Darling Point	9 Sutherland Cres Darling Point	212-214 Old South Head Rd Bellevue Hill (AKA 29 Birriga Rd)
Reference	303/2017/1	193/2017/2	91/2018/1	363/2017/1	146/2018/1	40/2018/1
Meeting Date	04/10/18	18/10/18	18/10/18	18/10/18	18/10/18	18/10/18

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Woollahra Municipal Council Woollahra Local Planning Panel Agenda

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WLPP Decision	Refusal	Approval	Refusal	Refusal	Approval	Approval	Approval	Approval	Approval
Staff Recommendation	Refusal	Approval	Approval	Refusal	Approval	Approval	Approval	Refusal	Approval
Sensitive Development 4	SEPP65	NA	ĄV	SEPP65	VA V	NA	NA	NA	SEPP65
Pre- Existing	AN A	AA	AN	4 A	A A	>	`	>	NA A
Departure from Development Standard 3	Ψ.	Height: 15%	Height: 49%	Height: 13% FSR: 18%	Height: 11.7%	Height: 12%	FSR: 46%	Height: 26.8%	NA
Contentious Development 2	NA	NA	Ą	51 submissions	<u> </u>	AM	NA	NA	10 submissions (Including 1 submission of support)
Conflict of Interest 1	NA	NA	NA	A	A	NA	NA	NA	NA
Proposal	Demolition of existing dwelling and construction of 3 storey RFE with basement level car parking	Demolition of the existing dwelling and construction of a dwelling including pool and landscaping	Demolition of the existing dwelling house & the construction of a dwelling house, swirming pool and landscape works	Demolition of existing develing and evering and evering on the existing swimming pool, construction of a RFB with acturate parking system, swimming pool, landscaping and site works	Demolition of existing dwelling and associated a structures and construction of a part 2, part 3 storey dwelling with basement level garage, fencas, landscaping and siteworks.	Alts & adds	Alts & adds to the ground floor of the existing commercial building (hairdressing salon)	Alts & adds	Demolition of existing buildings and construction of a 3 storey R-B and associated lendscape works
Address	22 Spencer St Rose Bay	2A Bayview Hill Rd Rose Bay	4 & 6 Bayview Hill Rd Rose Bay	76 Drumalbyn Rd Bellevue Hill	55 Bulkara Rd Bellevue Hill	145 Windsor St Paddington	242 Oxford St Paddington	1 Fisher Ave Vaucluse	75 & 77 O'Sullivan Rd Rose Bay
Reference	275/2018/1	66/2018/1	605/2017/1	220/2018/1	284/2017/1	340/2018/1	307/2018/1	366/2018/1	141/2018/1
Meeting Date	18/10/18	01/11/18	01/11/18	01/11/18	01/11/18	01/11/18	01/11/18	15/11/18	15/11/18

Departure from FSR Standard

Departure from Height and FSR Standard

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

WLPP Decision	Approval	Approval	Refusal	Approval	Approval	Approval	Approval
Staff Recommendation	Approval	Approval, subject to conditions	Approval	Approval	Approval	Approval	Approval
Sensitive Development 4	NA NA	A	NA	A	SEPP65	NA	NA
Pre- Existing	>	ΑΝ	AN	NA	NA	Y Z	AN
Departure from Development Standard 3	Height: 15.7%	٧v	NA	NA	NA	NA NA	NA
Contentious Development 2	Q	10 submissions	13 submissions	12 (original DA scheme) 4 (amended DA scheme, dated 8 October 2018)	NA	20 submissions	11 submissions
Conflict of Interest 1	NA A	NA	NA	NA	NA	Ψ.	NA
Proposal	Demolish structures at rear of building, construct a garage and 3 level raar addition to dwelling, new swimming pool with landscaping and new boundary well	Change of use from ground floor coffee bunge to licensed restaurant (with minor works) including an increase in parton numbers from 28 to 56, inclusive of rear courtyard seating for 12 partons, and the change of trading hours	Proposed street entry portico, front (street) wall and new swimming pool	existing dition of a top	Lot amalgarration, demolition of existing dwellings and construction of RFB containing 11 units with basement car parking	red roof e iguration	Demolition of existing RFB and construction of 3 storey RFB comprising three (3) x 4 bedroom units, basement parking for 6 cars, landscaping and siteworks
Address	144 Glenmore Rd Paddington	39 Ocean St Woollahra	11 Wentworth St Point Piper	14 Wyuna Rd Point Piper	122 & 124 Bellevue Rd Bellevue Hill	240-246 New South Head Rd Edgecliff	135 Queen St Woollahra
Reference	90/2018/1	504/2017/1	394/2017/1	364/2017/1	72/2018/1	22/2015/10	607/2017/1
Meeting Date	15/11/18	15/11/18	29/11/18	29/11/18	29/11/18	29/11/18	29/11/18

	from FSR Standard
	Departure
TO WELL SO INGICE SOLO (O.S.) MAICH SOLO	Departure from Height Standard
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Woollahra Municipal Council Woollahra Local Planning Panel Agenda

WLPT Decision	Approval	Approval	Approval	Refusal	Approval	Approval	Approval
Recommendation	Conditional	Approval	Approval	Refusal	Conditional Approval	Approval	Approval subject to conditions
Development 4	NA	SEPP65	NA	AN A	NA	AN	NA A
Existing	4	A	`	NA	AN	>	>
Departme from Development Standard 3	FSR - 30.9% excluding balconies and 41.6% including balconies balconies balconies 4.4%	FSR: 33%, 9% and 38%	Height - 39%	Height: 28%	Minimum Lot Size: 51.8%	Height: 77.8%	Height: 175%
Development 2	12 submissions	۷.	NA NA	NA NA	AN	NA	AA
Interest 1	AM	NA	NA	NA	NA	NA	NA
in social control of the social control of t	Demolition of an existing dwelling house and the construction of a RFB	Erection of residential mixed use development comprising 9 residences, 2 retail tenancies, 2 commercial tenancies, 21 car spaces, and associated landscaping and siteworks	dwelling house to existing dwelling house to convert to a 3 unit FRB (change of unit between the converted to the convertines storely with basement level carparding, fences, additional driveway, and siteworks, landscaping and siteworks.	Construction of tennis court, storage/plan: area, widening of vehicular antry, site works and landscaping	Torrens title subdivision	Air conditioning unit	Demolition of existing sliding door unit & studded door nibs, construction of new sashless glazed window units & fixed glazed panels to bedroom 1
Address	20 Dover Rd Rose Bay	636 & 638 - 646 New South Head Rd Rose Bay	9 Longworth Ave Point Piper	21–23 Cranbrook Rd Bellevue Hill	8 Castra PI Double Bay	78/21 Thornton St Darling Point	19/55 Wolseley Rd Point Piper
Deserging	107/2018	229/2018/1	646/2017/1	244/2018/1	372/2018/1	457/2018/1	486/2018/1
Date	13/12/18	13/12/18	13/12/18	13/12/18	13/12/18	20/12/18	20/12/18

Departure from FSR Standard

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

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WLPP Decision	Approval	Approval	Approval	Deferred	Refusal	Approval	Approval	Approval	Approval
Staff Recommendation	Conditional	Approval	Approval	Approval	Refusal	Approval	Approval	Approval	Approval
Sensitive Development 4	A A	NA	NA	NA	NA	NA	NA	NA A	∀ V
Pre- Existing	₹ 2	>	`	A	AN	>	>	A A	A
Departure from Development Standard 3	4 Z	Height: 126.7% FSR: 46.2%	Height: 25.16%	Height: 45%	NA	Height: 70.4%	Height: 10.95%	Height: 40.5%	Min Lot Size: 36.3%, 39.4%, 38.6%, 30.7%, 34.5%
Contentious Development 2	4 Y	Ψ.	ĄN	20 submissions	13 (Including one petition with 14 signatures)	AN A	NA	NA	Ā
Conflict of Interest 1	Application is to be determined by the LPP as Council is the trust manager of Lyne Park on behalf of Crown	NA	NA	NA	NA	NA	NA	AN	NA
Proposal	Alts & adds to a recreational curve to the facility and adjacent sections of sea wall and concrete pathway and concrete pathway and Vorks under the provisions of SEPP 55 -Remediation of Land	Alts & adds to the rooftop garden level (Unit 9)	Alts & adds	Conservation & restoration of Juniper Hall for use as an art gallery & resdence, the construction of new 2 storey art gallery with 3 new carspaces accessed from Underwood Street	Extension of approved trading hours until 2.00am 7 days per week	Air conditioning unit	Alts & adds	Extensive alts & adds to the existing building (new dwelling)	Torrens Subdivision into five residential lots
Address	Lyne Park 550 New South Head Rd Rose Bay and an adjacent section of Sydney Harbour	9/4 Greenoaks Avr Darling Point	238-240 Glenmore Rd Paddington	248-250 Oxford St Paddington (Juniper Hall)	380 Oxford St Paddington	9C/21 Thornton St Darling Point	31 Coolong Rd Vaucluse	11 Rupertswood Ave Bellevue Hill	98-106 Oxford St Woollahra
Reference	22/2018/1	436/2018/1	294/2018/1	267/2017/1	368/2015/4	458/2018/1	481/2018/1	280/2018/1	3/2019/1
Meeting	20/12/18	20/12/18	20/12/18	20/12/18	07/02/19	07/02/19	07/02/19	07/02/19	21/02/19

Departure from FSR Standard

Departure from Height and FSR Standard

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

WLPP Decision	Refusal	Refusal	Refusal	Approval	Approval	Approval	Approval	Approval	Approval	Approval
Staff Recommendation	Conditional Approval	Conditional	Conditional	Approval	Approval, subject to Conditions	Approval	Approval	Approval, subject to Condition C1	Approval	Approval
Sensitive Development 4	AN	NA NA	₩.	NA	NA	SEPP65	Ψ.	NA	NA	NA
Pre- Existing	N A	A A	Ψ.	`	N A	Y V	4 X	AN	`	>
Departure from Development Standard 3			∀ Z	Height: 17%	NA	Height: 3.24% FSR: 520 OSH - 8.6% 522- 536 OSH - 20%	Height: 67% FSR: 29%	NA	Height: 18%	Height: 94%
Contentious Development 2	39 submissions	39 submissions	13 unique objections; 26 letters of support	NA	10 Submissions	NA	٧.	13 submissions	AN	NA
Conflict of Interest 1	AM	AN	AN	NA	AN	NA	NA.	NA	NA	NA
Pioposal	Dual occupancy, swimming pool, siteworks, and strata subdivision	Demolition of dwelling, dual occupancy, swimming pool, siteworks and strata subdivision	Extension of hours of operation to 12 midnight 7 days a week	Unit 11/45-49 Bellevue Rd Bellevue Hill	Removal of 2 existing trees and replacement tree - corresponding amendments to Condition Nc. A6.	Modifications to shop top housing development approved under DA No. 449/2017/1	Demolition of dwelling and construction of RFB, alts and adds to existing dwelling at 83A Yarrandobe Rd, stormwater works in adjoining Rd reserve and Torrens Title land subdivision.	Alts & adds to terrace house including 2 storey rear wing and siteworks	Alts & adds to dwelling	Alts & adds to approved attached duel occupancy including landscaped roof above the principal dwelling and mechanical carport roof to the Wolsdey Rd frontage
Address	12 Greycliffe Ave Vaucluse (Lot 29)	12 Greycliffe Ave Vaucluse (Lot 28)	160 Wolseley Rd Point Piper	Unit 11/45-49 Bellevue Rd Bellevue Hill	9A Cooper Park Rd Bellevue Hill	520-536 Old South Head Rd Rose Bay	83 & 83A Yarranabbe Rd Darling Point	43 Dudley St Paddington	27 Eastbourne Rd Darling Point	76 Wolseley Rd Point Piper
Reference	347/2018/1	348/2018/1	476/2017/2	418/2018/1	607/2015/5	411/2018/1	172/2018/1	384/2018/1	523/2018/1	208/2018/1
Meeting Date	21/02/19	21/02/19	21/02/19	07/03/19	07/03/19	07/03/19	07/03/19	07/03/19	21/03/19	21/03/19

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6 June 2019

WLPP Decision Approval Approval, subject to Condition C.1 Staff Conditional AN Ϋ́ AN AN Height: 18% AN Council is the trust manager of Lyne Park on behalf of Crown Lands. Conflict of Interest 1 New granny flat & associated works to 39A & other minor works to 393 Ausks adds to existing terrace hous; including pool Alts & adds to Catalina
Restaurant including
increased seating capacity to
200 patrons under existing
use rights & associated
upgrade works. 550 New South Head Rd Rose Bay · Catalina Restaurant 39 Carlotta Rd Double Bay 142 Glenmore Rd Paddington 264/2018/1 234/2018/1 21/03/19 21/03/19

Development Standards - 6 June 2019

Departure from FSR Standard

Departure from Height and FSR Standard

Annexure 1 Summary Table of DA matters before the WLPP 29 March 2018 to 21 March 2019

Woollahra Local Planning Panel Agenda

Woollahra Municipal Council



Department of Planning and Environment

Our ref: IRF22/2921

Mr Scott Pedder Director, Planning and Place Woollahra Municipal Council PO Box 61 DOUBLE BAY NSW 2028

Via email: scott.pedder@woollahra.nsw.gov.au

11 October 2022

Subject: Local Planning Panel Direction – Development Applications Council Officer Delegations – Temporary Assumed Concurrence

Dear Mr Pedder.

I refer to Woollahra Municipal Council's (Council) letter of 23 June 2022 to the Secretary of the Department of Planning and Environment (the Department), regarding the Minister's Local Planning Panel Direction – Development Applications and your request for the Department to grant a further 12-month extension to the temporary assumed concurrence. The Secretary has asked me to reply on his behalf.

I acknowledge the rationale provided by Council in seeking an extension to the assumed concurrence. I also note Council's work investigating options for a more permanent solution to address this matter.

As the delegate of the Secretary, I have considered Council's request and have determined to grant an extension to the existing temporary assumed concurrence for a further 18 months, commencing on 17 November 2022 (at the conclusion of the existing arrangement). During this period, Council will be exempt from the requirement to refer development applications to the Woollahra Local Planning Panel (LPP) where:

- there is a pre-existing non-compliance of more than 10% for height of buildings under clause 4.3 of the Woollahra Local Environmental Plan (LEP) 2014 and the development application does not result in an increase in the non-compliance; or
- 2. there is a pre-existing non-compliance of more than 10% for floor space ratio under clause 4.4 of the Woollahra LEP 2014 and the development application does not:
 - a. result in changes to the extent of the building envelope, and
 - is only a minor increase to the gross floor area e.g. balcony enclosure or similar.

Applicable development applications may be determined by Council staff under delegation from the Woollahra LPP in accordance with any relevant governance mechanisms.

Please be advised that once the temporary assumed concurrence provided by this letter expires, no further extensions will be granted by the Department.

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Since late 2019, the Department has advised that a review of the existing development standards in the Woollahra LEP 2014 should be undertaken to give effect to Council's Local Strategic Planning Statement and to provide a workable and permanent solution to this longstanding issue. While the Department understands a potential option was explored but found unsuitable, Council is encouraged to investigate alternative approaches with a view to preparing a planning proposal to make an amendment to the LEP. The Department would be happy to assist Council during this process.

I can confirm that after careful consideration of Council's request, an amendment to the Minister's Local Planning Panel Direction – Development Applications is not considered appropriate.

Should you have any enquiries about this matter, I have arranged for Mr Simon Ip, Manager Place and Infrastructure to assist you. Mr Ip can be contacted on 8289 6714.

Yours sincerely

Tim Raimond
Deputy Secretary
Planning and Land Use Strategy

Woollahra Municipal Council Woollahra Local Planning Panel (Public Meeting)

03 November 2022

Item No:

Subject: WOOLLAHRA LOCAL PLANNING PANEL (WLPP) DELEGATIONS

ASSUMED CONCURRENCE

Author: Nick Economou, Manager Development Assessment

Approver: Scott Pedder, Director - Planning & Place

File No: 22/202697

To delegate to Council's Planning Staff the WLPP function to determine Purpose of the

Report: specific applications for a period of 18 months

Strategy 4.1:Encourage and plan for sustainable, high quality planning Alignment to

and urban design outcomes.

Recommendation:

Delivery Program:

THAT the Woollahra Local Planning Panel (Panel) under the provisions of section 2.20(8) of the Environmental Planning and Assessment Act 1979 (the 'Act') delegates to Council's Planning staff its function to determine Development Applications for a period 18 months where:

- there is a pre-existing non-compliance of more than 10% for height of building under clause 4.3 of the Woollahra Local Environmental Plan 2014 and the development application does not result in an increase in the non-compliance, or
- there is a pre-existing non-compliance of more than 10% for floor space ratio under clause 4.4 of the Woollahra Local Environmental Plan 2014 and the development application does not:
 - result in changes to the extent of the building envelope, and a)
 - b) is only a minor increase to the gross floor area e.g. balcony closure or similar.

Executive Summary:

The Department of Planning and Environment (DPE) granted Council an extension to its initial exemption (see Annexures 1, 2 and 3) from the requirement to refer Development Applications to the Woollahra Local Planning Panel for a period of 12 months where:

- there is a pre-existing non-compliance of more than 10% for height of building under clause 4.3 of the Woollahra Local Environmental Plan 2014 and the development application does not result in an increase in the non-compliance, or
- there is a pre-existing non-compliance of more than 10% for floor space ratio under clause 4.4 of the Woollahra Local Environmental Plan 2014 and the development application does not:
 - result in changes to the extent of the building envelope, and a)
 - b) is only a minor increase to the gross floor area e.g. balcony closure or similar.

However, DPEs timeframe for the extended exemption expires on 17 November 2022. On 23 June 2022, Council wrote to DPE requesting a further extension to the exemption from the requirement to refer DAs to the Panel for pre-existing non-compliances. Annexure 4 presents a copy of Council's letter to DPE (23 June 2022) seeking a further extension to the exemption.

On 11 October 2022, DPE wrote back to Council granting an extension for a period of 18 months commencing 17 November 2022 (i.e. expiring 17 May 2024). Annexure 5 presents a letter from DPE dated 11 October 2022 granting the exemption to Council for a further 18 month period (expiring 17 May 2024). The DPE also advised that no further extensions will be granted after this period expires.

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Schedule 1 of the Local Panels Direction - Development Applications dated 23 February 2018 prescribes the referral criteria for Applications to be determined by Local Planning Panels. Referral Criteria 3 relates to "Departure from Development Standards" and reads as follows:

"Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical standards.

Note: If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the panel can delegate these applications to council staff to determine."

In order to implement the above exemption, it is necessary for the Panel to delegate these applications to council staff to determine.

For the reasons set out in Council's letters dated 13 June 2019 (Annexure 6), 22 October 2020 (Annexure 7), 30 July 2021 (Annexure 8) and 23 June 2022 (Annexure 4) addressed to the NSW Department of Planning and Environment, it is recommended the Panel use the provisions of section 2.20(8) to delegate its functions to determine Development Applications for a period of 12 months, to Council staff, where:

- there is a pre-existing non-compliance of more than 10% for height of building under clause 4.3 of the Woollahra Local Environmental Plan 2014 and the development application does not result in an increase in the non-compliance, or
- there is a pre-existing non-compliance of more than 10% for floor space ratio under clause 4.4 of the Woollahra Local Environmental Plan 2014 and the development application does not:
 - a) result in changes to the extent of the building envelope, and
 - b) is only a minor increase to the gross floor area e.g. balcony closure or similar.

Options:
Nil.
Community Engagement and / or Internal Consultation:
Nil.
Policy Implications:
Nil.
Financial Implications:
Nil.
Resourcing Implications:
Nil.
Conclusion:
The DPE has granted Council an exemption from the requirement to refer Development

Applications to the Woollahra Local Planning Panel for a period of 18 months. In order to implement the above exemption, it is necessary for the Panel to delegate these applications to council staff to determine and therefore it is recommended that the Panel uses the provisions of Section 2.20(8) to delegate its functions to determine Application for a period of 18 months.

Woollahra Municipal Council Woollahra Local Planning Panel (Public Meeting)

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Attachments

- Letter from the Department of Planning, Industry and Environment to Council dated 15/10/19
- Letter from the Department of Planning, Industry and Environment to Council dated 17/11/20
- 3. Letter from the Department of Planning, Industry and Environment to Council dated 7/10/21
- 4. Letter from Council to the Department of Planning and Environment dated 23/06/22
- 5. Letter from the Department of Planning and Environment to Council granting an exemption for a further 18 months dated 11/10/22
- 6. Letter from Council to the Department of Planning and Environment dated 13/06/19
- 7. Letter from Council to the Department of Planning and Environment dated 22/10/20
- 8. Letter from Council to the Department of Planning and Environment dated 30/07/21