



# Woollahra Local Planning Panel (Public Meeting)

Thursday 19 September 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.

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

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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*.

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### Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

### Quorum:

3 Panel members



# Woollahra Municipal Council

## Notice of Meeting

11 September 2024

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

Dear Panel Members,

### Woollahra Local Planning Panel (Public Meeting) – 19 September 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 19 September 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

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2	Acknowledgement of Country (Gadigal People and Birrabirragal People)	
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Items to be Decided by the Panel

D1	Planning Proposal - Amendment to the heritage listing for 83 Fitzwilliam Road, Vaucluse - 24/154962 .....7 <b>*See Recommendation Page 7</b>
D2	DA226/2023/1 - 11A Burrabirra Avenue Vaucluse - 24/162651 .....127 <b>*See Recommendation Page 151</b>



<b>Item No:</b>	D1
<b>Subject:</b>	<b>PLANNING PROPOSAL - AMENDMENT TO THE HERITAGE LISTING FOR 83 FITZWILLIAM ROAD, VAUCLUSE</b>
<b>Authors:</b>	Eleanor Banaag, Senior Strategic Heritage Officer Kristy Wellfare, Team Leader Heritage
<b>Approver:</b>	Anne White, Manager Strategic Planning & Place
<b>File No:</b>	24/154962
<b>Purpose of the Report:</b>	To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to amend the local heritage listing for item I357 "Remains of Vacluse Point ferry wharf" at 83 Fitzwilliam Road, Vacluse to include the dwelling on the site.
<b>Alignment to Delivery Program:</b>	Strategy 4.2: Conserving our rich and diverse heritage.

### **Recommendation:**

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to include the dwelling at 83 Fitzwilliam Road, Vacluse (LOT: 100 DP: 1304245) on the existing listing for I357 "Remains of Vacluse Point ferry wharf", in Schedule 5 of the Woollahra Environmental Plan 2014.

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### **Executive Summary:**

The purpose of this report is to seek the advice of the Woollahra Local Planning Panel (Woollahra LPP) on listing the dwelling at 83 Fitzwilliam Road, Vacluse (LOT: 100 DP: 1304245) as part of an existing local heritage item (item I357, "Remains of Vacluse Point ferry wharf") in Schedule 5 of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014):

We recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 1**.

### **Discussion:**

#### Reason for report to the Woollahra Local Planning Panel

On 27 September 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

1. A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:
  - a) the correction of an obvious error in a local environmental plan
  - b) matters that are of a consequential, transitional, machinery or other minor nature, or
  - c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.
2. When a planning proposal is referred to the panel, it must be accompanied by an assessment report prepared by council staff setting out recommendations, including whether or not the planning proposal should proceed.
3. A proposal is to be referred to the local planning panel before it is forwarded to the Minister under section 3.34 of the Environmental Planning and Assessment Act 1979 (the Act).

In this case, the planning proposal is required to be referred to the Woollahra LPP because the General Manager has not made a determination in regard to items 1 (a), (b) or (c), above.

### The subject site

The subject site is 83 Fitzwilliam Road, Vaucluse. It is legally identified as the following lots:

- Lots 1 and 2, DP 346850;
- Lots 1, 2 and 3, DP 430595;
- Lot 100, DP 1304245 – Note that this allotment contains the dwelling, and is a consolidation of Lot 1, DP 1109931 and Lot 1, DP 188299 registered 27 May 2024).

The dwelling on the site is colloquially known as “Point Seymour” and historically was constructed as a Victorian style terrace shop in 1916 until it was extended and modified into a dwelling in the interwar cruiseliner (P&O) style in the 1930s.

The subject site is located at the northern end of Vaucluse Point, at the tip of Fitzwilliam Road, which ends at a cul-de-sac at 83 Fitzwilliam Road. From the street, there is a long driveway behind a private entrance gate through the site, wrapping around the western side of the dwelling towards the landscaped waterfront garden area.

The dwelling on the site is a landmark in the local area due to its eye-catching stark white curved form located at the tip of Vaucluse Point. At this position, the dwelling is visible from many other vantage points in the harbour including the popular Parsley Bay, Watsons Bay and Green Point Reserve. The dwelling is a two-storey rendered brick structure with a distinctive trefoil curved façade containing deep verandahs that face the harbour. At the rear of the structure is a taller, vertical tower element containing the entry door and stairwell. The verticality of this element is accentuated with vertical geometric glass brick windows.

The surrounding area is characterised by large single dwellings from the early twentieth century to the present day, on substantial lots. Parsley Bay Reserve and Beach are located to the east of Fitzwilliam Road, with clear views to the site throughout Parsley Bay Reserve, from the beach, the public boat ramp and from the heritage-listed footbridge that traverses the Bay.



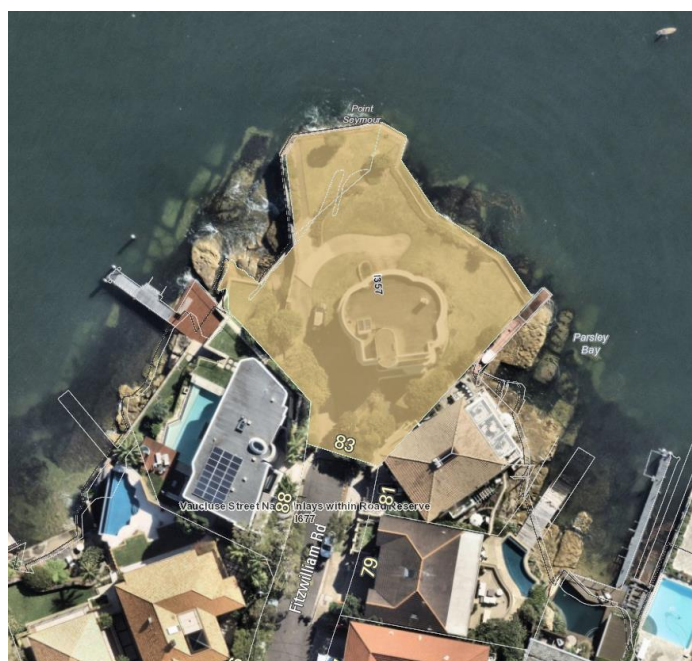
**Figure 1: Current cadastral map, with 83 Fitzwilliam Road, Vaucluse (highlighted red). (Source: Woollahra MAPS, 2024)**



**Figure 2: Aerial photo of 83 Fitzwilliam Road, Vacluse as at 7 April 2024. LOT: 100 DP: 1304245 (highlighted in blue) is the lot containing the dwelling (Source: Woollahra MAPS, 2024)**

#### Existing heritage status

Lots comprising 83 Fitzwilliam Road are listed on the Woollahra LEP 2014 as Item I357, “Remains of Vacluse Point ferry wharf”. While the entirety of the site is mapped as a heritage item, it was interpreted by Council staff that the “item” as a distinct element of significance, is limited to the ferry wharf remnants and excluded the extant dwelling on the site. A heritage study undertaken on the dwelling by Lisa Trueman Heritage Advisor was received by Council in February 2024. The study identified the potential significance of the dwelling, and that the current heritage listing being limited to the wharf remains may not appropriately cover all elements of significance on the site.



**Figure 3: Aerial photo of 83 Fitzwilliam Road, Vacluse. LOT: 100 DP: 1304245 is highlighted in brown, indicating heritage listing and number, I357 (Source: Woollahra MAPS, 2024)**



### Interim Heritage Order (IHO)

On 10 June 2023, a Complying Development Certificate (CD 2024/64/1) (CDC) was issued for internal and external alterations to the dwelling at 83 Fitzwilliam Road, Vaucluse. The CDC was informed by a heritage report commissioned by the owner whose findings were that the dwelling had lost any association with the historic ferry wharf onsite, and despite having landmark qualities did not meet the criteria for individual heritage listing.

Council's heritage officers undertook a preliminary heritage assessment with regards to the building only. The staff assessment was prepared consistent with the NSW Department of Planning and Environment's guidelines, *Assessing heritage significance: Guidelines for assessing places and objects against the Heritage Council of NSW Criteria (2023)*. It concluded that the dwelling at 83 Fitzwilliam Road was likely to have heritage significance and meet the threshold for local heritage listing. Council's heritage officers considered that the scope of work in the CDC posed a risk to the potential significance of the dwelling. For these reasons, Council used its delegation under Section 25 of the *Heritage Act 1977* to make an Interim Heritage Order (IHO) to protect the potential heritage item from harm and allow Council to undertake a formal heritage assessment for the dwelling.

In accordance with the Ministerial Order authorising local councils to make Interim Heritage Orders published in the NSW Gazette on 12 July 2013, an IHO can be made if, among other things, the following pre-conditions are in place:

*“(1)(b) it has considered a preliminary heritage assessment of the item prepared by a person with appropriate heritage knowledge, skills and experience employed or retained by the Council and considers that:*

- (i) The item is or is likely to be found, on further inquiry and investigation, to be of local heritage significance;*
- (ii) The item is being or is likely to be harmed;*
- (iii) The IHO is confined to the item determined to be under threat.”*

The Order also specifically states in Schedule 2 (2) that “A council must not make an IHO where: (a) the item is listed on: (i) an environmental planning instrument as an item of environmental heritage”. Council sought legal advice regarding whether the existing heritage listing on the site included the dwelling house the subject of the CDC and thus precluded Council from exercising the power to make an IHO on the site. The legal advice received from Council's solicitors indicated that Council was empowered to issue an IHO on the dwelling due to the listing not specifically including the dwelling house in its description.

The Director of Planning & Place authorised the making of an IHO (IHO No. 11) and this was published in the NSW Government Gazette, 28 June 2024. The IHO is currently the subject of Class 1 appeal proceedings in the Land and Environment Court.

Subject to the outcome of the Class 1 appeal, the IHO will remain in place for an initial period of six months which gives Council the opportunity to fully assess the heritage significance of the building and identify whether the building should be listed as a State and/or local heritage item. If within these six months Council resolves to proceed with the listing of the item, the order remains in place for an additional six months.

### Assessment of Significance

In July 2024, Council staff engaged GML Heritage to undertake a further independent heritage assessment of the dwelling using the Heritage NSW significance assessment guidelines and criteria. Rebecca Hawcroft at GML Heritage is a well-known expert in the interwar and modern movement periods and has published widely on heritage and architectural history. She is the current deputy editor of *Historic Environment*, the academic journal of Australia ICOMOS.

As part of the heritage assessment, GML and Council's Senior Strategic Heritage Officer attended the site for an internal site inspection on 30 July 2024.

The property was assessed against the seven criteria in the guidelines (see **Table 1** below). Each criterion includes 'significance indicator' and 'significance threshold' guidelines, which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance.

**Table 1: NSW Heritage assessment criteria summary**

Criteria		
(a)	Historic significance	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)
(b)	Historical association	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)
(c)	Aesthetic/creative/technical achievement	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)
(d)	Social, cultural and spiritual significance	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons
(e)	Research potential	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)
(f)	Rare	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)
(g)	Representative	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> <li>• cultural or natural places; or</li> <li>• cultural or natural environments.</li> <li>• or a class of the local area's</li> <li>• cultural or natural places; or</li> <li>• cultural or natural environments.</li> </ul>

GML provided Council with a heritage assessment in September 2024 (**Attachment 2**), which concluded that the dwelling at 83 Fitzwilliam Road Vacluse, also known as "Point Seymour", notwithstanding the work that had been approved as part of the CDC, meets the threshold of significance at local level under five of the seven criteria as outlined below:

- Criterion A (historic significance)
  - Demonstrates an important period in the history of Woollahra including the subdivision of the Vacluse Estate and the development of a ferry service.
  - Associated with important broader historical phases including the development of maritime transport within Sydney Harbour and the expansion of visitors to Parsley Bay and the local area.
- Criterion C (aesthetic significance) and Criterion D (social significance)
  - Recognised as a landmark – highly regarded and recognised as a key landmark in the physical environment due to its prominent siting, setting, landscaping and design; and
  - Important as a place of symbolic meaning and community identity.
- Criterion E (research potential) – the subject site has research potential in that it:
  - Is part of a group of significant sites associated with nineteenth and twentieth century water-based transport and recreation on Sydney Harbour and is able to yield information about this group as a whole.

- Criterion G (Representative)—The subject site is a good representative example of:
  - A former harbour ferry wharf that can be seen as a cultural landscape reflecting the late nineteenth and early twentieth century history of harbour based transport in the area and the wider network of similar former ferry wharf sites including tea rooms and associated facilities.
  - Functionalist architecture within the Woollahra LGA, of which few examples are heritage listed.

The Heritage Assessment Report recommends that the details for heritage item I357 as per the *Woollahra LEP 2014* Schedule 5 should be updated to include the dwelling, in order to reflect the significance of the site overall. As an administrative task, and subject to endorsement, Council staff will update the existing heritage inventory sheet for the local heritage item (I357) to include the information in the Heritage Assessment Report, including an assessment against all criteria.

### Planning Proposal

Consistent with the recommendations of the Heritage Assessment report, a planning proposal has been prepared that details an amendment to the existing listing for item I357 “Remains of Vacluse Point ferry wharf” at 83 Fitzwilliam Road, Vacluse in the *Woollahra LEP 2014*.

The amendment will involve two changes to heritage item I357 on the *Woollahra LEP 2014 Schedule 5 Part 1*. It proposes to change the item name to “Vacluse Point Ferry Wharf – remnants of wharf, and dwelling/former shop and landscape elements”. It also proposes to update the Property Description with the correct Lot and DPs following the consolidation of lots on 27 May 2024.

The *Woollahra LEP 2014* Heritage Map (HER\_004) currently encompasses the dwelling within its mapped curtilage. Therefore, there are no proposed changes in the Planning Proposal on the Heritage Map.

The proposed amendments are shown below:

<b>I357</b>	<b>Existing details</b>	<b>Proposed amendments</b>
<b>Item Name</b>	“Remains of Vacluse Point ferry wharf”	“Vacluse Point Ferry Wharf – remnants of wharf, and dwelling/former shop and landscape elements”
<b>Property description</b>	Lots 1, 2 and 3, DP 430595; Lots 1 and 2, DP 346850; Lot 1, DP 188299; Lot 1, DP 1109931	Lots 1, 2 and 3, DP 430595; Lots 1 and 2, DP 346850; LOT 100, DP 1304245

The planning proposal has been prepared in accordance with section 3.33 of the *NSW Environment Planning and Assessment Act 1979* and the document prepared by the NSW Department of Planning and Environment titled *Local Environmental Plan Making* (December 2021).

The planning proposal (at **Attachment 1**) satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to *Woollahra LEP 2014*.
- An explanation of the provisions that are to be included in the amendment to *Woollahra LEP 2014*.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

### Objective of the planning proposal

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of dwelling at 83 Fitzwilliam Road, Vacluse, through including details of the dwelling, and corrected Lot and DP, on the existing listing for Item I357.

There would be no changes to the address, or significance level as the existing details continue to be relevant and accurate.

Heritage listing aims to provide the ongoing protection and recognition of the heritage significance of various elements across the whole site.

### Relationship to strategic planning framework

The planning proposal has strategic and site specific merit. The planning proposal is consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018).

The planning proposal is consistent with the Council's Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*. Notably, the planning proposal meets the following strategy within Goal 4 (Well-planned neighbourhood) under the theme Quality places and spaces:

- *4.3 Protect local heritage, including significant architecture and the natural environment.*

The planning proposal is also consistent with the Woollahra Local Strategic Planning Statement (approved by Council on 24 February 2020). In particular, the planning proposal is consistent with Planning Priority 5 under the theme of Liveability:

- *Planning Priority 5 Conserving our rich and diverse heritage.*

The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State environmental planning policies and applicable section 9.1 directions.

### **Options:**

As a consequence of this report, the Woollahra LPP may provide advice to Council to proceed with a planning proposal to amend the existing listing on the Woollahra LEP 2014, Schedule 5, Part 1, Item I357.

Alternatively, the Woollahra LPP may provide advice not to support the preparation of a planning proposal or recommend staff make amendments.

### **Community Engagement and / or Internal Consultation:**

On Friday 28 June 2024, on the day of the gazettal of the IHO, Council staff delivered a letter to 83 Fitzwilliam Road, Vacluse, addressed to the registered owner of the property, informing them that an IHO was published in the NSW Government Gazette, including a copy of the gazette notification. Subsequent to this, the same letter was handed to a representative of the owner at a site visit on Monday 1 July 2024.

No other community engagement has been undertaken to date. Public exhibition of the planning proposal will be undertaken in due course and in accordance with the Gateway Determination conditions and the *NSW Environment Planning and Assessment Act 1979*.

### **Policy Implications:**

Should Council resolve to progress a planning proposal (having considered the advice of the Woollahra LPP), and should the planning proposal progress to finalisation, there will be policy implications by making amendments to the existing heritage listing for the property to include the dwelling on the site.

### **Financial Implications:**

As the assessment has been prepared by an independent external consultant, there are financial implications. However, these are considered appropriate considering the specialist nature of the heritage assessment required.

### **Resourcing Implications:**

Should Council resolve to progress a planning proposal staff resources will be associated with progressing the matter including managing the public exhibition process and preparing a post exhibition report to a meeting of Council.

### **Conclusion:**

This report seeks the advice of the Woollahra LPP on a planning proposal to make amendments to the existing listing for “Remains of Vacluse Point Ferry Wharf”, Item I357 on the Woollahra LEP 2014. The amendment would involve renaming the heritage item to “Vacluse Point Ferry Wharf – remnants of wharf, and dwelling/former shop and landscape elements”, and updating the property description with the correct Lot and DPs following the consolidation of lots containing the dwelling. Council staff recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 1**.

### **Attachments**

1. Planning Proposal - Local Heritage Listing - 83 Fitzwilliam Road, Vacluse - September 2024 [!\[\]\(c44db1e92ba1244b2894d325c806ff8a\_img.jpg\) !\[\]\(013e914f6af0e7d8e9ce37222ef64968\_img.jpg\)](#)
2. 'Point Seymour', 83 Fitzwilliam Road Vacluse, Draft Heritage Assessment Report - September 2024 [!\[\]\(5047bf073d06e2a80c3167582fefe8a7\_img.jpg\) !\[\]\(cb77622ed6951a491897bd7f5437bfb3\_img.jpg\)](#)



# Local Heritage Listing: 83 Fitzwilliam Road, Vaucluse



Version Date:	September 2024
Division/Department:	Strategic Planning
Responsible Officer:	Eleanor Banaag – Senior Strategic Heritage Officer
HPE CM Record Number:	24/161620

**Acknowledgement of Country**

*Woollahra Council acknowledges the Gadigal and Birrabirragal people, the traditional custodians of the land of Woollahra. We would like to acknowledge Aboriginal or Torres Strait Islander people and pay our respects to Elders past, present and emerging.*

**Cover Photo:** 83 Fitzwilliam Road, Vaucluse. Source: Woollahra Council



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**Supporting documents (circulated separately)**

- **Heritage Assessment: Point Seymour, 83 Fitzwilliam Road Vaucluse (September 2024)**

## 1. Introduction

### 1.1. Summary

This planning proposal seeks to amend the details of heritage item I357, at 83 Fitzwilliam Road Vacluse, listed on the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), Schedule 5, Part 1 (Environmental heritage) to include the dwelling on the site in the heritage listing.

The site at 83 Fitzwilliam Road Vacluse is currently affected by a local heritage listing, item I357, “Remains of the Vacluse Point Ferry Wharf”. Following a heritage assessment that identified that the dwelling on the site has heritage significance for its historical, aesthetic, social, research potential, and rarity values, Council proposes to amend the listing for the ferry wharf to explicitly include the existing dwelling on the site. The proposed amendment will involve a name change to the heritage item to “Vacluse Point Ferry Wharf” – remnants of wharf, dwelling/former shop, and landscape elements”.

### 1.2. Background

The heritage item on the site of 83 Fitzwilliam Road is of local significance and is described in the State Heritage Inventory as follows:

*“A rectangular projection of the waterfront retained by a large stone seawall. As access is through private property, a detailed inspection was not possible. There are hedges and ornamental plants on the surface of the reclaimed land. Deviation from style.”*

While the entirety of the site is mapped as a heritage item, it was interpreted that the heritage “item”, as a distinct element of significance, is limited to the ferry wharf remnants and excluded the extant dwelling on the site. Previous studies undertaken on the dwelling had identified the potential significance of the dwelling, and that the current heritage listing limited to the wharf remains may not have covered all elements of significance on the site, such as the dwelling.

On 10 June 2024, a Complying Development Certificate (CD 2024/64/1) (CDC) was issued for internal and external alterations to the dwelling at 83 Fitzwilliam Road, Vacluse. The CDC was informed by a heritage report commissioned by the owner whose findings were that the dwelling had lost any association with the historic ferry wharf onsite, and despite having landmark qualities, the dwelling did not meet the criteria for individual heritage listing.

Council’s heritage officers undertook a preliminary heritage assessment with regards to the building only. Our assessment used the NSW Department of Planning and Environment’s guidelines, *Assessing heritage significance: Guidelines for assessing places and objects against the Heritage Council of NSW Criteria (2023)*. It concluded that the dwelling at 83 Fitzwilliam Road was likely to have heritage significance and meet the threshold for local heritage listing. Council’s heritage officers considered that the scope of demolition in the CDC posed a risk to the potential significance of the dwelling. For these reasons, Council used its delegation under Section 25 of the *Heritage Act 1977* to make an Interim Heritage Order (IHO) to protect the potential heritage item from harm and allow Council to undertake a formal heritage assessment for the dwelling.

The Director of Planning & Place authorised the making of the IHO. The IHO was issued under section 25 of the Heritage Act 1977 (IHO No. 11) and was published in the NSW Government Gazette of 28 June 2024.

The IHO will remain in place for an initial period of six months giving Council the opportunity to fully assess the heritage significance of the building and identify whether the building should be listed as a State and/or local heritage item. If, within these six months, Council resolves to proceed with the listing of the item, the order remains in place for an additional six months.

### 1.3. Heritage Assessment

GML Heritage were engaged to carry out an assessment of heritage significance of the dwelling at 83 Fitzwilliam Road, Vaucluse in July 2024.

The assessment of heritage significance was undertaken in accordance with Environment and Heritage Group, Department of Planning and Environment publications *Assessing heritage significance* (2023) and *Investigating heritage significance* (2021). There are seven criteria used in the process of assessing heritage significance (see Table 1):

**Table 1: NSW Heritage assessment criteria summary**

Criteria		
(a)	Historic significance	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)
(b)	Historical association	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)
(c)	Aesthetic/creative/technical achievement	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)
(d)	Social, cultural and spiritual significance	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons
(e)	Research potential	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)
(f)	Rare	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)
(g)	Representative	<div>An item is important in demonstrating the principal characteristics of a class of NSW's<ul style="list-style-type: none"><li>• cultural or natural places; or</li><li>• cultural or natural environments.</li><li>• or a class of the local area's</li><li>• cultural or natural places; or</li><li>• cultural or natural environments.</li></ul></div>

Each criterion has guidelines for examples, indicators and thresholds to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance.

The assessment concluded that in addition to the remains of the former Parsley Bay Ferry Wharf being of local significance, the dwelling on the site is associated with the historical significance of the wharf and therefore the existing heritage listing should be amended to reflect all structures on the site, including the dwelling.

Accordingly, it is recommended that heritage item I357, currently listed on the *Woollahra LEP 2014 Schedule 5*, is amended on the schedule in name, and the property description is corrected to reflect the current Lots and DPs that legally identify the site.

**1.3.1. Assessment of Significance – 83 Fitzwilliam Road, Vaucluse**

Below is a summary of the assessment of significance, and the Statement of Significance for the site.

Assessment of Significance against the Criteria	
Historical significance Criterion (a)	<p>The subject property, as the site of the former Parsley Bay Wharf, is important in demonstrating the historical development of the local area. The ferry service was historically significant to the local area and was a key part of the early settlement and subdivision of the Vaucluse Estate. The subject property was used for over 30 years, by local residents, day-trippers visiting the local area and played a significant role as a civic and community facility.</p> <p>Remains of this historical function are evidenced at the site in the below water remains of the 1903 and 1915 wharves (demolished), extant reclaimed land, sandstone retaining walls and sea walls, the pathway to the jetty, the site layout and landscaping and the extant dwelling which converted and expanded the original 1916 building. The current structure, including the integration of the shop and refreshment rooms into the dwelling house, reflects these historical uses in its remaining layout and external appearance.</p> <p>Together, the site's structures/landscape elements can be seen to have historic significance as a cultural landscape that demonstrates an important phase in the history of the local area.</p> <p><b><i>No. 83 Fitzwilliam Road has cultural significance at the local level under this criterion.</i></b></p>

Assessment of Significance against the Criteria	
<b>Historical association</b> Criterion (b)	<p>Although members of the Bracey family maintained residence at Point Seymour for over 80 years and commissioned the alteration of the shop and residence into the current dwelling, they are not considered to have made an important or notable contribution to the Woollahra local government area. They are, however, significant figures within the context of Lithgow. This historical association and significance is better reflected in the current heritage listings of their houses designed by Spain, Cosh and Dods in Lithgow (I263 and I264, Lithgow LEP 2014).</p> <p>The subject site has historical associations with Oliver Harley, who designed the 1916 shop and residence building and George Thomas who converted it into the extant dwelling in 1939. Both Harley and Thomas are not considered as significant figures nor have they made significant contributions to the local area.</p> <p><b><i>No. 83 Fitzwilliam Road does not have cultural significance at the local level under this criterion.</i></b></p>
<b>Aesthetic/creative/technical achievement</b> Criterion (c)	<p>The site can be seen to have landmark presence and distinctive aesthetic characteristics. The Parsley Bay Wharf period resulted in a distinctive arrangement of elements, reclaimed land, sea walls, connecting paths and structure, located on the prominent peninsula site, that remain largely intact and able to be appreciated.</p> <p>The house, which expanded and remodelled the 1916 shop, also demonstrates aesthetic attributes in form and composition. Its distinctive Functionalist/ P&amp;O style design demonstrates architectural innovation of this period including the strong architectural character of the external form, flat roof, use of glass bricks and curved dining room. The house at 83 Fitzwilliam Road can be seen to demonstrate characteristics of Functionalist/ P&amp;O style architecture still rare at its time of construction.</p> <p>Its design, in responding to its location with use of nautical references, has been celebrated in popular culture with its inclusion in media articles and surveys of Art Deco architecture. The aesthetic characteristics of the site, a peninsula with sandstone walled foreshore, flat lawns and prominent three level Functionalist P&amp;O style house on the harbour foreshore, can be seen to make an important streetscape contribution (from land and water) and to have distinctive aesthetic characteristics that are well recognised by the community.</p> <p><b><i>No. 83 Fitzwilliam Road has cultural significance at the local level under this criterion.</i></b></p>

Assessment of Significance against the Criteria	
<b>Social, cultural and spiritual significance</b> Criterion (d)	<p>The subject site is a local landmark (known colloquially as 'Wedding Cake House') within the Woollahra LGA. Its prominent siting and distinctive design and form is highly visible from the public domain, on both land and from the water, and contributes to the local area's character.</p> <p>The site retains the appearance of the period when it was a public ferry wharf and shop/refreshment room and is likely to be important in contributing to the local community's sense of identity because of its ability to demonstrate an important aspect of the area's local history.</p> <p>It is noted that a right of way has historically run through the property for public access to the wharves.</p> <p><b><i>No. 83 Fitzwilliam Road is likely to meet the threshold for heritage listing under this criterion</i></b></p>
<b>Research potential</b> Criterion (e)	<p>The archaeological significance of this site has not been assessed in this report. The significance relating to the remains of the ferry wharf is already established and reflected in the existing heritage listing and is likely to include areas of maritime archaeological significance.</p> <p>The site is part of a group of significant sites associated with nineteenth and twentieth century water-based transport and recreation on Sydney Harbour. The remnant elements from this period are considered important for their ability to yield information about this group as a whole. The site is also considered able to demonstrate a significant period in the development of Vaucluse and the Woollahra LGA more generally that would contribute to an understanding of the history of the place, in particular the settlement patterns, transport networks and past provision of local services.</p> <p><b><i>No. 83 Fitzwilliam Road has cultural significance under at the local level under this criterion</i></b></p>
<b>Rarity</b> Criterion (f)	<p>The site's period of use as the Parsley Bay Wharf is considered important as part of a wider network of other similar water-based transport across Sydney Harbour and is hence not rare.</p> <p>The 1939 house is identified in the comparative analysis as sharing qualities with other houses of this style in the period and is not considered rare.</p> <p><b><i>No. 83 Fitzwilliam Road does not have cultural significance at the local level under this criterion.</i></b></p>



Assessment of Significance against the Criteria	
<b>Representativeness</b> Criterion (g)	<p>The subject site is a good representative example of a former harbour ferry wharf and provides evidence of its former use and importance as part of the Sydney ferry network. It is also able to demonstrate these former uses in the range of structures and landscaping that remain on the site, including wharf remains, reclaimed land/sea walls, paths, and former shop and tearoom. The entire site can be seen as a cultural landscape reflecting the late nineteenth and early twentieth century history of harbour based transport in the area and as representative of a wider network of similar sites.</p> <p>The house at 83 Fitzwilliam Road, dating from 1916 with later extensive additions in 1939, is considered to be a good representative example of Functionalist architecture within the Woollahra LGA, of which few examples are heritage listed.</p> <p><b>No. 83 Fitzwilliam Road has cultural significance at the local level under this criterion.</b></p>

#### 1.4. Statement of Heritage Significance

Below is the updated Statement of Significance for the subject site. The heritage assessment is separately attached to this planning proposal, see *Point Seymour 83 Fitzwilliam Road, Vacluse Heritage Assessment Report* (September 2024).

##### 1.4.1. Statement of Significance – “Vacluse Point Ferry Wharf” – remnants of wharf, dwelling/former shop, and landscape elements.

*The former Vacluse Point Ferry Wharf at 83 Fitzwilliam Road, Vacluse, also known as Point Seymour and the former Parsley Bay Wharf, has historic significance as a key component in the settlement of Vacluse and due to its use for over 30 years by local residents and day-trippers as a transport hub and community facility. Together the site’s layout, structures and landscaping can be seen as a cultural landscape that demonstrates an important phase in the history of the local area.*

*The site is of aesthetic significance for its landmark presence and distinctive arrangement of elements, reclaimed land, sea walls, connecting paths and structure, located on the prominent peninsula site, that remain largely intact and able to be appreciated. The 1939 house, which expanded and remodelled the 1916 shop, also demonstrates aesthetic attributes in form and composition. Its distinctive Functionalist/ P&O style design demonstrates architectural innovation of this period including the strong architectural character of the external form, flat roof, use of glass bricks and curved dining room.*

*The aesthetic characteristics of the site, a peninsula with sandstone walled foreshore, flat lawns and prominent three level Inter-war Functionalist P&O style house on the harbour foreshore, make an important streetscape contribution (from land and water) and have distinctive aesthetic characteristics that are well recognised by the community.*

*The site has representative significance as part of a group of significant sites associated with water-based transport and recreation on Sydney Harbour. The remnant elements from this*

*period are considered important for their ability to yield information about this group as a whole. The site is also considered able to demonstrate a significant period in the development of Vaucluse and the Woollahra LGA more generally that would contribute to an understanding of the history of the place, in particular the settlement patterns, transport networks and past provision of local services.*

#### **1.5. Description of this planning proposal**

The objective of this planning proposal is to amend the existing local heritage listing on the Woollahra LEP 2014 for item I357, "Remains of Vaucluse Point ferry wharf", to "Vaucluse Point Ferry Wharf – remnants of wharf, dwelling/former shop, and landscape elements". Amending the heritage listing to include the dwelling will ensure recognition of its significance as part of the site overall, as well as provide statutory protection through ensuring that any future development proposals on the site, including the dwelling, will be assessed against the heritage provisions of the Woollahra LEP 2014.

This planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the NSW Department of Planning and Environment supporting document, *Local Environmental Plan Making Guideline* (August 2023).

## 2. Existing site and surrounding context

### 83 Fitzwilliam Road, Vaucluse

The site at 83 Fitzwilliam Road, Vaucluse is legally identified by the following lots:

- Lots 1 and 2, DP: 346850
- Lots 1, 2 and 3, DP: 430595
- Lot: 100 DP: 1304245

The site is listed on the Woollahra LEP 2014 Schedule 5 as item I357 "Remains of Vaucluse Point ferry wharf". The property description according to the Schedule lists the following lots:

- Lots 1 and 2, DP: 346850
- Lots 1, 2 and 3, DP: 430595
- Lot 1, DP 1109931, and
- Lot 1, DP 188299

The latter two allotments were consolidated in May 2024 into Lot 100 DP 1304245.

#### 2.1. Site Description

The site is located at the northern extent of Fitzwilliam Road, Vaucluse. The site is positioned at the tip of a peninsula of land between Vaucluse Bay to the west and Parsley Bay to the east. The prominent position of the site offers expansive views of Watsons Bay and the outer harbour, and in turn, the dwelling is highly visible from the water and various vantage points across Vaucluse and Watsons Bay. Known colloquially as the 'Wedding Cake House', the dwelling can be considered a local landmark.

The immediate context of the subject site, on Fitzwilliam Road, is characterised by large two storey detached dwellings on large allotments, interspersed with interwar residential flat buildings. On-street parking and a variety of plantings, including mature trees, sandstone and brick boundary walls, and garages line the street. At the intersection of Wentworth and Fitzwilliam roads is a locally listed Vaucluse War Memorial and Bus Shelter (I349).

The dwelling sits on an expanse of terraced lawns which include low flowerbeds with sandstone edging and concrete paths which has remained largely unchanged in character since the Parsley Bay Wharf period of the site development. Other features include a flagpole, sundial, and low shrubbery including camellia hedging and two mature frangipani trees. The driveway that extends from Fitzwilliam Road at the south and travels along the property's western boundary is in the location of the road to the Parsley Bay Wharf, clearly demarking this former use. The northern boundary of the property abuts the remains of the Parsley Bay ferry wharf and the sandstone wall forming the reclaimed foreshore. A small part of the property extends into the harbour.



Figure 1: Cadastral map of 83 Fitzwilliam Road Vaucluse with the allotment containing the dwelling in blue. (Source: Woollahra Council GIS Maps)

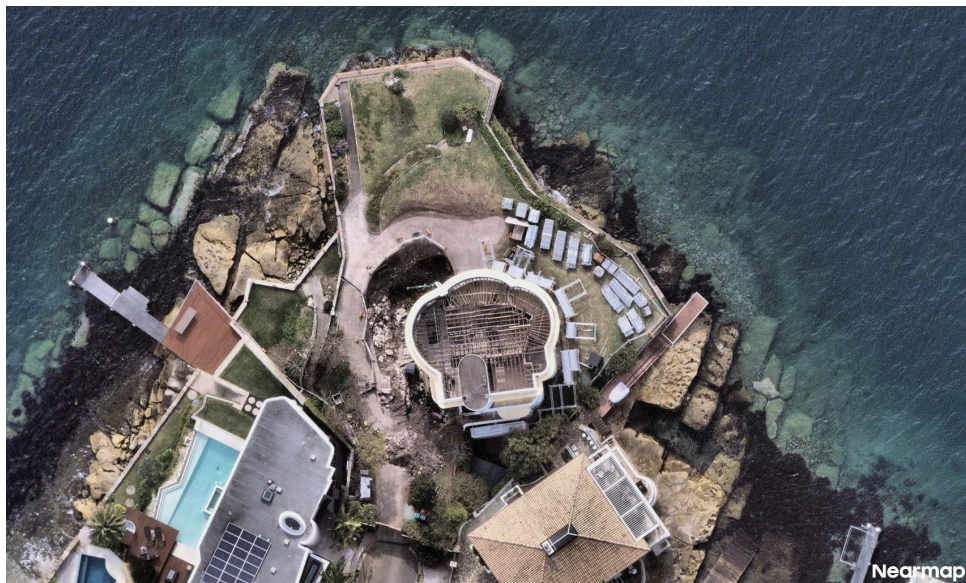


Figure 2 Aerial photograph of 83 Fitzwilliam Road Vaucluse. Image capture 22 July 2024. (Source: NearMap, September 2024)

The existing house is the subject of a Complying Development Certificate (CDC) (CD 2024/64/1) which approved alterations to the dwelling house on the site. Despite this the house itself is largely unaltered externally from when it was extended and converted from the shop/refreshment rooms to a dwelling in 1939. The original external form and features of the building remain, including parts of the 1916 two storey shop/refreshment rooms, with residence above, which were incorporated into the house. The curved lines of the former shop were extended into the distinctive curved form of the house, which incorporates elements of the Inter-war Functionalist/P&O style. The upper level windows and entrance to the former shop are identifiable at the southern part of the building. The parapet line has been extended around the curved façade of the house, which forms deep, recessed verandahs on two levels facing the harbour.

The dwelling is a solid, three storey building with the curved form and simple surface treatment of the Inter-war Functionalist style. It is primarily a brick structure (rendered and painted white) with sandstone coursework (also painted white) and internal steel supporting beams. On the western, northern and eastern elevations, each level has three large, curved bays with large openings with a curved eave running above. The western curved bay incorporates part of the earlier building including its fenestration pattern on the first floor. The curve forms a pattern which is replicated, enclosing the earlier building and creating expansive balconies.

The southern elevation contains a curved vertical expression, enclosing the main stairwell, with fixed windows of glass blocks and a band of decorative dentil moulding underneath the fascia. A small single room at the rooftop provides access to the flat roof, concealed behind a short parapet.

Access is provided on the western elevation (the main entrance is a timber double door with 12 lights) and at the southern elevation (via a partly covered elevated walkway to the former trades/maids entrance). Along the curved southwest corner and southern elevation of the building, on a number of levels, many openings are extant. These include glass block windows, timber framed sash windows, and timber doors with clear and frosted glazing. These windows and doors on the southern elevation relate to the rear kitchen, laundry and former maids rooms.

The building has little decorative treatment, its form is simple, composed of smooth rendered surfaces, painted white, curves and contrasting horizontal and vertical expressions, typical of the Functionalist/P&O style.





*Figure 3: 83 Fitzwilliam Rd as viewed from ferry to Watsons Bay. Its position on the point as well as the expansive landscape creating an unbuilt area around the building accent its landmark quality. (Source: GML, August 2024)*



*Figure 4: 83 Fitzwilliam Rd as viewed from ferry to Circular Quay. Its position on the point as well as the expansive landscape creating an unbuilt area around the building accent its landmark quality. The Parsley Bay Bridge (local heritage item I386) visible in rear left of the house (Source: GML, August 2024)*



Figure 5. Main curved façade of 83 Fitzwilliam Road, looking southeast. (Source: GML, August 2024)



Figure 6: Rear elevation of the dwelling, looking north. This area of the façade contains elements from the earliest Victorian period terrace shopfront. (Source: GML, August 2024)





Figure 7: Southwest corner of dwelling. Section added on in 1939 alterations. (Source: GML, August 2024)



Figure 8: Seawall and landscape at the waters edge, looking towards Parsley Bay. (Source: GML, August 2024)

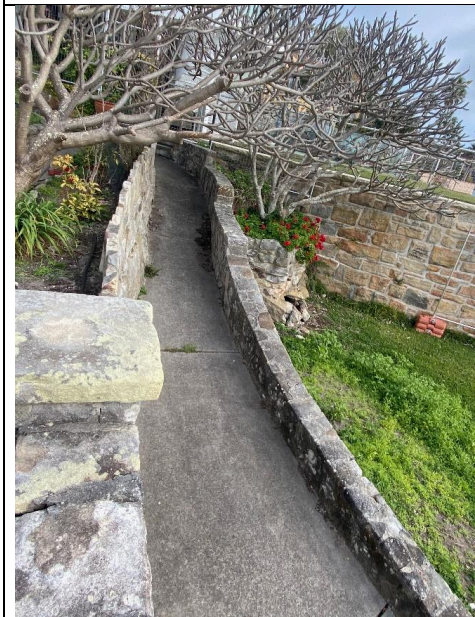


Figure 9: Concrete and sandstone landscaping through the terraced yard. (Source: GML, August 2024)

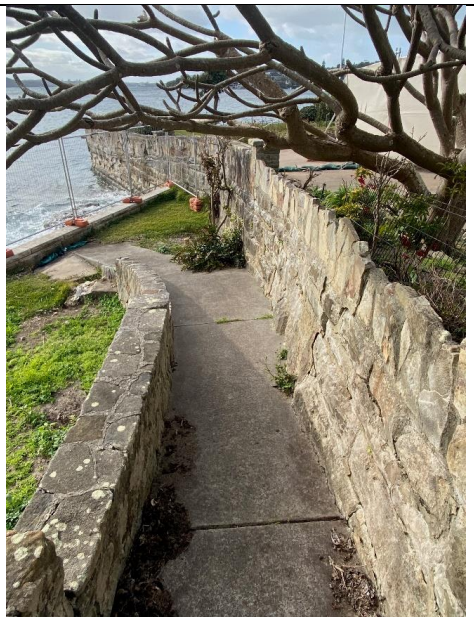


Figure 10: Concrete and sandstone landscaping through the terraced yard, leading to water, western side of the point. (Source: GML, August 2024).



Figure 11: Internal, ground floor 1930s verandah with internal walls removed. (Source: GML, August 2024)



Figure 12: Ground floor looking southeast towards Parsley Bay. Extent of internal walls evident through the ceiling removal. Outline reflected in the ceiling indicate internal walls of earlier terrace shop, now removed. (Source: GML, August 2024)



Figure 13. Original timber and steel floor structures and decking. (Source: GML, August 2024)



Figure 14. Glass brick window in stairwell, characteristic of geometric fashions in the interwar period.



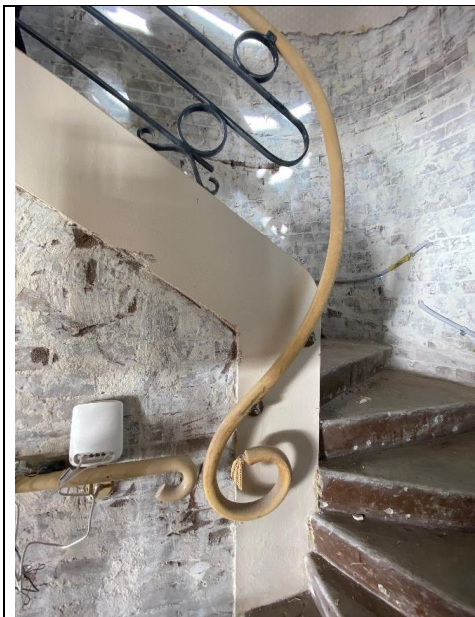


Figure 15. Stairwell within the 1930s adaptation.  
(Source: GML, August 2024)

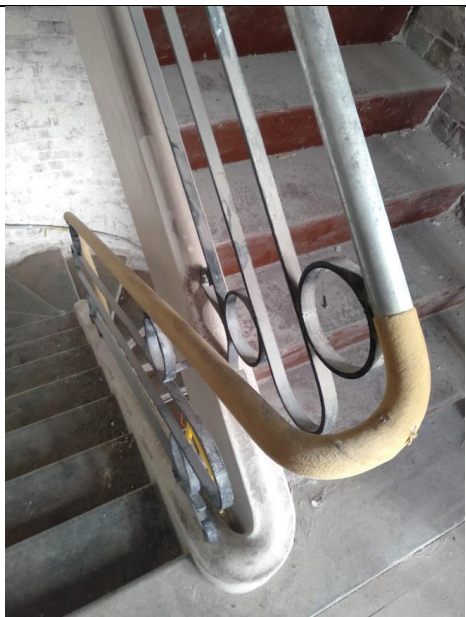


Figure 16. Decorative finishes to stairwell.  
(Source: GML, August 2024)

### 3. Existing planning controls

#### 3.1. Woollahra Local Environmental Plan 2014

Table 2 below identifies the zone and key principal development standards that currently apply to the subject site under Woollahra LEP 2014.

No changes are proposed to these under this planning proposal.

Table 2: Summary of current development standards

Site	Zone	Maximum building height (m)	Floor space ratio
83 Fitzwilliam Road, Vaucluse	R2 Low Density Residential	9.5	N/A

##### 3.1.1. Zoning Objectives

The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*
- *To ensure development conserves and enhances tree canopy cover.*

##### 3.1.2. Heritage provisions

The site is identified under the Woollahra LEP 2014, Schedule 5 Part 1 Heritage Items, as a local heritage item, I357, "Remains of Vaucluse Point Ferry Wharf". It is also identified on the Woollahra LEP 2014, Heritage Map Sheet 8500\_COM\_HER\_004 by the following lots:

- Lots 1 and 2, DP: 346850
- Lots 1, 2 and 3, DP: 430595
- Lot 1, DP 1109931, and
- Lot 1, DP 188299

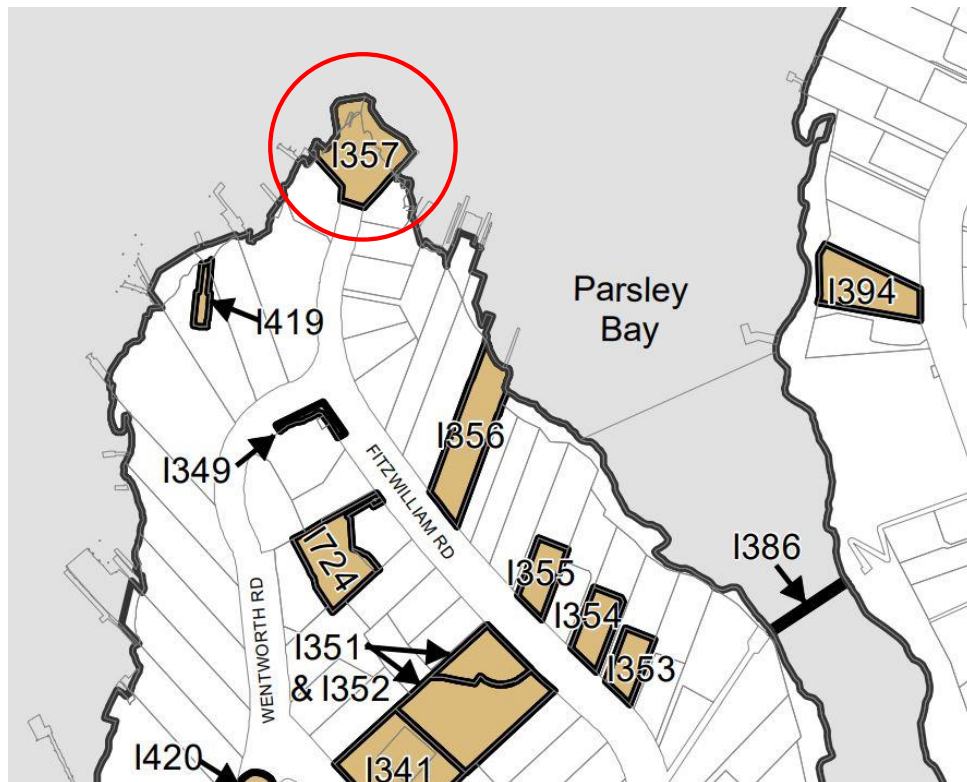


Figure 17. Excerpt of Woollahra LEP 2014, Heritage Map Sheet HER\_004. Item I357 at 83 Fitzwilliam Road Vaucluse is circled in red. (Source: Woollahra LEP 2014, accessed September 2024).

The following local heritage items are in the vicinity of the site:

- Item I419 – “Eastern Channel Lighthouse—Front Lead”, Wentworth Road, Vaucluse (adjoining 80 and 82 Wentworth Road)
- Item I356 – “West Parsley Bay Obelisk”, 65 Fitzwilliam Road, Vaucluse
- Item I349 – “War memorial and bus stop shelter”, Fitzwilliam Road, junction with Wentworth Road, Vaucluse

### 3.1.3. Other LEP provisions

The site is identified under the Woollahra LEP 2014 as potentially containing Class 5 acid sulfate soils. The subject sites are not known to be subject to any other environmental constraints.

### 3.2. Woollahra Development Control Plan 2015

The *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) applies to the site. Any development proposal on the site, or on an adjoining site, are required to address any relevant Woollahra DCP 2015 controls.

#### 4. Objectives of planning proposal

The objective of the amendment to the Woollahra LEP 2014 is to recognise the heritage significance of the dwelling on 83 Fitzwilliam Road Vacluse, and provide it with statutory heritage protection.

The planning proposal will amend the details for item I357 currently in Schedule 5 of the Woollahra LEP 2014 to include the details below. The inclusion of the dwelling as part of the existing heritage item in the Schedule will mean any future development proposals on the dwelling, across the site, or on any land within the vicinity, will need to consider the provisions of Clause 5.10 (5) of Woollahra LEP 2014. This will provide a statutory requirement for development proposals to consider the effects of proposed development on the heritage significance of this item.

<b>I357</b>	<b>Existing details</b>	<b>Proposed amendments</b>
<b>Item Name</b>	<i>"Remains of Vacluse Point ferry wharf"</i>	<i>"Vacluse Point Ferry Wharf – remnants of wharf, dwelling/former shop, and landscape elements"</i>
<b>Property description</b>	Lots 1, 2 and 3, DP 430595; Lots 1 and 2, DP 346850; Lot 1, DP 188299; Lot 1, DP 1109931	Lots 1, 2 and 3, DP 430595; Lots 1 and 2, DP 346850; LOT 100, DP 1304245

As an administrative task, Council staff will update the existing heritage inventory sheet for the local heritage item (I357) to include the information in the Heritage Assessment Report, including an assessment against all criteria.

#### 5. Explanation of provisions

The planning proposal seeks the following amendments to Woollahra LEP 2014:

- Amend the existing listing for "Remains of Vacluse Point Ferry Wharf", item I357 in Part 1 (Heritage Items) of Schedule 5 (Environmental Heritage).
  - Change the name of the item to "Vacluse Point Ferry Wharf – remnants of wharf, dwelling/former shop, and landscape elements".
  - Update the Lots and DPs under the property description to the following Lots and DPs reflecting the consolidation of two lots into one in May 2024.
    - Lots 1, 2 and 3, DP 430595;
    - Lots 1 and 2, DP 346850;
    - LOT 100, DP 1304245

The Heritage Map (8500\_COM\_HER\_004) already identifies the whole of 83 Fitzwilliam Road as heritage item I357. As such, no changes to mapping are required.

## 6. Justification

The planning proposal has strategic merit. The heritage significance of the subject site, currently used as a private residential dwelling, was assessed through a heritage assessment undertaken by GML Heritage on behalf of Council staff (see separately circulated documents: *Point Seymour, 83 Fitzwilliam Road, Vaucluse, Heritage Assessment Report* (August 2024).

The heritage listing will provide ongoing protection and recognition of the heritage significance of this site.

These matters are further discussed below in part 6.1 to 6.3.

### 6.1. Need for planning proposal

#### 1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. The planning proposal is the result of the recommendations found in the report prepared by GML Heritage on behalf of Woollahra Council, *Point Seymour, 83 Fitzwilliam Road, Vaucluse, Heritage Assessment Report* (August 2024). The report concluded that the dwelling on the subject site meets the criteria for listing as a local heritage item.

#### 2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The objective is to recognise the heritage significance of the subject site and provide it with statutory heritage protection. The best means of achieving this objective is through an amendment to Woollahra LEP 2014 to include the dwelling within the name and property description as part of an integral part of the significance of the local heritage, I357. This is achieved through the planning proposal process.

Other options, such as adding site-specific objectives and controls to Woollahra DCP 2015, or including heritage conservation conditions to a potential development consent, will not provide the same level of heritage protection and recognition.

### 6.2. Relationship to strategic planning framework

#### 3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including exhibited draft plans or strategies)?

Yes. The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the relevant planning priorities and actions of the *Eastern City District Plan* (2018), as discussed below.

#### **Greater Sydney Region Plan: A Metropolis of Three Cities**

The planning proposal is consistent with the directions and objectives of *Greater Sydney Regional Plan: A Metropolis of Three Cities*, particularly Objective 13: "Environmental heritage is identified, conserved and enhanced".

Identifying the subject site as a local heritage item will provide ongoing protection and recognition of their heritage significance.

### **Eastern City District Plan**

The planning proposal is generally consistent with the directions, priorities and objectives of the *Eastern City District Plan*, particularly Planning Priority E6 and Action 20:

*Planning Priority E6 Creating and renewing great places and local centres, and respecting the District's heritage*

*Objective 13 'Environmental heritage is identified, conserved and enhanced'*

*Action 20 'Identifying, conserving and enhancing the environmental heritage of the local area' through:*

- a. engaging with the community early to understand heritage values
- b. applying adaptive re-use and interpreting heritage to foster distinctive local places managing and monitoring the cumulative impact of development on the heritage values and character of places

Heritage listing of this site will provide ongoing protection and recognition of the heritage significance of this item.

#### **4. Will the planning proposal give effect to a Council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?**

##### **Woollahra Local Strategic Planning Statement**

Planning Priority 5 of the Woollahra Local Strategic Planning Statement is relevant:

*Planning Priority 5 Conserving our rich and diverse heritage*

In particular Actions 28 and 30 of this planning priority seek to ensure that heritage is conserved and the LEP and DCP reflect the evolving nature of heritage:

*28. Continue to proactively conserve and monitor heritage in the Municipality including:*

- *reviewing and updating provisions in Woollahra Local Environmental Plan 2014 and Woollahra Development Control Plan 2015*
- *sustainably managing visitation to our heritage conservation areas and destinations*
- *promoting a high standard of urban design in both the public and private domain that respects and communicates with heritage and our heritage conservation areas*
- *supporting implementation of legislation for Aboriginal Heritage.*

*30. Undertake further theme-based Municipality-wide studies, with consideration for the fact that heritage is constantly evolving.*

##### **Community Strategic Plan, Woollahra 2032**

The planning proposal is consistent with *Woollahra 2032 – Community Strategic Plan*. Notably, the planning proposal meets the following strategy within Goal 4 (Well-planned neighbourhoods) under the Social theme:

#### **4.2 Conserving our rich and diverse heritage**

Heritage listing of the subject site will provide ongoing protection and recognition of the heritage significance of this item, consistent with these local strategies.



**5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

Yes. The planning proposal is consistent with other relevant State or regional study or strategy.

**6. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Yes. The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State Environmental Planning Policies (SEPPs).

Regarding *SEPP (Exempt and Complying Development Codes) 2008*, where an item is locally heritage listed (or is a draft item) on the Woollahra LEP 2014 Schedule 5, there are implications in terms of the extent of works that can be considered as exempt and complying development.

Refer to **Schedule 1** for an outline of consistency with all SEPPs.

**7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

Yes. The planning proposal is consistent with applicable section 9.1 directions (refer to **Schedule 2**).

**6.3. Environmental, social and economic impact**

**8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No. There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject land. Accordingly, the proposal will not have any impact in this regard.

**9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No. There are no likely environmental effects that would arise as a result of the planning proposal. Protection of the item will be required when development is proposed, or if there is development proposed in its vicinity. Protection measures are not likely to result in environmental harm and will be managed through the development assessment process.

**10. Has the planning proposal adequately addressed any social and economic effects?**

Yes. The Study assessed the subject sites against the criteria for 'cultural significance' as defined in the *Australia ICOMOS Burra Charter*, as meaning the historic, aesthetic, scientific, social or spiritual value for past, present or future generations.

The assessment found that the site meets a number of heritage criteria at a local level. While the planning proposal does not have any direct economic effect, it has some social impact for the local community that appreciates and enjoys local heritage in the Woollahra LGA.

There will be potential economic implications relating to the need for heritage management documents (to accompany a development application) to assess and support future changes to buildings, including new uses, alterations and modifications. With regards to development

pathways, depending on the scale and impact of works, developments to local heritage items can be managed as:

- a development application process,
- a heritage works without consent application (under CI 5.10(3) of the Woollahra LEP 2014 for works with minor impacts or for maintenance only.

Furthermore, *SEPP (Exempt and Complying Development Codes) 2008* allows some work to local heritage items (with restrictions).

These additional heritage management and development approval processes will enable the needs of the landowner to be considered in conjunction with the conservation of the dwelling and the impact of the proposed changes on the heritage significance of the building.

Therefore, it is considered that the planning proposal will have a positive social and economic effects because:

- Heritage listing will provide ongoing protection and recognition of the social heritage significance of the site.
- Heritage listing will not preclude future development of the building which is undertaken in accordance with heritage requirements.
- The potential need for additional assessments and management documents to support development applications is necessary in order to provide the appropriate protection against impacts to significance.
- It is not anticipated that the planning proposal will have any negative social effect which need to be addressed as part of the proposal.

#### 6.4. State and Commonwealth interests

##### 11. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal involves the local heritage listing of the subject site and does not involve amendments to the planning controls that will facilitate intensified development.

Currently, the subject site has access to adequate public infrastructure such as water, sewer, electricity and telephone services.

There is no significant infrastructure demand that will result from the planning proposal. The existing services that are available to the subject site is suitable for the proposal of a local heritage listing in a residential zone.

##### 12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Should the planning proposal proceed to public exhibition, consultation with the relevant public authorities will be carried out. These authorities will include, but are not limited to:

- Environment and Heritage Group, Department of Planning and Environment
- The National Trust of Australia (NSW).

Further consultation will take place with any other authorities identified by the Gateway Determination.

## 7. Mapping

There are no proposed changes to the Woollahra LEP 2014 Heritage Map (8500\_COM\_HER\_004). Item I357 is already identified on the map and its form will remain unchanged despite the changes to the property description in the corresponding Woollahra LEP Schedule 5 Part 1.

	Item	Address	Lot/DP	LEP Heritage Map Sheet No.
1	<i>"Vaucluse Point Ferry Wharf – remnants of wharf, dwelling/former shop, and landscape elements"</i>	83 Fitzwilliam Road, Vaucluse	Lots 1, 2 and 3, DP 430595;  Lots 1 and 2, DP 346850;  LOT 100, DP 1304245	8500_COM_HER_004

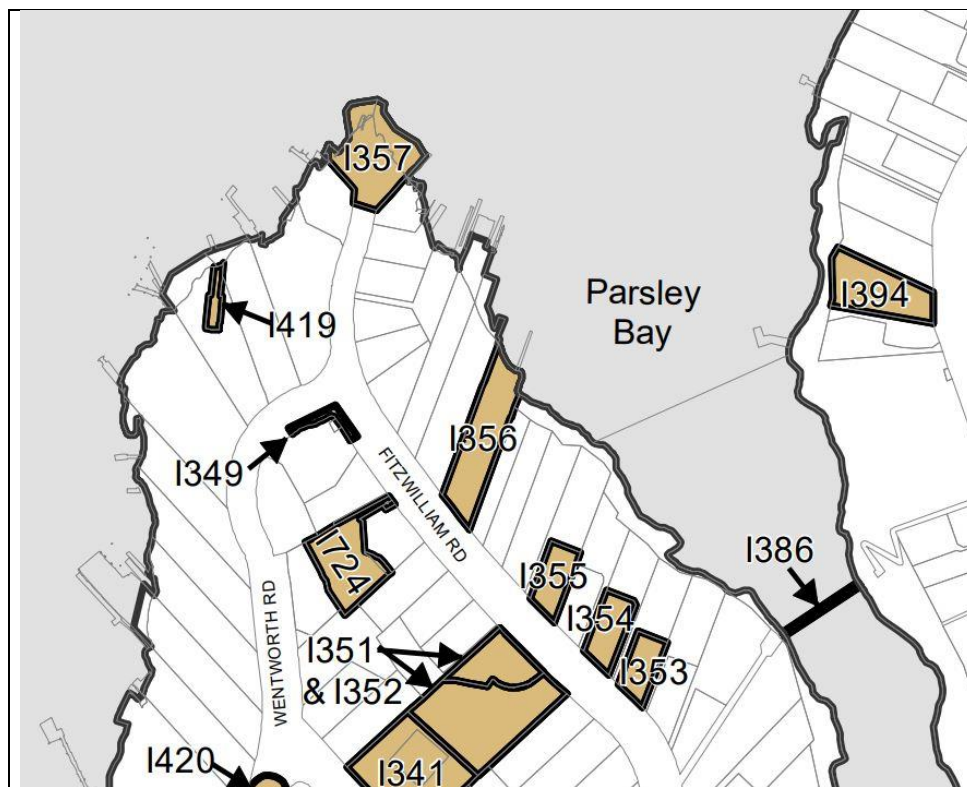


Figure 18 Existing Woollahra LEP 2014 Heritage Map (Sheet 8500\_COM\_HER\_004). Item I357 on the Heritage Map would remain unchanged as a result of this Planning Proposal.

## 8. Community consultation

### 8.1. Stakeholder pre-engagement

The owners of the subject site were notified on the gazettal of the IHO on the building. During the preparation of the Heritage Assessment, the owners were consulted and collaborated with Council by facilitating site inspections to assist in its preparation.

The owners were made aware of the purpose of the IHO and the objectives of the Heritage Assessment in determining whether the dwelling has heritage significance and Council intends on applying local heritage status.

### 8.2. Public Exhibition

Public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2021*. It will also have regard to the other relevant plans and guidelines including the *Woollahra Community Participation Plan* (2019), the *Local Environmental Plan Making Guideline* (2021) and any conditions of the Gateway Determination.

We recommend that the planning proposal is exhibited for a minimum of 28 days.

Public notification of the exhibition will comprise:

- weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period,
- a notice on Council's website
- a letter to land owners in the vicinity of the subject site

During the exhibition period the following material will be available on Council's website and in the customer service area at Woollahra Council offices:

- the planning proposal, in the form approved by the gateway determination
- the Gateway determination
- information relied upon by the planning proposal (such as relevant Council reports and the heritage significance assessment)
- Woollahra LEP 2014
- Section 9.1 Directions.

## 9. Project timeline

As Council is authorised to exercise the functions of the Minister for Planning under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Woollahra Local Planning Meeting	19 September 2024
Council resolution to proceed	28 October 2024
Gateway determination	November 2024
Completion of technical assessment	Usually none required
Government agency consultation	November 2024 – January 2025
Public exhibition period	Same time as agency consultation
Submissions assessment	January 2025
Council assessment of planning proposal post exhibition	February 2025
Council decision to make the LEP amendment	February 2025
Council to liaise with Parliamentary Counsel to prepare LEP amendment	March 2025
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	April 2025
Notification of the approved LEP	April 2025

## Schedules

### Schedule 1 – Consistency with State Environmental Planning Policies (SEPPs)

State environmental planning policy	Comment on consistency
SEPP (Biodiversity and Conservation) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Building Sustainability Index: BASIX) 2004	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying Development Codes) 2008	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.  It is noted that where a property is locally heritage listed (or is a draft item) on the Woollahra LEP 2014 Schedule 5, there are implications in terms of the extent of works that can be considered as exempt and complying development.
SEPP (Housing) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Industry and Employment) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No.65 – Design Quality of Residential Apartment Development	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Planning Systems) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (Precincts – Central River City) 2021	Not applicable.
SEPP (Precincts – Eastern Harbour City) 2021	Applicable  There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Precincts – Regional) 2021	Not applicable.
SEPP (Precincts – Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Resilience and Hazards) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Resources and Energy) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Transport and Infrastructure) 2021	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

**Schedule 2 – Compliance with section 9.1 directions (Directions by the Minister)  
under the EP&A Act**

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
<b>1</b>	<b>Planning systems</b>	
1.1	Implementation of Regional Plans	Applicable. The planning proposal is consistent with the objectives of the <i>Greater Sydney Regional Plan: A Metropolis of Three Cities</i> , particularly Objective 13: Environmental Heritage is identified, conserved and enhanced.  The heritage listing of this property will provide ongoing protection of the heritage significance of this item.
1.2	Development of Aboriginal Land Council land	Not applicable. This planning proposal does not affect Aboriginal Land Council land.
1.3	Approval and referral requirements	The planning proposal seeks to heritage list one property in the Woollahra Local Government Area. This is not expected to require any additional approval or referral requirements. The planning proposal is consistent with this direction.
1.4	Site specific provisions	The planning proposal does not contain any unnecessarily restrictive site specific planning controls. The planning proposal is consistent with the direction.
<b>1</b>	<b>Planning systems – place based</b>	
1.5 – 1.20	Implementation Plans	Not applicable. These plans do not apply to the Woollahra LGA.
<b>2</b>	<b>Design and place</b>	
<b>3</b>	<b>Biodiversity and conservation</b>	
3.1	Conservation zones	Applicable and consistent. The planning proposal will not affect the conservation standards of any environmentally sensitive land.
3.2	Heritage conservation	Applicable and consistent. The planning proposal will not affect the significance of places with environmental heritage. The proposed Heritage listing of the property in the Woollahra LGA will provide ongoing protection and recognition of the heritage significance of this property.



Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
3.3	Sydney drinking water catchments	Not applicable. This direction does not apply to the Woollahra LGA.
3.4	Application of C2 and C3 zones and environmental overlays in Far North Coast LEPs	Not applicable. This direction does not apply to the Woollahra LGA.
3.5	Recreation vehicle areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation values. It will not allow land to be developed for a recreation vehicle area.
3.6	Strategic Conservation Planning	Not applicable. The planning proposal does not apply to land identified as avoided land or a strategic conservation area under the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> .
<b>4</b>	<b>Resilience and hazards</b>	
4.1	Flooding	Not applicable. The planning proposal will not affect flood liable land.
4.2	Coastal management	Not applicable. The planning proposal will not affect land in a coastal zone.
4.3	Planning for bushfire protection	Not applicable. The planning proposal will not affect bushfire prone land.
4.4	Remediation of contaminated land	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to this direction.
4.5	Acid sulfate soils	Applicable and consistent. Existing acid sulfate soils provisions will not be altered by the planning proposal.
4.6	Mine subsidence and unstable land	Not applicable. The planning proposal does not apply to land within a proclaimed Mine Subsidence District or to land identified as unstable.
<b>5</b>	<b>Transport and infrastructure</b>	
5.1	Integrating land use and transport	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the aims, objectives and principles of: <ul style="list-style-type: none"> <li><i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</li> <li><i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</li> </ul>

<b>Planning proposal – Compliance with section 9.1 directions</b>		
<b>Direction</b>		<b>Applicable/comment</b>
5.2	Reserving land for public purposes	The planning proposal does not amend reservations of land for public purposes. The planning proposal is consistent with the direction.
5.3	Development near regulated airport and defence airfields	Applicable and consistent. The planning proposal does not contain a provision which is contrary to this direction.
5.4	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
<b>6</b>	<b>Housing</b>	
6.1	Residential zones	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
6.2	Caravan parks and manufactured home estates	The planning proposal will not affect any caravan parks or manufactured housing estates.
<b>7</b>	<b>Industry and employment</b>	
7.1	Business and industrial zones	Not applicable. The direction does not apply where sites are zoned for business or industry.
7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable. This direction does not apply to the Woollahra LGA.
7.3	Commercial and retail development along the Pacific Highway, North Coast	Not applicable. This direction does not apply to the Woollahra LGA.
<b>8</b>	<b>Resources and energy</b>	
8.1	Mining, petroleum production and extractive industries	Not applicable. This planning proposal will not affect any of the nominated activities.
<b>9</b>	<b>Primary production</b>	
9.1	Rural zones	Not applicable. This planning proposal will not affect any rural zones.
9.2	Rural lands	Not applicable. This planning proposal will not affect any rural lands.
9.3	Oyster aquaculture	Not applicable. This planning proposal will not affect any Priority Oyster Aquaculture Areas.

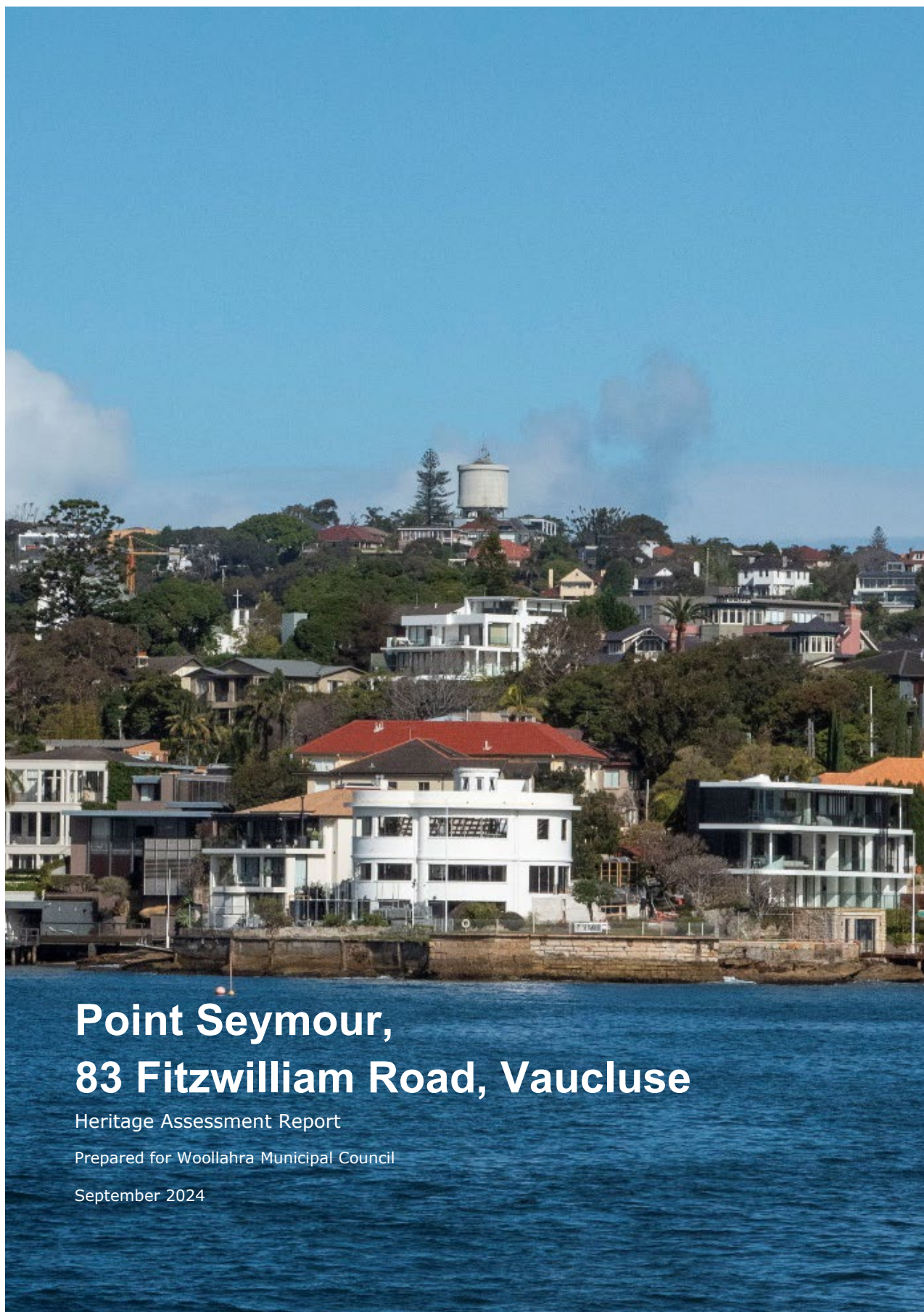
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Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
9.4	Farmland of state and regional significance on the NSW Far North Coast	Not applicable. This direction does not apply to the Woollahra LGA.



# Point Seymour, 83 Fitzwilliam Road, Vaucluse

Heritage Assessment Report

Prepared for Woollahra Municipal Council

September 2024

## Acknowledgement of Country

We respect and acknowledge the First Nations peoples of the lands and waterways on which we live and work, their rich cultural heritage and their deep connection to Country, and we acknowledge their Elders past and present. We are committed to truth-telling and to engaging with First Nations peoples to support the protection of their culture and heritage. We strongly advocate social and cultural justice and support the Uluru Statement from the Heart.

## Cultural warning

Aboriginal and Torres Strait Islander readers are advised that this report may contain images or names of First Nations people who have passed away.





## Report register

The following report register documents the development of this report, in accordance with GML’s Quality Management System.

Job No.	Issue No.	Notes/Description	Issue Date
24-0284	1	Draft Report	30 August 2024
24-0284	2	Final Report	10 September 2024

### Quality management

The report has been reviewed and approved for issue in accordance with the GML quality management policy and procedures.

It aligns with best-practice heritage conservation and management, *The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance, 2013* and heritage and environmental legislation and guidelines relevant to the subject place.

**Indigenous cultural and intellectual property**

We acknowledge and respect the inherent rights and interests of First Nations in Indigenous Cultural and Intellectual Property. We recognise that Aboriginal and Torres Strait Islander people have the right to be acknowledged and attributed for their contribution to knowledge but also respect their rights to confidentiality. We recognise our ongoing obligations to respect, protect and uphold the continuation of First Nations rights in the materials contributed as part of this project.

### Copyright

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**Cover image**

Point Seymour from ferry. (Source: © GML, 2024)

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## Executive summary

Woollahra Municipal Council has commissioned GML Heritage Pty Ltd (GML) to prepare a heritage assessment (HA) of 83 Fitzwilliam Road, Vaucluse. A portion of the site is a listed item of local significance, 'Remains of Vaucluse Point ferry wharf', under Schedule 5 of the *Woollahra Local Environmental Plan 2014* (WLEP 2014) (I357).

Council undertook its own preliminary heritage assessment which found that the significance of the site extended to the house and wider setting. Believing the property was under threat, Council issued an interim heritage order (IHO No. 11) 28 June 2024.

The current HA has been commissioned to determine whether the existing heritage listing adequately covers all components of the place, by assessing the dwelling, the grounds, views and its setting to determine if the site reaches the threshold of significance under the Heritage NSW guidelines for *Assessing Heritage Significance* (2023) and whether it is recommended to amend the existing listing information on the WLEP 2014.

GML's approach, methodology, assessment procedures, criteria and recommendations of the report are in accordance with the *Australia ICOMOS Charter for Places of Cultural Significance, 2013* (the Burra Charter) and with *Assessing Heritage Significance: Guidelines for Assessing Places and Objects against the Heritage Council of NSW Criteria* prepared by the NSW Department of Planning and Environment (now the Department of Planning, Housing and Infrastructure).

Following our review of background documents, site history and through our assessment GML has concluded that the subject site (including the dwelling) meets the threshold for significance under Criteria A (historic significance), C (aesthetic significance), D (social significance), E (research potential) and G (representative). GML recommends the heritage item's inventory information be updated to include the dwelling, landscaping, paths and sea walls to reflect the significance of the site overall.

83 Fitzwilliam Road, Vaucluse—Heritage Assessment, September 2024





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# 1 Introduction

## 1.1 Background

Woollahra Municipal Council has commissioned GML Heritage Pty Ltd (GML) to prepare a heritage assessment (HA) of the site at 83 Fitzwilliam Road, Vaucluse (subject site). The purpose of the assessment is to determine what components of the site reach the threshold of significance under the Heritage NSW guidelines for *Assessing Heritage Significance* (2023)<sup>1</sup> and whether it is recommended to amend the current listing under the *Woollahra Local Environmental Plan 2014* (WLEP 2014).

The existing heritage listing for the address (I357) 'Remains of Vaucluse Point ferry wharf' under the WLEP 2014 has the following Statement of Significance as provided on the NSW State Heritage Inventory:

Indicative of the changing patterns of transport and the urban development of the adjacent areas. Part of the nineteenth century transport network based on the harbour waterways.

Council is concerned that the current listing does not cover all the significant elements on the site, in particular the wider context of the jetty's and the 1939 dwelling (modified 1916 shop/refreshment room). An independent heritage assessment (Lisa Trueman Heritage Advisor, February 2024) brought to council's attention that the heritage listing description should be clarified to also include the dwelling. A heritage inventory sheet was prepared by Lisa Trueman to update the heritage information in support of inclusion in the listing.

Prior to any changes to the listing having occurred a Complying Development Certificate (CDC 2024/64/1) was issued on 10 June 2024 which involves the enlargement of the dwelling's external openings, demolition of some internal walls, replacement of stairs, refurbishment of kitchen and bathrooms, general layout modification and new joinery. It is understood that the CDC, with accompanying heritage assessment (Zoltan Kovacs Architect, July 2023) and complying development advice (Swaab, 2024) interpreted the dwelling as a separate component to the heritage listing and not significant.

Council undertook its own preliminary heritage assessment and, believing the dwelling house on the site was likely to be under threat, issued an interim heritage order (IHO No. 11) 28 June 2024.

Extensive internal alterations were undertaken by the owner in the intervening period including stripping of internal fabric and finishes and an area of external excavation.

The following HA has been commissioned to fully assess the site's significance and to determine if a revised heritage listing including the dwelling house is warranted.



## 1.2 Identification of the site

The subject site, also known as Point Seymour, is located at 83 Fitzwilliam Road, Vaucluse, within the Woollahra Local Government Area (LGA)—identified in Figures 1.1 and 1.2 below. The property is located across six allotments, as follows:

- Lots 1–3, Deposited Plan (DP) 430595;
- Lots 1–2, DP 346850; and
- Lot 100 of DP 1304245 (this allotment contains the dwelling).

## 1.3 Methodology

This HA report uses methodology and terminology consistent with the NSW Department of Planning and Environment guidelines, including the *Assessing Heritage Significance* guidelines,<sup>2</sup> and the guidelines of the Burra Charter.<sup>3</sup>

## 1.4 Terminology

The terminology used in this report is consistent with the NSW Heritage Manual, prepared by the Heritage Office (now Heritage NSW), and the Burra Charter.

- **Place** means site, area, land, landscape, building or other work, group of buildings or other works, and may include components, contents, spaces and views.
- **Cultural significance** means aesthetic, historic, scientific, social or spiritual value for past, present or future generations. Cultural significance is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups.
- **Fabric** means all the physical material of the place including components, fixtures, contents, and objects.
- **Conservation** means all the processes of looking after a place so to retain its cultural significance.
- **Maintenance** means the continuous protective care of the fabric and setting of a place, and is to be distinguished from repair. Repair involves restoration or reconstruction.
- **Preservation** means maintaining the fabric of a place in its existing state and retarding deterioration.
- **Restoration** means returning the existing fabric of a place to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.
- **Reconstruction** means returning the place to a known earlier state and is distinguished from restoration by the introduction of new material into the fabric.
- **Adaptation** means modifying a place to suit the existing use or a proposed use.



- **Use** means the functions of a place, as well as the activities and practices that may occur at the place.
- **Compatible use** means a use which respects the cultural significance of a place. Such a use involves no, or minimal, impact on cultural significance.
- **Curtilage** is defined as the area of land surrounding an item that is required to retain its heritage significance. The nature and extent of the curtilage will vary and can include but is not limited to lot boundaries and visual catchments.
- **Setting** means the area around a place, which may include the visual catchment.
- **Related place** means a place that contributes to the cultural significance of another place.

## 1.5 Limitations

This HA was prepared in a condensed period in response to the Interim Heritage Order placed by council in July 2024. Only limited historical research has been undertaken in addition to the historical research contained in the previous heritage assessments by Zoltan Kovacs Architect (2023) and Lisa Trueman Heritage Advisor (2024).

The scope for this project did not extend to an assessment of social values nor an assessment of Aboriginal heritage values or archaeological potential.

## 1.6 Authorship and acknowledgements

This report has been prepared by Jack Lee, Heritage Consultant and Rebecca Hawcroft, Principal and Head of Heritage Places.

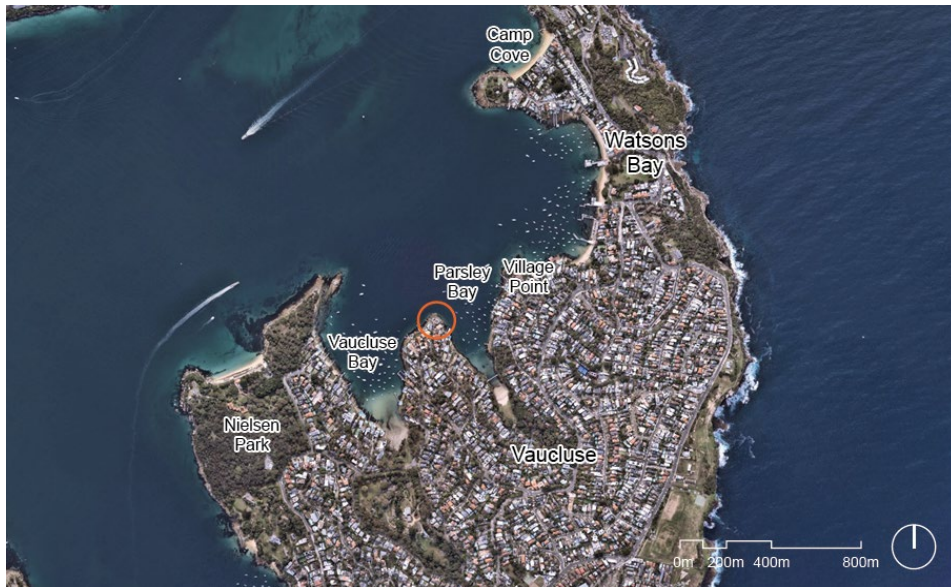


Figure 1.1 Aerial showing broad context and general location of the subject site (circled). (Source: Nearmap 2024 with GML overlay)

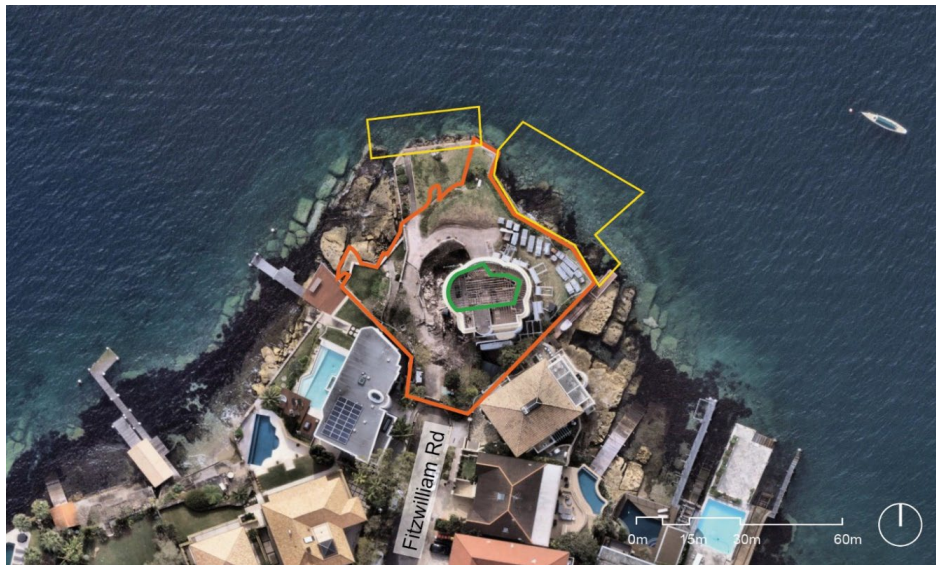


Figure 1.2 Aerial showing immediate context and boundary of the subject site (orange). Also shown is the footprint of the 1916 shop (green) and the approximate footprint of the two wharves (yellow). (Source: Nearmap 2024 with GML overlay)





Figure 1.3 Image of the site accompanying *Sydney Morning Herald* article “‘Wedding cake house’ in Vaucluse sold for \$40 million’ (30 April 2023). (Source: <https://www.smh.com.au/property/news/wedding-cake-house-in-vaucluse-sold-for-40-million-20230428-p5d3yu.html>).



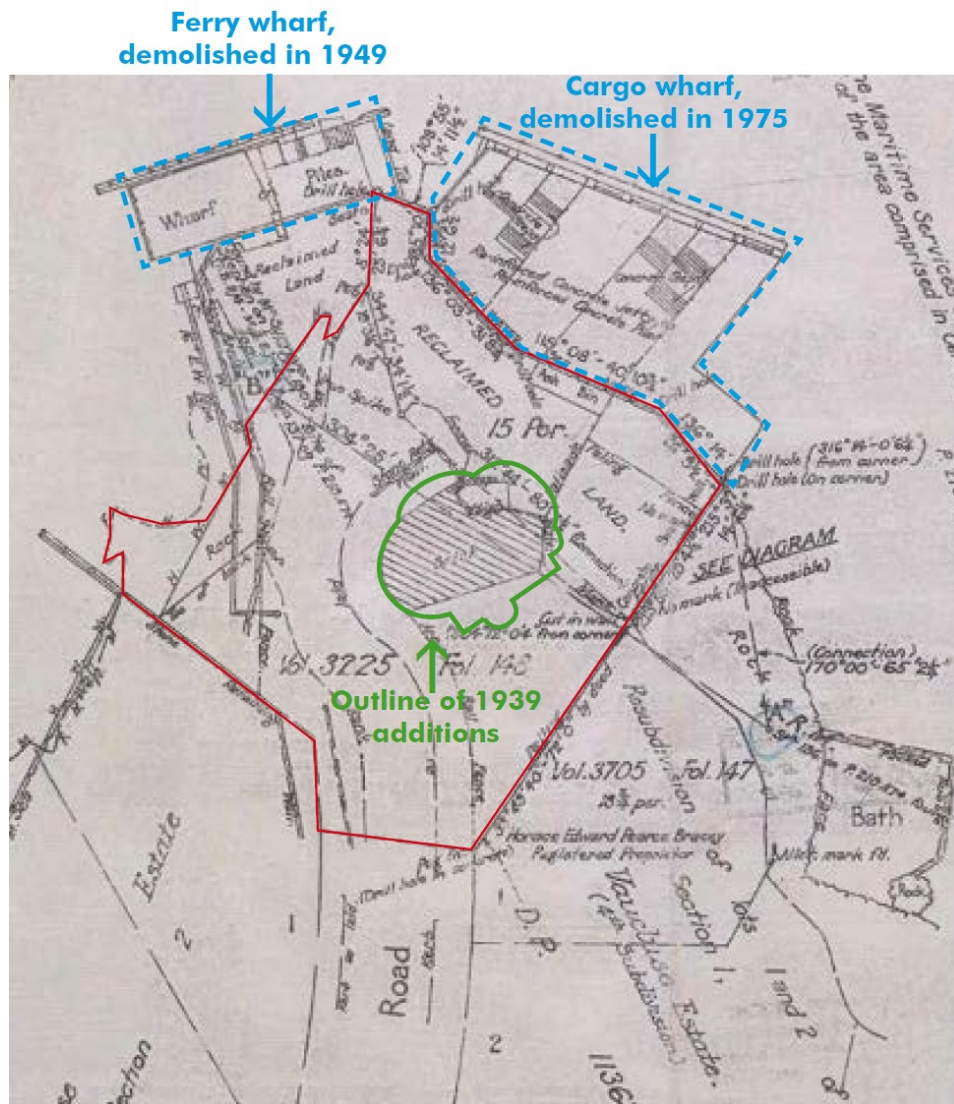


Figure 1.4 Extract from a 1938 survey showing the arrangement of the subject site (outlined in red) prior to the alterations to the shop. The wharves are outlined in blue, the existing shop is hatched, and the 1939 dwelling is outlined in green. (Source Zoltan Kovacs Architect (2023), p 16, sourced from NSW Land Registry Services)

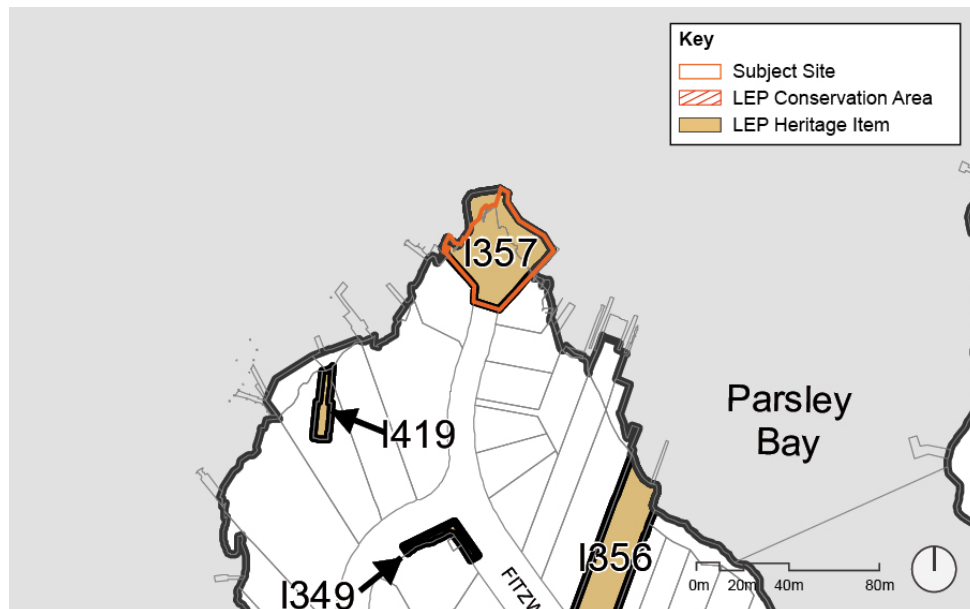


Figure 1.5 Detail of Woollahra LEP 2014 heritage map showing boundary of the subject site and nearby heritage items. (Source: Heritage Map HER\_004, Woollahra LEP 2014 with GML overlay)

## 1.7 Endnotes

- <sup>1</sup> Department of Planning and Environment 2023, *Assessing Heritage Significance: Guidelines for Assessing Places and Objects against the Heritage Council of NSW Criteria*, <https://www.environment.nsw.gov.au/research-and-publications/publications-search/assessing-heritage-significance>.
- <sup>2</sup> Department of Planning and Environment 2023, *Assessing Heritage Significance: Guidelines for Assessing Places and Objects against the Heritage Council of NSW Criteria*, <https://www.environment.nsw.gov.au/research-and-publications/publications-search/assessing-heritage-significance>.
- <sup>3</sup> Australia ICOMOS Inc, *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 2013*, Australia ICOMOS Inc, Burwood, VIC, 2000.



## 2 Statutory context

### 2.1 Introduction

In New South Wales, items of heritage significance are afforded statutory protection under the following NSW Acts:

- *Heritage Act 1977* (Heritage Act)
- *Environmental Planning and Assessment Act 1979* (EPA Act).

### 2.2 Heritage Act 1977

The Heritage Act is a statutory tool designed to conserve the state's environmental heritage. It is used to regulate the impacts of development on the state's heritage assets. The Heritage Act describes a heritage item as 'a place, building, work, relic, moveable object or precinct'.

#### 2.2.1 NSW State Heritage Register

The NSW State Heritage Register (SHR) was established under Section 22 of the Heritage Act. It is a register of identified heritage items determined to be of significance to the people of NSW. The SHR includes items and places such as buildings, works, archaeological relics, movable objects and precincts.

The subject site is not listed on the SHR. There are no items in the vicinity listed on the SHR.

#### 2.2.2 Interim heritage orders

An IHO made under the Heritage Act safeguards a place or object of potential heritage significance for a temporary period of up to 12 months to fully assess a place or object's significance and determine if a heritage listing is warranted.

IHOs can be made by the Minister for Heritage on the advice of the Heritage Council of NSW, or by local councils under authorisation. They are generally only made if there is a threat of harm.<sup>1</sup>

An IHO was issued (No. 11) on the property on 28 June 2024, expiring on 28 December 2024.



## 2.3 Environmental Planning and Assessment Act 1979

The EPA Act is administered by the NSW Department of Planning, Housing and Infrastructure and provides for environmental planning instruments to be made to guide the process of development and land use. The EPA Act also provides for the protection of local heritage items and conservation areas through listing on Local Environmental Plans (LEPs) and State Environmental Planning Policies (SEPPs) which provide local councils with the framework required to make planning decisions.

### 2.3.1 Complying development certificates

Under the EPA Act, applicants can carry out work under a complying development certificate (CDC) if the requirements of complying development are met. Complying development is a fast-track approval process for straightforward residential, commercial and industrial development. If the proposal meets specific development standards, it can be assessed and determined by a registered certifier without the need for a full development application.

Clause 1.17A of the EPA Act states that:

(1) To be complying development for the purposes of any environmental planning instrument, the development must not—

(d) be carried out on land that—

- (i) comprises an item that is listed on the State Heritage Register under the Heritage Act 1977 or on which such an item is located, or
- (ii) is subject to an interim heritage order under that Act or on which is located an item that is so subject, or
- (iii) is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified.

### 2.3.2 Woollahra Local Environmental Plan 2014

The Woollahra LEP is the principal environmental planning instrument applying to the land. Schedule 5 of the LEP identifies heritage items and heritage conservation areas.

The objectives of Clause 5.10 are as follows:

- (a) to conserve the environmental heritage of Woollahra,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,



(c) to conserve archaeological sites,

(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

The subject site is listed as a heritage item ('Remains of Vacluse Point ferry wharf', I357, under Schedule 5 of the Woollahra LEP) and is not located within a listed conservation area.

## 2.4 Endnotes

<sup>1</sup> Department of Climate Change, Energy, the Environment and Water,  
<https://www2.environment.nsw.gov.au/topics/heritage/request-a-heritage-listing/interim-heritage-orders>.



## **3 Historical overview**

### **3.1 Introduction**

This section provides an overview of the historical background of the subject site. It is based on previous HAs prepared for the site by Zoltan Kovacs Architect (2023) and Lisa Trueman Heritage Advisor (2024) with additional primary research from the National Library of Australia (NLA), the State Library of NSW and the Woollahra Municipal Council and library archives.

### **3.2 Historical development**

#### **3.2.1 Early history**

The traditional Aboriginal owners of much of the Woollahra LGA were the Cadigal clan, while the harbour area around Watsons Bay and South Head was inhabited by the Birrabirragal clan. Both the Cadigal and Birrabirragal clans belonged to the coastal Dharawal language group.<sup>1</sup> Evidence of their occupation is recorded in the landscape, vegetation, rock art and carvings and middens that are characteristic of the area and the ongoing connections that Aboriginal people have with the lands of the Woollahra LGA.

The subject site is located within 80 acres of land first granted to Thomas Laycock in 1793. This land changed ownership several times until it was sold to William Charles Wentworth in 1827. After Wentworth's death in 1872, his son, Fitzwilliam Wentworth, inherited it as part of the Vaucluse Estate.

#### **3.2.2 Twentieth-century subdivision**

In 1898 Fitzwilliam Wentworth lodged a primary application for the conversion of the estate to Torrens title. Parcels of land within the estate were advertised and progressively sold (see the 1904 advertisement for the fourth subdivision of water frontages in Vaucluse and Parsley Bay, Figure 3.1). This subdivision laid out the current street pattern including Fitzwilliam and Parsley Bay roads.

The subject site, occupying the peninsula, was withheld from sale in 1903 for the construction of a wharf 'as an inducement to potential buyers of allotments of the Vaucluse Estate'.<sup>2</sup>



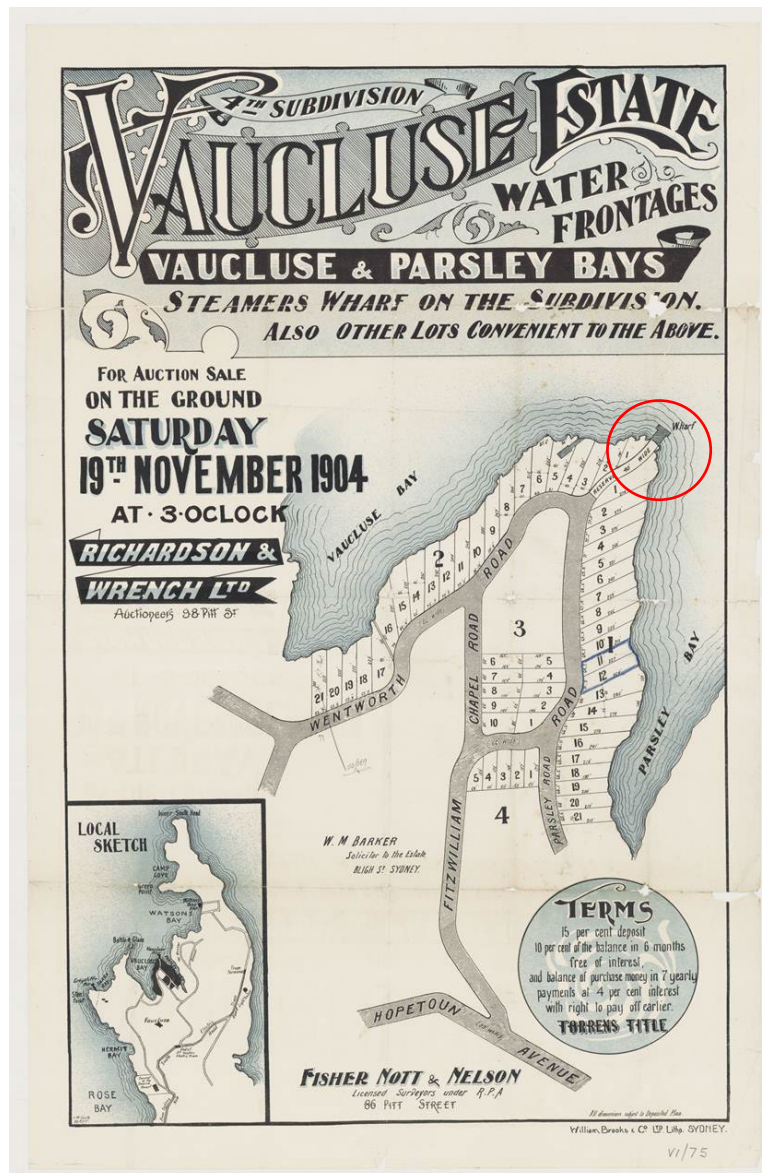


Figure 3.1 Vauclose Estate 4<sup>th</sup> Subdivision, November 1904, showing the subject site circled in red. (Source: State Library of NSW Z/SP/V1/75 with GML overlay)



### 3.2.3 Parsley Bay Wharf

In early 1904, services operated by the Watsons Bay and South Shore Steam Ferry Company were using the new wharf on the site. Later the same year the ferry company announced a 20-minute service from No 2 Jetty, Circular Quay, on Sundays and holidays to the new wharf at Parsley Bay.

Watsons Bay and Vaucluse residents lobbied the Vaucluse Council for several years for erection of a shelter shed on the Parsley Bay Wharf.

In 1908 the Watsons Bay and South Shore Steam Ferry Company added a timber shelter near the wharf, designed by architect Oliver Harley (the shelter was demolished c1943). A public recreation reserve at Parsley Bay was gazetted in December 1907 and transferred to Vaucluse Council control in 1916. In the intervening period the reserve was a popular destination for visitors who travelled here by ferry, landing at the Parsley Bay Wharf and walking the short distance to the park.

The ferry company undertook works to the wharf in 1915 increasing the facilities to accommodate additional ferry and goods traffic, but retained the monopoly over the ferry service and leasehold at Vaucluse. Although unverified, this may likely have been the construction of a second concrete wharf at the eastern side of the site (appearing on a land title map by 1921).

The popularity of the Watsons Bay service led the Watsons Bay and South Shore Ferry Company to commission architect Oliver Harley in 1916 to expand the on-site facilities to a brick shop and refreshment rooms, with a dwelling above, located at Parsley Bay Wharf. The building was completed by 1917.

Designs (seen in Figure 3.4) show the curved elevation following the existing path extending from Fitzwilliam Road to the wharf. The shop, refreshment room and residence were leased to a series of tenants. Some of the known tenants were Green and Studdert (1917), Fletcher's Refreshment Rooms, Mrs E Weaver (mixed business), Mrs E Clark (refreshments), Mrs L Woodward (refreshment rooms) and H Thompson. By 1932 it was known as the Parsley Bay Wharf Newsagency.

In the intervening period the Watsons Bay and South Shore Ferry Company was taken over by Sydney Ferries in 1920. The company purchased the steamers and wharf leases in June and added the Nielsen Park stop to the Watsons Bay run. Wharves were located at Parsley Bay (Fitzwilliam Road, Vaucluse), Central Wharf (Vaucluse), Nielsen Park and Watsons Bay.

In 1921 the subject site was transferred from the trustees of the Vaucluse Estate to the ferry company (then known as Sydney Ferries Ltd). A right of way was also established in a covenant in the property transfer which can be seen in Figure 3.6 and Figure 3.14.



The plan also shows all segments of the site (right of way, reclaimed land, two existing wharves in 1921, concrete kerbs and the outline of the 1916 shop and residence).

The Parsley Bay Wharf shop and tearooms was an important local community hub. It served for instance in 1919 as a polling place for a local referendum. The following year Jessie Milford was given permission from council to hold a stall at the entrance to the wharf.<sup>4</sup> In 1922 residents could inspect a copy of the council's electoral roll at Fletcher's Refreshment Rooms in addition to the town hall and post office at Watsons Bay.

The wharf was for many years the main stopping off point for visitors to Vaucluse House. In 1921 'realising that several thousand persons are likely to go to Vaucluse on Saturday, the Sydney Ferries will run special steamers to Nielsen Park and to Parsley Bay Wharf'.<sup>5</sup> *The Sun* reported on the large numbers of visitors to Vaucluse House on Sunday 23 September 1923, coming by car and ferry: 'Ferry after ferry, packed to the bulwarks, unloaded their cargoes of passengers at the Vaucluse wharf.'<sup>6</sup>

Sydney Ferries Ltd continued to operate services to Darling Point, Double Bay, Rose Bay, Nielsen Park, Parsley Bay, Central Wharf, Vaucluse and Watsons Bay, some calling at the Zoo wharf and Clifton Gardens on the north side of the harbour. Sydney Ferries Limited reached its peak around 1928 in terms of annual passenger numbers and ferry fleet.

With the increased competition from motor buses and cars, Sydney Ferries Ltd threatened to cease the Watsons Bay, Central Wharf and Parsley Bay Wharf service in late 1932 due to fewer season ticket returns and decreased passenger patronage. The council urged the company to give the service a further trial; in August 1933 the Stannard Bros ferries were conducting the service which was extended to include Watsons Bay Wharf and Nielsen Park.

About this time there were renewed calls to establish a new ferry wharf in Parsley Bay and a site on the eastern side of the bay was inspected by the Minister for Local Government, Mr Spooner. A jetty was built, superseding the Parsley Bay Ferry Wharf and cargo jetty.



Figure 3.2 Detail from 1916 Map of Sydney Harbour showing regular ferry routes connecting Vaucluse LGA to the city and North Shore by dotted red lines. Ferry wharves were located at Parsley Bay, Watsons Bay and Greycliffe (Shark Point). (Source: National Library of Australia)



Figure 3.3 Ferry from Watsons Bay and South Shore Ferry Company near Parsley Bay Wharf, pre-1908 as there is no shelter shed near wharf. (Source: SLNSW)



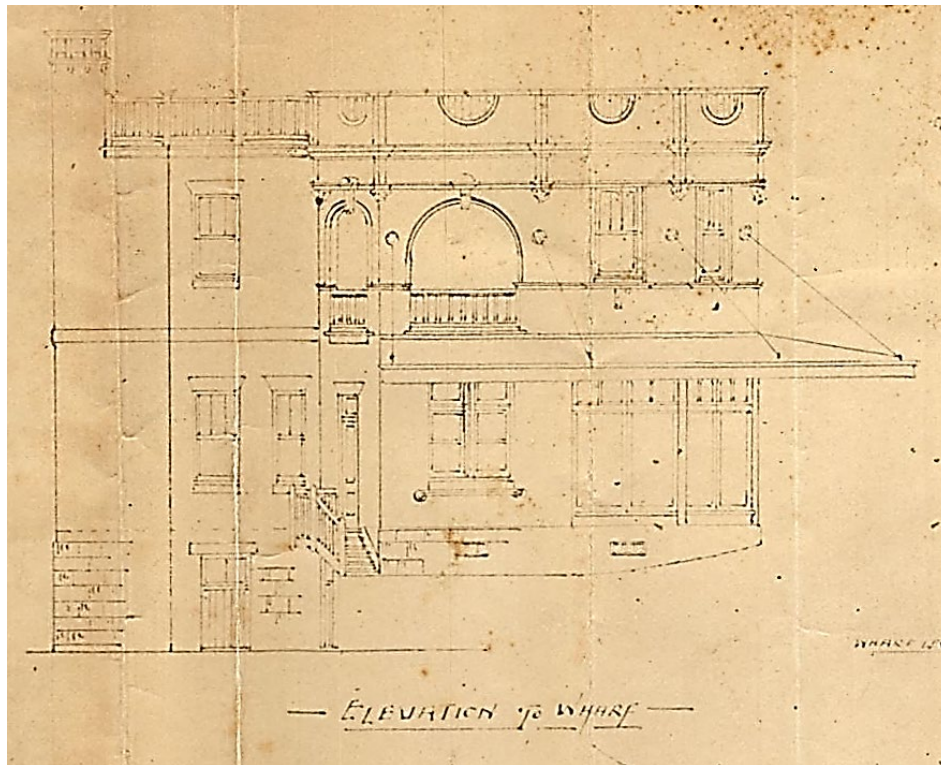


Figure 3.4 Detail of 1916 drawings of shop and residence by Oliver Harley, showing elevation to wharf of the shopfront and side entry to the refreshment room. (Source: Woollahra Municipal Council records, BA 48/16)

83 Fitzwilliam Road, Vaucluse—Heritage Assessment, September 2024



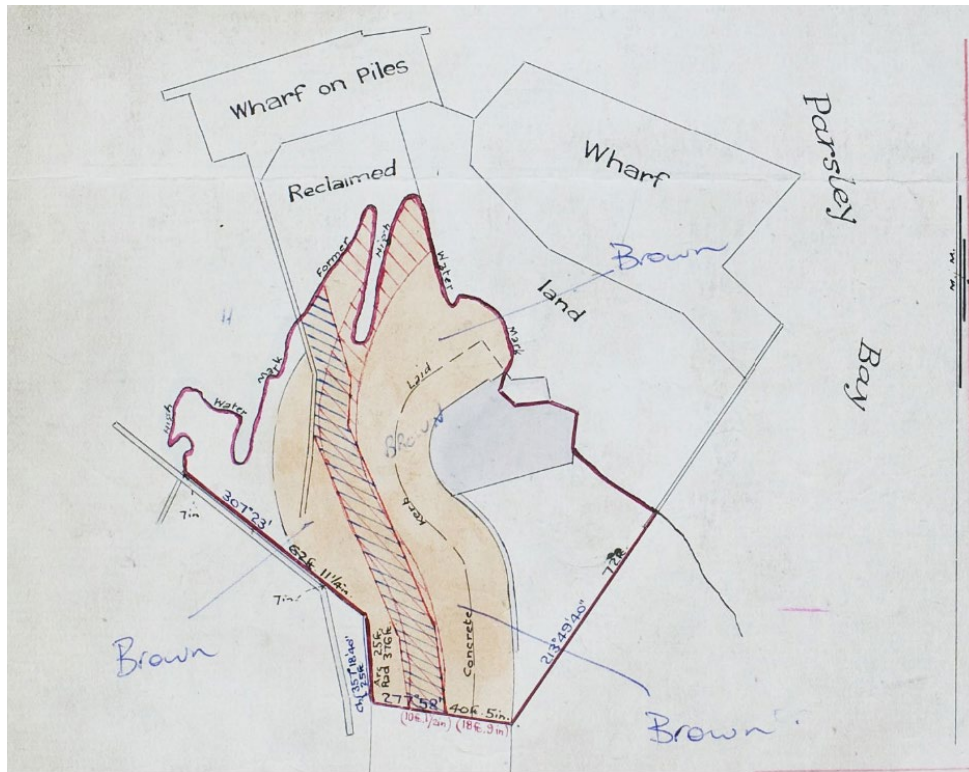


Figure 3.6 Survey of site boundary in 1921 showing the established right of way (hatched), wharves, reclaimed land and building footprint. (Source: NSW Land Registry Services, Vol. 3225 Fol. 148)

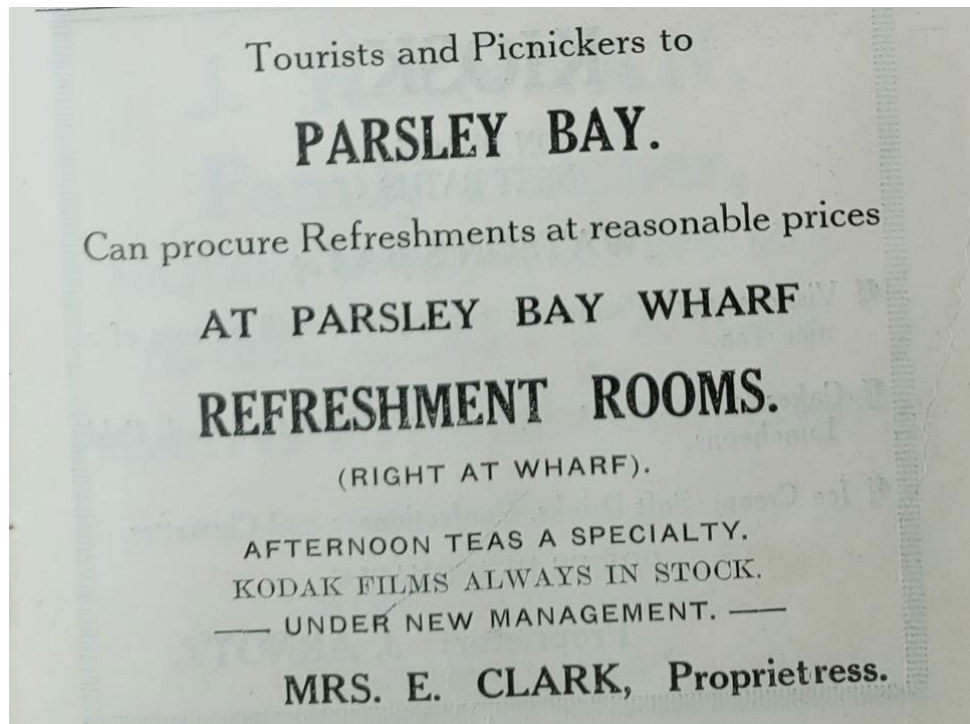


Figure 3.7 Advertisement for Mrs Clark's refreshment rooms at Parsley Bay Wharf, 1923. (Source: SLNSW, Official timetables of services of Sydney Ferries Ltd, compiled and published by Watsford & Watsford, p 17)



Figure 3.8 Detail from view of Parsley Bay showing swimmers within a shark-proof fence, c1930. The Parsley Bay Wharf shop and dwelling plus waiting room are seen and a steam ship is docked. (Source: SLNSW, a1470)

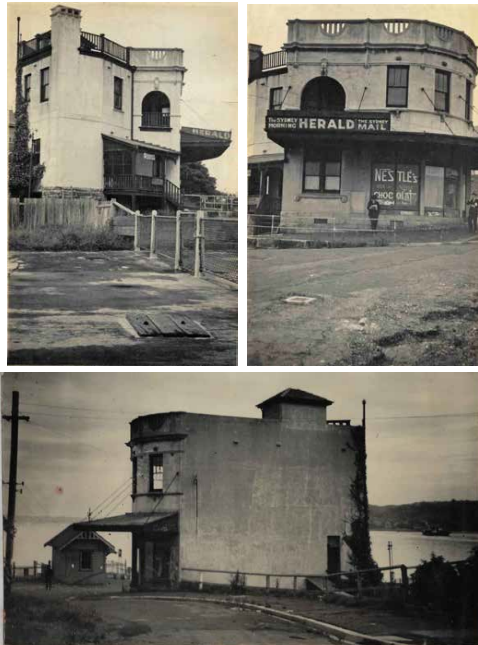


Figure 3.9 Montage of photographs showing various elevations of the shop and residence, including the timber waiting room, c1916–1938. (Source: Zoltan Kovacs Architect (2023) pp 7–8, courtesy of W Bracey)







Figure 3.10 Aerial photograph of the site (circled) showing the 1916 shop, timber wharf and waiting room, concrete wharf and surrounding development, c1930. (Source: Zoltan p 8, courtesy of W Bracey with GML overlay)



Figure 3.11 Extract of aerial view of Vaucluse and Parsley Bay, c1935 by EW Searle, with the subject site circled. (Source: National Library of Australia, PIC Drawer PM 4318 #PIC/P838/1390 with GML overlay)

### 3.2.4 Point Seymour

By the early 1930s use of the wharf had declined as other wharves serviced the area and car usage increased. The ferry company closed the wharf in 1937, coinciding with the expansion of Central Wharf (now named Parsley Bay Wharf) to the north, which provided direct access to Parsley Bay Beach. The subject site was sold to Horace Edward Pearce (HEP) Bracey of Lithgow in December 1938.

In June 1939 HEP Bracey lodged a building application for alterations and additions to the shop and residence. The plans (seen in Figure 3.12) were designed by Bracey's school friend, the architect George C Thomas. The design incorporated the existing shop and residence building into the new expanded house, notably using the curved shopfront as the western curved bay of the new dwelling, in a Functionalist design drawing from nautical forms, colloquially known as P&O style. This curved bay was the catalyst for two other curved bays in the dwelling, enclosing the earlier building, to provide a more open address to the north and east. The dwelling was completed in February 1940 and named, along with the site, Point Seymour (officially gazetted by the Geographical Names Board in 1978).

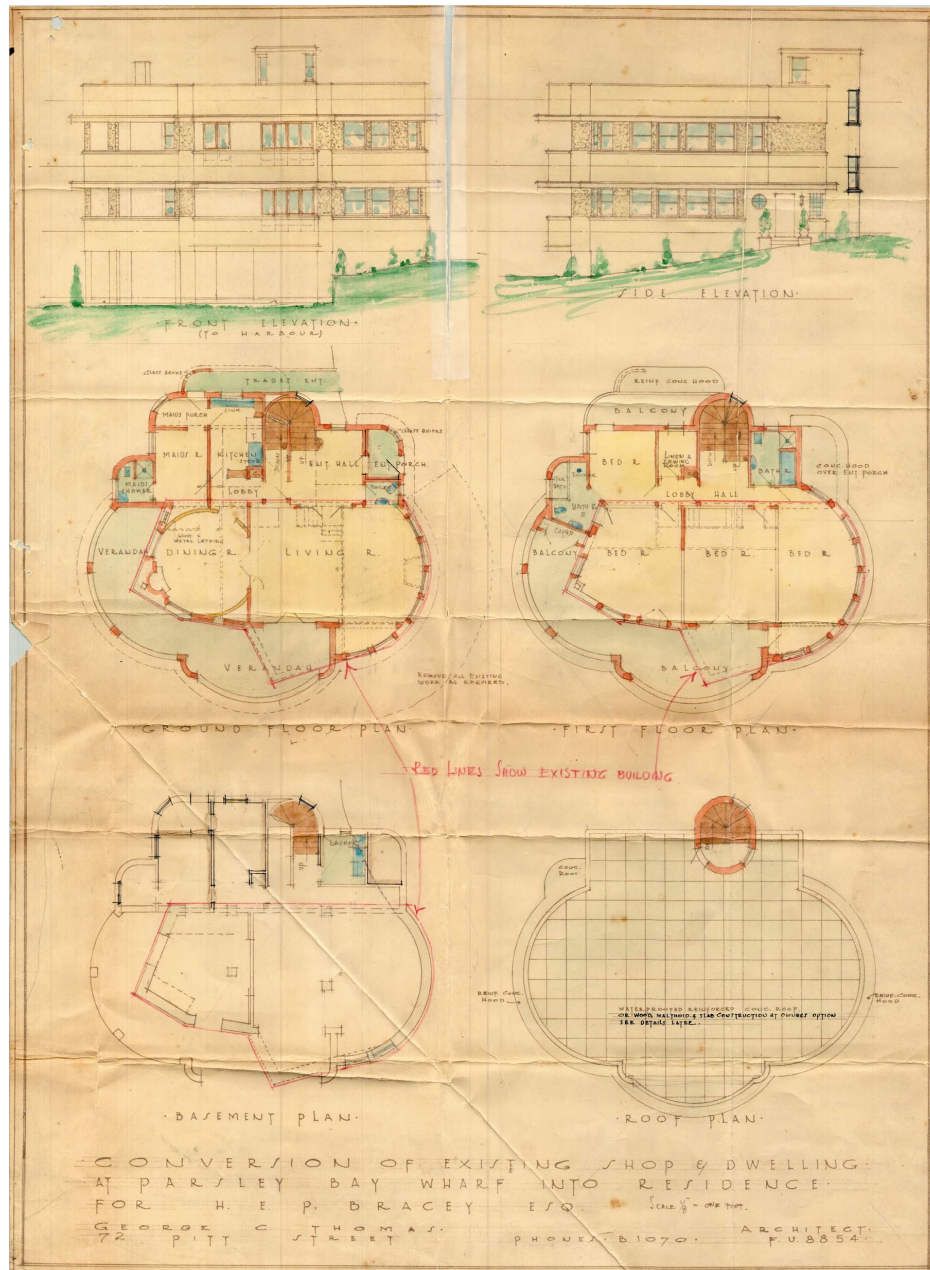


Figure 3.12 1939 drawings by George C Thomas for the 'conversion of existing shop and dwelling at Parsley Bay Wharf into Residence for H.E.P. Bracey Esq.'. (Source: Woollahra Municipal Council, BA 58/39)





Figure 3.13 A series of photographs showing the construction of the dwelling during 1939–1940.  
(Source: Zoltan Kovacs Architect (2023) p 9)

### Removal of wharves

In June 1942 residual land, which was owned by the Maritime Services Board (MSB) and not part of the original 1938 transaction to HEP Bracey, was conveyed to Bracey. The following month, the lots were consolidated. Both the wharves were not included in the sale and remained the property of the MSB. The earlier wharf on piles was removed in 1949 and the concrete wharf at the eastern side of the site was removed by the MSB in 1975.

### The Bracey family

The Bracey family are a historically significant family in the Lithgow area, running a general store from 1886. Horace Edward Seymour (HES) Bracey, father of HEP Bracey, was 'deeply involved in the retail, civic, political and cultural life of the town and served as Mayor of Lithgow in 1895-6, 1903, 1906 and 1910. HES Bracey commissioned prominent Sydney architects Spain, Cosh and Dods to design the Bracey family home, "Wenvoe", completed in 1914. The house ... remains in the family's ownership and is



listed as a heritage item on the Lithgow LEP'.<sup>3</sup> HES Bracey's youngest son, Eric, also commissioned Spain, Cosh and Dods to design his own residence in c1920. This property is also a local heritage item (I263) on the Lithgow LEP. HEP Bracey was involved in the civic life of Lithgow and, with his brother Eric, eventually took over management of the family business, Bracey's Ltd, from 1903. By 1935 HEP Bracey had retired from the company and moved to Elizabeth Bay. He died in 1943.

HEP Bracey's brother, Eric, inherited the property at 83 Fitzwilliam Road and transferred it into a family trust, Zig Zag Investments Pty Ltd, in 1956. Eric and his wife are recorded as residing at the property by 1958, living there until their deaths in 1968 and 1973, respectively. Eric undertook alterations to the dwelling in 1948 (see Figure 3.16). These works appear to have consisted of minor alterations, enclosing portions of portions of the veranda with glazing and adding a kitchen at each level so the floors could function as separate flats.

Eric's son, John Eric Bracey, took over management of Bracey's Ltd in the 1950s and inherited Point Seymour, residing there with his wife and children. During John's ownership the dwelling had solar heating and hot water service installed and a renovation of the kitchen, which included new windows with timber frames (to match). In 1979 the dwelling, including the newly renovated kitchen, was featured in the *Australian Women's Weekly* (24 October 1979, pp 114–115).

The Bracey family resided at the property from 1940 and, passing it down through the family, continued to do so until its eventual sale in 2023.



Figure 3.14 HEP Bracey (middle) with friends, c1940. (Source: Zoltan, p 9, Courtesy of W Bracey)

83 Fitzwilliam Road, Vacluse—Heritage Assessment, September 2024

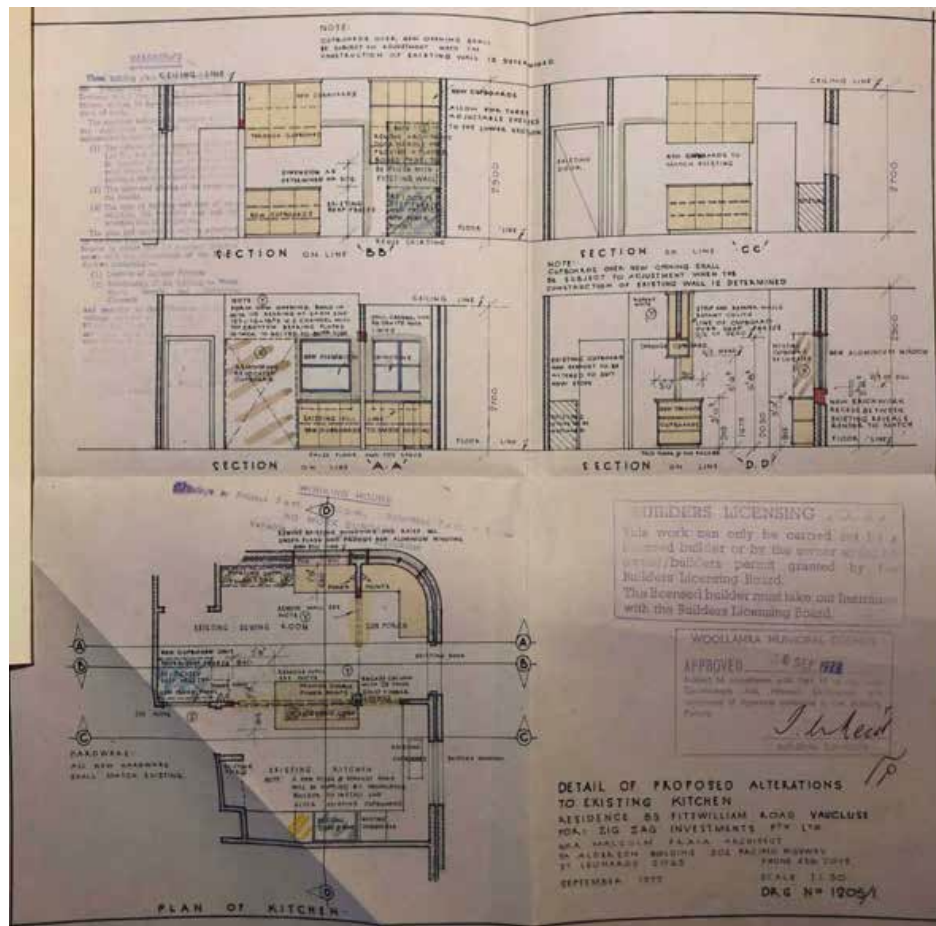


Figure 3.16 1977 alterations to the dwelling for a new kitchen. (Source: Zoltan Kovacs Architect (2023) p 15, Woollahra Municipal Council, BA 67/77)

## Reception and community esteem

In 1979 the property featured in a double page article in Australian Women's Weekly titled "'Wedding Cake' house on Sydney Harbour" and included several colour photographs of the views, exterior and interior. The article describes the dwelling as 'a landmark' and noted its historical use; "on weekends families came to the tearooms for an afternoon in the country by the sea".<sup>4</sup>

The dwelling, given its prominent siting and white rendered layered curves, resembled a wedding cake and became known as this colloquially. Many subsequent newspaper articles reference the dwelling as the 'Wedding Cake House'.



The house is featured in the 2019 publication *Art Deco Sydney*, as Point Seymour. This survey of Art Deco architecture in its many forms features houses from across Sydney.<sup>5</sup>

The sale of the property in 2023 drew media attention. An internet search of the term 'Wedding Cake House Vaucluse' draws numerous results related to the sale of the property indicating its landmark status, with selling agent Michael Pallier quoted as saying 'People know this property well, because as you travel through the harbour it's a home that has always stood out'.<sup>6</sup>



Figure 3.17 Double page article in the *Women's Weekly* in 1979, describing the dwelling as 'Wedding Cake' House'. (Source: *The Australian Women's Weekly*, 24 October 1979, pp 114–115)



Figure 3.18 Point Seymour, 83 Fitzwilliam Road, viewed from the water, 1994. (Source: Woollahra Library, pf005072i)



Figure 3.19 Point Seymour features in Peter Sheridan's book *Sydney Art Deco* (2019). (Source: Peter Sheridan, *Art Deco Sydney*, p 102).





**Historical aerals**



Figure 3.20 1943 aerial showing the subject site (centre) with extant wharves and a large boat docked. (Source: Nearmap 2024)



Figure 3.21 1982 aerial showing the subject site (centre) with wharves demolished. (Source: Nearmap 2024)



Figure 3.22 2010 aerial showing the subject site (centre). (Source: Nearmap 2024)

3.2.5 Historical timeline of development at 83 Fitzwilliam Road

Table 3.1 Historical overview.

Date	Event
1903	Ferry wharf established. This included reclaimed land, sandstone sea wall and wharf on timber piles.
1904	First ferry services using the wharf.
1908	Timber waiting shed constructed, designed by Oliver Harley. (Shed demolished c1940s.)
1915	Works undertaken by the Watsons Bay and South Shore Steam Ferry Company adding concrete jetty for freight at the eastern side of the site.
1916	Shop, refreshment rooms and residence constructed, designed by Oliver Harley.
1921	Subject site transferred to the ferry company (then known as Sydney Ferries Ltd).
1920s	Fletchers Refreshment Rooms utilised as community facility, polling booth and other activities.



Date	Event
1937	Parsley Bay Wharf closed. New wharf expanded on northern side of Parsley Bay.
1938	Site was sold to Horace Edward Pearce (HEP) Bracey.
1940	Conversion of the 1916 shop and residence into a new, larger dwelling.
1942	Residual land not included in 1938 transfer is conveyed to Bracey. The lots were consolidated the same year.
1948	Internal alterations to dwelling.
1949	First wharf on timber piles removed.
1975	Second concrete freight wharf removed.
1977	Internal alterations to dwelling (new kitchen).
1978	Point Seymour officially gazetted by the Geographical Names Board.
1979	Dwelling featured in a <i>Women's Weekly</i> article, "'Wedding Cake' House'.
2019	'Point Seymour' included in <i>Sydney Art Deco</i> book by Peter Sheridan.
2023	Property sold for first time since 1938, ending 85 year ownership by the Bracey family.

### 3.3 Endnotes

- <sup>1</sup> A Brief History of Woollahra, Woollahra Municipal Council, <https://www.woollahra.nsw.gov.au/Library/Local-history/History-of-woollahra-lga/A-brief-history-of-woollahra>.
- <sup>2</sup> Lisa Trueman Heritage Advisor, Point Seymour, 83 Fitzwilliam Road, Vaucluse, Heritage Assessment, p 13.
- <sup>3</sup> Lisa Trueman Heritage Advisor, p 39.
- <sup>4</sup> Eileen Alderton, *The Australian Women's Weekly*, 24 October 1979, p 114.
- <sup>5</sup> Peter Sheridan, *Art Deco Sydney*, 2019, p 102.
- <sup>6</sup> <https://www.realestate.com.au/news/vaucluse-waterfront-pt-seymour-listed-with-50m-price-guide/>



## 4 Site analysis

The following site description and analysis is based on GML's site visit (30 July 2024).

### 4.1 Setting and views

The site is located at the northern extent of Fitzwilliam Road, Vaucluse (Figure 1.2). The site is positioned at the tip of a peninsula of land between Vaucluse Bay to the west and Parsley Bay to the east. The prominent position of the site offers expansive views of Watsons Bay and the outer harbour, and in turn the dwelling is highly visible from the water and various vantage points across Vaucluse and Watsons Bay. Known colloquially as Wedding Cake House, the dwelling can be considered a local landmark. The prominence of the site is identified in Figures 4.1–4.5 taken from the Circular Quay to Watsons Bay ferry route and public domain spaces at Watsons Bay and Parsley Bay.

The immediate context of the subject site, on Fitzwilliam Road, is characterised by large two storey detached dwellings on large allotments, interspersed with interwar residential flat buildings. On-street parking and a variety of plantings, including mature trees, sandstone and brick boundary walls, and garages line the street. At the intersection of Wentworth and Fitzwilliam roads is a locally listed Vaucluse War Memorial and Bus Shelter (I349).

The dwelling sits on an expanse of terraced lawns which include low flower beds with sandstone edging and concrete paths which has remained largely unchanged in character since the Parsley Bay Wharf period of the site development. Other features include a flagpole, sundial, and low shrubbery including camellia hedging and two mature frangipani trees. The driveway that extends from Fitzwilliam Road at the south and travels along the property's western boundary is in the location of the road to the Parsley Bay Wharf, clearly demarking this former use. The northern boundary of the property abuts the remains of the Parsley Bay ferry wharf and the sandstone wall forming the reclaimed foreshore. A small part of the property extends into the harbour.





Figure 4.1 View south from the water (Circular Quay to Watsons Bay ferry route) showing the dwelling (centre) in its immediate Vaucluse surrounds. (Source: GML, July 2024)



Figure 4.2 View southeast from the water (Circular Quay to Watsons Bay ferry route) showing the dwelling (centre) and Parsley Bay and bridge to the left. (Source: GML, July 2024)



Figure 4.3 View southwest from the water (Watsons Bay to Circular Quay ferry route) showing the dwelling (centre) and surrounds. (Source: GML, July 2024)



Figure 4.4 View northeast from Parsley Bay showing the dwelling (circled) and surrounds. (Source: Zoltan Kovacs Architect, July 2023 with GML overlay)





Figure 4.5 View northeast from Parsley Bay Reserve showing the dwelling (circled) and surrounds.  
(Source: Zoltan Kovacs Architect, July 2023 with GML overlay)

## 4.2 The dwelling

The existing house is largely unaltered externally from when it was extended and converted from the shop/refreshment rooms to a dwelling in 1939. The original external form and features of the building remain, including parts of the 1916 two storey shop/refreshment rooms, with residence above, which were incorporated into the house. The curved lines of the former shop were extended into the distinctive curved form of the house, which incorporates elements of the Inter-war Functionalist/P&O style. The upper level windows and entrance to the former shop are identifiable at the southern part of the building. The parapet line has been extended around the curved façade of the house, which forms deep, recessed verandahs on two levels facing the harbour.

Real estate photographs from 2023 indicate that the house was also highly intact internally. The original configuration of rooms, with the primary rooms and bedrooms facing the harbour with access to the verandahs, and original timber windows, doors and joinery and exposed timber beams. The kitchen and an ensuite appeared to date from the 1979 renovations.



The subject site, including interiors, was inspected by GML on 30 July 2024 after CDC works had commenced on the property. Scaffolding and fencing had been erected and the interiors including some walls and windows, flooring and roof had been demolished. Extensive excavation around the footings of the building on the western side had also been undertaken.

The dwelling is a solid, three storey building with the curved form and simple surface treatment of the Inter-war Functionalist style. It is primarily a brick structure (rendered and painted white) with sandstone coursework (also painted white) and internal steel supporting beams. On the western, northern and eastern elevations, each level has three large, curved bays with large openings with a curved eave running above. The western curved bay incorporates part of the earlier building including its fenestration pattern on the first floor. The curve forms a pattern which is replicated, enclosing the earlier building and creating expansive balconies.

The southern elevation contains a curved vertical expression, enclosing the main stairwell, with fixed windows of glass blocks and a band of decorative dentil moulding underneath the fascia. A small single room at the rooftop provides access to the flat roof, concealed behind a short parapet.

Access is provided on the western elevation (the main entrance is a timber double door with 12 lights) and at the southern elevation (via a partly covered elevated walkway to the former trades/maids entrance). Along the curved southwest corner and southern elevation of the building, on a number of levels, many openings are extant. These include glass block windows, timber framed sash windows, and timber doors with clear and frosted glazing. These windows and doors on the southern elevation relate to the rear kitchen, laundry and former maids rooms.

Overall, the building has various opening sizes and window types (many windows had been removed prior to GML's inspection). The building has little decorative treatment, its form is simple, composed of smooth rendered surfaces, painted white, curves and contrasting horizontal and vertical expressions, typical of the Functionalist/P&O style.

The interior spaces GML inspected were the basement level, upper two floors and roof landing area. As the interiors were largely stripped out (internal walls, windows, flooring—including balcony tiles and some floorboards—finishes, partitions and fitouts, ceilings, etc.) the sense of the interior spaces was not able to be deciphered. Internal details remaining were limited to a curved metal stair balustrade covered in velvet with a decorative tassel. The concrete staircase was largely intact, and the brickwork (including the original 1916 building sections) were exposed and visible. Exposed rafters on the top floor revealed evidence of a previous fire.



#### 4.2.1 Site photographs



Figure 4.6 83 Fitzwilliam Road, view from the street prior to site hoarding obscuring views. (Source: Lisa Trueman HA report, February 2024)



Figure 4.7 83 Fitzwilliam Road, view from the street prior to site hoarding obscuring views. (Source: Lisa Trueman HA report, February 2024)



Figure 4.8 The principal northern elevation and eastern and western bays. (Source: GML, July 2024)



Figure 4.9 Southern and western elevations showing the location of the front door and the curved façade of the former shop element. (Source: GML, July 2024)





Figure 4.10 Ground floor southern elevation showing existing original windows and doors. (Source: GML, July 2024)



Figure 4.11 Southern elevation curved bay enclosing stairway, partly concealed with scaffolding. (Source: GML, July 2024)



Figure 4.12 View of the southern elevation, showing curved stairwell with glass block windows (second entrance and footbridge obscured by scaffolding). (Source: GML, July 2024)



Figure 4.13 View of southwest corner, showing main entrance (stairs removed from excavation) and glass block windows on first floor curved elevations. (Source: GML, July 2024)



Figure 4.14 View south showing dwelling, sea wall and landscaping. (Source: GML, July 2024)



Figure 4.15 View east showing sandstone retaining walls, stairs and path. (Source: GML, July 2024)



Figure 4.16 View of the remains of the eastern wharf, site boundary, landscaping and the eastern bay of the dwelling. (Source: GML, July 2024)



Figure 4.17 Eastern elevation of dwelling showing 1916 sandstone basement wall (painted white) and form of 1939 addition above. (Source: GML, July 2024)





Figure 4.18 Excavation in front of the northwest elevation, revealing sandstone foundations. (Source: GML, July 2024)



Figure 4.19 Interior view of eastern bay at basement level. (Source: GML, July 2024)



Figure 4.20 Severed beam in basement. (Source: GML, July 2024)



Figure 4.21 Rear of basement showing original door and window. (Source: GML, July 2024)



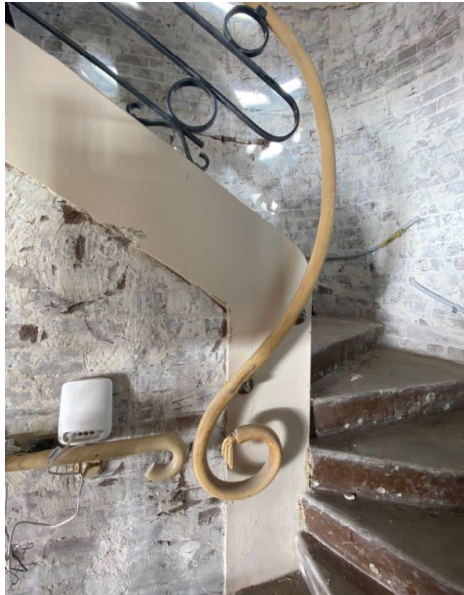


Figure 4.22 Brick stairwell and concrete stairs with steel handrail, curved motif, velvet covering and tassel. (Source: GML, July 2024)



Figure 4.23 Glass block window in internal stairwell, also remnant wallpaper. (Source: GML, July 2024)



Figure 4.24 First floor showing ceilings, walls, windows, some flooring and finishes removed. (Source: GML, July 2024)



Figure 4.25 Section of wall partly removed, with temporary supports. (Source: GML, July 2024)



Figure 4.26 Ceiling rafters with areas of burnt rafters exposed. (Source: GML, July 2024)



Figure 4.27 View east of stripped out top floor. (Source: GML, July 2024)



Figure 4.28 View west of top floor showing 1916 curved wall and fenestration pattern. (Source: GML, July 2024)



Figure 4.29 Basement level opening to the east. (Source: GML, July 2024)



## 5 Heritage context

### 5.1 Heritage listings

The subject site is a listed item of local significance under Schedule 5 of the WLEP 2014 as follows:

Item name	Address	Property description	Significance	Item ID	Listing
'Remains of Vaucluse Point ferry wharf'	83 Fitzwilliam Road, Vaucluse	Lot 1, DP 1109931; Lots 1, 2 and 3, DP 430595; Lots 1 and 2, DP 346850; Lot 1, DP 188299	Local	I357	WLEP 2014

The subject site is not located within a heritage conservation area.

The Statement of Significance is provided on the NSW State Heritage Inventory for the item as:

Indicative of the changing patterns of transport and the urban development of the adjacent areas. Part of the nineteenth century transport network based on the harbour waterways.

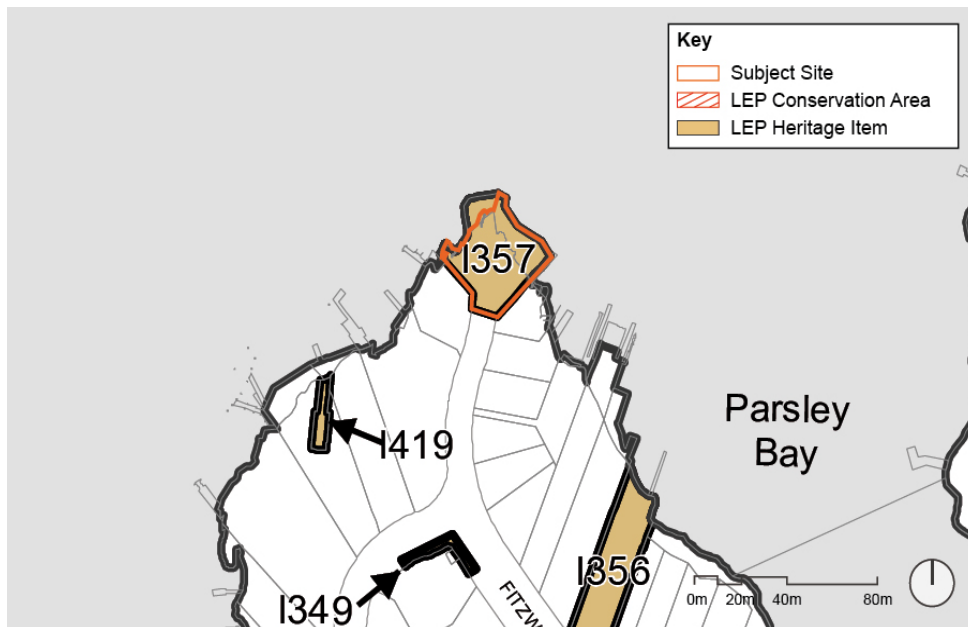


Figure 5.1 Heritage map showing boundary of the subject site and nearby heritage items. (Source: Heritage Map HER\_004, Woollahra LEP 2014 with GML overlay)

## 5.2 Heritage items in the vicinity

The subject site is located in the vicinity of multiple heritage items of local significance. Information for the following heritage items identified in the vicinity of the subject site are taken from Schedule 5 of the WLEP 2014. These are also identified in Figure 5.1.

Item name	Address	Property description	Significance	Item ID	Listing
'War memorial and bus stop shelter'	Fitzwilliam Road, junction with Wentworth Road	Road reserve	Local	I349	WLEP 2014
'West Parsley Bay Obelisk'	65 Fitzwilliam Road	Lot 5, Section 1, DP 4527	Local	I356	WLEP 2014
'Eastern Channel Lighthouse—Front Lead'	Wentworth Road (adjoining 80 and 82 Wentworth Road)		Local	I419	WLEP 2014



## 6 Assessment of significance

An assessment of heritage significance is conducted to establish why a place is important. *The Burra Charter* defines cultural significance as 'aesthetic, historic, scientific, social or spiritual value for the past, present or future generations'.<sup>1</sup>

Significance is embodied in the physical fabric of the place, its setting and relationship to other items, the recorded associations with the place, and the response the place evokes in the community or in individuals to whom it is important. The evaluation includes consideration of the original and subsequent layering of fabric, uses, associations and meanings of the place, as well as its relationship to both the immediate and wider setting.

Note: the following assessment of significance relates to the dwelling on the subject site, the grounds, views and its setting. The significance relating to the remains of the ferry wharf is already established and reflected in the existing heritage listing (I357 WLEP).

### 6.1 Integrity and condition

When inspected by GML on 30 July 2024, the dwelling was largely intact externally, however the majority of the window frames on the principal elevations and the roof had been removed. The original fenestration pattern of the 1916 shop and residence remained and was able to be appreciated (see Figure 4.28). Internally, the structure of the 1916 shop also remains evident. While much of the interior has been removed, the layout, scale and character of the 1939 design is able to be appreciated. For example the location of earlier walls is clearly evident in the remaining floor finishes. Intact fabric includes the majority of the flooring (floorboards), stairs and handrail and some partition walls and the majority of the fabric on the southern side of the dwelling, including room structures, panels of glass bricks, windows and doors.

Excavations at the base of the building's northwest elevation had been undertaken including the removal of a portion of the concrete path. The remaining garden and landscaped areas were intact.

### 6.2 Comparative assessment

83 Fitzwilliam Road, or Point Seymour, has a unique history as the former Parsley Bay Wharf with shop and refreshment rooms, later sold into private ownership and converted to a house in the Inter-war Functionalist style characteristic of the 1930s. Its location on a prominent peninsula of Sydney Harbour, making it a well-known feature of the Vaucluse foreshore, also makes it unusual. In order to evaluate the significance of the






site the following section compares the site with other dwellings of a similar Functionalist/P&O architectural style and age within the Woollahra LGA, other former or current ferry stops within the area and comparable former public harbour facilities, such as shops and tearooms of a similar scale. This section aims to establish to what extent the site has historical importance and is a rare or representative example of its type.

**Inter-war Functionalist houses in the Woollahra LGA**


This comparative assessment has been undertaken based on dwellings of a similar Inter-war Functionalist architectural style and age within the Woollahra LGA. The examples have been sourced using the NSW State Heritage Inventory database and include the following:

- Prevost House, 65 Kambala Road, Bellevue Hill;
- Nisbet House, 99 Yarranabbe Road, Darling Point; and
- 55 Drumalbyn Road, Bellevue Hill.

Prevost House, 65 Kambala Road, Bellevue Hill



Prevost House. (Source: DOCOMOMO Australia, 2014)





Rear of Prevost House. (Source: Domain.com.au, 2006)

<b>Date of construction</b> 1936	<b>Architect</b> Prevost & Ancher
<b>Listing</b> WLEP 2014 (I39)	<b>Significance</b> local

**Statement of Significance (DOCOMOMO)**

*A house of considerable architectural significance as one of the finest Functionalist style houses in Australia. An early work of the prominent architect Sydney Ancher, which is a sophisticated interpretation of nautical and other overseas influences. The flat roof, which is symbolic of the modern movement, is one of the earliest in Australia. The house marks a turning point in the history of twentieth-century architecture in Australia.<sup>2</sup>*



<b>Prevost House, 65 Kambala Road, Bellevue Hill</b>	
<b>Intactness</b> The property was sold in 2006, with limited photographs available online. There were no DA applications lodged with council since this sale. The exterior of the dwelling appears to be largely intact. The degree of the intactness of the interiors remains unclear.	
<b>Nisbet House, 99 Yarranabbe Road, Darling Point</b>	
	
Exterior of Nisbet House. (Source: Realestate.com.au)	Interior of Nisbet House. (Source: Realestate.com.au)
<b>Date of construction</b> 1937	<b>Architect</b> John Athelstan Victor Nisbet
<b>Listing</b> WLEP 2014 (I194)	<b>Significance</b> local
<b>Statement of Significance</b> <i>The house at 99 Yarranabbe Road has high local historic and aesthetic significance as a demonstrated, although not documented, copy of international architect Wells Coates' 'Sunspan' house, exhibited in England, and which is rare in Sydney. The house has local historical significance as a representative example of the emergence of Inter War housing development at the northern end of Darling Point. The house has some local historical significance as a demonstrative example of the emergence and direct influence of the International modern architectural movement within Sydney in the late 1930s, through the publishing of works in professional journals.</i> <i>The house has some local historical significance for its association with architect John A. V. Nisbet, a local architect of some significance, for whom the house was constructed. The house has high local aesthetic significance as a well executed representative example of an Inter War Functionalist style residence in Darling Point, which retains a high degree of integrity in its external massing and architectural detail, and internal planning. The property has some local historical significance as a representative example of the layers of subdivision, typical of much of Darling Point. The house has streetscape value on Yarranabbe Road, for its prominent site location</i>	



**Nisbet House, 99 Yarranabbe Road, Darling Point**

*and strong architectural character, which is typical of its Functionalist style, and which affords it sculptural like qualities. The siting and orientation of the house to capture the harbour view, and the terracing of the land in front of the house, including the stone steps, have local aesthetic significance, as a direct result of the sloping nature and orientation of the site, and for their contribution to the sculptural qualities of the house.<sup>3</sup>*

**Intactness**  
The house has been extensively modified and updated internally and externally with a rooftop addition added, internal layout and level changes in 2009. This is reflected in documentation from multiple DAs held by Woollahra Municipal Council and publicly available photographs on real estate websites.

**55 Drumalbyn Road, Bellevue Hill**



Exterior of 55 Drumalbyn Road. (Source: Robertson & Hindmarsh Pty Ltd, March 2022)

Interior of 55 Drumalbyn Road. (Source: Robertson & Hindmarsh Pty Ltd, March 2022)

<b>Date of construction</b> 1937	<b>Architect</b> Percy Gordon Craig
<b>Listing</b> WLEP 2014 (I723)	<b>Significance</b> local

**Statement of Significance**  
*55 Drumalbyn Road, Bellevue Hill is of at least Local historical significance as an early New South Wales example of Modernist residential architecture that demonstrates the distinctive features of the style such as horizontal emphasis, open plan living areas and useable roof terrace, reflecting the first wave of Modernism to be employed in Australia; as such it is a rare remaining example of the style and one of the first examples to be erected in Sydney generally and in the Eastern suburbs. The house takes advantage of its elevated sloping site through terracing of the gardens, facing the principal rooms to the view and sun and linking the roof terrace to the sandstone ledge in the rear garden. It is also of at least Local historical significance in reflecting the lifestyle of the upper Middle Class in the interwar period with a garage for their car and*



#### 55 Drumalbyn Road, Bellevue Hill

*accommodation for the live-in maids, which was indicative of the wealth of the residents and also is a reflection of a lifestyle (live-in maids) that is, defunct except for the rarest instances of the super-wealthy.*

*55 Drumalbyn Road, Bellevue Hill is of at least Local significance for its association with the long-time owners, the world-famous, and internationally-recognised, Cole Family of magicians, escapologists and illusionists and for its association with the body of work of the prolific interwar architect P. Gordon Craig and his younger partner who worked on the design of the house, John M. Brindley.<sup>4</sup>*

#### Intactness

From publicly available photographs, the interiors and exteriors are highly intact, reflected in the heritage listing of the item as 'House including interiors, garage, outbuilding and gardens including retaining walls'.

It is noted that an application to demolish the building and construct an aged care facility was refused by council. This led to a recent Land and Environment Court hearing (Proceedings No. 2021\_358556), RNB PROPERTY GROUP PTY LTD v WOOLLAHRA MUNICIPAL COUNCIL which overturned council's refusal.

#### Conclusion:

The dwelling at 83 Fitzwilliam Road, its external form predominantly from 1939, demonstrates similar characteristics with the locally heritage significant examples above, including demonstrating overseas influences in architecture particularly Functionalism styles and drawing on nautical design references. This can be seen in the strong architectural character of the external form of the house, use of glass bricks and flat roof.

In particular the house shares characteristics with Prevost House (1936-37), a celebrated early example of modernist architecture in Sydney. Notably the use of glass bricks, flat roof and circular dining area (thought to be drawn from Mies Van der Rohe's Tugendhat House (1930), Brno, Czech Republic).<sup>5</sup> 83 Fitzwilliam Road, dating from just 3 years after Prevost House, can be seen to demonstrate many similar elements of innovation, still rare at its time of construction.

Like the examples above, the house at 83 Fitzwilliam Road can be seen as a well-executed representative example of an Inter-War Functionalism style residence, which retains a high degree of integrity in its external massing.

As with a number of examples above, the property has streetscape value on Fitzwilliam Road and from the harbour, for its prominent site location and strong architectural character. The siting and orientation of the house to capture the harbour view, and the minimal terracing in front of the house, can also be seen to have local aesthetic significance. It is also noted that a number of the examples above have been modified internally or with additions, yet retain their distinctive aesthetic characteristics.



While the house at 83 Fitzwilliam Road dates from 1916 with later extensive additions in 1939, it is acknowledged its external appearance is largely that of the 1939 works. As a result the house is considered to be a good representative example of Inter-war Functionalist architecture within the Woollahra LGA, of which few examples are heritage listed.

**Remnant sites related to harbour transport networks**

The former ferry wharf areas of the site are currently listed as an item of local significance. The current Statement of Significance for the subject site is as follows (I357, WLEP 2014):



*Indicative of the changing patterns of transport and the urban development of the adjacent areas. Part of the nineteenth century transport network based on the harbour waterways.*

It is felt that the site as a whole is able to demonstrate these transport patterns and the importance of the harbour for the nineteenth century development of the Woollahra LGA. It is noted that this site was part of a network of ferry services throughout Sydney Harbour. Other sites listed on the State Heritage Inventory with a similar historical development pattern include the following:

- 'Tea Gardens - kiosk, interiors and grounds', Watsons Bay;
- 'Remains of Bath House and site of jetty', Darling Point;
- 'Watsons Bay Ferry Pier', Watsons Bay;
- 'Double Bay Public Wharf Site', Double Bay;
- 'Site of Figtree Tea Rooms and Aquatic Tea Rooms', Hunters Hill;
- 'Site of Figtree Wharf and Boatshed', Hunters Hill;
- 'Parsley Bay Ferry Wharf', Vaucluse; and
- 'Nielson Wharf remains (former)', Vaucluse.





'Tea Gardens - kiosk, interiors and grounds', Watsons Bay	
	
Recent photograph of the 1920s Watsons Bay Tea Gardens Kiosk, undated. (Source: NSW State Heritage Inventory)	Watsons Bay Tea Rooms, c1943–1944. (Source: Woollahra Municipal Council Library, pf005721)
<b>Date of construction</b> c1926	<b>Architect</b> John Herbert Hurst
<b>Listing</b> WLEP 2024 (I442)	<b>Significance</b> Local
<b>Statement of Significance</b> <p><i>The Tea Gardens Kiosk at 8 Marine Parade Watsons Bay demonstrates historic significance as a local landmark building constructed as dressing sheds around 1926 associated with the Watsons Bay ocean pool located opposite on the other side of Marine Parade.</i></p> <p><i>The building demonstrates historical associative significance as a built example of the work of the architect John Herbert Hurst. Whilst the building has undergone some minor modifications, the design intent of the architect can still be clearly interpreted. Its ability to describe the type of development that was a response to the Tourism and Leisure opportunities afforded by the physical landscape of Watsons Bay.<sup>6</sup></i></p>	
<b>Intactness/integrity</b> <p>The State Heritage Inventory for the item describes the building as being in good condition. Contemporary publicly available photographs confirm this.</p>	



'Remains of Bath House and site of jetty', Darling Point	
	
Remains of bath house. (Source: NSW State Heritage Inventory, 2021)	Remains of bath house. (Source: NSW State Heritage Inventory, 2021)
<b>Date of construction</b> 1840–1890	<b>Architect</b> Unknown
<b>Listing</b> WLEP 2014 (I113)	<b>Significance</b> Local
<b>Statement of Significance</b>	
<p><i>The remains of bath house and site of jetty maintain historic significance as remnants of public transport within Sydney Harbour and of recreational activities undertaken by Sydney's 'elite' class during the mid to late nineteenth century. The remains are of aesthetic significance as substantial sandstone remnants expressing a long period of use, aesthetically consistent within the surrounding character of Darling Point. The remains are of social significance for local residents and history groups within the local area who can observe an example of Europeans early introduction to seaside recreation.</i></p> <p><i>The remains of bath house and site of jetty are of research potential, rarity and representativeness significance as one of a few intact set of remains contributing to our understanding of early local attempts to interact with the seashore.<sup>7</sup></i></p>	
<b>Intactness/integrity</b>	
Archaeological remains. Unknown.	



'Watsons Bay Ferry Pier', Watsons Bay	
	
Watsons Bay Ferry Pier. (Source: NSW State Heritage Inventory, 2008)	Watsons Bay Ferry Pier. (Source: NSW State Heritage Inventory, 2008)
<b>Date of construction</b> 1978 (reconstructed)	<b>Architect</b> Unknown
<b>Listing</b> S170 (Transport)	<b>Significance</b> Unknown
<b>Statement of Significance</b> <p><i>Watsons Bay Ferry Pier has been a local transport facility since the 1880s and, as one of several ferry wharves along the southern shore of the Harbour, forms part of the historic infrastructure around which the eastern suburbs have developed. Ferry and tram operations have had a significant effect on the nature of development in surrounding areas, with twentieth century residential development in the eastern suburbs variously following the ferry or tram transport routes. The wharf has strong associations with the local fishing industry and has played a major role in the particular character of Watsons Bay.</i></p> <p><i>The significance of the wharf is contained in its location, its relationship to associated transport routes and any physical evidence that demonstrates its long history of use.<sup>8</sup></i></p>	
<b>Intactness/integrity</b> <p>Described as good on the NSW State Heritage Inventory.</p>	



'Double Bay Public Wharf Site', Double Bay

A photograph showing the wooden structure of the Double Bay Public Wharf from the water, with several vertical piles and a small platform. A NSW Government logo is overlaid in the bottom right.

Wharf and piles from water. (Source: NSW State Heritage Inventory, 2008)

A photograph showing the wharf structure, including a set of stairs leading up to a small sheltered area. A NSW Government logo is overlaid in the bottom right.

Wharf, stairs and shelter. (Source: NSW State Heritage Inventory, 2008)

**Date of construction** 1960 (reconstructed)

**Architect** Unknown

**Listing** S170 Register (Transport)

**Significance** Unknown

**Statement of Significance**

*Double Bay Public Wharf has been a local transport facility since the 1860s and, as one of several ferry wharves along the southern shore of the Harbour, forms part of the historic infrastructure around which the eastern suburbs have developed. Ferry and tram operations have had a significant effect on the nature of development in surrounding areas, with twentieth century residential development variously following the ferry or tram transport routes. It has associations to Daniel Cooper and to the history of the early private ferry companies serving the south shore localities. It is representative of ferry wharves around Sydney Harbour.*

*The significance of the wharf is contained in its location, its relationship to associated transport routes and any physical evidence that demonstrates its long history of use.<sup>9</sup>*

**Intactness**

Double Bay Ferry Wharf has been an active ferry wharf since c1853. The current wharves were reconstructed in 1960 and are described in the NSW State Heritage Inventory as being in poor condition.







'Site of Figtree Wharf and Boatshed', Hunters Hill	
Retaining wall at the east of the site, constructed with sparrow-pecked, hammer dressed sandstone blocks. (Source: NSW State Heritage Inventory, 2004)	Location of former Figtree Wharf and Boatshed, facing east. (Source: NSW State Heritage Inventory, 2004)
<b>Date of construction</b> 1865	<b>Architect</b> Unknown
<b>Listing</b> <ul style="list-style-type: none"><li>- S170 (Transport), 4301036</li><li>- Hunters Hill LEP 2012 (I459)</li><li>- Hunters Hill LEP 2012 (Hunters Hill Conservation Area – The Peninsula, C1)</li></ul>	<b>Significance</b> Local
<b>Statement of Significance</b> <p><i>The site of the former Figtree Wharf and Boatshed is of Local significance to the LGA of Hunters Hill for its role in the development of the region as an early recreational destination, then a transportation route connecting the outer suburbs to Sydney. Evidence of the boatshed and other structures may survive, providing archaeological information on construction techniques and uses of the building associated with the ferry services and later the first Fig Tree Bridge. The land was originally granted to the emancipist businesswoman Mary Reiby, then passed into the ownership of Didier Joubert, who along with his brother Jules, played a significant role in the development of the enduring character of Hunters Hill.<sup>11</sup></i></p>	
<b>Intactness</b> <p>Unknown.</p>	

**Conclusion**

The above heritage items express a recognised history of maritime transport patterns and the importance of the harbour for suburban development and recreational and leisure uses. The examples include a range of structures, both extant and former, including wharves, waiting rooms, tearooms, bath houses and boat houses which record this historically important harbour ferry network. Each site was part of a network of



water based transport services throughout Sydney Harbour which provided transport to residents, day-trippers, recreational use of the harbour and for the movement of goods and livestock.

The sites are generally noted local landmarks and have been assessed to have local historical, social and research significance, as well as rare and representative qualities. Importantly, the sites in the above comparative analysis are generally groups of structures, or are associated with nearby infrastructure, including a wharf, reclaimed land/sea wall, a building such as a waiting shed, boat house, tearoom/refreshment room/kiosk, booking office. Historically, the suite of buildings and structures such as tearooms were an important part of the harbour network, interconnected with the ferry service and network.

Some of the sites have been demolished, heavily modified or entirely reconstructed, yet all retain their heritage significance and are identified on various heritage registers. Most of the examples above are noted for their rarity as examples of harbour or beachfront wharves or similar utilising ferry services—part of water transport network closely linked to suburban development and tourism.

83 Fitzwilliam Street shares the history of many of these examples including its relationship to suburban development and tourism via its connection to the ferry network in Sydney Harbour. It is also able to demonstrate these former uses in the range of structures and landscaping that remain on the site, including wharf remains, reclaimed land/sea walls, paths, and former shop and tearoom. The entire site can be seen as a cultural landscape reflecting the late nineteenth and early twentieth century history of harbour based transport in the area and as representative of a wider network of similar sites.

## 6.3 Assessment against standard criteria

This section sets out an assessment of the heritage significance of the subject site in accordance with the standard criteria as outlined in the *Assessing Heritage Significance* guidelines.<sup>12</sup> The evaluation includes consideration of the original and subsequent layering of fabric, uses, associations and meanings of the place, as well as its relationship to both the immediate and wider setting.

The *Assessing Heritage Significance* guidelines provide the framework for the assessment and the Statement of Significance in this report. These guidelines incorporate the five types of cultural heritage values identified in the Burra Charter into a specially structured framework, which is the format required by heritage authorities in New South Wales.

Under these guidelines, items (or 'places' in Burra Charter terminology) are assessed in accordance with a specific set of criteria, as set out in the table below. An item is



significant in terms of a criterion if the kinds of attributes listed in the significance indicators to describe it. The significance indicators are a guide only and should be used to help review and qualify conclusions reached about the item’s significance. The assessment needs to relate the item’s values to its relevant geographical and social context, usually identified as either local or state contexts. Items may have both local and state significance for similar or different values/criteria.

6.3.1 Criterion A—historic significance

An item is important in the course, or pattern, of NSW’s cultural or natural history (or the cultural or natural history of the local area).

The subject property, as the site of the former Parsley Bay Wharf, is important in demonstrating the historical development of the local area. The ferry service was historically significant to the local area and was a key part of the early settlement and subdivision of the Vaucluse Estate. The subject property was used for over 30 years, by local residents, day-trippers visiting the local area and played a significant role as a civic and community facility.

Remains of this historical function are evidenced at the site in the below water remains of the 1903 and 1915 wharves (demolished), extant reclaimed land, sandstone retaining walls and sea walls, the pathway to the jetty, the site layout and landscaping and the extant dwelling which converted and expanded the original 1916 building. The current structure, including the integration of the shop and refreshment rooms into the dwelling house, reflects these historical uses in its remaining layout and external appearance.

Together, the site’s structures/landscape elements can be seen to have historic significance as a cultural landscape that demonstrates an important phase in the history of the local area.

**The subject site has cultural significance at a local level under this criterion.**

**The subject site does not have cultural significance at a state level under this criterion.**

Table 6.1 Criterion A—historic significance.

Significance indicator	Local significance threshold
Association with an event, or series of events, of historical, cultural or natural significance	The site is associated with the subdivision and settlement of Vaucluse and has local significance for these associations.
Demonstration of important periods or phases in history	The subject property was the site of the former Parsley Bay Wharf which operated from 1903 to 1937. It is able to demonstrate the importance of water transport in the settlement of the suburb of



Significance indicator	Local significance threshold
	Vaucluse and the ongoing importance of water-based transport during the early twentieth century. Remains of this historical function demonstrates an important period in the history of the local area.
Association with important cultural phases or movements	The subject site demonstrates a key aspect of the subdivision pattern of the area, with the provision of a ferry service on Fitzwilliam Road, and is part of a network of ferry services within the eastern suburbs that provided transport for residents and access to popular recreation facilities during the early twentieth century.
Demonstration of important historical, natural or cultural processes or activities	The site demonstrates the importance of harbour transport for the eastern suburbs in the early twentieth century and the ferry service as a community and tourism facility.
Symbolism and influence of place for its association with an important historical, natural or cultural event, period, phase or movement	The site does not meet the threshold for this criterion.

### 6.3.2 Criterion B—historical association

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).

Although members of the Bracey family maintained residence at Point Seymour for over 80 years and commissioned the alteration of the shop and residence into the current dwelling, they are not considered to have made an important or notable contribution to the Woollahra local government area. They are, however, significant figures within the context of Lithgow. This historical association and significance is better reflected in the current heritage listings of their houses designed by Spain, Cosh and Dods in Lithgow (I263 and I264, Lithgow LEP 2014).

The subject site has historical associations with Oliver Harley, who designed the 1916 shop and residence building and Geroqe Thomas who converted it into the extant dwelling in 1939. Both Harley and Thomas are not considered as significant figures nor have they made significant contributions to the local area.

**The subject site does not have cultural significance at a local or state level under this criterion.**



Table 6.2 Criterion B—historical association.

Significance indicator	Local significance threshold
A key phase(s) in the establishment or subsequent development at the place or object was undertaken by, or directly influenced by, the important person(s) or organisation	The site does not meet the threshold for this criterion.
An event or series of events of historical importance occurring at the place or object were undertaken by, or directly influenced by, the important person(s) or organisation	The site does not meet the threshold for this criterion.
One or more achievements for which the person(s) or organisation are considered important are directly linked to the place or object	The site does not meet the threshold for this criterion.

**6.3.3 Criterion C—aesthetic/creative/technical achievement**

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).

The site can be seen to have landmark presence and distinctive aesthetic characteristics. The Parsley Bay Wharf period resulted in a distinctive arrangement of elements, reclaimed land, sea walls, connecting paths and structure, located on the prominent peninsula site, that remain largely intact and able to be appreciated.

The house, which expanded and remodelled the 1916 shop, also demonstrates aesthetic attributes in form and composition. Its distinctive Functionalist/ P&O style design demonstrates architectural innovation of this period including the strong architectural character of the external form, flat roof, use of glass bricks and curved dining room. The house at 83 Fitzwilliam Road can be seen to demonstrate characteristics of Functionalist/ P&O style architecture still rare at its time of construction.

Its design, in responding to its location with use of nautical references, has been celebrated in popular culture with its inclusion in media articles and surveys of Art Deco architecture. The aesthetic characteristics of the site, a peninsula with sandstone walled foreshore, flat lawns and prominent three level Functionalist P&O style house on the harbour foreshore, can be seen to make an important streetscape contribution (from land and water) and to have distinctive aesthetic characteristics that are well recognised by the community.

**The subject site has cultural significance at a local level under this criterion.**

**The subject site does not have cultural significance at a state level under this criterion.**





Table 6.3 Criterion C—aesthetic/creative/technical achievement.

Significance indicator	Local significance threshold
Recognition as a landmark or distinctive aesthetic natural environment	The site has local landmark qualities given its distinctive design and prominent siting at the tip of Point Seymour. The Inter-war Functionalist house, its external appearance referencing nautical design, and its peninsula context, makes a prominent statement that is distinctive in its setting.
Recognition of artistic or design excellence	The design of the house and landscape are considered representative of Inter-war Functionalist style houses of the 1930s and to demonstrate architectural innovation in this period. It's aesthetic characteristics have been widely acknowledged in the media.
Represents a breakthrough or innovation in design, fabrication or construction technique, including design/technological responses to changing social conditions	The site does not meet the threshold for this criterion.
Distinctiveness as a design solution, treatment or use of technology	The house displays early use of architectural elements such as a flat roof that demonstrate architectural innovation.
Adapts technology in a creative manner or extends the limits of available technology	The site does not meet the threshold for this criterion.

### 6.3.4 Criterion D—social, cultural and spiritual significance

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural, or spiritual reasons.

The subject site is a local landmark (known colloquially as 'Wedding Cake House') within the Woollahra LGA. Its prominent siting and distinctive design and form is highly visible from the public domain, on both land and from the water, and contributes to the local area's character.

The site retains the appearance of the period when it was a public ferry wharf and shop/refreshment room and is likely to be important in contributing to the local community's sense of identity because of its ability to demonstrate an important aspect of the area's local history.

It is noted that a right of way has historically run through the property for public access to the wharves.

**The subject site has cultural significance at a local level under this criterion.**



**The subject site does not have cultural significance at a state level under this criterion.**

Table 6.4 Criterion D—social, cultural and spiritual significance.

Significance indicator	Local significance threshold
Highly regarded by a community as a key landmark (built feature, landscape or streetscape) within the physical environment	As a result of the history of public use of the site, and its visual prominence, the site is likely to be highly regarded as a key landmark by the community.  Its prominent siting and distinctive design and form are highly recognisable and contributes to the local area's character.
Important to the community as a landmark within social and political history	The site does not meet the threshold for this criterion.
Important as a place of symbolic meaning and community identity	The site does not meet the threshold for this criterion.
Important as a place of public socialisation	The site does not meet the threshold for this criterion.
Important as a place of community service (including health, education, worship, pastoral care, communications, emergency services, museums)	The site has significance because of its history of providing a community service, transport and other amenities; however, as this use is no longer ongoing the site does not meet the threshold for this criterion.
Important in linking the past affectionately to the present	The site is able to demonstrate important aspects of the past to the present community; however, it is not thought to meet the threshold for this criterion.

### 6.3.5 Criterion E—research potential

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).

The archaeological significance of this site has not been assessed in this report. The significance relating to the remains of the ferry wharf is already established and reflected in the existing heritage listing and is likely to include areas of maritime archaeological significance.

The site is part of a group of significant sites associated with nineteenth and twentieth century water-based transport and recreation on Sydney Harbour. The remnant elements from this period are considered important for their ability to yield information about this group as a whole. The site is also considered able to demonstrate a significant period in the development of Vacluse and the Woollahra LGA more generally that would contribute to an understanding of the history of the place, in particular the settlement patterns, transport networks and past provision of local services.



**The subject site has cultural significance at a local level under this criterion.**

**The subject site does not have cultural significance at a state level under this criterion.**

Table 6.5 Criterion E—research potential.

Significance indicator	Local significance threshold
Comparative analysis	The comparative analysis undertaken in this report indicates the site is likely to have important connections with other ferry wharves and refreshment facilities from the early twentieth century located in the Woollahra LGA and on Sydney Harbour more generally.
Potential to improve knowledge of a little-recorded aspect of an area’s past or to fill gaps in our existing knowledge of the past	The site has the potential to inform the local community about past patterns of development, transport and the provision of local services.
Potential to inform/confirm unproven historical concepts or research questions relevant to our past	The site retains elements, relics and remains that illustrate a significant pattern in local history.
Potential to provide information about single or multiple periods of occupation or use	The site does not meet the threshold for this criterion.
Potential to yield site-specific information that would contribute to an understanding of significance against other criteria	The site, retaining many elements from the Parsley Bay Wharf period of use, is considered to have potential to yield site-specific information that would contribute to an understanding of the historical development of the local area.

**6.3.6 Criterion F—rarity**

An item possesses uncommon, rare, or endangered aspects of NSW’s cultural or natural history (or the cultural or natural history of the local area).

The site’s period of use as the Parsley Bay Wharf is considered important as part of a wider network of other similar water-based transport across Sydne Harbour and is hence not rare.

The 1939 house is identified in the comparative analysis as sharing qualities with other houses of this style in the period and is not considered rare.

**The subject site does not have cultural significance at a local or state level under this criterion.**



Table 6.6 Criterion F—rarity.

Significance indicator	Local significance threshold
Rare surviving evidence of an event, phase, period, process, function, movement, custom or way of life in an area’s history that continues to be practised or is no longer practised	The site does not meet the threshold for this criterion.
Evidence of a rare historical activity that was considered distinctive, uncommon or unusual at the time it occurred	The site does not meet the threshold for this criterion.
Distinctiveness in demonstrating an unusual historical, natural, architectural, archaeological, scientific, social or technical attribute(s) that is of special interest	The site does not meet the threshold for this criterion.
Demonstrates an unusual composition of historical, natural, architectural, archaeological, scientific, social or technical attributes that are of greater importance or interest as a composition/collection	The site does not meet the threshold for this criterion.

6.3.7 Criterion G—representativeness

An item is important in demonstrating the principal characteristics of a class of NSW’s cultural or natural places; or cultural or natural environments (or a class of the local area’s cultural or natural places; or cultural or natural environments).

The subject site is a good representative example of a former harbour ferry wharf and provides evidence of its former use and importance as part of the Sydney ferry network. It is also able to demonstrate these former uses in the range of structures and landscaping that remain on the site, including wharf remains, reclaimed land/sea walls, paths, and former shop and tearoom, later adapted as a house. The entire site can be seen as a cultural landscape reflecting the late nineteenth and early twentieth century history of harbour based transport in the area and as representative of a wider network of similar sites.

The house at 83 Fitzwilliam Road, dating from 1916 with later extensive additions in 1939, is considered to be a good representative example of Functionalist architecture within the Woollahra LGA, of which few examples are heritage listed.

**The subject site has cultural significance at a local level under this criterion.**

**The subject site does not have cultural significance at a state level under this criterion.**



Table 6.7 Criterion G—representativeness.

Significance indicator	Local significance threshold
A class of places or objects that demonstrate an aesthetic composition, design, architectural style, applied finish or decoration of historical importance	The site's remaining site components are able to demonstrate the characteristics of the Parsley Bay Wharf aesthetic composition of similar wharfs that were part of the wider harbour transport network.
Representative of a class of places that demonstrate a construction method, engineering design, technology, or use of materials, of historical importance	The house demonstrates representative qualities of Inter-war Functionalist houses within the Woollahra local government area.
Representative of a class of places that demonstrate an historical land use, environment, function, or process, of historical importance	The site is important for demonstrating the history of water-based transport within the Vaucluse area.
Representative of a class of places that demonstrates an ideology, custom or way of life of historical importance	The site does not meet the threshold for this criterion.

## Summary

Table 6.8 Assessment of significance summary.

Significance indicator	State significance threshold	Local significance threshold
(a) Historic significance	Does not meet threshold	<b>Meets threshold</b>
(b) Historic association	Does not meet threshold	Does not meet threshold
(c) Aesthetic/creative/technical achievement	Does not meet threshold	<b>Meets threshold</b>
(d) Social, cultural and spiritual significance	Does not meet threshold	<b>Meets threshold</b>
(e) Research potential	Does not meet threshold	<b>Meets threshold</b>
(f) Rarity	Does not meet threshold	Does not meet threshold
(g) Representativeness	Does not meet threshold	<b>Meets threshold</b>

## 6.4 Statement of significance

### 6.4.1 Current Statement of Significance

It is noted that the subject site is currently a listed item of local significance. The current Statement of Significance for the subject site is as follows (I357, WLEP 2014):





Indicative of the changing patterns of transport and the urban development of the adjacent areas. Part of the nineteenth century transport network based on the harbour waterways.

## 6.4.2 Revised Statement of Significance

The following proposed statement incorporates the existing Statement of Significance with other significant elements of the subject site:

83 Fitzwilliam Road, also known as Point Seymour (former Parsley Bay Wharf), has historic significance as a key component in the settlement of Vaucluse and due to its use for over 30 years by local residents and day-trippers as a transport hub and community facility. Together the site's layout, structures and landscaping can be seen as a cultural landscape that demonstrates an important phase in the history of the local area.

The site is of aesthetic significance for its landmark presence and distinctive arrangement of elements, reclaimed land, sea walls, connecting paths and structure, located on the prominent peninsula site, that remain largely intact and able to be appreciated. The 1939 house, which expanded and remodelled the 1916 shop, also demonstrates aesthetic attributes in form and composition. Its distinctive Functionalist/ P&O style design demonstrates architectural innovation of this period including the strong architectural character of the external form, flat roof, use of glass bricks and curved dining room.

The aesthetic characteristics of the site, a peninsula with sandstone walled foreshore, flat lawns and prominent three level Inter-war Functionalist P&O style house on the harbour foreshore, make an important streetscape contribution (from land and water) and have distinctive aesthetic characteristics that are well recognised by the community.

The site has representative significance as part of a group of significant sites associated with water-based transport and recreation on Sydney Harbour. The remnant elements from this period are considered important for their ability to yield information about this group as a whole. The site is also considered able to demonstrate a significant period in the development of Vaucluse and the Woollahra LGA more generally that would contribute to an understanding of the history of the place, in particular the settlement patterns, transport networks and past provision of local services.

## 6.5 Endnotes

<sup>1</sup> Australia ICOMOS Inc, *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, 2013, Australia ICOMOS Inc, Burwood, VIC, 2000.



- <sup>2</sup> DOCOMOMO Australia, <https://docomomoaustralia.com.au/prevost-house-1937-nsw/>.
- <sup>3</sup> NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2711070>.
- <sup>4</sup> Robertson & Hindmarsh Pty Ltd, '55 Drumalbyn Road: Bellevue Hill, Assessment of Heritage Significance', prepared for Woollahra Municipal Council, March 2022.
- <sup>5</sup> Australia Modern, Lewi and Goad, 2019, Prevost House, p58
- <sup>6</sup> NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2712252>.
- <sup>7</sup> NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2712232>
- <sup>8</sup> NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=4920098>
- <sup>9</sup> NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=4920092>
- <sup>10</sup> NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=4301035>
- <sup>11</sup> NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=4301036>
- <sup>12</sup> NSW State Heritage Inventory, Department of Planning and Environment, 2023, *Assessing Heritage Significance: Guidelines for Assessing Places and Objects against the Heritage Council of NSW Criteria*, <https://www.environment.nsw.gov.au/research-and-publications/publications-search/assessing-heritage-significance>.



## 7 Conclusions and recommendations

This report has assessed the heritage significance of 83 Fitzwilliam Road, Vaucluse, (also known as Point Seymour) based on research, investigation of the subject site and its context and a comparative analysis against similar locally listed items. It includes a detailed assessment of the site against the SHR standard evaluation criteria to determine the significance of the place to the Woollahra LGA.

The report concludes that the site meets the threshold of significance at local level for the following reasons:

- Criterion A (historic significance)—Demonstrates an important period in the history of Woollahra including the subdivision of the Vaucluse Estate and the development of a ferry service.
- Criterion A (historic significance)—Associated with important broader historical phases including the development of maritime transport within Sydney Harbour and the expansion of visitors to Parsley Bay and the local area.
- Criterion C (aesthetic significance) and Criterion D (social significance) —Recognised as a landmark:
  - highly regarded and recognised as a key landmark in the physical environment due to its prominent siting, setting, landscaping and design; and
  - important as a place of symbolic meaning and community identity.
- Criterion E (research potential) – the subject site has research potential in that it:
  - is part of a group of significant sites associated with nineteenth and twentieth century water-based transport and recreation on Sydney Harbour and is able to yield information about this group as a whole.
- Criterion G (Representative)—The subject site is a good representative example of:
  - a former harbour ferry wharf that can be seen as a cultural landscape reflecting the late nineteenth and early twentieth century history of harbour based transport in the area and
  - the wider network of similar former ferry wharf sites including tea rooms and associated facilities.
  - Functionalist architecture within the Woollahra LGA, of which few examples are heritage listed.

GML recommends the heritage item's inventory information be updated to include the dwelling, landscaping, paths and sea walls to reflect the significance of the site overall.







## LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	D2
<b>FILE No.</b>	DA226/2023/1
<b>ADDRESS</b>	11A Burrabirra Avenue VAUCLUSE
<b>COUNCIL WARD</b>	Vaucluse
<b>SITE AREA</b>	877.2m <sup>2</sup> (excluding the access handle)
<b>ZONING</b>	R2 Low Density Residential
<b>PROPOSAL</b>	Demolition of the existing house and garage and construction of a new dwelling, swimming pool and landscaping.
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$2,177,604.00
<b>DATE LODGED</b>	29/06/2023
<b>APPLICANT</b>	Ms S L Wheeldon
<b>OWNER</b>	Ms S L Wheeldon
<b>AUTHOR</b>	George Lloyd
<b>TEAM LEADER</b>	Max Moratelli
<b>SUBMISSIONS</b>	12 on behalf of 6 properties
<b>RECOMMENDATION</b>	Refusal

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

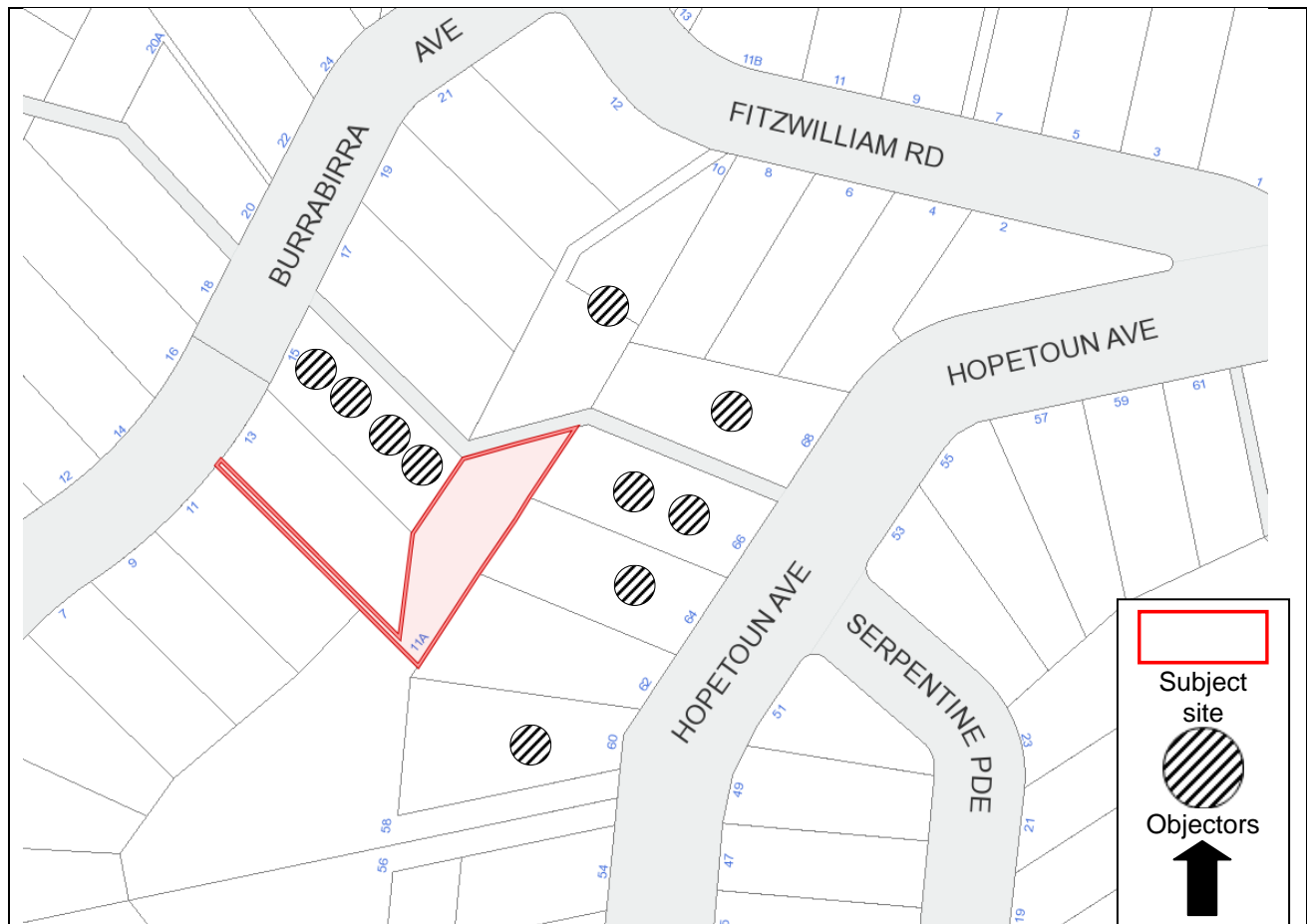
The application is to be determined by the Woollahra Local Planning Panel (LPP) as it falls under the category of:

- Contentious development: Development that 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 for reasons set out in section 21 of this report.

### 3. LOCALITY PLAN



### 4. DESCRIPTION OF THE PROPOSAL

The proposal involves demolition of all structures and the construction of a two-three storey dwelling house (with an extended double garage) and together with a secondary two-storey outbuilding comprising the following works:

#### Ground Floor – main residence (RL43.48):

- Double garage, mudroom, storage, WC, laundry, open plan living/dining/kitchen area, butler's pantry, wine cellar (under stairs) and lift.
- The living/dining area directly adjoins and L-shaped pergola and surrounding private open space to the south-west and north-west.
- A new swimming pool is proposed within the western side of the site.

#### Ground Floor – secondary dwelling/outbuilding (RL43.48):

- Rumpus room and WC with L-shaped stairs in south-western corner to the level above.

#### First Floor – main residence (RL46.53):

- Opposite the stairs is an open plan bedroom/living area and 4 adjoining bedrooms (2 with ensuites).
- Adjacent to the stairs and opposite the bedrooms is a walk-in linen closet, wc and separate bathroom.

#### First Floor – secondary dwelling/outbuilding (RL46.53):

- Two bedrooms (1 with a Juliette balcony) and a bathroom.

Second Floor/Attic level – main residence (RL49.58):

- Master bedroom, ensuite, walk-in wardrobe, lift and stairs.
- 3 balconies slightly lowered at RL49.48.

**4.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014**

None.

**4.2 Primary Issues**

Issue	Conclusion
Covenant on title which Council is a party to.	Council has entered into a deed of release from the covenant and the existence of the covenant does not form a reason for refusal in this recommendation.
Significant loss of harbour views due to 3-storey component.	DA has been recommended for refusal being an overdevelopment of the site which will result in significant adverse amenity impacts and a 'devastating' loss of harbour and Sydney Harbour Bridge and city skyline views.

**PROPERTY DETAILS AND REFERRALS**

**5. SITE AND LOCALITY**

<b>Physical features</b>
The subject site is located on the southern side of Hopetoun Mews, between Burrabirra Avenue and Hopetoun Avenue, and is legally known as No. 11A Burrabirra Avenue, Vaucluse, described as Lot 1 in DP534559. The site is not a traditional battle-axe allotment, as its handle does not provide access to the site. The site has a northern frontage to Hopetoun Mews of 26.22m, an eastern side boundary of 64m and a combined western side boundary of 43.835m (excluding the handle). The total site area is 877.2m <sup>2</sup> .
<b>Topography</b>
The site has a south-to-north fall of 1.89m (RL 44.83 AHD to RL 42.94 AHD) along the eastern boundary, and a south-to-west fall of 2.04m from RL 44.83 AHD at the southern corner to RL 42.79 AHD at the north-western corner.
<b>Existing buildings and structures</b>
The site is occupied by a single-storey brick dwelling with a pitched tile roof. A single garage is accessible from Hopetoun Mews which connects to Hopetoun Avenue which currently provides for vehicular and pedestrian access. The handle-shaped part of the site is densely landscaped and is currently inaccessible. Landscaping comprises grass, shrubs and trees.
<b>Surrounding Environment</b>
The surrounding area consists of detached dwellings between two and three storeys in height and varying in architectural styles most with integrated garages and with swimming pools. Due to the topography of the area and dense landscaping, many dwellings are not currently visible from the predominant streetscape.



## 6. RELEVANT PROPERTY HISTORY

Current use
Detached single-storey dwelling.
Relevant Application History
<p><b>29/06/23:</b> DA received by Council.</p> <p><b>13 &amp; 18/07/23:</b> STC letter to applicant requesting: revised stormwater plans; vehicular parking and access details; geotechnical report; details of existing ground line; Aboriginal Heritage Impact Assessment.</p> <p><b>19/07-3/08/23:</b> Advertising/notification period – multiple submissions received.</p> <p><b>2/08/23:</b> Updated stormwater &amp; architectural plans received.</p> <p><b>8 &amp; 13/09/23:</b> Aboriginal Heritage Impact Assessment &amp; geotechnical report received.</p> <p><b>10/10/23:</b> Applicant requested to respond to submissions.</p> <p><b>12/10/23:</b> Applicant requested to address covenant (L422953 and L422954) affecting the subject site that Woollahra Council is a party to.</p> <p><b>20/11/23:</b> Follow-up request to applicant to address outstanding covenant.</p> <p><b>06/06/24:</b> Council enters into deed of release for the relevant covenants.</p>

## 7. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Acceptable, subject to conditions.	2
Trees and Landscaping	Acceptable, subject to conditions.	3
Heritage	Acceptable, subject to conditions (see part 12.5 below).	4

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

1. The provisions of any environmental planning instrument

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

## 8. ADVERTISING AND NOTIFICATION

### 8.1 Submissions

The application was advertised and notified from 19/07/2023 to 3/08/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Tim Allerton – 66 Hopetoun Avenue, Vaucluse.
2. Stacey Allerton – 66 Hopetoun Avenue, Vaucluse.
3. Edward Wiles – 60 Hopetoun Avenue, Vaucluse.
4. Frances Xu – 68 Hopetoun Avenue, Vaucluse (no longer current owner of this site).
5. Rui Lou & Yuanli Zheng – 64 Hopetoun Avenue, Vaucluse.
6. Nathan & Olivia Lowe – 10 Fitzwilliam Road, Vaucluse.
7. Sascha Callaghan – 15 Burrabirra Avenue, Vaucluse (3 submissions).
8. Chris Adams (Pohio Adams Architects) – C/- 15 Burrabirra Avenue, Vaucluse.
9. Catherine Hallgath (Mills Oakley) – C/- 15 Burrabirra Avenue, Vaucluse.
10. Brett Daintry (Daintry & Associates) – C/- 15 Burrabirra Avenue, Vaucluse

The submissions raised the following issues:

Issue	Conclusion
Loss of harbour and significant harbour bridge and city views.	The proposal is considered to have adverse view impacts with surrounding properties and the proposal is not supported in its current form. This forms a recommended reason for refusal.
Minimal setbacks from adjoining property boundaries will result in additional overshadowing, overlooking and loss of amenity and privacy to adjoining neighbours.	The visual privacy relationships between the subject site and surrounding properties are not completely supported and where relevant this forms a recommended reason for refusal.
Overdevelopment of the site by the construction of 2 dwellings.	Generally concurred with. The proposal is considered to be an excessive form of development and has been refused [in part] for being an overdevelopment of the site.
Excessive floorplate with outdoor pergolas not included in floorplate control.	The assessment of this proposal has not included the outdoor pergolas as “floorplate” which is consistent with the definition of Council’s floorplate control.
Non-compliant wall height and inclined plane controls.	The extent of the non-compliant wall height and inclined plane is assessed and responded to in this report.
Excessive building envelope – 3 storeys.	The 3-storey component of the proposal has been determined as being excessive.
Shape of land and minimal non-compliant side setbacks results in an excessive finished built form.	The non-compliances with the side setback controls are acknowledged and form a reason for the recommended refusal of the proposal.
Increased traffic congestion on Hopetoun Mews.	The proposal complies with the required level of off-street parking and access to such.



Issue	Conclusion
Removal of significant trees is contrary to Council's policy of retaining tree canopies on new development sites.	Council's Tree Officer did not raise any objections to the proposed removal of trees or proposed landscape design.
Development does not step down as required on sloping sites.	Generally agreed with. There is no stepping down elements in the overall design of the proposal.
Outbuilding >3.6m in height.	Generally agreed with and the proposal has been refused [in part] for this reason.
Lack of deep soil along shared boundaries.	The extent of deep soil landscaping has been found to be non-compliant with Part 3.7 of the Woollahra DCP 2015. This forms a recommended reason for refusal.
Non-compliant siting and location of proposed swimming pool.	The siting and location of the proposed swimming pool has been found to be non-compliant with Part 3.7 of the Woollahra DCP 2015. This forms a recommended reason for refusal.
Acoustic and visual privacy concerns.	Generally concurred with. The proposal is considered to be an excessive form of development and has been refused [in part] for the adverse impact upon the acoustic and visual privacy of adjoining neighbours.
Inconsistent with desired future character of the Vaucluse West Precinct.	Generally concurred with. The proposal has been refused [in part] for being inconsistent with the desired future character of the Vaucluse West residential precinct.
2 covenants affecting numerous properties of which Council is a party to one of.	Council has entered into a deed of release with the owner of the property in relation to the relevant covenants. Whilst at the time of assessment, the covenant had not yet been extinguished, this issue is not considered to prevent the determination of the application.

## 8.2 Statutory Declaration

The applicant has completed the statutory declaration dated 23/01/2024, declaring that the site notice for DA226/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

## 9. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

The development application was accompanied by BASIX Certificate No.1403376S (dated 26/06/2023), demonstrating compliance with the SEPP. These requirements have been imposed in the recommended conditions.

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

### Chapter 6 – Sydney Harbour Catchment

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

The proposal therefore satisfies the relevant criteria prescribed by Chapter 6 – Sydney Harbour Catchment of the Biodiversity and Conservation SEPP 2021.

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

### Chapter 2 – Coastal Management

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

The subject site is located wholly outside of the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11). Furthermore, sub-clauses 2.10(3) and 2.11(2) states:

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

Having regard to the above, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

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

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

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

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

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

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

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

The proposal is unsatisfactory in terms of the aims in Part 1.2(2) of the Woollahra LEP 2014 for the following reasons:

- It does not protect the amenity of the adjoining property as required in sub-clause (g).
- It does not promote high standard of design in the private domain as required by sub-clause (j).
- It does not ensure development that achieves the desired future character of the area as required in subclause (l).

### **12.2 Land Use Table**

The proposal is defined as ‘alterations and additions to a dwelling’ which is permissible within the R2 Low Density Residential zone.

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*
- *To ensure development conserves and enhances tree canopy cover.*

The proposal is considered to be inconsistent with the land use objective dot points 3 and 4 for the following reasons:

- The proposal will be incompatible with the scale of surrounding development and will be inconsistent with the desired future character of the neighbourhood.

Having regard to the above, the proposal will be incompatible and unsympathetic to the character and amenity of the surrounding neighbourhood; and will be of a scale that fails to achieve the desired future character of the neighbourhood as prescribed by dot points 3 and 4 of the R2 Low Density Residential zone objectives under the Woollahra LEP 2014. This forms a recommended reason for refusal.

### 12.3 Part 4.3: Height of Buildings

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

	Existing	Proposed	Control	Complies
Maximum Building Height	5m (approx.) single storey dwelling	8.964m (existing ground level)*	9.5m	Yes

\* Part of the proposal envisages excavating approximately 750mm beneath the ground floor slab of the building and thereby lowering the overall height of the building to be compliant with the 9.5m height limit.

The objectives of the cl.4.3 are:

- (a) *to establish building heights that are consistent with the desired future character of the neighbourhood,*
- (b) *to establish a transition in scale between zones to protect local amenity,*
- (c) *to minimise the loss of solar access to existing buildings and open space,*
- (d) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (e) *to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*

With the excavations/grading of the site, the height of the building is able to comply with the prescriptive control and is able to fulfil the objectives of the cl.4.3.

## 13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 13.1 Chapter B1.10: Vacluse West Residential Precinct

The desired future character objectives under Part B1.10.2 of the Vacluse West Precinct are stated as follows:

- O1 *To respect and enhance the streetscape character and key elements of the precinct.*
- O2 *To retain the scenic qualities provided by the dramatic topography and natural vegetation that provide an attractive setting on Sydney Harbour.*
- O3 *To maintain the evolution of residential building styles through the introduction of good contemporary buildings incorporating modulation and a varied palette of materials.*
- O4 *To minimise building bulk and scale of three storey development by designing development to generally present as a two storey form to the street.*
- O5 *To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 *To protect important views from the public spaces of the precinct to the harbour and the city skyline including view corridors between buildings.*

- O7 To reinforce the landscape setting and maintain the existing tree canopy.  
O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.

Streetscape character and key elements of the Vaucluse West Precinct includes:

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

- a) *the relationship of the precinct to the harbour;*
- b) *the rich mixture of architectural styles, and the emphasis on their connection to the landform;*
- c) *buildings set within highly visible gardens;*
- d) *buildings addressing the street; and*
- e) *the harbour and iconic views available from the streets of the precinct, including view corridors between buildings.*

The height and scale of the proposed 3-storey residence increases the overall bulk and scale from that which currently exists within the site. Also, the additional [non-compliant] floorplate has not been designed or located in a suitable manner in terms of the topography of the site and its relationship to its surrounds, which will result in adverse amenity impacts and a significant loss of Sydney Harbour views contrary to Objectives O1, O2, O3, O4, O5 and O6.

The proposal therefore does not meet the streetscape character or key elements of the precinct or desired future character objectives of the Vaucluse West Residential precinct, as noted in Part B1.10.2 of the Woollahra DCP 2015. This forms a recommended reason for refusal.

## 13.2 Chapter B3: General Development Controls

### 13.2.1. Part B3.2: Building Envelope

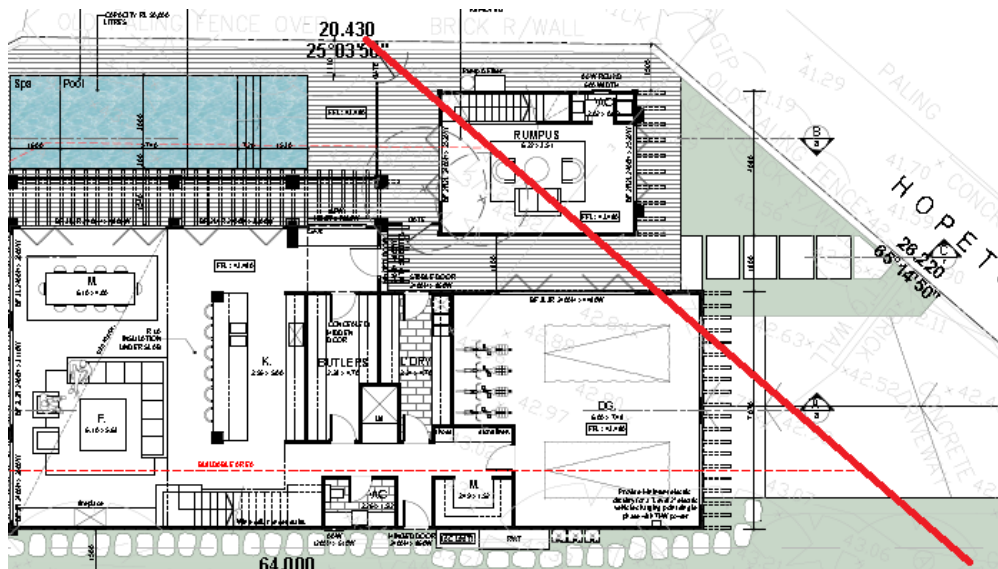
Site Area: 8m <sup>2</sup>	Proposed	Control	Complies
B3.2.2 – Front Setback (C1)	5m to 9.4m (to Hopetoun Mews)	6m (see B3.9 – controls for battle-axe lots)	<b>No</b>
Unarticulated length to street (C2)	>6m	6m (max)	<b>No</b>
B3.2.3 – Side Setbacks (C1) Site width: <b>23m+</b>	S-E: 1.5m (main dwg) N-E: 1.5m (to outbuilding)	3.4m (Figure 5A)	<b>No</b>
Maximum Unarticulated Length to side elevation (C4)	S-E: 21m (Ground & 1 <sup>st</sup> floors)	12m (max)	<b>No</b>
B3.2.4 – Rear Setback (C1)	6m – >20m	9m to 16m	<b>No</b>
B3.2.5 – Wall height and inclined plane (C1)	>7.2m at side S-E elevation (front & rear of building)	45° at 7.2m wall height from proposed setback	<b>No</b>

Having regard to the unusual shape of the allotment of land comprising the site and that its formal street frontage address to Burrabirra Avenue comprises a narrow access handle, it is not unreasonable to consider Hopetoun Mews as the site's principal "street" frontage when determining the proposal's compliance with Council's DCP controls.

### B3.2.2: Front setback

In accordance with Control C1, the front setback control does not apply to battle-axe allotments and therefore Section B3.9 applies. In accordance with Section B3.9, the primary frontage setback is 6m, which has been used in this case.

The architectural plans clearly demonstrates that the front setback is unable to entirely comply for the principal residence and is also unable to comply for the proposed outbuilding. The image below denotes in red the 6m “front setback” from Hopetoun Mews.



It is also worth noting that in accordance with Part B3.7.4 of the DCP, the controls pertaining to outbuildings requires such buildings to be located in the rear setback. This is discussed later in this report.

The objectives of this part of the DCP states:

- O1 To reinforce the existing streetscape and character of the location.
- O2 To provide consistent front setbacks in each street.
- O3 To provide for landscaped area and deep soil planting forward of the building.
- O4 To ensure that buildings are well articulated and positively contribute to the streetscape.

The siting and location of the proposed residence and the adjacent outbuilding forward of the required front setback will result in a development that is entirely unsatisfactory with regard to the underlying objectives of the front setback controls for the following reasons:

- The proposal will not result in a consistent streetscape character along this part of Hopetoun Mews (O1).
- The additional bulk of the outbuilding forward of the required front setback is inconsistent with those of existing and surrounding residences (O2).
- The extent of landscaping and deep soil landscaping within the front setback is considered to be inadequate to provide a reasonable amount of screening (O3).
- The front façade of the principal building is not deemed to be well articulated (O4).

### B3.2.3: Side setbacks

The objectives of this part of the DCP states:



- O1 *To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.*
- O2 *To ensure the side elevation of buildings are well articulated.*
- O3 *To protect the acoustic and visual privacy of residents on neighbouring properties.*
- O4 *To facilitate solar access to habitable windows of neighbouring properties.*
- O5 *To facilitate views between buildings.*
- O6 *To provide opportunities for screen planting.*
- O7 *To allow external access between the front and rear of the site.*

In addition to not complying with the minimum side boundary setback control, the siting and location of the proposed residence, its 3-storey height and its overall bulk, will result in a development that is entirely unsatisfactory with regard to the underlying objectives of the side setback controls for the following reasons:

- The proposal will result in an unreasonable sense of enclosure to adjoining residences in both Hopetoun Avenue and Burrabirra Avenue and therefore does not achieve an appropriate level of separation between building (O1);
- The ground and first-floor elevations along the eastern side boundary are not all well articulated (O2 and C4);
- The extent of windows and balconies along the northern and western elevations will and the minimal separation distance from the correlating property boundaries being <9m, will not suitably protect the acoustic or visual privacy of neighbouring properties (O3 and C4 in Part 3.5.4);
- The extent of overshadowing upon adjoining properties to the south facing Hopetoun Avenue has not been minimised (O4); and,
- The siting and location of the proposal does not facilitate the maintenance of existing views between buildings or through the site (O5).

The proposal is non-compliant with Council's side boundary setback requirements and the objectives of Part B3.2.3 of Woollahra DCP 2015. This forms a recommended reason for refusal.

#### B3.2.4: Rear setbacks

The objectives of this part of the DCP states:

- O1 *To provide private open space and landscaped areas at the rear of buildings.*
- O2 *To provide acoustic and visual privacy to adjoining and adjacent buildings.*
- O3 *To avoid an unreasonable sense of enclosure.*
- O4 *To provide separation between buildings to facilitate solar access to private open space.*
- O5 *To protect vegetation of landscape value and provide for landscaped area and deep soil planting.*
- O6 *To contribute to a consolidated open space network with adjoining properties to improve natural drainage and support local habitat.*

In this particular case, the applicant has used the south-western boundary as the rear boundary. Again, for reasons provided above, demonstrating prescriptive compliance with the rear setback is almost irrelevant when a merits-based assessment needs to also be undertaken. Consequently, in this particular case, the development remains entirely non-compliant with the rear setback control as it is unable to fulfil the objectives for the following reasons:

- The bulk of the proposal building is artificially compressed into the middle of the site thereby causing the greatest impact upon surrounding properties in terms of acoustic and visual privacy impacts (O2);
- The principal area of open space will be located in the southern corner of the site, much of which will be overshadowed by the proposed 3-storey building (O4); and

- Inadequate separation exists between the proposal and surrounding properties which inhibits solar access to areas of adjoining private open space (O4).

The proposal is non-compliant with Council's rear setback requirements and the objectives of Part B3.2.4 of Woollahra DCP 2015. This forms a recommended reason for refusal.

#### B3.2.5: Wall height and inclined plane

The minimum height of the side south-eastern side boundary wall at the rear façade of the proposed residence is almost 9.2m, while at the front it exceeds 11m. Notwithstanding the proposed 1.5m setback, when calculating the inclined plane from the minimum required setback of 3.4m, the inclined plane is unable to comply at either the front or rear proposed elevations.

The objectives of this part of the DCP states:

- O1 *To limit the bulk, scale and visual impact of buildings as viewed from the street and from neighbouring properties.*
- O2 *To limit overshadowing of neighbouring properties across side boundaries.*
- O3 *To limit overshadowing to south facing rear yards.*
- O4 *To provide acoustic and visual privacy to adjoining and adjacent buildings.*
- O5 *To facilitate views between buildings.*

The proposal is considered to be inconsistent with the objectives of this part of the DCP for the following reasons:

- The proposal does not limit the overall bulk, scale or visual impact of the building as viewed from the street or neighbouring properties (O1);
- The siting, location and bulk of the 3-storey building does not limit the extent of overshadowing onto neighbouring properties (O2);
- Inadequate setbacks are proposed which will adversely impact upon the acoustic and visual privacy to adjoining properties (O4);
- The proposal does not facilitate view-sharing between buildings and in fact will significantly impinge existing Harbour and city skyline views from adjoining properties (O5).

Having regard to the above, the proposal is considered to be inconsistent with regard to the provisions of Part B3.2.5 of Woollahra DCP 2015. This forms a recommended reason for refusal.

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

<b>Site Area: 877.2m<sup>2</sup> Buildable Area: 278.91m<sup>2</sup></b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
C1. Maximum Floor Plate	553.5m <sup>2</sup> (incl. outbuilding)	165% 500.2m <sup>2</sup> (incl.40m <sup>2</sup> parking)	<b>No</b>
C2. Location of floorplate	Outside of building envelope	Within building envelope	<b>No</b>
C3. Floor plate & character of streetscape	Does not retain public or private views or view sharing	Retain public & private views	<b>No</b>

The objectives of this part of the DCP state the following:

- O1 *To ensure the bulk and scale of buildings are consistent with the desired future character of the area.*
- O2 *To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.*
- O3 *To encourage the design and location of car parking within the building envelope.*

The proposal involves a maximum variation of approximately 53m<sup>2</sup>, most of which is attributable to the outbuilding.

Control C2 requires the floorplate to be contained within the building envelope (with the exception of an outbuilding etc). Despite being described as an “outbuilding”, the design, height and size of the proposed “outbuilding” is more akin to a secondary dwelling and has therefore been calculated as part of the overall floorplate.

Notwithstanding the extent prescriptive non-compliance, the proposal is also deemed to be entirely inconsistent with the objectives of this part of the DCP for the following reasons:

- The proposal does not result in an overall bulk or scale consistent with the desired future character of the area (O1); and
- The siting, location, overall height and bulk of the 3-storey building does not facilitate view-sharing views from adjoining properties and will adversely impact upon the amenity and privacy of neighbouring properties (O2).

Having regard to the above, the proposal is considered to be inconsistent with regard to the provisions of Part B3.3 of Woollahra DCP 2015. This forms a recommended reason for refusal.

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

The proposal does not involve significant excavations and is otherwise considered to be satisfactory with regard to the overall provisions of B3.4 of Woollahra DCP 2015. However, it is worth reiterating that much of the proposed ground floor level will sit approximately 750mm lower than the existing natural ground level, the purpose of which is presumably to increase the internal floor to ceiling heights without resulting in a non-compliant overall height.

Objective O1 requires *buildings to be designed and sited to relate to the existing topography of the site*, which is not being fulfilled on this occasion.

Having regard to the above, the proposal is considered to be inconsistent with regard to the provisions of Part B3.4 of Woollahra DCP 2015. This forms a recommended reason for refusal.

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

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

The objectives of this part of the DCP include:

- O1 *To ensure that the built form is compatible with the streetscape and the desired future character of the area.*
- O2 *To ensure that development is of high visual quality and enhances the street.*

Controls C1 and C3 requires buildings to be compatible with the desired future character of the area and to follow the topography of the land.

For reasons detailed in this report, the proposal is inconsistent with the desired future character of the Vaucluse West Precinct. The height, bulk and siting and location of the entire building does not follow the natural topography of the site which results in adverse visual impacts upon the existing streetscape and local character and is considered to be unsatisfactory with regard to the provisions of Part B.3.5.1 of Woollahra DCP 2015.

### Part B3.5.2: Overshadowing

Although the proposal fulfils the prescriptive requirements of Council's solar access requirements stipulated under B3.5.2 of Woollahra DCP 2015, the extent of overshadowing could be further minimised were the principal dwelling redesigned with a smaller overall bulk that was sited further from the south-eastern boundary.

### Part B3.5.3: Public and Private Views

The controls applicable to public views are as follows:

- C1 Development is sited and designed so that the following public views are maintained or enhanced:*
- a) significant views and vistas identified in the precinct maps in this Chapter B1 Residential Precincts and Chapter B2 Neighbourhood HCAs of this DCP; and*
  - b) views from other public open space areas, particularly from ridgelines to Sydney Harbour and the Sydney CBD skyline.*
- C2 Vistas along streets are preserved or enhanced through sensitive development location and form.*
- C3 Development on the low side of the street preserves district, iconic and harbour views from the street by:*
- c) providing substantial breaks between buildings, front fences, car parking and other structures; and*
  - d) incorporating fences with transparent or open end panels at each side boundary to provide for views.*
- C4 Roof forms on the low side of streets are designed to allow public views and add interest to the scenic outlook. Flat expansive roofs with vents, air conditioning units, plant equipment (including lifts and lift overruns) and similar structures are inappropriate.*

The controls applicable to private views are as follows:

- C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms.*
- C6 Development steps down the hillside on a sloping site.*
- C7 The design of the roof form (including roof terraces, lifts, lift overruns, stairwells, access hatches, screens, and other like structures) provides for view sharing.*
- C8 Roof terraces are uncovered to provide for view sharing. All elements on roof terraces are to comply with the maximum building height control. Note: Access to roofs should not comprise visually prominent stand-alone structures such as lifts or large stairways, particularly on flat roofs.*

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

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

## Assessment

Private view loss concerns have been raised in relation to Nos. 60, 64 and 66 Hopetoun Avenue.



**Aerial map indicating the orientation of views from affected properties towards the subject site which is identified with red edging**

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

- 1. Assessment of the views to be affected (iconic views, water views, land/water interface views and whole views are more highly valued by Tenacity than partial and/or 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.*

The red shaded square defines the location of the subject site.

- 2. From which part of the property are the views obtained (Tenacity states that views obtained across side boundaries and at a sitting position are often difficult to protect).**

*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.*

Significant city and harbour views are currently obtained across multiple property boundaries and across the top of the existing single-storey dwelling (see below for details).



- 3. Extent of the impact (impacts on living areas and kitchens are more significant than impacts on bedrooms and other service areas that are intended for lesser frequent use. Any view loss should be expressed both quantitatively and qualitatively as negligible, minor, moderate, severe and devastating. Views obtained from unaffected areas of the property should also be taken into consideration).**

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

The city and harbour water view from the ground/first floors of Nos. 64 and 66 Hopetoun Avenue, are deemed to be 'significant' for the simple reason that they involve extensive and iconic views of the city, (North Sydney) and Sydney Harbour Bridge.

The extent of view loss from Nos. 64 and 66 Hopetoun Avenue is considered to be "devastating" (see below for details). The following images indicates the extent of view affectation from surrounding properties along Hopetoun Ave and which currently enjoy water, district and city views from the rear of the respective properties over and through the subject site.

It should be acknowledged that no photomontages, wire frame diagrams or view analysis has been submitted by the applicant pertaining to the proposed view sharing relationships with surrounding properties. Therefore, information such as survey levels, approved documents and photographs have been utilised to ascertain the impact of the proposal upon each of the properties.

### **60 Hopetoun Ave**

Of concern is the interruption of water and interface of land and water views towards the north. The images below were taken from the ground and first floor verandahs and balconies looking in a northerly direction over the subject site. The extent of the development proposal has been superimposed.



**Ground Floor view**





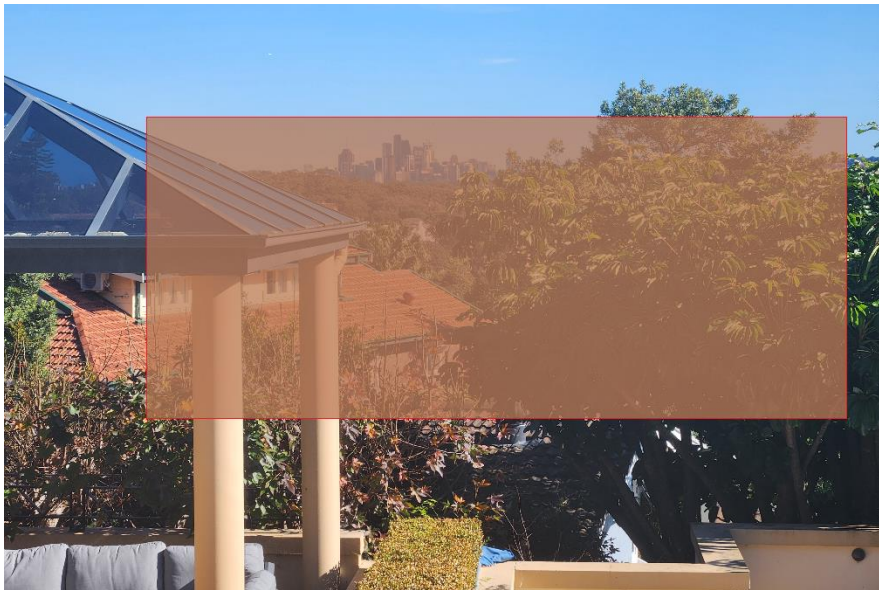
**First Floor view**

Overall, it is considered that the proposal will have a **moderate** impact upon views from 60 Hopetoun Avenue.

### **64 Hopetoun Ave**

Of particular concern is the loss of existing City and North Sydney skyline views, views of the Sydney Harbour Bridge, harbour and land/water interface views. The images below were taken from the ground and first floor rear elevations, yard, verandahs and balconies looking in a westerly direction over the subject site. The extent of the development proposal has been superimposed.





**North-Sydney city skyline views**

The images below provided with the superimposed development behind have been obtained from the owner's submission. Despite not being able to confirm their accuracy, using existing survey information of surrounding properties, the extent of impact of view loss has been verified internally by Council's Assessment Officer.







**Existing city views to the S-W**

Overall, it is considered that the proposal will have a **devastating** impact upon views from 64 Hopetoun Avenue.

### **66 Hopetoun Ave**

Of particular concern is the loss of existing North Sydney skyline views, Sydney Harbour Bridge views. The images below were taken from the ground floor rear side of the house where currently North Sydney skyline and Sydney Harbour Bridge views are available. The extent of the development proposal has been super imposed.







City skyline views from within the upper floor courtyard/balcony will also be affected by the proposal.



Overall, it is considered that the proposal will have a **devastating** impact upon views from 66 Hopetoun Avenue.

**4. The reasonableness of the proposal causing the impact (a compliant development is generally considered more reasonable. In which case, alternative designs which decrease the impact while maintaining the same amenity should be considered).**

*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.

As outlined in this report, despite the proposal being entirely compliant in terms of the prescribed height, the proposal remains entirely non-compliant in terms of: the proposed building envelope; the setbacks; the wall height and inclined plane; the floorplate; and the extent of deep soil and landscaped areas.

Consequently, if the proposal was to be modified to comply, it may significantly improve the views currently obtained 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.

It is considered that a more skilful design which provides similar development potential could significantly reduce the extent of impact upon the existing views.

Having regard to the above, the overall view impact is considered to be unacceptable, and the resulting view sharing unreasonable, which therefore is non-compliant with Control C5 of Part B3.5.3 of the Woollahra DCP 2015. This forms a recommended reason for refusal.

**Part B3.5.4: Acoustic and Visual Privacy**

Lines of sight from the proposed upper floor balconies towards privacy sensitive areas of adjoining properties are considered to have not been inadequately screened.

With regard to potential acoustic privacy impacts upon adjoining properties, it is considered that the inadequate setbacks will result in significant adverse acoustic impacts upon adjoining properties.

The proposal is considered to be unsatisfactory with regard to Council's internal amenity requirements under of Part B3.5.4 of Woollahra DCP 2015. This forms a recommended reason for refusal.

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

Site Frontage: 26.2m	Proposed	Control	Complies
Location of Parking (C1)	Partially within the buildable area	Within the Buildable Area	<b>Partially</b>
Width of Parking Structure (C4)	7.67m (within site)	6m	<b>No</b>
Maximum Area (C2)	>100m <sup>2</sup> (w- storage)	40m <sup>2</sup>	<b>No</b>
Maximum Height	2.75m	2.7m	<b>No</b>
Maximum Number of Driveways	One	One	Yes

The objectives of this part of the DCP state the following:

- O1 To minimise the visual impact of garages, car parking structures and driveways on the streetscape.
- O2 To ensure that on-site parking does not detract from the streetscape character and amenity.
- O3 To minimise loss of on-street parking.
- O4 To retain trees and vegetation of landscape value.
- O5 To facilitate on-site parking on steeply sloping sites.

The siting and location of the on-site parking is deemed to be inconsistent with the objectives O1 and O2 of this part of the DCP. Furthermore, its scale and bulk is excessive and will contribute towards a detrimental visual impact as viewed from Hopetoun Mews. This forms a recommended reason for refusal.

### 13.3 Part B3.7: External Areas

Site Area: 877.2m <sup>2</sup> Buildable Area: 278.91m <sup>2</sup>	Proposed	Control	Complies
50% of the site area outside the buildable area is to be deep soil landscaped area (C1)	47.6% 285m <sup>2</sup>	50% 299m <sup>2</sup>	<b>No</b>
40% deep soil landscaping within front setback (C2)	32.6% 51.15m <sup>2</sup>	40% 63.2m <sup>2</sup>	<b>No</b>
50% deep soil landscaping within rear setback (C4)	100% 160m <sup>2</sup>	50% 80.16m <sup>2</sup>	Yes
Primary open space (C6)	>35m <sup>2</sup>	35m <sup>2</sup> for a dwelling house.	Yes
Access to primary open space area	Directly accessible from a habitable room	Directly accessible from a habitable room	Yes
Swimming Pool Excavation, Piling and Subsurface Wall Setback	1.1m to 1.2m	1.8m	<b>No</b>
Level of Swimming Pool Above or Below Ground Level	<1.2m	Maximum 1.2m Change	Yes
Maximum Depth of Swimming Pool	<2m (from surrounding level)	2m	Yes
Location of Outbuilding	Outside building envelope & front yard	Outside building envelope and in rear yard	<b>No</b>
Maximum Height of Outbuilding	7.3m	3.6m	<b>No</b>
Minimum Setback of Outbuilding	1.5m (min)	1.5	Yes

#### Part B3.7.1: Landscaped Areas and Private Open Space

Despite the minor prescriptive non-compliance, the proposal is considered to be unsatisfactory with regard to the provisions of Part B3.7.1 for the reason that a less bulky and overdevelopment of the



site could achieve compliance with the amount of available deep soil landscaping throughout the site.

Part B3.7.4: Ancillary development – swimming pools and outbuildings

The objectives of this part of the DCP for swimming pools states:

- O1 To provide for recreational opportunities for swimming without compromising the amenity of the adjoining properties.*

The objectives of this part of the DCP for outbuildings states:

- O1 To ensure that outbuildings do not unreasonably compromise the amenity of the occupants or the neighbouring properties.*
- O2 To ensure that the required deep soil landscaped area and level area of private open space are achieved.*

The siting and location of the swimming pool is considered to be unsuitable having regard to the context of the site and its surrounds and is inconsistent with Objective O1.

The proposed 2-storey outbuilding with upper floor guest's bedrooms and bathroom and proposed to be constructed within the "front" setback facing Hopetoun Mews is contrary to control C1 which requires outbuildings to be located within the principal building envelope or within the rear setback.

Control C2 limits the height of outbuildings to a maximum of 3.6m, or single storey. The 2-storey outbuilding is entirely non-compliant in this regard.

In addition, the siting and location of the "outbuilding" is likely to result in adverse amenity impacts upon the amenity of surrounding neighbours which inconsistent with Objective O1.

For the reasons provided above, the proposed outbuilding is considered to be unsatisfactory with regard to the provisions of Part B3.7.4 of Woollahra DCP 2015.

### **13.4 Chapter E.2 Stormwater and Flood Risk Management**

Council's Development and Drainage Engineers consider the proposal to be satisfactory with regard to stormwater management subject to a standard condition. The proposal is considered to be satisfactory in terms of flood risk management. The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Chapter E.2 of the Woollahra DCP 2015.

### **13.5 Chapter E3: Tree Management**

Council's Tree Management Section consider the proposal to be satisfactory in terms of tree management. The proposal is considered to be satisfactory with regard to Chapter E.3 of the Woollahra DCP 2015.

### **13.6 Chapter E4: Contaminated Land**

The provisions of this chapter require the adequate management of potentially contaminated land in order to adequately ensure public health and safety, essentially replicating requirements of SEPP 55-Remediation of Land.

Consideration has been given as to whether the land is contaminated. In the absence of any information indicating the potential contamination of the sites, further consideration of this issue is not warranted in this instance.

The proposal is considered to be acceptable with regard to the objectives and controls in Chapter E4 of the Woollahra DCP 2015.

### **13.7 Chapter E5: Waste Management**

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

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

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

#### Part E5.2: Demolition and Construction Phase

The proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

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

The proposed works are not expected to result in the generation of further household waste. The existing waste and recycling points and storage area is considered to be acceptable.

The proposal is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015.

### **13.8 Chapter E6: Sustainability**

#### Part E6.3: Solar Energy Systems

The proposal complies with relevant objectives and controls of Chapter E6 of the Woollahra DCP 2015.

### **13.9 Chapter E8: Adaptable Housing**

Control C2 requires that dwelling-houses are encouraged to provide adaptable housing design.

The proposal provides lift access to all 3 levels and is considered to accord with the objectives and controls in Chapter E8 of the Woollahra DCP 2015.

## **14. DRAFT AMENDMENTS TO POLICIES AND PLANS**

No relevant draft amendments that affect the carrying out of the proposed works.

## **15. SECTION CONTRIBUTIONS PLANS**

In accordance with Schedule 1, a 1% levy applies for works above \$200,000, with the monies being used for a variety of works as outlined in Schedule 2 of the Section 7.12 Contributions Plan 2022.

Cost of Works	Rate	Contribution Payable
\$2,177,604	1%	\$21,776.04

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

### **11.1 Clause 61(1) of the EPA Regulation 2021**

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

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

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

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

The site is not suitable for the proposed development.

## **19. THE PUBLIC INTEREST**

The proposal is not in the public interest.

## **20. DISCLOSURE STATEMENTS**

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, refuse development consent to Development Application No. 226/2023/1 for demolition of the existing house and garage and construction of a new dwelling, swimming pool and landscaping on land at 11A Burrabirra Avenue Vaucluse, for the following reasons:

### **1. Woollahra Local Environmental Plan 2014, Part 1 Clause 1.2 Aims of Plan**

The proposed development is unacceptable because it does not comply with Part 1, Clause 1.2(2)(f), (g), (j) and (l) – that the proposal:

- does not conserve or enhance the built environment;
- does not protect the amenity of the adjoining properties;
- does not promote a high standard of design in the private domain; and
- does not achieve the desired future character of the area.

### **2. Woollahra Local Environmental Plan 2014, Part 2 Land Use Table – R2 Low Density Residential Zone**

The proposed development is unacceptable because it does not fulfil objective dot points 3 and 4 of the R2 Low Density Residential zone for the following reasons:

- The proposal will be incompatible and unsympathetic to the character and amenity of the surrounding neighbourhood; and
- The proposal will be of a scale that fails to achieve the desired future character of the neighbourhood.

**3. Woollahra Development Control Plan 2015 – Chapter B1.10 – Vaucluse West Residential Precinct**

**a. Section B1.10.2 – Desired future character**

The proposal does not achieve Objectives O1, O2, O3, O4, O5 and O6, as prescribed in Section B1.10.2 of Chapter B1 of the Woollahra Development Control Plan 2015.

**4. Woollahra Development Control Plan 2015 – Chapter B3 – General Development Controls**

**a. Section B3.2.2 – Front setback**

The proposal does not achieve Objectives O1, O2, O3 and O4, or comply with Controls C1 and C2 as prescribed in Section B3.2.2 of Chapter B3 of the Woollahra Development Control Plan 2015.

**b. Section B3.2.3 – Side setbacks**

The proposal does not achieve Objectives O1, O2, O3, O4 and O5, or comply with Control C4 as prescribed in Section B3.2.3 of Chapter B3 of the Woollahra Development Control Plan 2015.

**c. Section B3.2.4 – Rear setback**

The proposal does not achieve Objectives O2 and O4, or comply with Control C1 as prescribed in Section B3.2.3 of Chapter B3 of the Woollahra Development Control Plan 2015.

**d. Section B3.2.5 – Wall height and inclined plane**

The proposal does not achieve Objectives O1, O2, O4 and O5, or comply with Control C1 as prescribed in Section B3.2.5 of Chapter B3 of the Woollahra Development Control Plan 2015.

**e. Section B3.3 – Floorplate**

The proposal does not achieve Objectives O1 and O2, or comply with Control C1 as prescribed in Section B3.3 of Chapter B3 of the Woollahra Development Control Plan 2015.

**f. Section B3.4 – Excavation**

The proposal does not achieve Objective O1 prescribed in Section B3.4 of Chapter B3 of the Woollahra Development Control Plan 2015.

**g. Section B3.5.1 – Streetscape and local character**

The proposal does not achieve Objectives O1 and O2, or comply with Controls C1 and C3 as prescribed in Section B3.5.1 of Chapter B3 of the Woollahra Development Control Plan 2015.

**h. Section B3.6 – On-Site Parking**

The proposal does not achieve Objectives O1 and O2 or comply with Control C1, C2 or C4 as prescribed in Section B3.6 of Chapter B3 of the Woollahra Development Control Plan 2015.

**i. Section B3.7.1 – Landscaped areas and private open space**

The proposal does not comply with Controls C1 and C2 prescribed in Section B3.7.1 of Chapter B3 of the Woollahra Development Control Plan 2015.

**j. Section B3.7.4 – Ancillary development – swimming pools**

The proposal does not achieve Objective O1, or comply with Controls C1 and C2 as prescribed in Section B3.7.4 of Chapter B3 of the Woollahra Development Control Plan 2015.

**k. Section B3.7.4 – Ancillary development – outbuildings**

The proposal does not achieve Objective O1, or comply with Controls C1 and C2 as prescribed in Section B3.7.4 of Chapter B3 of the Woollahra Development Control Plan 2015.

**l. View loss**

The proposed development should be refused as it is contrary to the following provisions in the Woollahra LEP 2014 and DCP 2015 and will result in view loss impacts upon surrounding properties:

- Woollahra Local Environmental Plan 2014: Clause 1.2 – Aims (g)
- Land Use Table of the Woollahra Local Environmental Plan 2014: R2 Low Density Residential zone Objective 3
- Woollahra DCP 2015: Part B1.1.3 – Objectives O4 and O5
- Woollahra DCP 2015: Part B3.2.5 – Objective O5 and Control C1
- Woollahra DCP 2015: Part B3.3 – Objective O2 and Control C3(c)
- Woollahra DCP 2015: Part B3.5.1 – Objective O1 and Control C1
- Woollahra DCP 2015: Part B3.5.3 – Objective O3 and Control C5
- The four step assessment of view sharing established by *Tenacity Consulting v Warringah (2004) NSWLEC 140*

**5. Visual Privacy Impacts**

The proposed development should be refused as it is contrary to the following provisions in the Woollahra LEP 2014 and DCP 2015 and will result in overlooking impacts upon surrounding properties:

- Woollahra Local Environmental Plan 2014: Clause 1.2 – Aims (g)
- Land Use Table of the Woollahra Local Environmental Plan 2014: R2 Low Density Residential zone Objective 3
- Woollahra DCP 2015: Part B1.1.3 – Objective O4
- Woollahra DCP 2015: Part B3.5.4 – Objectives O2, O3 and Control C4.

**6. Built environment and precedent**

The proposal will have adverse effects upon the local built environment in the locality and will set an undesirable precedent.

**7. Suitability of the site**





The site is unsuitable for the proposed development because the proposal will result in adverse amenity impacts so as to warrant refusal of the application.

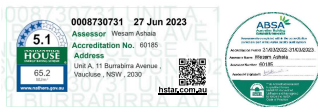


## 8. Public interest

The proposal is not in the public interest.

### Attachments

1. Architectural drawings, landscape plan and survey plan [↓](#) 
2. Development Engineering Referral [↓](#) 
3. Trees & Landscaping Referral [↓](#) 
4. Heritage Referral [↓](#) 



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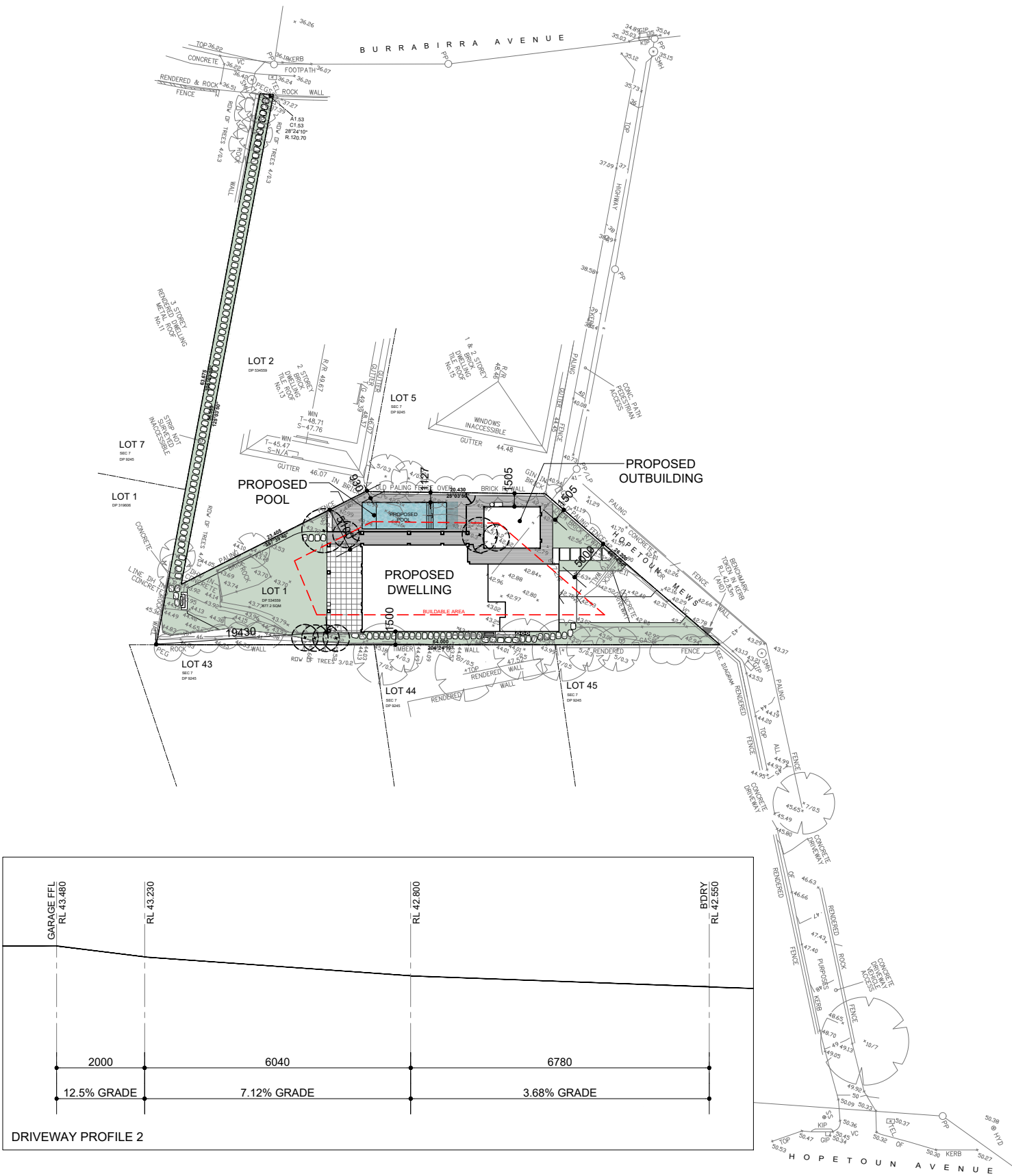
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30.05.23	A	DA submission
date	revision	issue

date revision issue

address: Lot 11a, Burrabirra Avenue, Vaucluse, DP534559  
drawing : Cover Page  
drawing no. : 0  
date: 20.07.23

revision: C  
scale: nts @ A3



DA		
WOOLLAHRA DCP 2015		
	MIN. AND MAX. ALLOWABLE AREAS	PROPOSED AREAS
SITE AREA:		877.20 sqm
BUILDABLE AREA:		278.91 sqm
FLOORPLATE:	Max 165% of buildable area (165% x 278.91 sqm = 460.20 sqm)	503.53 - 40 = 463.53 sqm
Deep Soil Landscaped Area	at least 50% of the site area outside the buildable area is deep soil landscaped area (50% x (877.2 - 278.91) = 299.14 sqm)	285.00 sqm
	Min 40% of front setback comprises deep soil landscaping (40% x 157.99 = 63.20 sqm)	(32.37%) 51.15 sqm
	Min 50% of rear setback comprises deep soil landscaping (50% x 160.33 = 80.16 sqm)	(100%) 160.33 sqm
Deep soil (access handle)		86.98 sqm
PPOS:	Min. 35 sqm	35 sqm
BUILDING HEIGHT:	9.5m	9.475 m



MAIN DWELLING	
AREAS CALCULATION:	
Living Area (GF)	140.09 sqm
Living area (FF)	191.95 sqm
Living area (AF)	95.94 sqm
Garage	56.19 sqm
Balcony (FF)	5.07 sqm
Balcony (AF)	13.25 sqm
Total	543.69 sqm
	58.52 sq

OUTBUILDINGS	
AREAS CALCULATION:	
Living Area (GF)	30.13 sqm
Living area (FF)	30.13 sqm
Total	60.26 sqm
	6.48 sq



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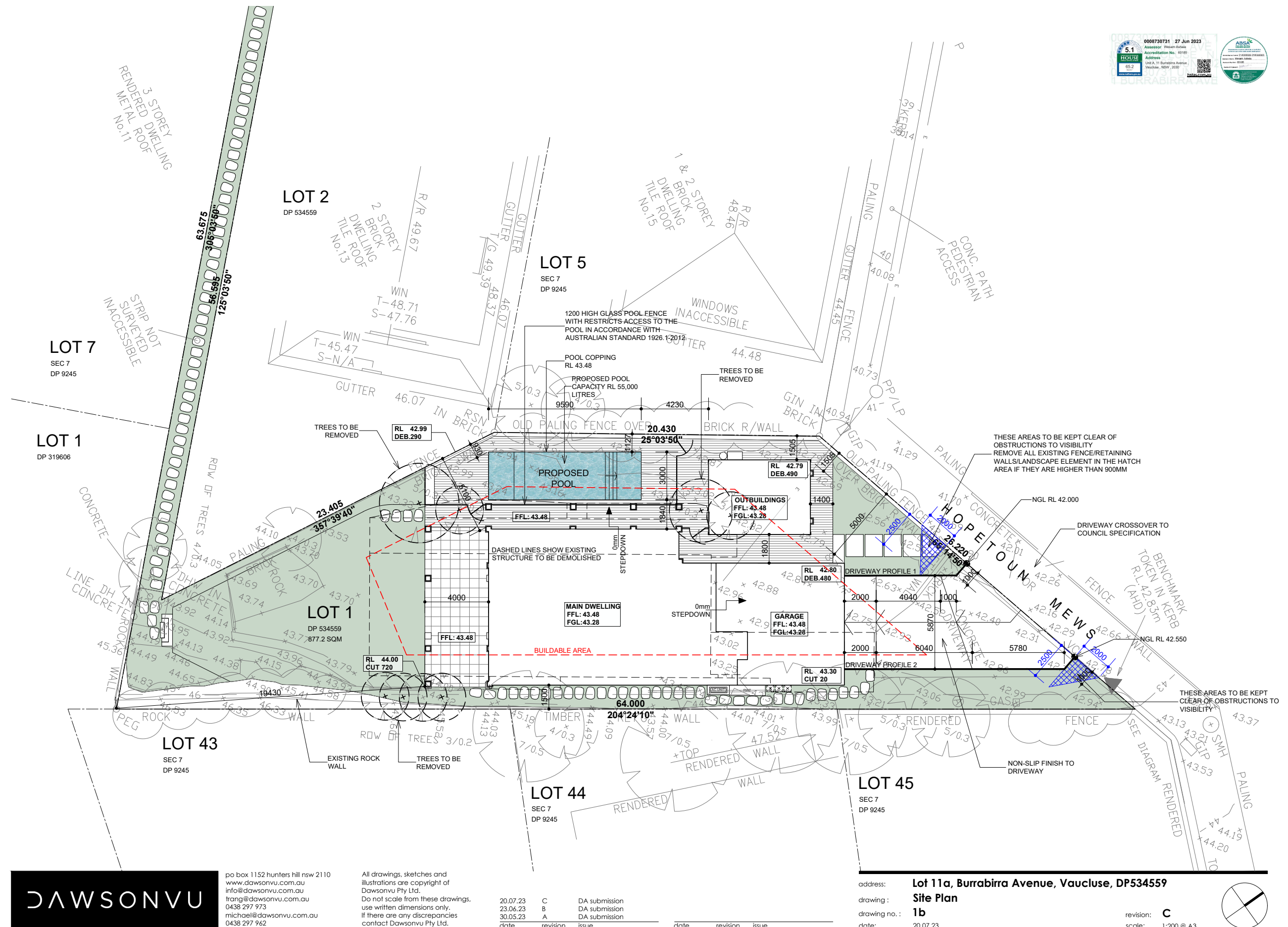
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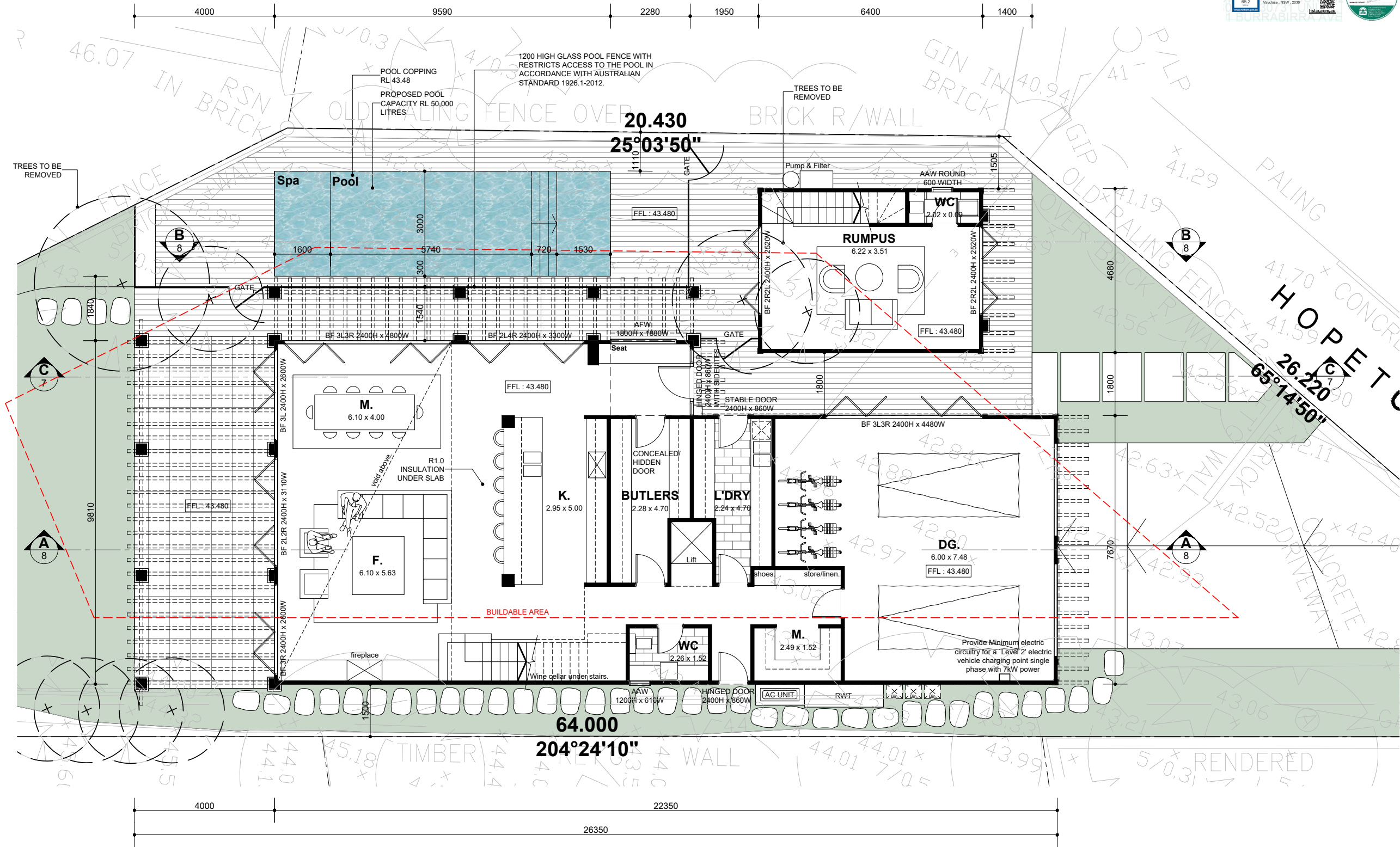
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drawing : Overall Plan & Driveway gradient  
drawing no. : 1a  
date: 20.07.23

revision: C  
scale: 1:500 @ A3









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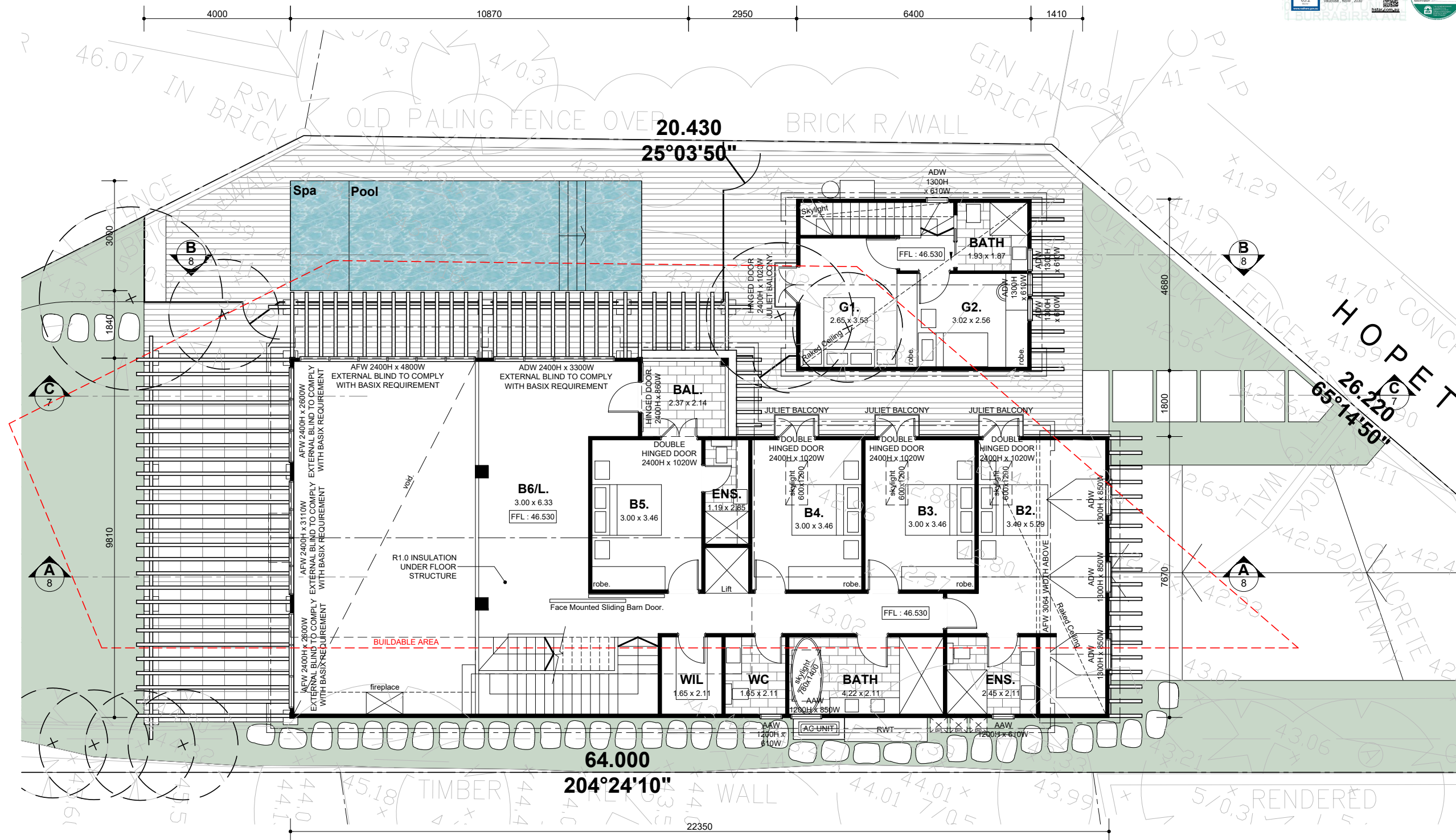
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drawing : Ground Floor Plan  
drawing no. : 2  
date: 20.07.23

revision: C  
scale: 1:100 @ A3







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date	revision	issue

date	revision	issue
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drawing: **First Floor Plan**

drawing no. : **3**

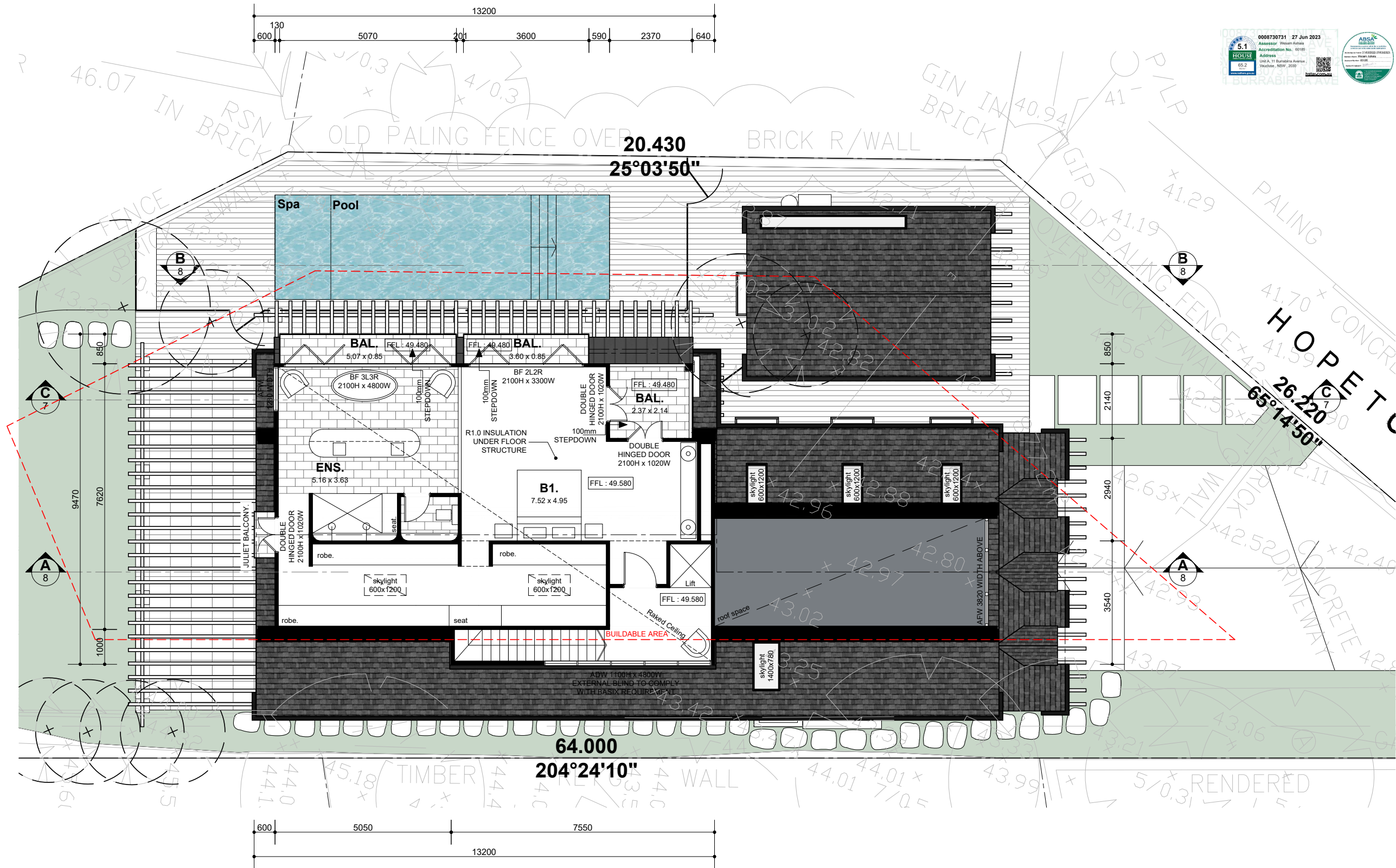
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revision: **C**  
scale: 1:100 @ A3





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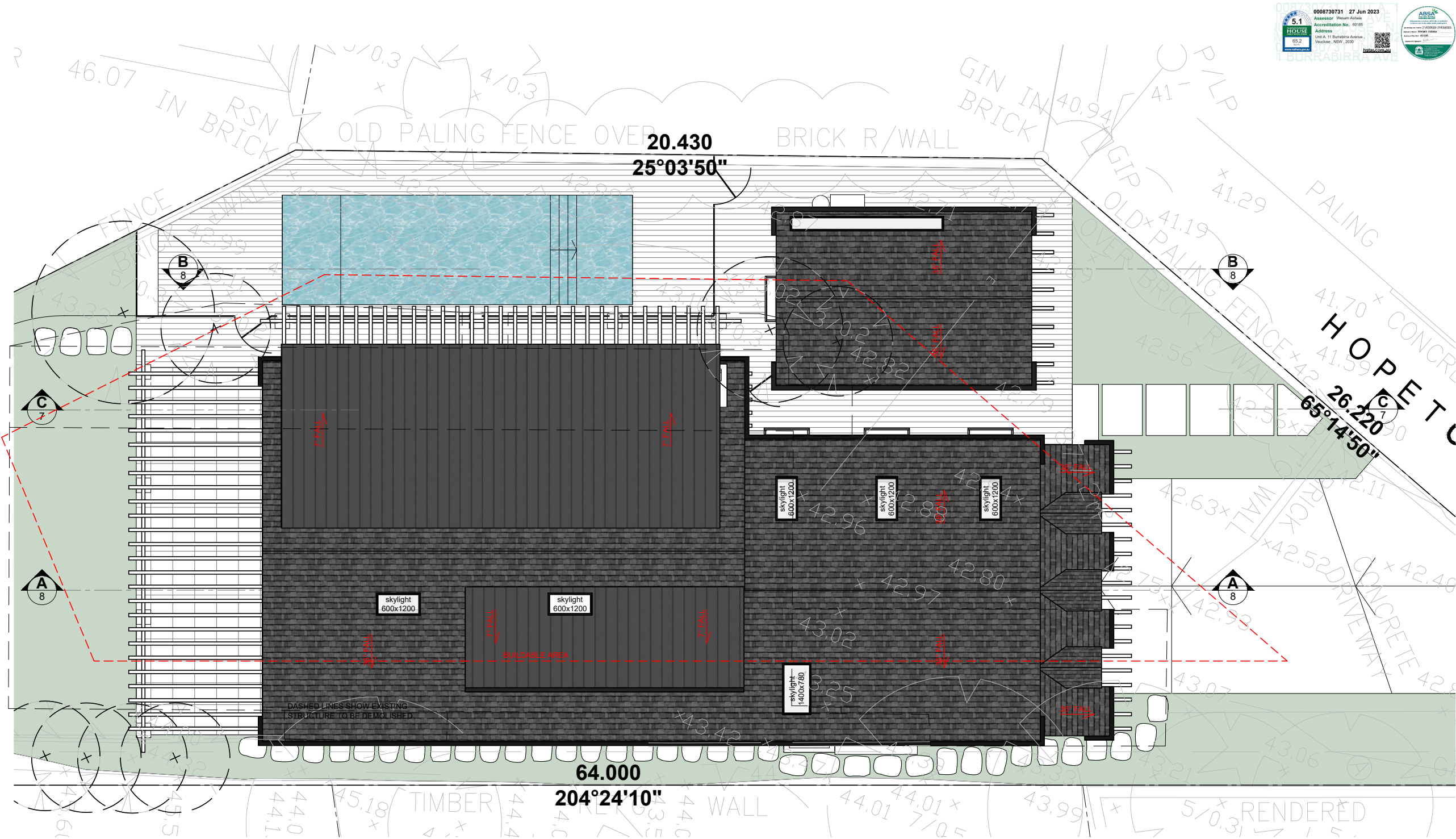
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date	revision	issue

date revision issue

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drawing: Attic Floor Plan  
drawing no.: 4  
date: 20.07.23  
revision: C  
scale: 1:100 @ A3







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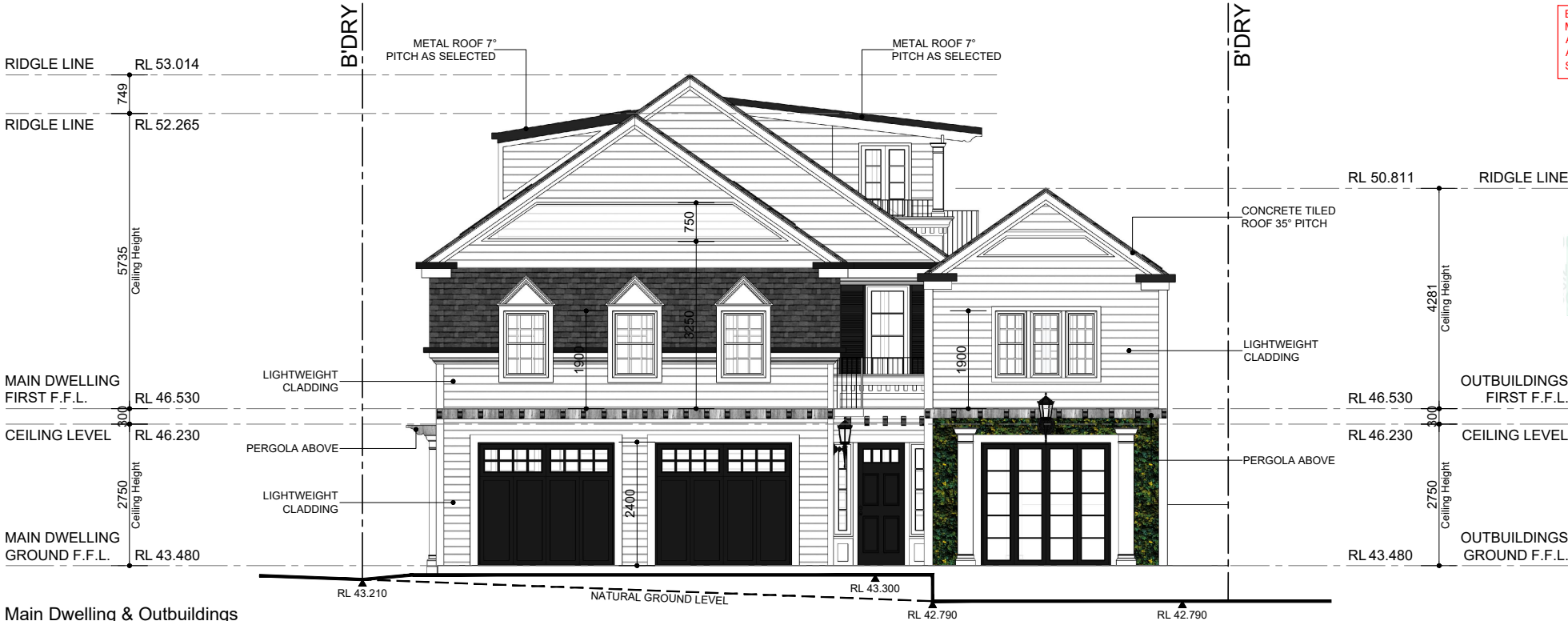
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date	revision	issue

date revision issue

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drawing : Roof Plan  
drawing no.: 5  
date: 20.07.23  
revision: C  
scale: 1:100 @ A3





Basix Requirements:  
Main Dwelling:  
A. Windows Are Thermally Broken Double Glazed  
Aragon Filled With U: 3.0 & Shgc: 0.26 And U:2.9 &  
Shgc: 0.51 At Sg U: 5.6 & Shgc: 0.41



Main Dwelling & Outbuildings  
North East Elevation



Main Dwelling & Outbuildings  
South West Elevation



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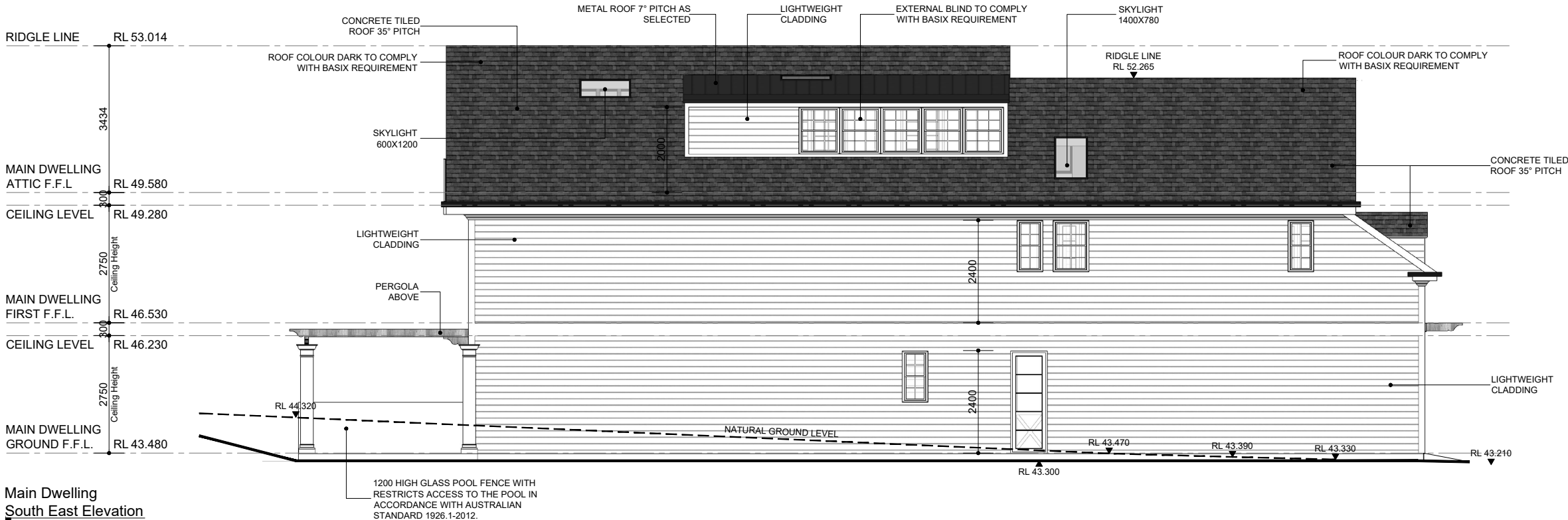
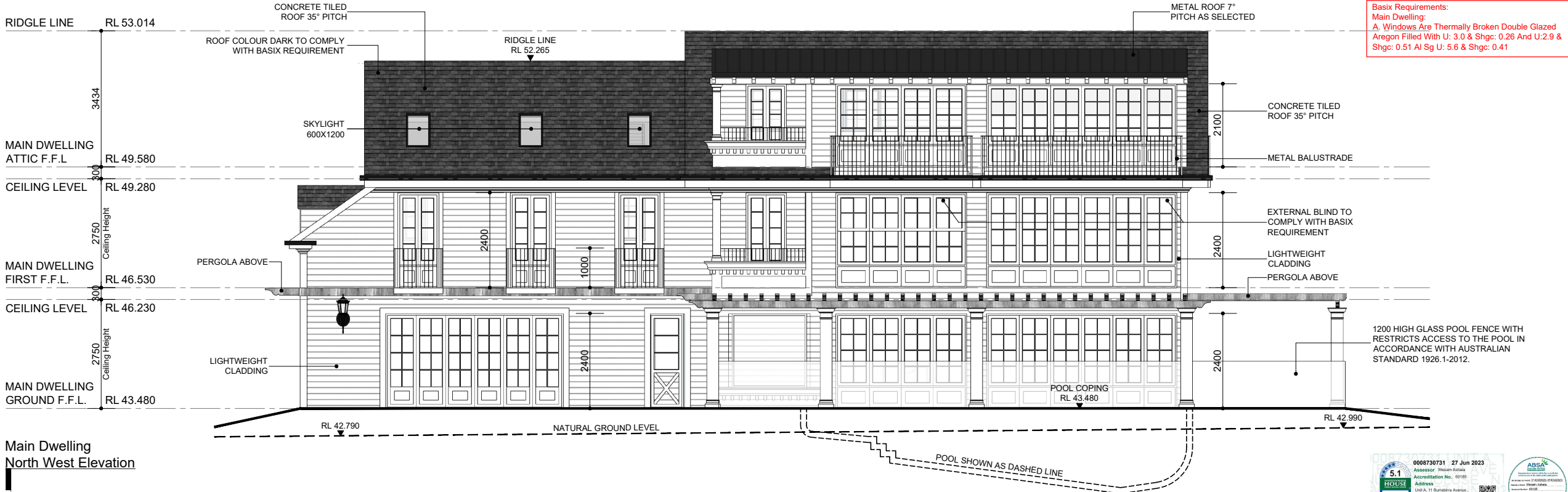
date revision issue

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drawing : North East & South West Elevations

drawing no.: 6  
date: 20.07.23

revision: C  
scale: 1:100 @ A3





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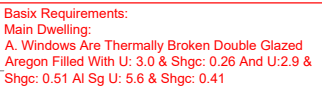
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30.05.23	A	DA submission			
date	revision	issue	date	revision	issue

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drawing : North West & South East Elevations

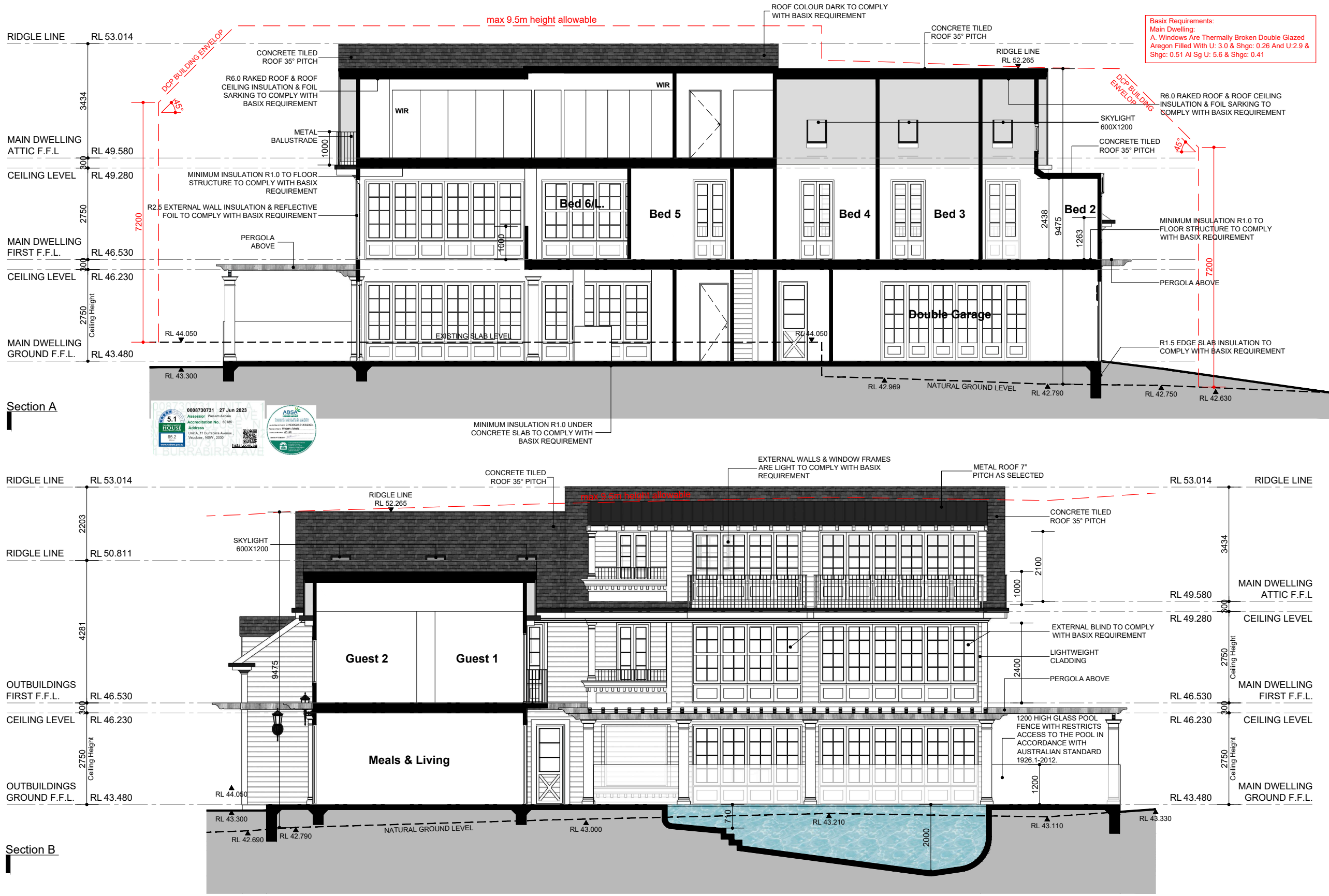
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date: 20.07.23

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scale: 1:100 @ A3





revision: **C**  
scale: 1:100 @ A3



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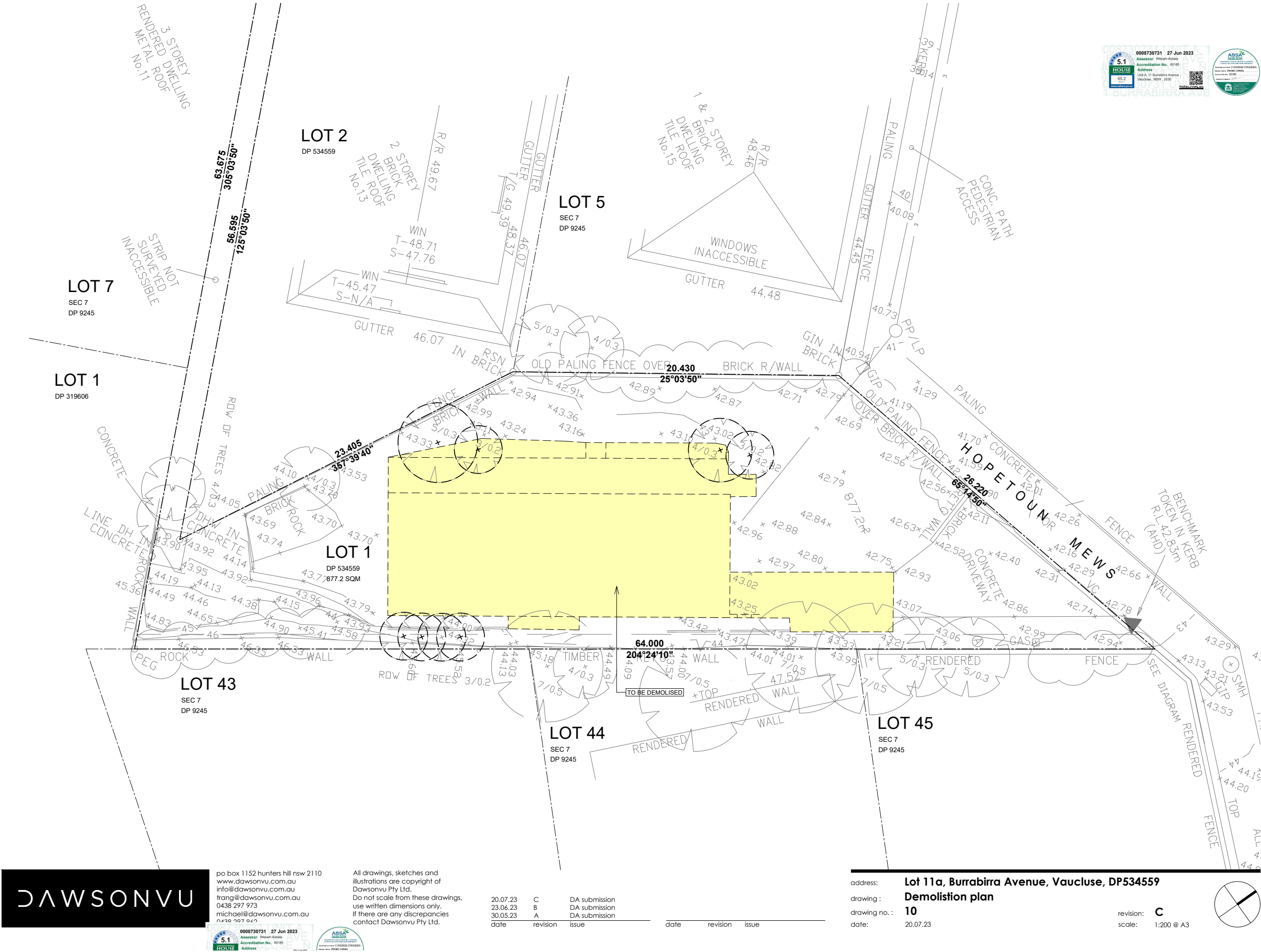
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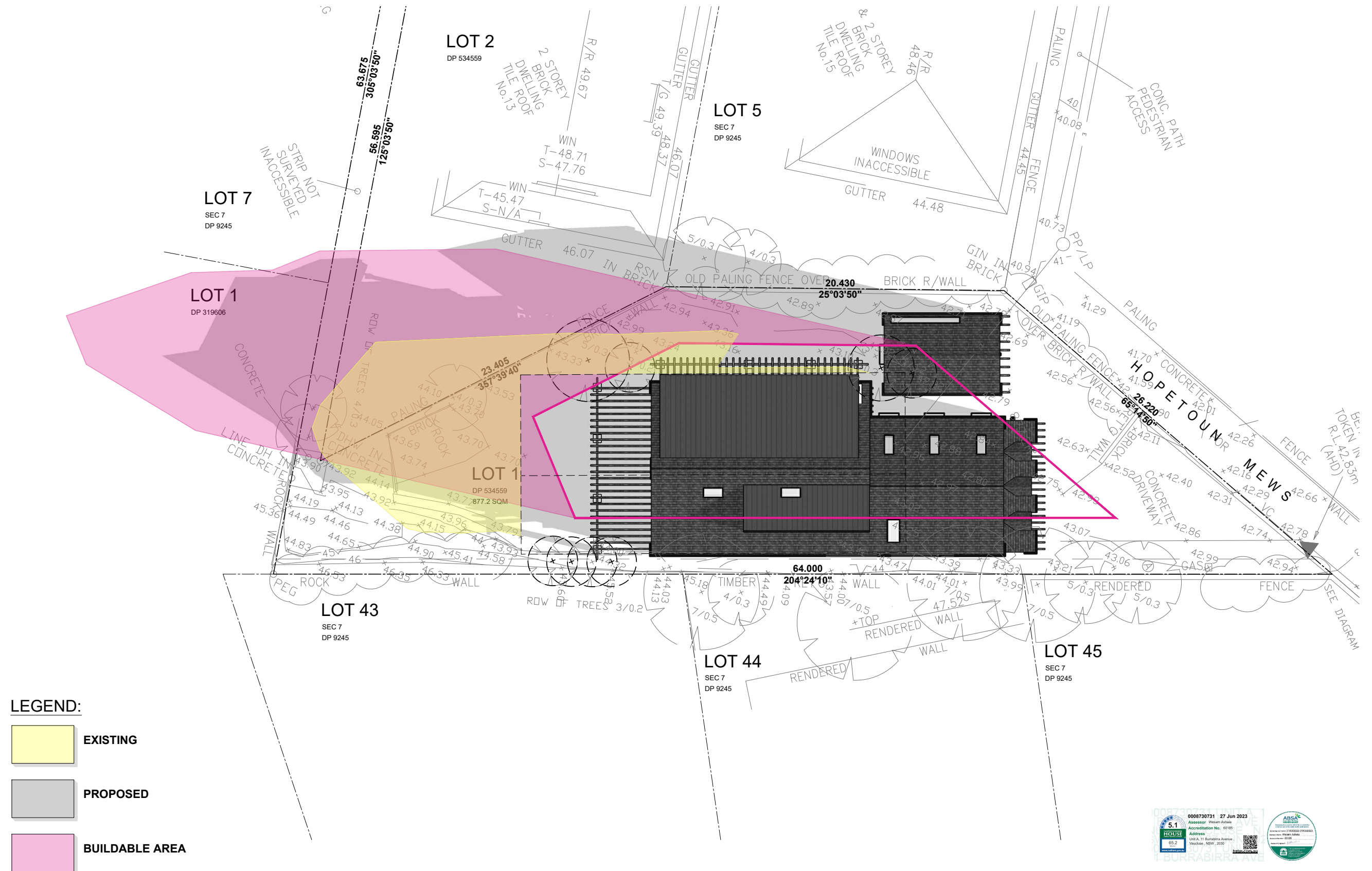
date: 20.07.23

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LEGEND:



**EXISTING**

**PROPOSED**

### BUILDABLE AREA

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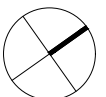
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date	revision	issue

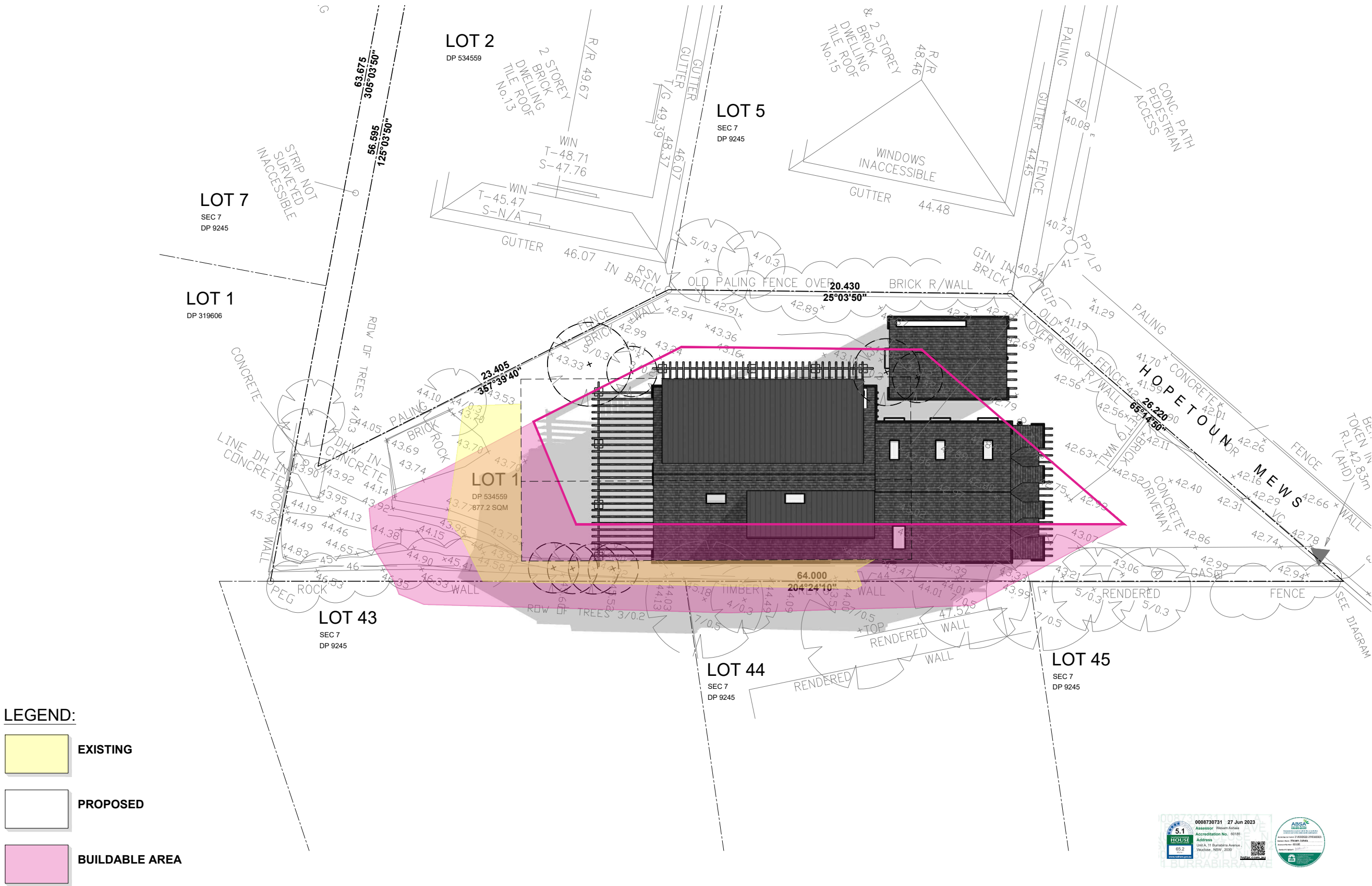
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drawing: **Shadow Cast At 9:00 On June 21st**  
drawing no.: **11a**  
date: 20.07.23

revision: **C**  
scale: 1:20

revision: **C**  
scale: 1:200 @ A3





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date	revision	issue

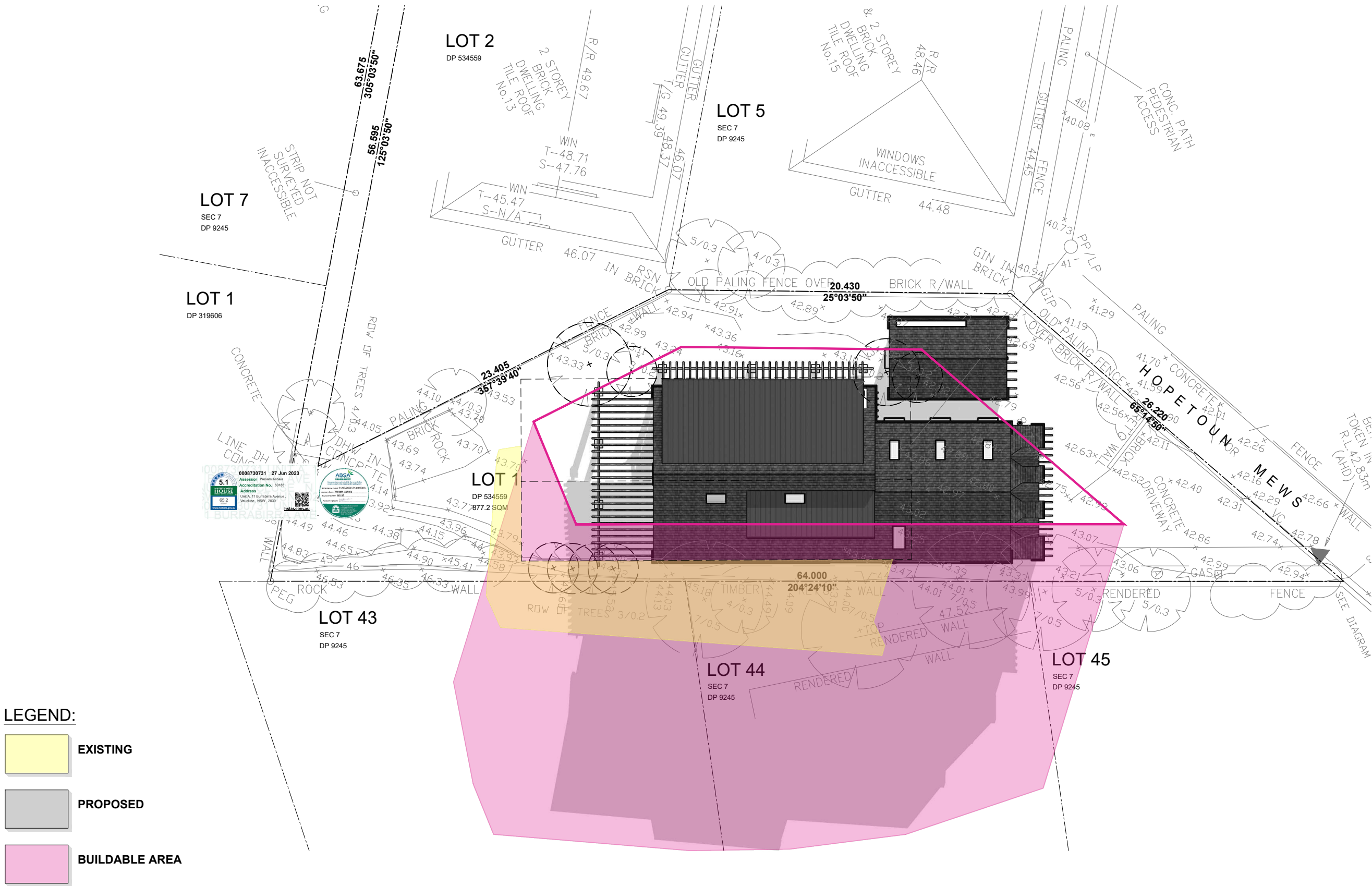
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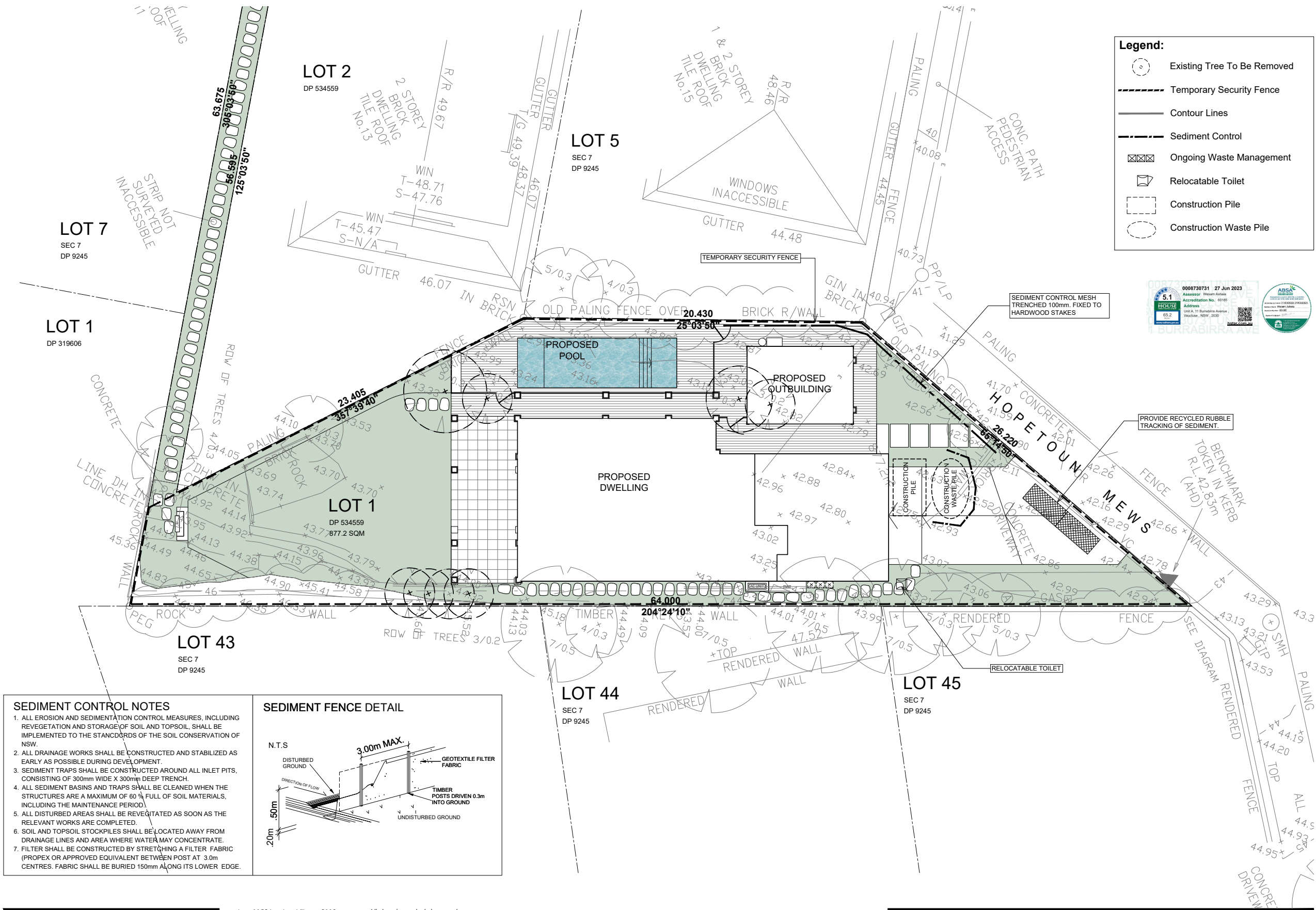
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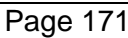


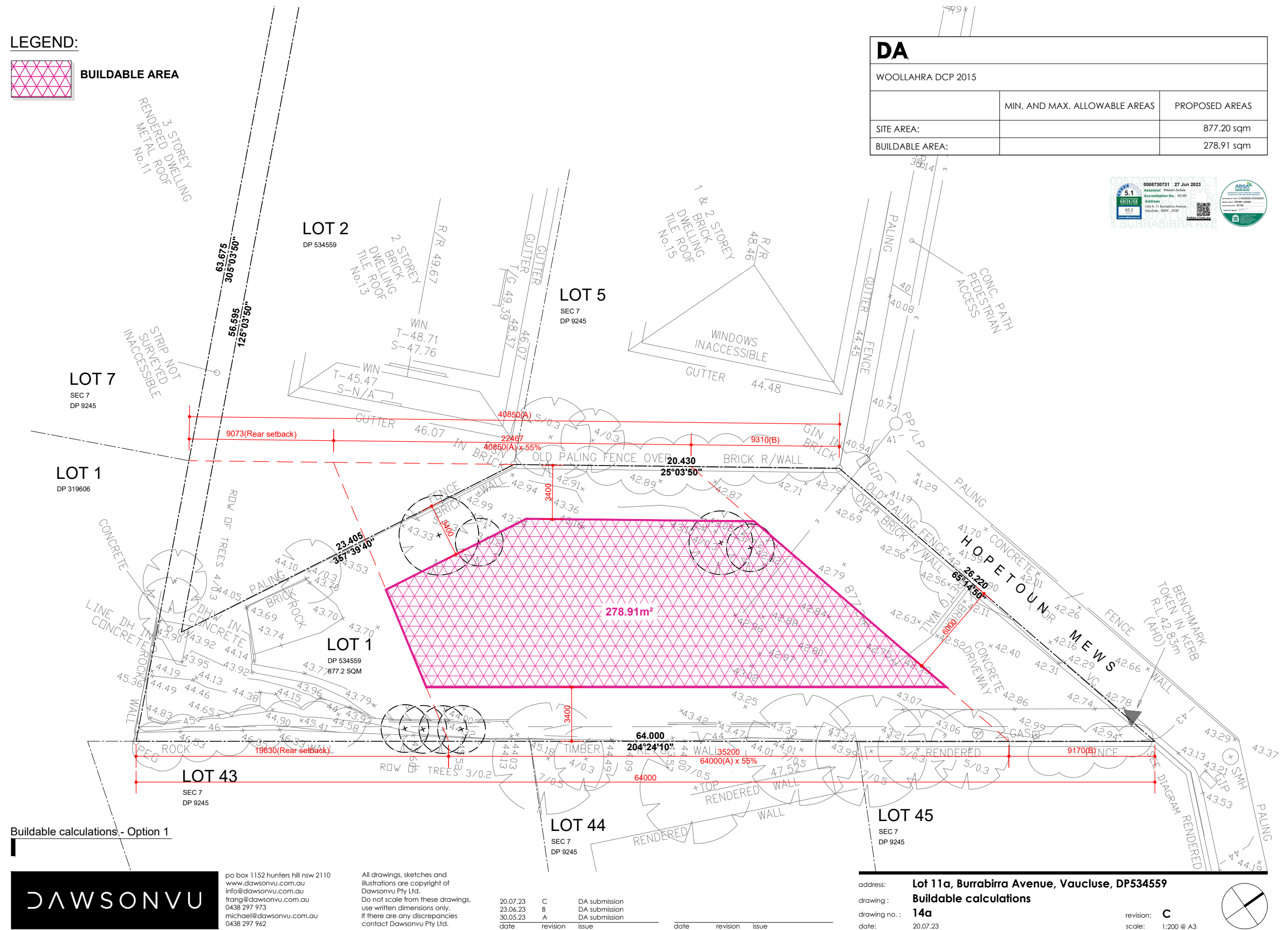






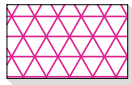




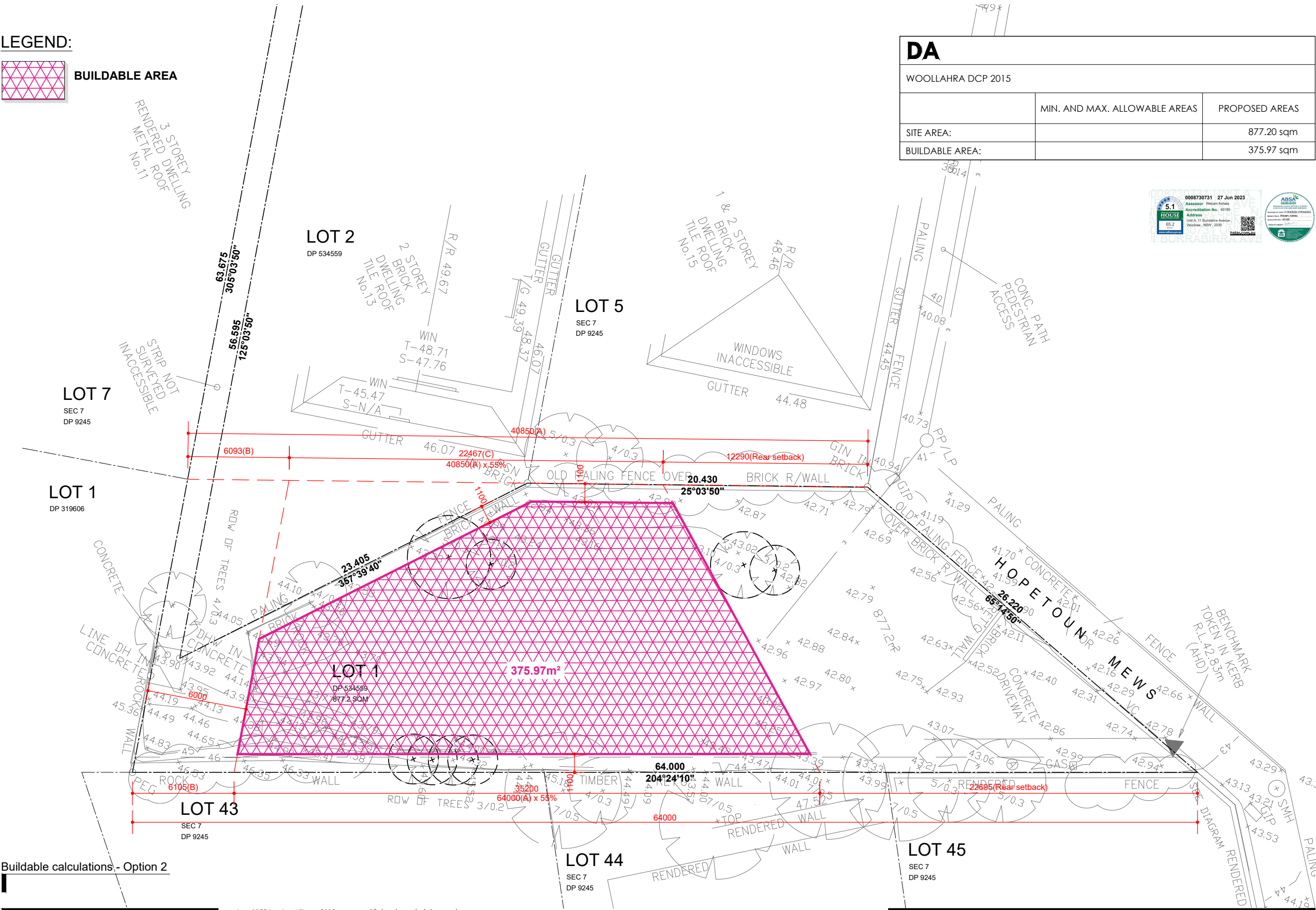




LEGEND:



BUILDABLE AREA



DA		
WOOLLAHRA DCP 2015		
	MIN. AND MAX. ALLOWABLE AREAS	PROPOSED AREAS
SITE AREA:		877.20 sqm
BUILDABLE AREA:		375.97 sqm



Buildable calculations - Option 2



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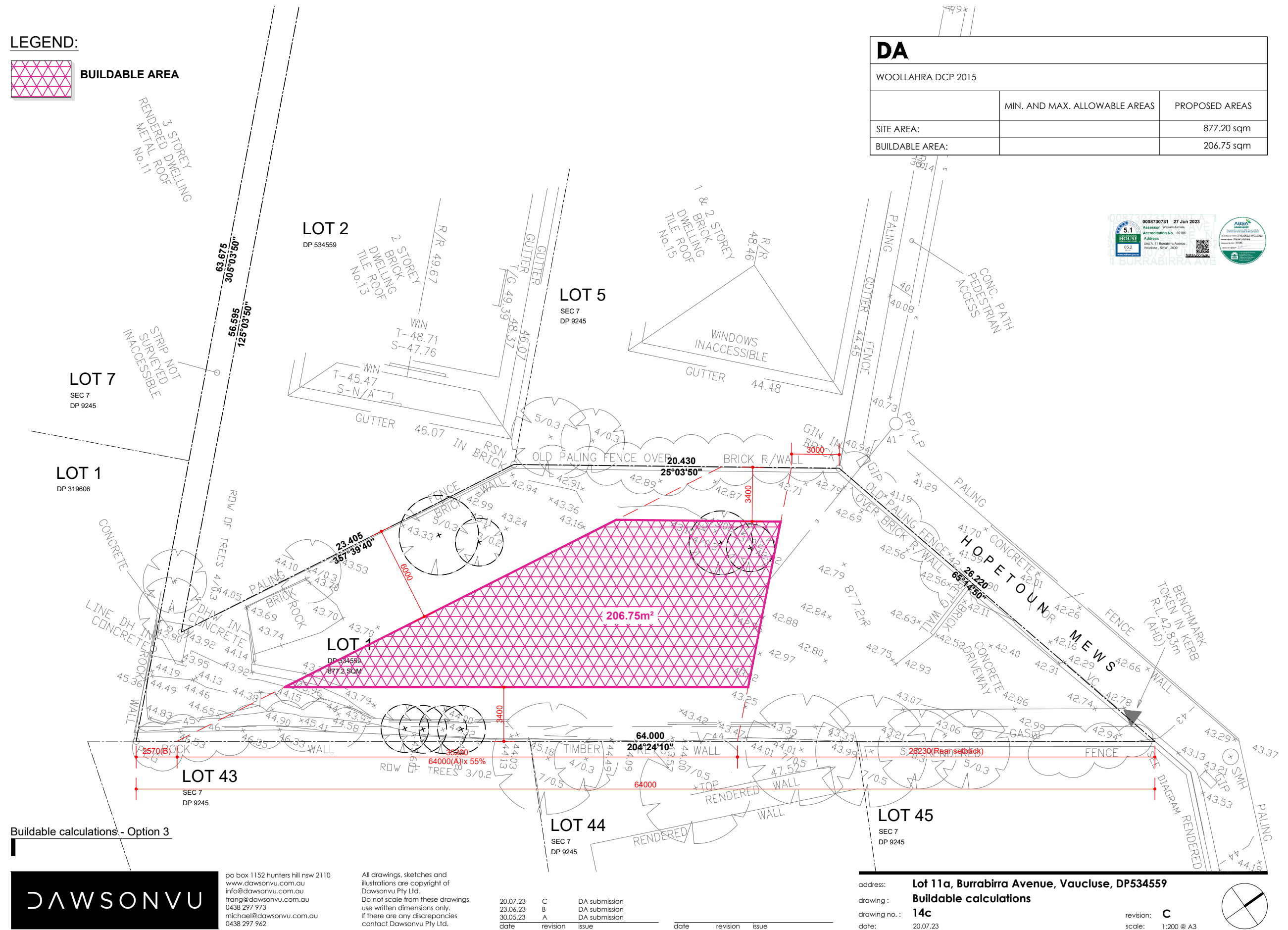
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date	revision	issue

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drawing no.: 14b  
date: 20.07.23

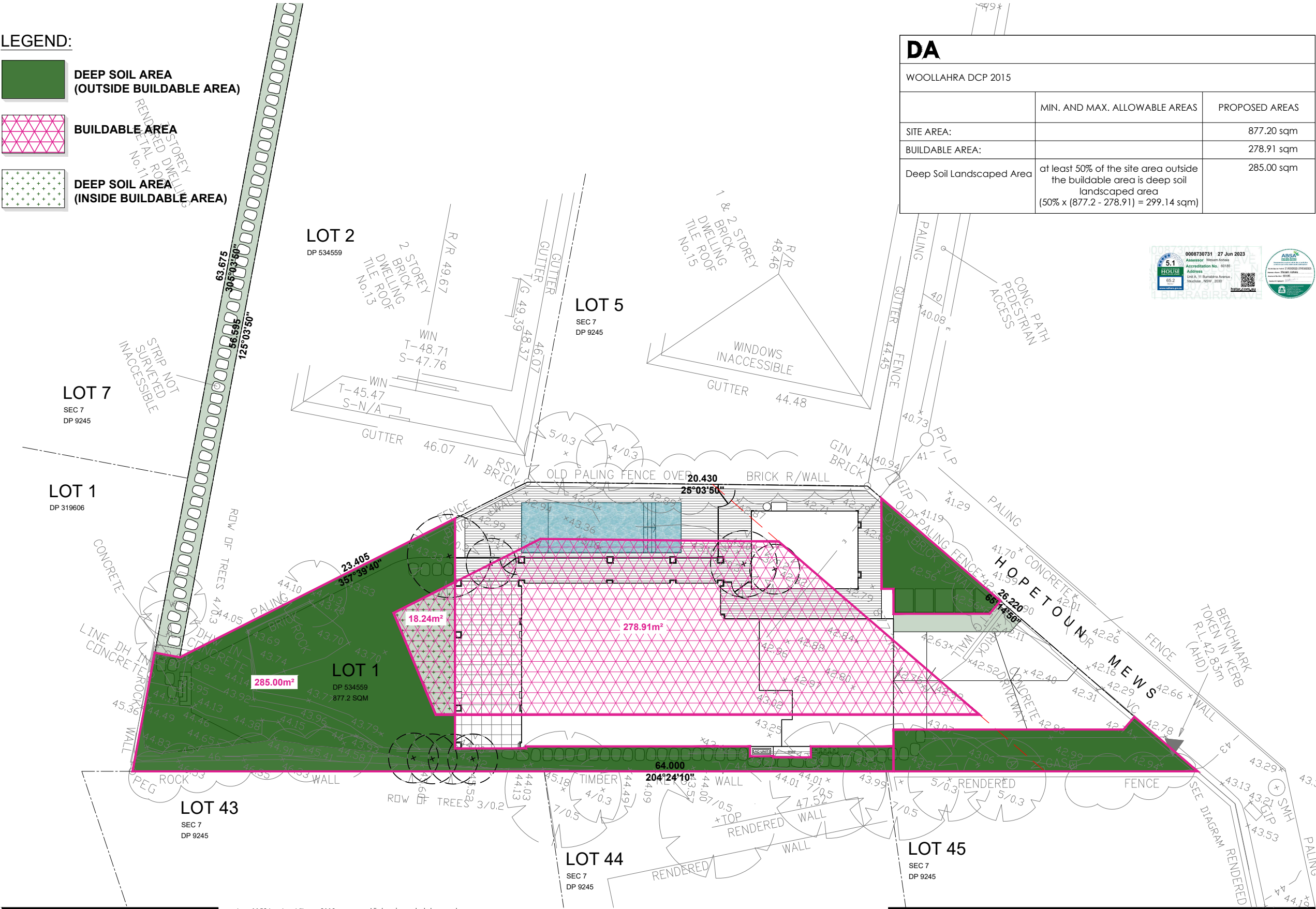
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LEGEND:

- DEEP SOIL AREA  
(OUTSIDE BUILDABLE AREA)
- BUILDABLE AREA
- DEEP SOIL AREA  
(INSIDE BUILDABLE AREA)



DA		
WOOLLAHRA DCP 2015		
	MIN. AND MAX. ALLOWABLE AREAS	PROPOSED AREAS
SITE AREA:		877.20 sqm
BUILDABLE AREA:		278.91 sqm
Deep Soil Landscaped Area	at least 50% of the site area outside the buildable area is deep soil landscaped area (50% x (877.2 - 278.91) = 299.14 sqm)	285.00 sqm



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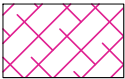
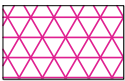
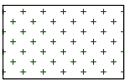
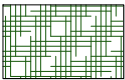
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23.06.23	B	DA submission			
30.05.23	A	DA submission			
date	revision	issue	date	revision	issue

address: Lot 11a, Burrabirra Avenue, Vaucluse, DP534559  
drawing: Deep soil landscaped calculations  
drawing no.: 14  
date: 20.07.23  
revision: C  
scale: 1:200 @ A3





LEGEND:

-  DEEP SOIL AREA
-  FRONT SETBACK AREA
-  REAR SETBACK AREA
-  BUILDABLE AREA
-  DEEP SOIL AREA (OUTSIDE OF FRONT & REAR SETBACKS)
-  DEEP SOIL AREA (ACCESS HANDLE)

LOT 7  
SEC 7  
DP 9245

LOT 1  
DP 319606

LOT 2  
DP 534559

LOT 5  
SEC 7  
DP 9245

LOT 1  
DP 534559  
877.20 SQM

LOT 43  
SEC 7  
DP 9245

LOT 44  
SEC 7  
DP 9245

LOT 45  
SEC 7  
DP 9245

DA		
WOOLLAHRA DCP 2015		
	MIN. AND MAX. ALLOWABLE AREAS	PROPOSED AREAS
SITE AREA:		877.20 sqm
BUILDABLE AREA:		278.91 sqm
Deep Soil Landscaped Area	at least 50% of the site area outside the buildable area is deep soil landscaped area (50% x (877.2 - 278.91) = 299.14 sqm)	285.00 sqm
	Min 40% of front setback comprises deep soil landscaping (40% x 157.99 = 63.20 sqm)	(32.37%) 51.15 sqm
	Min 50% of rear setback comprises deep soil landscaping (50% x 160.33 = 80.16 sqm)	(100%) 160.33 sqm
Deep soil (access handle)		86.98 sqm



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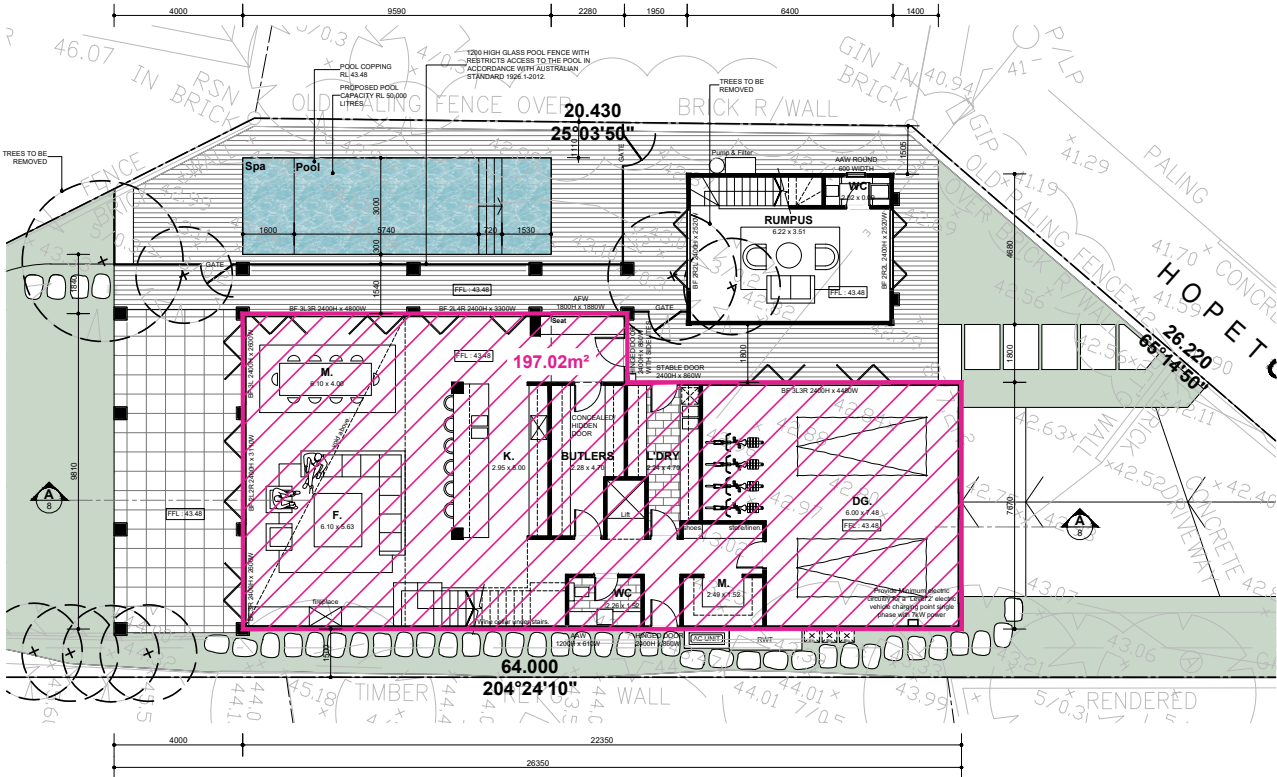
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23.06.23	B	DA submission
30.05.23	A	DA submission
date	revision	issue

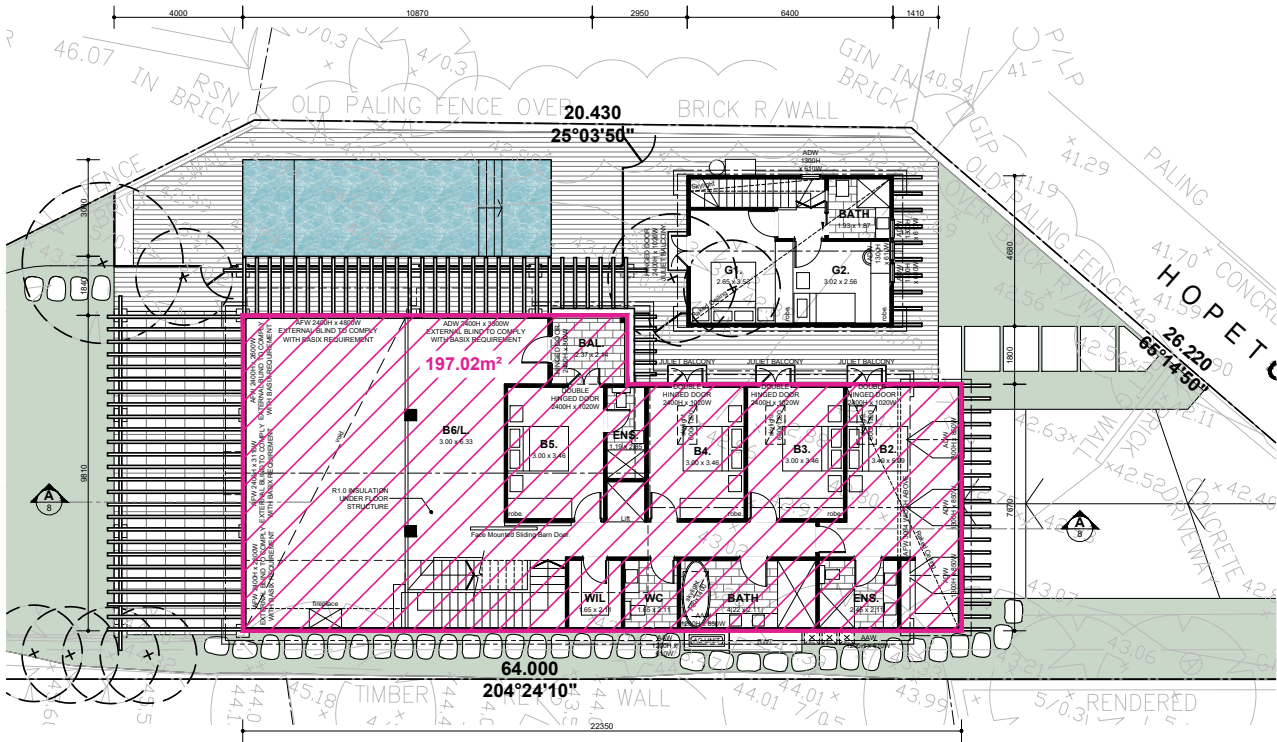
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revision: C  
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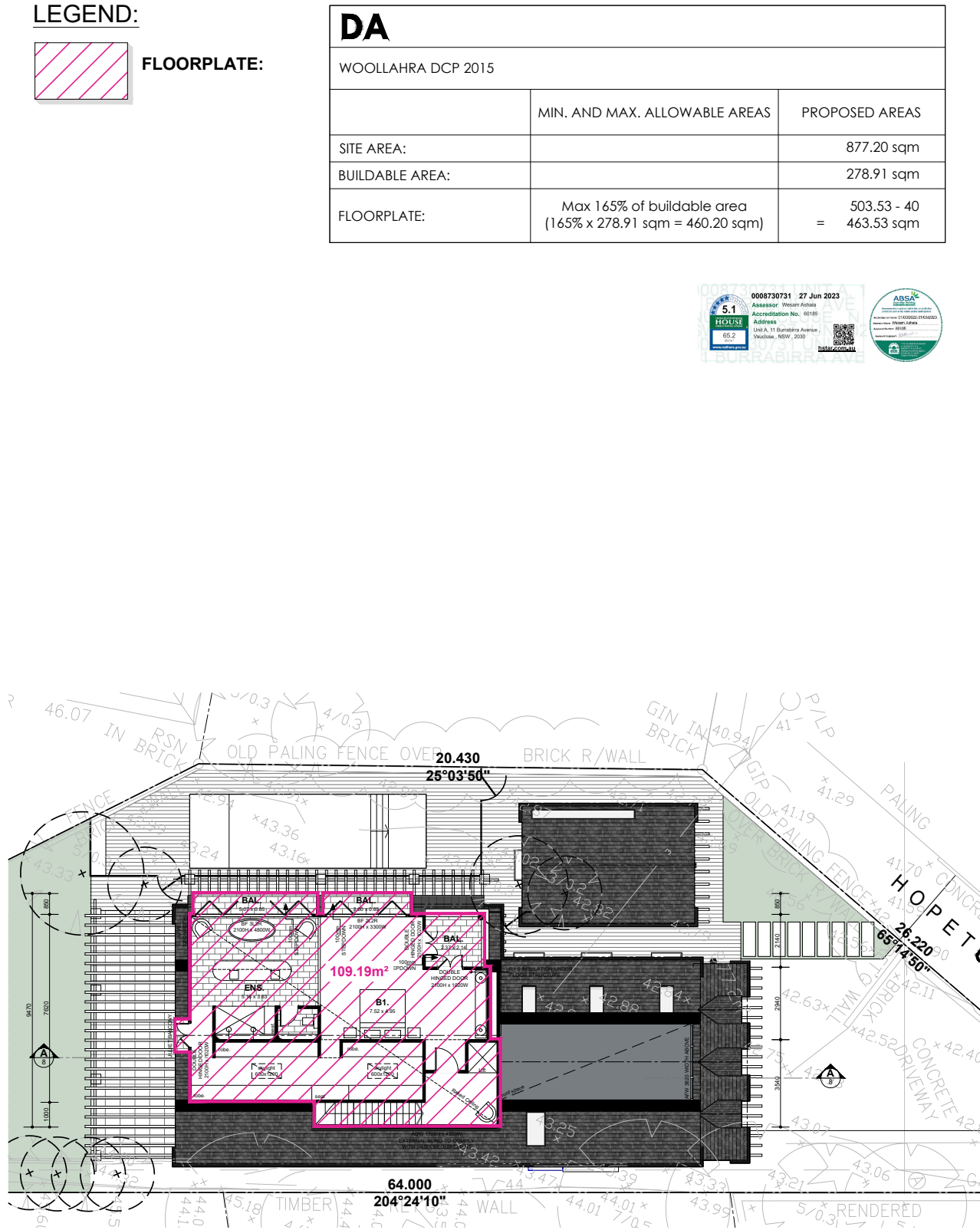




Floorplate - Ground Floor Plan



Floorplate - First Floor Plan



Floorplate - Attic Floor Plan



FLOORPLATE:

DA		
WOOLLAHRA DCP 2015		
	MIN. AND MAX. ALLOWABLE AREAS	PROPOSED AREAS
SITE AREA:		877.20 sqm
BUILDABLE AREA:		278.91 sqm
FLOORPLATE:	Max 165% of buildable area (165% x 278.91 sqm = 460.20 sqm)	503.53 - 40 = 463.53 sqm



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20.07.23	C	DA submission
23.06.23	B	DA submission
30.05.23	A	DA submission
date	revision	issue

date revision issue

address: Lot 11a, Burrabirra Avenue, Vaucluse, DP534559  
drawing : Floorplate calculations  
drawing no.: 15  
date: 20.07.23

revision: C  
scale: 1:200 @ A3



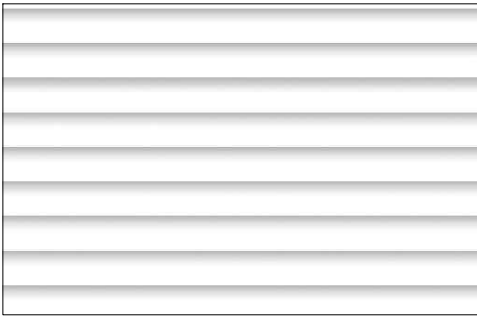




CONCRETE TILED ROOF  
COLOUR : MONUMENT



FASCIA & GUTTER  
COLOUR : BLACK



LIGHTWEIGHT CLADDING  
COLOUR : WHITE



METAL ROOF - CUSTOM ORB COLORBOND  
COLOUR : MONUMENT



ENTRY DOOR & GARAGE DOOR - ALUMINIUM  
COLOUR: BLACK



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30.05.23	A	DA submission
date	revision	issue

date revision issue

address: Lot 11a, Burrabirra Avenue, Vaucluse, DP534559  
drawing: Colour + Material Schedule  
drawing no.: 16  
date: 20.07.23  
revision: C  
scale: nts @ A3





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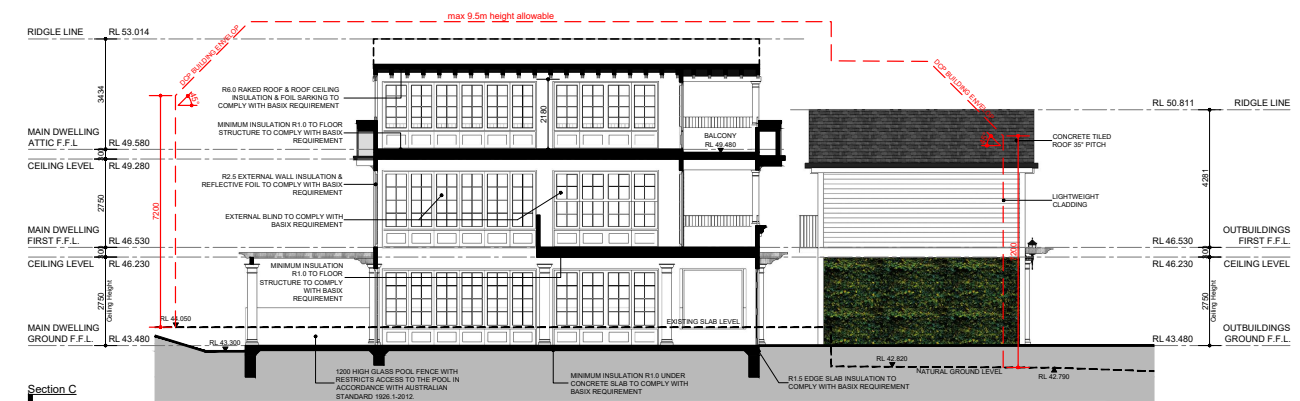
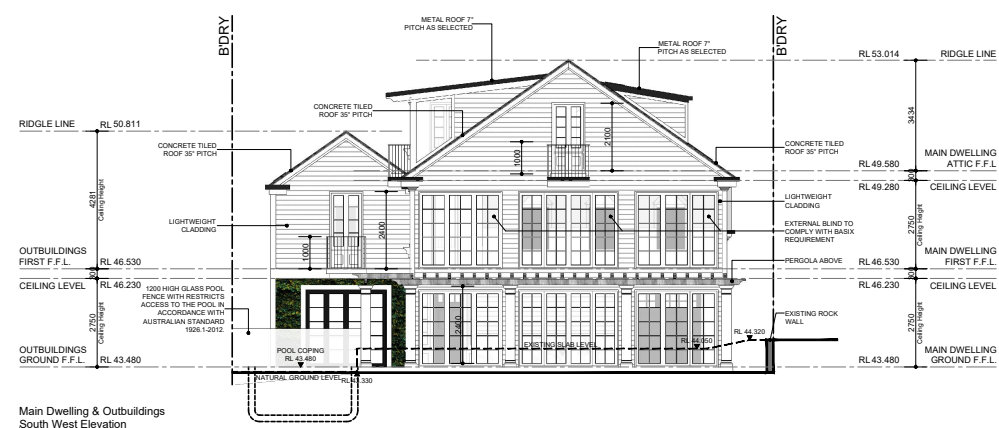
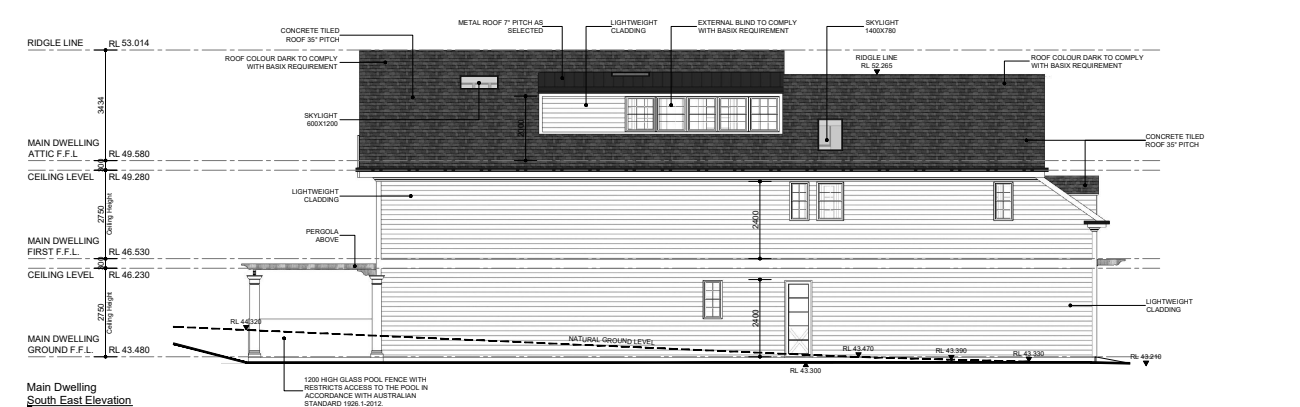
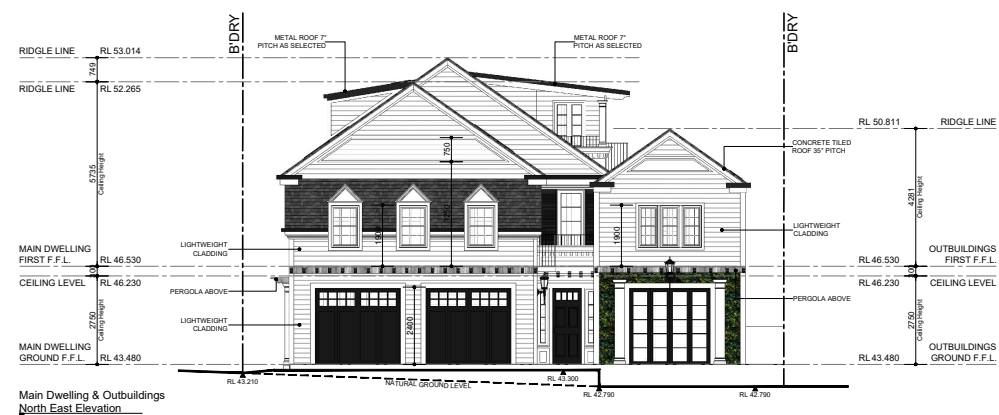
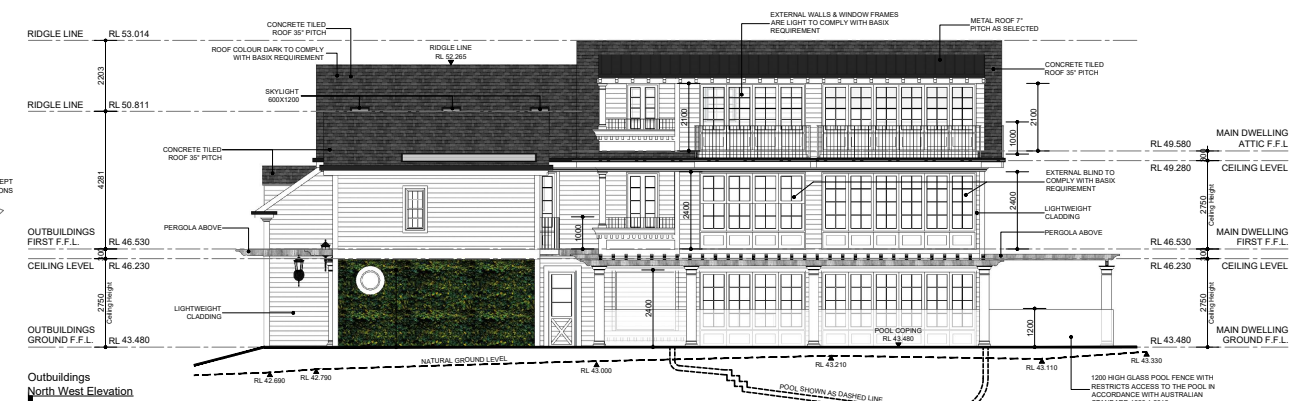
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23.06.23	B	DA submission
30.05.23	A	DA submission
date	revision	issue

date revision issue

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drawing : Images  
drawing no. : 17  
date: 20.07.23

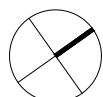
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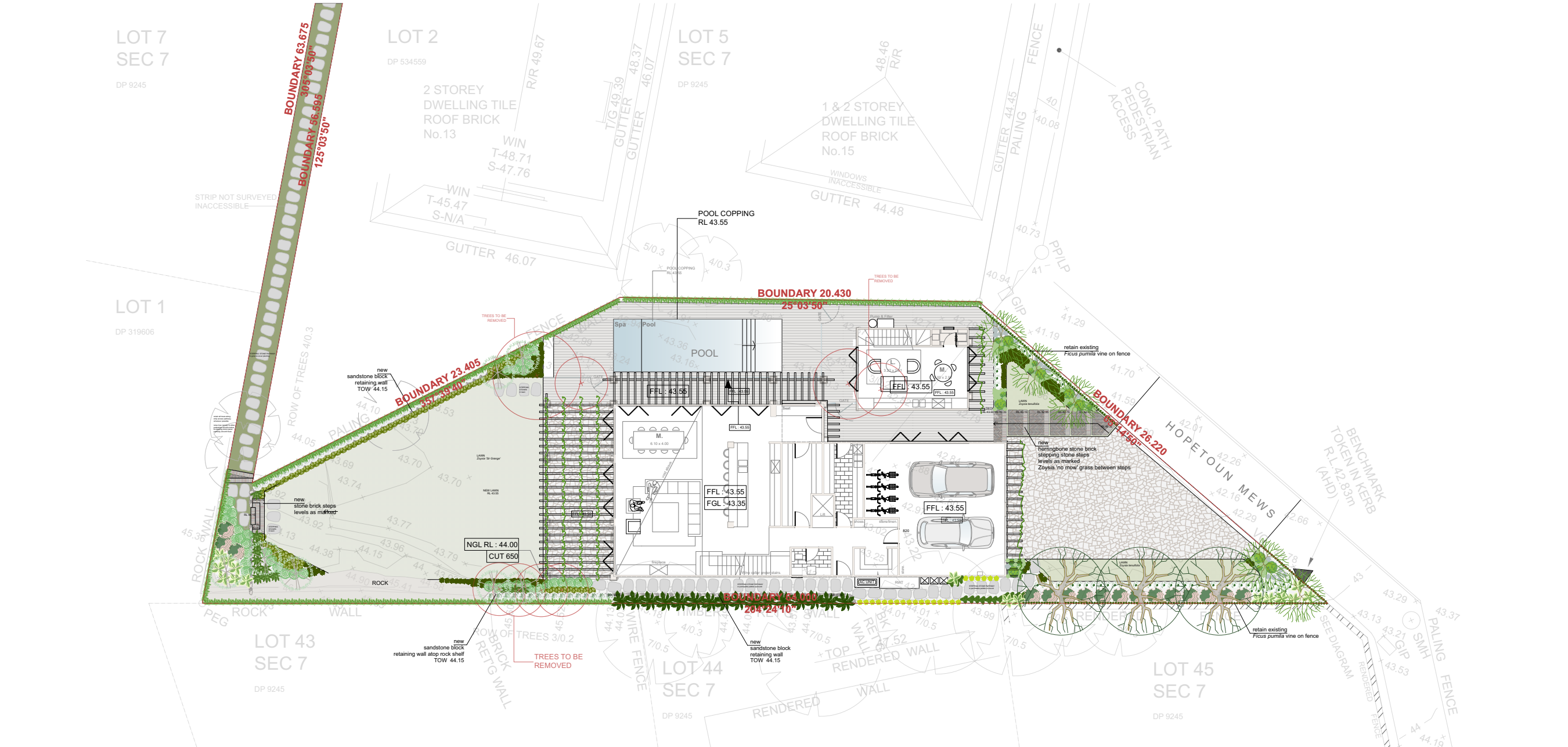



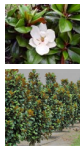
















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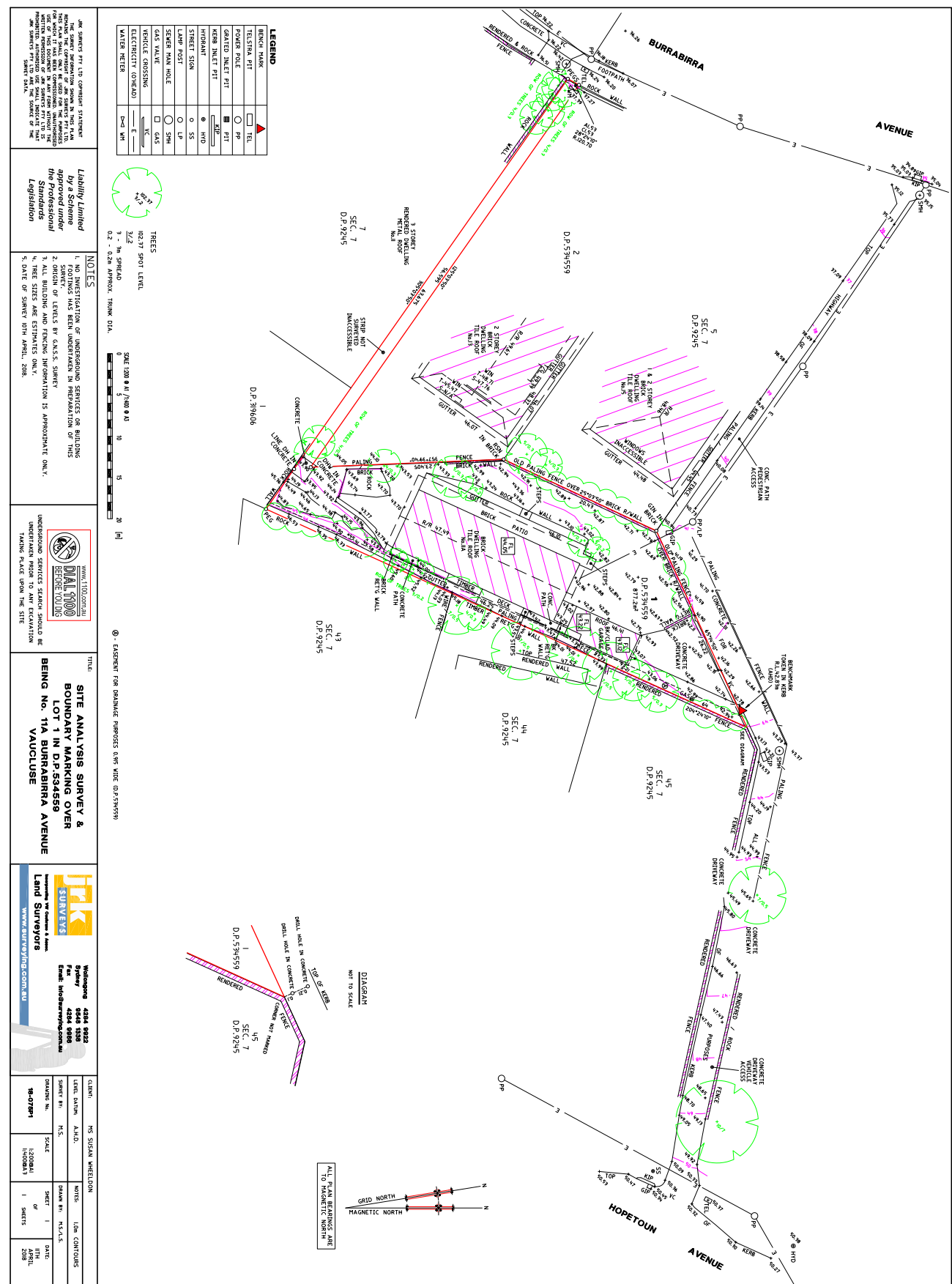
revision: **C**  
scale: nts @ A4





 <p><i>Magnolia grandiflora</i> 'Teddy Bear' Teddy Bear Magnolia Qty 3 Size 200L</p>	 <p><i>Raphia excelsa</i> Lacy Palm Qty 16 Size 500mm</p>	 <p><i>Alcacia portadora</i> Elephant's Ear Qty 16 Size 300mm</p>	 <p><i>Strobilanthes gossypinus</i> Persian Shield Qty 13 Size 200mm</p>	 <p><i>Crassula undulata</i> 'Max Cook' Ruffled Silver Jade Qty 39 Size 500mm</p>	 <p><i>Buxus microphylla</i> 'Japonica' Japanese Box - Clipped Topiary Sphere Qty 8 Size 500mm</p>	 <p><i>Buxus microphylla</i> 'Japonica' Japanese Box - Clipped Topiary Sphere Qty 10 Size 300mm</p>	 <p><i>Salvia leucantha</i> 'Velour White' White Mexican Sage Qty 50 Size 200mm</p>	 <p><i>Gardenia augusta</i> 'Florida' Gardenia Qty 56 Size 300mm</p>	 <p><i>Ligularia tussockii</i> Tractor Seat Ligularia Qty 79 Size 200mm</p>	<p><i>Trachelospermum jasminoides</i> Chinese Star Jasmine Qty 150 @ 2 plants / lineal m2 Size 300mm</p>	<p><i>Blechnum gibbum</i> 'Silver Lady' Silver Lady Fern Qty 14 Size 200mm</p>	<p><i>Saxifraga trifasciata</i> 'Moonshine' Silver Mother-in-Law's Tongue Qty 20 Size 200mm</p>	<p><i>Saxifraga trifasciata</i> 'Moonshine' Silver Mother-in-Law's Tongue Qty 23 Size 200mm</p>	<p><i>Trachelospermum asiaticum</i> Japanese Star Jasmine Qty 115 Size 200mm</p>	<p><i>Tulbaghia comitoli</i> Purple Eye Society Garlic Qty 90 Size 200mm</p>	<p><i>Ficus pumila</i> Creeping Fig Qty existing, to be retained</p>	<p><i>Beaumontia grandiflora</i> Herald's Trumpet Vine Qty 2 Size 300mm</p>	<p><i>Vitis vinifera</i> Ornamental Grape Qty 4 Size 300mm</p>	<p><i>Zoyzia tenuifolia</i> Korean Velvet Grass Qty 100m2 Size instant turf</p>	<p><i>Zoyzia</i> 'Sir George' Fine Leaf Zoyzia Turf Qty 100m2 Size instant turf</p>	<p><i>Dichondra repens</i> Kidney Weed Qty 530 Size 300mm</p>	<p>BC Sands River Pebble Size: 20mm</p>	<p>Gather Co. 'BAIBAN' Bluestone Organic Steppers Finish: Sawen</p>	<p>Gather Co. 'APIS' Limestone (stone brick) Finish: Sand Blasted</p>	<p>Gather Co. 'APIS' Limestone (crazy paving) Finish: Sand Blasted</p>
 <p>BEN KAYE GARDEN DESIGN</p>	<p>PO Box 2151 Bondi Junction NSW 1555 Australia</p> <p>p +61 2 9388 0107 m +61 400 442 774 e ben@benkaye.design</p>	<p><b>PROJECT</b> 11A Burrabirra Avenue VAUCLUSE NSW</p> <p><b>CLIENT</b> WHEELDON</p>	<p><b>DRAWING</b> 2023.04.WHEELDON.11A.BURRABIRRA.A0.1</p> <p><b>TITLE</b> LANDSCAPE</p>	<p><b>DRAWN BY</b> BK</p> <p><b>ISSUE</b> 01</p> <p><b>REVISION</b> B</p> <p><b>DATE</b> MAY 2023</p> <p><b>SCALE</b> 1:75 @ A0</p>		 <p>BC Sands River Pebble Size: 20mm</p>	 <p>Gather Co. 'BAIBAN' Bluestone Organic Steppers Finish: Sawen</p>	 <p>Gather Co. 'APIS' Limestone (stone brick) Finish: Sand Blasted</p>	 <p>Gather Co. 'APIS' Limestone (crazy paving) Finish: Sand Blasted</p>																





Completion Date: 10 November 2023

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

**FILE NO:** Development Applications: 226/2023/1  
**ADDRESS:** 11A Burrabirra Avenue VAUCLUSE 2030  
**PROPOSAL:** Demolition of the existing house and garage and construction of a new dwelling, swimming pool and landscaping.  
**FROM:** Mr W Huynh  
**TO:** Mr G Lloyd

---

### 1. ISSUES

- None

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 22436, prepared by GSA Planning, dated 21/06/2022.
- Architectural Plans, unreferenced revision C, prepared by Dawsonvu dated 20/07/2023.
- Survey, referenced 18-075P1, prepared by JRK Surveys, dated 11/04/2018.
- Stormwater Management Plan, referenced 20230145-DA-SW-DWG-02, prepared by Deboke Civil, dated 31/07/2023.
- Geotechnical Report, referenced 224042.00.R.001.Rev0, prepared by Douglas Partners dated 05/09/2023.

### 3. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

#### a. Site Drainage comments

*This proposal is a new development on a lot greater than 500m<sup>2</sup>, in which case the installation of On-site Stormwater Detention (OSD) system including rain garden is required. The provision of a rain garden has been fully substituted with an increased OSD capacity and the proposed capacity is considered satisfactory.*

*Council's Infrastructure and Sustainability Division is satisfied that adequate provision could be made for the disposal of stormwater from the land it is proposed to develop and complies with Chapter E2 "Stormwater and Flood Risk Management" DCP*

#### b. Flooding & Overland Flow comments

*Council's Drainage Engineer has determined that the development proposal is generally satisfactory and doesn't require any flood specific conditions.*



**c. Impacts on Council Infrastructure comments**

*The applicant seeks to construct a garage as part of this application. It is noted from the submitted architectural plans that the new crossing will be situated in a similar location. The existing vehicular crossing, layback and gutter will need to be removed and a new 4 metres wide crossing constructed to suit the new arrangement which will be conditioned accordingly. These infrastructure works are to be conditioned which is subject to detailed assessment under the S138 application.*

**d. Traffic comments**

*Not relevant*

**e. Vehicle Access & Accommodation comments**

*The proposed parking arrangement is considered satisfactory. Conditions will be imposed to ensure sight lines requirements are met.*

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

*A Geotechnical Report by Douglas Partners, Ref: 224042.00.R.001.Rev0, dated 5 September 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 2 metres from the existing ground surface for the proposed basement.*

*The report identified that the subsurface conditions as:*

- a) Depth of natural sand with various density to a termination depth of 0.55m, 0.25m and 0.2m in BH1, BH2 and BH3 respectively.*
- b) Sandstone bedrock was inferred beneath the natural sand at depth ranging between 0.2m to 0.55m.*
- c) Groundwater was not observed during the investigation.*

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

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

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

**4. RECOMMENDATION**

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)
224042.00.R.001.Rev0	Geotechnical Report	Douglas Partners	05/09/2023
20230145-DA-SW-DWG-02	Stormwater Management Plans	Deboke Engineering Consultants	31/07/2023
S101-Rev 2			31/07/2023
S200-Rev 2			31/07/2023
S201-Rev 2			31/07/2023
S202-Rev 2			31/07/2023
S203-Rev 2			31/07/2023
S300-Rev 2			31/07/2023
S301-Rev 2			31/07/2023

#### A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)

##### A.31 No Underpinning works

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

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

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

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

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

Property Damage Security Deposit (S138)	\$55,760	No	T115
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$645	No	T45

#### C.13 Road and Public Domain Works – Council Approval Required

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to issue of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- The removal of the existing vehicular crossing including layback and gutter and the construction of a new 4 metres wide vehicular crossing in accordance with Council's Crossing Specification and standard driveway drawing RF2\_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at right angle to the 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 surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment,
- The installation of the stormwater outlet pipe to the existing Council's junction pit on Hopetoun Mews in accordance with Council's Specification for Roadworks,

Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. Details showing the reinstatement of the nature strip due to the installation of the stormwater outlet pipe must be provided to the satisfaction of Council's Assets Engineers. Design longitudinal profile of the proposed stormwater outlet pipe, starting from the boundary junction pit to the Council's drainage pit must be submitted for assessment,

- c) The reinstatement of all damaged footpath, kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers, and
- d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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

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

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

**Note:** 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**

The Construction Certificate plans and specifications, clause 7 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation. In particular, all preliminary geotechnical reports must be reviewed and certified by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years.

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

**Note:** This does not affect the right of the developer to seek staged Construction Certificates.  
Standard Condition: C36

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

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

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

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

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical and hydrogeological report prepared by a Chartered Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Councils document "*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*" and Chapter E2.2.10 of Council's DCP. In particular, minimum two cored boreholes drilling to the depth of excavation must be carried out. The report must also include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking to all below ground structures to prevent the entry of ground water/seepage water such that subsoil drainage/ seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of Council's DCP.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
  - will detect any settlement associated with temporary and permanent works and structures,
  - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
  - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
  - will detect groundwater changes calibrated against natural groundwater variations,
  - details the location and type of monitoring systems to be utilised,
  - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
  - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
  - details a contingency plan.

standard Condition: C40 (Autotext: CC40)



#### C.41 Ground Anchors

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

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

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

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

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

**Note:** Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.  
Standard Condition: C41 (Autotext: CC41)

#### C.45 Vehicular Access and Parking Arrangement

Prior to issue of any Construction Certificate, Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed architectural plans and specifications showing the following:

- a) Minimum dimensions of 5.4m x 5.4, clear of any obstructions, shall be provided for the proposed garage to comply with AS2890.1. These required dimensions and the design envelope around parked vehicle as per Figure 5.2 of AS2890.1 are to be clearly depicted on the revised architectural plans.

The proposed off-street parking spaces and vehicular access shall be designed in compliance with AS/NZS 2890.1: *Parking Facilities - Off-Street Car Parking*. Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking space(s) required to be provided and maintained by this consent.

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

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

**Note:** Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

Standard Condition: C45 (Autotext: CC45)

### C.51 Stormwater Management Plan

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

- a) General design in accordance with stormwater management plans, referenced 20230145-DA-SW-DWG-02, prepared by Deboke Engineering Consultants, dated 31/07/2023, other than amended by this and other conditions,
- b) The discharge of stormwater from the site, by direct connection to the Council's drainage pit on Hopetoun Mews,
- c) The installation of an on-site stormwater detention (OSD) system with a minimum storage volume 22m<sup>3</sup>,
- d) The total site discharge for the proposed development, including any areas bypassing the OSD system must not exceed the permissible site discharge of 30.2l/s for the 1% AEP storm event,
- e) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- f) The provision of a minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. The discharge of stormwater from the site to the street kerb must be located within the frontage of the site. Only one stormwater outlet will be permitted. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3,
- g) The installation of rainwater tank (RWT) to comply with BASIX certificate. Overflow from the RWT must be directed to the proposed OSD system by gravity,
- h) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management,
- i) Dimensions of all drainage pit and access grates must comply with AS3500 and Council's DCP,
- j) Compliance with the objectives and performance requirements of the BCA, and
- k) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

#### **Layout plan**

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

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed 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.

**On-site Stormwater Detention (OSD) details:**

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

**Rainwater Reuse System details:**

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

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

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

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

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

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

**D.4 Dilapidation Reports for Existing Structures**

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

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

No. 13 Burrabirra Avenue

No. 15 Burrabirra Avenue



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

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

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

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

Also refer to the Dilapidation Report Advising for more information regarding this condition  
Standard Condition: D4 (Autotext DD4)

**D.6 Adjoining buildings founded on loose foundation materials**

**D.10 Work (Construction) Zone – Approval & Implementation**

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

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

**E.7 Public Footpaths – Safety, Access and Maintenance**

**E.11 Maintenance of Environmental Controls**

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

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

**E.14 Vibration Monitoring**

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

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

**E.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum**

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

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

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

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

Nil

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

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

## H.20 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

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

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site stormwater detention (OSD) system,
- c) that an OSD system with minimum storage volume 22m<sup>3</sup> has been provided in accordance with the approved plans,
- d) that only one stormwater outlet pipe has been constructed within the frontage of the site in accordance with the approved stormwater plans,
- e) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,
- f) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- g) pipe invert levels and surface levels to Australian Height Datum, and
- h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

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

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

### I.29 Ongoing Maintenance of the On-Site-Detention System

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

- a) permit stormwater to be temporarily detained by the System;
- 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 systems 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 systems or elements thereof without prior consent in writing of the Council and not interfere with the systems 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**

23 August 2023

## REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** Development Applications: 226/2023/1  
**ADDRESS:** 11A Burrabirra Avenue VAUCLUSE 2030  
**PROPOSAL:** Demolition of the existing house and garage and construction of a new dwelling, swimming pool and landscaping.  
**FROM:** Simone Woodman - Tree Management Officer  
**TO:** Mr G Lloyd

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

- Statement of Environmental Effects, written by GSA Planning , dated June 2023
- Survey Plan No. 18-075P1, drafted by JRK Surveys, dated 11/04/2023
- Architectural Drawing No.s 1a/C, 1b/C, 2/C – 9/C, 13/C, drawn by Dawsonvu, dated 20/07/2023
- Stormwater drainage Plan No.s S101/02, S200/02 – S202/02, S300/02, S400/02, drawn by Deboke Engineering Consultants, dated 31/07/2023
- Arboricultural Impact Assessment Report, written by Michael Todd – Arbor Logix, dated 14/06/2023
- Landscape Plan No. 2023.WHEELDON.11A.Burrabirra.A0.1, issue01, Revision B, designed by Ben Kaye Garden Design, dated May 2023

A site inspection was carried out on 14 August 2023.

**Relevant Control:**

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites



#### SUMMARY

- Amended landscape plan prior to the issue of a construction certificate required
- Amended Stormwater Drainage Plan prior to the issue of a construction certificate required

#### COMMENTS

Located within the subject property (excluding the access handles) are eight trees proposed to be removed due to their proximity to the proposed development or location within the proposed development footprint. The existing trees proposed for removal are of moderate to low landscape value. The submitted landscape plan proposes fifteen replacement trees to be planted throughout the subject property.

The submitted Statement of Environmental Effects states *the handle-shaped part of the site is densely landscaped and inaccessible*. The submitted landscape plan proposes stepping stone access along the length of the handle shaped part of the site (south western section) with none of the existing trees indicated on the survey plan as being retained. Additionally the submitted Arboricultural Impact Assessment Report makes no assessment of the existing trees located within the handle shaped part of the site. Accordingly any proposed removal of trees in this area is not supported at this stage.

Trees located in neighbouring properties adjacent the subject sites eastern boundary are separated via masonry fences or sandstone block retaining walls or a change in soil level. All structures create a difference in ground levels between the subject site and neighbouring properties. The difference in ground levels affects the lateral spread of roots from these trees into the subject property therefore minimising any impacts from the proposed development.

The submitted Arboricultural Impact Assessment Report recommends pruning a number of trees adjacent the eastern boundary to provide clearance for the proposed building should consent be granted. These trees could be pruned without unacceptable impacts.

The submitted stormwater drainage plan should be modified to ensure the proposed replacement trees indicated on the submitted landscape plan are in positions where their sustained growth is achievable. Accordingly the proposed stormwater pipe and pit along the northern boundary on the western side of the driveway should be relocated to provide a maximum 2 metre setback from the northern boundary. This setback will provide a sustainable location for the replacement trees to be planted as part of the proposed landscape plan.

Additionally the proposed stormwater pipe and pit along the northern boundary on the eastern side of the driveway should be relocated to provide a maximum 2 metre setback from the northern boundary. This setback will provide a sustainable location for the replacement trees to be planted as part of the proposed landscape plan.

#### RECOMMENDATIONS

Council's Tree Management Officer has determined that for the development proposal to be satisfactory in terms of tree preservation and landscaping, compliance with the following Conditions of Consent are recommended.

#### CONDITIONS OF CONSENT

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

## A. General Conditions

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

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
13	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South western handle of the subject property	6 x 3
14	<i>Syzygium luehmannii</i> (Small-leaved Lillypilly)	South western handle of the subject property	6 x 3
15	<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	Western boundary	5 x 3

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

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
3	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Eastern side boundary	5 x 3
9, 10, 11, 12	<i>Syzygium australe</i> (Brush Cherry Lillypilly) - hedge	Eastern side boundary	6 metres height
16	<i>Pittosporum rhombifolium</i> (Queensland Pittosporum) – identified as <i>Ficus benjamina</i> (Weeping Fig) in Arboricultural report	Western side of property	7 x 8
17	<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	Western side of property	8 x 5
18	<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	Western side of property	8 x 5

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

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

This consent to prune does not permit the holder, or any other person or agent, to enter any property for the purpose of undertaking approved tree works, without the consent of the owner of the property.

Council Ref No.	Species	Location	Approved pruning (extent)
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			of pruning)
4	<i>Mangifera indica</i> (Mango)	In accordance with 6.2 - Tree Location Plan of the Arboricultural Impact Assessment Report, written by Michael Todd – Arbor Logix, dated 14/06/2023	Prune 1 x 1st order 200mm diameter branch and 2 x 2nd order 120mm diameter branches to provide building clearance for the proposed dwelling.
5	<i>Schefflera actinophylla</i> (Umbrella tree)		Prune branches no greater than 180mm diameter to provide clearance for the proposed dwelling. The approved pruning shall comprise no more than 20% of live canopy.
6	<i>Schefflera actinophylla</i> (Umbrella tree)		Prune branches no greater than 180mm diameter to provide clearance for the proposed dwelling. The approved pruning shall comprise no more than 20% of live canopy.
8	<i>Syzygium smithii</i> (Lillypilly)		Prune branches no greater than 100mm diameter to provide clearance for the proposed dwelling. The approved pruning shall comprise no more than 20% of live canopy.

**Note:** The tree/s required to be pruned should appear coloured blue on the construction certificate plans.

#### A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
Plan No. 2023.WHEE LDON.11A.B urrabirra.A0.1, issue01, Revision B	Landscape Plan	Ben Kaye Garden Design	May 2023
	Arboricultural Impact Assessment Report	Michael Todd – Arbor Logix	14/06/2023

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

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

Nil

### 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
4	Mangifera indica (Mango)	4.1	Approved dwelling and landscaping
5	Schefflera actinophylla (Umbrella tree)	4.8	Approved dwelling and landscaping
6	Schefflera actinophylla (Umbrella tree)	4.8	Approved dwelling and landscaping
8	Syzygium smithii (Lillypilly)	4.2	Approved dwelling and 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</li></ul>

	protection fencing
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 of 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)**

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

- a) Amended Landscape Plan. An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and submitted to Council's Tree Officer for approval prior to the issue of the construction certificate. The amended landscape plan must include the following:
  - The retention of existing trees located within the access handle of the south western end of the subject property.



- b) Amended Stormwater Drainage Plan. An amended Stormwater Drainage Plan shall be prepared in accordance with Council's DA Guide and submitted to Council's Tree Officer for approval prior to the issue of the construction certificate. The amended plan must include the following:

- Relocate the proposed stormwater pipe and pit along the northern boundary on the western side of the driveway to provide a maximum 2 metre setback from the northern boundary. This setback will provide a sustainable location for the replacement trees to be planted as part of the proposed landscape plan.
- Relocate the proposed stormwater pipe and pit along the northern boundary on the eastern side of the driveway needs to provide a maximum 2 metre setback from the northern boundary. This setback will provide a sustainable location for the replacement trees to be planted as part of the proposed landscape plan.

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

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

**Note:** Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

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

Nil

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

**E.1 Tree Preservation**

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

General Protection Requirements

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

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

## E.2 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)
5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez')	In accordance with Landscape Plan No. 2023.WHEELDON.11A.Burrabirra.A0.1, issue01, Revision B, designed by Ben Kaye Garden Design, dated May 2023	150 litre each	8 x 6 each
7 x <i>Olea europea</i> var. <i>europaea</i> 'Tolley's Upright' (European Olive)		500mm each	7 x 4 each
3 x <i>Magnolia grandiflora</i> 'Teddy Bear' (Magnolia variety)		200 litre each	4 x 3 each

The project arborist shall document compliance with the above condition.

## E.3 Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
4	<i>Mangifera indica</i> (Mango)	In accordance with 6.2 - Tree Location Plan of the Arboricultural Impact Assessment Report, written by Michael Todd – Arbor Logix, dated 14/06/2023	4.1
5	<i>Schefflera actinophylla</i> (Umbrella tree)		4.8
6	<i>Schefflera actinophylla</i> (Umbrella tree)		4.8
8	<i>Syzygium smithii</i> (Lillypilly)		4.2

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

#### E.4 Level changes in the vicinity of trees

With the exception of the approved dwelling and garage no level changes shall occur within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
4	<i>Mangifera indica</i> (Mango)	In accordance with 6.2 - Tree Location Plan of the Arboricultural Impact Assessment Report, written by Michael Todd – Arbor Logix, dated 14/06/2023	4.1
5	<i>Schefflera actinophylla</i> (Umbrella tree)		4.8
6	<i>Schefflera actinophylla</i> (Umbrella tree)		4.8
8	<i>Syzygium smithii</i> (Lillypilly)		4.2

The project arborist shall document compliance with the above condition.

#### E.5 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
4	<i>Mangifera indica</i> (Mango)	In accordance with 6.2 - Tree Location Plan of the Arboricultural Impact Assessment Report, written by Michael Todd – Arbor Logix, dated 14/06/2023	4.1
5	<i>Schefflera actinophylla</i> (Umbrella tree)		4.8
6	<i>Schefflera actinophylla</i> (Umbrella tree)		4.8
8	<i>Syzygium smithii</i> (Lillypilly)		4.2

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

#### E.6 Footings in the vicinity of trees

Nil

#### E.7 Installation of stormwater pipes and pits in the vicinity of trees

Excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
4	<i>Mangifera indica</i> (Mango)	In accordance with 6.2 - Tree Location Plan of the Arboricultural Impact Assessment Report, written by Michael Todd – Arbor Logix, dated 14/06/2023	4.1
5	<i>Schefflera actinophylla</i> (Umbrella tree)		4.8
6	<i>Schefflera actinophylla</i> (Umbrella tree)		4.8
8	<i>Syzygium smithii</i> (Lillypilly)		4.2

Any roots greater than 50mm diameter uncovered for the installation of stormwater pipes and pits shall not be severed and remain in situ bridging across the excavated trench. Pipes shall be guided under any roots greater than 50mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 50mm diameter are severed.

The project arborist shall document compliance with the above condition.

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

##### F.1 Amenity Landscaping

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

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

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

Nil

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

##### H.1 Landscaping

The *principal contractor or owner* must provide to PCA a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

**Note:** This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

Nil

**J. Miscellaneous Conditions**

Nil

**K. Advisings**

**K.1 Pruning or Removing a Tree Growing on Private Property**

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

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



Simone Woodman  
**Tree Management Officer**





Woollahra  
Municipal  
Council

14 March 2024

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications: 226/2023/1

**ADDRESS:** 11A Burrabirra Avenue VAUCLUSE 2030

**PROPOSAL:** Demolition of the existing house and garage and construction of a new dwelling, swimming pool and landscaping.

**FROM:** Nastaran Forouzesh - Heritage Officer

**TO:** Mr G Lloyd

### DOCUMENTATION

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

- Drawing set by DawsonVU, dated 20 July 2023, Revision C
- Demolition Report by Ruth Daniell, dated May 2023
- Statement of Environmental Effects by GSA Planning, dated June 2023
- Survey plan by JRK Surveys, dated 11 April 2018
- Aboriginal Heritage Impact Assessment by Associates Archaeology, dated August 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 370 acres granted to William Charles Wentworth in 1838. Wentworth's land was subdivided in 1914 as part of the 14<sup>th</sup> subdivision of the Vaucluse Estate. The existing allotment was part of lot 4 of Section 1 of the subdivision. The allotment was further subdivided prior to 1969 when the construction of the existing dwelling was approved under BA1969/1398.

The development site comprises one allotment (Lot 2, DP207417). There are two structures on the subject site, a single storey dwelling constructed in the Sydney Regional Style c.1969 and a garage and laundry. The existing dwelling is constructed of painted brick and is

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covered with a gabled tiled roof. The subject dwelling is the first building constructed on the property. Prominent architect Ken Woolley of the architectural firm of Ancher Mortlock Murray & Woolley designed the subject dwelling as part of a project home by prominent merchant builders Pettit & Sevitt for the owners, Mr & Mrs N Gentle.

Since the construction of the dwelling, there have not been any Building Applications or Development Applications submitted to Woollahra Council. However, it is noted that there have been some alterations to the existing built form and to the interiors, including the internal layout. These include: relocation of laundry to the exteriors of the dwelling, changes to internal walls and their finish, minor internal reconfiguration works, new fireplace, removal of original internal timber joinery, removal of original flooring in the informal dining area and kitchen, painting of original exposed timber elements, and painting of original bathroom tiles.

A Demolition report by Ruth Daniell provided an assessment and statement of significance for the property. However, the Demolition Report did not include original plans for the property and as a result did not indicate the association of the property with merchant builders Pettit & Sevitt or the architectural firm of Ancher Mortlock Murray & Woolley.

Due to the association of the existing building with the architectural firm of Ancher Mortlock Murray & Woolley, as well as merchant builders Pettit & Sevitt, Council's Heritage Officers identified that the building may meet the criteria for listing as a heritage item. As a result, in an abundance of caution, Woollahra Council sought specialist external advice on this matter, and commissioned Dr Roy Lumby of TKD Architects to assess the heritage significance of this building to inform the referral response.

The following assessment of significance has been sourced from the Heritage Significance Assessment by Roy Lumby of TKD Architects:

**Historical significance:**

*11A Burrabirra Avenue does not fulfil this criterion. The subdivision and development of land in its vicinity was largely complete before the land on which it stands was subdivided. As with surrounding development, it represents the consolidation of residential development in Vaucluse during the latter part of the post-war period.*

*11A Burrabirra Road does not meet the State or Local significance threshold for Criterion A.*

**Historical associations**

*11A Burrabirra is associated with influential and highly regarded architect Ken Woolley, whose 1962 home at Mosman is considered an exemplar of Sydney School domestic architecture and whose residential work demonstrates a high level of inventiveness and quality. Woolley made an outstanding contribution to architecture in NSW and Australia during the second half of the twentieth century. Woolley was responsible for the majority of individual house types marketed by Pettit & Sevitt, several of which were innovative – the Lowline and Split Level (including variants) have come to epitomise project houses of the 1960s and 1970s in Australia. The Gable, an example of which stands at 11A Burrabirra Avenue, is not considered an outstanding design by Ken Woolley when compared to other residential buildings including project houses that he designed.*

*11A Burrabirra Avenue is associated with Pettit & Sevitt, prominent and influential merchant builders who established a reputation as a benchmark for project house builders. Their houses were generally of a high design quality and finish. Pettit & Sevitt engaged architects of state and national significance, including Ken Woolley, Russell Jack, Harry Seidler and*

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*Neil Clerehan, who produced several innovative and highly regarded houses for the company. 11A Burrabirra Road does not meet the same standard of design as these dwellings.*

*11A Burrabirra Road does not meet the State or Local significance threshold for Criterion B. While it is associated with the highly significant architect Ken Woolley and the significant firm of Pettit & Sevitt and the collaboration between the two parties, it is not an outstanding example of the work of Ken Woolley and the houses he designed for Pettit & Sevitt.*

**Aesthetic significance**

*11A Burrabirra Avenue demonstrates characteristics of the Late Twentieth-Century Sydney Regional style, particularly in the materials used in its construction and the spatial character of spaces chiefly resulting from ceilings following the rake of the roof structure. Ceilings treated in this manner were common in project houses constructed during the second half of the 1960s and 1970s.*

*The integrity and original aesthetic character of 11A Burrabirra Avenue have been obscured by later modifications to the building's interior.*

*11A Burrabirra Road does not meet the State or Local significance threshold for Criterion C. It does not demonstrate a high degree of creative or technical achievement and is not an exceptional example of the Late Twentieth-Century Sydney Regional style.*

**Social significance**

*11A Burrabirra Road is unlikely to fulfil this criterion, although further research is required to confirm this.*

**Research potential**

*11A Burrabirra Avenue is unlikely to fulfil this criterion. The information that it can yield can also be obtained from other sites in the local government area. However, further investigation is required to confirm this.*

**Rarity**

*11A Burrabirra Avenue is a rare example of a Pettit & Sevitt project house constructed in the Woollahra local government area.*

*11A Burrabirra Avenue meets the Local significance threshold for Criterion F. It demonstrates a distinctive attribute that is rare within the local area.*

**Representativeness**

*11A Burrabirra Avenue is representative of project houses marketed by Pettit & Sevitt and designed by architect Ken Woolley. It is more generally considered to be representative of project houses that were available from several companies during the second half of the 1960s and 1970s.*

*11A Burrabirra Avenue meets the Local significance threshold for Criterion G. However, while representative of project houses constructed during the second half of the 1960s in NSW it is not an outstanding example of this type of residence.*

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The following discussion has been sourced from the Heritage Assessment by TKD Architects:

*Evaluating the potential heritage significance by means of the seven NSW Heritage Office assessment criteria establishes that, notwithstanding its rarity and representativeness, 11A Burrabirra Avenue does not reach the threshold for inclusion in Woollahra Local Environment Plan 2014.*

- *Historically 11A Burrabirra Avenue provides evidence of the consolidation of Vaucluse during the post World War II period. However, this can equally be demonstrated by other architect-designed houses constructed during the same period that have a higher standard of architectural quality (including those of Ken Woolley) and may demonstrate a higher level of integrity.*
- *11A Burrabirra Avenue does not fulfil the criteria for contributing to an understanding of NSW's or Woollahra's cultural or natural history. There is a relatively large number of residential buildings in Woollahra Municipality that were designed by prominent architects that better demonstrate the residential architecture of the post -World War II era.*
- *11A Burrabirra Avenue is associated with a prominent individual, Ken Woolley, and a prominent firm of merchant builders, Pettit & Sevitt. Woolley designed a series of outstanding, architecturally accomplished houses for his family and several other individuals and their families. Woolley also designed numerous houses for Pettit & Sevitt, several of which were innovative in terms of their planning, spatial quality and aesthetics. 11A Burrabirra Avenue, which is an example of a Gable house, does not achieve such a high level of achievement and lacks the outstanding architectural qualities of these houses. The planning of the house when compared to other contemporary project homes is unexceptional and conservative. In comparative terms, the house at 11A Burrabirra Avenue is not one of Ken Woolley's significant architectural designs.*
- *11A Burrabirra Avenue is a representative example of the Late Twentieth-Century Sydney Regional style and demonstrates several of the characteristics of the style, notable use of materials and spatial character. However, many project homes constructed by Pettit & Sevitt and other merchant builders demonstrate similar characteristics, and several are better examples of the Late Twentieth-Century Sydney Regional style.*
- *It is considered unlikely that 11A Burrabirra Avenue has social significance.*

The following recommendations have been sourced from the Heritage Assessment by TKD Architects:

*This heritage assessment determines that the property at 11A Burrabirra Avenue, Vaucluse, does not have sufficient heritage significance to warrant listing as a local heritage item in Schedule 5 of Woollahra Local Environment Plan 2014. It does not sufficiently fulfil any of the criteria developed by the Heritage Council to evaluate heritage significance. While the building has retained a relatively high level of integrity and has rarity and some representativeness, it is not considered to be of sufficient architectural quality to justify inclusion in the LEP.*

*If alterations or demolition of the house are proposed, a photographic archival recording in compliance with NSW Heritage Council guidelines should be considered.*

The Heritage Assessment by Roy Lumby of TKD Architects can be found at HPE 24/3837.

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#### National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was required as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal.

Anyone proposing to carry out an activity that may harm an Aboriginal object or a declared Aboriginal place must investigate, assess and report on the harm that may be caused by the activity they propose.

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

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

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

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

Oliver Brown of Associates Archaeology is a qualified Aboriginal heritage consultant who has inspected the property on 17 March 2023 on foot.

Consultation with the La Perouse Local Aboriginal Land Council was undertaken on 17 March 2023 on site and in a letter dated 1 September 2023 and attached at Appendix 2 of the AHIA.

There has been consideration of relevant previous Aboriginal heritage investigations, as detailed in Section 3.2 of the report.

The AHIMS of the OEH was consulted on 22 August 2023 and the extensive search is attached at Section 3.1 and Appendix 1 of the report. None of these sites are within the study area.

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

*The property was inspected on Friday 17th March 2023 by archaeologist Oliver Brown and LPLALC Heritage Officer, Dr Shane Ingrey. The entire grounds were walked, searching particularly for exposed sandstone indicating possible sites for engraved art, overhangs that might contain archaeological deposits or evidence of deep perched sand deposits. We were also trying to 'read the landscape' to assess whether such features might either be buried under a modified landscape or could have been destroyed by earthworks.*

- *There was very little exposed earth to search for artefacts (see Plates below) and none were observed.*
- *There appears to have been some levelling of the land for the construction of the house in the late 1960s.*
- *The exposed sandstone in the garden was essentially limited to small outcrops considered unlikely to have engravings for engraving (Plate 3). These were thoroughly searched and no indications of engraved art were found.*
- *No sandstone exposures had sufficient elevation differences to have had an occupiable rockshelter.*
- *A spotlight was used to view the underfloor space in various parts of the house, showing a predictable sandy fill with no obvious sandstone features (Plate 6).*
- *It was considered that the mid-slope location and absence of nearby water or likely rock overhangs means that the property would have low occupation amenity in the context of preinvasion land use and that subsurface open sites such as artefact concentrations or shell middens are very unlikely.*

The report's recommendations conclude that:

- *'Harm' to an 'Aboriginal object' (as defined in the NPW Act) is considered unlikely to occur as a result of the proposed work;*
- *No further archaeological assessment is recommended;*
- *Basic stop work measures should nonetheless be in place and include:*
  - o *If any flaked stone or ground edge artefacts are observed during excavation;*
  - o *If any large flat sandstone exposures are revealed during excavation that may contain engraved rock art. Sandstone exposed prior to the 1800s may be identified by having a relatively clear boundary between flat sandstone and overlying fill, as opposed to being naturally buried bedrock that will have a slightly loose weathered interface and usually lie under clayey subsoil and sandstone fragments.*
  - o *In the event that any bones are observed that may be human. This also a legal requirement under the Coroner's Act and additionally requires notifying the Police.*
  - o *In all cases, if in any doubt, a Heritage Officer from LPLALC or a qualified archaeologist should be engaged to inspect the find.*
  - o *Contractors should be advised that failing to stop work in the event of uncovering any material that is defined as an 'Aboriginal object' is an offence under the National Parks and Wildlife Act). Any slight, initial, unanticipated harm may be considered to have been done 'unknowingly' and subject to a due diligence defence based on the advice in this report, but any harm after failing to stop work would be a 'knowing offence' that may lead to prosecution and harsh penalties. The maximum penalty for knowingly harming an Aboriginal object is \$275,000 (1yr imprisonment) for individuals, \$1,100,000 for Corporations.*
- *Council is advised to update the Aboriginal Heritage Sensitivity map for all of the area investigated to reflect that it is now not partly or wholly located within an area of 'Aboriginal Heritage Sensitivity' or 'Potential Aboriginal Heritage Sensitivity'.*
- *A copy of this report should be forwarded to LPLALC ([Admin@laperouse.org.au](mailto:Admin@laperouse.org.au));*
- *A copy of this report should be submitted to AHIMS ([ahims@environment.nsw.gov.au](mailto:ahims@environment.nsw.gov.au))*

Given the above and to ensure complete protection, it is concluded that 'Unexpected Findings',

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'Heritage Induction' and 'Due Diligence' conditions of consent will need to be imposed as part of a DA consent.

#### 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*

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

Therefore, Clause 5.10 does not apply.

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

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

As discussed above, the extant structures on the subject property comprises a single storey painted brick masonry dwelling constructed in the late 20<sup>th</sup> century, a garage and laundry, all of which are located on William Charles Wentworth's original 370 acres land grant. The dwelling provides evidence of the historical development patterns of the area. However, it is not visible from the streetscape. It is also 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.

As discussed above, in an abundance of caution, A Heritage Assessment was commissioned by Roy Lumby of TKD Architects and includes historical research on the development of the property over time. It also included a comparative analysis of project homes, especially those by merchant builders Pettit & Sevit, designed by Ken Woolley. As discussed above, the original architect is Ken Woolley of Ancher Mortlock Murray and Woolley, built by merchant builders Pettit & Sevit. The building has no distinctive landmark qualities or other features that would make it potentially significant. Although designed by a prominent architect, it is not an outstanding example of his work. 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 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. 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 report does not meet the standard requirements for buildings of no significance. As a result, a condition of consent for archival recording will be included below.

#### **CONCLUSION**

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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.

**RECOMMENDATION**

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions:

*Standard Conditions*

<b>B. 12.</b>	<b>Aboriginal Heritage Due Diligence Responsibilities</b>
	While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].  It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.
	<b>Condition Reason:</b> To protect Aboriginal heritage.
<b>B. 13.</b>	<b>Aboriginal Heritage Induction</b>
	Prior to any site works: a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974; b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.
	<b>Condition Reason:</b> To protect Aboriginal heritage.

*Special Conditions*

<b>B. 1.</b>	<b>Archival Recording of Buildings that are to be demolished</b>
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		<p>Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements is to be submitted, to the satisfaction of Council's heritage officer.</p> <p>The archival record must be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage, or by a suitably qualified consultant who demonstrates a working knowledge of archival principles.</p> <p>Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.</p> <p>There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.</p> <table border="1"> <thead> <tr> <th>Material</th><th>Minimum Requirement</th><th>Repository</th></tr> </thead> <tbody> <tr> <td>Digital Materials</td><td>1 copy of photographic report including images</td><td>Woollahra Council – Report and images (digital)</td></tr> </tbody> </table> <p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p> <ol style="list-style-type: none"> <li>Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.</li> <li>Floorplans of the internal layout and directional details of photographs taken.</li> <li>Coloured photographs of: <ul style="list-style-type: none"> <li>each elevation,</li> <li>each structure and landscape feature,</li> <li>internal images of each room and significant architectural detailing, and</li> <li>views to the subject property from each street and laneway or public space.</li> </ul> </li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <a href="https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf">https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf</a></li> </ul> <p><b>Condition Reason:</b> To ensure building and landscape elements are recorded.</p>	Material	Minimum Requirement	Repository	Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)
Material	Minimum Requirement	Repository						
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)						
<b>B.</b>	<b>10.</b>	<p><b>Aboriginal Objects – Unexpected Findings</b></p> <p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p>						

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	<p>a) Not further disturb or move these objects or bones. b) Immediately cease all work at the particular location. c) In the case of suspected human remains, notify NSW Police. d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The Definition of Aboriginal object, as per the National Parks &amp; Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.</li> <li>Basic stop work measures should include but not be limited to: <ul style="list-style-type: none"> <li>If any flaked stone or ground edge artefacts are observed during excavation;</li> <li>If any large flat sandstone exposures are revealed during excavation that may contain engraved rock art. Sandstone Sandstone exposed prior to the 1800s may be identified by having a relatively clear boundary between flat sandstone and overlying fill, as opposed to being naturally buried bedrock that will have a slightly loose weathered interface and usually lie under clayey subsoil and sandstone fragments.</li> </ul> </li> </ul> <p><b>Condition Reason:</b> To protect Aboriginal objects</p>
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Nastaran Forouzesh  
Heritage Officer

14 March 2024  
Completion Date