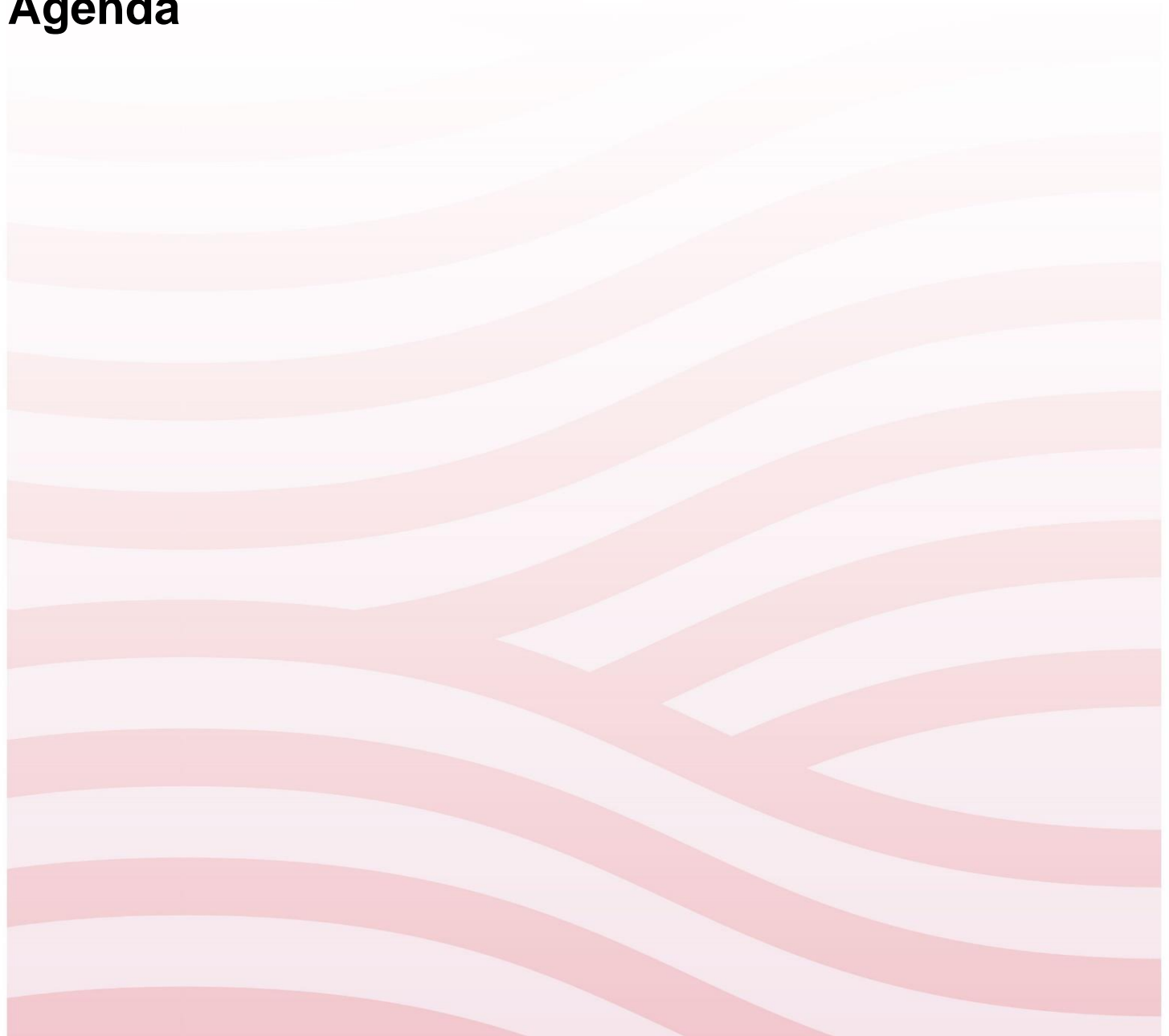




Woollahra Local Planning Panel (Public Meeting)

Thursday 20 June 2024
1.00pm

Agenda



Woollahra Local Planning Panel (Public Meetings):

Woollahra Council will be holding Woollahra Local Planning Panel (WLPP) meetings using conferencing technology.

The Chair of the Panel, members of the Panel and staff will be participating in meetings in person and members of the public may attend via 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 be considered at a public meeting by the Panel.

Members of the public are invited to listen to meetings using conferencing technology or address the AAP meeting by conferencing technology. Public participation will be managed in accordance with meeting procedures.

- **To watch the meeting live or listen to the meeting live at 1.00pm**
Visit Council's website at 1.00pm and watch live via the following link:
<https://www.youtube.com/@woollahracouncil5355/streams>
- **To request to address the Panel (pre-register by 12noon the day before the meeting)**
Pre-register to listen to the meeting live or request to address the Panel by 12noon the day before the meeting by using the relevant registration form on Council's website - <http://www.woollahra.nsw.gov.au>
- **To submit late correspondence (submit by 12noon the day before the meeting)**
Members of the public may submit late correspondence on an agenda item being considered at a Panel Meeting. If you wish to make a written submission on an Item on the Agenda, please email your submission to records@woollahra.nsw.gov.au by 12noon on the day before the meeting.

Once registered you will be forwarded information on how to join the meeting via email.

An audio recording of the meeting will be uploaded to Council's website following the meeting by 5.00pm on the next business day.

Outline of Meeting Protocol & Procedure:

- The Chair will call the Meeting to order and ask the Panel/Staff to present apologies and/or late correspondence.
- The Chair will commence the Order of Business as shown in the Index to the Agenda.
- To listen to the meeting, please register by sending your name, phone number, email address and item you are interested in to records@woollahra.nsw.gov.au by **12noon on the day before the meeting**.
- To register to speak at the meeting, you should register using the appropriate 'Register to address the Panel Application Form' as available on Council's website at: www.woollahra.nsw.gov.au by **12noon on the day before the meeting**.
- Members of the Public who have pre-registered to listen or speak at a meeting will be sent an email with the audio-visual link prior to the meeting. Please **do not** share the audio-visual link with any third party/ies.
- Members of the Public who have pre-registered to speak will be allowed three (3) minutes in which to address the Panel, one (1) warning bell will be rung at the conclusion of two (2) minutes and two (2) warning bells rung at the conclusion of three (3) minutes. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (e.g. applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allocated three (3) minutes, the speaker takes no further part in the debate unless specifically called to do so by the Chair.
- If there is more than one (1) person wishing to address the Panel from the same side of the debate, the Chair will request that where possible a spokesperson be nominated to represent the parties.
- After considering any submissions the Panel will debate the matter (if necessary) in closed session, and arrive at a resolution.
- Minutes of the Woollahra Local Planning Panel (Public Meeting) will be posted to Council's website once finalised.

Disclaimer:

By speaking at the Woollahra Local Planning Panel (WLPP) Meeting members of the public consent to their voice and personal information (including name and address) being recorded and publicly available on Council's website. Accordingly, please ensure your address to Council is respectful and that you use appropriate language and refrain from making any defamatory statements or discriminatory comments.

Woollahra Council does not accept any liability for statements, comments or actions taken by individuals during a Council meeting.

Any part of the meeting that is held in closed session will not be recorded.

People connecting to this meeting by conferencing technology are reminded that under the *Local Government Act 1993*, the recording of meetings by a member of the public using any electronic recording device including a mobile phone or video camera is not permitted. Any person found recording without the permission of Council may be expelled from the meeting.

The recording of each meeting will be retained on Council's website for a minimum period of 6 months. After that period has passed, recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

For further information please visit www.woollahra.nsw.gov.au

Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

Quorum:

3 Panel members

Woollahra Municipal Council

Notice of Meeting

12 June 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Public Meeting) – 20 June 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel (Public Meeting)** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Thursday 20 June 2024 at 1.00pm.**

Members of the public may:

- Register to address the meeting by **no later than 12 noon on the day before the meeting** using the following Register to Speak Form
<https://www.woollahra.nsw.gov.au/files/assets/public/v/3/forms/registration-form-to-address-planning-panels.pdf>.
- Submit late correspondence for consideration by the Panel by emailing records@woollahra.nsw.gov.au by **no later than 12 noon on the day before the meeting**.
- Watch and listen to the meeting live via Council's website **from 1.00pm on the day of the meeting:**
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_agendas_audio_recordings_and_minutes

An audio recording of the meeting will be uploaded to Council's website following the meeting by 5.00pm on the next business day.

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

Regards,

Craig Swift-McNair
General Manager

Woollahra Local Planning Panel (Public 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	DA414//2022/1 - 25 Birriga Road Bellevue Hill - 24/99876.....7 *See Recommendation Page 80
D2	DA10/2024/1 - 85-87 Birriga Road Bellevue Hill - 24/100186.....261 *See Recommendation Page 318
D3	DA251/2023/1 - 40 Coolong Road Vaucluse - 24/99799.....669 *See Recommendation Page 697
D4	DA452/2023/1 - 19 Sutherland Avenue Paddington - 24/100411817 *See Recommendation Page 869

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA414/2022/1
ADDRESS	25 Birriga Road BELLEVUE HILL
COUNCIL WARD	Bellevue Hill
SITE AREA	792m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Demolition of an existing dwelling and construction of a new residential flat building
TYPE OF CONSENT	Local development
COST OF WORKS	\$3,765,439.00
DATE LODGED	27/09/2022 – Lodgement 26/10/2023 – Amended Plans
APPLICANT	CSA Architects
OWNER	Rija Developments Pty Ltd
AUTHOR	Ms S Soliman
ACTING TEAM LEADER	Brett McIntyre
SUBMISSIONS	13
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 following categories:

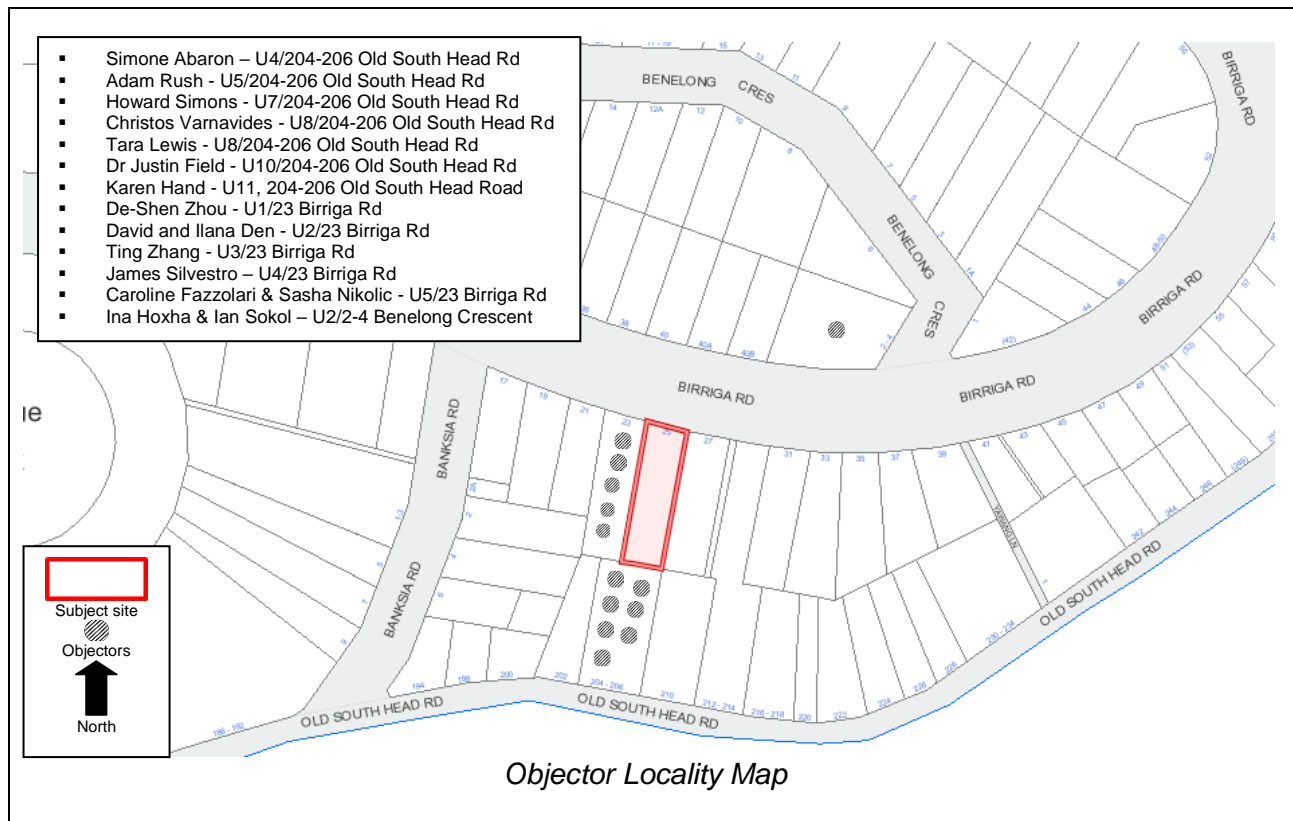
- Contentious development that is the subject of 10 or more unique submissions by way of objection.
- Sensitive development to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment applies.

2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 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 Woollahra Local Environmental Plan (WLEP) 2014 and Woollahra Development Control Plan (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, subject to **conditions**.

3. LOCALITY PLAN



*View of Site from Birriga Road
[Source: Site Inspection dated 22 August 2023]*

4. PROPOSAL

The development application (DA) was amended on **26/10/2023** to address Council's request for further information ('Stop the Clock' letter) and concerns raised by Council's Traffic Engineer and external Urban Design Consultant. It involved the following amendments:

Basement Level

- Minor modifications to car stacker dimensions.

Level 1

- An increase in the eastern side setback to the rear balcony of Unit 1.
- A significant reduction to the width of the non-trafficable area along the eastern elevation of Unit 1 in order to allow for an increased planter box width.
- Window added to lift lobby.

Level 2

- The existing crossover modified in order to retain the two existing EV charging on-street car parking spaces.
- Internal driveway width increased from 3.4m to 4.6m.
- The ground level gate for Unit 3 relocated so that it is accessed off the street and not via the driveway.
- A significant reduction to the width of the non-trafficable area along the eastern elevation of Unit 2 thereby reducing bulk.
- An increased eastern side setback to the rear balcony of Unit 2.

Level 3

- A significant reduction to the width of the non-trafficable area along the eastern elevation of Unit 4 thereby reducing bulk.
- An increased eastern side setback to the rear balcony of Unit 4.

Elevations

- Revised to show amendments outlined above.
- The elevations now show schedule of materials and finishes.

The proposal, **as amended**, involves the following works:

- Demolition of an existing residential building to allow for the construction of a new part three and part four storey residential flat building containing six units, basement parking and associated landscaping works.
- As illustrated below, the proposed residential flat building is of a contemporary architectural style with a flat roof form and is articulated by way of materiality, varying setbacks, balconies and window openings.





3D Perspectives [Source: Sheet No.RIJA-01.33 of Architectural Plans prepared by CSA Architects, dated 16 September 2022]

- A floor-by-floor description of the proposal has been outlined below.

Basement Level

- The Basement Level is at RL 54.95 and comprises of twelve car parking spaces within six car stackers, seven bicycle parking spaces, one motorbike space, a bin refuse area, stair access, a pedestrian lift and a services/plant equipment room.
- Vehicle access to this level is to be obtained via a car lift, which is accessed via an existing crossover to Birriga Road.
- The existing crossover is proposed to be widened to match the new internal driveway.

Level 1

- Level 1 is at RL 59.8. The northern side of the building is located underground and accommodates various services and storage units (10m³ per apartment). The southern side of the building is located above-ground and is occupied by Unit 1.
- Unit 1 features three bedrooms and open plan living with direct access to a 43.3m² rear-facing balcony.
- A communal landscaped area is provided for to the rear and is accessed via the common stairs proposed along and within the eastern side setback.

Level 2

- Level 2 is at RL 63.05 and accommodates two units.
- Unit 2 occupies the southern side of the building and features three bedrooms and open plan living with direct access to a 27m² rear-facing balcony.
- Unit 3 occupies the northern side of the building and features two bedrooms and open plan living with direct access to a 40.15m² courtyard located within the front setback.
- A centralized lift core, stairwell and landing enables access to each unit on each level.

Level 3

- Level 3 is at RL 66.3 and accommodates two units.
- Unit 4 occupies the southern side of the building and features three bedrooms and open plan living with direct access to a 30.85m² rear-facing balcony.
- Unit 5 occupies the northern side of the building and features three bedrooms and open plan living with direct access to a 31.59m² front-facing balcony.

Level 4

- Level 4 is at RL 69.55 and is occupied by Unit 6.
- Unit 6 features three-bedrooms and open plan living with direct access to a 22.68m² front-facing balcony. A second 26.55m² balcony is provided for to the rear, accessible via Bedroom 1.

Roof Plan

- The roof is at RL 73.05. This roof is non-trafficable and features a lift overrun (RL 73.65 to RL 74), a mechanical exhaust, solar panels and a roof maintenance hatch.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.4	Floor Space Ratio	+35.82m ² or 5% departure from the 712.8m ² standard	Satisfactory*

** The non-compliant FSR will achieve the relevant objectives of the standard(s) and that of the zone where the site falls within. The submitted Cl 4.6 is considered to be well founded with sufficient planning grounds.*

It is noted that subject to **Condition C.1** the FSR is further reduced, yielding the following figures:

Clause	Development Standard	Departure from Control
Part 4.4	Floor Space Ratio	+15.97m ² or 2.2% departure from the 712.8m ² control

5.2 Primary Issues

- Objector concerns - Addressed via recommended DA conditions.
- Urban Design - Addressed via recommended **Condition C.1**.
- Visual bulk and overshadowing impacts - Addressed via recommended **Condition C.1**.
- Floor space ratio - The submitted Clause 4.6 written request is considered to be well founded.
- Landscaping - Addressed via recommended DA conditions.
- Visual privacy impacts - Addressed via recommended DA conditions.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The site is located on the southern side of Birriga Road, between Benelong Crescent to the north and Old South Head Road to the south. The site is a rectangular shaped lot with a 14.25m frontage to Birriga Road and a maximum depth of 52.52m, equating to a site area of 792m ² .

Topography

The site is relatively steep, with a north to south fall of approximately 7.3m and a west to east fall of 0.91m² along Birriga Road.

Existing buildings and structures

The site is currently occupied by a part one part two storey detached dwelling with a flat roof form. The character of the site's landform has been modified by a series of rock bank retaining walls located approximately in the middle of the site to create a building platform and level area of landscaped garden at the northern (rear) part of the site. The existing detached dwelling therefore steps down the site in this retained area to establish a lower level ground floor at its rear. The site thus accommodates a single and two storey (at the rear) dwelling.

The dwelling contains three bedrooms and living areas. An integrated single garage is located on the north-eastern corner of the building and is accessed via an existing crossover to Birriga Road.

The rear of the site is occupied by a landscaped yard. Landscaping on the site comprises predominantly lawn areas within the front and rear setbacks, with four trees located within the rear yard.

A power pole and street trees are situated within the nature strip adjacent to the site.

Surrounding Environment

The site is located within an established residential area (R3 Medium Density Residential Zone), which features a range of built form heights including single storey dwellings and medium density residential flat buildings. Due to the topography of the surrounding area, developments defining the northern side of Birriga Road are typically elevated above ground level garage structures. Buildings defining the northern side of Birriga Road predominately range from two to three storeys, with taller built forms sited to the rear and not visible from the street due to the downward slope of the land. Dense street tree planting lines the perimeter of Birriga Road, assisting with minimising visual bulk as viewed from the street.

The immediate surrounding environment is described as follows:

- To the north and directly opposite the site, at 40, 40A & 40B Birriga Road, are three detached brick residential flat buildings, with each provided with on-site parking.



Properties to the north of the Site [Source: Site Inspection, dated 22 August 2023]

- To the south (rear), at 204-206 Old South Head Road, is a five storey contemporary residential flat building.



Property abutting the Site to the rear [Source: Statement of Environmental Effects, prepared by GSA Planning, dated September 2022]

- To the east, at 27 Birriga Road, is a two storey rendered dwelling, with on-site parking.



Property abutting the Site to the east [Source: Statement of Environmental Effects, prepared by GSA Planning, dated September 2022]

- To the west, at 23 Birriga Road, are a series of five two-storey townhouses, with basement parking. The townhouses within this development have a built form that is orientated approximately 45 degrees relative to the street boundary.



Property abutting the site to the west [Source: Site Inspection, dated 22 August 2023]

7. RELEVANT PROPERTY HISTORY

Current use
Detached dwelling
Relevant Application History
No relevant development application (DA) history has been recorded.
Requests for Additional Information and Plan Amendments
<p>On the 12 October 2022, Council requested further information via a 'Stop the Clock' letter. The following items were requested:</p> <ul style="list-style-type: none"> A Design Verification Statement prepared in accordance with Section 5.10 of Council's DA Guide. (Received on 26 October 2022) Acquisition of Interallotment Drainage Easement or details of an alternate stormwater disposal method (dispersal trench system) if the acquisition of an easement cannot be obtained. (Received on 19 October 2022 in the form of Easement rejection letters) Revised Stormwater Management Plans. (Received on 09 November 2022) Revised Architectural Plans showing the model and manufacturer's specifications for the proposed car stacker system. (Received on 09 November 2022) The Geotechnical Report revised to include a site-specific risk assessment matrix and an Implementation Plan, including a Monitoring Program, Contingency Plan and Construction Methodology. (Received on 08 November 2022) <p>On the 07 September 2023, and subsequent to the preliminary review of the architectural plans by Council's Traffic Engineer and Urban Design Consultant, an additional request for further information (RFI) was made by Council. This request required the Applicant to provide the following:</p> <ul style="list-style-type: none"> Traffic: <ul style="list-style-type: none"> A revised car stacker specification illustrating the operation of the proposed car stackers, including the service rate of dispatch system. A queuing analysis A swept path analysis The proposed access driveway would result in a total loss of two (2) on-street EV charging car parking spaces and cannot be supported, as per E1.10.6 of Council's DCP. The non-provision of visitor parking would create additional on-street parking demand, noting parking in surrounding street already consists of a high occupancy rate.

- The sight splay at the eastern side is to be provided, as per Clause 3.2.4 and Figure 3.2 of AS/NZS2890.1:2004, and clearly depicted in revised architectural plans. Any structure within the splay area should be lower than 600mm to ensure visibility.
- A traffic light system should be incorporated to manage traffic flow between the ground and basement level.
- Urban Design:
 - Provide a detailed assessment of the overshadowing impacts on 23 Birriga Road, 202 Old South Head Road and 204-206 Old South Head Road. The detailed shadow diagrams need to illustrate the situation during winter solstice (21 June) at a minimum of hourly intervals showing both existing and proposed overshadowing of existing adjacent properties on living room and private and communal open spaces with elevational shadows if the shadow is likely to fall on neighbouring windows. This detailed information is also required to assess whether the proposed development's exceedance of the FSR controls "maintains the environmental amenity of neighbours and the public" as stated in the Clause 4.6 submission.
 - More details are required to ascertain whether 1m² of direct sunlight is provided to living rooms and private open spaces of the proposed development for a minimum of 15 minutes.
 - Provide additional setbacks along the side boundaries to increase building separation distances and improve privacy, solar access and amenity, especially for 23 Birriga Road.
 - Relocate the ground level gate for Unit 3 so that it is accessed off the street and not via the driveway.
 - Confirm if the proposal meets the BCA requirements for fire egress staircases.
 - Recalculate the area of deep soil zone with the exclusion of areas with insufficient width; and confirm that a minimum of 7% deep soil zone has been achieved.
 - Add a window to the lift lobby on level 1 to ensure natural ventilation and daylight is provided.
 - Show all windows to habitable rooms and balconies located less than 6m off the side boundaries as screened, have opaque glazing below 1.5m and are fixed or have a high railing.
 - Non-trafficable balconies are removed as they increase the bulk and scale of the development and reduce the opportunity for landscaping along the side boundaries.
 - Show the selected materials and colours clearly on the elevation drawings.

On the **26 October 2023**, Council received Amended Architectural Plans in response to the RFI dated 07 September 2023. The plans were revised to show the following changes:

- Basement Level:
 - Minor modifications to car stacker dimensions.
- Level 1:
 - An increased eastern side setback to the rear balcony of Unit 1 increased.
 - A significant reduction to the width of the non-trafficable area along the eastern elevation of Unit 1 in order to allow for an increased planter box width.
 - Window added to lift lobby.
- Level 2:
 - The existing crossover modified in order to retain the two existing EV charging on-street car parking spaces.
 - Internal driveway width increased from 3.4m to 4.6m.
 - The ground level gate for Unit 3 relocated so that it is accessed off the street and not via the driveway.
 - A significant reduction to the width of the non-trafficable area along the eastern elevation of Unit 2, reducing bulk.
 - An increased eastern side setback to the rear balcony of Unit 2.
- Level 3:
 - A significant reduction to the width of the non-trafficable area along the eastern elevation of Unit 4, reducing bulk.
 - An increased eastern side setback to the rear balcony of Unit 4.
- Elevations:
 - Revised to show amendments outlined above.
 - The elevations now show schedule of materials and finishes.
- All floor plans now note privacy screening as being fixed.

On the **26 October 2023**, and further to the above, Council received:

- Revised car stacker specifications.

- A letter prepared by PDC Consultants including a queuing and swept path analysis/discussion, and a response to the remaining Traffic concerns relating to visitor parking, a traffic light system and sightlines.
- A letter from CSA Architects outlining their response to the remaining Urban Design concerns relating to overshadowing, sunlight, setbacks to 23 Birriga Road, BCA compliance and deep soil.

On the **22 May 2024** and subsequent to a detailed review of the proposal and all of the objector concerns, Council requested the following documentation:

- An updated basement plan and sectional diagram to show the location of pilings, the rainwater tank and absorption tank. The updated basement plan must also show the correct western side setback, which is noted as being 0.5m, when it measures 0.82m.
- Clarification regarding the front setback calculations as discussed with the Architect.
- An assessment against Controls C2, C4, C6 & C7 and objectives of Part B3.4 (Excavation) of the WDCP 2015. I will need a plan showing excavation volumes. Please ensure you include any excavation volumes associated with the rainwater tank and absorption tank.
- Updated overshadowing diagrams and include each hour from 9am to 3pm

On the **29 May 2024**, Council received an Amended Basement Plan, a revised sectional diagram, clarification relating to the front setback calculation and an assessment against the relevant excavation controls.

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	The proposal is satisfactory, subject to conditions of consent.	3
Traffic	The proposal is satisfactory, subject to conditions of consent.	4
Trees and Landscaping	The proposal is satisfactory, subject to conditions of consent.	5
Urban Design Consultant	Not satisfactory, however all concerns have been addressed via conditions of consent.	6
Environmental Health	The proposal is satisfactory, subject to conditions of consent.	7
Fire Safety	The proposal is satisfactory, subject to conditions of consent.	8

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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



9. ADVERTISING AND NOTIFICATION

9.1 Submissions

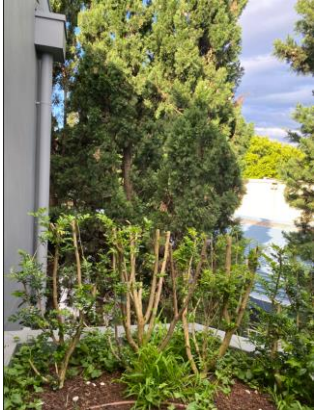
The application was advertised and notified from 19 October 2022 to 03 November 2022 in accordance with Chapter 6 of the Woollahra Community Participation Plan (Adopted 26 June 2023). Submissions were received from:

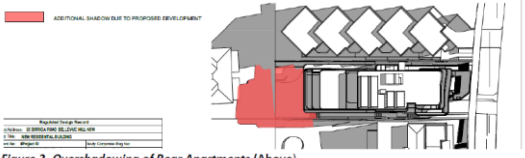



1. Simone Abaron – 4/204-206 Old South Head Road Bellevue Hill
2. Adam Rush - 5/204-206 Old South Head Road Bellevue Hill
3. Howard Simons - 7/204-206 Old South Head Road Bellevue Hill
4. Christos Varnavides - 8/204-206 Old South Head Road Bellevue Hill
5. Tara Lewis - 8/204-206 Old South Head Road Bellevue Hill
6. Dr Justin Field - 10/204-206 Old South Head Road Bellevue Hill
7. Karen Hand - 11, 204-206 Old South Head Road Bellevue Hill
8. De-Shen Zhou - 1/23 Birriga Road Bellevue Hill
9. David and Ilana Den - 2/23 Birriga Road Bellevue Hill
10. Ting Zhang - 3/23 Birriga Road Bellevue Hill
11. James Silvestro – 4/23 Birriga Road Bellevue Hill
12. Caroline Fazzolari & Sasha Nikolic - 5/23 Birriga Road Bellevue Hill
13. Ina Hoxha & Ian Sokol – 2/2-4 Benelong Crescent Bellevue Hill


The submissions raised the following issues:

Issue	Conclusion	Section
<p>Overlooking/Privacy The proposal overlooks the living areas and balconies of the existing six apartments at the rear of 204-206 Old South Head Road. A loss of privacy results from height and FSR breach.</p> <p>Figures 3 and 4 (below) illustrate the extent to which the proposal will overlook the rear apartments however in reality the impact would be far greater given the elevation of the balconies of the proposed development.</p> <div style="display: flex; justify-content: space-around;">   </div> <p><small>Figure 3: View into ground floor and first floor Rear Apartments from existing rear boundary fence at ground level of Proposed Development.</small></p> <p><small>Figure 4: View into ground floor and first floor Rear Apartments from existing rear boundary fence at ground level of Proposed Development.</small></p>	Addressed via Condition C1.	15.2.4
<p>Overlooking Given the height and design of the second, third and fourth floors the proposal will directly face the front bedroom and living spaces of townhouses 1,2,3,4 & 5 / 23 Birriga Rd, resulting in a loss of privacy.</p> <p>The kitchen of one of the apartments in the proposed new building looks directly into the dining room via an unfrosted window 2/23 Birriga Road.</p>	Overlooking concerns, including towards 23 Birriga Road, have been addressed via condition .	15.2.4
<p>Height Exceedance The proposed development exceeds the Height of Buildings development standard.</p>	Compliance with the Height of Buildings development standard has been addressed via Condition C.1 .	14.4

Issue	Conclusion	Section
<p>FSR Exceedance The proposal exceeds the FSR and will result in additional bulk that will be readily discernible from 204-206 Old South Head Road.</p>	<p>The non-compliant FSR will achieve the relevant objectives of the standard and that of the zone where the site falls within. The submitted Clause 4.6 is considered to be well founded with sufficient planning grounds.</p> <p>Notwithstanding the above, conditions aimed at reducing visual bulk as viewed from neighbouring properties and addressing overlooking and overshadowing concerns, will require increased rear setbacks, which will in turn result in a reduced FSR.</p>	14.5 & 14.6
<p>Light & Noise Impacts Due to the close proximity of proposed balconies to the rear boundary, light and noise emanating from living areas of property will directly impact on living areas at 204-206 Old South Head Rd.</p> <p>With the wide extent of south facing balconies, there is extensive light pollution towards the rear, which has been a problem with other adjoining properties to the east and west. Developers must specify light fittings and luminosities that reduce light transmitted towards the southern boundary during night time hours.</p>	<p>The proposal is not expected to generate any unreasonable noise or light emission impacts having regard to the immediate residential context. It is further noted that the proposed setbacks, coupled with the existing setback of existing balconies on the neighbouring property to the rear, will ensure an adequate buffer is provided for between buildings.</p> <p>Rear setbacks will be further increased as a consequence of Condition C.1.</p> <p>Further to the above, a standard condition relating to the management of external light pollution has been recommended.</p>	15.2.4
<p>Loss of Landscaping The proposal involves the removal of significant greenery and trees and destroy a large amount of biomass, which is characteristic to Woollahra. Further, the proposal involves the removal of Trees 4, 12 and 5, which are showing good vitality as reported in the Arborist Report. Owls, possums and many other native species of birds inhabit these trees. Even if these trees are to be replaced, this will be disruptive to the local ecosystem.</p> <p>The proposal will destroy the rich natural vegetation and displace the many animals who have found a safe home in the current flora at 25 Birriga Rd. Safeguard to environmental sustainability and conservation has completely been ignored in this proposal.</p>	<p>Council's Tree and Landscaping Officer has provided no objection to the proposal subject to conditions which include a requirement to provide for replacement planting and to protect existing neighbouring trees. It is also noted that Trees 4 & 5 are of low significance and Tree 12 is not prescribed under Chapter E.3 of the WDCP 2015 and their removal have been supported by Council's Tree and Landscaping Officer.</p>	15.2.5
<p>Construction Nuisance The construction process will result in a significant nuisance for neighbouring residents and the surrounding community.</p>	<p>Standard conditions have been imposed in order to appropriately manage the construction process and to mitigate amenity impacts on the surrounding community.</p>	-

<p>Overshadowing Impacts</p> <p><u>23 Birriga Road</u></p> <p>The proposed shadow diagrams presented by the applicant are incorrect and provide a misleading representation of the impact DA414/2022 will have to all residents of 23 Birriga Road.</p> <p>The proposal does not comply with the acceptable solar access controls laid out in Part 3.5.2 (overshadowing) of the WDCP 2015.</p> <p>23 Birriga Road has been designed with a north easterly aspect, to allow for morning sunlight. All residents of 23 Birriga road will be significantly impacted by overshadowing with the loss of all morning sunlight. Currently, 5/23 Birriga Rd does not receive the westerly afternoon sun, given the taller height of neighbouring property at 21 Birriga Rd. As a result of DA414/2022 5/23 Birriga Rd will receive neither morning nor late afternoon sun.</p> <p>The proposal will cause a significant loss of natural light and a sense of being enclosure, affecting the common areas and Townhouse 2 of 23 Birriga Road. More specifically, it will affect solar access to the downstairs and the third occupied bedroom (see photos below) of Townhouse 2 of 23 Birriga Road.</p>   <p><i>Views to East from Balcony of Bedroom 3 (U2/23 Birriga Rd)</i></p>	<p>The proposal does not fully comply with the overshadowing control and as such appropriate conditions have been imposed to reduce bulk, scale and overshadowing impacts.</p>	<p>15.2.4</p>
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<p>204-206 Old South Head Road Due to the size/scale and height breach, in combination with the close proximity of the proposal to the rear boundary of 204-206 Old South Head Road, the proposal will result in significant overshadowing to the living areas of the rear apartments (see figure below).</p>  <p>Figure 2: Overshadowing of Rear Apartments (Above)</p> <p>The figure below also show the entire garden area of U4/204-206 Old South Head Road will be shadowed by the proposal, causing significant distress and interruption to our peaceful enjoyment of the area, not to mention a significant devaluation of the property. Refer to the yellow outline representing the entire outdoor area. As a result of the previous development approvals in the locality, particularly the recent development of 208 Old South Head Rd Bellevue Hill, we have already experienced a significant loss of light along the entire east-facing aspect of our apartment. The additional loss of light as a consequence of the Proposed Development will result in a complete loss of natural light for our property.</p>  <p>Figure 5: Loss of light/ overshadowing: Likely overshadowing of the Proposed Development.</p>		
<p>View Loss 5/23 Birriga Road The proposal has ignored the current views enjoyed by neighbours, due non-compliances with side and rear setbacks and the floor space ratio. In addition, the extensive height will materially block the existing view enjoyed of the Pacific Ocean and Bondi Beach from the 23 Birriga Road common pathway and of 5/23 Birriga Road top and ground floor private balconies. These views are highly valuable from both a financial and wellbeing perspective.</p>  <p>View from downstairs balcony at 5/23 Birriga Rd</p>  <p>View from upstairs balcony at 5/23 Birriga Rd</p>	<p>A view loss assessment has been undertaken, yielding an acceptable planning outcome. Refer to Section 15.2.3 of this report for detailed assessment.</p>	<p>15.2.4</p>

<p><u>1/23 Birriga Road</u> The height of the building will block ocean views from the first floor balcony of 1/23 Birriga Rd. A suggested compromise would be lower the roof height or reduce it to a 2 storey (see balcony view below).</p>  <p><i>View from 1st floor balcony of 1/23 Birriga Rd</i></p> <p><u>3/23 Birriga Road</u> The height of the building will block ocean views from the first floor balcony of 3/23 Birriga Rd.</p> <p><u>4/23 Birriga Road</u> If the development is approved residents of 4/23 Birriga Road will lose their outlook</p>		
<p>Topography The proposed development has not been designed true to the sloping topography like other neighbouring properties. The proposed height of DA414/2022 is 1.6m higher than the roof of 23 Birriga road, despite having a lower ground level.</p>	<p>The development has been designed to step down with the slope of the land. The proposed design, coupled with relevant conditions which require increased rear setbacks and compliance with the Height of Buildings development standard, will ensure an appropriate response to the unique topography of the land.</p>	<p>-</p>
<p>Pedestrian Safety, Traffic & Parking Reducing the height of the proposed development by removing apartments and hence the number of vehicular movements, would significantly reduce risk to pedestrians. Further, the proposal will increase congestion on Birriga Road and Old South Head Road, which are already busy arterial roads. A single lift to service 6 resident car spots and visitors will prove inefficient, the queuing of cars waiting to enter will spill out onto Birriga Rd and create major traffic issues. In addition, there are two Electric Vehicle charging stations directly in front of the site and will add to local traffic and restrict the availability of street parking, which is becoming increasingly difficult and overcrowded.</p>	<p>Council's Traffic Engineer has provided no objection to the proposal subject to standard conditions.</p>	<p>15.3</p>

<p>Neighbourhood Character</p> <p>All newer builds, constructed from the year 2000 onwards along Birriga Road are rendered in finish. DA414/2022 proposes an exposed brick finish which is not in keeping with the current streetscape. As a newly built dwelling, there's an expectation premium finishes will be utilised.</p> <p>Surrounding buildings are either townhouses or freestanding homes and there are no other apartment buildings less than approximately 80 years old in the immediate vicinity. Additionally, all other homes are rendered brick and the exposed brown brick of the proposed already-dominant nature of the building will be unsightly and will stand out from the other buildings surrounding it.</p> <p>The sheer bulk & scale of DA414/2022 will dominate Birriga Road.</p> <p>There is a fear that the exhaustive height of DA414/2022, will create an overcrowded and unappealing environment for all residents in the immediate vicinity.</p>	<p>The proposal, as conditioned, will not exceed the Height of Buildings development standard and has been designed in keeping with the desired future character of the Bellevue Hill South Residential Precinct, achieving the relevant objectives of Section B1.7.2 (desired future character) of the WDCP 2015.</p> <p>More specifically, the new contemporary build complies with Objective O2, which seeks to maintain the evolution of residential building through the introduction of well-designed contemporary buildings, incorporating modulation and a varied palette of materials.</p> <p>It is also noted that the desired future character statement for the Bellevue Hill South Residential Precinct indicates new development along Birriga Road will generally take the form of residential flat buildings, which also supports the R3 medium residential density zoning of the land.</p>	<p>15.1</p>
<p>Overdevelopment</p> <p>The size of the proposal will overcrowd and tower over neighbouring properties, with over development an already real concern in Woollahra council, DA414/2022 will add to this issue.</p>	<p>Condition C.1 will ensure the proposed development will not exceed the Maximum Height of Buildings standard and appropriate setbacks are achieved to the rear in order to provide adequate spacing between buildings.</p> <p>Further to the above, the proposal is mostly compliant with the side setback control, enabling appropriate separation from buildings to the east and west.</p>	<p>-</p>
<p>Excavation</p> <p>The DA proposes excessive drilling (which contravenes Council regulations) through rock in order to construct a car stacker and there appears to be no visitor parking. This has the potential to cause a destabilisation of the foundations of Townhouse 2 of 23 Birriga Road and cause ongoing excessive, building tremors and loss of on street parking.</p> <p>A DA was submitted for 212-214 Old South Head Road (AKA 29 Birriga Road) recently for the construction of a block of units which was rejected in favour of a duplex. A similar proposal should be applied to the subject site.</p>	<p>Excavation works are considered to be temporary in nature, therefore minimising associated noise, vibration, dust and other amenity impacts arising from jackhammering, rock breaking, truck movements, and the like to the short-term. Nevertheless, standard conditions have been recommended to require appropriate noise and dust mitigation measures. Furthermore, Council's Engineer has reviewed the Geotechnical Report submitted with the DA and has provided no objection to the proposal.</p>	<p>14.10 & 15.2.3</p>
<p>Stormwater</p> <p>The planned stormwater tanks are within regulations, however there is a concern that these tanks may overflow into the property at 204-206 Old South Head Road. The primary pump for the tank should have a suitable backup (secondary) pump that can operate during power failures to ensure that there is no detrimental effect on 204-206 Old South Head Road.</p>	<p>Council's Engineering has provided no objection to the proposed Stormwater Management Plan subject to conditions including a requirement to install a rainwater retention and reuse system (RWT) that has a minimum storage volume of 47.52m³ to comply with Chapter E2.2.9 of Council's DCP.</p>	<p>14.10 & 15.4</p>

	Further to the above, a condition will require a detailed drainage plan that is based on drainage calculations prepared in accordance with the Australian Government publication, <i>Australian Rainfall and Run-off, 2019</i> edition or most current version thereof.	
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9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 03 November 2022, declaring that the site notice for DA414/2022/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

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 DA was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard conditions of consent.

11 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

The provisions of SEPP (Resilience and Hazards) 2021 that are relevant to the subject site and application involve managing development in terms of the following:

- Chapter 2 Coastal Management
- Chapter 4 Remediation of land

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.

The subject site is located wholly outside of the Coastal Environment Area (Clause 2.10) and the Coastal Use Area (Clause 2.11).

It is considered that the proposal would not have any significant adverse environmental impact upon the harbour coastal locality. On this basis, no further consideration is required under Chapter 2 of the SEPP (Resilience and Hazards) 2021.

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.

The long term land use of the site, as well as surrounding adjoining land uses, has been and continues to be residential and is therefore considered unlikely to be contaminated. On this basis, further investigation was not considered necessary.

Accordingly, the proposal is satisfactory with regard to Chapter 4 of SEPP (Hazards and Resilience) 2021.

12 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The provisions of SEPP (Biodiversity and Conservation) 2021 that are relevant to the subject site and application involve managing development in terms of the following:

- Chapter 2 Vegetation in non-rural areas
- Chapter 6: Water Catchments

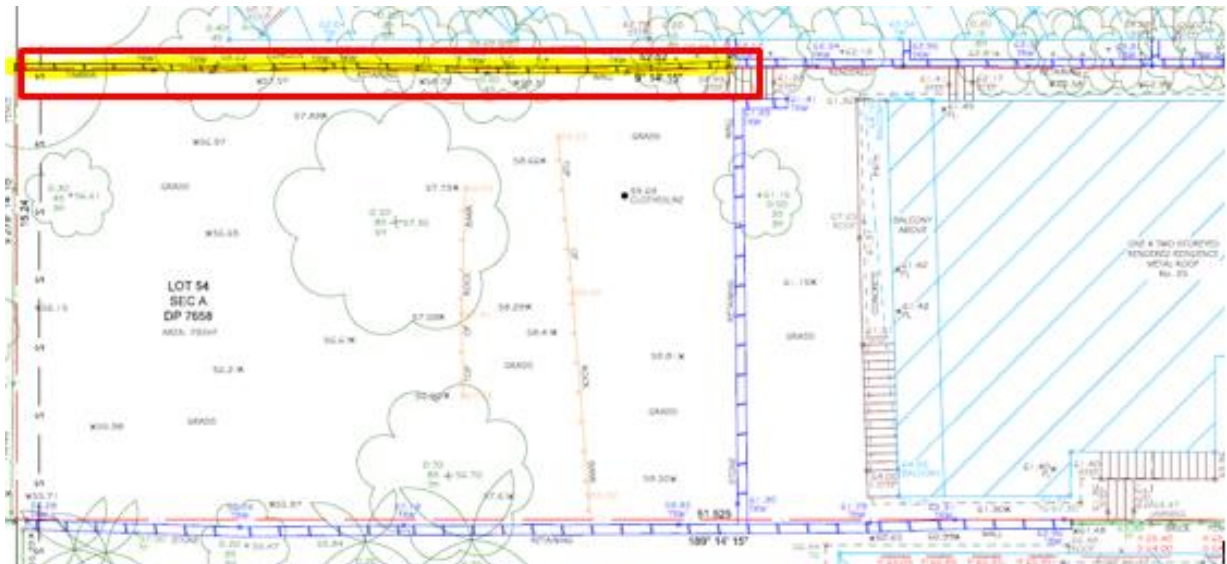
Chapter 2: Vegetation in non-rural areas

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

The DA is accompanied by an Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works (Ross Jackson) (dated 16 September 2022) and Landscape Plan, prepared by Michael Zinn landscape Designer (dated 28 August 2022).

Council's Tree and Landscape Officer reviewed the above noted reports as well as the Survey Plan, Stormwater Drainage Plans and the original Architectural Plans. In their referral response (dated 27 October 2022 and attached in **Attachment 5**) the application was supported subject to **conditions**. More specifically, the following comments were made:

- *Trees 4, 5 & 14 (located within the rear courtyard) are of low significance and removal is supported subject to appropriate tree replacement.*
- *Tree 12 (located within the rear courtyard) is not prescribed under the Chapter E.3 of the DCP and its removal is supported.*
- *The report prepared by Jacksons Nature Works is not in line with Council's DA guide, contains a collection of vague statements and has not been able to assess the real impact of proposed works, specifically the impact of the proposed retaining wall along shared boundary line on Tree No.'s 13-21 located on the neighbouring property. Changes to the Landscape Plan will be conditioned to ensure protection of these trees.*
- *Tree No.'s 13-21 are located on the neighbouring property and are proposed to be retained and protected on the AIA. These trees are located on a raised garden bed with a timber retaining wall parallel to the shared boundary to west. As per the Survey Plan prepared by ESA Survey, this wall is partially located on both properties 23 & 25 Birriga Road.*
- *This timber retaining wall has not been proposed to be demolished on the Architectural or Landscape Plans. Architectural Plan Sheet No. RIJA-01.2 Rev 1 shows the new wall partially located within the footprint of the existing timber wall. The Landscape Plan has omitted the presence of the timber wall and has proposed the new wall located along the shared boundary.*
- *The Consulting Arborists states on page 9 of the AIA "The development works will not affect or impact the stability and longevity as the existing walls have acted as root deflectors." without considering the real impact of proposed works.*



Existing timber retaining wall located along and partially outside of the western title boundary

- *We understand that the timber wall has to be partially/entirely demolished for the construction of the new masonry wall if proposed plans are approved. The retention of these trees would be largely compromised if a new retaining wall is installed requiring excavation behind the existing timber wall, or the timber wall was to be demolished and soil exposed until construction works are completed.*

NOTE: Due to the inconsistencies outlined above, Council is not clear as to whether the existing timber retaining wall along the western title boundary will be retained. In the absence of consent from the adjoining property owner/s, to which this fence also encroaches into their property, Council cannot consent to its removal. As such, a recommended DA condition (**Condition C.1**) would be imposed to require the retention of the existing timber retaining wall identified above and a condition not granting consent to these specific works (**Condition A.8**).

- *Please note Tree 17 is proposed to be removed on the Landscape Plan. However, it is a prescribed tree as per information provided on the Annexure A of the Arboricultural Impact Assessment and is proposed to be retained on the AIA. Therefore it will be conditioned to be retained. This tree has a modified crown with the trunk leaning to east. To retain the tree, the new wall must be modified to reduce root disturbance and accommodate the trunk and lower branches.*
- *Only one replacement tree has been proposed to be planted on the property. This is considered to be insufficient to offset canopy and tree loss, and to maintain and improved landscape amenity to the local residents. The proposed replacement tree is an *Angophora hispida* (Dwarf Apple). This tree is considered to be a mallee or small tree unable to provide landscape amenity and privacy to local residents. Please note this tree species occurs naturally on scrubby ridges and is not appropriate for shady growing conditions. Alternative rainforest tree species will be conditioned.*
- *In light of the above, conditions will require an amended Landscape Plan to minimise impacts on Tree No.'s 13-21 and include adequate replacement trees.*

Overall, the proposal is satisfactory with regard to Chapter 4 of the SEPP, subject to **Condition C.1** which specifically requires the plans to be amended to show:

- Retention of all trees located outside of the property boundary, including Tree No.17.

- Retention of the existing timber retaining wall located along the western title boundary, separating the subject site from 23 Birriga Road.
- The new masonry wall (located within the TPZ of Tree No.'s 13, 15, 16, 18-23 and within the western side setback of the site) relocated to outside of the footprint of the existing timber retaining wall as shown on the Survey Plan.
- The new masonry wall (located within the TPZ of Tree No.'s 13, 15, 16, 18-23 and within the western side setback of the site) offset 1m from the centre of the trunk of Tree No.17.
- Final levels of all proposed Landscape structures.
- Three (3) x 100L replacement trees must be included in the design and located within the rear setback of the property. They must not be planted less than 1m from existing and proposed services and structures.
- One (1) x 100L replacement trees must be included in the design and located within the front setback of the property. It must not be planted less than 1m from existing and proposed services and structures.
- The location, numbers, type and supply of trees, with reference to AS2303:2018—Tree stock for landscape use (if applicable).

Chapter 6: Water Catchments

Chapter 6 (Water Catchments) of the SEPP (Biodiversity and Conservation) 2021 applies to the subject land which is located within a regulated catchment being the Sydney Harbour Catchment.

The subject site 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.

13. SEPP 65: DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT & APARTMENT DESIGN GUIDE

Clause 30(2) of SEPP 65 requires the assessment of the application against the design quality principles in Schedule 1. This assessment has been undertaken by Council's Urban Design Consultant and is included below:

SEPP 65 Assessment

Schedule 9 Principle & Statement	Comment	Complies
<p>Principle 1: Context and Neighbourhood Character</p> <p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in the following areas: established areas; areas undergoing change; or areas identified for change.</i></p>	<p>The proposed development is located in a precinct zoned for medium density residential development. It enjoys convenient access to a range of facilities via multiple frequent, accessible and convenient bus based public transport services.</p> <p>Neighbourhood character is defined by a mix of building forms, heights, densities and architectural styles from different eras ranging from when the suburb was established in the 1920s through to contemporary infill development.</p> <p>The proposed 3 and four storey stepped building (five storey if the above ground level basement is included) would be a similar addition to the area. It is located on a steeply sloping south facing site capitalising on the fall of the site. Its siting and its character at its boundary interfaces provide a compatible response to the other neighbouring developments.</p> <p>That said, the height of boundary fencing in places required addressing. This is discussed below.</p> <p>The proposed approach recognises the streetscape context within which it resides and responds to this within an effort to adopt a sympathetic building height, pallet of building colours and materials, and frontage design and use.</p>	<p>Yes, subject to condition</p>
<p>Principle 2: Built Form and Scale</p> <p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The proposed development sits generally in the site at the frontage at the same ground level as the existing development.</p> <p>I have concerns that the side setbacks and balconies on the side elevations (where they project from the building wall and do not form part of the roof of the level below) result in increased bulk and scale when viewed from the properties to the east and west (particularly No. 23 to the east). The balcony projections do play a role in introducing articulation into the façade. However I suggest that they be trimmed or deleted. This is also discussed elsewhere in this report.</p> <p>The height is nominated to comply with the WLEP. However, the provision of additional detail is required to confirm this.</p> <p>Configuration of living areas provides good internal amenity and outlook.</p> <p>There are no unreasonable impacts on streetscape character, views and vistas.</p>	<p>Yes, subject to condition</p>

Schedule 9 Principle & Statement	Comment	Complies
<p>Principle 3: Density</p> <p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities are sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>The proposed building envelope marginally exceeds the FSR control in WLEP2014. This is not supported as discussed in Part 3.3 below.</p> <p>The level of amenity for the proposed apartments is good. Apartments are dual aspect with good ventilation and generous balcony sizes, internal areas, and private open space.</p>	<p>No</p>
<p>Principle 4: Sustainability</p> <p><i>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.</i></p> <p><i>Good sustainable design also includes the following: recycling and reuse of materials and waste; use of sustainable materials; and deep soil zones for groundwater recharge and vegetation.</i></p>	<p>The proposal adopts a number of measures that facilitate a good response to the need for sustainability.</p> <p>Apartments enjoy good solar access and cross ventilation. There are facilities for rainwater reuse and provision is made for roof top solar in the proposed roof plan.</p> <p>The extent of deep soil zone in the front and rear setback areas requires addressing. This is discussed below.</p> <p>Alternative means of transport are encouraged by the convenient pedestrian access into the development and conveniently located facilities for bicycle storage.</p>	<p>Yes, subject to condition</p>
<p>Principle 5: Landscape</p> <p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</i></p> <p><i>A positive image and contextual fit of well-designed developments are achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the following; local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks.</i></p> <p><i>Good landscape design optimises the following: usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.</i></p>	<p>There is a good provision of landscaping, with sufficient dimensions.</p> <p>No canopy trees are proposed within the site. Instead, the development relies upon the verge trees in Birriga Road that contribute to the tree canopy character of the street. They are proposed to be preserved.</p> <p>Tree No.5 in particular (an 8.0 metre Port Jackson Fig with medium retention value) is proposed to be replaced by a Dwarf Apple (maximum height 7 metres) in a location slightly to the south where deep soil planting opportunities exist.</p> <p>It would be appropriate to replace the fig in the rear of the site with a species that offers the same height and canopy role. Similarly a canopy tree should be provided in the front setback area of an appropriate species.</p>	<p>Yes, subject to condition</p>

Schedule 9 Principle & Statement	Comment	Complies
<p>Principle 6: Amenity</p> <p><i>Good design positively influences internal and external amenity for residents and neighbours. Good amenity contributes to positive living environments and resident wellbeing. Good amenity combines the following: appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</i></p>	<p>The design of each level floor plan and building siting contributes to a development that offers a good standard of amenity. All apartments have a large size. All apartments are dual (corner) aspect and half (3) enjoy access to a northern aspect.</p> <p>Placement and screening of windows in walls addressing the side boundaries could be improved in terms of preserving internal and external privacy. This is discussed elsewhere.</p> <p>The communal open space is adequate given the small number of apartment and character of the development.</p> <p>Access to the development is well considered.</p>	<p>Yes, subject to condition</p>
<p>Principle 7: Safety</p> <p><i>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The design provides surveillance of the public domain through balconies and windows facing Birriga Road.</p> <p>Pedestrian and vehicle entrances enjoy good exposure, are legible and will be comfortable to use.</p>	<p>Yes</p>
<p>Principle 8: Housing Diversity and Social Interaction</p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</i></p>	<p>The proposed development offers a good mix two and three bedroom apartments.</p> <p>While the proposal does not offer a varied mix of housing sizes it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill. It presents opportunities for downsizers and families who seek an alternative form of living to a large, detached dwelling, but with access to similar amenities.</p>	<p>Yes</p>
<p>Principle 9: Aesthetics</p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.</i></p>	<p>The promotion of a mix of materials, colours and treatments in the façade walls display a high quality aesthetic.</p> <p>The proposed development adopts a sympathetic and restrained pallet of materials and colours that suit the built character of the area.</p>	<p>Yes</p>

Schedule 9 Principle & Statement	Comment	Complies
<p><i>Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>		

Apartment Design Guide Assessment

<p>2E – Building depth</p> <ul style="list-style-type: none"> - Ensure building depth support apartment layouts that meet the objectives, design criteria and design guidance within the apartment design guide. - Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. 	<p>All apartments are corner situated and dual aspect.</p>	<p>Yes</p>
<p>2F – Building separation</p> <p><i>Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> - 12m between habitable rooms/balconies - 9m between habitable and non- habitable rooms - 6m between non-habitable rooms <p><i>Five to eight storeys (approximately 25m):</i></p> <ul style="list-style-type: none"> - 18m between habitable rooms/balconies - 12m between habitable and non- habitable rooms - 9m between non-habitable rooms <p><i>Nine storeys and above (over 25m):</i></p> <ul style="list-style-type: none"> - 24m between habitable rooms/balconies - 18m between habitable and non- habitable rooms - 12m between non-habitable rooms 	<p>The building has a height of five storeys at the rear (including the car park level) and three storeys at the front for this assessment.</p> <p>Of significance, the proposed development includes windows and balconies to habitable rooms addressing both side boundaries that will require provision of the following:</p> <ul style="list-style-type: none"> • screens or comprehensive use of obscured glass to all balcony edges and non high-set windows to bedrooms addressing the eastern and western side boundaries at Levels 3 and 4; and • Provision of (or an extension to) the non – trafficable area of the north facing balconies where they address and overlook the east and west side boundaries. This point is elaborated upon below. 	<p>Yes, subject to condition</p>
<p>2G – Street Setbacks</p> <ul style="list-style-type: none"> - Establish the desired spatial proportions of the street and define the street edge. - Provide space that can contribute to the landscape character of the street where desired. 	<p>The development provides a minimum front setback of 5.173 metres which is consistent with those offered by neighbouring buildings in the street. This is discussed further under WDCP 2015 below.</p> <p>The proposed setback establishes good amenity for the street.</p>	<p>Yes</p>

<ul style="list-style-type: none"> - Create a threshold by providing a clear transition between the public and private realms. - Assist in achieving visual privacy to apartments from the street. - Create good quality entries to lobbies, foyers or individual dwellings. - Promote passive surveillance and outlook to the street. 		
<p>2H – Side and rear setbacks</p> <ul style="list-style-type: none"> - provide access to light, air and outlook for neighbouring properties and future buildings. - provide for adequate privacy between neighbouring apartments. - retain or create a rhythm or pattern of spaces between buildings that define and add character to the streetscape. - achieve setbacks that maximise deep soil areas, retain existing landscaping and support mature vegetation consolidated across sites. - manage a transition between sites or areas with different development controls such as height and land use 	<p>Minimum side setbacks to the side boundaries are 1.0 metre (east) and 0.835 metres (west).</p> <p>The rear setback is 9.75 metres.</p> <p>The reduced side setbacks are predominantly incurred by the provision of a covered entry lobby and narrow, non-usable balconies in the side building elevations. The balconies do not provide adequate privacy between neighbouring apartments to the east and west (No.s 23 and 27) and introduce unnecessary bulk and scale. This can be remedied as noted elsewhere.</p> <p>Adequate deep soil planting opportunities are available through amendments as noted elsewhere.</p>	<p>Yes, subject to condition</p>
<p>3A – Site analysis Responsive to opportunities and constraints of site conditions and streetscape</p> <ul style="list-style-type: none"> - Each element in the Site Analysis Checklist should be addressed. 	<p>Generally, the proposal responds well to the topography of the site and its generally north facing sloping nature. However, the relationship with adjoining properties to the east and west require improvement as discussed throughout the report.</p>	<p>Yes, subject to condition</p>
<p>3B – Orientation</p> <ul style="list-style-type: none"> - Responsive to streetscape character while optimising solar access within the development. - Overshadowing of neighbouring properties is minimised during mid- winter. <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%</p>	<p>The building design prioritises solar access to, and outlook for, apartments to the north, which is appropriate.</p> <p>Overshadowing of neighbouring properties is minimised by virtue of the north-south orientation of the site.</p>	<p>Yes</p>
<p>3C – Public domain interface</p> <ul style="list-style-type: none"> - Transition between private and public domain is achieved without compromising safety and security. - Amenity of the public domain is retained and enhanced. - Length of solid walls should be limited along street frontages. - Terraces, balconies and courtyard apartments should have direct street entry, where appropriate. 	<p>The proposed location of windows, balconies, articulation, setbacks and mix of materials enliven and add interest to the street frontage.</p>	<p>Yes</p>

<ul style="list-style-type: none"> - Opportunities for people to be concealed should be minimised. - Where development adjoins public parks, open space or bushland, the design positively addresses this interface. 																																
<p>3D - Communal and public open space</p> <ul style="list-style-type: none"> - Minimum communal space area 25% of site area. - Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter). - Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions. - Communal open space should be consolidated into a well-designed, easily identified and usable area. 	<p>An outdoor communal garden of 114 sqm is proposed. It is overlooked by the balcony of Unit 2 on level 2 which would hinder its usefulness on account of noise and privacy considerations.</p> <p>However, given the small number of apartments in the development I consider this to be acceptable.</p>	<p>Yes</p>																														
<p>3E – Deep soil zones</p> <ul style="list-style-type: none"> - Deep soil zones that allow for and support healthy plant and tree growth. <table border="1"> <thead> <tr> <th>Site area</th> <th>Min Dim. zone</th> <th>Deep soil (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than-7%</td> <td></td> <td></td> </tr> <tr> <td>650m²</td> <td></td> <td></td> </tr> <tr> <td>650 m² –3m</td> <td></td> <td></td> </tr> <tr> <td>1,500m²</td> <td></td> <td></td> </tr> <tr> <td>Greater than 6m</td> <td></td> <td></td> </tr> <tr> <td>1,500m²</td> <td></td> <td></td> </tr> <tr> <td>Greater than 6m</td> <td></td> <td></td> </tr> <tr> <td>1,500m²</td> <td></td> <td></td> </tr> <tr> <td colspan="3">with significant existing tree cover</td> </tr> </tbody> </table>	Site area	Min Dim. zone	Deep soil (% of site area)	Less than-7%			650m ²			650 m ² –3m			1,500m ²			Greater than 6m			1,500m ²			Greater than 6m			1,500m ²			with significant existing tree cover			<p>The site has an area of 792sqm.</p> <p>There is a minimum width requirement of 3 metres for a site of this size.</p> <p>The total areas of deep soil greater than 3.0 metre in dimension is 144.22 sqm (114.22 (rear) + 30 (front estimated)) which is 18.2%</p> <p>Significant below ground infrastructure is located in the deep soil area. This is discussed elsewhere.</p>	<p>Yes, subject to condition</p>
Site area	Min Dim. zone	Deep soil (% of site area)																														
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<p>3F – Visual privacy</p> <ul style="list-style-type: none"> - Adequate building separation between neighbours to achieve reasonable external and internal visual privacy. - Minimum separation distances from buildings to side and rear boundaries: <table border="1"> <thead> <tr> <th>Building</th> <th>Habitable Non- height rooms and habitable balconies</th> <th>rooms</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Building	Habitable Non- height rooms and habitable balconies	rooms				<p>As noted above the proposed development does not achieve the required separation distances between proposed windows and balconies in the eastern and western side elevations of the building and windows and balconies in neighbouring buildings.</p>	<p>Yes, subject to condition</p>																								
Building	Habitable Non- height rooms and habitable balconies	rooms																														

<p>Up to 6m 3m 12m (4 storeys) Up to 9m 4.5m 25m (5-8 storeys)</p> <ul style="list-style-type: none"> Generally, one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance. Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping. 		
<p>3G – Pedestrian access and entries</p> <ul style="list-style-type: none"> Building entries and pedestrian access connects to and addresses the public domain. Access areas clearly visible from public domain. Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge. 	<p>The proposed development offers a good level of connectivity, entry, access and visibility with Birriga Road.</p>	<p>Yes</p>
<p>3H – Vehicle access</p> <ul style="list-style-type: none"> Vehicle access points designed and located to achieve safety. Car park access should be integrated with the building's overall facade. The width and number of vehicle access points should be limited to the minimum. Designed to minimise conflict with pedestrians and vehicles. Create high quality streetscapes. 	<p>The proposed driveway to Birriga Road is the most appropriate location and minimises potential streetscape, street tree and safety impacts.</p>	<p>Yes</p>
<p>3J – Bicycle and car parking</p> <ul style="list-style-type: none"> Car parking needs of the development provided off-street. Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites. 	<p>The basement car park protrudes greater than 1.0 metre above ground level at the rear. Given the visually obscured character of the protuberance I consider that this is acceptable in this instance.</p> <p>The proposed development provides undercover bicycle storage. It is hidden from view.</p>	<p>No, but acceptable in the circumstances</p>
<p>4A – Solar and daylight access</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area. 	<p>The three south facing units (i.e. 50%) rely on receiving oblique sunlight to windows in side elevations at circa 9.00 am and 3.00pm to achieve the required solar access as nominated in the development application. These windows will generally be screened or comprise obscured glass.</p>	<p>No, but acceptable in this circumstance</p>

<ul style="list-style-type: none">- A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid- winter.	<p>The rear private open spaces of these units (the balconies) do not receive 2 hours direct sunlight.</p> <p>However, given the small number of affected apartments and the narrow width of the lot and its north-south orientation (which preclude significant opportunities for design flexibility) I consider this is acceptable.</p>											
<p>4B – Natural ventilation</p> <ul style="list-style-type: none">- At least 60% of apartments are naturally cross ventilated in the first 9 storeys.- Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	<p>All apartments are dual or corner aspect and offer good opportunities for cross ventilation.</p>	<p>Yes</p>										
<p>4C – Ceiling heights</p> <ul style="list-style-type: none">- Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><td>Apartment</td><td>Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Attic spaces</td><td>1.8m with 30° minimum ceiling slope</td></tr></table> <ul style="list-style-type: none">- Minimum floor to floor height 3.1m (4C.5).	Apartment	Minimum ceiling height	Habitable rooms	2.7m	Non-habitable	2.4m	Attic spaces	1.8m with 30° minimum ceiling slope	<p>The nominated floor to floor height is 3.25 metres (2700+10+190+ 350) which will achieve the 2.7 metre floor to ceiling height once floor materials and possible plumbing or ceiling AC ducting is installed.</p>	<p>Yes</p>		
Apartment	Minimum ceiling height											
Habitable rooms	2.7m											
Non-habitable	2.4m											
Attic spaces	1.8m with 30° minimum ceiling slope											
<p>4D – Apartment size and layout</p> <ul style="list-style-type: none">- Apartments are required to have the following minimum internal areas: <table><tr><td>Apartment type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedrooms</td><td>70m²</td></tr><tr><td>3 bedrooms</td><td>90m²</td></tr></table> <ul style="list-style-type: none">- Every habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.- Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).- A window should be visible from any point in a habitable room.	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedrooms	70m ²	3 bedrooms	90m ²	<p>All apartments achieve the minimum area.</p>	<p>Yes</p>
Apartment type	Minimum internal area											
Studio	35m ²											
1 bedroom	50m ²											
2 bedrooms	70m ²											
3 bedrooms	90m ²											

<ul style="list-style-type: none">- Bedrooms have a minimum dimension of 3m (excluding wardrobe space).- Living rooms or combined living/dining rooms have a minimum width of: <table><tr><td>Apartment type</td><td>Minimum width</td></tr><tr><td>1 bedroom</td><td>3.6m</td></tr><tr><td>2 bedrooms</td><td>4m</td></tr><tr><td>3 bedroom</td><td>4m</td></tr></table> <ul style="list-style-type: none">- The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Apartment type	Minimum width	1 bedroom	3.6m	2 bedrooms	4m	3 bedroom	4m						
Apartment type	Minimum width													
1 bedroom	3.6m													
2 bedrooms	4m													
3 bedroom	4m													
<p>4E – Private open space and balconies</p> <ul style="list-style-type: none">- All apartments are required to have primary balconies as follows: <table><tr><td>Apartment type</td><td>Min. width</td><td>Min. depth</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table> <ul style="list-style-type: none">- For apartments at ground level, a private open space area shall be provided instead of a balcony with minimum area of 15m² and minimum depth of 3m.	Apartment type	Min. width	Min. depth	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	All balconies for upper level apartments and the private open space to ground floor units meet the minimum area and depth requirements.	Yes
Apartment type	Min. width	Min. depth												
1 bedroom	8m ²	2m												
2 bedroom	10m ²	2m												
3+ bedroom	12m ²	2.4m												
<p>4F – Common circulation and spaces</p> <ul style="list-style-type: none">- Maximum number of apartments off a circulation core on a single level is eight (8).- Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.- Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:<ul style="list-style-type: none">- a series of foyer areas with windows and spaces for seating;- wider areas at apartment entry doors and varied ceiling heights.	The circulation core (essentially the lift lobby area) on each floor provides access to only 1 to 2 apartments.	Yes												
<p>4G – Storage</p> <ul style="list-style-type: none">- In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><td>Dwelling type</td><td>Storage size volume</td></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedrooms</td><td>10m³</td></tr></table> <p>Note: At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedrooms	10m ³	Storage for apartments is provided in the basement car parking level. Storage areas and cupboards in apartments are also proposed.	Yes		
Dwelling type	Storage size volume													
Studio	4m ³													
1 bedroom	6m ³													
2 bedroom	8m ³													
3+ bedrooms	10m ³													

<p>4H – Acoustic Privacy</p> <ul style="list-style-type: none"> - Noise transfer is minimised through the siting of buildings and building layout. - Noise impacts are mitigated within apartments through layout and acoustic treatments. - Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy). 	<p>No acoustic assessment is provided. The car lift and stackers will require appropriate conditions to minimise noise impact on units within and external to the site.</p>	<p>Yes</p>
<p>4J – Noise and Pollution</p> <ul style="list-style-type: none"> - The impacts of external noise and pollution are minimised through careful siting and layout of buildings. - Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission. 	<p>No air quality assessment is provided. The potential source of any air quality and noise issues would most likely be from the traffic using Birriga Road. Given the observed use of the road, together with the setback of the proposed building from the road, no air quality or noise concerns are apparent.</p>	<p>Yes</p>
<p>4K – Apartment mix</p> <ul style="list-style-type: none"> - A range of apartment types and sizes is provided. 	<p>The proposal offers a mix of apartment sizes.</p>	<p>Yes</p>
<p>4L – Ground floor apartments</p> <ul style="list-style-type: none"> - Street frontage activity is maximised where ground floor apartments are located. - Apartments deliver amenity and safety for residents. - Direct street access should be provided to ground floor apartments 	<p>While the ground floor apartment addresses the street, it does not have direct street access. I consider that the narrow width of the site and the proposed approach to the pedestrian entry off Birriga Road achieves the requirements of this part.</p>	<p>Yes</p>
<p>4M – Facades</p> <ul style="list-style-type: none"> - Building facades provide visual interest along the street while respecting the character of the local area. - Entries are clearly defined. - Building services should be integrated within the overall façade. 	<p>The Schedule of Colours and Finishes enables an indicative appreciation of the presentation of the building to Birriga Road and neighbouring properties. The architectural approach creates visual interest for the public domain while respecting the character of the local area. Entrances are clearly defined and observable from the public domain. Building services are not visible from the public domain. However, the location of firefighting booster equipment is not identified.</p>	<p>Yes</p>
<p>4N – Roof design</p> <ul style="list-style-type: none"> - Roof treatments are integrated into the building design and positively respond to the street 	<p>The roof is not trafficable and rooftop plant is generally obscured by the roof form.</p>	<p>Yes</p>
<p>4O – Landscape design</p> <ul style="list-style-type: none"> - Landscape design is viable and sustainable. - Landscape design contributes to the streetscape and amenity. 	<p>Tree species selection in deep soil areas do not capitalise on the opportunity for the site to contribute to the distinctive green tree canopy in the area. However this can be remedied as discussed elsewhere.</p>	<p>Yes, subject to condition</p>

<p>4P – Planting on structure</p> <ul style="list-style-type: none"> - <i>Appropriate soil profiles are provided.</i> - <i>Plant growth is optimised with appropriate selection and maintenance.</i> - <i>Planting on structures contributes to the quality and amenity of communal and public open spaces</i> 	<p>Some planting is proposed on structures.</p>	<p>Yes.</p>
<p>4Q – Universal design</p> <ul style="list-style-type: none"> - <i>Universal design features are included in apartment design to promote flexible housing for all community members.</i> - <i>A variety of apartments with adaptable designs are provided.</i> - <i>Apartment layouts are flexible and accommodate a range of lifestyle needs.</i> - <i>Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features.</i> 	<p>The private open space areas, vertical access, apartment sizes and layout and amenity of each unit generally provide a high level of flexibility to evolve as households evolve.</p>	<p>Yes</p>
<p>4R – Adaptive reuse</p> <ul style="list-style-type: none"> - <i>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.</i> - <i>Adapted buildings provide residential amenity while not precluding future adaptive reuse.</i> 	<p>The application is for a new development.</p>	<p>NA</p>
<p>4S – Mixed use</p> <ul style="list-style-type: none"> - <i>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.</i> - <i>Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents.</i> 	<p>The application is for a residential use.</p>	<p>NA</p>
<p>4T – Awnings and signage</p> <ul style="list-style-type: none"> - <i>Awnings are well located and complement and integrate with the building design.</i> - <i>Signage responds to the context and desired streetscape character.</i> 	<p>No awnings at street level are proposed.</p>	<p>NA</p>
<p>4U – Energy efficiency</p> <ul style="list-style-type: none"> - <i>Development incorporates passive environmental design.</i> - <i>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</i> - <i>Adequate natural ventilation minimises the need for mechanical ventilation.</i> 	<p>The proposed development offers high levels of natural ventilation and there are opportunities for rooftop solar provision.</p> <p>The proposal satisfies the relevant objectives or design criteria prescribed by this Part.</p>	<p>Yes</p>

4V – Water management and conservation <ul style="list-style-type: none"> - Potable water use is minimised. - Urban stormwater is treated on site before being discharged to receiving waters. - Flood management systems are integrated into site design. 	The Stormwater Plan provides information to demonstrate appropriate rainwater collection and reuse.	Yes
4W – Waste management <ul style="list-style-type: none"> - Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. - Domestic waste is minimised by providing safe and convenient source separation and recycling. 	A waste room is proposed in the basement level and is conveniently accessible to Birriga Road.	Yes
4X – Building maintenance <ul style="list-style-type: none"> - Building design detail provides protection from weathering. - Systems and access enable ease of maintenance. - Material selection reduces ongoing maintenance costs. 	<p>While no information has been provided with regards to the building maintenance, I consider the proposed materials selected, particularly the use of brick and Colorbond and solid balustrades, will result in a building that will require minimum maintenance.</p> <p>Roof hatch access to the roof is shown.</p>	Yes

Urban Design Review and Recommendations

Council's Urban Designer provided the following additional commentary/recommendations:

The proposal is not supported. However, minor redesign of the development is suggested that may remedy the concerns. Any submission of revised plans should be accompanied by:

- *clarification on the exiting ground level line and maximum permissible building height line across the site to enable a complete understanding of the proposed building height when measured against the existing ground level; and*
- *the areas of genuine deep soil planting zone, free of stormwater infrastructure constraints.*

The redesign should consider the following observations (in no particular order and not purporting to be complete):

1. *Floor plan design should be amended to trim or delete balconies (including Juliet and non-trafficable) addressing side boundaries where they project from the building wall (and do not form part of the roof of the level below) to increase the setbacks of the proposed building to achieve the WDCP Part B3.2 minimum requirement of 1.5 metres;*
2. *The covered entry lobby at the building entry in the west facing elevation should be deleted or redesigned to achieve the minimum side setback requirement noted above;*
3. *Any balconies that project beyond the front and rear building wall that overlook the neighbouring properties to the east and west (No. 23 and No. 27) should include screening at the balcony edge to improve acoustic and visual privacy;*
4. *Windows addressing the east and west side boundaries that do not achieve the minimum Apartment Design Guidelines' separation distances should be high-set in character, screened or fully comprise opaque glass;*

5. *The design of the floor plans should be amended to increase the efficiency of unit floor space use and configuration. Consideration should be given to minor reductions in unit sizes to better meet the maximum floor space ratio standard. For example, this may be achieved by minor reductions in the size of some bedrooms and living areas. (This action may also assist in increasing building setbacks and window separation from side boundaries);*
6. *Greater consideration should be given to the location of AC condensers to ensure such locations minimise visual impact and do not compromise the functionality of any private open space or balcony locations that may be required. In this regard, the priority should be to identify locations that do not comprise apartment private open space;*
7. *The location and design of the fire hydrant booster assembly cabinet should be incorporated into the building design at the site frontage;*
8. *The stormwater plan should be amended to remove any infrastructure that may impede the functionality of the deep soil planting zones, particularly in the front and rear setback areas;*
9. *Side and rear boundary walls should have a maximum height of 1.8 metres (or 1.2 metres) consistent with the requirements of Part B3.7.2 of WDCP; and*
10. *The landscape plan should be amended to include an appropriate species to replace the fig in the rear of the site with a species that offers the same height and canopy role. Similarly, a canopy tree should be provided in the front setback area of an appropriate species.*

Council's Assessment Officer has provided the following additional comments in relation to these issues:

- As noted within Section 15.2.1 of this report, the proposal will mostly comply with the minimum 1.5m side setback requirements, with very minor encroachments proposed. Nevertheless, the breach as it relates to the balcony of Unit 5 at Level 3 will be brought into compliance, via **Condition C.1**, in order to address privacy concerns. Earlier revisions to the architectural plans included the deletion of non-trafficable balcony areas, which added unnecessary bulk.
- Whilst the proposed lobby will breach the 1.5m side setback requirement, it is considered to be minor and Council is satisfied with the proposed 0.85m setback, noting that lobby will be limited to a height of one storey. Refer to Section 15.2.1 of this report for detailed assessment.
- Appropriate **conditions** have been imposed to address overlooking concerns from balconies and new windows. All east and west windows will be treated to limit overlooking.
- Appropriate **conditions** require increased rear setbacks, which will result in a reduced building footprint, as recommended at Item 5 of the Urban Design referral advice.
- Proposed balconies are generously proportioned, enabling ample space to locate AC units within a location that will not compromise the functionality of the respective balcony/open space area.
- Whilst the stormwater plan has not been amended to remove the proposed absorption tank and rainwater tank from the rear courtyard, Council's Tree and Landscaping Officer has recommended appropriate **conditions** including a requirement for greater tree canopy coverage on site. It is also noted that whilst this infrastructure will inhibit deep soil planting, it will allow for shallow planting, assisting with on-site water absorption.

14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

14.1 Part 1.2: Aims of Plan

The proposal, as conditioned, is consistent with the aims in Part 1.2(2) of the WLEP 2014.

14.2 Land Use Table

The proposal is defined as a residential flat building which is permitted within the R3 Medium Density Residential Zone and considered to be consistent with the relevant zone objectives.

14.3 Part 4.1A: Minimum Lot Sizes for a Dual Occupancies, Multi Dwelling Housing and Residential Flat Building

Part 4.1A(2) specifies a minimum lot size of 700m².

Site Area: 792m ²	Proposed	Control	Complies
Minimum Lot Size – Multi-Unit/Residential Flat Building	792m ²	700m ²	Yes

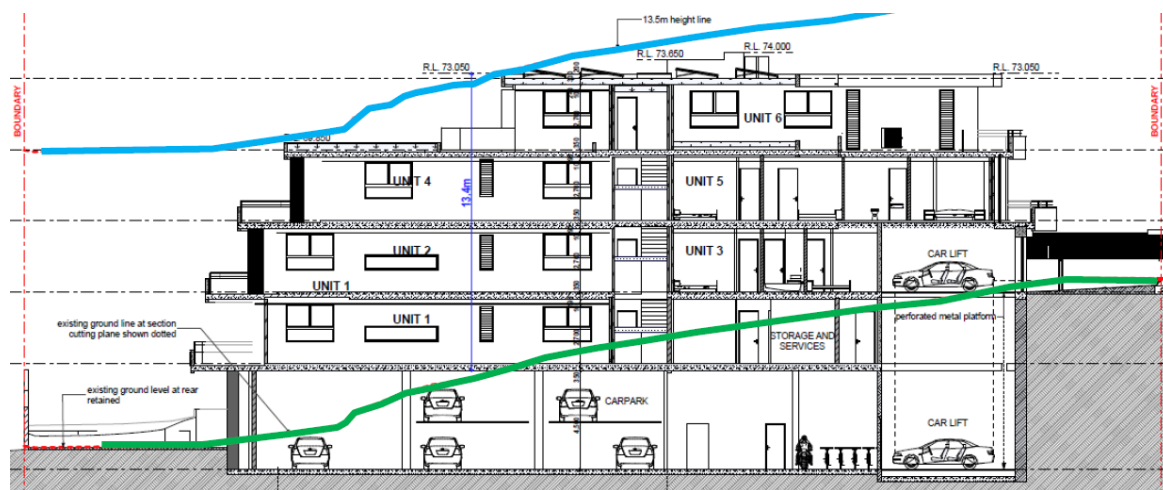
Accordingly, the proposal complies with 4.1A(2) of WLEP 2014.

14.4 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 13.5m.

As identified by Council's Urban Design Consultant, the maximum proposed height of the building as nominated in the Statement of Environmental Effects is 13.4 metres. Thus the proposed building is located below the maximum WLEP 2014 height limit, however this assessment relies on the provision of selected sections through the building that do not include an east-west section through the central northern half of the site. Thus compliance of the top floor (level 4) with the height limit in the northern part of the site cannot be determined. As such, **Condition C.1** will ensure compliance.

	Proposed	Control	Complies
Maximum Building Height	13.4m	13.5m	Yes as conditioned



Proposed maximum building height (north-south section)

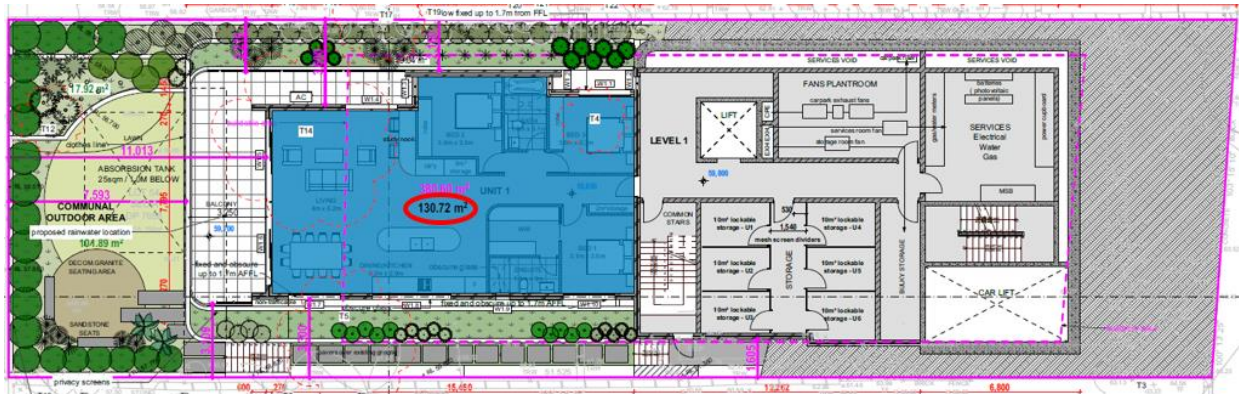
14.5 Part 4.4: Floor Space Ratio

Part 4.4(2) specifies a maximum floor space ratio of 0.9:1.

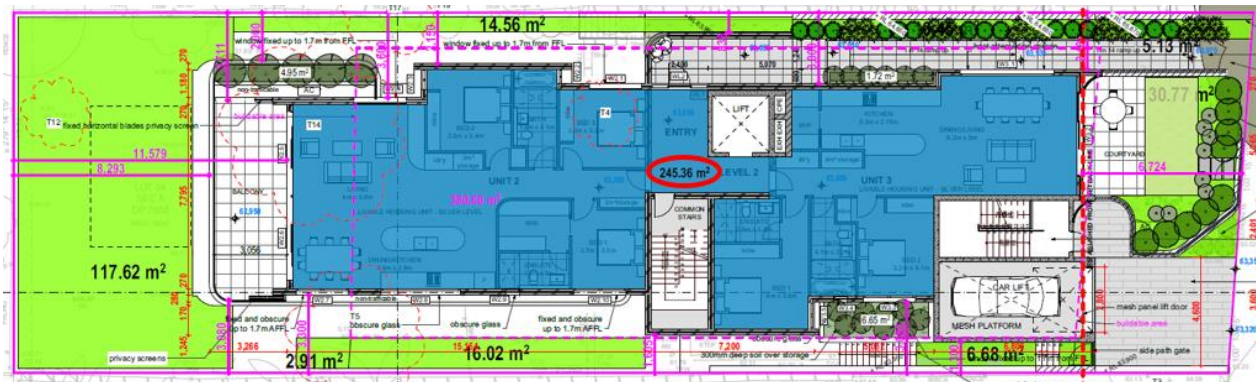
Site Area: 792m ²	Proposed	Proposed subject to Condition C.1	Control	Complies
Floor Space Ratio	0.94:1 (748.62m ²)	0.92:1 (728.77m ²)	0.9:1 (712.8m ²)	No*

* The non-compliant FSR will achieve the relevant objectives of the standard(s) and that of the zone where the site falls within. The submitted CI 4.6 is considered to be well founded with sufficient planning grounds.

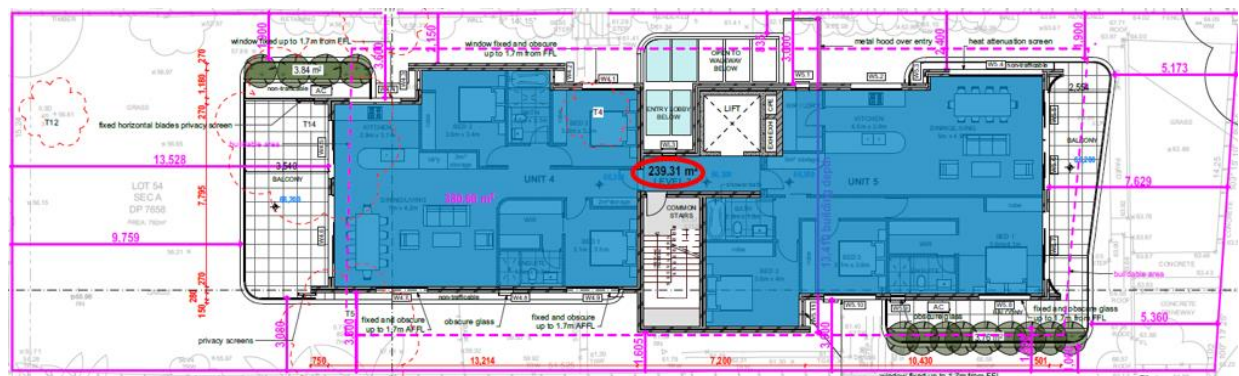
The proposal does not comply with Part 4.4 of WLEP 2014 as detailed and assessed below.



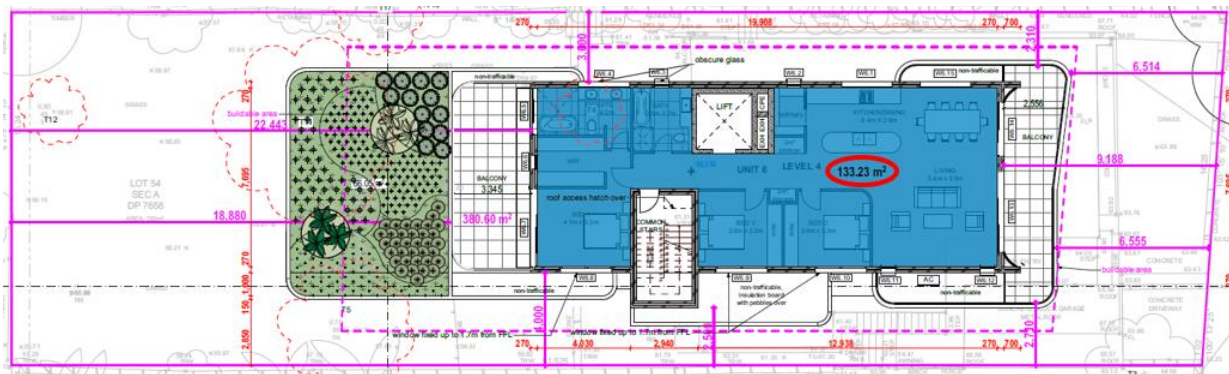
Level 1 – Floor space ratio calculation



Level 2 – Floor space ratio calculation



Level 3 – Floor space ratio calculation



Level 4 – Floor space ratio calculation

14.6 Part 4.6: Exceptions to Development Standards

Departures

The proposal involves a non-compliance with the maximum floor space ratio control as specified at Part 4.4(2) of the WLEP 2014.

Clause 4.6 (1) & (2) Purpose

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

Clause 4.6 (3) 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 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 departures, refer to **Attachment 2**.

Clause 4.6 (4) Assessment

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

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, have 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*

With respect to Clause 4.6(3)(a), the common ways to establish whether compliance with the development standard is unreasonable or unnecessary is known as the '5-part test' or the 'Wehbe test' (from the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The test can be summarised as follows:

Compliance with the development standard is unreasonable or unnecessary if the:

1. objectives of the development standard are achieved notwithstanding the non-compliance
2. underlying objective or purpose is not relevant to the development

3. underlying objective or purpose would be defeated or thwarted if compliance was required
4. development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard
5. zoning of the land on which the development is proposed was unreasonable or inappropriate.

The applicant's written request notes the DA satisfies Test 1 in that the objectives of the *Maximum Floor Space Ratio* development standard are achieved, notwithstanding the non-compliance.

In doing so, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a). The objectives of the development standard are discussed further in the assessment of Clause 4.6(4)(a)(ii).

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

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

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

S1.3 of the EPA Act states:

1.3 Objects of Act

The objects of this Act are as follows:

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

The applicant's written request has adequately demonstrated that the proposed development, promotes the orderly and economic use and development of the land; and promotes good design and local amenity of the built environment, in accordance with the objects 1.3(c) and (g) of the EPA Act.

The applicant's written request has therefore demonstrated sufficient environmental planning grounds to justify the contravention of the development standard as required by Clause 4.6(3)(b) and the consent authority can be satisfied that the applicant's written request have adequately addressed the matters required to be demonstrated by Clause 4.6(3).

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

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

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

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the *Floor Space Ratio* development standard, and the zone objectives of the R3 Medium Density Residential zone.

The objectives of this clause are as follows:

- (a) *for development in Zone R3 Medium Density Residential—*
 - i) *to ensure the bulk and scale of new development is compatible with the desired future character of the area, and*
 - ii) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and*
 - iii) *to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space,*
- (b) *for buildings in Zone B1 Neighbourhood Centre, Zone B2 Local Centre, and Zone B4 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.*

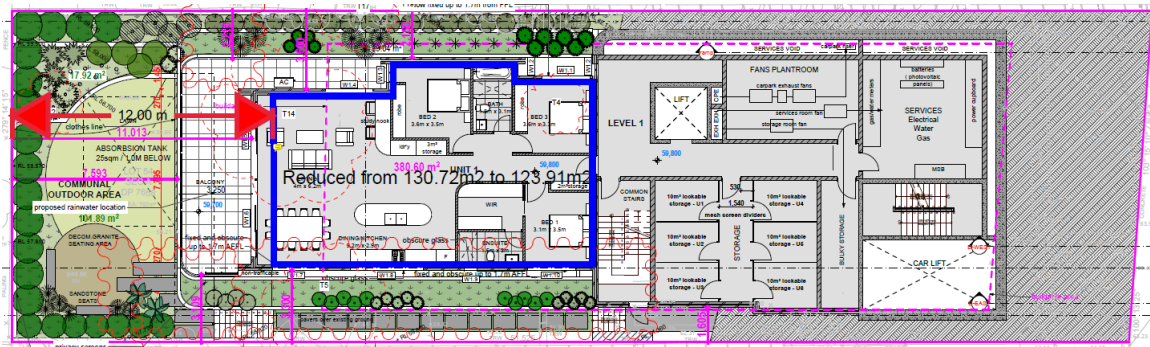
The relevant objectives of the R3 Medium Density Residential Zone are as follows:

- *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.*

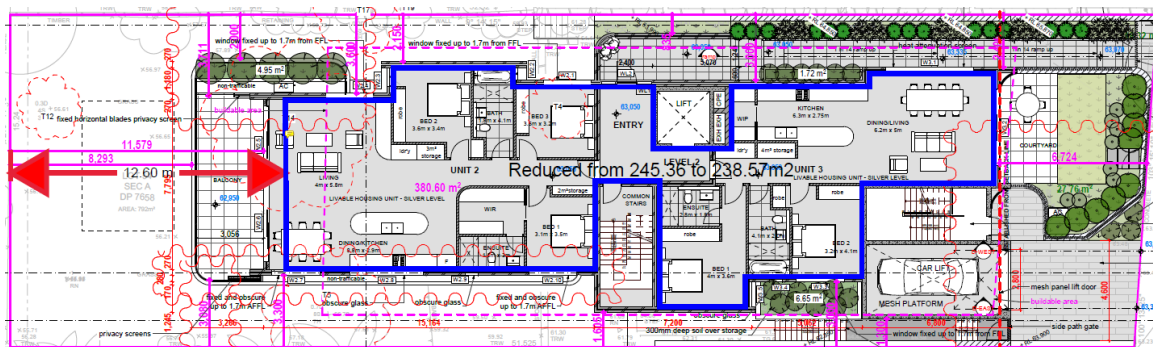
The proposal as **conditioned** satisfies the aforementioned objectives given:

- The proposal as it presents to Birriga Road is compatible with the desired future character of the area and that of the existing context which is defined by a mix of building forms, heights, densities and architectural styles including medium density contemporary developments similar to the proposed development.
- **Condition C.1** will require increased setbacks from the rear boundary and in effect reduce the floorplate which will establish a more reasonable development outcome having regard for the amenity enjoyed by neighbouring properties. As demonstrated below, the floorplate will be

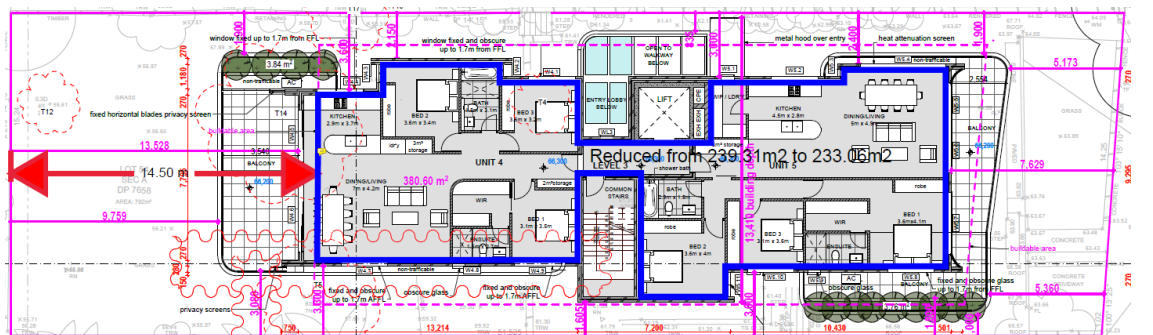
reduced by 19.85m². This reduction in floorplate will ensure the departure from the development standard is minor in the context and will ensure the development is of a scale that achieves the desired future character of the area.



Level 1



Level 2



Level 3

- The proposal will meet the housing needs of the community.
- The proposal, as conditioned, provides for a built form that complies with the building height development standards of the WLEP 2014, is compatible with existing and emerging development in the area and achieves the desired future character of the neighbourhood subject to conditions.
- It is considered that despite the numerical non-compliance with the Floor Space Ratio development standard, the proposal is consistent with the desired and emerging character of the areas, subject to conditions.

Clause 4.6(4)(b) – Concurrence of the Secretary

Clause 4.6(4)(b) requires the consent authority to be satisfied that:

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

The Department issued Planning Circular No.PS20-002 (dated 5th 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 EP&A Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exception to development standard, thus satisfying the terms of this clause.

Conclusion

The written submission from the applicant has adequately demonstrated that the contravention of the *Floor Space Ratio* development standard prescribed by the *WLEP 2014* is justified, subject to **Condition C.1**, which will require increased rear setbacks and in effect a reduced FSR.

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 contravention of the standards.

The consent authority may also be 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 departure from the control is justified and supported.

14.7 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.

Whilst the proposed development is not within a heritage conservation area, it is located opposite three sites, at 40, 40A & 40B Birriga Road, which are subject to interim heritage orders. A Demolition Report prepared by Heritage 21 (dated September 2022) accompanied the DA and informed Council’s assessment of the DA against Part 5.10 of the Woollahra LEP 2014.

Overall, the proposal is acceptable with regard to Part 5.10 in that:

- The proposed development, as **conditioned**, represents a sympathetic and appropriate built form response, ensuring the conservation of the environmental heritage of Woollahra, achieving Part 5.10(1)(a).
- The existing building does not warrant the listing or retention of the building and therefore does not need to be protected in accordance with Part 5.10(1)(b).
- The proposal incorporates a variety of sympathetic materials and will not adversely affect the setting or views in accordance with Part 5.10(1)(b).
- The site is not known as being an archaeological site, which would otherwise warrant protection in accordance with Part 5.10(1)(c).
- The site is not known to contain Aboriginal objects, which would otherwise warrant protection in accordance with Part 5.10(1)(d). Nevertheless, the following standard **condition** with regards to *Aboriginal Objects – Unexpected Findings* is recommended to be imposed in this regard.

In addition, Council's Heritage Officer confirmed that *'the subject site does not meet the threshold for individual heritage listing and its demolition will not adversely impact Woollahra's heritage.'*

Conclusion:

The proposal, as conditioned, is acceptable with regard to Part 5.10 of the Woollahra LEP 2014.

14.8 Part 5.21: Flood Planning

The subject site is not located in a 'Flood Planning Area', as identified on the Flood Planning Map.

14.9 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 of the Woollahra LEP 2014.

14.10 Part 6.2: Earthworks

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

The proposal involves excavation to a depth of approximately 9m below ground level at the northern end of the site for the proposed basement.

Part 6.2(3) requires Council, in deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), to consider the following matters:

Part 6.2(3) – Matters for Consideration – Assessment	
Clause	Comment
(a) <i>the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i>	<p>Satisfactory.</p> <p>The following have been submitted in support of the application:</p> <ul style="list-style-type: none">Revised Geotechnical Report, referenced 35170PDrpt Rev 1, prepared by JK Geotechnics, dated 08/11/2022.Geotechnical and Hydrogeological Monitoring Plan, referenced 35170PD2rpt 35170PD2rpt GHMP, prepared by JK Geotechnics, dated 08/11/2022.Construction Methodology Report, unreferenced, prepared by Alba+Associates, dated 09/11/2022. <p>Council's Development Engineer has reviewed these documents and confirmed the following:</p>

	<p><i>'The submitted revised stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. It is noted that the applicant has submitted documentary evidence showing that the interallotment drainage easement is not obtainable from downstream property. In this regard, the proposed absorption system is considered acceptable as easement alternative on the basis that the infiltration rate of the onsite soil is greater than the minimum requirement of 0.1 litres/m²/s. However, for this new development, the size of rainwater tank shall be based on 60m³ per 1000m² of the site area instead of impervious area to comply with Chapter E2.2.9 of Council's DCP, condition will be imposed for this the rainwater tank design to be revised at CC stage. Roof water will be collected to be proposed rainwater tank whilst stormwater runoff from all impervious area, landscape area and rainwater tank overflow will be directed to be proposed absorption system.</i></p> <p><i>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.'</i></p> <p>Accordingly, the proposal as conditioned is acceptable with regard to Part 6.2(3)(a).</p>
<i>(b) the effect of the development on the likely future use or redevelopment of the land,</i>	<p>Satisfactory.</p> <p>The proposed excavation is not considered to effect the likely future use or redevelopment of the land.</p>
<i>(c) the quality of the fill or the soil to be excavated, or both,</i>	<p>Satisfactory.</p> <p>The quality of the soil to be removed has been assessed in Sections 11 and 15.6 of the report.</p>
<i>(d) the effect of the development on the existing and likely amenity of adjoining properties,</i>	<p>Satisfactory.</p> <p>Excavation works are considered to be temporary in nature, therefore minimising associated noise, vibration, dust and other amenity impacts arising from jackhammering, rock breaking, truck movements, and the like to the short-term. Nevertheless, standard conditions have been recommended to require appropriate noise and dust mitigation measures.</p> <p>Furthermore, Council's Engineer has confirmed the following:</p> <p><i>'A Geotechnical Report, ref 35170PD rpt Rev 1, prepared by JK Geotechnics, dated 08/11/2022, has been submitted in support of the application. The proposal involves excavation to a depth of approximately 9m below ground level at the northern end of the site for the proposed basement.</i></p> <p><i>The report identified that the subsurface conditions from the subject site as:</i></p> <ul style="list-style-type: none"> <i>a) Fill comprising silty sand to a depth of 0.15m (BH1), 0.15m (BH2) and 0.2m (BH3).</i> <i>b) Depth of natural sand with various density from a depth beneath the fill to a depth of 6.8m (BH1), 1.8m (BH2) and 3.1m (BH3).</i> <i>c) Sandstone bedrock was encountered beneath the natural sand in BH1.</i> <i>d) Groundwater seepage was observed during the field investigation.</i>

	<p><i>The report made comments and recommendations on the following:</i></p> <ul style="list-style-type: none"> • <i>Shoring and support,</i> • <i>Vibration Monitoring,</i> • <i>Excavation method,</i> • <i>Further Geotechnical input.</i> <p><i>In addition, the applicant has also submitted a structural report and preliminary structural drawings providing methodology to address the proposed excavation. It is noted from the report that the structural engineer has advised that no ground anchors will be required within neighbouring properties including Council property and provided that there are no unexpected latent site conditions, the shoring techniques provided in the report when diligently and carefully applied will have no adverse impacts to the structural integrity of adjoining structures or the adjacent roadway.'</i></p> <p><i>Council's Infrastructure & Sustainability Services Division has no objections to the proposed excavation on technical grounds subject to the imposition of conditions.</i></p> <p>Accordingly, the proposal, as conditioned, is acceptable with regard to Part 6.2(3)(d).</p>
<i>(e) the source of any fill material and the destination of any excavated material,</i>	<p>Satisfactory.</p> <p>The proposal does not involve fill. The destination of excavated material will need to be in accordance with relevant guidelines relating to management of any soils that are Acid Sulfate Soils and/or Contaminated Land.</p>
<i>(f) the likelihood of disturbing relics,</i>	<p>Satisfactory.</p> <p>Council's Heritage Officer has not raised any concerns relating to the potential for disturbing relics. Appropriate conditions would be imposed requiring the protection of Aboriginal Objects and procedure to be followed in the unlikely event such objects are found during work.</p>
<i>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</i>	<p>Satisfactory.</p> <p>The site is not located within proximity to an environmentally sensitive area and Council's Engineer is satisfied the submitted Stormwater Management Plan is acceptable with regards to Part E2.2 of the WDCP 2015 which considers water sensitive urban design and stormwater treatment.</p>
<i>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i>	<p>Satisfactory.</p> <p>Standard conditions are recommended to be imposed to require structural certification, prior to issuing of a construction certificate, and vibration monitoring to be in place during work. These would ensure structural risk/s to adjoining property and impacts are minimised.</p>

Conclusion:

In light of the above, the proposal as **conditioned** is considered to be acceptable with regards to the relevant matters for consideration in Part 6.2 of the WLEP 2014.

14.11 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.

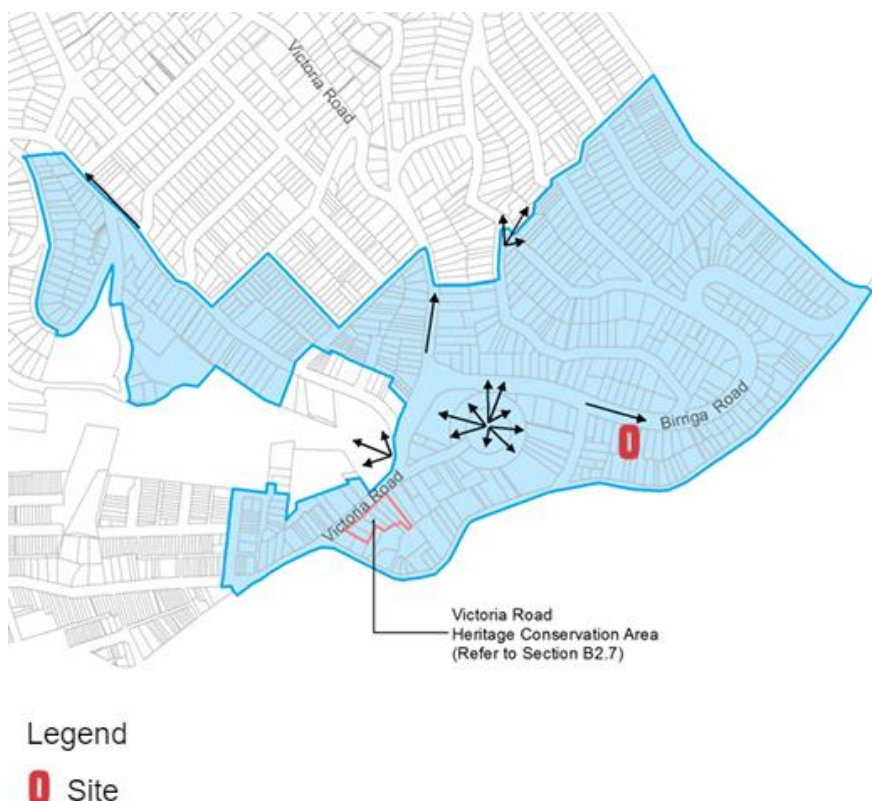
Council's Tree and Landscape Officer provided no objection to the proposal, subject to conditions.

The proposal is acceptable with regard to Part 6.9 of WLEP 2014, subject to **conditions** requiring three (3) x 100L replacement trees within the rear setback and one x 100L replacement tree within the front setback of the property.

15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

15.1 Chapter B1: Bellevue Hill South Residential Precinct

This chapter applies to land located within the Bellevue Hill South Precinct. As illustrated below, the subject site is located within said precinct.



Bellevue Hill South Precinct - Map 7 [Source: Chapter B1.7 of WDCP 2015]

The proposal satisfies the relevant precinct objectives as outlined within Section B1.7.2 of the WDCP 2015 on the basis that:

- The proposed flat roof form is considered to be contextually compatible with its surrounds and the proposed external materials and finishes are considered to be acceptably unobtrusive. Additionally, the proposal will be of a contemporary architectural style that has been appropriately designed (subject to **conditions**) to respect its surrounds, in keeping with Objective O2.

- The desired future character statement for the Bellevue Hill South Residential Precinct indicates new development along Birriga Road will generally take the form of residential flat buildings, which also supports the R3 medium residential density zoning of the land. The proposed residential flat building, as **conditioned**, will not exceed the Height of Buildings development standard and will respond
- The proposal responds appropriately to the topography of the land, minimising cut and fill in accordance with Objective O5.
- The proposal does not unreasonably impact significant views and vistas to surrounding areas from the streets and parks in accordance with Objective O6.
- Whilst the proposal will result in the loss of tree coverage on site, a generous area of open space will be maintained to the rear of the site and appropriate **conditions** recommended by Council's Tree and Landscaping Office require additional tree canopy coverage within the rear courtyard and front setback in accordance with Objective O7.

15.2 Chapter B3: General Development Controls

15.2.1 Part B3.2: Building Envelope

An assessment has been undertaken against Section B3.2.2, B3.2.3, B3.2.4 and B3.2.5 of the WDCP 2015. Assessment findings have been detailed below, noting that non-compliant setbacks have been identified in '**bold**'.

	Proposed	Control	Complies
B3.2.2 - Front Setback	<p><u>Front Setback:</u></p> <p>Level 2 – 6.7m - Principal building façade 5.7m - Garage</p> <p>Level 3 – 7.6m - Principal building façade 5.2m - Balcony</p> <p>Level 4 – 9.2m - Principal building façade 6.5m - Balcony</p> <p><u>Max. Unarticulated Width:</u> 6.0m</p>	<p>23 Birriga Rd – 6.8m 27 Birriga Rd - 5.5m 19 Birriga Rd – 5.9m Average distance = 6.1m</p>	No – Acceptable, refer to discussion below.
B3.2.3 - Side Boundary Setbacks	<p><u>Side Setbacks:</u></p> <p>Level 1 – 1.6m to 3.3m (East) & 0.85m to 2.2m (West)</p> <p>Level 2 – 1.3m to 3.3m (East) & 0.85m to 2.1m (West)</p> <p>Level 3 – 1.0m to 3.3m (East) & 1.9m to 3.0m (West)</p> <p>Level 4 – 2.5m to 4.0m (East) & 2.3m to 3.0m (West)</p> <p><u>Max. Unarticulated Wall Length:</u> 12.0m</p>	<p>1.5m</p> <p><12m</p>	No – Acceptable, refer to discussion below.

	Proposed	Control	Complies
B3.2.4 - Rear Setback	<p>Level 1 - Ranges from 7.59m as measured to the balcony to 11.01m as measured to the main building line.</p> <p>Level 2 – Ranges from 8.293m as measured from the balcony to 11.579m as measured to the main building line.</p> <p>Level 3 - Ranges from 9.759m as measured from the balcony to 13.528m as measured to the main building line.</p> <p>Level 4 - Ranges from 18.88m as measured from the balcony to 22.443m as measured to the main building line.</p>	<p>17.1m – Eastern Boundary</p> <p>17.5m – Western Boundary</p>	No – Acceptable subject to conditions , refer to discussion below.

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 WDCP Controls below.

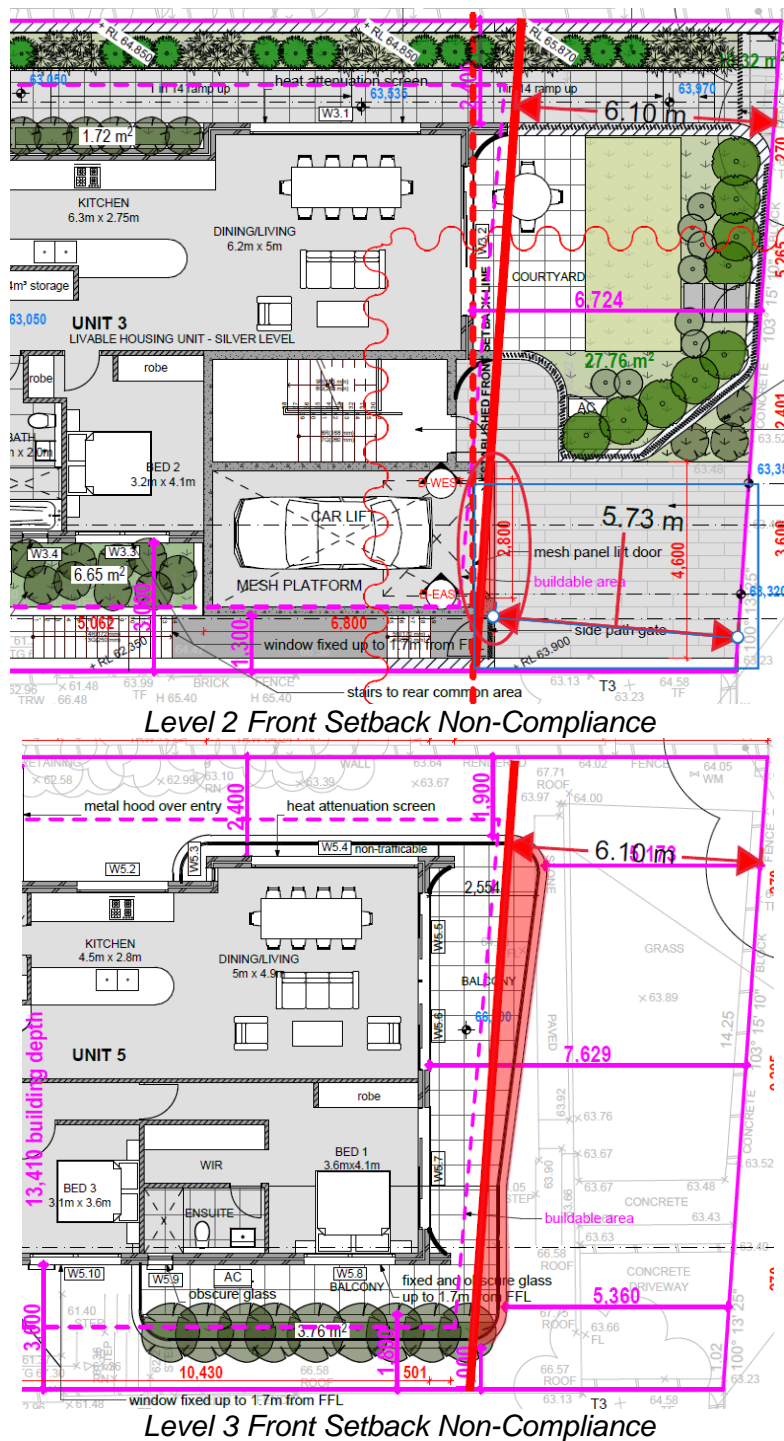
Section B3.2.2: Front Setback:

Control C1 of Section B3.2.2 requires the development to be set back the average distance of the three most typical setbacks of the four closest residential buildings that face the street. Based in the following neighbouring setback, the proposal generates a front setback requirement of 6.1m.



Three most typical neighbouring setbacks

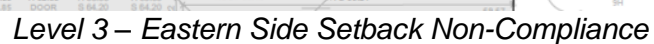
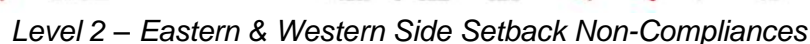
As demonstrated below, the proposed non-compliances relate to a small section of the garage at Level 2 and a portion of the balcony at Level 3. Non-compliance with Control C1 is acceptable in this instance given the breach is considered to be minor, it will not disrupt the pattern of built form defining the street and it will assist with providing visual interest and articulation to the front façade. Additionally, the immediate streetscape features properties with projecting balconies presenting to the street and some enclosed open space areas, ensuring the development will not look at odds with its immediate surrounds.



Section B3.2.3: Side Setbacks:

Control C2 of Section B3.2.3 requires the minimum side setbacks associated with residential flat buildings to reflect the setbacks outlined within the table provided at Figure 5B of Part B3.2 of the WDCP 2015.

Based on a site width of <18m, the development should be sited no less than 1.5m from side boundaries. As outlined within the table above, the proposal mostly complies with the side setback controls, with only minor exceptions as identified in plan format below.



A variation to the requirements of Control C1 is considered to be appropriate given:

- The areas of non-compliance are minor and will avoid an unreasonable sense of enclosure, maintaining appropriate separation between the subject building and adjoining neighbours, in accordance with objectives O1 and O5.
- The proposed non-compliances are minor and the proposal, as conditioned, will not result any unreasonable amenity impacts to neighbouring properties, achieving Objective O3.
- The proposed variation at Level 3 relates to planting located along a balcony, which would otherwise add articulation and soften the developments presentation to the east. However, in this instance, the balcony in question will not comply with the relevant privacy considerations of the WDCP. As such **Condition C.1** requires an increased eastern side setback to said balcony, which will also bring the balcony into compliance with the side setback control (this is discussed further within subsequent sections of this report).

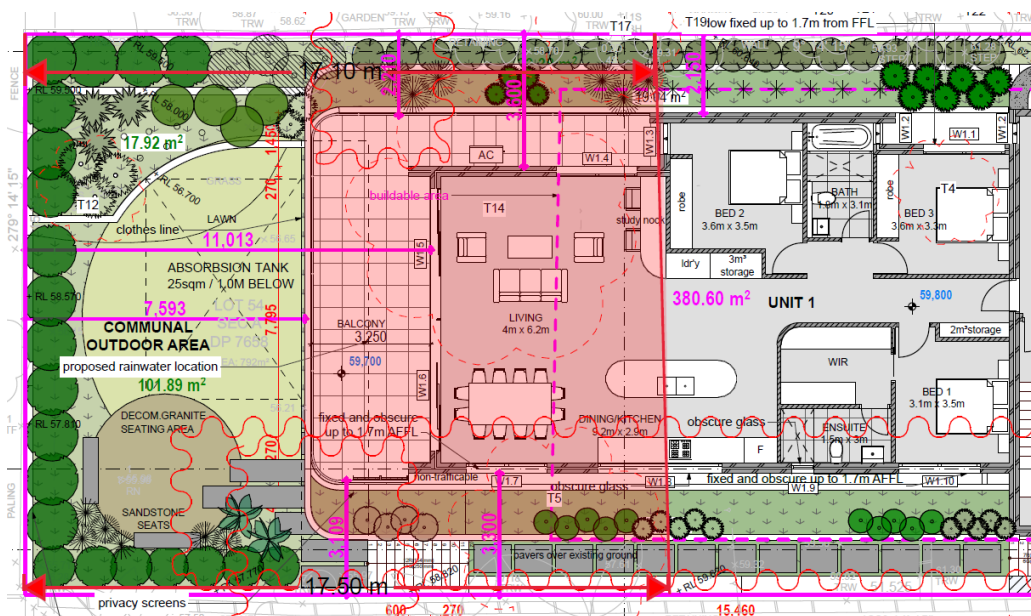
Section B3.2.4: Rear Setback:

Control C1 of Section B3.2.4 requires development to be set back in accordance with the formula provided at Figure 6 of Part 3.2 of the WDCP 2015.

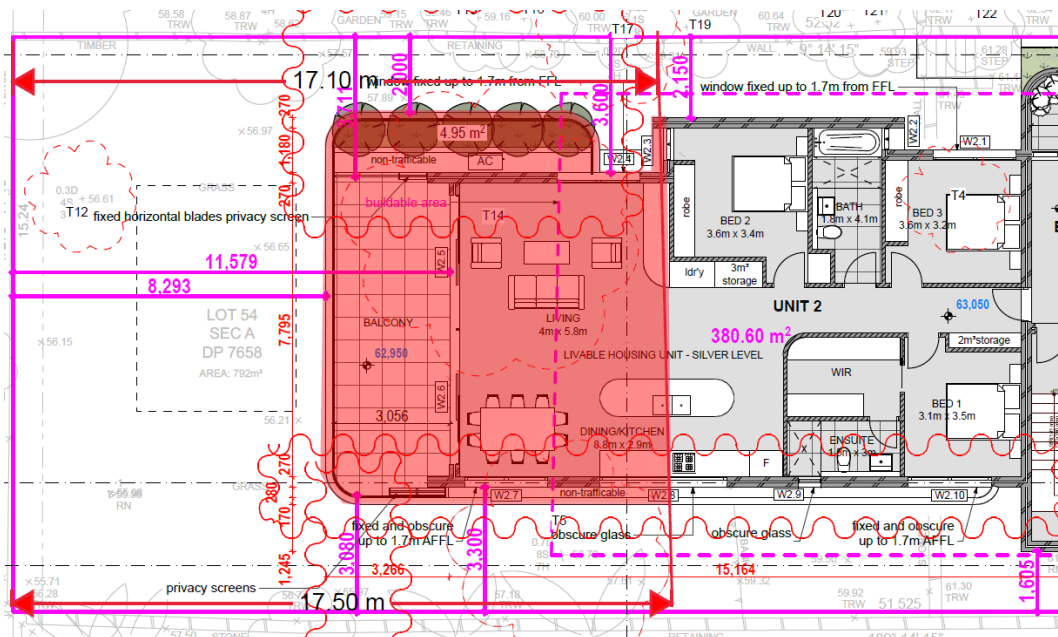
Based on an eastern side boundary (site depth) of 51.525m, a front setback of 6.1m and a building depth of 28.3m (i.e. $51.525 \times 55\%$), the rear setback requirement equates to 17.1m (i.e. $51.525 - 28.3 - 6.1$).

Based on a western side boundary (site depth) of 52.52m, a front setback of 6.1m and a building depth of 28.9m (i.e. $52.52 \times 55\%$), the rear setback requirement equates to 17.5m (i.e. $52.52 - 28.9 - 6.1$).

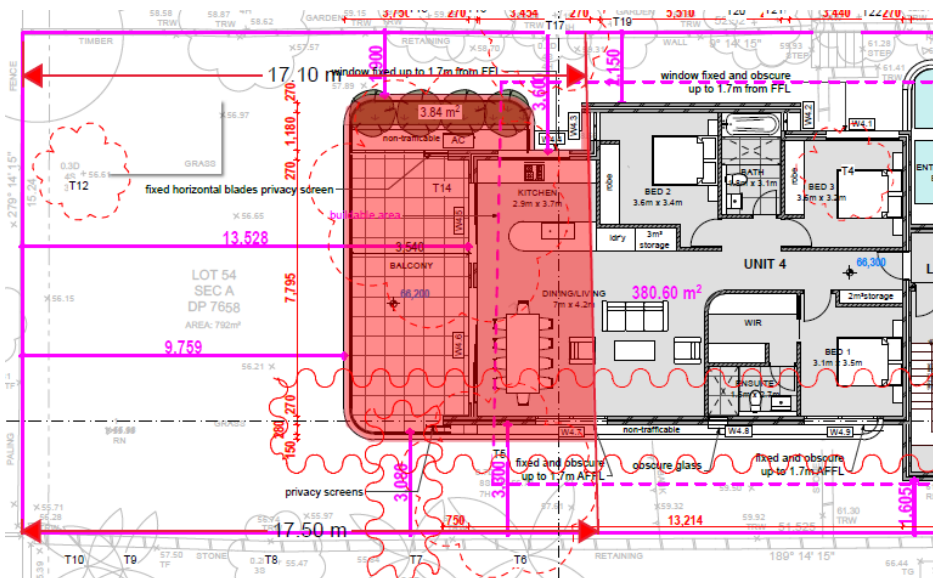
As outlined within the table above and depicted via plan view below, the proposal does not comply with the rear setback control at levels 1, 2 and 3.



Level 1 Rear Setback Non-Compliance shown in red shading



Level 2 – Rear Setback Non-Compliance shown in red shading

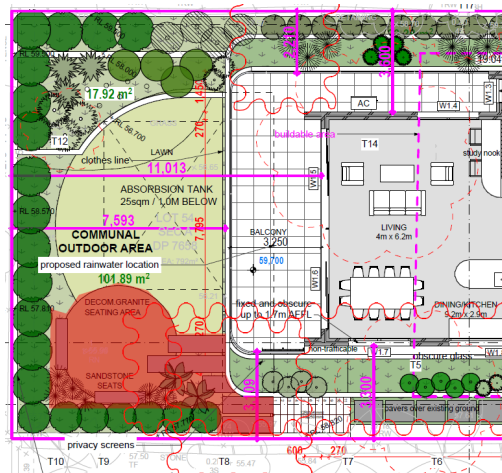


Level 3 Rear Setback Non-Compliance shown in red shading

In light of the proposed non-compliances, the proposal has been assessed against the following objectives:

- O1 To provide private open space and landscaped areas at the rear of buildings.
- O5 To protect vegetation of landscape value and provide for landscaped area and deep soil planting.
- O6 To contribute to a consolidated open space network with adjoining properties to improve natural drainage and support local habitat.

A generous area of open space will be maintained to the rear, however as demonstrated below, this area will feature an underground absorption tank, a rainwater tank and a large granite seating area, limiting the ability to provide for additional deep soil planting including tree coverage. As such, **Condition C.1** requires the granite outdoor seating area, paving and sandstone seats to be deleted and replaced with deep soil planting including trees. It is noted that the granite seating area is permeable, however this area should be made available for tree coverage.



*Level 1 Open Space – Area of Open Space to feature deep soil planting in accordance with **Condition C.1***

Council's Tree & Landscape Officer has recommended **conditions** to ensure the retention of all trees located outside of the property boundary, and to require the introduction of three (3) x 100L replacement trees within the rear setback and one (1) x 100L replacement tree in the front setback.

It is also noted that the immediate site surrounds is not defined by a preserved consolidated open space corridor to the rear and the proposal will not be at odds with its surrounds.

In light of the above, the proposal as conditioned is acceptable having regard for objectives O1, O5 and O6.

- *O2 To provide acoustic and visual privacy to adjoining and adjacent buildings.*

Balconies at Levels 1 and 2 will be located within 9.0m of the rear boundary, thus within 9.0m of ground floor open spaces which adjoin the property to the rear. Requiring said balconies to be screened to the rear, when **Condition C.1** already requires each side elevation of each balcony to be screened, will result in an undesirable amenity outcome for future residents. As such, **Condition C.1** requires the balcony of Units 1 and 2, including the planter box, to be set back no less than 9.1m from the rear boundary. The resulting increased courtyard area at Level 1 must be landscaped.

Additional overlooking considerations to the east and west have been addressed via **condition** including a requirement for screening.

Furthermore, the proposed private open space areas will not result in any unreasonable acoustic privacy impacts upon adjoining properties subject to the imposition of standard amenity **conditions**.

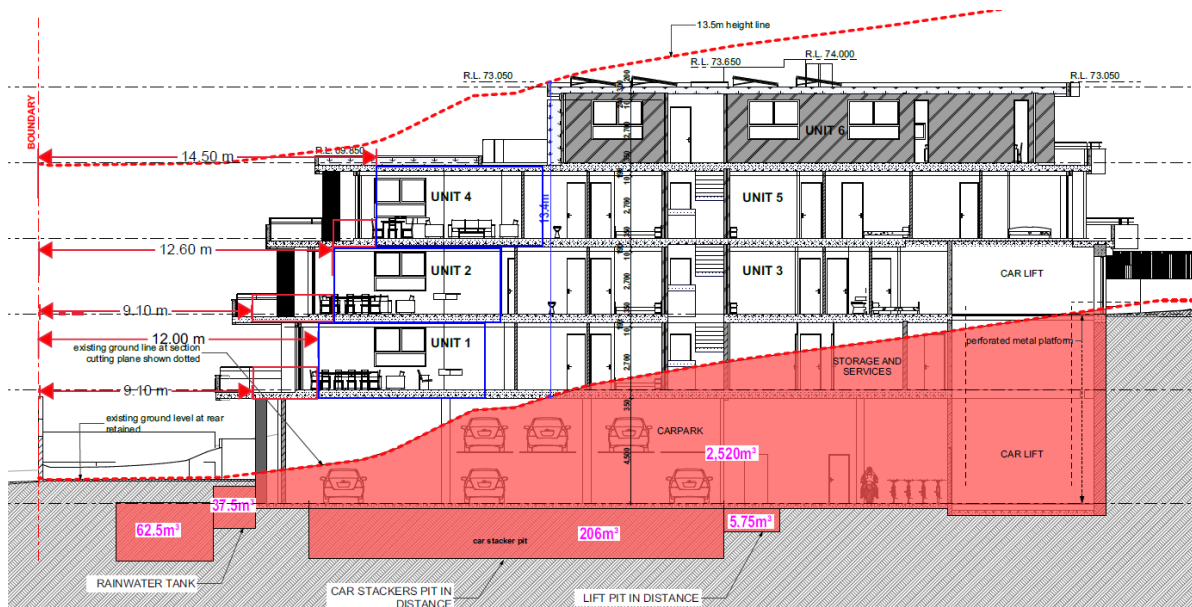
- *O3 To avoid an unreasonable sense of enclosure.*
- *O4 To provide separation between buildings to facilitate solar access to private open space.*

Adequate separation has not been maintained to the rear to avoid a sense of enclosure as viewed from neighbouring properties, nor will the proposal provide an appropriate degree of separation from the existing building to the rear (204-206 Old South Head Road) in order to ensure a reasonable degree of solar access is maintained to existing open spaces. As such and as discussed briefly above, **Condition C.1** requires the plans to be amended to show:

- Unit 1 setback 9.1m (as measured to the balcony and including the planter box located either side of said balcony) and 12.0m (as measured to the main building-line) from the rear boundary.
- Unit 2 setback 9.1m (as measured to the balcony) and 12.6m (as measured to the main building-line) from the rear boundary.
- The balcony of Unit 4 setback 12.6m from the rear boundary, ensuring no overhang above the lower level balcony.
- The rear setback to Unit 4, at Level 3, increased to 14.5 (as measured to the main building line).
- The roof garden located at Level 4 setback 14.5m from the rear boundary, ensuring no overhang above the lower level balcony. The roof garden must also remain non-trafficable, unless for maintenance purposes.

Subject to **Condition C.1**, the proposal will yield an acceptable planning outcome given:

- Rear facing balconies will not require screening to the rear, which would otherwise add bulk and compromise the amenity of future residents.
- The proposed development will establish a transitional rear setback as it relates to the rear setback of adjoining properties to the east and west.
- Upper floor balconies will remain uncovered by levels above, reducing the overall bulk and scale of the proposal as viewed from neighbouring properties.
- Level 3 will not exceed the height of No.23 Birriga Road, which will be closer to the rear boundary than the proposed development.
- Level 4 has been adequately set back from the rear (22.4m).
- Additional setbacks required via condition will reduce the FSR and the developments overshadowing impact upon No.204-206 Old South Head Road, without detrimentally compromising internal amenity for future residents. Whilst **Condition C.1** will not bring the proposal into full compliance with the overshadowing controls, the resulting outcome will establish an acceptable planning outcome. Refer to Section 15.2.4 (Overshadowing) of this report for further information.



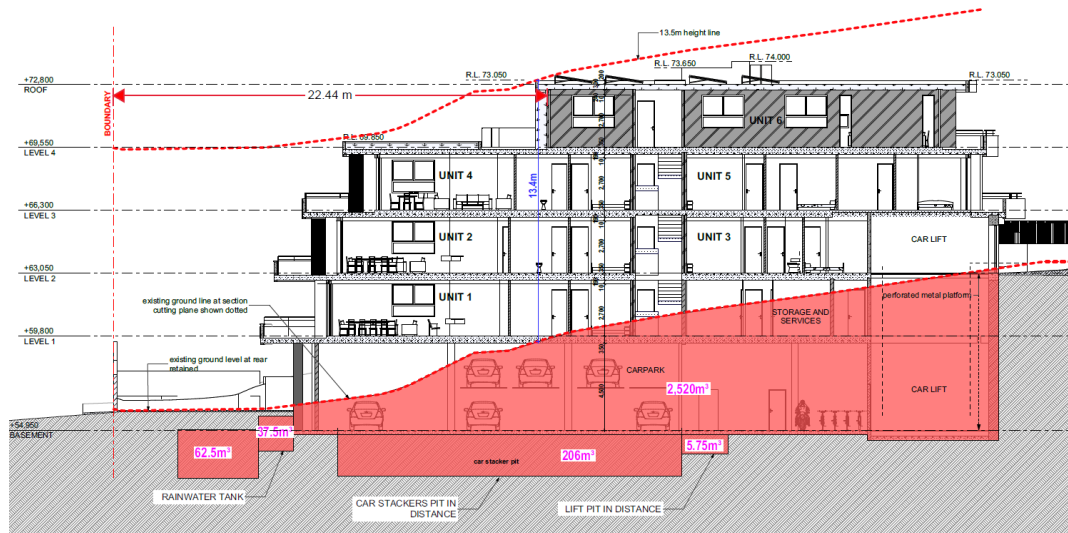
Sectional Diagram - Recommended **Condition C.1** Modifications



15.2.2 Part B3.3: Floorplates

15.2.3 Part B3.4: Excavation

- Control C2 requires a residential flat building to have a maximum volume of excavation to be no more than the volume specified within Figure 14B of Part B3.4 of the WDCP 2015. Based on Figure 14B and a site area of 792m², excavation works should not exceed 800m³. Proposed excavation works will equate to 2,831.75m³, exceeding the requirements of Control C1.



Proposed excavation volumes

- Control C4 states: *A variation to the volume shown in Figures 14A and 14B will be considered, however the maximum volume of excavation permitted will only be the amount needed to accommodate:*
 - a) *car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto, if the maximum car parking rates are required by the Council; and*
 - b) *storage at a rate of 20m³ (cubic metres) per dwelling if for a dwelling house, dual occupancy, semi-detached dwelling or attached housing; or*
 - c) *storage at a rate of 8m³ (cubic metres) per dwelling if for a residential flat building, manor houses, multi dwelling housing or multi dwelling housing (terraces) development.*

Control C6 states: *Basement walls are no closer to the boundary than permitted by the setback controls (refer to Figure 15).*

The proposed excavation at the basement level is required to accommodate lifts, basic services, rainwater tank, fire staircase egress, bicycle spaces, car parking spaces (one less than the maximum) and will not include any superfluous areas. Given the topography of the site, the departure is largely attributed to natural features of the land, which will result in a steep cross fall of more than 8m. Accordingly, the proposed excavation volume is required for having a practical and safe access to the site. A geotechnical report and a geotechnical and hydrogeological monitoring plan, both prepared by JK Geotechnics (submitted with the DA), has assessed the proposal in relation to the site conditions and involve recommendations to minimise any adverse ecological impacts. The report also ensures structural integrity of the neighbouring properties will be maintained during the construction. The report states inter alia:

*'[...] We consider the risks of damage to the neighbouring structures to the east and west, as a result of the proposed development described in this report, to be either **Very Low** or **Low**, which in our opinion, should be acceptable to Woollahra Council.'*

Furthermore, Council's Engineer has provided no objection to the proposal.

- Control C7 states: *Notwithstanding C6, basement walls for residential flat buildings, manor houses, multi dwellings housing, multi dwelling housing (terraces) and attached dwellings are no closer to the boundary than 1.5m (see Figure 16).*

See discussion above.

- Control C9 states: *Excavation below 2m and/or within 1.5m of the boundary may be accompanied by a geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on neighbouring structures.*

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

The DA was accompanied by the following documents:

- Revised Geotechnical Report, referenced 35170PDrpt Rev 1, prepared by JK Geotechnics, dated 08/11/2022.
- Geotechnical and Hydrogeological Monitoring Plan, referenced 35170PD2rpt 35170PD2rpt GHMP, prepared by JK Geotechnics, dated 08/11/2022.
- Construction Methodology Report, unreferenced, prepared by Alba+Associates, dated 09/11/2022.

Council's Development Engineer has reviewed said documents and has provided no objection to the proposal subject to standard conditions.

Accordingly the proposal is deemed to be acceptable with regard to Part E3.4 of the WDCP 2015.

15.2.4 Part B3.5: Built Form and Context

Section B3.5.1: Streetscape Character

For reasons discussed in Section 15.1 of this report, the proposal, as **conditioned**, is considered to be satisfactory with regard to the desired future character provisions of the Bellevue Hill South Residential Precinct in accordance with Objective O1. The proposed flat roof form is considered to be contextually compatible within the locality. The proposed external materials are considered to be acceptably unobtrusive. Additionally, the proposal will be of a contemporary architectural style that has been appropriately designed (subject to **conditions**) to respect its surrounds, in keeping with Objective O3. Accordingly, the proposal is considered to be satisfactory with regard to the provisions of Section B3.5.1 of WDCP 2015.

Section B3.5.2: Overshadowing

Control C1 requires development to be designed so that:

- sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space 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*
- 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.*

Neighbouring private open spaces border the site to the south, east and west at No.23 & 27 Birriga Road, and No.202, 204-206 and 210 New South Head Road.

The proposal, as **conditioned**, is acceptable with regard to the relevant controls and objectives of Section B3.5.2 of the WDCP 2015 given:

- No.23 Birriga Road will remain unaffected by additional overshadowing from 12pm to 3pm (3hrs). Pursuant to Chapter A3 of the WDCP 2015 a north-facing window is defined as: *'the orientation range within 20° west and 30° east of true solar north.'* Upper floor windows at 23 Birriga Road do not meet the definition of a north-facing window given their north-easterly 45° orientation.
- No.27 Birriga Road will remain unaffected by additional overshadowing from 9am to 11am (2hrs) and only minor additional overshadowing will be experienced at 12pm, ensuring more than 35m² of open space remains unaffected.
- No.202 Old South Head Road will remain unaffected by additional overshadowing from 12pm to 3pm (3hrs) and overshadowing impacts at 9am will mostly be confined to within the existing shadows cast by neighbouring properties.
- Additional shadows will be cast upon No.204-206 New South Head Road from 9am to 1pm and will remain unaffected by the proposal from 2pm to 3pm. Due to the extent of additional overshadowing proposed, **Condition C.1** requires the plans to be amended to show:
 - The rear setback to Unit 1, at Level 1, increased to 12.0m (as measured to the main building line).
 - The rear setback to Unit 2, at Level 2, increased to 12.6m (as measured to the main building line).
 - The rear setback to Unit 4, at Level 3, increased to 14.5 (as measured to the main building line).

In addition to the above, **Condition C.1** requires increased rear setbacks to rear-facing balconies. Whilst **Condition C.1** will not bring the proposal into full compliance with the overshadowing controls, the resulting outcome will result in reduced overshadowing impacts from 9am to 12pm.

- No.210 New South Head Road will remain unaffected by additional overshadowing from 9am to 11am (2hrs) and only minor additional overshadowing will be experienced at 12pm, ensuring more than 35m² of open space remains unaffected.

Accordingly, the proposal satisfies the relevant objectives of Section B3.5.2 of the WDCP 2015.

Section B3.5.3: Public and Private Views

Public Views -

Control C1 states: *Development is sited and designed so that the following public views are maintained or enhanced:*

- significant views and vistas identified in the precinct maps in this Chapter B1 Residential Precincts and Chapter B2 Neighbourhood HCAs of this DCP; and*
- views from other public open space areas, particularly from ridgelines to Sydney Harbour and the Sydney CBD skyline*

The precinct map for Bellevue Hill South shows that significant public views and vistas can be obtained from along Birriga Road, looking east. The proposed development will not obstruct public views taken at street level.

Private Views -

The controls applicable to private views are as follows:

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

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

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

The notification and advertising process yielded objections pertaining to view loss as seen from No.23 Birriga Road.

In assessing the reasonableness, or otherwise the degree, of view loss to the remaining concerned properties, the planning principle established in *Tenacity Consulting v Warringah (2004) NSWLEC 140* provides a four step assessment of view sharing. The steps are as follows:

1. The assessment of the views affected

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg. 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.

Residents of Units 1, 3, 4 and 5 have objected to the proposed development on the basis that their current view of the Pacific Ocean and Bondi Beach and overall outlook will be obstructed as viewed from the common pathway and ground and first floor balconies.

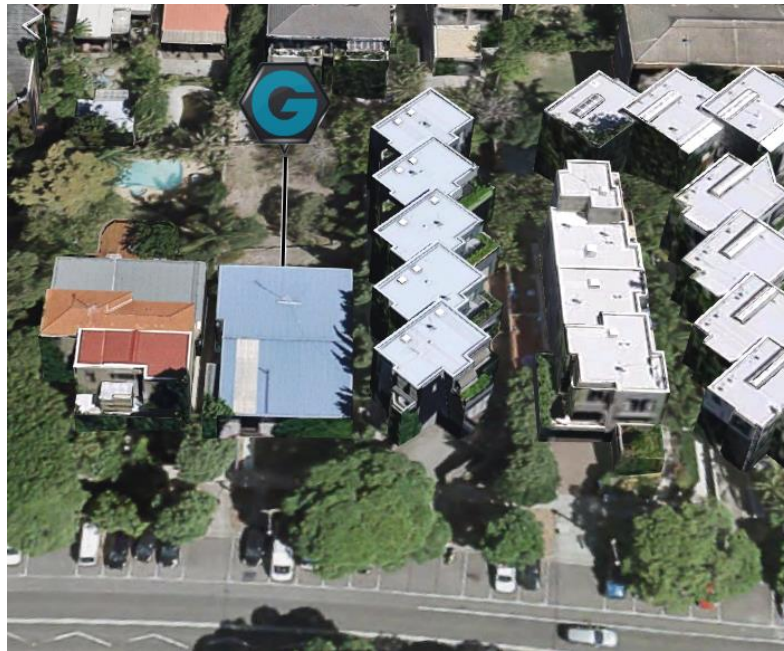
The aerial map below shows the south-east orientation in which views can be obtained from No.23 Birriga Road of the skyline, vegetation on neighbouring sites and partial views of the ocean. Existing views of the ocean are limited given the distance and presence of significant landscaping on neighbouring sites. Iconic views cannot be obtained from said balconies.

Furthermore, the 3D perspective below shows the building at No.23 Birriga Road and its balconies oriented to the north-east, away from the view in question.

Overall, the views in question are not considered to be of high value.



South-east orientation of views from objector properties towards the subject site [Source: Council's GIS System - Woollahra Web Maps, dated 07 April 2024]



North-east orientation of balconies at No.23 Birriga Road [Source: Woollahra Council 3D Modelling Portal]

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.

Having regard to **Step 2** and as demonstrated below, views of the skyline, vegetation on neighbouring sites and partial views of the ocean can be obtained from balconies at 23 Birriga Road from across the side boundary shared with the subject site. Whilst images have not been supplied for Units 3 and 4, it is reasonable to assume similar views can be obtained given their location between Units 1 and 5.



View from downstairs balcony at 5/23
Birriga Rd



View from upstairs balcony at 5/23
Birriga Rd



View from 1st floor balcony of 1/23 Birriga Rd

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.

The views in question will be blocked by the proposed development and on this basis can be classified as ‘devastating’.

4. The reasonableness of the proposal that is causing the impact and the potential mitigation of 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.

Step 4 requires Council to consider the reasonableness of the proposal that is causing the impact. In making this determination, the Court directs Council to consider two questions in *Tenacity Consulting v Warringah* (2004) NSWLEC 140 (paragraphs 23-33). The first question relates to whether a non-compliance with one or more planning controls results in view loss. The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

Overall, the following comments are made with regard to the reasonableness of the proposal:

- Whilst partial views of the ocean will be lost, it is considered to be unreasonable to protect this view given it can only be obtained across the side boundary, intersecting the subject site and other neighbouring properties to the east, making the protection of this view difficult.
- Balconies at No.23 Birriga Road are oriented to the north-east and do not inherently prioritise this view.
- Existing views of the ocean are limited given the distance and presence of significant landscaping on neighbouring sites.
- The proposal, as **conditioned**, is compliant with the height of buildings development standard and mostly compliant with the WDCP controls, as discussed throughout this report.
- A fully compliant proposal will not protect views to the east from No.23 Birriga Road.
- The floor to ceiling heights vary throughout the building, but are not considered to be excessive.

Accordingly, the proposal is considered to be satisfactory with regards to view sharing and the Planning Principle established by *Tenacity Consulting v Warringah (2004) NSWLEC 140*.

Section B3.5.4: Acoustic and Visual Privacy

Under Clause 6A(1) and (2) of the SEPP 65, any controls in the WDCP 2015 relating to visual privacy are overridden by objectives, design criteria and design guidance set out in SEPP 65. Nevertheless for comparative purposes the proposal is assessed against the DCP Controls below.

Control C4 states that there should not be any sightlines from a habitable room window to a habitable room window in an adjoining property within 9m. This can be achieved via window location, layout and separation, screens or translucent glazing to 1.5m sill height.

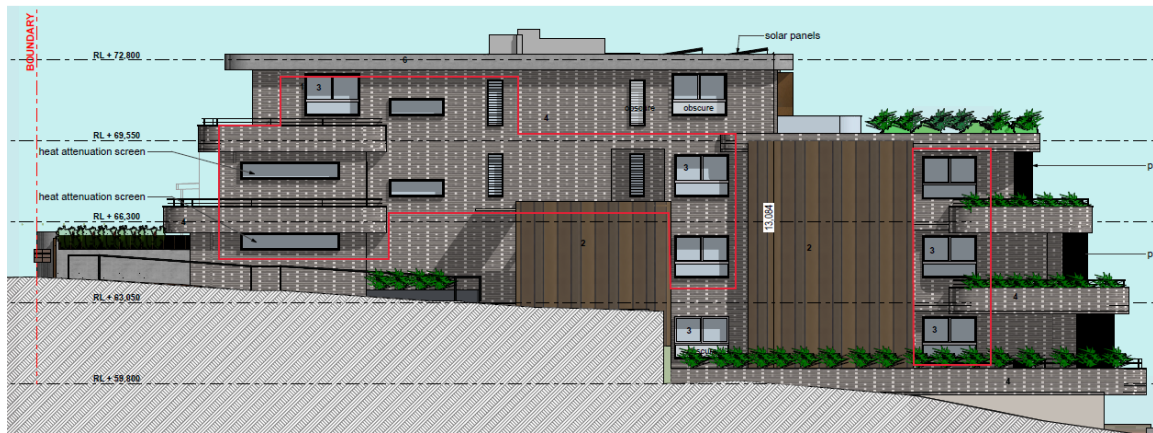
Control C7 requires balconies, terraces, decks and roof terraces are suitably screened to prevent direct views into habitable rooms or private open space of adjoining and adjacent dwellings.

Views to neighbouring properties can be obtained to the east and west. Notable concerns include:

- A detailed overlooking analysis was not submitted to Council for review to otherwise contradict the concerns outlined below.
- As illustrated below, windows W6.8 (bed 1), W6.9 (bed 3), W6.10 (bed 2), W6.11 (living) & W6.12 (living), located along the eastern elevation at Level 4, and Window W3.3 (Bed 2 of Unit 3), located along the eastern elevation at Level 2, have not been treated to limit overlooking.



Eastern Elevation - Windows that have not been treated



Western Elevation - Windows that have not been treated

- Rear-facing balconies identified below do not provide a screen for the full depth of the balcony and the front-facing balcony at Level 3 wraps around the eastern side of the building, enabling direct views to neighbouring windows at 27 Birriga Road.



Eastern Elevation Non-Compliance

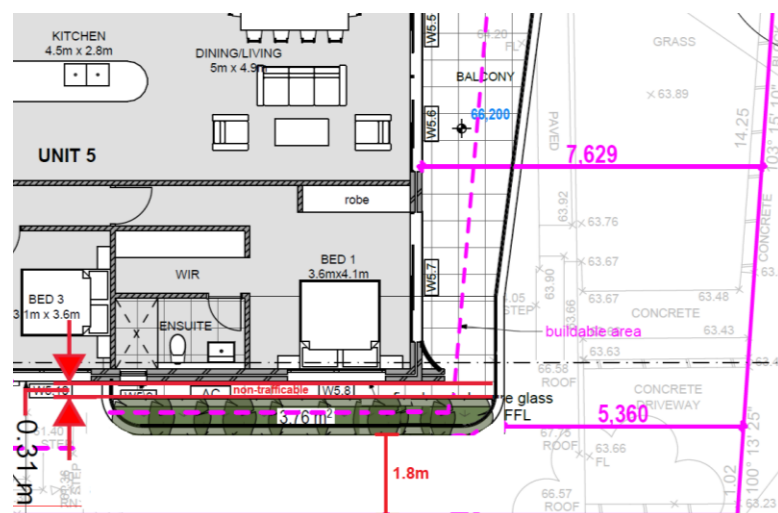
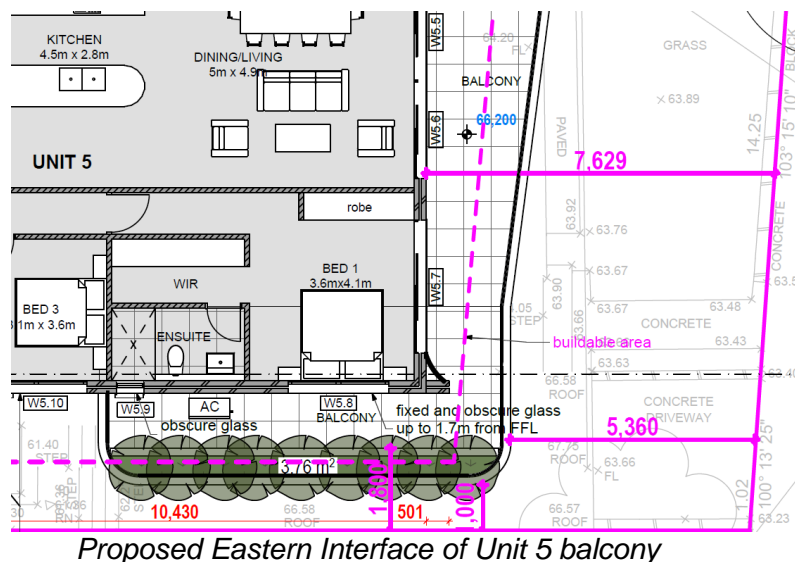


Western Elevation Non-Compliance

- Balconies at Level 1 and 2 will be located within 9.0m of the rear boundary, thus within 9.0m of ground floor open spaces which adjoin the property to the rear. Requiring said balconies to be screened to the rear when **Condition C.1** already requires the side elevations of each balcony to be screened will result in an undesirable amenity outcome for future residents. As such, **Condition C.1** requires the balcony of Unit 1 and 2 setback 9.1m from the rear boundary.

In light of the above, **Condition C.1** requires the plans to be amended to show:

- All windows (Windows W6.8, W6.9, W6.10, W6.11 & W6.12), located along the eastern elevation at Level 4, treated with fixed obscure glazing to a height of 1.5m above finished floor level.
- Window W3.3 (Bed 2 of Unit 3), located along the eastern elevation at Level 2, treated with fixed obscure glazing to a height of 1.5m above finished floor level.
- All windows, located along the western elevation, treated with fixed obscure glazing to a height of 1.5m above finished floor level.
- The eastern and western elevations revised to show all rear-facing balconies at all levels with fixed screening to a height of 1.5m above finished floor level, which extends for the full depth of each respective balcony.
- The eastern side setback of the balcony of Unit 5 (at Level 3) increased to 1.8m as measured to the edge of the proposed planter box, resulting in a non-trafficable balcony area of 0.31m within the eastern side setback (as demonstrated below). This will require the re-location of the AC unit.



Further to the above, within the development, each level contains units with living spaces and balconies that are orientated to the north or south, and there are no common walls that are shared between living rooms and bedrooms of different units. This creates less noise generating opportunities.

Overall, the proposal as **conditioned** satisfies the relevant controls and objectives of Section B3.5.4 of the WDCP 2015.

Section B3.5.5: Internal Amenity

The proposal is acceptable with regard to the relevant controls and objectives of Section B3.5.5 of the WDCP 2015 given:

- All habitable rooms in each unit include at least one external wall above existing ground level which provides an unobstructed window opening in accordance with Control C1.
- All habitable rooms and sanitary compartments in a dwelling must have direct natural light and direct natural ventilation in accordance with Control C2.
- The area of unobstructed window openings which service habitable rooms will not be less than 20% of the room floor area in accordance with Control C3.
- Habitable rooms will not rely upon light wells for their primary air source in accordance with Control C4.
- Given compliance with Controls C1 to C4, the proposal is considered to meet Objective O1 which states: *'...encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation'*.

Conclusion:

The proposal, as conditioned, is acceptable with regards to Part B3.5 of the Woollahra DCP 2015.

15.2.5 Part B3.6: On-Site Parking

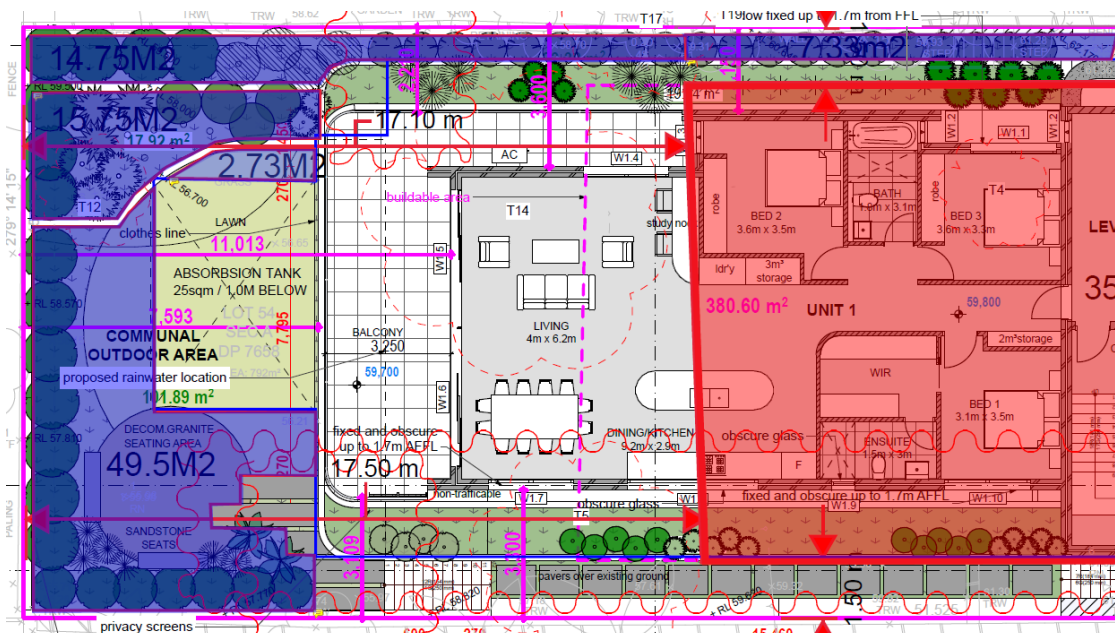
Site Frontage: 14.25m	Proposed	Control	Complies
Location of Parking	Predominantly within the buildable area	Within the Buildable Area	No (partial)
Basement Parking	Basement parking provided	Required for 3 or More Dwellings	Yes
Width of Driveway	3m	3.5m-6.0m	Yes
Maximum Number of Driveways	One	One	Yes

While the basement carpark extends partly outside the permissible buildable area, the size of the carpark is reasonable as it accommodates 12 parking spaces (2 per unit), waste room, storage room and plant room (no excessive areas proposed). Council's Development Engineer has determined that the driveway width is acceptable. Accordingly, the proposal is acceptable with regard to Part B3.6 of the WDCP 2015.

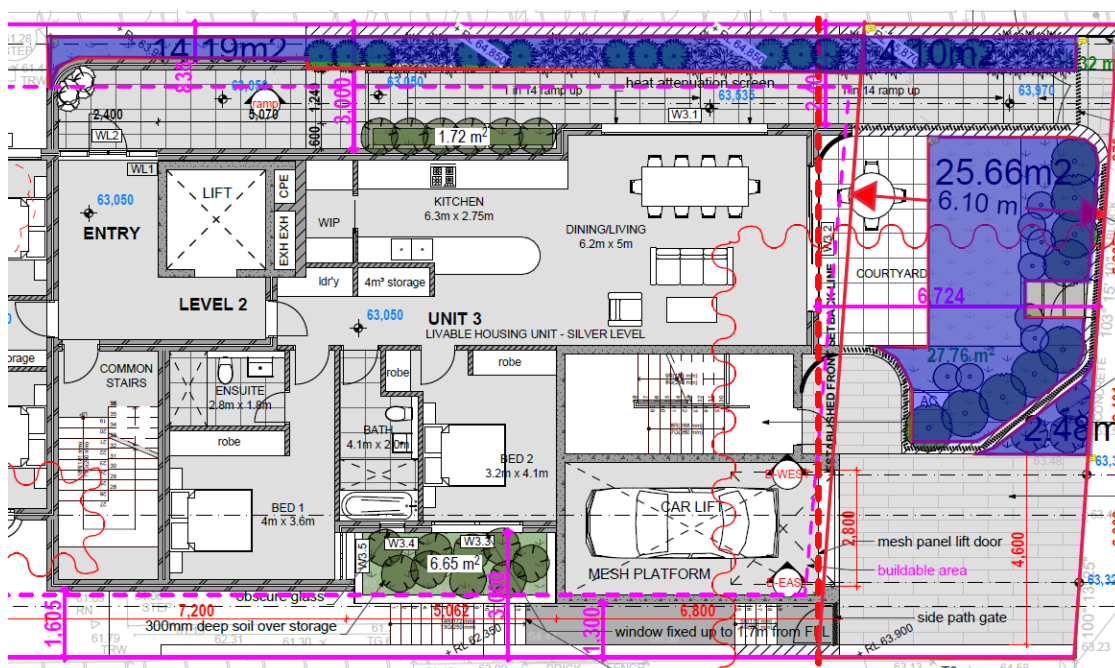
15.2.6 Part B3.7: External Areas

Buildable Area: 351.01m ²	Proposed	Control	Complies
Deep Soil Landscaping	136.49m ²	50% of Buildable Area (175.50m ²)	No (partial)
Deep Soil Landscaping – Front Setback	32.24m ²	40% (37.38m ²) of the front setback consisting of at least one consolidated area of at least 20m ²	No (partial)
Deep Soil Landscaping – Rear Setback	82.73m ²	50% or Rear Setback (132.2m ²)	No
Private Open Space	>8m ² >2m	8m ² and a minimum dimension of 2m by 2m	Yes Yes

Note: The deep soil landscaping controls are overridden by the design criteria in Part 3E of the ADG, as already discussed in the report. Nevertheless for comparative purposes the proposal is assessed against the DCP Controls below



Proposed Deep Soil Landscaping (Level 1) – Area Calculations



Proposed Deep Soil Landscaping (Level 2) – Area Calculations

The proposal as **conditioned** is acceptable with regard to the relevant controls and objectives of Section B3.7 of the WDCP 2015 given:

- Council's Tree and Landscaping Officer has provided no objection to the proposal subject to **conditions** which include a requirement to provide for replacement planting (three (3) x 100L trees with rear courtyard and 1 x 100L tree within the front setback) and to protect existing neighbouring trees.

- **Condition C.1** requires the granite outdoor seating area, paving and sandstone seats to be deleted from the rear courtyard and replaced with deep soil planting including replacement trees. **Condition C.1** also requires the balcony of Unit 1 at Level 1, including the planter box located either side of said balcony, to be set back no less than 9.1m from the rear boundary. The resulting increased courtyard area must be landscaped. Whilst this area will remain above a rainwater tank below it will enable some additional low level planting.
- Whilst the proposal does not comply with the numerical requirements of Controls C1, C2 and C4, planter boxes have been proposed within the eastern and western side setbacks and at balcony level. Additionally, a large 66.05m² roof garden has been proposed at Level 4, softening the developments presentation to the rear.
- The immediate site context is not characterised by a preserved consolidated open space corridor to the rear and the proposal as **conditioned** will not be at odds with its surrounds.
- Subject to the provision of additional tree planting, sufficient vegetation will be maintained on site in accordance with Objective O2.
- The proposal will ensure appropriate on-site stormwater absorption will be provided for on site in accordance with Objective O3.

Part 3.7.2: Fences

Control C4 limits fencing to 1.2m, or 1.5m if 50% transparent or open. Whilst Control C9 limits side fences to a maximum height of 1.8m from the low side where there is a difference in level either side of the boundary. Due to the sloping topography of the site, the proposal includes a stepped front fence, with a height ranging between 1.8m and 1.99m to ensure some privacy is maintained for the proposed front courtyard of Unit 3 (at Level 2). As illustrated below, the new front fence will remain partly open, softening its presentation to the street, contributing positively to the street in accordance with Objective O1. The design of the front fence will ensure it will not be visually intrusive, it will not obstruct any views and will assist in appropriately delineating between public and private spaces in accordance with objectives O2 to O4. Appropriate splays have been proposed in accordance with Control C8.



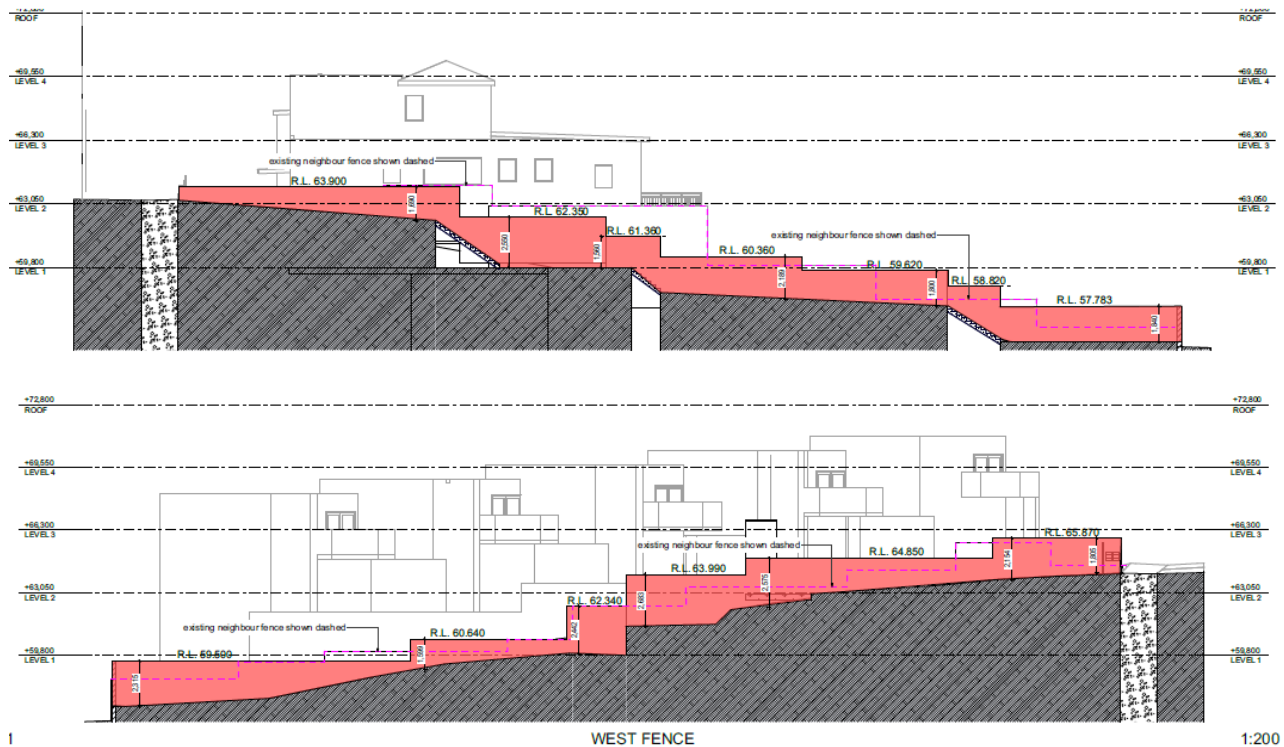
Proposed Front Fence

Control C9 states:

- The rear and side fences: are located behind the building front setback; and*
- do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary*

As demonstrated below, new boundary side fencing will in part exceed the permissible 1.8m maximum height requirement. Increased fencing heights are required in this instance in order to adequately respond to the topography of the land, whilst also protecting the visual privacy of neighbours to the east and west.

Note: Modifications to the new boundary fence have been recommended by Council's Tree and Landscaping Officer in order to protect existing neighbouring trees.



Accordingly, the proposal as **conditioned** is considered to be acceptable with regard to Part 3.7.2 of the WDCP 2015.

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

Site Area: 792m ²	Proposed	Control	Complies
Minimum lot width	14.25m	21m	No

C1 requires a minimum lot width of 21m for an RFB containing four or more dwellings. The site has a lot width of 14.25m to Birriga Road and it is proposed to be constructed with an RFB containing six dwellings. The proposal is considered to be acceptable in this instance for the following reasons:

- The bulk and scale of the proposed RFB, as conditioned, is an appropriate response to the allotment width and size and is compatible with the bulk, scale, density and landscape character of the surrounding development.
- The height of the development and minimum lot size development standards prescribed by the WLEP 2014 and is comparable with the neighbouring residential flat buildings.
- The proposal mostly complies with the side setback controls which indicates that the development has appropriately responded to the lot width.
- The proposal as **conditioned** will not have any significant adverse impacts on the amenity of the neighbouring properties with regard to solar access, privacy, views and sense of enclosure.

Accordingly, the proposal is considered to be acceptable with regard to the provisions of Part B3.8 of WDCP 2015.

15.3 Chapter E1: Parking and Access

Part E1.4: Residential parking

The proposed residential flat building comprises of five 3-bedroom units and one 2-bedroom unit. As illustrated below, the development is permitted to provide up to a maximum of 11.5 residential parking spaces and 1.5 visitor parking spaces under the WDCP 2015.

The development provides a total of 12 spaces and therefore satisfies (is less than) the maximum requirements of the WDCP 2015.

Land use	Maximum parking generation rates
Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces)	
<i>Spaces based on number of bedrooms per dwelling³</i>	
Studio apartment ⁴	0.5 space
1 bedroom	1 space
2 bedrooms	1.5 spaces
3 or more bedrooms	2 spaces
Visitors	0.25 spaces

Table 2: Car Parking Requirement & Provision

TYPE	NO.	DCP PARKING RATE	MAXIMUM ALLOWANCE	PARKING PROVISION
2-bedroom	1	1.5 spaces / dwelling	1.5	12
3+ bedroom	5	2.0 spaces / dwelling	10	
Visitor	6	0.2 spaces / dwelling	1.2	
TOTAL			13	12

In summary, Council's Traffic Officer has provided the following assessment of the proposed parking arrangement and traffic generation:

Parking Provision & Traffic Generation

Parking provision and traffic generation has been previously assessed, please refer to TRIM #23/47361. Whilst the proposal would create a shortfall of two (2) spaces for visitors, it is noted that parking demand for visitors are minimal given the scale and nature of the development and can be temporarily accommodated on-site. It is also calculated as per RMS Guide that the proposal is unlikely to create unacceptable adverse traffic impact on surrounding road network in terms of road safety and traffic efficiency.

Access Driveway

The access driveway is 4.07m in width at property boundary and reduces to approximately 3.6m at the kerb, which complies with the width requirement for a Category 1 access facility specified in Table 3.2 of AS/NZS 2890.1:2004.

It is noted that an angled vehicular crossing is proposed in line with the existing parking spaces in front of the property which are 90 degree angled and currently consists of 'No Parking Electric Vehicles Excepted Only When Charging' restrictions. Swept path analysis shows vehicles can enter and exit the site via the proposed crossing without affecting operations of these EV parking spaces. Should the development be approved, condition will be imposed to ensure the normal and unimpeded access to parking spaces along Birriga Road in front of the property during the ongoing use.

Mechanical Installations, Waiting Bay & Queuing

Queuing analysis has been provided to show that 98th percentile queue at peak traffic levels can be accommodated wholly within the site. It is also noted that, whilst not marked in the architectural plans, the provision of one (1) on-site waiting bay can be readily made. Swept path diagrams also demonstrate successful vehicular movements accessing/egressing the car stackers with one (1) vehicle standing in the basement waiting to be serviced, which is considered acceptable.

Traffic Signal

It is indicated in the updated traffic statement that a traffic light system can be incorporated in the proposal to manage traffic between the basement and ground floor. Should the development be approved, the traffic light system should be designed to ensure that priority is given to vehicles entering the car lift.

Sight Splay

A 2.5m x 1.6m pedestrian splay is proposed along the eastern side of the driveway, which does not comply with Clause 3.2.4 and Figure 3.2 of AS/NZS2890.1:2004. This is however considered acceptable given the site constraints and the existing kerbside parking arrangement. The provision of such sight splay should be clearly depicted in the architectural drawings and any structure within the splay area should be lower than 600mm to ensure visibility.

Accordingly, the proposal is acceptable having regard to the Chapter E1 of the WDCP 2015.

Part E1.11: Electric Vehicle Charging Points

Part E1.11 of the WDCP 2015 requires 'Level 2' electric vehicle charging points or the installation of appropriate electric circuitry at the basement level carpark. Whilst the proposal does not proposed any electrical charging points it is noted that the site is located immediately opposite a charging station. As such, non-compliance in this instance is accepted.

15.4 Chapter E2: Stormwater and Flood Risk Management

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

15.5 Chapter E3: Tree Management

Having regard for the relevant controls of Chapter E3, Council's Tree and Landscape Officer provided no objection to the proposal, subject to conditions.

The proposal, as **conditioned**, is acceptable with regard to Chapter E3 of the WDCP 2015.

15.6 Chapter E5: Waste Management

The objectives of this chapter are:

- O1 *To assist applicants in planning for sustainable waste management, through the preparation of a site waste minimisation and management plan.*
- O2 *To identify on-site requirements for waste and recycling storage and management, having regard to access and amenity.*
- O3 *To ensure waste management systems are compatible with collection services.*
- O4 *To minimise noise and nuisance arising from waste and recycling collection having regard to the need to balance operational needs and functions of businesses with the amenity of nearby residential uses, particularly between 10pm and 7am.*

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 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 are to be considered.

A Site Waste Minimisation and Management Plan was submitted with the development application and was found to be generally satisfactory.

E5.2 – Demolition and Construction Phase

The proposal is considered to be acceptable with regard to the relevant controls and objectives in Part E5.2 of the WDCP 2015 and/or can be adequately addressed via recommended standard conditions of consent.

E5.3 - On-Site Waste and Recycling Controls for all Development

	Proposed	Control	Complies
Garbage and Recycling Areas	Separated	Separated	Yes
Location of Garbage and Recycling Areas	At Basement Level	Behind Building Line or Non-Habitable Areas	Yes

E5.5 – Residential Flat Buildings, manor houses, multi dwelling housing & multi dwelling housing

Control C4 of Part E5.5 requires the size and design of the waste and recycling area or areas to accommodate: a) 120L of residual waste per residential dwelling; b) 55L of recyclables per residential dwelling stored in colour coded, shared use, 120L and/or 240L mobile garbage bins; c) 240L shared use mobile garbage bins for food and garden organics.

The proposed residential flat building will comprise of six units. As illustrated below and on the basement plan, 11+ bin receptacles are proposed within the bin room at Basement Level, exceeding the requirements of Control C4.

Part D - Ongoing waste management

Applicants must estimate the total volume of waste the development will generate and its associated waste storage requirements. Table 1 below will assist the completion of Part D.

	Recyclables		Compostables	Residual waste	Other
	Paper and cardboard	Metals, plastic or glass			
Amount generated (L per unit per day)					
Amount generated (L per development per week)	360L	360L	360L	720L	
Any reduction due to compacting equipment					
Frequency of collections (per week)	Every 2 weeks	Every 2 weeks	Every 2 weeks	Every Week	
Number and size of storage bins required <i>min</i>	3	3	2	3	

Accordingly, the proposal is acceptable with regard to Part E5 of the WDCP 2015.

15.7. Chapter E6: Sustainability

Part E6.3: Solar Energy Systems

The proposal is acceptable with regard to the objectives and controls in Chapter E6 of the WDCP 2015 in the following manner:

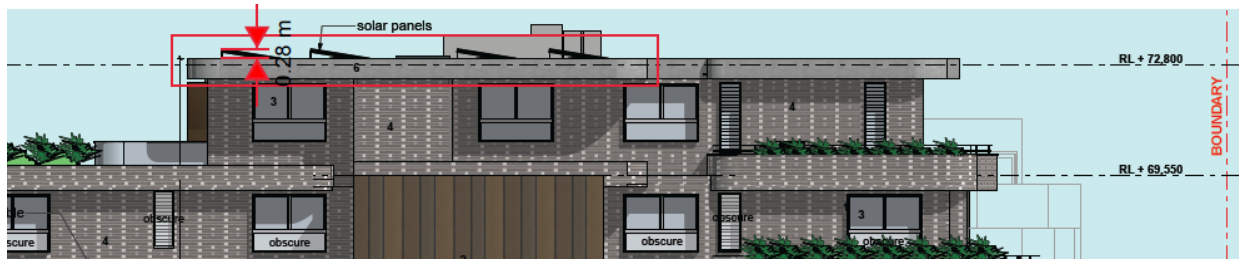
- The proposed solar panels will not have an unreasonable visual impact on the streetscape or the scenic quality of the area or as viewed from neighboring properties in accordance with C1.
- Control C3 states:

'Where not located in a heritage conservation area or on a heritage item, the solar energy system must meet the following location requirements:

- For property in land zoned R2 Low Density Residential or R3 Medium Density Residential:*
 - the system must not protrude more than 1m from the building (as measured from the point of attachment) or*
 - where attached to a wall or roof facing a primary road, must not protrude more than 500mm from the building (as measured from the point of attachment).*
- For property not in land zoned R2 Low Density Residential or R3 Medium Density Residential:*
 - the system must not protrude more than 1.5m from any building or structure to which it is attached (as measured from the point of attachment).*

Note: A view analysis and/or heritage impact assessment may be required as a part of the DA to detail the extent of potential impacts.'

The site is located within an R3 Medium Density Residential Zone. As depicted below, the proposed solar panels will not protrude more than 1m above the roof height.



Proposed Solar Panels

16. DRAFT AMENDMENTS

16.1 Environmental Planning and Assessment Regulation & Clause 4.6 of the WLEP 2014

Clause 4.6 of the WLEP 2014 and Part 35B(2) of the EP&A Regulations 2021 were amended on 15 September 2023.

These amendment can be summarised as follows:

- Clause 4.6(3) now requires the applicant and consent authority to consider the same matters when seeking and determining a variation to a development standard. The consent authority must be satisfied that the applicant has demonstrated that:
 - compliance with the development standard is unreasonable and unnecessary, and
 - there are sufficient environmental planning grounds to justify the contravention of the development standard.
- The consent authority no longer needs to be satisfied, under the Clause 4.6 assessment, the proposed development will be in the public interest because it is consistent with the objectives of the standard and the zone. This requirement has been removed as it duplicates existing considerations.
- Council still must have regard to the zone objectives under Clause 2.3(2) of the LEP, and consider the public interest under section 4.15(1)(e) of the EP&A Act 1979.
- The Secretary's concurrence is no longer required.
- Section 35B of the *Environmental Planning & Assessment Regulation 2021* requires a DA, which seeks to vary a development standard, to be accompanied by a document (known as a "written request") that addresses the clause 4.6 test. This is not a new requirement, but reinforces the previous requirement for a written request that used to be in clause 4.6.

Savings and transitional arrangements apply. As such, any DA under assessment, but not finally determined on 01 November 2023, will be determined using the previous clause 4.6 requirements. This DA was lodged on 27 September 2022, prior to the introduction of these amendments.

16.2 WLEP 2014 – Amendment 33

The WLEP 2014 was amended on 14 July 2023 (Amendment 33). This amendment includes the following set of controls:

- FSR standards for dwelling houses, dual occupancies and semi-detached dwellings on R2 and R3 zoned land.
- Retained floorplate controls for land uses other than dwelling houses, dual occupancies and semi-detached dwellings in the R2 zone (a compulsory post-exhibition amendment required by the Department of Planning and Environment).
- New landscaping provisions, including tree canopy and deep soil controls.
- Administrative amendments to facilitate the above changes.

Amendment 33 includes a saving provision under Clause 1.8A(2), which permits DAs submitted prior to 14 July 2023, but not determined, to be assessed under the previous provisions. This DA was lodged on 27 September 2022, prior to the introduction of this amendment.

16.3 WDCP 2015 – Amendment 21

The WDCP 2015 was amended on 14 July 2023 (Amendment 21). Amendment 21 involved updating *Chapter B3 – General Development Controls* and *Chapter E3 – Tree Management*. Changes can be briefly summarised as follows:

- The replacement of the floorplate controls in the WDCP with simpler floor space ratio (FSR) controls in the WLEP. This will affect properties in both the R2 Low Density Residential and R3 Medium Density Residential zones where dwelling houses, semi-detached dwellings or dual occupancies are proposed.
- Properties in the R2 Low Density Residential and R3 Medium Density Residential zones will also be subject to new tree canopy and deep soil controls in the DCP. They will require between 25-35% of the site area to be covered by tree canopy, and 35% to comprise deep soil.
- Simplification of the rear setback controls.

This DA was lodged on 27 September 2022, prior to the introduction of Amendment 21 and has therefore been assessed against the repealed WDCP 2015 (repealed on 30 August 2021).

16.4 Section 7.12 – Contribution Plan

On 11 September 2023, Council resolved to revise standard condition for section 7.12 contributions to capture any change in cost resulting from any s4.55 or s4.56 modification applications up until the first certificate is issued by a Certifying Authority. This requires an updated cost estimate to be submitted to Council for determination prior to any contributions payments. This amendment would not have any implications upon the DA currently under review. Changes came into effect on 13 July 2023, after the lodgement of this DA.

17. CONTRIBUTION PLANS

Contributions plans allow funds to be raised from approved development applications. The funds are used for the intended provision, extension or augmentation of public facilities, or towards recouping the cost of facilities that have been provided, extended or augmented. These contributions relate to section 7.12 of the EP&A Act 1979.

17.1 Section 7.12 Contributions Plan 2021

A payment of a levy authorised by Section 7.12 of the EP&A 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 2021.

The applicable levy rate is to be calculated using the summary schedule below.

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

A Quantity Surveyor's Report prepared by DuoTax (dated 07 June 2022) was submitted with the DA, which quantified the proposed works. Accordingly, the following calculations are made:

Cost of Works	Rate based on cost of works	Contribution Payable
\$3,765,439	>\$200,000 = 1%	\$37,654.39

This requirement has been imposed via recommended **condition**.

18. APPLICABLE ACTS/REGULATIONS

18.1 Environmental Planning and Assessment Regulation 2000

Clause 92: What Additional Matters Must a Consent Authority Take Into Consideration in Determining a Development Application?

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. If this application were to be approved, this requirement could be addressed via **condition**.

Clause 64: Consent authority may require upgrade of buildings

Clause 64 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the DA against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Given the proposal is a new building, BCA compliance is to be assessed at Construction Certificate stage. Nevertheless, Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Attachment 8**, and **conditions** have been recommended relating to a final fire safety certificate (including in the case of an interim occupation or final occupation) and an annual fire safety statement.

19. THE LIKELY IMPACTS OF THE PROPOSAL

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

20. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

21. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

22. CONCLUSION

The proposal is acceptable against the relevant considerations under s4.15.

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, 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 (FSR) development standard under Clause 4.4 of the Woollahra LEP 2014.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 414/2022/1 for demolition of an existing dwelling and construction of a new residential flat building on land at 25 Birriga Road Bellevue Hill, 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.

Sheets No. RIJA-01.3 & RIJA-01.45	Architectural Plans	All sheets prepared by CSA Architects	Revision 4, dated 29/05/2024
Sheets No. RIJA-01.4 to RIJA-01.14 & RIJA-01.35			Revision 3, dated 26/10/2023
No.1311827M	BASIX Certificate	NSW Department of Planning and Environment	19/08/2022
No.DA01	Landscape Plan	Michael Zinn	28/08/2022
-	Arboricultural Impact Assessment Report	Jacksons Nature Works	16/09/2022
21/237 Rev A	Stormwater Management Plan	ITM Design	22/08/2022
35170PDprt Rev 1	Geotechnical Report	JK Geotechnics	08/11/2022
35170PD2rpt GHMP	Geotechnical and Hydrogeological Monitoring Plan	JK Geotechnics	08/11/2022
-	Construction Methodology Report	Alba+Associates	09/11/2022
4893	Structural Drawings	Alba+Associates	09/11/2022
0584r02v02	Traffic Letter of Response to Council Request for Further Information	PDC Consultants	26/10/2023
RIJA-01.35	Car Stackers/Lift Specifications, Rev 3	CSA Architects	26/10/2023

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 and Council's property.

A.6 Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. In all respects, the proposed vehicular access including any parking spaces must be designed and constructed to comply with the minimum requirements of AS2890.1, AS2890.2, AS2890.6 and the Council's DCP.

A.7 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)
3	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front setback at 27 Birriga Road	8 x 6
6-7	<i>Syagrus romanzoffiana</i> (Cocos palm)	Side at 27 Birriga Road	8 x 4
8	<i>Ligustrum lucidum</i> (Large-leaved Privet)	Side at 27 Birriga Road	8 x 4
9	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Side at 27 Birriga Road	7 x 3
10	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Side at 27 Birriga Road	5 x 3
11	<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	Rear at 204-206 Old South Head Road	6 x 3
13	<i>Murraya paniculata</i> (Mock Orange)	Side at 23 Birriga Road	7 x 8
15	<i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	5 x 2
16	<i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	8 x 2
17	<i>Ligustrum lucidum</i> (Large-leaved Privet)	Side at 23 Birriga Road	8 x 6
18-32	<i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	9 x 2

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Lophostemon confertus</i> (Brush Box)	Council verge	11 x 12	\$2000
2	<i>Lophostemon confertus</i> (Brush Box)	Council verge	11 x 7	\$2000

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

- b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
4	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Rear setback	3 x 3
5	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Rear setback	6 x 6
14	<i>Ceratopetalum gummiferum</i> (NSW Christmas Bush)	Rear setback	7 x 7

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

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

A.8 Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to the removal of the existing timber retaining wall, located along and partially outside of the western title boundary shared with No.23 Birriga Road.

Standard Condition: A9 (Autotext AA9)

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 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.6 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Fence 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	1m wide parallel to street x 2m long parallel to crossover
2	<i>Lophostemon confertus</i> (Brush Box)	Council verge	2 x 2
13, 15-32	<i>Murraya paniculata</i> (Mock Orange), <i>Ligustrum lucidum</i> (Large-leaved Privet) and <i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	Along existing masonry/timber walls

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) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.

- f) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.7 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Location	Approved works
3	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	From boundary line	Retaining walls, footpath and driveway
6-10	<i>Syagrus romanzoffiana</i> (Cocos palm), <i>Ligustrum lucidum</i> (Large-leaved Privet) & <i>Archontophoenix cunninghamiana</i> (Bangalow palm)	From boundary line	Retaining walls, paving, services
11	<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	From boundary line	Retaining walls and services
13, 15-32	<i>Murraya paniculata</i> (Mock Orange), <i>Ligustrum lucidum</i> (Large-leaved Privet) and <i>Cupressus sempervirens</i> (Italian Cypress)	From side of existing timber and masonry walls	Retaining walls, paving, services

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

B.8 Demolition and Construction Management Plan

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

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

B.9 Arborists Documentation and Compliance Checklist

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

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

All compliance certification documents shall be kept on site by the Site Foreman.
As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, 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 driveway within 3m of the trunk of Tree No. 3. The condition of exposed roots shall be managed and documented. • The project arborist shall supervise excavation and construction of all retaining walls near the boundary line to south, east and west, documenting the condition of roots and soil. • The project arborist shall ensure pier holes within the Tree Protection Zones of all trees located at 23 Birriga Road to avoid the severance of and damage to roots greater than 50mm diameter. • Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.
Prior to any occupation or use of the building	<ul style="list-style-type: none"> • Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> • The project arborist shall supervise the dismantling of tree protection measures • After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

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

B.10 Construction Management Plan

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

An application for the CMP must be submitted for approval, and all associated application fees must be paid.

The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes, particularly during school pick-up and drop-off hours.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.

- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to StandPlant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.
- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

Notes:

- A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved.
- Failure to comply with this condition may result in fines and proceedings to stop work.
- 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.
- 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.
- Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov

B.11 Works (Construction) Zone – Approval and Implementation

If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.

If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.

All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.

Notes:

- A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.
- The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.

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

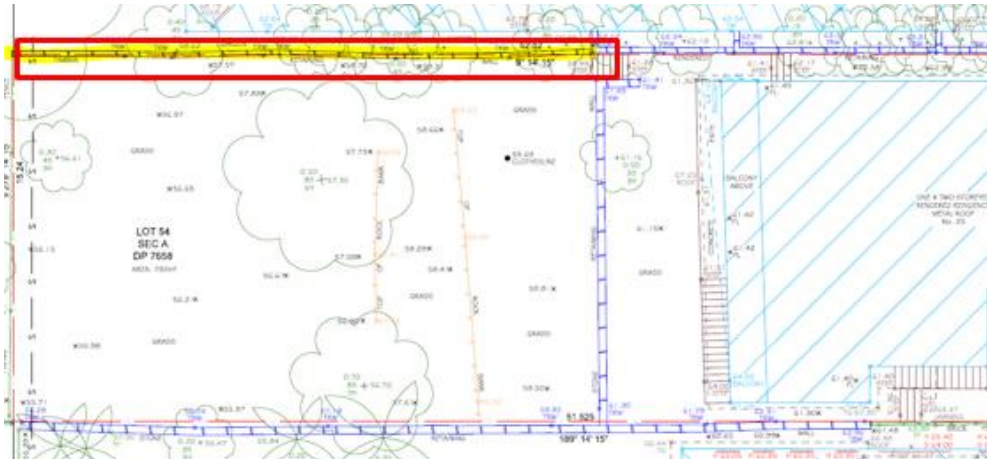
C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

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

Landscape Plan & Masonry Wall

- a) The existing timber retaining wall, located along and partially outside of the western title boundary shared with No.23 Birriga Road, must be retained.

[The extent of the existing timber retaining wall that must be retained is shown in red below]



*Existing timber retaining wall located along and partially outside of the western title boundary to be retained in accordance with **Condition C.1 (a)***

- b) The Landscape Plan amended to include the following and submitted to Council's Tree Management Officer for approval prior to the issue of the Construction Certificate:
- Retention of all trees located outside of the property boundary, including Tree No.17.
 - The new masonry wall (located within the TPZ of Tree No.'s 13, 15, 16, 18-23 and within the western side setback of the site) relocated to outside of the footprint of the existing timber retaining wall as shown on the Survey Plan.
 - The new masonry wall (located within the TPZ of Tree No.'s 13, 15, 16, 18-23 and within the western side setback of the site) offset 1m from the centre of the trunk of Tree No.17.
 - Final levels of all proposed Landscape structures.
 - Three (3) x 100L replacement trees must be included in the design and located within the rear setback of the property. They must not be planted less than 1m from existing and proposed services and structures.
 - One (1) x 100L replacement trees must be included in the design and located within the front setback of the property. It must not be planted less than 1m from existing and proposed services and structures.
 - Location, numbers, type and supply of trees, with reference to AS2303:2018—Tree stock for landscape use (if applicable).
- c) Deletion of the granite outdoor seating area, paving and sandstone seats within the south-eastern corner of the site and replacement with deep soil planting including tree canopy coverage as required via **Condition C.1(b)(v)** .

The site plan shows a proposed outdoor area (101.89 m²) and a building layout. The outdoor area includes an absorption tank (25qm / 1.0M BELOW), a communal outdoor area, a decom granite seating area, and sandstone seats. The building layout includes a living area (4m x 6.2m), a dining kitchen (5.2m x 2.8m), a study nook, a balcony (3.25m), and a fixed and obscure up to 1.7m AEPL. The plan also shows various setbacks, dimensions, and a north arrow.

Area of Unit 1 to be deleted as a result of the increased rear setback

17.92m²

12.00m

17.03m

ABSORPTION TANK
250mm / 1.0M BELOW

COMMUNAL
OUTDOOR AREA
proposed rainwater location
70M² 89 m²

9.10m

SECOND GRANT
SEATING AREA

380.60 m²

UNIT 1

new masonry wall below

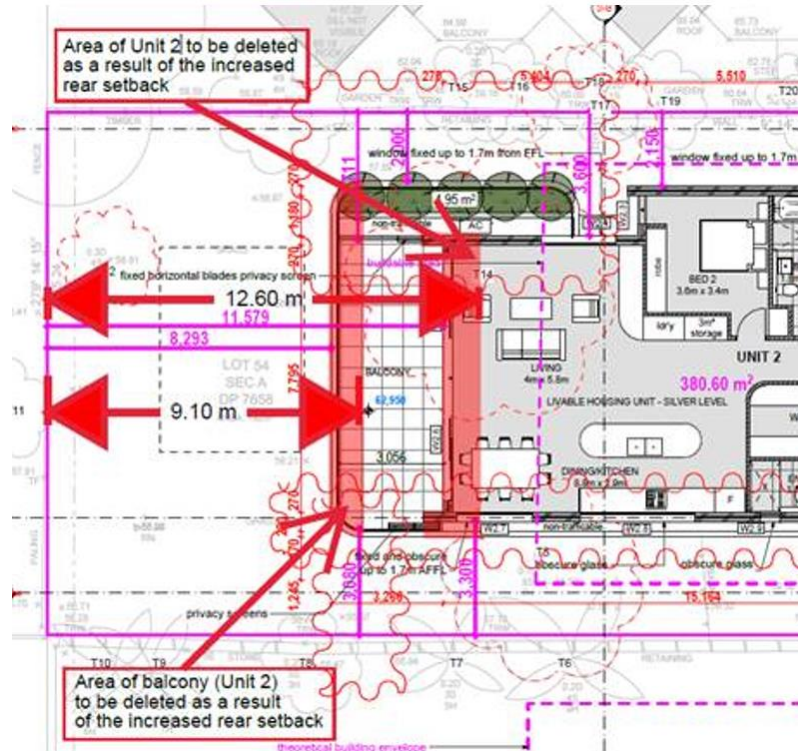
new building envelope

Area of balcony (Unit 1) to be deleted and replaced with landscaping as a result of the increased rear setback

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- f) Deletion of a portion of the balcony and living/dining area of Unit 2 at Level 2 to enable a 9.1m rear setback as measured to the balcony and a 12.6m rear-setback as measured to the main building-line.

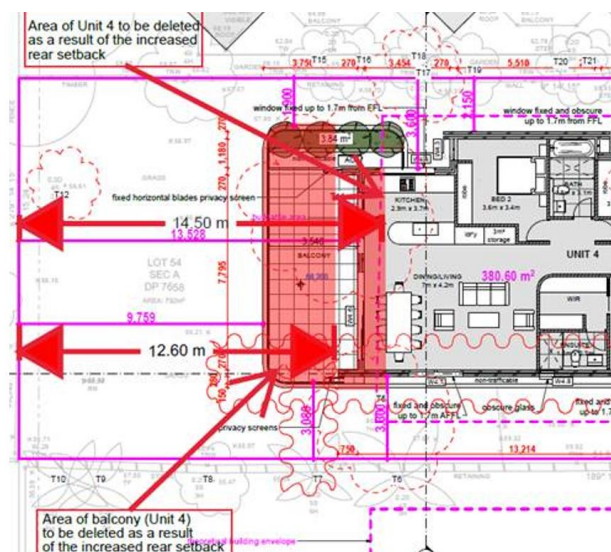
[The extent of the area that must be deleted is shown in red below]



Area nominated in 'red' to be deleted, at Level 2, in accordance with **Condition C.1(f)**

- g) Deletion of a portion of the balcony and kitchen and living/dining area of Unit 4 at Level 3 to enable a 12.6m rear setback as measured to the balcony and a 14.5m rear-setback as measured to the main building-line. This condition may require the kitchen, living and dining area of Unit 4 to be reconfigured to reflect the internal layout of Units 1 & 2.

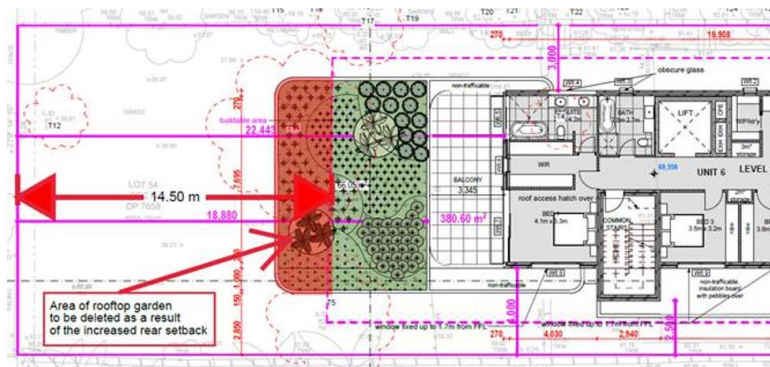
[The extent of the area that must be deleted is shown in red below]



Area nominated in 'red' to be deleted, at Level 3, in accordance with **Condition C.1(g)**

- h) Deletion of a portion of the proposed roof garden at Level 4 to enable a 14.5m rear setback, ensuring no overhang above the lower level balcony. The roof garden must remain non-trafficable, unless for maintenance purposes.

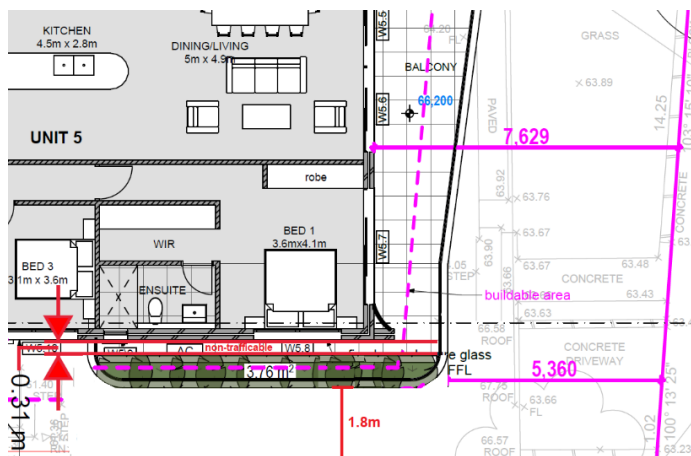
[The extent of the area that must be deleted is shown in red below]



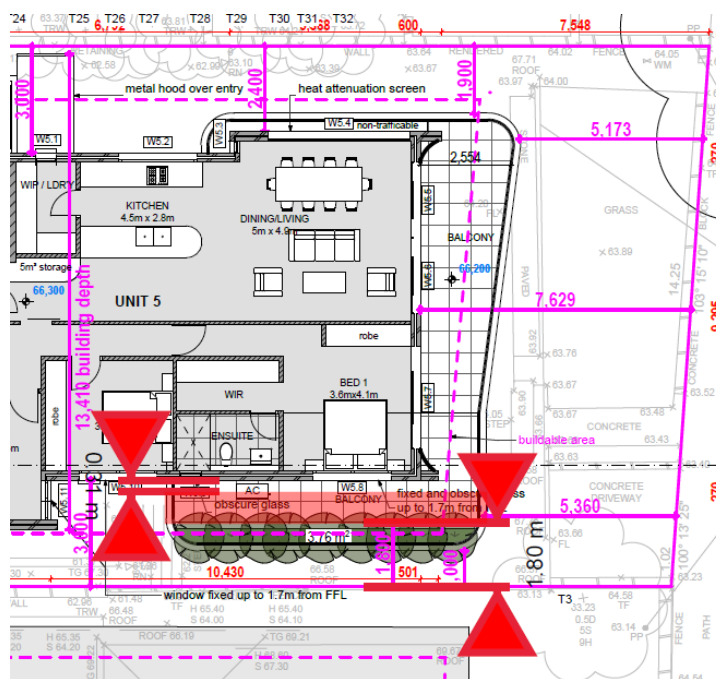
Area nominated in 'red', at Level 4, to be deleted in accordance with **Condition C.1(h)**

- i) All window openings (Windows W6.8, W6.9, W6.10, W6.11 & W6.12) to the eastern elevation of Level 4 must be fitted with fixed translucent glazing to a height of 1.5m measured from the finished floor level.
- j) Window W3.3 (Bed 2 of Unit 3), located along the eastern elevation at Level 2, must be fitted with fixed translucent glazing to a height of 1.5m measured from the finished floor level.
- k) All window openings to the western elevation must be fitted with fixed translucent glazing to a height of 1.5m measured from the finished floor level.
- l) Rear-facing balconies of Units 1, 2, 4 and 6 must feature fixed screening to a height of 1.5m, measured from finished floor, for the full depth of each respective balcony along the eastern and western elevations.
- m) The eastern side setback of the balcony of Unit 5 (at Level 3) must be increased to 1.8m as measured to the edge of the proposed planter box, resulting in a non-trafficable balcony area width of 0.31m within the eastern side setback. This will require the re-location of the AC unit.

[The extent of the changes required via this condition have been shown below in red]



Indicative Modifications to Eastern Interface of Unit 5 balcony at Level 3 as a result of **Condition C.1(m)**



Area of Unit 5 balcony, at Level 3, to be deleted as a result of **Condition C.1(m)**

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 (S138)	\$92,914	No	T115
Infrastructure Works bond (S138)	\$22,450	No	T113
Tree Damage Security Deposit – making good any damage caused to any public tree	\$4,000	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			

Description	Amount	Indexed	Council Fee Code
Development Levy (section 7.12)	\$37,654.39 + 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
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$645	No	T45
Security Administration Fee	\$225	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$158,109.73 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 202

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

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

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No.1311827M 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 the issuing of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new vehicular crossing which is 4.07m at property boundary and reduces to 3.6m at the kerb, as indicated in the Traffic Letter of Response to Council Request for Further Information (referenced 0584r02v02, prepared by PDC Consultants and dated 26 October 2023), in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. 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 reconstruction of the existing 1.8m wide concrete footpath for the full frontage of the site in Birriga Road in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. A maximum crossfall of 3% must be provided for the concrete footpath from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres intervals must be submitted for assessment.
- c) The reinstatement of all damaged kerb and gutter and road pavement to Council's Specification 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.
- e) A bond of \$22,450 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- f) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- g) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

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

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

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

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

C.5 Waste Storage – Residential Units (more than four units)

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

- a) The storage of waste and recycling bins behind the building line or within non-habitable areas of the building as close as possible to the service road collection point.
 - b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.
- Standard Condition: C17 (Autotext CC17)

C.6 Provision for Energy Supplies

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

Any required electricity pillar and/or substation must be located within the boundaries of the site. Where an electricity pillar and electricity substation required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the *Act* is required to be submitted to Council. Council will assess the proposed location of the required electricity pillar and/or substation.

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

Where the electricity pillar and/or substation is required, the Construction Certificate plans and specifications must provide:

- a) A setback not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the electricity pillar and/or substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established, if required. The size and location of the electricity pillar and/or substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

Note: If the electricity pillar and/or substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Note: This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Austgrid's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

Note: Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.

Note: Electricity pillar and/or Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land*.
Standard Condition: C21

C.7 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.8 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.9 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.10 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 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.11 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.12 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 21/237 Rev A, prepared by ITM Design, dated 22/08/2023, other than amended by this and other conditions,
- b) The installation of rainwater retention and reuse system (RWT) with minimum storage volume of 47.52m³ to comply with 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 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 absorption system.
- c) The installation of a pumpout system with a minimum storage capacity of 3m³ to comply with Section 8 of AS3500.3,
- d) Subsoil drainage/seepage water is not collected and discharged to the kerb and gutter in accordance with Chapter E2.2.5 of the Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- 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) Dimensions of all drainage pits and access grates must comply with AS3500.3,
- g) Compliance the objectives and performance requirements of the BCA,
- h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout plan

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

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

Rainwater Reuse System details:

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

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

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

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

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

C.13 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.14 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.15 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The basement carpark in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-2012. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement carpark must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement carpark and provide details to the Certifying Authority accordingly. Except as varied, the basement carpark shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-2012.

C.16 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

C.17 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
- b) 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.18 Parking Facilities

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities and AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking respectively, subject to:

- a) A 2.5m x 1.6m sight splay be provided along the eastern side of the driveway and clearly depicted on the architectural drawings. All structure within the splay area should be lower than 600mm to ensure visibility.
- b) A traffic light system be incorporated to manage traffic flow between the basement car park and the Ground Floor. The traffic light system should be designed to ensure priority is given to vehicles enter the car lift to minimise disruptions to traffic along the frontage road.

Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.

The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

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. 23 Birriga Road Bellevue Hill
- No. 27 Birriga Road Bellevue Hill

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)

Advising for more information regarding this condition

Standard Condition: D4 (Autotext DD4)

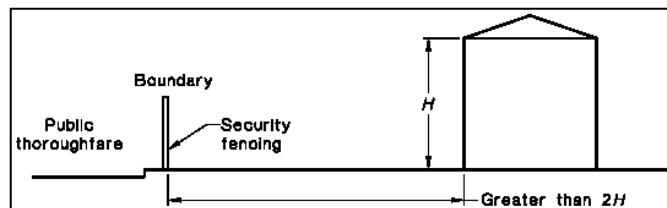
D.3 Adjoining Buildings Founded on Loose Foundation Materials

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)

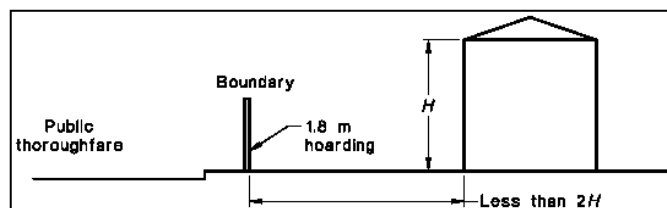
D.4 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



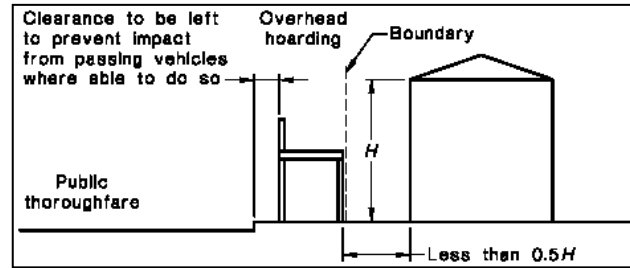
Type B Hoarding

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

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

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

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



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

All Hoardings

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

Hoardings on Public Land including ‘Creative Hoardings’

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

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

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

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

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

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

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council’s Cultural Development Team. Standard Condition: D11 (Autotext DD11)

D.5 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.6 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.7 Erosion and Sediment Controls – Installation

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

- a) The Soil and Water Management Plan if required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” 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.8 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.9 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 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.6 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - (i) piling,
 - (ii) 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.7 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect 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.8 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls,
- f) ablutions.

Standard Condition: E11

E.9 Compliance with Geotechnical / Hydrogeological Monitoring Program

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

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

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

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

Standard Condition: E12 (Autotext EE12)

E.10 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.11 Vibration Monitoring

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

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

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

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

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any 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.12 Erosion and Sediment Controls – Maintenance

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

- a) the Soil and Water Management Plan required under this consent,
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001, and
- c) “*Managing Urban Stormwater - Soils and Construction*” 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.13 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.

- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

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

E.14 Site Cranes

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

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

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

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

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

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

E.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 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.19 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

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

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

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

Note: A copy of Council's *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council's website www.woollahra.nsw.gov.au

Standard Condition: E24 (Autotext EE24)

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, 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.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

E.27 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.28 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)
2 x <i>Stenocarpus sinuatus</i> (Firewheel Tree) Or <i>Elaeocarpus eumundi</i> (Eumundi quandong)	Rear Must not be planted less than 1m from existing and proposed services and structures.	100L	7 x 3
1 x <i>Ceratopetalum gummiferum</i> (NSW Christmas Bush) Or <i>Elaeocarpus reticulatus</i> (Blueberry Ash)	Rear Must not be planted less than 1m from existing and proposed services and structures.	100L	6 x 3
1 x <i>Lagerstroemia indica</i> (Crepe Myrtle), <i>Leptospermum petersonii</i> (Lemon-Scented Teatree) Or <i>Magnolia x soulangeana</i> (Saucer Magnolia)	Front Must not be planted less than 1m from existing and proposed services and structures.	100L	5 x 3

The project arborist shall document compliance with the above condition.

E.29 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)
3	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front setback at 27 Birriga Road	3.0
15-32	<i>Ligustrum lucidum</i> (Large-leaved Privet) and <i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	1.5

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.30 Discontinuous footings in the vicinity of trees

Footings for the proposed masonry wall within the specified radius from the trunks of the following trees shall be supported using discontinuous footings.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
3	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front setback at 27 Birriga Road	3.0
15-32	<i>Ligustrum lucidum</i> (Large-leaved Privet) and <i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	1.5

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.31 Compliance with a Construction Plan

While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier on request.

Notes:

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

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 Fire Safety Certificates

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

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

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

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

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the *Regulation*.

final fire safety certificate has the same meaning as it has in Part 9 of the *Regulation*.

new building has the same meaning as it has in section 6.1 of the *Act*.

Standard Condition: F4 (Autotext FF4)

F.3 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.4 Commissioning and Certification of Public Infrastructure Works

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

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

Standard Condition F9 (Autotext FF9)

F.5 Vehicle Access and Manoeuvring – Construction & Certification

Prior to the issue of any Occupation Certificate, the applicant must submit, for approval by the Principal Certifying Authority, certification from a Chartered Traffic Engineer relating to the construction of vehicular access and manoeuvring for the development. This certification must be based on a site inspection of the constructed vehicle access, manoeuvring and vehicle accommodation areas, with dimensions and measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed carpark complies with the approved Construction Certificate drawings,
- b) That a maximum gradient of 5% has been provided for the first 6 metres from the property boundary to the basement,
- c) That finished driveway gradients and transitions will not result in scraping to the underside of B99 vehicles,
- d) All parking spaces are open type with no partitions,
- e) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1 in terms of minimum dimensions provided,
- f) That the headroom clearance of minimum 2.2 metres has been provided between the basement floor and any overhead obstruction to comply with Clause 5.3.1 of AS2890.1,
- g) That Aisle widths throughout basements comply with AS2890.1,

F.6 Amenity Landscaping

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

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

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

G.1 Electricity Substations – Dedication as Road and/or Easements for Access

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

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

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

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

Standard Condition: G4 (Autotext GG4)

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. No.1311827M.

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 on-site retention and pumpout system,
- c) that a rainwater retention and reuse system with minimum storage of 47.52m³ has been constructed in accordance with the approved stormwater plans,
- d) that stormwater from rainwater tank have been connected for non-potable use such as toilet flushing, laundry device and garden irrigations etc,
- e) that an on-site absorption system has been constructed in accordance with the approved stormwater plans,
- f) that a pumpout system with minimum storage of 3m³ has been constructed in accordance with the approved stormwater plans,
- g) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- h) pipe invert levels and surface levels to Australian Height Datum, and
- i) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

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

H.5 Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems

Before the issue of any occupation certificate for the whole of the building, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

- a) Compliance with conditions of development consent relating to mechanical parking installation including car lift, car stackers and traffic light system;
- b) That the works have been constructed in accordance with the approved design;
- c) 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 car lift, car stackers and traffic signal system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW.

Notes:

- The PCA must supply a copy of the WAE Plans to Council together with the occupation certificate for the whole of the building.
- The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.

H.6 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 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

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

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety www.woollahra.nsw.gov.au.
Standard Condition: I22

I.2 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.1311827M.

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.3 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 retained and reused by the 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.4 Outdoor Lighting – Residential

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

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

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

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*.

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.6 Noise from Mechanical Plant and Equipment

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

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

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 Provision of Off-street Public and Visitor Parking

During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, and AS 2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:

Use	Number of spaces
Car parking	12
Bicycle parking	7
Motorbike parking	1

Notes:

- Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.
- Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100.

I.8 Parking Permits

During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

I.9 On-going Maintenance of the Mechanical Parking Installations

During the occupation and ongoing use, the Owner must ensure the ongoing maintenance of the mechanical parking installations in accordance with this condition and any positive covenant. The Owner must:

- keep the system clean and free of silt rubbish and debris;
- maintain renew and repair as reasonably required from time to time the whole of the system so that it functions in a safe and efficient manner;
- carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;
- 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;
- 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;

- f) 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
- g) 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; 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.

Notes:

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

I.10 Operation in Accordance with Traffic Management Plan (TMP)

During the occupation and ongoing use:

- a) The operation and management of the premises shall be in accordance with the traffic management plan, referenced 0584r02v02, prepared by PDC Consultants and dated 26 October 2023;
- b) The TMP cannot be altered without the written consent of Council;
- c) Access must be maintained for the angled parking spaces along Birriga Road, Bellevue Hill, in front of the property to ensure normal operations of these spaces at all times.

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. 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 Ms S Soliman, Senior Assessment Officer, on (02) 9391 7162.

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

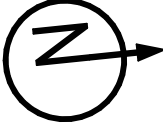
1. Plans, elevations and shadow diagrams [↓](#) 
2. Clause 4.6 Written Request (FSR) [↓](#) 
3. Referral Response – Development Engineering [↓](#) 
4. Referral Response – Traffic Engineering [↓](#) 
5. Referral Response – Trees & Landscaping [↓](#) 
6. Referral Response – Urban Design [↓](#) 
7. Referral Response – Environmental Health [↓](#) 
8. Referral Response - Fire Safety [↓](#) 



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Registered Design Practitioner : DEP0000578
alex@csa-arch.com.au

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61 2 9389 4055 www.csa-arch.com.au
185 Old South Head Rd., Bondi Junction NSW 2022
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Rev	Date	Description	DP	Reg.
1	16/09/2022	Development Application Issue	Alexander Smith	DEP0000578
2	9/11/2022	Additional information requested by Council	Alexander Smith	DEP0000578
3	26/10/2023	Additional information requested by Council		
4	29/05/2024	Additional information requested by Council		

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

BASEMENT FLOOR PLAN

RIJA-01.3

Status:
DEVELOPMENT APPLICATION

Drawing Title:
BASEMENT FLOOR PLAN

Sheet No.
RIJA-01.3

Drawn: AY

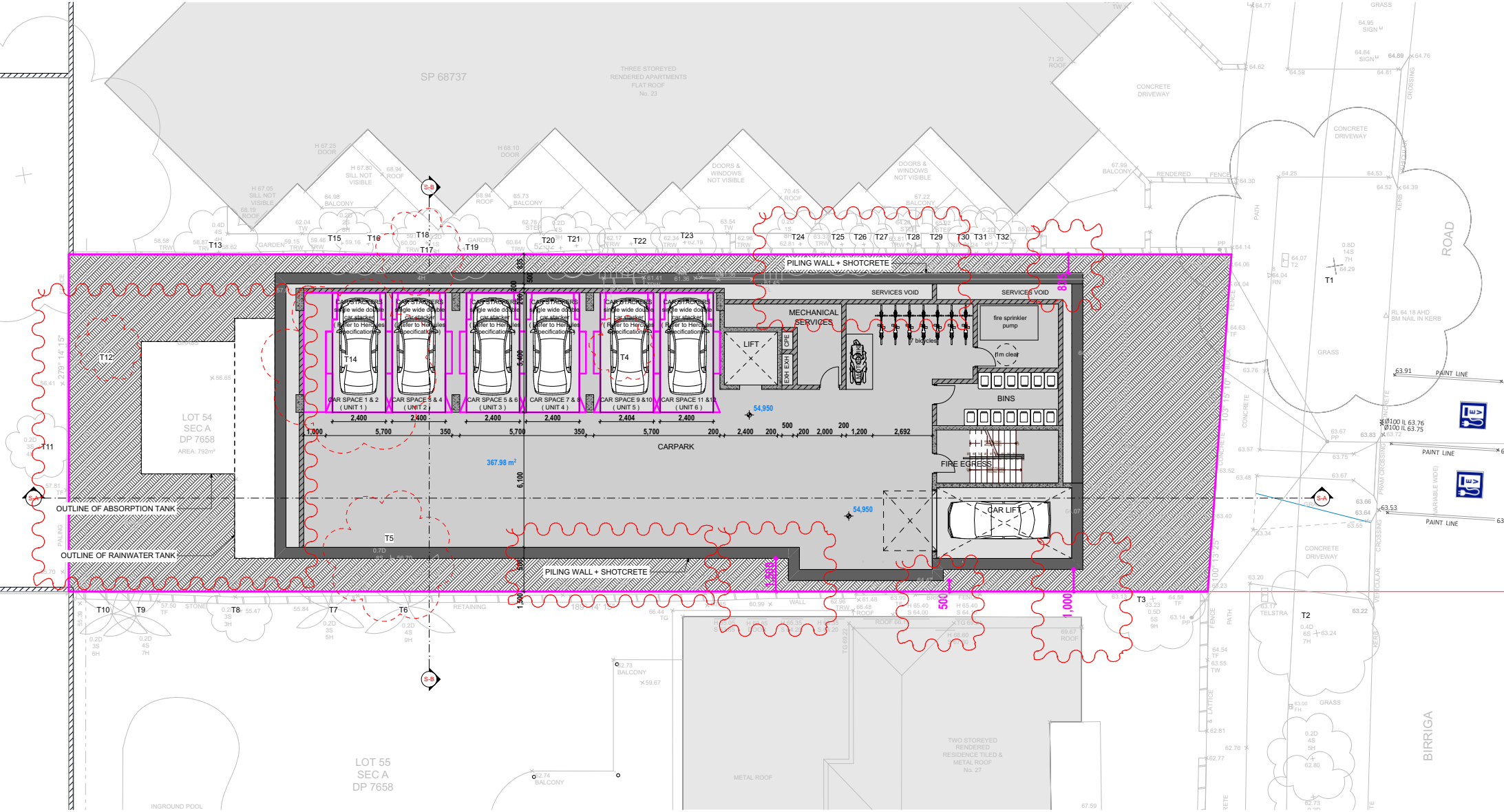
Checked: AS/AY

Scale: 1:100 U.N.O

Rev. 4

1:200 1:100 1:50 1 METRE INCREMENTS

Plot Date: Wednesday, 29 May 2024



BASEMENT FLOOR PLAN

1:200

Regulated Design Record

Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW

Project Title: NEW RESIDENTIAL BUILDING

Consent No: #Project ID

Body Corporate Reg No:

Drawing Title: BASEMENT FLOOR PLAN

Drawing No: RIJA-01.3

Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

0007973320 19 Aug 2022


Assessor A PEART


Accreditation No. DMN/13/1511


Address

25 BIRRIGA ROAD, BELLEVUE HILL, NSW, 2023

www.suthers.gov.au



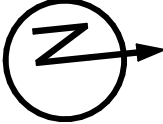




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Rev	Date	Description	DP	Reg.
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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

LEVEL 1 FLOOR PLAN

RIJA-01.4

Status:
DEVELOPMENT APPLICATION

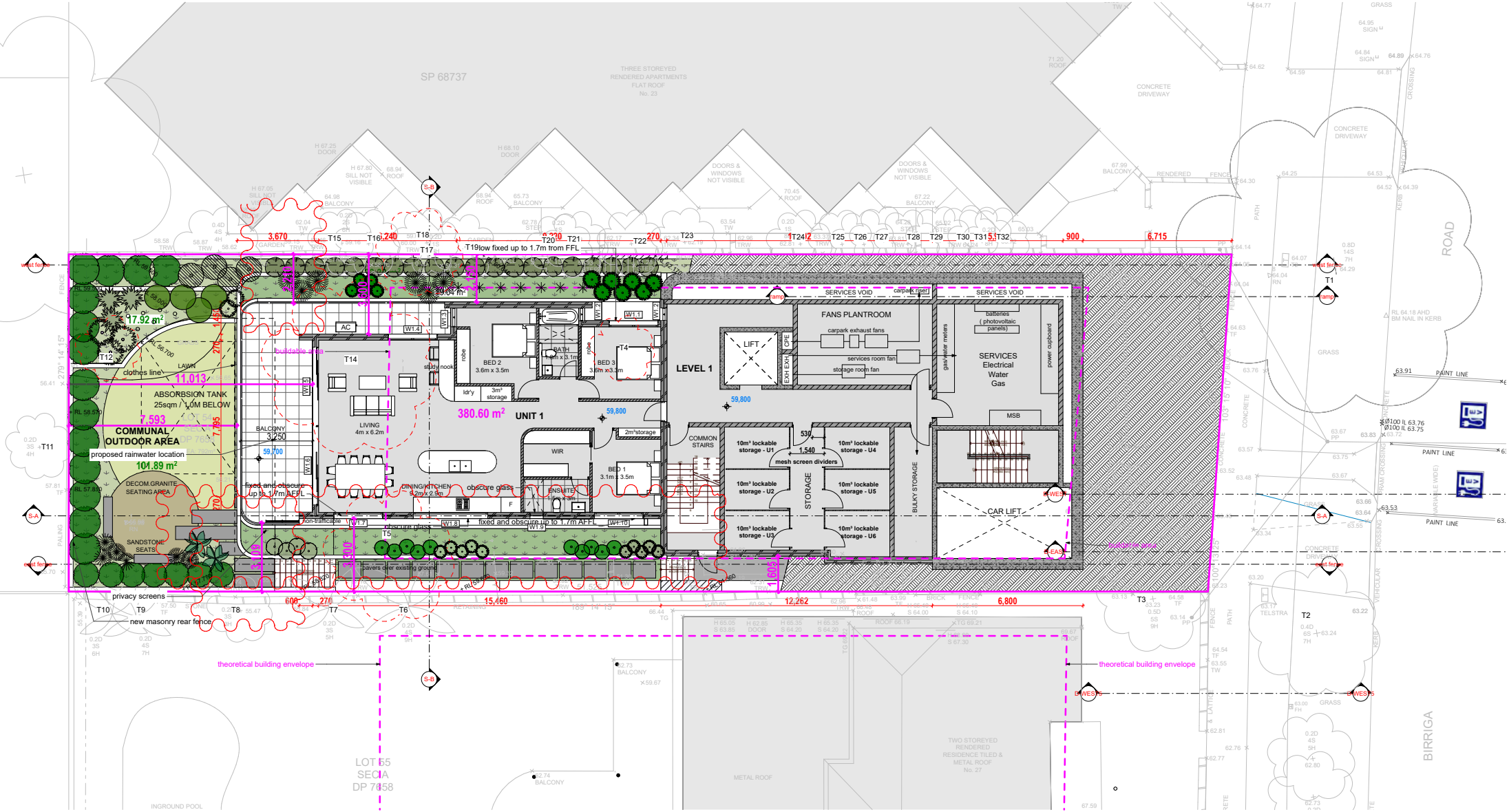
Drawing Title:
LEVEL 1 FLOOR PLAN

Sheet No.
RIJA-01.4

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Plot Date: Thursday, 26 October 2023



1

LEVEL 1 FLOOR PLAN

1:200

Regulated Design Record

Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW

Project Title: NEW RESIDENTIAL BUILDING

Consent No: #Project ID

Drawing Title: LEVEL 1 FLOOR PLAN

Body Corporate Reg No:

Drawing No: RIJA-01.4

Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578


0007973320 19 Aug 2022

5.8
Average
star rating


NATIONAL
HOUSE
ENERGY RATING SCHEME


www.nathers.gov.au

Assessor: A PEART
Accreditation No. DMN13/1511
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HILL, NSW, 2023



hstar.com.au





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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

LEVEL 2 FLOOR PLAN

RIJA-01.5

Status:
DEVELOPMENT APPLICATION

Drawing Title:
LEVEL 2 FLOOR PLAN

Sheet No.
RIJA-01.5

Drawn:
AY

Checked:
AS/AY

Scale:
1:100 U.N.O

Rev.
3

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Plot Date: Thursday, 26 October 2023

LEVEL 2 FLOOR PLAN

1:200

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Page 143



CSA

ARCHITECTS

Nominated Architect: Alex Smith Reg #5473

Registered Design Practitioner: DEP0000578

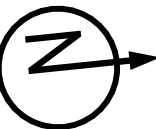
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Client:
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25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

ROOF FLOOR PLAN

RIJA-01.8

Status:
DEVELOPMENT APPLICATION

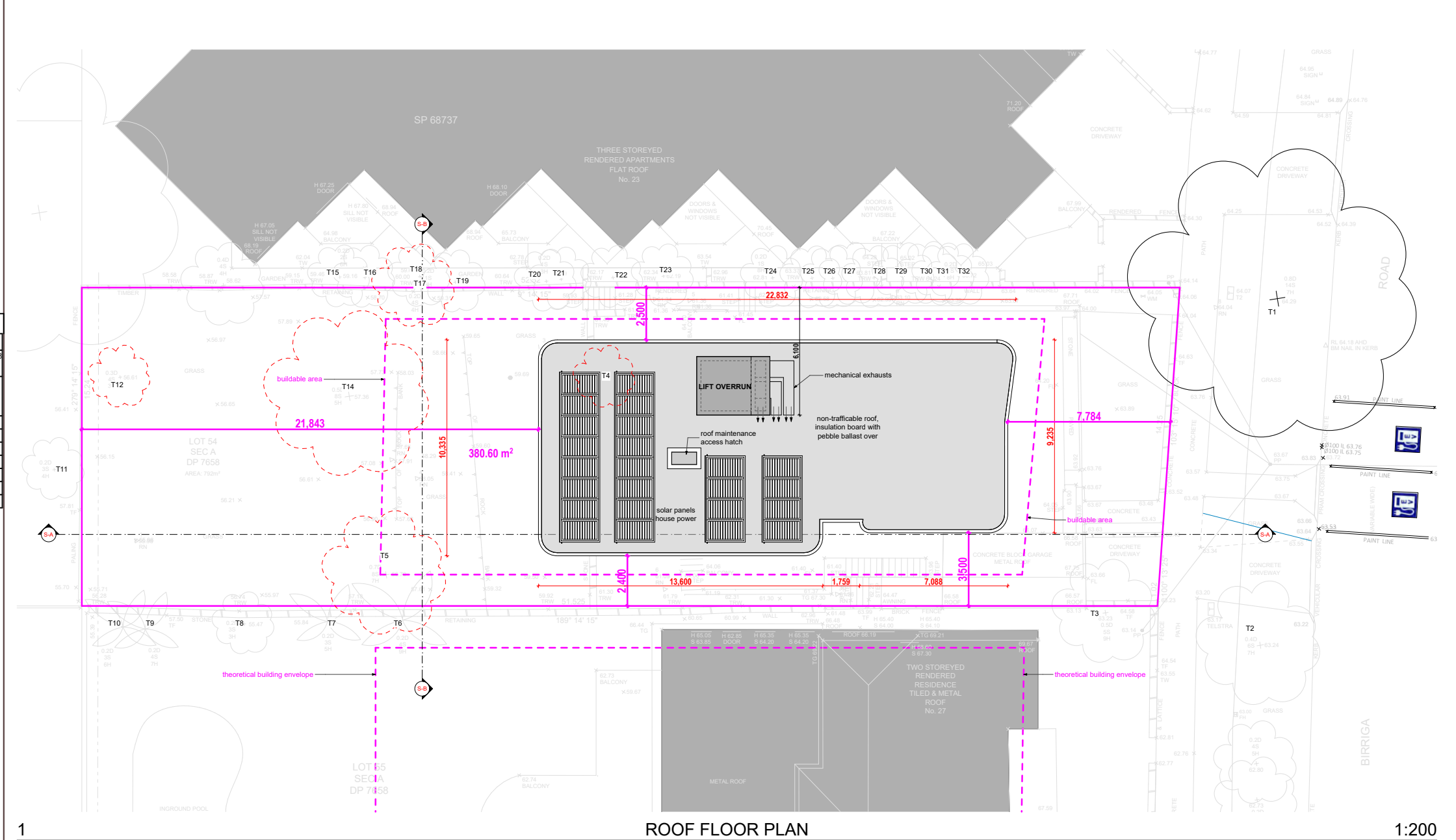
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ROOF FLOOR PLAN

Sheet No.
RIJA-01.8

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Plot Date: Thursday, 26 October 2023



1

ROOF FLOOR PLAN

1:200

Regulated Design Record

Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW

Project Title: NEW RESIDENTIAL BUILDING

Consent No: #Project ID

Body Corporate Reg No:

Drawing Title: ROOF FLOOR PLAN

Drawing No: RIJA-01.8

Rev	Date	Description	DP Full Name	Reg No
	dd.mm.yy		Alexander Smith	DEP0000578

5.8

Average star rating

NATIONWIDE HOUSE

www.nathurs.gov.au

0007973320 19 Aug 2022


Assessor A PEART

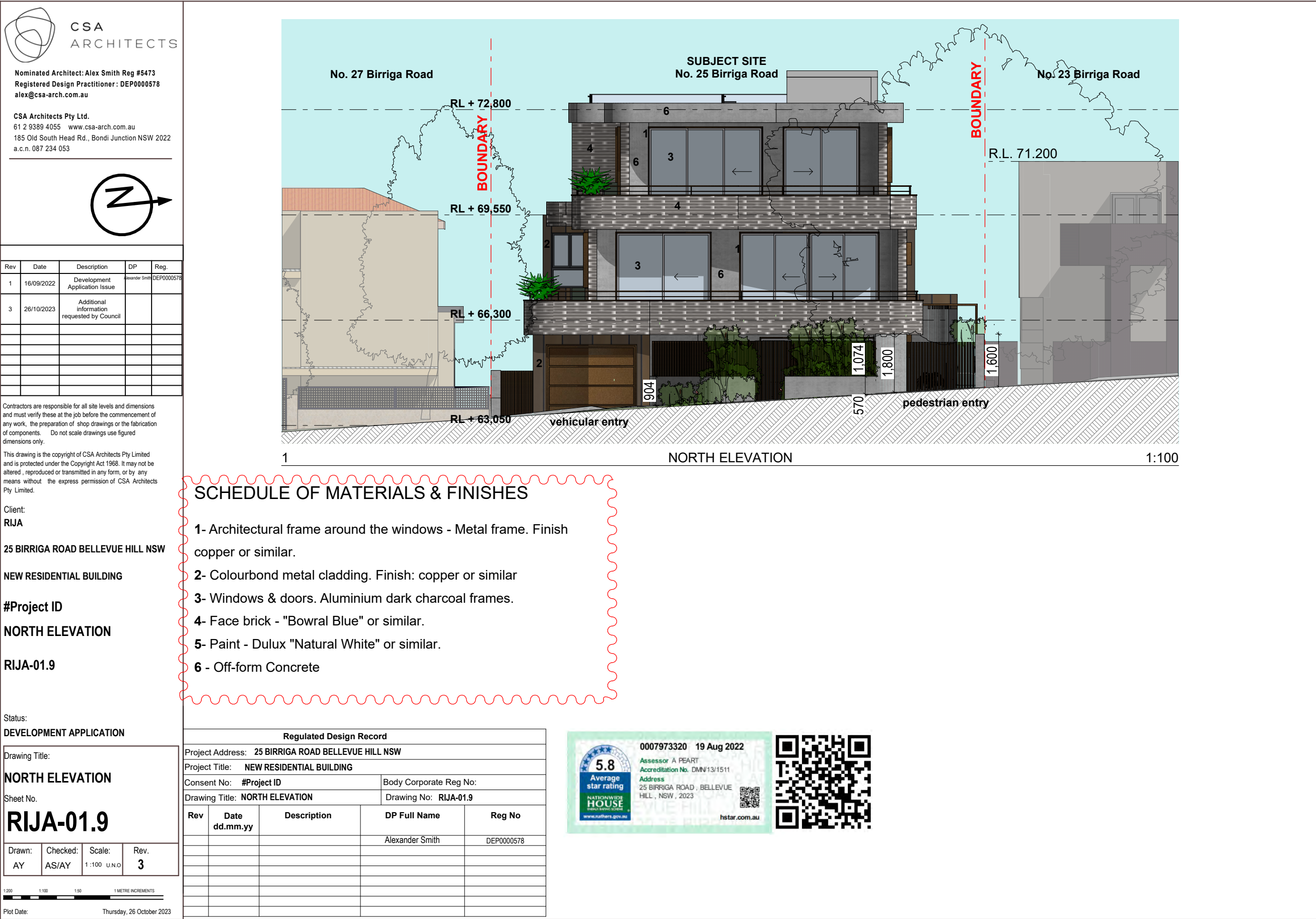
Accreditation No. DMV13/1511

Address

25 BIRRIGA ROAD, BELLEVUE HILL, NSW, 2023

hstar.com.au





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Registered Design Practitioner : DEP0000578
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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

SOUTH ELEVATION

RIJA-01.10

Status:
DEVELOPMENT APPLICATION

Drawing Title:

SOUTH ELEVATION

Sheet No.

RIJA-01.10

Drawn:	Checked:	Scale:	Rev.
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1:200 1:100 1:50 1 METRE INCREMENTS

Plot Date: Thursday, 26 October 2023

No. 23 Birriga Road

R.L. 71.200

RL + 72,800

BOUNDARY

No. 25 Birriga Road

SUBJECT SITE

RL + 69,550

RL + 66,300

RL + 63,050

RL + 59,800

No. 27 Birriga Road

privacy screen

privacy screen

privacy screen

1

2

3

4

5

6

SOUTH ELEVATION

1:100

5.8

Average star rating

NATIONWIDE HOUSE

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0007973320 19 Aug 2022

Assessor A PEART
Accreditation No. DMN/13/1511
Address
25 BIRRIGA ROAD , BELLEVUE HILL , NSW , 2023

hstar.com.au

SCHEDULE OF MATERIALS & FINISHES

1- Architectural frame around the windows - Metal frame. Finish copper or similar.

2- Colourbond metal cladding. Finish: copper or similar


3- Windows & doors. Aluminium dark charcoal frames.

4- Face brick - "Bowral Blue" or similar.

5- Paint - Dulux "Natural White" or similar.

6 - Off-form Concrete

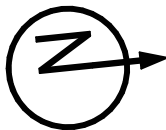
Attachment 1 Plans, elevations and shadow diagrams



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Client:
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25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

STREETVIEW

RIJA-01.12

Status:
DEVELOPMENT APPLICATION

Drawing Title:
STREETVIEW

Sheet No.
RIJA-01.12

Drawn:	Checked:	Scale:	Rev.
AY	AS/AY	1:100 U.N.O	3


1:200

1:100

1:50

1 METRE INCREMENTS

Plot Date: Thursday, 26 October 2023




1

STREETVIEW

1:200

Regulated Design Record				
Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW				
Project Title: NEW RESIDENTIAL BUILDING				
Consent No: #Project ID		Body Corporate Reg No:		
Drawing Title: STREETVIEW		Drawing No: RIJA-01.12		
Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

Page 149



CSA

ARCHITECTS

Nominated Architect: Alex Smith Reg #5473

Registered Design Practitioner: DEP0000578

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CSA Architects Pty Ltd.

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185 Old South Head Rd., Bondi Junction NSW 2022

a.c.n. 087 234 053

Rev	Date	Description	DP	Reg.
1	16/09/2022	Development Application Issue	Alexander Smith	DEP0000578
3	26/10/2023	Additional information requested by Council		

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

SECTION B-B

RIJA-01.14

Status:

DEVELOPMENT APPLICATION

Drawing Title:

SECTION B-B

Sheet No.

RIJA-01.14

Drawn: AY

Checked: AS/AY

Scale: 1:100 U.N.O.

Rev. 3

1:200

1:100

1:50

1 METRE INCREMENTS

Plot Date: Thursday, 26 October 2023

13.5m height at line of section

BOUNDARY

RL + 72,800

RL + 69,550

RL + 66,300

RL + 63,050

RL + 59,800

RL + 54,950

existing ground line at section cutting plane shown dotted

11,693

500 200 200

4,500

2,400

1

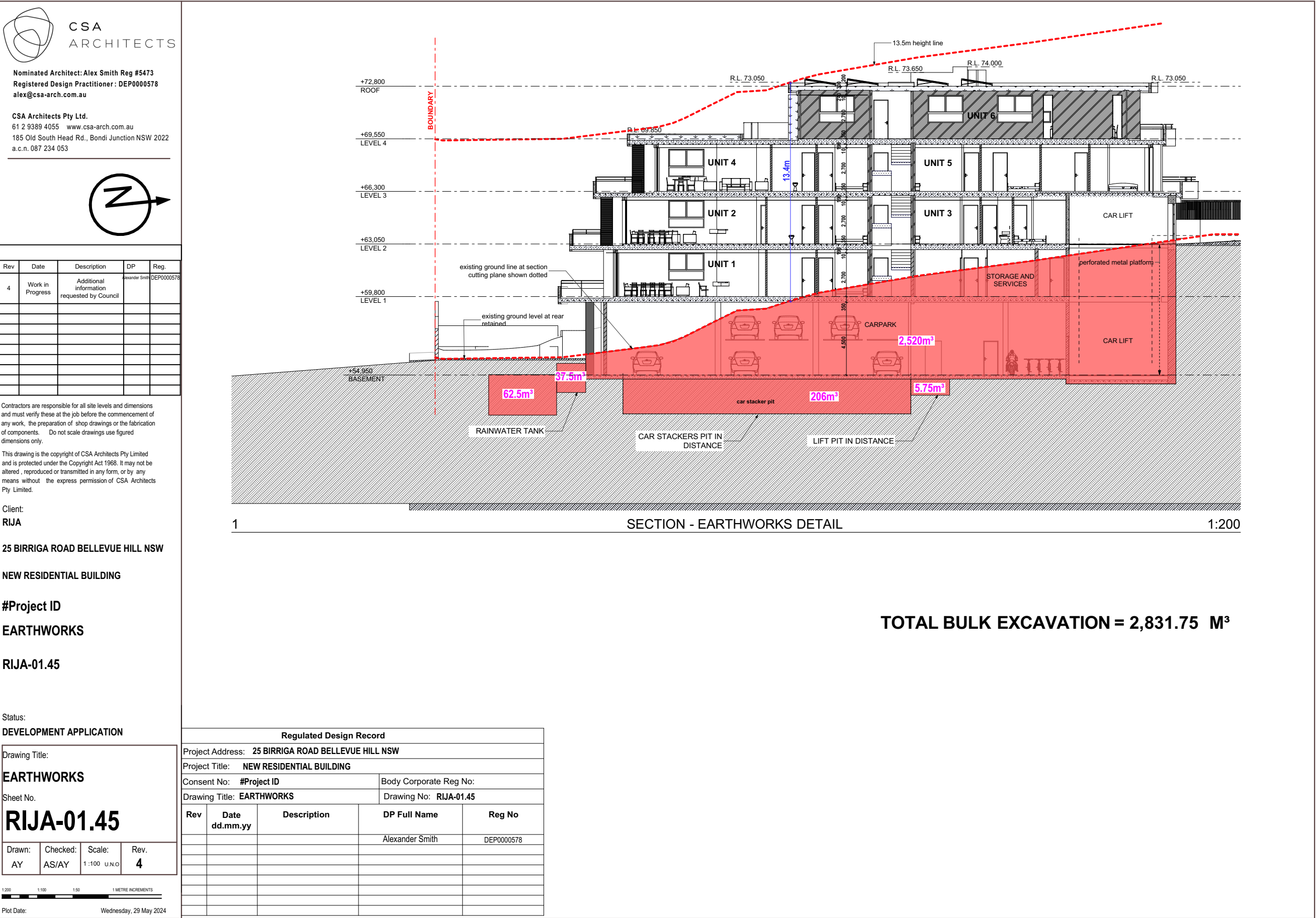
Regulated Design Record


SECTION B-B

1:100

2

Section B-B Perspective





CSA

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Nominated Architect: Alex Smith Reg #5473

Registered Design Practitioner: DEP0000578

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Rev	Date	Description	DP	Reg.
2	9/11/2022	Additional information requested by Council	Alexander Smith	DEP0000578
3	26/10/2023	Additional information requested by Council		

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

CAR STACKER / CAR LIFT

RIJA-01.35

Status:
DEVELOPMENT APPLICATION

Drawing Title:
CAR STACKER / CAR LIFT

Sheet No.
RIJA-01.35

Drawn:	Checked:	Scale:	Rev.
AY	AS/AY	1:100 U.N.O.	3

1:200

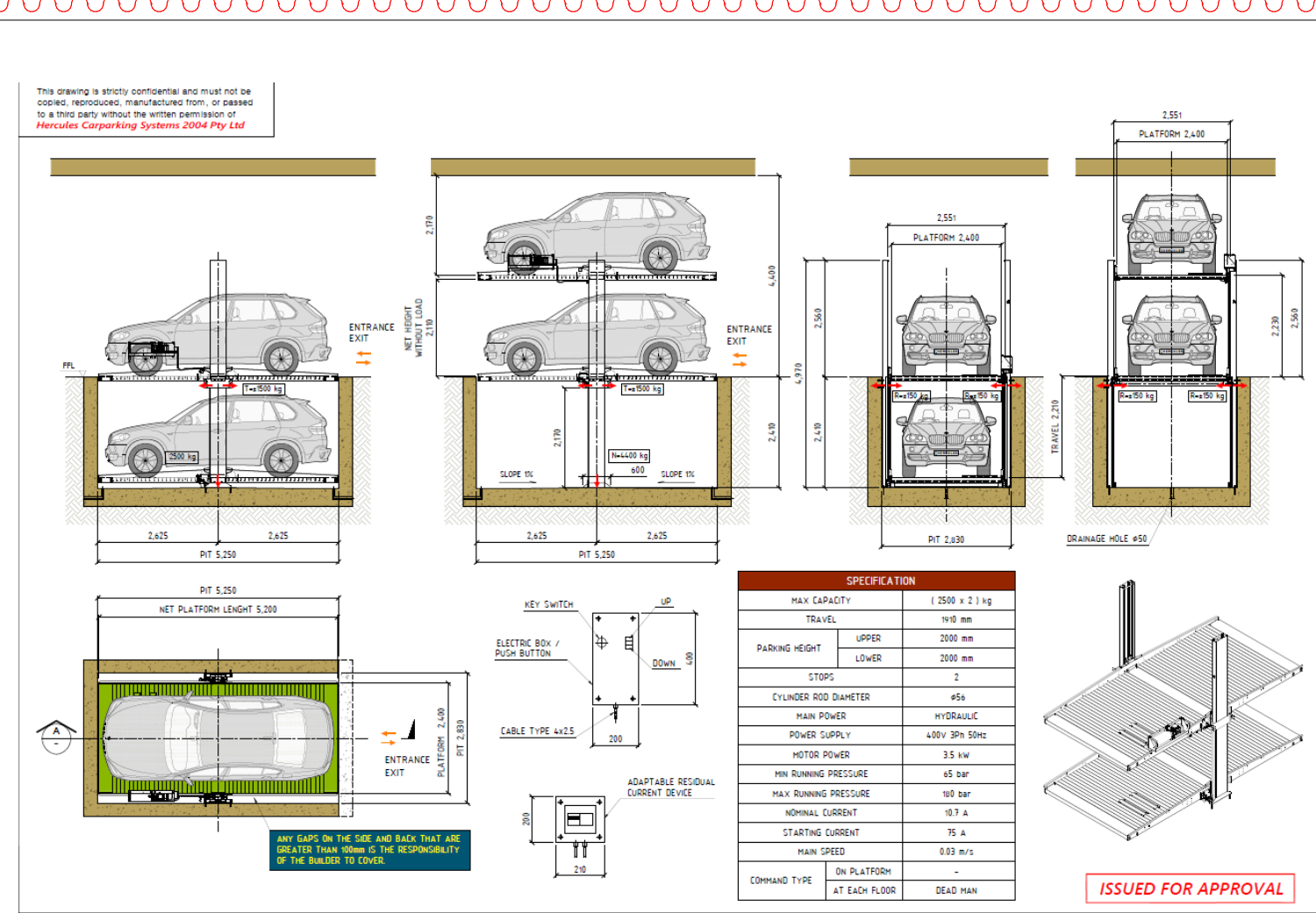
1:100

1:50

1 METRE INCREMENTS

Plot Date: Thursday, 26 October 2023

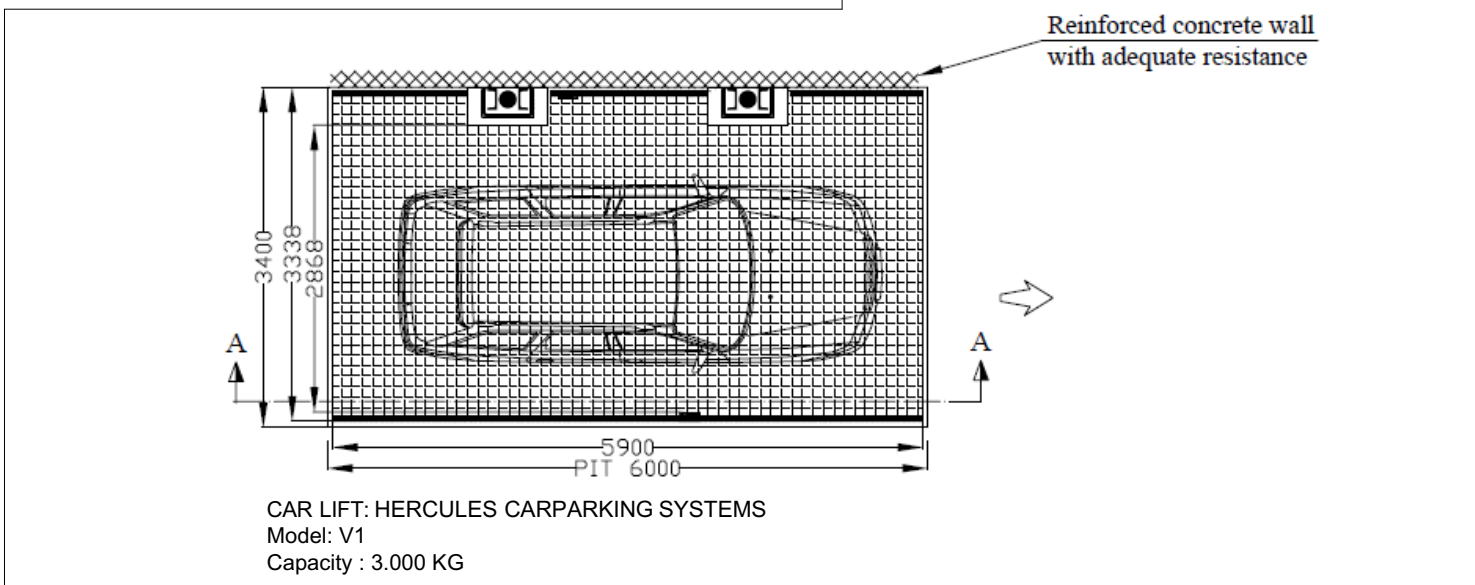
This drawing is strictly confidential and must not be copied, reproduced, manufactured from, or passed to a third party without the written permission of **Hercules Carparking Systems 2004 Pty Ltd**



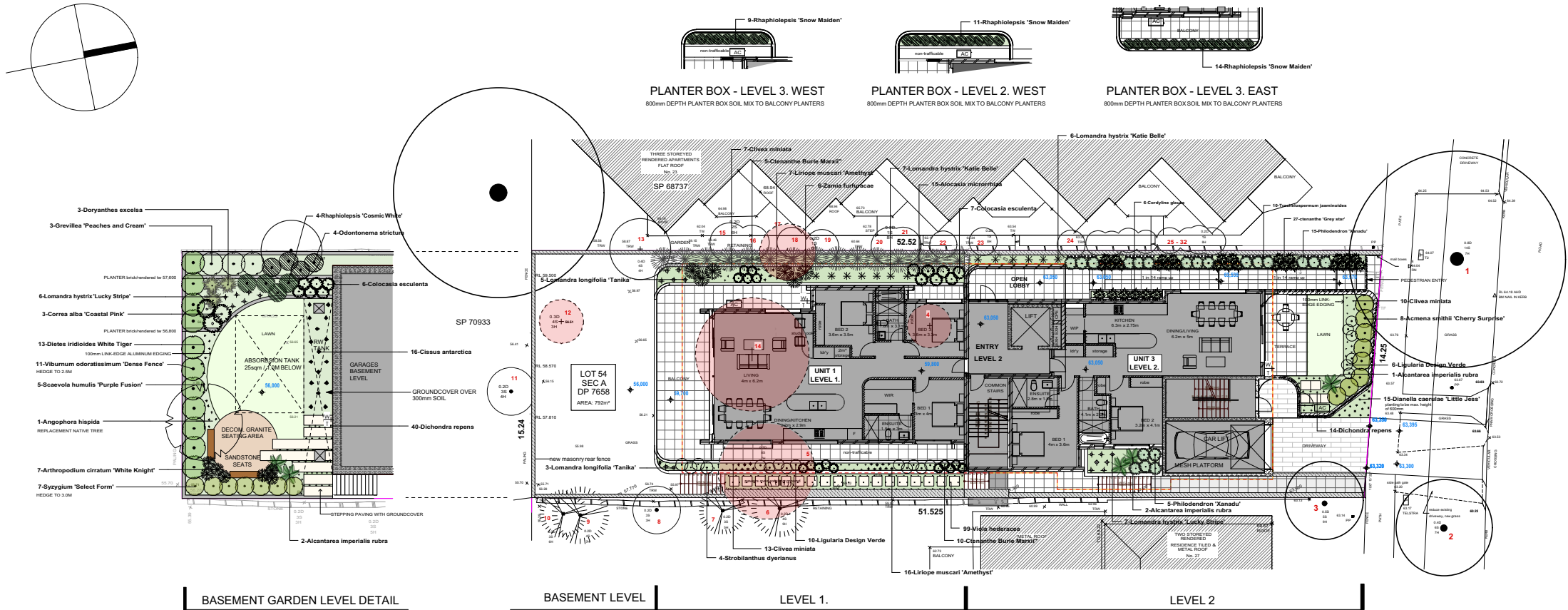
SPECIFICATION	
MAX CAPACITY	(2500 x 2) kg
TRAVEL	1910 mm
PARKING HEIGHT	UPPER 2000 mm
	LOWER 2000 mm
STOPS	2
CYLINDER ROD DIAMETER	#56
MAIN POWER	HYDRAULIC
POWER SUPPLY	400V 3Ph 50Hz
MOTOR POWER	3.5 kW
MIN RUNNING PRESSURE	65 bar
MAX RUNNING PRESSURE	180 bar
NOMINAL CURRENT	10.7 A
STARTING CURRENT	75 A
MAIN SPEED	0.03 m/s
COMMAND TYPE	ON PLATFORM -
	AT EACH FLOOR DEAD MAN

ISSUED FOR APPROVAL

CAR STACKERS: 6 x single wide stackers
HERCULES CARPARKING SYSTEMS



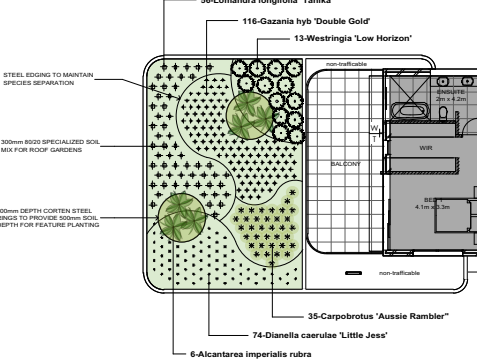
CAR LIFT: HERCULES CARPARKING SYSTEMS
Model: V1
Capacity : 3.000 KG



- LANDSCAPE NOTES:**
- GENERAL**
1. The Landscape drawings have been based on the survey and building layout information as supplied by CSA Architects.
 2. Landscape plans are to be read in conjunction with all architectural and other project consultant's drawings and specifications and with such other written instructions as may be issued during the course of the contract.
 3. Any discrepancies between landscape/architectural or other project consultant's drawings shall be reported to the landscape designer prior to any works being carried out.
 4. All works are to be carried out in accordance with drawing notation and/or written specifications where applicable.
 5. Works and supply of materials not covered by drawing notation or written specification are to be carried out in accordance with AS Codes, LGA guidelines and the Building Code of Australia of the relevant Building Authority and/or manufacturer's recommendations as applicable.
 6. All dimensions and locations of works are to be checked on site and confirmed by the landscape/building site supervisor prior to the commencement of any work.
 7. Dimensions that are not obtained by scaling from structural drawings. Dimensions are indicated in millimetres unless otherwise specified.
 8. The contractor shall at all times implement adequate erosion and sediment control measures where applicable.
 9. The position of services indicated on drawings (when applicable), are approximate and must be confirmed on site prior to the commencement of any site works.
 10. DA drawings may be subject to future detail landscape specification.
- SITE PREPARATION**
- All existing trees and/or vegetation to be retained, is to be preserved and protected from any damage occurring during the execution of landscape works. The root systems of existing retained plants are not to be disturbed. Landscape operations carried out within the root zone is to be carefully carried out using hand tools. Storage of materials, mixing of materials, vehicular parking, disposal of building materials and landscaping shall not be carried out within 3m of the decline of these trees/vegetation.
- SOIL PREPARATION**
- All proposed planting areas are to be deep ripped to a depth of 300mm and clay soils are to be treated with a clay breaker. 75mm depth of AHA Organic Garden Mix to be imported and combined with 25mm depth Greenleaf Compost or approved equivalent.
- NEW PLANTING**
- All plants shall be true to type and size, of healthy growth, disease free nursery stock, and not displaying any restricted growth or damage. Plants shall have been hardened off and suitable for planting in the climatic conditions prevailing at the site. Trees shall be of uniform appearance and have a single leading trunk and proportionate and balanced crown. The contractor shall be responsible for the health of plants from time of delivery, and no consideration will be given to any claim arising from the Contractor neglect or failure to observe any defects in the plants at time of delivery. Remove plant from container without disturbing the root ball and place centrally and plant in the hole with the top of the root ball level with the surrounding surface level. Backfill root ball with an Organic garden soil mix, lightly tamp and water thoroughly to eliminate air pockets. Refer to New Planting Detail when applicable. Ensure soil mix is not placed over the top of the root ball and that the plant stem remains the same height above the ground as it was in the container. Soil mix for backfilling of plants shall conform to AS4458:1995.
- MULCHING**
- On completion of planting, all areas are to be mulched using Green Leaf Compost to a depth of 75mm. A water catchment dish is to be provided around the base of each plant.
- FERTILISER**
- All newly planted areas are to be fertilised with an organic, slow release fertiliser Comacote 8-8 monthly / Agiform (8-11g/l) which is to be applied weekly watered in.
- LAWN**
- Turf is to be laid on 75mm soil compost mix/Turf underlay over 200mm deep sleepy head prepared and levelled area. Turf shall be of even thickness, free from weed and other foreign matter and laid within 36 hours of cutting. Turf shall be laid in a stretcher bond pattern, tightly jointed and finished with with adjacent adjoining surfaces after tamping down. Water immediately after laying, ensuring topsoil is watered to full depth. Contractor is to provide adequate drainage facility under lawn where applicable. Lawn species: Ruf.
- IRRIGATION**
- An automated irrigation system is to be selected and installed to access all lawn and garden areas. The contractor is to liaise with the client as to the level of automation required. The system is to comply with the latest Council, Water Board and Australian standards applicable at the time of installation.
- DRAINAGE**
- subsoil drainage**
- Where applicable, a flexible 90mm subsoil, socked, drainage coil is to be installed to all planting areas defined by retaining walls, interfaces between planting/lawn areas and paving, kerb lines, footpath edges etc. on natural ground. The subsoil drainage lines are to be installed and covered with free draining gravel of the base of retaining walls and planting areas, as above, and sufficient buried to ensure they are covered with 150mm free draining gravel and 150mm lapsoil. The gravel is to be covered with 3-4 oz non-woven filter fabric.
- surface drainage**
- The contractor is to ensure adequate drainage is provided to all newly paved/surface areas, linking either to existing drainage sump pits or to new pits constructed by the contractor. The Subsoil and Surface drainage system is to be linked to the site's storm water system.
- MAINTENANCE**
- The landscape contractor shall maintain the landscape area for a period of 12 weeks from the date of practical completion. Works shall include weeding, pruning, checking watering systems, fertilising, removal of rubbish and the control of pests and diseases to the plants as they arise. During the maintenance period, any plants deemed to have failed shall be replaced progressively and not all at once upon the completion of the maintenance period.

REF: ARBORICULTURAL IMPACT REPORT
ROSS JACKSON ARBORIST
30th May 2022

Trees to be removed											
Tree No	Botanical Name	Age Class	Height (m)	Spread (m)	D.B.H. (cm)	D.R.B. (cm)	TPZ (radius m)	SRZ (radius m)	Condition comments as seen on site	ULE	Landscape significance
1	Lophosieton confertus	M	11	12	75	85	9.0	3.1	G vitality, ST, topped @ 4m	1	High
2	Lophosieton confertus	M	11	7	40	45	4.8	2.4	G vitality, ST, topped @ 4m	1	High
3	Chrysanthemum 'Dense Fence'	M	8	6	50	55	6.0	2.6	G vitality, ND, 3m over site	2	Medium
4	Picea rubiginosa	M	3	3	5 x 10	20	2.7	1.7	F vitality, topped. Exempt species	4	Low
5	Picea rubiginosa	M	8	6	100	110	12.0	3.4	G vitality, growing on top of dead tree stump	2	Medium
6	Syzygium romanosoffiana	M	8	4	-	-	3.0	1.5	G vitality, ND	2	Medium
7	Syzygium romanosoffiana	M	7	4	-	-	3.0	1.5	G vitality, ND	2	Medium
8	Ligustrum lucidum	M	6	5	15	20	2.0	1.7	G vitality, ND (Exempt species)	4	Low
9	Archontophoenix cunninghamiana	M	7	3	-	-	2.5	1.5	G vitality, ND	2	Medium
10	Archontophoenix cunninghamiana	M	5	3	-	-	2.5	1.5	G vitality, ND	2	Medium
11	Elaeocarpus reticulatus	M	6	3	15	20	2.0	1.7	G vitality, ND	2	Medium
12	Cinnamomum camphora	M	4	1	10	15	2.0	1.5	G vitality, Exempt species	4	Low
13	Marrubium paniculata	M	7	8	3 x 15	35	3.1	2.1	G vitality, ND, 3m over site	2	Medium
14	Ceratopetalum gumifolium	M	7	7	2 x 10	50	2.9	2.5	G vitality, all canopy ED = poor form	4	Low
15	Cyprinus sempervirens	M	5	2	20	25	2.4	1.8	G vitality, ND	2	Medium
16	Cyprinus sempervirens	M	8	2	20	25	2.4	1.8	G vitality, ND	2	Medium
17	Ligustrum lucidum	M	8	6	20	25	2.4	1.8	G vitality, ND (Exempt species)	4	Low
18-32	Cyprinus sempervirens	M	9	2	20	25	2.4	1.8	G vitality, concrete wall along boundary ND	2	Medium



LANDSCAPE PLAN 1:100

PLANT SCHEDULE				
Botanical Name	Common Name	No.	H	W
Alcornoque 'Katie Belle'	Maui Palm	15	1500	1500
Alcornoque 'Katie Belle'	Maui Palm	13	3000	2400
Alcornoque 'Katie Belle'	Maui Palm	11	3000	4800
Philodendron 'Xanadu'	Philodendron	20	1600	1600
Lomandra hystrix 'Lucky Stripe'	Lomandra var.	13	1600	1600
Viola hederacea	Australian Native Violet	99	100	300
Colocasia esculenta	Taro	13	1600	1600
Syzygium Select Form	Lillypilly sp.	7	8000	1200
Viburnum odoratissimum 'Dense Fence'	Leucadendron	11	1600	1600
Cissampelos grandifolia	Kingscote Vine	16	5000	1000
Grevillea 'Peaches and Cream'	Grevillea var.	3	2000	1500
Odontonia stricta	Freewillie	4	1200	1200
Doryanthes excelsa	Gymea Lily	3	1800	1200
Correa alba 'Coastal Pink'	Correa var.	3	1200	1200
Dieris idiolepis 'White Tiger'	Variegated Wild Iris	13	800	400
Scabiosa humilis 'Purple Fusion'	Blue Fan Flower	5	200	750
Acmena smithii 'Cherry Surprise'	Small-leaved Lillypilly	8	3000	1200
Dianella caerulea 'Little Jess'	Flax Lily small	89	700	700
Angophora hispida	Dwarf Apple	1	7000	5000
Archontophoenix 'White Knight'	Archontophoenix	7	800	800
Banksia laurifolia	Carobwood Palm	4	1600	1000
Ligustrum lucidum 'Amethyst'	Ligustrum var.	23	800	400
Clematis 'Belle Maree'	Clematis	15	800	1200
Cleome minima	Cleome	30	1500	1500
Ligularia Design Verde	Ligularia var.	16	1400	1400
Penstemon shield	Penstemon	4	500	800
Rhododendron 'Snow Maiden'	Indian Hawthorn	34	3000	2100
Lomandra longifolia 'Tanika'	Spruce-leaved mist nuth	44	2400	2400
Diachandra repens	Kidney weed	54	100	1000
Trochilodactylus jasmoides	Star Jasmine	10	3000	500
Cordylifera glauca	New Zealand Cabbage Tree	6	1500	800
Clematis 'Grey star'	Clematis	27	1000	750
Rhododendron 'Cosmic White'	Indian Hawthorn	4	1200	1200
Corobochia 'Aussie Rambler'	Pyrola	35	800	400
Gazania 'Double Gold'	Yellow Gazania	114	250	300
Westringia 'Low Horizon'	Coastal Rosemary	13	300	750

- LEGEND**
- EXISTING TREES RETAINED AND PROTECTED AS PER ARBORIST REPORT
 - EXISTING TREES TO BE REMOVED
 - PROPOSED TREES
 - PLANTING AREAS (DEEP SOIL)
 - LAWN AREAS (DEEP SOIL)
 - DECOMPOSED GRANITE SURFACE
 - PAVING/SLABS/TILES
 - TIMBER DECKING
 - STEPPING PADS WITH GROUNDCOVER (DEEP SOIL)
 - EXISTING SITE LEVELS
 - PROPOSED LEVELS
 - WATER TAP

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25 BIRRIKA ROAD


Client: RJA Pty Ltd
Project: New Residential Building
25 Birrika Road
Bellevue Hill, NSW 2023

LANDSCAPE PLAN

MICHAEL ZINN
landscape designer
INDUSTRIAL A/10/1
12/41 ocean street
Bondi, NSW 2026
mob: 0410 229285

Drawing Name
LANDSCAPE PLAN
Development Application

scale	date	check	dwg no.
1:100	28 Aug. 2022	mdz	DA 01
@A0			



CSA

ARCHITECTS

Nominated Architect: Alex Smith Reg #5473

Registered Design Practitioner : DEP0000578

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185 Old South Head Rd., Bondi Junction NSW 2022

a.c.n. 087 234 053

Rev	Date	Description	DP	Reg.
1	16/09/2022	Development Application Issue	Alexander Smith	DEP0000578
3	26/10/2023	Additional information requested by Council		
4	29/05/2024	Additional information requested by Council		

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

BUILDABLE AREA

RIJA-01.15

Status:

DEVELOPMENT APPLICATION

Drawing Title:

BUILDABLE AREA

Sheet No.

RIJA-01.15

Drawn:

Checked:

Scale:

Rev.

AY

AS/AY

1:100 U.N.O

4

1:200

1:100

1:50

1 METRE INCREMENTS

Plot Date:

Wednesday, 29 May 2024

B3.2.2 Front setback

Front setbacks establish the position of buildings in relation to the street boundary. They create the spatial proportions of the street and can contribute to the streetscape character by providing consistency.

Buildings and plantings on private land form essential parts of the streetscape. Front setbacks should be used to enhance the setting for the building, providing landscaped areas and access to the building.

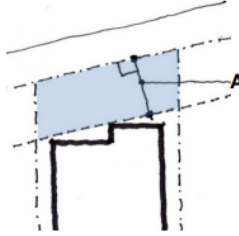


FIGURE 2

Front setback measurement

Example


A = Front setback measured at 90° to the front boundary

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 (refer to Figure 3).

FRONT SETBACK

5.9+7.7+6.8+5.5=25.9/4=6.47m

Established front setback=6.724m



C2 The minimum side setback for residential flat buildings, manor houses, multi dwelling housing, multi dwelling housing (terraces) and attached dwellings is determined by the table in Figure 5B.

SIDE SETBACK

Site width =15.272m

Side setback =1.5m

FIGURE 5B

Side setback table for Residential flat buildings, manor houses, multi dwelling housing, multi dwelling housing (terraces) and attached dwellings, and any other land use not addressed in controls C1 to C2 of Section 3.2.3 Side setbacks

A. Site width measured along front setback line in metres	B. Side setback in metres
<18.0	1.5
18.0 - < 21.0	2.0
21.0 - < 28.0	2.5
28.0 - < 35.0	3.0
35.0 +	3.5

C1 The rear 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 (refer to Figure 3).

FRONT SETBACK

5.9+7.7+6.8+5.5=25.9/4=6.47m

Established front setback=6.724m

C3 For development in the R3 Medium Density Residential Zone where an FSR applies, the building depth is 60 % of the site depth.

REAR SETBACK

R1 =52.5-31.5-6.47=14.5m

R2 =51.5-30.9-6.47=14.1m

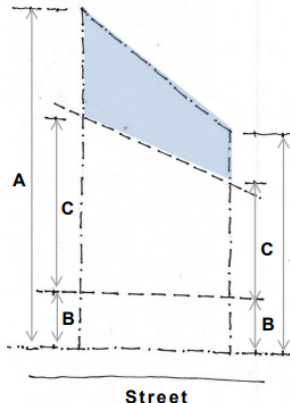


FIGURE 6

Formula for determining the rear setback

Rear setback = A – C – B


A = Site depth

B = Front setback

C = Building depth (A x % for A on the building depth sliding scale)

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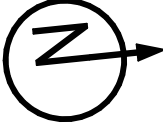
Page 156



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ARCHITECTS

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

AREA CALCULATIONS p.3

RIJA-01.28

Status:
DEVELOPMENT APPLICATION

Drawing Title:
AREA CALCULATIONS p.3

Sheet No.
RIJA-01.28

Drawn: AY

Checked: AS/AY

Scale: 1:100 U.N.O.

Rev. 3

1:200

1:100

1:50

1 METRE INCREMENTS

Plot Date: Thursday, 26 October 2023

Objective 4E-1

Apartments provide appropriately sized private open space and balconies to enhance residential amenity

Design criteria

1. All apartments are required to have primary balconies as follows:

Dwelling type	Minimum area	Minimum depth
Studio apartments	4m ²	-
1 bedroom apartments	8m ²	2m
2 bedroom apartments	10m ²	2m
3+ bedroom apartments	12m ²	2.4m

The minimum balcony depth to be counted as contributing to the balcony area is 1m

2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m

Objective 4G-1

Adequate, well designed storage is provided in each apartment

Design criteria

1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

Dwelling type	Storage size volume
Studio apartments	4m ³
1 bedroom apartments	6m ³
2 bedroom apartments	8m ³
3+ bedroom apartments	10m ³

At least 50% of the required storage is to be located within the apartment

5

3. DEEP SOIL LANDSCAPE 119.7 / 792m² = 15.1%

1:300

4

5. POS / STORAGE LEVEL 4

1:300

3

4. POS / STORAGE LEVEL 3

1:300

2

3. POS / STORAGE LEVEL 2

1:300

1

2. POS / STORAGE LEVEL 1

1:300

Attachment 1 Plans, elevations and shadow diagrams

Page 157

CSA

ARCHITECTS

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Registered Design Practitioner : DEP0000578

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

SHADOW DIAGRAMS p.1

RIJA-01.21

Status:
DEVELOPMENT APPLICATION

Drawing Title:
SHADOW DIAGRAMS p.1

Sheet No.
RIJA-01.21


Drawn:	Checked:	Scale:	Rev.
AY	AS/AY	1:100 U.N.O	1

1:200 1:100 1:50 1 METRE INCREMENTS

Plot Date: Friday, 16 September 2022

ADDITIONAL SHADOW DUE TO PROPOSED DEVELOPMENT

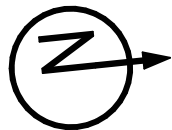
Regulated Design Record				
Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW				
Project Title: NEW RESIDENTIAL BUILDING				
Consent No: #Project ID			Body Corporate Reg No:	
Drawing Title: SHADOW DIAGRAMS p.1			Drawing No: RIJA-01.21	
Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578



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1	16/09/2022	Development Application Issue	Alexander Smith	DEP0000578

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

SHADOW DIAGRAMS p.2

RIJA-01.22

Status:
DEVELOPMENT APPLICATION

Drawing Title:
SHADOW DIAGRAMS p.2

Sheet No.
RIJA-01.22

Drawn: AY

Checked: AS/AY

Scale: 1:100 U.N.O

Rev. 1

1:200 1:100 1:50 1 METRE INCREMENTS

Plot Date: Friday, 16 September 2022

Regulated Design Record

Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW

Project Title: NEW RESIDENTIAL BUILDING

Consent No: #Project ID

Body Corporate Reg No:

Drawing Title: SHADOW DIAGRAMS p.2

Drawing No: RIJA-01.22

Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

1

Existing 21st June 12:00pm

1:400

2

Proposed 21st June 12:00pm


1:400

ADDITIONAL SHADOW DUE TO PROPOSED DEVELOPMENT

Attachment 1 Plans, elevations and shadow diagrams

Page 159

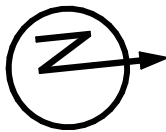




CSA
ARCHITECTS

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alex@csa-arch.com.au

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a.c.n. 087 234 053



Rev	Date	Description	DP	Reg.
1	16/09/2022	Development Application Issue	Alexander Smith	DEP0000578

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

IEWS FROM THE SUN p.1

RIJA-01.24

Status:
DEVELOPMENT APPLICATION

Drawing Title:
IEWS FROM THE SUN p.1

Sheet No.
RIJA-01.24

Drawn: AY

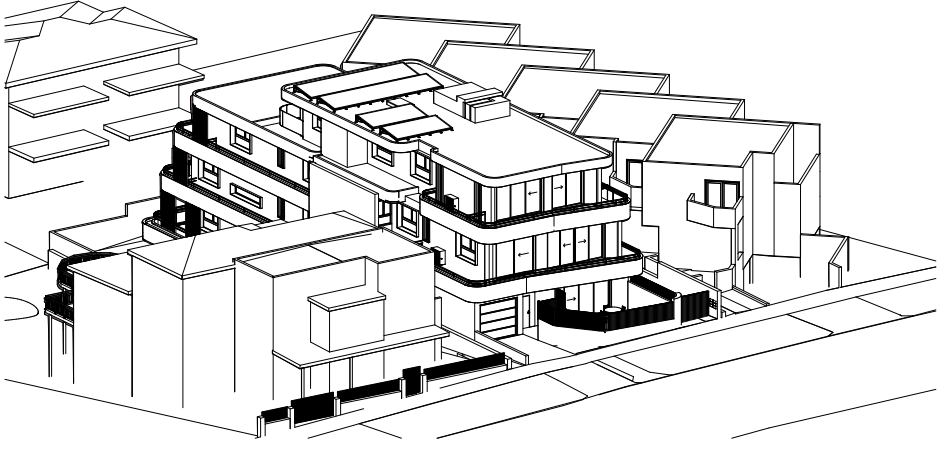
Checked: AS/AY

Scale: 1:100 U.N.O

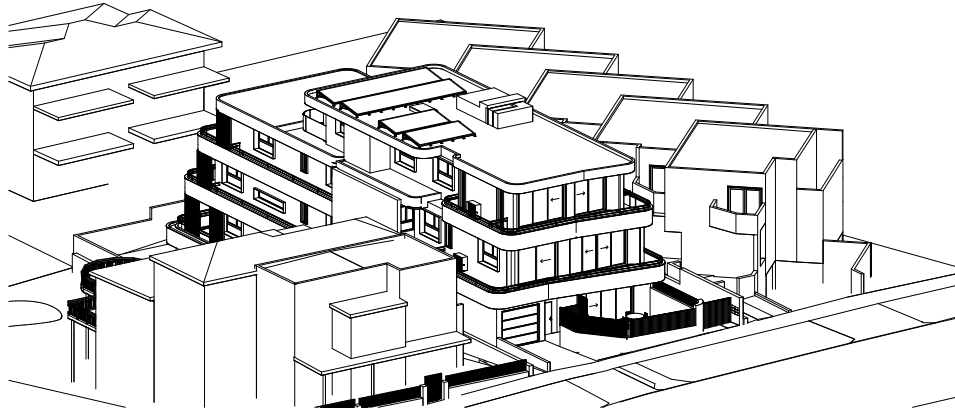
Rev. 1

1:200 1:100 1:50 1 METRE INCREMENTS

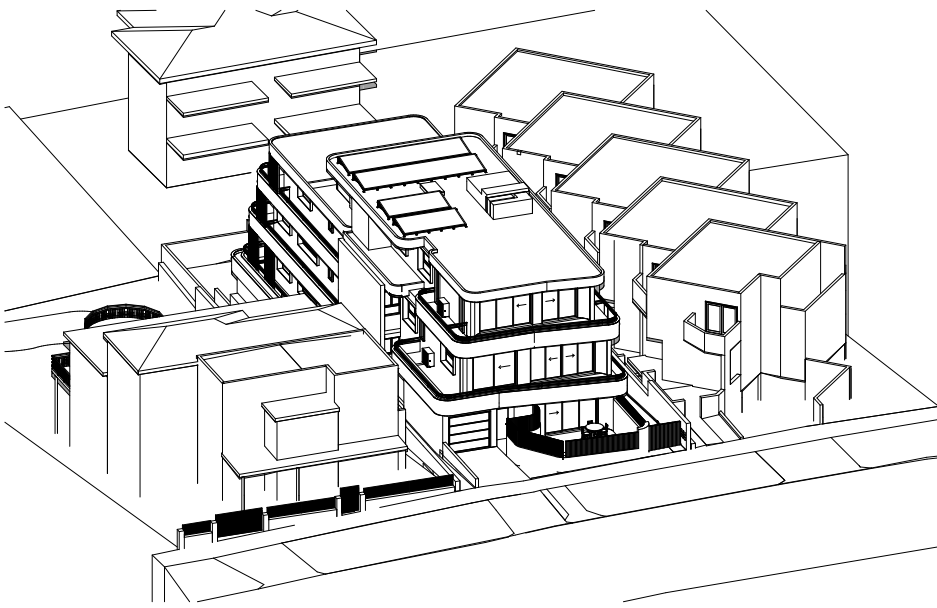
Plot Date: Friday, 16 September 2022



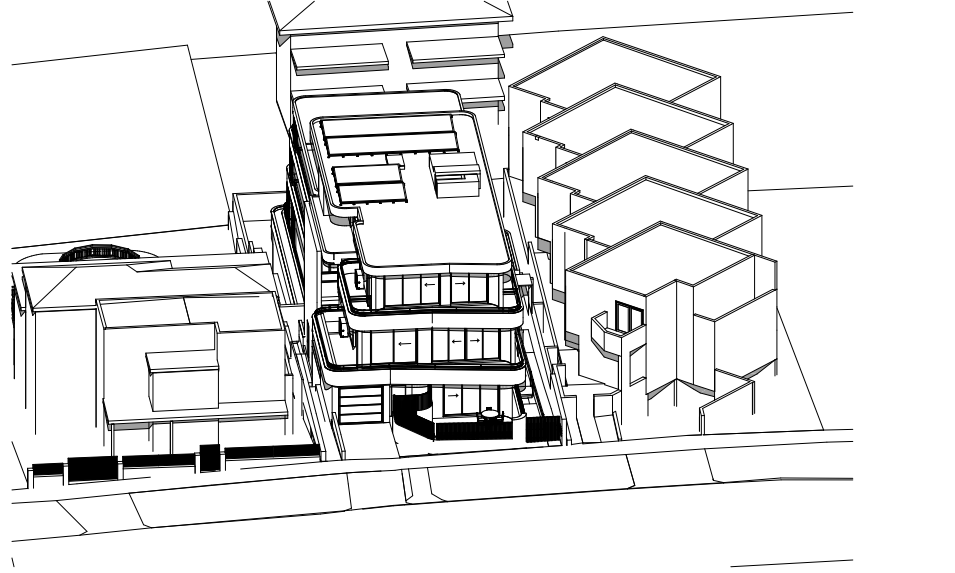
1view from 9:00am1:400



2view from 10:00am1:400



3view from 11:00am1:400




4view from 12:00pm1:400

Regulated Design Record				
Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW				
Project Title: NEW RESIDENTIAL BUILDING				
Consent No: #Project ID			Body Corporate Reg No:	
Drawing Title: VIEWS FROM THE SUN p.1			Drawing No: RIJA-01.24	
Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

Attachment 1 Plans, elevations and shadow diagrams

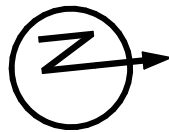
Page 161



CSA
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Rev	Date	Description	DP	Reg.
1	16/09/2022	Development Application Issue	Alexander Smith	DEP0000578

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

VIEWS FROM THE SUN p.2

RIJA-01.25

Status:
DEVELOPMENT APPLICATION

Drawing Title:
VIEWS FROM THE SUN p.2

Sheet No.
RIJA-01.25

Drawn: AY

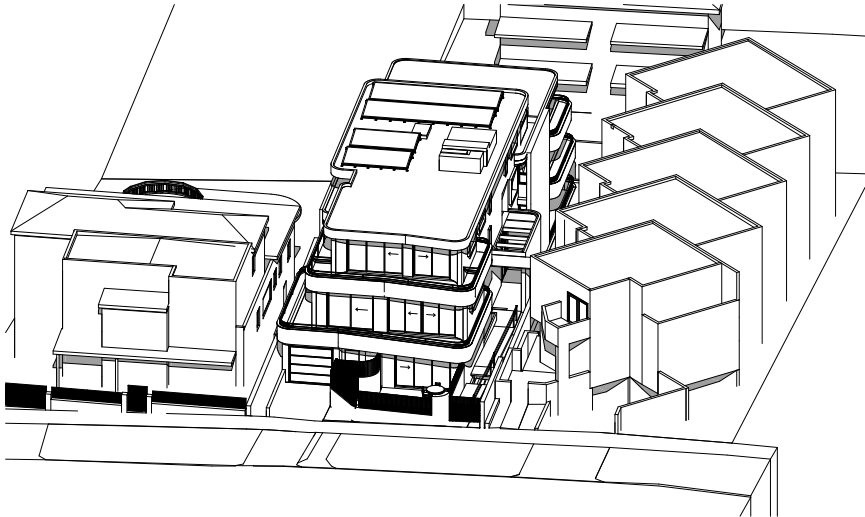
Checked: AS/AY

Scale: 1:100 U.N.O

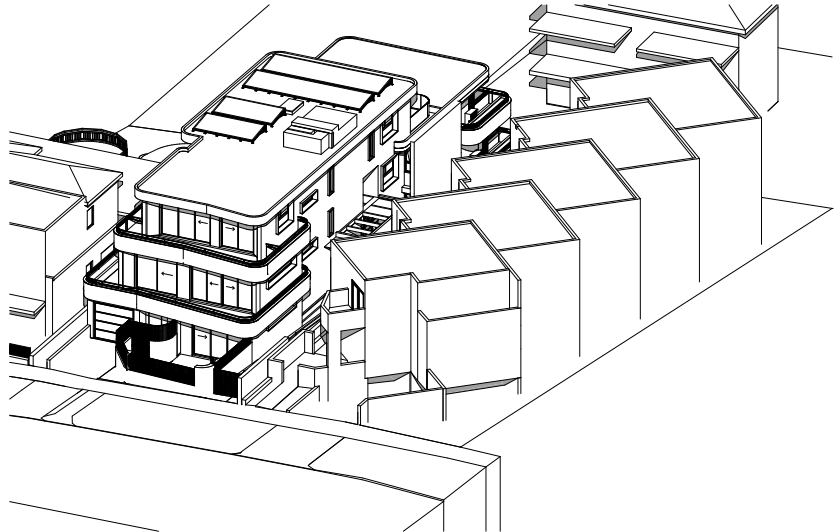
Rev. 1

1:200 1:100 1:50 1 METRE INCREMENTS

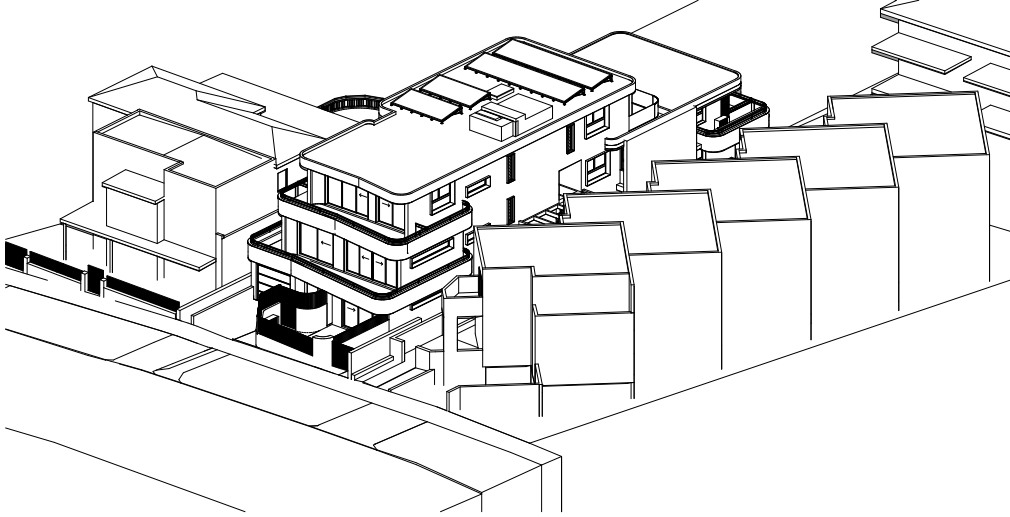
Plot Date: Friday, 16 September 2022



1 view from 1:00pm 1:400



2 view from 2:00pm 1:400



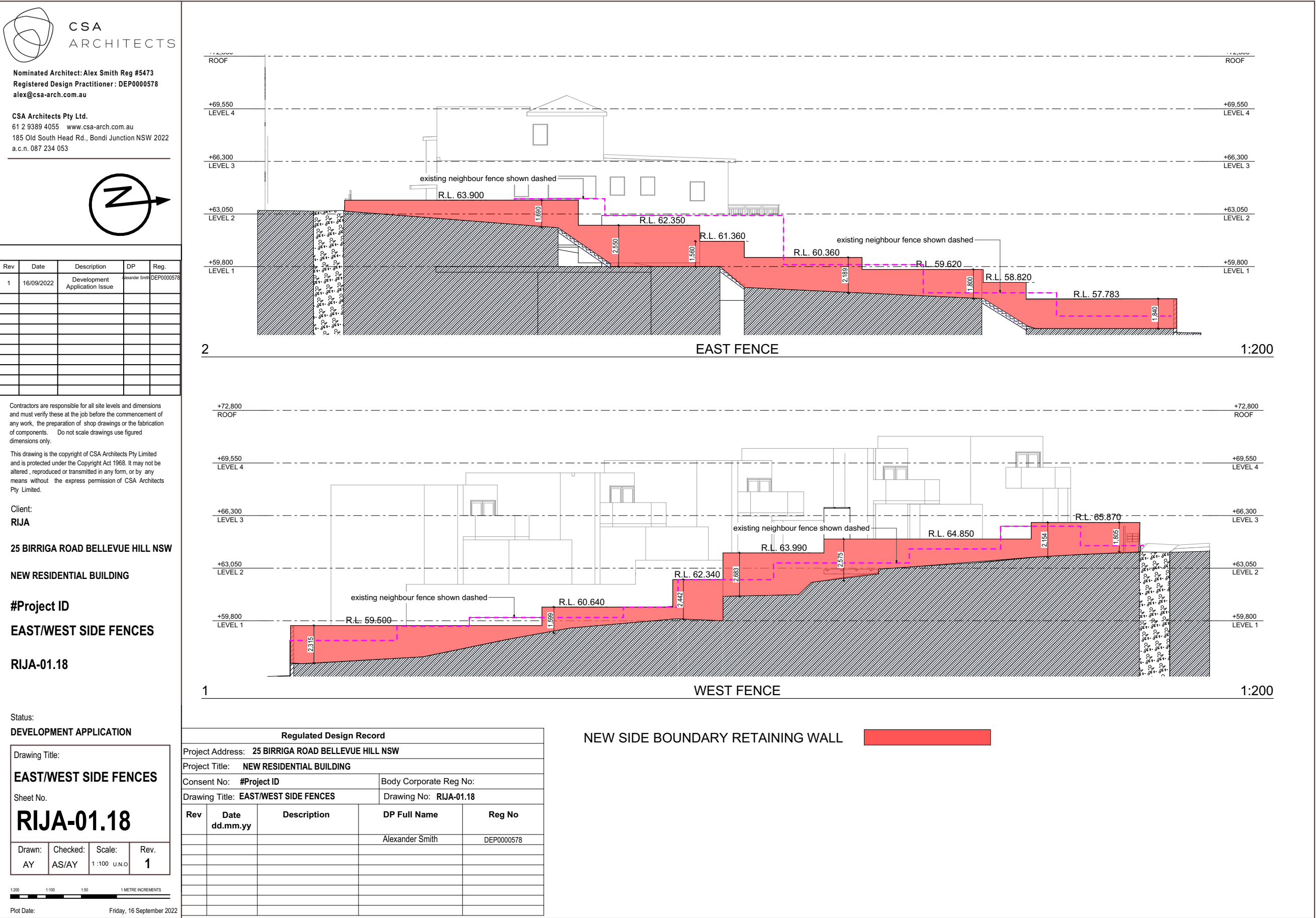
3 view from 3:00pm 1:400

Time	9am	10am	11am	Noon	1pm	2pm	3pm		Jun-21	
Unit									Direct sunlight	2 hours
1	Y	Y	Y	N	N	N	N		Y	Y
2	Y	Y	Y	N	N	N	N		Y	Y
3	Y	Y	Y	Y	Y	Y	Y		Y	Y
4	Y	Y	Y	N	N	N	Y		Y	Y
5	Y	Y	Y	Y	Y	Y	Y		Y	Y
6	Y	Y	Y	Y	Y	Y	Y		Y	Y
Proposed									100% (6/6)	100% (6/6)
Required									85%	70%

Attachment 1 Plans, elevations and shadow diagrams

Page 162

Page 164





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Rev	Date	Description	DP	Reg.
1	16/09/2022	Development Application Issue	Alexander Smith	DEP0000578

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

3D VIEWS

RIJA-01.19

Status:
DEVELOPMENT APPLICATION

Drawing Title:
3D VIEWS

Sheet No.
RIJA-01.19


Drawn:	Checked:	Scale:	Rev.
AY	AS/AY	1:100 U.N.O	1

1:200 1:100 1:50 1 METRE INCREMENTS

Plot Date: Friday, 16 September 2022



1VIEW 1



2AERIAL VIEW

Regulated Design Record				
Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW				
Project Title: NEW RESIDENTIAL BUILDING				
Consent No: #Project ID			Body Corporate Reg No:	
Drawing Title: 3D VIEWS			Drawing No: RIJA-01.19	
Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

Attachment 1 Plans, elevations and shadow diagrams

Page 166



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Rev	Date	Description	DP	Reg.
3	26/10/2023	Additional information requested by Council	Alexander Smith	DEP0000578
4	Work in Progress	Additional information requested by Council		

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Client:
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25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

UNITS 1,2,4 - SUN INGRESS

RIJA-01.36

Status:
DEVELOPMENT APPLICATION

Drawing Title:
UNITS 1,2,4 - SUN INGRESS

Sheet No.
RIJA-01.36

Drawn:	Checked:	Scale:	Rev.
AY	AS/AY	1:100 U.N.O	4

1:2001:1001:501 METRE INCREMENTS

Plot Date:Wednesday, 29 May 2024



1South Units 9.30am 21 June



2South Units 10.00am 21 June

1m² of direct sunlight is provided to living rooms and private open spaces of all units for a minimum of 15 minutes.




3South Units 10.30am 21 June

Regulated Design Record				
Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW				
Project Title: NEW RESIDENTIAL BUILDING				
Consent No: #Project ID			Body Corporate Reg No:	
Drawing Title: UNITS 1,2,4 - SUN INGRESS			Drawing No: RIJA-01.36	
Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

Attachment 1 Plans, elevations and shadow diagrams

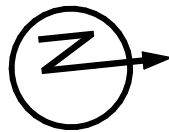
Page 167



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Rev	Date	Description	DP	Reg.
3	26/10/2023	Additional information requested by Council	Alexander Smith	DEP0000578
4	Work in Progress	Additional information requested by Council		

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

Shadows No.23 sheet 1

RIJA-01.37

Status:
DEVELOPMENT APPLICATION

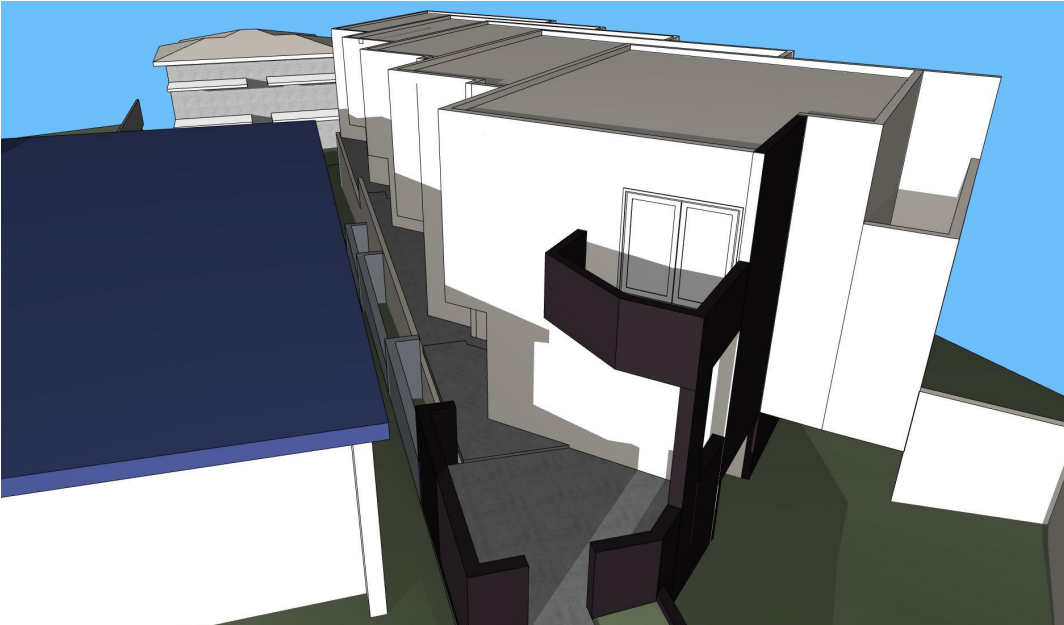
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Shadows No.23 sheet 1

Sheet No.
RIJA-01.37

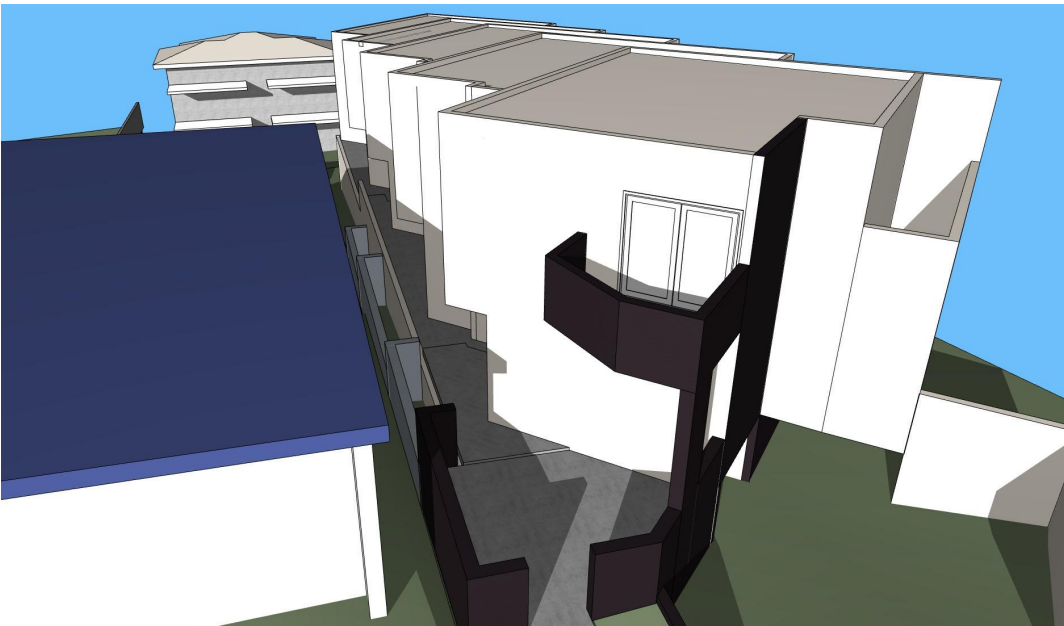
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AY	AS/AY	1:100 U.N.O	4

1:200 1:100 1:50 1 METRE INCREMENTS

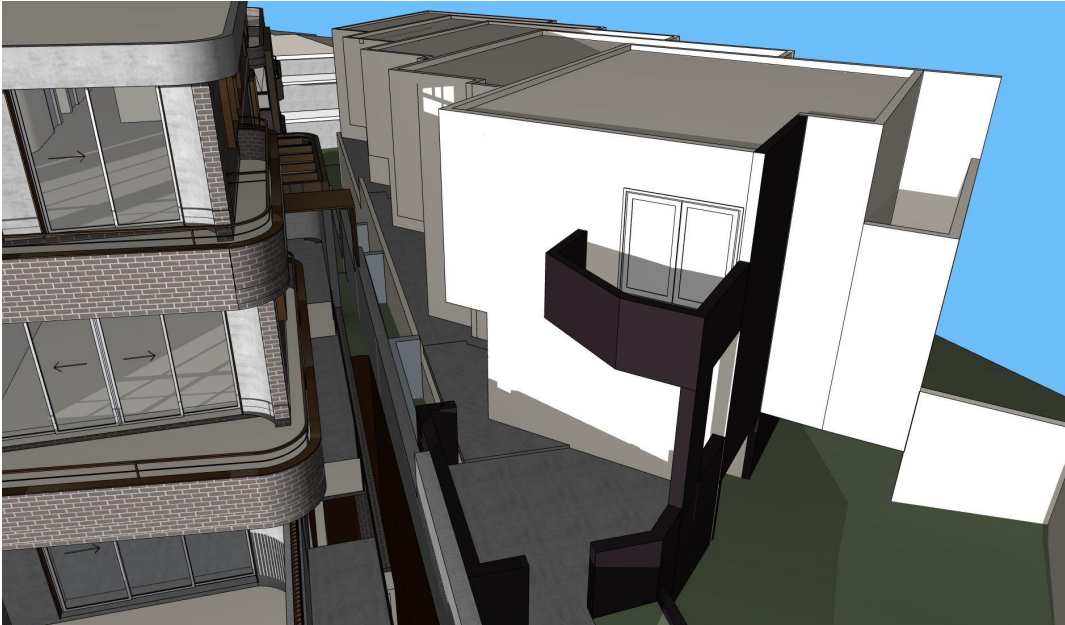
Plot Date: Wednesday, 29 May 2024



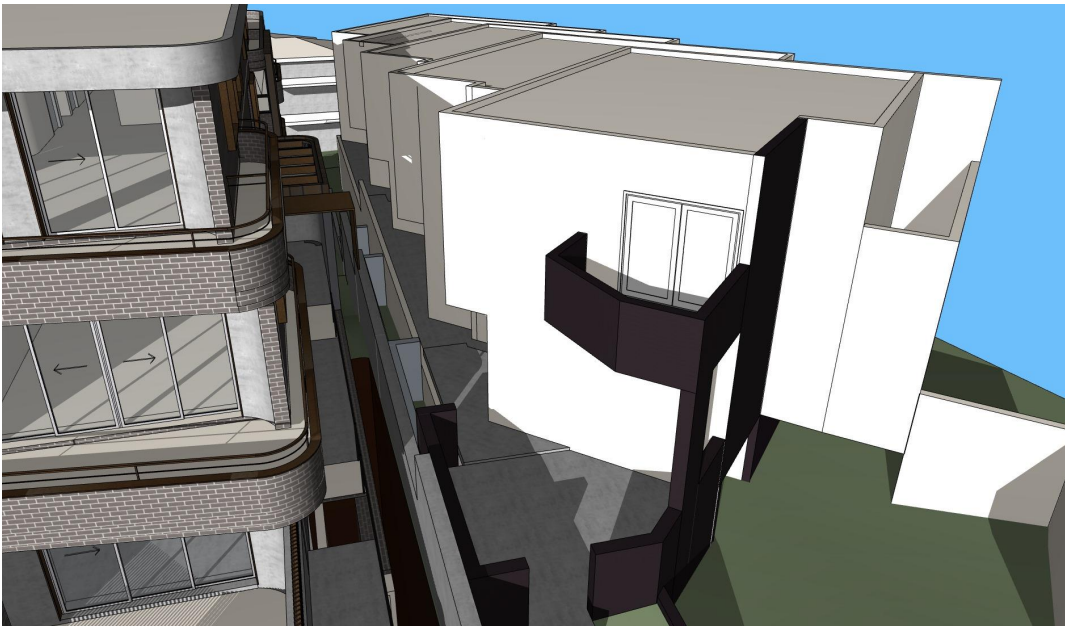
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2Existing Shadows No.23 10am 21 June



3Proposed Shadows No.21 9am 21 June1:400




1Proposed Shadows No.23 10am 21 June

Regulated Design Record				
Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW				
Project Title: NEW RESIDENTIAL BUILDING				
Consent No: #Project ID			Body Corporate Reg No:	
Drawing Title: Shadows No.23 sheet 1			Drawing No: RIJA-01.37	
Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

Attachment 1 Plans, elevations and shadow diagrams

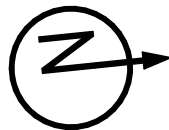
Page 168



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Rev	Date	Description	DP	Reg.
3	26/10/2023	Additional information requested by Council	Alexander Smith	DEP0000578
4	Work in Progress	Additional information requested by Council		

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

Shadows No.23 sheet 2

RIJA-01.38

Status:
DEVELOPMENT APPLICATION

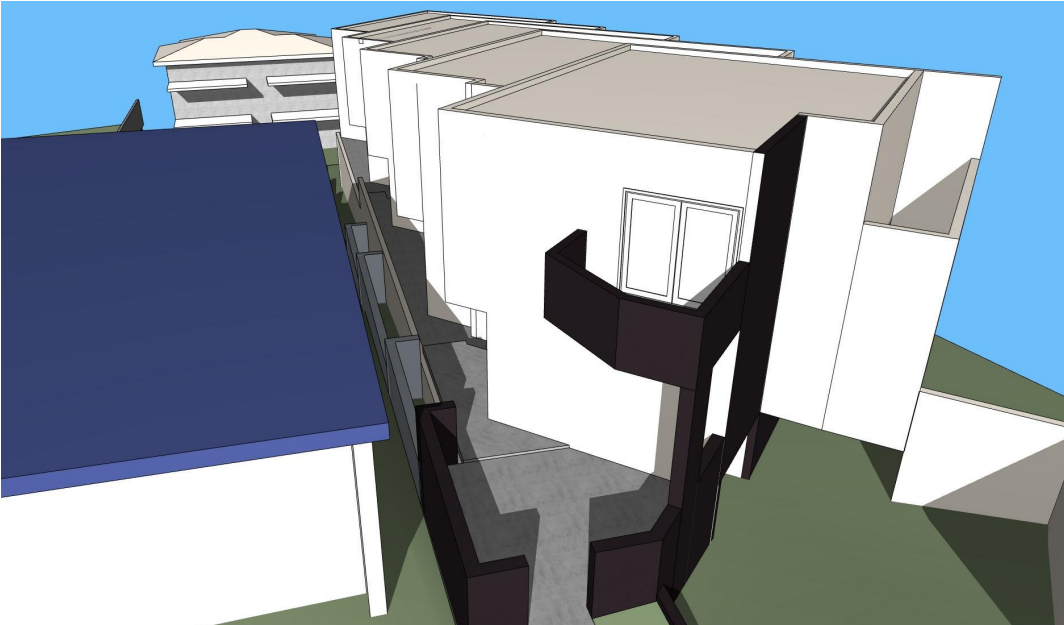
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Shadows No.23 sheet 2

Sheet No.
RIJA-01.38

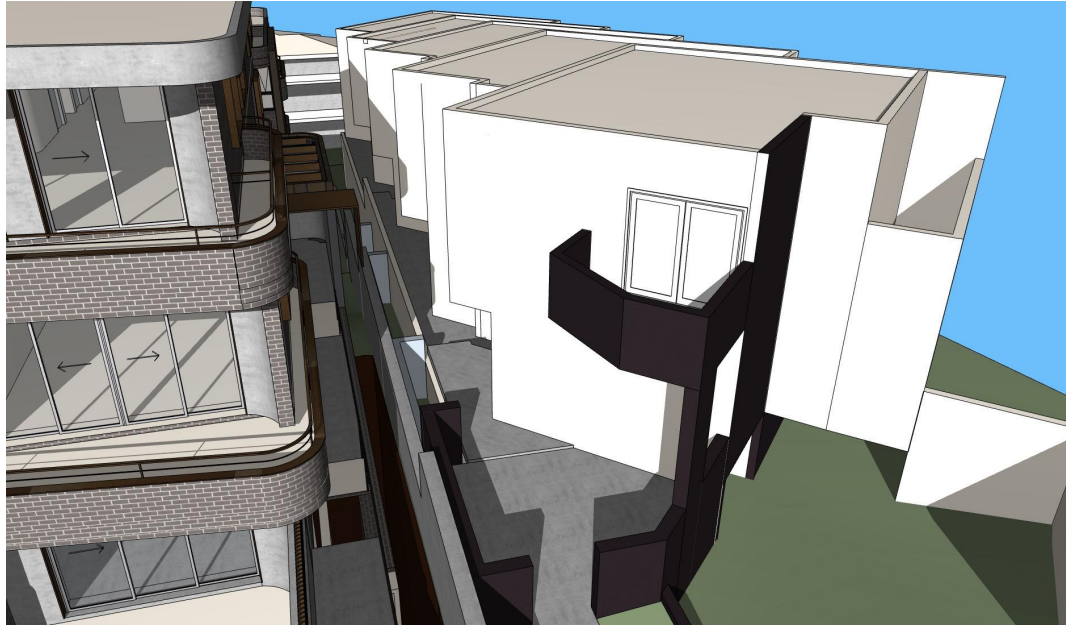
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AY	AS/AY	1:100 U.N.O	4

1:200 1:100 1:50 1 METRE INCREMENTS

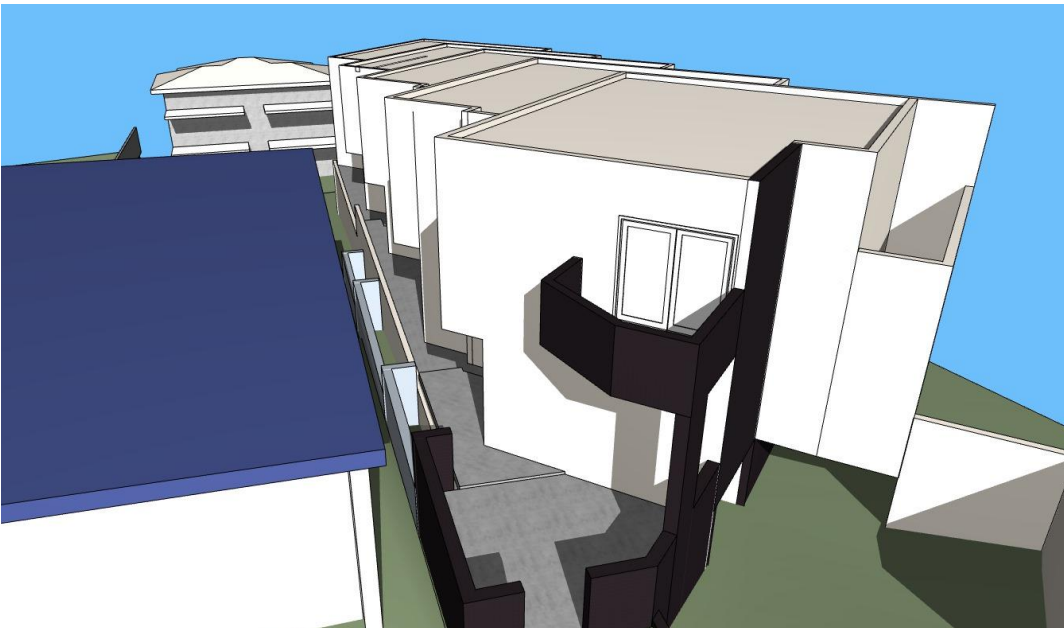
Plot Date: Wednesday, 29 May 2024



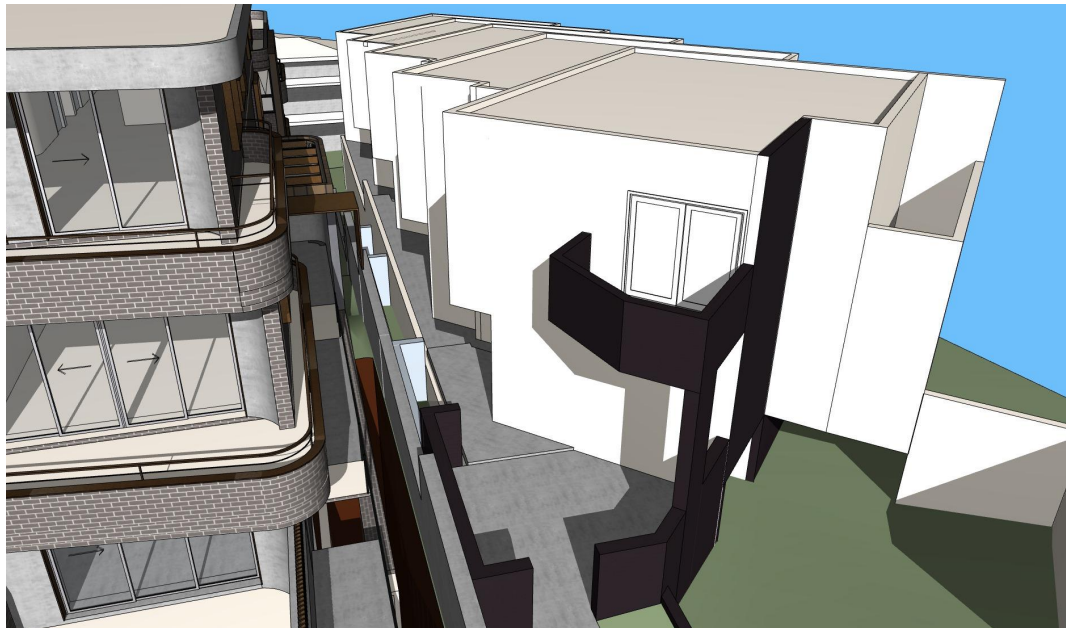
3Existing Shadows No.23 11am 21 June



1Proposed Shadows No.23 11am 21 June



4Existing Shadows No.23 12pm 21 June



2Proposed Shadows No.23 12pm 21 June

Regulated Design Record

Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW

Project Title: NEW RESIDENTIAL BUILDING

Consent No: #Project ID

Body Corporate Reg No:


Drawing Title: Shadows No.23 sheet 2

Drawing No: RIJA-01.38

Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

Attachment 1Plans, elevations and shadow diagrams

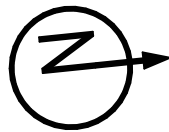
Page 169



CSA
ARCHITECTS

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Registered Design Practitioner : DEP0000578
alex@csa-arch.com.au

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Rev	Date	Description	DP	Reg.
4	Work in Progress	Additional information requested by Council	Alexander Smith	DEP0000578

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

Shadows No.23 sheet 3

RIJA-01.39

Status:
DEVELOPMENT APPLICATION

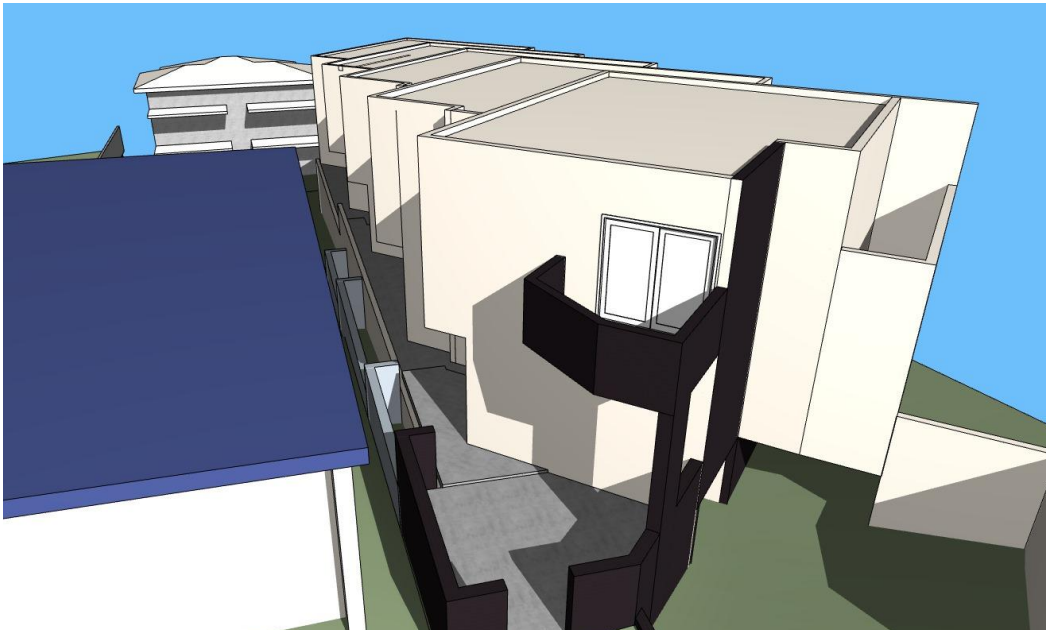
Drawing Title:
Shadows No.23 sheet 3

Sheet No.
RIJA-01.39


Drawn:	Checked:	Scale:	Rev.
AY	AS/AY	1:100 U.N.O	4

1:2001:1001:501 METRE INCREMENTS

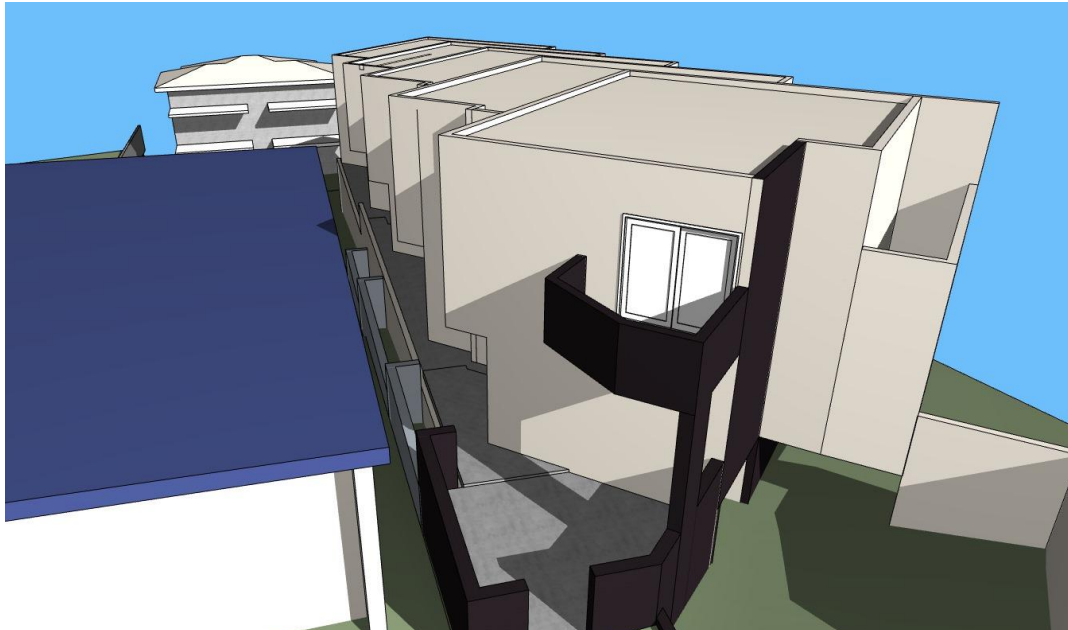
Plot Date:Wednesday, 29 May 2024



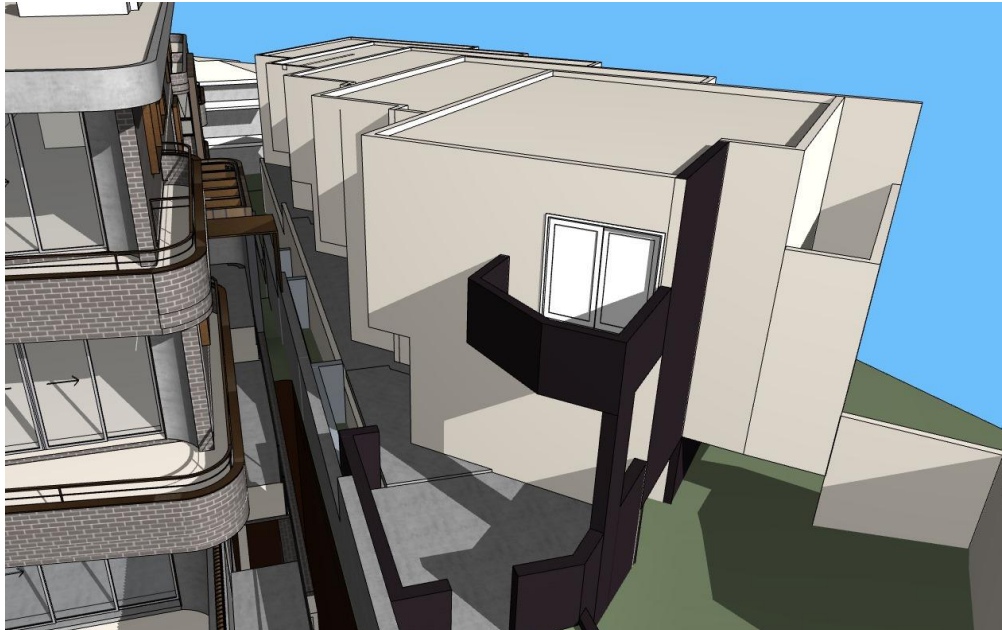
3Existing Shadows No.23 1pm 21 June



1Proposed Shadows No.23 1pm 21 June



4Existing Shadows No.23 2pm 21 June



2Proposed Shadows No.23 2pm 21 June

Regulated Design Record

Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW

Project Title: NEW RESIDENTIAL BUILDING

Consent No: #Project IDBody Corporate Reg No:

Drawing Title: Shadows No.23 sheet 3Drawing No: RIJA-01.39

Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

Attachment 1Plans, elevations and shadow diagrams

Page 170

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Nominated Architect: Alex Smith Reg #5473

Registered Design Practitioner : DEP0000578

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a.c.n. 087 234 053

Rev	Date	Description	DP	Reg.
4		Work in Progress	Alexander Smith	DEP0000578

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

Shadows No.23 sheet 4

RIJA-01.40

Status:
DEVELOPMENT APPLICATION

Drawing Title:
Shadows No.23 sheet 4

Sheet No.
RIJA-01.40

Drawn:	Checked:	Scale:	Rev.
AY	AS/AY	1:100 U.N.O	4

1:200

1:100

1:50

1 METRE INCREMENTS

Plot Date: Wednesday, 29 May 2024

2 Existing Shadows No.23 3pm 21 June

1 Proposed Shadows No.23 3pm 21 June



CSA
ARCHITECTS

Nominated Architect: Alex Smith Reg #5473
Registered Design Practitioner : DEP0000578
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a.c.n. 087 234 053



Rev	Date	Description	DP	Reg.
3	26/10/2023	Additional information requested by Council	Alexander Smith	DEP0000578
	Work in Progress	Additional information requested by Council		

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Client:
RIJA

25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

Shadows OSH Rd Properties 1/4

RIJA-01.41

Status:
DEVELOPMENT APPLICATION

Drawing Title:
Shadows OSH Rd Properties 1/4

Sheet No.
RIJA-01.41

Drawn:
AY

Checked:
AS/AY

Scale:
1:100 U.N.O

Rev.

1:200

1:100

1:50

1 METRE INCREMENTS

Plot Date:
Wednesday, 29 May 2024



3

Existing Shadows OSH Rd 9am 21 June

1:400



1

Proposed Shadows OSH Rd 9am 21 June

1:400



4

Existing Shadows OSH Rd 10am 21 June

1:400



2

Proposed Shadows OSH Rd 10am 21 June

1:400

Regulated Design Record				
Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW				
Project Title: NEW RESIDENTIAL BUILDING				
Consent No: #Project ID			Body Corporate Reg No:	
Drawing Title: Shadows OSH Rd Properties 1/4			Drawing No: RIJA-01.41	
Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578

Attachment 1 Plans, elevations and shadow diagrams

Page 172

[illegible]

[illegible]

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ARCHITECTS

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Registered Design Practitioner : DEP0000578
alex@csa-arch.com.au

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185 Old South Head Rd., Bondi Junction NSW 2022
a.c.n. 087 234 053

Rev	Date	Description	DP	Reg.
3	26/10/2023	Additional information requested by Council	Alexander Smith	DEP0000578
	Work in Progress	Additional information requested by Council		

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Client:
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25 BIRRIGA ROAD BELLEVUE HILL NSW

NEW RESIDENTIAL BUILDING

#Project ID

Shadows OSH Rd Properties 4/4

RIJA-01.44

Status:
DEVELOPMENT APPLICATION

Drawing Title:
Shadows OSH Rd Properties 4/4

Sheet No.
RIJA-01.44

Drawn:	Checked:	Scale:	Rev.
AY	AS/AY	1:100 U.N.O	

1:200

1:100

1:50

1 METRE INCREMENTS

Plot Date: Wednesday, 29 May 2024

2 Existing Shadows OSH Rd 3pm 21 June 1:400

1 Proposed Shadows OSH Rd 3pm 21 June 1:400

Regulated Design Record

Project Address: 25 BIRRIGA ROAD BELLEVUE HILL NSW

Project Title: NEW RESIDENTIAL BUILDING

Consent No: #Project ID

Body Corporate Reg No:

Drawing Title: Shadows OSH Rd Properties 4/4

Drawing No: RIJA-01.44

Rev	Date dd.mm.yy	Description	DP Full Name	Reg No
			Alexander Smith	DEP0000578



WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)

Demolition of an Existing Dwelling House and Construction of a
New Residential Flat Building at

**No. 25 Birriga Road,
Bellevue Hill**

Prepared for:

Rija Developments Pty Ltd
c/o CSA Architects
185 Old South Head Road
Bondi Junction NSW 2022

Prepared by:

GSA PLANNING
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JOB NO. 22255
September 2022

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**WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

APPLICANT'S NAME: Rija Developments Pty Ltd c/o CSA Architect

SITE ADDRESS: No. 25 Birriga Road, Bellevue Hill

PROPOSAL: Demolition of the Existing Dwelling House and Construction of a New Residential Flat Building (RFB)

1. (i) Name of the applicable planning instrument which specifies the development standard:

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

R3 Medium Density Residential. The objectives of which are as stated:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

It will be shown that the proposal satisfies these objectives (see Section 6).

(iii) The number of the relevant clause therein:

Clause 4.4 – Floor Space Ratio. Clause 4.4 is stated as follows:

- (1) The objectives of this clause are as follows –
 - (a) for development in Zone R3 Medium Density Residential –
 - (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and
 - (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and
 - (iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space,
 - (b) for buildings in Zone B1 Neighbourhood Centre, Zone B2 Local Centre, and Zone B4 Mixed Use – to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.
- (2A) Despite subclause (2), the floor space ratio of a building on land shown on the Floor Space Ratio Map does not apply to a building that is a dwelling-house, dual occupancy or semi-detached dwelling.

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. This written request will demonstrate that the variation is consistent with the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard. The proposal can therefore be considered in the public interest. This Clause 4.6 has been prepared to vary the Floor Space Ratio of an existing residential flat building. The residential flat building already exceeds this development standard.

3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.4 of the LEP – Floor Space Ratio (FSR). This Clause operates in conjunction with the FSR Map which indicates a maximum 0.9:1 applies to the subject site. This equates to 712.8m² GFA based on a site area of 792m². Clause 4.4 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The proposal will have a GFA of 749.62m² and will have an FSR of 0.94:1, which is a 5.1% departure from the standard (36.82m²).

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. |

The proposal seeks flexibility in the application of the FSR standard to the development in the circumstance of this case, given the extent of the variation is only 5.1% (36.82m²).

The proposal will have a three storey built form when viewed from Birriga Road, and the additional GFA would not be readily noticeable from the street. The FSR variation allows for the provision of high quality apartments which will improve occupant amenity, accessibility and safety when compared to the existing situation.

Notwithstanding the FSR variation, the proposed works are designed to maintain neighbours' privacy, solar access, and views. Therefore, in our opinion, the proposed FSR provides a better planning outcome for the site. 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 exceedance of the development standard by demonstrating that compliance is unreasonable or unnecessary in these 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 and 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. Test 1 will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Despite the proposed development's non-compliance with the applicable FSR development standard, the proposal is consistent with the desired medium density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed development is consistent with the objectives of the FSR standard are explained below.

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

'Desired future character' is not defined in the LEP. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63] ('SJD'), which also related to a development in the Double Bay Centre, 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. Both 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 16.5m.*
 - ii. *Clause 4.3 Exceptions to Building Heights (Areas A-H) which prescribes a maximum height of 10.5m at the highest part of the land.*
 - iii. *Clause 4.4 Floor Space Ratio and Floor Space Ratio Map which prescribes a maximum FSR of 1.7:1.*

The R3 Medium Density Residential zoning envisages residential flat buildings which is proposed on the site.

The 13.5m height limit clearly envisages a built form of up to four storeys. The building will present as three storeys to Birriga Road and part three and part four storeys to the rear, consistent with what is desired in the LEP. As the majority of the proposed built form complies with the front and side setbacks, the area of additional GFA could be located outside the rear setback line over three levels. Accordingly, the additional building bulk resulting from the proposal will not be discernible from the street and would be distributed throughout the building at the rear to minimise visual impact.

The proposed built form is also consistent with approvals in the vicinity, which assist in articulating the desired future character. There are a number of examples of medium density developments in the vicinity which have been approved under the current controls with FSR non-compliances. It is recognised that each application is assessed on its own merits and each site has different characteristics. However, in accordance with *SJD*, it is a relevant consideration to understand if Council has accepted breaches to the FSR standard in the past, under what circumstances these were supported and if indeed there are any comparable principles to the subject development application (DA). Based on Council's Clause 4.6 Register, these include, inter alia:

- DA No. 66/2017 – Alterations and additions to a RFB at No. 319 New South Head Road, Double Bay (FSR exceedance of 167m² or 16%).
- DA No. 32/2017 – Alterations and additions to an existing RFB at No. 13 Manning Road, Double Bay (FSR exceedance of 112m²).
- DA No. 515/2020 – new RFB at No. 201 O'Sullivan Road, Bellevue Hill (FSR exceedance of 5.8%)

The environmental grounds that Council accepted for breaching the standard included consistency with the surrounding development in terms of scale, built form and context; and no unreasonable impacts on the amenity of adjoining properties or locality.

As the proposed FSR is consistent with the desired medium density residential character under the LEP and with recently approved developments in the vicinity, it can be considered consistent with the desired future character in accordance with Objective (a).

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

The variation is consistent with this objective as the sympathetic design generally maintains the environmental amenity of neighbours and the public.

Views

As indicated in the SEE, there are no views across the site that have been identified in the DCP. However, due to the north to south topography of the immediate area, filtered district and some water views towards the south east from upper levels of the multi storey developments on the higher, northern side of Birriga Road are available from habitable spaces such as bedrooms and studies. These views would be obtained across the front and side boundaries (see **Photograph 1**).

The FSR variation does not appear to unreasonably impact these views for a number of reasons. Firstly, water views from the upper level units would likely be in a south east direction and not directly over the subject site. Secondly, as developments on the northern side of Birriga Road are higher due to the sloping topography and elevated above a garage level, views it is likely that upper level units would be able to retain unimpeded district/water views. Thirdly, the proposal complies with the overall building height as well as the side setbacks, and the majority of the front setback. The additional FSR is likely to be the result of a non-compliant rear setback, which will not be visible from the public domain or development on the northern side of Birriga Road.

Accordingly, the proposal is considered to be consistent with the planning principles set out in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.



Photograph 1: Views to the southeast from an upper level unit at No. 10/40A Birriga Road
(source: realestate.com.au)

Privacy

Privacy will also be maintained for adjoining development. New windows facing adjoining development are behind the side setbacks to maximise building separation. Where 9m or 12m separation distances to adjacent windows or private open space is not achieved from habitable rooms or balconies, obscure glazing is proposed to windows that face side boundaries to prevent sightlines. Portions of balconies that face adjoining development to the north and south are also made non-trafficable.

Overshadowing

The shadow diagrams submitted separately indicate that the proposal will not reduce the extent of solar access to adjoining private open space to less than two hours in mid-winter for dwellings located east and west of the site.

For No.204-206 Old South Head Road located south of the site is an RFB with majority of its dwellings balconies facing Old South Head Road with exception of two rear balconies. These balconies are considered the primary use space for each unit and for those facing Old South Head Road will remain unaffected by the proposal. Whilst the eastern balcony to the rear would have additional shadows this is only minor, and the balcony would not have any additional shadows between 9:00 am and 3:00 pm. Further to this, although additional shadows are proposed to the rear yard of this RFB the use of this area would be limited with the primary POS to each unit being balconies as previously described.

North facing habitable room windows of adjoining properties, as defined in the DCP, will maintain three hours of solar access in mid-winter which complies with the DCP.

Visual Intrusion

The proposal will present a three storey built form to Birriga Road and will not appear visually intrusive. Rather, the new built form will improve the appearance of the street compared to the dated existing dwelling house. The use of varied materials and subdued colours and finishes will ensure the proposal will be compatible within the context of the existing and emerging streetscape character (see **Figure 1**).

For these reasons, the proposal has appropriately minimised environmental effects on the use or enjoyment of adjoining properties and the public domain. Accordingly, in our opinion, the proposal will preserve the public and neighbouring properties' environmental amenity and satisfy Objective (b).



Source: CSA Architects

Figure 1: The Proposal in the Streetscape

(c) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space.

Despite the variation, the proposal will include DCP compliant levels of deep soil planting. Private open space will be provided to each unit, and a communal space at the rear is also proposed for the enjoyment of all residents within the site. Accordingly, in our opinion, the proposal will allow for both deep soil planting and private open space areas, satisfying Objective (c).

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

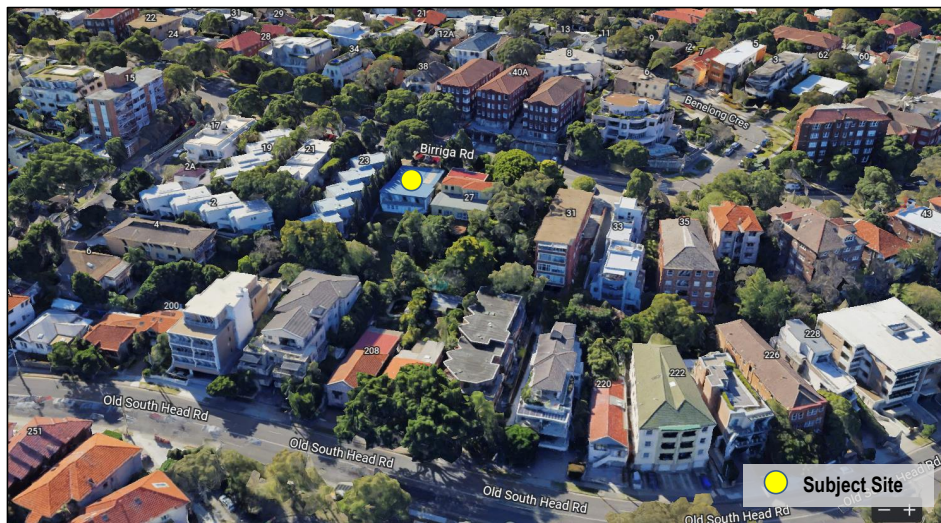
There are sufficient environmental planning grounds to justify the FSR non-compliance. These include the presentation to Birriga Road and surrounding areas, maintaining environmental amenity, consistency in the context and good design and amenity. These will now be discussed.

Consistency in the Context

This report demonstrates the proposed building will remain compatible with nearby developments. The additional GFA will not be easily discernible from the street or impact the existing characteristics of the precinct. Consistency in the context is recognised as an environmental planning ground in *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097 where Commissioner O'Neill states at [42] that:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

In our opinion, the proposal also maintains the desired future character of the Bellevue Hill South Precinct, by providing a new RFB in an area that is characterised predominantly by medium density development (see **Figure 2**). This is also discussed in Section 4 of the SEE.



Source: Google Earth

Figure 2: Aerial View of the Site and Surrounds Showing Prevalence of Medium Density Development

Presentation to Birriga Road

The proposed additional FSR will not be readily discernible from the street as the building have a three storey appearance to Birriga Road, and a part three and part four storey appearance from the rear. This will provide a street presence consistent with what is envisaged by Council. Much of the additional FSR is located at the rear of the building so is not visible from the public domain, and is distributed over three levels so it will not be readily discernible from surrounding development. This will also maintain the

character of the locality and provide a similar scale to surrounding developments, some of which appear to have higher FSRs.

Maintain Environmental Amenity

Our assessment under Test 1 above has demonstrated that, notwithstanding the FSR variation, the proposal will reasonably maintain neighbours' privacy, solar access, and views. While the FSR variation is the result of a non-compliant rear setback, this is distributed over three levels to reduce visual impacts, ensuring the proposal relates well to surrounding developments.

Good Design and Amenity

The proposal provides a visual benefit through the provision of a high quality RFB. This will enhance the site's street presentation, positively contribute to the locality's emerging character, and provide an appropriate interface with the public domain and adjoining buildings. The proposed materials have been selected to complement the character of other development in the locality which include a mix of Inter-war and contemporary RFBs. The new landscaping throughout will further soften the built form and improve streetscape appearance.

The proposal will provide additional accommodation on the site with high levels of internal and external amenity, including lift access and private open space, whilst maintaining a similar scale to the existing and emerging medium density development in the locality. The application is accompanied by a Design Verification Statement from CSA Architects which demonstrates the design has taken into consideration the Design Quality Principles in State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Development. Accordingly, the proposal, including the FSR breach, promotes good design and amenity in accordance with Object 1.3(g) of the EPA Act.

Economic and Orderly Development

The site is currently an anomaly in that it is one of only a few single dwelling houses in an area that is dominated by and zoned for multi storey medium density development. The proposal will provide an RFB on the site which will provide additional accommodation within R3 zoned land, as envisaged by Council, promoting the orderly and economic development of the land in accordance with the object of the EPA Act.

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. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request. In our opinion, the proposal is consistent with the objectives of the Clause 4.4 Development Standard, as already demonstrated; and the R3 Medium Density Residential Zone, as discussed below:

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

Response: The proposal will replace a single dwelling house with a contemporary residential flat building which will contribute to the evolving medium density streetscape of Birriga Road.

Objective: *To provide a variety of housing types within a medium density residential environment.*

Response: The proposal comprises a mix of two and three-bedroom units, basement car parking and landscaping. This will contribute to meeting the local housing demand and increase the variety of housing types in the area.

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

Response: The proposal will have a three storey appearance from Birriga Road, which is consistent with any number of other developments in the locality. The additional FSR is only a modest departure from the standard and will not be readily noticeable in the context of other multi storey RFBs that appear to have a greater height and FSR in the locality. The proposal complies with the building height development standard and will likely maintain the amenity of adjoining development. The proposed built form is compatible with the existing and emerging development in the locality and achieves the desired future character of the neighbourhood.

From this, we consider the proposal is in the public interest and should be supported.

7. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning, Industry and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 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 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. Since the conditions in the table do not apply in this case, the concurrence of the Secretary can be assumed.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The FSR variation will enhance the amenity, accessibility, and functionality of the RFB without significantly, unreasonably, or unacceptably impacting neighbouring properties. This is because the additional FSR would result in a similar built form to an FSR-compliant built form, the distinction of which would not be readily discernible from the street. The variation will protect amenity for both the subject site and neighbouring developments.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape and be softened by new landscaping. In fact, strict compliance with the FSR standard would require a reduction in the built form which would not result in substantial material benefits.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

8. 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 is consistent with the objectives of the standard and the development objectives of the R3 Medium Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.4 should be upheld.

Table 1: Compliance Matrix				
Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.4: FSR	
12	What is the control	1 & 2	0.90:1	
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	6	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> .	6.1	The proposal satisfies Tests 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.	6.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed FSR facilitates a medium density development consistent with the planning objectives of the area; The proposal is compatible with other RFB development in the locality, many of which appear to exceed the FSR standard; The additional FSR is not readily discernible from the public domain, as the proposal has a three storey appearance to Birriga Road, as envisaged by Council's controls; The FSR non-compliance facilitates the provision of an RFB which will increase housing diversity; The proposed area of additional FSR generally maintains neighbours' privacy, solar access, and views. 	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.	7	The proposed development is consistent with the objectives of the FSR standard as addressed under Test 1 of <i>Wehbe</i> . The proposal is also consistent with the objectives of the R3 Medium Density Residential Zone.	YES
28-29	Second Precondition to Enlivening the Power –	8	As the relevant matters for consideration under Clause 4.6 have been	YES

	That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.		satisfied as outlined above, the Council can grant development consent.	
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Completion Date: 17 March 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 414/2022/1
ADDRESS: 25 Birriga Road BELLEVUE HILL 2023
PROPOSAL: Demolition of an existing dwelling and construction of a new residential flat building
FROM: Ms S Lin
TO: Mr W Perdigao

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 22255, prepared by GSA Planning, dated September 2022.
- Revised Architectural Plans, referenced Rev 3, prepared by CSA Architects, dated 26/10/2023.
- Survey, referenced 4555/22, prepared by ESA Survey, dated 03/02/2022.
- Stormwater Management Plan, referenced 21/237 Rev A, prepared by ITM Design, dated 22/08/2022.
- Revised Geotechnical Report, referenced 35170PD rpt Rev 1, prepared by JK Geotechnics, dated 08/11/2022.
- Geotechnical and Hydrogeological Monitoring Plan, referenced 35170PD2 rpt 35170PD2 rpt GHMP, prepared by JK Geotechnics, dated 08/11/2022.
- Construction Methodology Report, unreferenced, prepared by Alba+Associates, dated 09/11/2022.
- Structural Drawings, referenced 4893, prepared by Alba+Associates, dated November 2022.
- Traffic Report, referenced 0584r01v03, prepared by PDC Consultants, dated 06/09/2022.
- Traffic Response, referenced 0584r02v02, prepared by PDC Consultants, dated 26/10/2023.
- Easement Refusal Confirmation from 204-206 Old South Head Road, Bellevue Hill

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 revised stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. It is noted that the applicant has submitted documentary evidence showing that the interallotment drainage easement is not obtainable from downstream property. In this regard, the proposed absorption system is considered acceptable as easement alternative on the basis that the infiltration rate of the onsite soil is

greater than the minimum requirement of 0.1 litres/m²/s. However, for this new development, the size of rainwater tank shall be based on 60m³ per 1000m² of the site area instead of impervious area to comply with Chapter E2.2.9 of Council's DCP, condition will be imposed for this the rainwater tank design to be revised at CC stage. Roof water will be collected to be proposed rainwater tank whilst stormwater runoff from all impervious area, landscape area and rainwater tank overflow will be directed to be proposed absorption system.

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 seeks approval to provide a new basement parking as part of this proposal and proposes to alter the existing vehicular crossing on Birriga Road. The proposed angled vehicular crossing has a reduced width to 3.6m at the kerb line which does not comply with Council's Crossing Specification, it is however noted that Council's Traffic Engineer raises no objection in this regard on the basis that the angled vehicular crossing is proposed to retain the existing parking spaces in front of the property whilst enabling vehicular access to/from the site. As such, condition has been imposed by Council's Traffic Engineer for the vehicular crossing to be reconstructed in accordance with the supporting traffic letter and to the satisfaction of Council's Asset Engineers. Additionally, the applicant is required to reconstruct the existing footpath along the site frontage for the proposed development. Detailed design and construction for these infrastructure works will be subject to separate s138 application which will be conditioned accordingly.

d. Traffic comments

Refer to comments and conditions by Council's Traffic Engineer separately.

e. Vehicle Access & Accommodation comments

The proposed vehicular access and car parking layout are considered generally satisfactory. Conditions will be imposed to ensure all parking spaces comply with the minimum dimension requirements stipulated in AS2890.1 and driveway ramp is designed to provide adequate ground clearance for B99 vehicles. Details including model and manufacturer's specification for the proposed car stacker system should also be included in the detailed plans.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report, ref 35170PDrpt Rev 1, prepared by JK Geotechnics, dated 08/11/2022, has been submitted in support of the application. The proposal involves excavation to a depth of approximately 9m below ground level at the northern end of the site for the proposed basement.

The report identified that the subsurface conditions from the subject site as:

- a) Fill comprising silty sand to a depth of 0.15m (BH1), 0.15m (BH2) and 0.2m (BH3).*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 6.8m (BH1), 1.8m (BH2) and 3.1m (BH3).*
- c) Sandstone bedrock was encountered beneath the natural sand in BH1.*

d) Groundwater seepage was observed during the field 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 structural report and preliminary structural drawings providing methodology to address the proposed excavation. It is noted from the report that the structural engineer has advised that no ground anchors will be required within neighbouring properties including Council property and provided that there are no unexpected latent site conditions, the shoring techniques provided in the report when diligently and carefully applied will have no adverse impacts to the structural integrity of adjoining structures or the adjacent roadway.

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

4. RECOMMENDATION

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

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
21/237 Rev A	Stormwater Management Plan	ITM Design	22/08/2022
35170PDrpt Rev 1	Geotechnical Report	JK Geotechnics	08/11/2022
35170PD2rpt GHMP	Geotechnical and Hydrogeological Monitoring Plan	JK Geotechnics	08/11/2022
	Construction Methodology Report	Alba+Associates	09/11/2022
4893	Structural Drawings	Alba+Associates	09/11/2022

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.

A.32 Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. In all respects, the proposed vehicular

access including any parking spaces must be designed and constructed to comply with the minimum requirements of AS2890.1, AS2890.2, AS2890.6 and the Council's DCP.

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)	\$92,914	No	T115
Infrastructure Works bond (S138)	\$22,450	No	T113
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 the issuing 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 vehicular crossing which is 4.07m at property boundary and reduces to 3.6m at the kerb, as indicated in the Traffic Letter of Response to Council Request for Further Information (referenced 0584r02v02, prepared by PDC Consultants and dated 26 October 2023), in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. 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.
- The reconstruction of the existing 1.8m wide concrete footpath for the full frontage of the site in Birriga Road in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. A maximum crossfall of 3% must be provided for the concrete footpath from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres intervals must be submitted for assessment.
- The reinstatement of all damaged kerb and gutter and road pavement to Council's Specification and to the satisfaction of Council's Assets Engineers,
- 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.
- A bond of \$22,450 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.

- f) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- g) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

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

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

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

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

C.21 Provision for Energy Supplies

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

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 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 Parking Facilities

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle and car vehicle parking in compliance with AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities* and AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* which includes the following requirement:

- a) **Other conditions imposed by Council's Traffic Engineer.**
- b) Details including model and manufacturer's specification of the proposed car stacker system should be provided in the detailed plans. Both upper and lower levels of the car stackers shall have a minimum headroom clearance of 2m.
- c) All parking spaces shall have minimum dimensions of 2.4m x 5.4m, clear of any obstructions, to comply with AS2890.1. If the side boundary of a parking space is a wall, or if there are obstructions such as columns restricting door opening, 300mm shall be added to the width of the space,
- d) Driveway and vehicular access ramp shall be designed to provide adequate ground clearance to the underside of B99 vehicles.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

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 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 21/237 Rev A, prepared by ITM Design, dated 22/08/2023, other than amended by this and other conditions,
- b) The installation of rainwater retention and reuse system (RWT) with minimum storage volume of 47.52m³ to comply with 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 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 absorption system.
- c) The installation of a pumpout system with a minimum storage capacity of 3m³ to comply with Section 8 of AS3500.3,
- d) Subsoil drainage/seepage water is not collected and discharged to the kerb and gutter in accordance with Chapter E2.2.5 of the Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- 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) Dimensions of all drainage pits and access grates must comply with AS3500.3,
- g) Compliance the objectives and performance requirements of the BCA,

- h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout plan

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

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

Rainwater Reuse System details:

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

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

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

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

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.
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. 23 Birriga Road
No. 27 Birriga Road

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

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

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
 - To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
- Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4 (Autotext DD4)

D.6 Adjoining buildings founded on loose foundation materials

D.14 Erosion and Sediment Controls – Installation

E. Conditions which must be satisfied during any development work

E.7 Maintenance of Vehicular and Pedestrian Safety and Access

E.11 Maintenance of Environmental Controls

E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

E.13 Support of Adjoining Land Owners

E.14 Vibration Monitoring

E.15 Erosion and Sediment Controls – Maintenance

E.17 Disposal of Site Water during Construction

E.19 Site Cranes

E.20 Check Surveys – boundary location, building location, building height, stormwater drainage system and flood protection measures relative to AHD

E.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road Works and work within the Road and Footway

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

F.9 Commissioning and Certification of Public Infrastructure Works

F.24 Vehicle Access and Manoeuvring – Construction & Certification

Prior to the issue of any Occupation Certificate, the applicant must submit, for approval by the Principal Certifying Authority, certification from a Chartered Traffic Engineer relating to the construction of vehicular access and manoeuvring for the development. This certification must be based on a site inspection of the constructed vehicle access, manoeuvring and vehicle accommodation areas, with dimensions and measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed carpark complies with the approved Construction Certificate drawings,
- b) That a maximum gradient of 5% has been provided for the first 6 metres from the property boundary to the basement,
- c) That finished driveway gradients and transitions will not result in scraping to the underside of B99 vehicles,
- d) All parking spaces are open type with no partitions,
- e) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1 in terms of minimum dimensions provided,
- f) That the headroom clearance of minimum 2.2 metres has been provided between the basement floor and any overhead obstruction to comply with Clause 5.3.1 of AS2890.1,
- g) That Aisle widths throughout basements comply with AS2890.1,

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

G.4 Electricity Substations – Dedication as road and/or easements access

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 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

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

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site retention and pumpout system,
- c) that a rainwater retention and reuse system with minimum storage of 47.52m³ has been constructed in accordance with the approved stormwater plans,
- d) that stormwater from rainwater tank have been connected for non-potable use such as toilet flushing, laundry device and garden irrigations etc,
- e) that an on-site absorption system has been constructed in accordance with the approved stormwater plans,
- f) that a pumpout system with minimum storage of 3m³ has been constructed in accordance with the approved stormwater plans,
- g) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- h) pipe invert levels and surface levels to Australian Height Datum, and
- i) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

standard format and the Instrument must be registered with the NSW Land Registry Services.

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

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

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

I.29 Ongoing Maintenance of the On-site Stormwater System

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

- a) permit stormwater to be retained and reused by the 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

Memorandum - Traffic

Date 12 Februaray, 2024

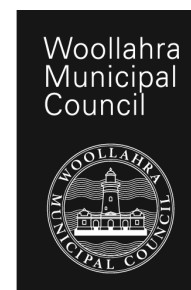
File No. Development Applications: 414/2022/1

To Mr W Perdigao

CC Mr R Lam

From Ms E Fang

Address 25 BIRRIGA ROAD BELLEVUE HILL 2023



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I refer to the memo from the Planning Department dated 2 November 2023 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Traffic Letter of Response to Council Request for Further Information, referenced 0584r02v02, prepared by PDC Consultants, dated 26 October 2023;
2. Car Stacker/Lift Specifications, Rev 3, referenced RIJA-01.35, prepared by CSA Architects, dated 26 October 2023
3. Amended Architectural Floor Plans, Rev 3, referenced RIJA-01.3 ~ RIJA-01.8, prepared by CSA Architects, dated 26 October 2023.

Proposal

Demolition of the existing dwelling and construction of a new residential flat building

COMMENTS

Parking Provision & Traffic Generation

Parking prevision and traffic generation has been previously assessed, please refer to TRIM #23/47361. Whilst the proposal would create a shortfall of two (2) spaces for visitors, it is noted that parking demand for visitors are minimal given the scale and nature of the development and can be temporarily accommodated on-site. It is also calculated as per RMS Guide that the proposal is unlikely to create unacceptable adverse traffic impact on surrounding road network in terms of road safety and traffic efficiency.

Access Driveway

The access driveway is 4.07m in width at property boundary and reduces to approximately 3.6m at the kerb, which complies with the width requirement for a Category 1 access facility specified in Table 3.2 of AS/NZS 2890.1:2004.

Attachment 4 - Re-Referral Response – Traffic Engineering

It is noted that an angled vehicular crossing is proposed in line with the existing parking spaces in front of the property which are 90 degree angled and currently consists of 'No Parking Electric Vehicles Excepted Only When Charging' restrictions. Swept path analysis shows vehicles can enter and exit the site via the proposed crossing without affecting operations of these EV parking spaces. Should the development be approved, condition will be imposed to ensure the normal and unimpeded access to parking spaces along Birriga Road in front of the property during the ongoing use.

Mechanical Installations, Waiting Bay & Queuing

Queuing analysis has been provided to show that 98th percentile queue at peak traffic levels can be accommodated wholly within the site. It is also noted that, whilst not marked in the architectural plans, the provision of one (1) on-site waiting bay can be readily made. Swept path diagrams also demonstrate successful vehicular movements accessing/egressing the car stackers with one (1) vehicle standing in the basement waiting to be serviced, which is considered acceptable.

Traffic Signal

It is indicated in the updated traffic statement that a traffic light system can be incorporated in the proposal to manage traffic between the basement and ground floor. Should the development be approved, the traffic light system should be designed to ensure that priority is given to vehicles entering the car lift.

Sight Splay

A 2.5m x 1.6m pedestrian splay is proposed along the eastern side of the driveway, which does not comply with Clause 3.2.4 and Figure 3.2 of AS/NZS2890.1:2004. This is however considered acceptable given the site constraints and the existing kerbside parking arrangement. The provision of such sight splay should be clearly depicted in the architectural drawings and any structure within the splay area should be lower than 600mm to ensure visibility.

RECOMMENDATION

Council's Traffic Engineer 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 both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.													
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.													
	<table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>0584r02v02</td><td>Traffic Letter of Response to Council Request for Further Information</td><td>PDC Consultants</td><td>26 October 2023</td></tr><tr><td>RIJA-01.35</td><td>Car Stacker/Lift Specifications, Rev 3</td><td>CSA Architects</td><td>26 October 2023</td></tr></table>	Reference	Description	Author	Date	0584r02v02	Traffic Letter of Response to Council Request for Further Information	PDC Consultants	26 October 2023	RIJA-01.35	Car Stacker/Lift Specifications, Rev 3	CSA Architects	26 October 2023	
Reference	Description	Author	Date											
0584r02v02	Traffic Letter of Response to Council Request for Further Information	PDC Consultants	26 October 2023											
RIJA-01.35	Car Stacker/Lift Specifications, Rev 3	CSA Architects	26 October 2023											
Notes:														

Attachment 4 - Re-Referral Response – Traffic Engineering

	<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. <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
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B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	<p>Construction Management Plan</p> <p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CMP must be submitted for approval, and all associated application fees must be paid.</p> <p>The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:</p> <ol style="list-style-type: none"> a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage. b) Identify local traffic routes to be used by construction vehicles. c) Identify ways to manage construction works to address impacts on local traffic routes, particularly during school pick-up and drop-off hours. d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments. e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive. f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes. g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works. h) Provide for the standing of vehicles during construction. <ol style="list-style-type: none"> i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.). j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
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Attachment 4 - Re-Referral Response – Traffic Engineering

	<p>k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.</p> <p>l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.</p> <p>m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.</p> <p>n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to StandPlant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.</p> <p>q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • 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. • 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. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>
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<p>B. 2.</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> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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)
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	<p>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.</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>
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C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

<p>D 1.</p>	<p>Road and Public Domain Works</p> <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> <p>a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new vehicular crossing which is 4.07m at property boundary and reduces to 3.6m at the kerb, as indicated in the Traffic Letter of Response to Council Request for Further Information (referenced 0584r02v02, prepared by PDC Consultants and dated 26 October 2023), in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. 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.</p> <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 2.</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 and AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking respectively, subject to:</p> <p>a) A 2.5m x 1.6m sight splay be provided along the eastern side of the driveway and clearly depicted on the architectural drawings. All structure within the splay area should be lower than 600mm to ensure visibility.</p>

Attachment 4 - Re-Referral Response – Traffic Engineering

	<p>b) A traffic light system be incorporated to manage traffic flow between the basement car park and the Ground Floor. The traffic light system should be designed to ensure priority is given to vehicles enter the car lift to minimise disruptions to traffic along the frontage road.</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>
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E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F	<p>1. Compliance with Construction Management Plan</p> <p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier on request.</p> <p>Notes:</p> <ul style="list-style-type: none"> Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails. <p>Condition Reason: To ensure compliance with the Construction Management Plan.</p>
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G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G	<p>1. Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems</p> <p>Before the issue of any occupation certificate for the whole of the building, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ol style="list-style-type: none"> Compliance with conditions of development consent relating to mechanical parking installation including car lift, car stackers and traffic light system; That the works have been constructed in accordance with the approved design; A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the car lift, car stackers and traffic signal system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW.
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	<p>Notes:</p> <ul style="list-style-type: none"> The PCA must supply a copy of the WAE Plans to Council together with the occupation certificate for the whole of the building. The occupation certificate for the whole of the building must not be issued until this condition has been satisfied. <p>Condition Reason: To ensure the certification and ongoing maintenance of the mechanical parking installations and to indemnify Council from any claims or actions.</p>
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H. OCCUPATION AND ONGOING USE

<p>H 1.</p>	<p>Provision of Off-street Public and Visitor Parking</p> <p>During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, and AS 2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:</p> <table border="1" data-bbox="427 869 1209 985"> <thead> <tr> <th>Use</th><th>Number of spaces</th></tr> </thead> <tbody> <tr> <td>Car parking</td><td>12</td></tr> <tr> <td>Bicycle parking</td><td>7</td></tr> <tr> <td>Motorbike parking</td><td>1</td></tr> </tbody> </table> <p>Notes:</p> <ul style="list-style-type: none"> Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993. Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100. <p>Condition Reason: To ensure adequate on-site parking is maintained.</p>	Use	Number of spaces	Car parking	12	Bicycle parking	7	Motorbike parking	1
Use	Number of spaces								
Car parking	12								
Bicycle parking	7								
Motorbike parking	1								
<p>H 2.</p>	<p>Parking Permits</p> <p>During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.</p> <p>Condition Reason: To minimise the impact of the development upon on street car parking.</p>								
<p>H 3.</p>	<p>On-going Maintenance of the Mechanical Parking Installations</p> <p>During the occupation and ongoing use, the Owner must ensure the ongoing maintenance of the mechanical parking installations in accordance with this condition and any positive covenant. The Owner must:</p> <ol style="list-style-type: none"> keep the system clean and free of silt rubbish and debris; maintain renew and repair as reasonably required from time to time the whole of the system so that it functions in a safe and efficient manner; carry out the matters referred to in paragraphs (a) and (b) at the Owners expense; 								

Attachment 4 - Re-Referral Response – Traffic Engineering

	<p>d) 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;</p> <p>e) 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;</p> <p>f) 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</p> <p>g) 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.</p> <p>The Owner</p> <p>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; and</p> <p>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.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure the ongoing maintenance of the mechanical parking installations.</p>
<p>H 4.</p>	<p>Operation in Accordance with Traffic Management Plan (TMP)</p> <p>During the occupation and ongoing use:</p> <p>a) The operation and management of the premises shall be in accordance with the traffic management plan, referenced 0584r02v02, prepared by PDC Consultants and dated 26 October 2023;</p> <p>b) The TMP cannot be altered without the written consent of Council;</p> <p>c) Access must be maintained for the angled parking spaces along Birriga Road, Bellevue Hill, in front of the property to ensure normal operations of these spaces at all times.</p> <p>Condition Reason: To maximise road safety and performance.</p>

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)

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Nil.

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Ever Fang
Traffic & Transport Engineer

13/2/2024
Completion Date

Attachment 4 - Re-Referral Response – Traffic Engineering

27 October 2022

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 414/2022/1
ADDRESS: 25 Birriga Road BELLEVUE HILL 2023
PROPOSAL: Demolition of an existing dwelling and construction of a new residential flat building
FROM: David Prieto - Tree Management & Landscape Officer
TO: Mr W Perdigao

I refer to the following documents received for this report:

- Statement of Environmental Effects by gsa planning, dated September 2022
- Survey Plan by ESA Survey No.4555/22, dated 03/02/2022
- Architectural Drawing by CSA ARCHITECTS Rev 1, dated 16/09/2022
- Stormwater drainage Plan by itm design Rev A, dated 25/08/2022
- Arboricultural Impact Assessment Report by Jacksons Nature Works, dated 16/09/2022
- Landscape Plan by MICHAEL ZINN, dated 28/08/20232 No.DA01

A site inspection was carried out on 19 October 2022.

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)
- 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

Arboricultural Impact Assessment

Trees 4, 5 & 14 located on the property are considered to be of low significance and removal is supported subject to appropriate replacement on site. Tree 12 is not prescribed under the Chapter E.3 – Tree Management of Council's Development Control Plan (DCP) 2015. No other prescribed trees were found on the property.

The report indicates Trees 4, 8 & 17 are "Exempt species". This is incorrect.

The report prepared by Jacksons Nature Works is not in line with Council's DA guide, contains a collection of vague statements and has not been able to assess the real impact of proposed works, specifically the impact of the proposed retaining wall along shared boundary line on Tree No.'s 13-21 located on the neighbouring property. At this stage, changes to the Landscape Plan will be conditioned to ensure protection of these trees.

Please note, if the development is not approved in its current form and alternative proposal was to be submitted to Council, a new Arboricultural Impact Assessment (AIA) report prepared by a qualified Level 5 Consulting Arborist must be provided. The report must be prepared in line with AS4970 'Protection of trees on development sites', Attachment A4 of Woollahra Municipal Council DA guide and industry best practice. This AIA report must clearly indicate the real impacts to trees to be retained, and include recommendations and methodologies to mitigate the impact on trees to be retained and a Tree Protection Plan and Specification.

Landscape Plan

Tree No.'s 13-21 are located on the neighbouring property and are proposed to be retained and protected on the AIA. These trees are located on a raised garden bed with a timber retaining wall parallel to the shared boundary to west. As per the Survey Plan prepared by ESA Survey, this wall is partially located on both properties 23 & 25 Birriga Road.

This timber retaining wall has not been proposed to be demolished on the Architectural or Landscape Plans. Architectural Plan Sheet No. RIJA-01.2 Rev 1 shows the new wall partially located within the footprint of the existing timber wall. The Landscape Plan has omitted the presence of the timber wall and has proposed the new wall located along the shared boundary. The Consulting Arborists states on page 9 of the AIA "*The development works will not affect or impact the stability and longevity as the existing walls have acted as root deflectors.*" without considering the real impact of proposed works.

We understand that the timber wall has to be partially/entirely demolished for the construction of the new masonry wall if proposed plans are approved.

The retention of these trees would be largely compromised if a new retaining wall is installed requiring excavation behind the existing timber wall, or the timber wall was to be demolished and soil exposed until construction works are completed.

Please note Tree 17 is proposed to be removed on the Landscape Plan. However, it is a prescribed tree as per information provided on the Annexure A of the Arboricultural Impact Assessment and is proposed to be retained on the AIA. Therefore it will be conditioned to be retained. This tree has a modified crown with the trunk leaning to east. To retain the tree, the new wall must be modified to reduce root disturbance and accommodate the trunk and lower branches.

Only one replacement tree has been proposed to be planted on the property. This is considered to be insufficient to offset canopy and tree loss, and to maintain and improved landscape amenity to the local residents.

The proposed replacement tree is an *Angophora hispida* (Dwarf Apple). This tree is considered to be a mallee or small tree unable to provide landscape amenity and privacy to local residents. Please note this tree species occurs naturally on scrubby ridges and is not appropriate for shady growing conditions. Alternative rainforest tree species will be conditioned.

Therefore, an amended Landscape Plan will be conditioned to be prepared before Construction Certificate to minimise impacts on Tree No.'s 13-21 to be retained and include adequate replacement trees. Amended Plan must be submitted to Council for approval prior to the issue of a Construction Certificate.

RECOMMENDATIONS

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

A. General Conditions

A.1 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)
3	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front setback at 27 Birriga Road	8 x 6
6-7	<i>Syagrus romanzoffiana</i> (Cocos palm)	Side at 27 Birriga Road	8 x 4
8	<i>Ligustrum lucidum</i> (Large-leaved Privet)	Side at 27 Birriga Road	8 x 4
9	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Side at 27 Birriga Road	7 x 3
10	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Side at 27 Birriga Road	5 x 3
11	<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	Rear at 204-206 Old South Head Road	6 x 3
13	<i>Murraya paniculata</i> (Mock Orange)	Side at 23 Birriga Road	7 x 8
15	<i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	5 x 2
16	<i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	8 x 2
17	<i>Ligustrum lucidum</i> (Large-leaved Privet)	Side at 23 Birriga Road	8 x 6
18-32	<i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	9 x 2

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Lophostemon confertus</i> (Brush Box)	Council verge	11 x 12	\$2000
2	<i>Lophostemon confertus</i> (Brush Box)	Council verge	11 x 7	\$2000

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

- b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
4	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Rear setback	3 x 3
5	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Rear setback	6 x 6
14	<i>Ceratopetalum gummiferum</i> (NSW Christmas Bush)	Rear setback	7 x 7

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

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

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
No.DA01	Landscape Plan	Michael Zinn	28/08/2022
-	Arboricultural Impact Assessment Report	Jacksons Nature Works	16/09/2022

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

Nil

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 Fence 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	1m wide parallel to street x 2m long parallel to crossover

2	<i>Lophostemon confertus</i> (Brush Box)	Council verge	2 x 2
13, 15-32	<i>Murraya paniculata</i> (Mock Orange), <i>Ligustrum lucidum</i> (Large-leaved Privet) and <i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	Along existing masonry/timber walls

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.
- 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	Location	Approved works
3	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	From boundary line	Retaining walls, footpath and driveway
6-10	<i>Syagrus romanzoffiana</i> (Cocos palm), <i>Ligustrum lucidum</i> (Large-leaved Privet) & <i>Archontophoenix cunninghamiana</i> (Bangalow palm)	From boundary line	Retaining walls, paving, services
11	<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	From boundary line	Retaining walls and services

13, 15-32	<i>Murraya paniculata</i> (Mock Orange), <i>Ligustrum lucidum</i> (Large-leaved Privet) and <i>Cupressus sempervirens</i> (Italian Cypress)	From side of existing timber and masonry walls	Retaining walls, paving, services
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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:

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

B.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

	<p>all trees approved for removal under DA consent.</p> <ul style="list-style-type: none"> 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 driveway within 3m of the trunk of Tree No. 3 The condition of exposed roots shall be managed and documented. The project arborist shall supervise excavation and construction of all retaining walls near the boundary line to south, east and west, documenting the condition of roots and soil. The project arborist shall ensure pier holes within the Tree Protection Zones of all trees located at 23 Birriga Road to avoid the severance of and damage to roots greater than 50mm diameter. Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.
Prior to any occupation or use of the building	<ul style="list-style-type: none"> Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> The project arborist shall supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

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

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

C.1 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
- b) 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 shall be amended to include the following and submitted to Council's Tree Management Officer for approval prior to the issue of the Construction Certificate.
 - Retention of all trees located outside of the property boundary, including Tree No.17.
 - Amended masonry wall within the TPZ of Tree No.'s 13, 15, 16, 18-23 located within the side setback of 23 Birriga road. The plans must clearly show the new wall located outside of the footprint of the existing timber retaining wall as shown on the Survey Plan.
 - Amended masonry wall providing 1m offset from the centre of the trunk of Tree No.17.
 - Final levels of all proposed Landscape structures.
 - Three (3) x 100L replacement trees must be included in the design and located within the rear setback of the property. They must not be planted less than 1m from existing and proposed services and structures.
 - One (1) x 100L replacement trees must be included in the design and located within the front setback of the property. It must not be planted less than 1m from existing and proposed services and structures.
 - Location, numbers, type and supply of trees, with reference to AS2303:2018—Tree stock for landscape use (if applicable);

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	\$4000	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

- The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

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

E.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)
2 x <i>Stenocarpus sinuatus</i> (Firewheel Tree) Or <i>Elaeocarpus eumundi</i> (Eumundi quandong)	Rear Must not be planted less than 1m from existing and proposed services and structures.	100L	7 x 3
1 x <i>Ceratopetalum gummiferum</i> (NSW Christmas Bush) Or <i>Elaeocarpus reticulatus</i> (Blueberry Ash)	Rear Must not be planted less than 1m from existing and proposed services and structures.	100L	6 x 3
1 x <i>Lagerstroemia indica</i> (Crepe Myrtle), <i>Leptospermum petersonii</i> (Lemon-Scented Teatree) Or <i>Magnolia x soulangeana</i> (Saucer Magnolia)	Front Must not be planted less than 1m from existing and proposed services and structures.	100L	5 x 3

The project arborist shall document compliance with the above condition.

E.3 Paving in the vicinity of trees

Nil

E.4 Level changes in the vicinity of trees

Nil

E.5 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)
3	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front setback at 27 Birriga Road	3.0
15-32	<i>Ligustrum lucidum</i> (Large-leaved Privet) and <i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	1.5

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.6 Discontinuous footings in the vicinity of trees

Footings for the proposed masonry wall within the specified radius from the trunks of the following trees shall be supported using discontinuous footings.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
3	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front setback at 27 Birriga Road	3.0
15-32	<i>Ligustrum lucidum</i> (Large-leaved Privet) and <i>Cupressus sempervirens</i> (Italian Cypress)	Side at 23 Birriga Road	1.5

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

Nil

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

F.1 Amenity Landscaping

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

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

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

Nil

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

H.1 Landscaping

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

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

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

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

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

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

David Prieto

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

Tree Management and Landscape Officer

Completion Date: Version 1, 08 January 2024

REFERRAL RESPONSE URBAN DESIGN

FILE NO: **Development Application: 414/2022/1**

ADDRESS: 25 Birriga Road Bellevue Hill

PROPOSAL: Demolition of the existing detached dwelling and construction of a new part three and part four storey residential flat building containing six units, basement parking for 12 cars and associated landscaping.

FROM: Stephen McMahon, Director Inspire Planning

TO: Anne White

Information

Architectural drawings: CSA Architects Drawings RIJA – 01.1 to 01.34 dated 16.09.23 with amendments dated 26.10.23.

Landscape Plan: Michael Zinn, DA 01 - 28 August 2022.

Statement of Environmental Effects: GSA Planning, Job No. 22555, September 2022.

Survey: ESA Survey, Ref 4555/22, Dated 03 February 2022

Background

Council has received a development application for the demolition of the existing detached dwelling at No. 25 Birriga Road and construction of a new part three and part four storey (potentially five storey at the rear subject to definition) residential flat building containing six units, basement parking for 12 cars and associated landscaping.

At the time of the preparation of this urban design assessment the application was undergoing assessment and awaiting responses from internal and external referral agencies / departments.

Part 1: Site and Context

1.1 The Site and Existing Development

The site comprises a rectangular shaped lot oriented in a north to south direction that has a calculated area of 792 sqm (as identified in the survey plan). It has a principal frontage to Birriga Road of 14.25 metres (northern boundary), an eastern side boundary of 51.525 metres, a western side boundary of 52.52 metres and a rear southern boundary of 15.24 metres.

An aerial photograph and locality views are presented below.



Aerial Photograph (source www.SIX.nsw.gov.au) and **Views of Site and Neighbours** from Birriga Road (top), south west to western side boundary (middle), south east to eastern side boundary (bottom left) and Birriga Road adjoining site (bottom right) illustrating site analysis elements discussed in this part.

The land exhibits a significant change in level, falling approximately 7.3 metres from a front (northern) boundary spot height of 63.48 metres at the footpath to a rear (southern boundary) spot height of 56.15 metres over a distance of approximately 52 metres. The west to east cross fall of the site is less severe (approx. 1.7 m) at mid site.

The character of the site's landform has been modified by a series of rock bank retaining walls located approximately in the middle of the site to create a building platform and level area of landscaped garden at the northern part of the site. The existing detached dwelling steps down the site in this retained area to establish a lower level ground floor at its rear.

The site thus accommodates a single and two storey (at the rear) dwelling. It is located at the front of the site addressing Birriga Road where it presents as a single storey building with a flat roof profile. A single garage and a pedestrian entrance are located at the eastern end of the frontage with a footpath and driveway connections to Birriga Road. The ground level is generally set slightly above the footpath level of Birriga Road. The building steps down the site to the south where it presents as a two storey building to the property to the south (204-206 Old South Head Road). The garage is accessed via a 3.0 metre single width driveway to Birriga Road.

The dwelling is setback approximately 3.7 to 4.7 metres from its front boundary, 0.8 metres from its eastern side neighbour (No. 27 Birriga Road), 1.1 metres to its western side neighbour (No. 23 Birriga Road) and 29 metres to the rear (to No. 204 – 206 Old South Head Road).

The existing building was constructed circa 1960s (being a major alteration to an original building constructed in 1919). The development application deems it to have no heritage significance (Heritage 21, September 2022, "Demolition Report").

There are a number of notable trees within and adjoining the site, primarily in the rear and adjoining the western side setback area. The Arborist Report (Jacksons Nature Works, 16 September 2022) notes the presence of two *Ficus rubiginosa* (Port Jackson Figs) in the rear garden and a series of *Cupressus sempervirens* (Mediterranean Cypress) along the western boundary in the neighbouring property (No. 23 Birriga Road). The report notes that the Port Jackson Fig trees are comparatively low height (3 and 8 metres) and are exempt trees that can be removed without development consent. The report supports their removal. The Cypress trees provide an effective screening function from No. 23 Birriga Road and it is assumed that they were planted in this location and configuration for this purpose. The report notes that these off-site trees can be retained.

1.2 The Locality

The site is located in a part of Bellevue Hill established in the 1920s. Many of the properties established at that time have undergone periodic redevelopment such that the locality is, today, distinguished by a mix of building forms, heights, densities and architectural styles. Medium to high density residential developments of various heights prevail, interspersed with a small number of detached dwellings generally constructed when the suburb was established.

1.3 Adjoining Road

Birriga Road is a wide collector road that exhibits an attractive streetscape dominated by large, mature canopy trees in and along its verges and perpendicular car parking to the kerb on both sides. Directly in front of the site (to the west of the site's driveway) are two electric vehicle charging spaces.

Birriga Road provides convenient access to Bondi Junction Railway Station and Shopping Centre via three bus routes. Bus stops are located within 200 metres of the site.

1.4 Adjoining Development

To the North:

To the north, on the opposite side of Birriga Road, are a series of similar red brick four storey residential flat buildings that exhibit a 1930s / interwar era / style of development with extensive garages and driveways built to the front boundary. The buildings form a recognised cluster of locally listed (in the WLEP) heritage items.

To the east:

No. 27 Birriga Road adjoins the eastern boundary. It is a two storey detached dwelling setback approximately 1.0 metre from the common boundary. It is located at the northern end of its site in a position that generally matches the location of the existing dwelling in the subject site. A number of windows overlook the subject site (some windows are assumed to be to habitable rooms). A balcony is located at the rear of the dwelling facing south. A swimming pool is located in the rear garden of the property.

To the south:

To the south of the site, addressing Old South Head Road, there is a number of recently constructed 5 storey apartment buildings. No. 204 – 206 Old South Head Road in particular directly adjoins and overlooks the rear of the site. The ground floor levels of the buildings are generally lower than the site due to the fall in the existing ground level to the south. Balconies and/or windows to habitable rooms are present in the rear facades of the buildings. The survey plan only provides information on No. 204 – 206. The closest balcony edge is setback approximately 9.1 metres from the common boundary.

To the west:

No. 23 Birriga Road adjoins the western side boundary. It comprises a recently constructed series of attached (integrated) two-storey townhouses that step down the site above a basement car park. The survey plan provides minimum information on the siting of the building and window location. It appears that a number of balconies extend along the common boundary that are setback approximately 2.0 metres from the boundary. There is minimal overlooking into the site due to the presence of the cypress trees noted above. The development includes a driveway to the basement car park addressing Birriga Road and a footpath that provides access. The footpath directly adjoins the common boundary at the frontage.

Part 2: Proposal

The proposed development comprises the demolition of the existing detached dwelling on the site and construction of a new three to four storey residential flat building and a single car parking level in one and a half levels of basement area. Of relevance to this assessment:

- Demolition includes removal of all of the existing building and vegetation within the site.
- The proposed building footprint is essentially double that of the existing building, with the additional area extending into the southern part of the site.
- The basement extends across the developable area of the site and maintains a 0.83 metre setback to the western side boundary and a 0.4 to 1.5 metre setback to the eastern boundary. The basement footprint remains behind the front setback of the current building and proposes a 9.3 metre rear setback. As such deep soil planting areas are retained in the front and rear setback areas.
- Due to the fall of the land, there is an upper forward (northern) half basement level that accommodates storage, services and plant.
- Building siting proposes a minimum 0.835 metre setback to the western boundary and a minimum 1.0 metre to the eastern boundary. The minimum front setback is 5.173 metres (not 6.725 metres as nominated in the Statement of Environmental Effects), and the minimum rear setback is 7.59 metres.
- Access to the basement car park level is achieved via a single driveway and one car lift to Birriga Road.
- The basement car park level provides 12 car parking spaces in six car stackers (that extend below the carpark floor level), motorcycle and bicycle parking and plant and waste rooms.
- Accommodation comprises a total of six apartments; being one x two-bedroom apartments located on level 2 (the ground floor) and five x three-bedroom apartments on Level 1 (lower ground) and levels 2 to 5. Apartment sizes range from 103 sqm (2 bedroom) to 133 sqm (three bedroom). One or two apartments occupy each floor within a building footprint oriented south to north addressing the northern street frontage and rear / front boundaries of the site.
- The living areas in each apartment on each level have access to useable balconies. while the south and north facing apartments at the lower and upper ground floors have direct access to a private open courtyard.
- Pedestrian access is proposed from Birriga Road to the communal lobby on ground floor (Level 2) via a footpath through the front garden and building setback to the road. A second pedestrian entry is available to Birriga Road via the fire stairs and vehicle driveway.
- From Birriga Road the central “front door” lobby at ground level provides access via a lift to the basement level and the apartments on each level above and below.

- Building placement capitalises on the fall of the site and involves significant excavation. The lowest excavation level (for the car stacker pit) is not noted in Section BB in drawing 01.14 but is estimated to be RL 52.5. The balance of the lower basement (being noted as “basement” level in the plans) has an RL of 54.95. It has an extended floor to ceiling height of 4.5 metres to accommodate the car stackers. Thus the basement level extends above existing ground level at the rear and could be defined as a building storey. The lower ground floor / upper basement level (level 1) has an RL of 59.8. The upper ground floor (level 2) has an RL of 63.05 which generally matches the lowest point of the existing ground level at the front (northern) boundary of the site to Birriga Road (63.20).
- At the rear, therefore, the windows and balconies to the lower ground floor (level 1) Apartment 1 are elevated one level (3.9 metres) above existing ground level.
- Above the lower ground floor (level 1) the levels are progressively setback from both the front and rear boundaries via stepped balconies. The top floor (level 4) rear building line is setback from the rear via a 7.0 metre deep green, non-trafficable, roof terrace.
- Privacy is proposed to windows and certain balconies addressing the primary pedestrian entry and along the side boundaries by way of offsetting of windows, obscure glass (in part, but not extensively) and, at the building entry, by privacy and “heat attenuation” screens.
- The maximum proposed height of the building is nominated in the Statement of Environmental Effects as 13.4 metres. Thus the proposed building is located below the maximum LEP height limit of 13.5 metres. However this assessment relies on the provision of selected sections through the building that does not include an east-west section through the central northern half of the site. Furthermore, the existing ground line noted in the Drawing 01.13 does not appear to match the stepped level character of the site as shown in the survey plan. Thus compliance of the top floor (level 4) with the height limit in the northern part of the site cannot be determined.
- The rooftop accommodates the lift overrun and solar plant that are not proposed to be screened.
- Nominated floor to floor to ceiling heights are 2.7 metres plus an allowance of 0.19 + 0.1 metres for a drop down ceiling space.
- The proposed GFA is nominated as 748.62 sqm in the development application. With a site area of 792 sqm according to the survey plan, the proposed development has a proposed FSR of 0.94:1. This exceeds the maximum FSR standard of 0.9:1.
- A ground floor external communal area is proposed at the rear of the development. It is accessible via an external stepped pathway along the eastern side site boundary. Drawing 01.18 suggests that the rear communal area is contained within a retaining wall with a maximum height of 2.31 metres that extends to a height of 2.68 metres along the western boundary. It is assumed that this may be a descriptive error and the retaining wall is a boundary fence / masonry wall.
- Generally, the deep soil areas are proposed in the front and rear setback areas. The area in the front setback includes 2 stormwater pipes and associated pits, while the rear deep soil area is impacted by the presence of the water tank and absorption / infiltration trench.

- The landscape plan adopts a muted approach to site landscaping in setback areas comprising a mix of low height (generally <1.5 shrubs, ground covers and bushes) along all side boundaries. One low height tree (an Angophora hispida, aka Dwarf Apple with a maximum height of 7 metres) is proposed in the rear setback area to replace the trees removed in this part of the site. No landscaping is proposed to the roof.
- Stormwater drainage and other infrastructure shown in the Stormwater Drainage Plans (itmDesign 25 August 2022) clash with the deep soil areas as noted above.
- No location for the fire hydrant booster assembly cabinet is shown.
- Building design exhibits a subdued modern architectural style to both the street frontage and side boundaries that seek to compliment, and not compete with the distinctive inter war period red brick buildings within the streetscape opposite the site.
- The dominant visual elements of the nominated building materials comprise brick and colorbond cladding to walls and the solid balcony balustrades. Proposed colours are muted and recessive in nature comprising darker recessive brick work with dark louvres, shade structure elements and copper colorbond.

Part 3: Controls and Compliance

- Chapter 4 of State Environmental Planning Policy (housing) 2021 (*formerly No. 65 — Design Quality of Residential Apartment Development (SEPP 65)* & Apartment Design Guide (ADG)
- Woollahra Local Environment Plan 2014 (Woollahra LEP 2014)
- Woollahra Development Control Plan 2015 (Woollahra DCP 2015)

The following is an assessment of the proposal against the relevant controls above.

3.1 SEPP (Housing) 2021 Chapter 4 Assessment

Schedule 9 Principle & Statement	Comment	Complies
Principle 1: Context and Neighbourhood Character <i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i> <i>Responding to context involves identifying the desirable elements of an area's existing or</i>	<p>The proposed development is located in a precinct zoned for medium density residential development. It enjoys convenient access to a range of facilities via multiple frequent, accessible and convenient bus based public transport services.</p> <p>Neighbourhood character is defined by a mix of building forms, heights, densities and architectural styles from different eras ranging from when the suburb was established in the 1920s through to contemporary infill development.</p> <p>The proposed 3 and four storey stepped building (five storey if the above ground level basement is included) would be a similar addition to the area. It is located on a steeply sloping south facing site</p>	Yes, subject to condition.

Schedule 9 Principle & Statement	Comment	Complies
<p><i>future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in the following areas: established areas; areas undergoing change; or areas identified for change.</i></p>	<p>capitalising on the fall of the site. Its siting and its character at its boundary interfaces provide a compatible response to the other neighbouring developments.</p> <p>That said, the height of boundary fencing in places required addressing. This is discussed below.</p> <p>The proposed approach recognises the streetscape context within which it resides and responds to this within an effort to adopt a sympathetic building height, pallet of building colours and materials, and frontage design and use.</p>	
<p>Principle 2: Built Form and Scale</p> <p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The proposed development sits generally in the site at the frontage at the same ground level as the existing development.</p> <p>I have concerns that the side setbacks and balconies on the side elevations (where they project from the building wall and do not form part of the roof of the level below) result in increased bulk and scale when viewed from the properties to the east and west (particularly No. 23 to the east). The balcony projections do play a role in introducing articulation into the façade. However I suggest that they be trimmed or deleted. This is also discussed elsewhere in this report.</p> <p>The height is nominated to comply with the WLEP. However, the provision of additional detail is required to confirm this.</p> <p>Configuration of living areas provides good internal amenity and outlook.</p> <p>There are no unreasonable impacts on streetscape character, views and vistas.</p>	Yes, subject to conditions and height confirmation.
<p>Principle 3: Density</p> <p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities are sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>The proposed building envelope marginally exceeds the FSR control in WLEP2014. This is not supported as discussed in Part 3.3 below.</p> <p>The level of amenity for the proposed apartments is good. Apartments are dual aspect with good ventilation and generous balcony sizes, internal areas, and private open space.</p>	No.

Schedule 9 Principle & Statement	Comment	Complies
<p>Principle 4: Sustainability</p> <p><i>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.</i></p> <p><i>Good sustainable design also includes the following: recycling and reuse of materials and waste; use of sustainable materials; and deep soil zones for groundwater recharge and vegetation.</i></p>	<p>The proposal adopts a number of measures that facilitate a good response to the need for sustainability.</p> <p>Apartments enjoy good solar access and cross ventilation. There are facilities for rainwater reuse and provision is made for roof top solar in the proposed roof plan.</p> <p>The extent of deep soil zone in the front and rear setback areas requires addressing. This is discussed below.</p> <p>Alternative means of transport are encouraged by the convenient pedestrian access into the development and conveniently located facilities for bicycle storage.</p>	Yes, subject to condition.
<p>Principle 5: Landscape</p> <p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</i></p> <p><i>A positive image and contextual fit of well-designed developments are achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the following: local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks.</i></p> <p><i>Good landscape design optimises the following: usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.</i></p>	<p>There is a good provision of landscaping, with sufficient dimensions.</p> <p>No canopy trees are proposed within the site. Instead, the development relies upon the verge trees in Birriga Road that contribute to the tree canopy character of the street. They are proposed to be preserved.</p> <p>Tree No.5 in particular (an 8.0 metre Port Jackson Fig with medium retention value) is proposed to be replaced by a Dwarf Apple (maximum height 7 metres) in a location slightly to the south where deep soil planting opportunities exist.</p> <p>It would be appropriate to replace the fig in the rear of the site with a species that offers the same height and canopy role. Similarly a canopy tree should be provided in the front setback area of an appropriate species.</p>	Yes, subject to condition.

Schedule 9 Principle & Statement	Comment	Complies
<p>Principle 6: Amenity</p> <p><i>Good design positively influences internal and external amenity for residents and neighbours. Good amenity contributes to positive living environments and resident wellbeing.</i></p> <p><i>Good amenity combines the following: appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</i></p>	<p>The design of each level floor plan and building siting contributes to a development that offers a good standard of amenity. All apartments have a large size. All apartments are dual (corner) aspect and half (3) enjoy access to a northern aspect.</p> <p>Placement and screening of windows in walls addressing the side boundaries could be improved in terms of preserving internal and external privacy. This is discussed elsewhere.</p> <p>The communal open space is adequate given the small number of apartment and character of the development.</p> <p>Access to the development is well considered.</p>	Yes, subject to condition.
<p>Principle 7: Safety</p> <p><i>Good design optimises safety and security, within the development and the public domain.</i></p> <p><i>It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.</i></p> <p><i>Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The design provides surveillance of the public domain through balconies and windows facing Birriga Road.</p> <p>Pedestrian and vehicle entrances enjoy good exposure, are legible and will be comfortable to use.</p>	Yes.
<p>Principle 8: Housing Diversity and Social Interaction</p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including</i></p>	<p>The proposed development offers a good mix two and three bedroom apartments.</p> <p>While the proposal does not offer a varied mix of housing sizes it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill. It presents opportunities for downsizers and families who seek an alternative form of living to a large, detached dwelling, but with access to similar amenities.</p>	Yes.

Schedule 9 Principle & Statement	Comment	Complies
<i>different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</i>		
<p>Principle 9: Aesthetics</p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.</i></p> <p><i>Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p>The promotion of a mix of materials, colours and treatments in the façade walls display a high quality aesthetic.</p> <p>The proposed development adopts a sympathetic and restrained pallet of materials and colours that suit the built character of the area.</p>	Yes.

3.2 Apartment Design Guide Assessment

Part 2: Developing the Controls

Requirement	Comment	Complies
<p>2E – Building depth</p> <ul style="list-style-type: none"> - Ensure building depth support apartment layouts that meet the objectives, design criteria and design guidance within the apartment design guide. - Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. 	All apartments are corner situated and dual aspect.	Yes.
<p>2F – Building separation</p> <p><i>Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> - 12m between habitable rooms/balconies - 9m between habitable and non-habitable rooms - 6m between non-habitable rooms <p><i>Five to eight storeys (approximately 25m):</i></p> <ul style="list-style-type: none"> - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms 	<p>The building has a height of five storeys at the rear (including the car park level) and three storeys at the front for this assessment.</p> <p>Of significance, the proposed development includes windows and balconies to habitable rooms addressing both side boundaries that will require provision of the following:</p> <ul style="list-style-type: none"> • screens or comprehensive use of obscured glass to all balcony edges and non high-set windows to bedrooms addressing the eastern and western side boundaries at Levels 3 and 4; and 	Yes, subject to conditions.

Requirement	Comment	Complies
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> - 24m between habitable rooms/balconies - 18m between habitable and non-habitable rooms - 12m between non-habitable rooms 	<ul style="list-style-type: none"> • Provision of (or an extension to) the non – trafficable area of the north facing balconies where they address and overlook the east and west side boundaries. This point is elaborated upon below. 	
<p>2G – Street Setbacks</p> <ul style="list-style-type: none"> - Establish the desired spatial proportions of the street and define the street edge. - Provide space that can contribute to the landscape character of the street where desired. - Create a threshold by providing a clear transition between the public and private realms. - Assist in achieving visual privacy to apartments from the street. - Create good quality entries to lobbies, foyers or individual dwellings. - Promote passive surveillance and outlook to the street. 	<p>The development provides a minimum front setback of 5.173 metres which is consistent with those offered by neighbouring buildings in the street. This is discussed further under WDCP 2015 below.</p> <p>The proposed setback establishes good amenity for the street.</p>	Yes.
<p>2H – Side and rear setbacks</p> <ul style="list-style-type: none"> - provide access to light, air and outlook for neighbouring properties and future buildings. - provide for adequate privacy between neighbouring apartments. - retain or create a rhythm or pattern of spaces between buildings that define and add character to the streetscape. - achieve setbacks that maximise deep soil areas, retain existing landscaping and support mature vegetation consolidated across sites. - manage a transition between sites or areas with different development controls such as height and land use 	<p>Minimum side setbacks to the side boundaries are 1.0 metre (east) and 0.835 metres (west).</p> <p>The rear setback is 9.75 metres.</p> <p>The reduced side setbacks are predominantly incurred by the provision of a covered entry lobby and narrow, non-usable balconies in the side building elevations. The balconies do not provide adequate privacy between neighbouring apartments to the east and west (No.s 23 and 27) and introduce unnecessary bulk and scale. This can be remedied as noted elsewhere.</p> <p>Adequate deep soil planting opportunities are available through amendments as noted elsewhere.</p>	Yes, subject to conditions.

Part 3: Siting the Development

Requirement	Comment	Complies
<p>3A – Site analysis</p> <p>Responsive to opportunities and constraints of site conditions and streetscape</p> <ul style="list-style-type: none"> - Each element in the Site Analysis Checklist should be addressed. 	<p>Generally, the proposal responds well to the topography of the site and its generally north facing sloping nature. However, the relationship with adjoining properties to the east and west require improvement as discussed throughout the report.</p>	Yes, subject to conditions.
<p>3B – Orientation</p> <ul style="list-style-type: none"> - Responsive to streetscape character while optimising solar access within the development. - Overshadowing of neighbouring properties in minimised during mid-winter. - Where an adjoining property does not currently receive the required hours of 	<p>The building design prioritises solar access to, and outlook for, apartments to the north, which is appropriate.</p> <p>Overshadowing of neighbouring properties is minimised by virtue of the north-south orientation of the site.</p>	Yes.

Requirement	Comment	Complies															
<i>solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%</i>																	
3C – Public domain interface <ul style="list-style-type: none"> - <i>Transition between private and public domain is achieved without compromising safety and security.</i> - <i>Amenity of the public domain is retained and enhanced.</i> - <i>Length of solid walls should be limited along street frontages.</i> - <i>Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.</i> - <i>Opportunities for people to be concealed should be minimised.</i> - <i>Where development adjoins public parks, open space or bushland, the design positively addresses this interface.</i> 	The proposed location of windows, balconies, articulation, setbacks and mix of materials enliven and add interest to the street frontage.	Yes.															
3D - Communal and public open space <ul style="list-style-type: none"> - <i>Minimum communal space area 25% of site area.</i> - <i>Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).</i> - <i>Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.</i> - <i>Communal open space should be consolidated into a well-designed, easily identified and usable area.</i> 	<p>An outdoor communal garden of 114 sqm is proposed. It is overlooked by the balcony of Unit 2 on level 2 which would hinder its usefulness on account of noise and privacy considerations.</p> <p>However, given the small number of apartments in the development I consider this to be acceptable.</p>	Yes.															
3E – Deep soil zones <ul style="list-style-type: none"> - <i>Deep soil zones that allow for and support healthy plant and tree growth.</i> <table border="1"> <thead> <tr> <th>Site area</th><th>Min Dim.</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m²</td><td>-</td><td>7%</td></tr> <tr> <td>650 m² – 1,500m²</td><td>3m</td><td></td></tr> <tr> <td>Greater than 1,500m²</td><td>6m</td><td></td></tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td><td></td></tr> </tbody> </table>	Site area	Min Dim.	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650 m ² – 1,500m ²	3m		Greater than 1,500m ²	6m		Greater than 1,500m ² with significant existing tree cover	6m		<p>The site has an area of 792sqm.</p> <p>There is a minimum width requirement of 3 metres for a site of this size.</p> <p>The total areas of deep soil greater than 3.0 metre in dimension is 144.22 sqm (114.22 (rear) + 30 (front estimated)) which is 18.2%</p> <p>Significant below ground infrastructure is located in the deep soil area. This is discussed elsewhere.</p>	Yes, subject to conditions
Site area	Min Dim.	Deep soil zone (% of site area)															
Less than 650m ²	-	7%															
650 m ² – 1,500m ²	3m																
Greater than 1,500m ²	6m																
Greater than 1,500m ² with significant existing tree cover	6m																
3F – Visual privacy <ul style="list-style-type: none"> - <i>Adequate building separation between neighbours to achieve reasonable external and internal visual privacy.</i> - <i>Minimum separation distances from buildings to side and rear boundaries:</i> 	As noted above the proposed development does not achieve the required separation distances between proposed windows and balconies in the eastern and western side elevations of the building and windows and balconies in neighbouring buildings.	Yes, subject to conditions															

Requirement	Comment	Complies									
<table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> </tbody> </table> <ul style="list-style-type: none"> - Generally, one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance. - Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping. 	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m		
Building height	Habitable rooms and balconies	Non-habitable rooms									
Up to 12m (4 storeys)	6m	3m									
Up to 25m (5-8 storeys)	9m	4.5m									
3G – Pedestrian access and entries <ul style="list-style-type: none"> - Building entries and pedestrian access connects to and addresses the public domain. - Access areas clearly visible from public domain. - Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge. 	The proposed development offers a good level of connectivity, entry, access and visibility with Birriga Road.	Yes.									
3H – Vehicle access <ul style="list-style-type: none"> - Vehicle access points designed and located to achieve safety. - Car park access should be integrated with the building's overall facade. - The width and number of vehicle access points should be limited to the minimum. - Designed to minimise conflict with pedestrians and vehicles. - Create high quality streetscapes. 	The proposed driveway to Birriga Road is the most appropriate location and minimises potential streetscape, street tree and safety impacts.	Yes.									
3J – Bicycle and car parking <ul style="list-style-type: none"> - Car parking needs of the development provided off-street. - Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites. 	<p>The basement car park protrudes greater than 1.0 metre above ground level at the rear. Given the visually obscured character of the protuberance I consider that this is acceptable in this instance.</p> <p>The proposed development provides undercover bicycle storage. It is hidden from view.</p>	No, but acceptable in the circumstances									

Part 4: Designing the Building

Requirement	Comment	Complies										
4A – Solar and daylight access <ul style="list-style-type: none">- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area.- A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.	<p>The three south facing units (i.e. 50%) rely on receiving oblique sunlight to windows in side elevations at circa 9.00 am and 3.00pm to achieve the required solar access as nominated in the development application. These windows will generally be screened or comprise obscured glass.</p> <p>The rear private open spaces of these units (the balconies) do not receive 2 hours direct sunlight.</p> <p>However, given the small number of affected apartments and the narrow width of the lot and its north-south orientation (which preclude significant opportunities for design flexibility) I consider this is acceptable.</p>	No, but acceptable in the circumstances										
4B – Natural ventilation <ul style="list-style-type: none">- At least 60% of apartments are naturally cross ventilated in the first 9 storeys.- Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	All apartments are dual or corner aspect and offer good opportunities for cross ventilation.	Yes.										
4C – Ceiling heights <ul style="list-style-type: none">- Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th>Apartment</th><th>Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Attic spaces</td><td>1.8m with 30° minimum ceiling slope</td></tr></table> <ul style="list-style-type: none">- Minimum floor to floor height 3.1m (4C.5).	Apartment	Minimum ceiling height	Habitable rooms	2.7m	Non-habitable	2.4m	Attic spaces	1.8m with 30° minimum ceiling slope	The nominated floor to floor height is 3.25 metres (2700+10+190+ 350) which will achieve the 2.7 metre floor to ceiling height once floor materials and possible plumbing or ceiling AC ducting is installed.	Yes.		
Apartment	Minimum ceiling height											
Habitable rooms	2.7m											
Non-habitable	2.4m											
Attic spaces	1.8m with 30° minimum ceiling slope											
4D – Apartment size and layout <ul style="list-style-type: none">- Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedrooms</td><td>70m²</td></tr><tr><td>3 bedrooms</td><td>90m²</td></tr></table> <ul style="list-style-type: none">- Every habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room.- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.- In open plan layouts (where the	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedrooms	70m ²	3 bedrooms	90m ²	All apartments achieve the minimum area.	Yes.
Apartment type	Minimum internal area											
Studio	35m ²											
1 bedroom	50m ²											
2 bedrooms	70m ²											
3 bedrooms	90m ²											

Requirement	Comment	Complies												
<p>living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <ul style="list-style-type: none">- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).- A window should be visible from any point in a habitable room.- Bedrooms have a minimum dimension of 3m (excluding wardrobe space).- Living rooms or combined living/dining rooms have a minimum width of: <table><tr><td>Apartment type</td><td>Minimum width</td></tr><tr><td>1 bedroom</td><td>3.6m</td></tr><tr><td>2 bedrooms</td><td>4m</td></tr><tr><td>3 bedroom</td><td>4m</td></tr></table> <ul style="list-style-type: none">- The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Apartment type	Minimum width	1 bedroom	3.6m	2 bedrooms	4m	3 bedroom	4m						
Apartment type	Minimum width													
1 bedroom	3.6m													
2 bedrooms	4m													
3 bedroom	4m													
<p>4E – Private open space and balconies</p> <ul style="list-style-type: none">- All apartments are required to have primary balconies as follows: <table><tr><td>Apartment type</td><td>Min. width</td><td>Min. depth</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table> <ul style="list-style-type: none">- For apartments at ground level, a private open space area shall be provided instead of a balcony with minimum area of 15m² and minimum depth of 3m.	Apartment type	Min. width	Min. depth	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	All balconies for upper level apartments and the private open space to ground floor units meet the minimum area and depth requirements.	Yes.
Apartment type	Min. width	Min. depth												
1 bedroom	8m ²	2m												
2 bedroom	10m ²	2m												
3+ bedroom	12m ²	2.4m												
<p>4F – Common circulation and spaces</p> <ul style="list-style-type: none">- Maximum number of apartments off a circulation core on a single level is eight (8).- Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.- Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:<ul style="list-style-type: none">- a series of foyer areas with windows and spaces for seating;- wider areas at apartment entry doors and varied ceiling heights.	The circulation core (essentially the lift lobby area) on each floor provides access to only 1 to 2 apartments.	Yes.												
<p>4G – Storage</p> <ul style="list-style-type: none">- In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	<p>Storage for apartments is provided in the basement car parking level.</p> <p>Storage areas and cupboards in apartments are proposed</p>	Yes.												

Requirement	Comment	Complies
<p><i>Dwelling type Storage size</i> <i> volume</i></p> <p>Studio 4m³ 1 bedroom 6m³ 2 bedroom 8m³ 3+ bedrooms 10m³</p> <p><i>Note: At least 50% of the required storage is to be located within the apartment</i></p>		
<p>4H – Acoustic Privacy</p> <ul style="list-style-type: none"> Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated within apartments through layout and acoustic treatments. Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy). 	No acoustic assessment is provided. The car lift and stackers will require appropriate conditions to minimise noise impact on units within and external to the site.	Yes.
<p>4J – Noise and Pollution</p> <ul style="list-style-type: none"> The impacts of external noise and pollution are minimised through careful siting and layout of buildings. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission. 	<p>No air quality assessment is provided. The potential source of any air quality and noise issues would most likely be from the traffic using Birriga Road.</p> <p>Given the observed use of the road, together with the setback of the proposed building from the road, no air quality or noise concerns are apparent.</p>	Yes.
<p>4K – Apartment mix</p> <ul style="list-style-type: none"> A range of apartment types and sizes is provided. 	The proposal offers a mix of apartment sizes.	Yes.
<p>4L – Ground floor apartments</p> <ul style="list-style-type: none"> Street frontage activity is maximised where ground floor apartments are located. Apartments deliver amenity and safety for residents. Direct street access should be provided to ground floor apartments 	While the ground floor apartment addresses the street, it does not have direct street access. I consider that the narrow width of the site and the proposed approach to the pedestrian entry off Birriga Road achieves the requirements of this part.	Yes.
<p>4M – Facades</p> <ul style="list-style-type: none"> Building facades provide visual interest along the street while respecting the character of the local area. Entries are clearly defined. Building services should be integrated within the overall façade. 	<p>The Schedule of Colours and Finishes enables an indicative appreciation of the presentation of the building to Birriga Road and neighbouring properties.</p> <p>The architectural approach creates visual interest for the public domain while respecting the character of the local area.</p> <p>Entrances are clearly defined and observable from the public domain.</p> <p>Building services are not visible from the public domain. However, the location of fire fighting booster equipment is not identified.</p>	Yes.
<p>4N – Roof design</p> <ul style="list-style-type: none"> Roof treatments are integrated into the building design and positively 	The roof is not trafficable and rooftop plant is generally obscured by the roof form.	Yes.

Requirement	Comment	Complies
<i>respond to the street</i>		
4O – Landscape design <ul style="list-style-type: none"> - Landscape design is viable and sustainable. - Landscape design contributes to the streetscape and amenity. 	Tree species selection in deep soil areas do not capitalise on the opportunity for the site to contribute to the distinctive green tree canopy in the area. However this can be remedied as discussed elsewhere.	Yes, subject to conditions.
4P – Planting on structure <ul style="list-style-type: none"> - Appropriate soil profiles are provided. - Plant growth is optimised with appropriate selection and maintenance. - Planting on structures contributes to the quality and amenity of communal and public open spaces 	Some planting is proposed on structures.	Yes.
4Q – Universal design <ul style="list-style-type: none"> - Universal design features are included in apartment design to promote flexible housing for all community members. - A variety of apartments with adaptable designs are provided. - Apartment layouts are flexible and accommodate a range of lifestyle needs. - Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features. 	The private open space areas, vertical access, apartment sizes and layout and amenity of each unit generally provide a high level of flexibility to evolve as households evolve.	Yes.
4R – Adaptive reuse <ul style="list-style-type: none"> - New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. - Adapted buildings provide residential amenity while not precluding future adaptive reuse. 	The application is for a new development.	NA
4S – Mixed use <ul style="list-style-type: none"> - Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement. - Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents. 	The application is for a residential use.	NA
4T – Awnings and signage <ul style="list-style-type: none"> - Awnings are well located and complement and integrate with the building design. - Signage responds to the context and desired streetscape character. 	No awnings at street level are proposed.	NA
4U – Energy efficiency <ul style="list-style-type: none"> - Development incorporates passive environmental design. - Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer. 	<p>The proposed development offers high levels of natural ventilation and there are opportunities for rooftop solar provision.</p> <p>The proposal satisfies the relevant objectives or design criteria prescribed by this Part.</p>	Yes.

Requirement	Comment	Complies
<ul style="list-style-type: none"> - Adequate natural ventilation minimises the need for mechanical ventilation. 		
4V – Water management and conservation <ul style="list-style-type: none"> - Potable water use is minimised. - Urban stormwater is treated on site before being discharged to receiving waters. - Flood management systems are integrated into site design. 	The Stormwater Plan provides information to demonstrate appropriate rainwater collection and reuse.	Yes.
4W – Waste management <ul style="list-style-type: none"> - Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. - Domestic waste is minimised by providing safe and convenient source separation and recycling. 	A waste room is proposed in the basement level and is conveniently accessible to Birriga Road.	Yes.
4X – Building maintenance <ul style="list-style-type: none"> - Building design detail provides protection from weathering. - Systems and access enable ease of maintenance. - Material selection reduces ongoing maintenance costs. 	<p>While no information has been provided with regards to the building maintenance, I consider the proposed materials selected, particularly the use of brick and colorbond and solid balustrades, will result in a building that will require minimum maintenance.</p> <p>Roof hatch access to the roof is shown.</p>	Yes.

3.3 Woollahra Local Environment Plan 2014 (WLEP2014)

The proposed development is assessed against the relevant provisions of WLEP 2014 in the table below.

Zoning Clause Objective / Control	Assessment	Complies
Zoning <i>R3 Medium Density Residential</i> Objectives: <ul style="list-style-type: none"> • 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 	<p>The proposed use is permissible, and it can meet the objective of the zone and achieve the desired future character of the Precinct subject to suggested amendments discussed in this review.</p>	Yes, subject to conditions.

Zoning Clause Objective / Control	Assessment	Complies
Clause 4.3 Height of Buildings <i>Objectives:</i> <i>to establish building heights that are consistent with the desired future character of the neighbourhood,</i> <i>to establish a transition in scale between zones to protect local amenity,</i> <i>to minimise the loss of solar access to existing buildings and open space,</i> <i>to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i> <i>to protect the amenity of the public domain by providing public views of the harbour and surrounding areas</i>	<p>The maximum proposed height of the building is nominated in the Statement of Environmental Effects as 13.4 metres.</p> <p>Thus the proposed building is located below the maximum LEP height limit of 13.5 metres.</p> <p>However this assessment relies on the provision of selected sections through the building that does not include an east-west section through the central northern half of the site.</p> <p>The existing ground line noted in the Drawing 01.13 does not appear to match the stepped level character of the site as shown in the survey plan. Thus compliance of the top floor (level 4) with the height limit in the northern part of the site cannot be determined.</p>	Potentially yes, subject to submission of additional detail and clarification.
Clause 4.4 Floor Space Ratio <i>Objectives:</i> <i>(a) for development in Zone R3 Medium Density Residential—</i> <i>(i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and</i> <i>(ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and</i> <i>(iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space</i>	<p>The maximum FSR is 0.9:1. This equates to 712.8 sqm gross floor area (GFA) based on a site area of 792 sqm.</p> <p>The proposed GFA is nominated as 748.62 sqm in the development application. The proposed development has a proposed FSR of 0.94:1 which is a 5.1% departure from the standard (being an additional 36.82 sqm).</p> <p>The application includes a Clause 4.6 written request.</p> <p>I have reviewed the justification to vary the FSR standard in the request. I do not support the variation as the proposed resulting floor space would be inconsistent with the objectives of Clause 4.4.</p> <p>I will elaborate on this opinion in further discussion below.</p>	No.
Clause 5.10 Heritage <i>Clauses 5.10 (4) and (5) require Council to consider the effect of a proposed development on the heritage significance of a heritage item or conservation area.</i>	<p>The property is not located within the vicinity of a heritage item or a heritage conservation area.</p>	Yes.
Clause 6.9 Tree Canopy Cover in Zones R2 and R3 <i>Clause 6.9 requires development in R2 and R3 zones to plant trees, and retain and minimise; disturbance and adverse impacts on existing</i>	<p>Additional planting of canopy trees within the site is suggested.</p>	Yes, subject to condition.

Zoning Clause Objective / Control	Assessment	Complies
<i>canopy trees which are to be retained. (The Clause does not apply to certain HCAs)</i>		

The proposal includes a request for a variation to the floor space standard in WLEP 2014. I will discuss this below.

3.3.1 FSR Variation

I have reviewed the submissions in the Clause 4.6 request, and have concluded that the written request has not satisfactorily demonstrated that:

1. compliance with the FSR development standard is unreasonable and unnecessary;
2. there are sufficient environmental planning grounds; and
3. the proposed development will be in the public interest because it is inconsistent with the objectives of the FSR standard and the objectives for development within the R3 zone.

The basis for this conclusion is as follows:

Height, Bulk and Scale Objectives

- i) The variation is inconsistent with the Desired Future Character of the Bellevue Hill South Precinct as the basement level protrudes above the existing ground level at the rear and the building does not sufficiently step down the sloping site; and side setbacks do not provide adequate separation with adjoining buildings to facilitate views and privacy between buildings;
- ii) The additional floor space may result in an exceedance in the maximum height control. It is not known at this time whether any exceedance could be supported;
- iii) The additional non-compliant floor space is not fully contained within the building envelope mandated by the setback controls in WDCP 2015 (discussed below);
- iv) The additional floor space is partly achieved as a result of unnecessarily oversized apartments. For example the depth and width of living areas and secondary bedrooms in all apartments could be reduced slightly without any loss of amenity, functionality or design quality / character / ambience.

Environmental Effects on the Use or Enjoyment of Adjoining Properties Objective

- v) Building siting and the reduced side setbacks result in unnecessary visual intrusion and potential noise and privacy impacts. This can be addressed by accompanying recommendations in this urban design review. However adoption of the recommendations will not, in itself, resolve the concerns with the proposed FSR exceedance.

Adequate Provision on the Land for Deep Soil Planting Objective

- vi) As noted elsewhere in this report, both the front and rear deep soil areas are compromised by stormwater infrastructure. It is not clear how these issues will be addressed, particularly the proposed location of the water tank and absorption / infiltration trench in the rear of the site.

3.4 Woollahra Development Control Plan 2015 (WDCP 2015)

The proposed development is assessed against the relevant provisions of WDCP 2015 in the table below.

Control	Objective / Control Summary	Assessment	Complies
Chapter B1 Desired Future Character	<p><i>The site is located in the Bellevue Hill South Precinct.</i></p> <p><i>Part B1.7.2 presents the Precinct Character Statement and the Desired Future Character and objectives sought for development in the site.</i></p> <p><i>Extracts of the statement of Desired Future Character are as follows.</i></p> <p><i>"New development should be designed to step down sloping sites and provide side boundary setbacks that allow for views between buildings. Development should not detract from the amenity of adjoining and adjacent lower density forms of residential development..."</i></p> <p><i>Development along the local roads will provide a mix of housing densities and styles in well-designed contemporary buildings, which reinforce the natural topography and provide opportunities for view sharing.</i></p> <p><i>Development must provide opportunities for view sharing from both public spaces and private properties. In particular, buildings should step down the site, also minimising cut and fill..."</i></p> <p><i>The relevant Desired Future Character objectives are:</i></p> <p><i>O1 To respect and enhance the streetscape character and key elements of the precinct.</i></p> <p><i>O2 To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings, incorporating modulation and a varied palette of materials.</i></p> <p><i>O5 To design and site buildings to respond to the topography and minimise cut and fill.</i></p> <p><i>O7 To reinforce the landscape setting and maintain the existing tree canopy.</i></p>	<p>The proposal offers a well-designed contemporary building which is consistent with the approach sought for redevelopment in the Precinct.</p> <p>There are no significant public views or vistas across the site.</p> <p>Built form has a height of 3 storeys when viewed from Birriga Road and 5 storeys when viewed from the rear.</p> <p>The basement level protrudes above the existing ground level at the rear and the building does not sufficiently step down the sloping site.</p> <p>Side setbacks do not provide adequate separation with adjoining buildings to facilitate views between buildings.</p>	No.

Control	Objective / Control Summary	Assessment	Complies
B3.2 Building Envelope Setbacks	<i>Part B 3.2 presents building envelope controls for residential flat buildings in the R3 zone.</i> <i>Setbacks establish the position of buildings in relation to the street, side and rear boundaries. They create the spatial proportions of the street contribute to streetscape and neighbourhood character and protect the amenity of adjoining properties</i>	I consider the proposed front and rear setbacks to be acceptable. Building siting proposes a minimum 0.835 metre setback to the western boundary and a minimum 1.0 metre to the eastern boundary. The minimum side setback requirement is 1.5 metres. The non compliance is significant. However it can be remedied as described elsewhere in this report.	Yes, subject to conditions.
Part 3.5.1 Streetscape Character	<i>A quality streetscape provides good public amenity and contributes to the character and identity of the locality. As character can vary from street to street, it is important that development recognises predominant streetscape qualities, such as building form to ensure a cohesive streetscape character.</i>	This is discussed in Parts 3.1 and 3.2 above.	Yes.
Part B.3.5.2 Overshadowing	<i>To minimise overshadowing to adjoining properties.</i>	As I note above, the orientation of the site and the proposed building minimises overshadowing impact.	Yes.
Part B.3.5.3 Public and Private Views	<i>To protect and enhance existing views to and from public domain areas and encourage view sharing.</i>	I have not been able to observe views from inside neighbouring properties. However, within this constraint I discuss view impact in Part 3.3 above. Given the placement of existing apartments on neighbouring properties and topography I conclude that there will be some visual intrusion from a number of windows in No. 23. However, the impact can be lessened by suggested design amendments that will increase setbacks and separation between buildings.	Yes, subject to conditions.
Part B3.5.4 Acoustic and Visual Privacy	<i>To ensure adequate acoustic privacy for occupants and neighbours.</i>	Acoustic and visual privacy is addressed in Part 3.2 above.	Yes, subject to conditions.
B.3.5.5 Internal Amenity	<i>To encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation.</i>	The design of the proposed development delivers good amenity.	Yes.
B.3.5.6 On-site Parking	<i>To minimise the visual impact of garages, car parking structures and driveways on the streetscape.</i>	While the basement car park level protrudes above ground level at the rear its presence is obscured by screening.	Yes.

Control	Objective / Control Summary	Assessment	Complies
		The design of the car park integrates well into the development and the site at the site frontage.	
B3.7.1 Deep Soil	<p>To ensure that the areas outside the floorplate contribute to the desired future character of the location.</p> <p>Tree canopy area is at least 30% of the site area for residential development other than dwelling houses, dual occupancies, semi-detached development and attached dwellings.</p> <p>At least half of the total tree canopy area on the site (i.e. 50%) is contributed by canopy tree/s.</p> <p>35% of the site area is deep soil landscaped area</p> <p>At least 40% of the front setback comprises deep soil landscaped area.</p> <p>For a residential flat building ...in the Bellevue Hill South ... precinct—at least one consolidated area of the deep soil area is at least 20m²</p>	<p>Tree Canopy</p> <p>No tree canopy cover is nominated in the development application.</p> <p>The total proposed deep soil area is nominated at 18.2%. However it is encumbered by stormwater infrastructure.</p> <p>Suggestions elsewhere in this review to provide tree canopy species in deep soil zones and amend the stormwater design should address these concerns.</p>	Yes, subject to conditions.
B3.7.1 Principal POS	To ensure that dwellings in residential flat buildings ... are provided with adequate private open space that enhances the amenity of the dwellings.	The proposed development offers generous private open space areas.	Yes.
B.3.7.2 Fences	<p>To ensure fences and walls improve amenity for existing and new residents, are not visually intrusive, do not unreadably restrict views and contribute positively to streetscape and adjacent buildings.</p> <p>The height of front fences does not exceed: 1.2m if solid; or 1.5m if 50% transparent or open;</p> <p>The rear and side fences: a) are located behind the building front setback; and b) do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary.</p> <p>Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side (refer to Figure 26). For sloping streets—the height of fences and walls may be</p>	<p>Wall heights on the side boundaries ranging from approximately 1.56 to 2.57 metres. The rear wall height is not shown.</p> <p>The frontage contains a low height wall.</p> <p>Notwithstanding the existing sloping character of the site's landform, I see no reason why boundary wall heights at the side and rear boundaries of the site cannot achieve the DCP requirements for sloping sites.</p>	Yes, subject to condition.

Control	Objective / Control Summary	Assessment	Complies
	<i>averaged and fences and walls may be regularly stepped.</i>		
B.3.7.3 Site Facilities	<p><i>To ensure that mechanical plant equipment including lift overruns, air-conditioning units and external condensers, do not have adverse streetscape or amenity impacts.</i></p> <p><i>To ensure that development incorporates adequate garbage and recycling collection areas.</i></p>	<p>Site facilities have been identified in the plans of proposed development. Locations for AC condensers include balconies and in the upper ground floor unit courtyard garden.</p> <p>As noted earlier no location for the fire hydrant booster assembly cabinet is identified.</p> <p>Better though needs to be given to the location of these facilities to ensure that their visual impacts are minimised and they have no impact on the useability of the spaces in which they are located.</p>	Yes, subject to conditions.
B.3.7.4 Ancillary Development	<i>To provide recreation facilities and opportunities that do not compromise the amenity of adjoining properties and retain deep soil zones, trees and vegetation of landscape value.</i>	No recreation facilities are proposed.	N/A
B.3.8 Residential Flat Buildings	<p><i>To ensure that dwellings within the development provide good amenity.</i></p> <p><i>Single aspect dwellings are limited in depth to 8m from a window.</i></p> <p><i>The back of the kitchen is no more than 8m from a window.</i></p> <p><i>The width of a cross-over or cross-through dwelling over 15m deep is 4m or greater. Deep and narrow dwelling layouts are avoided.</i></p>	This is achieved.	Yes

Part 4: Urban Design Review

4.1 Summary

The proposed development is a low scale infill residential building that seeks to capitalise on the redevelopment opportunity offered by the site.

However, the sloping character of the site, the adoption of car stackers to accommodate car parking and the desire to maximise (and subsequently slightly exceed) the permissible floor space introduces a number of design challenges in terms of building setbacks, bulk and scale.

This may be exacerbated by a potential maximum height breach that cannot be determined with the information provided.

Given these challenges the proposed development fails to achieve a contextual fit in terms of minimising the impact of the proposed bulk and scale of the new building on environmental considerations including acoustic and visual privacy and visual intrusion.

Furthermore, the size and extent of deep soil planting zones require clarification, particularly with regard to the provision of stormwater infrastructure. Possible changes to the site planning and building siting and design may be required. Should the outcome incur issues of compliance with FSR or DCP controls these should be addressed as part of the redesign noted above.

I note the development application seeks a variation to the floor space ratio standard. I do not support the variation given the characteristics of the proposal.

Externally, the architectural style adopts a contemporary approach that, together with the selection of a muted and sympathetic pallet of materials and colours, enables a compatible fit with the prevailing streetscape character.

Overall, the proposal is inconsistent with the Desired Future Character for the Bellevue Hill South Precinct. However, it can be made consistent with some minor amendments that I list below.

4.2 Recommendation

The proposal is not supported. However, minor redesign of the development is suggested that may remedy the concerns. Any submission of revised plans should be accompanied by:

- clarification on the existing ground level line and maximum permissible building height line across the site to enable a complete understanding of the proposed building height when measured against the existing ground level; and
- the areas of genuine deep soil planting zone, free of stormwater infrastructure constraints.

The redesign should consider the following observations (in no particular order and not purporting to be complete):

1. Floor plan design should be amended to trim or delete balconies (including Juliet and non-trafficable) addressing side boundaries where they project from the building wall (and do not form part of the roof of the level below) to increase the setbacks of the proposed building to achieve the WDCP Part B3.2 minimum requirement of 1.5 metres;
2. The covered entry lobby at the building entry in the west facing elevation should be deleted or redesigned to achieve the minimum side setback requirement noted above;
3. Any balconies that project beyond the front and rear building wall that overlook the neighbouring properties to the east and west (No. 23 and No. 27) should include screening at the balcony edge to improve acoustic and visual privacy;
4. Windows addressing the east and west side boundaries that do not achieve the minimum Apartment Design Guidelines' separation distances should be high-set in character, screened or fully comprise opaque glass;

5. The design of the floor plans should be amended to increase the efficiency of unit floor space use and configuration. Consideration should be given to minor reductions in unit sizes to better meet the maximum floor space ratio standard. For example, this may be achieved by minor reductions in the size of some bedrooms and living areas. (This action may also assist in increasing building setbacks and window separation from side boundaries);
6. Greater consideration should be given to the location of AC condensers to ensure such locations minimise visual impact and do not compromise the functionality of any private open space or balcony locations that may be required. In this regard, the priority should be to identify locations that do not comprise apartment private open space;
7. The location and design of the fire hydrant booster assembly cabinet should be incorporated into the building design at the site frontage;
8. The stormwater plan should be amended to remove any infrastructure that may impede the functionality of the deep soil planting zones, particularly in the front and rear setback areas;
9. Side and rear boundary walls should have a maximum height of 1.8 metres (or 1.2 metres) consistent with the requirements of Part B3.7.2 of WDCP; and
10. The landscape plan should be amended to include an appropriate species to replace the fig in the rear of the site with a species that offers the same height and canopy role. Similarly, a canopy tree should be provided in the front setback area of an appropriate species.

Stephen McMahon
Director, Inspire Urban Design and Planning Pty Ltd

Completion Date: 17/10/2022

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 414/2022/1
ADDRESS: 25 Birriga Road BELLEVUE HILL 2023
PROPOSAL: Demolition of an existing dwelling and construction of a new residential flat building
FROM: Louie Salvatore
TO: Mr W Perdigao

1. ISSUES

- *Acid Sulfate Soils – WLEP 2014 Class 5 Land.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by GSA Planning. Document No. 22255 dated September 2022.
- Architectural Plans: prepared by CSA Architects, Drawing No. RIJA-01 dated 16 September 2022.
- Geotechnical Investigation: prepared by JK Geotechnics Pty Ltd. Document No. 35170PDrpt – Final Report dated 15 August 2022.

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

It is proposed to demolish the existing building and construct a new part three and part four storey residential flat building containing six units, basement parking and associated landscaping works.

Basement Floor Level

The Basement Floor Level is at RL 55.045 AHD and comprises 12 car parking spaces within six car stackers, seven bicycle spaces, one motorbike space; a services, plant and equipment room; bin room, fire exit staircase, and pedestrian lift. A car lift is also provided at this level.

Level 1

Level 1 is at RL 59.80 AHD. The northern side of the building is occupied by service areas. Storage spaces, common stairs and a pedestrian and car lift. The southern side of the building is occupied by a three storey unit containing open planned living areas with balcony, three bedrooms, bathroom, ensuite and laundry. The rear of the

site is occupied by a communal landscaped area that is accessed from the common stairs on the eastern side of the building.

Level 2

Level 2 is at RL 63.05 AHD and comprises the main entry foyer, vehicular entrance with car lift, as well as a passenger lift and stair. This level also contains one two bedroom unit on the northern side and one three bedroom unit on the southern side. Each unit contains open planned living spaces, bathrooms, laundry, and private open space in the form of a courtyard or balcony.

Level 3

Level 3 is at RL 66.30 AHD and contains two three bedroom units, common stairs, and pedestrian lift. Each unit comprises open planned living areas and adjoining balcony, laundry, bathroom, bedrooms, robes and ensuites.

Level 4

Level 4 is at RL 69.55 AHD and one three bedroom unit comprising open planned living spaces with adjoining balconies, bathroom, robes and ensuites. This level also contains common stairs and a pedestrian lift.

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

6. RECOMMENDATION

Council's Environmental Health Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

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 Light & Ventilation

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

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).
Standard Condition C59

C.2 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.3 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The basement carpark in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4

'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-2012. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement carpark must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement carpark and provide details to the Certifying Authority accordingly. Except as varied, the basement carpark shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-2012.

C.4 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

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 2000*.

Note: EPA Guidelines can be down loaded from

<http://www.epa.nsw.gov.au/noise/nlg.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

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)

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 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 2000* (www.legislation.nsw.gov.au).

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

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

Department of Gaming and Racing - (www.dgr.nsw.gov.au).
Standard Condition: I56

I.2 Noise from mechanical plant and equipment

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

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

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/nlg.htm>)
ISBN 1741370671 , dated December 2004.
Standard Condition: I59

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

Louie Salvatore
Environmental Health Officer

Date: 17/10/2022

Completion Date: 25 November 2022

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 414/2022/1
ADDRESS: 25 Birriga Road BELLEVUE HILL 2023
PROPOSAL: Demolition of an existing dwelling and construction of a new residential flat building
FROM: Ashley Wang - Fire Safety Officer
TO: Mr W Perdigao

1. ISSUES

- *The proposal is a new building so BCA compliance is assessed at Construction Certificate stage.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 22255 prepared by GSA Planning, dated September 2022.
- Architectural Plans, referenced RIJA-01.2 – RIJA-01.14, prepared by CSA Architects, dated 16/09/2022.

3. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2000*.

- ☐ Clause 93 – Change of Use – ‘Fire safety and other considerations’
 - *Category 1 fire safety provisions required*
- ☐ Clause 94 – ‘Consent authority may require buildings to be upgraded’
 - Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
 - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
- ☐ Clause 94 – ‘Fire safety and other considerations applying to erection of temporary structures’
 - fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

4. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

5. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

- A. General Conditions
- B. Conditions which must be satisfied prior to the demolition of any building or construction
- C. Conditions which must be satisfied prior to the issue of any construction certificate
- D. Conditions which must be satisfied prior to the commencement of any development work
- E. Conditions which must be satisfied during any development work
- 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 Fire Safety Certificates

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

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

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

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

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

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

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

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

new building has the same meaning as it has in section 109H of the Act.
Standard Condition: F4

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

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

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

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

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

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety www.woollahra.nsw.gov.au.
Standard Condition: I22

J. Miscellaneous Conditions

K. Advisings

Ashley Wang
Fire Safety Officer

Date: 25 November 2022

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA10/2024/1
ADDRESS	85-87 Birriga Road BELLEVUE HILL
COUNCIL WARD	Bellevue Hill
SITE AREA	916m ² (Combination of the two sites)
ZONING	R3 Medium Density Residential
PROPOSAL	Demolition of all existing structures on both 85 and 87 Birriga Road and the construction of a new four (4) storey residential flat building containing 8 units, basement parking containing 16 spaces, a roof top terrace with pergola, associated landscaping and the amalgamation of both sites
TYPE OF CONSENT	Local development
COST OF WORKS	\$6,511,446.00
DATE LODGED	09/01/2024 13/03/2024 - Amended plans
APPLICANT	I Karmaniolos
OWNER	Mr G & Mrs L A Beynon
AUTHOR	Mrs L Holbert
TEAM LEADER	Mr G Fotis
SUBMISSIONS	14
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 categories of:

- Contentious development
Development that:
(a) is the subject of 10 or more unique submissions by way of objection

AND

- 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) – Chapter 4: Design of Residential Apartment Development*.

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;
- Insufficient information is provided for Council's assessment;
- The site is not suitable for the proposed development; and
- The proposal is not in the public interest.

2. LOCALITY PLAN



6/73 Birriga Road, Bellevue Hill 10/94A Birriga Road, Bellevue Hill, 4 Bundarra Road, Bellevue Hill,
59-61 Birriga Road, Bellevue Hill

3. PROPOSAL

The proposal involves the demolition of the existing structures on the subject Site including the existing dwelling houses, garages, external stairs and retaining walls and for the construction of a 4 storey residential flat building containing 8 units with parking below. The proposal involves the following works:

Lower Ground Floor:

- 16 car spaces (2 spaces per unit). 12 of these spaces are provided via vertical mechanical car stackers;
- 2 motorcycle spaces;
- Waste storage room;
- Lift, lobby and access stair;
- New pedestrian pathways and access ramps to the front of the site;

- New driveway crossover to the eastern side;
- New bicycle storage to the front of the Site;
- New external access stairs to the front and western side setback;
- New landscaping.

Ground Floor:

- 1 x 4 bedroom apartment, Unit G.01 (140.89m²): Contains 4 bedrooms, open plan kitchen/dining/living, 1 ensuite, WIR, bathroom, laundry and study-nook. This unit has private open space to the front, rear and side (eastern);
- 1 x 3 bedroom apartment, Unit G.02 (109.76m²): Contains 3 bedrooms, open plan kitchen/dining/living, 1 ensuite, bathroom and laundry. This unit has private open space to the front, rear and side (western);
- Central lobby, lift, stair and service area;
- New Landscaping.

First Floor:

- 1 x 4 bedroom apartment, Unit 1.01 (140.89m²): Contains 4 bedrooms, open plan kitchen/dining/living, 1 ensuite, WIR, bathroom, laundry and study-nook. This unit has a balcony facing the front of the Site;
- 1 x 3 bedroom apartment, Unit 1.02 (109.76m²): Contains 3 bedrooms, open plan kitchen/dining/living, 1 ensuite, bathroom, study-nook and laundry. This unit has a balcony facing the front of the Site;
- Central lobby, lift, stair and service area.

Second Floor:

- 1 x 4 bedroom apartment, Unit 2.01 (140.89m²): Contains 4 bedrooms, open plan kitchen/dining/living, 1 ensuite, WIR, bathroom, laundry and study-nook. This unit has a balcony facing the front of the Site;
- 1 x 3 bedroom apartment, Unit 2.02 (109.76m²): Contains 3 bedrooms, open plan kitchen/dining/living, 1 ensuite, bathroom, study-nook and laundry. This unit has a balcony facing the front of the Site;
- Central lobby, lift, stair and service area.

Third Floor:

- 1 x 4 bedroom apartment, Unit 3.01 (128.44m²): Contains 4 bedrooms, open plan kitchen/dining/living, 1 ensuite, WIR, bathroom, laundry and stairs to the roof terrace. This unit has a balcony facing the front of the Site;
- 1 x 3 bedroom apartment, Unit 3.02 (102.81m²): Contains 3 bedrooms, open plan kitchen/dining/living, 1 ensuite, bathroom, laundry and stairs to the roof terrace. This unit has a balcony facing the front of the Site;
- Central lobby, lift, stair and service area.

Terrace/Roof:

- Services and lift over-run;
- Stairs to Unit 3.01, private roof terrace to this unit with pergola and built-in BBQ;
- Stairs to Unit 3.02, private roof terrace to this unit with pergola and built-in BBQ.

Amended plans were received on 13/03/2024, the following changes were made:

- The proposed vehicular access, parking arrangements and splays were shown on the proposed plans.



Figure 1: Photomontage of the proposed development.

4. ISSUES

4.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.4	Floor Space Ratio	282.05m ² or 34% departure from the 0.9:1 standard.	Unsatisfactory

4.2 Primary Issues²⁸².

Issue	Conclusion	Section
Views	The proposed third level, roof terrace and the associated structures will result in the loss of views obtained from properties to the rear, which does not allow for reasonable view sharing, contrary to Controls C5 and C7 of the Part B3.5.3 of the WDCP, 2015. This is further discussed below in Section 14.2 of this report.	14.2
FSR	The written request provided by the Applicant has not adequately demonstrated that the contravention of the FSR development standard, prescribed by Part 4.4 of the Woollahra LEP 2014 is justified.	13.5, 13.6
Height	The Applicant has not provided sufficient information in relation to the surveyed level of the existing dwellings to confirm ' <i>ground level (existing)</i> ' for the purpose of accurately determining the maximum building height of the proposed development.	13.4
Tree Loss	The proposed removal of a significant street tree to allow for the proposed driveway was not supported by Council's Landscape Officer. This is because this street tree is in a good healthy condition, is one of several avenue plantings along Birriga Road and is considered to be an important community asset.	14.2, 14.4
Tree Canopy	The proposed development does not provide sufficient tree canopy area, which is contrary to Control C1 of Part B3.7.1 of the WDCP 2015. This has been further discussed in Section 14.2 of this report.	13.10, 14.2, 14.4
Mechanical Parking Installation	The proposed floor-to-floor height of the basement level does not allow for sufficient headroom clearance for the two levels of vertical stacked car parking, contrary to Part E1.15.2 of the WDCP, 2015.	14.3

Issue	Conclusion	Section
Streetscape/desired future character	The proposed bulk, scale, materiality and colour palette does not reflect the local context and presents as a five storey wall to Birriga Road. This is uncharacteristic and inconsistent with the desired future character of the Bellevue Hill South Precinct and the Birriga Road streetscape.	14.1, 14.2
Bulk and scale	The proposed development has a bulk and scale that is considered to be excessive, which is inappropriate within the context of the streetscape resulting in unacceptable impacts on the amenity of surrounding properties.	13.6, 14.2
Insufficient Information	The Applicant has not provided sufficient and accurate information to allow for adequate assessment of the proposed development.	21
Roof terrace	The over scaled roof terrace and the associated structures add significant height, bulk and scale to the building. These elements will obstruct views, adversely impact the visual privacy of surrounding properties and will detract from the quality of the streetscape. This is discussed further below in Section 14.2 of this report.	14.2
Front Setback	The non-compliance with the minimum front setback control, contributes to the overdevelopment of the site and detracts from the quality of the streetscape.	14.2
Visual Privacy	The proposed window openings and roof terrace will overlook habitable room windows and private open space at surrounding properties, adversely impacting the visual privacy of these properties. This is further discussed below in Section 14.2 of this report.	14.2
Excavation	The extent of excavation works is considered to be excessive and does not comply with the maximum excavation volume requirements. This is further discussed below in Sections 13.9 and 14.2 of this report.	13.9, 14.2

4.3 Summary of Submissions

Issue	Conclusion	Section
Views	The proposed third level, roof terrace and the associated structures will result in the loss of views obtained from properties to the rear, which does not allow for reasonable view sharing, contrary to Controls C5 and C7 of the Part B3.5.3 of the WDCP, 2015. This is further discussed below in Section 14.2 of this report.	8.1, 14.2
FSR	The written request provided by the Applicant has not adequately demonstrated, that the contravention of the FSR development standard prescribed by Part 4.4 of the Woollahra LEP 2014 is justified.	8.1, 13.5, 13.6
Bulk and Scale	The proposed development has a bulk and scale that is considered to be excessive, which is inappropriate within the context of the streetscape resulting in unacceptable impacts on the amenity of surrounding properties.	8.1, 14.2
Height	The Applicant has not provided sufficient information in relation to the surveyed level of the existing dwellings to confirm ' <i>ground level (existing)</i> ' for the purpose of accurately determining the maximum building height of the proposed development.	8.1, 13.4
Streetscape/desired future character	The proposed bulk, scale, materiality and colour palette does not reflect the local context and presents as a five storey wall to Birriga Road. This is uncharacteristic and inconsistent with the desired future character of the Bellevue Hill South Precinct and the Birriga Road streetscape.	8.1, 14.1, 14.2
Visual privacy	The proposed window openings and roof terrace will overlook habitable room windows and private open space at surrounding properties, adversely impacting the visual privacy of these properties. This is further discussed below in Section 14.2 of this report.	8.1, 14.2
Excavation	The extent of excavation works is considered to be excessive and does not comply with the maximum excavation volume requirements. This is further discussed below in Sections 13.9 and 14.2 of this report.	8.1, 13.9, 14.2
Lack of visitor parking	The proposed development does not provide any visitor parking, contrary to Part E1.4.2 Of the WDCP 2015.	8.1, 14.3

Issue	Conclusion	Section
Overshadowing	The Applicant has not provide sufficient information to allow for an adequate assessment of the solar access impacts on surrounding properties.	8.1, 14.2
Apartment Design Guide	The proposed development does not comply with the Apartment Design Guide and is considered to be unacceptable in this regard. This is further discussed below in Section 11 of this report.	8.1, 11
Tree Loss	The proposed removal of the significant street tree was not supported by Council's Landscape Officer. This is because this street tree is in a good healthy condition, is one of several avenue plantings along Birriga Road and is considered to be an important community asset.	8.1, 14.2, 14.4
Insufficient/inaccurate Information	The Applicant has not provided sufficient and accurate information to allow for adequate assessment of proposed development.	8.1, 21
Parking/Traffic	These issues have been discussed below in Section 14.3 of this report.	8.1, 14.3
Overdevelopment	The height, bulk and scale of the proposed development represents an overdevelopment of the site, which results in adverse impacts on the streetscape and the amenity of surrounding properties.	8.1, 14.2

PROPERTY DETAILS AND REFERRALS

5. SITE AND LOCALITY

Physical features
The Site consists of two Torrens titled residential lots, legally known as Lot C DP305981 (No.85 Birriga Road, Bellevue Hill), and Lot D DP305981 (No.87 Birriga Road, Bellevue Hill).
The subject Site is located on the southern side of Birriga Road, has a rectangular shape and a total Site area of 916m ² . The site has a frontage of 36.58m to Birriga Road.
Topography
The Site exhibits a significant change in level, falling approximately 8 metres from the rear boundary (RL39.13) to the front boundary (RL31.39) at the Birriga Road footpath, over a distance of approximately 36 metres.
Existing buildings and structures
The Site (located on two separate allotments) is currently occupied by two single storey inter-war California bungalows. Both houses were constructed at the same time. No.87 Birriga Road has been highly altered while No.85 Birriga Road has retained most of its original features. Both properties contain single detached garages located adjacent to the front boundary.
Surrounding Environment
The Site is located within the Bellevue Hill South Precinct, within the R3 Medium Density Residential Zone. The Bellevue Hill South residential precinct benefits from significant views and vistas, towards the north to Sydney Harbour and from its proximity to significant public parklands and open spaces, including the upper part of Cooper Park, the Woollahra Golf Course and Bellevue Park.
The surrounding development is characterised by a mixture of inter-war and contemporary residential flat buildings, interspersed with detached dwelling houses.
Adjoining the Site to the east is a three storey inter-war residential flat building with car parking adjacent to the front boundary, known as No.87A Birriga Road.
Adjoining the Site to the west is a two storey residential flat building with parking adjacent to the front boundary, known as No.83 Birriga Road.
Adjoining the Site to the south is a three storey detached dwelling at No. 77 Birriga Road, a two storey detached dwelling at No.79 Birriga Road and three storey residential flat building at No.75 Birriga Road.
To the north of the site, on the opposite side of Birriga Road is a mixture of residential flat buildings of various styles and scales, including a three storey contemporary residential flat building at No.98 Birriga Road, a two storey inter-war residential flat building at No.96 Birriga Road and a three storey inter-war residential flat building at No.94 Birriga Road.



Photo 1: Front elevation of No.85 Birriga Road



Photo 2: Front elevation of No.87 Birriga Road



Photo 3: Adjoining RFB located to the east (No.87a Birriga Road).



Photo 4: Adjoining RFB to the west (No.83 Birriga Road).



Photo 5: Adjacent properties to the south Nos.75 & 77 Birriga Road.



Photo 6: RFBs to the north on the opposite side of Birriga Road (Nos.96, 98 & 100 Birriga Road).

6. RELEVANT PROPERTY HISTORY

Current use
Residential dwellings
Relevant Application History
N/A
Relevant Compliance History
N/A
Pre-DA
N/A

Requests for Additional Information and Replacement Applications	
<ul style="list-style-type: none"> An Aboricultural Impact Assessment and Tree Protection Plan was requested by a Stop the Clock letter on 29/01/2024. This documentation was provided on 03/02/2024; A Demolition Report was requested by a Stop the Clock letter on 29/01/2024. This documentation was provided on 14/03/2024; An Aboriginal Heritage Impact Assessment was requested by a Stop the Clock letter on 29/01/2024. This documentation was provided on 20/02/2024; A Revised Stormwater Management Plans was requested by a Stop the Clock letter on 29/01/2024. This documentation was provided on 20/02/2024; Vehicular Access and Parking Arrangements were requested by a Stop the Clock letter on 29/01/2024. This documentation was provided on 13/03/2024. 	
Land and Environment Court Appeal(s)	
A Class 1 Appeal (No.2024/132287) was filed on 10 April 2024 with the Land and Environment Court (LEC) on the grounds of a deemed refusal. The SOFAC has been filed with the Land and Environment Court on 24 May 2024 and the matter is listed for a Section 34 conference on 13 September 2024.	

7. REFERRALS

Referral	Summary of Referral Response	Attachments
Development Engineering	Unsatisfactory.	2
Traffic	Unsatisfactory.	3
Trees and Landscaping	Unsatisfactory.	4
Heritage	Satisfactory, subject to conditions.	5
Urban Design	Unsatisfactory.	6
Fire Safety	Satisfactory, subject to conditions.	7
La Perouse Local Aboriginal Land Council	No response was received.	N/A

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

8. ADVERTISING AND NOTIFICATION

8.1 Submissions

The application was advertised and notified from 31/01/2024 to 15/02/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. 14 Submissions were received from:

1. Geoff Freer, 6/73 Birriga Road Bellevue Hill
2. Anita Byrnes, obo SP61914 (3/4/5/1/83 Birriga Road Bellevue Hill
3. Nicholas & Zlata Bailey 4/83 Birriga Road Bellevue Hill
4. Bill Tulloch obo, 1/2/3/4/75 Birriga Road Bellevue Hill
5. Bill Tulloch obo, 79 Birriga Road Bellevue Hill
6. Tony Moody obo, 77 Birriga Road Bellevue Hill
7. Anne Miller, 1/73 Birriga Road Bellevue Hill
8. Fiona Fitzpatrick, 79 Birriga Road Bellevue Hill
9. Ross Rheuben, 10/94A Birriga Road Bellevue Hill
10. Sharon & Anthony Dinnen, 3/83 Birriga Road Bellevue Hill
11. Sandra & Louis Goldstein, 59-61 Birriga Road Bellevue Hill
12. Michael Oser, 4 Bundarra Road Bellevue Hill
13. Karina, 3/87A Birriga Road Bellevue Hill
14. Nangheri Warren, 3/75 Birriga Road Bellevue Hill

The submissions raised the following issues:

- **Streetscape.**

Comment: The proposed design, bulk/scale, materiality and landscaping is not considered to be in-keeping with the character of the Birriga Road streetscape, subsequently the proposal has not been supported.

- **The proposed roof terrace and third level balconies overlook terraces at Nos.4/5-83 Birriga Road.**

Comment: The proposed third level balconies face the front of the Site and are screened on the western side. The proposed roof terrace is considered to be sufficiently separated from No.83 Birriga Road as it is positioned at least 13m from the western side boundary.

- **The proposed development does not satisfy the relevant Desired Future Character objectives of the Bellevue Hill South Precinct.**

Comment: The proposed development does not comply with the relevant desired future character objectives of the Bellevue Hill South Precinct and is unacceptable in this regard. This is further discussed below in Section 1.41 of this report.

- **Excessive excavation.**

Comment: The proposed development involves excessive excavation works and is considered to be unacceptable in this regard.

- **The proposed development does not comply with the maximum FSR control and the submitted Cl.4.6 Variation does not sufficiently justify this non-compliance.**

Comment: The proposed development does not comply with the maximum FSR control and has not been sufficiently justified by the submitted Cl.4.6 Variation. The proposed development is therefore unacceptable in this regard.

- **Insufficient resident and visitor parking has been provided.**

Comment: A condition could be imposed, should consent be granted to ensure visitor parking is provided onsite. The proposed 16 resident car spaces complies with the maximum requirements.

- **Construction noise and disruption.**

Comment: Conditions of consent could be imposed to mitigate construction impacts on surrounding properties, should consent be granted.

- **The proposed development will result in view loss from surrounding properties.**

Comment: The proposed development will result in view loss from various properties to the rear and is considered unacceptable in this regard.

- **The proposed development will result in the loss of solar access to surrounding properties.**

Comment: The proposed development has not provided sufficient/accurate information to make any adequate assessment of the solar access impacts and is unacceptable in this regard.

- **Loss of privacy to properties to the rear.**

Comment: The proposed development results in the loss of visual privacy to surrounding properties and is considered unacceptable in this regard. This is further discussed below in Section 14.2 of this report.

- **The proposed height and scale is not in-keeping with surrounding development.**

Comment: The proposed height, bulk and scale of the proposed development is considered to be excessive and is not considered to be in-keeping with the general pattern of development in the vicinity of the site.

- **Loss of trees.**

Comment: The proposed tree loss created by the development was not supported by Council's Landscape Officer, subsequently the proposal has been recommended for refusal.

- **Traffic.**

Comment: Council's Transport and Traffic Department has considered the proposal to be acceptable in terms of traffic impacts. Notwithstanding this, the proposal has not been supported.

- **Potential damage created by the proposed excavation works to the existing retaining wall and Sydney Water infrastructure at No.77 Birriga Road.**

Comment: The proposed excavation works were considered to be excessive, the proposed development is considered to be unacceptable in this regard.

- **There are heritage listed trees in front of No.85 Birriga Road that need to be protected.**

Comment: There are no heritage listed trees in the vicinity of No.85 Birriga Road, notwithstanding this, the proposal has not been supported.

- **The proposed development does not comply with the minimum communal open space and separation distances controls in the ADG.**

Comment: The proposed development does not comply with the Apartment Design Code and is considered unacceptable in this regard.

- **The proposed rear and side elevations are not adequately articulated.**

Comment: The proposed development has not been supported.

- **The Applicant has not provided adequate and sufficient information.**

Comment: The Applicant has not provided sufficient information to allow for adequate assessment of the proposed development.

- **The application does not comply with the maximum height control, no Cl.4.6 variation has been provided.**

Comment: The Applicant has not provided sufficient information to ensure the proposed development complies with the maximum building height requirements. The proposed development is considered to be unacceptable in this regard.

- **The proposed development does not comply with Principles 1, 2 and 9 of the SEPP Housing (2021).**

Comment: The proposed development has not been supported.

- **The proposed development does not comply with the aims of the WLEP and the objectives of the zone.**

Comment: The proposed development is inconsistent with the aims of the WLEP and the objectives of the R3 Zone. This is further discussed below in Sections 13.1 and 13.2 of this report.

8.2 Application Amendments

The amendments to the subject application were not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 as the proposal, as amended, was considered to have no greater impacts than the previously advertised application.

8.3 Statutory Declaration

The applicant has completed the statutory declaration dated 20/03/2024 declaring that the site notice for DA10/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

9. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021: (R&H SEPP)

9.1 Chapter 4 – Remediation of Land

The Object of this 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:*

- By specifying when consent is required, and when it is not required, for a remediation work*
- 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*
- By requiring that a remediation work meet certain standards and notification requirements*

Under Clause 4.6(a) of the R&H SEPP, consideration has been given as to whether the subject site on which the development is proposed 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(3) and Clause 4.6(4) of the R&H SEPP.

The proposal is acceptable with regard to the relevant matters for consideration in Section 4.6 of Chapter 4 – Remediation of Land of the R&H SEPP.

10. 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.

Council's Development Engineer has determined that sufficient information has been submitted to enable an assessment of the proposal raising no adverse concerns with regards to water quality targets and stormwater concerns of the site. Council's Development Engineer considers the amended proposal to be acceptable, subject to conditions.

If the application were to be recommended for approval appropriate conditions of consent, which ensure implementation of the proposed stormwater design for the development, could be imposed.

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: HOUSING (2021)

Chapter 4: Design of Residential Apartment Development:

Chapter 4 of the SEPP Housing (2021) applies to all new residential flat buildings, where it comprises three or more storeys and four or more self-contained dwellings. In this instance, the proposed residential flat building comprises 4 storeys and 8 self-contained dwellings.

Clause 2: Aims and Objectives

The aim of the SEPP is to improve the design quality of residential apartment development:

- a) *To ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *Providing socially and environmentally sustainable housing, and*
 - (ii) *By being a long-term asset to its neighbourhood, and*
 - (iii) *By achieving the urban planning policies for local and regional areas,*
- b) *To achieve better built form and aesthetics of buildings and 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 proposal is unacceptable with regard to the above stated aims.

Design Quality Principles

Clause 147(1)(a) of SEPP Housing (2021) requires the assessment of the application against the design quality principles in Schedule 9. This assessment has been undertaken by Council's Urban Design Officer. Where relevant, comment from Council's Assessment Officer is also included.

Principle 1: Context and Neighbourhood Character

- (1) *Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.*
- (2) *Responding to context involves identifying the desirable elements of an area's existing or future character.*

- (3) *Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*
- (4) *Consideration of local context is important for all sites, including sites in the following areas—*
 - (a) *established areas,*
 - (b) *areas undergoing change,*
 - (c) *areas identified for change.*

Urban Design Comment:

The proposed development is located in a precinct zoned for medium density residential development. It enjoys convenient access to a range of facilities at Bondi Junction. Neighbourhood character is defined by essentially three eras: when the suburb was established post 1900, the 1930s inter war period; and the current era of contemporary infill development where opportunities exist.

The proposed four to five storey building would be an analogous addition to the area. It is located on a steeply sloping north facing site capitalising on the fall of the site. Its siting and its character at its boundary interfaces provide a compatible response to the other neighbouring developments. However, the proposed approach does not fully recognise the streetscape context within which the site resides and needs to respond to it in terms of frontage design and colours and built form massing. These aspects are discussed below. The proposed development seeks to remove all existing trees and the existing buildings. It also proposes to remove one verge tree. However I have no assessment of their significance.

It would be appropriate to combine the proposed trees into one or more larger tree that offers better canopy tree characteristics as a replacement. Removal of the verge tree should be avoided where possible.

Planning Comment:

The proposed bulk, scale, materiality and colour palette does not reflect the local context and neighbourhood. Further to this, the proposed built form has not been designed to reflect the sloping topography of the site of the site, resulting in excessive excavation works and a five storey wall presenting to Birriga Road. This is uncharacteristic and inconsistent with the desired future character of the Bellevue Hill South Precinct and the Birriga Road streetscape.

Principle 2: Built Form and Scale

- (1) *Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*
- (2) *Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following—*
 - (a) *building alignments and proportions,*
 - (b) *building type,*
 - (c) *building articulation,*
 - (d) *the manipulation of building elements.*
- (3) *Appropriate built form—*
 - (a) *defines the public domain, and*
 - (b) *contributes to the character of streetscapes and parks, including their views and vistas, and*
 - (c) *provides internal amenity and outlook.*

Urban Design Comment:

The proposed development sits slightly lower in the site than the existing development and its building envelope scale, bulk and height are greater than the existing surrounding buildings (both established and recent).

The articulation of the north eastern (front) building elevation, together with the use of battens, visually divides the building's mass into two visual elements, breaking down its scale when viewed from the road. This is reinforced by the change in colour and materials of Level 5/roof and the lower ground floor level that establish a distinctive 'bottom, middle and top' within the elevation. However, the contribution of the building's materials and colours to streetscape character could be improved.

Furthermore, notwithstanding the adoption of this technique, the front elevation continues to present as a five storey wall to Birriga Road. This is uncharacteristic of the locality and inconsistent with the desired future character of Birriga Road. Level 5, rather than seeking to hide itself by use of a recessive dark colour, should be setback further from the front boundary and together with a corresponding setback of the levels below establish a stepped configuration in building levels upwards.

The nominated height matches the minimum height standard in the WLEP. This is discussed in Part 3.3 below. Configuration of living areas provides good internal amenity and outlook.

Planning Comment:

The proposed development results in a substantial non-compliance with the FSR development standard, which significantly contributes to the unacceptable bulk and scale of the proposal, resulting in unacceptable impacts on the streetscape and the amenity of adjoining and nearby properties.

Principle 3: Density

- (1) Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*
- (2) Appropriate densities are consistent with the area's existing or projected population.*
- (3) Appropriate densities are sustained by the following—*
 - (a) existing or proposed infrastructure,*
 - (b) public transport,*
 - (c) access to jobs,*
 - (d) community facilities,*
 - (e) the environment.*

Urban Design Comment:

The proposed gross floor area in the building envelope exceeds the FSR control in the WLEP 2014. This is discussed below.

The level of amenity for the proposed apartments is good. Apartments are dual aspect with good ventilation and generous balcony sizes, internal areas, and private open space.

The site has access to a good service of bus based public transport and Bondi Junction facilities.

Principle 4: Sustainability

- (1) Good design combines positive environmental, social and economic outcomes.*

- (2) *Good sustainable design includes—*
 - (a) *use of natural cross ventilation and sunlight for the amenity and liveability of residents, and*
 - (b) *passive thermal design for ventilation, heating and cooling, which reduces reliance on technology and operation costs.*
- (3) *Good sustainable design also includes the following—*
 - (a) *recycling and reuse of materials and waste,*
 - (b) *use of sustainable materials,*
 - (c) *deep soil zones for groundwater recharge and vegetation.*

Urban Design Comment:

The proposal adopts a number of measures that facilitate a good response to the need for sustainability.

Apartments enjoy good solar access and cross ventilation. Facilities for rainwater reuse are proposed. However, no provision for roof top solar in the proposed roof plan is shown, but is achievable.

The configuration of the deep soil zone in the front setback area requires addressing. This is discussed below.

Means of alternative transport are encouraged as conveniently located facilities for bicycle storage are provided.

Planning Comment:

The proposed development has not adequately shown sufficient sustainability measures including rainwater tanks and external clothes drying facilities.

Principle 5: Landscape

- (1) *Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity.*
- (2) *A positive image and contextual fit of well designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.*
- (3) *Good landscape design enhances the development's environmental performance by retaining positive natural features that contribute to the following—*
 - (a) *the local context,*
 - (b) *co-ordinating water and soil management,*
 - (c) *solar access,*
 - (d) *micro-climate,*
 - (e) *tree canopy,*
 - (f) *habitat values,*
 - (g) *preserving green networks.*
- (4) *Good landscape design optimises the following—*
 - (a) *usability,*
 - (b) *privacy and opportunities for social interaction,*
 - (c) *equitable access,*
 - (d) *respect for neighbours' amenity.*
- (5) *Good landscape design provides for practical establishment and long term management.*

Urban Design Comment:

There is a good provision of landscaping, with sufficient dimensions in the side rear setback area. However, the proposed species of trees in the front setback area offer little by way of the establishment of a green canopy within the site and generally, no canopy trees of significance are proposed within the site. This can be conditioned.

Planning Comment:

The proposed development does not provide sufficient canopy trees within the site and does not provide an adequate relationship between landscaping within the front setback and the public domain in Birriga Road. Further to this, the proposal will result in the loss of a significant street tree, which will diminish the landscape setting of the Birriga Road streetscape and is unacceptable in this regard.

Principle 6: Amenity

- (1) Good design positively influences internal and external amenity for residents and neighbours.*
- (2) Good amenity contributes to positive living environments and resident well-being.*
- (3) Good amenity combines the following—*
 - (a) appropriate room dimensions and shapes,*
 - (b) access to sunlight,*
 - (c) natural ventilation,*
 - (d) outlook,*
 - (e) visual and acoustic privacy,*
 - (f) storage,*
 - (g) indoor and outdoor space,*
 - (h) efficient layouts and service areas,*
 - (i) ease of access for all age groups and degrees of mobility.*

Urban Design Comment:

The design of each floor plan and building siting contributes to a development that offers a good standard of amenity. All apartments have a large size. All apartments are dual (corner) aspect and all enjoy access to a northern aspect.

There are no communal open space or facilities. However, given the small number of apartment and nature of the development I consider this to be acceptable.

Screening to some windows to ensure appropriate levels of internal visual and acoustics privacy will be required. This can be addressed by condition. Access to the development is well considered.

Principle 7: Safety

- (1) Good design optimises safety and security within the development and the public domain.*
- (2) Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose.*
- (3) Opportunities to maximise passive surveillance of public and communal areas promote safety.*
- (4) A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

Urban Design Comment:

The design provides surveillance of the public domain (e.g. as a result of the balconies/windows facing Birriga Road).

The pedestrian entrance enjoys good exposure, are legible and will be comfortable to use.

Principle 8: Housing diversity and social interaction

(1) Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

(2) Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.

(3) Good design involves practical and flexible features, including—

(a) different types of communal spaces for a broad range of people, and

(b) opportunities for social interaction among residents.

Urban Design Comment:

The proposed development offers a mix three and four bedroom apartments. While the proposal does not offer a varied mix of housing sizes it suits the small scale of the proposed development and the prevailing socio- economic and demographic character of Bellevue Hill. It presents opportunities for downsizers and families who seek an alternative form of living to a large, detached dwelling, but with access to similar amenities.

Principle 9: Aesthetics

(1) Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.

(2) Good design uses a variety of materials, colours and textures.

(3) The visual appearance of well designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Urban Design Comment:

The composition of building elements, particularly the curved window surrounds, articulation in floor levels and juxtaposition of balconies and windows display a high quality aesthetic.

However, in combination, the prominent mix of materials, colours and treatments in the façade walls contrast with the subdued and domestic character of materials and colours that prevail in the area.

However, this can be easily remedied.

Planning Comment:

The proposed materiality and colour scheme includes an atypical mix of dark and light colours that contrast and are incongruous with the general pattern of development within Birriga Road and the Bellevue Hill South Precinct.

Apartment Design Guide

Part 3A: Site Analysis

The proposal complies with the requirements of the Site Analysis Checklist.

Part 3B: Orientation

	Proposed	Control	Meets
Building Orientation	Building faces Birriga Rd & direct access provided	Face the Street and Provide Direct Access	YES
Street Frontage – North/South	Provided	Buildings Behind Street Frontage Orientated to East/West	YES
Minimum Solar Access to Adjoining Properties	Insufficient info provided	Where < 3 hours, Not to be Reduced by > 20%	Unclear

Urban Design Comment:

The building design prioritises solar access to, and outlook for, apartments to the north, which is appropriate. Overshadowing of neighbouring properties is generally minimised by virtue of the north-west to south-east orientation of the site and the recessed character of the built form within the site.

However, the proximity of the northern elevation of No.87A to the south eastern side boundary of the site of the site, together with the presence of windows in that elevation suggests, according to the shadow impact diagrams that there will be some shadow impact from circa 11.00am on the 21st June. Insufficient survey detail and shadow/ solar assessment has been provided to enable a thorough assessment of this aspect. For example, the 3D solar diagrams shows no windows in the elevation of No. 87A addressing the site, which is clearly incorrect.

Planning Comment:

It is noted that the elevation facing the subject Site at No.87A Birriga Road is not considered to be north facing as, this elevation does not include windows within the orientation range of within 20° west and 30° east of true solar north. Notwithstanding this, the Applicant has not submitted sufficient or accurate information to adequately assess the solar access impacts on surrounding properties. This is further discussed below in Section 14.2 of this report.

Part 3C: Public Domain Interface

	Proposed	Control	Meets
Upper Level Balconies And Windows	All apartments overlook street	Overlook the Street	YES
Maximum Height of Solid Fences/Walls	<1m	1.0m	YES
Location of Mailboxes	Adjacent to lobby	In the Lobby	Partial
Substations, Pump Rooms, Garbage Storage Areas Etc	Bin storage (basement) Fire equipment (front boundary) No plant room shown	Not Visible from the Public Domain	NO
Building Entry and Ground Floor for Accessibility Purposes	Ramp provided to entry	At Footpath Level	YES
Building Materials	Durable	Durable and Graffiti Resistant	YES

Urban Design Comment:

While, the mix of materials and colours enliven and add interest to the street frontage, they contrast with the subdued residential character that prevails in the streetscape. An alternative selection of colour and materials will address this.

The building addresses the street at all levels and balconies offer opportunities for casual surveillance. The necessary presence of fire equipment at the front boundary has not been appropriately addressed by the lack of detail on the proposed cabinets and their integration into the boundary wall. More detail is required.

Part 3D: Communal and Public Open Space

Site Area: 916m ²	Proposed	Control	Meets
Minimum Communal Open Space	0m	25% of the Site (229m ²)	NO*

*Satisfactory

Urban Design Comment:

No communal area is proposed. Given the small number of apartments in the development I consider this to be acceptable.

Part 3E: Deep Soil Zones

Site Area: 916m ²	Proposed	Control	Meets
Minimum Deep Soil Zone	>7%	7% of the Site (64.12m ²)	YES
Minimum Dimensions of Deep Soil Zone	>3m	3.0m	YES
Existing Significant Trees	Removed	Retained	NO

Urban Design Comment:

The site has an area of 916 sqm. There is a minimum width requirement of 3 metres for a site of this size.

The total areas of deep soil nominated in the development application is 342 sqm (37%).

However the calculations provided include areas that are impacted by below ground stormwater infrastructure, retaining walls and the hydrant booster. Notwithstanding this, the 7% minimum is achieved.

Part 3F: Visual Privacy

	Proposed	Control	Meets
Minimum Separation From Buildings – Habitable Rooms and Balconies			
Level UG to Third (Eastern)	3.5m	6m	NO
Level UG to Second (Western)	4.3m	6m	NO
Level UG to Second (Rear)	6.2m	6m	YES
Roof Terrace (eastern, western, rear)	8.3m, 13.3m, 10.2m	9m	Partial
Minimum Separation From Buildings – Non-Habitable Rooms			
Level UG to Third (Eastern)	3.5m		YES
Level UG to Second (Western)	4.3m	3m	YES
Level UG to Third (Rear)	6.2m		YES
Minimum Separation From Buildings – Adjoining Lower Density			
UG to Third Level (Rear)	6.2m	6m + 3m = 9m	NO
Roof terrace Level (Rear)	10.2m	9 + 3 = 12m	NO
Location of Balconies and Terraces	In front of Living Rooms	In front of Living Rooms	YES
Location of Windows	Not sufficiently offset	Offset from Windows of Adjacent Properties	NO
Treatment Between Adjacent Balconies	Recessed balconies	Vertical fins or Recessed Balconies	YES

Urban Design Comment:

The height of the proposed development is 13.5 metres. Generally windows and balconies address the site's south western (rear) and north western (front) aspects. Windows in the north western side elevation address frosted windows to non-habitable rooms and a balcony in close proximity in No 83. Separation distances do not achieve the minimum. It is appropriate that windows to ensure bathrooms and living rooms where addressing the common boundary are opaque or screened.

Similarly, windows in the south east side elevation may address windows to habitable rooms (subject to more survey detail) in close proximity in No 87A. Separation distances do not achieve the minimum. It is appropriate that windows to ensure bathrooms and bedrooms at all levels where addressing the common boundary are opaque or screened.

The roof top terraces are separated from the adjoining balconies at the rear by approximately 13 metres (subject to the submission of additional survey detail). With an RL of 47.7 the terrace is three metres higher than the RL of the balcony to No. 77. Notwithstanding the separation, the rear of the terrace should comprise screens to minimise overlooking.

Part 3G: Pedestrian Access and Entries

	Proposed	Control	Meets
Communal Entries	Clearly defined	Clearly Defined from Private Entries	YES
Location of Lift Lobbies, Stairwells and Hallways	Visible	Visible From Public Domain/Communal Spaces	YES
Pedestrian Links	Clear connection	Clear Connections	YES

Urban Design Comment:

The proposed development offers a good level of connectivity, entry, access and visibility with Birriga Road.

Part 3H: Vehicle Access

Site Area: 916m ²	Proposed	Control	Meets
Location of Car Park Entries	Behind the building line	Behind the Building Line	YES
Location of Vehicle Entries	Lowest point	At the Lowest Point of the Site	YES
Garbage Collection, Loading and Servicing Areas	Separate bin room provided	Screened From View	YES
Large Vehicle Turning Circles	Avoided	Avoided	YES
Pedestrian and Vehicle Access	Separate/distinguishable	Separated and Distinguishable	YES

Urban Design Comment:

The proposed driveway to Birriga Road is double width and enjoys good sight lines to minimise conflicts. I question whether the driveway width needs to extend from the building line to the kerb, particularly as there is a potential waiting area behind the building line.

Reducing the width of the driveway at the verge increases verge planting, may provide for the retention of the verge tree proposed to be removed as well as minimises the reduction in on-street car parking at this location.

Part 3J: Bicycle and Car Parking

	Proposed	Control	Meets
Motorcycle/Scooter Park	Sufficient spaces provided	Sufficient Provision	YES
Bicycle Parking	Undercover accessible spaces provided	Required, Undercover and Accessible	YES

	Proposed	Control	Meets
Electronic Charging Stations for Vehicles	Provided	Recommended (where applicable)	YES
Access to Ancillary Basement Rooms	Access provided	Not Accessed via Parking Spaces	YES
Lobby Spaces within Basement	Lobby provided	Provided	YES
Maximum Height of Car Parks Above Ground Level	<1m	1.0m	YES
Ventilation Grills/Screening Devices For Car Parking Openings	Integrated	Integrated into Façade and Landscape Design	YES
On Grade Car Parking	Underground	Avoided	YES

Urban Design Comment:

The proposed development provides undercover bicycle and bike storage. It is hidden from view.

Part 4A: Solar and Daylight Access

	Proposed	Control	Meets
Sunlight to Living Rooms and Private Open Spaces of At Least 3 Hours Between 9am and 3pm on June 21	100%	Minimum 70% of Apartments	YES
No Sunlight to Apartments Between 9am and 3pm on June 21	Nil	Maximum 15% of Apartments	YES
Location of Rooms	Habitable spaces to north	Habitable to the North, Services to the South/West	YES
Design Features for Sunlight Access	Triple Aspect	Dual Aspect/ Shallow Layout/ Two Storey/Bay Window	YES
Shade and Glare Control	Provided	Allow Summer Shade and Winter Sun	YES

Urban Design Comment:

The proposed orientation of all apartments to the north east ensures that 100% of living rooms and principal private open spaces of all apartments meet the solar and daylight criteria.

Part 4B: Natural Ventilation

	Proposed	Control	Meets
Minimum Cross Ventilation	100%	60% of Apartments	YES
Maximum Building Depth	<18m	18m	YES
Inlet/Outlet Window Sizes for Cross Ventilation	Complies	Directly Proportional	YES

Urban Design Comment:

All apartments are dual or corner aspect and offer good opportunities for cross ventilation.

Part 4C: Ceiling Heights

	Proposed	Control	Meets
Minimum Ceiling Height – Habitable Rooms	>2.7m	2.7m	YES

Urban Design Comment:

The nominated floor to floor height is 3.1 metres which may not achieve the 2.7metre floor to ceiling height once floor materials and possible plumbing or ceiling AC ducting is installed.

Part 4D: Apartment Size and Layout

	Proposed	Control	Meets
Minimum Apartment Layout – 3 Bedroom	>95m ²	95m ²	YES
Minimum Apartment Layout – 4 Bedroom	>107m ²	107m ²	YES
Maximum Depth of Kitchen from a Window	All kitchens have windows	8m	YES
Minimum Bedroom Size (Excluding Wardrobes)	Min 10m ² (M/bed) Min 9m ² (bed)	9m ² /10m ²	YES
Minimum Bedroom Dimension (Excluding Wardrobes)	Min 3m	3m	YES
Minimum Width of Living Rooms	Min 4m	4.0m	YES
Living Areas and Bedrooms	Outer	Outer Edge of Building	YES
Minimum Length of Bedroom Wardrobe	Min 1.5m	1.5m	YES
Separation Between Bedrooms and Service Areas	Separated	No Openings Between Living and Service Areas	YES

Urban Design Comment:

All apartments achieve the minimum area.

Part 4E: Private Open Space and Balconies

	Proposed	Control	Meets
Private Open Space (Ground Floor Unit) Minimum Area	>15m ²	15m ²	YES
Private Open Space (Ground Floor Unit) Minimum Dimension	>3m	3m	YES
Minimum Balcony Area	Min 12m ² to all units	12m ²	YES
Minimum Balcony Dimensions	Min 2.4m to all units	2.4m	YES
Location of Primary Open Space and Balconies	Adjacent to living	Adjacent to Main Living Areas	YES
Orientation of Primary Open Space	North	North, East or West	YES
Proportions of Primary Open Space	Long side outward	Long Side Facing Outwards	YES
Provision of Screens Within Balcony	Provided	Used to Control Sun and Wind	YES

Urban Design Comment:

All balconies for upper level apartments and the private open space to the two upper ground floor units meet the minimum area and depth requirements.

Part 4F: Common Circulation and Spaces

	Proposed	Control	Meets
Maximum Number of Units in a Corridor	2	Eight (8)	YES
Maximum Number of Units Serviced by a Single Lift (> 10 Storeys)	8	40	YES
Common Circulation Spaces	Provided	Natural Light and Ventilation Provided	YES

Urban Design Comment:

The circulation core (essentially the lift lobby area) on each floor provides access to only 2 apartments.

Part 4G: Storage

	Proposed	Control	Meets
Minimum Storage Area -	Only Unit G.01 complies	10m ³	NO*
Provision of Storage Within Apartment –	100% within unit No basement storage	50%	YES
Access to Storage	Easy accessible	Accessible from Circulation or Living Areas	YES
Storage on Balconies	No storage	Incorporated into Balcony Design	NO*
Provision of Storage	Storage to basement not provided	Allocated to Specific Apartments	NO*
Storage for Bulky or Less Used Items	Not provided	Provided	NO*
Location of Storage in Basement	No basement storage provided	Rear of Side of Car Spaces	NO*
Storage	Bike store not visible	Not Visible from Public Domain	YES

Urban Design Comment:

No storage for apartments is provided in the basement level. However, some storage areas and cupboards in apartments are proposed.

However they do not meet the intent of the clause (for example, they include European laundry cupboards and dining room cabinets/ fitted cupboards). There is no obvious area for the placement of storage cages for bulky items in the basement.

Part 4H: Acoustic Privacy

	Proposed	Control	Meets
Location of Rooms	Rooms Grouped	Similar Rooms Grouped Together	YES

Urban Design Comment:

No acoustic assessment is provided. The potential source of any external noise issues would most likely be from the traffic using Birriga Road. Given the observed use of the Road, together with the setback of the proposed building from the road, no concerns are apparent.

The sources of any potential acoustic impacts from the garage activities (door and stackers) are sufficiently separated from residential activity that no concerns are apparent.

Part 4J: Noise and Pollution

Urban Design Comment:

No air quality assessment is provided. The potential source of any air quality and noise issues would most likely be from the traffic using Birriga Road.

Given the observed use of the road, together with the setback of the proposed building from the road, no air quality or external noise concerns are apparent.

Part 4K: Apartment Mix

	Proposed	Control	Meets
Apartment Mix	4 x 4 beds 4 x 3 beds	Variety of Apartment Types	YES
Location of Larger Apartments	Ground and Roof	Ground Level or Roof	YES

Urban Design Comment:

While the proposal does not offer a wide mix of housing sizes or variety, it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill.

Part 4M: Facades

	Proposed	Control	Meets
Building Services	Generally integrated except for fire services	Integrated into Design	Partial
Articulation to Building Facade	Building articulated	Creates Shadow on the Building	YES
Building Entry	Clearly defined	Clearly Defined	YES

Urban Design Comment:

The Schedule of Colours and Finishes enables an indicative appreciation of the presentation of the building to Birriga Road and neighbouring properties. The architectural approach creates visual interest for the public domain. However, I consider that the combination of colours contrasts with the prevailing character of the local area.

Building services are not visible from the public domain. However, the location of firefighting booster equipment cabinet directly in front of the garage in the front setback needs to be reconsidered as part of a general redesign of this area to improve the presentation of the development to Birriga Road.

Part 4N: Roof Design

	Proposed	Control	Meets
Rooftop Open Space	Potential privacy impacts of roof terrace	No Privacy, Safety or Security Impacts	NO
Roof Lifts	Roof lift to north	To the North	YES

Urban Design Comment:

The roof is trafficable and rooftop plant is proposed to be integrated into the building design. The roof is trafficable and rooftop plant is proposed to be integrated into the building design.

Planning Comment:

The proposed roof terrace is considered to create unacceptable impacts on the visual privacy of the rear adjoining properties. This is considered unacceptable in this regard, and has been further discussed below in Section 14.2 of this report.

Part 4O: Landscape Design

Site Area: 916m ²	Proposed	Control	Meets
Tree Planting in the Deep Soil Zone	Insufficient trees proposed	1 large/2 medium Trees per 90m ²	NO*

Urban Design Comment:

Tree species selection in deep soil areas do not capitalise on the opportunity for the site to contribute to the distinctive green tree canopy in the area. However this can be remedied as discussed elsewhere.

Part 4Q: Universal Design

Urban Design Comment:

The private open space areas, vertical access, apartment sizes and layout and amenity of each unit generally provide a high level of flexibility to evolve as households evolve.

Part 4U: Energy Efficiency

	Proposed	Control	Meets
Clothes Drying	Not shown on plans	Well Located, Screened Outdoor Areas	NO*
Consolidated Heating and Cooling Infrastructure	Not shown on plans	Centralised Location	NO*
Location of Room Types	Grouped together	Similar Uses Grouped Together	YES

**This is discussed further below in Section 14.2.*

Urban Design Comment:

The proposed development offers high levels of natural ventilation and there are opportunities for rooftop solar provision. The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 4V: Water Management and Conservation

	Proposed	Control	Meets
Water Efficient Fittings and Appliances	Provided	Provided	YES
Species of Plants	Provided	Drought Tolerant, Low Water Use	YES
Rainwater	Rainwater tank required by BASIX not shown on plans	Rainwater Reused On Site	NO*

**This is discussed further below in Section 14.2.*

Urban Design Comment:

The Stormwater Plan provides information to demonstrate appropriate rainwater collection and reuse.

Part 4W: Waste Management

	Proposed	Control	Meets
Location of Bin Storage	Basement	Away From The Front or in Basement	YES
	Ventilation system to be installed	Well Ventilated	YES
Access Between Bin Storage and Collection Point	Easy Manoeuvrability	Easy Manoeuvrability to Collection Point	YES
Waste Management Plan	Provided	Required	YES
Compost Facilities	Food Organic and Garden Organic bin provided	Provided	YES

Urban Design Comment:

A waste room is proposed in the basement level and is conveniently accessible at grade to Birriga Road.

Part 4X: Building Maintenance

Urban Design Comment:

While no information has been provided with regards to the building maintenance, I consider the proposed materials selected will result in a building that will require minimum maintenance. Access to the roof is available from the roof top terraces.

12. 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.

The development application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

The proposal is inconsistent with the aims in Clause 1.2(2) of the Woollahra LEP 2014 for the following reasons:

- The proposal does not protect the amenity of and the natural environment, contrary to Clause 1.2(2)(g);
- The proposal does not minimise and manage traffic and parking impacts, contrary to Part 1, Clause 1.2(2)(k);
- The proposal does not achieve the desired future character of the area, contrary to Part 1, Clause 1.2(2)(l);
- The proposal does not minimise excavation, contrary to Part 1, Clause 1.2(2)(m); and
- The proposal does not encourage the retention and planting of trees and other vegetation as part of development, contrary to Part 1, Clause 1.2(2)(n).

The proposal fails to satisfy the aforementioned aims and is listed as a reason for refusal.

13.2 Land Use Table

The proposal is defined as a Residential Flat Building which is permitted but is inconsistent with the relevant objectives of the R3 Medium Density Residential zone for the following reasons:

- The proposal is not of a height and scale that achieves the desired future character of the neighbourhood.
- The proposal does not ensure the conservation and enhancement of tree canopy cover.

The proposal fails to satisfy the relevant objectives of the R3 Medium Density Residential Zone and is listed as a reason for refusal.

13.3 Part 4.1A: Minimum Lot Sizes for a Dual Occupancies, Multi Dwelling Housing and Residential Flat Building

Part 4.1A(2) specifies a minimum lot size of 700m².

Site Area: 916m ²	Proposed	Control	Complies
Minimum Lot Size – Multi-Unit/Residential Flat Building	916m ²	700m ²	YES

The proposal complies with 4.1A(2) of Woollahra LEP 2014.

13.4 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 13.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	<13.5m	13.5m*	13.5m	YES

***Note:** The following assessment uses the height shown on the proposed plans. Accurate survey information and the use of the existing ground level is required to determine the actual height of the proposed building. Compliance with the height of building development standard is not fully confirmed, thus it was unable to be determined if a Cl.4.6 Variation is required.

The Applicant has not provided sufficient information to accurately calculate the height of building control, the proposed development is considered to be unacceptable with regard Part 4.3 of Woollahra LEP 2014 and has been included as a reason for refusal.

13.5 Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio of 0.9:1 for a residential flat building.

Site Area: 916m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	>0.9:1	1.21:1* (1 106.45m ²) 1.2:1** (1 099m ²)	0.9:1 (824.4m ²)	NO

*Council's FSR calculation **Applicants FSR calculation, as stated in the SEE and written variation.

Note: The gross floor area (GFA) that was calculated by Council was 7.85m² more than the Applicant's calculation, as the 'private' stairs to the roof terraces were not included as GFA by the Applicant. In addition, the GFA set out in the submitted SEE and written variation is inconsistent with the GFA set out on the submitted Architectural Plans (*Drawing No. A004, Amendment C*), which indicate a GFA of 1 126.09m², equating to an FSR of 1.3:1. It is further noted that an accurate GFA calculation was unable to be determined, as the proposed access stairs at roof terrace level have not been clearly shown on the plans. The roof terrace access stairs could result in a further non-compliance with the maximum FSR control.

The proposal does not comply with Part 4.4(2) of Woollahra LEP 2014 and has been included as reason for refusal.

13.6 Part 4.6: Exceptions to Development Standards

Departure

The proposal involves a non-compliance with the FSR statutory control under Part 4.4 of the Woollahra LEP 2014.

The proposal exceeds the 0.9:1 maximum FSR development standard under Clause 4.4 of the Woollahra LEP 2014. The proposed FSR is 1.21:1 (1 106.45m²) representing a 282.05m² (34%) non-compliance with the FSR control.

Purpose

Section 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 section 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.

Justification Requirements

Section 4.6(3) states that:

Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:

- a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Section 4.6(3) does not require the applicant to demonstrate those matters solely in the written request.

Applicant's Written Request

Section 35B of the *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document [the written request] setting out the grounds on which the applicant seeks to demonstrate the matters in section 4.6(3) paragraphs (a) and (b).

The applicant has provided a written request in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*, which is attached at **Attachment 8**.

Council's Assessment

Section 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 section 4.6(3). This is set out below.

Step 1: Are the planning instrument, development standard and proposed variation identified in the written request accurate?

In determining whether the information contained within the written request is accurate, the following questions have been considered:

Is the provision proposed to be varied a development standard?

Comment: The FSR control, is a development standard.

Is the development standard proposed to be varied one that can be varied, and not excluded from the operation of section 4.6 by section 4.6(8)?

Comment: The FSR development standard can be varied and is not excluded by Section 4.6(8).

Is the correct LEP or SEPP section (and objectives if relevant) referenced?

Comment: The submitted Cl.4.6 Variation has correctly reference the relevant objectives, however this documentation has incorrectly referenced Cl.4.4(A) of the WLEP, whereas the correct clause is Cl.4.4(2) of the WLEP 2014. The proposed development is unacceptable in this regard.

Is the extent of the variation correctly identified?

Comment: The GFA area calculation included in the submitted Cl.4.6 Variation is incorrect, as the Applicant's calculation did not include the 'private' access stairs (to the roof terrace at third floor level) as GFA. It is further noted that an accurate GFA calculation was unable to be determined, as the proposed access stairs at roof terrace level have not been clearly shown on the plans. The roof terrace access stairs could result in a further non-compliance with the maximum FSR control. In addition the GFA set out in the submitted SEE and written variation is inconsistent with the GFA set out on the submitted Architectural Plans (*Drawing No. A004, Amendment C*). The proposed development is unacceptable in this regard.

Step 2: Section 4.6(3)(a): Is compliance unreasonable or unnecessary?

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.

Assessment:

To determine whether the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, the following questions have been considered:

Has the applicant adopted one or more of the Wehbe tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances?

Comment: The applicant has adopted the Wehbe test 1 and 2 within the submitted Cl.4.6 Variation, however the applicant has not adequately demonstrated that compliance with the FSR controls is unreasonable and unnecessary.

Has the applicant used another method to justify that compliance is unreasonable or unnecessary?

Comment: The applicant has not used another method to justify compliance is unreasonable or unnecessary.

Are the arguments put forward by the applicant, to demonstrate compliance is unreasonable or unnecessary in the circumstances, supported and why?

Comment: The arguments put forward by the applicant were not supported for the following reasons:

- The Applicant has stated the development has a compliant building envelope, however the proposed development does not comply with the minimum front setback control and the Applicant has not adequately demonstrated that the proposed development complies with the maximum height control;
- The Cl.4.6 variation claims that the proposed development is of a scale that is consistent with what is contemplated by zoning and associated controls, however the proposed building presents a 5 storey wall to Birriga Road. The proposed form, scale and character is considered to be inconsistent with the general pattern of development in the locality;
- The Applicant has not demonstrated whether the non-compliant elements will impact views currently afforded neighbouring properties.
- The Applicant has not adequately demonstrated whether there will be adverse impacts on the solar access to neighbouring properties.
- The Applicant has not demonstrated whether the non-compliant elements will impact visual privacy to neighbouring properties.
- The Applicant has stated that the proposed development out performs the required tree canopy controls. However compliance with the minimum tree canopy controls has not been demonstrated and the development results in the loss of a significant street tree.
- As a consequence, Council cannot be satisfied that the relevant objectives of the development standard have been achieved, notwithstanding the contravention of the development standard.

Step 3: Section 4.6(3)(b) Are there sufficient environmental planning grounds to justify the contravention?

In *Initial Action* Preston CJ provided the following guidance (at paragraphs 23 and 24) concerning whether there will be sufficient environmental planning grounds to justify a contravention of the development standard:

- 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. 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.*
- 24 *The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". ... 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].*

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act

The objects of this Act are as follows:

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

Assessment:

To determine whether the applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of the development standard, the following questions have been considered:

What environmental planning grounds have been put forward to justify the variation?

Comment: The environmental planning ground that have been forward by the Applicant are as follows:

- Solar access for neighbouring properties complies with the WDCP controls, while adverse privacy impacts to surrounding properties are minimized through all units.

- All units outperform the ADG internal amenity standards further demonstrating the appropriateness of the proposal for the Site;
- The scale and built form is consistent with the future desired character of the area;
- The FSR variation does not restrict the proposal from meeting the relevant landscaping and tree canopy controls.

Are the environmental planning grounds specific to the proposed variation?

Comment: The environmental planning grounds that have been specified by the Applicant are generic and are not specific to the proposed variation.

Are there sufficient environmental planning grounds to justify the proposed variation to the development standard?

Comment: The Applicant has not demonstrated that there are sufficient environmental grounds to justify the variation, the proposal is unacceptable in this regard.

Conclusion

Council is not 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.

13.7 Part 5.10: Heritage Conservation

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

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 '*the LEP*' and is not located within a heritage conservation area.

Council's Heritage Officer reviewed the proposal and offered the following assessment of potential heritage significance of the existing buildings:

The dwelling has no heritage significance and does not make any contribution to the heritage significance of Bellevue Hill. The property is not heritage listed and is not located within a heritage conservation area.

A Demolition Heritage Impact Report has been submitted with the development application and includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that it does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the property is not of heritage value and therefore no objection is raised to the proposed demolition of the existing buildings.

As the property is not listed as a heritage item and is not located within a heritage conservation area, the design of the proposed development will not result in any adverse impacts on heritage items/areas of value. There are no heritage items located within the vicinity of the site that will be adversely impacted and the proposal will not affect any significant views. As such, there are no concerns raised on heritage grounds regarding the design of the proposed new development.

The submitted Demolition Heritage Impact Report meets the standard of archival recordings for buildings with little or no heritage significance.

The site is in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was required to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal. The Applicant has provided an Aboriginal Heritage Impact Assessment. Council's Heritage Officer has had regard to the potential for impact on Aboriginal Heritage, and has provided the following comment:

It is concluded that an unexpected findings condition of consent will need to be imposed as part of the DA consent.

Appropriate conditions of consent to manage Aboriginal heritage could be imposed should consent be granted.

Council's internal mapping indicates that the State Heritage Listed 'Bondi Ocean Outfall Sewer' (01623) runs through portion of the site. Excavation is proposed in this area of the site.

The submitted Heritage Demolition Report provides the following comment;

Nos.85 and 87 Birriga Road are not heritage-listed. One heritage item passes beneath the Project Area: the BOOS (Bondi Ocean Outfall Sewer), which is anecdotally at least 30m below the current ground surface, and will therefore not be impacted by the proposed development (which is anticipated to extend to a depth of approximately 0.5m below the current level of Birriga Road). It is noted that on the footpath outside 85 Birriga Road is a sewer vent connecting to the BOOS (see Figure 12 below); this will also not be impacted by the proposed development.

Therefore, an unexpected finds condition will be imposed for Historical Archaeology. If unexpected find are discovered, a Historical Archaeological Report will need to be prepared and a Section 140 permit application will need to be lodged and approved by Heritage NSW.

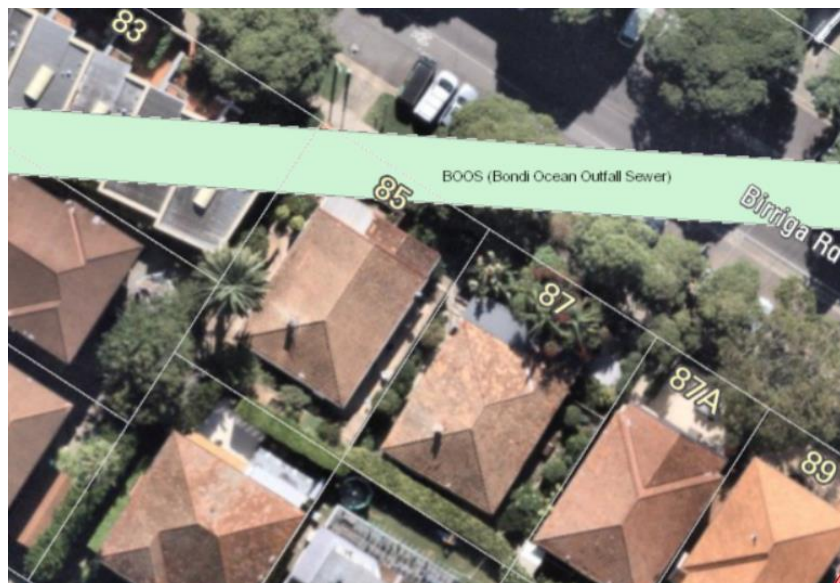


Figure 2: Location of the BOOS at the subject Site.

The following listed heritage items are located in proximity of the site:

- 'Westmoreland - residential flat building & interiors, dwarf brick walls, paving and grounds' (I14) at No.81A Birriga Road, BELLEVUE HILL;
- 'Cumberland - residential flat building & interiors, dwarf brick walls, paving and grounds' (I13) at No.81 Birriga Road, BELLEVUE HILL.



Figure 3: Subject Site is outlined green and the nearby heritage items are outlined yellow.

Council's Heritage Officer has provided the following comments in relation to these nearby heritage items:

The proposal will not obstruct the significant views to the heritage items from Birriga Road or disrupt the relationship between the heritage items. Therefore, it is unlikely to impact on the setting, fabric or form of the heritage items within the vicinity.

The proposed development would be considered acceptable with regard to the objectives in Parts 5.10 of the 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

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.

The proposed excavation works are to accommodate basement parking, part of the upper ground floor level apartments and the associated private open space to these upper ground floor apartments. The excavation extends to a maximum depth of 6 metres. The supporting documentation provided by the Applicant has stated that the proposal involves a total volume of excavation of 4 170m³.

The Applicant has submitted a Geotechnical Report to support the proposal. The Geotechnical Report indicates that the subsurface conditions consist of fill comprising of silty sand to a depth of between 300mm to 600mm. This fill was under laid with natural sand of various densities, with a depth of between 700mm to 850mm. Sandstone bedrock was inferred beneath the natural sand in BoreHole102 to BoreHole105.

Council's Development Engineer has provided a response to the proposal on technical grounds and has determined the proposal is satisfactory, subject to conditions.

Clause 6.2(1) states:

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

Clause 6.2(3) states:

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

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

The proposal is considered unacceptable with regard to Clause 6.2 of the Woollahra LEP 2014 for the following reasons:

- In terms of ESD principles, the extent of soil, rock and other excavated material being removed from the site is not considered to be acceptable.

For reasons discussed above, the proposal is unacceptable with regard to Clause 6.2 of the Woollahra LEP and is listed as a reason for refusal.

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 removal of the Brushbox tree (Tree 5), located on Council's verge to accommodate the new driveway was not supported by Council's Landscape Officer. This is because this tree is in a good healthy condition, is one of several avenue plantings along the street and is considered to be an important community asset.

The 'tree canopy area' plan that was submitted by the Applicant incorrectly states that 308.63m² or 33% of the Site area consists 'tree canopy area'. However, the 'tree canopy area' that is indicated on the submitted plan consists of deep soil landscaping. No trees that are proposed to be planted on the Site, as shown on the submitted Landscape Plan can be defined as 'canopy trees', as all of the proposed trees are below 5m in height. The only existing tree that is to be retained on the Site has a canopy spread of less than 8m (and would therefore not be classified as a canopy tree).

For reasons discussed above, the proposal is unacceptable with regard to Clause 6.9 of Woollahra LEP 2014 and is listed as a reason for refusal.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B1: Bellevue Hill South Residential Precinct

The proposal does not meet the streetscape character and key elements of the precinct and desired future character objectives of the Bellevue Hill South precinct, as noted in Part B1.7.2 of the Woollahra DCP 2015, for the following reasons:

- Key elements of the precinct include (but are not limited to), rich mixture of architectural styles and forms, grassed verges and mature street trees and the stepping of development on the hillside. The development doesn't meet or respect these character elements and is contrary to Objective O1;
- The proposed built form has not been designed to reflect the sloping topography of the site, resulting in excessive excavation works and a five storey wall presenting to Birriga Road. This fails to retain the low scale two to four storey built form character that prevails in Birriga Road, contrary to Objective O1 and O5;
- The proposal makes a poor contribution to the landscape character of the precinct. No canopy trees are proposed and the elevated/constrained deep soil area within the front setback provides a poor relationship, between the front of the site and the public domain in Birriga Road, contrary to Objective O7;
- The significant street tree (Tree 5) is proposed to be removed to accommodate the proposed driveway. This will diminish the landscape setting of the locality and does not reinforce and maintain the existing tree canopy, contrary to Objective O7;
- The proposal is inconsistent with Objectives O1 to O7 of the precinct objectives set out in Part B1.1.3 of the WDCP, as the development has an excessive bulk and scale when compared to the existing streetscape character, is inconsistent with the desired future character of the neighbourhood and will result in adverse amenity impacts on adjoining properties.

Conclusion

For reasons discussed above, the proposal is unacceptable with regard to Part B1 of the Woollahra DCP 2015 and is listed as a reason for refusal.

14.2 Chapter B3: General Development Controls

Part B3.2: Building Envelope

Site Area: 916m ²	Existing	Proposed	Control	Complies
Front Setback	-	5.66m	5.66m	YES
Basement		5.41m		NO
Upper Ground		5.16m		NO
Upper Levels				
Rear Setback	-		1.5m 6.26m	
Basement		4m		YES
Upper Levels		6.26m		YES

Site Area: 916m ²	Existing	Proposed	Control	Complies
Side Boundary Setbacks (Western)				
Basement	-	4m	1.5m	YES
Upper Levels		3.5m	3.5m	YES
Side Boundary Setbacks (Eastern)				
Basement	-	1.5m	1.5m	YES
Upper Levels		3.5m	3.5m	YES

Part 3.2.2: Front Setback

C1 states that the front setback is the average of the three most typical setbacks of the four closest residential properties.

The proposed development complies with the minimum front setback control at basement level, however the upper levels of the proposed building do not comply with the minimum front setback control. The upper ground level has a 250mm non-compliance and the remainder of the upper levels of the building have a 500mm non-compliance. These non-compliances are considered unacceptable for the following reason:

- The non-compliance contributes to the overdevelopment of the site and detracts from the quality of the streetscape, contrary to Objective O1 and O2;
- The proposed front setback does not reflect the ascending steeped setbacks that have been established, by comparatively recent developments (located further to the east on the upper side of Birriga Road), which is not considered to be in-keeping with general pattern of development within Birriga Road and the Bellevue Hill South Precinct;
- The proposed use of elevated planters within the front setback, which form part of the private open space to the upper ground level units, provides a poor relationship between the front of the Site and the public domain in Birriga Road. These elements significantly restrict the quality and quantity of landscaping provided to the Site frontage, which is inconsistent with Objectives O1 and O3.

Part 3.2.3: Side Setbacks

With a lot width of 36.58m, C2 requires a minimum side setback of 3.5m.

The proposed development complies with the minimum side setback requirements and is acceptable in this regard.

Part 3.2.4: Rear Setback

C1 requires a minimum rear setback of 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary. The building must not encroach on the minimum rear setback.

The proposed development complies with the minimum rear setback requirements and is acceptable in this regard.

Conclusion

The proposal is unacceptable with regard to the building envelope controls in Part B3.2 of the Woollahra DCP 2015 and is listed as a reason for refusal.

Part B3.4: Excavation

Site Area: 916m ²	Existing	Proposed	Control	Complies
Maximum Volume of Excavation	-	4 170m ³	916m ³	NO
Excavation, Piling and Subsurface Wall Setback	-	4m 1.5m 4m	1.5m	YES YES YES
Western side				
Eastern side				
Rear				
Geotechnical Report	N/A	Provided	Required Where > 2.0m	YES

No excavation diagram has been submitted illustrating the volume of excavation required to achieve the proposal. However the SEE indicates that the proposed excavation volume is 4 170m³. This exceeds the DCP control by 3 254m³. Control C4 allows variations to the excavation volume control for residential flat buildings only, however the maximum excavation volume permitted will only be the amount needed to accommodate: car parking to comply with the maximum rates in Part E1 of this DCP, any reasonable access thereto and storage at a rate of 8m³ per dwelling.

Approximately 1 700m³ of the volume is required for car parking, access and storage. However, the remaining excavation volume (being approximately 2 479m²) consists of the upper ground floor level and the associated private open space. This significantly contributes to the volume of excavation required to achieve the proposal and is considered to be excessive, contrary to Control C2.

The proposal is not compliant with the numerical controls of the DCP and is not considered to achieve consistency with the relevant objectives of Part B3.4 for the following reasons:

- The proposed development has not been designed and sited to relate to the existing topography of the site, contrary to Objective O1(a);
- The proposal has not demonstrated that noise, vibration, dust and other amenity impacts on surrounding properties, during construction are reasonable, contrary to Objective O1(d);
- The proposal has not demonstrated that traffic impacts created by the transfer of excavated materials from the site by heavy vehicles are reasonable, contrary to Objective O1(f);
- It has not been demonstrated that the principles of ecologically sustainable development have been satisfied, contrary to Objective O1(g).

Conclusion

The proposal is therefore unacceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015 and is listed as a reason for refusal.

Part B3.5: Built Form and Context

Site Area: 9.16m ²	Existing	Proposed	Control	Complies
Significant Trees	-	Removed	Retained	NO
Siting of Development	-	Cut into the slope	Stepped Down with the Slope	NO
Casual Surveillance – Windows Facing Street/Public Area	-	<1	One	YES

Part B3.5.1: Streetscape and Local Character

The proposed development is located in a precinct zoned for medium density residential development. The neighbourhood character is defined by essentially three eras: when the suburb was established post 1900, the 1930s inter war period; and the current era of contemporary infill development.

The proposed front façade of the 4 to 5 storey building is to have a white cement rendered finish to the upper ground floor, first floor and second floor. The third floor and roof terrace pergola has a dark grey colour and the basement level is proposed to be cladded with natural grey stone cladding. These three distinct finishes establish a bottom, middle and top to the proposed building. Curved vertical battens define the building entry and visually separate the built form into two parts, breaking down the visual scale of the building. Notwithstanding this, the development is considered to be unacceptable in terms of the relevant streetscape/local character objectives and controls, for the following reasons:

- The proposed built form has not been designed to reflect the sloping topography of the site, resulting in excessive excavation works and a five storey wall presenting to Birriga Road. This is uncharacteristic within the locality and inconsistent with the desired future character of the precinct, contrary to Objectives O1 and O2 and Controls C1 and C3;
- The proposed materiality and colour scheme includes an atypical mix of dark and light colours that contrast and are inconsistent with the general pattern of development within Birriga Road, contrary to Objectives O1 and O2 and Controls C1 and C5;
- The proposed development involves the loss of a significant street tree (Tree 5) to accommodate the proposed driveway. Further to this, the proposed development has not included any canopy trees, which does not allow for the urban greening and the enhancing of the landscape setting of the locality, contrary to Objectives O2 and O3, Controls C2 and C4.

Part B3.5.2: Overshadowing

C1 The development is designed so that:

- a) sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June.*
- b) Where existing overshadowing is greater than this, sunlight is not further reduced;*

The proposed development complies with the minimum solar access to private open space at Nos.77 and 79 Birriga Road. Nos.75 and 87A Birriga Road currently do not receive a minimum of 2 hours of solar access to the main ground floor private open space, during the winter solstice between 9am and 3pm. There is insufficient information provided by the Applicant to adequately assess the extent to which the proposed development further reduces the solar access to the private open space at these properties. The proposed development is therefore unacceptable in this regard.

- 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.*

Note: North facing windows include the orientation range within 20° west and 30° east of true solar north.

It appears that the proposed development could comply with the solar access requirements to the north-facing windows at Nos.79, 77 and 77 Birriga Road. However the Applicant has not provided elevational shadow diagrams to demonstrate compliance with the Control C1(b). It is also noted that the submitted shadow diagrams appear to be inaccurate and do not seem to account for the topography of the site. The proposed development is therefore considered unacceptable in this regard.

Part B3.5.3: Public and Private Views

Public Views and Vistas

There are no significant public views or vistas identified across the subject site, which will be impacted by the proposed development. The proposal therefore achieves consistency with Objectives O1 and O2 with regard to protection of public views and vistas in Part B3.5.3 of the Woollahra DCP 2015

Private Views:

Objections were received from owners and/owner's corporations of the following properties in relation to view loss:

- No.77 Birriga Road, Bellevue Hill
- No.79 Birriga Road, Bellevue Hill
- No.75 Birriga Road, Bellevue Hill

The Applicant's SEE did not identify any private views in the vicinity of the site and stated that the proposal was not considered to impact views. However a View Impact Assessment undertaken, in accordance with the methodology and requirements as set out by the Land and Environment Court has not been provided to substantiate this assertion from the Applicant. Notwithstanding this, a number of surrounding residents have raised concerns in relation to the loss of views obtained from various properties located to the rear of the site.

Objective O3 requires development to encourage view sharing as a means of ensuring equitable access to views from private properties and Control C5 requires development to be sited and designed to enable the sharing of views with surrounding private properties, particularly from habitable rooms.

As a thorough Visual Impact Analysis has not been conducted, a detailed assessment against the Tenacity principles and the DCP controls cannot be undertaken and therefore compliance with Control C5 cannot be demonstrated.

Notwithstanding this, the Applicant has agreed to erect surveyed height poles at the site, however as the Applicant does not own the subject site the height poles are only able to be erected and removed within the same day. Due to the number of individual property owners and the time frames associated with the Land and Environment Court appeal (deemed refusal), a site visit to these potentially impacted properties has not been carried out to date. Therefore this assessment has been based on photos provided by the objectors and a view impact assessment, which has included photomontages carried out on behalf of SP 49854 (No.75 Birriga Road). An assessment of the reasonableness or otherwise of the degree of view loss has been undertaken with regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four step assessment of view sharing. The steps, and assessment, are provided below:

- *Step 1: Assessment of the views to be affected. Water views are valued more highly than land views.*

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg. 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, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

No.77 Birriga Road: This property is a three storey detached dwelling located to the rear of the subject site. As shown in the photos below this property enjoys Harbour views including the land and water interface and district views.



Source: Photos taken on behalf of the owners of No.77 Birriga Road from the living, dining room, kitchen and rear deck.

No.79 Birriga Road: This property is a two storey detached dwelling located to the rear of the subject site. As shown in the photos below this property enjoys district views.



Source: Photos taken on behalf of the owners of No.79 Birriga Road from the living room and rear deck.

No.75 Birriga Road: This property is a three/four storey residential flat building containing 4 units located to the south-east of the subject site. The upper level units (units 3 and 4) enjoy Harbour views including the land and water interface and district views. The lower level units (units 1 and 2) enjoy a landscaped outlook and district views.



View from the rear of 4/75 Birriga Road



View from the rear of 4/75 Birriga Road



View from the rear of 3/75 Birriga Road



View from the rear of 3/75 Birriga Road



View from rear of 3/75 Birriga Road



View from a side window of 3/75 Birriga Road



View from the rear of 2/75 Birriga Road



View from the rear of 1/75 Birriga Road

Source: Photos taken on behalf of the owners of No.75 Birriga Road.

- *Step 2: Consider from what part of the property the views are maintained:*

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.

No.77 Birriga Road: Views from this property are obtained from the primary living/dining, kitchen and rear deck across the rear boundary.

No.79 Birriga Road: Views from this property are obtained from the primary living areas and rear deck across the rear boundary.

No.75 Birriga Road: Views from this property are obtained from primary living areas, rear balconies and upper level bedroom across the side boundary. Some of these units also obtain some views across the rear boundary, however these views will be unaffected by the proposal.

- *Step 3: Assess 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.

As a visual impact analysis is not provided, this cannot be accurately assessed. However, it is noting that the qualitative assessment is ranked as negligible, minor, moderate, severe or devastating, and takes into account the location of the views being from main living areas. Without reliable analysis, it is difficult to complete this step, and therefore the precautionary principle should be adopted. Notwithstanding this, the following assessment has been made using the available information, however further information is required for a more accurate evaluation

No.77 Birriga Road: It would appear based on the available information that the proposal would have a **severe** to **devastating** impact on the views obtained from this property. Given that the submitted survey indicates that the rear deck to this property is at RL46.02, whereas the parapet level of the proposed third level is at RL 47.540. It is noted that the proposed pergola structure is at RL50.00, however this structure does not extend across the whole view and is semi-transparent. Further analysis is required, so that a more accurate assessment of the proposed impact can be carried out.

No.79 Birriga Road: The submitted survey does not show the existing rear balcony at this property or any associated RLs. However this rear balcony is significantly lower than the balcony at the adjoining property (at No.77 Birriga, by approximately 1.5m). It would appear based on the available information that the proposed development would have **devastating** impact on the district views obtained from this property. Further analysis is required so that a more accurate assessment of the proposed impact can be carried out.

No.75 Birriga Road (Unit 3): A view analysis including photomontages was provide by the strata of this building, as viewed from Unit 3, which is located on the upper level of the building to the south-east of the subject site. It is noted that this viewpoint is directly adjacent to the rear balcony of Unit 4. This photomontage demonstrates the proposed development would obstruct the entire view obtained across the side boundary creating a **devastating** impact on this property. It would appear the only remaining views would be some district views obtained over the rear boundary.

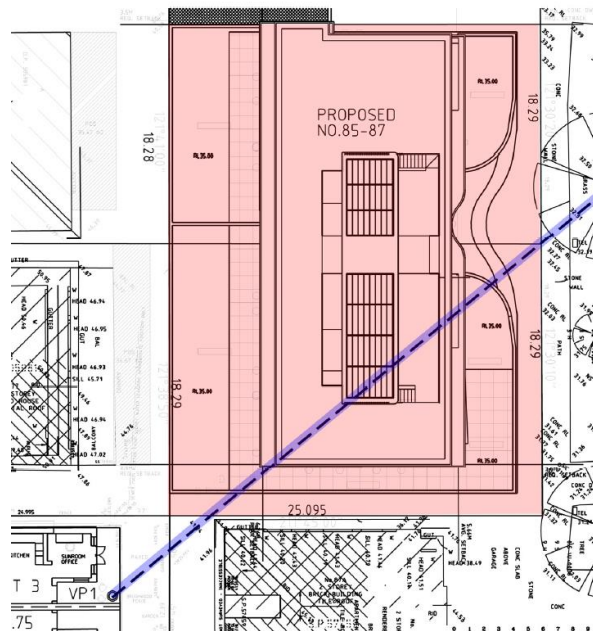


Figure 3: Location of Viewpoint No.1
Source: R.A Wallis Constructions on obo of No.75 Birriga Road.

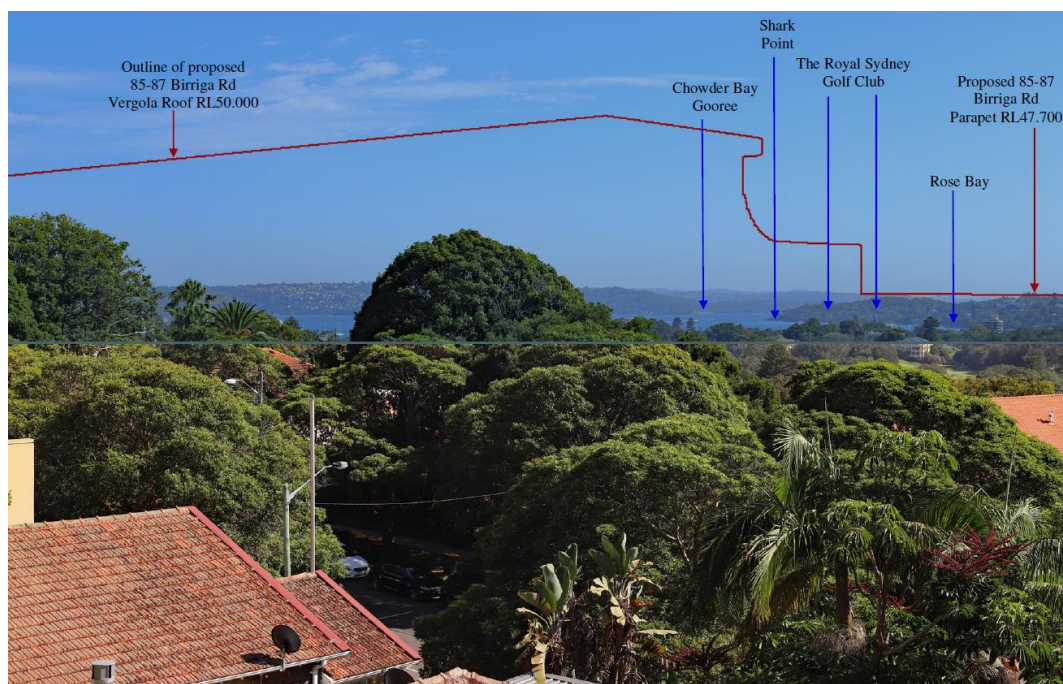


Figure 4: Viewpoint 1 from 3/75 Birriga Road showing the outline of the proposed development.
Source: R.A Wallis Constructions on obo of No.75 Birriga Road.

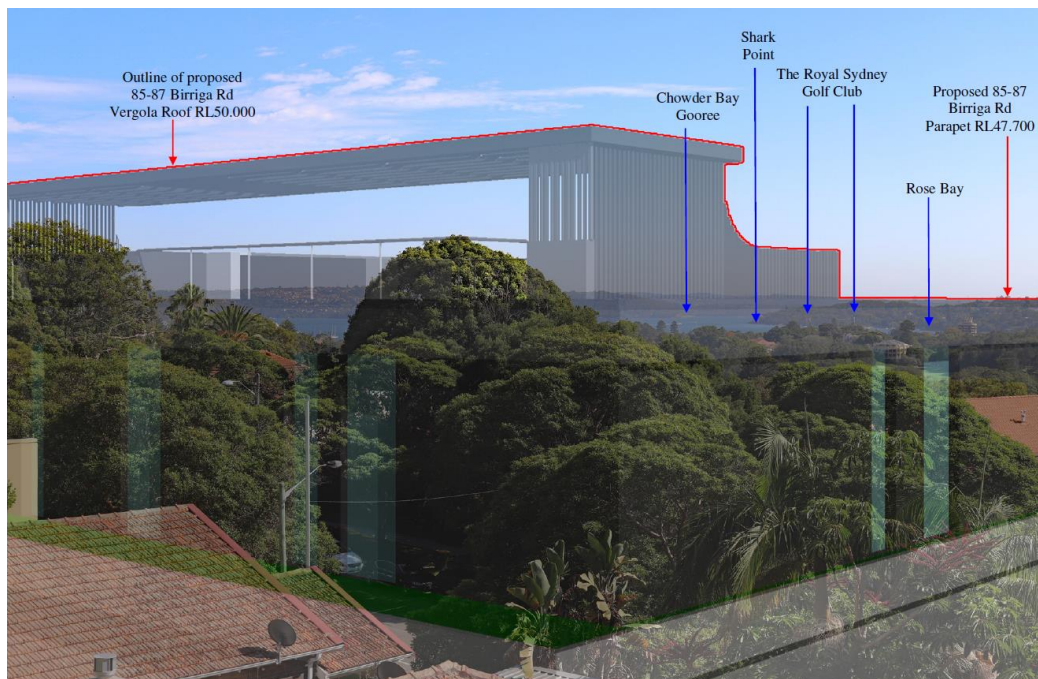


Figure 5: Photomontage of the proposed development as viewed from viewpoint 1 from 3/75 Birriga Road
Source: R.A Wallis Constructions on obo of No.75 Birriga Road.

No.75 Birriga Road (Unit 4): This unit directly adjoins unit 3 on the upper level of the building. Based on the information provided it would appear the proposed development would obstruct the entire view obtained across the side boundary, creating a **devastating** impact on this property. It would appear the only remaining views would be some district views obtained over the rear boundary. Further analysis is required so that a more accurate assessment of the proposed impact can be carried out.

No.75 Birriga Road (Unit 2): This unit is located directly below Unit 3 on the lower level of the building. It would appear the proposal development would have a **minor** impact on this property, as it would appear that the proposed development will obstruct mostly a landscaped outlook from this property. The existing district views appear to be mostly retained as these views are mostly obtained over the rear boundary. Further analysis is required so that a more accurate assessment of the proposed impact can be carried out.

No.75 Birriga Road (Unit 1): This unit is located directly below Unit 4 on the lower level of the building. It would appear the proposal development would have a **minor** impact on views obtained from this this property, as it would appear that the proposed development will obstruct mostly a landscaped outlook from this property. The existing district views appear to be mostly retained, as these views are mostly obtained over the rear boundary. Further analysis is required so that a more accurate assessment of the proposed impact can be carried out.

- *Step 4: This assesses the reasonableness of the proposal that is causing the impact.*

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

The Court poses two questions in *Tenacity Consulting vs Warringah (2004) NSWLEC 140*.

The first question relates to whether a non-compliance with one or more planning controls results in view loss.

The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

It is noted that the development proposes a breach of the FSR development standard, is non-compliant with the roof terrace controls and front setback control. It is also noted that the Applicant has not provided sufficient information to demonstrate compliance with the maximum height control. Where an impact on views arise as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. This has occurred in this instance, as follows:

- The proposed development exceeds the maximum FSR control by at least 282.05m². The majority of this non-compliance is located at third floor level (which has a GFA of 254.5m²). The third floor of the proposal obstructs a substantial amount of the anticipated view loss from surrounding properties;
- The remainder of the view loss is a result of the proposed roof terrace, lift over-run, services, pergola and built-in BBQs located at roof terrace level. This roof terrace is not compliant with the relevant roof terrace controls (Controls C10 and C12 of Part B3.7.1). In addition it is unclear whether the proposed roof terrace pergola complies with the maximum height control and whether the stair access (at roof terrace level) further adds to the FSR non-compliance.

It is noted that the non-compliance with the front setback control does not result in any view loss from surrounding properties.

The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

A more skilful design which provides reasonable development potential and amenity for the development Site could reduce the impact on the views currently afforded neighbouring properties. Therefore, for reasons discussed above, the proposal is unacceptable with regard to Chapter B3.5.3 of the Woollahra DCP 2015 and is listed as a reason for refusal.

Part B3.5.4: Acoustic and Visual Privacy

Acoustic Privacy:

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

Each floor of the building contains two dwellings, which are separated by the communal circulation space. This allows for sufficient acoustic separation between each units.

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 submitted application does not provide any detail regarding the location of plant equipment such as, lift plant, air conditioning and mechanical car stacker plant. This equipment could be housed in the basement, however no details have been provided.

Visual Privacy:

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.

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.*

- The proposed second floor windows including a habitable living room window (western elevation) will overlook windows at No.83 Birriga Road, however these existing windows at No.83 contain obscure glazing. These proposed windows potentially overlook an existing balcony at this adjoining property, as this balcony is only screened with landscaping (which cannot be relied upon for adequate privacy screening). Should consent be granted a condition of consent could be imposed to require suitable screening, in order to protect the visual privacy of this adjoining property. The remainder of the new windows to this elevation are either screened or off-set from adjoining windows;



Photo 7: Rear of No.85 Birriga Road looking toward No.83 Birriga Road



Photo 8: Partial side elevation of No.83 Birriga Road.

- The proposed second floor windows including habitable bedroom room windows (eastern elevation) will overlook windows at No.87A Birriga Road. Should consent be granted a condition of consent could be imposed to require suitable screening in order to protect the visual privacy of this adjoining property. The remainder of the new windows to this elevation are either screened or off-set from adjoining windows;
 - The proposed windows to the rear elevation are considered to be sufficiently separated from windows at the rear adjoining properties (approximately 12m). However the proposed windows to the rear elevation will overlook private open space at these rear adjoining properties (Nos.77 and 79 Birriga Road). As the Applicant has not provided sufficient RLs on the submitted survey, including the height of the existing rear retaining wall, an adequate assessment of these privacy impact was unable to be undertaken. It is noted that conditions of consent requiring privacy screening could be imposed should consent be granted.
- C6** *Architectural design solutions and screening devices referred to in C4 (c) above are integrated with the overall design and contribute to the architectural merit of the building, having particular regard to:*
- aesthetics of the building including impacts on visual bulk;*
 - compliance with minimum boundary setback controls;*
 - appearance from adjoining properties; and*
 - views from adjoining or adjacent properties.*

The proposed screening of the proposed balconies have been well integrated into the overall design of the building, in accordance with Control C6. However, the proposed screening to the over scaled roof terrace significantly adds to the height and bulk of the building and obstruct views obtained from properties to the rear. Therefore this screening is considered unacceptable in this regard.

- C7 Private open spaces and the trafficable area of roof terraces (at or below the second storey) (refer to Figure 19) 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.*

The proposed balconies have been orientated toward the front the building and have been suitably screened to protect the visual privacy of surrounding properties. The remainder of the private open space will be screened by the existing boundary fencing.

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

The rear elevation windows to first, second and third floor will overlook the upper ground floor private open space within the development, which is contrary to Control C9.

- C10 The trafficable area of a roof terrace (above the second storey) (refer to Figure 18) is setback so that there is no direct line of sight, from that part of the building where the terrace or deck is, to:*
- a) neighbouring private open space within 12m; or*
 - b) windows of habitable rooms in neighbouring dwellings within 12m.*

The proposed roof terraces to Units 3.01 and 3.02 have a trafficable area of approximately 58m² and 38m² respectively. These roof terraces will overlook the rear adjoining properties (Nos.77 and 79 Birriga Road) and are considered to adversely impact the visual privacy of these properties, given that these roof terraces are within 12m of this adjoining private open space and are excessively sized. It is noted that should screening be added to the rear of the roof terrace to address potential visual privacy impacts, this would further obstruct from views from these and other surroundings properties. The proposed roof terraces are therefore unacceptable in this regard.

- 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.*

The Applicant has not provided any detail in relation to roof terrace lighting, however should consent be granted, conditions of consent could be imposed to ensure compliance with Control C11.

- C12 For a roof terrace within the roof a building:*
- a) no part of the roof terrace or associated structures, such as a balustrade, projects beyond the roof profile; and*
 - b) the roof terrace and opening within the roof are clearly subservient in form and size when compared with the roof plane in which they are located.*

All elements of the over scaled roof terrace project beyond the roof profile of the building, including the large pergola structure that is screened on both sides, the balustrade and built-in BBQs. It is not clear whether the stair access (at roof terrace level) project beyond the roof profile, as these elements have not been clearly shown on the submitted plans. The resulting roof terrace significantly adds to the height and scale of the building and obstructs views obtained from properties to the rear. The proposed roof terrace is therefore considered to be contrary to Control C12.

Part B3.5.5: Internal Amenity

All residential units will have an acceptable residential amenity, as required by the Apartment Design Guide, thus the proposal is deemed to satisfy the relevant controls and objectives under this Part B3.5.5 of the WDCP.

Conclusion

The proposal is therefore unacceptable with regard to the building form and context controls in Part B3.5 of the Woollahra DCP 2015 and is listed as a reason for refusal.

Part B3.6: On-Site Parking

The subject residential flat building proposes basement parking for 16 vehicles. The proposed car parking is considered to be well integrated into the design of the building, in accordance with Controls C1(c), C1(d) and C6 and Objectives O2, O6, O7 and O9. Council's Development Engineer has recommended that all redundant vehicular crossings are to be removed from the site, in accordance with Control C10.

The proposed vehicular driveway is 6m wide at property boundary and is tapered to have a reduced width of 4.5m at the kerb. Council's Traffic and Transport Officer has considered this to be a substandard design and should be revised to ensure that a consistent width is provided and that the centreline of the access driveway is aligned with the centreline of the internal driveway (noting the location of the access driveway should minimise impacts on the existing 90 degree angled parking spaces located at the front of the Site). Further to this, the proposed width and position of the driveway does not seek to minimise the visual impact of the driveway to the streetscape and results in the loss a significant street tree (Tree 5). This detracts from the streetscape and landscape character of the locality, contrary to Objectives O2, O5 and O9 and Control C1(e).

Conclusion

The proposal is therefore unacceptable with regard to the onsite parking controls in Part B3.6 of the Woollahra DCP 2015 and is listed as a reason for refusal.

Part B3.7: External Areas

Site Area: 916m ²	Existing	Proposed	Control	Complies
Tree Canopy Area	-	Incorrectly specified on plans	30%	NO
Tree Canopy Area Comprising of Canopy Trees	-	Incorrectly specified on plans	50%	NO
Deep Soil Landscaping –	-	37.01% (338.13m ²)	35% of Site Area (320.6m ²)	YES
Deep Soil Landscaping – Front Setback	-	52% (109.03m ²)	40% (83.76m ²)	YES
Private Open Space (Upper Floor Units)	-	>8m ²	8m ²	YES
Total Area	-	>2m	2m	YES
Minimum dimension	-			
Location of Private Open Space	-	North	To the North	YES
Lockable Storage Spaces – RFB	-	<8m ³	8m ³ per Dwelling	NO

Part 3.7.1: Landscaped Areas and Private Open Space

C1 requires that 30% of the site area is to comprise tree canopy area, and at least half of the total tree canopy area on the site is contributed by canopy tree/s.

This control requires at least half of the total tree canopy area on the Site to be contributed by canopy tree/s. The 'tree canopy area' that is indicated on the submitted plan consists of deep soil landscaping. No trees that are proposed to be planted on the Site, as shown on the submitted Landscape Plan can be defined as 'canopy trees', as all of the proposed trees are below 5m in height. The only existing tree that is to be retained on the Site has a canopy spread of less than 8m.

As detailed in Figure 20 of the WDCP, the calculation is to include tree crowns at maturity and include the portion of tree canopy coverage within the site boundaries only. This has not been shown on the submitted tree canopy area plans.

Therefore the proposed development has not adequately demonstrated that the proposed development will provide sufficient canopy cover and is considered to be contrary to Control C1 and is unacceptable in this regard.

C2 requires that 30% of the site area is deep soil landscaping.

The proposed development complies with the minimum deep soil landscaping requirements and is acceptable in this regard.

C3 requires at least 40% of the front setback area is to comprise deep soil landscaping.

The proposed development complies with the minimum deep soil landscaping to the front setback of the site. However no canopy trees are proposed and only constrained/elevated deep soil areas have been provided to the front setback. This significantly restricts the quality and quantity of deep soil landscaping located within the front setback and provides an inadequate relationship between the front setback landscaping and the public domain in Birriga Road. The proposed development should be amended accordingly should consent be granted.

C7 Excavation or fill is permitted to achieve the required level area of primary open space up to 1.2m from existing ground level.

The proposed private open space to the upper ground floor units involve excavation works up to a depth of approximately 4.5m, which does not comply with Control C7.

In addition the proposed private open space located at the front of the site to these upper floor units, have been raised by up to 1.7m above the existing ground level. This elevated private open space to the front of the site provides for a poor relationship between public domain in Birriga Road and restricts landscaping provided to the site frontage. This detracts from the streetscape presentation and limits the quality of the landscaping provided to the front of the site.

C9 stipulates that for residential flat buildings, manor houses, or multi dwelling housing, each dwelling located above ground level is provided with private open space in the form of a balcony, verandah or uncovered roof terrace which has a minimum area of 8m² and a minimum dimension of 2m.

All units within the development comply with the minimum private open space requirements and are acceptable in this regard.

C10 requires that development takes advantage of opportunities to provide north facing private open space.

The private open space to all units have been oriented to the north, in accordance with Control C10.

C13 states that a roof terrace and associated structures will only be considered where the size, location and design of the terrace meets the requirements in Section 3.5.4 (Acoustic and visual privacy).

The proposed roof terrace does not comply with Section 3.5.4 and therefore is unacceptable with regard to Control C13.

C14 requires existing canopy trees and vegetation of landscape value are incorporated into the landscape area and treatment.

There are eight (8) existing trees within and adjacent to the Site that will be impacted by the proposal. It has been proposed to remove 3 trees (Trees 1, 7 and 8) to facilitate the development. Council's Landscape Officer has supported the removal of these trees, as these trees were considered to be of low Landscape Significance and Low Retention Value. The removal of these trees would be subject to additional replacement planting, should consent be granted.

It has been proposed to retain Trees 3, 4 and 6 (street trees) and Tree 2 (refer to **Photo No.7** above), which is located on the western side of the site. Council's Landscape Officer has stated that these trees are in good health and provide a positive contribution to the amenity and canopy cover of the area.

However, the proposed removal of Tree 5 (a *Lophostemon confertus*, Brushbox), located outside No.87 Birriga Road on Council land to allow for installation of a new driveway and crossover was not supported by Council's Landscape Officer. This is because this tree is in a healthy condition, is one of several avenue plantings along the street and is considered to be an important community asset.

The proposed development is therefore considered to be unacceptable with Control C14 and Objectives O7 and O9.



Photo 8: Tree 5, located on Council's verge proposed to be removed.

Part 3.7.2: Fences

The development application does not contain adequate information as to the height and design of side and rear boundary fencing. The Applicant should provide elevations, which depict the height and design of any side and rear boundary fencing.

Part 3.7.3: Site Facilities

As per the Apartment Design Guide, issues have been identified with regard to storage provision and site facilities. Although the ADG overrides the WDCP controls, an assessment against the relevant Objectives is provided for merit purposes:

- Storage is only provided internally within each of the proposed apartments. Storage provision is not considered adequate, contrary to Objective O2 and C1;
- The Applicant has not provided any detail to allow for an adequate assessment of the proposed plant equipment, including the location of the lift plant, car stacker plant and any air conditioning;
- No external clothes drying facilities have been shown on the plans, contrary to Objective O3 and Control C3;
- The Applicant has not provided sufficient detail including: sufficient RLs and detail on the submitted elevations and sections, in relation to the proposed lift over-run and the adjacent services located to the roof of the building;
- The Applicant has not provided sufficient details including elevations and sections of the proposed hydraulic fire services, located within the western side setback. This does not allow for adequate assessment against Objective O11 and Controls C12 and C13.

Conclusion

The proposal is unacceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015 and is listed as a reason for refusal.

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

Site Area: 916m ²	Existing	Proposed	Control	Complies
Minimum Lot Width	-	36.58m	21m	YES

Minimum Lot Width

C1 requires a minimum lot width of 21m.

The subject site has a lot width of 36.58m, which complies with the minimum requirements.

Residential Flat Buildings and Multi Dwelling Housing

The proposal generally meets the requirements of SEPP Housing (2021), Chapter 4 Design of Residential Apartment Development and the relevant Design Criteria in the Apartment Design Guide.

The proposal is acceptable with regard to the controls and objectives in Part B3.8.6 of the Woollahra DCP 2015.

Conclusion

The proposal is acceptable with regard to the additional controls in Part B3.8 of the Woollahra DCP 2015.

14.3 Chapter E1: Parking and Access

Council's Traffic & Transport Engineer reviewed the proposal. The following assessment in accordance with Chapter E1: Parking and Access is provided.

Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Permitted Parking
3 bedrooms	4	2	8
4 bedrooms	4	2	8
Visitors	8	0.25	2
Total permitted			18
Proposed provision			16

The proposed provision of sixteen (16) car parking spaces, including twelve (12) in car stackers and four (4) in parallel parking spaces, complies with DCP's maximum requirement and is deemed to be satisfactory. It is noted that no visitor parking has been provided, conditions of consent could be imposed to ensure some of the proposed parking spaces be allocated as visitor parking, should consent be granted.

Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	8 dwellings	1 per dwelling	8
Residential Visitors	8 dwellings	1 per 10 dwellings	0.8 (1)
Total required			9
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	16	1 per 10 car spaces	1.6 (2)
Total required			2

The proposal includes two (2) motorbike parking spaces and a bicycle storage area that has the capacity to accommodate nine (9) bicycles. The proposal complies with DCP's minimum requirements and is considered acceptable. However, the proposed plans have not sufficiently demonstrated that the bicycle storage facility can accommodate the required 9 bicycles.

Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with *RMS Guide to Traffic Generating Developments 2002*, and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

Existing Development

Low Density Dwellings

- Weekday peak hour vehicle trips: 2 dwellings x 0.95-0.99 per dwelling = 1.9-1.98 trips
- Daily vehicle trips: 2 dwellings x 10.7 per dwelling = 21.4 trips

Proposed Development

Medium Density Residential – Larger Units

- Weekday peak hour vehicle trips: 8 dwellings x 0.5-0.65 per dwelling = 4-5.2 trips
- Daily vehicle trips: 8 dwellings x 5.0-6.5 per dwelling = 40-52 trips

Net Increase

- Weekday peak hour vehicle trips = 2.1-3.22 trips
- Daily vehicle trips = 18.6-30.6 trips

Council's Traffic Officer has stated that based on the above calculations, the proposed development will not result in significant increase of traffic and is unlikely to generate unacceptable adverse impact on surrounding streets in terms of traffic and safety.

Mechanical Parking Installations:

The development has included Six (6) car stackers accommodating 12 car spaces. Whilst no queuing analysis has been provided, the basement layout allows for one (1) waiting bay that can temporarily accommodate vehicles waiting to be serviced. Given the nature and scale of the development, 98th percentile traffic is unlikely to exceed the capacity of one (1) waiting bay and queue beyond the property boundary. Given the mechanical installations, a traffic light system should be incorporated and installed at both ends of ramp to ensure priorities are given to vehicles entering the Site to minimise disruptions to traffic along the Birriga Road. A condition of consent could be imposed to address this issue should consent be granted.

It should be noted that the floor-to-ceiling height of the basement is 3.95m, with the headroom clearance for the two levels of stacked parking to be 2.05m and 1.5m respectively. Whilst it is acknowledged that the two spaces in a car stacker will be allocated to one household/unit, 1.5m of headroom clearance is considered to be insufficient. The proposed development is therefore contrary to Part E1.15.2 and unacceptable in this regard.

Access Driveway

The proposed access driveway is 6m wide at property boundary and tapered to have a reduced width of 4.5m at kerb. This was considered to constitute a substandard design and should be revised to ensure a consistent width is provided and that centreline of the access driveway is aligned with the centreline of the internal driveway. It is noted that the location of the access driveway should minimise impact on the existing 90 degree angled parking spaces in front of the Site.

Part E1.11: Electric Vehicle Charging Points

Control C1 of this part 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.*

Insufficient details of the electric circuitry have been provided. However, should development consent be granted, relevant conditions of consent could be imposed requiring the provision for electric vehicle circuitry within the development, thereby ensuring compliance with Part E1.11 of the Woollahra DCP 2015.

Conclusion

As per above, Council's Traffic and Transport Engineer has considered proposal to be unacceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015 and is listed as a reason for refusal..

14.4 Chapter E3: Tree Management

The proposed removal of the Brushbox tree (Tree 5), which is located on Council's verge to accommodate the new driveway, was not supported by Council's Landscape Officer. This is because this tree is in a good healthy condition, is one of several avenue plantings along the street and is considered to be an important community asset.

The proposal is not considered to achieve consistency with the relevant objectives outlined in Chapter E3 of the Woollahra DCP 2015 and is therefore listed as a reason for refusal.

14.5 Chapter E5: Waste Management

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

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

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

Part E5.3: On-Site Waste and Recycling Controls for all Development

	Existing	Proposed	Control	Complies
Garbage and Recycling Areas	-	Separated	Separated	YES
Location of Garbage and Recycling Areas	-	Within the Basement	Behind Building Line or Non-Habitable Areas	YES

The development application was accompanied by a Waste Management Plan, which clearly identifies the waste and recycling storage areas and all other relevant matters. The waste storage area would facilitate the separation of garbage and recycling, in accordance with Control C2. The waste storage area is located at basement level and subsequently does not detract from the design of the development. The proposed waste collection point on Birriga Road would not interfere with traffic or pedestrian safety.

The proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

Part E5.5: Multi Dwelling Housing and Residential Flat Buildings

	Existing	Proposed	Control	Complies
Garbage and Recycling Areas	-	Provided	Required	YES
Location of Waste Storage Area	-	Basement	Basement Level	YES
Maximum Distance from Waste Storage Area to Collection Point	-	<75m	75m	YES

C4 specifies a rate of 120L/unit for waste, 55L/unit for recycling and 240L/unit for green waste and food organics. With 8 units, this equates to a total of 960L of waste and 440L of recycling or approx. 4 x 240L waste bins and 2 recycling bins.

The proposed development provides 4 waste bins, 2 recycling bins and 1 x 240L FOGO bins, in accordance with Control C4.

C5 requires a compost area.

The proposed development has provided Food Organic and Garden Organic bin, which considered appropriate within a small scale development.

C11 limits the travel distance between the waste storage area and the collection point to 75m.

Complies.

Conclusion:

If the application were recommended for approval, the relevant waste requirements could be imposed by standard conditions, in order to ensure compliance with Chapter E5 of the Woollahra DCP 2015.

14.6 Section 7.12 Contributions Plan

The proposed development is recommended for refusal and accordingly Section 7.12 contributions and relevant fees are not applied. Notwithstanding this, should development consent be issued, a contribution pursuant to Section 7.12 would apply and can be enforced by conditions.

14.7 Subdivision 4 Housing and Productivity Contributions

Section 7.24 of the *Environmental Planning and Assessment Act 1979* identifies that the object of this subdivision is to facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a housing and productivity contribution to be required.

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2023 sets out the classes of development, which require a housing and productivity contribution.

The proposal does not require a housing and productivity contribution. This is due to the fact that the proposed development is recommended for refusal. Notwithstanding this, should development consent be issued, a contribution pursuant to Section 7.24 would apply and can be enforced by conditions.

15. APPLICABLE ACTS/REGULATIONS

15.1 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.

Clause 64: Consent authority may require upgrade of buildings

Clause 64 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Annexure 7**.

16. THE LIKELY IMPACTS OF THE PROPOSAL

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

17. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development.

18. THE PUBLIC INTEREST

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

19. CONCLUSION

The proposal is unacceptable against the relevant considerations under Section 4.15.

20. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this development application by 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 not 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 not be granted to the development application, which contravenes the FSR development standard under Clause 4.4 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. 10/2024/1 for demolition of all existing structures on both 85 and 87 Birriga Road and the construction of a new four (4) storey residential flat building containing 8 units, basement parking containing 16 spaces a roof top terrace with pergola associated landscaping and sites to be amalgamated on land at 85-87 Birriga Road Bellevue Hill, for the following reasons:

1. Non-compliance with SEPP 65 – Design Quality of Residential Apartment Development

The proposal is inconsistent with the following design quality principles of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development:

- a) Schedule 1, Principle 1: Context and Neighbourhood Character - The scale and design of the proposal is inconsistent with development on adjacent sites and within the neighbourhood. The proposal fails to respond to the surrounding context and neighbourhood character.
- b) Schedule 1, Principle 2: Built Form and Scale - The bulk and scale of the proposed new building is excessive. The proposal will not achieve an appropriate built form that is in-keeping with its context.

- c) Schedule 1, Principle 5: Landscape – The proposal has not considered design measures, which will adequately avoid or minimise adverse impacts on the existing tree canopy, which contributes to the desired future character of the locality.
- d) Schedule 1, Principle 6: Amenity - The excessive bulk and scale will result in unacceptable adverse amenity impacts on the adjoining and surrounding residents.
- e) Schedule 1, Principle 9: Aesthetics - The proposed materiality, colour palette and massing does not respond to or reinforce the existing local context and results in a built form, which is excessive in bulk and scale.

2. Apartment Design Guide

The proposal is inconsistent with the objectives outlined in following Parts of the Apartment Design Guide:

- 3C – Public Domain Interface
- 3E – Deep Soil Zones
- 3F – Visual Privacy
- 4G – Storage
- 4M – Facades
- 4N – Roof Design
- 4O – Landscape Design
- 4U – Energy Efficiency
- 4V – Water Management and Conservation

3. Woollahra Local Environmental Plan 2014, Part 1 – Clause 1.2 Aims of Plan

The proposal is unacceptable, as it does not comply with:

- a) It does not conserve the built and natural environmental heritage, as required in sub-clause (f);
- b) It does not protect the amenity of and the natural environment (g);
- c) It does not minimise and manage traffic and parking impacts (k);
- d) It does not achieve the desired future character of the area (l);
- e) It does not minimise excavation (m); and
- f) It does not encourage the retention and planting of trees and other vegetation as part of development (n).

4. Woollahra Local Environmental Plan, Part 2, Land Use Table

The proposal is unacceptable as it does not comply with the following objectives of the R3 Medium Density Residential Zone:

- Objective 4: The proposal is not of a height and scale that achieves the desired future character of the neighbourhood.
- Objective 5: The proposal does not ensure the conservation and enhancement of tree canopy cover.

5. Woollahra Local Environmental Plan 2014, Part 4 – Clause 4.4 Floor Space Ratio

The proposal does not comply with the Floor Space Ratio development standard prescribed in Clause 4.4 of the Woollahra Local Environmental Plan 2014. The proposal fails to achieve consistency with the Objectives (a)(i), (ii) and (iii).

6. Woollahra Local Environmental Plan 2014, Part 4 – Clause 4.6 Exceptions to Development Standards

The consent authority is of the opinion that the submitted written request fails to justify the contravention of the *FSR* development standard under Clause 4.4, in accordance with Clause 4.6(3)(a) and 4.6(3)(b). The submitted written request has not adequately addressed the matters required to be demonstrated by sub-clause (3) in that:

- Strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- There are sufficient environmental planning grounds to justify contravening the development standards; and
- The proposal is consistent with the objectives of the *FSR* development standard and of the R3 Medium Density Residential zone.

7. Woollahra Local Environmental Plan 2014, Part 6 – Clause 6.2: Earthworks

The excavation works required to accommodate the proposal are excessive and will result in adverse amenity impacts on adjoining properties. The proposed development therefore does not achieve the objectives prescribed in Clause 6.2(1).

8. 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.

9. Woollahra Development Control Plan 2015, Chapter B1: Bellevue Hill South Residential Precinct

a) Part B1.1.3

The proposal fails to achieve consistency with Objectives O1-O7 of the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015, in that the proposal is considered to have an excessive bulk and scale when compared to the existing streetscape character, is inconsistent with the desired future character of the neighbourhood and will result in adverse amenity impacts on adjoining properties.

b) Part B1.4.2: Desired future character

The proposal fails to achieve consistency with Objectives O1, O3, O5, and O7 of the desired future character of the Bellevue Hill South Residential precinct outlined in Part B1.7.2 of the Woollahra Development Control Plan 2015, because:

- a) It does not respect and enhance the streetscape character and key elements of the precinct;
- b) It does not minimise cut and fill;
- c) It does not retain and reinforce the landscape setting and existing tree canopy.

10. Woollahra Development Control Plan 2015, Chapter B3 General Development Controls

The proposed development is of a bulk and scale, which will not achieve the desired future character of the area, will not retain and reinforce the landscape setting and the existing tree canopy and will adversely affect the amenity of adjoining and surrounding properties. It fails to achieve the following relevant objectives and controls prescribed in Chapter B3 General Development Controls of the Woollahra DCP 2015:

- (a) Objectives O1, O2 and O3 and Control C1 of Part B3.2.2 – Front setback - Woollahra DCP 2015;
- (b) Objectives O1(a), (d), (f) and (g) and Controls C2 and C4 of Part B3.4 – Excavation - Woollahra DCP 2015;
- (c) Objectives O1, O2 and O3 and Controls C1, C2, C3, C4, C5 and C6 of Part 3.5.1 – Streetscape and Local Character - Woollahra DCP 2015;
- (d) Objective O1 and Control C1 of Part B3.5.2 – Overshadowing - Woollahra DCP 2015;
- (e) Objective O3 and Controls C5, C6, C7 and C8 prescribed in Part B.3.5.3 - Public and Private Views - Woollahra DCP 2015;
- (f) Objective O2 and Controls C4, C5, C6, C8, C9, C10, C11 and C12 prescribed in Part B.3.5.4 – Visual Privacy - Woollahra DCP 2015;
- (g) Objectives O1, O2, O5, O8 and O9 and Controls C1 and C9 prescribed in Part B3.6 - On-site parking - Woollahra DCP 2015;
- (h) Objectives O1, O2, O7 and O9 and Controls C1, C7, C12, C13, C14 and C18 prescribed in Part B3.7.1 - Landscaped Areas and Private Open Space - Woollahra DCP 2015;
- (i) Objectives O2, O3 and O6 and Controls C9 and C10 prescribed in Part 3.7.2 – Fences - Woollahra DCP 2015;
- (j) Objectives O2, O3, O4, O6, O7, O8 and O11 and Controls C2, C3, C4, C7, C8, C9, C12 and C13 prescribed in Part 3.7.3 – Site Facilities - Woollahra DCP 2015.

11. Woollahra Development Control Plan 2015, Chapter E1: Parking and Access

The proposal development has not included sufficient headroom clearance to accommodate the proposed car stackers, has not provided any visitor parking and the proposed driveway is considered to have a sub-standard design.

Therefore, it fails to achieve the following:

- (i) Objective O3 of Part E1.1.3;
- (ii) Visitor Parking of Part E1.4.2;
- (iii) Compliance with Australian Standards in Part E1.15.2;
- (iv) Driveways and Access Points of Part E1.10.6.

12. Woollahra Development Control Plan 2015, Chapter E3: Tree Management

The proposed development has not demonstrated that it will avoid, minimise or mitigate adverse impacts on the existing tree canopy as outlined in Chapter E3 of Woollahra DCP 2015.

Therefore, it fails to achieve the following:

- (i) Objectives O3, O4 and O5 in Part E3.1.3.

13. Insufficient and 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.

The following information has not been provided, is unclear or insufficient:

- Architectural Plans/Survey:
 - Insufficient information has been provided in relation to the surveyed level of the existing dwellings to confirm '*ground level (existing)*' for the purpose of accurately determining the maximum building height of the development. It would appear that the submitted Architectural Plans show '*natural ground levels*' and not the '*existing ground levels*' to some parts of the Site.
 - The submitted survey does not clearly show the location and height of all windows/balconies of all buildings adjoining the Site, including No.75 Birriga Road, Bellevue Hill.
 - The proposed car stacker parking and blind aisle are not clearly dimensioned and labelled on the submitted Architectural Plans.
 - A 10 000 litre rainwater tank (RWT) is required be provided by the BASIX certificate, however this is not shown on the submitted architectural Plans.
 - The proposed bike store does not adequately demonstrate that at least (9) bicycles can be accommodated, in accordance with Part E1.6.2 of the WDCP.
 - The submitted Architectural Plans do not include any RLs or sufficient detail in relation to the proposed lift over-run and services located at Roof Terrace level.
 - The submitted Architectural Plans do not include sufficient details, including elevations and sections of the proposed hydraulic fire services located within the western side setback.
 - The submitted Architectural Plans has not provided any details in relation to the location of the proposed plant equipment, including the lift plant, car stacker plant and air conditioning.
 - The submitted Architectural Plans have not included any RLs to indicate the roof terrace level, the height of services, balustrade, lift over-run, built-in BBQs (at roof terrace level).
 - The submitted Survey Plan and Architectural Plans do not provide sufficient information relating to the height of the existing rear retaining wall and the existing side fencing.
 - The proposed Architectural Plans do not clearly indicate whether any new boundary fencing is to be provided.
 - No external clothes drying facilities have been shown on the proposed Architectural Plans.
- Cl.4.6 Written Variation:
 - The GFA figure that is stated in the submitted Statement of Environment Effects (SEE) and the Cl.4.6 Variation is inconsistent with the GFA figure stated on the Architectural Plans (Drawing No.A004, Amendment C).
 - The submitted Gross Floor Area (GFA) diagrams have not accurately calculated the maximum GFA. This is because the '*private*' access stairs within Units 3.01 and 3.02 to the roof terrace were not included as GFA. In addition, the submitted Architectural Plans do not clearly show whether these access stairs add any additional GFA at roof terrace level.
 - The submitted Cl.4.6 Variation has incorrectly referenced Cl.4.4(A) of the WLEP, 2014, whereas the correct clause is Cl.4.4(2) of the WLEP 2014.
 - Should the proposed development exceed the maximum 13.5m height control, a Clause 4.6 written request demonstrating that compliance with the Height of Buildings development standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify any contravention of the building height control.

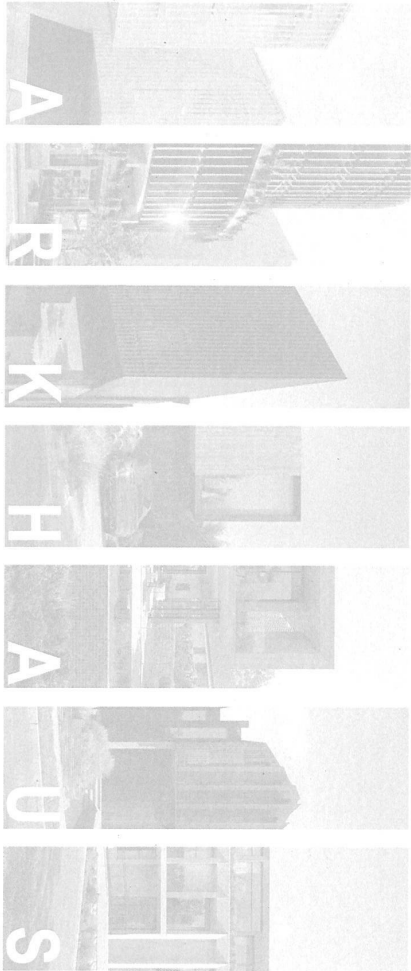
- Shadow Diagrams:
 - The submitted Shadow Diagrams do not adequately distinguish between existing and proposed overshadowing.
 - The submitted Shadow Diagrams appear to be inaccurate and do not seem to account for the topography of the Site.
 - No elevational Shadow Diagrams have been provided to allow for the solar access impacts on adjoining north facing habitable room window/door openings to be adequately assessed. The 3D diagrams that have been submitted do not show window/door openings to surrounding properties.
- View Loss Assessment/Visual Assessment:
 - The Applicant has not provided any view loss assessment. A View Loss Assessment must be submitted demonstrating the potential impacts on the views currently afforded to adjoining properties. In assessing the reasonableness or otherwise of the degree of view loss, this report must have regard to the case law established by Tenacity Consulting v Warringah (2004) NSWLEC 140, which has established a four step assessment of view sharing. This assessment should use the methodology and requirements set-out by the Land and Environment Court.
 - A visual impact assessment should be carried out to adequately assess the visual impacts on adjoining properties to the rear.
- Landscape Plan:
 - The submitted Landscape Plans did not include an accurate calculation of the '*tree canopy area*' proposed for the Site, in accordance with Control C1 and Figure 20 of Part B3.7.1 of the WDCP.
 - Landscape Plans/Tree Canopy Plans must be revised to include canopy tree/s (trees that attain a minimum of eight (8) metres in height and canopy spread at maturity) to at least half of the total '*tree canopy area*'. Trees selected should be capable of achieving the applicable '*tree canopy area*' for the Site within 5-10 years of completion.
- Excavation:
 - The Applicant has not provided an excavation volume diagram to ascertain the proposed volume of excavation works to be undertaken by the Proposal.

14. Public Interest

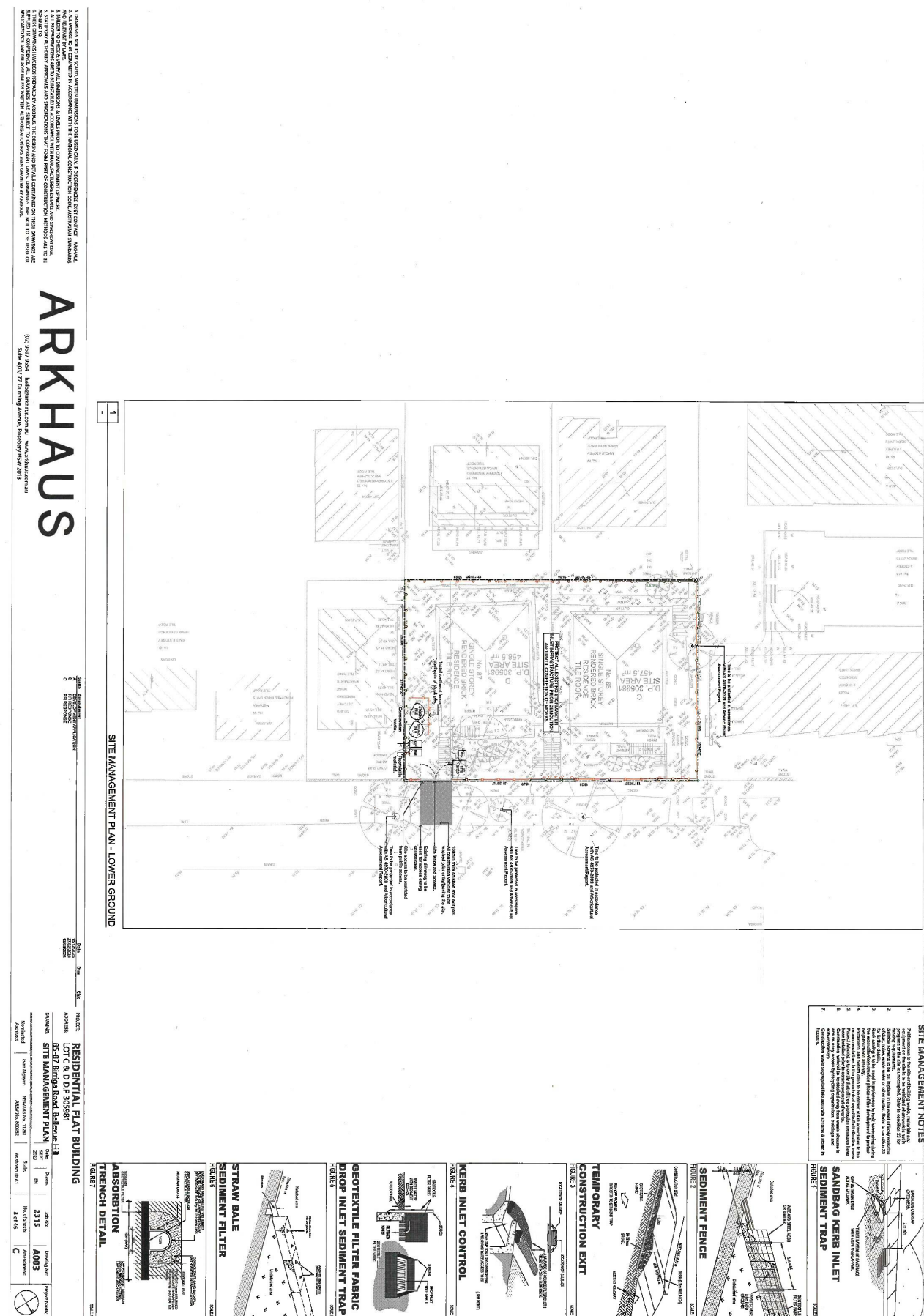
The proposed development is not in the public interest.

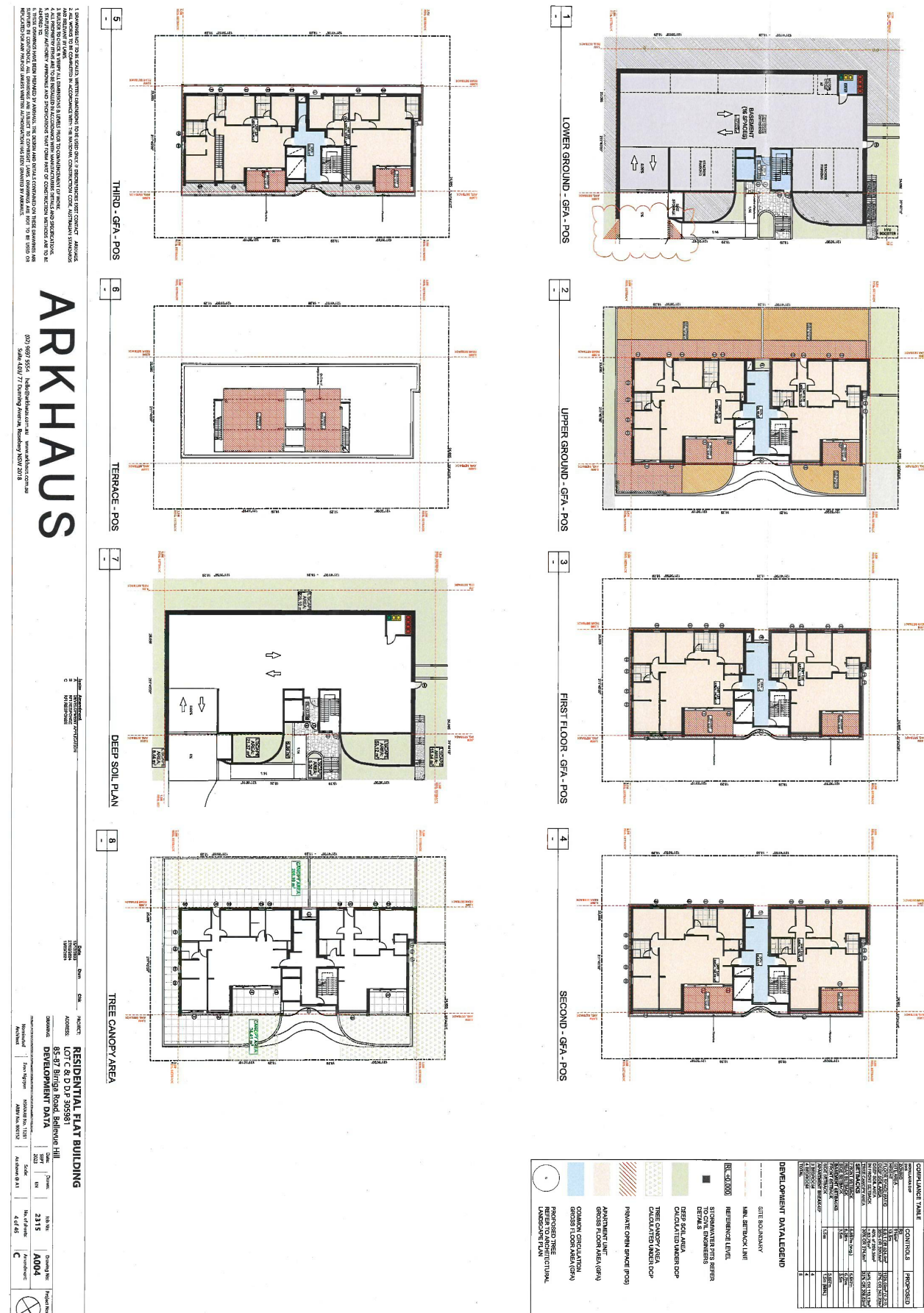
Attachments

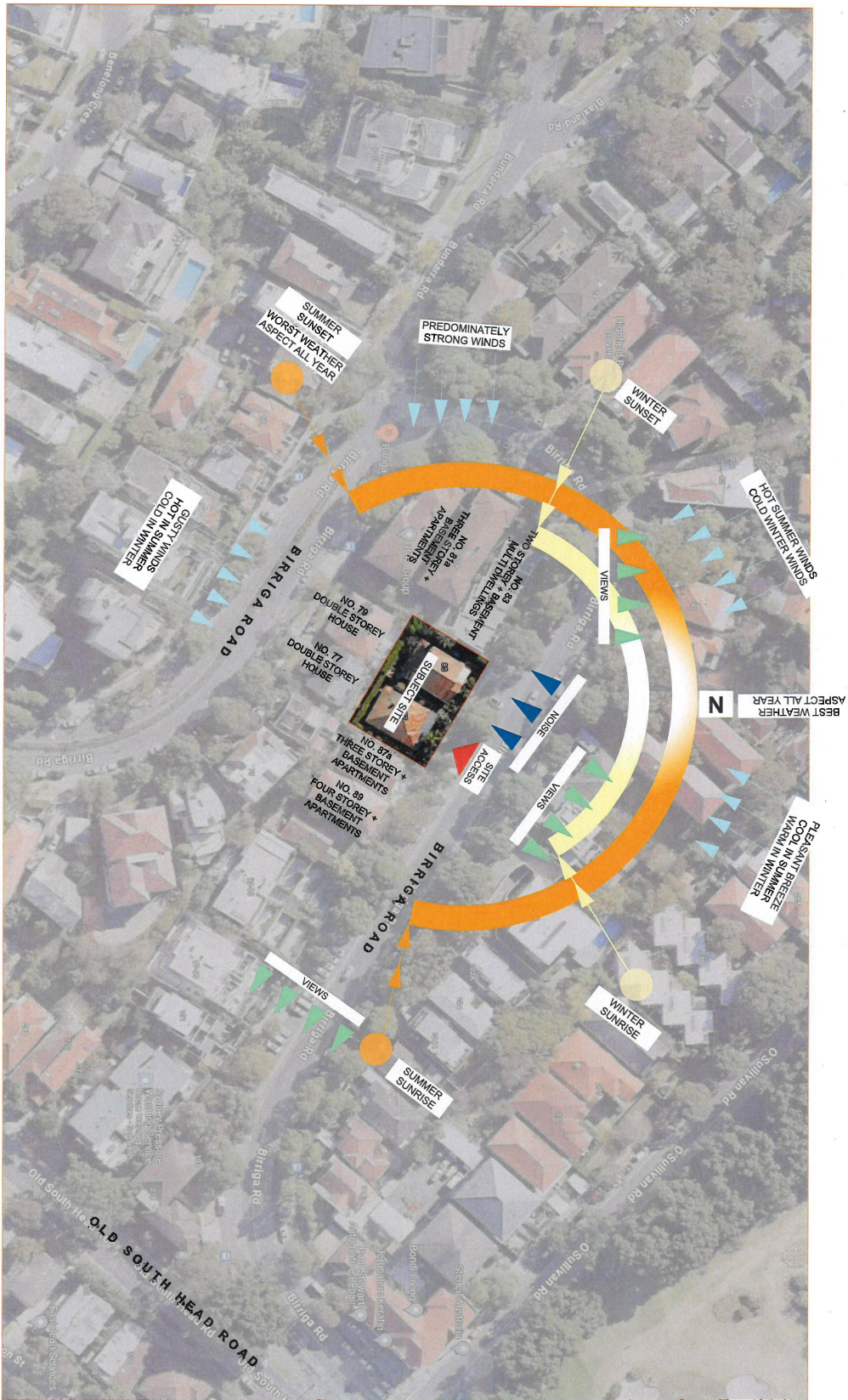
1. Architectural Plans [↓](#) 
2. Engineering - Referral Response [↓](#) 
3. Traffic - Referral Response [↓](#) 
4. Trees - Referral Response [↓](#) 
5. Heritage - Referral Response [↓](#) 
6. Urban Design - Referral Response [↓](#) 
7. Fire - Referral Response [↓](#) 
8. Clause 4.6 Written Request by the Applicant Floor Space Ratio (FSR) [↓](#) 
9. Survey [↓](#) 
10. Arboricultural Impact Statement [↓](#) 
11. Traffic Report [↓](#) 
12. Demolition Report [↓](#) 
13. Geotechnical Hydrogeological Report [↓](#) 
14. External Finishes [↓](#) 
15. Photomontage [↓](#) 
16. Shadow & Sun Eye Diagrams [↓](#) 
17. Landscape Plan [↓](#) 









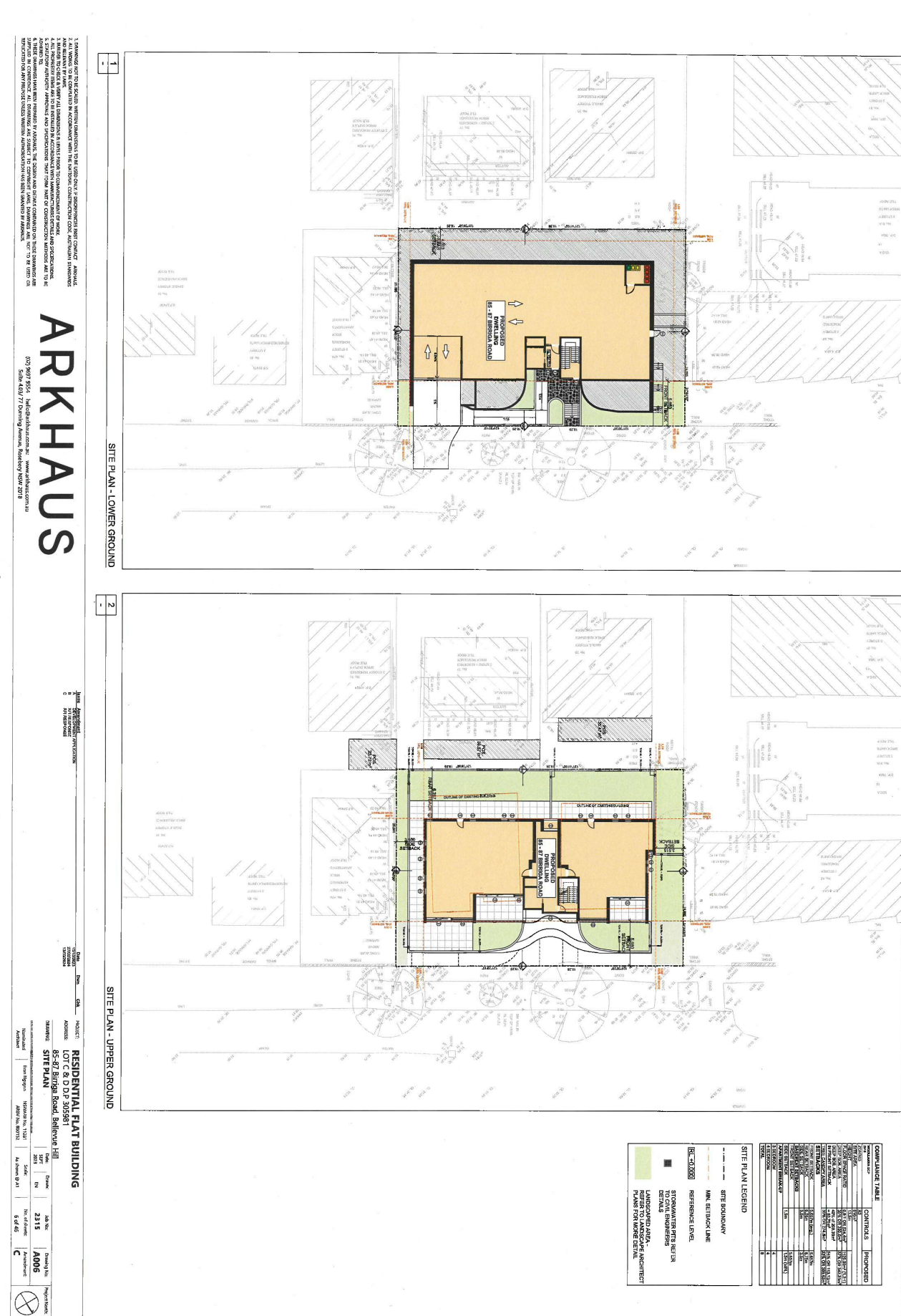


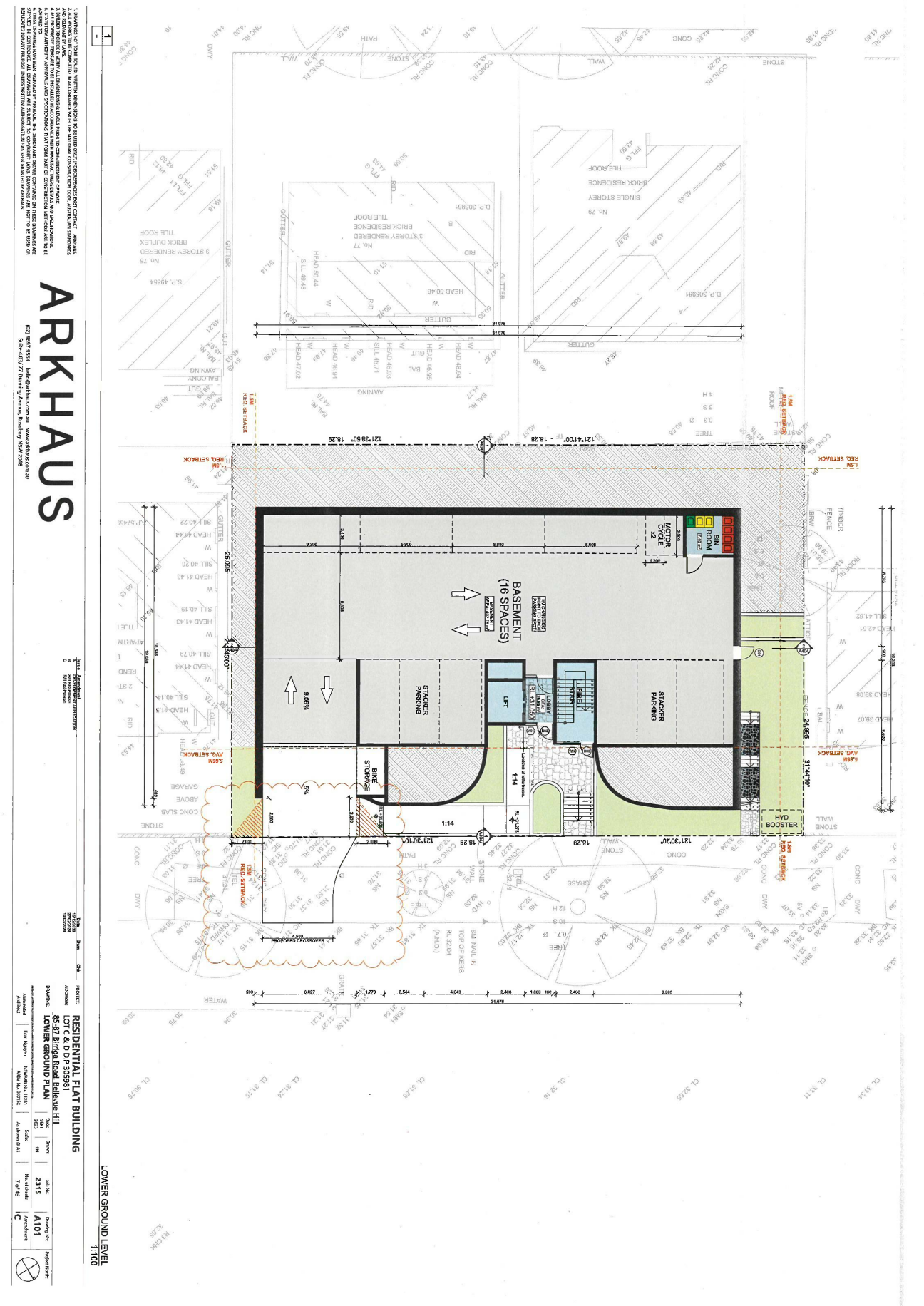
1. **STANDARD** NOT TO BE COVERED. WHETHER DISBURSEMENTS ARE TO BE USED ONLY IN SPECIFIC CASES, CONTRACT AGREEMENTS, OR OTHER DOCUMENTS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND ENDORSEMENTS.
2. **ALL WORKS** TO BE COMPLETED IN ACCORDANCE WITH THE NATIONAL CONSTRUCTION CODES, APPLICABLE STANDARDS AND RELEVANT BY-LAWS.
3. **RELATION TO OTHERS** IN THE SAME AREA. A LETTER PRIOR TO COMMENCEMENT OF WORK.
4. **REMARKS** TO BE COMPLETED IN ACCORDANCE WITH MANAGEMENT'S STRATEGIES AND PROJECTIONS.
5. **MANAGEMENT APPROVAL** AND ENDORSEMENT. THE CONTRACTOR SHALL OBTAIN THE NECESSARY APPROVALS AND ENDORSEMENTS FROM THE PROJECT MANAGER AND THE OWNER OF THE CONSTRUCTION PROJECT AND THE ARCHITECT.
6. **THESE DOCUMENTS HAVE BEEN REVIEWED BY ARCHITECTS**. THE DESIGN AND DETAILS CONTAINED ON THESE DOCUMENTS ARE SHOWN IN CONCORDANCE WITH THE PROJECT'S REQUIREMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND ENDORSEMENTS FROM THE PROJECT MANAGER AND THE OWNER OF THE CONSTRUCTION PROJECT AND THE ARCHITECT.

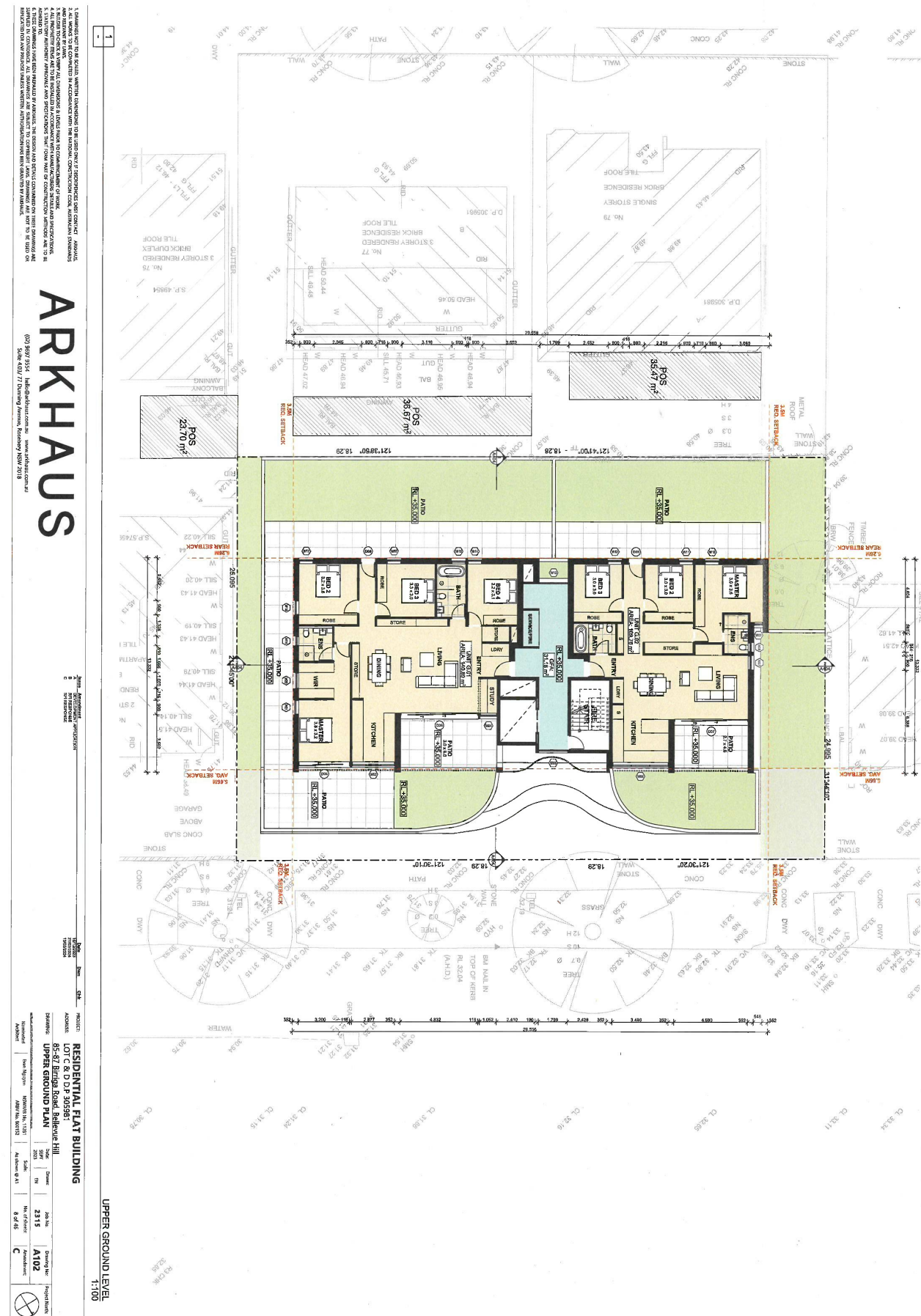
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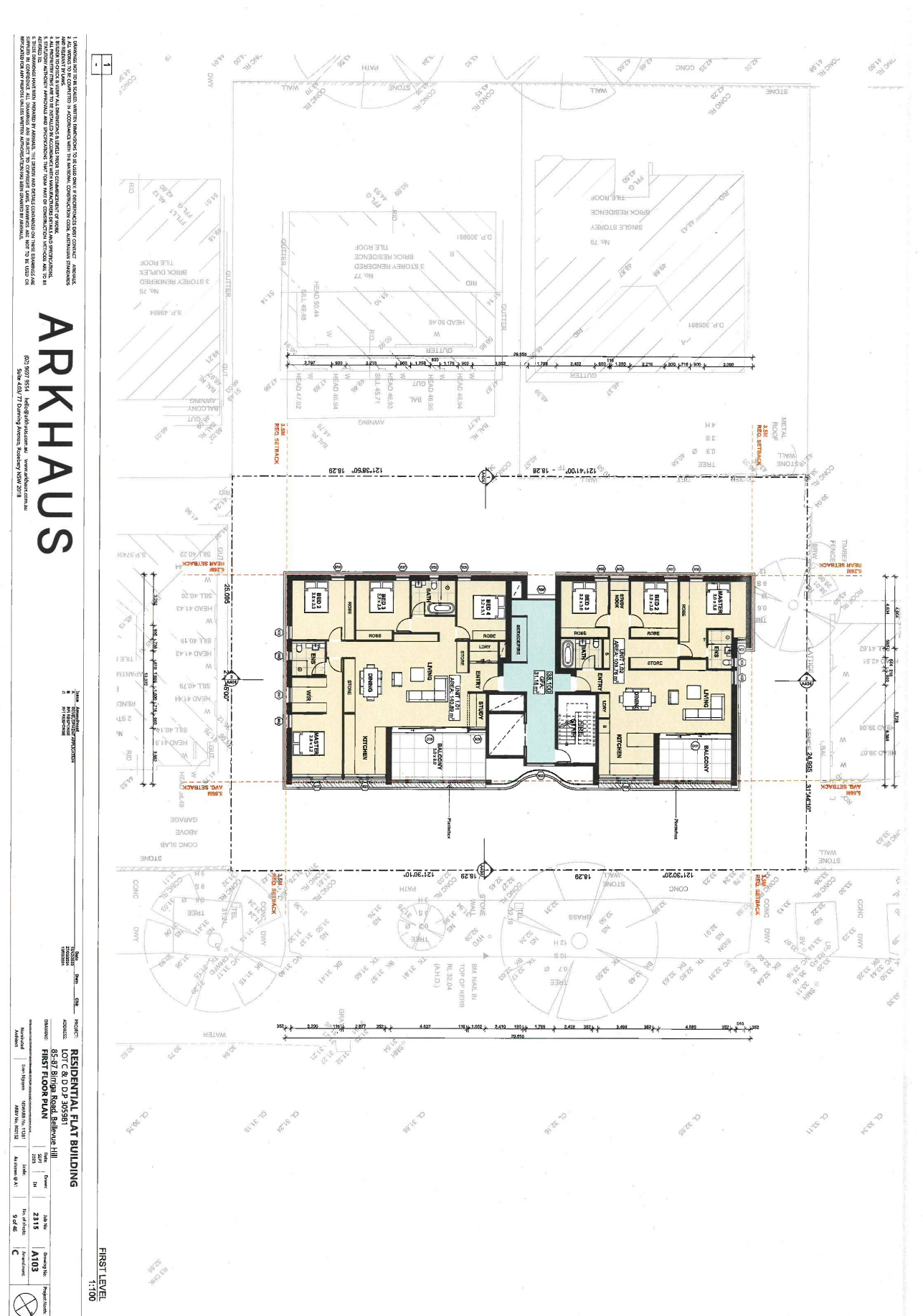
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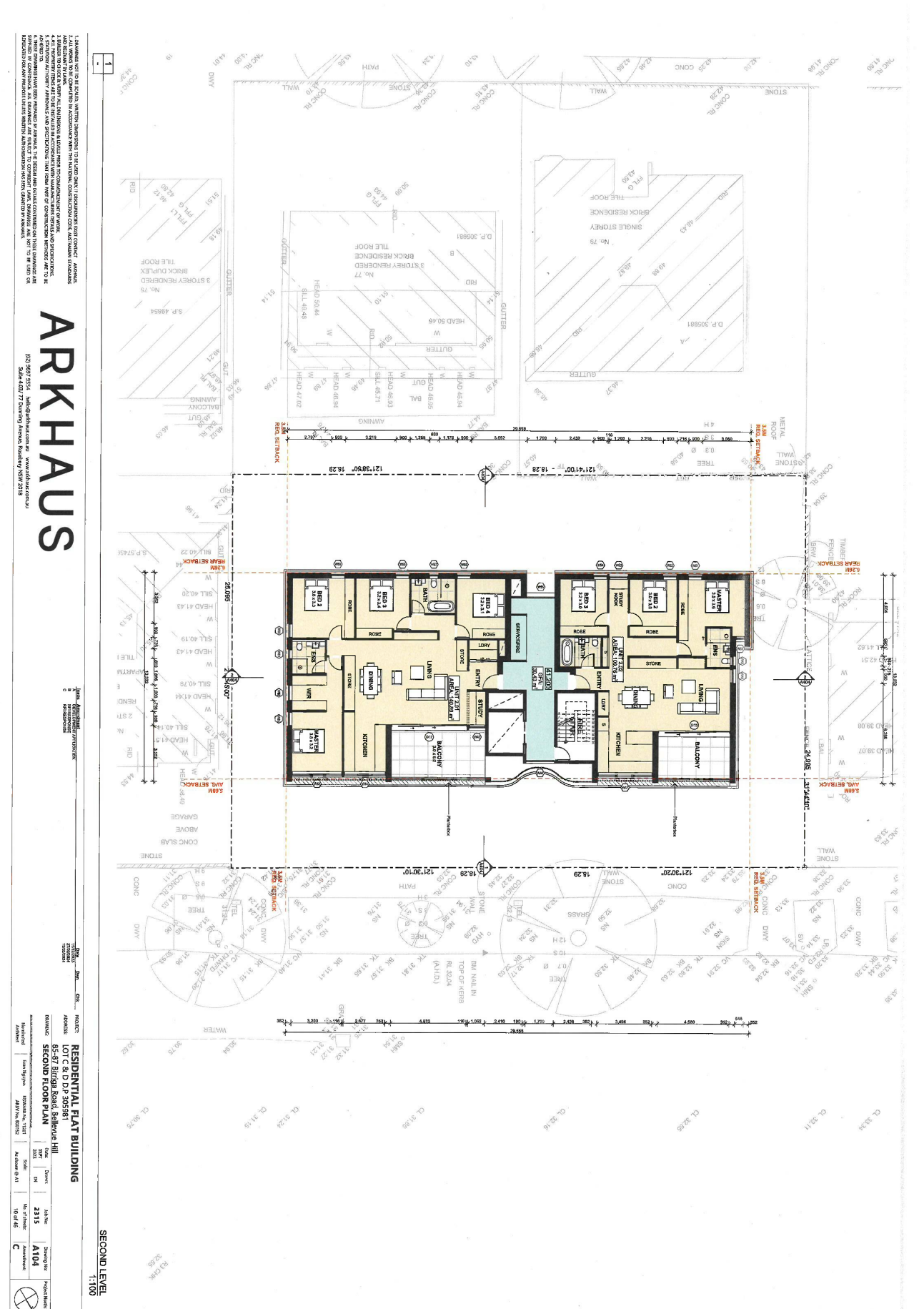
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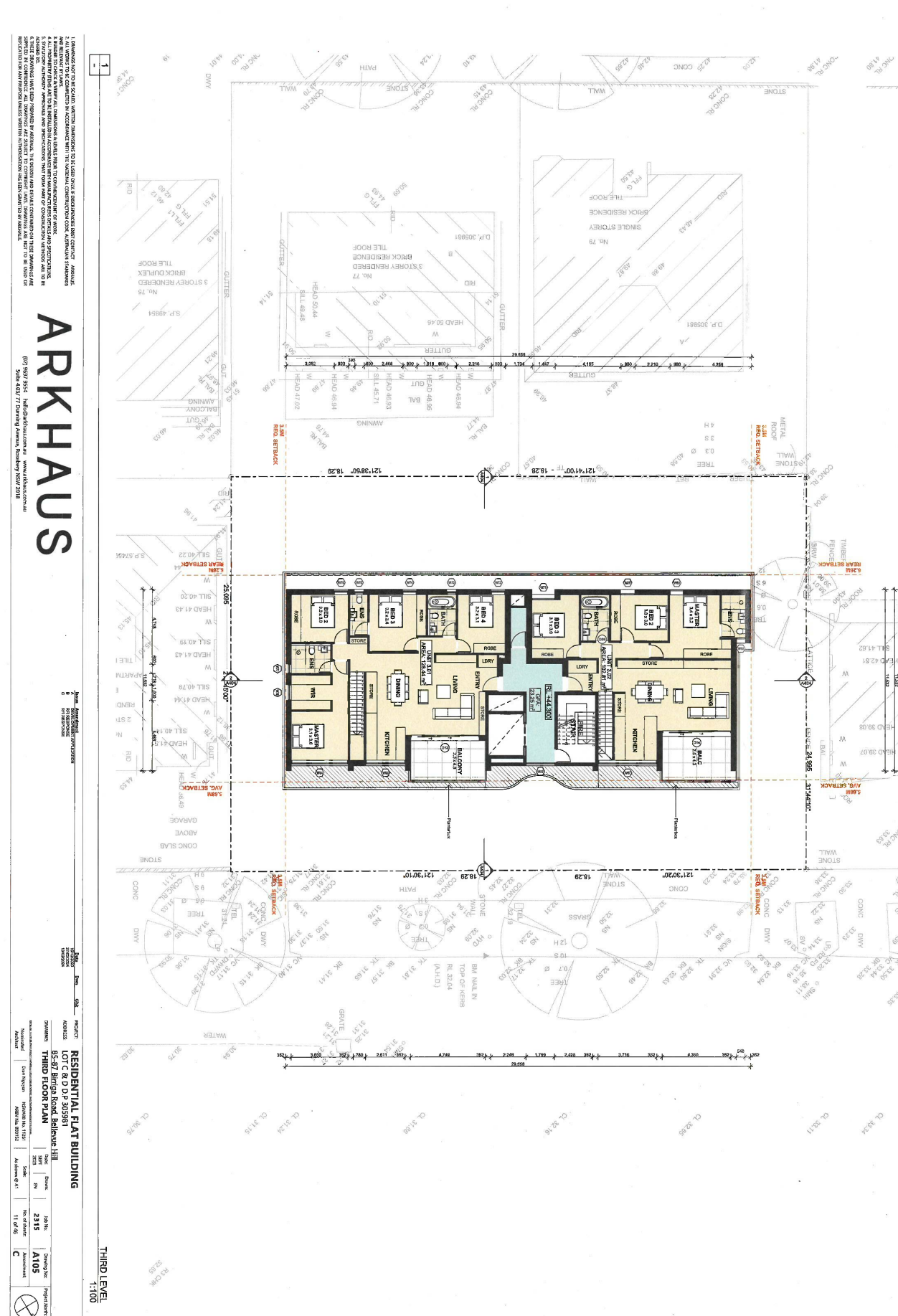


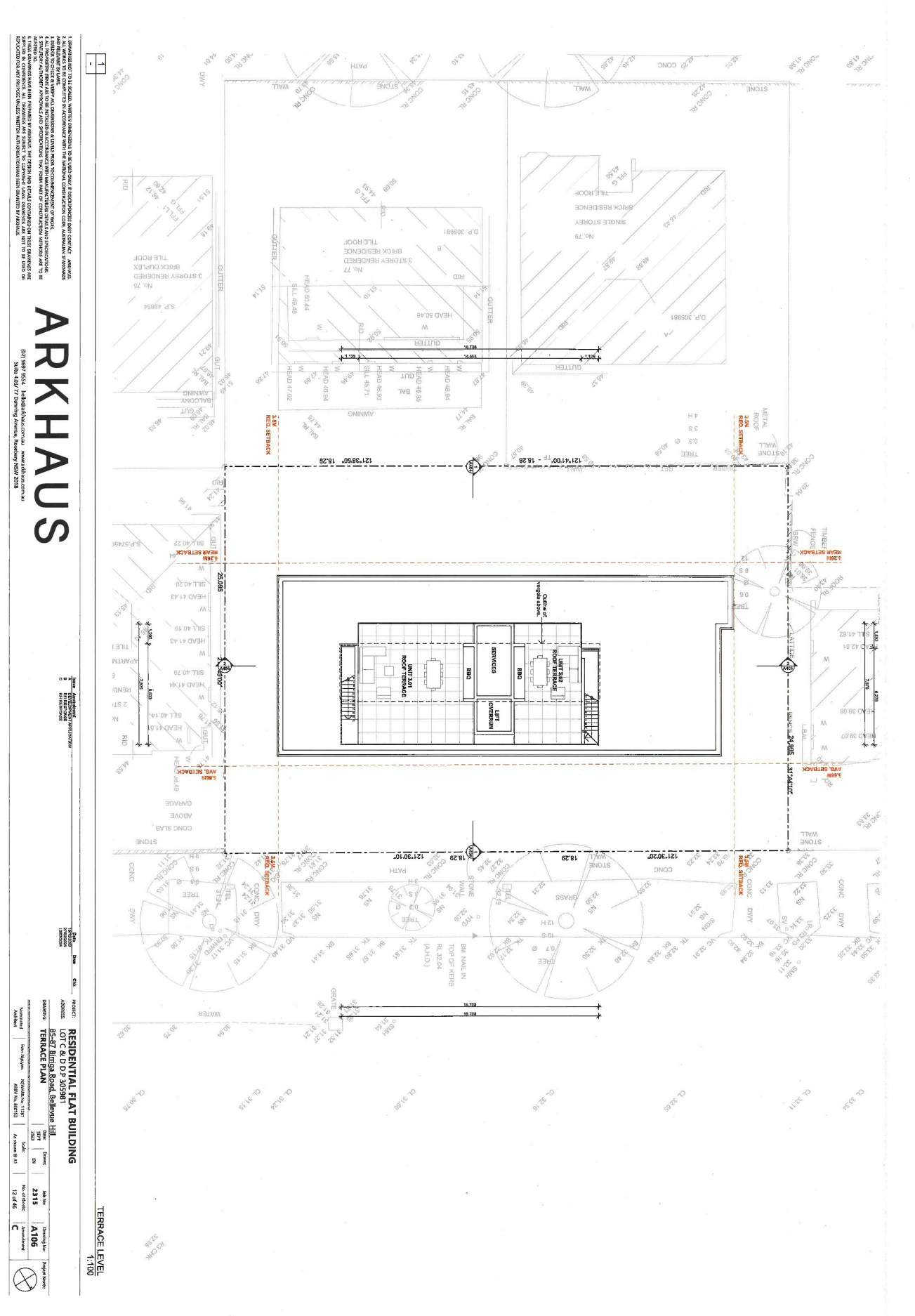


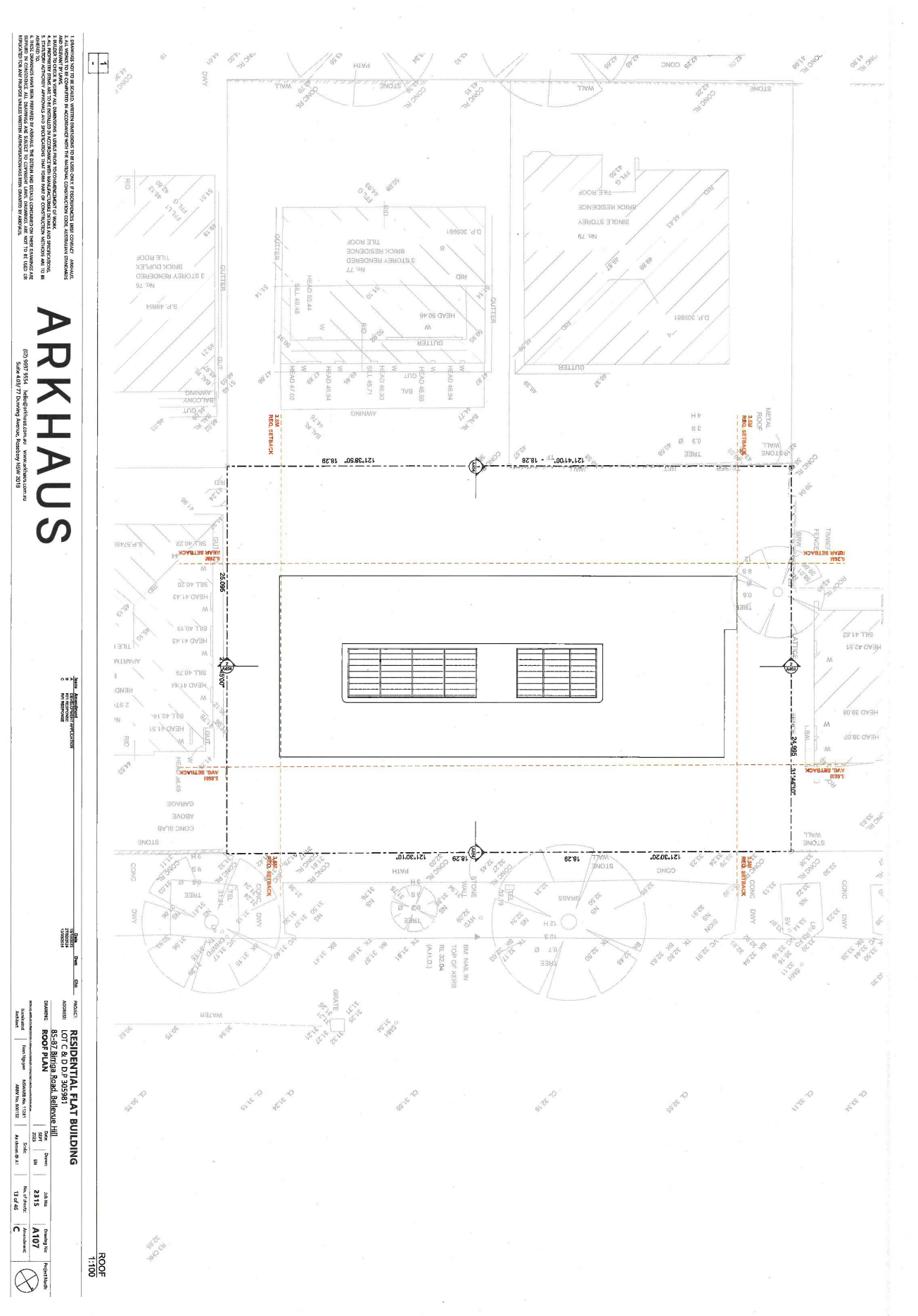


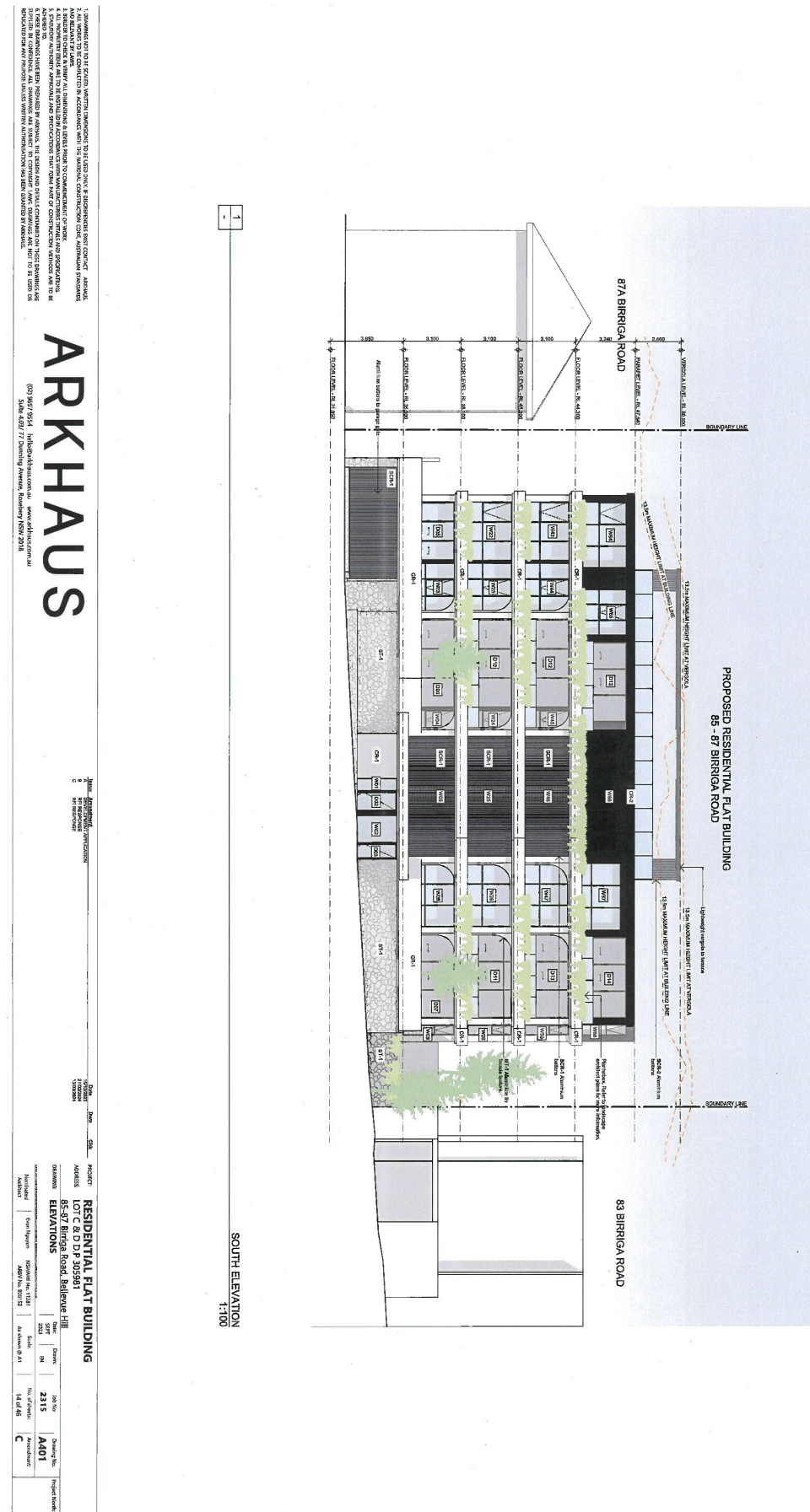


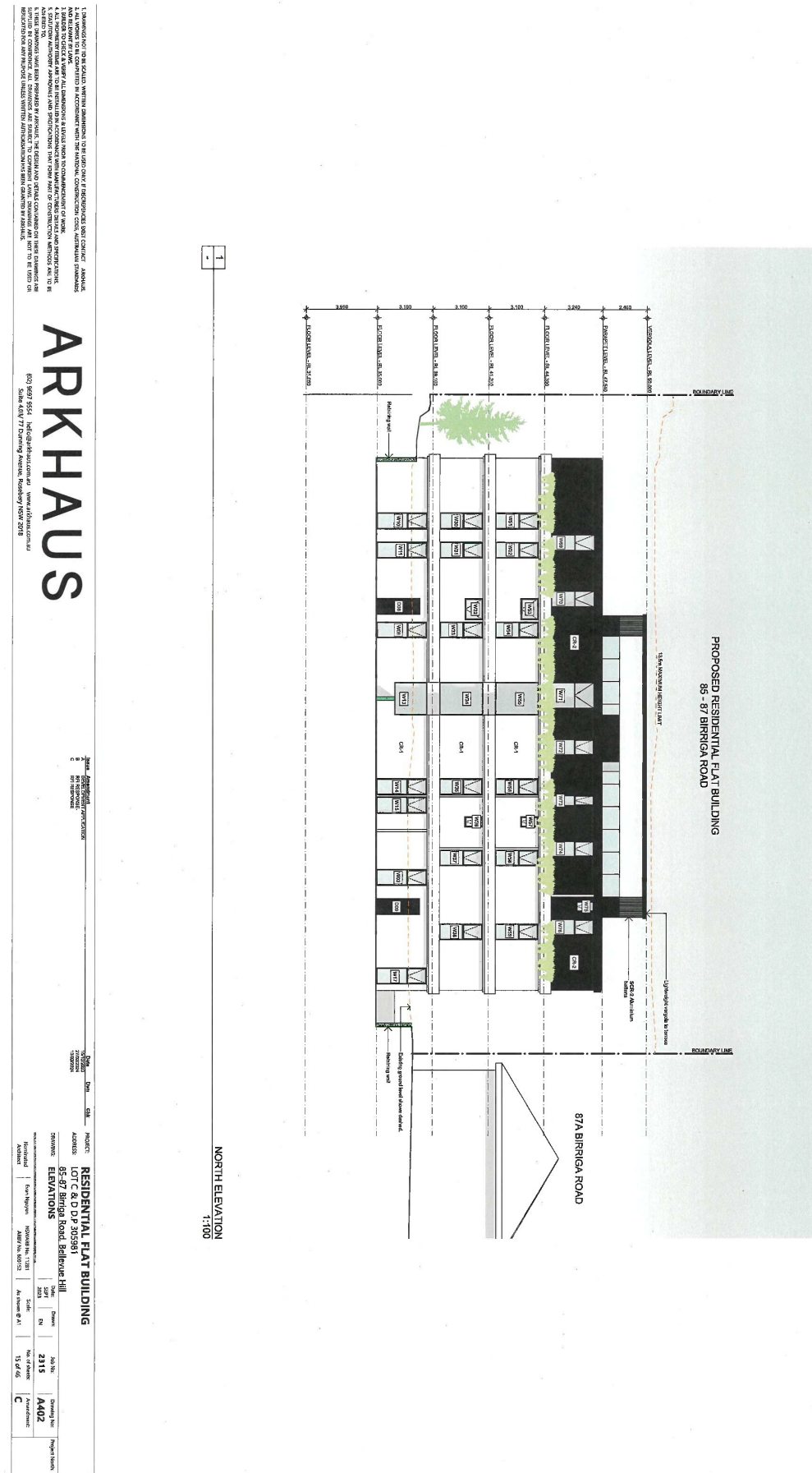


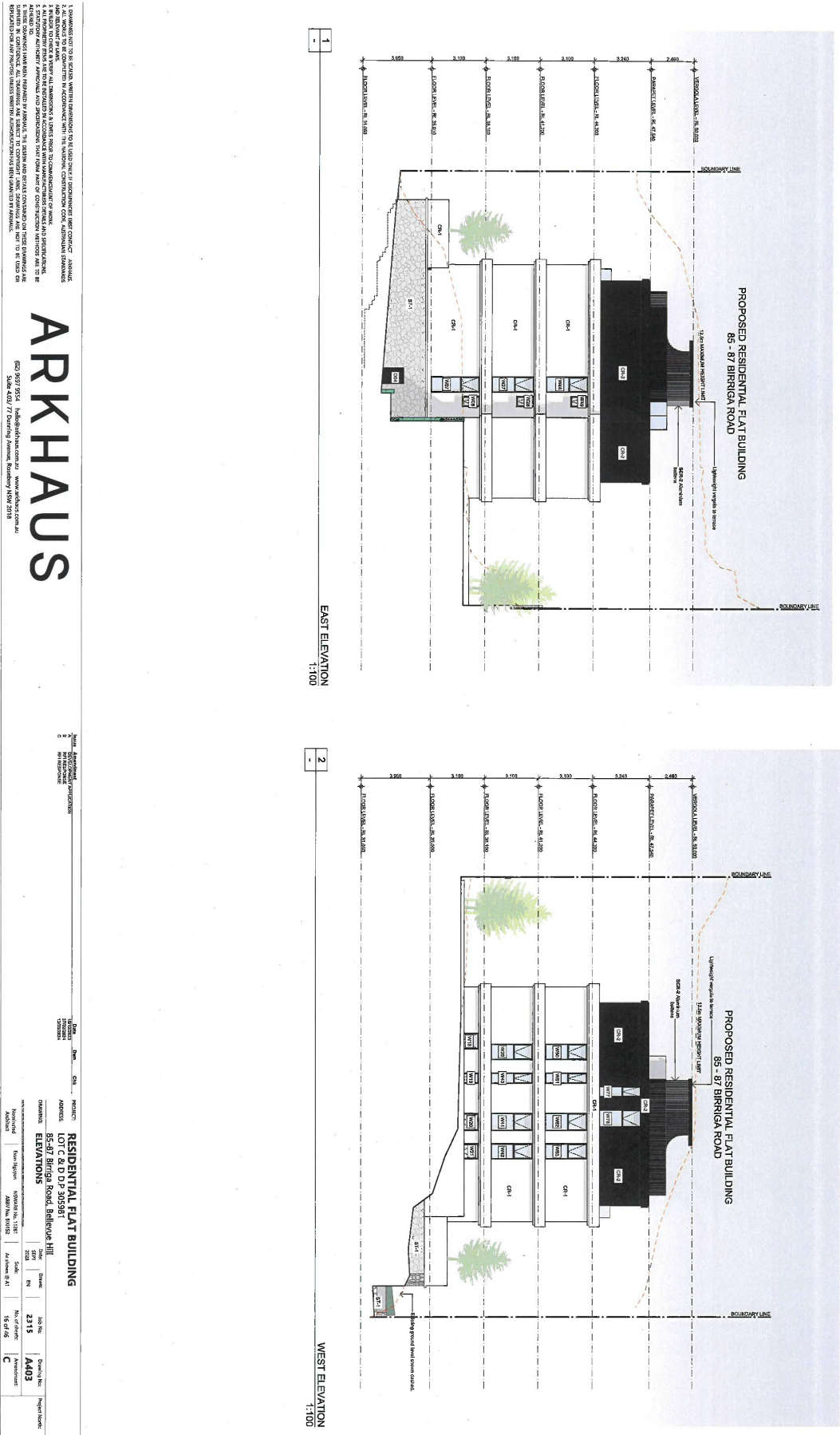




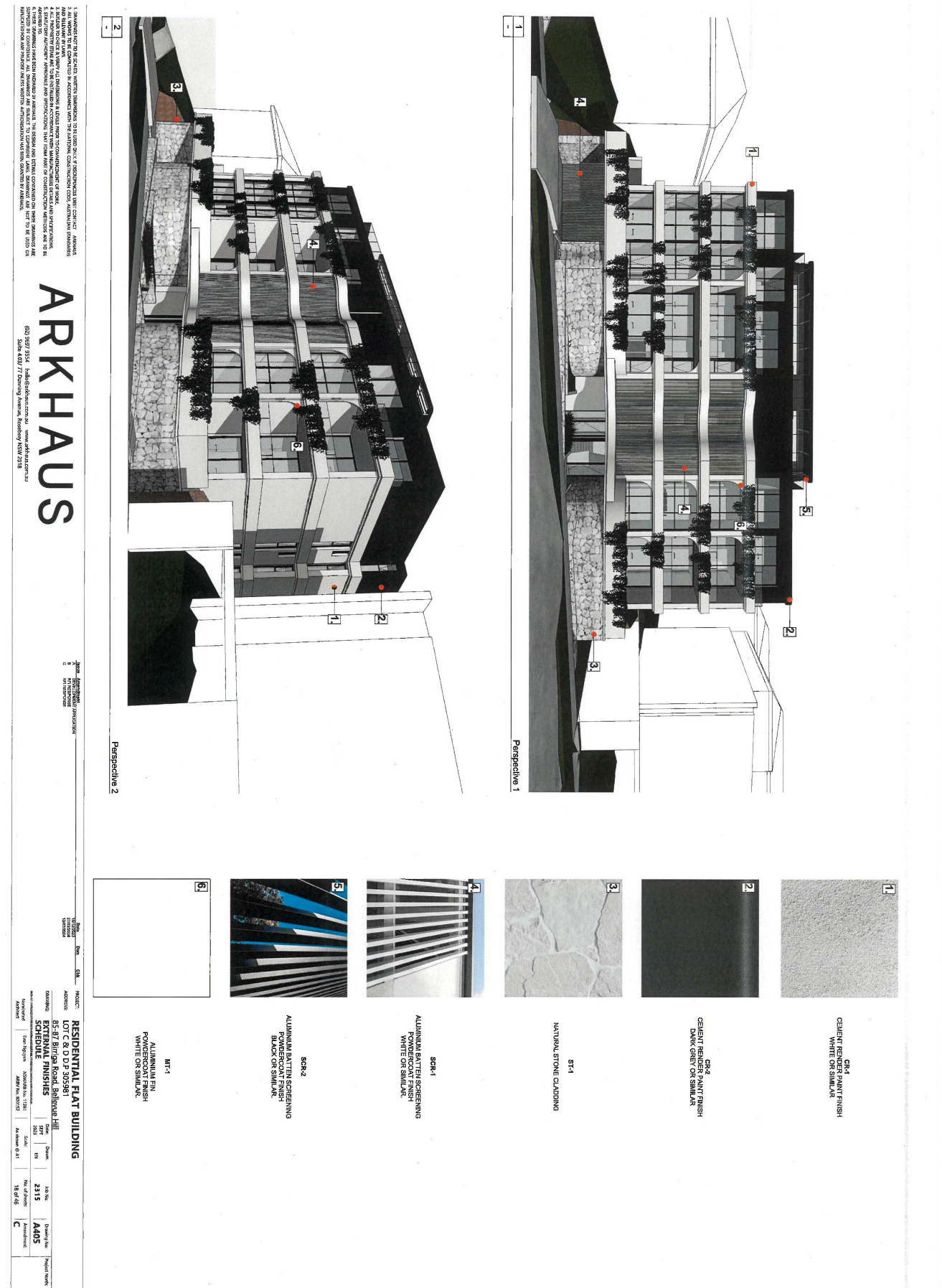






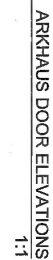








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Woollahra
Municipal
Council

3 May 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 10/2024/1

ADDRESS: 85 Birriga Road BELLEVUE HILL 2023

PROPOSAL: Demolition of all existing structures on both 85 and 87 Birriga Road and the construction of a new four (4) storey residential flat building containing 8 units, basement parking containing 16 spaces a roof top terrace with pergola associated landscaping and sites to be amalgamated

FROM: Ms S Lin

TO: Mrs L Holbert

1. ISSUES

- Car stacker system (will be assessed by Council's Traffic Engineer)

Please refer to comments from Council's Traffic Engineer separately.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, prepared by ABC Planning, dated December 2023.
- Architectural Plans, referenced 2315 Rev C, prepared by Arkhaus, dated 13/03/2024.
- Survey Plan, referenced 4957, prepared by Survcorp, dated 25/08/2023.
- Stormwater Management Plan, referenced P2309935 Rev C, prepared by Martens & Associates P/L, dated 16/02/2024.
- Geotechnical Report, referenced P2309935JR01V01, prepared by Martens & Associates P/L, dated 12/12/2023.
- Traffic Report, referenced 23.532r01v01, prepared by Traffix, dated 06/12/2023.
- Traffic Response, referenced 23.532r02v01, prepared by Traffix, dated 14/03/2024.

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 concept stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. Rainwater tank has been provided to offset the OSD requirement and stormwater treatment system will be installed to meet the water quality target in accordance with Chapter E2.2.3 and Chapter E2.2.4 of Council's DCP. Stormwater runoff from the site will be



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discharged to Council's underground drainage system via the extension of Council's stormwater pipe in Birriga Road.

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

The proposed development is not subject to flood related development control.

c. Impacts on Council Infrastructure comments

The applicant seeks to provide a new basement parking as part of this proposal and alter the vehicular access point from the existing locations. In this regard, the applicant is required to remove the redundant vehicular crossings and construct a new vehicular crossing in accordance with comments and requirements from Council's Traffic Engineers. Due to the scale of the development, the removal of the existing vehicular crossings and front boundary wall, the applicant is also required to reconstruct the existing footpath for the full frontage of the development. For the stormwater connection to Council's drainage system, the applicant needs to extend Council's stormwater pipe in Birriga Road with a new kerb inlet pit installed within the site frontage. Detailed design and construction for these infrastructure works will be subject to separate s138 application, conditions applied accordingly.

d. Traffic comments

Please refer to comments from Council's Traffic Engineer separately.

e. Vehicle Access & Accommodation comments

The proposed vehicular access and car parking layout are considered generally satisfactory except that the proposed car stacker system does not provide adequate headroom clearance to accommodate commonly used four wheel drive and the dimensions of the car stacker parking and blind aisle are not clearly depicted on the architectural plans. It is considered that condition could be imposed for the dimensions to be depicted on the detailed design drawings. Car stacker system and associated headroom clearance will be assessed by Council's Traffic Engineer as part of the traffic assessment.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Martens & Associates P/L, Ref: P2309935JR01V01, dated 12/12/2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 6 metres from the existing ground surface levels for the basement parking.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 0.6m (BH101), 0.5m (BH102), 0.5m (BH103), 0.3m (BH104) and 0.3m (BH105).*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 0.85m (BH102) and 0.7m (BH103).*
- c) Sandstone bedrock was inferred beneath the natural sand in BH102, BH103, BH104 and BH105.*
- d) Groundwater was not encountered during the field investigation.*



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The report made comments and recommendations on the following:

- Shoring and support,
- Vibration Monitoring,
- Excavation method,
- Further Geotechnical input.

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

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A.5 Approved Plans and Supporting documents

Reference	Description	Author	Date
P2309935	Stormwater Management Plans	Martens & Associates P/L	
PS01-A000 Rev C			16/02/2024
PS01-B300 Rev C			16/02/2024
PS01-B301 Rev A			07/12/2023
PS01-E100 Rev C			16/02/2024
PS01-E101 Rev B			16/02/2024
PS01-E200 Rev B			16/02/2024
PS01-E201 Rev A			16/02/2024
PS01-E700 Rev B			16/02/2024
P2309935JR01V01	Geotechnical Report	Martens & Associates P/L	12/12/2023

A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)

A.31 No Underpinning Works

A.32 Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. In all respects, the proposed vehicular access including any parking spaces must be designed and constructed to comply with the minimum requirements of AS2890.1, AS2890.2, AS2890.6 and the Council's DCP.

B. BEFORE DEMOLITION WORK COMMENCES

B.4 Erosion and Sediment Controls - Installation

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

B.14 Payment of Security and Fees

Property Damage Security Deposit (S138)	\$157,170	No	T115
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B. 16.	<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"> No. 83 Birriga Road No. 87A Birriga Road <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>
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B.17 Dilapidation Reports for Public Infrastructure

B.18 Adjoining buildings founded on loose foundation materials

B.21 Work (Construction) Zone – Approval & Implementation

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE



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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.	\$ 55,465	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	\$ 56,110		
<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"> • 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: <ul style="list-style-type: none"> • 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 			



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	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment. • Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services. • All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances. • The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations. • Any adjustments required from the garage slab and the street levels are to be carried out internally on private property • Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. • Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy". • Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents. • All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au. • When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment. • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.
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	<ul style="list-style-type: none"> 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.21 Provision for Energy Supplies

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

D.36 Professional Engineering Details

D.37 Engineer Certification

D 40.	<p>Geotechnical and Hydrogeological Design, Certification and Monitoring</p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> 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. 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). Provide details of cut-off walls and/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. Provide tanking of all below ground structures to prevent the entry of all ground water/seepage water such that they are fully tanked and no subsoil drainage/ seepage water is discharged to the street kerb to comply with Council's DCP, Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> 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),
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	<ul style="list-style-type: none"> • 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.
	<p>Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>

D.41 Ground Anchors

D 45.	<p>Parking Facilities</p> <p>Prior to issue of any Construction Certificate, The <i>Construction Certificate</i> plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle and car vehicle parking in compliance with AS2890.3:2015 <i>Parking Facilities - Bicycle Parking Facilities</i> and AS/NZS 2890.1:2004 : <i>Parking Facilities - Off-Street Car Parking</i> which includes the following requirement:</p> <ul style="list-style-type: none"> a) Other conditions imposed by Council's Traffic Engineer. b) At blind aisle, the aisle shall be extended a minimum of 1 metre beyond the last parking space so that vehicles can exit from the parking spaces and leave in a forward direction. c) All parking spaces shall have minimum dimensions of 2.4m x 5.4m, clear of any obstructions, to comply with AS2890.1. If the side boundary of a parking space is a wall, or if there are obstructions such as columns restricting door opening, 300mm shall be added to the width of the space, d) a maximum gradient of 5% is provided for the first 6 metres from the property boundary to the basement, e) Driveway and vehicular access ramp shall be designed to provide adequate ground clearance to the underside of B99 vehicles. <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>
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D 51.	Stormwater Management Plan
	<p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> a) General design in accordance with stormwater management plans, referenced P2309935 Rev C, prepared by Martens & Associates P/L, dated 16/02/2024, other than amended by this and other conditions, b) The discharge of stormwater runoff from the site, by direct connection, to the new kerb inlet pit located within the site frontage in Birriga Road, c) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings, d) The installation of rainwater retention and reuse system (RWT) with minimum storage volume of 30m³. Runoff from all roof areas shall be directed to the proposed RWT for non-potable uses such as toilet flushing, laundry device and garden irrigations etc. Notation to this requirement must be clearly depicted on the drawings. Overflow from the RWT shall be directed to the boundary junction pit, e) The installation of a pumpout system with minimum storage capacity to comply with Section 8 of AS3500.3. Full supporting calculations must be included in the drawings, f) The installation of stormwater treatment system to achieve the minimum water quality targets stipulated in Chapter E2.2.3 of Council's DCP, g) 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, h) Dimensions of all drainage pits and access grates must comply with AS3500.3, i) Compliance with the objectives and performance requirements of the BCA, and j) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><u>Layout Plan</u></p> <p>A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, Australian Rainfall and Run-off, 2019 edition or most current version thereof. It must include:</p> <ul style="list-style-type: none"> a) All pipe layouts, dimensions, grades, lengths and material specification. b) Location of proposed rainwater tanks. c) All invert levels reduced to Australian Height Datum (AHD). d) Location and dimensions of all drainage pits. e) Point and method of connection to Councils drainage infrastructure. f) Overland flow paths over impervious areas.



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	<p><u>Rainwater Reuse System Details:</u></p> <ul style="list-style-type: none"> a) Any potential conflict between existing and proposed trees and vegetation. b) Internal dimensions and volume of the proposed rainwater storage. c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures. d) Details of access and maintenance facilities. e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products. f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks <p>For Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.</p> <p>All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>Notes:</p> <ul style="list-style-type: none"> • The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
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E. BEFORE BUILDING WORK COMMENCES

E.14 Erosion and Sediment Controls – Installation

F. DURING BUILDING WORK

F.7 Public Footpaths – Safety, Access and Maintenance

F.11 Maintenance of Environmental Controls

F.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

F.13 Support of Adjoining Land and Buildings

F.14 Vibration Monitoring

F.15 Erosion and Sediment Controls – Maintenance

F.17 Disposal of Site Water during Construction

F.19 Site Cranes

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

F.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

F.33 Shoring and Adequacy of Adjoining Property

F 33.	Shoring and Adequacy of Adjoining Property
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	<p>While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:</p> <p>a) Protect and support the adjoining premises from possible damage from the excavation.</p> <p>For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. <p>Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.</p>
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G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G.7 Commissioning and Certification of Systems and Works

G.9 Commissioning and Certification of Public Infrastructure Works

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

G.30 Dilapidation Report for Public Infrastructure Works

G	32.	Positive Covenant and Works-As-Executed Certification of Stormwater Systems
		<p>Before the issue of any 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 supplied to the Principal Certifier detailing:</p> <p>a) compliance with conditions of development consent relating to stormwater,</p> <p>b) the structural adequacy of the on-site retention and pumpout system.</p> <p>c) that the drainage works have been constructed in accordance with the approved design,</p> <p>d) that a rainwater tank with required storage has been constructed in accordance with the approved stormwater plans,</p> <p>e) that the required stormwater treatment system has been constructed in accordance with the approved plans and meets the water quality targets stipulated in the Council's DCP,</p> <p>f) that a pumpout system with required storage has been installed to comply with AS3500.3 and the approved stormwater plans,</p> <p>g) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,</p> <p>h) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,</p> <p>i) pipe invert levels and surface levels to Australian Height Datum, and</p>



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	<p>j) 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> <p>A positive covenant under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the on-site retention system, stormwater treatment 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. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant</p> <p>Notes:</p> <p>k) The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate.</p> <p>l) The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.</p> <p>Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>
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H. OCCUPATION AND ONGOING USE

H 29.	<p>Ongoing Maintenance of the On-Site Retention System, Stormwater Treatment System and Pumpout System</p> <p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <ol style="list-style-type: none"> Permit stormwater to be treated, retained and reused by the stormwater systems, Keep the systems clean and free of silt rubbish and debris, Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner. Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense. Not make any alterations to the 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. Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant. Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice. 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
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	<p>notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.</p> <p>The owner:</p> <p>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</p> <p>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.</p> <p>Notes:</p> <ul style="list-style-type: none">• This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
	<p>Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.</p>

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

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

Completion Date: 1 May 2024

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 10/2024/1
ADDRESS: 85-87 Birriga Road BELLEVUE HILL
PROPOSAL: Demolition of all existing structures on both 85 and 87 Birriga Road and the construction of a new four (4) storey residential flat building containing 8 units, basement parking containing 16 spaces a roof top terrace with pergola associated landscaping and sites to be amalgamated
FROM: Ms E Fang
TO: Mrs L Holbert

I refer to the memo from the Planning Department dated 25 January 2024 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, unreferenced, prepared by ABC Planning, dated December 2023;
- Traffic Impact Assessment, referenced 23.532r01v01, prepared by Traffix, dated 6 December 2023;
- Traffic Response to Council’s Request for Information, referenced 23.532r02v01, prepared Traffix, dated 14 March 2024;
- Revised Architectural Drawings, Amendment C, referenced 2315, prepared by ARKHAUS, dated 13 March 2023.

2. ISSUES

- Access Driveway

3. ASSESSMENT

3.1 Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council’s *DCP 2015 Chapter E1 Parking and Access*:

Table 1: Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Permitted Parking
3 bedrooms or more	8	2	16
Visitors	8	0.25	2
Total permitted			18
Proposed provision			16

The proposed provision of sixteen (16) parking spaces, including twelve (12) in car stackers and four (4) in parallel parking spaces one (1) for visitors, comply with DCP’s maximum

requirement and is considered acceptable. It should be noted whilst residential developments have maximum parking control, on-site parking provision should not be substantially below requirement. Noting parking in this area is under pressure, at least one (1) parking space should be allocated to visitor parking to minimise visitor parking on the street. Considering mechanical parking installations, i.e. car stackers should only be allocated to long-term parking as per E1.15.1 of Council's DCP, signage and/or line marking should be installed for one (1) parallel parking space to ensure this space is allocated to visitor parking.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	8 dwellings	1 per dwelling	8
Residential Visitors	8 dwellings	1 per 10 dwellings	0.8 (1)
Total required			9
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	16	1 per 10 car spaces	1.6 (2)
Total required			2

In response, the proposal includes two (2) motorbike parking spaces and a bicycle storage area that has the capacity to accommodate nine (9) bicycles. The proposed provision complies with DCP's minimum requirement and is considered acceptable.

3.2 Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with *RMS Guide to Traffic Generating Developments 2002*, and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

Existing Development

Low Density Dwellings

- Weekday peak hour vehicle trips: 2 dwellings x 0.95-0.99 per dwelling = 1.9-1.98 trips
- Daily vehicle trips: 2 dwellings x 10.7 per dwelling = 21.4 trips

Proposed Development

Medium Density Residential – Larger Units

- Weekday peak hour vehicle trips: 8 dwellings x 0.5-0.65 per dwelling = 4-5.2 trips
- Daily vehicle trips: 8 dwellings x 5.0-6.5 per dwelling = 40-52 trips

Net Increase

- Weekday peak hour vehicle trips = 2.1-3.22 trips
- Daily vehicle trips = 18.6-30.6 trips

From above calculations, the proposed development will not result in significant increase of traffic and is unlikely to generate unacceptable adverse impact on surrounding streets in terms of traffic safety and efficiency.

3.3 Mechanical Parking Installations

It is noted six (6) car stackers are proposed with no queuing analysis. It is however noted that the basement layout allows provision of one (1) waiting bay that can temporarily accommodate vehicles waiting to be serviced. Given the nature and scale of the development, 98th percentile traffic is unlikely to exceed the capacity of one (1) waiting bay and queue beyond the property boundary. Given the mechanical installations, a traffic light system should be incorporated and installed at both ends of ramp to ensure priorities are given to vehicles entering the site to minimise disruptions to traffic along the frontage road.

It should be noted that floor-to-floor height of the basement is 3.95m, with the headroom clearance for the two levels of car stackers to be 2.05m and 1.5m respectively. Whilst it is acknowledged that the two spaces in a car stacker will be allocated to one household/unit, 1.5m of headroom clearance is considered insufficient.

3.4 Access Driveway

The access driveway is 6m wide at property boundary and tapered to have a reduced width of 4.5m at kerb. The substandard design should be revised to ensure a consistent width is provided and that centreline of the access driveway is aligned with the centreline of the internal driveway, noting the location of the access driveway should minimise impact on the existing 90 degree angle parking spaces in front of the property.

4. RECOMMENDATION

Council's Traffic Engineer has reviewed the application and recommend that the development not be supported at this stage until the following issues are addressed:

1. Mechanical Parking Installations – Floor-to-floor height of the basement is 3.95m, with the headroom clearance for the two levels of car stackers to be 2.05m and 1.5m respectively. Whilst it is acknowledged that the two spaces in a car stacker will be allocated to one household/unit, 1.5m of headroom clearance is considered insufficient.

Ever Fang
Traffic & Transport Engineer

1/5/2024
Completion Date



Woollahra
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26 March 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 10/2024/1

ADDRESS: 85 Birriga Road BELLEVUE HILL 2023

PROPOSAL: Demolition of all existing structures on both 85 and 87 Birriga Road and the construction of a new four (4) storey residential flat building containing 8 units, basement parking containing 16 spaces a roof top terrace with pergola associated landscaping and sites to be amalgamated

FROM: Sam Knight

TO: Mrs L Holbert

1. ISSUES

- The Tree Canopy Area Plan includes an inaccurate calculation for the DCP canopy cover requirements. Amended plans are required which accurately addresses the requirements of the DCP.
- The proposed street tree removal is not supported. The design of the driveway shall be amended to include the retention of this tree.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by ABC Planning, dated December 2023
- Survey Plan, drafted by Survcorp, dated 25 August 2023
- Architectural Drawings, drawn by Arkhaus, dated 13 March 2024
- Arboricultural Impact Assessment Report, written by Advanced Arborist Reporting, dated 2 February 2024
- Landscape Plans, designed by Place Design Group, dated December 2023

A site inspection was carried out on 5 April 2024.

3. RELEVANT CONTROLS

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015



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- 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

4. SUMMARY

The Tree Canopy Area Plan includes an inaccurate calculation for the DCP canopy cover requirements. Amended plans are required which accurately addresses the requirements of the DCP.

The proposed street tree removal is not supported. The design of the driveway shall be amended to include the retention of this tree.

5. COMMENTS

Inspection of the site and a review of the plans and documentation has revealed eight (8) trees within and adjacent to the site will be impacted by the proposal.

The following tree numbering is consistent with the Arboricultural Impact Assessment prepared by Advanced Arborist Reporting dated 2 February 2024.

Tree Removal – Low Retention Value

The plans indicate trees 1, 7 and 8 will require removal to facilitate the works. These trees have all been rated as having Low Landscape Significance and Low Retention Value for various reasons including underperforming in health, suppressed by more dominate trees or found to be providing minimal amenity value to the immediate area.

Trees rated as having Low Retention Value are generally considered as not being important for retention, nor require special works or design modification to be implemented for their retention.

These trees are supported for removal conditional of replacement planting being undertaken in accordance with the Landscape Plans and additional replacement planting requirements detailed below.

Tree Removal – Street Tree (Not Supported)

The plans indicate tree 5 is proposed for removal to allow for installation of a new driveway and crossover.

Tree 5 – has been identified as a *Lophostemon confertus* (Brushbox) located outside 57 Birriga Road on Council land. The tree has been noted in good healthy condition. The tree is one of several avenue plantings along the street and is considered to be an important community asset.



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Chapter B1.7.2 part (d) of the Bellevue Hill South Precinct in the DCP identifies mature street trees as a key element of the precinct. Development is to respect and enhance these elements of the precinct which is not achieved through the removal of the tree for a new driveway and crossover.

The removal of this tree is also inconsistent with Section B3.6 – On-site parking, Objective 5 which requires trees and vegetation of landscape value to be retained. Control 1 also outlines that parking is to be designed to preserve trees and vegetation of landscape value.

There is an existing driveway to the east of the tree that could be utilised. Alternatively, there is sufficient space at the western end of the site for a new driveway and crossover which would not impact on any existing trees.

Tree Retention

The plans indicate trees 2, 3, 4 and 6 are proposed for retention. The trees have been identified as various species within and adjacent to the site. The trees have been noted in good healthy condition and all provide a positive contribution to the amenity and canopy cover of the area.

The plans indicate works are proposed within the Tree Protection Zones. This includes demolition, excavation and construction of a new apartment building.

All works will need to be undertaken using tree sensitive construction methods and tree protection measures that will be provided once the issues identified in Section 1 of this referral have been addressed.

Canopy Cover – Apartments etc.

Chapter B3.7 Landscape area and private open space of the WMC DCP outlines under Control 1 that 30% canopy cover is to be provided within sites other than dwelling houses, dual occupancy, semi-detached development and attached dwellings.

The DCP outlines that at least half of the total tree canopy area on the site is to be contributed by canopy tree/s (ie: trees that attain a minimum of eight (8) metres mature height and canopy spread). Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

The submitted Architectural Plan includes a Canopy Cover Area plan which has incorrectly calculated future canopy cover and suggests that 308.63m² or 33% 'tree canopy area' will be provided. However, the area being calculated is the soil area and does not correspond with the Landscape Plans and proposed future tree planting.

As detailed in Figure 20 of the DCP, the calculation is to include tree crowns at maturity and include the portion of tree canopy coverage within the site boundaries only. This has not been shown on the canopy cover plans.

Amended plans must be submitted which demonstrates 30% canopy cover will be provided within the site. Reference should be made to the DCP and Council's DA Guide for accurate canopy cover calculation requirements.

6. RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the following information is required before further assessment of the application can be undertaken:



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Amended Landscape Plan

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

- The plans must include an accurate calculation of canopy cover within the site which addresses the requirements of the DCP. Specifically, 30% shall be provided and the calculation shall reference Figure 20 in Chapter B3.7 the WMC DCP showing individual tree crowns.
- The proposal shall ensure at least half of the total tree canopy area on the site is contributed by canopy tree/s (ie: trees that attain a minimum of eight (8) metres mature height and canopy spread). Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

Street Tree Removal for Driveway – Not Supported

The proposal removal of Tree 5 which is located outside the site on Council land is not supported.

The driveway and crossover shall be amended to include retention of this tree.

The design of any future driveway and crossover shall ensure it does not encroach within more than 10% of the Tree Protection Zone unless it is clearly demonstrated through root investigation that tree roots greater than 40mm in diameter will not be removed or damaged from the proposed design.

Sam Knight
Tree Officer

9 April 2024
Completion Date



Woollahra
Municipal
Council

12 April 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 10/2024/1

ADDRESS: 85 Birriga Road BELLEVUE HILL 2023

PROPOSAL: Demolition of all existing structures on both 85 and 87 Birriga Road and the construction of a new four (4) storey residential flat building containing 8 units, basement parking containing 16 spaces a roof top terrace with pergola associated landscaping and sites to be amalgamated

FROM: Vanessa Wood

TO: Mrs L Holbert

1. DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Amended drawing set by Arkhaus, dated 13 March 2024, and numbered A002 – A1303
- Demolition Report by Heritage Now, dated 15 March 2024
- Statement of Environmental Effects by ABC Planning, dated December 2023
- Survey plan by SurvCorp
- Aboriginal Heritage Impact Assessment by Heritage Now, dated 20 February 2024

2. SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

- The site was inspected on the 4 April 2024, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's 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:

- National Parks & Wildlife Act 1974
- Heritage Act 1977 (as amended)
- Woollahra LEP 2014
- Woollahra DCP 2015

4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

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The property is not a listed heritage item and is not located within a Heritage Conservation Area.

Previous modifications

The original drawings indicate that No.85 and No.87 were developed as a pair. However, the depicted roof form in the drawings varies significantly from what was constructed.

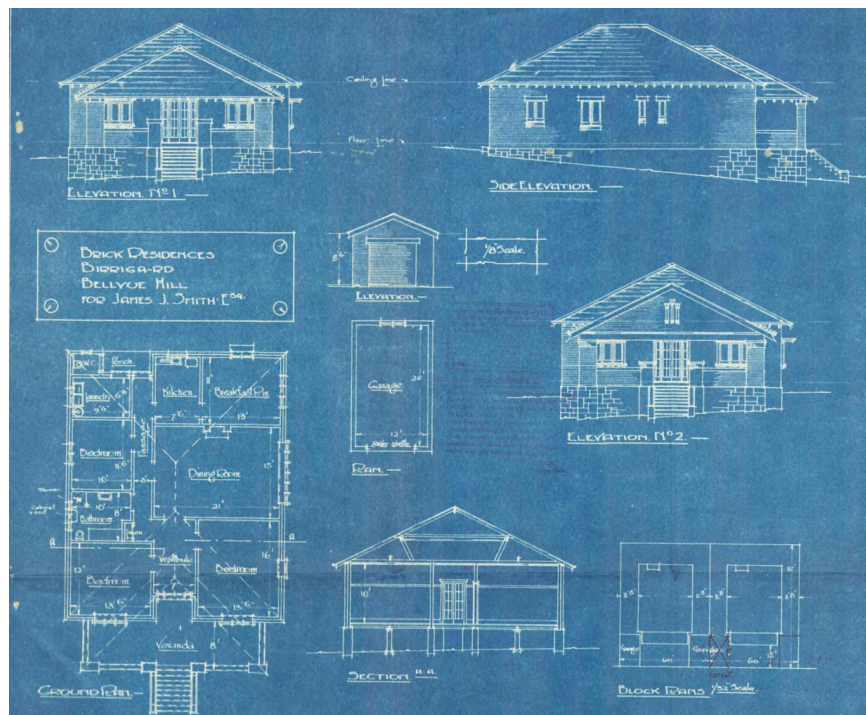


Figure 1. BA1924/456

87 Birriga Road

In 1955 the front façade of No.87 was significantly altered by the introduction of new windows, some internal demolition, the refacing of the fireplace and new entry steps. The following year, the plans were amended to include the installation of a new metal sheet roof to the front façade. At this time, a new metal roof was proposed to be added to the dwelling. (BA1955/337). Note that the roof form varies from that depicted in the c1924 plans.

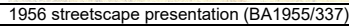
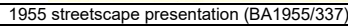


Figure 2. BA1963/101 (subject property at right)

85 Birriga Road

Extensive alterations and additions were approved to the dwelling in c1973, however, it is unclear if these were undertaken.



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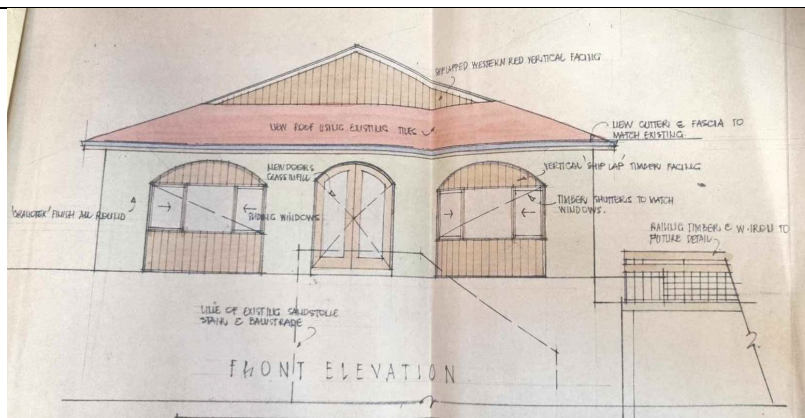


Figure 3. BA1973/1190

In 1997 (BA1997/797), alterations were undertaken to two openings at the rear of the building.

Additional research

The following databases were searched for further information regarding the properties;

- Trove
- Woollahra Library
- City of Sydney Archives
- State Library NSW
- State Archives NSW

The following newspaper article, depicting the front façade of No. 85, is available on Trove (c1991, <http://nla.gov.au/nla.news-article261602035>)



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**McGRATH
GOODHOPE**
ESTATE AGENTS

BELLEVUE HILL
85 BIRRIGA ROAD
Private and peaceful 3 bedroom bungalow positioned high above street level. Wide, north-facing frontage, spacious indoor and outdoor entertaining areas, even a garage. A marvellous family home in Sydney's most desirable district. In an instant you'll feel like you belong.

Open house Saturday & Sunday 12.15-1.00 pm
Auction on-site Sunday 17 March at 12.00 noon
Further details contact John McGrath 327 8233 (AH) 327 4326
or Michael Croker 327 8233 (AH) 365 3183
68 MONCUR STREET WOOLLAHRA. TEL: 327 8233

Heritage Demolition report

The Heritage Demolition Report provides the following description No. 85 Birriga Road:

The exterior retains most of its original features, including the dark bricks, sandstone balustrade to the front steps, the design and materials of the front veranda and front entry, and its light grey painted timber eaves and white painted timber window architraves, as well as the terracotta tiled roof (also to the garage). The gable details have been highlighted with darker grey paint

The residence contains a main hall or entry foyer with two front bedrooms, the lounge room and secondary hall being accessed from the main hall. In total there are three bedrooms, a lounge room and adjoining dining room, a bathroom and a later renovated kitchen and laundry with toilet (these rooms are located at the rear of the residence). This layout preserves most of the original design

The Heritage Demolition Report provides the following description No. 87 Birriga Road:

The house was built at the same time as 85 Birriga Road and they would have appeared as mirror images after construction. However, 87 Birriga Road has seen numerous external and internal changes, especially in comparison with its neighbour, and it no longer displays Inter-War California Bungalow features.



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Internally, the layout, fittings and finishes have all been altered, and there are no visible features of the original Inter-War California Bungalow design. The residence presents as a modern dwelling, with stylish plain fittings. Minor exceptions to this description relate to the layout at the rear of the house, where the kitchen is in its original location (albeit with all new fittings and finishes), the main bathroom remains in its original location (albeit with all new fittings and finishes) and there are two bedrooms in their original location. One front bedroom has been changed to a living room, which is now part of the L-shaped living and dining room.

The Heritage Demolition Report provides the following comment in regards to integrity;

In relation to integrity, both residences have seen room changes and updates to kitchens and bathrooms. Only 85 Birriga Road retains the majority of its original, 1924-1925 California Bungalow layout and design internally and, notably, externally. The residence at 87 Birriga Road has seen numerous changes – the rooms downstairs were added in the 1960s, and the internal staircase and lower ground level hall are believed to be changes from the 1990s. Therefore 87 Birriga Road does not have integrity in relation to its original design.

The Heritage Demolition Report has provided a comparative analysis of similar property types within the vicinity.

The Heritage Demolition Report provides the following conclusion:

In conclusion, the summary of significance confirmed that while the properties are part of the historical development of the area, being part of the first developments on the allotments from 1924-1925, they are not important historically as individual items. The properties have aesthetic appeal for Birriga Road, due to their landscaped front gardens and rusticated sandstone block front fences. Only 85 Birriga Road displays the original Inter-War California Bungalow appearance, which was a popular residential design in Sydney during the period c.1915-1940. However, neither of the buildings are rare or representative examples of the type, as concluded in the comparative analysis.

The residence at 87 Birriga Road has been the home of a person of at least local significance for the past c.25 years. However, Tim McFarlane is renowned and celebrated in the world of theatre management and production, and 87 Birriga Road does not directly contribute to those achievements.

The Heritage Demolition Report provides the following recommendations:



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Recommendation 1

This report and the accompanying photographs, taken in both RAW and Jpeg formats in line with Heritage NSW guidelines for archival photographic recordings, should be kept by Woollahra Council with the building files for BA24-456 (which contains the original 1924 building application for both properties). This report and its photographs will be a useful addition to the Woollahra Local Studies collection and should be provided to that archive.

Recommendation 2

An arborist, tree surgeon or arboriculturist should inspect the plants and provide advice regarding removal and replanting of the mature palm tree from 85 Birriga Road, and the cycad, Japanese maple and palms and plants from the front garden of 87 Birriga Road.

Recommendation 3

The rusticated sandstone blocks forming the posts along the front fence to both properties, and original elements from 85 Birriga Road such as period lights, the timber mantelpiece, the glazed timber lounge door, timber casement windows and the external sandstone staircase balustrade should be carefully removed for reuse.

The Heritage Demolition Report submitted with the development application includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance.

Considering the above, the findings of the Heritage Demolition Report are considered to be accurate.

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.*



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- *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

Heritage Now is a qualified Aboriginal heritage consultant who has inspected the property on 13 February on foot.

Steven Ella also attended the inspection, evidencing consultation with the La Perouse Local Aboriginal Land Council.

There has been consideration of relevant previous Aboriginal heritage investigations, as detailed in Section 4.3 of the report.

The AHIMS of the OEH was consulted on 6 February 2024 and the extensive search is attached at Section 4.2 and Attachment 1 of the report. No sites are within the study area or within 200m of the study area.

The report identifies the following potential for unexpected findings within the area:

- *No Aboriginal sites or artefacts, and no areas of archaeological sensitivity (with potential for intact or substantial archaeological deposits) were identified within the Project Area, given the past land use disturbances, as well as the Project Area's steepness and distance from fresh water and the resource rich zones of Rose Bay and the coast.*

In terms of site's disturbance, the report states that:

- *The visual inspection has confirmed that the Project Area has been subject to significant ground disturbance, and that natural soils are unlikely to remain*

The report's recommendations conclude that:

1. Recommendation 1
Woollahra Council's Aboriginal Heritage Sensitivity map should be updated to reflect that the Project Area is not considered to be sensitive.
2. Recommendation 2
All on-site personnel are to be made aware of their obligations under the National Parks and Wildlife Act 1974. This includes protection of Aboriginal sites and the reporting of any



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new, or suspected, Aboriginal heritage sites. This may be done through an on-site induction or other suitable format.

3. Recommendation 3

In the unlikely event that Aboriginal, or suspected Aboriginal archaeological material is uncovered during the development, then works in that area are to stop and the area is to be cordoned off. The project manager is to contact the heritage consultant to make an assessment as to whether the material is classed as Aboriginal object/s under the National Parks and Wildlife Act and advise on the required management and mitigation measures. Works are not to re-commence in the cordoned off area until heritage clearance has been given and/or the required management and mitigation measures have been implemented.

4. Recommendation 4

In the unlikely event that human remains, or suspected human remains are uncovered during the development, then works in that area are to stop and the area is to be cordoned off. The project manager is to contact the NSW Police to establish whether the area is a crime scene. If it is not a crime scene, then Heritage NSW is to be notified via the Environment Line on 131555 and management measures are to be devised in consultation with Aboriginal stakeholders. Works are not to recommence in the area until the management measures have been implemented.

Woollahra Council Sensitivity Mapping

The report recommends that the Woollahra Council Sensitivity Mapping be updated to reflect that the Project Area is not considered to be sensitive.

La Perouse LALC Referral Response

Correspondence with the La Perouse LALC was not provided as part of the report.

Given the above, it is concluded that an unexpected findings condition of consent will need to be imposed as part of the DA consent.

Heritage Act 1977

The subject site is not listed as a heritage item on the State Heritage Register.

The subject site is not listed as a heritage item on a Section 170 Heritage and Conservation Register.

The subject site is not listed on the Woollahra LEP 2014 as an Archaeological Site.

The subject site is likely to contain relics as per the Heritage Act 1977 definition.

Consideration

Councils internal mapping indicates that the State Heritage Listed 'Bondi Ocean Outfall Sewer' (01623) runs through portion of the site. Excavation is proposed in this area of the site.

The submitted Heritage Demolition Report provides the following comment;



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85 and 87 Birriga Road are not heritage-listed. One heritage item passes beneath the Project Area: the BOOS (Bondi Ocean Outfall Sewer), which is anecdotally at least 30m below the current ground surface, and will therefore not be impacted by the proposed development (which is anticipated to extend to a depth of approximately 0.5m below the current level of Birriga Road). It is noted that on the footpath outside 85 Birriga Road is a sewer vent connecting to the BOOS (see Figure 12 below); this will also not be impacted by the proposed development.

Therefore, an unexpected finds condition will be imposed for Historical Archaeology. If unexpected finds are discovered, a Historical Archaeological Report will need to be prepared and a Section 140 permit application will need to be lodged and Approved by Heritage NSW.

1. <https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/historical-archaeology/section-140-excavation-permit>



Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area.

Clause 1.2 Aims of Plan

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

The dwelling has no heritage significance and does not make any contribution to the heritage significance of Bellevue Hill. The property is not heritage listed and is not located within a heritage conservation area.

A Demolition Heritage Impact Report has been submitted with the development application and includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that it does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the property is not of heritage value and therefore no objection is raised to the proposed alterations and additions to the existing building.



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As the property is not listed as a heritage item and is not located within a heritage conservation area, the design of the proposed new development will not result in any adverse impacts on heritage items/areas of value. There are no heritage items located within the vicinity of the site that will be adversely impacted and the proposal will not affect any significant views. As such, there are no concerns raised on heritage grounds regarding the design of the proposed new development.

The submitted Demolition Heritage Impact Report meets the standard of archival recordings for buildings with little or no heritage significance.

Significance of items in the vicinity

The following listed heritage items/heritage conservation areas are located in proximity of the site;

- 'Westmoreland - residential flat building & interiors, dwarf brick walls, paving and grounds' (I14) at 81A Birriga Road BELLEVUE HILL
- 'Cumberland - residential flat building & interiors, dwarf brick walls, paving and grounds' (I13) at 81 Birriga Road BELLEVUE HILL



Figure 4. Subject site outlined green, heritage items outlined yellow

The statement of significance for 81A Birriga Road follows;

- *The residential flat building at 81A Birriga Road Bellevue Hill is of local significance by virtue of aesthetic form and uniform detail to buildings and surrounds which remain as a good and intact example of Inter-war Functionalist design retaining references to the Inter-war Old English style. The built form signifies the gradual transition of design from revival styles to more minimal modernist forms. The building, in conjunction with the adjacent flat building at 81 Birriga Road, has landmark qualities deriving from the related forms located on the inner curve of Birriga Road. The pair of structures have representative value as a well detailed and largely intact example of a late inter-war flat complex.*

The recommended management for the heritage item follows;

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- In order to maintain significance of the building and its contributing setting all original fabric and finishes external to the building and in common areas of the interior are to be considered important and should be retained in the original relationship to the buildings. Maintenance should be limited to conservation of existing original fabric and finishes and of sympathetic supporting fabric of later addition. Alterations should be limited to removal of unsympathetic additions and modifications, enabling replacement with sympathetic works or reinstatement of original forms and matching fabric. This approach should extend to the grounds and include the long- term replacement of unsympathetic elements.*

No works should be carried out which obscure or reduce the visual relationship of the building to its setting, the road alignment of Birriga Road or the view of the building from Birriga Road. In addition no works should be undertaken which alter the external detailing of hard and soft landscaping between the buildings at 81& 81A Birriga Road or which interfere with the visual relationship of these buildings.

The curtilage is recommended to be the combined sites of the two buildings extending to the road verge along the street frontage to Birriga Road.

Source; State Heritage Inventory

Consideration

The proposal will not obstruct the significant views to the heritage items from Birriga Road or disrupt the relationship between the heritage items. Therefore, it is unlikely to impact on the setting, fabric or form of the heritage items within the vicinity.

6. CONCLUSION

National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage Aboriginal heritage will be provided below.

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does conserve the built heritage of Woollahra.

7. RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions;

A. GENERAL CONDITIONS

		Condition
A	1.	Salvage



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	<p>Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, sandstone blocks, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project.</p> <p>In particular, the period lights, timber mantelpiece, glazed timber lounge door, timber casement windows and external sandstone staircase balustrade to No. 85 Birriga Road are to be carefully removed for reuse.</p> <p>Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.</p> <p>Condition Reason: To ensure significant heritage fabric is recycled/salvaged.</p>
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B. BEFORE DEMOLITION WORK COMMENCES

Condition

B. 1.	<p>Archaeological Features – Unexpected Findings</p> <p>While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.</p> <p>Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.</p> <p>Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. • Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. • During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole). <p>Condition Reason: To protect archaeological features.</p>
B. 2.	<p>Skeletal Remains</p> <p>While site work is being carried out, if any skeletal remains suspected of being human are found, work must cease immediately and no further disturbance of the site must occur. The following must be notified:</p>



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	<p>a) NSW Police, and b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</p> <p>Details of the remains and their precise location are to be provided.</p> <p>Site work may recommence at a time confirmed in writing by the NSW Police and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</p> <p>Condition Reason: To ensure the appropriate management of skeletal remains.</p>
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B. 3.	<p>Aboriginal Objects – Unexpected Findings</p> <p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p> <p>a) Not further disturb or move these objects or bones. b) Immediately cease all work at the particular location. c) In the case of suspected human remains, notify NSW Police. d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p>Notes:</p> <ul style="list-style-type: none"> The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. <p>Condition Reason: To protect Aboriginal objects</p>
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B. 4.	<p>Aboriginal Heritage Due Diligence Responsibilities</p> <p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & 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</p>
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	<p>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>
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B. 5.	Aboriginal Heritage Induction
	<p>Prior to any site works:</p> <ul style="list-style-type: none"> a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974; b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier. <p>Condition Reason: To protect Aboriginal heritage.</p>

B. 6.	Nominated Heritage Consultant
	<p>Prior to any site works, an appropriately qualified and experienced heritage consultant is to be appointed for the project. That person is to be approved by Council's Heritage Staff.</p> <p>The heritage consultant shall monitor the bulk excavation to ensure no significant archaeological fabric is damaged or removed without approval.</p> <p>Condition Reason: To protect heritage within the Woollahra Municipality.</p>

C.	ON COMPLETION OF REMEDIATION WORK
	Condition
#	
D.	BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE
	Condition
E.	BEFORE BUILDING WORK COMMENCES
	Condition

E 1.	Heritage Induction
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	<p>Prior to any works commencing on site, all construction staff and contractors must undergo a heritage induction provided by the nominated heritage consultant. This must make staff and contractors aware of their statutory obligations for historical archaeology under the Heritage Act 1977. Documentary evidence demonstrating compliance with the requirements of this condition must be submitted to Council and the Principal Certifier.</p>
	<p>Condition Reason: To protect heritage within the Woollahra Municipality.</p>

F.	DURING BUILDING WORK	
		Condition
G.	BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE	
		Condition
#		
H.	OCCUPATION AND ONGOING USE	
		Condition
#		
I.	BEFORE THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE	
		Condition
#		
J.	BEFORE SUBDIVISION WORK COMMENCES	
		Condition
#		
K.	BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE	
		Condition
#		
L.	BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE	
		Condition
#		
M.	BEFORE THE ISSUE OF A STRATA CERTIFICATE	
		Condition
#		

Vanessa Wood
Heritage Officer

12.4.2024
Completion Date

Completion Date: Version 1, 25 February 2024

REFERRAL RESPONSE URBAN DESIGN

FILE NO: Development Application: 10/2024/1

ADDRESS: 85 -87 Birriga Road, Bellevue Hill

PROPOSAL: Demolition of two detached dwellings within the combined site and construction of a new four to five storey residential flat building containing eight units, semi basement parking for 16 cars and associated landscaping.

FROM: Stephen McMahon, Director Inspire Planning

TO: Anne White

Information

Architectural drawings: Arkhaus Architects Drawings A002 to A1201 Issue A dated 15 December 2023.

Landscape Plan: Place Design Group, 230236 Revision 2, 01 14 December 2023.

Statement of Environmental Effects: ABC Planning, December 2023.

Survey: Survcorp, Issue 0 Sheet A1, 01 September 2023.

Background

Council has received a development application for the demolition of two existing elevated single storey detached dwellings within the combined site and construction of a new four to five storey residential flat building containing eight units, semi basement parking for 16 cars and associated landscaping.

At the time of the preparation of this urban design assessment the application was undergoing assessment and awaiting responses from internal and external referral agencies / departments.

Part 1: Site and Context

1.1 The Site and Existing Development

The site comprises a rectangular shaped lot oriented in a northwest to southeast direction that has a combined calculated area of 916 sqm (as identified in the survey plan). It has a principal frontage to Birriga Road of 36.58 metres (north eastern boundary), a south eastern side boundary of 25.09 metres, a north western side boundary of 24.99 metres and a rear south western boundary of 36.57 metres.

An aerial photograph and locality views are presented on the following page.

The land exhibits a significant change in level, falling approximately 8 metres from a rear (north western) boundary spot height of 39.13 metres to a front (north eastern boundary) spot height of 31.39 metres at the Birriga Road footpath over a distance of approximately 36 metres. The sites' cross fall from north west side boundary to south east side boundary is negligible (circa 1.0 m). The fall across the site frontage is 2.0 metres (approx.).

The character of the landform has been modified by the construction of the two dwellings. They are located towards the rear half of each lot and elevated above Birriga Road. The front door of each dwelling is accessed by a series of concrete stairs located at the side boundary of each lot (total four sets of stairs); while the rear of each dwelling is cut into the rear of their site. The rear landform is supported by retaining walls and batters ranging in height between 1.0 and 2.0 metres on each property. At the frontage of each lot there is a single width garage with a driveway to Birriga Road. The garage of No. 87 comprises a concrete roof that performs as a private terrace.

The development application has not provided a demolition (or Heritage Impact Assessment) report and thus there has been no assessment of the heritage or architectural values of the dwellings. Both dwellings appear to have been constructed circa 1930s based on their Californian Bungalow architectural style. The age and style of No. 87 is more difficult to discern. However stylistic influences suggest the dwelling was modified circa 1970s.

There are a number of notable trees within and adjoining the combined site, primarily in No.87. However, no Arborist Assessment Report accompanies the development application and no assessment of the significance of the trees is available to review.

1.2 The Locality

The site is located in a part of Bellevue Hill subdivided and developed during the turn of the century and interwar periods as a mixed density residential area. Most of the buildings in the surrounding properties that were developed during these periods have remained generally intact, while some properties have been redeveloped, particularly in the post second world war and more recent eras. As a result the locality is, today, distinguished by a mix of detached cottages and residential flat buildings exhibiting a variety of styles, colours and materials, but with generally common heights, site planning characteristics and densities.

1.3 Adjoining Road

Birriga Road is a busy local road that provides convenient access to Bondi Beach and North Bondi via Old South Road and Curlewis Street approximately 380 metres to the north east. The Road provides convenient bus access to Bondi Junction Railway Station and Shopping Centre via two bus routes that pass the site. Both eastbound and westbound bus stops are located 180 metres walking distance east of the site.

Many established trees exhibiting a mix of species and forms are located in the verges of both sides of Birriga Road. These elements create a streetscape with a distinctive, dense, green streetscape character. A number of trees are located directly in front of the site in the adjoining road verge and trees obscure views to buildings and outlook to the street from buildings.



Aerial Photograph (source www.SIX.nsw.gov.au) and **Views of Site and Neighbours:**

(Top): South East to No. 85 from Birriga Road with north western side boundary.

(Top middle): North west to No. 87 from Birriga Road with south eastern side boundary.

(Bottom middle): Birriga Road streetscape opposite site.

(Bottom Left): Side boundary between No. 85 and No. 83.

(Bottom right): Side boundary between No. 87 and No. 87A.

1.4 Adjoining Development

To the North east:

To the north east of the site, on the opposite side of Birriga Road, is a mix of detached dwellings, interwar three storey red brick apartment buildings and contemporary flat roofed three storey low rise apartment buildings. No. 98 comprises an apartment building of recent construction; while No. 100 is a circa 1970s era of construction apartment building. Multiple driveways are present within the streetscape.

While some windows to habitable rooms exist at all levels of the buildings addressing the site across Birriga Road, none of the buildings directly look into the site. Views to the subject site are generally obscured by street trees.

To the South east:

No. 87A Birriga Road adjoins the southeastern side boundary. It comprises a rendered brick inter war apartment building (not two storey as noted in the survey).

The building is elevated within the site and streetscape and sits above a series of three car parking garages at the front boundary. Thus the building presents as four storeys to the street.

Windows to habitable rooms in the side elevation of the building exist at all levels overlooking the site. The windows generally have an elevation of between RL 40.22 (sill height) at ground level. No window height details are provided for the upper level windows. It is estimated that the minimum setback of these windows to the side boundary is 0.9 metres (approx.). The setback accommodates a paved path that links a paved front terrace and landscaped rear gardens.

To the rear of No. 87A is No. 75 Birriga Road. It shares the same street address by virtue of Birriga Road curving around in a horse shoe manner to the rear of the subject site. It comprises a three storey rendered brick duplex. Minimal survey detail is provided. However the survey notes a balcony setback from the south west corner of the site approximately 4.0 metres. The balcony elevation is noted as 46.09 metres and it is assumed that the balcony has a significant view down into the site in a north east direction.

To the South west:

To the south of the site, adjoining the rear boundary, there are two detached dwellings; being No.s 77 and 79 Birriga Road. Their architectural style suggests a similar era of construction as the dwellings in the site.

No 77 is a three storey building with windows at all levels. The top floor window sill height is noted as 49.48 metres and the dwelling is elevated, suggesting extensive overlooking of the site. The closest windows are setback approximately 6.5 metres from the rear boundary of No. 87.

It is possible that there may be north oriented views of the locality from the balcony due to its elevation.

No. 79 is a single storey detached dwelling. No window details are provided in the survey. However it appears to match the 6.5 metre setback from the rear of No. 85 as its neighbour. The gutter height is noted as 46.39 metres which suggests any windows below the gutter in the elevation will overlook the site.

To the North west:

To the north of the site, adjoining the northern side boundary, there are two apartment buildings.

No. 81A 'Westmoreland' Birriga Road is one of a pair of large red brick three storey interwar residential flat buildings with basement car garages located at the corner of the road as it curves up the hill. They are both identified as local heritage items in Schedule 1 of the WLEP.

The survey plan provides information on the siting of the building and window location. Rear windows at all levels overlook the rear half of the combined site with sill heights extending from 41.43 to 47.3 metres. The building is setback approximately 8.2 metres (estimated) from the common boundary. A treed garden is located in the rear setback of the property.

Adjoining No. 81A, at the corner of Birriga Road, is No. 83. It is a relatively recently constructed series of five 2 storey attached terrace houses above a basement car park. The development is elevated above the street and steps up the hill following the alignment of the road. It is separated from the street by a tall limestone tile faced concrete retaining wall exceeding two metres in height in places.

The survey identifies small windows and a balcony addressing and overlooking the side boundary of the site. Heights are not clearly noted in the survey. However the setback of the balcony edge to the boundary is estimated at 0.8 metres.

Part 2: Proposal

The proposed development comprises the demolition of the existing buildings on the site and removal of all vegetation and construction of a new four to five storey residential flat building with ground level semi-basement car parking.

Of relevance to this assessment:

- Demolition includes removal of all of the existing buildings and vegetation within the site. No arborist assessment has been provided. However I note from the Statement of Environmental Effects that one Water Gum in the verge is proposed to be removed (12m height & 3m crown);
- The proposed building footprint essentially has the same configuration as that of the existing buildings. However it is located slightly forward of the dwellings addressing Birriga Road;
- Building siting proposes 3.5 metre setback to both side boundaries. The south east elevation addressing the side boundary in that direction is set back slightly less;
- The setback of the building's north east (front) elevation is nominated as 5.68 metres; while the rear setback is 6.26 metres increasing slightly at the third storey (level 5);
- The basement generally matches the building footprint and extends into the front and side setbacks to the coverage of the terraces and pathways that surround the building at upper ground level;
- The basement is the lower ground level and accommodates motorcycle parking and bike storage, bin storage, 4 parallel parking spaces and 6 two space car park stackers. The total proposed car parking is 16 spaces. No apartment storage or plant rooms are shown;

- On levels upper-ground to 3 (i.e. the four residential levels) accommodation comprises a total of eight apartments; being four x three-bedroom apartments and four x four-bedroom apartments. Apartment sizes range from minimum 109 sqm (3 bedroom) to 140 sqm (4 bedroom). Two apartments occupy each floor within a building footprint oriented to address the street frontage of the site;
- The living areas in each apartment on each level have access to useable balconies or patios. while the two apartments at the upper ground floor (above the basement, but at ground level at the rear) have direct access to a private open terrace at the sides and rear;
- Pedestrian access is proposed from Birriga Road to the communal lobby on the lower ground floor (basement) via a separate footpath and ramp through the building setback to the road. A separate double width driveway entry is proposed to the car park from the street;
- The central “front door” lobby at lower ground level provides access via a lift to the apartments on each level above;
- Building placement capitalises on the fall of the site and involves excavation into the rear of the site. The lowest excavation level (for the lower ground level / basement) is noted in the Section in Drawing A404 as RL 31.05. However this excludes the bottom of the car stacker pits which will be required (given the basement floor to floor height of 3.95 metres) plus the extra depth required for the slab and ground preparation. The upper ground floor has an RL of 35 metres, which is 2 metres lower than the existing ground level at the rear;
- Due to the fall of the land, the lower ground floor level is located some 1 to 2 metres below existing ground level at the rear (35 metres), while the front is elevated some three metres above existing ground level addressing the street. At this point the basement garage projects above ground and addresses Birriga Road where it assumes the ground floor function of the building. It includes the entry lobby, fire stairs and passenger lift. The building thus presents as as five storeys to Birriga Road and four storeys to the rear;
- Above the ground floor, the levels maintain the same 3.1 metre floor to floor height;
- The rooftop above the top floor (above level 5) is accessible and trafficable. It is proposed to be a rooftop private terrace with a pergola shade structure for each of the two units on level 5 below. The rooftop also accommodates the lift overrun and building plant services room that are proposed to be screened by the pergola;
- No particular privacy measures are proposed to windows along the side and rear boundaries. Privacy relies on window role (i.e. non habitable), setbacks and building separation. All windows are clear glazing and no screens are proposed. Windows and balconies have aspect to Birriga Road and the building entry;
- The maximum proposed height of the building is nominated in the Statement of Environmental Effects as 13.5 metres. Thus the proposed building is located at the maximum LEP height limit of 13.5 metres;
- The proposed GFA is nominated as 1,126.09 sqm in the development application. With a site area of 916 sqm according to the survey plan, the proposed development has a proposed FSR of 1.2:1. This exceeds the maximum FSR standard of 0.9:1 by 33%;
- No communal area is proposed;
- Generally, the deep soil areas are proposed in the setback areas. The front setback deep soil area is divided by the lower ground floor car park wall; while the southern side and rear setback areas are impacted by stormwater pipes and associated pits as shown in the Stormwater Drainage Plans (Martens and Associates 07 December 2023);

- The landscape plan adopts a muted approach to site landscaping predominantly focussing on the rear and north western side setback areas. Landscaping comprises a mix of low height (generally <2.0m shrubs, ground covers and bushes). Trees comprise a mix, the tallest of which are two Lilly Pilly and one Tuckeroo trees (mature height 5.0 metres) along the north eastern boundary. A series of magnolias (mature height 4 metres) are proposed in the above ground planter boxes at the lower ground floor to Birriga Road. No landscaping is proposed to the building roof;
- A location for the fire hydrant booster assembly cabinet is indicated in the north eastern corner of the frontage of the site to Birriga Road. It is not indicated in the elevation or photomontage;
- Building design exhibits a striking contemporary architectural style to the street frontage that will be prominent in the streetscape in this part of Birriga Road;
- The dominant visual elements of the nominated building materials comprise the adoption of vertical battens in the centre of the elevation of each level. Three battens, together with matching articulation in the floor level, accentuate, the presence of the building entry and visually define and separate, the built form into two parts, breaking down the visual scale of the building;
- The use of curves in the wall openings surrounding the windows compliments and pays respect to the inter war style of many of the buildings in the locality; and
- White cement render finish is proposed to all external walls and spandrels on levels 2 to 4. Level 5 and the rooftop pergola provide a visual contrast with a dark grey render colour. Such that the top floor is visually recessive and creates a distinctive 'top' to the building. The lower ground floor (level 1) offers a distinctive "bottom" to the building by the use of natural grey stone cladding. Proposed colours of the battens, are muted and predominantly recessive in nature comprising white powder coat finish.

Part 3: Controls and Compliance

The proposal is assessed against the urban design components of the following pieces of legislation:

- Chapter 4 of State Environmental Planning Policy (housing) 2021 (*formerly No. 65 —Design Quality of Residential Apartment Development (SEPP 65)* & Apartment Design Guide (ADG)
- Woollahra Local Environment Plan 2014 (Woollahra LEP 2014)
- Woollahra Development Control Plan 2015 (Woollahra DCP 2015)

The following is an assessment of the proposal against the relevant controls above.

3.1 SEPP (Housing) 2021 Chapter 4 Assessment

Schedule 9 Principle & Statement	Comment	Complies
Principle 1: Context and Neighbourhood Character <i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes</i>	<p>The proposed development is located in a precinct zoned for medium density residential development. It enjoys convenient access to a range of facilities at Bondi Junction.</p> <p>Neighbourhood character is defined by essentially three eras: when the suburb was established post 1900, the 1930s inter war period; and the current</p>	<p>No, subject to further advice on the significance of site trees and building heritage and</p>

Schedule 9 Principle & Statement	Comment	Complies
<p><i>social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in the following areas: established areas; areas undergoing change; or areas identified for change.</i></p>	<p>era of contemporary infill development where opportunities exist.</p> <p>The proposed four to five storey building would be an analogous addition to the area. It is located on a steeply sloping north facing site capitalising on the fall of the site. Its siting and its character at its boundary interfaces provide a compatible response to the other neighbouring developments.</p> <p>However, the proposed approach does not fully recognises the streetscape context within which the site resides and needs to respond to it in terms of frontage design and colours and built form massing. These aspects are discussed below.</p> <p>The proposed development seeks to remove all existing trees and the existing buildings. It also proposes to remove one verge tree. However I have no assessment of their significance. It would be appropriate to combine the proposed trees into one or more larger tree that offers better canopy tree characteristics as a replacement.</p> <p>Removal of the verge tree should be avoided where possible.</p>	<p>an amended design.</p>
<p>Principle 2: Built Form and Scale</p> <p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The proposed development sits slightly lower in the site than the existing development and its building envelope scale, bulk and height are greater than the existing surrounding buildings (both established and recent).</p> <p>The articulation of the north eastern (front) building elevation, together with the use of battens, visually divides the building's mass into two visual elements, breaking down its scale when viewed from the road. This is reinforced by the change in colour and materials of Level 5/roof and the lower ground floor level that establish a distinctive 'bottom, middle and top' within the elevation. However, the contribution of the building's materials and colours to streetscape character could be improved (discussed below).</p> <p>Furthermore, notwithstanding the adoption of this technique, the front elevation continues to present as a five storey wall to Birriga Road. This is uncharacteristic of the locality and inconsistent with the desired future character of Birriga Road. Level 5, rather than seeking to hide itself by use of a recessive dark colour, should be setback further from the front boundary and together with a corresponding setback of the levels below establish a stepped configuration in building levels upwards.</p>	<p>No. Amendments to colours, materials and upper level setbacks to Birriga Road are required.</p>

Schedule 9 Principle & Statement	Comment	Complies
	<p>The nominated height matches the minimum height standard in the WLEP. This is discussed in Part 3.3 below.</p> <p>Configuration of living areas provides good internal amenity and outlook.</p>	
<p>Principle 3: Density</p> <p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities are sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>The proposed gross floor area in the building envelope exceeds the FSR control in the WLEP 2014. This is discussed in Part 3.3 below.</p> <p>The level of amenity for the proposed apartments is good. Apartments are dual aspect with good ventilation and generous balcony sizes, internal areas, and private open space.</p> <p>The site has access to a good service of bus based public transport and Bondi Junction facilities.</p>	Yes, subject to condition.
<p>Principle 4: Sustainability</p> <p><i>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.</i></p> <p><i>Good sustainable design also includes the following: recycling and reuse of materials and waste; use of sustainable materials; and deep soil zones for groundwater recharge and vegetation.</i></p>	<p>The proposal adopts a number of measures that facilitate a good response to the need for sustainability.</p> <p>Apartments enjoy good solar access and cross ventilation. Facilities for rainwater reuse are proposed. However, no provision for roof top solar in the proposed roof plan is shown, but is achievable.</p> <p>The configuration of the deep soil zone in the front setback area requires addressing. This is discussed below.</p> <p>Means of alternative transport are encouraged as conveniently located facilities for bicycle storage are provided.</p>	Yes, subject to condition.
<p>Principle 5: Landscape</p> <p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</i></p> <p><i>A positive image and contextual fit of well-designed developments are achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the following: local context, co-ordinating water and soil management, solar</i></p>	<p>There is a good provision of landscaping, with sufficient dimensions in the side rear setback area.</p> <p>However, the proposed species of trees in the front setback area offer little by way of the establishment of a green canopy within the site and generally, no canopy trees of significance are proposed within the site. This can be conditioned.</p>	Yes, subject to condition.

Schedule 9 Principle & Statement	Comment	Complies
<p>access, micro-climate, tree canopy, habitat values, and preserving green networks.</p> <p>Good landscape design optimises the following: usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.</p>		
<p>Principle 6: Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines the following: appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</p>	<p>The design of each floor plan and building siting contributes to a development that offers a good standard of amenity. All apartments have a large size. All apartments are dual (corner) aspect and all enjoy access to a northern aspect.</p> <p>There are no communal open space or facilities. However, given the small number of apartment and nature of the development I consider this to be acceptable.</p> <p>Screening to some windows to ensure appropriate levels of internal visual and acoustics privacy will be required. This can be addressed by condition.</p> <p>Access to the development is well considered.</p>	Yes, subject to condition.
<p>Principle 7: Safety</p> <p>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.</p> <p>Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The design provides surveillance of the public domain (e.g. as a result of the balconies / windows facing Birriga Road).</p> <p>The pedestrian entrance enjoys good exposure, are legible and will be comfortable to use.</p>	Yes.
<p>Principle 8: Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p>	<p>The proposed development offers a mix three and four bedroom apartments.</p> <p>While the proposal does not offer a varied mix of housing sizes it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill. It presents opportunities for downsizers and families who seek an alternative form of living to a large, detached dwelling, but with access to similar amenities.</p>	Yes.

Schedule 9 Principle & Statement	Comment	Complies
<i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</i>		
<p>Principle 9: Aesthetics</p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.</i></p> <p><i>Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p>The composition of building elements, particularly the curved window surrounds, articulation in floor levels and juxtaposition of balconies and windows display a high quality aesthetic.</p> <p>However, in combination, the prominent mix of materials, colours and treatments in the façade walls contrast with the subdued and domestic character of materials and colours that prevail in the area.</p> <p>However, this can be easily remedied.</p>	Yes, subject to condition.

3.2 Apartment Design Guide Assessment

Part 3: Siting the Development

This part provides guidance on the design and configuration of apartment development at a site scale. It is to be used during the design process and in the preparation and assessment of development applications.

Requirement Objective or Guidance	Comment	Complies
<p>3A – Site analysis</p> <p><i>Responsive to opportunities and constraints of site conditions and streetscape</i></p> <ul style="list-style-type: none"> <i>Each element in the Site Analysis Checklist should be addressed.</i> 	<p>Generally, the proposal responds well to the sloping topography of the site and its north facing aspect.</p> <p>A review of some colours and materials and reconfiguration of the lower ground floor level front deep soil area is warranted.</p>	Yes, subject to conditions.
<p>3B – Orientation</p> <ul style="list-style-type: none"> <i>Responsive to streetscape character while optimising solar access within the development.</i> <i>Overshadowing of neighbouring properties is minimised during mid-winter.</i> <i>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.</i> <i>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums.</i> 	<p>The building design prioritises solar access to, and outlook for, apartments to the north, which is appropriate.</p> <p>Overshadowing of neighbouring properties is generally minimised by virtue of the northwest -south east orientation of the site and the recessed character of the built form within the site.</p> <p>However, the proximity of the northern elevation of No. 87A to the south eastern side boundary of the site, together with the presence of windows in that elevation suggests, according to the shadow diagrams that there will be some shadow</p>	Unknown, due to the provision of insufficient detail.

Requirement Objective or Guidance	Comment	Complies
<ul style="list-style-type: none"> - A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings. 	<p>impact from circa 11.00am on the 21st June.</p> <p>Insufficient survey detail and shadow/ solar assessment has been provided to enable a thorough assessment of this aspect. For example, the 3D solar diagrams shows no windows in the elevation of No. 87A addressing the site, which is clearly incorrect.</p>	
<p>3C – Public domain interface</p> <ul style="list-style-type: none"> - Transition between private and public domain is achieved without compromising safety and security. - Upper level balconies and windows should overlook the public domain. - Amenity of the public domain is retained and enhanced. - Length of solid walls should be limited along street frontages. - Terraces, balconies and courtyard apartments should have direct street entry, where appropriate. - Opportunities for people to be concealed should be minimised. - Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view. - Where development adjoins public parks, open space or bushland, the design positively addresses this interface. 	<p>While, the mix of materials and colours enliven and add interest to the street frontage, they contrast with the subdued residential character that prevails in the streetscape. An alternative selection of colour and materials will address this.</p> <p>The building addresses the street at all levels and balconies offer opportunities for casual surveillance.</p> <p>The necessary presence of fire equipment at the front boundary has not been appropriately addressed by the lack of detail on the proposed cabinets and their integration into the boundary wall. More detail is required.</p>	No.
<p>3D - Communal and public open space</p> <ul style="list-style-type: none"> - Minimum communal space area 25% of site area. - Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter). - Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions. - Communal open space should be consolidated into a well-designed, easily identified and usable area. - Where communal open space cannot be provided at ground level, it should be provided on a podium or roof. 	<p>No communal area is proposed. Given the small number of apartments in the development I consider this to be acceptable.</p>	Yes.
<p>3E – Deep soil zones</p> <ul style="list-style-type: none"> - Deep soil zones that allow for and support healthy plant and tree growth. 	<p>The site has an area of 916 sqm. There is a minimum width requirement of 3 metres for a site of this size.</p> <p>The total areas of deep soil nominated in the development application is 342 sqm (37%).</p>	Yes.

Requirement Objective or Guidance			Comment	Complies
Site area	Min Dim.	Deep soil zone (% of site area)	However the calculations provided include areas that are impacted by below ground stormwater infrastructure, retaining walls and the hydrant booster. Notwithstanding this, the 7% minimum is achieved.	
< 650m ²	-	7%		
650 m ² – 1,500m ²	3m			
> 1,500m ²	6m			
> 1,500m ² with significant existing tree cover	6m			
3F – Visual privacy <ul style="list-style-type: none">Minimum separation distances from buildings to side and rear boundaries:			The height of the proposed development is 13.5 metres.	Yes, subject to condition.
Building height	Habitable rooms and balconies	Non-habitable rooms	Generally windows and balconies address the site's south western (rear) and north western (front) aspects.	
Up to 12m (4 storeys)	6m	3m	Windows in the north western side elevation address frosted windows to non-habitable rooms and a balcony in close proximity in No 83. Separation distances do not achieve the minimum. It is appropriate that windows to ensure bathrooms and living rooms where addressing the common boundary are opaque or screened.	
Up to 25m (5-8 storeys)	9m	4.5m		
Over 25 m (+9 storeys)	12m	6m		
<ul style="list-style-type: none">New development adjacent to existing buildings should provide adequate separation distances to the boundary in accordance with the design criteria.Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.For residential buildings next to commercial buildings, separation distances should be measured as follows: for retail, office spaces and commercial balconies use the habitable room distances.Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping.Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows.Windows should be offset from the windows of adjacent buildings.			Similarly, Windows in the south east side elevation may address windows to habitable rooms (subject to more survey detail) in close proximity in No 87A. Separation distances do not achieve the minimum. It is appropriate that windows to ensure bathrooms and bedrooms at all levels where addressing the common boundary are opaque or screened.	
3G – Pedestrian access and entries <ul style="list-style-type: none">Building entries and pedestrian access connects to and addresses the public domain.Access areas clearly visible from public domain.Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.The design of ground floor and			The proposed development offers a good level of connectivity, entry, access and visibility with Birriga Road.	Yes.

Requirement Objective or Guidance	Comment	Complies
<ul style="list-style-type: none"> underground car parks minimise level changes along pathways and entries. - Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate. 		
3H – Vehicle access <ul style="list-style-type: none"> - Vehicle access points designed and located to achieve safety. - Car park access should be integrated with the building's overall facade. - The width and number of vehicle access points should be limited to the minimum. - Car park entry and access should be located on secondary streets or lanes where available. - Garbage collection, loading and servicing areas are screened. - Designed to minimise conflict with pedestrians and vehicles. - Create high quality streetscapes. 	<p>The proposed driveway to Birriga Road is double width and enjoys good sight lines to minimise conflicts.</p> <p>I question whether the driveway width needs to extend from the building line to the kerb, particularly as there is a potential waiting area behind the building line. Reducing the width of the driveway at the verge increases verge planting, may provide for the retention of the verge tree proposed to be removed as well as minimises the reduction in on-street car parking at this location.</p>	Yes, subject to condition.
3J – Bicycle and car parking <ul style="list-style-type: none"> - Car parking needs of the development provided off-street. - Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites. 	<p>The proposed development provides undercover bicycle and bike storage. It is hidden from view.</p>	Yes.

Part 4: Designing the Building

This part addresses the design of apartment buildings in more detail. It focuses on building form, layout, functionality, landscape design, environmental performance and residential amenity. It is to be used during the design process and in the preparation and assessment of development applications.

Requirement	Comment	Complies
4A – Solar and daylight access <ul style="list-style-type: none"> - Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area. - A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter. 	<p>The proposed orientation of all apartments to the north east ensures that 100% of living rooms and principal private open spaces of all apartments meet the solar and daylight criteria.</p>	Yes.
4B – Natural ventilation <ul style="list-style-type: none"> - At least 60% of apartments are naturally cross ventilated in the first 9 storeys. - Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. 	<p>All apartments are dual or corner aspect and offer good opportunities for cross ventilation.</p>	Yes.
4C – Ceiling heights <ul style="list-style-type: none"> - Measured from finished floor level to finished ceiling level, minimum ceiling heights are: 	<p>The nominated floor to floor height is 3.1 metres which may not achieve the 2.7 metre floor to ceiling height once floor materials and possible plumbing or ceiling</p>	Yes, subject to condition.

Requirement	Comment	Complies																		
<table><tr><td>Apartment</td><td>Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Attic spaces</td><td>1.8m with 30° minimum ceiling slope</td></tr></table> <ul style="list-style-type: none">- Minimum floor to floor height 3.1m (4C.5).	Apartment	Minimum ceiling height	Habitable rooms	2.7m	Non-habitable	2.4m	Attic spaces	1.8m with 30° minimum ceiling slope	AC ducting is installed.											
Apartment	Minimum ceiling height																			
Habitable rooms	2.7m																			
Non-habitable	2.4m																			
Attic spaces	1.8m with 30° minimum ceiling slope																			
4D – Apartment size and layout <ul style="list-style-type: none">- Apartments are required to have the following minimum internal areas: <table><tr><td>Apartment type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedrooms</td><td>70m²</td></tr><tr><td>3 bedrooms</td><td>90m²</td></tr></table> <ul style="list-style-type: none">- Every habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room.- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).- A window should be visible from any point in a habitable room.- Bedrooms have a minimum dimension of 3m (excluding wardrobe space).- Living rooms or combined living/dining rooms have a minimum width of: <table><tr><td>Apartment type</td><td>Minimum width</td></tr><tr><td>1 bedroom</td><td>3.6m</td></tr><tr><td>2 bedrooms</td><td>4m</td></tr><tr><td>3 bedroom</td><td>4m</td></tr></table> <ul style="list-style-type: none">- The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedrooms	70m ²	3 bedrooms	90m ²	Apartment type	Minimum width	1 bedroom	3.6m	2 bedrooms	4m	3 bedroom	4m	All apartments achieve the minimum area.	Yes.
Apartment type	Minimum internal area																			
Studio	35m ²																			
1 bedroom	50m ²																			
2 bedrooms	70m ²																			
3 bedrooms	90m ²																			
Apartment type	Minimum width																			
1 bedroom	3.6m																			
2 bedrooms	4m																			
3 bedroom	4m																			
4E – Private open space and balconies <ul style="list-style-type: none">- All apartments are required to have primary balconies as follows: <table><tr><td>Apartment type</td><td>Min. width</td><td>Min. depth</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table>	Apartment type	Min. width	Min. depth	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	All balconies for upper level apartments and the private open space to the two upper ground floor units meet the minimum area and depth requirements.	Yes.						
Apartment type	Min. width	Min. depth																		
1 bedroom	8m ²	2m																		
2 bedroom	10m ²	2m																		
3+ bedroom	12m ²	2.4m																		

Requirement	Comment	Complies										
<ul style="list-style-type: none">- For apartments at ground level, a private open space area shall be provided instead of a balcony with minimum area of 15m² and minimum depth of 3m.												
4F – Common circulation and spaces <ul style="list-style-type: none">- Maximum number of apartments off a circulation core on a single level is eight (8).- Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.- Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:<ul style="list-style-type: none">- a series of foyer areas with windows and spaces for seating;- wider areas at apartment entry doors and varied ceiling heights.	The circulation core (essentially the lift lobby area) on each floor provides access to only 2 apartments.	Yes.										
4G – Storage <ul style="list-style-type: none">- In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedrooms</td><td>10m³</td></tr></table> <p>Note: At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedrooms	10m ³	No storage for apartments is provided in the basement level. However, some storage areas and cupboards in apartments are proposed. However they do not meet the intent of the clause (for example, they include European laundry cupboards and dining room cabinets / fitted cupboards). There is no obvious area for the placement of storage cages for bulky items in the basement.	No, but can be addressed by condition.
Dwelling type	Storage size volume											
Studio	4m ³											
1 bedroom	6m ³											
2 bedroom	8m ³											
3+ bedrooms	10m ³											
4H – Acoustic Privacy <ul style="list-style-type: none">- Noise transfer is minimised through the siting of buildings and building layout.- Noise impacts are mitigated within apartments through layout and acoustic treatments.- Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy).	No acoustic assessment is provided. The potential source of any external noise issues would most likely be from the traffic using Birriga Road. Given the observed use of the Road, together with the setback of the proposed building from the road, no concerns are apparent. The sources of any potential acoustic impacts from the garage activities (door and stackers) are sufficiently separated from residential activity that no concerns are apparent.	Yes.										
4J – Noise and Pollution <ul style="list-style-type: none">- The impacts of external noise and pollution are minimised through careful siting and layout of buildings.- Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	No air quality assessment is provided. The potential source of any air quality and noise issues would most likely be from the traffic using Birriga Road. Given the observed use of the road, together with the setback of the proposed building from the road, no air quality or external noise concerns are apparent.	Yes.										
4K – Apartment mix <ul style="list-style-type: none">- A range of apartment types and sizes is	While the proposal does not offer a wide mix of housing sizes or variety, it suits the	Yes.										

Requirement	Comment	Complies
<i>provided.</i>	small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill.	
4L – Ground floor apartments <ul style="list-style-type: none"> - Street frontage activity is maximised where ground floor apartments are located. - Apartments deliver amenity and safety for residents. - Direct street access should be provided to ground floor apartments 	N/A	N/A
4M – Facades <ul style="list-style-type: none"> - Building facades provide visual interest along the street while respecting the character of the local area. - Entries are clearly defined. - Building services should be integrated within the overall façade. 	<p>The Schedule of Colours and Finishes enables an indicative appreciation of the presentation of the building to Birriga Road and neighbouring properties.</p> <p>The architectural approach creates visual interest for the public domain. However, I consider that the combination of colours contrasts with the prevailing character of the local area.</p> <p>Building services are not visible from the public domain. However, the location of firefighting booster equipment cabinet directly in front of the garage in the front setback needs to be reconsidered as part of a general redesign of this area to improve the presentation of the development to Birriga Road.</p>	Yes, subject to condition.
4N – Roof design <ul style="list-style-type: none"> - Roof treatments are integrated into the building design and positively respond to the street 	The roof is trafficable and rooftop plant is proposed to be integrated into the building design.	Yes.
4O – Landscape design <ul style="list-style-type: none"> - Landscape design is viable and sustainable. - Landscape design contributes to the streetscape and amenity. 	Tree species selection in deep soil areas do not capitalise on the opportunity for the site to contribute to the distinctive green tree canopy in the area. However this can be remedied as discussed elsewhere.	Yes, subject to condition.
4P – Planting on structure <ul style="list-style-type: none"> - Appropriate soil profiles are provided. - Plant growth is optimised with appropriate selection and maintenance. - Planting on structures contributes to the quality and amenity of communal and public open spaces 	No planting is proposed on the roof top.	N/A.
4Q – Universal design <ul style="list-style-type: none"> - Universal design features are included in apartment design to promote flexible housing for all community members. - A variety of apartments with adaptable designs are provided. - Apartment layouts are flexible and accommodate a range of lifestyle needs. - Developments achieve a benchmark of 20% of the total apartments incorporating 	The private open space areas, vertical access, apartment sizes and layout and amenity of each unit generally provide a high level of flexibility to evolve as households evolve.	Yes.

Requirement	Comment	Complies
<i>the Liveable Housing Guideline's silver level universal design features.</i>		
4R – Adaptive reuse <ul style="list-style-type: none"> - New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. - Adapted buildings provide residential amenity while not precluding future adaptive reuse. 	The application is for a new development.	N/A
4S – Mixed use <ul style="list-style-type: none"> - Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement. - Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents. 	The application is for a residential use.	N/A
4T – Awnings and signage <ul style="list-style-type: none"> - Awnings are well located and complement and integrate with the building design. - Signage responds to the context and desired streetscape character. 	An awnings is proposed above the building entry at lower ground level. It is integrated into the design of the building.	Yes.
4U – Energy efficiency <ul style="list-style-type: none"> - Development incorporates passive environmental design. - Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer. - Adequate natural ventilation minimises the need for mechanical ventilation. 	<p>The proposed development offers high levels of natural ventilation and there are opportunities for rooftop solar provision.</p> <p>The proposal satisfies the relevant objectives or design criteria prescribed by this Part.</p>	Yes.
4V – Water management and conservation <ul style="list-style-type: none"> - Potable water use is minimised. - Urban stormwater is treated on site before being discharged to receiving waters. - Flood management systems are integrated into site design. 	The Stormwater Plan provides information to demonstrate appropriate rainwater collection and reuse.	Yes.
4W – Waste management <ul style="list-style-type: none"> - Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. - Domestic waste is minimised by providing safe and convenient source separation and recycling. 	A waste room is proposed in the basement level and is conveniently accessible at-grade to Birriga Road.	Yes.
4X – Building maintenance <ul style="list-style-type: none"> - Building design detail provides protection from weathering. - Systems and access enable ease of maintenance. - Material selection reduces ongoing maintenance costs. 	<p>While no information has been provided with regards to the building maintenance, I consider the proposed materials selected will result in a building that will require minimum maintenance.</p> <p>Access to the roof is available from the roof top terraces.</p>	Yes.

3.3 Woollahra Local Environment Plan 2014 (WLEP2014)

The proposed development is assessed against the relevant provisions of WLEP 2014 in the table below.

	Clause Objective / Control	Assessment	Complies
Zoning	R3 Medium Density Residential <i>Objectives:</i> <ul style="list-style-type: none"> 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 	<p>The proposed use is permissible, and it can meet the following objective of the zone:</p> <ul style="list-style-type: none"> provide for the housing needs of the community within a medium density residential environment; provide a variety of housing types within a medium density residential environment. <p>It does not satisfy the following objectives as explained elsewhere in this review:</p> <ul style="list-style-type: none"> 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. 	No.
Clause 4.3 Height of Buildings	Maximum height limit is 13.5 metres. <i>Objectives:</i> <ol style="list-style-type: none"> to establish building heights that are consistent with the desired future character of the neighbourhood, to establish a transition in scale between zones to protect local amenity, to minimise the loss of solar access to existing buildings and open space, to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion, to protect the amenity of the public domain by providing public views of the harbour and surrounding areas 	<p>The maximum proposed height of the building is nominated in the Statement of Environmental Effects as 13.5 metres.</p> <p>However, notwithstanding this numerical compliance, insufficient survey information has been provided to establish potential view loss for dwellings at the rear (being 75, 77 and 79 Birriga Road). A thorough view impact assessment has not been provided.</p>	Unknown.
Clause 4.4 Floor Space Ratio	The maximum FSR is 0.9:1 <i>Objectives:</i> <ol style="list-style-type: none"> for development in Zone R3 Medium Density Residential— to ensure the bulk and scale of new development is compatible with the 	<p>The maximum FSR equates to 824.4 sqm gross floor area (GFA) based on a site area of 916 sqm.</p> <p>The proposed GFA is nominated as either 1,099.2 sqm (Statement of Environmental</p>	No.

	Clause Objective / Control	Assessment	Complies
	<i>desired future character of the area, and (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and (iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space</i>	Effects and Clause 4.6 request) or 1,126.09 sqm (plans of proposed development). This needs clarification. Generally, the proposed development includes an additional 275 to 301 sqm (approx.), which represents a proposed FSR of 1.2:1; being a 33.3% departure from the standard. The application includes a Clause 4.6 written request. I have reviewed the justification to vary the FSR standard in the request. I do not support the variation in this instance as the proposed FSR is inconsistent with the objectives of the R3 zone and Clause 4.4 (FSR). I will elaborate on this opinion in further discussion below.	
Clause 5.10 Heritage	<i>Clauses 5.10 (4) and (5) require Council to consider the effect of a proposed development on the heritage significance of a heritage item or conservation area.</i>	The property is located within the vicinity of a heritage item (18A Birriga Road). No Statement of Heritage Impact has been provided to address this matter.	Unknown.
Clause 6.4 Limited development on foreshore area	<i>The Foreshore Building Line (FBL) provisions contained in Clause 6.4 require a setback of 30m from the MHWL.</i>	N/A	N/A
Clause 6.9 Tree Canopy Cover in Zones R2 and R3	<i>Clause 6.9 requires development in R2 and R3 zones to plant trees, and retain and minimise; disturbance and adverse impacts on existing canopy trees which are to be retained. (The Clause does not apply to certain HCAs)</i>	Additional planting of canopy trees within the site is suggested.	Yes, subject to condition.

The proposal includes a request for a variation to the floor space standard in WLEP 2014. I will discuss it below.

3.3.1 FSR Variation

The application includes a request for a variation to the height standard in the LEP. It nominates 'Test 1' established in *Wehbe v Pittwater Council* as the basis upon which the request is founded.

Wehbe's Test 1 seeks 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.

I summarise the key aspects of the request, and comment in the table below on whether the written request has satisfactorily demonstrated that:

1. compliance with the development standard is unreasonable or unnecessary;
2. that there are sufficient environmental planning grounds; and
3. the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone.

1. Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case	
Clause 4.6 Request: the proposal satisfies Test 1 established in <i>Wehbe v Pittwater Council</i> (2007) 156 LGERA 446 (<i>Wehbe</i>) "The objectives of the standard are achieved notwithstanding non-compliance with the standard".	
4.4 Floor Space Ratio objective: (a) to ensure the bulk and scale of new development is compatible with the desired future character of the area,	
Request	Comment
<i>The built form is below the height limit and compliant with the front, side and rear setbacks. On this basis, the proposed FSR is provided within a compliant building envelope. Replacement of single dwellings with residential flat buildings 4-storeys in scale is consistent with that contemplated by the zoning and accompanying controls.</i>	<p>The desired future character for the site is identified and defined by:</p> <ol style="list-style-type: none"> 1. The height and FSR controls and objectives; and the objectives of the R3 zone discussed above; and 2. The Desired Future Character Statement in WDCP 2015. <p>WDCP 2015 is discussed in detail in Part 3.2 below in this review.</p> <p>A medium density building form prevails within the precinct.</p> <p>The proposed height is a maximum of 5 stories, (or 6 if the rooftop enclosed terrace is included). It will result in a building that exhibits a 5 storey building wall to Birriga Road and a built form scale and character that is inconsistent with that which prevails in the locality. In this context the proposed FSR results in an outcome that is inconsistent with the desired future character.</p>
4.4 Floor Space Ratio objective: (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain	
<i>Compliance with setback requirements and the height limit, combined with outperformance of landscaping ensures that the scale of the built form/impacts are consistent with that anticipated by the controls. It is acknowledged that there will be visual bulk and view impacts associated with the proposal when compared with the</i>	Unknown, subject to the submission of additional detail on potential view loss and shadow impacts that demonstrates acceptable impact as described elsewhere in this Review.

undeveloped single dwellings on the site. However, such single storey dwellings are not consistent with the desired future character and thereby here is an expectation of impacts by the zoning and associated controls, noting that the 4-storey scale of built form is consistent with that contemplated by the 3.5m height limit. Importantly, solar access and privacy are retained to adjoining properties whilst the properties higher upslope to the south will retain views either side of the built form.	
4.4 Floor Space Ratio objective: (c) to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space	
The proposed extent landscaping/deep soil area and tree canopy area provided outperforms the DCP controls.	Not agreed, but can be remedied.
Zone R3 Medium Density Residential Objectives:	
Refer table above	Not achieved.

2. There are sufficient environmental planning grounds	
Clause 4.6 Request: There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard	
Request	Comment
Solar access for neighbouring properties complies with the WDCP2015 standard, while adverse privacy impacts to surrounding properties are minimised through all units	Unknown, as noted above.
All units outperform the ADG internal amenity standards further demonstrating the appropriateness of the proposal for the site.	Agreed subject to the amendments proposed in this review.

In conclusion, I consider the request for a variation to the FSR standard to be not well founded and it is not supported.

3.4 Woollahra Development Control Plan 2015 (WDCP 2015)

The proposed development is assessed against the relevant provisions of WDCP 2015 in the table below.

Control	Objective / Control Summary	Assessment	Complies
Chapter B1 Desired Future Character	<i>The site is located in the Bellevue Hill South Precinct. Part B1.7.2 presents the Precinct Character Statement and the Desired Future Character and objectives sought for development in the site.</i> <i>The statement of Desired Future Character is as follows.</i> <i>"New development on the major streets of Birriga Road, Birriga</i>	The proposal offers a well-designed contemporary building which is consistent with the approach sought for redevelopment in the Precinct. However, the proposed built form does not step down its sloping site. Thus it does not retain the low scale two to four storey built form character that prevails in Birriga Road.	No.

Control	Objective / Control Summary	Assessment	Complies
	<p><i>Road and Old South Head Road will generally take the form of residential flat buildings and multi dwelling housing, and maintenance of existing Inter-War flat buildings. New development should be designed to step down sloping sites and provide side boundary setbacks that allow for views between buildings. Development should not detract from the amenity of adjoining and adjacent lower density forms of residential development.</i></p> <p><i>Development along the local roads will provide a mix of housing densities and styles in well-designed contemporary buildings, which reinforce the natural topography and provide opportunities for view sharing. ... Development must provide opportunities for view sharing from both public spaces and private properties. In particular, buildings should step down the site, also minimising cut and fill."</i></p> <p><i>The "Desired future character objectives" are:</i></p> <p><i>O1 To respect and enhance the streetscape character and key elements of the precinct.</i></p> <p><i>O2 To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings, incorporating modulation and a varied palette of materials.</i></p> <p><i>O3 To establish a transition of development scale from the detached dwelling houses at the northern end of Bellevue Hill to the residential flat buildings that address the major streets - Birriga Road, Old South Head Road and Birriga Road – situated along the precinct ridgeline.</i></p> <p><i>O4 To retain Inter-War flat buildings and ensure that alterations and additions do not detract from the character of these buildings and their presentation to the street.</i></p> <p><i>O5 To design and site buildings to respond to the topography and minimise cut and fill.</i></p> <p><i>O6 To preserve significant views and vistas to surrounding areas from the streets and parks.</i></p>	<p>There are currently no significant views or vistas from public spaces across the site.</p> <p>However there may be private views northwards from elevated dwellings to the rear (75, 77 and 79 Birriga Road). View sharing has not been considered and a view impact assessment consistent with the 4 steps in Tenacity has not been provided.</p> <p>The proposal makes a poor contribution to the landscape character of the Precinct. No canopy trees of note are proposed and constrained deep soil area is provided in the front setback to the road.</p>	

Control	Objective / Control Summary	Assessment	Complies
	<i>O7 To reinforce the landscape setting and maintain the existing tree canopy.</i>		
B3.2 Building Envelope Setbacks	<p><i>Part B 3.2 presents building envelope controls for residential flat buildings in the R3 zone.</i></p> <p><i>Setbacks establish the position of buildings in relation to the street, side and rear boundaries. They create the spatial proportions of the street contribute to streetscape and neighbourhood character and protect the amenity of adjoining properties</i></p>	<p>I consider the proposed front, rear and side setbacks to be acceptable. However front setbacks to Birriga Road above ground level do not respect the spatial proportions of the street, nor contribute to streetscape character.</p> <p>Other comparatively recent developments further east on the upper side of Birriga Road provide an ascending stepped setback to the front boundary and I see no reason why the redevelopment of the site cannot achieve the same outcome.</p>	No.
Part 3.5.1 Streetscape Character	<i>A quality streetscape provides good public amenity and contributes to the character and identity of the locality. As character can vary from street to street, it is important that development recognises predominant streetscape qualities, such as building form to ensure a cohesive streetscape character.</i>	This is discussed in Parts 3.1, 3.2 and 3.3 above.	No.
Part B.3.5.2 Overshadowing	<i>To minimise overshadowing to adjoining properties.</i>	As I note above, insufficient information has been provided to establish and assess any potential shadow impacts.	Unknown.
Part B.3.5.3 Public and Private Views	<i>To protect and enhance existing views to and from public domain areas and encourage view sharing.</i>	<p>I have not been able to observe views from inside neighbouring properties.</p> <p>However, within this constraint I discuss view impact in Part 3.3 and above.</p>	Unknown.
Part B3.5.4 Acoustic and Visual Privacy	<i>To ensure adequate acoustic privacy for occupants and neighbours.</i>	Acoustic and visual privacy is addressed in Part 3.2 above.	Yes.
B.3.5.5 Internal Amenity	<i>To encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation.</i>	The design of the proposed development delivers good internal amenity. I note the need for dedicated storage space to be provided.	Yes, with condition.
B.3.5.6 On-site Parking	<i>To minimise the visual impact of garages, car parking structures and driveways on the streetscape.</i>	The design of the car park integrates well into the development and the site at the site frontage. However opportunities to reduce the width of the driveway and obviate the proposed removal of an existing verge tree should be explored.	Yes, subject to condition.

Control	Objective / Control Summary	Assessment	Complies
B3.7.1 Deep Soil	<p><i>To ensure that the areas outside the floorplate contribute to the desired future character of the location.</i></p> <p><i>Tree canopy area is at least 30% of the site area for residential development other than dwelling houses, dual occupancies, semi-detached development and attached dwellings.</i></p> <p><i>At least half of the total tree canopy area on the site (i.e. 50%) is contributed by canopy tree/s.</i></p> <p><i>35% of the site area is deep soil landscaped area</i></p> <p><i>At least 40% of the front setback comprises deep soil landscaped area.</i></p>	<p>A 33% tree canopy area comprising 90% tree canopy is nominated in the development application.</p> <p>However the proposed tree species in the landscape plan are less than 8 metres in height and crown and do not meet the definition of a canopy tree.</p> <p>Suggestions elsewhere in this review to provide tree canopy species and establish a deep soil zone in the front setback should address these concerns.</p> <p>A deep soil area of 37% and 54% in the front setback is nominated in the development application. However the front deep soil area, and its designation in the development application as canopy area is impacted by the elevation of part of the deep soil area above ground level in what is effectively a large planter box attached to the balconies of the upper ground floor apartments.</p> <p>This can be resolved by a simple recognition and relocation of the retaining wall as indicated in the sketch in Appendix 1. This will result in a larger, more functional deep soil and canopy area in the front setback.</p>	Yes, subject to conditions.
B3.7.1 Principal POS	<p><i>To ensure that dwellings in residential flat buildings ... are provided with adequate private open space that enhances the amenity of the dwellings.</i></p>	The proposed development offers generous private open space areas.	Yes.
B.3.7.2 Fences	<p><i>To ensure fences and walls improve amenity for existing and new residents, are not visually intrusive, do not unreadably restrict views and contribute positively to streetscape and adjacent buildings.</i></p> <p><i>The height of front fences does not exceed:</i> 1.2m if solid; or 1.5m if 50% transparent or open;</p> <p><i>The rear and side fences:</i> a) are located behind the building front setback; and b) do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there</p>	<p>No details are provided on wall / fence heights to the side boundaries.</p> <p>No walls are proposed at the front and rear boundaries.</p> <p>Notwithstanding the existing sloping character of the site's landform, boundary wall heights at the side and rear boundaries of the site should achieve the DCP requirements for sloping sites.</p>	Yes, subject to condition.

Control	Objective / Control Summary	Assessment	Complies
	<p><i>is a difference in level either side of the boundary.</i></p> <p><i>Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side (refer to Figure 26). For sloping streets—the height of fences and walls may be averaged and fences and walls may be regularly stepped.</i></p>		
B.3.7.3 Site Facilities	<p><i>To ensure that mechanical plant equipment including lift overruns, air-conditioning units and external condensers, do not have adverse streetscape or amenity impacts.</i></p> <p><i>To ensure that development incorporates adequate garbage and recycling collection areas.</i></p>	<p>Site facilities have been identified in the plans of proposed development.</p> <p>As noted earlier the location for the fire hydrant booster assembly cabinet requires resolution.</p>	Yes, subject to conditions.
B.3.7.4 Ancillary Development	<p><i>To provide recreation facilities and opportunities that do not compromise the amenity of adjoining properties and retain deep soil zones, trees and vegetation of landscape value.</i></p>	No ancillary development is proposed.	N/A
B.3.8 Residential Flat Buildings	<p><i>To ensure that dwellings within the development provide good amenity.</i></p> <p><i>Single aspect dwellings are limited in depth to 8m from a window.</i></p> <p><i>The back of the kitchen is no more than 8m from a window.</i></p> <p><i>The width of a cross-over or cross-through dwelling over 15m deep is 4m or greater. Deep and narrow dwelling layouts are avoided.</i></p>	This is achieved.	Yes.

Part 4: Urban Design Review

4.1 Summary

The proposed development is a comparatively large scale infill medium density residential building that seeks to capitalise on the redevelopment opportunity offered by the amalgamation of two detached dwelling sites.

I note the development application seeks a 33% variation to the floor space ratio standard. This is a large variation and while some variation could possibly be entertained given the amalgamation of the two sites, I do not support the scale of the variation given the characteristics of the proposal.

The resulting bulk and scale of the building, particularly where it addresses Birriga Road, is excessive and inconsistent with the prevailing built form character of the road, both established and recent. The failure of the upper levels of the building to consecutively setback (and step back) from the building line in particular is inconsistent with the desired future character sought for the area.

The design approach seeks to address this in the front elevation by the introduction of the central stepped recess at all levels, together with the use of battens which visually divides the building's mass into two visual elements, breaking down its scale when viewed from the road. This approach is reinforced by the change in colour and materials of Level 5/roof and the lower ground floor level that establish a distinctive 'bottom, middle and recessive top' within the elevation.

Notwithstanding the adoption of this technique, the front elevation continues to present as a five storey wall to Birriga Road. This is uncharacteristic of the locality and inconsistent with the desired future character of Birriga Road. Further, the approach to colours and materials results in an odd mix of dark and light colours that are somewhat stark and cold within the streetscape, which contrasts with the warm colours and materials of surrounding residential buildings.

Of significance, I have been unable to undertake a thorough assessment of shadow, solar and view impact. Insufficient detail has been provided within the survey and this lack of information has prevented the ability of the shadow and 3-D diagrams in the architectural plans to present a comprehensive assessment of these considerations. Similarly I have been unable to determine potential view impacts. This is relevant as I suspect that there may be some level of loss of some locality views from the dwellings to the rear (Nos 75 – 79 Birriga Road).

The lack of detail also extends to the lack of submission of an arborist assessment and heritage assessment. These investigations would be helpful given the proximity of heritage items, the presence of trees within the site (all of which are proposed to be removed) and the proposal to remove one street verge tree.

There are also a number of inconsistencies with the requirements of the Apartment Design Guide and the WDCP 2015. However, this can be addressed with minor amendments that I list below.

4.2 Recommendation

The proposal is not supported. However, redesign of the development is suggested that may remedy the concerns. The redesign should consider the following observations (in no particular order and not purporting to be complete):

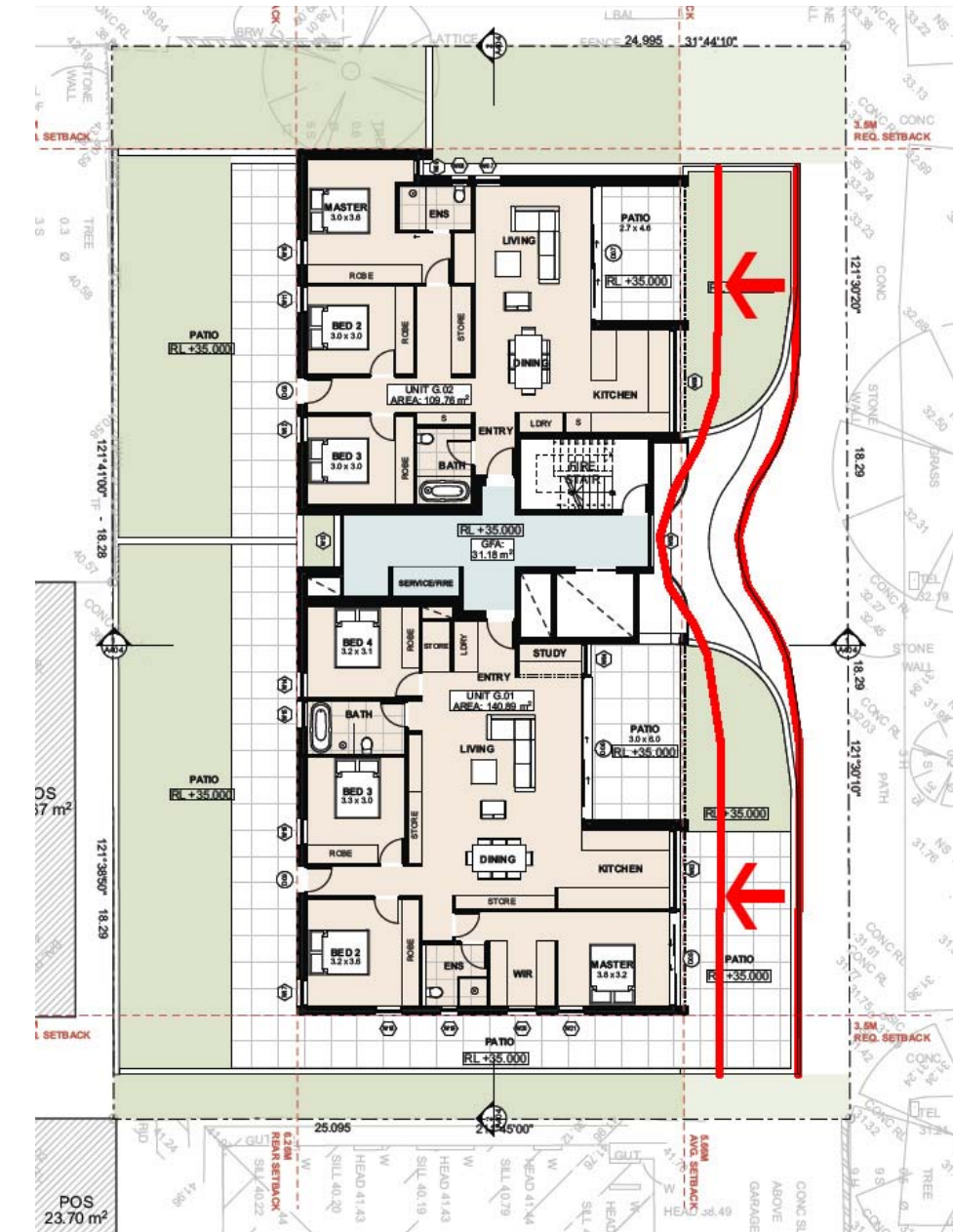
1. Building levels addressing Birriga Road should be consecutively setback from the level below to establish a stepped character in the built form addressing the Road;
2. Building materials and colours should be amended to be more consistent with, and sympathetic to, the prevailing character of colours and materials in Birriga Road. For example the lower ground floor wall could comprise sandstone face cladding. This is a commonly adopted material in the road and is characteristic of Bellevue Hill generally; while the architectural details could adopt warmer and more sympathetic colours such as copper or bronze. These are selective observations and not recommendations. The combination and composition of wall, detail and spandrel colours and materials need to be considered as a whole, in a coordinated manner;
3. The double driveway should be reduced in width where it crosses the verge and every effort made in the redesign to preserve the street verge trees that adjoin the site. Adopting the location and width of the existing driveway to No 87 may assist in the achievement of this goal;
4. Privacy screens, opaque glass, or highset windows should be provided to all windows in the side elevations at all relevant levels to preserve internal and external privacy in lieu of achieving the separation distances required by the Apartment Design Guide;

5. The rear of the roof top terrace should be screened to minimise overlooking to/ from the dwellings to the rear;
6. Given the nominated floor to floor height of 3.1 metres, a minimum floor to ceiling height of 2.7 metres should be specifically conditioned to ensure compliance;
7. Additional dedicated storage areas should be provided to each apartment, ideally in the basement to enable storage of bulky items, consistent with the requirements of the Apartment Design Guide;
8. The retained area of deep soil at lower ground level and the upper ground garden area should be setback further into the site to establish a large and effective area for the planting of canopy trees in deep soil areas in the front setback. A sketch illustrating the principle is attached in **Appendix 1**;
9. The landscape plan should be amended to include species that comprise genuine tree canopy trees when established, consistent with the definition of a canopy tree in the WDCP 2015;
10. The location of firefighting booster equipment cabinet directly in front of the garage in the front setback needs to be reconsidered as part of a general redesign of this area to improve the presentation of the development to Birriga Road;
11. Side and rear boundary walls /fences should have a maximum height of 1.8 metres (or 1.2 metres) consistent with the requirements of Part B3.7.2 of WDCP;
12. The following additional, or augmented, information and details should be provided:
 - (i) A Demolition / Heritage Impact Assessment that addresses neighbouring locally listed heritage items;
 - (ii) An Aboricultural Impact Assessment that addresses the trees within the site and street trees in the adjoining verge;
 - (iii) An updated survey plan that notes the location and heights of all windows and balconies of all buildings in lots adjoining the combined site (to both sides and rear);
 - (iv) Updated Shadow and 3D solar studies that will benefit from the updated survey information;
 - (v) A visual impact assessment, particularly from the elevated dwellings to the rear;
 - (vi) Clarification of the gross floor area calculation to address the inconsistencies in the description in the development application.

Stephen McMahon
Director, Inspire Urban Design and Planning Pty Ltd

Appendix 1

Sketch Illustrating Suggested Stepping back of terraces at Upper Ground Level to Improve Deep soil Outcome at Front Setback





Woollahra
Municipal
Council

8 February 2024

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 10/2024/1

ADDRESS: 85 Birriga Road BELLEVUE HILL 2023

PROPOSAL: Demolition of all existing structures on both 85 and 87 Birriga Road and the construction of a new four (4) storey residential flat building containing 8 units, basement parking containing 16 spaces a roof top terrace with pergola associated landscaping and sites to be amalgamated

FROM: A Wang

TO: Mrs L Holbert

1. ISSUES

- *The proposal is a new building so BCA compliance is assessed at Construction Certificate stage.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced HPE 24/7229 prepared by ABC Planning, dated December 2023.
- Architectural Plans, referenced A002, A006, A101 – A107 & A401 – A404, prepared by Arkhaus, dated 15/12/2023,
- Indicative Compliance Report, referenced PRO-08672-W4Y1, prepared by Building Innovations Australia, dated 08/12/2023.

3. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2021*.

☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’

- *Category 1 fire safety provisions required*

☐ Clause 64 – ‘Consent authority may require buildings to be upgraded’

- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
- Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings



Woollahra
Municipal
Council

☐ Clause 63 – 'Fire safety and other considerations applying to erection of temporary structures'

- fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

4. BUILDING DESCRIPTION

Type of Construction: A

Class: 2 & 7a

Number of Storeys: 6

Rise in Storeys: 6

Effective Height: < 25 metres

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

6. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. GENERAL CONDITIONS

Nil

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil

E. BEFORE BUILDING WORK COMMENCES

Nil

F. DURING BUILDING WORK

Nil



Woollahra
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Council

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G 1.	<p>Fire Safety Certificates</p> <p>Before the issue of any occupation certificate to authorise a person:</p> <p>a) to commence occupation or use of a new building, or</p> <p>b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building.</p> <p>Notes:</p> <ul style="list-style-type: none"> In this condition: <ul style="list-style-type: none"> interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. new building has the same meaning as it has in section 6.1 of the Act. <p>Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.</p>
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H. OCCUPATION AND ONGOING USE

H 1.	<p>Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)</p> <p>During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.</p> <p>Notes:</p> <ul style="list-style-type: none"> essential fire safety measure has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation. annual fire safety statement has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation. Visit Council's website for additional information in relation to fire safety www.woollahra.nsw.gov.au. <p>Condition Reason: To ensure public safety.</p>
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A Wang
Fire Safety Officer

8 February 2024
Completion Date

Statement of Environmental Effects

85-87 Birriga Road, Bellevue Hill

APPENDIX 1 – FSR VARIATION

CLAUSE 4.6 TO CLAUSE 4.4 OF WOOLLAHRA LEP 2014

EXCEPTIONS TO DEVELOPMENT STANDARDS – **FLOOR SPACE RATIO VARIATION**

Demolition of the existing structures and construction of a 4-storey residential flat building.

85-87 Birriga Road, Bellevue Hill

SUBMITTED TO
WOOLLAHRA COUNCIL

PREPARED BY
ABC PLANNING PTY LTD

December 2023

ABC Planning Pty Ltd

66

December 2023

WOOLLAHRA LEP 2014- CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 Written Request has been prepared to accompany the development application for demolition of the existing structures and construction of a new 4-storey residential flat building at 85-87 Birriga Road, Bellevue Heights.

Clause 4.6 of the Woollahra LEP 2014 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

It is important to note at the outset that Clause 4.6 of the Woollahra LEP “is as much a part of [the Woollahra LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on Clause 4.6 for an appropriate planning outcome.” (SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 at [73]).

This Clause 4.6 Written Request takes into account the relevant aspects of the Land and Environment Court judgement from *Initial Action Pty Ltd v Woollahra Council* [2017] NSWLEC 1734, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (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.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Development Standard to be Varied.

Pursuant to Clause 4.4A of the WLEP2014, the site is subject to a maximum floor space ratio (FSR) control of 0.9:1 (GFA: 824.4m²).

The proposal results in a FSR of 1.2:1 (GFA:1,099.2m²), which represents a variation of 274.8m² or 33% from the numerical FSR standard in the LEP.

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by clause 4.6(3), of which there are two aspects. Both aspects are addressed below:

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

Assessment: Whilst it pertained to SEPP 1, the Land and Environment Court judgment *Wehbe v Pittwater Council* [2007] NSWLEC 827 (21 December 2007) (*Wehbe*), remains equally applicable to addressing this subclause. Specifically, in *Wehbe* the Court identified 5 different 'ways' in which it can be established that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. This list of ways is not exhaustive and provides as follows:

- 1. the objectives of the standard are achieved notwithstanding noncompliance with the standard;*
- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. the underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

In regard to the circumstances of the proposed development and this Clause 4.6 Written Request it is considered that strict compliance with the development standard for FSR on the site is unreasonable or unnecessary because of the site's specific context in addition to *Wehbe* ways 1 (as underlined above).

It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a) (*Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22], *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31]. Further, it is only necessary to demonstrate that strict compliance is either unreasonable or unnecessary.

It is considered that strict compliance with the development standard for FSR on the site is unreasonable and unnecessary in the circumstances for the following reasons:

- The built form is below the height limit and compliant with the front, side and rear setbacks. On this basis, the proposed FSR is provided within a compliant building envelope. Replacement of single dwellings with residential flat buildings 4-storeys in scale is consistent with that contemplated by the zoning and accompanying controls. The proposal is thereby consistent with the desired future character for this part of Bellevue Hill. Such outcome is consistent with the objective of the R3 Medium Density Residential zone which seeks to ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.
- The proposed built form, inclusive of the FSR variation, is set in a landscaped setting that complies and outperforms all of the landscaping metrics in the WDCP2015.
 - The proposed extent landscaping/deep soil being 7% / 2 percentage points beyond the required standard (37% provided versus 35% required).
 - landscaping/deep soil in front setback being 37% / 15% percentage points beyond the required standard (55% provided versus 40% required).
 - The proposed extent of tree canopy area being 9% / 3 percentage points beyond the required standard (33% provided versus 30% required).
 - The extent of tree canopy in the tree canopy area is approximately 90%, significantly outperforming the 50% standard.
- As outlined in the attached Landscape Plan, extensive landscaping and additional canopy trees are proposed, which, along with the established and retained canopy street trees, softens the appearance of the built form within the Birriga Road streetscape.

The proposal includes removing three existing trees on the site, none of which are considered trees of high significance.

Within the verge, one Water Gum is proposed to be removed (12m height & 3m crown), with the two most significant Water Gums (1 - 12m height & 12m crown; 2 - 10m height & 6m crown) retained and continuing as the defining visual feature in the streetscape.

The provision of extensive, vertically layered landscaping that includes 16 additional trees with mature heights of 3+m that will add to the tree canopy in all setbacks, a range of shrubs and groundcovers that create a dense understorey, and planters on the front façade. These additions along with the retention of the most significant street trees will improve the landscaped setting of the site beyond its current condition, and is thereby consistent with the objective of the R3 Medium Density Residential zone which seeks to ensure development conserve and enhance tree canopy cover.

- Compliance with the height limit and the elevated nature of the properties to the rear addressed to 75, 77 and 79 Birriga Road ensures that the additional FSR is not responsible for any unreasonable view impacts. It is also noted that these properties

share the same R3 Medium Density zoning, height and FSR and, therefore it could be reasonably expected that they are redeveloped in a similar manner, further establishing the future desired medium density character of the neighbourhood, as envisaged by the controls.

- The 3D view from the sun diagrams confirms that the additional FSR will not compromise solar access to the primary living and private open space areas of adjoining properties. All surrounding dwellings will continue to receive in excess of 3 hours solar access between 9am and 3pm on June 21.
- The additional FSR is not considered to generate any adverse privacy impacts given that the primary orientation of all living and private open space areas is to the street frontage over Birriga Road.
- The additional FSR contributes to a greater degree of housing and bedroom accommodation on the site which will assist in meeting Council's housing targets and increase housing diversity in the area. In this regard, the proposal provides for 4-bedroom dwellings which can cater for families, downsizers and work from home opportunities. This is consistent with Action 2 of Council's Housing Strategy which looks to encourage a range of housing choices by increasing the number of 3+ bedroom units in new developments. Such justification is consistent with the objective of the R3 Medium Density Residential zone which seeks to provide for the housing needs of the community with a medium density residential environment.
- The proposal is compliant with the minimum lot size for residential flat buildings in R3 Medium Density zone. This is further confirmation that proposal meets the planned density for the future character of the area and that the excess FSR can be accommodated on the site.

Objectives of the development standard and the zoning – Wehbe Way 1

- Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Consistency with the objectives of the FSR standard in the LEP	
Objectives	Assessment
(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	<p>The proposed bulk and scale are compatible with the desired future character of the area as the built form is compliant with the 13.5m height limit and is within the stipulated front, side and rear setbacks. Replacement of single dwellings on amalgamated lots is consistent with the zoning and the associated controls in the LEP which require minimum lot sizes of 700sqm and site frontages greater than 21-metres. The site easily outperforms these criteria and is able to accommodate the additional FSR on this broad fronted allotment.</p> <p>Compliance with setbacks and landscaped areas further confirms that the proposal is able to satisfy design and environmental criteria. The resultant built form that includes the FSR variation is compatible with the developed properties along Birriga Rd noting that the 3-storey scale of the residential flat building to the</p>

Statement of Environmental Effects

85-87 Birriga Road, Bellevue Hill

	east and 3-4 storey scale buildings to the east at 87a and 89 Birriga Rd.
(ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and	<p>Compliance with setback requirements and the height limit, combined with outperformance of landscaping ensures that the scale of the built form/impacts are consistent with that anticipated by the controls. It is acknowledged that there will be visual bulk and view impacts associated with the proposal when compared with the undeveloped single dwellings on the site.</p> <p>However, such single storey dwellings are not consistent with the desired future character and thereby there is an expectation of impacts by the zoning and associated controls, noting that the 4-storey scale of built form is consistent with that contemplated by the 13.5m height limit. Importantly, solar access and privacy are retained to adjoining properties whilst the properties higher upslope to the south will retain views either side of the built form. It is also reiterated that the that the properties to the south share the same zoning and that such properties could also be redeveloped in a similar manner to that proposed and that such properties would achieve expansive views over the subject property.</p> <p>On this basis, it is considered that the proposal would achieve consistency with the objective notwithstanding the FSR variation.</p>
(iii) to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space,	<p>The proposed built form, inclusive of the FSR variation, is set in a landscaped setting that complies and outperforms all landscaping metrics in the WDCP2015.</p> <p>The proposed extent landscaping/deep soil area and tree canopy area provided outperforms the DCP controls.</p> <p>This provision allows for additional canopy trees to be provided, which, along with the established and retained canopy street trees, softens the appearance of the built form within the Birriga Road streetscape. There are no existing canopy trees of high significance currently on the site or proposed to be removed. The provision of canopy trees within the front setback and retention of the majority of street trees is thereby consistent with the objective of the clause.</p>
Consistency with the objectives of the R2 Low Density Residential	
Objectives	Assessment
<p>Zone R3 Medium Density Residential</p> <p>Objectives of zone</p> <ul style="list-style-type: none"> To provide for the housing needs of the community within a medium density residential environment. 	<p>The site is zoned R3 Medium Density Residential under the provisions of the Woollahra LEP 2014.</p> <p>The proposal will provide for the housing needs of the community through the supply of eight high amenity 3- and 4-bedroom units in place of two out of dated dwellings. The proposed units will also add to housing choice and diversity within the R3 zone and be suitable for range of residents.</p>

Statement of Environmental Effects

85-87 Birriga Road, Bellevue Hill

<ul style="list-style-type: none"> • 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. 	<p>The design ensures that the proposal provides for excellent internal amenity, whilst also preserving external amenity to surrounding properties.</p> <p>The proposed built form and associated FSR variation is compatible with the future residential development of the area surrounding the site, notwithstanding the FSR variation. The proposal, including the FSR variation, is contained within a complying building envelope, as represented by compliance with the height and setbacks controls.</p> <p>The proposal will not inhibit other land uses from providing facilities or services to meet the day to day needs of residents.</p> <p>The proposed built form, inclusive of the FSR variation, is set in a landscaped setting that complies and outperforms all landscaping metrics in the WDCP2015. The proposal will enhance the landscaped setting and tree canopy cover on the site over the existing condition.</p>
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Based on the above assessment, it is considered that strict compliance with the LEP FSR standard is unreasonable and unnecessary in this instance.

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

Assessment: It is considered that there are sufficient environmental planning grounds to justify varying the building FSR development standard, which include the following:

- The above assessment throughout this Clause 4.6 variation has demonstrated that the proposed variation to the height standard will not generate any unreasonable environmental impacts upon the public domain nor to any private property.
- Solar access for neighbouring properties complies with the WDCP2015 standard, while adverse privacy impacts to surrounding properties are minimised through all units having a street orientation for primary living spaces. Any increased privacy impacts perceived by neighbouring dwellings are considered reasonable and associated with the evolving medium density environment, as contemplated by the controls. It is also noted that all surrounding properties have the ability to be redeveloped under the same controls as the proposal. There is no view loss associated with the FSR variation.
- All units outperform the ADG internal amenity standards further demonstrating the appropriateness of the proposal for the site.
- The scale and built form are consistent with the future desired character of the area, being a contemporary, high-amenity 4-storey residential flat building that is contemplated by the Bellevue Hill South character statement and objectives in the WDCP2015 and the zoning, FSR and height standard and setbacks.

- The FSR variation does not restrict the proposal from meeting all WDCP2015 landscaping and tree canopy controls and enhancing the landscaped setting of the site.

Other Matters for Consideration

4(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Assessment: The above assessment demonstrates that the proposed FSR satisfies the objectives of the FSR standard and the R3 Medium Density Residential zone.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the FSR variation.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the FSR control.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning

Assessment: The proposed FSR variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The proposed FSR allows for achievement of a compatible building envelope without creating a development with overbearing height, bulk or scale and without compromising the desired future character of the area.

The proposed height is therefore consistent with the State and Regional Policies, particularly urban consolidation principles which seek to provide additional density near transport and established services.

(b) the public benefit of maintaining the development standard

Assessment: There is no public benefit in maintaining the FSR standard given the limited amenity impacts associated with the development and the positive streetscape contribution and increase in housing choice and diversity that would arise from the redevelopment of the subject site.

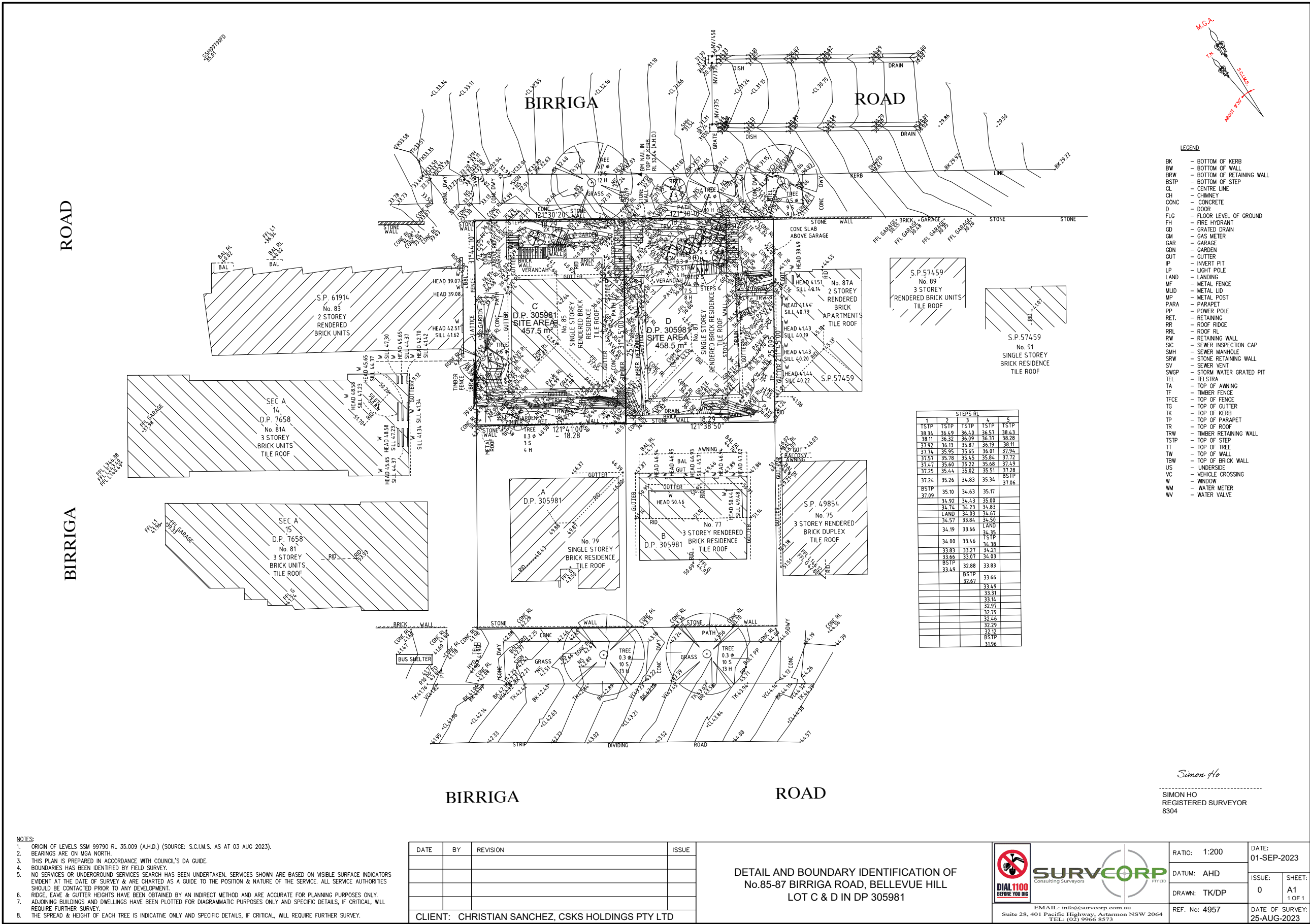
(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Assessment: There are not considered to be any additional matters to consider beyond those discussed above

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at 85-87 Birriga Road, Bellevue Hill and is requested to be looked upon favourably by the consent authority.







**Arboricultural Impact Statement for 8 trees associated with 85-87 Birriga street,
Bellevue Hill, New South Wales**

by

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Diploma of Arboriculture

Diploma of Botany

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[2 February 2024]

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1.0. Introduction

During 17 October 2023, I made a detailed inspection of 8 trees associated with 85-87 Birriga Road, Bellevue Hill, New South Wales (Figs. 1-7). The subject trees were inspected during overcast rainy conditions with slight wind.

2.0. Methodology

The trees were inspected from ground level, tree heights, canopy (crown) spread and dbh (diameter at breast height), structure, health, age class, significance as well as other information such as borer and/or termite infestation using most of the features of the VTA methodology.

VTA is an internationally recognised practice in the visual assessment of trees as formulated by Mattheck & Breloer (1994). Principle explanations and illustrations are contained within the publication, *Field Guide for Visual Tree Assessment*, by Mattheck, C. and Breloer, H. *Arboricultural Journal*, 18: 1-23 (1994).

A ULE analysis (Useful Life Expectancy) was also undertaken on the trees. Trees (defined here as being usually more than 15 cm d.b.h. = diameter at breast height) were assessed as per the procedures outlined in my other tree reports (viz. Hawkeswood, 1998-2012). Trees marked with an asterisk (*) in the list below are introduced species. The condition of trees are assessed by arborists using terminology of "good", "medium" or "poor"; good = specimen in good healthy condition, not suffering from high stress, without borer damage, without major dead branches etc; poor = tree is in poor health, under high stress, sickly, with numerous dead branches, losing leaves etc.; medium = condition of tree is somewhere between the other two conditions. In addition, the ULE assessment was also applied to these trees. This is the Useful Life Expectancy which is a tree assessment procedure which gives the length of time that the arborist believes that a particular tree can be retained with an acceptable level of risk based on the information available at the time of the inspection; SULE ratings are Long (i.e. the tree is retainable for 40 years or more with an acceptable level of risk), Medium (i.e. the tree is retainable for 16-39 years), Short (i.e. the tree is retainable for 5-15 years) and Removal (i.e. the tree requires immediate removal due to imminent hazard or absolute unsuitability). Major branch is defined as being 5 cm or more in diameter, minor branch less than 5 cm in diameter.

3.0. Results

The following table of data was obtained (see page 4).

Table 1. Arboricultural information on the 8 trees assessed in this report.

T no.	Species	Height (m)	Crown (m)	Health	Struct	Age class	Sig	ULE	DBH (cm)	Proposal	Notes
1	Plumeria rubra (Frangipani)	4	3	G	P	M	M	M	15, 15, 12	Removal	
2	Phoenix canariensis (Canary Island Palm)	10	5	G	G	M	M	M-L	20	Retain	
3	Lophostemon confertus (Water Gum)	12	12	G	G	M	M	M	58	Retain	TPZ = 7.0 m, SRZ = 3.2 m
4	Morus alba (Mulberry)	2	4	G	G	M	M	M	16	Retain	TPZ = 1.9 m, SRZ = 1.5 m
5	Lophostemon confertus (Water Gum)	12	3	G	G	M	M	M	29	Removal	TPZ = 3.5 m, SRZ = 2.3 m
6	Lophostemon confertus (Water Gum)	10	6	G	G	M	M	M	50	Retain	TPZ = 6.0 m, SRZ = 2.7 m
7	Cupressus sp. (Cypress Pine)	8	0	P	M	M	L	R	20	Removal	TPZ = 2.4 m, SRZ = 1.8 m, Many dead branches, tree almost dead
8	Schefflera actinophylla (Queensland Umbrella Tree)	10	3	G	P	M	L	M	32	Removal	TPZ = 3.5 m, SRZ = 2.3 m

Key: Health & Structure: P= Poor, F= Fair, M= Medium, G= Good, Age Class, UM= Under-mature, M= Mature, OM= Over-mature; Significance: L= Low, M= Medium, H= High.

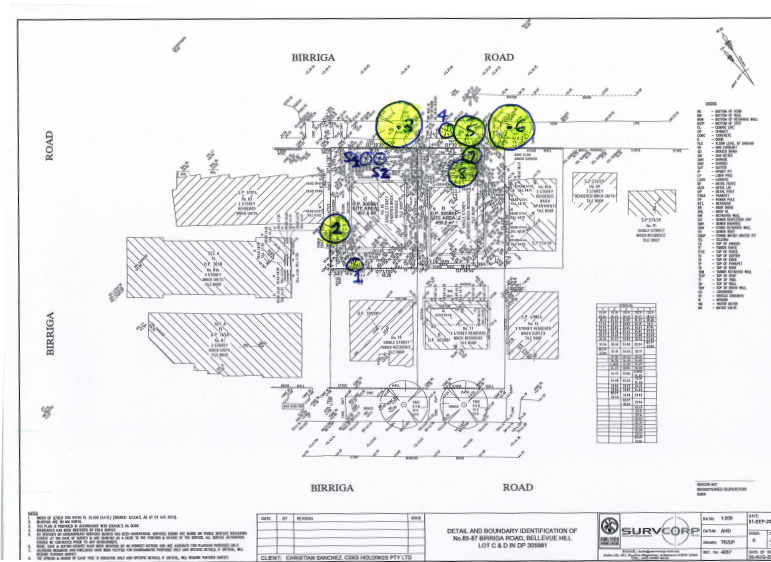


Fig. 1. Plan showing the position of the 8 trees assessed in this report. S1 and S2 are shrubs of *Callistemon salignus* (Myrtaceae).

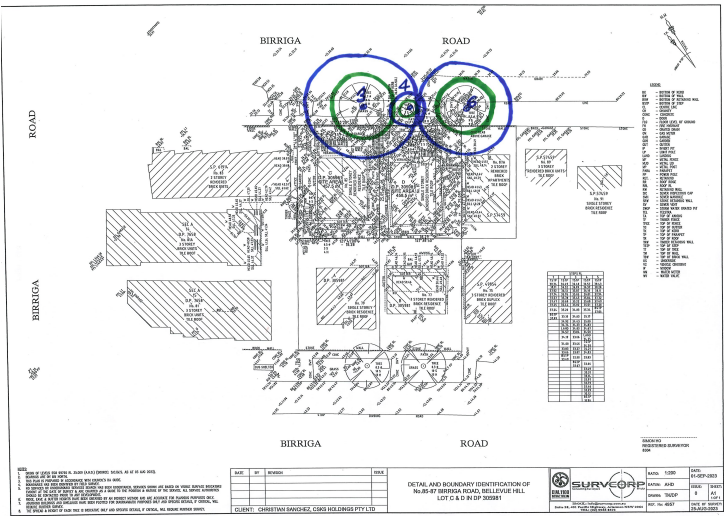


Fig. 2. Plan showing the the TPZ and SRZ of the retained trees, 3 4 amd 6. TPZ = blue radii, SRZ = green radii.



Fig. 2. Tree 1, Plumeria rubra (Apocynaceae) (Photo: T.J. Hawkeswood).



Fig. 3. Tree 2, *Phoenix canariensis* (Arecaceae).. (Photo: T.J. Hawkeswood).



Fig. 3. Tree 3, *Lophostemon confertus* (Arecaceae). (Photo: T.J. Hawkeswood).



Fig. 4. Tree 4, *Morus alba* (Moraceae). (Photo: T.J. Hawkeswood).



Fig. 5. Tree 5, *Lophostemon confertus* (Myrtaceae). (Photo: T.J. Hawkeswood).



Fig. 6. Tree 6, *Lophostemon confertus* (Myrtaceae). (Photo: T.J. Hawkeswood)..

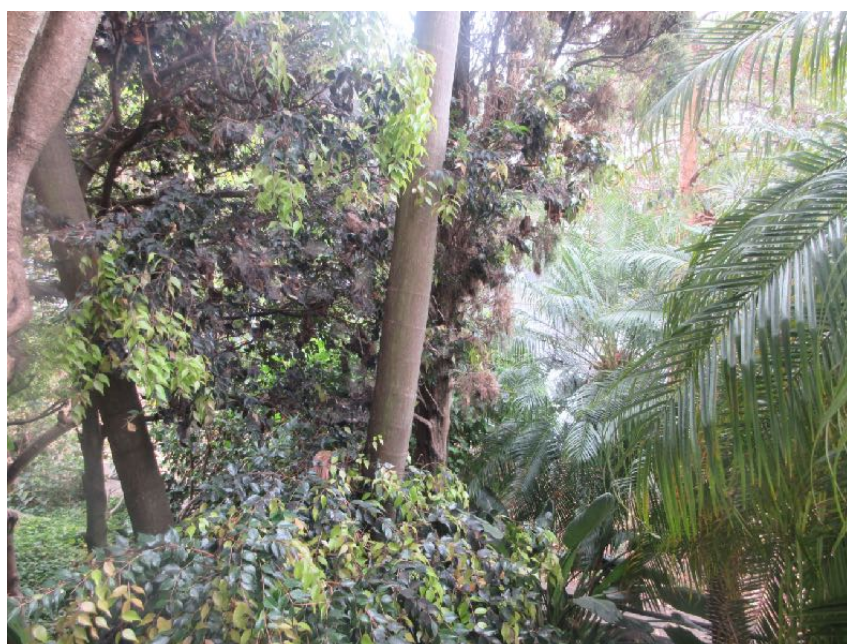


Fig. 7. Tree 7, *Cupressus* sp. (Cupressaceae).. (Photo: T.J. Hawkeswood)..

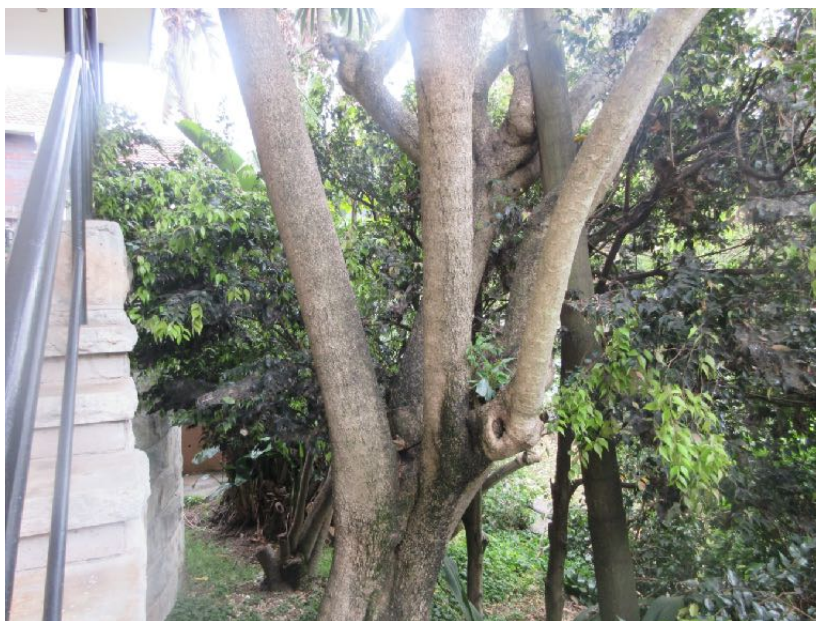


Fig. 5. Tree 8, *Schleffera actinophylla* (Araliaceae). (Photo: T.J. Hawkeswood).

4.0. Conclusions

Of the trees assessed, Trees 1, 5 7 and 8 will be proposed for removal (see Table 1). .

Trees 2, 3, 4 and 6 will be retained.

Tree 2 is a Phoenix canariensis which does not have an extensive or wide root system and will not be impacted,. It may have to be protected with metal fencing.

'S2 and s3 are shrubs of *Callistemon salignus* (Myrtaceae) which are to be removed.

The predicted TPZ and SRZ of Trees 3 and 6 overlap the subject properties of 85 and 87 respectively (Fig., 1) but it is unlikely in reality that roots are there as concrete footpath and walls would have impeded growth near the subject properties.

The TPZ and SRZ of the small Tree 4, will not be impacted. Trees 3,4 and 6 will need metal fencing before construction.

With removal of the other trees, there will be no significant impacts on any neighbouring trees.

Tree protection

The street trees 3, 4 and 6 will be retained (see Table 1, Fig. 6). They will be protected with steel protective fencing as shown in Appendix 4 and Fig. 6 below.

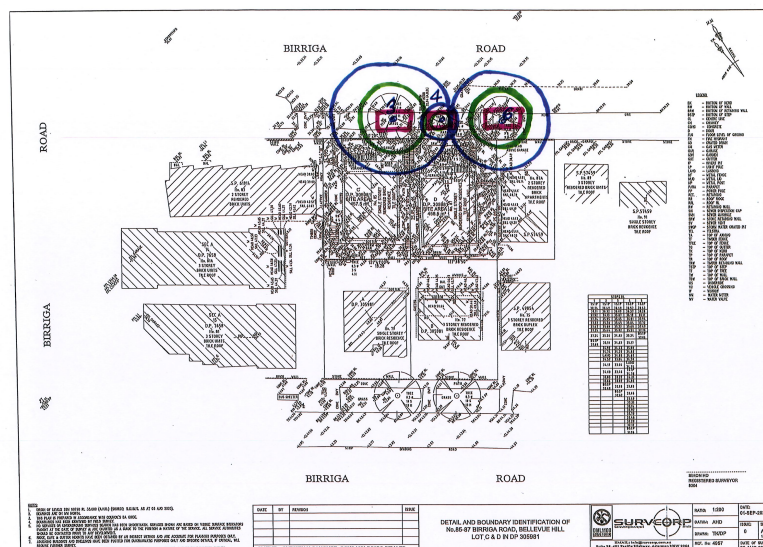


Fig. 6. Plan of the site showing retained trees and suggested tree protection fences (red rectangles).

The tree protection fences should be positioned at least one metre from the base of each tree reaching the edge of the road and to the edge of the footpath.

It is the responsibility of the principle contractor to install tree protection prior to works commencing at the site (e.g. prior to demolition works) and to ensure that the tree protection remains in adequate condition for the duration of the development. The tree protection must not be moved without prior agreement of the project Arborist. The project Arborist must inspect that the tree protection has been installed in accordance with this document and AS4970- 2009 prior to works commencing. A certification report should be issued before any further works are undertaken. The fences should be signposted with information regarding Tree Protection Zone and the telephone of the Project Arborist..

Protective fencing: The protective fencing must be constructed of 1.8 metre cyclone chainmesh fence. The fencing should only be removed for the landscaping phase and this should be approved by the project Arborist. Where it is not feasible to install fencing at the specified location due to factors which restrict access to areas of the site or for constructing new structures, an alternative location and protection specification must be agreed with the project Arborist. Any modifications to the fencing locations must be approved by the project Arborist. After construction another certification report will be required to ascertain the health and good condition of the retained street trees,

5.0. Qualifications of the Author

BSc (Hons) in Botany majoring in Tree and Shrub Biology, Anatomy and Physiology, Plant Pathology.

Diploma of Arboriculture

Diploma of Botany

Postgraduate courses in Advanced Horticulture and Mycology/ Plant Pathology.

Rinntech Wood Anatomy, Tree Biology & Tree Risk Assessment Course

Quantified Tree Risk Assessment Course (Quantified Tree Risk Assessor No: 5813)

Member of the International Society of Arboriculture CSID: 290763

AQF8 Arborist

I have undertaken flora and fauna and arborist reports in the Sydney Bioregion since 1997 with over 2100 reports having been completed. I have written over 2500 tree reports as stand alone documents or as part of flora and fauna reports or vegetation management plans (VMP). Over 25,000 trees have been assessed in these reports. In addition another 50,000 + trees have been examined during the course of flora and fauna studies etc. These reports in the main have been accepted without much fuss and ado by the following Councils: Cooma, Parramatta, Holroyd, Bankstown, Camden, Hornsby, Penrith, Hawkesbury, Liverpool, Blacktown, Blue Mountains and The Hills. I have also represented clients successfully against Councils in the Land & Environment Court, where my qualifications and experience have been recognized.

Hawkeswood, T.J. (2013). *Tree report for 83a Cattai Ridge Road, Glenorie, New South Wales*: 1-14.

Hawkeswood, T.J. (2013). *Further observations on the trees and vegetation of Lots 11 & 12 DP 881728, Orangegroove Road (Cumberland Highway), Liverpool, New South Wales*: 1-14.

Hawkeswood, T.J. (2013). *Tree report for Lot 13, DP 27378, 114 Shepherds Road, Wilberforce, NSW*: 1-9.

Hawkeswood, T.J. (2013). *Trees to be removed at Lot 42, and 5 purported habitat trees within Lot 42, DP 1165082, 29 Hadden Ridge Road, Wilberforce, NSW*: 1-6.

Hawkeswood, T.J. (2013). *Vegetation Management Plan for Lot 22, The Links Road, Leura, New South Wales*: 1-25.

Hawkeswood, T.J. (2014). *Tree report for 48 Lindsay Street, Wentworthville, New South Wales*: 1-9.

Hawkeswood, T.J. (2014). *Arborist report for Lot 1, DP 774629, 118 Cattai Ridge Road, Glenorie, New South Wales*: 1-30.

Hawkeswood, T.J. (2014). *Tree report for 486-488 Victoria Road, Ryde, NSW*: 1-8.

Hawkeswood, T.J. (2014). *Arborist report for Lot 2, DP 241932 & Lot 27 DP 834163, 159-171 Samantha Riley Drive, Kellyville, New South Wales*: 1-38.

Hawkeswood, T.J. (2014). *SULE (Arborist) report for 28 trees at Lot 16B, DP 8979, 234 Ingleburn Road, Leppington, New South Wales*: 1-10.

Hawkeswood, T.J. (2014). *Vegetation Management Plan for Lot 53, DP206637, 29 Powell Street, Blaxland, New South Wales*: 1-19.

Hawkeswood, T.J. (2014). *Oak tree (Quercus robur, Fagaceae) at 11 Carinya Road, Girraween, NSW*: 1-3.

Hawkeswood, T.J. (2014). *Trees at and associated with Lot 230, DP 36743, 3 Marshall Road, Telopea, NSW*: 1-7.

Hawkeswood, T.J. (2014). *Arborist report for Lot 36-51 Sec. 31, DP 1480, Hobart Street, Riverstone, New South Wales*: 1-19.

Hawkeswood, T.J. (2015). *SULE (Arborist) report for one Jacaranda mimosaeifolia tree at 22 Cross Street, Guildford, NSW*: 1-5.

Hawkeswood, T.J. (2015). *Tree report and 7-part Test of Significance for Blue Gum High Forest (BGHF) for Lot 18, DP 206702, 39 Cornwall Avenue, Turrumurra, New South Wales*: 1-16.

List of selected and recent tree reports and utilising tree data undertaken by Dr TJ Hawkeswood approved by Councils:



Hawkeswood, T.J. (2009). Tree report for Lot 50, DP 26276, and Lot 1, DP 592729, 8 & 10 New Line Road, West Pennant Hills, New South Wales.

Hawkeswood, T.J. (2010). Tree report for Lot 9, DP 247628, 2 Deborah Road (formerly 175-177 Annangrove Road), Annangrove, New South Wales.

Hawkeswood, T.J. (2012). Tree report for 5 trees associated with 58 Evans Road, Glenhaven NSW.

Hawkeswood, T.J. (2013). SULE (Arborist) report for 8 trees at 11 Curtis Road, Kellyville, New South Wales.

Hawkeswood, T.J. (2013). SULE (Arborist) report for 9 trees at 46 Hastings Road, Castle Hill, New South Wales.

Hawkeswood, T.J. (2013). Arborist report for trees to be removed at Lot 42, and 5 purported habitat trees within Lot 42, DP 1165082, 29 Hadden Ridge Road, Wilberforce, NSW.

Hawkeswood, T.J. (2013). Tree report for 83a Cattai Ridge Road, Glenorie, New South Wales.

Hawkeswood, T.J. (2013). Dead trees at Lot 105, DP 752061, Windsor Road, Vineyard, NSW.

Hawkeswood, T.J. (2013). Tree report for Lots 7 & 8, DP23741, 33 & 35 Rupert Street, Mt. Colah, New South Wales.

Hawkeswood, T.J. (2013). 5 Eucalyptus trees at construction site at Blacktown Hospital, Blacktown, New South Wales.

Hawkeswood, T.J. (2014). Arborist report for Lot 3 DP 242138, 3 Bruce Place, Kellyville, New South Wales.

Hawkeswood, T.J. (2014). Arborist (tree assessment) report for Lot 2 DP 218959, Lot 1 DP 740520 & Lot 1 DP 221780, 25 Rance Road, Werrington, New South Wales.

Hawkeswood, T.J. (2014). Arborist (tree assessment) report for Lot 156 DP 214751, 66 Wattle Crescent, Glossodia, New South Wales.

Hawkeswood, T.J. (2014). Trees at and associated with Lot 230, DP 36743, 3 Marshall Road, Telopea, NSW.

Hawkeswood, T.J. (2014). Arborist report for Lot 1, DP 774629, 118 Cattai Ridge Road, Glenorie, New South Wales.

Hawkeswood, T.J. (2014). SULE (Arborist) report for 9 trees at Lot 35 DP 3305, 21 Westminster Street, Schofields, New South Wales.

Hawkeswood, T.J. (2014). Three trees on neighbouring properties to 17 Carinya Road, Girraween, NSW.

Hawkeswood, T.J. (2014). Oak tree (*Quercus robur*, Fagaceae) at 11 Carinya Road, Girraween, NSW.

Hawkeswood, T.J. (2014). Tree 2 (*Jacaranda mimosaeifolia*, Bignoniaceae) near Lot J, DP 23182 & Lot 10, DP 23183, 19-21 Clancy Street, Padstow Heights, New South Wales.

Hawkeswood, T.J. (2014). SULE (Arborist) report for 14 trees at/near Lot J, DP 23182 & Lot 10, DP 23183, 19-21 Clancy Street, Padstow Heights, New South Wales.

Hawkeswood, T.J. (2015). SULE (Arborist) report for trees within 391 Merrylands Road, Merrylands, NSW.

Hawkeswood, T.J. (2015). Arborist report for one Norfolk Island pine tree (*Araucaria excelsa*, Araucariaceae) at 19 Northcott Street, South Wentworthville, NSW.

Hawkeswood, T.J. (2015). SULE (Arborist) report for 5 trees at/associated with Lot 78, 171 Cocks Road, North Ryde, New South Wales.

Hawkeswood, T.J. (2015). SULE (Arborist) report for 5 trees associated with 23 O'Connor Street, Guildford, New South Wales.

Hawkeswood, T.J. (2015). Arborist report for Lots 116 & 117 DP 775240, 20-22 Mahony Street, Constitution Hill, New South Wales.

Hawkeswood, T.J. (2015). SULE (Arborist) report for 21 trees within and associated with 173-175 Beames Avenue, Mt Druitt, New South Wales.

Hawkeswood, T.J. (2015). Arborist report for 15 trees within or associated within 10C Morgan Street, Earlwood, NSW.

Hawkeswood, T.J. (2015). Arborist report for 4 trees within or associated with 28 Princess Street, Guildford, NSW.



- Hawkeswood, T.J. (2015). SULE (Arborist) report for 4 trees within 114 Constitution Road, New South Wales.
- Hawkeswood, T.J. (2015). SULE (Arborist) report for 15 trees associated with a proposed development at 216A Windsor Road, Winston Hills, New South Wales.
- Hawkeswood, T.J. (2015). SULE (Arborist) report for 5 trees associated with a proposed development at 61 Wisdom Street, Guildford West, New South Wales.
- Hawkeswood, T.J. (2015). SULE (Arborist) report for two trees at 18 Jesmond Street, Surry Hills, NSW and recommendations for pruning of a Council Kaffir Plum tree.
- Hawkeswood, T.J. (2015). SULE (Arborist) report for 1 gum tree (*Eucalyptus* sp., Myrtaceae) within 30 Brown Street, Forestville, New South Wales.
- Hawkeswood, T.J. (2015). SULE (Arborist) report for 6 cypress pine trees within 35 Ormond Street, Ashfield, New South Wales.
- Hawkeswood, T.J. (2015). SULE (Arborist) report for one *Eucalyptus saligna* tree at 22 Highlands Ave, Hornsby, NSW.
- Hawkeswood, T.J. (2016). SULE (Arborist) report for one *Eucalyptus sideroxylon* tree at 112 Wicks Road, North Ryde, New South Wales.
- Hawkeswood, T.J. (2016). SULE (Arborist) report for 15 trees including several palms within 26 Ferndell Street, South Granville, New South Wales.
- Hawkeswood, T.J. (2016). SULE (Arborist) report for 16 trees within and adjacent to 101 Fiddens Wharf Road, Killara, New South Wales.
- Hawkeswood, T.J. (2016). SULE (Arborist) report for one street tree in the front of 8 Crammond Blvd, Caringbah, New South Wales.
- Hawkeswood, T.J. (2016). Garner Street, St Marys, NSW tree report.
- Hawkeswood, T.J. (2016). SULE (Arborist) report for 8 trees at or associated with 105 Military Road, Guildford, New South Wales.
- Hawkeswood, T.J. (2016). SULE (Arborist) report for 8 trees at/associated with 209 Memorial Ave, Liverpool, New South Wales.
- Hawkeswood, T.J. (2016). SULE (Arborist) report for one *Eucalyptus pilularis* tree (Black butt) at 9 Willoughby Street, Epping, NSW.
- Hawkeswood, T.J. (2016). SULE (Arborist) report for 2 trees at 3 Mawson Crescent, Ermington, New South Wales.
- Hawkeswood, T.J. (2017). Arborist report on 2 trees at 21 Chalmers Crescent, Mascot, NSW.
- Hawkeswood, T.J. (2017). Arborist report on 1 Liquidambar tree in the backyard of 31 Minnamurra Road. Northbridge, NSW.
- Hawkeswood, T.J. (2017). Tree report for 16 trees adjacent to Lot 1, DP 582794, 8 Khartoum Road, Macquarie Park, New South Wales.
- Hawkeswood, T.J. (2017). One *Eucalyptus pilularis* (Myrtaceae) tree at back yard of 2A Royston Parade, Asquith, NSW.
- Hawkeswood, T.J. (2017). SULE (Arborist) report for one *Eucalyptus citriodora* tree overhanging child centre at 17 Bandalong Ave, West Pymble, NSW.
- Hawkeswood, T.J. (2017). SULE (Arborist) report for 1 *Araucaria excelsa* (Araucariaceae) tree at 43 Tramway St, West Ryde, NSW.
- Hawkeswood, T.J. (2017). Certification for trees after construction of Lucas Garden School at 121 Queens Road, Five Dock, NSW.
- Hawkeswood, T.J. (2017). SULE (Arborist) report for four trees at 185 Carlingford Road, Carlingford, New South Wales.
- Hawkeswood, T.J. (2017). SULE (Arborist) report for 3 *Casuarina littoralis* (Casuarinaceae) trees in 22 Rain Ridge Road, Kurrajong Heights, NSW adjacent to the side fence of 20 Rain Ridge Road.
- Hawkeswood, T.J. (2019). Arboricultural Impact Statement for a *Magnolia* sp. (Magnoliaceae) tree within Lot 2, 53 Park Street, Glenbrook, New South Wales.
- Hawkeswood, T.J. (2019). Arborist Report for a *Corymbia citriodora* tree in the front yard of 40 Empire Avenue, Concord, New South Wales.

Hawkeswood, T.J. (2019). Arboricultural Impact Statement for a *Eucalyptus pilularis* tree within 56 Kent Road, North Ryde, New South Wales.

Hawkeswood, T.J. (2019). Arboricultural Impact Statement for 4 trees within 8 Addington Road, Ryde, New South Wales.

Hawkeswood, T.J. (2019). Arboricultural Impact Statement for two *Ficus hillii* trees invading 6 Cates Place, St Ives, New South Wales.

Hawkeswood, T.J. (2019). COMPLIANCE CERTIFICATION Concerning protection of trees at 101 Fiddens Wharf Road, Killara, NSW.

Hawkeswood, T.J. (2019). Arboricultural Impact Statement for a *Chamaecyparis* sp. (Cupressaceae) tree at the rear of 17 Jamberoo Avenue, Baulkham Hills, New South Wales.

Hawkeswood, T.J. (2019). Arboricultural Impact Statement for 19 trees at 4 Winnunga Road, Dural, New South Wales.

Hawkeswood, T.J. (2019). COMPLIANCE CERTIFICATION Concerning protection of 1 *Cedrus atlantica* (Pinaceae) tree at 41-45 Yattendon Crescent, Baulkham Hills, NSW (Figs. 1-2).

Hawkeswood, T.J. (2019). Arboricultural Impact Statement for 21 trees and several shrubs associated with 246 Malton Road, North Epping, New South Wales.

Hawkeswood, T.J. (2019). Arboricultural Impact Statement for one *Melaleuca quinquenervia* (Myrtaceae) tree and one *Cinnamomum camphora* (Lauraceae) associated with 42 Brenda Street, Ingleburn, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for one *Chamaecyparis lawsoniana* (Cupressaceae) tree in the front yard of 7 Falcon way, Glenwood, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for three trees at 32A Greystanes Road, Greystanes, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for four trees at 10 Cambridge Street, Gladesville, New South Wales.

Hawkeswood, T.J. (2018). Root investigation for a Council *Eucalyptus crebra* (Myrtaceae) tree at 2 Peeler Place, Milperra, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for 2 trees within/adjacent to 15B Hewitt Avenue, Wahroonga, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for 3 trees within/adjacent to 4 Daphne Street, West Ryde, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for trees within/adjacent 10 Renfrew Street, Guildford West, New South Wales.

Hawkeswood, T.J. (2018). Arborist Impact Statement report for four trees at 45 Tungarra Road, Girraween, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for removal of 5 *Eucalyptus microcorys* trees and pruning of 5 other *E. microcorys* trees at the Nepean Christian School, 836 Mulgoa Road, Mulgoa, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for 2 trees within 10 Shipway Street, Marsfield, New South Wales.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for 12 Francis Street, Epping, New South Wales.

Hawkeswood, T.J. (2018). Report on two conifer trees at 9 Gundimaine Avenue, Mosman Bay, NSW.

Hawkeswood, T.J. (2018). Arborist report on two trees of *Eucalyptus microcorys* (Myrtaceae) in the front yard of 8 Yale Close, North Rocks, NSW.

Hawkeswood, T.J. (2018). The roots of two large *Agonis flexuosa* (Myrtaceae) trees affect the concrete footpath and sandstone wall adjacent to and within the property of 13 Benelong Crescent, Bellevue Hill, NSW.



Hawkeswood, T.J. (2018). Removal of dangerous Liquidambar Tree (*Liquidambar styraciflua*, Hamamelidaceae) in the backyard of 31 Minnamurra Ave, Northbridge, NSW.

Hawkeswood, T.J. (2018). Arboricultural Impact Statement for various trees associated with 505-507 Rocky Road, Sans Souci, New South Wales.

Hawkeswood, T.J. (2018). SULE (Arborist) report for six trees at 9 Carob Street, Cherrybrook NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for one *Betula* sp. (Betulaceae) tree at 9 Carob Street, Cherrybrook NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for two trees in the backyard of 20 McMullen Avenue, Carlingford, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for 4 trees within the backyard of 20 Marcella Street, Bankstown, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for neighbouring trees and shrubs near 41 Annette Street, Oatley, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for two trees of *Eucalyptus microcorys* and *Eucalyptus maidenii* (Myrtaceae) in the backyard of 33 Adeline Street, Bass Hill, NSW.

Hawkeswood, T.J. (2018). Tree Management Plan for 168 Old Pitt Town Road, Box Hill, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for two *Eucalyptus* (Myrtaceae) trees at 12 Spring Road, Kellyville, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for one oak tree, *Quercus alba* (Fagaceae) adjacent to 46 Third Avenue, Campsie.

Hawkeswood, T.J. (2018). Arborist Report for 74 Coral Tree Drive, Carlingford, New South Wales.

Hawkeswood, T.J. (2018). Arborist report for three trees on or near the property of 26 Oakland Avenue, Baulkham Hills, NSW.

Hawkeswood, T.J. (2018). Protection of a *Quercus* sp. (Fagaceae) tree at 77 Cressy Road, East Ryde, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for one *Syzygium paniculatum* (Myrtaceae) tree at 9 Tamboon Ave, Turramurra, NSW.

Hawkeswood, T.J. (2018). Arborist report on one *Eucalyptus* sp. (Myrtaceae) within the subject property of 2 Carre Avenue, Canley Heights, NSW.

Hawkeswood, T.J. (2018). Inspection of trees growing on part of 20-22 Mason Road, Box Hill, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for two *Angophora costata* (Myrtaceae) trees in the backyard of 39 View Street, Chatswood, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for five *Eucalyptus crebra* (Myrtaceae) trees at Lot 31, DP 538931, Cedar Cutters Way, Kellyville, NSW.

Hawkeswood, T.J. (2018). SULE (Arborist) report for one *Melaleuca lineariifolia* (Myrtaceae) tree on council verge of 3 Robert Street, Ashfield, NSW.

Hawkeswood, T.J. (2017). Re: One *Angophora bakeri* (Myrtaceae) tree and 7 *Kunzea ambigua* (Myrtaceae) and one *Hakea sericea* (Proteaceae) at the end of Ross Place Kellyville, near 7 Ross Place, Kellyville NSW.

Hawkeswood, T.J. (2017). Arborist report on 2 trees within the property on the corner of Gould and Dobell Roads, Claymore, NSW.

Hawkeswood, T.J. (2017). Root mapping for one *Lophostemon confertus* (Myrtaceae) tree adjacent to a proposed development at 2 Helena Street, West Guildford, New South Wales.



Hawkeswood, T.J. (2017). SULE (Arborist) report for one *Eucalyptus resinifera* (Myrtaceae) tree at 48 Sandhurst Crescent, Glenhaven, New South Wales.

Hawkeswood, T.J. (2017). Arborist Report for 27 Hynds Road, Box Hill, New South Wales.

Hawkeswood, T.J. (2017). Arborist Report for property at Pioneer Drive, Oak Flats, New South Wales.

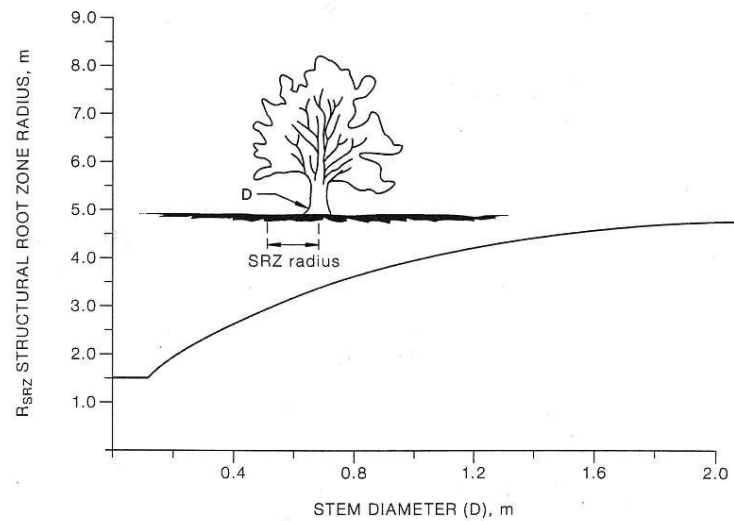
Hawkeswood, T.J. (2017). Three *Eucalyptus punctata* (Myrtaceae) trees at the end of Ross Place Kellyville, near 7 Ross Place, Kellyville NSW.

Appendix 1. Tree Significance Assessment Criteria (STARS assessment matrix)

Tree Significance - Assessment Criteria		
Low	Medium	High
<p>The tree is in fair-poor condition and good or low vigour.</p> <p>The tree has form atypical of the species</p> <p>The tree is not visible or is partly visible from the surrounding properties or obstructed by other vegetation or buildings</p> <p>The tree provides a minor contribution or has a negative impact on the visual character and amenity of the local area</p> <p>The tree is a young specimen which may or may not have reached dimensions to be protected by local Tree Preservation Orders or similar protection mechanisms and can easily be replaced with a suitable specimen</p> <p>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</p> <p>The tree is listed as exempt under the provisions of the local Council Tree Preservation Order or similar protection mechanisms</p> <p>The tree has a wound or defect that has the potential to become structurally unsound.</p> <p>The tree is an environmental pest species due to its invasiveness or poisonous/allergenic properties.</p> <p>The tree is a declared noxious weed by legislation</p>	<p>The tree is in fair to good condition</p> <p>The tree has form typical or atypical of the species</p> <p>The tree is a planted locally indigenous or a common species with its taxa commonly planted in the local area</p> <p>The tree is visible from surrounding properties, although not visually prominent as partially obstructed by other vegetation or buildings when viewed from the street</p> <p>The tree provides a fair contribution to the visual character and amenity of the local area</p> <p>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</p>	<p>The tree is in good condition and good vigour</p> <p>The tree has a form typical for the species</p> <p>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.</p> <p>The tree is listed as a heritage item, threatened species or part of an endangered ecological community or listed on councils significant tree register</p> <p>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.</p> <p>The tree supports social and cultural sentiments or spiritual associations, reflected by the broader population or community group or has commemorative values.</p> <p>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.</p>

Appendix 2. Useful Life Expectancy Assessment Criteria

CALCULATING STRUCTURAL ROOT ZONE



The curve can be expressed by the following formula:
 $R_{SRZ} = (D \times 50)^{0.42} \times 0.64$

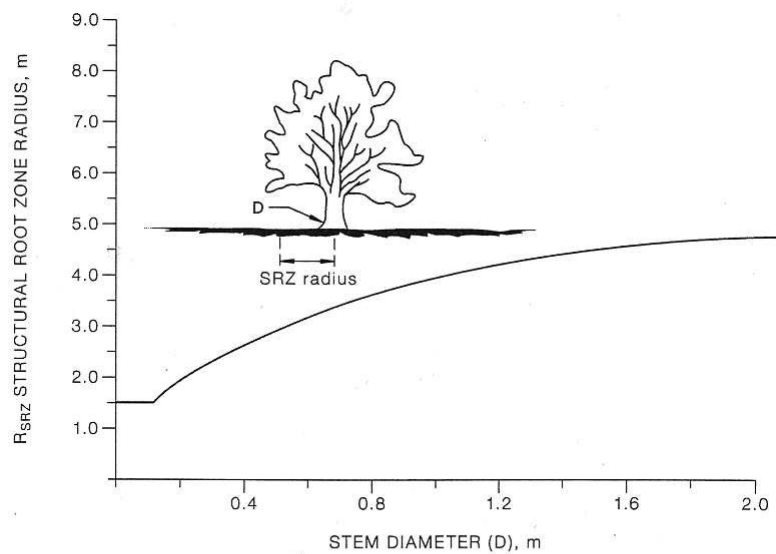
NOTES:

- 1 R_{SRZ} is the structural root zone radius.
- 2 D is the stem diameter measured immediately above root buttress.
- 3 The SRZ for trees less than 0.15 m diameter is 1.5 m.
- 4 The SRZ formula and graph do not apply to palms, other monocots, cycads and tree ferns.
- 5 This does not apply to trees with an asymmetrical root plate.

Useful Life Expectancy - Assessment Criteria			
Remove	Short	Medium	Long
<p>Trees with a high level of risk that would need removing within the next 5 years.</p> <p>Dead trees.</p> <p>Trees that should be removed within the next 5 years.</p> <p>Dying or suppressed or declining trees through disease or inhospitable conditions.</p> <p>Dangerous trees through instability or recent loss of adjacent trees.</p> <p>Dangerous trees through structural defects including cavities, decay, included bark, wounds or poor form.</p> <p>Damaged trees that considered unsafe to retain.</p> <p>Trees that could live for more than 5 years but may be removed to prevent interference with more suitable individuals or to provide space for new planting.</p> <p>Trees that will become dangerous after removal of other trees for the reasons.</p>	<p>Trees that appear to be retainable with an acceptable level of risk for 5-15 years.</p> <p>Trees that may only live between 5 and 15 more years.</p> <p>Trees that may live for more than 15 years but would be removed to allow the safe development of more suitable individuals.</p> <p>Trees that may live for more than 15 years but would be removed during the course of normal management for safety or nuisance reasons.</p> <p>Storm damaged or defective trees that require substantial remedial work to make safe, and are only suitable for retention in the short term.</p>	<p>Trees that appear to be retainable with an acceptable level of risk for 15-40 years.</p> <p>Trees that may only live between 15 and 40 more years.</p> <p>Trees that may live for more than 40 years but would be removed to allow the safe development of more suitable individuals.</p> <p>Trees that may live for more than 40 years but would be removed during the course of normal management for safety or nuisance reasons.</p> <p>Storm damaged or defective trees that require substantial remedial work to make safe, and are only suitable for retention in the short term.</p>	<p>Trees that appear to be retainable with an acceptable level of risk for more than 40 years.</p> <p>Structurally sound trees located in positions that can accommodate future growth.</p> <p>Storm damaged or defective trees that could be made suitable for retention in the long term by remedial tree surgery.</p> <p>Trees of special significance for historical, commemorative or rarity reasons that would warrant extraordinary efforts to secure their long-term retention.</p>

Appendix 3. Calculating SRZ (Structural Root Zones)
(from As 4970, Protection of trees on development sites.

CALCULATING STRUCTURAL ROOT ZONE

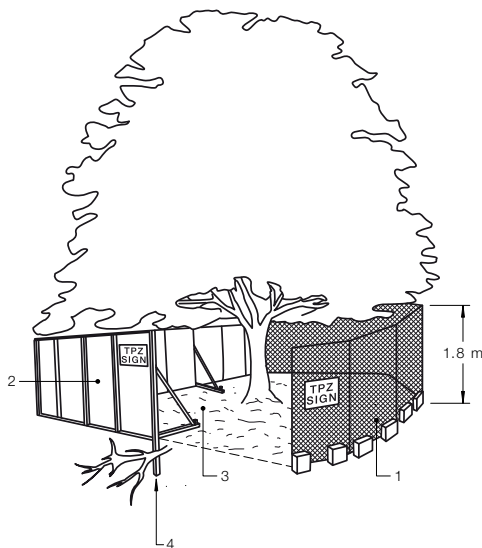


The curve can be expressed by the following formula:
 $R_{SRZ} = (D \times 50)^{0.42} \times 0.64$

NOTES:

- 1 R_{SRZ} is the structural root zone radius.
- 2 D is the stem diameter measured immediately above root buttress.
- 3 The SRZ for trees less than 0.15 m diameter is 1.5 m.
- 4 The SRZ formula and graph do not apply to palms, other monocots, cycads and tree ferns.
- 5 This does not apply to trees with an asymmetrical root plate.

Appendix. 4. Example of tree protection from AS 4970- 2008, Protection of trees on development sites



- LEGEND:
- 1 Chain wire mesh panels with shade cloth (if required) attached, held in place with concrete feet.
 - 2 Alternative plywood or wooden paling fence panels. This fencing material also prevents building materials or soil entering the TPZ.
 - 3 Mulch installation across surface of TPZ (at the discretion of the project arborist). No excavation, construction activity, grade changes, surface treatment or storage of materials of any kind is permitted within the TPZ.
 - 4 Bracing is permissible within the TPZ. Installation of supports should avoid damaging roots.

DRAFT REPORT NOT FOR SUBMISSION

TRAFFIX

TRAFFIC AND TRANSPORT PLANNERS

Suite 2.08, 50 Holt St
Sunny Hills, NSW 2010
PO Box 1124
Strawberry Hills NSW 2012

t: (02) 8324 8700
w: www.traffix.com.au
acn: 065132961
abn: 66065132961

Reference: 23.532r02v01

14 March 2024

CSKS Developments P/L
Suite 2305, Level 23, Tower 1
520 Oxford St
Bondi Junction, NSW 2022

Attention: Mr Christian Sanchez, Director

Re: **85-87 Birriga Road, Bellevue Hill**
Proposed Residential Flat Building Development (DA10/2024)
RFI Traffic Responses

Dear Christian,

We refer to the subject property and proposed residential flat building development located at 85-87 Birriga Road, Bellevue Hill. TRAFFIX has been forwarded comments from Woollahra Council as contained in the letter dated 29 January 2024. TRAFFIX has reviewed all relevant traffic comments and has responded to each item below.

Minimum dimensions of 2.4m x 5.4m, clear of any obstructions, shall be provided for each parking space. Note that a 300mm must be added to the width of the parking space for any side obstructions such as wall. These required dimensions and the design envelope around parked vehicles as per Figure 5.2 of AS2890.1 are to be clearly depicted on the revised architectural plans.

TRAFFIX Response

In accordance with AS2890.1 (2004), the twelve (12) parking spaces located within the stackers have minimum dimensions of 2.4m wide and 5.4m long. Additionally, a 300mm clearance has been provided from any obstructions.

Similarly, all four (4) parallel parking spaces have been designed in accordance with AS2890.1 (2004). The parallel parking spaces have been designed with a width of 2.4m, and a length of 6.2m long for spaces adjacent to an obstruction, and 5.9m for all other spaces.

In summary, the car parking spaces have been designed in accordance with AS 2890.1 (2004).

Pursuant to Clause 3.2.4 and Figure 3.3 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, shall be provided on both sides of the driveway exit. In this regard, any proposed structures (such as landscaping, retaining wall, front fence, and driveway gate etc) located within these splay areas shall be relocated/redesigned to prevent obstructions to visibility.



TRAFFIX Response

As per Figure 3.3 of AS 2890.1, the sight triangle along the entry side of the driveway is not required when the access is two-lane two way and is only required along the egressing path of the driveway.

The vehicular access provides the appropriate 2.0m x 2.5m metre pedestrian sight splays in accordance with Figure 3.3 of AS 2890.1-2004. Reference should be made to the updated architectural plans in **Attachment 1**.

In order to minimise the loss of on-street parking, a new 4.5 metres wide vehicular crossing shall be provided for the proposed development. The edge of the new crossing shall align with the eastern edge of the internal driveway at the property boundary. The layout of the new crossing shall be clearly depicted on the drawings.

TRAFFIX Response

A 4.5m vehicle crossing has been provided as per Council's comment. Reference should be made to the updated architectural plans in **Attachment 1**.

To cater for commonly used SUV with a height of approximately 2m, it is required that all levels of the car stackers must have a minimum headroom clearance of 2.1 metres with minimum length of 5.4 metres to comply with AS2890.1. Details including model and manufacturer's specification for the proposed car stacker system must be provided. These details must also be clearly depicted on the revised architectural drawings.

TRAFFIX Response

The development proposes 12 car parking spaces within six (6) car stacker systems. That is, each unit would be provided within an independent system with two (2) car parking spaces (top and bottom of a car stacker). It is noted that each car stacker will be provided with one space being able to accommodate an SUV (with a headroom clearance of 2.05 metres) and the other space to accommodate a standard passenger car (with a headroom clearance of 1.5 metres). This arrangement is considered supportable as a family household would generally contain a larger vehicle (being an SUV) and a smaller vehicle.

On the basis of the above, the proposed residential development in our view is considered supportable on transport planning grounds. We trust the above is of assistance and please contact the undersigned should you have any queries. In the event that any concerns remain, we request an opportunity to discuss these with Council officers prior to any determination being made.

Yours faithfully,

Traffix

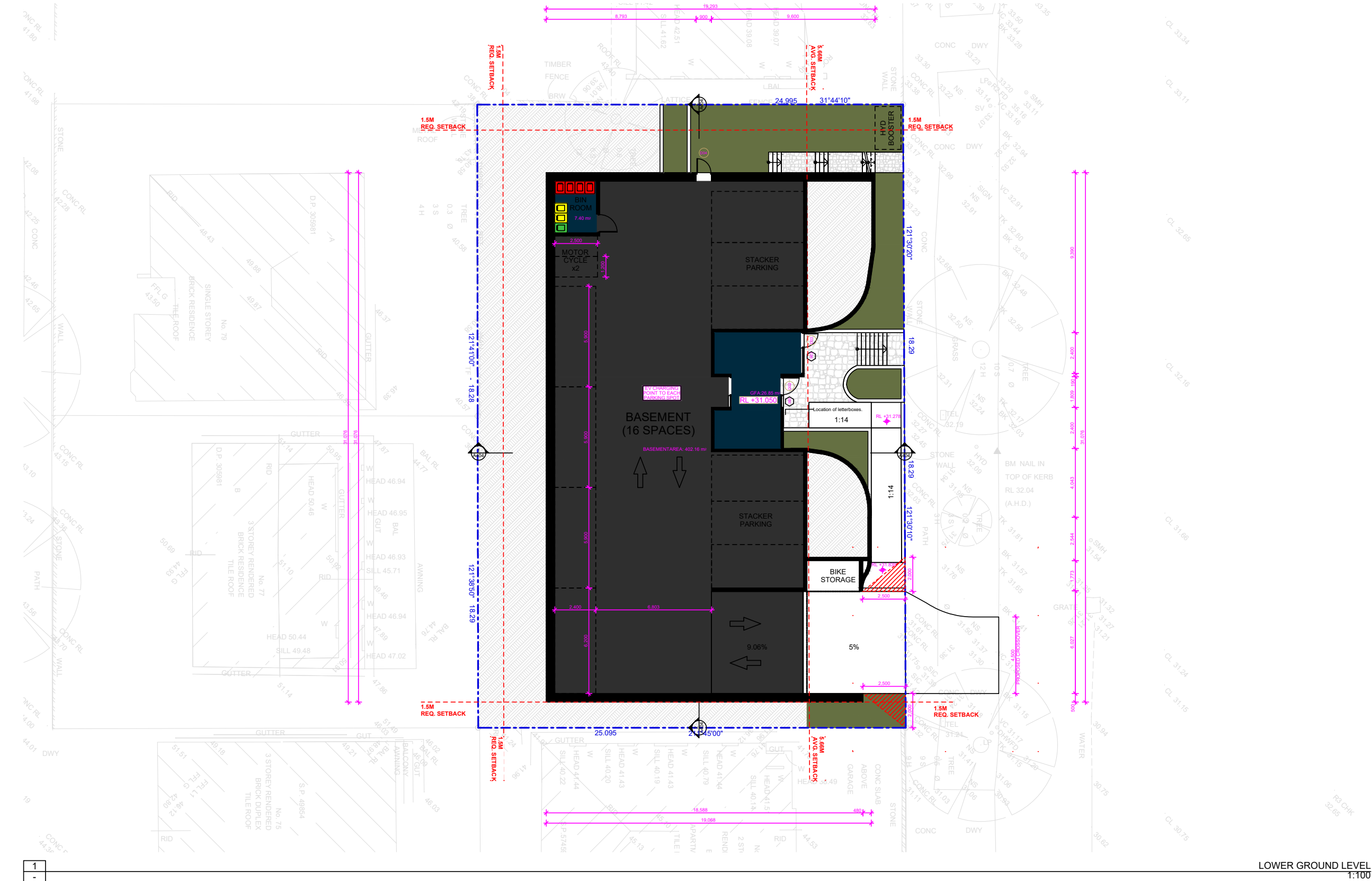
A handwritten signature in black ink, appearing to read 'Vince Doan', written over a horizontal line.

Vince Doan
Director

Encl. Attachment 1: Reduced Plans
Attachment 2: Car Stacker System Specification

ATTACHMENT 1

Reduced Plans



1
-

1. DRAWINGS NOT TO BE SCALED. WRITTEN DIMENSIONS TO BE USED ONLY. IF DISCREPANCIES EXIST CONTACT ARKHAUS.
2. ALL WORKS TO BE COMPLETED IN ACCORDANCE WITH THE NATIONAL CONSTRUCTION CODE, AUSTRALIAN STANDARDS AND RELEVANT BY LAWS.
3. BUILDER TO CHECK & VERIFY ALL DIMENSIONS & LEVELS PRIOR TO COMMENCEMENT OF WORK.
4. ALL PROPRIETARY ITEMS ARE TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURERS DETAILS AND SPECIFICATIONS.
5. STATUTORY AUTHORITY APPROVALS AND SPECIFICATIONS THAT FORM PART OF CONSTRUCTION METHODS ARE TO BE ADHERED TO.
6. THESE DRAWINGS HAVE BEEN PREPARED BY ARKHAUS. THE DESIGN AND DETAILS CONTAINED ON THESE DRAWINGS ARE SUPPLIED IN CONFIDENCE. ALL DRAWINGS ARE SUBJECT TO COPYRIGHT LAWS. DRAWINGS ARE NOT TO BE USED OR REPLICATED FOR ANY PURPOSE UNLESS WRITTEN AUTHORISATION HAS BEEN GRANTED BY ARKHAUS.

ARKHAUS

(02) 9697 9554 hello@arkhaus.com.au www.arkhaus.com.au
Suite 4.03/ 77 Dunning Avenue, Rosebery NSW 2018

Issue Amendment
A DEVELOPMENT APPLICATION
B RFI RESPONSE

Date Dwn Chk
15/12/2023
27/02/2024

PROJECT: RESIDENTIAL FLAT BUILDING
ADDRESS: LOT C & D D.P 305981
85-87 Birriga Road, Bellevue Hill

DRAWING: #Layout Name	Date: 15/12/2023 27/02/2023	Drawn: EN	Job No: 2315	Drawing No: #LayID	Project North:
Nominated Architect: Evan Nguyen	NSWARB No: 11381 ARBV No: 800152	Scale: As shown @ A1	No. of sheets: #LayNo of 46	Amendment: #RevID	

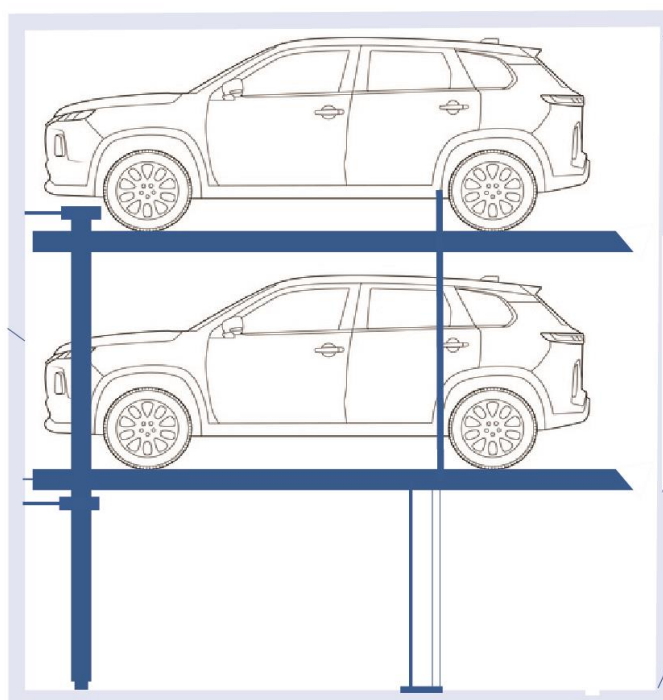
ATTACHMENT 2

Car Stacker System Specification



EPS 204

Independent parking system



OVERVIEW

- EPS204 in-ground 2 level (pit design) car stacker
- Double your parking spaces
- Car parking system for independent parking of two passenger vehicles on top of each other
- Single system – Holds 2 vehicles
- Double system – Holds 4 vehicles



carstackers.com.au



1800 765 483



info@polite.com.au



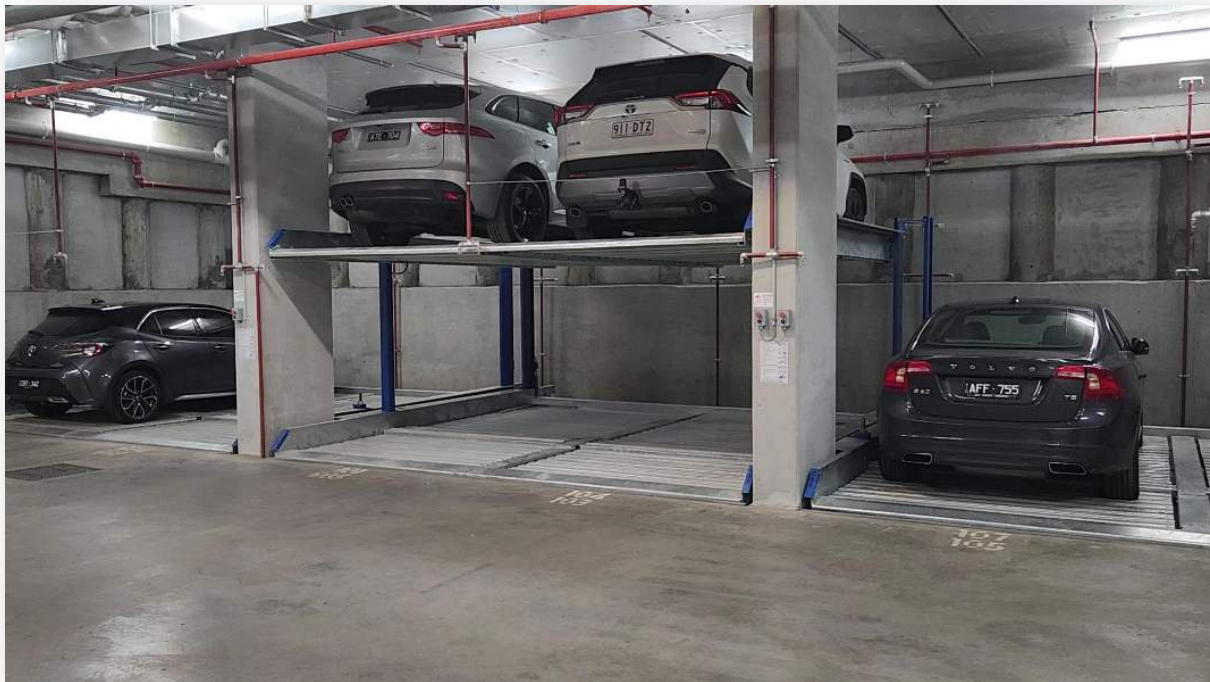
ABOUT

GENERAL DESCRIPTION

- EPS204 in ground 2 level (pit design) car stackers.
- Horizontally accessible level platforms
- Single (2 cars) and Double System (4 Cars)
- Standard load capacity 2000kg per parking space, optional max to 2600kg.

APPLICATION

- Multi-residential developments
- Townhouse developments
- Mixed use developments



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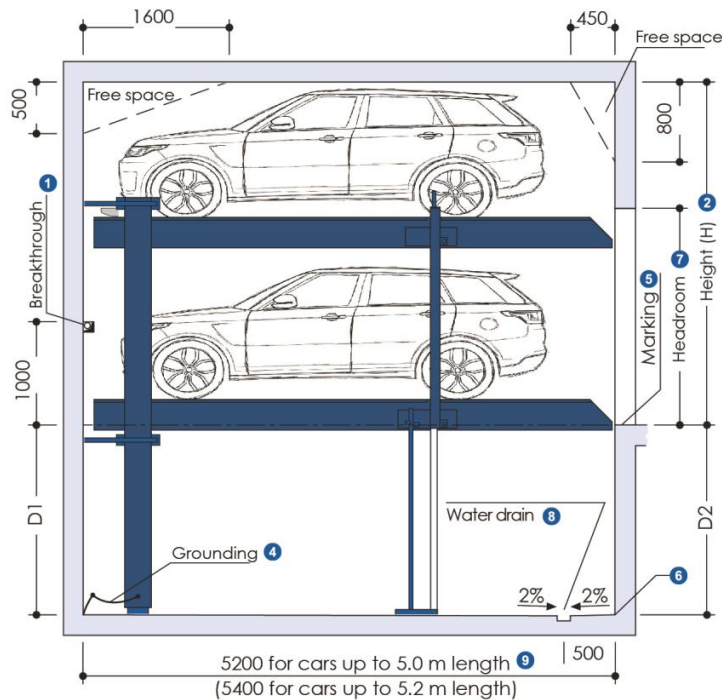


info@polite.com.au



KEY DIMENSIONS

Garage without door



All measurements are in mm

REQUIREMENTS

Specification:

Car heights - 1500-2100mm
Car length - 5000-5200mm
Capacity - 2000kg per space
(Optional increase to 2600kg EB/DS
EPS 204P)

Usable Platform Width:

EB – 2300 - 3000mm
DB – 4600 - 5400mm

Concrete Requirement:

Minimum 18, C25, floor evenness
acc. to DIN 18202 tab. 3, line 3.

Drainage:

100 x 100 with collecting pit
500 x 500 x 200. Inclination has to be
a minimum of 2%

Dimensions: All space requirements are minimum finished dimensions. Tolerances for space requirements.

Suitable for: Standard passenger car and station wagon. Height and length according to contour.

MODEL	H	D1	D2
EPS204 175	3,300	1,700	1,750
EPS204 190	3,450	1,850	1,900
EPS204 200	3,550	1,950	2,000
EPS204 210	3,650	2,050	2,100
EPS204 220	3,750	2,150	2,200
EPS204 225	3,800	2,200	2,250

All measurements are in mm

MODEL	H	CAR HEIGHT	
		UPPER	LOWER
EPS204 175	3,300	1,500	1,550
EPS204 190	3,450	1,500	1,700
EPS204 200	3,550	1,500	1,800
EPS204 210	3,650	1,500	1,900
EPS204 220	3,750	1,500	2,000
EPS204 225	3,800	1,500	2,050



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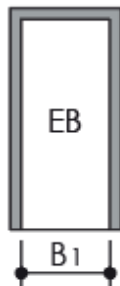
info@polite.com.au



WIDTH DIMENSIONS – For garage without door

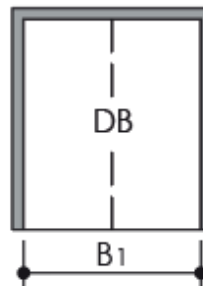
Dividing walls

Single Platform (EB)



USABLE PLATFORM WIDTH	B1
2,300	2,600
2,400	2,700
2,500	2,800
2,600	2,900
2,700	3,000

Double Platform (DB)



USABLE PLATFORM WIDTH	B1
4,600	4,900
4,700	5,000
4,800	5,100
4,900	5,200
5,000	5,300
5,100	5,400
5,200	5,500
5,300	5,600
5,400	5,700

Single and double platform (EB + DB) - Example



USABLE PLATFORM WIDTH	B1
2,300 + 4,600	7,500
2,400 + 4,700	7,700
2,500 + 4,800	7,900
2,500 + 5,000	8,100
2,700 + 5,000	8,300
2,700 + 5,100	8,400
2,700 + 5,200	8,500
2,700 + 5,300	8,600
2,700 + 5,400	8,700

All measurements are in mm



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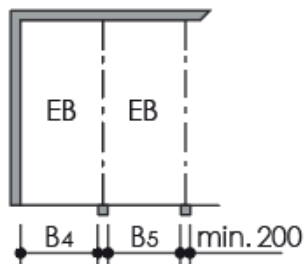
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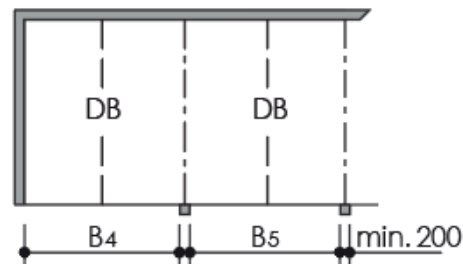
WIDTH DIMENSIONS – For garage without door

Columns in pit

Single Platform (EB)



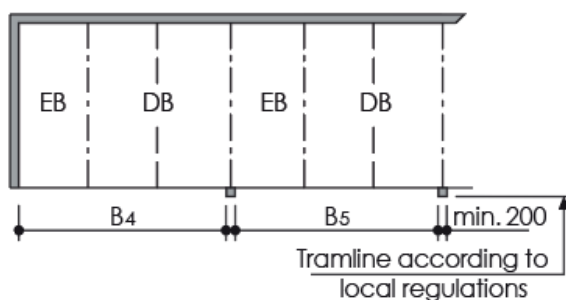
Double Platform (DB)



USABLE PLATFORM WIDTH	B4	B5
2,300	2,500	2,400
2,400	2,600	2,500
2,500	2,700	2,600
2,600	2,800	2,700
2,700	2,900	2,800

USABLE PLATFORM WIDTH	B4	B5
4,600	4,800	4,700
4,700	4,900	4,800
4,800	5,000	4,900
4,900	5,100	5,000
5,000	5,200	5,100
5,100	5,300	5,200
5,200	5,400	5,300
5,300	5,500	5,400
5,400	5,600	5,500

Single and double platform (EB + DB) - Example



USABLE PLATFORM WIDTH	B4	B5
2,300 + 4,600	7,400	7,300
2,400 + 4,700	7,600	7,500
2,500 + 4,800	7,800	7,700
2,500 + 5,000	8,000	7,900
2,700 + 5,000	8,200	8,100
2,700 + 5,100	8,300	8,200
2,700 + 5,200	8,400	8,300
2,700 + 5,300	8,500	8,400
2,700 + 5,400	8,600	8,500

All measurements are in mm



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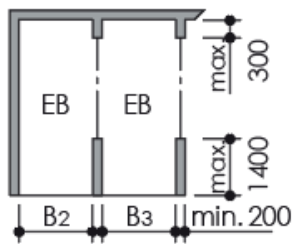
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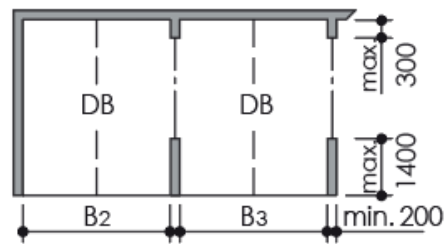
WIDTH DIMENSIONS – For garage without door

Columns outside pit

Single Platform (EB)



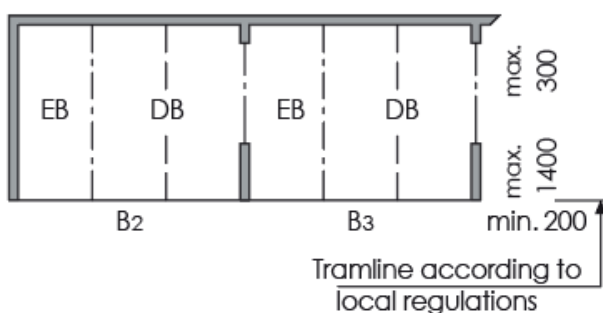
Double Platform (DB)



USABLE PLATFORM WIDTH	B2	B3
2,300	2,550	2,500
2,400	2,650	2,600
2,500	2,750	2,700
2,600	2,850	2,800
2,700	2,950	2,900

USABLE PLATFORM WIDTH	B2	B3
4,600	4,850	4,750
4,700	4,950	4,850
4,800	5,050	4,950
4,900	5,150	5,050
5,000	5,250	5,150
5,100	5,350	5,250
5,200	5,450	5,350
5,300	5,550	5,450
5,400	5,650	5,550

Single and double platform (EB + DB) - Example



USABLE PLATFORM WIDTH	B1	B3
2,300 + 4,600	7,450	7,350
2,400 + 4,700	7,650	7,550
2,500 + 4,800	7,850	7,750
2,500 + 5,000	8,050	7,950
2,700 + 5,000	8,250	8,150
2,700 + 5,100	8,350	8,250
2,700 + 5,200	8,450	8,350
2,700 + 5,300	8,550	8,450
2,700 + 5,400	8,650	8,550

All measurements are in mm



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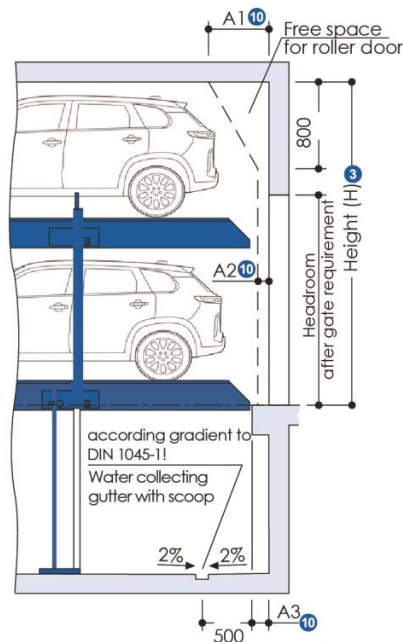


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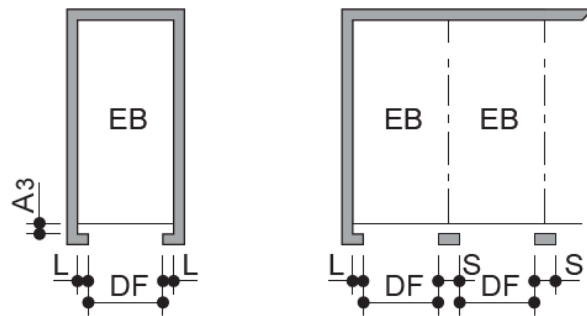


WIDTH DIMENSIONS – For garage with door in front

Garage with door in front of the parking system

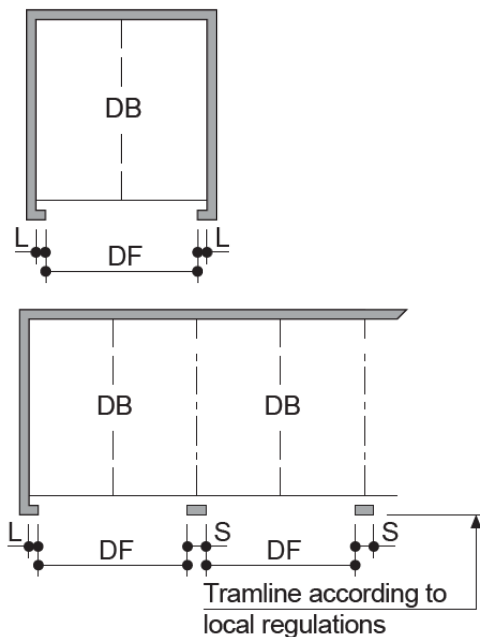


Single Platform (EB)



USABLE PLATFORM WIDTH	DOOR ENTRANCE WIDTH DF	L	S
2,300	2,300	150	300
2,400	2,400	150	300
2,500	2,500	150	300
2,600	2,600	150	300
2,700	2,700	150	300

Double Platform (DB)



USABLE PLATFORM WIDTH	DOOR ENTRANCE WIDTH DF	L	S
4,600	4,600	150	300
4,700	4,700	150	300
4,800	4,800	150	300
4,900	4,900	150	300
5,000	5,000	150	300
5,100	5,100	150	300
5,200	5,200	150	300
5,300	5,300	150	300
5,400	5,400	150	300

Dimensions A1, A2 and A3 must be coordinated with the door supplier. All round door dimensions require coordination between Car Stackers International and door supplier.

All measurements are in mm



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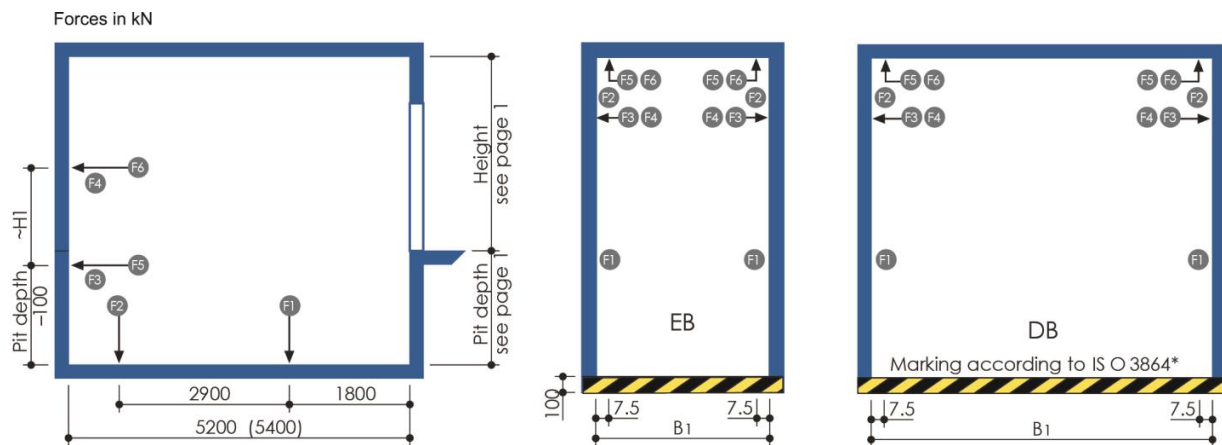
Load Forces

Approach



The illustrated maximum approach angles must not be exceeded. Incorrect approach angles will cause serious maneuvering and positioning problems on the parking system for which Car Stackers International accepts no responsibility.

Load Plan



Platform load	F1	F2	F3	F4	F5	F6
EB 2000 kg	+28 -1.5	+12	±1	±0.8	±1.1	±1
EB 2600 kg	+36 -1.9	+15	±1.3	±1	±1.4	±1.4
EB 3000 kg	+42 -2.1	+17	±1.5	±1.2	±1.6	±1.6
DB 2000 kg	+51 -5.8	+20	±1.6	±2.6	±2	±2
DB 2600 kg	+67 -7.4	+26	±2.1	±3.4	±2.6	±2.6

Type	H1
EPS 204P-170	200
EPS 204P-185	215
EPS 204P-195	225
EPS 204P-205	235
EPS 204P-215	245
EPS 204P-220	250



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Technical Information

Evolution Parking System consisting of:

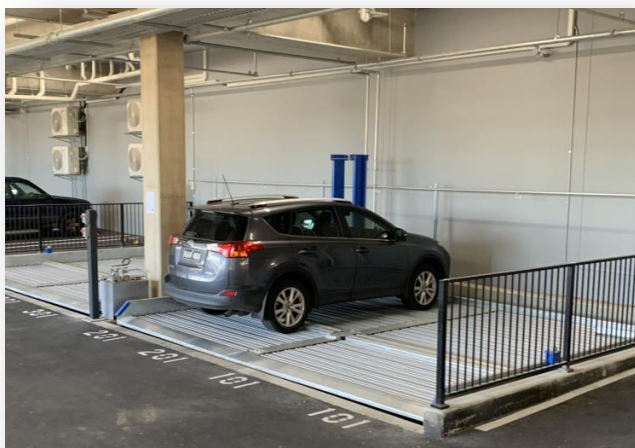
- 2 Pillars with foundation rails (fixed to the floor)
- 2 Sliding pieces (with sliding guides attached to the pillars)
- 2 Platforms
- 1 mechanical synchronization system (for the synchronous operation of the hydraulic cylinders during lifting and lowering)
- 2 Hydraulic cylinders
- 2 rigid supports (connection of the platforms)
- 1 automatic hydraulic breakage protection (prevents involuntary lowering when driving on)
- Dowels, screws, fasteners, bolts etc.

Platform consisting of:

- Platform profiles
- Adjustable positioning aids
- Bevelled bumpers
- Lateral beams
- Bearing centre [DB only]
- Brackets
- Screws, nuts, spacer tubes, etc.

Hydraulics consisting of:

- Hydraulic cylinder
- Magnetic valve
- Line break security
- Hydraulic lines
- Fittings
- High pressure hoses
- Mounting material



Electrics consisting of:

- Control element (EMERGENCY STOP, lock, 1 key with the same key per parking space)
- Sub-distribution
- Control cabinet

Hydraulic unit consisting of:

- Hydraulic unit (low noise, mounted on bracket)
- Hydraulic oil tank
- Oil filling
- Internal gear pump
- Pump support
- Coupling
- Three-phase motor (3.0 kW/5.2 kW/400 V, 50 Hz)
- Pressure gauge
- Pressure relief valve
- Hydraulic hoses (to dampen noise transmission on hydraulic pipes)



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MAINTENANCE

SERVICE & MAINTENANCE

Regular service and maintenance is recommended on your machine. Car Stackers Service Division offer periodical service and maintenance agreements.



IMPORTANT NOTES

Supply line to main switch

The supply line to the main switch and the control line to the unit must be made by the customer during installation. The functionality can be checked by our technicians on site together with the electrician. If this is not possible during assembly for reasons attributable to the customer, an electrician must be commissioned by the customer. The steel construction is to be provided on site with foundation earthing connection (grounding distance max 10 m) and potential equalization according to DIN EN 60204.

EG-Machinery directive

Our parking systems comply with the EG-Machinery directive and are CE certified according to DIN EN 14010:2003 and meet AS5124:2017 Safety of machinery - Equipment for power driven parking of motor vehicles - Safety and EMC requirements for design, manufacturing, erection and commissioning stages (EN 14010:2003, MOD)

Balustrade / Barriers

Possibly required barriers according to DIN 294 for securing the parking pits in traffic lanes directly in front of, beside or behind the facilities. This also applies during the construction phase. Railings on the systems, if required, are included optional!

Building Service Requirements

Lighting, ventilation, fire extinguishing and fire alarm systems.

Ramps' inclination:

In the front of the pit, we recommend to plan a water collecting gutter and to connect it to a ground drain or a pit (500 x 500 x 200 mm). In the canal, a lateral slope is possible, but not in the remaining area of the pit (the gradient in the longitudinal direction is due to the dimensions). In the interest of environmental protection, a painting of the bottom of the pit should be made. Oil or gas separators are recommended for connection to the sewer system.



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Project Number: HN001092-B



DEMOLITION REPORT – 85-87 BIRRIGA ROAD, BELLEVUE HILL

FINAL 15 / 03 / 2024

REPORT TO: ARKHAUS
ioannis@arkhaus.com.au

REPORT BY HERITAGE NOW PTY LTD
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(02) 8318 9770
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Anna Sides

Executive Summary

Heritage Now Pty Ltd was engaged by Arkhaus to provide a Demolition Report for a Development Application addressing proposed works at 85 and 87 Birriga Road, Bellevue Hill. The Project Area is within the Woollahra Local Government Area (LGA).

While the properties are part of the historical development of the area, being part of the first developments on the allotments from 1924-1925, they are not important historically as individual items. The properties have aesthetic appeal for Birriga Road, due to their landscaped front gardens and rusticated sandstone block front fences. The residence at 85 Birriga Road displays the original Inter-War California Bungalow appearance, which was a popular residential design in Sydney during the period c.1915-1940. However, neither of the buildings are rare or representative examples of the type. The residence at 87 Birriga Road has been the home of a person of at least local significance for the past c.25 years. While Tim McFarlane is renowned and celebrated in the world of theatre management and production, 87 Birriga Road does not individually or directly contribute to those achievements. There is limited historical research for the properties relating to current and former residents considering the almost one hundred years of use. However, it is this report, the accompanying photographic record, and original plans held by Woollahra Council, that will contribute to our understanding of the cultural history of the properties and for Bellevue Hill and the Woollahra LGA.

Overall, the Project Area does not meet the criteria to be of local or state significance, and there are no proposed impacts to heritage items by the current proposal. As the residences will be demolished and the properties excavated and redeveloped for apartments with basement level car parking, there is no opportunity to retain elements of the landscaping or fencing on-site, but these elements of Inter-War California Bungalow period design could be reused by the developer and/or Woollahra Council within the LGA. The following heritage management measures are recommended:

Recommendation 1

This report and the accompanying photographs, taken in both RAW and Jpeg formats in line with Heritage NSW guidelines for archival photographic recordings, should be kept by Woollahra Council with the building files for BA24-456 (which contains the original 1924 building application for both properties). This report and its photographs will be a useful addition to the Woollahra Local Studies collection and should be provided to that archive.

Recommendation 2

An arborist, tree surgeon or arboriculturist should inspect the plants and provide advice regarding removal and replanting of the mature palm tree from 85 Birriga Road, and the cycad, Japanese maple and palms and plants from the front garden of 87 Birriga Road.

Recommendation 3

The rusticated sandstone blocks forming the posts along the front fence to both properties, and original elements from 85 Birriga Road such as period lights, the timber mantelpiece, the glazed timber lounge door, timber casement windows and the external sandstone staircase balustrade should be carefully removed for reuse.





Jenna Weston

Acronyms, Terms and Definitions

Acronym/Term	Definition
AM	Member of the Order of Australia
BOOS	Bondi Ocean Outfall Sewer
CBD	Central Business District
DA	Development Application
DCP	Development Control Plan
DCS	NSW Department of Customer Service
DP	Deposited Plan
EP&A Act	Environmental Planning and Assessment Act
HCA	Heritage Conservation Area
HLRV	Historic Land Records Viewer
LEP	Local Environmental Plan
LGA	Local Government Area
NSW	New South Wales
PA	Project Area
SHR	State Heritage Register
SCP	Spatial Collaboration Portal. Government platform for delivery of NSW spatial datasets provided by DCS Spatial Services.

Version Control

Version	Revision Description	Reviewed by	Date	Approved by	Date Approved
Draft for client	1	Jenna Weston, Heritage Now Senior Heritage Consultant	12/03/2024	Tessa Boer-Mah, Heritage Now Principal Heritage Consultant	14/03/2024
Final for client	2	Jenna Weston, Heritage Now Senior Heritage Consultant	15/03/2024	Tessa Boer-Mah, Heritage Now Principal Heritage Consultant	15/03/2024





Anna Selva

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Gemma Selles

1 Introduction

Heritage Now Pty Ltd (Heritage Now) was engaged by Arkhaus to provide a Demolition Report for a Development Application addressing proposed works at 85 and 87 Birriga Road, Bellevue Hill.

This report includes an historical overview, analysis of the existing buildings and their setting, a fabric analysis for both residences, an assessment of their significance and photographs and marked-up plans for the photographic recording.

1.1 Project Area

The Project Area is located at 85 and 87 Birriga Road, Bellevue Hill (Lot C and D, DP305981) (Figure 1). It is approximately 6km south-east of Sydney CBD in the Woollahra Local Government Area (LGA) (Figure 2). The Project Area is approximately 890m² in size. It is bounded by Birriga Road in the north-east, and residential properties in the south-east, south-west, and north-west. Each property contains a high-set residential building, with a detached garage at street level.

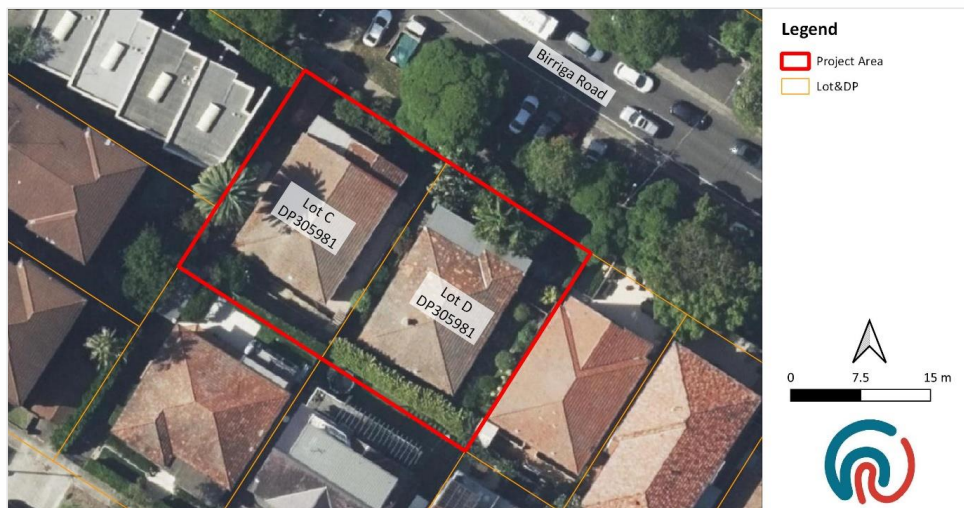


Figure 1. Project Area. (Source: SCP with Heritage Now additions)



Anna Selles

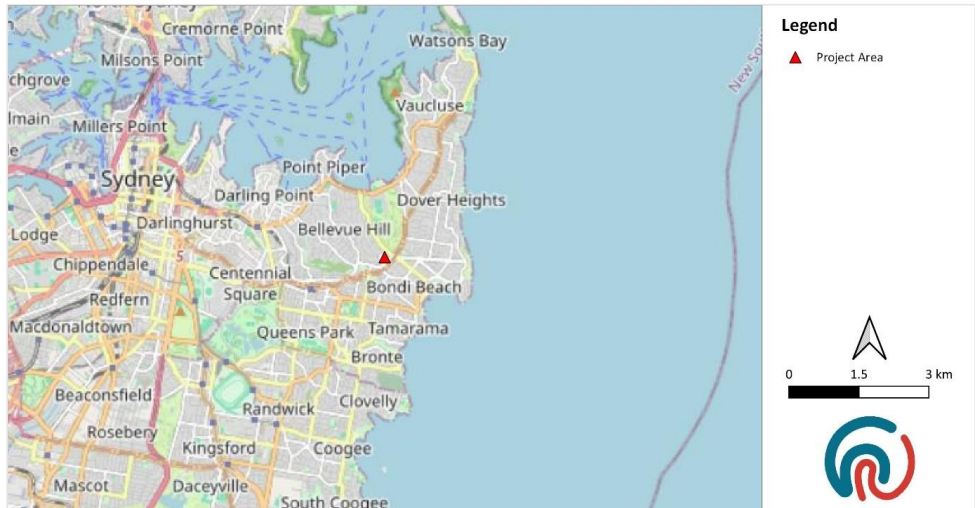


Figure 2. The Project Area in a regional context. (Source: Google Open Street Maps with Heritage Now additions)

1.2 Overview of Project Proposal

The proposed residential development is the construction of a new four-storey residential flat building containing 8 units, basement parking (to a depth of approximately 0.5m below the current level of Birriga Road), a roof-top terrace and associated landscaping. This work will involve clearance of the Project Area (demolition of the extant buildings and removal of associated foundations, as well as clearance of vegetation) followed by cut and fill to prepare the Project Area for new construction. In addition to the construction of the proposed new building, the project will also require the installation of below and above ground services including water and sewer, telecommunications and electricity.



Gina Scheer

1.3 Methodology

This document was prepared in accordance with the relevant Heritage NSW guidelines, including, but not limited to:

- Assessing Heritage Significance¹
- Statements of Heritage Impact²

This Demolition Report follows Woollahra Council requirements³, which includes the following:

- Historical overview
- Assessment of significance
- Description of the existing buildings and their settings, including photographs
- Report conclusion and recommendations

1.4 Authorship

This report was produced by the Heritage Now team. The report was written by Gina Scheer (Heritage Consultant), Tiffany Jones (Heritage Consultant), and Kira Paznikov (Heritage Officer), with input from Jacqueline Chua (Heritage Officer). Technical input and quality review was provided by Jenna Weston (Senior Heritage Consultant) and Tessa Boer-Mah, Principal Heritage Consultant at Heritage Now. Unless otherwise specified, photographs were taken by Gina Scheer during the site inspection on 21 February 2024.

Heritage Now Pty Ltd retains the copyright of this report.

¹ Heritage Office NSW, *Assessing Heritage Significance* (Sydney, NSW: Office of Environment and Heritage, 2015).

² Heritage Office NSW (now Heritage NSW), *Statements of Heritage Impact* (Sydney, NSW: Heritage Office NSW, 2002).

³ Woollahra Council, Demolition Report, accessed at <https://www.woollahra.nsw.gov.au/files/assets/public/v/2/plans-policies-publications/da-guide-attachment-3-demolition-report.pdf>



Gina Sella

2 Historic Context

This section provides the foundation for understanding the history of the region, as well as the Project Area.

2.1 Development of Bellevue Hill

The traditional custodians of Bellevue Hill are the Gadigal (Cadigal) people.⁴ Aboriginal people had lived in the area for thousands of years when Europeans colonised Sydney, or Cadi, as it was known to the local Aboriginal people. The arrival of the First Fleet in 1788 led to mass clearing and impact on traditional lands and resources, including the introduction of foreign diseases that devastated Aboriginal populations. Those who survived were driven westward away from their traditional lands. Evidence of the occupation of Aboriginal people in the region includes rock art, shell middens and thousands of backed stone blades unearthed from the local beaches. It was an Aboriginal path observed by settlers leading from Botany Bay to Bondi that would become the first road east of Sydney Town - South Head Road.⁵

South Head was the location of meetings between Aboriginal groups and European settlers, with a signal station being installed at Signal Hill in 1790.⁶ Originally known as Vinegar Hill after the Battle of Vinegar Hill in Ireland, Governor Macquarie named the area Belle Vue after the beautiful view from Bellevue Park.⁷

Bellevue Hill was part of Daniel Cooper's estate. Daniel Cooper was born in Lancashire, England and arrived in the colony following a conviction for stealing. Upon his absolute pardon in 1821, Cooper became involved in several business opportunities, and his occupations ranged from banker to landowner, publican, general merchant, shipowner and whaler. Most notably, he established the Australian Brewery, and was a partner in the firms Waterloo Co. and Cooper & Levey.⁸

Following Daniel Cooper's death in Brighton, England in 1853, much of his estate was inherited by his nephew who shared the same name, and later became Sir Daniel Cooper.⁹ Sir Daniel Cooper arrived in Sydney in 1843 and was a director of the Sydney Railway Co. and Bank of New South Wales. Cooper built Woollahra House at Point Piper, and was an elected member in the Legislative Council, in addition to being elected to the Senate of the University of Sydney. Sir Daniel Cooper was knighted in 1857, and died in Kensington, London in 1902.¹⁰

⁴ The Dictionary of Sydney, "Bellevue Hill," accessed February 17, 2024, https://dictionaryofsydney.org/entry/bellevue_hill.

⁵ Garry Wotherspoon, "The Road East," The Dictionary of Sydney, 2011, https://dictionaryofsydney.org/entry/the_road_east.

⁶ The Dictionary of Sydney, "Bellevue Hill."

⁷ The Dictionary of Sydney.

⁸ J. W. Davidson, "Cooper, Daniel (c. 1785–1853)," in *Australian Dictionary of Biography*, 18 vols. (Canberra: National Centre of Biography, Australian National University, 1966), <https://adb.anu.edu.au/biography/cooper-daniel-1919>.

⁹ Davidson.

¹⁰ A. W. Martin, "Cooper, Sir Daniel (1821–1902)," in *Australian Dictionary of Biography*, 18 vols. (Canberra: National Centre of Biography, Australian National University, 1969), <https://adb.anu.edu.au/biography/cooper-sir-daniel-3253>.



Gemma Selles

2.1.1 Point Piper Estate

Bellevue Hill was comprised mostly of land grants and estates, predominantly granted to emancipists. The largest grant was the Point Piper Estate of Captain John Piper.¹¹

The Point Piper Estate comprised 1,130 acres of land amassed from the year 1816 by the public servant and military officer John Piper. After experiencing financial difficulties, Piper's land was transferred to Daniel Cooper and Solomon Levey in 1826. Their title to the land was confirmed in 1830, and it became the sole property of Daniel Cooper in 1847.

In 1844 Cooper and Levey commissioned Surveyor General Sir Thomas Mitchell to prepare a trigonometrical survey of the Point Piper Estate that included its division into allotments. Mitchell's plan included survey lines for the major arterial roads – Edgecliff, Victoria and Bellevue.

Sales of the Point Piper Estate land at Bellevue Hill began in 1883 with six allotments offered between Victoria Road and Bellevue Road. From 1885, subdivisions of land at Bellevue Hill were progressively released, and from the first few years of the 20th century, landholders gradually took up land parcels along the eastern side of Victoria Road.

Point Piper Estate (also referred to as the Cooper Estate) at Bellevue Hill began to be released as the Bellevue Hill-Bondi Estate from 1912, with a second release in 1915. The remaining unsold portions were offered for sale in 1921. According to a record of sales at the Land Registry Services (see Vol. 2436 Fol. 211) dating from 1914 to 1927, the Bellevue Hill-Bondi Estate comprised in total an area of land 126 acres 16 perches and one acre 31 perches (approximately 52 hectares).

The development of Bellevue Hill was greatly aided by the tram line to Bondi Beach, which was extended in 1914. The North Bondi Tramline travelled down Edgecliff and Victoria Roads, then wound along Birriga Road in Bellevue Hill, before running down Curlewis Street in Bondi to join the Bondi Beach via Bondi Junction line along Campbell Parade to the North Bondi terminus. By the late 1920s, it is understood that there were approximately 29 shops in the vicinity of Victoria and Bellevue Roads.¹² Historic houses in the area dating from this period of time include Cranbrook House, Caerleon, Tralee and Rona.¹³

2.2 History of the Project Area

An early 19th century parish map of Alexandria shows the Project Area belonging to a parcel of land owned by Richard Partridge (Figure 3).¹⁴ Partridge arrived on the First Fleet and received a conditional pardon in 1794. In addition to receiving several land grants following his pardon, his occupations included gaoler, farmer and carter.¹⁵

¹¹ Hughes Trueman Ludlow, "Heritage Study for the Municipality of Woollahra: Vol. 1" (Council of the Municipality of Woollahra, 1984), 11.

¹² "Celebrating Bellevue Hill 2023: Local History," accessed February 17, 2024, <https://www.woollahra.nsw.gov.au/News/Celebrating-Bellevue-Hill-2023-local-history>.

¹³ The Dictionary of Sydney, "Bellevue Hill."

¹⁴ *Parish of Alexandria*, n.d., AO Map No. 185, n.d., <https://hlrv.nswlrs.com.au/>.

¹⁵ "Biography - Richard Partridge - People Australia," accessed February 19, 2024, <https://peopleaustralia.anu.edu.au/biography/partridge-richard-30929>.



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Figure 3. Detail of Parish of Alexandria, AO Map No. 185 with Project Area marked in red. (Source: HLRV Historical Parish Maps, 91a7899a-4574-4a18-862a-d0f01927f2a1)

Birriga Road, Bellevue Hill (Figure 4) was part of the release of the Point Piper Estate in the late 19th to early 20th centuries. The allotments of 85-87 Birriga Road were included in a land subdivision sale of the Bellevue Hill-Bondi Estate in 1912 (Figure 5, Figure 6). Four lots on Birriga Road were transferred to Henrietta Lawes in 1915 and re-subdivided in 1923 (Figure 7). In 1924, an application was approved for James Gerard Smith to build a house and garage on each of the properties, with the builder being Francis O'Carroll.



Figure 4. The construction of Birriga Road, looking towards Rose Bay, circa 1913. (Source: Woollahra Local History Collectionpf004648a)

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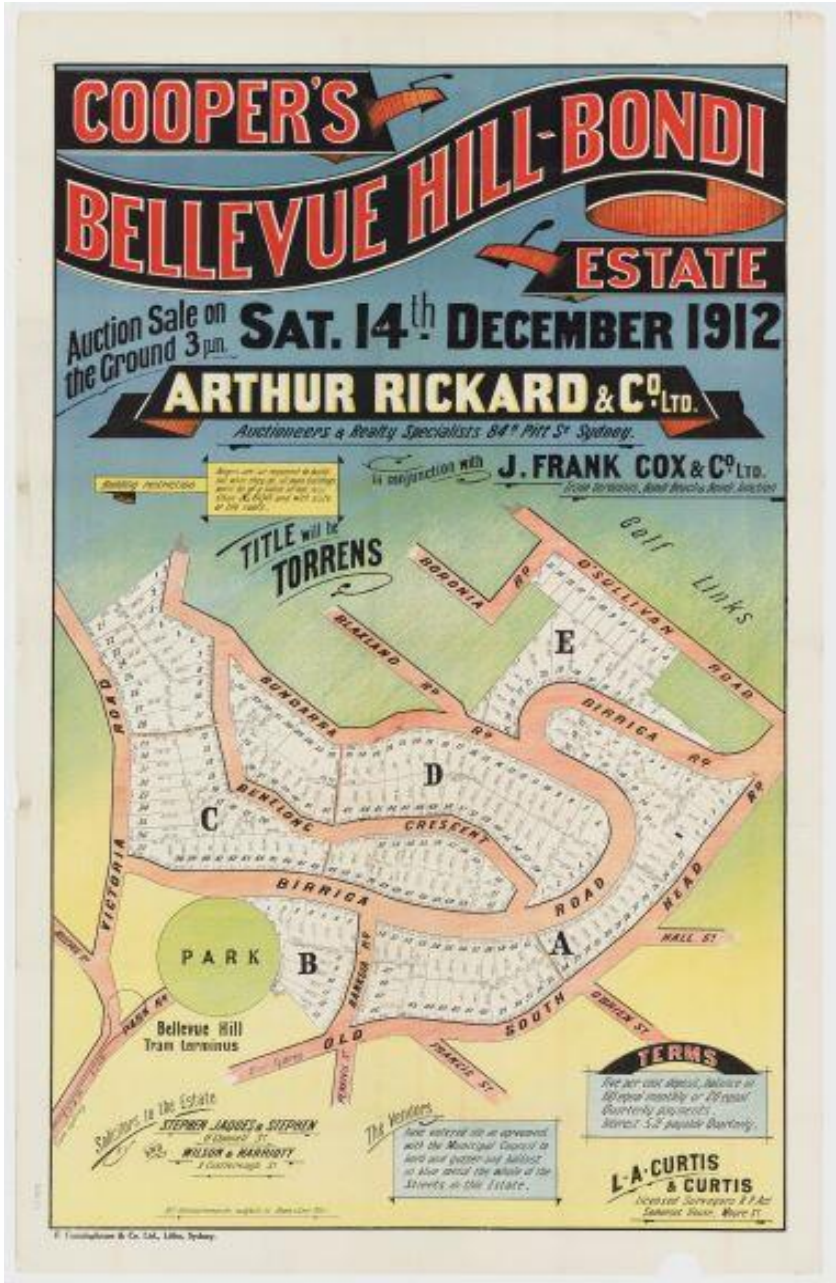


Figure 5. Cooper's Bellevue Hill-Bondi Estate, 1912. (Source: State Library of NSW, 74VvqVzZpEPd)



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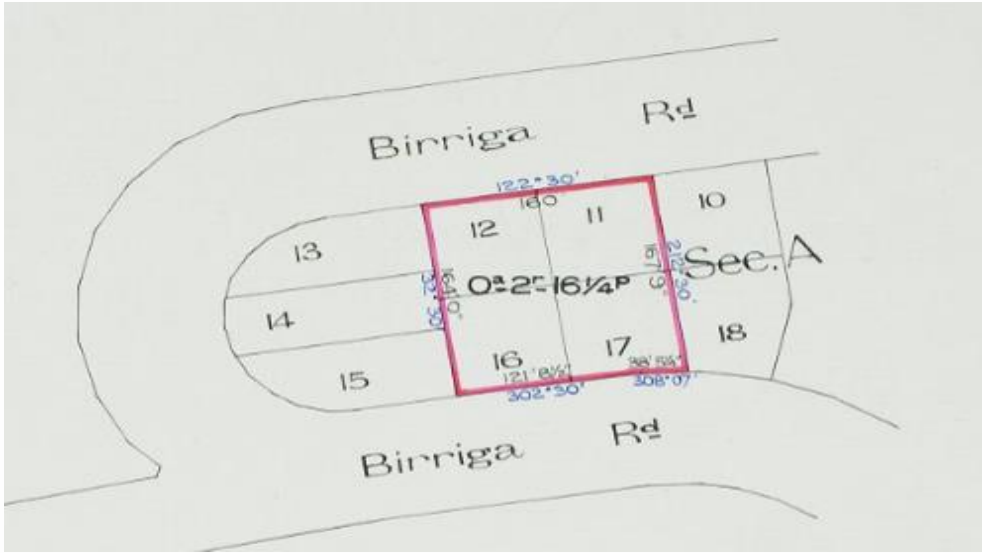


Figure 6. Detail of lots relevant to the Project Area, 1912. (Source: Certificate of Title, Vol. 2571 Fol.81)

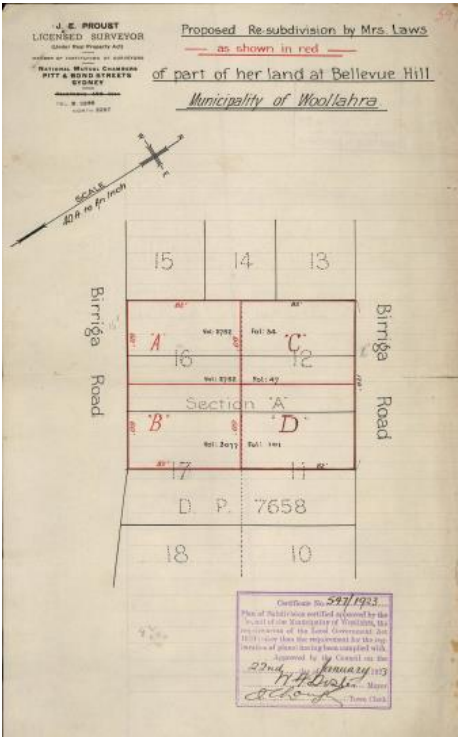


Figure 7. Plan of proposed re-subdivision by Mrs Lawes, 1923. (Source: Woollahra Council Digital Archive, wmc_subdivisions_1923_0547a)



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85 Birriga Road was known as 'La Morveh' according to Woollahra Council rate books from the 1930s.¹⁶ The Australian Jewish News published an advertisement for the auction of 85 Birriga Road on 22 February 1991 (Figure 8). Described as peaceful and private, the 3 bedroom residence is noted as being north-facing, with spacious indoor and outdoor areas.¹⁷

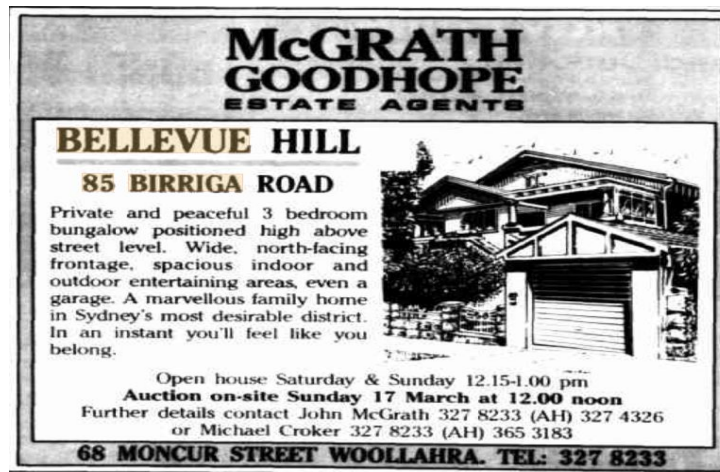


Figure 8. Advertisement for sale of 85 Birriga Road in 1991. (Source: The Australian Jewish News)

87 Birriga Road was recorded as being named 'Camworth' in Woollahra Council rate books.¹⁸ The sale of Camworth for £3200 was reported in The Sydney Morning Herald on 20 March 1926,¹⁹ with the residence being described as a "brick bungalow" by The Daily Telegraph in 1929.²⁰

The earliest available historical aerial image of the Project Area dates to 1943²¹ (Figure 9), which shows that the current houses are already present on small allotments. The Project Area remains relatively unchanged from this time to the present day, with only updated paving and landscaping undertaken in recent times.

¹⁶ Woollahra Digital Archive, "Woollahra Council Rate and Assessment Books 1860-1950," n.d., <https://lhc.woollahra.nsw.gov.au/?page=browse>.

¹⁷ "Advertising," *Australian Jewish News*, February 22, 1991, <http://nla.gov.au/nla.news-article261602035>.

¹⁸ Woollahra Digital Archive, "Woollahra Council Rate and Assessment Books 1860-1950."

¹⁹ "REAL ESTATE.," *Sydney Morning Herald*, March 20, 1926, <http://nla.gov.au/nla.news-article16264002>.

²⁰ "Advertising," *Daily Telegraph*, April 11, 1929, <http://nla.gov.au/nla.news-article246782587>.

²¹ "NSW Planning Portal Spatial Viewer," accessed February 17, 2024, <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>.



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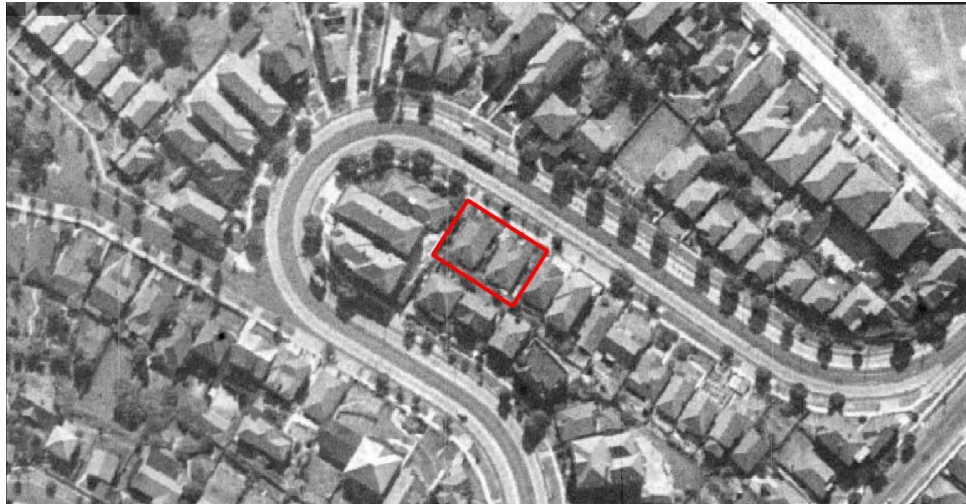


Figure 9. Aerial imagery of Birriga Road and the Project Area, 1943. (Source: NSW Government Historical Imagery)

2.2.1 Chain of Title for 85-87 Birriga Road, Bellevue Hill

Table 1. Chain of Title for the Project Area, 1830-1995.²²

Date	Description	Title Reference
Lots 11, 12, 16 and 17 of Section A, in Deposited Plan (DP) 7658		
19 February 1820	Grant to John Piper (190 acres)	Vol. 2436 Fol. 211
22 March 1830	Grant to Daniel Cooper and Solomon Levey (1130 acres)	Vol. 2436 Fol. 211
No date	Sale to Richard Partridge	
13 January 1914	Certificate of Title granted to Dame Harriett Cooper, Sir William Charles Cooper, Henry William Holland, Tom Raine and Percy Arundel Rabett (126 acres, 16 perches and one acre 31 perches (excluding one acre) PA18226	Vol. 2436 Fol. 211
19 January 1915	Transfer (A169225) to Henrietta Maria Lawes, widow, Lots 11, 12, 16 and 17 of Section A, in DP 7658	Vol. 2436 Fol. 211
30 April 1915	Certificate of Title granted to Henrietta Maria Lawes of Sydney, widow, of land containing two roods 16¼ perches being Lots 11, 12, 16 and 17 of Section A, in DP 7658	Vol. 2571 Fol. 81
87 Birriga Road "Camworth" (Lot D, part Lots 11 and 12)		
27 March 1923	Certificate of Title granted to Henrietta Maria Lawes of land being part of Lots 11 and 12, Section A, in DP 7658	Vol. 3435 Fol. 37

²² NSW Land Registry Services, "Historical Land Records Viewer," n.d., <https://hlrv.nswlrs.com.au/>.



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Date	Description	Title Reference
10 February 1925	Transfer from Henrietta Maria Lawes to Francis O'Carroll, of Bondi, builder	Vol. 3435 Fol. 37
24 February 1925	Transfer from Francis O'Carroll to James Gerard Smith of Darling Point, Gentleman	Vol. 3435 Fol. 37
9 April 1926	Transfer from James Gerard Smith to Josiah William Parkes of St Peters, Manufacturer, and Mona Elizabeth Parkes, his wife	Vol. 3435 Fol. 37
22 June 1929	Transfer from Josiah William Parkes and Mona Elizabeth Parkes to Johanna Catherine Kelly, wife of William Malachi Kelly of Orange, Agent	Vol. 3435 Fol. 37
12 October 1948	Registered proprietor Raymond Mark Kelly of Bellevue Hill, Taxi Cab Proprietor	Vol. 3435 Fol. 37
5 November 1955	Transfer from Raymond Mark Kelly to David Fromberg of Bellevue Hill, Company Director	Vol. 6743 Vol. 158
16 November 1958	Certificate of title granted to Raymond Mark Kelly of Bellevue Hill, Taxi Cab Proprietor of land containing 18 perches being part of Lots 11 and 12 of Section A in DP 7658	Vol. 6743 Vol. 158
7 June 1966	Registered proprietors Maksymilian Kanarek of Darling Point, Medical Practitioner and Miriam Seidler of Woollahra	Vol. 6743 Vol. 158
13 November 1979	Registered proprietors Maksymilian Kanarek of Darling Point, Medical Practitioner and Miriam Kanarek his wife	Vol. 6743 Vol. 158
11 October 1985	Registered proprietors Anthony Robert Graham and Juliana McDonald Graham	Vol. 6743 Vol. 158
13 March 1995	Registered proprietors Timothy James McFarlane and Carolyn Diana McFarlane	Vol. 6743 Vol. 158
85 Birriga Road "La Morveh" (Lot C; part Lot 12)		
13 March 1917	Transfer from Henrietta Maria Lawes to Charles Reginald D'Aroy Lawes, part Lot 12, Section A	Vol. 2571 Fol. 81, Vol. 2752 Fol. 34
13 March 1917	Transfer from Henrietta Maria Lawes to Clifford Rupert Oliver Lawes, part Lot 12, Section A	Vol. 2571 Fol. 81, Vol. 2752 Fol. 47
23 April 1917	Certificate of Title granted to Clifford Rupert Oliver Lawes of Bellevue Hill, Electrical Engineer of land containing 24 perches including part of Lot 12 of Section A in DP 7658	Vol. 2752 Fol.47
23 April 1917	Certificate of Title granted to Charles Reginald D'Aroy Lawes of Bellevue Hill,	Vol. 2752 Fol. 34



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Date	Description	Title Reference
	Electrical Engineer of land containing 24 perches including part of Lot 12 of Section A in DP 7658	
11 April 1919	Charles Reginald D'Aroy Lawes to Henrietta Maria Lawes of Sydney, widow	Vol. 2752 Fol. 34
27 March 1923	Certificate of Title granted to Henrietta Maria Lawes of land being part of Lot 12, Section A, in DP 7658	Vol. 3435 Fol. 36
22 December 1924	Henrietta Lawes transferred this land to Francis O'Carroll, builder of Bondi	Vol. 3435 Fol. 36
30 January 1925	Transfer from Francis O'Carroll to Albert Ernest Williams of Bondi, Estate Agent	Vol. 3435 Fol. 36
6 July 1925	Transfer from Albert Ernest Williams to Mabel Smythe wife of William John Smythe, of Burwood, automobile broker	Vol. 3435 Fol. 36
1 March 1929	Transfer from Mabel Smythe to Teresa Hackett, wife of William Hackett of Sydney, publican	Vol. 3435 Fol. 36
16 January 1937	Transfer from Teresa Hackett to Maurice Davis of Sydney, tailor	Vol. 3435 Fol. 36
14 May 1945	Transfer from Maurice Davis to Benzion Mohliver of Sydney, jeweller and Esther Mohliver his wife	Vol. 3435 Fol. 36
16 September 1975	William Mohliver of Double Bay, Company Director, registered proprietor of land	Vol. 3435 Fol. 36
13 November 1975	Judith Anne Nokes, of St Ives, Home Duties, registered proprietor of land	Vol. 3435 Fol. 36
3 January 1979	Transfer to Ian Lawrence Smith of Bellevue Hill, Bank Manager and Beverley Smith, his wife	Vol. 3435 Fol. 36
1996	Current owner purchase	

2.2.2 Chronological Outline

The following timeline summarises key dates and events relating to developments on the Project Area and is based largely on material held in the Woollahra Libraries Local History Collection and Woollahra Digital Archive.^{23 24 25}

²³ Woollahra Digital Archive, "Woollahra Council Minutes," n.d., <https://lhc.woollahra.nsw.gov.au/?page=browse>.

²⁴ Woollahra Digital Archive, "Woollahra Council Rate and Assessment Books 1860-1950."

²⁵ Woollahra Digital Archive, "Valuation Lists of the NSW Department of the Valuer General 1919-1968," n.d., <https://lhc.woollahra.nsw.gov.au/?page=browse>.



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Table 2. Timeline for 85-87 Birriga Road, Bellevue Hill.

Date	Event	Reference
1917	Mrs Lawes (Henrietta Maria) applied to Woollahra Council to re-subdivide Lots 11, 12, 16 and 17 of Section A. Application was approved on 12 February 1917.	S78/1917 Woollahra Subdivision Applications
1923	Mrs Lawes (Henrietta Maria) applied to Woollahra Council to re-subdivide Lots 12 and 16 and part 11 and 17 of Section A. Application was approved on 22 January 1923. 85 Birriga Road would form Lot C part 12, while 87 Birriga Road would become Lot D parts 11 and 12.	S547/1923 Woollahra Subdivision Applications
1924	J.G. (James Gerard) Smith (recorded as the 'Ratepayer' for 85 and 87 Birriga Road in the Woollahra Council rate books of 1924) lodged an application with Woollahra Council in September 1924 to build '2 houses' on lots 11/12 Sec A Birriga Road. The builder was F. (Francis) O'Carroll. Council approved the application conditionally on 22 September 1924 and a re-submitted application (for "two houses and garages, Lots 'C' and 'D' [parts Lots 11/12], Section 'A' Birriga Road, £4,000") was approved on 13 October 1924.	BA456/1924 Woollahra Council Building Register, Woollahra Council Building Application Index Cards
1924	James G. Smith was recorded as the 'Ratepayer' for both properties according to Woollahra Council Rate Books.	Woollahra Council Rate Books – Bellevue Ward 1924, No. 433 and 434, p.17
1926	Approved new subdivision arrangement was recorded in the Valuation lists of the NSW Department of the Valuer General in 1926.	NSW Department of the Valuer General Valuation list
1927	Houses were first recorded as being on the sites of both 85 and 87 Birriga Road in the 1927 Rate Books of Woollahra Council, with a change of value from unimproved at £840 to improved at £3,000. The description of rateable land is given as 'House' for both properties.	Woollahra Council Rate Book - Bellevue Ward 1927, No. 330-331, p. 13
1930s	85 Birriga Road recorded as 'La Morveh' in rate books, whilst 87 Birriga Road was recorded as 'Camworth'.	Woollahra Council Rate Books c1930's
1955	Building Application BA337/55 submitted for alterations to 87 Birriga Road by Fromberg.	Woollahra Council Building Application Index Cards, Green series
1963	Building Application BA101/63 submitted for additions to 87 Birriga Road by Mr D. Fromberg.	Woollahra Council Building Application Index Cards, Green series
1966	BA235/66 listed as an 'Enquiry' submitted by Mr D. Fromberg for 87 Birriga Road.	Woollahra Council Building Application Index Cards, Green series
1966	BA463/66 submitted by Dr A. Kanarek for alterations to 87 Birriga Road. The house was converted to include a downstairs Doctor's surgery	Woollahra Council Building Application Index Cards, Green series
1973	Building Application BA456/1924 submitted by B. Mohliver for alterations and additions to 85 Birriga Road.	Woollahra Council Building Application Index Cards



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Date	Event	Reference
1980	Building Application BA156/1980 (details of work not specified) submitted for 85 Birriga Road.	Woollahra Council Building Application Index Cards
1987	Development Application DA7/1987 submitted for 87 Birriga Road (details of work not specified).	Woollahra Council Building Application Index Cards
1991	85 Birriga Road advertised for auction as a three-bedroom residence.	The Australian Jewish News, 22 February 1991
1993	Building application BA27/1993 submitted for 87 Birriga Road (details of work not specified).	Woollahra Council Building Application Index Cards
1997	Building Application BA797/1997 for 'alterations to dwelling' submitted for 85 Birriga Road.	Woollahra Council Building Application Index Cards

2.3 Historical Summary

Prior to the current residences being constructed on Lot C and D, DP305981 there is no record of earlier developments. The residences at 85 and 87 Birriga Road were constructed in 1924-1925 during the 1920s expansion of Bellevue Hill. They were constructed by Francis O’Carroll (a builder from Bondi) for James Gerald Smith, and it is suggested that these houses were part of the speculative development of Bellevue Hill and most likely linked to the expansion of public transport from c.1914, when the tramline to Bondi was expanded and ran along Birriga Road. Following the building construction, 85 Birriga Road was sold in 1925 and 87 Birriga Road was sold in 1926. The list of ownership has been provided in Table 1.

Original plans are available from Woollahra Council for the Project Area (Building Application 456/24), including a blueprint for the house design (Figure 10) which both houses in a general way display; and specifications for two houses of the same design (indicative of the 1924-1925 building requirements, including limewash to interior of garage, thick coats of paint to external timbers, and fixing plaster vents to all air bricks internally) to be constructed at 85 and 87 Birriga Road (Appendix 1).

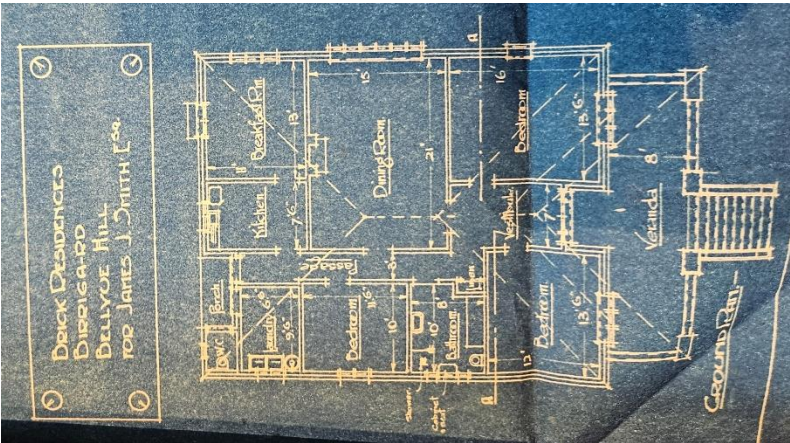


Figure 10: Blueprint showing the internal layout for both houses. (Woollahra Council, BA24-456)



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Each property has been owned by the current residents for many years. The current residents at 85 Birriga Road moved in c.1996 and have made some changes to the property since that time. However, as can be seen in the copies of plans from 1997 included at Appendix 1, their changes were minor and affected the rear rooms of the house only, which was opened up to suit contemporary living, including kitchen and bathroom updates. The residence at 85 Birriga Road still presents a 1920s appearance externally, and for the front rooms and most of the interior.

In the 1960s the owner of 87 Birriga Road, Dr M. Kanarek, undertook renovations to introduce lower ground floor consulting rooms, identified on the plans as a surgery, waiting room and toilet. The new addition was provided with a new entry externally.

In 1995 Timothy James McFarlane and Carolyn Diana McFarlane purchased 87 Birriga Road and brought up their five sons in the house. Mr McFarlane was made a Member of the Order of Australia in 2016 for Services to the Performing Arts. The McFarlanes have made changes to the house internally, and the exterior changes – new front veranda, changes to windows and painting and rendering the brickwork – possibly were also made under their ownership. The residence at 87 Birriga Road no longer has the appearance of a brick Inter-War California bungalow residence.



Anna Schaefer

3 Legislative Context and Heritage Listing

This section provides a brief overview of the relevant legislation and heritage listings pertaining to the Project Area at the time of writing the report. The legislative overview is provided solely as contextual information for the proponent and does not constitute legal advice.

3.1 Legislative Context

Non-Indigenous heritage in NSW is protected under the *Heritage Act 1977* (the Heritage Act) and the *Environmental Planning & Assessment Act 1979* (the EP&A Act). The State Heritage Register is maintained under Part 3A of the Heritage Act and comprises a list of places and objects of state significance to the people of NSW. Heritage items may be valued by particular groups in the community, such as Aboriginal communities, religious groups, or people with a common ethnic background. Local heritage items are registered by local councils in accordance with the EP&A Act and listed in Local Environmental Plans (LEPs), as well as on the State Heritage Inventory. Heritage listings are made on either statutory or non-statutory registers. Non-statutory registers include listings of items or places which have heritage significance, but these registers (such as the National Trust) do not provide legal protection for the items listed.

Archaeological material is protected under the relics provision of the Heritage Act 1977; it includes any deposit, artefact, or material evidence that is:

- a. *Related to the settlement of the area that comprises New South Wales, not being of Aboriginal settlement, and*
- b. *Is of State or local significance*

Items that do not meet these criteria are known as 'moveable objects' or 'works'. 'Moveable objects' are defined simply as items that are not relics; 'works' can refer to past evidence of infrastructure that is buried and therefore archaeological in nature. Examples of 'works' may include but are not limited to former road surfaces or infrastructure associated with rail or trams. Exposure of such items does not trigger the reporting obligations under the relics provisions of the Heritage Act (Division 9).

Section 57 and Section 60 of the Heritage Act state that exemptions or permits may be required when undertaking works or excavating within the curtilage of a State Heritage Register item and applies to places, buildings, works, relics, moveable objects, precincts, or land within the Proposal. Where works are minor in nature and will have minimal impact on the heritage significance of a place, a Section 57 exemption may be granted (exemptions were recently updated in December 2020).

If works are not exempt under Section 57, a permit under Section 60 would be required to carry out activities to an item listed on the State Heritage Register. This includes building and ground disturbance in areas that are likely to contain archaeological material.

Section 139 and 140 of the Heritage Act state that an excavation permit is required in certain circumstances, including where there is reasonable cause to suspect that a relic (not listed on an Interim Heritage Order or the State Heritage Register) may be discovered, exposed, moved or damaged, or where a relic has already been discovered or exposed. The Heritage Council may issue



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exceptions to this section where an archaeological assessment approved by the Heritage Council has indicated that there is little potential for relics to occur.

3.2 Heritage Listings and other Relevant Instruments and Guidelines

Heritage items are registered on lists according to their level of significance: national, state, local, or in rare cases they may be of world heritage significance.

The World Heritage List contains items which have outstanding universal values; this list is administered by the United Nations Educational, Scientific and Cultural Organisation. Items of national significance are listed on the National Heritage List, which is administered by the Australian Heritage Council under the *Australian Heritage Council Act 2003* and in accordance with the *Environmental Protection and Biodiversity Conservation Act 1999*.

The State Heritage Register contains items of state heritage significance and is administered by the NSW Heritage Council under the *NSW Heritage Act 1977*.

Items of local heritage significance are protected under Local Environmental Plans (LEPs), in this case the Woollahra Local Environmental Plan 2014.

All heritage registers/listings were searched, with results summarised in Table 3-Table 4 and Figure 11.

85 and 87 Birriga Road are not heritage-listed. One heritage item passes beneath the Project Area: the BOOS (Bondi Ocean Outfall Sewer), which is anecdotally at least 30m below the current ground surface, and will therefore not be impacted by the proposed development (which is anticipated to extend to a depth of approximately 0.5m below the current level of Birriga Road). It is noted that on the footpath outside 85 Birriga Road is a sewer vent connecting to the BOOS (see Figure 12 below); this will also not be impacted by the proposed development.

Table 3. Heritage Listing search results for the Project Area.

Listing	Result
World Heritage List	0
National Heritage List	0
State Heritage Register	1
Woollahra LEP Heritage Items	6

Table 4. Heritage Listings near the Project Area.

Listing Type	Item	Listing Number	Significance	Spatial Relation to Project Area
State Heritage Register	BOOS (Bondi Ocean Outfall Sewer)	SHR #01623	State	Partially beneath the Project Area (anecdotally at least 30m below the current ground surface)



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Listing Type	Item	Listing Number	Significance	Spatial Relation to Project Area
LEP	"Westmoreland" – 81a Birriga Road, Bellevue Hill, residential flat building & interiors, dwarf brick walls, paving and grounds	LEP #14	Local	Immediately south-west
LEP	"Cumberland" – 81 Birriga Road, Bellevue Hill, residential flat building & interiors, dwarf brick walls, paving and grounds	LEP #13	Local	8.5m south-west
LEP	Residential flat building, interiors and grounds	LEP #48	Local	75.5m north-east
LEP	Residential flat building, interiors and grounds	LEP #49	Local	81m north-east
LEP	Residential flat building and interiors, shops, garage and grounds	LEP #50	Local	135m east
LEP	Royal Sydney Golf Club - Clubhouse and interiors, grove of paperbarks along Norwich Road	LEP #318	Local	147m north-east

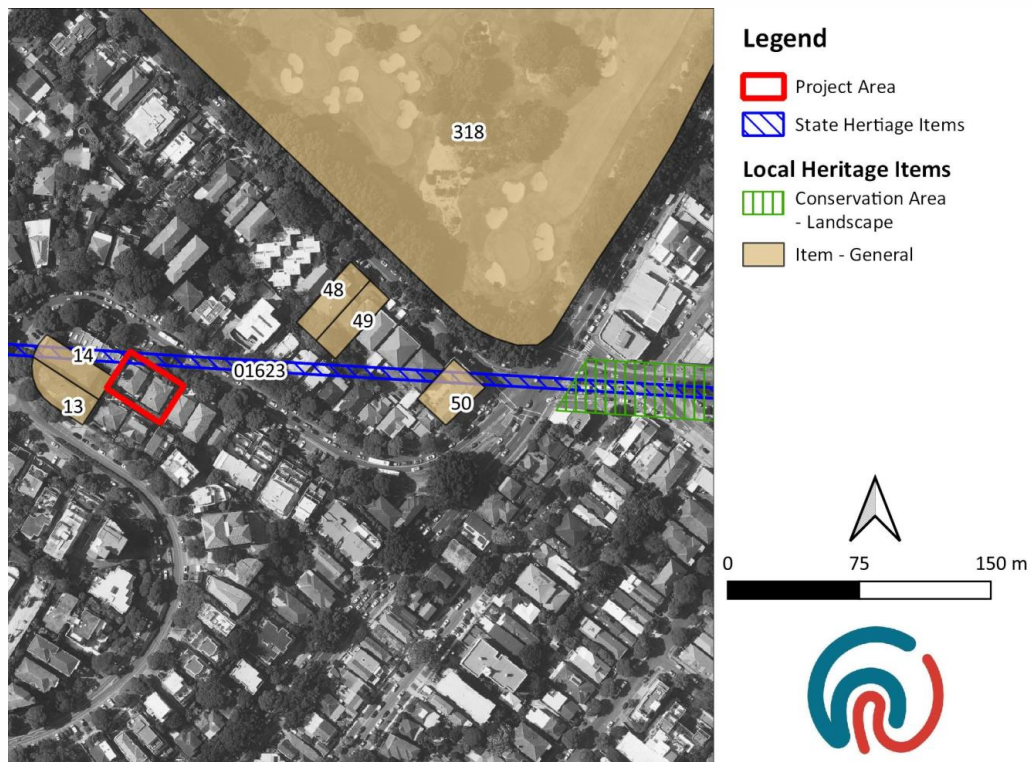


Figure 11. Heritage listings near the Project Area. (Source: SCP with Heritage Now and Heritage Listings additions)



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3.2.1 Woollahra Municipal Council Development Application Guide

The Woollahra Development Application (DA) Guide states that a Demolition Report is required for: “all applications for buildings other than those identified as heritage items or within a heritage conservation area where full or substantial demolition is proposed”²⁶. This is necessary as “a building may be of potential heritage significance even though it is currently not listed in the schedule of heritage items or contained within a heritage conservation area.”²⁷

Since the proposed Project intends to demolish the existing buildings, which are not known heritage items, a Demolition Report (this report) is required as part of the Development Application to Woollahra Council.

3.3 Summary

The residences at 85 and 87 Birriga Road are not heritage-listed. One heritage item passes beneath the Project Area: the BOOS (Bondi Ocean Outfall Sewer), which is anecdotally at least 30m below the current ground surface, and will therefore not be impacted by the proposed development (which is anticipated to extend to a depth of approximately 0.5m below the current level of Birriga Road). It is noted that on the footpath outside 85 Birriga Road is a sewer vent connecting to the BOOS (Figure 12); this will also not be impacted by the proposed development.

²⁶ Woollahra Municipal Council, “DA Guide” (Woollahra Municipal Council, n.d.), 15, <https://www.woollahra.nsw.gov.au/files/assets/public/v/4/plans-policies-publications/da-guide.pdf>.

²⁷ Woollahra Municipal Council, “DA Guide: Attachment 3 Demolition Report” (Woollahra Municipal Council, n.d.), 2, <https://www.woollahra.nsw.gov.au/files/assets/public/v/2/plans-policies-publications/da-guide-attachment-3-demolition-report.pdf>.

4 Site Visit and Physical Assessment

The site visit was undertaken by Gina Scheer (Heritage Consultant for Heritage Now) on 24 February 2024. The inspection included tours of the interiors of both houses and discussions with both owners who were in residence. The residences are partially hidden from street view as they are both high-set on steep sloping ground, with landscaping and mature plants facing Birriga Road. The current owners have resided in these properties for approximately 28 years.

The houses at 85 and 87 Birriga Road were constructed as a mirror pair in the Inter-War California Bungalow design in 1924. The original building application files are held at Woollahra Council.

4.1 Project Area – 85-87 Birriga Road, Bellevue Hill

Each house is only partially visible from street level, due to the front garden plantings (Figure 12). Each property is (as a result of early sub-division) narrow and rectangular, with the house set back from Birriga Road and located on the upper side of a steep slope, accessible only via two sets of stairs at the front of each property. The properties are enclosed on the remaining three sides by adjoining properties and boundary fences.

A rusticated sandstone post fence with small metal gates for access runs across the front of both properties. The residence at 85 Birriga Road retains its overall original Inter-War California Bungalow design, including the wide shallow-pitched main roofline with a timber gable and extended eaves. At street level for both properties, the single garages which were also a part of the original design, are located at the property boundaries.



Figure 12. View south towards 85 and 87 Birriga Road (the latter is hidden behind the footpath planting). Note the BOOS vent outside 85 Birriga Road (indicated by the red arrow).

4.1.1 Description of 85 Birriga Road

The house is a single-storey dark brick structure with white extended eaves and painted gables. The house is accessible from the eastern side via a set of stairs from the street, which access the eastern side and its double glass door entry, into the laundry and kitchen at the rear of the house. The main entrance is via stairs on the western side of the property, which access the front door via the front



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veranda. At street level on the western side is a single garage with a pitched tiled roof, which appears contemporary to the c.1924 Inter War California Bungalow style residence and was included on the 1924 blueprint.

The exterior retains most of its original features, including the dark bricks, sandstone balustrade to the front steps, the design and materials of the front veranda and front entry, and its light grey painted timber eaves and white painted timber window architraves, as well as the terracotta tiled roof (also to the garage; Figure 13). The gable details have been highlighted with darker grey paint.



Figure 13. View of the 85 Birriga Road façade with its gable details and tiled roof the most conspicuous California Bungalow design details.

The front of the property features shrubs and palms behind a sandstone feature fence to Birriga Road, with rusticated sandstone blocks and simple pilasters to small metal gates, which continues along the front of 87 Birriga Road. The fence appears to be part of the original property layout for both residences, and it does conform to the style of fencing popular in the 1920s. Inter-War fences were almost all simple, solid, low brick structures, some constructed of rusticated sandstone blocks, often also incorporating brickwork. The most prominent element of Inter-War fences is their horizontal emphasis, reflecting the influence of the Californian Bungalow architectural style and contrasting with the finely textured vertical fences, which had been popular in earlier periods.²⁸

The landscape planting at the front of 85 Birriga Road features grasses, low shrubs, palms and agaves. The garden bed along the western side contains a large and distinctive mature palm tree which is highly visible. The historical value of this tree is not known; however, it predates the current owner, who has resided there since c.1996.

There are narrow terraced garden beds at the sides and rear of the house. The rear of the property includes a very narrow paved path adjacent to narrow garden terraces constructed of sandstone and of timber, separating this property from the development which faces Birriga Road to the south. The paved terrace area on the western side of the house was completed by the current owners.

²⁸ Marrickville Council, Development Control Plan 2011, Inter-War Fencing, accessed at <https://www.innerwest.nsw.gov.au/develop/plans-policies-and-controls/development-controls-lep-and-dcp/development-control-plans-dcp/marrickville-dcp>



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Reportedly this had previously been a timber deck, which was damaged by fire when the Australian actor Bill Hunter was living there, at some stage prior to 1996.

Interior Description and Fabric Analysis

The residence contains a main hall or entry foyer with two front bedrooms, the lounge room and secondary hall being accessed from the main hall. In total there are three bedrooms, a lounge room and adjoining dining room, a bathroom and a later renovated kitchen and laundry with toilet (these rooms are located at the rear of the residence). This layout preserves most of the original design (Figure 10; Appendix 1). The photographs and photo plan are provided in Appendix 2. Changes at the rear of the house were undertaken in 1996 to update the laundry, toilet and kitchen and to add access to the rear of the house.

The fabric analysis for the rooms is as follows:

- The main hall or entry foyer retains a 1920s simple decorative plaster ceiling and a period-style pendant light. The main entry with side glazed panels appears to be original. Painted plastered walls and a timber parquet floor in a herringbone pattern have been added by the current owners, who have resided at 85 Birriga Road since c.1996.
- The front bedrooms retain their original simple decorative plaster ceilings and cornices and high-mounted wall grates. The flooring is timber and appears recent. The bedroom doors are timber and appear original.
- The lounge room is accessed from the main hall via a glazed timber door, which appears original. The plaster ceiling appears original with its simple decoration and period pendant light. The timber mantelpiece appears more recent, above a cast iron fireplace. There are double glass doors to the north-western paved area outside this room. Part of the partition wall between this room and the dining room was removed by the current owners.
- The dining room is accessed from the lounge room and the kitchen. The plaster ceiling appears original, with ceiling rose decoration and period pendant light. The timber flooring appears original, but would have been covered by a carpet.
- The secondary hallway accesses a linen cupboard, bathroom and bedroom. This smaller hallway retains decorative wall nubs at the access point from the front hall. The timber flooring and plastered walls and ceiling do not appear to be original, and the ceiling features downlights.
- The bathroom appears to be an original and large room, with an original timber door in a 1920s style, and later tiles and fittings. The pair of frosted glazed windows appear original in this room, separated by what would have been a cupboard and mirror that would have stood above a vanity (no longer there).
- The third bedroom is a small square room with timber flooring. It has the most decorative plaster ceiling, with six panels and a central mounted light. It also features high-mounted wall grates on the exterior wall.
- The kitchen and laundry and access doors across the rear of the residence are later additions. This space originally incorporated these functions but has been updated by the current owners.



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4.1.2 Description of 87 Birriga Road

The façade of the residence at 87 Birriga Road is almost completely hidden due to its front garden plantings and the Birriga Road street trees (Figure 14). The house is only visible in small segments, with the most accessible views being from the eastern side at street level (Figure 15), and from the sets of concrete and sandstone stairs on both eastern and western sides. A November 2015 photograph shows that a small gable was retained at the front roofline (Figure 16); however, due to the height of plantings, this view is no longer visible in 2024. The house was built at the same time as 85 Birriga Road and they would have appeared as mirror images after construction. However, 87 Birriga Road has seen numerous external and internal changes, especially in comparison with its neighbour, and it no longer displays Inter-War California Bungalow features. The photographs and photo plan are provided in Appendix 3.



Figure 14. View to the south of the façade of 87 Birriga Road, with its western entry visible at the far right.



Figure 15. View to the south-west of the front of 87 Birriga Road.



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Figure 16: A November 2015 view to the front of 87 Birriga Road shows a little more of its roofline. (Source: Google Streetview, November 2015)

The front of the house, including the roofline and veranda, has been completely renovated. The veranda has a curved edge across its front, with pebblecrete surface and black metal low balustrades, with gates on each side accessing stairs down to street level. The veranda roof is a flat awning style. The exterior of the building has been rendered and painted, and the timber casement windows have been removed. There are no protruding bay or casement windows on the exterior.

Along the western side boundary is a narrow concrete path and a long and raised garden bed, with a mature palm and a Japanese maple tree being notable plantings. The neighbouring house at 85 Birriga Road is very close here. Along the eastern side of the house is a flat paved terrace with some shrubs. At the rear of the house in the south-east corner is a garden shed, which could be part of the original property layout.

The landscaping at the front of the residence, behind the sandstone fence, is a terrace of greenery comprising palms of different types. Carolyn McFarlane suggested that the front garden has heritage value, and that possibly these garden plantings date to earlier times. However, no mention of the garden was found in the local Woollahra heritage archives, and the property is not listed as a heritage item.

Internally, the layout, fittings and finishes have all been altered, and there are no visible features of the original Inter-War California Bungalow design. The residence presents as a modern dwelling, with stylish plain fittings. Minor exceptions to this description relate to the layout at the rear of the house, where the kitchen is in its original location (albeit with all new fittings and finishes), the main bathroom remains in its original location (albeit with all new fittings and finishes) and there are two bedrooms in their original location. One front bedroom has been changed to a living room, which is now part of the L-shaped living and dining room.

There is one main bedroom with a large ensuite bathroom. An L-shaped living and dining room includes space for the internal staircase, which is where the secondary hall is located in the property at 85 Birriga Road. A corner study is situated where the dining room is located in 85 Birriga Road. There is one smaller bedroom on the eastern side, in an original position. At the rear of the house is a laundry, storage area, smaller bathroom and kitchen. However, these rooms do not display period details and all present modern fittings and finishes.

There is one room with a decorative plaster ceiling, which is the small bedroom on the eastern side of the house. Other rooms have new ceilings and downlights installed, and the wall grates have either been removed or plastered and painted over. The timber flooring in the main hall and living rooms could be original or early; however, this is different timber from that visible in the property



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at 85 Birriga Road (and the owner of 85 Birriga Road referred to small timber parquetry pieces similar to a mosaic in their main hall, which he stated appeared very worn and was replaced).

4.2 Integrity/Intactness/Condition

The photographs and interior plans for each property (Appendix 2 and Appendix 3) can be compared with the original layout (Figure 10, Appendix 1). One variation from the original plan is that no central staircase is located at either property. The resulting two staircases for each building are most likely a result of the steep allotment.

The 85 and 87 Birriga Road residences are both intact dwellings maintained in good, if not excellent, condition. However, a structural engineer's report is being prepared and submitted separately, which will need to be reviewed in relation to condition.

In relation to integrity, both residences have seen room changes and updates to kitchens and bathrooms. Only 85 Birriga Road retains the majority of its original, 1924-1925 California Bungalow layout and design internally and, notably, externally. The residence at 87 Birriga Road has seen numerous changes – the rooms downstairs were added in the 1960s, and the internal staircase and lower ground level hall are believed to be changes from the 1990s. Therefore 87 Birriga Road does not have integrity in relation to its original design.

4.3 Streetscape

The streetscape has been altered since the 1920s construction of the houses at 85 and 87 Birriga Road. The winding and sloping road no longer has a tramline, and the width of the road allows for 90° angle car parking outside of the subject properties, and extending in each direction along the southern side of the road. The footpath tree plantings prevent views to 87 Birriga Road. A sewer vent connecting to the BOOS (Bondi Ocean Outfall Sewer) is located outside 85 Birriga Road. There are residences and apartment buildings located above (south of) the Project Area, along the ridgeline which forms the curves of Birriga Road. Streetscape views are shown in Figure 17-Figure 22.



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Figure 17. View west along Birriga Road from outside 87 Birriga Road. The BOOS vent outside 85 Birriga Road is circled red.



Figure 18. View north from outside 85 Birriga Road, towards the residential flats and houses opposite.



Gina Siles

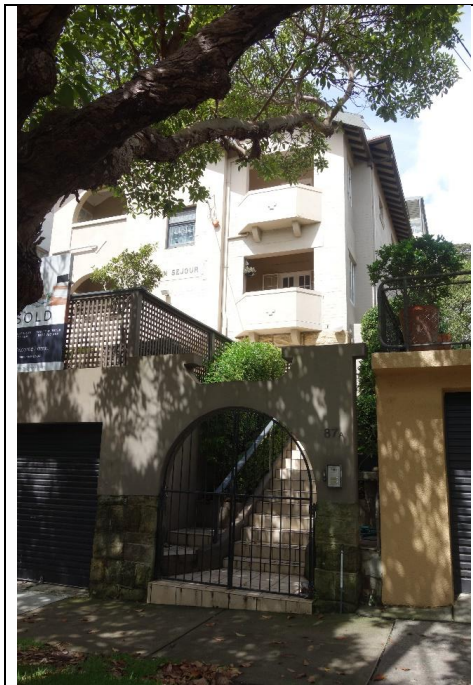


Figure 19. 87a Birriga Road is also a 1920s style building.



Figure 20. View south-east from outside 87a Birriga Road.



Figure 21. View to 89 Birriga Road.



Figure 22. View west from outside 87a Birriga Road.

4.4 Comparative Analysis

By the early 1920s, speculative builders had embraced the Inter-War California Bungalow design, and it reigned supreme in the suburbs until the Great Crash (Depression) of 1929. During the 1920s, the virtually standardised Australian version was usually built in brick and featured a range of chunky carpentry details, which were not greatly different from the preceding decade (such as Federation Bungalow, c.1890 to 1915).²⁹ Wide overhanging eaves, a shallow-pitched tiled roof and front gables, and a front veranda with a recessed entry were the most visible details (Figure 23).

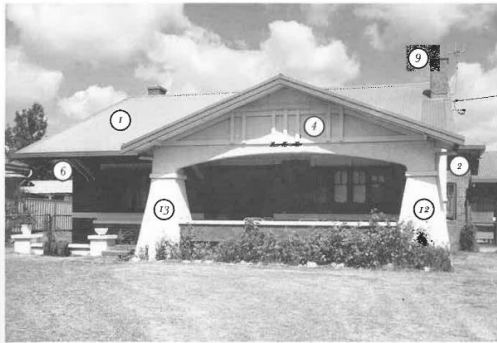


Figure 23. Example of California Bungalow details from a house in Mudgee, NSW.³⁰

There are residences of similar style within the surrounding streets of the Woollahra LGA, including a number elsewhere on Birriga Road (Figure 24-Figure 28). As mentioned above, during the 1920s this style for house was popular on generally smaller suburban allotments. There are pockets of such residences singled out as contributory items to Heritage Conservation Areas (HCAs) within the LGA. Such HCAs include Balfour Road and Salisbury Road (both in Rose Bay), with examples of the houses that contribute to the Inter-War California Bungalow style shown in Figure 29-Figure 30.

Birriga Road has become more synonymous with residential apartment buildings from the 1920s onwards. Immediately south-west of 85 Birriga Road, at 81 and 81a Birriga Road, are the local heritage items Westmoreland and Cumberland, designed in 1939 by architects Gordon McKinnon & Sons (Figure 31).

²⁹ R. Apperly et al, Identifying Australian Architecture, Angus & Robertson, 1989, 146, 206

³⁰ R. Apperly et al, Identifying Australian Architecture, Angus & Robertson, 1989, 209



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Figure 24. 10 Birriga Road is a standard small version California Bungalow with a single garage and masonry fence.



Figure 25. 12 Birriga Road retains a large front gable and tiled rooflines behind a rendered masonry fence.



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Figure 26. The residential apartment building (Inverugie) opposite the Project Area. While it is not an Inter-War California Bungalow style, it is from a similar period (c.1920).



Figure 27. View north towards the residences at 108, 110 and 112 Birriga Road. These residences have similar pitched rooflines and front gables, but different fences and garages to an Inter-War California Bungalow design.



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Figure 28. 112 Birriga Road presents the Inter-War California Bungalow residential design, if not slightly earlier, with a timber fence and garage.



Figure 29. 16 Balfour Road, Rose Bay. An Inter-War California Bungalow design which contributes to the HCA.



Figure 30. 20 and 22 Salisbury Road, Rose Bay. These are contributory items to the HCA. Both display similar veranda posts to those of 85 Birriga Road.



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Figure 31. View from Birriga Road to the pair of residential apartment buildings (Westmoreland and Cumberland), located on the curve of the road, listed as local heritage items on the Woollahra LEP.

4.5 Summary

In summary, the pair of residences at 85 and 87 Birriga Road, both dating to 1924-1925, are standard representative types of housing styles throughout Bellevue Hill and the Woollahra LGA. In comparison to other similar period residences within the LGA, neither residence is an outstanding example of the Inter-War California Bungalow design.

The residence at 85 Birriga Road continues to present its original Inter-War California Bungalow styling, evident in its rooflines, gables, recessed entry and veranda, and its dark brick and light-coloured timber trims. The residence at 87 Birriga Road has been substantially modified and presents as a more modern rendered and painted dwelling, with simple detailing. The fence across both properties (fronting Birriga Road) is original, and its rusticated sandstone block posts are a good example of that early design. In addition, the terraced green front gardens of both properties are an attractive addition behind the sandstone fence line. These gardens and fence contribute to the leafy aesthetic of Birriga Road.

It is recommended that an arborist or similar expert provide advice on the significance of a number of plants, with a view to removing and relocating plants of value. This relates to the mature palm at 85 Birriga Road, and the cycad, Japanese maple and palms in the front garden of 87 Birriga Road.



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5 Assessment of Significance

Accurate assessment of the cultural significance of sites, places and items is an essential component of the NSW heritage assessment and planning process. A clear determination of a site's significance allows informed planning decisions to be made for a place, in addition to ensuring that heritage values are maintained, enhanced, or at least minimally affected by development. Assessments of significance are made by applying standard evaluation criteria. To assist with assessment, NSW Heritage have guidelines for assessing significance for a place/item which refer to the following seven assessment criteria. The significance of the properties at 85 and 87 Birriga Road Bellevue Hill were assessed in accordance with the criteria.

Criterion (a)

An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)

The houses at 85 and 87 Birriga Road Bellevue Hill are part of the historical residential development pattern for the area. The allotments date from 1914, and in 1915, Lots 11, 12, 16 and 17 of Section A in Deposited Plan 7658 – incorporating the Project Area – were sold to Henrietta Maria Lawes, widow. In 1923, she re-subdivided the Lots and in 1924 the builder Francis O'Carroll and James G. Smith submitted building plans for a pair of brick houses to be constructed on the adjoining lots of the Project Area. In the 1930s when house names were popular, 85 Birriga Road was recorded as 'La Morveh' in rate books, whilst 87 Birriga Road was recorded as 'Camworth'. The houses have been residences, leased or owner-occupied since their construction. The residence at 87 Birriga Road was renovated in the 1960s to include a doctor's surgery for a local General Practitioner, Dr A. Kanarek. The residence at 85 Birriga Road was the home of Australian actor Bill Hunter at one stage, and reportedly he was responsible for at least one fire damaging the timber deck. The current owners of both properties have been resident since the mid-1990s, and under their ownership each house has seen renovations and updates.

This historical summary illustrates that while the residences are part of the history of Bellevue Hill, they are not individually, or as a pair, important items in its pattern of history. Therefore, they are not considered to be of state or local heritage significance under this criterion.

Criterion (b)

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)

Although the 1914 land records show that the allotments were part of land owned by historically important people, the 1915 and later subdivisions were not associated with people of importance. The houses were constructed in 1924-1925 for James G. Smith by the builder Francis O'Carroll. Neither of these individuals are identified as persons of importance for the local area. There are no further associations with people of importance for 85 Birriga Road, apart from the anecdote regarding Bill Hunter.

Since 1995, 87 Birriga Road has been owned by the renowned theatre producer Tim McFarlane and his wife Carolyn. Tim was made a Member of the Order of Australia in 2016 for Services to the Performing Arts. He has been a theatre producer and promoter for many years and his professional biography notes that prior to being the Executive Chairman of Trafalgar Entertainment Asia Pacific,



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he was CEO of The Ambassador Theatre Group Asia Pacific, a subsidiary of the UK-based Ambassador Theatre Group, the world's largest theatre owning and management company. He was also Managing Director of the Asia Pacific subsidiary of Andrew Lloyd Webber's company, The Really Useful Group (RUG), for over 18 years. In this role, Tim produced Andrew Lloyd Webber shows in various Asia Pacific markets including Australia, China, Taiwan, South Korea, Hong Kong and Singapore, as well as South Africa. Tim was General Manager of the Adelaide Festival Centre and the Adelaide Festival, and he is a previous President and a Life Member of Live Performance Australia. Tim was a Director of Opera Australia from 2006 to 2020 and was previously a Trustee of the Sydney Opera House.³¹ There is no significant link between 87 Birriga Road and the work Tim McFarlane has carried out. Despite it being his home for many years, 87 Birriga Road does not articulate or demonstrate the association with theatres for which Tim McFarlane has been honoured. It has been his family home, and any other residence in any location would also fit that purpose. For this reason, the property has no strong or special association with his life or works. Therefore, neither property is considered to be of state or local heritage significance under this criterion.

Criterion (c)

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)

The residences at 85 and 87 Birriga Road do not demonstrate a high degree of aesthetic, technical or creative achievements. Both residences in their garden settings behind original 1920s sandstone fencing contribute to the historical, leafy aesthetics of Birriga Road in Bellevue Hill. However, their streetscape setting identifies the properties as contributory items, rather than places of individual significance. Therefore, they are not considered to be of state or local heritage significance under this criterion.

Criterion (d)

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons

The residences at 85 and 87 Birriga Road have almost one hundred years of residential history and would have strong associations for their residents. However, neither residence has been identified as having a strong or special association with a particular community or cultural group. Therefore, they are not considered to be of state or local heritage significance under this criterion.

Criterion (e)

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)

The residences at 85 and 87 Birriga Road are the first buildings documented for each allotment and were constructed between 1924 and 1925. They are typical of other houses in the area and are unlikely to yield new or further archaeological, technical, or scientific information that will contribute to an understanding of the history of the local area or of NSW. In relation to research values, the original building plans and specifications were lodged with Woollahra Council (Appendix 1) and the record of ownership is contained within this report. While there will always be historical

³¹ Tim McFarlane AM, accessed at Entertainment Assist, <https://www.entertainmentassist.org.au/directors-management/2017/1/10/tim-mcfarlane-am>



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stories for each home, considering their almost 100 years of use, these stories can be provided as part of the local history for Bellevue Hill via oral histories, and are not identified with the bricks and mortar of the buildings. As such, there is limited historical research potential in relation to each residence. Therefore, they are not considered to be of state or local heritage significance under this criterion.

Criterion (f)

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

As standard examples of the Inter-War California Bungalow design for the Woollahra LGA, 85 and 87 Birriga Road do not demonstrate rare, uncommon or endangered aspects of its cultural history. Therefore, they are not considered to be of state or local heritage significance under this criterion.

Criterion (g)

An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural or natural environments, or a class of the local area's cultural or natural places; or cultural or natural environments

As noted in Section 4.4, there are many examples of this design and period of housing and apartment buildings within the local area. The contributory items illustrated in this report in other parts of the LGA are better examples of the type than 85 and 87 Birriga Road. Therefore, they are not considered to be of state or local heritage significance under this criterion.

5.1 Summary of significance

The assessment of significance for 85 and 87 Birriga Road Bellevue Hill concludes that neither property is considered to be of state or local heritage significance. However, the research undertaken has shown that both properties have historical value as the first developments on the allotments, which were undertaken during the 1920s wave of development of Bellevue Hill, in line with the advances in public transport at that time. The residence at 87 Birriga Road has been associated with a person of importance for more than 25 years, being the home of Tim McFarlane AM. However, as his importance relates to theatre production and management, there is no direct link between the address and his achievements. Both properties have aesthetic appeal for Birriga Road, due to their landscaped front gardens and rusticated sandstone block front fences. There is limited research potential relating to historical research for each property and its residents, considering the age of each building.

While each building has retained elements of their original layout, only 85 Birriga Road displays the original Inter-War California Bungalow appearance, which was a popular residential design in Sydney during the period c.1915-1940. Neither of the buildings are rare or representative examples, and comparative analysis shows that there are other better examples of this type within the Woollahra LGA.

5.2 Grading of Significance

Although the analysis has not resulted in identifying local (or state) heritage significance, there are elements within the residences that display original Inter-War California Bungalow design, and have some historical value for 85 and 87 Birriga Road, Bellevue Hill. The following grading of significance



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(Table 5) is provided for a better understanding of elements that could be retained or reused as the buildings will be demolished. Reference also needs to be made to further heritage recommendations in Section 6.

Table 5: Gradings of Significance³²

Grading	Grading Description	85 Birriga Road	87 Birriga Road
Exceptional	A rare or outstanding element that directly contributes to the item's significance	No items identified	No items identified
High	Original fabric which contributes as key elements to the item's significance; alterations, where present, do not detract from the significance	The interior contains original, 1920s features as part of the Inter-War California Bungalow style. They are: <ul style="list-style-type: none"> - Plaster decorated ceilings - Pendant lights - Timber flooring - Timber mantelpiece - Timber and glass lounge door - Front entry coloured glass panels Exterior features are: <ul style="list-style-type: none"> - Painted timber casement windows with projecting frames - Sandstone balustrade to front stairs - Sandstone front fence 	The simple decorated plaster ceiling in the small single bedroom is the only identified feature retained of the original design in the house. The exterior sandstone front fence continuing from 85 Birriga Road is also original.
Moderate	Altered or modified elements with little heritage value, but which contribute to the overall significance	Landscaping and plantings – note the recommendation for an arborist.	Landscaping and plantings – note the recommendation for an arborist.
Little	Fabric which does not contribute to the significance of the heritage item	Kitchen, laundry and bathroom	Exterior rendering of the building Kitchen, laundry and bathroom
Intrusive	Damaging to the item's heritage significance	External air conditioner units	

³² Adapted from Heritage Office NSW, *Assessing Heritage Significance*, 11.



Gina Scler

6 Conclusions and Recommendations

In conclusion, the summary of significance confirmed that while the properties are part of the historical development of the area, being part of the first developments on the allotments from 1924-1925, they are not important historically as individual items. The properties have aesthetic appeal for Birriga Road, due to their landscaped front gardens and rusticated sandstone block front fences. Only 85 Birriga Road displays the original Inter-War California Bungalow appearance, which was a popular residential design in Sydney during the period c.1915-1940. However, neither of the buildings are rare or representative examples of the type, as concluded in the comparative analysis. The residence at 87 Birriga Road has been the home of a person of at least local significance for the past c.25 years. However, Tim McFarlane is renowned and celebrated in the world of theatre management and production, and 87 Birriga Road does not directly contribute to those achievements.

There is limited historical research for the properties relating to current and former residents, in consideration of almost one hundred years of use. However, it is this report, the accompanying photographic record, and original plans held by Woollahra Council, that will contribute to our understanding of the cultural history of the properties and Bellevue Hill and the Woollahra LGA.

Overall, the Project Area does not meet the criteria to be of local or state significance, and there are no proposed impacts to heritage items by the current proposal. As the residences will be demolished and the properties excavated and redeveloped for apartments with basement level car parking, there is no opportunity to retain elements of the landscaping or fencing on-site, but these elements of Inter-War California Bungalow period design could be reused by the developer and/or Woollahra Council within the LGA. The following heritage management measures are recommended:

Recommendation 1

This report and the accompanying photographs, taken in both RAW and Jpeg formats in line with Heritage NSW guidelines for archival photographic recordings, should be kept by Woollahra Council with the building files for BA24-456 (which contains the original 1924 building application for both properties). This report and its photographs will be a useful addition to the Woollahra Local Studies collection and should be provided to that archive.

Recommendation 2

An arborist, tree surgeon or arboriculturist should inspect the plants and provide advice regarding removal and replanting of the mature palm tree from 85 Birriga Road, and the cycad, Japanese maple and palms and plants from the front garden of 87 Birriga Road.

Recommendation 3

The rusticated sandstone blocks forming the posts along the front fence to both properties, and original elements from 85 Birriga Road such as period lights, the timber mantelpiece, the glazed timber lounge door, timber casement windows and the external sandstone staircase balustrade should be carefully removed for reuse.



Gemma Selles

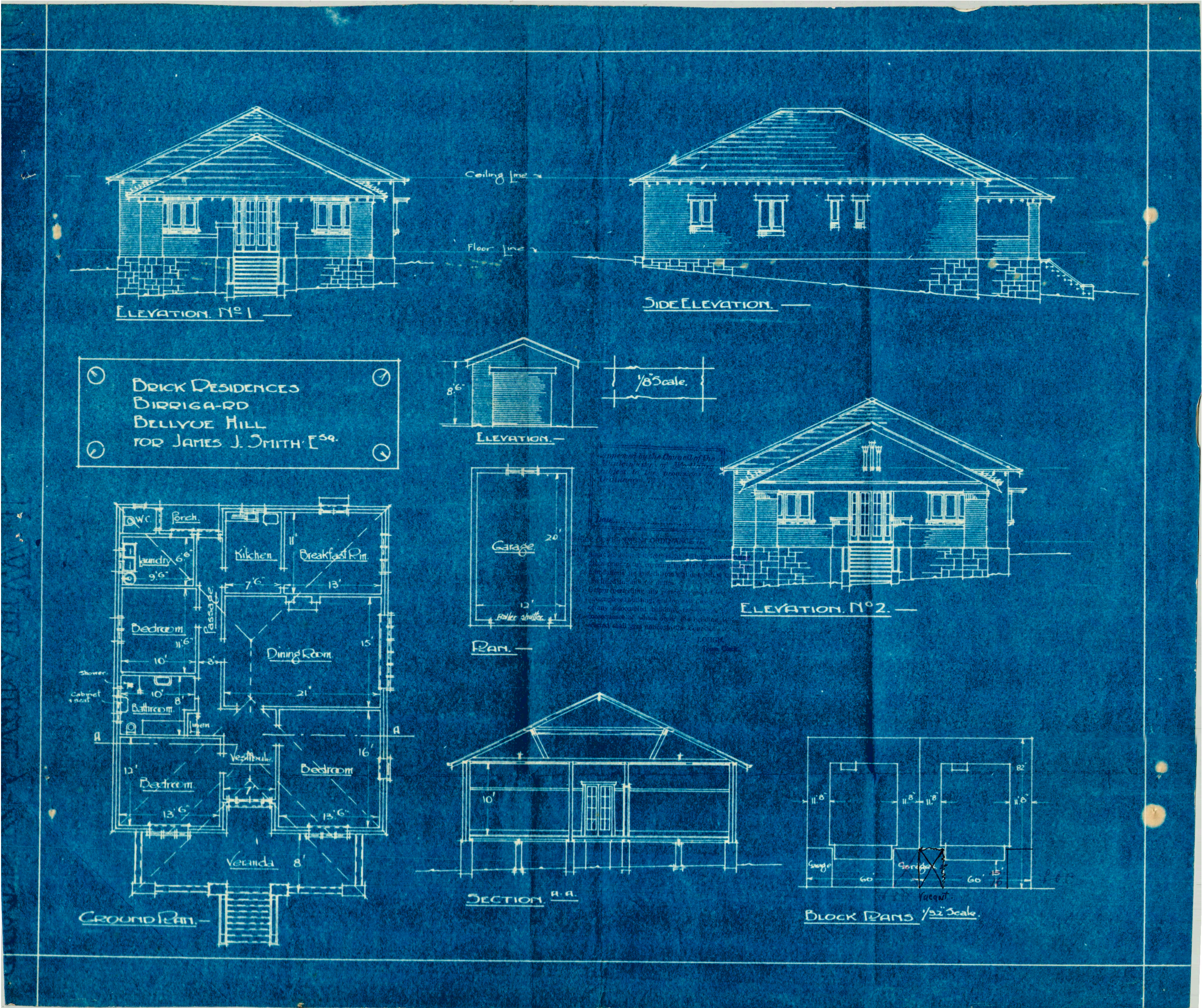
7 References

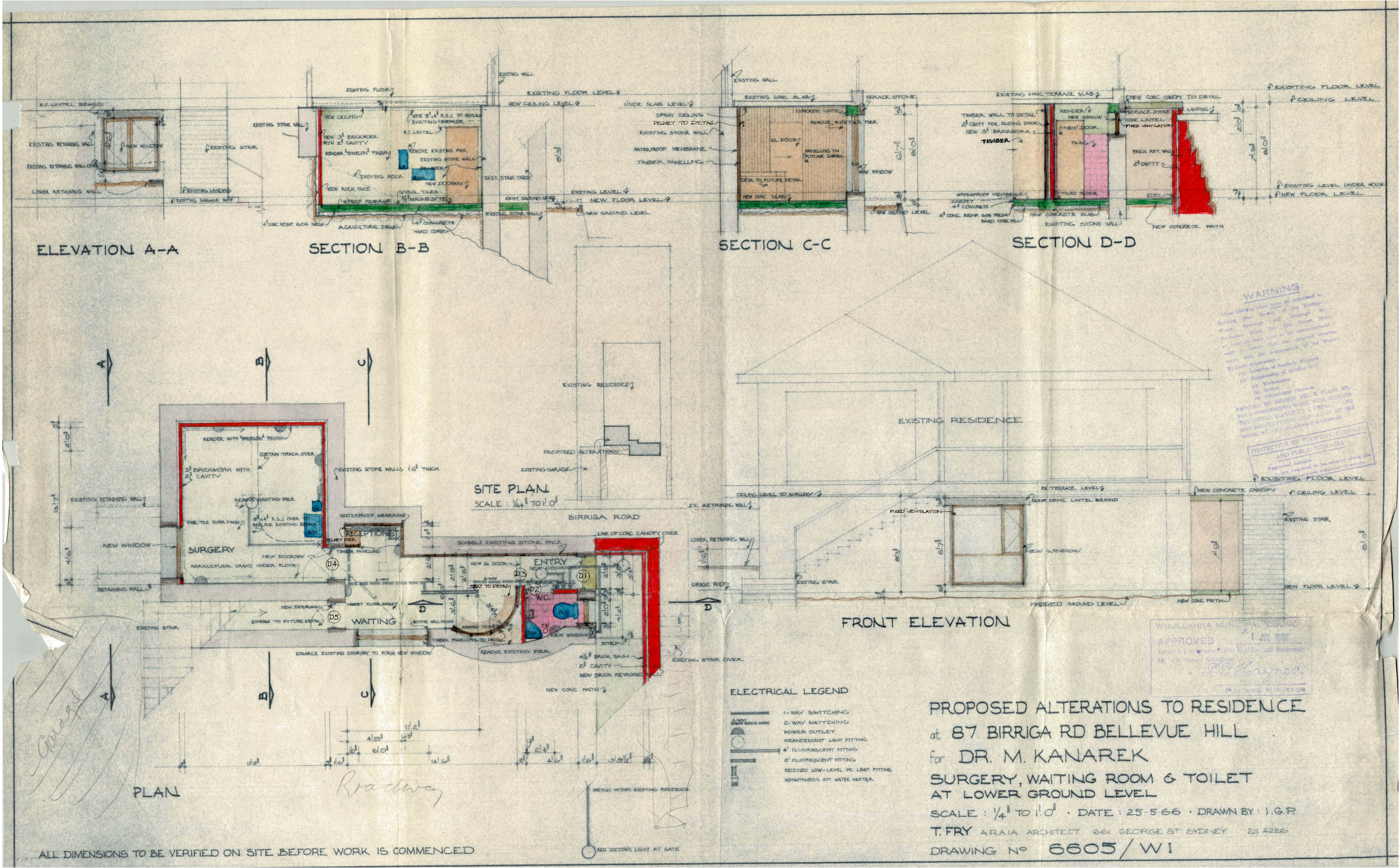
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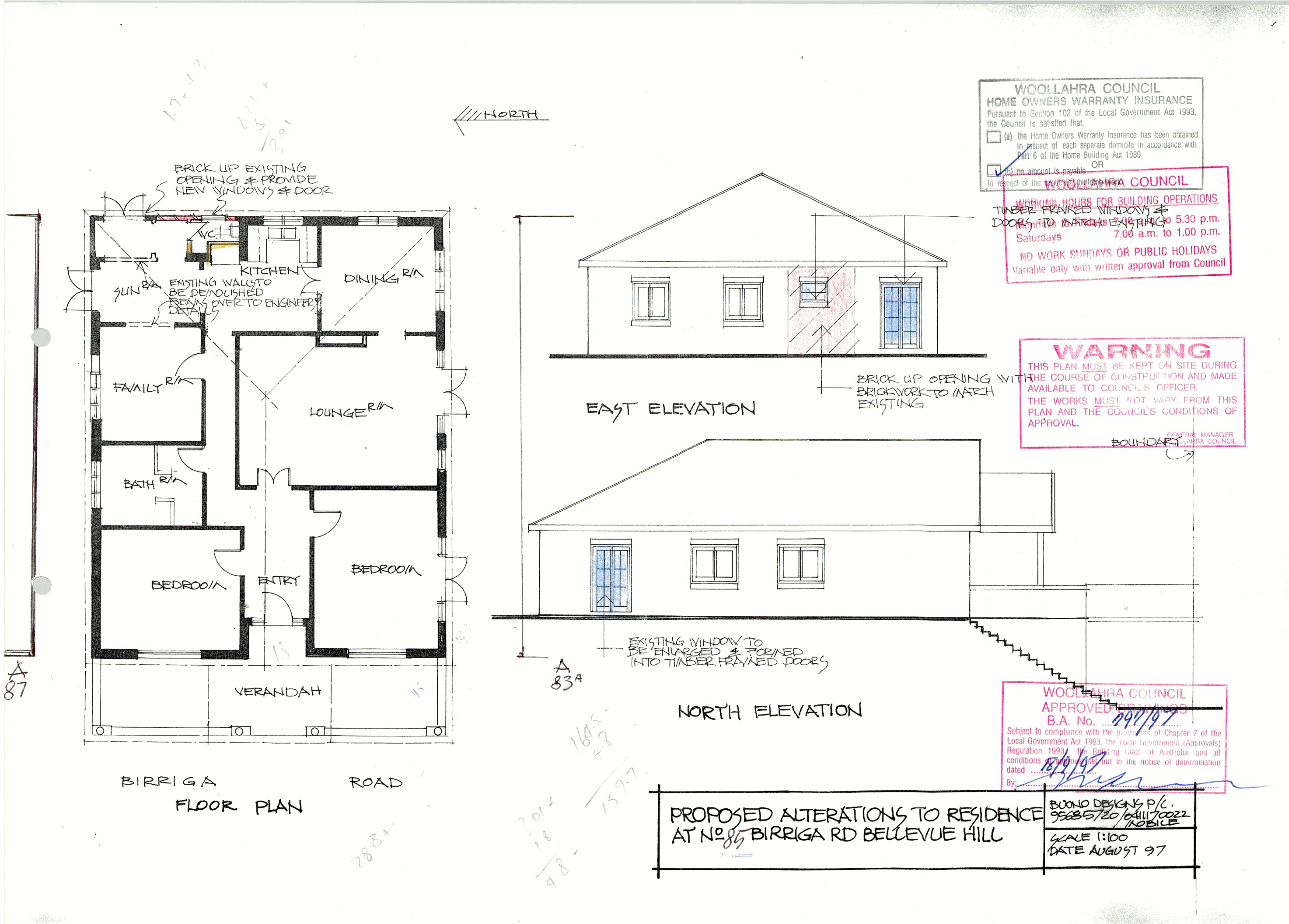


Gina Siles

Appendix 1 – Historical plans



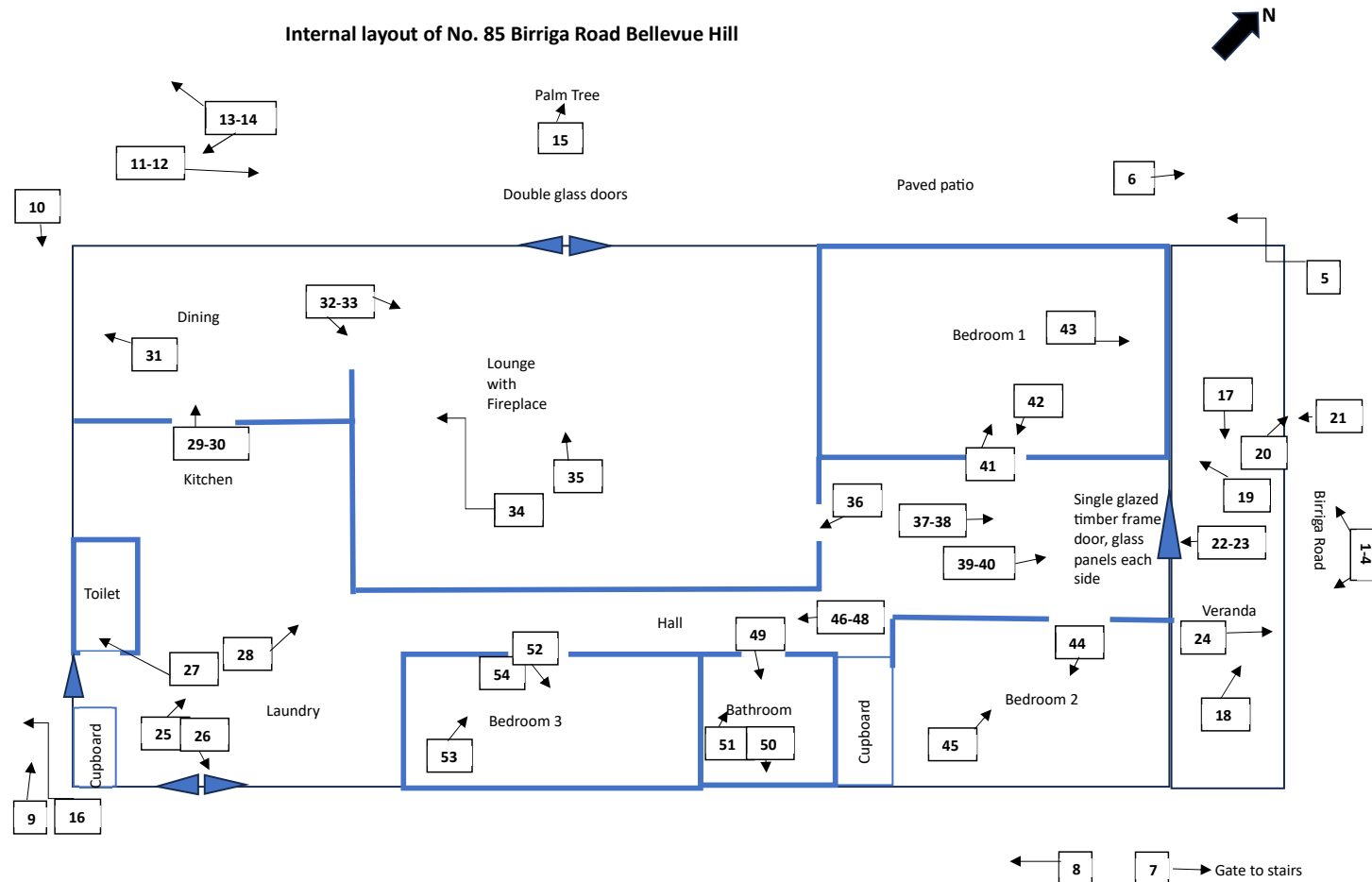






Anna Selles

Appendix 2 – Photographic recording of 85 Birriga Road



One level house (Plan is not to scale)

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 1. View to the south-west of the Birriga Road fence, and the western entry to the residence with the gate at the top.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 2. View to the south-east of the front garden and fence of 85 Birriga Road.



Photograph 3. The street view of 85 Birriga Road – vegetation hides the house and veranda from view.

Genae Selles

Photographs of 85 Birriga Road, Bellevue Hill



Photograph 4. The eastern side front entry and the main entry to the property, adjacent to the garage.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 5. The garage at 85 Birriga Road – contemporary with the 1924 residence.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 6. View to the north from the paved patio of the tiled roof of the garage facing Birriga Road.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 7. View to the north of the western entry gate. Note the infilled veranda windows at left.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 8. View to the south-west of the western side of the house. The double doors enter the rear of the house, into the laundry.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 9. The rear of the house – view to the east. Metal awning over new single entry into laundry area.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 10. Rear of the house – view to the west, showing the protruding timber casement window of the dining room.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 11. View to the north along the eastern side of the house, with its boundary raised garden bed. The brick paved patio is wide and flat along this side of the house.



Photograph 12. View to the north-east along the eastern side of the house.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 13. View to the south-west of the western side of the house.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 14. View to the south-west of the corner garden on the western side and the high, rear boundary sandstone wall.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 15. View to the west of the mature, large palm tree in the western garden bed.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 16. View to the west of the rear garden behind the house, and the two timber terraces below the sandstone and timber boundary wall.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 17. View to the east along the front veranda.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 18. View to the west along the front veranda, with the veranda entry gate visible.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 19. View to the south-west of the front veranda – view to the bedroom casement window and coloured glass side veranda window. These are original features.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 20. View to the west and down the main entry stairs from the front veranda.



Photograph 21. View to the north-east at the base of the main entry stairs.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 22. View to the front entry of 85 Birriga Road, from the veranda.

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Photographs of 85 Birriga Road, Bellevue Hill



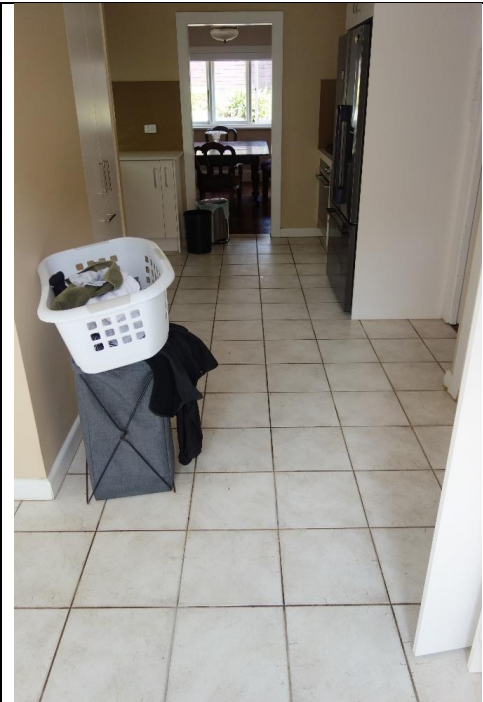
Photograph 23. Close up of the threshold granite stone at the front door. Note that 87 Birriga Road has a similar threshold stone.



Photograph 24. Detail of the original sandstone balustrade at the front steps of 85 Birriga Road, at the level of the front veranda.

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Photographs of 85 Birriga Road, Bellevue Hill



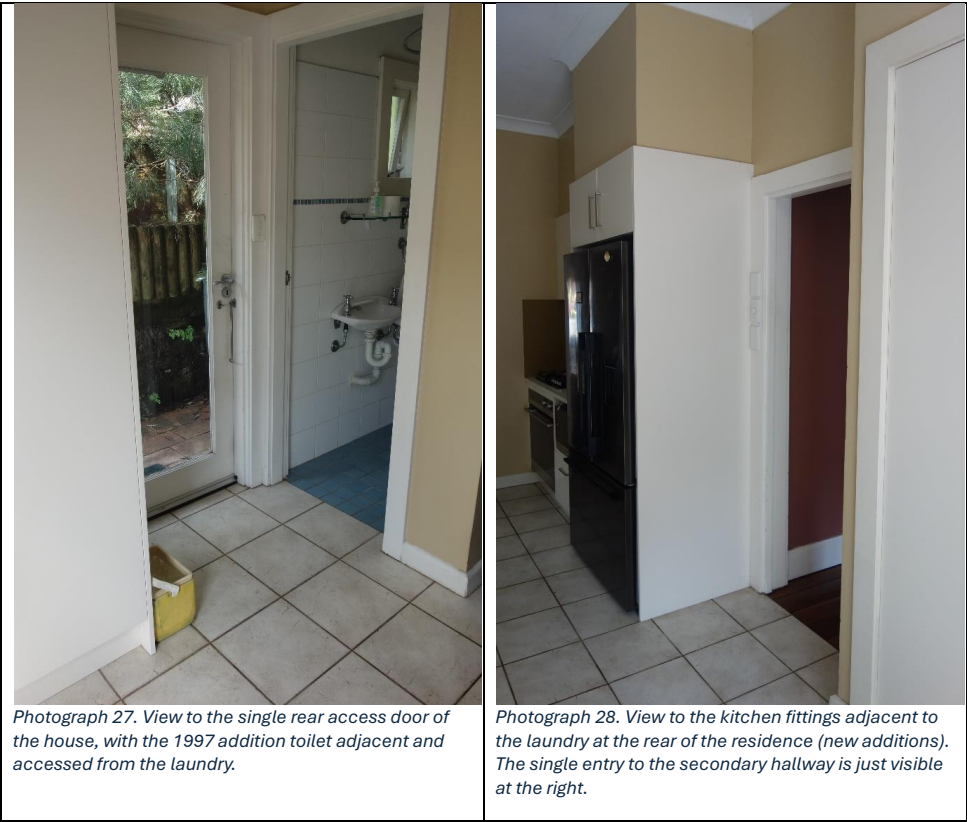
Photograph 25. Laundry accessed from the rear glass doors. The tiled floor is 1997 addition. Note the recent fixtures and fittings and partition walls; this flows into the kitchen.



Photograph 26. View to the eastern side double glass doors, which are the rear entry into the laundry, seen at the left (a new addition).

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 27. View to the single rear access door of the house, with the 1997 addition toilet adjacent and accessed from the laundry.

Photograph 28. View to the kitchen fittings adjacent to the laundry at the rear of the residence (new additions). The single entry to the secondary hallway is just visible at the right.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 29. View from the kitchen tiled floor to the timber restored flooring of the adjacent dining room, located at the south-west corner of the residence.



Photograph 30. View to the decorative ceiling rose with period pendant light, decorated cornices and high located wall grate in the dining room.



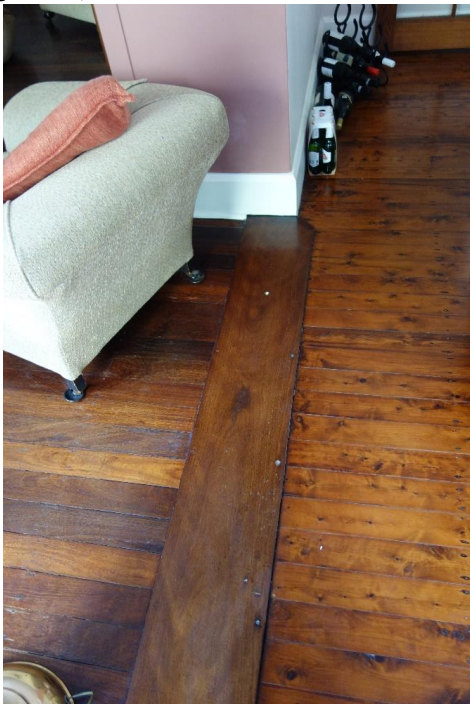
Photograph 31. Detail of the cabinet recessed window frame in the dining room. Refer to Photograph 10 for the exterior view.

21 February 2024

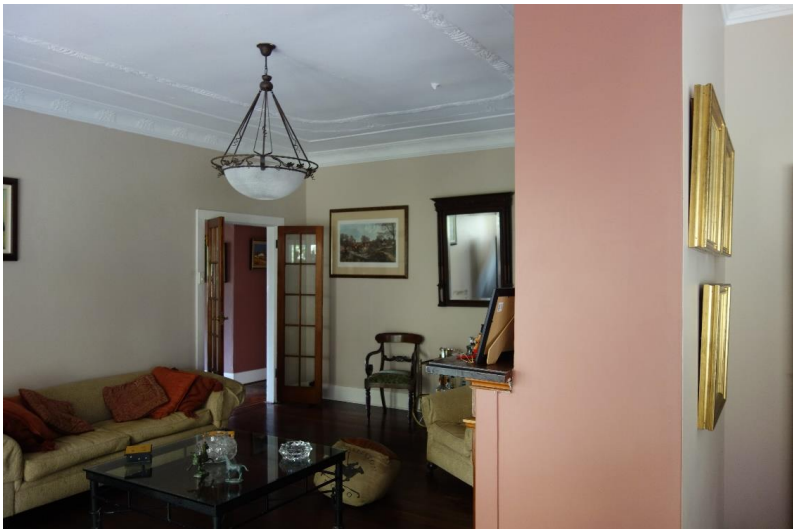
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Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 32. Detail of the removed wall section between the dining room (right) and the lounge room (left). The current owners undertook this work, c. 1997.



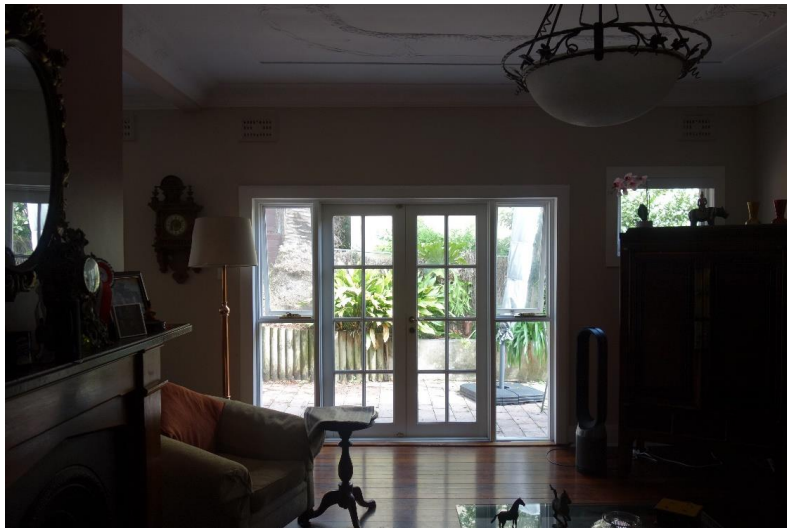
Photograph 33. View into the lounge room from the removed wall area. Note the pendant light and the simple decorative plaster ceiling design.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 34. View to the south-west of the restored timber mantelpiece above the cast iron fireplace with new tiles, in the lounge room.



Photograph 35. View to the north-west from the double glass doors of the lounge room, onto the paved outside area with garden beds. Refer to Photograph 11 for the exterior view.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 36. View of the glazed timber frame door separating the lounge from the front hall.

Photographs of 85 Birriga Road, Bellevue Hill

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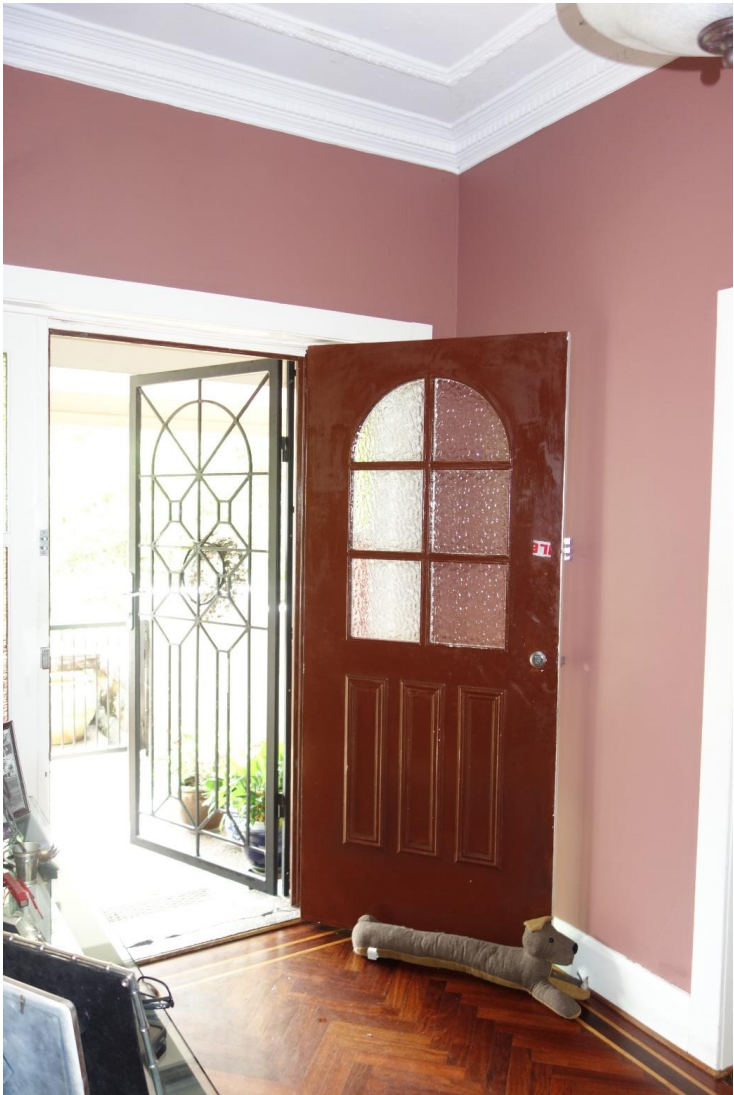
Photograph 37. Decorative plaster ceiling in the front hall, with ceiling rose and period pendant light.



Photograph 38. Detail of the timber parquet flooring in the front hall (foyer) inside the front door.

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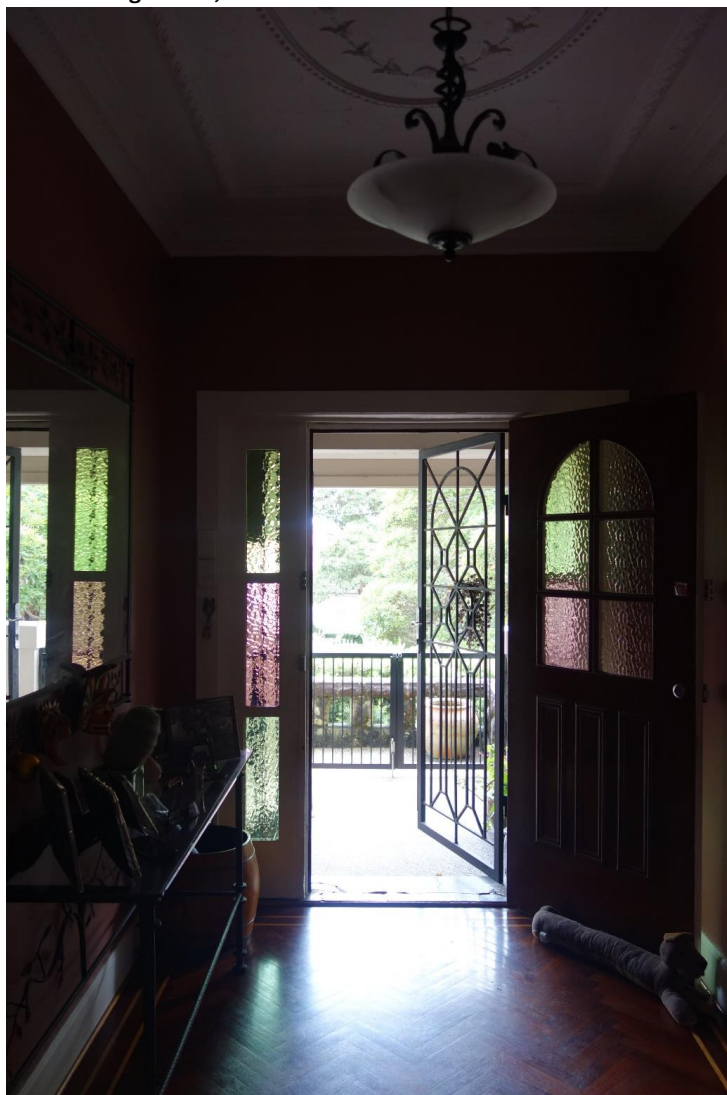
Photographs of 85 Birriga Road, Bellevue Hill



Photograph 39. View to the front door and the hall with timber parquetry flooring.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 40. View to the coloured glass inserts to each side of the front door.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 41. View into the main bedroom from the hall. Note the decorative plaster ceiling and cornices and later added pendant light and wall mounted air conditioner unit.



Photograph 42. View to the hall from inside the main bedroom, located on the front north corner of the residence.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 43. View from the main bedroom to the front window and veranda beyond.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 44. View of the simple decorated plaster ceiling in the second bedroom, with modern pendant light and wall mounted air conditioner unit. Note the original high wall grates.



Photograph 45. View inside the second bedroom, which includes a timber floor and front timber window (front hall and timber floor in background).

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 46. View along the timber flooring of the secondary hall – kitchen and laundry at the rear.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 47. The decorative hallway wall nibs are preserved at the entry to the secondary hall.

Photographs of 85 Birriga Road, Bellevue Hill

Anna Selles



Photograph 48. View along the secondary hallway; note that the ceiling appears to be recent.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 49. View into the renovated bathroom, accessed from the secondary hall.

Photographs of 85 Birriga Road, Bellevue Hill

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Photograph 50. View from the bathroom; note the early timber door and latch and timber architrave to the secondary hall.

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Photographs of 85 Birriga Road, Bellevue Hill



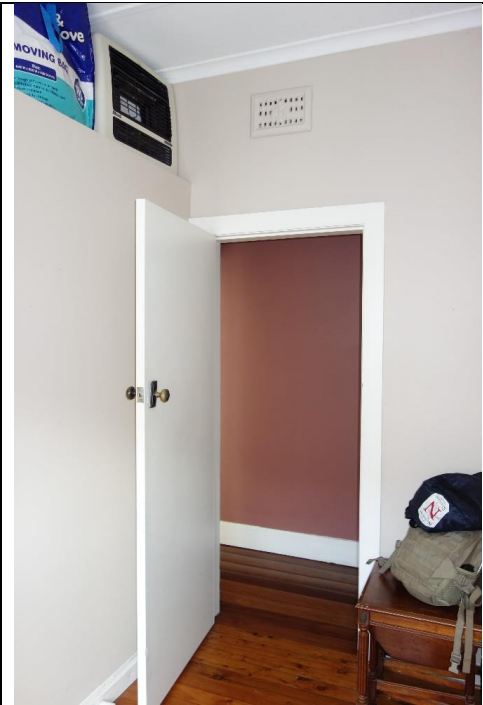
Photograph 51. View to the eastern windows in the bathroom. Note the Inter-War California Bungalow period wall grate and period glazed windows.



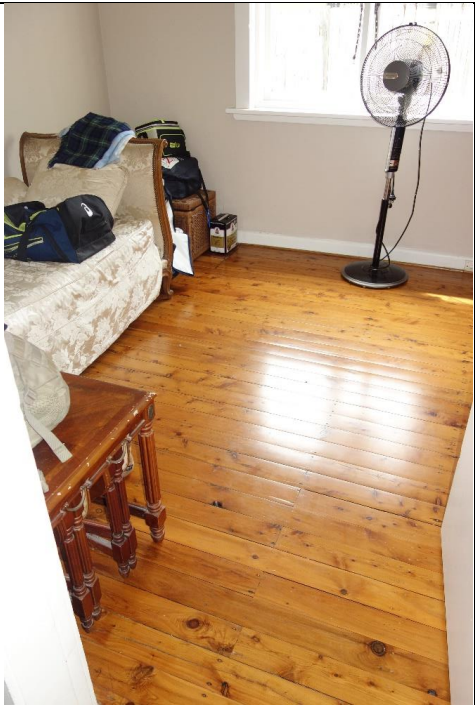
Photograph 52. The decorative plaster ceiling in bedroom 3 is six panels. Note the original wall grates.

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Photographs of 85 Birriga Road, Bellevue Hill



Photograph 53. View from bedroom 3 into the secondary hall. Note the original wall grate.

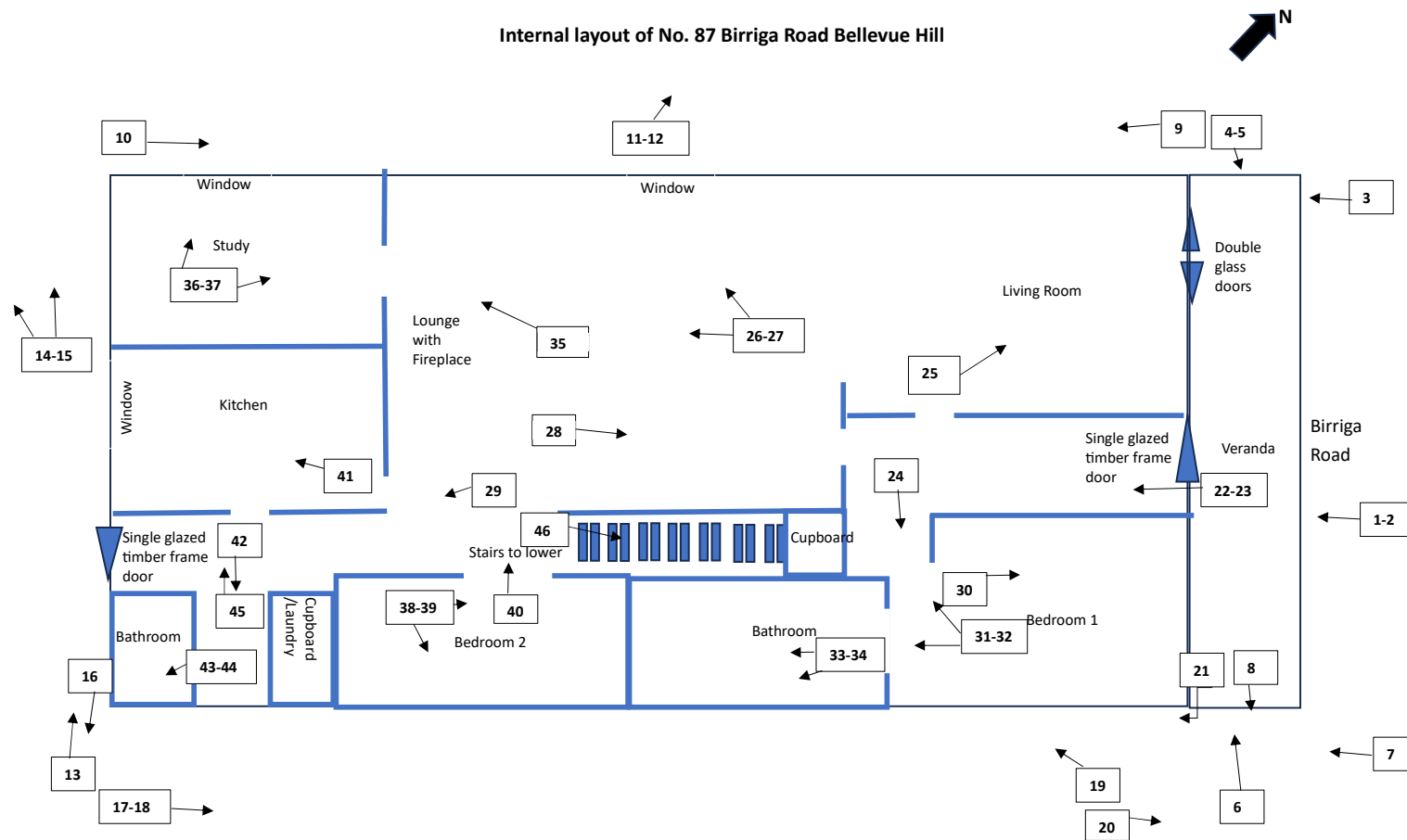


Photograph 54. View into bedroom 3 of later added timber flooring.

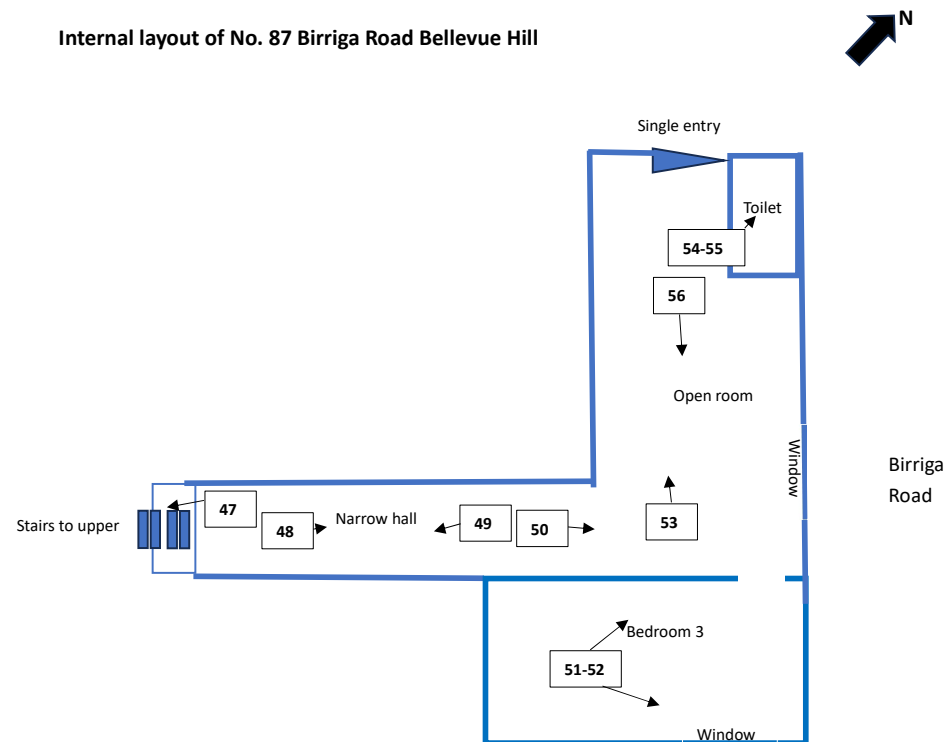


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Appendix 3 – Photographic recording of 87 Birriga Road



Two level house (Plan is not to scale)



Two level house (Plan is not to scale)

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 1. View south-west to the 87 Birriga Road main entry and garage, at the eastern side of the property.



Photograph 2. View of the front of 87 Birriga Road from the western side of the property.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 3. View south-west to the western entry of 87 Birriga Road. The single-entry door shown at the left, halfway up the stairs, accesses the downstairs addition. The concrete steps continue up to the front veranda. The western stairs to 85 Birriga Road also visible at the right.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 4. View east across the front veranda of 87 Birriga Road. Each side of the veranda has an entry gate to exterior stairs from Birriga Road.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 5. View east across the front veranda and façade of 87 Birriga Road.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 6. Recently cleaned or new shallow sandstone steps and risers are located at the main entry, across the façade of the house and extending down the eastern side.

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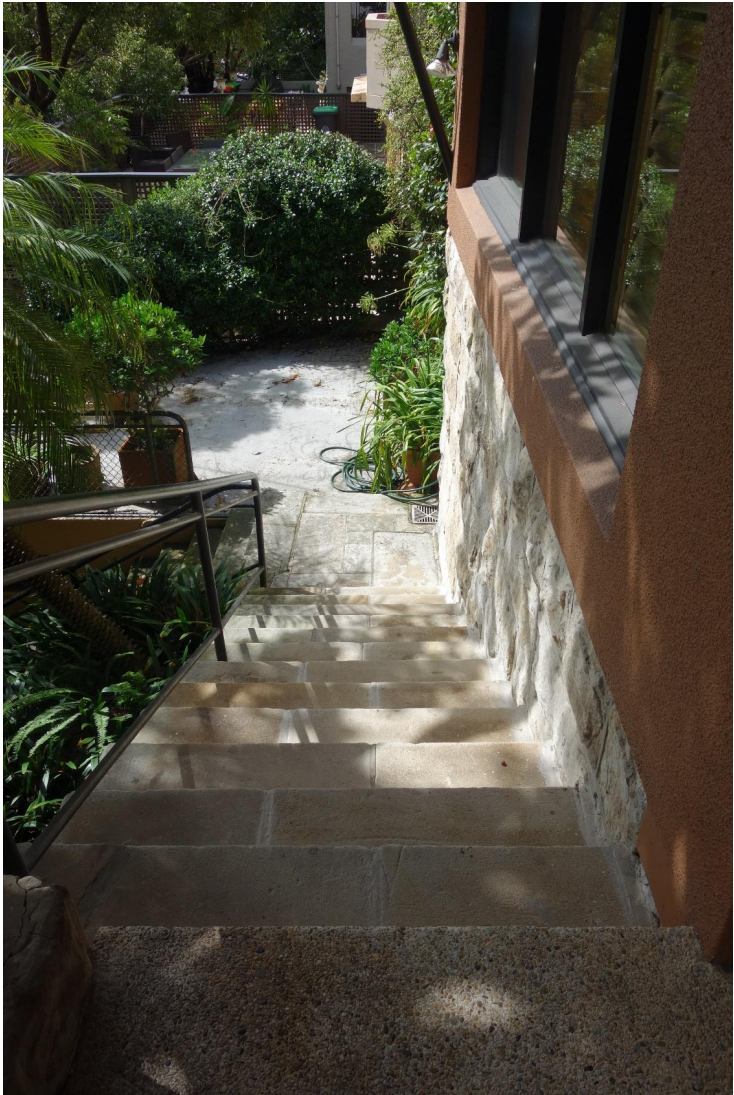
Photographs of 87 Birriga Road, Bellevue Hill



Photograph 7. View from the street to the sandstone rusticated blocks of the fence post and steps, at the main entry to 87 Birriga Road, adjacent to the garage.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 8. View south-east from the front veranda down the main eastern stairs. Visible is a flat terrace which has been formed on top of the garage.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 9. View from the north-west along the western side of 87 Birriga Road.

Photographs of 87 Birriga Road, Bellevue Hill

Anna Selles



Photograph 10. View from the south along the western side of the house, towards Birriga Road.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 11. Mature cycad or dwarf palm tree in the western garden bed.



Photograph 12. Mature Japanese (dwarf) maple tree in the western garden bed.

Photographs of 87 Birriga Road, Bellevue Hill

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Photograph 13. View along the rear of 87 Birriga Road, from the south-east.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 14. Rear retaining wall to the property, with possible water pipes suspended along the concrete or sandstone.



Photograph 15. View from the south along the rear garden terrace, towards the corner where a loose metal chimney cap (possibly removed from the residence) stands in the garden bed.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 16. View from the west along the back of the house, towards an (original) garden shed in the corner of the property.



Photograph 17. View towards the eastern side of the residence, showing rendered walls. The paved terrace is wider and flat on this side of the house.

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Photographs of 87 Birriga Road, Bellevue Hill



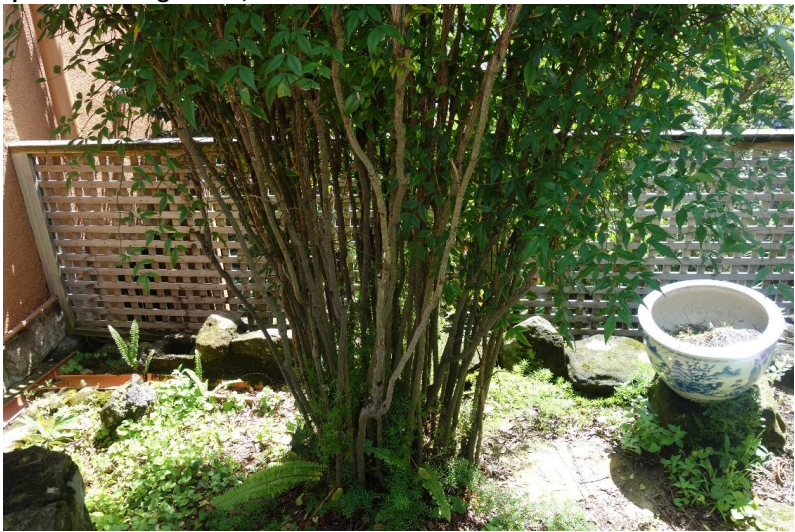
Photograph 18. View from the south-east along the side terrace, with shrubs and plantings.



Photograph 19. View towards the eastern side of the house from the terrace, showing that the windows have been replaced with metal/aluminium frames.

Anna Selles

Photographs of 87 Birriga Road, Bellevue Hill



Photograph 20. This garden bed separates the eastern side of the house from the lower level flat terrace on top of the garage, visible from Birriga Road.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 21. View from the front staircase, down towards the eastern side lower ground (c.1960s) addition and its window.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 22. View toward the front door and entry to 87 Birriga Road. Note the threshold stone, which matches the one at 85 Birriga Road.

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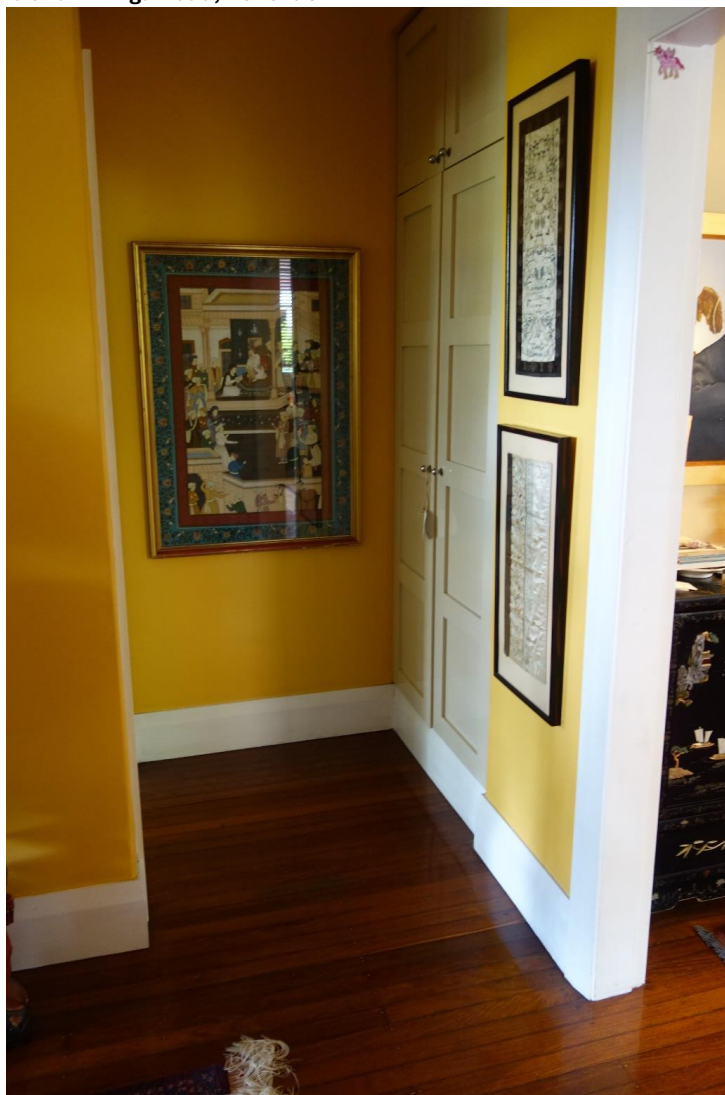
Photographs of 87 Birriga Road, Bellevue Hill



Photograph 23. View from the front door along the main hall, with two entries (no doors) to the living rooms visible.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 24. View from the main hallway towards the main bedroom on the north-east side of the hall. The front bedroom has a large ensuite bathroom, located behind the wall shown.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 25. The front living room faces the front veranda, on the north-west side of the hall. This is where the bedroom is located next door in 85 Birriga Road.

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Photographs of 87 Birriga Road, Bellevue Hill



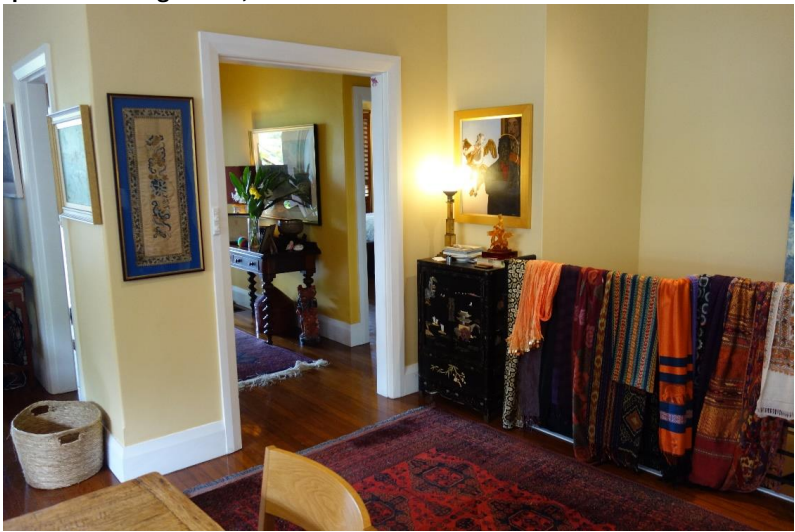
Photograph 26. View towards the western side of the house. This room opens from the front living room and is a wide room with a fireplace and the internal staircase. A fine view of the cycad.



Photograph 27. View towards the updated fireplace in the living/dining room. The fireplace location is the same as at 85 Birriga Road.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 28. View toward the hall from inside the living/dining room. The staircase balustrade is shown at the right, covered with material.



Photograph 29. View from the Photograph 28 location towards the rear of the house (kitchen, bedroom bathroom/toilet) with the staircase at far left.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 30. View into the main bedroom in the north-east corner of the house. Note the timber floor, new ceilings and window, but no wall grates.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 31. View towards the hallway from the main bedroom.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 32. View from the main bedroom, south into the adjoining large ensuite bathroom.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 33. New fittings and layout in the ensuite bathroom.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 34. Original window openings but later added windows in the eastern side wall of the bathroom.

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Photographs of 87 Birriga Road, Bellevue Hill



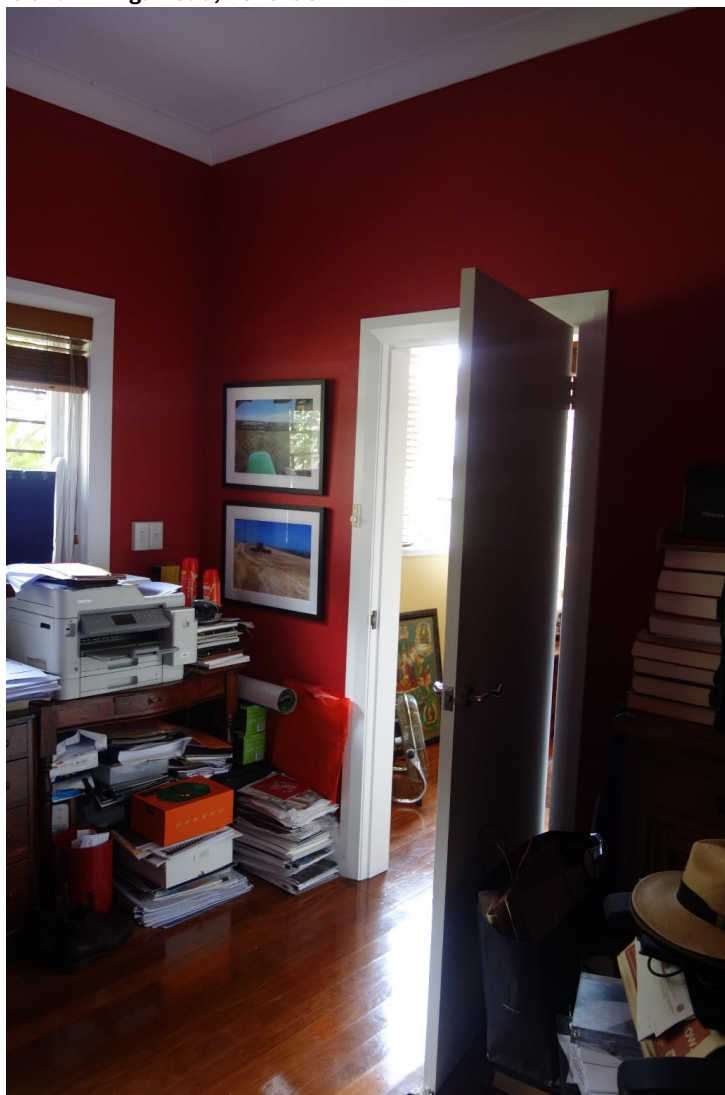
Photograph 35. View from the living/dining room towards the corner room, the study (outlined in red).



Photograph 36. View inside the study to the western side wall and set of timber sash windows.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 37. View inside the study towards the living/dining room. Note the original openings, but new flooring and ceiling. Behind this study is the kitchen.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 38. Small single bedroom on the eastern side of the house; original window opening, but replaced window.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 39. This small bedroom on the eastern side of the house retains its decorative plaster ceiling.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 40. View from the small single bedroom into the living/dining room. The staircase is shown through the open door.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 41. View from the living/dining room into the rear kitchen. This room is in the centre at the back of the house, as per the original layout.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 42. View from the kitchen into the south-east corner of the house, where an updated laundry and bathroom are located.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 43. The window opening in the rear bathroom appears original.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 44. New fittings in the rear bathroom.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 45. View from the laundry and bathroom area into the kitchen, to the west.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 46. View down the internal staircase from the living/dining room.

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Photograph 47. View up the internal staircase from the lower ground floor. The lower ground floor was a 1960s addition, with possibly later added (1990s) internal hall and staircase linking to the ground floor above.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 48. View along the lower ground floor hall, from the internal staircase towards Birriga Road.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 49. View back along the lower ground floor hallway, towards the internal staircase.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 50. View along the hall towards the front room (former waiting room) on the lower ground floor.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 51. View inside the former consulting room (now bedroom), on the lower ground floor. This room is in the north-east corner.

Photographs of 87 Birriga Road, Bellevue Hill

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Photograph 52. Window inside the bedroom (former consulting room), on the eastern side of the lower ground floor.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 53. View across the front room on the lower ground floor to the separate entry, on the western side of the building.

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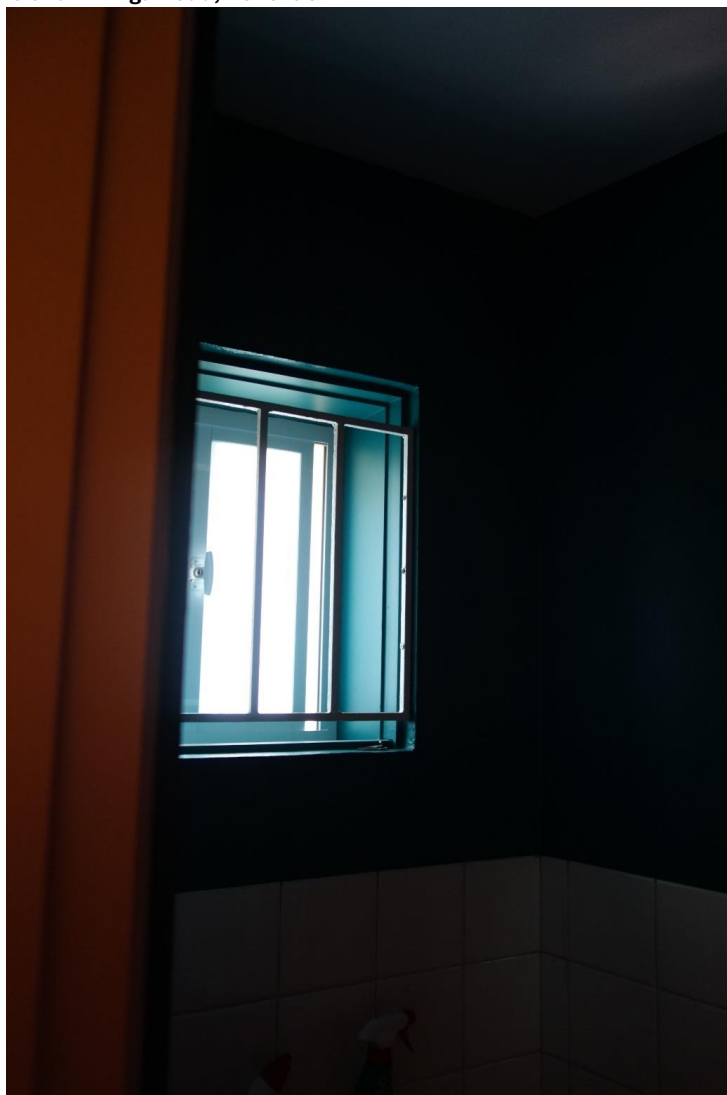
Photographs of 87 Birriga Road, Bellevue Hill



Photograph 54. View into the 1960s toilet addition on the lower ground floor, adjacent to the front room/waiting room and to the western side entrance.

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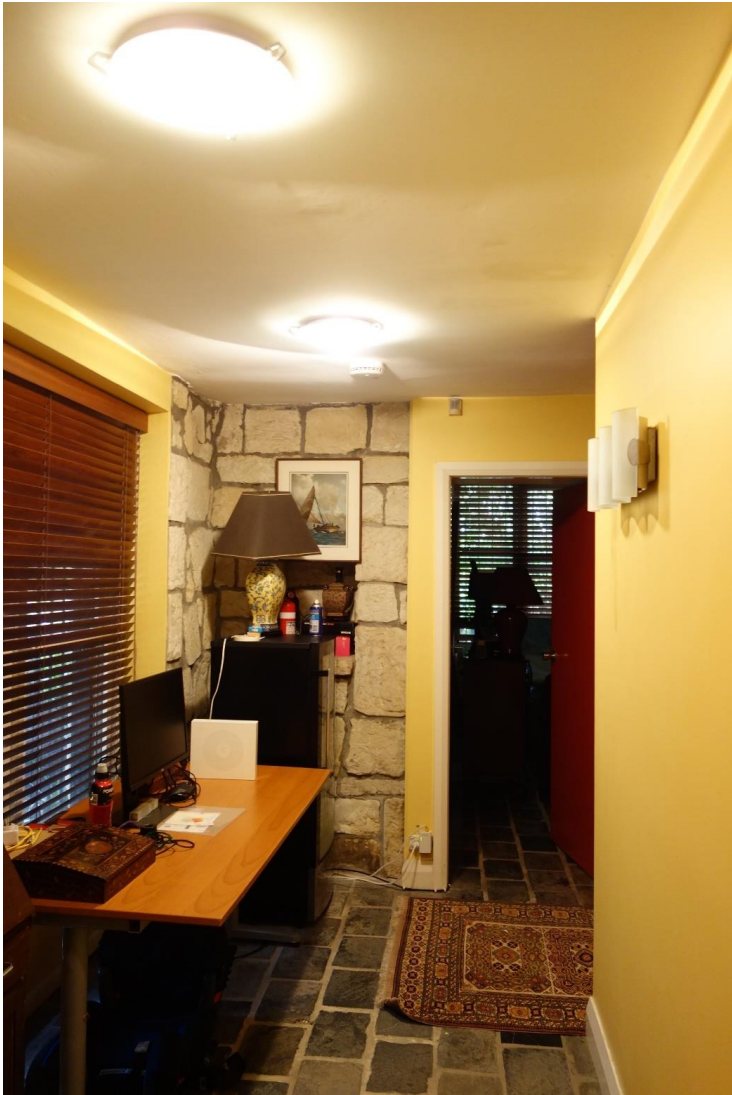
Photographs of 87 Birriga Road, Bellevue Hill



Photograph 55. View inside the 1960s toilet. The window is located on the western side of the lower ground floor.

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Photographs of 87 Birriga Road, Bellevue Hill



Photograph 56. View from the west along the front room/former waiting room on the lower ground floor.

Arkhaus Pty Ltd

Geotechnical and Hydrogeological
Assessment: 85 – 87 Birriga Road,
Bellevue Hill, NSW



P2309935JR01V01
December 2023

ENVIRONMENTAL



WATER



WASTEWATER



GEOTECHNICAL



CIVIL



PROJECT
MANAGEMENT



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Geotechnical and Hydrogeological Assessment:
85 – 87 Birriga Road, Bellevue Hill, NSW
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Geotechnical and Hydrogeological Assessment:
85 – 87 Birriga Road, Bellevue Hill, NSW
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1 Development and Investigation Scope

The proposed development details and investigation scope are summarised in Table 1.

Table 1: Summary of the proposed development and investigation scope.

Item	Details
Property Address	85 – 87 Birriga Road, Bellevue Hill, NSW ('the site')
Legal identifier	Lots C and D in DP305981 (SurvCORP, 2023).
Site Area	Lot C in DP305981 (457.5 m ²) and Lot D in DP305981 (458.5 m ²) cover a total area of 916.0 m ² (SurvCORP, 2023).
LGA	Woollahra City Council ('Council').
Proposed Development	<p>The architectural plans (Arkhaus, 2023) indicate that the development will include:</p> <ul style="list-style-type: none">Demolition of existing structures on site.Construction of a four-storey residential apartment building with a roof terrace.Construction of basement carpark with a finished floor level of RL 31.2 mAHd requiring an estimated maximum bulk excavation of 6.0 metres below ground level (mbgl). <p>Proposed excavations will be offset approximately 4.5 m from the southwestern site boundary, 1.5 m from the southeastern boundary, 1.5 m from the northeastern boundary and 4.0 m from the northwestern boundary. Therefore, proposed excavation will likely extend into the zone of influence of neighbouring properties and / or other infrastructure.</p>
Assessment Purpose	A geotechnical and hydrogeological assessment to support a Development Application (DA) and provide preliminary recommendations for the design of the proposed development.
Investigation Scope of Work	<p>Geotechnical investigation conducted on 1 November 2023 comprised the following:</p> <ul style="list-style-type: none">Review of DBYD survey plans and underground service locating.A general site walkover to review local geology, rock exposures, surface hydrology, topography and drainage.Auger drilling of five boreholes (BH101 to BH105) up depth of 0.85 mbgl using hand methods.Dynamic Cone Penetration (DCP) testing was undertaken in soil, adjacent to borehole locations (DCP101 – DCP105) to a maximum depth of 1.25 mbgl, and an additional location at the rear of No. 85 (DCP106).Collection of soil and samples from boreholes for future reference. <p>All investigation locations are shown in Map 01, Attachment A.</p>

2 General Site Details and Investigation Findings

2.1 General Site Details

Table 2 summarises general site details and investigation findings.

Table 2: Summary of site details and findings.

Element	Description/Detail
General Topography	The site lies within undulating to rolling rise, local relief of < 10 m and slopes of up to 35 % (eSPADE, 2023).
Site Elevation	Ground level across the site ranges between approximately 38.99 mAHD at the western corner of the site and 31.32 mAHD at eastern corner of the site. The top of the vertical sandstone face along the southwestern boundary is approximately 43.2 mAHD. (SurvCORP, 2023).
Site Aspect / Slope	Eastern to south eastern aspect. The site has been previously levelled for the existing development, with sandstone rock faces, retaining walls and terraces ranging from 0.3 m in height to 2.1 m. The maximum overall slope of the site is approximately 35 %.
Expected Geology	The Sydney 1:100,000 Geological Sheet 9130 indicates the site is underlain by Quaternary deposits comprising medium to fine grained "marine" sand with podzols. The site is mapped as being approximately 50 m north of the Hawkesbury Sandstone geological unit. Hawkesbury sandstone comprises medium to coarse grained quartz, sandstone, very minor shale and laminite lenses (Herbert, C., 1983).
Existing Development	Existing site development comprises single storey brick residential buildings on both 85 and 87 Birriga Road.
Drainage	Via overland flow to the east.
Vegetation	Some mature native and imported trees, bushes and a hedge covering the exposed sandstone face at the rear of No. 87.
Surrounding Land Uses	The site area is surrounded by Birriga Road to the east and residential buildings to the north, south and west.
Subsurface Conditions	<p>Based on our investigation, generalised subsurface conditions underlying the site, are summarised below:</p> <p><u>Unit A:</u> Uncontrolled fill comprising silty clayey sand, encountered up to a depth of 0.6 mbgl.</p> <p><u>Unit B:</u> Residual soil comprising:</p> <p><u>Unit B1:</u> Sandy clay, soft, encountered up to a depth of 0.6 mbgl.</p> <p><u>Unit B2:</u> Sandy clay, firm to stiff, encountered up to a depth of 0.85 mbgl.</p> <p><u>Unit C:</u> Inferred highly weathered, very low to low strength sandstone below investigation termination depths.</p> <p>DCP tests indicate that fill or residual clay may extend up to 1.25 mbgl. DCP refusal depths infer the presence of bedrock below these depths, however the presence of cobbles or boulders cannot be discounted.</p> <p>Encountered conditions are described in more detail on the borehole logs in Attachment B. For DCP test results refer to Attachment C and associated explanatory notes in Attachment E.</p>

3 Hydrogeological Assessment

3.1 Groundwater Observations

Groundwater inflow was not observed during the borehole drilling up to 0.85 mbgl.

3.2 NSW Department of Primary Industries Bore Search

A review of the NSW Department of Primary Industries Water (DPIW) real time groundwater bore database revealed that there are seven bores located within 500 m of the site with standing water level data as shown in Table 3. The groundwater bores are all located within sands associated with the Quaternary deposits profile, which varies significantly from the Hawkesbury sandstone profile likely underlying the site.

Table 3: DPIW real time groundwater details for three bores in the vicinity of the site.

Bore #	Approx. Distance from Site (m)	Approximate Elevation (mAHD) ¹	Standing Water Level (mbgl)	Approx. Groundwater Level (mAHD)
GW112550	253 (NE ²)	13	5.9	7.1
GW112551	267 (NE ²)	12	4.9	7.1
GW112552	273 (NE ²)	12	4.9	7.1
GW107080	408 (NE ²)	13	5.0	7.0
GW100609	448 (NE ²)	12	3.5	8.5
GW106267	473 (NW ²)	12	6.1	5.9
GW053132	495 (N ²)	8	1.2	6.8

Notes:

1. From Mecone MOSIAC
2. Direction from site; N = North, NE = Northeast, NW = Northwest

3.3 Conclusion

We conclude the following based on observations, findings and engineering judgement:

- o Given the site topography, site location and elevation as well as encountered subsurface profile, it is unlikely that the proposed excavations will intercept permanent groundwater table.

- Ephemeral perched groundwater may be encountered during bulk excavation within the soil profile, at the soil / rock interface or within rock fractures, originating from infiltration of surface water during or following rainfall events.
- WaterNSW may require groundwater monitoring to determine the depth of the groundwater and level fluctuations, for General Terms of Approval. Should monitoring indicate that bulk excavation will extend below the groundwater table, a dewatering management report will be required to support a Water Supply Works (WSW) approval from WaterNSW, in accordance with the Water Management Act (2000).



4 Acid Sulfate Soils Assessment

The Woollahra LEP (2014) identifies the site as having Class 5 ASS risk and approximately 375 m from Class 4 land, as shown in Figure 1. ASSMAC (1998) indicates that development on Class 5 land has the potential to pose an environmental risk, if works are within 500 metres of adjacent Class 1, 2, 3, or 4 land and are likely to lower the water table below 1 mAHd on the adjacent land.

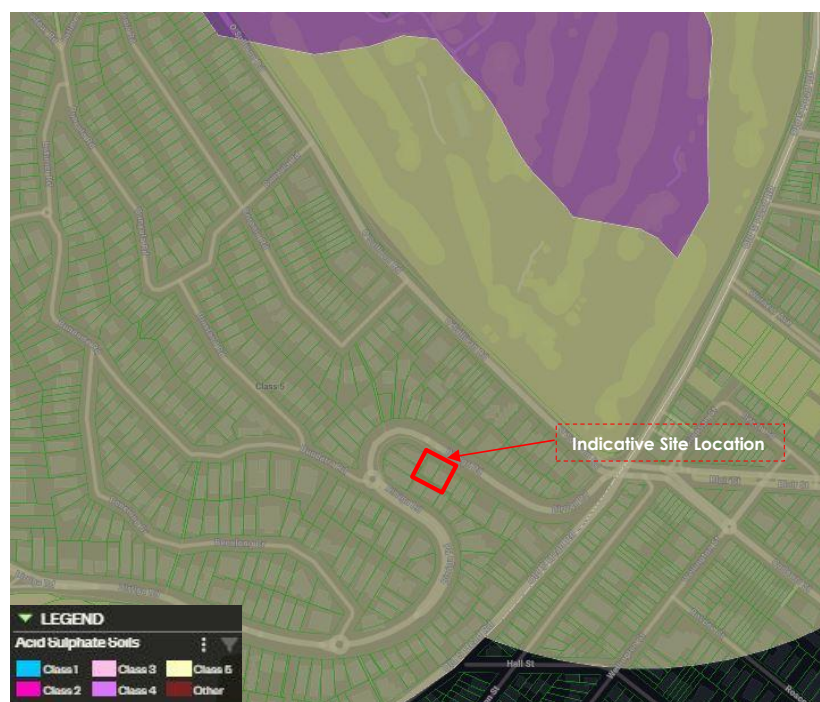


Figure 1: Canada Bay LEP, 2013, showing site location relative to risk classes.

The likelihood of ASS occurrence at a site is a function of various geomorphic parameters, in particular those listed in Table 4 as derived from ASSMAC (1998). Each is an indicator that ASS may be present onsite.

Table 4: Site geomorphic features indicative of ASS.

Geomorphic Feature	Present On Site?
Holocene sediments	No
Soil horizons less than 5 mAHd	No
Marine / estuarine sediments or tidal lakes	No
Coastal wetland; backwater swamps; waterlogged or scalded areas; inter-dune swales or coastal sand dunes	No
Dominant vegetation is mangroves, reeds, rushes and other swamp or marine tolerant species.	No
Geologies containing sulfide bearing material / coal deposits or former marine shales/sediments	Unlikely
Deep older (Holocene or Pleistocene) estuarine sediments > 10 mbgl (if deep excavation or drainage is proposed)	No

All of the geomorphic features listed are either not present or unlikely to be present onsite. Considering site elevation, topographic and geology maps and encountered subsurface conditions, we do not expect the natural soil / rock profile at the site to contain ASS and further laboratory testing and preparation of an acid sulfate soil management plan is not required.

5 Geotechnical Assessment

5.1 Preliminary Material Properties

Preliminary material properties inferred from observations during borehole drilling, such as auger penetration resistance and DCP test results as well as engineering assumptions are summarised in Table 5.

Table 5: Preliminary material properties.

Layer	$\gamma_{in-situ}$ (kN/m ³)	C_u^1 (kPa)	C'^2 (kPa)	ϕ'^3 (deg)	E'^4 (MPa)	K_0^5	K_a^6	K_p^7
FILL: Silty Clayey SAND	16	NA ⁸	0	27	4	0.55	0.38	2.66
RESIDUAL SOIL: Sandy CLAY (soft)	19	15	0	25	2	0.58	0.41	2.46
RESIDUAL SOIL: Sandy CLAY (firm to stiff)	19	40	1	25	7	0.58	0.41	2.46
WEATHERED ROCK: SANDSTONE (very low to low strength)	22	NA ⁸	30	30	80	0.5	0.33	3.0

Notes:

1. Undrained shear strength).
2. Average drained cohesion estimate.
3. Effective internal friction angle estimate, assuming drained conditions; may be dependent on rock defect conditions.
4. Average effective elastic modulus estimate.
5. Earth pressure coefficient at rest. Assumes horizontal ground surface.
6. Active earth pressure coefficient. Assumes horizontal ground surface.
7. Passive earth pressure coefficient. Assumes horizontal ground surface.
8. Not Applicable

5.2 Risk of Slope Instability

The proposed development consists of mostly gentle slopes separated by retaining walls and terraces at the front and rear of the site. Minor cracking and leaning of retaining walls was observed. The sandstone rock face at the rear of the site was predominantly obscured by vegetation, but appears to be stable.

Based on limited site observations, we consider the risk to property and loss of life by potential slope instability, such as landslide or soil creep, to be low subject to adherence to the recommendations in this report and adoption of relevant engineering standards and guidelines. It is recommended that the vertical sandstone rock face at the rear of the site be mapped by a geotechnical engineer to assess instability and



provide recommendations as required for long term stability.
Any cut or fill should be retained by an appropriately designed retaining wall and suitable drainage measures provided for the site. A detailed slope risk assessment in accordance with Australian Geomechanics Society's Landslide Risk Management Guidelines (2007) was not undertaken.



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6 Geotechnical Recommendations

Preliminary geotechnical recommendations for the proposed development are provided below. Further general geotechnical recommendations are provided in Attachment D.

6.1 Excavation

Proposed basement excavations will likely be through fill and residual soils followed by weathered sandstone bedrock likely to be of very low to medium (or higher) strength. Considering ground conditions, the following excavation plant may be required:

- Soils and very low strength rock: These should be readily excavated using conventional earthmoving equipment. Higher strength bands may require ripping tyne (or similar) to penetrate.
- Low to medium (or higher) strength rock: Hydraulic earthmoving equipment with rock breaker attachment.

We recommend using rock sawing techniques for excavation prior to the use of hydraulic hammer equipment to reduce noise and ground vibrations. However, nearby structures may be impacted by plant-induced vibrations due to their close proximity to the excavation boundary.

During demolition of existing buildings and / or excavation in low to medium (and higher) strength sandstone using a rock hammer, vibration management will be required in accordance with AS 2187.2, Appendix J to ensure no adverse impacts on the surrounding properties and infrastructure.

All excavation work should be completed with reference to the most recent version of Code of Practice 'Excavation Work', by Safe Work Australia.

6.2 Excavation Support

Excavations must be temporarily and permanently supported / retained to maintain excavation stability and limit potential adverse impacts on surrounding structures / neighbouring properties. Appropriate support methodologies should be adopted by the excavation contractor and design engineer and approved by an experienced geotechnical engineer.



6.2.1 Batter Slopes

Where there is sufficient setback between basement and site boundary, and any adjacent surcharge loads (e.g. buildings, roads, etc.) are not present within 2.0 m from slope crest or outside the zone of influence, whichever is greater, excavations into soil and rock may be temporarily battered back at the following grades:

- Fill and residual soils: 1V:2H
- Very low to low strength sandstone bedrock – 1H:1V

Recommended temporary batters are subject to inspection and approval by an experienced geotechnical engineer to confirm adopted batter slopes and to assess any impact on adjacent structures or infrastructure. If medium strength bedrock is encountered, vertical unsupported excavations may be adopted subject to inspection by a geotechnical engineer to assess stability of rock face.

6.2.2 Temporary Shoring

Where there is insufficient setback between the excavation and site boundary or where neighbouring structures are within the zone of influence or neighbouring building or infrastructure, temporary shoring (e.g. soldier pile, contiguous pile wall, etc.) should be adopted. Where the retained height exceeds approximately 3.0 m or where it is necessary to minimise wall deflection (e.g. adjacent to existing buildings or infrastructure), additional structural support (e.g. anchors, internal bracing) may be required.

Design of all retaining structures should consider additional surcharge loading from live loads, new and existing structures, construction equipment, backfill compaction, sloping ground and hydrostatic pressures behind retaining walls unless subsurface drainage behind retaining walls are provided.

Temporary shoring walls may be designed to provide long term retention with lateral restraint provided by lower ground floor and ground floor slabs. Should tie-back anchors be required to provide additional structural support and / or minimise wall deflections, permission should be obtained from neighbouring property owners.

Preliminary design of shoring wall may adopt preliminary active, at rest and passive earth pressure coefficients provided in Table 5.

6.3 Rock Support

Steeply dipping joints, clay seams and other rock defects may have an adverse effect on unsupported rock face stability and construction safety as well as increased earth pressure on shoring wall due to unstable rock wedges. Geotechnical mapping of the excavation should be conducted at 1.5 m depth increments to identify such features and allow early mitigation of risks of rock face instability. The presence of adverse jointing, highly weathered rock and clay seams will require rock bolting and / or shotcreting to maintain stability during excavation.

Rock support should be installed by contractors experienced in ground anchor technology and on advisement by an experienced geotechnical engineer. Rock support should not extend beyond property boundaries unless approval has been granted by relevant property owners or stakeholders.

6.4 Foundations

Bulk excavation may expose variable ground conditions comprising inferred very low to medium strength (or higher) sandstone bedrock. Where suitable bedrock is exposed at bulk excavation level, suitable foundations may comprise a reinforced concrete slab with slab thickening for pad and strip foundations to support columns and walls respectively. However, where inadequate bearing is present at bulk excavation level, it is recommended that pile foundations socketed at least 1.5 m into suitable bedrock be adopted to ensure that all foundations are founded within consistent materials / conditions to limit differential movements.

Table 6 presents preliminary design parameters that may be adopted for shallow footing and pile design subject to inspection by a geotechnical engineer prior to footing / pile construction. The design parameters assume the base of footing excavation / piles, are free of loose / soft soils or debris and dry, prior to placement of concrete.

Table 6: Preliminary estimates of soil and rock strength properties.

Units	Material	Shallow Footings	Piles ¹	
		ABC ²	ABC ²	ASF ³
Unit C	WEATHERED ROCK: SANDSTONE (Very low to low strength)	700	800	40

Notes:

1. Assuming bored cast in-situ pile/piers.
2. Allowable end bearing capacity (kPa) for shallow footings embedded at least 0.5 m and piles socketed at least 1.0 m or 1 pile diameter into bedrock, whichever is greater.
3. Allowable skin friction (kPa) below 1 m depth for bored pile in compression, assuming intimate contact between pile and foundation material equivalent to roughness category R2 or better.



For up lift resistance, we recommend reducing ASF by 50% and checking against 'piston' and 'cone' pull-out mechanisms in accordance with AS2159 (2009).

6.5 Dilapidation Surveys

Dilapidation surveys of adjacent structures should be carried out prior to excavation and following completion of the development.

6.6 Site Drainage

Appropriate surface and sub-surface drainage should be provided to divert overland flows and potential perched groundwater, away from slopes, excavations, foundations, underside of floor slabs and behind all shoring / retaining walls, and limit ponding of water in excavations and near footings.

All site discharges should be passed through a filter material prior to release. Diverted flows should be directed (where possible) to a suitable stormwater system downslope of the site so as to prevent water accumulating in areas surrounding retaining structures and footings.

6.7 Site Classification

Due to the sloping ground, the site is classified as a Class 'P' site in accordance with AS 2870 (2011). However, re-classification to Class A may be adopted subject to all footings socketed into sandstone bedrock.

6.8 Soil Erosion Control

Removal of soil overburden should be performed in a manner that reduces the risk of sedimentation occurring in the Council stormwater system and on neighbouring lands. All spoil on site should be properly controlled by erosion control measures to prevent transportation of sediments off-site. Appropriate soil erosion control methods in accordance with Landcom (2004) shall be required.

7 Proposed Additional Works

7.1 Works Prior to Construction Certificate

We recommend the following additional geotechnical works are carried out to develop the final design and prior to construction:

1. Further investigations following demolition of existing structures comprising cored boreholes and installation of groundwater monitoring wells and subsequent groundwater monitoring for assessment in accordance with WaterNSW / DPIE requirements.
2. Mapping of the vertical sandstone rock face at the rear of the site by a geotechnical engineer, to assess any requirements for stabilisation (e.g., shotcrete, anchors etc.).
3. A geotechnical monitoring plan should be prepared to determine locations of monitoring instruments and required threshold criteria.
4. Review of the final structural design by a senior geotechnical engineer to confirm adequate consideration of the geotechnical risks and adoption of the recommendations provided in this report.

8 References

- Arkhaus Pty Ltd (2023) *Residential Flat Building*, Dwg. No. A002, A101, A401, Drawings Titled Demolition Plan, Lower Ground Plan, Elevations, Sections, Issue P2, dated 2.11.2023 (Arkhaus, 2023).
- Herbert C. (1983) *Sydney 1:100 000 Geological Sheet 9130*, 1st edition, Geological Survey of New South Wales, Sydney.
- Land and Property Information (2020) SIX Maps Viewer, accessed on 17.10.2023, (www.maps.six.nsw.gov.au).
- Mecone MOSAIC, <https://mecone.com.au/mosaic/>, accessed on 17.10.2023.
- NSW Department of Environment & Heritage (eSPADE, NSW soil and land information), www.environment.nsw.gov.au.
- NSW DPI Office of Water, Groundwater database, accessed on 17.10.2023, Real-time water data (waternsw.com.au).
- Standards Australia Limited (1997) AS 1289.6.3.2:1997, Determination of the penetration resistance of a soil – 9kg dynamic cone penetrometer test, SAI Global Limited.
- Standards Australia Limited (2017) AS 1726:2017, Geotechnical site investigations, SAI Global Limited.
- Standards Australia Limited (2007) AS 3798-2007, *Guidelines on earthworks for commercial and residential developments*, SAI Global Limited.
- SurvCORP Pty Ltd (2023) *Detail and Boundary Identification of No. 85-87 Biriiga Road, Bellevue Hill, Lot C & D in DP305981*, Ref. number: 4957, dated 01.09.2023. (SurvCORP, 2023).
- Woollahra Local Environmental Plan (2014) Part 6.1; Acid Sulfate Soils (WLEP, 2014).

9 Attachment A – Geotechnical Investigation Plan



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10 Attachment B – Test Borehole Logs



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CLIENT	Arkhaus Studio		COMMENCED	01/11/2023	COMPLETED	01/11/2023	REF BH101	
PROJECT	Geotechnical Investigation		LOGGED	BC	CHECKED	KB	Sheet 1 OF 1	
SITE	85-87 Birriga Road, Bellevue Hill, NSW.		GEOLOGY	Quaternary deposits	VEGETATION	Bushes / Trees	PROJECT NO. P2309935	
EQUIPMENT	Hand Auger		LONGITUDE		RL SURFACE	33.7 m	DATUM	AHD
EXCAVATION DIMENSIONS	ø80 mm x 0.60 m depth		LATITUDE		ASPECT	East	SLOPE	<2%


Drilling			Sampling		Field Material Description								
METHOD	PENETRATION RESISTANCE	WATER	DEPTH (metres)	DEPTH RL	SAMPLE OR FIELD TEST	RECOVERED	GRAPHIC LOG	USCS / ASGS CLASSIFICATION	SOIL/ROCK MATERIAL DESCRIPTION	MOISTURE CONDITION	CONSISTENCY	DENSITY	STRUCTURE AND ADDITIONAL OBSERVATIONS
HA		Not Encountered	33.70					SP	FILL: Silty Clayey SAND; fine to medium grained; brown; trace gravels; trace roots.				FILL
			0.2										
			0.4		0.4/S/1 D 0.40 m								
			0.6	0.60									
			0.8						Hole Terminated at 0.60 m				0.60: Hand auger refusal on inferred roots or gravels.

EXCAVATION LOG TO BE READ IN CONJUNCTION WITH ACCOMPANYING REPORT NOTES AND ABBREVIATIONS													
 <small>(C) Copyright Martens & Associates Pty. Ltd.</small>					MARTENS & ASSOCIATES PTY LTD Suite 201, 20 George St. Hornsby, NSW 2077 Australia Phone: (02) 9476 9999 Fax: (02) 9476 8767 mail@martens.com.au WEB: http://www.martens.com.au					Engineering Log - BOREHOLE			

CLIENT	Arkhaus Studio		COMMENCED	01/11/2023	COMPLETED	01/11/2023	REF BH102	
PROJECT	Geotechnical Investigation		LOGGED	BC	CHECKED	KB	Sheet 1 OF 1	
SITE	85-87 Birriga Road, Bellevue Hill, NSW.		GEOLOGY	Quaternary deposits	VEGETATION	Bushes	PROJECT NO. P2309935	
EQUIPMENT	Hand Auger		LONGITUDE		RL SURFACE	36.8 m	DATUM	AHD
EXCAVATION DIMENSIONS	ø80 mm x 0.85 m depth		LATITUDE		ASPECT	East	SLOPE	<2%


Drilling			Sampling		Field Material Description									
METHOD	PENETRATION RESISTANCE	WATER	DEPTH (metres)	DEPTH RL	SAMPLE OR FIELD TEST	RECOVERED	GRAPHIC LOG	USCS / ASGS CLASSIFICATION	SOIL/ROCK MATERIAL DESCRIPTION	MOISTURE CONDITION	CONSISTENCY	DENSITY	STRUCTURE AND ADDITIONAL OBSERVATIONS	
HA	Not Encountered		36.80					SP	FILL: Silty Clayey SAND; fine to medium grained; brown; trace gravels; trace roots.				FILL	
			0.2											
			0.4											
			0.50	36.30				CI	Sandy CLAY; medium plasticity; yellow, orange, red, yellow - brown; trace gravels; trace silt.				RESIDUAL SOIL	
			0.6		0.6-0.8/S/1 D 0.60-0.80 m					M (=PL)	St			
			0.8											
			0.85						Hole Terminated at 0.85 m				0.85: Hand auger refusal on inferred very low to low strength sandstone.	

EXCAVATION LOG TO BE READ IN CONJUNCTION WITH ACCOMPANYING REPORT NOTES AND ABBREVIATIONS

 <p>MARTENS 2.0 LUB QLE LUB MARTENS BOREHOLE P2309935BH101-105.GPJ <<Drawing>> 22/11/2023 14:28 10.02.00.04 D:\git\Lab and in Situ Tool - DGD Lab\Martens 2.0 2016-1-13 PJ\Martens 2.0 2016-1-13</p> <p>(C) Copyright Martens & Associates Pty. Ltd.</p>	<p>MARTENS & ASSOCIATES PTY LTD Suite 201, 20 George St, Hornsby, NSW 2077 Australia Phone: (02) 9476 9999 Fax: (02) 9476 8767 mail@martens.com.au WEB: http://www.martens.com.au</p>	<p>Engineering Log - BOREHOLE</p>
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CLIENT	Arkhaus Studio		COMMENCED	01/11/2023	COMPLETED	01/11/2023	REF BH103	
PROJECT	Geotechnical Investigation		LOGGED	BC	CHECKED	KB	Sheet 1 OF 1	
SITE	85-87 Birriga Road, Bellevue Hill, NSW.		GEOLOGY	Quaternary deposits	VEGETATION	Bushes	PROJECT NO. P2309935	
EQUIPMENT	Hand Auger		LONGITUDE		RL SURFACE	37.3 m	DATUM	AHD
EXCAVATION DIMENSIONS	ø80 mm x 0.70 m depth		LATITUDE		ASPECT	East	SLOPE	<2%


Drilling			Sampling		Field Material Description									
METHOD	PENETRATION RESISTANCE	WATER	DEPTH (metres)	DEPTH RL	SAMPLE OR FIELD TEST	RECOVERED	GRAPHIC LOG	USCS / ASGS CLASSIFICATION	SOIL/ROCK MATERIAL DESCRIPTION	MOISTURE CONDITION	CONSISTENCY	DENSITY	STRUCTURE AND ADDITIONAL OBSERVATIONS	
HA	Not Encountered		37.30					SP	FILL: Silty Clayey SAND; fine to medium grained; brown; trace gravels; trace roots.				FILL	
			0.2											
			0.4											
			0.50	36.80				CI	Sandy CLAY; medium plasticity; yellow, orange, red, yellow - brown; trace gravels; trace silt.				RESIDUAL SOIL	
			0.6		0.6-0.7/S/1 D 0.60-0.70 m					M (=PL)	St			
			0.70						Hole Terminated at 0.70 m				0.70: Hand auger refusal on inferred very low to low strength sandstone.	
			0.8											

EXCAVATION LOG TO BE READ IN CONJUNCTION WITH ACCOMPANYING REPORT NOTES AND ABBREVIATIONS		
 <p>MARTENS & ASSOCIATES PTY LTD Suite 201, 20 George St. Hornsby, NSW 2077 Australia Phone: (02) 9476 9999 Fax: (02) 9476 8767 mail@martens.com.au WEB: http://www.martens.com.au</p>	<p>Engineering Log - BOREHOLE</p>	

CLIENT	Arkhaus Studio		COMMENCED	01/11/2023	COMPLETED	01/11/2023	REF BH104	
PROJECT	Geotechnical Investigation		LOGGED	BC	CHECKED	KB	Sheet 1 OF 1	
SITE	85-87 Birriga Road, Bellevue Hill, NSW.		GEOLOGY	Quaternary deposits	VEGETATION	Bushes	PROJECT NO. P2309935	
EQUIPMENT	Hand Auger		LONGITUDE		RL SURFACE	37 m	DATUM	AHD
EXCAVATION DIMENSIONS	ø80 mm x 0.30 m depth		LATITUDE		ASPECT	East	SLOPE	<2%

Drilling				Sampling		Field Material Description						
METHOD	PENETRATION RESISTANCE	WATER	DEPTH (metres)	DEPTH RL	SAMPLE OR FIELD TEST	RECOVERED	GRAPHIC LOG	USCS / ASGS CLASSIFICATION	SOIL/ROCK MATERIAL DESCRIPTION	MOISTURE CONDITION	CONSISTENCY DENSITY	STRUCTURE AND ADDITIONAL OBSERVATIONS
HA		Not Encountered	37.00					SP	FILL: Silty Clayey SAND; fine to medium grained; brown; trace gravels; trace roots.			FILL
			0.2								M	
			0.30						Hole Terminated at 0.30 m			0.30: Hand auger refusal on inferred very low to low strength sandstone.
			0.4									
			0.6									
			0.8									

EXCAVATION LOG TO BE READ IN CONJUNCTION WITH ACCOMPANYING REPORT NOTES AND ABBREVIATIONS

 <p>MARTENS & ASSOCIATES PTY LTD Suite 201, 20 George St. Hornsby, NSW 2077 Australia Phone: (02) 9476 9999 Fax: (02) 9476 8767 mail@martens.com.au WEB: http://www.martens.com.au</p>	<p>Engineering Log - BOREHOLE</p>
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MARTENS 2.0 LUB QLS LUB MARTENS BOREHOLE P2309935BH101-105.GPJ <Drawing> 22/11/2023 14:28 10.02.00.04 D:\git\luc and in Site Tool - DGD LUB MARTENS 2.0 2016-1-13 PJL MARTENS 2.0 2016-1-13

MARTENS 2.00 LIB.GLB Log MARTENS BOREHOLE P3209935BH 10-1-05.GPJ <<DrawingFile>> 22/11/2023 14:25 10:02 00.04 DataGel Lab and In Situ Tool - DGD | Lib: Martens 2.00 2016-11-13 Proj: Martens 2.00 2016-11-13

11 Attachment C – DCP ‘N’ Counts



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12 Attachment D – General Geotechnical Recommendations



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Geotechnical Recommendations

Important Recommendations About Your Site (1 of 2)



These general geotechnical recommendations have been prepared by Martens to help you deliver a safe work site, to comply with your obligations, and to deliver your project. Not all are necessarily relevant to this report but are included as general reference. Any specific recommendations made in the report will override these recommendations.

Batter Slopes

Excavations in soil and extremely low to very low strength rock exceeding 0.75 m depth should be battered back at grades of no greater than 1 Vertical (V) : 2 Horizontal (H) for temporary slopes (unsupported for less than 1 month) and 1 V : 3 H for longer term unsupported slopes.

Vertical excavation may be carried out in medium or higher strength rock, where encountered, subject to inspection and confirmation by a geotechnical engineer. Long term and short term unsupported batters should be protected against erosion and rock weathering due to, for example, stormwater run-off.

Batter angles may need to be revised depending on the presence of bedding partings or adversely oriented joints in the exposed rock, and are subject to on-site inspection and confirmation by a geotechnical engineer. Unsupported excavations deeper than 1.0 m should be assessed by a geotechnical engineer for slope instability risk.

Any excavated rock faces should be inspected during construction by a geotechnical engineer to determine whether any additional support, such as rock bolts or shotcrete, is required.

Earthworks

Earthworks should be carried out following removal of any unsuitable materials and in accordance with AS3798 (2007). A qualified geotechnical engineer should inspect the condition of prepared surfaces to assess suitability as foundation for future fill placement or load application.

Earthworks inspections and compliance testing should be carried out in accordance with Sections 5 and 8 of AS3798 (2007), with testing to be carried out by a National Association of Testing Authorities (NATA) accredited testing laboratory.

Excavations

All excavation work should be completed with reference to the *Work Health and Safety (Excavation Work) Code of Practice (2015)*, by Safe Work Australia. Excavations into rock may be undertaken as follows:

1. Extremely low to low strength rock - conventional hydraulic earthmoving equipment.
2. Medium strength or stronger rock - hydraulic earthmoving equipment with rock hammer or ripping tyne attachment.

Exposed rock faces and loose boulders should be monitored to assess risk of block / boulder movement, particularly as a result of excavation vibrations.

Fill

Subject to any specific recommendations provided in this report, any fill imported to site is to comprise approved material with maximum particle size of two thirds the final layer thickness. Fill should be placed in horizontal layers of not more than 300 mm loose thickness, however, the layer thickness should be appropriate for the adopted compaction plant.

Foundations

All exposed foundations should be inspected by a geotechnical engineer prior to footing construction to confirm encountered conditions satisfy design assumptions and that the base of all excavations is free from loose or softened material and water. Water that has ponded in the base of excavations and any resultant softened material is to be removed prior to footing construction.

Footings should be constructed with minimal delay following excavation. If a delay in construction is anticipated, we recommend placing a concrete blinding layer of at least 50 mm thickness in shallow footings or mass concrete in piers / piles to protect exposed foundations.

A geotechnical engineer should confirm any design bearing capacity values, by further assessment during construction, as necessary.

Shoring - Anchors

Where there is a requirement for either soil or rock anchors, or soil nailing, and these structures penetrate past a property boundary, appropriate permission from the adjoining land owner must be obtained prior to the installation of these structures.

Shoring - Permanent

Permanent shoring techniques may be used as an alternative to temporary shoring. The design of such structures should be in accordance with the findings of this report and any further testing recommended by this report. Permanent shoring may include [but not be limited to] reinforced block work walls, contiguous and semi contiguous pile walls, secant pile walls and soldier pile walls with or without reinforced shotcrete infill panels. The choice of shoring system will depend on the type of structure, project budget and site specific geotechnical conditions.

Permanent shoring systems are to be engineer designed and backfilled with suitable granular

Important Recommendations About Your Site (2 of 2)

material and free-draining drainage material. Backfill should be placed in maximum 100 mm thick layers compacted using a hand operated compactor. Care should be taken to ensure excessive compaction stresses are not transferred to retaining walls.

Shoring design should consider any surcharge loading from sloping / raised ground behind shoring structures, live loads, new structures, construction equipment, backfill compaction and static water pressures. All shoring systems shall be provided with adequate foundation designs.

Suitable drainage measures, such as geotextile enclosed 100 mm agricultural pipes embedded in free-draining gravel, should be included to redirect water that may collect behind the shoring structure to a suitable discharge point.

Shoring - Temporary

In the absence of providing acceptable excavation batters, excavations should be supported by suitably designed and installed temporary shoring / retaining structures to limit lateral deflection of excavation faces and associated ground surface settlements.

Soil Erosion Control

Removal of any soil overburden should be performed in a manner that reduces the risk of sedimentation occurring in any formal stormwater drainage system, on neighbouring land and in receiving waters. Where possible, this may be achieved by one or more of the following means:

1. Maintain vegetation where possible
2. Disturb minimal areas during excavation
3. Revegetate disturbed areas if possible

All spoil on site should be properly controlled by erosion control measures to prevent transportation of sediments off-site. Appropriate soil erosion control methods in accordance with Landcom (2004) shall be required.

Trafficability and Access

Consideration should be given to the impact of the proposed works and site subsurface conditions on trafficability within the site e.g. wet clay soils will lead to poor trafficability by tyre plant or vehicles.

Where site access is likely to be affected by any site works, construction staging should be organised such that any impacts on adequate access are minimised as best as possible.

Vibration Management

Where excavation is to be extended into medium or higher strength rock, care will be required when using a rock hammer to limit potential structural distress from excavation-induced vibrations where nearby structures may be affected by the works.

To limit vibrations, we recommend limiting rock hammer size and set frequency, and setting the hammer parallel to bedding planes and along defect planes, where possible, or as advised by a geotechnical engineer. We recommend limiting vibration peak particle velocities (PPV) caused by construction equipment or resulting from excavation at the site to 5 mm/s (AS 2187.2, 2006, Appendix J).

Waste – Spoil and Water

Soil to be disposed off-site should be classified in accordance with the relevant State Authority guidelines and requirements.

Any collected waste stormwater or groundwater should also be tested prior to discharge to ensure contaminant levels (where applicable) are appropriate for the nominated discharge location.

MA can complete the necessary classification and testing if required. Time allowance should be made for such testing in the construction program.

Water Management - Groundwater

If the proposed works are likely to intersect ephemeral or permanent groundwater levels, the management of any potential acid soil drainage should be considered. If groundwater tables are likely to be lowered, this should be further discussed with the relevant State Government Agency.

Water Management – Surface Water

All surface runoff should be diverted away from excavation areas during construction works and prevented from accumulating in areas surrounding any retaining structures, footings or the base of excavations.

Any collected surface water should be discharged into a suitable Council approved drainage system and not adversely impact downslope surface and subsurface conditions.

All site discharges should be passed through a filter material prior to release. Sump and pump methods will generally be suitable for collection and removal of accumulated surface water within any excavations.

Contingency Plan

In the event that proposed development works cause an adverse impact on geotechnical hazards, overall site stability or adjacent properties, the following actions are to be undertaken:

1. Works shall cease immediately.
2. The nature of the impact shall be documented and the reason(s) for the adverse impact investigated.
3. A qualified geotechnical engineer should be consulted to provide further advice in relation to the issue.

13 Attachment E – Notes About This Report



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Information

Important Information About Your Report (1 of 2)

These notes have been prepared by Martens to help you interpret and understand the limitations of your report. Not all are necessarily relevant to all reports but are included as general reference.



Engineering Reports - Limitations

The recommendations presented in this report are based on limited investigations and include specific issues to be addressed during various phases of the project. If the recommendations presented in this report are not implemented in full, the general recommendations may become inapplicable and Martens & Associates accept no responsibility whatsoever for the performance of the works undertaken.

Occasionally, sub-surface conditions between and below the completed boreholes or other tests may be found to be different (or may be interpreted to be different) from those expected. Variation can also occur with groundwater conditions, especially after climatic changes. If such differences appear to exist, we recommend that you immediately contact Martens & Associates.

Relative ground surface levels at borehole locations may not be accurate and should be verified by on-site survey.

Engineering Reports – Project Specific Criteria

Engineering reports are prepared by qualified personnel. They are based on information obtained, on current engineering standards of interpretation and analysis, and on the basis of your unique project specific requirements as understood by Martens. Project criteria typically include the general nature of the project; its size and configuration; the location of any structures on the site; other site improvements; the presence of underground utilities; and the additional risk imposed by scope-of-service limitations imposed by the Client.

Where the report has been prepared for a specific design proposal (e.g. a three storey building), the information and interpretation may not be relevant if the design proposal is changed (e.g. to a twenty storey building). Your report should not be relied upon, if there are changes to the project, without first asking Martens to assess how factors, which changed subsequent to the date of the report, affect the report's recommendations. Martens will not accept responsibility for problems that may occur due to design changes, if not consulted.

Engineering Reports – Recommendations

Your report is based on the assumption that site conditions, as may be revealed through selective point sampling, are indicative of actual conditions throughout an area. This assumption often cannot be substantiated until project implementation has commenced. Therefore your site investigation report recommendations should only be regarded as preliminary.

Only Martens, who prepared the report, are fully familiar with the background information needed to assess whether or not the report's recommendations are valid and whether or not changes should be considered as the project develops. If another party undertakes the implementation of the recommendations of this report, there is a risk that the report will be misinterpreted and Martens cannot be held responsible for such misinterpretation.

Engineering Reports – Use for Tendering Purposes

Where information obtained from investigations is provided for tendering purposes, Martens recommend that all information, including the written report and discussion, be made available. In circumstances where the discussion or comments section is not relevant to the contractual situation, it may be appropriate to prepare a specially edited document.

Martens would be pleased to assist in this regard and/or to make additional report copies available for contract purposes at a nominal charge.

Engineering Reports – Data

The report as a whole presents the findings of a site assessment and should not be copied in part or altered in any way.

Logs, figures, drawings etc are customarily included in a Martens report and are developed by scientists, engineers or geologists based on their interpretation of field logs (assembled by field personnel), desktop studies and laboratory evaluation of field samples. These data should not under any circumstances be redrawn for inclusion in other documents or separated from the report in any way.

Engineering Reports – Other Projects

To avoid misuse of the information contained in your report it is recommended that you confer with Martens before passing your report on to another party who may not be familiar with the background and purpose of the report. Your report should not be applied to any project other than that originally specified at the time the report was issued.

Subsurface Conditions - General

Every care is taken with the report in relation to interpretation of subsurface conditions, discussion of geotechnical aspects, relevant standards and recommendations or suggestions for design and construction. However, the Company cannot always anticipate or assume responsibility for:

- Unexpected variations in ground conditions - the potential will depend partly on test point (eg. excavation or borehole) spacing and sampling frequency, which are often limited by project imposed budgetary constraints.

Information

Important Information About Your Report (2 of 2)

- o Changes in guidelines, standards and policy or interpretation of guidelines, standards and policy by statutory authorities.
- o The actions of contractors responding to commercial pressures.
- o Actual conditions differing somewhat from those inferred to exist, because no professional, no matter how qualified, can reveal precisely what is hidden by earth, rock and time.

The actual interface between logged materials may be far more gradual or abrupt than assumed based on the facts obtained. Nothing can be done to change the actual site conditions which exist, but steps can be taken to reduce the impact of unexpected conditions.

If these conditions occur, Martens will be pleased to assist with investigation or providing advice to resolve the matter.

Subsurface Conditions - Changes

Natural processes and the activity of man create subsurface conditions. For example, water levels can vary with time, fill may be placed on a site and pollutants may migrate with time. Reports are based on conditions which existed at the time of the subsurface exploration / assessment.

Decisions should not be based on a report whose adequacy may have been affected by time. If an extended period of time has elapsed since the report was prepared, consult Martens to be advised how time may have impacted on the project.

Subsurface Conditions - Site Anomalies

In the event that conditions encountered on site during construction appear to vary from those that were expected from the information contained in the report, Martens requests that it immediately be notified. Most problems are much more readily resolved at the time when conditions are exposed, rather than at some later stage well after the event.

Report Use by Other Design Professionals

To avoid potentially costly misinterpretations when other design professionals develop their plans based on a Martens report, retain Martens to work with other project professionals affected by the report. This may involve Martens explaining the report design implications and then reviewing plans and specifications produced to see how they have incorporated the report findings.

Subsurface Conditions – Geo-environmental Issues

Your report generally does not relate to any findings, conclusions, or recommendations about the potential for hazardous or contaminated materials existing at the site unless specifically required to do so as part of Martens' proposal for works.

Specific sampling guidelines and specialist equipment, techniques and personnel are typically used to perform geo-environmental or site contamination assessments. Contamination can create major health, safety and environmental risks. If you have no information about the potential for your site to be contaminated or create an environmental hazard, you are advised to contact Martens for information relating to such matters.

Responsibility

Geo-environmental reporting relies on interpretation of factual information based on professional judgment and opinion and has an inherent level of uncertainty attached to it and is typically far less exact than the design disciplines. This has often resulted in claims being lodged against consultants, which are unfounded.

To help prevent this problem, a number of clauses have been developed for use in contracts, reports and other documents. Responsibility clauses do not transfer appropriate liabilities from Martens to other parties but are included to identify where Martens' responsibilities begin and end. Their use is intended to help all parties involved to recognise their individual responsibilities. Read all documents from Martens closely and do not hesitate to ask any questions you may have.

Site Inspections

Martens will always be pleased to provide engineering inspection services for aspects of work to which this report relates. This could range from a site visit to confirm that conditions exposed are as expected, to full time engineering presence on site. Martens is familiar with a variety of techniques and approaches that can be used to help reduce risks for all parties to a project, from design to construction.



Soil Data

Explanation of Terms (1 of 3)



Definitions

In engineering terms, soil includes every type of uncemented or partially cemented inorganic or organic material found in the ground. In practice, if the material does not exhibit any visible rock properties and can be remoulded or disintegrated by hand in its field condition or in water, it is described as a soil. Other materials are described using rock description terms.

The methods of description and classification of soils and rocks used in this report are typically based on Australian Standard 1726 and the Unified Soil Classification System (USCS) – refer Soil Data Explanation of Terms (2 of 3). In general, descriptions cover the following properties: strength or density, colour, moisture, structure, soil or rock type and inclusions.

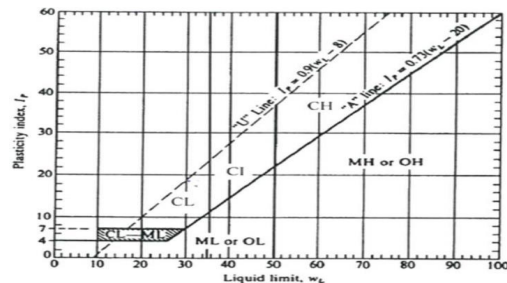
Particle Size

Soil types are described according to the predominating particle size, qualified by the grading of other particles present (e.g. sandy CLAY). Unless otherwise stated, particle size is described in accordance with the following table.

Division	Subdivision	Particle Size (mm)
Oversized	BOULDERS	>200
	COBBLES	63 to 200
Coarse Grained Soil	GRAVEL	Coarse 19 to 63
		Medium 6.7 to 19
		Fine 2.36 to 6.7
	SAND	Coarse 0.6 to 2.36
		Medium 0.21 to 0.6
		Fine 0.075 to 0.21
Fine Grained Soil	SILT	0.002 to 0.075
	CLAY	< 0.002

Plasticity Properties

Plasticity properties of cohesive soils can be assessed in the field by tactile properties or by laboratory procedures.



Soil Moisture Condition

Coarse Grained (Granular) Soil:

Dry (D):	Looks and feels dry. Cemented soils are hard, friable or powdery. Uncemented soils run freely through fingers.
Moist (M):	Feels cool and damp and is darkened in colour. Particles tend to cohere.
Wet (W):	As for moist but with free water forming on hands when handled.

Fine Grained (Cohesive) Soil:

Moist, dry of plastic limit ¹ (w < PL):	Looks and feels dry. Hard, friable or powdery.
Moist, near plastic limit (w ≈ PL):	Can be moulded, feels cool and damp, is darkened in colour, at a moisture content approximately equal to the PL.
Moist, wet of plastic limit (w > PL):	Usually weakened and free water forms on hands when handled.
Wet, near liquid limit ² (w ≈ LL)	
Wet, wet of liquid limit (w > LL)	

¹ Plastic Limit (PL): Moisture content at which soil becomes too dry to be in a plastic condition.

² Liquid Limit (LL): Moisture content at which soil passes from plastic to liquid state.

Consistency of Cohesive Soils

Cohesive soils refer to predominantly clay materials.

(Note: consistency is affected by soil moisture condition at time of measurement)

Term	C _u (kPa)	Field Guide
Very Soft (VS)	≤ 12	A finger can be pushed well into the soil with little effort. Sample exudes between fingers when squeezed in fist.
Soft (S)	>12 and ≤ 25	A finger can be pushed into the soil to about 25mm depth. Easily moulded by light finger pressures.
Firm (F)	>25 and ≤ 50	The soil can be indented about 5mm with the thumb, but not penetrated. Can be moulded by strong figure pressure.
Stiff (St)	>50 and ≤ 100	The surface of the soil can be indented with the thumb, but not penetrated. Cannot be moulded by fingers.
Very Stiff (VSt)	>100 and ≤ 200	The surface of the soil can be marked, but not indented with thumb pressure. Difficult to cut with a knife. Thumb nail can readily indent.
Hard (H)	> 200	The surface of the soil can only be marked with the thumbnail. Brittle. Tends to break into fragments.
Friable (Fr)	-	Crumbles or powders when scraped by thumbnail. Can easily be crumbled or broken into small pieces by hand.

Density of Granular Soils

Non-cohesive soils are classified on the basis of relative density, generally from standard penetration test (SPT) or Dutch cone penetrometer test (CPT) results as below:

Relative Density	%	SPT 'N' Value* (blows/300mm)	CPT Cone Value (q _c MPa)
Very loose	≤ 15	< 5	< 2
Loose	>15 and ≤ 35	5 - 10	2 - 5
Medium dense	>35 and ≤ 65	10 - 30	5 - 15
Dense	>65 and ≤ 85	30 - 50	15 - 25
Very dense	> 85	> 50	> 25

* Values may be subject to corrections for overburden pressures and equipment type and influenced by soil moisture condition at time of measurement.

Minor Components

Minor components in soils may be present and readily detectable, but have little bearing on general geotechnical classification. Terms include:

Description of components	Proportion of component in:					
	coarse grained soil				fine grained soil	
	% Fines	Terminology	% Accessory coarse fraction	Terminology	% Sand/gravel	Terminology
Minor	≤ 5	Trace clay / silt, as applicable	≤ 15	Trace sand / gravel, as applicable	≤ 15	Trace sand / gravel, as applicable
	>5, ≤ 12	With clay / silt, as applicable	>15, ≤ 30	With sand / gravel, as applicable	>5, ≤ 30	With sand / gravel, as applicable
Secondary	>12	Prefix soil name as 'silty' or 'clayey', as applicable	>30	Prefix soil name as 'sandy' or 'gravelly', as applicable	>30	Prefix soil name as 'sandy' or 'gravelly', as applicable

Soil Data

Explanation of Terms (2 of 3)



Symbols for Soils and Other

SOILS			OTHER
	COBBLES/BOULDERS		
	GRAVEL (GP or GW)		
	Silty GRAVEL (GM)		
	Clayey GRAVEL (GC)		
	SAND (SP or SW)		
	Silty SAND (SM)		
	Clayey SAND (SC)		

Unified Soil Classification Scheme (USCS)

FIELD IDENTIFICATION PROCEDURES (Excluding particles larger than 63 mm and basing fractions on estimated mass)					USCS	Primary Name	
COARSE GRAINED SOILS More than 65 % of material less than 63 mm is larger than 0.075 mm	(A 0.075 mm particle is about the smallest particle visible to the naked eye)	GRAVELS More than half of coarse fraction is larger than 2.36 mm.	GRAVEL and SAND mixtures (< 5% fines)	Wide range in grain size and substantial amounts of all intermediate particle sizes; not enough fines to bind coarse grains; no dry strength	GW	GRAVEL	
				Predominantly one size or a range of sizes with some intermediate sizes missing; not enough fines to bind coarse grains; no dry strength	GP	GRAVEL	
			GRAVEL-SILT and GRAVEL-SAND mixtures (< 12% fines) ¹	With excess non-plastic fines (for identification procedures see ML below); zero to medium dry strength; may also contain sand	GM	Silty GRAVEL	
				With excess plastic fines (for identification procedures see CL below); medium to high dry strength; may also contain sand	GC	Clayey GRAVEL	
		SANDS More than half of coarse fraction is smaller than 2.36 mm	SAND and GRAVEL-SAND mixtures (< 5% fines)	Wide range in grain sizes and substantial amounts of all intermediate sizes; not enough fines to bind coarse grains; no dry strength.	SW	SAND	
				Predominantly one size or a range of sizes with some intermediate sizes missing; not enough fines to bind coarse grains; no dry strength	SP	SAND	
			SAND-SILT and SAND-CLAY mixtures (< 12% fines) ¹	With excess non-plastic fines (for identification procedures see ML below); zero to medium dry strength;	SM	Silty SAND	
				With excess plastic fines (for identification procedures see CL below); medium to high dry strength	SC	Clayey SAND	
FINE GRAINED SOILS More than 35 % of material less than 63 mm is smaller than 0.075 mm	(A 0.075 mm particle is about the smallest particle visible to the naked eye)	IDENTIFICATION PROCEDURES ON FRACTIONS < 0.2 MM					
		DRY STRENGTH (Crushing Characteristics)	DILATANCY	TOUGHNESS	DESCRIPTION	USCS	Primary Name
		None to Low	Quick to Slow	Low	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands or silt with low plasticity ²	ML	SILT ³
		Medium to High	None to Slow	Medium	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays	CL (or CI) ⁴	CLAY
		Low to Medium	Slow	Low	Organic silts and organic silty clays of low plasticity	OL	Organic SILT or CLAY
		Low to Medium	None to Slow	Low to Medium	Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts	MH	SILT ³
		High to Very High	None	High	Inorganic clays of high plasticity, fat clays	CH	CLAY
		Medium to High	None to Very Slow	Low to Medium	Organic clays of medium to high plasticity, organic silt of high plasticity	OH	Organic SILT or CLAY
HIGHLY ORGANIC SOILS	Readily identified by colour, odour, spongy feel and frequently by fibrous texture				Pt	PEAT	
Notes: 1. Between 5% and 12% - dual classification, e.g. GP-GM. 2. Low Plasticity Clay - Liquid Limit W _L <35%; Medium Plasticity Clay - Liquid limit W _L >35%, <50%; High Plasticity Clay - Liquid limit W _L > 50%. 3. Low Plasticity Silt - Liquid Limit W _L <50%; High Plasticity Silt - Liquid limit W _L > 50%. 4. CI may be adopted for clay of medium plasticity to distinguish from clay of low plasticity.							

Soil Data

Explanation of Terms (3 of 3)

Soil Agricultural Classification Scheme

In some situations, such as where soils are to be used for effluent disposal purposes, soils are often more appropriately classified in terms of traditional agricultural classification schemes. Where a Martens report provides agricultural classifications, these are undertaken in accordance with descriptions by Northcote, K.H. (1979) *The factual key for the recognition of Australian Soils*, Rellim Technical Publications, NSW, p 26 - 28.



Symbol	Field Texture Grade	Behaviour of moist bolus	Ribbon length	Clay content (%)
S	Sand	Coherence nil to very slight; cannot be moulded; single grains adhere to fingers	0 mm	< 5
LS	Loamy sand	Slight coherence; discolours fingers with dark organic stain	6.35 mm	5
CLS	Clayey sand	Slight coherence; sticky when wet; many sand grains stick to fingers; discolours fingers with clay stain	6.35mm - 1.3cm	5 - 10
SL	Sandy loam	Bolus just coherent but very sandy to touch; dominant sand grains are of medium size and are readily visible	1.3 - 2.5	10 - 15
FSL	Fine sandy loam	Bolus coherent; fine sand can be felt and heard	1.3 - 2.5	10 - 20
SCL	Light sandy clay loam	Bolus strongly coherent but sandy to touch, sand grains dominantly medium size and easily visible	2.0	15 - 20
L	Loam	Bolus coherent and rather spongy; smooth feel when manipulated but no obvious sandiness or silkiness; may be somewhat greasy to the touch if much organic matter present	2.5	25
Lfsy	Loam, fine sandy	Bolus coherent and slightly spongy; fine sand can be felt and heard when manipulated	2.5	25
SiL	Silt loam	Coherent bolus, very smooth to silky when manipulated	2.5	25 + > 25 silt
SCL	Sandy clay loam	Strongly coherent bolus sandy to touch; medium size sand grains visible in a finer matrix	2.5 - 3.8	20 - 30
CL	Clay loam	Coherent plastic bolus; smooth to manipulate	3.8 - 5.0	30 - 35
SiCL	Silty clay loam	Coherent smooth bolus; plastic and silky to touch	3.8 - 5.0	30- 35 + > 25 silt
FSCL	Fine sandy clay loam	Coherent bolus; fine sand can be felt and heard	3.8 - 5.0	30 - 35
SC	Sandy clay	Plastic bolus; fine to medium sized sands can be seen, felt or heard in a clayey matrix	5.0 - 7.5	35 - 40
SiC	Silty clay	Plastic bolus; smooth and silky	5.0 - 7.5	35 - 40 + > 25 silt
LC	Light clay	Plastic bolus; smooth to touch; slight resistance to shearing	5.0 - 7.5	35 - 40
LMC	Light medium clay	Plastic bolus; smooth to touch, slightly greater resistance to shearing than LC	7.5	40 - 45
MC	Medium clay	Smooth plastic bolus, handles like plasticine and can be moulded into rods without fracture, some resistance to shearing	> 7.5	45 - 55
HC	Heavy clay	Smooth plastic bolus; handles like stiff plasticine; can be moulded into rods without fracture; firm resistance to shearing	> 7.5	> 50

Rock Data

Explanation of Terms (1 of 2)



Symbols for Rock

SEDIMENTARY ROCK



BRECCIA



CONGLOMERATE



CONGLOMERATIC SANDSTONE



SANDSTONE/QUARTZITE



SILTSTONE



MUDSTONE/CLAYSTONE



SHALE



COAL



LIMESTONE



LITHIC TUFF

IGNEOUS ROCK



GRANITE



DOLERITE/BASALT

METAMORPHIC ROCK



SLATE, PHYLLITE, SCHIST



GNEISS



METASANDSTONE



METASILTSTONE



METAMUDSTONE

Definitions

Descriptive terms used for Rock by Martens are based on AS1726 and encompass rock substance, defects and mass.

Rock Material The intact rock that is bounded by defects.

Rock Defect Discontinuity, fracture, break or void in the material or minerals across which there is little or no tensile strength.

Rock Structure The nature and configuration of the different defects within the rock mass and their relationship to each other.

Rock Mass The entirety of the system formed by all of the rock material and all of the defects that are present.

Degree of Weathering

Rock weathering is defined as the degree of decline in rock structure and grain property and can be determined in the field.

Term	Symbol	Definition
Residual soil ¹	RS	Material is weathered to such an extent that it has soil properties. Mass structure, material texture, and fabric of original rock are no longer visible, but the soil has not been significantly transported.
Extremely weathered ¹	XW	Material is weathered to such an extent that it has soil properties - i.e. it can be remoulded and can be classified according to the Unified Classification System. Mass structure and material texture and fabric of original rock are still visible.
Highly weathered ²	HW	The whole of the rock material is discoloured, usually by iron staining or bleaching to the extent that the original colour of the rock is not recognisable. Rock strength is significantly changed by weathering. Some primary minerals have weathered to clay minerals. Porosity may be increased by leaching, or may be decreased due to deposition of weathering products in pores.
Moderately weathered ²	MW	The whole of the rock material is discoloured, usually by iron staining or bleaching to the extent that the colour of the rock is not recognisable. Rock strength shows little or no change from fresh rock.
Slightly weathered	SW	Rock is partially discoloured with staining or bleaching along joints but shows little or no change of strength from fresh rock.
Fresh	FR	Rock substance unaffected by weathering. No sign of decomposition of individual materials or colour changes.

Notes:

1 RS and EW material is described using soil descriptive terms.

2. The term "Distinctly Weathered" (DW) may be used to cover the range of substance weathering between EW and SW

Rock Strength

Rock strength is defined by the Point Load Strength Index (Is 50) and refers to the strength of the rock substance in the direction normal to the loading. The test procedure is described by the International Society of Rock Mechanics.

Term (Strength)	Is (50) MPa	Uniaxial Compressive Strength MPa	Field Guide	Symbol
Very low	>0.03 ≤0.1	0.6 – 2	May be crumbled in the hand. Sandstone is 'sugary' and friable.	VL
Low	>0.1 ≤0.3	2 – 6	Core 150mm long x 50mm diameter may be broken by hand and easily scored with a knife. Sharp edges of core may be friable and break during handling.	L
Medium	>0.3 ≤1.0	6 – 20	Core 150mm long x 50mm diameter can be broken by hand with considerable difficulty. Readily scored with a knife.	M
High	>1 ≤3	20 – 60	Core 150mm long x 50mm diameter cannot be broken by unaided hands, can be slightly scratched or scored with a knife. Breaks with single blow from pick.	H
Very high	>3 ≤10	60 – 200	Core 150mm long x 50mm diameter, broken readily with hand held hammer. Cannot be scratched with knife. Breaks after more than one pick strike.	VH
Extremely high	>10	>200	A piece of core 150mm long x 50mm diameter is difficult to break with hand held hammer. Rings when struck with a hammer.	EH

Rock Data

Explanation of Terms (2 of 2)

Degree of Fracturing

This classification applies to diamond drill cores and refers to the spacing of all types of natural fractures along which the core is discontinuous. These include bedding plane partings, joints and other rock defects, but exclude fractures such as drilling breaks (DB) or handling breaks (HB).

Term	Description
Fragmented	The core is comprised primarily of fragments of length less than 20 mm, and mostly of width less than core diameter.
Highly fractured	Core lengths are generally less than 20 mm to 40 mm with occasional fragments.
Fractured	Core lengths are mainly 30 mm to 100 mm with occasional shorter and longer sections.
Slightly fractured	Core lengths are generally 300 mm to 1000 mm, with occasional longer sections and sections of 100 mm to 300 mm.
Unbroken	The core does not contain any fractures.



Rock Core Recovery

TCR = Total Core Recovery

SCR = Solid Core Recovery

RQD = Rock Quality Designation

$$= \frac{\text{Length of core recovered}}{\text{Length of core run}} \times 100\%$$

$$= \frac{\sum \text{Length of cylindrical core recovered}}{\text{Length of core run}} \times 100\%$$

$$= \frac{\sum \text{Axial lengths of core } > 100 \text{ mm long}}{\text{Length of core run}} \times 100\%$$

Rock Strength Tests

- ▼ Point load strength Index (Is50) - axial test (MPa)
- Point load strength Index (Is50) - diametral test (MPa)
- Uniaxial compressive strength (UCS) (MPa)

Defect Type Abbreviations and Descriptions

Defect Type (with inclination given)	Planarity	Roughness
BP Bedding plane parting	Pl Planar	Pol Polished
FL Foliation	Cu Curved	Sl Slickensided
CL Cleavage	Un Undulating	Sm Smooth
JT Joint	St Stepped	Ro Rough
FC Fracture	Ir Irregular	VR Very rough
SZ/SS Sheared zone/ seam (Fault)	Dis Discontinuous	
CZ/CS Crushed zone/ seam		
DZ/DS Decomposed zone/ seam	Thickness	Coating or Filling
FZ Fractured Zone	Zone > 100 mm	Cn Clean
IS Infilled seam	Seam > 2 mm < 100 mm	Sn Stain
VN Vein	Plane < 2 mm	Ct Coating
CO Contact		Vnr Veneer
HB Handling break		Fe Iron Oxide
DB Drilling break		X Carbonaceous
		Qz Quartzite
		MU Unidentified mineral
	Inclination	
	Inclination of defect is measured from perpendicular to and down the core axis. Direction of defect is measured clockwise (looking down core) from magnetic north.	

Test, Drill and Excavation Methods



Explanation of Terms (1 of 3)

Sampling

Sampling is carried out during drilling or excavation to allow engineering examination (and laboratory testing where required) of the soil or rock.

Disturbed samples taken during drilling or excavation provide information on colour, type, inclusions and, depending upon the degree of disturbance, some information on strength and structure.

Undisturbed samples may be taken by pushing a thin-walled sampling tube, e.g. U₅₀ (50 mm internal diameter thin walled tube), into soils and withdrawing a soil sample in a relatively undisturbed state. Such samples yield information on structure and strength and are necessary for laboratory determination of shear strength and compressibility. Undisturbed sampling is generally effective only in cohesive soils. Other sampling methods may be used. Details of the type and method of sampling are given in the report.

Drilling / Excavation Methods

The following is a brief summary of drilling and excavation methods currently adopted by the Company and some comments on their use and application.

Hand Excavation - in some situations, excavation using hand tools, such as mattock and spade, may be required due to limited site access or shallow soil profiles.

Hand Auger - the hole is advanced by pushing and rotating either a sand or clay auger, generally 75-100 mm in diameter, into the ground. The penetration depth is usually limited to the length of the auger pole; however extender pieces can be added to lengthen this.

Test Pits - these are excavated with a backhoe or a tracked excavator, allowing close examination of the in-situ soils and, if it is safe to descend into the pit, collection of bulk disturbed samples. The depth of penetration is limited to about 3 m for a backhoe and up to 6 m for an excavator. A potential disadvantage is the disturbance caused by the excavation.

Large Diameter Auger (e.g. Pengo) - the hole is advanced by a rotating plate or short spiral auger, generally 300 mm or larger in diameter. The cuttings are returned to the surface at intervals (generally of not more than 0.5 m) and are disturbed but usually unchanged in moisture content. Identification of soil strata is generally much more reliable than with continuous spiral flight augers, and is usually supplemented by occasional undisturbed tube sampling.

Continuous Sample Drilling (Push Tube) - the hole is advanced by pushing a 50 - 100 mm diameter socket into the ground and withdrawing it at intervals to extrude the sample. This is the most reliable method of drilling in soils, since moisture content is unchanged and soil structure, strength etc. is only marginally affected.

Continuous Spiral Flight Augers - the hole is advanced using 90 - 115 mm diameter continuous spiral flight augers, which are withdrawn at intervals to allow sampling or in-situ testing. This is a relatively economical means of drilling in clays and in sands above the water table. Samples are returned to the surface or, or may be collected after withdrawal of the auger flights, but they are very disturbed and may be contaminated. Information from the drilling (as distinct from specific sampling by SPTs or undisturbed samples) is of relatively lower reliability, due to remoulding, contamination or softening of samples by ground water.

Non-core Rotary Drilling - the hole is advanced by a rotary bit, with water being pumped down the drill rods and returned up the annulus, carrying the drill cuttings. Only major changes in stratification can be determined from the cuttings, together with some information from 'feel' and rate of penetration.

Rotary Mud Drilling - similar to rotary drilling, but using drilling mud as a circulating fluid. The mud tends to mask the cuttings and reliable identification is again only possible from separate intact sampling (eg. from SPT).

Continuous Core Drilling - a continuous core sample is obtained using a diamond tipped core barrel of usually 50 mm internal diameter. Provided full core recovery is achieved (not always possible in very weak or fractured rocks and granular soils), this technique provides a very reliable (but relatively expensive) method of investigation.

In-situ Testing and Interpretation

Cone Penetrometer Testing (CPT)

Cone penetrometer testing (sometimes referred to as Dutch Cone) described in this report has been carried out using an electrical friction cone penetrometer.

The test is described in AS 1289.6.5.1-1999 (R2013). In the test, a 35 mm diameter rod with a cone tipped end is pushed continuously into the soil, the reaction being provided by a specially designed truck or rig which is fitted with an hydraulic ram system.

Measurements are made of the end bearing resistance on the cone and the friction resistance on a separate 130 mm long sleeve, immediately behind the cone. Transducers in the tip of the assembly are connected by electrical wires passing through the push rod centre to an amplifier and recorder unit mounted on the control truck. As penetration occurs (at a rate of approximately 20 mm per second) the information is output on continuous chart recorders. The plotted results given in this report have been traced from the original records. The information provided on the charts comprises:

- (i) Cone resistance (q_c) - the actual end bearing force divided by the cross sectional area of the cone, expressed in MPa.
- (ii) Sleeve friction (q_f) - the frictional force of the sleeve divided by the surface area, expressed in kPa.
- (iii) Friction ratio - the ratio of sleeve friction to cone resistance, expressed in percent.

There are two scales available for measurement of cone resistance. The lower (A) scale (0 - 5 MPa) is used in very soft soils where increased sensitivity is required and is shown in the graphs as a dotted line. The main (B) scale (0 - 50 MPa) is less sensitive and is shown as a full line.

The ratios of the sleeve resistance to cone resistance will vary with the type of soil encountered, with higher relative friction in clays than in sands. Friction ratios of 1 % - 2 % are commonly encountered in sands and very soft clays rising to 4 % - 10 % in stiff clays.

In sands, the relationship between cone resistance and SPT value is commonly in the range:

$$q_c \text{ (MPa)} = (0.4 \text{ to } 0.6) N \text{ (blows/300 mm)}$$

In clays, the relationship between undrained shear strength and cone resistance is commonly in the range:

$$q_c = (12 \text{ to } 18) C_u$$

Test, Drill and Excavation Methods

Explanation of Terms (2 of 3)



Interpretation of CPT values can also be made to allow estimation of modulus or compressibility values to allow calculation of foundation settlements.

Inferred stratification as shown on the attached reports is assessed from the cone and friction traces and from experience and information from nearby boreholes etc. This information is presented for general guidance, but must be regarded as being to some extent interpretive. The test method provides a continuous profile of engineering properties, and where precise information on soil classification is required, direct drilling and sampling may be preferable.

Standard Penetration Testing (SPT)

Standard penetration tests are used mainly in non-cohesive soils, but occasionally also in cohesive soils as a means of determining density or strength and also of obtaining a relatively undisturbed sample.

The test procedure is described in AS 1289.6.3.1-2004. The test is carried out in a borehole by driving a 50 mm diameter split sample tube under the impact of a 63 kg hammer with a free fall of 760 mm. It is normal for the tube to be driven in three successive 150 mm penetration depth increments and the 'N' value is taken as the number of blows for the last two 150 mm depth increments (300 mm total penetration). In dense sands, very hard clays or weak rock, the full 450 mm penetration may not be practicable and the test is discontinued. The test results are reported in the following form:

- (i) Where full 450 mm penetration is obtained with successive blow counts for each 150 mm of say 4, 6 and 7 blows:
as 4, 6, 7
N = 13
- (ii) Where the test is discontinued, short of full penetration, say after 15 blows for the first 150mm and 30 blows for the next 40mm
as 15, 30/40 mm.

The results of the tests can be related empirically to the engineering properties of the soil. Occasionally, the test method is used to obtain samples in 50 mm diameter thin walled sample tubes in clays. In such circumstances, the test results are shown on the borehole logs in brackets.

Dynamic Cone (Hand) Penetrometers

Hand penetrometer tests are carried out by driving a rod into the ground with a falling weight hammer and measuring the blows for successive 150mm increments of penetration. Normally, there is a depth limitation of 1.2m but this may be extended in certain conditions by the use of extension rods. Two relatively similar tests are used.

Perth sand penetrometer (PSP) - a 16 mm diameter flat ended rod is driven with a 9 kg hammer, dropping 600 mm. The test, described in AS 1289.6.3.3-1997 (R2013), was developed for testing the density of sands (originating in Perth) and is mainly used in granular soils and filling.

Cone penetrometer (DCP) - sometimes known as the Scala Penetrometer, a 16 mm rod with a 20 mm diameter cone end is driven with a 9 kg hammer dropping 510 mm. The test, described in AS 1289.6.3.2-1997 (R2013), was developed initially for pavement sub-grade investigations, with correlations of the test results with California Bearing Ratio published by various Road Authorities.

Pocket Penetrometers

The pocket (hand) penetrometer (PP) is typically a light weight spring hand operated device with a stainless steel

loading piston, used to estimate unconfined compressive strength, q_u , (UCS in kPa) of a fine grained soil in field conditions. In use, the free end of the piston is pressed into the soil at a uniform penetration rate until a line, engraved near the piston tip, reaches the soil surface level. The reading is taken from a gradation scale, which is attached to the piston via a built-in spring mechanism and calibrated to kilograms per square centimetre (kPa) UCS. The UCS measurements are used to evaluate consistency of the soil in the field moisture condition. The results may be used to assess the undrained shear strength, C_u , of fine grained soil using the approximate relationship:

$$q_u = 2 \times C_u.$$

It should be noted that accuracy of the results may be influenced by condition variations at selected test surfaces. Also, the readings obtained from the PP test are based on a small area of penetration and could give misleading results. They should not replace laboratory test results. The use of the results from this test is typically limited to an assessment of consistency of the soil in the field and not used directly for design of foundations.

Test Pit / Borehole Logs

Test pit / borehole log(s) presented herein are an engineering and / or geological interpretation of the subsurface conditions. Their reliability will depend to some extent on frequency of sampling and methods of excavation / drilling. Ideally, continuous undisturbed sampling or excavation / core drilling will provide the most reliable assessment but this is not always practicable, or possible to justify on economic grounds. In any case, the test pit / borehole logs represent only a very small sample of the total subsurface profile.

Interpretation of the information and its application to design and construction should therefore take into account the spacing of test pits / boreholes, the frequency of sampling and the possibility of other than 'straight line' variation between the test pits / boreholes.

Laboratory Testing

Laboratory testing is carried out in accordance with AS 1289 Methods of Testing Soil for Engineering Purposes. Details of the test procedure used are given on the individual report forms.

Ground Water

Where ground water levels are measured in boreholes, there are several potential problems:

- In low permeability soils, ground water although present, may enter the hole slowly, or perhaps not at all during the time it is left open.
- A localised perched water table may lead to an erroneous indication of the true water table.
- Water table levels will vary from time to time with seasons or recent prior weather changes. They may not be the same at the time of construction as are indicated in the report.
- The use of water or mud as a drilling fluid will mask any ground water inflow. Water has to be blown out of the hole and drilling mud must first be washed out of the hole if water observations are to be made.

More reliable measurements can be made by installing standpipes, which are read at intervals over several days, or perhaps weeks for low permeability soils. Piezometers sealed in a particular stratum, may be advisable in low permeability soils or where there may be interference from a perched water table.

Test, Drill and Excavation Methods

Explanation of Terms (3 of 3)



DRILLING / EXCAVATION METHOD

HA	Hand Auger	RD	Rotary Blade or Drag Bit	NQ	Diamond Core - 47 mm
AD/V	Auger Drilling with V-bit	RT	Rotary Tricone bit	NMLC	Diamond Core - 51.9 mm
AD/T	Auger Drilling with TC-Bit	RAB	Rotary Air Blast	HQ	Diamond Core - 63.5 mm
AS	Auger Screwing	RC	Reverse Circulation	HMLC	Diamond Core - 63.5 mm
HSA	Hollow Stem Auger	CT	Cable Tool Rig	DT	Diatube Coring
S	Excavated by Hand Spade	PT	Push Tube	NDD	Non-destructive digging
BH	Tractor Mounted Backhoe	PC	Percussion	PQ	Diamond Core - 83 mm
JET	Jetting	E	Tracked Hydraulic Excavator	X	Existing Excavation

SUPPORT

Nil	No support	S	Shotcrete	RB	Rock Bolt
C	Casing	Sh	Shoring	SN	Soil Nail
WB	Wash bore with Blade or Bailer	WR	Wash bore with Roller	T	Timbering

WATER

- ☒ Water level at date shown
- ▷ Water inflow

- ◁ Partial water loss
- ◀ Complete water loss

GROUNDWATER NOT OBSERVED (NO)

The observation of groundwater, whether present or not, was not possible due to drilling water, surface seepage or cave in of the borehole/test pit.

GROUNDWATER NOT ENCOUNTERED (NX)

The borehole/test pit was dry soon after excavation. However, groundwater could be present in less permeable strata. Inflow may have been observed had the borehole/test pit been left open for a longer period.

PENETRATION / EXCAVATION RESISTANCE

- L Low resistance: Rapid penetration possible with little effort from the equipment used.
- M Medium resistance: Excavation possible at an acceptable rate with moderate effort from the equipment used.
- H High resistance: Further penetration possible at slow rate & requires significant effort equipment.
- R Refusal/ Practical Refusal. No further progress possible without risk of damage/ unacceptable wear to digging implement / machine.

These assessments are subjective and dependent on many factors, including equipment power, weight, condition of excavation or drilling tools, and operator experience.

SAMPLING

D	Small disturbed sample	W	Water Sample	C	Core sample
B	Bulk disturbed sample	G	Gas Sample	CONC	Concrete Core

U63 Thin walled tube sample - number indicates nominal undisturbed sample diameter in millimetres

TESTING

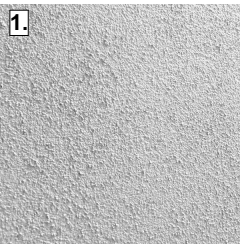
SPT	Standard Penetration Test to AS1289.6.3.1-2004	CPT	Static cone penetration test
4,7,11	4,7,11 = Blows per 150mm.	CPTu	CPT with pore pressure (u) measurement
N=18	'N' = Recorded blows per 300mm penetration following 150mm seating	PP	Pocket penetrometer test expressed as instrument reading (kPa)
DCP	Dynamic Cone Penetration test to AS1289.6.3.2-1997.	FP	Field permeability test over section noted
	'n' = Recorded blows per 150mm penetration	VS	Field vane shear test expressed as uncorrected shear strength (sv = peak value, sr = residual value)
Notes:		PM	Pressuremeter test over section noted
RW	Penetration occurred under rod weight only	PID	Photoionisation Detector reading in ppm
HW	Penetration occurred under hammer and rod weight only	WPT	Water pressure tests
20/100mm	Where practical refusal or hammer double bouncing occurred, blows and penetration for that interval are reported (e.g. 20 blows for 100 mm penetration)		

SOIL DESCRIPTION

Density	Consistency	Moisture
VL Very loose	VS Very soft	D Dry
L Loose	S Soft	M Moist
MD Medium dense	F Firm	W Wet
D Dense	St Stiff	Wp Plastic limit
VD Very dense	VSt Very stiff	Wl Liquid limit
	H Hard	

ROCK DESCRIPTION

Strength	Weathering
VL Very low	EW Extremely weathered
L Low	HW Highly weathered
M Medium	MW Moderately weathered
H High	SW Slightly weathered
VH Very high	FR Fresh
EH Extremely high	



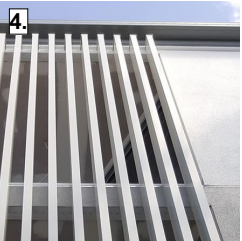
CR-1
CEMENT RENDER PAINT FINISH
WHITE OR SIMILAR



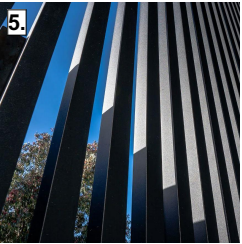
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DARK GREY OR SIMILAR



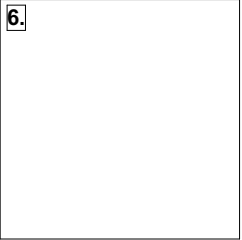
ST-1
NATURAL STONE CLADDING



SCR-1
ALUMINIUM BATTEN SCREENING
POWDERCOAT FINISH
WHITE OR SIMILAR.



SCR-2
ALUMINIUM BATTEN SCREENING
POWDERCOAT FINISH
BLACK OR SIMILAR.



MT-1
ALUMINIUM FIN
POWDERCOAT FINISH
WHITE OR SIMILAR.

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Suite 4.03/ 77 Dunning Avenue, Rosebery NSW 2018

Issue Amendment
A DEVELOPMENT APPLICATION

Date
15/12/2023

Des

Chk

PROJECT:

RESIDENTIAL FLAT BUILDING

ADDRESS:

LOT C & D D.P. 305981

85-87 Birriga Road, Bellevue Hill

DRAWING:

EXTERNAL FINISHES

SCHEDULE

Date:

SEPT

2023

Drawn:

EN

Job No:

2315

Drawing No:

A405

Project North:

Nominated

Architect

Evan Nguyen

NSWARS No. 11281

ARBV No. 800152

Scale:

As shown @ A1

No. of sheets:

18 of 46

Amendment:

A



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Issue Amendment
A DEVELOPMENT APPLICATION

Date Day City
19/12/2023

PROJECT: **RESIDENTIAL FLAT BUILDING**
ADDRESS: **LOT C & D D.P. 305981**
85-87 Birriga Road, Bellevue Hill
DRAWING: **PHOTO MONGAGE - 3D RENDERING**

Nominated Architect Evan Nguyen

NSWARB No. 11381
ABRV No. 800152

Scale:
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No. of sheets
19 of 46

Amendment:
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Project North:



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Issue Amendment
A DEVELOPMENT APPLICATION

Date
15/12/2023

Des

Chk

PROJECT: **RESIDENTIAL FLAT BUILDING**

ADDRESS: **LOT C & D D.P 305981**

85-87 Birriga Road, Bellevue Hill

DRAWING: **PHOTO MONGAGE - 3D**

RENDERING

Nonshaded
Architect

Evans Nguyen
NSW Reg. No. 11281
ABR No. 800152

Scale:
As shown @ A1

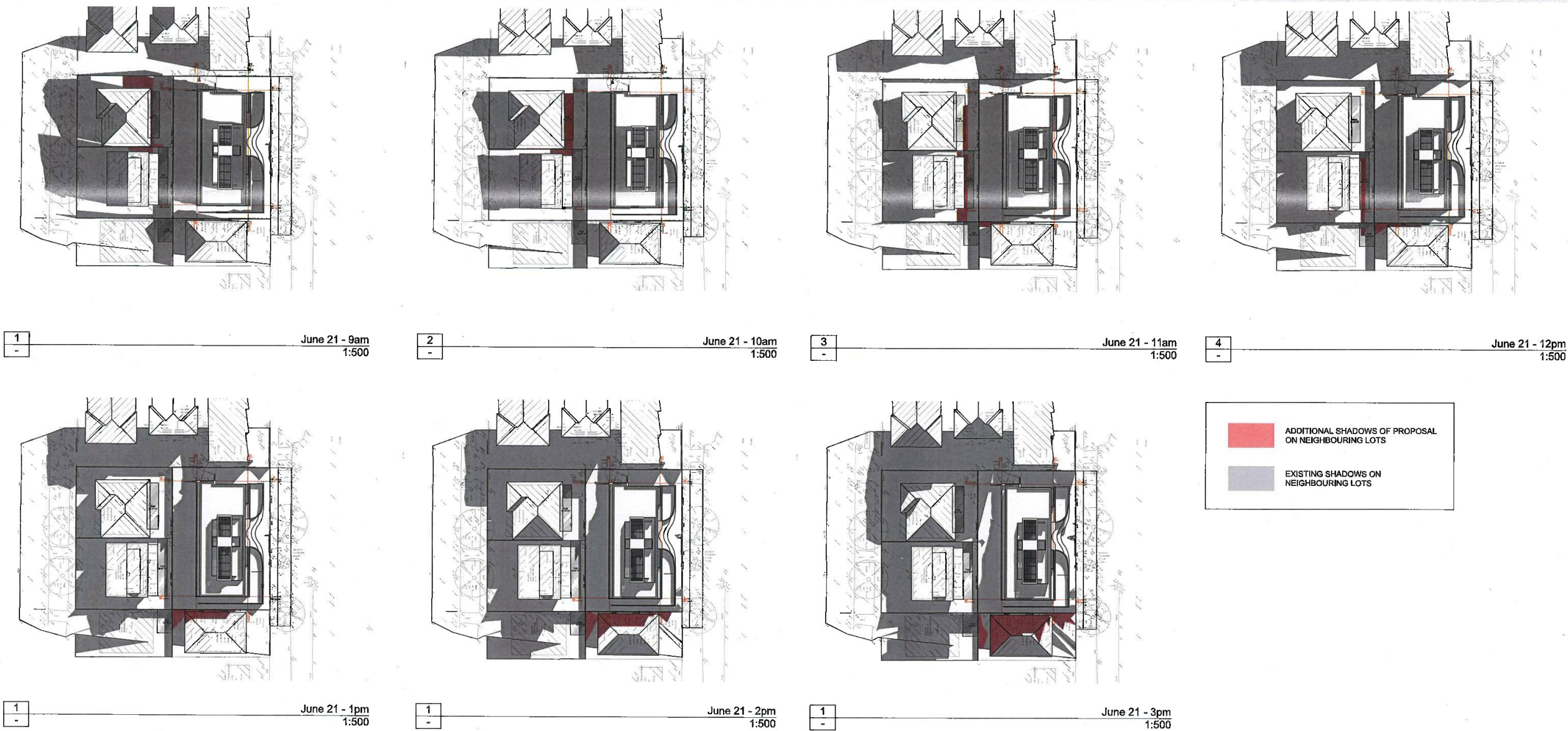
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Amendment:
A

Project North:

Job No:
2315

Drawing No:
A407



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Issue Amendment
A DEVELOPMENT APPLICATION

Date
15/02/2023

Dim

Chk

PROJECT: RESIDENTIAL FLAT BUILDING

ADDRESS: LOT C & D D.P. 305981

DRAWINGS: 85-87 Birriga Road, Bellevue Hill

SHADOW ANALYSIS

Date: SEPT 2023

Drawn: SN

Job No: 2315

Drawing No: A1301

Project North:

Non/Contributed Architect: Evan Nguyen

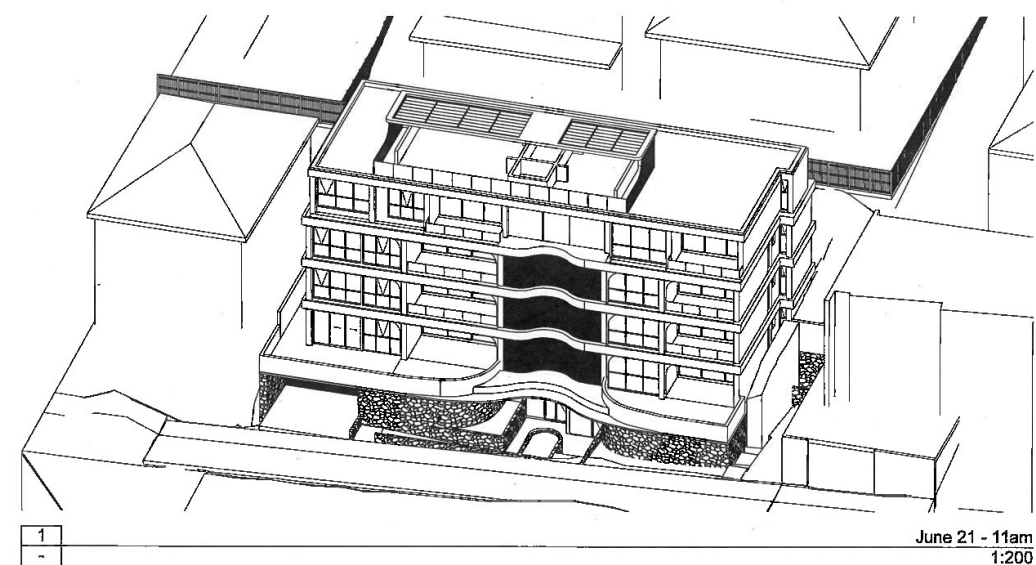
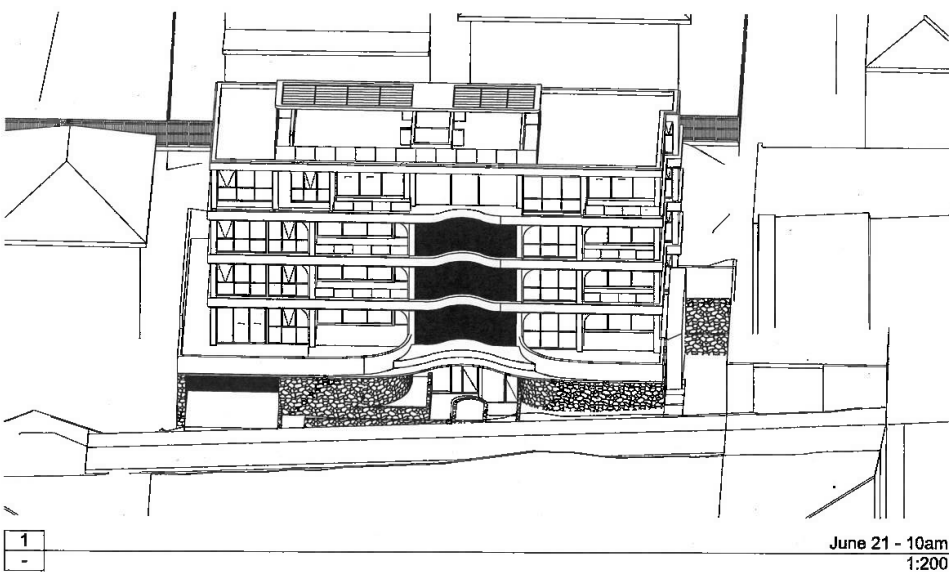
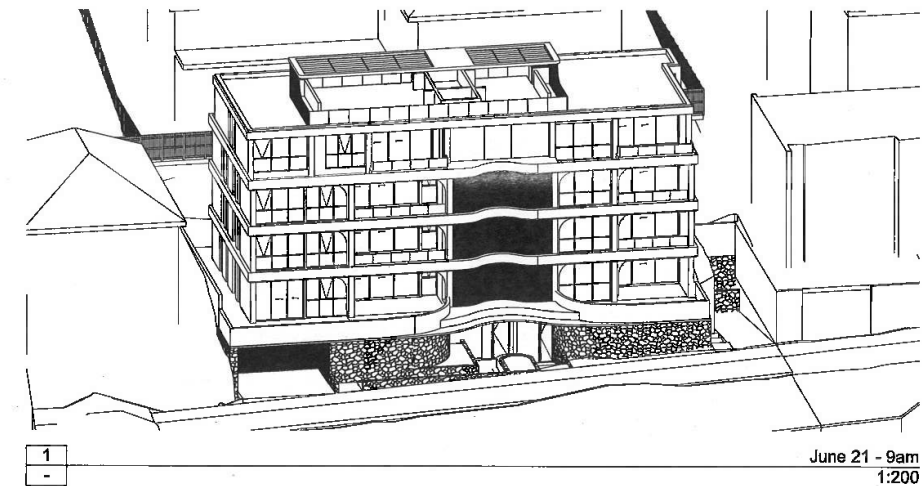
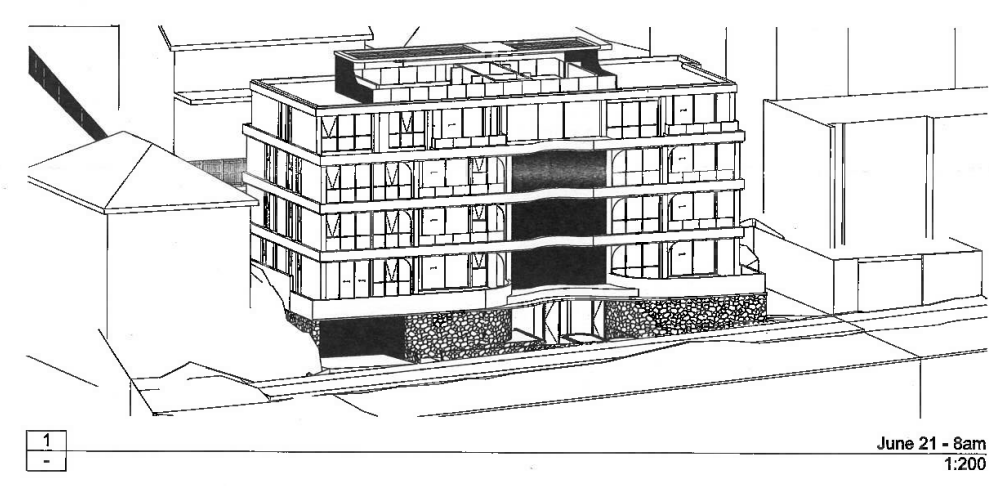
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Suite 4.03/ 77 Dunning Avenue, Rosebery NSW 2018

Issue Amendment
A DEVELOPMENT APPLICATION

Date Drawn Chk
19/10/2023

PROJECT: RESIDENTIAL FLAT BUILDING

ADDRESS: LOT C & D D.P. 305981

85-87 Birriga Road, Bellevue Hill

DRAWING: EYE OF THE SUN

Date: SEPT 2023

Drawn: LN

Job No: 2315

Drawing No: A1302

Project North

Nominated Architect

Evan Nguyen

NSWARS No. 11281
ASBY No. 800152

Scale:

As shown @ A1

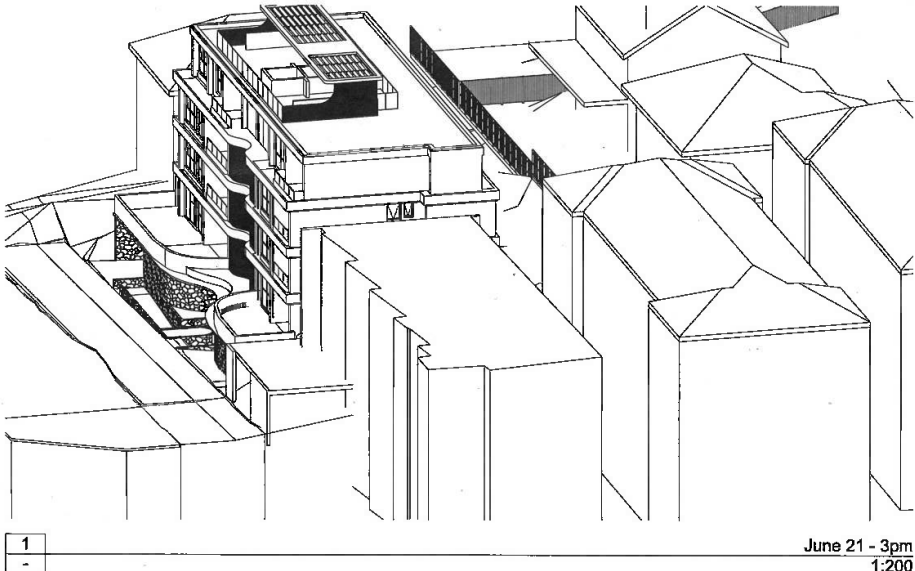
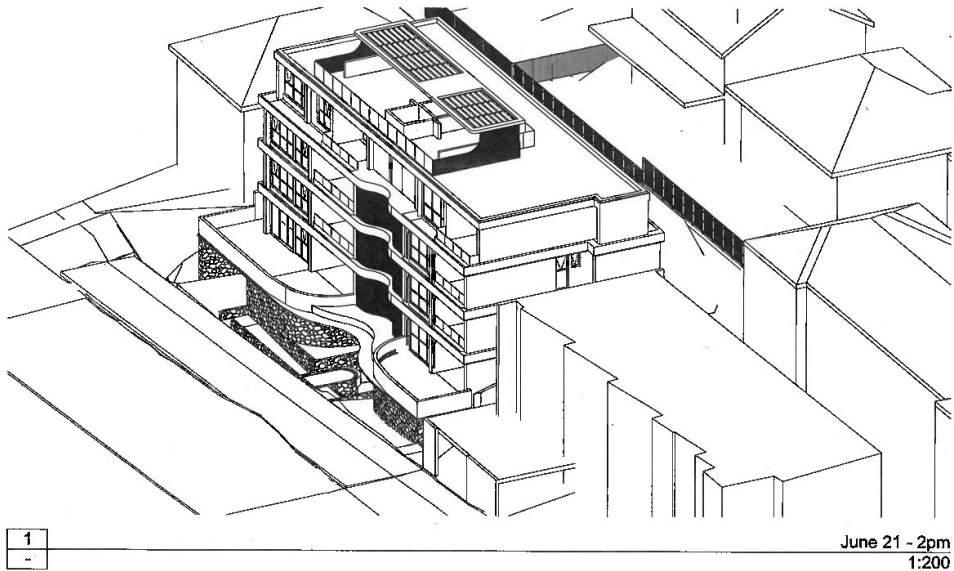
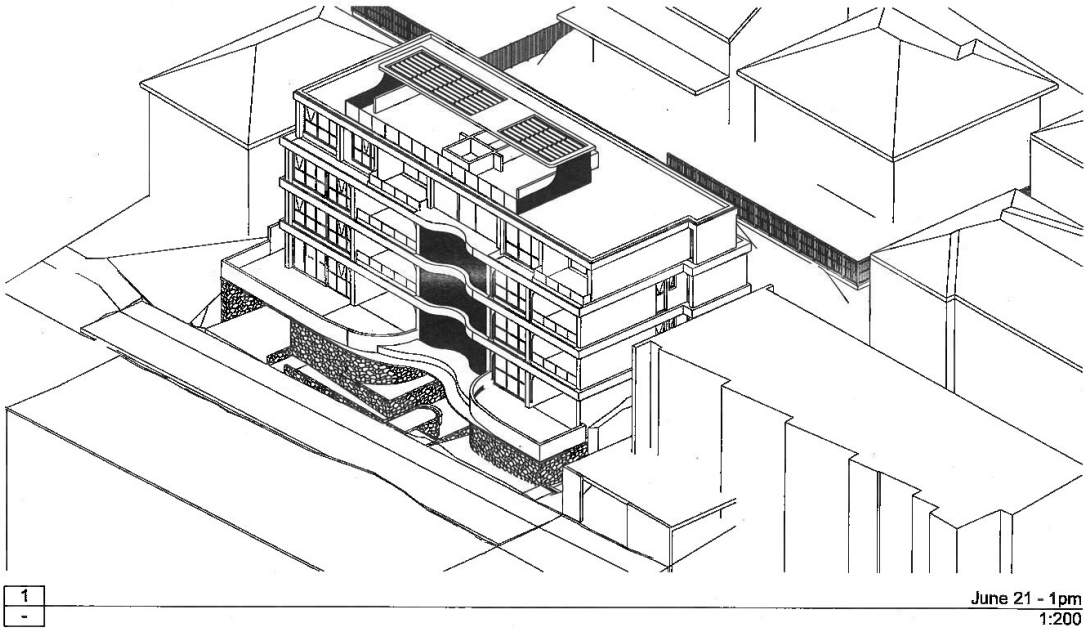
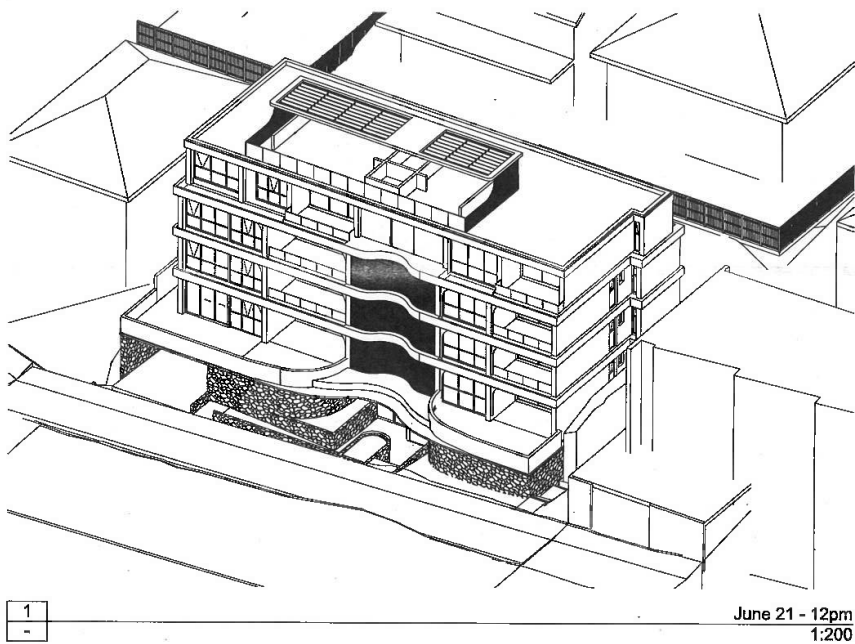
No. of sheets:

25 of 46

Amendment:

A





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3. BUILDER TO CHECK & VERIFY ALL DIMENSIONS & LEVELS PRIOR TO COMMENCEMENT OF WORK.
4. ALL PROPRIETARY ITEMS ARE TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S DETAILS AND SPECIFICATIONS.
5. STATUTORY AUTHORITY APPROVALS AND SPECIFICATIONS THAT FORM PART OF CONSTRUCTION METHODS ARE TO BE ADHERED TO.
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Issue Amendment
A DEVELOPMENT APPLICATION

Date: 12/7/2023
Drawn: CLK

PROJECT: RESIDENTIAL FLAT BUILDING
ADDRESS: LOT C & D D.P. 305981
DRAWING: EYE OF THE SUN

Nominated Architect	Evan Nguyen	NSWABR No. 11281 ARBV No. 600152	Date: SEPT 2023 Drawn: EN Scale: As shown @ A1	Job No: 2315 No. of sheets: 26 of 46	Drawing No: A1303 Amendment: A	Project North:
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ARKHAUS

place
design
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85-87 BIRRIGA ROAD, BELLEVUE HILL
DEVELOPMENT APPLICATION PACKAGE

PREPARED FOR ARKHAUS

DECEMBER 2023



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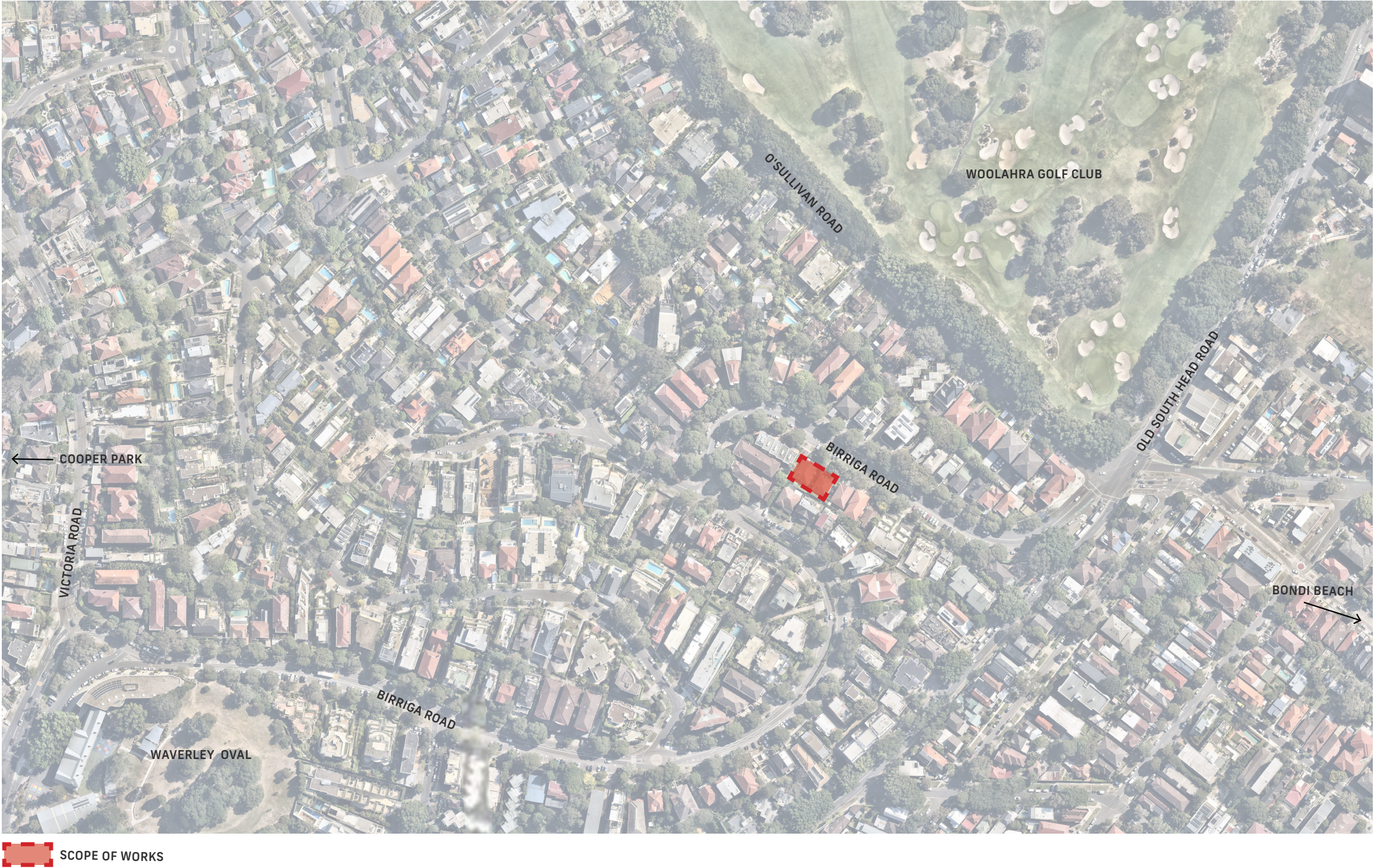
Report title	85-87 Birriga Road, Bellevue Hill
Document number	230236
Prepared for	Arkhaus
Authors	AM
Revision number	02
Revision issue date	04/12/23
Approved	NI
Reason for revision	Development Application

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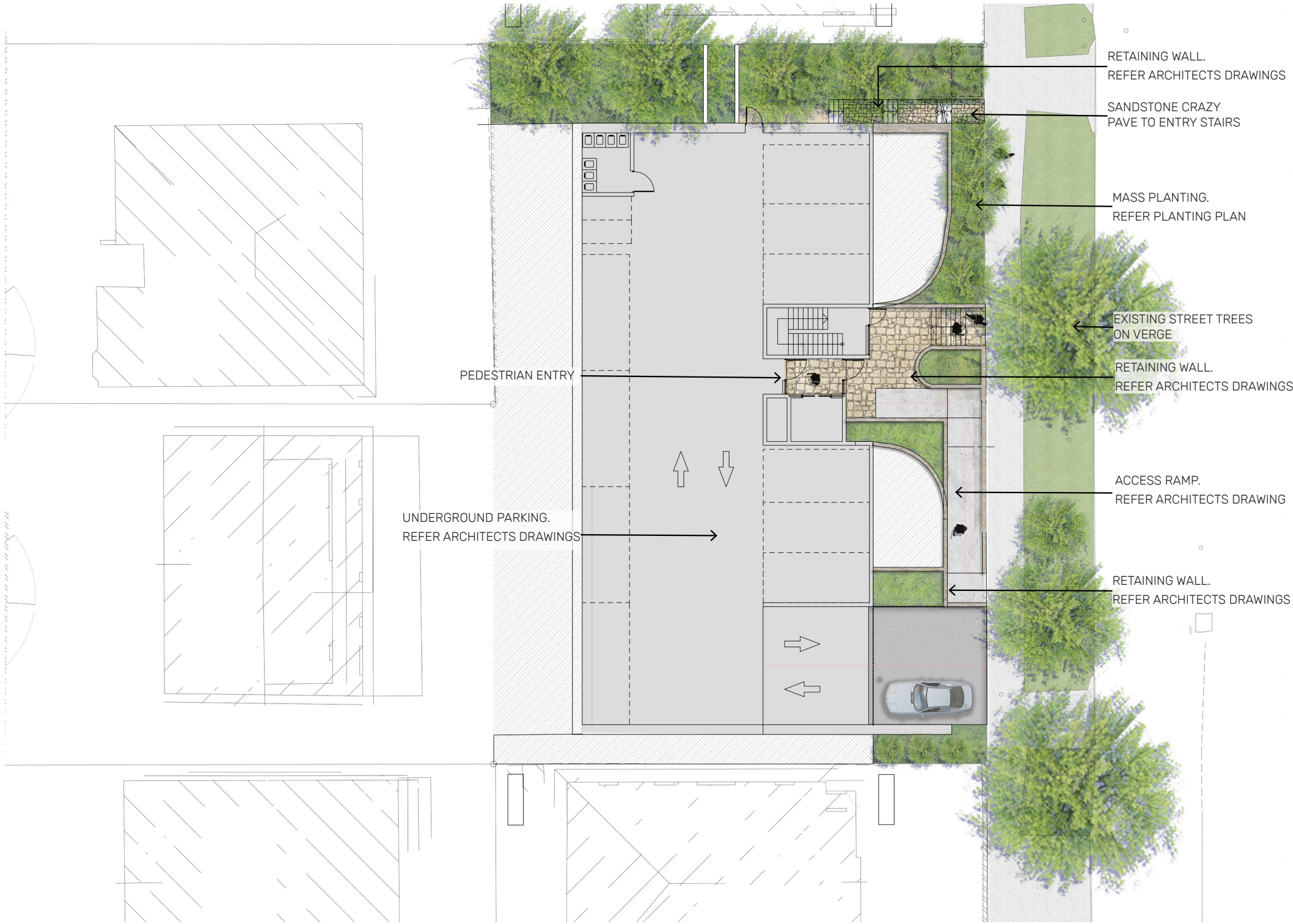
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CONTEXT



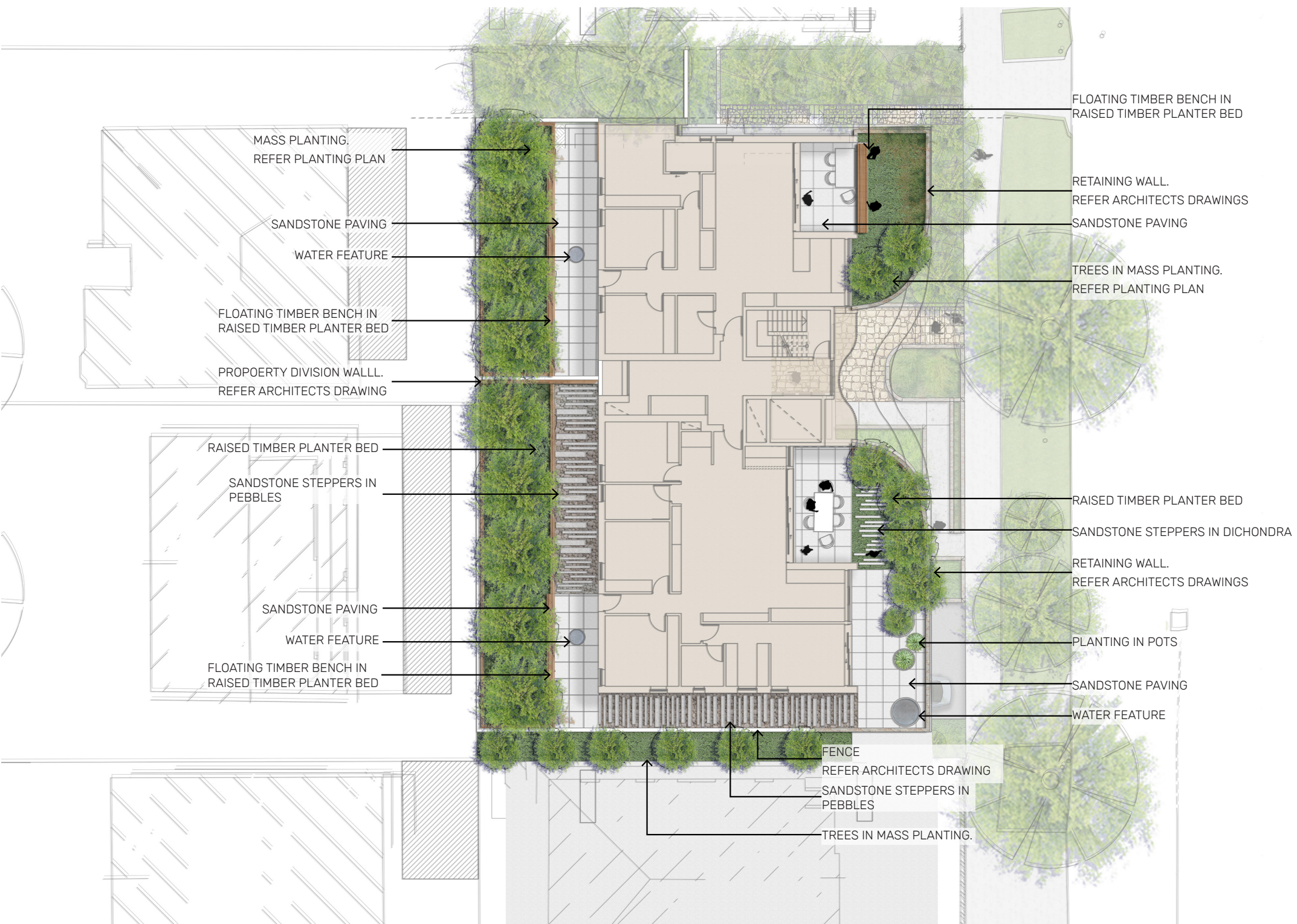
LANDSCAPE PLAN

LOWER GROUND FLOOR

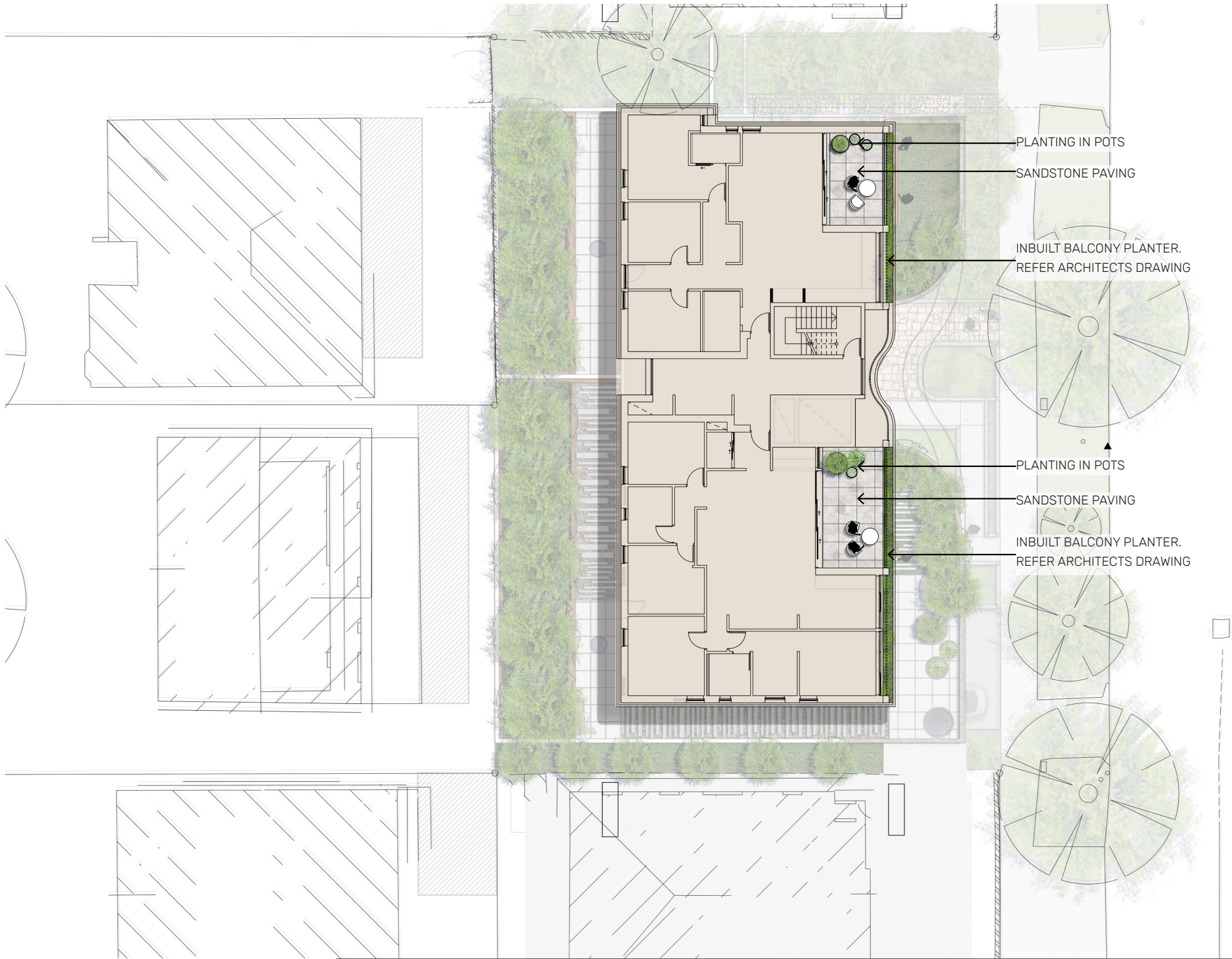


LANDSCAPE PLAN

UPPER GROUND FLOOR



LANDSCAPE PLAN
FIRST FLOOR



85-87 Birriga Road, Bellevue Hill
Landscape DA Package
Prepared for ARKHAUS



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LANDSCAPE PLAN

SECOND FLOOR



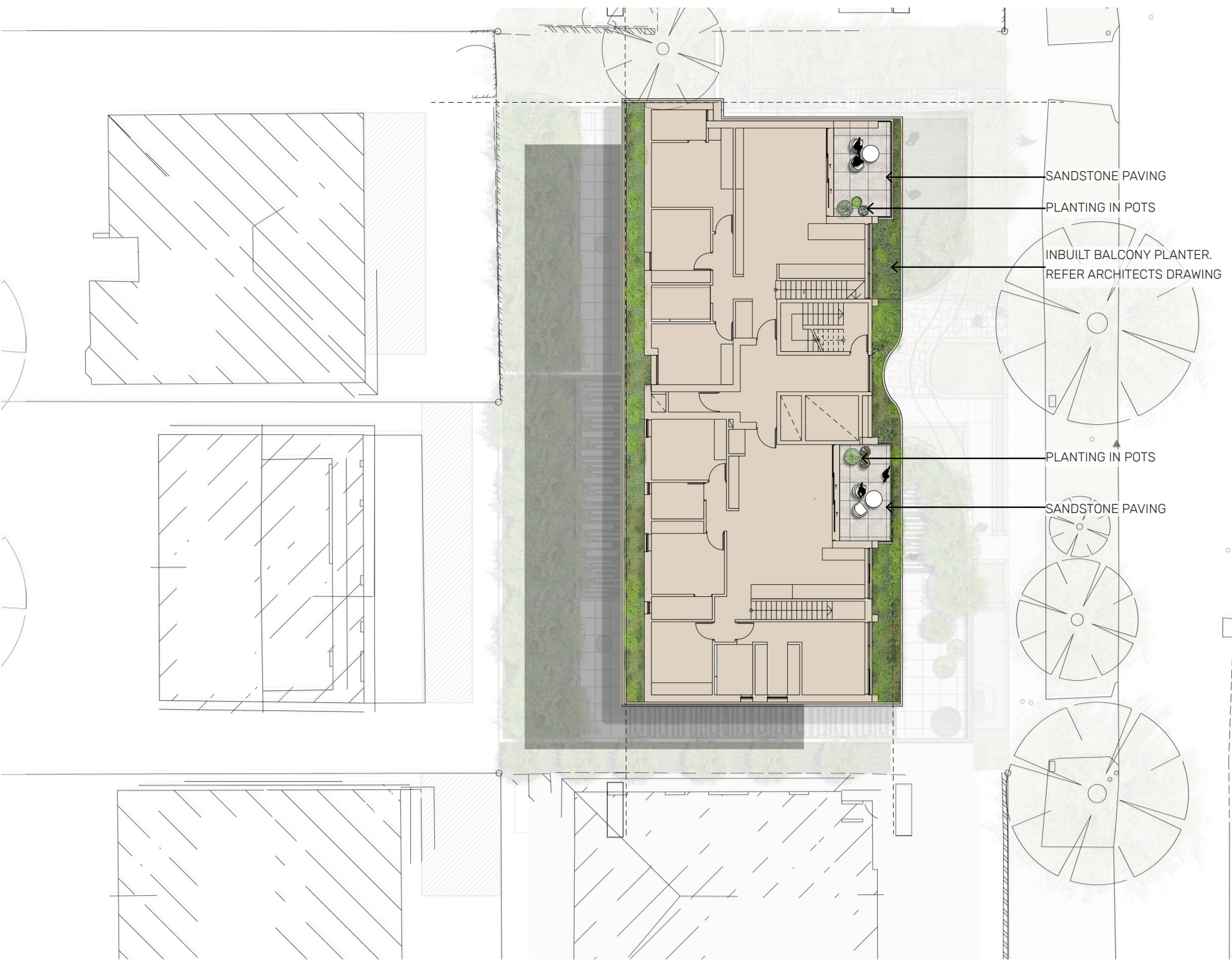
85-87 Birriga Road, Bellevue Hill
Landscape DA Package
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LANDSCAPE PLAN

THIRD FLOOR



85-87 Birriga Road, Bellevue Hill
Landscape DA Package
Prepared for ARKHAUS



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SOUTH FACING ELEVATION



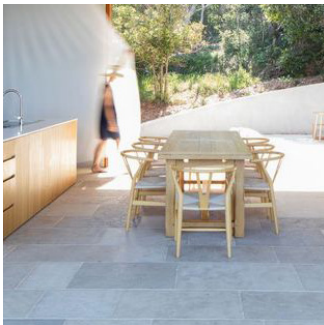
85-87 Birriga Road, Bellevue Hill
Landscape DA Package
Prepared for ARKHAUS



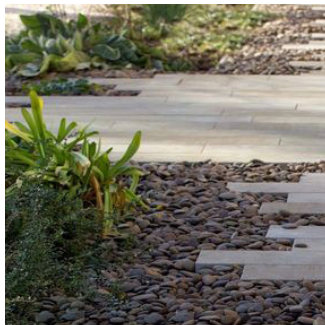
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Place Design Group
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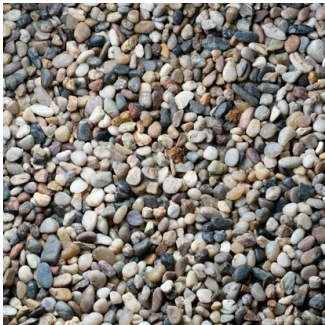
MATERIALS PALETTE



Sandstone paving
'Beauford' tile
(406/500x406-915mm,
19-22mm)
EcoOutdoor



Sandstone step tred and
stepping stone
'Beauford' tile (406mm x
915mm x 30mm)
EcoOutdoor



Pebble Mixed Natural



Hardwood timber battens
to timber planter and
bench



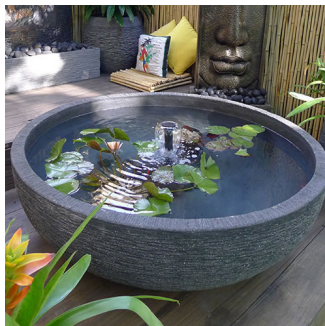
900 Medium U Bowl
(900mm x 700mm)
Quatro



1500 Medium U Bowl
(1500mm x 700mm)
Quatro



500 Low U Bowl
(500mm x 500mm)
Quatro



Water Bowl
(800mm x 400mm)
Water Feature Direct



Water Bowl
(1400mm x 480mm)
Water Feature Direct

PLANTING SCHEDULE

SYM	Botanical Name	Common Name	Mature Height
TREES			
As	Acmena Smithii	Lilly Pilly	5m
Ca	Cupaniopsis	Tuckeroo	5m
Bc	Backhousia citriodora	Lemon Myrtle	2.5m
Gr	Grevillea rosmarinifolia	Grevillea	2.5m
Mg	Magnolia gradniflora	Magnolia	4m
MIX 1 - SHADE TOLERANT PLANTING			
Ac	Arthropodium cirratum	New Zealand Rock Lily	0.5m
Ae	Aspidistra elatior	Cast Iron Plant	1.2m
Af	Alpinia formosana	Pinstripe Ginger	1.75m
Ai	Alcantarea imperialis 'Silver Plum'	Giant Bromeliad	1.2m
Cr	Cycas revoluta	Sago Palm	2m
Dsf	Dichondra 'Sliver Falls'	Dichondra	0.2m
Px	Philodendron xanadu	Xanadu	1m
MIX 2 - FULL SUN PLANTING			
Aa	Agave attenuata	Fox Tail Agave	1m
Ao	Agave attenuata x Agave ocahui	Agave 'Blue Glow'	0.6m
Co	Crassula ovata	Jade Plant	1.5m
Dt	Dracaena trifasciata	Snake Plant	0.8m
Lt	Lomandra `Lime Tuff`	Lime Tuff	0.5m
Pf	Carpobrotus glaucesea	Pig-face	0.3m
Cr	Curio repens	Blue Chalksticks	0.3m
Ci	Casuarina 'Cousin It'	Cousin it	0.2m
Zm	Zamia Furfuracea	Cardboard Palm	1m
MIX 3 - BALCONY PLANTING			
Aa	Agave attenuata	Fox Tail Agave	1m
Ci	Casuarina 'Cousin It'	Cousin it	0.2m
La	Liriope muscari 'Amethyst'	Lilyturf	0.4m
Mp	Myoporum parvifolium	'Yareena'	0.15m
Pf	Carpobrotus glaucesea	Pig-face	0.3m
Px	Philodendron 'Xanadu'	Xanadu	1.5m
Ro	Rosmarinus officinalis prostratus	Trailing Rosemary	0.6m
Ss	Senecio serpens	Blue Chalk Sticks	0.3m
Tj	Trachelospermum jasminoides	Star Jasmine	4m

PLANTING PALETTE

MIX 1



ALPINIA FORMOSANA



ALCANTAREA IMPERIALIS



ARTHROPODIUM CIRRATUM



ASPIDISTRA ELATIOR



PHILODENDRON XANADU



DICHONDRA 'SLIVER FALLS'

MIX 2



TRACHELOSPERMUM



AGAVE ATTENUATA



CRASSULA OVATA



DRACAENA TRIFASCIATA



LOMANDRA 'LIME TUFF'



CARPOBROTUS GLAUCESEA



SENECIO REPENS

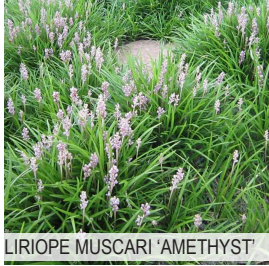


ZAMIA FURFURACEA

MIX 3



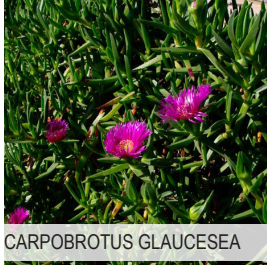
CASUARINA 'COUSIN IT'



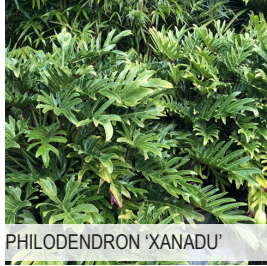
LIRIOPE MUSCARI 'AMETHYST'



MYOPORUM PARVIFOLIUM



CARPOBROTUS GLAUCESEA



PHILODENDRON 'XANADU'



ROSMARINUS OFFICINALIS



SENECIO REPENS

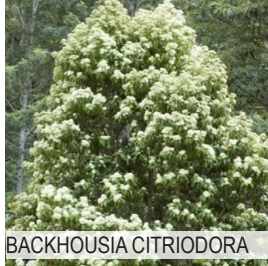
TREES



ACMENA SMITHII



CUPANIOPSIS



BACKHOUSIA CITRIODORA

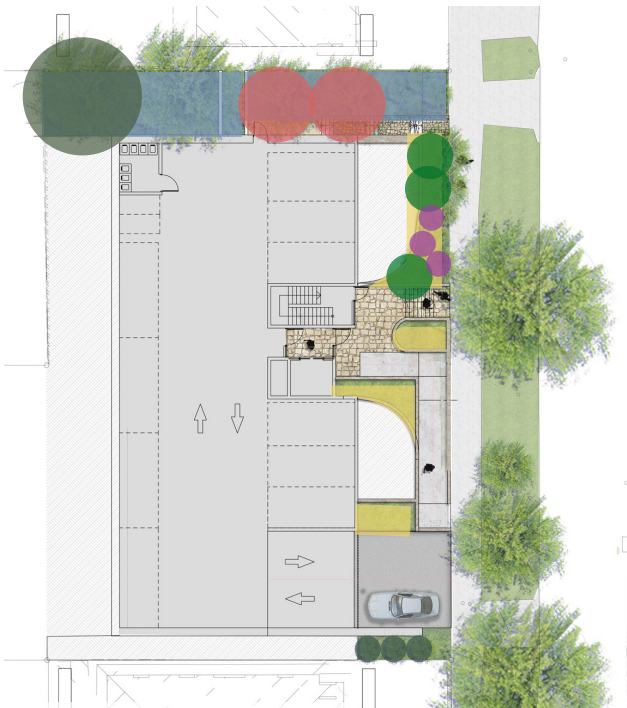


GREVILLEA ROSMARINIFOLIA



MAGNOLIA GRADNIFLORA

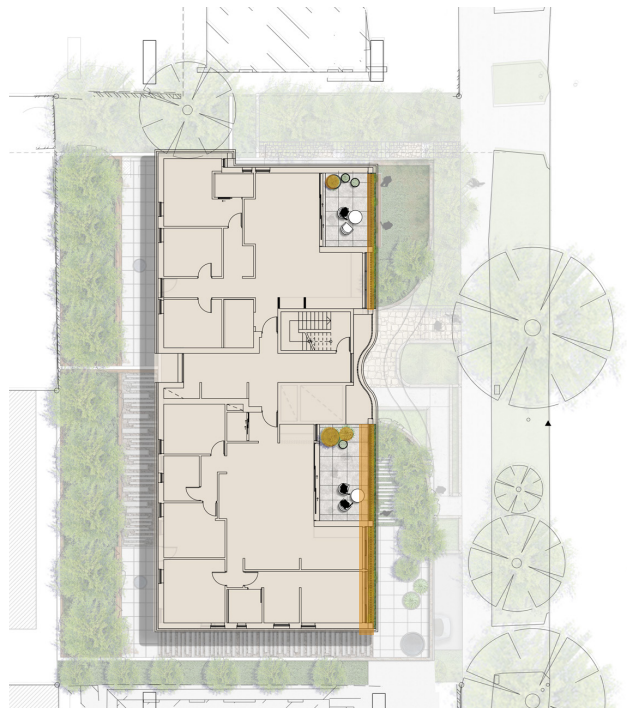
PLANTING PLAN



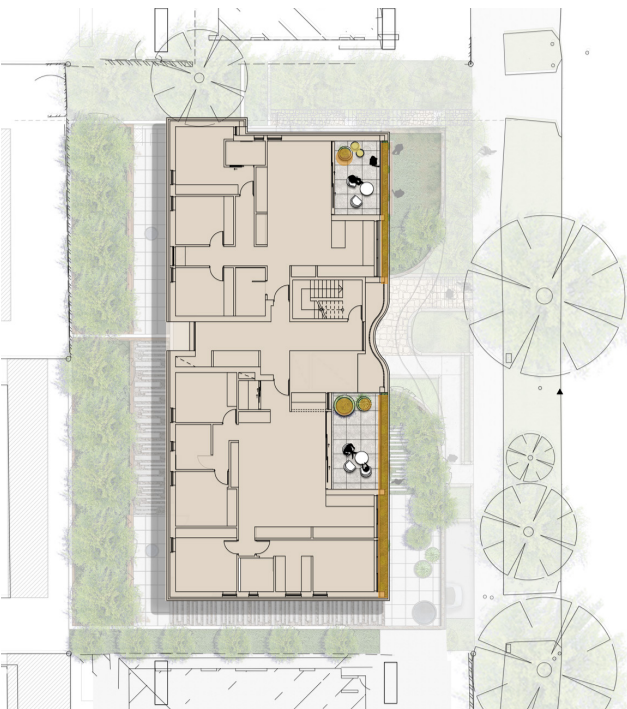
LOWER GROUND FLOOR



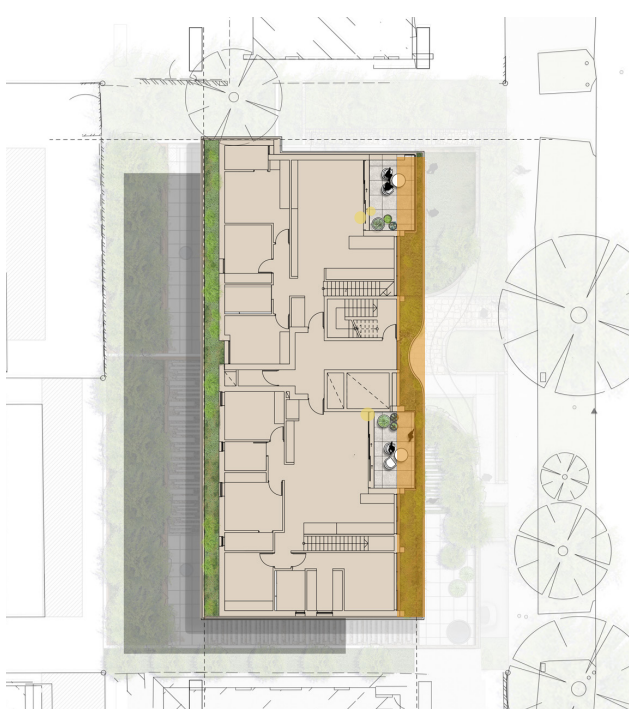
UPPER GROUND FLOOR



FIRST FLOOR



SECOND FLOOR



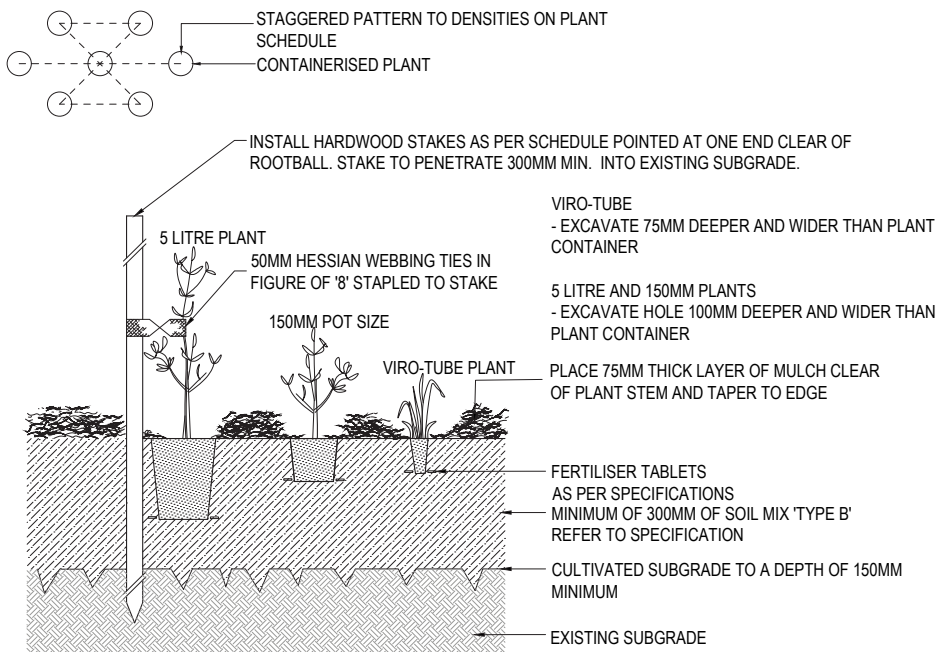
THIRD FLOOR

LEGEND

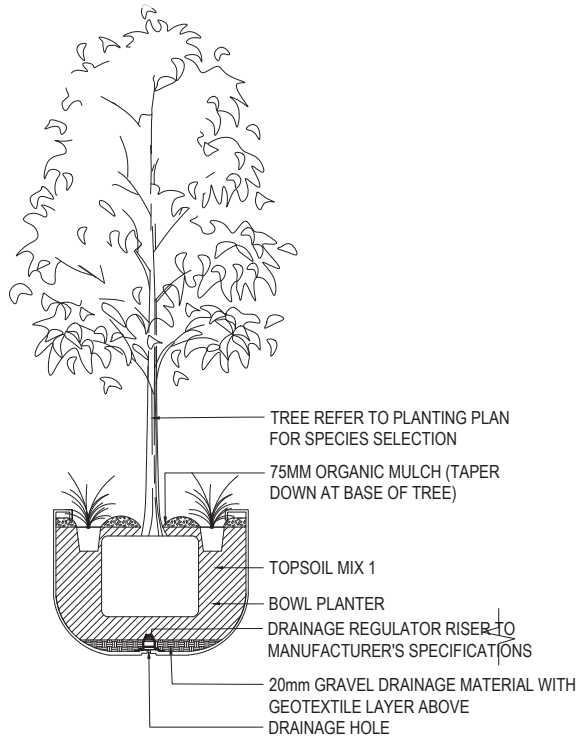
- MIX 1
- MIX 2
- MIX 3
- ACMENA SMITHII
- GREVILLEA ROSMARINIFOLIA
- MAGNOLIA GRADNIFLORA
- CUPANIOPSIS ANACARDIODES
- BACKHOUSIA CITRIODORA
- BANKSIA INTEGRIFOLIA

TOTAL CANOPY COVER: 267M2

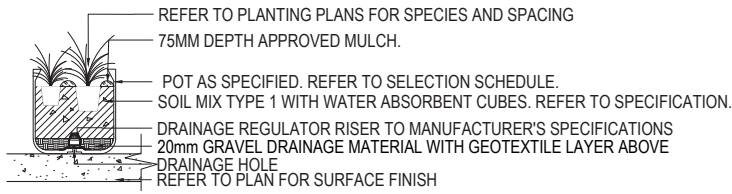
DETAILS



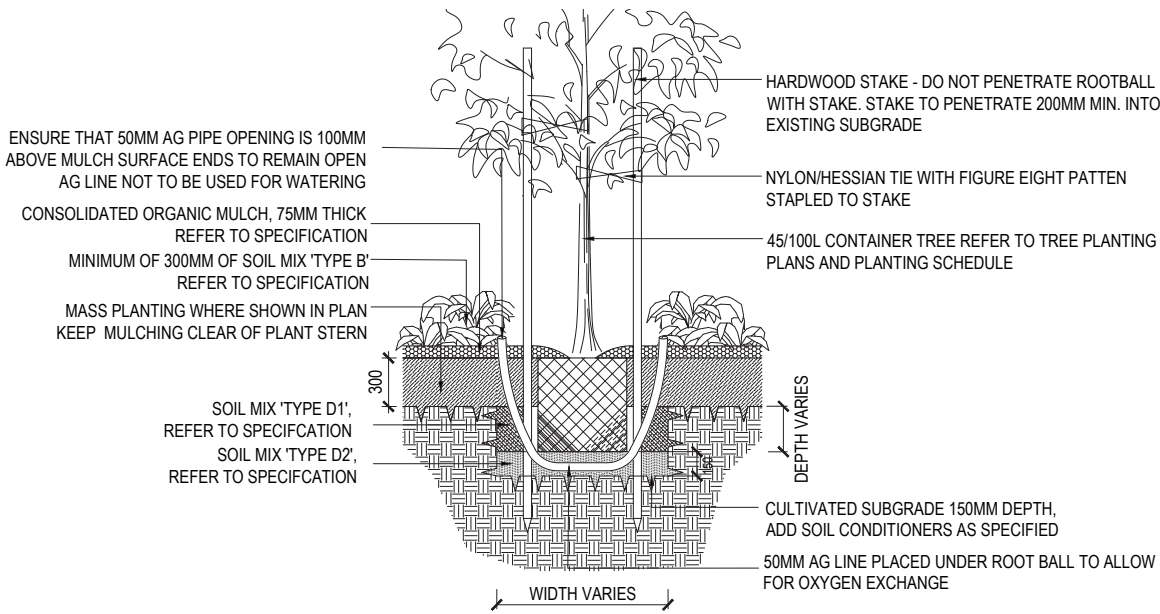
TYPICAL MASS PLANTING DETAIL
1:10



TYPICAL TREE IN POT DETAIL
1:10

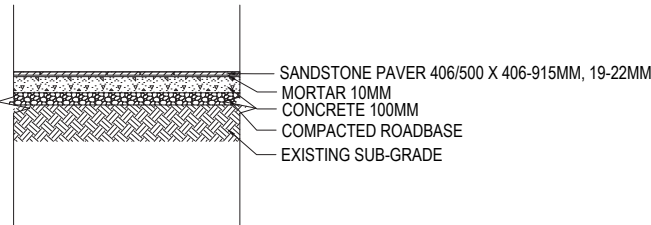


TYPICAL PLANTING IN POT DETAIL
1:10

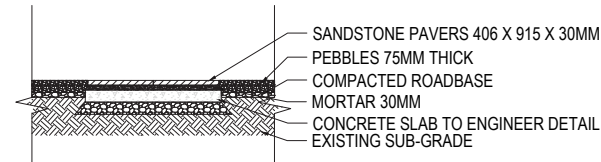


NOTE: TREE PLANTING HOLE DIMENSIONS
ACCORDING TO CONTAINER SIZE: WIDTH MIN. 3X
ROOT BALL DIAMETER (MIN. 820 / 1100 / 1400mm
FOR 45/75/100L CONTAINERS) AND DEPTH MIN.
150mm BELOW ROOT BAL DEPTH.

TYPICAL TREE IN MASS PLANTING DETAIL
1:10



TYPICAL SANDSTONE PAVING DETAIL
1:10



TYPICAL SANDSTONE STEPPER IN PEBBLES DETAIL
1:10

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA251/2023/1
ADDRESS	40 Coolong Road Vaucluse
COUNCIL WARD	Vaucluse
SITE AREA	1,083m ²
ZONING	R2 Low Density Residential
PROPOSAL	Substantial alterations and additions to a dwelling house (essentially a new dwelling), new swimming pool, pavilion structure and landscaping
TYPE OF CONSENT	Local development
COST OF WORKS	\$4,549,265
DATE LODGED	13/07/2023 – Original DA 29/02/2024 – Replacement application
APPLICANT	Mr J Landerer & Mrs M Landerer
OWNER	J Landerer & M Landerer
AUTHOR	George Lloyd
TEAM LEADER	Max Moratelli
SUBMISSIONS	26 (Including multiple submissions from the same address)
RECOMMENDATION	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:

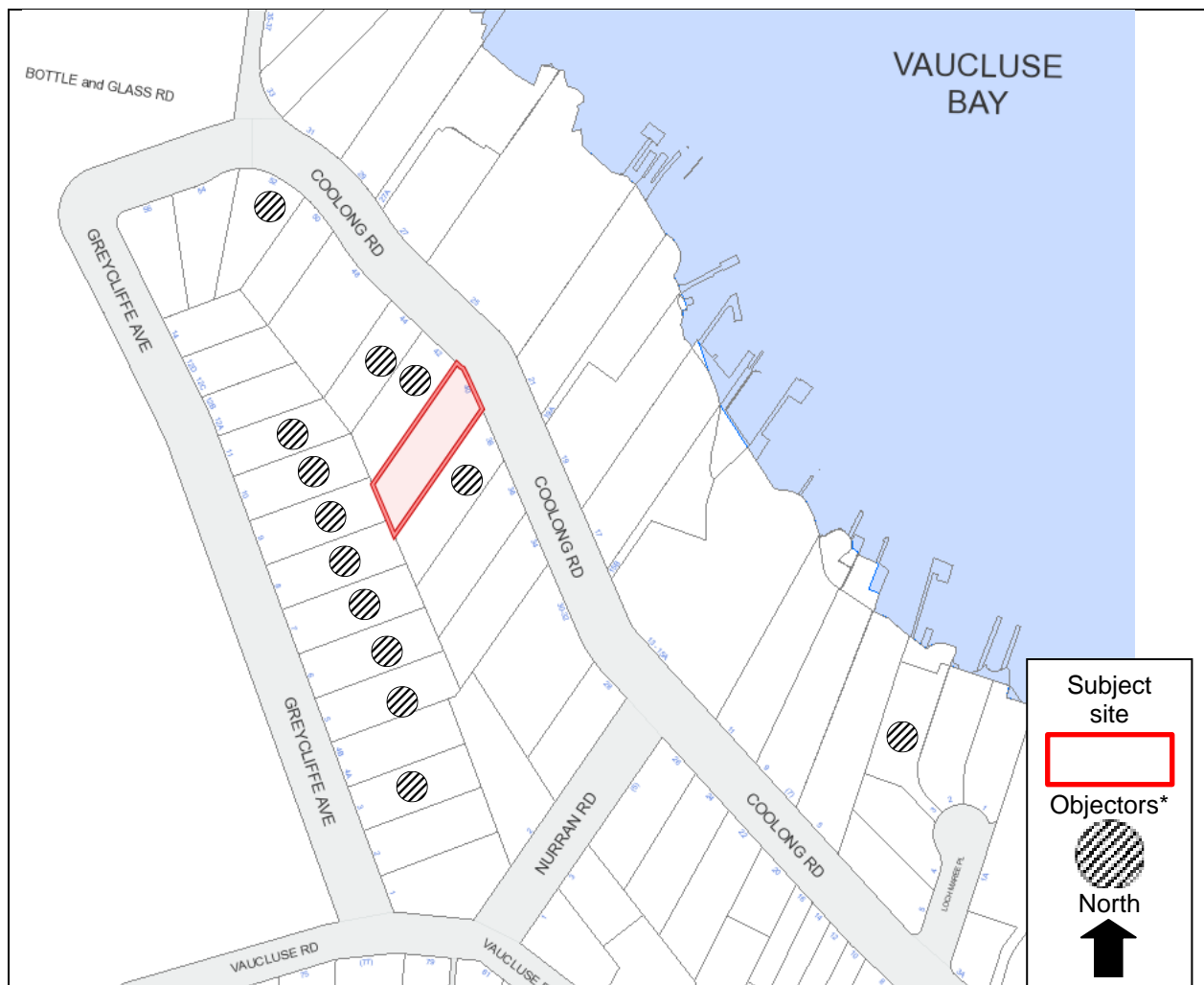
- Contentious development: Development that is the subject of 10 or more unique submissions by way of objection.

2. REASONS FOR RECOMMENDATION

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

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;
- The Clause 4.6 is well-founded and as such, the exceedance of the statutory height of buildings development standard is justified;
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory;
- The site is suitable for the proposed development; and
- The proposal is in the public interest.

3. LOCALITY PLAN



*Submissions also received from properties not shown on the map above.

4. DESCRIPTION OF THE PROPOSAL

Amended plans and a replacement application were submitted to Council on 29 February 2024 which involve the following amendments to the originally submitted DA:

- **Site Plan:** Building form updated to depict increased side setbacks to First Floor; and swimming pool and pavilion reduced.
- **Extent of GFA variations:** Reduced ground floor through deletion of outdoor pool pavilion bathroom; Reduced first floor area via deletion of lounge and study area (to reduced study only) and increased side and rear setbacks; deletion of attic floor area; reduction in total floor area from 794m² to 672m²; increased landscaping from 338m² to 556.8m², and deep soil landscaping from 324m² up to 542.5m²; extent of excavations reduced.
- **Elevations:** Increased setbacks described above; revised façade treatments to stairs (reduced glazing); stairs enclosure reduced in height.
- **Sections:** Attic floor deleted; increased setbacks described above; reduced pool area and stairs height described above.
- **Shadow diagrams:** Updated to accord with amendments described above.

The revised proposal submitted under the replacement application comprises significant alterations and additions to the existing dwelling, a new swimming pool, cabana, landscaping and consists of the following works:

New subfloor garage (RL13.82):

- New driveway and underground garage for 2 vehicles.
- New plant and waste rooms with adjoining OSD tank.
- Construction of a corridor which leads to a new lift for the rear pavilion addition.

Ground Floor (RL17.36):

- The front existing verandah is to be converted into an enclosed winter garden.
- Behind the front door is a new entry hall, lined on either side with a formal lounge and formal dining room, powder room and bedroom (4) at the rear.
- The new pavilion extension behind the existing residence is to comprise a hallway extending from the existing residence, lined on either side with a coolroom and adjoining dry store, lift and open stairs opposite to the floor above.
- At the rear is to be located a new open planned living, dining and kitchen (with pantry). The dry store and coolroom are accessible from the kitchen.
- Within the rear yard is proposed a new swimming pool and single storey cabana with a flat roof.

First Floor (RL20.96):

- At the front of the existing residence is to be constructed a master suite with built-in wardrobes and 2 ensuites.
- Two bedrooms (2 and 3) each with walk-in wardrobes are to be constructed behind the master suite.
- The rear new portion is to consist of a hallway, lift and surrounding wardrobe, and an open study at the rear.
- New wider windows are to be constructed to give access to the existing street facing verandah (above the winter garden).

4.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings – 9.5m	Existing dwelling: 10.157m (6.92% breach) Proposed: 10.425m (9.7% breach)	Satisfactory*- the submitted cl 4.6 written request is considered to be well founded.

* The extent of the building height non-compliance is limited to the very front of the building (see Part 4.3 LEP assessment below).

4.2 Primary Issues

None.

PROPERTY DETAILS AND REFERRALS

5. SITE AND LOCALITY

Physical features
The subject site is located on the southern side of Coolong Road and is slightly irregular in its shape due to its skewed front and rear boundaries. The site has a combined frontage to Coolong Road of 20.74m and a rear boundary of 21.565m. The side boundaries measure 57.39m and 59.505m, respectively. Overall, the site has an area of 1,083m ² .
Topography
The site is characterised by a fall of approx. 3.3m towards the front and has a cross fall of approx. 750mm. Contextually, the surrounding landscape is generally flat or tends to slope toward Coolong Road.

Existing buildings and structures
The site is improved by a two-storey rendered dwelling and street front garage immediately adjoining Coolong Road.
Surrounding Environment
The surrounding area and adjoining properties consist of varying residential densities and architectural designs. Typically dwellings are up to 3-storeys in height and include ancillary structures such as swimming pools and in some cases tennis courts and cabanas. Dwellings on the opposite side of Coolong Road are typically designed to address Sydney Harbour to the north and north-east.



Aerial view of the subject site (outlined in red)

6. RELEVANT PROPERTY HISTORY

Current use
Detached dwelling
Relevant Application History
N/A
Relevant Compliance History
N/A
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
On 14 November 2023, a meeting was held between Council and the applicant, the architect and the applicant's consulting town planner where a number of issues were discussed concerning the development proposal's ability to comply with all of the relevant LEP and DCP controls and objectives. It was agreed that following the preparation of revised plans and accompanying details, a replacement application would be submitted to Council. The replacement application, which is the subject of this assessment report, was submitted on 29 February 2024.
Land and Environment Court Appeal(s)
N/A

7. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Acceptable, subject to conditions.	3
Trees and Landscaping	Acceptable, subject to conditions.	4
Heritage	Acceptable, subject to conditions (see part 12.5 below).	5

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

8. ADVERTISING AND NOTIFICATION

8.1 Submissions

The originally submitted application was advertised and notified from 2/08/2023 to 17/08/2023, in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

A total of 26 submissions were received from:

1. Momcilo and Mirjana Markovic – 38 Coolong Road, Vaucluse.
2. Justin Braitling – 44 Coolong Road, Vaucluse.
3. Dan Maurici – Girilang Avenue, Vaucluse.
4. Alexander Phillips – 10, 12 & 52 Coolong Road, Vaucluse.
5. Vivian and Christopher Kalowski – 10 Greycliffe Avenue, Vaucluse.
6. Daniel Chersky – 8 Greycliffe Avenue, Vaucluse.
7. David & Jennifer Jacobs – 9 Greycliffe Avenue, Vaucluse.
8. Kim Foltz – 11 Greycliffe Avenue, Vaucluse.
9. Andrew Coroneo – 3 Coolong Road, Vaucluse.
10. Merrill Witt – 19 Village Lower Road, Vaucluse.
11. Simon Wakerman & Associates P/L – on behalf of David & Jennifer Jacobs – 9 Greycliffe Avenue, Vaucluse.
12. Adrian Gold – 11A Parsley Road, Vaucluse.
13. Andrea Stark – 3 Boambillee Avenue, Vaucluse.
14. Jason Pantzer – 42 Coolong Road, Vaucluse.
15. Mark Dunphy – 6 & 7 Greycliffe Avenue, Vaucluse.
16. Christopher & Gina Grubb – 3 Greycliffe Avenue, Vaucluse.
17. Dickson Rothschild (DR Design P/L) – on behalf of Jason Pantzer – 42 Coolong Road, Vaucluse.
18. Tony Moody – on behalf of Jason Pantzer – 42 Coolong Road, Vaucluse.
19. Brigid Phillips.

20. Dr Jeremy Hunt.
21. Angelique Andrews – 22 The Crescent, Vacluse.
22. Anthony Minichiello.
23. Alison Pert – 42 Olola Avenue, Vacluse.
24. Kim Foltz – 11 Greycliffe Avenue, Vacluse.
25. Vivienne Alcaine – 5 Greycliffe Avenue, Vacluse.
26. Tony Moody – on behalf of Jason Pantzer – 42 Coolong Road, Vacluse – following the Council officers site inspection.

The submissions raised the following issues:

Issue	Conclusion
Bulk, size and scale of proposed additions.	The bulk and scale of the proposal is considered to suitably fulfil the relevant requirements of the Woollahra LEP and DCP as demonstrated in this report.
3-storey presentation to the street.	The amended proposal incorporates a satisfactory presentation to the street, which is two storey plus an attic level situated within the roof form.
Inconsistent with surrounding streetscape.	The replacement application is suitably consistent with the existing character and surrounding streetscape of this part of Vacluse, which is characterised by large two and three storey dwelling houses.
Removal of vegetation is excessive.	Council's Tree Management Officer has reviewed the accompanying landscape plan and the Arboricultural Impact Assessment and has raised no objection to the proposal subject to conditions.
Non-compliance with numerous planning controls (incl. FSR, setbacks, wall height, articulated wall length, landscaping and deep soil areas).	A detailed assessment of the proposal in accordance with the Woollahra LEP and DCP has been undertaken and where a prescriptive variation has been sought, the proposal has been determined as fulfilling the relevant objectives.
Loss of sunlight and excessive overshadowing to neighbouring properties.	Updated shadow diagrams provided on 7/06/24 demonstrate that the extent of overshadowing is compliant with overshadowing objectives and controls as prescribed under the Woollahra DCP (Part B3.5.2).
Excessive floorplate non-compliance.	Despite the prescriptive non-compliance with the floorplate controls in Part B3.3 of the Woollahra DCP, the overall bulk of the proposal has been determined as being suitable for the site and fulfils the objectives of this part of the DCP (see section 13 of this report for details).
Building envelope non-compliance.	It is noted that elements of the proposal involve non-compliances with the building envelope controls. These variations have been considered in the report and it is concluded that the proposal will otherwise fulfil the objectives of this part of Section B3.2 of the DCP and will not visually dominate the existing streetscape.
Adverse privacy and amenity impacts, esp. upon 9 Greycliffe Ave.	Following a detailed site inspection from the surrounding properties and having regard to the lateral distance between the rear façade of the proposal from its rear western boundary being between 11.75m and 20.32m, it has been determined that separation between the proposed dwelling properties facing Greycliffe Avenue is adequate to ensure the privacy and visual amenity of those properties.
Privacy and amenity impacts over No.42 Coolong Rd.	The proposal comprises new windows to the northern and southern elevations of the front part of the new building. The rear addition comprises only one new window facing the side boundary, which is to a non-habitable area and is substantially set back.
Excessive height.	The existing residence is non-compliant with the 9.5m height of buildings requirement. The proposal involves a new roof which will similarly breach the height limit. The application was supported by a Clause 4.6 request, which has been assessed and supported.
Contemporary design of rear pavilion is offensive.	Design merit is a subjective matter and the contemporary nature of the rear addition does not warrant refusal or further modification of the proposal.

Issue	Conclusion
Glare from rear glass wall into adjoining properties.	The rear façade faces south-west and has blade walls along the side elevations, consequently, the extent of glare is expected to be minimal and only during the very late afternoons during the summer solstice. Any restrictions imposed upon the glazing will restrict light penetration into the residence and will restrict the ability of residents within to view outwards onto the rear yard.
This matter should be assessed as a new dwelling house and not as alterations and additions to an existing dwelling.	The proposal has been described and assessed as “substantial alterations and additions (essentially comprising a new dwelling)” due to the demolition of the majority of the existing residence.
Inconsistent with desired future character statement of the Vaucluse West residential precinct.	In the detailed assessment of the development proposal provided under this report, the proposal has been determined as being consistent with the existing and future character of the Vaucluse West residential precinct.
Undesirable precedent.	Each application is assessed on its own merits and the proposal does not establish an undesirable precedent.
Pool and cabana requires raising the natural ground by 1m.	The swimming pool and cabana will be located close to natural ground level.
Reduction in on-street parking due to widening of driveway.	Part of the proposal replaces an existing redundant driveway and crossing and existing (undersized) double garage with a compliant crossing and parking spaces in accordance with the requirements of the relevant Australian Standards. Adequate provision for on-street parking spaces will remain in front of the site and along this section of Coolong Road.

8.2 Replacement Application

The replacement application noted in Section 4 was renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 from 6/03/2024 to 21/03/2024, because the proposed changes have the potential for additional impacts.

Additional submissions received following the notification of the replacement application have been considered in Section 8.1 above.

8.3 Statutory Declaration

The applicant has completed the statutory declaration dated 18/08/2023, declaring that the site notice for DA251/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

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

The development application was accompanied by BASIX Certificate No.A500030_02 (dated 26/02/2024), demonstrating compliance with the SEPP. These requirements have been imposed in the recommended conditions.

10. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 6 – Sydney Harbour Catchment

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

The proposal therefore satisfies the relevant criteria prescribed by Chapter 6 – Sydney Harbour Catchment of the Biodiversity and Conservation SEPP 2021.

11. 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) states:

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.

Having regard to the above, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

Chapter 4 – Remediation of Land

The objectives 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*

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.

12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

12.1 Part 1.2: Aims of Plan

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

12.2 Land Use Table

The proposal is defined as a new dwelling house and is permitted and consistent with the objectives of the R2 Low Density Residential zone.

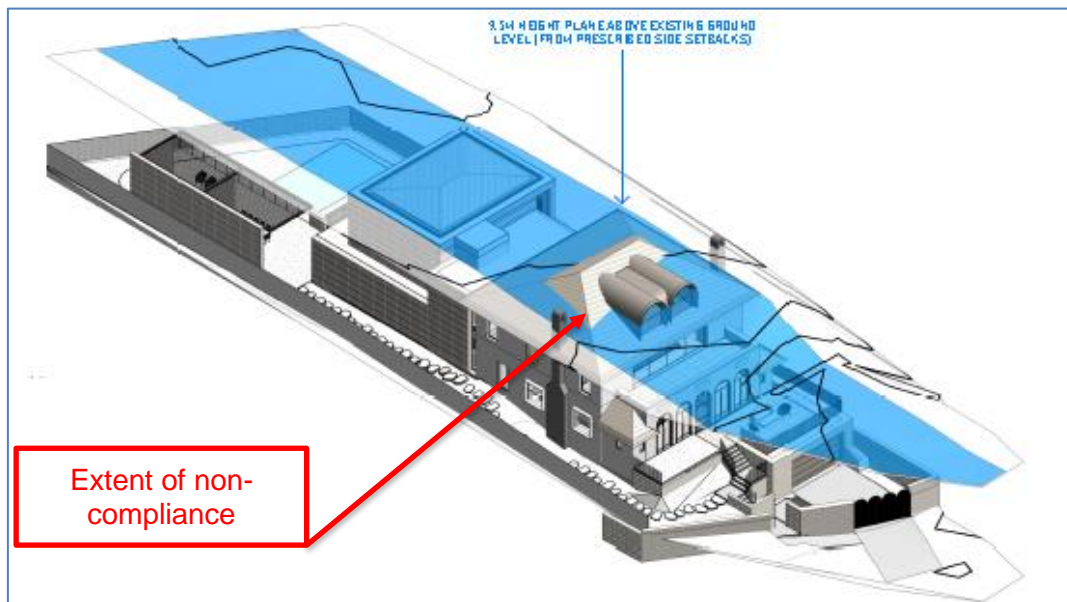
12.3 Part 4.3: Height of Buildings

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

	Existing	Proposed	Control	Complies
Maximum Building Height	10.157m	10.425m (9.7% variation)	9.5m	No

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Part 12.4 below.

Refer to the image below which highlights the area of non-compliance.



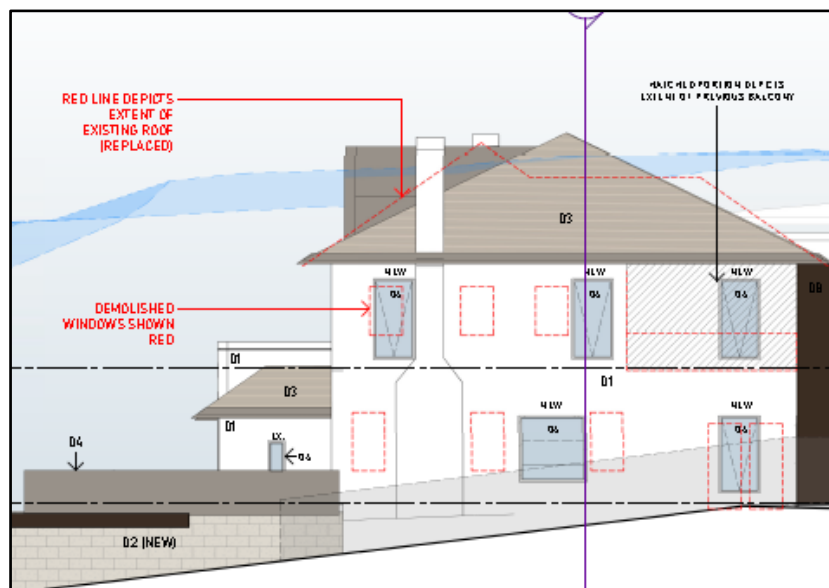
Source: Dominic Alvaro, Registered Architect

12.4 Part 4.6: Exceptions to Development Standards

12.4.1 Departure

The proposal involves a non-compliance with the maximum building height statutory control under Clause 4.3 of the Woollahra LEP 2014, as provided above.

Clause 4.3 limits development to a maximum height of 9.5m and the proposal seeks a 0.925m or 9.7% departure from the control. The variation is solely contained to part of the reconstructed second floor roof form of the existing residence with the remaining built form (new and existing) being entirely compliant with the height of buildings control.



Elevation of roof replacement (*Dominic Alvaro, Registered Architect*)

12.4.2 Purpose

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

12.4.3 Written Request

Clause 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided a written request in relation to the departure to Clause 4.3 which is attached as **Attachment 2**.

In summary, the Clause 4.6 request makes the case that the non-compliance is reasonable for the following reasons:

- The breach in height is measured from the highest point of the roof (RL27.245) to the existing ground level immediately below. Noting that the maximum RL for the proposal is comparable with the existing developments at Nos. 38 and 42 Coolong Road, being RL27.05 and RL27.33 respectively.
- The majority of the height variation is a function of the sloping topography of the site, wherein the majority of the fall is located below the portion of the non-compliant roof.
- The height exceedance will not adversely impact neighbour amenity and will not be out of character with surrounding properties in terms of height and scale, nor will it be incompatible with the area's desired future character.

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

At the time the DA was lodged, clause 4.6(4)(a)(i) required that *consent must not be granted for development that contravenes a development standard unless:*

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

Clause 4.6(4)(a)(i) – Assessment

At the time the DA was lodged, clause 4.6(4)(a)(i) required 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 clause 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*

Despite the numerical non-compliance, the applicant's written request has adequately demonstrated that the objectives of the height of buildings development standard are achieved, and that the non-compliance satisfies the unreasonable or unnecessary tests established by the Court in *Wehbe* and in the circumstances of this case as required by clause 4.6(3)(a).

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

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

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

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

S1.3 of the EPA Act states as follows:

1.3 Objects of Act

The objects of this Act are as follows–

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

The applicant's written request, which supports the proposed non-compliance with the height of buildings standard, has adequately demonstrated that the proposed development satisfies objectives (c), (g) and (h) of the Environmental Planning and Assessment Act 1979 as provided above and has adequately demonstrated sufficient environmental planning grounds to justify the contravention of the development standard as required by clause 4.6(3).

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

At the time the DA was lodged, clause 4.6(a)(a)(ii) required 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 R2 Low Density Residential zone. An assessment against these objectives is provided below.

The objectives underlying Clause 4.3 – Height of Building

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

It is considered that the extent of variation would not compromise the desired future character of the neighbourhood. The majority of the built form proposed under this DA remains fully compliant with the height of buildings control and offers an acceptable overall height when considering the surrounding context of existing and approved developments which predominantly comprise expansive three-storey residences. Overall, there would be minimal difference in terms of the dwelling's presentation or bulk and scale if strict compliance was to be achieved.

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

N/A – The subject site is surrounded by R2 zoned land and is therefore not adjacent any zone boundaries.

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

Given the extent of variation, it is considered that the degree of overshadowing cast by the development is consistent with what could be reasonably expected by a scheme that was completely compliant with the height of buildings development standard. In addition, the overshadowing impacts of the proposal have been determined as being acceptable having regard to Part B3.5.2 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.

The subject non-compliance would not result in any significant view loss, loss of privacy, overshadowing or visual intrusion into adjoining properties. The proposed variation relates to part of the roof form at the front of the site and does not pertain to any glazing that may otherwise have potential overlooking impacts.

The variation is not of an extent that would adversely obstruct view corridors beyond a complying development. Furthermore, there would be no impacts with regard to visual intrusion given the variation would unlikely be perceived by the casual observer.

The overshadowing impacts as a direct consequence of the variation are considered inconsequential and would have no material difference in terms of impacts if strict compliance were achieved.

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

The proposed non-compliance will not impact upon any public views of the harbour and surrounding areas, given the location of the site on the south-eastern side of Coolong Road and the orientation of views from the surrounds being typically to the north and north-east.

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 proposed variation would facilitate a well-designed contemporary dwelling within an existing low density residential setting.

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

The proposal is not in conflict with this objective.

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

The proposed variation would not restrict a suitably designed contemporary dwelling that is compatible with the evolving character of the locality and which is also typical of more recently completed development throughout the area.

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

It is not considered that the overall height and scale of the development and its capacity to adhere to the desired future character of the locality is compromised by the proposed variation. The finished dwelling will be well articulated and will have a positive response to the evolving character of the neighbourhood.

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

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

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

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

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

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

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

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

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

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

Conclusion

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

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

Furthermore, the consent authority can be satisfied that the proposal upholds the public interest as the non-compliance is consistent with the objectives of the development standard and those applicable to development within the subject R2 Low Density zone. Departure from the control is therefore supported in this case.

12.5 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.

Notwithstanding that the subject site is not a heritage item and is not within a heritage conservation area, the subject site does have heritage significance as provided in the comments of Council's Heritage Officer dated 6 November 2023, wherein the following is stated:

SIGNIFICANCE OF SUBJECT PROPERTY

The subject site comprises land that was granted to William Charles Wentworth and later transferred to Fitzwilliam Wentworth. It was subdivided in 1912 as part of the Vaucluse Bay subdivision. The subject property comprised lot 9 of this subdivision. It has not undergone any

further subdivisions since 1912. The development site comprises one allotment (Lot 9, DP7253). It consists of a two storey Inter-War dwelling and a garage along the southern side of Coolong Road, attached to the front of the dwelling. Constructed in the Mediterranean architectural style, the extant free standing dwelling was designed by the firm of Prevost, Synnot and Ruwald c. 1927 (refer to Figure 1 below) under BA1927/50. The extant building is constructed of rendered and painted brick masonry and covered with a hipped roof of terracotta tiles (the roofing material does not appear to be original and has been replaced) with two protruding original chimneys. The primary façade at ground floor level exhibits a series of arches, plaster motifs and inset fields at ground floor level. The main entry to the building is accessed from the front verandah, along the primary façade at ground floor level.

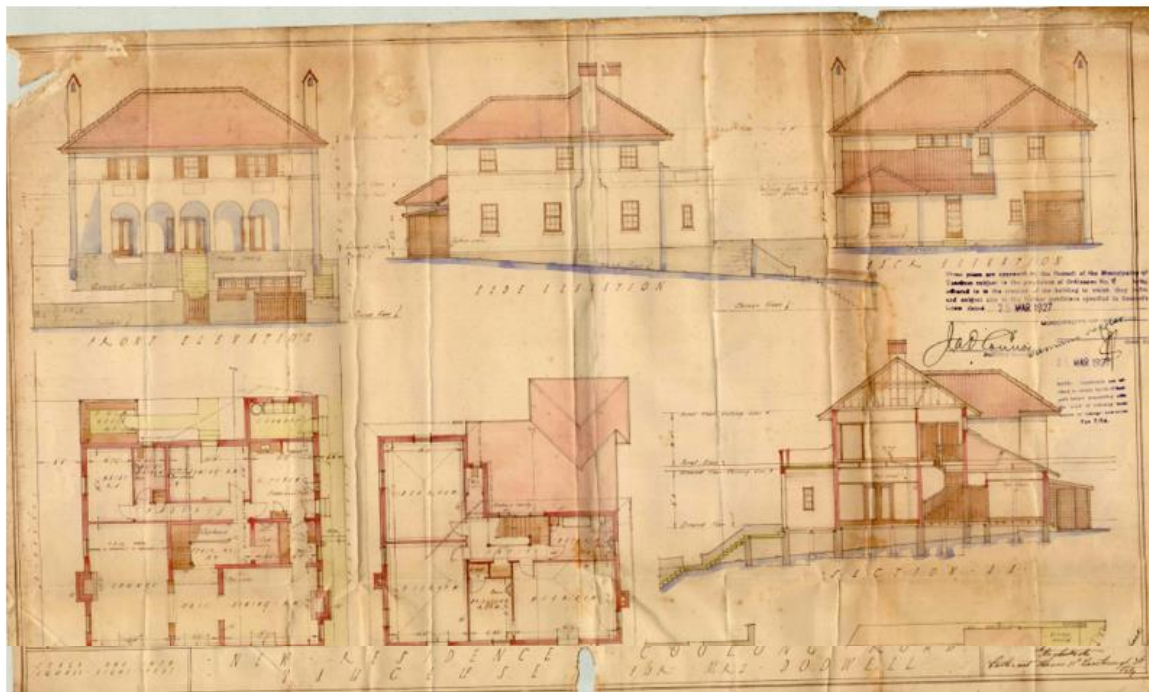


Figure 1. Original plans of the subject dwelling under BA1927/50 (Source: Woollahra Council Archives)

In 1969, the dwelling underwent modifications as part of works approved under BA1969/230. At ground floor level, these included modifications to the configuration of the rear half of the dwelling at ground floor level, and the reconfiguration or replacement of the internal staircase, while mostly retaining the living and dining rooms at the front. The works also included modifications to the original openings along the side (north-western) and rear elevations of the dwelling. At first floor level, the works included a bedroom addition to the rear with a terrace which wraps around the side elevation, altering openings along the rear elevation, as well as modifications to the original roof to the rear including the addition of a rear dormer. In 1996, the dwelling underwent further modifications under BA1996/43 including changes to the materiality of the first floor rear terrace and its balustrade, as well as internal changes at both ground and first floor levels. It is also noted that the verandah and balcony flooring at ground and first floor levels of the dwelling along the primary façade have been modified. The interiors still appear to have retained some of the original fabric including fireplaces, plastered ceilings, and joinery including doors and door hardware.

Council's Heritage Officer has made the following findings and conclusion:

Although the Woollahra Aboriginal Heritage Sensitivity Map indicates that the site is located in an area of no Aboriginal Sensitivity, given the recent findings at no. 42 underneath the floor level of the previous built form, and the continuous geological formation that extends into the site from 42 Coolong Road, it is also possible that engravings in sandstone are located underneath the subject building at 40 Coolong Road as well. The Heritage Officer has had discussions with Oliver Brown regarding the matter above. Instead of requesting an AHIA, in light of the findings at the adjacent property, the same recommendations and conditions of consent were included in the Notice of Determination for DA2021/487/1 are to be included in any consent for the subject DA if the DA is recommended for approval. This is to ensure the protection of any potential Aboriginal Heritage. Conditions of consent relating to the recommendations above will be included below.*

* Council's Heritage Officer noted that during the recent demolition/construction works at the neighbouring property at No.42 Coolong Road, Vaucluse (approved under DA2021/487/1), that a new Aboriginal site was found underneath that dwelling.

Conditions of consent as recommended by Council's Heritage Officer have been included in the recommendation of this report.

12.6 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.

12.7 Part 6.2: Earthworks

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

The proposal involves excavation to accommodate underground parking, services, plant and waste rooms and pedestrian access (including a lift) to the rear pavilion additions. The excavation extends to a maximum depth of 3m (plus footings), and is partially aligned along (within) the north-eastern boundary for the 2 parking spaces only. The excavations are setback a minimum of 3m, from the southern south-eastern side boundary. The supporting documentation identifies that the proposal involves a total volume of excavation of 320.8m³.

Geotechnical and hydrogeological reports report accompany the DA and have been reviewed by Council's Development Engineer who has raised no objection to the proposed excavation on technical grounds, subject to the recommended conditions of consent, which suitably respond to the accompanying technical material for the proposed excavations.

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

Part 6.2(1) states:

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

Part 6.2(3) states:

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

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

The following comments are made in this regard:

- The extent, siting and location of the proposed excavations are not expected to cause a detrimental impact upon the amenity or environmental functions of surrounding land.
- The relevant matters for consideration in part 6.2(3) above, have been suitably considered and reflected by the imposition of suitable conditions of consent.

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

13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

13.1 Chapter B1: Vacluse West Residential Precinct

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

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Vacluse West Precinct, as noted in Section B1.10.2 of the Woollahra DCP 2015. Specifically, the proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Vacluse West Residential Precinct.

O4 To ensure that buildings are well articulated and positively contribute to the streetscape.

The proposal achieves Objectives O1 – O4 as follows:

- The proposal will continue to reinforce the streetscape and character of the locality by maintaining the overall façade and envelope of the existing street-facing residence.
- The proposal will maintain a two-storey appearance at the front of the site which is similar to those of surrounding properties.
- The proposal achieves a compliant extent of deep soil landscaping within the front setback.

B3.2.3: Side Setbacks

The objectives of this part of the DCP states:

- 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.*
- O8 To recognise built form characteristics of semi-detached dwellings and attached dwellings.*

It is worth noting in this particular case, that the front boundary of the site is significantly skewed and slightly rounded at its north-eastern end, resulting in a combined length of 20.72m. However, the width of the allotment where the minimum side setback is to be measured (see Control C3 for details), is 17.08m, which requires a minimum 2.3m for allotments within a site width of 17m to <19.0m.

The ground floor northern side setback has been purposefully designed to align with the existing dwelling, which the applicant states: *will maintain the existing separation between buildings and not create a sense of enclosure.*

In addition to the above, the applicant has provided further justification of the non-compliant side setback along the north-western boundary with the following:

A recessed area on the northern side for the staircase provides articulation, and a central vertical glazed element on the southern side creates a distinction between the existing dwelling and new additions. Despite the non-compliance on the northern side, the proposal will maintain privacy, adequate solar access and views for neighbouring properties and this is outlined in Section 5.0. The proposed setbacks will be well landscaped and will continue to provide access between the front and rear of the site. Accordingly, in our opinion, the proposal satisfies the objectives and a variation to the side setback control is appropriate.

The justification of that part of the proposal which does not comply with the minimum prescriptive side setback requirements are generally concurred with and the proposal is considered to otherwise more than suitably fulfil the relevant objectives of this part of the DCP for the following reasons:

- The proposal has been designed to avoid an unreasonable sense of enclosure towards adjoining properties, provides for well-defined areas of articulation, permits solar access to the habitable windows of adjoining properties and facilitates views and view-sharing between properties.

- The proposed setback is wide enough to provide for suitable screen planting and is sufficient to protect the acoustic and visual privacy of the residents within adjoining properties.

B3.2.4: Rear Setback

C1 requires a minimum rear setback of 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary.

Buildings must not encroach on the minimum rear setback.

The objectives of this part of the DCP states:

- O1 *To provide private open space and landscaped areas at the rear of buildings.*
- O2 *To provide acoustic and visual privacy to adjoining and adjacent buildings.*
- O3 *To avoid an unreasonable sense of enclosure*
- O4 *To protect vegetation of landscape value and provide for landscaped area and deep soil planting.*
- O5 *To protect vegetation of landscape value and provide for landscaped area and deep soil planting.*
- O6 *To contribute to a consolidated open space network with adjoining properties to improve natural drainage and support local habitat.*

The site has an angled rear setback line, which means that the southern corner of the dwelling will be well within the rear setback line and the western corner of the dwelling will not.

Part of the applicant's justification for the non-compliant rear setback states:

Despite the setback variation, the proposal will provide ample private open space and landscaped areas at the rear of the site. The integrated blade walls of the dwelling at the rear create a suitable screening element to prevent overlooking and maintain privacy to adjoining development. The extent of the proposed rear setback is also appropriate, given it provides a transition between No. 38 Coolong Road to the south east and the recently approved development at No. 42 Coolong Road. Finally, the proposal will also retain some trees at the rear and include more than adequate deep soil planting.

The justification for the rear setback non-compliance is generally concurred with and the proposal is considered to more than adequately fulfil the objectives of this part of the DCP.

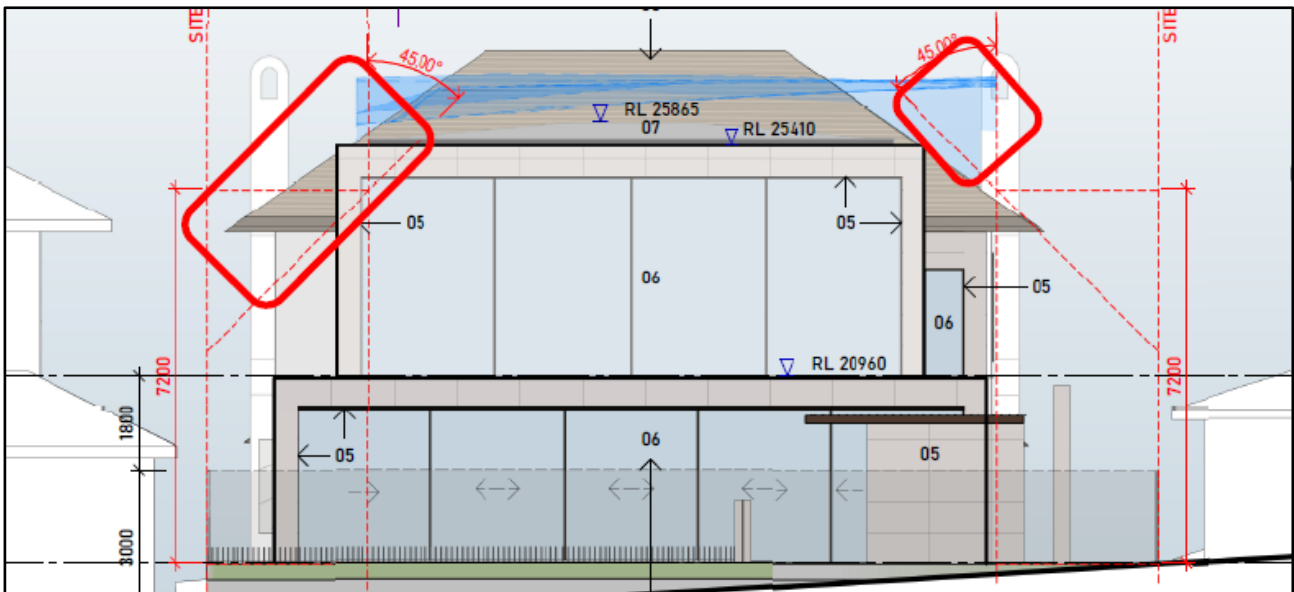
B3.2.5: Wall Height and Inclined Plane

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

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

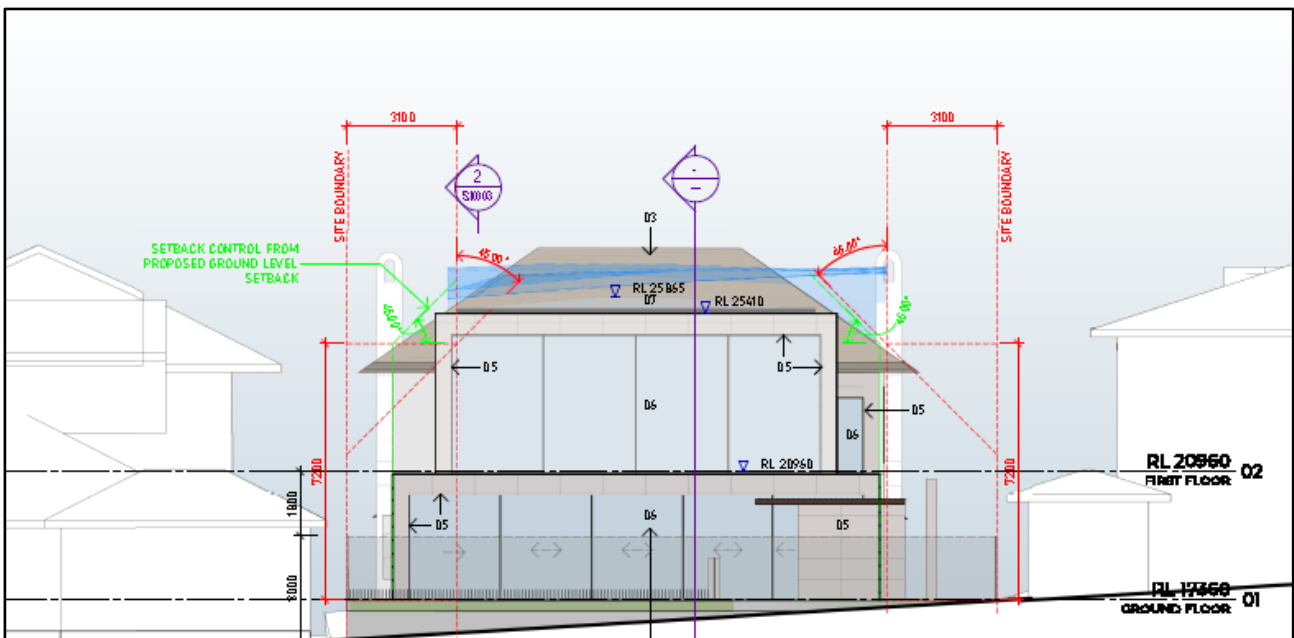
- O1 *To limit the bulk, scale and visual impact of buildings as viewed from the street and from adjoining properties.*
- O2 *To limit overshadowing of adjoining properties across side boundaries.*
- O3 *To limit overshadowing to south facing rear yards.*
- O4 *To provide acoustic and visual privacy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

The extent of the non-compliance as described by the applicant is limited to the topmost north western and south eastern edges of the new addition (see below).

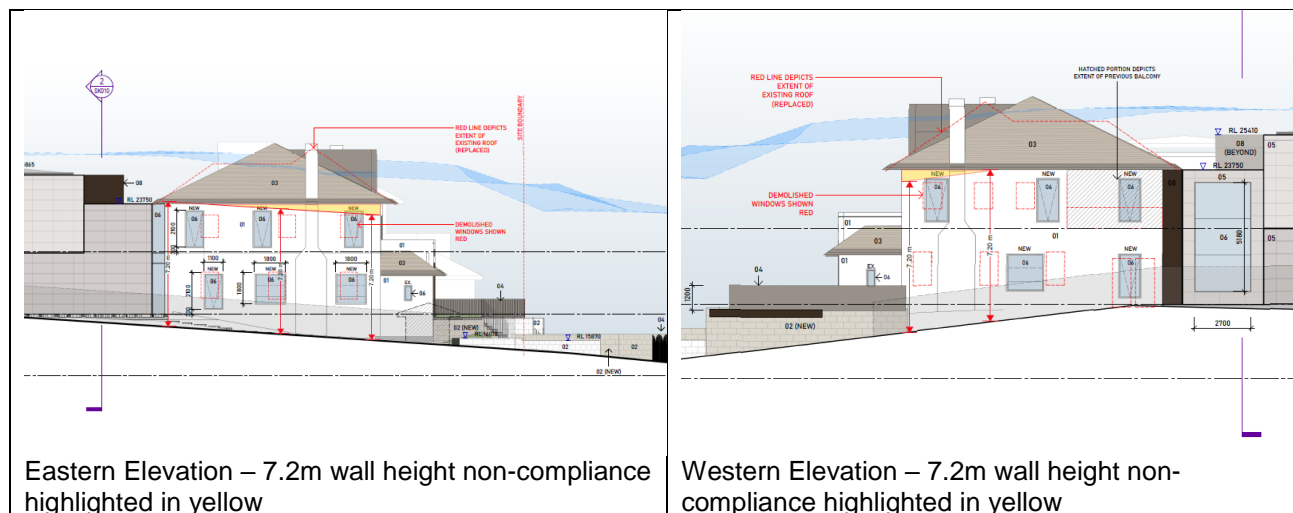


It is worth noting that when measured from the 'required' side setback of 3.1m, there is a non-compliance in the proposed additions along the western elevation (left hand side above) at both the ground and first floor levels.

The extent of non-compliance is reduced to zero when calculating the height plane from the proposed setback (as shown in the green dotted lines below).



Furthermore, there is a non-compliance associated with the reconstruction of the existing building at the front of the site, as shown in the images below.



It is considered that despite any non-compliance, the proposal will continue to adequately uphold the objectives of this part of the DCP and will result in no significant amenity impacts upon the adjoining properties or the streetscape in the following manner:

- The proposed new additions are not considered to be overbearing in terms of their visual impact from the streetscape or from adjoining properties;
- The proposal will result in an acceptable level of overshadowing to the adjoining properties or to the private open space within the subject site;
- The proposal will not result in any privacy impacts to the adjoining properties because there are no windows along the elevations of the non-compliant walls; and
- The proposal will not result in unacceptable impacts upon any existing significant views to and from the adjoining or surrounding properties.

Conclusion

Having regard to the above, the proposal is considered to be acceptable with regard to the building envelope requirements in Part B3.2 of the Woollahra DCP 2015.

13.2.2 Part B3.3: Floorplates

Site Area: 1083m ² Buildable Area: 379.2m ²	Proposed	Control	Complies
C1. Maximum Floor Plate	732m ²	165% 625.7m ²	No

The objectives of this part of the DCP state the following:

- 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.

The proposal involves a variation of approximately 107m².

Control C2 requires the floorplate to be contained within the building envelope. The proposed additional floorplate will be largely located within the building envelope.

Control C3 requires that the intention of the floorplate control is to respond to the predominant form of the streetscape and retain and share views. In this particular case, the proposal suitably responds to the predominant character of the immediate streetscape that consists of enlarged residences.

The proposal will maintain a finished two-storey built form consistent with other existing developments in Coolong Road. Also, despite the non-compliance, the proposal will facilitate view-sharing and will minimise adverse impacts upon privacy and access to sunlight to adjoining properties.

In addition to the above, the extent of the floorplate non-compliance suitably fulfils all of the objectives of this part of the DCP, and is considered to be acceptable with regard to the building envelope requirements in Part B3.3 of the Woollahra DCP 2015.

13.2.3 Part B3.4: Excavation

Site Area: 1083m ²	Proposed	Control	Complies
Maximum Volume of Excavation (excl. swimming pool – C5)	266.5m ³	Approx. 270m ³	Yes
Excavation, Piling and Subsurface Wall Setback	0m (north) <10m (front)	3.1m (side) 10.3m (front)	No Within existing setbacks
Geotechnical Report	Geotech report provided)	Required Where > 2.0m	Yes

C1 limits the volume of excavation to 270m³. Although the proposed excavation volume is compliant with C1, the extent of excavation will be up to the north-western side boundary in a similar location to the existing garage, except within a basement. The purpose of this location is to utilise the existing driveway which will be upgraded

The extent of the excavations are generally contained within the footprint of the existing dwelling and proposed rear additions and are accompanied with a geotechnical report.

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

The objectives of this part of the DCP states the following:

- O1 *To allow buildings to be designed and sited to relate to the topography.*
- O2 *To minimise excavation.*
- O3 *To ensure the cumulative impacts of excavation do not adversely impact land stabilisation, ground water flows and vegetation.*
- O4 *To minimise structural risks to adjoining structures.*
- O5 *To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.*

The extent of excavations are deemed to be consistent with the objectives of this part of the DCP for the following reasons:

- The proposed excavation works do not vary the site's topography.
- The extent of excavations have been reduced from the original proposal and are limited to car parking, pedestrian access to the proposed additions and services such as an OSD tank, pant and waste rooms.
- Impacts upon land stabilisation, ground water flows and vegetation are addressed by the recommended conditions of consent.
- Structural risks to adjoining structures are addressed by the recommended conditions of consent.

- Amenity impacts to adjoining properties from noise, vibration and dust are addressed by the recommended conditions of consent.

Having regard to the above, the proposal is therefore acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

13.2.4 Part B3.5: Built Form and Context

Site Area: 1083m²	Proposed	Control	Complies
Siting of Development	Follows existing topography	Stepped Down with the Slope	Yes
Colour Scheme	Neutral colour scheme	Consistent	Yes
Solar Access to Open Space of Adjacent Properties	Adjoining POS predominantly unaffected	50% for 2 hours on 21 June	Yes
Solar Access to Nth Facing Living Areas of Adjacent Properties	Predominantly unaffected	3 hours on 21 June	Yes
Distance of Habitable Room Windows to Adjacent Dwellings	>9m (blade walls)	9.0m	Yes

Section B3.5.1: Streetscape Character

The proposal is considered to be satisfactory with regard to the desired future character provisions of the Vaucluse West Precinct. The dwelling will present as a two-storey plus attic residential development, with garages at the lower level and living spaces above. This is a common feature defining in the immediate context as a result of the topography of the land.

The proposed external materials are considered to be acceptable and the proposal will be of a contemporary architectural style that has been appropriately designed to respect its surrounds, in keeping with Objective O3.

Having regard to the above, the proposal is considered to be satisfactory with regard to the provisions of B3.5.1 of Woollahra DCP 2015.

Section B3.5.2: Overshadowing

Updated shadow diagrams were submitted on 7/06/24 which demonstrates that the proposal will cast shadows within the acceptable limits prescribed by Control C1.

Overshadowing to the south-eastern rear yard of the adjoining property at 38 Coolong Road is predominantly caused by an existing ancillary structure (cabana) in the neighbouring site's own rear yard (see shadow plans for details).

The proposal satisfies the relevant controls and objectives of Part B3.5.2 of the Woollahra DCP 2015.

Section B3.5.3: Public and Private Views

The proposal will not obstruct any significant private or public views, meeting the relevant controls and objectives of Part B3.5.3 of the Woollahra DCP 2015.

Section B3.5.4: Acoustic and Visual Privacy

The proposed works do not seek to intensify the function and capacity of the existing use of the site for purposes of a single dwelling. **Condition D.1(a)** is recommended requiring privacy treatments to habitable room windows that would obtain a sightline to adjoining properties within 9m (bedroom 2 and bedroom 3 windows).

All other windows are either to non-habitable rooms, or are located on the ground level and would not result in a direct overlooking impact.

Conditions of consent have been imposed to ensure the acoustic amenity of the adjoining properties.

Part B3.5.5: Internal Amenity

The proposed development has been designed to provide a high level of internal amenity given:

- All habitable rooms have been provided with at least one external wall primarily above the existing ground level which provides an unobstructed window opening in accordance with Control C1.
- All habitable rooms and sanitary compartments will be provided with direct natural light and direct natural ventilation (Control C2).
- The area of proposed habitable room windows will generally equate to at least 20% of the room floor area for habitable rooms (Control C3).
- No light well will be relied upon as a primary source of air (Control C4).
- All rooms will be located fully above ground level (Control C5).

Accordingly, the proposal is acceptable with regard to the relevant controls and objectives of Part B3.5.5 of the Woollahra DCP 2015.

13.2.5 Part B3.6: On-Site Parking

Site Frontage: 20.74m	Existing	Proposed	Control	Complies
Location of Parking	Outside buildable area	Partially within the buildable area	Within the Buildable Area	Partially
Width of Parking Structure	5m (on street frontage)	5m (within site)	6m	Yes
Maximum Area	N/A	59m ² (w- storage)	40m ²	Yes
Maximum Height	N/A	3.5m	2.7m	No
Maximum Number of Driveways	One	One	One	Yes

The objectives of this part of the DCP state the following:

- O1 *To minimise the visual impact of garages, car parking structures and driveways on the streetscape.*
- O2 *To ensure that on-site parking does not detract from the streetscape character and amenity.*
- O3 *To minimise loss of on-street parking.*
- O4 *To retain trees and vegetation of landscape value.*
- O5 *To facilitate on-site parking on steeply sloping sites.*

The siting and location of the on-site parking is deemed to be consistent with the objectives of this part of the DCP for the following reasons:

- The proposed garage will retain a comparable streetscape presentation and will maintain a positive integration within the subject site. The landscaped front setback will assist in softening the bulk and scale of this element as viewed from the public and private domains.

- The proposal would not result in a net loss of on street parking.
- Council's Tree and Landscaping Officer has raised no objection to the proposal subject to suitable conditions of consent.
- Whilst the site is not steeply sloping, it is considered that an acceptable car parking arrangement is proposed which is keeping with the existing configuration.

13.2.6 Part B3.7: External Areas

Site Area: 1,083m ² Buildable Area: 379.2m ²	Proposed	Control	Complies
50% of the site area outside the buildable area is to be deep soil landscaped area (C1)	69% 490m ²	50% 351.9m ²	Yes
40% deep soil landscaping within front setback (C2)	43% 93.5m ²	40% 87m ²	Yes
50% deep soil landscaping within rear setback (C4)	89% 261m ²	50% 146m ²	Yes
Primary open space (C6)	>35m ²	35m ² for a dwelling house.	Yes
Access to primary open space area	Directly accessible from a habitable room	Directly accessible from a habitable room	Yes
Swimming Pool Excavation, Piling and Subsurface Wall Setback	1.8m (min)	1.8m	Yes
Level of Swimming Pool Above or Below Ground Level	<1.2m	Maximum 1.2m Change	Yes
Maximum Depth of Swimming Pool	<2m (from surrounding level)	2m	Yes
Location of Outbuilding	Outside Buildable Area and Rear Yard	Outside Buildable Area and Rear Yard	Yes
Maximum Height of Outbuilding	3.6m	3.6m	Yes
Minimum Setback of Outbuilding	1.5m (min)	1.5	Yes

B3.7.1 Landscaped Areas and Private Open Space

The proposal satisfies the provisions of B3.7.1 and is considered to be acceptable with regard to the external area requirements in Part B3.7 of the Woollahra DCP 2015.

B3.7.2 Fences

C4 limits solid fences to 1.2m, or 1.5m if 50% transparent or open.

The front stone block fence and metal gate along Coolong Road replaces [in part] the existing sandstone block fence which will have a varying height of 1.5m to 2.4m and which is non-compliant in this regard.

The varying height is due in part to the topography along the street boundary and due to the topography of the site, the front fence will appear as a retaining wall as the ground floor level of the existing residence (RL17.36) is sited some 3.5m above the front boundary level (RL13.75).

The objectives of this part of the DCP states:

- O1 *To ensure fences and walls improve amenity for existing and new residents and contribute positively to streetscape and adjacent buildings.*
- O2 *To ensure that fences and walls are not visually intrusive in the streetscape and to enhance pedestrian safety.*
- O3 *To ensure that fences and walls do not unreasonably restrict views and vistas from streets and other public spaces.*

- O4 *To ensure that development creates well defined areas of public and private space.*
- O5 *To ensure boundary fences between sites provide visual privacy without affecting the amenity of those sites in terms of views and sunlight.*
- O6 *To ensure fences and walls are sympathetic to the topography.*
- O7 *To protect and retain fences and walls that are important character elements for the precinct.*
- O8 *To ensure materials used in fences and walls are a high quality and in keeping with the existing streetscape character and character of the building.*

The proposed front fence is considered to suitably fulfil all of the above objectives for the following reasons:

- It will not have any adverse streetscape or amenity impacts upon adjacent buildings and will be consistent with similar types of high stone and natural hedge front fences of surrounding properties.
- It will be comparable in height with the approved front fence and adjoining garage at No.42 Coolong Road and the similar sandstone fence at No.38 Coolong Road and will therefore contribute positively to the existing streetscape pattern.
- The front fence has been designed to achieve privacy, safety and security for future residents without restricting views and vistas from the public or private domains.

For reasons mentioned above, and because the proposed front fence will neither impact any existing view corridors or overshadow any adjacent dwellings or areas of private open space, the proposed variation is contextually compatible and the prescriptive variation is therefore justified.

B3.7.4 Ancillary Development – Swimming Pools and outbuildings

The siting and location of the proposed swimming pool and cabana meet the prescriptive requirements and will also fulfil the relevant objectives of this part of the DCP.

13.3 Chapter E1: Parking and Access

Part E1.4: Residential parking

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

Parking for residential uses is calculated using the generation rates specified in Part E1.4.2.

In this instance, the development results in a generation rate of a maximum of 2 spaces and makes provision for 2 spaces.

Conclusion

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

13.4 Chapter E2: Stormwater and Flood Risk Management

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

13.5 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 Tree and Landscaping referral response is included as Attachment 4.

13.6 Chapter E4: Contaminated Land

The proposal is acceptable with regard to the objectives and controls in Chapter E4 of the Woollahra DCP 2015.

13.7 Chapter E5: Waste Management

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

13.7.1 Part E5.2: Demolition and Construction Phase

The proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

13.7.2 Part E5.3: On-Site Waste and Recycling Controls for all Development

	Proposed	Control	Complies
Location of Garbage and Recycling Areas	Within Non-Habitable Areas	Behind Building Line or Non-Habitable Areas	Yes

The proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

14. SECTION 7.12 CONTRIBUTIONS PLAN 2021

In accordance with Schedule 1, a Section 7.12 levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan 2021. Refer to **Condition D.2**.

Cost of Works	Rate	Contribution Payable
\$4,549,265	1%	\$45,492.65

15. APPLICABLE ACTS/REGULATIONS

15.1 Environmental Planning and Assessment Regulation 2000

Clause 92: What Additional Matters Must a Consent Authority Take Into Consideration in Determining a Development Application?

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. The proposal is considered to be acceptable, subject to the recommended conditions.

15.2 Swimming Pools Act 1992

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

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

Suitable conditions of consent have been imposed.

16. THE LIKELY IMPACTS OF THE PROPOSAL

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

17. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

19. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15.

20. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this development application by 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 Council, as the consent authority, is of the opinion that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the height of buildings development standard under Clause 4.3 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard.

And

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 251/2023/1 for substantial alterations and additions to a dwelling house (essentially a new dwelling house), new swimming pool and pavilion structure and landscaping on land at 40 Coolong Road Vaucluse, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

A. 1.	Conditions
	<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. <ul style="list-style-type: none"> • 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 <i>BCA</i>.</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>

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Condition Reason: To ensure all parties are aware of the relevant definitions.

A. 3. Approved Plans and Supporting Documents

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

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

Reference	Description	Author	Date
SK002, Rev K	Proposed Site Plan	Dominic Alvaro	23/12/23
SK004, Rev E	Demolition Plans		12/07/23
SK005, Rev N	Proposed Basement Floor Plan		24/02/24
SK006, Rev N	Proposed Ground Floor Plan		24/02/24
SK007, Rev M	Proposed First Floor Plan		23/12/23
SK008, Rev J	Elevations – Sheet 01		23/12/23
SK009, Rev J	Elevations – Sheet 01		23/12/23
SK010, Rev E	Sections		23/12/23
SK012, Rev C	Materials Schedule		12/07/23
730_DA_01, C 730_DA_02, C 730_DA_10, C 730_DA_11, C 730_DA_12, C 730_DA_40, B 730_DA_50, B	Landscape Plans & General Specifications	Myles Baldwin Design	30/01/24 30/01/24 30/01/24 30/01/24 30/01/24 11/07/23 11/07/23
-	Arboricultural Impact Assessment Report	William Dunlop – Temporal Tree Management	08/02/2024
23012 H-01 Rev E H-02 Rev B H-03 Rev E H-04 Rev B	Stormwater Management Plan	AKY Civil Engineering	29/02/2024 11/07/2023 29/02/2024 29/02/2024
PG-10376 Ver 2	Geotechnical Report	Pacific Geotech	14/02/2024
A500030_02	BASIX Certificate	NSW Department of Planning, Industry & Environment	26/02/2024

	<p>Notes:</p> <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. <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>								
A. 4.	<p>Ancillary Aspects of Development (section 4.17(2) of the Act)</p> <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> <p>Notes:</p> <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. <p>Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.</p>								
A. 5.	<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>								
A. 6.	<p>Tree Preservation and Landscaping Works</p> <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> <p>a) The following trees must be retained:</p> <ul style="list-style-type: none">Trees on private land: <table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Dimension (metres)</th></tr><tr><td>10</td><td><i>Camellia sasanqua</i> (Camellia)</td><td>In accordance with Figure 9. Tree Location Plan in the Arboricultural Impact Assessment Report, written by William Dunlop – Temporal Tree Management, dated 08/02/2024</td><td>4 x 3</td></tr></table>	Council Ref No	Species	Location	Dimension (metres)	10	<i>Camellia sasanqua</i> (Camellia)	In accordance with Figure 9. Tree Location Plan in the Arboricultural Impact Assessment Report, written by William Dunlop – Temporal Tree Management, dated 08/02/2024	4 x 3
Council Ref No	Species	Location	Dimension (metres)						
10	<i>Camellia sasanqua</i> (Camellia)	In accordance with Figure 9. Tree Location Plan in the Arboricultural Impact Assessment Report, written by William Dunlop – Temporal Tree Management, dated 08/02/2024	4 x 3						

11	<i>Acer japonicum</i> (Fullmoon Maple)		4 x 4
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)		5 x 3
13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)		9 x 4
14	<i>Waterhousia floribunda</i> (Weeping Lillypilly)		9 x 4
15	<i>Waterhousia floribunda</i> (Weeping Lillypilly)		9 x 4
20	<i>Jacaranda mimosifolia</i> (Jacaranda)		7 x 8
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)		8 x 8

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Tree value
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	14 x 15	\$15,000

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)
4	<i>Camellia sasanqua</i> (Camellia)	In accordance with Figure 9. Tree Location Plan in the Arboricultural Impact Assessment Report, written by William Dunlop – Temporal Tree Management, dated 08/02/2024	3 x 3
7	<i>Camellia sasanqua</i> (Camellia)		5 x 3
8	<i>Citrus sp.</i> (Citrus tree)		6 x 2
9	<i>Camellia sasanqua</i> (Camellia)		4 x 3
16	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)		5 x 3
17	<i>Callistemon viminalis</i> . (Weeping Bottle Brush)		4 x 3
18	<i>Strelitzia nicolai</i> (Giant Bird of Paradise)*		6 x 4
19	<i>Ceratopetalum gummiferum</i> (NSW Christmas Bush)		6 x 2
21	<i>Leptospermum petersonii</i> (Lemon-scented Tea tree)		7 x 8
22	<i>Leptospermum petersonii</i> (Lemon-scented Tea tree)		7 x 6
23	<i>Leptospermum petersonii</i> (Lemon-scented Tea tree)		7 x 6
25	<i>Melaleuca linariifolia</i> (Snow in Summer)		7 x 5
26	<i>Plumeria acutifolia</i> (Frangipani)		7 x 5
28	<i>Feijoa sp.</i> (Pineapple) (Guava)		3 x 5
29	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)		9 x 8

	<p>The tree/s that may be removed must appear coloured red on the Construction Certificate plans.</p> <p>The species marked (*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.</p> <p>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:</p> <p>The tree/s required to be pruned must appear coloured blue on the Construction Certificate plans.</p> <p>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.</p> <p>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> <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>
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DEMOLITION WORK

B. BEFORE DEMOLITION WORK COMMENCES

<p>B. 1.</p>	<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 Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.
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	<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> <ol style="list-style-type: none"> “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <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>

a) Tree Protection Fencing:

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	6
5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vacluse	1.7
10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2
11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South eastern side boundary	2
13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
14	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
15	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
20	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear southern corner	6.5
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	Rear boundary	3.7
27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road Vacluse	2

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:

Council Ref No	Species
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)

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.
- 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.
- 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 must provide written certification of compliance to the Principal Certifier with the above conditions.

Condition Reason: To ensure the protection of existing trees

B. 4. 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 Trunk (metres)	Approved works
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	6	Proposed driveway extension on the northern side of the existing driveway. Proposed boundary wall, stairs and soft landscaping.
5	<i>Cupressus sempervirens</i> (Italian Cypress)	1.7	Proposed soft landscaping.
10	<i>Camellia sasanqua</i> (Camellia)	2	Proposed soft landscaping. Proposed stormwater drainage.
11	<i>Acer japonicum</i> (Fullmoon Maple)	2	Proposed soft landscaping. Proposed stormwater drainage.
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	2	Proposed soft landscaping. Proposed stormwater drainage.
13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	2	Proposed soft landscaping. Proposed stormwater drainage.
14	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	2	Proposed soft landscaping. Proposed stormwater drainage.
15	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	2	Proposed soft landscaping. Proposed stormwater drainage.
20	<i>Jacaranda mimosifolia</i> (Jacaranda)	6.5	Proposed soft landscaping.
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	3.7	Proposed soft landscaping.
27	<i>Murraya paniculata</i> (Mock Orange)	2	Proposed soft landscaping.

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

	Condition Reason To establish the works which are permissible within the Tree Protection Zones.
B. 5.	<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. <p>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.</p>
B. 6.	<p>Public Road Assets Prior to Any Work/Demolition</p> <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> • 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> <p>Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.</p>
B. 7.	<p>Aboriginal Objects – Unexpected Findings</p> <p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p>

	<p>a) Not further disturb or move these objects or bones.</p> <p>b) Immediately cease all work at the particular location.</p> <p>c) In the case of suspected human remains, notify NSW Police.</p> <p>d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.</p> <p>e) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p>Notes:</p> <ul style="list-style-type: none"> The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. <p>Condition Reason: To protect Aboriginal objects</p>
B. 8.	<p>Aboriginal Heritage Induction</p> <p>Prior to any site works:</p> <p>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;</p> <p>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</p> <p>c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.</p> <p>Condition Reason: To protect Aboriginal heritage.</p>
B. 9.	<p>Aboriginal Heritage Due Diligence Responsibilities</p> <p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & 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>

B. 10.	Archaeological Monitoring
	<p>A La Perouse Local Aboriginal Land Council Heritage Officer (and/or a trained archaeologist at their discretion) is to be present to inspect the property during the demolition at stages when exposed sandstone can be revealed (such as when removing existing flooring and excavation of soil down to sandstone). This is to determine if any rock engravings could be located below ground level and underneath the dwelling. Based on this inspection, a determination will be made as to whether further archaeological monitoring is required, or whether excavation can continue under the recommended 'unexpected finds' protocol.</p> <p>During excavation of soil down to sandstone, monitoring would be seeking to differentiate historical fill over sandstone exposed c.100 years ago that may contain the engraving from natural profiles of soil onto bedrock (indicated by clayey subsoils) in order to only focus any uncovering by hand on the former.</p> <p>Note: Hand demolition is to be used in the first stage, to ensure that any potential rock engravings are not damaged.</p>
	Condition Reason: To protect Aboriginal heritage.
B. 11.	Recording of Buildings with Little or No Heritage Significance that are to be Demolished
	<p>Prior to any site works and prior to the issue of any Construction Certificate, a photographic archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer.</p> <p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p> <ol style="list-style-type: none"> 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. Floorplans of the internal layout and directional details of photographs taken. Coloured photographs of: <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>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>One digital set is to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a Construction Certificate.</p>

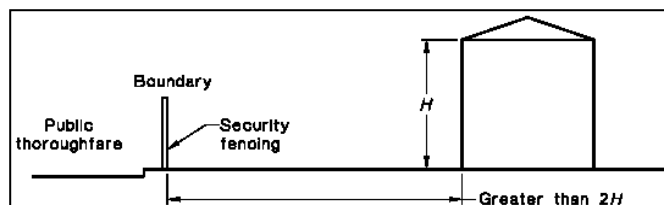
	<p>Notes: Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf</p> <p>Condition Reason: To ensure existing building and landscape elements are recorded.</p>																								
B. 12.	<p>Salvage</p> <p>Brick masonry, sandstone, roof tiles, timber joinery, internal decorative plaster ceilings, cornices, joinery, fireplaces, and any original decorative architectural elements to be demolished must be catalogued, labelled, salvaged and where practical reused on the project or transferred to an established second building material dealer for recycling. Documentation of the salvage methodology must be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of demolition.</p> <p>Condition Reason: To ensure existing building elements are recorded and salvaged.</p>																								
B. 13.	<p>Payment of Security and Fees</p> <p>Prior to any site works, the following security and fees must be paid in full:</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>Property Damage Security Deposit - making good any damage caused to any property of the Council</td><td>\$111,254</td><td>No</td><td>T115</td></tr><tr><td>Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)</td><td>\$645</td><td>No</td><td>T45</td></tr><tr><td>Security Deposit Administration Fee</td><td>\$225.00</td><td>No</td><td>T16</td></tr><tr><td>TOTAL SECURITY AND FEES</td><td>\$112,124</td><td></td><td></td></tr></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. <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.	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	\$111,254	No	T115	Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$645	No	T45	Security Deposit Administration Fee	\$225.00	No	T16	TOTAL SECURITY AND FEES	\$112,124		
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	<ul style="list-style-type: none"> 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. 14.</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> <p>a) No. 42 Coolong Road b) No. 38 Coolong Road</p> <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.

	<ul style="list-style-type: none"> • 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>
B. 15.	<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>
B. 16.	<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> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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.
	<p>Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>

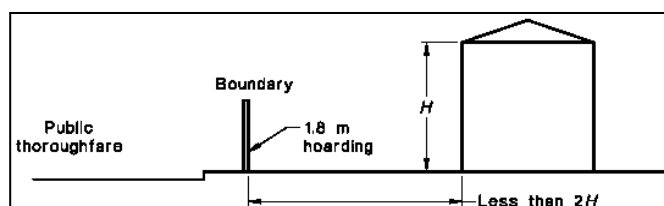
B. 17. Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



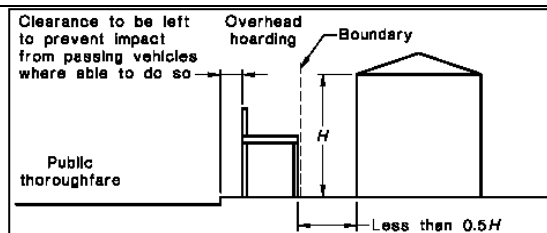
Type B Hoarding

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

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

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

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



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

All Hoardings

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

Hoardings on Public Land including 'Creative Hoardings'

All fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection must be paid in full.

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

Notes:

- A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.
- Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:
 - A. Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
 - B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
 - C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or
 2. the land is zoned R2 Low Density Residential, or
 3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road).
- Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding". The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au

Condition Reason: To ensure public safety.

<p>B. 18.</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: <ul 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>
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<p>B. 19.</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. 20.</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. 21.</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>

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 and trunk protection.
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist shall ensure pier holes within the Tree Protection Zones 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 supervise the demolition of the existing driveway and the excavation for the proposed driveway, ensuring no roots equal to or greater than 50mm diameter are severed. • 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 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.	

REMEDATION WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.	<p>Modification of Consent (section 4.17(1)(g) of the Act)</p> <p>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:</p> <p>a) The windows to bedroom 2 and bedroom 3 at the first floor are to incorporate external fixed privacy screening to a minimum height of 1500mm above finished floor level.</p> <p>b) Amended landscape plan. The landscape plan must be amended to show the retention of Trees 1, 10, 11, 12, 13, 14, 15, 20 and 24 in situ. The proposed swimming pavilion must be relocated no closer than 6.5 metre radius from Tree 20 and 3.7 metre radius from Tree 24. The amended landscape plan must be submitted to Council's Tree Officer for approval prior to the issue of a Construction Certificate.</p> <p>c) Amended architectural plans. To ensure the successful retention of Tree 20 and Tree 24 the proposed swimming pavilion must be relocated no closer than 6.5 metre radius from Tree 20 and 3.7 metre radius from Tree 24. The amended architectural plan must be submitted to Council's Tree Officer for approval prior to the issue of a Construction Certificate.</p> <p>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.</p>																								
D. 2.	<p>Payment of Long Service Levy and S7.12 Contributions</p> <p>Before the issue of any construction certificate, the original receipt(s) for the payment of all of the following levy and contributions must be provided to the Principal Certifier:</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 www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</td><td>Contact LSL Corporation or use online calculator</td><td>No</td><td></td></tr><tr><td colspan="4">SECTION 7.12 DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2022 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au</td></tr><tr><td>Development Levy (section 7.12)</td><td>\$45,492.65 + Index Amount</td><td>Yes, quarterly</td><td>T96</td></tr><tr><td>TOTAL CONTRIBUTIONS AND LEVIES</td><td colspan="3">\$45,492.65 plus any relevant indexed amounts and long service levy</td></tr></table>	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		SECTION 7.12 DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2022 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au				Development Levy (section 7.12)	\$45,492.65 + Index Amount	Yes, quarterly	T96	TOTAL CONTRIBUTIONS AND LEVIES	\$45,492.65 plus any relevant indexed amounts and long service levy		
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Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

To ensure that the value of the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 2.12 of the Woollahra Section 7.12 Development Contributions Plan 2022 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (e.g. construction certificate, subdivision certificate, or occupation certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 7.12 Development Contributions Plan 2022

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 2.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,
- a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable,
- the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

	Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.																								
	Condition Reason: To ensure any relevant levy and contributions are paid.																								
D. 3.	Payment of Tree Damage Deposit																								
	<p>The Certifying Authority must not issue any certificates under section 6.4 of the <i>Act</i> 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.</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>Tree Damage Security Deposit – making good any damage caused to any public tree</td><td>\$15,000.00</td><td>No</td><td>T114</td></tr><tr><td colspan="4">INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i></td></tr><tr><td>Public Tree Management Inspection Fee</td><td>\$221.34</td><td>No</td><td>T45</td></tr><tr><td>Security Administration Fee</td><td>\$225.00</td><td>No</td><td>T16</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>				Tree Damage Security Deposit – making good any damage caused to any public tree	\$15,000.00	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	\$225.00	No	T16
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D. 4.	BASIX Commitments																								
	<p>Before the issue of any construction certificate, BASIX Certificate No.A500030_02 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.																								

<p>D. 5.</p>	<p>Road and Public Domain Works</p> <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 vehicular crossing including layback and gutter and the construction of a new vehicular crossing in accordance with Council's standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineer. The new crossing shall be constructed at right angle to the street kerb in plain concrete and be located at least 1 metre away from the existing power pole. Design longitudinal surface profiles (scale 1:20) along each side/edge of the proposed vehicular crossing, starting to the centreline of the road pavement, to the proposed parking slab shall be submitted for assessment, b) The extension of the existing footpath in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers, c) 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, d) The developer shall be responsible for carrying out all service investigations to allow a gravity connection, e) The reinstatement of all damaged 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, f) 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>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. 6.</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> <ul 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>
D. 7.	<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. 8.	<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. 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>
D. 9.	<p>Engineering Certification</p>
	<p>This development consent does <u>NOT</u> give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.</p> <p>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.</p>
	<p>Condition Reason: To ensure all works remain within the property boundaries.</p>

D. 10.	Geotechnical and Hydrogeological Design, Certification and Monitoring
	<p>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 "<i>Guidelines for Preparation of Geotechnical and Hydrogeological Reports</i>". 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.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> 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, 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), 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, 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, Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>
D. 11.	<p>Ground Anchors</p> <p>This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths.</p>

	<p>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.</p> <p>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.</p> <p>Notes:</p> <ul style="list-style-type: none"> • To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds. • Road has the same meaning as in the Roads Act 1993. • Clause 17 of the Roads (General) Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. <p>Condition Reason: To ensure the relevant approval is gained for any temporary ground anchors.</p>
<p>D. 12.</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 AS2890.3:2015 <i>Parking Facilities - Bicycle Parking Facilities</i> and AS/NZS 2890.1:2004 : <i>Parking Facilities - Off-Street Car Parking</i> which includes the following requirement:</p> <p>a) The proposed double garage shall have minimum dimensions of 5.4m x 5.4m, clear of any obstructions, to comply with AS2890.1.</p> <p>Access levels and grades must comply with access levels and grades required by Council under the <i>Roads Act 1993</i>.</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>

D. 13.	<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 detail the following:</p> <ul style="list-style-type: none"> a) General design in accordance with stormwater management plans, prepared by AKY Civil Engineering, referenced 23012 Rev E, dated 29/02/2024, other than amended by this and other conditions. b) The installation of rain garden with minimum area of 10.83m² in accordance with Chapter E2.2.3 of Council's DCP. c) 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 made by using 150mm x 75mm galvanised RHS 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. d) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and Chapter E2.2.10 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings, e) Dimensions of all drainage pits and access grates must be designed to comply with AS3500.3, f) Compliance the objectives and performance requirements of the BCA, g) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. <p><u>On-site Stormwater Detention (OSD) Requirements</u></p> <p>The minimum Site Storage Requirements ("SSR") for the required on-site stormwater detention (OSD) system must be 46.1m³ and the Permissible Site Discharge (PSD) for the proposed development must not exceed 20l/s.</p> <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><u>Layout plan</u></p> <p>A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, Australian Rainfall and Run-off, 2019 edition or most current version thereof. It must include:</p> <ul style="list-style-type: none"> a) All pipe layouts, dimensions, grades, lengths and material specification. b) Location of proposed rainwater tanks. c) All invert levels reduced to Australian Height Datum (AHD). d) Location and dimensions of all drainage pits. e) Point and method of connection to Councils drainage infrastructure. f) Overland flow paths over impervious areas. <p><u>On-site Stormwater Detention (OSD) details</u></p> <ul style="list-style-type: none"> a) Any potential conflict between existing and proposed trees and vegetation. b) Internal dimensions and volume of the proposed detention storage.
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	<p>c) Diameter of the outlet to the proposed detention storage basin.</p> <p>d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures.</p> <p>e) Details of access and maintenance facilities.</p> <p>f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.</p> <p>g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system.</p> <p>h) Non-removable fixing details for orifice plates where used.</p> <p><u>Rainwater Reuse System details</u></p> <p>a) Any potential conflict between existing and proposed trees and vegetation.</p> <p>b) Internal dimensions and volume of the proposed rainwater storage.</p> <p>c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.</p> <p>d) Details of access and maintenance facilities.</p> <p>e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.</p> <p>f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks</p> <p>For Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.</p> <p>All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>Notes:</p> <ul style="list-style-type: none"> The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
<p>D. 14.</p>	<p>Submission of a Site Waste Minimisation and Management Plan</p> <p>Before the issue of any construction certificate, a Site Waste Minimisation and Management Plan, prepared in accordance with Woollahra Development Control Plan 2015 Chapter E5 – Waste Management, is to be submitted to Council for approval.</p> <p>Notes:</p> <ul style="list-style-type: none"> The site waste minimisation and management is not listed under clause 73 of the Development Certification and Fire Safety Regulation as a matter that a Principal Certifier may certify. Hence, the Site Waste Minimisation and Management Plan must be referred to Council for its approval prior to the issue of any construction certificate for such works. It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials. <p>Condition Reason: To ensure that the Waste Minimisation and Management Plan is assessed and approved by Council.</p>

D. 15.	Electric vehicle circuitry and electric vehicle charging point requirements
	<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>

E. BEFORE BUILDING WORK COMMENCES

E. 1.	Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
	<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.	Erosion and Sediment Controls – Installation
	<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).</p> <p>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.

Notes:

- **Building** has the same meaning as in section 1.4 of the Act and includes part of a building and any structure or part of a structure.
- **New building** has the same meaning as in section 6.1 of the Act and includes an altered portion of, or an extension to, an existing building.
- The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the Act (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
- Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au
- It is an offence for any person to carry out the erection of a building in breach of this condition and in breach of section 6.6(2) of the Act.
- Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

Condition Reason: To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.

F. DURING BUILDING WORK

F. 1. Compliance with BCA and Insurance Requirements under the Home Building Act 1989

While site work is being carried out:

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

This condition does not apply:

- to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or
- to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.

Notes:

- All new guttering is to comply with the provisions of AS 3500.

Condition Reason: To ensure compliance with the BCA and Home building Act 1989.

F. 2.	<p>Requirement to Notify about New Evidence</p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p>Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.</p>
F. 3.	<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. 4.	<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.

	<p>g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.</p> <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. 5.</p>	<p>Public Footpaths – Safety, Access and Maintenance</p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ol style="list-style-type: none"> Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway. Not use the road or footway for the storage of any article, material, matter, waste or thing. Not use the road or footway for any work. Keep the road and footway in good repair free of any trip hazard or obstruction. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council. Not stand any plant and equipment upon the road or footway. 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. Provide a clear safe pedestrian route a minimum of 1.5m wide. 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>

	<p>a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.</p> <p>b) Australian Road Rules.</p> <p>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. <p>Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.</p>
<p>F. 6.</p>	<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><u>General Protection Requirements:</u></p> <ul style="list-style-type: none"> 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 <i>principal contractor</i> 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 <i>principal contractor</i> must procure an inspection of the tree by a qualified arborist immediately. The <i>principal contractor</i> 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. 7.	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.																																
	<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>15 x <i>Betula nigra</i> (River Birch)</td><td rowspan="9">In accordance with Landscape Plan designed by Myles Baldwin Design, drawing No.s<ul style="list-style-type: none">730_DA_01 issue C – dated 30/01/2023730_DA_02 issue C – dated 30/01/2023730_DA_10 issue C – dated 30/01/2023 – Existing Tree Plan730_DA_10 issue C – dated 30/01/2023 – Front Garden730_DA_11 issue C – dated 30/01/2023730_DA_12 issue C – dated 30/01/2023730_DA_40 issue B – dated 11/07/2023730_DA_50 issue B – dated 11/07/2023</td><td>300 litre each</td><td>10 x 6 each</td></tr><tr><td>6 x <i>Cupressus sempervirens</i> (Italian Cypress)</td><td>200 litre each</td><td>7 x 3 each</td></tr><tr><td>2 x <i>Ginkgo biloba</i> (Maiden-hair tree)</td><td>Minimum 300 litre each</td><td>7 x 5 each</td></tr><tr><td>5 x <i>Howea forsteriana</i> (Kentia palm)</td><td>Minimum 300 litre each</td><td>7 x 3 each</td></tr><tr><td>7 x <i>Laurus nobilis</i> (Bay tree)</td><td>Minimum 300 litre each</td><td>4 x 4 each</td></tr><tr><td>2 x <i>Magnolia grandiflora</i> ‘Exmouth’ (Bull Bay Magnolia)</td><td>Minimum 300 litre each</td><td>8 x 5 each</td></tr><tr><td>4 x <i>Olea europea</i> var. <i>europea</i> (European Olive)</td><td>Minimum 300 litre each</td><td>5 x 3 each</td></tr><tr><td>3 x <i>Phoenix reclinata</i> (Senegal Date palm)</td><td>Minimum 300 litre each</td><td>6 x 5 each</td></tr><tr><td>9 x <i>Pyrus calleryana</i> ‘Capital’ (Ornamental Pear)</td><td>300 litre each</td><td>7 x 3 each</td></tr></table>	Species/Type	Planting/Location	Container Size/ Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)	15 x <i>Betula nigra</i> (River Birch)	In accordance with Landscape Plan designed by Myles Baldwin Design, drawing No.s <ul style="list-style-type: none">730_DA_01 issue C – dated 30/01/2023730_DA_02 issue C – dated 30/01/2023730_DA_10 issue C – dated 30/01/2023 – Existing Tree Plan730_DA_10 issue C – dated 30/01/2023 – Front Garden730_DA_11 issue C – dated 30/01/2023730_DA_12 issue C – dated 30/01/2023730_DA_40 issue B – dated 11/07/2023730_DA_50 issue B – dated 11/07/2023	300 litre each	10 x 6 each	6 x <i>Cupressus sempervirens</i> (Italian Cypress)	200 litre each	7 x 3 each	2 x <i>Ginkgo biloba</i> (Maiden-hair tree)	Minimum 300 litre each	7 x 5 each	5 x <i>Howea forsteriana</i> (Kentia palm)	Minimum 300 litre each	7 x 3 each	7 x <i>Laurus nobilis</i> (Bay tree)	Minimum 300 litre each	4 x 4 each	2 x <i>Magnolia grandiflora</i> ‘Exmouth’ (Bull Bay Magnolia)	Minimum 300 litre each	8 x 5 each	4 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	Minimum 300 litre each	5 x 3 each	3 x <i>Phoenix reclinata</i> (Senegal Date palm)	Minimum 300 litre each	6 x 5 each	9 x <i>Pyrus calleryana</i> ‘Capital’ (Ornamental Pear)	300 litre each	7 x 3 each
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Condition Reason: To ensure the provision of appropriate replacement planting.																																	
F. 8.	Driveway in the vicinity of trees																																
	Driveway works within the specified radius from the trunk of the following tree must be constructed in such a way as to ensure that no roots equal to or greater than 50mm diameter are severed. When preparing the area for the driveway within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.																																
	<table><tr><th>Council Ref No.</th><th>Species</th><th>Location</th><th>Radius from centre of trunk (metres)</th></tr><tr><td>1</td><td><i>Eucalyptus globulus</i> (Tasmanian Blue Gum)</td><td>Council verge</td><td>6</td></tr></table>	Council Ref No.	Species	Location	Radius from centre of trunk (metres)	1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	6																								
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	<p>Driveway works are to be designed in consultation with a qualified Arborist with a 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 viability of existing trees in the verge.</p>																																												
F. 9.	<p>Level changes in the vicinity of trees</p> <p>While site work is being carried out, no level changes must occur within the specified radius from the trunks of the following trees.</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>5</td><td><i>Cupressus sempervirens</i> (Italian Cypress)</td><td>Front yard south eastern corner – 42 Coolong Road Vacluse</td><td>1.7</td></tr><tr><td>10</td><td><i>Camellia sasanqua</i> (Camellia)</td><td>South eastern side boundary</td><td>2</td></tr><tr><td>11</td><td><i>Acer japonicum</i> (Fullmoon Maple)</td><td>South eastern side boundary</td><td>2</td></tr><tr><td>12</td><td><i>Syzygium luehmannii</i> (Small-leaved Lillypilly)</td><td>South eastern side boundary</td><td>2</td></tr><tr><td>13</td><td><i>Waterhousia floribunda</i> (Weeping Lillypilly)</td><td>South eastern side boundary</td><td>2</td></tr><tr><td>14</td><td><i>Waterhousia floribunda</i> (Weeping Lillypilly)</td><td>South eastern side boundary</td><td>2</td></tr><tr><td>15</td><td><i>Waterhousia floribunda</i> (Weeping Lillypilly)</td><td>South eastern side boundary</td><td>2</td></tr><tr><td>20</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td><td>Rear southern corner</td><td>6.5</td></tr><tr><td>24</td><td><i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)</td><td>Rear boundary</td><td>3.7</td></tr><tr><td>27</td><td><i>Murraya paniculata</i> (Mock Orange)</td><td>Rear yard, south eastern corner – 42 Coolong Road Vacluse</td><td>2</td></tr></table> <p>The project arborist must document compliance with the above condition.</p> <p>Condition Reason: To ensure level changes would not adversely impact upon the health of existing trees.</p>	Council Ref No.	Species	Location	Radius from centre of trunk (metres)	5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vacluse	1.7	10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2	11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2	12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South eastern side boundary	2	13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2	14	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2	15	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2	20	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear southern corner	6.5	24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	Rear boundary	3.7	27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road Vacluse	2
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F. 10.	<p>Hand excavation within tree root zones</p> <p>While site work is being carried out, demolition of underground structures such as existing footings and approved excavation undertaken within the specified radius from the trunks of the following trees must be carried out by hand.</p>																																												

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	6
5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vaucluse	1.7
10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2
11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2
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27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road Vaucluse	2

Small hand tools such as mattocks or using compressed air or water jetting only must be used. Roots with a diameter equal to or in excess of 50mm must not be severed or damaged unless approved in writing and documented by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the hand excavated perimeter line is completed. Exposed roots to be retained must be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 “Pruning of Amenity Trees” and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist must document compliance with the above condition.

Condition Reason: To ensure demolition and excavation works would not adversely impact upon the health of existing trees.

F. 11. Footings in the vicinity of trees

While site work is being carried out, footings for any structure within the specified radius from the trunks of the following trees must be supported using an isolated pier and beam system.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	6
5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vaucluse	1.7
10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2
11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2
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Excavations for the installation of piers must 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 must be excavated which allows construction of the pier. In consultation with the project engineer the piers must be offset a minimum 100mm from any root equal to or in excess of 50mm to accommodate future growth. 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 must document compliance with the above condition.

Condition Reason: To ensure the proposed footings would not adversely impact upon the health of existing trees.

F. 12. Installation of stormwater pipes and pits in the vicinity of trees

While site work is being carried out, excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees must be carried out by hand.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	6
5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vacluse	1.7
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20	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear southern corner	6.5
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	Rear boundary	3.7
27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road Vacluse	2

Any roots equal to or greater than 50mm diameter uncovered for the installation of stormwater pipes and pits must not be severed and remain in situ bridging across the excavated trench. Pipes must be guided under any roots equal to or greater than 50mm bridging across excavated trenches. Stormwater pits must be positioned so that no roots equal to or greater than 50mm diameter are severed.

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees.

F. 13. Maintenance of Environmental Controls

While site work is being carried out, the following monitoring, measures and controls must be maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls, and
- f) ablutions.

Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.

F. 14.	<p>Compliance with Geotechnical / Hydrogeological Monitoring Program</p> <p>While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.</p> <p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ol style="list-style-type: none"> the location and type of monitoring systems to be utilised, recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and the contingency plan. <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p>
F. 15.	<p>Support of Adjoining Land and Buildings</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.

F. 16.	<p>Condition Reason: To ensure that the support of adjoining land is not removed.</p>
	<p>Vibration Monitoring</p> <p>While site work is being carried out, vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.</p> <p>A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.</p> <p>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.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Professional engineer has the same mean as in Schedule 1 of the BCA. • Building has the same meaning as in section 1.4 of the Act i.e. “building includes part of a building and any structure or part of a structure....” • Supported land has the same meaning as in the Conveyancing Act 1919. <p>Condition Reason: To monitor and manage vibration impacts from development.</p>
F. 17.	<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> <p>a) the Soil and Water Management Plan required under this consent,</p>

	<p>b) “Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</p> <p>c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>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>
F. 18.	<p>Disposal of Site Water During Construction</p> <p>While site work is being carried out:</p> <p>a) Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993.</p> <p>b) Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water.</p> <p>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.</p> <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>
F. 19.	<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 protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier’s satisfaction:</p> <p>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.</p> <p>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.</p>

	<p>c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.</p> <p>d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.</p> <p>e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.</p> <p>f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works.</p> <p>g) Flood protection measures are in place confirming location, height and capacity.</p> <p>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. 20.	<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> <p>a) Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and</p> <p>b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.</p> <p>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. 21.	<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. 22.	<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> <p>a) Dust screens to all hoardings and site fences.</p>

	<p>b) All stockpiles or loose materials to be covered when not being used.</p> <p>c) All equipment, where capable, being fitted with dust catchers.</p> <p>d) All loose materials being placed bags before placing into waste or skip bins.</p> <p>e) All waste and skip bins being kept covered when not being filled or emptied.</p> <p>f) The surface of excavation work being kept wet to minimise dust.</p> <p>g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.</p> <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. 23.	<p>Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway</p> <p>While site work is being carried out, all work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the development to which this consent relates must comply with Council’s Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>The person with the benefit of this consent must meet all costs associated with such works.</p> <p>This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within roads and other public places.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A copy of Council’s Specification for Roadworks, Drainage and Miscellaneous Works can be downloaded from Council’s website www.woollahra.nsw.gov.au <p>Condition Reason: To ensure that any road, drainage, or miscellaneous works comply with Council’s specifications.</p>
F. 24.	<p>Site Waste Minimisation and Management – Demolition</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> 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) separate collection bins and/or areas for the storage of residual waste are to be provided, d) the purpose and content of the bins and/or storage areas are to be clearly ‘signposted’,

	<p>e) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and</p> <p>f) site disturbance must be minimised, and unnecessary excavation limited.</p> <p>When implementing the SWMMP the Applicant must ensure:</p> <p>a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,</p> <p>b) any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997,</p> <p>c) waste is only transported to a place that can lawfully be used as a waste facility,</p> <p>d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and</p> <p>e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.</p> <p>Notes:</p> <ul style="list-style-type: none"> Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams. <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p>
<p>F. 25.</p>	<p>Site Waste Minimisation and Management – Construction</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <p>a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,</p> <p>b) deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage,</p> <p>c) consideration must be given to returning excess materials to the supplier or manufacturer,</p> <p>d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),</p> <p>e) the purpose and content of the storage areas must be clearly ‘signposted’,</p> <p>f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,</p> <p>g) separate collection bins or areas for the storage of residual waste must be promoted,</p> <p>h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,</p> <p>i) site disturbance must be minimised and unnecessary excavation limited,</p> <p>j) all waste must be transported to a place that can lawfully be used as a waste facility, and</p> <p>k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.</p> <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>

F. 26.	Asbestos Removal
	<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, SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016). For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050
	Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.
F. 27.	Classification of Hazardous Waste
	<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>
	Condition Reason: To ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.
F. 28.	Disposal of Asbestos and Hazardous Waste
	<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>
	Condition Reason: To ensure that asbestos and other hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant NSW EPA requirements.

F. 29.	Asbestos Removal Signage
	While site work is being carried out and when asbestos is being removed, standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.
	Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.
F. 30.	Notification of Asbestos Removal
	While site work is being carried out, in addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW, all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.
	The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.
	Condition Reason: To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	Occupation Certificate (section 6.9 of the Act)
	A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.
	<p>Notes:</p> <ul style="list-style-type: none"> • New building includes an altered portion of, or an extension to, an existing building.
	Condition Reason: To ensure the building is suitable to occupy.
G. 2.	Fire Safety Certificates
	Before the issue of any occupation certificate to authorise a person:
	<p>a) to commence occupation or use of a new building, or</p> <p>b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building.</p>
	<p>Notes:</p> <ul style="list-style-type: none"> • In this condition: <ul style="list-style-type: none"> • interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. • final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. • new building has the same meaning as it has in section 6.1 of the Act.
	Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.

G. 3.	<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. 4.	<p>Landscaping</p> <p>The <i>principal contractor</i> or <i>owner</i> must provide to <i>PCA</i> 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.</p> <p>Condition Reason: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.</p>
G. 5.	<p>Commissioning and Certification of Systems and Works</p> <p>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 <i>Act</i>, the <i>Regulations</i>, any relevant construction certificate, the BCA and relevant Australian Standards.</p> <p>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:</p> <ul style="list-style-type: none"> 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. <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. 6.	<p>Road Works (including footpaths)</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>

	<p>a) stormwater pipes, pits, structures and connections to public stormwater systems within the road,</p> <p>b) driveways and vehicular crossings,</p> <p>c) renew/new retaining structures,</p> <p>d) overhang structures,</p> <p>e) encroachments or occupation or alienation of public land or property,</p> <p>f) removal of redundant driveways and any other structure,</p> <p>g) new footpaths, pathways, walkways, or dunny lanes,</p> <p>h) relocation of existing power/light pole, if applicable,</p> <p>i) relocation/provision of street signs, if applicable,</p> <p>j) new or replacement street trees, if applicable,</p> <p>k) verge landscape items, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,</p> <p>l) new or reinstated kerb and guttering within the road, and</p> <p>m) new or reinstated road surface pavement within the road.</p> <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>
G. 7.	<p>Positive Covenant and Works-As-Executed Certification of Stormwater Systems</p> <p>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:</p> <p>a) compliance with conditions of development consent relating to stormwater,</p> <p>b) the structural adequacy of the on-site stormwater detention and rainwater retention systems,</p> <p>c) that the on-site detention system with the required storage has been constructed in accordance with the approved stormwater plans,</p> <p>d) that rain garden with minimum area of 10.83m² has been constructed in accordance with the approved stormwater plans,</p> <p>e) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,</p> <p>f) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,</p> <p>g) pipe invert levels and surface levels to Australian Height Datum, and</p> <p>h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.</p>

	<p>A positive covenant under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the on-site stormwater detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant</p> <p>Notes:</p> <ul style="list-style-type: none"> The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate. The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.
	<p>Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>
G. 8.	<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. A500030_02.</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. 9.	<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>
G. 10.	<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.15. 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>

H. OCCUPATION AND ONGOING USE

H. 1.	<p>Maintenance of BASIX Commitments</p> <p>During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. A500030_02.</p> <p>This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.</p> <p>Condition Reason: To ensure the approved environmental sustainability measures are maintained for the life of development.</p>
H. 2.	<p>Ongoing Maintenance of the Rain Garden, On-site Stormwater Detention and Rainwater Retention Systems</p> <p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <ol style="list-style-type: none"> Permit stormwater to be temporarily detained by the System. Keep the system clean and free of silt rubbish and debris, Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner. Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense. Not make any alterations to the 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. Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant. Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice. 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. <p>The Owner:</p> <ol style="list-style-type: none"> Indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default. <p>Notes:</p> <ul style="list-style-type: none"> This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.</p>

SUBDIVISION WORK

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil

J. BEFORE SUBDIVISION WORK COMMENCES

Nil

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil

LAND SUBDIVISION

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE






Nil

STRATA SUBDIVISION

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil

Attachments

1. Architectural Set, Landscape Plans & Survey [↓](#) 
2. Clause 4.6 Request [↓](#) 
3. Development Engineering Referral [↓](#) 
4. Trees & Landscaping Referral [↓](#) 
5. Heritage Referral [↓](#) 



40 COOLONG ROAD, VAUCLUSE
PROPOSED DEVELOPMENT

DA DRAWING LIST

SHEET NO.	SHEET NAME	REVISION	DATE	DESCRIPTION
SK000	Cover Sheet	G	24/02/24	Revised Issue for Planning Consent
SK001	Existing Site Plan	E	12/07/23	Issue for Planning Consent
SK002	Proposed Site Plan	K	23/12/23	Revised Issue for Planning Consent
SK003	Area and Control Plans	N	24/02/24	Revised Issue for Planning Consent
SK004	Demolition Plans	E	12/07/23	Issue for Planning Consent
SK005	Proposed Basement Floor Plan	N	24/02/24	Revised Issue for Planning Consent
SK006	Proposed Ground Plan	N	24/02/24	Revised Issue for Planning Consent
SK007	Proposed First Floor Plan	M	23/12/23	Revised Issue for Planning Consent
SK008	Elevations - Sheet 01	J	23/12/23	Revised Issue for Planning Consent
SK009	Elevations - Sheet 02	J	23/12/23	Revised Issue for Planning Consent
SK010	Sections	E	23/12/23	Revised Issue for Planning Consent
SK011	Shadow Diagrams	E	23/12/23	Revised Issue for Planning Consent
SK012	Materials Schedule	C	12/07/23	Issue for Planning Consent

BASIX MEASURES

Rainwater Tank
The applicant must install a rainwater tank of at least 1498 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.

Outdoor Swimming Pool
The swimming pool must be outdoors.

The swimming pool must not have a capacity greater than 60 kilolitres.

Insulation Requirements
The applicant must construct the new and altered construction (floor(S), walls, and ceilings/roofs) in accordance with the specification listed in the table below (see BASIX Report), except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.

Windows and Glazed Doors
The applicant must install windows, glazed doors and shading devices in accordance with the specifications listed in the table below (see BASIX Report). Relevant overshadowing specifications must be satisfied for each window and glazed door.

For projection described in millimeters, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500mm above the head of the window or glazed door and no more than 2400mm above the sill.

Overshadowing building or vegetation must be of the height and distance from the centre and the base of the window and glazed floor, as specified in the 'overshadowing' column in the table below (see BASIX Report).

ARCHITECT DOMENIC ALVARO
NSW Registered Architect 7445

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John & Michelle Landerer

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40 Coolong Road | Vaucluse

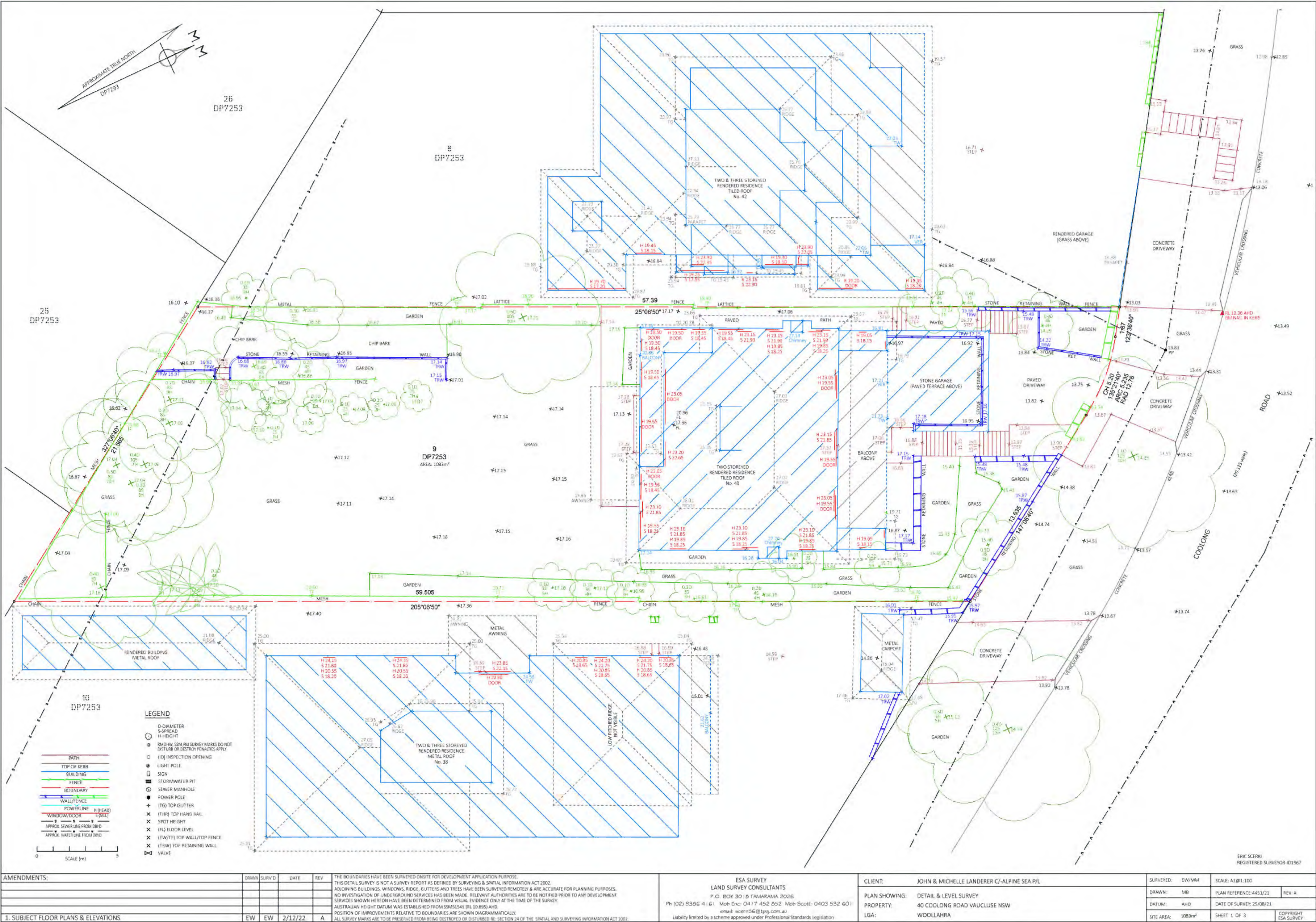
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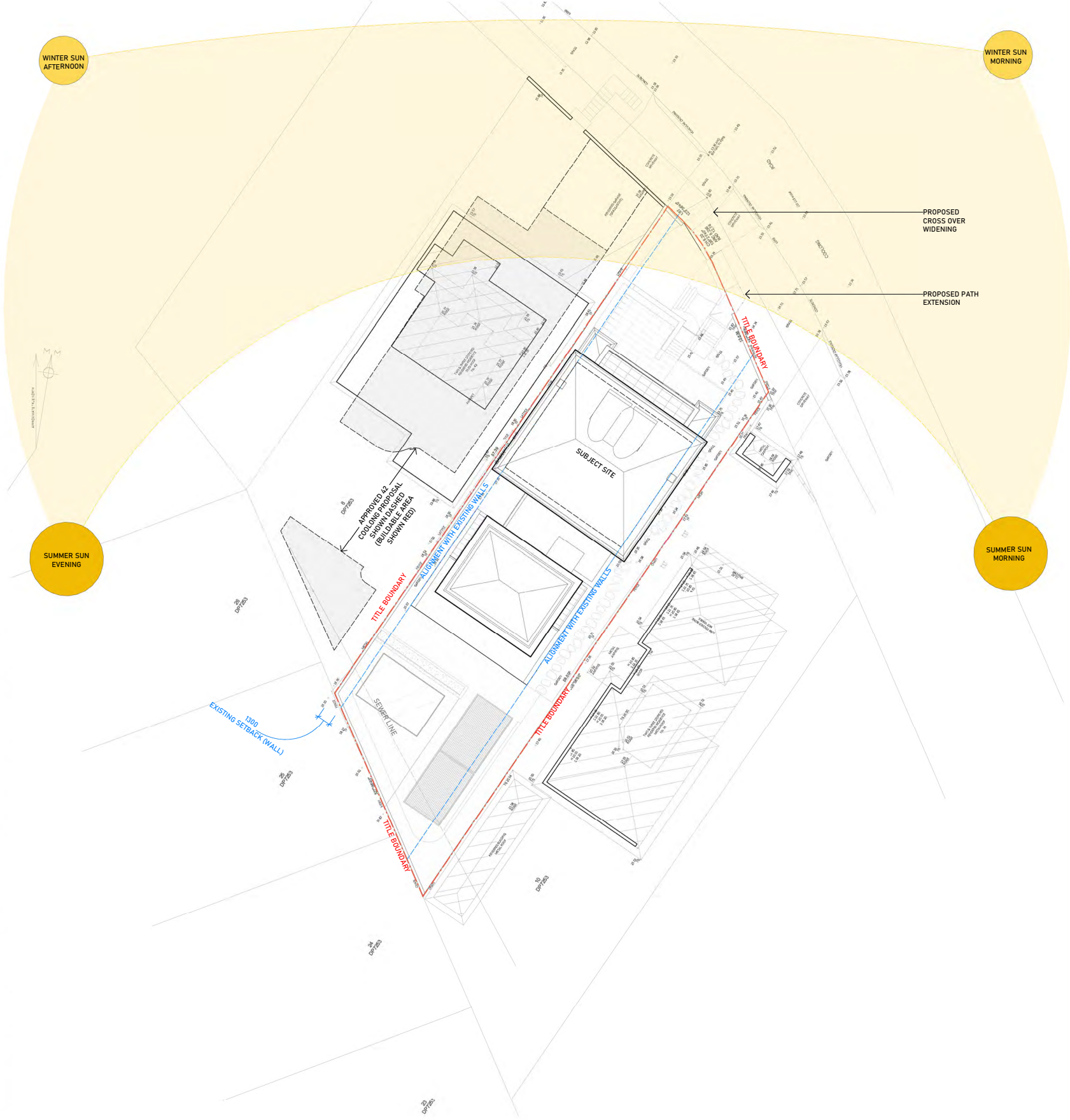
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NSW Registered Architect 7445

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Sheet title
Proposed Site Plan

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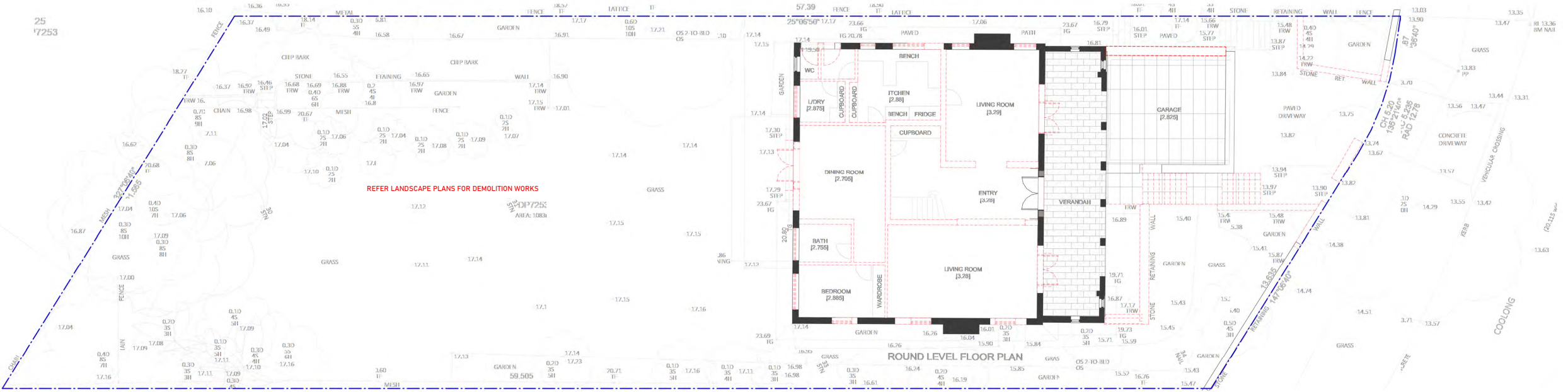
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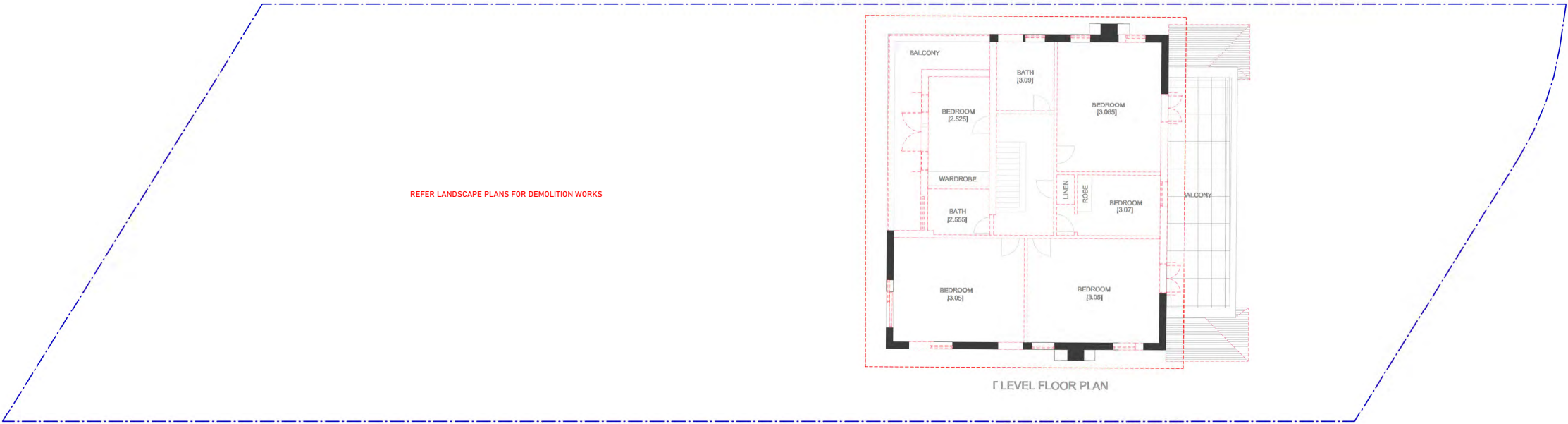

$$379.7 \text{ M}^2 (\text{BUILDABLE AREA}) \times 1.65 = \text{PRESCRIBED AREA OF } 625.7 \text{ M}^2$$

AREA SCHEDULE		
LEVEL	NAME	AREA
GARAGE	EXISTING FLOORPLATE AREA	23 m ²
	NEW FLOORPLATE AREA	5 m ²
		28 m ²
GROUND FLOOR	COVERED AREA	33 m ²
GROUND FLOOR	EXISTING FLOORPLATE AREA	171 m ²
GROUND FLOOR	NEW FLOORPLATE AREA	200 m ²
		403 m ²
FIRST FLOOR	EXISTING FLOORPLATE AREA	151 m ²
FIRST FLOOR	NEW FLOORPLATE AREA	89 m ²
		240 m ²
TOTAL PROPOSED AREA		672 m ²





1. GROUND FLOOR(1)



2. FIRST FLOOR

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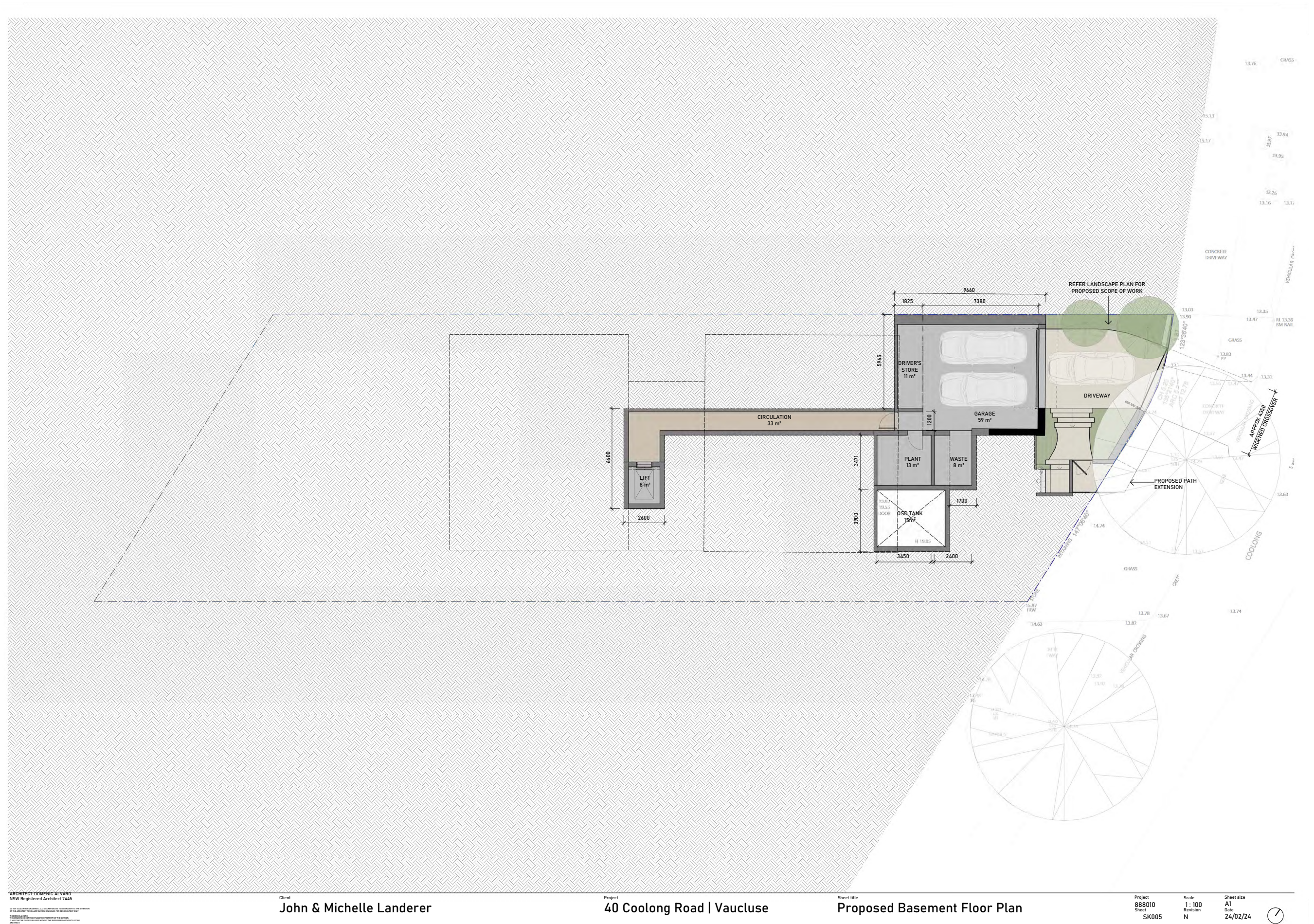
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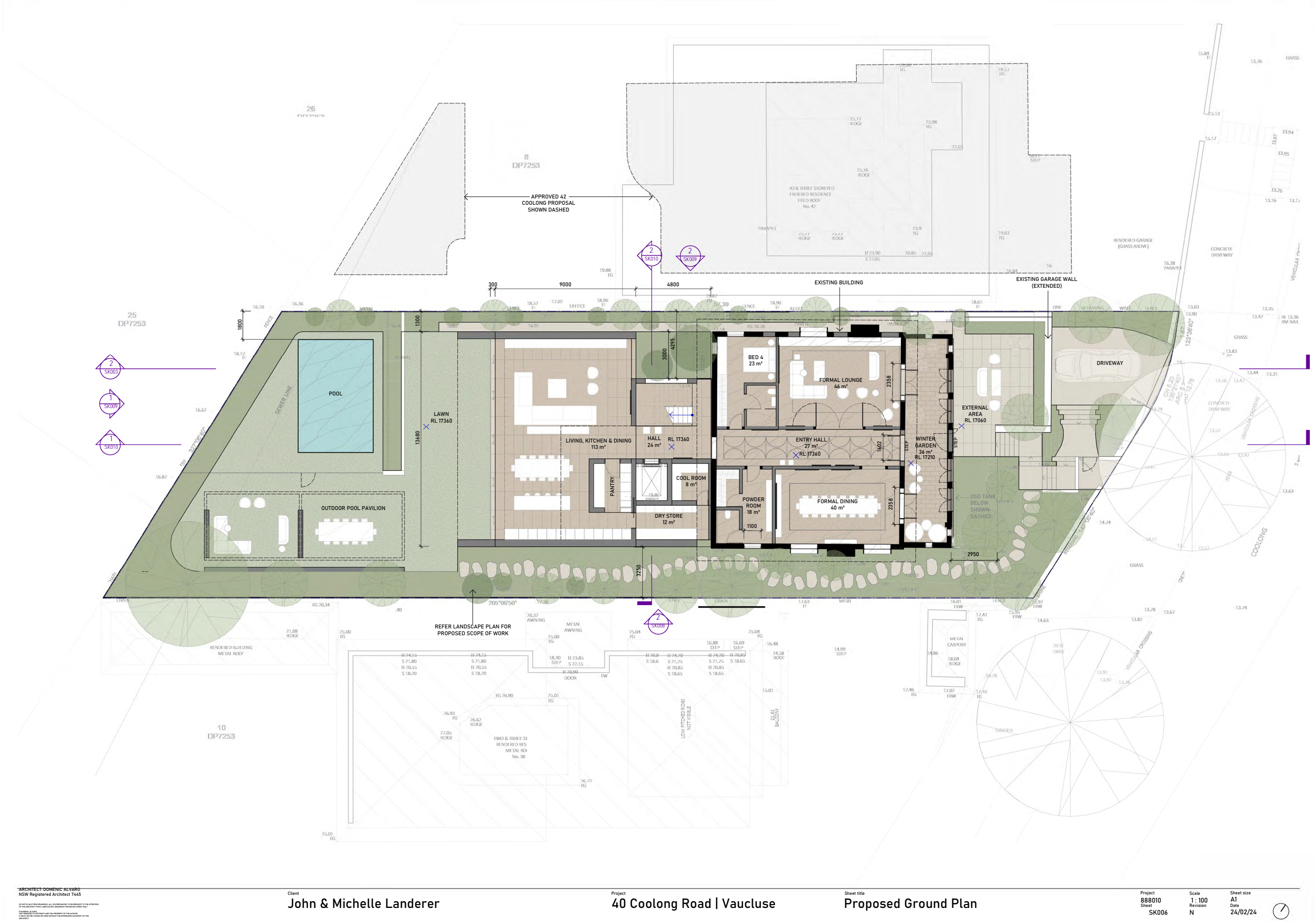
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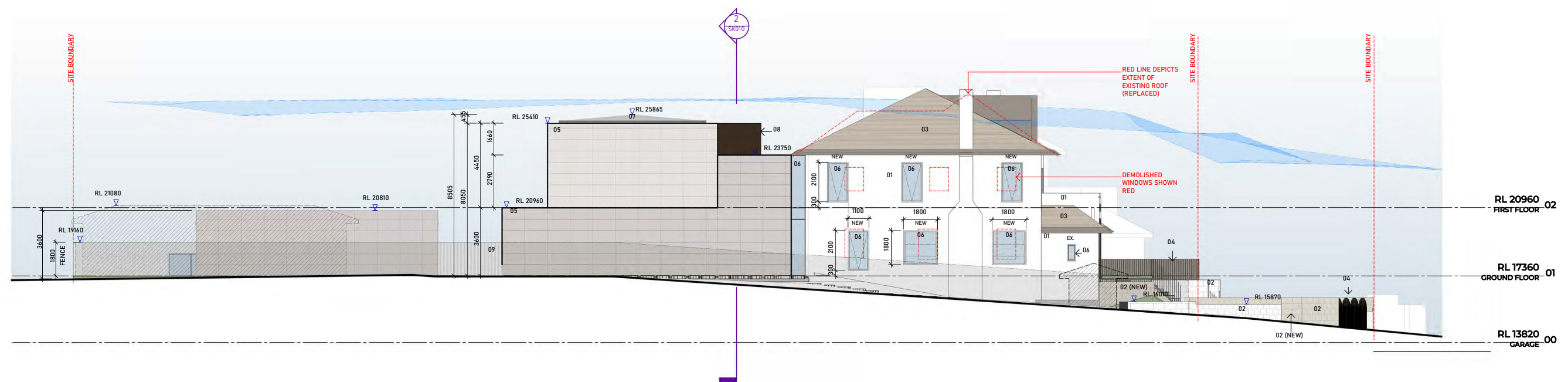
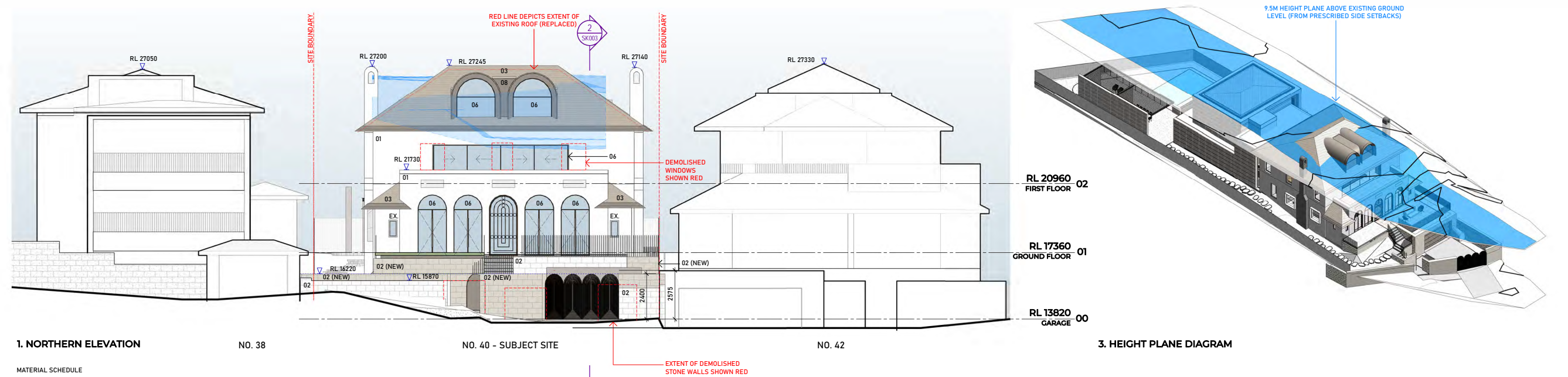


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2. EASTERN ELEVATION

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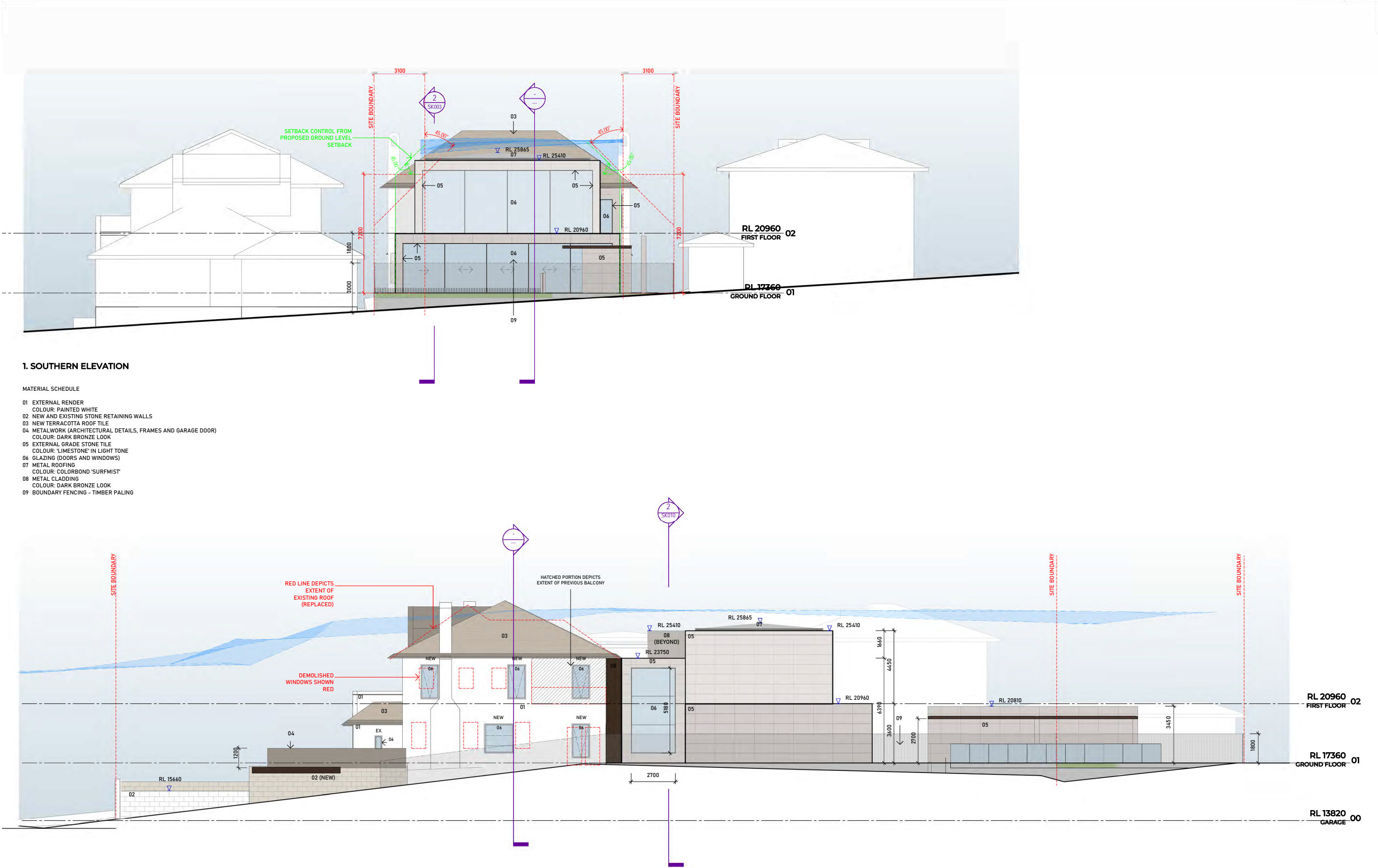
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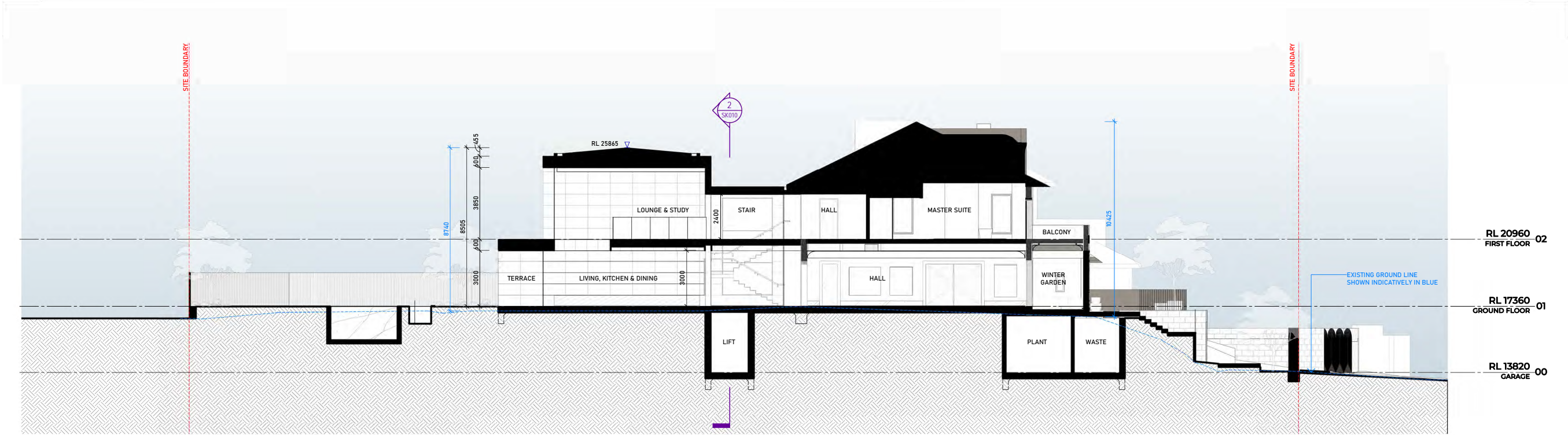
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NOTE - SITE CONTEXT INDICATIVE ONLY

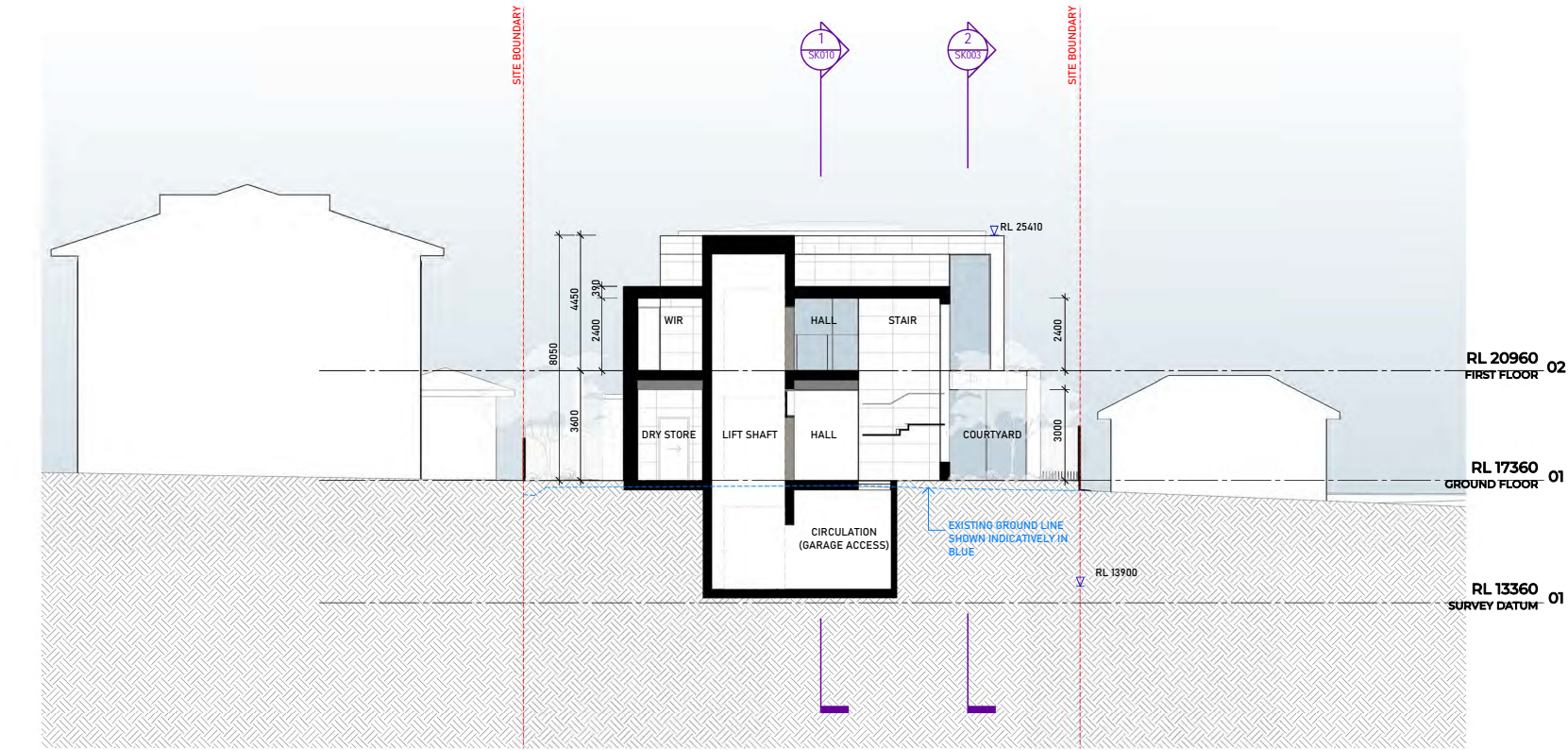
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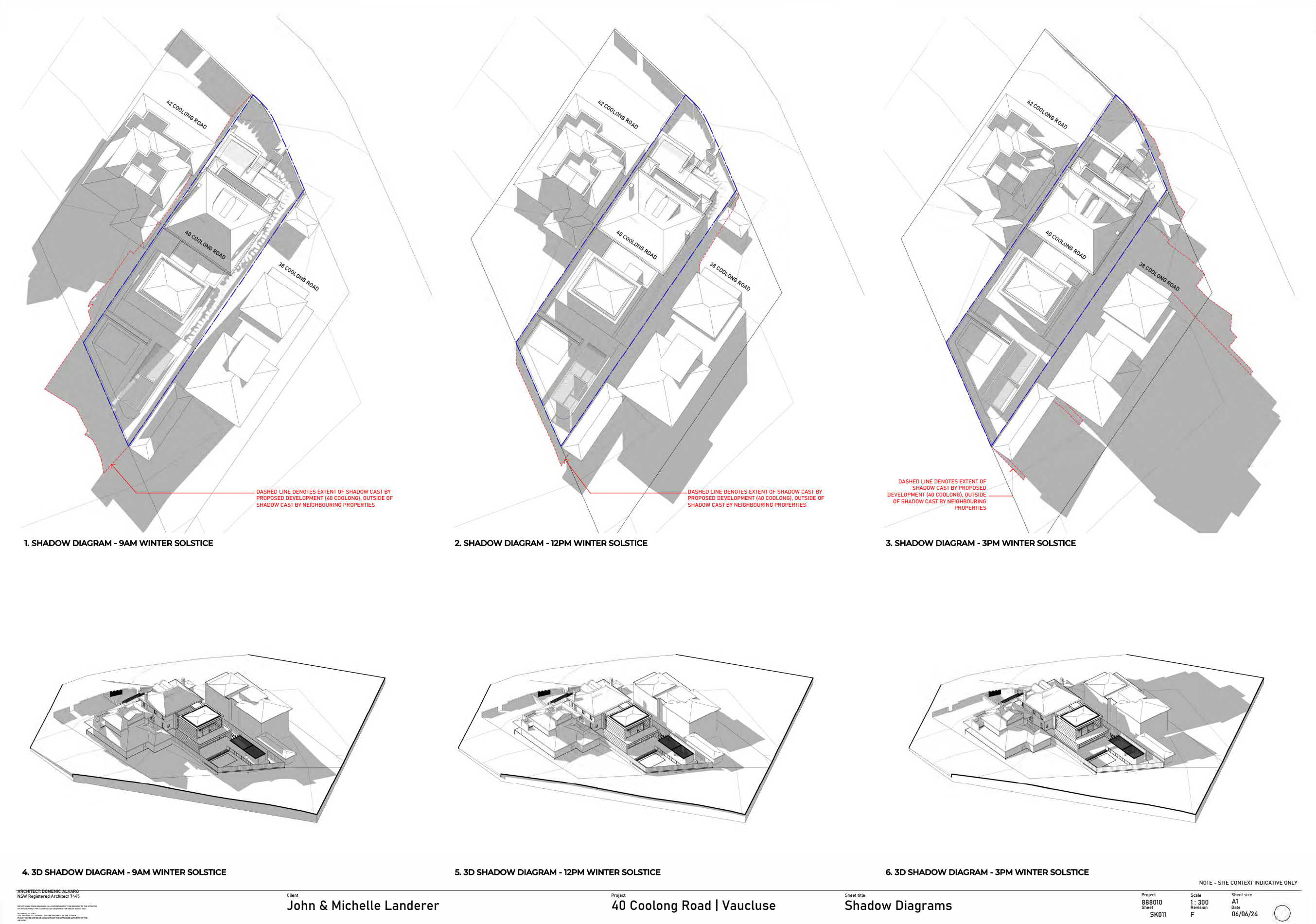





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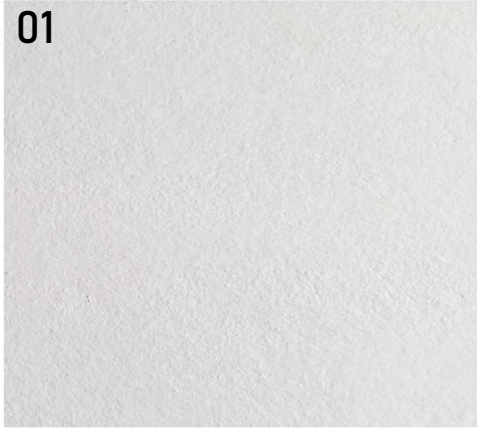
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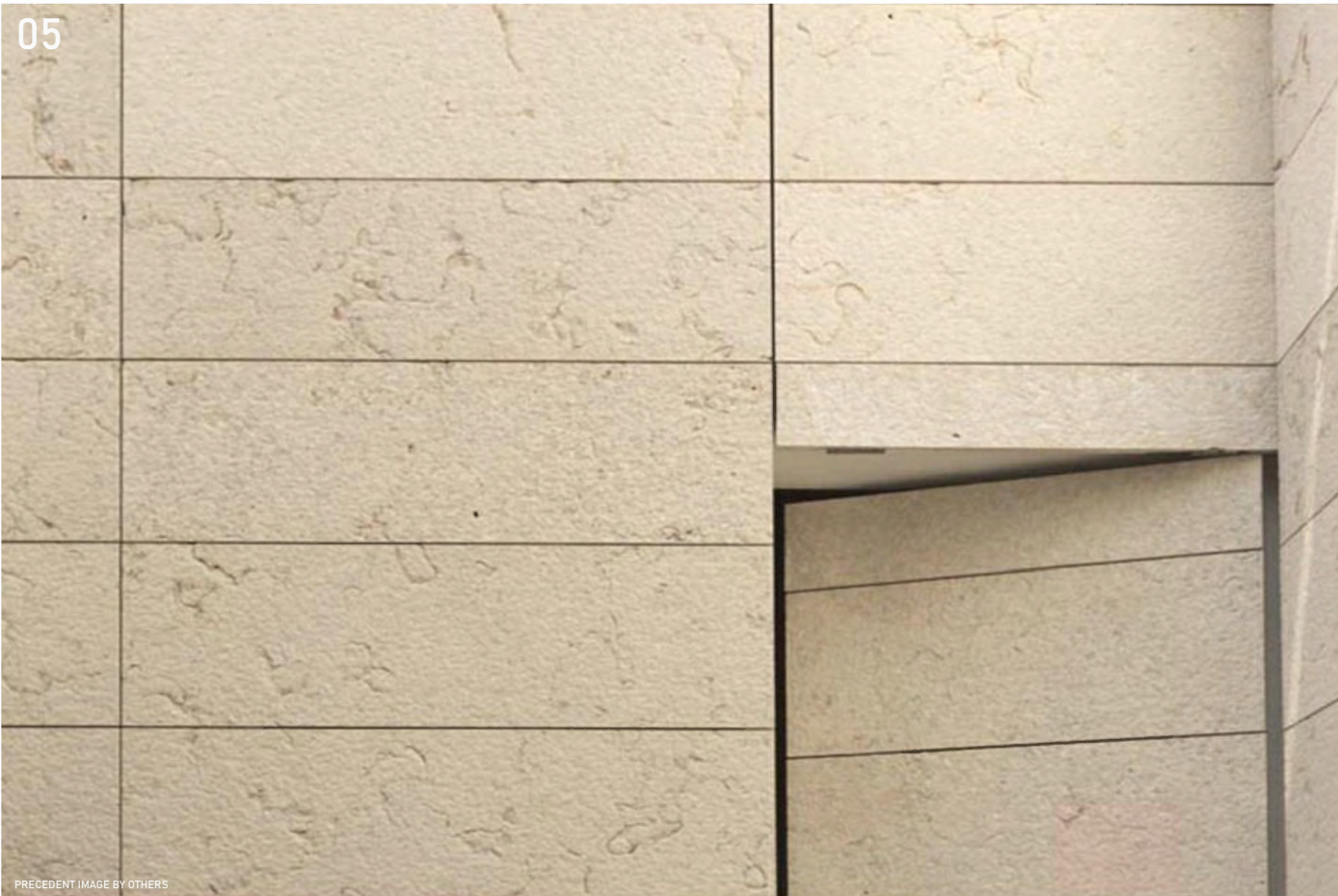
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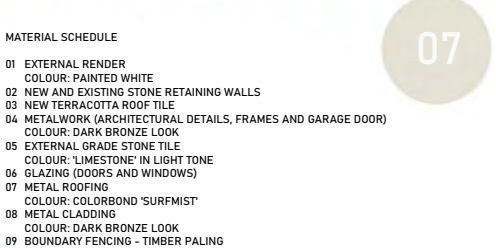
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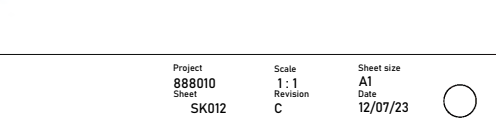
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LANDSCAPING



MATERIAL SCHEDULE

01 EXTERNAL RENDER
COLOUR: PAINTED WHITE

02 NEW AND EXISTING STONE RETAINING WALLS

03 NEW TERRACOTTA ROOF TILE

04 METALWORK (ARCHITECTURAL DETAILS, FRAMES AND GARAGE DOOR)
COLOUR: DARK BRONZE LOOK

05 EXTERNAL GRADE STONE TILE
COLOUR: 'LIMESTONE' IN LIGHT TONE

06 GLAZING (DOORS AND WINDOWS)

07 METAL ROOFING
COLOUR: COLORBOND 'SURFMIST'

08 METAL CLADDING
COLOUR: DARK BRONZE LOOK

09 BOUNDARY FENCING - TIMBER PALING

ARCHITECT: DOMENIC ALVARO
NSW Registered Architect 7445

Client
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REPLACEMENT Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Height

Proposed Substantial Alterations and Additions to an
Existing Dwelling at

**No. 40 Coolong Road,
Vaucluse**

Prepared for:
J & M Landerer
40 Coolong Road
Vaucluse NSW 2030

Prepared by:
GSA PLANNING
Urban Design, Environmental & Traffic Planners
(A.B.N 89 643 660 628)
95 Paddington Street, Paddington NSW 2021
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JOB NO. 22546
July 2023 (Original)
February 2024 (Amended)

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**WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

APPLICANT'S NAME: J and M Landerer

SITE ADDRESS: No. 40 Coolong Road, Vaucluse

PROPOSAL: Proposed Substantial Alterations and Additions to an Existing Dwelling

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 objectives of the zone are as stated:

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

(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.

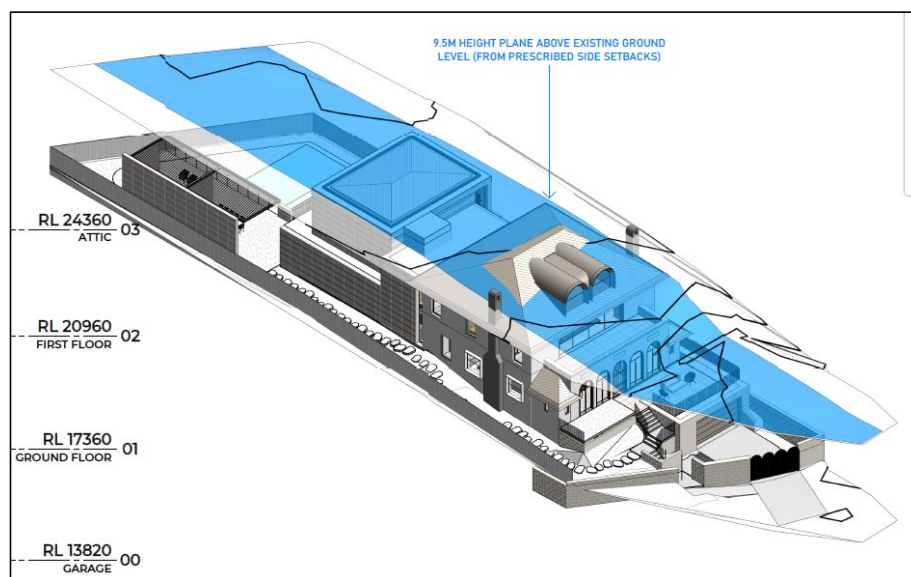
2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

3. Specify the nature of Development Standard sought to be varied and details of variation:

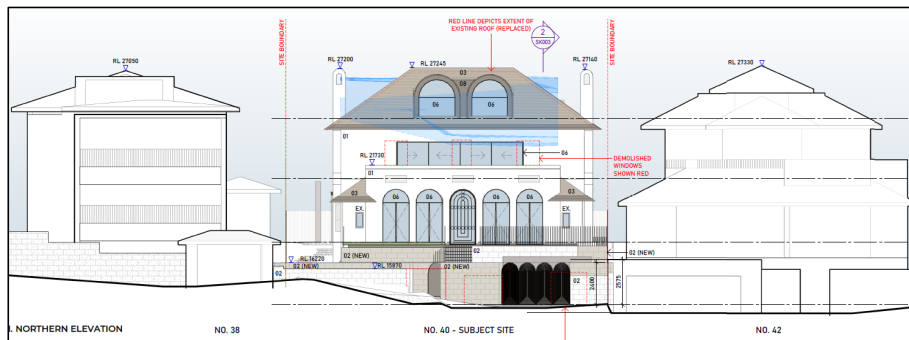
The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of buildings. This Clause operates in conjunction with the height Map which indicates a maximum 9.5m applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The existing dwelling has a maximum height of approximately 10.157m, which breaches the development standard by 6.92%. The proposal has a height of up to 10.425m which represents a breach of 0.925m (9.7%) over the standard (see **Figure 1**). This is measured from the highest point of the roof at RL 27.245 AHD to the existing ground level immediately below. It is also noted that the maximum RL for the proposal is comparable with the existing adjoining developments of Nos. 38 and 42 Coolong Road, being RL 27.05 AHD and RL 27.33 AHD, respectively (see **Figure 2** on the following page).



Source: Domenic Alvaro

Figure 1: Height Blanket Diagram
(area of breach above blue height plane shown uncoloured)



Source: Domenic Alvaro

Figure 2: Northern Elevation of 38, 40 and 42 Coolong Road

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. In our opinion, the proposed maximum height is appropriate given the site constraints and surrounding context. The extent of variation is limited to the new roof structure at the front, which will not be substantially higher in terms of RL when compared to the existing dwelling. In addition, the proposed works will align with the existing surrounding properties and the extent of the non-compliance will not result in unreasonable impacts on nearby dwellings.

Flexibility in the circumstance would provide a better outcome for the site by allowing for consistent floor levels and achieving the appropriate ceiling height for each habitable level. When viewed from Coolong Road, the proposal will have a two-storey appearance with a pitched roof form similar to the existing situation. Strict compliance would require the removal of the lowering of the existing dwelling and/or the conversion of the existing and proposed pitched roof to a flat roof form which would be inconsistent with the streetscape character. Accordingly, in our opinion, the proposal will achieve better outcomes by improving amenity, protecting existing characteristics and providing a compatible roof form.

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 variation to the height development standard, it is consistent with the desired low density character of the area. The proposal provides a bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed development is consistent with 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. The meaning of 'desired future character' is derived from the text and context of the provisions of the LEP in which it is used and the other provisions of the LEP that form the urban character and built form of the area. 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 16.5m.
 - ii. Clause 4.3 Exceptions to Building Heights (Areas A-H) which prescribes a maximum height of 10.5m at the highest part of the land.

The R2 Low Density Residential zoning permits dwelling houses with development consent. The single dwelling use is both existing and proposed on the site. The proposal will significantly upgrade the residential amenity and appearance when compared to the existing situation. The proposal will also be consistent with the zone objectives, as detailed in Section 6 of this report.

While the additional height is primarily a function of the site topography which slopes from south to north, the proposal will appear as two storeys with a pitched roof form to the street. This will maintain compatibility with surrounding existing and approved developments along Coolong Road and Greycliffe Avenue. This demonstrates the external envelope is contextually compatible. In other words, the proposal is consistent with the built form in the area and its desired future character despite the height breach. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63], 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.

The proposal provides a visual benefit through high-quality alterations and additions to the existing dwelling. The proposed roof ridge is comparable to the existing non-compliance and other development on Coolong Road. The proposal will continue to positively contribute to the locality's existing and emerging character and provide an appropriate interface with the public domain and adjoining dwellings. The proposal will maintain the existing building lines, as well as the arched facade at the street front, reinterpreting the character of the original building. The proposal will provide deep soil landscaping throughout the site, which will continue to provide visual and environmental amenity.

Despite the height variation, the proposal will sympathetically respond to the character of adjacent developments and will not appear out of character when viewed in its context. There are a number of examples of low-density residential developments in the Vaucluse West Precinct that have been recently approved under current controls with building height non-compliances. It is recognised that each application is assessed on its own merits and each site has different characteristics. However, it is a relevant consideration to understand if Council has accepted breaches to the height standard in the past, under what circumstances these were supported and if indeed there are any comparable principles to the subject application. Based on Council's Clause 4.6 Register, these include:

TABLE 1: NEARBY APPROVED AND EXISTING DWELLING HEIGHT BREACHES				
DA No.	Location	Distance from Subject Site	Development Standard	Variation
487/2021	42 Coolong Road	20m	9.5m	9.65m 1.58%
393/2021	1 Chapel Rd	413m	9.5m	14.8m 54.08%
239/2021	5 Parsley Rd	656m	9.5m	10.0m 5.3%
150/2021	19 Fitzwilliam Rd	675m	9.5m	10.06m 11.57%
472/2020	32A Vaucluse Rd	690m	9.5m	12.76m 34%

140/2021	40 The Crescent	844m	9.5m	14.82m 56%
145/2021	94 Hopetoun Ave	912m	9.5m	12.12m 27.6%
26/2021	16 Gilliver Ave	920m	9.5m	14.3m 50.2%
465/2020	152 Hopetoun Ave	940m	9.5m	10.43m 9.7%
162/2020	3 Clairvaux Rd	1.18km	9.5m	10.4m 9.5%
83/2022	31 Palmerston St	1.2km	9.5m	10.32m 8.63%
372/2021	19 Black St	1.3km	9.5m	10.44m 9.9%
539/2020	1 Bell St	1.38km	9.5m	14.1m 48.4%

The above approvals in Vaucluse had a comparable height breach which was supported by Council staff, the Panel and the Court on similar arguments as those made in our submission (being due to the topography, compatibility with the surrounding development and no significant impact on the streetscape or neighbours).

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

The site is not near a LEP residential zone boundary. Accordingly, this objective is less relevant. Nonetheless, when developments in Coolong Road are considered, the proposal will maintain a compatible building height. Only a portion of the proposed new roof at the front northern part of the dwelling will be above the LEP height plane, with the remaining areas complying. On this basis, this objective is satisfied as local amenity will be protected. This is further addressed in the following sections.

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

Shadow diagrams have been prepared for winter solstice and submitted separately. These diagrams indicate that while there may be additional shadow over the dwelling at No. 38 Coolong Road, this is largely maintained as existing. No. 38 Coolong Road will receive at least two hours solar access to private open space which complies with the DCP. North facing windows will not be impacted upon by the proposed works. Due to the north-east to south-west orientation of the site and adjoining development, it is expected that a compliant building height would result in similar solar impacts.

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

In terms of views, it is noted that the DCP does not identify significant public views or vistas across the subject site. Many developments are oriented to capture harbour views to the north and northeast. The site has some filtered harbour views and distant land/water interface views to the north and north east. These views are available from the first floor level terrace, located off the bedrooms facing Coolong Road. It is surmised that similar views would be available from the upper levels of the adjoining properties on the same side of Coolong Road. Due to the lot orientation, the proposed works will have no adverse impacts on views from neighbouring properties or the public domain. The majority of the proposal complies with the height standard under the LEP. Notwithstanding this, new side setbacks that match existing will likely result in a similar outlook in terms of views when compared to the existing situation. Accordingly, in our opinion, the proposal will not result in adverse view impacts.

In respect of privacy, while the roof windows are located above the height line, they are orientated towards the street and will have no adverse privacy impacts for neighbouring properties on the southern side of Coolong Road. Properties on the northern side of Coolong Road are obscured by landscaping on their site and on the subject site and are located >55m away from the roof windows.

Accordingly, in our opinion, the proposal will not result in adverse privacy impacts to neighbouring properties.

As outlined in Objective (c), the extent of height variation will enable adjoining properties to maintain more than adequate levels of solar access to their private open space.

In addition, the areas of roof above the height line are set back from the main building line at the front, and are within compliant side setbacks. Whilst visible from the street, the proposed alterations will increase the amenity of the existing dwelling and will enhance the streetscape appearance. Visual intrusion of the height variation will therefore be minimised. Accordingly, in our opinion, the proposal will minimise impacts on neighbouring properties' environmental amenity and satisfies objective (d).

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

No public views or vistas are identified across the site in the DCP. Given the location of the proposed variation, and its distance from the foreshore, the proposal will not affect any potential public view of the harbour and surrounding areas. On this basis, the proposal is considered consistent with Objective (e).

Accordingly, although the proposal will exceed the height control, this is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope.

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

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 the underlying topography however, the proposal also represents consistency in the context, good design and environmental amenity. There are also a number of consequences for enforcing strict compliance with the development standard. These will now be discussed.

Function of Underlying Topography

The majority of the height variation is a function of the sloping topography of the site. The site has a 3.29m fall through the site, largely located below the portion of the non-compliant areas of roof. Notwithstanding the variation, the southern portion of the main roof form and the rear addition proposed roof is compliant with the height limit.

Consistency in the Context

As detailed, strict compliance with the development standard would not result in a better outcome for development. The existing roof form is non-compliant with the maximum building height. The proposal has been designed to complement the existing style whilst providing increased amenity at a similar/slightly increased height to the existing situation. The height exceedance will not adversely impact neighbour amenity and will not be out of character with surrounding properties in terms of height and scale, nor will it be incompatible with the area's desired future character.

As demonstrated, the proposed height is consistent with the surrounding development and previous approved properties. Consistency in the context was recognised as an environmental planning ground in *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097 where Commissioner O'Neil states at [42] that:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality.

Consequences of Compliance

Strict compliance would unreasonably impact the design integrity of the building and internal amenity for the future occupants of the site, without noticeably benefiting surrounding properties or the public domain. Achieving a fully compliant building height would require substantially altering the roof pitch, or additional demolition which would not be desirable. As the proposed works are alterations and additions, not a new development, lowering the building to comply with the height is not an option.

Perceived Built Form

The height variation is a function of the topography of the land, rather than an overdevelopment of the site. The proposal will appear as a two-storey dwelling house when viewed from Coolong Road. The northernmost façade of the dwelling, which is the most visible element from the public domain, complies with the building height. The portion of roof that exceeds the standard is set back behind this front wall, reducing the perceived height, bulk and scale.

Good Design and Amenity

Our assessment has demonstrated the proposal will preserve neighbours' privacy, solar access and views. The height variation is integral to the architecturally designed alterations and additions which will improve future occupants' amenity whilst retaining the character of the existing dwelling. The variation is limited to the roof within the front northern portion of the dwelling, where the previous roof form was non-compliant. Notwithstanding, the variation will maintain compliant solar access to adjoining properties, as well as privacy and views for surrounding development. In this regard, it can be considered a good design that preserves neighbour amenity.

Other Matters for Consideration

It should also be noted that the proposal improves the amenity of the subject site while maintaining the amenity of neighbouring development; achieves the objectives of the R2 Low Density Residential Zone and the relevant DCP built form and amenity provisions; and results in an improved streetscape outcome for the site. While these factors may not strictly constitute environmental planning grounds, they should be considered in the assessment of the height breach.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

6. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard*

unless:

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

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request, and having regard to the site and locality.

In our opinion, the proposal is consistent with the objectives of the building height development standard, as already demonstrated; and the R2 Low Density Residential zone, as discussed below:

Objective: to provide for the housing needs of the community with a low density residential environment.
Response: The proposal maintains the existing dwelling use and improves occupant amenity through thoughtfully designed alterations and additions.

Objective: to provide for development that is compatible with the character and amenity of the surrounding neighbourhood.
Response: The proposed works are consistent with the existing architecture and are compatible with the character and amenity of the surrounding two to three-storey dwellings with varied built forms. When viewed from Coolong Road, the proposal will appear as a two-storey rendered dwelling with a pitched roof which is similar to the existing situation. The proposal has been designed to maintain privacy, views and solar access to neighbouring properties.

Objective: to ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.
Response: The dwelling will continue to appear as two storeys in the street. It will continue to have a contextually compatible pitched roof, with internal and external improvements as well as rear additions that are compatible with the adjacent developments.

From this, we consider the proposal is in the public interest and should be supported.

7. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 55 of the Environmental Planning and Assessment Regulation 2021, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. Since the conditions in the table do not apply in this case, the concurrence of the Secretary can be assumed.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron*

Shire Council (1999) 103 LGERA 94 at [100] and Wehbe at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The height non-compliance will enhance the amenity and functionality of the proposed alterations and additions to the dwelling house without significantly, unreasonably or unacceptably impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape with an articulated façade complemented by more than compliant landscaping. Strict compliance with the building height is likely to result additional impacts through the need for greater demolition or reduced floor to ceiling heights.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

8. 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 is consistent with 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	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Tests 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 alterations and additions to the existing low density development, consistent with the planning objectives of the area; The scale of the proposal is consistent with other dwellings within Coolong Road, which is consistent with the desired future character. The proposed height exceedance is a result of the sloping topography of the site; The areas of height non-compliance are limited and are compatible with the Coolong Road frontage; The proposed building height variation is similar to recent approvals in the locality; The height breach contributes to good design and amenity; The area of building height non-compliance maintains neighbours' privacy, solar access and views; The proposed building height provides a better planning outcome than a strict compliant envelope in many instances. 	YES
26-27	2nd Positive Opinion –	6	The proposed development achieves the objectives of the height	YES

	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.		standard as addressed under Test 1 of <i>Wahbe</i> . The proposal also achieves the objectives of the R2 Low Density Residential Zone.	
28-29	Second Precondition to Enlivening the Power – That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.	7	As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, the Council can grant development consent.	YES

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Max Moratelli

From: Shengxi Lin
Sent: Thursday, 18 April 2024 5:35 PM
To: George Lloyd
Cc: Robert Lam
Subject: Engineering Conditions - DA2023/251/1 - 40 Coolong Road, Vaucluse

Hi George,

Hope all is well.

Council's Development Engineers have reviewed the submitted information and raise no objection to the proposal, subject to the following engineering conditions:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
23012 H-01 Rev E H-02 Rev B H-03 Rev E H-04 Rev B	Stormwater Management Plan	AKY Civil Engineering	29/02/2024 11/07/2023 29/02/2024 29/02/2024
PG-10376 Ver 2	Geotechnical Report	Pacific Geotech	14/02/2024

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.

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)	\$111,254	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 the issuing of any Construction Certificate. Detailed engineering drawings prepared by a suitably qualified and experienced civil engineer for the following infrastructure works which must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new vehicular crossing in accordance with Council's standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineer. The new crossing shall be constructed at right angle to the street kerb in plain concrete and be located at least 1 metre away from the existing power pole. Design longitudinal surface profiles (scale 1:20) along each side/edge of the proposed vehicular crossing, starting to the centreline of the road pavement, to the proposed parking slab shall be submitted for assessment,
- b) The extension of the existing footpath in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,
- c) 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,
- d) The developer shall be responsible for carrying out all service investigations to allow a gravity connection,
- e) The reinstatement of all damaged 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,
- f) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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

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

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

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

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

C.35 Structural Adequacy of Existing Supporting Structures

C.36 Professional Engineering Details

C.37 Engineer Certification

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

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

C.40 Geotechnical and Hydrogeological Design, Certification and Monitoring

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

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle and car vehicle parking in compliance with AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities* and AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* which includes the following requirement:

- a) The proposed double garage shall have minimum dimensions of 5.4m x 5.4m, clear of any obstructions, 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 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, prepared by AKY Civil Engineering, referenced 23012 Rev E, dated 29/02/2024, other than amended by this and other conditions.
- b) The installation of rain garden with minimum area of 10.83m² in accordance with Chapter E2.2.3 of Council's DCP.
- c) 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 made by using 150mm x 75mm galvanised RHS 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.
- d) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and Chapter E2.2.10 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- e) Dimensions of all drainage pits and access grates must be designed to comply with AS3500.3,
- f) Compliance the objectives and performance requirements of the BCA,
- g) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

On-site Stormwater Detention (OSD) Requirements:

The minimum total Site Storage Requirements ("SSR") for the required on-site stormwater detention (OSD) system must be 46.1m³ and the Permissible Site Discharge (PSD) for the proposed development must not exceed 20 l/s.

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

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,

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

On-site Stormwater Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

Rainwater Reuse System details:

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

For the proposed stormwater connection to the Council's drainage infrastructure, 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 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. 42 Coolong Road
No. 38 Coolong Road

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.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 Australian Height Datum

E.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road Works and work within the Road and Footway

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 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

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

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site stormwater detention and rainwater retention systems,
- c) that the on-site detention system with the required storage has been constructed in accordance with the approved stormwater plans,
- d) that rain garden with minimum area of 10.83m² has been constructed in accordance with the approved stormwater plans,

- 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 in accordance with the approved stormwater drawings,
- g) pipe invert levels and surface levels to Australian Height Datum, and
- h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the rain garden, on-site detention system, rainwater retention 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 Rain Garden, On-site Stormwater Detention and Rainwater Retention Systems

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

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

The Owner

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

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

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

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation Report

K.24 Roads Act Application

Regards,



Shengxi Lin
Development Assessment Engineer

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028
t: 02 9391 7127

e: Shengxi.Lin@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: George Lloyd <George.Lloyd@woollahra.nsw.gov.au>

Sent: Thursday, 4 April 2024 11:08 AM

To: Shengxi Lin <Shengxi.Lin@woollahra.nsw.gov.au>

Cc: Max Moratelli <Max.Moratelli@woollahra.nsw.gov.au>

Subject: DA-251/2023/1 - 40 Coolong Road, Vaucluse - Development Engineer referral/response request.

Hello Shengxi,

Attached is Checksheet 1 for this matter which advised that Robert Lam would provide conditions of consent (when requested).

Since that advice, the DA has resulted in a replacement application having been lodged, which we have noticed recently was not formally re-referred to Council's Development Engineer.

In the absence of Robert who is on leave until 22/04, I have been asked by my Team Leader (Max Moratelli) to refer this matter to you and respectfully ask if you can prioritise this matter at your soonest opportunity.

Please contact me should you have any questions.

Regards,
George

22 May 2024

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 251/2023/1
ADDRESS: 40 Coolong Road VAUCLUSE 2030
PROPOSAL: Substantial alterations and additions (essentially comprising a new dwelling); new swimming pool and pavilion structure and landscaping.
FROM: Simone Woodman - Tree Management Officer
TO: Mr G Lloyd

I refer to the following documents received for this report:

- Survey Plan No. Sheet 1/A-3/A, drafted by ESA Survey, dated 02/12/2022
- Architectural Drawings drawn by Domenic Alvaro, Drawing No.s
 - SK000/G – dated 24/02/2024
 - SK002/K – dated 23/12/2023
 - SK003/H – dated 24/02/2024
 - SK004/E – dated 12/07/2023
 - SK005/N – dated 24/02/2024
 - SK006/N – dated 24/02/2024
 - SK007/M – dated 23/12/2023
 - SK008/J – dated 23/12/2023
 - SK009/J – dated 23/12/2023
 - SK010/E – dated 23/12/2023
- Stormwater drainage Plan drawn by AKY Civil Engineering, Drawing No.s
 - H-01/E – dated 29/02/2024
 - H-02/B – dated 11/07/2023
 - H-03/E – dated 29/02/2024
 - H-04/B – dated 29/02/2024
- Arboricultural Impact Assessment Report, written by William Dunlop – Temporal Tree Management, dated 08/02/2024
- Landscape Plan designed by Myles Baldwin Design, drawing No.s
 - 730_DA_01 issue C – dated 30/01/2023
 - 730_DA_02 issue C – dated 30/01/2023
 - 730_DA_10 issue C – dated 30/01/2023 – Existing Tree Plan
 - 730_DA_10 issue C – dated 30/01/2023 – Front Garden
 - 730_DA_11 issue C – dated 30/01/2023
 - 730_DA_12 issue C – dated 30/01/2023
 - 730_DA_40 issue B – dated 11/07/2023
 - 730_DA_50 issue B – dated 11/07/2023

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

My previous Tree and Landscape referral response dated 16/11/2023 requested an amended landscape plan and stormwater drainage plan.

The stormwater drainage plan was amended to satisfy concerns I had regarding potential negative impacts to a Blue Gum tree located on the Council verge at the front of the subject property.

The landscape plan has not been amended to include the retention of existing trees identified in the submitted Arboricultural Impact Assessment Report that could be retained as requested

Additionally the landscape plan fails to identify an appropriate location for the transplanting of Tree 20 *Jacaranda mimosifolia* (Jacaranda).

COMMENTS

Located within the subject property are a number of existing trees all of which are proposed for removal with the exception of Tree 20 *Jacaranda mimosifolia* (Jacaranda). The submitted landscape plan proposes the transplanting of the Jacaranda however does not identify on the plan the proposed alternative location of the Jacaranda.

I have reviewed the submitted architectural and landscape plans and cannot identify an appropriate location for the transplanting of the Jacaranda. Accordingly the Jacaranda should remain in situ and the proposed outdoor pool pavilion should be modified to allow for the successful retention of the Jacaranda.

By modifying the proposed outdoor pool pavilion to allow for the successful retention of the Jacaranda this would also allow for the successful retention of Tree 24 *Melaleuca armillaris* (Bracelet Honey Myrtle).

Located along the south eastern side boundary of the subject property adjacent 38 Coolong Road, Vaucluse are a number of trees (Trees 10, 11, 12, 13, 14 15) of moderate landscape value. These trees currently provide good foliage screening between the two properties of 40 and 38 Coolong Road. The submitted Arboricultural Impact Assessment Report states these trees could be successfully retained due to the setback of the proposed extension to the rear of the existing dwelling. The landscape plan however proposes the removal of these trees. Accordingly an amended landscape plan should be provided that shows the retention of the existing trees discussed and submitted for approval prior to the issue of a construction certificate.

The retention of the existing trees identified would go towards satisfying the desired future character objectives of the Vaucluse West Precinct, namely:

O7 To reinforce the landscape setting and maintain the existing tree canopy.

O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.

Cross section architectural drawings identify level changes to the rear and sides of the subject property. The proposed level changes are minor in depth however would have an impact on the existing trees identified that could be retained. To ensure the successful retention of existing trees no level changes should occur within the Tree Protection Zones of those trees. Additionally by deleting the proposed level changes in the rear yard and south eastern side of the property the desired future character objective O5 would be satisfied. Objective O5 To design and site buildings to respond to the topography and minimise cut and fill.

The submitted landscape plan proposes replacement tree planting to compensate for the removal of other existing trees that cannot be retained.

Attachment to report 2499799 (Title Trees & Landscaping Referral).DOCX

Page 3

The submitted replacement Stormwater Drainage Plan has been amended to ensure impacts to Tree 1 *Eucalyptus globulus* (Blue Gum) have been removed by relocating the stormwater discharge pipe to the northern side of the subject property.

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)
10	<i>Camellia sasanqua</i> (Camellia)	In accordance with Figure 9. Tree Location Plan in the Arboricultural Impact Assessment Report, written by William Dunlop – Temporal Tree Management, dated 08/02/2024	4 x 3
11	<i>Acer japonicum</i> (Fullmoon Maple)		4 x 4
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)		5 x 3
13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)		9 x 4
14	<i>Waterhousia floribunda</i> (Weeping Lillypilly)		9 x 4
15	<i>Waterhousia floribunda</i> (Weeping Lillypilly)		9 x 4
20	<i>Jacaranda mimosifolia</i> (Jacaranda)		7 x 8
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)		8 x 8

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	14 x 15	\$15,000.00

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
4	<i>Camellia sasanqua</i> (Camellia)	In accordance with Figure 9. Tree Location Plan in the Arboricultural Impact Assessment Report, written by	3 x 3
7	<i>Camellia sasanqua</i> (Camellia)		5 x 3
8	<i>Citrus sp.</i> (Citrus tree)		6 x 2
9	<i>Camellia sasanqua</i>		4 x 3

	(Camellia)	William Dunlop – Temporal Tree Management, dated 08/02/2024	
16	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)		5 x 3
17	<i>Callistemon viminalis</i> . (Weeping Bottle Brush)		4 x 3
18	<i>Strelitzia nicolai</i> (Giant Bird of Paradise)*		6 x 4
19	<i>Ceratopetalum gummiferum</i> (NSW Christmas Bush)		6 x 2
21	<i>Leptospermum petersonii</i> (Lemon-scented Tea tree)		7 x 8
22	<i>Leptospermum petersonii</i> (Lemon-scented Tea tree)		7 x 6
23	<i>Leptospermum petersonii</i> (Lemon-scented Tea tree)		7 x 6
25	<i>Melaleuca linariifolia</i> (Snow in Summer)		7 x 5
26	<i>Plumeria acutifolia</i> (Frangipani)		7 x 5
28	<i>Feijoa</i> sp. (Pineapple) (Guava)	In accordance with Figure 9. Tree Location Plan in the Arboricultural Impact Assessment Report, written by William Dunlop – Temporal Tree Management, dated 08/02/2024	3 x 5
29	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)		9 x 8

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

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

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
	Landscape Plan		
	Arboricultural Impact Assessment Report	William Dunlop – Temporal Tree Management,	08/02/2024

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;

- Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	6
5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vaucluse	1.7
10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2
11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South eastern side boundary	2
13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
14	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
15	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
20	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear southern corner	6.5
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	Rear boundary	3.7
27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road Vaucluse	2

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

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

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

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

Council Ref No.	Species
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar)

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shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- f) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- h) The project arborist shall provide written certification of compliance with the above condition.

B.2 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
1	<i>Eucalyptus globulus</i> (Tasmanian Blue Gum)	6	Proposed driveway extension on the northern side of the existing driveway. Proposed boundary wall, stairs and soft landscaping.
5	<i>Cupressus sempervirens</i> (Italian Cypress)	1.7	Proposed soft landscaping.
10	<i>Camellia sasanqua</i> (Camellia)	2	Proposed soft landscaping. Proposed stormwater drainage.
11	<i>Acer japonicum</i> (Fullmoon Maple)	2	Proposed soft landscaping. Proposed stormwater drainage.
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	2	Proposed soft landscaping. Proposed stormwater drainage.
13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	2	Proposed soft landscaping. Proposed stormwater drainage.
14	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	2	Proposed soft landscaping. Proposed stormwater drainage.
15	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	2	Proposed soft landscaping. Proposed stormwater drainage.
20	<i>Jacaranda mimosifolia</i> (Jacaranda)	6.5	Proposed soft landscaping.

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24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	3.7	Proposed soft landscaping.
27	<i>Murraya paniculata</i> (Mock Orange)	2	Proposed soft landscaping.

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

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 and trunk protection.
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist shall ensure pier holes within the Tree Protection Zones of nominated trees listed in this consent are positioned to avoid the severance of and damage to

	<p>roots greater than 50mm diameter.</p> <ul style="list-style-type: none"> The project arborist shall supervise the demolition of the existing driveway and the excavation for the proposed driveway, ensuring no roots equal to or greater than 50mm diameter are severed. 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) Amended landscape plan. The landscape plan must be amended to show the retention of Trees 1, 10, 11, 12, 13, 14, 15, 20 and 24 in situ. The proposed swimming pavilion must be relocated no closer than 6.5 metre radius from Tree 20 and 3.7 metre radius from Tree 24. The amended landscape plan must be submitted to Council's Tree Officer for approval prior to the issue of a Construction Certificate.
- b) Amended architectural plans. To ensure the successful retention of Tree 20 and Tree 24 the proposed swimming pavilion must be relocated no closer than 6.5 metre radius from Tree 20 and 3.7 metre radius from Tree 24. The amended architectural plan must be submitted to Council's Tree Officer for approval 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	\$15,000.00	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)
15 x <i>Betula nigra</i> (River Birch)	In accordance with Landscape Plan designed by Myles Baldwin Design, drawing No.s	300 litre each	10 x 6 each
6 x <i>Cupressus sempervirens</i> (Italian Cypress)	<ul style="list-style-type: none"> 730_DA_01 issue C – dated 30/01/2023 	200 litre each	7 x 3 each
2 x <i>Ginkgo biloba</i> (Maiden-hair tree)	<ul style="list-style-type: none"> 730_DA_02 issue C – dated 30/01/2023 	Minimum 300 litre each	7 x 5 each
5 x <i>Howea forsteriana</i> (Kentia palm)	<ul style="list-style-type: none"> 730_DA_10 issue C – dated 30/01/2023 – Existing Tree Plan 	Minimum 300 litre each	7 x 3 each
7 x <i>Laurus nobilis</i> (Bay tree)	<ul style="list-style-type: none"> 730_DA_10 issue C – dated 30/01/2023 – Front Garden 	Minimum 300 litre each	4 x 4 each
2 x <i>Magnolia grandiflora</i> 'Exmouth' (Bull Bay Magnolia)	<ul style="list-style-type: none"> 730_DA_11 issue C – dated 30/01/2023 	Minimum 300 litre each	8 x 5 each
4 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	<ul style="list-style-type: none"> 730_DA_12 issue C – dated 30/01/2023 	Minimum 300 litre each	5 x 3 each
3 x <i>Phoenix reclinata</i> (Senegal Date palm)	<ul style="list-style-type: none"> 730_DA_40 issue B – dated 11/07/2023 	Minimum 300 litre each	6 x 5 each
9 x <i>Pyrus calleryana</i> 'Capital' (Ornamental Pear)	<ul style="list-style-type: none"> 730_DA_50 issue B – dated 11/07/2023 	300 litre each	7 x 3 each

The project arborist shall document compliance with the above condition.

E.3 Driveway in the vicinity of trees

Driveway works within the specified radius from the trunk of the following tree must be constructed in such a way as to ensure that no roots equal to or greater than 50mm diameter are severed. When preparing the area for the driveway 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 globulus</i> (Tasmanian Blue Gum)	Council verge	6

Driveway works are to be designed in consultation with a qualified Arborist with a minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent.

The project arborist shall document compliance with the above condition.

E.4 Level changes in the vicinity of trees

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

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vaucluse	1.7
10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2
11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South eastern side boundary	2
13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
14	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
15	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
20	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear southern corner	6.5
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	Rear boundary	3.7
27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road	2

		Vaucluse	
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The project arborist shall document compliance with the above condition.

E.5 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 globulus</i> (Tasmanian Blue Gum)	Council verge	6
5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vaucluse	1.7
10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2
11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South eastern side boundary	2
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24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	Rear boundary	3.7
27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road Vaucluse	2

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.6 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 globulus</i> (Tasmanian Blue Gum)	Council verge	6
5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vaucluse	1.7
10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2
11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South eastern side boundary	2
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20	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear southern corner	6.5
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	Rear boundary	3.7
27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road Vaucluse	2

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>Eucalyptus globulus</i> (Tasmanian Blue Gum)	Council verge	6

5	<i>Cupressus sempervirens</i> (Italian Cypress)	Front yard south eastern corner – 42 Coolong Road Vaucluse	1.7
10	<i>Camellia sasanqua</i> (Camellia)	South eastern side boundary	2
11	<i>Acer japonicum</i> (Fullmoon Maple)	South eastern side boundary	2
12	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South eastern side boundary	2
13	<i>Waterhousia floribunda</i> (Weeping Lillypilly)	South eastern side boundary	2
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20	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear southern corner	6.5
24	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)	Rear boundary	3.7
27	<i>Murraya paniculata</i> (Mock Orange)	Rear yard, south eastern corner – 42 Coolong Road Vaucluse	2

Any roots greater than 50mm 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 50mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 50mm 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.



Simone Woodman
Tree Management Officer



Woollahra
Municipal
Council

6 November 2023

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 251/2023/1

ADDRESS: 40 Coolong Road VAUCLUSE 2030

PROPOSAL: Substantial alterations and additions (essentially comprising a new dwelling); new swimming pool and pavilion structure and landscaping.

FROM: Nastaran Forouzesh - Heritage Officer

TO: Mr G Lloyd

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Domenic Alvaro, dated 12 July 2023, Revision C
- Revised Demolition Report and Heritage Impact Assessment by Zoltan Kovacs Architect, dated August 2023
- Statement of Environmental Effects by GSA Planning, dated July 2023
- Survey plan by ESA Survey, ref 4451/21, dated 25 August 2021
- Geotechnical Report by Pacific Geotech Consulting Geotechnical Engineers, dated July 2023

SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

- The site was inspected on the 16 October 2023, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- National Parks & Wildlife Act 1974
- Woollahra LEP 2014

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY

The subject site comprises land that was granted to William Charles Wentworth and later transferred to Fitzwilliam Wentworth. It was subdivided in 1912 as part of the Vaucluse Bay subdivision. The subject property comprised lot 9 of this subdivision. It has not undergone any

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further subdivisions since 1912. The development site comprises one allotment (Lot 9, DP7253). It consists of a two storey Inter-War dwelling and a garage along the southern side of Coolong Road, attached to the front of the dwelling. Constructed in the Mediterranean architectural style, the extant free standing dwelling was designed by the firm of Prevost, Synnot and Ruwald c. 1927 (refer to Figure 1 below) under BA1927/50. The extant building is constructed of rendered and painted brick masonry and covered with a hipped roof of terracotta tiles (the roofing material does not appear to be original and has been replaced) with two protruding original chimneys. The primary façade at ground floor level exhibits a series of arches, plaster motifs and inset fields at ground floor level. The main entry to the building is accessed from the front verandah, along the primary façade at ground floor level.

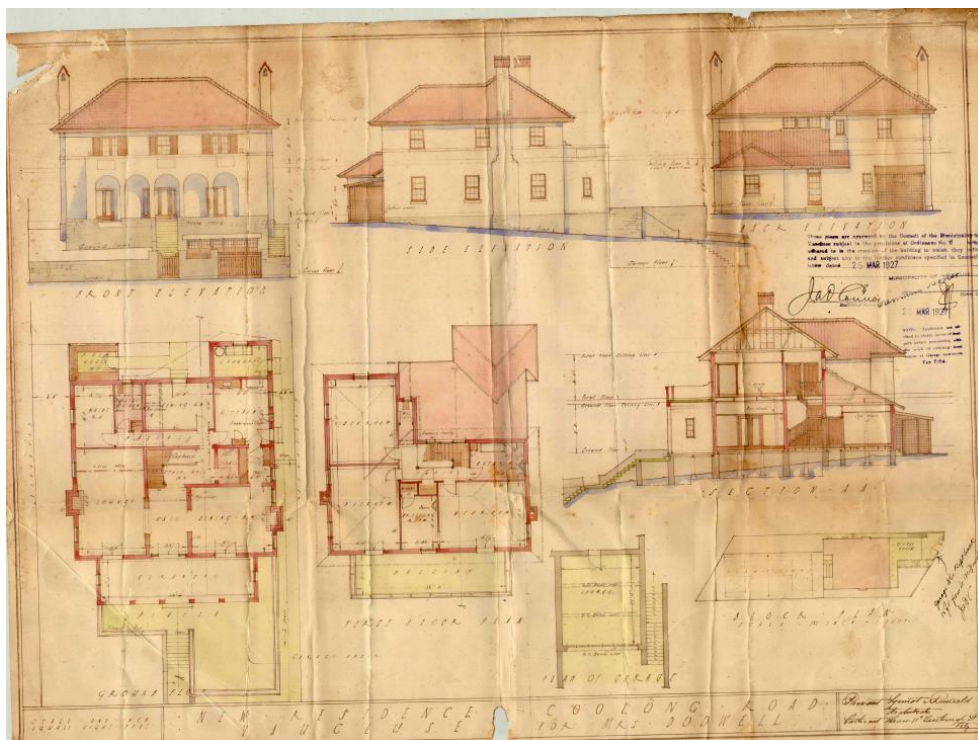


Figure 1. Original plans of the subject dwelling under BA1927/50 (Source: Woollahra Council Archives)

In 1969, the dwelling underwent modifications as part of works approved under BA1969/230. At ground floor level, these included modifications to the configuration of the rear half of the dwelling at ground floor level, and the reconfiguration or replacement of the internal staircase, while mostly retaining the living and dining rooms at the front. The works also included modifications to the original openings along the side (north-western) and rear elevations of the dwelling. At first floor level, the works included a bedroom addition to the rear with a terrace which wraps around the side elevation, altering openings along the rear elevation, as well as modifications to the original roof to the rear including the addition of a rear dormer. In 1996, the dwelling underwent further modifications under BA1996/43 including changes to the materiality of the first floor rear terrace and its balustrade, as well as internal changes at both ground and first floor levels. It is also noted that the verandah and balcony flooring at ground and first floor levels of the dwelling along the primary façade have been modified. The interiors still appear to have retained some of the original fabric including fireplaces, plastered

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ceilings, and joinery including doors and door hardware.

Prevost, Synnot & Ruwald

Prevost, Synnot and Ruwald entered a partnership in 1924 and worked on a range of projects together until the early 1930s. The partnership included Reginald Prevost, Reymond Synnot, and Cyril Christian Ruwald. While their works did include some residential work, the bulk of their projects included hotels. The Royal Oak Hotel in Double Bay is the work of Prevost, Synnot and Ruwald. The majority of their hotels were designed in the Inter-War free classical, Georgian revival, and Arts & Crafts styles. The Court House Hotel at Darlinghurst, the Meridian Hotel at Hurstville and the rebuild of the Tempe Hotel, Tempe are some of the heritage listed hotels designed by Prevost, Synnot & Ruwald. The majority of the work of the firm was for Tooths Limited, consisting of new work as well as alterations and additions to existing hospitality buildings. The firm of Prevost, Synnot & Ruwald did not appear to concentrate on a specific architectural style, especially when it came to their residential work, designing in the style that was most current or chosen by their client.

Prior to the partnership, Prevost himself concentrated mostly on residential work. However, afterwards, he worked on both residential projects as well as hotels. Prevost's residential work included a vast variety of styles, including the Inter-War Free Classical, Functionalist, Arts & Crafts, Mediterranean and Georgian Revival. One of Prevost's dwellings is currently locally listed in the Woollahra LGA, 1 Rupertswood Avenue, Bellevue Hill, known as 'Prevost House'. Prevost House was designed and constructed for Prevost's own occupation. It is designed in the Functionalist architectural style.

The Demolition Report by Zoltan Kovacs Architect includes a comparative analysis of the subject dwelling with other Mediterranean architectural style dwellings in the LGA, as well as a comparative analysis of the work of Prevost, Synnot & Ruwald. The findings of the comparative analysis state that:

The comparative analysis undertaken demonstrates the variety in architectural expressions and scale attributed to the Inter-war Mediterranean style, all featuring soft coloured rendered walls, prominently placed entrances, tiled roofs, louvred shutters and verandas or balconies oriented to the best aspect.

Examination of these examples clearly shows the following:

- ◆ *The house is one of the few residential buildings produced by the architects Prevost, Synnot & Ruwald, who concentrated on hotel work for Tooths Limited. The house is derivative and its connection to the Inter-war Mediterranean style in the context of their oeuvre is fortuitous and not significant.*
- ◆ *The subject building employs scant stylistic elements well; its use of fenestration and facade detailing fails to exploit the possibilities of the Inter-war Mediterranean style. Due to its low aesthetic value is not a good aesthetic example of the Inter-war Mediterranean style. When compared to selected examples, the subject building reads as very ordinary and derivative, executed with a low level of skill, **therefore it does not satisfy Criterion C***
- ◆ *excellent examples of the Inter-war Mediterranean are not rare in the context of the municipality, where better and larger examples than the subject place abound, especially through the work of Prof. Leslie Wilkinson **therefore it does not satisfy Criterion F***
- ◆ *the subject building employs only superficial elements of Inter-war Mediterranean style and these are not used with confidence. The subject house does not compare well with the selected examples. Its ordinary interior has been altered and does not exhibit outstanding Inter-war Mediterranean values or features. The building is not*

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representative, therefore it does not satisfy Criterion G.

The findings and the conclusions of the comparative analysis are generally concurred with. The existing building at 40 Coolong Road appears to be in a fair condition. The external fabric of the building appears to be relatively intact with alterations and additions along the rear and side elevations, and to the roof. Further research was conducted by the Heritage Officer including comparing the existing dwelling with listed and unlisted Mediterranean style dwellings in the LGA as well as comparing the dwelling with the works of the firm of Prevost, Synnot & Ruwald, as well as the works of Prevost himself. It is found that while the building does exhibit elements of the Mediterranean architectural style, the design itself is scaled back compared to other Mediterranean dwellings in the LGA including but not limited to: 49 Village High Road, Vaucluse, 24 Wentworth Road, Vaucluse, 7 Boambillee Avenue, Vaucluse, and 14 Ginahgulla Road, Bellevue Hill. The dwelling does not demonstrate a comparable level of architectural sophistication or detailing compared to both non-heritage listed buildings and heritage listed buildings in the Woollahra LGA of the same architectural style and period as well as by the same architectural firm. The existing building is not a fine example of the Mediterranean architectural style or of the work of the firm of Prevost, Synnot & Ruwald. As a result, the building is not rare in Vaucluse or the Woollahra LGA.

The following assessment of significance for the subject property has been sourced from the Demolition Report and Heritage Impact Assessment prepared by Zoltan Kovacs Architect:

A HISTORICAL SIGNIFICANCE

The land, on which the house now stands, formed part of a grant to William Charles Wentworth, the explorer and politician, on 5 July 1838. The unimproved grant remained in his family's possession for most of the 19th Century, until 1898 when the estate including the subject land was transferred to Fitzwilliam Wentworth, second son of William Charles Wentworth at his father's bequest. Fitzwilliam Wentworth's holdings were sub-divided in 1903 and offered for sale from July of that year onwards. The original allotment was included in a later - 1912 - release, but the existing allotment is an original subdivision and reflects the historic pattern, but not at a historically significant level.

The item on the land was built as a two storey Inter-war Mediterranean style house in 1927 designed by Prevost, Synnot & Ruwald. Since its construction the house was always owner occupied. Its interior was extensively altered. Due to extensive alterations and additions which are derivative and of questionable architectural quality, the house does not exhibit Inter-war Mediterranean values at a high level and it is unable to provide a historical dimension where it could be significant in the cultural history of the local area.

40 Coolong Road fails to meet the above criterion, as it is not a significant example in the pattern of the cultural history of the local area.

B ASSOCIATIVE SIGNIFICANCE

No relevant entries for owners or occupants of the property have been found in the Australian Dictionary of Biography, ANU, 2006, www.adb.online.anu.edu.au/adbonline.htm or A Biographical Register 1788-1939 ed. H.J. Gibbney and Ann Smith, 1987, Canberra, ADB.

40 Coolong Road fails to meet this criterion, as it is not directly associated with historically important persons in NSW.

C AESTHETIC SIGNIFICANCE

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The original designer for the house at 40 Coolong Road was Prevost, Synnot & Ruwald, a temporary association of three lesser known architects (Reginald Prevost usually worked for Tooths Limited), and the house exhibits modest architectural quality. Later extensive later alterations by John Loudon have further diminished its aesthetic value.

Extensive interventions have resulted in the house losing much of its Interwar Mediterranean character and it does not represent a high level of aesthetic achievement.

40 Coolong Road fails to meet the above criterion at the local level, as it lacks aesthetic value in the local context.

D SOCIAL SIGNIFICANCE

The item is an ordinary residence in a typical suburban setting without associations to particular community groups or cultural groups.

40 Coolong Road fails to satisfy this criterion at the local level.

E RESEARCH POTENTIAL

40 Coolong Road has no potential for yielding archaeological information relating to the development of the area, as it appears to be the first building constructed on the site and research will not benefit from the study of its ordinary fabric.

40 Coolong Road fails to meet the above criterion.

F RARITY

40 Coolong Road is an ordinary residential building built during the Inter-war period in the Inter-war Mediterranean style which was a popular style. More important Inter-war Mediterranean houses in superior condition are still not rare in the Eastern Suburbs.

40 Coolong Road fails to meet the above criterion at the local level as it is not a rare example of its kind.

G REPRESENTATIVE

The building does not demonstrate a significant historic activity for the Inter-war period, because it is an ordinary building. It was built as a typical residence but due to extensive internal intrusions it does not reflect social mores or activities of the period it was constructed in.

40 Coolong Road fails to satisfy the above criterion at the local level as the item lacks the ability to demonstrate the principal characteristics of the local area.

In a comprehensive review of the cultural values of the item it was found that it fails to meet the benchmark for cultural significance where its listing as a heritage item would be warranted.

The following Statement of Significance has also been sourced from the Demolition Report and Heritage Impact Assessment prepared by Zoltan Kovacs Architect:

The land was originally part of Thomas Laycock's land grant of 1793 and later formed part of

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William Charles Wentworth's estate, which was gradually broken up from 1870. The surviving allotment is part of a 1912 historic subdivision.

The two storey brick and tile house was built in 1927 and executed in the Inter-war Mediterranean style. It is not associated with significant individuals. As a derivative house with low aesthetic value it lacks significant cultural value in the local context.

The findings of this significance assessment and statement of significance are also generally concurred with.

National Parks and Wildlife Act 1974

The site is in an area of No Aboriginal Heritage Sensitivity under the Woollahra Aboriginal Heritage Study. The site does not contain landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010. Therefore, an Aboriginal Heritage Impact Assessment was not requested as part of the DA.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 18 August 2023 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 2 recorded Aboriginal sites recorded within a 200m buffer in or near the above location.

According to the Geotechnical Report by Pacific Geotech, dated July 2023, the subsurface profile of the subject site consists of:

The subsurface profile encountered in the boreholes typically consisted of silty clay and clayey sand fill material to depths between 0.35m and 0.6m, overlying weathered sandstone extending to the termination of testing.

The fill in BH01 only was underlain by a very stiff, natural sandy clay to a depth of 0.7m where a dense to very dense clayey sand was encountered. Weathered sandstone was encountered at a depth of 1.3m and extended to the borehole termination depth.

During recent demolition/construction works at the neighbouring property at 42 Coolong Road, Vaucluse, a new Aboriginal site was found underneath the dwelling. This property was in an area of Potential Aboriginal Heritage Sensitivity and as a result required the submission of an Aboriginal Heritage Impact Assessment (AHIA). The AHIA was prepared by Oliver Brown of Associates Archaeology and Heritage. The report indicated that a lost Aboriginal site may be located on the property located at 42 Coolong Road, or any of the surrounding properties including 40 Coolong Road. The AHIA's recommendations stated that:

Based on the one key Aboriginal cultural heritage issue for the property that needs to be dealt with, which is the remaining potential that the missing site #45-6-0704 may be buried beneath landscape fill, concealed under the house or destroyed, it is recommended that:

- *A La Perouse Local Aboriginal Land Council Heritage Officer (and/or a trained archaeologist at their discretion and pending their availability) inspect the property during (rather than after) demolition at stages when exposed sandstone can be revealed. This is in hope of relocating the missing site. This should include collaborative involvement in the work rather than just observation:*

- o *When removing the floors, which would need to be done prior to other major demolition of the*

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walls, ceilings and roof – because the amount of rubble would likely preclude a reasonable opportunity to examine bare rock surfaces (and may locate a harmed site and a NPW Act offence). Monitoring should be more than simple observation of the demolition but a cooperative stage of work with direct involvement of LPLALC / archaeologist to ensure all reasonable opportunities to inspect sandstone are afforded and potential for harm averted.

o During excavation of soil down to sandstone of the front terraces in the garden (and nature strip if it is involved). Monitoring would be seeking to differentiate historical fill over sandstone exposed c.100 years ago that may contain the engraving from natural profiles of soil onto bedrock (indicated by clayey subsoils) in order to only focus any uncovering by hand on the former.

o If, during or as a result of this work, a changed understanding of the likely former distribution of exposed sandstone develops, other monitoring opportunities may be sought and should be provided if reasonable.

If the engraving site is found, it should be securely excluded from the work area (temporary fencing) with a buffer decided in consultation with monitors. Further Aboriginal cultural heritage management advice would be required.

If the engraving site is not found and monitors are satisfied that there is no further reasonable chance of finding it on the property, it could only then be taken that:

- 'Harm' to 'Aboriginal objects' (as defined in the NPW Act) would be considered unlikely to occur as a result of continuing the proposed work;
- No further Aboriginal cultural heritage investigation would be required;
- Council should then be advised to update the Aboriginal Heritage Sensitivity map for all of the area investigated that it is not sensitive.
- This report should be retained for five years and may be re-used for future proposals as long as it is updated with a new AHIMS search and an invitation to LPLALC to affirm their comments.
- A copy of this report should be forwarded to LPLALC (Admin@laperouse.org.au);
- A copy of this report should be submitted to AHIMS (ahims@environment.nsw.gov.au)
- In the event that any unanticipated Aboriginal cultural heritage sites are revealed during work, or any bones that may be human, work should stop immediately. An archaeologist and LPLALC Sites Officer should inspect the find. Contractors on site should be informed of this requirement. Initial unanticipated harm would be considered to have been done 'unknowingly' and may be subject to a due diligence defence; however, any harm after failing to stop work would be a 'knowing offence' and subject to prosecution and harsh penalties.

Although the Woollahra Aboriginal Heritage Sensitivity Map indicates that the site is located in an area of no Aboriginal Sensitivity, given the recent findings at no. 42 underneath the floor level of the previous built form, and the continuous geological formation that extends into the site from 42 Coolong Road, it is also possible that engravings in sandstone are located underneath the subject building at 40 Coolong Road as well. The Heritage Officer has had discussions with Oliver Brown regarding the matter above. Instead of requesting an AHIA, in light of the findings at the adjacent property, the same recommendations and conditions of consent were included in the Notice of Determination for DA2021/487/1 are to be included in any consent for the subject DA if the DA is recommended for approval. This is to ensure the protection of any potential Aboriginal Heritage. Conditions of consent relating to the recommendations above will be included below.

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Woollahra LEP 2014

Clause 5.10 Heritage Conservation

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area.

Significance of items in the vicinity

The following listed heritage item is located in proximity of the site:

- 'House and interiors, gardens, landscaped front fencing, gateposts, gates' at 25 Coolong Road, Vaucluse (Item no. 344)

Due to the localised nature of the works, there would be no adverse impact on the setting, fabric and views of the heritage item in the vicinity.

Clause 1.2 Aims of Plan

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

Assessment of potential heritage significance against the NSW Heritage Criteria

The *NSW Heritage Manual* provides seven heritage criteria to assess the significance of an item. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed.

Criteria A – Historical significance

40 Coolong Road, Vaucluse, was originally part of William Charles Wentworth's land which was eventually transferred to Fitzwilliam Wentworth. The subject site and the surrounding area was subdivided in 1912 as part of the Vaucluse Bay subdivision. The current allotment has not gone under any further subdivisions since 1912.

Built c.1927, the original dwelling was constructed as a two storey Mediterranean style dwelling. The property has undergone alterations and additions, mainly confined to the side and rear elevations, and to the roof. While the subject property demonstrates the development of the Vaucluse area in the Inter-War era, the site is not considered to be an exemplary example of this development and its context has been diminished by the substantial alteration of surrounding comparable development.

40 Coolong Road, Vaucluse would not meet the local or state thresholds for significance under this criterion.

Criteria B – Associative significance

The subject property does not appear to retain any significant associations with any owners or occupants of significance. Although the building was designed by a well-known architectural firm, it is not a notable example of the portfolio of Prevost, Synnot and Ruwald, as evident through the comparative analysis submitted with the DA and through further research undertaken by the Heritage Officer, including investigating listed and unlisted properties designed by the firm. These

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other buildings demonstrate fine examples designed by Prevost, Synnot and Ruwald, which reflect key architectural styles including the Inter-War Free Classical, Georgian revival, and Arts & Crafts styles.

Therefore, 40 Coolong Road, Vacluse does not meet the local or state thresholds for significance under this criterion.

Criteria C – Aesthetic/technical significance

40 Coolong Road, Vacluse was designed by architectural firm Prevost, Synnot & Ruwald. The existing building is an Inter War house designed in the Mediterranean architectural style. As discussed above, the external fabric of the building appears to be relatively intact with alterations and additions along the rear and side elevations, and to the roof. While the building does exhibit elements of the Mediterranean architectural style, the design itself is scaled back compared to other Mediterranean dwellings in the LGA. The dwelling does not demonstrate a comparable level of architectural sophistication or detailing compared to both non-heritage listed buildings and heritage listed buildings in the Woollahra LGA of the same architectural style and period. Although the building was designed by a well-known architectural firm, it is not a notable example of the portfolio of Prevost, Synnot and Ruwald nor is it a notable example of a particular style, as evident through the comparative analysis submitted with the DA and through further research undertaken by the Heritage Officer. These other buildings demonstrate fine examples designed by the firm which reflect key architectural styles. The dwelling therefore does not demonstrate a highly original or influential style of the work of the firm.

As a result, the building would not meet the threshold for local significance under this criterion. The dwelling is not considered to be aesthetically distinctive and does not demonstrate significant aesthetic or technical achievement.

Criteria D – Social significance

While social significance has not been formally assessed, the existing building on the subject property is considered to represent an ordinary Inter-War era dwelling originally constructed in the Mediterranean architectural style. The site does not appear to maintain a strong or special association with a particular community or cultural group in the local area.

Criteria E – Research potential

The existing building on the subject property is not an important benchmark or reference site. The dwelling is one of many examples of Inter-War/Mediterranean style dwellings constructed in the LGA. It is not considered that the existing building on the subject property utilised any remarkable construction techniques that would yield any further information that would contribute to an understanding of historic practices. The dwelling is the first known structure on the site, therefore it is considered the site has little archaeological potential.

40 Coolong Road, Vacluse would not meet the threshold for local or State significance under this criterion.

Criteria F – Rarity

The existing building is an Inter-War era, Mediterranean style dwelling which has undergone some alterations and additions. As discussed above, while the buildings does exhibit aspects of the Mediterranean style, it is not a rare building typology within the Municipality. There are other finer examples of this style within the area and wider LGA as is evident by further research conducted by the Heritage Officer including comparing the existing dwelling with listed and unlisted Mediterranean buildings in the LGA as well as the comparison of the building with the listed and unlisted works of the architectural firm of Prevost, Synnot & Ruwald.

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40 Coolong Road, Vacluse would not meet the threshold for local or State significance under this criterion.

Criteria G – Representative

The building is not considered to be a fine example of its type. While the existing building on the site is representative of the type of development that occurred in the locality in the Inter-War era, it is noted that much of the surrounding comparable development along Coolong Road has been substantially altered. As such, the building is not considered to form part of an important class or group of items that collectively illustrates a representative group. In addition, the building is not considered to be a fine example of its type. The building is not exceptionally distinctive and does not represent a significant variation of its class. It is also not representative of the works of Prevost, Synnot & Ruwald. As discussed above, the architects focused more on designing hotels, and their residential work did not follow a specific style and was based on the client's requests.

40 Coolong Road, Vacluse would not meet the threshold for local or State significance under this criterion.

Assessment of proposed works

As discussed above, the extant structure on the subject property comprises a double storey masonry dwelling originally constructed c.1927, which is located on Wentworth's land. While the dwelling provides evidence of the historical development patterns of the area and makes a modest contribution to the streetscape, it is not considered to be a fine example of its type, and has no features that would make the building potentially significant or rare. In addition, although it was originally designed by the firm of Prevost, Synnot & Ruwald, it is not representative of the works of the architectural firm. There are also finer examples of the building typology within the Municipality. The subject property is not heritage listed and is not located within a heritage conservation area. The dwelling at No. 40 Coolong Road is not considered to meet the threshold for listing as a local heritage item. Accordingly, the property is not considered a potential heritage item and therefore no objection is raised to the proposed alterations and additions to the existing building.

The Demolition Report meets the standard requirement for the recording of buildings of little significance.

As the building retains some original features which will be removed as part of the proposed alterations and additions, appropriate salvage conditions will be provided below.

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 subject to conditions of consent.

Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra subject to conditions of consent.
- Clause 1(b) The impact upon the heritage significance of the heritage items in the vicinity will be neutral subject to conditions of consent.

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- Clause 4 This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions:

Standard conditions

1. 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)

2. Aboriginal Objects – Unexpected Findings

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

- Not further disturb or move these objects or bones.
- Immediately cease all work at the particular location.
- In the case of suspected human remains, notify NSW Police.
- Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- 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)

3. Aboriginal Heritage Induction

- All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the *National Parks and Wildlife Act 1974*;
- An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council or by a heritage consultant with Aboriginal heritage expertise, if a representative of the Local Land Council is not able to provide the induction), to explain

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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)

Special conditions

1. Archaeological Monitoring

A La Perouse Local Aboriginal Land Council Heritage Officer (and/or a trained archaeologist at their discretion) is to be present to inspect the property during the demolition at stages when exposed sandstone can be revealed (such as when removing existing flooring and excavation of soil down to sandstone). This is to determine if any rock engravings could be located below ground level and underneath the dwelling. Based on this inspection, a determination will be made as to whether further archaeological monitoring is required, or whether excavation can continue under the recommended 'unexpected finds' protocol.

During excavation of soil down to sandstone, monitoring would be seeking to differentiate historical fill over sandstone exposed c.100 years ago that may contain the engraving from natural profiles of soil onto bedrock (indicated by clayey subsoils) in order to only focus any uncovering by hand on the former.

Note: Hand demolition is to be used in the first stage, to ensure that any potential rock engravings are not damaged.

2. Archival Recording

Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer.

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- c) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature,
 - internal images of each room and significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

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.

One digital set is to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

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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/info photographic recording2006.pdf

Standard Condition: B3 (Autotext BB3)

3. Salvage

Brick masonry, sandstone, roof tiles, timber joinery, internal decorative plaster ceilings, cornices, joinery, fireplaces, and any original decorative architectural elements to be demolished must be catalogued, labelled, salvaged and where practical reused on the project or transferred to an established second building material dealer for recycling. Documentation of the salvage methodology must be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of demolition.

Nastaran Forouzesh - Heritage Officer

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D4
FILE No.	DA452/2023/1
ADDRESS	19 Sutherland Avenue PADDINGTON
COUNCIL WARD	Paddington
SITE AREA	114.6m ²
ZONING	R2 Low Density Residential
PROPOSAL	Demolition of the existing single storey (with attic) weatherboard cottage (common wall with No 17 Sutherland Avenue retained) and the construction of a new three storey dwelling with a basement level, concealed car lift, plunge pool and landscaping
TYPE OF CONSENT	Local development
COST OF WORKS	\$924,595.00
DATE LODGED	05/12/2023
APPLICANT	Simon Rosewell Pty Ltd
OWNER	Mr A E Rosewell & Ms C Sein
AUTHOR	Mr V Aleidzans
TEAM LEADER	Mr G Fotis
SUBMISSIONS	Twenty-four (24)
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:

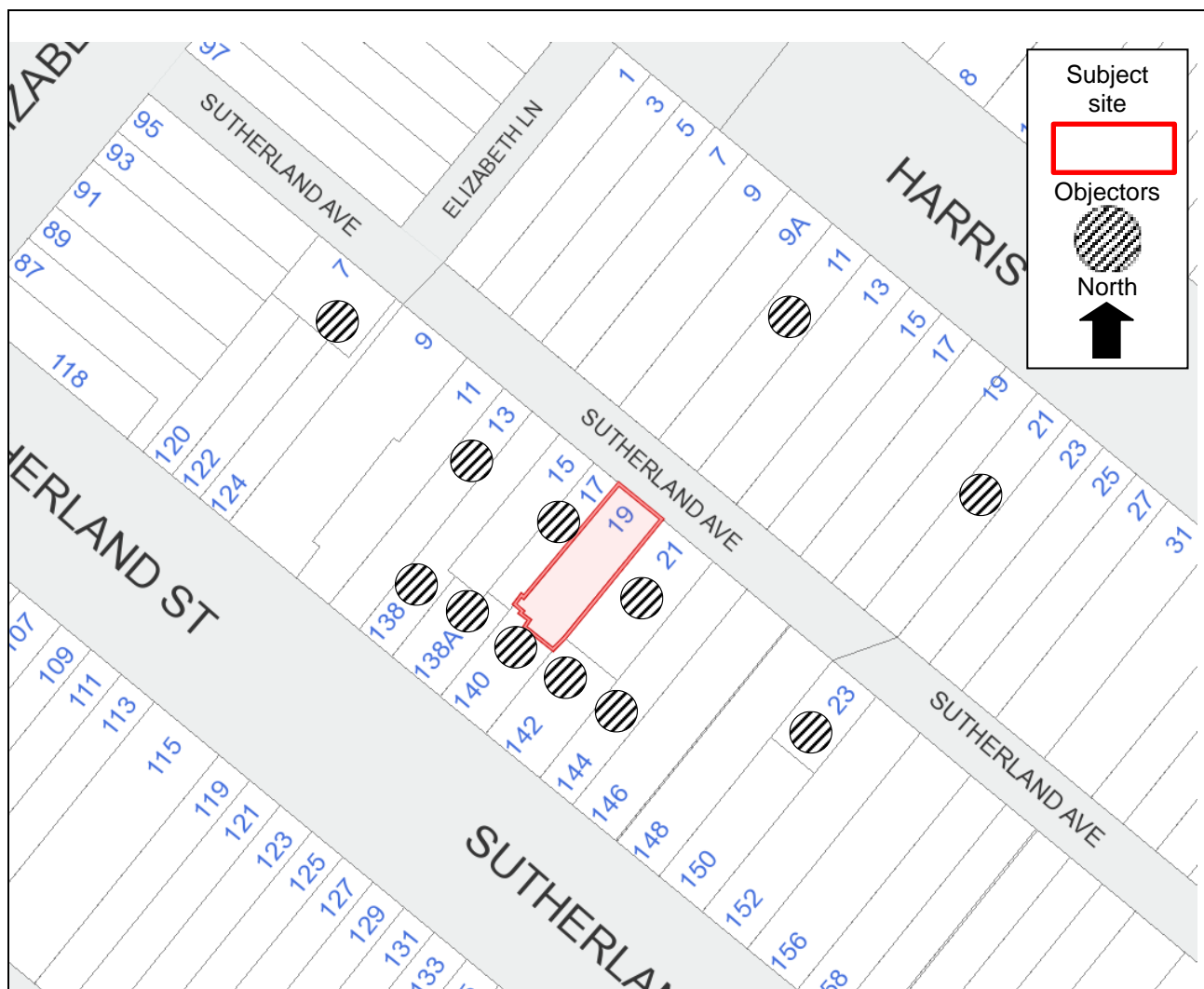
- Contentious development
Development that:
(a) is the subject of 10 or more unique submissions by way of objection

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 proposal is not in the public interest.

3. 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. For a complete list of objectors refer to Section 9 of this assessment report.

4. PROPOSAL

The proposal involves the demolition of the existing single storey (with attic) weatherboard cottage (common wall with No 17 Sutherland Avenue retained) and the construction of a new three storey dwelling with a basement level, concealed car lift, plunge pool and landscaping.

The replacement dwelling will provide for:

Basement Floor

- Single car garage accessed via car lift;
- Pool plant and store area;
- Water tanks and recycling management area;
- Hydronic heating plant;
- Cold store;
- Bike storage area;
- Bin area; and
- House battery store along with electric car and bike charging station.

Ground Floor

- Entry porch;
- Open planned living, dining and kitchen area;
- Sitting area;
- WC;
- Internal access stairs;
- Plunge pool;
- Courtyard over car lift;
- BBQ area; and
- Landscaping and hard paved areas throughout.

First Floor

- 3 x bedrooms each with robe spaces. The master bedroom will provide for an ensuite;
- Bathroom;
- Laundry;
- Internal access stairs; and
- Planter adjoining bedroom 3 and street facing balcony adjoining bedroom 2.

Second Floor

- Study with adjoining street facing balcony;
- Bathroom;
- Retreat area;
- Internal access stairs; and
- Front and rear facing balcony adjoining retreat area.

Roof

- Solar panels;
- Skylights; and
- Roof plantings.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

None.

5.2 Primary Issues

Refer to the reasons for refusal.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site is located on the southern side of Sutherland Avenue and is an irregularly shaped allotment with a splayed side and rear boundary. The site is legally described as Lot A in Deposited Plan 32903. The site's single frontage to Sutherland Avenue equals a length of 6.27m with the eastern side boundary length measuring 18.825m. The total western boundary length measures 18.015m and total rear boundary length equals 7.795m. Overall, the site area equals 114.6m ² .
Topography
The subject site experiences a slight fall from the rear of the property toward Sutherland Avenue. This is reflective of the surrounding topography whereby Sutherland Street is sited higher than Sutherland Avenue below.

Existing buildings and structures

At present the site is occupied by a single storey (with attic) weatherboard cottage. There is also an extension to the rear of the cottage which occupies the rear portion of the site. Hard paved and soft landscaped areas are located throughout.

Surrounding Environment

The immediate locality is typically defined by low density residential development with Sutherland Avenue comprising one and two storey houses from the late Victorian period along with some later infill developments.

Immediately adjoining the subject site to the east at No. 21 Sutherland Avenue is a two storey weatherboard dwelling with the adjoining site to the west at No. 17 Sutherland Avenue comprising the other cottage dwelling in the pair.

To the rear of the site are typically three storey facades for the dwellings which address Sutherland Street to the south. These are generally more contemporary in their character.



Image 1: Aerial view of the subject site



Image 2: Subject site



Image 3: No. 17 Sutherland Avenue, Paddington



Image 4: Nos. 19 and 17 Sutherland Avenue, Paddington viewed as a pair



Image 5: No. 15 Sutherland Avenue, Paddington



Image 6: No. 21 Sutherland Avenue, Paddington

7. RELEVANT PROPERTY HISTORY

Current use
Semi-detached dwelling house
Relevant Application History
N/A
Relevant Compliance History
N/A
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
A Stop the Clock Letter dated 20 December 2023 was issued which requested additional information pertaining to the following: <ul style="list-style-type: none">- Vehicle accommodation and access;- Site Drainage;- Geotechnical and Hydrogeological Investigation and report; and- Details of proposed construction methodology involving excavation and structural report/owners consent from adjoining properties.
The requested information was submitted on 15 and 16 February 2024.
Land and Environment Court Appeal(s)
N/A

8. REFERRALS

Referral	Summary of Referral Response	Attachments
Development Engineering	Unsatisfactory.	2
Trees and Landscaping	Satisfactory, subject to conditions if approval were being recommended.	3
Heritage	Unsatisfactory.	4

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 17/01/2024 to 01/02/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. David Wallis – 138A Sutherland Street, Paddington (2 x objections)
2. Christopher Morris – 17 Sutherland Avenue, Paddington
3. Steve Ausling and Sophia Gordon – 140 Sutherland Street, Paddington (3 x objections)
4. Jane Eaton and Tim Charlesworth – 142 Sutherland Street, Paddington (2 x submissions)
5. Jenny Calkin and Geoff Mort – 21 Sutherland Street, Paddington (2 x objections one of which also included a letter from Phillip McDonald on behalf of this property).
6. Melissa Hamilton – 138A Sutherland Street, Paddington
7. Susan Knights – 13 Sutherland Street, Paddington
8. Melinda Koutchavlis – 23 Sutherland Avenue, Paddington
9. Gayle Burchell & Christopher Greenwood – 144 Sutherland Street, Paddington
10. Louise Sawyer – 7 Sutherland Avenue Paddington
11. Robina Osborne – 89 Elizabeth Street, Paddington
12. Sally King – Elizabeth Street, Paddington
13. Genevive Hewson – 112 Sutherland Street, Paddington
14. Sandra Eaton – 21 Harris Street, Paddington
15. Group Letter from - 138A Sutherland Street Paddington, 142 Sutherland Street Paddington, 17 Sutherland Avenue Paddington, 140 Sutherland Street Paddington, 144 Sutherland Street Paddington, 23 Sutherland Avenue Paddington, 21 Sutherland Avenue Paddington and 138 Sutherland Street Paddington
16. Taras Mencinsky – Resident
17. Andrew and Kate Roberts – 11 Harris Street, Paddington
18. Adrian Murray – 138 Sutherland Street, Paddington
19. The Paddington Society

The submissions raised the following issues:

Issue	Conclusion	Section
Notification period is insufficient.	The application was advertised and notified from 17/01/2024 to 01/02/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.	9
Bulk, scale and form.	The proposed bulk, scale and form of the proposed infill dwelling is considered inappropriate for the subject site and context and is not supported in this case.	14.1
View loss including the impediment of sightlines toward surrounding houses along with impacts from landscaping.	The proposed replacement dwelling will have acceptable view sharing relationships having regard to the planning principle established by Tenacity Consulting v Warringah (2004) NSWLEC 140. However, concern is raised with regard to the proposed landscaping which is deemed to have unreasonable view sharing impacts upon private properties.	14.1
Blocking of airflow and natural ventilation including ocean breeze.	Whilst the proposal will have unacceptable amenity impacts, there are no unreasonable impacts deemed to arise with regards to airflow, natural ventilation and potential ocean breeze.	N/A
Inconsistent with the character of the streetscape and area.	With respect to the proposed demolition and infill dwelling, the proposal will have an unacceptable response to the character of the streetscape and locality.	13.5 and 14.1
Proposed walls could develop cracks and long term viability of the works is questioned.	It is considered that any construction works would need to be carried out in accordance with Australian Standards and Building Code of Australia.	N/A
Overshadowing and solar access. Inaccurate shadow diagrams.	The overshadowing impacts are not supported in their entirety. It is considered that the submitted shadow diagrams do not accurately assess the impacts for all surrounding properties. Furthermore, no elevation shadow diagrams were submitted. Given the orientation of properties along Harris Street being to the north of the subject site, the proposal is not considered to have any unreasonable impacts in this regard.	14.1
Impacts to quality of life and mental health.	The proposal will have unreasonable amenity impacts upon surrounding properties as is reflected in the reasons for refusal. The issue of mental health is not considered to be a valid planning consideration under Part 4.15 of the Environmental Planning and Assessment Act 1979 and is outside the scope of this development assessment.	23
Incompatible materials and finishes.	The proposed materials and finishes are generally acceptable, however, the proposed infill dwelling comprises excessive glazing to the front facade which is not supported.	14.1
Undesirable precedent.	The proposal is unsupported for the reasons detailed in Section 23 of this assessment report.	23
The proposal does not align with wider environmental conservation, goals and policies.	The proposal is considered acceptable having regard to the general environmental goals and policies within the scope of this planning assessment. It is acknowledged that the replacement dwelling would provide for acceptable sustainability measures which is supported having regard to Chapter E6 of the Woollahra DCP 2015.	14.6
Privacy impacts.	The proposal will have unsupportable privacy impacts upon surrounding properties.	14.1
Impacts on car parking availability, increased parking demand, queuing from the site, swept paths and general	The proposed vehicle access arrangement is considered unacceptable as detailed in the reasons for refusal.	Section 23 and Attachment 2

Issue	Conclusion	Section
compliance with the Australian Standards.		
Impacts on structural integrity of surrounding dwellings including potential water egress. Dilapidation report are required.	The submitted geotechnical information is considered insufficient as reflected in the reasons for refusal.	Attachment 2
The proposal is not in the public interest.	For the reasons outlined in the recommendation, the proposal is not in keeping with the public interest.	23
Request for site visits and meetings with objectors.	Where relevant, site visits were undertaken to objecting properties.	N/A
Demolition of the existing dwelling.	The demolition of the existing dwelling is not supported.	13.5 and 14.1
The proposal would compromise the significance of surrounding development along with their aesthetics.	The proposed demolition and infill dwelling will result in an inappropriate response to the streetscape and the Paddington Heritage Conservation area.	13.5 and 14.1
Proposed excavation does not comply with the Council's controls.	The submitted geotechnical information is considered insufficient as reflected in the reasons for refusal.	14.1
Protective measures should be imposed to prevent damage from the proposed works.	It is considered that dilapidation reports would be required for select properties if approval were being recommended.	N/A
The proposal would remove access for maintenances to surrounding properties.	The proposal is likely to reduce access for maintenance for surrounding properties.	14.1
The documents incorrectly name the location for Sutherland Street and Sutherland Avenue.	This inconsistency has not reduced the ability to undertake a proper assessment of the application against the relevant considerations Section 4.15 of the Environmental Planning and Assessment Act 1979.	Throughout this report
The proposed building is non-compliant with the permitted height of buildings development standard.	The proposed infill dwelling would achieve compliance with the maximum prescribed building height per clause 4.3 of the Woollahra LEP 2014.	13.3
Lack of setbacks and sense of enclosure.	The proposed infill dwelling will create unreasonable sense of enclosure impacts upon proximate dwellings.	14.1
Construction impacts upon local infrastructure along with local road network and blocking of driveways.	It is considered that such matters would be addressed by conditions of consent of approval were being recommended.	N/A
The proposal does not comply with the relevant considerations of the Woollahra LEP 2014 and Woollahra DCP 2015.	As reflected in the reasons for refusal the proposal does not achieve compliance with all of the relevant considerations of the Woollahra LEP 2014 and DCP 2015.	13 and 14
Construction impacts.	It is considered that such matters would be addressed by conditions of consent of approval were being recommended.	N/A
The social and economic impacts are not acceptable and	The proposed land use is not considered one where a social impact assessment or economic assessment are required. The use of the site for low density residential accommodation would	N/A

Issue	Conclusion	Section
further analysis should be undertaken.	be continued by the proposal which reflects the dominant land use in the immediate locality. It is not considered that further analysis in this regard is required.	
Impacts of glare from additional windows and solar panels.	The amount of glazing is not considered unreasonable for a dwelling in a residential context. However, the solid to void ratios of the front building façade are not supported in this case from a heritage perspective. The solar panels do not include mirrors or lenses noting this could also be reinforced by conditions of consent if approval were being recommended. Unreasonable glare impacts are not considered to arise.	14.1 and 14.6
Issue of dampness and mould due to reduced sunlight.	The overshadowing impacts are not supported in their entirety. It is considered that the submitted shadow diagrams do not accurately assess the impacts for all surrounding properties. Furthermore, no elevation shadow diagrams were submitted.	14.1
Excavation causing subsidence and impacts on local infrastructure.	The submitted geotechnical information is considered insufficient as reflected in the reasons for refusal.	Attachment 2 and Section 23
Battery installation at the basement level.	It is considered that battery installation would need to be completed in accordance with any relevant Australian Standards.	N/A
Stormwater and groundwater impacts.	The proposed stormwater and groundwater impacts are considered unacceptable.	Attachment 2 and Section 23
Light spill from openings including skylights and voids.	The extent of window openings and skylights are not considered to generate any unreasonably adverse light spill impacts beyond what would be reasonably anticipated for a residential dwelling in the R2 Low Density Residential zone. No issue is raised in this regard.	N/A
Clarification is required as to the nature and impacts of the solar convection chimney.	This is considered to be a passive heating, cooling and ventilation design element.	N/A
Noise pollution from entertaining spaces and from the proposed materials causing increased noise reverberation.	The proximity of balcony areas to surrounding properties along with location of swimming pool is considered to generate increased acoustic impacts upon surrounding properties. The materiality is not considered to cause any unreasonably adverse impacts in this regard.	14.1
Circulation of cigarette smoke from adjoining properties.	It is unreasonable for this assessment to assume that future occupiers would create cigarette smoke and is considered to be outside the scope of this assessment. This is deemed to be a civil matter.	N/A
Location of hot water system is unclear.	It is considered that any hot water systems would be provided at the basement level where there are dedicated spaces for plant and service areas. No other systems have been shown elsewhere on the submitted architectural plans.	N/A
Nosie impacts associated with mechanical plant.	It is considered that such matters would be addressed by conditions of consent if approval were being recommended.	N/A
Devaluation of property values.	The impact of the proposed development on property values is not a relevant consideration under S4.15 of the Act, which requires consideration of economic impacts in the locality. It is the long standing position of the Land and Environment Court that the loss of property values to individual owners is not a relevant planning consideration (<i>Alphatex Australia v the Hills Shire Council</i>) [2009].	N/A

Issue	Conclusion	Section
Incorrect statements made in the submitted Building Investigation and Demolition Report.	The submitted geotechnical information is considered insufficient as reflected in the reasons for refusal. The proposed demolition is not supported from a heritage perspective.	Section 23 and Attachment 2
Proper asbestos safety measures should be implemented.	It is considered that such matters would be addressed by conditions of consent of approval were being recommended.	N/A
Stained glass window of neighbouring property should be protected during works.	It is considered that dilapidation reports would be required for select properties which would be enforced by conditions of consent if approval were being recommended.	N/A

9.2 Statutory Declaration

The applicant has not completed the statutory declaration declaring that the site notice for DA452/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019. This forms the reasons for refusal.

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

10.1 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 would not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the planning instrument. This would have been reinforced by conditions of consent if approval were being recommended.

10.2 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.

11. 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.

11.1 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 a BASIX Certificate demonstrating compliance with the SEPP. These requirements would have been imposed by standard conditions if approval were being recommended.

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

12.1 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 which would have been included if approval were being recommended. The proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

12.2 Chapter 6 Water Catchments – Part 6.3 Foreshores and Waterways Area

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 which would have been reinforced by conditions if approval were being recommended.

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

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

The proposal is unsatisfactory in terms of the aims in Part 1.2(2) of the Woollahra LEP 2014 for the following reasons:

- The proposal fails to achieve aim (a) as it would not ensure that growth occurs in a planned and coordinated way.
- The proposal fails achieve aim (f) as it would not conserve or enhance the built heritage of Woollahra.
- The proposal fails to achieve aim (g) as it does not protect and enhance amenity of surrounding development.
- The proposal fails to archive (h) as it does not minimise and manage stormwater and flooding impacts.
- The proposal fails to achieve aim (j) as it does not constitute a high standard of design within the private domain.
- The proposal fails to achieve aim (k) as it does not minimise and manage traffic and parking impacts.
- The proposal fails to achieve aim (l) as the development is inconsistent with the desired future character of the area.
- The proposal fails to achieve aim (m) as it does not minimise excavation and manage impacts, including the potential impact of construction dewatering

13.2 Land Use Table

The proposal as an attached dwelling is permissible, however, is inconsistent with the objectives of the R2 Low Density Residential zone for the following reasons:

- The proposal will be incompatible and unsympathetic to the existing and desired future character of the broader neighbourhood and therefore does not achieve objective dot point 3.
- The proposal will be of an unsympathetic height and scale which does not achieve the desired future character of the neighbourhood. It therefore does not achieve objective dot point 4.

13.3 Part 4.3: Height of Buildings

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

	Proposed	Control	Complies
Maximum Building Height	9.14m	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.

13.4 Flood Planning

There is insufficient information to undertake a proper assessment against Part 5.21 as if reflected in the reasons for refusal.

13.5 Part 5.10: Heritage Conservation

The subject site is located within the Paddington Heritage Conservation Area and is identified as a contributory item. It is also acknowledged that the subject site and No. 17 Sutherland Avenue form a pair of semi-detached dwellings. Demolition of subject dwelling would diminish the ability of the other to contribute to the Paddington Heritage Conservation Area.

This assessment has had regard to Council's Heritage Officers referral response which has raised a number of issues with the proposal in its current form. The extent of the proposed works along with the extent of demolition is excessive and unjustified in this circumstance and the complete extent of proposed works are not supported.

Council's Heritage Officer has undertaken an assessment of the planning principle established in *Helou vs Strathfield Municipal Council (2006)* which sets out a series of principles to be addressed before the demolition of a contributory item is approved. Having considered Council's Heritage Officers response, this assessment has determined that the proposed demolition of the contributory item is not appropriate or supported in the circumstances of this case.

This assessment concludes that the proposal does not conserve the environmental heritage of Woollahra 1(a) and does not conserve the heritage significance of the heritage conservation area 1(b) as is reflected in the reasons for refusal.

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

For the reasons detailed above, the proposed development is unacceptable with regard to the objectives in Part 5.10 of the Woollahra LEP 2014 and where necessary forms the reasons for refusal.

13.6 Part 6.1: Acid Sulfate Soils

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

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

13.7 Part 6.2: Earthworks

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

The proposal involves excavation to accommodate the proposed basement level. Council's Development Engineer has raised concerns with regard to the submitted Geotechnical information as is reflected in the reasons for refusal.

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

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter C1: Paddington Heritage Conservation Area

C1.3.2 Timber Buildings

The proposed demolition of the existing contributory and historic timber building is contrary to objectives O1, O2, O3, O4, O5 and O6. The proposed demolition is thereby not supported in this case.

C1.3.4 Multi-storey Terrace Style Housing

As detailed above, the proposal involves demolition of an existing contributory and historical timber building. Whilst this is an unusual terrace form in the Paddington Heritage Conservation Area its typology generally aligns with that of a terrace. The proposal therefore does not satisfy objectives O1, O2, O3, O4, and O5 and control C1.

C1.3.13 Infill Development (New Development)

The proposal does not satisfy the relevant objectives O1, O2, O3, O4 and O5 nor is it acceptable having regard to controls C3, C4, C5, C6, C9, C10, C12 and C16.

With respect to Control C1, an assessment of the other relevant objectives and controls listed elsewhere in the chapter of the Woollahra DCP 2015 have been considered in this report. With regard to C3 the proposed infill development would have an inappropriate and unsupported character. The stepped and transitional height pattern along the streetscape is currently interrupted, however, the proposed infill dwelling seeks to match the height of the adjacent building as oppose to stepping down. The proposed solid to void ratios are also uncharacteristic of development along the streetscape which is not supported.

It therefore does not maintain the significant features and qualities which represent the character of the neighbourhood (a) and does not make a positive contribution in this regard (c).

Having regard to C3(b) it is considered that the proposed design may create difficulties with maintenance of adjoining properties. The proposed solution of constructing a wall against the party wall of No. 21 Sutherland Avenue could limit access to the remaining structural party wall.

With respect to C4, and as detailed above, the proposed infill dwelling seeks to match the height of the adjacent building as oppose to stepping down to account for a stepped transitional height as is exhibited in the streetscape. The overall height is considered contextually inappropriate and excessive. The proposed infill development is therefore inconsistent with the predominant scale of significant contributory development.

With respect to C5, the proposed infill development is inconsistent with the predominant built form (volume and configuration) of significant contributory development adjoining the site and in its immediate area. Contextually, the volume of the proposed development is incompatible with surrounding properties and is deemed excessive. The solid to void ratios are also uncharacteristic noting a dominance of glazing to the front façade. The ground and first floor levels along with horizontal alignments do not match the existing development pattern along the streetscape.

In accordance with C6 and C7 and noting that the subject site has a single frontage, the proposed infill development adopts the established orientation pattern of the streetscape as it addresses Sutherland Avenue. Compliance is achieved.

The proposal is not orientated across the site which satisfies C8.

With respect to C9 and C10, it is acknowledged that many sites within this residential block that is bound by Elizabeth Street and Forbes Street are through sites from Sutherland Street to Sutherland Lane. However, where sites have a single frontage to Sutherland Avenue these dwellings are typically built to the front boundary and do not exhibit a horizontal step in the façade or varying setback. Given the context it is not unreasonable to rely on the alignment of dwellings on sites with a single frontage as is the case of the subject allotment.

The proposed stepped design is incompatible with the predominant development pattern which creates adverse amenity impacts upon surrounding properties and is inconsistent with O2, O3 and O4

C11 requires that rear and side setbacks (including side passages) must align with existing patterns, where visible from the public domain. The rear setbacks are not visible from the public domain. The side setbacks do provide for a consistent alignment as viewed from the streetscape which is supported.

With regard to C12(a) the proposed infill dwelling does not provide for sufficient deep soil landscaped area across the site which is not supported. In terms of (b), Council's Tree and Landscaping Officer has raised no concerns with regard to tree impacts subject to conditions which would have been imposed if approval were being recommended.

Council's Heritage Officer states that in general no issues are raised with regard to the proposed materials and of the proposed infill dwelling, however, a hue and tonal relationship with traditional colour schemes has not been adopted. The proposal is not appropriate with respect to C13.

With majority of the front façade comprising windows, the proposal is inconsistent with the desired future character and the heritage significance of the conservation area. The proposal is non-compliant with C15.

The proposal is inconsistent with C16(b) as the front façade involves large expanses of glass and thereby comprises an inconsistent solid to void ratio.

C1.4.1 Principal Building Form and Street Front Zone of Contributory Buildings

The proposed demolition does not achieve compliance with objectives O1, O4, O6, O7, O8 O9, O10, O11, O12 and controls C1, C3, C5, C7, C9, C15.

C1.4.2 Side Elevations and Side Additions

The proposed demolition does not achieve compliance with objective O1 and control C1.

C1.4.3 Rear Elevations, Rear Additions, Significant Outbuildings and Yards

The proposed demolition does not achieve compliance with objectives O1, O2, O3, O4 and controls C1, C5 and C10.

C1.4.4 Roofs and Roof Forms

The proposed demolition of the existing contributory building does not achieve compliance with objectives O1, O4 and controls C1, C2 and C3.

Council's Heritage Officer has raised no concerns regarding the roof form of the proposed infill development which is acceptable having regard to objectives O3 and control C8. Notably, the proposed skylights are considered acceptable having regard to control C10.

C1.4.5 Building Height, Bulk, Form and Scale

The proposal is unsatisfactory with objectives O1, O3, O4, O5 and O6 and controls C3, C4, C5, C6 and C7.

The proposed infill development is considered to be of an excessive bulk, scale and form which is incompatible with the predominant height, bulk, form and scale of appropriate adjoining buildings and surrounding context. The proposed volume along with alignment will generate an unreasonable sense of enclosure upon surrounding properties which is not supported in this case. The storey heights of the proposed infill dwelling do match the neighbours and do not step down in line with the fall of the street. The proposal is therefore unacceptable with C3 and C7 and the underlying objectives.

The shadowing impacts toward No. 21 Sutherland Avenue are not supported in this case. At present, the private open space of this property does not receive at least 2hrs of solar access over at least 50% of the private open space area between 9am and 3pm on 21 June. This is contrary to C4 which states that in such scenarios sunlight is not be further reduced noting that these impacts are exacerbated by the proposal. Additionally, it does not appear that the solar access impacts toward No. 17 Sutherland Avenue and 142 Sutherland Street have been shown in the submitted diagrams.

In terms of shadowing impacts to surrounding windows, there are no exacerbated impacts deemed to occur toward Nos. 17 and 21 Sutherland Avenue with regard to C5.

However, it is considered that elevation shadow diagrams of surrounding properties to the south which address Sutherland Street are required in order to properly assess the impacts having regard to C5.

As required by C6 the infill dwelling would have at least one habitable room with windows which receive at least three hours of sun over a portion of their surface between 9am and 3pm on 21 June which achieves compliance.

For the reasons detailed above, the proposal is unacceptable with regard to Part C1.4.5 of the Woollahra DCP 2015 and forms the reasons for refusal.

C1.4.6 Site Coverage, Setbacks and Levels

The proposed site cover is generally consistent with surrounding built form in terms of its percentage which complies with C1.

C2 requires that existing setbacks on street frontages are to be maintained. The proposal does not maintain the existing setbacks due to demolition of the existing building. The proposed building alignment is considered to be contrary to the pediment front alignments along the street noting the stepped façade.

C3 requires that siting and setbacks of all structures are to continue the immediate established patterns. The established pattern of development would be compromised with the stepped building façade which is inconsistent with the immediate established pattern. The rear building alignment is also considered to be out of character with immediate development and the established pattern which is not supported in this case.

The proposed infill dwelling would not be built forward of the existing building alignments which complies with C4.

The proposal is non-compliant with C7 as the proposed ground and first floor levels of the infill dwelling are inconsistent with the neighbouring buildings in the context of the sloping site.

In light of the non-compliances detailed above, the underlying objectives have also been considered.

O1 To maintain setbacks along the street frontage.

O2 To retain established building alignments, setbacks and levels.

O3 To ensure that new development continues the established alignments and setbacks of the established historic development in the streetscape.

O4 To ensure that the siting of new development responds appropriately to levels established by relevant historic development in the streetscape.

O6 To encourage the retention or creation of useable open space at the rear of sites.

- The proposed stepped front setback is not reflective of front building alignments for sites with a single frontage to Sutherland Avenue. O1 is not upheld in this case.
- The proposal does not retain established building alignments setbacks or levels which is contrary to O2.
- The development results in an inconsistent and unsupportable building alignment in the streetscape which does not uphold O3.
- The levels of the proposed infill dwelling do not respond to those established by historical development in the streetscape which is contrary to O4.
- The proposal does not provide for useable open space at the rear of the site and is deemed to be deficient in its overall amenity. O6 is not upheld.

For the reasons detailed above, the proposal does not comply with Part C1.4.6 of the Woollahra DCP 2015 and forms the reasons for refusal.

C1.4.7 Excavation

Having considered Council's Development Engineering response, there is insufficient information to make a proper assessment in under this part of the Woollahra DCP 2015. The extent of insufficient information is reflected in the reasons for refusal.

C1.4.8 Private Open Space, Swimming Pools, Courtyards and Landscaping

C4 and Table 2 specify that a dwelling on an allotment more than 100m² and less than 180m² in size is to provide the following:

Site Area: 114.6m²	Proposed	Control	Complies
Minimum unbuilt area	18.15% (20.8m ²)	16% (18.336m ²)	Yes
Principal rear area	Approx. 10.5m ²	15m ²	No
Principal rear area dimensions	Min. 1.534m	3m	No
Minimum Deep soil landscaped area	Approx. 6.10% (7m ²)	8% (9.168m ²)	No

The proposed landscaped treatment within the street front zone is considered acceptable having regard to C3.

The proposal does not achieve complete compliance with the C4 and Table 2 as detailed in the compliance table above. The relevant objectives have been considered below.

No objection has been raised regarding the proposed landscape treatment by Council's Tree and Landscaping Officer which is therefore deemed acceptable having regard to C7 and C8.

In accordance with C9, part of the private open space will serve as an extension of the dwelling which is compliant. However, a deficient amenity is proposed for the reasons detailed in this section of the assessment report which is non-compliant with C9.

The private open space areas would not need to be raised to provide level access, there are no concerns having regard to C11.

C12 states that private and communal space is generally not permitted in the form of a roof terrace. As detailed elsewhere in this assessment report, the proposed level 2 balcony is unsupported due to the unreasonable privacy impacts that would be generated.

C13 requires that swimming pools be located at the rear of properties. The proposed pool is non-compliant in this regard as it is proposed toward the front of the property.

With respect to C16, the deep soil area requirement is not satisfied and therefore the swimming pool is not appropriate in this context which is non-compliant (a). The swimming pool would not result in the removal of any significant trees or associated impacts which would be reinforced by conditions of consent if approval were being recommended which satisfies (b).

With respect to C17, the swimming pool coping would not be higher than 300mm above the existing ground level and no pool casing would be visible from the public domain or adjoining properties. Compliance is achieved.

An unsuitable stormwater management arrangement is proposed as detailed by Council's Development Engineer. Compliance with C18 is not achieved.

Furthermore, no objections have been raised regarding impacts upon existing vegetation from Council's Tree and Landscaping Officer subject to the recommended conditions of consent. Compliance with C19, C20 and C22 is achieved.

The proposed design does not provide for accessible and useable private open space noting the limited dimensions and extent of dense landscaping that is proposed within the rear setback. Whilst accessible from the internal living areas, the useability of this space is compromised.

Noting the non-compliances discussed above, the relevant objectives have been considered below.

O3 To maintain an area at the rear of each site which enables planting at natural ground level and assists on-site drainage.

O4 To ensure that provision is made for accessible and useable private open space at the rear of properties.

O5 To ensure the provision of semi-permeable and permeable areas of open space in rear gardens to assist with on-site drainage.

O6 To ensure that the design and use of private open space areas has regard to environmental impact, impact on the fabric of adjoining properties, infrastructure, and on the amenity of the occupiers of adjoining properties.

O7 To ensure that trees and other vegetation do not have an adverse impact on the fabric of buildings, and that works have no or minimal adverse impact on the amenity of the occupiers of properties.

O8 To ensure adequate and reasonable acoustic and visual privacy for neighbours.

O9 To ensure provision of adequate deep soil landscaped area capable of sustaining medium to large vegetation.

- The dimensions of the rear landscaped area are restricted and do not provide for planting which is contextually inappropriate in the sites context. O3 is not upheld.
- The proposed design does not provide for accessible and useable private open space noting the limited dimensions and extent of dense landscaping that is proposed within the rear setback. Whilst accessible from the internal living areas, the useability of this is compromised. O4 is not upheld.
- The shortfall in deep soil landscaped area does not promote the provision of permeable areas to assist with on-site drainage as required by O5.
- The proposed areas of open space at the rear provide for contextually inappropriate landscaping, noting that balcony areas will generate unreasonable amenity impacts upon surrounding properties. The proposed swimming pool location is inconsistent with the location of private open space and is considered to provide adverse amenity impacts which is inconsistent with the alignment of private open space in the locality. O6 is not upheld.
- The proposed landscaping is considered to generate unreasonable amenity impacts upon surrounding properties which is inconsistent with O7.
- The proposed balcony areas to the rear are considered to generate unreasonable overlooking impacts upon surrounding properties which is inconsistent with O8.
- Whilst the landscape plan shows medium to large vegetation, this is considered to have adverse amenity impacts upon surrounding properties. Alternative species may be more appropriate and sufficient deep soil landscaping must be provided to allow flexibility in this regard. O9 is not upheld.

For the reasons detailed above, the proposal is unacceptable having regard to Part C1.4.8 of the Woollahra DCP 2015 and forms the reasons for refusal.

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 objections from Nos. 138A, 140, 142, 144 Sutherland Street and 21 Sutherland Avenue Paddington.

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.



Image 7: Aerial map indicating the orientation of views from affected properties towards the subject site which is highlighted in red

No. 138A Sutherland Street, Paddington

Of concern is the interruption of district and landscape views of vegetation and tree canopy including that located within Trumper Park. There are no water, land, whole or iconic views achieved across the subject site.

Table 1 – Views currently obtained from 138A Sutherland Street, Paddington towards the subject site



Image 1: Street level balcony stand



Image 2: Street level living room stand



Image 3: Street level living room sit



Image 4: Bedroom balcony stand



Image 5: Bedroom balcony sit



Image 6: Bedroom window stand



Image 7: Bedroom window sit



Image 8: Ground floor study/breakout space stand



Image 9: Ground floor study/breakout space sit



Image 10: Ground floor bedroom stand



Image 11: Ground floor bedroom sit



Image 12: Lower ground floor courtyard stand

No. 140 Sutherland Street, Paddington

Of concern is the interruption of district and landscape views of vegetation and tree canopy including that located within Trumper Park. Views are available from this property toward Sydney city across the side boundary which includes part of the Harbour Bridge being an iconic view. There are no water or whole views achieved across the subject site.

Table 2 – Views currently obtained from 140 Sutherland Street, Paddington towards the subject site



Image 1: Top floor balcony via living stand



Image 2: Top floor balcony via living sit



Image 3: Top floor balcony via living stand



Image 4: Top floor balcony via living sit



Image 5: Top floor living stand



Image 6: Top floor balcony via living sit



Image 7: Top floor living stand



Image 8: Street level balcony via living stand



Image 9: Street level balcony via living sit



Image 10: Street level kitchen/dining stand



Image 11: Street level kitchen/dining sit



Image 12: Street balcony via living stand



Image 13: Lower ground master bed stand



Image 14: Lower ground master bed sit



Image 15: Lower ground master bed ensuite stand



Image 16: Lower ground master bed ensuite sit

No. 142 Sutherland Street, Paddington

Of concern is the interruption of district and landscape views of vegetation and tree canopy including that located within Trumper Park. Views are available from this property toward Sydney city across the side boundary which includes part of the Harbour Bridge being an iconic view. There are no water or whole views achieved across the subject site.

Table 3 – Views currently obtained from 142 Sutherland Street, Paddington towards the subject site



Image 1: Street level balcony stand



Image 2: Street level balcony sit



Image 3: Street level balcony stand 2



Image 4: Street level balcony sit 2



Image 5: Street level bedroom stand



Image 6: Street level bedroom sit

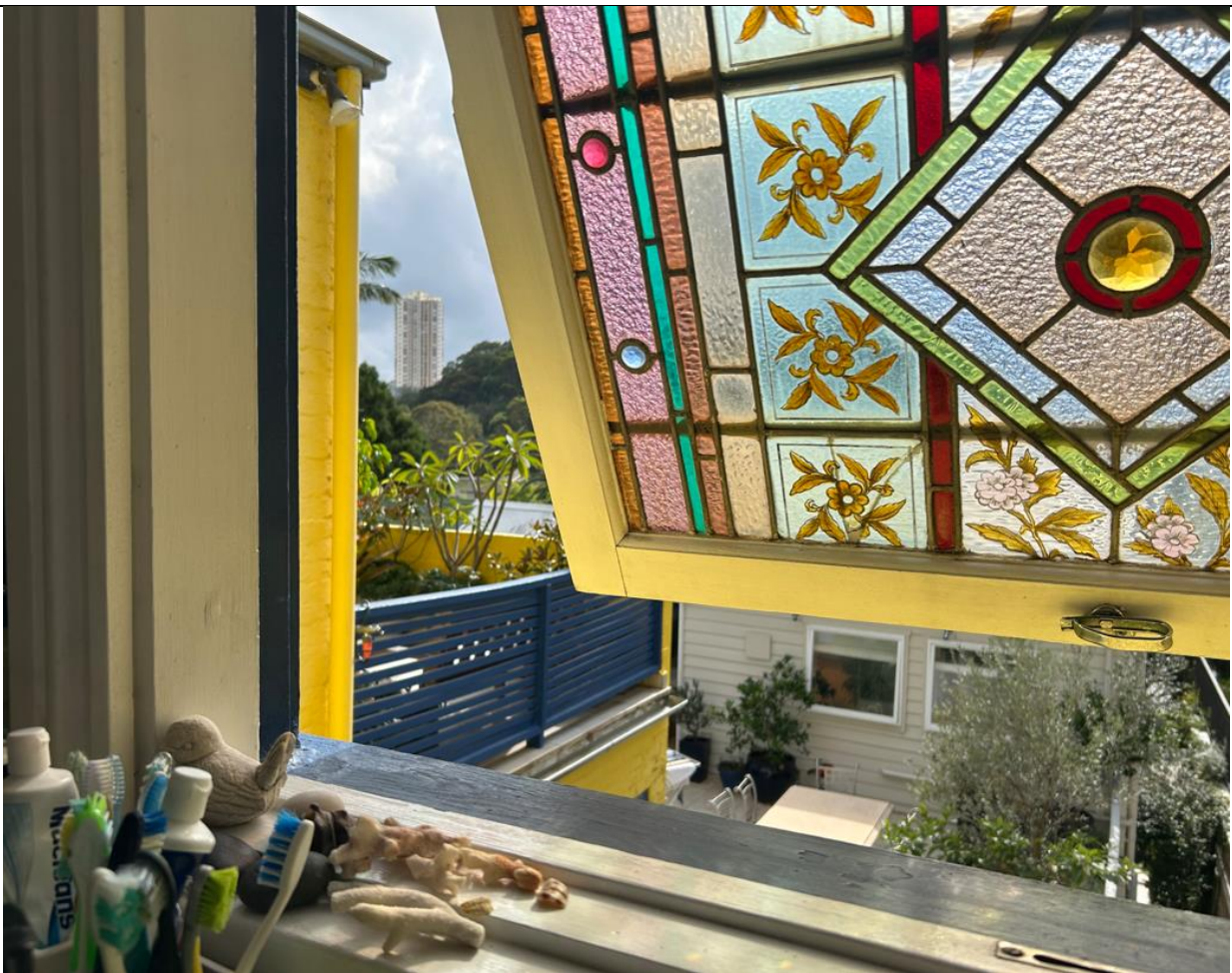


Image 7: Street level bathroom stand



Image 8: Attic level stand



Image 9: Attic level sit



Image 10: Lower ground floor courtyard stand

No. 144 Sutherland Street, Paddington

Site access to this property was unable to be organised. Email correspondence requesting access was sent on 16/04/2024, 17/04/2024, 23/04/2024, 29/04/2024 and 06/04/2024. Phone calls were also made to try and organise site access.

Given the orientation of the subject site and its location, this property is considered to have comparable views to No. 142 Sutherland Street, Paddington.

No. 21 Sutherland Avenue, Paddington

Of concern is the interruption of district and landscape views of vegetation and tree canopy including that located within Trumper Park. Views are available from this property toward Sydney city across the side boundary. There are no water, whole or iconic views achieved across the subject site.

Table 4 – Views currently obtained from 21 Sutherland Avenue, Paddington towards the subject site



Image 1: First floor rear terrace stand



Image 2: First floor rear terrace sit



Image 3: First floor rear terrace stand 2



Image 4: First floor balcony stand



Image 5: First floor balcony sit

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.

No. 138A Sutherland Street, Paddington

The views over the subject site identified in Table 1 are obtained from living areas, bedrooms study/breakout space and courtyard. Some bedrooms and living areas comprise adjoining balconies. All views over the subject site are obtained across the rear boundary. Both standing and sitting views have been considered.

No. 140 Sutherland Street, Paddington

The views over the subject site identified in Table 2 are obtained from living areas, bedrooms along with kitchen and dining area. Bedrooms and living areas comprise adjoining balconies. All views over the subject site are obtained across the rear boundary. Both standing and sitting views have been considered.

No. 142 Sutherland Street, Paddington

The views over the subject site identified in Table 3 are obtained from a bedroom including adjoining courtyard, bathroom and attic level. All views over the subject site are obtained across the rear boundary. Both standing and sitting views have been considered.

No. 144 Sutherland Street, Paddington

As detailed previously site access was unable to be organised.

No. 21 Sutherland Avenue, Paddington

The views over the subject site identified in Table 4 are obtained from a rear courtyard area and front facing balcony. All views over the subject site are obtained across a side boundary. Both standing and sitting views have been considered.

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.

It should firstly be acknowledged that no photomontages or view analysis was provided by the applicant with respect to these nominated properties.

To best understand the height the proposal and contextual relationship, the most comparable RL is the ridge height of the adjoining property at No. 21 Sutherland Avenue. The maximum ridge height of this adjoining property is at RL39.16 which is the same as the proposal at its maximum point.

Reference should be made to the images in Tables 1-4 where the adjoining ridgeline of No. 21 Sutherland Avenue is visible in the context the subject site.

The landscaped rear setback also comprises 3 x *Elaeocarpus eumundii* which have a mature height of between 8-10m and given their location these species are considered to contribute to the view sharing impacts.

No. 138A Sutherland Street, Paddington

Views from No. 138A Sutherland Street would be affected by the proposed development and landscaping. District and landscape views of vegetation and tree canopy including that located within Trumper Park would be impacted noting there are no water, land, whole or iconic views achieved across the subject site. Such views would be most impacted from living areas and lower level bedroom and study/breakout space from both standing and sitting positions. Views from the upper most bedroom would be least impacted. All views are obtained the rear boundary of the site.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor.

No. 140 Sutherland Street, Paddington

Views from No. 140 Sutherland Street would be affected by the proposed development and landscaping. District and landscape views of vegetation and tree canopy including that located within Trumper Park would be impacted. Whilst views toward Sydney city across the side boundary which includes part of the Harbour Bridge being an iconic view are available, these are not considered to be impacted.

The affected views over the rear of the subject site would be from living areas, kitchen and dining areas, bedrooms (and ensuite of master) and adjoining balconies. Views from the street level and top level would be the least impacted. The primary impacts pertain to landscape and district views with no whole, water or land views considered to be impacted.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor.

No. 142 Sutherland Street, Paddington

Views from No. 142 Sutherland Street would be affected by the proposed development and landscaping. The proposal would interrupt district views and those of vegetation and tree canopy including that located within Trumper Park. Views toward Sydney city across the side boundary which includes part of the Harbour Bridge being an iconic view would also be impacted. There are no water or whole views which would be affected.

Such views would be impacted from a bedroom and adjoining terrace along with bathroom. Views from the attic would be least impacted.

The views toward Sydney city and the Harbour Bridge are obtained from the street level terrace accessed via the bedroom and are only available from a standing position. Step 2 of the planning principle states that the expectation to retain side views is often unrealistic. Nevertheless, the built form itself is not considered to impact these views rather the impacts would be contained to the proposed landscaping within rear setback. The planning principle also acknowledges that bedrooms are of a lesser importance than living areas or kitchens.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor.

The proposed landscape treatment in the rear setback is considered unacceptable and a more reasonable outcome which retains these city and Harbour Bridge views could be readily achieved.

No. 144 Sutherland Street, Paddington

As mentioned, site access to this property was unable to be organised. However, given the orientation of the site and its location comparable impacts are considered to be created as with No. 142 Sutherland Street.

No. 21 Sutherland Avenue, Paddington

Views from 21 Sutherland Avenue would be impacted by the proposal. Impacted views would interrupt district and landscape views of vegetation and tree canopy including that located within Trumper Park. Views from the front facing balcony toward Sydney city from both a standing and sitting position would remain largely unaffected as the front building alignment would generally match that of the existing dwelling.

Views toward Sydney city across the side boundary from the rear terrace would be impacted from a standing position, noting that these are not available from a sitting position. Step 2 of the planning principle states that the expectation to retain side views is often unrealistic.

There are no water, whole or iconic views achieved across the subject site.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor.

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

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

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

Although there are non-compliances with the built form, these are not considered to be on an extent that would create unreasonably adverse view sharing impacts. However, the proposed landscape design does not respect existing view corridors from surrounding properties.

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, a more skilful design should be explored with respect to the proposed landscape treatment.

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 to have minor impacts respect to view loss noting that the proposed landscaping is unacceptable.

C1.4.10 Acoustic and Visual Privacy

The proposal is considered to generate unacceptable overlooking impacts upon surrounding properties which does not satisfy objectives O1 and O2.

Having regard to C3 and C4, whilst privacy screening and shutters have been shown to select windows and openings, these appear to be operable rather than fixed and are therefore insufficient in mitigating overlooking impacts. There is a lack of certainty regarding the exact nature and operability of screening. The rear facing balcony at the second floor is considered to generate overlooking impacts into surrounding properties to the side and rear which does not comply with C4 and C5.

No issues have been raised with regard to the proposed screening in terms of their design having regard to the architectural style of the building and historical context which complies with C6. The extent of screening is not considered to generate any view sharing or solar access impacts which complies with C7.

For the reasons detailed above, the proposal is unacceptable with regard to the relevant objectives and controls of Part C1.4.10 of the Woollahra DCP 2015.

C1.5.1 Dormers and Skylights

The proposed skylights are not considered acceptable having regard to objective O1 and controls C23-C27 as these are not attached to an original roof form, rather that of the infill dwelling.

In terms of Control C28, the proposed skylights do not appear as being flush with the roof surface with is non-compliant.

With regard to C29 and C30, as stated above the skylights are not proposed to an original roof form and would not exceed more than 25% of the proposed roof from.

For the reasons detailed above, the proposal is unacceptable with regard to the relevant objectives and controls of Part C1.5.1 of the Woollahra DCP 2015.

C1.5.3 Windows, Doors, Shutters and Security

The proposed demolition does not achieve compliance with objectives O1, O3 or control C1.

The proposal is unacceptable with regard to the relevant objectives and controls of Part C1.5.3 of the Woollahra DCP 2015 and forms the reasons for refusal.

C1.5.4 Verandahs and Balconies

The proposed demolition of the subject contributory building does not achieve compliance with objectives O1 and control C1.

The proposed balconies of the infill dwelling would satisfy objective O3 and control C8 as these are deemed contextually suitable for an infill development. The amenity impacts associated with such areas are discussed elsewhere in this assessment report.

The proposal is supported against Part C1.5.5 of the Woollahra DCP 2015

C1.5.5 Fences, Walls and Gates

The proposed demolition of the subject contributory building does not achieve compliance with objectives O1 and Control C7.

The proposed palisade fence and gate for the infill development are supported from a heritage perspective having regard to O4 and controls C1, C2, C3 and C13.

There are no new side or rear boundary fences proposed. The architectural plans nominate that the existing configuration would be maintained per controls C14-C17.

For the reasons detailed above the proposal is unsupported against Part C1.5.5 of the Woollahra DCP 2015 and forms the reasons for refusal.

C1.5.6 On-site Vehicle Parking, Garages, Carports, Driveway Access and Servicing Facilities

The proposal involves a mechanical parking solution whereby a car lift would deliver the car from the at grade level to the basement level below where it would be stored. Although not nominated as such it is considered that the front courtyard area could also be utilised as an open hard stand parking space.

With regard to C1 (a) the proposed car parking solution is considered to result in a built form outcome which is incompatible with the pattern of development in the streetscape and proximate building alignments. The provision of vehicle access and parking in the current designs generates a stepped building alignment which is incompatible with the streetscape and surrounding development which primarily addresses Sutherland Avenue.

Having regard to C1(b – e), Council's Development Engineer considers the proposed vehicle access arrangement to be unsatisfactory in its current form.

With regard to C1(f) the proposal is deficient in the amount of deep soil required for the subject site which is non-compliant and unsupported.

Having regard to C1(g), Council's Development Engineer considers the proposed vehicle access arrangement to be unsatisfactory in its current form.

In principle, the proposal is acceptable having regard to C2, however, additional information is required in order to properly assess the proposed parking and access arrangement.

The proposal involves a vertical car stacker which is non-compliant with C4.

Given the proposed parking solution is both open at grade and at a basement level, the design requirements of tables 5 and 6 as specified in C6 are not relevant.

Having regard to C5 and C7, Council's Development Engineer considers the proposed vehicle access arrangement to be unsatisfactory in its current form. For the reasons detailed above, the proposal does not satisfy Controls C1-C6.

With regard to C8, given the proposed parking solution is both open at grade and at a basement there is no visible garage or parking structure which is acceptable.

As per C14 the proposed number of parking spaces is compliant with the requirement of Chapter E1.

The proposal involves non-compliances with controls C1-13 as detailed above and therefore considering C15, the proposed parking solution is not supported.

In light of the non-compliances detailed above the proposed vehicular access arrangement does not comply with objectives O6, O8, O10, O11, O12 and O14 as follows.

O6 To provide off street car parking and servicing facilities where feasible.

O8 To ensure that the amount and quality of deep soil landscaped area and private open space are not compromised by providing on-site parking and servicing areas.

O9 To minimise vehicle and pedestrian conflicts.

O10 To ensure there is no net loss of vehicle parking spaces in the area.

O11 To ensure that use and quantity of on street parking spaces is not adversely affected.

O12 To prevent vehicle car stackers.

O14 To minimise excavation.

- The proposed car parking solution is not feasible in the circumstances of the subject site and proposed development which is contrary to O6.
- The proposal does not achieve compliance with the prescribed deep soil area requirements and provides for a deficient private open space amenity which is contrary to O8.
- Council's Development Engineer considers the proposed vehicle access arrangement to be unsatisfactory in its current form and therefore O9, O10, O11 are not upheld.
- The proposal does not prevent vehicle car stackers given one is proposed which is contrary to O12.
- The extent of excavation is not minimised in this case which is contrary to O14.

For the reasons detailed above the proposal is unsupported against Part C1.5.6 of the Woollahra DCP 2015 and forms the reasons for refusal.

C1.5.8 Materials, Finishes and Details

The proposed demolition of the subject contributory building does not achieve compliance with objectives O1, O2, O3 and control C1.

Council's heritage officer has raised no concerns regarding the materiality of the proposed infill building having regard to Control C6 and the proposal is acceptable in this regard.

For the reasons detailed above, the proposal is not supported against Part C1.5.8 of the Woollahra DCP 2015.

C1.5.9 Exterior Colours

Whilst the proposed colour scheme is considered to be generally acceptable for replacement buildings, a hue and tonal relationship with traditional colour schemes has not been achieved. The proposal is therefore not supported having regard to objective O1 and control C1 and C3 under Part C1.5.9 of the Woollahra DCP 2015 and forms the reasons for refusal.

C1.5.10: Gardens and Trees

Council's Tree and Landscaping Officer has raised no issues with the proposal having regard to Part C1.5.10 of the Woollahra DCP 2015 subject to conditions which would have been imposed if approval were being recommended.

C1.5.11 Satellite Dishes, Aerials, Air Conditioning Units and Other Site Facilities

The proposal is considered acceptable having regard to objectives O1, O2, O3 and O4 along with controls C2, C4, C5, C6 and C13.

Service areas and plant equipment are located at the basement level and therefore would not generate any adverse impacts as viewed from the surrounding public and private domains. Site facilities are considered to have been appropriately integrated into the overall design of the proposal. The proposal is acceptable having regard to Part C1.5.10 of the Woollahra DCP 2015.

14.2 Chapter E1: Parking and Access

Part E1.4: Residential Parking

	Existing	Proposed	Control	Complies
Max Number of Car Parking Spaces – Dwelling	Nil.	1 Space	2 Spaces	Yes

Parking for residential uses is calculated using the generation rates specified in E1.4.2.

In this instance, a maximum of 2 spaces are permitted with 1 space proposed.

Council's development engineer has raised concern with regard to the proposed vehicle access arrangement which forms the reasons for refusal.

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

14.3 Chapter E2: Stormwater and Flood Risk Management

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

14.4 Chapter E3: Tree Management

The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015 subject to conditions recommended by Council's Tree and Landscaping Officer which would have been imposed if approval were being recommended.

14.5 Chapter E5: Waste Management

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

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

	Proposed	Control	Complies
Garbage and Recycling Areas	Separated	Separated	Yes
Location of Garbage and Recycling Areas	Behind Building Line or Non-Habitable Areas	Behind Building Line or Non-Habitable Areas	Yes

The proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

14.6 Chapter E6: Sustainability

The proposal was accompanied by a BASIX Certificate.

Furthermore, the proposed solar panels are not considered to have any adverse visual impacts from the public domain and are not considered to interrupt on the amenity of surrounding properties including limiting views. The panels do not include mirrors or lenses noting this could also be reinforced by conditions of consent if approval were being recommended. The proposal is acceptable having regard to C1.

With regard to C2, proposed solar panels do not protrude more than 500mm from the building. Again this could be reinforced by conditions of consent if approval were being recommended. Solar panels would not be visible from the primary road and have been arranged neatly on the roof plane. There are no negative impacts upon the heritage conservation area that would occur. Compliance is achieved.

Overall, the proposal is considered acceptable with regard to the objectives and controls in Chapter E6 of the Woollahra DCP 2015.

15. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant.

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 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
\$924,595.00	>\$200,000 = 1%

This requirement would have otherwise been imposed by Council's standard condition if approval were being recommended.

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 would be addressed by Council's standard conditions if approval were being recommended.

17.2 Swimming Pools Act 1992

The Swimming Pools Act 1992, requires swimming pools to be surrounded by a child-resistant barrier, which separates the swimming pool from any residential building. The barrier must be designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Additional provisions relate to:

- a) Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash discharge to the sewer

These requirements would be addressed by standard conditions if approval were being recommended.

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 unsuitable for the proposed development.

20. THE PUBLIC INTEREST

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

21. CONCLUSION

The proposal is unacceptable against the relevant considerations under Section 4.15.

22. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 452/2023/1 for demolition of the existing single storey (with attic) weatherboard cottage (common wall with No 17 Sutherland Avenue retained) and the construction of a new three storey dwelling with a basement level, concealed car lift, plunge pool and landscaping on land at 19 Sutherland Avenue Paddington, for the following reasons:

1. Demolition

The proposed demolition does not conserve the environmental heritage of Woollahra and does not conserve the significance of the contributory item within the Paddington Heritage Conservation Area which is contrary to:

- Woollahra LEP 2014 Clause 1.2 Aims of Plan, (a), (f), (j), (l)
- Woollahra LEP 2014 Land Use Table, R2 Low Density Residential zone, Objective 3
- Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b)
- Woollahra DCP 2015, Chapter C1, Part C1.3.2, Objectives O1, O2, O3, O4, O5 and O6
- Woollahra DCP 2015, Chapter C1, Part C1.3.4, Objectives O1, O2, O3, O4, O5 and Control C1
- Woollahra DCP 2015, Chapter C1, Part C1.4.1, Objectives O1, O4, O6, O7, O8 O9, O10, O11, O12 and Controls C1, C3, C5, C7, C9, C15

- Woollahra DCP 2015, Chapter C1, Part C1.4.2, Objectives O1 and Control C1
- Woollahra DCP 2015, Chapter C1, Part C1.4.3, Objectives O1, O2, O3, O4 and Controls C1, C5, C10
- Woollahra DCP 2015, Chapter C1, Part C1.4.4, Objectives O1, O4 and Controls C1, C2, C3
- Woollahra DCP 2015, Chapter C1, Part C1.5.3, Objectives O1, O3 and Control C1
- Woollahra DCP 2015, Chapter C1, Part C1.5.4, Objective O1 and Control C1
- Woollahra DCP 2015, Chapter C1, Part C1.5.5, Objective O1 and Control C7
- Woollahra DCP 2015, Chapter C1, Part C1.5.8, Objective O1, O2, O3 and Control C1
- The planning principle established in *Helou vs Strathfield Municipal Council (2006)*

2. Infill Dwelling

The proposed infill dwelling will have an inappropriate character, bulk, scale, form and siting which is contrary to:

- Woollahra LEP 2014 Clause 1.2 Aims of Plan, (a), (f), (g), (j), (l)
- Woollahra DCP 2015, Chapter C1, Part C1.3.13, Objectives O1, O2, O3, O4, O5 and Controls C1, C3(a)(b)(c), C4, C5, C9, C10, C12(a)
- Woollahra DCP 2015, Chapter C1, Part C1.4.5, Objectives O1, O3, O4, O5, O6 and Controls C3, C4, C5, C6, C7
- Woollahra DCP 2015, Chapter C1, Part C1.4.6, Objectives O1, O2, O3, O4, O6 and Controls C2, C3, C7.

3. Material, Finishes, Textures and Colours

The proposed infill dwelling will have and inappropriate materiality which is contrary to:

- Woollahra LEP 2014 Clause 1.2 Aims of Plan, (a), (f), (g), (j), (l)
- Woollahra DCP 2015, Chapter C1, Part C1.3.13, Objectives O1, O2 and Controls C13, C15, C16
- Woollahra DCP 2015, Chapter C1, Part C1.5.9, Objective O1 and Controls C1, C3

4. Private Open Space, Swimming Pools and Landscaping

The proposed private open space and landscaped areas are deficient in their overall size, dimensions and amenity with an inappropriate swimming pool location. The proposal is contrary to:

- Woollahra LEP 2014 Clause 1.2 Aims of Plan, (a), (g), (j)
- Woollahra DCP 2015, Chapter C1, Part C1.4.8, Objectives O3, O4, O5, O6, O7, O8, O9 and Controls C4 (Table 3), C9, C12, C13, C16 (a).

5. View Sharing

The proposed landscaping within the rear setback is considered to generate unreasonable view sharing impacts which is contrary to:

- Woollahra LEP 2014 Clause 1.2 Aims of Plan, (g)
- Woollahra DCP 2015, Chapter 1, Part C1.4.9, Objectives O1, O2 and Controls C3
- The planning principle established by *Tenacity Consulting v Warringah (2004)* NSWLEC 140

6. Visual and Acoustic Privacy

The proposal will generate unreasonable privacy impacts upon surrounding properties which is contrary to:

- Woollahra LEP 2014 Clause 1.2 Aims of Plan, (g)
- Woollahra DCP 2015, Chapter C1, Part C1.4.10, Objectives O1, O2 and Controls C3, C4, C5

7. On-site Vehicle Parking, Garages, Carports, Driveway Access and Servicing Facilities

The proposed car parking design is considered unacceptable as it is contrary to:

- Woollahra LEP 2014 Clause 1.2 Aims of Plan, (a), (j), (k)
- Woollahra DCP 2015, Chapter C1.5.6, Objectives O6, O8, O12, O14 and Controls C1(a)(f), C4

8. Public Interest

The proposed development is not in the public interest.

9. Shadow Diagrams

The submitted shadow diagrams do not provide for an accurate assessment of the impacts toward No. 17 Sutherland Avenue Paddington and 142 Sutherland Street Paddington. These properties are to be accounted for in the submitted shadow diagrams in order to allow an accurate assessment of these properties against C5 within Chapter C1, Part C1.4.5 of the Woollahra DCP 2015.

Elevation shadow diagrams of surrounding properties to the south which address Sutherland Street are required in order to properly assess the impacts having regard to C5 within Chapter C1, Part C1.4.5 of the Woollahra DCP 2015.

10. Maintenance and Access of Neighbouring Properties

There is insufficient information to determine whether the proposal would adversely impact the maintenance of adjoining properties as a consequence of the proposed infill development and its limited setbacks.

11. Site Drainage

- a) Given that stormwater runoff generated from the site is connected to Council's kerb and gutter, a notation shall be depicted on the stormwater drawings that all proposed below ground structures are to be fully tanked and no subsoil drainage/seepage water is to be collected and discharged into the Council's kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Alternatively, stormwater runoff from the proposed development must drain to the Council's underground drainage. In this regard, the applicant must extend the Council's underground drainage system from the existing kerb inlet pit fronting No. 17 Sutherland Avenue by using min. Class 4, 375mm diameter steel reinforced concrete pipes (RCP) and the construction of new kerb inlet pit with 1.8m precast lintel. The new kerb inlet pit with Class D "bicycle friendly" access grate must be located at least 0.5m from any layback wing and within the frontage of the subject site to comply with Council's Specification. Details including longitudinal sections (scale 1:100) showing the extension of the Council's underground system must be provided for assessment. All design details and location of all existing public utility services must be included in the longitudinal section,
- b) The proposed pumpout system including the storage capacity of the wet well must be designed in accordance with AS3500.3. Full supporting calculations must be included in the revised stormwater plans,
- c) It is noted from the submitted plans that rainwater tanks (RWT) are proposed at basement level. In this regard, details including supporting calculations showing the design of property drainage system to the proposed rainwater tank including overflow details/ connections to the Council's drainage stormwater system must be provided. Note that the applicant must demonstrate that overflow from the proposed RWT is discharged to the street drainage system by gravity via the construction of a boundary junction pit.

12. Flooding and Overland Flow

A flood level report is required so the appropriate flood protection measures can be integrated into the design proposal.

13. Vehicle Access and Accommodation

- a) Pursuant to Chapter C1.5.6 of the Council's DCP, car lift/stacker is not acceptable.
- b) The proposed off-street parking space must have minimum dimensions of 3m x 5.4m, clear of any obstructions, to comply with AS2890.1. In this regard, these required dimensions and the design envelope around parked vehicles as per Figure 5.2 of AS2890.1 are to be clearly depicted on the revised architectural plans,
- c) The design and location of car parking space and structure must allow an 85th percentile vehicle to manoeuvre into and out of a space without the loss of on-street parking opposite or abutting the proposed vehicle entry. This is particularly relevant in the Paddington area where the street or lane can be less than 5 metres between kerbs. In this regard, a site plan (scale 1:100) showing the design vehicle turning path (including overhang) in and out of the driveway/parking space must be submitted to Council for assessment. Details including location of any parked vehicles, location of existing street signage and dimensions of the carriageway must be clearly depicted on the site plan.

14. Geotechnical, Hydrogeological and/or Structural

A preliminary assessment of the submitted structural report has identified the following issue which shall be addressed by the applicant prior to further assessment:





- a) The Report must include certification that the structural integrity of all adjoining buildings including any boundary wall will not be adversely affected and compromised by the proposed excavation. The Engineer shall also certify that underpinning works to neighbouring structures are not required, otherwise owners consent together with details and procedures of such underpinning works shall be provided.

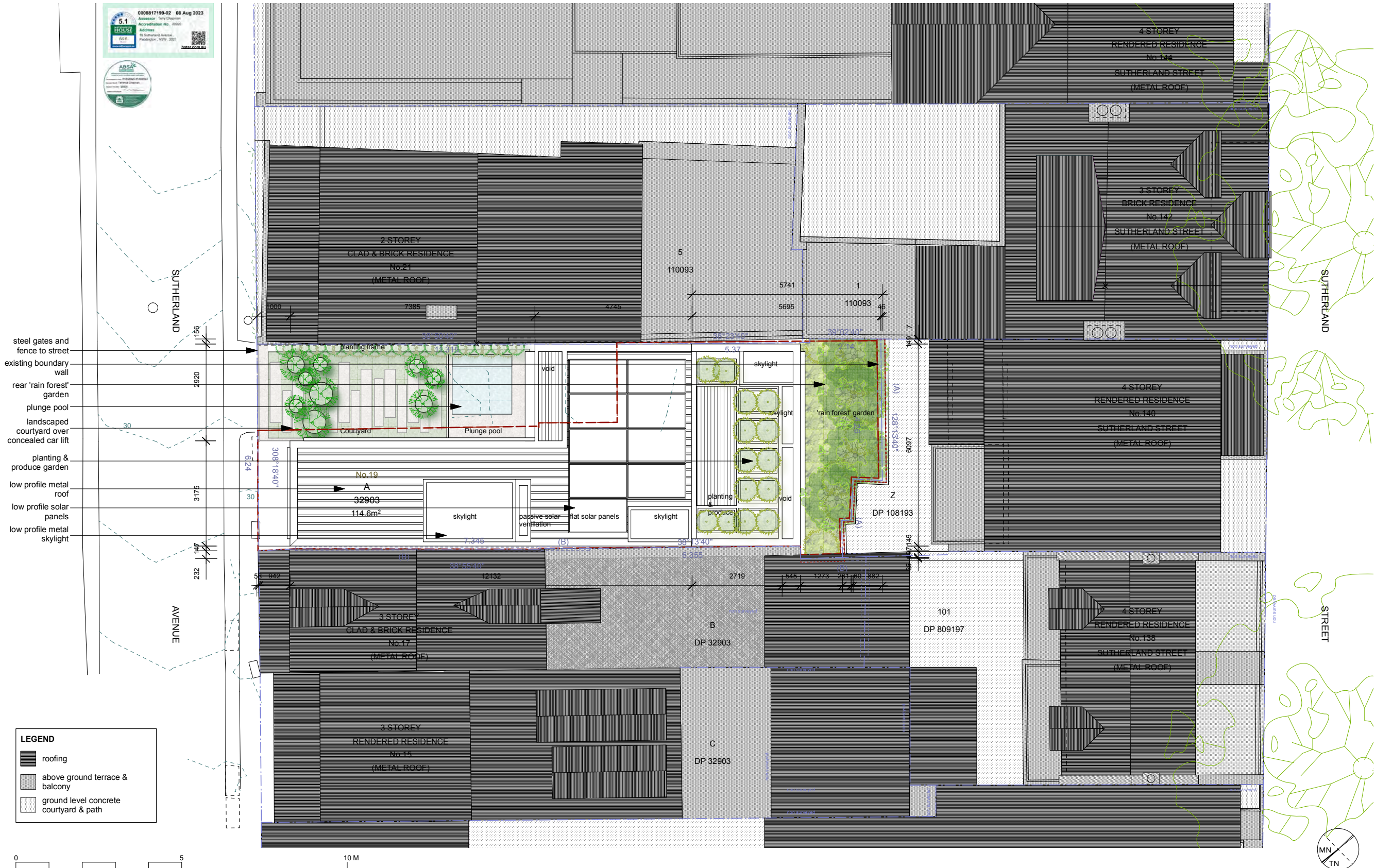
Revised construction methodology/structural report is required.

15. Statutory Declaration

The applicant has not completed the statutory declaration declaring that the site notice for DA452/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

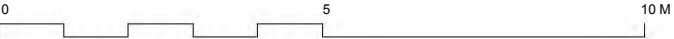
Attachments

1. Architectural Plans including Survey [!\[\]\(05a3150ca7eafd44fce8deaa48838121_img.jpg\)](#) 
2. Development Engineering - Referral Response [!\[\]\(9bc524f09d89ff34ea77fbf6b37ad4f3_img.jpg\)](#) 
3. Trees and Landscaping - Referral Response [!\[\]\(ee4b3385b5a317d3d780c06e4893dbbf_img.jpg\)](#) 
4. Heritage - Referral Response [!\[\]\(a3210ce2b13f768aaaa003e0d601963c_img.jpg\)](#) 





1 Street & Context Elevation
Scale: 1:100



NEW RESIDENCE
19 SUTHERLAND AVENUE, PADDINGTON
A ROSEWELL & C SEIN

JOB NO	DWG NO	AMENDMENT	TITLE
2104	DA002	A	STREET & CONTEXT ELEVATION
SIMON ROSEWELL PTY LTD			

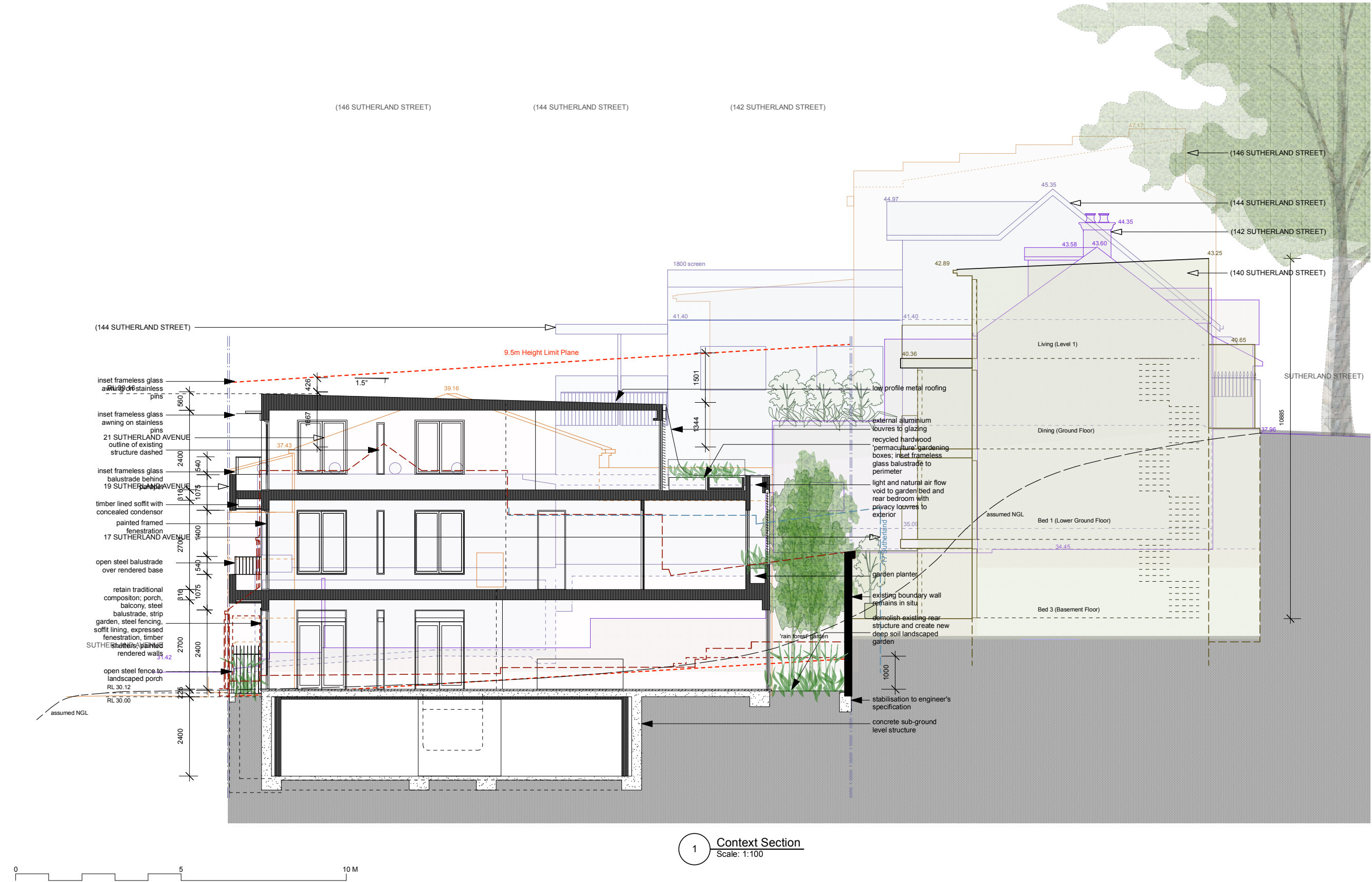
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SCALE	DATE PRINTED
1:100 AT A3	09.09.21

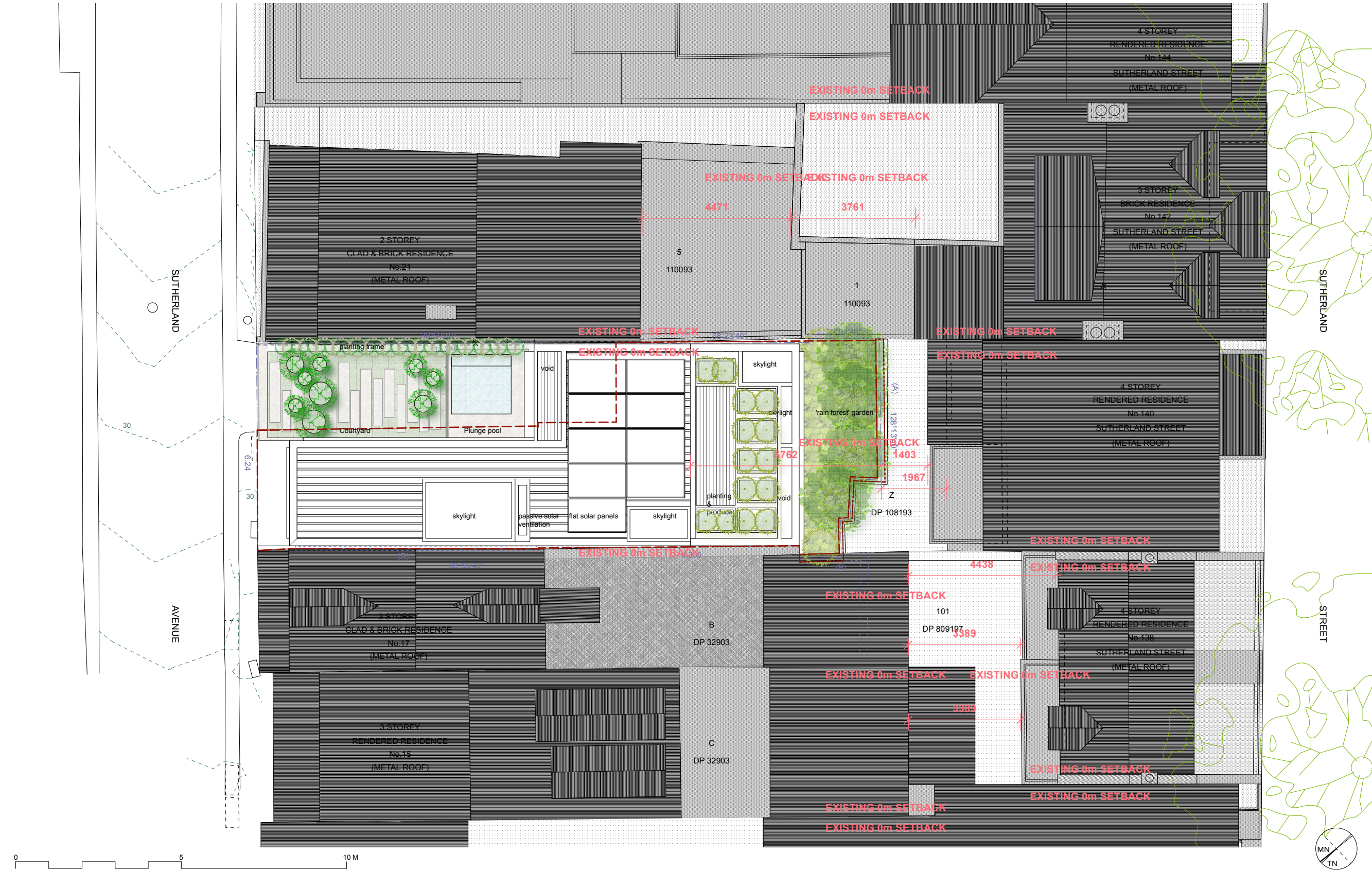
- Dimensions in millimetres.
- Confirm all dimensions on site prior to commencing work.
- Use figured dimensions only.
- Do not scale.
- If discrepancy exists notify architect.
- If in doubt ask.

Comply with relevant Authorities requirements
Comply with the Building Code of Australia
Comply with all relevant Australian Standards

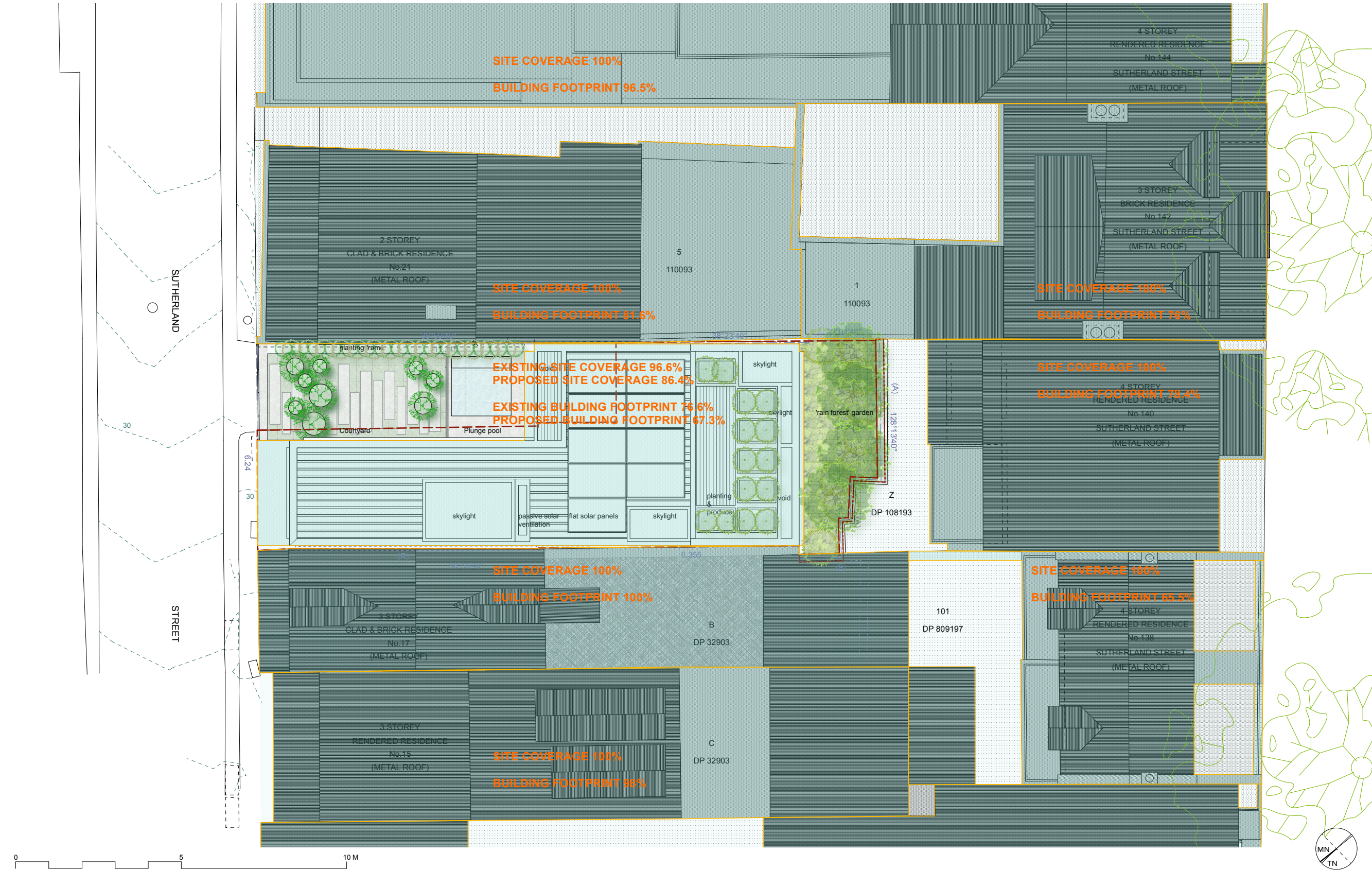
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	2104	DA003	A	CONTEXT SECTION OVERLAY	1:100 AT A3	09.09.21	
	SIMON ROSEWELL PTY LTD			architecture • design • project management			



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NEW RESIDENCE

19 SUTHERLAND AVENUE, PADDINGTON

A ROSEWELL & C SEIN

JOB NO

DWG NO

AMENDMENT

TITLE

2104

DA005

A

CONTEXTUAL PLAN - SITE COVERAGE

SIMON ROSEWELL PTY LTD

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SCALE

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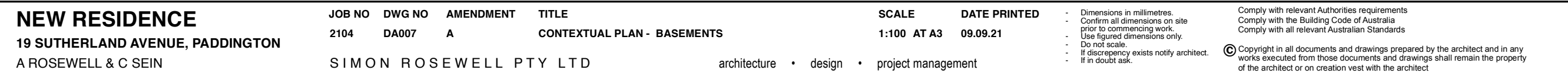
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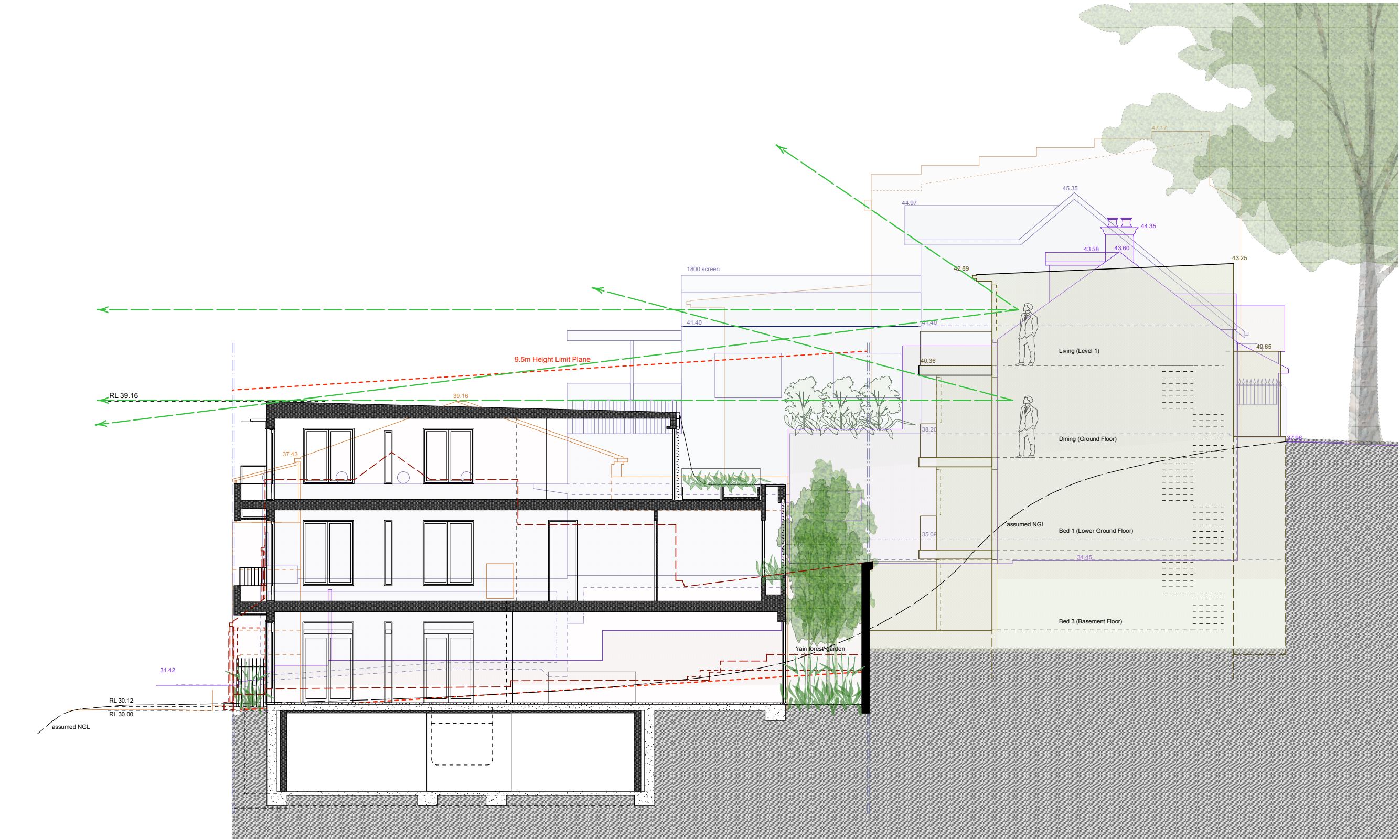


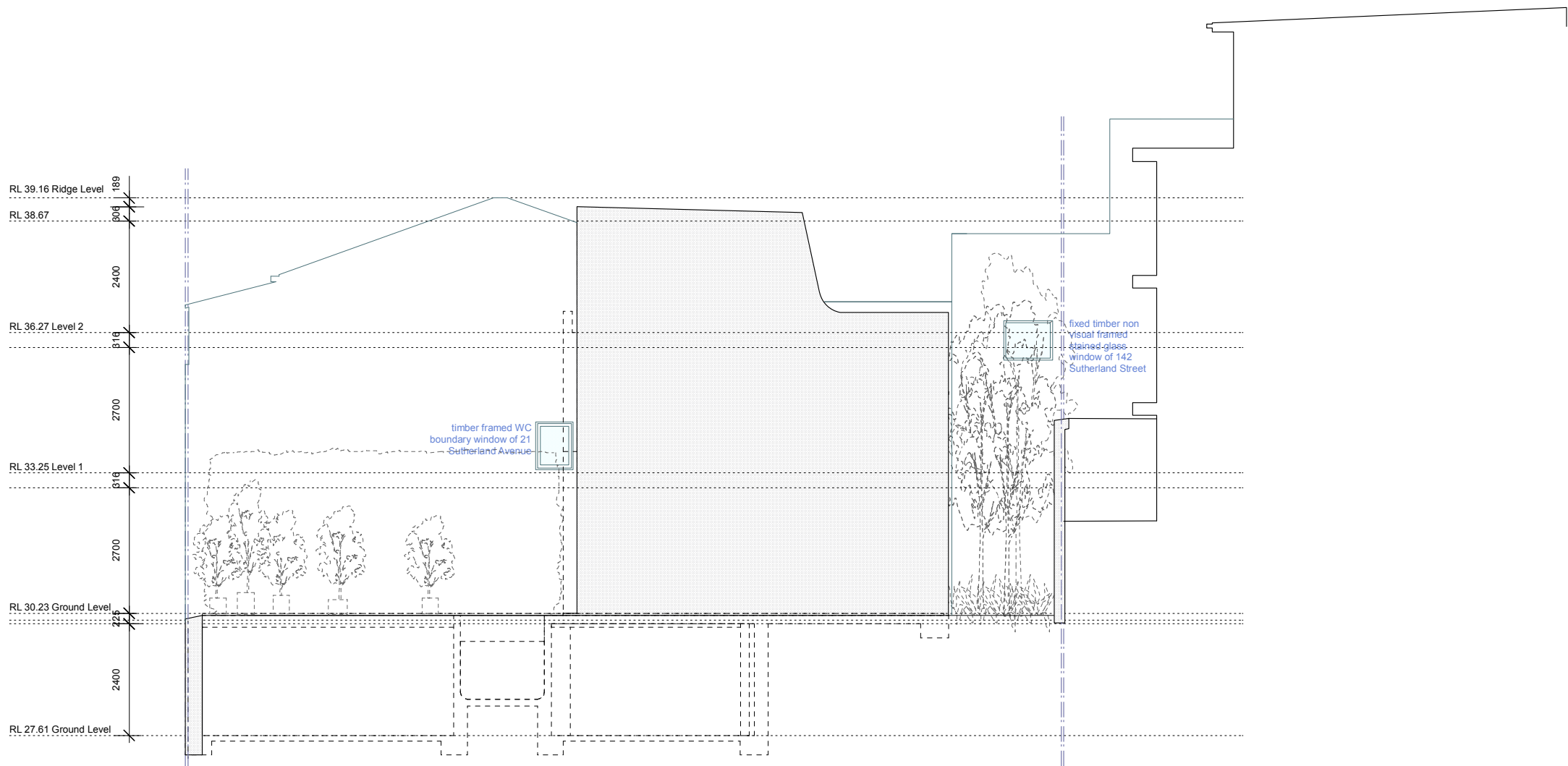




SUTHERLAND AVENUE

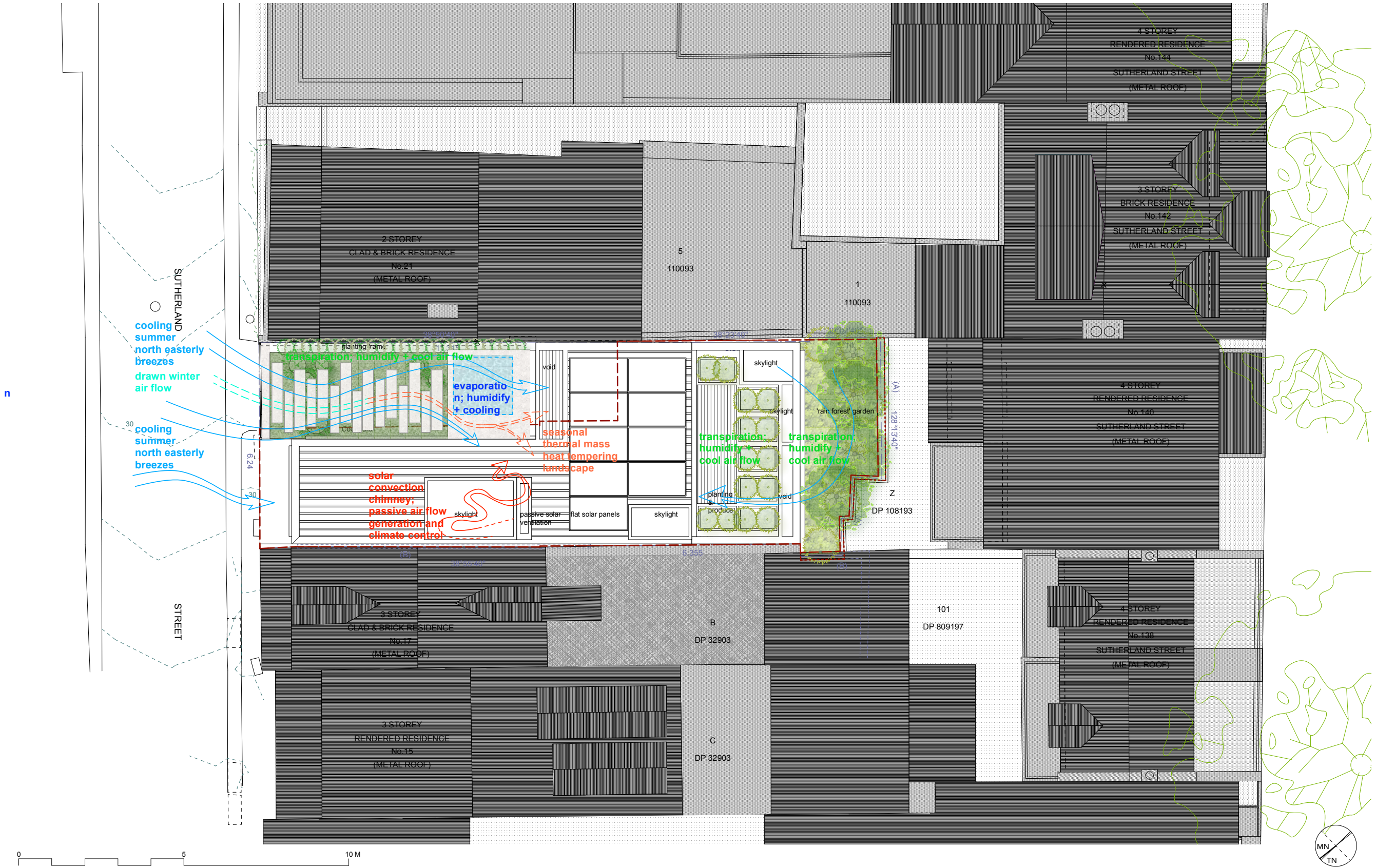
<div>NEW RESIDENCE</div> <div>19 SUTHERLAND AVENUE, PADDINGTON</div> <div>A ROSEWELL & C SEIN</div>	JOB NO	DWG NO	AMENDMENT	TITLE	SCALE	DATE PRINTED	<div><div><ul style="list-style-type: none">- Dimensions in millimetres.- Confirm all dimensions on site prior to commencing work.- Use figured dimensions only.- Do not scale.- If discrepancy exists notify architect.- If in doubt ask.</div><div>© Copyright in all documents and drawings prepared by the architect and in any works executed from those documents and drawings shall remain the property of the architect or on creation vest with the architect</div></div>
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1 Context Solar Access
Scale: 1:100

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	2104	DA012	A	CONTEXTUAL PLAN - BOUNDARY WINDOW RETENTION	1:100 AT A3	09.09.21	
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A ROSEWELL & C SEIN

JOB NO

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DWG NO

DA013

AMENDMENT

A

TITLE

CONTEXTUAL PLAN - ENVIRONMENTAL PERFORMANCE PLAN

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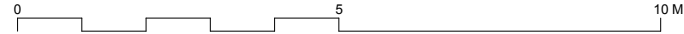
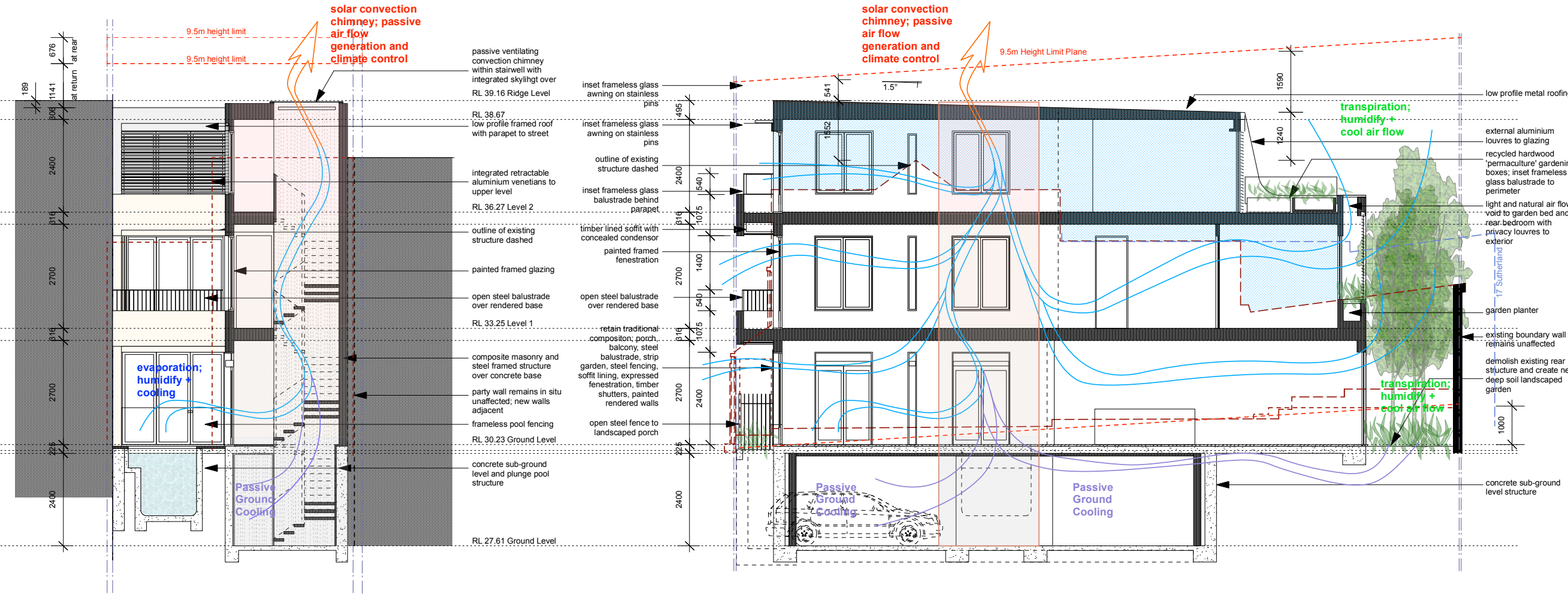
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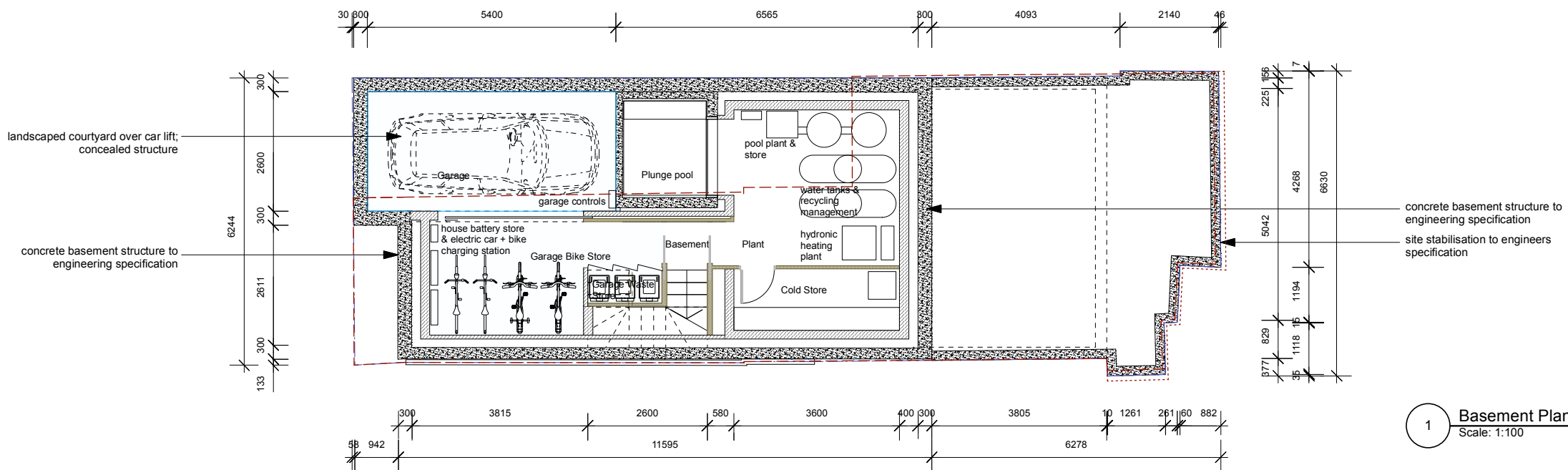
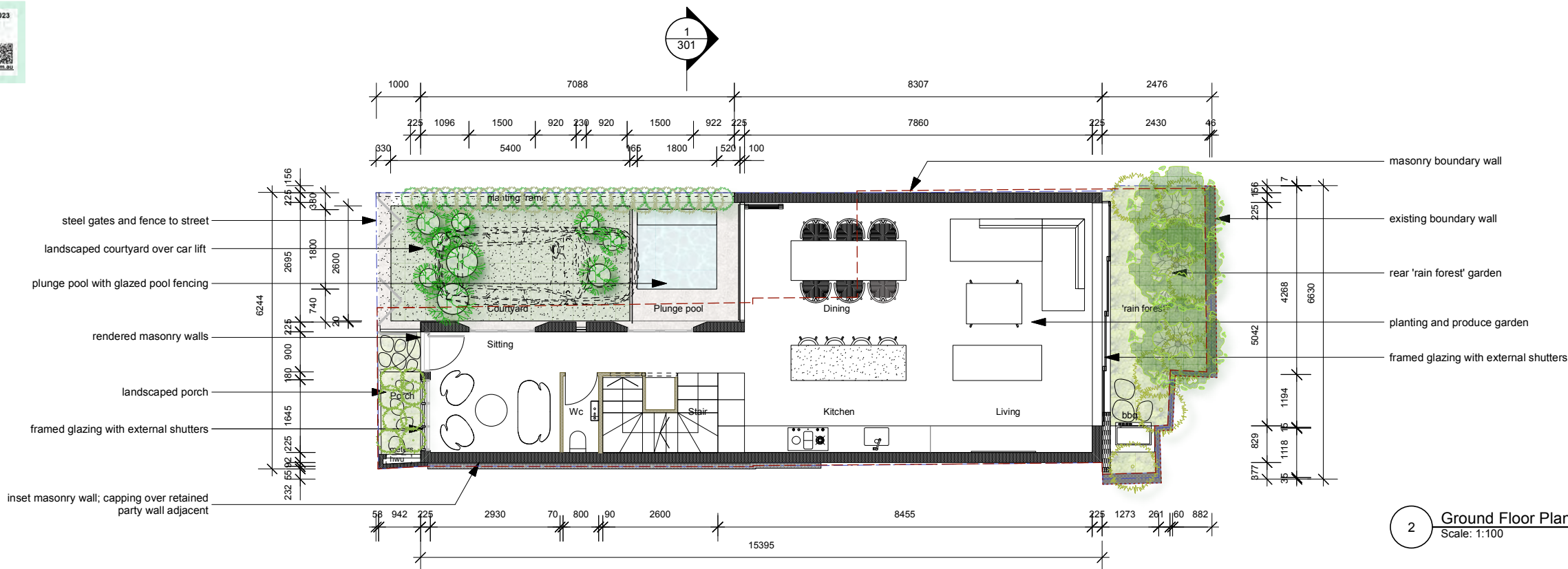
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2104 DA102 A GROUND FLOOR & BASEMENT FLOOR PLANS
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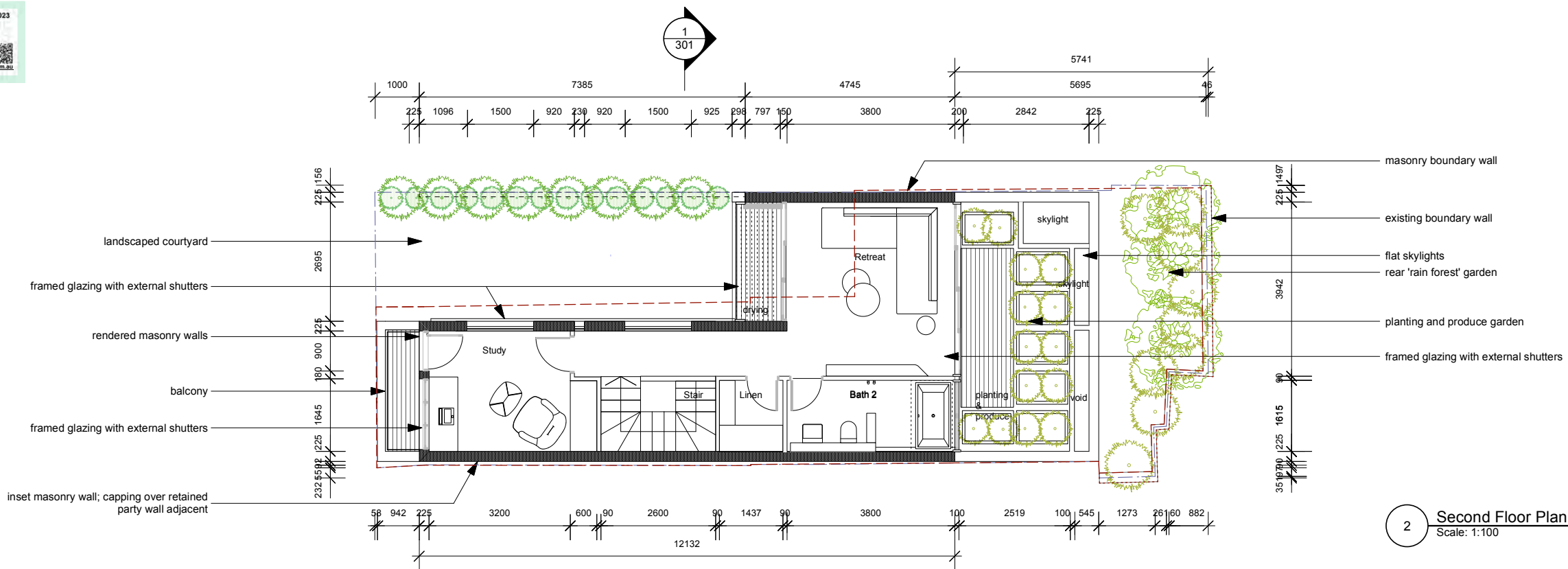
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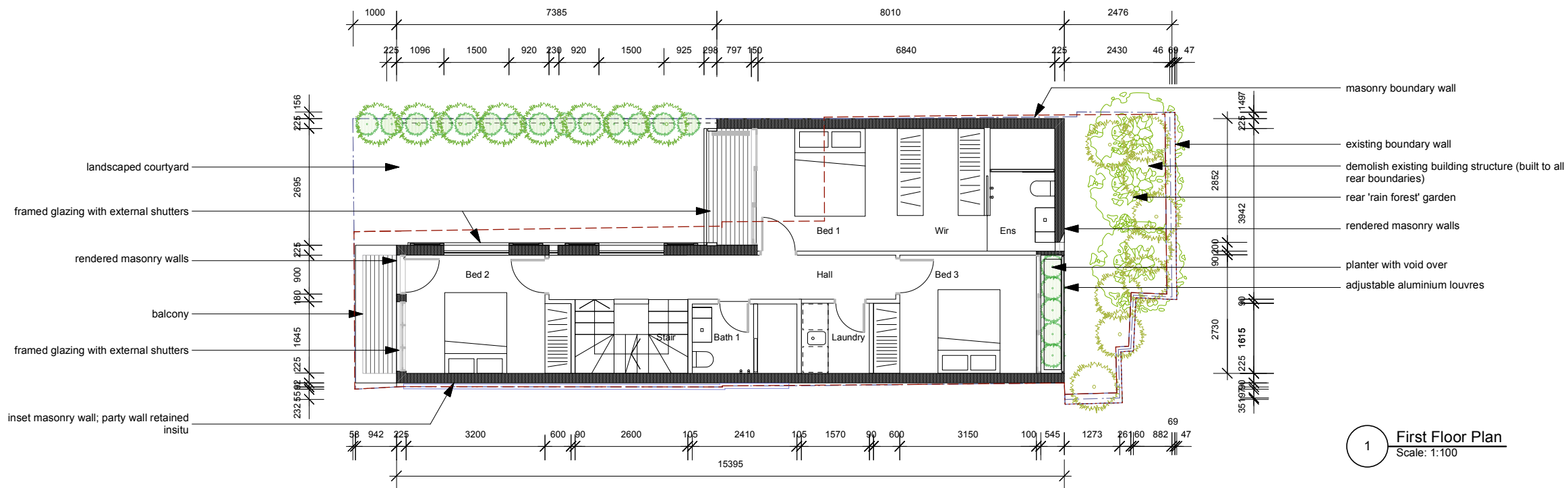
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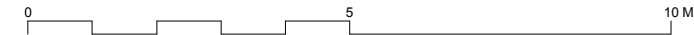
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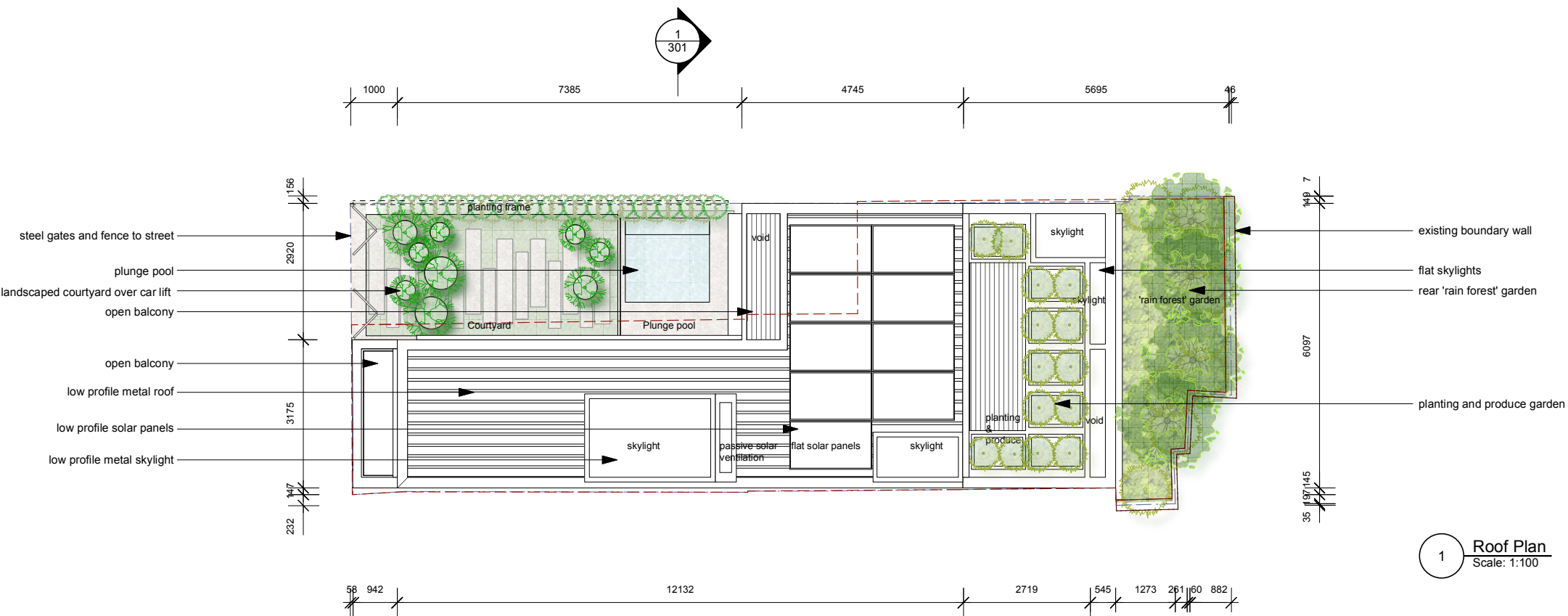
2 Second Floor Plan
Scale: 1:100



1 First Floor Plan
Scale: 1:100



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	2104	DA103	A	FIRST FLOOR & SECOND FLOOR PLANS	1:100 AT A3	20.01.22	
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JOB NO DWG NO AMENDMENT TITLE
2104 DA104 A ROOF PLAN
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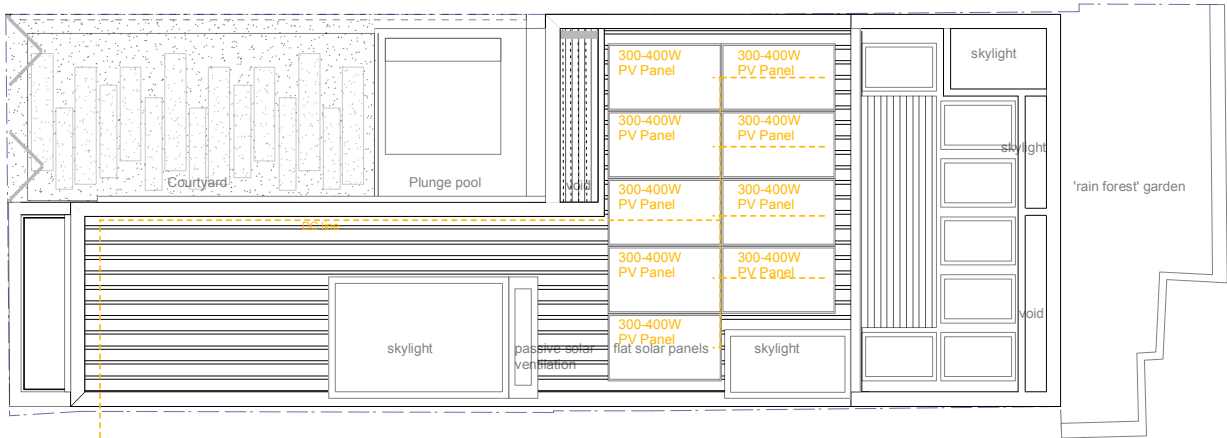
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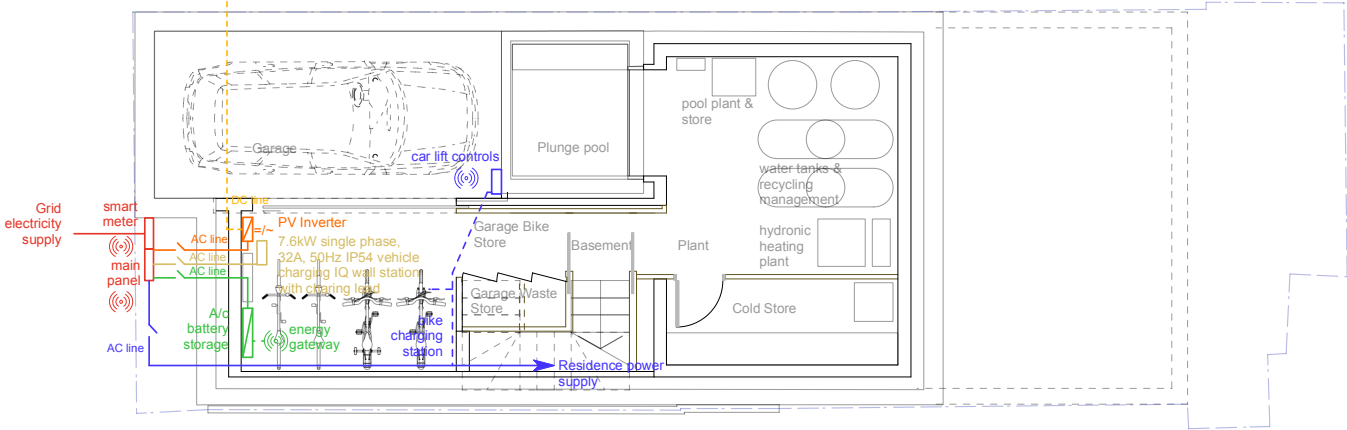
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2 Roof Plan
Scale: 1:100



1 Basement Plan
Scale: 1:100

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A ROSEWELL & C SEIN

JOB NO 2104
DWG NO DA106
AMENDMENT A
TITLE ELECTRIC CIRCUITRY PLAN
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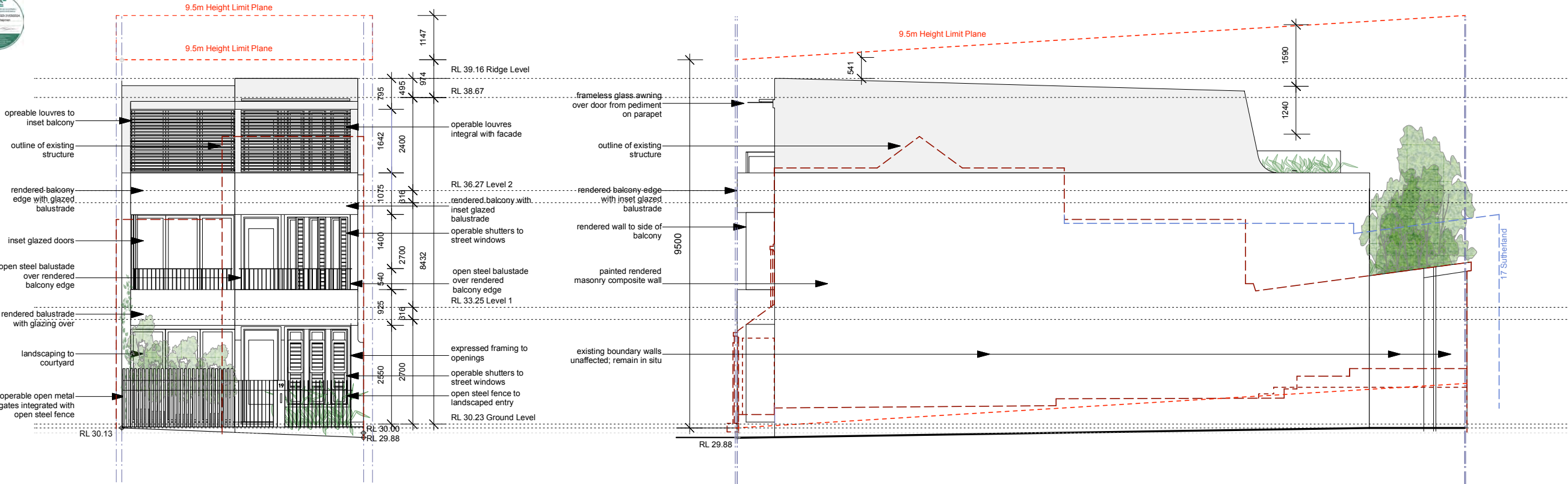
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	2104	DA107	A	SWMM SITE PLAN	1:100 AT A3	09.09.21	
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1 North Elevation
Scale: 1:100

2 Western Elevation
Scale: 1:100

New Dwelling 19 Sutherland Avenue Paddington			Thermal Performance Summary - New Dwelling Prepared by Chapman Environmental Services www.basiccertificates.com.au 1300 004 914			CSES CHAPMAN		
NSW		2021						
Conditioned Area		164.5	Unconditioned Area		5.6			
Max. Heating Load is (MJ/m²)		40	Actual Heating Load		39.5			
Max. Cooling Load is (MJ/m²)		26	Actual Cooling Load		23.2	Star Rating		5.2
Thermal Performance Assessment Based on the Following Requirements								
Floor Types		Concrete slab on ground			with		R2.3 under slab insulation	
Floor Coverings		Tiles			Living/Wet Areas		Timber Bedrooms	
		Carpet			n/a		Concrete Garage	
External Walls		Concrete block - basement level only			with		R1.1 foilboard insulation	
		Brick veneer			with		Sarking and R2.7 bulk insulation	
Internal Walls		Single skin brick			with		No insulation required	
		Plasterboard			with		R2.7 bulk insulation	
Ceiling (floor over)		Concrete above plasterboard			with		R2.7 underslab insulation - Garage bike store only	
		Timber above plasterboard			with		R3.1 bulk insulation	
Ceilings (roof over)		Concrete above plasterboard			with		No insulation required	
		Timber above plasterboard			with		R6.0 bulk insulation	
Roof		Concrete			with		Waterproof membrane only	
		Metal			with		R1.3 roof blanket	
							Colour Dark	
Windows and Doors		AF single glazed LowE			Bi-Fold Door BRD-006-13 U-Value 4.49 or less SHGC 0.50 +/- 5%			
		to all windows and glazed doors unless noted otherwise			D-Hung BRD-024-14 U-Value 4.38 or less SHGC 0.59 +/- 5%			
					Fixed Glass BRD-041-11 U-Value 4.23 or less SHGC 0.60 +/- 5%			
					Sliding Windows BRD-149-05 U-Value 4.57 or less SHGC 0.60 +/- 5%			
					Casement Windows BRD-092-17 U-Value 5.07 or less SHGC 0.53 +/- 5%			
					TF single glazed LowE			
		AF double glazed LowE			Group A TIM-001-04 U-Value 3.70 or less SHGC 0.35 +/- 5%			
		To all sliding doors To Kitchen Living Bi-Fold door only			Sliding Doors BRD-052-13 U-Value 3.33 or less SHGC 0.51 +/- 5%			
					Bi-Fold Door BRD-076-64 U-Value 3.44 or less SHGC 0.45 +/- 5%			
Group A windows are Awning, Bi-fold, Casement or Tilt'n turn			Group A doors are Bi-fold, Entry, French or Hinged					
Group B windows are Double hung, Fixed, Louvre or Sliding			Group B doors are Sliding or Stacker					
AF = Aluminium Framed			TF = Thermally Broken Aluminium Framed			TF = Timber Framed		
If the Universal Certificate indicates downlights, then these are to be non-ventilated LED / fluorescent								
Any exhaust fans noted are to be fitted with self-closing dampers or be otherwise sealed								
All insulation specified must be installed in accordance with Part 3.12.1.1 of the BCA								
If there is a discrepancy between this document and the Nathers Certificate, then the Nathers Certificate shall take precedence								
Notes								
The Basement level blockwork has been modelled as Cavity brick to reflect the finished construction system. 1X Ceiling fans (1200mm) required in Kitchen living, Level 1 Hall & Retreat								

NEW RESIDENCE
19 SUTHERLAND AVENUE, PADDINGTON
A ROSEWELL & C SEIN

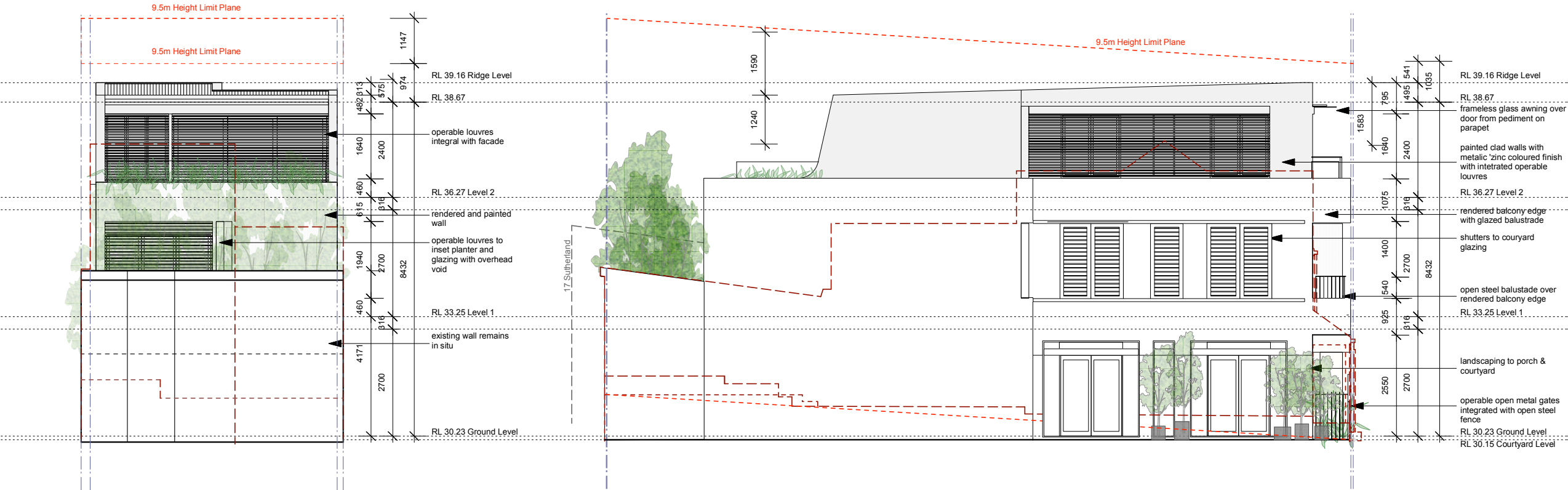
JOB NO 2104
DWG NO DA201
AMENDMENT A
TITLE ELEVATIONS 1
SIMON ROSEWELL PTY LTD

SCALE 1:100 AT A3
DATE PRINTED 27.07.21
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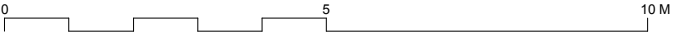
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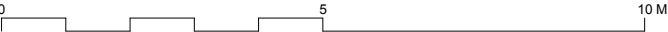
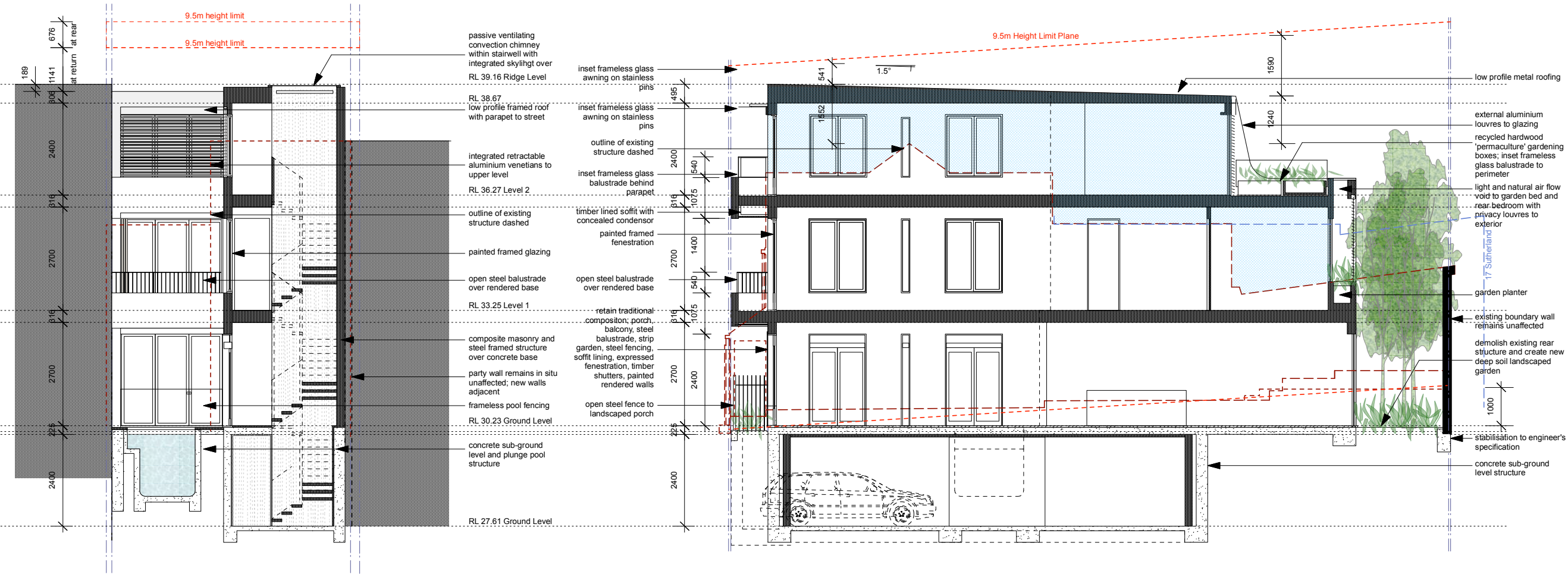


1 Southern Elevation
Scale: 1:100

2 Eastern Elevation
Scale: 1:100



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	2104	DA202	A	ELEVATIONS 2	1:100 AT A3	12.08.21	
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19 SUTHERLAND AVENUE, PADDINGTON	2104	DA301	A	SECTIONS	1:100 AT A3	27.07.21	
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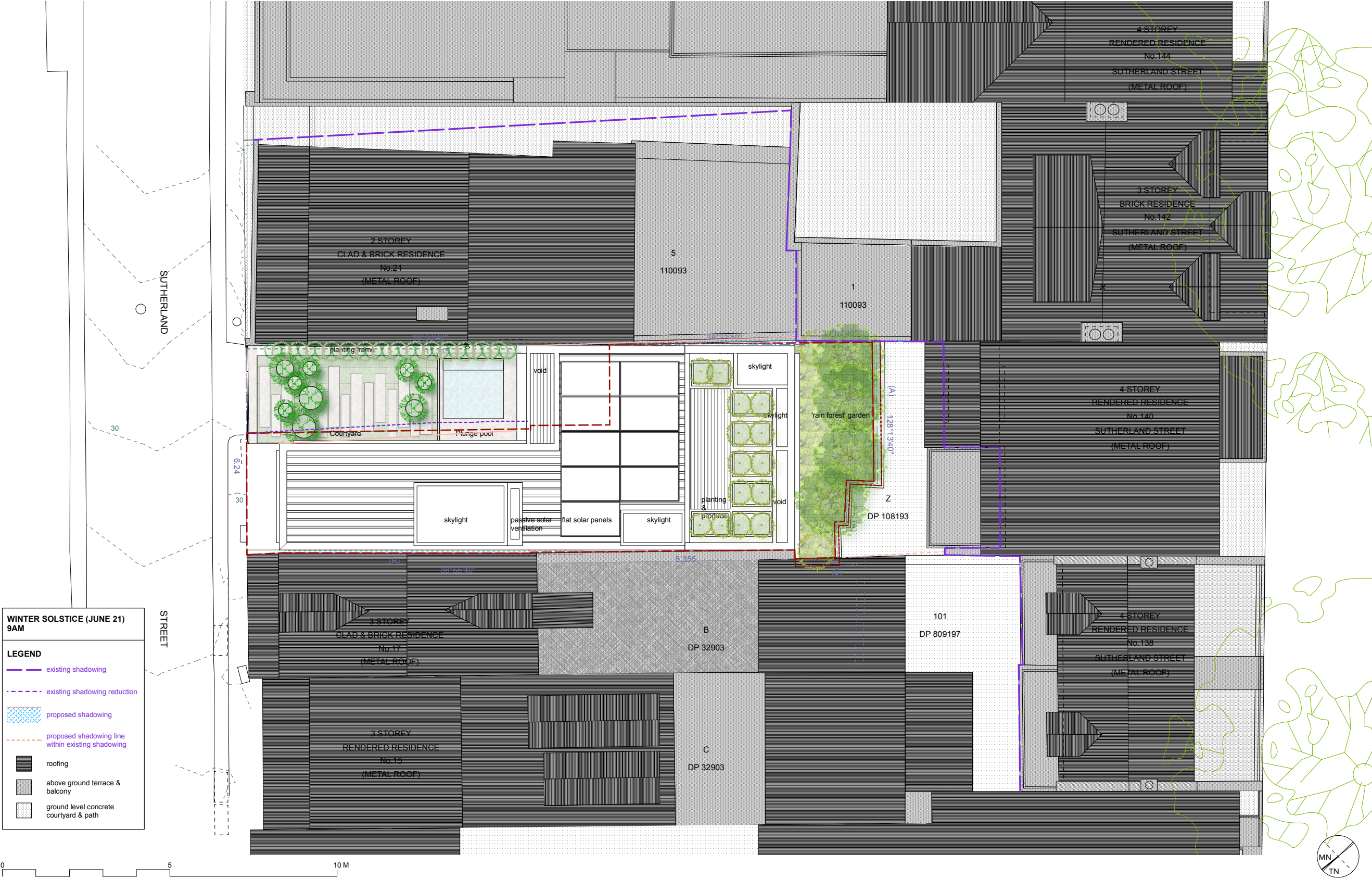
JOB NO 2104
DWG NO DA203
AMENDMENT A
TITLE FINISHES SCHEDULE
SIMON ROSEWELL PTY LTD

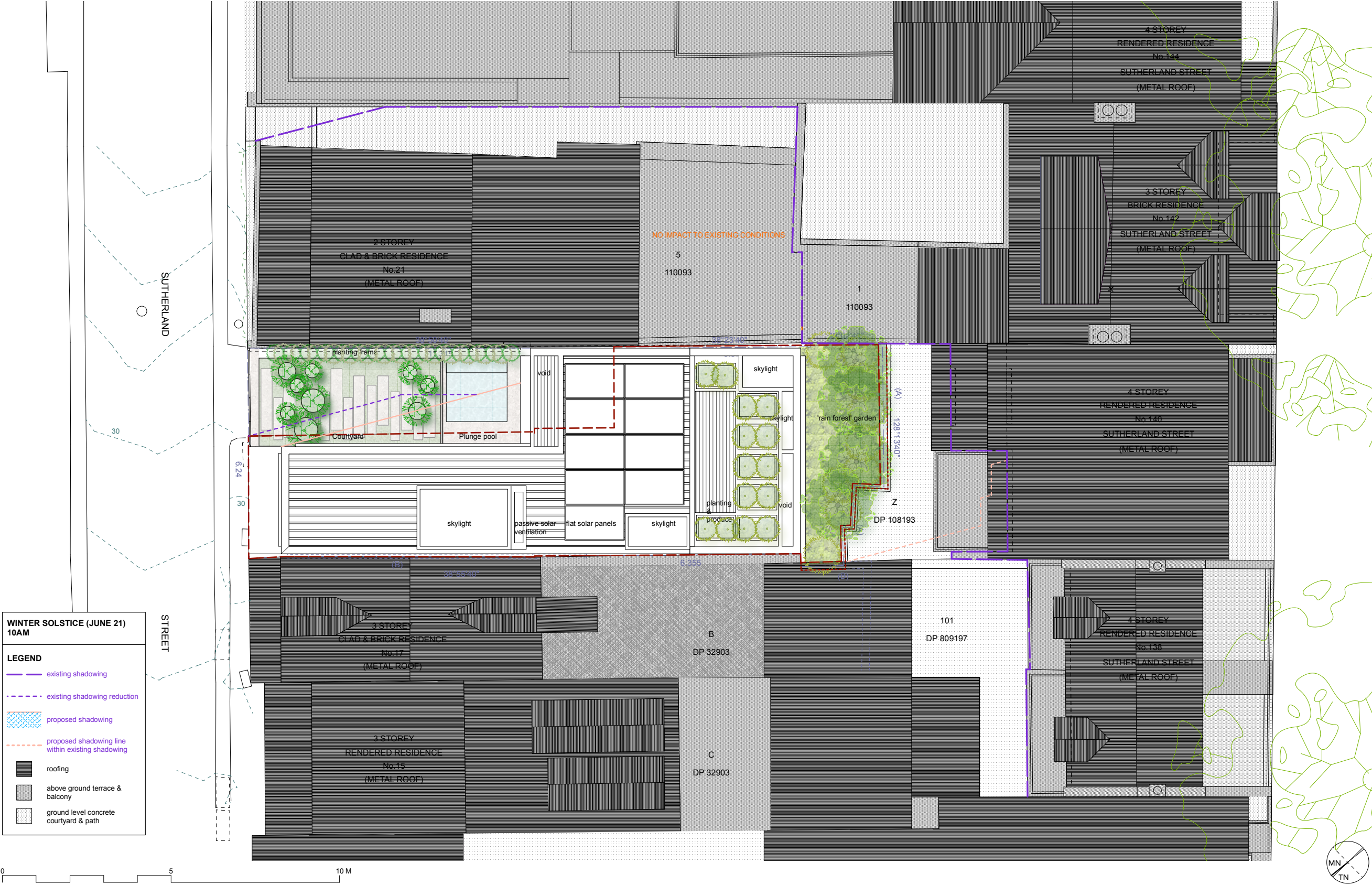
SCALE 1:100 AT A3
DATE PRINTED 12.08.22
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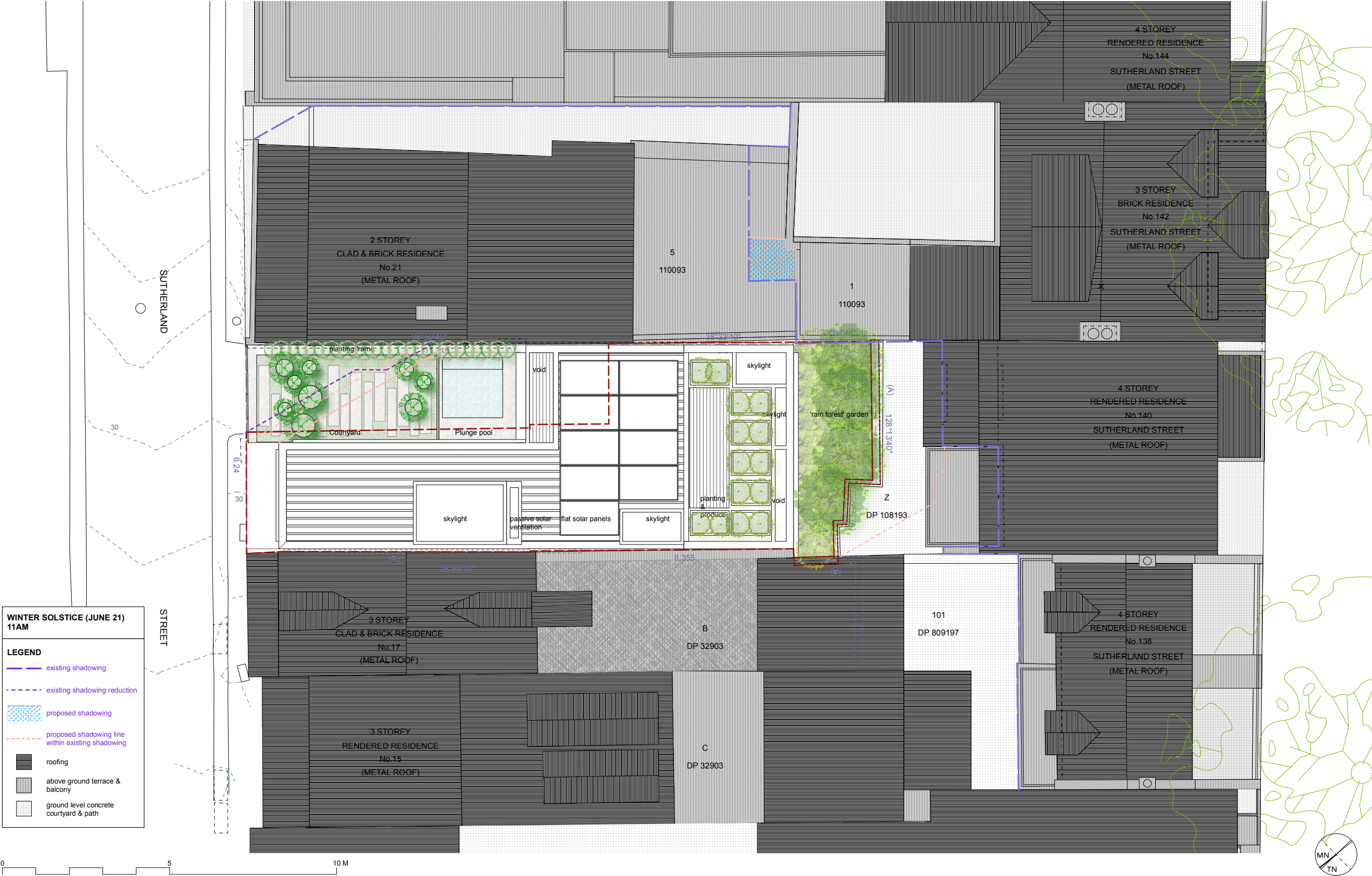
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	2104	DA 122	A	SHADOW DIAGRAM 2	1:100 AT A3	20.01.22	
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JOB NO DWG NO AMENDMENT TITLE
2104 DA 123 A SHADOW DIAGRAM 3
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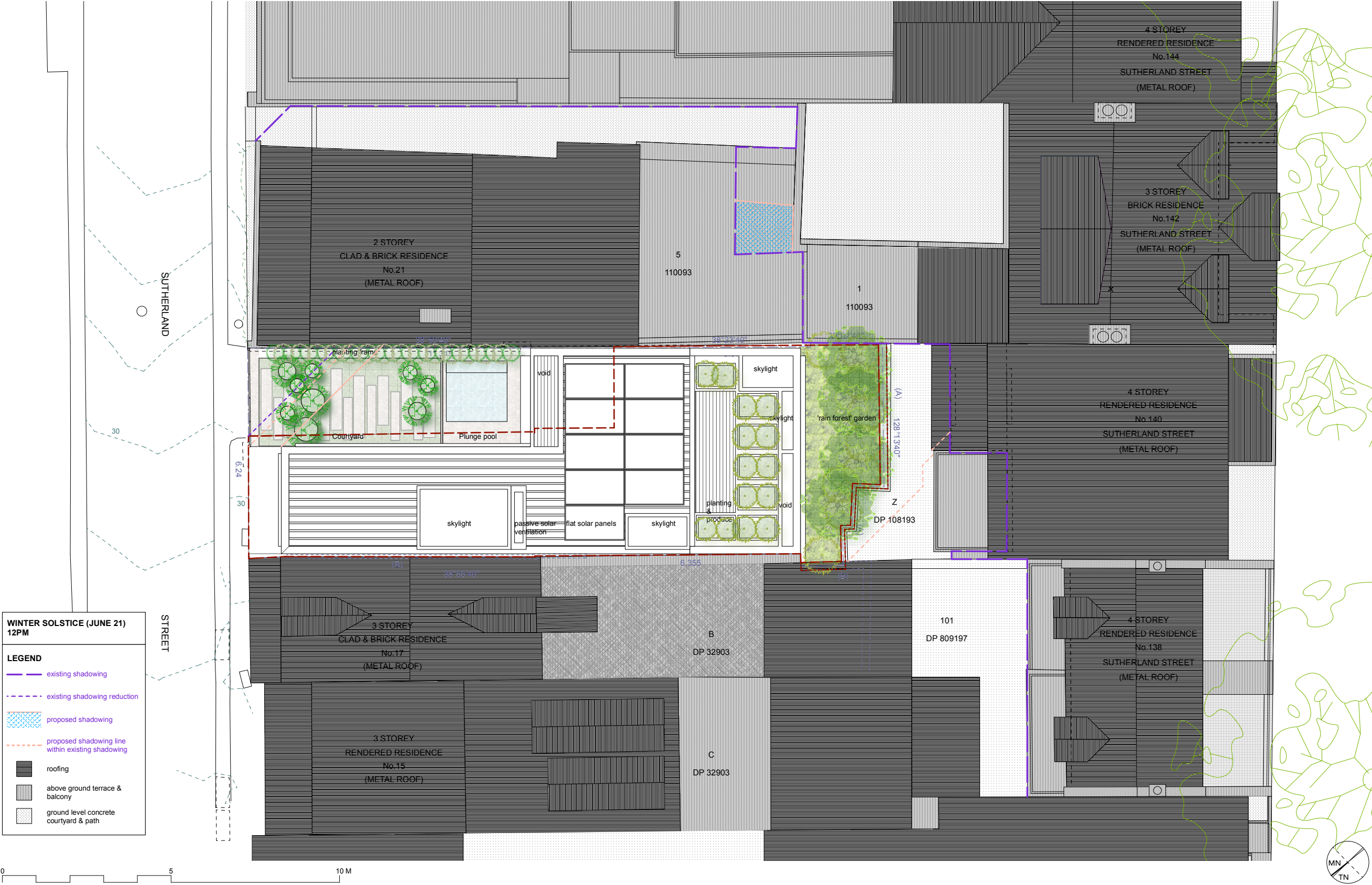
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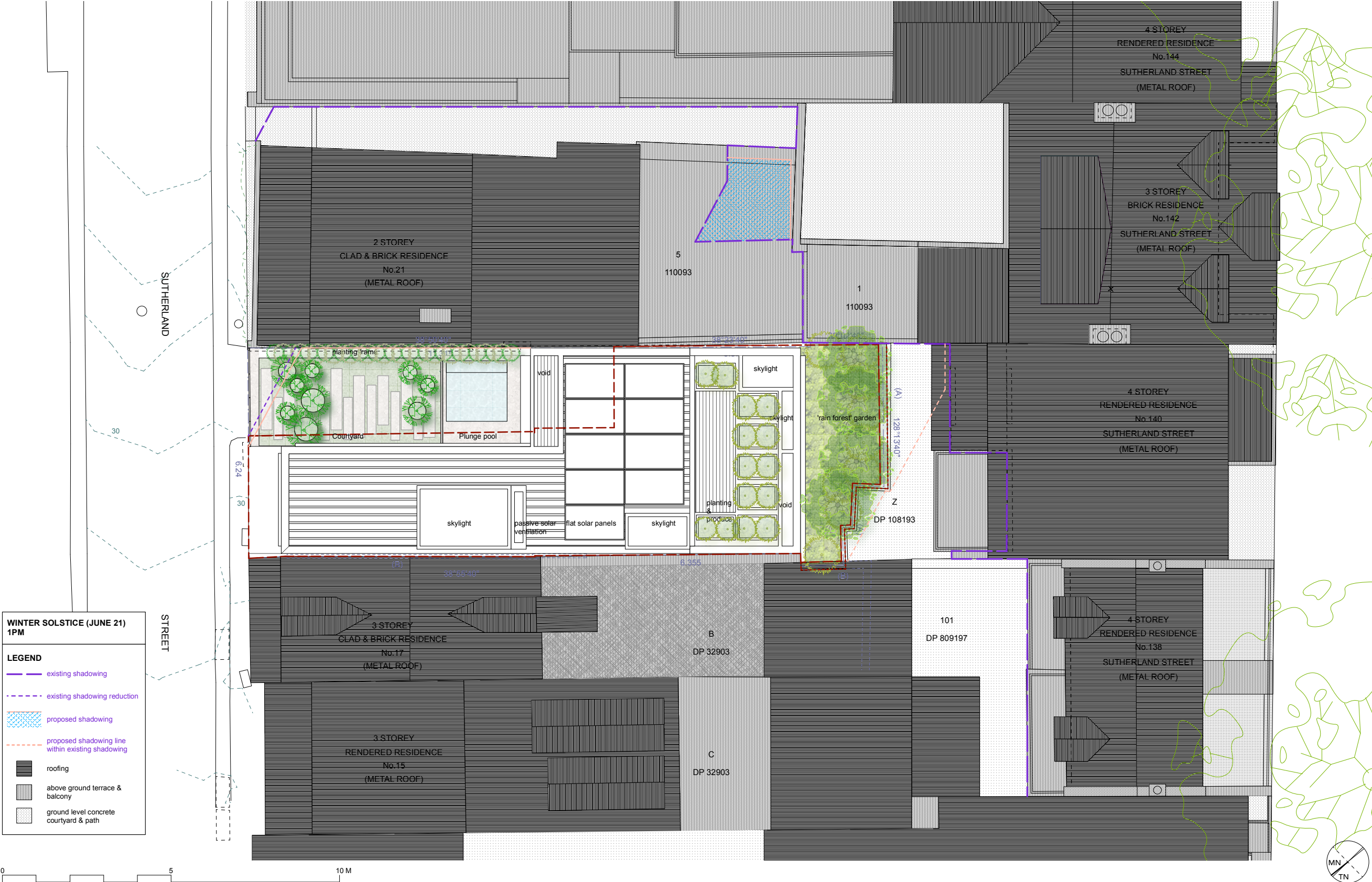
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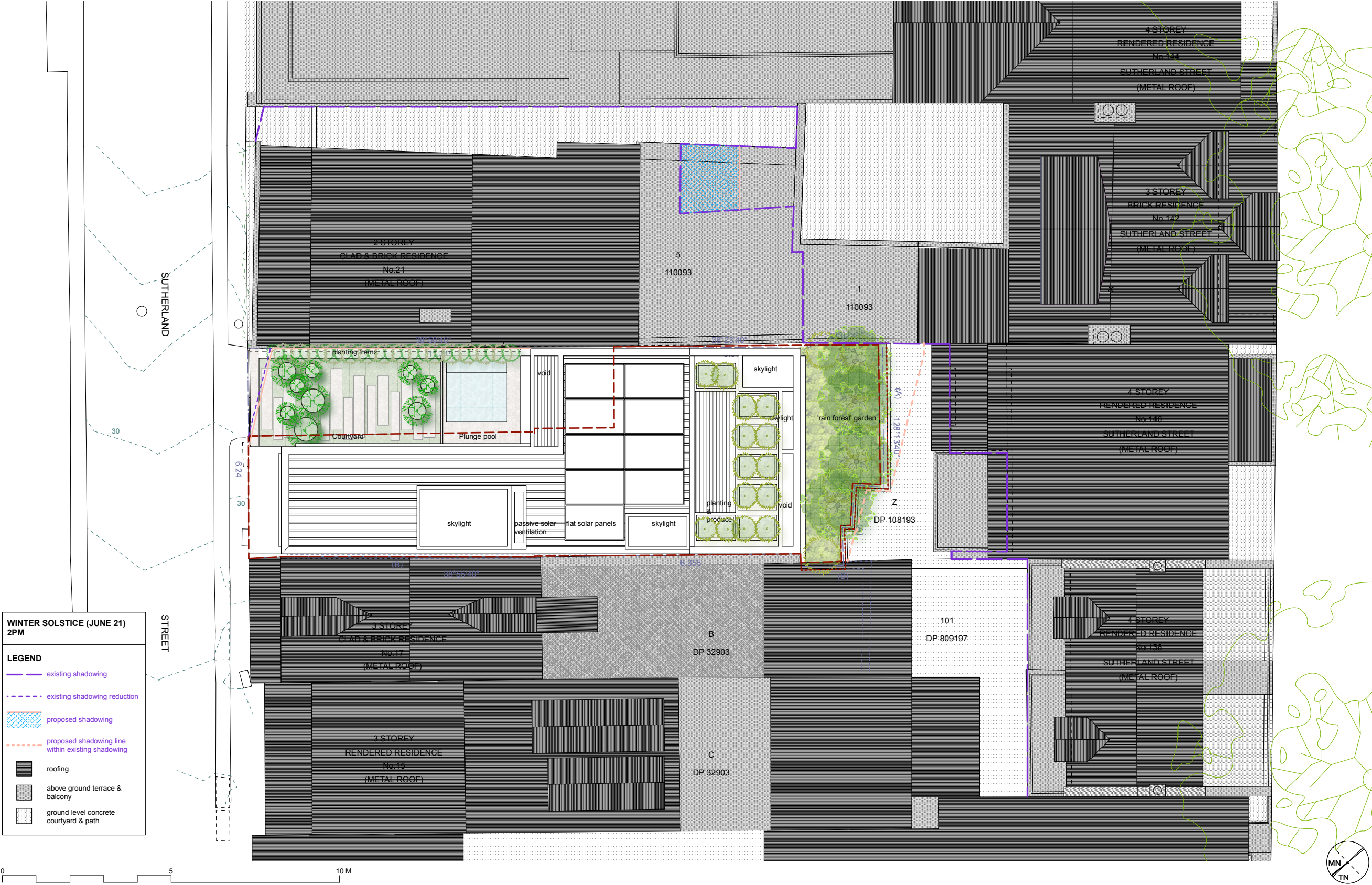
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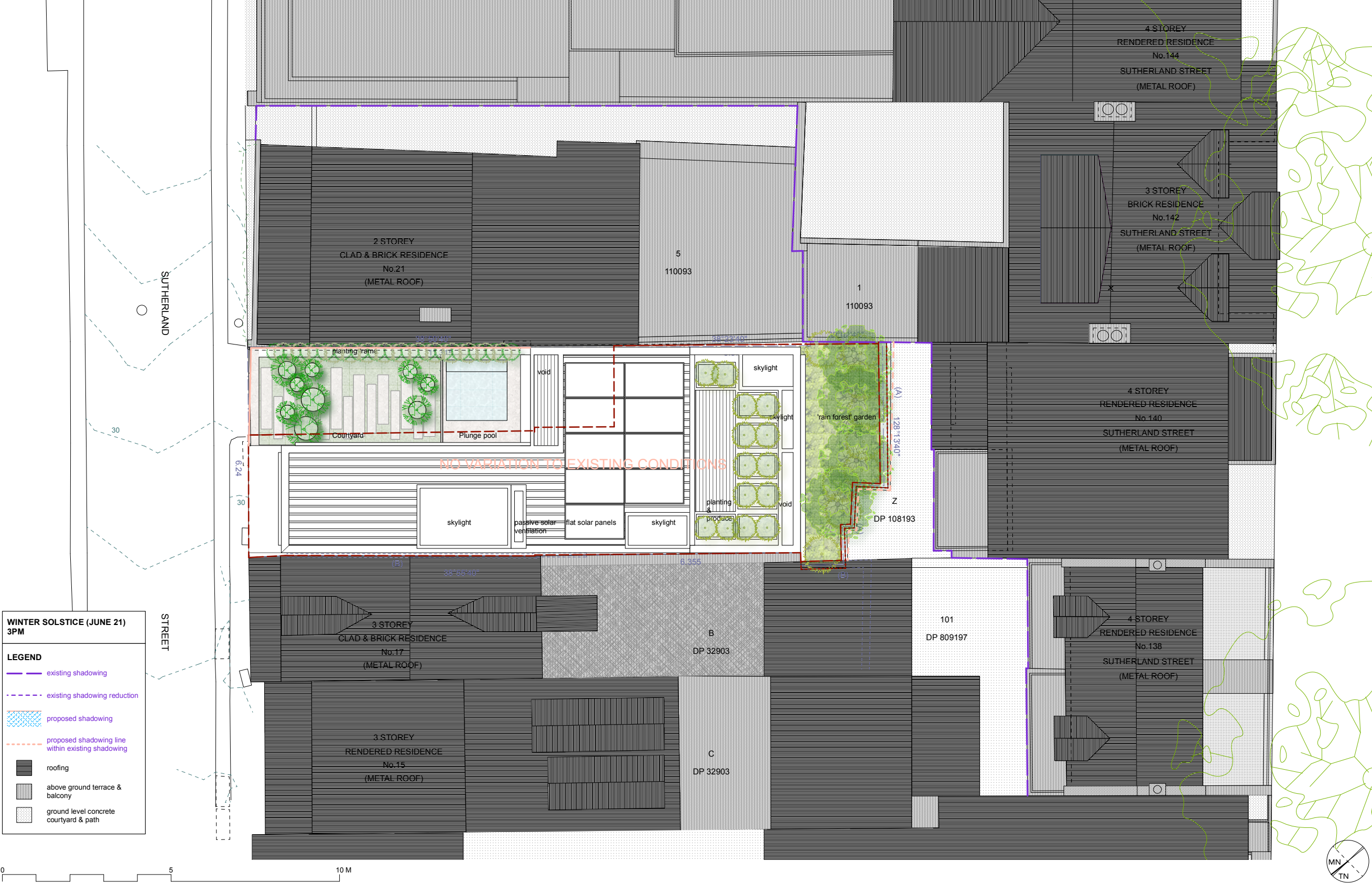
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JOB NO	DWG NO	AMENDMENT	TITLE
2104	DA 127	A	SHADOW DIAGRAM 7
SIMON ROSEWELL PTY LTD			

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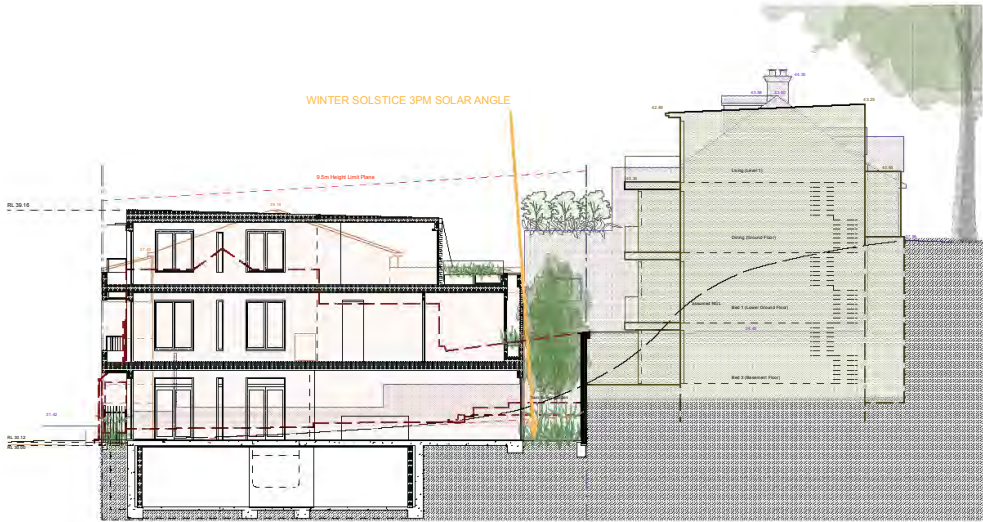
SCALE
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DATE PRINTED
20.01.22

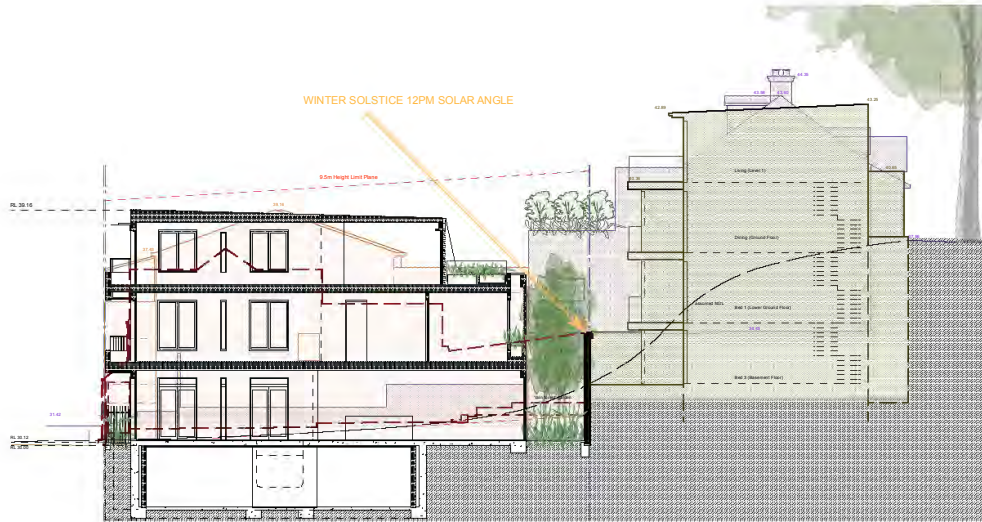
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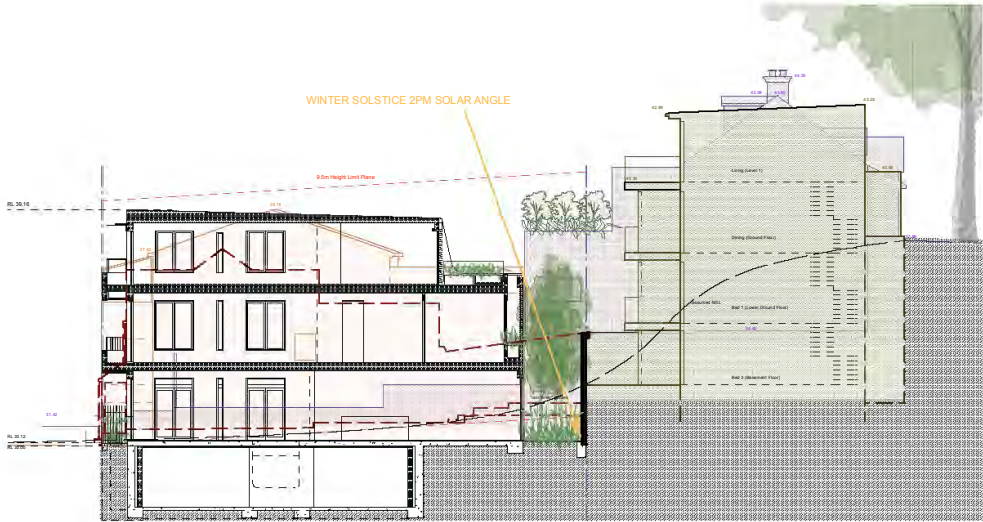
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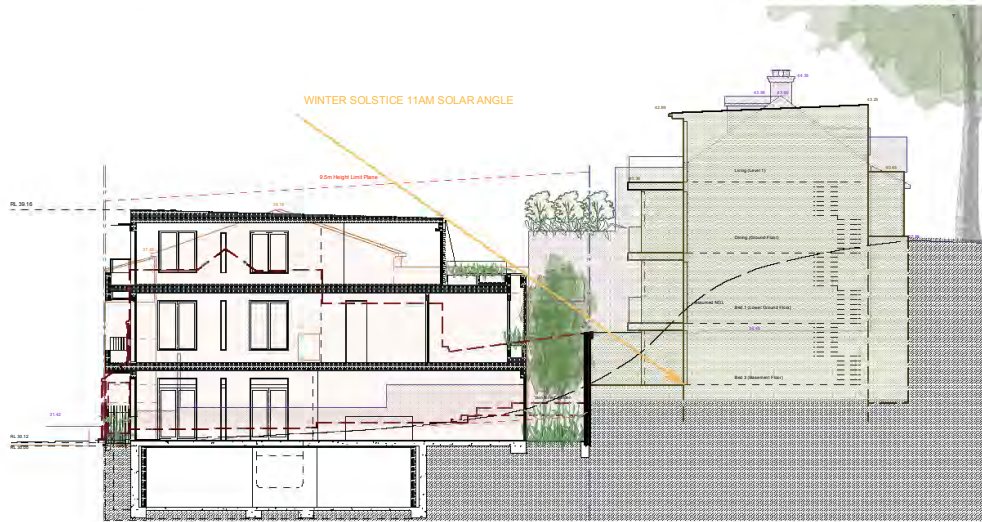
1 3PM Winter Solstice
Scale: 1:250



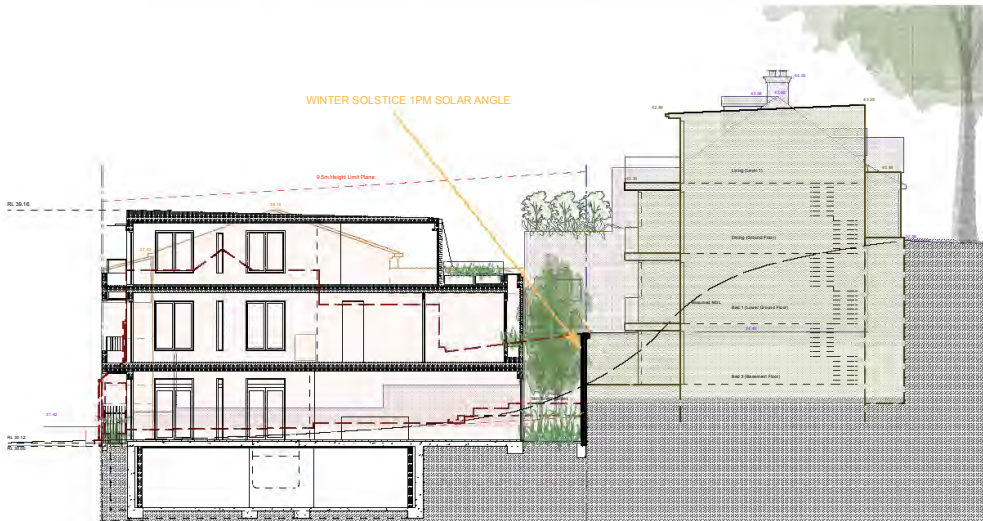
4 12PM Winter Solstice
Scale: 1:250



2 2PM Winter Solstice
Scale: 1:250



5 11AM Winter Solstice
Scale: 1:250



3 1PM Winter Solstice
Scale: 1:250

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JOB NO DWG NO AMENDMENT TITLE
2104 DA 128 A SHADOW SECTIONAL DIAGRAM
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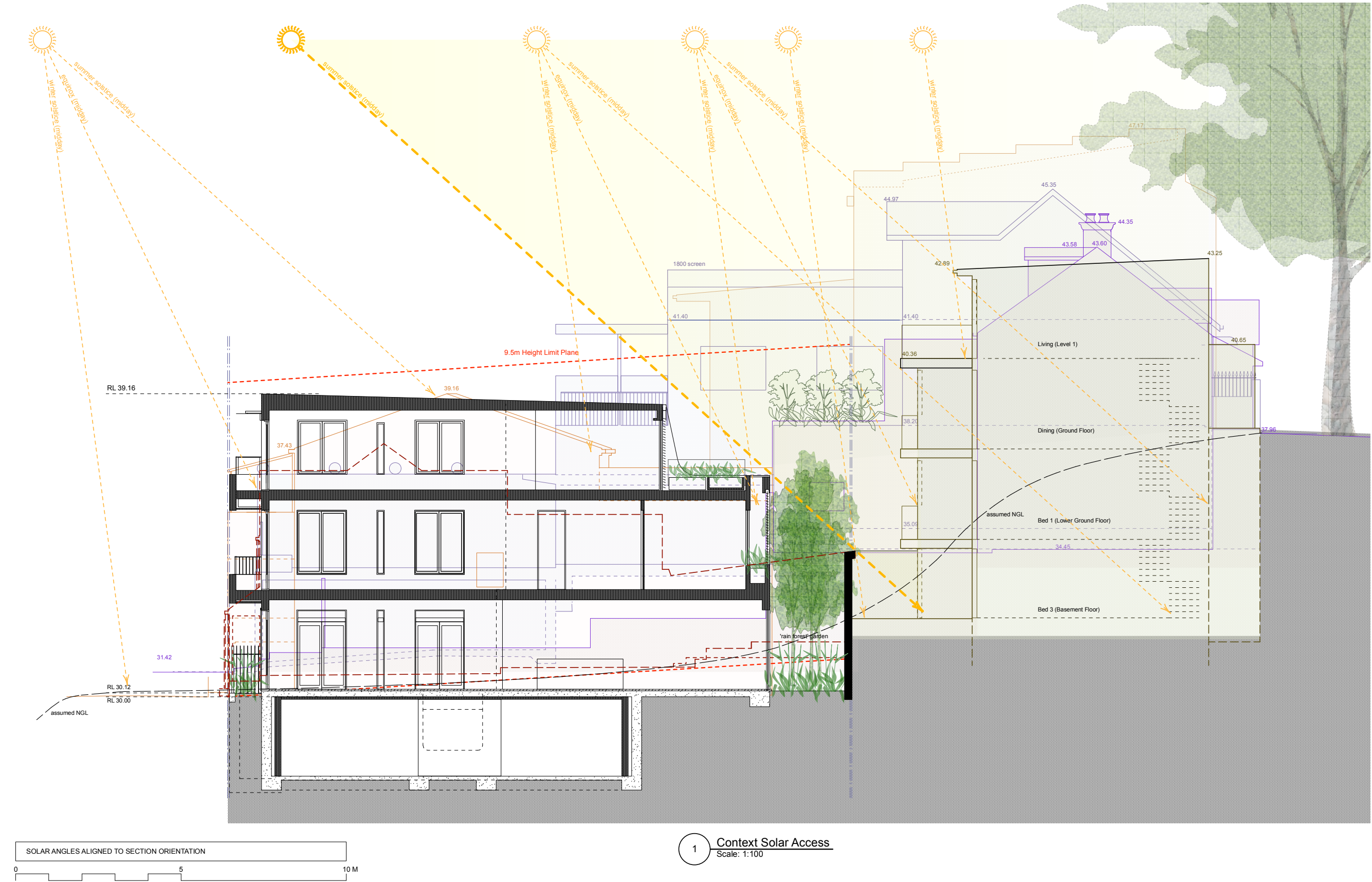
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	2104	DA011	A	CONTEXT SOLAR ACCESS	1:100 AT A3	09.09.21	
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	2104	DA016	A	CONTEXTUAL MONTAGE	- AT A3	09.09.22	
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	2104	DA017	A	PHOTO MONTAGE	- AT A3	09.09.22	
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COMMUNAL PERMACULTURE GARDENS & PUBLIC ART, SUTHERLAND AVENUE



COMMUNAL PERMACULTURE GARDENS, SUTHERLAND AVENUE



COMMUNAL PUBLIC GARDENS, HARRIS STREET



COMMUNAL PUBLIC GARDENS, ELIZABETH & SUTHERLAND STREET



COMMUNAL PERMACULTURE GARDENS, SUTHERLAND STREET

<div><div>NEW RESIDENCE</div><div>19 SUTHERLAND AVENUE, PADDINGTON</div><div>A ROSEWELL & C SEIN</div></div>	JOB NO	DWG NO	AMENDMENT	TITLE	SCALE	DATE PRINTED	<div><div><ul style="list-style-type: none">- Dimensions in millimetres.- Confirm all dimensions on site prior to commencing work.- Use figured dimensions only.- Do not scale.- If discrepancy exists notify architect.- If in doubt ask.</div><div>Comply with relevant Authorities requirements Comply with the Building Code of Australia Comply with all relevant Australian Standards</div><div>© Copyright in all documents and drawings prepared by the architect and in any works executed from those documents and drawings shall remain the property of the architect or on creation vest with the architect</div></div>
	2104	DA009	A	CONTEXTUAL PLAN - PERMACULTURE & PUBLIC GARDENS	1:100 AT A3	09.09.21	
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PROJECT

19 SUTHERLAND AVENUE, PADDINGTON

LANDSCAPE ARCHITECTURAL DRAWING LIST

DWG NO.	SHEET NAME	SCALE	ISSUE	REV. DATE
LS00	LANDSCAPE COVER PAGE (THIS PAGE)	NTS@A3	B	16.12.22
LS01	LANDSCAPE SITE PLAN	1:100@A3	B	16.12.22
LS02	LANDSCAPE GROUND FLOOR	1:50@A3	B	16.12.22
LS03	LANDSCAPE FIRTS + SECOND FLOOR	1:100@A3	B	16.12.22
LS04	LANDSCAPE MOOD BOARD	NTS@A3	B	16.12.22
LS05	LANDSCAPE PLANT SPECIES	NTS@A3	B	16.12.22
LS06	LANDSCAPE NOTES	NTS@A3	B	16.12.22
LS07	LANDSCAPE TYPICAL DETAILS	AS SHOWN@A3	B	16.12.22

MWLA

PROJECT NUMBER

2184

CLIENT

SIMON ROSEWELL

ISSUE

FOR DA SUBMISSION

DATE

16.12.2022

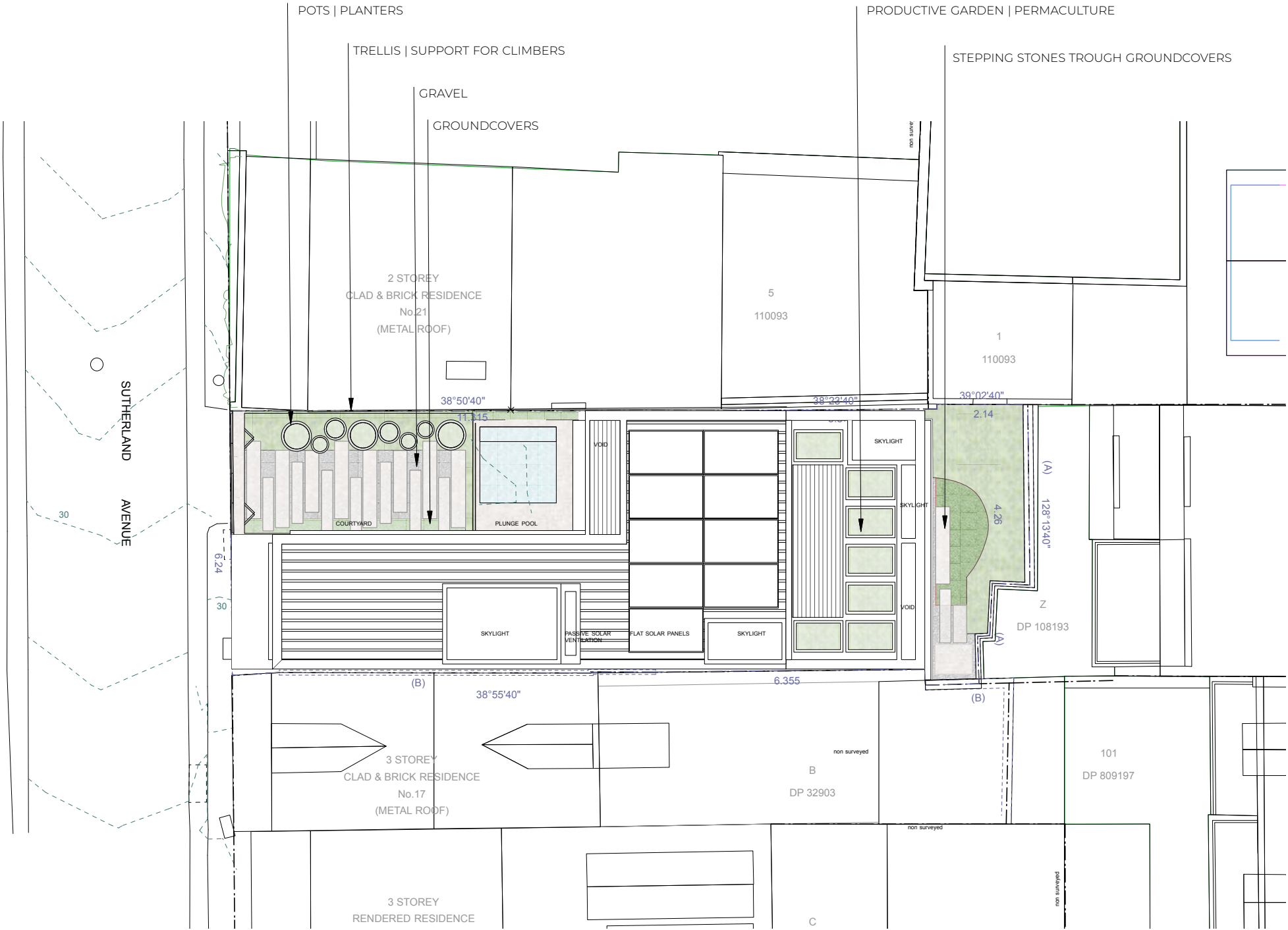
NOMINATED LANDSCAPE ARCHITECT

MELISSA WILSON



MELISSA WILSON LANDSCAPE ARCHITECTS

0416 112 862
LEVEL 4 | 15 FOSTER STREET SURRY HILLS, 2010 NSW
PO BOX DARLIGHURST NSW 1300
www.melissawilson.com.au





MELISSA WILSON

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Surry Hills, 2010 NSW
PO BOX 1320 Darlinghurst, NSW 1300
www.melissawilson.com.au
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ISSUE	AMENDMENT
A	DRAFT CONCEPT
B	FOR DA SUBMISSION

DATE
01.11.22
16.12.22

SCALE: 1:100@A3
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CLIENT: SIMON ROSEWELL
PROJECT NUMBER: 2184

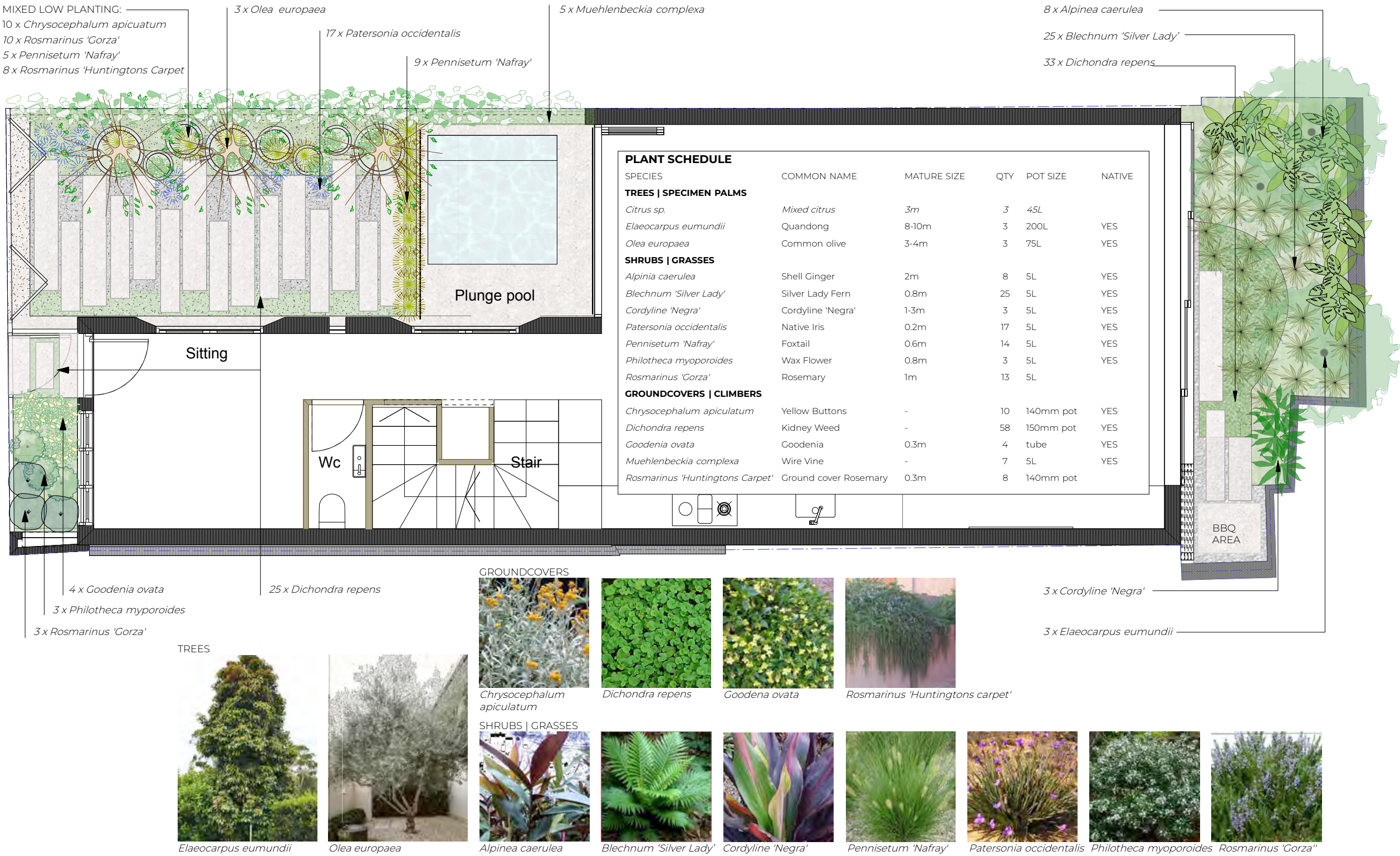
DRAWING TITLE
LANDSCAPE SITE PLAN
PROJECT
19 SUTHERLAND AVENUE, PADDINGTON

DWG NO.
LS01
ISSUE
B

NOTES
REFER TO DETAIL SURVEY
FOR SITE IDENTIFICATION,
BOUNDARY INFORMATION &
LEVELS.
ALL LEVELS AND
DIMENSIONS TO BE
CONFIRMED ON SITE. IF ANY
DISCREPANCIES OCCUR
PLEASE NOTIFY THE
LANDSCAPE ARCHITECT



NOT FOR
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DRAWING TITLE
LANDSCAPE | GROUND FLOOR
PROJECT
19 SUTHERLAND AVENUE, PADDINGTON

DWG NO.
LS02
ISSUE
B

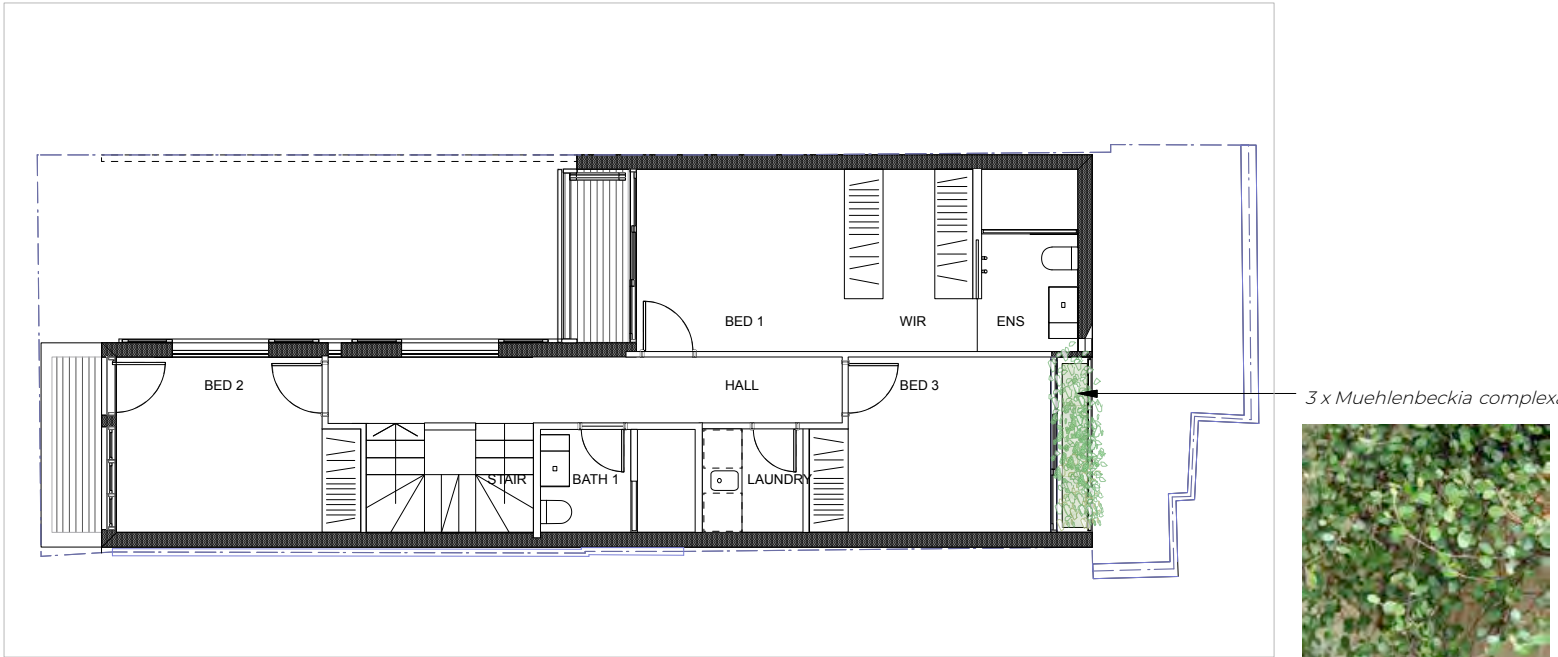
NOTES
REFER TO DETAIL SURVEY
FOR SITE IDENTIFICATION,
BOUNDARY INFORMATION &
LEVELS.
ALL LEVELS AND
DIMENSIONS TO BE
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2 SITE PLAN | SECOND FLOOR
1:100@A3



1 SITE PLAN | FIRST FLOOR
1:100@A3

PRODUCTIVE GARDEN PLANTING OPTIONS



Allium schoenoprasum
'Chives'



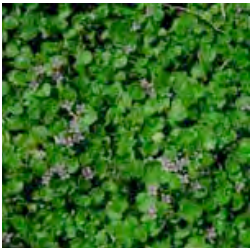
Aloe barbadensis miller



Chamaemelum Nobile



Cymbopogon citratus



Mentha requieni



Origanum vulgare



Rosmarinus 'Gorza'



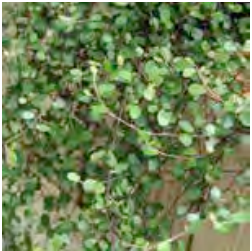
Thymus spp.



Tulbaghia violacea



3 x *Citrus spp.*



3 x *Muehlenbeckia complexa*



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ISSUE
A DRAFT CONCEPT
B FOR DA SUBMISSION

DATE
01.11.22
16.12.22

SCALE: 1:100@A3
DRAWN: MW
CLIENT: SIMON ROSEWELL
PROJECT NUMBER: 2184

DRAWING TITLE
LANDSCAPE | FIRST + SECOND FLOOR
PROJECT
19 SUTHERLAND AVENUE, PADDINGTON

DWG NO.
LS03
ISSUE
B

NOTES
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BOUNDARY INFORMATION &
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DIMENSIONS TO BE
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DISCREPANCIES OCCUR
PLEASE NOTIFY THE
LANDSCAPE ARCHITECT



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ISSUE	AMENDMENT
A	DRAFT CONCEPT
B	FOR DA SUBMISSION

DATE
01.11.22
16.12.22

SCALE: NTS@A3
DRAWN: MW
CLIENT: SIMON ROSEWELL
PROJECT NUMBER: 2184

DRAWING TITLE
LANDSCAPE MOOD BOARD
PROJECT
19 SUTHERLAND AVENUE, PADDINGTON

DWG NO.
LS04
ISSUE
B

NOTES
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FOR SITE IDENTIFICATION,
BOUNDARY INFORMATION &
LEVELS.
ALL LEVELS AND
DIMENSIONS TO BE
CONFIRMED ON SITE. IF ANY
DISCREPANCIES OCCUR
PLEASE NOTIFY THE
LANDSCAPE ARCHITECT

NOT FOR
CONSTRUCTION

PLANT SCHEDULE					
SPECIES	COMMON NAME	MATURE SIZE	QTY	POT SIZE	NATIVE
TREES SPECIMEN PALMS					
<i>Citrus sp.</i>	Mixed citrus	3m	3	45L	
<i>Elaeocarpus eumundii</i>	Quandong	8-10m	3	200L	YES
<i>Olea europaea</i>	Common olive	3-4m	3	75L	YES
SHRUBS GRASSES					
<i>Alpinia caerulea</i>	Shell Ginger	2m	8	5L	YES
<i>Blechnum 'Silver Lady'</i>	Silver Lady Fern	0.8m	25	5L	YES
<i>Cordyline 'Negra'</i>	Cordyline 'Negra'	1-3m	3	5L	YES
<i>Patersonia occidentalis</i>	Native Iris	0.2m	17	5L	YES
<i>Pennisetum 'Nafray'</i>	Foxtail	0.6m	14	5L	YES
<i>Philotheca myoporoides</i>	Wax Flower	0.8m	3	5L	YES
<i>Rosmarinus 'Gorza'</i>	Rosemary	1m	13	5L	
GROUNDCOVERS CLIMBERS					
<i>Chrysocephalum apiculatum</i>	Yellow Buttons	-	10	140mm pot	YES
<i>Dichondra repens</i>	Kidney Weed	-	58	150mm pot	YES
<i>Goodenia ovata</i>	Goodenia	0.3m	4	tube	YES
<i>Muehlenbeckia complexa</i>	Wire Vine	-	7	5L	YES
<i>Rosmarinus 'Huntingtons Carpet'</i>	Ground cover Rosemary	0.3m	8	140mm pot	

TREES



Elaeocarpus eumundii



Olea europaea

SHRUBS | GRASSES



Alpinia caerulea



Blechnum 'Silver Lady'



Cordyline 'Negra'



Patersonia occidentalis



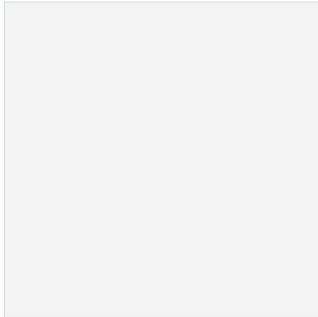
Pennisetum 'Nafray'



Philotheca myoporoides



Rosmarinus Gorza



GROUNDCOVERS



Chrysocephalum apiculatum



Goodenia ovata



Muehlenbeckia complexa



Rosmarinus 'Huntingtons carpet'



MELISSA WILSON

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www.melissawilson.com.au

NOMINATED LANDSCAPE ARCHITECT | MELISSA WILSON

ISSUE	AMENDMENT
A	DRAFT CONCEPT
B	FOR DA SUBMISSION

DATE
01.11.22
16.12.22

SCALE: NTS@A3
DRAWN: MW
CLIENT: SIMON ROSEWELL
PROJECT NUMBER: 2184

DRAWING TITLE
LANDSCAPE PLANT SPECIES
PROJECT
19 SUTHERLAND AVENUE, PADDINGTON

DWG NO.
LS05
ISSUE
B

NOTES
REFER TO DETAIL SURVEY
FOR SITE IDENTIFICATION,
BOUNDARY INFORMATION &
LEVELS.
ALL LEVELS AND
DIMENSIONS TO BE
CONFIRMED ON SITE. IF ANY
DISCREPANCIES OCCUR
PLEASE NOTIFY THE
LANDSCAPE ARCHITECT

NOT FOR
CONSTRUCTION

LANDSCAPE NOTES

ON SLAB PLANTER DRAINAGE

Location
Note that all waterproofing of slabs and location of drainage outlets is to the project engineers specification.

DRAINAGE CELL:

350mm x 350mm x 30mm drainage cell as supplied by Atlantis Water Management or approved equal. Lay according to manufacturer's instructions. Drainage cell to be fully wrapped in geotextile fabric as specified.

GEOTEXTILE FABRIC:

Geotextile as recommended appropriate by Atlantis Water Management or similar and approved. Wrapped and taped to manufacturer's instructions.
Sources/ contacts:
Atlantis Water Management
Phone: 9419 6000

SAND BLINDING LAYER:

Coarse washed river sand laid to a depth of 50mm as detailed.

MEMBRANE PROTECTION BOARD

Provide 5mm FC sheeting or similar and approved securely affixed to all vertical faces of the membrane in a manner that will not damage the integrity of the membrane. Note hold point requirements.

TOPSOIL

Source | Type:
Imported topsoil type A: Light weight planter box mix, Benedict's SmartMix No. 4. Product code RN133. As supplied by Benedict Sand and gravel or approved equivalent.
Imported topsoil type B: Light weight subsoil mix, Benedict's SmartMix No. 5. Product code BO133. As supplied by Benedict Sand and Gravel or approved equivalent.

PLANTING BEDS ON SLAB

Clean out any loose cement and other material likely to be harmful to plant growth. Install Drainage cell as specified and to manufacturers instructions. Seal edge of geotextile fabric to planter box wall. Provide membrane protection board to sides of planter and secure with liquid nails or similar method that will not damage the waterproof membrane. Note hold point requirement. Provide sand blinding layer as specified in clause 3.3. Install topsoil in 150mm layers and consolidate as specified below.

TOPSOIL CONSOLIDATION

Compact lightly and uniformly in 150mm layers. Compact topsoil mix with a single pass of a 50 kg hand drawn tennis court roller or similar means to a compacted depth of 150mm. Lightly water with a fine mist spray each layer, prior to installing the following layer. Avoid differential subsidence and excess compaction and produce a finished topsoil surface which has the following characteristics:

Finished to 30mm above design levels to allow for consolidation.
Smooth and free from stones or lumps of soil.
Graded to drain freely, without ponding, to catchment points.
Graded evenly into adjoining ground surfaces.
Ready for planting.

SETTLEMENT PERIOD

Allow the topsoil in planter boxes to settle for one week prior to planting. Top up any settlement as required to meet design levels.

Topsoil depth

Typically spread topsoil to the depths as indicated on drawings

Surplus topsoil

General: Spread surplus topsoil on designated areas on site, if any; otherwise, dispose off site.

PLANTING BEDS ON GRADE

SUBSOIL
Excavate to bring the subsoil to a minimum of 300mm below finished design levels, to allow for infilling with topsoil mix. Break up the soil to a further depth of 100mm.
Remove all building rubble, waste oil, cement and other material harmful to plant growth from planting beds prior to placement of topsoil.
Cultivate to a minimum depth of 100 mm over areas to be planted or grassed. Do not disturb services or tree roots; if necessary, cultivate these areas by hand. During cultivation, thoroughly mix in materials required to be incorporated into the subsoil. Remove stones exceeding 25 mm, clods of earth exceeding 50 mm, and weeds, rubbish or other deleterious material brought to the surface during cultivation. Trim the surface to the required design levels after cultivation.
Confirm that the planting beds are free draining, if not install sub-soil drainage lines and connect to stormwater system
Apply additives after ripping or cultivation and incorporate into the upper 100 mm layer of the subsoil.

TOPSOIL

Where possible use site topsoil and compost mixed at a rate of 4 soil:1 compost, thoroughly mixed before placement. If imported soil is required soil shall be same or similar to Benedicts Sand and Gravel *Organic Garden mix M13* for garden bed areas or *Turf Underlay* mix for turf areas
Spread the topsoil on the prepared subsoil and grade evenly, making the necessary allowances so that required finished levels and contours are achieved after light compaction
Compact lightly and uniformly in 150 mm layers. Avoid differential subsidence and excess compaction and produce a finished topsoil surface which is ready for planting.
Spread topsoil to the following typical depths:
Planting beds: 300 mm
Grass areas: 100 mm.

COMPOST

Well rotted vegetative material or animal manure, or other approved material, free from harmful chemicals, grass and weed growth, and with a neutral pH value.

PLANTING

Trees: Excavate a plant hole to twice the diameter of the root ball and at least 100mm deeper than the root ball. Break up the base of the hole to a further depth of 100mm, and loosen the compacted sides of the hole.
Shrubs/groundcovers: Excavate a hole big enough for the plant plus 100 mm all round.
Provide plants which have large healthy root systems, with no evidence of root curl, restriction or damage are vigorous, well established, free from disease and pests, of good form consistent with the species or variety; and are hardened off, not soft or forced, and suitable for planting in the natural climatic conditions prevailing at the site.
Trees: Provide trees which, unless required to be multi-stemmed, have a single leading shoot.
Label at least one plant of each species or variety in a batch using a durable, readable tag.
Do not plant in unsuitable weather conditions such as extreme heat, cold, wind or rain. In other than sandy soils, suspend excavation when the soil is wet, or during frost periods.
When the hole is of the correct size, remove the plant from the container with minimum disturbance to the root ball. Ensure that the root ball is moist and place in the final position, in the hole and plumb, with the top soil level of the plant root ball level with the finished surface of the surrounding soil, or 75 mm below paving level to allow placement of mulch.
Backfill with topsoil mixture. Lightly tamp and water to eliminate air pockets. Ensure that topsoil is not placed over the top of the rootball, so that the plant stem is the same height as in the container.
Thoroughly water plants before planting and immediately after planting.
In planting beds and individual plantings, place slow release fertiliser pellets around plants at the time of planting at the rate recommended by the manufacturer.

MULCH

All garden bed areas are to be mulched to 50mm depth with same or similar to *Forest Blend* as supplied by Benedict Sand and Gravel.
Provide mulch which is free of deleterious and extraneous matter such as stones, soil, weeds and sticks.
Place mulch clear of plant stems, and rake to an even surface flush with the surrounding finished levels.

IRRIGATION

Design, supply and install an automatic irrigation system that will deliver evenly, sufficient water to the trees, shrubs, groundcovers, turf and other planting on the site to maintain healthy growth continuously throughout the year.
The contractor shall be responsible for establishing the numbers and locations of emitters, spray heads, solenoid valves, filters etc required to provide a satisfactory performance of the system. Spray heads shall be directed away from seating, walls, paving, paths and steps.

Provide an automatic irrigation system with drippers/ microsprays to all garden beds. Ensure the pipework is installed in the least visible position possible. The detailed layout of all irrigation is to be approved prior to installation.
Drippers: Drippers shall deliver 2.3 litres per hour, at 400mm spacing or to base of individual plants as required and should be pressure compacted drippers.
Spray heads: To meet requirements of trees and lawn areas.
Valves: Richdel or similar approved 24 volt solenoid valves to be installed in Brookes or approved equal valve boxes. Top of box to be installed flush with finished soil level and covered with mulch layer.
Controller: Richdel or similar approved with numbers of stations required to isolate each area. Contractor is to allow for Controller in lockable metal cabinet in a location to the direction of the Architect. Power outlet for the operation of this unit to be supplied by others.
Pipework: Class HDPE pipe with pressure rating PN12.5 to be used for main lines. Copper pipework under paving and through masonry is to be installed. Drip lines will be LDPE laid on the surface of the soil under the mulch layer.
Cabling: 24 volt cabling to be enclosed in conduit in all areas. All wire must be installed in an unbroken length from the controller to the solenoid valve. All wires to be multistrand multicore and manufactured to AS 1125 and have polyethylene protective coating. All wire connectors must be waterproof. Cable to be minimum 1.0m2.
Rain sensor: A "mini klik" or similar or approved device to be supplied and installed to the approval of the superintendent. This unit is to be set to turn the system off after 3mm of rain has occurred.
The irrigation contractor shall check and monitor the system performance; once per month throughout the planting establishment period.
The contractor shall provide the client with a recommended watering schedule for summer and winter that includes the dates to change the operation.

MAINTENANCE/ ESTABLISHMENT

Throughout the planting establishment period (12 weeks), carry out maintenance work including, watering, mowing, weeding, rubbish removal, fertilising, pest and disease control, reseeding, returfing, staking and tying, replanting, cultivating, pruning, hedge clipping, aerating, reinstatement of mulch, renovating, top dressing, and keeping the site neat and tidy. Continue to replace failed, damaged or stolen plants.
Ongoing maintenance of landscape works is to be undertaken by the tendered landscape contractor engaged by the building management such that the landscape is maintained throughout the life of the building in accordance with the above requirements.



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NOMINATED LANDSCAPE ARCHITECT | MELISSA WILSON

ISSUE	AMENDMENT	DATE
A	DRAFT CONCEPT	01.11.22
B	FOR DA SUBMISSION	16.12.22

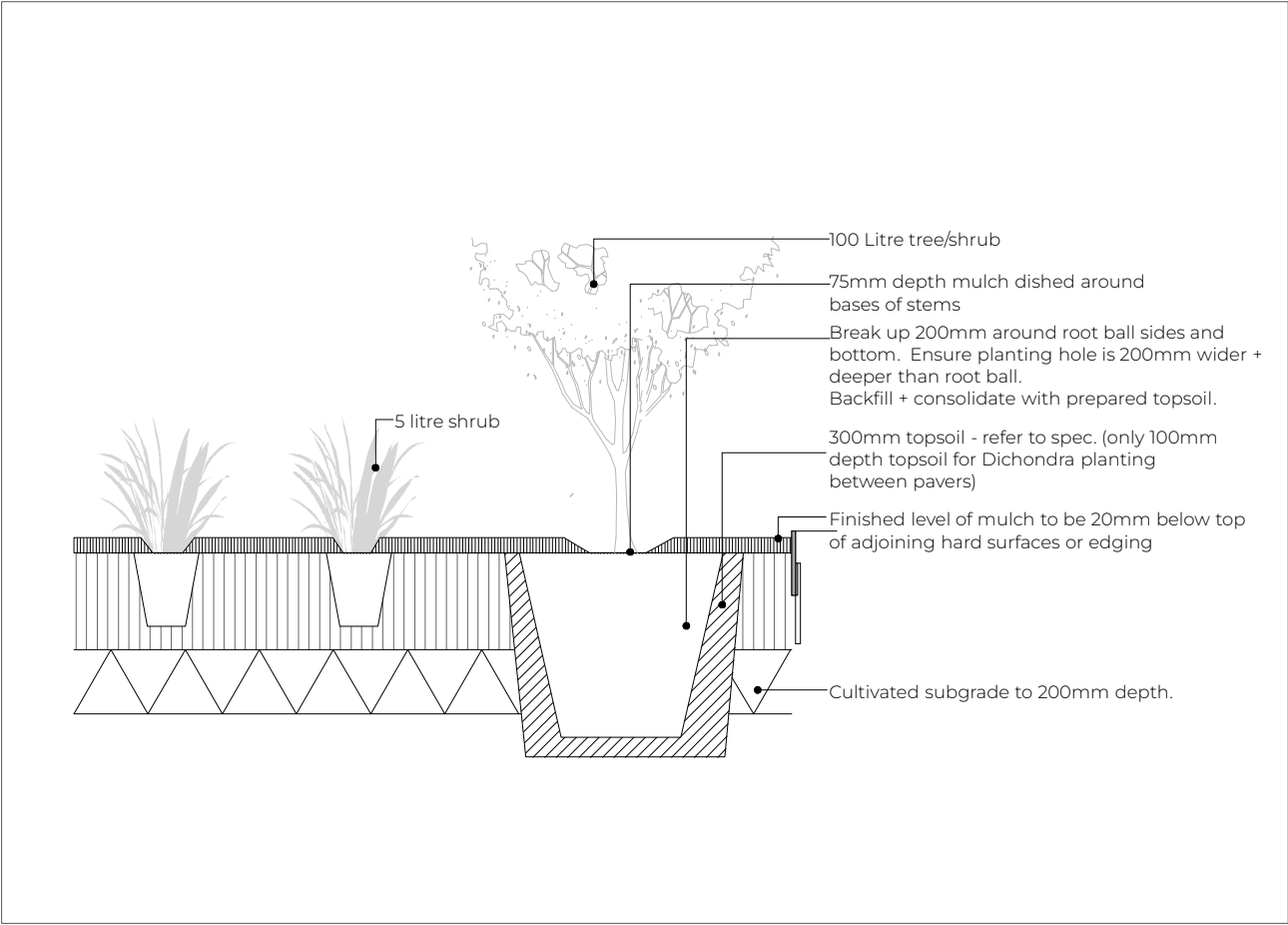
SCALE: NTS@A3
DRAWN: MW
CLIENT: SIMON ROSEWELL
PROJECT NUMBER: 2184

DRAWING TITLE
LANDSCAPE NOTES
PROJECT
19 SUTHERLAND AVENUE, PADDINGTON

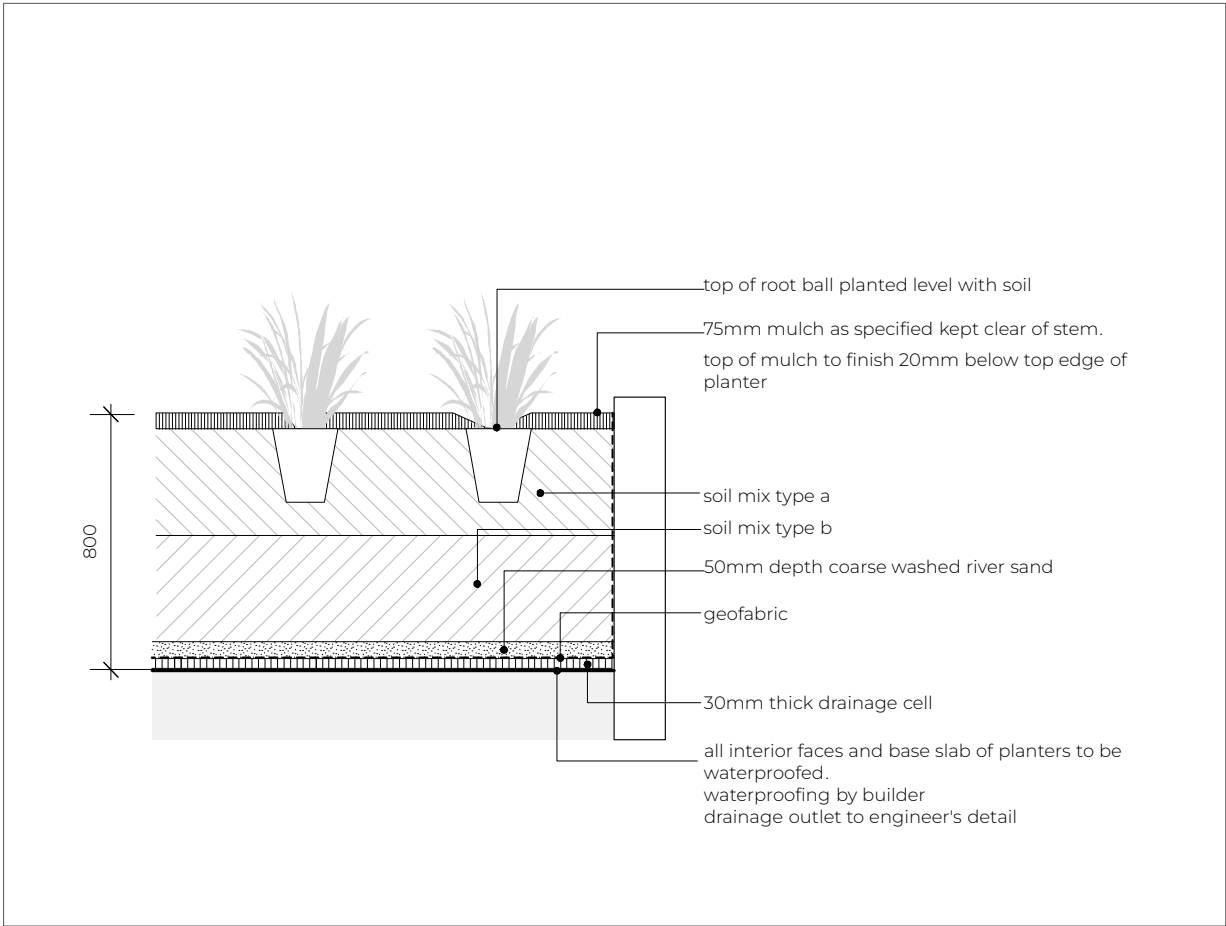
DWG NO.
LS06
ISSUE
B

NOTES REFER TO DETAIL SURVEY FOR SITE IDENTIFICATION, BOUNDARY INFORMATION & LEVELS. ALL LEVELS AND DIMENSIONS TO BE CONFIRMED ON SITE. IF ANY DISCREPENCIES OCCUR PLEASE NOTIFY THE LANDSCAPE ARCHITECT
--

NOT FOR
CONSTRUCTION



1 MASS PLANTING ON GRADE
1:20@A3



2 MASS PLANTING ON SLAB
1:20@A3



MELISSA WILSON
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NOMINATED LANDSCAPE ARCHITECT | MELISSA WILSON

ISSUE
A DRAFT CONCEPT
B FOR DA SUBMISSION

DATE
01.11.22
16.12.22

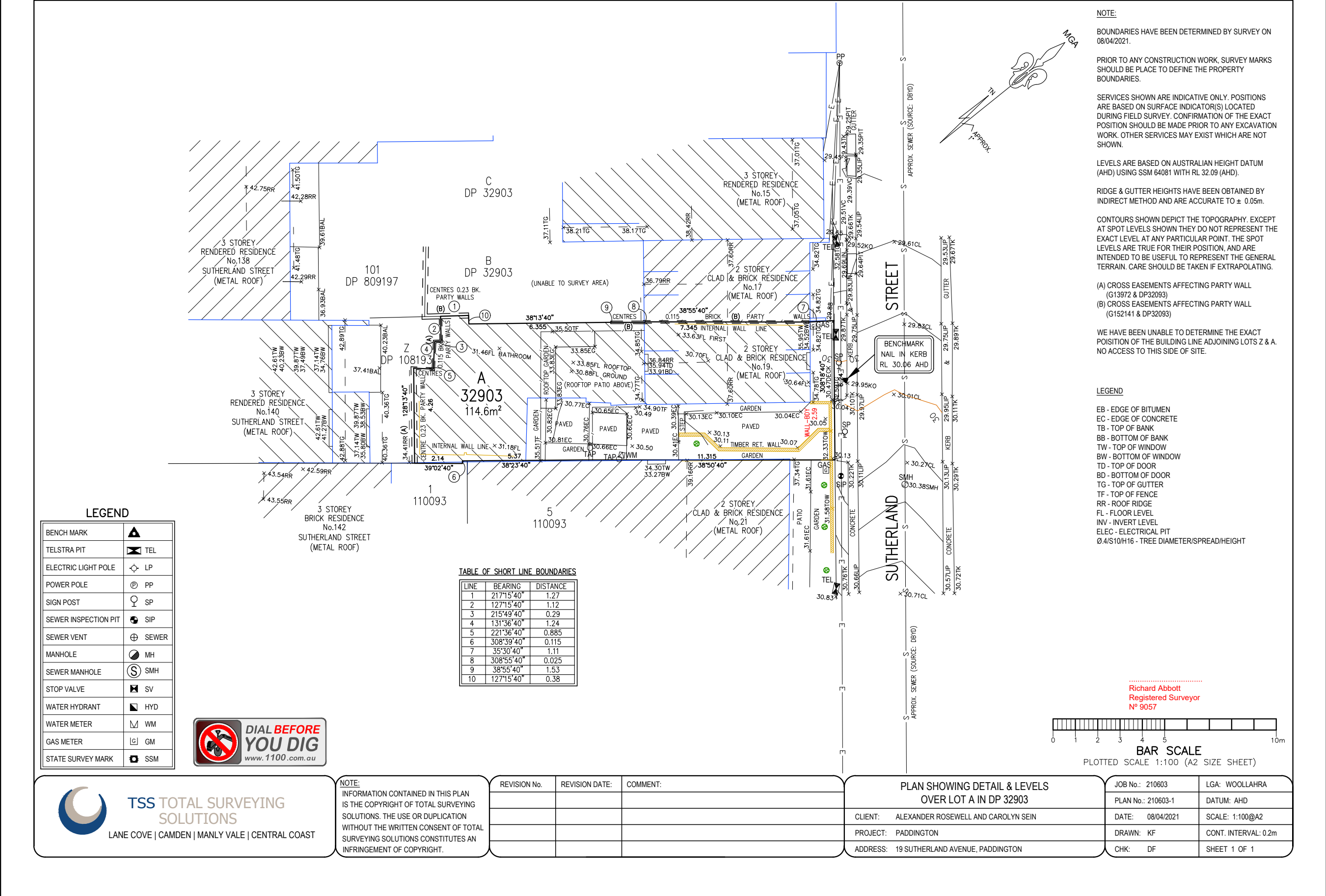
SCALE: AS SHOWN@A3
DRAWN: MW
CLIENT: SIMON ROSEWELL
PROJECT NUMBER: 2184

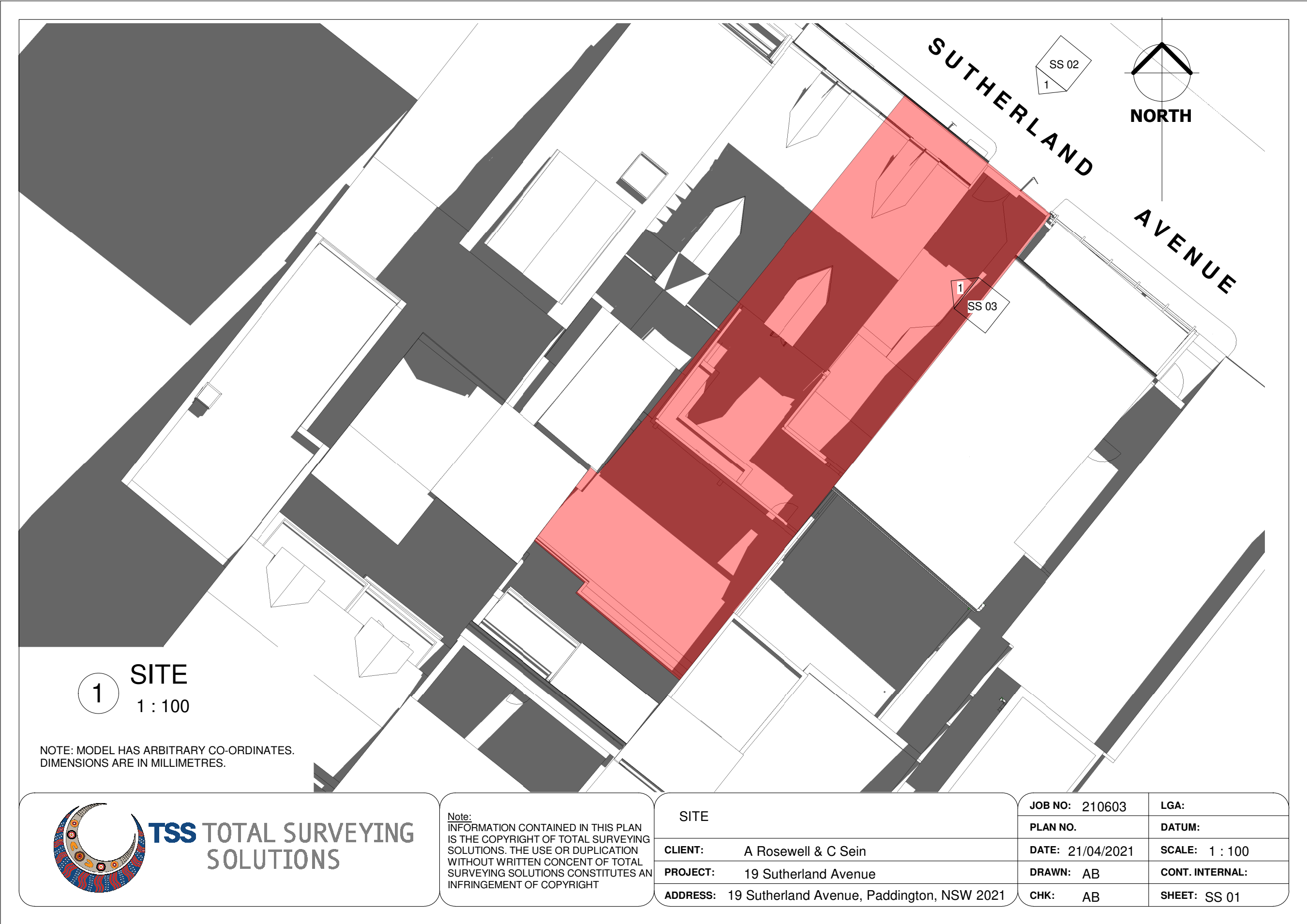
DRAWING TITLE
LANDSCAPE | TYPICAL DETAILS
PROJECT
19 SUTHERLAND AVENUE, PADDINGTON

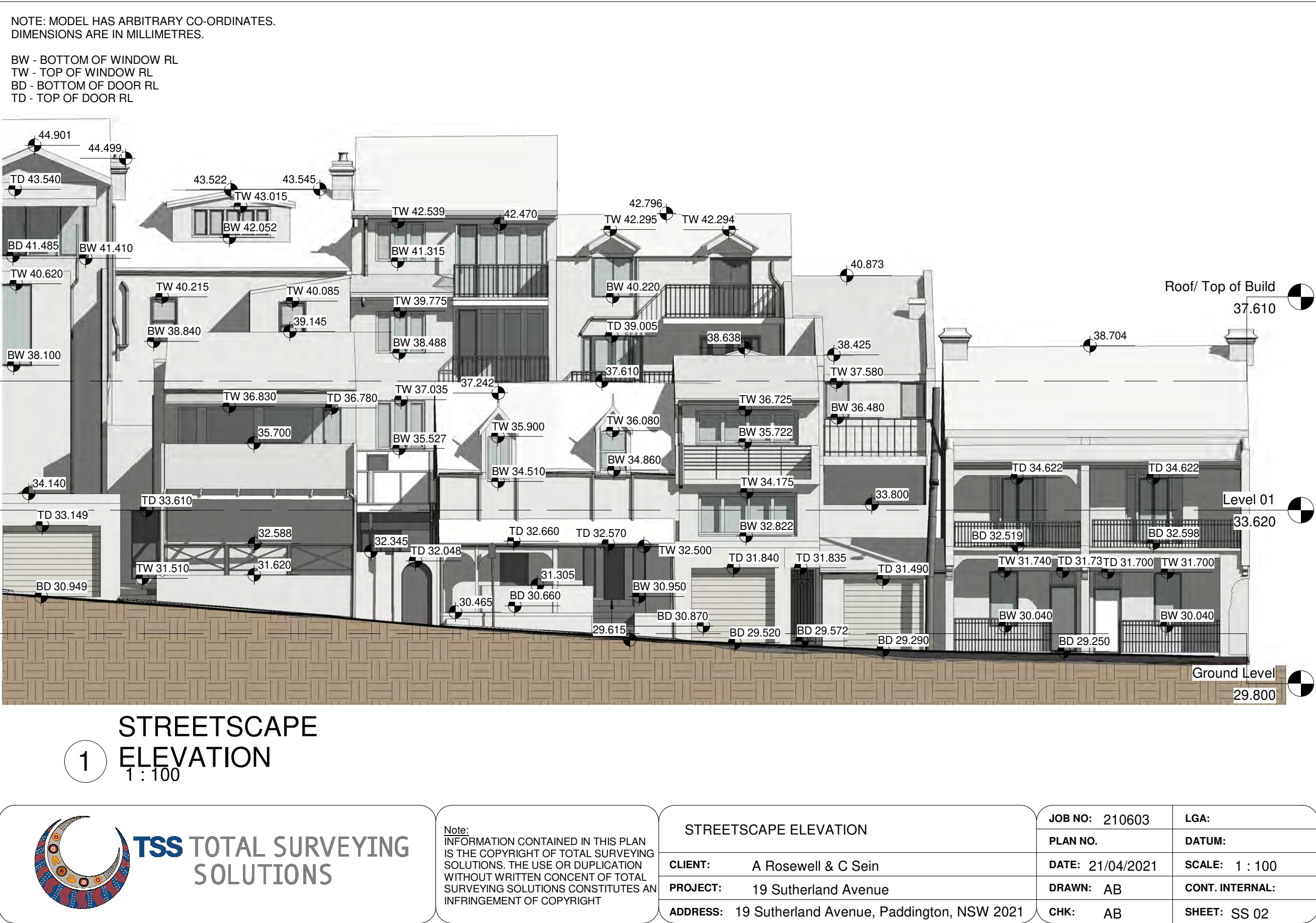
DWG NO.
LS07
ISSUE
B

NOTES
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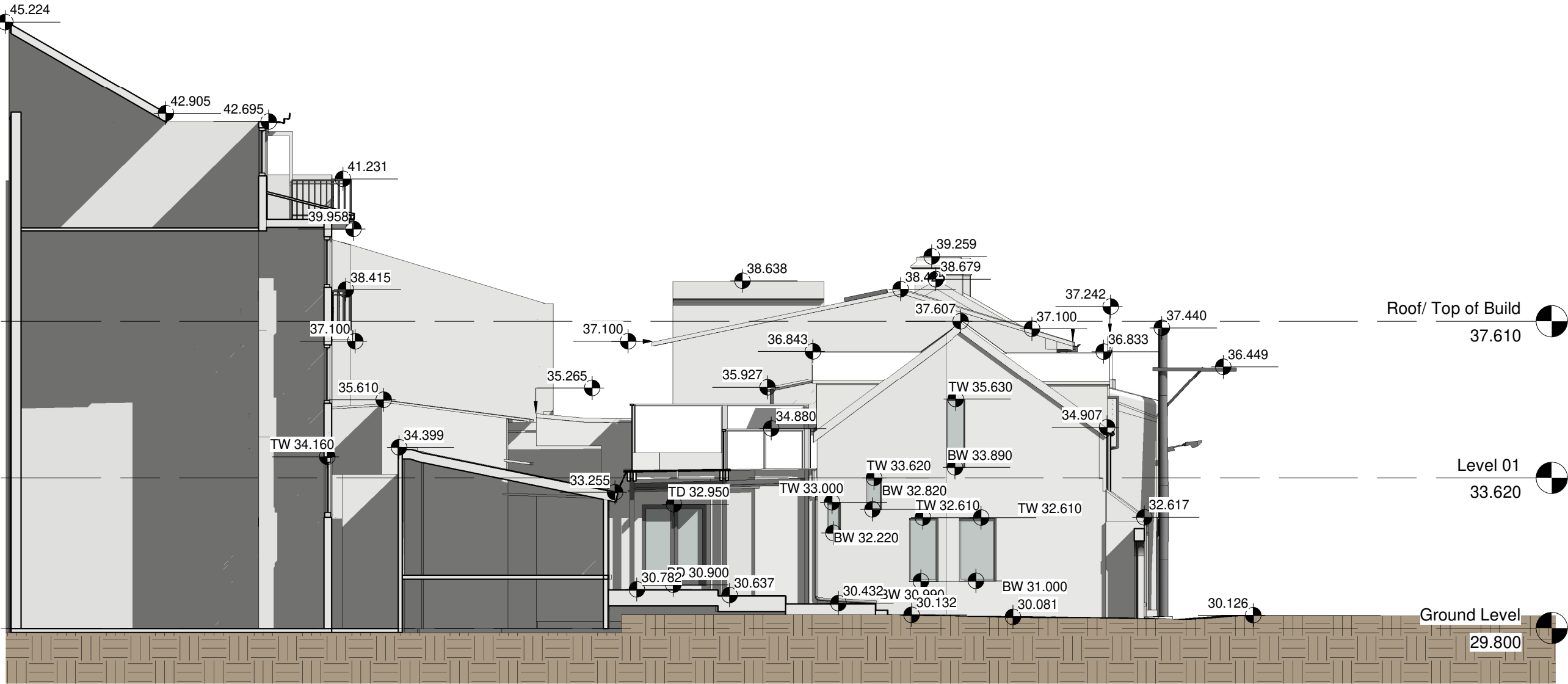






NOTE: MODEL HAS ARBITRARY CO-ORDINATES.
DIMENSIONS ARE IN MILLIMETRES.

BW - BOTTOM OF WINDOW RL
TW - TOP OF WINDOW RL
BD - BOTTOM OF DOOR RL
TD - TOP OF DOOR RL



1 EASTERN ELEVATION
1 : 100



TSS TOTAL SURVEYING
SOLUTIONS

Note:
INFORMATION CONTAINED IN THIS PLAN
IS THE COPYRIGHT OF TOTAL SURVEYING
SOLUTIONS. THE USE OR DUPLICATION
WITHOUT WRITTEN CONCENT OF TOTAL
SURVEYING SOLUTIONS CONSTITUTES AN
INFRINGEMENT OF COPYRIGHT

EASTERN ELEVATION		JOB NO: 210603	LGA:
CLIENT: A Rosewell & C Sein		PLAN NO.	DATUM:
PROJECT: 19 Sutherland Avenue		DATE: 21/04/2021	SCALE: 1 : 100
ADDRESS: 19 Sutherland Avenue, Paddington, NSW 2021		DRAWN: AB	CONT. INTERNAL:
		CHK: AB	SHEET: SS 03



Woollahra
Municipal
Council

24 May 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 452/2023/1

ADDRESS: 19 Sutherland Avenue PADDINGTON 2021

PROPOSAL: Demolition of the existing single storey (with attic) weatherboard cottage (common wall with No 17 Sutherland Avenue retained) and the construction of a new three storey dwelling with a basement level, concealed car lift, plunge pool and landscaping

FROM: Ms S Lin

TO: Mr V Aleidzans

1. ISSUES

- Stormwater
- Parking Dimensions
- Flood Report
- Geotechnical / Structural

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced P-23316, prepared by Gyde, dated 24/11/2023.
- Architectural Plans, referenced 2104, prepared by Simon Rosewell P/L, dated 20/01/2022,
- Survey Plan, referenced 210603, prepared by Total Surveying Solutions, dated 08/04/2021.
- Stormwater Concept Plans: referenced 070124, prepared by Stormwater Engineers P/L, dated January 2024.
- Geotechnical Report, referenced J3960A, prepared by White Geotechnical Group, dated 06/11/2023.
- Structural Report, referenced 23045-RPT-001_Paddington_C, prepared by Keystone Structural Engineers, dated 15/02/2024.

3. ASSESSMENT

Comments have been prepared on the following.

a. Site Drainage comments

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

- a) *Given that stormwater runoff generated from the site is connected to Council's kerb and gutter, a notation shall be depicted on the stormwater drawings that all proposed below ground*



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structures are to be fully tanked and no subsoil drainage/seepage water is to be collected and discharged into the Council's kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Alternatively, stormwater runoff from the proposed development must drain to the Council's underground drainage. In this regard, the applicant must extend the Council's underground drainage system from the existing kerb inlet pit fronting No. 17 Sutherland Avenue by using min. Class 4, 375mm diameter steel reinforced concrete pipes (RCP) and the construction of new kerb inlet pit with 1.8m precast lintel. The new kerb inlet pit with Class D "bicycle friendly" access grate must be located at least 0.5m from any layback wing and within the frontage of the subject site to comply with Council's Specification. Details including longitudinal sections (scale 1:100) showing the extension of the Council's underground system must be provided for assessment. All design details and location of all existing public utility services must be included in the longitudinal section,

- b) The proposed pumpout system including the storage capacity of the wet well must be designed in accordance with AS3500.3. Full supporting calculations must be included in the revised stormwater plans,*
- c) It is noted from the submitted plans that rainwater tanks (RWT) are proposed at basement level. In this regard, details including supporting calculations showing the design of property drainage system to the proposed rainwater tank including overflow details/ connections to the Council's drainage stormwater system must be provided. Note that the applicant must demonstrate that overflow from the proposed RWT is discharged to the street drainage system by gravity via the construction of a boundary junction pit.*

Revised stormwater management plans addressing the above issues shall be submitted to Council for further assessment.

b. Flooding & Overland Flow comments

Council's Drainage 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:

A flood level report is required so the appropriate flood protection measures can be integrated into the design proposal. (HPE: 24/89379)

c. Vehicle Access & Accommodation comments

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) Pursuant to Chapter C1.5.6 of the Council's DCP, car lift/stacker is not acceptable. As such, the applicant should replace the proposed car lift and provide an off-street parking at ground level,*
- b) The proposed off-street parking space must have minimum dimensions of 3m x 5.4m, clear of any obstructions, to comply with AS2890.1. In this regard, these required dimensions and the design envelope around parked vehicles as per Figure 5.2 of AS2890.1 are to be clearly depicted on the revised architectural plans,*
- c) The design and location of car parking space and structure must allow an 85th percentile vehicle to manoeuvre into and out of a space without the loss of on-street parking opposite or abutting the proposed vehicle entry. This is particularly relevant in the Paddington area where the street or lane can be less than 5 metres between kerbs. In this regard, a site plan (scale 1:100) showing the design vehicle turning path (including overhang) in and out of the driveway/parking space must be submitted to Council for assessment. Details including*



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location of any parked vehicles, location of existing street signage and dimensions of the carriageway must be clearly depicted on the site plan.

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

d. Geotechnical, Hydrogeological and/or Structural comments

A preliminary assessment of the submitted structural report has identified the following issue which shall be addressed by the applicant prior to further assessment:

- a) *The Report must include certification that the structural integrity of all adjoining buildings including any boundary wall will not be adversely affected and compromised by the proposed excavation. The Engineer shall also certify that underpinning works to neighbouring structures are not required, otherwise owners consent together with details and procedures of such underpinning works shall be provided.*

Revised construction methodology/structural report addressing the above issue shall be submitted to Council for further assessment.

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:

- The submission of the revised stormwater plans
- The submission of the revised architectural plans
- The submission of the flood report
- The submission of revised structural / construction methodology report



Woollahra
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6 February 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 452/2023/1

ADDRESS: 19 Sutherland Avenue PADDINGTON 2021

PROPOSAL: Demolition of the existing single storey (with attic) weatherboard cottage (common wall with No 17 Sutherland Avenue retained) and the construction of a new three storey dwelling with a basement level, concealed car lift, plunge pool and landscaping

FROM: Sam Knight

TO: Mr V Aleidzans

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Survey Plan, drafted by TSS, dated 8 April 2021
- Architectural Drawings, drawn by Simon Rosewell Pty Ltd, dated 9 September 2021
- Landscape Plans, designed by Melissa Wilson Landscape Architects, dated 16 December 2023

A site inspection was carried out on 9 February 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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- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

4. SUMMARY

The proposal does not meet the deep soil landscape area requirements. However, if the current design is approved, the below tree conditions are recommended for inclusion into the DA consent.

5. COMMENTS

Inspection of the site has revealed there are no prescribed trees within or adjacent to the site that will be impacted by the proposal.

It is noted that new landscaping is proposed within the site. This includes new tree planting in the rear yard and new landscaping above the car lift. Whilst the canopy cover controls do not apply to properties within the Paddington HCA, it is anticipated that the proposal will provide approximately 12% canopy which is an improvement on the current 0% coverage.

The plans and documentation indicate that only 12% deep soil landscaped area will be provided. The Woollahra DCP required 35% deep soil area to be provided within the site. This could only be achieved if the car lift and plunge pool were deleted from the design. Incorporating a permeable surface in this area with additional landscaping would mean the off-street parking space could still be provided in the design.

If the current design is to be approved, it is recommended that the below conditions re included into the DA consent.

6. RECOMMENDATIONS

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

A. GENERAL CONDITIONS

A. 1.	Approved Plans and Supporting Documents									
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.									
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.									
	<table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>LS00, LS01, LS02, LS03, LS 04, LS05, LS06, S07</td><td>Landscape Plan</td><td>Melissa Wilson Landscape Architects</td><td>16.12.22</td></tr></table>	Reference	Description	Author	Date	LS00, LS01, LS02, LS03, LS 04, LS05, LS06, S07	Landscape Plan	Melissa Wilson Landscape Architects	16.12.22	
Reference	Description	Author	Date							
LS00, LS01, LS02, LS03, LS 04, LS05, LS06, S07	Landscape Plan	Melissa Wilson Landscape Architects	16.12.22							
Notes:										



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- Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.
- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

Standard Condition A.2 (Autotext 2A)

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F	1.	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 new 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.										
	<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>2x <i>Elaeocarpus eumundii</i></td><td>Rear Yard</td><td>100L</td><td>12 x 5</td></tr></table>				Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)	2x <i>Elaeocarpus eumundii</i>	Rear Yard	100L
Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)								
2x <i>Elaeocarpus eumundii</i>	Rear Yard	100L	12 x 5								

The project arborist must document compliance with the above condition.

The project arborist must document compliance with the above condition.



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	<p>Condition Reason: To ensure the provision of appropriate replacement planting.</p> <p>Standard Condition F.46 (Autotext 46F)</p>
--	--

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G	1. Amenity Landscaping
	Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.
	<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>

G	2. Landscaping
	Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.
	<p>Condition Reason: To ensure that all landscaping work is completed prior to occupation.</p> <p>Standard Condition G.26 (Autotext 26G)</p>

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.
	<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>



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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

15 February 2024
Completion Date



Woollahra
Municipal
Council

16 February 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 452/2023/1

ADDRESS: 19 Sutherland Avenue PADDINGTON 2021

PROPOSAL: Demolition of the existing single storey (with attic) weatherboard cottage (common wall with No 17 Sutherland Avenue retained) and the construction of a new three storey dwelling with a basement level, concealed car lift, plunge pool and landscaping

FROM: Tristan Ryan – Senior Strategic Heritage Officer

TO: Mr V Aleidzans

1. DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Simon Rosewell, dated 20 January 2022, and numbered DA001 – DA301.
- Heritage Impact Statement by John Oultram Heritage & Design, dated November 2023.
- Statement of Environmental Effects by GYDE, dated 24 November 2023.
- Structural Engineers Report by Keystone, dated 8 November 2023.
- Survey plan by Total Surveying Solutions, dated 5 April 2021.

2. SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

- The site was inspected on 24 January 2024, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's 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:

- National Parks & Wildlife Act 1974
- Woollahra LEP 2014
- Woollahra DCP 2015

4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

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19 Sutherland Avenue, Paddington, is a semi-detached two storey cottage/terrace house primarily constructed in brick and timber. It and its neighbour 17 Sutherland Avenue are examples of significant building types in Paddington, and are contributory items to the Paddington Heritage Conservation Area. The Statement of Significance for the Paddington HCA is as follows:

Paddington is a unique urban area which possesses historical, aesthetic, technical and social 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.

Paddington has a multitude of important historical and social associations. It is linked with the early transport routes along South Head Road (Oxford Street) and Point Piper Road (Jersey Road), the construction of Victoria Barracks in the 1840s, the gentry estates, prominent figures of the early colony, the speculative building boom between 1870 and 1890, and the development of Australian tennis at the White City site. Its historical and social associations extend to the periods of occupancy by immigrant groups and minority groups including the Chinese market gardeners, the Jewish community around the turn of the century, the European immigrants in the 1950s and an alternative artistic and intellectual population in the 1960s and 1970s. Today Paddington has a high level of social esteem and is regarded as one of Sydney's most desirable inner-city urban areas. The changing sociology of Paddington demonstrates phenomenal variations in status and changes in community attitudes to the 19th century suburb.

Paddington has important associations with the evolution of the conservation movement in Australia, in particular with the actions by the National Trust and the Paddington Society, which ensured its conservation at a time of redevelopment threat in the 1960s. It is significant as the first suburb classified by the National Trust, a community based, non-government organisation committed to promoting and conserving Australia's heritage. Paddington has a unique aesthetic significance due to the superimposition of the built form on a sloping topography which overlooks Sydney Harbour and its foreshores. The coherent and extensive Victorian built form comprising groups of terrace buildings on narrow allotments which step down hills, turn corners or sit in ranks along tree lined streets produces a singularly recognisable image.

Paddington provides vast opportunity for research, education and interpretation through the



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physical layout of its road network, its subdivision pattern and the varied form of buildings. These buildings provide an excellent record of past technologies and domestic lifestyles through features such as original external and internal building fabric, detailing and room layouts. Terrace houses, semi-detached dwellings, flat buildings and freestanding houses all show the evolving attitudes towards families and the home from the early 19th to the late 20th century.

National Parks and Wildlife Act 1974

The site is not in an area of Potential Aboriginal Heritage Sensitivity. Therefore, no Aboriginal Heritage Impact Assessment was required as part of the DA.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 14 February 2024 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites recorded within a 50m buffer in or near the above location.

The site does not contain landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

Ordinary precautions are sufficient to protect Aboriginal heritage in this instance.

Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' but is within the Paddington Heritage Conservation Area.

Clause 1.2 Aims of Plan

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

19 Sutherland Avenue is a contributory item to the Paddington Heritage Conservation Area. The proposed demolition therefore does not satisfy this aim.

It is also noted that 17 and 19 Sutherland Avenue together form a pair of semi-detached dwellings, and the demolition of one would diminish the ability of the other to contribute to a heritage conservation area.

Clause 5.10 Heritage Conservation

The applicant submitted with their application a heritage impact statement by John Oultram, which provided historical information and assessed the property against the NSW standard criteria. Below I have summarised the assessment by John Oultram, in italics, and provided my own commentary below each Criterion.

Criterion A – The cottage was part of a row of three (of which two survive), built by Charles Cranes c.1886-87. The land was originally part of the Underwood estate, and the subject lots were purchased in 1880 by Thomas Scott, remaining undeveloped until purchased by Cranes. The lots then extended to Sutherland Street and had been partially excavated for quarrying. Cranes developed along both



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street frontages, with the subject house being let during his ownership.

The place in itself is not important in the history of the local area, though its development and former use as a quarry is representative of important phases of development.

Criterion B – The place is associated with merchant seaman, alderman and builder Charles Cranes (1857-1936). The cottages were his speculative development for lease. Cranes is not a person of note.

I broadly agree that the place does not meet the threshold for listing under this criterion, as the association with Cranes is not strong or special. Whether Cranes is a person of importance in the history of the local area is arguable, but not relevant given the lack of association.

Criterion C – The house is a modest and very heavily modified example of a late Victorian weatherboard cottage that is one of a pair with 17 Sutherland Street. It was one of three, but 15 Sutherland Street was demolished after a fire. The cottage presumably had a second storey added in the Edwardian period, as indicated by rusticated weatherboards, an Edwardian detail. There is a crude addition at the rear, and a cast iron lacework front verandah, a later addition.

The house and its neighbour are both modest, and somewhat modified. It seems plausible that the second storey is a later addition, though the decorative barge boards may indicate a Victorian addition rather than Edwardian. Regardless, the additions are uniform across the two remaining dwellings, and so presumably date from the same time. The place would not meet the threshold for listing as an item, either in its own right or together with its neighbour. Despite the modifications, however, both houses retain their primary building form, their architectural character and (most) of their details. The additions at the rear are not significant, but nor do they greatly detract from the significance. Both houses are contributory to the Paddington Heritage Conservation Area.

Criterion D – The terrace is in Paddington, highly regarded for the quality of its Victorian streetscapes, but the current cottage is a poor example of its type and has been very heavily altered.

I do not agree that the cottage is a poor example, nor that it has been “very heavily” altered. While the place would not meet the criteria for listing in its own right, it is contributory to the broader social significance of Paddington. The alterations do not compromise this significance, as the principal building form remains largely intact.

Criterion E – The site was part of the Woollahra quarry and there were no previous buildings on the site, there is no archaeological potential or technical significance.

Given the former quarry, I agree that archaeological significance is unlikely. It is possible there may be some remnants from the period of the quarry (tools, etc). The item does not meet the threshold for significance under this criterion.

Criterion F – No assessment was offered against this criterion.

In my view the building and its neighbour are rare in Paddington as semi-detached homes clad in timber. The property does not meet the threshold under this criterion.

Criterion G – No assessment was offered against this criterion.

The building is not particularly representative, and would not meet the threshold under this criteria.

Intactness and condition – The house has been altered with an attic and more recent addition at the rear which includes an upper level terrace. There is no original internal fabric visible apart from the chimneybreast, and the plan has been altered to a degree that the original layout and detail is not known. The architect noted poor construction quality, termite damage, a single skin party wall, undersized floor framing, and lack of fire separation in the attic.

The attic is an early alteration, or may even be an original feature, which the property shares with its



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neighbour, including the decorative barge boards and finials on the gable-end of the dormers. I do not agree that this compromises the integrity of the building, rather it is a feature which forms part of the building's contributory status. It appears to be the case that there is little intact in terms of the interiors, but the building's principle form remains very recognisable.

Despite our differences of opinion, I broadly agree with John Oultram that the property does not meet the threshold for listing in its own right, or together with its neighbour 17 Sutherland Avenue. However, I do not agree with the assessment of its status as a contributory item. In his report, Mr Oultram states:

The house is from an early development period but has been very heavily modified and does not have a reasonable level of integrity. It no longer makes a positive contribution to the conservation area and the later works are not reversible due to the extent of change and the current condition.

The cottage is very borderline in terms of its contribution to the conservation area due to the level of change. It is poorly constructed and suffers for numerous building defects that require rectification. The works required for this are very extensive and much of the cottage would require rebuilding to bring it to current building standards.

Based on the assessment in Section 5.0 above, we consider that there are no heritage issues that would preclude the demolition of the cottage.

As Oultram has noted the definition of a contributory building, as found in Chapter A3 of the Woollahra DCP 2015, is as follows:

a building that makes an important and significant contribution to the character and significance of the heritage conservation area. It has a reasonable to high degree of integrity and dates from a key development period of significance of a heritage conservation area.

A building which:

- due to its materials, detailing, finishes, scale, form, siting and landscaping makes a positive impact and contribution to the streetscape character and to the cultural significance of the heritage conservation area; and*
- is from a significant historical period and is altered yet recognisable*

The building satisfies this definition in that:

- It is a good example of a timber clad semi-detached two storey cottage, dating from the end of the Victorian era.
- It has a reasonable degree of integrity, and dates from a key development period of significance to the Paddington Heritage Conservation Area (ie. the late Victorian period).
- Due to its materials, detailing, finishes, scale, form, and siting makes a positive impact and contribution to the streetscape, and to the significance of the conservation area.
- It is from a significant historical period, and despite its alterations is recognisable.

The demolition of contributory buildings is generally not appropriate in heritage conservation areas. The decision of the Land and Environment Court in *Helou vs Strathfield Municipal Council* (2006), sets out a series of principles to be addressed before the demolition of a contributory item is approved. The first two principles, the significance of the conservation area and the contribution of the individual building to that significance, are addressed above. The remainder are addressed below:

3. *Is the building structurally safe?*

Yes. The applicant has not provided any information to suggest the building is structurally unsound. During my inspection of the property, there was no indication of any serious structural flaws.

4. *If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition?*

The building can certainly be extended and altered in a way that would have a lesser effect on the integrity of the conservation area. It is doubtful that the full development potential



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- could be achieved without major alteration, but even this would be preferable to demolition.
5. *Are the costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering, extending or incorporating the contributory building into a development of the site so unreasonable that demolition should be permitted?*

I cannot estimate with precision the cost of remediation and rectifications to the building, but I note that, in this case, there is no immediate evidence to suggest major structural works would be required to make the building habitable. I am of the view that the building could be made habitable with relatively modest repair and maintenance and replacement carpet. Internal repainting would also be recommended. If the rear extensions were to be retained, lowering the floor level in these areas would be advisable. I consider that all these costs are reasonable.

If these costs are reasonable, then remediation/rectification (whether accompanied by alteration and/or extension or not) should be preferred to demolition and rebuilding.

6. *Is the replacement of such quality that it will fit into the conservation area?*

The proposed replacement would not, in purely aesthetic and architectural terms, be hugely out of place in the conservation area, particularly alongside some of its neighbours. However, this question is not relevant considering that remediation and rectification are preferable in this instance to demolition and rebuilding.

Considering the above assessment, the proposed demolition of the contributory item is not appropriate.

Significance of items in the vicinity

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

Woollahra DCP 2015

The subject site is within the Paddington Heritage Conservation Area, and is considered a contributory item and a significant item.

Part C – Heritage Conservation Areas – C1 Paddington HCA DCP

BUILDING TYPES

Clause 1.3.2 Timber buildings

Objectives O1, O2, O3, O4, O5, O6

- The proposal does not satisfy any of these controls, nor is it pursuant to the objectives as it involves the demolition of a historic, contributory timber building.

Clause 1.3.4 Multi-storey terrace style housing

Objectives O1, O2, O3, O4, O5

Controls C1

- The proposal does not satisfy any of these controls, nor is it pursuant to the objectives as it involves the demolition of a historic, contributory timber building. Though an unusual form for a terrace in Paddington, in terms of its general typology it aligns approximately with the terrace form.

Clause 1.3.13 Infill development (new development)

Objectives O1, O2, O3, O4, O5

Controls C3, C4, C5, C15



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- The proposed dwelling involves the demolition of a contributory building, which is not supported. The following assessment imagines the proposed building as an infill development.
- The proposed dwelling is very likely to make the maintenance and, in the medium term, retention of the neighbouring building difficult. It is noted that the applicant's structural engineer has designed a solution for the retention of the neighbouring building at 21 Sutherland Avenue which involves the construction of a tied wall against the existing masonry party wall. However, if there were any issues with this solution, it appears that the proposed new building would limit access to the remaining building's structural "party" wall. If this is the case, it does not comply with C3(b).
- The stepped transitional height pattern is already interrupted on this street, but the proposed building seeks to match the height of the building adjacent rather than step down. Additionally, the solid to void ratio includes substantially more void than other new buildings in the street. It therefore does not comply with C4 or C5.
- The use of materials does not comply with C15, the majority of the façade being windows.
- It seems plausible that the proposed building could be made compliant with some design changes which addressed the above issues relating to C4, C5, and C15. The long-term structural viability of the neighbouring building relies on a structural methodology submitted by the applicant. If this is accurate and a sound methodology, then it may be possible that the new building could be made fully compliant with the DCP controls, in heritage terms. I am not qualified to assess the structural viability of that solution.
- As submitted, the proposed infill building is not compliant with the DCP.

Clause 1.4.1 Principal building form and street front zone of contributory buildings
Objectives O1, O4, O6, O7, O8, O9, O10, O11, O12
Controls C1, C3, C5, C7, C9, C15

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives or controls.
- There is a potential of structural issues for the neighbouring building.

Clause 1.4.2 Side elevations and side additions
Objectives O1
Controls C1

- Involving the demolition of the subject contributory building, the proposal does not comply with the above objective or control.

Clause 1.4.3 Rear elevations, rear additions, significant outbuildings and yards
Objectives O1, O2, O3, O4
Controls C1, C5, C10

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives or controls. However, given the changes to the rear of the building and the lack of visibility from the public domain, there is a high tolerance for change at the rear of the building and site.

Clause 1.4.4 Roofs and roof forms
Objectives O1, O3, O4
Controls C1, C2, C3, C11

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives or controls.



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Clause 1.4.5 Building height, bulk, form and scale

Objectives O1, O3, O4, O5, O6

Controls C3, C7

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives or controls.
- If considering the new proposed building as an infill building, it does not comply with C3 and C7, as it does not match the storey height of its neighbours and does not step down in line with the fall of the street. However, this is a relatively minor impact in comparison with the proposed demolition.

Clause 1.4.6 Site coverage, setbacks and levels

Objectives O1, O2, O3, O4

Controls C1, C2, C3, C4, C7

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives or controls.
- If considering the new proposed building as an infill building, it broadly complies with controls relating to setback and site coverage, in heritage impact terms. However, it is not consistent with C7, as the levels of the ground and first floor are not consistent with the neighbouring buildings in the context of the sloping site.

Clause 1.4.7 Excavation

Objectives O1, O5, O7

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives.
- The new proposed building may comply with these objectives, though there is clearly structural risk to the neighbouring property.

Clause 1.5.3 Windows, doors, shutters and security

Objectives O1, O3

Controls C1

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives or controls.

Clause 1.5.4 Verandahs and balconies

Objectives O1, O3

Controls C1, C8

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives or controls.
- The proposed balconies of the proposed replacement building are suitable in their design for an infill building.

Clause 1.5.5 Fences, walls and gates

Objectives O1, O4

Controls C7, C13

- Involving the demolition of the subject contributory building, the proposal does not comply with any of the above objectives or controls.
- The proposed replacement palisade fence would be suitable in design for an infill building from a heritage perspective.

Clause 1.5.8 Materials, finishes and details

Objectives O1, O2, O3

Controls C1, C6

- Involving the demolition of the subject contributory building, the proposal does not



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- comply with any of the above objectives or controls.
- The materiality of the proposed replacement building is suitable for an infill building.

Clause 1.5.9 Exterior colours

Objectives O1

Controls C1, C3

- The proposed white and grey colour scheme of the proposed replacement building is broadly speaking suitable for an infill building, but no effort has been made to achieve a tonal relationship with traditional colour schemes.

6. CONCLUSION

National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage Aboriginal heritage will be provided below.

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does not conserve the built heritage of Woollahra.

Part 5.10

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

7. RECOMMENDATION

The impact upon the heritage significance of the conservation area will be adverse. The primary non-compliance relates to:

- Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b); and
- Woollahra DCP 2015, Chapter C1, Clause 1.3.2, Objectives O1-O6.
- Woollahra DCP 2015, Chapter C1, Clause 1.3.4, Objectives O1-O5.

In the event that the existing building was demolished and the proposed design for the infill building was to be judged on its merits, it would not satisfy Woollahra DCP 2015, Chapter C1, Clause 1.3.13, Objectives O1-O5. Design alterations would be required to address these non-compliances.

If the development is proposed for approval, the following conditions of consent would be recommended to conserve Aboriginal and potential archaeological heritage: B8, B9, B10, B12.

Tristan Ryan
Senior Strategic Heritage Officer

12 April 2024
Completion Date