



# Woollahra Local Planning Panel (Public Meeting)

Thursday 25 July 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](mailto: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 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](http://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](http://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

17 July 2024

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

Dear Panel Members,

### Woollahra Local Planning Panel (Public Meeting) – 25 July 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 25 July 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](mailto: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](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**

<b>Item</b>	<b>Subject</b>	<b>Page</b>
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	DA250/2023/1 - 38 Russell Street Vaocluse - 24/122383 .....7 <b>*See Recommendation Page 37</b>
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## **LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>ITEM No.</b>	D1
<b>FILE No.</b>	DA250/2023/1
<b>ADDRESS</b>	38 Russell Street VAUCLUSE
<b>COUNCIL WARD</b>	Vaucluse
<b>SITE AREA</b>	455.3m <sup>2</sup>
<b>ZONING</b>	R2 Low Density Residential
<b>PROPOSAL</b>	Demolition of the existing dwelling and the construction of a new two-storey dwelling with basement storage a swimming pool and associated landscaping
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$1,273,281.00
<b>DATE LODGED</b>	13/07/2023
<b>APPLICANT</b>	Corona Projects Pty Ltd
<b>OWNER</b>	X Shi
<b>AUTHOR</b>	Mrs L Holbert
<b>TEAM LEADER</b>	Mr G Fotis
<b>SUBMISSIONS</b>	13
<b>RECOMMENDATION</b>	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



### 4. PROPOSAL

The proposal development is for demolition of the existing dwelling and for the construction of a new 2 to 3 storey dwelling and swimming pool. The proposal involves the following works:

#### Basement:

- Excavation works to allow for a new basement level, including storage, stairs and lift.
- New undercroft area containing swimming pool plant equipment.

#### Ground Floor:

- This level is to contain a garage, entry hall, stairs, lift, living/dining, family room, bar area, kitchen, butlers kitchen and WC;
- New elevated deck to the rear with elevated pool and spa adjoining;
- Privacy screens to both sides of the new deck.

#### First Floor:

- This level is to contain 4 bedrooms with ensuites, master-bedroom, ensuite and WIR, rumpus area, stairs, lift and void;
- New balconies to the front and rear with privacy screens to both sides.

#### Roof:

- New skylight above the staircase.

**Note:** It is noted that the proposed landscape plans show a roof garden and a roof terrace to this roof, however these works are not shown on the architectural plans.

External:

- Removal of existing trees;
- New landscaping;
- Demolition of the existing front wall and construction of new front fence and pedestrian gate;
- New fountain within the front setback.



**Figure 1:** Photomontage of the proposed development as viewed from Russell Street.

## 5. ISSUES

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

None.

### 5.2 Primary Issues

Issue	Conclusion	Section
Floorplate	The significant non-compliance with the maximum floorplate control, results in a bulk and scale that creates unacceptable amenity impacts on surrounding properties and detracts from the quality of the streetscape.	14.1
Front Setback	The proposed nil front setback contributes to the overdevelopment of the site, resulting in a visually dominant presentation to Russell Street, which is not in-keeping with the general pattern of development in the locality.	14.1
Rear Setback	The significant non-compliance with the minimum rear setback requirements contributes to the overdevelopment of the site and results in adverse visual amenity and privacy impacts on surrounding properties.	14.1
Bulk and Scale	The proposed development is of a bulk and scale that is considered to be excessive, resulting in adverse amenity impacts on surrounding properties and a visually dominate building within the streetscape.	14.1
Streetscape/desired future character	The proposed bulk and scale is considered to be excessive, which combined with the nil front setback, results in a visually dominant presentation that is not in-keeping with the desired future character of the Vaucluse East precinct.	14.1
Pool Height	The proposed swimming pool has been significantly elevated, which combined with the excessive bulk and scale of the remainder of the dwelling and the non-compliant rear setback, creates adverse visual amenity and privacy impacts on the surrounding properties.	14.1

Issue	Conclusion	Section
Building Height	The proposed development does not comply with maximum building height development standard and no written variation has been provided. Further to this, the applicant has not provided sufficient and accurate information, in relation to the 'ground level (existing)' to allow for adequate assessment of the proposal.	13.3
Wall Height	The proposed non-compliant wall height results in a bulk and scale that is detrimental to the visual amenity of surrounding properties.	14.1
Visual Privacy	The proposed development results in the loss of visual privacy from surrounding properties and is considered unacceptable in this regard. This has been further discussed below in Section 14.1 of this report.	14.1
Views	The proposed development results in view loss from surrounding properties, however the applicant has not provided sufficient information to allow for an adequate assessment of this view loss. This has been further discussed below in Section 14.1 of this report.	14.1
Roof Terrace/Garden	The proposed landscape plan shows a roof garden and roof terrace to the top of the building, which is not shown on the submitted architectural plans. These elements will obstruct views and impact privacy from surrounding properties. Further to this, the applicant has not provided sufficient information to allow for an adequate assessment of these elements.	14.1
Deep Soil Landscaping	The proposed dwelling has been sited on a nil front setback, which does not allow for any deep soil landscaping to be provided at the front of the site. This detracts from the landscape character of the streetscape and exacerbates the visual dominance of the dwelling.	14.1
Insufficient/inaccurate information	The applicant has not provided sufficient and accurate information to allow for an adequate assessment of the proposed development.	22

### 5.3 Summary of Submissions

Issue	Conclusion	Section
Floorplate	The significant non-compliance with the maximum floorplate control, results in a bulk and scale that creates unacceptable amenity impacts on surrounding properties and detracts from the quality of the streetscape.	9.1, 14.1
Views	The proposed development results in view loss from surrounding properties, however the applicant has not provided sufficient information to allow for an adequate assessment of this view loss. This has been further discussed below in Section 14.1 of this report.	9.1, 14.1
Front setback	The proposed nil front setback contributes to the overdevelopment of the site, resulting in a visually dominant presentation to Russell Street, which is not in-keeping with the general pattern of development in the locality.	9.1, 14.1
Rear Setback	The significant non-compliance with the minimum rear setback requirements contributes to the overdevelopment of the site and results in adverse visual amenity and privacy impacts on surrounding properties.	9.1, 14.1
Acoustic/Visual Privacy	The proposed development result in the loss of privacy from surrounding properties and is considered unacceptable in this regard. This has been further discussed below in Section 14.1 of this report.	9.1, 14.1
Streetscape/desired future character	The proposed bulk and scale is considered to be excessive, which combined with the nil front setback, results in a visually dominant presentation that is not in-keeping with the desired future character of the Vaucluse East precinct.	9.1, 14.1
Solar Access	The applicant has not provided sufficient information to allow for an adequate assessment of the solar access impacts on surrounding properties. This has been further discussed below in Section 14.1.	9.1, 14.1
Height, Bulk and Scale	The proposed development is of a height, bulk and scale that is considered to be excessive, resulting in adverse amenity impacts on surrounding properties and a visually dominate building within the streetscape.	9.1, 13.3, 14.1



Issue	Conclusion	Section
Insufficient/inaccurate information	The applicant has not provided sufficient and accurate information to allow for an adequate assessment of the proposed development.	9.1, 22
Pool Height	The proposed swimming pool has been significantly elevated, which combined with the excessive bulk and scale of the remainder of the dwelling and the non-compliant rear setback, creates adverse visual amenity and privacy impacts on the surrounding properties.	9.1, 14.1
Roof Terrace/Garden	The proposed landscape plan shows a roof garden and roof terrace to the top of the building, which is not shown on the submitted architectural plans. These elements will obstruct views and impact privacy from surrounding properties. Further to this, the applicant has not provided sufficient information to allow for an adequate assessment of these elements.	9.1, 14.1
Tree Loss	Council's Landscape Officer has supported the removal of these trees as sufficient replacement planting has been proposed. This is further discussed below in Section 14.1.	9.1, 14.1
Wall Height	The proposed non-compliant wall height results in a bulk and scale that is detrimental to the visual amenity of surrounding properties.	9.1, 14.1

## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY

<b>Physical features</b>
The subject site is located on the western side of Russell Street Vaucluse. The subject site has a rectangular shape and total site area of 455.3m <sup>2</sup> .
<b>Topography</b>
The subject site slopes steeply in a westerly direction from the front boundary of the site toward the rear boundary (in the order of 5.5m).
<b>Existing buildings and structures</b>
The subject site contains and 1 to 2 storey late federation dwelling house, which was constructed C.1912. Refer to <b>Photo 1</b> .
<b>Surrounding Environment</b>
The subject site is zoned R2 Low Density Residential and is characterised by a variety of dwelling types and forms.
Located to the north of the site is a one to storey rendered masonry dwelling with pitched roof, refer to <b>Photo 2</b> . To the south is a two storey rendered masonry semi-detached dwelling with a pitched roof, refer to <b>Photo 3</b> . To the east of the subject site on the opposite side of Russell Street is a two storey rendered masonry and sandstone dwelling with flat roof, refer to <b>Photo 4</b> . To the west of the site is a two storey weatherboard dwelling house with a pitched roof, refer to <b>Photo 5</b> .



**Photo 1:** Front elevation of the subject site (No.38 Russell Street).



**Photo 2:** Front elevation of the northern adjoining property (No.40 Russell Street).



**Photo 3:** Front elevation of the southern adjoining property (No.36 Russell Street).



**Photo 4:** Front elevation of the property to the east of the site (No.53 Russell Street).



**Photo 5:** Front elevation of the western (rear) adjoining property (No.8 Bell Street).

## 7. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Residential
<b>Relevant Application History</b>
N/A
<b>Relevant Compliance History</b>
N/A
<b>Pre-DA</b>
N/A
<b>Requests for Additional Information and Replacement Applications</b>
<ul style="list-style-type: none"> <li>A Stop the Clock letter requesting a Demolition Report, a Drainage Easement, revised Stormwater Management Plan, a Geotechnical Report and a Construction Methodology and Structural Report was sent to the applicant on 26/07/2023;</li> <li>The Geotechnical Report was received on 25/08/2023;</li> <li>Easement letters were received on 15/07/2023;</li> <li>A Revised Stormwater Management Plan was received on 15/07/2023;</li> <li>The Structural Report was received on 15/09/2023;</li> <li>A Demolition Report was received on 24/09/2023;</li> <li>A revised Aboriginal Heritage Impact Statement was requested 12/10/2023 and received on 20/10/2023.</li> </ul>
<b>Land and Environment Court Appeal(s)</b>
N/A

## 8. REFERRALS

Referral	Summary of Referral Response	Attachments
Development Engineering	Satisfactory, subject to Conditions.	2
Trees and Landscaping	Satisfactory, subject to Conditions.	3
Heritage	Satisfactory, subject to Conditions.	4
Environmental Health	Satisfactory, subject to Conditions.	5
La Perouse Local Aboriginal Land Council	Referred on 16/10/23. No response received	-



## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

### 9. ADVERTISING AND NOTIFICATION

#### 9.1 Submissions

The application was advertised and notified from 02/08/2023 to 17/08/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. 13 Submissions were received from:

1. Robert and Maria Arnold, 36 Russell Street Vacluse
2. Peter Forsyth, 57 Russell Street, Vacluse
3. Nicholas and Maddi Hill, Unit 3 45 Russell Street, Vacluse
4. Nathalie Wessels, 8 Bell Street, Vacluse
5. Kitty Ma, 42 Russell Street, Vacluse
6. Ilona Sherifdan on behalf of Rose Afif, 61 Russell Street, Vacluse
7. Gerald Camberg, 34 Russell Street, Vacluse
8. Felicite Ross, 40 Russell Street, Vacluse
9. Cecile Ross and Diego Silva, 40 Russell Street, Vacluse
10. Dan and Jo Powell, 55 Russell Street, Vacluse
11. Anonymous, 53 Russell Street, Vacluse
12. Ali Yeldham and Angus Hudson, 51 Russell Street, Vacluse
13. Alan Joffe, 59 Russell Street, Vacluse

The submissions raised the following issues:

- **The proposed dwelling does not comply with the maximum floor space ratio control.**

**Comment:** The proposed development does not comply with the maximum floorplate requirements and is of a bulk and scale that is considered to be excessive. The proposal has therefore not been supported.

- **The proposed dwelling will significantly reduce natural light to the eastern side of No.36 Russell Street (from the terrace, windows and garden).**

**Comment:** The applicant has not provided sufficient information to allow for an adequate assessment of the solar impacts of the proposal. The development was therefore considered unacceptable in this regard.

- **The proposed roof terrace will directly overlook the terrace and garden of No.36 Russell Street.**

**Comment:** The applicant has not made it clear whether a roof terrace is proposed to the upper level of the building. The proposed development has therefore been considered to be unacceptable in this regard.

- **The proposed dwelling is likely to block the eastern views from No.36 Russell Street.**

**Comment:** The applicant has not provided sufficient information to make an adequate view loss assessment, the proposal is considered to be unacceptable in this regard.

- **The planting of trees to a height of 20 meters will block views to the east from No.36 Russell Street.**

**Comment:** The proposed development involves the planting of two trees to a maximum height of 12m. It is unclear whether these trees will obstruct views obtained from this property, however the proposed development is considered to be unacceptable in this regard.

- **The proposed dwelling will obstruct city views obtained from No.57 Russell Street.**

**Comment:** The proposed development will not result in any view loss from this property, this has been discussed below in Section 14.1 of this report. Notwithstanding this, the proposed development has not been supported.

- **The proposed development is inconsistent with the character of the neighbourhood.**

**Comment:** The proposed development has not been supported.

- **There is concern that the proposed dwelling will impact both public and private views and exceeds the 9.5m height restriction.**

**Comment:** The proposed development does not comply with the maximum height limit. The applicant has not provided sufficient information to properly assess the view impact on surrounding properties (the proposal will not impact public views). The proposal is considered unacceptable in this regard.

- **The proposed plans lack detail.**

**Comment:** The submitted plans are considered to be inaccurate and insufficient to allow for an adequate assessment of the proposal.

- **This proposal will impact the privacy of surrounding properties.**

**Comment:** The proposed development is considered to have unacceptable impact on the privacy of surrounding properties. This has been further discussed below in Section 14.1 of this report.

- **The proposed dwelling will result in overshadowing of the main living areas, pool area, garden and bedroom at No.8 Bell Street.**

**Comment:** Due to the orientation of the subject site it would appear that the proposal would only create minimal additional overshadowing to this property. However it is noted that the submitted shadow diagrams are unclear and unacceptable in this regard.

- **The proposed dwelling is much closer to No.8 Bell Street than the existing development, resulting in overlooking to the living room, kitchen, pool area, outdoor dining areas and a bedroom.**

**Comment:** The siting of the proposed development is considered to have an adverse impact on the amenity of properties to the rear. The proposal development is considered to be unacceptable in this regard.

- **The proposed elevated pool will result in increased acoustic and visual privacy impacts on surrounding properties.**

**Comment:** The proposed elevated pool will result in unacceptable privacy impacts on surrounding properties and is unacceptable in this regard.

- **The proposed height, bulk and scale of the building is excessive.**

**Comment:** The height, bulk and scale of the proposed development is considered to be excessive and is unacceptable in this regard.

- **The rooftop area appears oversized and could be used as a roof terrace.**

**Comment:** The submitted landscape plans indicate a roof terrace at the top of the building. A roof terrace to this area of the building is not supported. This has been discussed further below in Section 14.1 of this report.

- **The rooftop area allows for planting, which may impact public and private views.**

**Comment:** The proposed rooftop planting would result in view loss from properties on the opposite side Russell Street. The proposed development is considered to be unacceptable in this regard.

- **The proposal will contribute to the lack of on-street parking.**

**Comment:** The proposal complies with the maximum parking requirements and is considered acceptable in this regard.

- **The proposed loss of the Umbrella and Kentia palm trees on the northern boundary will result in the loss of visual and acoustic privacy and other amenity benefits of mature trees.**

**Comment:** Council's Landscape Officer has supported the removal of these trees as sufficient replacement planting has been proposed. It is also noted that Umbrella trees are exempt species and can be removed without Council consent.

- **The pool pump should be positioned within the building to protect the acoustic privacy of surrounding properties.**

**Comment:** The swimming pool pump is proposed to be positioned within the undercroft area. Should consent be granted relevant conditions could be imposed to protect the acoustic privacy of surrounding properties.

- **The photomontage is inaccurate.**

**Comment:** The photomontage appears to be inaccurate, the proposed development has not been supported.

- **The proposed development will impact the standing water and iconic views from the living area of No. 55 Russell Street.**

**Comment:** The applicant has not provided sufficient information to assess the impact on views from this property. The proposed development is unacceptable in this regard.

- **There is concern about how the proposed rooftop garden will be maintained.**

**Comment:** The application has not been supported.

- **There is concern relating to the type and height of planting to the rooftop garden.**

**Comment:** The proposed plant species and plant height has been shown on submitted landscape plans. It would appear that this planting would result in the loss of views from surrounding properties. This proposed development is considered to be unacceptable in this regard.

- **The proposed first floor, roof (including ancillary structures), parapet and rooftop garden will completely obliterate whole water and iconic views currently enjoyed from sitting and standing positions to the living, dining and ground floor balcony/terrace area, at No.53 Russell Street.**

**Comment:** The proposed first floor of the building will result in some loss of water views, however the applicant has not provided sufficient information to allow for an adequate assessment of the view loss resulting from the planting, roof terrace or other rooftop elements that are proposed. The proposed development is therefore considered unacceptable in this regard.

- **The proposed development does not comply with the minimum front setback, rear setback and maximum wall height controls.**

**Comment:** The proposed development is considered to be unacceptable, due to these non-compliances.

- **The floorplate calculations provided by the applicant are inaccurate and non-compliant.**

**Comment:** The floorplate calculations provided by the applicant are inaccurate. The proposed development is considered to be unacceptable in this regard.

- **The proposed development does not respond to the topography of the site.**

**Comment:** The proposed development has not been supported.

- **There are inconsistencies between the architectural plans and the landscape plans. Any structures to permit safe access to the roof will contribute to the overall height and bulk of the dwelling, and further impact views No.53 Russell Street.**

**Comment:** The proposed architectural plans and landscape plans are inconsistent. The proposal is considered to be unacceptable in this regard.

- **The roof plans, elevations and sections do not include any lift over-run. This will likely contribute to the overall height of the development, and further exacerbate amenity impacts on surrounding dwellings.**

**Comment:** The applicant has not submitted sufficient information to allow for an adequate assessment of the proposal. The proposed development is considered unacceptable in this regard.

- **The applicant has not given adequate consideration to the potential impacts on the adjoining Bell Street Heritage Conservation Area.**

**Comment:** Council's Heritage Officer has considered the proposal would be acceptable in terms of the impact on the adjoining conservation area.

- **The proposed green roof and roof terrace potentially impact views obtained from No.51 Russell Street.**

**Comment:** The applicant has not provided sufficient information to allow for an adequate assessment of the view loss created by the proposal. The proposed development is considered to be unacceptable in this regard.

## 9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 18/08/2023 declaring that the site notice for DA250/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

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

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

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

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

### **Chapter 4 – Remediation of Land**

The Object of this Chapter aims to *promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Under Clause 4.6(a) of Chapter 4 – Remediation of Land, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 – Remediation Of Land of the Resilience and Hazards SEPP 2021 and the proposal is acceptable with regard to Chapter 4 of the SEPP.

## **12. SEPP (BIODIVERSITY AND CONSERVATION) 2021**

### **12.1 Chapter 6 – Water Catchments**

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

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

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

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

## **13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

### **13.1 Part 1.2: Aims of Plan**

The proposal is unsatisfactory in terms of the aims in Part 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 promote a high standard of design in the public and private domain, contrary to Clause 1.2(2)(j);
- The proposal does not achieve the desired future character of the area, contrary to Part 1, Clause 1.2(2)(l).

The proposal fails to satisfy the aforementioned aims and is listed as a reason for refusal.

### **13.2 Land Use Table**

The proposal is permissible but is not consistent with the objectives of the R2 Low Density Residential zone for the following reasons:

- The proposal does not provide for development that is compatible with the character and amenity of the surrounding neighbourhood;

- The proposal does not ensure that development is of a height and scale that achieves the desired future character of the neighbourhood

The proposal fails to satisfy the relevant objectives of the R2 Low Density Residential Zone and is listed as a reason for refusal.

### 13.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m

	Existing	Proposed	Control	Complies
Maximum Building Height	<9.5m	9.57m*	9.5m	<b>NO*</b>

*\*Note: The total overall building height is unclear, given that the proposed plans has referenced 'natural ground level' and not 'ground level (existing)' to determine the actual height of the proposed building. Based on the submitted site survey, it appears that the proposal would exceed the maximum height requirements. In addition, the submitted architectural plans do not clearly show all proposed structures/elements to the roof including planters, the lift over-run on the roof terrace and any associated balustrading/access.*

The applicant has not provided sufficient information to accurately determine the overall height of the proposal. Based on the information provided it appears that the proposed development does not comply with maximum height requirements. No written request to vary this development standard has been submitted. The proposed development is therefore recommended for refusal.

### 13.4 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.

Council's Heritage Officer has provided the following comments in relation to the proposed development:

*The existing structures on the subject property comprise a double storey painted brick masonry dwelling constructed in the early twentieth century which is located on Francis Mitchell's 39 acre land grant. The house has been modified over time with several alterations and additions, and the external character of the dwelling has been largely compromised. Original interiors have also been adapted, with some timber joinery, fireplaces and ceilings still remaining. 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. The subject property is not heritage listed and is not located within a heritage conservation area.*

*A Demolition Report has been submitted with the development application and includes historical research on the development of the property over time. The original builder/architect of the dwelling is not known. The building 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 site 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 structures within the site.*

*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. Due to the localised nature of the works and the low scale of the new development, there would be no adverse impact on the setting, fabric or views of the Bell Street HCA in the vicinity. As such, there are no concerns raised on heritage grounds regarding the design of the proposed new development.*

*The archival recording included in the demolition reports meets the standard requirements for buildings of no significance and would satisfy the standard condition for recording buildings of little significance.*

*As the building retains some external and internal original features, appropriate salvage conditions will be provided below.*

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

### **13.5 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.

### **13.6 Part 6.2: Earthworks**

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

The proposal involves excavation to accommodate a basement level, which will require excavation works to a depth of approximately 3m below the existing ground level. The submitted Geotechnical Report identified the subsurface conditions of the site as follows:

- a) Fill comprising silty sand to a depth of 0.3m, 0.3m, 0.4m, 0.5m, 1.1m and 1.2m in BH1 to BH6 respectively;
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 1m, 0.5m, 0.7m, 1.2m, 2.5m and 1.4m in BH1 to BH6 respectively;
- c) Sandstone bedrock was encountered beneath the natural sand in all boreholes;
- d) Groundwater was not observed during the investigation.

The applicant has also submitted a Structural report and preliminary structural drawings providing methodology of these excavation works. The report has concluded that the proposed excavation will not cause any adverse impacts to neighbouring structures.

Council's Development Engineer has provided the following comment in relation to the proposed excavation works:

*No objections to the proposed excavation on technical grounds subject to the imposition of conditions.*

The proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014, subject to condition of consent to mitigate impacts created by the proposed excavation works.

## 14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 14.1 Chapter B1: Vaucluse East Residential Precinct

The proposal does not meet the streetscape character and desired future character objectives of the Vaucluse East precinct, as noted in Part B1.11.2 of the Woollahra DCP 2015 in the following manner:

*O1 To respect and enhance the streetscape character and key elements of the precinct.*

The proposed dwelling is of a bulk and scale that is considered excessive, which combined with the nil front setback, does not reflect the predominate front building alignment that has been established, by surrounding development and detracts from the quality of the streetscape and the character of the Vaucluse East Precinct.

*O5 To design and site buildings to respond to the topography and minimise cut and fill.*

The proposed built form has not been designed to reflect the sloping topography of the site, resulting in an excessive bulk and scale and adverse impacts on the streetscape and the amenity of surrounding properties.

*O7 To reinforce the landscape setting and maintain the existing tree canopy*

As the proposed dwelling has been positioned with a nil setback, this does not allow for any deep soil landscaping to be provided within the front setback. This provides for a poor relationship between the site and the streetscape and diminishes the landscape setting of the Vaucluse East Precinct.

*O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

The proposal does not allow for any trees or landscaping to be provided within the front setback, which does not allow for the green setting of the Vaucluse East precinct to be reinforced.

#### 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: 455.3m <sup>2</sup>	Existing	Proposed	Control	Complies
Front Setback	1.85m	0m	2.19m	<b>NO</b>
Rear Setback	12.49m	4.46m	11.02m	<b>NO</b>
Side Boundary Setbacks (north) Basement Ground Floor First Floor	>1.5m	1.6m 1.5m 1.5m	1.5m	YES
Side Boundary Setbacks (South) Basement Ground Floor First Floor	>1.5m	1.5m 1.5m 1.5m	1.5m	YES
Maximum Wall Height	>7.2m	9.5m	7.2m	<b>NO</b>



### 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 has been sited on a nil front setback, which is contrary to Control C1 and is considered unacceptable for the following reasons:

- This non-compliance with the front setback control contributes to the overdevelopment of the site and results in a visually dominant presentation to Russell Street, contrary to Objective O1 and O2;
- The proposed front setback does not reflect the consistent front setbacks that have been established, by surrounding development. The proposal is therefore not considered to be in-keeping with general pattern of development within streetscape and the Vaucluse East Precinct, contrary to Objective O2;
- The proposed nil front setback, provides a poor relationship between the front of the site and the public domain in Russell Street and does not allow for any deep soil landscaping to be accommodated within the site frontage, contrary to Objectives O1 and O3.

### Part 3.2.3: Side Setbacks

*With a lot width of 14.885m, C1 requires a minimum side setback of 1.5m.*

Complies.

### Part 3.2.4: Rear Setback

*C1 The rear setback is a consequence of the site depth, front setback and building depth as set out in the formula at Figure 6.*

The proposed development results in a significant non-compliance with the rear setback control (in the order of 6.5m), which is contrary to Control C1 and is considered unacceptable for the following reasons:

- This non-compliance with the rear setback control contributes to the overdevelopment of the site and detracts from the visual amenity of the surrounding properties, particularly given the height and scale of the elevated pool and deck. This results in an unreasonable sense of enclosure to properties to the rear, contrary to Objective O3;
- This non-compliance with the rear setback does not provide sufficient separation to allow for adequate privacy to be afforded to properties to the rear, particularly given that the proposal involves providing a large elevated pool and deck at the rear, contrary to Objective O2;
- The proposed rear setback does not reflect the consistent rear alignments that have been established, by surrounding development, which is not considered to be in-keeping with general pattern of development within Russell Street and the Vaucluse East Precinct, contrary to Objective O2;
- This non-compliance with the rear setback does not allow for the site to sufficiently contribute to a consolidated open space network with adjoining properties to improve local drainage and support local habitat, contrary to Objective O6.



**Photo 6:** Rear of the existing dwelling as viewed from the rear yard of No.8 Bell Street.

#### Part 3.2.5: Wall Height and Inclined Plane

*C1 specifies a maximum external wall height of 7.2m with an inclined plane of 45 degrees above this height. Roof eaves can protrude into the setback if they are below the inclined plane.*

The proposed dwelling does not comply with the maximum wall height and inclined plane, as the proposed development is effectively 3 storeys and does not follow the topography of the site, which is contrary to Control C1 and is considered unacceptable for the following reasons:

- This non-compliance results in a bulk and scale that is considered to be excessive, particularly when viewed from adjoining properties to the side and rear. The proposal detracts from the visual amenity of these properties, contrary to Objective O1;
- This non-compliance does not allow for adequate visual and acoustic privacy to be provided to surrounding properties, contrary to Objective O4.



**Photo 7:** Rear elevation of the existing dwelling.

### Conclusion

For reasons discussed above, the proposal is unacceptable with regard to Part B3.2 of the Woollahra DCP 2015 and is listed as a reason for refusal.

### **Part B3.3: Floorplates**

Site Area: 455m <sup>2</sup>	Existing	Proposed	Control	Complies
Maximum Floor Plate	<165%	337% 688.59m <sup>2</sup>	165% 336.39m <sup>2</sup>	<b>NO</b>

*C1 limits the floorplate, being the measurable floor area as a proportion of the buildable area, is limited to 165%. In this instance, this equates to 336.39m<sup>2</sup>.*

The proposed development involves a very significant non-compliance with the maximum floorplate control, in the order of 352.2m<sup>2</sup> (over double the maximum requirement). It is noted that the applicant has stated the proposed development complies with the maximum floorplate requirements. The applicant has inaccurately calculated the floorplate, as the large undercroft and basement area (the basement area that protrudes 1m above the existing ground level) has been incorrectly excluded from the calculation. It is noted that the applicant has not provided sufficient information to demonstrate how the floorplate was calculated. This non-compliance with floorplate controls is considered unacceptable for the following reasons:

- This non-compliance with the floorplate control contributes to the overdevelopment of the site, detracts from the quality of the streetscape and is inconsistent with the desired future character, contrary to Objective O1;
- The proposed dwelling is of a height, bulk and scale that is considered excessive and is located on nil setback, resulting in a visually dominant building within the streetscape, which is detrimental to the character and appearance of the Vaucluse East precinct;
- The excessive floorplate results in adverse impacts on the amenity of surrounding properties, in terms of privacy and visual amenity;
- The applicant has not provided sufficient information to allow for an adequate assessment of the solar access and view impacts of the proposal.

### Conclusion

For reasons discussed above, the proposal is unacceptable with regard to Part B3.3 of the Woollahra DCP 2015 and is listed as a reason for refusal.

### **Part B3.4: Excavation**

Site Area: 145m <sup>2</sup>	Existing	Proposed	Control	Complies
Maximum Volume of Excavation	-	145m <sup>3</sup>	145m <sup>3</sup>	YES
Excavation, Piling and Subsurface Wall Setback	-	1.5m	1.5m	YES
Geotechnical Report	N/A	Provided	Required Where > 2.0m	YES

*C1/C2 limits the volume of excavation to 145m<sup>3</sup>. Exceptions applied in C4 and C5 are for the compliant amount of parking and storage at 8/20m<sup>2</sup> per dwelling and swimming pools and tennis courts outside the buildable area.*

Complies.

*C6 requires a minimum setback of excavation of 1.5m.*

Complies.

## Conclusion

The proposal is therefore acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

### **Part B3.5: Built Form and Context**

Site Area: 455.3m <sup>2</sup>	Existing	Proposed	Control	Complies
Siting of Development	-	Does not follow topography	Stepped Down with the Slope	<b>NO</b>
Casual Surveillance – Windows Facing Street/Public Area	-	>1	One	YES
Solar Access to Open Space of Neighbouring Properties	50% for 2 hours on 21 June	50% for 2 hours on 21 June	50% for 2 hours on 21 June	YES

#### Part B3.5.1: Streetscape and Local Character

*C1 The building is consistent with the desired future character of the area set out in the precinct controls in Parts B1 and B2 of this DCP. Note: Chapters B1 and B2 in this part of the DCP define the desired future character for each precinct or HCA, and identify special streetscape character, heritage and key elements within each precinct.*

The proposed dwelling is considered to be of a bulk and scale that is excessive, and does not reflect the predominate front building alignment that has been established, by surrounding development, which detracts from the quality of the streetscape. The proposed development is therefore not considered to be in-keeping with the streetscape character or the Vaucluse East Precinct and is unacceptable in this regard.

*C2 Development retains vegetation of landscape value.*

The proposed development involves the removal of 4 moderately significant trees. Council's Landscape Officer has supported the removal of these trees, as the submitted landscape plan has provided sufficient replacement trees and is considered acceptable in this regard. This has been further discussed below.

*C3 Development steps down sloping sites and follows the topography of the land.*

The proposed built form has not been designed to reflect the sloping topography of the site, resulting in excessive bulk and scale and adverse impacts on the streetscape and the amenity of surrounding properties.

*C4 External building materials and colours do not detract from the streetscape. Bright or obtrusive colour schemes are avoided.*

The proposed external colour scheme and materials are considered to complement the existing streetscape and are acceptable with regard to Control C4.

*C5 Roof forms and roof structures (including roof terraces, lifts, lift overruns, stairwells, access hatches, and other like structures) are well-designed, contribute positively to the streetscape, and are well-integrated with the architecture of the building.*

The submitted architectural plans and landscape plan are inconsistent. The landscape plan appears to show a rooftop roof terrace and states the parapet walling is to create planters for a rooftop garden. Whereas, the architectural plans does not show the roof terrace or any associated access or balustrading. The architectural plans also show the proposed parapet height to be 200mm, which does not allow for sufficient soil depth to support the proposed rooftop garden.

In addition the submitted architectural plans do not show any lift over-run or any associated lift plant. It is unclear if any other equipment such as air conditioning or solar panels are proposed to be located on the proposed roof. It is noted that the submitted BASIX Certificate states that air conditioning and solar panels are proposed by development, however these elements have not been shown on the architectural plans.

The proposed development is therefore unacceptable in this regard.

*C9 The building addresses the street and provides opportunities for casual surveillance. At least one habitable room window overlooks the street.*

The proposed development addresses Russell Street and provides good casual surveillance of the street.

#### Part B3.5.2: Overshadowing

*C1 The development is designed so that:*

*a) sunlight is provided to at least 50% (or 35m<sup>2</sup> with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; and*

It would appear that the development complies with the minimum solar access requirements to adjoining private open space. However the submitted shadow diagrams do not adequately distinguish between existing and proposed overshadowing. 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.*

The applicant has not provided elevational shadow diagrams to demonstrate compliance with Control C1(b). The submitted survey does not appear to include all north facing habitable room windows at the adjoining property (No.36 Russell Street). The proposal is therefore considered to be 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 the protection of public views and vistas, pursuant to Part B3.5.3 of the Woollahra DCP 2015.

##### Private Views:

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.

Objections were received from the following properties in relation to view loss:

- No.57 Russell Street, Vaucluse
- No.55 Russell Street, Vaucluse

- No.53 Russell Street, Vaucluse
- No.51 Russell Street, Vaucluse
- No.36 Russell Street, Vaucluse

The applicants SEE has stated the proposal is not likely to impact significant views. However a View Impact Assessment has not been provided to substantiate this assertion from the applicant. In addition to this, the submitted architectural plans and landscape plans are inconsistent. The landscape plan appears to show a rooftop roof terrace and rooftop planting, however the architectural plans do not show any details of these works and the associated elements including roof terrace access, balustrading and sufficient parapet height to accommodate adequate soil depth for rooftop planting. The submitted architectural plans also do not show any lift over-run or details of any other plant equipment. This does not allow for an adequate assessment of the view impacts to be undertaken.

As a thorough Visual Impact Analysis has not been conducted and as there are inconsistent details provided by the applicant, 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 following 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.*

Nos.51, 55 and 53 Russell Street are two storey detached dwelling houses located on the opposite side of Russell Street. As shown in the photos below these properties obtain extensive panoramic views of the Harbour Bridge, Harbour, views of the land and water interface and city views including centre point tower. Some of these properties also have obscured Opera House views.

No.57 Russell Street is a single storey detached dwelling house also located on the opposite side of Russell Street. This property enjoys obscured city and harbour views.

No.36 Russell Street is a two storey semi-detached dwelling house adjoining the southern site boundary. This property has obscured views of the Harbour Bridge, Harbour and views of the land and water interface. This property also has obscured city views including centre point tower.

- *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.*

Views are obtained from the front balconies and front windows including living room windows at Nos.51, 53, 55 and 57 Russell Street over the front boundary.

Views are obtained from the rear living room windows and rear balcony at No.36 Russell Street, over the rear boundary.

- **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 and as the applicant has not provided clear and accurate plans this cannot be accurately assessed. However, it is noted 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. It is noted that the proposed development as shown on the proposed plans not including any rooftop planting, rooftop roof terrace, balustrading, rooftop access, lift over-run, or rooftop plant equipment is almost the same overall height as the ridge height of the existing dwelling. The proposed new dwelling is 20mm higher than the overall ridge height of the existing dwelling.

No. 53 Russell Street: It would appear based on the available information that the proposal would have a negligible impact on the views obtained from this property (it is noted that views obtained from the front first floor bedroom windows will remain unaffected by the proposal). However the impact on views would be greater than indicated below, if additional elements were added to the proposed flat roof including planting, roof terrace and lift over-run. Further analysis is required, so that a more accurate assessment of the proposed impact can be carried out.



**Photo 8:** Indicative view loss from the ground floor front balcony of No.53 Russell Street (**not including any structures/planting to the roof**).



**No. 55 Russell Street:** It would appear based on the available information that the proposal would have a negligible impact on the views obtained from this property (it is noted that no views are obtained from the ground floor front windows/verandah). However the impact on views would be greater than indicated below if additional elements were added to the proposed flat roof including planting, roof terrace and lift over-run. Further analysis is required, so that a more accurate assessment of the proposed impact can be carried out.



**Photo 9:** Indicative view loss from the front first floor balcony of No.55 Russell Street (**not including any structures/planting to the roof**).

**No. 51 Russell Street:** It would appear based on the available information that the proposal would have no impact on the views obtained from this property. However the impact on views would be greater than indicated below, if additional elements were added to the proposed flat roof including planting, roof terrace and lift over-run. Further analysis is required, so that a more accurate assessment of the proposed impact can be carried out.



**Photo 10:** Indicative view loss from the front first floor balcony of No.51 Russell Street (**not including any structures/planting to the roof**).



**No. 57 Russell Street:** It would appear based on the available information that the proposal would have no impact on the views obtained from this property. However, further analysis is required, so that a more accurate assessment of the proposed impact can be carried out.



**Photo 11:** Indicative view loss from the first floor front balcony of No.57 Russell Street (**not including any structures/planting to roof**).

The proposed dwelling would not have any impact on views obtained from No.36 Russell Street (the property adjoining the southern boundary of the site), as views from this property are obtained over the rear boundary of this property. The proposed trees up to a height of 12m to be planted along the rear boundary may result in the loss of some views from this property. The applicant has not submitted sufficient information to allow for an adequate assessment of these view impacts.

- *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 floorplate, wall height, building height and front/rear setback controls. It is also noted that the applicant has not provided sufficient information to demonstrate compliance with the maximum height control and the extent to which the building height control is breached. This is because the architectural plans do not provide sufficient detail in relation to exactly what is to be accommodated on the roof of the proposal. 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 involves a compliance of 352.2m<sup>2</sup> which is over double the maximum requirement result in a building of substantial bulk and scale, which contributes to the view loss from surrounding properties;
- The proposed wall height non-compliance contributes to the view loss from surrounding properties;
- The potential non-compliances with the building height that could be created by the proposed rooftop planters, roof terrace (and the associated access and balustrading), the lift over-run and potential rooftop plant equipment will result in additional view loss from surrounding properties.

It is noted that the non-compliance with the front and rear setback controls do 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

*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 proposed swimming pool plant is located within the undercroft area. Should consent be granted, conditions of consent could be imposed to protect the acoustic privacy of surrounding properties. It is noted that the applicant has not provided any details in relation to any air conditioning units or the location of the proposed lift plant. This proposed development is therefore considered to be unacceptable in this regard.

*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.*

The proposed habitable room windows to the proposal are considered acceptable for the following reasons:

- The proposed habitable room windows to the rear elevation are sufficiently separated from adjoining properties;
- The proposed habitable room windows to Bedroom 4 faces the front of the site;
- The proposed windows to bedroom 2 and the kitchen window to the southern elevation will be screened by privacy screens.

It is noted that it is unclear whether the proposed habitable room windows to Bedroom 3 (to the southern elevation) will overlook adjoining habitable room windows, as the submitted survey has not shown all windows located at No.36 Russell Street. However should consent be granted, a condition of consent could be imposed to protect the visual privacy of this property.

*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.*

It is unclear whether the proposed ensuite window to the northern elevation will create any overlooking impacts, as the submitted survey has not shown any windows at No.40 Russell Street. However should consent be granted a condition of consent could be imposed to protect the visual privacy of this adjoining property.

*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.*

The proposed development includes privacy screening to the northern and southern sides of the dwelling, undercroft area and rear balconies. This screening particularly to the rear balconies and undercroft areas significantly add to the bulk and scale of the development, resulting in a development that presents as 3 storeys from the side and rear of the site. The proposed development is therefore contrary to Control C6 and is considered to be unacceptable in this regard.

*C8 For a dwelling house, dual occupancy, semidetached dwelling, or attached dwelling— the acceptability of any elevated balcony, deck, or terrace will depend on the extent of its impact, its reasonableness and its necessity.*

The development proposes ground and first floor balconies to the rear and a first floor balcony to the front. The proposed first floor front balcony will not result in any adverse impacts on the visual privacy of surrounding properties. However the rear ground floor balcony is considered unacceptable for the following reasons:

- The proposed rear ground floor balcony and the associated elevated swimming pool are within 9m of adjoining private open space (to the rear) and will overlook these private open space areas.

It is noted that the privacy impacts created by the proposed first floor rear balcony are unable to be adequately assessed, as the submitted floor plans/section and the elevations are inconsistent. The elevations show this balcony to be approximately 1m wider than what is shown on the floorplan/section. In addition the applicant has not provided any sight line drawings to demonstrate whether this balcony will overlook the rear adjoining private open space. It would appear that there is no sightline into these properties from this balcony.

In addition to this, the submitted plans have not made it clear how the large undercroft area is to be used or provided its floor level. Therefore an assessment of this undercroft area has not been carried out.

*C10 The trafficable area of a roof terrace (above the second storey) is setback so that there is no direct line of sight, from that part of the building where the terrace or deck is, to:*

- a) neighbouring private open space within 12m;*
- b) or windows of habitable rooms in neighbouring dwellings within 12m*

As stated above the proposed landscape plan appears to show a roof terrace to the flat roof of the dwelling, which is not shown on the submitted architectural plans. Any roof terrace to this area will result in adverse visual privacy impacts to surrounding properties. In addition any privacy screening to this area of the site would result in further non-compliances with the building height control and would obstruct views obtained from properties on opposite side of Russell Street. A roof terrace to this area of the site is not supported.

#### Part B3.5.5: Internal Amenity

The proposed development will provide adequate internal amenity for the occupants of the building are acceptable in this regard.

### Part B3.6: On-Site Parking

Site Frontage: 14.885m	Existing	Proposed	Control	Complies
Location of Parking	-	Partially outside the building envelope	Within the Building Envelope	<b>NO</b>

*C1 On-site parking is designed and located so that it: does not dominate the street frontage; preserves trees and vegetation of landscape value; and is located within the building envelope.*

Whilst, the proposed garage is part of the new dwelling, the garage has been positioned on a nil front setback. This results in a development that dominates the street frontage and is inconsistent with the desired future character of the locality, contrary to Control C1.

*C2 For car parking structures facing the street frontage— the maximum car parking structures width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.*

The proposed garage is 6m in width, which complies with the maximum garage width requirements.

*C3 Parking structures outside the building envelope are only permitted when:*

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

The proposed development does not allow for any deep soil landscaping within the front setback, which is contrary to Control C3(a) and unacceptable in this regard.

*C4 Where there is no rear lane access, on-site parking is located within the building envelope.*

The proposed garage is positioned beyond the building envelope, which is considered to be detrimental to the visual amenity of the streetscape. It is noted that there are some examples of garages within the front setback within the street, however these structures have been generally balanced with deep soil landscaping located within the front setback.

The proposal is unacceptable with regard to the built form and context 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: 455.3m <sup>2</sup>	Existing	Proposed	Control	Complies
Deep Soil Landscaping –	>50%	60.21% (154.4m <sup>2</sup> )	50% (125.72m <sup>2</sup> )	YES
Deep Soil Landscaping – Front Setback	0% (0m <sup>2</sup> )	0% (0m <sup>2</sup> )	40% (13.04m <sup>2</sup> )	<b>NO</b>
Deep Soil Landscaping Rear Setback	>50%	>50%	50% 83.8m <sup>2</sup>	YES
Minimum Area of Primary Open Space at Ground Level	>35m <sup>2</sup>	>35m <sup>2</sup>	35m <sup>2</sup>	YES
Maximum Height of Fencing	Solid	1.2m 1.5m and 50% open	1.2m 1.5m and 50% open	YES
Swimming Pool Water Edge Setback		>1.8m	1.8m	YES
Level of Swimming Pool Above or Below Ground Level	-	4.8m	Maximum 1.2m Change	<b>NO</b>
Maximum Depth of Swimming Pool	-	1.5m	2.0m	YES

Part 3.7.1: Landscaped Areas and Private Open Space

*C1 requires that 50% of the site area outside of the buildable area is to comprise deep soil landscaping.*

Complies.

*C2 requires that 40% of the front setback area is to comprise deep soil landscaping.*

The proposed dwelling has been located on a nil setback and does not allow for any deep soil landscaping to the front setback. This is considered to detract from the landscape character of Russell Street and the Vaucluse East Precinct, exacerbating the visual dominance of the proposed dwelling.

*C4 requires that 50% of the rear setback area comprises deep soil landscaping.*

Complies.

*C6-C8 requires that each dwelling must have private open space with a minimum area of 35m<sup>2</sup> with a maximum gradient of 1:10.*

Complies.

*C10 Part of the primary open space area is directly accessible from a habitable room.*

The proposed development does not propose any habitable rooms that are directly accessible to the primary private open space area. The development has proposed an elevated balcony and pool off the living areas of the dwelling. This arrangements significantly adds to the bulk and scale of the dwelling and results in adverse amenity impacts on surrounding properties. The proposal is unacceptable in this regard.

*C15 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 would be inconsistent with Section 3.5.4 in terms of visual privacy impacts and is unacceptable in this regard.

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

The subject site contains a number of prescribed and exempt trees that are of low to moderate landscape value. The trees of most value are 4 Kentia palms located within the rear yard along the northern and southern side boundaries (Tree Nos. 12, 18, 19 and 20). These trees are in good health and are of moderate landscape value. Council's Landscape Officer has supported the removal of these trees as sufficient replacement planting has been proposed.

A previous Tree Preservation Order application (TPO263/2014/1) consented to the removal of a Weeping Fig (Tree No.24). The submitted landscape plan proposes to plant 6 x *Elaeocarpus eumundii* (Quandong) trees which were considered to be suitable replacement trees by Council's Landscape Officer. Additionally a further thirteen trees are proposed to be planted within the subject property predominantly along the rear boundary and northern side boundary. Considering the low to moderate landscape value of the existing trees within the subject property the proposed replacement trees were considered to be satisfactory by Council's Landscape Officer.



**Photo 12:** Existing planting to the northern boundary looking toward No.40 Russell Street.



**Photo 13:** Existing planting to the southern boundary looking toward No.36 Russell Street.

#### Part 3.7.2: Fences

*C2 requires delineation of the public, common and private spaces and C3 requires fences to define the front entrance.*

Complies.

*C4 limits fencing to 1.2m if solid, or 1.5m if 50% transparent or open. On the high side of the street,*

The proposed front fence complies with Control C4.

*C7 requires gates to open inwards.*

The proposed pedestrian gate opens inward.

*C9 The rear and side fences:*

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

The proposed landscape plan notes that the boundary fencing is to be replaced with new 1.8m lapped and capped timber fencing. However this fencing is not shown on the submitted architectural plans, which does not allow for these works to be adequately assessed, particularly given the steeply sloping nature of the site. It also noted that according to the submitted survey that the existing boundary fencing encroaches over the site boundaries. The applicant has not provided owners consent to allow for any works on these adjoining properties to be carried out. The proposed development is considered to be unacceptable in this regard.

#### Part 3.7.3: Site Facilities

The applicant has not provided any information in relation to the location of any air conditioning units, lift plant or solar panels. The proposed development is considered to be unsatisfactory in this regard.

Part 3.7.4: Ancillary Development – Swimming Pools, Tennis Courts and Outbuildings

*C3 requires the swimming pool (measured from the water edge) is to be setback 1.8m from property boundaries.*

Complies.

*C4 states that swimming pool surrounds are to be no more than 1.2m above or below ground level.*

The proposed swimming pool has been significantly elevated above the existing ground level (in the order of 4.8m), which does not comply with Control C4. This elevated swimming pool and the associated surrounding structure, significantly adds to the bulk and scale of the dwelling and creates adverse impacts on the visual amenity and privacy of surrounding properties. The proposed elevated swimming pool is therefore considered to be unacceptable in this regard.

*C5 limits the depth of a swimming pool to 2.0m.*

Complies.

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.

**14.3 Chapter E1: Parking and Access**

Part E1.11: Electric Vehicle Charging Points

Control C1 requires evidence of electric circuitry to accommodate 'Level 2' electric vehicle charging points to be integrated into all off-street car parking of new residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future.

No details have been provided of electric circuitry. Notwithstanding this, the proposal is considered to be acceptable with regard to the objectives and controls in *Part E1.11: Electric Vehicle Charging Points* of the Woollahra DCP 2015. Should consent be granted, conditions could be imposed to which require the provision for electric vehicle circuitry within the development.

**15. 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.

**15.1 Section 7.12 Contributions Plan**

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

This could be addressed by way of condition should consent be granted.



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

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

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

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

### **16.2 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 could be imposed by standard condition should consent be granted.

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

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

## **18. THE SUITABILITY OF THE SITE**

The site is unsuitable for the proposed development.

## **19. THE PUBLIC INTEREST**

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

## **20. CONCLUSION**

The proposal is unacceptable against the relevant considerations under Section 4.15 for the following reasons:

## **21. DISCLOSURE STATEMENTS**

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



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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 250/2023/1 for demolition of the existing dwelling and the construction of a new two-storey dwelling with basement storage a swimming pool and associated landscaping on land at 38 Russell Street Vaucluse, for the following reasons:

### **1. Woollahra Local Environmental Plan 2014 – Aims of Plan**

The proposal is unacceptable because it does not comply with:

- Part 1, Clause 1.2(2)(g) - The proposal does not protect the amenity and the natural environment.
- Part 1, Clause 1.2(2)(j) - The proposal does not promote a high standard of design in the private and public domain.
- Part 1, Clause 1.2(2)(l) - The proposal does not achieve the desired future character of the Vaucluse East Precinct.

### **2. Woollahra Local Environmental Plan 2014 – Land Use Table**

The proposal is unacceptable because it does not comply with the following objectives of the R2 Low Density Residential Zone:

- Bullet Point 3 - To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.
- Bullet Point 4 - To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

### **3. Woollahra Local Environmental Plan 2014- Height**

The proposed development does not comply with the maximum building height development standard and no written request to vary this non-compliance has been submitted, contrary to Part 4.3 and Part 4.6(3) of the Woollahra Local Environmental Plan 2014.

### **4. Desired Future Character of the Vaucluse East Precinct**

The proposed height, bulk and scale is excessive, which combined with the nil front setback, results in a development that visually dominates the streetscape, is not in-keeping with the general pattern of development in the locality and is incompatible with the key elements of the Vaucluse East Precinct, contrary to Objectives O1, O5, O7 and O8 of Part B1.11.2 of the WDCP, 2015.

### **5. Front setback**

The proposed nil front setback contributes to the overdevelopment of the site, resulting in a visually dominant presentation to Russell Street, which is not in-keeping with the general pattern of development in the locality, contrary to Objectives O1, O2 and O3 and Control C1 of Part B3.2.2 of the WDCP, 2015.

**6. Floorplate (Bulk and Scale)**

The proposed dwelling does not comply with the maximum floorplate requirements and provides a development that is of excessive bulk and scale, which detracts from the streetscape quality and the desired future character of the Vaucluse East precinct. This contributes to the overdevelopment of the site and to the loss of amenity to surrounding properties, contrary to Objectives O1, O2 and O5 and Controls C1, C3 and C4 of Part B3.3 of the WDCP, 2015.

**7. Streetscape**

The proposed dwelling is considered to be of excessive bulk and scale, which combined with the nil setback, results in a visually dominant presentation that is incompatible with the desired future character of the Vaucluse East Precinct, contrary to Objectives O1, O2 O3, O4 and Controls C1, C3 and C5 of Part B3.5.1 of the WDCP, 2015.

**8. Views**

The proposed development results in the loss of views from surrounding properties, which does not adequately facilitate view sharing, contrary to Objective O3 and Control C5 of Part B3.5.3 of the WDCP, 2015.

**9. Visual Privacy**

The proposed development is considered to have a detrimental impact on the visual privacy afforded to adjoining properties, contrary to Objectives O2 and O3 and Controls C4, C5, C6, C8, C10 and C12 of Part B3.5.4 of the WDCP, 2015.

**10. Roof Terrace**

The proposed excessively sized and inappropriately positioned rooftop roof terrace shown on the submitted Landscape Plan, results in unacceptable visual privacy impacts on adjoining properties, and will obstruct views from surrounding properties, contrary to Control C5 of Part B3.5.3, Objective O2 and Controls C10 and C12 of Part B3.5.4 and Control C15 of Part B3.7.1 of the WDCP, 2015.

**11. Deep Soil Landscaping**

The proposed dwelling has been sited on a nil front setback, which does not allow for any deep soil landscaping to the front of the site, which detracts from the landscape character of the streetscape and exacerbates the visual dominance of the dwelling, contrary to Objectives O1, O9 and O3 and Control C2 of Part 3.7.1 of the WDCP, 2015.

**12. Swimming Pool**

The proposed swimming pool has been significantly elevated, which combined with the excessive height, bulk and scale of the remainder of the dwelling and the non-compliant rear setback, creates adverse impacts on the visual amenity and visual privacy of surrounding properties, contrary to Objective O1 and Control C4 of Part 3.7.4 of the WDCP, 2015.

**13. Car Parking**

The siting of the proposed garage on a nil front setback, contributes to the overdevelopment of the site and provides a visually dominant streetscape presentation that is inconsistent with the desired future character of Vaucluse East Precinct, contrary to Objectives O1, O2 and O7 and Control C1 of Part B3.6 of the WDCP, 2015.

#### **14. Public Interest**

The proposed development is not in the public interest.

#### **15. Inadequate Information/Plans**

The submitted plans and documentation is insufficient, inaccurate and unclear, in the following manner:

- **Architectural Plans**












- The landscape plans and the architectural plans are inconsistent as follows:
  - i. The landscape plans show a roof terrace to the top of the dwelling. No roof terrace or any associated balustrading or access to this roof terrace is shown on the architectural plans;
  - ii. The landscape plans state the rooftop parapet is to create a planter for the rooftop planting, whereas the architectural plans only show a parapet height of 200mm (this is insufficient to accommodate sufficient soil depth to support this rooftop planting);
  - iii. The landscape plan shows an external spiral staircase adjacent to the proposed swimming pool providing access to the rear garden. This staircase is not shown on the architectural plans;
  - iv. The ground floor plan (landscape plan) notes that the existing boundary fencing is to be replaced with 1800mm timber fencing. This fencing is not shown on the architectural plans. It would also appear that some of the existing boundary fencing would encroach over the site boundaries. The applicant has not submitted owners consent to allow for any works to be carried out on any adjoining property;
  - v. The ground floor plan (landscape plan) notes that a rainwater is to be installed to the northern side boundary, whereas no rainwater tanks is shown on the architectural plans.
- The total overall building height is unclear, given that the proposed plans has referenced 'natural ground level' and not 'ground level (existing)' to determine the actual height of the proposed building;
- The northern and southern elevation plans show the rear first floor balcony to be approximately 1m wider than the rear first floor balcony shown on the floorplan and section;
- The privacy screens to the rear balconies (at ground and first floor levels) are shown on the northern and southern elevation plans, however these screens are not shown on the floorplans and section;
- The architectural plans do not include sufficient RLs;
- The architectural plans do not provide sufficient details relating to the proposed undercroft area, including floor levels and how this area is to be used;
- The roof plan, elevations and sections do not show any lift over-run;
- The architectural plans do not specify the location of the air conditioning units. It is noted that the submitted BASIX Certificate states that air conditioning is proposed by the development;
- The rear elevation does not show the proposed swimming pool fence.

- **BASIX Certificate:**

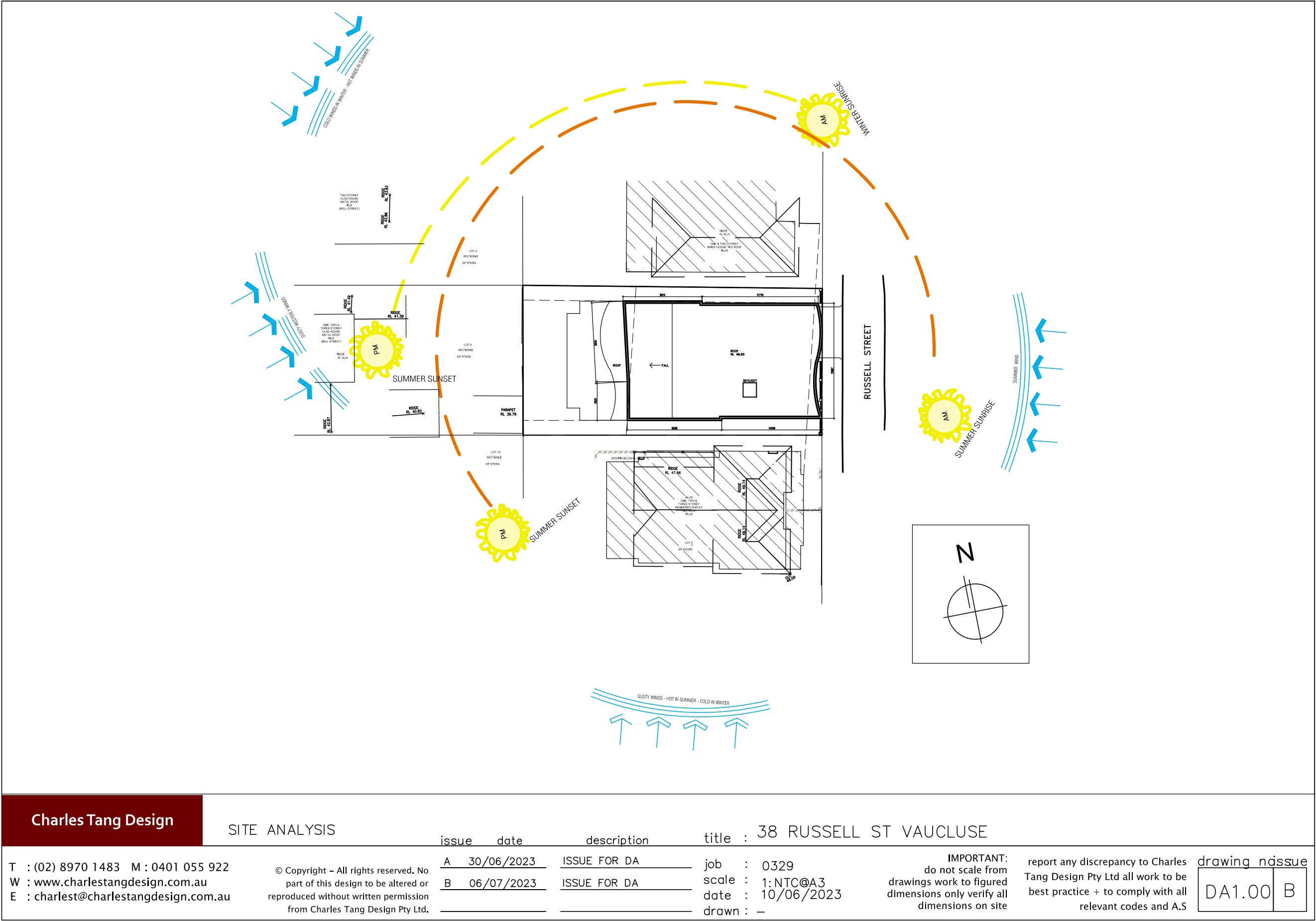
- A 2000 Litre rainwater tank is not shown on the architectural plans, as required by the submitted BASIX Certificate;
- The proposed spa shown on the architectural plans has a volume greater than 3.5 kilolitres, contrary to the maximum volume specified by the submitted BASIX Certificate;

- A 6 Star instantaneous hot water system has not been shown on the architectural plans, as required by the submitted BASIX Certificate;
- A 1.5 kilowatt (minimum) photovoltaic energy system has not been shown on the architectural plans, as required by the submitted BASIX Certificate.
- **Cl.4.6 Variation- Height:**
  - No written request to vary the maximum building height development standard has been submitted, in accordance with Part 4.6(3) of the WLEP 2014.
- **Survey:**
  - The submitted survey does not clearly show the location and height of all windows/balconies of all buildings adjoining the site, including Nos.36 and 40 Russell Street Vaucluse.
- **Visual Privacy:**
  - The application has not provided sufficient information, including adequate sight-line drawings to demonstrate that the proposed roof terrace, balconies and elevated pool structure do not adversely impact the visual privacy of habitable room windows and private open space at surrounding residential properties.
- **Views:**
  - The application has not been accompanied by sufficient information to allow for an adequate assessment of view loss from all surrounding properties, including view loss created by the proposed planting to the rear yard, rooftop planting (and the associated rooftop planters) and all other proposed roof structures including the lift over-run, solar panels, plant equipment (including air conditioning), the roof terrace including any associated balustrading, access structure or privacy screening.
- **Shadow Diagrams:**
  - The submitted shadow diagrams do not adequately distinguish between existing and proposed overshadowing.
  - 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.
- **Photomontage:**
  - The submitted photomontage is incorrect, as it shows part of the existing dwelling and landscaping at the subject site, which does not provide for an accurate representation of the proposed development.

## Attachments

1. Architectural Drawings [↓](#) 
2. Referral Response - Technical Services [↓](#) 
3. Referral Response - Landscaping [↓](#) 
4. Referral Response - Heritage [↓](#) 
5. Referral Response - Environmental Health [↓](#) 
6. Survey [↓](#) 
7. External Finishes Schedule [↓](#) 
8. Photomontage [↓](#) 
9. Landscape Plan [↓](#) 
10. Shadow Diagram [↓](#) 
11. BASIX Certificate [↓](#) 

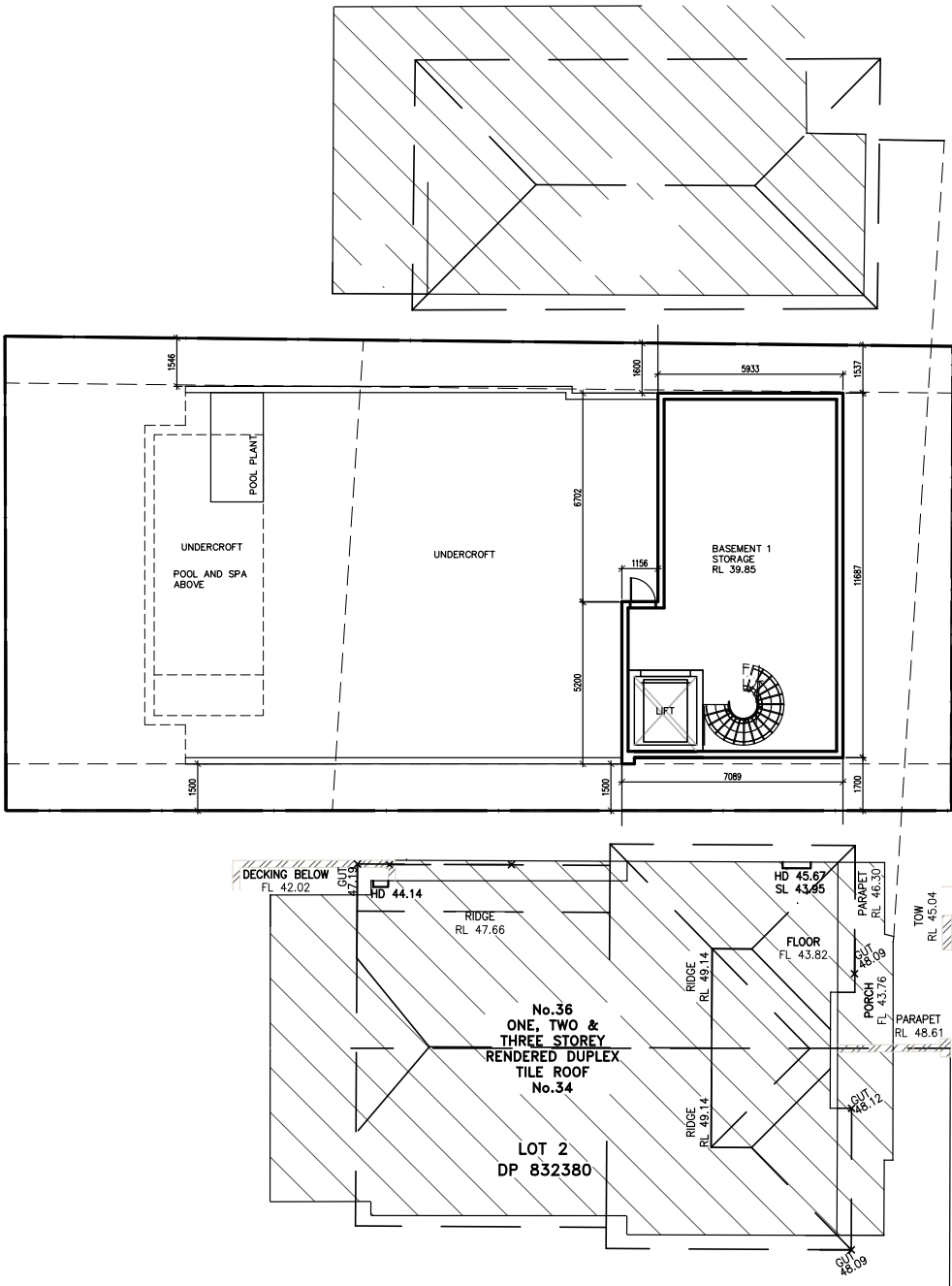






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BASEMENT FLOOR PLAN

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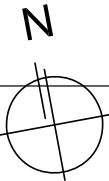
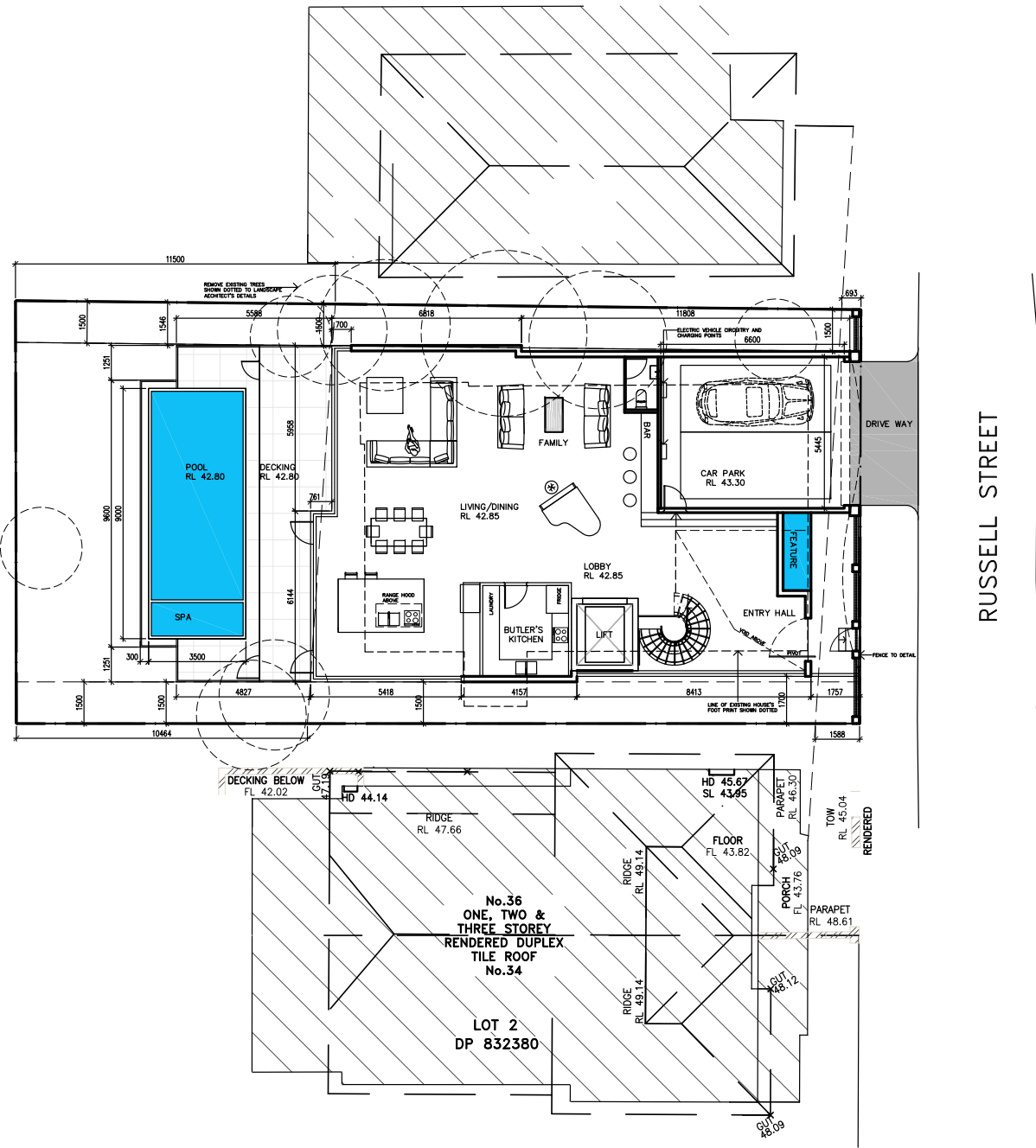
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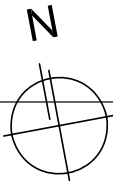
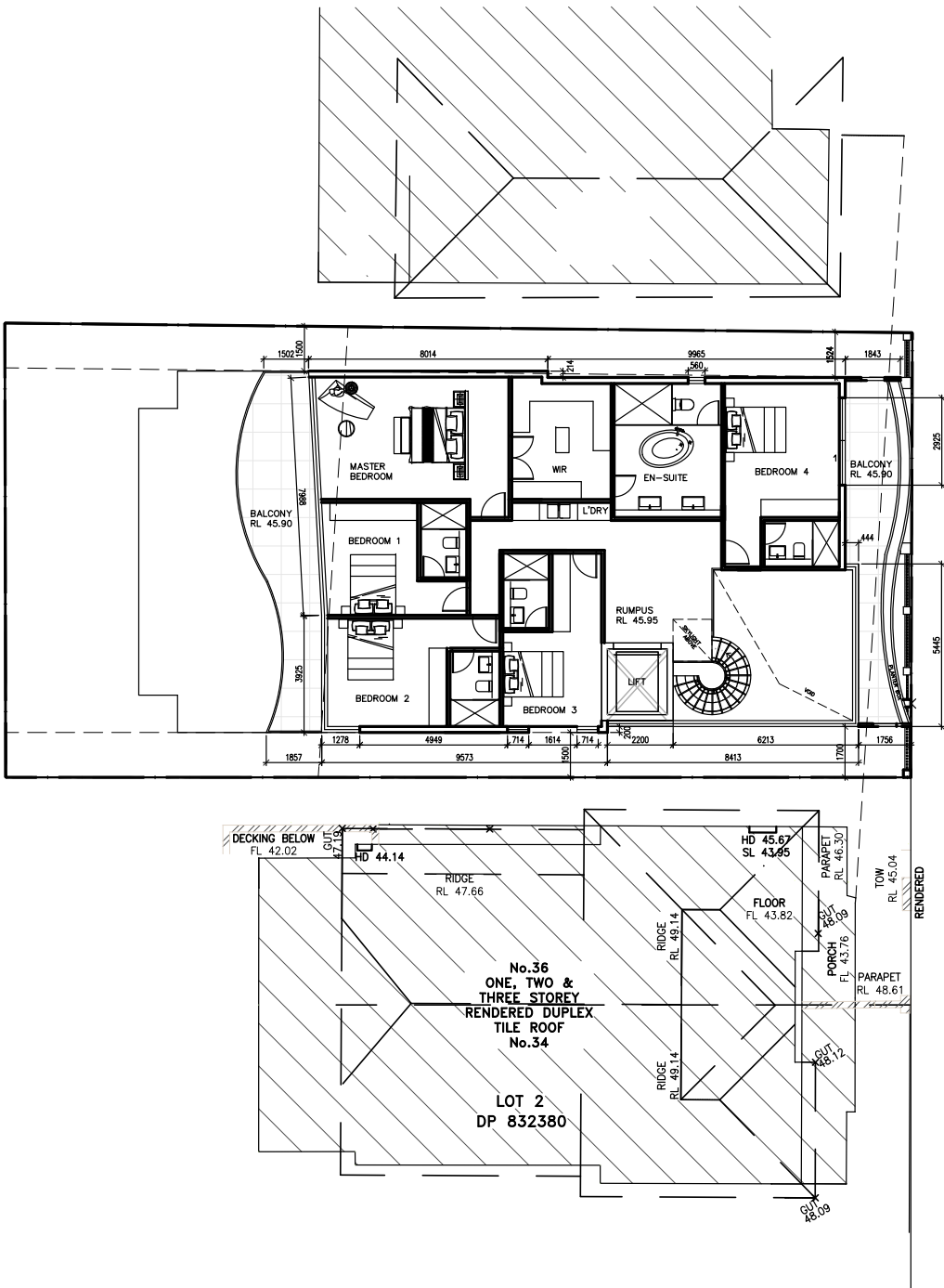
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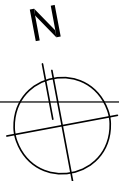
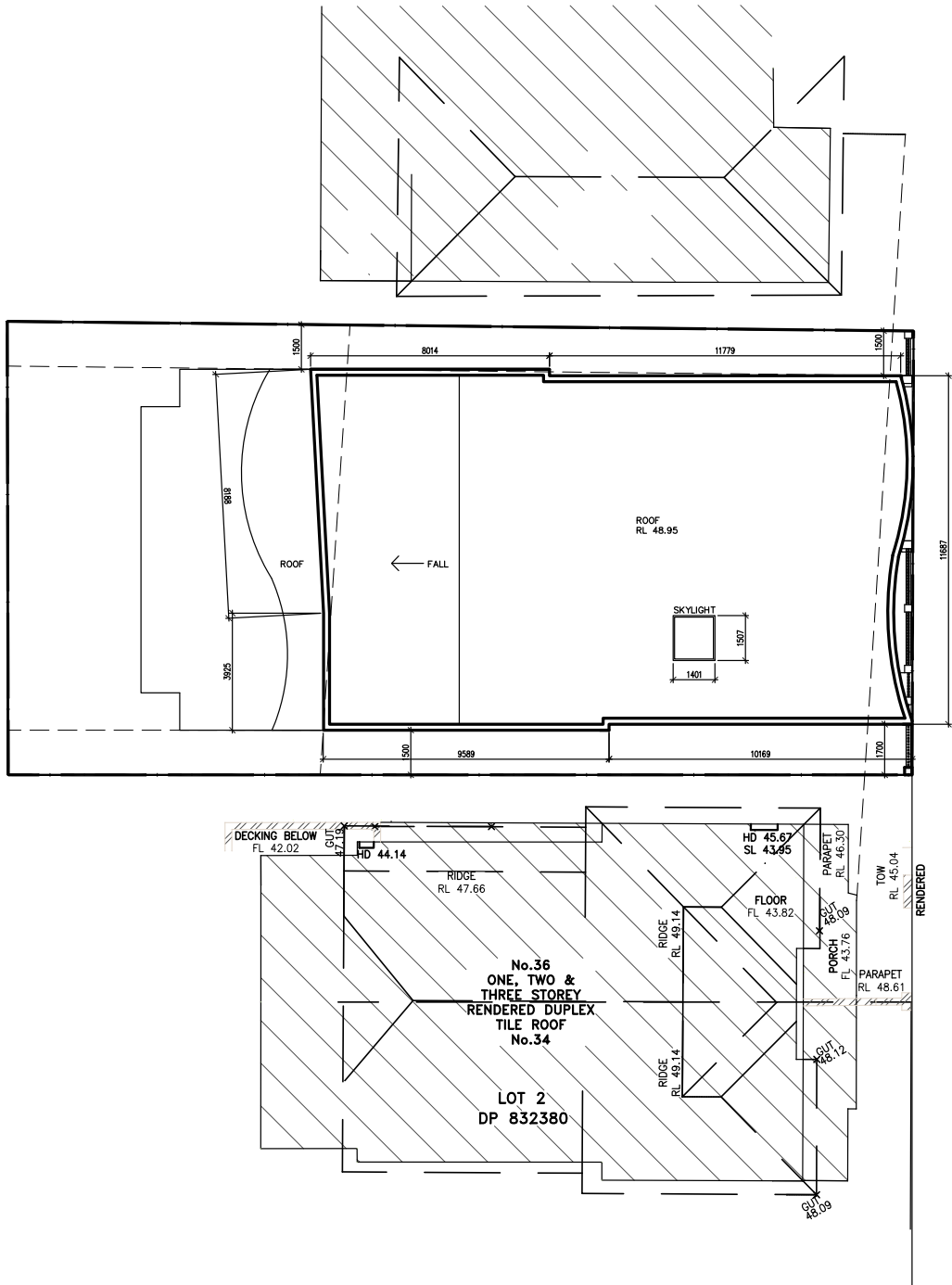
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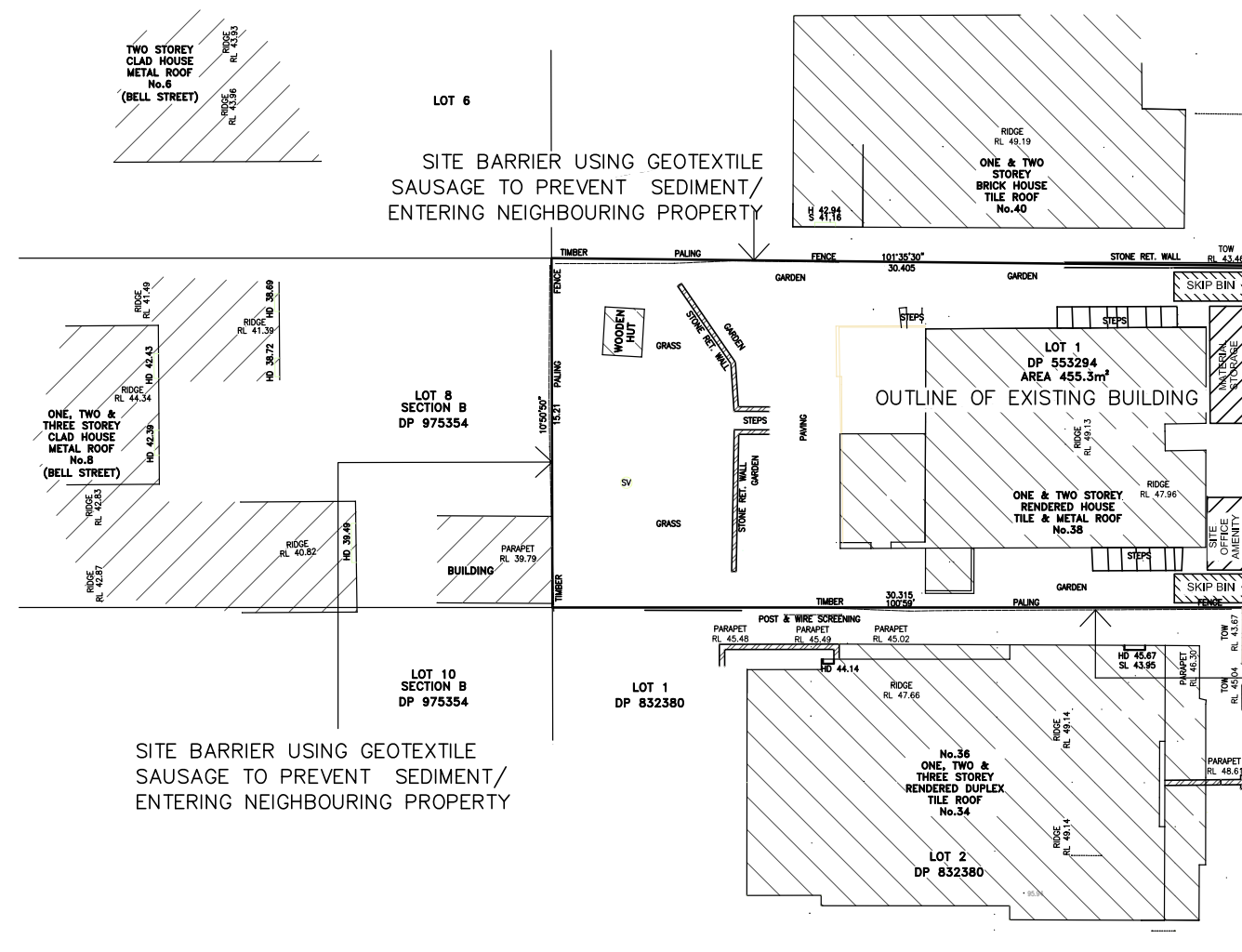
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NOTES;

LOADING AND UNLOADING EXCAVATION MACHINES, BUILDING MATERIALS

- 1.CLEAR AND SAFE ACCESS WAY PROVIDED FOR FLOAT / TRUCKS TO UNLOADING AREA.
- 2.RAMPS ARE CHECKED AND SECURED IN PLACE
- 3.PRE START CHECK OF PLANT INCLUDING MOVEMENT ALARMS AND HAZARD LIGHTS ARE WORKING.
- 4.PRINCIPAL CONTRACTOR TRAFFIC SAFETY MANAGEMENT PLAN TO BE ADHERED TO.
- 5.SPOTTER USED TO ASSIST TRUCK DRIVERS TO REVERSE. SPOTTER TO ALWAYS REMAIN IN DRIVER'S VISION.
- 6.PERSONS ARE NOT TO POSITION THEMSELVES BETWEEN A REVERSING TRUCK AND EQUIPMENT / MATERIALS / STRUCTURES.
- 7.SAFETY INSTRUCTIONS OF DRIVER TO BE FOLLOWED AT ALL TIMES.
- 8.INSPECTION OF RAMPS ENSURING RAMPS ARE LOCKED IN POSITION/ EQUIPMENT PRIOR TO UNLOADING.
- 9.SAFE UNLOADING SPEED TO BE MAINTAINED

- 1.PRIOR TO COMMENCING EXCAVATION OBTAIN A PERMIT TO EXCAVATE FROM PC.
- 2.MACHINE POSITIONED LEVEL OR WHERE THIS CANNOT BE ACHIEVED NEAR LEVEL AT AN INCLINE NOT EXCEEDING THE MANUFACTURER'S RECOMMENDATIONS.
- 3.OPERATOR TO ENSURE SEAT BELT WORN WHERE FITTED AS PART OF MANUFACTURERS SPECIFICATION
- 4.CHECK THE STRENGTH AND ADEQUACY OF THE GROUND - CONSIDER RISKS AND FALLS, EXISTING OR RECENTLY BACKFILLED TRENCHES.
- 5.MACHINES TO BE ONLY OPERATED BY CERTIFIED PERSONS.
- 6.DO NOT CARRY OTHERS ON MACHINE AND MACHINE ONLY DRIVEN FROM OPERATORS SEAT.
- 7.TRAVEL UP AND DOWN SLOPES AT ALL TIMES USING THE BLADE WHEN POSSIBLE. DO NOT TRAVEL HORIZONTALLY ACROSS SLOPES.
- 8.MACHINES OPERATED AND MAINTAINED IN ACCORDANCE TO MANUFACTURERS INSTRUCTIONS.
- 9.UNAUTHORISED PERSONS KEPT AWAY FROM THE MOBILE PLANT. DO NOT PASS BUCKET OR LOADS OVER OTHERS.
- 10.UNDERGROUND SERVICES TO BE IDENTIFIED WITH PRINCIPAL CONTRACTOR PRIOR TO WORKS COMMENCING.
- 11.AREA CLEARLY MARKED AND BARRICADED WHERE NECESSARY TO MAKE SAFE FROM OTHER TRAFFIC.
- 12.PRINCIPAL CONTRACTOR TRAFFIC SAFETY MANAGEMENT PLAN TO BE ADHERED TO.
- 13.A SAFE TRAVEL SPEEDY MAINTAINED AT AL TIMES
- 14.MACHINE/S NOT TO BE LEFT UNATTENDED. LOWER BUCKET TO GROUND, DISENGAGE CONTROLS, APPLY THE PARK BRAKE, SWITCH OFF ENGINE AND REMOVE KEY WHEN NOT IN USE.
- 15.WHEN EXCAVATING TRENCHES MAXIMUM BENCH IS 1.5M RECOMMENDED 1M AND THE WIDTH OF BENCH MUST BE GREATER THAN THE HEIGHT.

5 HOW AND WHERE CONSTRUCTION MATERIAL, EXCAVATED MATERIAL AND WASTE MATERIALS ARE TO BE STORED

COVERED WHERE NECESSARY TO MINIMISE LOSSES  
LOCATED BEHIND THE SEDIMENT CONTROLS  
PROTECTED FROM RUN-ON WATER BY PLACING DIVERSION BANKS UP-SLOPE,  
AND WITH SEDIMENT CONTROL STRUCTURES PLACED IMMEDIATELY DOWN-SLOPE  
LOCATED AT LEAST 2 M (PREFERABLY 5 M) FROM HAZARD AREAS, ESPECIALLY  
LIKELY AREAS OF CONCENTRATED OR HIGH VELOCITY FLOWS, SUCH AS  
WATERWAYS, KERB INLET PITS, PAVED AREAS AND DRIVEWAYS,  
LESS THAN 2 M IN HEIGHT.

ORGANISE WASTE MANAGEMENT FACILITIES SUCH AS WASTE BINS TO MATCH THE RESOURCE RECOVERY CONTRACTS--FOR EXAMPLE, SEPARATE THE DIFFERENT WASTES TO MAXIMISE RESOURCE RECOVERY AND MINIMISE THE COST OF WASTE DISPOSAL.

WASTE THAT IS PRODUCED **MUST** BE KEPT ON-SITE AND MANAGED IN AN APPROPRIATE MANNER. LITTER AND WASTE SHOULD NOT BE A VISIBLE NUISANCE. BINS CAN BE COVERED TO MINIMISE ANY WIND-GENERATED LITTER AND DUST ESCAPING FROM THE SITE. COVERED BINS MINIMISE RAIN ENTRY, AND LOCKED BINS DISCOURAGE ILLEGAL USE BY UNAUTHORISED PEOPLE. ANY LIQUID FROM THE BINS (LEACHATE) **MUST** BE KEPT ON-SITE, AND NOT BE ALLOWED TO ENTER THE STORMWATER DRAINS.

WE MUST REDUCE WASTE VOLUMES GOING TO LANDFILL AND REMOVE TOXIC CONTENT FROM MATERIALS BEFORE DISPOSAL.  
METHODS TO PREVENT MATERIAL BEING TRACKED OFF THE SITE ONTO SURROUNDING ROADWAY

VEHICLES SHOULD ENTER AND LEAVE THE SITE BY THE ACCESS DRIVEWAY TO LIMIT THE TRACKING OF MUD AND/OR SOIL ONTO ROADS. ALWAYS ENSURE THAT LOADS ARE COVERED TO ELIMINATE MATERIALS OR LITTER BLOWING OFF. EXCAVATOR DRIVERS SHOULD REMOVE ANY SEDIMENT LEFT ON THE ROAD BY THEIR VEHICLES.

WHERE POSSIBLE, THE ENTRY/EXIT POINT OF THE SITE SHOULD BE MANAGED SO VEHICLES DO NOT TRACK SAND, SOIL AND CLAY (SEDIMENT) OFF THE SITE. THIS ACCESS POINT SHOULD BE RESTRICTED TO ONE STABILISED LOCATION.  
(NOTE THAT IT MAY NOT BE THE LOCATION OF THE PERMANENT DRIVEWAY.)

IT IS RECOMMENDED THAT A LARGE GRAVEL OR AGGREGATE BE USED TO ESTABLISH THE ENTRY/EXIT POINT. MAKE SURE THAT YOU CLEARLY MARK THE ACCESS POINT AND PROVIDE A MAP FOR DELIVERY DRIVERS.

STABILISED ACCESS POINTS ONLY REQUIRE PERIODIC MAINTENANCE BY TOPPING UP THE ROCK, ALTHOUGH STREET SWEEPING ON ADJACENT ROADS MAY STILL BE REQUIRED.

VEHICLES AND OTHER EQUIPMENT ON CONSTRUCTION SITES MAY NEED TO BE WASHED FREQUENTLY. THE WASHDOWN WATER FROM THIS EQUIPMENT CONTAINS SEDIMENT (SOIL, CLAY, GRAVEL AND SAND), DETERGENTS AND AUTOMOTIVE FLUIDS, ALL OF WHICH POLLUTE OUR CREEKS, RIVERS AND BEACHES.

## WASTE MANAGEMENT PLAN

TYPE OF WASTE	REUSE (ESTIMATE VOLUMIN M3)	RECYCLING (ESTIMATE VOLUMIN M3)	DISPOCAL (ESTIMATE VOLUMIN M3)	ONSITE REUSE	TYPE OF WASTE	REUSE (ESTIMATE VOLUMIN M3)	RECYCLING (ESTIMATE VOLUMIN M3)	DISPOCAL (ESTIMATE VOLUMIN M3)	ONSITE REUSE
EXCAVATION MATERIAL	-	-	-	WASH AND RE-USE FOR FOOTING	METAL	12.3			GRAS METAL MANAGEMENT (67 PETERS)
TIMBER	10.5	-	-	THE RECYCLED BUILDING YARD	GLASS			20.2	WINDOWS WILL BE RE-USE AT THE RECYCLED BUILDING YARD
CONCRETE			46.5	WASH AND RE-USE FOR FOOTING	FIXTURES AND FITTINGS		YES		
BRICKSPAWERS		198.6		THE RECYCLED BUILDING YARD	FLOOR COVERINGS	64.8			THE RECYCLED BUILDING YARD
TILES	18.8			THE RECYCLED BUILDING YARD	PACKAGING (USED PALLETS, PALLET WRAP)	-	-	-	
PAPER/CARBOARD		YES		REUSE ON-SITE FOR COVERING NEW FLOORING	GARDEN ORGANICS	YES			

Charles Tang Design

# CONSTRUCTION MANAGEMENT PLAN

issue	date	description
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title : 38 RUSSELL ST VAUCLUSE

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A 29/06/2023

job : 0329

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date : 10/06/2023

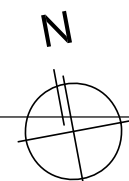
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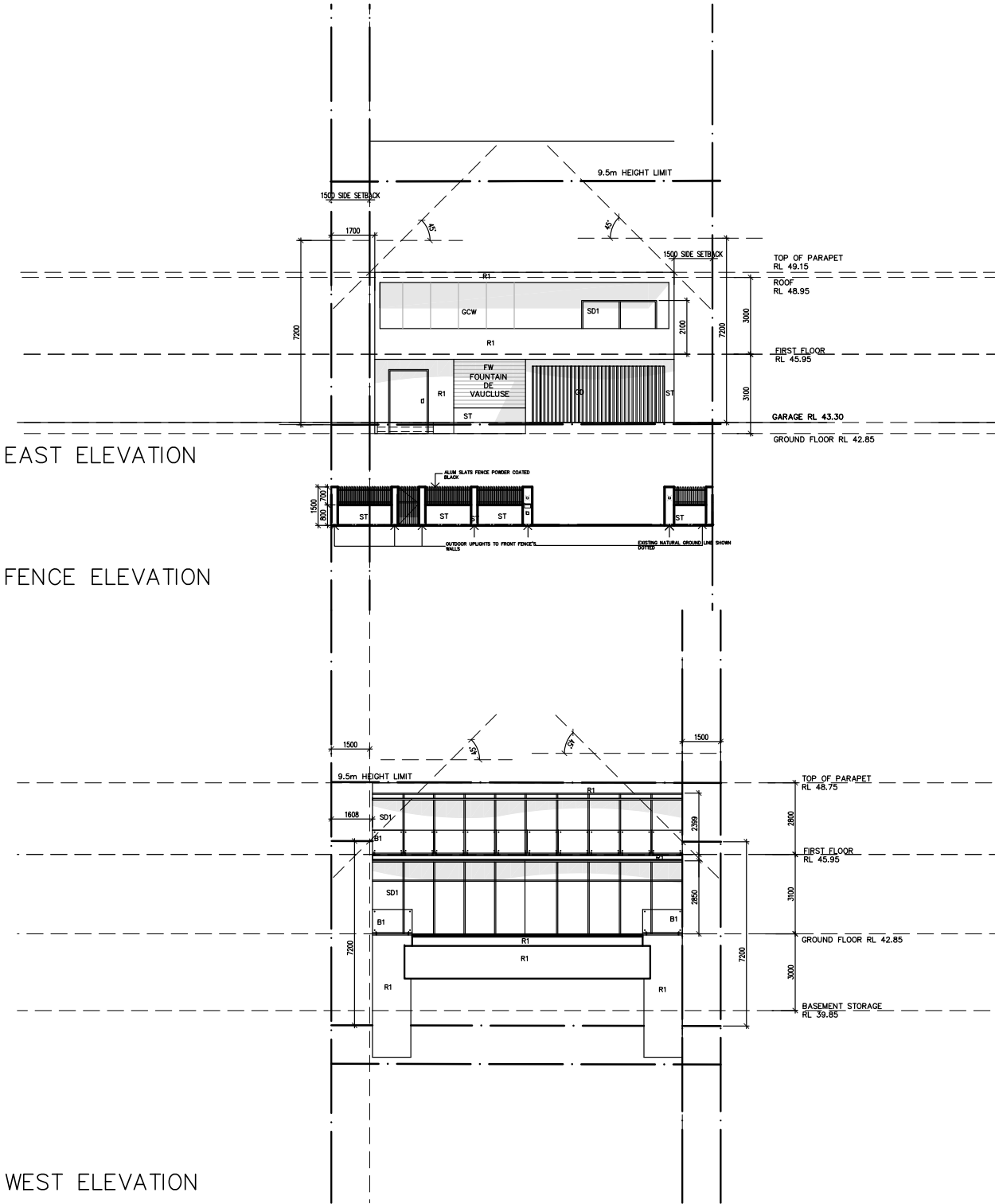
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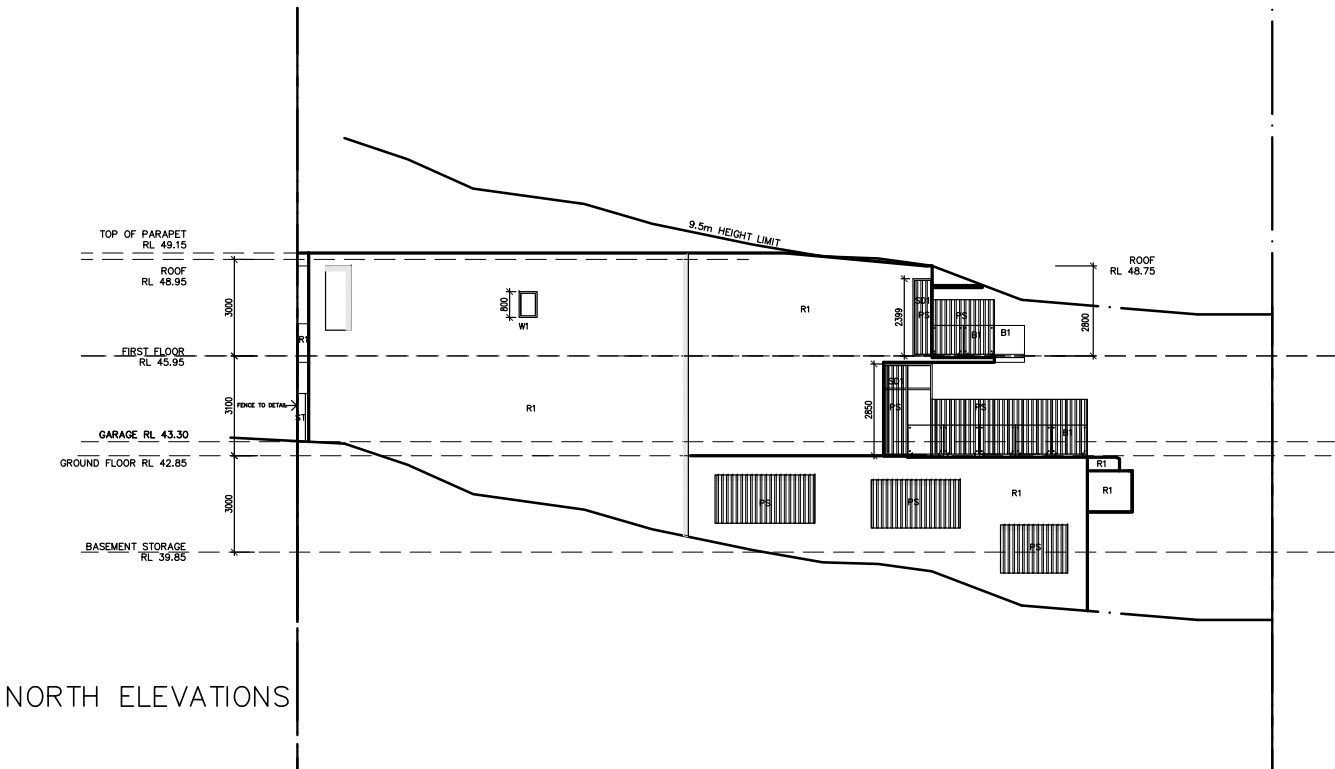
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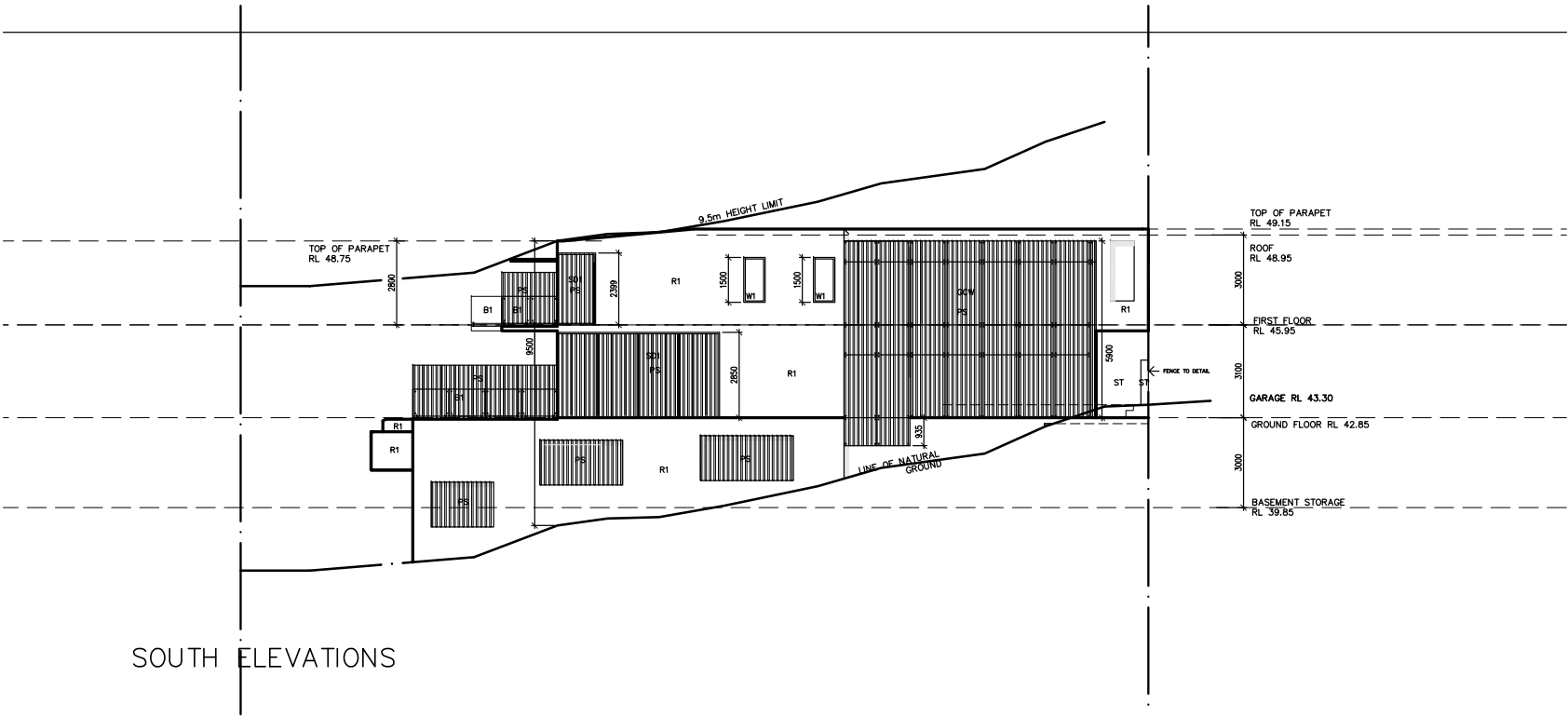


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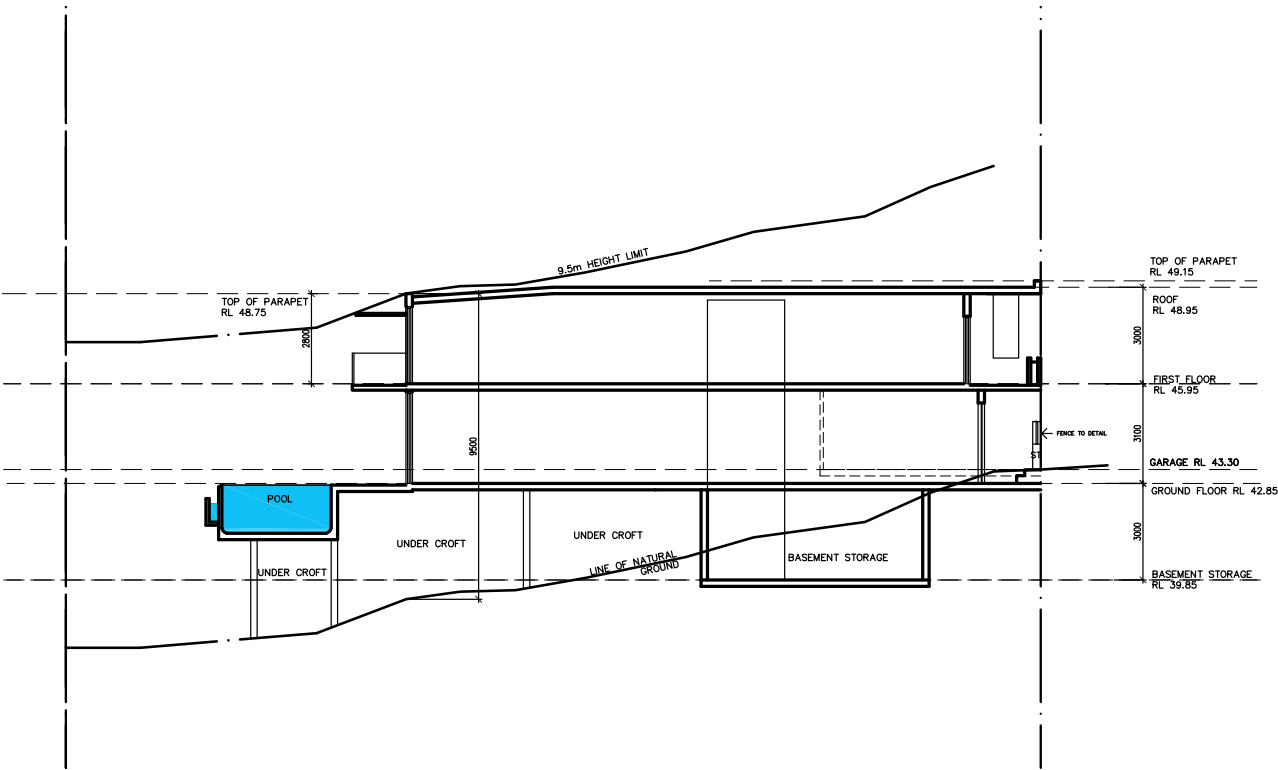
NORTH ELEVATIONS




SOUTH ELEVATIONS

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							drawn	: –				





Charles Tang Design		SECTION A -A		title : 38 RUSSELL ST VAUCLUSE				
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		E	30/06/2023	ISSUE TO CONSULTANTS	scale			
		F	06/07/2023	ISSUE FOR DA	date			
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				drawing no		issue		
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Completion Date: 21 May 2023

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

<b>FILE NO:</b>	<b>Development Applications:</b> 250/2023/1
<b>ADDRESS:</b>	38 Russell Street VAUCLUSE 2030
<b>PROPOSAL:</b>	Demolition of the existing dwelling and the construction of a new two-storey dwelling with basement storage a swimming pool and associated landscaping
<b>FROM:</b>	Mr R Lam
<b>TO:</b>	Mrs L Holbert

### 1. ISSUES

- None

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, prepared by Corona Projects, dated 10/07/2023.
- Revised Architectural Plans, referenced Rev F, prepared by Charles Tang Design, dated 06/07/2023.
- Survey, referenced Issue 1, prepared by NCAF Survey P/L, dated 13/06/2023.
- Revised Stormwater Management Plan, referenced 2000290-Rev 3, prepared by Torinex, dated 15/09/2023.
- Revised Geotechnical Report, referenced ESWN-PR-2023-1794, prepared by ESWNMAN P/L, dated 25 September 2023.
- Structural Report, referenced C231162-001, prepared by FLY Engineering P/L, dated 15 September 2023.
- Easement Refusal Letters from downstream neighbours, dated 31/08/2023, 05/09/2023 and 06/09/2023.

### 3. ASSESSMENT

Comments have been prepared on the following.

#### a. Site Drainage comments

*The submitted concept stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. It is noted from submitted stormwater management plans that a green roof has been proposed, in which case, 50% concession is given to the required storage volume of the rainwater tank as per Chapter E2.2.3 of the Council's DCP. Stormwater runoff from the site will be connected to the street kerb. In this regard, conditions will be imposed to ensure all below ground structures are fully tanked so that seepage water is not collected and discharged to kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP.*

*Council Infrastructure & Sustainability Services Division is satisfied that adequate provision could be made for the disposal of stormwater from the land 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 double garage as part of this development. In this regard, the applicant is required to remove existing kerb and gutter and construct new 4.5m wide crossing for the proposed development. Conditions will be imposed for the submission of design drawings for the infrastructure works as part of the S138 application.*

**d. Traffic comments**

*Not relevant*

**e. Vehicle Access & Accommodation comments**

*Vehicular access and parking arrangement are considered acceptable.*

**f. Geotechnical, Hydrogeological and/or Structural comments**

*A Geotechnical Report, ref ESWN-PR-2023-1794, prepared by ESWNMAN P/L, dated 25 September 2023, has been submitted in support of the application. It is noted from the report that proposed basement will require a maximum excavation depth of about 3m below existing surface levels.*

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

- a) Fill comprising silty sand to a depth of 0.3m, 0.3m, 0.4m, 0.5m, 1.1m and 1.2m in BH1 to BH6 respectively.*
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 1m, 0.5m, 0.7m, 1.2m, 2.5m and 1.4m in BH1 to BH6 respectively.*
- c) Sandstone bedrock was encountered beneath the natural sand in all boreholes.*
- d) Groundwater was not observed during the investigation.*

*The report made comments and recommendations on the following:*

- Shoring and support,*
- Vibration Monitoring,*
- Excavation method,*
- Further Geotechnical input.*

*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 engineer has confirmed that the proposed excavation will not cause any adverse impacts to neighbouring structures.*

*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)
ESWN-PR-2023-1794	Geotechnical Report	ESWNMAN P/L	25 Sept 23
C231162-001 SK01 SK02	Structural Report & Drawings	Fly Engineering P/L	15 Sept 23
2000290 STW-000-Rev3 STW-101-Rev 2 STW-102-Rev 3 STW-103-Rev 2 STW-104-Rev 2 STW-301-Rev 2 STW-302-Rev 3 STW-303-Rev 1 STW-304-Rev 1	Stormwater Management Plans	Torinex Consulting Engineers	15/09/23 08/09/23 15/09/23 08/09/23 08/09/23 08/09/23 15/09/23 08/09/23 15/09/23

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

##### A.31 No Underpinning works

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

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

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

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

##### C.5 Payment of Security, Levies and Fees

Property Damage Security Deposit (S138)	\$34,600	No	T115
Public Road and Footpath Infrastructure Application 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:

- a) The removal of the existing kerb and gutter and the construction of a new 4.5 metres wide vehicular crossing in accordance with Council's Crossing Specification, standard driveway drawing RF2\_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at a right angle to street kerb 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 sections along each side of the proposed crossing, starting from the centreline of the road pavement to the parking slab shall be submitted to Council for assessment,
- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf,

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

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

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

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

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

### **C.36 Professional Engineering Details**

#### **C.37 Engineer Certification**

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

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

#### **C.40 Geotechnical and Hydrogeological Design, Certification & Monitoring**

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified 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/seepage such that they are fully tanked and no seepage water is collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP,
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
  - will detect any settlement associated with temporary and permanent works and structures,
  - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
  - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
  - will detect groundwater changes calibrated against natural groundwater variations,
  - details the location and type of monitoring systems to be utilised,
  - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
  - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
  - details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

#### C.41 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths. Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

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

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Minimum Four weeks should be allowed for assessment.

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

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

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

Standard Condition: C41 (Autotext: CC41)

## C.45 Parking Facilities

### C.51 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans prepared and certified by a Chartered Professional Civil Engineer, which include the following:

- a) General design in accordance with concept stormwater management plans, referenced 2000209-Rev 3, prepared by Torinex Consulting Engineers, dated 15/09/2023, other than amended by this and other conditions,
- b) The discharge of stormwater from the site to the kerb and gutter. The stormwater outlet pipe must be located within the frontage of the site,
- c) The provision of a 900mm x 600mm boundary junction pit shall be provided prior to discharging stormwater from the site to the Council's street drainage system. Only one stormwater kerb discharge point will be permitted to comply with Council's DCP. The proposed stormwater pipe(s) across the nature strip must be made by using 150mm x 75mm galvanised RHS with a minimum grade of 1% to comply with Council's Specification and AS3500.3,
- d) The installation of rainwater retention and reuse system (RWT) with a minimum storage volume of 18m<sup>3</sup> to comply with Council's DCP. Runoff from all roof areas shall be directed to the proposed RWT for non-potable uses such as toilet flushing, laundry device, pool top-up, car washing and garden irrigations etc. Notation to this requirement must be clearly depicted on the drawings. Overflow from the RWT shall be directed to the proposed raingarden.
- e) The installation of green roof with minimum 600mm soil depth in accordance with the concept stormwater plan and Chapter E2.2.3 of the Council's DCP.
- f) The installation of a pumpout system with a minimum storage capacity of 13.4m<sup>3</sup> to comply with Section 8 of AS3500.3 and the Council's DCP,
- g) All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- h) Dimensions of all drainage pits and access grates must comply with AS3500,
- i) Compliance the objectives and performance requirements of the BCA,
- j) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

#### Layout plan



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

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location 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) Internal dimensions and volume of the proposed rainwater storage,
- b) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- c) Details of access and maintenance facilities,
- d) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,
- e) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

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

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

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

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

**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. 36 & 40 Russell Street

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 Work (Construction) Zone – Approval & Implementation**

**D.14 Erosion and Sediment Controls – Installation**

**E. Conditions which must be satisfied during any development work**

**E.7 Maintenance of Vehicular and Pedestrian Safety and Access**

**E.11 Maintenance of Environmental Controls**

**E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program**

**E.13 Support of Adjoining Land Owners**

**E.14 Vibration Monitoring**

**E.15 Erosion and Sediment Controls – Maintenance**

**E.17 Disposal of Site Water during Construction**

**E.19 Site Cranes**

**E.20 Check Surveys**

**E.33 Shoring and Adequacy of Adjoining Property**

While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation.

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.

**Notes:**

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

Standard Condition: D4 (Autotext DD4)

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

**F.7 Commissioning and Certification of Systems and Works**

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

Nil

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

**H.12 Removal of Ancillary Works and Structures**

**H.13 Road Works (including footpaths)**

**H.20 Positive Covenant & Works-As-Executed Certification of Stormwater Systems**

Prior to issue of any Occupation and on completion of construction work, the applicant must submit, for approval by the Principal Certifying Authority, certification by a Chartered Professional Civil Engineer on all stormwater drainage works with works-as-executed drawings prepared by a registered surveyor detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) that the structural adequacy of the on-site retention and pumpout system,
- c) that a rainwater retention reuse system with a minimum storage of 18m<sup>3</sup> has been constructed in accordance with the approved stormwater plans,
- d) that runoff from all roof areas have been collected and directed to the as-built rainwater retention and reuse system which have plumbed into all toilet, laundry and garden irrigation etc,
- e) that the green roof have been constructed with minimum soil depth of 600mm in accordance with the approved stormwater plans,
- f) that subsoil drainage/seepage water is NOT collected and discharged into Council's street drainage system,
- g) that a pumpout system with a minimum storage of 13.4m<sup>3</sup> has been constructed in accordance with the approved stormwater plans,
- h) pipe invert levels and surface levels to Australian Height Datum, and
- i) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

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

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

### **I.29 Ongoing Maintenance of the On-Site-Retention and Pumpout Systems**

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

- a) permit stormwater to be temporarily retained and reused by the System;
- b) keep the system clean and free of silt rubbish and debris;
- c) maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- e) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- f) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- g) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and
- h) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

- a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (**Claims**) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and
- b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.

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

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

Standard Condition: I29

### **J. Miscellaneous Conditions**

**Nil**

### **K. Advisings**

#### **K.23 Dilapidation Report**

#### **K.24 Roads Act Application**

30 August 2023

## REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** Development Applications: 250/2023/1  
**ADDRESS:** 38 Russell Street VAUCLUSE 2030  
**PROPOSAL:** Demolition of the existing dwelling and the construction of a new two-storey dwelling with basement storage a swimming pool and associated landscaping  
**FROM:** Simone Woodman - Tree Management Officer  
**TO:** Mrs L Holbert

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### I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Corona Projects, dated July 2023
- Survey Plan No. Sheet 1 issue1, drafted by NCAF Survey Pty Ltd, dated 13/06/2023
- Architectural Drawing No.s DA1.00/B, DA1.00a/B, DA1.01/E, DA1.02/E, DA1.03/D, DA1.05/A, DA2.01/C, DA2.02/C, DA3.01/F, drawn by Charles Tang Design, dated 06/07/2023
- Stormwater drainage Plan No.s 102/1 – 104/1, 201/1, 202/1, 301/1, 302/1, drawn by Torinex Consulting Engineers, dated 05/07/2023
- Arboricultural Impact Assessment and Management Plan, written by Scott Freeman – Horticultural Management Services, version 1, dated 04/07/2023
- Landscape Plan No.s L/00, L/01, L/02, designed by Aspect Designs, dated 28/06/2023

A site inspection was carried out on 8 August 2023.

### Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- 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

Located within the subject property are a number of prescribed and exempt trees that are of low to moderate landscape value. The trees of most value within the property are the *Howea forsteriana* (Kentia palms) located within the rear set back along the northern and southern side boundaries. The Kentia palms have been identified as Tree No.s 12, 18, 19 and 20 in the submitted Arboricultural Impact Assessment and Management Plan. The palms, proposed for removal, are in good health and condition and are of moderate landscape value however are within the footprint of the proposed development.

A previous Tree Preservation Order application TPO263/2014/1 gave consent via a permit to remove a *Ficus benjamina* (Weeping Fig), identified as Tree No.24 in the submitted Arboricultural Impact Assessment and Management Plan. One of the conditions within the permit was to plant an *Elaeocarpus reticulatus* (Blueberry Ash) as a replacement tree for the Weeping fig. The submitted landscape plan proposes to plant 6 x *Elaeocarpus eumundii* (Quandong) which are related to Blueberry Ash and comparable in terms of replacement tree planting requirements. Additionally a further thirteen trees are proposed to be planted within the subject property predominantly along the rear boundary and northern side boundary. Considering the low to moderate landscape value of the existing trees within the subject property the proposed replacement trees are satisfactory.

Note – the submitted Arboricultural Impact Assessment and Management Plan notes Tree No.17 *Acmena smithii* (Lillypilly) as a tree within the subject property. At the time of inspection I did not note an *Acmena smithii* (Lillypilly) located within the subject property in that location. Accordingly Tree No.17 should not be listed as a tree to be removed in my recommendations.

#### RECOMMENDATIONS

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

#### CONDITIONS OF CONSENT

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

**A. General Conditions**

**A.1 Tree Preservation & Approved Landscaping Works**

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

a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
1	<i>Olea europea var. africana</i> (African Olive)*	Front south eastern corner	5 x 4
3	<i>Camellia japonica</i> (Camellia)	Front north eastern corner	3 x 3
4	<i>Musa cavendishii</i> (Banana)	Front north eastern corner	5 x 4
5	<i>Schefflera arboricola</i> (Hawaiian Elf Schefflera)	Northern side boundary	5 x 3
6	<i>Prunus</i> sp. (Flowering Peach)	Northern side boundary	5 x 5
7	<i>Pistacia chinensis</i> (Pistacia)	Northern side boundary	6 x 6
8	<i>Melia azedarach</i> (White Cedar)	Northern side boundary	7 x 5
10	<i>Phoenix canariensis</i> (Canary Island Date palm)	Northern side boundary	3 x 3
11	<i>Schefflera actinophylla</i> (Umbrella tree)*	Northern side boundary	8 x 6
12	<i>Howea forsteriana</i> (Kentia palm)	Northern side boundary	5 x 3
13	<i>Cinnamomum camphora</i> (Camphor Laurel)	Northern side boundary	5 x 3
14	<i>Brugmansia</i> sp. (Angels Trumpet), identified as <i>Duranta erecta</i> in the Arboricultural report	Rear yard north western corner	4 x 4
15	<i>Callistemon</i> sp. (Bottle Brush)	Rear boundary	5 x 4
16	<i>Celtis</i> sp. (Celtis)	Rear south western corner	4 x 3
18, 19, 20	<i>Howea forsteriana</i> (Kentia palm)	Rear yard southern boundary	8 x 4
24	<i>Ficus benjamina</i> (Weeping Fig)	Southern side boundary	8 x 5
25, 26	<i>Camellia japonica</i> (Camellia)	Southern side boundary	4 x 3



**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)
Plan No.s L/00, L/01, L/02	Landscape Plan	Aspect	28/06/2023

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

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

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

#### a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
21, 22, 23	<i>Syzygium australe</i> (Brush Cherry Lillypilly)	Northern side boundary of 36 Russell Street Vaucluse	1.5

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) 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.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
21, 22, 23	<i>Syzygium australe</i> (Brush Cherry Lillypilly)	1.5	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"> <li>• Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.</li> <li>• The project arborist shall install or supervise the installation of tree protection fencing.</li> </ul>

During any development work	<ul style="list-style-type: none"><li>• The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.</li></ul>
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"><li>• The project arborist shall supervise the dismantling of tree protection measures</li><li>• After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.</li></ul>

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

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

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

**C.1 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)**

Nil

**C.3 Payment of Long Service Levy, Security, Contributions and Fees**

Nil

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

Nil

**E. Conditions which must be satisfied during any development work**

**E.1 Tree Preservation**

All persons must comply with Chapter E.3 – Tree Management of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

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

**E.2 Replacement/Supplementary trees which must be planted**

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
7 x <i>Callistemon citrinus</i> (Bottlebrush)	Within the subject property	35 litre each	6 x 4 each
2 x <i>Casuarina glauca</i> (Swamp She-oak)	Within the subject property	45 litre each	10 x 7 each
6 x <i>Elaeocarpus eumundii</i> (Quandong)	Within the subject property	15 litre each	5 x 3 each
4 x <i>Melaleuca decora</i> (White Feather Honey Myrtle)	Within the subject property	25 litre each	4 x 3 each

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](http://www.woollahra.nsw.gov.au) or call Council on 9391 7000 for further advice.



Simone Woodman  
**Tree Management Officer**



Woollahra  
Municipal  
Council

24 November 2023

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications: 250/2023/1

**ADDRESS:** 38 Russell Street VAUCLUSE 2030

**PROPOSAL:** Demolition of the existing dwelling and the construction of a new two-storey dwelling with basement storage a swimming pool and associated landscaping

**FROM:** Nastaran Forouzesh - Heritage Officer

**TO:** Mrs L Holbert

### DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Charles Tang Design, dated 6 July 2023, Issue B
- External finishes schedule by Charles Tang Design, dated 26 June 2023, Issue A
- Photomontage by Charles Tang Design, dated 6 July 2023, Issue A
- Demolition Report by Umwelt, dated September 2023
- Statement of Environmental Effects by Corona Projects, dated July 2023
- Survey plan by NCAFSURVEY Pty Ltd, dated 13 June 2023
- Revised Aboriginal Heritage Impact Assessment by Dominic Steele Consulting Archaeology, dated October 2023

### RESEARCH

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

### STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- 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 property comprises land that was originally part of 39 acres of land granted to Francis Mitchell in 1840 which was subdivided in 1877 as part of the Beaconsfield Estate. The development site comprises one allotment (Lot 1, DP618276). There is one structure on the subject site, a double storey dwelling constructed in the Federation era, c. 1912. The building is of painted brick masonry construction with a hipped tiled roof and a projecting bay

Referral Response - Heritage - DA20232501 - 38 Russell Street VAUCLUSE



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along the primary facade. The main entry to the dwelling is accessed from the front elevation. The building is currently a duplex, with a unit/dwelling at each floor level (ground and lower ground).

Although originally constructed in the Federation era in the Arts & Crafts architectural style, the dwelling has lost the majority of the architectural elements of the style and does not present to Russell Street as a Federation era dwelling that positively contributes to the streetscape. This is due to the alterations and additions that have been carried out since its construction in 1929, 1972 and 1987. These include the removal of the original roof tiles and their replacement with concrete tiles, the addition of horizontally proportioned openings along the primary façade, the enclosing of the front verandah for the provision of the walk in robe and the ensuite for the front bedroom, changes to the front fence, replacement of some of the openings of the side elevations, and alterations and additions to the rear to house a new dining room, kitchen, rumpus room and balcony. Although the exteriors have been modified, it is noted that some original openings, as well as the original chimneys, and half timbering to the gable end still remains. However, the dwelling as a whole has lost the integrity of the original structure. As a result, it does not present to Russell Street as a Federation Arts & Crafts style dwelling that positively contributes to the streetscape. Internally, the building exhibits a mixture of contemporary and Federation style finishes, and retains some original pressed metal ceilings, joinery and fireplaces. In addition, the dwelling still houses that central hallway with rooms on either side. Although, there have been some changes to the original room layouts.

The Demolition Report prepared by Umwelt provides the following statement of significance for the property:

*The subject building is a late Federation duplex constructed around 1912, following the release of land in Vaucluse for suburban development from the 1870s. The upper level originally resembled a typical Federation house that may have been designed by its builder. There is a smaller flat on the lower level. The building was altered and extended at the front and back in 1974-75, changing its form and preventing it demonstrating the characteristics of a Federation residential building.*

The existing structure at 38 Russell Street, Vaucluse is not considered to be a fine example of a type, does not retain any significant associations and has no distinctive landmark qualities or other features that would make the structure potentially significant or rare. Although there are some original external and internal architectural elements within the principal building form, the building as whole has lost its design integrity. In addition, there are finer examples of the building typology within the Municipality. Therefore, it 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 demolition of the structures.

#### 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.

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The 'Due Diligence Code of Practice for the protection of Aboriginal Objects in NSW' (2010) prescribes that an extensive search must be undertaken if AHIMS has shown that there are Aboriginal sites or places in the search area.

The Office of Environment & Heritage (OEH) disclosures for AHIMS searches are copied below:

- *You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.*
- *If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.*
- *The information derived from the AHIMS search is only to be used for the purpose for which it was requested.*
- *AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;*
- *It is not be made available to the public.*
- *Information recorded on AHIMS may vary in its accuracy and may not be up to date.*
- *Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings.*
- *Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.*
- *Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.*

The Applicant has provided an Aboriginal Heritage Impact Assessment (the 'report') prepared in accordance with the 'Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW' published by the Department of Environment, Climate Change and Water and dated 13 September 2010 and in accordance with Attachment 10 of Council's DA guide available at: [https://www.woollahra.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0009/248238/DA-Guide-Attachment-10-Aboriginal-Heritage-Impact-Assessment.pdf](https://www.woollahra.nsw.gov.au/__data/assets/pdf_file/0009/248238/DA-Guide-Attachment-10-Aboriginal-Heritage-Impact-Assessment.pdf)

Dominic Steele is a qualified Aboriginal heritage consultant who has inspected the property on 30 June 2023 on foot.

Consultation with the La Perouse Local Aboriginal Land Council was attempted for the site inspection and on 21 July 2023, however, no response was received at the time of the report revision.

There has been consideration of relevant previous Aboriginal heritage investigations, as detailed in Section 3.0 of the report.

The AHIMS of the OEH was consulted on 21 June 2023 and the extensive search is attached at Section 3.3 and Attachment A of the report. None of these sites are within the study area.

The report identifies the following potential for unexpected findings within the area:

*No evidence for past Aboriginal use of the 38 Russell Street property was recorded by the site inspection for this report. No natural sandstone is exposed above-ground on the block and the original subsurface topography beneath the house footprint is likely to have been destroyed or extensively modified (cut and filled) by the construction of the street and house in the early twentieth century. Geotechnical data for the two sides of the block and for the rear garden shows varying depths of modern fill materials (ranging in thickness from 0.3m to 1.2m) occur over residual sands over sandstone bedrock.*

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In terms of site's disturbance, the report states that:

*We inspected the property on 30 June 2023 and the following images show the existing conditions on the block and show how the construction of the existing house and garden has modified the original ground levels at the property.*

The report's recommendations conclude that:

*I There are no Aboriginal archaeological constraints to the proposed redevelopment of the 38 Russell Street property from proceeding as planned.*

*II Future construction works on the property is unlikely to result in harm Aboriginal objects or archaeological deposits and it is recommended that an AHIP approval under the NPW Act 1974 (as amended) for the proposed new house construction is not required.*

*III If any Aboriginal object is discovered while undertaking future development activities on the property, the work must stop immediately, and the landowner is required to notify the Environment Line (131555) and provide details of the discovery and to not recommence work at the site unless authorised in writing by Heritage NSW.*

*IV In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.*

*V The 38 Russell Street property is assessed to have no potential Aboriginal heritage sensitivity and we recommend that Woollahra Council's Aboriginal Heritage Sensitivity map should be updated to this effect.*

*VI We recommend that a copy of this report should be provided to La Perouse Local Aboriginal Land Council.*

Given the above, it is concluded that 'unexpected findings' condition of consent is to be included below. In addition, to ensure complete protection, 'Due Diligence' and 'Heritage Induction' conditions of consent will also be included below.

#### 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 conservation areas are located in proximity of the site:

- 'Bell Street Heritage Conservation Area' at Vacluse (No. C13)

Therefore, Clause 5.10 does apply

##### *Clause 1.2 Aims of Plan*

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

Referral Response - Heritage - DA20232501 - 38 Russell Street VAUCLUSE



Woollahra  
Municipal  
Council

As discussed above, the extant structures on the subject property comprise a double storey painted brick masonry dwelling constructed in the early twentieth century which is located on Francis Mitchell's 39 acre land grant. The house has been modified over time with several alterations and additions, and the external character of the dwelling has been largely compromised. Original interiors have also been adapted, with some timber joinery, fireplaces and ceilings still remaining. 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. The subject property is not heritage listed and is not located within a heritage conservation area.

A Demolition Report has been submitted with the development application and includes historical research on the development of the property over time. The original builder/architect of the dwelling is not known. The building 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 site 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 structures within the site.

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. Due to the localised nature of the works and the low scale of the new development, there would be no adverse impact on the setting, fabric or views of the Bell Street HCA in the vicinity. As such, there are no concerns raised on heritage grounds regarding the design of the proposed new development.

The archival recording included in the demolition reports meets the standard requirements for buildings of no significance and would satisfy the standard condition for recording buildings of little significance.

As the building retains some external and internal original features, 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.

### Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the heritage item in the vicinity will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

## RECOMMENDATION

Referral Response - Heritage - DA20232501 - 38 Russell Street VAUCLUSE



Woollahra  
Municipal  
Council

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 Objects – Unexpected Findings

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

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

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

Standard Condition: B10 (Autotext BB10)

##### 2. 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)

##### 3. Aboriginal Heritage Induction

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

Standard Condition: B13 (Autotext BB13)

Referral Response - Heritage - DA20232501 - 38 Russell Street VAUCLUSE



Woollahra  
Municipal  
Council

*Special Conditions*

1. Fabric Salvage – Original timber windows, exposed sandstone, original internal joinery, pressed metal ceilings and fireplaces and their associated fabric to be demolished must be catalogued, labelled, salvaged and where possible reused on the project. Where reuse on the project is not possible, salvaged building materials are to be transferred to an established second building material dealer for recycling. Documentation of the salvage methodology must be submitted in a waste management plan to the satisfaction of the Principal Certifying Authority prior to the commencement of demolition.

Nastaran Forouzesh - Heritage Officer

Completion Date: 15/08/2023

## REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

**FILE NO:** Development Applications: 250/2023/1  
**ADDRESS:** 38 Russell Street VAUCLUSE 2030  
**PROPOSAL:** Demolition of the existing dwelling and the construction of a new two-storey dwelling with basement storage a swimming pool and associated landscaping  
**FROM:** Louie Salvatore  
**TO:** Mrs L Holbert

---

### 1. ISSUES

- *Acid Sulfate Soils – WLEP Class 5 Land.*
- *Acoustics – Mechanical Plant Services.*
- *Environmental – Pollution Controls.*

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by Corona Projects Pty Ltd – July 2023.
- Architectural Plans: prepared by Charles Tang Design – Issue B, Job No. 0329 dated 10 June 2023.

### 3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date:

### 4. SUMMARY OF PROPOSAL

The proposed development comprises of:

- Demolition of the existing one-storey dwelling.
- Construction of a new two-storey dwelling with basement storage, a swimming pool and associated landscaping.

### 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 Swimming and Spa Pools – Child Resistant Barriers**

The *Construction Certificate* plans and specifications required by Clause 139 of the *Regulation* must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act 1992* and the Building Code of Australia.

**Note:** A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.  
Standard Condition: C55

**C.2 Swimming and Spa Pools – Backwash**

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** The plans must show the location of Sydney Waters sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.  
Standard Condition: C56

**C.3 Light & Ventilation**

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail

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

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

Standard Condition C59

**C.4 Noise Control - Swimming pool/spa pool pumps and associated equipment**

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

**C.5 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 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 2000*.

**Note:** EPA Guidelines can be downloaded from  
<http://www.epa.nsw.gov.au/noise/nqlg.htm>.

**Note:** see [http://www.epa.nsw.gov.au/resources/ci\\_build\\_sheet7.pdf](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 in bags before placing into waste or skip bins.



- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

**Note:** "Dust Control - Do it right on site" can be down loaded free of charge from Council's web site [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or obtained from Council's office.

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

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

Standard Condition: E23

### **E.3 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters**

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

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

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

Standard Condition: E26

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

#### **F.1 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters**

Prior to filling any swimming pool, as defined by the *Swimming Pools Act 1992*:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with Section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).
- c) The *Principal Contractor* or *owner* must either obtain a 'Certificate of Compliance' issued pursuant to Section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public Pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.

- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2003: *Swimming pool safety - Water recirculation and filtration systems*.

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

- a) Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:
- b) Before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be downloaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

Standard Condition: F13

## F.2 Swimming Pool Fencing

Swimming Pool Fencing is to be constructed in accordance with AS1926-2012 Australian Standard Swimming Pool Safety Part 1 – *Safety Barriers for Swimming Pools*.

**Note:** Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012

Standard Condition: F20 (Autotext FF20)

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

Nil.

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

Nil.

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

### I.1 Swimming and Spa Pools – Maintenance

Swimming and Spa Pools must be maintained:

- a) In compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs;
- b) In compliance with the NSW Health “*Public Swimming Pool and Spa Pool Guidelines*” in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c) In compliance with AS 1926.3-2003: *Swimming pool safety - Water recirculation and filtration systems* ;
- d) With backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) With a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room

in any other residential premises (regardless of whether any door or window to that room is open):

- Before 8 am or after 8 pm on any Sunday or public holiday, or
- Before 7 am or after 8 pm on any other day.

**Note:** Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be downloaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>  
Standard Condition: I30

## I.2 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](http://www.cjc.nsw.gov.au)).

**Department of Environment and Conservation NSW**, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://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](http://www.legislation.nsw.gov.au)).

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

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: I56

## I.3 Noise from mechanical plant and equipment, including swimming pool pump and associated equipment

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

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

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

**Note:** Words in this condition have the same meaning as in the:  
*NSW Industrial Noise Policy*  
([http://www.environment.nsw.gov.au/resources/ind\\_noise.pdf](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

**I.4 Noise Control - Swimming pool/spa pool pumps and associated equipment**

The swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the Protection of the Environment Operations (Noise Control) Regulation 2017 as follows:

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

**J. Miscellaneous Conditions**

Nil.

**K. Advisings**

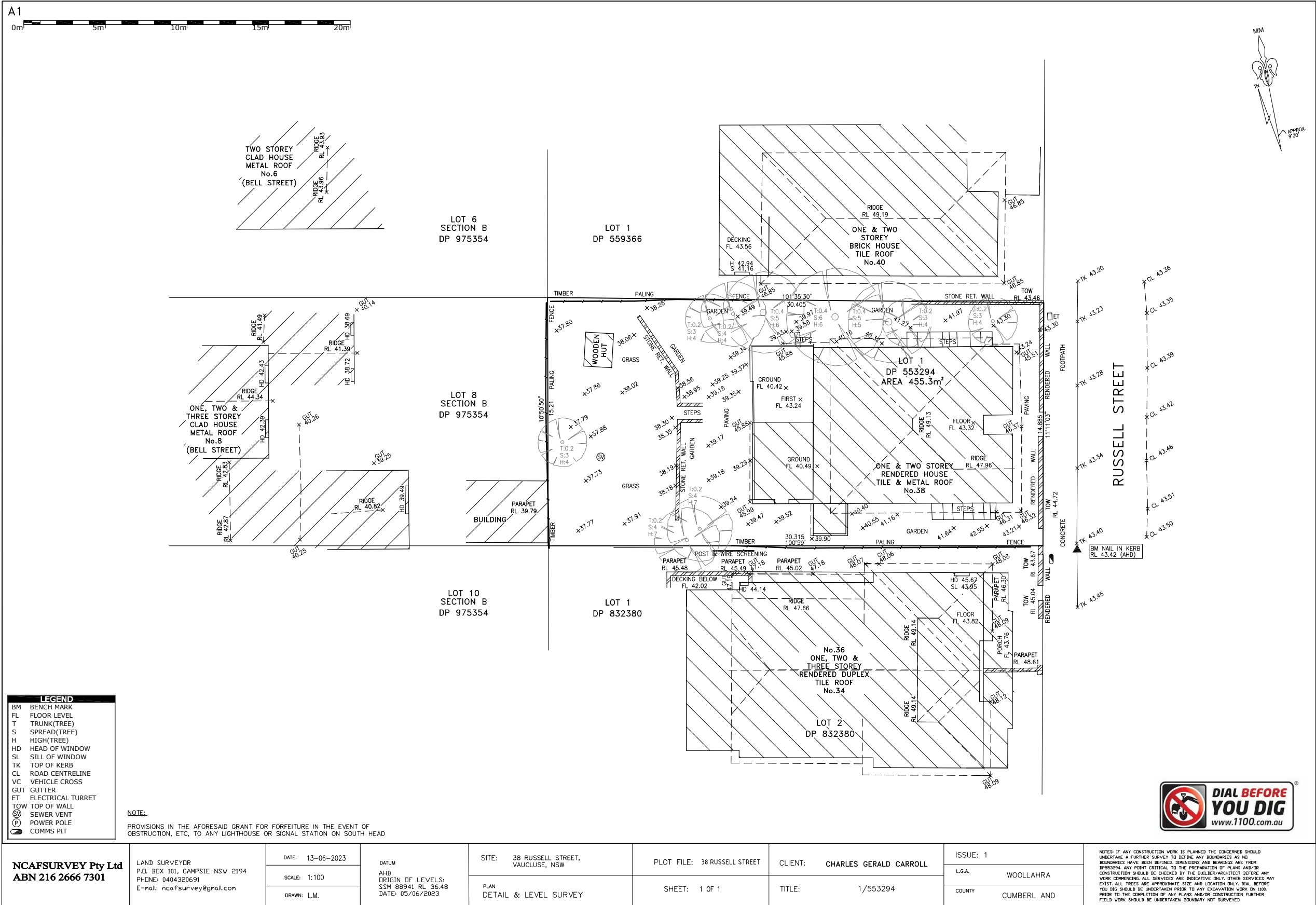
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**Louie Salvatore**  
Environmental Health Officer

**Date: 15 August 2023**









R1 –  
RENDER AND PAINT – WHITE



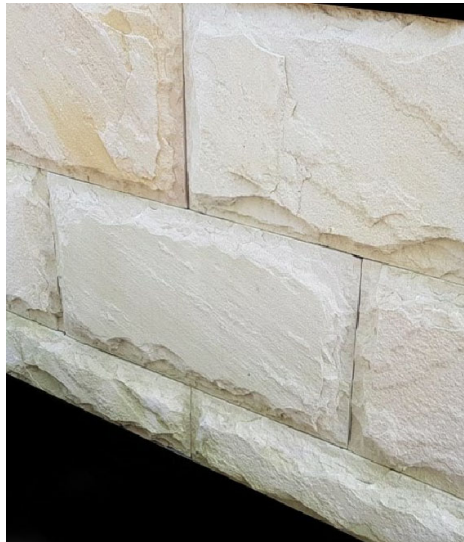
B1 –  
FRAMESLESS GLASS BALUSTRADE – CLEAR



W1 –  
ALUM FRAMED WINDOWS– CHARCOAL



GD –  
GARAGE DOOR



ST –  
SAND STONE



SD1 –  
ALUM FIXED AND SLIDING DOOR – CHARCOAL



PS –  
EXTERNAL PRIVACY /  
SUN SCREEN



GCW –  
GLASS CURTAIN WALL

Charles Tang Design		EXTERNAL FINISHES SCHEDULE			title : 38 RUSSELL ST VAUCLUSE		
		issue	date	description			
T : (02) 8970 1483 M : 0401 055 922		A	26/06/2023	ISSUE FOR DA	job	: 0329	IMPORTANT: do not scale from drawings work to figured dimensions only verify all dimensions on site
W : www.charlestangdesign.com.au					scale	: 1:200@A3	
E : charlest@charlestangdesign.com.au					date	: 10/06/2023	
					drawn	: –	
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						DA5.01 A	





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		issue	date	description	
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					scale : 1:200@A3
					date : 10/06/2023
					drawn : —
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				DA0.01 A	



ASPECT DESIGNS PTY LTD

38 RUSSELL ST  
VAUCLUSE

LANDSCAPE  
DOCUMENTATION

LANDSCAPE DOCUMENTATION - DA

CLIENT

POLLUX INVESTMENTS P/L

ADDRESS

38 RUSSELL ST VAUCLUSE

STATUS

DA

PROJECT #


230615

SHEET #

L/00

A3

1:200



DRAWING LIST

L/00

COVER SHEET

L/01

LANDSCAPE PLAN

L/02

LANDSCAPE SPECIFICATIONS

Aspect Designs

Studio 103

84 Alexander St,

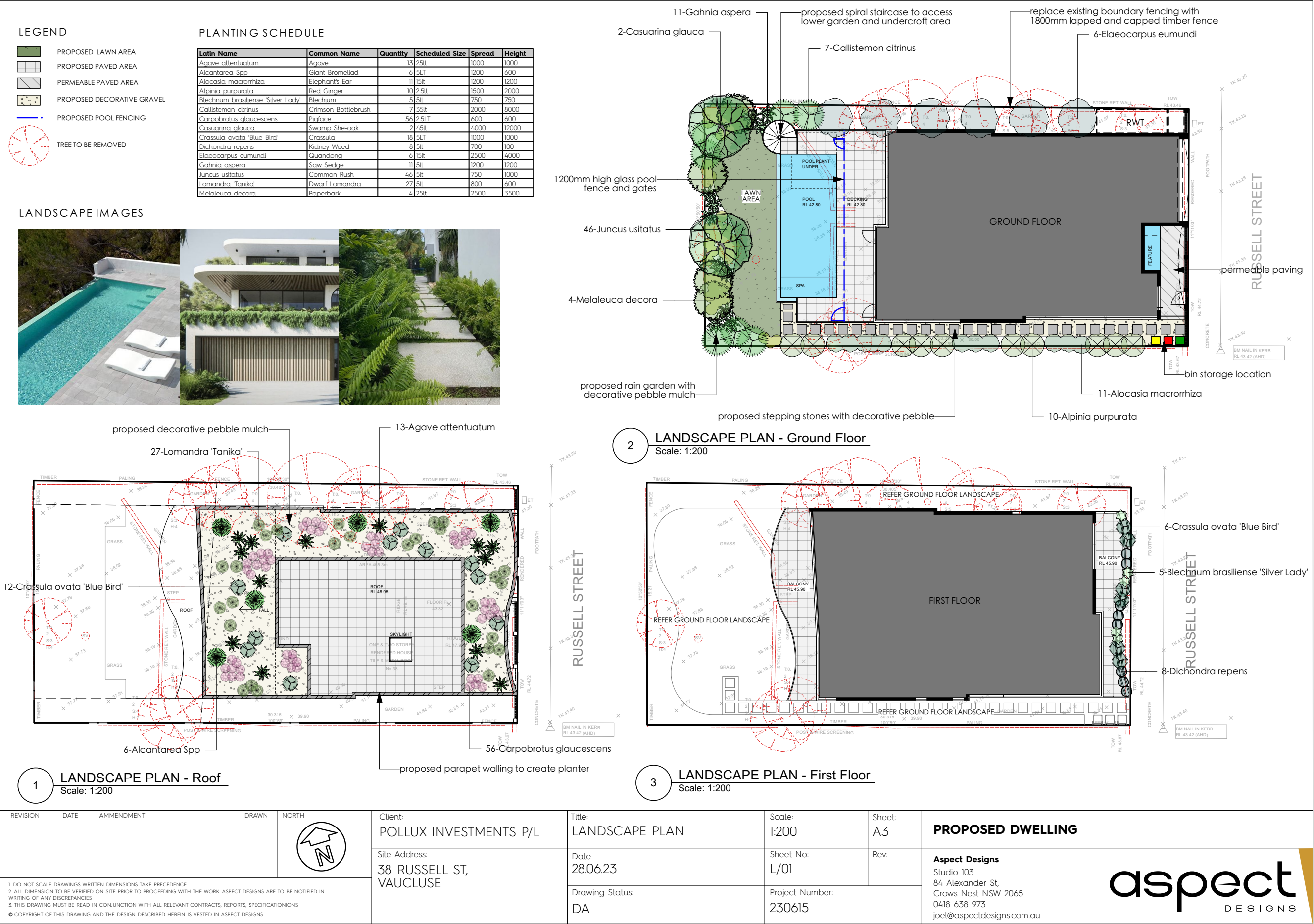
Crows Nest NSW 2065

0418 638 973

joel@aspectdesigns.com.au

aspect

DESIGNS



OUTLINE LANDSCAPE SPECIFICATION (AS APPLICABLE)

Preparation by Builder: Builder shall remove all existing concrete pathways, fences, footings, walls etc. not notated to be retained and complete all necessary excavation work prior to commencement on site by Landscape Contractor (Contractor). Builder shall also install new retaining walls, kerbs, layback kerb, crossover, pathways etc. and make good all existing kerbs, gutters etc. as necessary and to approval of Council. Builder shall ensure that a minimum 450mm of topsoil in garden areas and a minimum 150mm of topsoil in lawn areas exists. Should required depths not exist Builder shall contact Landscape Architect and ask for instructions prior to completion of excavation works.

Excavate as necessary, then fill with approved site topsoil to allow for minimum 500mm soil depth in garden areas and 150mm soil depth in lawn areas and to gain required shapes & levels. Ensure all garden and lawn areas drain satisfactorily. All levels & surface drainage shall be determined by others & approved on site by Head Contractor. Note: Approved imported topsoil mix may be utilised if there is insufficient site topsoil available. State in Tender a m3 rate for additional imported topsoil and the quantities of both site topsoil and imported topsoil allowed for in Tender.

Initial Preparation: Verify all dimensions & levels on site prior to commencement. Do not scale from drawings. Locate all underground & above ground services & ensure no damage occurs to them throughout contract. Spray approved weedicide to all proposed lawn & garden areas to manufacturer's directions. Remove existing concrete pathways, footings, walls etc. not notated to be retained & weeds from site. Levels indicated on Plan are nominal only and are derived from Architectural Plans & Drawings by others. Final structural integrity of all items shall be the sole responsibility of Landscape Contractor.

Tree Protection: Trees to be retained shall be protected during site works and construction by the erection of solid barricades to the specification of Council. Storage of machinery or materials beneath canopy of trees to be retained shall not be permitted. Changes to soil level and cultivation of soil beneath canopy of trees to be retained shall not be permitted unless under direct supervision of Landscape Architect. Existing trees shall be pruned to Landscape Architects onsite instructions.

Soil Preparation: Cultivate to depth of 300mm all proposed lawn & garden areas incorporating minimum 100mm depth of organic clay breaker into existing site soil. Do not cultivate beneath existing trees to be retained. In areas where fill is required gain required shapes & levels using a premium grade soil mix. In areas where excavation is required (if in clay) over excavate as required to allow for installation of 500mm depth of premium grade topsoil mix to garden areas and 300mm depth of premium grade topsoil mix to lawn areas. Undertake all required action to ensure that no rootballs of proposed plants sit in clay wells and that all garden areas and lawn areas drain satisfactorily. Note it is intended that wherever possible existing levels shall not be altered through garden and lawn areas. It is the Contractors responsibility to ensure that the end result of the project is that all lawn and garden areas drain sufficiently (both surface & subsurface), are at required finished levels and have sufficient soil depths to enable lawn and plants to thrive and grow. Should alternative works to those specified be required to achieve the above result, Contractor shall inform Builder at time of Tender and request instructions.

Lawn Edging and Stepping Stones:(i) 125 x 25mm approved tanalith impregnated pine edging shall be installed, to lines as indicated on plan and staked with approved stakes at maximum 1500mm centres at ends and changes of direction; stakes shall be nailed to edging with approved galvanised steel nails. Top of edging shall finish flush with surrounding surfaces. Top of stakes shall finish 25mm below top of edging.(ii)Contractor shall install approved bricks on edge on a minimum 100mm deep x 90mm wide concrete footing with brick tor set in, to lines nominated on plan as brick edging. Bricks shall be laid with a nominal 10mm wide approved coloured mortar joint. Bricks needing to be cut shall be done so with clean sharp cuts. Top of edging shall finish flush with surrounding finished surfaces. Approved sandstone stepping stones shall be positioned as indicated on plan on a 25mm river sand bed. Approved sandstone stepping stones shall be positioned as indicated on plan on a 25mm river sand bed.

Retaining Walls: Positions, detail and heights of retaining walls shall be by others.

Planting: Purchase plants from an approved nursery. Plants to be healthy & true to type & species. Set out plants to positions indicated on plan. Following approval, plant holes shall be dug approximately twice width and to 100mm deeper than plant rootballs that they are to receive. Base and sides of hole shall be further loosened. Fertiliser, followed by 100mm depth of topsoil mix shall then be placed into base of hole and lightly consolidated. Base of hole shall then be watered. Remove plant container and install plant into hole. Rootball shall be backfilled with surrounding topsoil and topsoil firmed into place. An approved shallow dish shall be formed to contain water around base of stem. Base of stem of plant shall finish flush with finished soil level. Once installed plant shall be thoroughly watered and maintained for the duration of the Contract.

Staking: All trees shall be staked using 2 x 38mm x 38mm x 2000mm long hardwood stakes per plant and with hessian webbing ties installed to Landscape Architect's on site instructions.

Mulching: Install 75mm depth of 25mm diameter hardwood mulch to all garden areas, coving mulch down around all plant stems & to finish flush with adjacent surfaces.

Turfing: Prepare for, level & lay cultivated Palmetto Buffulo turves to all areas nominated on plan as being lawn. Roll, water, fertilise, mow & maintain lawns as necessary until completion of maintenance period. At same time make good all existing lawn areas using same lawn type. Lawns in shade shall be over sown with an approved seed mix. Allow to retrim and returf councils nature strip as required.

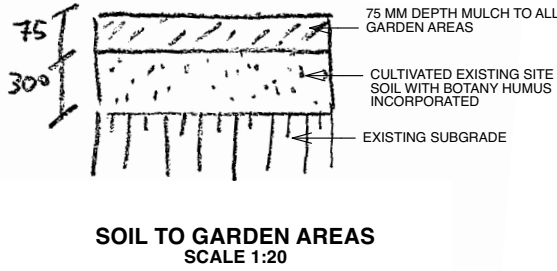
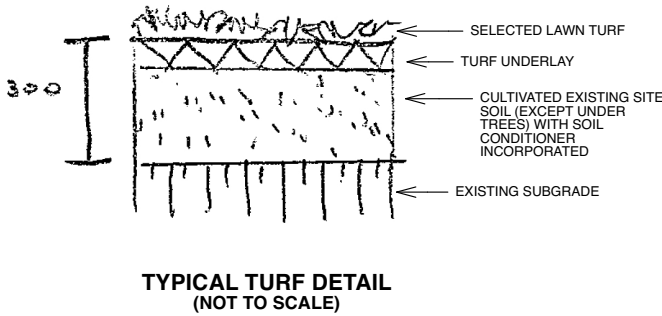
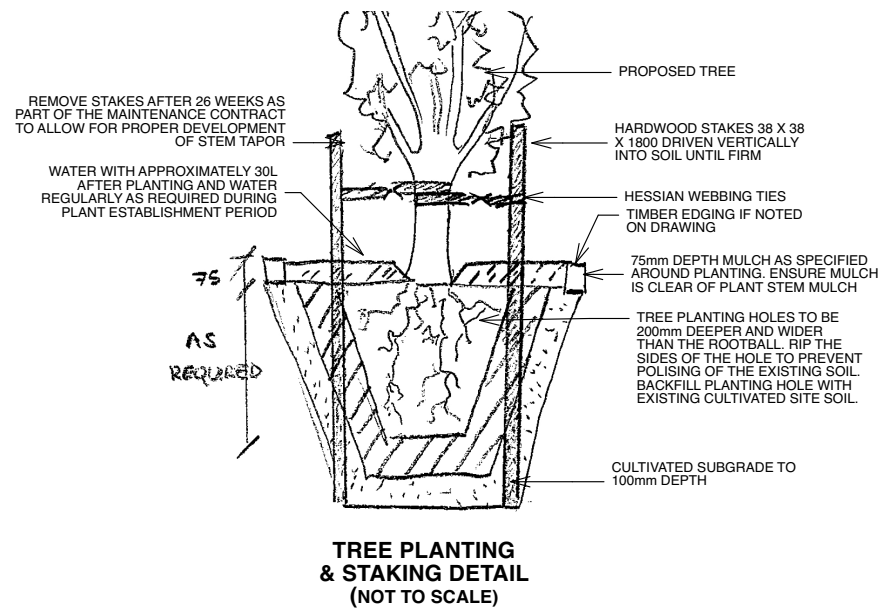
Fencing: Retain all existing fences unless advised otherwise by builder. Install timber paling fences to heights indicated on Plan.

Paving: Areas to be paved shall be excavated or filled to allow for installation of bedding materials. Levels and falls shall be as per Plan. Surface drainage on paving shall be towards grated drains with all drains connected to stormwater system and installed by Builder.

Irrigation: Contractor shall supply and install an approved fully automatic, vandal resistant, computerised irrigation system to all garden and lawn areas, excluding council nature strip. Entire system shall be to approval of Water Board and shall utilise pop-up sprinklers and electronic controllers. Contractor shall be responsible to ensure that system is able to satisfactorily operate on available water pressure. Power supply for use by irrigation system shall be provided to an approved location near southwest corner of residence by others and shall consist of an approved weatherproof G.P.O. The irrigation system controller shall be housed in an approved waterproof cabinet mounted to external wall of residence.

Clotheslines: Contractor shall allow for all necessary labour and materials and shall install clotheslines to positions as indicated on plan to manufacturer's instructions to approval of Landscape Architect. Clothesline type shall be equal to 'Hills Foldaline'.

Completion: Prior to practical completion remove from site all unwanted debris occurring from work. Satisfy Council that all landscaping work has been undertaken in strict accordance with Councils landscape codes & guidelines.



REVISION	DATE	AMMENDMENT	DRAWN	NORTH	Client: VAN DER MERVE	Title: LANDSCAPE SPECIFICATIONS	Scale: N/A	Sheet: A3	<b>PROPOSED DWELLING</b>  <b>Aspect Designs</b> Studio 103 84 Alexander St, Crows Nest NSW 2065 0418 658 973 joel@aspectdesigns.com.au
					Site Address: 22 BIRRONG AVE BELROSE	Date 23.05.23	Sheet No: L/02	Rev:	
						Drawing Status: DA	Project Number: 230515		

1. DO NOT SCALE DRAWINGS WRITTEN DIMENSIONS TAKE PRECEDENCE  
2. ALL DIMENSION TO BE VERIFIED ON SITE PRIOR TO PROCEEDING WITH THE WORK. ASPECT DESIGNS ARE TO BE NOTIFIED IN WRITING OF ANY DISCREPANCIES  
3. THIS DRAWING MUST BE READ IN CONIUNCTION WITH ALL RELEVANT CONTRACTS, REPORTS, SPECIFICATIONIONS  
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# BASIX®Certificate

Building Sustainability Index [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)




## Single Dwelling

Certificate number: 1405175S

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

Secretary  
Date of issue: Friday, 07 July 2023  
To be valid, this certificate must be lodged within 3 months of the date of issue.



Project summary		
Project name	DWELLING @ 38 RUSSELL ST. VAUCLUSE	
Street address	38 RUSSELL Street VAUCLUSE 2030	
Local Government Area	Woollahra Municipal Council	
Plan type and plan number	deposited 553294	
Lot no.	1	
Section no.	-	
Project type	separate dwelling house	
No. of bedrooms	5	
Project score		
Water	 40	Target 40
Thermal Comfort	 Pass	Target Pass
Energy	 56	Target 50

Certificate Prepared by
Name / Company Name: Outsource Ideas (ss)
ABN (if applicable): 12130092661

## Description of project

Project address	
Project name	DWELLING @ 38 RUSSELL ST. VAUCLUSE
Street address	38 RUSSELL Street VAUCLUSE 2030
Local Government Area	Woollahra Municipal Council
Plan type and plan number	Deposited Plan 553294
Lot no.	1
Section no.	-
Project type	
Project type	separate dwelling house
No. of bedrooms	5
Site details	
Site area (m²)	458
Roof area (m²)	259
Conditioned floor area (m2)	300.0
Unconditioned floor area (m2)	0.0
Total area of garden and lawn (m2)	60

Assessor details and thermal loads		
Assessor number	10194	
Certificate number	0006180266	
Climate zone	56	
Area adjusted cooling load (MJ/m².year)	26	
Area adjusted heating load (MJ/m².year)	40	
Ceiling fan in at least one bedroom	No	
Ceiling fan in at least one living room or other conditioned area	No	
Project score		
Water	✔ 40	Target 40
Thermal Comfort	✔ Pass	Target Pass
Energy	✔ 56	Target 50

## Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

Water Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
<b>Fixtures</b>			
The applicant must install showerheads with a minimum rating of 4 star (> 4.5 but <= 6 L/min plus spray force and/or coverage tests) in all showers in the development.		✓	✓
The applicant must install a toilet flushing system with a minimum rating of 4 star in each toilet in the development.		✓	✓
The applicant must install taps with a minimum rating of 5 star in the kitchen in the development.		✓	
The applicant must install basin taps with a minimum rating of 5 star in each bathroom in the development.		✓	
<b>Alternative water</b>			
<b>Rainwater tank</b>			
The applicant must install a rainwater tank of at least 2000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.	✓	✓	✓
The applicant must configure the rainwater tank to collect rain runoff from at least 90 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).		✓	✓
The applicant must connect the rainwater tank to: <ul style="list-style-type: none"> <li>all toilets in the development</li> <li>at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)</li> </ul>		✓ ✓	✓ ✓
<b>Swimming pool</b>			
The swimming pool must not have a volume greater than 39 kilolitres.	✓	✓	
The swimming pool must have a pool cover.		✓	
The swimming pool must be outdoors.	✓	✓	






Water Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
<b>Outdoor Spa</b>			
The spa must not have a volume greater than 3.5 kilolitres.	✓	✓	
The spa must have a spa cover.		✓	

Thermal Comfort Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
<b>Simulation Method</b>			
The applicant must attach the certificate referred to under "Assessor Details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for an occupation certificate for the proposed development.			
The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX certificate, including the Cooling and Heating loads shown on the front page of this certificate.			
The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Assessor Certificate requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor to certify that this is the case. The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.	✓	✓	✓
The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
The applicant must construct the floors and walls of the dwelling in accordance with the specifications listed in the table below.	✓	✓	✓

Floor and wall construction	Area
floor - concrete slab on ground	All or part of floor area square metres
floor - suspended floor above garage	All or part of floor area

Energy Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
<b>Hot water</b>			
The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 6 stars.	✓	✓	✓
<b>Cooling system</b>			
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 3 star (average zone)		✓	✓
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: 3 star (average zone)		✓	✓
The cooling system must provide for day/night zoning between living areas and bedrooms.		✓	✓
<b>Heating system</b>			
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 3 star (average zone)		✓	✓
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: 3 star (average zone)		✓	✓
The heating system must provide for day/night zoning between living areas and bedrooms.		✓	✓
<b>Ventilation</b>			
The applicant must install the following exhaust systems in the development:			
At least 1 Bathroom: individual fan, ducted to façade or roof; Operation control: manual switch on/off		✓	✓
Kitchen: individual fan, ducted to façade or roof; Operation control: manual switch on/off		✓	✓
Laundry: individual fan, ducted to façade or roof; Operation control: manual switch on/off		✓	✓
<b>Artificial lighting</b>			
The applicant must ensure that the "primary type of artificial lighting" is fluorescent or light emitting diode (LED) lighting in each of the following rooms, and where the word "dedicated" appears, the fittings for those lights must only be capable of accepting fluorescent or light emitting diode (LED) lamps:			
• at least 5 of the bedrooms / study; dedicated		✓	✓

Energy Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
<ul style="list-style-type: none"> <li>at least 3 of the living / dining rooms; dedicated</li> <li>the kitchen; dedicated</li> <li>all bathrooms/toilets; dedicated</li> <li>the laundry; dedicated</li> <li>all hallways; dedicated</li> </ul>		<div>✓</div> <div>✓</div> <div>✓</div> <div>✓</div> <div>✓</div>	<div>✓</div> <div>✓</div> <div>✓</div> <div>✓</div> <div>✓</div>
<b>Natural lighting</b>			
The applicant must install a window and/or skylight in 1 bathroom(s)/toilet(s) in the development for natural lighting.	✓	✓	✓
<b>Swimming pool</b>			
The development must not incorporate any heating system for the swimming pool.		✓	
The applicant must install a timer for the swimming pool pump in the development.		✓	
<b>Outdoor spa</b>			
The development must not incorporate any heating system for the spa.		✓	
The applicant must install a timer for the spa pump in the development.		✓	
<b>Alternative energy</b>			
The applicant must install a photovoltaic system with the capacity to generate at least 1.5 peak kilowatts of electricity as part of the development. The applicant must connect this system to the development's electrical system.	✓	✓	✓
<b>Other</b>			
The applicant must install a gas cooktop & electric oven in the kitchen of the dwelling.		✓	
The applicant must install a fixed outdoor clothes drying line as part of the development.		✓	

Legend
In these commitments, "applicant" means the person carrying out the development.
Commitments identified with a  in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
Commitments identified with a  in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
Commitments identified with a  in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate(either interim or final) for the development may be issued.