



Woollahra Local Planning Panel (Electronic Meeting)

Thursday 16 May 2024
at the Conclusion of Site Inspections

Agenda

Woollahra Local Planning Panel (Electronic Meetings):

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

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

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

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

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

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

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

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

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

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

Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

Quorum:

3 Panel members

Woollahra Municipal Council

Notice of Meeting

7 May 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Electronic Meeting) – 16 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 16 May 2024 at the Conclusion of Site Inspections.**

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

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

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

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

Regards,

Craig Swift-McNair
General Manager

Woollahra Local Planning Panel (Electronic Meeting)

Agenda

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

Items to be Decided by the Panel

D1	DA36//2024/1 - 51 View Street Woollahra - 24/77428.....7 *See Recommendation Page 44	
D2	DA224/2023/1 - 46 Hopetoun Avenue Vaucluse - 24/75094151 *See Recommendation Page 186	
D3	DA173/2023/1 - 80 Sutherland Street Paddington - 24/77744.....281 *See Recommendation Page 305	
D4	DA262/2023/1 - 3 Lawson Street Paddington - 24/78673417 *See Recommendation Page 445	
D5	DA216/2021/3 - 142, 142A & 142B Bellevue Road Bellevue Hill - 24/77582.....577 *See Recommendation Page 607	

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA36/2024/1
ADDRESS	51 View Street WOOLLAHRA
COUNCIL WARD	Cooper
SITE AREA	168.1m ² (As per Survey)
ZONING	R3 Medium Density Residential
PROPOSAL	Alterations and additions to the existing dwelling
TYPE OF CONSENT	Local development
COST OF WORKS	\$517,550.00
DATE LODGED	05/02/2024
APPLICANT	Mr V Milligan
OWNER	A A Tallis
AUTHOR	Mr W Ou
TEAM LEADER	Mr T Wong
SUBMISSIONS	Nil.
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:

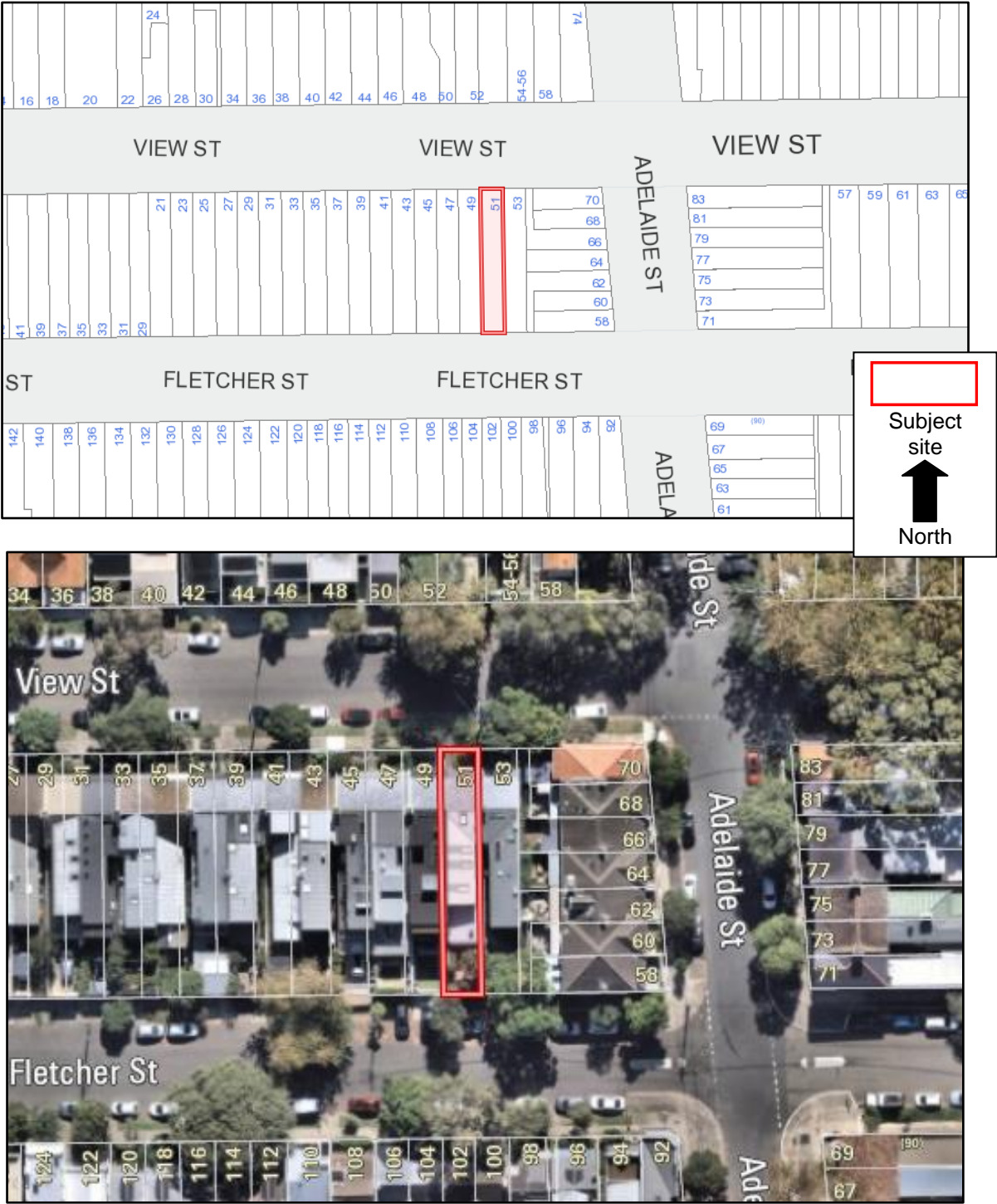
- Departure from development standards
 - (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

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:

- The submitted Clause 4.6 written request to vary the Floor Space Ratio development standard is considered to be well-founded;
- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015 subject to Conditions;
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality subject to Conditions;
- All likely impacts to adjoining properties have been addressed in the report, or are considered to be satisfactory subject to Conditions;
- The site is suitable for the proposed development subject to Conditions; and
- The proposal is in the public interest subject to Conditions.

3. LOCALITY PLAN



4. PROPOSAL

The proposal involves alterations and additions to the existing dwelling.

A detailed floor by floor description of the proposed works is provided below:

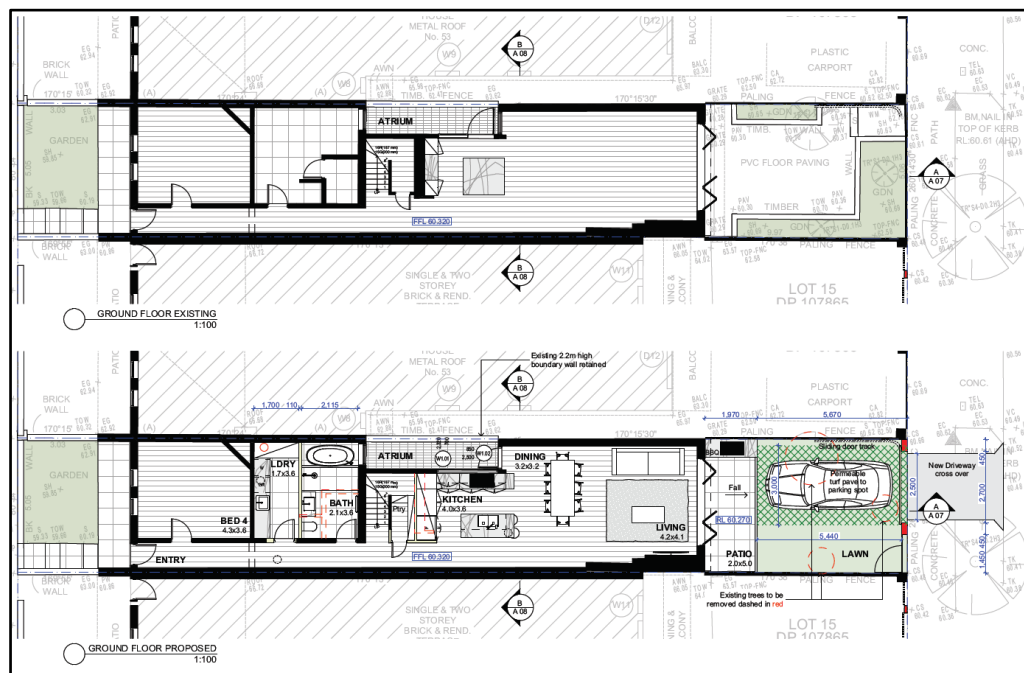
Ground Floor – (RL 60.320)

Internal

- Reconfiguration of laundry and bathroom;
- Reconfiguration of dining, pantry and living room;
- New rear patio.

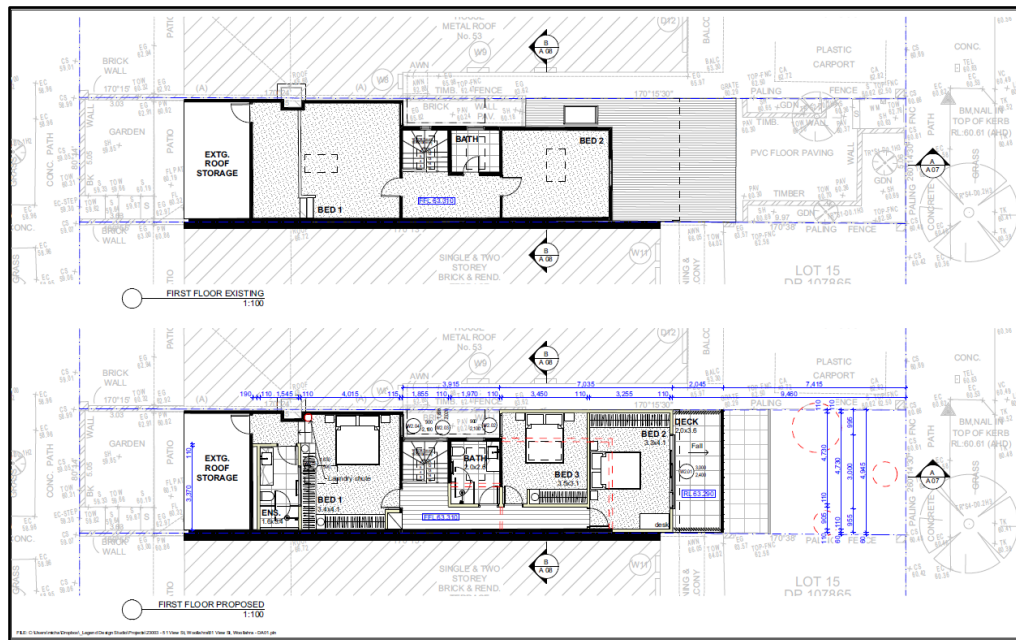
External

- New driveway and driveway crossover;
- New permeable turf pave parking space;
- New rear sliding gate for vehicular access;
- New rear pedestrian gate.



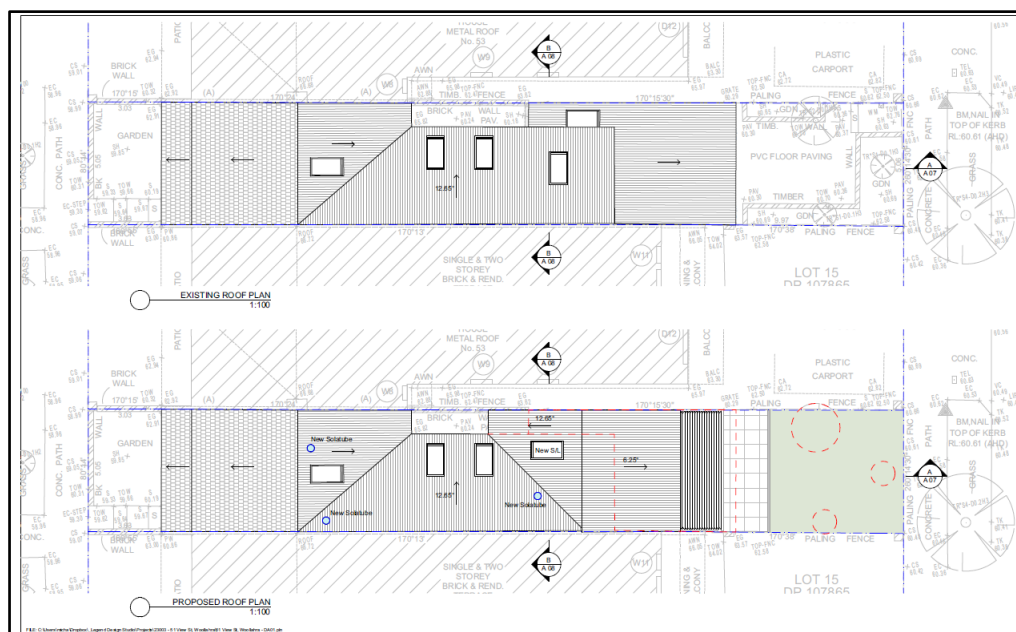
First Floor (RL 63.310)

- First floor addition including new ensuite, bathrooms and rear deck/balcony



Roof Level (RL 66.695 – RL 66.72)

- Minor roof addition to accommodate first floor enlargement;
- New Sky lights.



5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.4(2)	Floor Space Ratio	53.73m ² or 49.17% departure from the 109.26m ² (0.65:1) control.	Satisfactory*

*The submitted Clause 4.6 written request is considered to be well founded

5.2 Primary Issues

Issue	Conclusion	Section
Part 4.4 Floor Space Ratio	Acceptable – The submitted Clause 4.6 written request adequately demonstrates that compliance with the standard is unnecessary and unreasonable with sufficient environmental planning grounds.	Part 5.1 and 13.4
Part C2.3.6 – Fletcher Street Precinct Part C2.5.7 Fences, Gates and retaining walls Part C2.5.8 Parking and garages	Acceptable – The proposal would achieve the relevant objectives of the controls of these Parts subject to Condition D.1(e) .	15.1.1, 15.1.10 and 15.1.11
Part C2.5.4 Materials, Finishes and colours	Acceptable – The proposal would achieve the relevant objectives of the controls of this Part subject to Condition D.1(a), D.1(b) and D.1(c)	15.1.7
Part C2.5.5 Roofs, skylights and chimneys	Acceptable – The proposal would achieve the relevant objectives of the controls of this Part subject to Condition D.1(a) and D.1(d)	15.1.8
Part C2.5.12 Acoustic and visual privacy	Acceptable – The proposal would achieve the relevant objectives of the controls of this Part subject to Condition D.1(f)	15.1.13

5.3 Summary of Submissions

No submissions were received.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site has dual frontages upon View Street and Fletcher Street and is a rectangular shaped allotment. The street frontages measure 5.05m while the eastern and western side boundaries are 30.505m and 30.5m respectively, providing a total site area of 168.1m ² .
Topography
The subject site experiences a gentle slope with a gradual southerly rise from RL58.99 to AHD at the front (View Street) of the site to RL60.66 to AHD at the rear of the site (Fletcher Street).
Existing buildings and structures
The site is occupied by a single & two storey rendered brick Edwardian style dwelling house. The building has an appearance as a single storey dwelling to View Street and the two storey structure is located to the rear. There is an existing courtyard at the rear of the site leading to a pedestrian gate providing access to Fletcher Street.
Surrounding Environment
The site is located in the Woollahra Heritage Conservation Area (WHCA). Surrounding development comprises single and two storey residential development along View Street / Fletcher street and two storey terrace development along Adelaide Street.



Outlook of the site viewed from View Street facing south



Outlook of the site viewed from Fletcher Street facing north



Existing outlook of the rear private open space facing north



Existing outlook to No.49 facing north-west



Existing outlook to No.53 facing north-west

7. RELEVANT PROPERTY HISTORY

Current use
Residential
Relevant Application History
35 View Street, Woollahra – DA 568/2022/1 – Approved on 03/05/2023 for Alterations and additions to an existing single storey attached dwelling including internal modifications with new rear addition to the ground floor. A car stand with vehicular crossing to the rear and a new second storey addition behind the principal building form.
45 View Street, Woollahra – DA 570/2003/1 – Approved on 04/11/2003 for Alterations and additions to dwelling including second storey addition to rear of property and on-site parking.
49 View Street, Woollahra – DA 237/2019 – Approved on 27/11/2019 for Substantial demolition and construction of a two storey dwelling house with rear car space and new landscaping
53 View Street, Woollahra – DA 466/2002/1 – Approved on 17/09/2002 for Alterations and additions to existing single storey dwelling including first floor additions (including new rear hard stand parking area)
Relevant Compliance History
Nil.
Pre-DA
Nil.
Requests for Additional Information and Replacement Applications
On 22/02/2024 – Council sent a ‘Stop the Clock’ Letter dated 21/02/2022 to the Applicant via the NSW Planning Portal. The Letter requested the applicant to provide the following: <p>“1. Vehicular Access and Parking Arrangement A preliminary assessment of the submitted architectural plans has identified the following issues which shall be addressed by the applicant prior to further assessment: a) Minimum dimensions of 3m x 5.4m, clear of any obstructions, shall be provided for the off-street parking space to comply with AS2890.1. In this regard, these required dimensions and the design envelope around parked vehicle, as per Figure 5.2 of AS2890.1 are to be clearly depicted on the revised architectural plans, Revised architectural plans addressing the above issue shall be submitted to Council for further assessment.</p> <p>2. Heritage Impact Statement – Heritage Conservation Area The HIS submitted with the application is not satisfactory. To address clause 5.10(5) the WLEP 2014, a Heritage Impact Statement prepared by a suitably qualified and experienced person in the building design industry, or a qualified and experienced heritage consultant must be submitted with the Development Application. The content and format of the Heritage Impact Statement is to be in accordance with Attachment 2 of Council’s DA Guide. This includes but is not limited to:</p> <ul style="list-style-type: none"> • A history of the site based on primary evidence • Assessment of heritage impact against all relevant controls of the Woollahra LEP 2014 and Woollahra DCP 2015 • Assessment of heritage significance against the NSW Heritage Criteria and concise statement of significance. <p>3. FSR Non-Compliance The proposal appears to breach Council’s Floor Space Ratio Standard (0.65:1) set out under Clause 4, Section 4.4 of the Woollahra Local Environmental Plan 2014 (WLEP 2014). A written request to justify the non-compliance must be prepared in accordance with Part 4, Section 4.6, sub clause (3) of the WLEP 2014. The written submission must demonstrate that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.”</p> <p>On 12/03/2024, the applicant provided responses to the above via the NSW Planning Portal, satisfying Items 1-3.</p>
Land and Environment Court Appeal(s)
Nil.

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Trees and Landscaping	Acceptable, subject to Conditions.	3
Heritage	Acceptable, subject to Conditions. Council's Assessment Officer has reviewed the comments provided by Council's Heritage Officer and concluded that subject to Condition D.1(a),(b), (c),(d) and (e) the proposal is satisfactory in relation to the heritage provisions set out under Clause 5.10 of the WLEP 2014 and Chapter C2 of WDCP 2015	4
Development Engineering	Acceptable, 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. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
8. The suitability of the site
9. Any submissions
10. The public interest

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 28/02/2024 to 14/03/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. No submissions were received.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 20/03/2024 declaring that the site notice for DA36/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. SEPP (BIODIVERSITY AND CONSERVATION) 2021

10.1 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.

An Arboricultural impact Assessment has been provided. A total of three (3) trees are located on site and all are proposed to be removed.

Council's Tree and Landscape Officer has reviewed the application and is satisfied, subject to Conditions of Consent.

Accordingly, the proposed development is considered to be acceptable pursuant to Chapter 2 of the Biodiversity and Conservation SEPP.

10.2 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.

Council's Development Engineer has reviewed the proposal and considers it to be satisfactory, subject to relevant conditions of consent.

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

The proposal therefore satisfies the relevant criteria prescribed by Chapter 6 – Water Catchments of the Biodiversity and Conservation SEPP 2021.

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

11.1 Chapter 2 – Coastal Management

Chapter 2 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.

Accordingly, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

11.2 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, demonstrated in DA 321/1999/1 and BA 707/1979. It is considered that the land does not require further assessment 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.

12. 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 lodged to Council on 05/02/2024. As such, the SB SEPP does apply to the proposed development. Refer to Part 13.1 of this assessment report for assessment under State Environmental Planning Policy (Building Sustainability Index BASIX) 2004.

12.1 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 BASIX Certificate No. A1732555 demonstrating compliance with the SEPP. These requirements are imposed by standard conditions.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

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

13.2 Land Use Table

The proposal is defined as alterations and additions to an existing dwelling which is permitted and consistent with the objectives of the R3 Medium Density Residential zone.

- *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.*

Comment

The proposal satisfies the objectives in the following way:

- The proposed development will not be visible from the primary streetscape along View Street
- The proposed alterations and additions are consistent with and complementary to the existing dwellings within the locality and streetscape along Fletcher Street and within the Fletcher Street Precinct;
- The proposal will achieve a compatible first floor rear building alignment within the group terraces;
- The proposed development does not exceed the maximum height of the existing building (i.e. the proposed works are below the existing roof line) and all the works are generally contained within the existing building footprint;
- Despite the numerical non-compliance with the Floor Space Ratio development standard, the proposal will reflect and enhance the use and character of the existing locality, in an area which is characterised by a mix of residential developments including single and double storey dwellings of varying architectural designs;
- The proposed design in terms of bulk and scale of the development is appropriate and acceptable given the context of the locality and achieves the desired future character of the area.

13.3 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	6.75m	6.57m	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*

Comment

Acceptable - The proposed development does not exceed the overall height of the existing building. The proposed first floor addition generally follows the height and roof form of the existing dwelling and is complimentary to the adjoining properties along Fletcher Street.

Having regard to the above, the alterations and additions to the existing dwelling will be consistent with the desired future character of the area.

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

Comment

Acceptable - The proposal will not adversely impact the local amenity to the nearby RE1 Public Recreational areas, and maintains an appropriate transition in scale.

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

Comment

Acceptable – The proposed development is satisfactory with regard to the minimum solar access requirements to adjoining private open space and habitable room windows, assessed under Part C2.5.1: Building Height, Form and Character of the Woollahra DCP 2015

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

Comment

Acceptable – The proposed development will not result in any unacceptable impact on adjoining or nearby properties in terms of disruption of views, loss of privacy, overshadowing or visual intrusion. Each of these elements are discussed in detail under the relevant heads of consideration of this report.

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

Comment

Acceptable – The proposed development will not result in any loss of publicly available views of the harbour and of surrounding areas.

13.4 Part 4.4: Floor Space Ratio

Part 4.4(2) limits development to a maximum floor space ratio of 0.65:1 for a building located within a prescribed floor space ratio area outlined on the Floor Space Ratio Map.

Site Area: 168.1m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	Ground Floor: 91.28m ²	Ground Floor: 91.28m ² (unchanged)	0.65:1 (109.26m ²)	No
	First Floor: 57.28m ²	First Floor: 71.71m ²		
	Total: 0.88:1 (148.56m ²)	Total: 0.97:1 (162.99m ²)		
		+53.73m ²		

**Note: The submitted Clause 4.6 written request pursuant to Clause 4.6 of the WLEP 2014 has been assessed and is considered to be well founded.*

The proposal does not comply with Part 4.4(2) of Woollahra LEP 2014 as detailed and assessed in Part 5.1, however, is considered satisfactory and acceptable as outlined below in Part 13.5.

13.5 Part 4.6: Exceptions to Development Standards

Departure

The proposal involves a non-compliance with the prescribed 0.65:1 maximum Floor Space Ratio statutory control under Part 4.4(2) of the Woollahra LEP 2014. The existing dwelling comprises 148.56m² of gross floor area, representing a 39.3m² non-compliance with the standard, resulting in an existing FSR of 0.88:1. The proposed additions and alterations to the existing dwelling will contribute to the gross floor area by 14.43m², resulting in a gross floor area of 162.99m² and a proposed FSR of 0.97:1.

Purpose

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

Written Request

Part 4.6(3) stipulates that the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided the following written request in relation to the departure:

“The new works will continue to maintain a bulk and scale which is in keeping with the extent of surrounding development, with a consistent palette of materials and finishes which will provide for high quality development that will enhance and complement the locality. Notwithstanding the current non-compliance with the maximum floor space ratio control will be marginally increased within the introduction of the new floor area, the proposal will result in an attractive residential development that will add positively to the character and function of the local residential neighbourhood. It is noted that the proposal will maintain a consistent character with the built form of nearby properties.

The proposed new works will not see any unreasonable impacts on the existing views enjoyed by neighbouring properties.

The works are designed to ensure that there will not be any unreasonable adverse impacts on the solar access enjoyed by adjoining dwellings.”

Assessment

Part 4.6(4) requires Council to be satisfied that the written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

The applicant's written request has adequately demonstrated the compliance with the development standard is unreasonable or unnecessary and addressed the relevant environmental planning ground below:

Part 4.4 – Floor Space Ratio

The proposal is assessed against the Objectives of the Development Standard prescribed by Clause 4.4 which states:

- (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*

Comment

The applicant has adequately demonstrated that the proposal achieves consistency with the Objectives of the Floor Space Ratio development standard.

The proposed alterations and additions to the existing dwelling house will increase the existing gross floor area and floor space ratio by a small degree and results in an acceptable increase to the bulk and scale of the development at the rear, visible from Fletcher Street. The rear addition is consistent with adjoining first floor rear setbacks along Fletcher Street and does not result in unacceptable impacts with regards to overshadowing, public and private views & acoustic and visual privacy on adjoining properties. The development will continue to comply with the requirement for deep soil within the site.

Objectives of the R3 Medium Density Residential Zone:

The proposal responds to the objectives of the R3 Medium Density Residential Zone 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.*
- *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.*

Comment:

The applicant has adequately demonstrated that the proposal achieves consistency with the relevant objectives of the R3 Medium Density Residential zone and achieves the desired future character of the neighbourhood given the existing context of the group as outlined in Part 13.2.

Conclusion

The written submission from the applicant has adequately demonstrated that the variation of the development standard prescribed by Clause 4.4 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

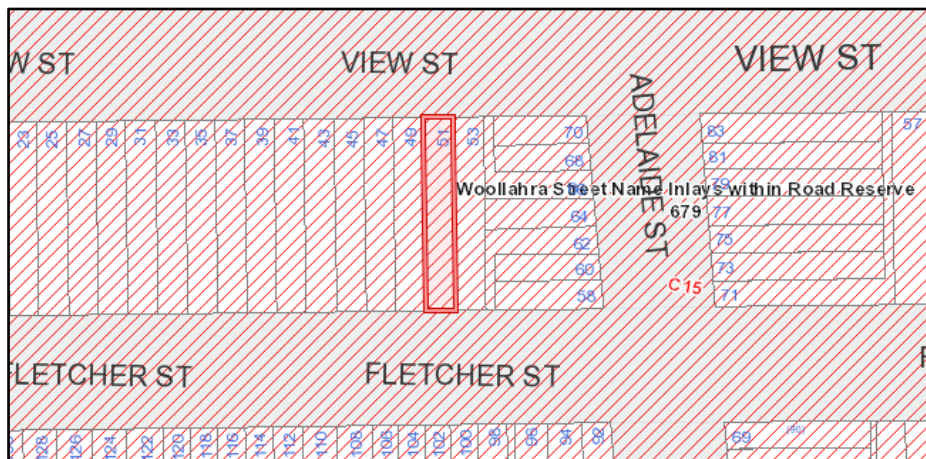
The consent authority is satisfied that the applicant's written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances in this case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention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

Accordingly, departure from the development standard is justified in this instance and departure from the control can be supported.

13.6 Part 5.10: Heritage Conservation

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

The proposed development is located within the Woollahra Heritage Conservation area. However, the subject site is identified as being a state or a locally listed heritage item under Schedule 5 of the Woollahra LEP 2014. Additionally, there are no listed heritage items located in close proximity that would be adversely affected by the proposal and is not identified as being within an area of Aboriginal Heritage sensitivity.



The site is identified as being a Contributory item “Victorian Terrace House” and is part of a Contributory group along View street as outlined in the below figure.

View Street	11	Federation terrace house	C	1 of 4	Fletcher
View Street	13	Federation terrace house	C	2 of 4	Fletcher
View Street	15	Federation terrace house	C	3 of 4	Fletcher
View Street	17	Federation terrace house	C	4 of 4	Fletcher
View Street	19	Victorian house	C		Fletcher
View Street	21	Victorian terrace house	C	1 of 17	Fletcher
View Street	23	Victorian terrace house	C	2 of 17	Fletcher
View Street	25	Victorian terrace house	C	3 of 17	Fletcher
View Street	27	Victorian terrace house	C	4 of 17	Fletcher
View Street	29	Victorian terrace house	C	5 of 17	Fletcher
View Street	31	Victorian terrace house	C	6 of 17	Fletcher
View Street	33	Victorian terrace house	C	7 of 17	Fletcher
View Street	35	Victorian terrace house	C	8 of 17	Fletcher
View Street	37	Victorian terrace house	C	9 of 17	Fletcher
View Street	39	Victorian terrace house	C	10 of 17	Fletcher
View Street	41	Victorian terrace house	C	11 of 17	Fletcher
View Street	43	Victorian terrace house	C	12 of 17	Fletcher
View Street	45	Victorian terrace house	C	13 of 17	Fletcher
View Street	47	Victorian terrace house	C	14 of 17	Fletcher
View Street	49	Victorian terrace house	C	15 of 17	Fletcher
View Street	51	Victorian terrace house	C	16 of 17	Fletcher
View Street	53	Victorian terrace house	C	17 of 17	Fletcher

Council’s Heritage Officer has reviewed the application and provides the following commentary in relation to the site.

“Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – The development could conserve built and natural environmental heritage of Woollahra, subject to incorporating design amendments and addressing requests for further information.

Clause Part 5.10

1(a) The development could conserve the heritage of Woollahra, subject to incorporating design amendments and addressing requests for further information.

1(b) The impact upon the cultural heritage significance of the conservation area would be neutral, subject to incorporating design amendments and addressing requests for further information.

4 This referral constitutes an assessment under this clause.

Prior to further assessment, following design amendments are to be incorporated and requests for further information are to be addressed:

- 1. Compliance with Woollahra DCP 2015 Part C Chapter C2 C2.3.6 Control C1 f) is to be demonstrated.*
- 2. Compliance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.5 Control C4 is to be demonstrated.*
- 3. The standing seam metal roofing is to be replaced by a metal roofing in traditional corrugated profile (natural metallic finish or a pre-coloured mid or dark grey metal sheeting) in accordance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2, C5, C6; Table 1; and Clause C2.5.5 Control C8.*
- 4. The material, finish and colour of external doors and windows, including shutters, are to be specified in accordance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2, C5, C6, C10; and Table 1.*
- 5. The standing seam wall cladding to balcony is to be deleted in order to comply with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2; and Table 1.*
- 6. The material, finish and colour of balustrade to balcony is to be specified in accordance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2, C5, C6; and Table 1."*

As outlined in Part 8 of this Report, subject to **Conditions D.1(a), (b), (c), (d) and (e)**, the proposal is satisfactory in relation to the heritage provisions set out under Clause 5.10 of the WLEP 2014 and Chapter C2 of WDCP 2015.

13.7 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 lot is not identified as being within a Flood Planning Area. Accordingly, no further consideration are required.

The proposal is acceptable with regard to Part 5.21 of Woollahra LEP 2014.

13.8 Part 6.1: Acid Sulfate Soils

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

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

13.9 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 minor excavation to accommodate the new hardstand carspace, vehicle driveway and associated landscaping. Refer to Part 15.1.12 for further assessment.

Council's Development Engineer has reviewed the application and has no objection to the proposed excavation on technical grounds, subject to the recommended conditions of consent.

The proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

13.10 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.

The proposed development involves the removal of three existing trees on the subject site to accommodate the new rear vehicle hardstand car space and vehicle crossing.

Under Clause 6.9(4), Tree Canopy Cover does not apply to the Woollahra Heritage Conservation Area.

The proposal is acceptable with regard to Part 6.9 of Woollahra LEP 2014.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter C2: Woollahra Heritage Conservation Area

Description	Heritage or Contributory Item	Group Element	Precinct
Victorian Terrace House	Contributory Item	16 of 17	Fletcher

14.1.1 Part C2.2.5: Desired future character of the Woollahra HCA

The proposal is acceptable with regards to Part C2.2.5 of the Woollahra DCP 2015.

15.1.1 Part C2.3.6: Fletcher Street Precinct Controls

The relevant Objectives and Controls of the Fletcher Street Precinct are outlined below

O3 To ensure the retention and conservation of contributory items.

O4 To ensure development, including infill, is to complement the predominantly Victorian and Federation single storey, semi-detached and terrace houses that characterise the precinct.

O5 To encourage low front fences consistent with the architectural style and period of the building.

In addition to the above, as the proposal seeks a new vehicle cross way to enable rear access to Fletcher street. Additional Objectives and Controls apply which are outlined below.

O1 To ensure that rear parking does not dominate the street frontage for sites with rear access to a primary street.

O2 To ensure that rear alterations and additions to houses with a rear frontage to a primary street do not dominate the streetscape.

C1 Where the rear of a property faces a primary street (such as between Adelaide Parade and View Street and Fletcher and View Streets) a single car parking space is permitted at the rear of the property only if:

- a cross over exists;
- the rear of the dwelling is at least 10m from the rear boundary;
- the property is at least 5.2m wide;
- the fence and portal to the car parking space are designed in accordance with the criteria for a single carport in Section 2.5.8, with a single pedestrian gate;
- a pedestrian gate is adjacent to a minimum 0.5m wide deep soil landscaped area at the street front; and
- the vehicular gate must be at least 80% transparent.

C2 Where the rear of a property faces a primary street (such as between Adelaide Parade and View Street and Fletcher and View Streets) development at the rear of the dwelling is to:

- be clearly secondary in form to the principal form of the contributory items, or adjacent contributory items;
- be 300mm below the ridge of the principal roof form to a single storey dwelling or less than the height of the principal eaves line if the principal form is a two storey dwelling;
- be limited to the rear setback consistent with the group of contributory items to which it belongs or if an individual property, respectful of the consistent pattern of rear development in the vicinity; d) be limited to the front setback of adjacent dwellings that face the other street front, to maintain the side setbacks consistent with the contributory group to which it belongs or, if an individual property, is to respect the consistent pattern of rear development in the vicinity;
- to maintain storey heights consistent with the original rear forms adjacent; and

- f) to have a parapet roof form if the rear roof forms of the adjoining dwellings in the group to which it belongs are inconsistent in form.

Comment

The proposed alterations and additions to the rear are sympathetic to the surrounding Heritage Context and maintains consistency along Fletcher Street in terms of bulk and scale, particularly with respect to No. 49 and 53 View Street. This is further discussed in Part 15.1.4.

Additionally, proposed rear on-site parking hardstand does not dominate the rear street frontage and aligns with the prevalent rear onsite parking structures along Fletcher Street, this is further discussed in Part 15.1.11.

Council's Heritage Officer has reviewed the application and provides the following relevant commentary.

- *"The single car parking space would be consistent in the terrace row, and is generally supported. (C1)*
- *he proposed rear alterations and additions would be consistent in the terrace group, and are generally supported. The two-storey rear addition, including the privacy screen and awning, would not be secondary to the single storey terrace, however this would be consistent with other rear additions in the row. The rear setbacks at ground and first floor levels follow the established setbacks at the adjoining terraces. (C2)'*

Conclusion

Considering the above, the proposal is acceptable with respect to maintaining the significant characteristics and conforming to the objectives of the controls as outlined in Part C2.3.5 of the Woollahra DCP 2015.

15.1.2 Part C2.4.1: Single Storey Residential Buildings

C6 notes that additions should not dominate the principal building.

C7 does not permit any increase in height along the street frontage regardless of development adjoining.

C8 states that development is not to match a building that is excessive in bulk, height, scale or incompatible design.

O2 To ensure that additions to single storey buildings do not compromise or dominate the single storey setting of the principal building form.

Comment

The proposal is considered acceptable with regard to Part C2.4.1 of the Woollahra DCP 2014 for the following reasons:

- The proposal maintains the single-storey presentation as viewed from View Street, with the rear addition located below the ridge level of the principal building form.
- Boundary to boundary extensions are acceptable in this instance as the proposed first floor rear addition is consistent in term of bulk, scale and form with No. 49 and 53 View Street.
- The proposal is consistent with the majority of the single storey terrace houses which have had a second-storey added to the rear wing, within this particular group.
- There is a mix of roof forms to the rear additions of the dwellings within the group.
- The rears of the subject group have been significantly altered

Council's Heritage Officer has provides the following comments

- *"The terrace row has been extensively altered to the rear with a large number of terraces featuring two-storey rear additions with varied roof forms. Therefore, in this instance on merit, the proposed two storey rear addition is generally supported.*
- *The boundary to boundary ground floor extension is generally supported."*

Conclusion

Considering the above, the proposal is acceptable with regard to Part C2.4.1 of the Woollahra DCP 2015

15.1.3 Part C2.4.4: Terrace House Controls

C1 Alterations and additions to terrace houses must be consistent with the height, alignment, form, scale, breezeway pattern and architectural character of the group

O1 To ensure that additions to the rear of terrace buildings do not compromise or dominate the principal building form.

Comment

As discussed above, the proposal first floor rear addition including roof form is generally consistent in terms of height, alignment, form and scale within the group along Fletcher Street.

Council's Heritage Officer provides the following comments:

- *"The proposed rear alterations and additions, including roof form, are generally supported."*

Conclusion

Therefore, considering the above, the proposal is acceptable with regard to Part C2.4.4 of the Woollahra DCP 2015.

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

Site Area: 168.1m ²	Existing	Proposed	Control	Complies
Front Setback (C1)	Ground Floor (Patio): 3.03m Ground Floor (Entry): 4.24m First Floor: 4.3m	Ground Floor (Patio): 3.03m Ground Floor (Entry): 4.24m First Floor: 4.3m (No changes to existing) Consistent with adjoining	Consistent with Adjoining	Yes
Rear Setback (C1)	Ground Floor (rear entry): 7.64m First Floor (bedroom 2): 12m	Ground Floor (rear entry): 7.64m Ground Floor (patio): 5.5m First Floor (Bedroom 2): 9.45m	Not Extending Beyond	Yes

Site Area: 168.1m ²	Existing	Proposed	Control	Complies
		First Floor (Balcony/Deck): 7.42m Not Extending Beyond		
Maximum Number of Storeys (C9)	2 Storeys	2 Storeys	2 Storeys	Yes
Solar Access to Ground Level Open Space of Adjacent Properties (C13)	> 50% For 2 hours	> 50% For 2 hours (No unacceptable additional shadows upon adjoining)	Minimum 50% For 2 hours	Yes
Solar Access to North Facing Windows of Adjacent Properties (C14)	>Minimum 3 hours	>Minimum 3 hours (No unacceptable additional shadows upon adjoining)	Minimum 3 hours	Yes

Building Location

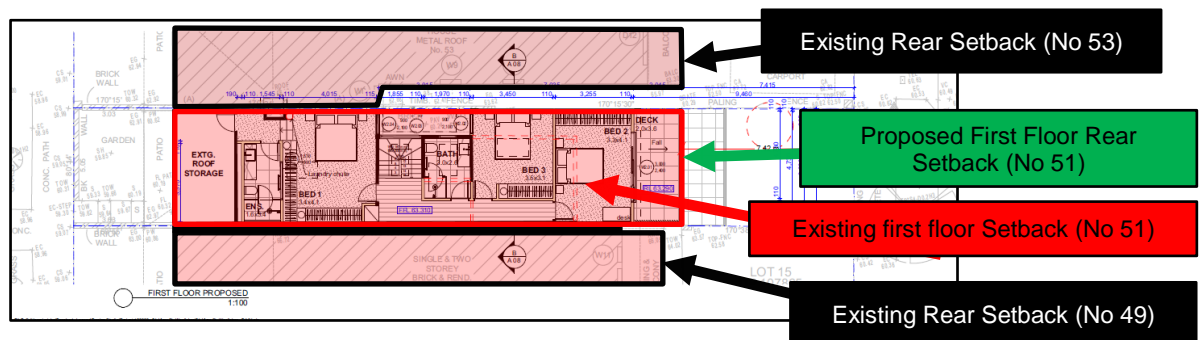
O1 To ensure that the established historical pattern of development is continued in terms of siting, levels and front, side and rear building setbacks.

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.

C1 states that where there are uniform levels or setbacks, infill development is to be consistent with the levels and setbacks of the adjoining buildings.

Satisfactory – No change is proposed to the existing front setback. The first floor rear addition is consistent with adjoining rear setbacks as seen in the below figure.



C3 Where buildings are orientated to face the street, development is to adopt this orientation.

Satisfactory – The proposed first floor rear addition including windows and balcony are orientated to face Fletcher Street.

C5 requires the proposed landscaping and open space area to meet the minimum landscaped area requirements and open space requirements as outlined in Part 2.5.6.

Satisfactory – As outlined in Part 15.1.9 of this Report, the proposal complies with the minimum landscaped area requirements outlined in Part 2.5.6 of the Woollahra DCP 2015.

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

Satisfactory - As outlined above, the proposed first floor rear addition is consistent with the established pattern and maintains sufficient provisions for useable private open space and landscaped area as outlined in part 15.1.9 of this Report.

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.

C9 limits development to two storeys unless the predominant significant buildings are three storeys or more. Storey heights are to conform to those of adjacent significant buildings.

C11 ensures that development does not unreasonably obstruct views from the habitable rooms, balconies and private open space of neighbouring dwellings.

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.

Comment

- The height, bulk, scale, and form of the building as a result of the proposed works are generally compatible with the contributory group and is consistent with the controls outlined under this Part as seen in the above compliance table.
- The solid to void ratios of the new elevations are satisfactory and are generally consistent with the streetscape character and sympathetic to the contributory item and group; and
- The proposed works will not result in any adverse impacts on the adjoining properties, in terms of views from the habitable rooms and private open spaces as satisfactory visual privacy measures have been proposed, which is further discussed in Part 15.1.13.



Fig. Existing Oblique View of Subject Site facing north (Source: WMC 3D Mapping)

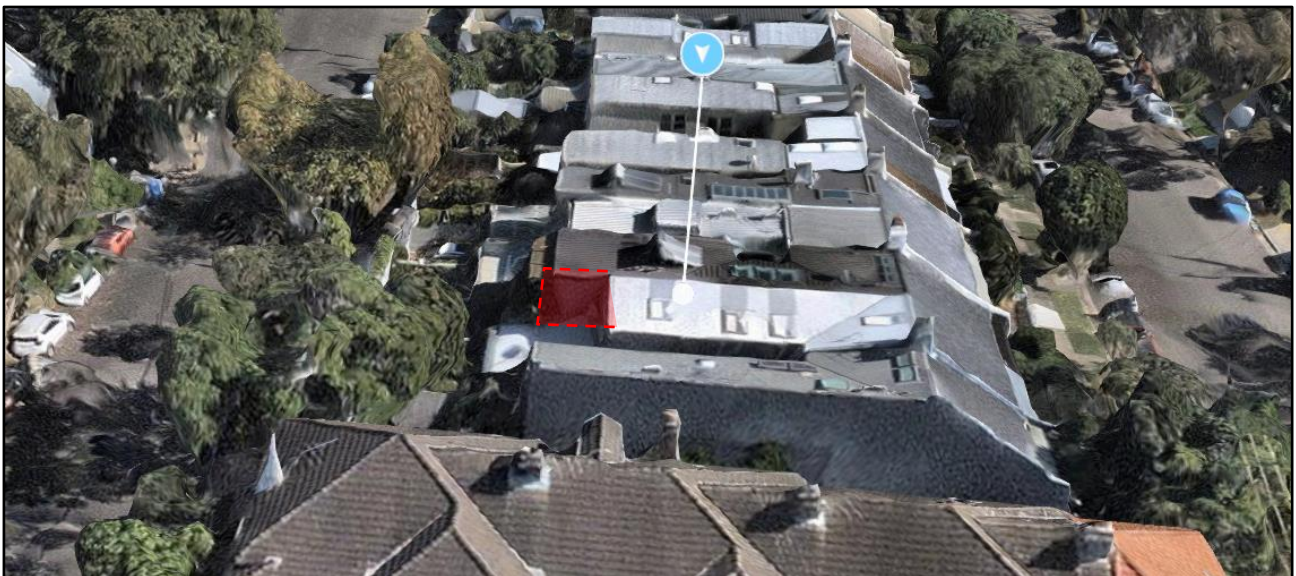


Fig. Existing Oblique View of Subject Site facing north-west and proposed approximate rear addition (in red) (Source: WMC 3D Mapping)

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.

C14 stipulates that sunlight is provided to a portion of the surface of a north facing window to an adjoining property for a minimum of three hours between 9am and 3pm on June 21.

Comment

As seen in the submitted Shadow Diagrams, the proposed works do not result in additional overshadowing to adjoining properties and maintains compliance with Control C13 and C14.

Council's Heritage Officer provides the following commentary.

"The rear alterations and additions are generally consistent in the row in terms of scale, bulk, envelope, levels, setbacks, character and roof form."

Conclusion

Considering the above, the proposal is acceptable with regard to Part C2.5.1 of the Woollahra DCP 2015.

15.1.5 Part C2.5.2: Conservation of Contributory Items

C1 requires the retention and conservation of significant items, including fabric, roof pitch, eaves height, chimneys and original room layouts. No alterations or additions are to be made to original elevations, details, materials or finishes of the principal building form and verandahs and balconies are not to be enclosed.

O1 To retain the original built form characteristics of contributory items.

O4 To ensure that alterations and additions to contributory items incorporate building elements that are compatible with traditional built forms and do not adversely affect the heritage significance of the building or its surroundings.

Comment

The proposal is sympathetic to the localised streetscape and the Fletcher View Precinct and the Woollahra HCA as a whole. The proposal will not adversely impact upon the heritage significance of either the subject site, as well as the adjoining contributory items within the group to any greater extent than that which currently exists.

Council's Heritage Officer has reviewed the application and provides the following comments.

"The significant fabric, internally and externally, of the terrace is retained. The proposed alterations and additions to the rear are generally supported."

Conclusion

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

15.1.6 Part C2.5.3: Conservation of Contributory groups

C1 requires the retention of distinctive original shared characteristics of a significant group of buildings, including patterns of principal roof forms within unaltered groups of significant items and secondary or rear forms.

C3 notes that intact side elevations in significant group items joined by party walls are to be retained in their original configuration where they are visible from the public domain. Minor alterations may be permitted if they do not impact significantly on the original architectural form.

C4 requires the restoration of missing or damaged original forms, details, materials and finishes where works are proposed to individual buildings within a significant group. Exceptions may be allowed where reinstatement would disturb the cohesiveness of the group.

O2 To ensure that alterations and additions within a significant group conform to the shared characteristics of the group and do not compromise its integrity.

The proposal is acceptable with the relevant controls and objectives for *Conservation of Contributory groups* for the following reasons:

- The proposed rear alterations and additions generally follows the pattern of development presented by the majority of the altered terraces within the group- that is, with two-storey additions.

Council's Heritage Officer provides the following comments.

"The proposed rear alterations and additions are generally consistent within the row."

Conclusion

Considering the above, the proposal is acceptable with regard to Part 2.5.3 of the Woollahra DCP 2015.

15.1.7 Part C2.5.4: Materials, Finishes and Colours

	Existing	Proposed	Control	Complies
Proportions of New Windows (C10)	-	-	Between 1.4 and 2 times the width	-
W1.01 (Kitchen window)	-	Height: 0.7m Width: 2.32m	Height: 3.248m - 4.64	No
W1.02 (Atrium Door)	-	Height: 2.5m Width: 0.85m	Height: 1.19-1.7m	N/A
W2.01 (rear bedroom 2)	-	Height: 2.4m Width: 3m	Height: 4.2m-6m	No
W2.02 (Shutter Bedroom 3 facing North)	-	Height: 2.1m Width: 0.9m	Height: 1.26-1.8m	No
W2.03 (To first floor stairway)	Height:2m Width:0.45m	Height: 2.,m Width: 1.8m	Height: 2.52-3.6m	No
W2.04 (shutter to bedroom 1)	-	Height 2.1m Width: 0.9m	Height: 1.26-1.8m	No
W2.05 (internal window bedroom 1 and ensuite)	-	Height: 0.5m Width: 1.63m	Height: 2.282-3.26m	No

O1 To achieve external materials, finishes and colour schemes appropriate to the context.

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.

Comment

The proposed materials, finishes, textures and colours as part of the rear addition are considered an appropriate response to the building and is consistent along the contemporary rear built forms on Fletcher Street with the exception of the standing seam wall cladding and roof sheeting. This is further discussed below.

Additionally, the provided architectural plans and schedules of external finishes, colour and materials do not provide sufficient information with regards to the materiality and colour of proposed external doors, windows and balcony.

Council's Heritage Officer has reviewed the application and provides the following comments relevant to this Part.

- *"The materials, finishes and colours are generally supported. (C1) (C2) (C5) (C6) (Table 1)*
- *The standing seam roof sheeting is to be replaced by a corrugated profile. The standing seam cladding to wall is not supported. (C1) (C2) (Table 1)*
- *The material, finish and colour of external doors and windows are to be specified. (C10) (Table 1)"*

In view of the above, **Condition D.1(a)** and **(b)** have been recommended accordingly.

Windows, Shutters and Doors

O1 To achieve external materials, finishes and colour schemes appropriate to the context.

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.

Comment

The proposed changes to existing and new windows are generally appropriate to the context along Fletcher Street and do not result in adverse privacy impacts through the provision of window sashes, translucent glazing and window orientation, with the exception of window W2.03. The proposed enlargement from the existing dimensions of 0.45m x 2m to 1.8m x 2m would result in excessive amount of glazing. As seen in the below figure, the reconfiguration of the window fails to achieve appropriate and traditional vertical proportions and would be inconsistent with the existing building and the desired future character of the Precinct.

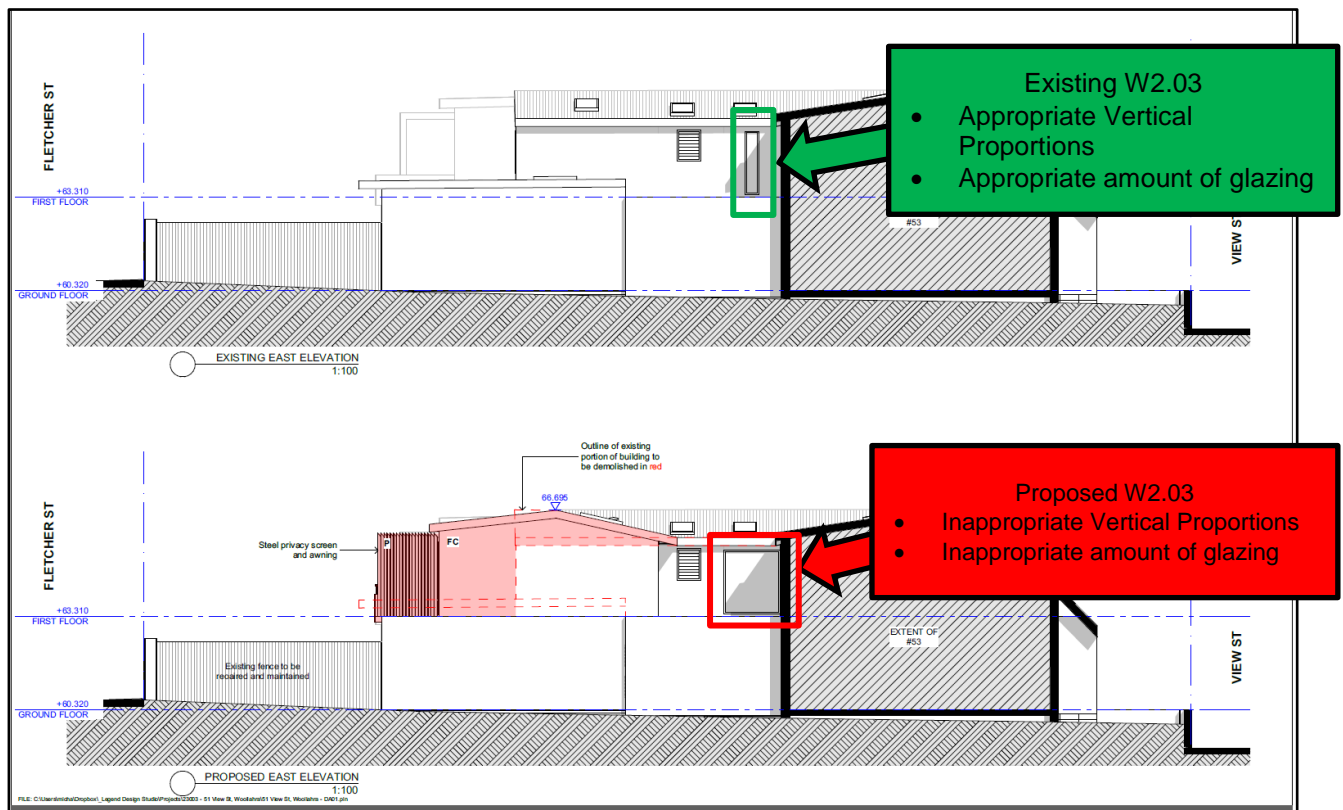


Fig. Existing and proposed East Elevation

Therefore, **Condition D.1(c)** has been recommended requiring the retention of the existing window.

Verendahs and Balconies

O1 To achieve external materials, finishes and colour schemes appropriate to the context.

Table 1 outlines design controls for external finishes.

As outlined above, the proposal is acceptable, subject to **Condition D.1(b)**.

Conclusion

The proposal is acceptable with regard to Part 2.5.4 of the Woollahra DCP 2015, subject to Conditions.

15.1.8 Part C2.5.5: Roofs and Skylights

	Existing	Proposed	Control	Complies
Maximum Area of Transparent Material (C2)	<25%	<25%	Max 25%	Yes
Chimneys (C5)	Retained	Retained	Retained	Yes

C1 requires roof forms and cladding are to be consistent with those of the significant item.

C2 allows a maximum of 25% transparent material within the rear roof plane.

C3 allows skylights to the front or side of a building but not where they would be visible from the public domain.

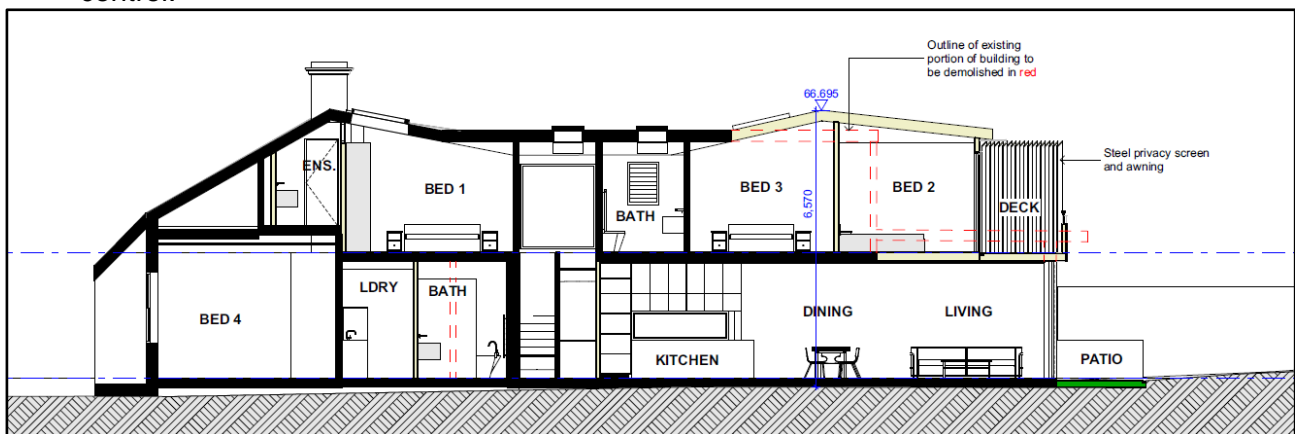
C4 states that skylights must have a low profile, must be flush with the roof surface, predominantly of glass, with simple, unobtrusive detailing and a frame colour that matches the surrounding roof colour.

C8 requires additions to have traditional roof forms and materials appropriate to the style of the building.

Comment

The proposal complies with Control C1, C2, C3 and C4 in the following ways

- The proposed alterations and additions to the rear remain consistent with the roof form of the existing north facing View Street. (C1)
- The proposed skylight to bedroom 3 would not be readily visible from the public domain (C3)
- It is noted that insufficient details have been provided to determine compliance with Control C4. Therefore, **Condition D.1(d)** has been recommended requiring compliance with the control.



- As outlined in Part 15.1.7 above, the proposed roof cladding is to be replaced as per **Condition D.1(a)**.

Conclusion

The proposal is acceptable with regard to Part 2.5.5 of the Woollahra DCP 2015, subject to Conditions

15.1.9 Part C2.5.6: Open Space and Landscaping

Site Area: 168.1m ²	Existing	Proposed	Control	Complies
Deep Soil Landscaped Area (C3)	12.42m ² *	22.53m ²	8% (13.448m ²)	Yes
Private Open Space at Ground Level – Total Area Minimum Dimension (C4)	>26.896m ²	>26.896m ²	16% (26.896m ²)	Yes
Private Open Space at Ground Level – Principal Area Minimum Dimension (C4)	>12m ²	>12m ²	12m ² 3m	Yes

*Existing non-compliance

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 8% (13.448m²).

C4 requires a minimum total private open space area of 26.896m² with a principal private open space area of 12m².

O1 To ensure that adequate provision is made for accessible and useable private open space.

Comment

The proposal is acceptable with the relevant controls for *open space and landscaping* for the following reasons:

- The proposal provides adequate deep soil landscaped area and private open space on the site as seen in the above compliance table.
- Council's Trees & Landscaping Officer has reviewed the proposal and considered it is acceptable subject to conditions.
- The proposal would retain the green setting of the mature street tree.

Conclusion

The proposal is acceptable with regard to Part 2.5.6 of the Woollahra DCP 2015.

15.1.10 Part C2.5.7: Fences, Gates and Retaining Walls

	Existing	Proposed	Control	Complies
Table 6 Requirements				
Rear Fence Height (C4 and Table 6)	1.93m – 2.11m* (as per Survey)	1.93m – 2.11m (Maintained)	1.8m	No
Rear Fence Material	Timber Pailing	Rendered brick and Timber Pailing	Timber Pailing Bagged or rendered brickwork may be permitted if appropriate to the context.	Yes
Street Gates				
1. Pedestrian gate Alignment	Aligned	Aligned	Aligned with Fence	Yes
Gate Height	1.93m-1.98m	2.1m	Max 2.1m	Yes
Gate Width	1.2m*	1m	Max 0.9m	No
Preferred Materials	Timber Pailing	Batten Fence	In Context	Unclear
Gates (C9 and Table 6)	Opens Inwards	Does not open outwards	Opens Inwards	Yes
2. Vehicular gate Alignment	Aligned	Aligned	Aligned with Fence	Yes
Gate Height	N/A	1.95-2.05m	2.1m	Yes
Gate Width	N/A	2.7m	0.9m-1.2m	No
Preferred Materials	N/A	Batten Fence	In Context	Unclear
Gates (C9 and Table 6)	Opens Inwards	Does not open outwards	Opens Inwards	Yes

* Existing Non-compliance

C4 limits side or rear fences to 1.8m in height, as measured from the low side.

C14 requires that new fences are to be of a form, height and style that is consistent with the construction period of the dwelling.

C15 requires new fences to meet the requirements in Table 6.

O2 To ensure fences, walls and gates contribute positively to the streetscape and improve safety and amenity for residents.

Comment

The proposed works include the replacement of the existing rear fence with a new vehicular/pedestrian gate and associated fencing, with height ranging from 1.93m – 2.11m which is maintained as an existing non-compliance as outlined in the above compliance table.

Additionally, the proposal seeks to maintain the existing batten style fence which is consistent with adjoining No. 49 View Street Timber batten style fence/gate.



Fig. Existing Rear Fence viewed from Fletcher Street

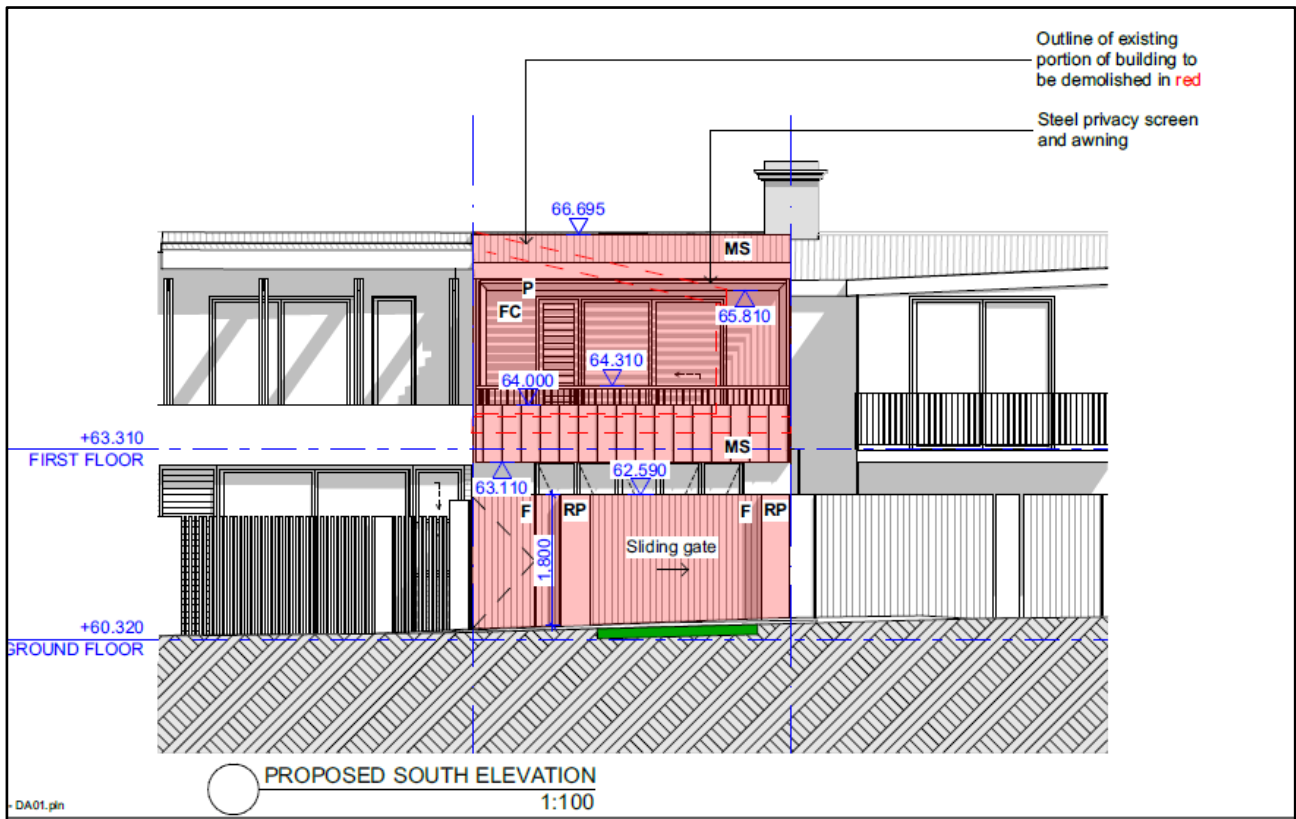


Fig. Proposed rear fence on South Elevation

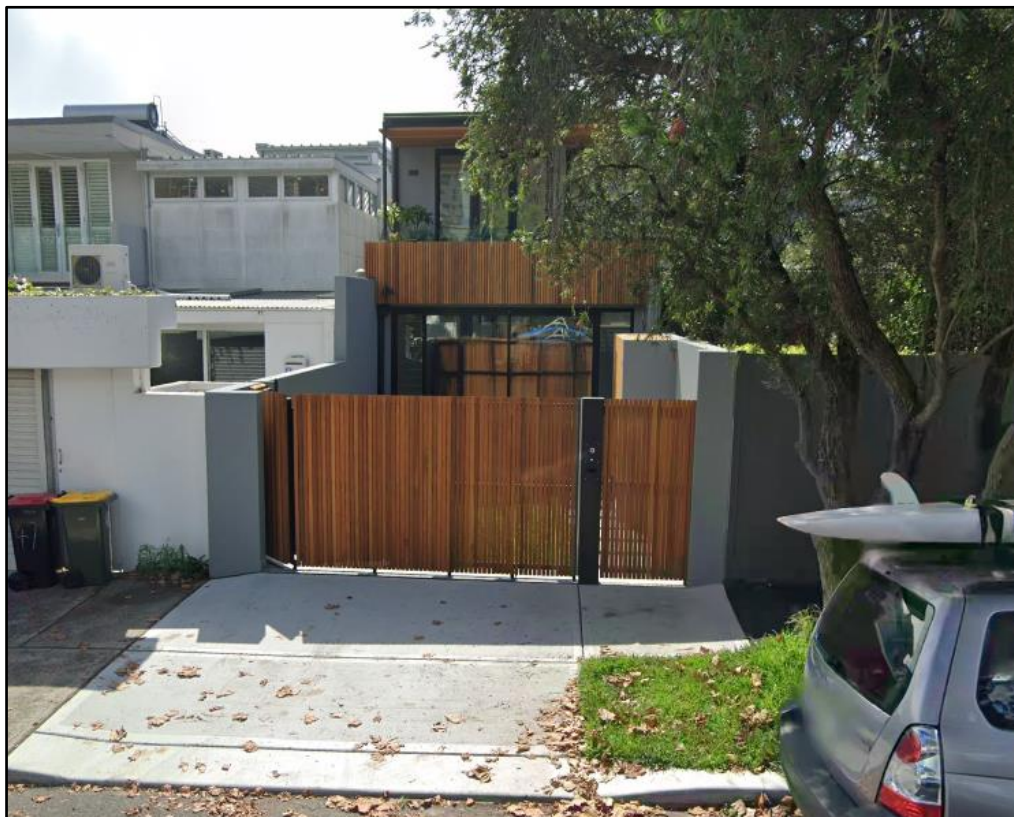


Fig. Existing Rear Fence of No. 49 View Street viewed from Fletcher Street

Control C.1(f) of Part C2.3.6 of the Woollahra DCP 2015 states
"The vehicular gate must be at least 80% transparent."

Council's Heritage Officer reviewed the proposal and provides the following comments:

- *The proposed gate to car parking is to be replaced to demonstrate at least 80% transparency.. (C15)*
- *The pedestrian gate is supported. (C15)*

In view of the above, **Condition D.1 (e)** is recommended accordingly.

Conclusion

Subject to the imposition of relevant recommended conditions, the proposal is acceptable with regard to Part C2.5.7 of the Woollahra DCP 2015.

15.1.11 Part C2.5.8: Parking and Garages

	Existing	Proposed	Control	Complies
Location of Car Parking Structures (C2)	Nil.	Behind Front Building Line	Behind Front Building Line	Yes
Car Parking Spaces – Dwelling	Nil.	1	1-2 spaces	Yes
Single Car space With Street Access –				
Maximum Door Height	Nil.	1.95-2.05m	2.2m	Yes
Door Width	Nil.	2.7m	2.4m-3.3m	Yes
Maximum Width of Pillars	Nil.	0.45m	0.47m	Yes
Material	Nil.	Batten Fence (Unclear)	Doors should relate to style of house	Unclear

C2 requires parking to be provided behind the front building alignment.

Complies – The proposed new rear hardstand car parking space is located in the rear of the subject site.

C3 does not permit any additional vehicle crossovers off street frontages.

Non-Complies – The proposal seeks a new rear vehicular crossway. Notwithstanding the non-compliance with Control C3, Council's Development Engineers have considered the proposal and are satisfied, subject to Conditions. Additionally, the proposal also is able to achieve the relevant objectives of this Part as the introduction of rear parking hardstand and associated vehicular access is consistent with the prevalent onsite parking structures along both View and Fletcher Street. This is further discussed below.

The proposal is acceptable with regard to the design controls for parking structures as outlined in Table 7 subject to **Condition D.1(e)** as outlined above in Part 15.1.10.

Relevant 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.

O5 To allow safe and convenient vehicle access and to minimise vehicle and pedestrian conflict.

Comment

Notwithstanding the non-compliance with Control C3, the proposed new on-site car parking space is considered a superior and more consistent outcome in an area where off-street parking is in demand due to the boundary to boundary setbacks and heritage requirements.

As discussed in Part 7 of this report, the provision of a new on-site car parking space is not a new element along streetscape and would be consistent along the northern side of Fletcher Street.

Furthermore, the addition of a designated on-site parking space would improve the safety of both vehicles and pedestrians. The proposed rear vehicle entry gate is also acceptable as it continues to maintain the visual connection between the public and private space subject to **Condition D.1(e)**.

Conclusion

The proposal is acceptable with regard to Part C2.5.8 of the Woollahra DCP 2015, subject to Conditions.

15.1.12 Part C2.5.10: Excavation

The proposal involves 1m³ of excavation to accommodate the rear concrete hardstand car space and associated driveway levels.

Council's Development Engineer has reviewed the application and is satisfied subject to Conditions of Consent.

The proposal is acceptable with regard to Part C2.5.10 of the Woollahra DCP 2015, subject to Conditions.

15.1.13 Part C2.5.12: Acoustic and Visual Privacy

	Existing	Proposed	Control	Complies
Windows of Habitable Rooms of Adjacent Dwellings (C9)	<9m	<9m	9.0m	No*
Bedroom Walls Adjoining Adjacent Dwellings (C1)	Not Adjoining Living Room/Garage	Not Adjoining Living Room/Garage	Not Adjoining Living Room/Garage	Yes

**Existing non-compliance*

C6 stipulates that windows, balconies, screening devices and landscaping must be located to minimise direct overlooking of neighbouring properties.

C8 requires that rear and side balconies must not impact on the privacy of the building's occupants and on the occupants of 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.

C11 states that screens are to be designed with regard to the architectural style of the building.

C12 stipulates that windows and balconies of an upper-level dwelling are to be designed to prevent overlooking of the private open space of a lower level dwelling directly below and within the same development.

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.

Comment

- The proposed rear balcony is located within 9m and would have direct sightlines to the private open space area of the adjoining properties located at No. 49 and 53 View Street.
- To address the privacy impacts and direct sightlines, 2.6m high privacy screens have been proposed on both the west and east facing sides to obstruct direct sightlines and mitigate visual overlooking.
- The privacy devices also serve to orient the attention of the users to the rear of the site rather than across the side boundaries.
- Additionally, the proposed balcony is accessed from a bedroom which in comparison to an active living area is not expected to result in frequent levels of congregation. (C6, C8, C10, C12 and O1, O2)
- With respect to the proposed 2.6m high steel privacy screens, the design is considered acceptable with regards to visual impact as the design contains sympathetic materials and finishes in keeping with the historical elements of the dwelling house and maintains adequate building and visual separation. Additionally, Council's Heritage Officer did not raise any objections to the proposed materiality and design of the privacy screen devices. (C11 and O1)
- It is noted that the submitted plans and window schedule do not identify clearly which windows are to be translucent and/or fixed. Therefore, for abundant caution **Condition D.1(f)** has been recommended requiring appropriate window treatments to be incorporated.

Conclusion

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

15.2 Chapter E1: Parking and Access

15.2.1 Part E1.4: Residential parking

	Existing	Proposed	Control	Complies
Max Number of Car Parking Spaces – Dwelling	0	1	2 Spaces	Yes

15.2.2 Part E1.8: Parking and Access Design Standards

Council's Development Engineer has reviewed the application and is satisfied from an engineering perspective subject to the applicant constructing a new vehicular crossing in accordance with AS 2890.1 – 2004 and Council's standard drawings which have been addressed with the recommended Conditions of Consent.

15.2.3 Part E1.9: Electric Vehicle Charging Points

	Existing	Proposed	Control	Complies
Electric Car Charging Point	Nil.	None indicated	1 x 15Amp	No

C1 requires a 15Amp (or 10Amp) charging point within the garage of a dwelling house.

The proposal does not comply with the relevant criteria prescribed by this part but can be addressed by way of conditions of consent (refer to **Conditions D.13** and **G.4**).

Conclusion

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

15.3 Chapter E2: Stormwater and Flood Risk Management

Council's Development Engineer has reviewed the application and is satisfied subject to imposing recommended Conditions of Consent.

The proposal is acceptable with regard to Chapter E2 of the Woollahra DCP 2015.

15.4 Chapter E3: Tree Management

The proposal seeks to remove three (3) tree located in the rear yard of the subject site.

Council's Tree and Landscaping Officer has reviewed the proposal and is satisfied subject to imposing recommended conditions.

The proposal is acceptable with regards to Chapter E3 of the Woollahra DCP 2015, subject to Conditions.

15.5 Chapter E5: Waste Management

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

15.5.1 Chapter E5.2: Demolition and Construction Phase

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

15.5.2 Chapter E5.4: Dwelling Houses, Semi-Detached Dwellings and Dual Occupancies

	Proposed	Control	Complies
Garbage and Recycling Areas	Provided in rear of site	Required	Yes
Location of Garbage and Recycling Areas	Behind Building line	Behind Building Line or Non-Habitable Areas	Yes

Conclusion

The proposal is acceptable with regard to Part E5 of the Woollahra DCP 2015.

16 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.

16.1 Section 7.12 Contributions Plan

A 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.6**.

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.

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

This assessment has considered the application in terms of the relevant matters under Section 4.15(1) of the Environmental Planning and Assessment Act and other relevant considerations and is considered acceptable in this regard.

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 and Environment.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 36/2024/1 for alterations and additions to the existing dwelling on land at 51 View Street Woollahra, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

<p>A. 1.</p>	<p>Conditions</p> <p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 (“the Act”), and the provisions of the Environmental Planning and Assessment Regulation 2021 (“the Regulations”) and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (“the Development Certification and Fire Safety Regulations”), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.</p>
<p>A. 2.</p>	<p>Definitions</p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p>Applicant means the applicant for this consent.</p> <p>Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p>Local native plants means species of native plant endemic to Sydney’s eastern suburbs.</p> <p>Owner-builder has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p>PC means the Principal Certifier under the <i>Act</i>.</p>

	<p>Principal Contractor has the same meaning as in the <i>Act</i>, 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.</p> <p>Professional engineer has the same meaning as in the BCA.</p> <p>Public place has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p>Road has the same meaning as in the <i>Roads Act 1993</i>.</p> <p>SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p>Site means the land being developed subject to this consent.</p> <p>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.</p> <p>Woollahra LEP means <i>Woollahra Local Environmental Plan 2014</i></p> <p>Woollahra DCP means <i>Woollahra Development Control Plan 2015</i></p> <p>Work for the purposes of this consent means:</p> <ul style="list-style-type: none"> • the use of land in connection with development, • the subdivision of land, • the erection of a building, • the carrying out of any work, • the use of any site crane, machine, article, material, or thing, • the storage of waste, materials, site crane, machine, article, material, or thing, • the demolition of a building, • the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land, • the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or • the occupation of the <i>site</i> by any person unless authorised by an occupation certificate. <p>Condition Reason: To ensure all parties are aware of the relevant definitions.</p>
A. 3.	<p>Approved Plans and Supporting Documents</p> <p>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.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p>

Reference	Description	Author	Date
DA01 – A 02, Rev A	Site Plan	All by Legend Design Studio	18/01/2024
DA01 – A03, Rev B	Ground Floor Plan		22/02/2024
DA01 – A 04, Rev A	First Floor Plan		18/01/2024
DA01 – A 05, Rev A	Roof Plan		18/01/2024
DA01 – A 06, Rev A	Demolition Plan		18/01/2024
DA01 – A 07, Rev A	Section A		18/01/2024
DA01 – A 08, Rev A	Section B		18/01/2024
DA01 – A 09, Rev A	North Elevation		18/01/2024
DA01 – A 10, Rev A	West Elevation		18/01/2024
DA01 – A 11, Rev A	South Elevation		18/01/2024
DA01 – A 12, Rev A	East Elevation		18/01/2024
DA01 – A 16, Rev A	Window Schedule		18/01/2024
DA01 – A 18, Rev A	External Finishes Schedule		18/01/2024
A1732555	BASIX Certificate	NSW Government	16/01/2024
Notes: <ul style="list-style-type: none"> 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)		
	<p>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.</p>		
	Notes: <ul style="list-style-type: none"> 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.	Tree Preservation and Landscaping Works		
	<p>While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.</p>		

a) The following trees must be retained:

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Tree value
4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	8 x 6	\$5000

The tree/s required to be retained must appear coloured green on the Construction Certificate plans.

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1 - 4	<i>Pyrus ussuriensis</i>	Rear Yard	7 x 4 (avg)

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

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

c) The following trees may be pruned in accordance with Australian Standard Pruning of Amenity Trees (AS 4373) and Workcover NSW Code of Practice Amenity Tree Industry, to the minimum extent necessary to provide clearance to the new development:

Council Ref No	Species	Location	Approved pruning (extent of pruning)
4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	1x 50mm diameter root identified in the Arboricultural Statement for Root Investigation by Seasoned Trees dated 1/12/23

The tree/s required to be pruned must appear coloured blue 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.

	<p>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.</p>
	<p>Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.</p>
A. 6.	<p>No Underpinning works</p>
	<p>This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.</p>
	<p>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.</p>

DEMOLITION WORK

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	<p>Construction Certificate Required Prior to Any Demolition</p>
	<p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> • Before issue of a construction certificate • Before building work commences <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p> <p>Note:</p> <ul style="list-style-type: none"> • See <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [2001] NSWLEC 125.
	<p>Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.</p>
B. 2.	<p>Erosion and Sediment Controls – Installation</p>
	<p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ul style="list-style-type: none"> 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).

	<p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none">• 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. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>								
B. 3.	<p>Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)</p> <p>Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;</p> <p>a) Tree Protection Fencing:</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Tree Location</th><th>Fence Radius from Centre of Trunk (Metres)*</th></tr><tr><td>4</td><td><i>Callistemon viminalis</i></td><td>Street tree – Fletcher Street frontage</td><td>2m</td></tr></table> <p>Where this condition relates to street trees, and the fence cannot be placed at the specified radius, the fencing is to be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways and footpaths, and bus stops is protected.</p> <p>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.</p> <p>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</p>	Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*	4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	2m
Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*						
4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	2m						

	<p>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.</p> <p>c) Trunk protection must be installed around the trunks of the following trees during installation of the new driveway:</p> <table border="1" data-bbox="341 416 1273 517"> <thead> <tr> <th>Council Ref No</th><th>Species</th></tr> </thead> <tbody> <tr> <td>4</td><td><i>Callistemon viminalis</i></td></tr> </tbody> </table> <p>Trunk protection must consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) must be placed over the padding and around the trunk of the tree at 150mm centres. The planks must be secured with 8 gauge wire at 300mm spacing. Trunk protection must extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.</p> <p>d) 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.</p> <p>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.</p> <p>f) 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.</p> <p>g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.</p> <p>h) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.</p> <p>Condition Reason: To ensure the protection of existing trees</p>	Council Ref No	Species	4	<i>Callistemon viminalis</i>
Council Ref No	Species				
4	<i>Callistemon viminalis</i>				
<p>B. 4.</p>	<p>Identification of Hazardous Material</p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> 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		
	<p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> • 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). <p>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.</p> <p>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.</p>		
	Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.		
B. 6.	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 <i>Environmental Planning and Assessment Act 1979</i>		
	Property Damage Security Deposit - making good any damage caused to any property of the Council	\$16,915.00	No
	Tree Damage Security Deposit – making good any damage caused to any public tree	\$5,000.00	No
	INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>		
	Public Tree Management Inspection Fee	\$231.30	No
	Street Tree Planting and Maintenance Fee	\$2062.50	No
	Security Deposit Administration Fee	\$225.00	No
	TOTAL SECURITY AND FEES	\$ 24,415.80	

	<p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. <p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> • 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. <p>Notes:</p> <ul style="list-style-type: none"> • 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 <p>Condition Reason: To ensure any relevant security and fees are paid.</p>
<p>B. 7.</p>	<p>Dilapidation Reports for Existing Buildings</p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ol style="list-style-type: none"> a) 49 View Street b) 53 View Street

	<p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p> <p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p> <p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
<p>B. 8.</p>	<p>Adjoining Buildings Founded on Loose Foundation Materials</p> <p>Before any site work commences, a professional engineer must determine the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis, and any reasonable direction of the professional engineer must be complied with.</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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. <p>Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>
<p>B. 9.</p>	<p>Works (Construction) Zone – Approval and Implementation</p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p>

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.

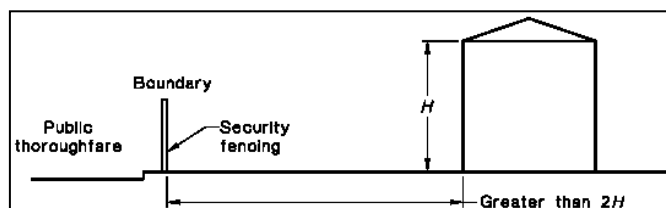
Notes:

- 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.

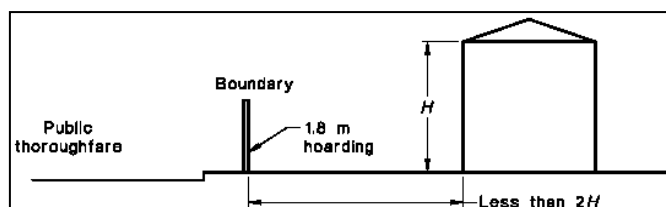
B. 10. Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



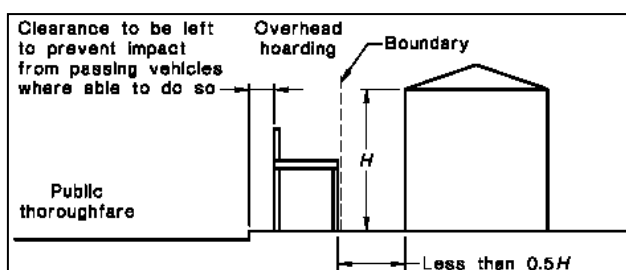
Type B Hoarding

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

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

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

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



The overhead protective structures must be installed and maintained in accordance with the NSW "Code of Practice - Overhead Protective Structures 1995". This is code available at www.safework.nsw.gov.au/_data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

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:

	<p>A. Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more OR</p> <p>B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more OR</p> <p>C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:</p> <ol style="list-style-type: none"> 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). <ul style="list-style-type: none"> • 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 <p>Condition Reason: To ensure public safety.</p>
<p>B. 11.</p>	<p>Site Signs</p> <p>Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.</p> <p>Clause 70 of the Regulation provides:</p> <p>Erection of signs</p> <ul style="list-style-type: none"> • 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: <ol style="list-style-type: none"> a) showing the name, address and telephone number of the principal certifier for the work, and b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and c) stating that unauthorised entry to the work site is prohibited. • Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. • This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building. • This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia. <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p>

	<p>Signs on development sites</p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> 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. <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>
<p>B. 12.</p>	<p>Toilet Facilities</p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ol style="list-style-type: none"> must be a standard flushing toilet, and must be connected to a public sewer, or if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or 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. <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure toilet facilities are provided for workers at the work site.</p>
<p>B. 13.</p>	<p>Compliance with Australian Standard for Demolition</p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p>Condition Reason To control the risks of demolition work.</p>

<p>B. 14.</p>	<p>Construction Management Plan Arborist Review</p> <p>Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.</p> <p>The plan must address:</p> <ol style="list-style-type: none"> Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding; The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.; Site construction access, temporary crossings and movement corridors on the site defined; Contractors car parking; Phasing of construction works; The space needed for all foundation excavations and construction works; All changes in ground level; Space for site sheds and other temporary structures such as toilets; Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas. <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p>				
<p>B. 15.</p>	<p>Arborists Documentation and Compliance Checklist</p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> 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. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="301 1715 1366 2054"> <thead> <tr> <th data-bbox="301 1715 644 1809">Stage of arboricultural inspection and supervision</th><th data-bbox="644 1715 1366 1809">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="301 1809 644 2054">Prior to any site works</td><td data-bbox="644 1809 1366 2054"> <ul style="list-style-type: none"> Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. </td></tr> </tbody> </table>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to any site works	<ul style="list-style-type: none"> Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
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	<ul style="list-style-type: none">• The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam								
<p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p>									
<p>Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.</p>									
B. 16.	<p>Permissible work within Tree Protection Zones</p> <p>Prior to any site works, the following works are permissible within the Tree Protection Zone:</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Radius from Centre of Trunk (Metres)</th><th>Approved works</th></tr><tr><td>4</td><td><i>Callistemon viminalis</i></td><td>3.6m</td><td>Installation of new driveway and crossover</td></tr></table> <p>The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.</p> <p>Condition Reason To establish the works which are permissible within the Tree Protection Zones.</p>	Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works	4	<i>Callistemon viminalis</i>	3.6m	Installation of new driveway and crossover
Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works						
4	<i>Callistemon viminalis</i>	3.6m	Installation of new driveway and crossover						

REMEDIATION WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil.

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

<p>D. 1.</p>	<p>Modification of Details of the Development (section 4.17(1)(g) of the Act</p> <p>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:</p> <p>a) Roofing materials</p> <p>The proposed standing seam roof sheeting must be replaced by a metal roofing in traditional corrugated profile (natural metallic finish or a pre-coloured mid or dark grey metal sheeting) and the standing seam cladding to wall is to be deleted.</p>
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Reason: To ensure the proposed standing seam cladding to wall and roof sheeting complies with the Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2, C5, C6; Table 1; and Clause C2.5.5 Control C8.

b) Material and finishes

1. All the proposed new doors and windows must be timber framed.
2. The proposed standing seam wall cladding to the balcony must be deleted and be replaced with timber weatherboard or rendered brickwork in dark recessive colours.

Reason: To ensure compliance with 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2, C5, C6; and Table 1.

c) Retention of window

The proposed window W2.03 must be deleted and the existing window to the staircase must be retained.

Reason: To ensure compliance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Control C10.

d) Skylights

All proposed and modified skylights must be low profile, flush with the roof surface, predominantly of glass, with simple, unobtrusive detailing and a frame colour that matches the surrounding roof colours.

Reason: To ensure compliance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.5 Control C4.

e) Rear fencing

The proposed rear fence including the vehicular and pedestrian gates must be of timber material and at least 80% transparent.

Reason: To ensure compliance with Woollahra DCP 2015 Part C Chapter C2 C2.3.6 Control C1(f) and C2.5.7 Control C15 and O1.

f) Window treatments

Windows W2.04, W2.03 and W2.02 at the first floor level must incorporate one of the following:

- a) fixed horizontal or vertical louvres, or other screening devices set off the windows internally or externally; or
- b) fixed translucent glazing to a minimum height of 1.5m above the finished floor level (i.e. RL63.31; or
- c) window sill heights of at least 1.5m above the finished floor level (i.e. RL63.31.

Reason: To ensure any potential visual privacy impacts are mitigated.

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.

	<ul style="list-style-type: none">• 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 <p>Before the issue of any construction certificate, the original receipt(s) for the payment of the following levy must be provided to the Principal Certifier:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i></td></tr><tr><td>Long Service Levy https://longservice.my.site.com/bci/s/levy-calculator</td><td>Contact LSL Corporation or use online calculator</td><td>No</td><td></td></tr></table> <p>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.</p> <p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none">• cash deposit with Council,• credit card payment with Council, or• bank cheque made payable to Woollahra Municipal Council. <p>Condition Reason: To ensure any relevant levy is paid.</p>	Description	Amount	Indexed	Council Fee Code	LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>				Long Service Levy https://longservice.my.site.com/bci/s/levy-calculator	Contact LSL Corporation or use online calculator	No	
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Long Service Levy https://longservice.my.site.com/bci/s/levy-calculator	Contact LSL Corporation or use online calculator	No											
D. 3.	BASIX Commitments <p>Before the issue of any construction certificate, BASIX Certificate No. A1732555 must be submitted to the Principal Certifier with any application for a construction certificate.</p> <p>All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none">• 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 <p>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:</p> <ul style="list-style-type: none">a) The removal of the existing kerb and gutter and the construction of a new 2.5 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 must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the roller door. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment,b) 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,c) The reinstatement of any damaged kerb and gutter, footpath and road pavement within the frontage and vicinity of the site as a result of construction works to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf. <p>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:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i></td></tr><tr><td>Infrastructure Works Bond - completing any public work required in connection with the consent.</td><td>\$ Nil</td><td>No</td><td>T113</td></tr><tr><td>Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed</td><td>\$ Nil</td><td>No</td><td>T113</td></tr><tr><td colspan="4">INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i></td></tr><tr><td>Public Road and Footpath Infrastructure Inspection Fee</td><td>\$ 645.00</td><td>No</td><td>T45</td></tr><tr><td>TOTAL SECURITY AND FEES</td><td colspan="3">\$ 645.00</td></tr></table>	Description	Amount	Indexed	Council Fee Code	SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>				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	\$ 645.00	No	T45	TOTAL SECURITY AND FEES	\$ 645.00		
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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.

	<ul style="list-style-type: none"> • 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. <p>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.</p>
<p>D. 5.</p>	<p>Erosion and Sediment Control Plan – Submission and Approval</p> <p>Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:</p> <ol style="list-style-type: none"> 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).

	<p>Where there is any conflict The Blue Book takes precedence.</p> <p>The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>										
<p>D. 6.</p>	<p>Payment of S7.12 Contributions Levy</p> <p>A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.</p> <p>A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.</p> <p>The cost estimate report must be in the form of:</p> <ul style="list-style-type: none"> A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or A quantity surveyor’s report, for development over \$750,000. <p>The applicable levy rate is to be calculated using the summary schedule below.</p> <table border="1" data-bbox="300 1541 1334 1711"> <thead> <tr> <th colspan="2">Summary Schedule</th></tr> <tr> <th>Development Cost</th><th>Levy Rate</th></tr> </thead> <tbody> <tr> <td>• Up to and including \$100,000</td><td>Nil</td></tr> <tr> <td>• More than \$100,000 and up to and including \$200,000</td><td>0.5% of the cost</td></tr> <tr> <td>• More than \$200,000</td><td>1% of the cost</td></tr> </tbody> </table> <p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none"> Cash deposit with Council, Credit card payment with Council, or Bank cheque made payable to Woollahra Municipal Council. 	Summary Schedule		Development Cost	Levy Rate	• Up to and including \$100,000	Nil	• More than \$100,000 and up to and including \$200,000	0.5% of the cost	• More than \$200,000	1% of the cost
Summary Schedule											
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Deferred or periodic payment of section 7.12 levy

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.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on 02 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).

Condition Reason: To ensure any relevant contributions are paid.

D. 7. 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 green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted

	<ul style="list-style-type: none"> shaded blue where required to be pruned <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p>
D. 8.	<p>Structural Adequacy of Existing Supporting Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p>Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.</p>
D. 9.	<p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.</p> <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> This does not affect the right of the developer to seek staged construction certificates. <p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p>

<p>D. 10.</p>	<p>Engineer Certification</p> <p>Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.</p> <p>This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.</p> <p>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.</p>
<p>D. 11.</p>	<p>Parking Facilities</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6 Parking facilities - Off-street parking for people with disabilities, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking and AS 2890.2: Off-Street Parking: Commercial Vehicle Facilities respectively.</p> <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p> <p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p>
<p>D. 12.</p>	<p>Stormwater Management Plan</p> <p>Before the issue of any Construction Certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a chartered professional civil engineer, which include the following:</p> <ul style="list-style-type: none"> a) The discharge of stormwater from the site, by direct connection to the street kerb. b) The provision of a minimum 450mm x 450mm boundary junction pit prior to discharging stormwater from the site to the street drainage system. The discharge of stormwater from the site to the street kerb must be located 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. 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. c) All below ground structures are to be fully tanked 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,

- d) 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.
- 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) 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.
- g) Detail any remedial works required to upgrade the existing stormwater drainage system.
- h) Dimensions of all drainage pits and access grates must comply with AS3500.3.
- i) Compliance the objectives and performance requirements of the BCA.
- j) 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 and dimensions of all downpipes,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

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

Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.

D. 13.	<p>Electric vehicle circuitry and electric vehicle charging point requirements</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include an accurate electrical plan of all off-street car parking spaces, prepared by a suitably qualified person, which includes details and specifications to illustrate how the off-street car parking spaces will be constructed with the capacity to install at a minimum, a 'Level 2' (single phase, 7Kw power) electric vehicle charger point.</p> <p>Condition Reason: To ensure the provision of electric vehicle circuitry to enable the future installation of electric vehicle charging point(s).</p>
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E. BEFORE BUILDING WORK COMMENCES

E. 1.	<p>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</p> <p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> that the work must be carried out in accordance with the requirements of the Building Code of Australia, 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. <p>This condition does not apply:</p> <ol style="list-style-type: none"> to the extent to which an exemption is in force under the Home Building Regulation 2014, or to the erection of a temporary building. <p>In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>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.</p>
E. 2.	<p>Erosion and Sediment Controls – Installation</p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> The Soil and Water Management Plan if required under this consent; "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

	<p>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.</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
<p>E. 3.</p>	<p>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> 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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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. <p>Notes:</p>

	<ul style="list-style-type: none"> • 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: <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [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. <p>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.</p>
E. 4.	<p>Notification of Home Building Act 1989 requirements</p> <p>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:</p> <ol style="list-style-type: none"> a) In the case of work for which a Principal Contractor is required to be appointed: <ul style="list-style-type: none"> • 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, b) In the case of work to be done by an Owner-builder: <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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.</p> <p>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.</p> <p>Condition Reason: To ensure Council is notified of the Home Building Acts 1989 requirements.</p>

F. DURING BUILDING WORK

F. 1.	<p>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> 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. <p>This condition does not apply:</p> <ul style="list-style-type: none"> 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. <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p>Notes:</p> <ul style="list-style-type: none"> • All new guttering is to comply with the provisions of AS 3500. <p>Condition Reason: To ensure compliance with the BCA and Home building Act 1989.</p>
F. 2.	<p>Critical Stage Inspections</p> <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p> <p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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.

	<p>Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p>
F. 3.	<p>Hours of Work –Amenity of the Neighbourhood</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> No work must take place on any Sunday or public holiday. No work must take place before 7am or after 5pm any weekday. No work must take place before 7am or after 1pm any Saturday. The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday: <ol style="list-style-type: none"> piling, piering, rock or concrete cutting, boring or drilling, rock breaking, rock sawing, jack hammering, or machine excavation. 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. 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. 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. <p>Notes:</p> <ul style="list-style-type: none"> 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 <p>Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.</p>

<p>F. 4.</p>	<p>Maintenance of Vehicular and Pedestrian Safety and Access</p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ul style="list-style-type: none"> 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. <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <ul style="list-style-type: none"> 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. <p>Notes:</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> - 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: <ul style="list-style-type: none"> - Part C Management of waste: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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.
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	<p>Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.</p>
F. 5.	<p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council’s Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ol style="list-style-type: none"> 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. <p>Trees must be pruned in accordance with Australian Standard AS 4373 “Pruning of Amenity Trees” and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework.</p>
F. 6.	<p>Maintenance of Environmental Controls</p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ol style="list-style-type: none"> erosion and sediment controls, dust controls, dewatering discharges, noise controls, vibration monitoring and controls, and ablutions. <p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
F. 7.	<p>Support of Adjoining Land Owners</p> <p>While site work is being carried out, a person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).</p> <p>For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.</p>

	<p>Notes:</p> <ul style="list-style-type: none"> This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain: <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure that the support of adjoining land is not removed.</p>
<p>F. 8.</p>	<p>Erosion and Sediment Controls – Maintenance</p> <p>While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:</p> <ol style="list-style-type: none"> the Soil and Water Management Plan required under this consent, "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 "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>

<p>F. 9.</p>	<p>Disposal of Site Water During Construction</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> 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. 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. 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. <p>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.</p>
<p>F. 10.</p>	<p>Site Cranes</p> <p>While site work is being carried out, 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.</p> <p>Cranes must not swing or hoist over any public place unless the relevant approvals have been obtained under the Local Government Act 1993, Crown Lands Act 1989 or Roads Act 1993.</p> <p>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).</p> <p>No illuminated sign(s) must be erected upon or displayed upon any site crane.</p> <p>Notes:</p> <ul style="list-style-type: none"> Where it is proposed to swing a crane over a public place a separate application to Council must be made under section 68 of the Local Government Act 1993 and obtain activity approval from Council prior to swinging or hoisting over the public place. Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, an access order under the Access to Neighbouring Land Act 2000 or easement under section 88K of the Conveyancing Act 1919 or section 40 of the Land and Environment Court Act 1979 as appropriate must be obtained. 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. <p>Condition Reason: To ensure site cranes are used safely with the relevant approvals.</p>
<p>F. 11.</p>	<p>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</p> <p>While site work is being carried out, a registered surveyor must carry out check surveys and provide survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood</p>

	<p>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:</p> <ol style="list-style-type: none"> 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. 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. 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. 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. Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works. Flood protection measures are in place confirming location, height and capacity. <p>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.</p>
F. 12.	<p>Placement and Use of Skip Bins</p> <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <ol style="list-style-type: none"> 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 where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules. <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure waste storage containers are appropriately located.</p>
F. 13.	<p>Prohibition of Burning</p> <p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure no burning of waste occurs.</p>

F. 14.	<p>Dust Mitigation</p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <ol style="list-style-type: none"> Dust screens to all hoardings and site fences. All stockpiles or loose materials to be covered when not being used. All equipment, where capable, being fitted with dust catchers. All loose materials being placed bags before placing into waste or skip bins. All waste and skip bins being kept covered when not being filled or emptied. The surface of excavation work being kept wet to minimise dust. Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust. <p>Notes:</p> <ul style="list-style-type: none"> “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. <p>Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>
F. 15.	<p>Asbestos Removal</p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:</p> <ol style="list-style-type: none"> Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal. Be carried out in accordance with the relevant SafeWork NSW codes of practice. No asbestos products may be reused on the site. No asbestos laden skip or bins must be left in any public place. <p>Notes:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> Work Health and Safety Act 2011, Work Health and Safety Regulation 2017,

	<ul style="list-style-type: none"> - 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
	<p>Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.</p>
F. 16.	<p>Classification of Hazardous Waste</p>
	<p>While site work is being carried out, and prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part1: Classifying Waste, 2014.</p>
	<p>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.</p>
F. 17.	<p>Disposal of Asbestos and Hazardous Waste</p>
	<p>While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.</p>
	<p>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.</p>
F. 18.	<p>Asbestos Removal Signage</p>
	<p>While site work is being carried out and when asbestos is being removed, standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.</p>
	<p>Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.</p>
F. 19.	<p>Notification of Asbestos Removal</p>
	<p>While site work is being carried out, in addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW, all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.</p>
	<p>The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.</p>

	Condition Reason: To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.													
F. 20.	Arborists Documentation and Compliance Checklist													
<p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none">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, andc) recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table><tr><th>Stage of arboricultural inspection and supervision</th><th colspan="4">Compliance documentation and photos must include</th></tr><tr><td>While site work is carried out</td><td colspan="4"><ul style="list-style-type: none">• 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.• The project arborist must supervise the installation of the new driveway and crossover within 3.6 metres of Tree No.4, documenting the condition of roots and soil.• Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.• Regular inspections as indicated in the Tree Management Plan.</td></tr></table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p>					Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				While site work is carried out	<ul style="list-style-type: none">• 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.• The project arborist must supervise the installation of the new driveway and crossover within 3.6 metres of Tree No.4, documenting the condition of roots and soil.• Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.• Regular inspections as indicated in the Tree Management Plan.			
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	Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.													
F. 21.	Replacement/Supplementary trees which must be planted													
<p>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.</p> <table><tr><th>Species/Type</th><th>Planting Location</th><th>Container Size/Size of Tree (at planting)</th><th>Minimum Dimensions at Maturity (metres)</th></tr><tr><td></td><td></td><td></td><td></td></tr></table>					Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)						
Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)											

		<table><tr><td><i>Banksia integrifolia</i> or <i>Libidibia ferrea</i></td><td>Rear Yard</td><td>75L</td><td>8 x 8</td></tr></table>	<i>Banksia integrifolia</i> or <i>Libidibia ferrea</i>	Rear Yard	75L	8 x 8					
<i>Banksia integrifolia</i> or <i>Libidibia ferrea</i>	Rear Yard	75L	8 x 8								
The project arborist must document compliance with the above condition.											
Condition Reason: To ensure the provision of appropriate replacement planting.											
F.	22.	Driveway and Crossover Installation adjacent to Tree 4									
<p>A qualified Arborist (minimum AQF Level 5) shall supervise installation of the new driveway and crossover within the Tree Protection Zone of Tree 4. This includes excavation, form works and any disturbance to the ground between the trees.</p> <p>Installation of the driveway including excavation and formwork shall ensure tree sensitive methods are undertaken during the works. This must include hand excavation, small hand tools such as mattocks or using compressed air or water jetting only be used for excavation of the driveway and crossover and ensure tree roots equal to or greater than 50mm in diameter are not damaged or severed during the works.</p> <p>Approval is not granted for the severance, damaging, pruning or removal of any tree roots equal to or greater than 50mm in diameter (unless approved in these conditions of consent). The design and installation of the driveway and crossover shall be amended to ensure all tree roots equal to or greater than 50mm diameter are retained.</p> <p>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.</p> <p>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).</p> <p>The project arborist shall document compliance with the above condition.</p> <p>Condition Reason: To ensure the installation of the driveway and crossover works would not adversely impact upon the health of existing trees.</p>											
F.	23.	Installation of stormwater pipes and pits in the vicinity of trees									
<p>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.</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Radius from centre of trunk (metres)</th></tr><tr><td>4</td><td><i>Callistemon viminalis</i></td><td>Street tree – Fletcher Street frontage</td><td>3.6m</td></tr></table> <p>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.</p>				Council Ref No	Species	Location	Radius from centre of trunk (metres)	4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	3.6m
Council Ref No	Species	Location	Radius from centre of trunk (metres)								
4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	3.6m								

	The project arborist must document compliance with the above condition.
	<p>Condition Reason: To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees.</p> <p>Standard Condition F.52 (Autotext 52F)</p>

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	<p>Occupation Certificate (section 6.9 of the Act)</p> <p>A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.</p> <p>Notes:</p> <ul style="list-style-type: none"> New building includes an altered portion of, or an extension to, an existing building. <p>Condition Reason: To ensure the building is suitable to occupy.</p>
G. 2.	<p>Amenity Landscaping</p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p>Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.</p>
G. 3.	<p>Commissioning and Certification of Systems and Works</p> <p>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.</p> <p>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:</p> <ol style="list-style-type: none"> Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work. All flood protection measures. All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking. All stormwater drainage and storage systems. All mechanical ventilation systems. All hydraulic systems. All structural work. All acoustic attenuation work. All waterproofing. Such further matters as the Principal Certifier may require.

	<p>Notes:</p> <ul style="list-style-type: none"> 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. <p>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.</p>
G. 4.	<p>Certification of Electric Vehicle Charging System</p> <p>Before the issue of any occupation certificate, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition D.13 must be submitted to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure the certification of the electric vehicle charging system.</p>
G. 5.	<p>Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation</p> <p>Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. A1732555.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.</p>
G. 6.	<p>Landscaping</p> <p>Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.</p> <p>Condition Reason: To ensure that all landscaping work is completed prior to occupation.</p>

<p>G. 7.</p>	<p>Removal of Ancillary Works and Structures</p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ol style="list-style-type: none"> the site sign, ablutions, hoarding, scaffolding, and waste materials, matter, article or thing. <p>Condition Reason: To ensure that all ancillary matter is removed prior to occupation.</p>
<p>G. 8.</p>	<p>Works within Public Land (including Council, State or Federal owned land or property)</p> <p>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:</p> <ol style="list-style-type: none"> stormwater pipes, pits, structures and connections to public stormwater systems within the road, driveways and vehicular crossings, renew/new retaining structures, overhang structures, encroachments or occupation or alienation of public land or property, removal of redundant driveways and any other structure, new footpaths, pathways, walkways, or dunny lanes, relocation of existing power/light pole, if applicable, relocation/provision of street signs, if applicable, new or replacement street trees, if applicable, 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, new or reinstated kerb and guttering within the road, and new or reinstated road surface pavement within the road. <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.</p>
<p>G. 9.</p>	<p>Works-As-Executed Certification of Stormwater Systems</p>

	<p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted for approval by the Principal Certifier detailing:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>				
<p>G. 10.</p>	<p>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</p> <p>Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> 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. <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="301 1355 1367 1545"> <thead> <tr> <th data-bbox="301 1355 646 1451">Stage of arboricultural inspection and supervision</th><th data-bbox="646 1355 1367 1451">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="301 1451 646 1545">Prior to the issue of any occupation certificate</td><td data-bbox="646 1451 1367 1545">Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.				
<p>G. 11.</p>	<p>Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building</p>				

Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.

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.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Before the issue of any occupation certificate for the whole of the building	<ul style="list-style-type: none"> 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 subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.

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.

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. A1732555.
	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.

	<p>This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.</p>
H. 3.	<p>Waste Management – Residential</p> <p>During the occupation and ongoing use, waste management must comply with the approved site waste minimisation and management plan (SWMMP) and with Woollahra DCP 2015, Chapter E5–Waste Management.</p> <p>The waste and recycling bins/crates must be placed on the footpath for collection, but not earlier than 12 hours prior to the designated collection time.</p> <p>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.</p> <p>No commercial waste must be placed within residential waste and recycling bins/crates.</p> <p>Notes:</p> <ul style="list-style-type: none"> For further residential wastes management policy information go to www.woollahra.nsw.gov.au <p>Condition Reason: To ensure that the provisions of the approved SWMMP and Woollahra DCP are complied with during the ongoing operations of the development.</p>

SUBDIVISION WORK

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil.

LAND SUBDIVISION

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE






Nil.

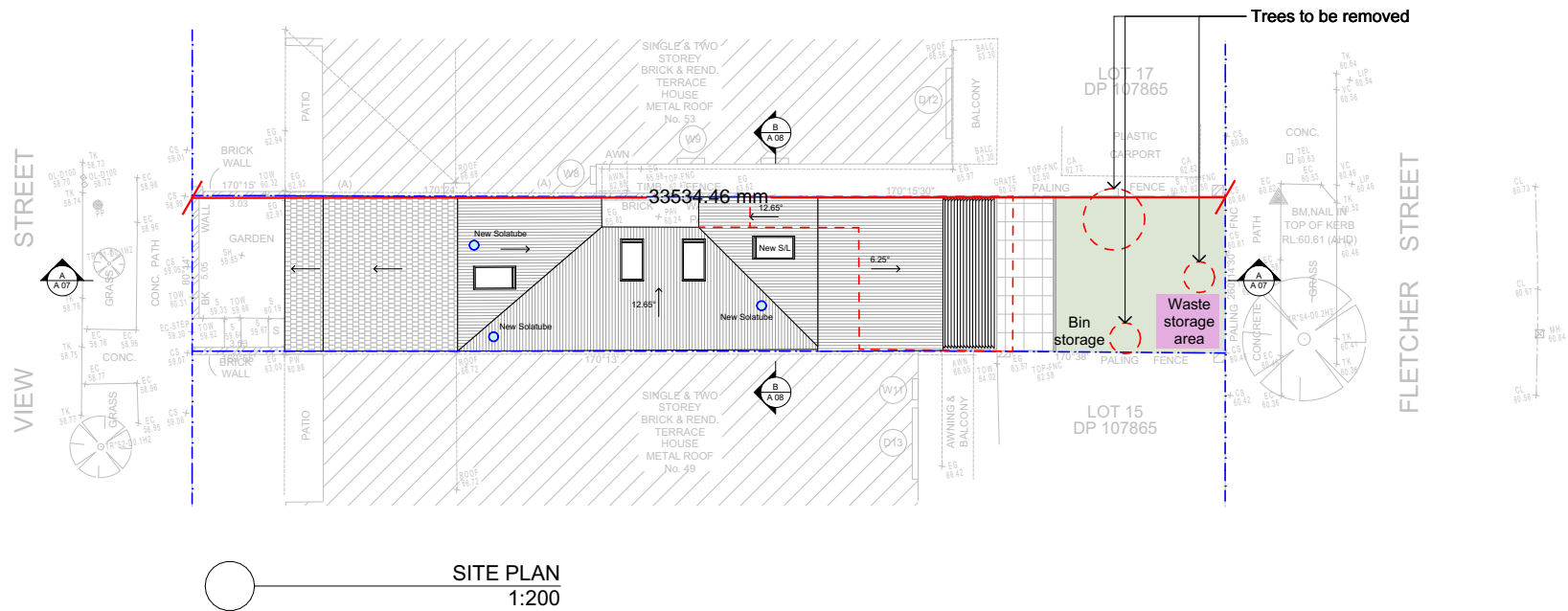
STRATA SUBDIVISION

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

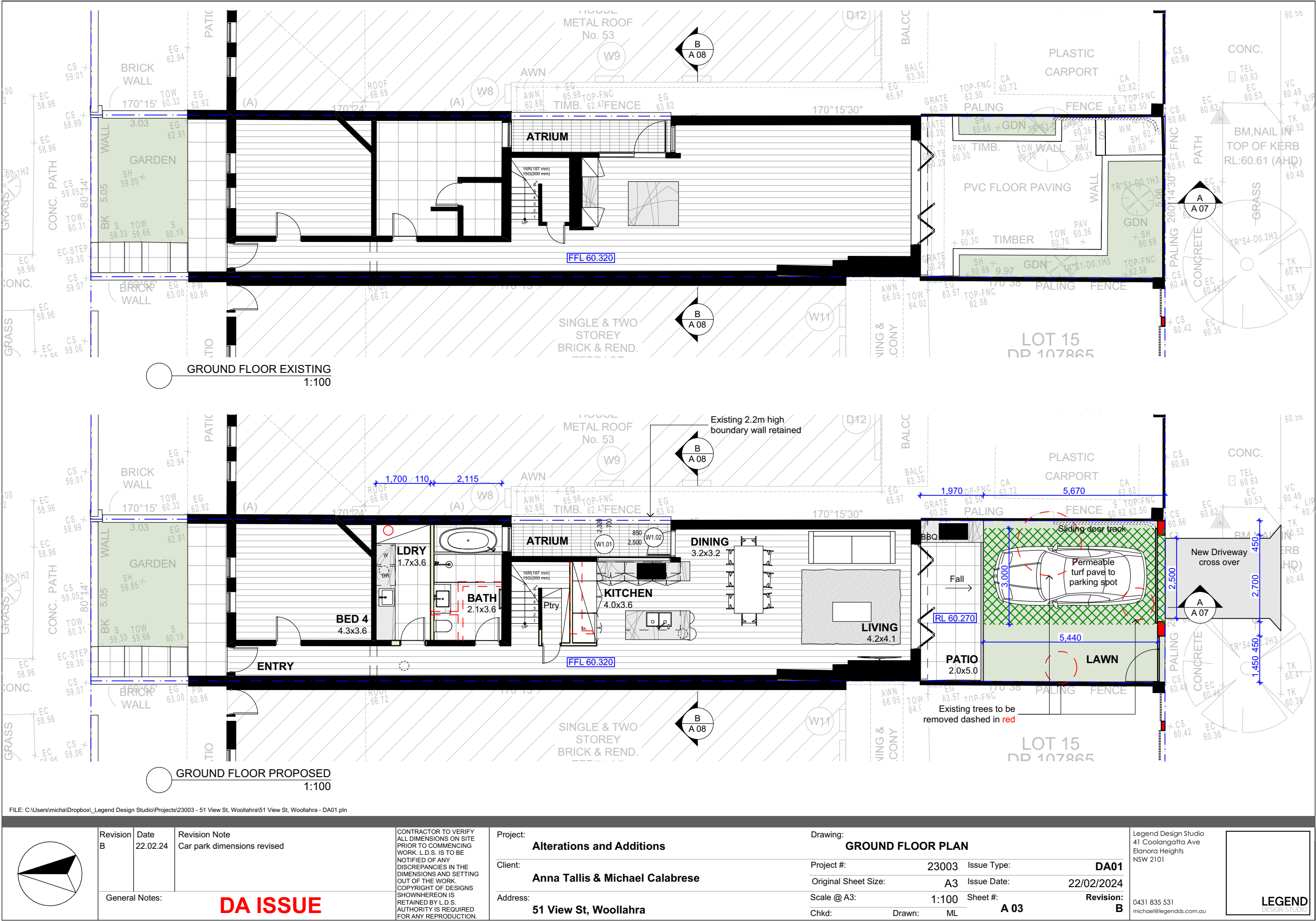
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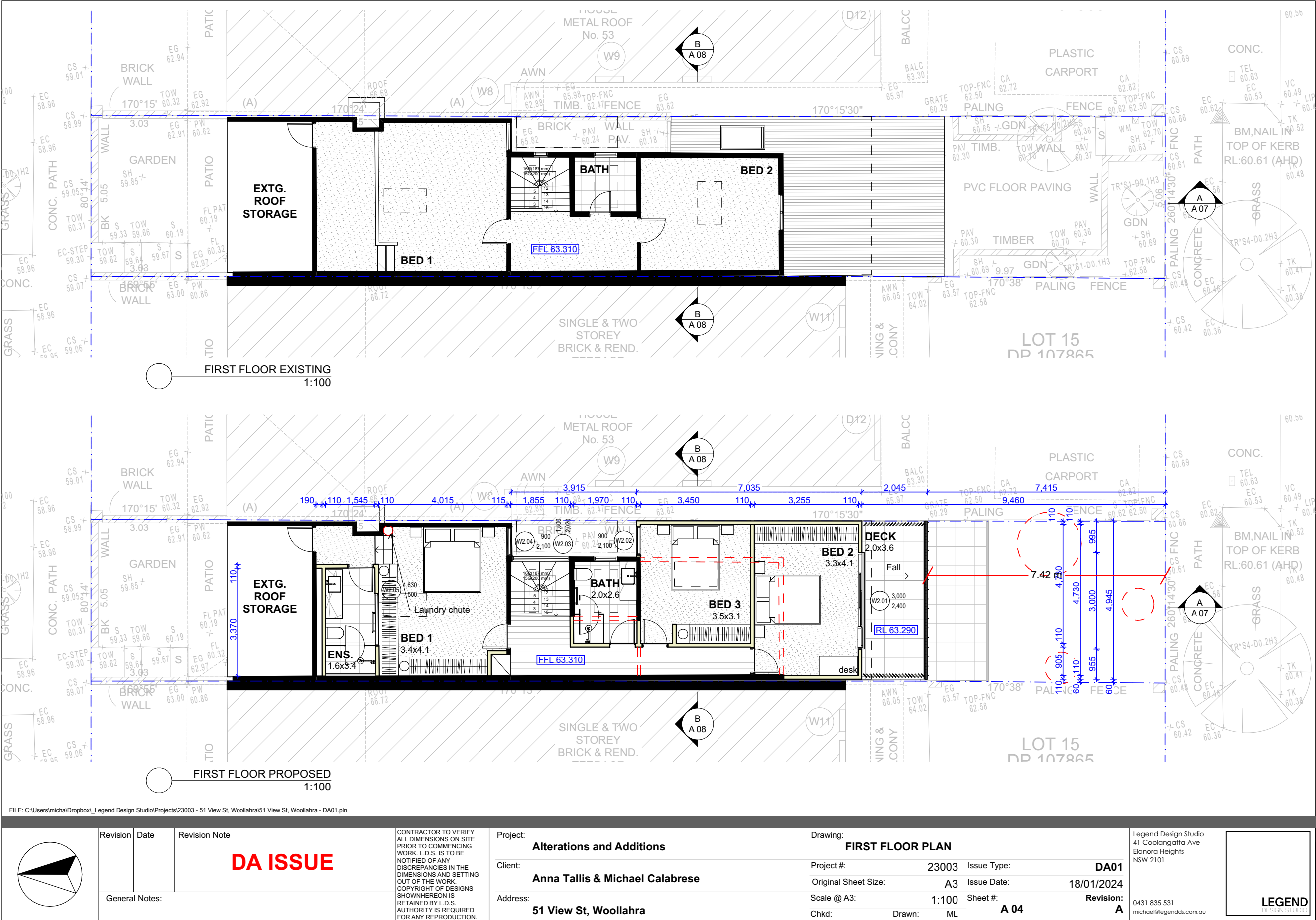
1. Plans, Sections and Elevations [↓](#) 
2. Clause 4.6 Written Request - Floor Space Ratio [↓](#) 
3. Referral Response - Trees [↓](#) 
4. Referral Response - Heritage [↓](#) 
5. Referral Response - Development Engineering [↓](#) 

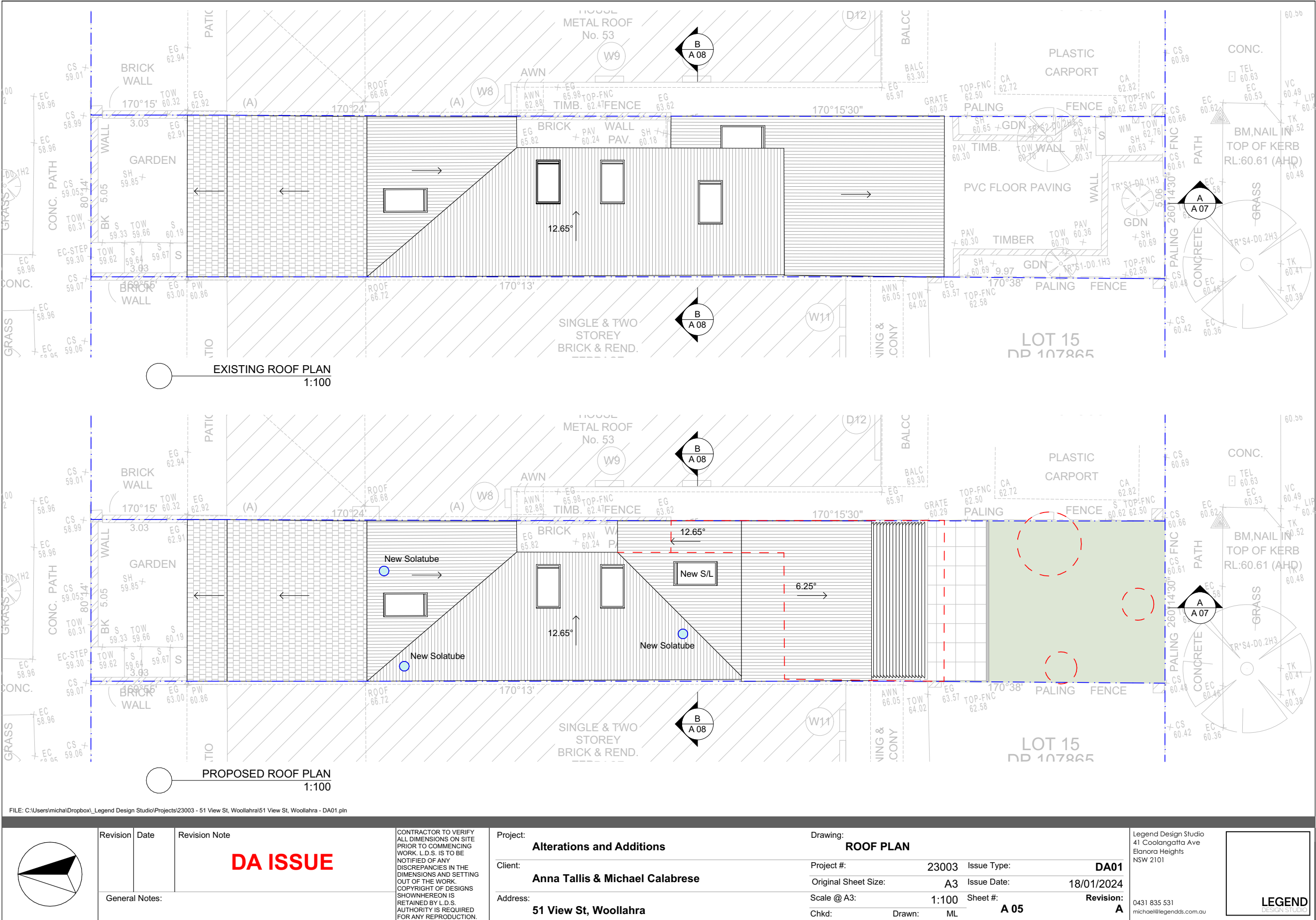


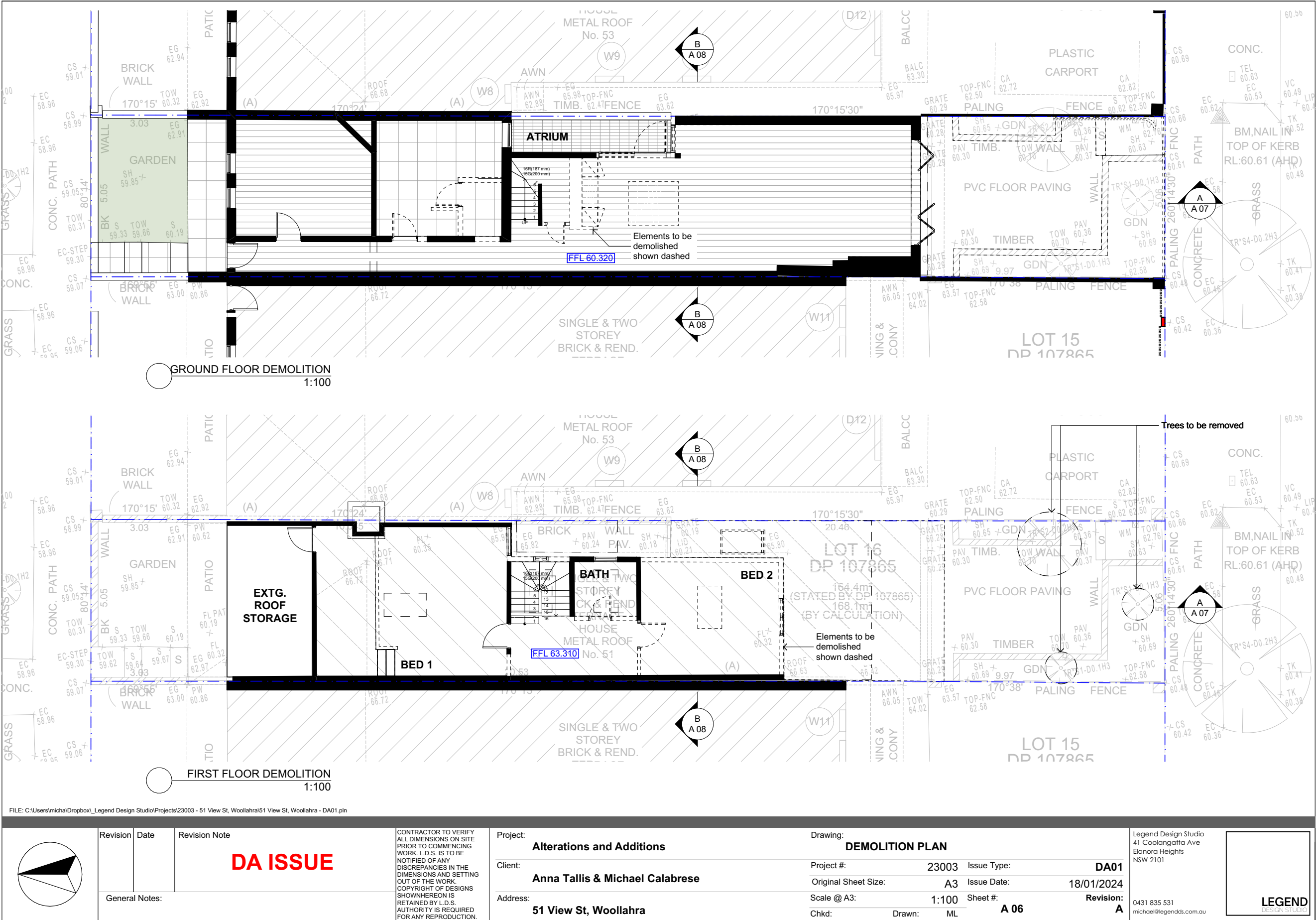
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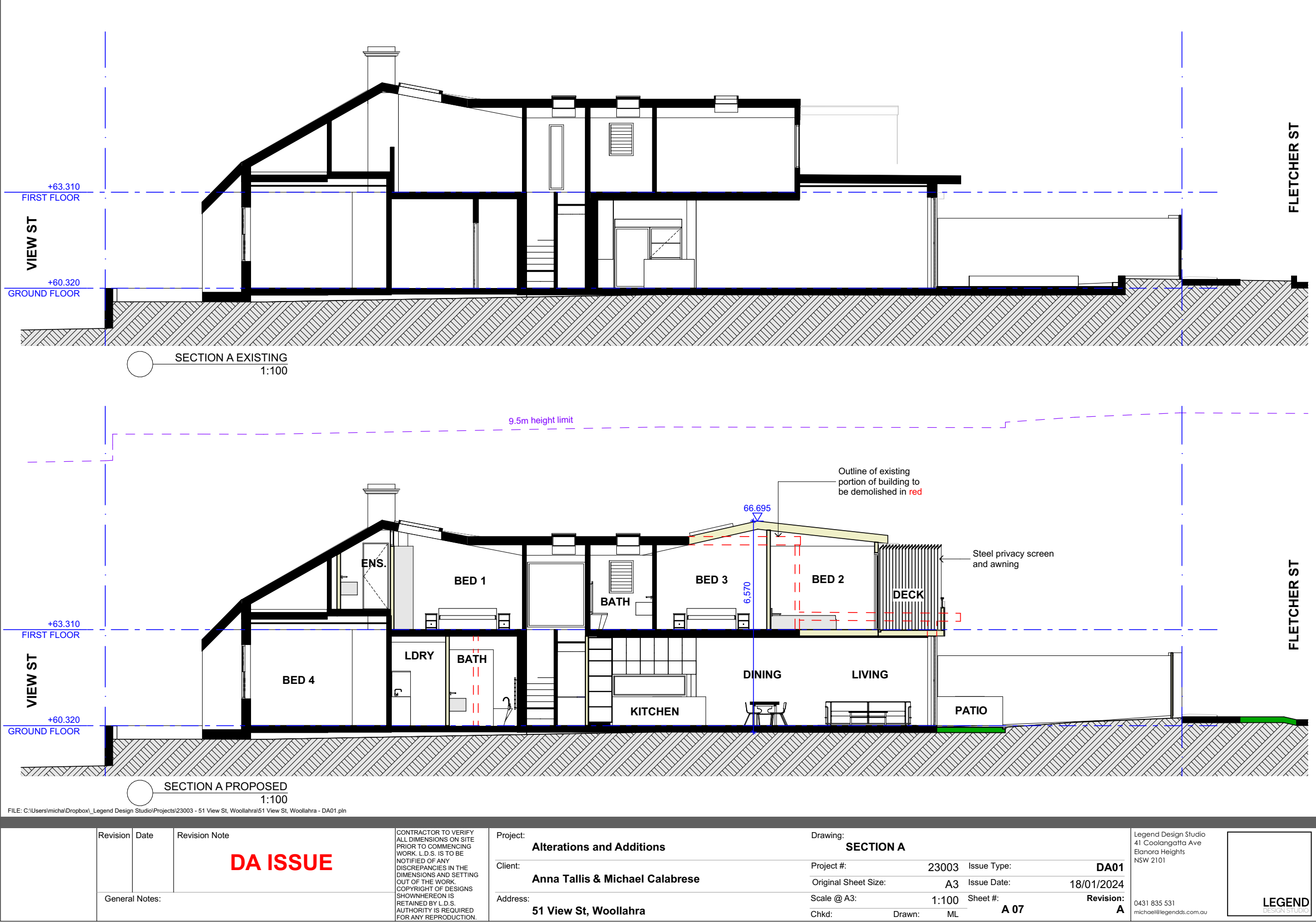
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	DA ISSUE				Alterations and Additions	SITE PLAN					
General Notes:					Client:	Project #:	23003	Issue Type:	DA01	0431 835 531 michael@legendds.com.au	
					Anna Tallis & Michael Calabrese	Original Sheet Size:	A3	Issue Date:	18/01/2024		
					Address:	Scale @ A3:	1:200	Sheet #:	Revision:		
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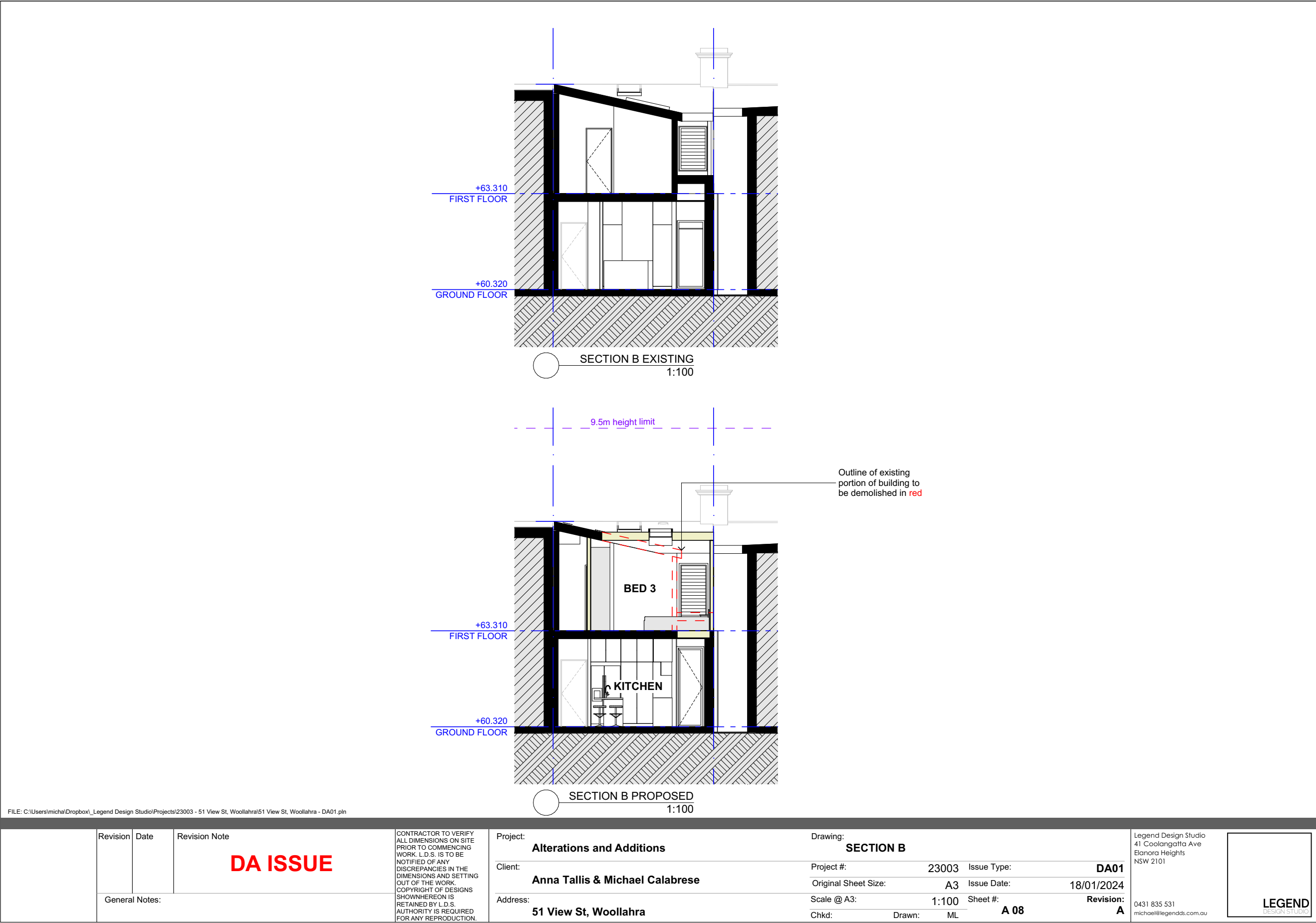


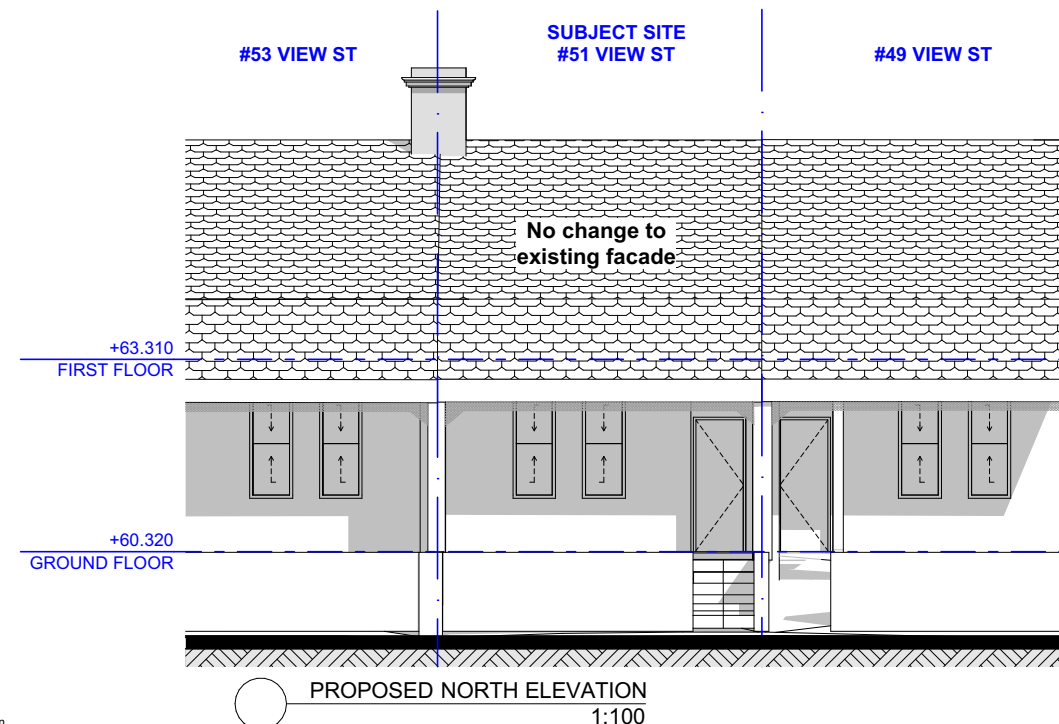
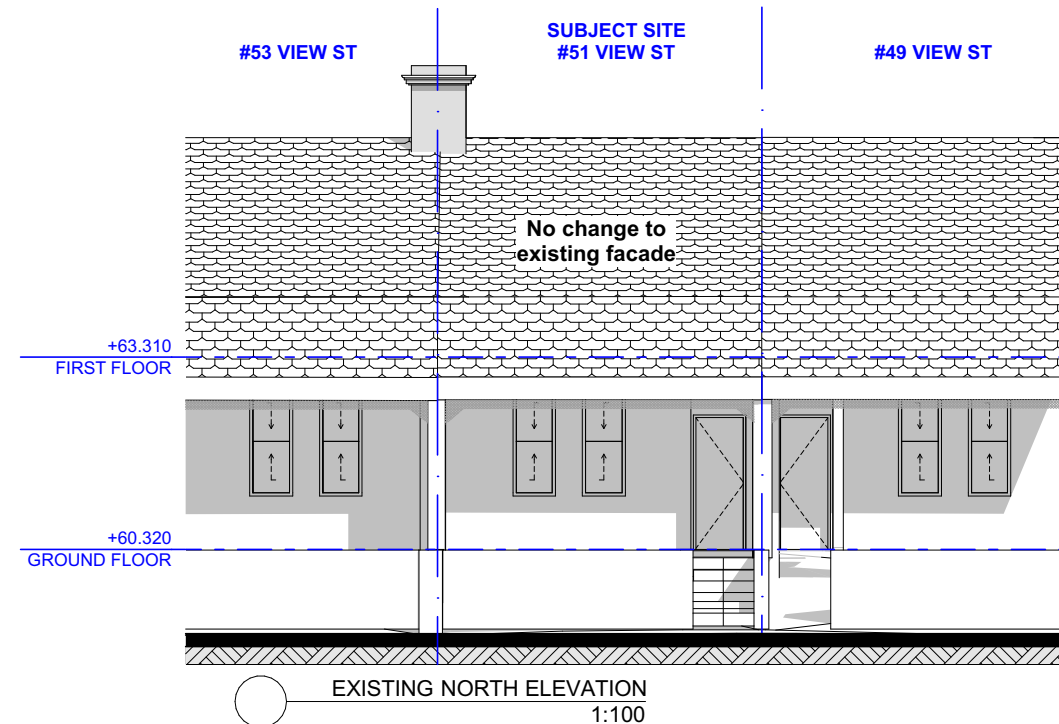












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Revision	Date	Revision Note
		DA ISSUE
General Notes:		

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Project: **Alterations and Additions**

Client: **Anna Tallis & Michael Calabrese**

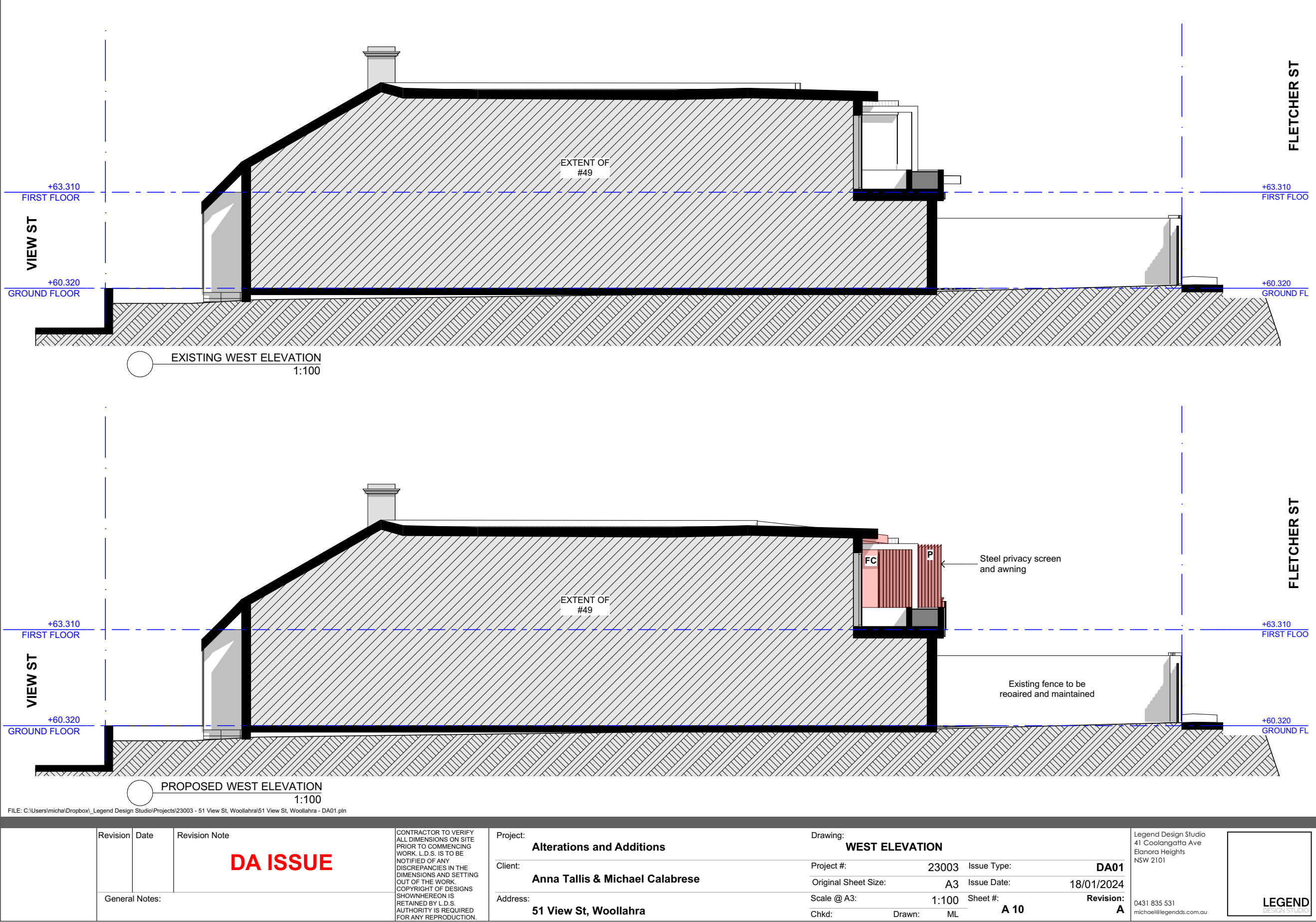
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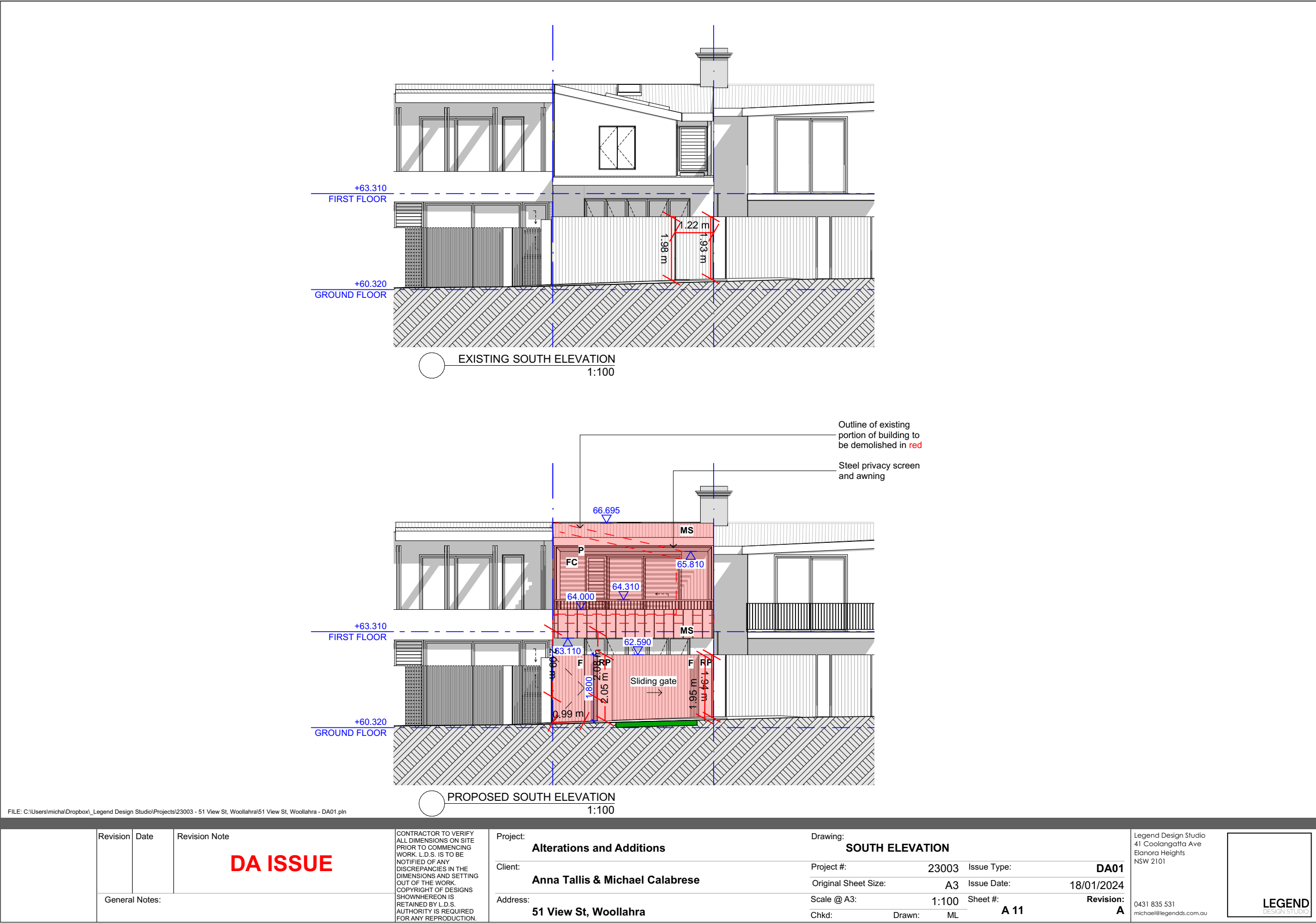
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Original Sheet Size:	A3	Issue Date:	18/01/2024
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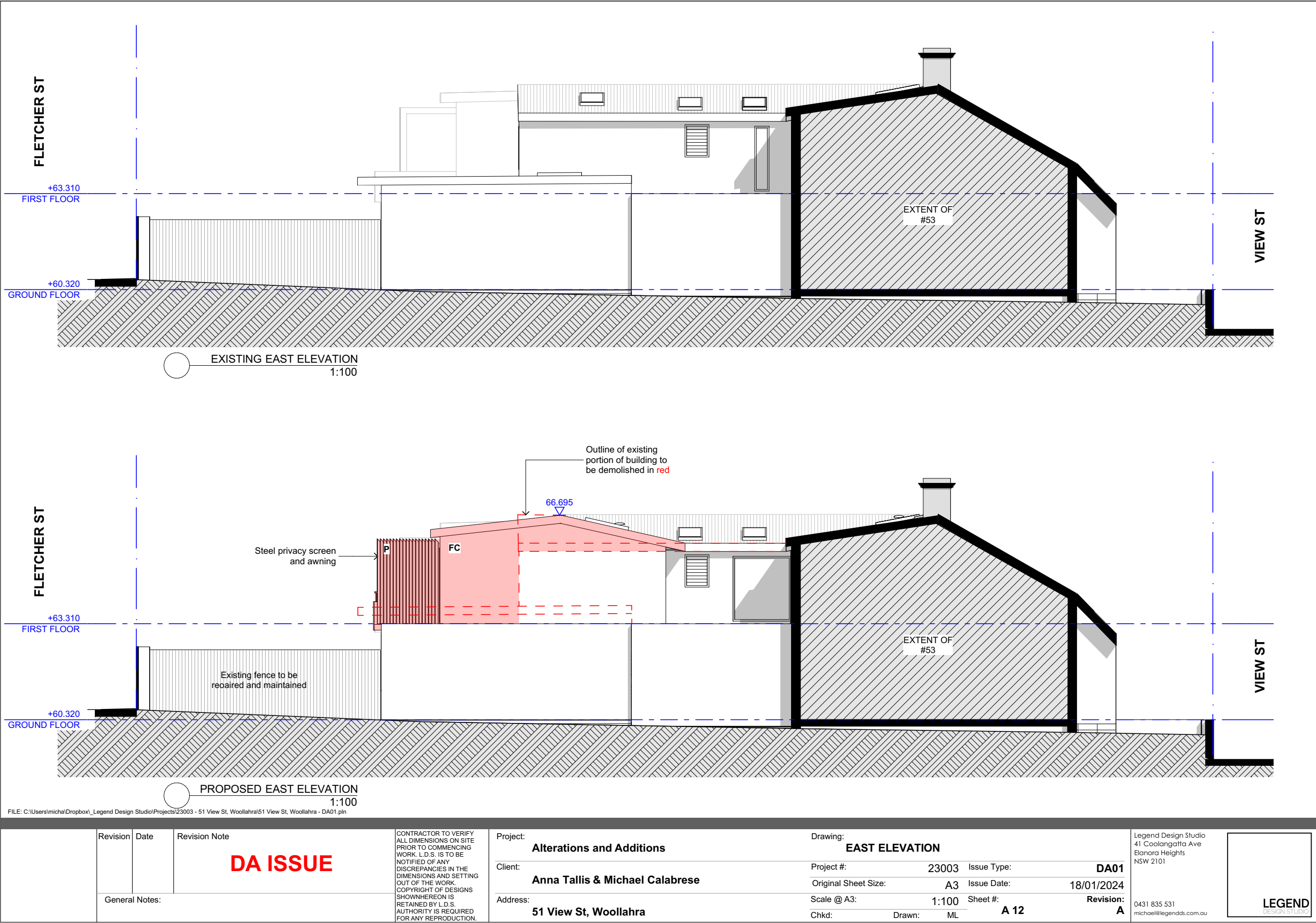
Legend Design Studio
41 Coolangatta Ave
Elanora Heights
NSW 2101

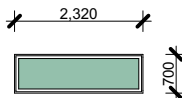
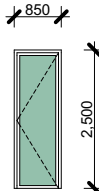
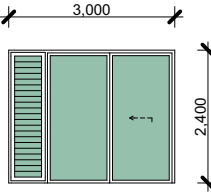
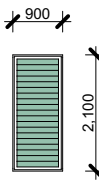
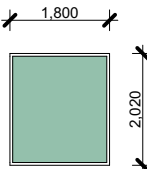
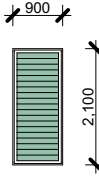
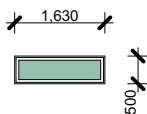
0431 835 531
michael@legends.com.au









WINDOW SCHEDULE							
WINDOW No	VIEW FROM OUTSIDE	TYPE	SIZE - W x H (mm)	HEAD (nom.)	UNIT AREA (m²)	GLAZING TYPE	FRAME TYPE
W1.01			2,320×700		1.62		
W1.02			850×2,500		2.13		
W2.01			3,000×2,400		7.20		
W2.02			900×2,100		1.89		
W2.03			1,800×2,020		3.64		
W2.04			900×2,100		1.89		
W2.05			1,630×500		0.82		
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NOTES

1. All external glazing units to have powder coated aluminium frames as selected. Owner to give final approval to external glazing units before ordering.
2. Generally Viridian 'ComfortPlus Clear' glazing throughout, 'EnergyTech' 6mm toughened to louvre windows, (translucent to bathrooms / WC's). All glazing to comply with Part 3.6 of the current BCA.
3. Dimensions given are nominal and to suit scheduled opening sizes - Contractor to check all dimensions on site before ordering glazing units. Contact Sanctum Design if dimensions conflict.
4. Refer to Elevations for fixed/openable sashes.
5. Provide approved matching insect screens to opening window and door sashes.
6. Provide Freedom Retractable Screens to all glazed external doors.

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	General Notes:	DA ISSUE			Client:	WINDOW SCHEDULE			
					Project #:	23003	Issue Type:	DA01	
					Original Sheet Size:	A3	Issue Date:	18/01/2024	
					Address:	Scale @ A3:	Sheet #:	Revision:	
					51 View St, Woollahra			A	
						Chkd:	Drawn:	ML	A 16
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NOTES

1. All external glazing units to have powder coated aluminium frames as selected. Owner to give final approval to external glazing units before ordering.

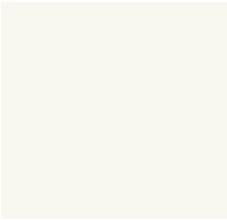


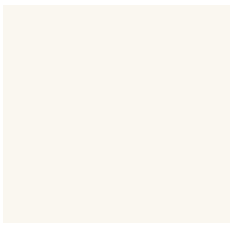
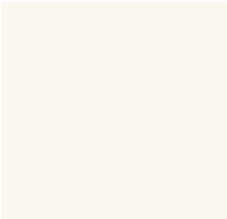
2. Generally Viridian 'ComfortPlus Clear' glazing throughout, 'EnergyTech' 6mm toughened to louvre windows, (translucent to bathrooms / WC's). All glazing to comply with Part 3.6 of the current BCA.

3. Dimensions given are nominal and to suit scheduled opening sizes - Contractor to check all dimensions on site before ordering glazing units. Contact Sanctum Design if dimensions conflict.

4. Refer to Elevations for fixed/openable sashes.

5. Provide approved matching insect screens to opening window and door sashes.

6. Provide Freedom Retractable Screens to all glazed external doors.

FC Painted FC cladding Painted Dulux 'Matt White'		MS Metal sheet cladding Matt White standing seam	
F Batten Fence Matt White		P Steel Pergola Painted Dulux 'Matt White'	
RP Render and Paint Painted Dulux 'Matt White'			
		NOTE: All colour selections shall be sampled and swatch tested on subject surface prior to final application. Colours represented on this schedule do NOT necessarily reflect true colours.	

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Revision	Date	Revision Note	CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. L.D.S. IS TO BE NOTIFIED OF ANY DISCREPANCIES IN THE DIMENSIONS AND SETTING OUT OF THE WORK. COPYRIGHT OF DESIGNS SHOWN HEREON IS RETAINED BY L.D.S. AUTHORITY IS REQUIRED FOR ANY REPRODUCTION.	Project:	Drawing:			Legend Design Studio 41 Coolangatta Ave Elanora Heights NSW 2101 0431 835 531 michael@legendds.com.au	<div>LEGEND DESIGN STUDIO</div>		
		DA ISSUE		Alterations and Additions	EXTERNAL FINISHES SCHEDULE						
General Notes:				Client:	Project #:	Issue Type:	DA01				
				Anna Tallis & Michael Calabrese	Original Sheet Size:	A3	Issue Date:			18/01/2024	
				Address:	Scale @ A3:	Sheet #:	Revision:				
				51 View St, Woollahra	Chkd:	Drawn:	ML			A 18	A

Vaughan Milligan Development Consulting Pty Ltd

**APPENDIX:
CLAUSE 4.6 – FLOOR SPACE RATIO**

Prepared February 2024

51 View Street, Woollahra

1

Vaughan Milligan Development Consulting Pty Ltd

**WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF
WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

51 VIEW STREET, WOOLLAHRA

**FOR THE CONSTRUCTION OF ALTERATIONS AND ADDITIONS TO
THE EXISTING RESIDENCE**

**VARIATION OF A DEVELOPMENT STANDARD REGARDING THE
MAXIMUM FLOOR SPACE RATIO CONTROL AS DETAILED IN CLAUSE 4.4 OF THE
WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

For: Proposed alterations and additions to the existing residence
At: 51 View Street, Woollahra
Owner: Anna Tallis & Michael Calabrese
Applicant: Anna Tallis & Michael Calabrese
C/- Vaughan Milligan Development Consulting Pty Ltd

1.0 Introduction

This written request is made pursuant to the provisions of Clause 4.6 of Woollahra Local Environmental Plan 2014. In this regard it is requested Council support a variation with respect to compliance with the maximum floor space ratio as described in Clause 4.4 of the Woollahra Local Environmental Plan 2014 (WLEP 2014).

2.0 Background

Clause 4.4 restricts the floor space ratio of a building within this area of the Woollahra locality and refers to the maximum floor area noted within the "*Floor Space Ratio Map*."

Clause 4.4 restricts the floor space ratio of a building on the Floor Space Ratio Map to a maximum of 0.65:1, or for this site with an area of a 168.1m² to a maximum gross floor area of 109.26m².

The proposal involves minor alterations and additions to the existing dwelling, which will see an increase in the existing gross floor area from 149.30m² to 166.22m².

The existing floor space ratio of 0.88:1 will increase to 0.98:1, or exceed the maximum floor space ratio by 56.96m² or 52.1%.

Currently the dwelling exceeds the maximum floor space ratio by 40.04m² or 36.6%.

Council introduced a floor space ratio control for development in the R2 Low Density Residential Zone to Woollahra Local Environmental Plan 2015 (Amendment No. 33) and Woollahra Development Control Plan 2015 (Amendment No. 21) on 14 July 2023.

51 View Street, Woollahra

2

Vaughan Milligan Development Consulting Pty Ltd

Recent adjacent development at No 49 View Street provided for a similar level of floor area and a compatible bulk and scale to the proposed works, under DA 237/2019. At the time of determination in 2019, the sites were not subject to a floor space ratio control.

The controls of Clause 4.4 are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

Is Clause 4.4 of the LEP a development standard?

- (a) The definition of “development standard” in clause 1.4 of the EP&A Act mean standard is fixed in respect of an aspect of a development and includes:

“(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work.”

- (b) Clause 4.4 relates to the maximum floor space ratio of a building which is an indicator of building size. Accordingly, Clause 4.4 is a development standard.

3.0 Purpose of Clause 4.6

The Woollahra Local Environmental Plan 2014 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the LEP is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the Standard Instrument should be assessed. These cases are taken into consideration in this request for variation.

In particular, the principles identified by Preston CJ in *Initial Action Pty Ltd vs Woollahra Municipal Council* [2018] NSWLEC 118 have been relied on in this request for a variation to the development standard.

4.0 Objectives of Clause 4.6

The objectives of Clause 4.6 are as follows:

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

The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“Initial Action”) provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [1], [4] & [51] where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant’s written request has in fact

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demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of *Initial Action* the Court held that:

“In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard “achieve better outcomes for and from development”. If objective (b) was the source of the Commissioner’s test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test.”

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of the LEP provides:

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

Clause 4.4 (the Maximum Floor Space Ratio Control) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of the LEP.

Clause 4.6(3) of the LEP provides:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The proposed development does not comply with the maximum floor space ratio development standard pursuant to Clause 4.4 of WLEP which specifies a maximum floor space ratio of 0.65:1 in this area of Woollahra. The proposed alterations and additions will see a minor increase in the total gross floor area when compared to the existing building and result in a gross floor area of 166.22m² when compared to the existing gross floor area of 149.3m².

The new development will present a floor space ratio of 0.98:1 or a non-compliance of up to

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52.1% to the development standard, with the new alterations and additions to present the opportunity for an additional bedroom and improved internal amenity, in a manner which is compatible with the size and form of the surrounding dwellings.

Strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard. The relevant arguments are set out later in this written request.

Clause 4.6(4) is administrative and requires the consent authority to keep a record of its assessment of the clause 4.6 variation.

Under cl 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

Clause 4.6(6) relates to subdivision and is not relevant to the development.

Clause 4.6(8) is only relevant so as to note that it does not exclude Clause 4.4A of the LEP from the operation of clause 4.6.

The specific objectives of Clause 4.6 are as follows:

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

The development will achieve a better outcome in this instance as the site will provide for the additions and alterations to the existing dwelling, which is consistent with the stated Objectives of the R3 Medium Density Residential Zone, which are noted as:

- *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.*

The proposal will provide for modest additions and alterations to the existing dwelling to provide for increased amenity through the inclusion of an additional bedroom and increased floor space for the site's occupants.

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The new works will continue to maintain a bulk and scale which is in keeping with the extent of surrounding development, with a consistent palette of materials and finishes which will provide for high quality development that will enhance and complement the locality.

Notwithstanding the current non-compliance with the maximum floor space ratio control will be marginally increased within the introduction of the new floor area, the proposal will result in an attractive residential development that will add positively to the character and function of the local residential neighbourhood. It is noted that the proposal will maintain a consistent character with the built form of nearby properties.

The proposed new works will not see any unreasonable impacts on the existing views enjoyed by neighbouring properties.

The works are designed to ensure that there will not be any unreasonable adverse impacts on the solar access enjoyed by adjoining dwellings.

5.0 The Nature and Extent of the Variation

- 5.1** This request seeks a variation to the maximum floor space ratio standard contained in Clause 4.4 of WLEP.
- 5.2** Clause 4.4 of WLEP specifies a maximum floor space ratio of 0.65:1 in this area of Woollahra.
- 5.3** It is noted that the existing dwelling has a gross floor area of 149.3m² which presents a floor space ratio of 0.88:1, resulting in a non-compliance with the control of 36.6%.
- 5.4** The proposed additions and alterations see a minor increase in floor area by 16.92m² to a gross floor area of 166.22m² or an FSR of 0.98:1, which currently exceeds the floor space ratio control by 56.96m² or 52.1%.

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6.0 Relevant Caselaw

6.1 In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular, the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* continue to apply as follows:

17. *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*
18. *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
19. *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
20. *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
21. *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*
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*

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invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

- 6.2** The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:
1. Is Clause 4.4 of WLEP a development standard?
 2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:
 - (a) compliance is unreasonable or unnecessary; and
 - (b) there are sufficient environmental planning grounds to justify contravening the development standard
 3. Is the consent authority satisfied that the proposed development will be consistent with the objectives of Clause 4.4 and the objectives for development for in the R3 zone?
 4. Has the concurrence of the Secretary of the Department of Planning and Environment been obtained?
 5. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes Clause 4.4 of WLEP?

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7.0. Request for Variation

7.1 Is compliance with Clause 4.4 unreasonable or unnecessary?

- (a) This request relies upon the 1st way identified by Preston CJ in Wehbe.
- (b) The first way in Wehbe is to establish that the objectives of the standard are achieved.
- (c) Each objective of the maximum floor space ratio standard, as outlined under Clause 4.4, and reasoning why compliance is unreasonable or unnecessary, is set out below:

(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

The proposal provides for minor additions & alterations to the existing dwelling to provide additional floor area at the first-floor level. The works will maintain a compatible scale and position on the site to recent development immediately to the east and surrounding first floor alterations and additions in the immediate locality. The works will present a positive architectural design and add to the character of the locality.

The proposed works maintain consistency with the bulk and scale of existing surrounding development in the locality, and is in keeping with the desired future character of the locality.

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

The design of the new dwelling provides an appropriate architectural response to the site and introduces articulation to the building façades which assist in reducing the sense of bulk and scale. The works do not adversely affect the solar access for privacy and amenity of the neighbouring properties.

The external finishes of the new works comprise earthy tones which will complement the landscaped character of the locality.

The proposal is accompanied by Shadow Diagrams, which demonstrate that the subject and neighbouring properties will continue to receive suitable solar access throughout the day.

The proposal will maintain suitable views for the uphill properties over and past the dwelling.

No unreasonable adverse impacts for neighbouring properties are anticipated.

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(iii) to ensure that of a allows adequate provision on the land the deep soil planting, tree canopy and areas of private open space

The proposed additions to the dwelling are primarily of the first floor level and will see an increase in the landscape planting area available within the site through the removal of unnecessary planting. Additional tree planting can be carried out in the improved planting areas.

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

In Initial Action the Court found at [23]-[24] that:

23. *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

There are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposed development will maintain the general bulk and scale of the existing surrounding development and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land (cl 1.3(c)).

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- Similarly, the proposed development will provide for improved amenity within a built form which is compatible with the streetscape of View Street & Fletcher Street and which also promotes the orderly and economic use of the land (cl 1.3(c)).
- The proposed development improves the amenity of the occupants of the subject site and respects surrounding properties by locating the development where it will not unreasonably obstruct views across the site and will maintain the views from the site (1.3(g)).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the provision of modest additions and alterations to the building that provides sufficient floor area for future occupants and manages the bulk and scale and maintains the amenity for the neighbouring properties and views to and from the public and private domain. These are not simply benefits of the development as a whole, but are benefits emanating from the breach of the maximum floor space ratio control.

It is noted that in *Initial Action*, the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

7.3 Is the proposed development in the public interest because it is consistent with the objectives of Clause 4.4 and the objectives of the R3 Medium Density Residential Zone?

- (a) Section 4.2 of this written request suggests the 1st test in Wehbe is made good by the development.

Each of the objectives of the R3 Medium Density Residential Zone and the reasons why the proposed development is consistent with each objective is set out below.

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I have had regard for the principles established by Preston CJ in *Nessdee Pty Limited v Orange City Council [2017] NSWLEC 158* where it was found at paragraph 18 that the first objective of the zone established the range of principal values to be considered in the zone.

Preston CJ also found that *"The second objective is declaratory: the limited range of development that is permitted without or with consent in the Land Use Table is taken to be development that does not have an adverse effect on the values, including the aesthetic values, of the area. That is to say, the limited range of development specified is not inherently incompatible with the objectives of the zone"*.

In response to *Nessdee*, I have provided the following review of the zone objectives:

It is considered that notwithstanding the variation of the floor space ratio control, the proposed new works will be consistent with the individual Objectives of the R3 Medium Density Residential Zone for the following reasons:

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

The R3 Medium Density Residential Zone contemplates medium density residential uses on the land. The housing needs of the community are appropriately provided for in this instance through the proposed development to provide for modest additions and alterations to an existing dwelling which will provide for an appropriate level of family accommodation and in a form which respect the predominant height and scale of the surrounding dwellings.

The external height and appearance of the building comfortably complies with Council's maximum height control and the building will maintain its contribution to the immediate area.

The works are restricted to the rear elevation facing Fletcher Street. The view of the site from View Street will remain that of a single story dwelling, compatible with the adjoining terraced houses.

The compatible form and scale of the new works to the dwelling will meet the housing needs of the community within a medium density development which is permissible in the zone.

- ***To provide a variety of housing types within a medium density residential environment***

The minor works support the existing dwelling use of the site which will be unchanged. The proposal will not introduce any variation to the existing use and the site will maintain its current contribution to the

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available housing stock in the neighbourhood.

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

The development does not suggest any alternate land uses and this Objective is not directly relevant to the subject dwelling house development.

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

The proposal provides for minor alterations and additions to an existing dwelling development to facilitate the provision of additional bedroom accommodation for the family needs.

The proposed works do not see any change to the existing overall building height.

The proposal will be consistent with and complement the existing dwelling style development within the locality and the wider Woollahra area.

The site will see a minor increase in the soft landscaped area which will allow for improved planting opportunity.

The proposal has been well designed to complement the streetscape. The desired future character is not defined in the planning controls, but the proposal is consistent with the existing streetscape and with recent works in the area.

By maintaining the existing overall building height and setbacks, landscaped area and building footprint, the proposal is consistent with the existing bulk and scale of the building when viewed from the neighbours or from the street area. The works will maintain the existing townhouse use of the site which forms a significant contribution to the existing and future character of the neighbourhood.

• To ensure development conserves and enhances tree canopy cover

The proposed works are wholly over the existing disturbed footprint and while some small trees will be removed, increased opportunity for planting will be maintained through the removal of unnecessary paved area.

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7.5 Has Council obtained the concurrence of the Director-General?

Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020 to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice

7.4 Has the Council considered the matters in clause 4.6(5) of MLEP?

- (a) The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed new dwelling house for the particular site and this design is not readily transferrable to any other site in the immediate locality, wider region of the State and the scale or nature of the proposed development does not trigger requirements for a higher level of assessment.
- (b) As the proposed development complies with the objectives of the development standard and the objectives of the zone there is no significant public benefit in maintaining the development standard.
- (c) There are no other matters required to be taken into account by the secretary before granting concurrence.

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8.0 Conclusion

This development proposes a departure from the maximum floor space ratio development standard, with the proposed additions and alterations to the dwelling to present a minor increase in the existing non-compliance with the floor space ratio of 36.6% to 52.1%.

The provision of dwelling development this area is traditionally carried out without the requirement for a floor space ratio. Council introduced a floor space ratio to the locality on 14 July 2023.

The surrounding pattern of development in the area presents a similar bulk and scale to that of the proposal.

Dwelling development in this locality has traditionally been carried out without the requirement for compliance with a floor space ratio. Council introduced a floor space ratio control for dwelling development on 14 July 2023.

Surrounding first floor development in the area presents a similar bulk and scale to that of the proposal.

The design of the new development introduces an appropriate architectural design that sensitively distributes the sense of bulk and scale and maintains a compatible relationship with its neighbouring properties.

The proposal seeks to provide for a gross floor area of 166.22m² or a floor space ratio of 0.98:1.

This written request to vary to the maximum floor space ratio standard specified in Clause 4.4 of the Woollahra LEP 2014 adequately demonstrates that the objectives of the standard will be met.

The bulk and scale of the proposed development is appropriate for the site and locality.

Strict compliance with the maximum floor space ratio control would be unreasonable and unnecessary in the circumstances of this case.



VAUGHAN MILLIGAN
Town Planner



Woollahra
Municipal
Council

12 March 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 36/2024/1
ADDRESS: 51 View Street WOOLLAHRA 2025
PROPOSAL: Alterations and additions to the existing dwelling
FROM: Sam Knight
TO: W Ou

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Survey Plan, drafted by C & A Surveyors, dated 1 August 2023
- Architectural Drawings, drawn by Legend Design Studio, dated 18 January 2024
- Tree Root Investigation prepared by Seasoned Tree Consulting dated 1 December 2023

A site inspection was carried out on 20 March 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)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites



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4. SUMMARY

The proposal is supported subject to the below conditions being included into the DA consent.

5. COMMENTS

Inspection of the site and a review of the plans and documentation has revealed four (4) trees within and adjacent to the property will be impacted by the proposal.

Trees 1, 2 and 3 - have been identified as Manchurian Pears (*Pyrus ussuriensis*) located in the rear yard. The trees were noted in good health and good to fair condition.

Trees 1 and 2 - are relatively small specimens which provide minimal amenity and canopy cover to the immediate area.

Tree 3 - is of medium landscape value and retention value. The plans indicate this tree is proposed for removal as it is located within the footprint of the new off street parking space. Trees rated as being of Medium Retention Value are generally considered as less critical for retention than High Valued trees. However, their retention should be a priority with removal considered if all design options have been exhausted and adversely affecting the proposal.

The retention of this tree would only be possible if the off-street parking space was not supported. However, if the current proposal is to be supported by the planning team, replacement planting with a tree species that will replace the loss of canopy from the subject tree is to be undertaken at the completion of construction works. This has been detailed below for inclusion into the DA consent.

Tree 4 - has been identified as a Bottlebrush (*Callistemon viminalis*) located on the Fletcher Street frontage. The tree was noted in good health and fair condition.

The proposed driveway and crossover encroach within the Tree Protection Zone of this tree which has been calculated as being 3.6 metres (radius from tree trunk).

Tree Root Investigation has been undertaken along the western alignment of the crossover which has found one small root that measures 50mm in diameter. The removal of this root to allow installation of the new driveway and cross over is not expected to have any long-term impacts on the health and condition of the tree.

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.



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A. GENERAL CONDITIONS

A. 1.

Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees must be retained:

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Tree value
4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	8 x 6	\$5000

The tree/s required to be retained must appear coloured green on the Construction Certificate plans.

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1 - 4	<i>Pyrus ussuriensis</i>	Rear Yard	7 x 4 (avg)

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

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

c) The following trees may be pruned in accordance with Australian Standard Pruning of Amenity Trees (AS 4373) and Workcover NSW Code of Practice Amenity Tree Industry, to the minimum extent necessary to provide clearance to the new development:

Council Ref No	Species	Location	Approved pruning (extent of pruning)
4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	1x 50mm diameter root identified in the Arboricultural Statement for Root Investigation by Seasoned Trees dated 1/12/23

The tree/s required to be pruned must appear coloured blue 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.



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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

B.

1.



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		<p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> 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 <-- ### Invalid Field Definition ###, 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. <p>Notes:</p> <ul style="list-style-type: none"> 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 <p>Condition Reason: To ensure any relevant security and fees are paid.</p> <p>Standard Condition B14 (Autotext 14B)</p>
B.	2.	<p>Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)</p> <p>Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p>



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A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;

a) Tree Protection Fencing:

Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*
4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	2m

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

Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.

b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.

c) Trunk protection must be installed around the trunks of the following trees during installation of the new driveway:

Council Ref No	Species
4	<i>Callistemon viminalis</i>

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

d) 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.

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.



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	<p>f) 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.</p> <p>g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.</p> <p>h) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.</p> <p>Condition Reason: To ensure the protection of existing trees</p> <p>Standard Condition B.5 (Autotext 5B)</p>
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<p>B. 3.</p>	<p>Construction Management Plan Arborist Review</p> <p>Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.</p> <p>The plan must address:</p> <ul style="list-style-type: none"> a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding; b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.; c) Site construction access, temporary crossings and movement corridors on the site defined; d) Contractors car parking; e) Phasing of construction works; f) The space needed for all foundation excavations and construction works; g) All changes in ground level; h) Space for site sheds and other temporary structures such as toilets; i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas. <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p> <p>Standard Condition B.28 (Autotext 28B)</p>
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<p>B. 4.</p>	<p>Arborists Documentation and Compliance Checklist</p>
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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 non-compliance.
- 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	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist 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)

B. 5. Permissible work within Tree Protection Zones

Prior to any site works, the following works are permissible within the Tree Protection Zone:

Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works
4	<i>Callistemon viminalis</i>	3.6m	Installation of new driveway and crossover

The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.



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	<p>Condition Reason To establish the works which are permissible within the Tree Protection Zones.</p> <p>Standard Condition B.30 (Autotext 30B)</p>
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C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

<p>D 1.</p>	<p>Tree Protection Plan and Specification</p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> 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 <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> <p>Standard Condition D.30 (Autotext 30D)</p>
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E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F 1.	<p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ul style="list-style-type: none"> 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. <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework.</p> <p>Standard Condition F.8 (Autotext 8F)</p>
F 2.	<p>Arborists Documentation and Compliance Checklist</p> <p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> 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, and c) recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p>



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Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
While site work is carried out	<ul style="list-style-type: none"> 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. The project arborist must supervise the installation of the new driveway and crossover within 3.6 metres of Tree No.4, documenting the condition of roots and soil. Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees. Regular inspections as indicated in the Tree Management Plan.
<p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p>	
<p>Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.</p>	
Standard Condition F.45 (Autotext 45F)	

F3.

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)
<i>Banksia integrifolia</i> or <i>Libidibia ferrea</i>	Rear Yard	75L	8 x 8

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)



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F 4.	Driveway and Crossover Installation adjacent to Tree 4
	<p>A qualified Arborist (minimum AQF Level 5) shall supervise installation of the new driveway and crossover within the Tree Protection Zone of Tree 4. This includes excavation, form works and any disturbance to the ground between the trees.</p> <p>Installation of the driveway including excavation and formwork shall ensure tree sensitive methods are undertaken during the works. This must include hand excavation, small hand tools such as mattocks or using compressed air or water jetting only be used for excavation of the driveway and crossover and ensure tree roots equal to or greater than 50mm in diameter are not damaged or severed during the works.</p> <p>Approval is not granted for the severance, damaging, pruning or removal of any tree roots equal to or greater than 50mm in diameter (unless approved in these conditions of consent). The design and installation of the driveway and crossover shall be amended to ensure all tree roots equal to or greater than 50mm diameter are retained.</p> <p>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.</p> <p>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).</p> <p>The project arborist shall document compliance with the above condition.</p> <p>Condition Reason: To ensure the installation of the driveway and crossover works would not adversely impact upon the health of existing trees.</p>

F	4.	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.										
	<table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Radius from centre of trunk (metres)</th></tr><tr><td>4</td><td><i>Callistemon viminalis</i></td><td>Street tree – Fletcher Street frontage</td><td>3.6m</td></tr></table>				Council Ref No	Species	Location	Radius from centre of trunk (metres)	4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage
Council Ref No	Species	Location	Radius from centre of trunk (metres)								
4	<i>Callistemon viminalis</i>	Street tree – Fletcher Street frontage	3.6m								

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.



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	<p>Stormwater pits must be positioned so that no roots equal to or greater than 50mm diameter are severed.</p> <p>The project arborist must document compliance with the above condition.</p> <p>Condition Reason: To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees.</p> <p>Standard Condition F.52 (Autotext 52F)</p>
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G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

<p>G 1.</p>	<p>Amenity Landscaping</p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p>Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.</p> <p>Standard Condition G.6 (Autotext 6G)</p>
<p>G 2.</p>	<p>Landscaping</p> <p>Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.</p> <p>Condition Reason: To ensure that all landscaping work is completed prior to occupation.</p> <p>Standard Condition G.26 (Autotext 26G)</p>
<p>G 3.</p>	<p>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</p> <p>Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> 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.



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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)

G 4.	Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building			
	<p>Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> 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. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p>			
	<table> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> <tr> <td>Before the issue of any occupation certificate for the whole of the building</td><td> <ul style="list-style-type: none"> • 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 subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. </td></tr> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Before the issue of any occupation certificate for the whole of the building
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include			
Before the issue of any occupation certificate for the whole of the building	<ul style="list-style-type: none"> • 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 subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. 			



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	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.35 (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: <ul style="list-style-type: none">• 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.

Sam Knight
Tree Officer

25 March 2024
Completion Date

William Ou

From: Sagar Chauhan
Sent: Tuesday, 26 March 2024 2:12 PM
To: William Ou
Subject: Referral Response - Heritage - DA2024/36/1 - 51 View Street WOOLLAHRA

Hi William

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:

- Architecture drawing set by Legend Design Studio dated October 18/01/2024
- Heritage Impact Statement by John Oultram Heritage & Design, dated March 2024
- Statement of Environmental Effects by Vaughan Milligan Development Consulting Pty Ltd, dated January 2024
- Survey by C&A Surveyors, dated 01/08/2023

SUBJECT PROPERTY

The following description of the site has been extracted from the HIS:

51 View Street is a single storey, Edwardian period terrace house in the later version of the Italianate style set on a long, narrow site to the south side of the street. The house is partly intact to its primary form but has been heavily altered internally and has a modern, two storey extension to the rear. The house is one of a row of seventeen houses (23-53 View Street) that are all to a similar design and in handed pairs.

The house is in rendered masonry (originally face brick) with a gabled, slate roof with a rendered masonry chimney. There is a verandah to the front set between flanking party walls with a bullnose, corrugated metal roof and lace valance (O). The verandah is laid with tessellated tiles with a slate border (O). The front windows have stucco mouldings and cills (O). The house has a two storey addition to the rear partly in the attic with a full width, single storey skillion wing to the rear with a lightwell at the house.

Internally the house has the typical plan of a side hall divided with a decorated arch with bedrooms off that opens out to an open plan living room, kitchen and dining room. The second bedroom has been converted to a bathroom. There is a modern central stair to the upper bedrooms and bathroom. The house has been very heavily altered internally and much of the original fabric removed.

Floors are in polished timber and tile (M). Walls are in rendered masonry (O & M) with no skirtings (O). The upper walls are in plasterboard (M). Original ceilings (to the front bedroom alone) are in plaster and lath with a decorated cornice but all others have been replaced in plasterboard. All doors have been replaced apart from the four panel front door and glazed highlight. There are modern glazed doors at the rear. The front windows are two pane, double hung, timber sashes (O) but all others have been replaced. There is a fireplace to the front bedroom with a marble surround (O) with the inset removed.

The house has a small, garden at the front bounded by a rendered masonry wall (M). There is a paved yard at the rear with a perimeter planters and a high, timber fence to Fletcher Street.

The house is one of a long group that are to a similar detail to the front but which have all been altered at the rear with single and two storey extensions.

View Street is lined with single and two storey house from the same period. The house backs on to Fletcher Street that is lined with the rear yards to the houses fronting View Street many of which have two storey extensions to the rear in a variety of styles.

O ORIGINAL
L LATER
M MODERN

PROPOSAL

The following description of the proposal has been extracted from the HIS:

Ground Floor

- Reconfiguration of the central bathroom
- New doors to the hall
- Reconfiguration of the kitchen

The side atrium will be retained.

First Floor

- New ensuite to the attic
- New window to the hall stair
- Reconfiguration of the bathroom
- Extension of the rear bedroom
- New extension to the rear for an additional bedroom
- New deck at rear

The two, rear bedrooms will be set boundary to boundary but the central lightwell will be retained. The extension is set over the current ground floor with the deck aligning with the wall below.

The extension is in lightweight construction with a skillion corrugated metal roof with a central 'ridge'.

External Works

- Removal of the side planters
- Re-landscaping
- New gates to Fletcher Street

Part of the paved area will be retained but the remainder laid to lawn with a permeable paving to a 'hardstand'. The gates will be in timber with rendered masonry piers.

WOOLLAHRA LEP 2014

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

Clause 5.10 Heritage Conservation

1 (a) to conserve the environmental heritage of Woollahra,

1 (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

The subject site is not a heritage item, but is within Woollahra Heritage Conservation Area, identified as a heritage item of local significance on Schedule 5 of the LEP.

The NSW State Heritage Inventory includes the following statement of significance for the conservation area:

The Woollahra HCA has historical, aesthetic, technical and social significance at the local level.

The surviving built and natural fabric of the Woollahra HCA has significance for its ability to demonstrate the important historical phases of the area's development. These phases include the development of large estates during the mid-19th century, small lot residential development in the mid-19th century, retail development of the mid-19th to early 20th centuries, speculative subdivisions of the late-19th century, Inter-War consolidation and municipal improvements of the 20th century.

In its surviving elements of built fabric, the Woollahra HCA retains the potential to reveal evidence of ways of life, building and land uses which have now changed or disappeared. Such fabric includes:

- early domestic kitchens and their associated service areas and technology;
- former stable buildings;
- outbuildings including early external toilets and garages;
- 'nightsoil' lanes;

- paling fences and gates to rear lanes;
- front fences and gateposts to buildings that have been demolished;
- bricked-up openings to former doors; and
- first floor loading bays to former industrial and storage buildings.

The Woollahra HCA has high aesthetic significance for its visual complexity derived from:

- the variety of significant public and private building types;
- the variety of significant architectural styles and scales within the range of building types;
- the complex and varied subdivision pattern;
- the significant intact and remnant landscape; and
- the municipal parks and small reserves.

The Woollahra HCA contains aesthetically contributory items of architectural excellence dating from all the major periods of its development, many designed by the eminent architects of their period.

The area has social significance for its association with the growth of the heritage conservation movement in Sydney during the 1960s. It was an early example of an area which received recognition by the National Trust and the Australian Heritage Commission through the efforts of the local community.

The proposal could have a neutral impact on the cultural significance of the conservation area, subject to incorporating design amendments and addressing requests for further information. This is further discussed below.

WOOLLAHRA DCP 2015

Part C Heritage Conservation Areas

Chapter C2 Woollahra Heritage Conservation Area

Clause C2.2.5 Desired future character of the Woollahra HCA

Objectives: O1, O2, O3, O4, O5

- The proposal has the potential to be complementary with the desired future character of the conservation area, subject to incorporating design amendments and addressing requests for further information. This is further discussed below.

Clause C2.3.6 Fletcher Precinct

Objectives: O3, O4, O5

Additional objectives: O1, O2

Controls: C1, C2

- The single car parking space would be consistent in the terrace row, and is generally supported. (C1)
- Compliance with Control C1 f) is to be demonstrated. (C1)
- The proposed rear alterations and additions would be consistent in the terrace group, and are generally supported. The two-storey rear addition, including the privacy screen and awning, would not be secondary to the single storey terrace, however this would be consistent with other rear additions in the row. The rear setbacks at ground and first floor levels follow the established setbacks at the adjoining terraces. (C2)

Clause C2.4.1 Single storey residential buildings

Objectives: O2

Controls: C2, C3, C4, C5, C6, C8

- The terrace row has been extensively altered to the rear with a large number of terraces featuring two-storey rear additions with varied roof forms. Therefore, in this instance on merit, the proposed two storey rear addition is generally supported. (C2) (C3) (C5) (C6) (C8)
- The boundary to boundary ground floor extension is generally supported. (C4)

Clause C2.4.4 Terrace style housing

Objective: O1, O2, O3, O4

Controls: C1, C5, C6, C7, C10, C11, C12

- As noted above, the proposed rear alterations and additions, including roof form, are generally supported. (C1) (C5) (C6) (C7) (C10) (C11) (C12)

Clause C2.5.1 Building height, form and character

Objectives: O1, O3

Controls: C1, C6, C7, C8, C9

- The rear alterations and additions are generally consistent in the row in terms of scale, bulk, envelope, levels, setbacks, character and roof form. (C1) (C6) (C7) (C8) (C9)

Clause C2.5.2 Conservation of contributory items

Objectives: O1, O2, O3, O4, O5

Controls: C1, C2, C3

- The significant fabric, internally and externally, of the terrace is retained. The proposed alterations and additions to the rear are generally supported. (C1) (C2) (C3)

Clause C2.5.3 Conservation of contributory groups

Objectives: O1, O2

Controls: C1, C2, C4

- As noted above, the proposed rear alterations and additions are generally consistent within the row. (C1) (C2) (C4)

Clause C2.5.4 Materials, finishes and colours

Objectives: O1, O3

Controls: C1, C2, C5, C6, C10, Table 1

- The materials, finishes and colours are generally supported. (C1) (C2) (C5) (C6) (Table 1)
- The standing seam roof sheeting is to be replaced by a corrugated profile. The standing seam cladding to wall is not supported. (C1) (C2) (Table 1)
- The material, finish and colour of external doors and windows are to be specified. (C10) (Table 1)

Clause C2.5.5 Roofs, skylights and chimneys

Objective: O1

Controls: C1, C2, C4, C8

- The proposed roof forms for rear additions are supported. The roof cladding is to be replaced as prescribed below. (C1) (C2) (C8)
- Compliance with Control C4 is to be demonstrated. (C4)

Clause 2.5.7 Fences, gates and retaining walls

Objectives: O1, O2

Controls: C15

- The proposed gate to car parking is to be replaced as prescribed below. (C15)
- The pedestrian gate is supported. (C15)

Clause 2.5.8 Parking and garages

Objectives: O1, O2, O4

Controls: C1, C2, C3, C6, C8, C9

- The proposed car parking and associated gates are generally supported. (C1) (C2) (C3) (C6) (C8) (C9)

CONCLUSION

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – The development could conserve built and natural environmental heritage of Woollahra, subject to incorporating design amendments and addressing requests for further information.

Clause Part 5.10

1(a) The development could conserve the heritage of Woollahra, subject to incorporating design amendments and addressing requests for further information.

1(b) The impact upon the cultural heritage significance of the conservation area would be neutral, subject to incorporating design amendments and addressing requests for further information.

4 This referral constitutes an assessment under this clause.

RECOMMENDATION

Prior to further assessment, following design amendments are to be incorporated and requests for further information are to be addressed:

1. Compliance with Woollahra DCP 2015 Part C Chapter C2 C2.3.6 Control C1 f) is to be demonstrated.
2. Compliance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.5 Control C4 is to be demonstrated.
3. The standing seam metal roofing is to be replaced by a metal roofing in traditional corrugated profile (natural metallic finish or a pre-coloured mid or dark grey metal sheeting) in accordance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2, C5, C6; Table 1; and Clause C2.5.5 Control C8.
4. The material, finish and colour of external doors and windows, including shutters, are to be specified in accordance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2, C5, C6, C10; and Table 1.
5. The standing seam wall cladding to balcony is to be deleted in order to comply with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2; and Table 1.
6. The material, finish and colour of balustrade to balcony is to be specified in accordance with Woollahra DCP 2015 Part C Chapter C2 Clause C2.5.4 Controls C1, C2, C5, C6; and Table 1.

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: www.woollahra.nsw.gov.au

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

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



William Ou

From: Robert Lam
Sent: Tuesday, 2 April 2024 7:59 AM
To: William Ou
Subject: DA36/2024/1 - 51 View Street, Woollahra - New Engineering Conditions (New Crossing, No underpinning, SW Plans, Dilap Rpt)

Hi William,

Apologies for the late reply.

Please be advised that Council's Development Engineers have no objections to this application from an engineering perspective. The applicant is required to construct a new vehicular crossing as part of this application which will be conditioned accordingly. The following engineering conditions are recommended.

A. GENERAL CONDITIONS

A.8 Ancillary Aspect of the Development (S80A(2) of the Act)
(Autotext 8A)

A.31 No Underpinning works
(Autotext 31A)

B. BEFORE DEMOLITION WORK COMMENCES

B.4 Erosion and Sediment Controls - Installation
(Autotext 4B)

B.7 Public Road Assets prior to any work/demolition
(Autotext 7B)

B.14 Payment of Security and Fees

Property Damage Security Deposit (S138)	\$16,915	No	T115
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B.16 Dilapidation Reports for Existing Structures

No. 49 & 53 View Street
(Autotext 16B)

B.18 Adjoining buildings founded on loose foundation materials
(Autotext 18B)

B.21 Works (Construction) Zone – Approval & Implementation
(Autotext 21B)

D. BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

D.13 Road and Public Domain Works

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 removal of the existing kerb and gutter and the construction of a new 2.5 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 must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the roller door. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment,
- b) 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,
- c) The reinstatement of any damaged kerb and gutter, footpath and road pavement within the frontage and vicinity of the site as a result of construction works to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,
- d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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 <i>Environmental Planning and Assessment Act 1979</i>			
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".
- 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.

	<ul style="list-style-type: none"> • 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.
	<p>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.</p>

D.25 Erosion and Sediment Control Plan – Submissions & Approval
(Autotext 25D)

D.35 Structural Adequacy of Existing Supporting Structures
(Autotext 35D)

D.36 Professional Engineering Details
(Autotext 36D)

D.37 Engineer Certification
(Autotext 37D)

D.45 Parking Facilities
(Autotext 45D)

D.51 Stormwater Management Plan

D 51.	<p>Stormwater Management Plan</p> <p>Before the issue of any Construction Certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a chartered professional civil engineer, which include the following:</p> <ol style="list-style-type: none"> a) The discharge of stormwater from the site, by direct connection to the street kerb. b) The provision of a minimum 450mm x 450mm boundary junction pit prior to discharging stormwater from the site to the street drainage system. The discharge of stormwater from the site to the street kerb must be located 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. 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. c) All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and
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- gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- d) 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.
 - 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) 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.
 - g) Detail any remedial works required to upgrade the existing stormwater drainage system.
 - h) Dimensions of all drainage pits and access grates must comply with AS3500.3.
 - i) Compliance the objectives and performance requirements of the BCA.
 - j) 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 and dimensions of all downpipes,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

Where new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works 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 <i>Specification for Roadworks, Drainage and Miscellaneous Works (2012)</i> .
	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
(Autotext 14E)

F. DURING BUILDING WORK

F.7 Maintenance of Vehicular and Pedestrian Safety and Access
(Autotext 7F)

F.11 Maintenance of Environmental Controls
(Autotext 11F)

F.13 Support of Adjoining Land Owners
(Autotext 13F)

F.15 Erosion and Sediment Controls – Maintenance
(Autotext 15F)

F.17 Disposal of Site Water during Construction
(Autotext 17F)

F.19 Site Cranes
(Autotext 19F)

F.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
(Autotext 20F)

G. BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

G.7 Commissioning and Certification of Systems and Works
(Autotext 7G)

G.29 Works within Public Land (including Council, State or Federal owned land or property)
(Autotext 29G)

G.32 Works-As-Executed Certification of Stormwater System

G 32.	Works-As-Executed Certification of Stormwater System
	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 prepared by a registered surveyor and submitted for approval by 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.
	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

Thanks



Robert Lam
Team Leader - Development Engineering

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028
t: 02 9391 7136
e: robert.lam@woollahra.nsw.gov.au w: www.woollahra.nsw.gov.au

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

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

From: William Ou <William.Ou@woollahra.nsw.gov.au>
Sent: Tuesday, 12 March 2024 10:46 AM
To: Robert Lam <Robert.Lam@woollahra.nsw.gov.au>
Cc: Thomass Wong <Thomass.Wong@woollahra.nsw.gov.au>
Subject: Additional information provided - 51 View Street, Woollahra - DA 36/2024/1

Hi Robert,

I hope you're well.

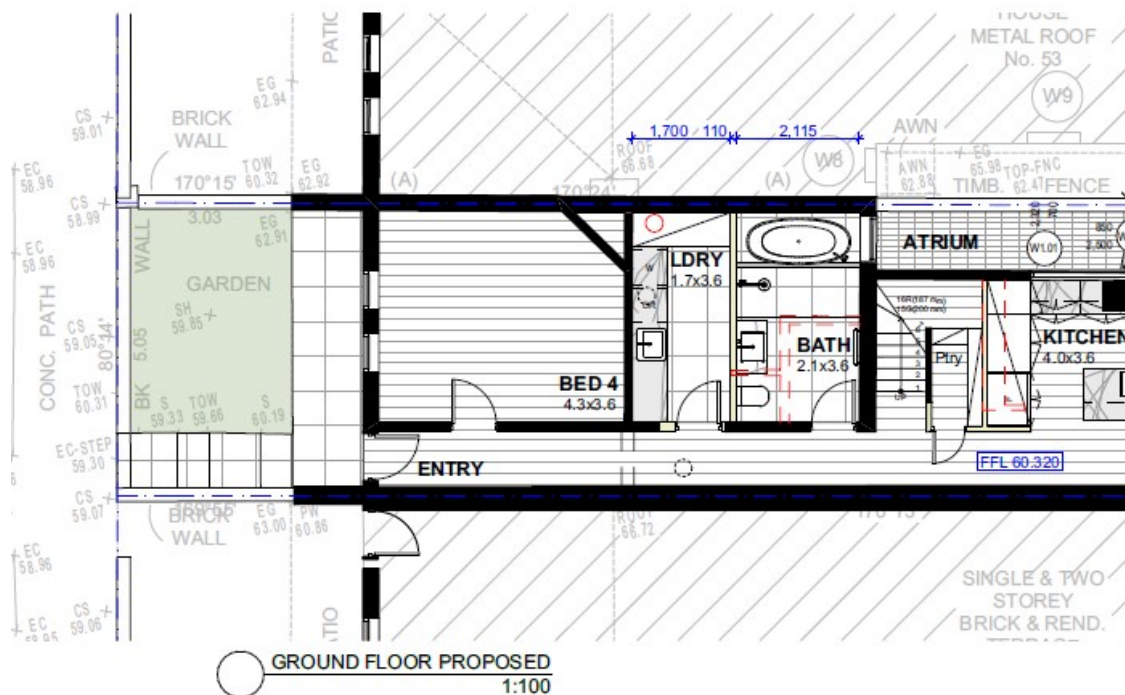
The applicant has submitted updated ground floor plan to address minimum dimensions of vehicular parking arrangement.

Vehicular Access and Parking Arrangement

A preliminary assessment of the submitted architectural plans has identified the following issues which shall be addressed by the applicant prior to further assessment:

- a) Minimum dimensions of 3m x 5.4m, clear of any obstructions, shall be provided for the off-street parking space to comply with AS2890.1. In this regard, these required dimensions and the design envelope around parked vehicle, as per Figure 5.2 of AS2890.1 are to be clearly depicted on the revised architectural plans,

Revised architectural plans addressing the above issue shall be submitted to Council for further assessment.



Liban\micha\Dropbox\Legend Design Studio\Projects\23005 - 51 View St, Woollahra\51 View St, Woollahra - DA01.pln

William



William Ou
Assessment Officer

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028
t: 9391 7905
e: William.Ou@woollahra.nsw.gov.au w: www.woollahra.nsw.gov.au

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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA224/2023/1
ADDRESS	46 Hopetoun Avenue Vaucluse
COUNCIL WARD	Vaucluse
SITE AREA	892.9m ²
ZONING	R2 Low Density Residential
PROPOSAL	Alterations and additions to a dwelling house including an additional level; replacement of the swimming pool and landscaping
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,990,682
DATE LODGED	29/06/2023
APPLICANT	Xpace Design Group
OWNER	C L Kovarsky
AUTHOR	Mr M D'Alessio
ACTING TEAM LEADER	Mr D Booth
SUBMISSIONS	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:

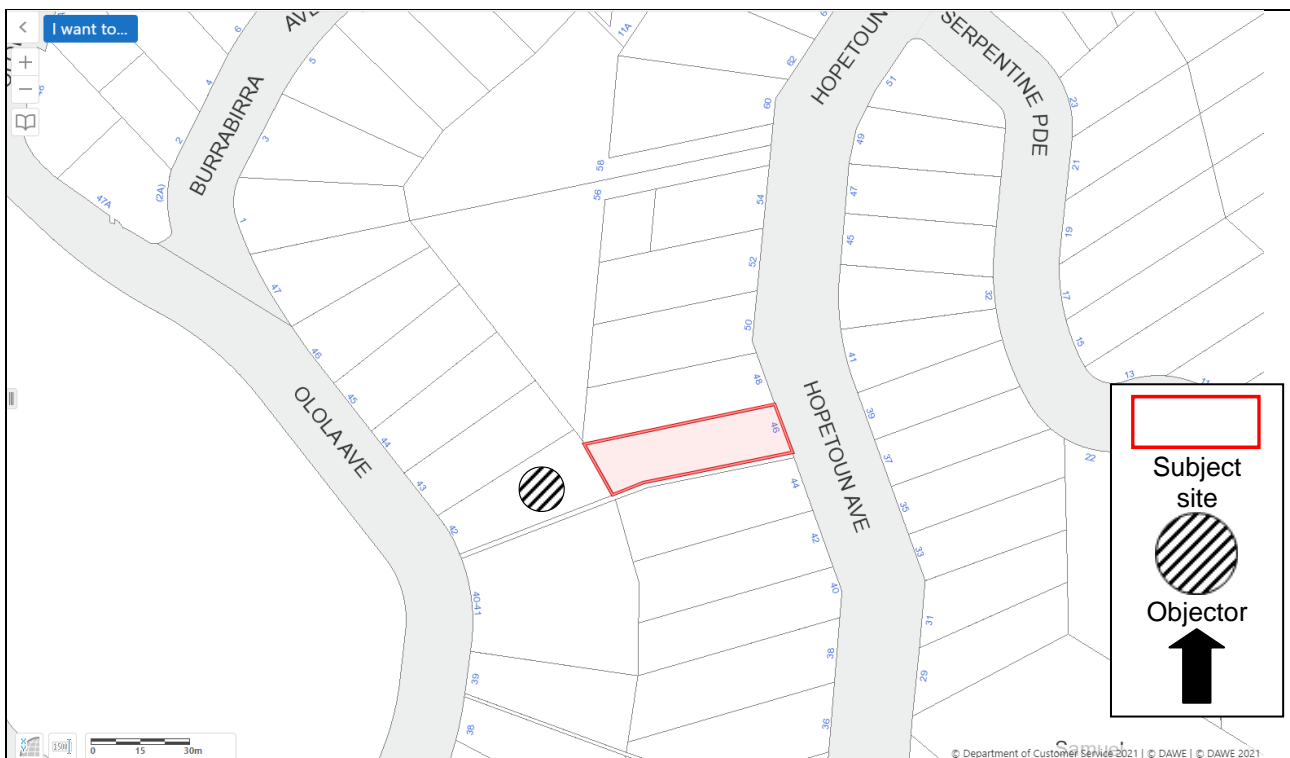
- Departure from development standards
 - (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

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 as conditioned is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;
- It as conditioned 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;
- The site is suitable for the proposed development as conditioned; and
- The proposal is not contrary to the public interest

3 LOCALITY PLAN



4 DESCRIPTION OF THE PROPOSAL

The proposal was amended on 14/08/2023, 04/04/2024 and 05/04/2024. Revised plans and supporting documentation were lodged under Clause 37 of the Environmental Planning and Assessment Regulation 2021. The following revised plans and supporting documentation were submitted:

- Aboriginal Heritage Impact Assessment – 14/08/2023
- Revised architectural plans – 04/04/2024
- BASIX stamped architectural plans – 04/04/2024
- BASIX stamped architectural plans – 05/04/2024
- Amended BASIX Certificate – 05/04/2024

The proposal as amended involves alterations and additions to an existing dwelling house, including an additional level (Level 2/Second floor level); replacement swimming pool and landscaping, as follows:

Basement Level (RL47.020AHD)

No works proposed

Ground and Lower Ground level

Alterations and additions, including:

- Existing Lower and Ground Floor levels maintained to lower ground floor (RL 48.10) ground floor (RL49.24) and entry (RL 50.77).
- Existing garage enlarged, reconfigured bin storage areas.
- Addition of a lift.
- Realignment and reconfiguration of fenestration patterns to front, side and rear elevations.
- Rear landscaping work including the reconfiguration of the swimming pool.

Level 1

Alterations and additions, including:

- Existing Level 1 floor levels maintained Level 1 (RL 52.52) and entry (RL 53.49).
- Internal wall reconfiguration.
- Existing access entry path and access structures enlarged.
- Addition of a lift.
- Realignment and reconfiguration of fenestration patterns to front, side and rear elevations.

Level 2

- Addition of Level 2 at RL55.46, comprising open plan living/dining/kitchen area, bathroom, internal lift/stairs with rear terrace.

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	2.1m or 22.1% departure from the 9.5m control	Acceptable

5.2 Primary Issues

Issue	Conclusion	Section
Objectors' concerns	Amendments made to the application have satisfactory addressed the principal issues raised in the submission such that the residual concerns are insufficient to warrant the refusal of the application or further modification of the application.	5.3

5.3 Summary of Submissions

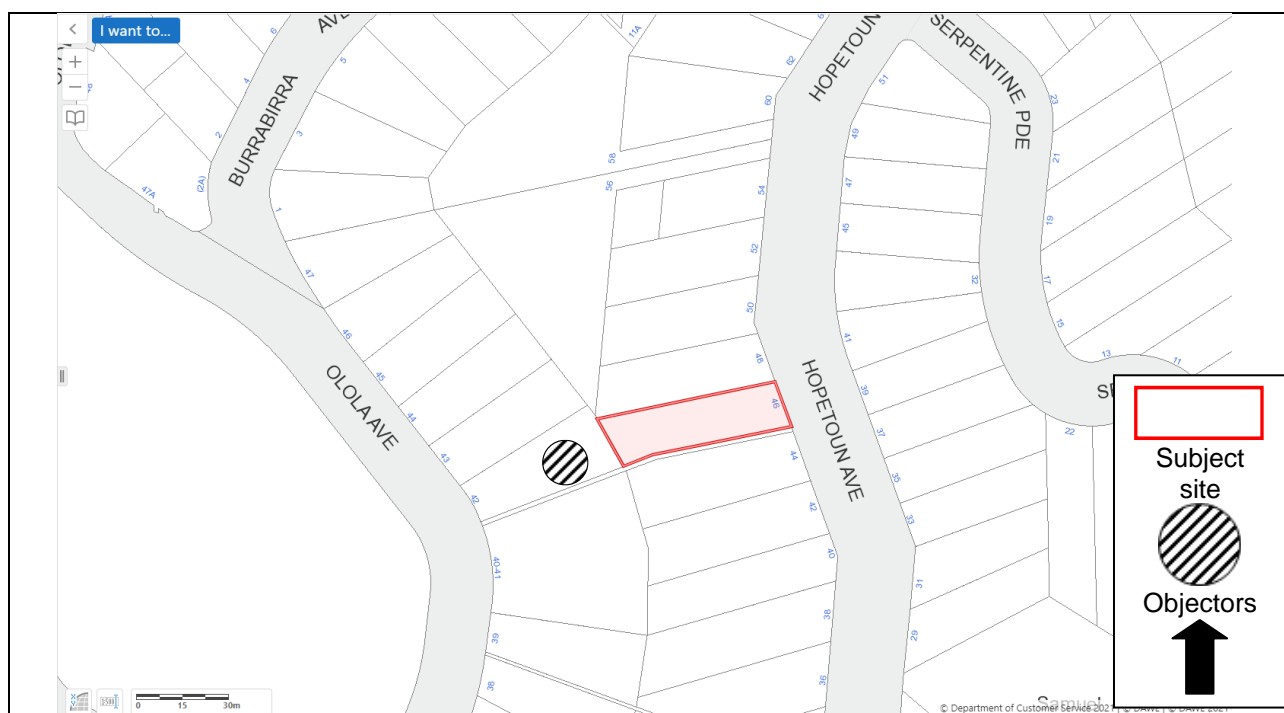
Issue	Conclusion	Section
<p>Adverse acoustic and visual privacy impacts to neighbouring properties:</p> <ul style="list-style-type: none"> • 42 Olola Avenue Vaucluse (Acoustic and visual impacts associated with height and proximity of the proposed new pool and pool deck) • <i>There will be a large pool deck (> 5m x 3.6m) some 1.3 metres from our boundary fence.</i> • <i>The proposed new pool and deck will be 1.87 metres higher than the current pool (RL 48.10 v RL 46.23).</i> • Numerical non-compliance with O1, O2 & O3 of Part B3.5.4 and O1 & C4 of B3.7.4 of the Woollahra DCP 2015 	<p>In response to a preliminary assessment including consideration of the submitted objection revised plans were submitted to address the principal issue of the height of the pool deck above existing ground level.</p> <ul style="list-style-type: none"> • The proposal as revised has lowered the swimming pool surrounds by 0.67m (RL47.430AHD) so that they are 1.2m above the existing ground level (RL46.23AHD) in accordance with O1 & C4 of B3.7.4 of the Woollahra DCP 2015. • The setback of the swimming pool (measured from the water edge) is at least 1.8m from property boundaries and does not occupy the deep soil landscape area along the rear boundary in accordance with O1, O3, C1 and C3 of B3.7.4 of the Woollahra DCP 2015. • The pool and deck are suitably designed and located to not permit direct views to neighbouring habitable room windows and private open space within 9m in accordance with O4 and C7 of Part B3.5.4 of the Woollahra DCP 2015. • The pool deck is suitably designed and located in accordance with O6 and C14 of Part 3.7.1 of Woollahra DCP 2015 in terms of taking advantage of the outlook and natural features of the site, reducing adverse privacy and overshadowing impacts and addresses surveillance and privacy from the adjoining public space to the southern side boundary. 	13

Issue	Conclusion	Section
	As recommended to be determined, the setback and siting of the new pool and pool deck would not give rise to any significant additional visual or acoustic privacy impacts upon adjoining properties in accordance with Part B3.5.4 and B3.7.4 of the WDCP 2015.	

PROPERTY DETAILS AND REFERRALS

6 SITE AND LOCALITY

Physical features
The site is an irregular allotment of land, with an eastern site frontage of 15.39m, southern side boundary lengths of 45.695m and 10.85m, a western rear boundary of 17.75m, and a northern side boundary of 59.445m. The total site area is 892.9m ² .
Topography
The site has a fall of 7.39m (RL 53.61 AHD to RL 46.22 AHD) measured through the sites centre from front to rear.
Existing buildings and structures
The site contains a two storey dwelling house, garaging is located forward of the dwelling and the rear of the site contains a swimming pool.
Surrounding Environment
<p>The site is located in the Vaucluse West Residential Precinct. Section B1.10.1 of the Woollahra DCP includes the following precinct character statement:</p> <ul style="list-style-type: none"> <i>...It is a low density residential precinct characterised by large dwelling houses. Though the architectural styles and forms vary, these dwelling houses are generally located within a garden setting and have common street setbacks and side setbacks that allow for views between buildings. Recent development has tended to take the form of three storey dwelling houses with flat roof designs.</i> <i>The landform, street trees, domestic gardens and substantial foreshore parklands create a dominant visual impression of a well treed landscape. The location adjacent to the harbour also provides for water and parkland views from the streets.</i>



7 RELEVANT PROPERTY HISTORY

Current use
Residential
Relevant Application History
<u>44 Hopetoun Avenue Vaucluse</u> <ul style="list-style-type: none"> DA 708/2008/1 Dwelling House Alterations & additions, approved 01/12/2008 DA1076/1999/1 Construct new two storey dwelling with garage, swimming pool, approved 07/02/2000
<u>46 Hopetoun Avenue Vaucluse</u> <ul style="list-style-type: none"> DA 419/2021/3 Section 4.55 Internal and external modifications to the approved new dwelling, approved 03/04/2024 DA 419/2021/2 Section 4.55 Internal and external modifications to the approved new dwelling, upheld with Amended Plans 24/05/2023 DA 419/2021/1 Dwelling Demolition of existing structures and construction of a new dwelling house with basement carparking, swimming pool and cabana; and associated landscaping, approved 05/07/2022
Requests for Additional Information and Replacement Applications
<ul style="list-style-type: none"> 13/07/2023 STC Request for Aboriginal Heritage Impact Assessment Report 14/08/2023 Aboriginal Heritage Impact Assessment submitted

8 REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Satisfactory, subject to recommended conditions provided as part of the initial assessment.	N/A
Trees and Landscaping	Satisfactory, subject to recommended conditions.	3
Heritage	Satisfactory, subject to recommended conditions.	4
Drainage Engineer	Satisfactory, subject to recommended 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 or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)
3. The provisions of any development control plan
4. The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4
5. The provisions of the regulations (to the extent that they prescribe matters for the purposes of this paragraph)
6. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
7. The suitability of the site for the development
8. Any submissions made in accordance with this Act or the regulations
9. The public interest

9 ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 19 July 2023 to 3 August 2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan. One (1) submission was received from:

1. A M Pert & R G Sims 42 Olola Avenue Vaucluse NSW 2030

The issues raised in the submission has been summarised in Section 5.3 of this report and considered throughout the report.

9.2 Revised plans and supporting documentation

The revised plans and supporting documentation noted in Section 4 were not renotified to surrounding residents and previous objectors under the Woollahra Community Participation Plan because they were considered to have no greater cumulative environmental or amenity impact.

9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 4 August 2023 declaring that the site notice for DA224/2023/1 was erected and maintained during the notification period in accordance with Schedule 6.4 of the Woollahra Community Participation Plan.

10 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 Vegetation in non-rural areas

The proposal is considered to be satisfactory with regard to the relevant provisions of Chapter 2 of 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 does not contravene the relevant general requirements under Part 6.2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

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

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

The development application was accompanied by BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed in the conditions of consent.

12 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 therefore satisfactory with regard to the relevant provisions of the Chapter 2 of SEPP (Resilience and Hazards) 2021.

Chapter 4 Remediation of Land

Clause 4.6(1) (a) of SEPP (Resilience and Hazards) 2021, requires consideration to be given as to whether the subject land is contaminated. The application maintains the existing residential land use of the subject land, the site is not within an investigation area.

Assessment of the initial site evaluation information provided by the applicant indicates the land does not require further consideration under Clause 4.6 of SEPP (Resilience and Hazards) 2021.

13 WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Clause 1.2: Aims of Plan

The proposal as recommended to be determined is consistent with the aims in Clause 1.2(2) of the Woollahra LEP 2014.

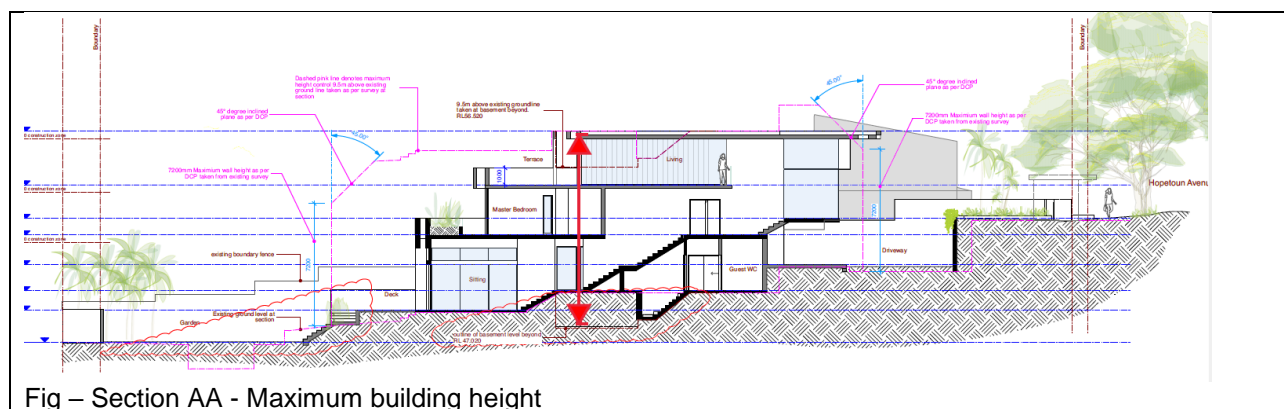
13.2 Land Use Table R2 Low Density Residential zone

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

13.3 Clause 4.3: Height of Buildings

Clause 4.3 (2) limits development to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	8.43m RL55.45AHD – RL47.02AHD	11.6m RL58.62AHD – RL 47.020AHD	9.5m	No



As identified in the maximum height of buildings compliance table, the proposal does not comply with Clause 4.3 (2) of Woollahra LEP 2014 as detailed and assessed below under Clause 4.6 of the Woollahra LEP 2014.

13.4. Clause 4.6: Exceptions to Development Standards

Departure

The portions of the Level 2 additions located above the existing basement level are non-compliant with the 9.5m maximum building height development standard under Clause 4.3(2) of Woollahra LEP 2014 as detailed above.

The proposed alterations and additions result in a maximum building height of 11.6m (RL58.62AHD – RL 47.020AHD) measured from the existing basement level to the level 2 roof room which exceeds the 9.5m maximum height of buildings standard under Clause 4.3(2) of Woollahra LEP 2014 for the site by 2.1m, representing a 22.1% departure from the control.

Purpose

Clause 4.6 allows for the contravention of a development standard (provided that the standard is not expressly excluded from the section), with the objectives of the clause being:

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

Applicant's Written Request

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

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

There are a number of environmental planning grounds specific to the site and the height non-compliance which justify contravening the development standard in this instance. As mentioned, the exceedance is a function of topography. The variation also represents consistency win the context. It maintains environmental amenity. These will be discussed below.

Function of Topography (Existing Basement Excavation)

The non-compliance is entirely related to the sudden drop in the EGL, due to existing basement excavation. The area of departure is limited to a central location where the EGL is substantially lower than the rest of the site. Given the anomalous EGL, it is near inevitable that any works at a similar location would not comply with the height standard. This is in accordance with the Court decisions in Bettar and Merman.

As indicated, the technical variation is required to achieve a consistent flat roof design. The proposal has ensured a compliant appearance in the streetscape and overall. Strict compliance with the standard would result in an awkward dip in the flat roof, which is considered unreasonable under the circumstances.

Consistency in the Context and with Desired Future Character

The proposal is permissible in the R2 Low Density Residential zone, is consistent with the relevant zone objectives and satisfies an 'unreasonable and unnecessary' test established by the court in Wehbe. The proposed new works, including the limited area of non-compliance at the centre, have been designed to represent a built form that matches the bulk and scale of the developments along the street, reinforcing the existing and emerging characteristics of the Vaucluse West Precinct. The proposed new works at the top level will improve dwelling's amenity and building's longevity, and having the area of exceedance at the centre of the flat roof ensures the proposal will maintain the desirable streetscape characteristics when viewed from Hopetoun Avenue.

In fact, strict compliance with the standard is likely to result in an inconsistency with the desired future character as it would result in an awkwardly shaped dip in the roof form. The proposal in its current form is a considerate design that responds to the context and desired future character.

Good Internal and External Amenity

The proposed technical non-compliance is considered to provide a better planning outcome for residents. The proposed variation will accommodate an additional level with enhanced amenity, compatible with the storey height of adjoining developments. This will improve internal amenity of the existing house. It will also maintain amenity for neighbours, to the same extent as a compliant envelope.

Overall, the variation will rationalise the internal design to enhance the amenity of the existing dwelling. Importantly, the limited location of the area of variation has ensured that amenity is maintained for neighbours.

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).

The Clause 4.6 written statement submitted with the development application is included in full as **Attachment 2**.

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

Council's Assessment

Clause 4.6(3) requires Council to be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention.

Council is required to undertake a critical review of the written request, and any other material that the Applicant has provided seeking to demonstrate the matters in clause 4.6(3). This is set out below.

Clause 4.6(4) Assessment

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

(a) *The consent authority is satisfied that:*

- (i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) *The concurrence of the Secretary has been obtained.*

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

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

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

Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (Wehbe), Preston CJ established five potential tests (the Wehbe test) for determining whether a development standard could be considered unreasonable or unnecessary:

- *The first is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*
- *The second is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- *The third is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- *The fourth is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- *The fifth is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

However, the five tests set out in Wehbe above are not the only ways that an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (**Initial Action**), Preston CJ stated at paragraph 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.

The applicant's written request principally adopts the first method of the Wehbe tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances:

- The submitted Clause 4.6 Written Request and the arguments provided relevant to Test 1 in that the objectives of the development standard are achieved notwithstanding non-compliance with the standard are largely agreed with and accepted.

The applicant's written request has adequately demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. It is considered that the non-compliances satisfy the unreasonable or unnecessary tests established by the Court in *Wehbe* and the provisions of cl 4.6(3)(a).

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

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

Environmental planning grounds which justify the contravention of the standard

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

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

For reasons provided by the applicant and discussed, there are sufficient environmental planning grounds to justify contravening the development standard in this instance and the breach of the HOB development standard is considered to be in the public interest.

S1.3 of the EPA Act states:

1.3 Objects of Act

The objects of this Act are as follows:

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

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

The written request provides explanation of how the proposed development and in particular the breach of the HOB development standard is reasonable and supportable in the circumstances. In doing so, the written request provides sufficient environmental planning grounds to justify contravention of the Height of Buildings development standard, as it demonstrates that the proposal achieves aims (c) and (g) of Section 1.3 of the Act.

The elements of the proposed Level 2 that extend beyond 9.5m maximum building height above existing ground level (the existing basement level) adequately uphold the above-mentioned objects of the Act that on the basis that:

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

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

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

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

The Court made the following relevant comments:

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

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

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

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

In light of the above judgement, regard has been given to the height of the non-compliant components above natural ground level, i.e. the ground level that existed prior to previous excavation of the site. In this regard, the proposal is less than 9.5m above natural ground level.

The height non-compliant elements of the Level 2 addition that extend beyond 9.5m above existing ground level are limited to those located above the previously excavated existing basement level and not natural ground level. The non-compliant elements of the Level 2 addition are considered to be justifiable particularly in light of the Level 2 addition being overwhelmingly compliant with council's building envelope and floorplate controls.

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

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

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

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

- 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 development standard and the objectives of the subject R2 Low Residential Density zone. An assessment against these objectives is provided below:

Clause 4.3 – Height of Buildings

Objectives of Clause 4.3

The proposal is assessed against sub-clause (1) objectives of Clause 4.3 which specify the following objectives:

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

Background:

'Desired Future Character' (DFC) of the neighbourhood or area is not defined in the WLEP 2014

In *SJD DB2 Pty Limited v Woollahra Municipal Council [2020] NSWLEC 1112* ('SJD'), it was determined that the existing and approved developments located in the vicinity should be taken into consideration when assessing whether the proposal achieves the DFC of the neighbourhood or area.

The conclusions found by AC Clay in SJD were later affirmed on appeal by CJ Preston in *Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115*. Stemming from the findings in SJD, C Gray gave further clarity as to what local aspects can inform DFC in *Ricola Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1047* ('Ricola') at Para 23:

23 Throughout the WLEP 2014, there is a common objective in the zone and in the development standards for height and FSR, for the development to be compatible with the desired future character. The desired future character can be ascertained from the applicable development standards, the controls in the WDCP 2015 and recent approvals.

The non-compliant elements of the Level 2 additions are considered to be of an appropriate scale and form contextually so as to be compatible with the character and amenity of the surrounding neighbourhood.

To assess whether the proposed height breach achieves the DFC of the neighbourhood, it is reasonable to consider the DFC objectives for the Vaucluse West Residential Precinct as specified in Part B1.10.2 of the WDCP 2015.

The proposed height breach is considered to satisfy these objectives in relation to the DFC elements that relate to the height and scale of the development – refer to discussion under Part B1.10: Vaucluse West Residential Precinct of the Woollahra DCP 2015 of this report.

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

The aspects of the Level 2 addition that give rise to the height of building non-compliances are considered to be of an appropriate scale and form contextually so as to be compatible with the character and amenity of the surrounding neighbourhood. Accordingly, the non-compliance is considered to be consistent with the above-mentioned objective of the height of buildings development standard.

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

The aspects of the Level 2 addition that give rise to the height of building non-compliances are considered to be will not result in any significant overshadowing to adjoining properties and solar access will be maintained to adjoining properties in accordance with Council's requirements. Accordingly, non-compliance is considered to be consistent with the above-mentioned objective of the height of buildings development standard.

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

The aspects of the Level 2 addition that give rise to the height of building non-compliances will not result in any significant view loss, loss of privacy, overshadowing or visual intrusion to adjoining properties. Accordingly, the non-compliances are considered to be consistent with the above-mentioned objective of the height of buildings development standard.

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

The height of building non-compliances will not result in any significant loss of public views. Accordingly, the non-compliances are considered to be consistent with the above-mentioned objective of the height of buildings development standard.

The objectives of the R2 Low Density Residential zone

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

The dwelling house use is permissible within the subject R2 Low Density Residential zoning. The height of building non-compliances associated with the Level 2 addition are considered to be compatible with the low-density residential surrounds. Accordingly, the non-compliances are considered to be consistent with the above-mentioned objective of the zone.

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

This objective is not relevant to the subject application.

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

It is considered that the non-compliances adequately uphold the above-mentioned objectives on the basis that:

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

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

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

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

Conclusion

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

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

The proposal is therefore considered to be satisfactory with regard to the provisions of Clause 4.6 of Woollahra LEP 2014.

13.5 Clause 5.10: Heritage Conservation

The Clause 5.10 (1) objectives for heritage conservation are as follows:

- (a) to conserve the environmental heritage of Woollahra,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Heritage items and buildings, works, relics or trees within a heritage conservation area

The subject site is located in vicinity to the following Heritage items listed and described in Schedule 5 as follows:

Suburb	Item name	Address	Property description	Significance	Item no
Vaucluse	Street name inlays	Various		Local	677

Council's Heritage Officer has advised that the subject property is a heavily modified dwelling. It is not a heritage item, located in a HCA or a potential heritage item. Therefore, it is not considered a contributory item or a significant item.

Aboriginal Object or Place

The subject site forms part of an area of Potential Aboriginal Heritage Sensitivity Land.

The recommended conditions of this report include requirements in terms of unexpected finds protocols for any Aboriginal objects or unexpected findings. Refer to **Conditions B.4, B.5, B.6 and B.7**

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

13.6 Clause 5.21: Flood Planning

The objectives of Clause 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.*

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

Council's Drainage Engineer has advised that the proposal is satisfactory subject to conditions. Refer to **Conditions C.13 and C.14**

As recommended to be determined is considered to be satisfactory with regard to the provisions of Clause 5.21 of Woollahra LEP 2014.

13.7 Clause 6.1: Acid Sulfate Soils

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 Clause 6.1 of Woollahra LEP 2014.

13.8 Clause 6.2: Earthworks

Clause 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.

Excavation works are required as part of the proposal, including for the new swimming pool. The proposed excavation works have been reviewed and considered by Council's technical experts as follows:

- Council's Development Engineer considers the proposed earthworks to be satisfactory in terms of geotechnical/ hydrogeological issues, subject to conditions
- Council's Heritage Officer raised no objection on the basis of any archaeological considerations, subject to conditions
- Council's Trees Officer has raised no objection on the basis of detrimental impacts to existing significant trees or vegetation, subject to conditions.

As recommended to be determined, the proposal is acceptable with regard to the relevant objectives in Clause 6.2 of the Woollahra LEP 2014.

14 WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B1: Residential Precinct

14.1.1 Part B1.10 Vacluse West Precinct

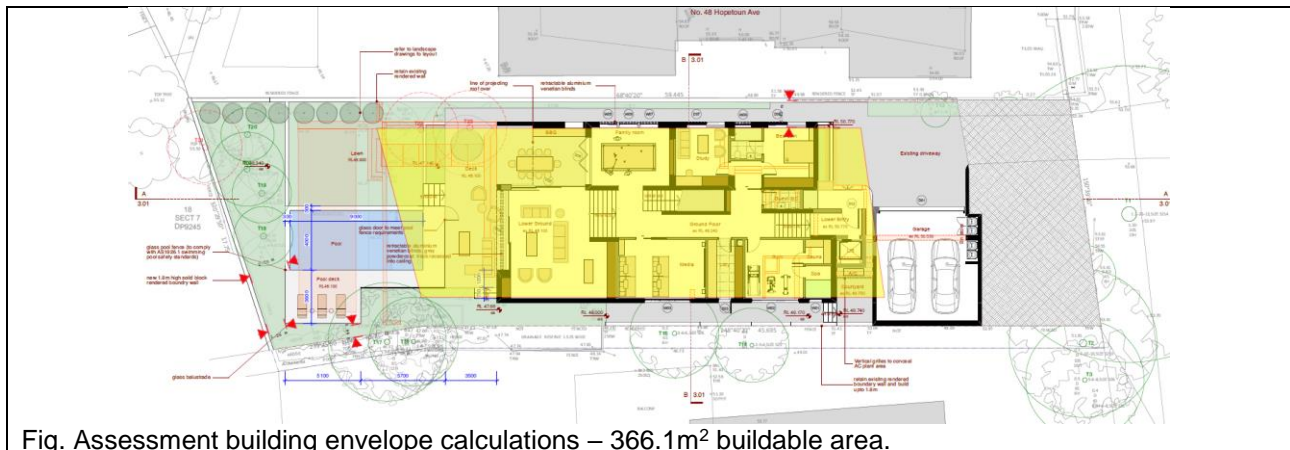
The proposal meets the streetscape character and key elements of the precinct a), b), c), d) and e) and desired future character objectives O1, O2, O3, O4, O5, O6, & and O8 of the Vacluse West Precinct, as noted in Part B1.10.2 of the Woollahra DCP 2015.

14.2 Chapter B3: General Development Controls

14.2.1 Part B3.2: Building Envelope

Site area 892.9m ²	Existing	Proposed	Control	Complies
C1 B3.2.2 - Front Setback <ul style="list-style-type: none"> • Ground floor • First floor 	14.055m	13.7m	14.055m (as existing)	No
C1, C2 B3.2.4 - Rear Setback <ul style="list-style-type: none"> • North side setback • South side setback 	>12.696m >11.571m	>12.696m >11.571m	12.696m 11.571m	Yes Yes
C1 B3.2.3 - Side Boundary Setbacks (north elevation) <ul style="list-style-type: none"> • Ground floor • First floor • Second floor 	1.45m 1.45m --	Maintained Maintained 3m	1.9m	No No Yes

Site area 892.9m ²	Existing	Proposed	Control	Complies
C1 B3.2.3 - Side Boundary Setbacks (south elevation) (excluding garage) • Ground floor (LG) • First floor (L1) • Second floor (L2)	1.6m 1.6m --	Maintained Maintained 2.77m	1.9m	No No Yes
C1 B3.2.5 - Maximum Wall Height • East (front elevation) • West (rear elevation) • North (side elevation) • South (side elevation)	$\leq 7.2\text{m} \ \& \ \leq 45^\circ$ $\leq 7.2\text{m} \ \& \ \leq 45^\circ$ $6\text{m} - 7.7\text{m} \ \& \ \leq 45^\circ$ $7.2\text{m} - 8.2\text{m} \ \& \ \leq 45^\circ$	$7.7\text{m} \ \& \ > 45^\circ$ $\leq 7.2\text{m} \ \& \ > 45^\circ$ $6.8\text{m} - 8.2\text{m} \ \& \ > 45^\circ$ $6\text{m} - 7.6\text{m} \ \& \ > 45^\circ$	$\leq 7.2\text{m} \ \& \ \leq 45^\circ$	No Yes No No
C2 B3.2.2 – Maximum Unarticulated Length to Street	<6m	<6m	6.0m	Yes
C4 B3.2.3 - Maximum Unarticulated Wall Length • North elevation • South elevation	16m 16.6m	19.2m (12.2m Level 2) 22m (12.2m Level 2)	12m	No No



The existing dwelling house predates the current building envelope controls of the Woollahra DCP 2015. The proposal seeks to retain built elements that will remain in breach of building envelope controls established by applying the following controls:

- Front setback under Parts B3.2.2 – Existing garage
- Side setbacks under Part B3.2.3 – Existing south and north side setbacks ground and first floor levels
- Maximum wall height and 45° inclined plane under Part B3.2.5 – Existing south and north side elevation wall heights

Part B3.2.2: Front Setback

O1, O2, O3 and C1 specify:

- O1 To reinforce the existing streetscape and character of the location.
- O2 To provide consistent front setbacks in each street.
- O3 To provide for landscaped area and deep soil planting forward of the building.
- C1 The front setback of the building envelope is determined by averaging the three most typical setbacks of the four closest residential buildings that face the same side of the street...

The numerical front setback under C1 is the horizontal distance between the building envelope and the primary street boundary, measured at 90° from the boundary (excluding car parking structures).

The existing dwelling house predates the current building envelope controls. This assessment accepts the utilisation of the existing 14.055m front setback of the building as the front setback under C1.

As detailed in the building envelope assessment table above, the proposal includes non-compliance against the applicable front setback control under C1.

Numerical non-compliance with C1 in terms of the enlargement of the existing garage structure and the proposed Level 2 entry and access structure located forward of the front setback (outside of the building envelope) is supported on the basis that these elements do not hinder achievement with the underlying objectives O1, O2 and O3 of Part B3.2.2, including:

- O1, O2 and O3 - The proposal maintains the existing parking arrangements including sufficient deep soil landscape forward of the front setback screening the garage structure.
- O1, O2, O3 and O4 - The location of the garage and new Level 2 entry and access structure display adequate contextual response to the Hopetoun Avenue streetscape.

As recommended to be determined, the proposal is adequately accordant with the relevant front setback objectives and controls:

- O1, O2, O3 and C1 (front setback)
- O4 and C2 (maximum unarticulated width)

Part B3.2.3: Side Setbacks

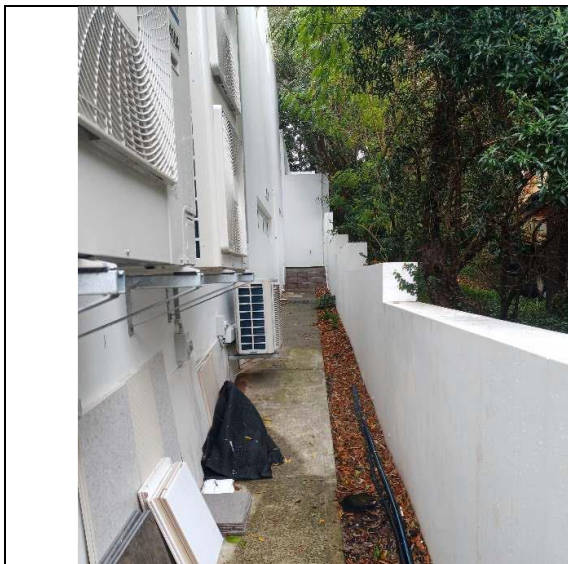


Fig. Existing southern side setback



Fig. Existing front and northern side setback

O1, O2, O3, O4, O5, O6, O7, C1 and C4 specify:

- *O1 To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.*
- *O2 To ensure the side elevation of buildings are well articulated.*
- *O3 To protect the acoustic and visual privacy of residents on adjoining properties.*
- *O4 To facilitate solar access to habitable windows of adjoining properties.*
- *O5 To facilitate views between buildings.*

- *O6 To provide opportunities for screen planting.*
- *O7 To allow external access between the front and rear of the site.*
- *C1 The minimum side setback for dwelling houses, semi-detached dwellings and dual occupancies is determined by the table in Figure 5A.*
- *C4 The building has a maximum unarticulated wall length of 12m to the side elevation.*

The side setback under C1 is the horizontal distance between the side property boundary and the building envelope, measured at 90° from the boundary at the front setback. With a lot width exceeding 15m at the front setback, C1 requires a minimum side setback of 1.9m.

As detailed in the building envelope assessment table above:

- The existing north and south elevation side setbacks ground and first floor levels are non-compliant with the 1.9m side setback control under C1.
- The existing north and south elevation un-articulation length do not accord with the 12m maximum unarticulated wall length control under C2.

The proposal includes new works to these elevations and seeks to maintain the existing non-compliances under C1 and C2. The proposed Level 2 is compliant with C1 but is non-complaint with C2.

The assessment is satisfied that numerical non-compliance with C1 and C2 does not hinder achievement with the underlying objectives O1, O2, O3, O4, O5, O6 and O7 of Part B3.2.3, including:

- O1 - The existing side setbacks to be maintained are suitable contextual response to the streetscape where reduced side setbacks are common.
- O2 - The side elevations of the building are adequately articulated
- O6 - Sufficient side boundary screening vegetation is proposed.
- O1, O3 and O4 – Side setbacks would not give rise to adverse amenity impacts to the subject and neighboring properties in terms of sense of enclosure, acoustic and visual privacy, solar access and views.
- O7 - The proposal maintains external access between the front and rear of the site.

Accordingly, the proposal is adequately accordant with the relevant side setback and maximum unarticulated width objectives and controls:

- O1, O2, O3, O4, O5, O6, O7, C1 and C4 (side setback and maximum unarticulated width)

Part B3.2.4: Rear Setback

The rear setback is the horizontal distance between the building envelope and the rear property boundary, measured parallel to the side boundaries

The formula for determining the rear setback is rear setback = A – C – B:

- A = Site depth (developed area excluding the access handle)
- B = Front setback (as per Part B3.9)
- C = Building depth (A x % for A on the building depth sliding scale)

Formulaic compliance with C1 of Part B3.2.4 results in rear setbacks parallel to the side boundaries as follows:

- 12.696m parallel to north boundary
- 11.571m parallel to north boundary

As set out in the building envelope compliance table above, the proposal accords with the rear setback control. The proposal accords with the relevant rear setback objectives and controls:

- O1, O2, O3, O4, O5, O6, C1, C2 and C4 (rear setback)

Part B3.2.5: Wall Height and Inclined Plane

A wall height of 7.2m (accommodating two storeys) and an inclined plane of 45° applies to the front, side and rear elevations. These controls respond to the typical pitched roof house form, but also potentially accommodate three storey flat roof housing forms with a reduced top storey.

O1, O2, O3, O4, O5, C1 and C2 specify:

- *O1 To limit the bulk, scale and visual impact of buildings as viewed from the street and from adjoining properties.*
- *O2 To limit overshadowing of adjoining properties across side boundaries.*
- *O3 To limit overshadowing to south facing rear yards.*
- *O4 To provide acoustic and visual privacy to adjoining and adjacent buildings.*
- *O5 To facilitate views between buildings.*
- *C1 On land zoned R2 Low Density Residential and for a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone:*
 - a) the wall height is 7.2m above existing ground level; and*
 - b) an inclined plane is taken from a point 7.2m above existing ground level at each of the setbacks (the inclined plane is at 45 degrees from horizontal); and*
 - c) roof eaves may protrude into the setback if below the inclined plane.*
- *C2 A variation to the wall height of 7.2m may be considered where the slope of the site within the building envelope is greater than 15 degrees.*
The variation will only be considered to walls located nearest to the downslope section of the building envelope, i.e. the section with the lowest existing ground level.
A request for a variation must demonstrate that the increased wall height is consistent with the objectives of this section of the DCP, consistent with the objectives for development within the zone in which the development is proposed to be carried out, and there are sufficient environmental planning grounds to justify the variation.

As detailed in the building envelope assessment table above:

- The existing north and side elevations exceed the wall height and inclined plane control at the first floor level and therefore non-compliant with C1a).
- The proposal includes new works to these elevations, including the raising of wall heights further breaching C.1a) and the introduction of a flat roof formed Level 2 addition that includes side elevation walling that breaches the 45 degree incline plan control under C.1b).

The slope of the site within the building envelope is less than 15°.

Numerical non-compliance with C1 does not hinder achievement with the underlying objectives O1, O2, O3, O4, and O5 of Part B3.2.5 including:

- O1 – Bulk and scale and visual impact of the building is consistent with the desired future character of the area and is accordant with the pattern of surrounding development.

- O2, O3, O4 and O5 – Non-compliance does not give rise to an adverse, acoustic and visual privacy impact, view loss or adverse overshadowing impact to surrounding properties.

As recommended to be determined, the proposal is adequately accordant with the relevant Wall height and inclined plane objectives and controls:

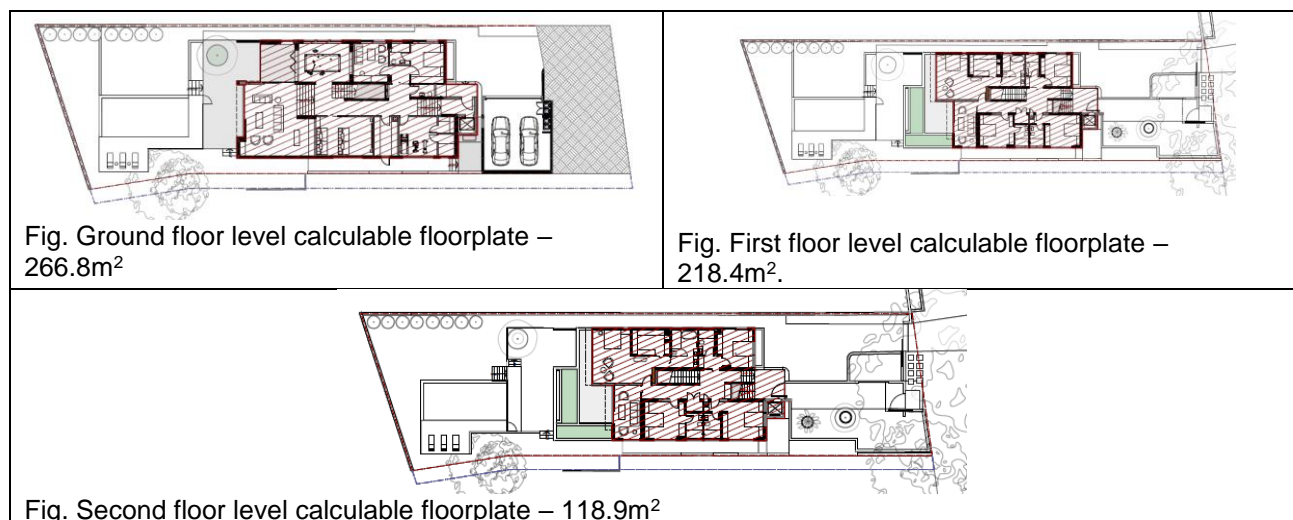
- O1, O2, O3, O4, O5 and C1 (wall height and inclined plane)

Conclusion

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

14.2.2 Part B3.3: Floorplate

Site area 892.9m ²	Existing	Proposed	Control	Complies
C1 B3.3 Maximum Floorplate (366.1 x 1.65= 604.1m ²)	< 165% < 604.1m ²	165% 604.1m ²	165% 604.1m ²	Yes
C2 B3.3 New floorplate is to be wholly within the building envelope	No	No	wholly within the building envelope	No



The development potential for a site is determined by the total floorplate. This is calculated as a percentage of the buildable area. The buildable area is the area of the site that is identified once the front, rear and side setbacks have been established.

O1, O2, O3, O4, O5, C1, C2, C3, C4, C5 and C6 specify:

- O1 To ensure the bulk and scale of buildings are consistent with the desired future character of the area.
- O2 To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.
- O3 To encourage the design and location of car parking within the building envelope.
- O4 To allow, in certain circumstances, development outside the building envelope.
- O5 To allow development to respond to the topography and context.
- C1 The total floorplate of a development does not exceed 165% of the buildable area.
- C2. New floorplate is to be wholly within the building envelope (refer to C6 for exceptions).

- *C3 The floorplates at each level are distributed to:*
 - a) respond to the predominant character of the immediate streetscape;*
 - b) retain public views; and*
 - c) provide for view sharing of private views.*
- *C4 The built form complies with solar access and privacy controls in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.*
- *C5 Where car parking is provided within the building envelope, the garage area (up to 40m²) is added to the permitted total floorplate*
- *C6 Notwithstanding C2, the following buildings are permitted outside the building envelope:*
 - a) an outbuilding;*
 - b) parking structures but only where:*
 - there is rear lane access; or*
 - the site is located on sloping land and garaging forward of the building line is a reasonable response to the topography (as set out in Section B3.6 On-site parking, control C6)*
 - the existing streetscape in the immediate vicinity of the site is characterised by parking structures forward of the building line (as set out in Section B3.6 On-site parking, control C9 and C10).*

These buildings are only permitted when:

- c) minimum deep soil landscaped area and private open space requirements are met, as set out in Section 3.7.1 Landscaped areas and private open space; and*
- d) solar access and privacy requirements within the site, and to the adjoining properties, are met as set out in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.*

The maximum amount of development permitted on the site is determined by multiplying the buildable area by a factor of 1.65 (165%). In this instance, this equates to 604.1m².

As detailed in the floorplate compliance table above, the proposal accords with the numerical area maximum floorplate control under C1. However, the proposal includes new calculable floor plate not wholly located in the building envelope as specified by C2 as follows:

- Portions of the new Level 2 (second floor level) floorplate is in breach of the 7.2m wall height controls and incline plane control C1 of Part B3.2.5 (side and front elevations)
- The second floor level entry and access structure front roof extension is located above the inclined plane control C1 of Part B3.2.5

Elements of the garage structure located outside of the building envelope and in breach of side and front setback control are satisfactory in terms of C6b) as the existing streetscape in the immediate vicinity of the site is characterised by parking structures forward of the building line notwithstanding numerical non-compliance with front setback deep soil landscaped area requirements as specified by C6c).

In accordance with C3, new floorplates is distributed to:

- a) respond to the predominant character of the immediate streetscape;
- b) retain public views; and
- c) provide for view sharing of private views.

Numerical non-compliance with C2 does not hinder achievement with the underlying objectives O1, O2, O3, O4 and O5 of Part B3.3, including:

- O1 – Proposed bulk and scale of the building is consistent with the desired future character of the area and is accordant with the pattern of surrounding development.

- O2 - Non-compliance does not give rise to an adverse, acoustic and visual privacy impact, view loss or adverse overshadowing impact to surrounding properties.
- O1, O4 and O5 – The siting of portions of the proposed Level 2 additions in breach of the 7.2m wall height and incline plane control to the side and front elevations (outside of the permissible building envelope) are accordant with pattern of surrounding development.

Conclusion

The proposal as recommended to be determined is acceptable with regard to the underlying objectives of the floorplate controls in Part B3.3 of the Woollahra DCP 2015.

14.2.3 Part B3.4: Excavation

Site area 892.9m ²	Existing	Proposed	Control	Complies
C1 B3.4 Maximum Volume of Excavation	--	6.88m ³ (swimming pool elements <i>located inside of building envelope component</i>)	228.58m ³	Yes

As detailed in the excavation compliance table above, the proposal accords with the maximum volume of excavation control under C1.

As provided by control C5, the volume controls in C1 and C2 do not apply to backyard swimming pools and tennis courts located outside the building envelope. Separate controls apply which limit excavation, refer to Section 3.7.4 Ancillary development – swimming pools.

The proposal is compliant in terms of the applicable excavation objectives and controls:

- O1, C1 and C5 (Excavation)

14.2.4 Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

Site area 892.9m ²	Proposed	Control	Complies
C2 B3.5.1 Retain vegetation of landscape value	No change	Vegetation of landscape value retained	Yes
C3 B3.5.1 Siting of Development	Steps down sloping sites and follows the topography of the land	Steps down sloping sites and follows the topography of the land	Yes
C4 B3.5.1 External building materials and colours	External building materials and colours do not detract from the streetscape.	External building materials and colours do not detract from the streetscape.	Yes
C5 B3.5.1 Roof forms and roof structures	Suitably accordant	Well-designed, contribute positively to streetscape, well-integrated with the architecture	Yes
C6 B3.5.1 Materials	use of reflective materials is minimised	Use of reflective materials is minimal	Yes
C8 B3.5.1 Roof Materials	Non-reflective	Roof materials are non-reflective	Yes
C9 B3.5.1 Casual Surveillance Windows Facing Street/Public Area	One – Level 2	One	Yes



As recommended to be determined, the proposed alterations and additions to the dwelling house are compatible with the streetscape and the desired future character of the area in accordance with C1.

In terms of C2, Council's Tree Officer considers the proposal to be satisfactory with regard to tree impacts subject to conditions.

In accordance with O1 and C5, **Condition C.1b** is recommended to ensure certainty of development consent in terms of the maximum building height of the principal roof and lift (including any lift overrun) is not to exceed RL 58.62AHD.

The proposed new principal roof form (level 2 addition) to the dwelling house is considered to be satisfactory with regard to C1, C3, C5, C7 and C8 and is contextually compatible within the existing predominant roof forms in the locality.

In accordance with C9, the building as altered addresses the street, provides opportunities for casual surveillance and one habitable room will overlook the street frontage.

The proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, O3, C1, C2, C3, C4, C5 and C6 (streetscape character)
- O4, C7 and C8 (roof forms)
- O5 and C9 (public domain surveillance)

Part B3.5.2: Overshadowing

Site area 892.9m ²	Existing	Proposed	Control	Complies
C1a) B3.5.2 Solar access to primary ground level open space of adjacent properties:				
• 42 Olola Ave Vaucuse	>50% and >35m ² >3hs 9.00am – 3.00pm	Not further reduced	50% or 35m ² for 2 hours 2 hours on 21 June where less no further overshadowing	Yes
• 40- 41 Olola Ave Vaucuse	≥50% and <35m ² >3hs 9.00am – 3.00pm	Not further reduced		Yes
• 44 Hopetoun Ave Vaucuse	>50% and >35m ² 3hs 10.00am – 3.00pm	>50% and >35m ² 3hs 12.00pm – 3.00pm		Yes

O1, C1 and C2 specify;

- *O1 To minimise overshadowing to adjoining properties.*
- *C1 The development is designed so that:*
 - a) sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; and*
 - b) north facing windows to upper level habitable rooms of adjacent dwellings receive at least 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface.*
- *C2 Lot orientation may make C1 above difficult to achieve so a reduced amount of solar access may be considered, provided the proposed building complies with all setback controls.*

The Woollahra DCP 2015 definition of *north facing* as follows:

- ***north facing*** the orientation range within 20° west and 30° east of true solar north.

The application is supported by horizontal and vertical shadow diagrams prepared at 9am, 12pm and 3pm for the winter solstice (21 June).

In accordance with C1a) the proposal maintains access to sunlight being provided to at least 50% of the main ground level private open space of the following adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June:

- 42 Olola Avenue Vacluse (between 9am and 3pm on 21 June)
- 40 - 41 Olola Avenue Vacluse (between 9am and 3pm on 21 June)
- 44 Hopetoun Avenue Vacluse (between 12pm and 3pm on 21 June)

In accordance with C1b), access to sunlight is maintained to the north facing windows to upper level habitable rooms of the adjacent building located to 44 Hopetoun Avenue Vacluse (As approved under DA419/2021) (> 3 hours of sun between 9am and 3pm on 21 June).

The proposal is compliant in terms of the applicable objectives and controls:

- O1, C1 and C2 (overshadowing to adjoining properties)

Part B3.5.3: Public and Private Views

Public views

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

Private views

No significant loss of private views are envisaged as a result of the proposal and proposed landscaping is considered to be satisfactory in terms of view impacts.

The proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, C1, C2, C3 and C4 (public views and vistas)
- O3, C5, C6, C7 and C8 (private views – view sharing)
- O4, C9 and C10 (private and public views – landscaping)

Part B3.5.4: Acoustic and Visual Privacy

Acoustic Privacy

O1, C1 and C2 specify:

- *O1 To ensure adequate acoustic privacy for occupants and neighbours.*
- *C1 Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.*
- *C3 Electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 either within or at the boundaries of any property at any time of the day.*

The application is subject to an objection from 42 Olola Avenue Vaucluse in terms of adverse acoustic and visual impacts associated with height and proximity of the proposed new pool and pool deck:

- The proposal was satisfactorily revised to limit the height of the pool deck (swimming pool surround) 1.2m above ground level to address the acoustic and visual privacy issues raised.
- As recommended to be determined the setback of the proposed new pool and pool deck would not give rise any significant additional visual or acoustic privacy impacts upon adjoining properties in accordance with Parts B3.5.4, B3.7.1 and B3.7.4 of the WDCP 2015.

It is considered that the proposal will not result in any significant acoustic privacy impacts upon adjoining properties subject to the imposition of Council's standard conditions relating to the control of offensive noise and the noise attenuation of mechanical Plant. Refer to **Conditions I.4** and **I.5**.

The proposed as revised accords with the relevant objective and controls:

- O1, C1 and C3 (adequate acoustic privacy)

Visual Privacy

O2, C4, C5 and C6 specify:

- *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.*
- *C4 New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.*
 - a) *Window location—primary windows to habitable rooms are located and designed to provide an outlook to the front and rear setbacks, not the side boundaries.*
 - b) *Layout and separation—offsetting windows from the windows/private open spaces of the adjoining dwelling to limit views between the windows/private open space.*
 - c) *Architectural design solutions and devices—redirecting and limiting sightlines using deep sills with planter boxes, fixed horizontal or vertical louvres, or other screening devices set off the windows internally or externally.*
 - d) *Glazed opening windows—using windows with translucent glazing to a height of 1.5m above floor level and fitted with a winder mechanism to control the maximum angle of the opening to limit views.*
 - e) *Glazed fixed windows or high sills—using fixed windows with translucent glazing in any part of the window below 1.5m above floor level, or window sill heights of 1.5m above floor level.*

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

The proposal is adequately designed in accordance with C4, C5 and C6. In terms of ensuring 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. The proposal is acceptable in terms of the minimisation of visual privacy impacts to adjoining properties and achieving compliant distances of lines of sight to privacy sensitive areas of adjoining properties within 9m.

The proposal is accordant with the relevant objectives and controls:

- O2, C4, C5 and C6 (visual privacy)

Impacts of private open space

O3, C7, C8, C9, C10 and C11 specify:

- *O3 To minimise the impacts of private open space.*
- *C7 Private open spaces and the trafficable area of roof terraces (at or below the second storey) are to be suitably located and screened to prevent direct views to neighbouring:*
 - a) habitable rooms (including bedrooms) within 9m; and*
 - b) private open space within 9m.*

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

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

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

- *C10 The trafficable area of a roof terrace (above the second storey) is setback so that there is no direct line of sight, from that part of the building where the terrace or deck is, to:*
 - a) neighbouring private open space within 12m; or*
 - b) windows of habitable rooms in neighbouring dwellings within 12m.*
- *C11 Lighting installations on a roof terrace or upper level deck are:*
 - a) contained within the roof terrace area and located at a low level; or*
 - b) appropriately shaded and fixed in a position so light is projected downwards onto the floor surface of the terrace.*

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

As set out previously, the proposal was satisfactorily revised to limit the height of the proposed pool deck (swimming pool surround) to 1.2m above ground level to address the acoustic privacy issues raised, the proposal as revised does not give rise to overlooking from the pool deck in accordance with O3 and C7.

Proposed balconies, decks and terraces are suitably located & screened to prevent direct views to neighbouring habitable rooms or private open space within 9m and 12m in accordance with O3, C7 and C10.

In terms of O3 and C11, standard **Condition I.3** in terms of Outdoor Lighting – Residential control of the obtrusive effects of outdoor lighting is recommended to be imposed.

The proposed is accordant with the relevant objectives and controls:

- O3, C7, C8, C9, C10 and C11 (minimise the impacts of private open space)

Part B3.5.5: Internal Amenity

Numerical non-compliance with C2 in terms of a sanitary compartment (ground floor level Guest WC) not having direct natural light and direct natural ventilation, is not determinative to this assessment.

The proposal is adequately compliant in terms of the applicable objectives and controls:

- O1, O2, C1, C2, C3 and C4 (adequate internal amenity)

14.2.5 Part B3.6: On-Site Parking



Fig. Existing on-site garaging to be enlarged

Subject to conditions, Council's Development Engineer has advised that vehicular access and parking arrangements are considered satisfactory.

As set out previously the existing dwelling house and garage predate the current building envelope controls.

The garage structure located forward of the building envelope (contrary to C1c) and C4) is long established. Proposed new works to the garage do not detract from the appearance of the development and the streetscape in accordance with the explanation for the section and controls C1 a) and b), C2 and C3.

In accordance with C2 and C7 the existing car parking structure is concealed from the street frontage (vehicle access driveway is less than 40% of the site frontage) and the height of the structure is less than 2.7m above the height of the footpath level.

The proposal is adequately compliant in terms of the applicable objectives and controls:

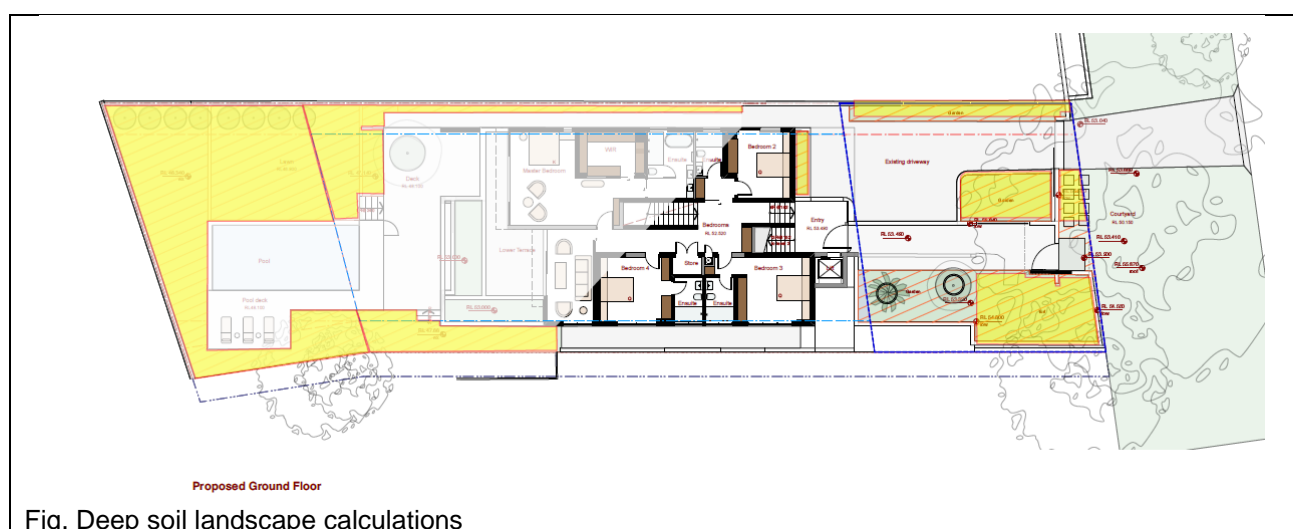
- O1, O2, O3, O4, C1, C2, C3 and C4 (general controls)
- O5, C6 and C7 (on-site parking on steeply sloping sites)
- O6, O7, C9 and C10 (separate garage structure controls)
- O8 and C11, C12 and C13 (minimise the visual and environmental impacts)

The proposal is acceptable with regard to the parking controls in Part B3.6 of the Woollahra DCP 2015.

14.2.6 Part B3.7: External Areas

Part B3.7.1: Landscaped Areas and Private Open Space

Site Area: 892.9m ²	Existing	Proposed	Control	Complies
C1 B3.7.1 Deep Soil Landscaping – 526.8m ² (892.9m ² – 366.1m ²) x 0.5 = 263.4m ²	48.8% 257m ²	46.3m ² 244.4m ²	50% of area outside of Buildable Area 263.4m ²	No
C2 B3.7.1 Deep Soil Landscaping – Front Setback 216m ² x 0.4 = 86.4m ²	29.6% 64m ²	28.6% 63m ²	40% 86.4m ²	No
C4 B3.7.1 Deep Soil Landscaping – Rear Setback 184.9m ² x 0.5 = 92.45m ²	50.3% 95.45m ²	67.3% 124.5m ²	50% of Rear Setback 92.45m ²	Yes
C6 Minimum Area of Private Open Space at Ground Level	>35m ²	>35m ²	≥35m ²	Yes



Deep soil landscape area

Note. This assessment differs from that provided by the applicant in terms of calculation of *deep soil landscape area* in terms of not including the *landscaped area* of roof terracing located above the existing garage as *deep soil landscape area*.

The definition for deep soil landscaped area contained in Chapter A3 of the Woollahra DCP 2015 is as follows:

- ***deep soil landscaped area*** the area of the site that contains landscaped area which has no above ground, ground level or subterranean development.

Note: 'landscaped area' is defined in Woollahra LEP 2014.

The definition for landscaped area contained in the Woollahra LEP 2014 is as follows:

- ***landscaped area*** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

As detailed above in the landscape area and private open space compliance table above:

- Contrary to C1, existing and proposed provision of deep soil landscaped area is less than 50% of the site area outside the buildable area, numerical non-compliance is proposed to be further reduced as part of the proposed development.
- Contrary to C2, provision of deep soil landscaped area to the front setback area is less than 40%. However, the numerical non-compliance is proposed to be reduced as part of the proposed development.
- In accordance with C4, provision of deep soil landscaped area to the rear setback area is greater than 50%, numerical compliance is maintained as part of the proposed development.
- In accordance with C6 and C8 a primary open space area greater than 35m² in area is provided.

Numerical non-compliance in terms of C1 and C2 is not determinative to this assessment and does not not hinder achievement with the underlying objectives O1, O2 and O3 of Part B3.7.1, including:

- O1 and O3 - The proposal includes sufficient replacement planting forward of the front setback screening the garage and entry structures. New landscape works will contribute to the desired future character of the precinct.
- O1, O2 and O3 - Sufficient deep soil landscaped area is provided to support substantial vegetation.
- O1 and O2 - Maintaining the location of the garage and entry structures is a suitable contextual response to the Hopetown Avenue streetscape where on-site parking structures located to the front setback are common.

In all other aspects the proposal accords with the applicable objectives and controls:

- O1, O2, O3, C1, C2, C4 and C5 (*sufficient deep soil landscaped area*)

Private open space

The application is subject to objection in terms of acoustic and visual impacts associated with height and proximity of the proposed new pool and pool deck. As revised the pool and deck are suitably designed and located not to permit direct views to neighbouring habitable room windows and private open space within 9m in accordance with O4 and C7 of Part B3.5.4 of the Woollahra DCP 2015.

In accordance with C6, C8 and C10 provision of primary open space exceeds 35m² and is useable and is directly accessible from a habitable room areas.

The proposal is compliant in terms of the applicable objectives and controls:

- O4, C6, C8, C9 and C10 (accessible and useable primary open space)

Trees and Landscaping

In accordance with C20, proposed new landscaping is suitable in terms of not adversely impacting on surrounding private and public views and are considered to be satisfactory in terms of amenity impacts upon adjoining properties.

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

As recommended to be determined, the proposal is compliant in terms of the applicable objectives and controls:

- O7, O8, O9, O10, C16, C17, C18, C19 and C20 (trees and landscaping)

Part B3.7.2: Fences

Part 3.7.2: Fences	Existing	Proposed	Control	Complies
B3.7.2 C4 Maximum Height of Front Fencing	Not fully detailed @ 1.2m – 2m	No change to fencing new gates	1.2m solid 1.5m 50% open	N/A
B3.7.2 C7 Gate swing	Not detailed	Pedestrian gate opens Inwards Vehicle gate swinging inside property boundary	Opens Inwards	Yes
B3.7.2 C9, C10, C11 Side and rear fence height	Not detailed	1.8m Rear fencing height	1.8m	Yes

Existing front fencing is not proposed to be altered. The proposal is limited to a new metal swing pedestrian gate and sliding vehicle entry gate to existing fence openings.

Condition C.1a) is recommended deleting existing portions of the pedestrian access cover that encroach over the front property boundary in accordance with O1, O4 and C2 of Part B3.7.2 of the Woollahra DCP 2016 to clearly defines public and private space.

Rear 1.8m high fencing accords with C9.

As recommended to be determined, the proposal is suitably accordant with the applicable objectives and control:

- O1, O2, O3, O4, C1, C2, C3, C4, C5, C6, C7 and C8 (fences general controls)
- O5, C9, C10 and C11 (rear and side fencing)
- O7, O8 and C15 (material detailing)

Part B3.7.3: Site Facilities

In accordance with Part B3.7.3 design, provision and integration of site facilities is acceptable in terms of the overall appearance and streetscape presentation of the development.

In accordance with O6, O7, O8, C7 and C8, **Condition C.1b)** is recommended to ensure certainty of development consent in terms of the maximum building height of the principal roof and lift (including any lift overrun) is not to exceed RL 58.62AHD.

As recommended to be determined, the proposal is compliant in terms of the applicable objectives and controls.

Part B3.7.4: Ancillary Development – Swimming Pools, Tennis Courts and Outbuildings

Swimming Pools

Part 3.7.4: Swimming Pools	Existing	Proposed	Control	Complies
C3 B3.7.4 Swimming pool water edge from property boundaries				
• North side boundary	2m	7.5m		Yes
• West rear boundary	2.6m	2.8m	1.8m	Yes
• South rear boundary	1.9m	4.6m		Yes
C4 B3.7.4 Level of Swimming Pool surround above or below ground level	-	1.2m	Max 1.2m	Yes
C5 B3.7.4 Maximum Depth of Swimming Pool	Not detailed	<2m	Max 2m from pool surround level	Yes



Fig. Existing rear sited swimming pool

O1, O2, O3, C1, C2, C3, C4, C5 and C6 specify:

- O1 To provide for recreational opportunities for swimming without compromising the amenity of the neighbouring properties.
- O2 To limit excavation.
- O3 To retain trees and vegetation of landscape value.
- C1 The swimming pool does not occupy the deep soil landscaped area.
- C2 Excavation beyond the controls in Section B3.4 is permitted to accommodate a backyard swimming pool, where the pool is outside the building envelope.
Note: This concession does not apply to a swimming pool in a basement area.
- C3 The swimming pool (measured from the water edge) is at least 1.8m from property boundaries.

- *C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.*
- *C5 The swimming pool is no deeper than 2m from the pool surround level (refer to Figure 27).*
- *C6 The location and design of the swimming pool and associated works do not adversely impact on prescribed trees (refer to Chapter E3 Tree Management).*

As detailed in the above compliance table:

- In accordance with C3 the setback of the swimming pool (measured from the water edge) is at least 1.8m from all property boundaries.
- In accordance with C4 the proposal as revised has lowered the swimming pool surrounds by 0.67m (RL47.430AHD) so that they are 1.2m above the existing ground level (RL46.23AHD).
- In accordance with C5, the maximum pool depth does not exceed 2m.

The application is subject to objection in terms of the proposed pool and pool deck. As recommended to be determined the setback of the proposed new pool and pool deck would not give rise any significant additional visual or acoustic privacy impacts upon adjoining properties in accordance with Part B3.7.4 of the WDCP 2015.

The proposal is compliant with the applicable objectives and controls:

- O1, O2, O3, C1, C2, C3, C5 and C6 (swimming pools).

Conclusion

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

14.3 Chapter E1: Parking and Access

14.3.1 Part E1.4: Residential parking

The proposal provides for 2 off-street car parking spaces which accords with Council's maximum requirement for 2 car parking spaces per dwelling for a dwelling house development as per the provisions of Table 1 under section E1.4.2 of Woollahra DCP 2015.

14.4 Chapter E2: Stormwater and Flood Risk Management

Council's Engineers have advised that the proposal is satisfactory is satisfactory subject to conditions. Refer to **Conditions C.9, C.10, C.13 and C.14**

As recommended to be determined, the proposal is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015

14.5 Chapter E5: Waste Management

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

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

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

The proposal is acceptable with regard to the objectives and controls of Chapter E5: Waste Management of the Woollahra DCP 2015.

15 CONTRIBUTION PLANS

15.1 Section 7.12 Contributions Plan

A 1% levy (of the total cost of works) applies. With a cost of works of approximately \$1,990,682, a payment of \$19,906.82 is required by condition which will be used for a variety of works as outlined in the Section 7.12 Contributions Plan.

Cost of Works	Rate based on cost of works	Contribution Payable
\$1,990,682.00	>\$200,000 = 1%	\$19,906.82

Refer to **Condition C.2**.

16 APPLICABLE ACTS/REGULATIONS

16.1 Environmental Planning and Assessment Regulation 2021

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

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

16.2 National Parks and Wildlife Act 1974

Council's Heritage Officer has recommended **Conditions B.4, B.5, B.6 and B.7** relating to unexpected findings of skeletal remains and Aboriginal archaeological objects and associated requirements in order to satisfy the relevant requirements of the National Parks and Wildlife Act 1974.

16.3 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:

- Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
- A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
- Water recirculation and filtration systems
- Backwash discharge to the sewer

These requirements are imposed by standard conditions.

17 THE LIKELY IMPACTS OF THE PROPOSAL

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

18 THE SUITABILITY OF THE SITE

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

19 CONCLUSION

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

20 DISCLOSURE STATEMENTS

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

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

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

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 224/2023/1 for alterations and additions to a dwelling house including an additional level; the replacement of the swimming pool and landscaping on land at 46 Hopetoun Avenue Vacluse, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

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

Applicant means the applicant for this consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

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

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

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

PC means the Principal Certifier under the *Act*.

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

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

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

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

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

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

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

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

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

Standard Condition: A2 (Autotext AA2)

A.3 Approved Plans and Supporting Documents

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

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

Reference	Description	Author/Drawn	Date(s)
DA 0_01 Rev B DA 1_01 Rev B DA 1_02 Rev B DA 1_03 Rev B DA 1_04 Rev B DA 2_01 Rev B DA 2_02 Rev B DA 3_01 Rev B	Site Analysis Ground/Lower Ground plan First floor plan Second floor plan Roof plan Elevations North & East Elevations South & West Sections AA & BB	X. Pace Design Group Pty. Ltd.	04/04/2024
A500080_02	BASIX Certificate	NSW Department of Planning and Environment	28/03/2024
LP01- 0923 Rev B LP02- 0923 Rev B LP03- 0923 Rev B LP01- 0923 Rev B	Landscape Plans	Tanya Wood Landscape Architecture	26/06/2023
--	Arboricultural Impact Assessment and Management Plan	George Palmer – Botanic Tree Wise People Pty Ltd	--/06/2023
23111	Site Waste Minimisation and Management Plan	Dickens Solutions	--/06/2023

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

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

Standard Condition: A5 (Autotext AA5)

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

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

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

Standard Condition: A8 (Autotext AA8)

A.5 No Underpinning works

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

A.6 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
4	<i>Dypsis lutescens</i> (Golden Cane palm)	Front boundary	6 x 4
5	<i>Howea forsteriana</i> (Kentia palm)	Front yard	4 x 3
7, 8, 9	<i>Dracaena marginata</i> (Red-edged Dracaena)	Front yard	4 x 3 each
12, 13	<i>Syzygium australe</i> (Brush Cherry Lillypilly) – hedge	Front yard, northern side boundary	6 metres height
18	<i>Wodyetia bifurcata</i> , (Foxtail Palm).	Rear yard adjacent western side of existing swimming pool	9 x 4
19	<i>Wodyetia bifurcata</i> , (Foxtail Palm).	Rear yard adjacent western side of existing swimming pool	6 x 4
20	<i>Dypsis lutescens</i> (Golden Cane palm)	Rear yard adjacent western side of existing swimming pool	6 x 5
21	<i>Syzygium</i> sp. (Lillypilly)	Rear boundary	7 x 5

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Lophostemon confertus</i> (Brush Box)	Council verge	13 x 20	\$5000.00

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

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location	Dimension (metres)
6	<i>Howea forsteriana</i> (Kentia palm)	Front yard of subject property	7 x 4
10	<i>Beaucarnea recurvata</i> (Ponytail palm)	Front yard of subject property	4 x 3
11	<i>Cycas</i> sp. (Cycad palm)	Front yard of subject property	4 x 3

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

- c) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
22	<i>Howea forsteriana</i> (Kentia palm)	Rear yard, northern side	7 x 6
23	<i>Howea forsteriana</i> (Kentia palm)	Rear yard, northern side	10 x 5

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

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

B.1 Construction Certificate Required Prior to Any Demolition

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

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

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

B.2 Identification of Hazardous Material

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

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

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

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

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

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

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

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

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

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

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

B.4 Aboriginal Objects – Unexpected Findings

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

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

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

Standard Condition: B10 (Autotext BB10)

B.5 Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

Standard Condition: B9

B.6 Aboriginal Heritage Due Diligence Responsibilities

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

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

Standard Condition: B12 (Autotext BB12)

B.7 Aboriginal Heritage Induction

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

Standard Condition: B13 (Autotext BB13)

B.8 Establishment of Tree Protection Zone (TPZ) Fence

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

- a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)\
1	<i>Lophostemon confertus</i> (Brush Box)	Council verge	3.5

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

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

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

- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) 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.
- f) The project arborist shall provide written certification of compliance with the above condition.

B.9 Arborists Documentation and Compliance Checklist

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

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

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

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none">• Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.• The project arborist shall install or supervise the installation of tree protection fencing.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none">• The project arborist shall supervise the dismantling of tree protection measures• After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

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

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

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

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

- a) The roof form of the pedestrian access that encroaches beyond the front eastern property boundary is to be modified so as to be contained wholly within the boundaries of the subject site in accordance with O1, O4 and C2 of Part B3.7.2 of the Woollahra DCP 2016 to clearly define public and private space.
- b) The maximum building height of the principal roof and lift (including any lift overrun) is not to exceed RL 58.62AHD. This condition is imposed to ensure certainty of development consent in terms of maximum building height in accordance with O1 and C5 of Section B3.5.1 Streetscape and local character and O6, O7, O8, C7 and C8 of Section B3.7.3 of the Woollahra DCP 2015.
- c) The submitted landscape plans must be amended to delete reference to the removal of Tree No.21 *Syzygium* sp. (Lillypilly) located on the rear boundary of the subject property. Additionally the plan must be amended to correctly identify the following tree species:
 - Tree No.16 has been identified as *Plumeria acutifolia* (Frangipani). The tree is *Michelia doltsopa* x figo 'Bubbles'.
 - Tree No. 17 has been identified as *Elaeocarpus* (Quandong). The tree is *Michelia doltsopa* x figo 'Bubbles'.
 - Tree No.s18 and 19 have been identified as *Archontophoenix alexandrae* (Alexander palm). The palms are *Wodyetia bifurcata*, (Foxtail Palm).

The amended plans must be submitted to Council for approval by Council's Tree Officer prior to the issue of a Construction Certificate.

- d) Amended Arboricultural Impact Assessment and Management Plan. The submitted Arboricultural Impact Assessment and Management Plan incorrectly identifies the following trees:
 - Tree No.16 has been identified as *Plumeria acutifolia* (Frangipani). The tree is *Michelia doltsopa* x figo 'Bubbles'.
 - Tree No. 17 has been identified as *Elaeocarpus* (Quandong). The tree is *Michelia doltsopa* x figo 'Bubbles'.
 - Tree No.s18 and 19 have been identified as *Archontophoenix alexandrae* (Alexander palm). The palms are *Wodyetia bifurcata*, (Foxtail Palm).

The submitted Arboricultural Impact Assessment and Management Plan recommends the removal of Tree No. 21 *Syzygium australe* (Brush Cherry Lillypilly) located on the rear boundary that is not impacted upon by the proposed development. The reason given for the proposed removal by the project Arborist is that the tree is located on a boundary line and is not fully grown. Further the Arboricultural report states the tree will require reduction pruning to allow for retention. The report provides no further discussion or justification for why the tree requires reduction pruning. Tree No.21 has no effect on the design of the proposed development and conversely the development has no impact on the successful retention of the tree. The report must be amended to include the retention of Tree No.21.

- e) Transplant Feasibility and Method Statement. Tree No.s 6, 10 and 11 are proposed to be transplanted. In accordance with Council's DA Guide a Transplant Feasibility and Method Statement must be prepared by an Arborist with a Minimum AQF 5 qualification and submitted to Council for approval by Council's Tree Officer prior to the issue of a Construction Certificate. All amended and new Arboricultural documentation must be submitted to Council for approval by Council's Tree Officer prior to the issue of a Construction Certificate.

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

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

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

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$51,385	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$5000.00	No	T114
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)	\$19,906.82 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$221.34	No	T45
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$76715.16 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

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

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

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

Do you need HELP indexing the levy?

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

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

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

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

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

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

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

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

Standard Condition: C5

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. A500080_02 with any application for a Construction Certificate.

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

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

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

Standard Condition: C7

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

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

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

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

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

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

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

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

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

C.5 Structural Adequacy of Existing Supporting Structures

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

Note: This condition is imposed to ensure that the existing structure is able to support the additional loads proposed.
Standard Condition: C35 (Autotext CC35)

C.6 Professional Engineering Details

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

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

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

C.7 Engineer Certification

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

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

C.8 Geotechnical and Hydrogeological Design, Certification and Monitoring

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical and hydrogeological report prepared by a Chartered Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Councils document "*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*" and Chapter E2 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 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 all below ground structures to prevent the entry of ground water/seepage water such that subsoil drainage/ seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of Council's DCP,
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
- will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.
- Standard Condition: C40 (Autotext: CC40)

C.9 Stormwater Connection to Council's Stormwater Drainage System

A separate application under Section 68 of the Local Government Act 1993 is to be made to and be approved by Council for the following works prior to the issue of any Construction Certificate. The works must be carried out at the applicant's expense:

- a) The discharge of stormwater from the subject site into the Council's existing stormwater junction pit line to the satisfaction of Council's Assets Engineer. Longitudinal section showing all details including invert level of the stormwater outlet pipe at both ends, pipe size and gradient, finished ground levels and both invert and finished levels of the existing Council's junction pit must be clearly depicted on the drawings.

The developer must meet all design requirements and costs of reconstruction of any part of Council's drainage system (including any design drawings and specifications) required to carry out the approved development.

The design and construction of the works must be in accordance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management and "Specification for Road Works, Drainage and Miscellaneous Works" which include Council's standard drawings. These documents are available from Council's website 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.
Standard Condition: C.48 (Autotext CC48)

C.10 Stormwater Management Plan

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

- a) 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,
- b) The discharge of stormwater from the site to the existing Council's stormwater junction pit in the Reserve. 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,
- c) 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,
- d) Stormwater runoff from the site must be discharged to a minimum 450mm x 450mm boundary junction pit prior to discharging to the Council's drainage system,
- e) Detail any remedial works required to upgrade the existing stormwater drainage system,
- f) 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,
- g) All proposed below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- h) Dimensions of all drainage pits and access grates must be provided in accordance with AS3500.3,
- i) Compliance the objectives and performance requirements of the BCA,
- j) 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
- k) General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout plan

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

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

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

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

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

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

Standard Condition: C.51 (Autotext CC51)

C.11 Swimming and Spa Pools – Child Resistant Barriers

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

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

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

Standard Condition: C55 (Autotext CC55)

C.12 Swimming and Spa Pools – Backwash

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

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

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

Standard Condition: C56 (Autotext CC56)

C.13 Flood Protection

Driveway entry

- a) The driveway entry shall be protected by a physical threshold or automatic mechanical flood barrier with the threshold set to the flood planning level of 300mm above the adjacent footpath level. All flood protection measures shall be located entirely within the development site.
- b) Permanent brass plaques shall be mounted adjacent to all automatic mechanical flood barriers explaining their purpose and operation.
- c) The development frontage shall be protected by a waterproof wall designed to protect the development to the flood planning level of 300mm above the adjacent footpath level.

Condition Reason:

To ensure the development incorporates flood inundation protection measures.

C.14 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 shall be installed in a prominent area of the garage,

Flood Proof Material

- a) Flood compatible materials shall be used for all flood exposed construction.

Electricals

- a) All flood exposed electrical wiring and equipment shall be waterproofed,

Certification

- a) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,

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

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.15 Tree Management Plan

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

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

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

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

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

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

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

This condition does not apply:

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

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

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

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

D.2 Dilapidation Reports for Existing Structures

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

These properties to be assessed by the Structural Engineer must include (but is not limited to):

No. 44 & 48 Hopetoun Avenue

All required dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

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

Note: The reasons for this condition are:

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

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

Standard Condition: D4 (Autotext DD4)

D.3 Adjoining Buildings Founded on Loose Foundation Materials

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

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

Standard Condition: D6 (Autotext DD6)

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

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

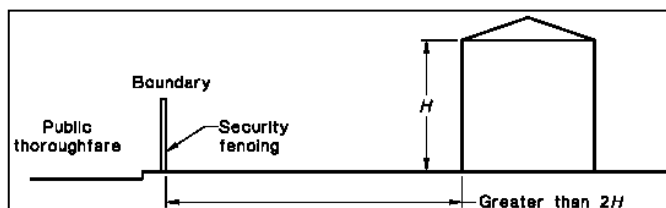
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are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

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

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

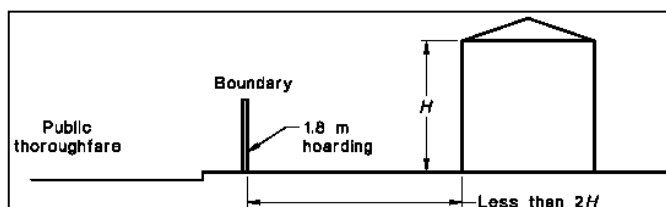
D.5 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



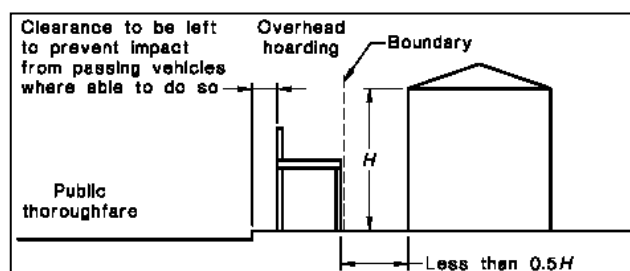
Type B Hoarding

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

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

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

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



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

All Hoardings

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

Hoardings on Public Land including ‘Creative Hoardings’

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

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

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

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

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR

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

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

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council's Cultural Development Team.
Standard Condition: D11 (Autotext DD11)

D.6 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

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

Clause 227A of the *Regulation* provides:

Signs on development sites

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

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

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

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

Standard Condition: D12 (Autotext DD12)

D.7 Toilet Facilities

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

Each toilet provided:

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

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

In this condition:

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

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

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

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

D.8 Erosion and Sediment Controls – Installation

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

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

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

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

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

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

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

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

D.9 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

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

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

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

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

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

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

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

D.10 Notification of [Home Building Act 1989](#) requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the [Home Building Act 1989](#).
- b) Residential building work within the meaning of the [Home Building Act 1989](#) must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

E. Conditions which must be satisfied during any development work

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

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

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

This condition does not apply:

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

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

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

E.2 Compliance with Australian Standard for Demolition

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

Standard Condition: E2 (Autotext EE2)

E.3 Requirement to Notify about New Evidence

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

Standard Condition: E4 (Autotext EE4)

E.4 Critical Stage Inspections

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

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

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

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

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

Standard Condition: E5 (Autotext EE5)

E.5 Hours of Work –Amenity of the Neighbourhood

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

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

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

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

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

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

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm
Standard Condition: E6 (Autotext EE6)

E.6 Public Footpaths – Safety, Access and Maintenance

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

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

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

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

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

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

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

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

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

Standard Condition: E7 (Autotext EE7)

E.7 Tree Preservation

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

General Protection Requirements

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

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

E.8 Replacement/Supplementary trees which must be planted

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

Species/Type	Planting/ Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity
7 x <i>Bambusa textilis gracillis</i> (Slender Weavers)	Rear yard	300mm each	6 metres height

The project arborist shall document compliance with the above condition.

E.9 Maintenance of Environmental Controls

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

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

Standard Condition: E11

E.10 Compliance with Geotechnical / Hydrogeological Monitoring Program

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

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

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

- c) the contingency plan.

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

Standard Condition: E12 (Autotext EE12)

E.11 Support of Adjoining Land and Buildings

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

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

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

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

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

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

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

Standard Condition: E13 (Autotext EE13)

E.12 Vibration Monitoring

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

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

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

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

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

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

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

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

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

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

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

E.13 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

E.14 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

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

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

E.15 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

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

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

E.16 Placement and Use of Skip Bins

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

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

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.
Standard Condition: E21 (Autotext EE21)

E.17 Prohibition of Burning

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

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
Standard Condition: E22 (Autotext EE22)

E.18 Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

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

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

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

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

E.19 Dust Mitigation

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

This generally requires:

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

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

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

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

Standard Condition: E23 (Autotext EE23)

E.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, and
- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

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

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

Standard Condition: E31 (Autotext EE31)

E.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 and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

E.22 Asbestos Removal

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

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

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

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

Standard Condition: E39

E.23 Classification of Hazardous Waste

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

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

Standard Condition: E40

E.24 Disposal of Asbestos and Hazardous Waste

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

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

Standard Condition: E41

E.25 Asbestos Removal Signage

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

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

E.26 Notification of Asbestos Removal

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

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

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

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

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

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

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

F.2 Commissioning and Certification of Systems and Works

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

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

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

- j) Such further matters as the Principal Certifier may require.

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

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

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

Standard Condition: F7 (Autotext FF7)

F.3 Amenity Landscaping

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

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

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

Nil.

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A500080_02.

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

Standard Condition: H7 (Autotext HH7)

H.2 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12 (Autotext HH12)

H.3 Works-As-Executed Certification of Stormwater System

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

- a) compliance with conditions of development consent relating to stormwater,
- b) that all below ground structures are fully tanked such that seepage water/subsoil drainage is NOT collected and discharged to Council's kerb and gutter,
- c) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

H.4 Landscaping

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

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

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

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A500080_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

I.2 Swimming and Spa Pools – Maintenance

Swimming and spa pools must be maintained:

- a) in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,
- b) in compliance with the NSW Health "Public Swimming Pools and Spa Pools Advisory Document" in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,
- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

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

Note: The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx
Standard Condition: I30

I.3 Outdoor Lighting – Roof Terraces

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

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600mm above the finished floor level of the roof terrace.

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

Note: Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
Standard Condition: I51

I.4 Noise Control

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

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

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

Useful links:

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

NSW Environment Protection Authority— see “noise” section
www.environment.nsw.gov.au/noise.

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

Australian Acoustical Society—professional society of noise related professionals
www.acoustics.asn.au.

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

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.
Standard Condition: I56

I.5 Noise from Mechanical Plant and Equipment

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

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

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

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017)

[www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017))

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

Standard Condition: I59

J. Miscellaneous Conditions

Nil.

K. Advising

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



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

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.
Standard Advising: K2 (Autotext KK2)

K.3 NSW Police Service and Road Closures

Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.

Warning: If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

Note: Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov.au or ph 9369 9899.
Standard Advising: K4 (Autotext KK4)

K.4 Builder's Licences and Owner-builders Permits

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

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

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

K.5 Building Standards - Guide to Standards and Tolerances

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

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

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

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

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

K.6 SafeWork NSW Requirements

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

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

K.7 Dividing Fences

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

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

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

K.8 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr Mario D'Alessio, Senior Assessment Officer, on (02) 9391 7120.

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

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

Standard Condition: K14 (Autotext KK14)

K.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 4.17 of the *Act*.

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

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

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

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

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

www.woollahra.nsw.gov.au

Standard Condition: K15 (Autotext KK15)

K.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 (Autotext KK17)

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 NSW Fair Trading.

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

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

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

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

Standard Condition: K19 (Autotext KK19)





K.13 Dilapidation Report

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

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

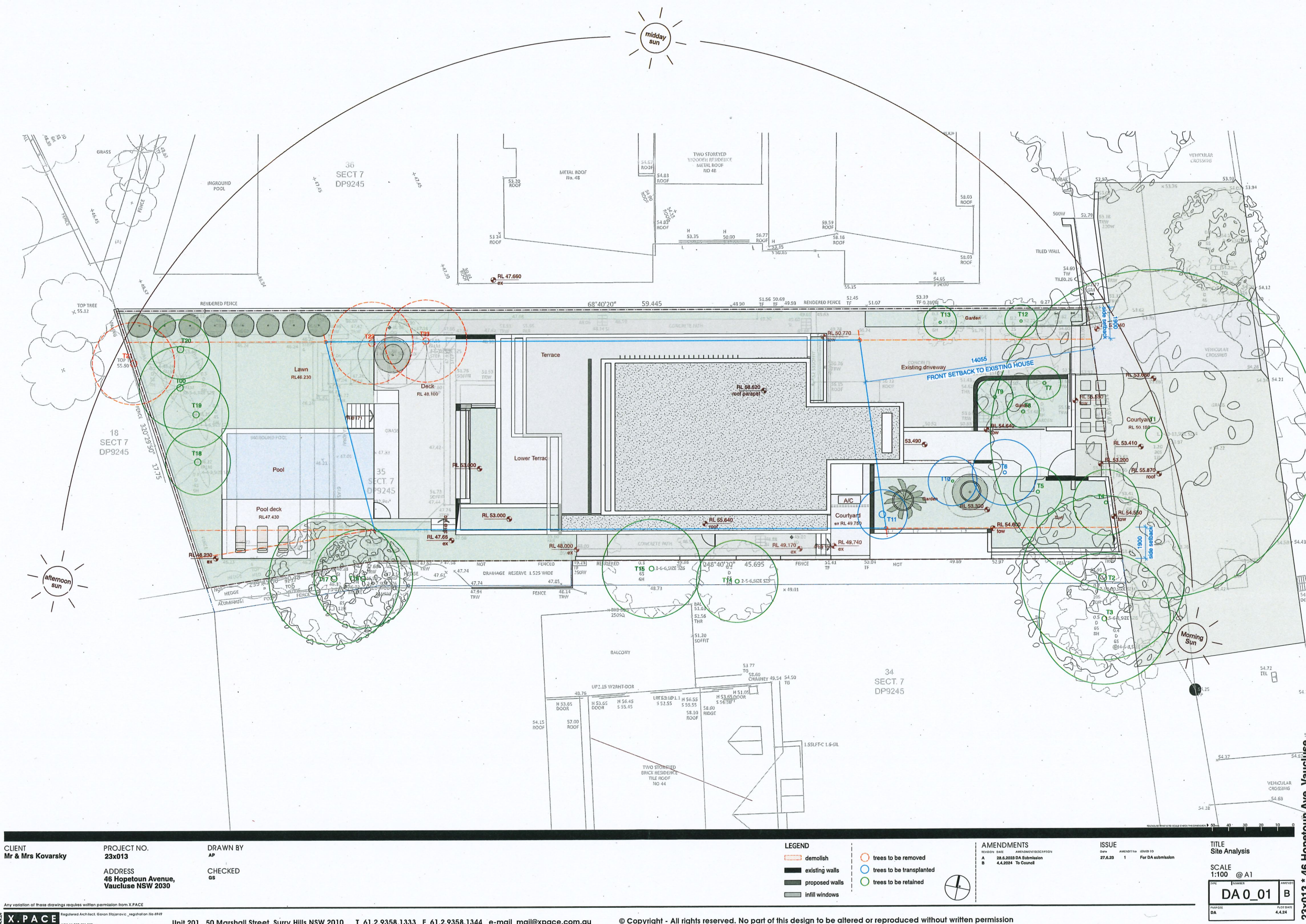
Standard Advising: K23 (Autotext KK23)

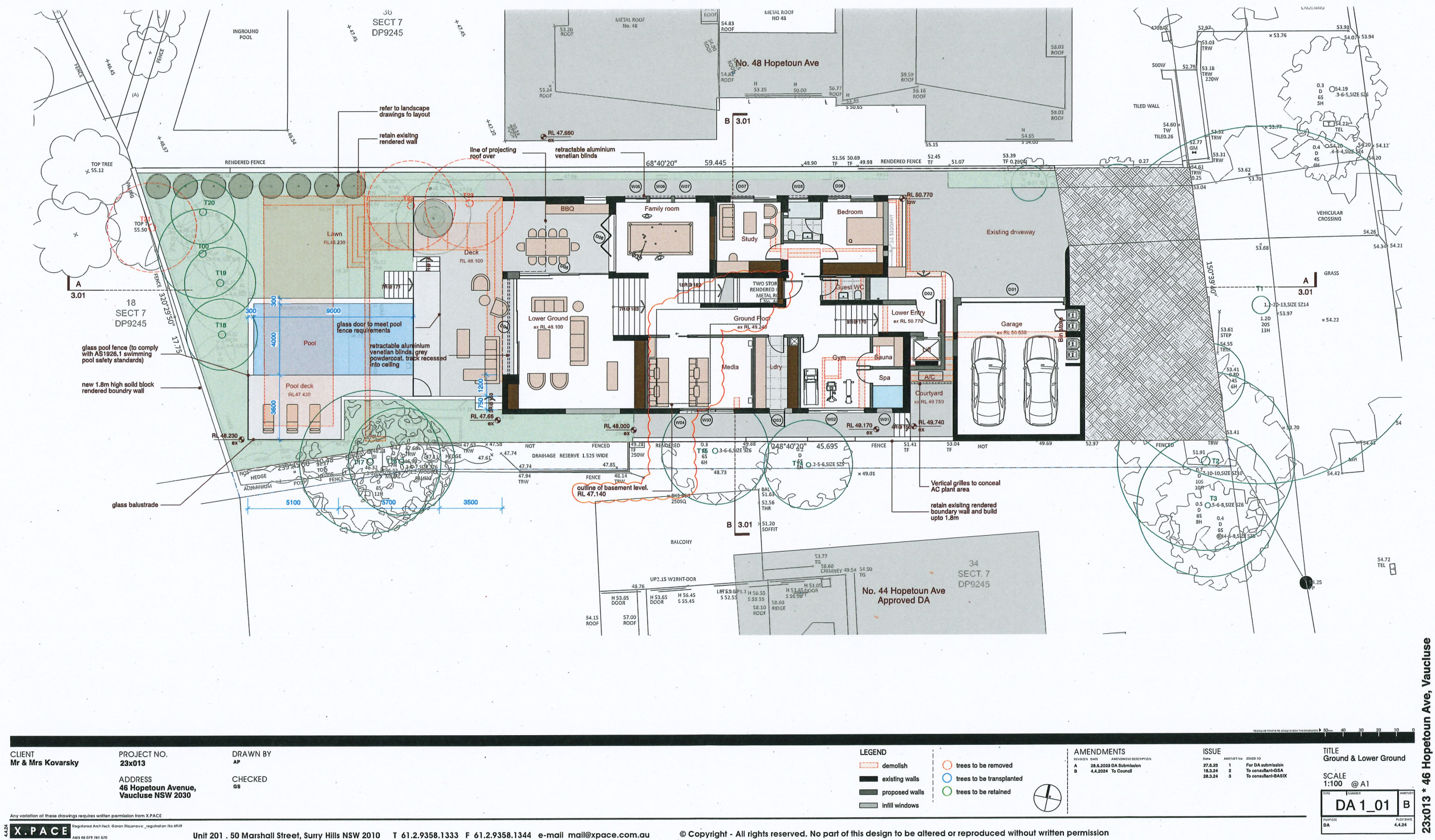
Attachments

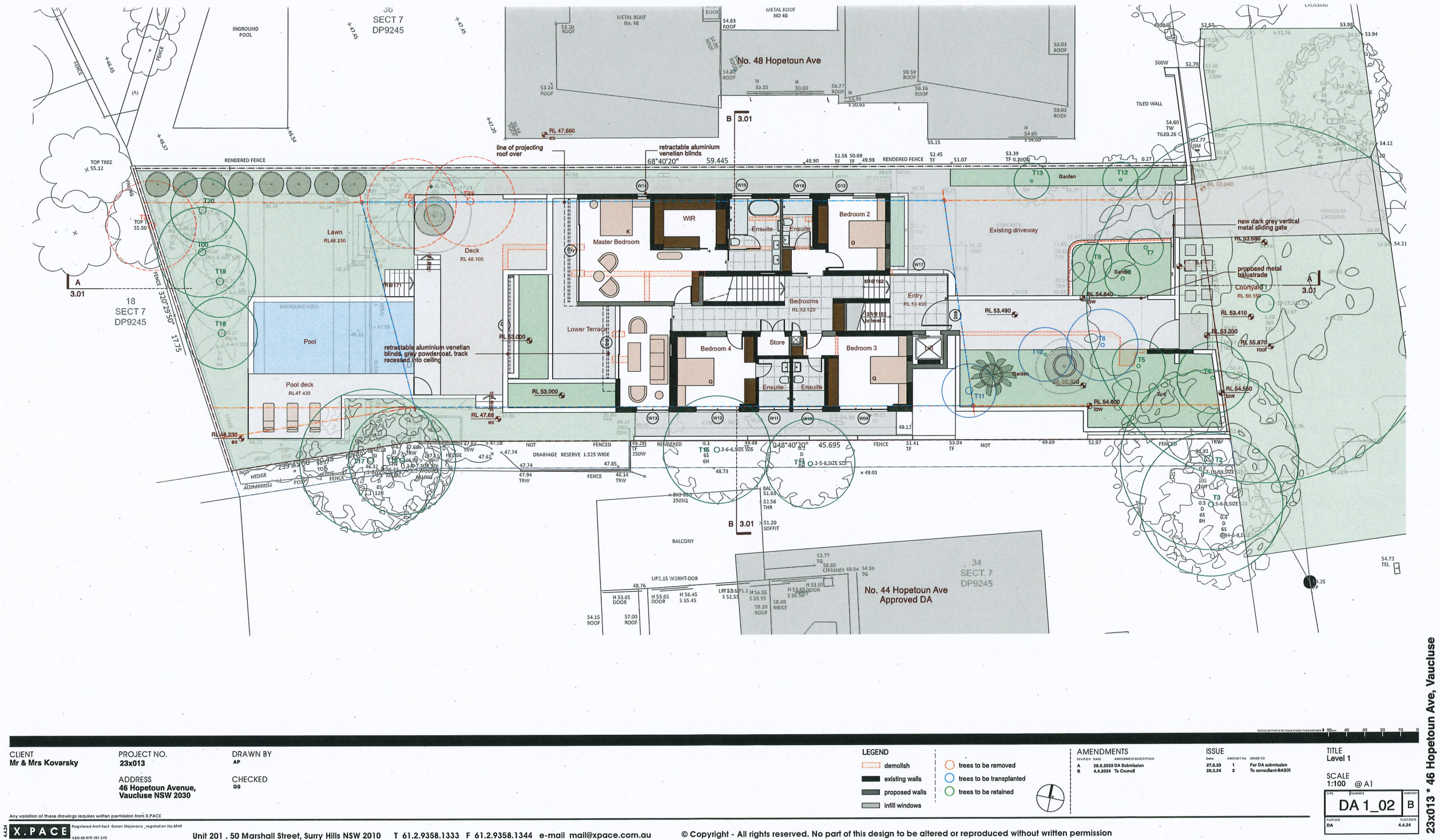
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4. Referral Response - Landscaping [!\[\]\(5561815f7b3c21cd4837848c1b3a53b8_img.jpg\)](#) 
5. Referral Response Heritage [!\[\]\(52e0a18eb8718406aa94c7ba9d56e87c_img.jpg\)](#) 
6. Referral Response Drainage Engineer [!\[\]\(f36a8047a0651eed85d4a9a9e6f030c4_img.jpg\)](#) 

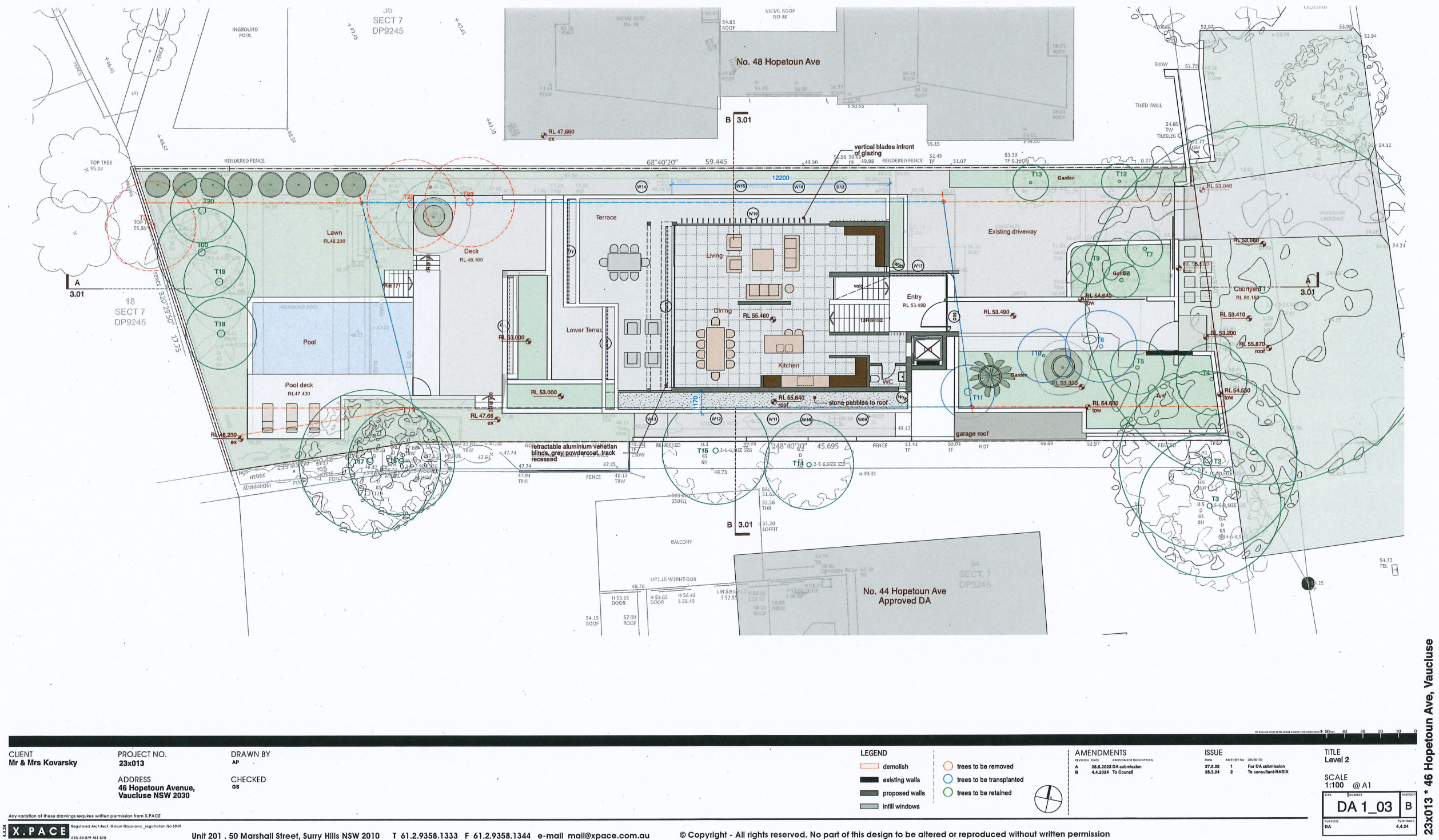


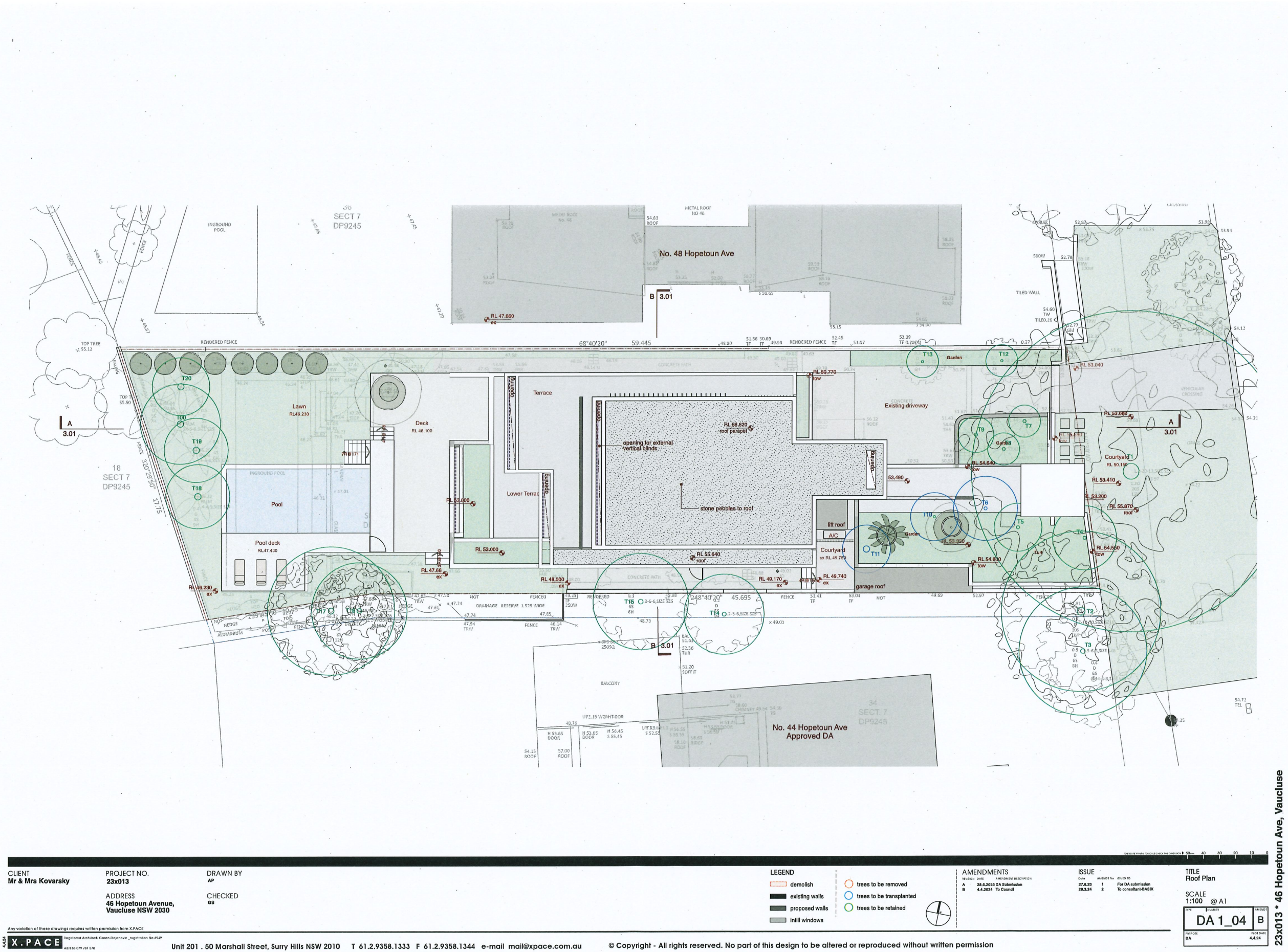
Development Application		
DRAWINGS LIST		
General	DA 0.01	Site Analysis
GA Plans	DA 1.01	Ground Level
	DA 1.02	Level 01
	DA 1.03	Level 02
	DA 1.04	Roof Level
	DA1.11	Ground/Lower Ground Existing
GA Elevations	DA 2.01	Elevation North & East
	DA 2.02	Elevation South & West
GA Sections	DA 3.01	Section AA, BB
Shadow diagram	DA 4.01	Shadow diagram
	DA 4.02	Suneye view
Materials & Finishes	DA 5.01	Materials & Finishes
	DA 5.05	Photomontage
Diagrams	DA 6.01	Setback calculations
	DA 6.02	GFA calculations
	DA 6.03	Deep soil area calculations
	DA 6.04	Soil water minimisation and management plan
	DA 6.05	Stormwater

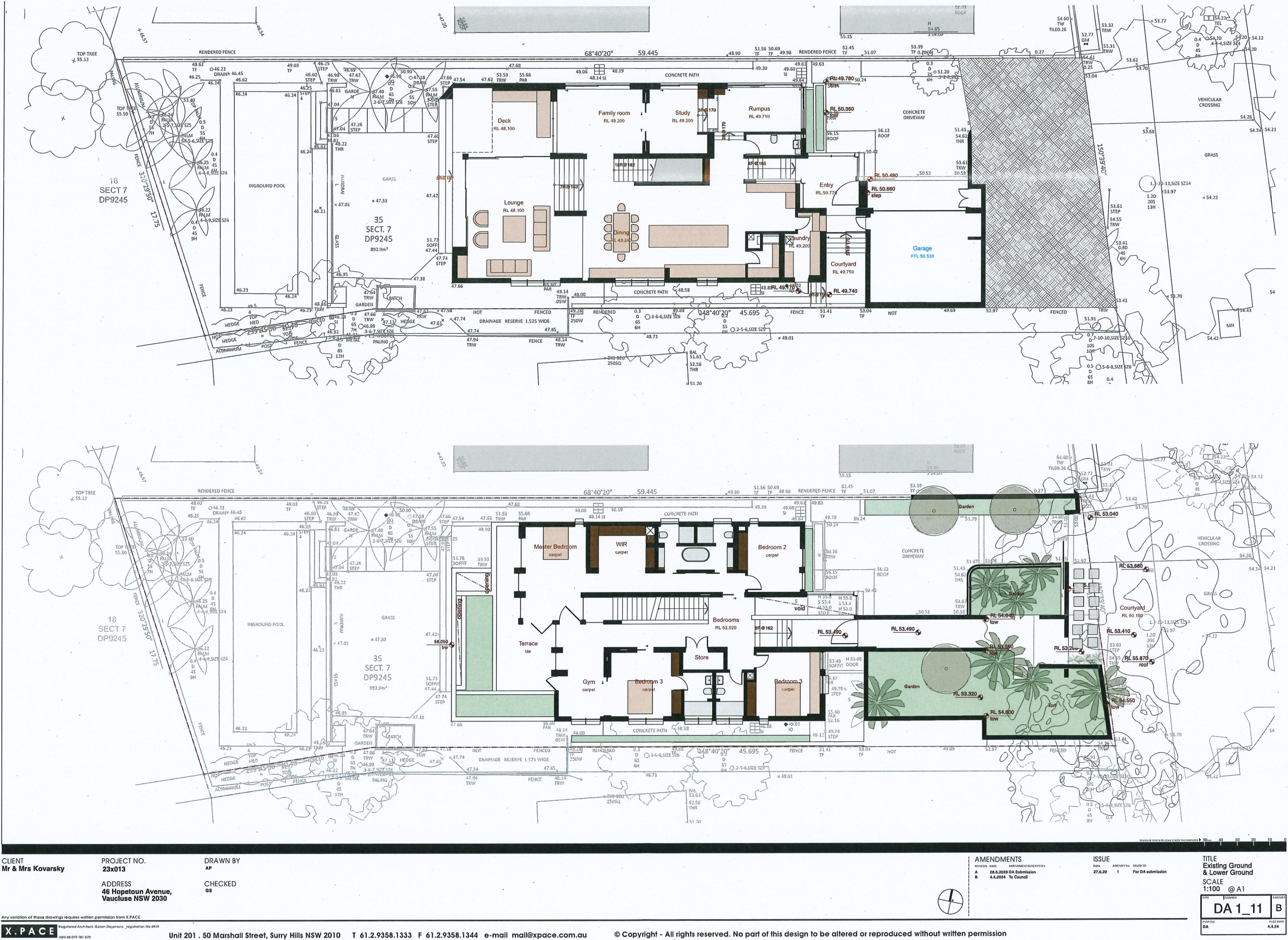


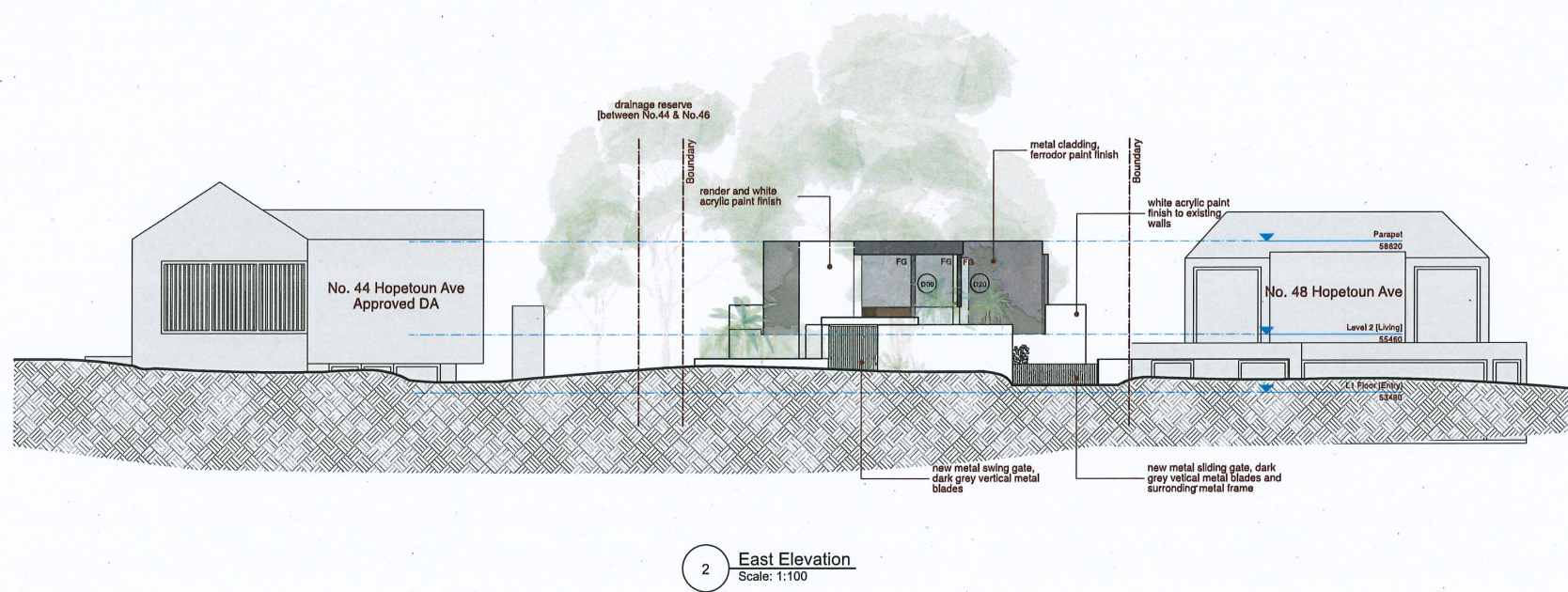
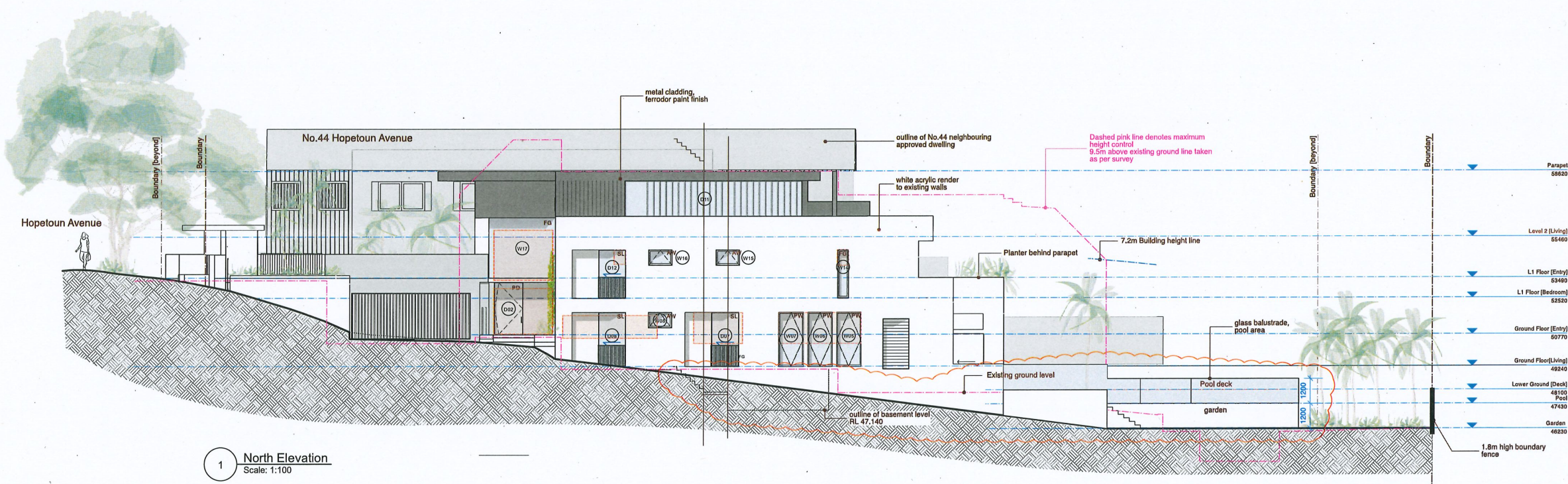












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ART 58 517 781 510

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LEGEND

demolish

existing walls

proposed walls

infill windows

trees to be removed

trees to be transplanted

trees to be retained

AMENDMENTS

REV	DATE	DESCRIPTION
A	28.8.2023	DA Submission
B	4.4.2024	To Council

ISSUE

DATE	AMENDMENT	ISSUE NO
27.8.23	1	For DA submission
28.3.24	2	To consultant-BASIX

TITLE
Elevation North & East

SCALE
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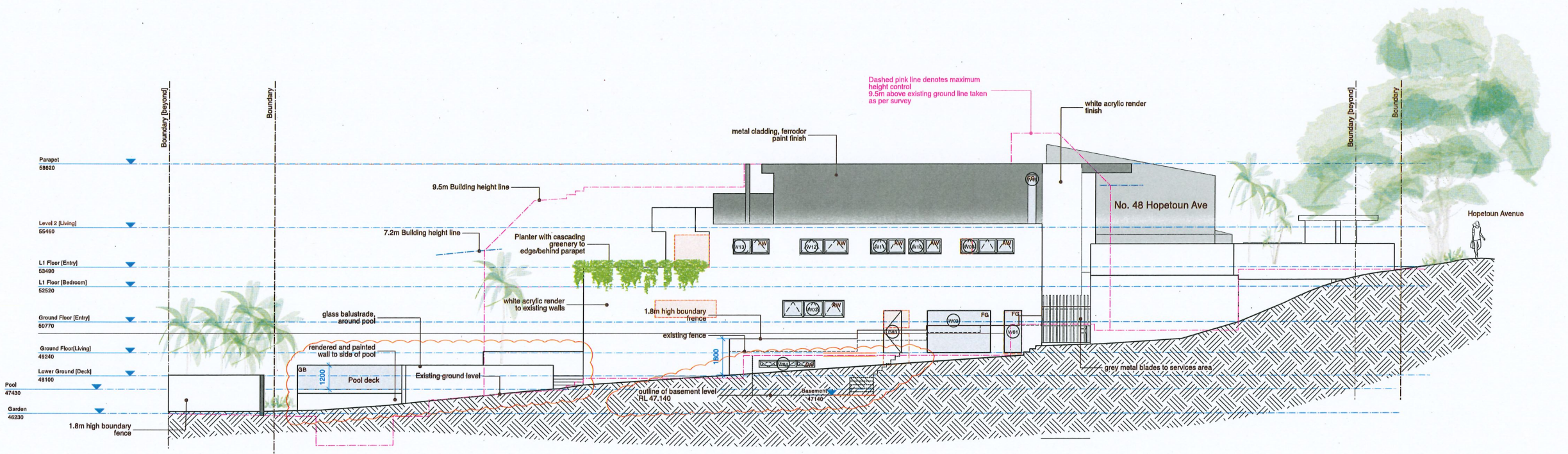
DA 2_01

B

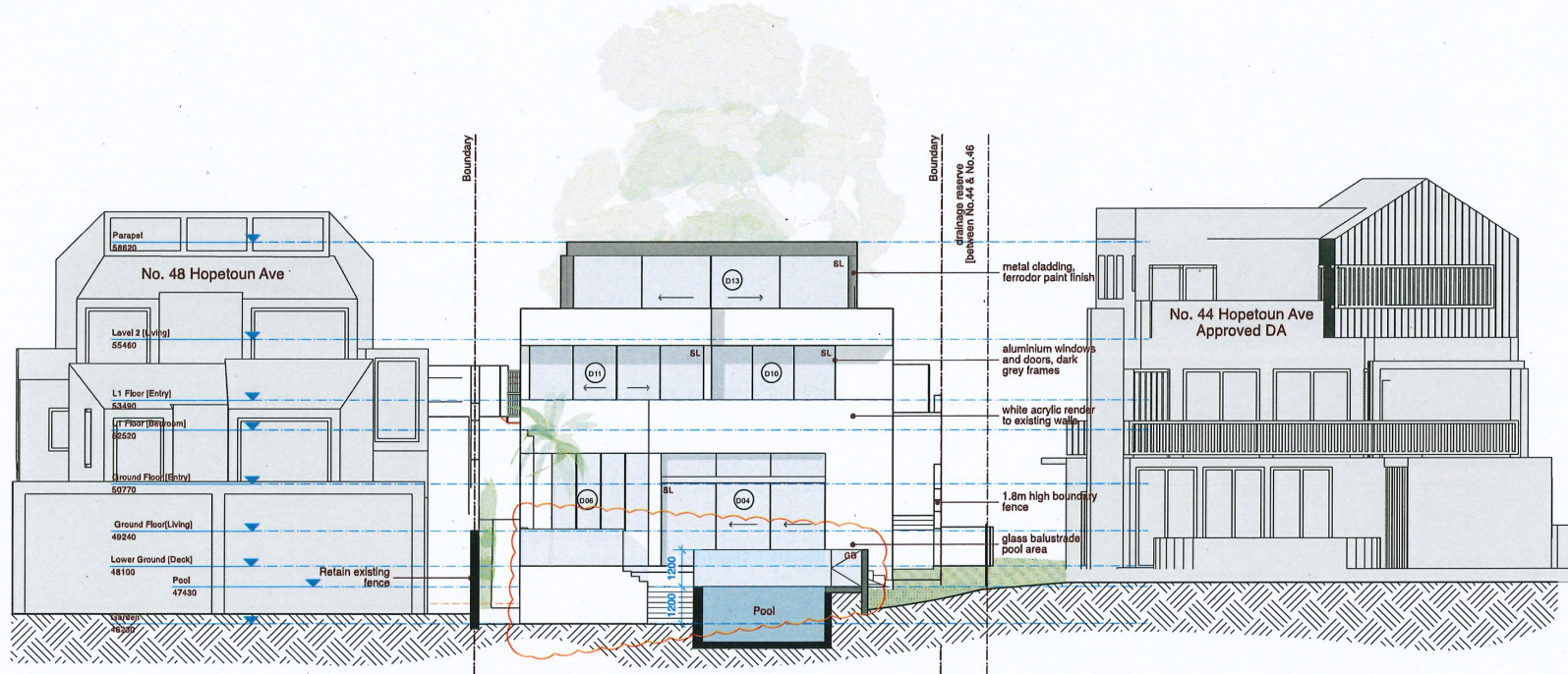
DATE

4.4.24

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1 South Elevation
Scale: 1:100



2 West Elevation
Scale: 1:100

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Registered Architect: Simon Stojanovic, registration no 6869
ABN 68 019 761 570

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LEGEND

demolish

existing walls

proposed walls

infill windows

trees to be removed

trees to be transplanted

trees to be retained

AMENDMENTS

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ISSUE

DATE	APPROVED TO	ISSUED TO
27.6.23	1	For DA submission
28.3.24	2	To consult RABIX

TITLE
Elevation South & West

SCALE
1:100 @ A1

DA 2_02

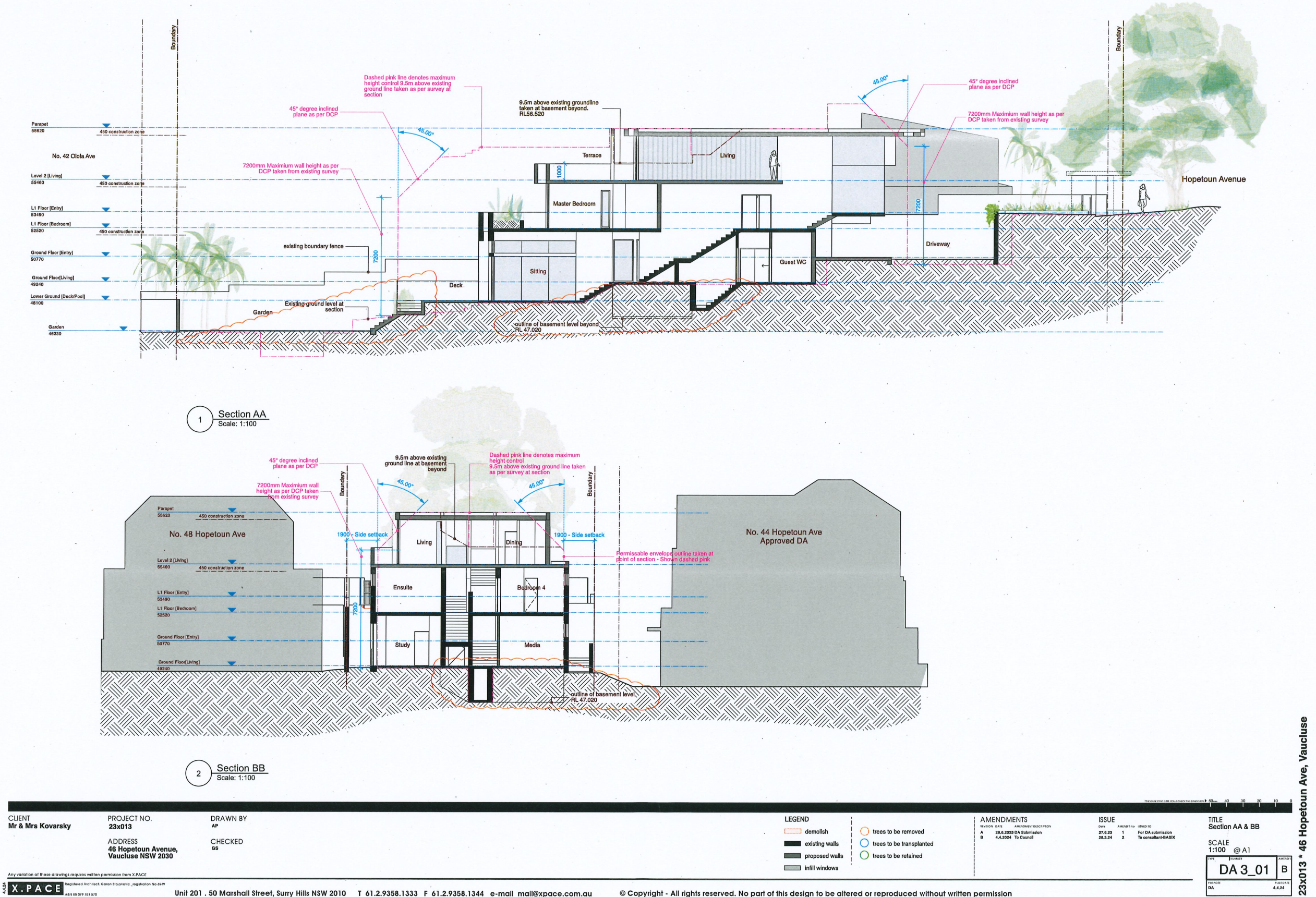
B

DATE
4.4.24

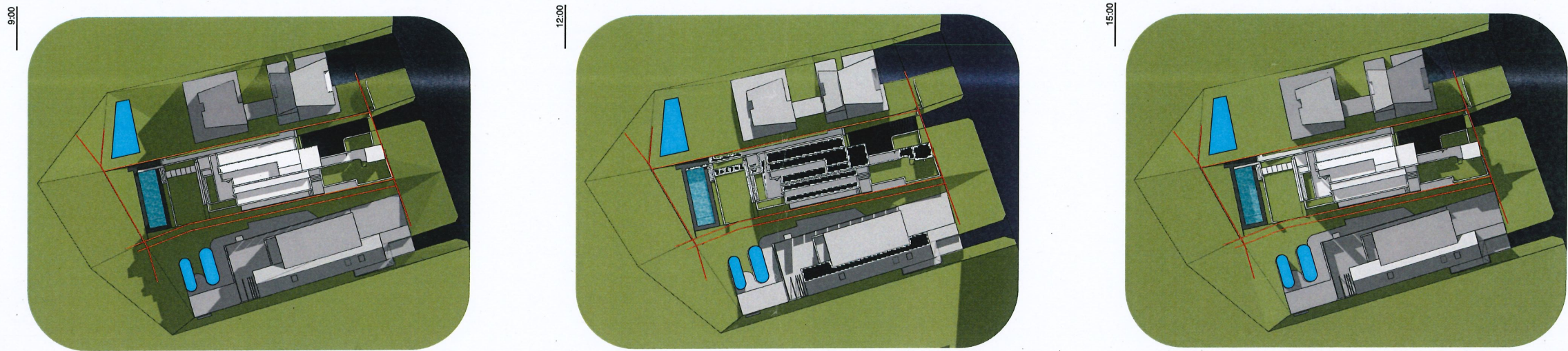
23x013 * 46 Hopetoun Ave, Vaucluse

Attachment 1 Architectural Plans

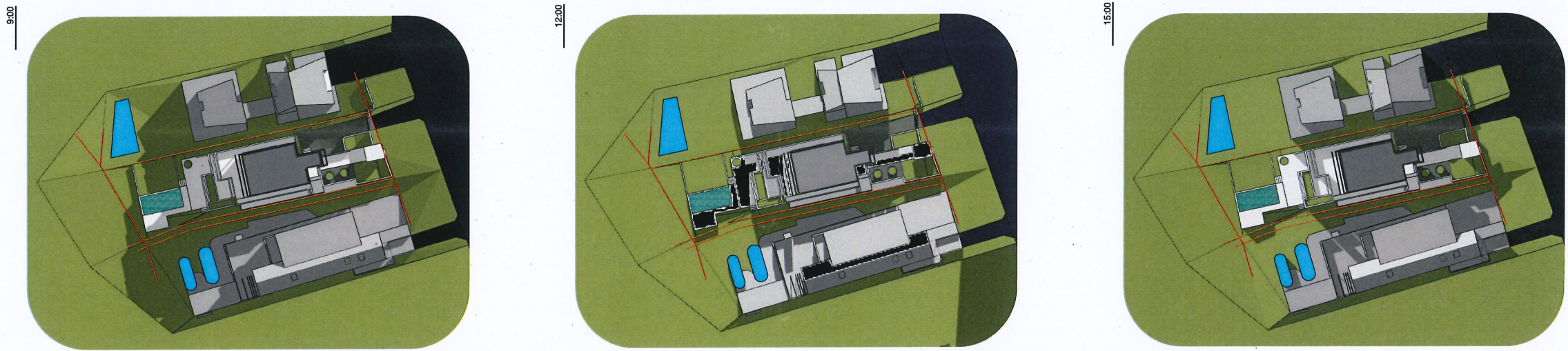
Page 236



Existing - Winter solstice (June 21)



Proposed - Winter solstice (June 21)



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A	28.6.2023	DA Submission
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27.6.23	1	For DA submission

TITLE
Shadow diagram

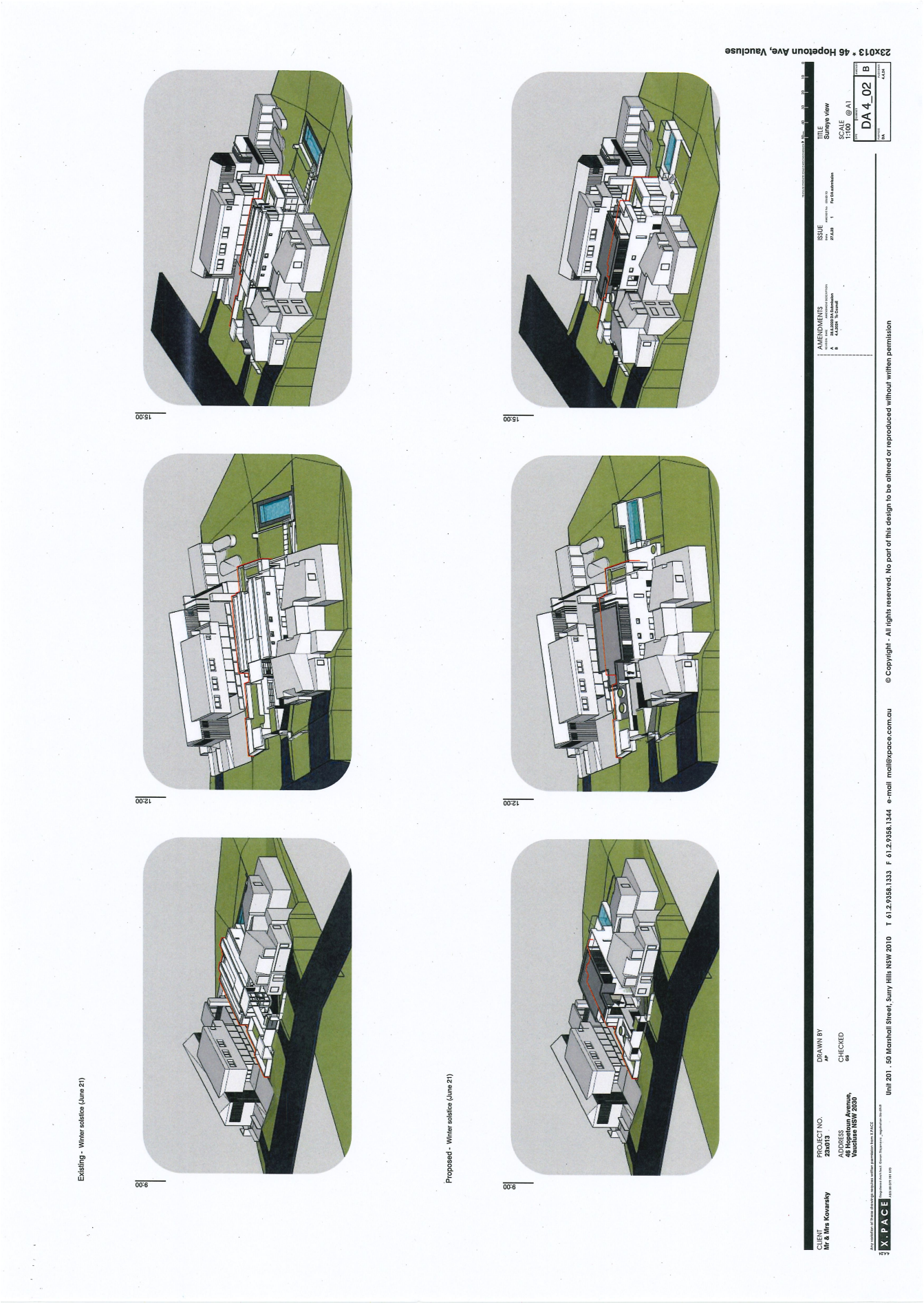
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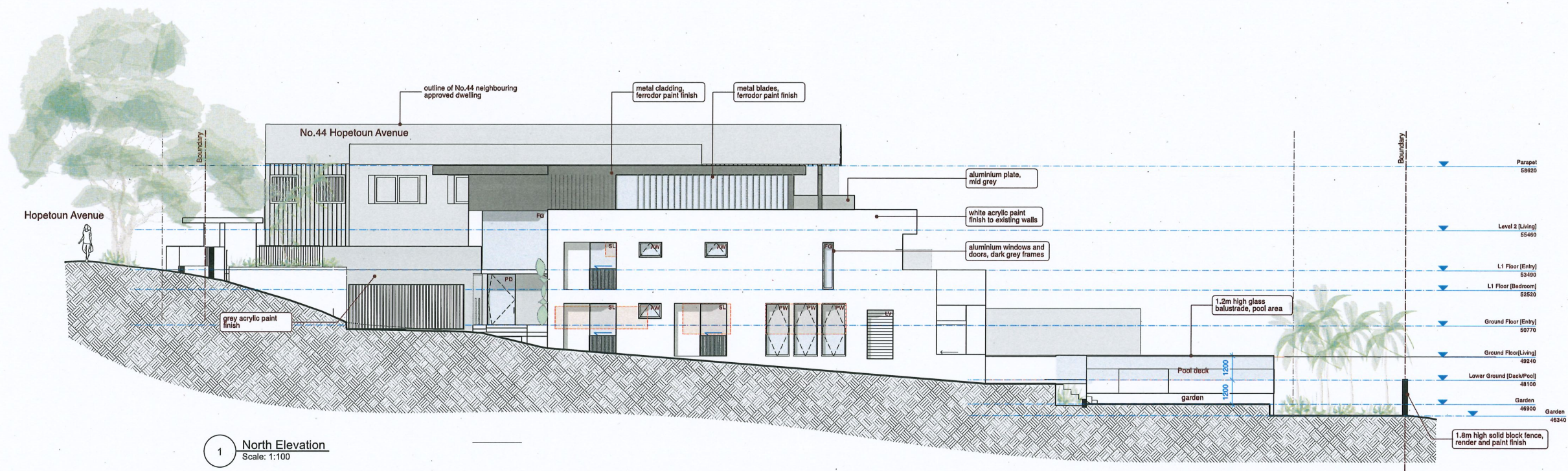
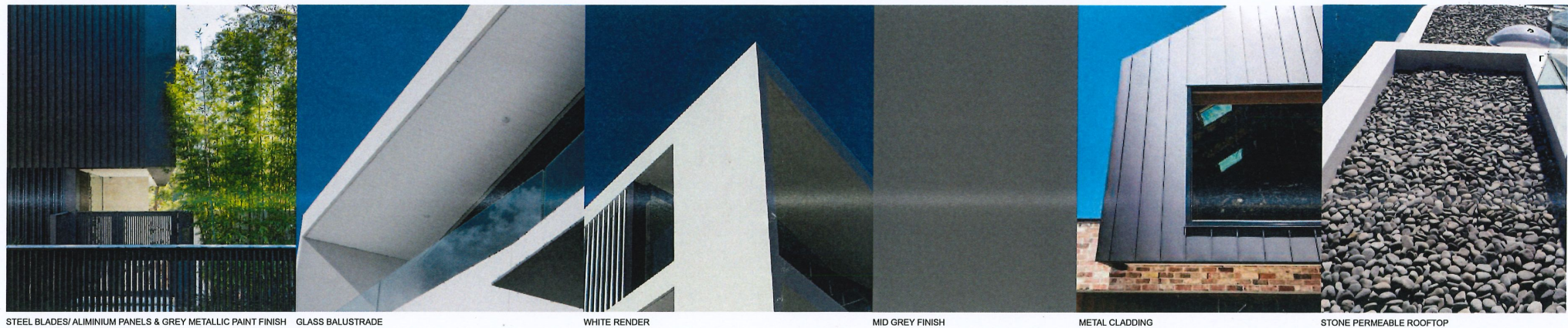
DA 4_01

B

FIGURE NO. 4.4.24

23x013 * 46 Hopetoun Ave, Vaucluse





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Existing



Proposed

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A	28.6.2023	DA Submission
B	4.4.2024	To Council

ISSUE

DATE	AMENDMENT NO.	ISSUED TO
27.6.23	1	For DA submission

TITLE
Photomontage

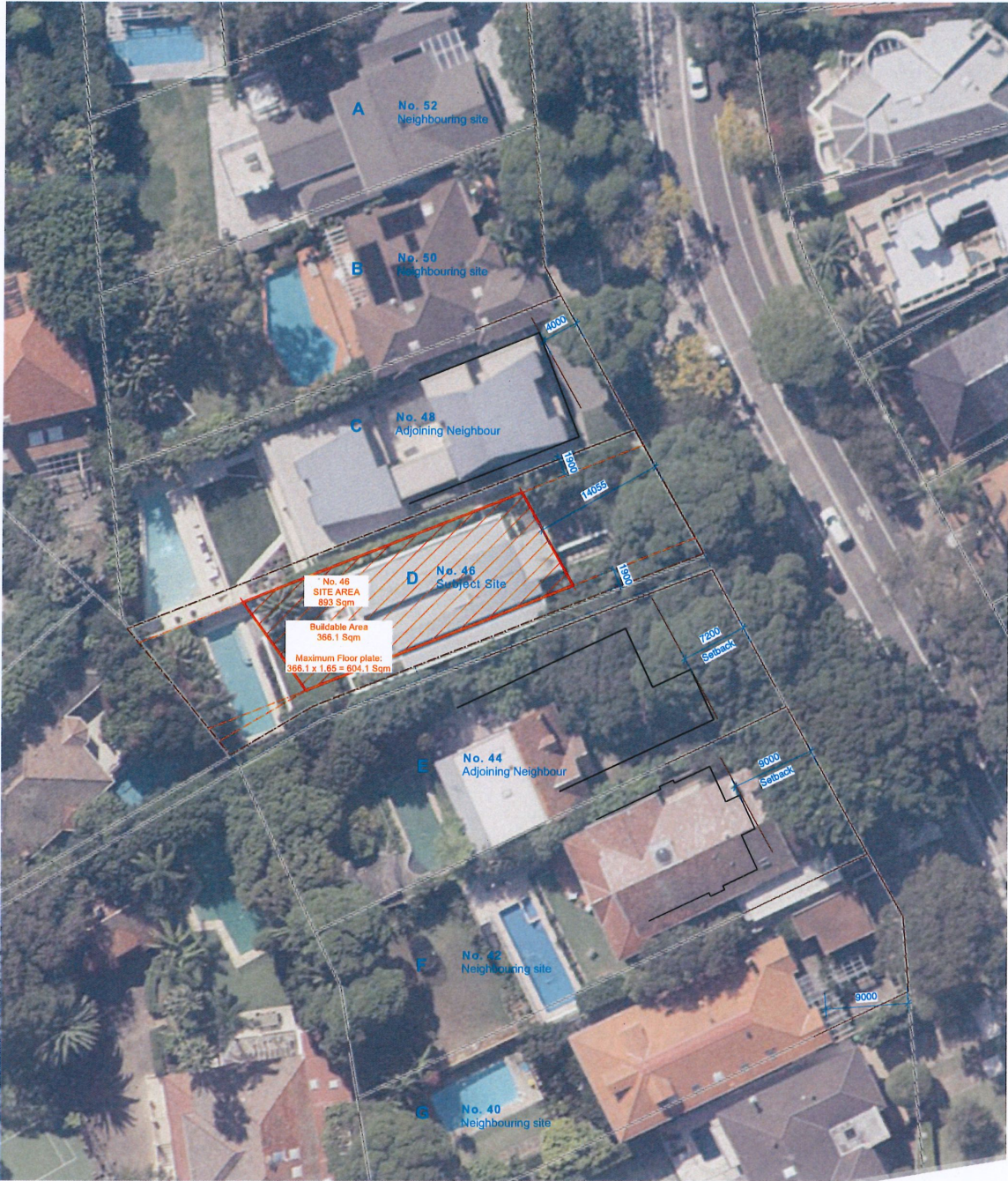
SCALE
1:100 @ A1

TYPE	NUMBER	DATE
DA	DA 5_05	4.4.24

23x013 * 46 Hopetoun Ave, Vaucluse

Attachment 2 Shadow Diagrams, Materials & Finishes, Photomontage & Control Diagrams

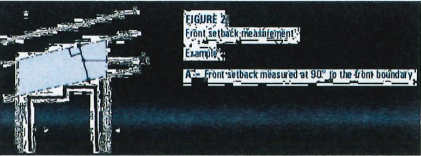
Page 241



FRONT SETBACK

The front setback is based on the existing setback:

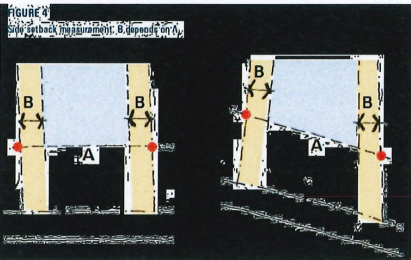
The existing dwelling has a front setback of 14.055m



SIDE SETBACK

The side setback based on WDCP 2015 control B3.2.3 figure 5A. The subject site has a width of 15.369m, which requires a side setback 1.9m

The proposed dwelling has a side setback of 1.9m

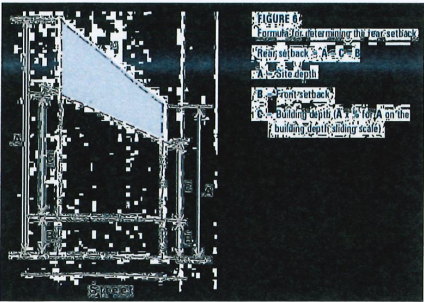


REAR SETBACK

The rear setback based on WDCP 2015 control B3.2.3 figure 6 & 7. The subject site has a site area of 893m², therefore building depth percentage used is 55%. A north boundary length of 59.52m and south boundary length of 56.05m

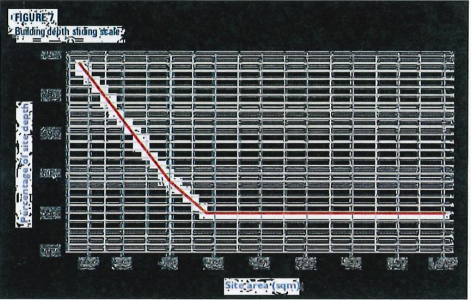
Northern boundary
A = 59.447m (side depth)
B = 14.055m (front setback)
C = (59.447 x 55%) = 32.696m (building depth)

Southern boundary
A = 56.946m (side depth)
B = 14.055m (front setback)
C = (56.946 x 55%) = 31.320m (building depth)



The proposed building area of 366.1m²

FIGURE 5A Side setback measurement	
A. Site width measured along front setback line in metres	B. Side setback in metres
1.00	0.00
1.01	0.01
1.02	0.02
1.03	0.03
1.04	0.04
1.05	0.05
1.06	0.06
1.07	0.07
1.08	0.08
1.09	0.09
1.10	0.10
1.11	0.11
1.12	0.12
1.13	0.13
1.14	0.14
1.15	0.15
1.16	0.16
1.17	0.17
1.18	0.18
1.19	0.19
1.20	0.20
1.21	0.21
1.22	0.22
1.23	0.23
1.24	0.24
1.25	0.25
1.26	0.26
1.27	0.27
1.28	0.28
1.29	0.29
1.30	0.30
1.31	0.31
1.32	0.32
1.33	0.33
1.34	0.34
1.35	0.35
1.36	0.36
1.37	0.37
1.38	0.38
1.39	0.39
1.40	0.40
1.41	0.41
1.42	0.42
1.43	0.43
1.44	0.44
1.45	0.45
1.46	0.46
1.47	0.47
1.48	0.48
1.49	0.49
1.50	0.50
1.51	0.51
1.52	0.52
1.53	0.53
1.54	0.54
1.55	0.55
1.56	0.56
1.57	0.57
1.58	0.58
1.59	0.59
1.60	0.60
1.61	0.61
1.62	0.62
1.63	0.63
1.64	0.64
1.65	0.65
1.66	0.66
1.67	0.67
1.68	0.68
1.69	0.69
1.70	0.70
1.71	0.71
1.72	0.72
1.73	0.73
1.74	0.74
1.75	0.75
1.76	0.76
1.77	0.77
1.78	0.78
1.79	0.79
1.80	0.80
1.81	0.81
1.82	0.82
1.83	0.83
1.84	0.84
1.85	0.85
1.86	0.86
1.87	0.87
1.88	0.88
1.89	0.89
1.90	0.90
1.91	0.91
1.92	0.92
1.93	0.93
1.94	0.94
1.95	0.95
1.96	0.96
1.97	0.97
1.98	0.98
1.99	0.99
2.00	1.00



FLOORPLATE CALCULATION

Maximum permissible floorplate

Buildable area x 1.65
366.1m² x 1.65
= 604.1m²

The proposed floorplate area of 604.1m²

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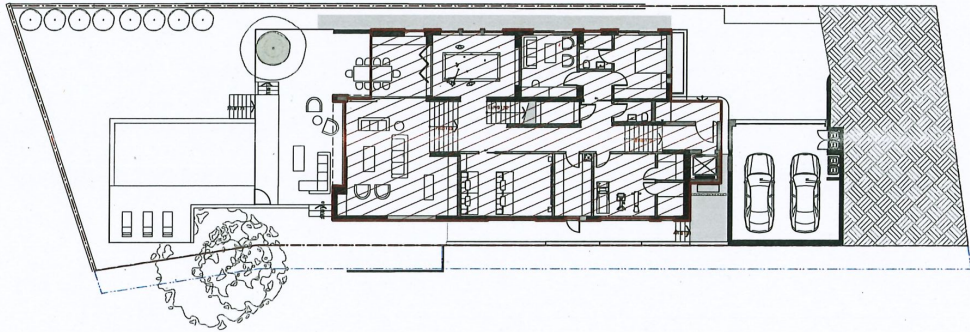
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27.6.23 1 For DA submission

TITLE
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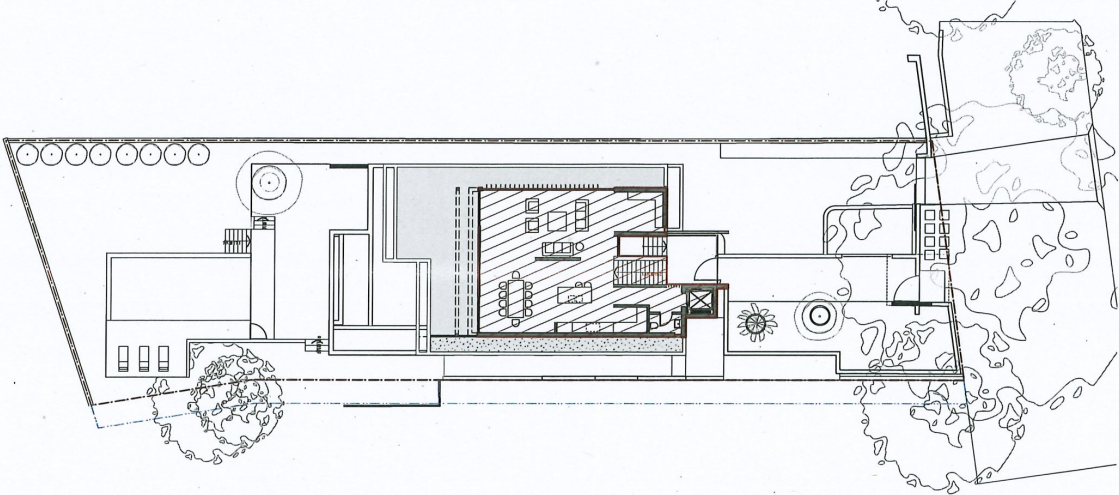
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DA 6_01 B
PLOT DATE
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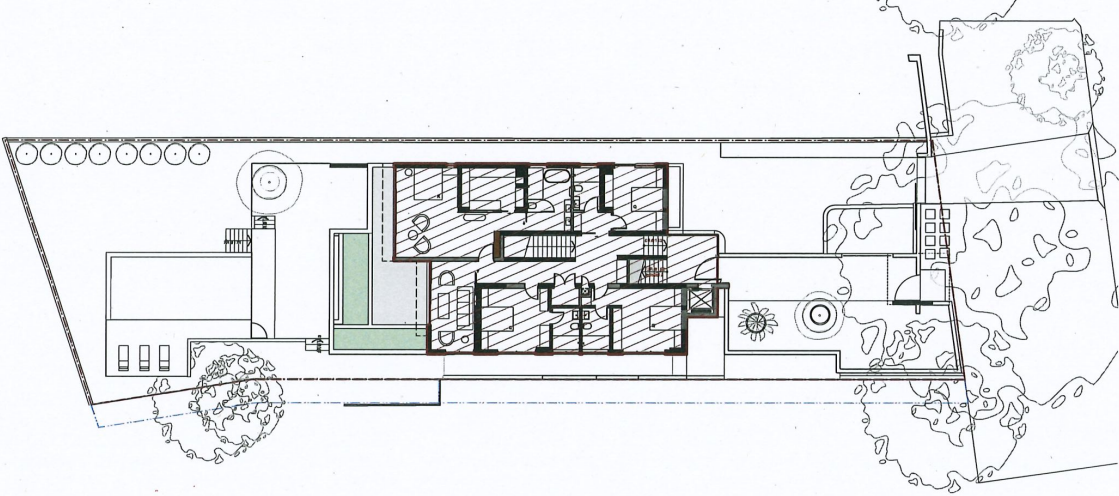
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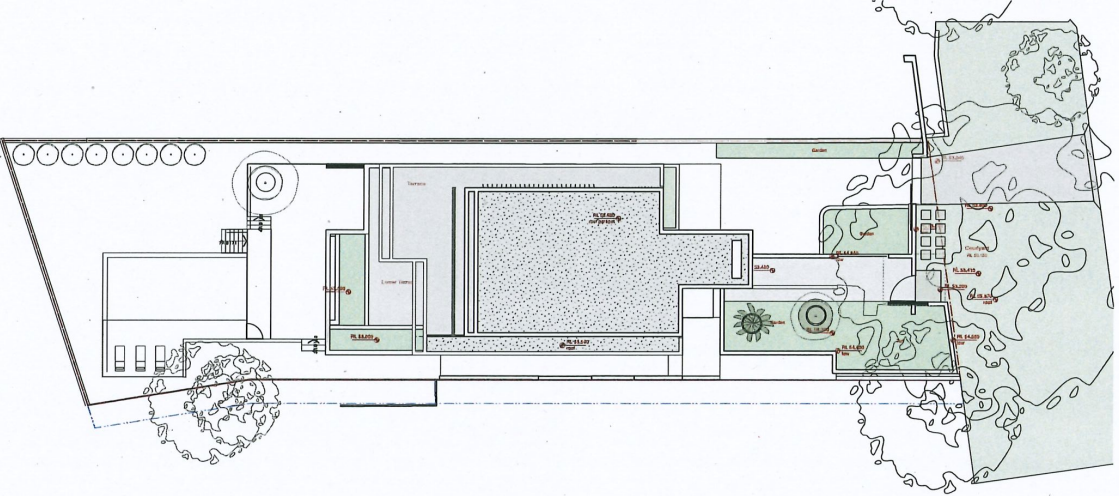
Ground Floor






Level 2



Level 1



Roof

PROPOSED FLOOR PLATE CALCULATIONS:			
Lot 893 sqm Buildable area: 366.1 sqm Floor plate permitted: 366.1 x 1.65= 604.1			
- Control:	Total Floor plate permitted = 604.1 sqm		
- Proposed:	Total Floor plate proposed = 604.1 sqm		
	Ground Floor	total area	266.8 sqm
	Level 1	total area	218.4 sqm
	Level 2	total area	118.9 sqm
		total area	604.1 sqm

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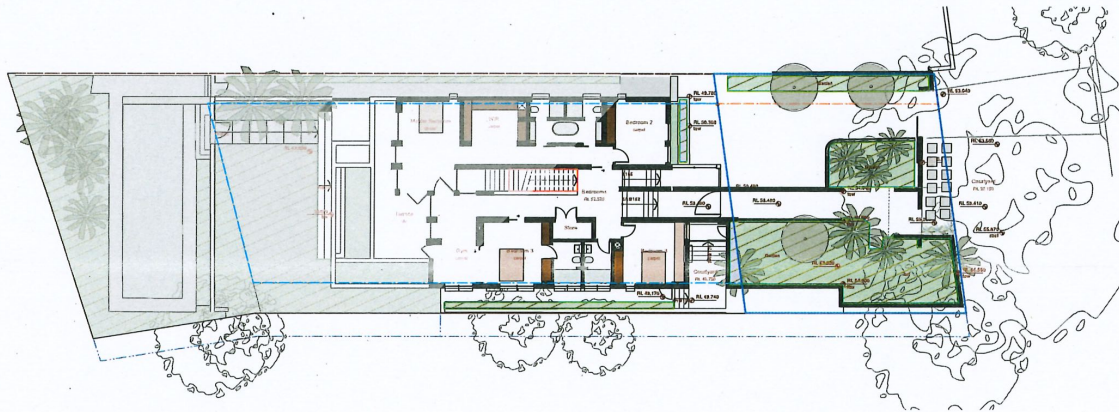
ISSUE	
DATE	ISSUED TO
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TITLE
GFA calculation

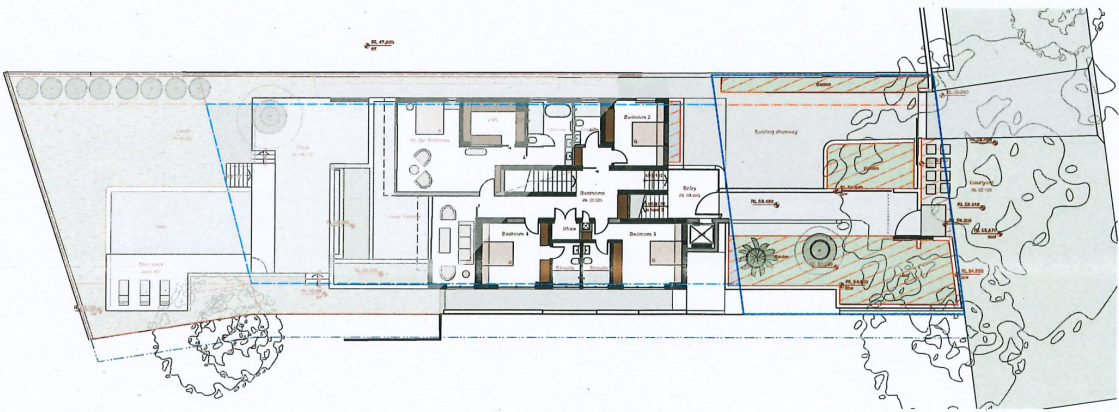
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DA 6_02	B
DATE	4.4.24

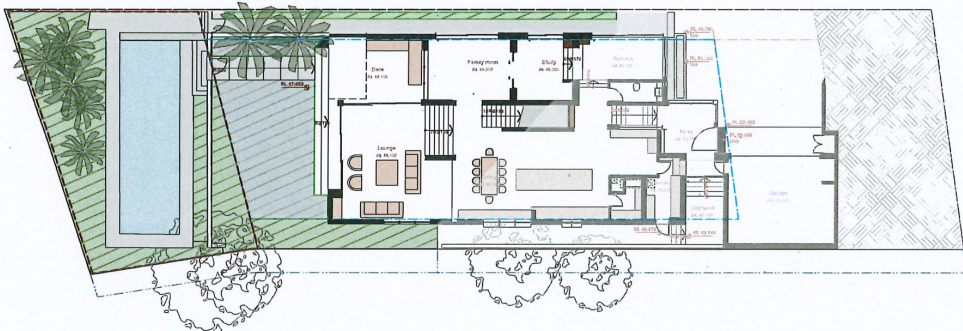
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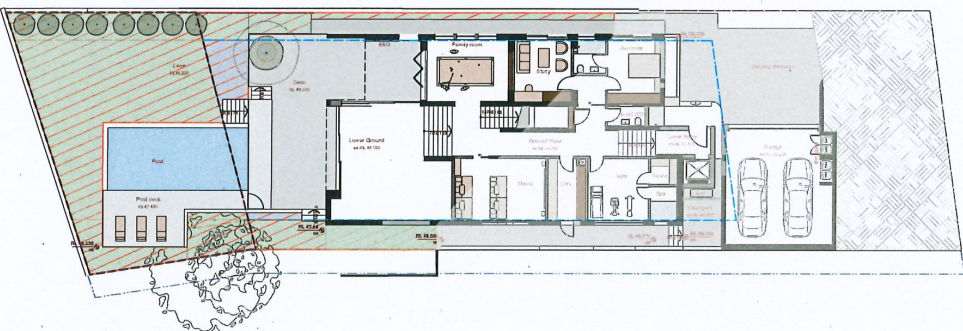
Existing Ground Floor



Proposed Ground Floor



Existing Lower Ground Floor



Proposed Lower Ground Floor

PROPOSED DEEP SOIL AREA CALCULATION			
Lot 893 sqm Buildable area: 366.1 sqm Non Buildable area: 526.9 sqm			
- Control: A minimum of 263.45 sqm = 50% of Deep Soil of the non buildable area.			
- Proposed: total Deep Soil outside buildable area 266.8 sqm = 50.6%			
	Existing Deep Soil outside of buildable area	220.8 sqm	
	Existing Deep Soil inside of buildable area	59.1 sqm	
	Proposed Deep Soil outside of buildable area	250 sqm	
	Proposed Deep Soil inside buildable area	16.8 sqm	
Front set back area: 216 sqm			
- Control: A minimum of 86.4 sqm = 40% of Deep Soil			
- Existing: total Deep Soil 87.1 sqm = 40.3%			
- Proposed: total Deep Soil 85.6 sqm = 39.6%			
Rear set back area: 184.9 sqm			
- Control: A minimum of 92.45 sqm = 50% of Deep Soil			
- Existing: total Deep Soil 95.1 sqm = 50.3%			
- Proposed: total Deep Soil 124.5 sqm = 67.3%			

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1	27.8.23	For DA submission

TITLE
Deep soil calculation

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DA 6_03

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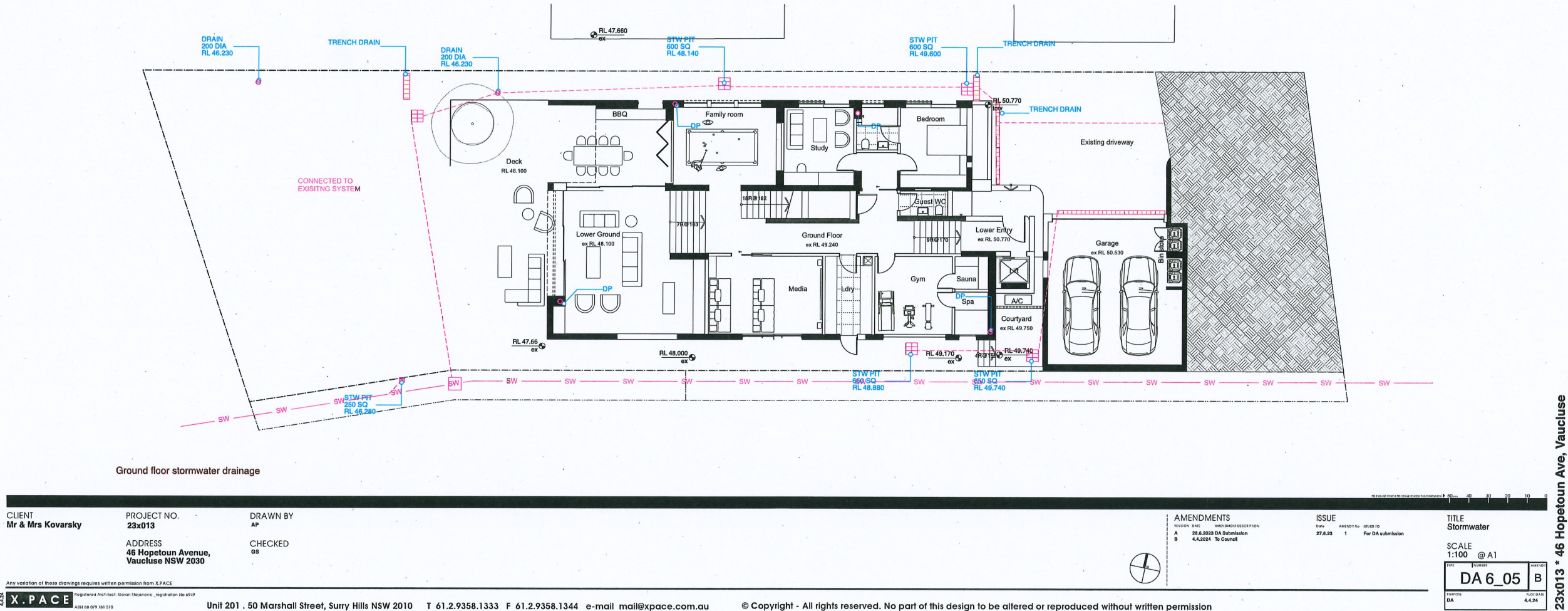
ISSUE
Date 27.6.23 1 For DA submission

TITLE
Site Waste Minimisation
& Management Plan

SCALE
1:100 @ A1

DA 6_04 B

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Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Height of Buildings

Proposed Alterations & Additions, Swimming Pool and
Landscaping at

No. 46 Hopetoun Avenue, Vacluse

Prepared for:

Kevin Kovarsky
c/o X.PACE Design Group
201, 50 Marshall 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. 23134
April 2024

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**WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

APPLICANT'S NAME: Kevin Kovarsky

SITE ADDRESS: No. 46 Hopetoun Avenue, Vaucluse

PROPOSAL: Proposed Alterations & Additions, Swimming Pool and Landscaping

1. (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 zone objectives are:

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

(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.

3. Specify the Nature of Development Standard sought to be varied and details of variation:

Most of the new works are within the LEP 9.5m height blanket. Due to a small existing basement (constructed as per the previous approval) which results in an artificial dip in the existing ground level, the centre of the proposed alterations and additions to the dwelling house will have a maximum building height of 11.6m, which technically exceeds the standard by 2.1m (22%). The height is measured from centre of the flat roof to the underside of the existing basement slab. As indicated, the rest of the flat roof well complies with the standard and the non-compliance is entirely technical as it is due to existing centralised excavation (see **Figures 1 & 2**). The proposal will appear to have a compliant height in the streetscape and as viewed from surrounding areas. The area of breach does not result in any additional visual or amenity impact.

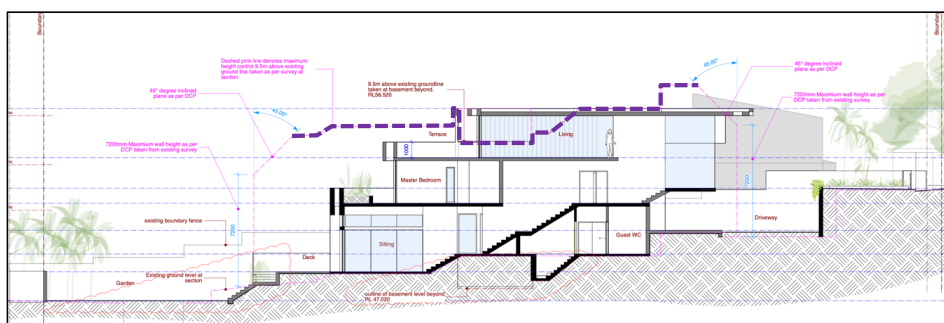
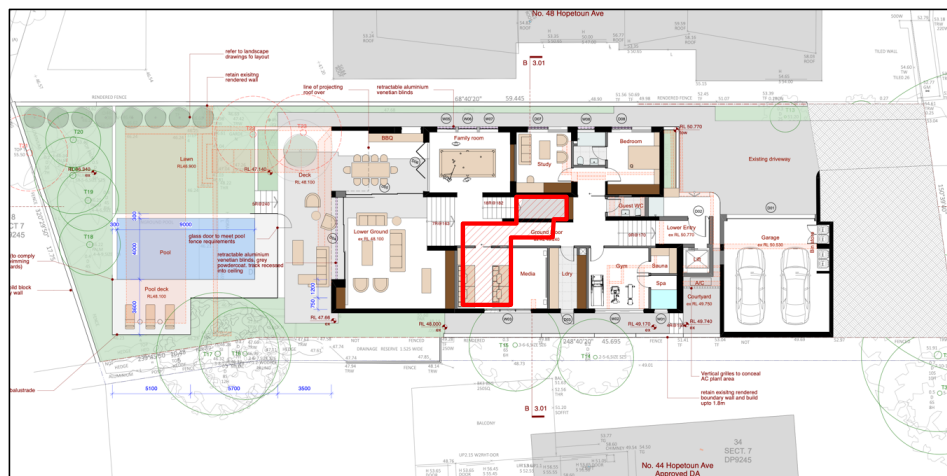


Figure 1: Proposed Long Section (9.5m Height Line in Purple)



Source: X.PACE Design Group

Figure 2: Proposed Lower Ground Floor Plan
Showing Location of Existing Basement Below (in Red)

As indicated, the exceedance is entirely technical due to previous excavation. It is a function of the topography. This is consistent with the Court's decision in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 (*Bettar*). This is also consistent with the recent Court's decision in *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 (*Merman*).

In *Bettar* the Court dealt with a site with similar characteristics to the subject site in that a basement existed on some parts of the site and not others. The Court took the approach of measuring height with the intent, in part, of relating the development proposal to its context and made the following relevant comments:

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

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

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

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

In *Merman*, a portion of the site was excavated for the construction of the existing building and the ground level was lowered by the excavation within the footprint of the existing building. If the excavated ground

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level was used as the reference point for the height, there would be a dip in that plane that does not reflect in the overall topography of the hill.

The Court accepted (at [74]) that there is an 'environmental planning ground' that may justify the contravention of the height standard under 'clause 4.6' when the prior excavation of the site (within the footprint of the existing building) distorts the maximum building height plane. The clause 4.6 request was upheld and development consent was granted.

A similar approach has been undertaken in relation to the subject site. The height breach is a function of topography. The EGL has recently been artificially altered by an approved, constructed basement in the centre of the site. Overall, the proposed works respond well to the streetscape and context.

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. It is our opinion that the proposed building height is appropriate given the zero visual or amenity impact. With a compliant two storey street façade, the built form will positively contribute to the public domain with a contextually compatible height and a built form that responds to the natural topography. The area of height departure is centralised and is directly related to the sudden drop in the EGL due to the recently constructed basement. The compliant appearance will be maintained in the streetscape and as viewed from surrounding areas.

The proposed works at the top level allows for appropriate alterations and additions that increase the existing house's longevity. The height variation will improve amenity of the dwelling whilst providing a bulk and scale that reinforces the characteristics of the Vaucluse West Precinct. Due to the anomalous drop to the EGL, it is near inevitable that any central top level works would require a Clause 4.6 Variation.

As the proposal is consistent with the objectives of Clause 4.6, the variation is acceptable in this instance.

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.

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.

The R2 Low Density Residential zoning permits a wide range of uses and built form on the site, which promotes the eclectic desired future character. The permissible uses are:

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business premises; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental

The proposed height variation is limited to the centre of the flat roof form that has a consistent RL, due to an existing basement below (see **Figure 3**). The proposal has been thoughtfully designed to appear as a two storey dwelling when viewed from the street, and the building height variation is entirely technical (see **Figure 4**). Further, given the sloping topography of the site and surrounding area, the subject site sits lower than the street level for the majority of the site. Regardless, there is no impact on the streetscape or the precinct characteristics given the central location of the height variation. In other words, the proposal has a compliant elevation as viewed from all surrounding areas. This ensures consistency in the context.

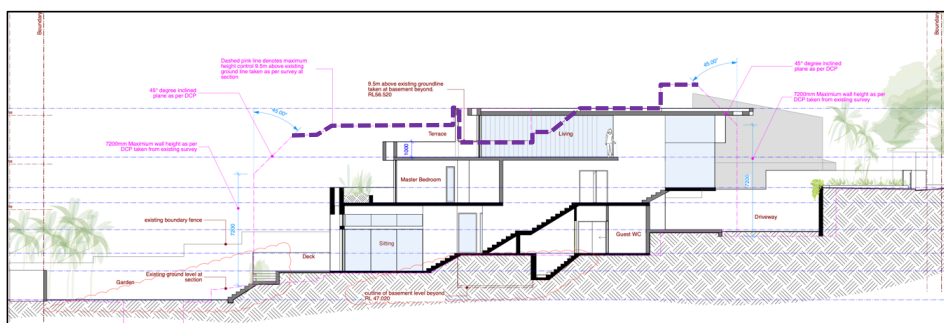


Figure 3: Proposed Long Section (9.5m Height Line in Purple)

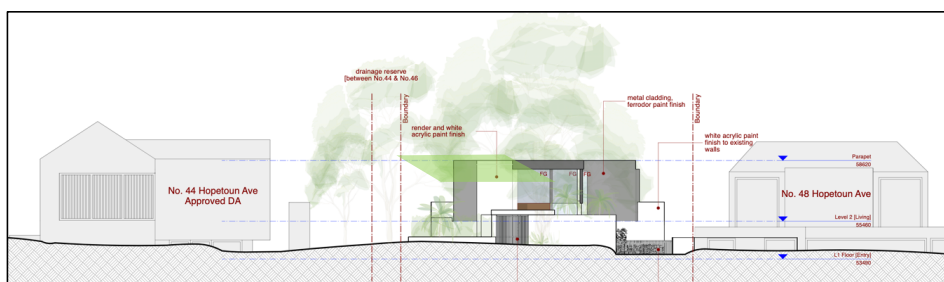


Figure 4: Proposed Front Elevation (Variation Not Visible)

Despite the partial non-compliance (entirely due to the sudden drop in terrain), the proposal sympathetically responds to the character of adjacent developments. There are a number of examples of alterations and additions and new dwellings in the LGA which have been approved under the current controls in the same R2 zone with building height non-compliances. It is recognised that each application is assessed on its own merits and each site has different characteristics.

On **21 December 2023**, Council approved DA No. 455/2022 for a single new dwelling at No. 30 Olola Avenue, Vaucluse with a 5.3% height exceedance. The main justification was topography (existing excavation), consistency with surrounding development, no unreasonable amenity impact, sufficient environmental planning grounds and consistency with the objectives of the standard.

On **7 September 2023**, Council approved DA No. 227/2023 for alterations and additions to an existing dwelling at Unit 3, No. 2A Black Street with a 25.8% height exceedance. The main justification was topography (existing excavation), consistency with surrounding development, no unreasonable amenity impact, sufficient environmental planning grounds and consistency with the objectives of the standard.

On **13 June 2023**, Council approved DA No. 376/2022 for a single new dwelling at No. 9 Kings Road, Vaucluse with a 6.3% height exceedance. The main justification was topography (existing excavation), consistency with surrounding development, no unreasonable amenity impact, sufficient environmental planning grounds and consistency with the objectives of the standard.

On **22 March 2023**, Council approved DA No. 529/2022 for alterations and additions to an existing dwelling at No. 14 Serpentine Parade, Vaucluse with a 9.7% height exceedance. The main justification was the pre-existing non-compliance, consistency with surrounding development, no unreasonable amenity impact, sufficient environmental planning grounds and consistency with the objectives of the standard.

On **21 April 2022**, Council approved DA No. 393/2022 for the 'alterations and additions to existing residential dwelling' at No. 1 Chapel Road, Vaucluse with a 54.08% height exceedance. The main justification was the pre-existing non-compliance. Changes to the existing overall building height will be exemplified by an increase of 2.12m. The variation is limited to a minor section of the second-floor addition which can be attributed to previous excavation and the measurement of height taken from 'existing ground level'. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds, and the proposal was consistent with objectives of the standard.

On **21 April 2022**, Council approved DA No. 26/2021 for the 'demolition of the existing dwelling house and construction of a new dwelling' at No. 16 Gilliver Avenue, Vaucluse with a 50.2% height exceedance. The main justification was that the variation is limited to a minor protrusion of the rear section of the dwelling which can be attributed to the sloping topography of the site and to a previously excavated area and the measurement of height from 'existing ground level'. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds, and the development was consistent with objectives of the standard.

On **3 February 2022**, Council approved DA No. 150/2021 for 'alterations and additions to the existing residential dwelling' at No. 19 Fitzwilliam Road, Vaucluse with a 11.57% variation to the height control. The main justification was the pre-existing non-compliance. The variation is limited to a minor protrusion of the roof form which can be attributed to the sloping topography of the site. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds, and the proposal was consistent with objectives of the standard.

On **2 December 2021**, Council approved DA No. 472/2020 for 'alterations and additions to the existing dwelling' at No. 32A Vaucluse Road, Vaucluse with a 34% height exceedance. The main justification

was the pre-existing non-compliance. The height of the development is consistent with that of surrounding development in terms of height, scale, built form and context. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds, and the proposal was consistent with objectives of the standard.

On **22 November 2021**, Council approved DA No. 140/2021 for 'alterations and additions to the existing dwelling' at No. 40 The Crescent, Vaucluse with a 56% height exceedance. The main justification was that the height of the development is consistent with that of surrounding development in terms of height, scale, built form and context. The non-compliance can be attributed to a previously excavated area and the measurement of height from 'existing ground level'. No unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds, and the proposal was consistent with objectives of the standard.

On **4 November 2021**, Council approved DA No. 145/2021 for the 'demolition of the existing dwelling house and construction of a new dwelling' at No. 94 Hopetoun Avenue with a 27.6% height exceedance. The main justification was that the variation was limited to a minor protrusion of the roof form which can be attributed to the sloping topography of the site. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds, and the proposal was consistent with objectives of the standard.

On **10 August 2021**, Council approved DA No. 519/2020 for 'extensive alterations and additions to existing dwelling, including new garage, swimming pool and associated landscape works' at Nos. 40-41 Olola Avenue, Vaucluse, with a 7.3% height exceedance. The main justification was consistency with the height standard's objectives and the result of an existing height non-compliance. It will remain contextually consistent and maintain neighbours' amenity.

Notably, the examples above have a comparable building height breach which was supported on similar arguments as those made in our request.

Regarding the subject site, the partial height variation area will maintain an appropriate height, bulk, and scale of the dwelling in the streetscape. This is mainly because the departure area is at the centre of an otherwise compliant flat roof. The development will present as a two storey dwelling to the street, which is contextually compatible. Accordingly, although the proposal will technically exceed the height standard, this will not have any adverse impacts as the design is contained within a compliant height if the natural ground level (NGL) were considered. It will also protect neighbouring properties' amenity in terms of view, solar access and privacy, as discussed later.

Accordingly, although the proposal will exceed the height standard, this is technical in nature and consistent with the desired future character as the design is contained within a compliant height if the NGL were considered.

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

The site is amidst an R2 zone and hence this objective is less relevant. Nonetheless, as indicated, the proposed variation will maintain an appropriate transition in scale as it presents a compliant height to the surrounding areas. In particular, the proposal appears as a two storey dwelling in the streetscape, maintaining visual amenity and reinforcing the characteristics of Vaucluse. This ensures the transition

in scale and local amenity is protected.

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

Shadow diagrams have been prepared to compare the existing and proposed. Given the central location, the variation will not result in any additional shadow when compared to a compliant envelope.

Accordingly, the proposal has minimised the loss of solar access, as there is no additional shadow on adjoining lands.

(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 technical variation is consistent with this objective as the sympathetic design will minimise impacts on neighbours' environmental amenity, which is the same as a compliant building height.

Views

The technical height departure is limited to a central portion of the flat roof, which is concealed from the streetscape and does not form the leading edge when viewed from surrounding vantage points. Hence, there is no additional view impact associated with the area of variation.

Privacy

Privacy will not be impacted, as the area of variation is limited to the centre of the non-trafficable flat roof.

Solar Access

In terms of solar access, this has been addressed under the previous objective and there is no additional shadow as a result of the area of variation.

Visual Bulk

As indicated, the proposal appears to have a compliant building height as viewed from surrounding areas, with a consistent flat roof design. In particular, at the frontage, a compliant two-storey street presentation is maintained. The area of variation is not discernible given the technical nature as a result of a small existing basement. Given the visually compliant height and contextually compatible two to three-storey built form, the development will not be visually intrusive.

The proposed alterations to the existing dwelling will improve amenity of the dwelling without adversely impacting neighbouring properties' amenity. Given the sharp drop in the EGL due to an existing basement, any addition at the roof level is likely to exceed the height standard. The proposal in its current form has been demonstrated to be compatible with adjacent developments' height, bulk, scale and character.

For these reasons, the proposal has appropriately responded to solar access, views, privacy and visual impact. Accordingly, in our opinion, the area of variation will have no additional impacts on neighbouring properties' environmental amenity and satisfy Objective (d).

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

There are no identified public views of the harbour and surrounding areas from the public domain across the site in the DCP. Regardless, since the variation is limited to the centre of the flat roof, there is no additional impact on any public view.

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

There are a number of environmental planning grounds specific to the site and the height non-compliance which justify contravening the development standard in this instance. As mentioned, the exceedance is a function of topography. The variation also represents consistency with the context. It maintains environmental amenity. These will be discussed below.

Function of Topography (Existing Basement Excavation)

The non-compliance is entirely related to the sudden drop in the EGL, due to existing basement excavation. The area of departure is limited to a central location where the EGL is substantially lower than the rest of the site. Given the anomalous EGL, it is near inevitable that any works at a similar location would not comply with the height standard. This is in accordance with the Court decisions in *Bettar and Merman*.

As indicated, the technical variation is required to achieve a consistent flat roof design. The proposal has ensured a compliant appearance in the streetscape and overall. Strict compliance with the standard would result in an awkward dip in the flat roof, which is considered unreasonable under the circumstances.

Consistency in the Context and with Desired Future Character

The proposal is permissible in the R2 Low Density Residential zone, is consistent with the relevant zone objectives and satisfies an 'unreasonable and unnecessary' test established by the court in *Wehbe*. The proposed new works, including the limited area of non-compliance at the centre, have been designed to represent a built form that matches the bulk and scale of the developments along the street, reinforcing the existing and emerging characteristics of the Vaucluse West Precinct. The proposed new works at the top level will improve dwelling's amenity and building's longevity, and having the area of exceedance at the centre of the flat roof ensures the proposal will maintain the desirable streetscape characteristics when viewed from Hopetoun Avenue.

In fact, strict compliance with the standard is likely to result in an inconsistency with the desired future character as it would result in an awkwardly shaped dip in the roof form. The proposal in its current form is a considerate design that responds to the context and desired future character.

Good Internal and External Amenity

The proposed technical non-compliance is considered to provide a better planning outcome for residents. The proposed variation will accommodate an additional level with enhanced amenity, compatible with the storey height of adjoining developments. This will improve internal amenity of the existing house. It will also maintain amenity for neighbours, to the same extent as a compliant envelope.

Overall, the variation will rationalise the internal design to enhance the amenity of the existing dwelling. Importantly, the limited location of the area of variation has ensured that amenity is maintained for

neighbours.

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).

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 R2 Low Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

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	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 <i>Wehbe</i> .	5.1	The proposal satisfies Test 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> The proposed height facilitates a low density development achieves the planning objectives of the area; The excavated topography renders the variation inevitable, as per <i>Bettar</i> and <i>Merman</i>; The proposal maintains a consistent flat roof RL, ensuring a compliant appearance; The arear of variation is limited to the centre of the flat roof, where there is an artificial dip in the EGL due to the existing basement; The proposal has a compliant two storey appearance in the streetscape and is consistent with the desired future character; and The variation maintains neighbours' privacy, solar access and views, to the same extent as a compliant envelope. 	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 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

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Clause 4.6 Exceptions to Development Standards – Height of Buildings
No. 46 Hopetoun Avenue, Vaucluse - Job No. 23134

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17 August 2023

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 224/2023/1
ADDRESS: 46 Hopetoun Avenue VAUCLUSE 2030
PROPOSAL: Alterations and additions including an additional level; replacement of swimming pool and landscaping.
FROM: Simone Woodman - Tree Management Officer
TO: Mr M D'Alessio

I refer to the following documents received for this report:

- Survey Plan No. Sheet 1 Reference 4797/23, drafted by ESA Survey, dated 20/04/2023
- Architectural Drawing No.s DA0_01/1, DA1_01, DA1_11, DA1_02 – DA1_04, DA2_01, DA2_02, DA3_01, DA5_01, drawn by X Pace, dated 27/06/2023
- Stormwater drainage Plan No.s DA6_05/1, drawn by X Pace, dated 27/06/2023
- Arboricultural Impact Assessment and Management Plan, written by George Palmer – Botanics Tree Wise People Pty Ltd, dated June 2023
- Landscape Plan No.s LP01-0923 issue 01, Revision B, LP02-0923 issue 01, Revision B, LP03-0923 issue 01, Revision B, designed by Tanya Wood Landscape Architecture, dated 26/06/23

A site inspection was carried out on 8 August, 2023.

Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

SUMMARY

- Inconsistent Arboricultural and landscaping documentation.

COMMENTS

Within the subject property three trees are proposed to be removed and three trees are proposed to be transplanted in relation to the subject development application.

Inconsistencies have been identified between the submitted Arboricultural and Landscaping documentation that could be resolved through the inclusion of conditions should consent be given for the subject development application.

The submitted Arboricultural Impact Assessment and Management Plan incorrectly identifies various tree species within and adjacent the subject property. Additionally the report recommends the removal of Tree No. 21 *Syzygium australe* (Brush Cherry Lillypilly) located on the rear boundary that is not impacted upon by the proposed development. The reason given for the proposed removal by the project Arborist is that the tree is located on a boundary line and is not fully grown. Further the Arboricultural report states the tree will require reduction pruning to allow for retention. The report provides no further discussion or justification for why the tree requires reduction pruning. Considering the tree has no effect on the design of the proposed development and conversely the development has no impact on the successful retention of the tree, removal of the tree will not be supported as part of the subject development application.

The Arboricultural Impact Assessment and Management Plan incorrectly identifies the following trees:

- Tree No.16 has been identified as *Plumeria acutifolia* (Frangipani). The tree is *Michelia doltsopa x figo* 'Bubbles'.
- Tree No. 17 has been identified as *Elaeocarpus* (Quandong). The tree is *Michelia doltsopa x figo* 'Bubbles'.
- Tree No.s18 and 19 have been identified as *Archontophoenix alexandrae* (Alexander palm). The palms are *Wodyetia bifurcata*, (Foxtail Palm).

The incorrect identification of tree species should not affect however, the management of these trees in relation to the subject development application.

The submitted landscape plan proposes Tree No.s 6, 10 and 11 to be transplanted. The Arboricultural Impact Assessment and Management Plan however makes no mention of these trees being proposed to be transplanted. Tree No.s 6, 10 and 11 are palms that can be successfully transplanted. In accordance with Council's DA Guide a Transplant Feasibility and Method Statement should be provided by the project arborist when a prescribed tree is proposed to be transplanted. The submitted landscape plan also incorrectly identifies the following trees:

- Tree No.16 has been identified as *Plumeria acutifolia* (Frangipani). The tree is *Michelia doltsopa x figo* 'Bubbles'.
- Tree No. 17 has been identified as *Elaeocarpus* (Quandong). The tree is *Michelia doltsopa x figo* 'Bubbles'.
- Tree No.s18 and 19 have been identified as *Archontophoenix alexandrae* (Alexander palm). The palms are *Wodyetia bifurcata*, (Foxtail Palm).

The submitted landscape plan indicates the proposed removal of Tree No.21 *Syzygium australe* (Brush Cherry Lillypilly) located on the rear boundary. As previously stated Tree

No.21 is not impacted upon by the proposed development and successful retention is possible. The plan should be amended to include the correct identification of tree species and the retention of Tree No.21.

There are existing physical barriers such as masonry walls to protect existing trees located within the neighbouring drainage reserve and no significant changes within their Tree Protection Zones to warrant specific tree protection measures.

RECOMMENDATIONS

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

CONDITIONS OF CONSENT

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

A. General Conditions

A.1 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
4	<i>Dypsis lutescens</i> (Golden Cane palm)	Front boundary	6 x 4
5	<i>Howea forsteriana</i> (Kentia palm)	Front yard	4 x 3
7, 8, 9	<i>Dracaena marginata</i> (Red-edged Dracaena)	Front yard	4 x 3 each
12, 13	<i>Syzygium australe</i> (Brush Cherry Lillypilly) – hedge	Front yard, northern side boundary	6 metres height
18	<i>Wodyetia bifurcata</i> , (Foxtail Palm).	Rear yard adjacent western side of existing swimming pool	9 x 4
19	<i>Wodyetia bifurcata</i> , (Foxtail Palm).	Rear yard adjacent western side of existing swimming pool	6 x 4
20	<i>Dypsis lutescens</i> (Golden Cane palm)	Rear yard adjacent western side of existing swimming pool	6 x 5
21	<i>Syzygium</i> sp. (Lillypilly)	Rear boundary	7 x 5

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Lophostemon confertus</i> (Brush Box)	Council verge	13 x 20	\$5000.00

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

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location	Dimension (metres)
6	<i>Howea forsteriana</i> (Kentia palm)	Front yard of subject property	7 x 4
10	<i>Beaucarnea recurvata</i> (Ponytail palm)	Front yard of subject property	4 x 3
11	<i>Cycas</i> sp. (Cycad palm)	Front yard of subject property	4 x 3

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

- c) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
22	<i>Howea forsteriana</i> (Kentia palm)	Rear yard, northern side	7 x 6
23	<i>Howea forsteriana</i> (Kentia palm)	Rear yard, northern side	10 x 5

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

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
Plan No.s LP01-0923 issue 01, Revision B, LP02-0923 issue 01, Revision B, LP03-0923 issue 01, Revision B	Landscape Plan	Tanya Wood Landscape Architecture	26/06/23
	Arboricultural Impact Assessment and Management Plan	George Palmer – Botanics Tree Wise People Pty Ltd	June 2023

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

o Establishment of Tree Protection Zone (TPZ) Fence

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

- a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Lophostemon confertus</i> (Brush Box)	Council verge	3.5

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement

of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.

- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) 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.
- f) The project arborist shall provide written certification of compliance with the above condition.

B.2 Permissible work within Tree Protection Zones

Nil

B.3 Demolition and Construction Management Plan

Nil

B.4 Arborists Documentation and Compliance Checklist

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

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

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

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

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

	works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.
--	--

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

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

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

C.1 Tree Management Plan

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

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

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

C.2 Modification of details of the development (section 4.17 (1) (g) of the Act)

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

- a) Amended landscape plan. The submitted landscape plan must amended to delete reference to the removal of Tree No.21 *Syzygium* sp. (Lillypilly) located on the rear boundary of the subject property. Additionally the plan must be amended to correctly identify the following tree species:
 - Tree No.16 has been identified as *Plumeria acutifolia* (Frangipani). The tree is *Michelia doltsopa* x figo 'Bubbles'.
 - Tree No. 17 has been identified as *Elaeocarpus* (Quandong). The tree is *Michelia doltsopa* x figo 'Bubbles'.
 - Tree No.s18 and 19 have been identified as *Archontophoenix alexandrae* (Alexander palm). The palms are *Wodyetia bifurcata*, (Foxtail Palm).The amended plan must be submitted to Council for approval by Council's Tree Officer prior to the issue of a Construction Certificate.
- b) Amended Arboricultural Impact Assessment and Management Plan. The submitted Arboricultural Impact Assessment and Management Plan incorrectly identifies the following trees:

- Tree No.16 has been identified as *Plumeria acutifolia* (Frangipani). The tree is *Michelia doltsopa* x figo 'Bubbles'.
- Tree No. 17 has been identified as *Elaeocarpus* (Quandong). The tree is *Michelia doltsopa* x figo 'Bubbles'.
- Tree No.s18 and 19 have been identified as *Archontophoenix alexandrae* (Alexander palm). The palms are *Wodyetia bifurcata*, (Foxtail Palm).

The submitted Arboricultural Impact Assessment and Management Plan recommends the removal of Tree No. 21 *Syzygium australe* (Brush Cherry Lillypilly) located on the rear boundary that is not impacted upon by the proposed development. The reason given for the proposed removal by the project Arborist is that the tree is located on a boundary line and is not fully grown. Further the Arboricultural report states the tree will require reduction pruning to allow for retention. The report provides no further discussion or justification for why the tree requires reduction pruning. Tree No.21 has no effect on the design of the proposed development and conversely the development has no impact on the successful retention of the tree. The report must be amended to include the retention of Tree No.21.

Transplant Feasibility and Method Statement. Tree No.s 6, 10 and 11 are proposed to be transplanted. In accordance with Council's DA Guide a Transplant Feasibility and Method Statement must be prepared by an Arborist with a Minimum AQF 5 qualification and submitted to Council for approval by Council's Tree Officer prior to the issue of a Construction Certificate. All amended and new Arboricultural documentation must be submitted to Council for approval by Council's Tree Officer prior to the issue of a Construction Certificate.

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

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

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

C.3 Payment of Long Service Levy, Security, Contributions and Fees

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

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Tree Damage Security Deposit – making good any damage caused to any public tree	\$5000.00	No	T114
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$221.34	No	T45
Security Administration Fee	\$190	No	T16

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

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

General Protection Requirements

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

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

E.2 Replacement/Supplementary trees which must be planted

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

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
7 x <i>Bambusa textilis gracillis</i> (Slender Weavers)	Rear yard	300mm each	6 metres height

The project arborist shall document compliance with the above condition.

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

F.1 Amenity Landscaping

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

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

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

Nil

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

H.1 Landscaping

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

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

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

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

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

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



Simone Woodman
Tree Management Officer

From: Vanessa Wood
Sent: Monday, 18 September 2023 4:21 PM
To: Mario D'Alessio <Mario.D'Alessio@woollahra.nsw.gov.au>
Subject: CM: Heritage Referral Response - DA2023/224/1 – 46 Hopetoun Avenue VAUCLUSE

Hi Mario,

I have reviewed the documents for DA2023/224/1 – 46 Hopetoun Avenue VAUCLUSE, including:

- Architectural Drawings by X Pace, dated 27 June 2023
- Statement of Environmental Effects by GSA Planning, dated June 2023
- Aboriginal Due Diligence Artefact Heritage, dated 14 August 2023

Based on these documents I provide the following comments in regards to heritage:

Subject property

The subject property is a heavily modified dwelling. It is not a heritage item, located in a HCA or a potential heritage item. Therefore, it is not considered a contributory item or a significant item.

There are no heritage items or heritage conservation areas in the vicinity of the dwelling that could be impacted by the proposal.

Therefore, the proposed works to the dwelling are supported from a heritage perspective.

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.

Anyone proposing to carry out an activity that may harm an Aboriginal object or a declared Aboriginal place must investigate, assess and report on the harm that may be caused by the activity they propose.

The 'Due Diligence Code of Practice for the protection of Aboriginal Objects in NSW' (2010) prescribes that an extensive search must be undertaken if AHIMS has shown that there are Aboriginal sites or places in the search area.

The Office of Environment & Heritage (OEH) disclosures for AHIMS searches are copied below:

- *You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.*
- *If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.*
- *The information derived from the AHIMS search is only to be used for the purpose for which it was requested.*
- *AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;*
- *It is not be made available to the public.*
- *Information recorded on AHIMS may vary in its accuracy and may not be up to date.*

- *Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings.*
- *Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.*
- *Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.*

The Applicant has provided an Aboriginal Heritage Impact Assessment (the 'report') prepared in accordance with the 'Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW' published by the Department of Environment, Climate Change and Water and dated 13 September 2010 and in accordance with Attachment 10 of Council's DA guide available at: https://www.woollahra.nsw.gov.au/data/assets/pdf_file/0009/248238/DA-Guide-Attachment-10-Aboriginal-Heritage-Impact-Assessment.pdf

Gareth Holes from Artefact Heritage is a qualified Aboriginal heritage consultant who inspected the property on 7 August 2023. The inspection was also attended by Steven Ella from the La Perouse LALC.

There has been consideration of relevant previous Aboriginal heritage investigations, as detailed in section 3.2.3 and 7 of the report.

La Perouse LALC was included in the site inspection, evidencing consultation was undertaken.

The AHIMS of the OEH was consulted on 1 August 2023 and the search is attached at Section 4 and Appendix A of the report. There is one Aboriginal site within a 400m x 400m buffer of the study area. No sites are located within the study area itself.

The report identifies the following potential for unexpected findings within the area:

- *The study area is within one of the landforms identified in the Due Diligence Code of Practice as being sensitive (within 200m of a watercourse)*
- *The study area has been subject to **extensive disturbance***
- *No Aboriginal objects were identified and it is unlikely that Aboriginal objects are present within the study area.*

The report recommends that:

- *The study area does not contain and is not likely to contain any Aboriginal objects. It is recommended that no further Aboriginal heritage assessment or investigation are required, and the proposed works can proceed with caution.*
- *This Aboriginal Heritage Impact Assessment does not constitute consent to harm Aboriginal objects, nor it is a 'site clearance' mechanism to allow activities to occur in an area where Aboriginal objects are likely or known to be present.*
- *If Aboriginal objects are discovered during the proposed works, works must stop immediately and an assessment must be undertaken in accordance with Part 6 of the National Parks and Wildlife Act 1974. If the activity cannot avoid harm to Aboriginal objects, works cannot proceed until an Aboriginal Heritage Impact Permit has been issued. That permit application process includes*

- *Development of a predictive model for the nature and distribution of archaeological evidence of Aboriginal land use based on the previous three steps.*
 - *Archaeological survey to test the prediction developed in the previous step. Survey of the study area would include the involvement of a site officer representing the La Perouse LALC. It is anticipated that the La Perouse LALC will prepare a brief report to be appended to and summarised within the report.*
 - *Discussion of the results of the archaeological survey and re-evaluation of the regional and local archaeological character.*
 - *Assessment of likely impacts to Aboriginal objects and Potential Archaeological Deposits (PADs) based on the current design plans.*
 - *Assess likely impacts and provide recommendations for any practical measures that may be required to protect and conserve identified Aboriginal objects and places identified within the study area.*
- *If the proposed project cannot avoid harming Aboriginal objects, an AHIP must be in place before any works proceed. All works must comply with the conditions of any AHIP issued.*
 - *A copy of this report should be provided to the La Perouse LALC.*

CONCLUSION

National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage Aboriginal heritage will be provided below.

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.

1. Aboriginal Objects – Unexpected Findings

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

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

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before

or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.
Standard Condition: B10 (Autotext BB10)

2. Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.
Standard Condition: B9

3. Aboriginal Heritage Due Diligence Responsibilities

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

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.
Standard Condition: B12 (Autotext BB12)

4. Aboriginal Heritage Induction

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

Standard Condition: B13 (Autotext BB13)

Please let me know if you require anything further.

Kind Regards,



Vanessa Wood
Heritage Officer

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028
t: 02 9184 1021
e: Vanessa.Wood@woollahra.nsw.gov.au w: www.woollahra.nsw.gov.au

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

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



Woollahra
Municipal
Council

14 November 2023

REFERRAL RESPONSE – DRAINAGE

FILE NO: Development Applications: 224/2023/1

ADDRESS: 46 Hopetoun Avenue VAUCLUSE 2030

PROPOSAL: Alterations and additions including an additional level; replacement of swimming pool and landscaping.

FROM: Michael Casteleyn

TO: Mr M D'Alessio

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Plan - Architectural Drawings - DA 2023-224-1 - 46 Hopetoun Avenue VAUCLUSE

3. ASSESSMENT

The DA submission has been reviewed.

4. RECOMMENDATION

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

D	1.	Flood Protection
		<p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).</p> <p><u>Flood Warning:</u></p> <p>a) A permanent flood risk management plan shall be installed in a prominent area of the garage,</p> <p><u>Flood Proof Material</u></p> <p>a) Flood compatible materials shall be used for all flood exposed construction.</p>



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	<p><u>Electricals</u></p> <p>a) All flood exposed electrical wiring and equipment shall be waterproofed,</p> <p><u>Certification</u></p> <p>a) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,</p> <p>Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure the development incorporates flood inundation protection measures.</p>
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< use the following table format for special bespoke conditions. Delete if not applicable>

1.	<p>Flood Protection</p> <p><u>Driveway entry</u></p> <p>a) The driveway entry shall be protected by a physical threshold or automatic mechanical flood barrier with the threshold set to the flood planning level of 300mm above the adjacent footpath level. All flood protection measures shall be located entirely within the development site.</p> <p>b) Permanent brass plaques shall be mounted adjacent to all automatic mechanical flood barriers explaining their purpose and operation,</p> <p>c) The development frontage shall be protected by a waterproof wall designed to protect the development to the flood planning level of 300mm above the adjacent footpath level</p> <p>Condition Reason: To ensure the development incorporates flood inundation protection measures.</p>
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Michael Casteleyn
Drainage Engineer

14 November 2023
Completion Date

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA173/2023/1
ADDRESS	80 Sutherland Street PADDINGTON
COUNCIL WARD	Paddington
SITE AREA	120.1m ²
ZONING	R2 Low Density Residential
PROPOSAL	Extensive alterations and additions
TYPE OF CONSENT	Local development
COST OF WORKS	\$739,805.00
DATE LODGED	23/05/2023 (original proposal) 07/07/2023 (Amended proposal) 03/11/2023 (Amended proposal)
APPLICANT	Architectural Projects Pty Ltd
OWNER	M Cheng
AUTHOR	Mrs L Holbert
TEAM LEADER	Mr G Fotis
SUBMISSIONS	4
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:

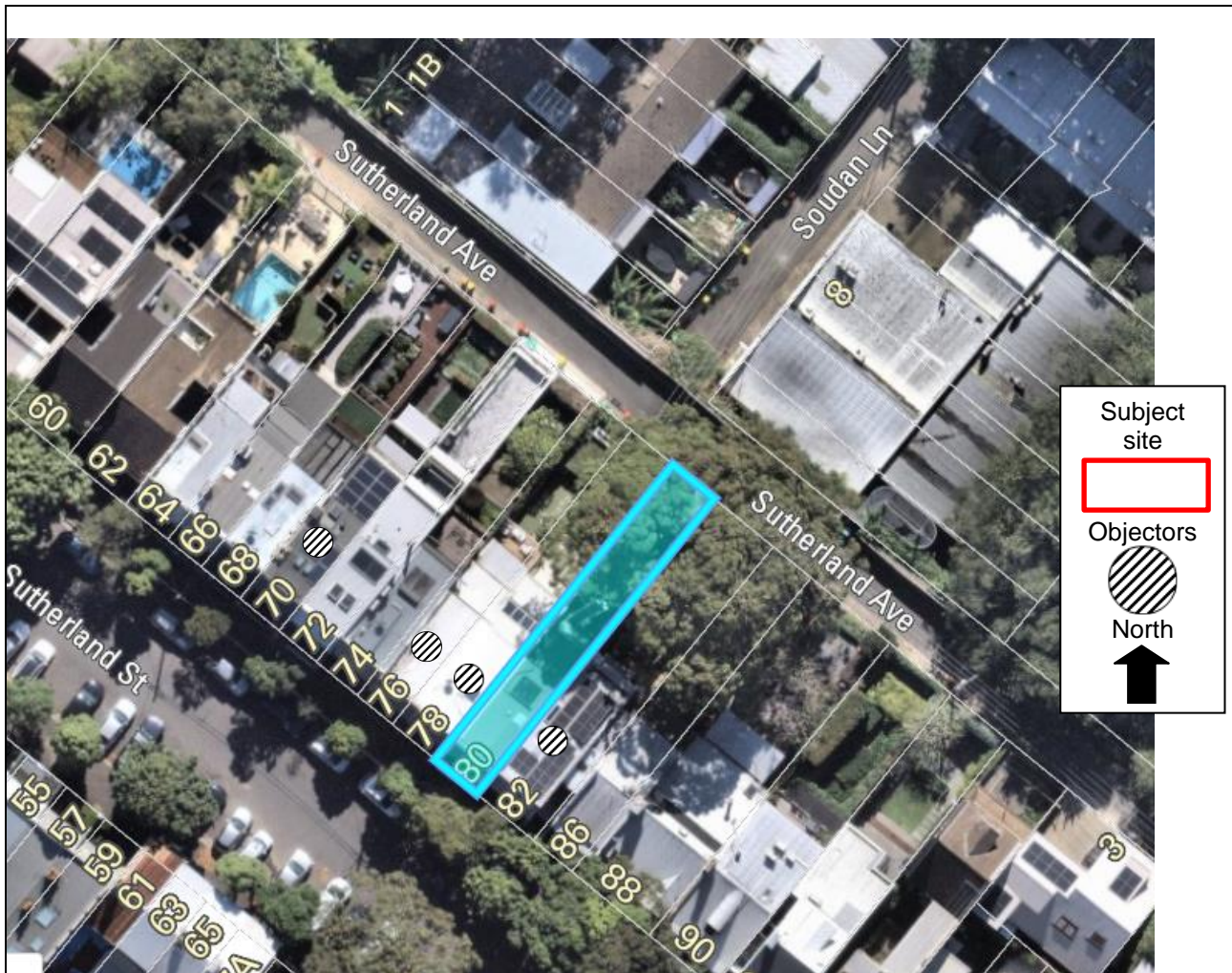
- Departure from development standards
 - (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

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 refusal because:

- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015;
- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified;
- The written request submitted by the applicant has not adequately demonstrated that the contraventions of the Height of Buildings development standard prescribed by Part 4.3 of the WLEP are justified pursuant to the relevant matters for consideration prescribed by cl4.6 of the WLEP;
- The site is not suitable for the proposed development; and
- The proposal is not in the public interest.

3. LOCALITY PLAN



4. PROPOSAL

The proposed development is for extensive alterations and additions to an existing terrace. The proposal involves the following works:

Garage Level:

- Excavation works to the rear of site to provide a tandem garage, storage room, WC, lift, laundry, service room and staircase.

Lower Ground floor:

- Demolition of the existing front lower ground floor stair;
- Enlargement of the existing window opening to provide a new bi-fold window to the front elevation;
- New lower ground floor level courtyard to the front of the site, with bar bench adjacent to the new bi-fold window;
- Demolition of the internal walls;
- New rear wing addition and reconfiguration of the internal layout to provide a kitchen, dining area, fireplace, lift, entertaining area and guest room/media room;
- New glazed door to the rear elevation;
- New trafficable roof terrace above the proposed garage with planters to the western and northern boundaries;
- New skylights to the roof terrace above the garage.

Ground Floor:

- New glass slab above the front lower ground floor courtyard;
- New landscaping to the front courtyard;
- Demolition of the internal walls;
- Rear addition and reconfiguration of the internal layout to provide family lounge room, library/study, staircase, bedroom, ensuite and lift;
- New glazed doors to the rear elevation;
- New rear balcony with rear planter and privacy screens to either side;
- New skylights to balcony above the proposed media room.

First Floor:

- Demolition of the internal walls;
- New rear addition and reconfiguration of the internal layout to provide two bedrooms, two ensuites, staircase, lift and linen cupboard.

Roof:

- New skylight to the rear roof slope of the principal roof.

Amended Plans were received on 07/07/2023. The following changes were made:

- The vehicular access and parking arrangements were included on the plans;
- The proposed works were shown in colour;
- The highlighted works to No.72 Sutherland Street were deleted.

Amended Plans were received on 03/11/2023. The followings changes were made:

- The existing site levels to the garage were retained;
- The proposed wine cellar, stair, powder room, lift and laundry has been deleted from the garage level. The existing storage behind the car spaces will be retained and the access stair is to be relocated adjacent to the rear car space;
- A new laundry and powder room is proposed to the lower ground floor;
- The rear terrace was raised by 440mm to accommodate the changes to the garage level.

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	2.15m or 22.6% departure from the 9.5m control	Unsatisfactory

5.2 Primary Issues

Issue	Conclusion	Section
Building Height	The proposed development does not comply with the maximum statutory height control. The submitted Cl.4.6 Variation has not sufficiently demonstrated that compliance with the height control is unreasonable/unnecessary and that there are sufficient environmental grounds for the variation. It is noted that there is an existing height non-compliance, however the large first floor addition significantly increases the extent of the existing non-compliance.	13.4, 9.1
Bulk and Scale	The proposed height, bulk and scale of the rear addition, including the ground floor rear balcony (and the associated privacy screens) is considered to be inconsistent with the height, bulk and scale of adjoining properties. This has a detrimental impact on the visual amenity of surrounding properties, and is contrary to Control C3 of Part C1.4.5 of the WDCP, 2015.	14.1

Issue	Conclusion	Section
Front Façade/Street front zone	The proposed changes to the front façade (at lower ground floor/basement level), were not supported by Councils Heritage Officer and are contrary to Controls C4, C11 and C15 of Part C1.4.1 of the WDCP, 2015. These controls do not allow for any changes to the street front basement levels, except for the purposes of restoration or reconstruction of missing original elements.	9.1, 14.1
Rear Building Alignment	The subject terrace forms part of a group, located between Nos.80, 78 and 76 Sutherland Street. The development extends beyond the rear building alignment of the terrace group on all levels. This results in a height and scale that will adversely impact the visual amenity of surrounding properties, and is contrary to Control C5(f) of Part C1.4.3 of the WDCP, 2015.	9.1, 14.1
Fenestration	The proposed development interrupts the shared solid to void ratios within the terrace group, as all solid walls and existing windows/doors are proposed to be removed from the rear elevation. This detracts from the character and appearance of the conservation area and is contrary to Control C5(c) of Part C1.4.3 of the WDCP, 2015.	14.1
Visual Privacy	The proposed large trafficable roof terrace above the garage would result in unacceptable visual privacy impacts on surrounding properties. It is noted that the submitted plans were inadequate, thus the privacy impacts on surrounding properties were not able to be adequately assessed. It is also noted that the proposed amended plans have further exacerbated visual privacy impacts, as the revised roof terrace has been raised by 440mm.	14.1
Balcony	The proposed ground floor rear balcony and the associated privacy screens would have a detrimental impact on the visual amenity of surrounding properties, contrary to Control C7 of Part C1.5.4 of the WDCP, 2015.	14.1
Deep Soil Landscaping	No deep soil landscaping has been provided. In addition the proposal does not allow for any opportunities for tree planting.	14.1
Unbuilt upon Area	The subject site does not comply with the minimum unbuilt upon area requirements.	14.1
Trafficable Roof Terrace	The proposed development includes a trafficable roof terrace above the proposed car spaces. Control C12 of Part C1.4.8 of the WDCP does not allow private open space to be in the form of a roof terrace. Further, the proposed roof terrace does not allow for compliance with the minimum deep soil landscaping controls and results in unacceptable amenity impacts on surrounding properties.	14.1
Materials	The proposed timber look aluminium battens to the proposed garage and balustrading, is not considered to be an appropriate sympathetic material within the Paddington Heritage Conservation Area.	14.1

5.3 Summary of Submissions

Issue	Conclusion	Section
Inconsistent Plans	It would appear that the rear alignment of No.82 Sutherland Street is incorrectly shown on the submitted plans. However it is noted the proposed development has not been supported.	9.1
Dilapidation Report	A dilapidation report could be required, by way of condition, should consent be granted. However it is noted the proposed development has not been supported.	9.1
Height	The proposed non-compliance with the maximum height control was not supported, subsequently the proposal has been recommended for refusal.	9.1
Rear building alignment	The proposed rear building alignment was considered unacceptable. The proposal was therefore not supported.	9.1,14.1
Overlooking impacts	The proposed development has not been supported.	9.1,14.1
Trees	The amended plans have retained the existing site levels and deleted the proposed excavation works. Council's Landscape Officer has subsequently supported the application, subject to conditions to protect the significant Tallow Wood tree located at No.82 Sutherland Street, should consent be granted.	9.1,14.1

Issue	Conclusion	Section
Heritage (front courtyard, basement level)	These works have not been supported. The proposed development has been recommended for refusal.	9.1,14.1
Extent of excavation	The proposed excavation works have been deleted.	9.1,14.1

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site is located on the northern side of Sutherland Street. The subject site has a secondary frontage to Sutherland Ave. The subject site has a rectangular shape and has a total area of 127.1m ² .
Topography
The subject site slopes steeply from the front of the site toward the rear, in the order of 5m.
Existing buildings and structures
The subject site contains a three storey Victorian terrace fronting Sutherland Street. A single storey car port fronts Sutherland Ave. The subject terrace form part of group of 3 terraces extending from Nos.76 to 80 Sutherland Street. The subject building is not heritage listed, however the site is located within the Paddington Heritage Conservation Area.
Surrounding Environment
The surrounding environment is characterised by a mixture of residential buildings, including Victorian terraces, contemporary infill buildings and residential flat buildings.



Photo 1: Front elevation of the subject site.

7. RELEVANT PROPERTY HISTORY

Current use
Residential
Relevant Application History
<ul style="list-style-type: none"> DA2018/476 - Alterations and restoration of the Sutherland street facade including demolition of intrusive fabric – Approved – 13/02/2019.
Relevant Compliance History
N/A
Pre-DA
N/A

Requests for Additional Information and Replacement Applications	
<ul style="list-style-type: none"> A stop the clock letter requested an Arboricultural Impact Assessment on 06/06/2023. This report was received on 06/07/2023; A stop the clock letter requested Vehicular Access and Parking Arrangements on 06/06/2023. These plans was received on 07/07/2023; A stop the clock letter requested amended architectural drawings on 06/06/2023. These drawings was received on 07/07/2023; A stop the clock letter requested coloured plans on 06/06/2023. These plans was received on 07/07/2023; A stop the clock letter requested a Construction Methodology and Structural Report on 06/06/2023. This documentation was received on 06/07/2023; An amended Arborist Report and exploratory root investigation was requested on 07/09/2023. The applicant provided an amended Arborist Report and amended plans on 03/11/2023; A revised Construction Methodology Report was requested on 20/11/2023. This documentation was received on 11/12/2023. 	
Land and Environment Court Appeal(s)	
N/A	

8. REFERRALS

Referral	Summary of Referral Response	Attachments
Development Engineering	Satisfactory, subject to Conditions.	2
Trees and Landscaping	Satisfactory, subject to Conditions.	3
Heritage	Unsatisfactory.	4
Drainage Engineer	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:

- The provisions of any environmental planning instrument
- The provisions of any proposed instrument that is/has been the subject of public consultation
- The provisions of any development control plan
- Any planning agreement that has been entered into
- Any draft planning agreement that a developer has offered to enter into
- The regulations
- Any coastal zone management plan
- The likely impacts of that development:
 - Environmental impacts on the natural and built environments
 - Social and economic impacts
- The suitability of the site
- Any submissions
- The public interest

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 26/07/2023 to 10/08/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. 4 Submissions were received from:

- Jeff Morgan, 78 Sutherland Street, Paddington
- Marianne Mentis, 76 Sutherland Street, Paddington
- Shiva Roy, 82 Sutherland Street, Paddington
- William & Toni Hague, 70 Sutherland Street, Paddington

The submissions raised the following issues:

- **It would appear the submitted drawings show the rear alignment of No. 82 Sutherland Street, incorrectly,**

Comment: It would appear that the rear alignment of No.82 Sutherland Street is incorrectly shown on the submitted plans. Notwithstanding this, the proposed development is not supported.

- **A dilapidation report should be provided due to the proposed excavation works.**

Comment: A dilapidation report could be provided by way of condition, should consent be granted. However it is noted the proposed development has not been supported and the excavation works have been deleted from the proposal.

- **The proposed non-compliance with the maximum height control results in overshadowing of solar panels at No.82 Sutherland Street, Paddington.**

Comment: The proposed non-compliance with the maximum height control was not supported. The proposed development has been recommended for refusal.

- **The proposed non-compliant rear building alignment would compromise light, views, ventilation and privacy to No.82 Sutherland Street, Paddington.**

Comment: The proposed rear building alignment is considered unacceptable. The proposed development has been recommended for refusal.

- **The proposed rear terrace will result in overlooking into the private open space and kitchen of No.82 Sutherland Street.**

Comment: The proposed development has not been supported.

- **The proposed development will adversely impact the significant Tallow wood tree located at No.82 Sutherland Street.**

Comment: The amended plans have retained the existing site levels and deleted the proposed excavation works. Council's Landscape Officer has subsequently supported the application, subject to conditions to protect the significant Tallow Wood tree located at No.82 Sutherland Street, should consent be granted.

- **The proposed enclosure of the front courtyard with a glass slab and the removal of the front stairs at basement level would detract from the heritage significance of the conservation area and is inconsistent with surrounding terraces.**

Comment: These works have not been supported. The proposed development has been recommended for refusal.

- **The proposed excavation works could potentially impact the structural integrity of the subject and surrounding buildings.**

Comment: The proposed excavation works have been deleted by the amended development.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 11/08/2023 declaring that the site notice for DA173/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

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

Chapter 2 – Coastal Management

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

The subject site is located wholly outside of the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11). Furthermore, sub-clauses 2.10(3) and 2.11(2) state:

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

On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

Chapter 4 – Remediation of Land

The Object of this Chapter aims to *promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Under Clause 4.6(a) of Chapter 4 – Remediation of Land, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 – Remediation Of Land of the Resilience and Hazards SEPP 2021 and the proposal is acceptable with regard to Chapter 4 of the SEPP.

11. SEPP (BIODIVERSITY AND CONSERVATION) 2021

Chapter 6 – Water Catchments

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

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

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

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

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

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

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

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

The proposal is unsatisfactory in terms of the aims (f), (g) and (l) of Clause 1.2(2) of the Woollahra LEP 2014 for the following reasons:

- The proposal does not conserve the built and natural environmental heritage.
- The proposal does not protect the amenity of adjoining properties.
- The proposal does not ensure development achieves the desired future character of the area.

This is added to the recommended reasons for refusal.

13.2 Land Use Table

The proposal is permissible but is not consistent with the objectives of the R2 Low Density Residential zone, as detailed in Section 13.4 of this report.

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

The proposal is unsatisfactory in terms of the bullet point objectives 3 (three) and 4 (four) of the R2 Low Density Residential zone of the Land Use Table of the Woollahra LEP 2014.

This is added to the recommended reasons for refusal.

13.3 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	11.14m	11.65m	9.5m	NO*

*Clause 4.6 Variation has been provided.

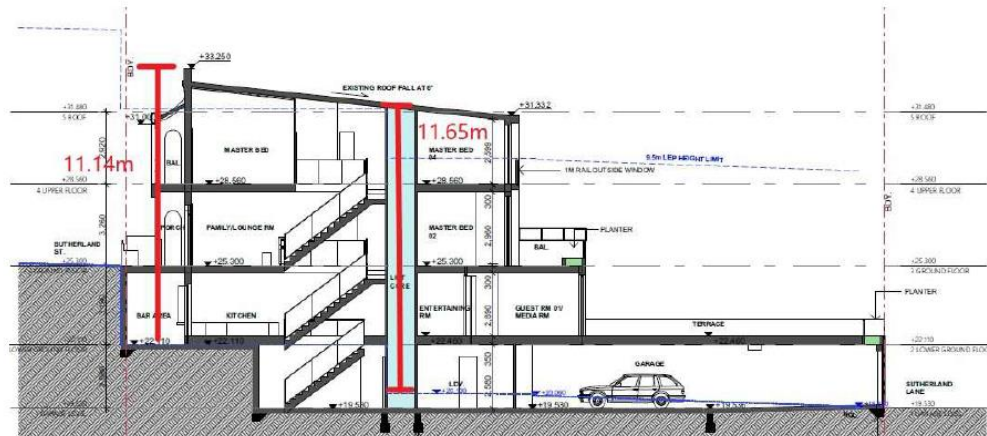


Figure 1: Extent of the existing and proposed non-compliance with the building height development standard.

Note: The above plan is (Issue G) not the proposed plans, however the height non-compliance remains the same.

The proposal does not comply with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014. The proposal would represent a height non-compliance of 2.15m, refer to **Figure 1**.

The proposal is unsatisfactory against Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Part 13.4 of this report.

13.4 Part 4.6: Exceptions to Development Standards

Departure

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

The proposal exceeds the 9.5m maximum *Height of Buildings* development standard under Clause 4.3 of the Woollahra LEP 2014. The proposed dwelling is 11.65m in height and represents a 2.15m, or 22.6% non-compliance with the development standard, refer to **Figure 1**.

Purpose

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

Written Request

Part 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided a written request in relation to the departure. Refer to **Attachments 6**.

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*

Comment: In arguing that compliance with the development standard is unreasonable or unnecessary, the applicant has argued that the objectives of the standard are achieved notwithstanding the non-compliance with the standard. However, as detailed in the assessment of Part 4.6(4)(a)(ii), it is considered that the proposal fails to achieve the relevant objectives of the development standards.

- 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 (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

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

S1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

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

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

Comment: The applicant's written request, which supports the proposed non-compliance with the height of building development standard, has not adequately demonstrated that the proposed development promotes the orderly and economic use and development of the land; and that the proposal promotes good design and local amenity, in accordance with the objects 1.3(c) and (g) of the EPA Act.

The promotion of good design and amenity of the built environment would fall within the ambit of the objects of the EPA Act. However, as found in the assessment of the proposed development, the request has not demonstrated that the proposed design achieves a superior design outcome when considered in the context of the Paddington Heritage Conservation Area.

In this regard, the applicant's written requests have not 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(a)(a)(ii) requires the consent authority to be satisfied that:

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

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

The objectives underlying Clause 4.3 – Height of Buildings

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

Comment: In considering the consistency of the proposal with the desired future character of the neighbourhood, it is noted that the proposed area of non-compliance results in a bulk and scale that would not meet the relevant objectives of the desired future character of the Paddington Heritage Conservation Area defined in Part C1.2.4 *Desired future character* of the Woollahra DCP 2015. Furthermore, in considering relevant developments in the immediate context, it is noted that recent approved developments (under current planning instruments) that contravenes the Height of Building development standard, presents built forms and designs that minimise the bulk and appearance of the development and that remain consistent and sympathetic in the context, as opposed to the proposed development, which is not consistent and sympathetic in the context, as further detailed in Section 14.1 of the report.

Accordingly, the non-compliance is not considered to be consistent with the above-mentioned objective of the height of buildings development standard.

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

Comment: Although the subject site (located in a R2 Low Density Residential zone) adjoins an R3 Medium Density Residential zone, it is noted that the established scale in the locality along the North-East side of Sutherland Ave (the R3 zone), remains of low profile and low density, particularly due to the nature of the topography, which dramatically slopes down towards the North-East.

In light of the above comments, the non-compliance is not considered to be consistent with the above-mentioned objective of the height of buildings development standard.

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

Comment: The proposed development is not considered to minimise the loss of solar access to existing buildings, as detailed in Section 14.1 of the report. However it is noted that the applicant has not submitted sufficient information to allow for an adequate assessment of the solar access impacts. Accordingly, the non-compliance is not considered to be consistent with the above-mentioned objective of the height of buildings development standard.

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

Comment: The subject non-compliance with the height control will not result in any adverse visual privacy impacts. However, as detailed in Section 14.1, the height non-compliance will result in unacceptable visual intrusion to surrounding properties. The applicant has not submitted sufficient information to allow for an adequate assessment of the solar access impacts. Accordingly, the non-compliance is not considered to be consistent with the above-mentioned objective of the height of buildings development standard.

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

Comment: The non-compliance is considered to be consistent with the above-mentioned objective of the height of buildings development standard.

The objectives of the R2 Low Density Residential zone

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

Comment: The proposed area of non-compliance fails to achieve the third objective of the R2 Zone, as it results in a development that is not compatible with the character and amenity of the surrounding neighbourhood. Furthermore, the proposed area of non-compliance fails to achieve the fourth objective, as it does not ensure that the development is of a height and scale that achieves the future character of the neighbourhood. The failure to achieve the abovementioned relevant objectives is evidenced by the non-compliances with Part C1.2.4 *Desired Future Character* and Part C1.4.5 *Building Height, Bulk, Form and Scale* of the Woollahra DCP 2015, which arise as a result of the excessive height and bulk, particularly, the proposed first floor addition where the proposed height non-compliance is located.

Clause 4.6(4)(b) – Concurrence of the Planning Secretary

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

Conclusion

The written submission from the applicant has not adequately demonstrated that the contravention of the *Height of Buildings* development standard prescribed by *Part 4.3* of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The consent authority is not satisfied that the applicant’s written request have demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

The consent authority is not satisfied that the proposal is in the public interest as it is consistent with the objectives of the development standard and those applicable to development within the zone.

Accordingly, the proposal is not in the public interest and is consistent with the objectives of the Clause 4.3 development standard. Departure from the said developing standard is not supported.

13.5 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.

Heritage Act (NSW) 1977:

The “Bondi Ocean Outfall Sewer” (BOOS) system, an item on the NSW State Heritage Register (SHR #01623) and on the Sydney Water Heritage and Conservation Register, is located on part of the site, oriented west-east and is located underneath the principal building, refer to **Figure 2**. **Figure 2** indicates the subject site in blue, with the location/alignment of the BOOS in green. The originally proposed excavation of a basement and subsurface garage level encroached upon and was within the curtilage of the BOOS. However, these excavation works have been deleted from the proposed development by the amended development, thus the structure of the BOOS will no longer be impacted.

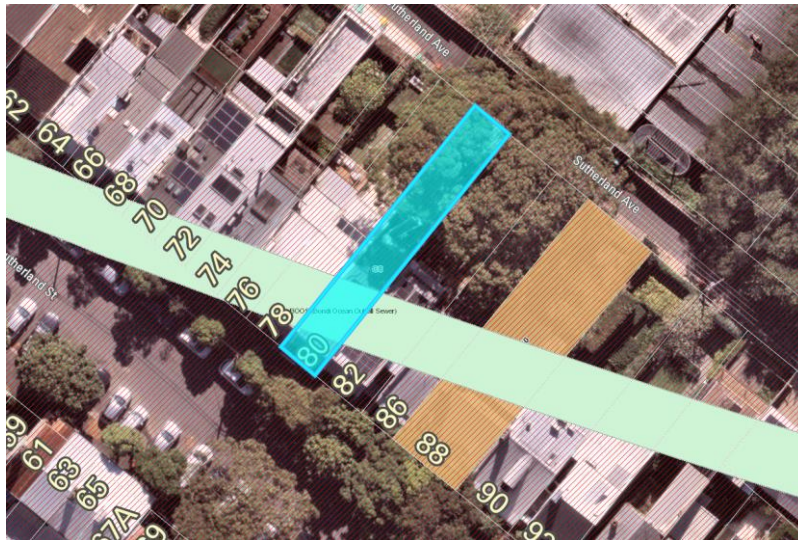


Figure 2: Indicative location of the Bondi Ocean Outfall Sewer.

The proposed development is located within the vicinity of the following heritage listed items, identified in Schedule 5 of the Woollahra LEP 2014:

Suburb	Item name	Address	Property description	Significance	Item no
Paddington	House, interiors and grounds	88 Sutherland Street	Lot 1, DP 601553	Local	270

Council's Heritage Officer has made the following comment with regard to this surrounding heritage item:

There will be no adverse impacts to local heritage items in the vicinity.

The subject site is located within the Paddington Heritage Conservation Area, and is considered a contributory item and a significant item. Council's Heritage Officer has stated the proposed development would have an unsatisfactory impact on the subject building and the Paddington Heritage Conservation Area. Council's Heritage Officer has also stated that the proposal would be inconsistent with the WDCP, 2015.

The proposed development is therefore considered unacceptable with regard to Part 5.10 of the Woollahra LEP 2014.

13.6 Part 5.21: Flood Planning

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

The proposal was reviewed by Council's Drainage Engineer and it was considered to be acceptable, against Part 5.21 of Woollahra LEP 2014, subject to recommended conditions. It is however noted that the application is recommended for refusal for the reasons outlined in this report.

13.7 Part 6.2: Earthworks

The original proposal involved extensive excavation works, including earthworks to accommodate a tandem garage and extended basement level. These excavation works have been deleted, as the garage level is proposed at the existing site levels and the basement extension has been deleted.

The proposal is therefore acceptable with regard to Part 6.2 of the Woollahra LEP 2014. This is added to the recommended reasons for refusal of the Development Application.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter C1: Paddington Heritage Conservation Area

Section C1.4.1: Principal Building Form and Street Front Zone of Contributory Buildings

The proposed reconfiguration of the internal layout at all levels of the building was supported by Councils Heritage Officer, as the interior of this building has been highly altered and does not result in the loss of any significant original fabric. However, the proposed changes to the front façade including the enlargement of the existing window opening at lower ground floor level, the demolition of the lower ground floor stair, and the enclosure of the lower ground courtyard with a glazed roof was not supported by Councils Heritage Officer. This is because these works are considered to detract from the character and significance of the subject terrace and the terrace group. Further to this, these works do not comply with Controls C4, C11 and C15, as these controls do not allow for any changes to street front basement levels, except for restoration and reconstruction of missing original elements.

The proposal is therefore considered unacceptable with regard to Section C1.4.1 of the WDCP, 2015.

Section C1.4.3: Rear Elevations, Rear Additions, Significant Outbuildings and Yards

	Existing	Proposed	Control	Complies
C3 and C6 Rear setback	-	Beyond the rear building alignment	Not extend beyond the predominant rear building setbacks	NO

The subject site forms part of a group of three terraces, located between Nos.76 to 80 Sutherland Street. The proposed development is considered unacceptable for the following reasons:

- The proposed rear addition is considered to be excessive and will disrupt the overall balance of the terrace group in terms height, alignment, form and scale, contrary to Control C1. The resulting development is considered to adversely impact the visual amenity of surrounding properties;
- The proposed rear addition extends beyond the rear building alignment of the terrace group on all levels, contrary to Control C5(f);
- The proposed development interrupts the shared solid to void ratios within the terrace group, as all solid walls and existing windows/door are proposed to be removed from the rear elevation. Whilst, it is acknowledged that this part of Sutherland Street contains a number of intrusive contemporary rear additions. The proposed fenestration to the rear elevation should be more reflective of the terrace group, particularly on the upper levels, given the highly visible nature of the rear elevation;



Figure 3: 3D drawing of the proposed development in relation to subject group and surrounding development.



Photo 2: Rear elevation of the subject terrace and adjoining terraces.



Photo 3: Rear elevation of the subject terrace and adjoining terraces.

The proposal is therefore considered unacceptable with regard to Section C1.4.3 of the WDCP, 2015.

Section C1.4.4: Roofs and Roof Forms

The proposed roofs and roof forms are considered acceptable for the following reasons:

- The proposed traditional rear sloping skillion roof form to the rear addition is consistent with the terrace group and the existing building, in accordance with Control C6;
- The materiality of the proposed roofing has not been made clear on the submitted plans. However should consent be granted, a condition of consent could be imposed that states this roofing is to be traditional corrugated metal roofing, in accordance with Control C8;
- The proposed skylights are discussed below.

The proposal is therefore considered acceptable with regard to Section C1.4.4 of the WDCP, 2015.

Section C1.4.5: Building Height, Bulk, Form and Scale

	Existing	Proposed	Control	Complies
C3 The height, bulk, form and scale of infill and new development	Consistent with the predominant height, bulk, form and scale of adjoining buildings	inconsistent with the predominant height, bulk, form and scale of adjoining buildings	Consistent with the predominant height, bulk, form and scale of adjoining buildings	NO
C4 Sunlight provided to the main ground level private open space of adjoining properties	>Min 50% (or 35m ²) for two hours between 9am and 3pm on 21 June	>Min 50% (or 35m ²) for two hours between 9am and 3pm on 21 June	Min 50% (or 35m ²) for two hours between 9am and 3pm on 21 June	YES

The bulk and scale of the proposed rear addition, particularly at ground and first floor level, including the ground floor rear balcony (and the associated privacy screens) is considered to be excessive. This is because these additions extend well beyond the rear building alignment of the terrace group and exceed the maximum height control. The proposed rear addition is therefore not consistent with the predominate height, bulk, scale and form of the terrace group, which is detrimental to the visual amenity of surrounding properties and contrary to Control C3.

The proposed addition complies with the minimum solar access requirements to adjoining private open space, between 9am and 3pm during the winter solstice, in accordance with Controls C4. However it is unclear whether the proposed development complies with the minimum solar access requirement for north facing habitable room windows at surrounding properties, as no elevational shadow diagrams were provided.

The proposal is therefore considered unacceptable with regard to Section C1.4.5 of the WDCP, 2015.

Section C1.4.6: Site Coverage, Setbacks and Levels

Site cover

C1 which specifies that the proportion of building footprint is to be consistent with similar properties in the immediate vicinity.

The proposed building footprint will occupy almost the entire site, which is considered to be inconsistent with general pattern of development in the vicinity of the site, contrary to Control C1.

Setbacks

C3 specifies that siting and setbacks of all structures are to continue the immediate established patterns.

The proposed rear addition extends well beyond the existing rear building alignment of the subject terrace group, at all levels, contrary to Control C3.

Levels

C7 which specifies that new development is to be consistent with ground and first floor levels established by existing buildings and topography in the context of a sloping site.

The original proposed development involved the conversion of the existing sub-floor into a new lower ground floor level and garage. These excavation works have been deleted by the amended development. However notwithstanding this, the proposed raised site levels to the rear terrace would adversely affect the amenity of surrounding properties and are unacceptable in this regard. This is further discussed below.

The proposal is therefore considered unacceptable with regard to Section C1.4.6 of the WDCP, 2015.

Section C1.4.7: Excavation

The originally proposed development involved excavation works to the rear of the site to allow for a tandem garage, laundry, storage room, service room, lift, powder room and staircase. These excavation works were to a maximum depth of 3.5m and extended from the rear boundary to under most of the principal built form. The amended development has deleted these excavation works to allow for the retention of the Tallow wood tree located at No.82 Sutherland Street.

The proposal is therefore considered acceptable with regard to Section C1.4.6 of the WDCP, 2015.

Section C1.4.8: Private Open Space, Swimming Pools, Lightwell Courtyards and Landscaping

Site Area: 120.1m ²	Existing	Proposed	Control	Complies
C4 Minimum unbuilt upon area for allotments between 100m ² and 180m ²	>16%	4.6% 5.84m ²	16% (20.336m ²)	NO
C4 Principal rear area of private open for allotments between 100m ² and 180m ² – Principal Area Minimum Area	>15m ² >3m	>15m ² >3m	15m ² 3m	YES YES
C4 Minimum deep soil landscape area for dwelling-house	3.16% (4.02m ²)	0% (0m ²)	8% (10.17m ²)	NO

The proposed development does not comply with the minimum deep soil landscaping or unbuilt upon area controls, contrary to Control C5. These non-compliances contribute to the overdevelopment of the subject site and detracts from the amenity/landscape character of the locality. The proposed development is therefore unacceptable in this regard.



Photo 4: Existing rear yard of the subject site.

Tree 1 is located adjacent to the eastern boundary at No.82 Sutherland Street. This tree is in a healthy condition and provides a high contribution to the landscape amenity and canopy cover within the locality. This tree is subsequently of high significance and high retention value. The originally proposed excavation works encroached within the tree protection zone and the structural root zone of this highly significant tree, and were not supported by Council's Landscape Officer. The amended plans, therefore retained the existing site levels to the garage and deleted the proposed extended lower ground floor level. Council's Landscape Officer was supportive of these changes, subject to conditions to ensure the health and stability of the Tallow wood tree, should consent be granted.



Photo 5: Tree 1, Tallowood tree located within No.82 Sutherland Street.

The proposal is therefore considered unacceptable with regard to Section C1.4.8 of the WDCP, 2015.

Section C1.4.9: Views

The proposed development will not obstruct any views from the private or public domain. The proposal is therefore considered acceptable with regard to Section C1.4.9 of the WDCP, 2015.

Section C1.4.10: Acoustic and Visual Privacy

Objective O2 of C1.4.1.10 seeks to minimise the impact of the development on the acoustic and visual privacy of existing development on neighbouring lands. The proposed development is considered to be inconsistent with O2 in the following ways:

- The proposed large trafficable roof terrace above the garage would result in unacceptable visual privacy impacts on surrounding properties, particularly to the west, as screen planting has been relied on for privacy screening (planting cannot be relied upon for privacy screening). Notwithstanding this, the provision of solid privacy screens would add unacceptable bulk and scale on the boundary;
- The submitted plans are insufficient and inadequate to allow for a proper assessment of the visual privacy impacts of the proposed elevated roof terrace on surrounding properties. This is because no side elevations have been provided and the submitted plans do not show the height of the proposed screens/fencing in relation to the existing side fencing. Further to this, not all new works have been shown in colour and insufficient RLs/dimensions have been provided. It would also appear that the survey levels have been shown on the floor plans, which do not relate to the proposal;
- The amended proposal has exacerbated the potential visual privacy impacts of the proposed roof terrace, as the roof terrace level is proposed to be raised by 440mm. Any additional solid screening that would be required to mitigate the associated visual privacy impacts would further add to the bulk and scale of the proposal and adversely impact the visual amenity of adjoining properties;
- The proposed rear ground floor balcony is screened by a 1.5m privacy screens located on the western side of the balcony and would sufficiently protect the visual privacy of surrounding properties located to the west. A proper assessment of the visual privacy impacts of this balcony on properties to the east is unable to be determined, as the submitted floor plans do not clearly show if a privacy screen is to be erected on the eastern side of the balcony (no side elevations have been provided).

The remainder of the proposed works are considered acceptable in terms of Objective O2 for the following reasons:

- The proposed fenestration faces the front and rear of the site;
- No plant equipment has been proposed by this development.

The proposal is therefore considered unacceptable with regard to Section C1.4.10 of the WDCP, 2015.

Section C1.5.1: Dormers and skylights

The proposed skylights to the principal roof, rear wing and rear terrace will not be visible from the public domain and are considered acceptable in this regard, subject to a condition to comply with Control C28, which could be imposed should consent be granted. The proposal is therefore considered acceptable with regard to Section C1.5.1 of the WDCP, 2015.

Section C1.5.3: Windows, Doors, Shutters and Security

The proposed doors and windows are considered unacceptable for the following reasons:

- It is unclear if the existing front ground floor window is to be replaced, as this window is coloured on the floorplan, whereas, the front elevation only shows painting to the front elevation;
- The proposed removal of the existing fenestration to the rear elevation is considered to interrupt the shared solid to void ratios within the terrace group, as all solid walls and existing windows/door are proposed to be removed;
- The proposed use of aluminium framed windows/doors (with the exception of the lower ground floor rear elevation doors) is considered to detract from the character and appearance of the subject terrace and the Paddington Heritage Conservation Area, contrary to Control C4;
- The proposed replacement of the non-original window with an enlarged window opening to the front elevation at lower ground floor level, does not allow for reinstatement of a traditional window to the front façade, contrary to Objective O2. Notwithstanding this, the front elevation does not show the works to this area of the site, thus a proper assessment of these works including the new front lower ground floor door cannot be adequately assessed.

The proposal is therefore considered unacceptable with regard to Section C1.5.3 of the WDCP, 2015.

Section C1.5.4: Verandahs and Balconies

The proposed ground floor rear balcony and the associated privacy screens add significant additional bulk to the subject building and is considered to have a detrimental impact on the visual amenity of surrounding properties, contrary to Control C7. The proposed materiality of the proposed timber look aluminium battens to the balustrades to the rear elevation and the proposed masonry/glass privacy screen/s is considered to be intrusive within the conservation area, contrary to Control C8.

It is also noted that a full assessment of this element could not be undertaken, as the applicant has not provided side elevations, sufficient RLs to the balustrade, planter and privacy screens and sufficient details in relation to the materiality of the privacy screens.

The proposal is therefore considered unacceptable with regard to Section C1.5.3 of the WDCP, 2015.

Section C1.5.6: On-site Vehicle Parking, Garages, Carports, Driveway Access and Servicing Facilities

	Existing	Proposed	Control	Complies
C1 Net Loss/Gain of Parking	Nil	Nil	Minimum Nil	YES
C9 Rear Vehicular Access – Minimum Distance to Building	-	12m	10.0m	YES
C9 Rear Vehicular Access – Minimum Lot Width	3.99m	3.99m	3.4m	YES
C9 Rear Vehicular Access – Minimum Laneway Width	>4.8m	>4.8m	4.8m	YES
C13 Laneway Garage With Roof Landscaping	-	FFL Below FFL of the Principal Form	FFL Below FFL of the Principal Form	YES
C6 Garages With Roof Gardens – Maximum Width (Single Space)	-	3.99m	4.34m	YES
Maximum Height	-	4m	3.0m	NO
Maximum Door Height	-	2.5m	2.2m	NO
Door Width (Single Space)	-	3.37m	2.4m – 3.4m	YES
Side Pillar Width (Single Space)	-	0.25m	0.35m – 0.47m	NO
Planter Box – Minimum Internal Width	-	600mm	1.0m	NO

The development proposes to construct a tandem garage with a trafficable roof terrace above. The proposed garage complies with the relevant parking envelope and manoeuvring requirements. The proposed garage will not result in the loss of any off-street parking to Sutherland Ave, as the new garage replaces an existing car space.



Photo 6: Existing car space facing Sutherland Ave.

The proposed garage is considered unacceptable for the following reasons:

- The proposed garage does not allow for any deep soil landscaping or trees to be provided onsite, contrary to C1(f);
- The proposed roof to the garage is trafficable, contrary to Control C13(c);
- The proposed trafficable roof terrace will have an adverse impact on the visual amenity and visual privacy of adjoining properties, particularly the western adjoining property (No.78 Sutherland Street), which is contrary to Control C13(e). Further to this, the amended proposal has further exacerbated these visual privacy impacts, as this roof terrace is proposed to be raised by 440mm;
- The excessive height and scale of the proposed garage detracts from the visual amenity of the laneway and the Paddington Heritage Conservation Area. It is acknowledged there are a number of garages within the laneway that are non-compliant with the maximum garage height control, however the proposed development is considered to be inappropriate within its immediate context;
- The proposed use of timber look aluminium battens to the garage door and surround is considered to be inappropriate and unsympathetic within the Paddington Heritage Conservation Area and does not provide an acceptable interface between the public and private domain, contrary to Objective O4.

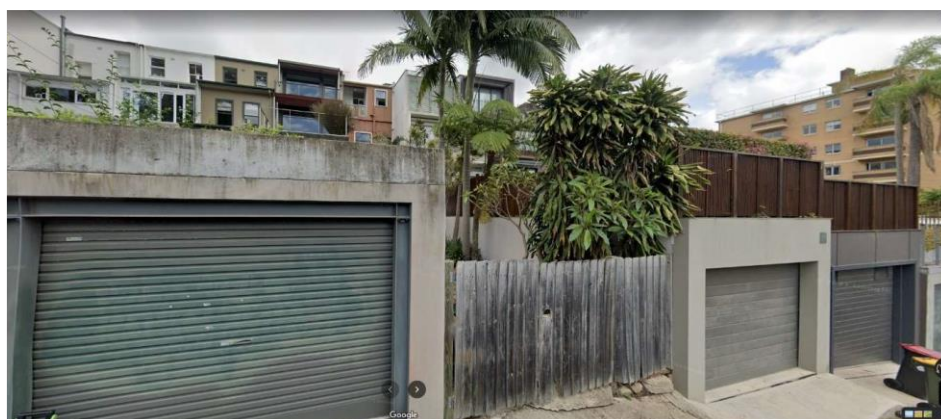


Photo 7: Sutherland Ave looking toward the west



Photo 8: Sutherland Ave looking toward the east.

The proposal is therefore considered unacceptable with regard to Section C1.5.3 of the WDCP, 2015.

Section C1.5.8: Materials, Finishes and Details

The proposed materials and details are considered to be uncharacteristic and inappropriate to the architectural character of the building, contrary to Control C4 for the following reasons:

- The proposed timber look aluminium battens to the garage doors and balustrading to the rear elevation are considered intrusive and unsympathetic with the conservation area, and will be highly visible from the public domain;
- The proposed masonry and glass privacy screens to the rear ground floor balcony significantly add to the bulk of the development and are unsympathetic within the conservation area;
- The proposed aluminium framed windows/doors are non-traditional and detract from the character and significance of the conservation area.

The proposal is therefore considered unacceptable with regard to Section C1.5.8 of the WDCP, 2015.

Section C1.5.10: Gardens and Trees

No trees or provision has been made available at the site to accommodate a tree to be planted at the rear of the site, in accordance with Control C4. The proposal therefore considered unacceptable with regard to Section C1.5.10.

14.2 Chapter E1: Parking and Access

Part E1.11: Electric Vehicle Charging Points

Control C1 requires evidence of electric circuitry to accommodate 'Level 2' electric vehicle charging points to be integrated into all off-street car parking of new residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future.

No details have been provided of electric circuitry. Notwithstanding this, the proposal is considered to be acceptable with regard to the objectives and controls in *Part E1.11: Electric Vehicle Charging Points* of the Woollahra DCP 2015, subject to conditions which could be imposed should consent be granted.

15. CONTRIBUTION PLANS

15.1 Section 7.12 Contributions Plan

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

Cost of Works	Rate based on cost of works	Contribution Payable
\$739,805.00	>\$200,000 = 1%	\$7 398.05

A condition of consent could be added to address this issue, should consent be granted.

16. APPLICABLE ACTS/REGULATIONS

16.1 Environmental Planning and Assessment Regulation 2021

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

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

17. THE LIKELY IMPACTS OF THE PROPOSAL

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

18. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development for reasons identified above.

19. THE PUBLIC INTEREST

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

20. CONCLUSION

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

21. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is not satisfied that the written request from the applicant has adequately addressed the relevant matters to be addressed under Clause 4.6 of the Woollahra Local Environmental Plan 2014 and therefore consent cannot be granted to the development which contravenes the Height of Building development standard under Clause 4.3 of the Woollahra Local Environmental Plan 2014.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No.173/2023/1 for extensive alterations and additions on land at 80 Sutherland Street PADDINGTON, for the following reasons:

1. Woollahra Local Environmental Plan 2014 – Aims of Plan

The proposal is unacceptable because it does not comply with:

- Part 1, Clause 1.2(2)(f) - The proposal does not conserve and enhance the built and natural environmental heritage.
- Part 1, Clause 1.2(2)(g) - The proposal does not protect and enhance amenity and natural heritage.
- Part 1, Clause 1.2(2)(l) - The proposal does not achieve the desired future character of the Paddington Heritage Conservation Area.

2. Woollahra Local Environmental Plan 2014 – Land Use Table

The proposal is unacceptable because it does not comply with the following objectives of the R2 Low Density Residential Zone:

- Objective 3 - To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.
- Objective 4 - To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

3. Woollahra Local Environmental Plan 2014, Part 4 – Clause 4.3 Height of buildings

The proposed development does not comply with the 9.5m height of buildings development standard and fails to achieve consistency with the objectives prescribed in Clause 4.3 of the Woollahra LEP 2014.

- a) The proposal is inconsistent with Objectives 1(a), (b), (c) and (d) as the proposed development building height is not consistent with the desired future character of the neighbourhood, does not minimise its impacts upon neighbouring properties in terms of solar access and privacy impacts.
- b) The proposal is inconsistent with Clause 4.2 (2) as the proposed building height exceeds that which is prescribed for the site.
- c) The written request submitted pursuant to Clause 4.6 of WLEP which seeks to justify the contravention of Clause 4.3 of WLEP 2014 does not adequately address the matters required to be demonstrated under clause 4.6(3), being that:
 - i. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - ii. There are sufficient environmental planning grounds to justify contravening the development standard.

4. Woollahra Local Environmental Plan, Part 5 – Clause 5.10 Heritage Conservation

The proposed development is unacceptable as it does not comply with:

- Part 5, Clause 5.10(1)(a), to conserve the environmental heritage of Woollahra.
- Part 5, Clause 5.10 (1)(b), to conserve the heritage significance of heritage items and heritage conservation areas including setting and views.

5. Front Façade/Street Front Zone:

The proposed works to the front façade (lower ground floor level), including the enlargement of the existing window opening, demolition of the front stair and the enclosure of the front courtyard with a glazed floor/deck, detracts from the heritage significance of the subject terrace and terrace group, contrary to Controls C4, C11 and C15 of Part C1.4.1 of the WDCP, 2015.

6. Rear Building Alignment:

The proposed rear addition extends well beyond the predominate rear building alignment of the terrace group. This combined with the excessive height of proposed rear addition, detracts from the overall balance of the group, the significance of the Paddington Heritage Conservation Area and is detrimental to the visual amenity of surrounding properties, contrary to Control C1 and Control C5(f) of Part C1.4.3 of the WDCP, 2015.

7. Height/Bulk/Scale

The proposed height, bulk and scale of the proposed rear addition, trafficable roof terrace, garage and the rear ground floor balcony/privacy screens are excessive, out of scale with the general pattern of development in the vicinity of the site and would be detrimental to the amenity of surrounding properties, contrary to Objective O4 and Control C3 of Part C1.4.5 of the WDCP, 2015.

8. Deep Soil Landscaping/site coverage/unbuilt upon area:

The proposed development occupies almost the entire site, which is inconsistent with the site coverage at surrounding properties and does not allow for any deep soil landscaping/trees to be provided on the site. This detracts from the landscape character of the site/Paddington Heritage Conservation Area, contrary to Control C1 of Part C1.4.6 and Objectives O3, O5, O9 and Control C6 of Part C1.4.8 of WDCP, 2015.

9. Fenestration:

The proposed development interrupts the shared solid to void ratio pattern within the terrace group, as all solid walls and existing windows/door are proposed to be removed (to the rear elevation). This detracts from the character and appearance of the subject terrace and terrace group, contrary to Control C5(c) of Part C1.4.3 of the WDCP, 2015.

10. Trafficable Roof Terrace

The proposed trafficable roof terrace, would adversely affect the visual privacy and visual amenity of surrounding properties, contrary to Control C7 of Part C1.4.6 and Controls C11 and C12 of Part C1.4.8 and Objective O13 and Control C13 of Part C1.5.6 of the WDCP, 2015.

11. Balconies

The proposed ground balcony contains visually intrusive glass/masonry privacy screens, which are detrimental to the amenity of surrounding properties and the character of the Paddington Heritage Conservation Area, contrary to Objective O3 and Controls C6(d) and C7 of Part C1.5.4 of the WDCP, 2015.

12. Parking

The height, scale, design and materiality of the proposed garage/trafficable roof is detrimental to the amenity of surrounding properties and would detract from the character and appearance of Sutherland Ave and the Paddington Heritage Conservation Area, contrary to Objectives O3, O4, O5, O8, O13 and Controls C1(a), C1(f), C6, C13(c) and C13(e) of Part C1.5.6 of the WDCP, 2015.

13. Materials, Finishes and Details

The proposed timber look aluminium battens, aluminium windows and masonry/glass privacy screens are considered to detract from the character and appearance of the Paddington Heritage Conservation Area, contrary to Objective O2 and Controls C4 and C5 of Part C1.5.8 of the WDCP, 2015:

14. Trees Planting

No tree to the rear yard has been provided at the site, which is detrimental to the landscape character of the locality and is contrary to Control C4 of Part C1.5.10 of the WDCP, 2015.

15. Public Interest






The proposed development is not in the public interest.





16. Insufficient information

The submitted plans and documentation are insufficient, unclear and inconsistent in the following manner:

- No demolition plans have been provided;
- No side elevations have been proposed;
- The front elevation has not shown the proposed changes to the front façade/street front zone at lower ground floor level;
- It would appear that the adjoining development at No.82 Sutherland Street, Paddington is incorrectly drawn on the proposed plans;
- No elevational shadow diagrams have been provided;
- The plans do not specify the fuel type to the proposed ground floor fire place. **Note:** solid fuel is not permitted;
- It is unclear whether the front ground floor window is to be replaced;
- The materiality of the proposed privacy screen to the rear ground floor rear balcony is unclear;
- The proposed plans have not provided sufficient RLs/dimensions, particularly to privacy screens, planters, fencing and balustrading.

Attachments

1. Architectural Drawings [↓](#) 
2. Development Engineering Referral Responses - Combined [↓](#) 
3. Landscaping Referral Responses - Combined [↓](#) 
4. Heritage Referral Response [↓](#) 
5. Drainage Referral Response [↓](#) 

6. Clause 4.6 Written Request [↓](#) 
7. 3D Views [↓](#) 
8. Survey [↓](#) 
9. Arboist Report [↓](#) 

MIAO RESIDENCE ALTERATIONS AND ADDITIONS - DEVELOPMENT APPLICATION

AT 80 SUTHERLAND STREET, PADDINGTON NSW



LOCATION MAP - NTS



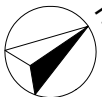
Sheet Index		
Layout ID	Layout Name	Published
DA-01	TITLE PAGE	<input type="checkbox"/>
DA-02	SITE / SITE ANALYSIS PLAN	<input type="checkbox"/>
DA-03	EXISTING STORAGE LEVEL	<input type="checkbox"/>
DA-04	EXISTING LOWER GROUND FLOOR	<input type="checkbox"/>
DA-05	EXISTING GROUND FLOOR	<input type="checkbox"/>
DA-06	EXISTING FIRST FLOOR	<input type="checkbox"/>
DA-07	PROPOSED GARAGE LEVEL	<input type="checkbox"/>
DA-08	PROPOSED LOWER GROUND FLOOR	<input type="checkbox"/>
DA-09	PROPOSED GROUND FLOOR	<input type="checkbox"/>
DA-10	PROPOSED FIRST FLOOR	<input type="checkbox"/>
DA-11	ROOF PLAN	<input type="checkbox"/>
DA-12	TURNING BAY	<input type="checkbox"/>
DA-13	PROPOSED GFA CACULATION	<input type="checkbox"/>
DA-14	PROPOSED LANDSCAPE CACULATION	<input type="checkbox"/>
DA-15	PROPOSED ELEVATIONS 01	<input type="checkbox"/>
DA-16	PROPOSED ELEVATIONS 02	<input type="checkbox"/>
DA-17	SECTION A-A	<input type="checkbox"/>
DA-18	SECTION B-B	<input type="checkbox"/>
DA-19	SHADOW DIAGRAMS - 9AM JUNE 22	<input type="checkbox"/>
DA-20	SHADOW DIAGRAMS - 12PM JUNE 22	<input type="checkbox"/>
DA-21	SHADOW DIAGRAMS - 3PM JUNE 22	<input type="checkbox"/>
DA-22	SCHEDULE OF FINISHES	<input type="checkbox"/>
DA-23	3D VIEWS	<input type="checkbox"/>

Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			

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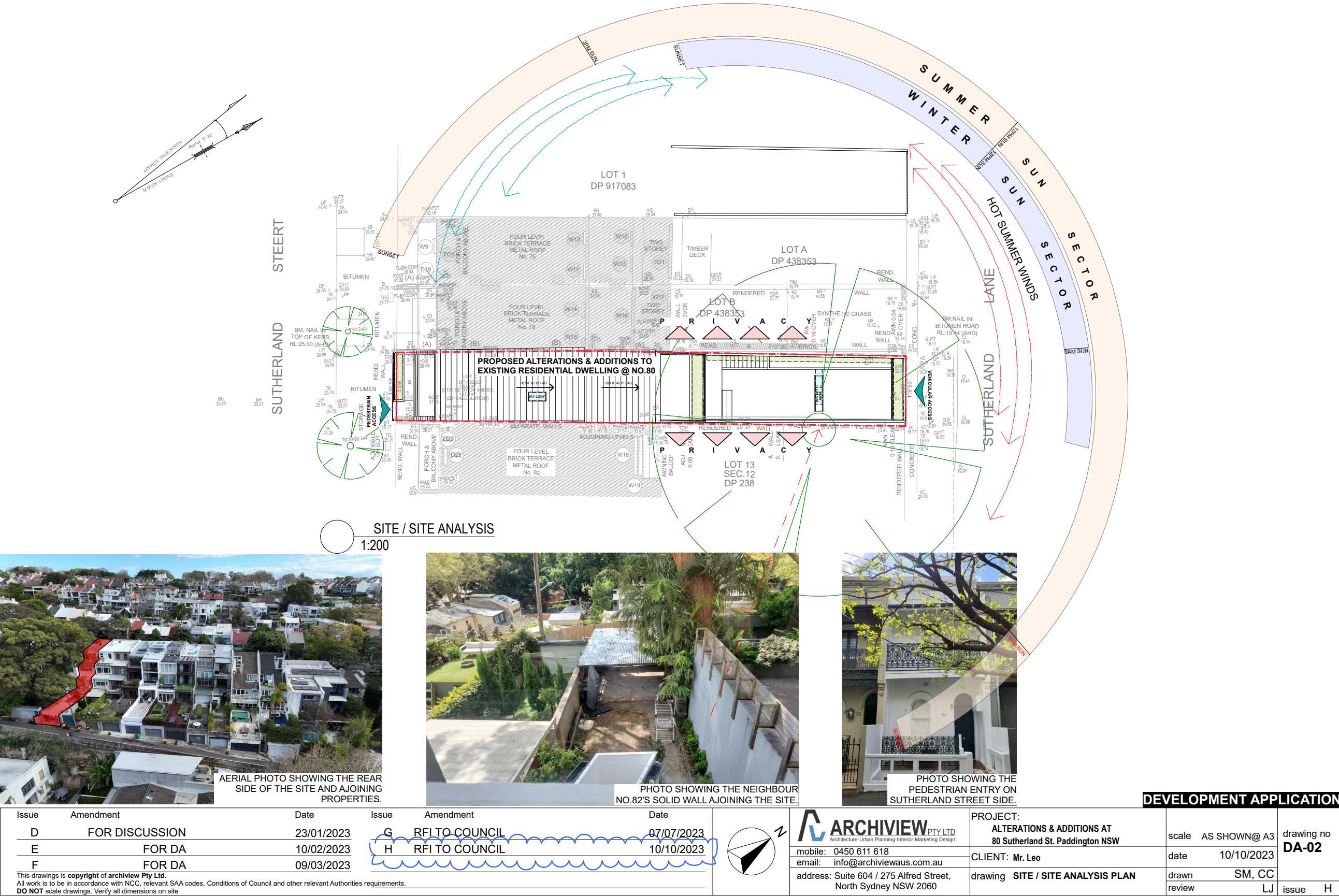






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Architecture Urban Planning Interior-Marketing Design

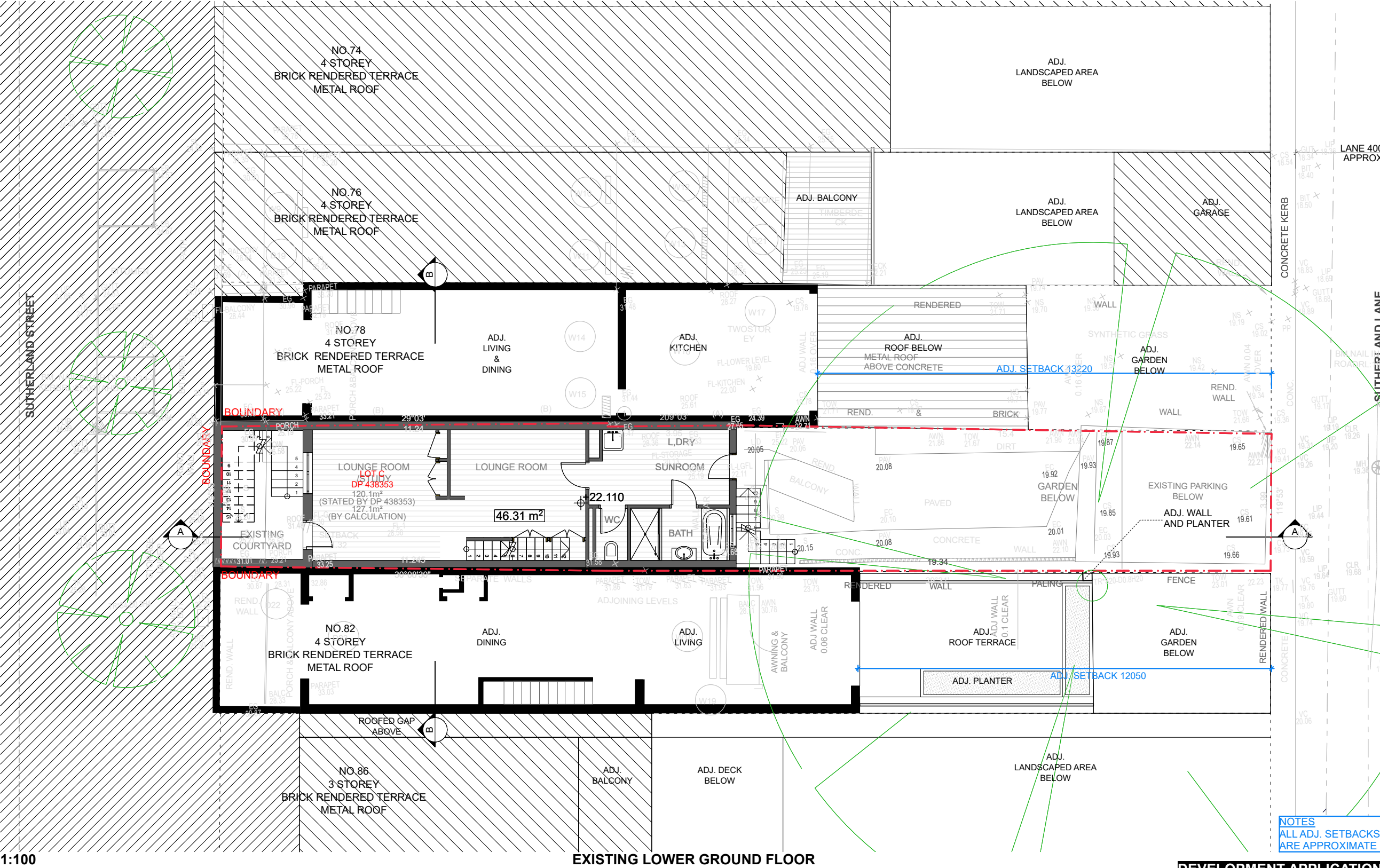
mobile: 0450 611 618
email: info@archiviewaus.com.au
address: Suite 604 / 275 Alfred Street,
North Sydney NSW 2060

DEVELOPMENT APPLICATION			
PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		scale AS SHOWN@ A3	drawing no DA-01
CLIENT: Mr. Leo		date 10/10/2023	
drawing TITLE PAGE		drawn SM, CC	issue H
		review LJ	







Issue			Amendment			Date				 ARCHIVIEW PTY LTD <small>Architecture Urban Planning Interior Marketing Design</small>	PROJECT:		scale		drawing no DA-03
D			FOR DISCUSSION			23/01/2023					ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		AS SHOWN@ A3		
E			FOR DA			10/02/2023					CLIENT: Mr. Leo		10/10/2023		
F			FOR DA			09/03/2023					drawing EXISTING STORAGE LEVEL		drawn SM, CC		
											review		LJ		
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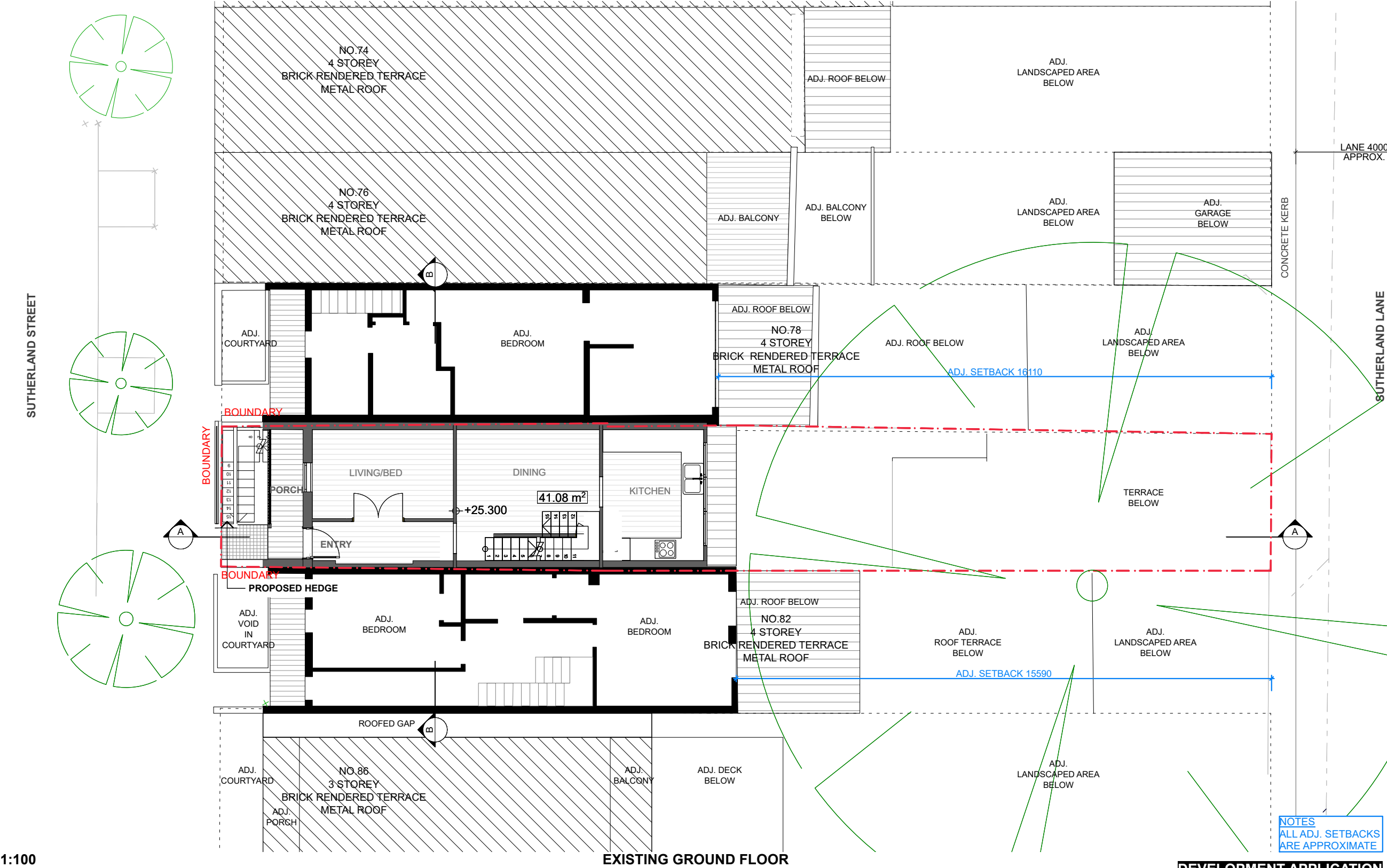


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EXISTING LOWER GROUND FLOOR

DEVELOPMENT APPLICATION


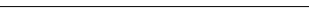
Issue	Amendment	Date	Issue	Amendment	Date		 <div>mobile: 0450 611 618 email: info@archiviewaus.com.au address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060</div>	PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW	scale AS SHOWN@ A3	drawing no DA-04	
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023			CLIENT: Mr. Leo	date 10/10/2023		
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023			drawing EXISTING LOWER GROUND FLOOR	drawn SM, CC		
F	FOR DA	09/03/2023							review LJ		issue H
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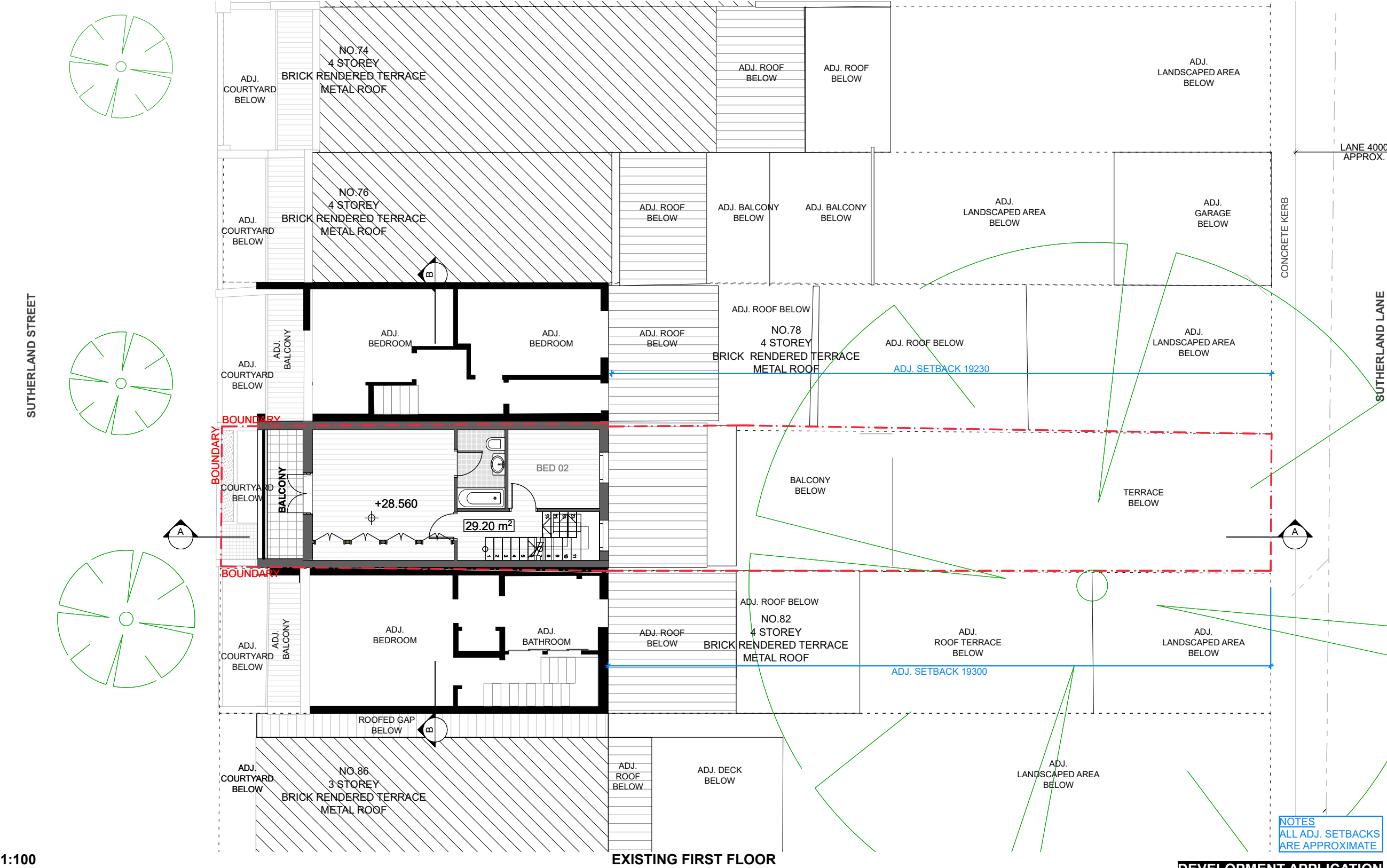


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EXISTING GROUND FLOOR

DEVELOPMENT APPLICATION

Issue	Amendment	Date	Issue	Amendment	Date			PROJECT:	scale AS SHOWN@ A3	drawing no DA-05
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023			ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023			CLIENT: Mr. Leo		
F	FOR DA	09/03/2023						drawing EXISTING GROUND FLOOR		
This drawings is copyright of archiview Pty Ltd. All work is to be in accordance with NCC, relevant SAA codes, Conditions of Council and other relevant Authorities requirements. DO NOT scale drawings. Verify all dimensions on site								address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060		
									issue H	



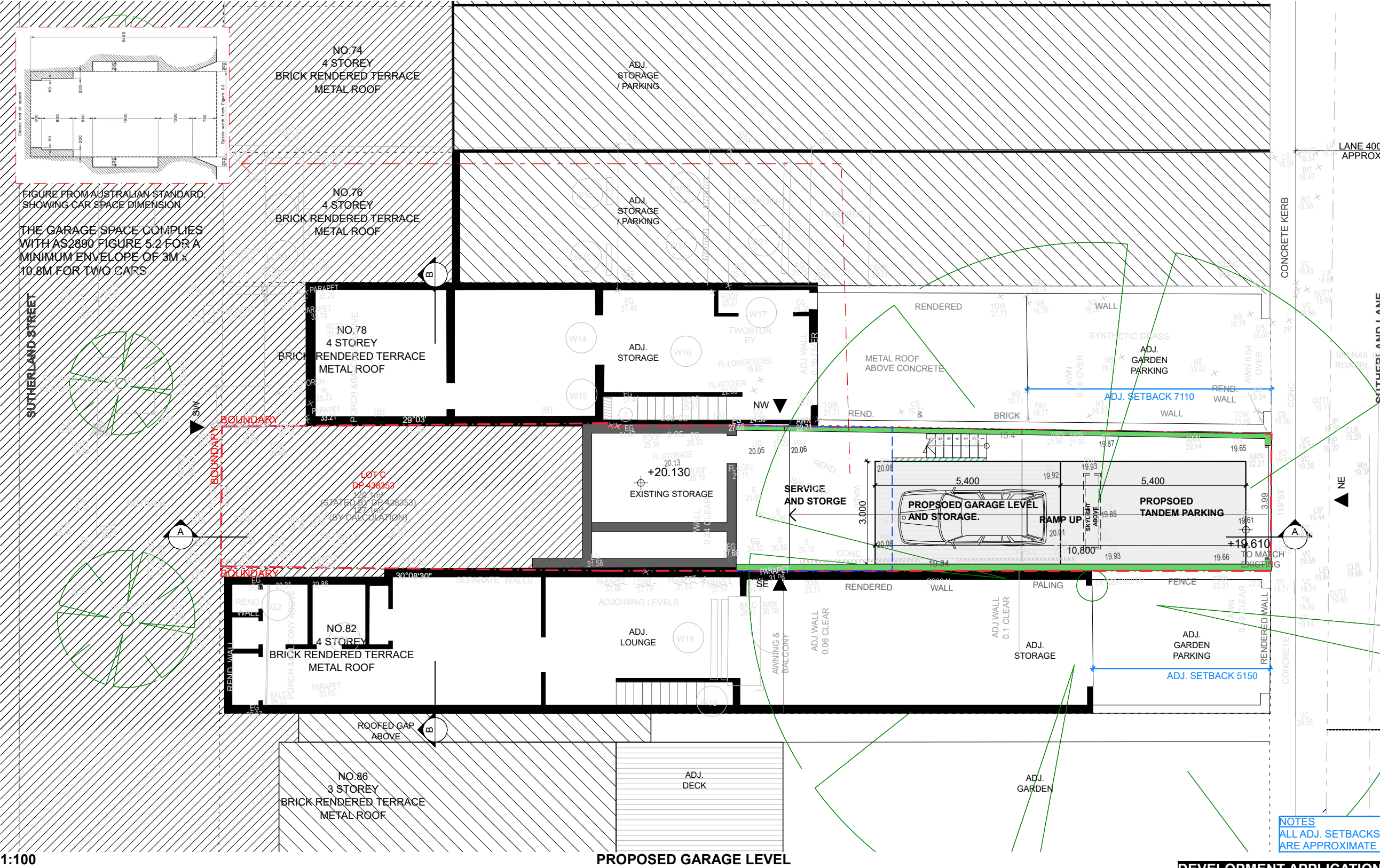
Issue			Amendment			Date			PROJECT:			scale			drawing no		
D			FOR DISCUSSION			23/01/2023			ALTERATIONS & ADDITIONS AT			AS SHOWN@ A3			drawing no		
E			FOR DA			10/02/2023			80 Sutherland St. Paddington NSW			date			DA-06		
F			FOR DA			09/03/2023			CLIENT: Mr. Leo			drawn			SM, CC		
									drawing EXISTING FIRST FLOOR			review			LJ		
															issue		

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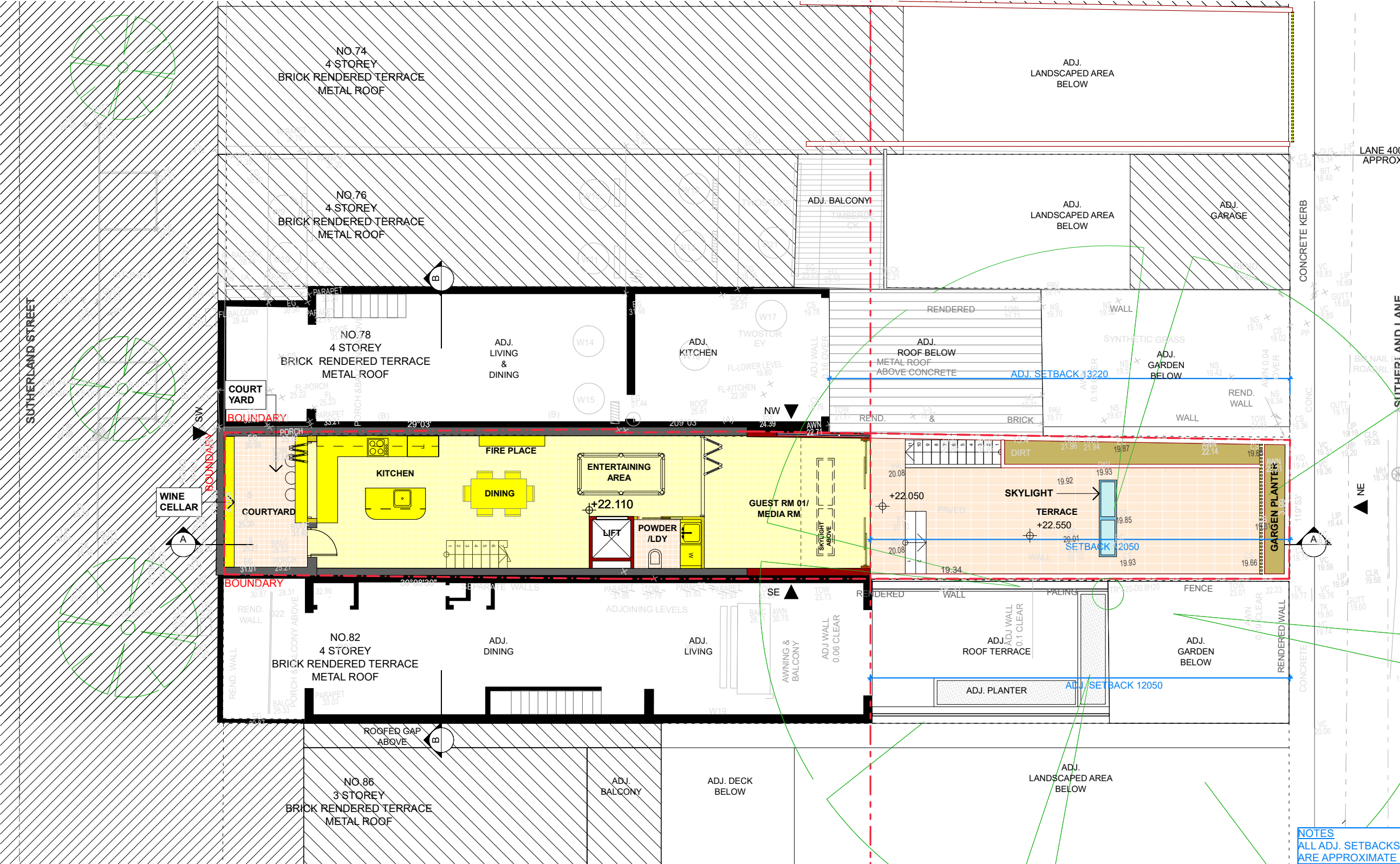
mobile: 0450 611 618
email: info@archiviewaus.com.au
address: Suite 604 / 275 Alfred Street,
North Sydney NSW 2060



PROJECT:
ALTERATIONS & ADDITIONS AT
80 Sutherland St. Paddington NSW
CLIENT: Mr. Leo
drawing EXISTING FIRST FLOOR

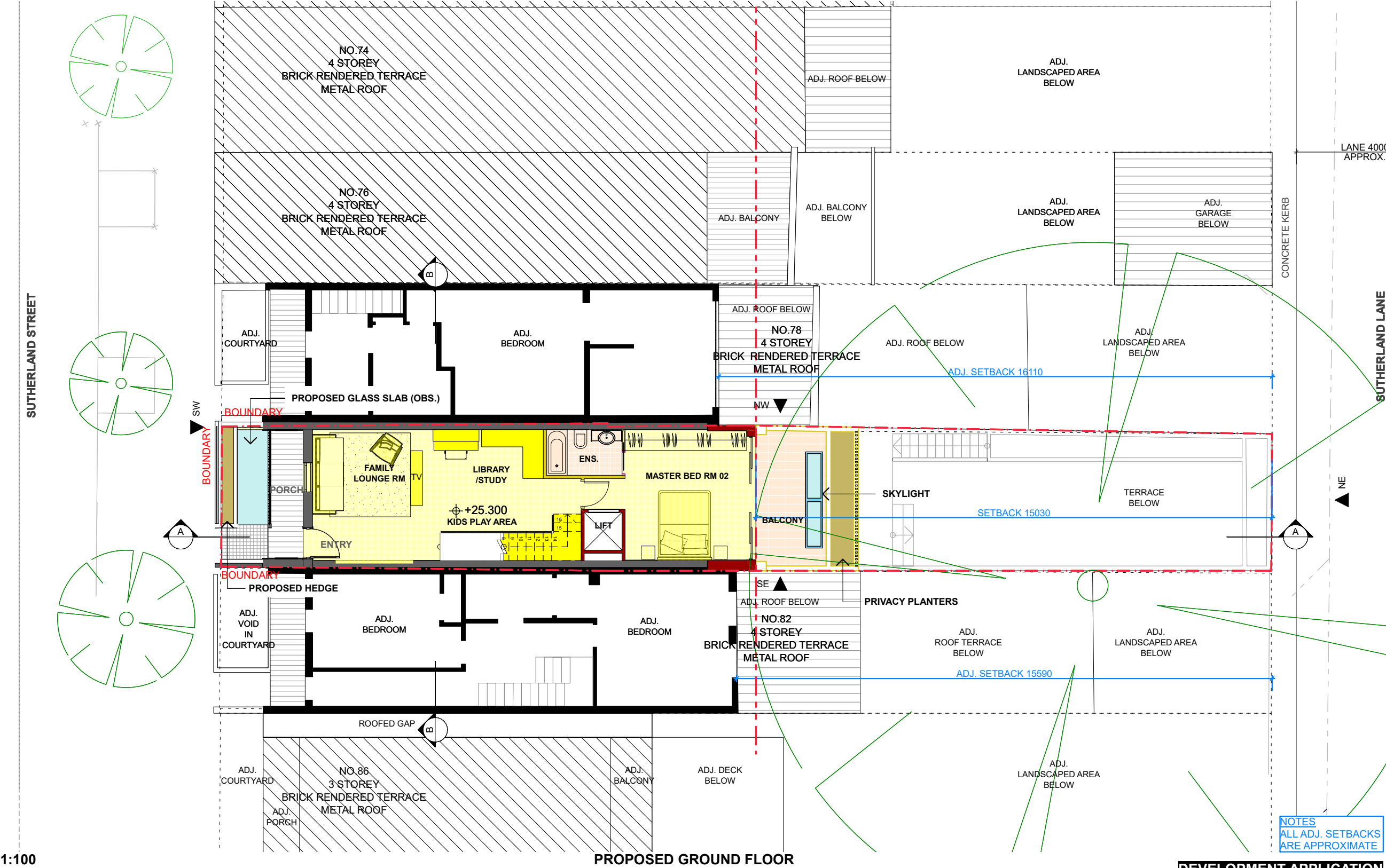
scale AS SHOWN@ A3
date 10/10/2023
drawn SM, CC
review LJ
issue H



Issue			Issue			PROJECT:			drawing no	
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023	ALTERATIONS & ADDITIONS AT			scale	AS SHOWN@ A3
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023	80 Sutherland St. Paddington NSW			date	10/10/2023
F	FOR DA	09/03/2023				CLIENT: Mr. Leo			drawn	SM, CC
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									issue	H



1:100			PROPOSED LOWER GROUND FLOOR			DEVELOPMENT APPLICATION						
Issue	Amendment	Date	Issue	Amendment	Date		 Architecture Urban Planning Interior Marketing Design	PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW	scale AS SHOWN@ A3	drawing no DA-08		
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023			mobile: 0450 611 618	CLIENT: Mr. Leo		date 10/10/2023	
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023			email: info@archiviewaus.com.au	drawing PROPOSED LOWER GROUND FLOOR		drawn SM, CC	
F	FOR DA	09/03/2023						address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060			review LJ	issue H
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1:100

PROPOSED GROUND FLOOR

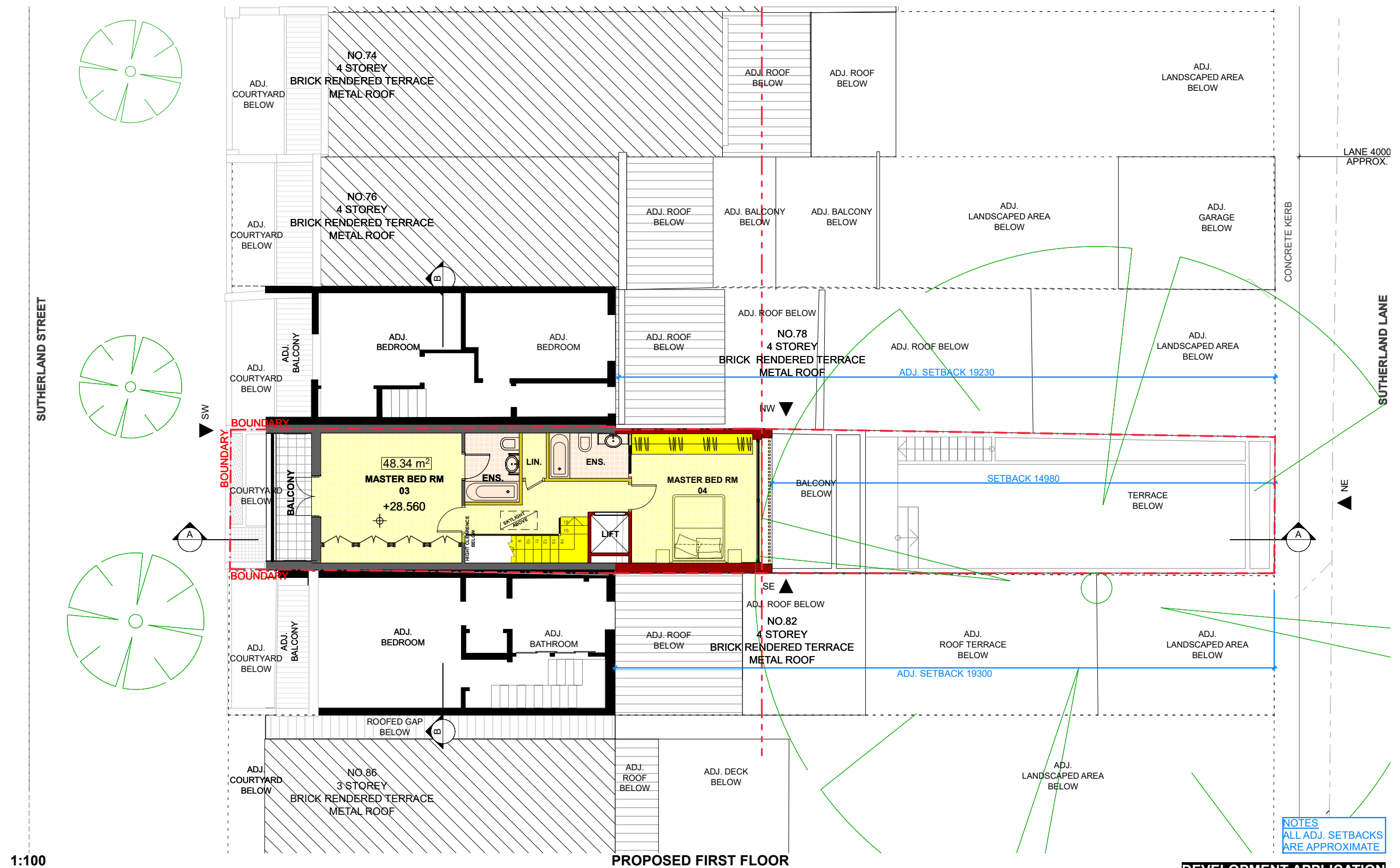
Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			



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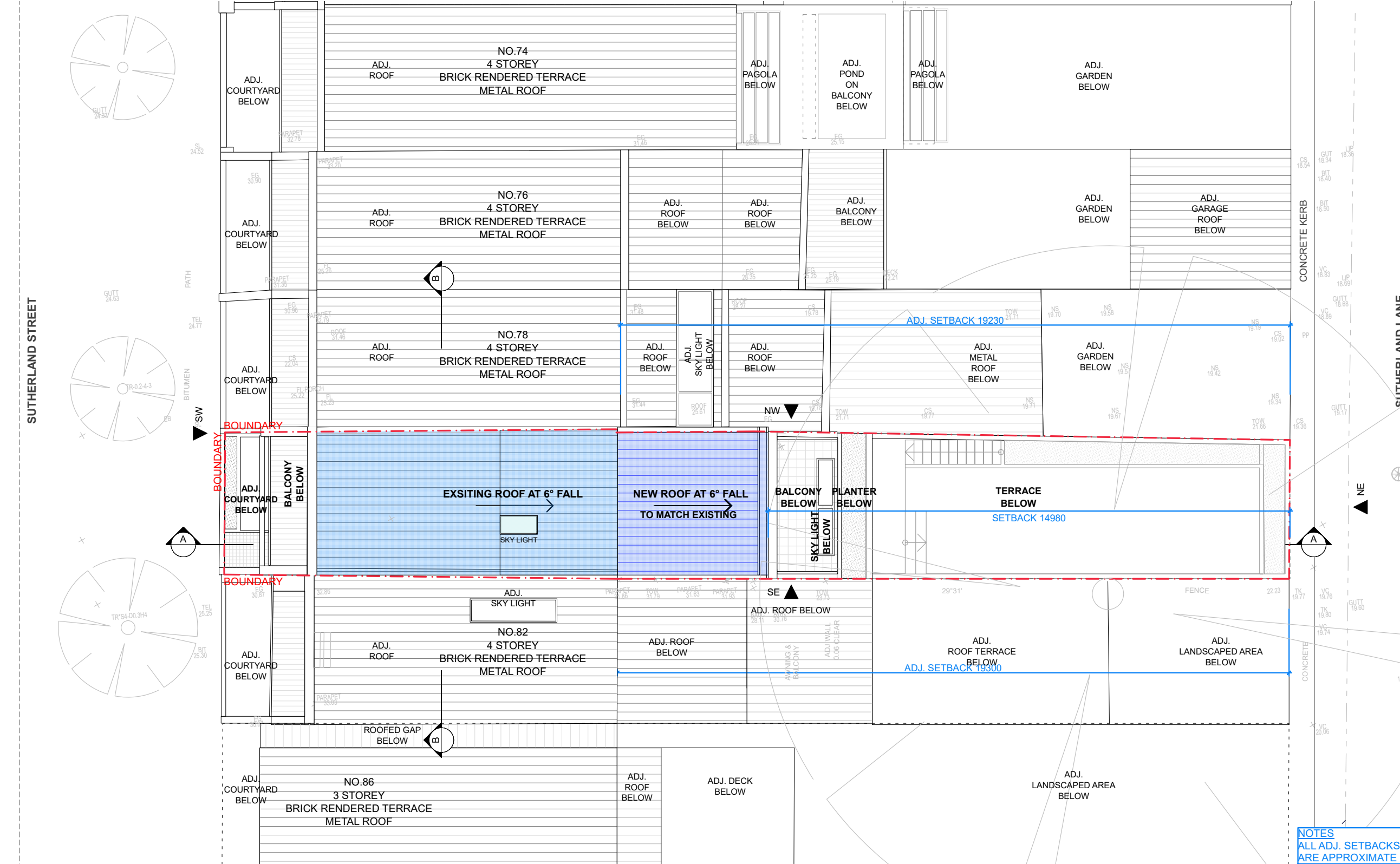
ARCHIVIEW PTY LTD
Architecture Urban Planning Interior-Marketing Design
mobile: 0450 611 618
email: info@archiviewaus.com.au
address: Suite 604 / 275 Alfred Street,
North Sydney NSW 2060

PROJECT:	
ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW	
CLIENT:	Mr. Leo
drawing	PROPOSED GROUND FLOOR

DEVELOPMENT APPLICATION	
scale	AS SHOWN@ A3
date	10/10/2023
drawn	SM, CC
review	LJ
drawing no	DA-09
issue	H



DEVELOPMENT APPLICATION		
Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023
E	FOR DA	10/02/2023
F	FOR DA	09/03/2023
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Issue	Amendment	Date
G	RFI TO COUNCIL	07/07/2023
H	RFI TO COUNCIL	10/10/2023
  ARCHIVIEW PTY LTD <small>Architecture Urban Planning Interior Marketing Design</small>		
mobile: 0450 611 618		
email: info@archiviewaus.com.au		
address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060		
PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		
CLIENT: Mr. Leo		
drawing PROPOSED FIRST FLOOR		
scale AS SHOWN@ A3		
date 10/10/2023		
drawn SM, CC		
review LJ		
issue H		



1:100

ROOF

NOTES

ALL ADJ. SETBACKS ARE APPROXIMATE

DEVELOPMENT APPLICATION

Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			

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email: info@archiviewaus.com.au

address: Suite 604 / 275 Alfred Street,
North Sydney NSW 2060

PROJECT:
ALTERATIONS & ADDITIONS AT
80 Sutherland St. Paddington NSW

CLIENT: Mr. Leo

drawing ROOF PLAN

scale AS SHOWN@ A3

date 10/10/2023

drawn SM, CC

review LJ

drawing no DA-11

issue H

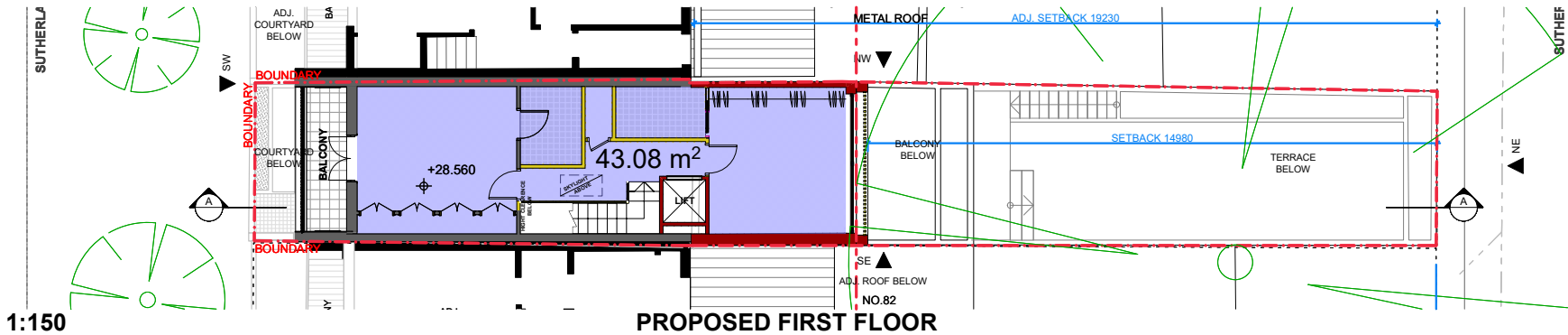
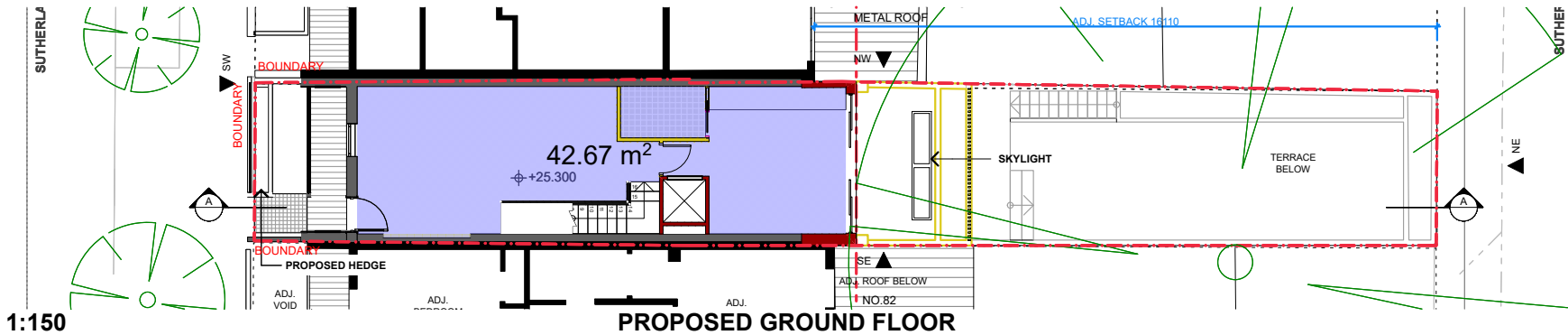
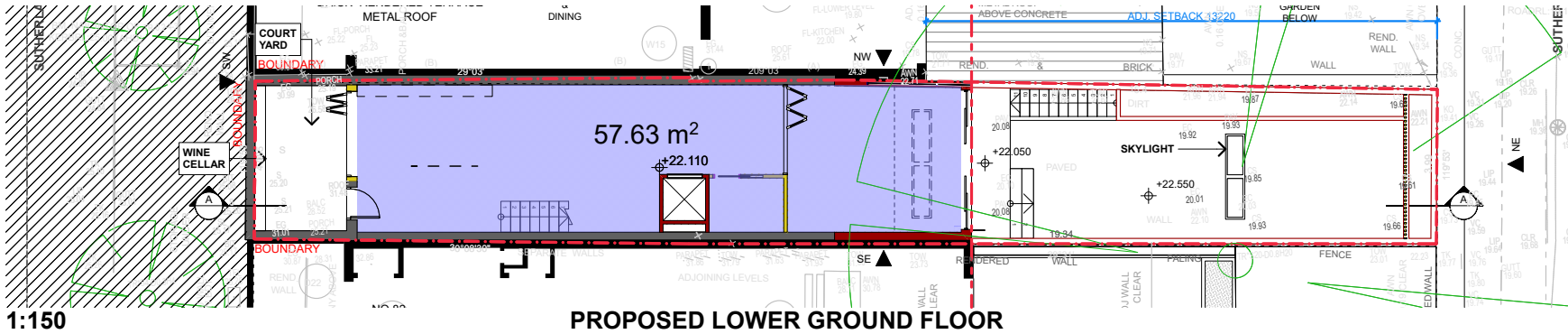
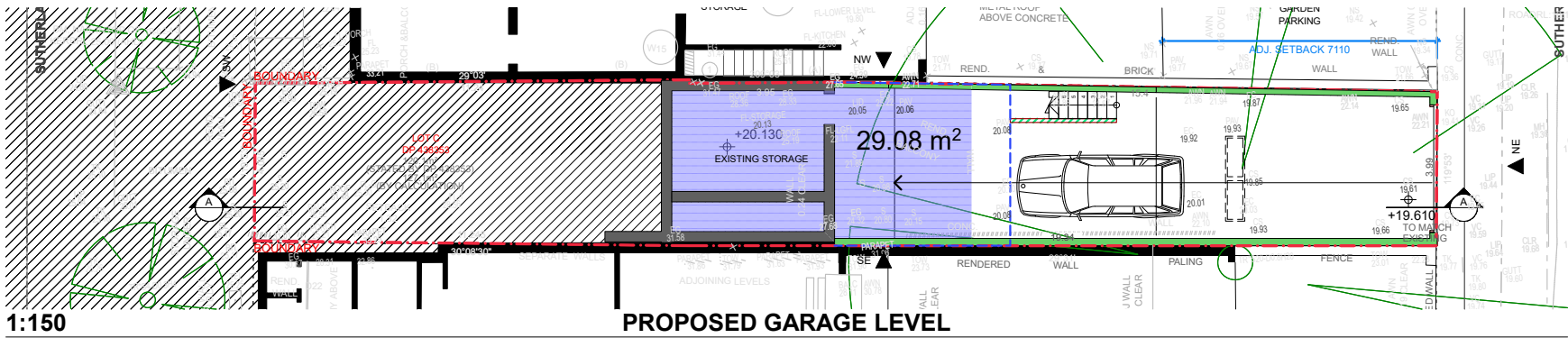


Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			

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PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW	scale AS SHOWN@ A3	drawing no DA-12
CLIENT: Mr. Leo	date 10/10/2023	
drawing TURNNING BAY	drawn SM, CC review LJ	
	issue	H



C A L C U L A T I O N	
EXISTING GFA: 131.28m²	
GARAGE LEVEL (STOR)	= 14.69m²
LOWER GROUND FLOOR	= 46.31m²
GROUND FLOOR	= 41.08m²
FIRST FLOOR	= 29.20m²
SITE AREA = 120.1m²	
EXISTING FSR = 1.09:1	

PROPOSED GFA: 172.46m²	
GARAGE LEVEL	= 29.08m²
LOWER GROUND FLOOR	= 57.63m²
GROUND FLOOR	= 42.67m²
FIRST FLOOR	= 43.08m²
NOTE: EXTRA STORGE AREA WILL BE IN GFA CALCULATION	
PROPOSED FSR = 1.43:1	



Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			

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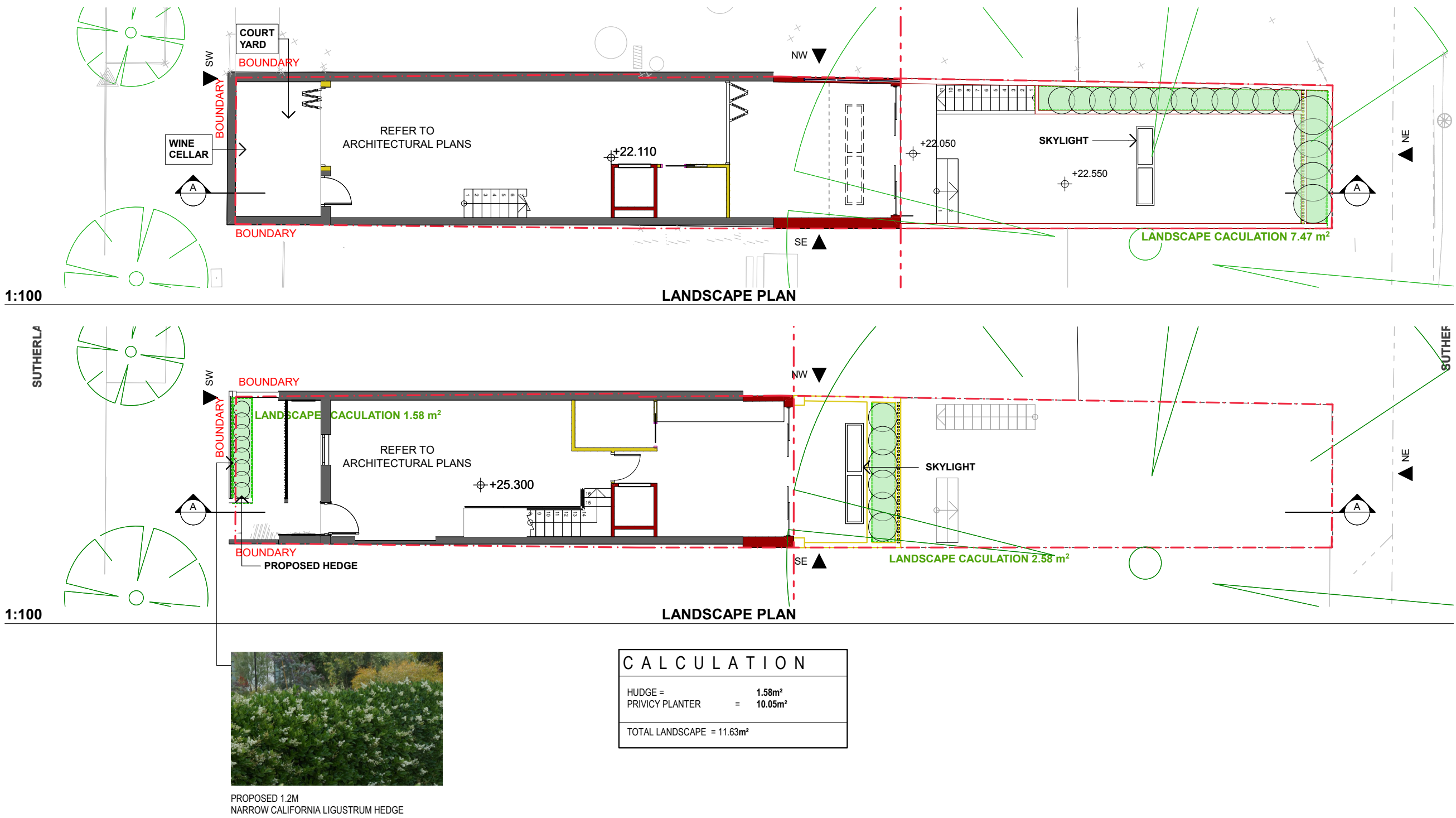


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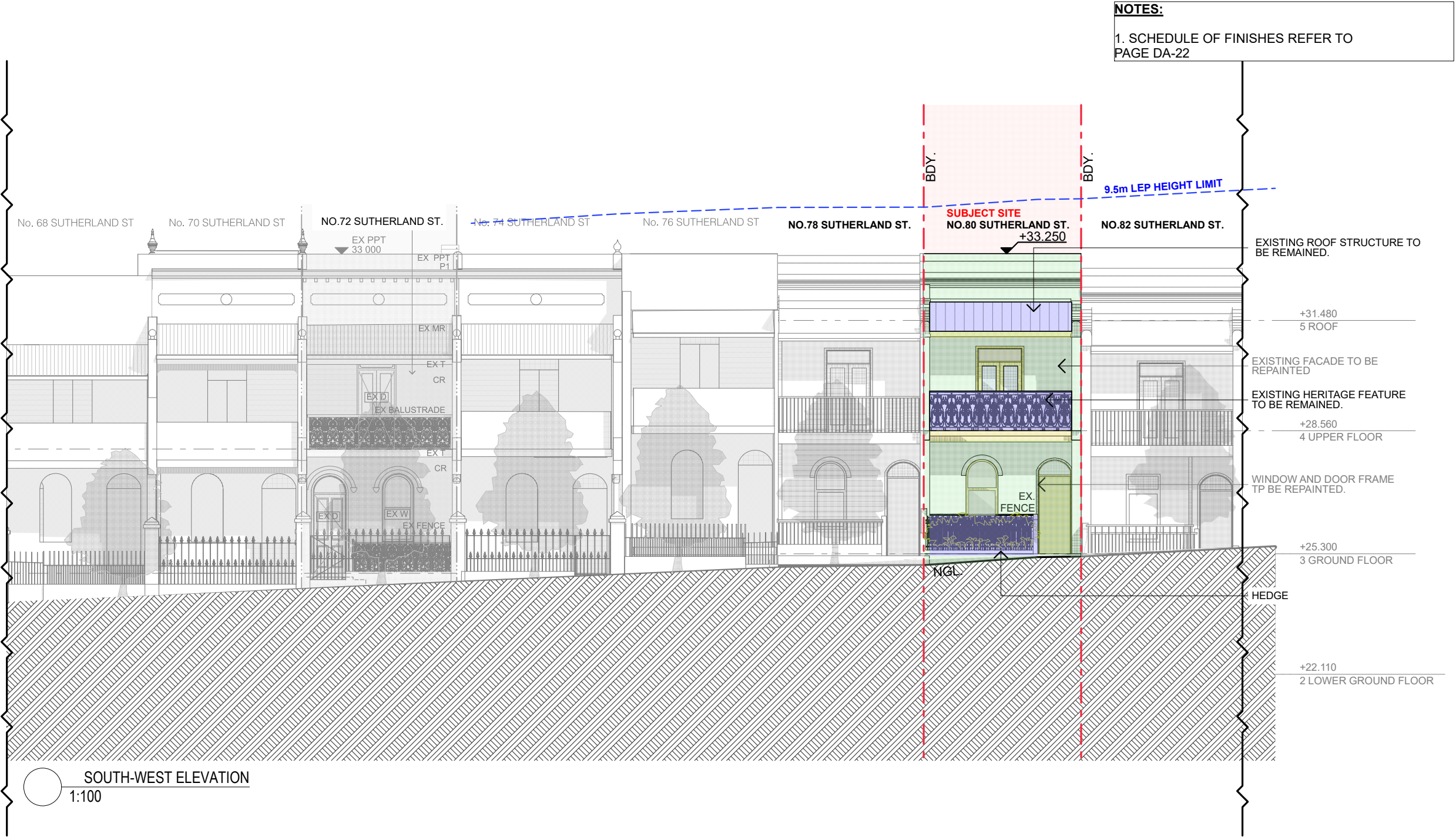
mobile: 0450 611 618
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address: Suite 604 / 275 Alfred Street,
North Sydney NSW 2060

PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW	
CLIENT: Mr. Leo	
drawing PROPOSED GFA CACULATION	

scale AS SHOWN@ A3	drawing no DA-13
date 10/10/2023	
drawn SM, CC	
review LJ	issue H



DEVELOPMENT APPLICATION					
Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			
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			PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		
			CLIENT: Mr. Leo		
			drawing PROPOSED LANDSCAPE CACULATION		
			scale AS SHOWN@ A3	drawing no DA-14	
			date 10/10/2023		
			drawn SM, CC		
			review LJ	issue H	



DEVELOPMENT APPLICATION					
Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			
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			ARCHVIEW PTY LTD Architecture Urban Planning Interior-Marketing Design mobile: 0450 611 618 email: info@archiviewaus.com.au address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060		
			PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		
			CLIENT: Mr. Leo		
			drawing PROPOSED ELEVATIONS 01		
			scale AS SHOWN@ A3	drawing no DA-15	
			date 10/10/2023		
			drawn SM, CC		
			review LJ	issue H	



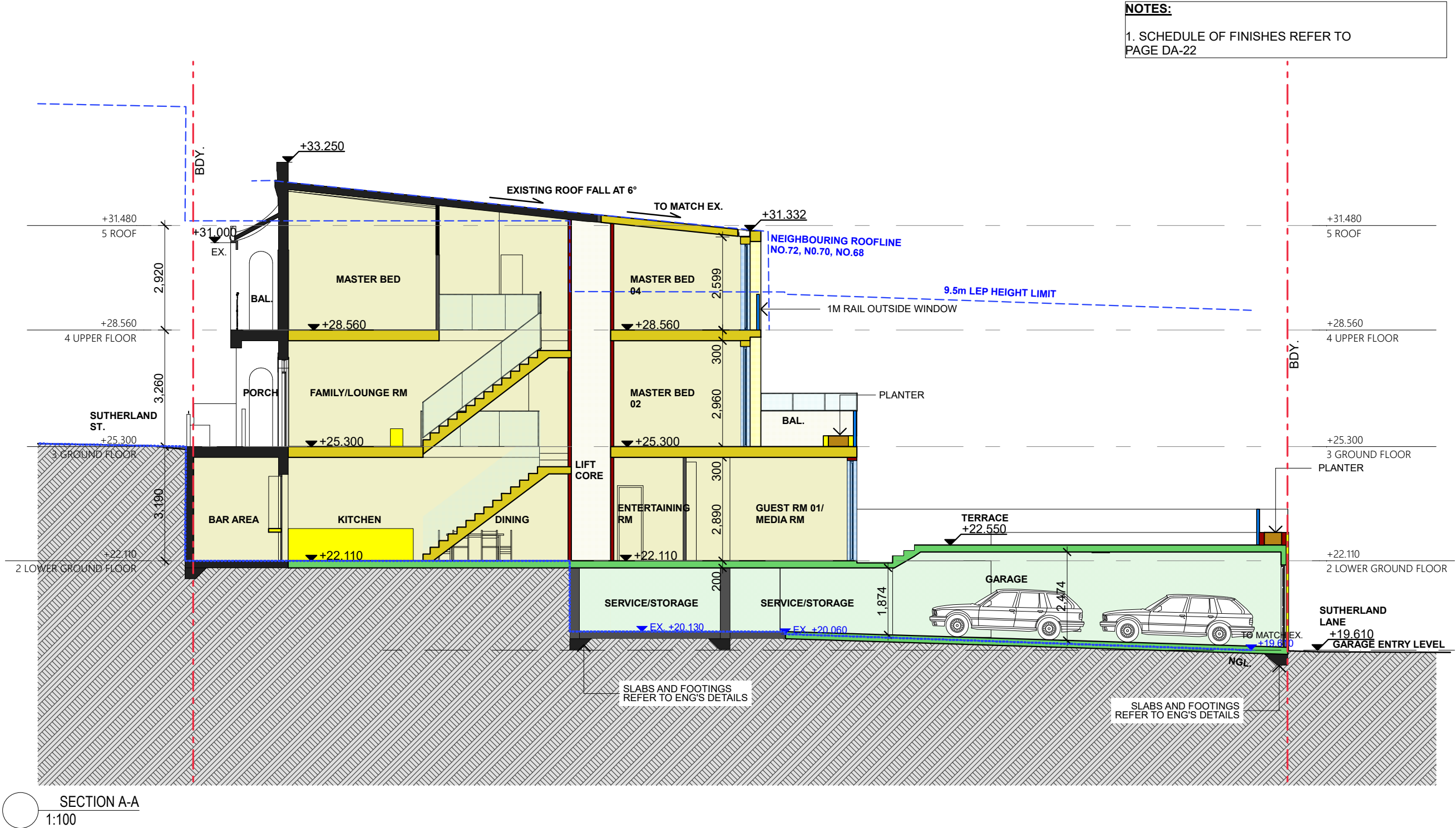
Issue			Amendment			Date		
D			FOR DISCUSSION			23/01/2023		
E			FOR DA			10/02/2023		
F			FOR DA			09/03/2023		

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Issue			Amendment			Date		
G			RFI TO COUNCIL			07/07/2023		
H			RFI TO COUNCIL			10/10/2023		

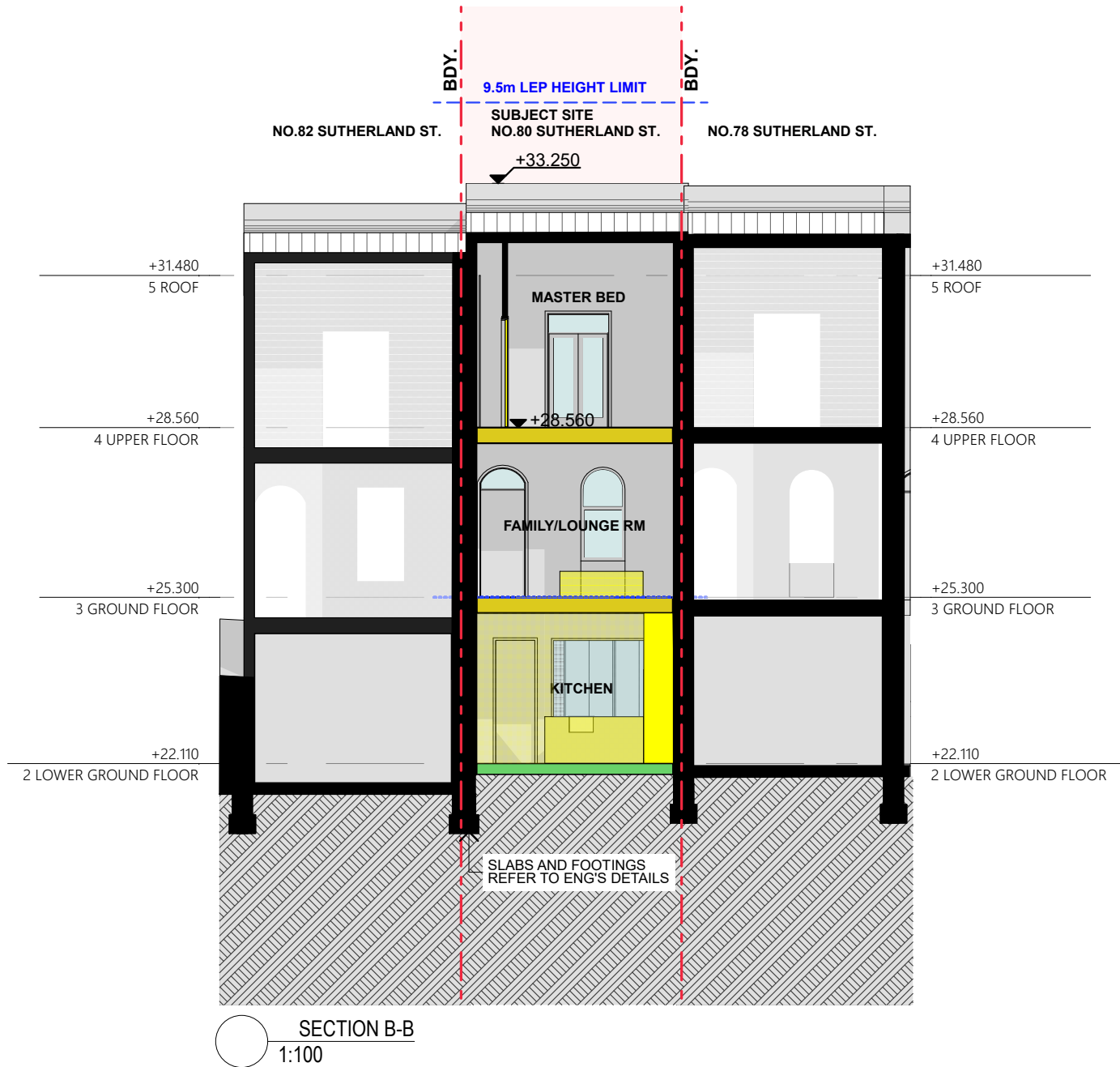
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PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		scale AS SHOWN@ A3	drawing no DA-16
CLIENT: Mr. Leo		date 10/10/2023	
drawing PROPOSED ELEVATIONS 02		drawn SM, CC	issue H
		review LJ	

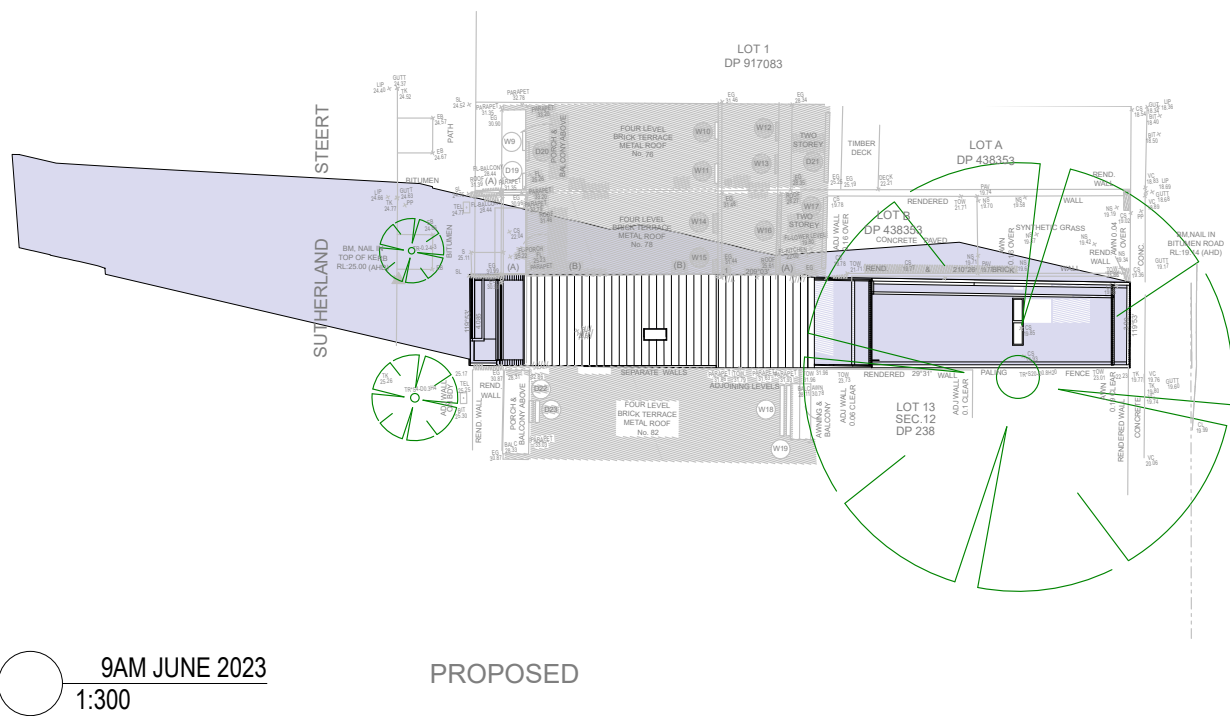
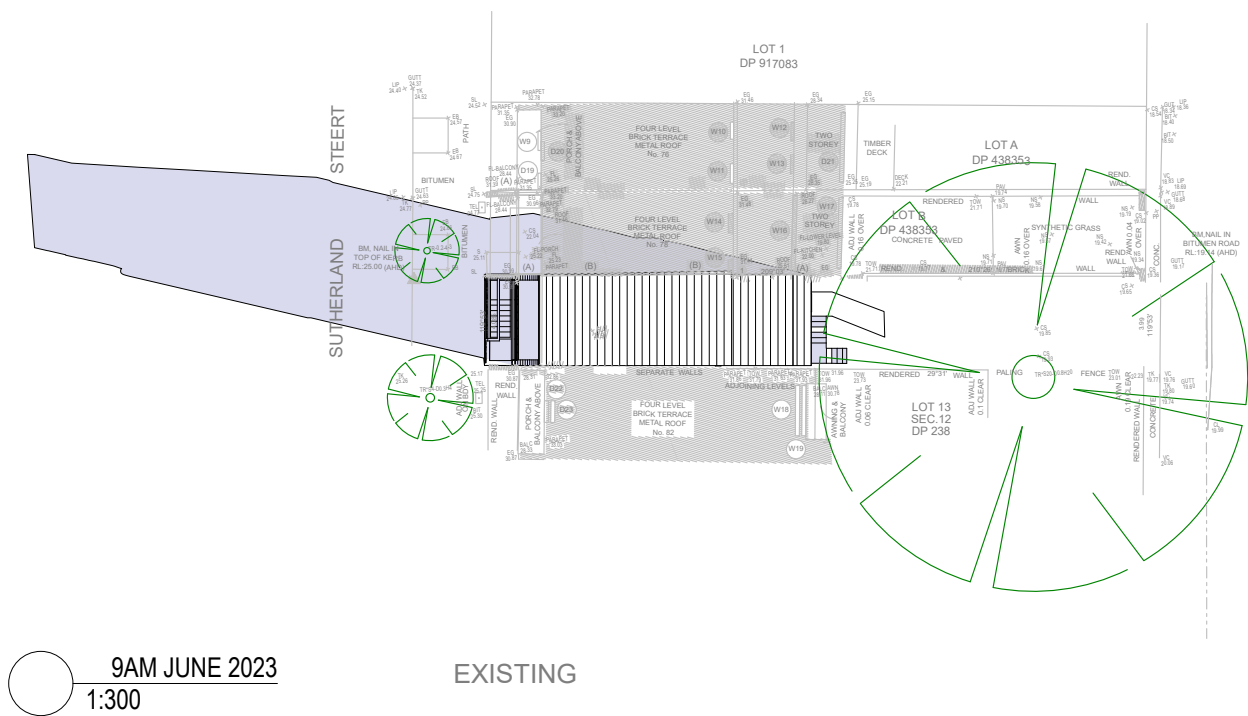




DEVELOPMENT APPLICATION					
Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			
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			PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		
			CLIENT: Mr. Leo		
			drawing SECTION A-A		
			scale AS SHOWN@ A3	drawing no DA-17	
			date 10/10/2023		
			drawn SM, CC		
			review LJ	issue H	

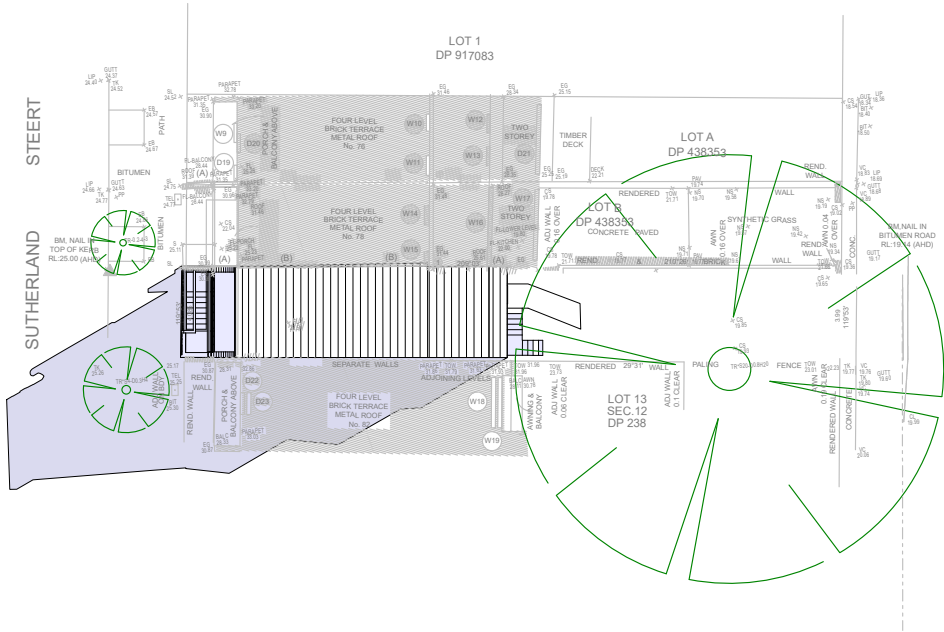
NOTES:
1. SCHEDULE OF FINISHES REFER TO
PAGE DA-22



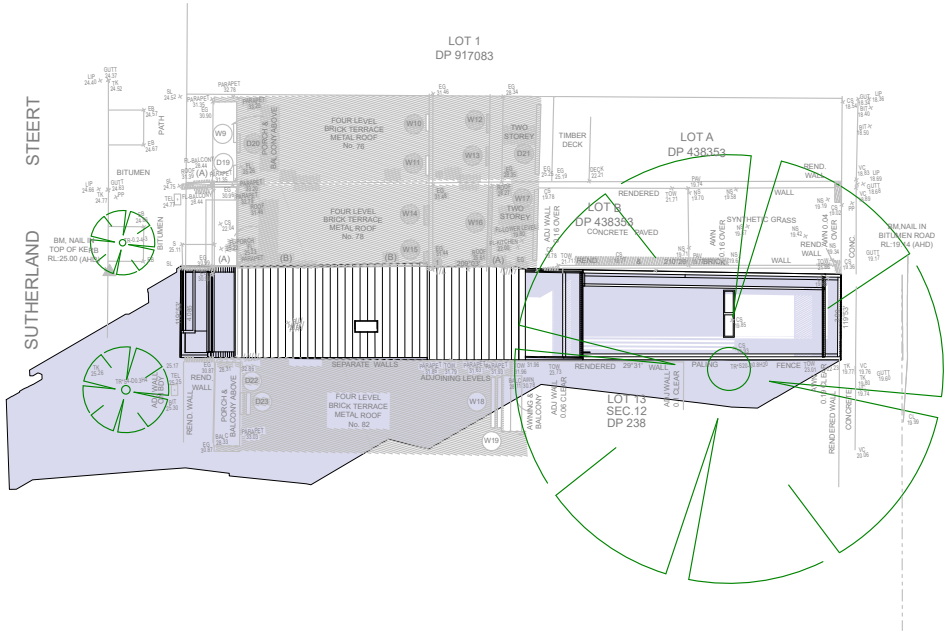
DEVELOPMENT APPLICATION					
Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			
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			 ARCHITECTURE Urban Planning Interior-Marketing Design mobile: 0450 611 618 email: info@archiviewaus.com.au address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060		
			PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		
			CLIENT: Mr. Leo		
			drawing SECTION B-B		
			scale AS SHOWN@ A3	drawing no DA-18	
			date 10/10/2023		
			drawn SM, CC		
			review LJ	issue H	





DEVELOPMENT APPLICATION					
Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			
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			 ARCHIVIEW PTY LTD Architecture Urban Planning Interior-Marketing Design mobile: 0450 611 618 email: info@archiviewaus.com.au address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060		
			PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW CLIENT: Mr. Leo drawing SHADOW DIAGRAMS - 9AM JUNE 22		
			scale AS SHOWN@ A3 date 10/10/2023 drawn SM, CC review LJ		
			drawing no DA-19 issue H		

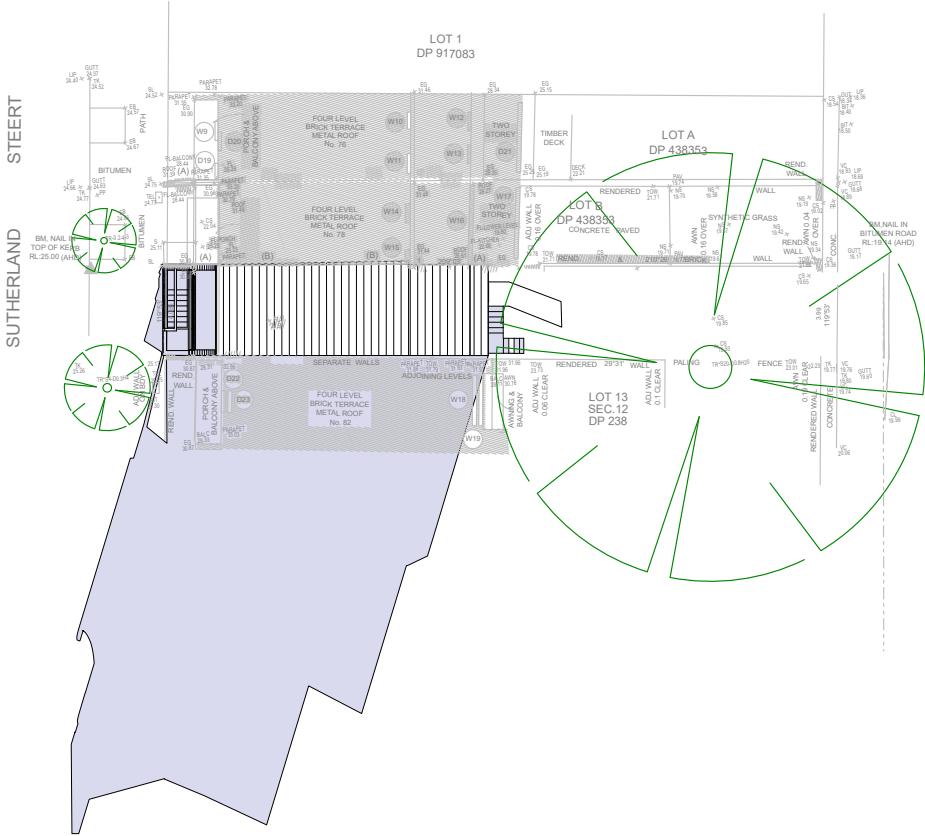


12PM JUNE 2023
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EXISTING



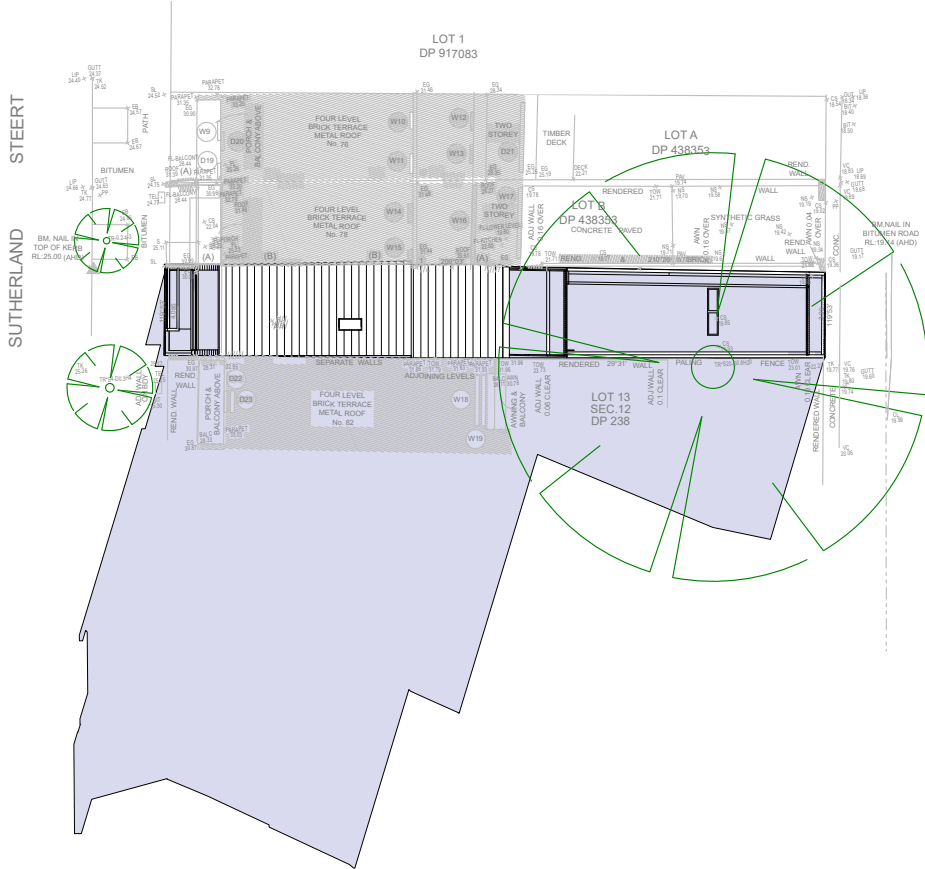
120PM JUNE 2023
1:300
PROPOSED

DEVELOPMENT APPLICATION					
Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			
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			 ARCHITECTURE Urban Planning Interior-Marketing Design		
			mobile: 0450 611 618 email: info@archiviewaus.com.au address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060		
			PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW		
			CLIENT: Mr. Leo		
			drawing SHADOW DIAGRAMS - 12PM JUNE 22		
			scale AS SHOWN@ A3	drawing no DA-20	
			date 10/10/2023		
			drawn SM, CC		
			review LJ	issue H	



3PM JUNE 2023
1:300

EXISTING



3PM JUNE 2023
1:300

PROPOSED

Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			

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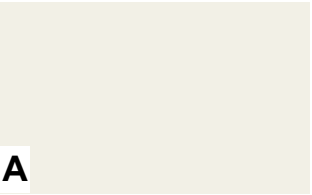


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address: Suite 604 / 275 Alfred Street,
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DEVELOPMENT APPLICATION			
PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW	scale AS SHOWN@ A3	drawing no DA-21	
CLIENT: Mr. Leo	date 10/10/2023		
drawing SHADOW DIAGRAMS - 3PM JUNE 22	drawn SM, CC		
	review LJ	issue	H



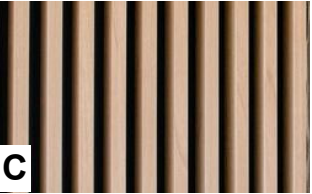
SCHEDULE OF FINISHES:



RENDER WALLS WITH DULUX COLOR "WHITE POLAR QUARTER SW1F2" OR SIMILAR TO MATCH THE EXISTING




WINDOWS AND DOOR FRAMES POWDERCOAT ALUMINIUM IN COLORBOND "MOUNMENT" COLOR OR SIMILAR



TIMBER LOOKED ALUMINUM BATTENS OR SIMILAR



DEVELOPMENT APPLICATION					
Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			
<div><div>This drawings is copyright of archiview Pty Ltd. All work is to be in accordance with NCC, relevant SAA codes, Conditions of Council and other relevant Authorities requirements. DO NOT scale drawings. Verify all dimensions on site</div><div><div><div>ARCHIVIEW PTY LTD Architecture Urban Planning Interior Marketing Design</div><div>mobile: 0450 611 618 email: info@archiviewaus.com.au address: Suite 604 / 275 Alfred Street, North Sydney NSW 2060</div></div></div></div>			<div><div>PROJECT: ALTERATIONS & ADDITIONS AT 80 Sutherland St. Paddington NSW</div><div>CLIENT: Mr. Leo</div><div>drawing SCHEDULE OF FINISHES</div></div> <div><div>scale AS SHOWN@ A3</div><div>date 10/10/2023</div><div>drawn SM, CC</div><div>review LJ</div></div> <div><div>drawing no DA-22</div><div>issue H</div></div>		

NOTES:

1. SCHEDULE OF FINISHES REFER TO PAGE DA-22

Issue	Amendment	Date	Issue	Amendment	Date
D	FOR DISCUSSION	23/01/2023	G	RFI TO COUNCIL	07/07/2023
E	FOR DA	10/02/2023	H	RFI TO COUNCIL	10/10/2023
F	FOR DA	09/03/2023			

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email: info@archiviewaus.com.au
address: Suite 604 / 275 Alfred Street,
North Sydney NSW 2060

DEVELOPMENT APPLICATION
PROJECT:
ALTERATIONS & ADDITIONS AT
80 Sutherland St. Paddington NSW
CLIENT: Mr. Leo
drawing 3D VIEWS
scale AS SHOWN@ A3
date 10/10/2023
drawn SM, CC
review LJ
drawing no **DA-23**
issue H

Completion Date: 15 November 2023

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 173/2023/1
ADDRESS: 80 Sutherland Street PADDINGTON 2021
PROPOSAL: Extensive alterations and additions
FROM: Mr R Lam
TO: Mrs L Holbert

1. ISSUES

- Construction Methodology/Structural Report

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, prepared by Lockrey Planning & Development Solutions P/L, dated 26 April 2023.
- Revised Architectural Plans, referenced Rev H, prepared by Archview P/L, dated 10/10/2023.
- Survey, referenced 23081-22, prepared by C & A Surveyors, dated 05/10/2022.
- Stormwater Management Plan, referenced 230212-Rev A, prepared by SYJ Consulting Engineers, dated 10/03/2023.
- Geotechnical Report, referenced G634-1, prepared by Foundation Earth Sciences, dated 03/04/2023.
- Pre-Construction Methodology Report, referenced 230212, prepared by SYJ Consulting Engineers, dated 06 July 2023.

3. ASSESSMENT

Comments have been prepared on the following.

a. Geotechnical, Hydrogeological and/or Structural comments

Revised Construction Methodology/Structural Report

A preliminary assessment of the submitted pre-construction methodology report has identified the following aspects which must be addressed by the applicant's consulting engineer, as previously requested:

- 1) Preliminary structural design for the CFA pile shall be included in the report,
- 2) Excavation Support;
- 3) Groundwater levels (if any);
- 4) Vibration Controls for the method of excavation;

Note that the Structural Engineer must provide certification in the conclusion of the Report that the structural integrity of all adjoining buildings including any boundary wall will not be adversely affected and compromised. The Engineer must also certify that underpinning works to neighbouring structures are not required. Otherwise owners consent together with details and procedures of such underpinning works must be provided.

4. RECOMMENDATION

Council's Development Engineer has determined that insufficient information has been submitted to enable an assessment of the proposal. The following information is required before any further assessment of the application can be undertaken:

- 1) The submission of revised Construction Methodology/Structural Report

Completion Date: 5 April 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 173/2023/1
ADDRESS: 80 Sutherland Street PADDINGTON 2021
PROPOSAL: Extensive alterations and additions
FROM: Ms S Lin
TO: Mrs L Holbert

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, prepared by Lockrey Planning & Development Solutions P/L, dated 26 April 2023.
- Revised Architectural Plans, referenced Rev H, prepared by Archview P/L, dated 10/10/2023.
- Survey, referenced 23081-22, prepared by C & A Surveyors, dated 05/10/2022.
- Stormwater Management Plan, referenced 230212-Rev A, prepared by SYJ Consulting Engineers, dated 10/03/2023.
- Geotechnical Report, referenced G634-2-Rev A, prepared by Foundation Earth Sciences, dated 01/12/2023.
- Pre-Construction Methodology Report, referenced 230212, prepared by SYJ Consulting Engineers, dated 30/11/2023.

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 submitted stormwater management plans does not reflect the latest architectural plans which should not form part of the approved plans. Conditions will be imposed for a stormwater plans be prepared at CC stage. The property has a total area of less than 500m², in which case the installation of an on-site stormwater detention (OSD) system is not required as per Chapter E2.2.4 of the Council's DCP. Stormwater runoff from the site will be discharged to the street kerb.

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

b. Flooding & Overland Flow comments

The site is not subject to flood related development control.

c. Impacts on Council Infrastructure comments

The applicant proposes to provide tandem parking as part of this proposal. For any proposed alterations and additions to the carparking arrangement, the applicant is required to upgrade the vehicular crossing to Council's current Crossing Specification and DCPs for full compliance. It appears that the existing vehicular crossing is in dilapidated condition, in this regard, the applicant is required to remove the existing vehicular crossing on Sutherland Lane and construct a new vehicular crossing at right angle to the street kerb. Detailed design and construction of the infrastructure works on public domain will be subject to separate s138 application which will be conditioned accordingly.

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

The proposed vehicular access and carparking layout are considered satisfactory.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report, ref G634-2-Rev A, prepared by Foundation Earth Sciences, dated 01/12/2023, has been submitted in support of the application. The proposal involves on-grade excavation for the proposed tandem parking.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 1.4m (BH1), 1m (BH2) and 0.7m (BH3).*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 1.55m (BH1), 1.15m (BH2) and 0.75m (BH3).*
- c) Sandstone bedrock was encountered beneath the natural sand in all boreholes.*
- d) Groundwater seepage 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.*

In addition, the applicant has also submitted a pre-construction methodology report in support of the application. It is noted from the report that as there is no new substructure proposed in latest architectural drawing, excavation for pier and substructure is not required and there is no excavation support to be required.

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 engineering conditions:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
G634-2-Rev A	Geotechnical Report	Foundation Earth Sciences	01/12/2023
230212	Pre-Construction Methodology Report	SYJ Consulting Engineers	30/11/2023

A.8 Ancillary Aspect of the Development (S80A(2) of the Act)

A.31 No Underpinning works

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

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

B.7 Public Road Assets prior to any work/demolition

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

C.5 Security Deposits

Property Damage Security Deposit (S138)	\$22,114	No	T115
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$645	No	T45

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 as the road authority, for the following infrastructure works prior to issue of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification and 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 generally be aligned with the centreline of the garage door at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway must be submitted for assessment.
- 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,

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

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

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

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

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

C.35 Structural Adequacy of Existing Supporting Structures

C.36 Professional Engineering Details

C.37 Engineer Certification

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

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

C.40 Geotechnical and Hydrogeological Design, Certification & Monitoring

Prior to 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 Council's DCP and Councils 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 of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:

- will detect any settlement associated with temporary and permanent works and structures,
- will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
- will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
- will detect groundwater changes calibrated against natural groundwater variations,
- details the location and type of monitoring systems to be utilised,
- details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
- details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- details a contingency plan.

standard Condition: C40 (Autotext: CC40)

C.41 Ground Anchors

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

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

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

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

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

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

Standard Condition: C41 (Autotext: CC41)

C.45 Vehicular Access and Parking Arrangement

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

- a) The proposed tandem parking must have minimum dimensions of 3m x 10.8m, clear of any obstructions, to comply with AS2890.1.

- b) The maximum gradients within the proposed tandem parking, measured parallel to the angle of parking shall be 5%, to comply with AS2890.1.

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 spaces required to be provided and maintained by this consent.

Standard Condition: C45 (Autotext: CC45)

C.51 Stormwater Management Plan

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

- a) 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,
- b) Detail any remedial works required to upgrade the existing stormwater drainage system,
- c) 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,
- d) Stormwater runoff from the site shall be discharged to a minimum 450mm x 450mm boundary junction pit located within the property prior to discharging to the street drainage system,
- e) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- f) Dimensions of all drainage pits and access grates must be provided in accordance with AS3500.3,
- g) Compliance the objectives and performance requirements of the BCA,
- h) 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
- i) General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout plan

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

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

- f) Overland flow paths over impervious areas.

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

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

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

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

Standard Condition: C.51 (Autotext CC51)

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

D.4 Dilapidation Reports for existing buildings

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

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

No. 78 Sutherland Street

No. 82 Sutherland Street

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

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

Note: The reasons for this condition are:

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

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

Standard Condition: D4 (Autotext DD4)

D.6 Adjoining buildings founded on loose foundation materials

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

D.14 Erosion and Sediment Controls – Installation

E. Conditions which must be satisfied during any development work

E.7 Maintenance of Vehicular and Pedestrian Safety and Access

- E.11 Maintenance of Environmental Controls**
- E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program**
- E.13 Support of Adjoining Land Owners**
- E.14 Vibration Monitoring**
- E.15 Erosion and Sediment Controls – Maintenance**
- E.17 Disposal of Site Water during Construction**
- E.20 Check Surveys – boundary location, building location, building height, stormwater drainage system and flood protection measures relative to AHD**

- 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.7 Commissioning and Certification of Systems and Works**

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

Nil

- H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (S109C (1) (c))**

- H.13 Road Works (including footpaths)**

- H.20 Works-As-Executed and Certification of Stormwater Systems**

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

- a) compliance with conditions of development consent relating to stormwater,
- b) that seepage water/subsoil drainage is NOT collected and discharged to Council's kerb and gutter,
- c) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

Nil

- J. Miscellaneous Conditions**

Nil

K. Advisings

K.23 Dilapidation Report

K.24 Roads Act Application

5 August 2023

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 173/2023/1
ADDRESS: 80 Sutherland Street PADDINGTON 2021
PROPOSAL: Extensive alterations and additions
FROM: Sam Knight
TO: Mrs L Holbert

I refer to the following documents received for this report:

- Survey Plan, drafted by C & A Surveyors, dated 5 October 2022
- Architectural Drawings, drawn by Archiview Pty Ltd, dated 7 July 2023
- Arboricultural Impact Assessment Report, written by Birds Tree Consultancy, dated 5 July 2023

A site inspection was carried out on 31 August 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

Further information is required to ensure the tree located within the neighbours property is not adversely impacted by the proposed works.

COMMENTS

Tree 1 - has been identified as Tallowwood located adjacent to the eastern boundary within 82 Sutherland Street. The tree was noted in good healthy condition and provides a high contribution to the amenity and canopy cover of the immediate area. The tree has been rated as having High Landscape Significance and High Retention Value.

The proposed plans show modification within the rear yard are within the Tree Protection Zone of the tree which has been calculated in accordance with the *Australian Standard 4970 'Protection of trees on development sites* as being 12 metres (radius from trees trunk). The plans indicate excavation across the rear yard of approximately 500mm below the existing grade within the TPZ and also within the Structural Root Zone (3.7m). These works represent a Major Encroachment (35%) as per AS4970.

Where a major encroachment is identified (ie: greater than 10% encroachment within TPZ), the project arborist must demonstrate that the works will not adversely impact on the tree. This typically involves root investigation by non-destructive methods and considerations of the tree's tolerance to construction disturbances.

The applicants Arborist Report has recommended that root investigation / root mapping is undertaken across the entire TPZ within the subject site to accurately determine the location and depth of all roots greater than 30mm diameter.

The applicants Arborist Report also recommended "*excavation, slab and footing design is to be revised to accommodate the results of the root mapping with a minimum of 50mm cover (or as required by engineering requirements) between existing roots and the bottom of the proposed slab or footings.*"

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form.

The following information is required before further assessment of the application can be undertaken:

- a) To ensure the neighbours tree is not adversely impacted from the proposed works, Exploratory Root Investigation must be undertaken, and the results submitted in a report to Council's Tree and Landscape team prior to the approval of this development application. The report must include.
 - i) Root investigations must be provided by a qualified Arborist (minimum AQF Level 5), to determine the exact location and extent of existing roots.
 - ii) This shall consist of either hand excavation or 'air knife, across the entire TPZ within subject site, to a minimum depth of 600mm below the existing grade, gently removing the soil to expose the existing tree roots where construction is likely to impact on the tree.
 - iii) An assessment of tree root size, number and condition
 - iv) An assessment and documentation (including photos) of tree root size, number and condition;
 - v) A site plan showing all excavation lines and root locations in relation to the proposed new concrete slab;
 - vi) Information on the Arborist's involvement during these works;
- b) The proposed excavation, slab and footing design is to be revised to accommodate the results of the root mapping with a minimum of 50mm cover (or as required by

engineering requirements) between existing roots and the bottom of the proposed slab or footings.

Sam Knight
Tree Officer

15 January 2024

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 173/2023/1
ADDRESS: 80 Sutherland Street PADDINGTON 2021
PROPOSAL: Extensive alterations and additions
FROM: Sam Knight
TO: Mrs L Holbert

I refer to the following documents received for this report:

- Survey Plan, drafted by C & A Surveyors, dated 5 October 2022
- Amended Architectural Drawings – Rev H, drawn by Archiview, dated 10 October 2023
- Arboricultural Impact Assessment Report, written by Birds Tree Consultancy, dated 5 July 2023
- Arboricultural Impact Assessment Report – Rev A, written by Birds Tree Consultancy, dated 26 October 2023

A site inspection was carried out on 31 August 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 supported subject to minor modification prior to the issuing of the Construction Certificate as detailed in the below conditions.

COMMENTS

Detailed comments were provided by the Tree and Landscape team in August 2023 related to a mature *Eucalyptus microcorys* (Tallowwood) locate in the neighbour's property. This included a request for tree root investigation to be undertaken to identify impacts on any tree roots growing within the subject site.

It is noted that an amended Arborist Report has been provided by the applicants. The report has not undertaken the requested root investigation. However, the report has made recommendations for tree sensitive construction methods to be implemented during installation of the new concrete slab and boundary wall aimed at ensuring tree roots greater than 40mm are retained during the works. The recommendations are based on an amended design that has reduced the amount of excavations across the rear yard and within the Tree Protection Zone (TPZ) of the subject tree to subbase preparation.

Whilst the report recommendations are partially supported, there will still be a level of disturbance within the TPZ which has not been fully considered in the report. This includes compacting the subbase to allow a reinforced concrete slab to be installed across the entire rear yard. The loss of permeability, moisture infiltration and oxygen availability to the tree's root system has not been accounted for in the report or the amended design.

Therefore, to ensure the neighbour tree is not adversely impacted the new concrete slab 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. The new surface shall be established above the former ground level and shall incorporate permeable areas. This has been detailed in the conditions below to be satisfied prior to the issuing of the Construction Certificate.

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	<i>Eucalyptus microcorys</i>	Adj eastern boundary – within rear yard of 82 Sutherland St	20 x 17

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

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

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

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Eucalyptus microcorys</i>	Adj eastern boundary – within rear yard of 82 Sutherland St	Existing boundary fence

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Establishment of Ground protection
Ground protection shall be established within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Tree Location	Radius from Centre of Trunk (Metres)
1	<i>Eucalyptus microcorys</i>	Adj eastern boundary – within rear yard of 82 Sutherland St	12m

Ground protection shall consist of (geotextile fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch /

steel plating over 10mm mulch layer / retention of existing surface. No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within the ground protection area 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.
- i) 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	<i>Eucalyptus microcorys</i>	12m	Installation of new concrete slab, boundary wall and garage structure.

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

B.3 Demolition and Construction Management Plan

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

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

B.4 Arborists Documentation and Compliance Checklist

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

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

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

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist shall supervise the demolition of the existing concrete slab within 12 metres from Tree No 1, The condition of exposed roots shall be managed and documented. • The project arborist shall supervise the installation of the new concrete slab within 12 metres of Tree No.1, 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.

	<ul style="list-style-type: none"> 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 the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> The project arborist shall supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

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

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

C.1 Tree Management Plan

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

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

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

C.2 Modification of details of the development (section 4.17 (1) (g) of the Act)

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

- a) The design of the new concrete slab within 12 metres of tree 1, 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 the concrete slab within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

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

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

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

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

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

General Protection Requirements

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

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

E.2 Concrete slab in the vicinity of trees

Installation of the new concrete slab 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 the concrete slab 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	<i>Eucalyptus microcorys</i>	Adj eastern boundary – within rear yard of 82 Sutherland St	12m

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.3 Hand excavation within tree root zones

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

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Eucalyptus microcorys</i>	Adj eastern boundary – within rear yard of 82 Sutherland St	12m

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 40mm shall not be severed or damaged unless approved in writing by the project arborist.

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

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

The project arborist shall document compliance with the above condition.

E.4 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	<i>Eucalyptus microcorys</i>	Adj eastern boundary – within rear yard of 82 Sutherland St	12m

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 40mm 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	<i>Eucalyptus microcorys</i>	Adj eastern boundary – within rear yard of 82 Sutherland St	12m

Any roots greater than 40mm diameter uncovered for the installation of stormwater pipes and pits shall not be severed and remain in situ bridging across the excavated trench. Pipes shall be guided under any roots greater than 40mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 40mm diameter are severed.

The project arborist shall document compliance with the above condition.

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

F.1 Amenity Landscaping

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

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

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

Nil

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

H.1 Landscaping

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

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

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

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

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

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

Sam Knight
Tree Officer



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23 June 2023

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 173/2023/1
ADDRESS: 80 Sutherland Street PADDINGTON 2021
PROPOSAL: Extensive alterations and additions
FROM: Ms Eleanor Banaag
TO: Mrs L Holbert

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Archiview, dated 9 March 2023, and numbered DA 01 – D 18
- Heritage Impact Statement by Architectural Projects, dated May 2023
- Statement of Environmental Effects by Lockrey Planning and Development Solutions, dated 26 April 2023
- Survey plan by C&A Surveyors, ref 23081-22 DET/ID, dated 4 October 2022
- Schedule of finishes by Archiview, dated 9 March 2023, and numbered DA 22
- 3D architectural renders by Archiview, dated 9 March 2023, and numbered DA 23

SITE INSPECTION / RESEARCH

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 photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Heritage Act NSW 1977
- Woollahra LEP 2014
- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

The subject site is not a heritage item in the Woollahra LEP 2014 but exists within Paddington Heritage Conservation Area (HCA). The site is a contributory item to the HCA in the Woollahra DCP 2015.

A summary of the significance of the Paddington HCA is as follows:

Paddington is a unique urban area which possesses historical, aesthetic, technical and social

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significance at a National and State level. An important factor in the significance of Paddington is its exceptional unity, encompassing scale, character, history, architecture and urban form. The built environment of Paddington is an excellent example of the process of 19th century inner city urbanisation of Sydney which was largely completed by 1890. The predominant Victorian built form is an excellent representative example of the phenomena of land speculation and a 'boom' building period between 1870 and 1895.

The terraces of Paddington clearly trace the evolution of the imported English Georgian and Regency terrace models into the distinct Australian style evident in the Victorian era terraces. Paddington retains many significant types of buildings that represent all phases of the suburb's historical development. These building types range from modest, small-scale, single storey timber and masonry cottages, to remnant examples of former gentry mansions, boom style middle-class terrace houses, apartment blocks and contemporary infill development, all of which are set in a varied network of streets, lanes and pedestrian accessways which reflect the phases of subdivision and development.

(Woollahra DCP, Part C, Chapter C1 – Paddington Heritage Conservation Area).

Located on Sutherland Street as a middle block to a row of terraces, 80 Sutherland Street is a three storey Victorian terrace which has an additional floor to the back due to the site fall. The terrace presents as part of a Victorian terrace block, however extensive modifications to the façade and internally were undertaken in the 2018. Comparison real estate photos from 2013 show the extensive modifications that were undertaken internally and externally, with the front façade upgrade involving sensitive Victorian period styling.

The building is contributory to the significance of the Paddington HCA as an example of terrace housing that was prolific in the area during the Victorian growth period. Its form additionally relates to a long row of intact and continuous single and two-story terraces/cottages along Sutherland Street. Sutherland Street itself is a good representation of the layered development that is significant about Paddington, showing early development of the Georgian and Victorian period, through to the mid-century apartments and more contemporary developments.

Taken from the Historical Outline section of the Statement of Heritage Impact, The terrace house at No. 80 Sutherland Street was built sometime between 1880 and 1885 as one of a row of three terraces with 76 and 78 Sutherland Street. The group is shown on the Metropolitan Detail Series Map of 1886, sheet 21, as one of the earliest terrace groups on the northern side of Sutherland Street. From the 1894 Metropolitan detail maps, the subject site is known as No. 64 Sutherland Street, however in 1904 the street numbers were changed, which is likely when it became known as No. 80 Sutherland Street. The property has changed ownership a number of times since its construction.

In 1980, the National Trust survey of Paddington (the precursor study to the creation of the Paddington HCA) indicated that the terrace at 80 Sutherland Street was in a good condition despite intrusive alterations to the façade (such as an enclosed first floor balcony), and having historical and streetscape value and recommended for retention with only minimal alterations possible. Works suggested included removal of unsympathetic additions, and reinstatement of original fencing, cast iron lacework, and the original style of door, as well as replacement of the modern tiles on the path.

In 2018, a DA was approved for internal and façade alterations to the property. The resulting outcome was a sensitive restoration of the Victorian features of the Sutherland Street façade, and a modern and upgrade internal layout.

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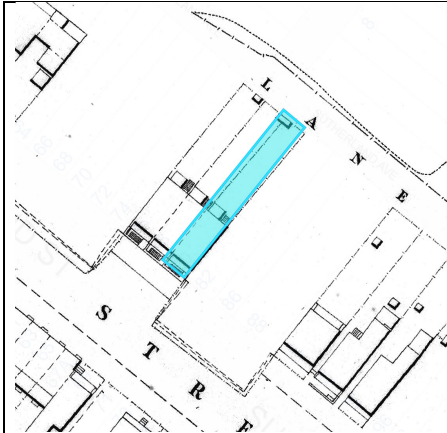


Figure 1. The subject site in 1895 Surveyor Generals map (indicated in red).



Figure 2. The subject site in aerial, 2023.



Figure 3. Existing restored façade.

Heritage Act (NSW) 1977

The “Bondi Ocean Outfall Sewer” system, an item on the NSW State Heritage Register (SHR #01623) and on the Sydney Water Heritage and Conservation Register, is located on part of the site, oriented west-east and located essentially underneath the principal building. The figure below indicates the subject site in blue, with the location/alignment of the BOOS in green. The proposed excavation of a basement storage and subsurface garage level will encroach upon and occur within the State Heritage Register curtilage of the BOOS.

While the proposed depth of excavation is unlikely to impact upon the structure of the BOOS, the exact location of the item is not known, and the Statement of Heritage Impact has not identified this item and considered it against its heritage impact assessment. A referral to Heritage NSW and Sydney Water should be requested with regards to additional integrated development approvals.

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Figure 4. Indicative location of the Bondi Ocean Outfall Sewer, a heritage item of State significance.

Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is within the Paddington Heritage Conservation Area (HCA).

Clause 5.10 Heritage Conservation

Assessment of impacts of the proposal on the cultural significance of Paddington HCA is included below as part of assessment against the Woollahra DCP.

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:

- 'House, Interiors and Grounds' at 88 Sutherland Street Paddington (No. 270)

There will be no adverse impacts to heritage items in the vicinity.

Woollahra DCP 2015

The subject site is within the Paddington Heritage Conservation Area, and is considered a contributory item and a significant item.

Part C – Heritage Conservation Areas – C1 Paddington HCA DCP

C1.2 UNDERSTANDING THE CONTEXT

Clause C1.2.4 Desired future character

- The proposed works would have a satisfactory impact on the cultural

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significance and character of the HCA. The impacts are discussed in detail within this section.

C1.3 BUILDING TYPES

Clause C1.3.4 Multi-storey terrace style housing

Objectives: O1, O3, O4

- The proposed internal alterations to the building, which generally consist of room reconfigurations with associated modifications and upgrades to materials, equipment and finishings, is supported. This building is not individually listed and as such much of its internals are not protected by local heritage provisions. Furthermore, based on real estate images and previous DA applications, the internal and external elements of this terrace were significantly restored and modified around 2013. This indicates that much of the internal fabric has already been modified and unlikely to be of exceptional significance.
- With regards to the modifications to the rear involving the creation of an enclosed garage structure with rooftop terrace, and changes to the rear fenestration, the proposal is not supported. Despite many rear elevations of terraces along Sutherland Avenue having been heavily modified with intrusive additions and enclosures, it is noted that the rear elevation of the subject site is still legible in terms of the upper level fenestration and more importantly the setback with its original terrace group (76-80 Sutherland).
- With regards to the new openings to the front/primary elevation, namely opening up the wall at the basement level, are not supported as the proposal will change the fenestration of the street-facing façade.

C1.4 GENERAL CONTROLS FOR ALL DEVELOPMENTS

Clause C1.4.1 Principal building form and street front zone of contributory buildings

Objectives: O1, O4, O6, O7, O8, O9, O11, O12

Controls: C1, C3, C4, C7, C8, C11, C15

- Internal room reconfigurations is supported, as it is noted that the room configuration and much of the original fabric of the terrace was significantly modified in 2013. Comparative photos between 2013 and 2022 show extensive modifications to room arrangements, replacement of ceiling and floors, skirtings and cornices, internal doors, joinery and all wet area fixtures. The stair and balustrade appears to remain unchanged by the proposal however this element itself appears to be a replacement element and not of the Victorian era style.
- Changes to the external elevation of the front (Sutherland Street) façade such as the removal of part of the external wall at the basement level to create a large service window, reconfiguration of the basement stair, and enclosure of the basement level with a glazed floor and deck are not supported (C4) as this impacts the principal building form of a terrace that still reads as part of a group.
- Based on the engineering advice regarding changes to internal walls that are not of a structural nature, the internal room configuration changes are supported.
- The changes to external walls in creating new openings in the front elevation (basement level only) is not supported (C11).

Clause C1.4.3 Rear elevations, rear additions, significant outbuildings and yards

Objectives: O2, O3, O4, O5

Controls: C1, C5

- Due to the topography in this area, the rear elevations of 80, 78 and 76 Sutherland Street are highly visible components of Sutherland Lane. While there are extensive contemporary additions and developments to the rear of terraces visible across Sutherland Lane, this development is being considered

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additionally in terms of its relationship with its historic terrace group (76-80 Sutherland Street).

- While there are extensive and highly visible contemporary intrusive modifications throughout rear elevations along Sutherland Avenue, in the instance of 80 Sutherland Street, which is part of a terrace group with 76 and 78 Sutherland Street, the proposed changes to the rear elevation which will change the common setback across the terrace group. As such, the changes resulting in an increased floorplate and setback to the rear are not supported.
- The proposed development also interrupts the solid to void ratio that is shared among the terrace group, as it will fully remove all solid walls to the rear of the property and remove the existing window and door fenestration. As such the proposed rear elevation wall removals is not supported.

Clause C1.4.6 Site coverage, setbacks and levels

Objectives: O2, O3, O8

Controls: C7

- There are no proposed changes to the street frontage setback. This is supported.
- The proposal seeks to change the rear setback by increasing the floorplate across all levels. This is not supported as it will interrupt the relationship of this façade with the rest of its extant terrace group. Any new setback alignment should maintain the setback relationship with its adjacent terrace group at 76 and 78 Sutherland Street. While the proposal drawings and heritage impact assessment references the various modified rear elevations and setbacks of adjacent properties, in particular at no. 72 Sutherland Street, it is noted that the subject terrace is part of one of the earliest terrace groups in this area, evident from the 1895 Surveyor Generals plans. Its relationship with the other properties in its terrace grouping is therefore a significant feature.

Clause C1.4.8 Private open space, swimming pools, courtyards and landscaping

Objectives: O6

Controls: C11

- The proposal involves an enclosed garage in lieu of an existing open courtyard. A new elevated open courtyard will then be available on the roof of the new garage. This is considered acceptable given there will be minor impact on the rear elevation, and given the falling landscape of this area, will not have a major visual impact on the setting of Sutherland Ave and the Paddington HCA generally.

C1.5 SPECIFIC POLICY FOR BUILDING AND SITE ELEMENTS

Clause C1.5.3 Windows, doors, shutters and security

Objectives: O3.

Control: C1, C4, C6

- The proposal to create full-wall openings at all levels on the rear elevation is not supported. It will involve the removal of original external wall fabric and the loss of the original fenestration which includes traditional sash windows which are also legible across the terrace group.

Clause C1.5.6 On-site vehicle parking, garages, carports, driveway access and servicing facilities

Objectives: O4, O6

Control: C6, C13

- The proposed enclosed garage in lieu of the existing outdoor rear courtyard is supported. Due to the falling topography from Sutherland Avenue, the basement

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level of this site is not highly visible from the street, and therefore this component of the development will have minimal impact on views of the terrace façade or the wider significant setting of the Paddington HCA.

CONCLUSION

Woollahra LEP 2014

Part 5.10

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

RECOMMENDATION

1. The proposal is generally unacceptable as it does not comply with the relevant statutory and policy documents and would have an unsatisfactory impact. Non-compliance relates to:
 - a. The proposal to create a full size opening at the basement level fronting Sutherland Street does not meet the requirements of the Woollahra DCP 2015 (Chapter 1, Clause 1.4.1, Objectives O1, Control C4).
 - b. The proposal to increase the floor plate, extending its setback beyond that of the terrace group, is not supported. The proposal to will interrupt a coherent group of rear elevations between 76 to 80 Sutherland Street, and therefore does not meet the requirements of the Woollahra DCP 2015 (Chapter 1, Clause 1.4.3, Objectives O1 and O3, Controls C1 and C5f; Clause 1.4.6, Objectives O3 and O4, Control C3). The design with extension that matches the setback to 72 Sutherland Street is not appropriate or relevant in this instance as it is part of a different terrace group.
 - c. The proposal to create a full size glazed openings at the rear does not meet the requirements of the Woollahra DCP 2015 (Chapter 1, Clause 1.4.3, Objectives O1, O3, Controls C5).
2. The proposal will intersect with, and have potential impacts, on a State Heritage Register item, also listed on a State agency (Sydney Water) Heritage and Conservation Register (S170 Register). The Statement of Heritage Impact must include an assessment against this heritage item. Any excavation work within the curtilage of this heritage item may require an integrated development approval in accordance with Part 4 of the *Environmental Planning and Assessment Act 1979*.

Standard Conditions

Aboriginal Objects – Unexpected Findings

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

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.

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

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

Aboriginal Heritage Due Diligence Responsibilities

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

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

Standard Condition: B12 (Autotext BB12)

Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

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, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to 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 must demonstrate 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 should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

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- 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.
- a) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature,
 - internal images of each room and significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

Note: 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 www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf

Dilapidation Reports for Existing Buildings

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

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

- a) 78 Sutherland Street, Paddington.
- b) 82 Sutherland Street, Paddington.

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

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by Section 6.6(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

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

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

Special Conditions

None.

Eleanor Banaag, Senior Strategic Heritage Officer

Memorandum - Drainage

Date 7/06/2023
File No. Development Applications: DA2023/173/1
To Mr Robert Lam
CC
From Michael Casteleyn
Address 80 Sutherland Street PADDINGTON

I refer to the following documents received for this report:

23/92183 plan - Architectural Drawings - DA2023/173/1 - 80 Sutherland Street
PADDINGTON

RECOMMENDATION

Council's drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following conditions;

- a. A permanent flood risk management plan shall be installed in a prominent area of the garage.



CLAUSE 4.6 VARIATION TO THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD

Alterations and Additions

80 Sutherland Street, Paddington

Prepared on behalf of

Mr Leo c/- Archiview

26 APRIL 2023

Lockrey Planning & Development Solutions Pty Ltd ABN 24 118 105 589 | ACN 118 105 589
PO Box 2257 Clovelly NSW 2031 **M** 0413 483 120 **E** slockrey@lpds.com.au **www.lpds.com.au**

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1.0 INTRODUCTION

This Exception to Development Standards Submission accompanies a Development Application (**DA**) proposing alterations and additions to the existing terrace house and its surrounds at 80 Sutherland Street, Paddington (the **site**).

Calculations in this submission are based on plans and information provided by Archiview. This submission should be read in conjunction with all documentation currently submitted with the DA.

As noted in the separate SEE, the existing and proposed to be altered built form departs from the Height of Buildings development standard (**height standard**) at Clause 4.3 of Woollahra Local Environmental Plan 2014 (**LEP 2014**).

As required pursuant to Clause 4.6(3) of LEP 2014, this submission provides a written request to Woollahra Municipal Council (the **Council**) that seeks to justify the existing and proposed built form's departure from the height standard is acceptable from an environmental planning point of view and that compliance with the standard is both unreasonable and unnecessary given the circumstances of the case.

This submission (relative to format and content) takes into consideration relevant (current) NSW Land and Environment Court (**NSW LEC**) judgements.

2.0 DESCRIPTION OF THE PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

2.1 What is the name of the environmental planning instrument that applies to the land?

Woollahra Local Environmental Plan 2014 (LEP 2014).

2.2 What is the zoning of the land?

The land (the site) is zoned R2 Low Density Residential.

2.3 What are the objectives of the zone?

The objectives of the R2 Low Density Residential zone are:

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

2.4 What is the development standard being varied?

Development Standards are defined under Section 1.4 of the Environmental Planning and Assessment Act, 1979 (the **Act**) as follows:

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: ...

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,***
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*

- (h) *the volume, nature and type of traffic generated by the development,*
- (i) *road patterns,*
- (j) *drainage,*
- (k) *the carrying out of earthworks,*
- (l) *the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) *the provision of services, facilities and amenities demanded by development,*
- (n) *the emission of pollution and means for its prevention or control or mitigation, and*
- (o) *such other matters as may be prescribed. (my emphasis)*

The height control at Clause 4.3 of LEP 2014 is clearly a development standard as it relates to:

- the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work as specified by **subclause (c)**.

2.5 Is the development standard a performance based control? Give details.

Yes. It contains objectives to which compliance with the standard is targeted to achieve.

2.6 Under what clause is the development standard listed in the environmental planning instrument?

The height standard is listed at Clause 4.3(2) of LEP 2014.

2.7 What are the objectives of the development standard?

The objectives of the height standard are expressly stated at Clause 4.3(1) of LEP 2012 and are:

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

2.8 What is the numeric value of the development standard in the environmental planning instrument?

A maximum building height of 9.5m applies to the site.

2.9 What is the proposed numeric value of the development standard in the development application?

The site's terrace has an existing maximum height of 11.14m (RL 33.25) as measured from ground level existing (RL 22.11). The new works towards the rear of the terrace slightly increase the maximum height to 11.65m as measured from ground level existing (RL 20.13). The 9.5m height standard and existing ground level are both shown dotted blue at Figure 1. The existing and proposed maximum heights are also noted in red.

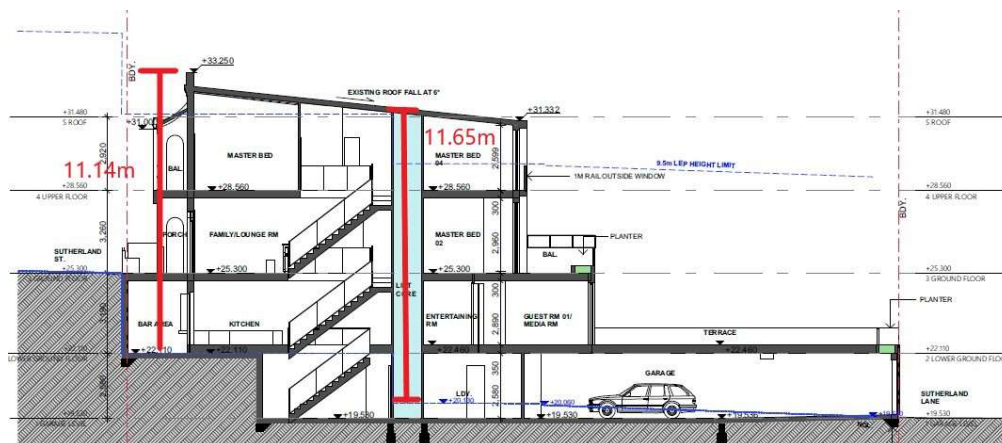


Figure 1 – Section A-A demonstrating existing and proposed maximum heights

2.10 What is the percentage variation (between the proposal and the environmental planning instrument)?

The existing departure is 17.3% or 1.64m.

The proposed departure is 22.6% or 2.15m.

3.0 ASSESSMENT OF THE PROPOSED VARIATION

3.1 Is the proposed development in the public interest because it is consistent with the objectives for development in the zone and the objectives of the particular standard?

3.1.1 Objectives of the zone

As stated at Clause 2.3 of LEP 2014, the objectives of the R2 Low Density Residential zone are:

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

The site may be developed with the stated variations to the height standard. Consistency is not readily quantifiable in absolute numerical terms. The proposal despite its existing and proposed departure from the height standard is consistent with the objectives of the R2 Low Density Residential zone and is therefore a suitable and appropriate redevelopment of the site as it:

- maintains the existing terrace house on an existing low density residential allotment of land;
- provides flexible accommodation for a family;
- maintains the existing subdivision pattern;
- maintains the existing allotment density within an established residential locality;
- will not unreasonably or adversely reduce existing residential amenity levels of the locality;
- maintains and enables a built form that is not incompatible with the existing and likely future built form context. It undertakes works which are not visually intrusive or bulky when viewed from the surrounding public domain; and
- allows the future occupants to work from home as/if required and utilise other land uses that provide facilities or services meeting their day to day needs.

3.1.2 Objectives of the Height standard

Despite the existing and proposed departure from the height standard, the proposal is nonetheless consistent with the relevant objectives and therefore provides an appropriate planning outcome for the following reasons:

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

- The standard's departure and the development generally are not inconsistent with the relevant objectives of the height standard because they do not materially alter the existing correlation between building height and density, and the correlation is appropriate under the circumstances. Nor do they alter the buildings' compatibility with the bulk, scale, streetscape or desired future character of the

locality, and that compatibility is appropriate under the circumstances given the overall lack of adverse impacts to neighbouring properties and the surrounding public domain. The environmental amenity of the neighbours has been maintained.

- Sutherland Street is a relatively wide two way carriageway with parking on either side and the predominant built form characteristic in the site's immediate vicinity is terrace houses on small allotments with a high built form and hardstand site coverage. Small backyards preclude opportunities for deep soil zones, although mature vegetation is found on neighbouring properties. The street falls from south to north, with the houses on its southern side set above it and those on its northern side stepping down sharply to Sutherland Avenue, although most present with two clear storeys to Sutherland Street and the additional lower ground floor levels towards the rear. Some attics are found. Varied car parking arrangements for properties are presented to Sutherland Avenue, most being the full width of the property. Considering this established context (varying to each frontage), the retention of a characteristic single terrace house on an existing low density residential allotment of land is clearly consistent with the locality's overarching built form and land use character. This is desired by the site's and locality's R2 Low Density Residential zoning.
- The site's existing built form has an existing maximum height of 11.14m, which is increased towards the rear of the dwelling to 11.65m. This is a direct function of the site's sharp topographical variations at the rear and the logical retention of the established FFL's for the lower ground, ground floor and first floor level. This height increase is visually imperceptible and is not at all visible from Sutherland Street, where the overall two storey streetscape presentation has been maintained.
- The design is of a high quality and is complementary to nearby development and furthermore, the terrace provides an appropriate design response that is consistent with other redeveloped properties on the northern side of Sutherland Street that provide similar accommodation within the same land use zone. Considering that the existing building envelope of the terrace is only marginally enlarged by the proposed development and at its rear, the issues of dominance, excessive bulk, adverse form and inappropriate scale do not arise. As demonstrated at **Figures 2, 3 and 4**, the altered terrace is clearly not incompatible considering its established and likely future built form context.
- The surrounding area is and has undergone periodic regeneration. The scale of the proposal is characterised by the desired future character for the area. The height, bulk and scale of the built form does not influence or set a precedent for future buildings on neighbouring or nearby properties on both sides of Sutherland Street. Rather and as demonstrated above at **Figures 2, 3 and 4**, the altered terrace form sits comfortably in the site's wider visual context as viewed from the surrounding public domain, given the scale and form of development in the site's vicinity. The built form maintains visual interest and a relative human scale. The contributory streetscape presentation to Sutherland Street is proposed.

Alterations and Additions (Height Cl. 4.6 Submission) • 80 Sutherland Street, Paddington

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Figure 2 – Unaltered Sutherland Street elevation and streetscape presentation



Figure 3 - Proposed Sutherland Avenue elevation

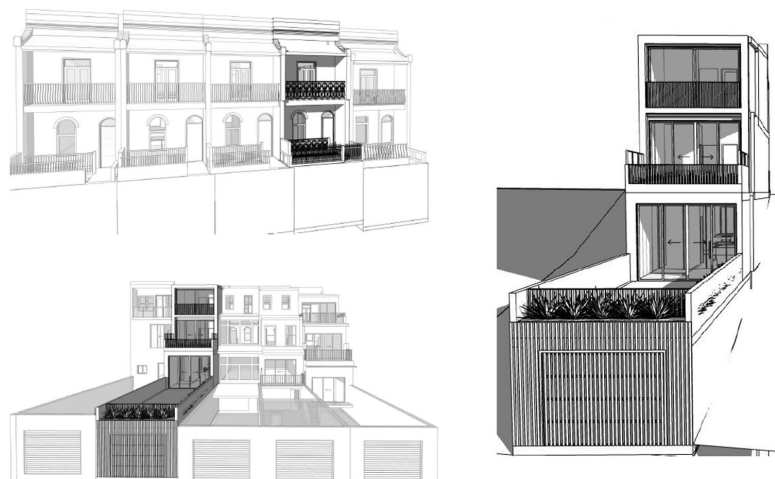


Figure 4 – Proposed front and rear 3D views

- The terrace's massing responds accordingly as well as considering the built form adjacent. The scale is broken down by the articulation of the rear façade and use of different materials, which assists to reduce the perception of any apparent bulk. The dwelling's existing external walls have been extended at the rear to provide a rear building alignment (and maintained FFL) that is consistent with that neighbouring and nearby, particularly to the west. The terrace's body at the rear is similar to the character already established.
- The site is proportioned to allow the efficient realisation and internalisation of the impacts of the non-complying built form without an adverse visual impact or perceived built form dominance. The terrace's actual height, bulk and scale when viewed from the surrounding public domain is a built form which is generally expected, not materially different from that which has existed for many years and which is not incompatible with that neighbouring and nearby. Refer to **Figures 2, 3 and 4** for further information.
- The expression of the built form is adjusted to respond to:
 - solar access and the site's orientation;
 - the site's constraints (building alignment, location of adjacent built form and views and vistas) and topographical characteristics;
 - the design and character of adjacent development;
 - an improved connection to and useability of external areas;
 - maintaining the amenity of the adjacent property owners; and
 - internal and external amenity for the occupants. In this regard, the design of the built form specifically responds to the location of its adjacent built form relative to the retention of existing amenity levels for those properties.

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

- This objective is not technically relevant as all land to the site's east, west and south is zoned R2 Low Density Residential.
- It is acknowledged that land to the site's north and on the opposite side of Sutherland Avenue is zoned R3 Medium Density Residential. This land use zone clearly enables a higher built form density and different land uses, as compared to the R2 Low Density Residential zone. Additionally, land on the opposite side of Sutherland Avenue falls sharply (cliff like) to the north and is not readily visible (if at all). There is no impact to this land.
- The altered terrace and its surrounds is not incompatible considering its established, desired and likely future built form context including character and scale.

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

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,

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

- Essentially, the objective of the height standard in conjunction with other planning (density) guidelines is to ensure that the intensity of development respects and reflects the overall built form of a locality and does not detrimentally affect the amenity of the area. The maximum height that a site can achieve is determined by its environmental constraints. The site is proportioned to allow the efficient realisation and internalisation of the impacts of the proposed built form without an adverse visual impact or perceived built form dominance.
- The existing and proposed departure to the height standard has been arranged considering the site's existing built form and the neighbouring / nearby context. In this regard and as demonstrated by the DCP 2015 assessment at Section 4.1.5 of the separately submitted SEE, the proposed rear extensions that increase the terrace's departure to the height standard, maintain environmental amenity relative to:
 - solar access and overshadowing;
 - access to natural daylight and ventilation;
 - aural and visual privacy;
 - views and vistas from neighbouring and nearby properties and the public domain; and
 - visual impact and massing; and
 - parking or traffic generation.
- The nature of such an urban environment is that all future development will seek to maximise levels of residential amenity and density through design. In this regard, the proposal represents an appropriate planning outcome without any adverse environmental impacts.

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

A development at 80 Sutherland Street, Paddington, that strictly complies with the 9.5m height standard is unreasonable or unnecessary given the following presented circumstances:

- The existing built form departs from the standard.
- Compliance with the standard would require demolition of the existing Paddington HCA contributory terrace. Demolition is unlikely, undesirable, economically impractical and inconsistent with the objects of the Act.
- The terrace maintains visual interest and a relative human scale. The contributory streetscape presentation to Sutherland Street is maintained.
- The site's existing built form has an existing maximum height of 11.14m, which is increased towards the rear of the dwelling to 11.65m. This is a direct function of the site's sharp topographical variations at the rear and the logical retention of the established FFL's for the lower ground, ground floor and first floor

level. This height increase is visually imperceptible and is not at all visible from Sutherland Street, where the overall two storey streetscape presentation has been maintained.

- The height, bulk and scale of the altered terrace does not influence or set a precedent for future buildings on neighbouring or nearby properties, nor does it preclude the appropriate redevelopment of any neighbouring or nearby property. The visual catchment contains numerous terraces that clearly present a similar height, bulk and scale and which set the character. Consequently, the non-compliance with the standard does not result in a built form that is out of character.
- Following a rigorous merit based assessment, approval to alter an established building envelope that relates to the locality's existing and likely desired character when viewed from the public domain but which exceeds the LEP 2014 standard, will not set a precedent for other non-conforming applications.
- It has been demonstrated within the SEE that the works above the height standard will not result in unreasonable amenity impacts to neighbouring and nearby properties and the surrounding public domain. In this regard the altered built form provides for an acceptable and equitable planning outcome in relation to:
 - solar access and overshadowing;
 - access to natural daylight and ventilation;
 - aural and visual privacy;
 - views and vistas; and
 - visual impact;
- The overall building height will not preclude (and hasn't done so in the past) redevelopment of the neighbouring properties.
- Within its locational context, the site can accommodate the built form as altered and the development is of an intensity and scale commensurate with the built form character and the prevailing urban conditions and capacity of the locality, including neighbouring properties.

In *Wehbe v Pittwater Council [2007] NSWLEC 827*, Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. Those tests have been considered below.

Are the objectives of the standard are achieved notwithstanding non-compliance with the standard?

See above detailed assessment of the proposal by reference to the objectives of the height standard. That assessment demonstrates that the objectives of the standard are achieved notwithstanding the existing and proposed non-compliance with the standard.

On this occasion the non-compliance better achieves the objectives by allowing for an architecturally altered terrace that enables high internal amenity for the occupants whilst reasonably maintaining the amenity (solar access, visual and aural privacy, views, vistas, outlook, natural daylight and ventilation) of the neighbouring properties and at the same time the terrace's contributory streetscape presentation to Sutherland Street, a desirable planning and heritage related outcome.

Alterations and Additions (Height Cl. 4.6 Submission) • 80 Sutherland Street, Paddington

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The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is not necessary?

On this occasion LPDS does not believe that the underlying objective or purpose is not relevant to the development and therefore LPDS does not rely on this reason.

Would the underlying objective or purpose of the standard be defeated or thwarted if compliance was required?

Compliance with the stated objectives of the height standard would be thwarted if strict compliance with the standard was required in the circumstances as the quality of the residential outcome would be compromised for no sound planning reason, would require demolition of the existing non-compliant Paddington HCA contributory built form and which is therefore inconsistent with the objects of the Act.

The altered terrace provides unquestionable improved residential amenity for the occupants whilst preserving the environmental amenity of the neighbours. It includes appropriate environmental initiatives and a relatively compatible built form relationship with its neighbouring built form is maintained.

Has the development standard been virtually abandoned or destroyed by the Council's own actions in departing from the standard?

A review of Council's most current published Variations Register (Quarter 2, April 2022) demonstrates that the development standard cannot said to be abandoned.

However, and notwithstanding the non-abandonment of the standard, there are numerous approvals for terraces (and other built form) within the Paddington HCA, Sutherland Street (specifically) and throughout the Woollahra LGA that are zoned R2 Low Density Residential and which have and do depart from the height standard.

Is the zoning of the land unreasonable or inappropriate?

The site is zoned R2 Low Density Residential. This zoning is reasonable and appropriate. Victorian era terraces are the predominant built form / land use character of the surrounding locality.

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

Although the term 'environmental planning ground' is not defined, it is commonly accepted that the objects of the Act constitute 'environmental planning grounds'. Regarding the proposal at 80 Sutherland Street, Paddington, there are sufficient environmental planning grounds to justify contravening the height standard being:

- The existing built form departs from the standard.
- Compliance with the standard would require demolition of the existing Paddington HCA contributory terrace. Demolition is unlikely, undesirable, economically impractical and inconsistent with the objects of the Act.
- The terrace maintains visual interest and a relative human scale. The contributory two storey streetscape presentation to Sutherland Street is maintained.
- The site's existing built form has an existing maximum height of 11.14m, which is increased towards the rear of the dwelling to 11.65m. This is a direct function of the site's sharp topographical variations at the

rear and the logical retention of the established FFL's for the lower ground, ground floor and first floor level. This height increase is visually imperceptible and is not at all visible from Sutherland Street, where the overall two storey streetscape presentation has been maintained.

- The site is proportioned to allow the efficient realisation and internalisation of the impacts of the proposed built form without an adverse visual impact or perceived built form dominance. The existing and proposed departure to the height standard has been arranged considering the site's existing built form and the neighbouring / nearby context. In this regard and as demonstrated by the DCP 2015 assessment at Section 4.1.5 of the separately submitted SEE, the proposed rear extensions that increase the terrace's departure to the height standard, provide for an acceptable and equitable planning outcome (maintaining environmental amenity) relative to:
 - solar access and overshadowing;
 - access to natural daylight and ventilation;
 - aural and visual privacy;
 - views and vistas from neighbouring and nearby properties and the public domain; and
 - visual impact and massing; and
 - parking or traffic generation.
- The development provides for an appropriate environmental planning outcome and is not an overdevelopment of the site as follows:
 - the proposal satisfies the objectives of the R2 Low Density Residential zone;
 - the proposal satisfies the objectives of the height standard;
 - the proposed works departing from the standard do not result in unreasonable amenity impacts;
 - the nature of such an urban environment is that all future development will seek to maximise amenity and density through design. In this regard, the proposal represents an appropriate planning outcome with any unreasonable amenity or environmental impacts; and
 - removing the non-compliance would not alter the perceived height, bulk and scale of the altered terrace, considering its established context. The altered terrace is not incompatible considering its wider visual context.
- Appropriate environmental initiatives are proposed.
- The height, bulk and scale of the altered terrace does not influence or set a precedent for future buildings on neighbouring or nearby properties, nor does it preclude the appropriate redevelopment of any neighbouring or nearby property. The visual catchment contains numerous terraces that clearly present a similar height, bulk and scale and which set the character. Consequently, the non-compliance with the standard does not result in an altered terrace that is out of character.

3.4 Whether contravention of the development standard raises any matter of significance for the State or regional Environmental Planning?

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application as the departure from the height standard relates to local and contextual conditions, including

existing built form and topography. The variation sought is responding to the broad brush nature of the control applied across an area that supports a variety of low density residential built form.

The proposal involves the desirable provision of an architecturally altered terrace, which retains its contributory streetscape appearance to Sutherland Street and the Paddington HCA generally. The works enable an improved internal amenity for the occupants whilst reasonably preserving the environmental amenity (solar access, visual and aural privacy, views, vistas, outlook, natural daylight and ventilation) of the neighbours.

The terrace's height does not set a precedent or preclude any neighbouring or nearby property from being appropriately redeveloped. The retention of improved housing for a single family will assist in meeting housing and locational context demand. The site has good access to services, facilities and amenities.

Finally, LPDS is not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence.

3.5 How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Act?

The relevant objects of the Act as specified in Section 1.3, are in our opinion, achieved by the proposed development in that it:

- promotes the social and economic welfare of the community;
- facilitates ESD;
- promotes the orderly and economic use and development of land;
- promotes the sustainable management of built and cultural heritage;
- promotes good design and amenity of the built environment; and
- promotes the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

A strictly complying development would require demolition of the existing built form which is unquestionably economically impractical. Considering demolition of the existing built form, in that sense it may be said that compliance with the standard would hinder the attainment of the objects of section 1.3 of the Act.

The site's redevelopment and departure from the height standard does not preclude or isolate an adjacent property(s) from being appropriately redeveloped. The development as proposed is consistent with the provisions of orderly and economic development and would not hinder the objects of the Act in Section 1.3.

3.6 Is there public benefit in maintaining the development standard?

Generally, there is public benefit in maintaining standards. However, there is public interest in maintaining a degree of flexibility in specific circumstances. In the current case, strict compliance with the height standard is not achievable given the existing departing built form and would serve no purpose other than to impose numerical inflexibility and economic impracticality.

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A rigid and inflexible compliance based approach to the standard forgoes the opportunity to provide altered accommodation with increased internal amenity without any unreasonable impacts to neighbours or the public domain.

It is known that Council has considered applications favourably which depart from the height standard. There are no reasons why it is not in the public interest and its refusal based on the standard's departure is not warranted. Under the presented circumstances the variation to the height standard is in the public interest because it is not inconsistent with the objectives of the height standard and neither is it inconsistent with the objectives for development in the R2 Low Density Residential zone. Therefore, it is argued that there is no public benefit in maintaining the adopted height planning control.

On balance the variation to the height standard is an appropriate use of the provisions of Clause 4.6 and the development is therefore capable of being granted consent.

3.7 Is the objection well founded?

For the reasons outlined in previous sections, it is considered the objection is well founded in this instance and granting an exception to the development can be supported given the presented circumstances of the case. The development does not contravene the objects specified at Section 1.3 of the Act.

4.0 CONCLUSION

The proposed variation to the height standard is based on the reasons contained within this formal request for an exception to the standard. A development strictly complying with the numerical height standard would not significantly improve the amenity of surrounding properties as:

- the proposal satisfies and achieves the objectives of the R2 Low Density Residential zone;
- the proposal satisfies and achieves the objectives of the height standard;
- the altered built form is generally anticipated and is therefore consistent with the desired future character of the area as expressed by the relevant planning controls. The visual catchment contains numerous terraces that present a similar height, bulk and scale and which set the character. The desired future character is low density single dwellings and the proposal clearly achieves this character; and
- the alterations and additions improve the occupant's amenity, enables an appropriately designed and sited rear additions and extensions, does not preclude the same on nearby properties, maintains a consistent roofscape and maintains the environmental amenity of neighbours.

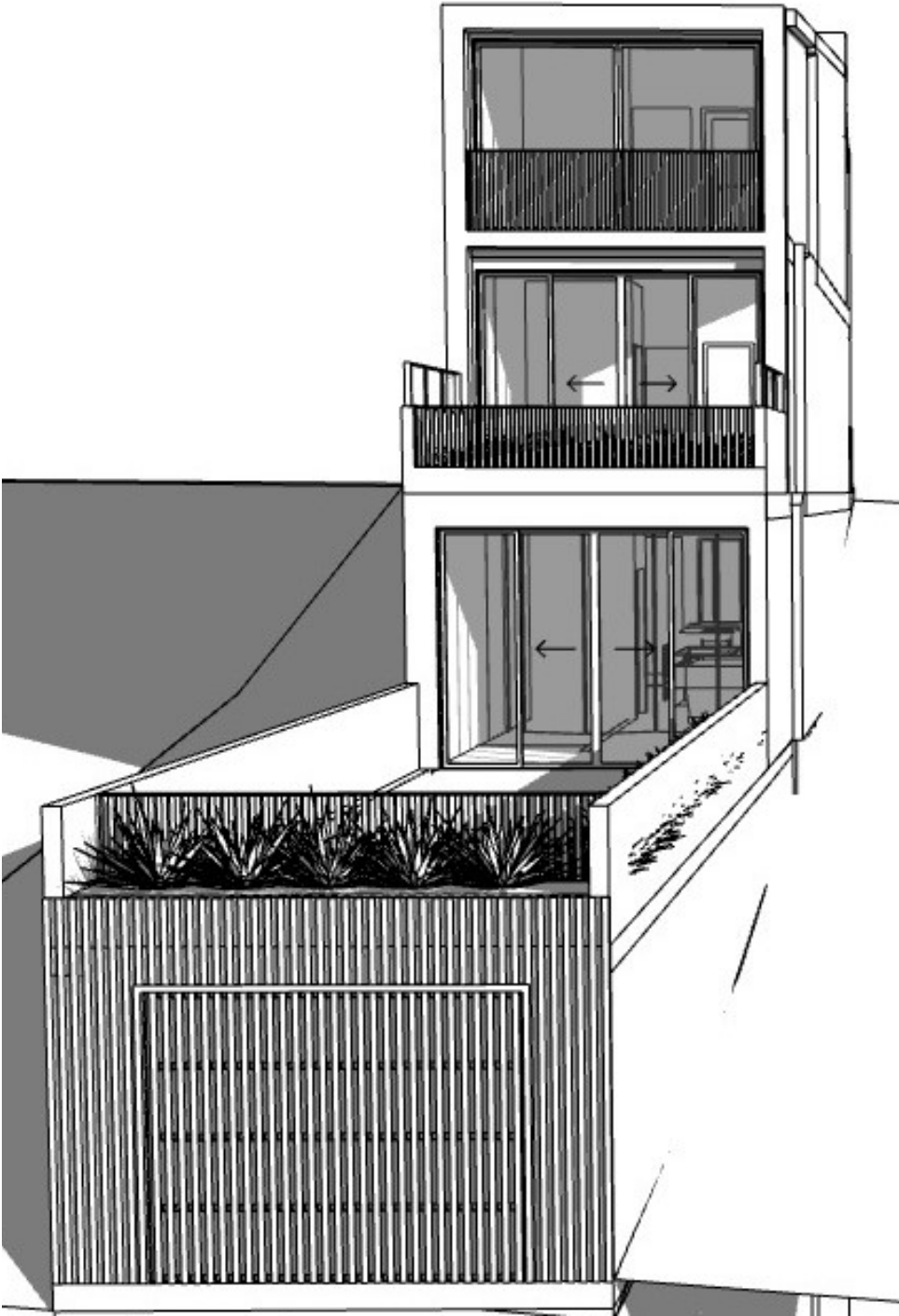
It is concluded that the objection:

- is well founded;
- demonstrates that compliance with the standard is both unnecessary and unreasonable;
- demonstrates that there are sufficient environmental planning grounds in which to support the proposal; and
- the concurrence of the Secretary is likely to be forthcoming because there is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard and there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

On that basis, the consent authority can be satisfied that the proposed development is in the public interest because it is consistent with the objectives for development in the zone and the objectives of the standard. It therefore is appropriate to exercise the flexibility provided by Clause 4.6 of LEP 2014.



NOTES:
1. SCHEDULE OF FINISHES REFER TO
PAGE DA-22



Issue	Amendment	Date	Issue	Amendment	Date
A	FOR CLIENT REVIEW	23/10/2022	D	FOR DISCUSSION	23/01/2023
B	FOR DISCUSSION	12/12/2022	E	FOR DA	10/02/2023
C	FOR DISCUSSION	10/01/2023	F	FOR DA	09/03/2023

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All work is to be in accordance with NCC, relevant SAA codes, Conditions of Council and other relevant Authorities requirements.
DO NOT scale drawings. Verify all dimensions on site



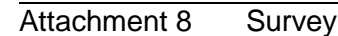
ARCHVIEW PTY LTD
Architecture Urban Planning Interior-Marketing Design
mobile: 0450 611 618
email: info@archviewaus.com.au
address: Suite 9, Level 5, Building C, Rhodes Corporate Park,
1 Homebush Bay Drive, Rhodes NSW 2138

PROJECT:
ALTRATIONS & ADDITIONS AT
80 Sutherland St. Paddington NSW
CLIENT: Mr. Leo
drawing 3D VIEWS

scale AS SHOWN@ A3
date 09/03/2023
drawn SM
review LJ

drawing no
DA-23
issue F

DEVELOPMENT APPLICATION



Birds Tree Consultancy

Consulting Arborist AQF5 • Expert Witness • Environmental Arboriculture • Resistograph Testing



ARBORICULTURAL DEVELOPMENT IMPACT ASSESSMENT REPORT

80 Sutherland Street, Paddington NSW

REVISION A
26th October 2023

Prepared for
Archiview

Prepared by

Birds Tree Consultancy

Glenn Bird Grad Cert Arboriculture Uni Melb (AQF8) Dip. Hort (Arboriculture) (AQF5)

PO Box 6048 DURAL NSW 2158

PH 0438 892 634

glenn@birdstrees.com.au

www.birdstrees.com.au

ABN 31 105 006 657



Executive Summary

This Arboricultural Development Impact Assessment Report has been commissioned by Archiview to report on one tree within the site of 82 Sutherland Street, Paddington NSW. This site is an existing residential property with an existing residential dwelling present. The site is proposed for redevelopment including the extension of the existing building, garage construction and associated vehicle entry. This report has been commissioned to outline the health, condition and stability of these trees as well as their viability for retention within the scope of the development proposed within the site of 80 Sutherland Street Paddington. The scope of this report includes all trees within areas that may be impacted by the proposed development.

The subject tree is preserved under Section E.3 of Woollahra Development Control Plan 2015 and is in good health and condition with no apparent structural defects. This tree is located on the neighbouring property and is required to be retained and protected.

Radial localised displacement of concrete, retaining walls and paving indicates the presence of large structural surface roots near the surface within the Tree Protection Zone (TPZ) on 80 Sutherland Street Paddington.

The proposed development design includes reinforced concrete paving and subbase within the TPZ of Tree 1 for the proposed garage level. The proposed level is at the same level as the existing paving as shown on Drawing DA-17 Rev H. Based on excavation to the depth of the existing subbase level for the proposed concrete driveway slab, and based on consideration made under clause 3.3.4 of AS4970-2009 of the existing physical barriers to root development this tree will remain viable to be retained based on the following conditions within the proposed development design.

1. Demolition of the existing driveway pavement is to be conducted under the supervision of the Project Arborist with no machine traffic on the exposed subgrade.
2. Excavation to the base of the proposed sub base for the proposed driveway paving slab is to be carried out using non destructive excavation including manual excavation, air spade or vacuum truck operating at less than 1000Psi under the supervision of the Project Arborist
3. All roots 30mm diameter and greater are required to be protected within the TPZ. No roots are to be cut or damaged within the TPZ.
4. Slab and footing design is to be revised to accommodate any roots exposed during non destructive excavation with a minimum of 50mm cover (or as required by engineering requirements) between existing roots and the bottom of the proposed slab or footings.
5. Within the TPZ of Tree 1, all strip footings supporting building walls are to be constructed as beams supported piers or piles with pile or pier locations determined by means of non destructive excavation under the supervision of the Project Arborist.

Tree 1 is located in close proximity to the eastern boundary of the site and based on a visual assessment, is located wholly on the neighbouring property. The western co-dominant trunk leans over the subject site boundary and extends over the proposed

garage and terrace above. The proposed terrace above the proposed garage has a proposed parapet wall forming a balustrade over the boundary wall that has a RL of approximately 23.600. Based on a visual assessment and height measurements using a Nikon Forestry 550 Heightmeter, the proposed boundary wall will not impact this co-dominant trunk. The point of intersection of the co-dominant trunk and the plane of the boundary and therefore the proposed wall is to be verified by surveyor.

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1.0 Scope of Works

This Arboricultural Development Impact Assessment Report has been commissioned by Archiview to report on one tree within the site of 82 Sutherland Street, Paddington NSW. It has been commissioned to outline the health, condition and stability of these trees as well as their viability for retention within the scope of the development proposed within the site of 80 Sutherland Street Paddington. The scope of this report includes all trees within areas that may be impacted by the proposed development.

On the 25th of June 2023, Glenn Bird of Birds Tree Consultancy attended site and inspected the subject tree from the ground. There was no aerial inspection carried out. A Visual Tree Assessment was undertaken in accordance with Visual Tree Assessment (VTA) guidelines (Mattheck and Breloer, 1994). Tree heights were measured using a Nikon Forestry 550 Heightmeter.

2.0 Site Analysis

2.1 Site

The subject site is the 80 Sutherland Street, Paddington NSW. The subject tree is located on the neighbouring property, adjacent to the boundary of this site. This site is an existing residential property with an existing residential dwelling present. The site is proposed for redevelopment including the extension of the existing building, garage construction and associated vehicle entry.

2.2 Documentation

This Development Impact Assessment Report has been compiled based on the following documentation provided:

1. Archiview drawing DA-03 Rev H Dated 10/10/2023.
2. Archiview drawing DA-04 Rev H Dated 10/10/2023.
3. Archiview drawing DA-05 Rev H Dated 10/10/2023.
4. Archiview drawing DA-06 Rev H Dated 10/10/2023.
5. Archiview drawing DA-07 Rev H Dated 10/10/2023.
6. Archiview drawing DA-08 Rev H Dated 10/10/2023.
7. Archiview drawing DA-09 Rev H Dated 10/10/2023.
8. Archiview drawing DA-10 Rev H Dated 10/10/2023.
9. Archiview drawing DA-11 Rev H Dated 10/10/2023.
10. Archiview drawing DA-12 Rev H Dated 10/10/2023.
11. Archiview drawing DA-15 Rev H Dated 10/10/2023.
12. Archiview drawing DA-16 Rev H Dated 10/10/2023.
13. Archiview drawing DA-17 Rev H Dated 10/10/2023.
14. Archiview drawing DA-18 Rev H Dated 10/10/2023.

2.3 Topography

The site is relatively flat. Refer to detailed survey for detailed levels.

2.4 Identification

Trees are as identified in the attached inspection forms in Appendix C and shown in Tree location Plan A01 in Appendix D.

2.5 Soils

Soil material and horizons were not tested for this report.

3.0 Existing Trees

The following trees were inspected from the ground and the following items identified.
Please refer also to the attached inspection data in Appendix C.

3.1. Tree 1. *Eucalyptus microcorys*

This mature tree is approximately 20m tall with a canopy spread of 17m. It has a single trunk with a diameter at breast height (DBH) of 1000mm. This tree is in good health and condition with minimal deadwood, minimal epicormic growth and minor apical dieback. This tree is located on the neighbouring property. There is prominent raised concrete and paving radially from the trunk of this tree indicating large structural roots immediately below the surface. There is localised damage to the timber retaining wall and supporting post in the same location as the radial swelling.



Figure 1 - Tree 1



Figure 2 - Radial deformation and cracking of concrete indicating surface roots



Figure 3 - Localised radial deformation of paving and retaining wall, indicating surface structural roots.



Figure 4 - Tree 1 co-dominant trunk relative to site boundary

4.0 Landscape Significance of Trees

4.1 Landscape Significance

The significance of a tree within the landscape is a factor of the health and condition of the tree, vitality, the form of the tree, environmental, cultural, amenity and heritage value.

4.2 Methodology of Determining Landscape Significance

For the purpose of this report, the Significance of a Tree, Assessment Rating System (STARS) as developed by the Institute of Australian Consulting Arborists (IACA) has been implemented. Please refer to Appendix A for greater detail of this assessment system. This system defines Landscape Significance for individual trees as High, Medium or Low Significance.

4.3 Landscape Significance of Subject Trees

Based on our assessment of the subject trees and implementation of the IACA Significance of a Tree, Assessment Rating System, the Landscape Significance of the Subject Trees was determined as shown in Table 1.

Tree no.	Species	Landscape Significance
1.	<i>Eucalyptus microcorys</i>	High

Table 1 - Landscape Significance

5.0 Subject Tree Retention Value

5.1 Tree Retention Value Methodology

For the purpose of this report, the Tree Retention Values have been assessed by incorporating Landscape Significance Values as determined in 4.0 with the Useful Life Expectancy of the subject trees and assessing the retention values based on the Tree Retention Value Priority Matrix as developed by the Institute of Australian Consulting Arborists (IACA). Please refer to Appendix B for greater detail on this Tree Retention Value Priority Matrix. This matrix defines Landscape Significance for individual trees as High, Medium or Low Retention Value as well as Priority for Removal.

5.2 Retention Value of Subject Trees

Based on our assessment of the subject trees and implementation of the IACA Tree Retention Value Priority Matrix, the Retention Values of the Subject Trees were determined as shown in Table 2.

Tree no.	Species	Retention Value
1.	<i>Eucalyptus microcorys</i>	High

Table 2 – Tree Retention Value

6.0 Impact of Development

6.1 Tree Protection Zone

Tree Protection Zones (TPZs) have been defined for the subject trees in order to define the encroachment of the proposed development in accordance with AS4970-2009. The TPZs required have been taken as a circular area with a radius 12 x the diameter at breast height of the tree. This requirement is in line with Australian Standard AS 4970-2009 Protection of Trees on Development Sites. This standard defines a maximum of 10% encroachment to be minimal encroachment. Any encroachment over 10% requires the site arborist to give consideration as to the viability of the tree due to the proposed development.

6.2 Structural Root Zone

Structural Root Zone (SRZs) are defined by AS4970-2009 as the area of root development required for the structural stability of the tree. The SRZ is required to be assessed only when an encroachment greater than 10% is considered.

Tree no.	Species	TPZ Radius (m)	Encroachment (%)	SRZ Radius (m) Encroached / Not Encroached
1.	<i>Eucalyptus microcorys</i>	12	35	3.69

6.3 Development Impact

6.3.1. Tree 1. *Eucalyptus microcorys*

The Tree Protection Zone (TPZ) of this tree in accordance with AS 4970-2009 *Protection of Trees on Development Sites* will be encroached by the proposed development by approximately 35% which is significantly greater than the minor encroachment as defined by AS 4970-2009. Consideration is made under clause 3.3.4 of AS4970-2009, of the existing timber retaining wall located on the boundary and the existing reinforced concrete driveway and segmented unit paving which is providing an existing physical barrier to root development.

7.0 Recommendations

The subject tree is preserved under Section E.3 of Woollahra Development Control Plan 2015 and is in good health and condition with no apparent structural defects. This tree is located on the neighbouring property and is required to be retained and protected.

Radial localised displacement of concrete, retaining walls and paving indicates the presence of large structural surface roots near the surface within the Tree Protection Zone (TPZ) on 80 Sutherland Street Paddington.

The proposed development design includes reinforced concrete paving and subbase within the TPZ of Tree 1 for the proposed garage level. The proposed level is at the same level as the existing paving as shown on Drawing DA-17 Rev H. Based on excavation to the depth of the existing subbase level for the proposed concrete driveway slab, and based on consideration made under clause 3.3.4 of AS4970-2009 of the existing physical barriers to root development this tree will remain viable to be retained based on the following conditions within the proposed development design.

1. Demolition of the existing driveway pavement is to be conducted under the supervision of the Project Arborist with no machine traffic on the exposed subgrade.
2. Excavation to the base of the proposed sub base for the proposed driveway paving slab is to be carried out using non destructive excavation including manual excavation, air spade or vacuum truck operating at less than 1000Psi under the supervision of the Project Arborist

3. All roots 30mm diameter and greater are required to be protected within the TPZ. No roots are to be cut or damaged within the TPZ.
4. Slab and footing design is to be revised to accommodate any roots exposed during non destructive excavation with a minimum of 50mm cover (or as required by engineering requirements) between existing roots and the bottom of the proposed slab or footings.
5. Within the TPZ of Tree 1, all strip footings supporting building walls are to be constructed as beams supported piers or piles with pile or pier locations determined by means of non destructive excavation under the supervision of the Project Arborist.

Tree 1 is located in close proximity to the eastern boundary of the site and based on a visual assessment, is located wholly on the neighbouring property. The western co-dominant trunk leans over the subject site boundary and extends over the proposed garage and terrace above. The proposed terrace above the proposed garage has a proposed parapet wall forming a balustrade over the boundary wall that has a RL of approximately 23.600. Based on a visual assessment and height measurements using a Nikon Forestry 550 Heightmeter, the proposed boundary wall will not impact this co-dominant trunk. The point of intersection of the co-dominant trunk and the plane of the boundary and therefore the proposed wall is to be verified by surveyor.

8.0 Pre-Construction Tree Protection Measures

8.1 General

All tree protection works shall be carried out before excavation, grading and site works commence. Tree protection works shall be inspected and approved by a Consulting Arborist meeting AQF Level 5 prior to construction works commencing.

Storage of materials, mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refueling, site office and sheds, and the lighting of fires, stockpiling of soil, rubble or any debris shall not be carried out within the TPZ of existing trees. No backfilling shall occur within the TPZ of existing trees. Trees shall not be removed or lopped unless specific instruction is given in writing by the Superintendent.

8.2 Identification

All trees to be protected shall be clearly identified and all TPZs surveyed.

8.3 Site Arborist

Prior to all site works commencing, a Site Arborist is to be appointed with the responsibility of implementing all Tree Protection Measures in this report as well as compliance with AS4970-2009 Protection of Trees on Development Sites. The Site Arborist is to hold qualifications equivalent of AQF Level 5.

8.4 Protective Fence

Fencing is to be erected around existing trees to be retained. In addition to this protective fencing within the site, Protective Fencing is to be installed to the full extent of the TPZs within the site. This fencing is to be erected prior to any materials being brought on site or before any site, civil works or construction works commence. The

fence shall enclose a sufficient area so as to prevent damage to the TPZ as defined on Appendix D Tree Protection Plan and as defined in 5.1 above. Fence to comprise 1800mm high chain wire mesh fixed to 50mm diameter Galvanised steel posts. Panels should be securely fixed top and bottom to avoid separation. No storage of building materials, tools, paint, fuel or contaminants and the like shall occur within the fenced area.

8.5 Mulching

Install mulch to the extent of all tree protection fencing. Use a leaf mulch conforming to AS 4454 which is free of deleterious and extraneous matter such as soil, weeds, sticks and stones and consisting of a minimum of 90% recycled content compliant with AS 4454 (1999) and AS 4419 (1998). All trees marked as to be removed on the proposed development are to be chipped and reused for this purpose. Place mulch evenly and to a depth of 100mm.

8.6 Signage

Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:
Tree protection zone.

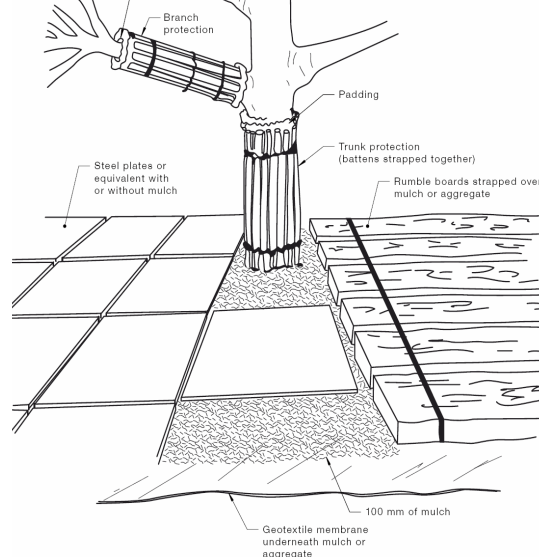
- This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted.
- No Access within Tree Protection Zone
- The name, address, and telephone number of the developer.

The name and telephone number of the Site Arborist.

8.7 Trunk and Branch Protection

Where a tree is to be retained and a Tree Protection Zone cannot be adequately established due to restricted access, the trunk and branches in the lower crown will be

Figure 5 - Trunk Protection



protected by wrapping 2 layers of hessian or carpet underfelt around the trunk and branches for a minimum of 2 m or as lower branches permit, then metal strapping secures 38x50 x2000 mm timber battens together around the trunk (do not nail or screw to the trunk or branches). The number of battens to be used is as required to encircle the trunk and the battens are to extend to the base of the tree (AS4970 2009 Protection of trees on development sites, Figure 3 Examples of Trunk, Branch and ground protection).

9.0 Site Management Issues

9.1 Soil Compaction

Plant and pedestrian traffic during the construction period will cause significant soil compaction. This will be exacerbated by increased water expected on these soils as result of adjacent construction and weather. Compaction of the soil within the TPZ will reduce the voids between soil peds or particles therefore will reduce the gaseous exchange capacity of the root system which will slow critical metabolic processes. No pedestrian or plant access is permissible to the TPZ.

9.2 Site Access

Sufficient access is required to enable efficient construction. It is essential to delineate access zones or corridors which will provide suitable access without damaging the existing trees to be retained or causing compaction to the root zone.

9.3 Excavation within Tree Protection Area

No excavation is to be carried out within the TPZs of retained trees without the permission and supervision of the Site Arborist (AQF5)

9.4 Possible Contamination / Storage of Materials

The construction site will require the use of many chemicals and materials that are possible contaminants which if not managed will pose a risk to the existing trees. These possible contaminants include fuels, herbicides, solvents and the like. A site-specific Environmental Management Plan shall be provided, and this specific risk identified and addressed.

10.0 Tree Protection Measures During Construction

10.1 Maintenance of Pre-Construction Tree Protection Measures

The Pre-Construction Tree Protection Measures identified in 5.0 above are to be maintained in good and serviceable condition throughout the construction period.

10.2 Possible Contaminants

Do not store or otherwise place bulk materials and harmful materials under or near trees. Do not place spoil from excavations within the TPZs. Prevent wind-blown materials such as cement from harming trees. All possible contaminants are to be stored in a designated and appropriate area with secure chemical spill measures such as a bund in place.

10.3 Physical Damage

Prevent damage to tree. Do not attach stays, guys and the like to trees. No personnel, plant, machinery or materials are to be allowed within the tree protection fencing.

10.4 Compaction

No filling or compaction shall occur over tree roots zones within tree protection fenced areas. Where construction occurs close to or the TPZ of trees to be retained it shall be necessary to install protection to avoid compaction of the ground surface. This protection is to be planks supported clear of the ground fixed to scaffolding.

10.5 Trenching

No Trenching should be necessary within the TPZs or within tree protection fencing. No further trenching is to be carried out without the approval of the Site Arborist. Should any further trenching be required within the TPZs identified, this work is to be carried out by hand and under the supervision of a qualified Arborist.

10.6 Irrigation/Watering

Contractor is to ensure that soil moisture levels are adequately maintained. Apply water at an appropriate rate suitable for the species during periods of little or no rainfall.

10.7 Site Sheds / Amenities/ Storage

Site sheds, site amenities, ablutions and site storage shall be in the area clear of all TPZ. Chemicals and potential contaminants are to be stored appropriately and this storage area is to be enclosed by a chemical spill bund to prevent the potential run off of contaminants in the event of a spillage or accident.

11.0 Environmental / Heritage/ Legislative Considerations

None of the subject trees are identified as threatened species or elements of endangered ecological communities within the NSW Biodiversity Conservation Act 2016.

12.0 References

Mattheck, C. Breloer, K. 1993, The Body Language of Trees: A Handbook for Failure Analysis, 12th Impression 2010 The Stationery Office.
AS4970-2009 Protection of Trees on Development Sites: Standards Australia

13.0 Disclaimer

This Appraisal has been prepared for the exclusive use of the Client and Birds Tree Consultancy.

Birds Tree Consultancy accepts no responsibility for its use by other persons. The Client acknowledges that this Appraisal, and any opinions, advice or recommendations expressed or given in it, are based on the information supplied by the Client and on the data inspections, measurements and analysis carried out or obtained Birds Tree Consultancy and referred to in the Appraisal. The Client should rely on the Appraisal, and on its contents, only to that extent.

Every effort has been made in this report to include, assess and address all defects, structural weaknesses, instabilities and the like of the subject trees. All inspections were made from ground level using only visual means and no intrusive or destructive means of inspection were used. For many structural defects such as decay and inclusions, internal inspection is required by means of Resistograph or similar. No such investigation has been made in this case. Trees are living organisms and are subject to failure through a variety of causes not able to be identified by means of this inspection and report.

Appendix A Landscape Significance

IACA Significance of a Tree, Assessment Rating System (STARS) © (IACA 2010) ©

In the development of this document IACA acknowledges the contribution and original concept of the Footprint Green Tree Significance & Retention Value Matrix, developed by Footprint Green Pty Ltd in June 2001.

The landscape significance of a tree is an essential criterion to establish the importance that a particular tree may have on a site. However, rating the significance of a tree becomes subjective and difficult to ascertain in a consistent and repetitive fashion due to assessor bias. It is therefore necessary to have a rating system utilising structured qualitative criteria to assist in determining the retention value for a tree. To assist this process all definitions for terms used in the *Tree Significance - Assessment Criteria* and *Tree Retention Value - Priority Matrix*, are taken from the IACA Dictionary for Managing Trees in Urban Environments 2009.

This rating system will assist in the planning processes for proposed works, above and below ground where trees are to be retained on or adjacent a development site. The system uses a scale of *High*, *Medium* and *Low* significance in the landscape. Once the landscape significance of an individual tree has been defined, the retention value can be determined.

Tree Significance - Assessment Criteria



1. High Significance in landscape

- The tree is in good condition and good vigour;
- The tree has a form typical for the species;
- The tree is a remnant or is a planted locally indigenous specimen and/or is rare or uncommon in the local area or of botanical interest or of substantial age;
- The tree is listed as a Heritage Item, Threatened Species or part of an Endangered ecological community or listed on Councils significant Tree Register;
- The tree is visually prominent and visible from a considerable distance when viewed from most directions within the landscape due to its size and scale and makes a positive contribution to the local amenity;
- The tree supports social and cultural sentiments or spiritual associations, reflected by the broader population or community group or has commemorative values;
- The tree's growth is unrestricted by above and below ground influences, supporting its ability to reach dimensions typical for the taxa *in situ* - tree is appropriate to the site conditions.

2. Medium Significance in landscape

- The tree is in fair-good condition and good or low vigour;
- The tree has form typical or atypical of the species;
- The tree is a planted locally indigenous or a common species with its taxa commonly planted in the local area
- The tree is visible from surrounding properties, although not visually prominent as partially obstructed by other vegetation or buildings when viewed from the street,
- The tree provides a fair contribution to the visual character and amenity of the local area,
- The tree's growth is moderately restricted by above or below ground influences, reducing its ability to reach dimensions typical for the taxa *in situ*.

3. Low Significance in landscape

- The tree is in fair-poor condition and good or low vigour;
- The tree has form atypical of the species;
- The tree is not visible or is partly visible from surrounding properties as obstructed by other vegetation or buildings,
- The tree provides a minor contribution or has a negative impact on the visual character and amenity of the local area,
- The tree is a young specimen which may or may not have reached dimension to be protected by local Tree Preservation orders or similar protection mechanisms and can easily be replaced with a suitable specimen,
- The tree's growth is severely restricted by above or below ground influences, unlikely to reach dimensions typical for the taxa *in situ* - tree is inappropriate to the site conditions,
- The tree is listed as exempt under the provisions of the local Council Tree Preservation Order or similar protection mechanisms,
- The tree has a wound or defect that has potential to become structurally unsound.


Environmental Pest / Noxious Weed Species

- The tree is an Environmental Pest Species due to its invasiveness or poisonous/ allergenic properties,
 - The tree is a declared noxious weed by legislation.
- Hazardous/Irreversible Decline**
- The tree is structurally unsound and/or unstable and is considered potentially dangerous,
 - The tree is dead, or is in irreversible decline, or has the potential to fail or collapse in full or part in the immediate to short term.

The tree is to have a minimum of three (3) criteria in a category to be classified in that group.

Note: The assessment criteria are for individual trees only, however, can be applied to a monocultural stand in its entirety e.g. hedge.

Appendix B Tree Retention Values

		Significance				
		1. High	2. Medium	3. Low		
		Significance in Landscape	Significance in Landscape	Significance in Landscape	Environmental Pest / Noxious Weed Species	Hazardous / Irreversible Decline
Estimated Life Expectancy	1. Long >40 years					
	2. Medium 15-40 Years					
	3. Short <1-15 Years					
	Dead					
<p><u>Legend for Matrix Assessment</u></p> <p> INSTITUTE OF AUSTRALIAN CONSULTING ARBORICULTURISTS MANAGING URBAN TREES</p>						
		Priority for Retention (High) - These trees are considered important for retention and should be retained and protected. Design modification or re-location of building/s should be considered to accommodate the setbacks as prescribed by the Australian Standard AS4970 <i>Protection of trees on development sites</i> . Tree sensitive construction measures must be implemented e.g. pier and beam etc if works are to proceed within the Tree Protection Zone.				
		Consider for Retention (Medium) - These trees may be retained and protected. These are considered less critical; however their retention should remain priority with removal considered only if adversely affecting the proposed building/works and all other alternatives have been considered and exhausted.				
		Consider for Removal (Low) - These trees are not considered important for retention, nor require special works or design modification to be implemented for their retention.				
		Priority for Removal - These trees are considered hazardous, or in irreversible decline, or weeds and should be removed irrespective of development.				

REFERENCES

Australia ICOMOS Inc. 1999, *The Burra Charter – The Australian ICOMOS Charter for Places of Cultural Significance*, International Council of Monuments and Sites, www.icomos.org/australia

Draper BD and Richards PA 2009, *Dictionary for Managing Trees in Urban Environments*, Institute of Australian Consulting Arboriculturists (IACA), CSIRO Publishing, Collingwood, Victoria, Australia.

Footprint Green Pty Ltd 2001, *Footprint Green Tree Significance & Retention Value Matrix*, Avalon, NSW Australia, www.footprintgreen.com.au

Appendix C - Tree Inspection Data

Birds Tree Consultancy

Consulting Arborist • Project Management • Horticultural Consultancy • Landscape Management

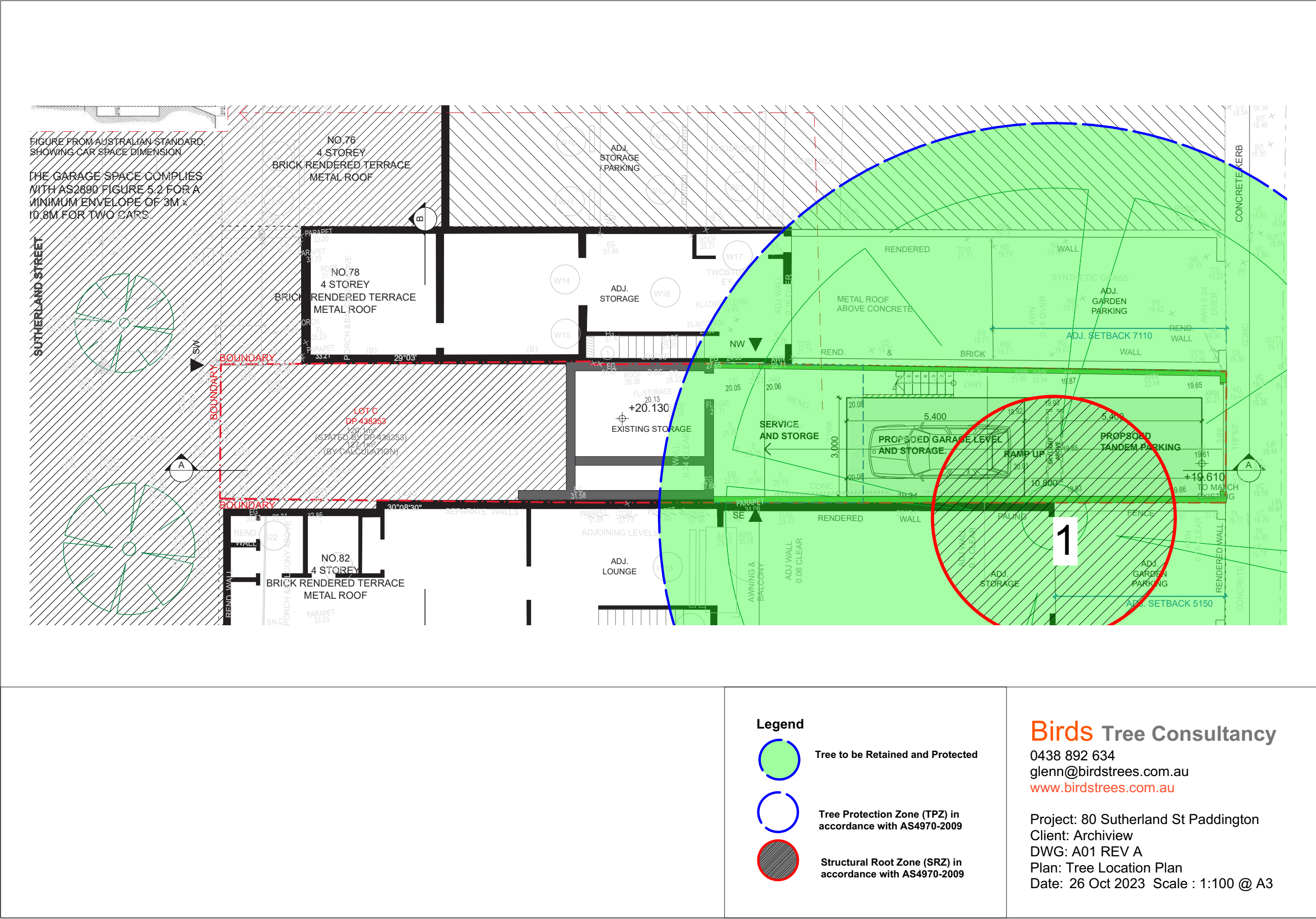
Inspection Data
80 Sutherland St, Paddington

25-Jun-23

Tree no.	Species	Common Name	Height	Spread(m)	Trunk (single, twin, multiple @)	DBH (mm)	TPZ Radius (m)	Diameter at Root Flare (DRF) (mm)	SRZ radius (m)	Trunk lean	Tree Age	Overall Health & Vigour
1	Eucalyptus microcorys	Tallowood	20	17	1	1000	12	1300	3.69	Nil	Mature	Good (70-79)

Tree no.	Species	Crown Distribution	Structure	Pruning History	Defects	Pest Infestation	Canopy Density	Deadwood	Epicormic Growth	Life expectancy	Env. & Landcape significance	Retention Value	Notes/Comments
1	Eucalyptus microcorys	Symmetrical	Good	No Evidence	No Evidence	Minor apical dieback	Normal	5.00%	<5%	21-40 years	High	High	Third Party Ownership

Appendix D - Tree Location Plan



SECTION 8.2 REVIEW OF DETERMINATION REPORT

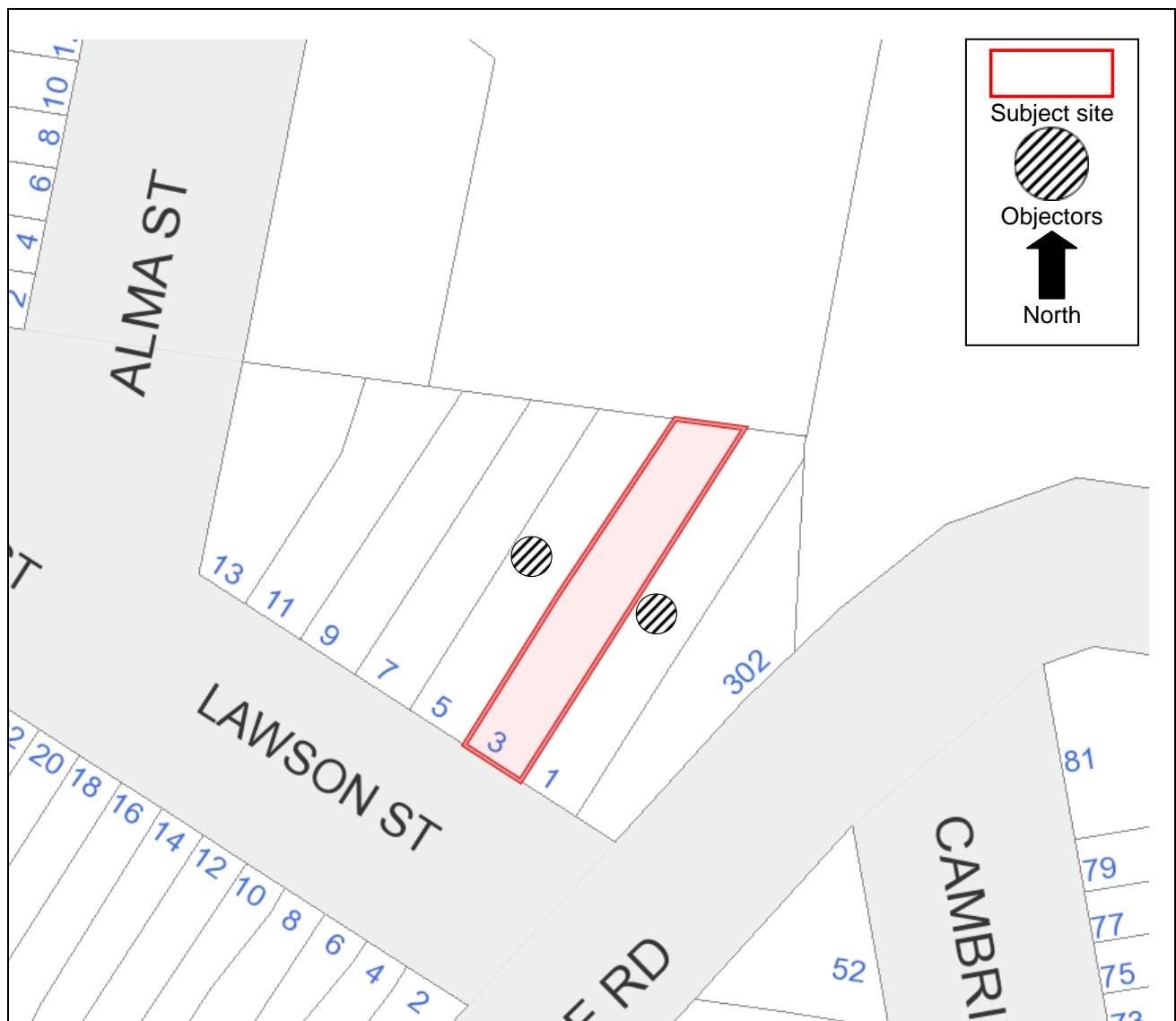
ITEM No.	D4
FILE No.	DA 262/2023/1
ADDRESS	3 Lawson Street PADDINGTON
SITE AREA	221.3m ² (Survey)
COUNCIL WARD	Paddington
ZONING	R2 Low Density Residential
PROPOSAL	Alterations and additions to the existing semi-detached dwelling including a new swimming pool
TYPE OF CONSENT	Local development
COST OF WORKS	\$813,670.00
DATE DA LODGED	27/07/2023
DATE DA DETERMINED	21/12/2023
DA DETERMINATION	Refusal
SUBJECT OF REVIEW	Refusal of application
DATE S8.2 LODGED	14/02/2024
APPLICANT	R Tang
OWNER	R Tang
REVIEW OFFICER	Mr V Aleidzans
TEAM LEADER	Mr G Fotis
SUBMISSIONS	Seven (7)
RECOMMENDATION	Approval, subject to Conditions

1. REASONS FOR RECOMMENDATION

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

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

2. LOCALITY PLAN



Note: Only those objecting properties captured on the above locality plan have been identified. Where multiple objections were received from the same property these have only been identified once on the above plan.

3. DELEGATIONS SUMMARY

The application seeks a review of determination under s8.2 of the Environmental Planning and Assessment Act 1979 where the Woollahra Local Planning Panel determined the original Application. This review application is thereby referred back to the Woollahra Local Planning Panel for determination pursuant to Council's delegations adopted on 01 December 2023.

4. DETERMINATION OF ORIGINAL DEVELOPMENT APPLICATION

The development application was refused by the Woollahra Local Planning Panel for the following reason(s):

1. **Woollahra Local Environmental Plan 2014, Part 1 – Clause 1.2 Aims of Plan**

The Proposal is inconsistent with the following aim in Part 1.2(2) of the Woollahra LEP 2014:

- (f) *to conserve and enhance built and natural environmental heritage*

2. Woollahra Local Environmental Plan 2014, Part 5.10 – Heritage Conservation

The Proposal is not consistent with the following objectives of Clause 5.10 as follows:

- (a) *to conserve the environmental heritage of Woollahra*
 - *The development does not conserve the heritage of Woollahra unless design amendments are made.*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views*
 - *The impact upon the heritage significance of the conservation area will be adverse unless design amendments are made.*

3. Woollahra Development Control Plan 2015, Chapter C1 – Paddington Heritage Conservation Area

The Proposal is not considered acceptable with regard to the following Sections, Objectives and Controls:

- a) *C1.3.4: Multi-Storey Terrace Style Housing – Objectives O1, O4, O5.*
 - *The cumulative non-compliances with the relevant objectives and controls throughout Chapter C1 of the WDCP result in inconsistency with the overriding controls of C1.3.4.*
- b) *Section C1.4.1: Principal Building Form and Street Front Zone of Contributory Buildings – Objectives O1, O4, O6, O7, O8, O10, O11, O12; Controls C1, C3, C7, C8.*
 - *Contrary to C1(a), the proposal involves the demolition of half of the original eastern wall of the principal building form at first floor level, which is not supported.*
 - *Contrary to C1(d), the proposal involves the demolition of the main rear wall of the principal building form at all levels, which is not supported*
 - *Contrary to C7, the proposal includes the demolition of the chimney flue within bedroom 2 at first floor level, which is not supported.*
 - *Contrary to C8, the proposal involves the demolition of entire original walls within the principal building form at lower ground, ground, and first floor levels, which is not supported.*
- c) *Section C1.4.3: Rear Elevations, Rear Additions, Significant Outbuildings and Yards – Controls C2, C4, C5(f)*
 - *Contrary to C2, the proposed skillion roof form of the addition does not match the pitch of the roof at 5 Lawson Street.*
 - *Contrary to C4, the roof of the rear addition is located higher than the gutter line of the principal building form, which is not supported.*
 - *Contrary to C5, the proposed additions to the rear extend beyond the predominant rear building setback at all levels, which is non-compliant.*
- d) *Section C1.4.4: Roofs and Roof Forms – Objectives O3, O4, C6, C8, Control C11*
 - *Contrary to O4 and C11, the proposed roof pitch does not match that of its pair (with No.5 Lawson Street) which is not supported.*
 - *The profile of the Colorbond roofing has not been specified, therefore not enabling a full assessment against C8.*
- e) *Section C1.4.6: Site Coverage, Setbacks and Levels – Control C3*
 - *Contrary to C3, the proposed rear addition extends beyond the predominant rear building alignment of the group at all floor levels which is not supported.*

- f) *Section C1.4.7: Excavation – Control C7(b)*
 - *Contrary to C7(b), the outer edge of excavation for the pool is set back from the western side boundary by 1.2m to the eastern boundary which is in part non-compliant.*
- g) *Section C1.4.8: Private Open Space, Swimming Pools, Lightwell Courtyards and Landscaping – Objective O6, Controls C16(a), C17*
 - *Contrary to C16(a), the proposed pool (and cabana) would require the removal of the prescribed Jacaranda mimosifolia to the rear of the subject site which is not supported.*
 - *Contrary to C17, the proposed pool coping would be higher than 300mm above the existing ground level which is not compliant.*
 - *Contrary to O6, the orientation of the proposed pool cabana may give rise to adverse amenity impacts to occupiers of the adjoining properties which does not accord with O6.*
- h) *Section C1.4.10: Acoustic and Visual Privacy – Controls C3, C4, C6*
 - *Contrary to C4, the proposal does not seek to minimise overlooking impact to the ground and first floor balconies at No.1 Lawson from the first floor balcony, which would be affected.*
 - *Contrary to C3, the proposed new window openings to the eastern elevation may give rise to visual impact to habitable rooms at No.1 Lawson.*
 - *Contrary to C6, the proposed aluminium privacy screens are not appropriate to the style and context of the building.*
- i) *Section C1.5.3: Windows, Doors, Shutters and Security – Objective O2, Control C4*
 - *Contrary to Objective O2 and Control C4, the proposed windows to the eastern elevation are not of traditional proportions and materiality which is not supported.*
 - *Also contrary to C4, the first floor openings to the rear are not of traditional timber materiality (C4).*
- j) *Section C1.5.4: Verandahs and Balconies – Control C6(d)*
 - *Contrary to C6(d), glass balustrades would not be supported at ground and first floor levels.*
- k) *Section C1.5.8: Materials, Finishes and Details – Objective O2, Control C4*
 - *Contrary to Objective O2 and Control C4, the windows to the side elevation of the principal building form are not traditional timber materiality, the aluminium privacy louvres to the ground floor balcony are considered intrusive and the glass balustrades to the balconies are not permitted*
- l) *Section C1.5.10: Gardens and Trees – Controls C2, C4, C6*
 - *Contrary to C2, the proposed pool (and cabana) would require the removal of the prescribed Jacaranda mimosifolia to the rear of the subject site which is not supported.*
 - *Contrary to C4, the proposal does not include a medium sized tree to the rear garden.*
 - *Contrary to C6, Council's Tree Officer has determined that insufficient information and documentation has been submitted to assess the impact on the future health of trees located on adjoining properties.*

4. Woollahra Development Control Plan 2015, Chapter E3 – Tree Management

The Proposal involves the removal of the prescribed Jacaranda mimosifolia to the rear of the subject site. The removal of a prescribed, mature canopy tree that contributes substantially to the amenity of the surrounding properties is contrary to the objectives of Chapter E3.

5. Discrepancies & Missing/Insufficient Information

- *The proposal includes the removal of the original staircase in the principal building. A justification for this removal has not been provided in the Heritage Impact Statement or the Statement of Environmental Effects submitted with the application.*
- *The profile and colour of the proposed Colorbond roofing is not specified on the Architectural Drawings or on the Finishes schedule.*
- *An inconsistency is noted between the proposed material of the proposed balustrades, with the Architectural Drawings (Peak Architects, dated 4/09/2023) noting them as 'Glazed balustrade' and the submitted Finishes Schedule (Peak Architects, dated 20/07/2023) noting a 'Steel balustrade'.*

6. Statutory Declaration

The applicant has failed to submit a valid statutory declaration signed by an authorised witness declaring that the site notice was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

5. SUBJECT OF REVIEW

The applicant has sought a review of the refusal of DA2023/262/1 and the Section 8.2 review reviews all aspects of the determination.

6. DESCRIPTION OF SECTION 8.2 PROPOSAL

The proposal involves alterations and additions to the existing semi-detached dwelling including a new swimming pool.

Lower Ground Floor Level

- Demolition of existing internal and rear walls.
- Internal reconfiguration to accommodate a wine cellar, storage areas, bathroom, laundry, wet bar, open planned dining and family area, rear terrace with stairs to yard and internal access stairs.

Ground Floor Level

- Demolition of existing internal walls, and the main rear wall.
- Internal reconfiguration and rear extension to incorporate a formal living area, powder room, open planned living, dining and kitchen area, storage space, internal access stairs and rear deck. The entry area in the street front zone remains unchanged.

First Floor Level

- Demolition of existing bedroom walls, and the main rear wall.
- Internal reconfiguration to accommodate 3 x bedrooms of which all will be provided with robe spaces and the master bedroom with an ensuite, bathroom and internal access stairs. The sunroom remains unchanged.

Roof Level

- Two new skylights to the rear addition

Externals

- Swimming pool to the rear yard and landscaping works throughout.

The submitted Statement of Environmental Effects prepared by Weir Phillips Heritage & Planning dated 9 February 2024 provides a summary of the amendments which have been made to the proposal since its refusal. This is reproduced below.

- *Deletion of cabana*
- *Relocation of pool*
- *Retention of jacaranda*
- *Retention of more of the original primary rear wall*
- *Retention of more of the original internal walls*
- *Retention of the chimney in Bed 2*
- *Reduced pool coping to 200mm*
- *Increased rear setback at all levels to align with the rear building alignment of the adjacent property at No. 5*
- *Adjustment of rear roof pitch to match No. 5*
- *Reduction in size and number of windows in the eastern elevation*
- *Increase in the sill height of the windows on the eastern elevation*
- *Changes in materiality and finishes*

After completing a site inspection of the property, it was deemed that there is a degree of inconsistency between the submitted architectural plans and the existing site condition.

There are two windows at the lower ground level along the eastern side elevation which have not been shown on the proposed architectural plans. The submitted plans show a continuous blank wall length with no details as to what is proposed to these windows.

The existing levels of the lower ground floor level do not reflect those shown in the architectural plans. For example there is currently a slope in the floor level which falls to the rear whereas the architectural plans show this to be consistent and flat. It is considered that excavation works would be required to accommodate the proposed floor levels at the lower ground noting the limited head height in certain sections. However, no such detail is shown on the plans nor is this detailed in the submitted Geotechnical report.

The landscape plan has not been updated since refusal of the original application. Therefore, there is a degree of inconsistency between this plan and the proposed architectural plans.

Condition A.7, and **Condition C.1** detail that no approval is granted to the lower ground floor where there are any inconsistencies and to the landscape plan.

7. COUNCIL'S STATUTORY RESPONSIBILITIES UNDER SECTION 8.2

Clause 8.3(2)(a) of the Environmental Planning and Assessment Act 1979 states:

A determination or decision cannot be reviewed under this Division: (a) after the period within which any appeal may be made to the Court has expired if no appeal was made,

Clause 8.7 states that:

- (1) An applicant for development consent who is dissatisfied with the determination of the application by the consent authority may appeal to the Court against the determination.*
- (2) For the purposes of this section, the determination of an application by a consent authority includes:*

- (a) *any decision subsequently made by the consent authority or other person about an aspect of the development that under the conditions of development consent was required to be carried out to the satisfaction of the consent authority or other person, or*
 - (b) *any decision subsequently made by the consent authority as to a matter of which the consent authority must be satisfied before a deferred commencement consent can operate.*
- (3) *An appeal under this section relating to an application for development consent to carry out designated development in respect of which an objector may appeal under this Division cannot be heard until after the expiration of the period within which the objector may appeal to the Court.*

The subject application was refused by the Woollahra Local Planning Panel on 21 December 2023.

In accordance with Clauses 8.3 and 8.7 as noted above, the rights of appeal for the application cease on 21 June 2024. Council is unable to determine the Section 8.2 application after this date.

8. SUBSTANTIALLY THE SAME DEVELOPMENT

Section 8.3(3) of the *Environmental Planning and Assessment Act 1979*, states:

In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

The proposal involves modifications, relative to the original development.

The proposal is within the scope of the original application, and as such, is considered to be substantially the same.

CONSIDERATION OF REVIEW

9. EXCEPTIONS TO DEVELOPMENT STANDARDS IN WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

None.

10. PRIMARY ISSUES

Addressed by the recommended conditions of consent.

PROPERTY DETAILS AND REFERRALS

11. SITE AND LOCALITY

Physical features
The subject site is located on the north-eastern side of Lawson Street and is legally described as Lot 1 in Deposited Plan 928947. The subject site is generally regular in its shape with an angled rear property boundary. To Lawson Street, the front boundary length equals 6.191m with the rear property boundary length measuring 6.535m. Side boundary lengths equal 35.66m and 38.422m, respectively. Overall, the area of the site equals 221.3m ² .
Topography
The subject site exhibits a relatively steep slope of approximately 7.37m in a north-easterly direction from the front boundary toward the rear.
Existing buildings and structures

At present the subject site comprises a multi storey semi-detached terrace house along with hard paved areas and soft landscaping throughout.

Surrounding Environment

The immediate locality generally comprises low density residential development in the form of multi storey terrace housing. Adjoining the subject site to the north-west at No. 5 Lawson Street is a multi-storey dwelling house which forms the other dwelling in the semi-detached arrangement with the subject site. The site to the south-east at No. 1 Lawson Street also comprises a multi-level terrace house. Immediately to the north and north west of the site is land zoned SP2 Education Establishment and comprises grounds associated with Sydney Grammer School. Within proximity of the site to the east is land zoned RE2 private recreation comprising the grounds of 'White City'.



Image 1: Aerial view of the subject site



Image 2: Subject site



Image 3: No. 5 Lawson Street, Paddington



Image 4: No. 1 Lawson Street, Paddington

12. RELEVANT PROPERTY HISTORY

Current use
Semi-detached dwelling
Relevant Application History
The original application was refused by the Woollahra Local Planning Panel on 21 December 2023.
Relevant Compliance History
N/A
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
Amended architectural plans were requested on 18/04/2024 to correctly show the existing built form context of neighbouring sites as surveyed. This request was satisfied on 23/04/2024.
Land and Environment Court Appeal(s)
N/A

13. REFERRALS

Referral	Summary of Referral Response	Attachments
Development Engineering	Satisfactory, subject to the recommended conditions of consent. At the Development Application Review Committee (DARC) stage, Council's Development Engineer advised that the referral response provided for the original application was still relevant and has therefore been utilised for this assessment.	2
Trees and Landscaping	Satisfactory, subject to the recommended conditions of consent.	3
Drainage	Satisfactory, subject to the recommended conditions of consent. A new referral was not requested at the Development Application	4

Referral	Summary of Referral Response	Attachments
	Review Committee (DARC) stage. Therefore, this assessment has relied upon the referral relating to the original application.	
Environmental Health	Satisfactory, subject to the recommended conditions of consent. A new referral was not requested at the Development Application Review Committee (DARC) stage. Therefore, this assessment has relied upon the referral relating to the original application.	5
Heritage	Satisfactory, subject to the recommended conditions of consent.	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

14. ADVERTISING AND NOTIFICATION

14.1 Submissions

The application was advertised and notified from 06/03/2024 to 21/03/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Geoff Rundle – 52 Wunulla Road, Point Piper
2. Simon Cheatham and Emily Manchec – 5 Lawson Street, Paddington (2 x Submissions)
3. Tanya and Julian Martin – 1 Lawson Street, Paddington
4. Sam Armstrong – No address provided
5. Brett Daintry – On behalf of 1 Lawson Street, Paddington
6. Esther Hayter – President of The Paddington Society per Robyn Attuell

The submissions raised the following issues:

Issue	Conclusion	Section
The building envelope and features of the adjoining property are not shown accurately on the architectural plans.	Amended architectural plans were submitted which are considered to correctly show the existing built form context of neighbouring sites as surveyed. A visit to the subject site was also completed by the author of this assessment report along with Council's Heritage Officer and Team Leader of Heritage to better understand the proposed works in their context and surrounds. Therefore, it is considered that there is sufficient information to make an accurate assessment of the proposal as is detailed throughout this report.	12

Issue	Conclusion	Section
The proposed building envelope at the rear is inconsistent with the adjoining property and would extend beyond the existing alignment.	The rear extensions are considered acceptable noting that the rear of the neighbouring properties are highly altered and any shared characteristics have already been lost.	19.1
Inaccuracies in the submitted documentation.	Where a proper assessment of the application cannot be made, no approval is granted to these works as is reflected in the recommended conditions of consent.	6 and Conditions A.7 and C.1
Impacts upon a private common sewer and access points. There are no details as to any proposed sewer works.	There are no easements pertaining to sewer lines shown on the submitted survey. Given this is a private line, the maintenance of such is considered to be a civil matter that would be negotiated between the affected properties.	N/A
Request for dilapidation survey.	The requirement for dilapidation reports has been conditioned where deemed necessary.	Condition D.2
Potential damage from excavation.	The requirement for dilapidation reports has been conditioned where deemed necessary.	Condition D.2
Tree impacts. Including loss of tree canopy.	Council's Tree and Landscaping Officer has raised no concerns in this regard subject to the recommended conditions of consent.	Attachment 3
Suggested conditions of consent.	It is considered that the necessary conditions of consent have been included in the recommendation.	28
Issues of visual and acoustic privacy along with revised screening design and window treatments/design.	The proposal is considered to have an acceptable privacy relationship with surrounding properties, subject to the requirements of Condition C.1.	19.1 and Condition C.1
Solar access impacts.	The proposal is considered to have an acceptable overshadowing impact and is supported in this regard.	19.1
View sharing impacts.	The proposal is considered to have an acceptable view sharing impact and is supported in this regard.	19.1

14.2 Replacement Application

The additional information noted in Section 12 was 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.

14.3 Statutory Declaration

The applicant has completed the statutory declaration dated 23/04/2024 declaring that the site notice for DA262/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

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

15.1 Chapter 2 – Coastal Management

The provisions of this planning instrument 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.

15.2 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.

16. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

16.1 Chapter 2 – Vegetation in non-rural areas

Council's Tree and Landscaping Officer has raised no objections to the proposal subject to the recommended conditions of consent. The proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

16.2 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.

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

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

18. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

18.1 Part 1.2: Aims of Plan

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

18.2 Land Use Table

The proposal is defined as a semi-detached dwelling and is permitted and is consistent with the objectives of the R2 Low Density Residential zone.

18.3 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	11.71m	9.28m (to the proposed works)	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.

18.4 Part 5.10: Heritage Conservation

The subject site is not identified as a heritage item, however, is located within the Paddington Heritage Conservation Area. It is notably identified as a contributory item within the conservation area.

This assessment has had regard to Council's Heritage Officers referral response which raises no issues with the proposal subject to the recommended conditions of consent. This assessment is satisfied that the proposal will have an acceptable heritage impact subject to the imposition of conditions.

The subject site is located within vicinity of a local heritage item, I243 "7 Canary Island Date Palms" located along Alma Street. This item will not be impacted by the proposed works.

Overall, the proposed development is acceptable with regard to the objectives in Part 5.10 of the Woollahra LEP 2014.

18.5 Part 5.21: Flood Planning

The subject site is identified on Council's mapping as flood affected. The original application was reviewed by Council's Drainage Engineer who considers it to be satisfactory subject to a recommended condition. The proposal as amended is not considered to alter the findings of Council's Drainage Engineer noting that no referral was requested at the Development Application Review Committee (DARC) stage. Accordingly, the proposal is acceptable with regard to Part 5.21 of Woollahra LEP 2014.

18.6 Part 6.1: Acid Sulfate Soils

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

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

18.7 Part 6.2: Earthworks

Council's Development Engineer has reviewed the proposal and provided the following comment:

"A Geotechnical Report by ESWNMAN Geotechnical Engineering Services, Ref: ESWN-PR-2023-1870, dated 24 August 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 1.2 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, 0.4m, 0.4m, and 0.6m in BH1 to BH4 respectively.*
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 0.9m, 0.5m, 0.9m, and 1.2m in BH1 to BH4 respectively.*
- c) Sandstone bedrock was inferred beneath the natural sand at depth ranging between 0.5m and 1.2m.*
- d) Groundwater was not observed during the investigation.*

The report made comments and recommendations on the following:

- *Shoring and support,*
- *Excavation method,*
- *Further Geotechnical input.*

Council's Development Engineer has raised no objection to the proposed excavation on technical grounds, subject to the recommended conditions of consent.

As detailed earlier, the existing levels of the lower ground floor level do not reflect those shown in the architectural plans. For example there is currently a slope in the floor level which falls to the rear whereas the architectural plans show this to be consistent and flat. It is considered that excavation works would be required to accommodate the proposed floor levels at the lower ground noting the limited head height in certain sections. However, no such detail is shown on the plans nor is this detailed in the submitted Geotechnical report. **Condition A.7**, and **Condition C.1** detail that no approval is granted to the lower ground floor where there are any inconsistencies

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

19. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

19.1 Chapter C1: Paddington Heritage Conservation Area

Part C1.2.4 Desired Future Character

Subject to the recommended conditions of consent, the proposal is considered to uphold the desired future character of the Paddington Heritage Conservation Area.

Part C1.3.4: Multi-Storey Terrace Style Housing

The proposal will comply with control C1 and will achieve the relevant objectives O1 – O5, subject to **Condition C.1**.

The proposed alterations and additions to the semi-detached dwelling involve demolition to the rear in order to allow for the rear additions at all levels. The demolition works are supported as this will retain majority of the rear wall fabric of the principal building at the lower ground and first floor levels.

However, complete demolition of the rear ground wall of the principal building form is not supported as the original form is not retained. **Condition C.1** requires that nib walls connected in between with a bulkhead are required to allow interpretation of the original building layout.

The rear extensions are considered acceptable noting that the rear of the neighbouring properties are highly altered and any shared characteristics have already been lost.

Accordingly, the proposal as is acceptable with regard to Part C1.3.4 of the Woollahra DCP 2015.

Part C1.4.1: Principal Building Form and Street Front Zone of Contributory Buildings

The proposal is deemed satisfactory with regard to objectives O1, O4, O6, O7, O8, O10, O11 and O12 and controls C1, C3, C7, and C8 subject to the requirements of **Condition C.1**.

The principal building form will be generally retained and at the street front will not be modified. Its shared presentation to the dwelling in the group will be retained.

Demolition works to part of the rear principal building are supported given this elevation is not visible from the public domain and does not retain any shared characteristics with the neighbouring properties. However, as detailed above, the complete demolition of the rear property wall is not supported and the design must be amended in accordance with **Condition C.1** to include nib walls and a connecting bulkhead to aid in interpreting the original principal building form.

The proposed rear elevation is supported in this case noting that it is not visible from the public domain and doesn't exhibit any shared characteristics with adjoining properties.

Removal of the ground floor living room chimney breast with cast iron fireplace is not supported in this case as it is required to be retained per C7. The submitted architectural plans do not indicate whether the fireplace located in the first floor front bedroom (proposed bedroom 3) would be retained. Similarly, this element is to be retained per C7.

Furthermore, internal elements with decorative merit which warrant retention are also to be retained per C7. This includes ceiling roses, fireboxes, detailed cornices, lead-glass windows and gas-lamp wall fitting (as observed in the first floor hallway). **Condition C.1** reflects these requirements and compliance with C7.

The proposed internal modifications comprise changes to internal walls including their demolition which indicates original room layouts. Such works are not supported. The proposal is to be amended to include nib walls and connecting bulk heads in such circumstances so allow interpretation of the original principal building form. This is reflected in **Condition C.1**.

Removal of a staircase and its relocation from ground to the first floor level is supported in this instance as Council's Heritage Officer deems this has been previously altered based upon a site inspection. It is noted that the material is not of any exemplary decorative distinction that would otherwise warrant retention in situ. Nevertheless, **Condition C.1** requires that balustrading and newel posts which can be salvaged and reused in the new stair be applied.

The proposed changes to new window openings on the eastern elevation are supported noting these are to be of vertical proportions and if timber construction. These windows do face the street and are supported. There are two windows at the lower ground level along the eastern side elevation which have not been shown on the proposed architectural plans. The submitted plans show a continuous blank wall length with no details as to what is proposed to these windows.

Condition A.7, and **Condition C.1** detail that no approval is granted to the lower ground floor where there are any inconsistencies and to the landscape plan.

Nib walls with a connecting bulkhead are to be incorporated at the lower ground level where demolition of the sandstone walls are proposed to aid in the interpretation of the original building form. This is reflected in **Condition C.1**.

Accordingly, the proposal as is acceptable with regard to Part C1.4.1 of the Woollahra DCP 2015.

Part C1.4.3: Rear Elevations, Rear Additions, Significant Outbuildings and Yards

The proposal is satisfactory with regard to objectives O1, O2, O3, O4 and controls C1, C2, C4, C5, C6, C8 and C10.

Although the subject building is a part of a pair with No. 5 Lawson Street. The proposed rear addition is considered to be generally acceptable. The rear of adjacent buildings within the pair and the wider group have been modified over time and no shared characteristics remain. In this case the proposed works are supported.

A more contemporary design approach has been employed to the rear addition including the proposed materiality which distinguishes the new component from the original building. This approach is supported.

The design offers a balance with the pair at No. 5 Lawson Street with both modern rear additions comprising similar balcony forms.

The proposal has roughly adopted a median setback between Nos. 1 and 5 Lawson Street. The rear of these two properties have been significantly altered the shared characteristics and/or historical forms are no longer apparent along these elevations. In this case, the proposed setback is acceptable.

The proposed openings along the rear elevations are vertically proportioned which is supported.

Accordingly, the proposal as is acceptable with regard to Part C1.4.3 of the Woollahra DCP 2015.

Part C1.4.4: Roofs and Roof Forms

The proposal is satisfactory with regard to objectives O1, O2, O3 and controls C3, C6, C8, C10 and C11.

The proposed skillion roof form would match the adjacent skillion roof of No. 5 Lawson Street which forms a pair with the subject dwelling. On merit this is deemed acceptable noting that the adjacent roof form of the rear addition at No. 5 is also contemporary.

The materiality of the roof is generally acceptable as it comprises a steel sheeting material. However, the profile of the steel sheeting must be of a traditional corrugated profile in order for this to be accepted. **Condition C.1** reflects this requirement.

As stipulated by C10, rear roof planes are not to incorporate more than 25% transparent material. Whilst not on the rear roof plane of the principal building form, for reference the skylights would occupy approximately 3.6% of the rear addition and is acceptable.

Accordingly, the proposal as is acceptable with regard to Part C1.4.4 of the Woollahra DCP 2015.

Part C1.4.5: Building Height, Bulk, Form and Scale

The proposal is satisfactory with objectives O1, O3, O4, O5 and O6 and controls C1, C3, C4, C5 and C7.

The height of the existing building on the street frontage will remain unchanged, achieving compliance with C1.

The proposed, bulk, form and height of the proposed works are generally consistent with those exhibited at No. 5 Lawson Street being the other dwelling in the pair and at No. 1 Lawson Street to the east which is supported in this case. The proposed rear building alignment is contextually satisfactory and is supported in this case for the reasons detailed in this assessment report. Compliance with C3 is achieved.

The proposal is satisfactory regarding solar access requirements prescribed by controls C4 and C5.

The proposal conforms to the height of appropriate adjacent buildings in accordance with control C7.

Accordingly, the proposal is acceptable with regard to Part C1.4.5 of the Woollahra DCP 2015.

Part C1.4.6: Site Coverage, Setbacks and Levels

The proposal satisfies objectives O2, O3, O4, O6 and controls C1, C3 and C7.

As already detailed earlier in this assessment report, the proposal has roughly adopted a median setback between Nos. 1 and 5 Lawson Street. The rear of these two properties have been significantly altered and the shared characteristics and/or historical forms are no longer apparent along these elevations. On that basis, the proposed setback is acceptable.

The proposed site coverage is consistent with similar properties in the immediate vicinity and the proposed levels remain consistent with those currently exhibited at the subject site.

The proposal is acceptable with regard to Part C1.4.6 of the Woollahra DCP 2015.

Part C1.4.7: Excavation

The proposal is also satisfactory with regard to objectives O1, O2, O3, O4, O5, O6, O8, O9 and O10 and controls C1, C3 and C7.

Excavation works are proposed to accommodate the new swimming pool location. The location of the proposed excavation within the rear setback is considered appropriate with regard to C1 noting it does not have a direct relationship with neighbouring buildings and is supported by Council's Development Engineer from a technical perspective subject to the recommended conditions of consent. This is also deemed to satisfy C3.

In accordance with C7, excavation may be permitted for structures such as pools, spas, or other permissible development if for properties 6m or more in width, the outer edge of excavation is setback from side boundaries by at least 1.5m. The proposal is non-compliant as the outer edge of excavation will be setback a minimum of 1.35m from property boundaries.

The non-compliance is fairly minor (150mm) and is not considered to have any adverse impacts upon the natural landform, vegetation, built form or natural groundwater flows subject to the recommended conditions of consent. The relevant objectives are upheld in this case.

Furthermore, the proposal will maintain at least one external wall above existing ground level with excavation works not considered to disturb any footings. A Geotechnical report accompanied this application which was deemed acceptable by Council's Development Engineer.

Although the subject site is located within an area that is identified as having no Aboriginal heritage potential a condition of consent pertaining to the due diligence responsibilities for the protection of Aboriginal cultural heritage in accordance with the *National Parks and Wildlife Act 1974* regardless of any approval. This is reflected in the recommendation.

The proposal is also satisfactory with regard to Objectives O1, O2, O3, O4, O5, O6, O8, O9 and O10.

To reaffirm, the existing levels of the lower ground floor level do not reflect those shown in the architectural plans. It is considered that excavation works would be required to accommodate the proposed floor levels at the lower ground noting the limited head height in certain sections. No such detail is shown on the plans nor is this detailed in the submitted Geotechnical report.

Condition A.7, and **Condition C.1** detail that no approval is granted to the lower ground floor where there are any inconsistencies.

Subject to the recommended conditions, the proposal is acceptable with regard to Part C1.4.7 of the Woollahra DCP 2015.

Part C1.4.8: Private Open Space, Swimming Pools, Courtyards and Landscaping

C4 and Table 2 specify that a dwelling on an allotment equal to and more than 180m² in size is to provide the following:

Site Area: 221.3m ²	Proposed	Control	Complies
Minimum unbuilt area	94m ² (42.47%)	18% (39.834m ²)	Yes
Principal rear area	99m ²	35m ²	Yes
Principal rear area dimensions	Minimum 3m	Minimum 3m	Yes
Minimum Deep soil landscaped area	30% (67m ²)	12% (26.556m ²)	Yes

As detailed in the compliance table above, the proposal provides for a compliant unbuilt upon area, principal rear area including minimum dimensions and deep soil landscaped area.

With regard to C7 the proposed deep soil areas are considered to be in a location and have an adequate soil profile depth to allow for root volumes and the long term stability and health of vegetation. No objections have been raised by Council's Tree and Landscaping Officer in this regard with the proposed landscaping outcome supported per C8.

In accordance with C9, the private open space will serve as an extension of the dwelling and offer a positive amenity for its occupants thereby achieving compliance.

The landscape plan has not been updated since refusal of the original application. Therefore, there is a degree of inconsistency between this plan and the proposed architectural plans. On that basis no approval is granted to this plan.

Stairs are provided to allow access to the rear yard noting the sloping nature of the subject site per C10.

The proposed swimming pool is located within the rear yard which satisfies C13. The swimming pool is not considered to have any adverse amenity impacts noting its position which is consistent with the private open space areas of adjoining properties and those on the northern side of Lawson Street which satisfies C15.

The pool would not have any adverse tree related impacts subject to the recommended conditions of consent noting that the prescribed deep soil area requirement is satisfied. Compliance with C16 is achieved.

C17 requires that pool coping must be flush with or not higher than 300mm above the existing ground level and no portion of the pool casing is to be visible from the public domain or an adjoining property. The proposed pool coping would rise 0.98m above existing ground level which is non-compliant. Given the extent of fill proposed in the rear, only 0.8m of the casing would be above the finished landscaped level.

The pool casing would be largely exposed to the north which would reduce visual impacts from surrounding properties and would not be visible from the public domain. The pool is located deep enough within the rear setback where adverse visual impacts would be diluted. This non-compliance is also a consequence of the site's sloping topography. There are no additional amenity impacts deemed to result as a consequence of the non-compliance noting the pool location aligns with private open space areas of adjoining properties and is sufficiently removed from sensitive areas of neighbouring dwellings. Objectives O6 and O8 are upheld.

A suitable stormwater management arrangement would be provided subject to the recommended conditions of consent and no objections have been raised by Council's Development Engineer. Compliance with C18 is therefore achieved.

Furthermore, no objections have been raised regarding impacts upon the fabric of buildings, infrastructure, and power lines or upon any other structures per C19 or existing vegetation per C20 from Council's Tree and Landscaping Officer subject to the recommended conditions of consent. Compliance achieved.

Overall, the proposal is acceptable having regard to the relevant objectives and controls under Part C1.4.8 of the Woollahra DCP 2015.

Part C1.4.9: Views

The proposal is not considered to give rise to any view loss impacts from the public domain.

The issue of view loss was raised in the objection from No. 1 Lawson Street located to the south-east of the subject site.

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

1. *The assessment of the views affected*

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

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

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

3. *The extent of the impact*

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

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

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

The orientation of views across the subject site from the objecting property at No. 1 Lawson Street, Paddington are shown in the image below.



Image 5: Orientation of views across the subject site (highlighted in red)

With regard to Step 1, of concern is the interruption of a district view to the west where some buildings of the Sydney CBD are visible. There are no land, water, whole or iconic views that would be impacted. It is noted that Sydney Centre Point Tower is visible from the upper most level balcony, however, would remain uninterrupted by the proposed works.

With regard to Step 2, the views over the subject site identified in Table 1 are obtained from the ground level balcony located off the living area and upper most level balcony accessed via a bedroom. All views over the subject site are obtained across the side boundary. Both standing and sitting views have been considered.

Table 1 – Current views from 1 Lawson Street, Paddington



Image 1: Existing standing view from ground level balcony



Image 2: Existing sitting view from ground floor balcony



Image 3: Existing standing view from upper level balcony



Image 4: Existing sitting view from upper floor balcony

With regard to Step 3, based on the site inspection of this property along with the included photographs and submitted information the overall extent of view impact can be qualitatively described as minor for the following reasons.

- The impacted view would pertain to district views and part of a building in the Sydney CBD.
- There are no land, water, whole or iconic views that would be impacted.
- Views are obtained across a side boundary which the planning principle recognises and being often difficult and unrealistic to protect.
- The more valuable views of Sydney Centre Point Tower from the upper level balcony would remain uninterrupted.

Under Step 4, the Court poses two questions in *Tenacity Consulting vs Warringah (2004) NSWLEC 140*. The first step is to determine whether a non-compliance with one or more planning controls results in view loss.

In response to this, although there are some non-compliances with respect to the Woollahra DCP 2015, these are not considered to be significant with regards to view loss and are not considered to be of a nature that would adversely alter the qualitative findings of this assessment.

The second consideration is whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

In this regard, it is considered that a skillful design has been employed by limiting the height and extent of the balcony projection which is consistent with adjoining properties. The proposal suitably balances protecting the privacy of neighbours whilst accommodating a contextually suitable design.

Overall, having regard to the relevant considerations under Part C1.4.9 of the Woollahra DCP 2015 and the planning principle established by *Tenacity Consulting v Warringah (2004) NSWLEC 140*, the proposal is considered acceptable with respect to view loss.

Part C1.4.10: Acoustic and Visual Privacy

Having regard to C2, the proposed bathroom and toilet areas are not considered to generate any overlooking impacts upon surrounding properties and therefore no additional privacy treatments are required to such areas. Notably, window W8 would be retained and a comparable privacy relationship as existing would occur. Compliance is achieved.

With respect to C4, windows along the eastern elevation to habitable areas would have a sill height of 1.5m which is considered acceptable in deterring any unreasonable overlooking impact. The suitability of bathroom windows has been addressed by C2 above and would not have any adverse impacts. The appropriateness of balconies is discussed in accordance with C5 below and are considered appropriate subject to **Condition C.1**. Compliance with C4 is achieved.

Notably, there are no unreasonable impacts deemed to result upon the skylight of No. 1 Lawson road, noting this occupies solely the very edge of habitable rooms and not the primary useable spaces. Furthermore, the proposed sill heights are considered to deter downward overlooking to such areas. C2 and C4 are satisfied in this regard.

Additional privacy treatment is considered necessary to the lower ground floor terrace noting it will be raised above the existing ground level with the existing fence height deemed insufficient to deter overlooking impacts. Whilst privacy screening has been shown at the ground level balcony, this is to be provided for a continuous height of 0.7m above the height of balustrading along the eastern and western elevations to this balcony. This would equal a total height of 1.7m (inclusive of the balustrade). Subject to these requirements, the proposal is considered acceptable with C5.

Council's Heritage Officer considers that the proposed balustrading to the balcony area is inappropriate from a heritage perspective. The proposed timber screening is satisfactory with regard to C6.

Per C7, the proposed privacy screening is not considered to generate any unreasonable view sharing or overshadowing impacts and compliance is achieved.

The proposal is not considered to generate any out of character acoustic impacts noting both of the adjoining properties provide for comparable private open space outcomes. Contextually the amount and location of private open space is appropriate in this instance.

Overall, the proposal is acceptable with regard to the relevant objectives and controls of Part C1.4.10 of the Woollahra DCP 2015.

Part C1.5.1: Dormers and Skylights

Subject to **Condition C.1**, the proposal is acceptable with regard to objective O1 and controls C23, C25, C26, C28, C29 and C30, within Part C1.5.1 of the Woollahra DCP 2015.

C28 specifies that skylights must be of a low profile and should be flush with the roof surface. They should have simple, unobtrusive detailing and be non-reflective. Colouring must merge with the roofing material. This requirement is enforced by **Condition C.1**.

As required by C30, rear roof planes are not to incorporate more than 25% transparent material. This includes the area of skylights and dormer windows. Two skylights are proposed to the rear additional and none are proposed on the rear roof plane of the principal roof form. For completeness, the area of the skylights would occupy approximately 3.6% of the rear roof area. The area of each the skylight does not exceed 1.5m². Their asymmetric positioning to the rear is acceptable.

The proposal, subject to **Condition C.1**, is acceptable with Part C1.5.1 of the Woollahra DCP 2015.

Part C1.5.2 Chimneys

Removal of the ground floor living room chimney breast with cast iron fireplace is not supported in this case as it is required to be retained per C7. The submitted architectural plans do not indicate whether the fireplace located in the first floor front bedroom (proposed bedroom 3) would be retained. The proposal is therefore not supported in its current form.

Condition C.1 requires that these elements are retained in order to comply with Objective O1 and Control C1 of Part C1.5.2 of the Woollahra DCP 2015.

Part C1.5.3: Windows, Doors, Shutters and Security

Subject to **Condition C.1**, the proposal is acceptable against objectives O1, O2, O3 and controls C1, C4 and C5 of Part C1.5.2 of the Woollahra DCP 2015.

The proposal will retain existing windows and doors facing the street front zone of the principal building with no works proposed. This is supported.

The new window openings along the eastern elevation do not have a relationship to the street and are shown to be vertically proportioned and of timber construction which is supported. To the rear, the new openings are again vertically proportioned which is supported. There are two windows at the lower ground level along the eastern side elevation which have not been shown on the proposed architectural plans. The submitted plans show a continuous blank wall length with no details as to what is proposed to these windows. No approval is granted to any works to these windows.

Condition C.1 requires that all new openings at ground and first floor be of a traditional timber materiality in order to have a satisfactory impact.

Part C1.5.4 Verandahs and Balconies

Subject to **Condition C.1**, the proposal is acceptable against objective O3 and controls C6, C7 of Part C1.5.4 of the Woollahra DCP 2015.

The proposed ground floor balcony extends beyond the 600mm depth requirement per C6(b) which is non-compliant. However, in this circumstance the extension is deemed acceptable as the adjacent pair No. 5 Lawson Street along with the neighbour at No. 1 Lawson Street have comparable cantilevered balconies protruding from the rear façade at this level.

Given there are no shared historical characteristics across this rear setback that would otherwise need to be conserved, the contemporary design and finish of the proposed balcony does not detract from the conservation area.

There is a degree of discrepancy in the submitted documentation whereby the architectural plans show the proposed balcony as being beyond the alignment of that at No. 5 Lawson Street whereas the 3D model shows it does not. For clarity, **Condition C.1** requires that the proposed balcony must not exceed the depth of the adjacent balcony at No. 5 Lawson Street at the ground level.

The materiality of the proposed balustrading to the ground floor rear balcony is deemed intrusive per Table 8 of this Part. Rather the design must incorporate a metal balustrade in order to be suitable. Privacy screening has also been conditioned. This is reflected in **Condition C.1**.

Accordingly, the proposal is acceptable with regard to Part C1.5.4 of the Woollahra DCP 2015.

Part C1.5.5 Fences, Walls and Gates

The proposed rear addition will be built to the western boundary which is permitted in this instance. The proposed construction and materiality is supported and the proposal is acceptable against Part C1.5.5 of the Woollahra DCP 2015.

Part C1.5.8: Materials, Finishes and Details

The proposal, subject to **Condition C.1** is satisfactory with respect to objectives O1, O2, O3 and controls C1, C4 and C5.

No works are proposed to the front façade of the principal building which is supported. So too is the traditional timber materiality of the eastern elevation windows and those to the rear elevation of the new addition.

A metal louvre is shown to W12 on the first floor rear elevation which is not supported. This is to be of a traditional timber materiality in order to be accepted.

As above, the materiality of the proposed balustrading to the ground floor rear balcony is deemed intrusive per Table 8 of this Part. Rather the design must incorporate a metal balustrade in order to be suitable.

The roofing of the rear addition in steel sheeting is acceptable, however, is to be of a traditional corrugated profile.

These requirements are addressed by **Condition C.1** so as to satisfy Part C1.5.8 of the Woollahra DCP 2015.

Part C1.5.9: Exterior Colours

The proposed colour scheme of the new walls is supported. The new metal roof is to be in light and mid grey tones in order to be supported. This is enforced by **Condition C.1** so as to satisfy objective O1 and controls C1, C3 and C4 of Part C1.5.9 of the Woollahra DCP 2015.

Part C1.5.10: Gardens and Trees

Subject to the conditions required by Council's Tree and Landscaping Officer, the proposal is considered acceptable with regard to Part C1.5.10 of the Woollahra DCP 2015.

Part C1.5.11 Satellite Dishes, Aerials, Air Conditioning Units and Other Site Facilities

No new site facilities are proposed and therefore no further consideration of Part C1.5.11 of the Woollahra DCP 2015 is considered necessary.

19.2 Chapter E1: Parking and Access

At present, the subject site does not accommodate any car parking with this condition being maintained by the proposal. On that basis no further consideration of Chapter E1 of the Woollahra DCP 2015 is deemed necessary.

19.3 Chapter E2: Stormwater and Flood Risk Management

Council's Development Engineer and Drainage Engineer have raised no issues with regard to the proposal subject to the recommended conditions of consent. The proposal is therefore acceptable with regard to Chapter E2 of the Woollahra DCP 2015.

19.4 Chapter E3: Tree Management

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

19.5 Chapter E5: Waste Management

The applicant has not provided a SWMMP with the 8.2 application. However, these requirements are suitably addressed via the recommended conditions of consent.

Part E5.2: Demolition and Construction Phase

The proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

Part E5.3: On-Site Waste and Recycling Controls for all Development

The existing waste management arrangement would remain unchanged by the proposal and it is therefore deemed acceptable with regard to Chapter E5 of the Woollahra DCP 2015.

19.6 Chapter E6: Sustainability

The proposal was accompanied by a BASIX Certificate and it is considered acceptable with regard to the objectives and controls in Chapter E6 of the Woollahra DCP 2015

20. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant.

21. 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.

21.1 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
\$813,670.00	>\$200,000 = 1%	\$8,136.70

Refer to **Condition C.2.**

21.2 Application of Contributions

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

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

22. APPLICABLE ACTS/REGULATIONS

22.1 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.

22.2 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 conditions.

23. 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.

24. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

25. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

26. CONCLUSION

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

27. 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.

28. RECOMMENDATION: RECOMMENDATION PURSUANT TO SECTION 8.2 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority,

- (a) having notified the request for review as required and considered the submissions made concerning the request for review; and
- (b) being satisfied that the development, as amended, is substantially the same development as the development described in the original modification application,

REVIEW its original decision under Section 8.2 of the Act and grant development consent to Development Application No 262/2023/1 for alterations and additions to the existing semi-detached dwelling including a new swimming pool on land at 3 Lawson Street Paddington, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

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

Applicant means the applicant for this consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

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

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

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

PC means the Principal Certifier under the *Act*.

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

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

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

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

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

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

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

A.3 Approved Plans and Supporting Documents

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

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

Reference	Description	Author/Drawn	Date(s)
Drawing 05 (Rev B)	Roof Plan	Peak Architects	18/04/2024
Drawing 06 (Rev B)	Demolition Plan	Peak Architects	18/04/2024
Drawing 07 (Rev B)	Lower Ground Plan	Peak Architects	18/04/2024
Drawing 08 (Rev B)	Ground Floor	Peak Architects	18/04/2024
Drawing 09 (Rev B)	First Floor	Peak Architects	18/04/2024
Drawing 10 (Rev B)	Section AA	Peak Architects	18/04/2024
Drawing 11 (Rev B)	Section BB	Peak Architects	18/04/2024
Drawing 12 (Rev B)	Section C	Peak Architects	18/04/2024
Drawing 13 (Rev B)	Retaining Wall Section	Peak Architects	18/04/2024
Drawing 15 (Rev B)	South & North Elevation and Finishes Schedule	Peak Architects	18/04/2024
Drawing 16 (Rev B)	East Elevation	Peak Architects	18/04/2024
240124_3_Lawson St_AIA	Arboricultural Impact Assessment Report	Urban Arbor	24/1/24
A501755	BASIX Certificate	NSW Department of Planning and Environment	23 July 2023
ESWN-PR-2023-1870	Geotechnical Report	ESWNMAN P/L	24/08/2023

Reference	Description	Author/Drawn	Date(s)
	Flood Report	SYJ Consulting Engineers	19/06/2023
230508	Stormwater Management Plans	SYJ Consulting Engineers	05/09/2023 05/09/2023 05/09/2023 05/09/2023 05/09/2023
DA00-Rev B			
DA01-Rev B			
DA02-Rev B			
DA03-Rev B			
DA04-Rev B			

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

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A5 (Autotext AA5)

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

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

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

A.5 No Underpinning works

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

A.6 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
1	<i>Jacaranda mimosifolia</i>	Rear Yard	8 x 4
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	8 x 3
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	4 x 2

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

A.7 Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to:

- The landscape plans prepared by A Total Concept Landscape Architects & Swimming Pool Designers, Drawing Nos. L/01, L/02, L/03, dated 04.07.23.
- Any works to the area of the lower ground floor as highlighted in red on Diagram 1 below.

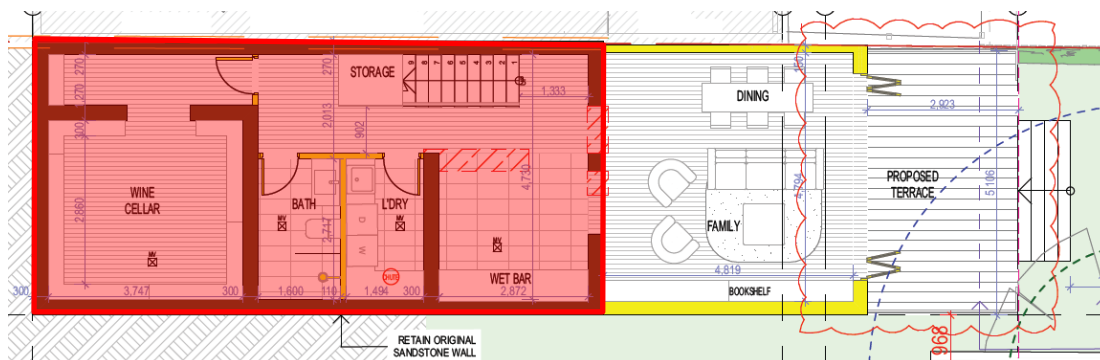


Diagram 1 – No works approved to the areas of the lower ground floor highlighted in red

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

B.1 Construction Certificate Required Prior to Any Demolition

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

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

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

B.2 Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

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, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to 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 must demonstrate 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 should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council Report and images (digital version)

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.
- a) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature,
 - internal images of each room and significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

Note: 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 www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf
Standard Condition: B2 (Autotext BB2)

B.3 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.

B.4 Identification of Hazardous Material

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

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

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

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

Standard Condition: B6

B.5 Public Road Assets Prior to Any Work/Demolition

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

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

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

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

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

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

B.6 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.7 Establishment of Tree Protection Zone (TPZ) Fence

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Jacaranda mimosifolia</i>	Rear Yard	Install fencing in location shown in Appendix 1B of approved AIA Report by Urban Arbor
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	Install fencing in location shown in Appendix 1B of approved AIA Report by Urban Arbor
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	Install fencing in location shown in Appendix 1B of approved AIA Report by Urban Arbor

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Establishment of Ground protection
Ground protection shall be established within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Tree Location	Radius from Centre of Trunk (Metres)
1	<i>Jacaranda mimosifolia</i>	Rear Yard	Install ground protection as shown in Appendix 1B of approved AIA Report by Urban Arbor
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	Install ground protection as shown in Appendix 1B of approved AIA Report by Urban Arbor
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	Install ground protection as shown in Appendix 1B of approved AIA Report by Urban Arbor

Ground protection shall consist of (geotextile fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface. No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within the ground protection area unless specified in this consent.

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

B.8 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	Jacaranda mimosifolia	4.1m	Installation of new pool
2	Stenocarpus reticulatus	5.2m	Installation of new pool and decking
3	Murraya paniculata	2.4m	Installation of new pool

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

B.9 Demolition and Construction Management Plan

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

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

B.10 Arborists Documentation and Compliance Checklist

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

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

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

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist must supervise the installation of the pool within the TPZ of trees 1, 2 and 3, 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 the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> • The project arborist shall supervise the dismantling of tree protection measures • After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

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

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

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

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

- a) Demolition of internal walls must incorporate the retention of nib walls and bulkheads to interpret historic room layouts
- Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C8.

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

- b) Demolition of sandstone walls at lower ground (basement) level must incorporate the retention of nib walls and bulkheads to interpret historic room layouts.
- Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C8.

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

- c) Internal decorative elements must be retained, including ceiling roses, decorative cornices, chimney breasts and flues, mantels and surrounds, cast iron fireboxes, gas lamp fittings.
- Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C7.

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

- d) The original chimneys must be retained.
- Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C).

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

- e) Demolition of the staircase must salvage and reuse original balusters, handrails and newel posts.
- Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C7.

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

- f) New doors and windows must incorporate traditional timber materiality.
- Woollahra DCP 2015, Chapter C1, Clause 1.5.3, Objective O3, Control C4

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

- g) The proposed aluminium louvres at first floor level are not supported as they are of an intrusive material and would be visible. This element is to be deleted from the drawing set in order to comply.
- Woollahra DCP 2015, Chapter C1, Clause 1.5.1, Objective O1, Controls C1)
 - Woollahra DCP 2015, Chapter C1, Clause 1.5.8, Objectives O2, Controls C4, C5, Table 8

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

- h) The profile of the sheet steel must be a traditional corrugated profile to comply.
- Woollahra DCP 2015, Chapter C1, Clause 1.4.4, Objective O3, Control C8
 - Woollahra DCP 2015, Chapter C1, Clause 1.5.8, Objectives O2, Controls C4, C5, Table 8

- Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.**

- Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.**

- Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.**

- Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.**

- [illegible]

Diagram 1 – No works approved to the areas of the lower ground floor highlighted in red

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

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

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

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

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$23,845.00	No	T115
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)	\$8,136.70 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Security Administration Fee	\$215	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$32,196.70 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

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

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

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

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

Do you need HELP indexing the levy?

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

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

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

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

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

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

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

Standard Condition: C5

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. A501755 with any application for a Construction Certificate.

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

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

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

C.4 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 issue of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- a) The installation of stormwater outlet pipe across the nature strip must be made by using 150mm x 75mm galvanised RHS in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. The kerb discharge must be located within the frontage of the site. Details showing the reinstatement of the nature strip due to the installation of the stormwater outlet pipe must be provided to the satisfaction of Council's Assets Engineers. Design longitudinal profile of the proposed stormwater outlet pipe, starting from the boundary junction pit to the street kerb must also be submitted for assessment,
Note: All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP.
- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers, and
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction 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 K13 in *Section K. Advisings* of this Consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

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

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

- a) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001; and

- b) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

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

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

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

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

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

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

Standard Condition: C25

C.6 Structural Adequacy of Existing Supporting Structures

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

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

Standard Condition: C35 (Autotext CC35)

C.7 Professional Engineering Details

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

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

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

Standard Condition: C36

C.8 Engineer Certification

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

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

C.9 Geotechnical and Hydrogeological Design, Certification and Monitoring

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical and hydrogeological report prepared by a Chartered Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Councils document "*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*" and Chapter E2.2.10 of Council's DCP. In particular, minimum two cored boreholes drilling to the depth of excavation must be carried out. The report must also include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking to all below ground structures to prevent the entry of ground water/seepage water such that subsoil drainage/ seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of Council's DCP.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.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. Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

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

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

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

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

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

Standard Condition: C41 (Autotext: CC41)

C.11 Stormwater Management Plan

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

- a) General design in accordance with stormwater management plans, referenced 230508-Rev B, prepared by SJY Consulting Engineers, dated 05/09/2023, other than amended by this and other conditions,
- b) The proposed storage of the required rainwater tank (RWT) must be increased to minimum 15.9m³ to comply with the minimum storage requirement stipulated in Chapter E2.2.9 of Council's DCP. Runoff from all roof areas shall be directed to the proposed RWT for non-potable uses such as toilet flushing, laundry device, pool top-up, car washing and garden irrigations etc. Notation to this requirement must be clearly depicted on the drawings. Overflow from the RWT shall be directed to the proposed pumpout system,
- c) The provision of a pumpout system to collect any surface runoff and rainwater tank's overflow which connects to the 450x450 boundary junction pit. The pumpout system must be designed in accordance with AS3500.3,
- d) The discharge of stormwater from the site to the street kerb, by direct connection located 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,
- e) 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. A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system,
- 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 any remedial works required to upgrade the existing stormwater drainage system,

- h) 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,
- i) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- j) Dimensions of all drainage pit and access grates must comply with AS3500 and Council's DCP,
- k) Compliance with the objectives and performance requirements of the BCA, and
- l) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout plan

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

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

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

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

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

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

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

C.12 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)

C.13 Swimming and Spa Pools – Child Resistant Barriers

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

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

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

C.14 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).

- a) A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry,
- b) All fences traversing the over land flow path shall be designed to be flow through,
- c) Flood compatible materials shall be used for all flood exposed construction,
- d) All flood exposed electrical wiring and equipment shall be waterproofed,
- e) A clear overland flow path shall be provided, and
- 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.

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

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

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

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

Standard Condition: C56 (Autotext CC56)

C.16 Light and Ventilation

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#).

If an alternate solution is proposed then the Construction Certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*.

This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

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

Standard Condition C59 (Autotext CC59)

C.17 Acoustic Certification of Mechanical Plant and Equipment

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

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

Where sound attenuation is required this must be detailed.

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

1. **Australian Acoustical Society**—professional society of noise-related professionals

www.acoustics.asn.au

2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals www.aaac.org.au. Standard Condition: C62 (Autotext CC62)

C.18 Submission of a Site Waste Minimisation and Management Plan

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 the Principal Certifying Authority for approval prior to a Construction Certificate being issued.
Standard Condition: C68 (Autotext: CC68)

C.19 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.20 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.21 Tree Management Plan

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

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

This plan shall be kept on site until the issue of the final occupation certificate.

D. Conditions which must be satisfied prior to the commencement of any development work

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1 (Autotext DD1)

D.2 Dilapidation Reports for Existing Buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties must include (but is not limited to):

No. 1 Lawson Street
No. 5 Lawson Street

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. A copy of the approved reports shall be submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4 (Autotext DD4)

D.3 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.
Standard Condition: D6 (Autotext DD6)

D.4 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

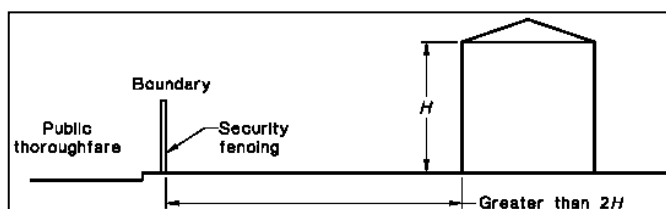
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10 (Autotext DD10)

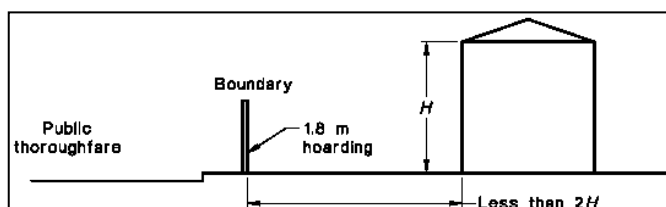
D.5 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

Security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.



Type A Hoarding

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.



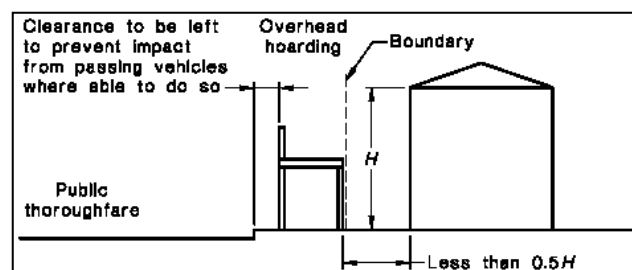
Type B Hoarding

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW “Code of Practice - Overhead Protective Structures 1995”. This is code available at www.safework.nsw.gov.au/_data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.

Hoardings on Public Land including ‘Creative Hoardings’

The Principal Contractor or Owner-builder must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

A creative hoarding (i.e. an approved artwork or historic image affixed to the hoarding) is required if the hoarding meets the criteria in Council’s Creative Hoardings Policy (adopted March 2020). The cost of printing and affixing the creative hoarding is the responsibility of the Principal Contractor or Owner-builder. The Creative Hoardings Policy can be downloaded from Council’s website www.woollahra.nsw.gov.au

Note: The Principal Contractor or Owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.

Note: Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
- OR

- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding".

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council's Cultural Development Team.

Standard Condition: D11 (Autotext DD11)

D.6 Site Signs

The Principal Contractor or Owner-builder must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

D.7 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.
Standard Condition: D13 (Autotext DD13)

D.8 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

Note: The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
Standard Condition: D14 (Autotext DD14)

D.9 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.
Standard Condition: D15 (Autotext DD15)

D.10 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- b) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.
Standard Condition: D17 (Autotext DD17)

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the Home Building Act 1989

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1 (Autotext EE1)

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

Standard Condition: E2 (Autotext EE2)

E.3 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

Standard Condition: E4 (Autotext EE4)

E.4 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5 (Autotext EE5)

E.5 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - (i) piling,
 - (ii) piercing,
 - (iii) rock or concrete cutting, boring or drilling,
 - (iv) rock breaking,
 - (v) rock sawing,
 - (vi) jack hammering, or
 - (vii) machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm
Standard Condition: E6 (Autotext EE6)

E.6 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): *Manual of uniform traffic control devices* and all relevant parts of this set of standards.
- b) Australian Road Rules.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

Standard Condition: E7 (Autotext EE7)

E.7 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,

- d) noise controls,
- e) vibration monitoring and controls,
- f) ablutions.

Standard Condition: E11

E.8 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12 (Autotext EE12)

E.9 Support of Adjoining Land and Buildings

A person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: **"Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

Standard Condition: E13 (Autotext EE13)

E.10 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

Note: *building* has the same meaning as in section 1.4 of the *Act* i.e. "*building* includes part of a building and any structure or part of a structure...."

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.
Standard Condition: E14 (Autotext EE14)

E.11 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001, and
- c) "*Managing Urban Stormwater - Soils and Construction*" 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15 (Autotext EE15)

E.12 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17 (Autotext EE17)

E.13 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The Principal Contractor or Owner-builder must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.

- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

E.14 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

Standard Condition: E21 (Autotext EE21)

E.15 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW.

All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22 (Autotext EE22)

E.16 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “Dust Control - Do it right on site” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23 (Autotext EE23)

E.17 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.18 Site Waste Minimisation and Management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly ‘signpost’ the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and
- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.
Standard Condition: E31 (Autotext EE31)

E.19 Site Waste Minimisation and Management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,
- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

E.20 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current SafeWork NSW "demolition licence" and a current SafeWork NSW "Class A licence" for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public

Standard Condition: E39

E.21 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.
Standard Condition: E40

E.22 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.
Standard Condition: E41

E.23 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.24 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43

E.25 Tree Preservation

All persons must comply with Chapter E.3 – Tree Management of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.26 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Jacaranda mimosifolia</i>	Rear Yard	4.1m
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	5.2m
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	2.4m

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.27 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	<i>Jacaranda mimosifolia</i>	Rear Yard	4.1m
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	5.2m
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	2.4m

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.28 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	<i>Jacaranda mimosifolia</i>	Rear Yard	4.1m
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	5.2m
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	2.4m

Any roots greater than 40mm diameter uncovered for the installation of stormwater pipes and pits shall not be severed and remain in situ bridging across the excavated trench. Pipes shall be guided under any roots greater than 40mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 40mm diameter are severed.

The project arborist shall document compliance with the above condition.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1 (Autotext FF1)

F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act, Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

Standard Condition: F7 (Autotext FF7)

F.3 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Prior to filling any swimming pool, as defined by the *Swimming Pools Act 1992*:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register.
- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued pursuant to section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public pools must comply with the *NSW Health Public Swimming Pool and Spa Pool Guidelines* in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2010: *Swimming pool safety - Water recirculation systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

Note: NSW Health guidelines and fact sheets are available at

www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx

Standard Condition: F13 (Autotext FF13)

F.4 Swimming Pool Fencing

Swimming pool fencing is to be constructed in accordance with AS1926-2012 Australian Standard Swimming Pool Safety Part 1 – *Safety Barriers for Swimming Pools*.

Note: Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012

Standard Condition: F20 (Autotext FF20)

F.5 Amenity Landscaping

The *owner or principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil.

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A501755.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
Standard Condition: H7 (Autotext HH7)

H.2 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.
Standard Condition: H12 (Autotext HH12)

H.3 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.
Standard Condition: H13 (Autotext HH13)

H.4 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

Prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted, for approval by the Principal Certifying Authority, certifying:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the rainwater retention and reuse system and the pump out system,
- c) that a rainwater tank with minimum storage of 15.9m³ has been constructed in accordance with the approved stormwater plans,
- d) that runoff from all roof areas have been collected and directed to the as-built rainwater retention and reuse system which have plumbed into all toilet, laundry and garden irrigation etc,
- e) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,
- f) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,
- g) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- h) pipe invert levels and surface levels to Australian Height Datum, and
- i) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the rainwater retention and reuse system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

Note: Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

H.5 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A501755.

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

I.2 Ongoing Maintenance of the On-Site-Detention System

The owner(s) must in accordance with this condition and any positive covenant:

- a) permit stormwater to be temporarily retained and reused by the rainwater retention and reuse system;
- b) keep the systems clean and free of silt rubbish and debris;
- c) maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- e) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- f) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- g) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and
- h) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

- a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (**Claims**) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and
- b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
Standard Condition: I29

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 Pools and Spa Pools Advisory Document" in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,
- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

Note: Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

Note: The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx
Standard Condition: I30

I.4 Outdoor Lighting – Residential

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.
Standard Condition: I49

I.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>) published 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 2017* (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 (including pool pumps and associated equipment)

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017)

[www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017))

and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

Standard Condition: I59

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 2017 as follows:

- *Before 8am or after 8pm during Saturdays, Sundays and public holidays;*
- *Before 7am or after 8pm on any other day.*

J. Miscellaneous Conditions

Nil.

K. Advisings

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.

Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2 (Autotext KK2)

K.3 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website

www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating

Standard Condition: K5 (Autotext KK5)

K.4 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW

Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133

[220](http://www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances). Standard Condition: K6 (Autotext KK6)

K.5 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.

Standard Condition: K7 (Autotext KK7)

K.6 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.

Standard Advising: K10 (Autotext KK10)

K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Valdis Aleidzans, Assessment Officer, on (02) 9391 7159.

However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

K.8 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the *Act*.

The securities will not be released until a Final Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Refund of Security Bond Application form can be downloaded from
www.woollahra.nsw.gov.au
Standard Condition: K15 (Autotext KK15)

K.9 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

K.10 Owner-builders

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au or call 133 220.
Standard Condition: K18 (Autotext KK18)

K.11 Pruning or Removing a Tree Growing on Private Property

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.

Standard Condition: K19 (Autotext KK19)

K.12 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.

- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

K.13 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.








Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

Note: *road* has the same meaning as in the *Roads Act 1993*.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

Standard Advising: K24 (Autotext KK24)

Attachments

1. Architectural Plans [↓](#) 
2. Referral Response - Technical Services [↓](#) 
3. Referral Response - Landscaping [↓](#) 
4. Referral Response - Drainage [↓](#) 
5. Referral Response - Environmental Health [↓](#) 
6. Referral Response - Heritage [↓](#) 
7. Stamped Refused Plans [↓](#) 



- SCHEDULE OF AMENDMENTS:**
- 1. CABANA REMOVED
 - 2. FIRST FLOOR BALCONY REMOVED
 - 3. TREE TO BE RETAINED
 - 4. INCREASED LOWER GROUND SETBACK BY 1600mm
 - 5. INCREASED SETBACK TO ALIGN WITH PREDOMINANT REAR SETBACK
 - 6. PROPOSED WINDOW ON EAST ELEVATION: REDUCED SIZE AND INCREASED WINDOW SILL HEIGHT TO 1.5m FOR PRIVACY
 - 7. INCREASED LANDSCAPE AREA BY 28m²
 - 8. REDUCED GROSS FLOOR AREA (GFA) BY 17m²
 - 9. REDUCED AND RELOCATE POOL
 - 10. REDUCED POOL COPING TO 200mm
 - 11. AMEND LOWER GROUND LAYOUT
 - 12. PROPOSED ROOF PITCH & MATERIALS MATCH WITH ITS PAIR (NO.5)
 - 13. AMENDED PROPOSED WINDOWS TO BE TRADITIONAL PROPORTIONS AND MATERIAL

DRAWING INDEX		
	DRAWING NAME	REV
01	COVER PAGE	B
02	SITE AND ANALYSIS	B
03	SITE AND ANALYSIS	B
04	SITE ANALYSIS	B
05	ROOF PLAN	B
06	DEMOLITION PLAN	B
07	LOWER GROUND PLAN	B
08	GROUND FLOOR	B
09	FIRST FLOOR	B
10	SECTION AA	B
11	SECTION BB	B
12	SECTION C	B
13	RETAINING WALL SECTION	B
14	3D ELEVATION	B
15	SOUTH & NORTH ELEVATION	B
16	EAST ELEVATION	B
17	GFA CALC	B
18	COMPLIANCE DIAGRAMS	B
19	EXISTING SHADOW DIAGRAM	B
20	PROPOSED SHADOW DIAGRAM	B
21	VIEW FROM SUN	B

COMPLIANCE TABLE

3 LAWSON STREET PADDINGTON			
LEICHHARDT LEP 2013	STANDARD	PROPOSED	COMPLIANCE
ZONING	R2		
SITE AREA:	221.3m²		
DEFINED AS	SEMI-DETACHED DWELLING		
HEIGHT	9.5m	NO CHANGE TO EXISTING	YES
FSR	0.85:1	0.9:1	MERIT
MINIMUM DEEP SOIL	12%(26.52m²)	30%(67m²)	YES
FRONT SETBACK	RETAIN EXISTING	NO CHANGE TO EXISTING	YES
SIDE SETBACKS	RETAIN EXISTING	NO CHANGE TO EXISTING	YES
REAR SETBACKS	REAR SETBACK OF ADJACENT BUILDINGS		MERIT
PRINCIPAL REAR AREA	MINIMUM 35m² MINIMUM DIMENSION OF 3m x3m	99m² MIN.3.6m	YES



LOCATION MAP



28 / 5 Belmore Street Burwood NSW 2134
02 8960 4138 0406 004 418
info@peakarchitects.com.au
peakarchitects.com.au
@peak.architects

Nominated Architects:
Esan Rahmani NSW 10560

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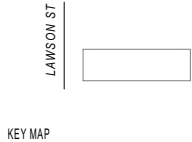
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REV.	DESCRIPTION	DATE
A	DA APPLICATION	26/04/2023
B	SECTION 8.2	19/12/2023

PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

CLIENT: CANDY TANG



DRAWING #:	DRAWING NAME:				
01	COVER PAGE				
DEVOPMENT APPLICATION		SCALE AS SHOWN @ A3			
PROJECT NO:	DATE:	DRAWN	CHECKED	ISSUE	
23-08	18/04/2024	YS	ER	B	



IMAGE A: REAR OF 1 LAWSON ST



IMAGE B: REAR OF 5 LAWSON ST




IMAGE C: REAR OF SUBJECT SITE



IMAGE D: REAR OF 1 LAWSON ST



IMAGE E: REAR OF 1 LAWSON ST



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28 / 5 Belmore Street Burwood NSW 2134

02 8960 4138 0406 004 418

info@peakarchitects.com.au

peakarchitects.com.au

@peak.architects

Nominated Architects:
Esan Rahmani NSW 10560

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PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

CLIENT: CANDY TANG

LAWSON ST

KEY MAP

TRUE NORTH

DRAWING #: 02

DRAWING NAME: SITE AND ANALYSIS

DEVOPMENT APPLICATION		SCALE AS SHOWN @ A3		
PROJECT NO: 23-08	DATE: 18/04/2024	DRAWN: YS	CHECKED: ER	ISSUE: B

Attachment 1 Architectural Plans

Page 497



NO.5 LAWSON STREET GROUND FLOOR TERRACE




NO.5 LAWSON STREET GROUND FLOOR TERRACE



NO.5 LAWSON STREET FIRST FLOOR BALCONY



NO.5 LAWSON STREET REAR PERSPECTIVE



28 / 5 Belmore Street Burwood NSW 2134

02 8960 4138 0406 004 418

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26/04/2023

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19/12/2023

PROJECT: 3 LAWSON STREET PADDINGTON


PROJECT TYPE: ADDITION & EXTENSION

CLIENT CANDY TANG

LAWSON ST



KEY MAP



TRUE NORTH

DRAWING #: 03

DRAWING NAME: SITE AND ANALYSIS

DEVOPMENT APPLICATION

SCALE AS SHOWN @ A3

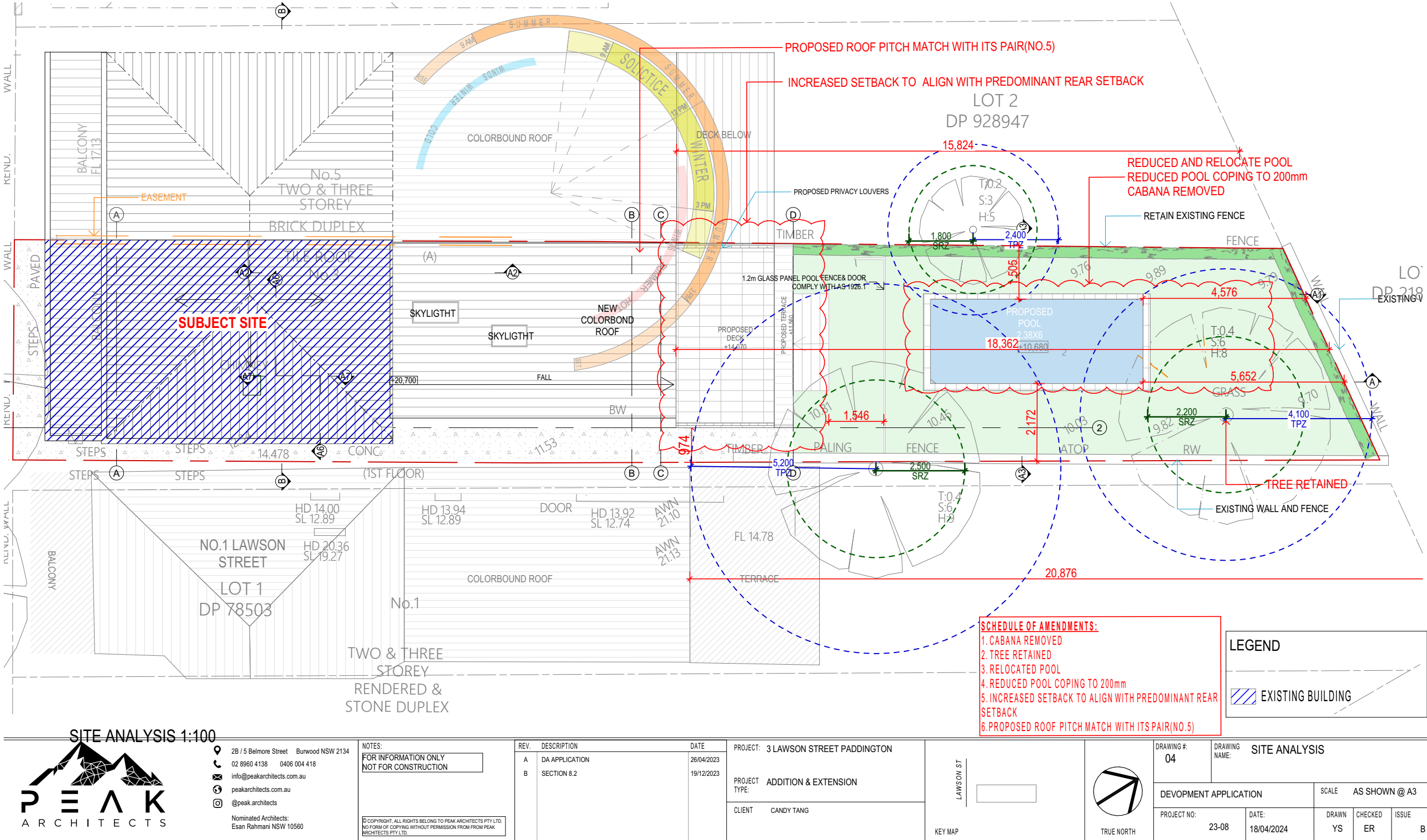
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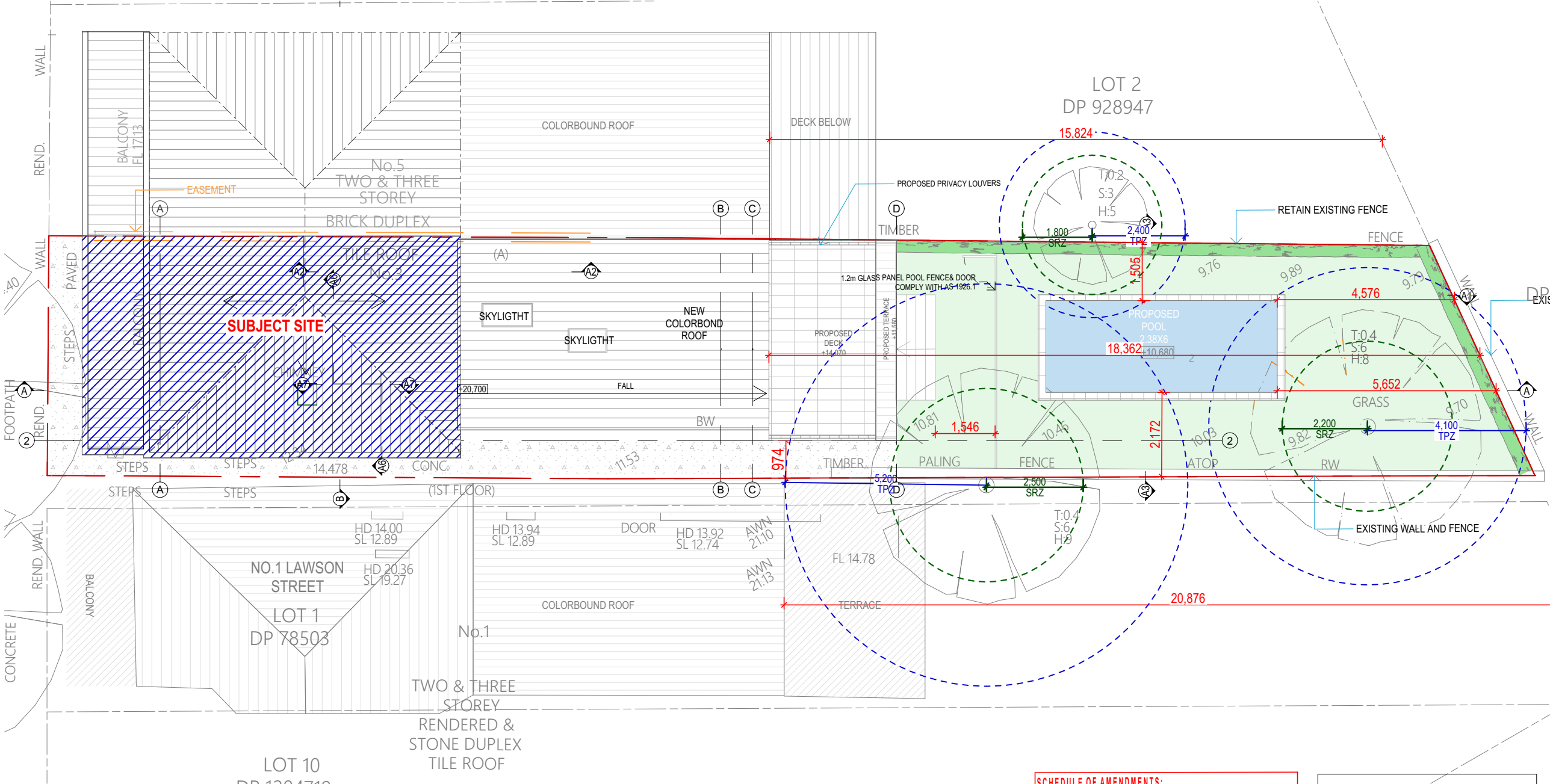
DATE: 18/04/2024

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CHECKED ER

ISSUE B













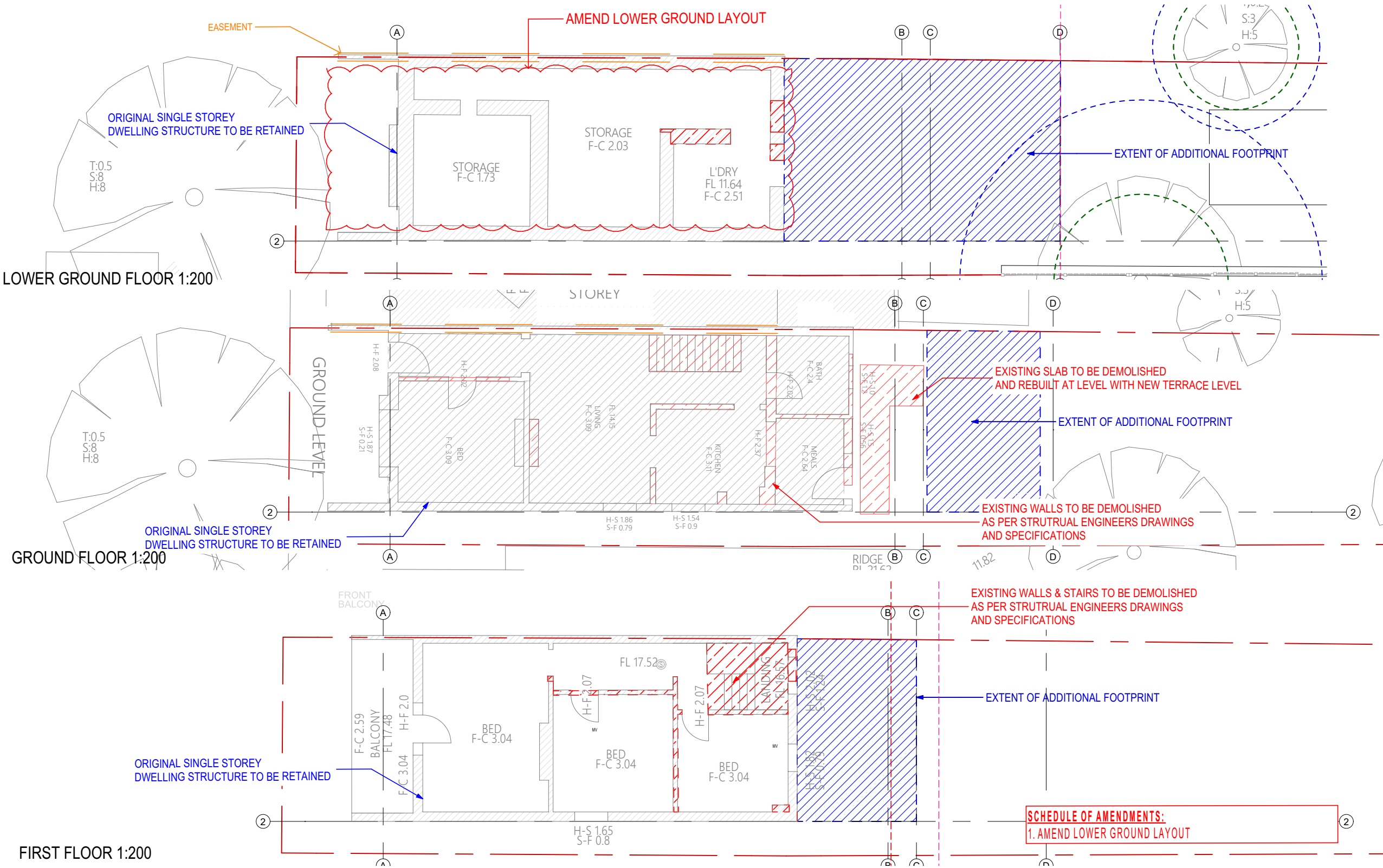
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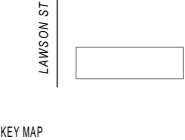

- SCHEDULE OF AMENDMENTS:**
- 1. CABANA REMOVED
 - 2. TREE RETAINED
 - 3. RELOCATED POOL
 - 4. REDUCED POOL COPING TO 200mm
 - 5. INCREASED SETBACK TO ALIGN WITH PREDOMINANT REAR SETBACK

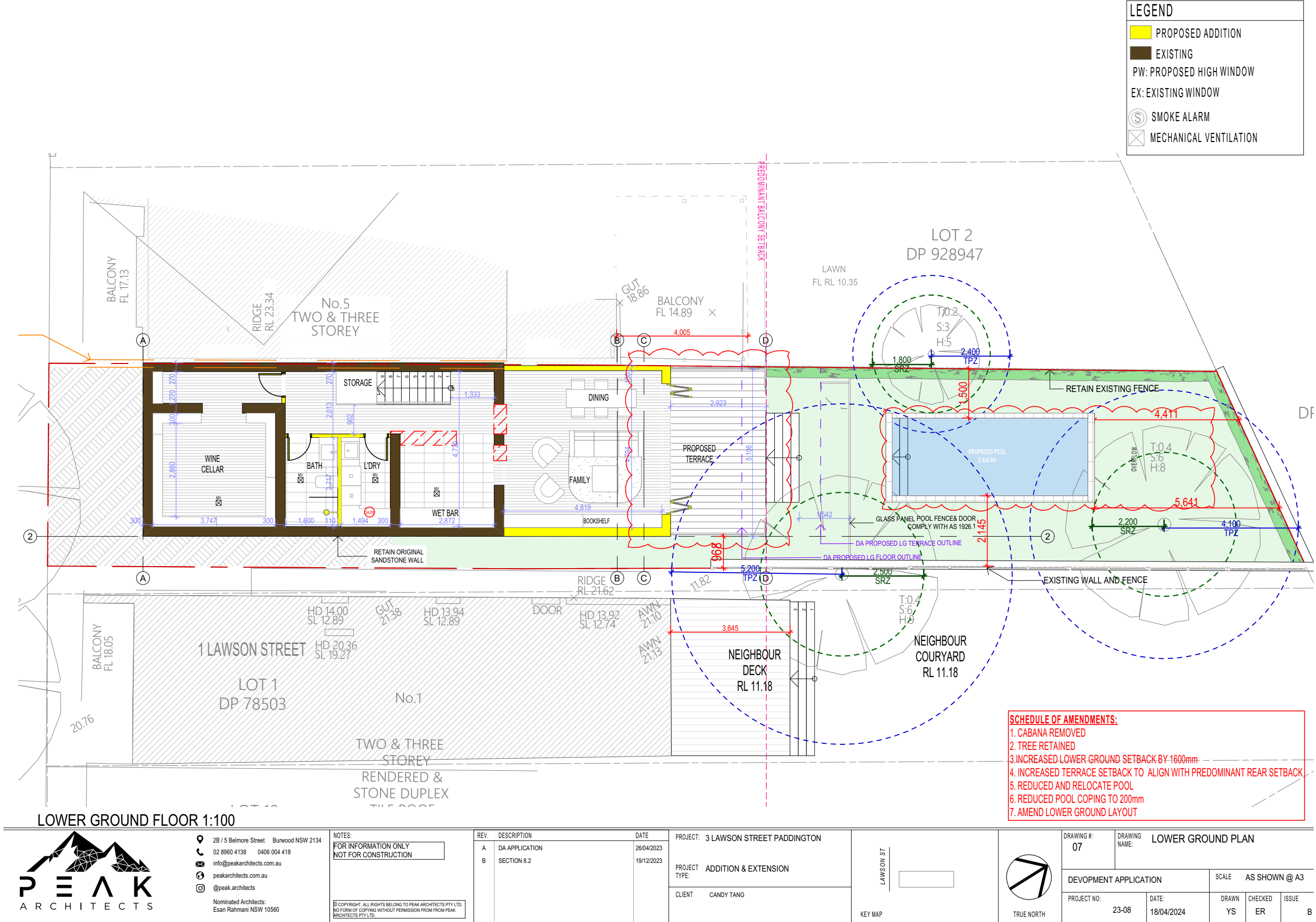
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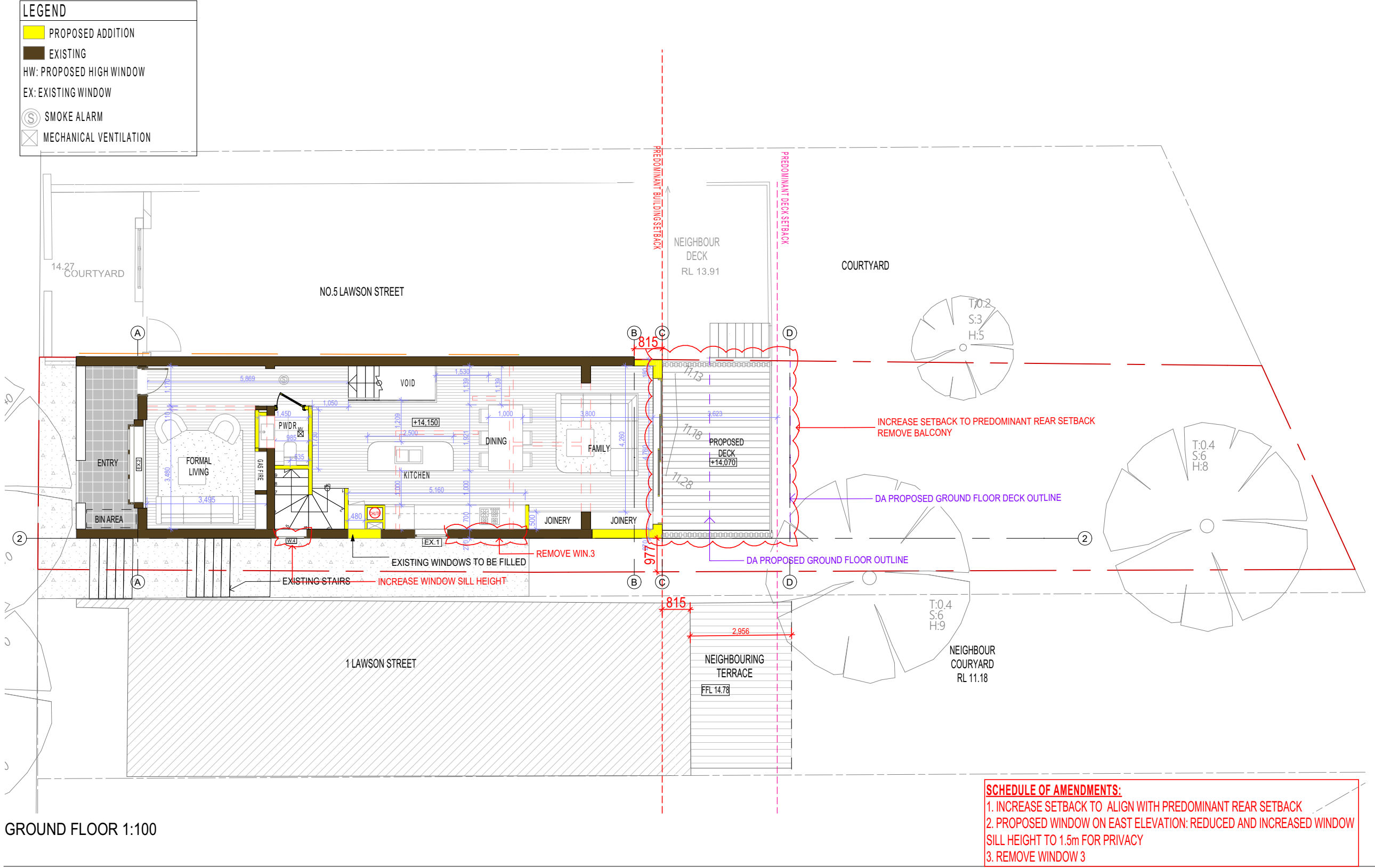
EXISTING BUILDING



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	 info@peakarchitects.com.au			B	SECTION 8.2	19/12/2023									
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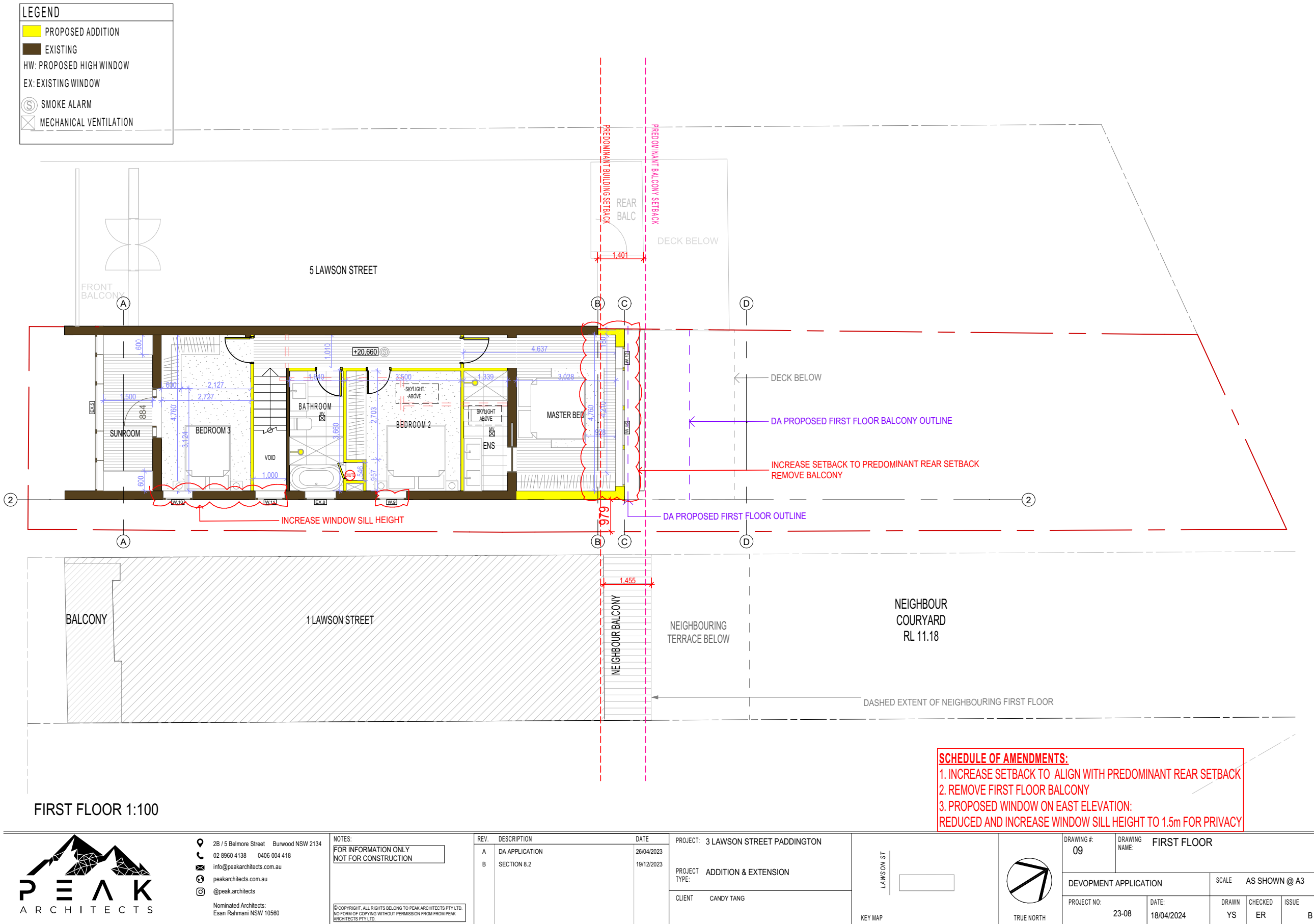


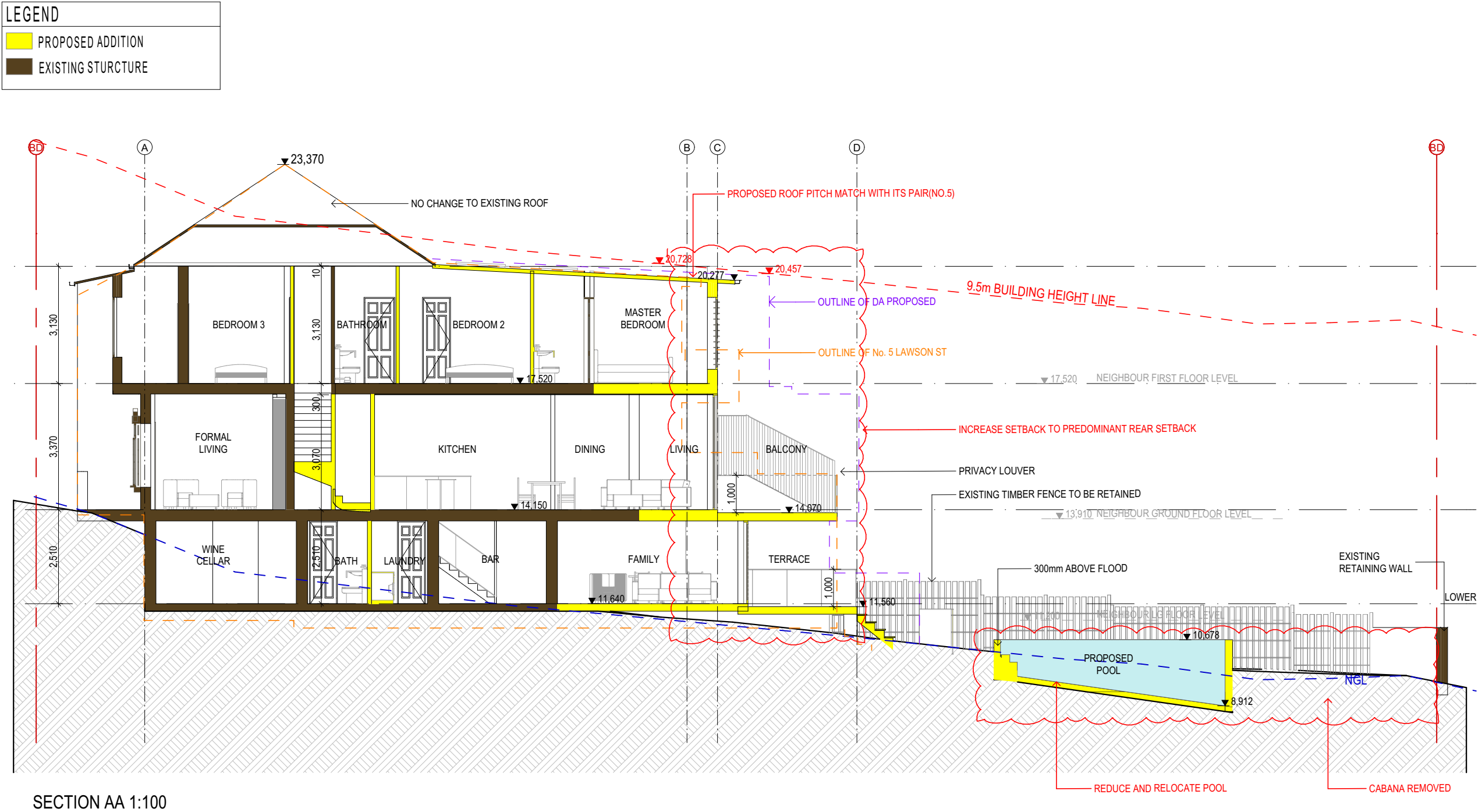
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				CLIENT CANDY TANG			PROJECT NO:	DATE:	DRAWN CHECKED ISSUE
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		A	DA APPLICATION	26/04/2023	PROJECT TYPE: ADDITION & EXTENSION			DEVOPMENT APPLICATION	SCALE AS SHOWN @ A3		PROJECT NO:	DATE:	DRAWN	CHECKED	ISSUE
		B	SECTION 8.2	19/12/2023											
								CLIENT CANDY TANG	23-08		18/04/2024	YS	ER	B	





- SCHEDULE OF AMENDMENTS:**
- 1. CABANA REMOVED
 - 2. INCREASE SETBACK TO ALIGN WITH PREDOMINANT REAR SETBACK
 - 3. REDUCE AND RELOCATE POOL
 - 4. PROPOSED ROOF PITCH MATCH WITH ITS PAIR(NO.5)

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		A	DA APPLICATION	26/04/2023	PROJECT TYPE: ADDITION & EXTENSION			DEVPMENT APPLICATION		SCALE	AS SHOWN @ A3	
		B	SECTION 8.2	19/12/2023	CLIENT CANDY TANG							
								PROJECT NO: 23-08	DATE: 18/04/2024	DRAWN YS	CHECKED ER	ISSUE B

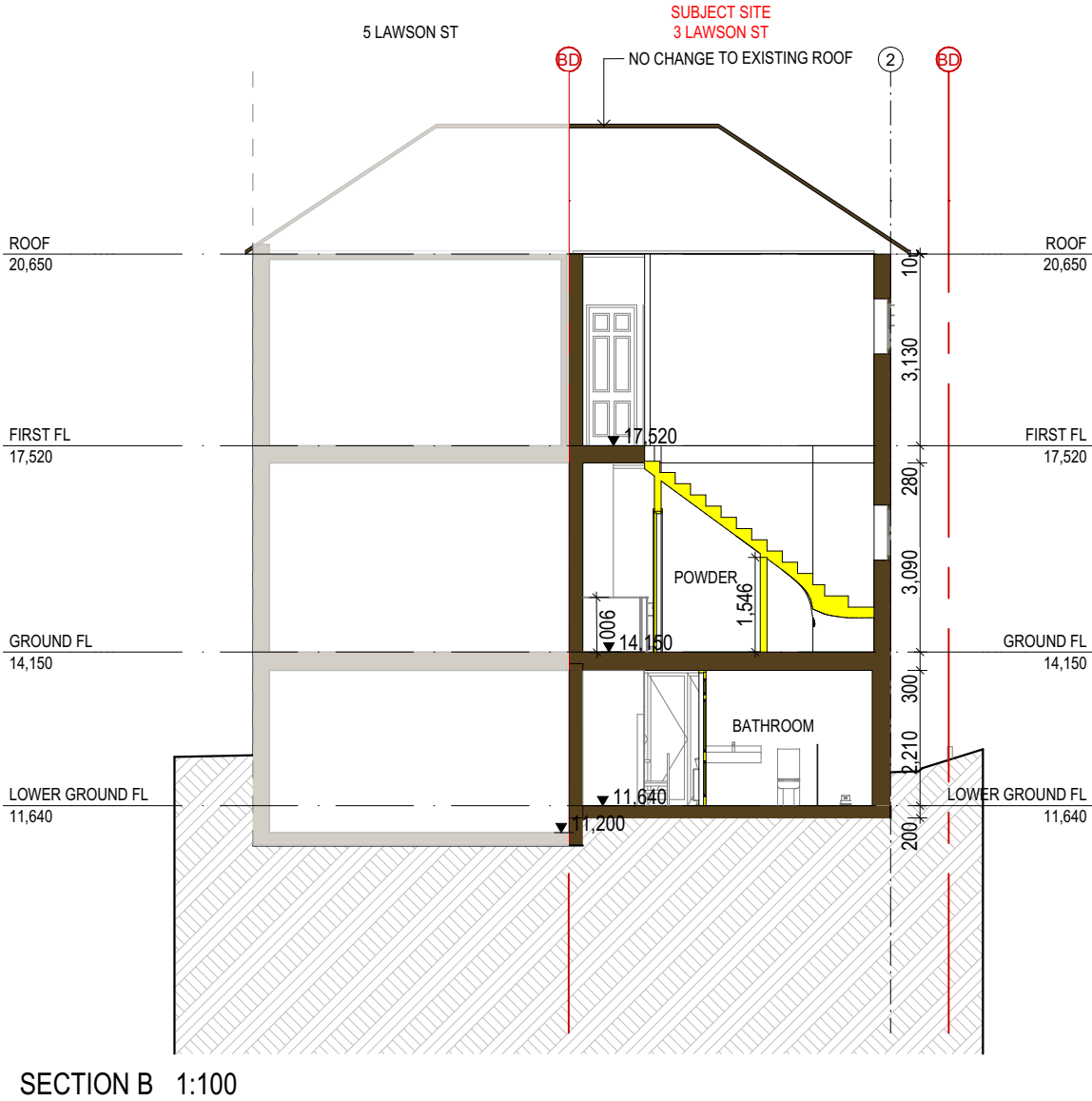
LEGEND


PROPOSED ADDITION

EXISTING STURCTURE

SCHEDULE OF AMENDMENTS:

1. RETAIN LOWER GROUND STURCTURAL WALL





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02 8960 4138 0406 004 418

info@peakarchitects.com.au

peakarchitects.com.au

@peak.architects

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REV.	DESCRIPTION	DATE
A	DA APPLICATION	26/04/2023
B	SECTION 8.2	19/12/2023

PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

CLIENT CANDY TANG

LAWSON ST

KEY MAP

TRUE NORTH

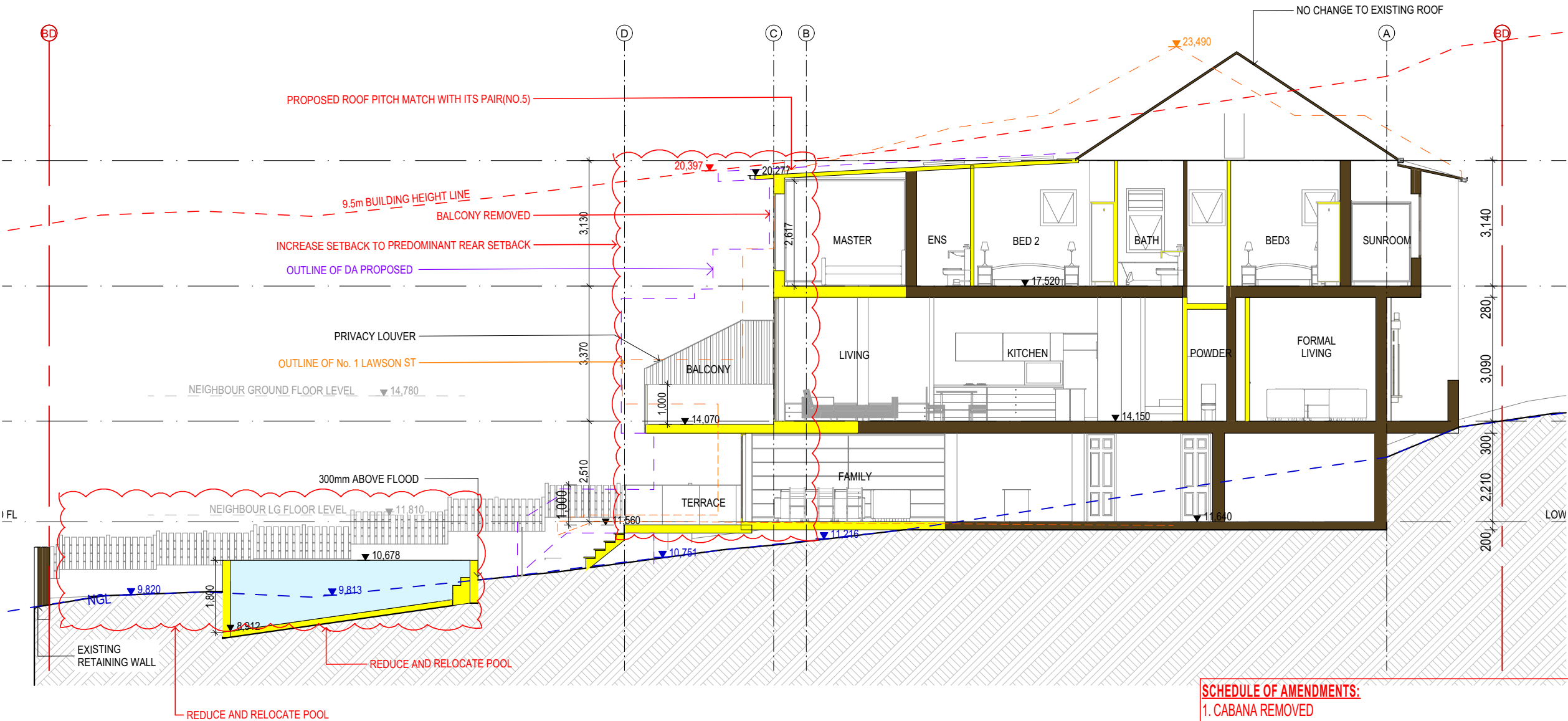
DRAWING #: 11	DRAWING NAME: SECTION BB
DEVOPMENT APPLICATION	
PROJECT NO: 23-08	DATE: 18/04/2024
DRAWN YS	CHECKED ER
ISSUE B	

SCALE AS SHOWN @ A3

LEGEND

PROPOSED ADDITION

EXISTING STUCTURE



SECTION C 1:100

- SCHEDULE OF AMENDMENTS:
1. CABANA REMOVED

2. INCREASED SETBACK TO ALIGN WITH PREDOMINANT REAR SETBACK

3. REDUCED AND RELOCATE POOL

4. REMOVED FIRST FLOOR BALCONY

5. PROPOSED ROOF PITCH MATCH WITH ITS PAIR(NO.5)

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02 8960 4138 0406 004 418

info@peakarchitects.com.au

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B

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19/12/2023

PROJECT:

3 LAWSON STREET PADDINGTON

PROJECT TYPE:

ADDITION & EXTENSION

CLIENT

CANDY TANG

LAWSON ST

KEY MAP

TRUE NORTH

DRAWING #:

12

DRAWING NAME:

SECTION C

DEVELOPMENT APPLICATION

SCALE

AS SHOWN @ A3

PROJECT NO:

23-08

DATE:

18/04/2024

DRAWN

CHECKED

ISSUE

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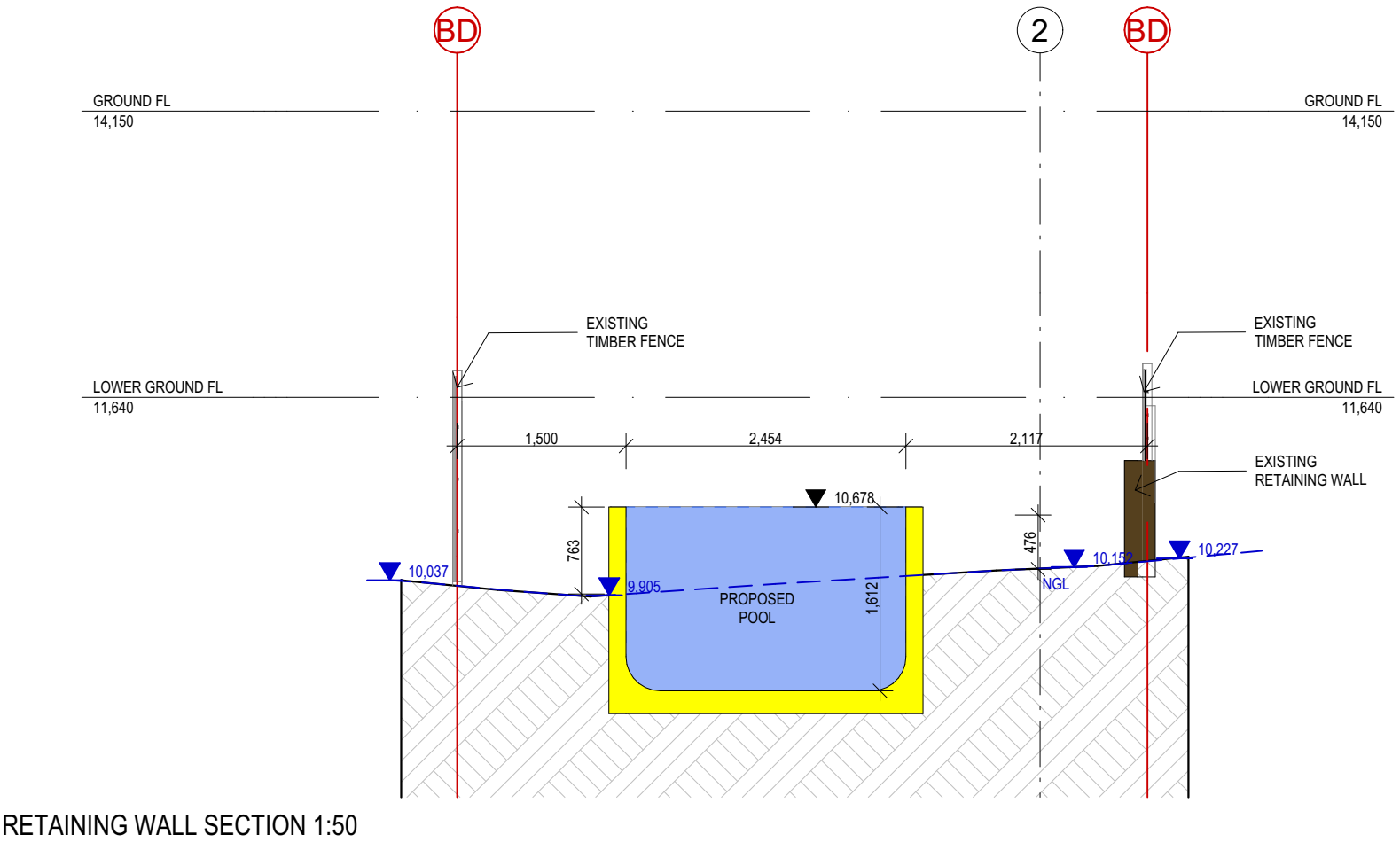
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B

LEGEND

PROPOSED ADDITION

EXISTING STURCTURE





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@peak.architects

Nominated Architects:
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NOTES: ISSUED FOR CONSTRUCTION CERTIFICATION APPROVAL ONLY.

1. SMOKE ALARMS TO BE INSTALLED AS PER BCA & AUSTRALIAN STANDARD REQUIREMENTS.

2. CONTRACTOR MUST VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCING WORK OR PREPARING SHOP DRAWINGS.

3. DO NOT SCALE DRAWINGS.

4. CONTRACTOR TO CHECK UNDERGROUND SERVICES BEFORE COMMENCING WORKS BY CONTACTING DIAL BEFORE YOU DIG. IF DIAL BEFORE YOU DIG INFORMATION IS PROVIDED WITH THIS DOCUMENTATION IT SHALL BE ASSUMED NOT TO BE CURRENT AND CONTRACTOR SHALL MAKE THEIR OWN ENQUIRIES.

5. ALL WORK MUST COMPLY WITH CURRENT BCA AND AUSTRALIAN STANDARDS.

6. ALL MATERIALS MUST COMPLY WITH CURRENT BCA AND AUSTRALIAN STANDARDS.

REV	DESCRIPTION	DATE
A	DA APPLICATION	22/05/2023

PROJECT: #Site Address1

PROJECT TYPE: additional

CLIENT LAURENCE LIN

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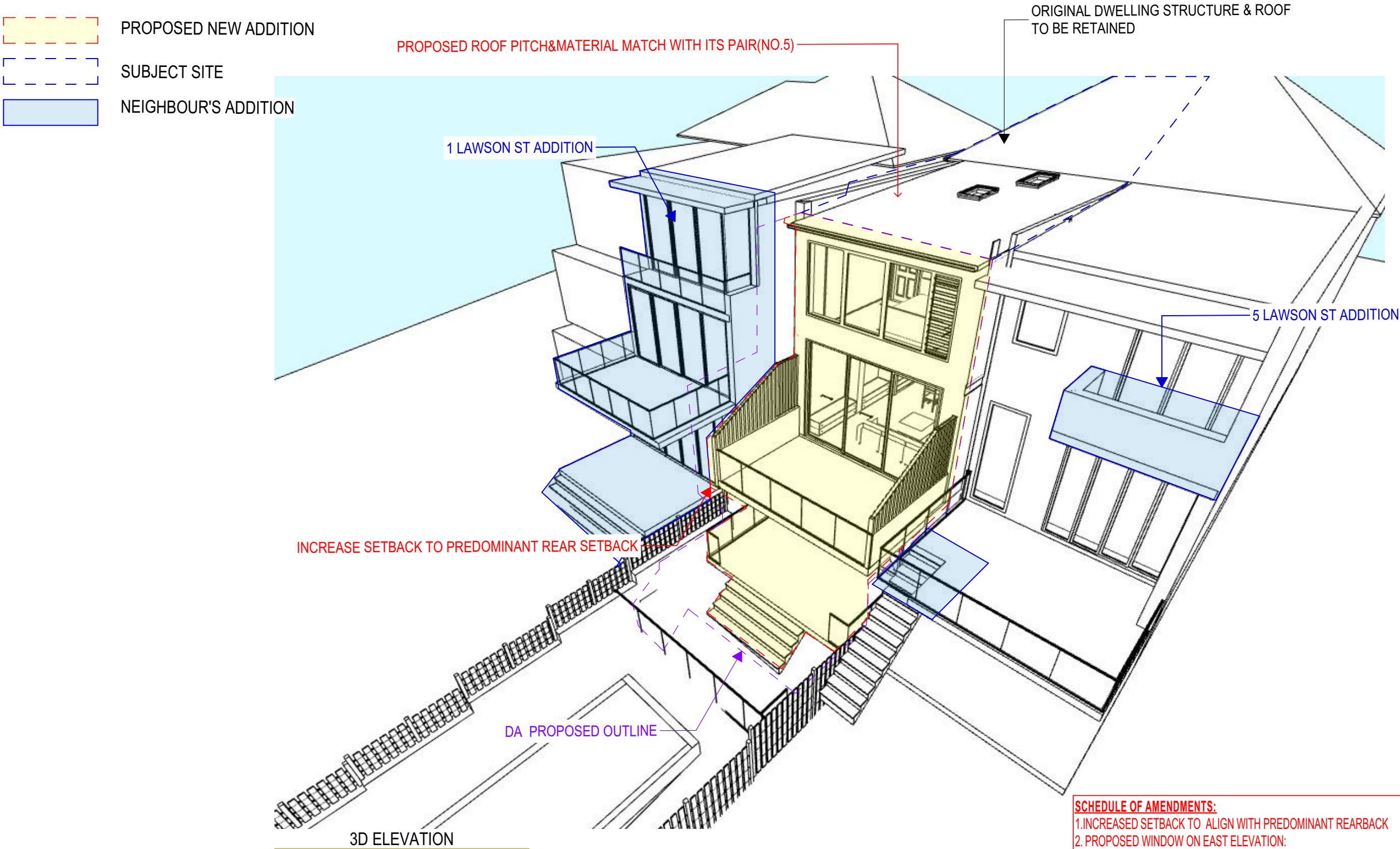
HEADLAND RD

PIIDAR AVE


KEY MAP

TRUE NORTH

DRAWING #:	13	DRAWING NAME:	RETAINING WALL SECTION		
DA		SCALE	AS SHOWN @ A3		
PROJECT NO:	23-08	DATE:	18/04/2024	DRAWN:	SM
		CHECKED:	ER	ISSUE:	B



- SCHEDULE OF AMENDMENTS:**
- 1. INCREASED SETBACK TO ALIGN WITH PREDOMINANT REARBACK
 - 2. PROPOSED WINDOW ON EAST ELEVATION: REDUCED AND INCREASED WINDOW SILL HEIGHT TO 1.6m FOR PRIVACY
 - 3. BALCONY REMOVED
 - 4. PROPOSED ROOF PITCH MATCH WITH ITS PAIR (NO.5)



28 / 5 Belmore Street

Burwood NSW 2134

02 8960 4138

0406 004 418

info@peakarchitects.com.au

peakarchitects.com.au

@peak.architects

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PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

CLIENT: CANDY TANG

LAWSON ST

KEY MAP



TRUE NORTH

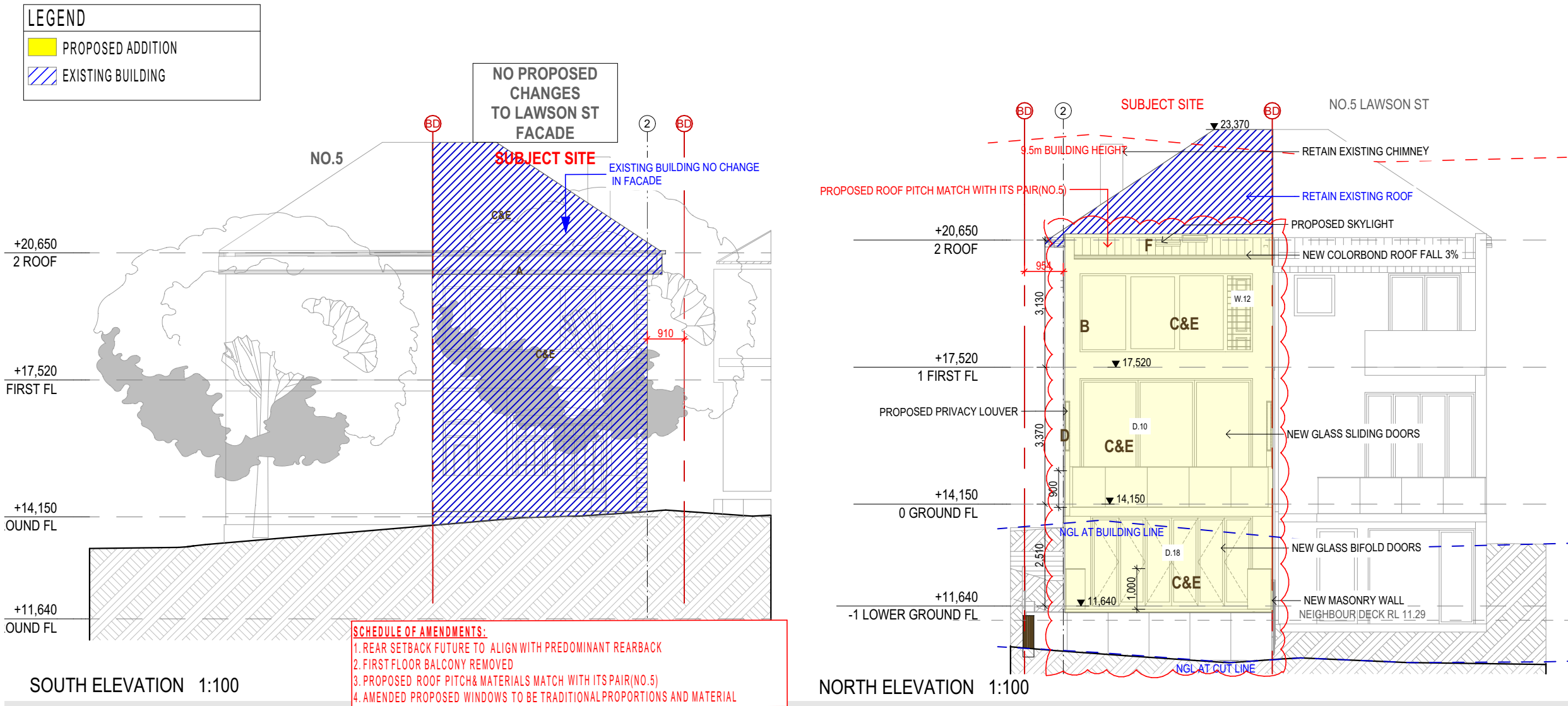
DRAWING #: 14

DRAWING NAME: 3D ELEVATION

DEVOPMENT APPLICATION		SCALE AS SHOWN @ A3		
PROJECT NO:	DATE:	DRAWN	CHECKED	ISSUE
23-08	18/04/2024	YS	ER	B

Attachment 1 Architectural Plans

Page 509



A

PAINT FINISH
DULUX-MALAY GREY TO MATCH WITH EXISTING

B

PAINT FINISH
DULUX - ASHVILLE OR SIMILAR

C

NEW TIMBER FRAMED DOORS&WINDOWS
DULUX - VIVID WHITE OR SIMILAR

D

TIMBER LOUVERES
EMBELTON LIGHT LANGLEY WALNUT OR SIMILAR

E

CLEAR GLAZING
ALL GLAZING TO BE LOW-E GLASS
VIRIDIAN - SUPERCLEAR™ OR SIMILAR

F

COLORBOND STEEL ROOFING - LIGHT GREY
OR SIMILAR TO MATCH No.5 LAWSON

FINISHES SCHEDULE

28 / 5 Belmore Street Burwood NSW 2134
02 8960 4138 0406 004 418
info@peakarchitects.com.au
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PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

CLIENT: CANDY TANG

LAWSON ST

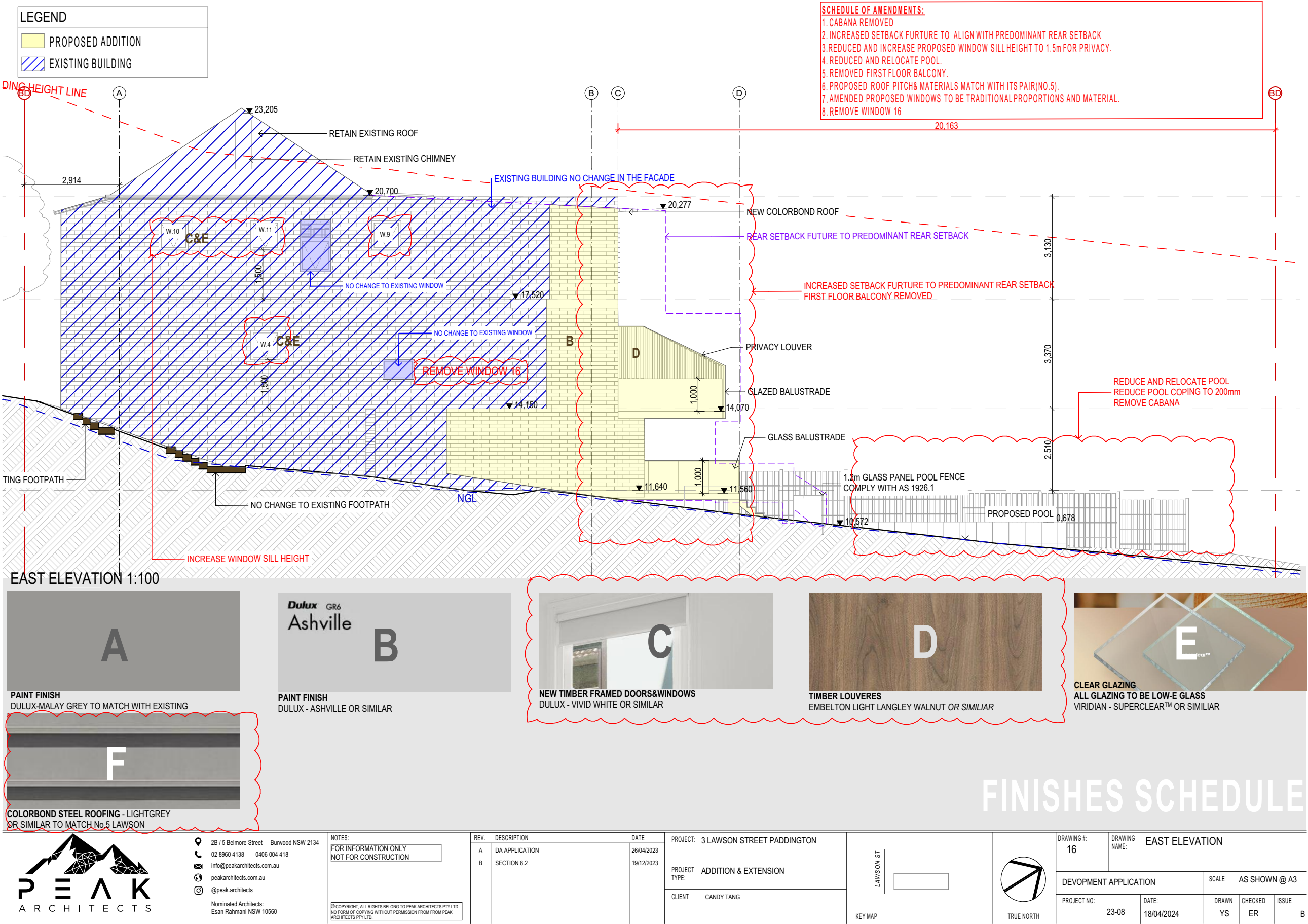
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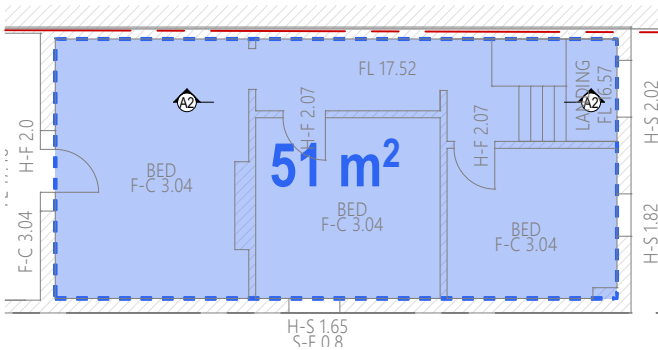
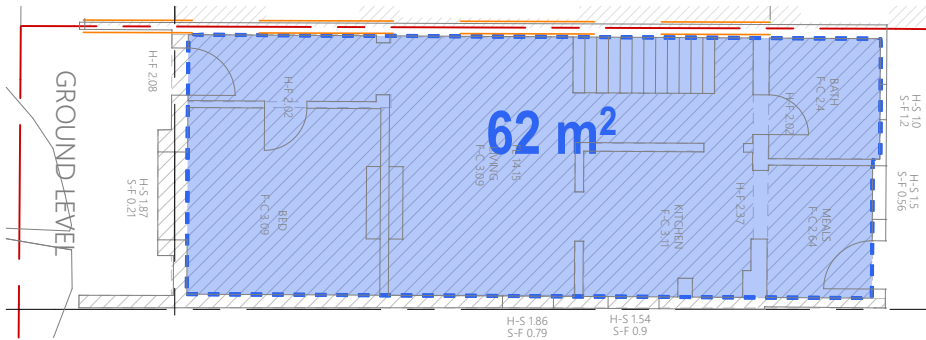
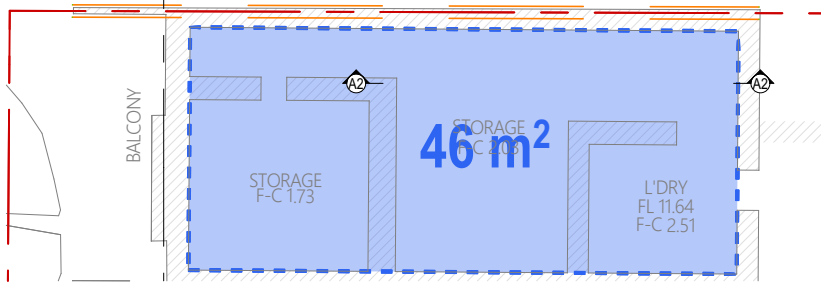
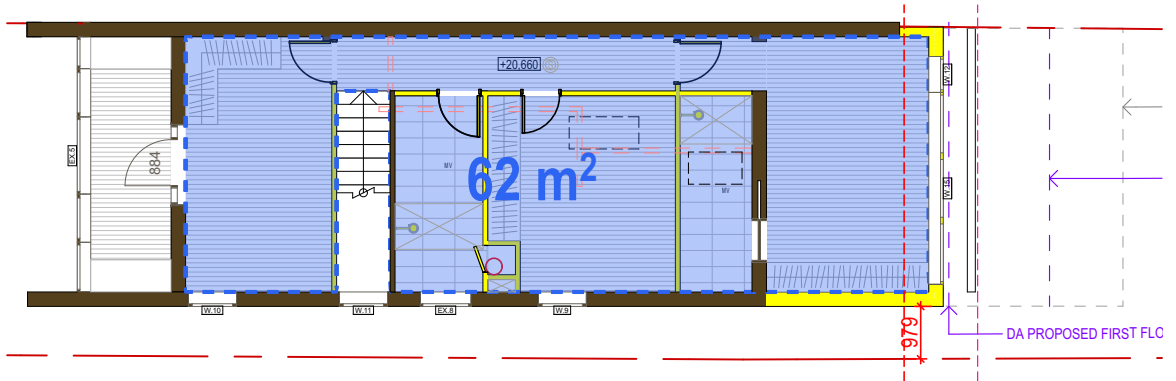
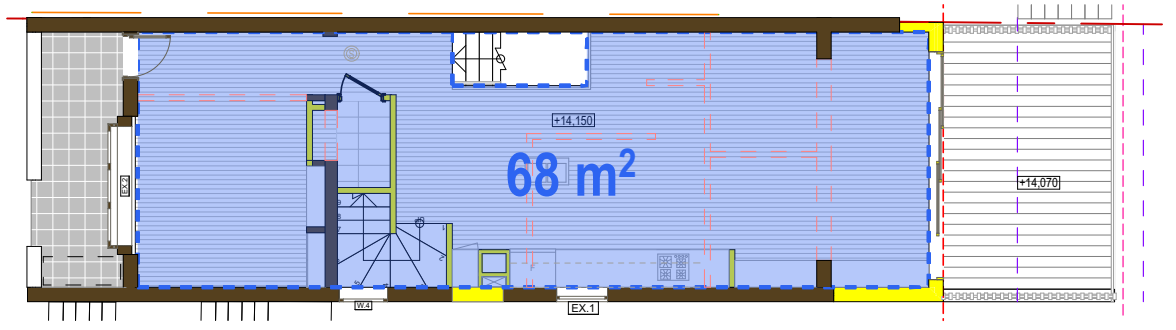
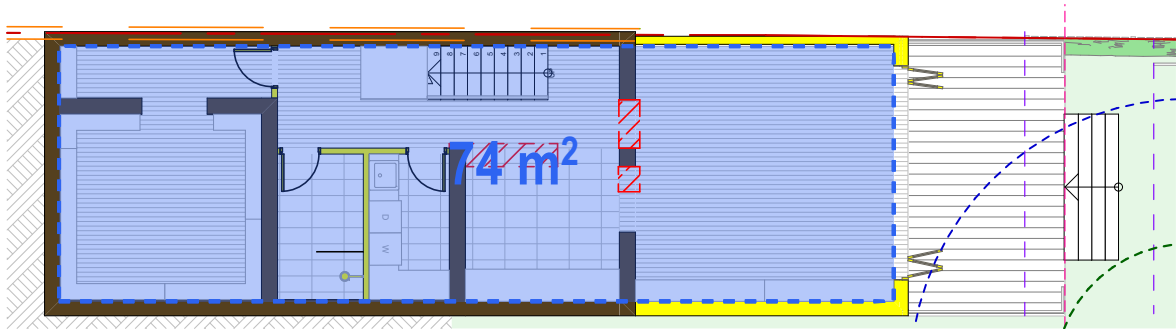
TRUE NORTH

DRAWING #: 15




DRAWING NAME: SOUTH & NORTH ELEVATION

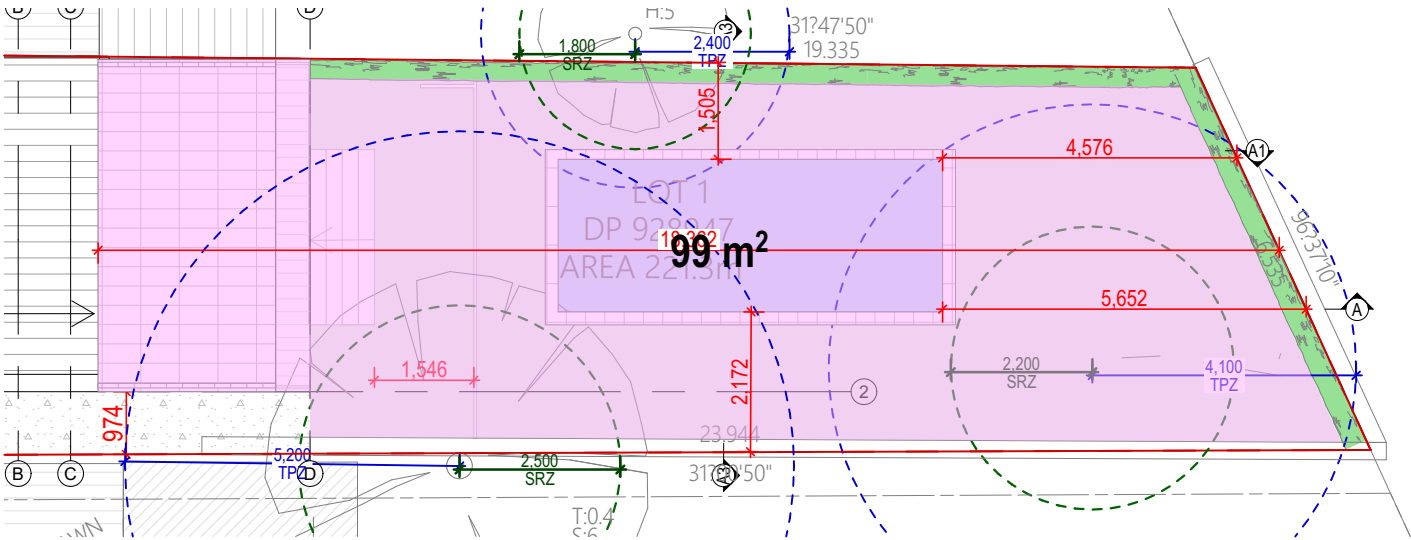
DEVELOPMENT APPLICATION		SCALE	
		AS SHOWN @ A3	
PROJECT NO:	23-08	DATE:	18/04/2024
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ISSUE			B



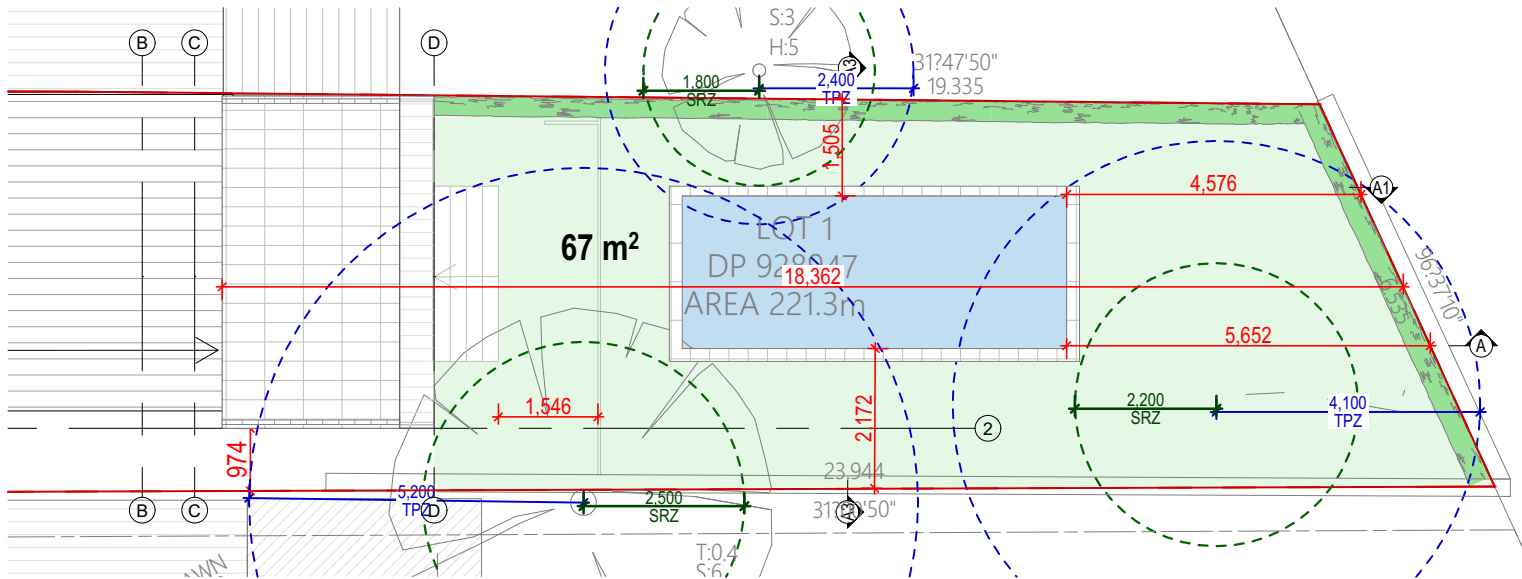


GFA CALCULATIONS	
SITE AREA: 221.3 m²	
ALLOWABLE GFA: 0.85:1	
OR 188.105m²	
PROPOSED GFA: 204m²	
EXISTING GFA: 159m²	
SCHEDULE OF AMENDMENTS	
1. REDUCED GFA BY 17m²	

 <div>28 / 5 Belmore Street Burwood NSW 2134 02 8960 4138 0406 004 418 info@peakarchitects.com.au peakarchitects.com.au @peak.architects Nominated Architects: Esan Rahmani NSW 10560</div>	<div>NOTES: FOR INFORMATION ONLY NOT FOR CONSTRUCTION</div> <div>© COPYRIGHT, ALL RIGHTS BELONG TO PEAK ARCHITECTS PTY LTD. NO FORM OF COPYING WITHOUT PERMISSION FROM PEAK ARCHITECTS PTY LTD.</div>	REV. DESCRIPTION DATE	PROJECT: 3 LAWSON STREET PADDINGTON	<div>LAWSON ST</div> <div></div> <div>KEY MAP</div>	<div></div> <div>TRUE NORTH</div>	DRAWING #: 17	DRAWING NAME: GFA CALC	SCALE AS SHOWN @ A3			
		A DA APPLICATION 26/04/2023 B SECTION 8.2 19/12/2023	PROJECT TYPE: ADDITION & EXTENSION			DEVELOPMENT APPLICATION		DRAWN	CHECKED	ISSUE	
				CLIENT CANDY TANG		PROJECT NO: 23-08		DATE: 18/04/2024		YS	ER



PRIVATE OPEN SPACE



PROPOSED DEEP SOIL LANDSCAPING

MINIMUM PRIVATE OPEN SPACE (PADDINGTON DCP)
= 16% OF SITE AREA

PROPOSED PRIVATE OPEN SPACE = 99m²
= 44.7% OF SITE AREA

COMPLIES

MINIMUM DEEP SOIL LANDSCAPING (PADDINGTON DCP)
= 12% OF SITE AREA


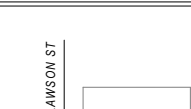

PROPOSED DEEP SOIL LANDSCAPING = 67m²
=30% OF SITE AREA

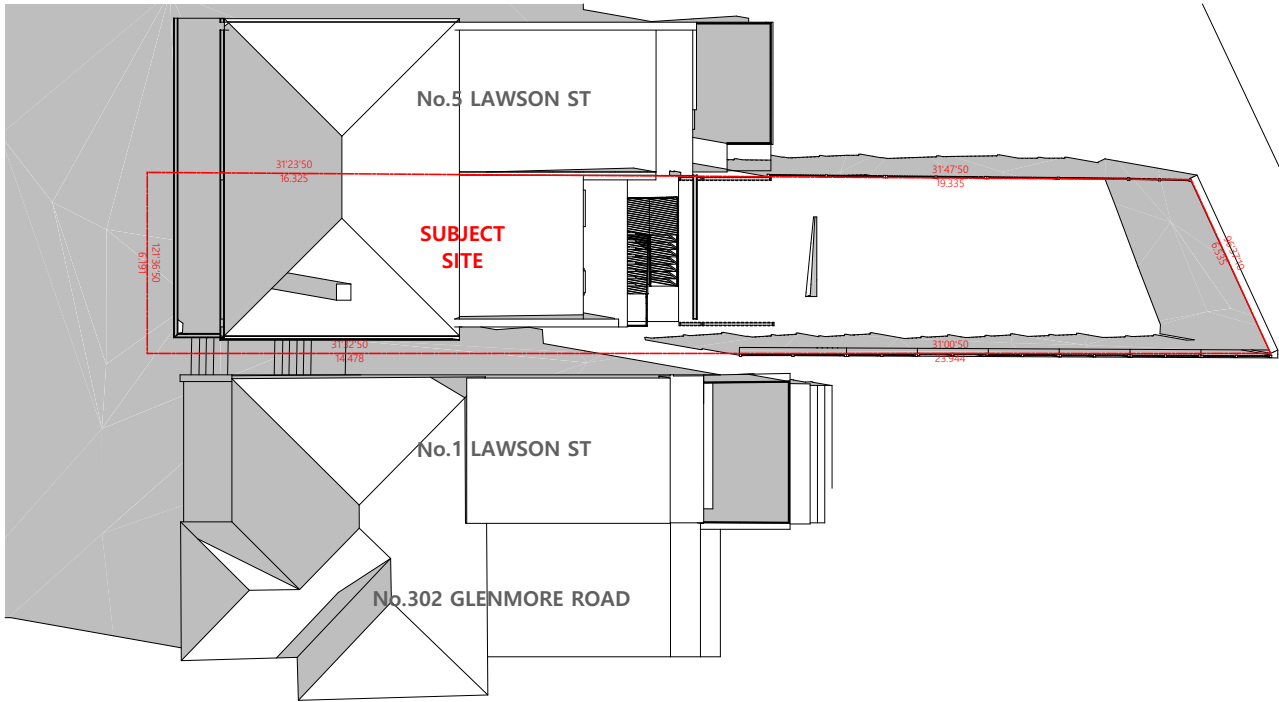
COMPLIES

LEGEND

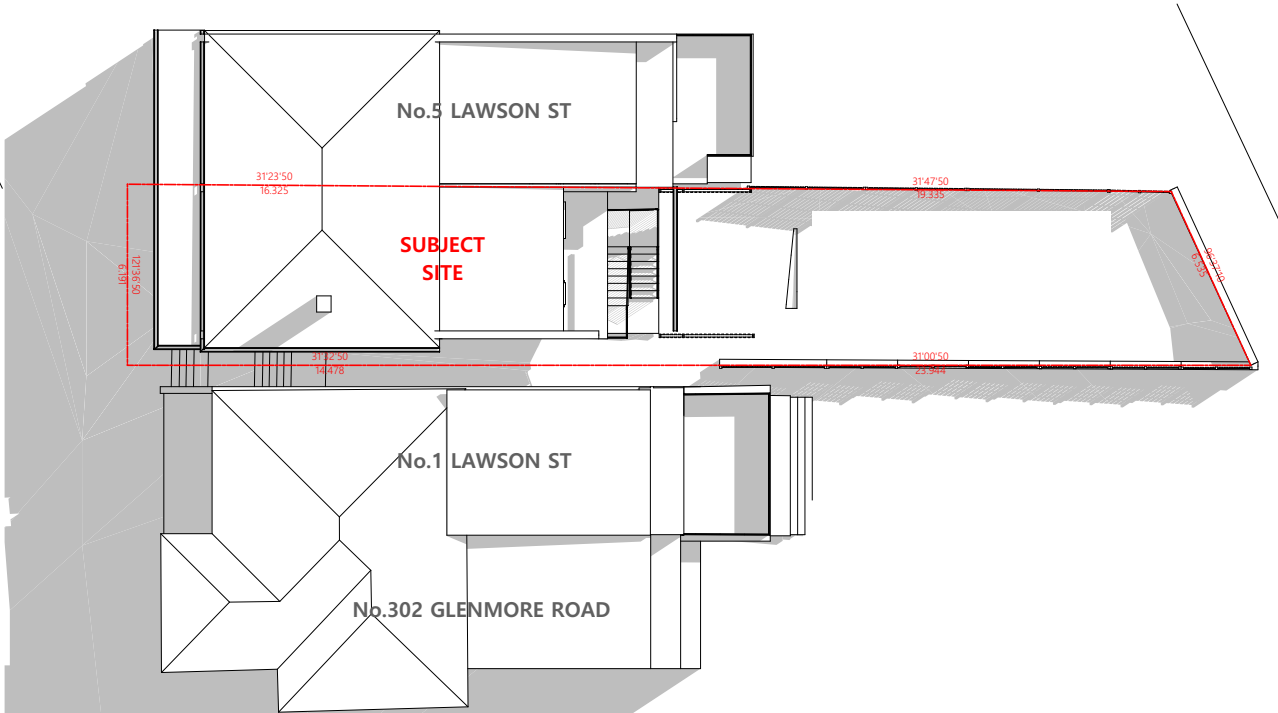
- PRIVATE OPEN SPACE
- LANDSCAPE AREA

SCHEDULE OF AMENDMENTS
1.INCREASED LANDSCAPE AREA BY 30m²

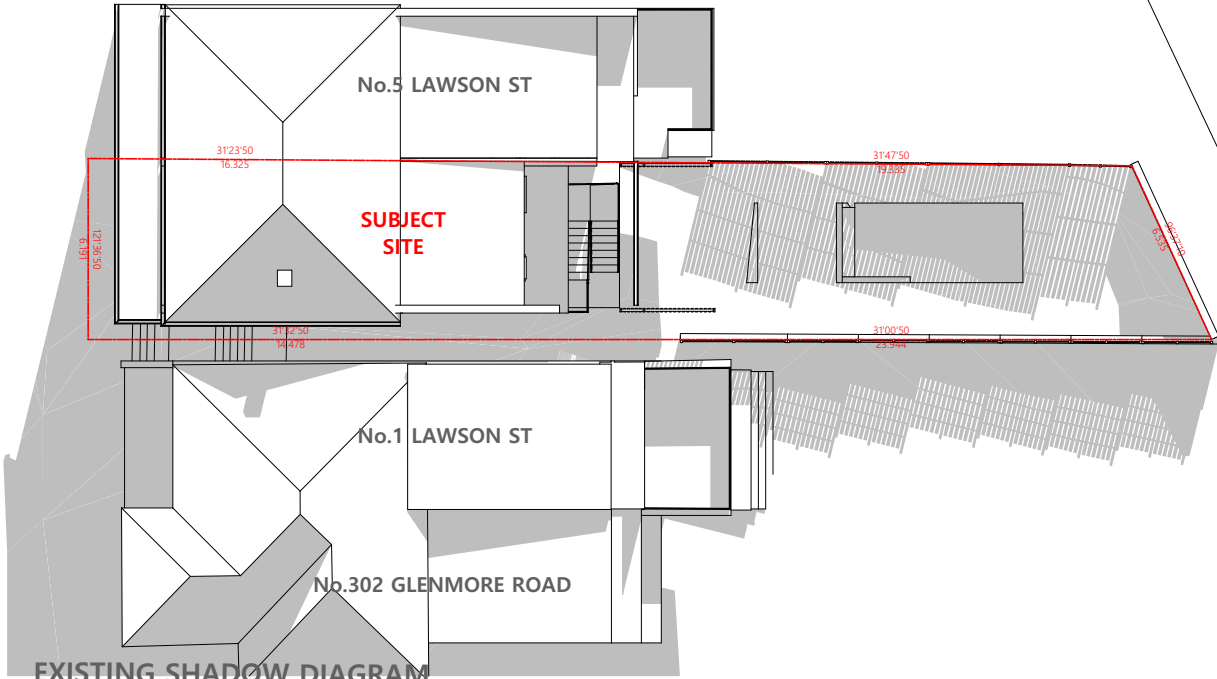
<div><div>28 / 5 Belmore Street Burwood NSW 2134 02 8960 4138 0406 004 418 info@peakarchitects.com.au peakarchitects.com.au @peak.architects Nominated Architects: Esan Rahmani NSW 10560</div></div>	<div>NOTES: <div>FOR INFORMATION ONLY NOT FOR CONSTRUCTION</div> <div>© COPYRIGHT, ALL RIGHTS BELONG TO PEAK ARCHITECTS PTY LTD. NO FORM OF COPYING WITHOUT PERMISSION FROM PEAK ARCHITECTS PTY LTD.</div></div>	<div>REV. DESCRIPTION DATE</div> <div><div>A DA APPLICATION 26/04/2023</div><div>B SECTION 8.2 19/12/2023</div></div>	<div>PROJECT: 3 LAWSON STREET PADDINGTON</div> <div>PROJECT TYPE: ADDITION & EXTENSION</div> <div>CLIENT CANDY TANG</div>	<div>LAWSON ST</div> <div></div> <div>KEY MAP</div>	<div></div> <div>TRUE NORTH</div>	<div>DRAWING #: 18</div> <div>DRAWING NAME: COMPLIANCE DIAGRAMS</div>
		DEVOPMENT APPLICATION		SCALE AS SHOWN @ A3		
		PROJECT NO: 23-08	DATE: 18/04/2024	DRAWN YS CHECKED ER ISSUE B		




EXISTING SHADOW DIAGRAM
JUNE 21 - 9AM



EXISTING SHADOW DIAGRAM
JUNE 21 - 12PM



EXISTING SHADOW DIAGRAM
JUNE 21 - 3PM



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info@peakarchitects.com.au
peakarchitects.com.au
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Nominated Architects:
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REV.	DESCRIPTION	DATE
A	DA APPLICATION	26/04/2023
B	SECTION 8.2	19/12/2023

Nominated Architects:
Esan Rahmani NSW 10560

PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

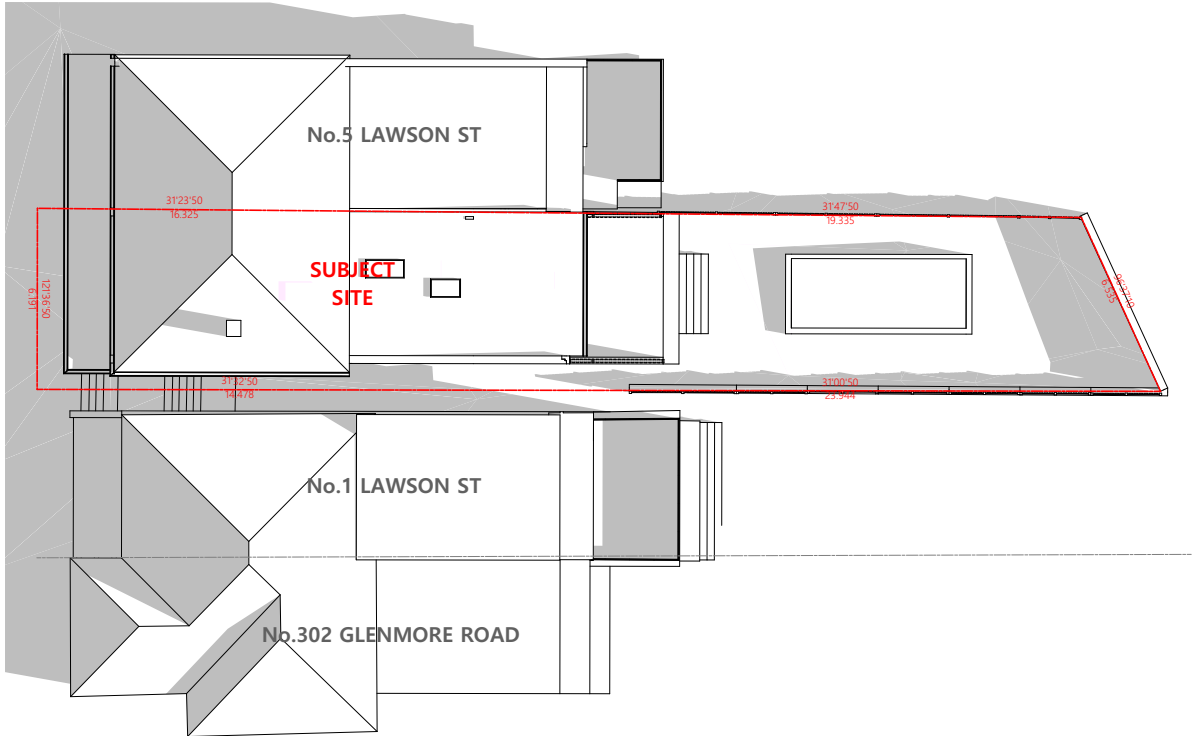
CLIENT CANDY TANG

LAWSON ST

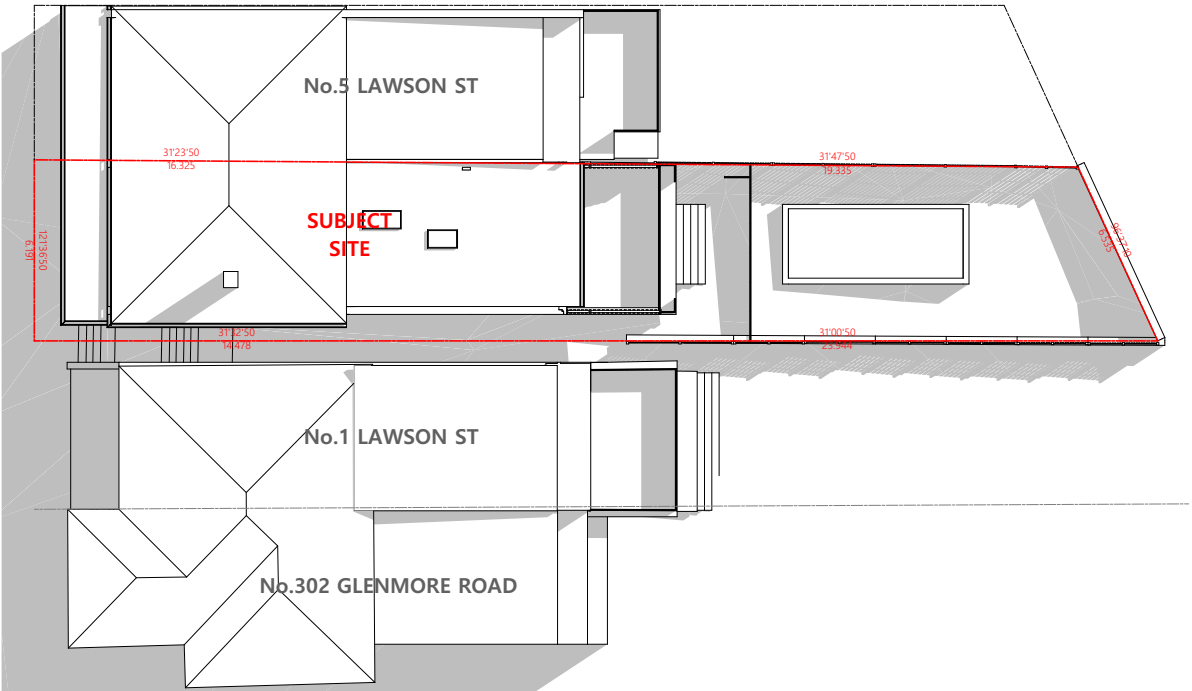
KEY MAP

TRUE NORTH

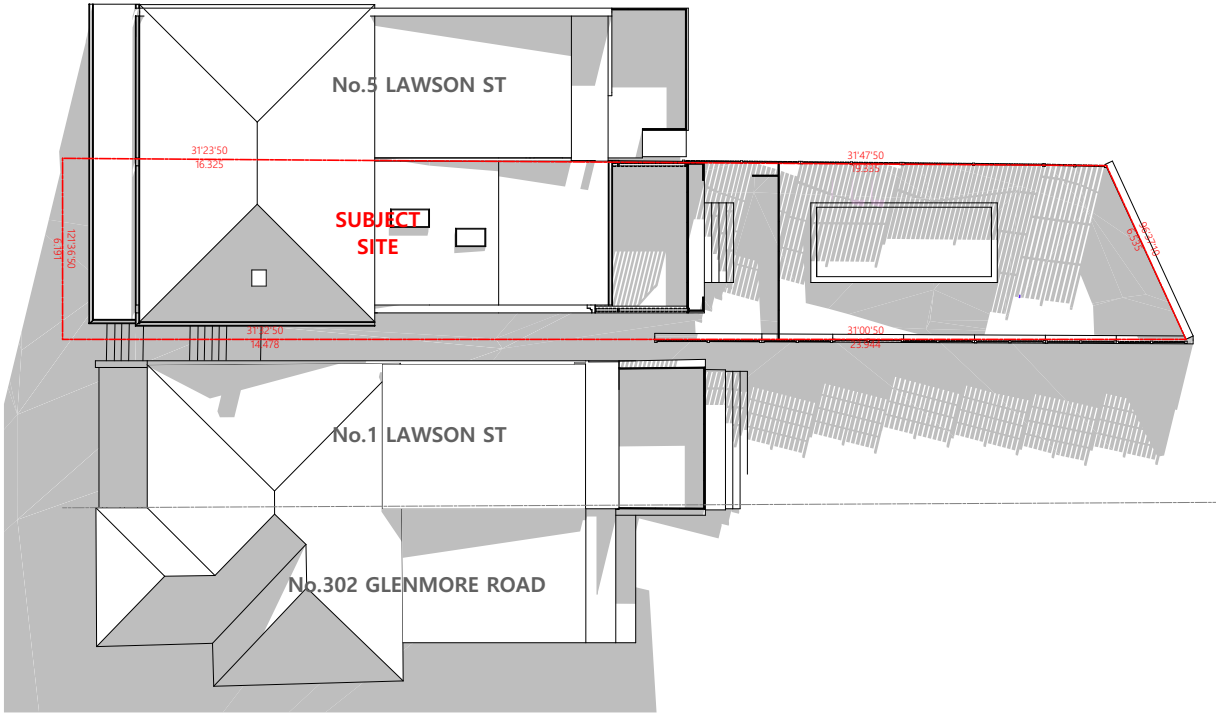
DRAWING #: 19	DRAWING NAME: EXISTING SHADOW DIAGRAM
DEVOPMENT APPLICATION	
SCALE AS SHOWN @ A3	
PROJECT NO: 23-08	DATE: 18/04/2024
DRAWN YS	CHECKED ER
ISSUE B	




PROPOSED SHADOW DIAGRAM
JUNE 21 - 9AM



PROPOSED SHADOW DIAGRAM
JUNE 21 - 12PM



PROPOSED SHADOW DIAGRAM
JUNE 21 - 3PM



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info@peakarchitects.com.au

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REV.	DESCRIPTION	DATE
A	DA APPLICATION	26/04/2023
B	SECTION 8.2	19/12/2023

PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

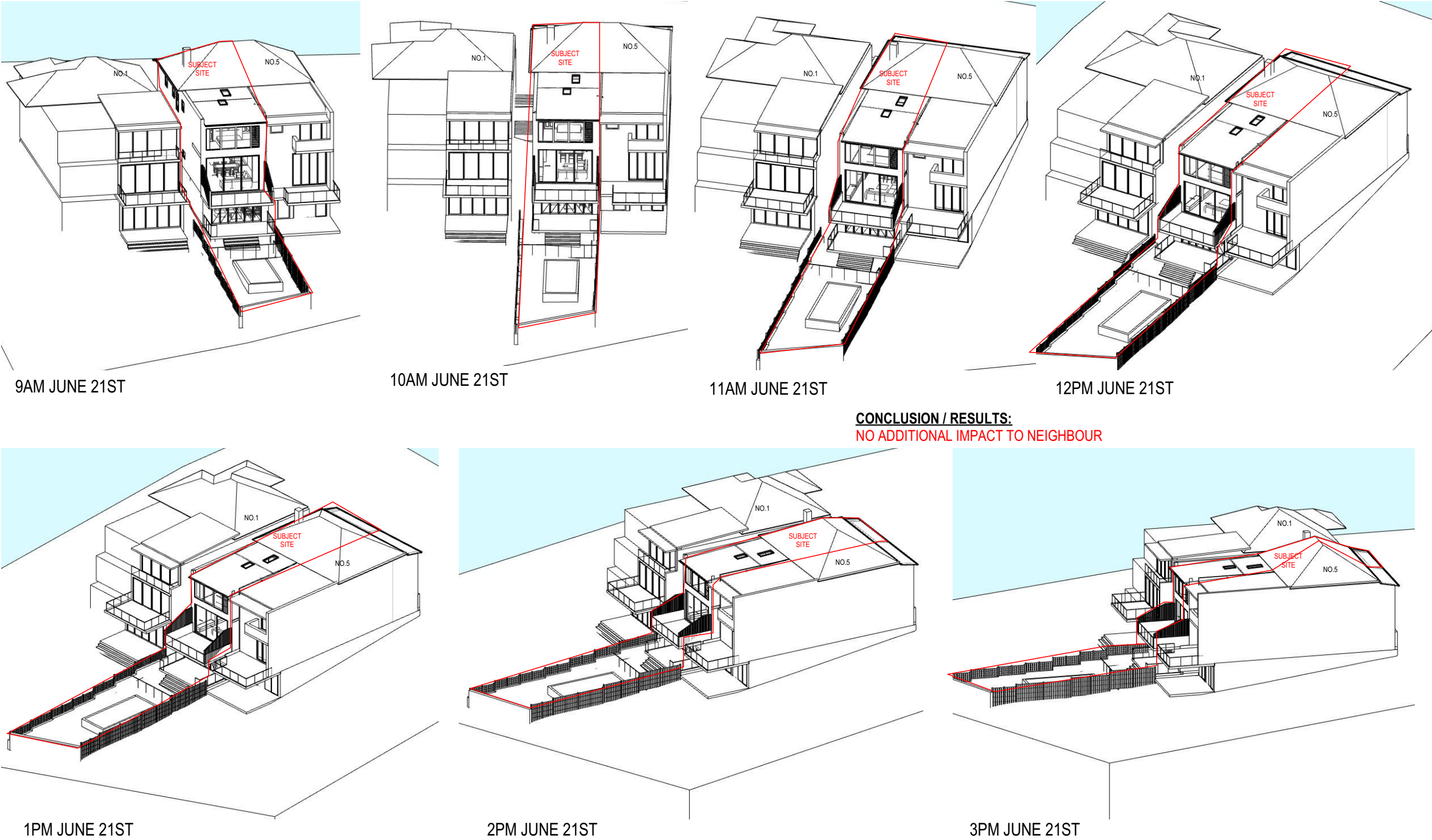
CLIENT: CANDY TANG


LAWSON ST

KEY MAP

TRUE NORTH

DRAWING #: 20	DRAWING NAME: PROPOSED SHADOW DIAGRAM
DEVOPMENT APPLICATION	
PROJECT NO: 23-08	DATE: 18/04/2024
SCALE AS SHOWN @ A3	DRAWN YS
CHECKED ER	ISSUE B





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REV.	DESCRIPTION	DATE
A	DA APPLICATION	26/04/2023
B	SECTION 8.2	19/12/2023

PROJECT: 3 LAWSON STREET PADDINGTON


PROJECT TYPE: ADDITION & EXTENSION

CLIENT: CANDY TANG

LAWSON ST



KEY MAP



TRUE NORTH

DRAWING #:	DRAWING NAME:
21	VIEW FROM SUN

DEVOPMENT APPLICATION		SCALE	
		AS SHOWN @ A3	

PROJECT NO:	DATE:	DRAWN	CHECKED	ISSUE
23-08	18/04/2024	YS	ER	B

Completion Date: 17 October 2023

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 262/2023/1
ADDRESS: 3 Lawson Street PADDINGTON 2021
PROPOSAL: Alterations and additions to existing semi-detached dwelling including new swimming pool and cabana to the rear
FROM: Mr W Huynh
TO: Ms L Williams

1. ISSUES

- None

DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced P715-Rev Final, prepared by Weir Phillips, dated 04/07/2023.
- Architectural Plans, referenced 23-08-Issue A, prepared by Peak Architects, dated 26/04/2023.
- Survey, unreferenced-Issue 1, prepared by NCAF Survey, dated 06/05/2023.
- Stormwater Management Plan, referenced 230508-Rev B, prepared by SYJ Consulting Engineers, dated 05/09/2023.
- Stormwater Design Certificate, referenced 230508, prepared by SYJ Consulting Engineers, dated 18/07/2023.
- Flood Report, unreferenced, prepared by SYJ Consulting Engineers, dated 19/06/2023.
- Geotechnical Report, referenced ESWN-PR-2023-1870, prepared by ESWNMAN Geotechnical Engineering Services, dated 24/08/2023.
- Easement Letter, unreferenced, dated 19/09/2023.

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 property falls towards the rear and is considered a low level property. Evidence has been submitted demonstrating refusal to grant an interallotment drainage easement from the downstream owners. A geotechnical letter has been submitted confirming that the site is unsuitable for the installation of an absorption system. In this regard, a pumpout system will be installed as a method of stormwater disposal to the street drainage system. Note that the proposed capacity of the rainwater tank connected upstream of the pump out system is based on the impervious area, rather than the total site area as required by the DCP. The capacity of the rainwater tank must be increased, this will be addressed by way of conditions.

Council's Infrastructure and Sustainability Division is satisfied that adequate provision could be made for the disposal of stormwater from the land it is proposed to develop and complies with Chapter E2 "Stormwater and Flood Risk Management" DCP.

b. Flooding & Overland Flow comments

Council's Drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following condition:

C.54 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).

- a) A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry,*
- b) All fences traversing the over land flow path shall be designed to be flow through,*
- c) Flood compatible materials shall be used for all flood exposed construction,*
- d) All flood exposed electrical wiring and equipment shall be waterproofed,*
- e) A clear overland flow path shall be provided, and*
- 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.*

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

c. Impacts on Council Infrastructure comments

Not relevant

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

Not relevant

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by ESWNMAN Geotechnical Engineering Services, Ref: ESWN-PR-2023-1870, dated 24 August 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 1.2 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, 0.4m, 0.4m, and 0.6m in BH1 to BH4 respectively.*
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 0.9m, 0.5m, 0.9m, and 1.2m in BH1 to BH4 respectively.*
- c) Sandstone bedrock was inferred beneath the natural sand at depth ranging between 0.5m and 1.2m.*

d) Groundwater was not observed during the investigation.

The report made comments and recommendations on the following:

- Shoring and support,
- 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

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/Drawn	Date(s)
ESWN-PR-2023-1870	Geotechnical Report	ESWNMAN P/L	24/08/2023
	Flood Report	SYJ Consulting Engineers	19/06/2023
230508	Stormwater Management Plans	SYJ Consulting Engineers	05/09/2023
DA00-Rev B			05/09/2023
DA01-Rev B			05/09/2023
DA02-Rev B			05/09/2023
DA03-Rev B			05/09/2023
DA04-Rev B			05/09/2023

A.8 Ancillary Aspect of the Development (Repair Damaged Infrastructure)

A.31 No Underpinning works

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.7 Public Road Assets Prior to Any Work/Demolition

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.5 Security Deposits

Property Damage Security Deposit (\$138)	\$23,845	No	T115
--	----------	----	------

C.13 Road and Public Domain Works – Council Approval Required

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to issue of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- a) The installation of stormwater outlet pipe across the nature strip must be made by using 150mm x 75mm galvanised RHS in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. The kerb discharge must be located within the frontage of the site. Details showing the reinstatement of the nature strip due to the installation of the stormwater outlet pipe must be provided to the satisfaction of Council's Assets Engineers. Design longitudinal profile of the proposed stormwater outlet pipe, starting from the boundary junction pit to the street kerb must also be submitted for assessment.
Note: All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP.
- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers, and
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: *Road* has the same meaning as in the *Roads Act* 1993.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Note: See condition K24 in *Section K. Advising* of this Consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

C.25 Soil and Water Management Plan – Submissions & Approval

C.35 Structural Adequacy of Existing Supporting Structures

C.36 Professional Engineering Details

C.37 Engineer Certification

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.

Any structural design is not to incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc which encroach outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

C.40 Geotechnical and Hydrogeological Design, Certification and Monitoring

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical and hydrogeological report prepared by a Chartered Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Councils document "*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*" and Chapter E2.2.10 of Council's DCP. In particular, minimum two cored boreholes drilling to the depth of excavation must be carried out. The report must also include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking to all below ground structures to prevent the entry of ground water/seepage water such that subsoil drainage/ seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of Council's DCP.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.41 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths. Prior written consent must

be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Minimum Four weeks should be allowed for assessment.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: *Road* has the same meaning as in the *Roads Act 1993*.

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.
Standard Condition: C41 (Autotext: CC41)

C.51 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer, which include the following:

- a) General design in accordance with stormwater management plans, referenced 230508-Rev B, prepared by SJY Consulting Engineers, dated 05/09/2023, other than amended by this and other conditions,
- b) The proposed storage of the required rainwater tank (RWT) must be increased to minimum 15.9m³ to comply with the minimum storage requirement stipulated in Chapter E2.2.9 of Council's DCP. Runoff from all roof areas shall be directed to the proposed RWT for non-potable uses such as toilet flushing, laundry device, pool top-up, car washing and garden irrigations etc. Notation to this requirement must be clearly depicted on the drawings. Overflow from the RWT shall be directed to the proposed pumpout system,
- c) The provision of a pumpout system to collect any surface runoff and rainwater tank's overflow which connects to the 450x450 boundary junction pit. The pumpout system must be designed in accordance with AS3500.3,
- d) The discharge of stormwater from the site to the street kerb, by direct connection located 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,
- e) 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. A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system,

- 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 any remedial works required to upgrade the existing stormwater drainage system,
- h) 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,
- i) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is **NOT** discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- j) Dimensions of all drainage pit and access grates must comply with AS3500 and Council's DCP,
- k) Compliance with the objectives and performance requirements of the BCA, and
- l) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

The *Stormwater Management Plan* must also include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, *Australian Rainfall and Run-off*, 2019 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Council's drainage infrastructure, and
- f) Overland flow paths over impervious areas.

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

For the new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to the issue of any Construction Certificate.

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.
Standard Condition: C.51 (Autotext CC51)

C.52 Non-gravity Drainage Systems

C.54 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).

- a) A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry,
- b) All fences traversing the over land flow path shall be designed to be flow through,
- c) Flood compatible materials shall be used for all flood exposed construction,
- d) All flood exposed electrical wiring and equipment shall be waterproofed,
- e) A clear overland flow path shall be provided, and
- 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.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

Standard Condition C.54 (autotext CC54)

D. Conditions which must be satisfied prior to the commencement of any development work

D.4 Dilapidation Reports for Existing Structures

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties must include (but is not limited to):

No. 1 Lawson Street
No. 5 Lawson Street

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. A copy of the approved reports shall be submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
 - To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
- Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4 (Autotext DD4)

D.6 Adjoining buildings founded on loose foundation materials

D.10 Work (Construction) Zone – Approval & Implementation

D.14 Erosion and Sediment Controls – Installation

E. Conditions which must be satisfied during any development work

E.7 Maintenance of Vehicular and Pedestrian Safety and Access

E.11 Maintenance of Environmental Controls

E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

E.13 Support of Adjoining Land Owners

E.14 Vibration Monitoring

E.15 Erosion and Sediment Controls – Maintenance

E.17 Disposal of Site Water during Construction

E.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the *Act* and Part 8 Division 3 of the *Regulation*)

F.7 Commissioning and Certification of Systems and Works

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (section 6.4 (c))

H.12 Removal of Ancillary Works and Structures

H.13 Road Works (including footpaths)

H.20 Positive Covenant and Works-As-Executed Certification of Rainwater Reuse System

Prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a

registered surveyor and submitted, for approval by the Principal Certifying Authority, certifying:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the rainwater retention and reuse system and the pump out system,
- c) that a rainwater tank with minimum storage of 15.9m³ has been constructed in accordance with the approved stormwater plans,
- d) that runoff from all roof areas have been collected and directed to the as-built rainwater retention and reuse system which have plumbed into all toilet, laundry and garden irrigation etc,
- e) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,
- f) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,
- g) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- h) pipe invert levels and surface levels to Australian Height Datum, and
- i) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the rainwater retention and reuse system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

Note: Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

I. Conditions which must be satisfied during the ongoing use of the development

I.29 Ongoing Maintenance of the Rainwater Retention and Reuse System and Pump out System

The owner(s) must in accordance with this condition and any positive covenant:

- a) permit stormwater to be temporarily retained and reused by the rainwater retention and reuse system;
- b) keep the systems clean and free of silt rubbish and debris;
- c) maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- e) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- f) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- g) comply with the terms of any written notice issued by Council in respect to the

- requirements of this clause within the time stated in the notice; and
- h) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

- a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (**Claims**) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and
- b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

Standard Condition: I29

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation Report

K.24 Roads Act Application

30 April 2024

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Review Application: 262/2023/1
ADDRESS: 3 Lawson Street PADDINGTON 2021
PROPOSAL: Alterations and additions to the existing semi-detached dwelling including a new swimming pool
FROM: Sam Knight
TO: Mr V Aleidzans

I refer to the following documents received for this report:

- Survey Plan, drafted by NCAF Survey Pty Ltd, dated 22 August 2023
- Amended Architectural Drawings, drawn by Peak Architects, dated 19 December 2023
- Arboricultural Impact Assessment Report, written by Urban Arbor, dated 24 January 2024

A site inspection was carried out on 22 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 amended design is supported subject to the below tree conditions being included into the DA consent.

COMMENTS

A review of the plans and documentation has revealed three (3) trees within and adjacent to the site will be impacted by the proposal.

Tree 1 - has been identified as a *Jacaranda mimosifolia* (Jacaranda) located in the rear yard of the property. The tree has been noted in good healthy condition and provides a positive contribution to the amenity and canopy cover of the immediate area. The tree has been rated as having High Landscape Significance and High Retention Value.

It is noted that the design has been amended to include retention of the tree. The pool has been relocated so that it encroaches into less than 10% of the Tree Protection Zone (TPZ) which is considered acceptable by the *Australian Standards AS4970 'Protection of tree on development sites'*.

To ensure the tree is not damaged during the works and remains viable into the future, tree protection measures are to be installed in accordance with the below conditions.

Tree 2 - has been identified as a *Stenocarpus reticulatus* (Firewheel Tree) located directly adjacent to the eastern boundary within the rear yard of 1 Lawson Street. The tree has been noted in good healthy condition and provides a positive contribution to the amenity and canopy cover of the immediate area. The tree has been rated as having High Landscape Significance and High Retention Value.

The plans indicate that the pool will encroach into 7% of the TPZ. An additional 13% encroachment is proposed from the new decking. These combined are considered as Major Encroachment as defined by AS4970. Where an encroachment of greater than 10% into the TPZ is proposed, the project arborist is to demonstrate that the tree will remain viable.

The applicants Arborist Report has outlined that the deck will be constructed on isolated pier footings which involves minimal excavation within the TPZ. This type of construction is considered acceptable provided the footings can be relocated if any tree roots greater than 50mm in diameter are uncovered during the works. This has been detailed in the conditions below for inclusion into the DA consent.

Tree 3 - has been identified as a *Murraya paniculata* (Orange Jessamine) located adjacent to the western boundary within 5 Lawson Street. The tree was noted in good health and condition.

The position of the relocated pool encroaches into less than 10% of the TPZ which is considered acceptable by the AS4970.

To ensure the tree is not damaged during the works and remains viable into the future, tree protection measures are to be installed in accordance with the below conditions.

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	<i>Jacaranda mimosifolia</i>	Rear Yard	8 x 4
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	8 x 3
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	4 x 2

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
240124_3_ Lawson St AIA	Arboricultural Impact Assessment Report	Urban Arbor	24/1/24

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970- 2009). Tree protection zones must also comply with the following requirements;

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Jacaranda mimosifolia</i>	Rear Yard	Install fencing in location shown in Appendix 1B of approved AIA Report by Urban Arbor
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	Install fencing in location shown in Appendix 1B of approved AIA Report by Urban Arbor

3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	Install fencing in location shown in Appendix 1B of approved AIA Report by Urban Arbor
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Note: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Establishment of Ground protection
Ground protection shall be established within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Tree Location	Radius from Centre of Trunk (Metres)
1	<i>Jacaranda mimosifolia</i>	Rear Yard	Install ground protection as shown in Appendix 1B of approved AIA Report by Urban Arbor
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	Install ground protection as shown in Appendix 1B of approved AIA Report by Urban Arbor
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	Install ground protection as shown in Appendix 1B of approved AIA Report by Urban Arbor

Ground protection shall consist of (geotextile fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface. No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works

sheds, preparation of mixes or cleaning of tools is permitted within the ground protection area 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.
- i) 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	Jacaranda mimosifolia	4.1m	Installation of new pool
2	Stenocarpus reticulatus	5.2m	Installation of new pool and decking
3	Murraya paniculata	2.4m	Installation of new pool

The project arborist shall provide written certification of compliance with the above condition.

B.3 Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- c) Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

B.4 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development
- Recommended actions to improve site conditions and rectification of non-compliance
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist must supervise the installation of the pool within the TPZ of trees 1, 2 and 3, 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.

	<ul style="list-style-type: none"> 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 the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> The project arborist shall supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

D. Conditions which must be satisfied prior to the commencement of any development work

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

All persons must comply with Chapter E.3 – Tree Management of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to

any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.2 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Jacaranda mimosifolia</i>	Rear Yard	4.1m
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	5.2m
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	2.4m

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.3 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	<i>Jacaranda mimosifolia</i>	Rear Yard	4.1m
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	5.2m

3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	2.4m
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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	<i>Jacaranda mimosifolia</i>	Rear Yard	4.1m
2	<i>Stenocarpus reticulatus</i>	Adj eastern boundary – within 1 Lawson St	5.2m
3	<i>Murraya paniculata</i>	Adj western boundary – within 5 Lawson St	2.4m

Any roots greater than 40mm diameter uncovered for the installation of stormwater pipes and pits shall not be severed and remain in situ bridging across the excavated trench. Pipes shall be guided under any roots greater than 40mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 40mm diameter are severed.

The project arborist shall document compliance with the above condition.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

H.1 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

I. Conditions which must be satisfied during the ongoing use of the development

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Pruning or Removing a Tree Growing on Private Property

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.

Sam Knight
Tree Officer



Woollahra
Municipal
Council

9 August 2023

REFERRAL RESPONSE – DRAINAGE

FILE NO: Development Applications: 262/2023/1

ADDRESS: 3 Lawson Street PADDINGTON 2021

PROPOSAL: Alterations and additions to existing semi-detached dwelling including new swimming pool and cabana to the rear

FROM: Michael Casteleyn

TO: Ms L Williams

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- 23/135359 document - Flood Report - DA2023/262/1 - 3 Lawson Street PADDINGTON

3. ASSESSMENT

Council's Drainage Engineer has reviewed the submitted DA.

4. RECOMMENDATION

Council's Drainage Engineer has determined that the proposal is satisfactory, subject to the following conditions:

D	1.	Flood Protection
		<p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).</p> <p><u>Flood Warning:</u></p> <p>a) A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry,</p> <p><u>Fencing</u></p>



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Council

	<p>a) All fences traversing the over land flow path shall be designed to be flow through,</p> <p><u>Flood Proof Material</u></p> <p>a) Flood compatible materials shall be used for all flood exposed construction.</p> <p><u>Electricals</u></p> <p>a) All flood exposed electrical wiring and equipment shall be waterproofed,</p> <p><u>Overland Flow Paths</u></p> <p>a) A clear overland flow path shall be provided.</p> <p><u>Certification</u></p> <p>a) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,</p> <p>Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure the development incorporates flood inundation protection measures.</p>
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< use the following table format for special bespoke conditions. Delete if not applicable>

1.	<Insert Condition Title>
	<Insert condition text in When, What, How format>
	<p>Notes:</p> <ul style="list-style-type: none"> <insert notes as bullet points if applicable>
	<p>Condition Reason:</p> <p><Insert condition reason></p>

Michael Casteleyn
Drainage Engineer

23/08/2023
Completion Date

Completion Date: 21/11/2023

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 262/2023/1
ADDRESS: 3 Lawson Street PADDINGTON 2021
PROPOSAL: Alterations and additions to existing semi-detached dwelling including new swimming pool and cabana to the rear
FROM: Jasmine Sutrina
TO: Ms L Williams

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, prepared by Weir Phillips Heritage and Planning, dated 04/07/2023.
- Architectural Plans, prepared by Peak Architects, dated 24/04/2023.

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

Alterations and additions:

- **Lower ground**
 - Piano room
 - Wine Cellar
 - Storage
 - Laundry
 - Bathroom
 - Wet bar
 - Dining/Lounge room
- **Ground floor**
 - Powder room
 - Formal Living room
 - Relocation of staircase
 - Open layout kitchen/dining/family room
- **First floor**

- Relocation and expansion of master bedroom with ensuite and wardrobe
- Provision of new bathroom
- Relocation of staircase
- Expansion of bedroom 2
- **Backyard**
 - Terrace
 - Swimming Pool
 - Footpath (stone steps)
 - Cabana
 - Pool Pump
 - Ancillary landscaping
 - Minor cut and fill works
- **Exterior**
 - Proposed deck adjoining family room on ground floor
 - Proposed balcony adjoining master bedroom on first floor.
 - Skylighted added to rear roof
 - Colorbond roof over additions with fall of 3%
 - Eastern elevation: one window filled and two new highlight windows

5. ASSESSMENT

Council Mapping Systems indicate that the subject site is having Class 5 Acid Sulfate Soils and having no potential land contamination. Pool pump is to be located away from habitable areas of neighbouring dwellings, at the rear of the site behind the proposed cabana.



6. RECOMMENDATION

Council's Environmental Health Officer has determined that the proposal is satisfactory, subject to the following conditions:

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 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)
	Acid Sulphate Soil Management Plan		
	Acoustic Report		
	Noise Management Plan		
	Plan of Management		
	Contaminated Land - Initial Site Investigation Report (Stage 1)		
	Contaminated Land - Detailed Site Investigation Report (Stage 2)		
	Contaminated Land - Remedial Action Plan (Stage 3)		

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

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 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.

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 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.

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.2 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.3 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use.

Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.4 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. Australian Acoustical Society—professional society of noise-related professionals

(www.acoustics.asn.au/index.php).

2. Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Standard Condition: C62

C.5 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.6 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.

D. Conditions which must be satisfied prior to the commencement of any development work

E. Conditions which must be satisfied during any development work

E.1 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 2017*.

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.2 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.3 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

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 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 downloaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>
Standard Condition: F13

F.2 Swimming Pool Fencing

Swimming Pool Fencing is to be constructed in accordance with AS1926-2012 Australian Standard Swimming Pool Safety Part 1 – *Safety Barriers for Swimming Pools*.

Note: Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012
Standard Condition: F20 (Autotext FF20)

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil.

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

Nil.

I. Conditions which must be satisfied during the ongoing use of the development

I.1 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 downloaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>
Standard Condition: I30

I.2 Outdoor lighting – Residential

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.

Standard Condition: I49

I.3 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>) published 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 2017* (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.4 Noise from mechanical plant and equipment (including pool pumps and associated equipment)

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the:

NSW Industrial Noise Policy

(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)

ISBN 0 7313 2715 2, dated January 2000, and

Noise Guide for Local Government

(<http://www.environment.nsw.gov.au/noise/nglg.htm>)

ISBN 1741370671, dated December 2004.

Standard Condition: I59

I.5 Noise Control - Swimming pool/spa pool pumps and associated equipment

The swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the *Protection of the Environment Operations (Noise Control) Regulation 2017* as follows:

- *Before 8am or after 8pm during Saturdays, Sundays and public holidays;*
- *Before 7am or after 8pm on any other day.*

J. Miscellaneous Conditions

Nil.

K. Advising

Nil

Environmental Health Officer: Jasmine Sutrina

Date: 21/11/2023



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11 April 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Review Application: 262/2023/1

ADDRESS: 3 Lawson Street PADDINGTON 2021

PROPOSAL: Alterations and additions to the existing semi-detached dwelling including a new swimming pool

FROM: Eleanor Banaag

TO: Mr V Aleidzans

1. DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Peak Architects, dated 25/01/24, and numbered Dwg 01 – Dwg 15
- Heritage Impact Statement by Weir Phillips Heritage and Planning, dated July 2023
- Statement of Environmental Effects by Weir Phillips Heritage and Planning, dated 9 February 2024
- 3D Elevation drawing by Peak Architects, dated 25/01/24, and numbered Dwg 13

2. SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

- The site was previously assessed as part of the original DA2023/262/1 application.
- For this Section 8.2 review, a site inspection was undertaken on 15 April 2024, including an inspection of internal and external areas, and the general surroundings.

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.
- Original referral response for DA2023/262/1.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

3. STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Woollahra LEP 2014
- Woollahra DCP 2015

4. PROPOSED WORKS

The following general scope of work was provided in the Statement of Heritage Impact for the project.

- Retain the existing dwelling including the principal roof and front elevation.
- Remove the rear of the dwelling, as noted on the plans, to facilitate construction of new extensions on the lower ground, ground and first floors.

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- Reconfigure the internal layout on all three floors via the removal and construction of internal walls and openings.
- Remove and infill existing window openings to the eastern elevation and install new window openings, as noted on the plans.
- Install a new skylight to rear of existing principal roof.
- Install new landscaping including a swimming pool and a cabana, as well as new vegetation.

Additional observations of note, based on the architectural drawings are:

- External modifications are located solely to the rear. There will be no modifications to the front of the principal building.
- The new rear extension is reportedly proposed to align with (or is an appropriate) rear setback position of No.5 and No.1 Lawson Street. However it is noted that the architectural drawings are indicating the setback for No.5 Lawson as proposed works from a previous DA. It is unconfirmed whether the setback of No. 5 as indicated in the architectural drawings is as built and existing.
- The rear wall of the principal building will be removed in part at lower ground level, in full at ground level, and in part at first level.
- A proposed pool located generally central in the rear yard. There are no further structures proposed in the rear apart from a glass balustrade fence. Existing fence and retaining walls will be retained.
- Internal modifications involve changes to internal walls and relocation of stair at ground to first level.

Photos from the site inspection undertaken on 15 April 2024 are provided below:



Figure 1: Original fireplace, GF front room.

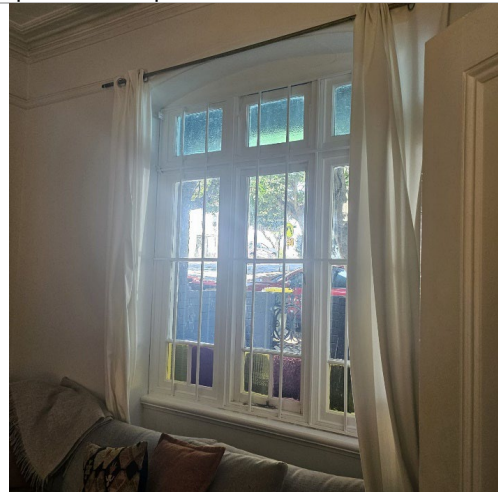


Figure 2: Original timber casement windows, GF front room



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Figure 3: FF front bedroom



Figure 4: GF hallway arch

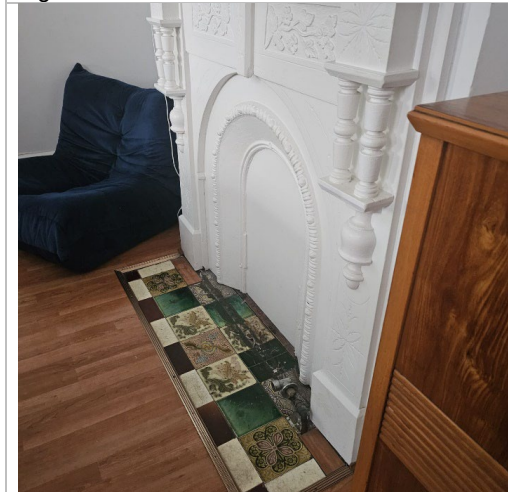


Figure 5: Fireplace surround (missing firebox)
GF living room



Figure 6: FF hallway, original gas lamp fitting.



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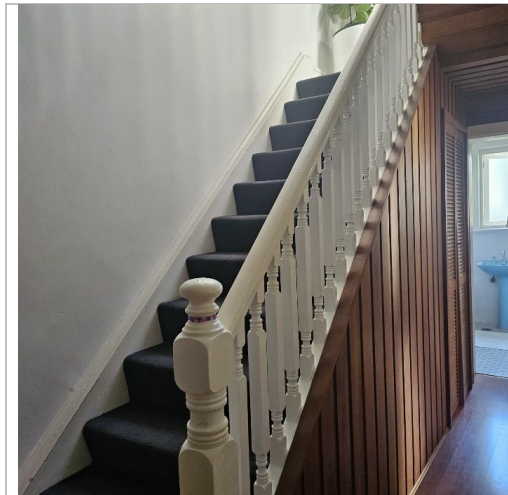


Figure 7: GF staircase to be demolished.



Figure 8: FF staircase.



Figure 9: Lower Ground, sandstone basement walls, this wall to be demolished.

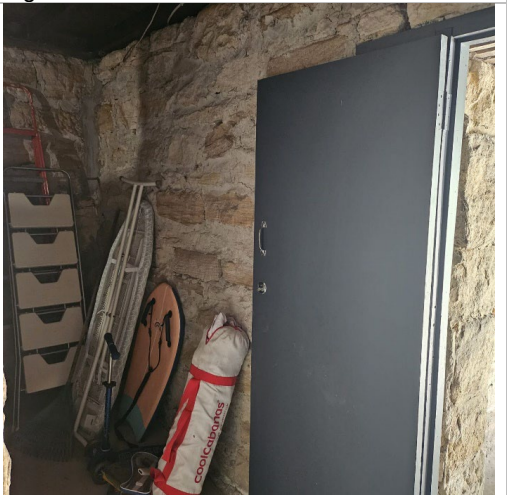


Figure 10: LG Sandstone wall, new opening.



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Figure 11: Rear of property, looking towards No.1 Lawson Street.



Figure 12: Rear of property, looking towards No.5 Lawson Street.

5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

The subject site is not a heritage item in Woollahra Local Environment Plan 2014. The subject site is within the Paddington heritage conservation area, and is considered a contributory item.

As a contributory item, the subject site at 3 Lawson Street Paddington is a substantially altered early 20th century federation period terrace, semi-detached house with no. 5 Lawson Street. Additionally it is part of a larger group of four matching semi-detached buildings between 1-13 Lawson Street. The earliest documentation of a residence at the subject site is from the Sands Directory from 1910 and is a typical representation of the ongoing development of residential housing in the Paddington area.

The building is a brick two storey terrace building presenting to Lawson Street, but presenting as three-storeys to the rear due to the falling topography permitting a basement/lower ground level. The front of the building has unsympathetic modifications to it including an enclosed brick fence dating from the 1980s, and an enclosed first floor verandah dating from the 1960s. The interiors of the principal building form at ground and first floor level have retained the original internal room layout of the front section of the dwelling through the retention of original internal walls. It is also noted that the original fireplaces and chimney flue in the principal building form and original staircase in the rear wing have been retained. The rear of the property abuts Sydney Grammar School. Due to contemporary developments to the rear of neighbouring properties, the group is considered to be altered and no longer have shared characteristics.

Based on the Woollahra DCP 2015, the significance values of the Paddington HCA lie in that:

"The built environment of Paddington is an excellent example of the process of 19th century inner city urbanisation of Sydney which was largely completed by 1890. The predominant Victorian built form is an excellent representative example of the phenomena of land speculation and a 'boom' building period between 1870 and 1895. Paddington retains many significant types of buildings that represent all phases of the suburb's historical development. These building types range from modest, small-scale, single storey timber and masonry cottages, to remnant examples of former gentry mansions, boom style middle-class terrace houses, apartment blocks and contemporary



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infill development, all of which are set in a varied network of streets, lanes and pedestrian accessways which reflect the phases of subdivision and development.”

The subject site demonstrates part of this historical development, despite that it does not represent the predominant Victorian built character. Being a federation period building, it has less of the fine detailing and intricate decoration evident in Victorian architecture. Irrespectively of this, the building still contributes to the layered development pattern of Paddington.

6. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

Woollahra LEP 2014

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

As the site is located within the Paddington Heritage Conservation Area which is listed on the Woollahra LEP, Schedule 5, Part 2, the clauses of this aim apply. As the proposal involves the retention of a contributory building, it does meet the intent of this Clause.

Clause 5.10 Heritage Conservation

Assessment of impacts of the proposal on the cultural significance of Paddington HCA is included below as part of assessment against the Woollahra DCP 2015.

Significance of items in the vicinity

The subject site is located in the vicinity of a local heritage item, I243 “7 Canary Island Date Palms” located along Alma Street. This item will not be impacted by the proposed works.

Woollahra DCP 2015

The subject site is within the Paddington Heritage Conservation Area, and is considered a contributory item and a significant item. As discussed above, it is part of a group and considered as defined by the Woollahra LEP 2014 as a “semi-detached dwelling”, and within the Paddington HCA context, is known as a terrace.

C1.3 Building Types

Clause 1.3.4 Multi-storey terrace style housing

Objectives O1, O2, O3, O4, O5

Controls Refer to C1.4 General Controls and C1.5 Specific controls

- The proposal involves the alteration of a semi-detached dwelling. The principal building form will be partially demolished to the rear to allow for a rear extension to the building at all levels. The demolition will retain the majority of the rear wall fabric of the principal building at lower ground and first floor levels. This is in keeping with the intent of O1 to retain and conserve the principle building form of buildings in pairs. However, full removal of the rear wall of the principal building at ground level does not retain the original form of the principal building. In order to comply, nib walls connected in between with a bulkhead as an interpretation of the original building layout.
- The rear extension is considered acceptable with regards to the objectives O2, O3, O4, and O5, and retaining shared characteristics of groups of buildings, as it is considered that the rear of neighbouring properties is highly altered and any shared characteristics are lost.



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C1.4 General Controls for all development

Clause 1.4.1 Principal building form and street front zone of contributory buildings

Objectives O1, O6, O7, O8, O10, O12

Controls C1, C3, C7, C8

- The principal building form will generally be retained, which is supported.
- The principal building form at the street front will not be modified, retaining its shared presentation to dwellings in the group. This meets the requirements of C1.
- The rear of the principal building will partially be demolished at lower ground and first floor levels. This is supported in this instance as this elevation is not visible from the public domain, and does not retain any shared characteristics with neighbouring properties. However, at ground level, the full demolition of the rear property wall is not supported. The design must be amended to include nib walls and a connecting bulkhead to interpret the original principal building form. A condition to this effect is included below.
- The new rear extension is considered acceptable in this instance as this elevation is not visible from the public domain, and does not retain any shared characteristics with neighbouring properties.
- The removal of one chimney breast with cast iron fireplace (ground floor living room) is not supported as it does not comply with Control C7. The fireplace must be retained to comply. A condition to this effect is included below.
- The architectural drawings also do not indicate whether the fireplace in the first floor front bedroom (proposed bedroom 3) will be retained. Removal of this element is not supported and must be retained to comply. A condition to this effect is included below.
- Internal elements with decorative merit that warrant retention in accordance with Control C7 include ceiling roses, fireboxes, detailed cornices, lead-glass windows, and a gas-lamp wall fitting observed in the first floor hallway. A condition to this effect is included below.
- Internal modifications include changes to internal walls, including demolition of internal walls indicating original room layouts is not supported as it does not comply with Control C8. The design must be amended to include nib walls and a connecting bulkhead to interpret the original principal building form. A condition to this effect is included below.
- Removal and relocation of a staircase (from ground to first level) is supported as the element appears on inspection as having been previously altered. The material is also not of exemplary decorative distinction such that it warrants in situ retention. Balustrades and newel posts which can be salvaged and reused in the new stair location should be applied. A condition to this effect is included below.
- The proposed changes to new window openings on the east (side) elevation is supported as these windows would still be of a vertical proportion and the use of timber windows is employed. The windows do not face a streetfront zone. Therefore the proposed windows are considered acceptable.
- Removal of sandstone walls at the lower ground level is supported. The design must be amended to include nib walls and a connecting bulkhead to interpret the original principal building form. A condition to this effect is included below.

Clause 1.4.3 Rear elevations, rear additions, significant outbuildings and yards;

Objectives O2

Controls C1, C2, C5, C6, C10

- The proposed rear addition is generally acceptable. While the building is part of a pair with No.5 Lawson Street, the rear of the adjacent buildings within its pair and the wider group have been significantly modified and no shared characteristics remain.
- The proposed rear addition is contemporary in design and materiality so as to be distinctively different and new component to the original building item. This is supported.
- The proposed design is generally balanced in form with the pair at No.5 Lawson Street, as both modern rear additions will have similar 3-floor balcony forms.



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- The setback of the rear addition is proposed roughly at the median setback between No.1 Lawson Street, and No. 5 Lawson Street. The rear of these three properties has been significantly altered and there are no longer any shared characteristics or historic forms evident along these elevations. Therefore the proposed setback is considered acceptable in this instance.
- The proposed openings to the rear elevation are vertically proportioned, and is supported.

Clause 1.4.4 Roofs and roof forms;

Objectives O1, O2

Controls C6, C8, C11

- The proposed skillion roof with plane to match the adjacent skillion roof of No.5 Lawson Street, is supported. It is considered acceptable on merit, that the adjacent roof of the rear addition of No. 5 Lawson is also a contemporary rear addition.
- The materiality of the proposed rear addition roof, in a steel sheeting material, is considered acceptable. The profile of the sheet steel must be a traditional corrugated profile to comply. A condition to this effect is included below.

Clause 1.4.6 Site coverage, setbacks and levels;

Objectives O2

Controls C3, C6

- The setback of the rear addition is proposed roughly at the median setback between No.1 Lawson Street, and No. 5 Lawson Street. The rear of these three properties has been significantly altered and there are no longer any shared characteristics or historic forms evident along these elevations. Therefore the proposed setback is considered acceptable in this instance.

Clause 1.4.7 Excavation;

Objectives O10

- The proposed pool in the rear yard will require excavation. While the site is located in an area identified as having no Aboriginal heritage potential, the due diligence responsibilities for the protection of Aboriginal cultural heritage is applicable regardless of any approval in accordance with the *National Parks and Wildlife Act 1974*. A condition to this effect is included below.
- The Statement of Heritage Impact identifies that there was no earlier development on this site prior to the existing building. Therefore the potential for historical archaeology is unlikely.

Clause 1.4.8 Private open space, swimming pools, courtyards and landscaping;

Controls C13

- The proposed pool is located in the rear of the property, and therefore complies with this control.

C1.5 Specific Policy for building and site elements

Clause 1.5.1 Dormers and Skylights

Objectives O1

Controls C23, C25,

- Two skylights positioned asymmetrically to the rear wing is considered acceptable and complies.

Clause 1.5.2 Chimneys

Objectives O1

Controls C1



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- Proposed internal works indicate the partial demolition of fireplaces within the principal building (retaining only one fireplace in the front ground floor room). This is not acceptable and all fireplaces must be retained in order to comply
- The architectural drawings inconsistently indicate whether the chimney will be retained, or removed. The original chimney in the principal building roof must be retained in order to comply with C1 of this Clause. A condition to this effect is included below.

Clause 1.5.3 Windows, door, shutters and security

Objectives O1

Controls C1, C4, C5

- Existing doors and windows facing the streetfront zone of the principal building are being retained. No works are proposed. This is supported.
- New window opening are proposed in the east (side) elevation with no street frontage. The form of the proposed windows are vertically proportioned timber-framed windows. This is supported in this instance as there will be no impact on the streetfront zone and traditional materials are proposed.
- New openings in the proposed rear addition are vertically proportioned. This complies with control C4, and is supported.
- All new openings in the rear addition at first floor and ground level must be of a traditional timber material. A condition to this effect is included below.

Clause 1.5.4 Verandahs and balconies

Objectives O3

Controls C6

- The proposed balcony at ground floor (considered a balcony as there is no direct access from the structure to the ground level), extends significantly beyond the permissible 600mm depth (in accordance with C6b). However, in this instance it is considered acceptable as the adjacent pair at No.5 Lawson Street, as well as the neighbouring property at No.1 Lawson Street, each have cantilevered balconies that this level.
- There are no shared historic characteristics across this rear setback that need to be conserved, the modern design and finish of the balcony is a substantially contemporary design that does not detract from the HCA.
- According to the architectural plans the proposed balcony at ground floor extends marginally beyond the existing balcony of the neighbouring pair at No.5 Lawson Street, however according to the 3D architectural model it does not. In order to comply, the proposed balcony must not exceed the depth of the adjacent balcony at No.5 Lawson Street. A condition to this effect is included below.
- The proposed glazed balustrade to the ground floor rear balcony is not supported as it is considered intrusive as per Table 8 of this clause. The design must incorporate a metal or masonry balustrade in a contemporary design in order to comply. A condition to this effect is included below.
-

Clause 1.5.8 Materials, finishes and details

Objectives O1

Controls C1, C5

- There are no proposed works to the front façade of the principal building. This is considered acceptable.
- The proposed traditional timber material to windows in the east elevation is supported.
- The proposed timber framed doors and windows to the rear elevation of the new addition is supported.



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- The architectural drawings indicate a louvre material to W12 on the first floor rear elevation. These louvres must be a traditional timber material in order to comply. A condition to this effect is included below.
- The proposed glazed balustrade to the ground floor rear balcony is not supported as it is considered intrusive as per Table 8 of this clause. The design must incorporate a metal or masonry balustrade in a contemporary design in order to comply. A condition to this effect is included below.
- As discussed above, the materiality of the proposed rear addition roof in a steel sheeting material, is considered acceptable. The profile of the sheet steel must be a traditional corrugated profile to comply. A condition to this effect is included below.

Clause 1.5.9 Exterior Colours

Objectives O1

Controls C1, C3, C4

- The new metal roof is to be in light to mid grey tones in order to comply.
- The colour of the new walls is supported.

7. 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 conserve the built heritage of Woollahra.

Part 5.10

- Clause 1(a) The development does conserve 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.

8. RECOMMENDATION

1. 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.

a. Demolition of internal walls must incorporate the retention of nib walls and bulkheads to interpret historic room layouts (Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C8).

b. Demolition of sandstone walls at lower ground (basement) level must incorporate the retention of nib walls and bulkheads to interpret historic room layouts (Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C8).

c. Internal decorative elements must be retained, including ceiling roses, decorative cornices, chimney breasts and flues, mantels and surrounds, cast iron fireboxes, gas lamp fittings. (Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C7).



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- d. The original chimney must be retained. (Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C7).
- e. Demolition of the staircase must salvage and reuse original balusters, handrails and newel posts. (Woollahra DCP 2015, Chapter C1, Clause C1.4.1, Objectives O12, Controls C7).
- f. New doors and windows must incorporate traditional timber materiality. (Woollahra DCP 2015, Chapter C1, Clause 1.5.3, Objective O3, Control C4)
- g. The proposed aluminium louvres at first floor level are not supported as they are of an intrusive material and would be visible. This element is to be deleted from the drawing set in order to comply.
 - Woollahra DCP 2015, Chapter C1, Clause 1.5.1, Objective O1, Controls C1)
 - Clause 1.5.8, Objectives O2, Controls C4, C5, Table 8
- h. The profile of the sheet steel must be a traditional corrugated profile to comply. (Woollahra DCP 2015, Chapter C1:
 - Clause 1.4.4, Objective O3, Control C8
 - Clause 1.5.8, Objectives O2, Controls C4, C5, Table 8
 - Clause 1.5.9, Objective O1, Controls C1, C3, C4
- i. The depth of the new balconies is not to exceed those in the group. In addition, the balustrade of the ground and first floor balconies is to be a simple metal balustrade.
 - Woollahra DCP 2015, Chapter C1, Clause 1.5.4, Objective O3, Control C6
 - Woollahra DCP 2015, Chapter C1, Clause 1.5.8, Objectives O2, Controls C4, C5, Table 8

Standard Conditions

A.1 Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

B. 1.	<p>Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.</p>
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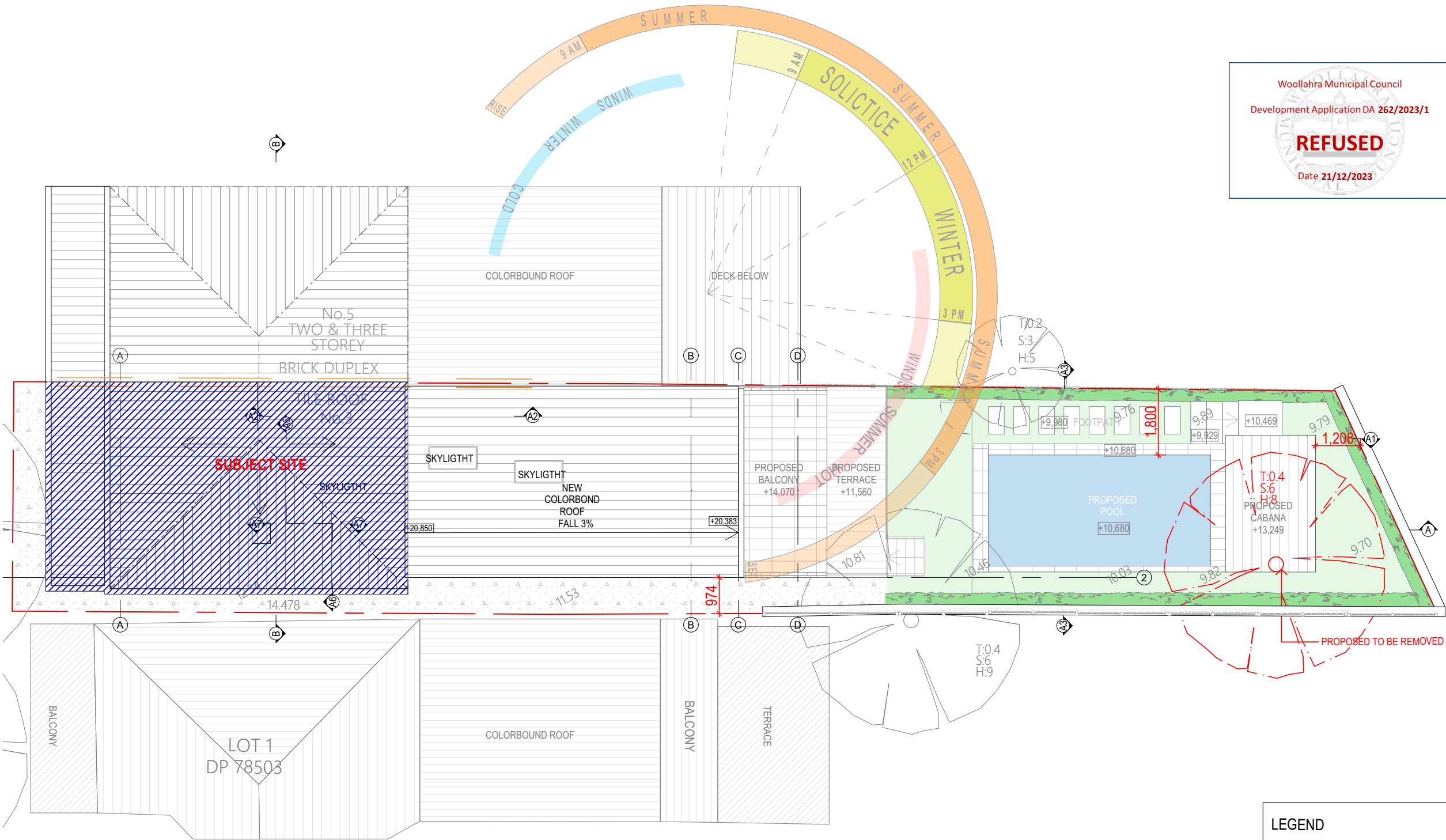


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Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)
<p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p> <p>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.</p> <p>b) Floorplans of the internal layout and directional details of photographs taken.</p> <p>c) Coloured photographs of:</p> <ul style="list-style-type: none"> • each elevation, • each structure and landscape feature, • internal images of each room and significant architectural detailing, and • views to the subject property from each street and laneway or public space. <p>Notes:</p> <ul style="list-style-type: none"> • 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-digital-capture.pdf <p>Condition Reason: To ensure existing contributory building and landscape elements are recorded.</p>		

A.2 Aboriginal Heritage Due Diligence Responsibilities

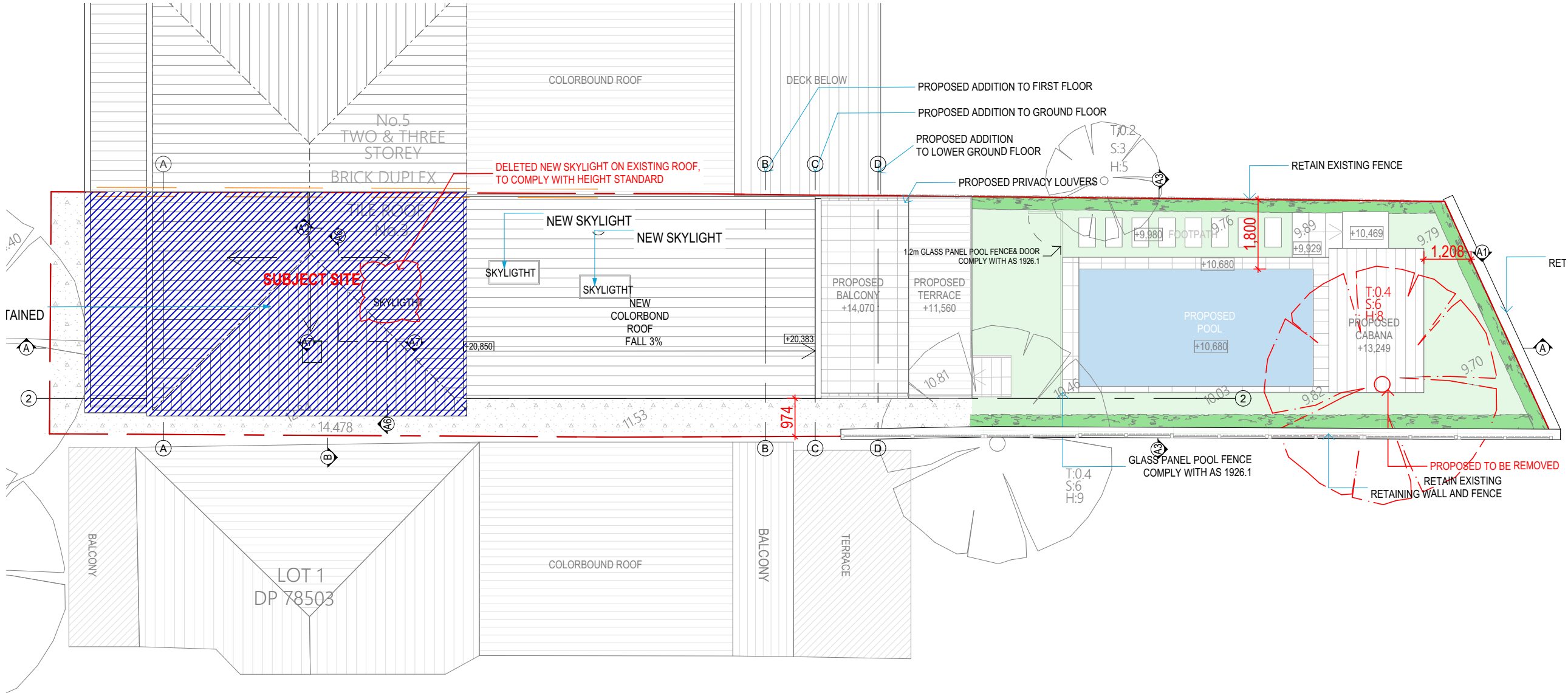
B. 2.	Aboriginal Heritage Due Diligence Responsibilities
	<p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal '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)].</p> <p>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.</p> <p>Condition Reason: To protect Aboriginal heritage.</p>



SITE ANALYSIS 1:100

<div></div> <div>2B / 5 Belmore Street Burwood NSW 2134 02 8960 4138 0406 004 418 info@peakarchitects.com.au peakarchitects.com.au @peak.architects Nominated Architects: Esan Rahmani NSW 10560</div>	NOTES: <div>FOR INFORMATION ONLY NOT FOR CONSTRUCTION</div> <div>© COPYRIGHT, ALL RIGHTS BELONG TO PEAK ARCHITECTS PTY LTD. NO FORM OF COPYING WITHOUT PERMISSION FROM PEAK ARCHITECTS PTY LTD.</div>	REV. DESCRIPTION DATE A DA APPLICATION 26/04/2023	PROJECT: 3 LAWSON STREET PADDINGTON PROJECT TYPE: ADDITION & EXTENSION CLIENT	<div>LAWSON ST</div> <div>KEY MAP</div>	<div>TRUE NORTH</div>	DRAWING #: 03	DRAWING NAME: SITE ANALYSIS				
					DEVELOPMENT APPLICATION		SCALE AS SHOWN @ A3				
					PROJECT NO: 23-08		DATE: 4/09/2023		DRAWN YS	CHECKED ER	ISSUE A




SCHEDULE OF AMENDMENTS
1. DELETED NEW SKYLIGHT ON EXISTING ROOF,
TO COMPLY WITH HEIGHT STANDARD

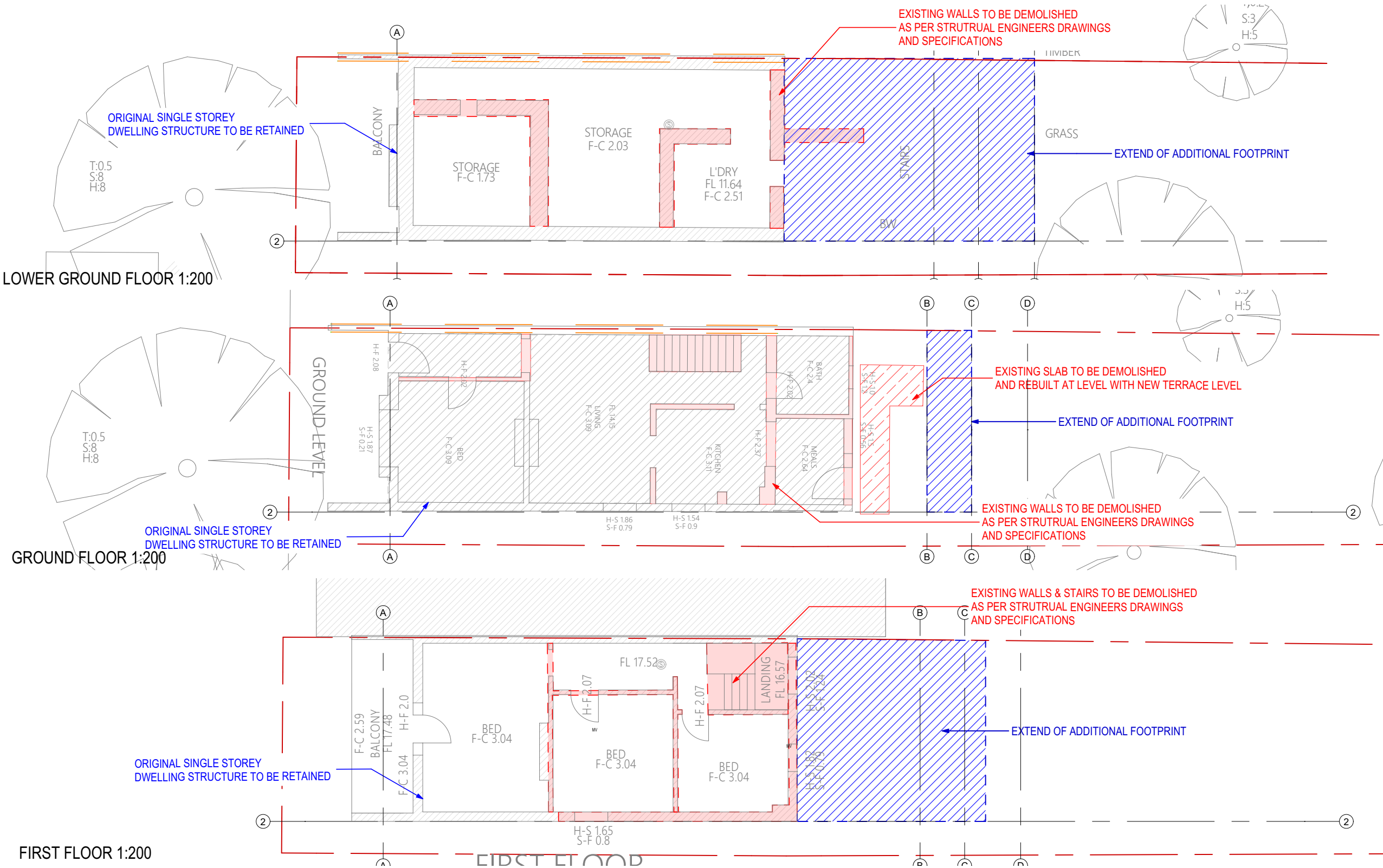



ROOF PLAN 1:100

LEGEND

EXISTING BUILDING

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	REV.	DESCRIPTION	DATE									
	A	DA APPLICATION	26/04/2023									
		DEVOPMENT APPLICATION		SCALE AS SHOWN @ A3								
PROJECT NO: 23-08		DATE: 4/09/2023		DRAWN YS	CHECKED ER	ISSUE A						





28 / 5 Belmore Street Burwood NSW 2134
02 8960 4138 0406 004 418
info@peakarchitects.com.au
peakarchitects.com.au
@peak.architects

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Esan Rahmani NSW 10560

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REV.	DESCRIPTION	DATE
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PROJECT: 3 LAWSON STREET PADDINGTON


PROJECT TYPE: ADDITION & EXTENSION

CLIENT:

LAWSON ST



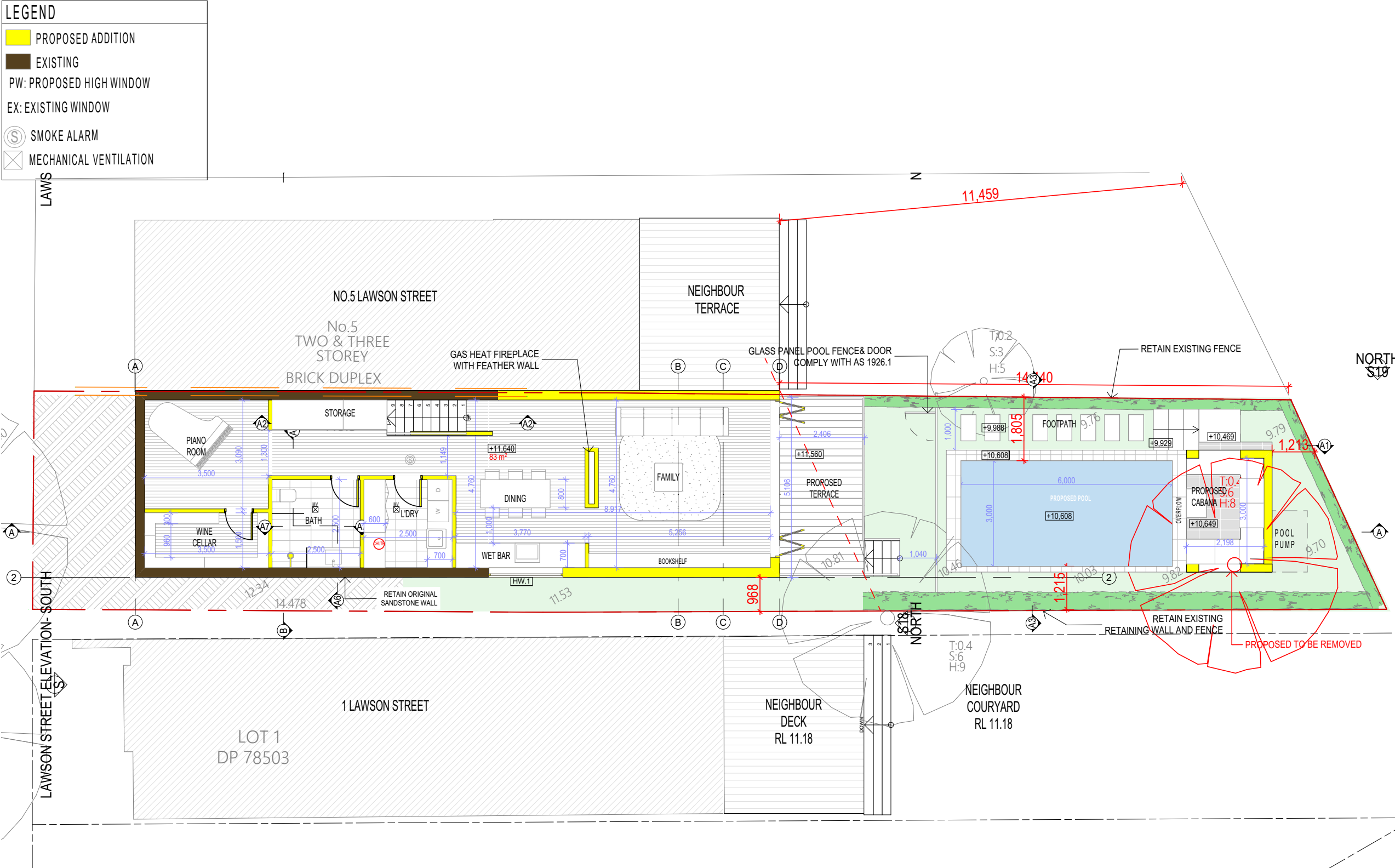
KEY MAP




TRUE NORTH

DRAWING #:	DRAWING NAME:
05	DEMOLITION PLAN

DEVOPMENT APPLICATION		SCALE AS SHOWN @ A3		
PROJECT NO:	23-08	DATE:	4/09/2023	DRAWN: YS
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LOWER GROUND FLOOR 1:100



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02 8960 4138 0406 004 418

info@peakarchitects.com.au

peakarchitects.com.au

@peak.architects

Nominated Architects:
Esan Rahmani NSW 10560

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PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

CLIENT

LAWSON ST

KEY MAP

TRUE NORTH

DRAWING #: 06

DRAWING NAME: LOWER GROUND PLAN

DEVOPMENT APPLICATION

SCALE: AS SHOWN @ A3

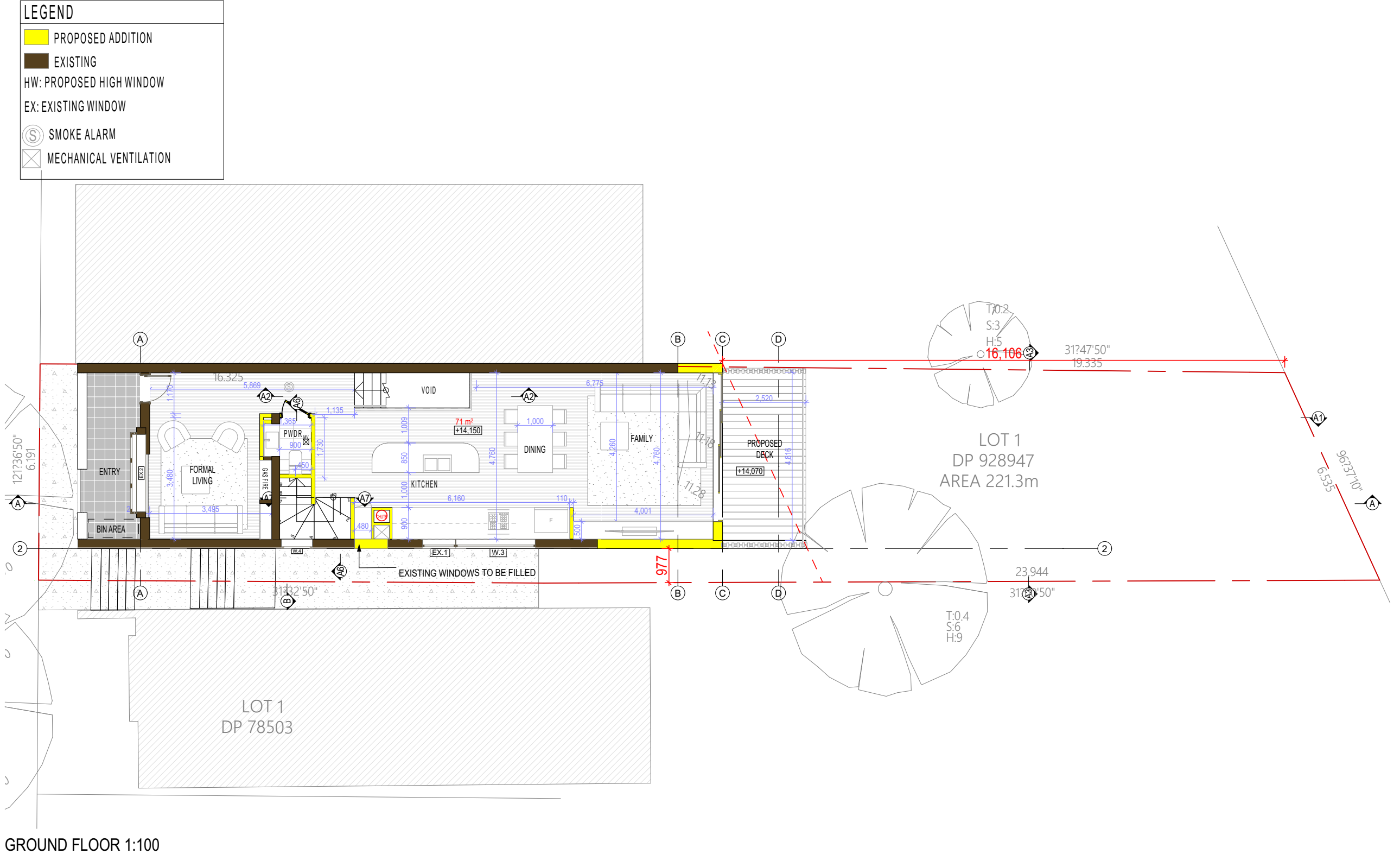
PROJECT NO: 23-08


DATE: 4/09/2023


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ISSUE: A









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PROJECT: 3 LAWSON STREET PADDINGTON


PROJECT TYPE: ADDITION & EXTENSION

CLIENT

LAWSON ST



KEY MAP



TRUE NORTH

DRAWING #:
07

DRAWING NAME:
GROUND FLOOR

DEVOPMENT APPLICATION

SCALE AS SHOWN @ A3

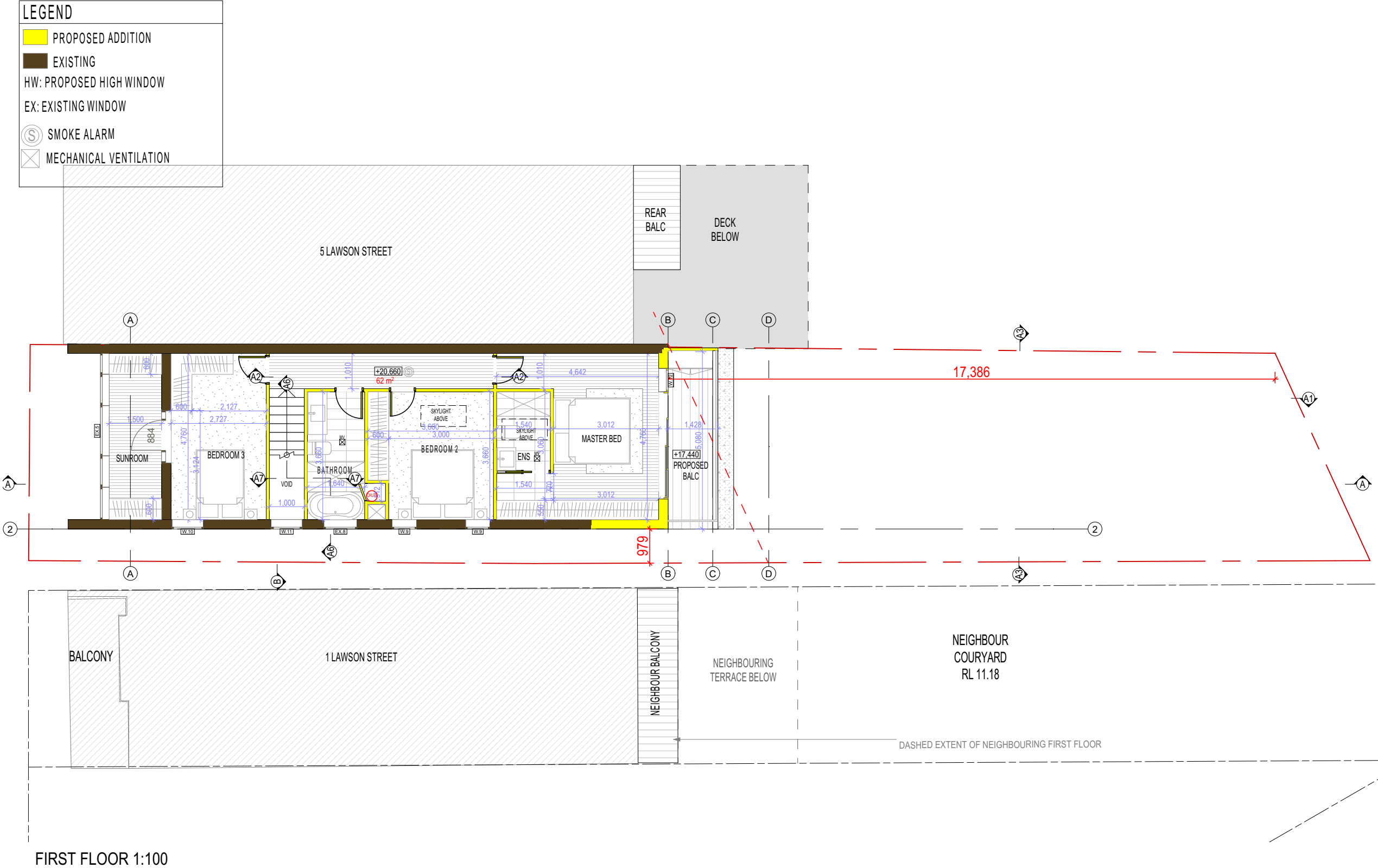
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23-08

DATE:
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A	DA APPLICATION	26/04/2023

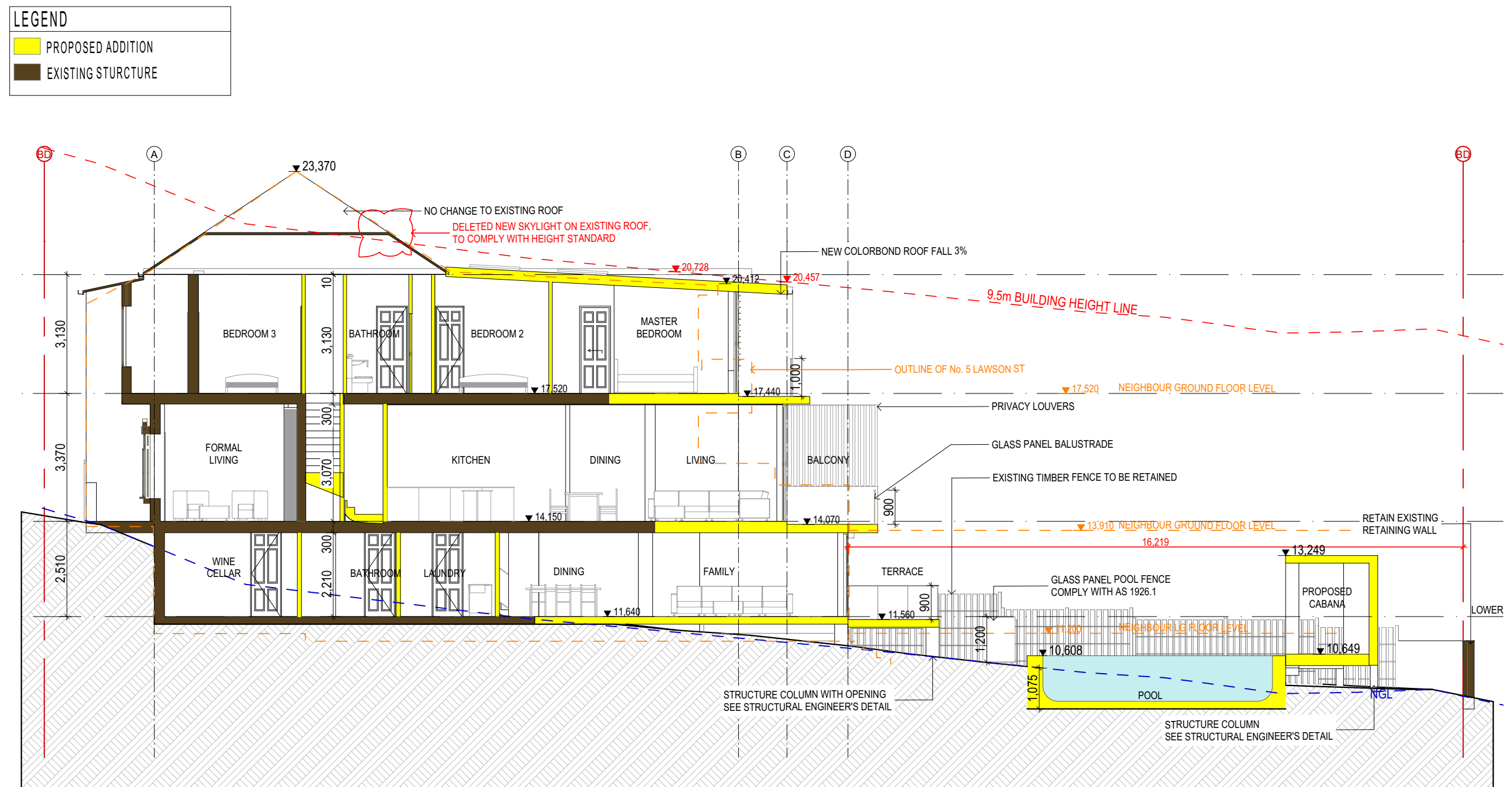
PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

CLIENT





DRAWING #: 08	DRAWING NAME: FIRST FLOOR
DEVOPMENT APPLICATION	
PROJECT NO: 23-08	DATE: 4/09/2023
SCALE AS SHOWN @ A3	DRAWN YS
CHECKED ER	ISSUE A



SECTION AA 1:100

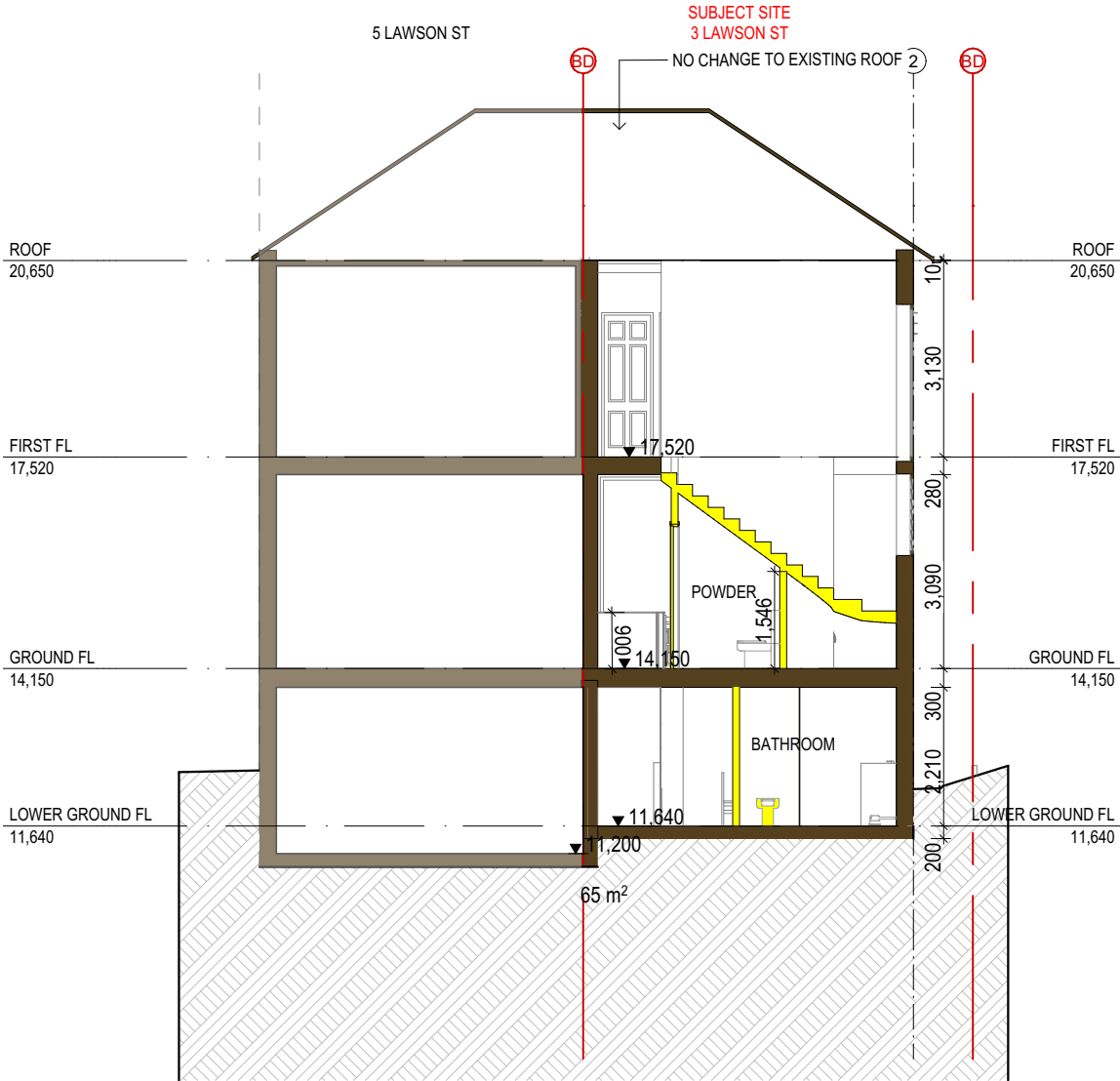
SCHEDULE OF AMENDMENTS
 1. ALL PROPOSED WORKS DEPICTED ON ALL PLANS
 ACCORDANCE WITH SECTION 5.10
 2. DELETED NEW SKYLIGHT ON EXISTING ROOF,
 TO COMPLY WITH HEIGHT STANDARD

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						PROJECT TYPE: ADDITION & EXTENSION			DEVELOPMENT APPLICATION		SCALE AS SHOWN @ A3			
						CLIENT			PROJECT NO: 23-08	DATE: 4/09/2023	DRAWN YS	CHECKED ER	ISSUE A	


LEGEND

PROPOSED ADDITION

EXISTING STURCTURE



SECTION B 1:100



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02 8960 4138 0406 004 418

info@peakarchitects.com.au

peakarchitects.com.au

@peak.architects

Nominated Architects:
Esan Rahmani NSW 10560

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REV.	DESCRIPTION	DATE
A	DA APPLICATION	26/04/2023

PROJECT: 3 LAWSON STREET PADDINGTON

PROJECT TYPE: ADDITION & EXTENSION

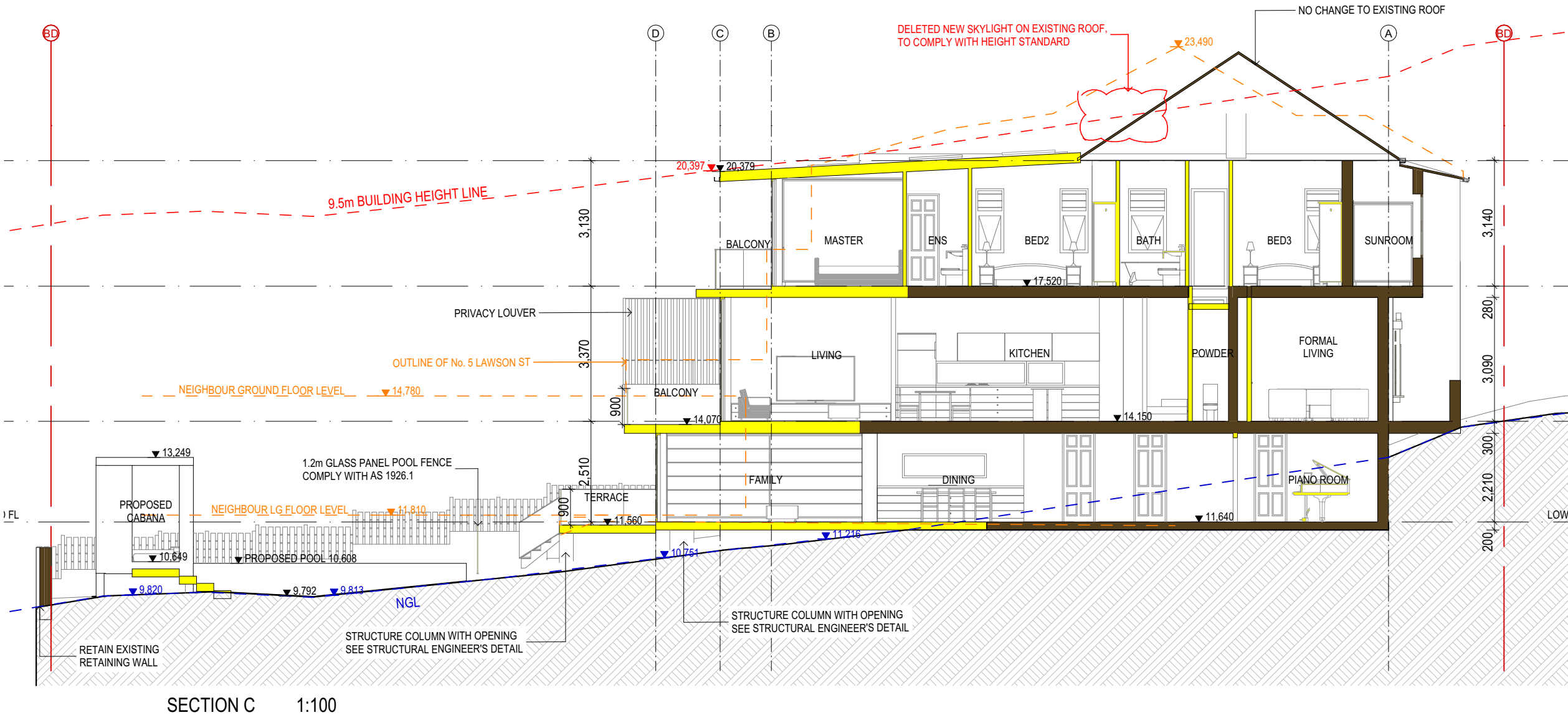
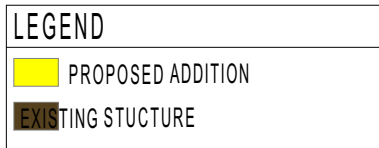
CLIENT



LAWSON ST

KEY MAP

TRUE NORTH

DRAWING #:	10	DRAWING NAME:	SECTION BB		
DEVOPMENT APPLICATION		SCALE	AS SHOWN @ A3		
PROJECT NO:	23-08	DATE:	4/09/2023	DRAWN	CHECKED
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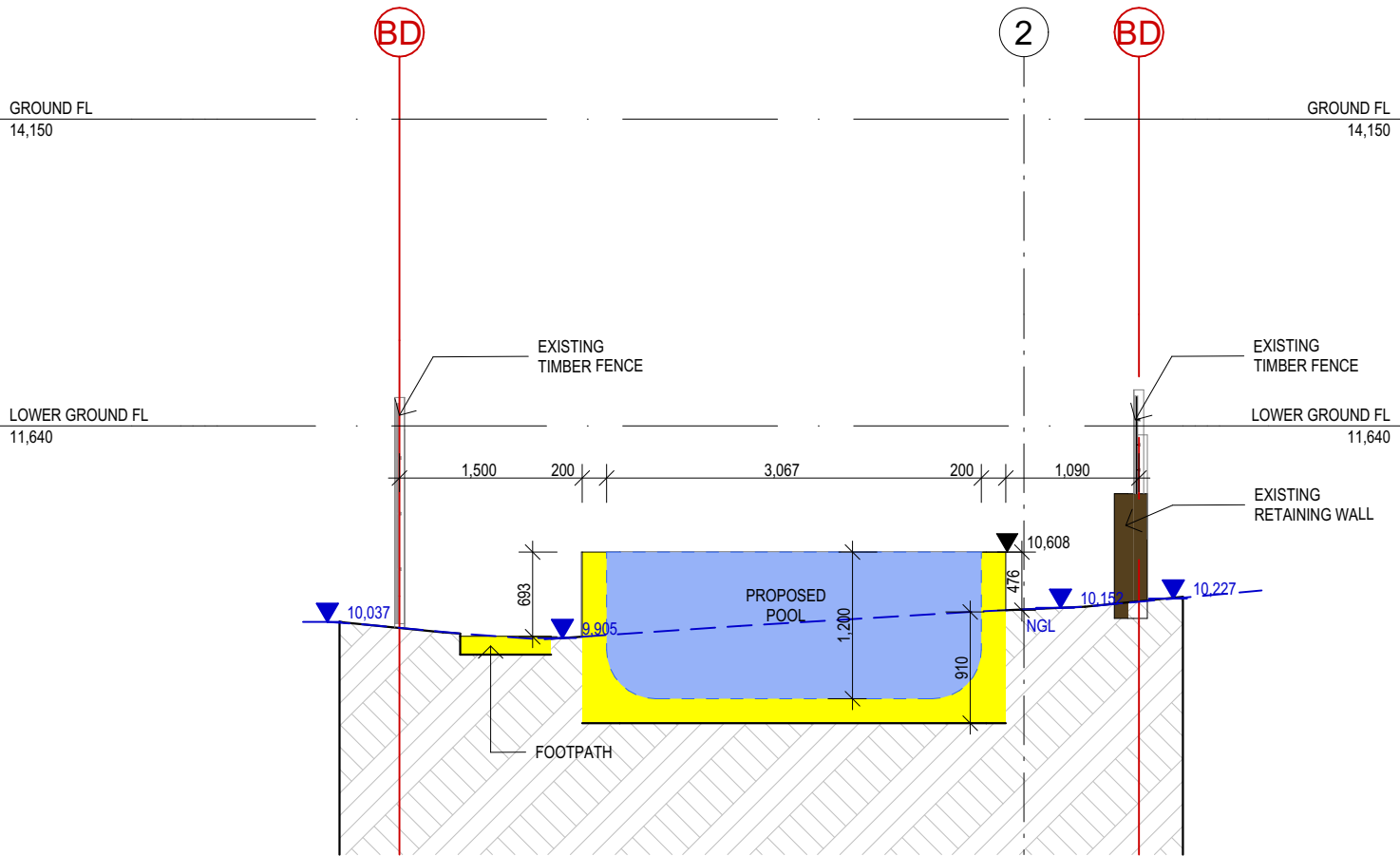


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			<p>DEVELOPMENT APPLICATION</p> <p>SCALE AS SHOWN @ A3</p>	<p>PROJECT NO: 23-08</p> <p>DATE: 4/09/2023</p> <p>DRAWN YES CHECKED ER ISSUE A</p>			


LEGEND

PROPOSED ADDITION

EXISTING STURCTURE



RETAINING WALL SECTION 1:50



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02 8960 4138 0406 004 418
info@peakarchitects.com.au
peakarchitects.com.au
@peak.architects
Nominated Architects:
Esan Rahmani NSW 10560

NOTES: ISSUED FOR CONSTRUCTION CERTIFICATION APPROVAL ONLY.
1. SMOKE ALARMS TO BE INSTALLED AS PER BCA & AUSTRALIAN STANDARD REQUIREMENTS.
2. CONTRACTOR MUST VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCING WORK OR PREPARING SHOP DRAWINGS.
3. DO NOT SCALE DRAWINGS.
4. CONTRACTOR TO CHECK UNDERGROUND SERVICES BEFORE COMMENCING WORKS BY CONTACTING DIAL BEFORE YOU DIG. IF DIAL BEFORE YOU DIG INFORMATION IS PROVIDED WITH THIS DOCUMENTATION IT SHALL BE ASSUMED NOT TO BE CURRENT AND CONTRACTOR SHALL MAKE THEIR OWN ENQUIRIES.
5. ALL WORK MUST COMPLY WITH CURRENT BCA AND AUSTRALIAN STANDARDS.
6. ALL MATERIALS MUST COMPLY WITH CURRENT BCA AND AUSTRALIAN STANDARDS.

REV	DESCRIPTION	DATE
A	DA APPLICATION	22/05/2023

PROJECT: #Site Address1
PROJECT TYPE: additional
CLIENT LAURENCE LIN

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HEADLAND RD
PIIDAR AVE

KEY MAP

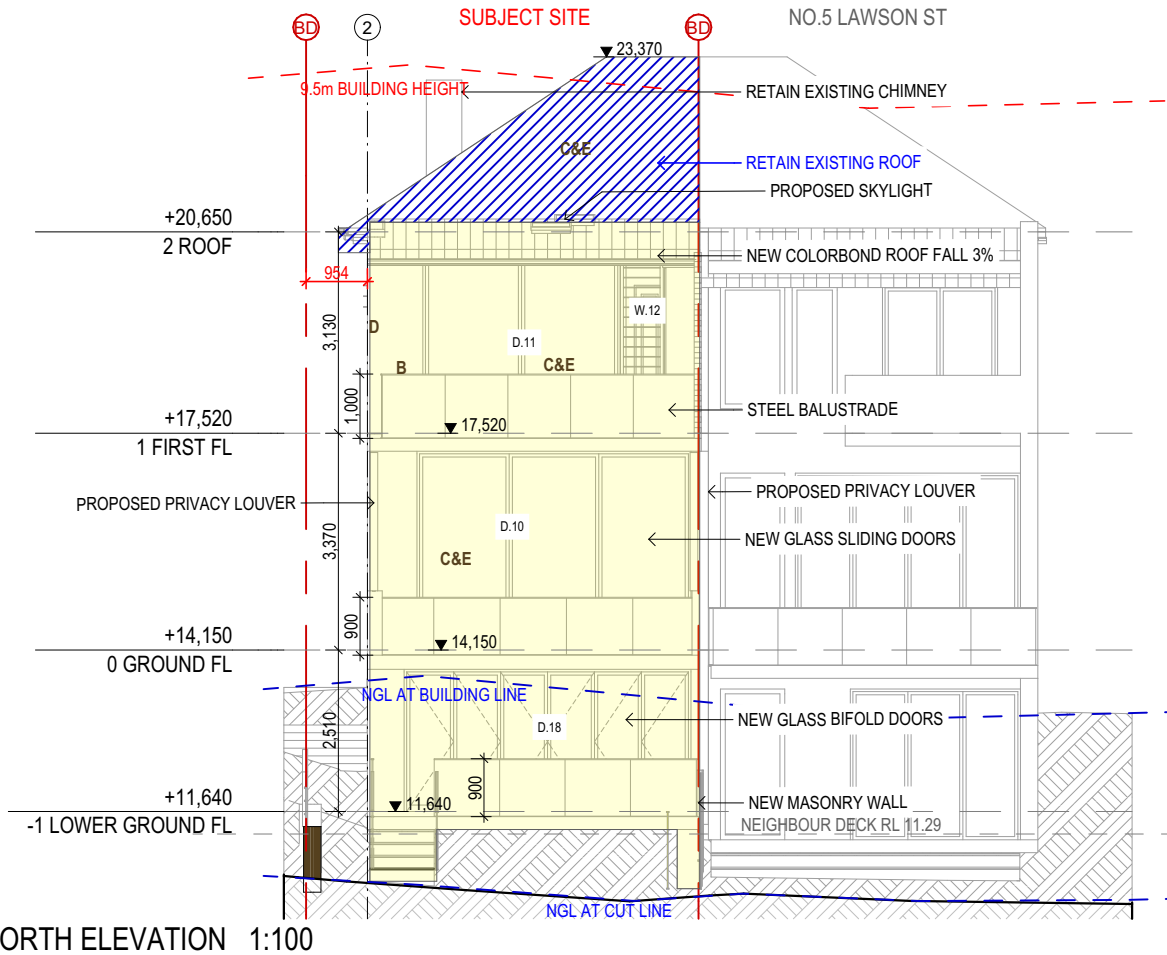
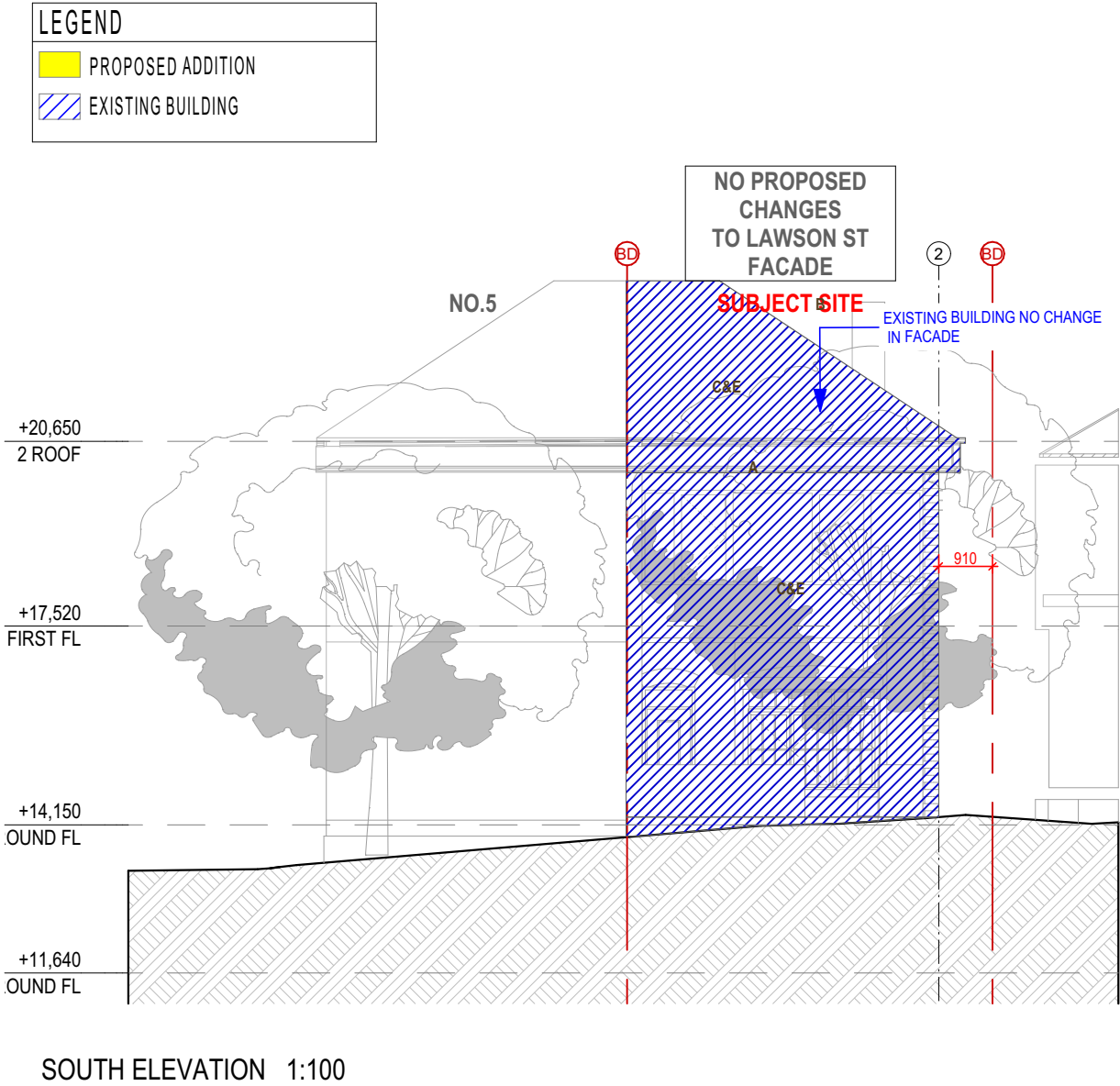
TRUE NORTH

DRAWING #: 12
DRAWING NAME: RETAINING WALL SECTION

DA

SCALE AS SHOWN @ A3

PROJECT NO: 23-08
DATE: 4/09/2023
DRAWN SM
CHECKED ER
ISSUE A



A

PAINT FINISH
DULUX-MALAY GREY MATCH WITH EXISTING

Dulux GR6 Ashville

B

PAINT FINISH
DULUX - ASHVILLE OR SIMILAR

C

WINDOW / DOOR FRAMES - DULUX POWDERCOAT
DULUX - CONGO SOIL OR SIMILAR

D

ALUMINIUM LOUVERES TIMBER LOOK
EMBELTON LIGHT LANGLEY WALNUT OR SIMILIAR

E

CLEAR GLAZING
ALL GLAZING TO BE LOW-E GLASS
VIRIDIAN - SUPERCLEAR™ OR SIMILIAR

PEAK ARCHITECTS

28 / 5 Belmore Street Burwood NSW 2134
02 8960 4138 0406 004 418
info@peakarchitects.com.au
peakarchitects.com.au
@peak.architects
Nominated Architects:
Esan Rahmani NSW 10560

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NOT FOR CONSTRUCTION

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REV.	DESCRIPTION	DATE
A	DA APPLICATION	26/04/2023

PROJECT: 3 LAWSON STREET PADDINGTON
PROJECT TYPE: ADDITION & EXTENSION
CLIENT:

LAWSON ST
KEY MAP

TRUE NORTH

DRAWING #: 14
DRAWING NAME: SOUTH & NORTH ELEVATION

DEVOPMENT APPLICATION
PROJECT NO: 23-08
DATE: 4/09/2023
SCALE: AS SHOWN @ A3
DRAWN: YS
CHECKED: ER
ISSUE: A



Attachment 7 Stamped Refused Plans

LOCAL PLANNING PANEL

SECTION 4.56 APPLICATION ASSESSMENT REPORT

ITEM No.	D5
FILE No.	DA216/2021/3
ADDRESS	142, 142A and 142B Bellevue Road BELLEVUE HILL
COUNCIL WARD	Cooper
SITE AREA	142 Bellevue Road - 1369m ² (Lot 1 DP 506650) 142A Bellevue Road - 571.1m ² (Lot 2 DP 506650) 142B Bellevue Road - 672.6m ² (Lot C DP 411692) Total combined site area – 2612.7m ²
ZONING	R3 Medium Density Residential
EXISTING CONSENT	Alterations and additions to the approved residential flat building (under Development Consent DA344/2019) including the provision of additional units, the provision of 2 car lifts, the removal of a swimming pool and ancillary works
DATE OF CONSENT	04/03/2022
TYPE OF CONSENT	Local development
PROPOSED MODIFICATION	Internal and external modifications to the approved residential flat building including an electricity sub-station
TYPE OF MODIFICATION	Section 4.56
DATE S4.55 LODGED	11/01/2024
APPLICANT	Attena Group Pty td
OWNER	Bellevue Road Holdings Pty Ltd
AUTHOR	Mr B McIntyre
TEAM LEADER	Mr T Wong
SUBMISSIONS	Nil
RECOMMENDATION	Refusal

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 categories of:

- Departure from development standards
 - a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

AND

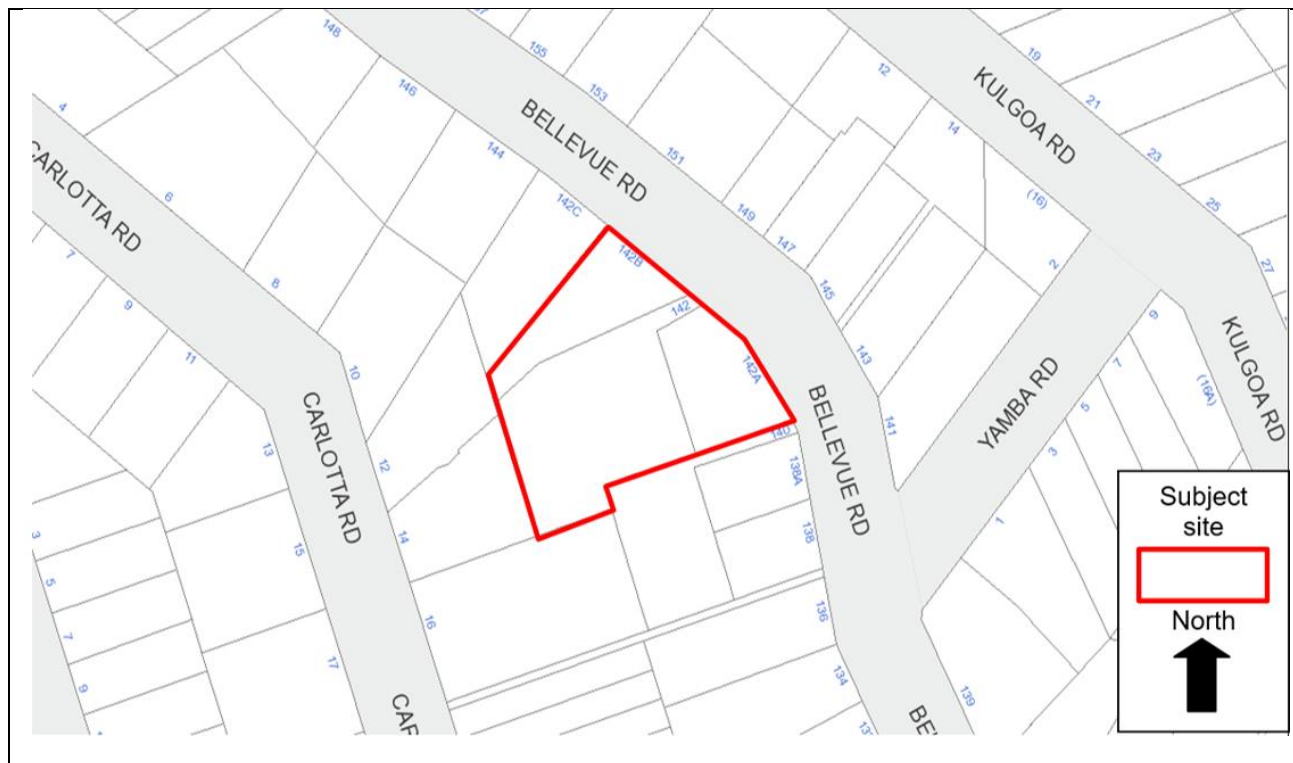
- Sensitive development
 - a) Development to which *State Environmental Planning Policy (Housing) 2021* applies

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 refusal because:

- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015;
- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified;
- The site is not suitable for the proposed development; and
- The proposed modifications are not in the public interest.

3. LOCALITY PLAN



4. SUMMARY OF APPROVED DEVELOPMENT

The originally amended proposal was for alterations and additions to the approved residential flat building (under DA344/2019) for 8 additional units, 2 new car lifts, removal of the approved swimming pool and associated works. The amended proposal was refused by the Woollahra Local Planning Panel on 16 September 2021.

The application then became the subject of a Class 1 Appeal in the Land and Environment Court (*Appeal No. 2021/ 215500*). A Section 34 Conference was commenced on 13 October 2021 at which time revised plans were submitted addressing solar access, amenity and reducing the overall bulk. A Notice of Orders was issued by the Court on 4 March 2022, which approved the DA.

The approved development now comprises twenty (25) self-contained dwellings (comprising 16 x 3 bedroom units, 7 x 2 bedroom units and 2 x 1 bedroom units), basement parking (accommodating forty-five (45) underground off-street parking spaces, 5 motor cycle spaces and 28 bicycle spaces), communal open space areas and associated landscaping.

5. SUMMARY OF PREVIOUS SECTION 4.56 MODIFICATIONS

DA 216/2021/2 was approved on 4 October 2022 for internal and external modifications to an approved residential flat building. The approved development will comprise of twenty (25) self-contained dwellings (comprising 18 x 3 bedroom units, 6 x 2 bedroom units and 1 x 1 bedroom unit), basement parking [accommodating forty-five (45) underground off-street parking spaces, 5 motor cycle spaces and 28 bicycle spaces], communal open space areas and associated landscaping.

6. SUMMARY OF PROPOSED MODIFICATION

The proposed modifications will result in a development that will now comprise of twenty-one (21) self-contained dwellings (comprising 18 x 3 bedroom units, 1 x 2 bedroom unit, 1 x 4 bedroom unit and 1 x 5 bedroom unit), basement parking [accommodating forty-five (45) underground off-street parking spaces, 6 (six) motor cycle spaces and 3 (three) bicycle spaces], communal open space areas and associated landscaping.

More specifically the proposed modifications include the following works:

Lower Ground Floor

- Minor external modifications and internal reconfiguration to Apartments LG.1, LG.2 and LG.3
- The south-western wall to Apartment LG.3 has been extended to match the alignment of the level above
- Minor modifications and additions to the lift lobby areas to provide fire separation as requested by Fire Consultant
- Minor re-alignment of car lifts and service areas

Ground Floor

- Minor extension of Apartments GF.1, GF.2 and GF.3 into light well, balconies and entrance areas and subsequent minor internal reconfiguration of Apartments GF.1, GF.2 and GF.3.
- New lift lobby area to provide fire separation as requested by Fire Consultant
- Minor re-alignment of car lifts and service areas

Level 01

- Minor extension of Apartments 1.1, 1.2 and 1.3 into light well, balconies and entrance areas and subsequent minor internal reconfiguration of Apartments 1.1, 1.2 and 1.3.
- New lift lobby area to provide fire separation as requested by Fire Consultant and addition of structural columns within the car park
- Minor re-alignment of car lifts and waste area

Level 02

- Minor extension of Apartments 2.2, 2.4 and 2.5
- Minor internal reconfiguration of Apartments 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6
- Planter box added to lobby area adjacent Apartment 2.5
- New window added to northern elevation of Apartment 2.6
- Minor re-alignment of car lifts
- Provision of substation within the front setback area and relocation of the refuse area

Level 03

- Amalgamation of Apartments 3.1, 3.2 and 3.3 to form a new Apartment 3.1 to for a 4 bedroom apartment
- Amalgamation of Apartments 3.4 and 3.5 to form a new Apartment 3.2 to for a 3 bedroom apartment
- Minor extension of the living areas of Apartments 3.7 (re-numbered as Apartment 3.4) and 3.8 (re-numbered as Apartment 3.5)
- Minor internal reconfiguration of Apartments 3.6 (re-numbered as Apartment 3.3), 3.7 (re-numbered as Apartment 3.4) and 3.8 (re-numbered as Apartment 3.5) and minor modifications to fenestration and the skylights

Level 04

- Amalgamation of the roof terraces of the original Apartments 3.2 and 3.3 into one roof terrace to the amalgamated Apartment re-numbered as Apartment 3.1
- Amalgamation of Apartments 4.1 and 4.2 to form a new Apartment 4.1 for a 5 bedroom apartment
- New skylights to match the internal reconfiguration of Apartments 3.7 (re-numbered as Apartment 3.4) and 3.8 (re-numbered as Apartment 3.5) below

7. ISSUES

The proposal exhibits the following non-compliances and/or issues:

Issue	Conclusion	Section
SEPP (Housing) - Design Principles	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 1 .	13
Apartment Design Guide	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 2 .	14
Height of buildings	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 5 .	18.3
Floor Space Ratio (FSR)	Satisfactory. The proposed modifications satisfy the relevant objectives of the development standard.	18.4
Trees	Unsatisfactory. The application is recommended for refusal. Refer to Reasons for Refusal 6, 8(b) & 9 .	Throughout the report
Desired Future character	Unsatisfactory. The application is recommended for refusal. Refer to Reasons for Refusal 7 & 8(a) .	Throughout the report
Streetscape Character	Unsatisfactory. The application is recommended for refusal. Refer to Reasons for Refusal 7 & 8(a) .	Throughout the report
Site facilities (Substation)	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 8(c) .	14.1 & 19.2.3
Insufficient information	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 10 .	Throughout the report

PROPERTY DETAILS AND REFERRALS

8. SITE AND LOCALITY

Physical features
<p>The proposed development comprises 3 allotments of land, namely 142 Bellevue Road (Lot 1 DP 506650), 142A Bellevue Road (Lot 2 DP 506650) and 142B Bellevue Road - 672.6m² (Lot C DP 411692). The subject site has a combined area of 2,612.7m² in extent.</p> <p>The subject site is irregular in shape with a combined north-eastern boundary length of 59.549m to Bellevue Road, a side north-western boundary of 43.26m, a rear western boundary of 36.7m and a skewed side (southern) boundary of 69.6m.</p>

Topography
The subject site slopes from Bellevue Road down towards the rear (western) boundary. It has a cross-fall of 15.23m measured from the eastern corner (RL 35.96) to the western corner (RL 20.73) of the site. The site levels out towards the central portion, where the existing house on 142 Bellevue Road used to be and the existing house at 142B Bellevue Road currently stands.
Existing buildings and structures
<ul style="list-style-type: none">• 142 Bellevue Road – Vacant• 142A Bellevue Road – A two storey dwelling house, hard stand car parking area within the front setback area and a swimming pool at the rear.• 142B Bellevue Road – A two storey dwelling house with a garage and hard stand car parking area towards the rear of the site.
Surrounding Environment
The area immediately to the north-west and north-east (the opposite side of Bellevue Road) of the subject site is predominantly characterised by enlarged single dwelling houses. Located to the south of the subject site is a Residential flat building (138A Bellevue Road) and single dwelling house (140 Bellevue Road). Properties to the west of the subject site comprises contemporary residential flat buildings, which are accessed off Carlotta Road.



Aerial view of the subject site



View of the south-eastern corner of one of the properties which make up the subject site as viewed from Bellevue Road (No. 142A Bellevue Road) – (Source: DA assessment report for DA 216/2021/1)



View of one of the properties which make up the subject site as viewed from Bellevue Road (No. 142B Bellevue Road) - (Source: DA assessment report for DA 216/2021/1)



View of the subject site on the left, looking in a southerly direction up Bellevue Road (Source: DA assessment report for DA 216/2021/1)



View of the subject site on the left, looking in a north-westerly direction down Bellevue Road (Source: DA assessment report for DA 216/2021/1)



View of the properties which make up the subject site as viewed from Bellevue Road (No.s 142, 142A & 142B Bellevue Road) - (Source: DA assessment report for DA 216/2021/1)



The existing driveway access to 142 Bellevue Road (battle-axe lot) with the existing dwelling located at 142B Bellevue Road located on the right of the driveway (Source: DA assessment report for DA 216/2021/1)



View of one of the properties which make up the subject site as viewed from Bellevue Road (No. 142B Bellevue Road) - (Source: DA assessment report for DA 216/2021/1)



A view of 142 Bellevue Road, looking in a south-westerly direction, as viewed from the elevated rear garden of 142A Bellevue Road (Source: DA assessment report for DA 216/2021/1)



A view of 142 Bellevue Road, looking in a south-westerly direction (Source: DA assessment report for DA 216/2021/1)



A view of 142 Bellevue Road, looking in a south-westerly direction (Source: DA assessment report for DA 216/2021/1)



The existing driveway access to 142 Bellevue Road (battle-axe lot) with the existing dwelling located at 142B Bellevue Road located on the left of the driveway and the existing dwell existing dwelling located at 142A Bellevue Road located on the right of the driveway (Source: DA assessment report for DA 216/2021/1)



The existing dwelling located at 142B Bellevue Road (Source: DA assessment report for DA 216/2021/1)

9. RELEVANT PROPERTY HISTORY

Current use																																			
<ul style="list-style-type: none"> 142 Bellevue Road – Vacant 142A Bellevue Road – Single dwelling house 142B Bellevue Road – Single dwelling house. 																																			
Relevant Application History																																			
<p>CDC 2018/55 issued by 360 Certification (Ref. C2017011) dated 28/03/2018 for the demolition of the existing dwelling located at 142 Bellevue Road.</p> <p>DA344/2019/1 was refused by the Woollahra Local Planning Panel on 6 August 2020 for the demolition of all the existing structures (including tree removal) and construction of a new part three (3) part four (4) storey residential flat building. A Class 1 (deemed refusal) Appeal was lodged with the Land and Environment Court (Case No.19/383250). During, and prior to, the s34 conciliation conference, the applicant provided amended architectural plans, landscape and stormwater plans in response to the Council's Statement of Facts and Contentions.</p> <p>On 20 January 2021 the Court upheld the Appeal and granted consent. The approved development comprises the following:</p> <ol style="list-style-type: none"> Seventeen (17) residential units comprising 2 x 1 bedroom units, 7 x 2 bedroom units and 8 x 3 bedrooms units; Car parking comprising three (3) levels of basement car parking for 39 vehicles (35 residential, 4 visitor), 1 Electric Charging Station, 19 bicycle spaces and 6 motorcycle parking spaces, with vehicular access via Bellevue Road; and An outdoor swimming pool and new landscaping. <p>Condition A.4 was imposed which reads as follows:</p> <p>A.4 Tree Preservation & Approved Landscaping Works</p> <p><i>All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.</i></p> <p>a) <i>The following trees shall be retained</i></p> <ul style="list-style-type: none"> <i>Trees on Private Land</i> <table border="1"> <thead> <tr> <th>Council Ref No.</th><th>Species</th><th>Location</th><th>Dimension (metres)</th></tr> </thead> <tbody> <tr> <td>19</td><td><i>Jacaranda mimosifolia (Jacaranda)</i></td><td><i>Southern boundary. Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i></td><td><i>14 x 10 metres</i></td></tr> <tr> <td>25</td><td><i>Syzygium australe (Brush Cherry Lillypilly)</i></td><td><i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i></td><td><i>6 x 2 metres</i></td></tr> <tr> <td>26</td><td><i>Syzygium australe (Brush Cherry Lillypilly)</i></td><td><i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i></td><td><i>6 x 2 metres</i></td></tr> <tr> <td>27</td><td><i>Cupressus sempervirens (Italian Cypress)</i></td><td><i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i></td><td><i>8 x 3 metres</i></td></tr> <tr> <td>28</td><td><i>Cupressus sempervirens (Italian Cypress)</i></td><td><i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i></td><td><i>12 x 4 metres</i></td></tr> <tr> <td>29</td><td><i>Melaleuca quinquenervia (Broad-leaved Paperbark)</i></td><td><i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i></td><td><i>7 x 2 metres</i></td></tr> <tr> <td>40</td><td><i>Jacaranda mimosifolia (Jacaranda)</i></td><td><i>Front of property near Bellevue Road. Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i></td><td><i>10 x 8 metres</i></td></tr> </tbody> </table> <p>DA216/2021/1 was refused by the Woollahra Local Planning Panel on 16 September 2021 for alterations and additions to the approved residential flat building (under DA344/2019) for 8 additional units, 2 new car lifts, removal of the approved swimming pool and associated works.</p>				Council Ref No.	Species	Location	Dimension (metres)	19	<i>Jacaranda mimosifolia (Jacaranda)</i>	<i>Southern boundary. Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i>	<i>14 x 10 metres</i>	25	<i>Syzygium australe (Brush Cherry Lillypilly)</i>	<i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i>	<i>6 x 2 metres</i>	26	<i>Syzygium australe (Brush Cherry Lillypilly)</i>	<i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i>	<i>6 x 2 metres</i>	27	<i>Cupressus sempervirens (Italian Cypress)</i>	<i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i>	<i>8 x 3 metres</i>	28	<i>Cupressus sempervirens (Italian Cypress)</i>	<i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i>	<i>12 x 4 metres</i>	29	<i>Melaleuca quinquenervia (Broad-leaved Paperbark)</i>	<i>Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i>	<i>7 x 2 metres</i>	40	<i>Jacaranda mimosifolia (Jacaranda)</i>	<i>Front of property near Bellevue Road. Refer to Landscape Plans & Drawings LS01-DA – LS05 – Issue G</i>	<i>10 x 8 metres</i>
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<p>A Class 1 (deemed refusal) Appeal was lodged with the Land and Environment Court (Case No. 2021/215500). During, and prior to, the s34 conciliation conference, the applicant provided amended architectural plans in response to the Council's Statement of Facts and Contentions.</p> <p>On 4 March 2022 the Court upheld the Appeal and granted consent. The approved development now comprises twenty (25) self-contained dwellings (comprising 16 x 3 bedroom units, 7 x 2 bedroom units and 2 x 1 bedroom units), basement parking (accommodating forty-five (45) underground off-street parking spaces, 5 motor cycle spaces and 28 bicycle spaces), communal open space areas and associated landscaping.</p> <p>DA216/2021/2 was approved on 4 October 2022 for internal and external modifications to an approved residential flat building. The proposed development will now comprise of twenty (25) self-contained dwellings (comprising 18 x 3 bedroom units, 6 x 2 bedroom units and 1 x 1 bedroom unit), basement parking [accommodating forty-five (45) underground off-street parking spaces, 5 motor cycle spaces and 28 bicycle spaces], communal open space areas and associated landscaping.</p>
Relevant Compliance History
Nil.
Pre-DA
Nil.
Requests for Additional Information and Replacement Applications
Nil.
Land and Environment Court Appeal(s)
A Class 1 Appeal (deemed refusal) was lodged with the Land and Environment Court (Case No.2024/74977) on 27 February 2024. A s34 conciliation conference is scheduled for 4 September 2024.

10. REFERRALS

Referral	Summary of Referral Response	Attachment
Trees and Landscaping	Unsatisfactory.	4

ASSESSMENT UNDER SECTION 4.56

The application is assessed under Section 4.56 of the Environmental Planning and Assessment Act 1979.

11. SECTION 4.56: MODIFICATION OF A CONSENT GRANTED BY THE COURT

Section 4.56 relates to the modification of a development consent granted by the Court. Development consent was granted by the Land and Environment Court on 4 March 2022.

The considerations in Section 4.56 require Council to consider the following:

- It is satisfied that the development to which the consent as proposed to be modified is substantially the same development as the development for which the consent was originally granted and before the consent as originally granted was modified (if at all)- YES*
- It has notified the application in accordance with the regulations and Council's DCP for Advertising and Notification of Development Applications and Applications to Modify Development Consent - YES*
- It has notified any person who made a submission in respect of the original development application - YES*
- It has considered any submissions made concerning the proposed modifications – NOT APPLICABLE*

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 **31 January 2024 to 15 February 2024** in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. No submissions were received.

12.2. Statutory Declaration

The applicant completed the statutory declaration dated 21 February 2024 declaring that the site notice was erected and maintained during the notification period.

13. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

SEPP (Housing) applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings. The approved development comprises twenty (25) self-contained dwellings (comprising 19 x 3 bedroom units, 5 x 2 bedroom units and 1 x 1 bedroom unit).

The proposed modifications are considered minor in the context and result in a reduction in the number of approved dwellings from twenty-five (25) to twenty-one (21). An assessment against the criteria outlined in the Design Quality Principles, where relevant, has been undertaken by Council's Assessment Officer below.

13.1 Clause 142(1): Aims of Chapter

The aim of the SEPP is to improve the design quality of residential apartment development:

- (1) *The aim of this chapter is to improve the design of residential apartment development in New South Wales for the following purposes—*
 - (a) *to ensure residential apartment development contributes to the sustainable development of New South Wales by—*
 - (i) *providing socially and environmentally sustainable housing, and*
 - (ii) *being a long-term asset to the neighbourhood, and*
 - (iii) *achieving the urban planning policies for local and regional areas,*
 - (b) *to achieve better built form and aesthetics of buildings, streetscapes and public spaces,*

- (c) to maximise the amenity, safety and security of the residents of residential apartment development and the community,*
- (d) to better satisfy the increasing demand for residential apartment development, considering—*
 - (i) the changing social and demographic profile of the community, and*
 - (ii) the needs of a wide range of people, including persons with disability, children and seniors,*
- (e) to contribute to the provision of a variety of dwelling types to meet population growth,*
- (f) to support housing affordability,*
- (g) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions,*
- (h) to facilitate the timely and efficient assessment of development applications to which this chapter applies.*

The proposed modifications to the approved residential flat building are considered to be a contextual fit and are generally consistent with the abovementioned aims by maintaining a well-designed development.

However, and for reasons discussed throughout this report, the bulk and scale of the proposed substation would represent an intrusive element within the Bellevue Road streetscape. In addition, the location of the substation will potentially impact upon the Tree Root Zone (TRZ) of the mature Jacaranda tree.

The proposed modifications are inconsistent with the aim in Clause 142(1)(b) of the SEPP (Housing) 2021 and is listed as a reason for refusal.

A Design Review Panel has not been established for the Woollahra area. The proposed modifications have been reviewed by Council's Assessment Officer.

13.2 Design principles for residential apartment development

Clause 147(1) of SEPP (Housing) requires the assessment of the application against the design principles for residential apartment development in Schedule 9. Where relevant an assessment has been undertaken against the relative principles below.

13.2.1. Principle 1: Context and Neighbourhood Character

The overall appearance of the proposed development upon Bellevue Road does not significantly change as a result of the proposed modifications, and will be visually proportional to nearby developments as well as the character of its surroundings. The modifications to the approved residential flat building remain responsive to the surrounding context and neighbourhood character, which is dominated by large dwelling houses and residential flat buildings of varying types and styles.

However, for reasons discussed throughout this report the bulk and scale of the substation represent an intrusive element within the Bellevue Road streetscape and the location of the substation will potentially impact upon the Tree Root Zone (TRZ) of the mature Jacaranda tree.

The proposed substation therefore fails to contribute positively to the area's character and does not ensure the character of the local built environment is maintained or enhanced.

The proposed modifications fail to fully satisfy this principle. This will form a reason for refusal.

13.2.2. Principle 2: Built Form and Scale

The overall height, bulk, scale and form of the development would maintain compatibility with existing development in this location and will make a positive contribution to the precinct and streetscape. The built form to the road frontage maintains a recessed configuration which includes suitable areas of landscaping complemented with articulation to the built form upon the streetscape along Bellevue Road.

However, for reasons discussed throughout this report the the bulk and scale of the substation represent an intrusive element within the Bellevue Road streetscape.

The proposed substation is considered to be excessive in bulk and scale and is inconsistent with the streetscape in this locality.

The proposed modifications fail to fully satisfy this principle. This will form a reason for refusal.

13.2.3. Principle 4: Sustainability

The proposed modifications will ensure that suitable cross ventilation and natural sunlight is achieved to the living areas of the required amount of apartments within the development, as specified by the ADG.

The proposed modifications satisfy this principle.

13.2.4. Principle 5: Landscape

For reasons discussed throughout this report, and the commentary provided by Council's Tree Officer, the proposed modifications are unsatisfactory due to unacceptable impacts to the Jacaranda tree (T40) located adjacent the north-eastern (Bellevue Road) boundary. The detailed commentary provided by Council's Tree and Landscape Officer is provided in Section 9.8 of this report and **Attachment 4**.

The proposed modifications fail to fully satisfy this principle. This will form a reason for refusal.

13.2.5. Principle 6: Amenity

The proposed modifications will ensure that good amenity is achieved by the combination of open plan units, balanced internal and outdoor areas and suitable openings allowing natural ventilation. The proposed modifications to the approved residential flat building do not alter the fixed privacy screens or planter boxes to trafficable terraces thereby ensuring visual privacy impacts on adjoining properties and the private open space areas of the residents within the development, are mitigated.

The proposed modifications satisfy this principle.

14. APARTMENT DESIGN GUIDE

The Modifications should be refused because the proposed substation is of a bulk and scale which represents an intrusive element within the Bellevue Road streetscape and will result in adverse impacts upon Tree 40 (Jacaranda).

14.1. Part 3C: Public Domain Interface

Part 3C-2: Amenity of the public domain is retained and enhanced

The Objective relevant to the proposed modifications require that “*Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.*”

The proposed substation, within the front setback, is of a bulk and scale which represents an intrusive element within the Bellevue Road streetscape and will result in adverse impacts upon Tree 40 (Jacaranda).

For reasons discussed in Section 11.2.3 of this part, the proposed modifications fail to satisfy the relevant objective prescribed by this Part and is listed as a reason for refusal.

15. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

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.

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.

16. SEPP (BIODIVERSITY AND CONSERVATION) 2021

16.1. 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 modifications will have no significantly adverse impacts on the Sydney Harbour Catchment, subject to originally imposed standard conditions including erosion and sedimentation, stormwater and flood risk management control.

17. SEPP (RESILIENCE AND HAZARDS) 2021

17.1. 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.

18. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

18.1. Part 1.2: Aims of Plan

The proposed modifications are inconsistent with the aims in Part 1.2(2) of the Woollahra LEP 2014 in the following manner:

- It does not protect amenity and the natural environment, as required in sub-clause (g).
- It does not achieve the desired future character of the area, as required in sub-clause (l).
- It does not encourage the retention of trees as part of development, as required in sub-clause (n).

The proposed modifications fail to satisfy the aforementioned aims and is listed as a reason for refusal.

18.2. Land Use Table

The proposed modifications are defined as alterations and additions to an approved Residential Flat Building which is permitted but is inconsistent with the objectives of the R3 Medium Density Residential zone for the following reasons:

- The proposed modifications do not achieve the desired future character of the neighbourhood.
- The proposed modifications do not conserve and enhance tree canopy cover.

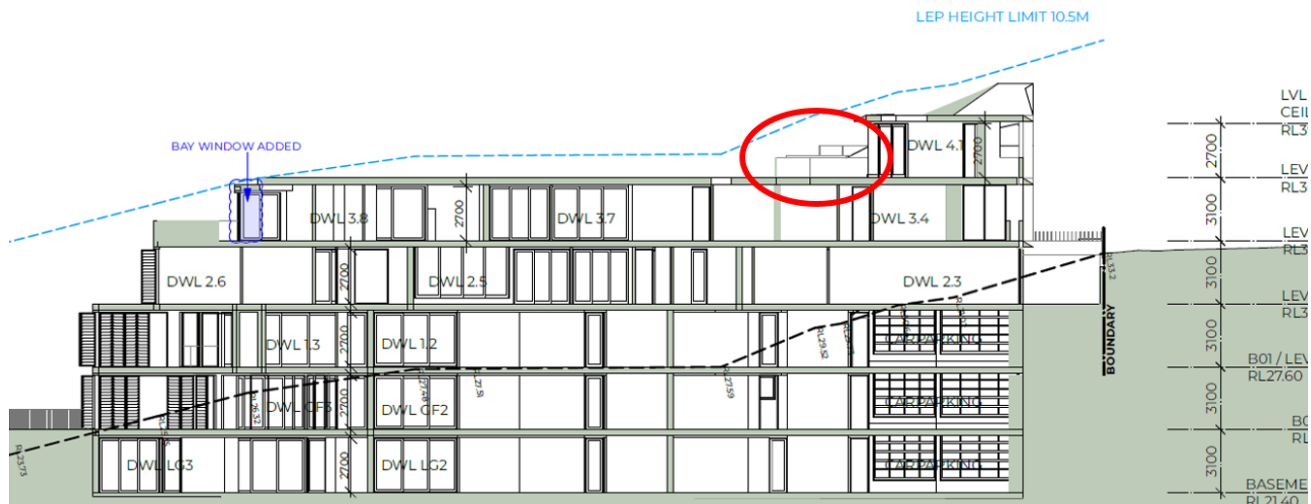
The proposed modifications fail to satisfy the relevant objectives of this part and is listed as a reason for refusal.

18.3. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m.

	Approved (under DA216/2021/1)	Proposed	Control	Complies
Maximum Building Height	10.5m	Cannot be determined as insufficient information has been provided	10.5m	Cannot be determined

Insufficient information has been provided to determine whether the proposed modifications breach the permitted height of buildings development standard. Specifically, it appears the lift overrun has been extended beyond the permitted height of buildings development standard, as illustrated in the figures below.



Approved long section (DA 216/2021/2) showing the location of the lift overrun which is compliant with the 10.5m LEP Height limit



Proposed long section showing the extended lift overrun which appears above the 10.5m LEP Height limit

The submitted SEE prepared by Planning Ingenuity states that the proposed modifications are compliant with the height of buildings development standard of 10.5m prescribed in Part 4.3 of the Woollahra LEP 2014.

Whilst the *Exceptions to Development Standards* pursuant to Part 4.6 of this Plan does not apply to a Section 4.56 Application, Council must have regard to the provisions of Section 4.15 of the EPA Act 1979. In this regard, the proposed modifications would need to satisfy the relevant objectives of the development standard. However, for reasons discussed above, an informed assessment of the proposed modifications against the relevant objectives of the development standard cannot be undertaken as it is unclear if there is a breach, or if there is a breach what the extent of the breach with the development standard is.

Given the commentary provided above, insufficient information has been provided to carry out an informed assessment as to whether the proposed modifications breach the height of buildings development standard of 10.5m prescribed in Part 4.3 of the Woollahra LEP 2014, and is therefore listed as a reason for refusal.

18.4. Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio of 0.65:1 for a residential flat building.

Site Area: 2612.7m ²	Approved (under DA216/2021/2)	Proposed	Control	Complies
Floor Space Ratio	1.1 (2,868m ²)*	1.15 (2,994m ²)	0.65 (1,698m ²)	No

*Approved non-compliance

Whilst no diagrammatic plans have been provided for the calculations of the Gross Floor Area for the proposed modifications, a calculation of the FSR was undertaken against the submitted Architectural Plans. The assessment indicated that the figures for the Gross Floor Area provided in the SEE prepared by Planning Ingenuity were consistent with the calculations undertaken in the desktop assessment.

It is noted that the last approved Development Application (DA216/2021/2) does not comply with the Floor Space Ratio (FSR) development standard, as demonstrated in the Compliance Table above. The currently proposed modifications will further breach the FSR standard by 126m² to 1,296m², representing a 76% departure. The increase in gross floor area is largely attributed to the amalgamation and enlargement of those relevant units specified and detailed in Section 6 of this report.

The *Exceptions to Development Standards* pursuant to *Part 4.6* of this Plan does not apply to a Section 4.56 Application. However, Council must have regard to the provisions of Section 4.15 of the EPA Act 1979. In this regard, the proposed modifications satisfy the relevant objectives of the development standard in the following manner:

- (i) *To ensure the bulk and scale of new development is compatible with the desired future character of the area*

The non-compliant elements with the FSR development standard are largely contained within the approved building envelope, with the exceptions to the additional gross floor area to the amalgamated unit at Level 04. The following points are noted in this regard:

- The additional gross floor area to the Level 04 unit is set back significantly from the rear setback, within the approved building footprint.
- The proposed modifications, as viewed from properties located to the west of the site, will largely be obscured by the approved built form at the lower level, which extends further towards the rear setback.
- The proposed modifications are not visible at all from the Bellevue Road streetscape and will achieve a bulk and scale that will be compatible with the desired future character of the area.

The proposed modifications satisfy this objective.

- (ii) *To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain*

As detailed elsewhere in this report, the proposed modifications are considered to be satisfactory and reasonable in regards to impacts upon adjoining properties, including impacts upon views, privacy, overshadowing and visual intrusion.

The proposed modifications satisfy this objective.

- (iii) *To ensure that development allows adequate provision on the land for deep soil planting and areas of private open space*

The proposed modifications will maintain adequate provision for deep soil planting and areas of private open space.

The proposed modifications satisfy this objective.

18.5. 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.*

Having regard to location of the site and the extent of works being carried out, an assessment of the proposed modifications were undertaken by Council's Drainage Engineer at DARC who raised no objections to the proposed modifications.

The proposed modifications are considered to be acceptable with regard to the provisions of Part 5.21 of Woollahra LEP 2014.

18.6. Part 6.1: Acid Sulfate Soils

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.

18.7. 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 Tree Officer has advised that insufficient information has been provided to determine the impacts of the proposed substation upon the Tree Root Zone (TRZ) of Tree T40 (Jacaranda tree), located adjacent the north-eastern (Bellevue Road) boundary. Council's Tree Officer has undertaken an assessment of the proposed modifications and considers the proposed modifications to be unsatisfactory.

Specifically, the following detailed comments are provided:

"The proposed substation and relocated garbage area are in the same location as Tree 40 which is a Jacaranda tree required to be retained as part of DA 2019/344/1 (Condition A.4).

The modifications represent a major incursion into the root zone of the tree. There are likely to be significant impacts (mostly major root loss) as a result.

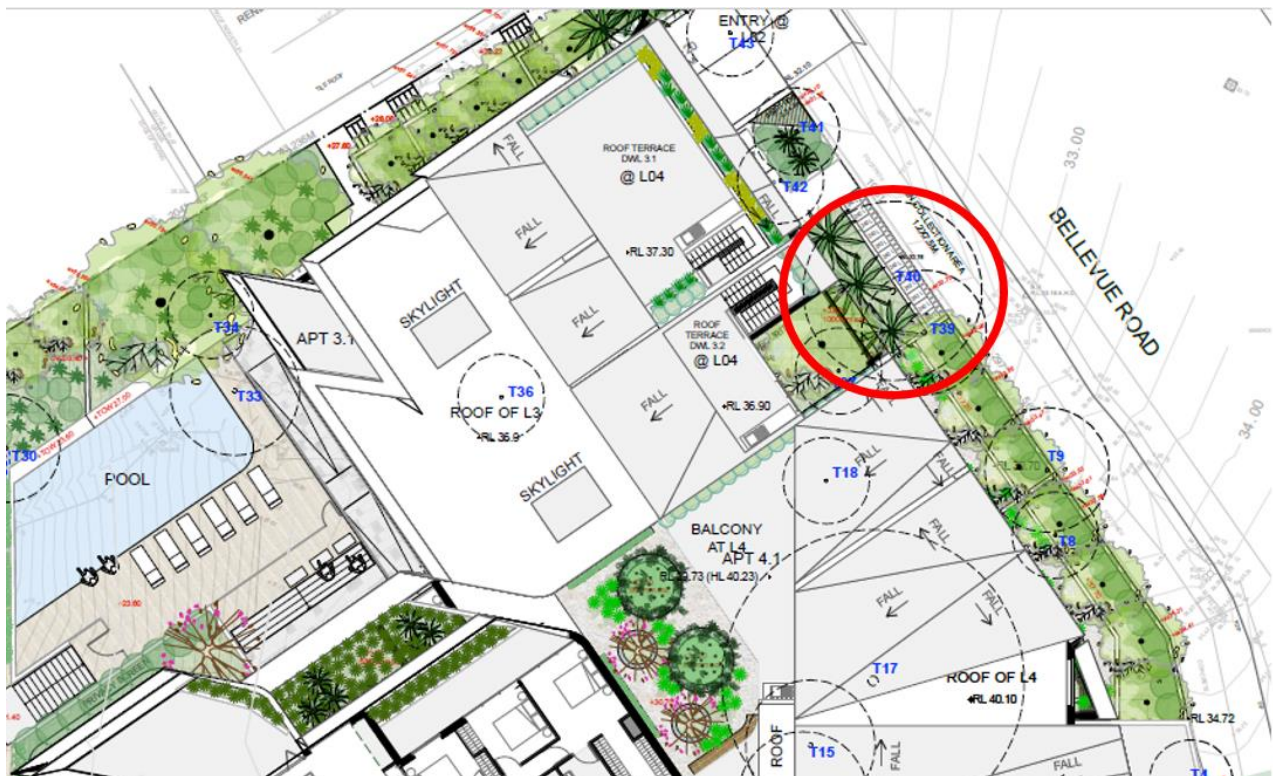
I note that an arboricultural impact assessment report has not been provided with the application and that the tree is not depicted on the plans.

The proposed modifications are not supported in their current form due to their likely impacts on Tree 40.

RECOMMENDATIONS

A major re-design of the proposal should be undertaken. This includes a re-location of the substation and any other proposed structures and hard surfaces so that they are located outside the TPZ area of Tree 40 and other trees to be retained or represent only a minimal incursion into the TPZ area of trees to be retained. Where incursions within TPZ areas are proposed an arboricultural impact assessment which includes exploratory root mapping along the line of any proposed incursions must be submitted.”

Under the LEC conditions approved for DA344/2019/1, **Condition A.4** was imposed which required the retention of Tree T40 (Jacaranda) of which the location is shown in the extracted plans and site photo below.



Extract from the DA report for DA344/2019/1 identifying the location of Tree T40



Extract from the DA report for DA344/2019/1 showing Tree T40 (Jacaranda) as viewed from Bellevue Road



Extract of the Landscape Plans approved by the LEC under DA344/2019/1 illustrating the location and a notation that Tree T40 is to be retained

The amending Development Application (DA 216/2021/1) included the following condition related to Tree T40 (Jacaranda):



View of Tree T40 (Jacaranda) from Bellevue Road (photo taken 2 May 2024)

For reasons discussed above, and the commentary provided by Councils Tree Officer, the proposed modifications are unacceptable with regard to Clause 6.9 of Woollahra LEP 2014 and is listed as a reason for refusal.

19.1. Chapter B1: Bellevue Hill North Residential Precinct

The proposed modifications do not 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.

The relevant objectives of this part read as follows:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- 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.*

The proposed substation within the front setback is not considered to be skilfully integrated within the approved development and represents an intrusive element within the Bellevue Road streetscape. The proposed substation fails to satisfy the relevant objectives in the following manner:

- The proposed substation does not respect and enhance the streetscape character and key elements of the precinct;
- The proposed substation does not reinforce the landscape setting and maintain the existing tree canopy; and
- The proposed substation does not retain and reinforce the green setting of mature street trees.

Conclusion:

Given the commentary provided above, the proposed modifications fail to achieve the relevant objectives of Part B1.8.2 of the Woollahra DCP 2015 and is listed as a reason for refusal.

19.2. Chapter B3: General Development Controls

19.2.1. Part B3.2: Building Envelope

Note: The rear and side setbacks are overridden by the separation design criteria in Part 3F of the ADG, as already discussed in the report. Nevertheless for comparative purposes the proposal is assessed against the DCP Controls below

The proposed modifications do not alter the front, side or rear setbacks of the approved Residential Flat Building.

Conclusion

The proposed modifications are acceptable with regard to Part B3.2 of the Woollahra DCP 2015.

19.2.2. Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

The proposed modifications are largely contained within the footprint of the approved development (DA's 344/2019/1 and 216/2021/1).

The proposed modifications will maintain the overall presentation as a contemporary double storey development upon the street, which steps down the site. The proposed modifications remain consistent with the bulk, size and scale of existing developments within this locality.

However, for reasons discussed throughout this report the bulk and scale of the substation represent an intrusive element within the Bellevue Road streetscape. In addition, the location of the substation will potentially impact upon the Tree Root Zone (TRZ) of the mature Jacaranda tree (T40).

The proposed modifications therefore fail to contribute positively to the area's character and does not ensure the character of the local built environment is maintained and enhanced.

The proposed modifications fail to fully satisfy the relevant objectives outlined in Part B3.5.1 of the Woollahra DCP 2015 and is listed as a reason for refusal.

Part B3.5.2: Overshadowing

The proposed modifications do not result in any additional overshadowing of the habitable room windows or private open space areas of the adjoining properties.

The proposed modifications satisfy the relevant objectives of this part.

Part B3.5.3: Public and Private Views

There is envisaged to be no significant loss of existing views through the site from adjoining properties or from the public domain.

The proposed modifications satisfy the relevant objectives of this part.

Part B3.5.4: Acoustic and Visual Privacy

Acoustic privacy

The proposed modifications to the approved residential flat building will maintain adequate separation between the private open space and communal space areas within the development and the adjoining properties, thereby ensuring adequate acoustic separation and privacy to the occupants of adjoining properties is achieved.

Visual Privacy

The proposed modifications to the approved residential flat building do not alter the fixed screens or planter boxes to trafficable terraces thereby ensuring visual privacy impacts on adjoining properties and the private open space areas of the residents within the development, are mitigated.

The proposed modifications satisfy the relevant objectives of this part.

Conclusion:

Given the commentary provided above, the proposed modifications fail to achieve the relevant objectives of Part B3.5 of the Woollahra DCP 2015 and is listed as a reason for refusal.

19.2.3. Part B3.7: External Areas

B.3.7.1: Landscaped area and private open space

The proposed modifications do not substantially alter the extent or location of the approved deep soil landscaped areas, communal open space area and private open space areas.

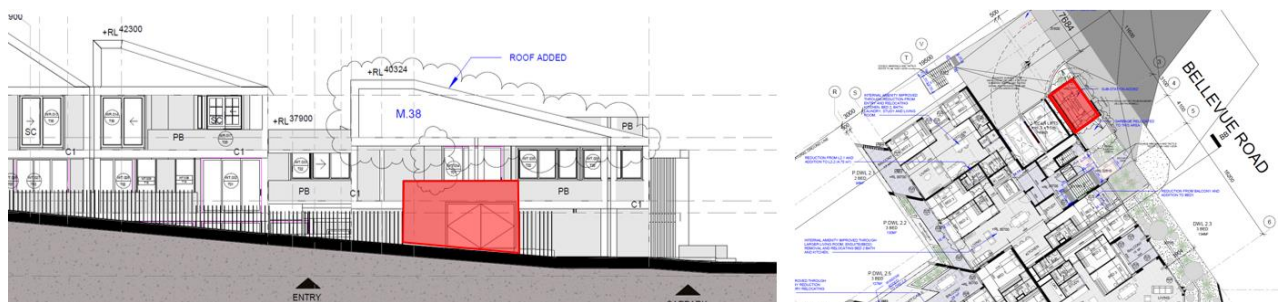
However, as discussed throughout this report, insufficient information has been provided to determine the impacts of the proposed substation upon the Tree Root Zone (TRZ) of Tree 40 (Jacaranda tree), located adjacent the north-eastern (Bellevue Road) boundary. Council's Tree Officer has undertaken an assessment of the proposed modifications and considers the proposed modifications to be unsatisfactory.

The proposed modifications fail to comply with Controls C1, C14 and C18 and are inconsistent with Objectives O1, O2, O7 and O9 of this part, which require development to a.) ensure that the areas outside the building contribute to the desired future character of the location; b.) maintain and enhance tree canopy cover which in turn contributes positively to the existing and desired future character of the locality; c.) retain important existing canopy trees, vegetation and other landscape features; and b) ensure that landscaping contributes positively to the streetscape and the amenity of neighbouring properties.

For reasons discussed above, the proposed modifications fail to fully achieve the relevant objectives and controls of this part and is listed as a reason for refusal.

B.3.7.3: Site Facilities

The proposed modifications include an electrical substation located adjacent the proposed driveway entrance to the development, within the front setback and facing Bellevue Road (see Figure below).



Street elevation (left) and floor plan (right) showing the location of the proposed sub-station (Source: Architectural plans prepared by Attena Group)

The relevant objectives and controls of this part read as follows:

- O11 To ensure that site services are accessible, functional and do not have a negative impact on the streetscape.*
- O12 To ensure that an electricity substation is not visible from the street, or any other adjoining public place.*
- O13 To ensure that any screening or enclosure to conceal the substation does not detract from the streetscape character or design quality of the development.*
- O14 To protect the amenity of adjoining residential dwellings from substations.*
- O15 To ensure that vegetation does not interfere with the functioning of the substation.*
- O16 To minimise the impact of other types of electricity infrastructure in the streetscape.*

C12 Site services are suitably integrated with the development including the landscape design and are not visually intrusive within the streetscape.

C14 The substation is to be suitably located, screened and/or concealed. Council's preference is for a chamber substation.

C15 Any screening or enclosure to conceal the substation is to be visually unobtrusive and suitably integrated with the development, including the fencing and landscape design.

C16 The substation is to be located away from neighbouring properties or sufficiently screened from neighbouring properties.

C17 The location and design of the electricity substation must be considered and integrated with the landscaping of the proposed development, and must ensure that: a) Vegetation does not overhang or encroach within the substation site. b) The substation is installed outside of the mature growth root zone of any trees to be retained, or proposed to be planted, to prevent roots damage to underground cables.

C18 The design and location of all other aboveground utility infrastructure (such as electrical pillars etc.) should minimise visual clutter within the streetscape and provide for a continuous accessible path of travel, where practical to ensure safe and equitable pedestrian circulation for people of all abilities. (Where this provision and Ausgrid's requirements cannot both be satisfied, the applicant is to develop in consultation with Council and Ausgrid a solution that meets the acceptance of both consent authorities. Notes: • At the DA stage the applicant should demonstrate that they have engaged with Ausgrid and have a network capacity assessment undertaken for the proposed development. • Where a substation is required, the substation should be identified on the DA plans and addressed in the SEPP 65 Design Verification Statement (also see Apartment Design Guide Objective 3C-2 Amenity of the public domain is retained and enhanced). • The DCP requirements apply in addition to the Ausgrid Network Standards, such as NS113 Site selection and construction design requirements for chamber substations. Separate Ausgrid approval for the substation will be required. A dedicated access way/easement through the site to the substation will also need to be provided.

The proposed substation within the front setback is not considered to be skilfully integrated within the development and represents an intrusive element within the Bellevue Road streetscape. The proposed substation fails to satisfy the relevant objectives and controls in the following manner:

- The proposed substation will have a negative impact on the streetscape;
- The proposed substation will be highly visible from the public domain;
- The proposed substation will detract streetscape character or design quality of the development;
- The proposed substation will not minimise the impact of electricity infrastructure in the streetscape; and
- The proposed substation will impact upon the mature growth root zone of Tree 40 (Jacaranda), which is to be retained.

Given the commentary provided above the proposed modifications fail to achieve the relevant objectives and controls of this part.

Conclusion:

For reasons discussed above, the proposed modifications fail to achieve the relevant objectives and controls of Part B3.5 of the Woollahra DCP 2015 and is listed as a reason for refusal.

19.2.4. Part B3.8: Additional Controls for Development Other Than Dwelling Houses

The proposed modifications satisfy the relevant objectives and controls of this part.

Conclusion:

The proposed modifications are therefore acceptable with regard to Part B3.8 of the Woollahra DCP 2015.

19.3. Chapter E1: Parking and Access

Whilst the proposed modifications result in a reduction of the number of units, the maximum parking requirement does not change. The proposed modifications do not alter the number of parking bays provided and do not alter the approved parking and access arrangement.

The proposed modifications are acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

19.4. Chapter E2: Stormwater and Flood Risk Management

Council's Development and Drainage Engineers have undertaken an assessment of the proposed modifications and have determined the proposed modifications to be satisfactory, subject to conditions.

19.5. Chapter E3: Tree Management

The objectives of this chapter are:

- O1 To identify trees which are prescribed for the purpose of Part 2.3 of the Biodiversity and Conservation SEPP.*
- O2 To define the different circumstances under which a development consent or permit application is required for works to a prescribed tree.*
- O3 To promote, maintain and conserve the leafy character of the Woollahra Municipality.*
- O4 To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.*
- O5 To sustain and enhance Woollahra's tree canopy cover whilst providing opportunities for development on private land.*

Council's Tree and Landscape Officer has undertaken an assessment of the proposed modifications and considers the proposed modifications unacceptable in its current form. The proposed modifications are unsatisfactory due to unacceptable impacts to the Jacaranda tree (T40) located adjacent the north-eastern (Bellevue Road) boundary. The detailed commentary provided by Council's Tree and Landscape Officer is provided in Section 18.7 of this report and **Attachment 4**.

For reasons discussed above, and throughout this report, the proposed modifications do not achieve consistency with Objectives O3-O5 outlined in Chapter E3 of the Woollahra DCP 2015.

Conclusion

The proposal is unacceptable with regard to the satisfying the relevant objectives outlined in Chapter E3 of the Woollahra DCP 2015 and is therefore listed as a reason for refusal.

19.6. Chapter E5: Waste Management

The proposed modifications are considered to be acceptable with regards to the objectives and controls in Chapter E5 of the Woollahra DCP 2015.

19.7. Chapter E8: Adaptable Housing

The proposed modifications are acceptable with regard to Chapter E8 of the Woollahra DCP 2015.

20. THE LIKELY IMPACTS OF THE PROPOSAL

The Architectural Plans submitted for the proposed modification indicate contiguous piling running along the entire Bellevue Road frontage of the property to the lower ground floor, ground floor and Level 01 floor plans (see figure below extracted from the architectural plans).



Floor plans of the lower ground floor (left), ground floor (middle) and Level 01 floor (right) showing the contiguous piling running along the entire Bellevue Road boundary of the subject site

This is inconsistent with the plans approved for the subject site under DA344/2019/1, DA216/2021/1 and DA216/2021/2.

It is noted that the documentation provided with the submission makes no reference to any additional excavation or piling as part of the works proposed under this modification and does not include any supporting documentation in this regard.

Given the commentary provided above, an informed assessment of the proposed modifications, and their likely impacts, cannot be undertaken and is therefore listed as a reason for refusal.

21. THE PUBLIC INTEREST

The proposed modifications are considered not to be in the public interest.

22. CONCLUSION

The proposed modifications are not acceptable against the relevant considerations under Section 4.15.

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 application by the applicant or any person who made a submission.

24. 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, refuse to modify development consent to Development Application No. 216/2021/1 for alterations and additions to the approved residential flat building (under DA344/2019) for 8 additional units, 2 new car lifts, removal of the approved swimming pool and associated works on land at 142 Bellevue Road Bellevue Hill, for the following reasons:

1. SEPP (Housing) 2021

- a) The proposed modifications are inconsistent with the aim in Clause 142(1)(b) of the SEPP (Housing) 2021 as the bulk and scale of the proposed substation represent an intrusive element within the Bellevue Road streetscape.
- b) The proposed modifications are inconsistent with the following design principles for residential apartment development in Schedule 9 of the State Environmental Planning Policy (Housing) 2021:

- i) Schedule 1, Principle 1: Context and Neighbourhood Character - The bulk and scale of the proposed substation represent an intrusive element within the Bellevue Road streetscape. The location of the proposed substation will potentially impact upon the Tree Root Zone (TRZ) of the mature Jacaranda tree. The proposed substation therefore fails to contribute positively to the area's character and does not ensure that the character of the local built environment is maintained or enhanced.
- ii) Schedule 1, Principle 2: Built Form and Scale - The bulk and scale of the proposed substation represent an intrusive element within the Bellevue Road streetscape. The proposed substation is considered to be excessive in bulk and scale and is inconsistent with the streetscape in this locality. The proposed substation will not achieve an appropriate built form that fits into its context.
- iii) Schedule 1, Principle 5: Landscape – The proposed modifications are unsatisfactory due to unacceptable impacts to the Jacaranda tree (T40) located adjacent the north-eastern (Bellevue Road) boundary and therefore fails to ensure that the landscaped areas outside the building envelope contribute to the streetscape and amenity in this locality.

2. Apartment Design Guide

The proposal is inconsistent with the objectives outlined in following Parts of the Apartment Design Guide:

- 3C – Public Domain Interface

3. Woollahra Local Environmental Plan 2014 (WLEP 2014) Part 1 Clause 1.2: Aims of Plan

The proposed modifications are inconsistent with the aims in Part 1.2(2) because:

- It does not protect amenity and the natural environment, as required in sub-clause (g),
- It does not ensure development achieves the desired future character of the area, as required in sub-clause (l),
- It does not encourage the retention of trees as part of development, as required in sub-clause (n).

4. Woollahra Local Environmental Plan 2014 (WLEP 2014) Land Use Table

The proposed modifications are inconsistent with the relevant objectives of the R3 Medium Density Residential zone because:

- The proposed modifications do not achieve the desired future character of the neighbourhood.
- The proposed modifications do not conserve and enhance tree canopy cover.

5. Woollahra Local Environmental Plan 2014 – Clause 4.3 Height of Buildings

Insufficient information has been provided to determine whether the proposed modifications breach the permitted 10.5m height of buildings development standard prescribed in Part 4.3 of the Woollahra LEP 2014. Specifically, it appears the lift overrun has been extended beyond the permitted height of buildings development standard.

6. Woollahra Local Environmental Plan 2014 – Clause 6.9 - Tree canopy cover in Zones R2 and R3

The proposed development has not demonstrated that it will avoid, minimise or mitigate adverse impacts on the existing tree canopy therefore it does not comply with Clause 6.9 of WLEP 2014.

7. Woollahra Development Control Plan 2015 (WDCP 2015), Chapter B1 Residential Precincts

a. Part B1.2: Bellevue Hill North Residential Precinct

The proposed modifications do not achieve consistency with regard to the desired future character Objectives O1, O7 and O8 prescribed in Part B1.8.2 of the WDCP 2015.

8. WDCP 2015, Chapter B3 General Development Controls

a. Part B3.5.1: Streetscape and Local Character

The proposed modifications do not comply with Controls C1, C2 & C4 and does not achieve the underlying Objectives O1-O3 outlined in Part B3.5.1 of the WDCP 2015.

b. Part B3.7.1: Landscaped area and private open space

The proposed modifications do not comply with Controls C14 and C18 and does not achieve the underlying Objectives O1, O7 & O8 outlined in Part B3.7.1 of the WDCP 2015.

c. Part B3.7.3: Site facilities (Substation)

The proposed modifications relating to the proposed substation do not comply with Controls C14, C15, C17 and C18 and does not achieve the underlying Objectives O12, O13, O15 & O16 outlined in Part B3.7.3: *Site facilities* of the WDCP 2015.

9. WDCP 2015, Chapter E3: Tree Management

The proposal does not achieve consistency with the underlying Objectives O3, O4 and O5 outlined in Part E3.1.3 Chapter E3 of the WDCP 2015.

10. Insufficient/Inadequate/Inconsistent information

Inadequate information has been submitted to enable a full and accurate assessment of the proposal against the relevant considerations pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979.

Particulars





a) Arboricultural Impact Assessment

An Arboricultural Impact Assessment report must be provided with the application where incursions within TPZ areas are proposed and must include exploratory root mapping along the line of any proposed incursions.

b) Revised Architectural Plans

- i. A long section through the internal lift and lift overrun (serving the northern section of the development) must be provided to determine if the proposed lift overrun exceeds the Height of buildings development standard.
- ii. The Architectural Plans are to be revised to clearly show Tree 40 (Jacaranda tree) on all relevant plans.
- iii. The Architectural Plans are to be amended to include a re-location of the substation, any other proposed structures and hard surfaces so that they are located outside the TPZ area of Tree 40 (Jacaranda tree) and other trees to be retained or represent only a minimal incursion into the TPZ area of trees to be retained.
- iv. The Architectural Plans are to be revised to delete all piling works shown along the Bellevue Road boundary of the subject site.

Attachments

1. Plans, Elevations and Sections [↓](#) 
2. Stamped Approved Plans (DA 216 2021 2) [↓](#) 
3. Approved Landscape Plans -DA344 2019 1 [↓](#) 
4. Referral Response – Tree and Landscaping [↓](#) 

Regulated Design Record				
Project Address: 142, 142A, 142B Bellevue Road, Bellevue Hill				
Project Title: 142, 142A& 142B Bellevue Road				
Consent No: DA354/2016		Body Corporate Reg No: DEP0001320		
Drawing Title: COVER S4.55		Drawing No: A-CO-000000		
Rev	Date	Description	DP Full Name	Reg No

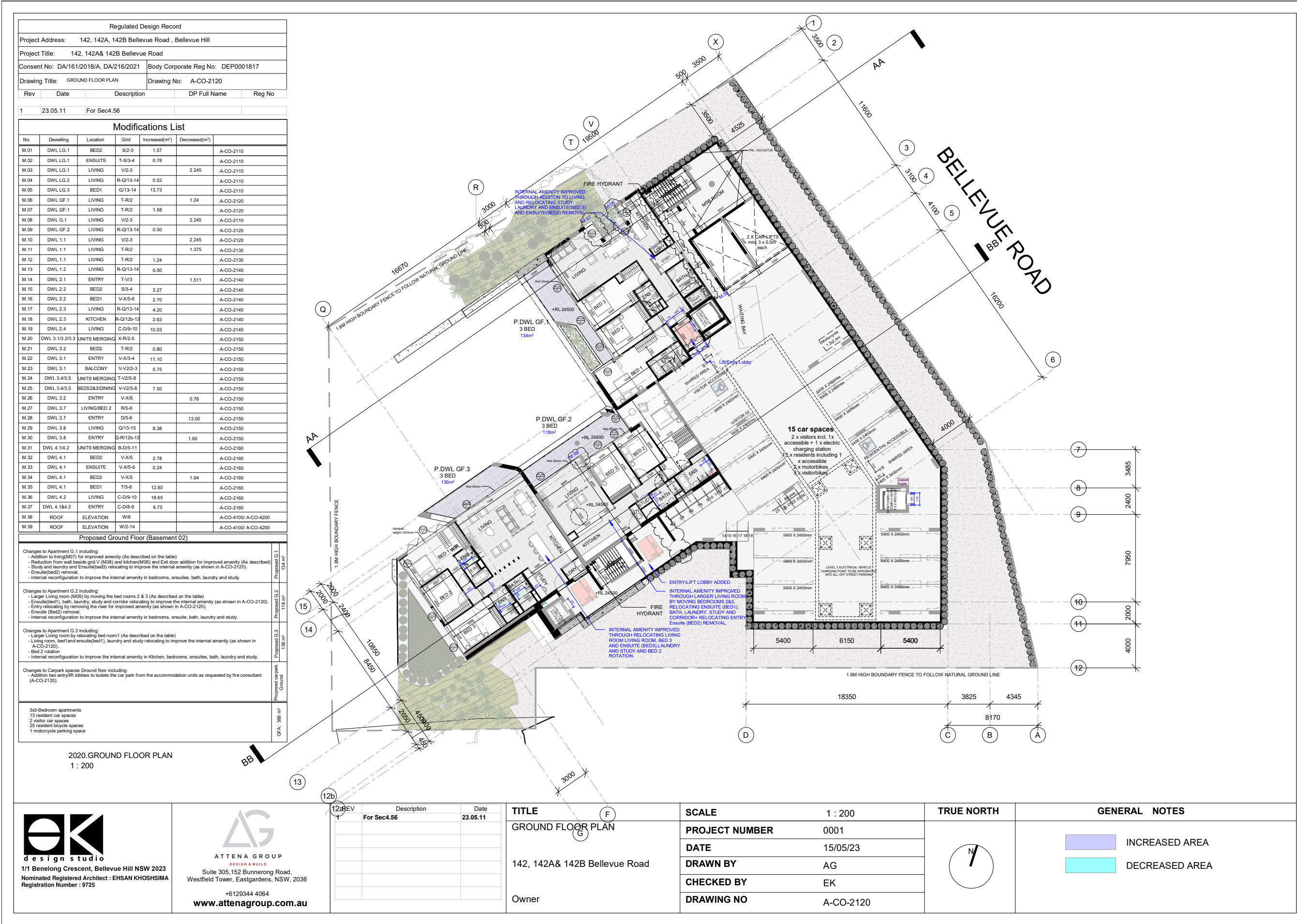
142,142A&142B Bellevue street

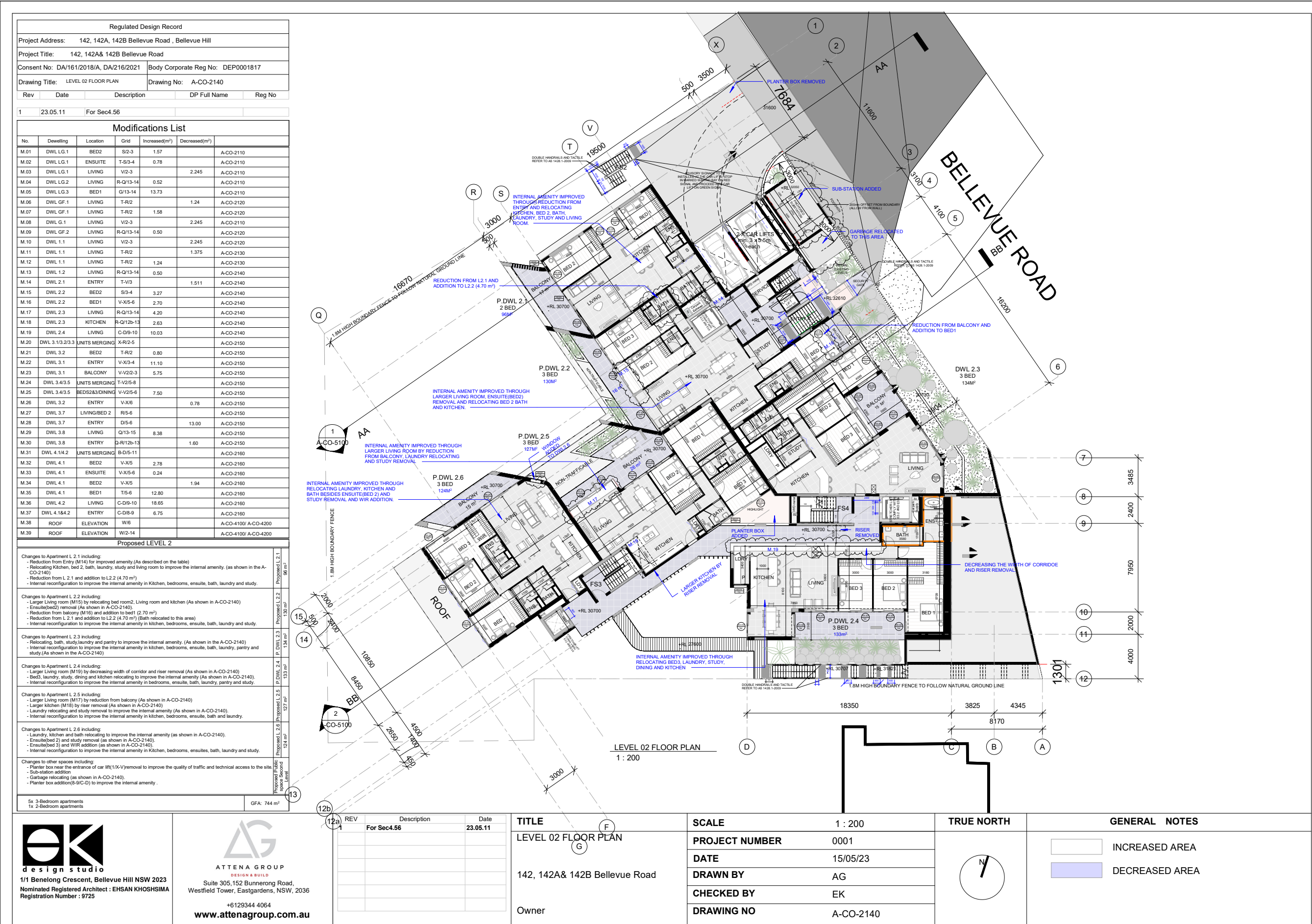
Review for Section 4.55

6th November, 2023

 <div>ATTENA GROUP DESIGN & BUILD</div>	<div>Attena Group Pty Ltd</div> <div>Address:</div> <div>Suite 305,152 Bunnerong Road,</div> <div>Westfield Tower,</div> <div>Eastgardens, NSW, 2036</div> <div>Phone:</div> <div>+6129344 4064</div> <div>www.attenagroup.com.au</div>	REV	Description	Date	TITLE	SCALE	@A1	TRUE NORTH	GENERAL NOTES
					COVER S4.55	PROJECT NUMBER	0001		
					142, 142A& 142B Bellevue Road	DATE	15/05/2023		
					Owner	DRAWN BY	AG		
						CHECKED BY	EK		
						DRAWING NO	A-CO-000000		







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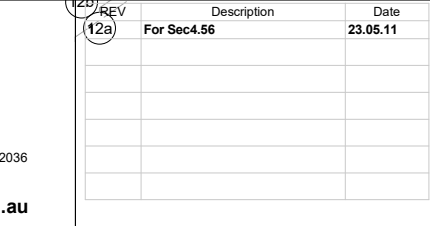
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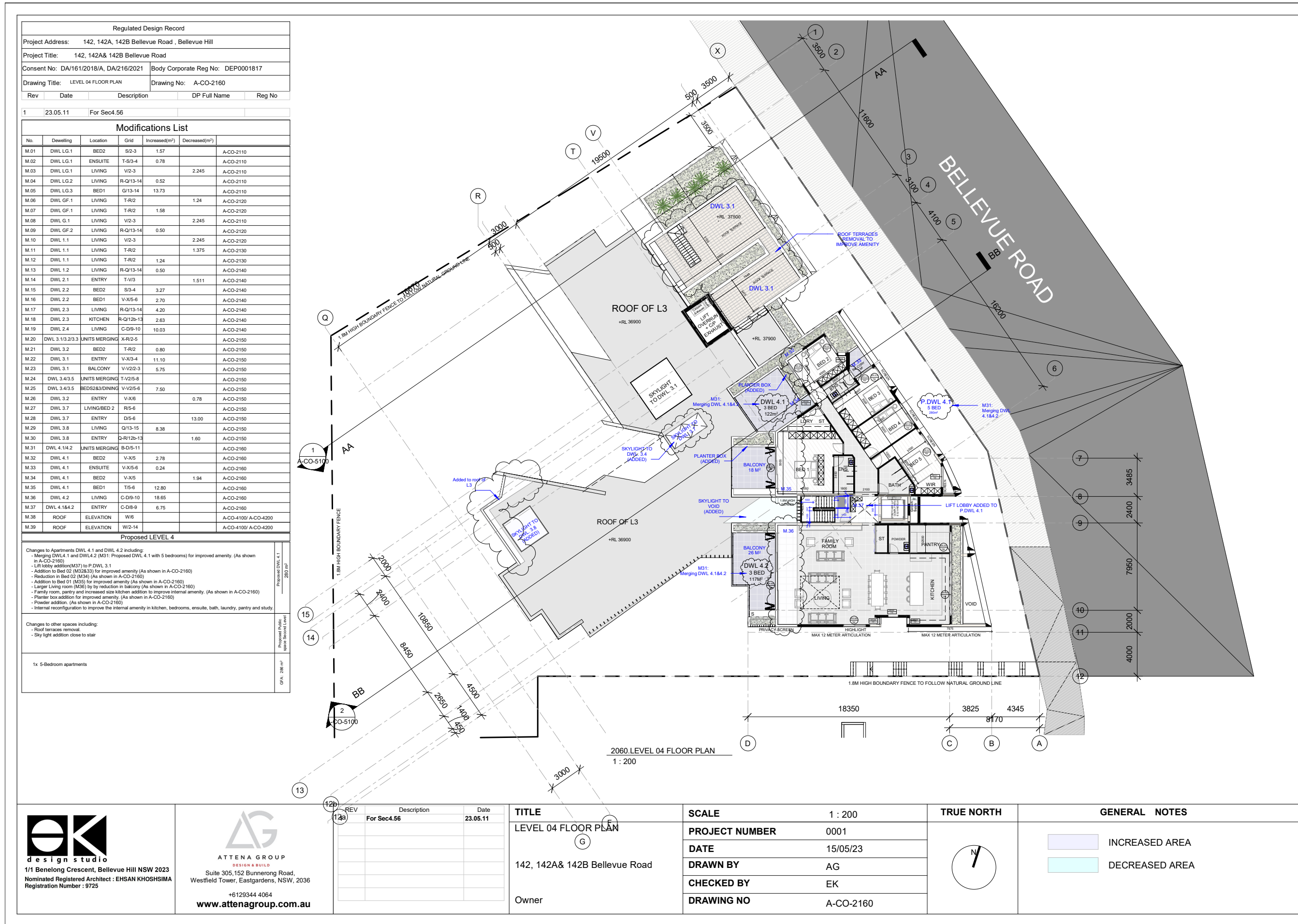
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TITLE	SCALE 1 : 200	TRUE NORTH	GENERAL NOTES
LEVEL 03 FLOOR PLAN	PROJECT NUMBER 0001		<div> <div></div> INCREASED AREA <div></div> DECREASED AREA </div>
(G)	DATE 15/05/23		
142, 142A& 142B Bellevue Road	DRAWN BY AG		
	CHECKED BY EK		
Owner	DRAWING NO A-CO-2150		



Regulated Design Record					
Project Address: 142, 142A, 142B Bellevue Road, Bellevue Hill					
Project Title: 142, 142A& 142B Bellevue Road					
Consent No: DA354/2016			Body Corporate Reg No: DEP0001320		
Drawing Title: ROOF PLAN			Drawing No: A-CO-2170		
Rev	Date	Description	DP Full Name	Reg No	
1	23.05.11	For Sec4.56			
Modifications List					
No.	Dwelling	Location	Grid	Increase(m ²)	Decrease(m ²)
M.01	DWL LG.1	BED2	S2-S3	1.57	
M.02	DWL LG.1	ENSUITE	T-03-4	0.78	
M.03	DWL LG.1	LIVING	V-03-1	2.245	
M.04	DWL LG.2	LIVING	R-Q13-14	0.82	
M.05	DWL LG.3	BED1	Q13-14	13.73	
M.06	DWL QF.1	LIVING	T-R02	1.24	
M.07	DWL QF.1	LIVING	T-R02	1.98	
M.08	DWL QF.1	LIVING	V-03-1	2.245	
M.09	DWL QF.2	LIVING	R-Q13-14	0.80	
M.10	DWL 1.1	LIVING	V-03-1	2.245	
M.11	DWL 1.1	LIVING	T-R02	1.375	
M.12	DWL 1.1	LIVING	T-R02	1.24	
M.13	DWL 1.2	LIVING	R-Q13-14	0.80	
M.14	DWL 2.1	ENTRY	T-V13	1.011	
M.15	DWL 2.2	BED2	S2-S3	3.27	
M.16	DWL 2.2	BED1	V-X05-6	2.70	
M.17	DWL 2.3	LIVING	R-Q13-14	4.20	
M.18	DWL 2.3	KITCHEN	R-Q13-14	2.83	
M.19	DWL 2.4	LIVING	C-09-10	10.03	
M.20	DWL 3.10.2/3	UNITS MERGING	X-R02-5		
M.21	DWL 3.2	BED2	T-R02	0.80	
M.22	DWL 3.1	ENTRY	V-03-4	11.10	
M.23	DWL 3.1	BALCONY	V-03-4	5.75	
M.24	DWL 3.4/3.5	UNITS MERGING	T-V03-4		
M.25	DWL 3.4/3.5	BEDDROOMING	V-03-4	7.80	
M.26	DWL 3.2	ENTRY	V-X06	0.78	
M.27	DWL 3.7	LIVING/BED 2	R5-6		
M.28	DWL 3.7	ENTRY	D5-6	13.08	
M.29	DWL 3.8	LIVING	Q13-15	8.38	
M.30	DWL 3.8	ENTRY	R4125-15	1.60	
M.31	DWL 4.14.2	UNITS MERGING	B-D15-11		
M.32	DWL 4.1	BED2	V-X05	2.78	
M.33	DWL 4.1	ENSUITE	V-X05-6	0.24	
M.34	DWL 4.1	BED2	V-X05	1.94	
M.35	DWL 4.1	BED1	T5-6	12.80	
M.36	DWL 4.2	LIVING	C-09-10	18.65	
M.37	DWL 4.184.2	ENTRY	C-08-9	0.75	
M.38	ROOF	ELEVATION	W15		
M.39	ROOF	ELEVATION	W15-14		
Proposed LEVEL 4					
Changes to Apartments DWL 4.1 and DWL 4.2 including: - Merging DWL 4.1 and DWL 4.2 (B21): Proposed DWL 4.1 with 5 bedrooms (As shown in A-CO-2160) - LFR lobby addition to P-DWL 3.1 - Addition to Bed 01 (B21) for improved amenity (As shown in A-CO-2150) - Family room, party office and powder addition to improve internal amenity (As shown in A-CO-2150) - Planter box addition and wall between two balconies removed (As shown in A-CO-2150) - Internal reconfiguration to improve the internal amenity in kitchen, bedrooms, ensuite, bath, laundry, pantry and study					
Changes to other spaces including: - Roof terraces removal - Bay light addition close to stair					
1 x 5-Bedroom apartments					



2070 ROOF FLOOR PLAN
1 : 200



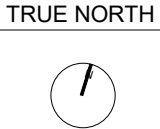
Attena Group Pty Ltd
Address:
Suite 305,152 Bunnerong
Road,
Westfield Tower,
Eastgardens, NSW, 2036
Phone:
+6129344 4064
www.attenagroup.com.au

REV	Description	Date
1	For Sec4.56	23.05.11

TITLE
ROOF PLAN
142, 142A& 142B Bellevue Road

Owner

SCALE	1 : 200 @A1
PROJECT NUMBER	0001
DATE	15/05/2023
DRAWN BY	AG
CHECKED BY	EK
DRAWING NO	A-CO-2170

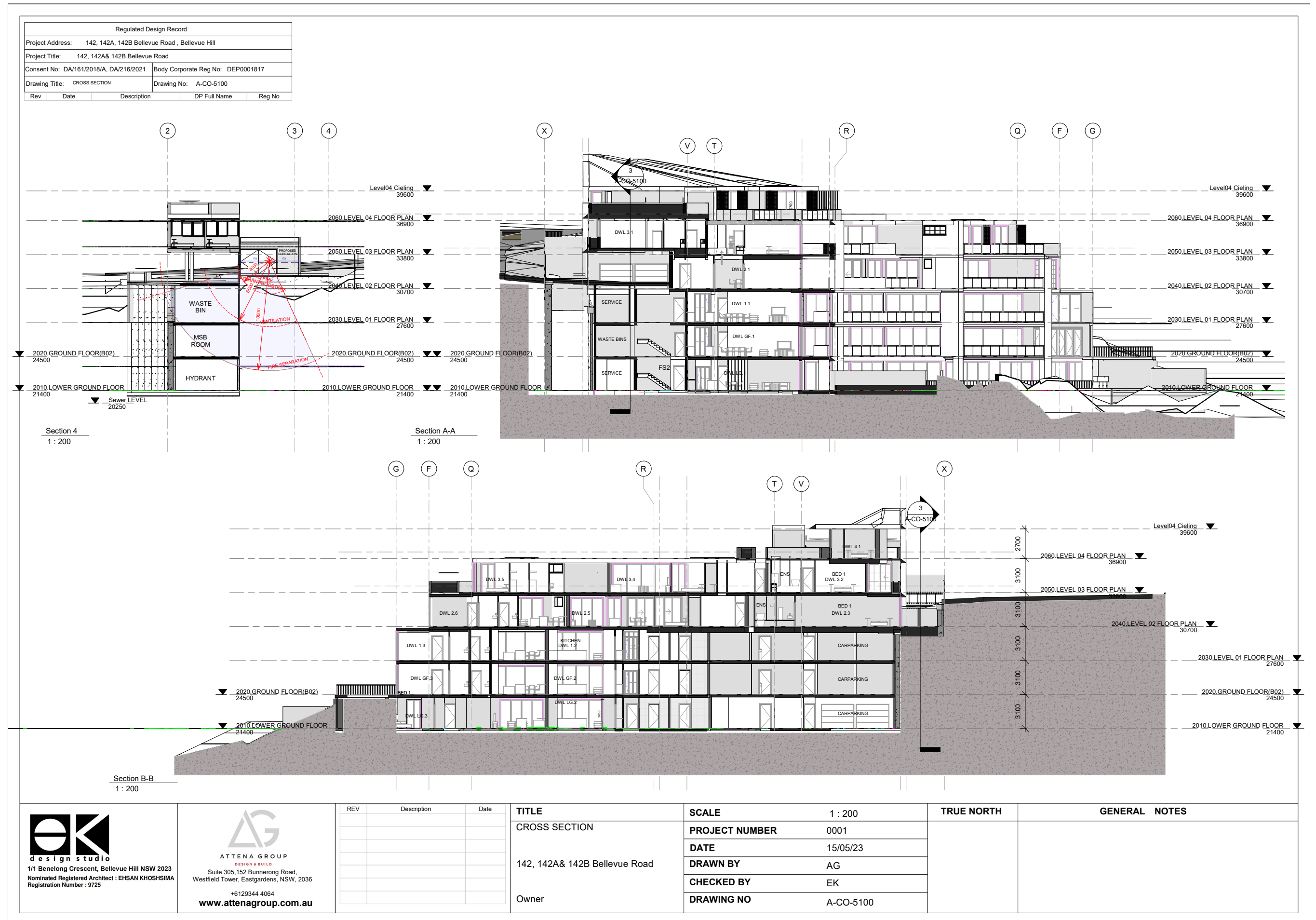


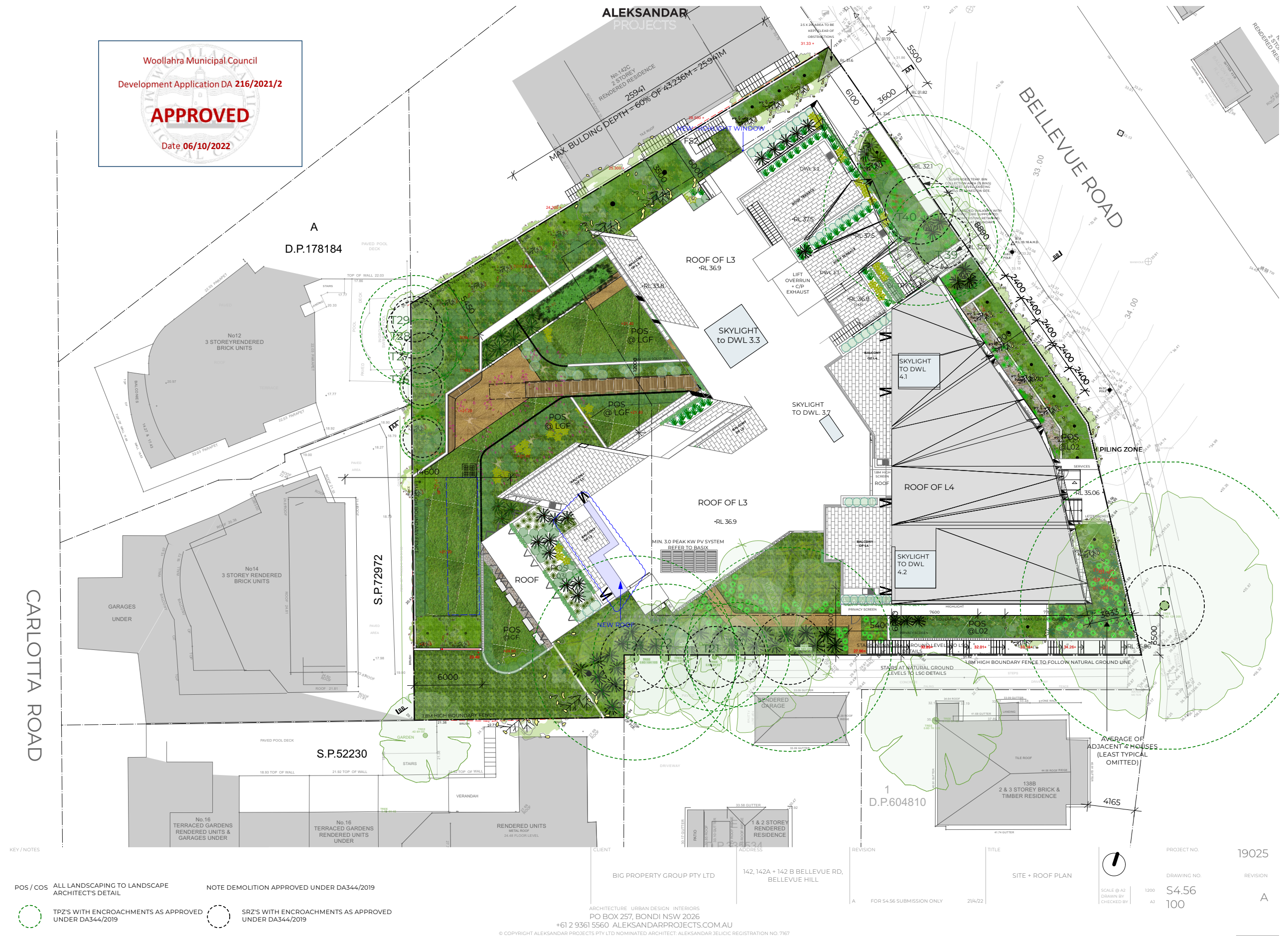
GENERAL NOTES







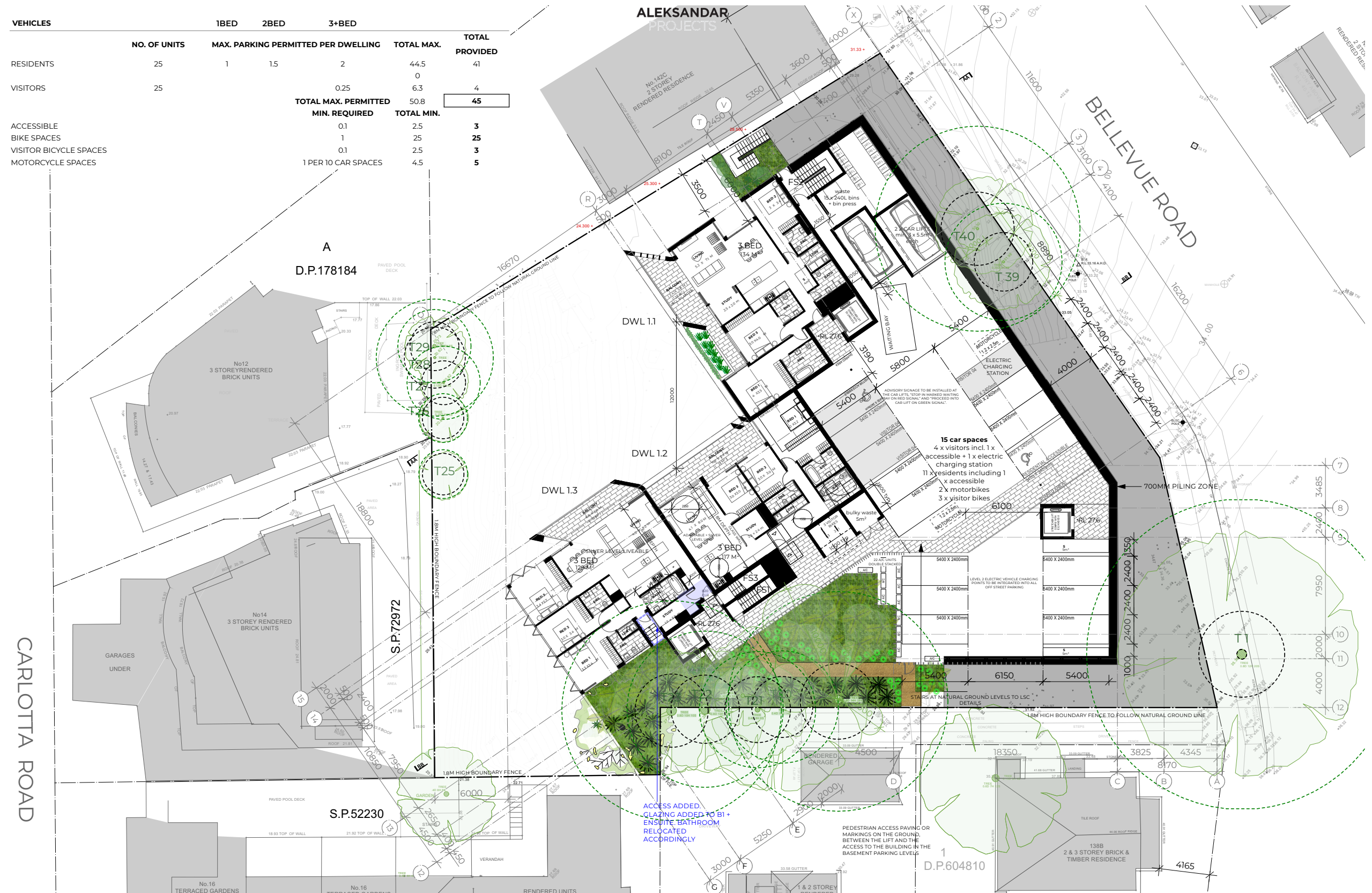








VEHICLES		1BED	2BED	3+BED		
	NO. OF UNITS	MAX. PARKING PERMITTED PER DWELLING			TOTAL MAX.	TOTAL PROVIDED
RESIDENTS	25	1	1.5	2	44.5	41
VISITORS	25			0.25	6.3	4
				TOTAL MAX. PERMITTED	50.8	45
				MIN. REQUIRED	TOTAL MIN.	
ACCESSIBLE				0.1	2.5	3
BIKE SPACES				1	25	25
VISITOR BICYCLE SPACES				0.1	2.5	3
MOTORCYCLE SPACES				1 PER 10 CAR SPACES	4.5	5



KEY / NOTES

POS / COS ALL LANDSCAPING TO LANDSCAPE ARCHITECT'S DETAIL

 TPZ'S WITH ENCROACHMENTS AS APPROVED
UNDER DA344/2019

 ADDITIONAL FLOOR AREA

 FLOOR AREA REMOVED

D  SRZ'S WITH ENCROACHMENTS AS APPROVED
UNDER DA344/2019

BIG PROPERTY GROUP PTY LTD

ARCHITECTURE URBAN DESIGN INTERIORS
PO BOX 257, BONDI NSW 2026
361 5560 ALEKSANDARPROJECTS.COM.AU

© COPYRIGHT ALEKSANDAR PROJECTS PTY LTD NOMINATED ARCHITECT: ALEKSANDAR JELICIC REGISTRATION NO. 7167

142, 142A + 142 B BELLEVUE RD,
BELLEVUE HILL

REVISION

A FOR S4.56 SUBMISSION ONLY

L01 FLOOR PLAN



SCALE @ A
DRAWN BY
CHECKED

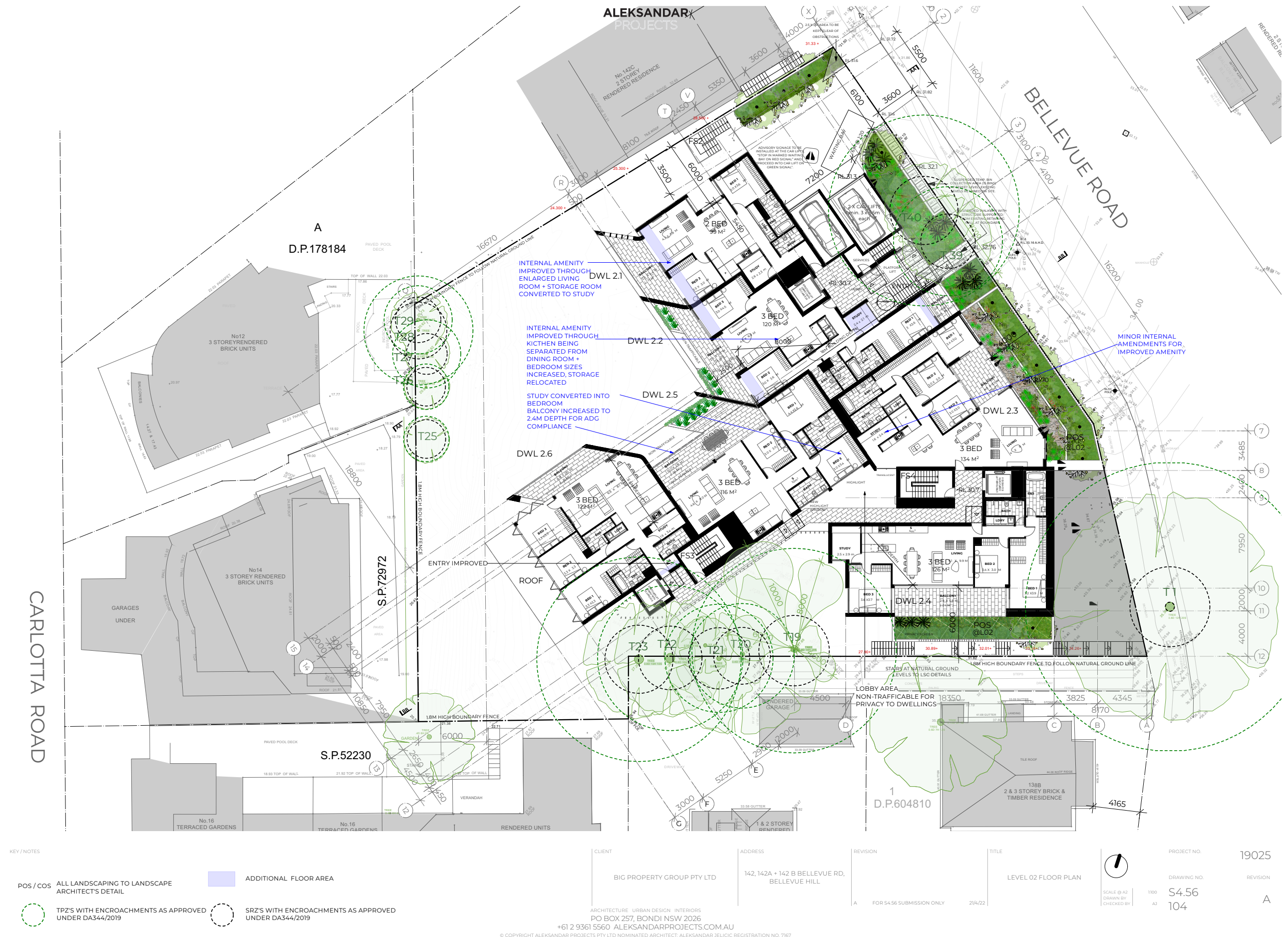
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DRAWING NO.

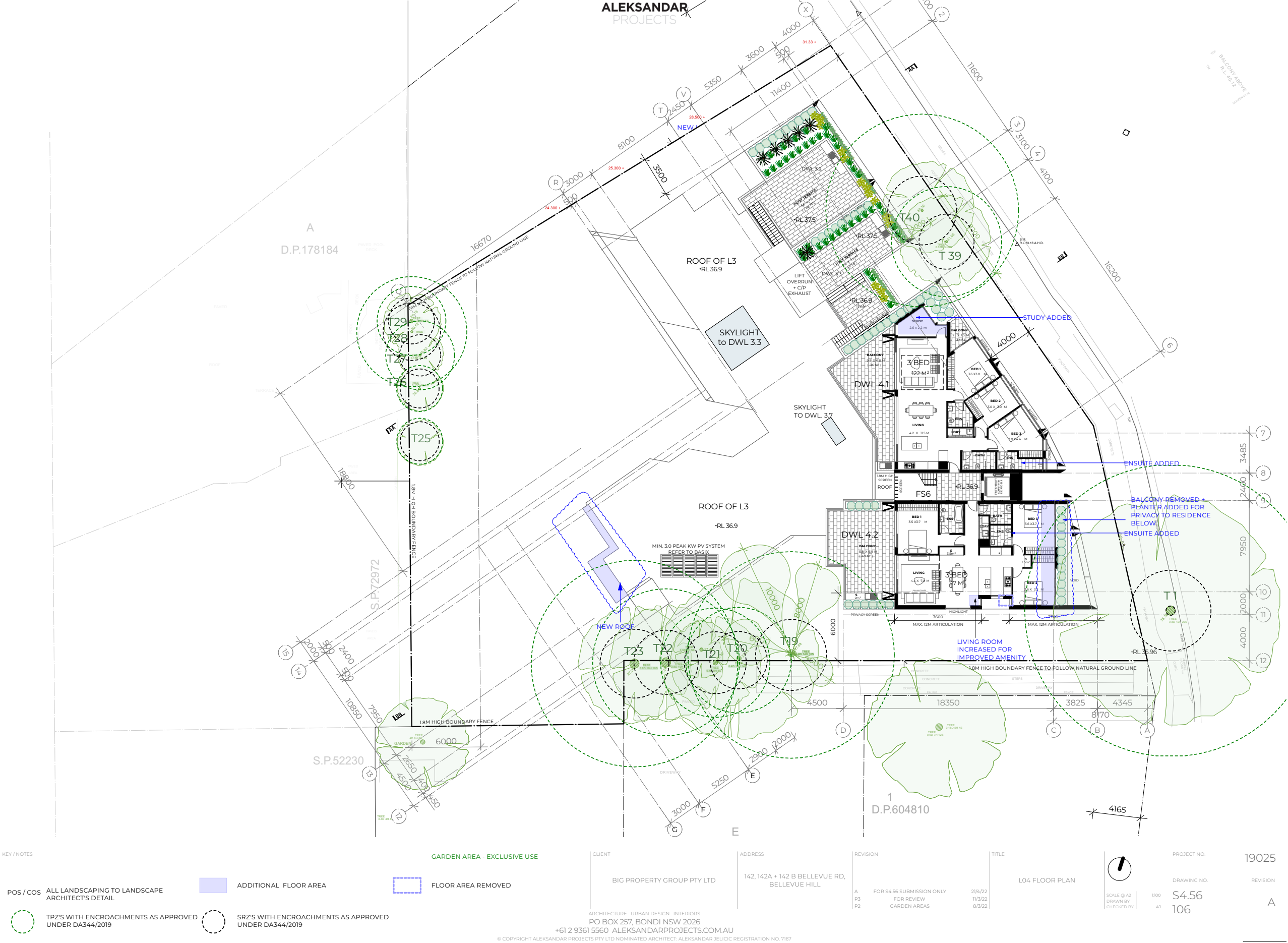
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REVISION

A











01 - NORTH ELEVATION (STREETSCAPE)

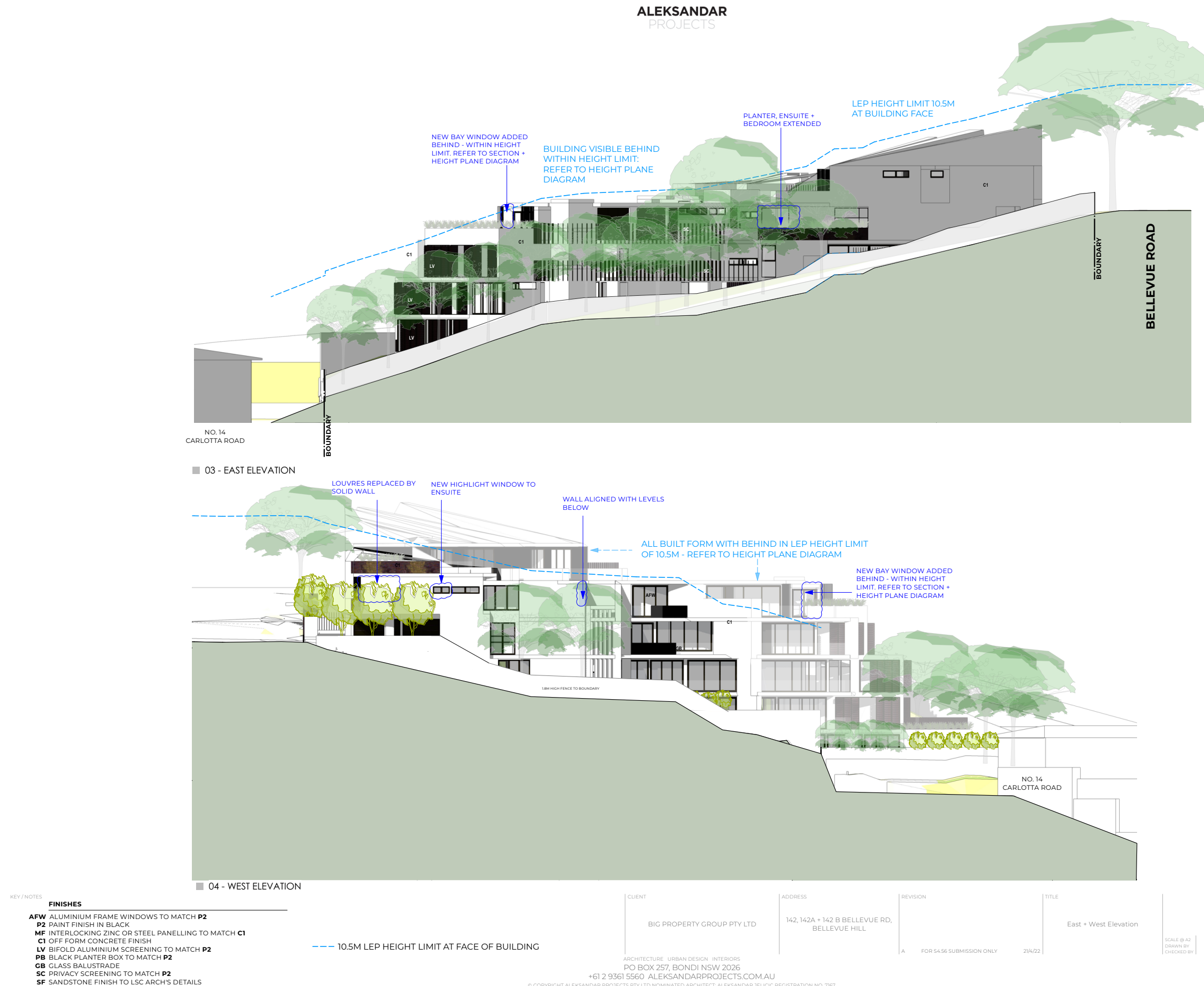


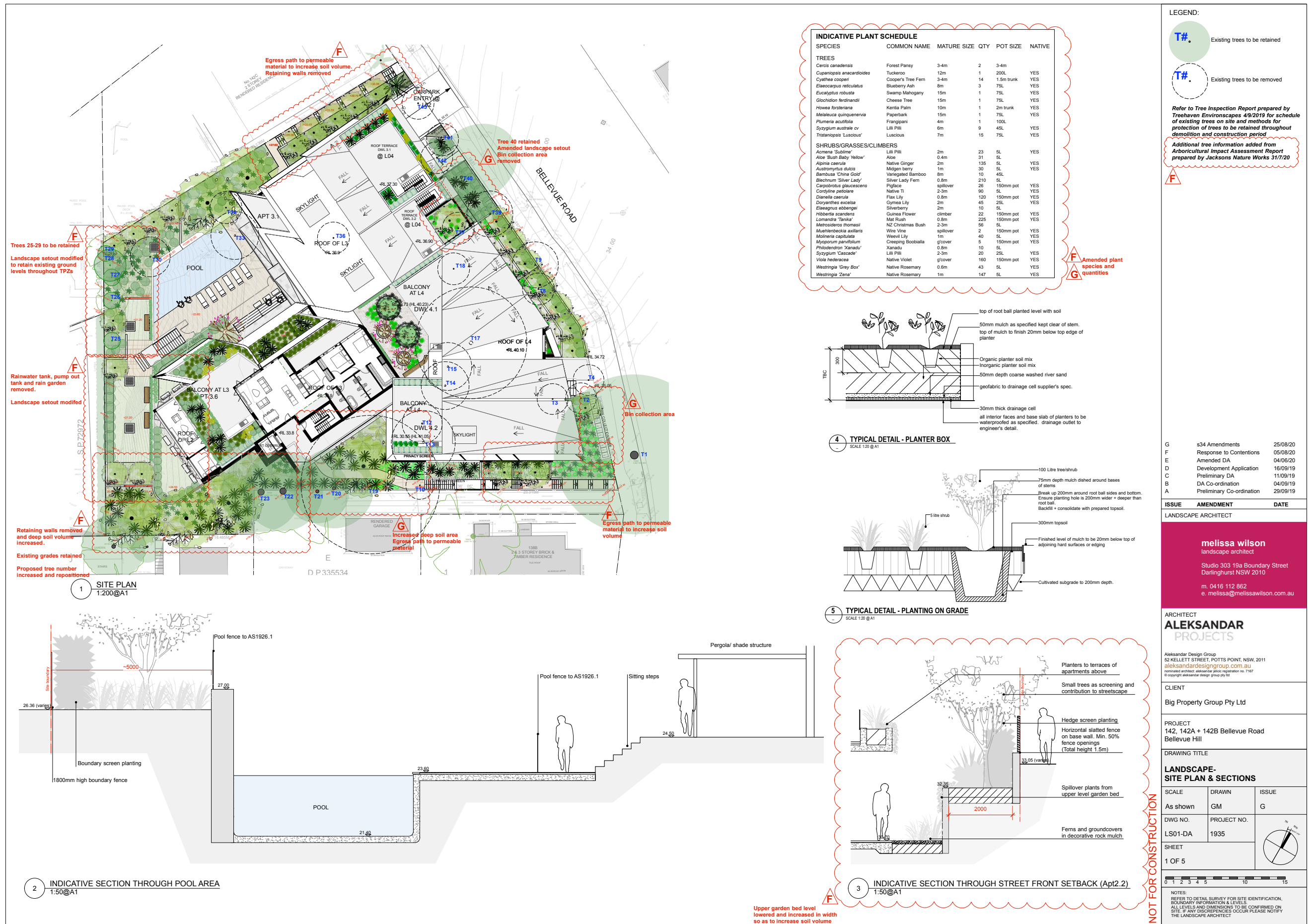
02 - SOUTH ELEVATION (REAR)

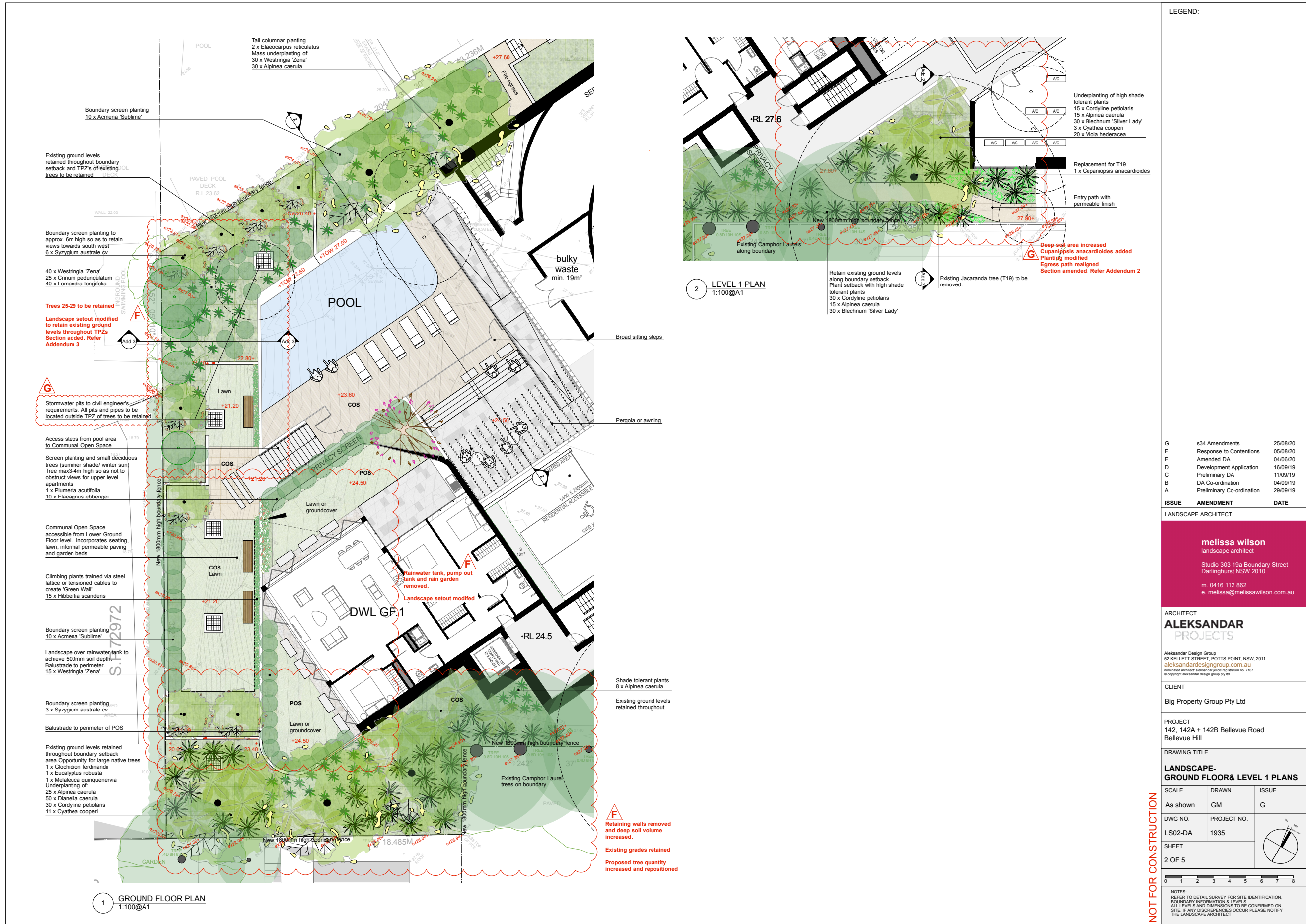
KEY / NOTES	
FINISHES	
AFW	ALUMINIUM FRAME WINDOWS TO MATCH P2
P2	PAINT FINISH IN BLACK
MF	INTERLOCKING ZINC OR STEEL PANELLING TO MATCH C1
C1	OFF FORM CONCRETE FINISH
LV	BIFOLD ALUMINIUM SCREENING TO MATCH P2
PB	BLACK PLANTER BOX TO MATCH P2
GB	GLASS BALUSTRADE
SC	PRIVACY SCREENING TO MATCH P2
SF	SANDSTONE FINISH TO LSC ARCH'S DETAILS

--- 10.5M LEP HEIGHT LIMIT AT FACE OF BUILDING

CLIENT	ADDRESS	REVISION	TITLE	PROJECT NO.	REVISION
BIG PROPERTY GROUP PTY LTD	142, 142A + 142 B BELLEVUE RD, BELLEVUE HILL	A FOR S4.56 SUBMISSION ONLY	North + South Elevation	19025	A
ARCHITECTURE URBAN DESIGN INTERIORS PO BOX 257, BONDI NSW 2026 +61 2 9361 5560 ALEKSANDARPROJECTS.COM.AU		21/4/22	SCALE @ A2 DRAWN BY CHECKED BY	1200 S5 A3 S4.56 201	
© COPYRIGHT ALEKSANDAR PROJECTS PTY LTD NOMINATED ARCHITECT: ALEKSANDAR JELICIC REGISTRATION NO. 7167					

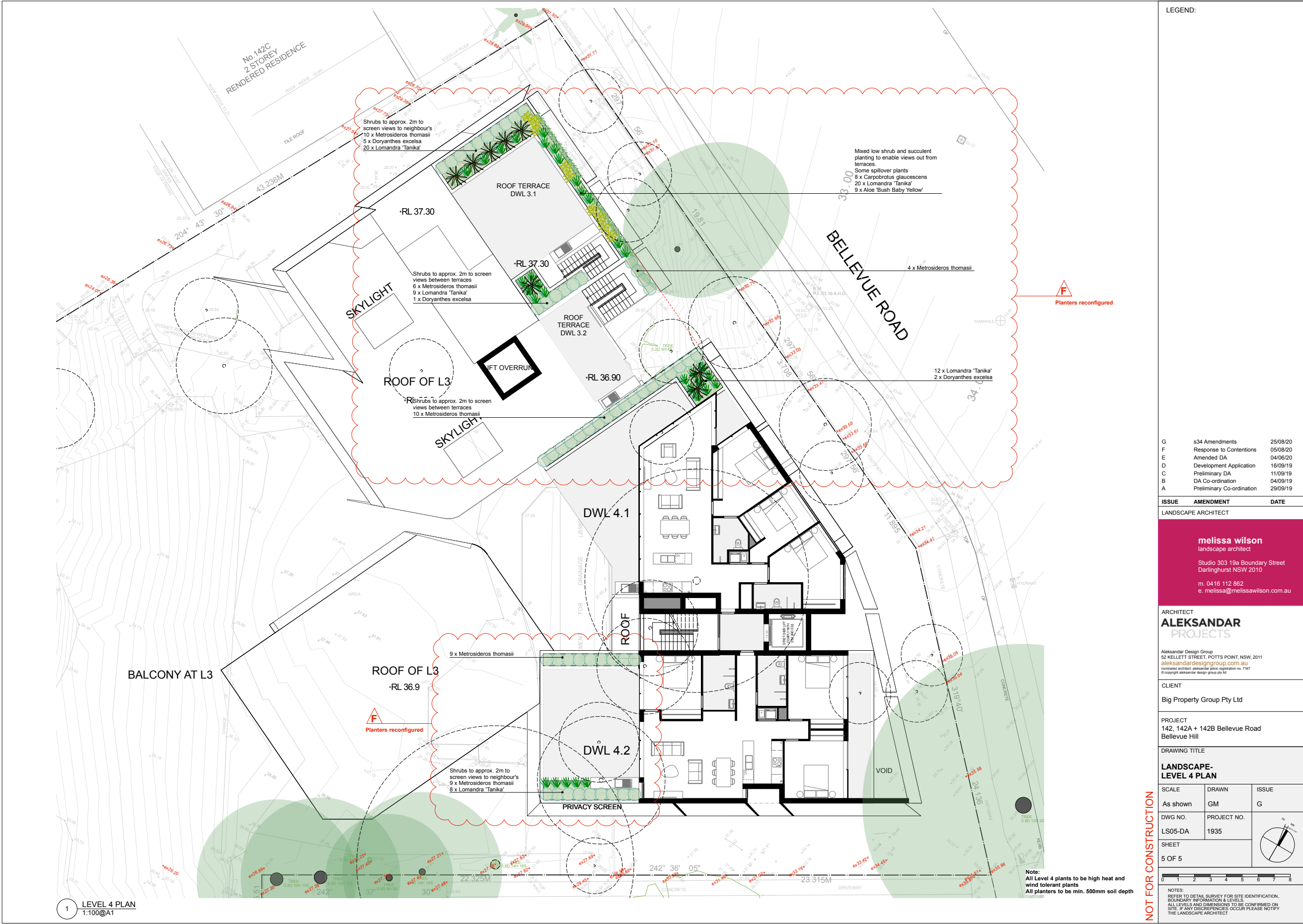


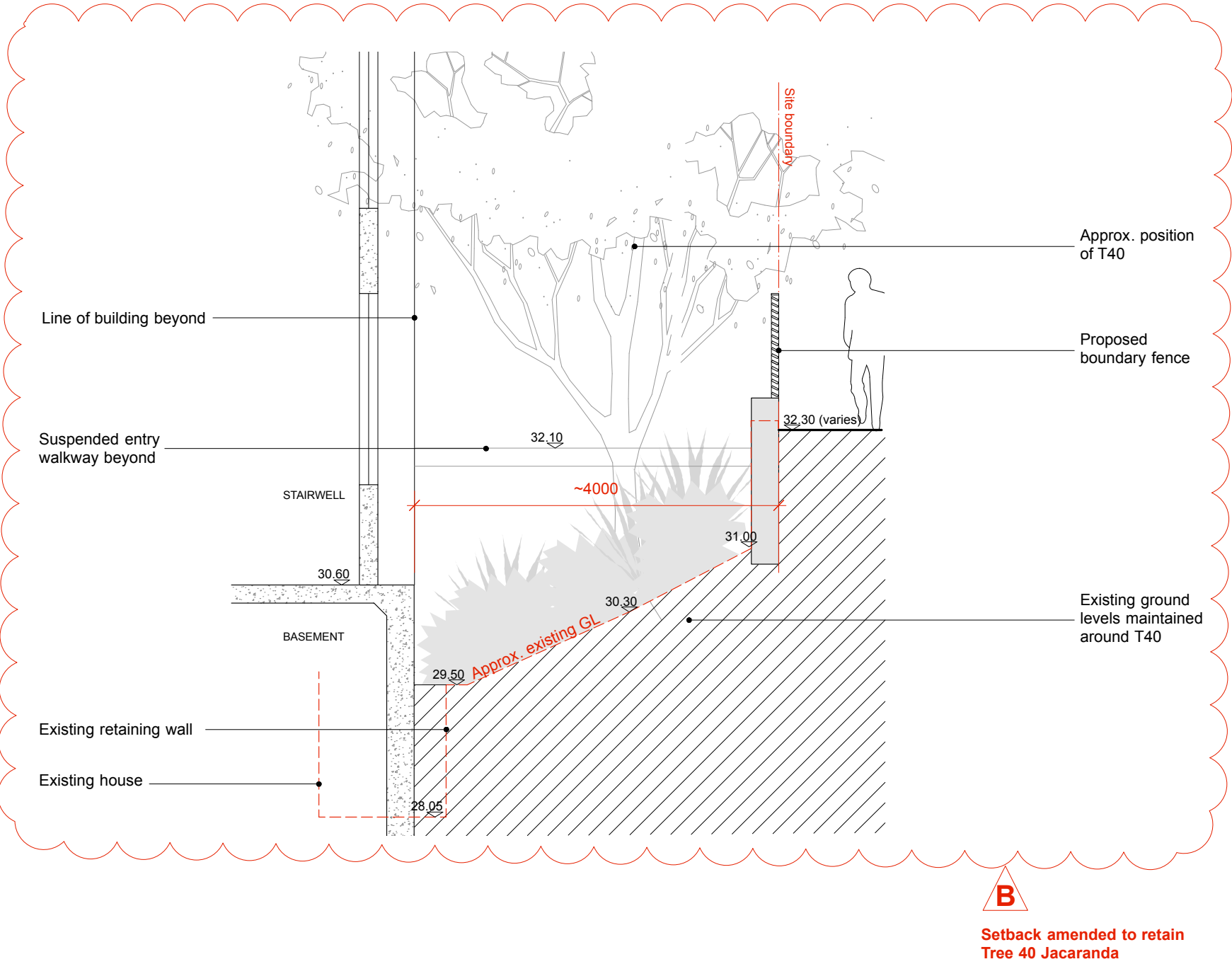




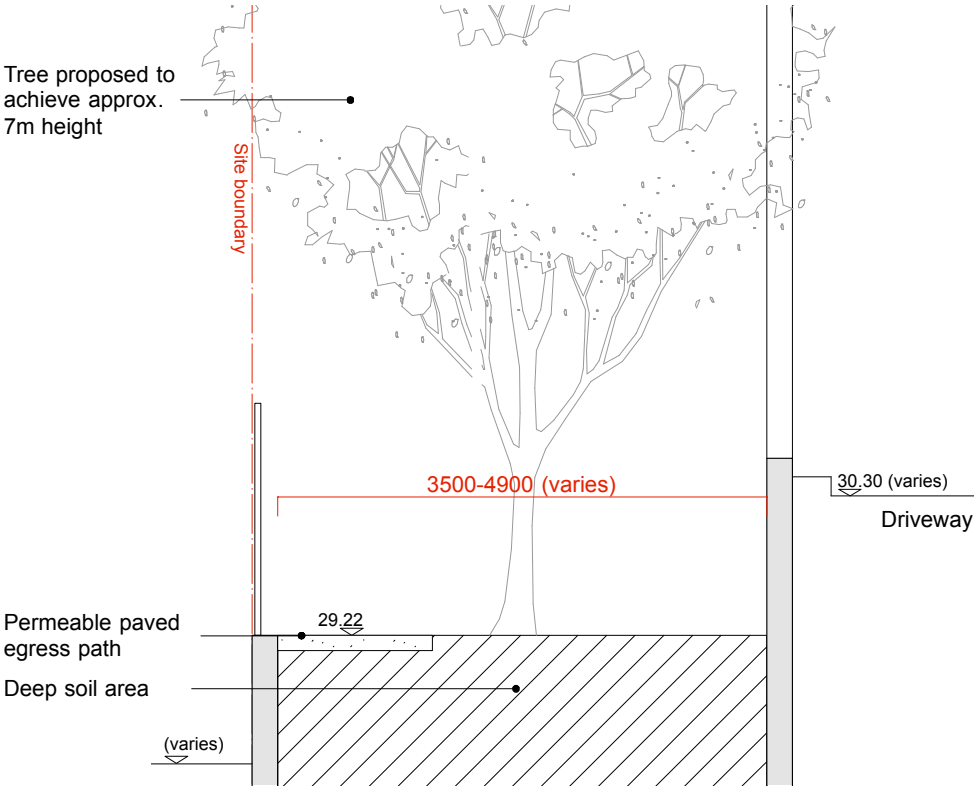




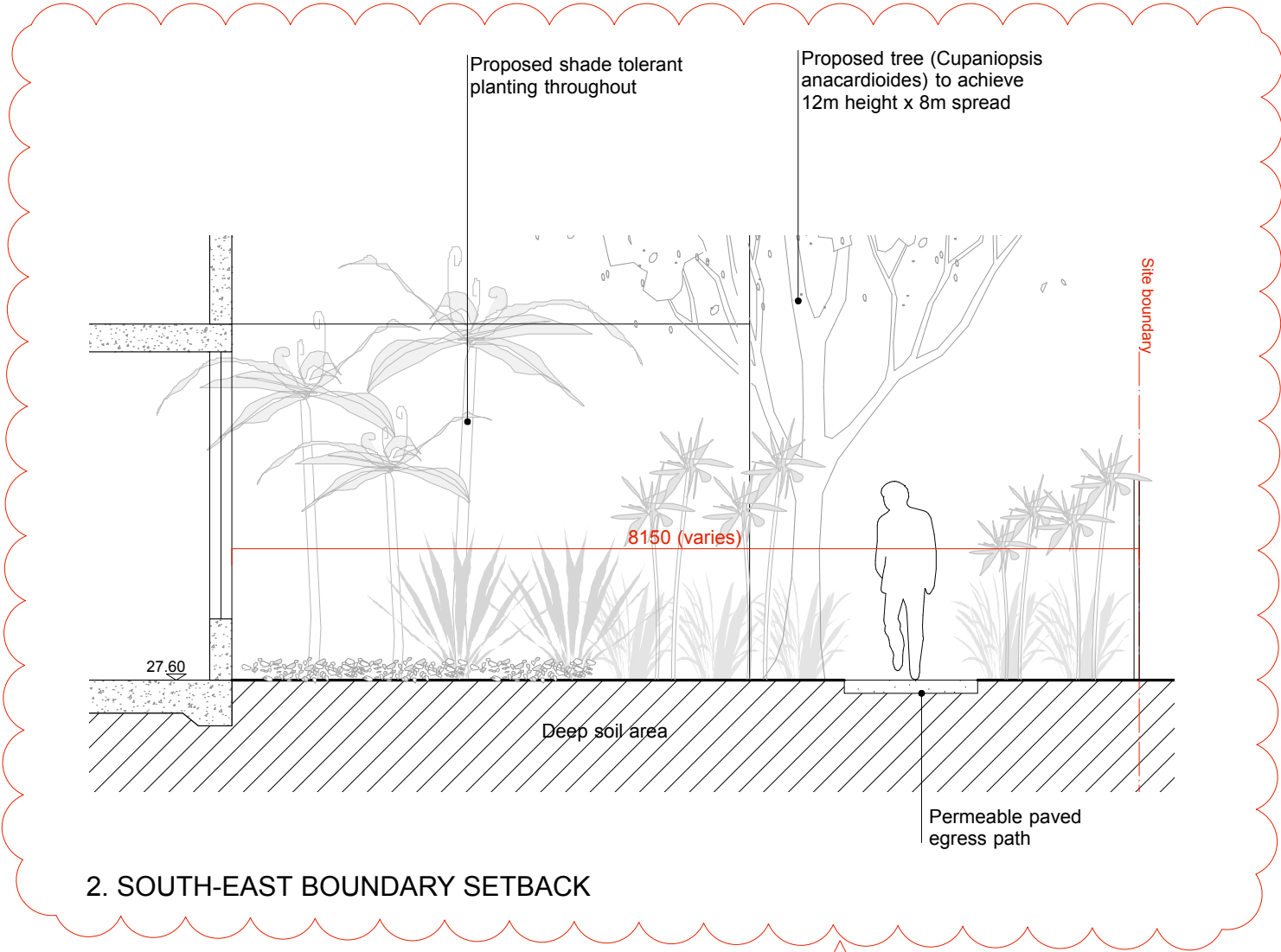




142 Bellevue Road, Bellevue Hill
ADDENDUM 1:
Indicative front setback section at Tree 40 (Jacaranda)
1: 50@A3
MWLA 05/08/20 (Issue B 25/08/20)



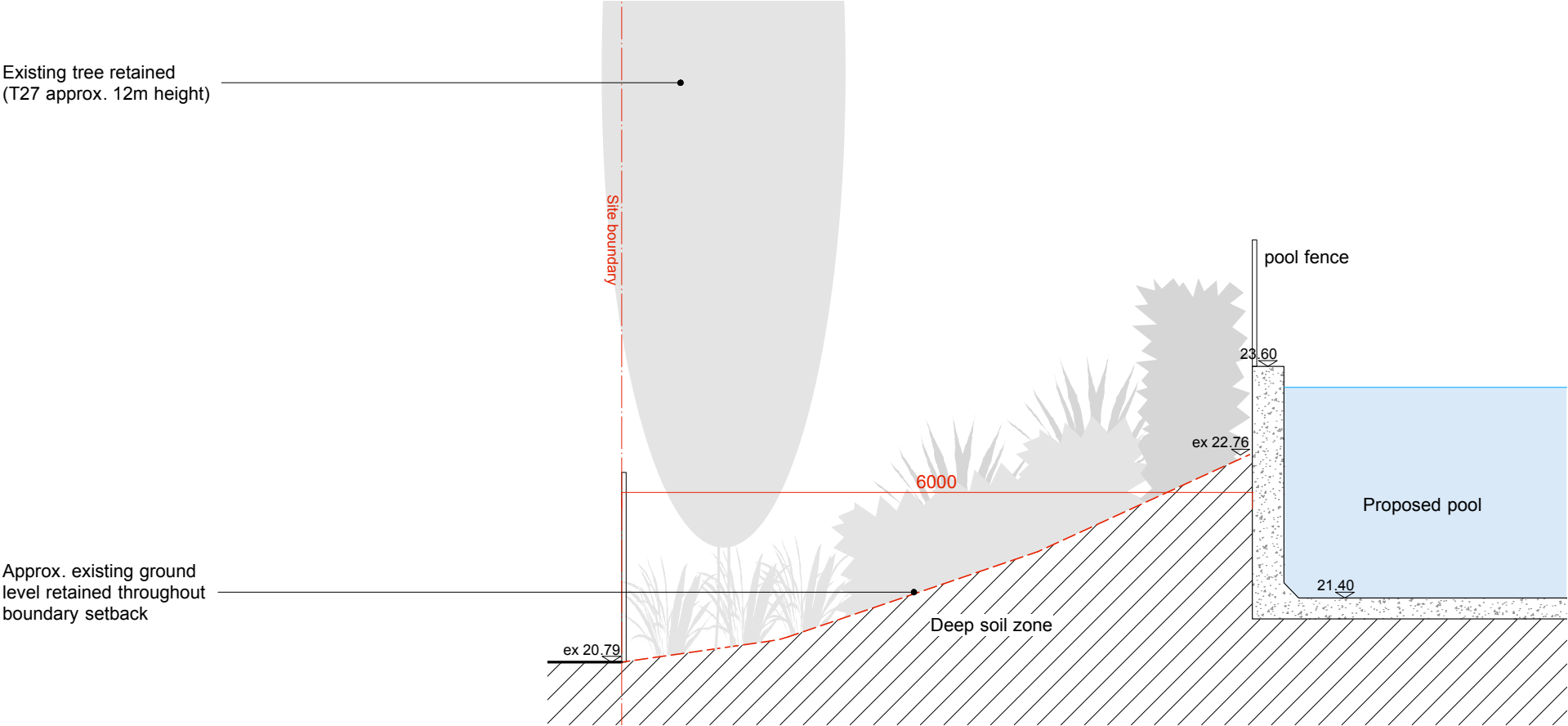
1. NORTH-WEST BOUNDARY SETBACK



2. SOUTH-EAST BOUNDARY SETBACK

B
Deep soil area increased
New tree proposal

142 Bellevue Road, Bellevue Hill
ADDENDUM 2:
Indicative North-west and South-east boundary setback sections
1: 50@A3
MWLA 05/08/20 (Issue B_Amended 25/8/20)



142 Bellevue Road, Bellevue Hill
ADDENDUM 3:
Indicative South-west boundary setback section
1: 50@A3
MWLA 05/08/20

14 March 2024

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 216/2021/3
ADDRESS: 142 Bellevue Road BELLEVUE HILL 2023
PROPOSAL: Internal and external modifications to the approved residential flat building including an electricity sub-station
FROM: Nick Williams - Tree & Landscape Officer
TO: Mr B McIntyre

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Planning Ingenuity, dated 1st of December 2023.
- Architectural Drawing No's A-CO-2110, A-CO-2120, A-CO-2130, A-CO-2140, A-CO-2150, A-CO-2160, A-CO-2170, drawn by Antenna Group, dated 6th of November 2023.

Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

COMMENTS

The proposed substation and relocated garbage area are in the same location as Tree 40 which is a Jacaranda tree required to be retained as part of DA 2019/344/1 (Condition A.4).

The modifications represent a major incursion into the root zone of the tree. There are likely to be significant impacts (mostly major root loss) as a result.

I note that an arboricultural impact assessment report has not been provided with the application and that the tree is not depicted on the plans.

The proposed modifications are not supported in their current form due to their likely impacts on Tree 40.

RECOMMENDATIONS

A major re-design of the proposal should be undertaken. This includes a re-location of the substation and any other proposed structures and hard surfaces so that they are located outside the TPZ area of Tree 40 and other trees to be retained or represent only a minimal incursion into the TPZ area of trees to be retained. Where incursions within TPZ areas are proposed an arboricultural impact assessment which includes exploratory root mapping along the line of any proposed incursions must be submitted.