



Woollahra Local Planning Panel (Public Meeting)

Thursday 17 October 2024
1.00pm

Agenda

Woollahra Local Planning Panel (Public Meetings):

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

The Chair of the Panel, members of the Panel and staff will be participating in meetings in person and members of the public may attend via audio-visual link instead of attending in person.

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

In this regard, the applications listed on this Agenda will be considered at a public meeting by the Panel.

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

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

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

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

Outline of Meeting Protocol & Procedure:

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

Disclaimer:

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

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

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

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

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

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

Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

Quorum:

3 Panel members

Woollahra Municipal Council

Notice of Meeting

9 October 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Public Meeting) – 17 October 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 17 October 2024 at 1.00pm.**

Members of the public may:

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

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

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

Regards,

Craig Swift-McNair
General Manager

Woollahra Local Planning Panel (Public Meeting)

Agenda

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

Items to be Decided by the Panel

D1	Planning Proposal - 203-233 New South Head Road, Edgecliff - 24/854877 *See Recommendation Page 7	
D2	DA 436/2020/2 - 18 Olphert Avenue Vaucluse - 24/182740183 *See Recommendation Page 186	
D3	DA2022/534/1 - 3 Fairfax Road BELLEVUE HILL - 24/183592341 *See Recommendation Page 398	
D4	DA 335/2022/1 - 555 New South Head Road Bellevue Hill - Cranbrook School - 24/182083583 *See Recommendation Page 593	

Item No: D1
Subject: **PLANNING PROPOSAL - 203-233 NEW SOUTH HEAD ROAD, EDGECLIFF**
Authors: Chinmayi Holla, Strategic Planner
Timothy Walsh, Team Leader Strategic Planning
Approvers: Anne White, Manager Strategic Planning & Place
Scott Pedder, Director Planning & Place
File No: 24/85487
Purpose of the Report: To seek the advice of the Woollahra Local Planning Panel in relation to a request for a planning proposal to amend controls that apply under the Woollahra Local Environmental Plan 2014 to 203-233 New South Head Road and adjacent Council land.
Alignment to Delivery Program: Strategy 4.1: Encourage and plan for sustainable, high quality planning and urban design outcomes.

Advice:

- A. THAT the Woollahra Local Planning Panel advises Council not to support the planning proposal for 203-233 New South Head Road and adjacent Council land, that seeks to amend the *Woollahra Local Environmental Plan 2014* in the following manner:
- Maximum height of building standard of part 60m and part 124-128m.
 - Maximum floor space ratio standard of 9:1 on the proponent's land.
 - Minimum floor space ratio of 2:1 for non-residential floor space.
 - Maximum floor space ratio development standard to 3.5:1 on the Council land.
- B. THAT the Woollahra Local Planning Panel advises Council that the panel does not support the planning proposal for the following reasons:
- Proposed provisions are inconsistent with the desired future character of the site as established under the adopted *Edgecliff Commercial Centre Planning and Urban Design Strategy*;
 - Scale of development is inappropriate for the Edgecliff Commercial Centre as a local centre, as defined in the centres hierarchy;
 - Bulk and scale of development is incompatible with the local context and creates inadequate transition between the built form and the surrounding lower density development;
 - Built form facilitated by the planning proposal request is considered excessive and would create undesirable urban design outcomes and compromise the amenity of the public domain.
- C. THAT the Woollahra Local Planning Panel advises Council to request the proponent to amend the planning proposal to be consistent with the endorsed *Edgecliff Commercial Centre Planning and Urban Design Strategy* with a maximum building height of 86m and a maximum floor space ratio of 7.5:1.

Executive Summary:

This report seeks the advice of the Woollahra Local Planning Panel (Woollahra LPP) on a planning proposal to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). Lodged on 8 April 2024, the proponent's request for a planning proposal is in relation to land at 203-233 New South Head Road, Edgecliff (the proponent's land) and adjacent land within the road reservation on New McLean Street, Edgecliff (the Council land).

The proponent's Planning Proposal Report is at **Attachment 1**. In summary, the requested amendment to the Woollahra LEP 2014 would establish a:

- Maximum height of building standard of part 60m and part 124-128m across the site;
- Maximum floor space ratio (FSR) standard of 9:1 on the proponent's land;
- Minimum non-residential FSR of 2:1 for on the proponent's land;
- Maximum FSR development standard of 3.5:1 on the Council land.

The staff assessment (**Attachment 2**) outlines that the height and scale proposed is insufficiently justified and does not demonstrate strategic or site-specific merit. The proposed provisions will result in excessive bulk and scale on the site that is incompatible with the local context and provides inadequate transition to nearby lower density development.

Council's recently endorsed *Edgecliff Commercial Centre Planning and Urban Design Strategy* (the ECC Strategy) identifies a maximum height of 86m (26 storeys) and a maximum FSR of 7.5:1 on both the proponent's land and Council land (the site). This reflects the community and Council's position on the desired future character of the site. This also considers ECC's status as a local centre as identified in the centres hierarchy.

The delivery of an appropriate public benefit is fundamental to any intensification of the site. The delivery of a multi-purpose community facility on Council land is not included in the draft VPA letter of offer. These negotiations are ongoing and the terms of the offer are subject to change.

Staff recommend the Woollahra LPP provides advice to Council not to proceed with the planning proposal in the manner requested by the proponent for reasons identified within this report.

Notwithstanding, redevelopment and intensification of the site is encouraged as it would deliver new housing, modern employment space in an appropriate location, and the activation of New McLean Street. If amended in the manner staff recommend, the planning proposal would ensure consistency with the ECC Strategy and demonstrate strategic and site-specific merit.

Discussion:

Reason for report to the Woollahra Local Planning Panel

The planning proposal is required to be referred to the Woollahra LPP as per the Local Planning Panel Direction – Planning Proposals (2018).

The site

The site at 203-233 New South Head Road, Edgecliff is known as the Edgecliff Centre. It has a primary frontage to New South Head Road and two secondary frontages to New McLean Street as shown in **Figure 1**. The site sits over the Eastern Suburbs Rail Line and Edgecliff Station, which occupy an easement below ground level. The site slopes moderately, approximately 1 in 12, from its north-east corner (RL 33.69m) to its southern boundary (approx. RL 28m). The site is located on a visually prominent corner near the top of the rise of New South Head Road from Rushcutters Bay, close to the top of the Edgecliff ridge line.

The site has a seven storey commercial/retail building, with a supermarket, retail shops, and commercial suites above. A 3m ground level setback accommodates seating, a covered pedestrian colonnade, shopfronts and entries to the building's foyer.

The proponent's land has an area of approximately 4,957m² and comprises two lots:

- Lot 203 in DP 1113922 – approximately 4,749m²
- Lot 5 in DP 243380 – approximately 78m².



Figure 1: Aerial image showing the proponent's land (red) and Council land (yellow)

The Council land, being part of the road reserve, does not have a legal description or address, and has an area of approximately 1000m². The site is zoned E1 Local Centre, and forms part of the Edgecliff Commercial Centre (ECC).

There are significant street trees along the New South Head Road frontage and at the bend of New McLean Street. The Council land contains a number of established trees.



Figure 2: View of the north-west corner of the site.

Surrounding development

Development surrounding the site comprises a range of mixed use development, low and medium density residential dwellings ranging from two to four storeys and educational facilities. Refer to **Figures 3-6** below.

To the north, on the opposite side of New South Head Road, are existing residential buildings and Ascham School. Land at 136-148 New South Head Road has been recently subject to a planning proposal and is expected to be redeveloped to contain a 12+ storey mixed use building. To the south is 8-10 New McLean Street which currently contains low rise flat buildings. To the east is Eastpoint Tower containing Edgecliff Station and Bus Interchange and retail offerings. To the west are commercial suites known as 'Edgecliff Mews'.



Figure 3: View north of the site across New South Head Road



Figure 4: View west of the site across New McLean Street



Figure 5: View south of the site along Cameron Street



Figure 6: View of development south east of the site along New McLean Street

Current planning controls

The Woollahra LEP 2014 is the principal environmental planning instrument applying to the site. **Table 2** outlines relevant provisions, noting some controls do not apply to the Council land.

Table 2: Existing provisions applicable under Woollahra LEP 2014

Woollahra LEP 2014	Controls for proponent's land	Controls for Council land
Land use zone	E1 Local Centre	E1 Local Centre
Height of buildings	26m fronting New South Head Road 6m fronting New McLean Street	N/A
Floor space ratio	2.5:1	N/A
Heritage	Not item or conservation area	Not item or conservation area
Flood planning	Flood affected	N/A

Edgecliff Commercial Centre Planning and Urban Design Strategy (ECC Strategy) - Uplift Site H

Adopted on 29 April 2024, the ECC Strategy provides direction for growth in the ECC. The strategy is the result of an extensive community consultation process. Significant amendments and additional heritage and urban design investigations were undertaken in response to issues raised in submissions. The adopted ECC Strategy is a clear reflection of the community and Council's position on the desired future character of the ECC. The ECC Strategy can be viewed at:

https://hdp-au-prod-app-woollahra-yoursay-files.s3.ap-southeast-2.amazonaws.com/3817/2842/8706/Edgecliff_Commercial_Centre_Strategy_-_Endorsed.pdf



Figure 7: ECC Strategy study area (site highlighted in red)

The ECC Strategy envisions a mix of commercial, retail, residential uses and recommends that all new development is accompanied by community infrastructure, affordable housing and public domain improvements. The ECC Strategy proposes nine uplift sites that will contribute to the ECC growth and revitalisation and to assist in achieving Council's housing growth.

The site is nominated as uplift Site H in the ECC Strategy. Site H is identified as an amalgamated development site, with the proposed heights and FSRs applied to the whole site. This aims to ensure the provision of public benefit in the form of improved community infrastructure and public domain improvements discussed through this report and in the staff assessment.

The indicative massing for the site is illustrated in **Figure 8**. The planning controls recommended for the site are outlined in **Table 1**.



Figure 8: Indicative massing of building form for uplift sites, as per ECC Strategy (site highlighted in red)

Table 1: Planning controls recommended for the site in the ECC Strategy

	Controls for Uplift Site H (proponent's land and Council land)
Height of buildings	86m
Floor space ratio	7.5:1

The ECC Strategy recognises that the site is key to achieving desired uplift in the ECC. New and higher development on the site would landmark the centre of the ECC and the location of the Edgecliff Station. Given the size of the site, it has the potential to contribute significantly to Woollahra's housing targets, enhance the public domain and provide community infrastructure in the heart of the ECC.

Background

On 8 December 2020, the proponent lodged a planning proposal for the proponent's land seeking to amend the Woollahra LEP 2014 to increase the building height to 167m (45 storeys) and maximum FSR to 9:1, with a 3:1 minimum non-residential FSR. The planning proposal was not supported by Council or the Sydney Eastern City Planning Panel (SECPP). More information about this past planning proposal can be viewed on Council's website at:

<https://www.woollahra.nsw.gov.au/Building-and-development/Development-rules/Previous-and-proposed-exhibitions/planning-proposal-for-203-233-new-south-head-road-edgecliff>

Council staff met with the proponent for a pre-application meeting prior to the proponent submitting the current request for a planning proposal. See detailed discussion in the Staff Assessment report and staff's written advice to the proponent at **Attachment 3**.

Planning proposal request

On 8 April 2024, the proponent lodged a request for a planning proposal, seeking the following amendments to the Woollahra LEP 2014:

- Amend the building height standard from 6m and 26m to 124m-128m on the site.
Note: The height on Council land has not been formally requested under *Section 6.1 Height of Buildings* of the planning proposal request, hence the maximum building height request is assumed to be applicable to the whole site.
- Amend the FSR standard on from 2.5:1 to 9:1 on the proponent's land.
- Introduce a site-specific provision to require a minimum 2:1 FSR for non-residential uses on the site.
- Amend the FSR standard to 3.5:1 on the Council land.

The planning proposal request indicates excising approximately 1000m² from the road reserve in New McLean Street, creating a lot with legal description, and applying development standards to it.

The documents provided in support of the planning proposal request can be viewed on Council's website at:

<https://www.woollahra.nsw.gov.au/Building-and-development/Development-rules/Previous-and-proposed-exhibitions/Planning-proposal-request-for-203-233-New-South-Head-Road-Edgecliff>

The proponent's indicative development concept shows a mixed use development comprising a 13 storey commercial and 11-35 storey residential building (above a 2-3 storey podium) and a three level multi-purpose community facility on the Council land. **Figure 9** shows the indicative development concept's distribution of land uses and a 3D model. **Figures 10 and 11** are artist's impressions of the concept. The details of the indicative development concept are as follows:

- 29,460m² residential floor space - 275 apartments:
 - 1 bedroom – 20-30%
 - 2 bedroom – 30-40%
 - 3 bedroom – 30-40%
- 8500m² office
- 6230m² retail
- 2390m² multi-purpose community facility on Council land
- 2,600m² open space – podium plaza and building forecourt
- 333 basement car spaces, loading dock with seven levels of basement
- Affordable housing contribution of 5% of the residential floor space.

It is noted that the details in the indicative development concept are not guaranteed by the proposed provisions in the planning proposal.

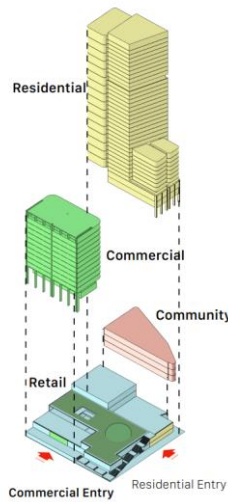


Figure 9: Indicative development concept - land use distribution and model
(Source: fjcstudio)



Figure 10: Indicative development concept – New South Head Road context looking east
(Source: fjcstudio)



Figure 11: Indicative development concept – view on New McLean Street (Source: FJC, 2024)

Rezoning review

On 6 September 2024, the proponent lodged a rezoning review (RR-2024-32) with the Department of Planning, Housing and Infrastructure (DPHI) on the basis that Council has not made a decision within 115 days of the request for a planning proposal.

DPHI notified Council of the rezoning review on 24 September 2024 and requested a written response by 15 October 2024 with the following:

- Any comments on the planning proposal; and
- Confirmation that the proposal is consistent with the version submitted to Council.

DPHI will hold a briefing for the rezoning review and make a decision as to whether the proposal should proceed to Gateway. During the briefing, staff will have the opportunity to present information to the Sydney Eastern City Planning Panel (the Panel) regarding the planning proposal and make representations on behalf of the community. As such, it is crucial that staff obtain the Woollahra LPP's advice prior to the briefing.

Staff assessment

Staff assessed the planning proposal in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the Local Environmental Plan Making Guideline (August 2023). The full staff assessment of the planning proposal is provided at **Attachment 2**. Staff have identified that there is insufficient strategic and site-specific merit to justify the extent of the increase in the proposed planning controls.

Specifically, the planning proposal does not demonstrate strategic merit for the following key reasons:

- The planning proposal is inconsistent with the desired future character of the area as established under Council's recently endorsed ECC strategy.
- The proposed increase in height and scale is inconsistent with the centres hierarchy and the ECC's status as a local centre.
- The proposed provisions do not provide a mechanism to secure the delivery of residential yield due to an absence of an upper limit on the non-residential FSR.
- The planning proposal has not considered the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) bonus in their review of whether the planning proposal is the best means of achieving the desired outcome.

Council's planning staff have also provided a broad assessment of the indicative development concept as it is a clear expression of the built form outcome intended for the site. The assessment finds that the planning proposal and the supporting indicative design concept does not demonstrate site-specific merit for the following reasons:

- The bulk and scale of the proposed envelope is excessive and incompatible with the local context.
- The proposed envelope would not facilitate a sympathetic transition to the lower scale built form in and around the ECC.
- The built form facilitated through the planning proposal creates insufficient setbacks above podium, inadequate internal building separation, and exceeds of maximum number of apartments per floor (non-compliance with the ADG).
- Inadequate accessibility and potential privatisation of public open space.
- Lack of activation and visual interest along street frontage, and clarity in relation to through-site permeability.
- The planning proposal reduces the development potential of the Council land and does not consider a holistic redevelopment of the site (both the proponent's land and the Council land) as envisaged in the ECC Strategy. The proposed maximum FSR controls seek to redistribute floor space from the Council land onto the proponent's land (see **Figures 12 and 13** below).
- Outcomes/decisions regarding the future potential of the Council land remain outstanding.

- The layout and configuration of the indicative multi-purpose community facility on Council land leads to poor legibility, including lack of activation, amenity and access.
- Lack of clarity in lodged documentation, including insufficient detail in surveys and sections.

The proponent's planning proposal requires a number of amendments to demonstrate strategic and site-specific merit. Staff recommend that the proponent undertake a review through detailed design development, and addresses the key issues identified within this report and in the staff assessment.

Council land

The delivery of an appropriate public benefit is fundamental to any intensification of the site. Staff note that the delivery of the multi-purpose community facility on Council land is not included in the draft VPA letter of offer. This is inconsistent with the planning proposal report and the indicative development concept. These negotiations are ongoing and the terms of the offer are subject to change. More information regarding the letter of offer is provided in subsequent sections.

The residential tower in the indicative concept proposes no setback from the Council land, with windows and balconies located on the boundary. As detailed in the staff assessment, the indicative design of the multi-purpose community facility on Council land also creates a poor planning and urban design outcome.

Figures 12 and 13 below compare the distribution of the FSR controls over the site proposed in the planning proposal and the Council endorsed ECC Strategy. If the GFA shown in the indicative development concept were distributed across the whole of the site the FSR would be 8:1 (assuming 3500m² of GFA is provided on the Council land).

The planning proposal request would result in a disparity in FSRs between the proponent's land and the Council land. In effect, the planning proposal would relocate the development potential of the Council land onto the proponent's site, and restricts the long term development opportunities of the Council land.



Figure 12: FSR distribution over the subject land proposed by the ECC Strategy

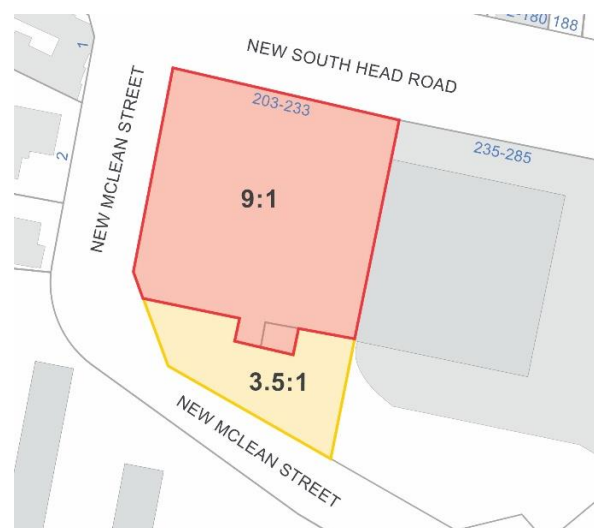


Figure 13: FSR distribution over the subject land proposed by the planning proposal

Staff recommendation – amended planning proposal

Council staff recommend that the Woollahra LPP advises Council not to proceed with the planning proposal request for 203-233 New South Head Road, Edgecliff in the manner requested by the proponent as it does not demonstrate sufficient strategic or site-specific merit.

Notwithstanding, redevelopment of the site would contribute to housing numbers, modern employment space, community infrastructure, and would assist in revitalisation of the ECC. Council staff recommend that an amended planning proposal is prepared consistent with the ECC Strategy and key recommendations outlined in Table 3 and the staff assessment to achieve appropriate bulk and scale and urban design outcomes.

Table 3: Summary of staff recommendations

Proposed staff changes to the planning proposal	Justification
The maximum height of the potential built form be reduced to 86m, consistent with the ECC Strategy.	Alignment with the ECC Strategy confirms the ECC's status as a local centre, and is compatible with the local centre's position in the centres hierarchy.
Review maximum FSR to reflect reduced height and improved built form (see recommendations below). Include provision for maximum non-residential FSR of 3:1.	To ensure bulk and scale of development achieves the desired future character of the local centre and an appropriate mix of land uses focussing on delivery of significant residential accommodation.
The maximum FSR should apply evenly to the whole site (proponent's land and the Council land).	To ensure public benefit and the future development potential of the whole site.
Inclusion of LEP provision that prevents application of Housing SEPP bonus.	To encourage development that is compatible with the local context
Use of <i>Part 6 Additional local provisions</i> to enable exceptions to the applicable maximum building heights and FSRs.	To provide certainty to the intended built form outcome for the whole of the site.
Detailed design recommendations for the indicative development concept	
Review built form to improve articulation, setbacks above podiums (minimum 6m) on all frontages, ADG compliance and transition to lower scale surrounding development.	Improve amenity on and around the site.
Review the location and configuration of the multi-purpose community facility on Council land, in alignment with Council's operational requirements and community needs.	To ensure good planning and design outcome for the community infrastructure, and maximise public benefit.
Improve street activation on all street frontages, legibility and permeability, street tree protection and urban greening.	To facilitate design excellence and improved public domain outcomes.
Preparation of a site-specific development control plan (DCP) to support the exceptions clause	To ensure the intended outcome is achieved and all issues are addressed at DA stage.
Levels and built form between the site and the adjacent Eastpoint be reviewed and supplemented with additional information to demonstrate that improved integration can be achieved.	To ensure quality urban design outcomes.

Should the planning proposal be amended in accordance with the staff recommendations outlined in **Table 3**, the proposal would demonstrate strategic and site-specific merit. It would facilitate development of a scale, type and intensity that is compatible with the ECC and its desired future character as expressed in the ECC Strategy.

The recommendations provide a mechanism to secure public benefit, improve the public domain and demonstrate design excellence.

Draft letter of offer

The planning proposal seeks to amend the Woollahra LEP 2014 to enable development potential beyond that envisaged by the community when it was adopted. The *Woollahra Voluntary Planning Agreement Policy 2020* (Woollahra VPA Policy) incorporates section 7.4(1) of the Act and states that:

a planning agreement is a voluntary agreement or other arrangement under this Division between a planning authority and a person (the developer):

(a) who has sought a change to an environmental planning instrument.

We understand that the proponent has initiated negotiations with Council staff in regards to a VPA. These negotiations are being managed by Council's Director Infrastructure and Sustainability for reasons of probity (as per the Woollahra VPA Policy) and will be reported to Council independently of the planning proposal.

A draft VPA letter of offer accompanies the planning proposal, and is available on the Planning Portal.

<https://www.planningportal.nsw.gov.au/rezoning-reviews/under-assessment/edgecliff-centre-203-233-new-south-head-road-edgecliff>

The letter outlines the following perceived public benefits of proceeding with the planning proposal:

- Works in kind:
 - An above grade public open space of approximately 2,300sqm with landscaping and recreational facilities.
 - A community facility of approximately 695sqm on the proponent's land. Staff note that the facility is to be delivered as a shell, with no fit out or ongoing costs.
 - A forecourt along New McLean Street. Staff note that the forecourt primarily serves as a residential tower entry point.
 - Through-site links between the site and the railway and bus interchange.
- Land dedication of an approximately 138.5sqm stratum parcel to Council for the development of the multi-purpose community facility on Council land.
- Monetary contributions:
 - Affordable housing contribution equating to 5% of the residential GFA.
 - Section 7.11 contributions. Staff note that these contributions would be applicable regardless of a VPA at the DA stage.

The offer estimates the total value of public benefits to be approximately \$36,333,153.

We note that the delivery of the multi-purpose community facility on Council land, as outlined in the planning proposal report and indicative development scheme, does not form part of the draft VPA offer. At the time of preparing this report, negotiations are ongoing and no agreement on the terms of a draft VPA has been reached.

Should a Gateway be granted, staff recommend that any draft VPA is exhibited concurrently with the planning proposal.

Options:

As a consequence of this report, the Woollahra LPP may:

- Provide advice to Council not to proceed with the planning proposal in the manner requested by the proponent; or
- Provide advice to Council to proceed with the planning proposal subject to the proponent making amendments proposed by staff or otherwise recommended by the Woollahra LPP; or
- Provide advice to Council to request the proponent to amend the planning proposal for further consideration at a future meeting of the Woollahra LPP; or
- Provide advice to Council to proceed with the planning proposal.

Community Engagement and/or Internal Consultation:

Council's planning staff undertook internal consultation to inform the assessment of the planning proposal. The parties consulted and their responses are discussed in the Staff Assessment report at **Attachment 2**. If the planning proposal receives a Gateway determination from DPHI, surrounding landowners and the wider community will be notified via the exhibition process. Public exhibition of the planning proposal will be undertaken in accordance with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2021*, the *Woollahra Community Participation Plan 2019* and any conditions of the Gateway determination.

Policy Implications:

Should Council resolve to progress the planning proposal, and should it progress to finalisation, there will be policy implications as controls for the subject property and land will change under the Woollahra LEP 2014.

Financial Implications:

The proponent has paid a lodgement fee in accordance with Council's adopted Fees and Charges, including the fee for a site-specific DCP.

Any planning agreement proposed by the proponent will be prepared in accordance with the adopted *Woollahra Voluntary Planning Agreement Policy 2020* and the associated costs will be met by the proponent.

Based on the outcome of the VPA negotiations, there may also be financial implications associated with the management and operation of a multi-purpose community facility on the Council land.

Resourcing Implications:

Should Council decide to progress the planning proposal, resources will be associated with assisting with the public exhibition process (subject to acceptance of Council as Planning Proposal Authority) and the preparation of the site-specific DCP.

Based on the outcome of the VPA negotiations, Council resources may also be associated with the operation and management of a multi-purpose community facility on the Council land.

Conclusion:




This report seeks the advice of the Woollahra LPP on an owner-initiated planning proposal to amend the planning controls for 203-233 New South Head Road, Edgecliff under the Woollahra LEP 2014.

The effect of the planning proposal would facilitate a mixed use development of up to 37 storeys. The concept design lodged with the planning proposal comprises 2-3 storeys of podiums, and associated parking and loading elements, a 13 storey commercial building and a 11-35 storey residential building above the podium (comprising 275 apartments), and a multi-purpose community facility on Council land. However, there is no guarantee that the concept design will be facilitated.

The staff assessment identifies that there is insufficient justification in the planning proposal report for the height and scale proposed, and the planning proposal does not demonstrate strategic or site-specific merit. Staff recommend that the Woollahra LPP advises the Council not to proceed with the planning proposal in the manner requested by the proponent.

However, as demonstrated by the Council endorsed ECC Strategy, a planning proposal to enable uplift on the site land is supported. Accordingly, Council staff recommend that the Woollahra LPP provides advice to Council to request the proponent amends the planning proposal to be consistent with the endorsed ECC Strategy.

Attachments

1. 203-233 New South Head Road - Planning Proposal Report - Prepared by Ethos Urban- 19 March 2023 [↓](#) 
2. Planning Proposal 203-233 New South Head Road, Edgecliff - Staff Assessment- October 2024 [↓](#) 
3. Pre Planning Proposal - 203-233 New South Head Road- Staff written advice- 3 August 2023 [↓](#) 

Planning Proposal Report

The Edgecliff Centre

203-233 New South Head Road, Edgecliff

Amendments to the Woollahra Local Environmental Plan 2014

Submitted to Woollahra Municipal Council
on behalf of Longhurst Group



Prepared by Ethos Urban

14 March 2024 | 2190968



'Gura Bulga'

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



'Dagura Buumarri'

Liz Belanjee Cameron

'Dagura Buumarri' – translates to Cold Brown Country. Representing Victoria.



'Gadalung Djarri'

Liz Belanjee Cameron

'Gadalung Djarri' – translates to Hot Red Country. Representing Queensland.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

In supporting the Uluru Statement from the Heart, we walk with Aboriginal and Torres Strait Islander people in a movement of the Australian people for a better future.

Contact:	Arcangelo Antoniazzi Principal	aantoniazzi@ethosurban.com 9956 6962
-----------------	-----------------------------------	---

This document has been prepared by:



Lara Reynolds

14/03/2024

This document has been reviewed by:



Arcangelo Antoniazzi and Clare Swan 14 March 2024

Reproduction of this document or any part thereof is not permitted without written permission of Ethos Urban Pty Ltd. Ethos Urban operates under a Quality Management System. This report has been prepared and reviewed in accordance with that system. If the report is not signed, it is a preliminary draft.



Ethos Urban Pty Ltd | ABN 13 615 087 931 | Sydney NSW | Melbourne VIC | Brisbane QLD | ethosurban.com

Contents

1.0	Introduction	1
2.0	Density Done Right	2
2.1	Population and Housing	2
2.2	Public Open Green Space	5
2.3	Access to Health Services	8
2.4	Transport and Traffic	9
3.0	Background.....	12
3.1	Site Subject to the Planning Proposal	12
3.2	Existing Planning Controls that apply to the Site	18
3.3	Planning background	21
4.0	Pre-Lodgement Consultation.....	22
4.1	Ongoing Council collaboration	22
4.2	Scoping meeting with Council Officers	22
4.3	Community Consultation	22
5.0	Objectives and Intended Outcomes	23
6.0	Explanation of Provisions	24
6.1	Height of Buildings	24
6.2	Floor Space Ratio	24
6.3	Amendments to the Woollahra Development Control Plan 2015	24
6.4	Design Excellence	25
7.0	Indicative Development Concept.....	26
7.1	Indicative Development Concept Overview	28
7.2	Design Principles	30
7.3	Land Use Distribution	32
7.4	Public benefit	42
8.0	Strategic Merit.....	44
8.1	Policy Setting	44
8.2	Broader Strategy Setting	45
8.3	Centres Analysis and Hierarchy	50
9.0	Site Specific Merit	58
9.1	Feedback from the Sydney Eastern District Planning Panel	58
9.2	Draft Edgecliff Commercial Centre Strategy (Draft ECC Strategy)	58
9.3	Suitability of Increased Density	64

9.4	Built Form and Height.....	68
9.5	Non-Residential Floorspace.....	76
9.6	Housing Crisis.....	77
9.7	Public Benefit.....	77
9.8	Social and Economic Benefits.....	78
10.0	Further Assessment	80
10.1	Visual Impact.....	80
10.2	Overshadowing	83
10.3	Traffic and Parking	84
10.4	Heritage Impact.....	86
10.5	Wind Impacts.....	89
10.6	Noise and Vibration	89
10.7	Contamination	89
10.8	Geotechnical and Structural Implications	90
10.9	Airspace Operations	90
10.10	Vegetation.....	90
10.11	Infrastructure and Servicing.....	90
10.12	Ecologically Sustainable Development.....	91
11.0	Project Timeline.....	93
12.0	Conclusion.....	94

Figures

Figure 1 – Population between 1966 and 2021.....	2
Figure 2 – Spare Bedroom Analysis in the Woollahra LGA.....	3
Figure 3 – Population Cohort Predictions	3
Figure 4 – Vacancy Chain	4
Figure 5 – Open Space Provision in Key Centres.....	6
Figure 6 – Existing Open Space (and Social Infrastructure) in Edgecliff.....	7
Figure 7 – Emergency Department Wait Time at Principal Referral Hospitals.....	8
Figure 8 – Public Transport Capacity During Peak Hours	9
Figure 9 – Car Ownership throughout the Woollahra LGA.....	10
Figure 10 – Car Ownership throughout the Woollahra LGA.....	10
Figure 11 – Traffic Volumes on Key Roads in the Woollahra LGA (the site Identified In red).....	11
Figure 12 – Site context.....	12
Figure 13 – Land subject to the Planning Proposal.....	13
Figure 14 – The site, viewed from the northwest.....	14

Figure 15 – The site, viewed from the north	14
Figure 16 – Vehicular access to the site via New McLean Street.....	14
Figure 17 – Development on Council-Owned Road Reserve at rear of the site.....	14
Figure 18 – Station entrance adjoining the site to the east on New South Head Road.....	14
Figure 19 – Rear of the site adjoining the entrance to Station	14
Figure 20 – New South Head Road facing east, showing development to the north	15
Figure 21 – Development north of the site - opposite side of New South Head Road.....	15
Figure 22 – Residential flat building south west of the site on New McLean Street.....	16
Figure 23 – Residential flat building south west of the site on New McLean Street.....	16
Figure 24 – Eastpoint Shopping Centre, to the east of the site.....	16
Figure 25 – Eastpoint Tower, looking west from Ocean Street.....	16
Figure 26 – Mixed use developments on the western side of New McLean Street	16
Figure 27 – Ten storey mixed use development on New South Head Road to the west of the site	16
Figure 28 – Birds Eye View of Development along the Darling Point Peninsula (the site shown in red)	17
Figure 29 – Surrounding Development along the Darling Point Peninsula	17
Figure 30 – Area comprising the Edgecliff Local Centre in the WDCP 2014.....	20
Figure 31 – Indicative development concept (looking west along New South Head Road).....	27
Figure 32 – Indicative Development Concept (looking east along New South Head Road)	27
Figure 33 – Distribution of Land Uses	32
Figure 34 – Proposed Residential Tower Component.....	33
Figure 35 – Proposed Commercial Tower Component.....	34
Figure 36 – Proposed Retail Podium	34
Figure 37 – Proposed Community Facility.....	35
Figure 38 – Proposed public square, open space and greening strategy.....	36
Figure 39 – Circulation and through-site link proposition	37
Figure 40 – Indicative Publicly Accessible Open Space Concept.....	38
Figure 41 – Indicative Publicly Accessible Open Space Concept (in Plan).....	39
Figure 42 – Circulation and Connectivity from the Publicly Accessible Open Space	40
Figure 43 – Circulation and Connectivity at Ground Level.....	41
Figure 44 – Circulation and Connectivity within the Wider Precinct.....	42
Figure 43 – Transit Oriented Development.....	45
Figure 44 – Existing heights around Kings Cross.....	46
Figure 45 – Existing heights around Zetland.....	47
Figure 46 – Existing heights around Darling Point	47
Figure 47 – Density comparisons across Woollahra Council-led strategies.....	48
Figure 48 – Existing Point Tower Typologies along Ridgelines.....	49
Figure 49 – Darling Point Road Ridge Built Form Typology	49

Figure 50 – Attributes of Local and Strategic Centres.....	51
Figure 51 – Centres Attributes in Edgecliff.....	51
Figure 52 – Grid Pattern and Landholdings in Bondi Junction.....	53
Figure 53 – Grid Pattern and Landholdings in Edgecliff.....	53
Figure 54 – Comparison of the Bondi Junction (left) and Edgecliff (right) Skylines.....	54
Figure 55 – Comparison of maximum height of buildings in metres with centres hierarchy.....	56
Figure 56 – New and evolving centres within 5km of their Metropolitan Centre.....	57
Figure 57 – Draft ECC Strategy Massing.....	59
Figure 58 – Draft ECC Strategy Proposed Massing with Reduced Inter-Tower Separation.....	60
Figure 59 – Draft ECC Strategy Proposed Massing with Compliant Tower and Inter-Tower Setbacks.....	61
Figure 60 – Draft ECC Strategy Proposed Massing Options with Displaced Floorspace, Compliant Tower and Inter-Tower Setbacks.....	61
Figure 61 – Draft ECC Strategy Proposed Massing Options with Displaced Floorspace, Compliant Tower and Inter-Tower Setbacks.....	62
Figure 62 – Broader Visual and Built Form Catchment.....	68
Figure 63 – Existing Streetscape along New South Head Road.....	70
Figure 64 – Existing Streetscape along New McLean Street (South).....	70
Figure 65 – Proposed streetscape along New South Head Road.....	70
Figure 66 – Proposed streetscape along New McLean Street (South).....	71
Figure 67 – Proposed Setbacks and Separation.....	73
Figure 68 – Tower Positioning with Consideration of the below Rail Corridor (shown in red).....	74
Figure 69 Comparison of Existing and Proposed Views from the Public Domain.....	83
Figure 70 – Shadow Diagrams.....	84
Figure 71 – Indicative Photomontage of the Planning Proposal Massing, as viewed from the South.....	88
Figure 72 – Indicative Photomontage of the Draft ECC Strategy Massing, as viewed from the South.....	88

Tables

Table 1 – Provision of Public Open Green Space Across Centres.....	5
Table 2 – Summary of the Key Controls in the WLEP 2014.....	18
Table 3 – Overview of the Indicative Development Concept.....	28
Table 4 – Design Principles.....	30
Table 5 – Consistency with the Zoning, Height and Floor Space Objectives in the WLEP 2014.....	65
Table 6 – Massing and Distribution of Form Principles.....	71
Table 7 – Gross Floor Area Comparison between the Proposal and the Draft ECC Strategy Massing.....	75
Table 8 – Proposed Car Parking Provision.....	85
Table 9 – Potential Traffic Generation.....	86
Table 10 – Net Traffic Generation.....	86
Table 11 – Anticipated Project Timeline.....	93

Appendices

Appendix	Title	Author
A.	Benchmarking Analysis	<i>Astrolabe Group</i>
B.	Questions to Consider when Demonstrating Strategic Merit	<i>Ethos Urban</i>
C.	Urban Design Report	<i>FJC</i>
D.	Social Impact Assessment	<i>Cred Consulting</i>
E.	Economic Impact Assessment	<i>HillPDA</i>
F.	Visual Impact Assessment and Supplementary Reports	<i>Richard Lamb and Associates</i>
G.	Transport and Accessibility Assessment	<i>PTC</i>
H.	Heritage Impact Statement	<i>Curio</i>
I.	Environmental Wind Assessment	<i>Arup</i>
J.	Acoustic Assessment	<i>Arup</i>
K.	Preliminary Site Investigation	<i>Aurecon</i>
L.	Geotechnical and Structural Engineering Statement	<i>Aurecon</i>
M.	Preliminary Aeronautical Assessment	<i>Strategic Airspace</i>
N.	Arboricultural Impact Assessment	<i>Truth About Trees</i>
O.	Utilities Desktop Review	<i>IGS</i>
P.	ESD Strategy	<i>Arup</i>
Q.	Scoping Proposal Council Advice (dated 6 June 2023)	<i>Woollahra Municipal Council</i>
R.	Response Matrix to Scoping Proposal Council Advice	<i>Ethos Urban</i>

1.0 Introduction

This Planning Proposal Report is submitted to Woollahra Municipal Council (**Council**) for amendments to the *Woollahra Local Environmental Plan 2014 (WLEP 2014)*.

The Planning Proposal relates to the Edgecliff Centre at 203–233 New South Head Road and part of the adjoining Council-Owned Road Reserve fronting New McLean Street (herein collectively identified as the **site**). Ethos Urban has prepared this report on behalf of the proponent, Longhurst Group.

The purpose of the Planning Proposal is to amend the existing Height of Buildings and Floor Space Ratio (**FSR**) development standards applicable to the site to facilitate its mixed-use redevelopment. The proposed amendments to the WLEP 2014 include:

- Increasing the maximum permitted Height of Buildings from part 0m, part 6m and part 26m, to part 60m and to part 124m to 128m. At the site, a maximum height of 128m is equivalent to RL 156.75m.
- Increase the maximum permitted FSR on the Edgecliff Centre portion of the site from 2.5:1 to 9:1.
- Increase the maximum permitted FSR on the Council-Owned Road Reserve from 0 to 3.5:1.
- Introduce a site-specific provision to retain a minimum 2:1 (of the overall 9:1) for non-residential purposes.

The Planning Proposal will incorporate a portion of residual land which forms part of the Council-Owned Road Reserve that fronts New McLean Street, abutting the southern boundary of the Edgecliff Centre, and the FSR and Height of Buildings development standard proposed will extend to this portion of land.

The Planning Proposal is supported by an indicative development concept to demonstrate an anticipated built form outcome envisioned under the proposed amendments to the WLEP 2014.

The indicative development concept demonstrates one option of how the Planning Proposal envelope and proposed controls can be translated into a scheme which revitalises the site for a vibrant mixed-use development that can simultaneously give back to the community through a combination of community uses and public open spaces, the provision of essential services whilst also increasing employment generating floor space and housing close to transport.

The indicative development concept accompanying the Planning Proposal will be subject to separate Development Application (**DA**) approval at a later time, following the Planning Proposal.

2.0 Density Done Right

This section of the report summaries a capacity analysis undertaken on key social indicators across Edgecliff and the broader Woollahra LGA. It demonstrates that the site can accommodate additional development capacity in the form of the Planning Proposal, which is in a suitable location, and which can benefit and not adversely impact the broader locality.

The analysis utilises independent data driven analysis by data and analytic experts Astrolabe to determine the suitability and capacity of key surrounding infrastructure. The capacity analysis utilises the benchmarking of Edgecliff against other centres across Sydney with similar characteristics such as Bondi Junction, Crows Nest and St Leonards, Neutral Bay, and Green Square.

Further detail is provided at **Appendix A** and in the sections below.

2.1 Population and Housing

2.1.1 Population Reduction in Woollahra

An analysis of ABS Census Population Data over the past 55 years by Astrolabe indicates a worrying trend where the population in the Woollahra LGA has significantly contracted. The population of Australia, NSW and Sydney more broadly has increased, in most cases by two-fold, whilst the Woollahra LGA now has a population that is 15% smaller than its population in 1966. (refer to **Figure 1**). This has impacted the accessibility of housing to the wider community of NSW and resulted in significant underutilisation in housing productivity and a flight of productive population cohorts from the LGA.



Figure 1 – Population between 1966 and 2021

Source: ABS Census 2021

2.1.2 Unproductive Housing Stock

ABS Census 2021 data reveals that existing housing stock within the Woollahra LGA is unproductive and underutilised to meet the needs of its residents. Namely, the average dwelling in the Woollahra LGA has more bedrooms than is required to accommodate the average household size (2.21 persons) and most dominant household types (lone persons and couples without children).

This is highlighted by the percentage of dwellings that have one or more unused bedrooms – being 70% of dwellings in the Woollahra LGA (refer to **Figure 2**). Further analysis of the data identifies that 37% of dwellings have one unused bedroom, 23% have two unused bedrooms and 10% have three or more unused bedrooms. This means 1 in 10 homes within the Woollahra LGA have 3 or more unused bedrooms. This data highlights that the existing housing stock in the Woollahra LGA is significantly underutilised and is incompatible with residents needs. This has resulted in significant migration out of the Woollahra LGA for a particular population cohort into areas which have a more diverse housing stock (refer to **Section 2.1.2** below).

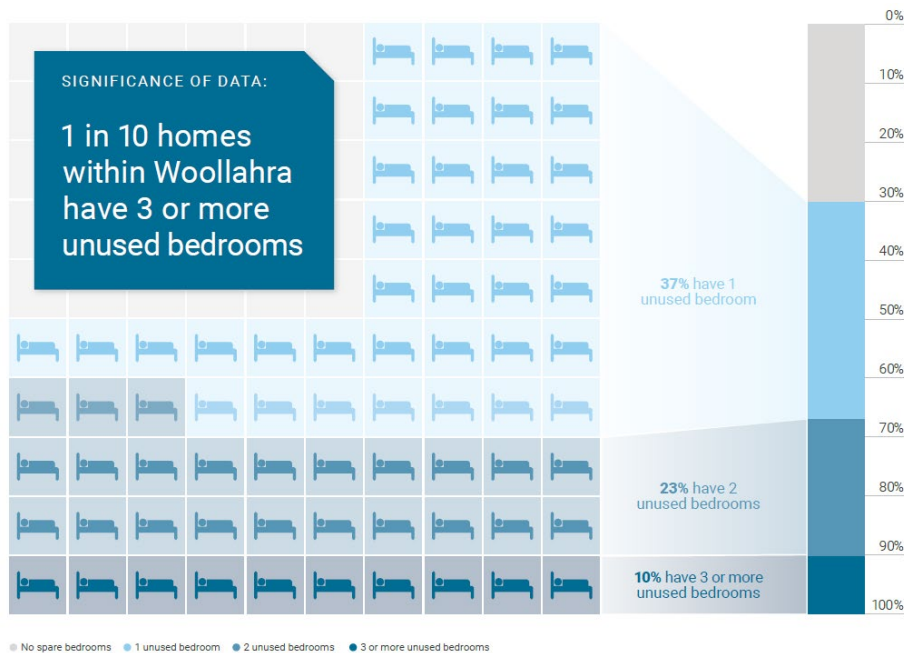


Figure 2 – Spare Bedroom Analysis in the Woollahra LGA

Source: ABS Census 2021

2.1.3 Migration Patterns and Population Predictions

As a result of the incompatible housing typologies (described above in **Section 2.1.1**), younger families and professionals are being forced to move out of the areas in which they grew up and into areas which provide greater access to housing stock, further away from their community network and family. This is evidenced by the worrying decrease of the 5-39 year-old population cohort predictions to 2041. The loss of these residents presents a significant risk of productive population flight out of the LGA resulting in a community lacking diversity. This is evidenced by the significant increase in the aged population primarily 65+ years old.

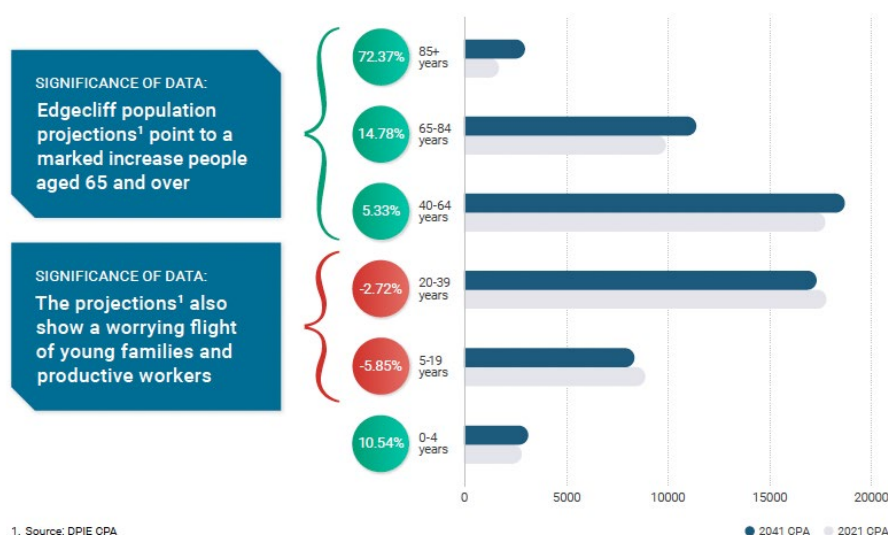


Figure 3 – Population Cohort Predictions

Source: ABS Census 2021

2.1.4 Opportunities for Housing Diversity

There is a concept commonly referred to as the vacancy chain when referenced in relation to the accessibility of housing. This housing vacancy chain can be applied to types of housing within a subset of a market for example in Woollahra LGA. In this example, there are many homes which are underutilised as evidenced above however, the occupiers of those homes often do not have an alternate option to 'downsize' that meets their requirements. New developments such as this Planning Proposal offer an opportunity for low-maintenance, well connected and accessible homes. By providing these homes, it unlocks larger family homes and enables accessibility to existing stock that would be more appropriate and productively used.

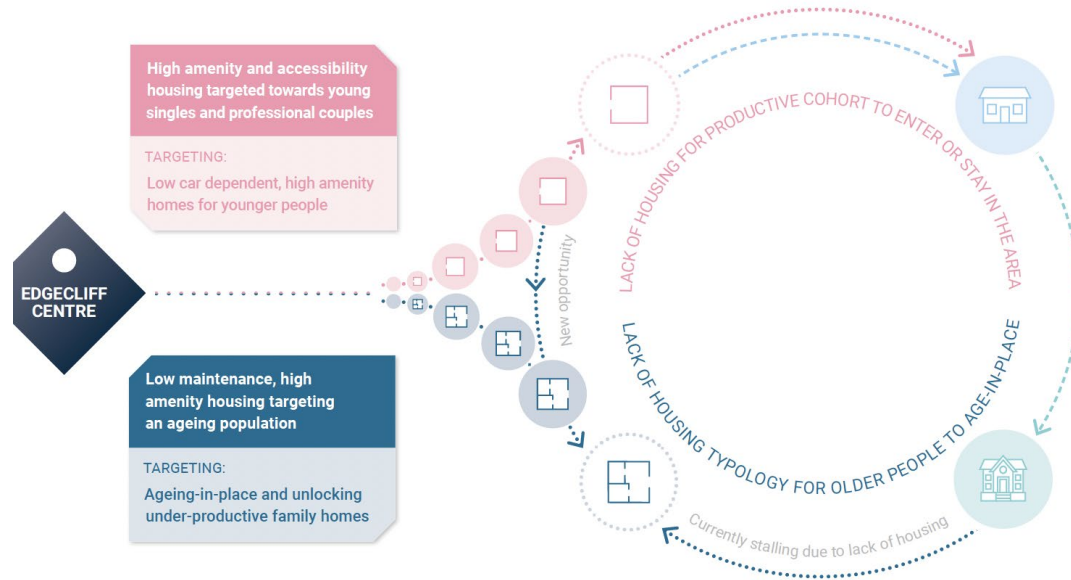


Figure 4 – Vacancy Chain

Source: Astrolabe

This is a direct result of the aging in place phenomena, whereby elderly people are living independently in their own homes for as long as possible without the need for aged care. To ensure this can occur within Edgecliff (or the Woollahra LGA more broadly) there is a requirement to provide housing stock that is low maintenance and close to key services, amenities and transport options. The provision of new housing stock that supports aging in place would also enable larger homes which are underutilised (such as by empty nesters / couples without children) to re-enter the market and accommodate larger families.

Increased supply within these locations should also seek to provide housing stock that is targeted towards a more entry level product for younger professionals and couples to offer an opportunity to buy a smaller, well connected and less car dependent homes.

Overall, this population and housing analysis clearly demonstrates that there is a significant need to provide more diverse housing stock within the Woollahra LGA. The provision of housing at the site would allow existing residents to stay in the LGA and support the better utilisation of existing housing stock. This also assists in easing the existing constraints associated with the NSW housing crisis.

2.2 Public Open Green Space

Astrolabe have undertaken an analysis of the public open space provision in Edgecliff, Bondi Junction, Neutral Bay, Crows Nest, St Leonards and Green Square.

The findings of this analysis are shown in **Table 1** and **Figure 5** below.

Table 1 – Provision of Public Open Green Space Across Centres

Centre	Population	Green Space Area (Hectares)	Rate (Hectares per 1,000 Residents)
Edgecliff	2,496	23.51	9.42
Bondi Junction	10,359	10.29	0.99
Neutral Bay	10,091	4.46	0.44
Crows Nest	4,973	5.12	1.03
St Leonards	7,213	9.28	1.29
Green Square	38,659	8.40	0.22

The results of this analysis clearly indicate that Edgecliff provides its residents with significantly greater access to open space when compared to other similarly characterised and accessible centres, which are in similar proximity to the Sydney CBD and benefit from similar levels of public transport services.

Overall, Edgecliff is extremely well serviced by open space and there is significant capacity to accommodate the proposal without straining existing open space (refer to **Figure 6**).

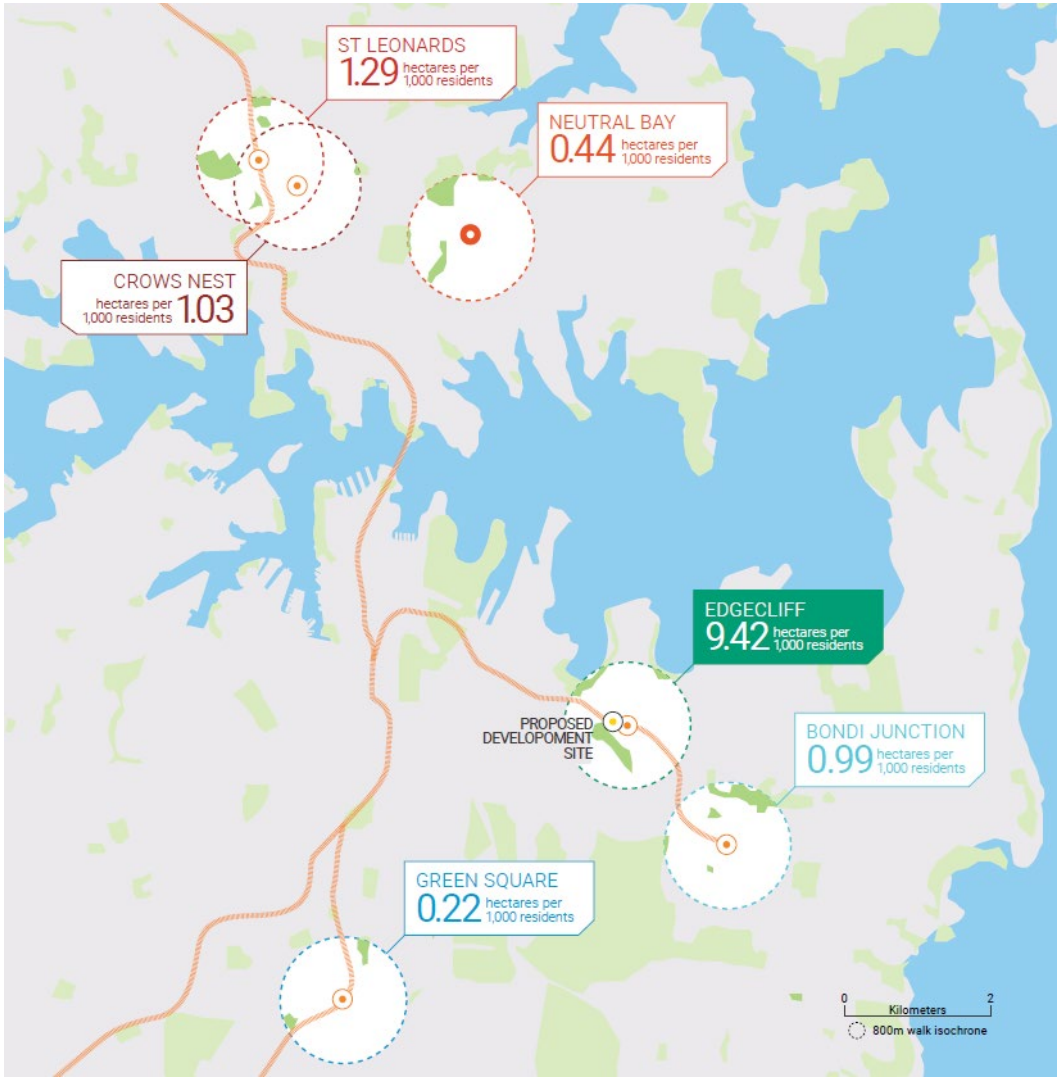


Figure 5 – Open Space Provision in Key Centres

Source: ABS Census 2021

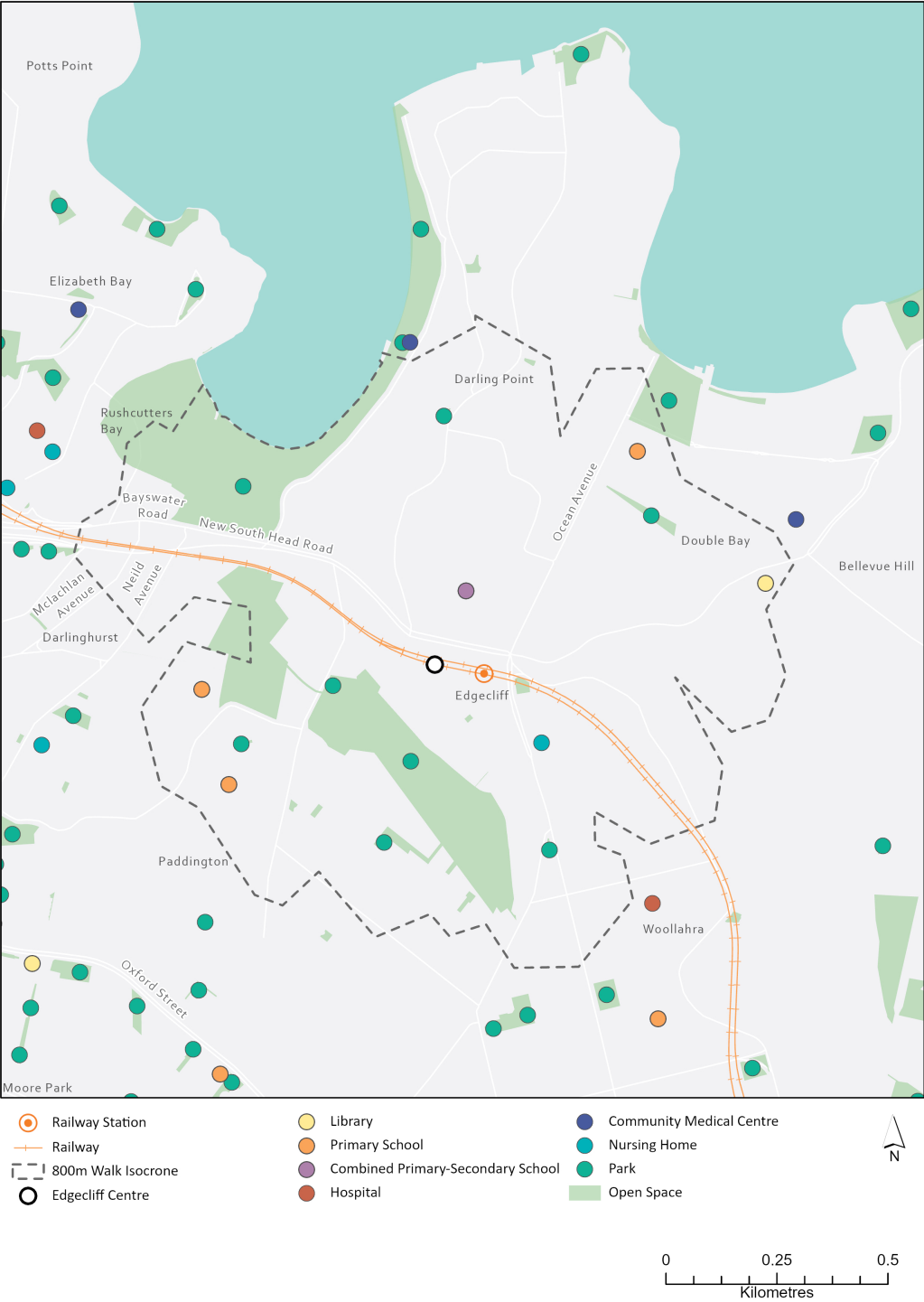


Figure 6 – Existing Open Space (and Social Infrastructure) in Edgecliff

Source: Astrolabe

2.3 Access to Health Services

An analysis of the average wait times for Emergency Department admissions reveals that St Vincent Hospital is the best performing principal referral hospital in the Greater Sydney area. The wait time at St Vincent's Hospital is less than half of that at the next best performing hospital (refer to **Figure 7**). The hospital is located only 1.2km from Edgecliff and highlights the high level of access to high quality health services available to the Eastern Suburbs.

In addition, St Vincent's Hospital was recently granted \$25 million in funding to deliver additional ICU beds and ambulatory care capacity. Prince of Wales Hospital, located only 4km from Edgecliff has recently just completed an \$800 million upgrade, expanding emergency and critical care services.

This will further enhance the health service provision for the surrounding areas and ensure that it can continue to accommodate population growth within the wider region.

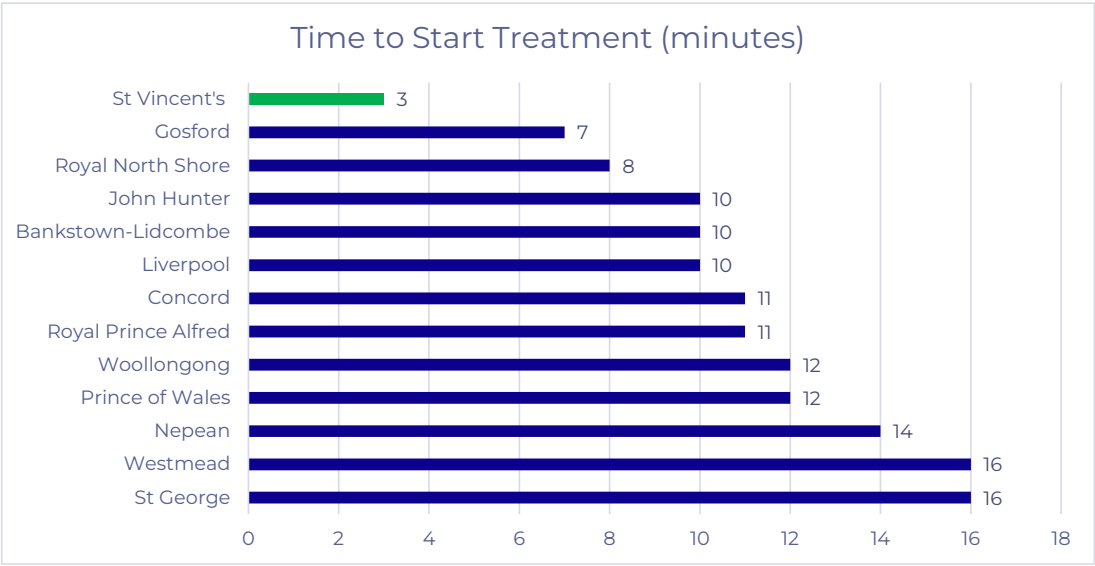


Figure 7 – Emergency Department Wait Time at Principal Referral Hospitals

Source: Health Information Exchange, NSW Health October to December 2022

2.4 Transport and Traffic

2.4.1 Public Transport

An analysis of Transport for NSW (TfNSW) Opal Data (in 2019 – pre pandemic) has revealed that Edgecliff Train Station is highly latent and significantly underutilised during peak hour periods between 6am-10am and 4pm-8pm. **Figure 8** shows that trains arrive at capacity (defined as limited seats and standing room) significantly less to Edgecliff Station in comparison to similarly located train stations to the north and the south of the Sydney CBD.

For example, during the morning peak, trains arrive to Edgecliff at capacity only 2.8% of the time, whereas trains arrive at capacity to Waverton 63.8% of the time. During the afternoon peak, trains arrive to Edgecliff at capacity 1.8% of the time, in comparison to St Peters where trains arrive at capacity 57.6% of the time.

The analysis demonstrates that a much greater patronage could be accommodated by the existing public transport infrastructure available within Edgecliff. The proposal would also not result in any public transport capacity constraints.

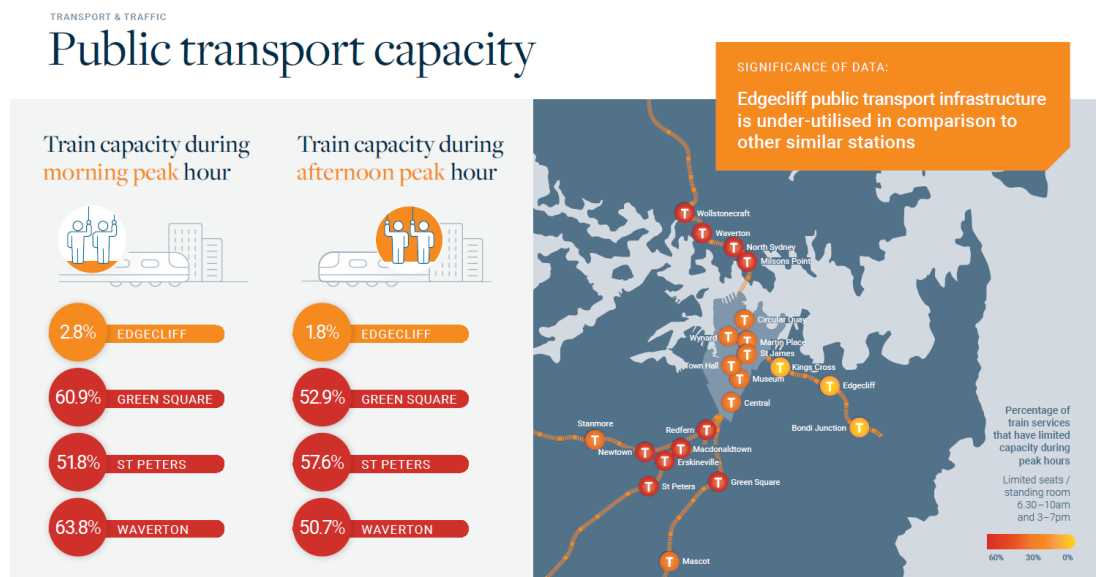


Figure 8 – Public Transport Capacity During Peak Hours

Source: TfNSW

2.4.2 Car Ownership in Woollahra LGA

ABS Census 2021 data reveals that Edgecliff residents have significantly lower rates of car ownership in comparison to other residents within the Woollahra LGA. For example, 28% of households in Edgecliff do not own any cars compared to only 14% in the wider LGA and the number of households who own two or more cars is 19.2% in Edgecliff compared to 38% in the wider LGA. These statistics are understandable based on the public transport availability and peninsular landscape setting of the LGA.

Specifically, car ownership directly corresponds to the provision of public transport services, which comprise bus and ferry services throughout the Woollahra LGA and a single train station located at Edgecliff. It also reinforces that access to several public transport services reduces car use.



Figure 9 – Car Ownership throughout the Woollahra LGA

Source: FJC / ABS Census 2021

The site is located directly adjacent to the Edgecliff Train Station and Bus Interchange. It is also in proximity to ample amenities and services. Therefore, the population increase resulting from the proposal (circa 500 people) would not be expected to increase the rates of car ownership in Edgecliff and would not increase traffic impacts on the local road network (further assessment is provided at **Section 10.3**). In comparison, the provision of new housing elsewhere within the Woollahra LGA (with less access to public transport services) would likely increase the rates of car ownership and worsen the existing traffic impacts.



Figure 10 – Car Ownership throughout the Woollahra LGA

Source: FJC / ABS Census 2021

As well, the primary arterial roads within the Woollahra LGA comprise:

- New South Head Road – Providing a northeast-southwest connection that commences in Rushcutters Bay and terminates in Vaucluse. It captures traffic flow from the Sydney CBD, Cross City Tunnel, Harbour Tunnel, Eastern Distributor and the eastern suburbs.
- Old South Head Road – Providing a north-south connection that commences in Bondi Junction and terminates in Watsons Bay. It captures traffic flow from the eastern suburbs.

The Woollahra Draft Active Transport Plan 2022 identifies that both roads experience significantly high levels of traffic, amounting to more than 10,000 vehicles per day (refer to **Figure 11**). When considering the provision of public transport and car ownership rates throughout the Woollahra LGA, it can be assumed that the provision of new housing deeper into the peninsula (as opposed to in Edgecliff at the entry of the LGA, adjacent to transport infrastructure) would increase traffic on the primary arterial roads and the wider road network. Again, this favours the suitability of the site to provide additional housing without resulting in significant traffic impacts.

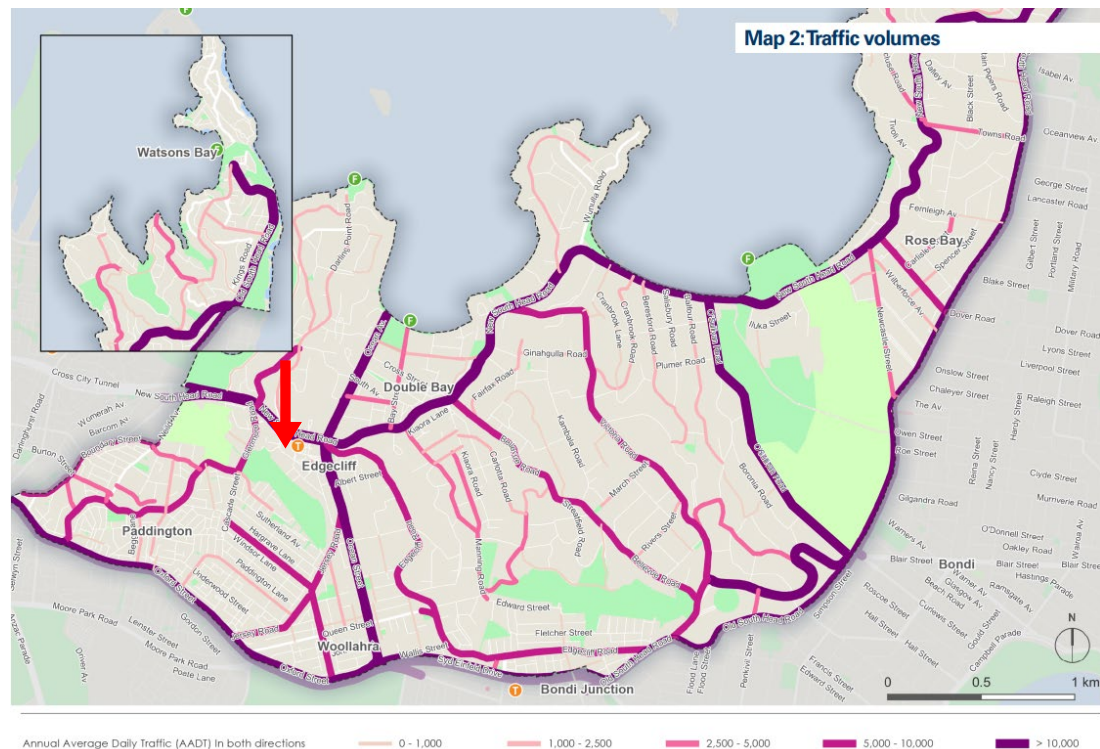


Figure 11 – Traffic Volumes on Key Roads in the Woollahra LGA (the site Identified In red)

Source: SCT Consulting, Woollahra Draft Active Transport Plan 2022

3.0 Background

3.1 Site Subject to the Planning Proposal

The site is located within the Woollahra LGA. Edgecliff is a suburb situated in the eastern suburbs of Sydney, positioned three kilometres east of the Sydney CBD. Surrounding local centres bounding the suburb include Darling Point to the north, Double Bay to the east, Paddington to the south and Rushcutters Bay to the west (refer to **Figure 12**).

The site is shown in **Figure 13**. It includes the following individual land parcels:

- The Edgecliff Centre, comprising:
 - Lot 203 in DP 1113922.
 - Lot 5 in DP 243380.
- Part of the Council-Owned Road Reserve adjacent the southern boundary of the Edgecliff Centre.

The Edgecliff Centre currently comprises a single seven storey building dating from the 1970s that is occupied by a range of commercial premises including retail at the ground, street front level with offices premises above.

The portion of the site comprising the Council-Owned Road Reserve is utilised for vehicle access, car parking and servicing. The existing development is shown in **Figure 14** to **Figure 19**.

The site is positioned adjacent to two train station entries, with one situated to the east of the site's northern frontage at New South Head Road and the other to the east of the site's southern frontage at New McLean Street. Both these train station entrances relative to the site are illustrated in **Figure 18** and **Figure 19**. The bus interchange adjoins the site and is situated above the Eastpoint Shopping Centre development.

The site does not include any direct vertical connections to the railway below or the bus interchange above.

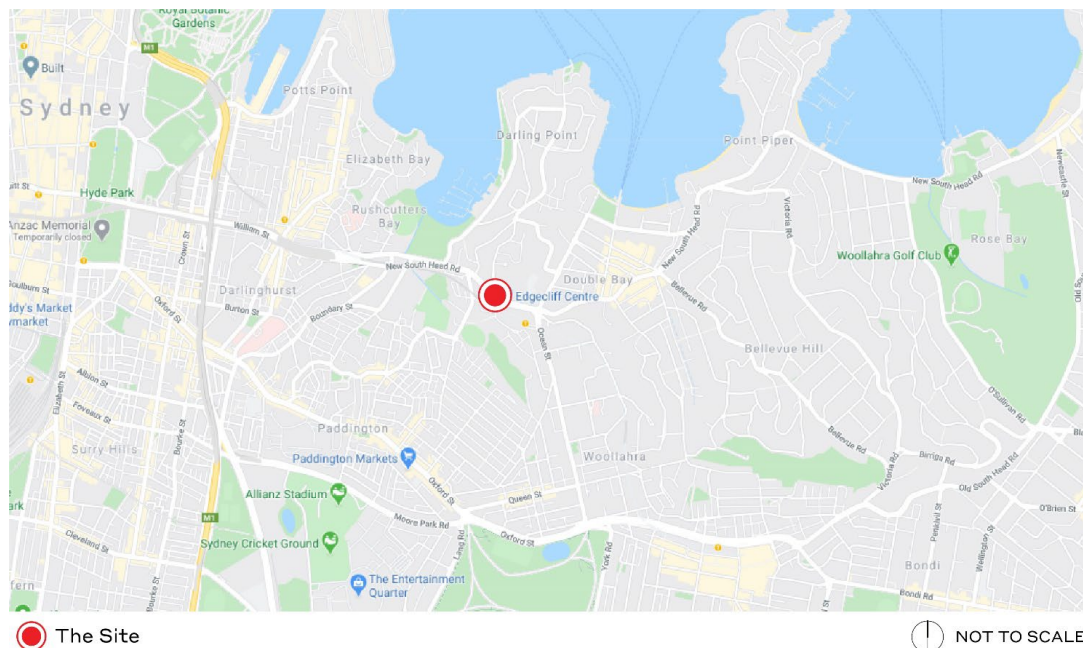




Figure 13 – Land subject to the Planning Proposal

Source: Nearmap and Ethos Urban



Figure 14 – The site, viewed from the northwest



Figure 15 – The site, viewed from the north

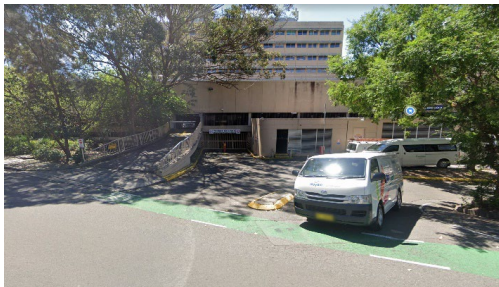


Figure 16 – Vehicular access to the site via New McLean Street



Figure 17 – Development on Council-Owned Road Reserve at rear of the site



Figure 18 – Station entrance adjoining the site to the east on New South Head Road



Figure 19 – Rear of the site adjoining the entrance to Station

3.1.1 Access and Transport

The site benefits from convenient public transport access, being located adjacent to the Edgecliff railway and bus interchange. This connects the site with direct railway services to the Sydney CBD and the Sutherland Shire. The bus services at the bus interchange provide important connections to the Sydney CBD, the Lower North Shore and the Eastern Suburbs. Key bus connections from the Edgecliff bus interchange include:

- A five-minute connection to the Sydney CBD.
- A three-minute connection to Bondi Junction.
- A 10-minute connection to St Vincent's Hospital.

There are a total of 5 vehicle access points on site. Vehicular access for public vehicles is provided to the west of the existing development via New McLean Street (refer to **Figure 16**), leading to one level of car parking. Egress for these vehicles is located at the south of the site on New McLean Street. Access to a tenant car park is also located to the south of the site, adjacent to the general car park exit and an additional loading vehicle entrance is located at the south-eastern corner of the site.

The majority of pedestrian entrances to Edgecliff Centre are located on New South Head Road, with one located on the north-western corner of New McLean Street.

3.1.2 Heritage

The site does not consist of any heritage items, nor is it within a heritage conservation area. It is located in the vicinity of the 'Paddington, including parts of Woollahra and Edgecliff' heritage conservation area. This heritage conservation area is situated to the south of the site, on the opposite side of New McLean Street. The closest heritage items are located on the northern edge of New South Head Road, directly opposite the site and include the following:

- Local item I238 'building and interiors' at 136 New South Head Road (opposite the site). A Planning Proposal (PP-2022-1646) at this site is currently undergoing finalisation.
- Local item I239 'Ascham school precinct' at 188 New South Head Road (opposite the site).
- Local item I114 'Concrete balustrade' at Darling Point Road, near intersection with New South Head Road.

The site is also located above the subterranean Eastern Suburbs Railway and Edgecliff Railway Station which listed under Sydney's Trains Section 170 Register.

3.1.3 Development Surrounding the Site

The site is located in the Edgecliff Corridor which broadly contains a mix of commercial, retail, entertainment, and residential uses. The broad built form typology which ranges from one to over thirty-two storeys create a varied hierarchy of height and density along the corridor.

The Woollahra Development Control Plan 2015 (**WDCP 2015**) describes the Edgecliff local centre as "part of the wider Edgecliff commercial area which includes the land zoned B4 Mixed Use along New South Head Road. New South Head Road is a major State road linking the Eastern Suburbs to the city and is the primary route for vehicles to Edgecliff." More specifically, the site is surrounded by the following development.

To the North

On the northern edge of New South Head Road, opposite the site, there are a number of mixed use and residential developments of a medium density, ranging from two to four storeys. Additional density is expected to be provided in this area off the back of the approved Planning Proposal's at 80-90 New South Head Road (PP-2020-268) and 240 New South Head Road (PP-2020-335), and the Planning Proposal at 136-148 New South Head Road (PP-2022-1646) which is currently undergoing finalisation for updates to the existing planning controls to facilitate the development of a 12 storey mixed use building.

Further north, on Darling Point Road, there are some high-density residential developments including the 32 storey Ranelagh development, located 100m north of the site and 51 Darling Point Road, which is 14 storeys and situated 300m north of the site.

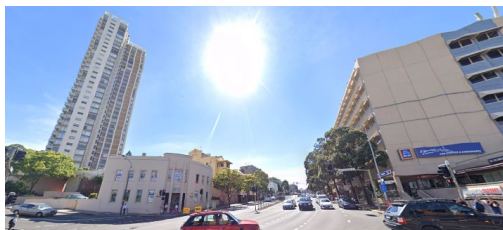


Figure 20 – New South Head Road facing east, showing development to the north

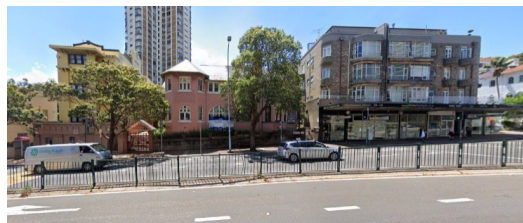


Figure 21 – Development north of the site - opposite side of New South Head Road

To the South

To the immediate south of the site, development is predominantly characterised by residential flat buildings. These developments along the southern edge of New McLean Street are part three and part four storey residential flat building developments. Further southeast, on Cameron Street and Bowes Avenue, development is typically of a two-storey terrace typology.



Figure 22 – Residential flat building south west of the site on New McLean Street



Figure 23 – Residential flat building south west of the site on New McLean Street

To the East

Directly adjoining the site to the east is the Eastpoint Shopping Centre development which is located above the Edgecliff Train Station and comprises a two-storey frontage along New South Head Road. Further to the east, at the junction of New South Head Road and Ocean Street and on Ocean Street, are Eastpoint Tower and Oceanpoint 170, respectively 16 storeys and 12 storeys.



Figure 24 – Eastpoint Shopping Centre, to the east of the site



Figure 25 – Eastpoint Tower, looking west from Ocean Street

To the West

Immediately west of the site, on the opposite edge of New McLean Street, development is characterised as mixed use and this continues further west along New South Head Road. The density of these developments' ranges from two to ten storeys and is generally mixed use.



Figure 26 – Mixed use developments on the western side of New McLean Street

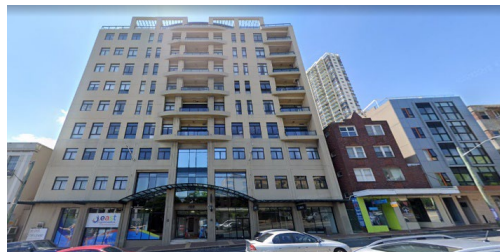


Figure 27 – Ten storey mixed use development on New South Head Road to the west of the site

Broader Development Context

More broadly, development along the Darling Point Peninsula is varied with a sporadic array of medium and high-density developments, as summarised in **Figure 28** and **Figure 29** below.



Figure 28 – Birds Eye View of Development along the Darling Point Peninsula (the site shown in red)

Source: FJC

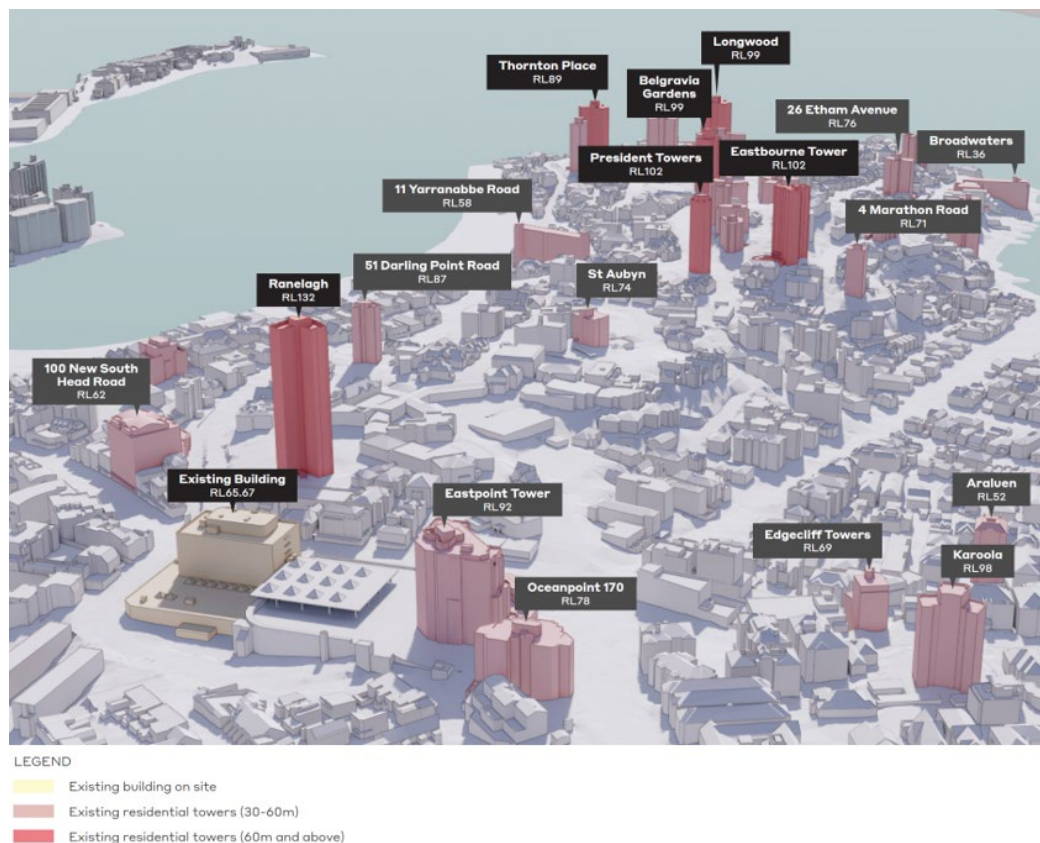


Figure 29 – Surrounding Development along the Darling Point Peninsula

Source: Ethos Urban

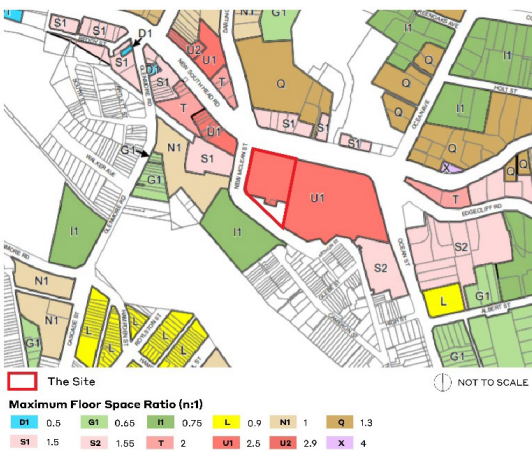
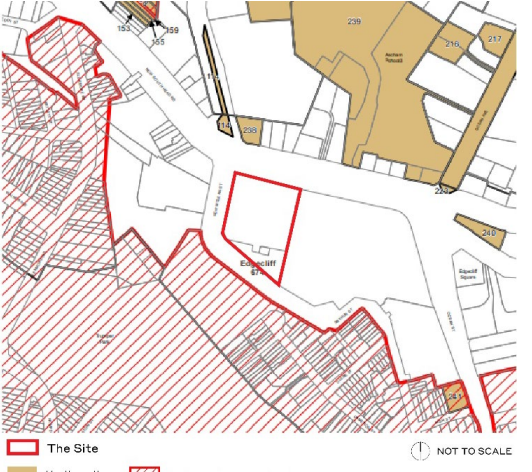
3.2 Existing Planning Controls that apply to the Site

3.2.1 Woollahra Local Environmental Plan 2014

The WLEP 2014 is the principal environmental planning instrument currently applying to the site. Current provisions applicable to the site are identified in **Table 2**.

Table 2 – Summary of the Key Controls in the WLEP 2014

Clause	Provision / Standard	Mapping
2.2 – Zoning	The site is zoned E1 Local Centre under the WLEP 2014. The proposed mix of land uses which include commercial office, retail, community facility and shop top housing are all permissible with development consent.	<p>Zones</p> <ul style="list-style-type: none"> E1 Local Centre R2 Low Density Residential R3 Medium Density Residential RE1 Public Recreation RE2 Private Recreation MU1 Mixed Use SP2 Infrastructure
4.3 – Height of Buildings	<p>The maximum height of building is as follows:</p> <ul style="list-style-type: none"> 26m for the area fronting New South Head Road. 6m for the area fronting New Mclean Street). No height control currently applies for the Council-owned road reserve. 	<p>Maximum Building Height</p> <ul style="list-style-type: none"> C 5m E 6m F 6.5m G 8m J2 9.5m K 10.5m M 12m N2 13.5m N4 14.5m P2 18m Q1 19m Q2 19.5m Q3 20.5m S 20.5m T 26m U 34m

Clause	Provision / Standard	Mapping
4.4 – Floor Space Ratio	The maximum FSR for the site is 2.5:1, with the exception of the Council-Owned Road Reserve where no FSR control currently applies.	 <p>NOT TO SCALE</p>
5.10 – Heritage Conservation	<p>The site is not listed as a heritage item, nor is it located within a heritage conservation area under the WLEP 2014. However, it is in the vicinity of a heritage conservation area and a number of heritage items, including:</p> <ul style="list-style-type: none"> Heritage conservation area C8 – Paddington, including parts of Woollahra and Edgecliff heritage conservation area. 136 New South Head Road (opposite the site) – building and interiors. 188 New South Head Road (opposite the site) – Ascham school precinct. Darling Point Road, near intersection with New South Head Road – Concrete balustrade. 	 <p>NOT TO SCALE</p>

3.2.2 Woollahra Development Control Plan 2015

The Woollahra Development Control Plan 2015 (**WDCP 2015**) builds upon the controls within the WLEP 2014 and provides more fine-grain design and development controls for development. The site is located on land within the Edgecliff Local Centre (Refer to **Figure 30**) which is subject to a precinct-specific DCP (Chapter D4 of Part D).

Desired Future Character for the Edgecliff Local Centre

The WDCP envisages that the development within Edgecliff Local Centre is to contribute to the following desired future character:

- Reinforce the role of Edgecliff Centre as the focus of retail and business activity and continue to be convenient place for people to meet, work, shop and use services.
- The built form will promote an urban environment which meets high standards of visual quality and pedestrian amenity.
- Buildings will be up to eight storeys on New South Head Road and transition down to one to two storeys at New McLean Street frontage. At the corner of Ocean Street and New South Head Road buildings up to 10 storeys are permitted.
- New McLean Street will have an active street frontage and parking and servicing arrangements will be reconfigured to be less visually intrusive. The amenity will be improved by including streetscape works, landscaping and reducing the frontage dedicated to vehicle movements.

- Pedestrian links across the centre, and through the centre to the bus interchange and railway station, will be enhanced. The connections to the surrounding New South Road commercial corridor and nearby residential land will increase pedestrian activity and convenience. Where commercial development addresses a street, awnings will be provided at street level for weather protection.
- Given the excellent public transport access, the centre is ideally located for increased residential and commercial land uses. Retailing, medical and health related services and professional services will continue to cater for the needs of the local community.

Development Controls

Key development controls applicable to the redevelopment of the site include the following.

- C1 The ground floor of the building on New South Head Road is setback 3m.
- C2 The building at 203-233 New South Head Road Addresses New McLean Street, is related to the scale of pedestrians and provides visual interest. This may be achieved by:
 - providing an active frontage to New McLean Street.
 - reconfiguring the parking and servicing arrangements so these do not dominate the streetscape.
 - reducing the number and width of vehicle cross overs.
- C3 The design of the lower part of the street façade relates to the scale of pedestrians.
- C12 The permeability and connectivity of the centre is improved. For example, by providing north-south thoroughfares and improving links between the retailing spaces and the public transport facilities.
- C18 Development provides an active frontage to New South Head Road, New McLean Street and Arthur Street.
- C27 Solar access to the Trumper Park Oval is provided between the hours of 10am and 2pm on 21 June. Where existing overshadowing is greater than this, sunlight is not to be further reduced.

Assessment of these controls is provided in **Section 11.0**.

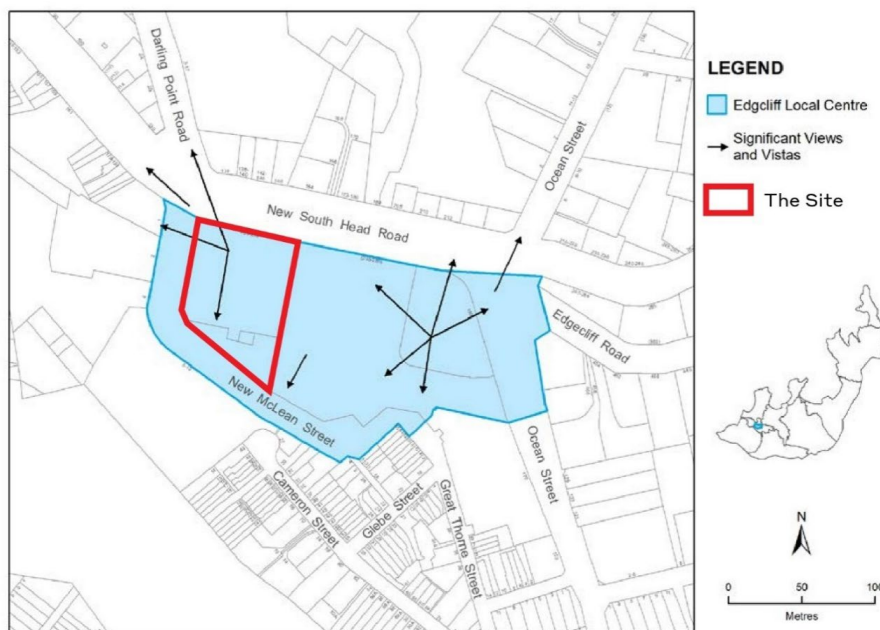


Figure 30 – Area comprising the Edgcliff Local Centre in the WDCP 2014

Source: WDCP 2014

3.3 Planning background

3.3.1 Previous Planning Proposal (2019 – 2021)

On 8 December 2020, the proponent lodged a Planning Proposal for the existing Edgecliff Centre portion of the site with amendments to the height of building control of up to RL 195m (being approximately 45 storeys) and a GFA of 44,190 square metres.

The indicative development concept associated with this previous Planning Proposal included a single 45 storey mixed use podium and tower with commercial, office, retail, medical, community and residential uses. As part of the request for a Planning Proposal, it was also envisaged that the proponent would undertake upgrades to the adjacent Transport Interchange at no cost to Government through a Voluntary Planning Agreement (**VPA**).

Following assessment, Council resolved not to support the Planning Proposal in their Environmental Planning Committee Meeting on 22 February 2021.

A Rezoning Review of the Planning Proposal was heard by the Sydney Eastern City Planning Panel (the **Panel**) on 9 September 2021. The Panel acknowledged that the site in its location is currently under-developed and can have significant public benefit opportunities flowing from its redevelopment.

The Panel also noted that the Planning Proposal had demonstrated strategic and site-specific merit to a certain degree. However, this was not sufficient to warrant a positive LEP Gateway given the scale of the height and the lack of certainty with respect to the public benefit of the Transport Interchange upgrades as a justification for the proposed development uplift.

The Panel (during the Panel meeting) provided guidance to the proponent to consider an overall built form height in the realm of circa mid 30 storeys and to revisit the proposal's emphasis on view sharing and existing view corridors with a more considered approach to the overall building height and form (i.e. a lower proposal with some view sharing impacts may be more acceptable). The Panel also noted that if the proponent intends to resubmit a Planning Proposal with upgrades to the Transport Interchange, it should seek to do so with a VPA in a more advanced state.

The Panel recognised the proponent's position that Edgecliff as a wider corridor, shares many of the key attributes of other, larger strategic centres identified within the Greater Sydney Metropolitan Plan. Some of the key attributes include enhanced mass transit and public transport accessibility, high levels of district connectivity, and access to a more diverse range of jobs, services and amenity.

Because of this, it was recognised by the Panel that Edgecliff should be considered as a more hybrid centre when looking to assess the strategic merit of the proposal. The Panel with this sentiment, informally coined the term and the area as a 'Strocal Centre' and noted that during the demonstration of public benefits the proponent should have regard to more affordable housing including mix, access to open space and community spaces.

At the time, under the DPE Guide to Planning Proposals, the Panel had the power to recommend or refuse a Rezoning Review and the Panels were not empowered to request refinements or amendments. Based on the Panel feedback and this limitation in the planning process that amendments could not be made (which has since been remedied by DPE in December 2021), the Planning Proposal was not endorsed by the Panel.

3.3.2 The Draft Edgecliff Commercial Centre Strategy

Whilst the previous Planning Proposal was being proposed, Council released the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy (**Draft ECC Strategy**). The Draft ECC Strategy sets a new vision for the Edgecliff commercial centre and makes recommendations on (amongst other things) built form outcomes, maximum building heights and community infrastructure.

For the site, the Draft ECC Strategy set:

- A proposed building height of 86m across two residential towers between 14 and 26 storeys.
- A proposed FSR of 7.5:1 (circa 44,003 sqm of GFA) (which assumed amalgamation with part of the Council-owned New McLean Road Reserve).
- A central public plaza, ground floor retail and a part four and part 5 storey commercial podium.

The Draft ECC Strategy (at the time of writing) is yet to be finalised.

The Planning Proposal now proposed has sought to retain the key principles of the ECC Strategy and incorporate elements of the Draft ECC Strategy, whilst also addressing the comments raised by the Panel under the previous Planning Proposal. This is elaborated in **Section 9.2**.

4.0 Pre-Lodgement Consultation

4.1 Ongoing Council collaboration

Collaboration and workshoping between the proponent and Council Officers has been underway for the last 12 months. This has involved regular and productive meetings which has informed the design evolution of the Planning Proposal, particularly in relation to:

- Built form and approach to land uses.
- Building height and tower typologies.
- GFA.
- Amalgamation/Land dedication with the Council-owned New McLean road reserve.
- Ground plane activation and public open space.
- Activation and enhancement of New McLean Street.
- Unlocking community space.

A key part of the consultation was both parties working together to ensure the key principles of the Draft ECC Strategy were embedded (and refined) within the Planning Proposal and ultimately, to ensure that the Planning Proposal reflected Council's aspirations for the site. With this, the proposal has also sought to address key commentary raised by the Panel (refer back to **Section 3.3.1**). Key elements of the proposal which have been derived from collaboration with Council Officers is summarised in **Section 9.0**.

4.2 Scoping meeting with Council Officers

Following early consultation with Council Officers and in accordance with the Local Environmental Plan Making Guideline, a Scoping Report was formally prepared and submitted to Council on 1 May 2023. Following review of the Scoping Report and supporting material, a meeting was held between the proponent and Council Officers on 6 June 2023. Written advice by the Council Officers on the Scoping Report was provided on 3 August 2023 (refer to **Appendix R**).

Appendix S summarises Council's feedback on the Scoping Report and where comments made by Council Officers have been addressed within this report.

4.3 Community Consultation

With reference to the relevant considerations set out within the NSW Department of Planning, Housing and Industry's Local Environmental Plan Making Guideline, it is noted that:

- The LEP making process does not require formal community consultation prior to a proponent submitting a rezoning request to council.
- The most appropriate time for community consultation for Planning Proposals is after a Gateway determination is issued and all relevant studies and reports have been completed. This ensures the community has clear and evidence-based information available to help them make informed comments on the proposal.

As such, formal public consultation for the Planning Proposal will take place in accordance with Sections 3.34 and 3.35 of the EP&A Act at a later date following Gateway Determination.

Any future DA for the site would also be required to be exhibited in accordance with Council requirements, at which point the public and any authorities would have the opportunity to make further comment on any future detailed development proposed for the site.

5.0 Objectives and Intended Outcomes

The objective of this Planning Proposal is to amend the WLEP 2014 to allow additional height and FSR on the site, and the intended outcomes of the proposed amendments are as follows:

- Capitalise on the unrestrained ownership structure of the site and its position immediately adjacent to the existing Edgecliff railway station and bus interchange, to facilitate a great opportunity for additional employment, retail and residential floor space.
- Promote the more efficient use of land from a single site by allowing greater height and density within an established Centre, to promote a sustainable and transport-orientated development.
- Provide improved pedestrian permeability and connectivity between the site and surrounding key features, including Trumper Park, Ocean Street and Edgecliff Railway Station and bus interchange.
- Contribute to the improvement of the locality by providing a truly mixed-use development which can provide uses (such as retail and commercial) to support the immediate, day-to-day needs of residents in an accessible location.
- Provide an improved urban design and pedestrian permeable outcome at ground level with good street activation, especially fronting New South Head Road.
- Facilitate place making on the site through the provision of varied land uses and spaces for public enjoyment.
- Contribute to the revitalisation of an outdated and tired built form with a modern and contemporary contribution to Edgecliff with design excellence at its heart.
- Concentrate density where it is considered most appropriate (i.e., within a centre, close to a railway station) while supporting the preservation of existing surrounding lower density residential and heritage areas in the LGA.
- Support the inclusion of non-residential floor space in the Centre.
- Allow existing Woollahra residents to enjoy the benefits stemming from the co-location of retail services and transport to support 'ageing in place' where residents are able to access local services without the need for broader travel outside the LGA.
- Contribute to the provision of valuable communal open space and community infrastructure for the community.
- Establishing a Town Centre delivered alongside public spaces, retail amenity and transport for the community to congregate and socialise.
- Provide a meaningful contribution to housing supply and targets in the Eastern Suburbs.

6.0 Explanation of Provisions

The Planning Proposal seeks the following amendments to the WLEP 2014 for the site.

6.1 Height of Buildings

Increase the maximum permitted Height of Buildings development standard from part 0m, part 6m and part 26m, to part 60m and to part 124m to 128m. At the site, a maximum height of 128m is equivalent to RL 156.75m.

6.2 Floor Space Ratio

- Increase the maximum permitted FSR on the Edgecliff Centre portion of the site from 2.5:1 to 9:1.
- Increase the maximum permitted FSR on the Council-Owned Road Reserve from 0 to 3.5:1.
- Introduce a site-specific provision to retain a minimum 2:1 (of the overall 9:1) for non-residential purposes.

The minimum non-residential FSR of 2:1 will apply to the Edgecliff Centre portion of the site only. This will ensure future development on site incorporates employment-generating floor space which cannot be used for residential purposes.

This will be implemented by way of inserting a site-specific provision within Part 6 of the WLEP 2014 (subject to discussion and agreeance with Council). Indicative drafting is provided below.

Clause XX – Non-residential floor space on the Edgecliff Centre

1. *The objective of this clause is to ensure development provided in the Edgecliff Centre continues to provide commercial floor area for employment generation purposes.*
2. *This clause applies to Lot 203 in DP1113922 and Lot 5 DP243380, being 203-233 New South Head Road, Edgecliff, and part of the Council-Owned Road Reserve fronting New McLean Street*
3. *Development consent must not be granted for a mixed use development identified on land in subclause (2) unless the consent authority is satisfied that a gross floor area equivalent to an FSR of 2:1 on Lot 203 in DP1113922 and Lot 5 DP243380 is dedicated to non-residential land uses.*
4. *In this clause, non-residential floor space means the ratio of the gross floor area of that part of a building used or proposed to be used for any purpose in all buildings within a site to the site area, other than for any of the following purposes—*
 1. *residential accommodation,*
 2. *serviced apartments,*
 3. *a car park.*

6.3 Amendments to the Woollahra Development Control Plan 2015

A draft site-specific DCP will be prepared by the proponent in collaboration with Council Officers and will be guided by the indicative development concept undertaken by FJC (shown in **Section 6.3**). The draft DCP will enshrine the vision and objectives for the site and will provide a clear framework to guide and regulate future development in accordance with the proposed LEP controls.

It will be determined at Gateway Determination whether it is a stand-alone DCP or an amendment to Part G (Site-Specific Controls) of the existing WDCP 2015 and will be publicly exhibited concurrently with the Planning Proposal post LEP Gateway.

The DCP would be prepared in consultation with Council and would include:

- A vision statement.
- Objectives and/or site principles for the site's redevelopment.
- Structure plan.
- Principles to achieve design excellence.
- Objectives and fine-grain development controls for:
 - Public domain.

- Built form matters, including height, setbacks massing and modulation.
- Heritage and streetscape constraints.
- Site access and movement (including vehicles, pedestrians and cyclists).
- Public art.
- Open space and community space.
- Sustainability initiatives and benchmarks.

A Concept DA may also be prepared in lieu of a site-specific DCP to achieve the same outcome and set the parameters for the site's future redevelopment in accordance with the LEP controls.

6.4 Design Excellence

The proponent has a strong commitment to achieve design excellence on the site and is amenable to having future development on the site subject to input by a Design Advisory Panel comprising representatives the relevant consent authority and the proponent. Principles to guide what constitutes design excellence can also form part of the site-specific DCP.

7.0 Indicative Development Concept

This section of the report explains the indicative development concept envisioned for the site under the proposed planning controls.

The indicative development concept is centred around revitalising the site for a vibrant mixed-use development that can simultaneously contribute to the community and social infrastructure through a combination of providing space for community uses and public spaces, the provision of retail services whilst also increasing employment generating floor space (jobs) and housing close to public transport. At the heart of the indicative development concept is to:

- Develop a new mixed-use community that establishes a true focal point of activity for the centre of Edgecliff.
- Contribute to a residential population that can stimulate business and retail activation in the centre of Edgecliff and provide a mix of uses which will increase opportunities for residents to work locally and use local retail and leisure facilities.
- Provide activated and landscaped frontages to New McLean and New South Head Road within an integrated civic ground floor retail precinct.
- Delivery for 15 years or a monetary contribution of 5% of the new residential GFA as affordable housing.
- Introduce a network of laneways, centralised spaces and volumetric colonnades that provide significant opportunities for pedestrianisation within the currently vehicle dominated Edgecliff corridor, allowing a greater opportunity for people to congregate, work, live and shop.
- Delivery of the Village Green comprising 3,000 sqm of community infrastructure through a combination of a central public plaza, open green spaces and diverse seating areas which accommodate diverse public gathering and meeting spaces, public art and spaces for recreation. This can include for example ping pong tables, pop-up cinema and interactive water fountains. The Village Green will be accessible via a grand public staircase located on the north-west corner of the site providing a highly visible and inviting access with views and vistas of the Sydney CBD and Harbour.
- Delivery of approximately 675 sqm community facilities (internal and external community space) adjacent to the proposed public plaza and open green space. The facility will also provide a key connection to the integrated multi-purpose community facility proposed on part dedicated land and council road reserve.
- Contribution of funding towards local community infrastructure in the form of a multi-purpose community facility with urban greening rooftop fronting New McLean Street.
- Land dedication critical to unlock the Council-Owned Road Reserve for the purposed delivery of the above-mentioned multi-purpose community facility.
- Introduce a new east-west site through-site link, providing greater connections between Trumper Park, public transport and Ocean Street.
- Creation of a forecourt at the corner of New Mclean Street adjacent to the proposed site through links, community facility and residential address with visual connectivity to the existing Trumper Park pathway.
- Rationalise existing vehicular crossovers to a single vehicle crossover and internalise existing loading dock and waste management facilities.
- A grand public staircase fronting the highly visible and iconic corner of the site fusing the site through links, laneways, colonnades, public open green space, plaza, community facilities and ground forecourt to each other to create a permeable public focused town centre.



Figure 31 – Indicative development concept (looking west along New South Head Road)

Source: FJC



Figure 32 – Indicative Development Concept (looking east along New South Head Road)

Source: FJC

7.1 Indicative Development Concept Overview

The indicative development concept is summarised in **Table 3**.


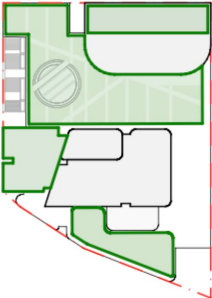
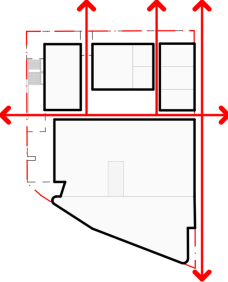
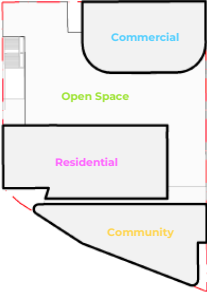
Table 3 – Overview of the Indicative Development Concept

Component	Indicative Development Concept
Edgecliff Centre	
Site Area	4,910 sqm
Land Uses	<ul style="list-style-type: none"> Residential Commercial office Retail Open space
Maximum Height	RL 156.75m
Height in Storeys	35 storeys plus plant Part 2 and Part 3 storey podium
Total Gross Floor Area (GFA)	44,190 sqm, comprising: <ul style="list-style-type: none"> 29,460 sqm of residential 8,500 sqm of commercial office 6,230 sqm of retail
Total Floor Space Ratio (FSR)	9:1, comprising: <ul style="list-style-type: none"> 3:1 employment FSR (retail, commercial) 6:1 residential FSR
Residential Apartments	275
Apartment Mix	<ul style="list-style-type: none"> 1 bed: 20-30% 2 bed: 30-40% 3 bed: 30-40%
Affordable Housing Contribution	5% (Delivery for 15 Years or Contribution)
Public Amenity	<ul style="list-style-type: none"> 2,600 sqm of open space including green space, piazza and forecourt. 750 sqm of site through links, laneways and colonnades
Basement Levels	7
Bicycle Spaces	429
Car Parking Spaces	333
Motorcycle Spaces	20
Council-Owned Road Reserve	
Site Area	957 sqm
GFA	2,390 of community space
FSR	2.5:1
Height	RL 47.25m
Height in Storeys	3 storeys
Funding / Land Dedication Offering	Contribution towards a multi-purpose community facility of at least 2,000 sqm with a double height amphitheatre space to be utilised as a community sporting facility (with capacity of up to 3,000 sqm subject to further design development in collaboration with Council).

7.2 Design Principles

The design principles that have informed the indicative development concept is summarised in **Table 4**.

Table 4 – Design Principles

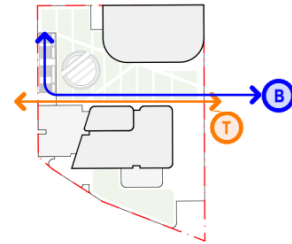
Principle	
<p>Activation</p> <p>The Planning Proposal prioritises establishing an inviting and dynamic street atmosphere that harmoniously blends with its surroundings. To achieve this, the indicative development concept incorporates ground-level retail areas, outdoor seating spaces, and spacious pedestrian walkways along the north and west sides, contributing to a vibrant and bustling streetscape.</p> <p>Additionally, the western section is enriched by a welcoming residential lobby and arrival area. Despite limitations due to easement and access requirements, the southern area is activated through an activated community space, ensuring continuous liveliness along New McLean Street, overcoming any site constraints.</p>	
<p>Urban Greening</p> <p>The indicative development concept emphasises the integration of abundant green areas, featuring landscaped gardens, communal spaces, and courtyards. These well-designed spaces encourage social interactions and foster a collective sense of responsibility towards the environment, promoting a shared ownership and appreciation of the surroundings.</p> <p>A series of landscaped terraces, including a primary publicly accessible terrace at podium level brings significant outdoor green space and amenity to the project. The greening of the podium facade, particularly at the intersection of New South Head Road and New McLean Street substantially enhance the streetscape.</p>	
<p>Connectivity</p> <p>The vision for the public domain revolves around establishing an inviting and inclusive area that seamlessly merges indoor and outdoor spaces. This objective is pursued through the inclusion of several entry points and vibrant laneways, fostering a smooth flow of pedestrians and providing excellent opportunities for high-quality retail experiences.</p> <p>The indicative development concept focuses on creating an open and permeable environment, enhancing permeability, and ensuring clear and easily identifiable connections to the upper levels of the building. It also seeks to improve access to the existing transport infrastructure through vertical and horizontal circulation that connects the north-west of the site through the development to the train and bus nodes adjacent to the site.</p>	
<p>Mixed Use Precinct with Identifiable Elements</p> <p>Rather than the creation of a single monolithic development with little relationship to the surrounding urban grain, the indicative development concept seeks to develop a collection of discrete identifiable buildings and uses that create a sense of an urban village. This cluster of buildings forms and uses, linked together by high quality public urban green spaces help to break down the scale of the development and foster a sense of connected community in line with the current character of the surrounding area.</p>	

Principle

Improved Connection to Transport

The design of the podium level in the indicative development concept prioritises a direct and convenient link to the nearby transport interchange, making it effortlessly accessible to the residents, workers, and visitors.

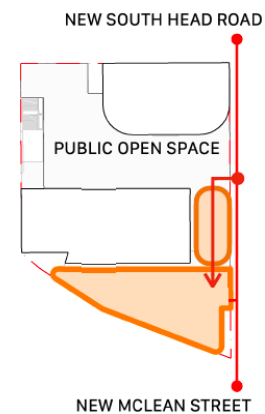
Moreover, the transport interchange directly connects to an elevated public park, offering panoramic views of the CBD to the west. The focus on accessibility is a crucial aspect of the Edgecliff Centre's design, as it incorporates various features to ensure ease of navigation and enjoyment for residents and visitors with disabilities. These include easily accessible entrances, wide corridors, doorways, and elevators, providing smooth access to all levels. This emphasis on accessibility is especially significant in line with the aspiration to create a multi-level offering that not only connects to the elevated bus interchange but also maximises the potential for high-quality public spaces with captivating city views.



A Place for Community

The provision of a highly activated, easily accessible community to the New McLean Street frontage of the site provides for meaningful activation to the street. The location of the community facility adjacent to existing residential developments along New McLean Street helps maintain the community scale of the area, while revitalising a portion of the site that is currently given over to services and car parking.

The overall location of the site with its excellent transport links makes it the perfect place to develop a community facility to service the Edgecliff precinct, which is currently underserved in this regard.



7.3 Land Use Distribution

The distribution of land uses in the indicative development concept is shown in **Figure 33** and described in the sections below. The intent is to create a town centre revolving around a built form principle of a collection of parts which can improve local amenity, service the community and put homes and jobs in close proximity to existing public transport infrastructure.

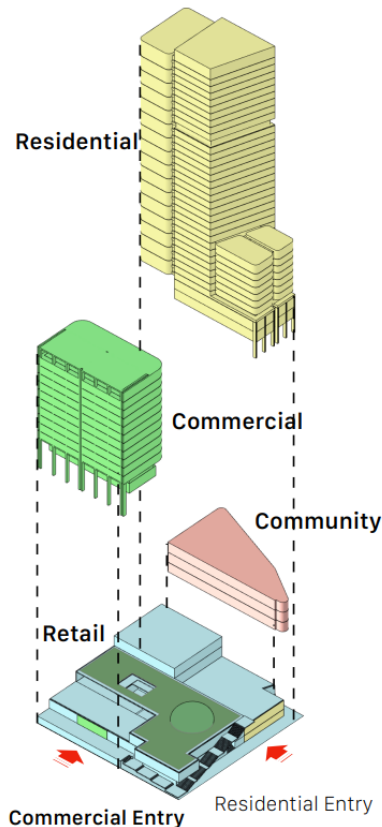


Figure 33 – Distribution of Land Uses

Source: FJC

7.3.1 Residential Apartments

The indicative development concept provides for circa 275 apartments within a 35-storey residential tower. Of these apartments, 27(9%) will be universally accessible.

The residential tower component has been designed to comply with all relevant ADG criteria. It will maximise privacy and achieve a high level of amenity for residents. An outdoor terrace will be provided on Level 11 which will provide residents opportunities for physical activity and communal open space.

The residential tower component will act as an identifiable marker for the site and Edgecliff, whilst also incorporating design elements which seek to minimise the overall prominence of the tower and provide a transition to the surrounding heritage conservation areas. Specifically, the tower form has been divided into appropriately scaled elements and will adopt curved edges where appropriate to mitigate visual and wind impacts. It is emphasised that the GFA of a typical residential floorplate will comprise only 16% of the overall site area.

The massing and design of the residential tower component would also encourage articulation and view sharing, enable appropriate building separation, protect solar access to Trumper Park Oval and mitigate any impacts to the rail corridor below.

The proposed residential tower component is shown at **Figure 34**. The potential view sharing and visual impacts resulting from the residential tower are detailed within **Section 10.1**.



Figure 34 – Proposed Residential Tower Component

Source: FJC

7.3.2 Commercial Office

The Planning Proposal will protect and expand on employment generating uses on the site through the provision of a 13-storey plus plant commercial office building that fronts the New South Head Road frontage. It has been designed to act as an identifiable commercial building design for modern day employment uses within Edgecliff (refer to **Figure 35**).

The mid-sized commercial tower component will provide an additional setback up to Level 3 to create a generous colonnade and an identifiable entry for businesses and workers. The indicative development concept floor plates have been designed to appeal to the anticipated tenant profile and planned to ensure flexibility into the future. The commercial tower component will feature a landscaped roof terrace on Level 13 to provide amenity for workers.

Importantly, having a commercial space of this nature signals the desire to create a benchmark office space with high levels of amenity, identity and activation, seeking to attract high quality businesses to the area in lieu of a homogenous commercial offering that is stacked within a building podium. The importance of providing commercial / non-residential floor space on the site and within Edgecliff more broadly is detailed within **Section 9.5**.



Figure 35 – Proposed Commercial Tower Component

Source: FJC

7.3.3 Retail Uses

A part 2 and part 3-storey podium for retail and community uses is proposed (refer to **Figure 36**). The indicative development concept shows that the low scale podium massing will be broken up into smaller components using colonnades, laneways, site through links and setbacks along the ground level. It will feature an east-west spine that connects the Edgecliff Railway Station and Bus Interchange to New McLean Street on the west and the existing Trumper Park walkway towards Glenmore Road. This will allow for ease of access and interaction between the pedestrian and the retail frontages.



Figure 36 – Proposed Retail Podium

Source: FJC

7.3.4 Community Facility

The Planning Proposal will provide a diverse offering of community facilities that will facilitate an opportunity to integrate this space into the wider proposed Multi-Purpose Community Facility (MPCF). Community facilities include the delivery of up to 675 sqm of internal and external community space adjacent to the bus terminal, proposed plaza and open green space that will be delivered amongst the Village Green.

There will be a further land dedication and funding contribution put forward as part of the Planning Proposal to facilitate a three-storey multi-use community facility to be located at the rear of the site fronting New McLean Street.

This massing has been designed provide a transition between the built form located on the Edgecliff Centre Site and the surrounding residential development to the south and maximise activation of the currently inactive southern part of New McLean Street (refer to **Figure 37**).

The community facility will be adaptable so that it can cater to a wide range of community needs. The indicative uses include sport facilities, meeting spaces and urban greening.

It is important to note that due to the current infrastructure, operational requirements and ownership pattern of the road reserve, redevelopment of the Edgecliff Centre along with the land dedication is critical to unlock the Council-Owned Road Reserve and facilitate this key opportunity for public infrastructure.

A monetary contribution will be provided by the proponent towards the delivery of the Multi-Purpose Community Facility along New McLean Street which we envisage will also require further funding contributions from other sites within the Draft ECC Strategy. It is anticipated that detailed design and delivery will be undertaken by the Council utilising these funds at the appropriate time considering all requirements around funding and road closure processes.



Figure 37 – Proposed Community Facility

Source: FJC

7.3.5 Public Square, Open Space and Urban Greening

The indicative development concept includes the opportunity for a high-quality public square and landscaped open space, which significantly ameliorates the existing harsh site environment.

The public square, open space and urban greening proposition can be summarised in **Figure 38**. Each key element is further summarised below.

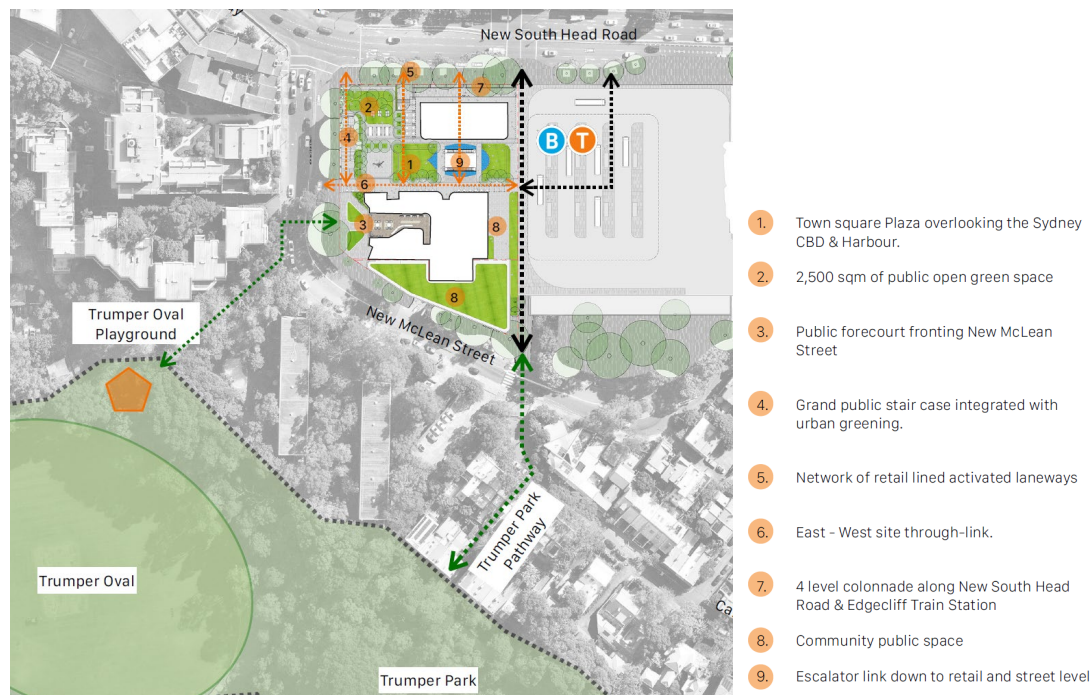


Figure 38 – Proposed public square, open space and greening strategy

Source: FJC

The primary frontage along New South Head Road is to be improved through the provision of attractive fine-grain retail laneways that invites pedestrians to travel through the site. An east-west through site link will provide an improved pedestrian experience and allow for a more permeable ground plane and podium with placemaking opportunities to enhance the experience for the community (refer to **Figure 39**).

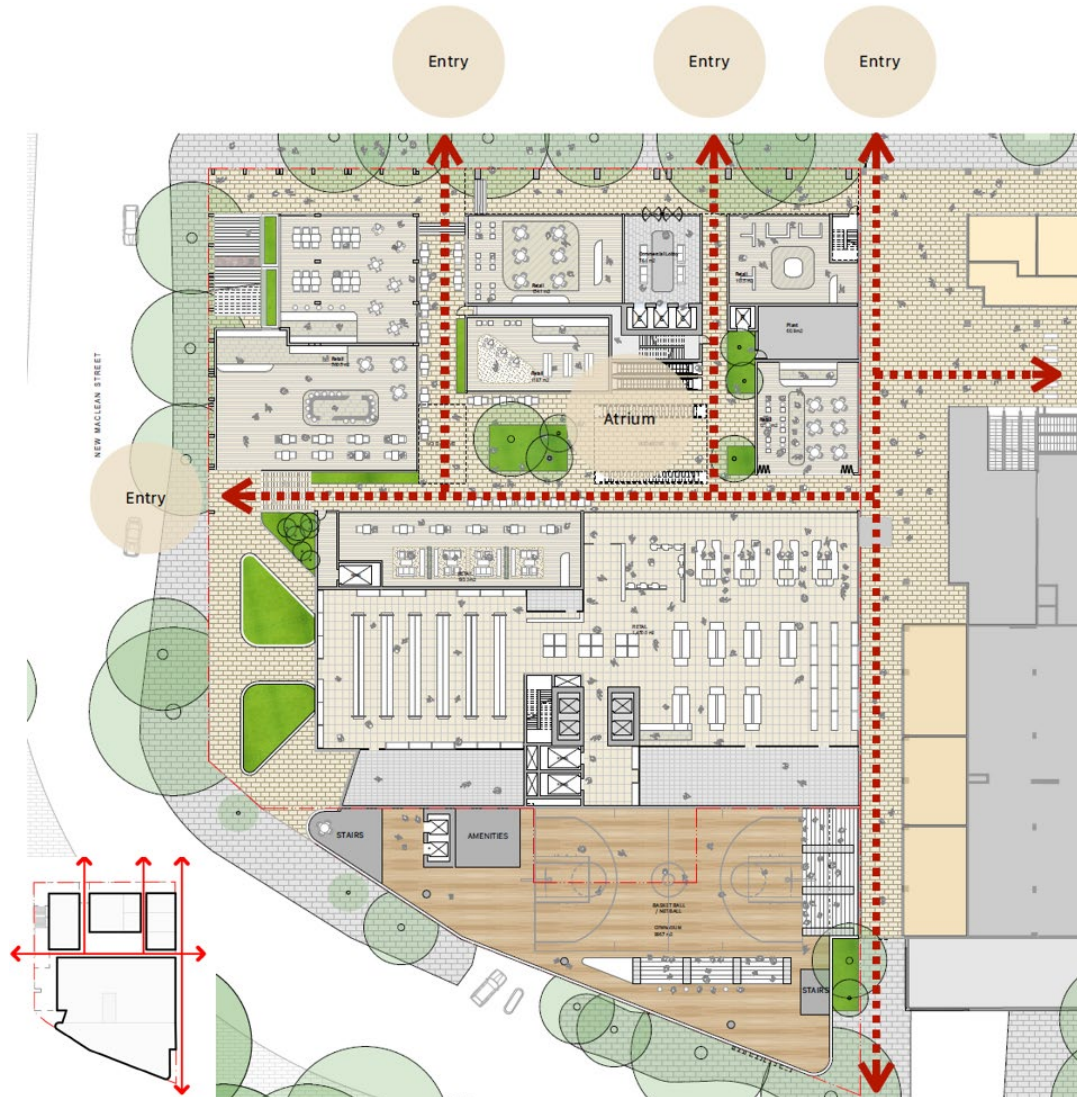


Figure 39 – Circulation and through-site link proposition

Source: FJC

A forecourt of approx. 470 sqm at south-west corner of New McLean Street will address the transition between the proposed site-through link and community and residential entry to provide a visual anchor to the existing Trumper Park pathway towards Glenmore Road and existing residential neighbours of New McLean Street.

The Planning Proposal seeks to curate a Village Green which delivers a further 3,000 sqm of publicly accessible community infrastructure (refer to **Figure 40** and **Figure 41**), incorporating:

- A central public plaza.
- Open green spaces.
- Multiple and diverse seating areas.
- Opportunities for public art.

- Community facility with external courtyard area.
- Connections to public transport and retail amenity.
- Opportunities for public recreation such as ping pong tables, pop-up cinema and interactive water fountains.

The space is accessible via a grand public staircase located on the iconic north-west corner of the site (refer to **Figure 42**) providing a highly visible and inviting access point to this publicly accessible open space, with connections also available via the public bus terminal or through escalators and lifts within the central void. The podium will be lined with an abundance of landscaping features to provide visual interest and urban greening opportunities throughout the built form.

A key advantage of the Village Green is that it will provide a direct connection to other uses on the site and the surrounding area further contributing to the abundance of existing open space, community interaction and infrastructure that benefits the local area. This creates a sense of continuity within the site, by providing blended retail, community, recreational and commercial uses, while also promoting social interaction and community engagement for all users of the site through promoting incidental travel via the bus interchange, the adjoining retail centre, train station and the surrounding streetscape.

The design of this open space has been developed closely with Council who advised the proponent to deviate from the ground floor plaza design identified in the Draft ECC Strategy and instead, consider an open space that can respond to the surrounding environment in a more appropriate manner (as has been achieved by the indicative development concept).

Overall, the public square, open space and urban greening concept will significantly enhance the public domain. It will provide a town centre for the wider Edgecliff corridor that is highly visible, adjoins public and community spaces, integrates with amenity and incorporates landscaping features that adorn the development. It will, increase access to open space and connections through the site whilst providing amenity that has been appropriately designed to sit comfortably adjacent the activity of New South Head Road.



Figure 40 – Indicative Publicly Accessible Open Space Concept

Source: FJC

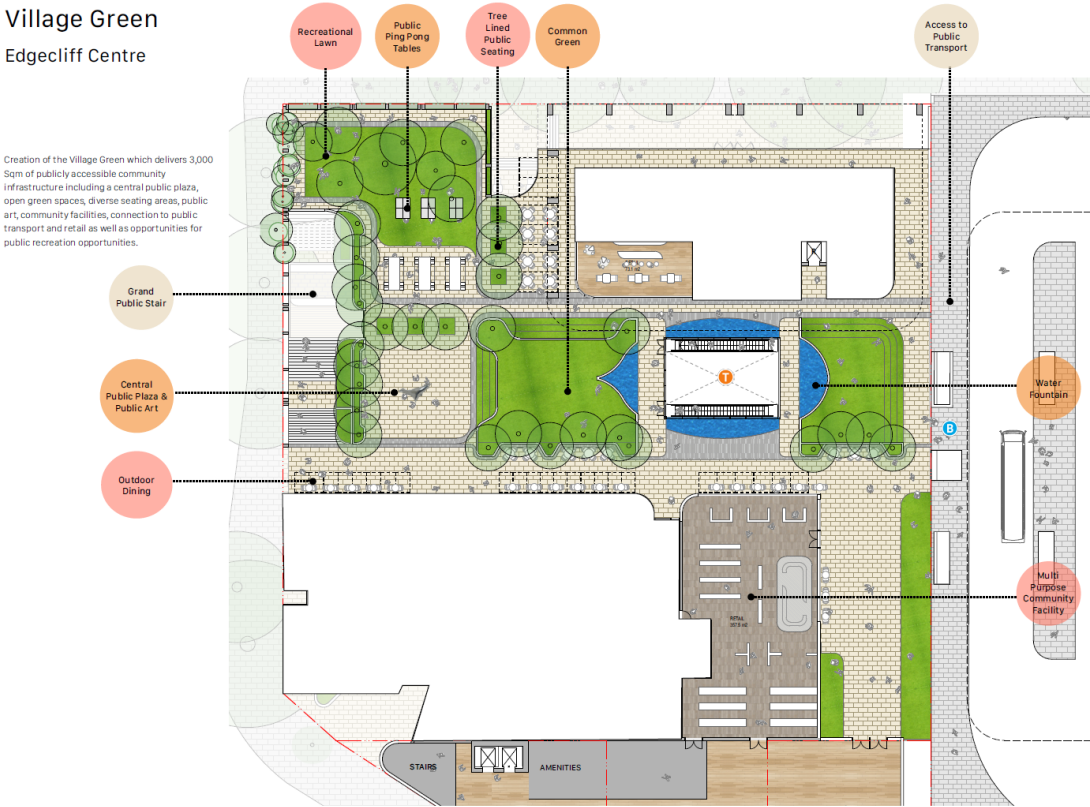


Figure 41 – Indicative Publicly Accessible Open Space Concept (in Plan)

Source: FJC



Figure 42 – Circulation and Connectivity from the Publicly Accessible Open Space

Source: FJC

7.3.6 Site Access, Movement and Parking

The ground plane contains a series of laneways, site-through links and colonnades to support strong permeability and opportunities for access to fresh air and natural light. A new east-west spine utilises the site to connect Glenmore Road (located west of Trumper Park) and New McLean Street to the existing rail station. Inter-level changes across the site enables improved accessibility to the adjoining retail centre and bus interchange whilst also supporting movements further east towards Ocean Street and Double Bay (refer to **Figure 43** and **Figure 44**).

The indicative development concept incorporates eight levels of basement car parking. There will be a single access point rationalised from five (5) current vehicle crossovers, located off New McLean Street, appropriately setback from the New McLean and New South Head Road intersection. The entry point will support access for the residential basement car park (for up to 216 car spaces), the commercial loading dock (for up to three medium rigid vehicles) and car park for commercial and retail uses (for up to 117 car spaces). Indicatively, the two upper basement levels will be dedicated to retail and commercial uses and the bottom six basement levels will be dedicated to residential uses.

The vehicular entry and egress point for the indicative development concept has been located via the Council-Owned Road Reserve consistent with the current servicing arrangement which will act as a transition and buffer for all vehicular movements. It will also continue to accommodate access for existing East Point residents.

This will result in only a single vehicle cross over at the pedestrian foot path along New McLean Street, improving the conditions for pedestrian movements. The loading dock will likely be located on Basement Level 2, near the entry ramp to the car park.

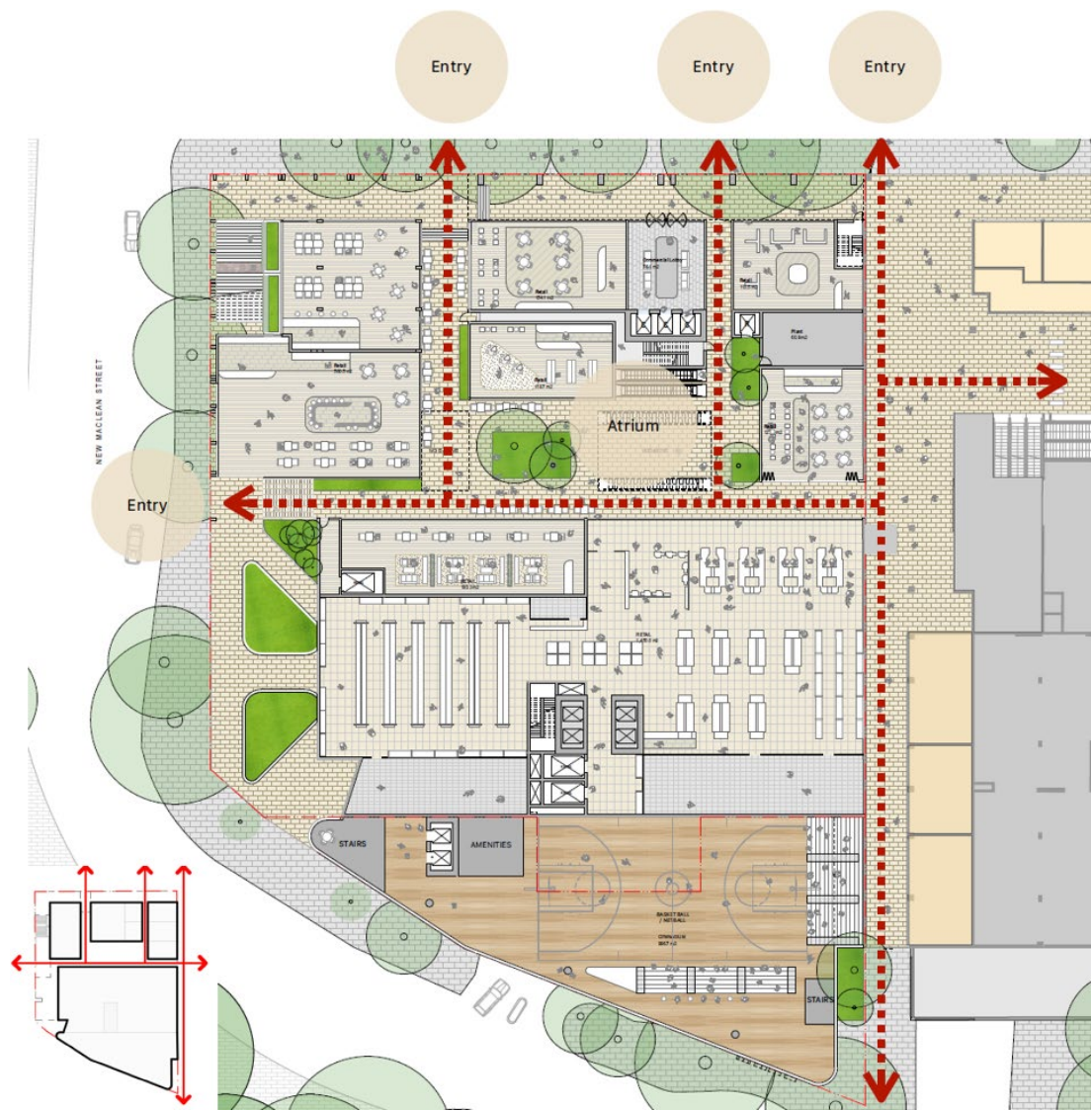


Figure 43 – Circulation and Connectivity at Ground Level
Source: FJC



Figure 44 - Circulation and Connectivity within the Wider Precinct

Source: FJC

7.4 Public benefit

The indicative development concept includes a myriad of benefits related to transport connectivity, public domain and walkability connections, encouraging community connections and well-being, as well as responding to housing and demographic needs in the Woollahra LGA. The contributions associated with the Planning Proposal include:

- Delivery or monetary contribution of 5% of the new residential GFA as affordable housing.
- Delivery of the Village Green comprising 3,000 sqm of community infrastructure through a combination of a central public plaza, open green spaces and diverse seating areas which accommodate diverse public gathering and meeting spaces, public art and spaces for recreation. This can include for example ping pong tables, pop-up cinema and interactive water fountains. The Village Green will be accessible via a grand public staircase located on the north-west corner of the site providing a highly visible and inviting access with views and vistas of the Sydney CBD and Harbour.
- Delivery of approximately 675 sqm community facilities (internal and external community space) adjacent to the proposed public plaza and open green space. The facility will also provide a key connection to the integrated multi-purpose community facility proposed on part dedicated land and council road reserve.
- Contribution of funding towards local community infrastructure in the form of a multi-purpose community facility with urban greening rooftop fronting New McLean Street.
- Land dedication critical to unlock the Council-Owned Road Reserve for the purposed delivery of the above-mentioned multi-purpose community facility.
- Delivery of a forecourt of approximately 470 sqm at the south-west corner of New McLean Street adjacent to the proposed site through links, community facility and residential address with visual connectivity to the Trumper Park pathway.
- Public domain improvements including through activating the streetscape with retail uses, inclusion of landscaping features throughout the site.

- Introduction of a network of pedestrian laneways, through site links, colonnades and central plazas interconnecting the surrounding area (such as Trumper Park pathway and New McLean Street) with the Transport Interchange via the site.
- A grand public staircase fronting the highly visible and iconic corner of the site fusing the site through links, laneways, colonnades, public open green space, piazza, community facilities and ground forecourt to each other to create a permeable public focused town centre.
- Provide activated and landscaped frontages to New McLean and New South Head Road within an integrated civic ground floor retail precinct.
- Develop a new mixed-use community that establishes a true focal point of activity for the centre of Edgecliff.
- Contribute to a residential population that can stimulate business and retail activation in the centre of Edgecliff and provide a mix of uses which will increase opportunities for residents to work locally and use local retail and leisure facilities.

8.0 Strategic Merit

This chapter demonstrates how the Planning Proposal and indicative development concept has strategic merit, taking into consideration:

- Alignment with the relevant strategic plans.
- Alignment with the broader strategic planning objectives established by State.
- The demographic setting of the site and locality.

Further assessment is provided in the sections below and is supported by the *questions to consider when demonstrating merit* set out in the *Local Environmental Plan Making Guideline* (September 2022) prepared by the Department of Planning, Housing and Industry (refer to **Appendix B**).

8.1 Policy Setting

8.1.1 Alignment with relevant strategic plans

Appendix B sets out in detail how the Planning Proposal is consistent with the applicable strategic planning framework set by the State and by Council. This includes an assessment against:

- *The Greater Sydney Region Plan*
- *The Eastern District Plan*
- *The NSW State Plan*
- *Future Transport 2056*
- *NSW State Infrastructure Strategy*
- *Greater Sydney Services and Infrastructure Plan*
- *Woollahra Local Strategic Planning Statement*
- *Woollahra Community Strategic Plan 2032*
- *Woollahra Draft Integrated Transport Study*
- *Woollahra Active Transport Plan*
- *Woollahra Local Housing Strategy 2021*

Overall, the Planning Proposal is in full alignment with the relevant policy setting because it:

- Responds to the proximity of existing infrastructure (the Edgecliff Railway Station and Bus Interchange) and provides more efficient access to housing, jobs and services to an existing transport hub.
- Reduces reliance of vehicle usage (by bringing jobs, homes, services, and transport closer together) and increases daily critical mass to support the viability of goods and services on the site and within the broader Edgecliff town centre.
- Contributes to the 0-5-year housing target for Woollahra (including the most recent targets identified for Woollahra), and the attainment of the overall housing target for the Eastern District, thereby assisting in protecting lower density areas from development pressures.
- Promotes and supports the increased role of Edgecliff as a key transport interchange and centre.
- Will, through the open space and public domain inclusions and retail uses proposed, contribute to the community which can foster health and support social connections.
- Responds to the Future Transport 2056 Plan, which identifies the importance of transport interchanges as places which will have a high level of density given their accessibility, service frequencies and travel times.
- Brings to life the potential for transport interchanges to deliver mixed-use, walkable, cycle friendly centres and neighbourhoods, as stated in the Greater Sydney Region Plan.
- Delivers a people-focused ground floor and podium comprising a mix of land uses including fine grain retail, community uses and open space, which is walkable, enjoyable and of a human scale.
- Contribute to the creation of a walkable centre that provides homes in proximity to employment - both in Edgecliff and easily accessible via the transport interchange.
- Responds to the evolving Edgecliff context, which under the Greater Sydney Region Plan is designated as a Local Centre. This type of centre plays an important role in providing access to goods and services, close to where people live. Increasing the level of residential development within walking distance of centres with a supermarket is a desirable liveability outcome.

- Adhere to the established principle of greater density around public transport.

8.2 Broader Strategy Setting

NSW Government policy over recent years has sought to integrate land use planning with existing or planned infrastructure. This is otherwise referred to as transit-oriented development (**TOD**) which aims to:

- Provide people with better access to public transport.
- Provided people with a broader range of housing options and job opportunities around public transport.
- Create more revitalised, connected, and sustainable communities overall.

This is captured in the 30-minute city concept of the NSW strategic planning framework, which is intended to guide decision-making on locations for new transport, housing, jobs, education, health and other facilities. The proposal underpins the notion of a 30-minute city and transit-oriented development.

The proposal is providing a range of uses targeted towards leveraging amenity, which is expected adjacent to an existing transport interchange with capacity.

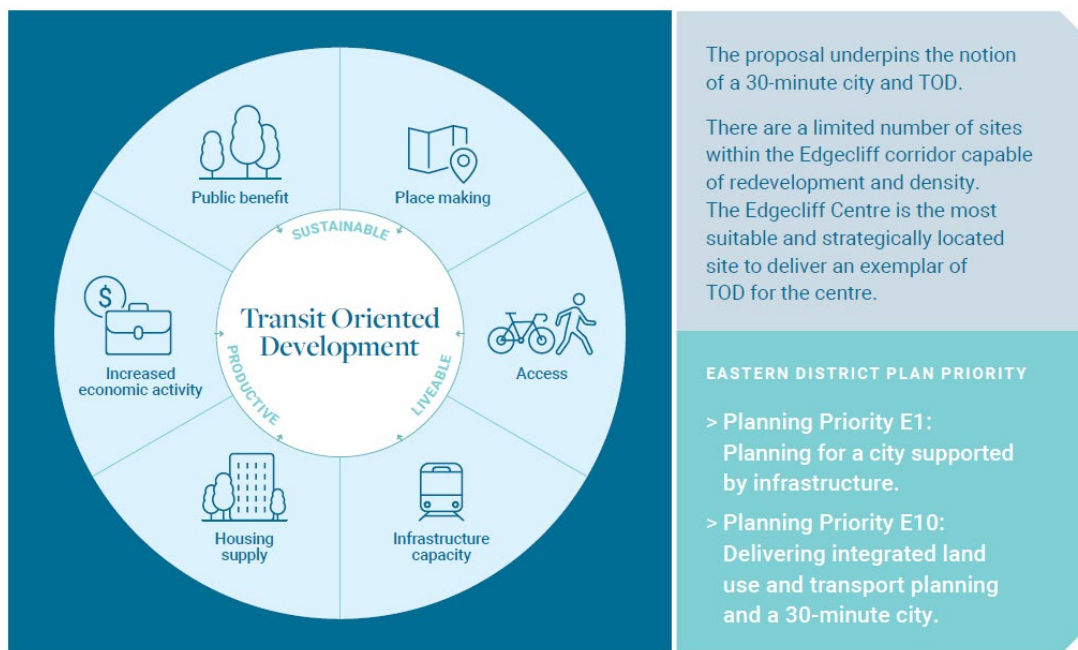


Figure 45 – Transit Oriented Development

The proposal seeks to accommodate more relevant retail, modern and sustainable offices to attract new businesses and investment along with diverse housing options which are currently lacking within the LGA. The proposal is an exemplar of TOD, locating increased density with infrastructure to revitalise the centre and reduce car dependency within the LGA.

Overall, the proposal:

- Delivers of a TOD with direct connection to the Edgecliff rail and bus interchange which maximises the use of a highly underutilised and latent transport interchange.
- Brings to life a fundamental planning principle which sees a density and employment increase over and adjacent to an existing railway station.

More broadly, the NSW Government has established a clear mandate to limit urban sprawl and rebalance the delivery of housing towards the existing metropolitan centres through increased height limits around existing transport infrastructure.

It is important that the rebalance is well considered and benefits from latent capacity in various infrastructure indicators such as transport capacity. When we look at the existing latent capacity of the Edgecliff Train Station which has significantly more capacity than many other stations within similar geographical locations (identified

in **Section 2.4.1**), it is incumbent on the planning authority when determining Planning Proposals such as the current proposal, to utilise these once in a generational opportunities located above a train station to maximise this to ensure that there is a benefit to all tax payers of NSW.

Previously, the desire for TOD has translated into the successful increase in density around existing and proposed public transport, including over-station developments. This thinking in planning has advanced significantly since the controls for centres like Bondi Junction (for example) were first envisaged over a decade ago.

St Leonards is a similar example. It has seen a significant increase in density to land surrounding the existing train station and future metro station. Height in St Leonards reaches up to 35 to 50 storeys with FSR controls from 15:1 up to 25.4:1. This has been solidified in the St Leonards and Crows Nest 2036 Plan (finalised in August 2020). Like Edgecliff is to the Sydney CBD, St Leonards is also only two stops away from the North Sydney CBD and three from the Sydney CBD.

Edgecliff is similar in locational advantage to St Leonards and Crows Nest, where densities of this scale have been deemed appropriate by State Government work. Where Edgecliff differs is the highly limited number of sites suitable for the scale of transit orientated development, with the Edgecliff Centre having the size and proportions and being the only real site capable of delivery of a transit orientated development within the centre.

TOD is also evident in centres such as Epping, Chatswood, and the Waterloo Metro Quarter. The Sydney Metro Northwest Urban Renewal Corridor (which includes eight station precincts from Cherrybrook to Cudgong Road) also demonstrates a commitment to increasing density with infrastructure. There is a further analysis within **Section 9.3** of this report which breaks down centres across Sydney which have been subject to increased density on the basis of its attributes around transport infrastructure.

Edgecliff is well positioned to be able to take advantage of its location and current underutilisation of land to increase density around the station. Currently, land around the Edgecliff Station and Bus Interchange is relatively underutilised despite the station being the second stop out of the CBD. There is potential for uplift in the area around the station, especially on the site given that it is co-located with the Edgecliff Station and Bus Interchange. This has been identified and is reflected in council's Draft ECC Strategy to orientate and propose significant uplift around this transport interchange which is consistent with the objectives of the Planning Proposal.

8.2.1 Height around Train Stations and Smaller Centres

Stemming from the idea of TOD, buildings in Sydney with greater heights and densities are typically concentrated around train stations, given the amenity and accessibility provided by these public transport nodes. In practice, Kings Cross Station (which is also a *Local Centre*), the first stop on the T4 Eastern Suburbs and Illawarra Line out of the Sydney CBD, exemplifies the concept. The Planning Proposal site is located only one stop after Kings Cross.

Zetland, Green Square and Waterloo are other examples that also showcase this concept (refer to **Figure 46** to **Figure 48**).

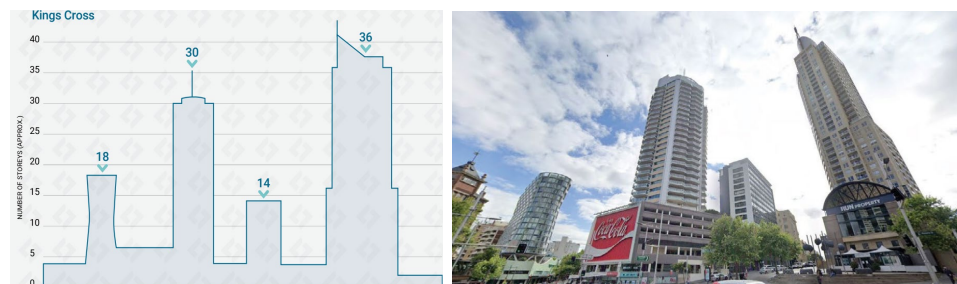


Figure 46 – Existing heights around Kings Cross

Source: Longhurst



Figure 47 – Existing heights around Zetland

Source: Longhurst



Figure 48 – Existing heights around Darling Point

Source: Longhurst

8.2.2 Recognised for Renewal

Renewal of the Edgecliff Centre

The Greater Sydney Region Plan and Eastern District Plan includes a number of planning priorities that when read together support the investigation of renewal of the Edgecliff Centre and the site. These focus on the integration of land use and transport through the provision of a greater amount and choice of homes in locations such as Edgecliff that have access to jobs, services, and public transport. Both these strategic plans make explicit reference to exploring growth at established interchanges such as Edgecliff, including (like touched on above) the elevation of these roles in the Centre's hierarchy.

The Greater Sydney Region Plan (at Page 121) states that '*there will be potential for interchanges to deliver mixed-use, walkable, cycle friendly centres and neighbourhoods. Council's need to consider local conditions through place-based planning that provides for centres around interchanges to grow and evolve over time and potentially become strategic centres*'.

We also note that most maximum buildings heights for existing Local and Strategic Centres generally predate the current centres hierarchy and these pre-established LEP heights do not necessarily reflect the appropriate heights for a Strategic Centre. **Section 9.3** of this report further analyses the characteristics and attributes of varying local and strategic centres against their appropriateness for building height and density.

Renewal of the Site

Not dissimilar to the 'place-based planning' recognised in the Eastern District Plan, the site has been identified as a strategic site, capable of accommodating greater density within the Edgecliff Corridor for an extended period of time.

This recognition commenced with the Council-led Opportunity Study published in 2010 and (as detailed previously) the more recent Draft ECC Strategy commissioned in 2015 and published in 2021. The density proposed under this Planning Proposal has sought to generally align the quantum of GFA envisioned for the site under both of these existing Council-led strategies (refer to **Figure 49**).

For the Opportunity Study, this meant a GFA of circa 46,466 sqm and for the Draft ECC Strategy, this meant a GFA of circa 44,003 sqm. This Planning Proposal now proposed seeks the same, being a GFA of circa 44,190 sqm.

The proposal therefore seeks a continuation of the extent of density expected on site's directly adjacent to train stations, and a continuation of density envisaged under successive Council opportunity studies for Edgecliff.



Figure 49 – Density comparisons across Woollahra Council-led strategies

Source: Longhurst

8.2.3 Point Tower Typologies and Ridgelines

The site is at a logical end of two main linear corridors of point and cluster towers that terminate at their intersection above a transport interchange.

Looking at the local urban morphology, there is an east-west corridor aligned with William Street and its extension along New South Head Road. There is also two complementary north south spines, the first of which stretches from the end of Potts Point to Kings Cross Train Station and the second stretching from the end of Darling Point towards the Edgecliff Centre (refer to **Figure 50**). Notably however, unlike Kings Cross Train Station, there is no meaningful height allowance above the Edgecliff Transport Interchange.

Taller buildings in these spines are dominated by point towers dating from the 1960s to 1990s that have heights of up to 45 and 32 storeys respectively (refer to **Figure 51**). Given these attributes, the site (which is located at the top of these ridge lines) is different to the remainder of the Woollahra LGA, which, has a more suburban character and lower building heights towards the peninsular.

Notably, this is also recognised by the Woollahra LSPS that identifies Edgecliff as the gateway between the eastern suburbs and the CBD. While of a greater height than other buildings, uplift of the nature proposed is compatible with this overall visual pattern. In terms of broader context, it represents a clear urban termination of the line of point towers heading east from the CBD generally along the William Street and New South Head Road axis and those of the Darling Point peninsula terminating above the only transport interchange within the Woollahra LGA.

This principle is also reinforced as one of the key strategic planning elements of the Draft ECC Strategy whereby the greatest heights are concentrated along the ridgeline to emphasise the sloping topography and protect significant views from homes, public spaces and roads. Because of this, a one dimensional comparison of this Planning Proposal against the site's current height controls is not the singular nor most appropriate benchmarking tool of considering the appropriateness of height on the site.

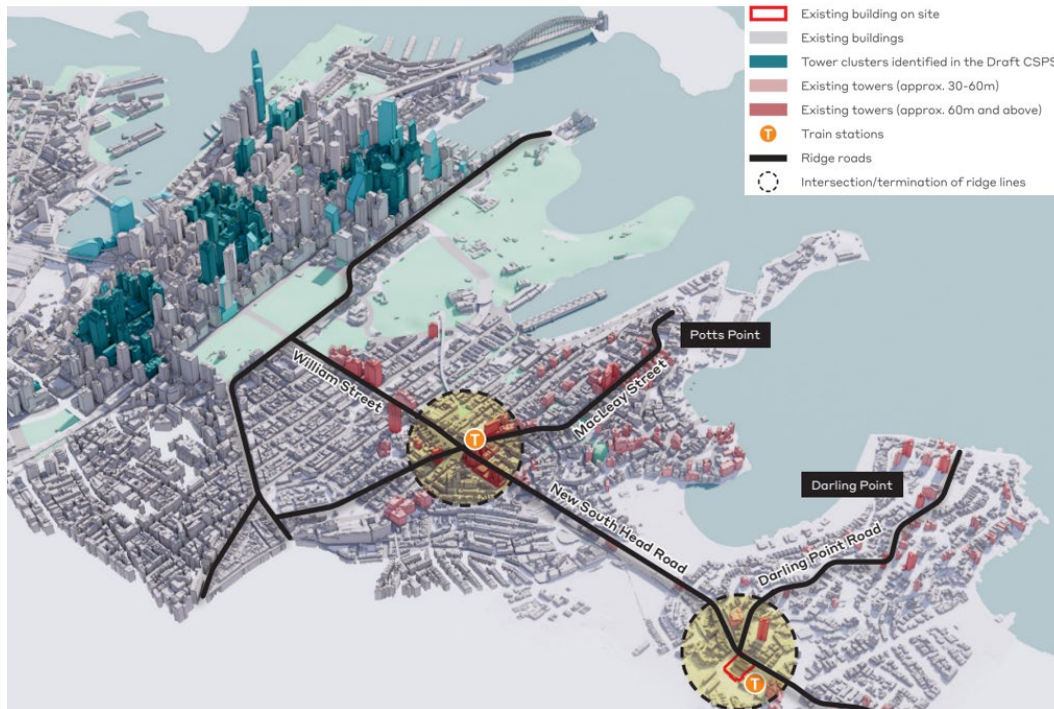


Figure 50 – Existing Point Tower Typologies along Ridgelines

Source: Ethos Urban

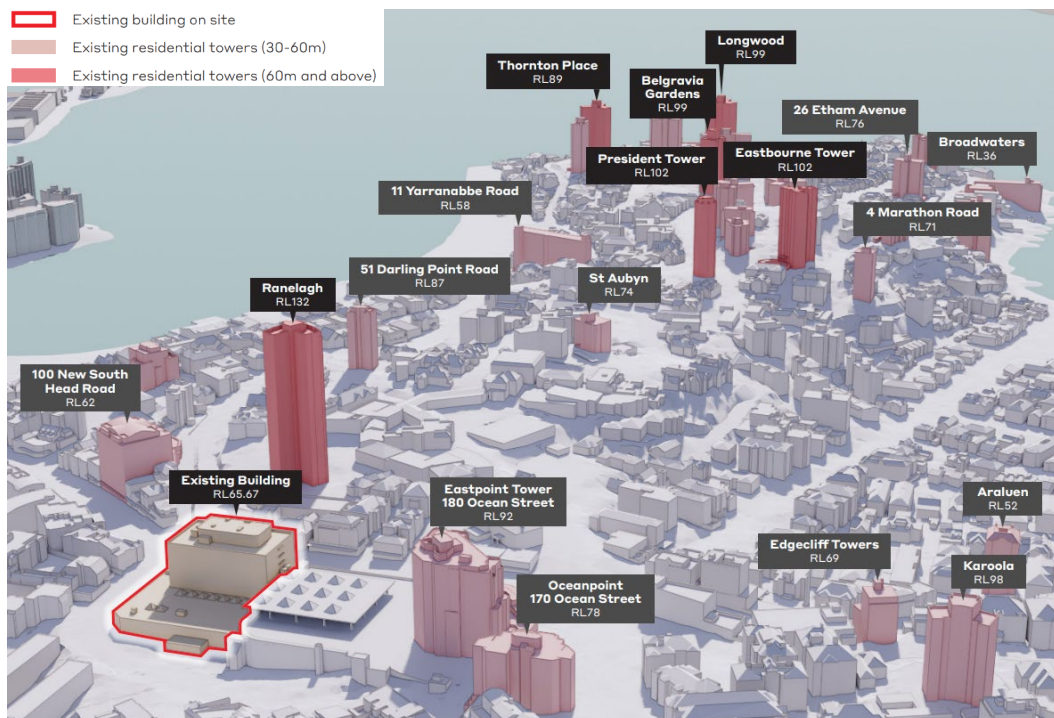


Figure 51 – Darling Point Road Ridge Built Form Typology

Source: Ethos Urban

8.3 Centres Analysis and Hierarchy

This section provides an analysis that demonstrates that:

- The building height within a centre should not be determined to be suitable based simply on the designation within the centres hierarchy. Rather, it should consider the centre's attributes, characteristics and capacity to manage density and building height in an appropriate manner.
- The height of development across Sydney is not tied to a centre's designation within the centres hierarchy prescribed under the 2016 Greater Sydney Region Plan (**GSRP**).
- Local Centres contain building heights well above identified Strategic Centres across Sydney.
- In many cases across Sydney, the designation of a centre does not accurately reflect its actual locational, infrastructure and amenity attributes that make it suitable for height and density, and instead considers wider characteristics such as industry, tourism or cultural attributes.
- Benchmarking centres across Sydney identifies a trend where additional height and density is associated with the centres capacity to manage those increases through attributes associated with infrastructure, accessibility, and amenity such as mass transit, levels of amenity, access to jobs and services, and district connectivity.
- This is irrespective of whether a centre has been deemed 'Local' or 'Strategic'. Because of this, we continue to see the growth of new Local Centres and emerging development precincts with significant height and density (in many cases greater than that proposed within the Planning Proposal) based on the respective centre's attributes.

8.3.1 Identifying and Analysing the Attributes of Centres

A centres designation within the hierarchy of a Local, Strategic or Metropolitan Centre is based on varying attributes. Those attributes are based on a wide range of characteristics of the area however importantly also reflect on the centre's role against the wider backdrop of the GSRP (reflected in **Figure 52**).

There is also recognition within the GSRP that *Improving liveability involves the creation and renewal of great places, neighbourhoods and centres. This requires place-based planning and design excellence that builds on an areas characteristics. It acknowledges the need for additional housing **close to centres**, recognising the centre's primary role to support a community's access to goods and services, and the **need for the centre to grow and evolve over time**.*



Figure 52 – Attributes of Local and Strategic Centres

Source: GSRP

When we review the above attributes against the GSRP, a centres designation as a Strategic Centre or a Local Centre doesn't necessarily reflect on the centres ability to deliver density in any particular manner. A good case study for this can be identified with the below assessment of the Manly Strategic Centre, as identified within the North District Plan.

Case Study Manly – Strategic Centre: North District Plan

The North District Plan identifies Manly's designation as a Strategic Centre and notes that:

'Manly strategic centre includes cultural, tourist, retail and entertainment activities for residents as well as local and international visitors. The variety of restaurants and small bars contribute to a vibrant night-time economy. Recreational opportunities from the coastal location and stunning beaches provide economic opportunities such as eco-tourism around North Head and Cabbage Tree Bay Aquatic Reserve.'

Manly has limited district and regional connectivity in terms of enhanced mass transit/public transport and does not currently have any significant height/density permitted. When you consider its employment generating attributes there is only a modest predicted increase in employment generation under the North District Plan and the existing base is also limited (lower than all Strategic Centres within the Eastern District and lower than Local Centres such as Edgecliff and Double Bay). However, the centre's recognition as a **Strategic Centre** is reinforced by its attributes being a local and international tourism hot spot with a vibrant night-time economy, cultural attractions and beaches promoting eco-tourism opportunities.

Comparatively, Meadowbank, which is a **Local Centre** identified within the GSRP and North District Plan was a centre identified to significantly increase height and density for increased employment and housing within the Northern District and this has come to effect as a housing hot spot in the region with greater district and regional connectivity.

Therefore, analysing appropriateness for building height, density, land use, and urban outcomes as illustrated above is nuanced and should not be undertaken via a simple, one-dimensional assessment of a centre's classification in the centre's hierarchy outlined in the GSRP but more so against the centre's attributes and capacity.

When we consider Edgecliff, it is designated as a Local Centre however on closer examination, it holds many of the key attributes of other, larger strategic centres identified in the GSRP (refer to **Figure 53**). Some of these key attributes include enhanced mass transit and public transport accessibility, high levels of district and regional connectivity, and access to a more diverse range of jobs, services, and amenity given its proximity to the Sydney CBD. There is also significant amount of latent capacity in infrastructure capacity and high-level liveability criteria that are met in the centre.

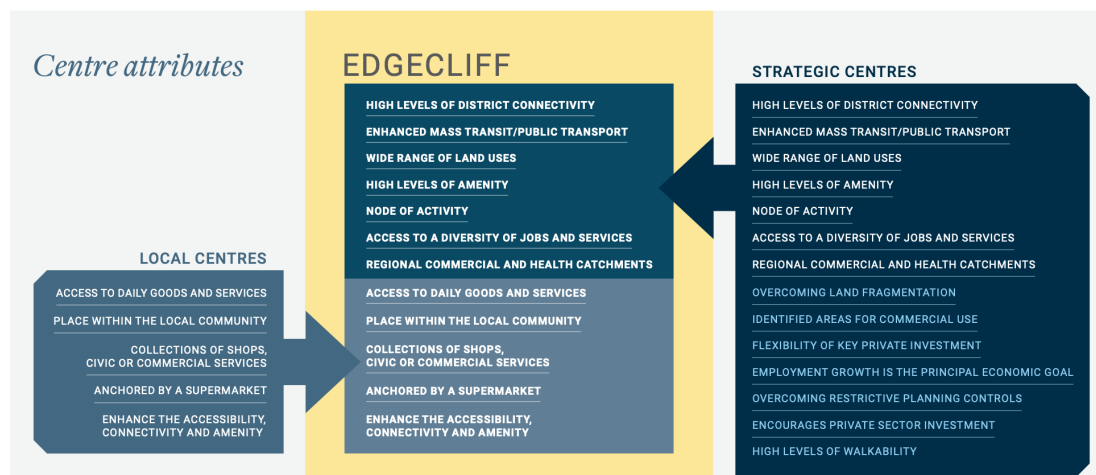


Figure 53 – Centres Attributes in Edgecliff

Source: Woollahra Council

Because of this, it was recognised by the Panel (during the previous Planning Proposal for the site) that Edgecliff as a wider corridor, shares many of the key attributes of other, larger Strategic Centres identified within the GSRP. The Panel with this sentiment, informally coined the term and the area as a 'Strocal Centre'.

When we further analysis these attributes against centres across Sydney (as below), it is apparent that a centres position on the hierarchy (i.e., whether it is designated as a Local or Strategic Centre) does not directly assess or mandate its suitability for building heights or density. Moreover, an analysis of its attributes is used to distinguish its suitability for building heights or density and therefore a wider consideration of the centre's attributes should be applied when considering the requested height of building of the Planning Proposal.

8.3.2 Identifying and Analysing the Topography Characteristics and Type of Density

Council's pre-lodgement consultation (refer to **Appendix R**) requested that the proponent demonstrate the appropriateness of the Planning Proposal's building height in context of the planning controls of Bondi Junction. In particular, they requested that attention was given to the status of Bondi Junction as a Strategic Centre with an existing height control of 60m.

The analysis of Centres Hierarchy in **Section 8.3.1** clearly analyses how a centre's designation in the centres hierarchy should not be a factor in determining the suitability of height and density. Giving weight to this, **Section 8.3.3** and **Section 8.3.4** provides many examples of Strategic Centres and Local Centres which far exceed the height controls of both Bondi Junction and this Planning Proposal. The analysis within these sections emphasises that a place-based assessment is more appropriate than simply determining the potential building height by centre hierarchy and a standardised Height of Building Control.

The flat topography and ownership patterns (comprising large, consolidated landholdings) within the Bondi Junction Centre create a more traditional street grid pattern (refer to **Figure 54**). This is reflected within the *Waverley Local Environmental Plan 2012*, which prescribes a single height of building control of 60m across the majority of the Bondi Junction Strategic Centre. However, this standardised approach is often criticised as it creates a more homogenous built form that has little to no articulation, separation and interaction with the surrounding landforms. This results in more intrusive built form that has significant bulk and scale impacts.

Comparatively, Edgecliff's topography rises from the east, (approximately RL 4m), with the highest point being near the site (approximately RL 32m) and falls to west (approximately RL 6m). Unlike the street grid pattern of Bondi Junction, the Edgecliff Corridor features a single arterial road (New South Head Road) which follows this topography. Local roads which run in a north-south direction 'splinter off' New South Head Road in a sporadic way creating a single block of developable sites. Accordingly, the ownership patterns (comprising smaller, irregular shaped landholdings) are heavily dictated by the sloping topography and minimal regularity (refer to **Figure 55**).

Therefore, Edgecliff requires careful consideration of height and densities, and not a standardised approach. It should consider the natural landform and topography, existing ownership patterns, and the road network, as well as other attributes (discussed in the sections above) such as proximity to public transport. In doing so, this would result in greater height and density applied to landholdings closer to the top ridgeline and Edgecliff Transport Interchange). This also allows for views and amenity to be maintained for the wider corridor.

This approach was appropriately considered by Council when developing the Draft ECC Strategy and by the proponent in the preparation of this Planning Proposal. Specifically, the Draft ECC Strategy notes the following:

"The distribution of the maximum HOB generally follows the natural topography. The highest HOB is concentrated around the ridgeline to emphasise the sloping topography (around the train station) and steps down with the natural landform. This allows reasonable amenity and views to be maintained across the ECC."

The above is reflected through the height of building at the site (in both the Draft ECC Strategy and this Planning Proposal), noting that the site is located at the top of the ridgeline and is directly adjacent to the Edgecliff Transport Interchange. In both instances, the proposed height of building at the site is greater than the maximum height of building in the Bondi Junction Strategic Centre.



Figure 54 – Grid Pattern and Landholdings in Bondi Junction

Source: FJC



Figure 55 – Sporadic Pattern and Landholdings in Edgecliff

Source: FJC

It is also noteworthy to consider the findings within the Visual Impact Assessment (**Appendix F**) which considers broader district views surrounding the site. It specifically notes (refer to **Figure 56**):

“The Bondi Junction centre as a skyline feature is of significant density and is horizontally very extensive, reaching from Oxford Street intersection with Old South Head Road on the east to Queens Park and Centennial Park to the West. The bulk, horizontal scale and density that it presents in many views would not share the same attributes of the Planning Proposal. The Planning Proposal would not have the presence or overbearing scale of Bondi Junction.”

This is primarily due to the place-based approach that has been considered and developed as part of the Planning Proposal as detailed above.



Figure 56 – Comparison of the Bondi Junction (left) and Edgecliff (right) Skylines

Source: RLA

8.3.3 Benchmarking Centres and their Respective Attributes

Benchmarking the attributes of various centres within Sydney, a trend begins to evolve whereby greater heights and density are often reflected around a centres capacity to manage those increases with particular attention to attributes associated with infrastructure, accessibility, and amenity such as mass transit, levels of amenity, access to jobs and services, and district connectivity. This trend demonstrates a high regard for quality place-based planning outcomes and the analysis highlights Edgecliff's suitability to be accommodate increases in line with this Planning Proposal.

Edgecliff and Rhodes for example, are not dissimilar in terms of attributes. Rhodes is identified as a **Strategic Centre** and has available heights up to 151m (48 storeys). Like Edgecliff, it is serviced by Rhodes Train Station and has open space in its vicinity, two primary supermarkets and a mix of retail and civic uses, all within walking distance which supports its suitability for tall towers.

However, other centres which are **not** classified as Strategic Centres such as Harris Park (which has heights up to 138m / 39 storeys) and newer urban renewal precincts such as the Carter Street Precinct in Parramatta (which can obtain heights up to 115m / 37 storeys), can also obtain significantly taller heights not dissimilar to Rhodes. This is because they hold similar if not better locational and transport attributes to support density and ultimately, have begun to unwind the one-dimensional notion of limiting density only to Strategic Centre's identified in the 2016 GSRP.

The most significant differences that Edgecliff has between the centres mentioned above is its proximity and accessibility into the Sydney Metropolitan CBD. Edgecliff is only 2.5km and 5 minutes away via 2 train stops. This accessibility to a diversity of jobs, services and amenity makes it highly suitable for increased density and taller allowable building heights when compared to other centres which also share similar attributes but are not as well connected. Comparatively, Strathfield, Burwood and Rhodes are all approximately 12km away via a 20-30 minute train ride to the CBD. Harris Park and the Carter Street Precinct are at the doorstep of the Parramatta CBD which aligns with their proximity to this Metropolitan Centre.

Comparatively and as mentioned previously, you have established strategic centres such as Manly, Mona Vale, East Gardens and Frenchs Forest with permitted heights between 40m and 69m (12 – 22 storeys). These heights are significant when you consider that these centres do not have any mass transit / train offering however offer other attributes which recognise their strategic nature. If these centres can achieve these heights and density without mass transit/trains, then Edgecliff, with this key attribute is compatible for greater heights and density. With the location being directly above the Edgecliff train station and adjacent to the bus interchange, the site is considered to have high levels of regional connectivity and direct accessibility to the diverse Metropolitan CBD and based on this it is suitable for the building heights being sought.

A similar comparison can be drawn for local centres such as Kellyville and Bella Vista (which have heights varying from 50m to 68m). Compared to Edgecliff, they have very low attributes and are situated in a low-density locality. Beyond the Metro, they do not have the concentration of uses and amenity like Edgecliff does. The amenity, locational and transit-orientated attributes of Edgecliff would infer its ability to support significantly more height and density than these centres, when these centres themselves can achieve 22 storeys.

8.3.4 Wider Local Centre Catchment Analysis

When we expand the analysis to the wider local centres across Sydney (and not just the Eastern District City), these contain significant height and density controls (as well as existing tower typologies) that demonstrate that height is not solely tied to a centre's designation in the hierarchy. Put simply, Sydney contains a myriad of Local Centres with heights well above recognised Strategic Centres:

- Five Dock which has permissible heights up to 79m (25 storeys).
- Granville which has permissible heights up to 99m (31 storeys).
- Strathfield which has permissible heights up to 59m (19 storeys).
- Wolli Creek which has permissible heights up to 70m (22 storeys).
- Brighton Le Sands which has permissible heights up to 51m (16 storeys).
- Rockdale which has permissible heights up to 40m (12 storeys).
- Telopea which has permissible heights up to 68m (21 storeys).
- Granville which has permissible heights up to 92m (29 storeys).
- Bella Vista which has permissible heights up to 69m (22 storeys).
- Harris Park which has permissible heights up to 138m (39 storeys).
- Carlingford which has permissible heights up to 57m (18 storeys).
- The Carter Street Precinct at Lidcombe which has permissible heights up to 115m (37 storeys).
- Lidcombe which has permissible heights up to 55m (17 storeys).

These heights are the result of planning intervention over many years and are on par and in some cases exceed permissible heights in recognised Strategic Centres such as Mascot (44m / 14 storeys), Hurstville (65m / 20 storeys), Hornsby (77m / 24 storeys), Kogarah (39m / 12 storeys), Sutherland (40m / 12 storeys), and Mona Vale (13m / 4 storeys), East Gardens (69m / 22 storeys), Campsie (27m / 8 storeys, noting that the recent Campsie Town Centre Masterplan supports heights up to 20+ storeys).

The commonality that lies across all the Local Centres mentioned is their relationship and proximity to existing transport infrastructure. **These heights sit around existing train stations and demonstrate that across Sydney, centres are more likely to be developed to a greater height and density based on their ability to support transport orientated development which is uninfluenced by their more one-dimensional and now dated centres designation.** However notably, these centres are generally considered to have lower attributes to Edgecliff overall when you benchmark the latent capacity in transport and other social infrastructure, housing affordability, access to open green space, liveability criteria and most importantly, proximity to the Metropolitan Sydney CBD.

8.3.5 Breaking Down the Comparison of a Centres Hierarchy

The proposal's height has been illustrated previously by Council Officers within feedback provided in the Pre-application Planning Meeting (incorrectly utilising the previous Planning Proposal's height of building). This preliminary assessment on building heights against heights in other centres did not consider a wide catchment of other regions and ignores the fundamental analysis illustrated above which outlines that a centre's designation should not (and has not) reflect the suitability of building heights.

Centres across the eastern district were also not accurately reflected/updated. For example, and on review of various current Local Environmental Plans (and as detailed above):

- Randwick can achieve permissible heights up to 54m (19 storeys) (rather than the 25m previously presented).
- Five Dock can achieve permissible heights up to 79m (25 storeys) (rather than the 20m previously presented).
- Frenchs Forest can achieve permissible heights up to 40m (12 storeys) (rather than the 12m previously presented).
- Rhodes can achieve permissible heights up to 151m (48 storeys) (rather than the 93m previously presented).

Importantly the analysis failed to capture other established Local Centres within the eastern district. Centres such as Wolli Creek can obtain heights well above those identified, anywhere from 46m to 70m (14 – 22 storeys). Erskineville has permissible heights of up to 55m and Arncliffe up to 70m, while Rockdale can obtain heights up to 47m (15 storeys).

The analysis should also consider actual heights that are established or emerging across the eastern district to reflect an appropriate place based response within any proposal. These matters, combined with their level of accessibility and attributes (which is elaborated previously in this section) are crucial in considering the suitability of heights (and density) on a site with its overall character. Wolli Creek is again one such example with an established cluster of residential towers up to 22 storeys (68m) while Darling Point has a myriad of existing tower typologies up to 32 storeys (circa 99m) along its peninsula.

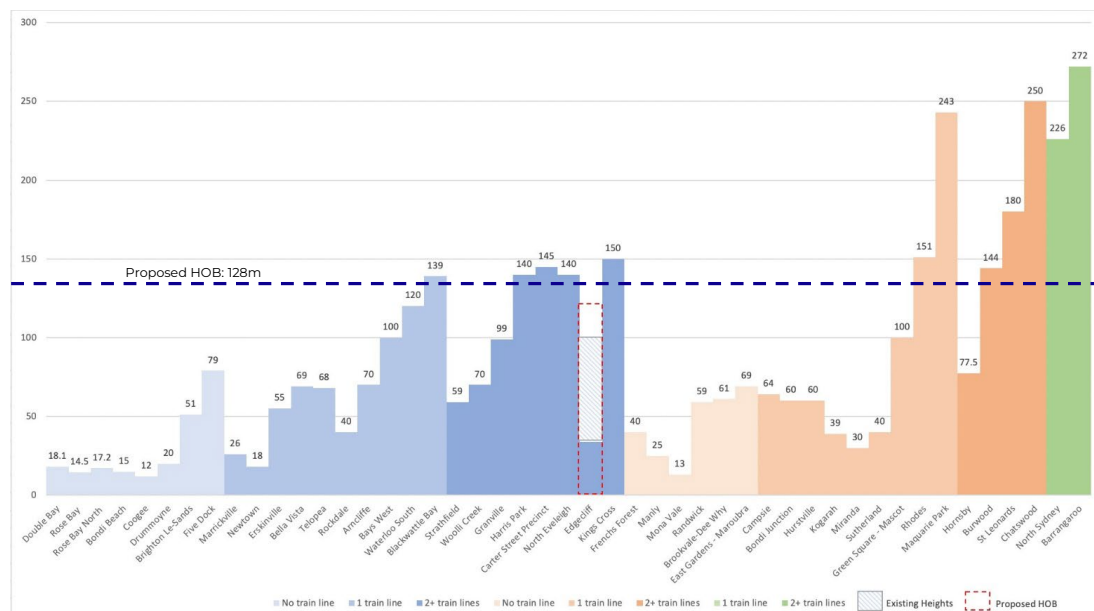


Figure 57 – Comparison of maximum height of buildings in metres with centres hierarchy

Source: Ethos Urban

On a detailed examination of **Figure 57**, it is clear that a wider analysis of centres is required against the criteria of the centre attributes which begins to explore the actual and more nuanced relationship of heights and centres across the eastern district and Sydney more broadly.

When considering the wider catchment of centres around Sydney, **Figure 57** starts to highlight that centres that are similarly characterised with attributes like Edgecliff are capable of and often do increase height and density greater than strategic centres.

These findings clearly indicate (as outlined above) that centres are not designated Local or Strategic Centres solely based on their suitability to incorporate height or density changes but a wide set of attributes in line with varying Planning Priorities identified in the Regional and District Plans. **Therefore, a Centres overall building height or a Planning Proposal recommending a certain building height should not be determined simply by benchmarking its designation in the centre hierarchy and that a centre's attributes are key consideration in determining the suitability of density.**

Based on the Planning Priorities and Principles in the GSRP and respective District Plans, further planning and thinking has started to develop a methodology to consider how centres should evolve over time. As the previous sections have illustrated, centres across Sydney have not developed systematically in accordance with their centres designation. Rather, there is recognition that land in highly accessible and amenity-rich locations should work harder, leveraging growth on these key attributes, irrespective of whether they sit within a 'traditional' Local or Strategic Centre.

This has resulted in a new dawn of self-sufficient centres and precincts that when examined, hold a range of attributes that sit across both a traditional Local and Strategic Centre originally conceived under the GSRP. That is, they provide for the immediate day-to-day needs of their residents, workers and immediate catchment through mixed retail, civic and community offerings (like a Local Centre) but also support significant employment floor space and housing more akin to a Strategic Centre – all in one.

Illustrated in **Figure 58** below, these new or evolving centres that sit within 5km of their major Metropolitan Centre which include the renewal of established precincts like Redfern/North Eveleigh (26 storeys), and precincts such as Blackwattle Bay (35 storeys), the Bays West Precinct (25 storeys) and Waterloo South (33 storeys) have begun to leverage this placed based planning approach. Similarly, the Carter Street Precinct (37 storeys) within 5km of its Metropolitan Centre (Parramatta) is another example.

The proposal is in full alignment with this emerging concept and there is no reason or constraint which would inhibit the site from continuing this planning evolution, which can leverage of the existing attributes of a highly unconstrained landholding, existing transport infrastructure and surrounding amenity, all of which sits within 3km of the Sydney CBD.

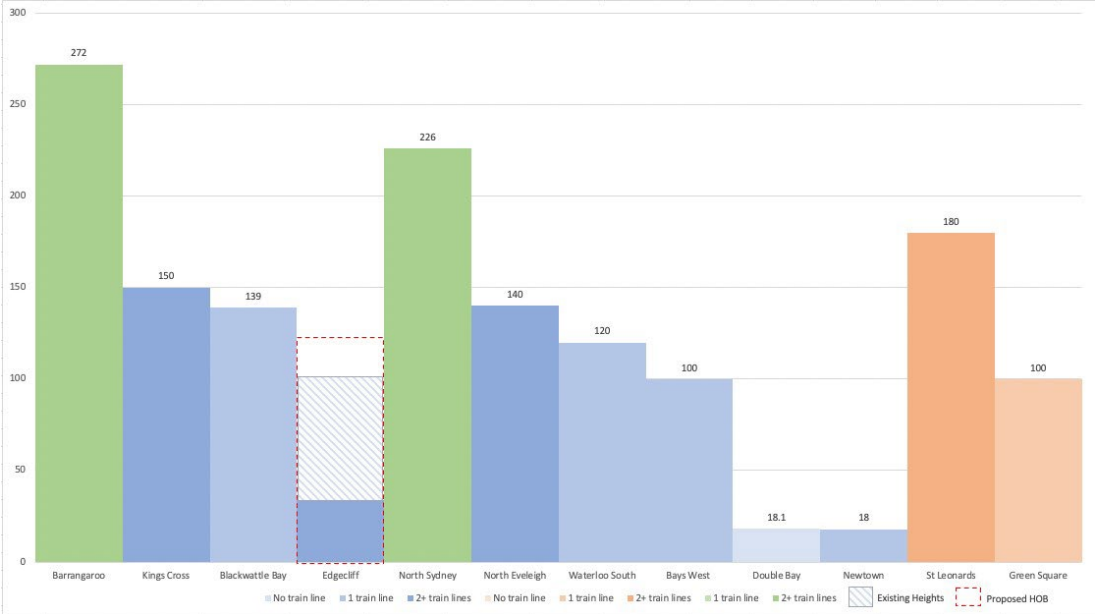


Figure 58 – New and evolving centres within 5km of their Metropolitan Centre

Source: Ethos Urban

9.0 Site Specific Merit

9.1 Feedback from the Sydney Eastern District Planning Panel

As identified in **Section 3.3**, the previous Planning Proposal for the site sought amendments to the WLEP 2014 that would facilitate a singular tower form on the site that was 45 storeys in height and had a total GFA of 44,190 sqm.

At the time the Panel had the benefit of considering the previous Planning Proposal against the Draft ECC Strategy, which shared a similar GFA with an alternative built form on the site. The Panel noted the following regarding the previous Planning Proposal submitted for the site:

- A built form height for the tower around the mid-30 storeys would be more desirable.
- Reconsider the proposals over emphasis on view sharing and the provision/extent of protecting view corridors. A shorter, less slender proposal may be suitable.
- Further consideration is needed to the transition between the built form and the lower density residential precincts towards the south.
- A revised Planning Proposal should resolve all ADG constraints identified as being an issue in the Draft ECC Strategy built form.
- If Edgecliff has the attributes of a Strategic Centre (therefore, necessitating the additional height) greater public benefits need to be demonstrated including:
 - More affordable housing mix.
 - Adequate open space.
 - Improved community facilities within the location.
- If any future proposed upgrades to the Transport Interchange should be proposed, the proponent should obtain more advanced agreement with the relevant agencies.

9.2 Draft Edgecliff Commercial Centre Strategy (Draft ECC Strategy)

The Draft ECC Strategy sets a new vision for the wider Edgecliff commercial centre and makes recommendations on (amongst other things) built form outcomes, maximum building heights and key public domain infrastructure. For the site, the Draft ECC Strategy recommended:

- A height of 86m across two residential towers between 14 and 26 storeys.
- GFA allowance of circa 44,003 sqm (which assumed amalgamation with part of the existing Road Reserve).
- A central public plaza, ground floor retail.
- Part four (along New South Head Road) and part 5 (along the residential to the south) storey commercial podium.
- Zero tower setback along the east and west boundaries.
- Ground floor central plaza fronting New South Head Road.
- 5% affordable housing of the new residential GFA.

Council welcomed feedback on the Draft ECC Strategy to identify opportunities to improve Edgecliff. The proponent in collaboration with Council has considered the planning principles and key elements which have underpinned the vision and built form outcomes for the site under the Draft ECC Strategy and have worked to ensure these are responded to (and refined) as part of this Planning Proposal.

The way in which the Planning Proposal has evolved from the Draft ECC Strategy and aligns with or enhances the principles and key elements is explained below.

9.2.1 Detailed Feedback and Design Evolution

As shown at **Figure 59**, the indicative massing at the site in the Draft ECC Strategy included two residential towers, at 14 and 26 storeys respectively, that were separated by 24m to support a public plaza at ground level.

However, the indicative massing raised several concerns during early collaboration between the proponent and Council. Notably, the indicative massing would not be capable of complying with the Apartment Design Guide (ADG) as there was no building setback provided against the adjoining neighbour to the east. The proposed tower locations also had no consideration of the existing Eastern Suburbs Railway Tunnel below the site and

would require a lift core to be located within the Sydney Train exclusion zones. Preliminary testing also found that the form would overshadow Trumper Park Oval at 10am on July 21.

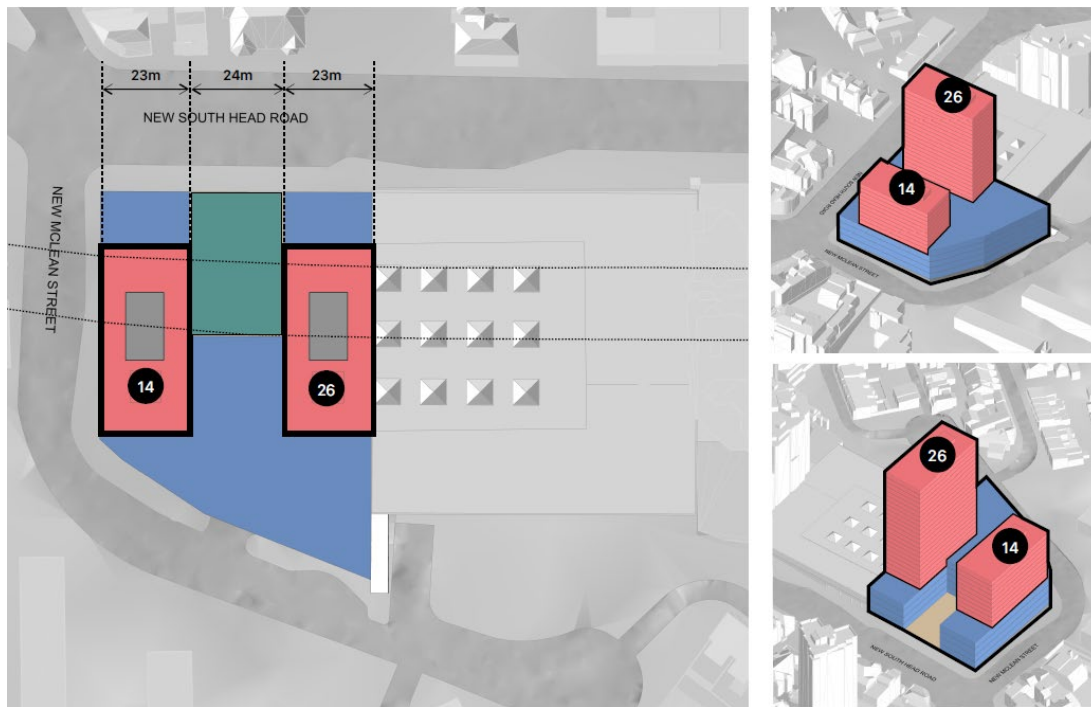


Figure 59 – Draft ECC Strategy Massing

Source: FJC

In seeking to achieve greater compliance, the tower form would need to be setback from the eastern boundary by 12m to accommodate potential future development directly adjacent to the site. This would result in a non-compliant building separation between the two tower forms on the site (shown at **Figure 60**). It would also compromise the quality of the public plaza, which was envisioned to act as the key public domain contribution within the precinct (despite its location orientated towards the vehicle dominated New South Head Road) and does not resolve the issue with the Eastern Suburbs Railway tunnel below and existing transport easements across the site.

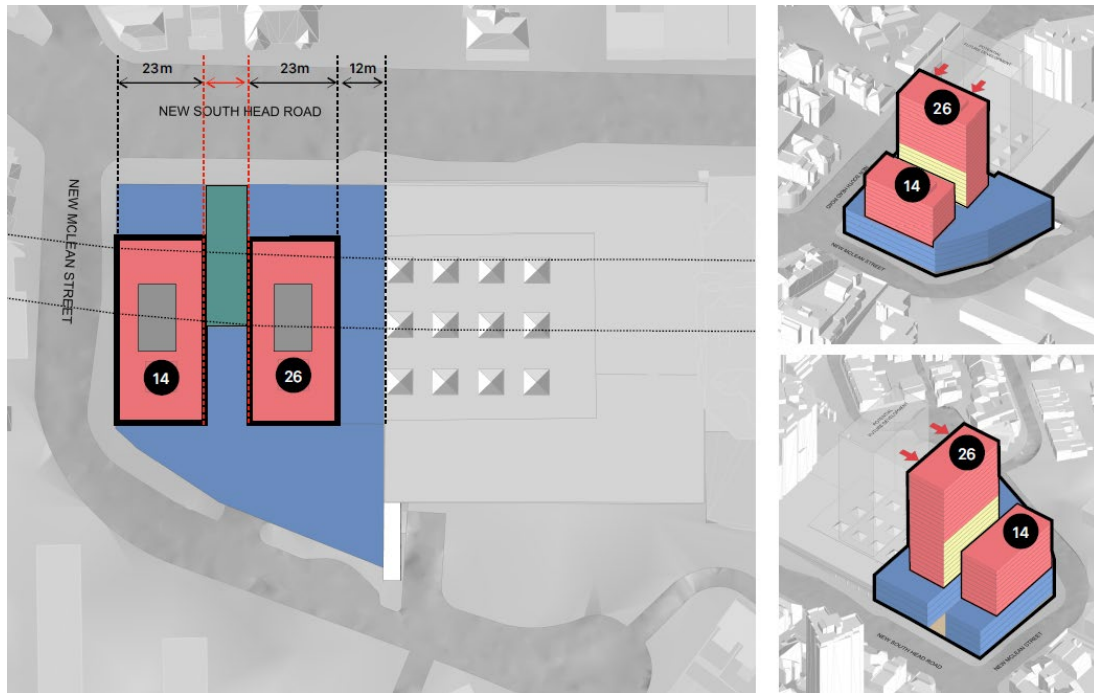


Figure 60 – Draft ECC Strategy Proposed Massing with Reduced Inter-Tower Separation

Source: FJC

Achieving compliance with both the eastern tower setback (12m) and inter-tower setback (24m) would result in the creation of inefficient and unviable floorplates unlikely capable to deliver the required GFA (refer to **Figure 61**). The floorplates envisaged under this approach would also make it more difficult to locate a core that will provide the structural requirements of this built form, requiring a significantly more complicated engineering solution.

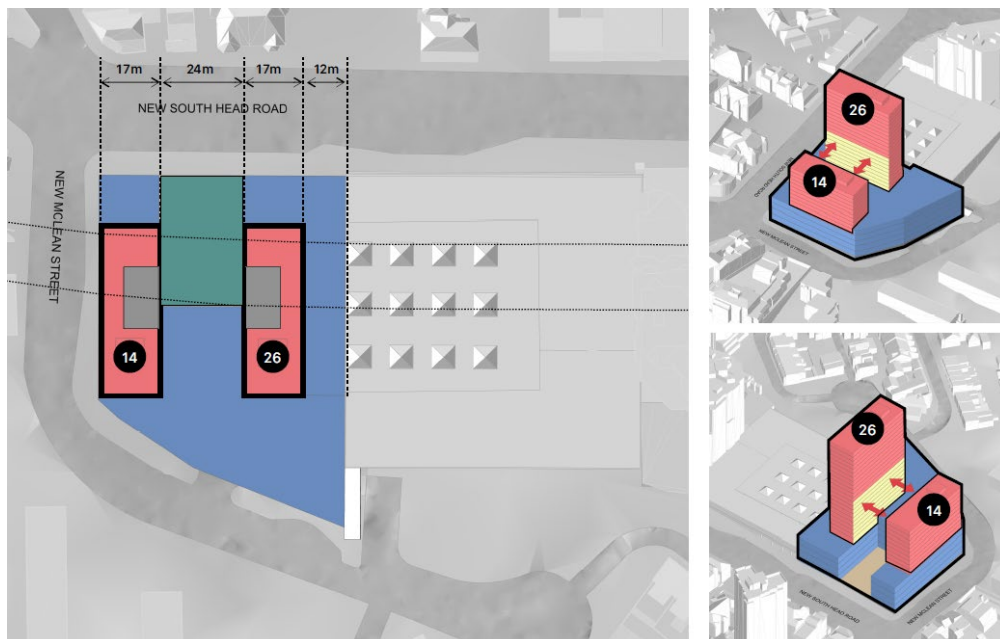


Figure 61 – Draft ECC Strategy Proposed Massing with Compliant Tower and Inter-Tower Setbacks

Source: FJC

Achieving both the setback / separation requirements and the floorplate requirements would exacerbate shadow impacts and interface with residential development to the south, and would also inhibit view sharing to the CBD for the existing residential development at 170 and 180 Ocean Avenue (refer to **Figure 62**). The floorplate in this scheme remains relatively inefficient and would still require a more complicated structural solution.

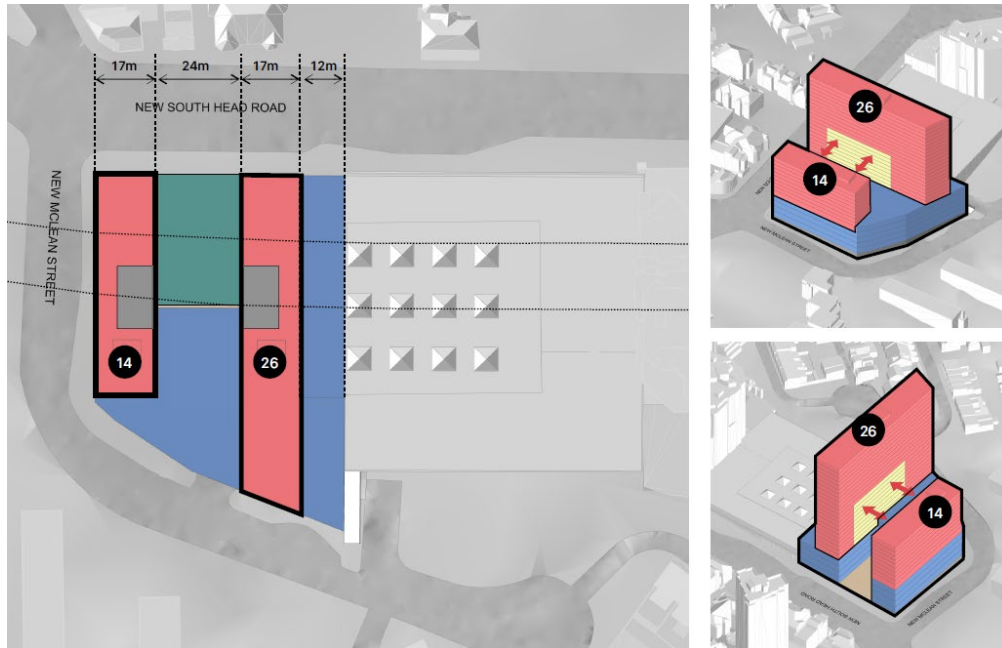


Figure 62 – Draft ECC Strategy Proposed Massing Options with Displaced Floorspace, Compliant Tower and Inter-Tower Setbacks

Source: FJC

As a result of the above considerations, the proponent explored alternative options to comply with the requirements of the ADG, minimise environmental impacts on surrounding development and achieve an optimal floorplate configuration. This has necessitated an increase in the heights envisioned by the Draft ECC Strategy (shown at **Figure 63**) however still resulted in a relatively inefficient floorplate and structural solution along with only minor improvements to environmental impacts.

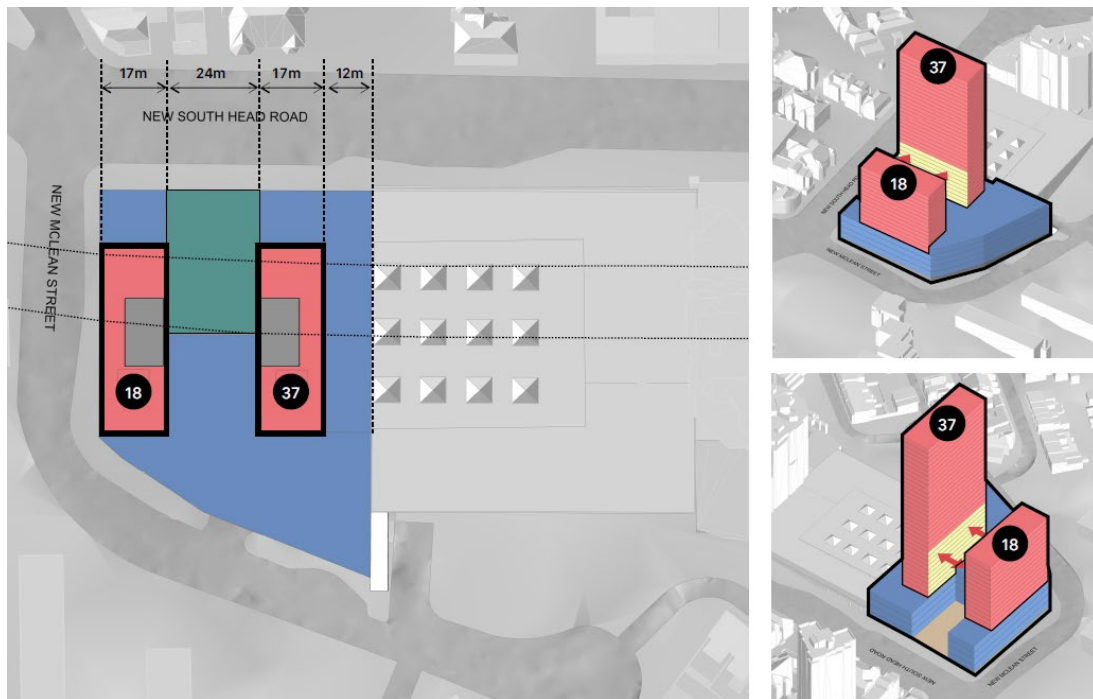


Figure 63 – Draft ECC Strategy Proposed Massing Options with Displaced Floorspace, Compliant Tower and Inter-Tower Setbacks

Source: FJC

The proponent reviewed this design evolution with Council staff who were keen to explore the positive outcomes achieved by the previous Planning Proposal, namely the creation of improved view corridors and the interaction of the commercial and residential land uses.

In conjunction with Council, the proponent explored an opportunity to enhance the wider public domain strategy considered within the Draft ECC Strategy, including the relocation of the public plaza away from the harsh New South Head Road whilst also helping to rejuvenate the New McLean Street frontage of the site and reaffirming this space for the local community and pedestrian use.

9.2.2 Land Use

The Draft ECC Strategy envisages that the existing land use zoning be retained for the site. Commercial uses would be concentrated around Edgecliff Train Station within a large podium and non-residential uses would be located above the podium within two tower forms fronting New South Head Road and New McLean Street. Residential uses would be located above other uses with sufficient setbacks.

The proposal is consistent with this land use vision because it retains the site's existing zoning. The proposed uses include a retail and community hub which are located within a more human scale and permeable podium with residential located off New McLean Street and orientated away from New South Head Road, consistent with the existing uses. The commercial use is concentrated in a more identifiable building closer to the Train Station and Bus Interchange along New South Head Road, offering a more logical approach to land use.

9.2.3 Height

The distribution of height identified in the Draft ECC Strategy seeks to create the greatest height and a focal point close to Edgecliff Station. This is reflected through a recommended height of 86m at the site and more human-scale development further beyond this.

The height of the proposal is greater than that envisioned under the Draft ECC Strategy, however importantly the built form proposed has taken into account compliance with ADG guidelines and principles, which when overlaid on the Draft ECC built form yields similar outcomes without resulting in further environmental impact (refer to **Section 9.4.1**). Notably, the proposed height of the Planning Proposal is also within the guidelines and

feedback received from the Regional Panel. Notwithstanding this, the proposal provides the opportunity to create a visually striking focal point at the gateway to the Eastern Suburbs, whilst also ensuring that amenity of the surrounding areas is maintained.

The proposed dual-tower typology is generally consistent with that shown in the Draft ECC Strategy. It will more equitably distribute height across the site and maximise ADG compliance and residential amenity (as noted above in **Section 9.2.1**) whilst also creating a more human scale podium particularly orientated along the south and create a dedicated commercial building fronting New South Head Road.

9.2.4 Floor Space

The Draft ECC Strategy envisages an FSR of 7.5:1 (equating to a GFA of approximately 44,003 sqm) for the site.

The proposal includes a GFA of circa 44,190 sqm. In essence, this comprises the GFA to be delivered under the Draft ECC Strategy, with a further 2,000-3,000 sqm of GFA to enable the delivery of a community facility on the Council-Owned Road Reserve, an opportunity that was not previously identified within the Draft ECC Strategy however has been identified and is only facilitated by the proponent with land dedication.

9.2.5 Amalgamation

Amalgamation of the Edgecliff Centre site with the Council-Owned Road Reserve fronting New McLean Street was proposed under the Draft ECC however Council have advised of their preference to retain ownership and operation of the Council-Owned Road Reserve to facilitate the Multi-Purpose Community Facility proposed within the Planning Proposal.

This approach doesn't preclude the redevelopment of the Edgecliff Centre site under the Strategy as it achieves the required objectives of sites that are developable under the Strategy. Namely, this includes achieving functional floor plates, maintaining minimum street frontages, providing suitable access and achieving street activation whilst minimising vehicle crossovers.

Council have indicated that it is their preference that this Planning Proposal considers both parcels of land identified under the Draft ECC Strategy whilst ensuring a separate ownership structure can be maintained.

In line with Council's preference, the Council-Owned Road Reserve (and the multi-purpose council facility to be provided within this space) will be owned, operated and delivered by Council while also allowing this Planning Proposal to consider a logical whole-of-block approach to redevelopment.

Furthermore, the indicative concept highlights how the Edgecliff Centre site could be delivered either simultaneously or prior to the multi-purpose community facility on the Council-Owned Road Reserve with a seamless integration at the appropriate time.

9.2.6 Design Excellence

Potential design excellence mechanisms which are raised in the draft ECC Strategy such as a design excellence LEP provision or the use of a design review panel aligns to standard practice. The Planning Proposal (and any subsequent DA) would be capable of achieving any such design excellence mechanisms.

In accordance with Council's feedback on the scoping proposal (**Appendix R**), the proponent recognises that a future planning application for the development may be subject to advice from a design advisory panel.

9.2.7 Public Amenity and Community Benefit

Given the size and location of the site, the opportunity is recognised to deliver facilities and amenity to the broader local community. At the heart of this offering is affordable housing, land dedication for a community facility and public domain and open space improvements.

This is consistent with the Draft ECC Strategy which recognises the need for affordable housing within Edgecliff and envisages the Edgecliff Centre as the site to deliver the key public domain contribution for the Draft strategy and wider corridor. Further opportunities have been identified and are proposed to be facilitated by the proponents with an opportunity to locate a Multi-Purpose Community Facility on the Council-Owned Road Reserve and (part) land dedication.

It is noted that the proponent worked with Council Officers to address the weakness of the central ground-floor public plaza first identified in the Draft ECC Strategy. It was agreed that an elevated larger publicly accessible open green space and plaza would provide a superior outcome as it would shift the space away from the harsh New South Head Road frontage, enable improved social amenity, solar access, and an opportunity for greater

urban greening. The proponent further lowered the podium height and introduced a large public stair, highly visible at the iconic corner of the site to ensure that this contribution to the public domain is easily identified and accessible.

9.2.8 Ensuring Draft ECC Strategy Implementation

The Draft ECC Strategy offers the opportunity for significant uplift and redevelopment throughout the wider Edgecliff Corridor. Notwithstanding this, it should be carefully considered when assessing Planning Proposals and Development Applications to ensure that constraints are appropriately considered and that the overarching vision for Edgecliff (such as balancing an increased provision of housing with the need to rejuvenate the area for commercial uses) can be achieved.

Most notably, the Draft ECC Strategy identifies 19 potential development sites that will be considered for uplift. Of these, 13 sites (or 70%) are required to be amalgamated to achieve uplift. This does not consider the existing ownership patterns of these sites which primarily comprises strata subdivision. In addition, the Draft ECC Strategy does not consider the heritage constraints within the area, as reflected through the selection of one (1) heritage listed site and five (5) sites adjacent to heritage items being selected for uplift. The ownership patterns and heritage constraints have the potential to impede uplift from being delivered as envisaged by the Draft ECC Strategy.

The subject site (which is identified as the key strategic site within the Draft ECC Strategy) is not constrained by any ownership patterns or heritage constraints. Notwithstanding this, it cannot be redeveloped in line with the built form envisaged by the Draft ECC Strategy. **Section 9.2.1** notes this is due to the overarching requirement to comply with the ADG separation requirements (the Draft ECC Strategy massing is inconsistent with the ADG), as well as the constraints caused by the location of the Eastern Suburbs Railway Tunnel directly under the site.

Given that the existing constraints within Edgecliff have not been fully considered in the preparation of the Draft ECC Strategy, Council should consider a place-based planning approach to ensure that the overarching vision for Edgecliff can be achieved.

9.3 Suitability of Increased Density

The proposal has been thoughtfully designed, tested, and analysed having regard to the site and the various environmental constraints surrounding the site. It was then further refined and sculpted having regard to urban design principles and contextual analysis.

The result is a height and FSR achievable within the building envelope, which is the product of urban and architectural design testing and environmental analysis. This testing established the appropriate building envelope in terms of its impacts and the site's environmental constraints (especially in relation to overshadowing and view sharing). From there, the building envelopes were further refined to be capable of accommodating a density and built form appropriate to the context.

This approach is a fundamental shift away from the setting of a generic fixed height and FSR number in isolation of site and locality-specific environmental context and impacts, which often occurs in the preparation of comprehensive LGA or town centre LEPs.

The proponent's alternate approach recognises the need for a site specific and opportunities and constraints based analysis and in particular, recognises the unconstrained nature of the site, being a large and unrestricted lot in the heart of Edgecliff above the Eastern Suburbs Railway Line, adjacent to the Edgecliff Railway Station and Edgecliff bus interchange.

The physical characteristics of the site and its location also requires consideration. The site represents a single large lot under single ownership. It does not have any significant environmental planning constraints and as mentioned above, sits adjacent/above to the Edgecliff Railway Station and Edgecliff bus interchange within the heart of the Edgecliff town centre. At the strategic level, the site has been earmarked for redevelopment within various Council policies for over ten years. As well, a number of planning priorities when read together support the investigation of the renewal of the Edgecliff Centre and the site. These focus on the integration of land use and transport through the provision of a greater amount, choice and affordability of homes in locations such as Edgecliff that have access to jobs, services and public transport.

At present, the Edgecliff Centre is a medium rise office building with active uses at the street-facing ground floor built in the 1970s. Given its attributes and opportunities mentioned, this represents an underutilisation of the site and results in poor urban design outcomes.

Accordingly, adherence to predetermined densities based on generic assumptions alone should not inhibit the development potential of a site which is latent, highly optimal and unconstrained, and can clearly deliver on the vision set out in the Region and District Plans for Edgecliff. A more optimal site or a site with the same favourable attributes may take significant time to materialise in Edgecliff (if ever given the pattern of land ownership in Edgecliff).

Further, the density proposed is intended to provide a mix of employment-generating land uses (jobs close to homes) and diverse housing options to support housing demand, the growing population of the LGA, and ageing in place. Under the LSPS, Edgecliff is identified as being important to local productivity and the site is perfectly placed and suitable to accommodate these mixed-uses with the density proposed to provide the required amenity in an otherwise constrained urban setting.

9.3.1 Consistency with the Woollahra Local Environmental Plan 2014

The proposed density is also considered appropriate having regard to the zoning, height and floor space objectives of the WLEP 2014 as identified in **Table 5** below.

Table 5 – Consistency with the Zoning, Height and Floor Space Objectives in the WLEP 2014

Clause	Comment	Consistent
Clause 2.3 – Zone Objectives and Land Use Table		
<i>To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.</i>	The proposal seeks to revitalise the site for a vibrant mixed-use development that will service the needs of the community through a combination of community uses and public spaces, the provision of retail whilst also increasing jobs and housing close to public transport.	Yes
<i>To encourage investment in local commercial development that generates employment opportunities and economic growth.</i>	The proposal will improve the quality of employment generating floorspace on the site. As a result of the proposal, there will be an expansion of commercial, retail, and community floor space that will attract investment into the heart of Edgecliff and support the retention and diversification of local employment opportunities.	Yes
<i>To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.</i>	State and local government have identified the need for an additional 157,500 homes between 2016 and 2036 for the Eastern City District (this is likely to be revised upwards given the State's housing crisis and the fact that State housing targets are being updated and revisited this year). The proposal will play a critical role in providing for a meaningful portion of this anticipated demand in the Eastern suburbs, within a highly accessible and appropriate location while reducing the need for higher densities to be placed within Woollahra's established neighbourhoods. This is important because studies undertaken on behalf of Council which are intended to inform Council's Local Housing Strategy, conclude that there is an apparent shortfall in capacity of current controls to support new high density residential housing. The proposal also looks to provide a greater amount and choice of new homes in a mixed use, transit-oriented form within a centre aligned with a train station. Combined with an improved public domain outcome and mix of uses, it will contribute to a vibrant and active centre.	Yes
<i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i>	The redevelopment is centred around a people-focused ground floor and podium comprising a mix of land uses including fine grain retail, community use, and open space, which is walkable, enjoyable and of a human scale. This will create improved street activation, pedestrian permeability, and an improved interface with the existing bus interchange.	Yes
<i>To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.</i>	The scale and type of the proposed development is intended to provide a mix of employment-generating land uses and diverse housing options to support housing demand, the growing population of the LGA, and ageing in place. This is compatible with the identified need, while also ensuring that the residential amenity of the surrounding area is not compromised (as described in Section 10.1).	Yes
<i>To ensure development is of a height and scale that achieves the desired future</i>	Part D4, Section 2.2 of the WDCP 2015 sets out the desired future character for the Edgecliff Local Centre. The proposal is consistent with the desired future character in that it:	Yes

Clause	Comment	Consistent
<i>character of the local centre.</i>	<ul style="list-style-type: none"> Includes a suite of non-residential uses (protected by a proposed minimum non-residential floor space provision) to support ongoing employment generating land uses and service provision on the site. Respond to the existing built form typology surrounding the site, to support visual quality and visual integration of the proposal within the surrounding built form context. Replace the currently inactive frontage of New McLean Street with space for a multi-purpose community facility to activate the street frontage for pedestrians. Support enhanced pedestrian permeability to and within the site through vertical connections and through site links. Increase residential and commercial capacity on a site that is adjacent to the Edgecliff Railway Station and Edgecliff Bus Interchange. <p>The larger height and scale of the proposal in comparison to surrounding development is consistent with the Draft ECC Strategy which envisaged the site as the most strategically important site within the wider corridor, thus requiring the tallest building. The proposed height and scale would also not preclude satisfying the large majority the desired future character requirements of the WDCP 2015.</p> <p>As well, Section 8.3 emphasises that a Centres overall height of building or a Planning Proposal recommending a certain height of building should not be determined simply by benchmarking its designation in the centre hierarchy. Rather, it should be benchmarked against a centres capacity in transport and other social infrastructure, housing affordability, access to open green space, liveability criteria and, proximity to the Metropolitan Sydney CBD.</p>	
<i>To encourage development that is compatible with the local centre's position in the centres hierarchy.</i>	<p>A centres designation as a Strategic Centre or a Local Centre doesn't necessarily reflect on the centres ability to deliver density in any particular manner. Rather, a centre continues to evolve based on its attributes, as well as environmental constraints and opportunities, which can cases also support the delivery of additional density.</p> <p>Edgecliff as a wider corridor, shares many of the key attributes with other centres identified within the GSRP with similar heights to the proposal, which would also support its ability to support significantly more height and density in line with the centre's position within the centres hierarchy. Further discussion is provided back in Section 8.3.</p>	Yes
<i>To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.</i>	The indicative development concept is centred around a people-focused ground floor and podium comprising a mix of fine grain retail, community use, and open space, which is walkable, enjoyable and of a human scale. It will improve street activation, pedestrian permeability, and an improved interface with the existing bus interchange.	Yes
<i>To maximise public transport patronage and encourage walking and cycling.</i>	The proposal seeks to introduces residential uses on the site and expands on commercial office, community and retail uses with immediate access to rail and bus services. It will support an increased portion of people living within easy walking access to a range of jobs, services and facilities, as well as access by bus to other nearby activity centres and by train to other centres. Bicycle parking and end of trip facilities will maximise cycling to and from the site.	Yes
<i>To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates.</i>	The Arboricultural Assessment at Appendix W notes that the redevelopment will necessitate the removal of 35 of the 48 trees located on the site (being 6 on the Edgecliff Centre site and 29 on the Council-Owned Road Reserve). Notwithstanding this, the impact of tree removal will be appropriately offset through the provision of high-quality landscaping throughout the site, in the form of a landscaped gardens, communal open spaces and courtyard. The proposed landscaping concept will provide visual interest and soften the overall appearance of the built form, whilst also minimising the urban heat island effects and improving the microclimate.	Yes
Clause 4.3 – Height Objectives		
<i>(a) to establish building heights that are consistent with the desired future</i>	As detailed above, the proposal is consistent with the desired future character for the Edgecliff Centre as established by the WDCP 2015. Although the height proposed exceeds eight storeys (which is the height anticipated for	Yes

Clause	Comment	Consistent
<i>character of the neighbourhood</i>	development fronting New South Head Road), it does not preclude the proposal from satisfying the large majority the desired future character requirements of the WDCP 2015. Furthermore, the development of the Opportunity Site Study and the Draft ECC Strategy also anticipated heights greater than those of the WDCP 2015 and this reflects a more appropriate benchmark for the evolving desired future character. The assessment above demonstrates that the desired future character of the Edgecliff Centre is not centred solely around height and instead the LEP heights really reflects a similar environment to that currently in place rather than the centre's desired future character.	
<i>(b) to establish a transition in scale between zones to protect local amenity</i>	The incorporation of a human scale podium with higher density-built form above is an appropriate method to modulate density and deliver a transit orientated development. The tower components are also well setback from the street frontages to provide a transition to the surrounding heritage and residential areas. The perception of height, particularly for the south is most evident at the pedestrian level around the podium and tower setbacks. The proposal has sought to lower the podium form towards the rear with the intent of the two tower forms is to take mass away from the lower levels (which impacts a greater number of views from 170 and 180 Ocean Avenue) and reduce the extent of shadow for residential development and Trumper Park to the south.	Yes
<i>(c) to minimise the loss of solar access to existing buildings and open space</i>	The proposed dual tower forms cast a fast-moving shadow, reducing overshadowing impacts to residential development to the south. A single or shorter, bulkier height and form would increase the width of shadow cast to the south, causing residential land to the south to be shadowed for longer. Consistent with the WDCP 2015, the proposal also does not overshadow Trumper Park between 10:00am and 2:00pm in mid-winter.	Yes
<i>(d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion</i>	The proposal is consistent with objective (d) for the reasons already set out in this report: <ul style="list-style-type: none"> • The envelopes are designed to respond to view sharing principles for residents at 170 and 180 Ocean Avenue. The podium is only two and three storeys in height to reduce the amount of bulk obscuring views at the lower levels. The overall building is then cut back and separated into two tower forms to maximum view sharing. • The proposed envelope creates a slim, fast-moving shadow which reduces the extent and duration of shadow cast on residential development to the south. Reducing the height would distribute bulk across the site and cause a wider, slower moving shadow. • The proposal incorporate setbacks and separation responsive to ADG criteria, to manage privacy concerns and visual intrusion. 	Yes
<i>€ to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.</i>	The Visual Impact Assessment identifies a range of public domain locations from where the proposal is likely to be visible (including areas which have views of the Harbour). It determines that views from the public domain outside the site would not be significantly affected by the proposal, and no significant view loss will occur (refer to Appendix F). The view analysis confirms there is no discernible difference from the proposal to the Draft ECC Strategy and in many instances provides an improved outcome.	Yes
Clause 4.4 – Floor Space Objectives		
<i>(b) for buildings in Zone E1 Local Centre and Zone M1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale</i>	As detailed above, the desired future character for the Edgecliff Centre is established by the WDCP 2015. There is no specific mention of a desired bulk and scale of development. It therefore provides less guidance in specifying what bulk and scale would satisfy the desired future character of the site. Further, the draft ECC Study is more contemporary to the WDCP and is hence more instructive in establishing the current intended desired future character for the Centre. Again, height (eight storeys) is mentioned in the WDCP 2015 desired future character statement, but bulk and scale respond to more than just height. Bulk and scale relate to the positioning, distribution, and articulation of building mass on a site, and how it is perceived from the public domain. The numerical height (and floor space) alone does not determine bulk and scale. Rather, it's how this height is translated on to a site (i.e. where and how it is positioned) which determines its bulk and sale, and ultimately, how it sits within the public domain.	Yes

Clause	Comment	Consistent
	<p>In addition, it is emphasised that future evolving character of the area is more appropriately based upon the Opportunity Site Study and the Draft ECC Strategy which also anticipated heights greater than those of the WDCP 2015.</p> <p>Given the lack of specific guidance given by the WDCP 2015 on the desired future character of the area in terms of bulk and scale, the proposal has relied on distributing mass on the site (i.e. a lower podium and setback towers) which would allow the street wall and podium to reach a height more consistent with existing heights along New South Head Road, and allow the overall building to respond to the same apartment building typology in the area (i.e. a tower element above podium setback from the street frontage). This ensures the bulk and scale of the proposal is not excessive and not dissimilar to the typology of New South Head Road, which ensures a degree of consistency in character and one responsive to the desired future character of the Centre.</p>	

9.4 Built Form and Height

9.4.1 Building Height

Broader Visual and Built Form Catchment

There is a concentration of taller buildings outside the Sydney CBD in centres and corridors aligned with major transport routes or in locations to maximise amenity and views to the Harbour. The site is located within and at the eastern boundary of a visual and built form character area that stretches from Hyde Park to Edgecliff that has a distinct presence of slender, taller building clusters (refer to **Figure 64**). These taller building clusters are aligned in two main linear corridors. The east-west corridor is aligned from the Sydney CBD along William Street and is extended to New South Head Road, and a complementary north-south spine stretching from the end of Darling Point to the Edgecliff Centre. Taller buildings in these spines are dominated by point towers dating from the 1960s to 1990s that have heights of up to 45 and 32 storeys respectively.

The proposal will offer an opportunity to complement the existing urban morphology and create a visually striking focal point at a prominent intersection within a transit oriented Centre. It will contribute positively to the broader visual and built form catchment, through solidifying Edgecliff as a gateway to the Eastern Suburbs and along New South Head Road. Importantly, it will complete the point-tower typology of the Eastern Harbour ridgeline, creating a cluster typology terminating above the transport interchange.

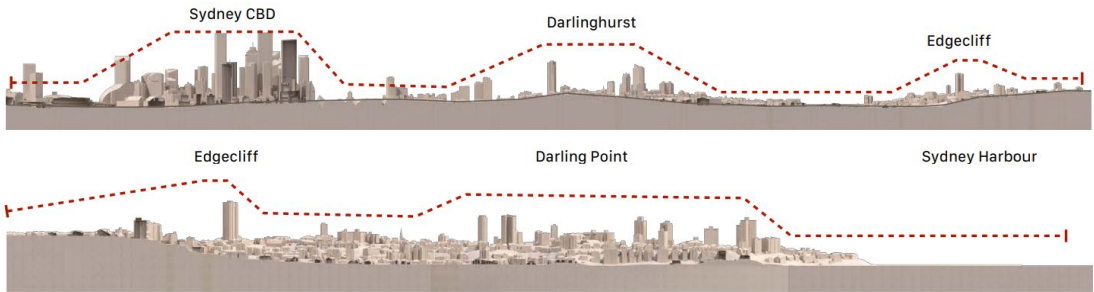


Figure 64 – Broader Visual and Built Form Catchment

Source: FJC

Tower Height

In order to achieve the vision for the site, the current maximum permitted height under the WLEP 2014 needs to be increased. The proposed maximum height of RL 156.75 has been carefully crafted to create two, slender tower forms. The two tower typology reduces the environmental impacts of the proposal and the heights chosen can more sympathetically achieve the floor space requirements within a reduced footprint. Reducing the height of the proposal would force floor space down and across the site, generally causing a suboptimal design outcome in terms of bulk and scale.

When compared to the shorter and bulkier form proposed within the Draft ECC Strategy (identified in **Section 9.2.1**), the proposal would result in significantly fewer environmental impacts. Specifically, the proposal will:

- Maximise view sharing to the Sydney CBD and Harbour for existing surrounding residential buildings, particularly at 170 and 180 Ocean Avenue.
- Ensure the taller and slimmer tower forms create a slimmer and faster moving shadow for residents to the south, reducing the extent/length of time of shadow caused by the proposal.
- Ensure no overshadowing to Trumper Park Oval between 10:00am and 2:00pm in mid-winter in accordance with the WDCP 2015 controls.
- Respond to ADG principles including but not limited to building setbacks and separation, solar access and cross ventilation.
- Realise the identified density within the draft ECC including a minimum non-residential floorspace within the proposal.

Overarchingly, the proposed maximum height of RL 156.75 and the indicative concept scheme comprising two tower forms (being 13 and 35 storeys in height) is considered suitable within the context of the site, given that:

- The site is not constrained by any environmental impacts such as flooding or heritage.
- The site is single ownership and not restricted in terms of strata title compared to majority of other large lots in Edgecliff.
- The site alone can optimise existing infrastructure, satisfy housing targets and bring additional housing, jobs and services directly above and adjacent to an existing transport hub. This aligns with the 30 minute city concept and removes the need for the LGA's existing low density character to contribute to additional densities.
- The redevelopment of the site would maximise patronage on a currently underutilised rail corridor.
- The site's immediate locality as a centre has no predefined consistent built form character and individual point tower clusters are common in the locality around the site.
- Ranelagh Tower has previously been considered 'intrusive development' within planning documents however council via the Draft ECC Strategy and its urban designer within the pre-application meeting acknowledged the opportunity to improve this built form providing contextual response to the wider corridor with a cluster approach at the Edgecliff Centre. A case study of this is the UTS Tower (previously intrusive) and Central Park development in Chippendale which is now regarded as a benchmark in urban design in Sydney.

The above qualities are highly specific to the site and could not be achieved elsewhere within Edgecliff or the wider region. It is for this reason that the height proposed as part of this Planning Proposal would not set an undesirable height precedent and is the reason why the proposal has site specific merit.

Podium Height

The existing podium heights within the surrounding area and along New South Head Road are highly fragmented (**Figure 65** and **Figure 66**). The podium height of various commercial and residential development differs between 3-6 storeys, with no clear basis for future development on the site.

However, the proposal seeks to provide a part 2 and part 3-storey podium that is commensurate with the existing and evolving surrounding forms. This has been achieved through careful analysis of factors such as height, massing, and architectural style of nearby buildings.

A key aspect to the podium is the high levels of articulation and permeability created with laneways, site-through links, urban greening, colonnades, central spaces, and public stairways. Crafting these features within a 2/3 storey form enables the podium to demonstrate an articulated and more human scale at the pedestrian level which interacts more softly with its surroundings and is more inviting for users to explore and interact through the space.

The proposed podium height will align with the parapet height of the adjacent Eastpoint Shopping Centre and the rooftop of the bus interchange along both New South Head Road and New McLean Street. The podium has also been designed to respond to the Heritage listed JOM building at 136 New South Head Road. The proposed commercial building relates to the height of the existing building at 180 Ocean Street and the heights proposed at the recently endorsed 136 New South Head Road (as per PP-2022-1646). The future streetscape is shown at **Figure 67** and **Figure 68**, noting that the massing of surrounding future development derived from the Draft ECC Strategy.

In comparison to the Draft ECC Strategy – which provides for a 5-storey podium on the site with a ground floor plaza and open space at its centre along New South Head Road, offers a harsher pedestrian and human scale transition of its podium – the proposal more sympathetically responds to existing and future scale of the surrounding context, with particular focus on the transition to the south. The proposal will deliver a lowered podium that provides retail and community uses, with an elevated open space that provides wide-ranging views

along key vistas and which will be publicly accessible for members of the community beyond those living within the development.

The podium will provide an interactive and publicly accessible interface with the street. It is consistent with the existing built context and character of this part of New South Head Road which is a mixed-use corridor ranging from medium to high density development comprising of a mix of residential and commercial uses.

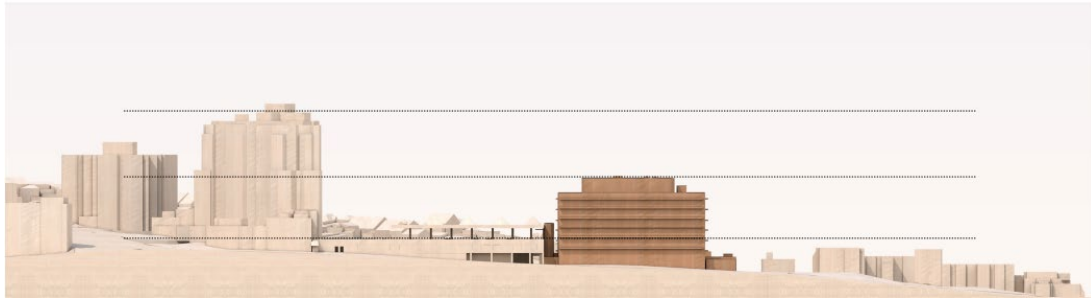


Figure 65 – Existing Streetscape along New South Head Road

Source: FJC

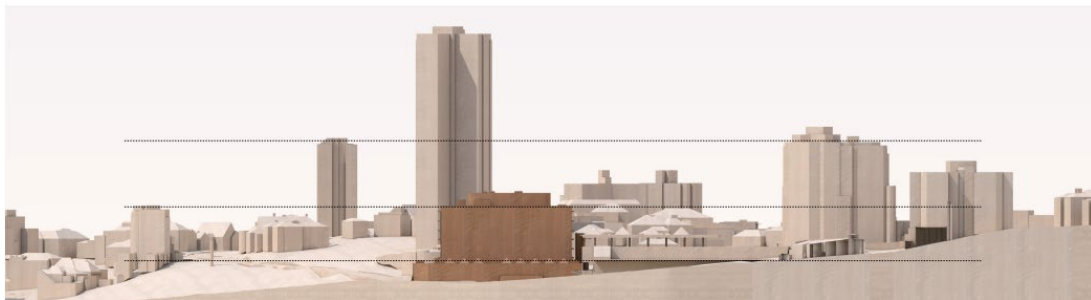


Figure 66 – Existing Streetscape along New McLean Street (South)

Source: FJC

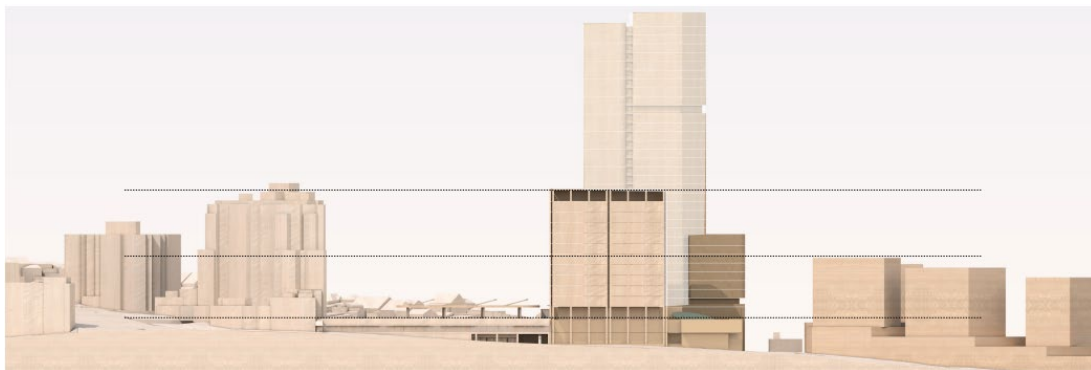


Figure 67 – Proposed streetscape along New South Head Road

Source: FJC

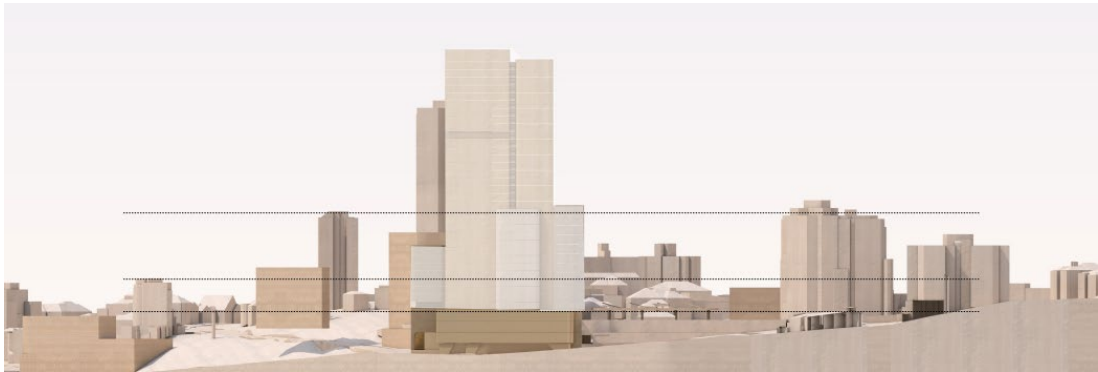


Figure 68 – Proposed streetscape along New McLean Street (South)
Source: FJC

9.4.2 Massing and Distribution of Built Form

The proposed massing and distribution of built form is the product of urban and architectural design testing and environmental analysis. This testing established the appropriate maximum building envelope in terms of its impacts and the site’s environmental constraints (especially in relation to overshadowing, amenity and view sharing). From there, the building envelope was further refined to be capable of accommodating a higher density built form appropriate to the context.

The principles that have informed the massing and distribution of form are described in **Table 6** below.

Table 6 – Massing and Distribution of Form Principles

Principal	
<p>Podium Height</p> <p>The site footprint has been extruded to provide a podium height that is commensurate with the adjacent development, in particular the Eastpoint Shopping Centre and rooftop of the bus interchange.</p> <p>This form also facilitates an improved transition towards the residential development south of the site and provides for a more human scale built form.</p>	
<p>Height of Adjacent Buildings</p> <p>The tower footprint has been extruded to generally align with the height of the Ranelagh Tower, whilst also acting as a focal point within Edgecliff, which resonates with creating a cluster of towers.</p>	

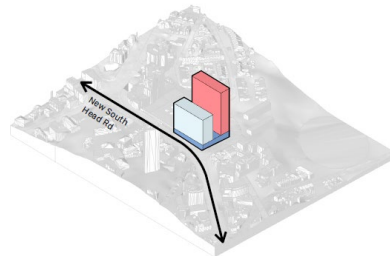
Principal

Tower Development and Rail Corridor

Building separation has been introduced between the east and west tower forms, with the form fronting New South Head Road lowered to closely align with the adjacent residential developments along Ocean Street and New South Head Road.

The introduction of this separation provides view sharing opportunities (for other towers in the locality) and creates an opportunity for a standalone commercial building (for employment) addressing New South Head Road.

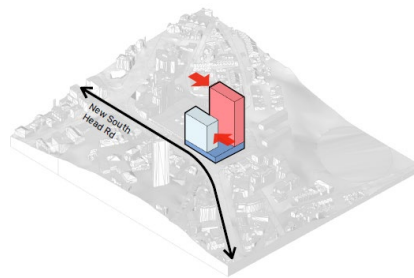
The bulk of the envelope has been designed to consider the structural integrity of the building in relation to the rail tunnel and exclusion zones.



Building Separation

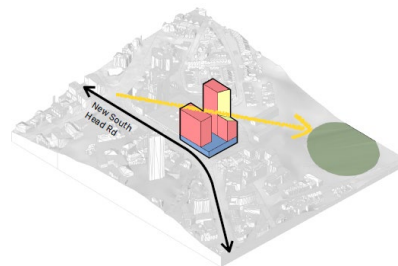
A 12m ADG setback is provided to the rear tower, to enable its use for residential development.

A further setback at the prominent corner of the site is provided to respond to surrounding heritage and assist with visual relief for the gateway entering the Eastern Suburbs and to allow for significant urban green space to be introduced to the podium level.



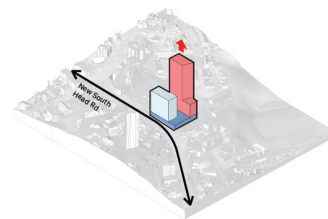
Solar Controls

The tower form is further sculpted to ensure that there is no additional overshadowing to Trumper Oval between 10:00am and 2:00pm in mid-winter, as per the controls within the WDCP 2015.



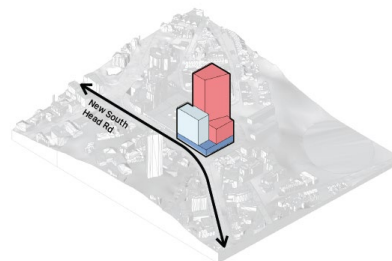
Residential Form Refinement

The residential tower form is refined to accommodate the identified density (floorspace) as part of the Draft ECC which was displaced when applying the appropriate setbacks and building separation.



Final Envelope

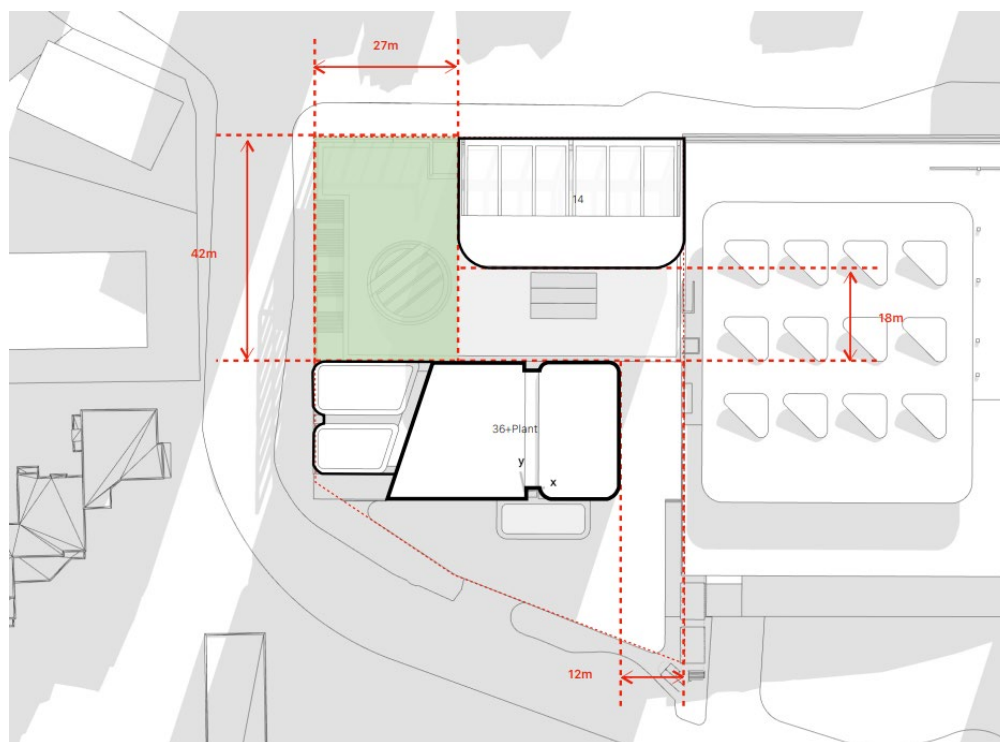
The final envelope is crafted to facilitate the appropriate levels of design articulation as part of any design development as requested by Council staff within the Pre-Planning Proposal Scoping Report. It is proposed that the relevant planning principles (such as view corridors and building separation) are identified within a site specific DCP or alike.



The proposed setbacks and building separation are shown at **Figure 69**. The proposal will incorporate an 18m building separation between the residential and commercial buildings, which will minimise the impact of noise, light, and privacy issues for residents.

There is also a 12m setback between the residential tower and the adjoining building to the east. This setback responds to the recommended ADG performance criteria and has been designed to enhance residential amenity and to ensure that the neighbouring lot is not sterilised. A further 26m setback from New Mclean Street footpath towards the south is afforded, complemented by a human scale podium to ensure an appropriate transition towards the residential zones.

In addition, the multi-purpose community facility (provided partly on land dedicated by the proponent and on the Council-Owned Road Reserve) will incorporate a nil setback. This is considered appropriate on the basis that the proposed built form will align with the setback pattern at surrounding sites.



Source: EJC.

The positioning of the two tower forms on the site has been selected to maximise the functionality and use of space on the site, whilst also minimising any impact on the below rail corridor, allowing greater view sharing and complying with the WDCP overshadowing controls towards Trumper Park Oval.

Specifically, consideration has been given to ensure that the towers are safe and structurally sound, designed to accommodate building cores that navigate the tunnel/platform below. The design will not interfere with existing rail infrastructure and will enable future maintenance or upgrades of the train line to occur. The tower positioning in relation to the rail corridor is shown in **Figure 70** below.

The location of each land use and built form also offers logical placement of the land uses with commercial and retail primarily fronting New South Head Road, whilst residential uses address New McLean Street which compliments the existing residential uses present.

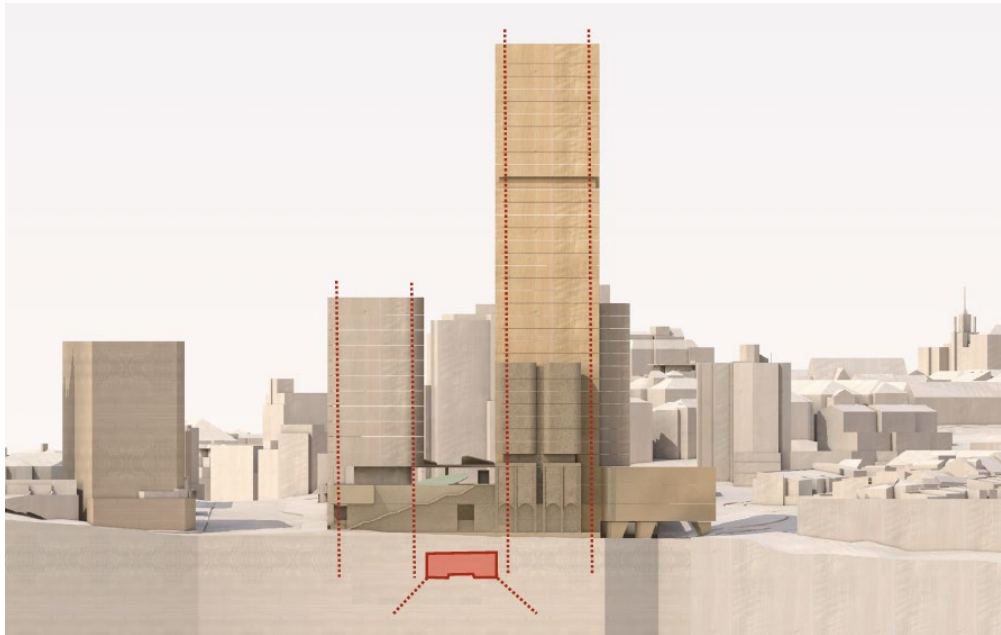


Figure 70 – Tower Positioning with Consideration of the below Rail Corridor (shown in red)

Source: FJC

Scale Transition to the South

The proposal will achieve a positive interface to the south, through the provision of significant setbacks of the residential component from the street frontage and a carefully designed building massing particularly around the podium which positions the bulk of floor space to towards New South Head Road in the north.

The most effective change is the proposed podium along New Mclean Street which is only 3 stories when compared to the 5 proposed within the Draft ECC Strategy. This design more appropriately transitions the residential podium and tower form some 26m away from the footpath, affording a human scale to the built form along the South. When compared to the massing proposed as part of the Draft ECC Strategy, the scale of the proposal will appropriately transition to the south to minimise overshadowing and visual impacts.

As well, the proposal also seeks to provide a community facility along the New Mclean Street frontage by providing dedicated land for this to occur. This will activate the streetscape and encourage connections between residential development in the south and the wider Edgecliff Centre (including the transport interchange) via the site.

From a heritage perspective (**Appendix H**), the proposed height, although visible from surrounding heritage items (i.e. Rushcutters Bay Park) and adjacent heritage conservation areas (i.e. Paddington and Woollahra to the south), would not present an adverse impact to any views and vistas to and from the heritage items or heritage conservation areas, particularly considering that the key significance of these listings generally relates to the internal character and street-level experience of the heritage conservation areas within their specific boundaries.

9.4.3 Gross Floor Area Analysis

Table 7 compares the floor space that can be delivered as part of the proposal and the Draft ECC Strategy massing. It demonstrates that the only major difference between the GFA of the proposal and that of the Draft ECC Strategy is the newly considered multi-purpose community facility, for which an allowance has been made in this Planning Proposal. Whilst a multi-purpose community facility was considered in Council's 2019 Community Facilities Study for the wider Western Catchment of the LGA, the composition, scale or location was not considered. The 2021 Draft ECC Strategy did not consider a multi-purpose community facility on this site however the proponent identified through its engagement with Council an opportunity to dedicate a portion of land to enable the development of the Council-Owned Road Reserve into a multi-purpose community facility. This additional floor space therefore will facilitate a three-storey multipurpose community facility only, as opposed to any other marketable or commercial uses.

The proposed community facility will be adaptable and is capable of being designed and integrated into the broader area, thereby satisfying the following recommendations of the Woollahra Community Facilities Study 2019:

- Provide a new integrated multipurpose facility in the Western Catchment.
- Provide more flexible, adaptable spaces within local facilities throughout the network.
- Provide more cultural and creative spaces across the LGA.

The public benefits associated with the additional land provided for a community facility are distinctive to the site (given the proximity to key transport services, employment opportunities, amenities and open space, and the absence of any significant natural environmental or ownership constraints) and represents a significant investment which cannot be delivered without support of the Planning Proposal, and or on another site.

As such, the proposed additional GFA beyond the draft ECC Study associated with this Planning Proposal is acceptable. The Planning Proposal represents a quantum of GFA not dissimilar to the Draft ECC Strategy and anything additional is being allocated to purely future community uses that was not previously considered within the Draft ECC study and will utilise the currently under underutilised Council-Owned Road Reserve.

Table 7 – Gross Floor Area Comparison between the Proposal and the Draft ECC Strategy Massing

Component	Proposal	Draft ECC Strategy Massing
Site Area	Edgecliff Centre Site: 4,910 sqm Council Road Reserve: 957 sqm Total: 5,867 sqm	5,867 sqm
FSR	Edgecliff Centre Site: 9:1 Council Road Reserve: 3:1	7.5:1
Total GFA	Edgecliff Centre Site: 44,190 sqm Council Road Reserve: 2,871 sqm	44,003 sqm (<i>> 90% of Built Form is proposed to be delivered on the Edgecliff Centre Site</i>)
GFA Breakdown	Non-Residential: 14,730 sqm Residential: 29,460 sqm Community: 2,800 sqm	Non-Residential: 14,730 sqm Residential: 29,460 sqm Community: 0 sqm

9.4.4 Residential Amenity

Early testing indicates that the indicative development concept will comply with or surpass the recommended performance criteria of the ADG:

- Achieves two hours of solar access to living rooms and private open spaces to more than 70% of apartments between 9am and 3pm mid-winter.
- No more than 15% of apartments achieve no solar access between 9am and 3pm mid-winter.
- Achieves natural cross ventilation to more than 60% of apartments.

The indicative development concept has been tested capable of including:

- A large quantity of dual aspect apartments.
- A façade design that maximises the provision of windows.
- Sufficient deep soil across the site.
- Adequate ceiling heights in accordance with ADG recommendations.
- Adequate apartment depths in accordance with ADG recommendations.

Detailed studies pertaining to solar access and cross ventilation will be provided at the detailed DA phase to demonstrate consistency with the Apartment Design Guide and *State Environmental Planning Policy (Housing) 2021*. Nevertheless, an assessment of the design objectives and design criteria of the ADG has been carried out based on the indicative concept which confirms that the proposal is capable of fully responding the ADG recommended performance criterion. An ADG schedule is provided in **Appendix C**.

9.4.5 Assessment against the Previous Proposal

As identified in **Section 3.3.1**, the previous Planning Proposal for the site sought amendments to the WLEP 2014 that would facilitate a singular tower form on the site that was 45 storeys in height and had a total GFA of 44,190m².

When compared to the previous Planning Proposal, the current Planning Proposal scheme will:

- Re-orientate the built forms to create two tower forms, in term lowering the maximum height of building while still minimising the bulk of the development.
- Provide a dedicated tower for commercial office uses and another for residential uses.
- Lower the podium so that it is consistent with the street wall height of surrounding developments.
- Support the provision of a community facilities on the Edgecliff Centre site and Council-Owned Road Reserve.
- Provide a public stairway at the iconic north west corner which will lead to a publicly accessible Village Green accommodating 3,000 sqm of publicly accessible community infrastructure incorporating a central public plaza, open green spaces and much more .
- Not seek any upgrades to the existing Transport Interchange beyond improved connection points, which is responsive to feedback received from TfNSW.

This would result in the following:

- Improved public interface to New McLean Street and adjacent heritage conservation areas.
- Minimise overshadowing to Trumper Park and residential development to the south.
- Providing appropriate view sharing corridors to the Sydney Harbour and Sydney CBD.
- Additional opportunities to provide publicly accessible open space within the site with amenity and vistas.
- Providing an activated public use along McLean Street.

9.5 Non-Residential Floorspace

The proposal seeks to maintain the non-residential floor space that is currently on-site with a minimum overall non-residential floorspace ratio of at least 20% of total GFA being proposed. This is consistent with the recent Council endorsed planning proposal (PP-2022-1646) also located within the identified local commercial core of the Draft ECC Strategy. This results in an increase in the overall number of workers of the existing base case and opportunity of overall employment generating GFA whilst maintaining flexibility to deliver the needs of the local community.

The GSRP and District Plans establish the primary roles and functions of Local Centres and Strategic Centres within the centre's hierarchy. A Local Centre focus is to have the amenity to provide for the immediate and day-to-day needs of residents, while comparatively, a Strategic Centre's role is to amongst other items, have employment growth as a principal economic goal and have identified areas for commercial zones. As outlined in **Section 8.3** of this report whilst a centre's designation should not be used to determine its suitability for height and density, the purpose is to determine the suitable uses and functions the centre should seek to deliver for the local and wider community.

Whilst balancing the overall mix within a development to ensure long term uses are commensurate to the vision of the overall precinct, it is important to consider market trends in determining demand for uses and subsequent project feasibility and viability. Current market sentiment within the commercial and retail markets are at records lows, with significant headwinds including high vacancy rates coupled with stagnant rental growth and high levels of incentives. When considering the mix of a mixed-use development such as the proposal it is imperative to ensure that there are no long term inhibits to prevent the viability of a project from proceeding in a timely manner which could have other unintended consequences such as impacting the supply of other uses such as community uses or housing (which is further explored in the section below). The requirements to deliver any larger proportion of non-residential floor space will require substantial tenant pre-commitments in a market (namely Edgecliff) which is not known as a key commercial zone and during a market period where there are major constraints preventing transactions of that nature from occurring and subsequently risking the overall ability for the proposal to proceed in its entirety.

Considering the factors above (and below in **Section 9.6**) the proposal's quantity of non-residential floorspace is suitable and a meaningful contribution to providing jobs close to homes.

9.6 Housing Crisis

As stated within the National Housing Accord, the Federal Government has identified that 320,000 additional homes will need to be completed and delivered over five years from 2024 in order to meet the demand for the current population projections. This means that 64,000 dwellings need to be completed each year over five years from 2024. The Woollahra Local Housing Strategy 2021 also established a housing target of 1,200 new dwellings within the region between 2021 and 2036 (this equates to 500 new dwellings between 2021 and 2026).

However, NSW Government data from the Greater Sydney Urban Development Program identifies that dwelling completions and approvals are significantly below this target and have decreased over the last five years. During the 12 months leading up to September 2022, Greater Sydney delivered:

- 23,350 new completions, which was 32.5% below the previous 5 years' average and approximately 34% below the target established in the GSRP.
- 35,597 approvals (almost half of which were for low density housing), which was 15.8% below the previous 5 year's average.

The NSW Government has indicated that revised housing targets are expected to be released which seek to rebalance the distribution of housing targets closer to transport infrastructure and the city centre, including within the north shore and eastern suburbs. When the current population decline of the Woollahra LGA along with the latent capacity of transport infrastructure within Edgecliff and all other key social infrastructure capacities are overlayed, it should be considered that Edgecliff and more specifically strategic sites within Edgecliff such as the Edgecliff Centre are appropriately considered to have suitable controls to deliver increased housing targets. The only alternative will be to deliver the housing further within the peninsula in smaller village centres such as Double Bay, Rose Bay, Bellevue Hill and Vaucluse.

Not only has the slowdown on housing delivery had detrimental impacts on supply, but it also increases the pressure on affordability. While the stunt in the population growth resulting from the short-term impacts of COVID-19 have somewhat lessened the impacts of housing supply and affordability, this is set to change as the federal government has increased the forecasted number of migrants settling in Australia by an additional 186,000 in 3 years. In 5 years, there will be 900,000 new migrants living in Australia. As such, the current housing crisis will only get worse following the increase in migration intake, as well as returning international students. The slowing supply of housing, together with the increasing household formation is expected to lead to shortfall of around -106,300 dwellings (cumulative) over the 5 years to 2027.

Overall, the severe housing supply shortage and lack of delivery and approvals has resulted in a severe housing affordability crisis in NSW. The chronic housing affordability pressures are evidenced through the Demographic International Housing Affordability 2022 Edition, which ranks Sydney as the second least affordable major capital city among a total of 92 surveyed. This was found to be due to house prices, cost of a deposit, loan serviceability, rental affordability, and the demand for social and affordable housing. Over the past year, advertised rental prices across Sydney have risen by more than 33% (SQM Research). With rental vacancy rates sitting at a record low of 1%, the rental prices are not likely to resolve any time soon as demand outweighs availability.

To assist in alleviating and reducing the pressure of the current housing affordability and supply crisis, the proposal seeks to deliver circa 275 apartments on a highly accessible and unconstrained site, close to existing jobs, services, open space and transport services. This alone will deliver over half the new dwellings required to meet Woollahra's housing target of 500 new dwellings between 2021 and 2026. It will also ensure that the existing predominately low density residential and heritage character areas are protected from intensification or overdevelopment. To further improve housing affordability and reduce the vacancy chain, 5% of the increased residential GFA will be dedicated for affordable housing. The final delivery methodology is subject to negotiation with Council to either be paid via a contribution or alternatively delivered and managed for a minimum of 15 years.

9.7 Public Benefit

The indicative development concept includes a myriad of benefits related to transport connectivity, public domain and walkability connections, encouraging community connections and well-being, as well as responding to housing and demographic needs in the Woollahra LGA. The contributions associated with the Planning Proposal include:

- Delivery for 15 years or monetary contribution of 5% of the new residential GFA as affordable housing.
- Delivery of the Village Green comprising 3,000 sqm of community infrastructure through a combination of a central public plaza, open green spaces and diverse seating areas which accommodate diverse public gathering and meeting spaces, public art and spaces for recreation. This can include for example ping pong

tables, pop-up cinema and interactive water fountains. The Village Green will be accessible via a grand public staircase located on the north-west corner of the site providing a highly visible and inviting access with views and vistas of the Sydney CBD and Harbour.

- Delivery of approximately 675 sqm community facilities (internal and external community space) adjacent to the proposed public plaza and open green space. The facility will also provide a key connection to the integrated multi-purpose community facility proposed on part dedicated land and council road reserve.
- Contribution of funding towards local community infrastructure in the form of a multi-purpose community facility with urban greening rooftop fronting New McLean Street.
- Land dedication critical to unlock the Council-Owned Road Reserve for the purposed delivery of the above-mentioned multi-purpose community facility.
- Delivery of a forecourt of approximately 470 sqm at the south-west corner of New McLean Street adjacent to the proposed site through links, community facility and residential address with visual connectivity to the Trumper Park pathway.
- Public domain improvements including through activating the streetscape with retail uses, inclusion of landscaping features throughout the site.
- Introduction of a network of pedestrian laneways, through site links, colonnades and central plazas interconnecting the surrounding area (such as Trumper Park pathway and New McLean Street) with the Transport Interchange via the site.
- A grand public staircase fronting the highly visible and iconic corner of the site fusing the site through links, laneways, colonnades, public open green space, piazza, community facilities and ground forecourt to each other to create a permeable public focused town centre.
- Provide activated and landscaped frontages to New McLean and New South Head Road within an integrated civic ground floor retail precinct.
- Develop a new mixed-use community that establishes a true focal point of activity for the centre of Edgecliff.
- Contribute to a residential population that can stimulate business and retail activation in the centre of Edgecliff and provide a mix of uses which will increase opportunities for residents to work locally and use local retail and leisure facilities.

9.8 Social and Economic Benefits

The Planning Proposal would have the following social and economic benefits:

- The proposal will have a construction cost of circa \$488 million, with total economic activity associated with construction estimated at 1.5 billion. This includes:
 - \$596 million of economic activity in production induced multiplier effects.
 - \$381 million in consumption induced effects.
 - 1,160 jobs directly in design and construction.
- An additional 3,142 jobs through production induced and consumption induced multiplier impacts.
- The proposal when or close to full occupation will generate an estimated 785 jobs. This is a net increase of 364 over the current operation. This will include:
 - 478 full and part time retail jobs.
 - 478 predominantly full-time jobs associated with the office floor space.
 - 56 predominantly full-time jobs associated with the community uses.
- The creation of new and modernised employment space closer to and more accessible to home.
- The replacement of an existing, tired centre and commercial development and the creation of a transit orientated development with high-density employment and residential at a major transport node, thereby supporting urban consolidation, active transport use, improved accessibility to transport and reduced car dependency.
- Greater activation of the Edgecliff town centre and an improved identity to the town centre.
- Creating housing diversity and supply for an area that has limited housing diversity and new stock opportunity. The diversity of housing will support older people to age in place in the Eastern Suburbs, and adaptable housing options for people with disability.
- Provision of additional housing supply to cater to smaller household sizes including working aged population, singles, young families and downsizers.

- Improved visual amenity for Edgecliff through the renewal of an outdated and dysfunctional centre and transport interchange. This provides an opportunity for an increased sense of community identity for the centre of Edgecliff.
- Easily accessible public open space with publicly accessible vistas which might not be otherwise available in the LGA due to terrain and position of the site on the ridgeline.
- The site once developed will contribute \$77.2 million to regional domestic product. This is an \$32.2 million net increase from current operation.
- The net increase in retail expenditure to the Edgecliff area from the additional residents and employees is estimated to be equivalent to approximately \$6.5 million per year.

The Planning Proposal is supported by a Social Impact Assessment prepared by Cred Consulting (**Appendix D**) and an Economic Impact Assessment prepared by HillPDA (**Appendix E**).

10.0 Further Assessment

DPE's Guide to preparing Planning Proposal incorporates a series of questions to consider when demonstrating or justifying the site-specific and strategic merit of a proposal. These questions are as follows:

- *Is the Planning Proposal a result of an endorsed LSPS, strategic study or report?*
- *Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*
- *Will the Planning Proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*
- *Is the Planning Proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*
- *Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?*
- *Is the Planning Proposal consistent with applicable SEPPs?*
- *Is the Planning Proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?*
- *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?*
- *Are there any other likely environmental effects of the Planning Proposal and how are they proposed to be managed?*
- *Has the Planning Proposal adequately addressed any social and economic effects?*
- *Is there adequate public infrastructure for the Planning Proposal?*
- *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

A detailed response to each of these questions has been provided at **Appendix B**. In short, the responses demonstrate that the site has strategic and site-specific merit, and that the Planning Proposal is justified. A further assessment of key environmental matters is provided below.

10.1 Visual Impact

Richard Lamb and Associates (**RLA**) has prepared a Visual Impact Assessment (**VIA**) at **Appendix F** to determine the visual impact of the proposal from the public domain and in relation to view sharing with adjoining residential development. The VIA considers:

- The principles of *Tenacity Consulting v Warringah Council (Tenacity)* in relation to impacts on view sharing with private properties.
- The principles of *Rose Bay Marina Pty Limited v Woollahra Municipal Council (Rose Bay Marina)* in relation to visual impacts on views from the public domain.
- Key viewpoints identified in Part D of the WDCP 2015.

The conclusion reached by RLA is that the overall level of visual impact varies from low to moderate and is acceptable on balance.

Importantly, the assessment benchmarks the Planning Proposal against the Draft ECC Strategy which notes that, in respect to private domain views, the proposal offers superior outcomes and that, in respect to in public domain views notes that there is no discernible impact between the Planning proposal and the Draft ECC Strategy massing.

10.1.1 Private Domain Views

Potential impacts caused by the proposal on view sharing on surrounding residential receivers was assessed at the strategic level. Given the location of the site and the location of scenic views to the west and north, the main buildings to consider are those east of the site, particularly the Eastpoint Tower (180 Ocean Avenue) to the east and the Oceanpoint Tower (170 Ocean Avenue) to the south-east. The Ranelagh Tower (3 Darling Point Road) was also considered.

RLA has also undertaken an analysis of the effects on private domain views under two different scenarios, being:

- The massing proposed for the site by Woollahra Council in their Draft ECC Strategy.
- The 2-3 storey podium and 13 and 35 storey towers proposed as part of this Planning Proposal.

The likely view sharing of the two options on private domain views for the Eastpoint Tower (180 Ocean Avenue), Oceanpoint Tower (170 Ocean Avenue) and Ranelagh Tower (3 Darling Point Road) has been assessed by RLA considering the principles of *Tenacity*.

In summary the report confirms the following findings:

- The view loss caused by the proposal on private domain views are no greater and, in many instances, an improved outcome than that which would be caused by a built form consistent within the Draft ECC Strategy.
- Primary views for East Point and Ocean Point are North and East with only secondary views West overlooking the site. None of the building in the proposed envelope above the height of podiums causes any additional view loss compared to the ECC Strategy envelope. In other words, the residential tower causes no additional view loss irrespective of height. There is also a provision of improved view corridors.
- In relation to Ocean Point – many north-west views are blocked by the existing East Point Tower. The proposal's slimmer form retains greater views west than Council's Draft ECC Strategy. The part of building higher than the Draft ECC Strategy envelope has no additional effect in view sharing for these neighbours.
- Primary views for Ranelagh are north-east and north-west with limited windows such as bathroom and kitchen southward facing over the site. The views at the lower RLs are affected by the envelope of the endorsed Planning Proposal for 136 New South Head Road which obstructs views of the site. Upper levels would be able to see over the envelope which will cause similar visual impacts as the Draft ECC Strategy deemed acceptable under further analysis.

10.1.2 Public Domain Views

The VIA considers the effective visual catchment of the site, which is the area within which there is sufficient detail to perceive the nature and quality of a development. This is smaller than the total visual catchment which is the area in which there is any visibility of the development at all.

The effective visual catchment of the site comprises views from the west (including parts of Edgecliff, Paddington, Darlinghurst, Potts Point, Rushcutters Bay and Darling Point) and from the east (including isolated areas within Double Bay and Rose Bay). The effective visual catchment to the west is significantly larger than that in the east, given the presence of lower built form and low-lying recreation areas. This means that there are more potential viewing places to the west of the site, including a range of locations within the public domain.

The primary analysis undertaken by RLA has been detailed in the VIA and considered an assessment of the proposal against a set of criteria such as Overall Level of Visual Effects, Casual Absorption Capacity, Compatibility with Urban Features, Sensitivity and Overall Visual Impact. This assessment concluded:

- The residual visual impacts were considered to be low to moderate overall.
- Minor to moderate change would occur to the effect of the project on the effective visual catchment and to the visual character, scenic quality, and public domain sensitivity of the Site.
- The overall level of visual effects was rated as moderate for most views in the visual catchment. High levels of visual effects were found for some close views with unimpeded foregrounds and low levels of visual effects for the small number of distant views.
- There would be low to medium visual exposure to most view locations. The commercial podium of the proposal has similar high impacts to the existing building, on close views.
- Any new tower would appear isolated in some views. The perceived isolation is caused by contrast in form with other adjacent buildings, not by the ultimate height of the structure.
- The height of the tower does not cause view loss. The residential podium does not cause any greater view loss impact on private views than would be caused by a building of the same height as the existing Eastpoint tower.
- The levels of visual effect were weighted against criteria of visual absorption capacity and compatibility with urban features, including the likely future character of the visual context to assess significance
- of impact.
- Compatibility with urban features was high for all view places. Impacts on most views therefore result in moderate or low impact significance when weighted.

Whilst not appropriate for the strategic nature of a Planning Proposal at the request of council RLA also undertook an analysis based on the principles of *Rose Bay Marina*. It is divided into a two-stage approach, the first being a quantitative assessment and the second being a qualitative assessment. The principle emphasises the need to consider views that have been identified as of specific importance, for example documented heritage views or views identified in existing statutory planning instruments. The process of determining

whether a development is acceptable or not must account for reasonable development expectations as well as the enjoyment of members of the public, or outlooks from public places.

Through an assessment of public domain views in accordance with the principles of *Rose Bay Marina*, the VIA confirms that the proposed podium component is likely to be of a similar visual exposure to the existing built form at the site.

Overall, the proposal would not significantly impact views from the public domain and would not block significant views to any significant items. Whilst the appearance and perceivable height of the tower component would be noticeable from some areas within the public domain, it is expected that this would have a positive effect through the replacement of the existing building with a high quality, articulated built form.

A comparison of the existing and proposed views within the public domain are shown at **Figure 71** below.



Existing view from Trumper Oval



Proposed view from Trumper Park



Existing view from New McLean Street



Proposed view from New McLean Street



Existing view from the corner of New South Head Road and Ocean Avenue



Proposed view from the corner of New South Head Road and Ocean Avenue



Existing view from Steyne Park, Double Bay



Proposed view from Steyne Park, Double Bay



Existing view from William Street, Rushcutters Bay



Proposed view from William Street, Rushcutters Bay



Figure 71 Comparison of Existing and Proposed Views from the Public Domain

Source: Virtual Ideas

10.2 Overshadowing

Overshadowing Diagrams have been prepared by FJC and are included at **Appendix C**. The diagrams assess the shadow cast at hourly intervals between 10am and 3pm during the winter solstice. An extract of the shadow diagrams is shown at **Figure 72**. The impact of overshadowing on the surrounding area is discussed in the sections below.

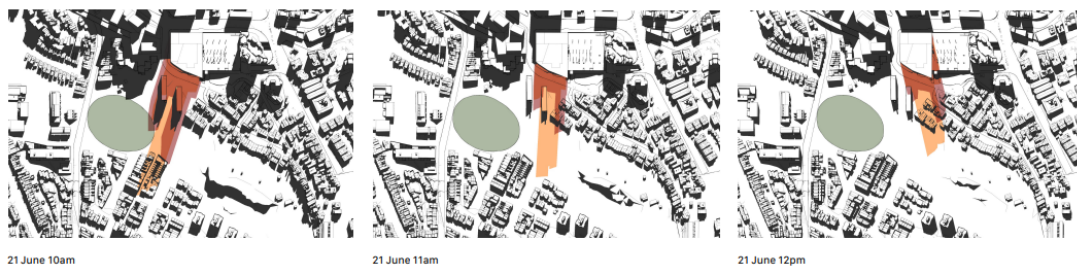




Figure 72 – Shadow Diagrams

Source: FJC Studios

10.2.1 Solar Impacts to Adjoining Properties

Chapter D4, C28 of the WDCP 2015 requires that development maintains solar access to existing adjoining dwellings for a period of two hours between 9am and 3pm on 21 June to existing north facing windows of habitable rooms, and for at least two hours to at least 50% of the private open space. Where existing overshadowing is greater than this, sunlight is not to be further reduced.

Consistent with the WDCP 2015 requirement, the shadow diagrams demonstrate that with the proposed envelope and indicative scheme, the adjacent residential dwellings to the south and southeast will receive 2 hours or more of solar access during the nominated time period.

It is also highlighted that the proposal would only result in a marginal variance in solar impacts compared to the Draft ECC Strategy. The different form placements would merely distribute similar shadows at different times throughout the day and would not cause any significant increase in overall shadows.

10.2.2 Overshadowing to Trumper Park Oval

Chapter D4, C29 of the WDCP 2015 states that solar access to the Trumper Park Oval is provided between the hours of 10am and 2pm on 21 June. Where existing overshadowing is greater than this, sunlight is not to be further reduced.

The FJC shadow diagrams confirm that between 10:00am and 2:00pm, the envelope and indicative scheme does not cast any shadow over Trumper Park Oval in accordance with the requirements of the WDCP 2015.

Comparatively and as evidenced at **Figure 72**, the Draft ECC Strategy massing results in a greater impact across Trumper Park Oval when compared to the Proposal.

10.2.3 ECC Strategy Massing

Modelling has been carried out to show the additional impact of the proposed envelope and indicative scheme when compared to the ECC Strategy massing (shown back in **Figure 72**). When comparing the two schemes, it is acknowledged that the proposal will vary the overshadowing to the surrounding area (through distribution of similar shadows at different times throughout the day), but this would not impede compliance with the relevant overshadowing controls in the WDCP 2015 as discussed in the sections above. The proposal also avoids any overshadowing to Trumper Park Oval that would occur as a result of the ECC Strategy massing.

10.3 Traffic and Parking

PTC has undertaken a Transport and Accessibility Assessment (refer to **Appendix G**) to accompany the proposal and determine its potential impact on the surrounding road network in relation to parking and traffic.

The proposal recognises the existing limitations of the surrounding road network and the important role the redevelopment of the Edgecliff Centre will have on the area. These are considered in two key responses:

- The proposed development will have positive impacts on traffic flow and are a result of relocating the car park entry away from the corner of the New South Head Road and New McLean Street intersection. As well, the proposal seeks to rationalise all vehicle crossovers (currently 5) to a single point along the road reserve.

- The proposal has identified that the general traffic movements of existing retail and commercial car spaces have the greatest impact on traffic movements. A redistribution of these car space uses away from commercial to residential (with the introduction of residential car parking) has enabled the proposal to have no increased net traffic generating movements, with improved traffic conditions in a majority of cases.

Importantly, it is proposed that the Planning Proposal will have no increased traffic movement during any peak period when compared to the existing building's capacity and in many instances improve on current intersection performance.

10.3.1 Car Parking

The proposed car parking provision for the indicative concept scheme is shown in **Table 8** below. The proposed car parking rates have been assessed against the relevant provisions of the WDCP 2015.

Table 8 – Proposed Car Parking Provision

Use	GFA / Units	DCP / BCA Rate	DCP Requirement	Proposed
Residential				
1 Bed	76	0.5 spaces per unit	38 (max)	216
2 Bed	110	1 space per unit	110 (max)	
3 Bed	89	1.5 space per unit	134 (max)	
Visitor	-	0.2 spaces per unit	54 (max)	
Total	275	-	336 (max)	216
Non-Residential				
Office	7,933m ²	2.5 spaces per 100m ² GFA	0.6 Parking Multiplier*	117
Retail	6,737m ²	3.3 spaces per 100m ² GFA	0.6 Parking Multiplier*	
Community	2,040m ²	2.0 spaces per 100m ² GFA	0.6 Parking Multiplier*	
Total	16,710m²	-	275 (min)	117
Accessible Parking**				
Adaptable Unit	28	1 per adaptable unit	28 (min)	28
Office	117 parking spaces	1 per 100 car spaces or part thereof	1 (min)	4
Retail		1 per 50 car spaces + 1 per additional 100 space	2 (min)	
Community		1 per 50 car spaces or part thereof	1 (min)	
Total	-	-	32 (min)	32

*In accordance with Chapter E1 of the Council's DCP, parking multipliers are used to discount the base parking generation rate for non-residential uses within Edgecliff E1 Zone.

**Accessible Parking forms part of the total number of parking spaces for residential and non-residential uses.

Given the unique nature of the site and its highly accessible location, Council officers have acknowledged that compliance with the current WDCP 2015 provisions is not the most suitable response for the site. Therefore, it is proposed that car parking provided at the site will be based on rates specified within the site-specific DCP to be prepared as part of this Planning Proposal, and based on the reduced parking provision outlined in **Table 8** above.

Therefore, the proposed non-residential car parking provision seeks to vary the WDCP 2015 requirements and proposes a shortfall of car parking spaces (for this land use), whilst the proposed residential parking provision is within the DCP recommended requirements. The chosen parking numbers are primarily due to the strategy set forth for the proposal to ensure that there is no net increased traffic generation from the proposal above what is existing.

There are also design limitations with the existing subterranean rail tunnel which has physically limited parking capacity on the site for parking. However, the nature and location of the site (being a transit orientated development) means that it does support a reduced non-residential car parking rate.

10.3.2 Bicycle and Motorcycle Parking

A minimum of 429 bicycle parking spaces are required when using the WDCP 2015 rates. The concept scheme will provide this within the detailed building configuration which is subject to future detailed design and detailed

development approval, but the bicycle arrangements will satisfy the WDCP 2015 criteria. These rates can be written into the site specific DCP written for the Planning Proposal.

The indicative scheme provides for 34 motorcycle spaces (22 spaces for residential and 12 for non-residential) which is in accordance with the minimum 19 and 12 (required to achieve compliance with the residential and non-residential development rates specified respectively under the WDCP 2015).

10.3.3 Traffic Generation

The potential traffic generation of the proposal is provided in **Table 9**.

Table 9 – Potential Traffic Generation

Land Use	Parking Spaces	Peak Period	Inbound Trips	Outbound Trips	Trip Generation Rate Per Space
Residential	216	Weekday AM Peak	6	26	0.15 trips per car space
		Weekday PM Peak	21	5	0.12 trips per car space
Retail	97	Weekday AM Peak	26	9	0.37 trips per car space
		Weekday PM Peak	70	85	1.6 trips per car space
		Saturday Midday Peak	100	99	2.1 trips per car space
Commercial	20	Weekday AM Peak	4	0	0.22 trips per car space
		Weekday PM Peak	1	6	0.32 trips per car space
		Saturday Midday Peak	1	2	0.09 trips per car space

10.3.4 Net Traffic Generation

Based on existing and future traffic generation, the potential additional traffic which will be generated by the development (net traffic generation) can be determined. This determined by subtracting the existing traffic generation from the potential future generation and is described in **Table 10**.

Overall, the proposal will not change the overall number of trips in the morning peak hour. The overall trips for the weekday evening peak hour and Saturday peak hour are anticipated to be slightly reduced (by 16 and 3 respectively). This is equivalent to approximately 1 reduced trip every 4 minutes for weekday evening peak hour which is expected to improve the intersections performance marginally during the weekday evening peak hour. Accordingly, the proposal would have a negligible impact on the performance and capacity of the road network.

Table 10 – Net Traffic Generation

Peak Period	Proposed	Existing Trip Generation	Net Trip Generation
Weekday AM	72 (36 In, 36 Out)	72 (60 In, 12 Out)	0 (-24 In, +24 Out)
Weekday PM	186 (91 In, 95 Out)	224 (87 In, 137 Out)	-38 (+4 In, -42 Out)
Saturday Midday	202 (101 In, 101 Out)	244 (121 In, 123 Out)	-42 (-20 In, -22 Out)

10.4 Heritage Impact

A Heritage Impact Statement has been prepared by Curio Projects (refer to **Appendix H**) to assess the heritage impacts associated with the concept proposal and redevelopment of the site in relation to the site's surrounding heritage context, in particular the surrounding heritage conservation areas. Curio makes the following conclusions in relation to heritage impact and the proposal:

- The proposal will not generate any physical impact to any heritage items or fabric given the site is not listed as a heritage item and is not located on land inside a heritage conservation area.
- The proposal will not generate any heritage impact to the below and adjoining Edgecliff Railway Station which is listed under the Heritage and Conservation Register under Section 170 of the Heritage Act 1977.
- The visual impact of the proposal will be perceptible from New South Head Road but would be mitigated through the indicative building massing and proposed mix-use of the site. This would include the provision of a three-storey publicly accessible podium to activate the street frontages, and also through the inclusion of setback tower forms.
- The proposal is considered to be consistent with the moderate mixed-use precinct in which it is located.
- Although the proposal would be visible from surrounding heritage items and adjacent HCAs, it would not adversely impact views and vistas to and from these items or HCA's given the key significance of these listings relate to the internal street character and street-level experience of these HCA's.
- The detailed design and articulation, as well as materiality and colour palette is commensurate with the character of surrounding heritage conservation areas and heritage items is considered to support the reduction of more distinctive visual impacts of the proposal from these sensitive areas and items.
- Materiality and planting at the streetscape level (through the proposed public domain spaces on the site) will support a positive visual impact on the precinct at the street level and align to the greenery attributed to the surrounding heritage conservation areas.
- The heritage significance and key views and vistas of Rushcutters Bay Park relate predominately to the park itself, and the connectivity of views and vistas to Sydney Harbour and surrounding inner Sydney parklands, rather than just views of surrounding development as part of the wider eastern suburb's skyline. Further, views southeast from Rushcutters Bay Park towards the development area, demonstrate that while the tower and part of the podium components of the proposal would be visible, the addition of the tower would be commensurate with the existing skyline which includes an existing residential tower and larger scale buildings.
- The proposal fronting McLean Street to the south will provide a positive impact on views which are currently described by the WDCP 2015 as creating 'an unwelcoming pedestrian environment with little visual interest'.

Overall, the Planning Proposal is considered to be consistent with the existing and emerging context of the surrounding area and will present opportunities for improvements to existing setting and character of the area. In this regard, Curio determines that the proposal will not have an adverse impact or alteration to the character and significance of any nearby heritage item, nor any of the nearby HCAs.

10.4.1 Southern Interface

The redevelopment of the site presents the opportunity to improve the existing views and vistas to the site from the HCAs, by the application of an improved and more sensitive design which incorporates improved permeability, accessibility and sympathetic materiality.

The proposed podium form along New McLean Street is for a 3-storey community activated podium form that will create a more human scale and pedestrian experience. The residential podium and tower form is further setback 26m from the pedestrian foot path which will provide a significant setback and transition towards the HCA and residential south of the Edgecliff Centre. Refer to **Figure 73**.

Considerations for the visual experience from the street both along New South Head Road and New McLean Street through the stepping back of building envelopes and greater engagement with the podium will improve the public and pedestrian interface of future developments proposed on the site.

Comparatively, the Draft ECC Strategy proposed a 5-storey commercial office podium along the north frontage of New McLean Street, adjoining the HCA (**Figure 74**). The proposed land uses and activation would be less complimentary to the character of the HCA whilst the built form will offer a more abrupt and less human scale transition towards the residential and pedestrian nature of this area. It is therefore considered that the Planning Proposal offers a more improved and considered transition between the built form of the commercial and residential buildings as part of this planning proposal to the neighbouring HCA than the Draft ECC Strategy.



Figure 73 – Indicative Photomontage of the Planning Proposal Massing, as viewed from the South

Source: FJC



Figure 74 – Indicative Photomontage of the Draft ECC Strategy Massing, as viewed from the South

Source: FJC

As a result, the Planning Proposal will not have an adverse impact or alteration to the character and significance of the HCA that is adjacent to the southern interface of the site. The Planning proposal is considered to be

consistent with the existing built context of this part of Edgecliff and will present opportunities for improvements to existing setting and character of the area than that of the existing building.

10.5 Wind Impacts

An Environmental Wind Assessment was undertaken by Arup (refer to **Appendix I**). It provides an experience-based wind assessment of the proposed concept envelope on pedestrian wind level conditions in and around the site. Overall, Arup considers that the of locations around the site would be suitable for walking with locations on the southwest corners being at the upper end of the classification which can be dealt with ameliorations in the detailed design process, which is standard practice. The assessment concludes though that these wind conditions would remain suitable for the intended use of the space.

Arup also make the following recommendations to consider during the detailed design of the proposal (which is not being sought under this Planning Proposal, but could be included in a site specific DCP for the Planning Proposal):

- Local wind amelioration may be required for outdoor seating areas around the site, especially at the south west corner.
- A permanent or temporary porous screen may be recommended at the podium retail levels to dissipate winds.
- The external façade of the upper podium levels should have the ability to be enclosed.
- Wind conditions at the Level 3 pedestrian connection would be ameliorated through local protection such as a canopy roof, vertical barriers to the west of the walkway, or landscaping.
- A lift lobby is recommended for the commercial car park to minimise internal flows up the lift shafts, unless there are vents to the car park which open to a different façade.

Based on the conclusions of the report, the proposal is suitably assessed at the concept Planning Proposal level and any areas of increased windiness able to be ameliorated at the detailed design stage.

10.6 Noise and Vibration

Arup has undertaken an acoustic review of the indicative scheme associated with the Planning Proposal (refer to **Appendix J**). A full Acoustic Assessment will accompany the future Development Application. It discusses from an acoustic perspective, the suitability of the uses proposed for the site given its over-station position and proximity to New South Head Road.

Arup conclude that it will be feasible to comply with the relevant acoustic policies and standards to provide a suitable acoustic outcome for uses of the site. Detailed acoustic and vibration studies will be required during the detailed design and approval stage, including detail and specific mitigation and management measures.

10.7 Contamination

Aurecon has undertaken a Preliminary Site Investigation which is provided at **Appendix K**. Based on the desktop information reviewed, it has been considered that the site represents a low risk in relation to contaminants of potential concern with concentrations that would pose a potential risk to human health and or the environment or constrain the future use of the site for the intended purposes.

Specifically, the following is noted:

- The site has been subject to urban development since prior to the 1940s and has been in its current state since the 1970s.
- The site is expected to consist of man-made fill above residual soils and bedrock. This man-made fill from onsite filling in the 1970s from the construction of the existing site and railway corridor does mean some present contaminants of potential concern, however, as detailed above, these are not likely to pose a risk to human health.
- Any future redevelopment and excavation will be subject to soil sampling either prior to construction or as spoil is produced. This will further inform waste classifications for disposal, and whether spoil can be re used on site or disposed off site.
- A Construction Environmental Management Plan/s (CEMP) should be prepared during any future redevelopment to minimise risks associated with runoff and dust. It should also include an Unexpected Finds Protocol for incidental potential contamination finds during earthworks and construction. The CEMP must detail the methodology to handle, manage and dispose any contamination found previously identified.

10.8 Geotechnical and Structural Implications

A Geotechnical and Structural Engineering Statement has been prepared by Aurecon (refer to **Appendix L**). The assessment identifies geotechnical constraints which may impact the proposed redevelopment of the site. The impact on and from the future redevelopment on the site on the existing rail infrastructure has also been considered.

Overall, Aurecon conclude that based on the expected geotechnical conditions of the site, the proposal can be feasibly designed and constructed on the site to ensure no adverse impact to the below rail corridor. This is based on conformance with the recommended design measures and mitigation measures identified by Aurecon.

10.9 Airspace Operations

A Preliminary Aeronautical Assessment has been undertaken by Strategic Airspace (refer to **Appendix M**) to assess the aviation-related airspace height impacts of the proposal. The assessment concludes:

- The height of the proposal would infringe the Obstacle Limitation Surface (OLS) on the site by approximately 0.75m AHD which would trigger the need for height approval under the Airports (Protection of Airspace) Regulations (APAR). The proposed height is approvable under the APAR but may be subject to conditions.
- The height of the proposal would be well below the PANS-OPS and the Radar Terrain Clearance Chart and is therefore considered approvable.
- There would be ample room for cranes to operate at a maximum height that would not exceed the height constraint of the limiting surface. Thus, implications associated with cranes would not affect the assessment of the height application.
- Considering the above, Strategic Airspace see no technical impediment to approval of the proposed works under the APAR.

10.10 Vegetation

The Arboricultural Assessment at **Appendix N** notes that the redevelopment will necessitate the removal of 35 of the 48 trees located on the site. Notwithstanding this, the impact of tree removal will be appropriately offset through the provision of high-quality landscaping throughout the site, in the form of a landscaped gardens, communal open spaces and courtyard. The proposed landscaping concept will provide visual interest and soften the overall appearance of the built form, whilst also minimising the urban heat island effects and improving the microclimate.

An Arboricultural Impact Assessment has been prepared by Truth About Trees and is included under **Appendix N**. The assessment indicates that redevelopment will necessitate the removal of 35 of the 48 trees located on the site (being 6 on the Edgecliff Centre site and 29 on the Council-Owned Road Reserve). Of the trees to be removed, 4 have a medium retention value and 31 have a low retention value. No trees proposed to be removed have a high retention value. All trees identified for retention will be protected through the provision of effective tree protection measures such as adequate tree protection fencing outlining the TPZ, protection of the trunk, branches and ground.

Overall, the impact of tree removal will be appropriately offset through the provision of high-quality landscaping throughout the site, in the form of a landscaped gardens, communal open spaces and courtyard. The proposed landscaping concept will provide visual interest and soften the overall appearance of the built form, whilst also minimising the urban heat island effects and improving the microclimate. In doing so, the proposed landscaping concept will align with the following objectives for tree management as listed in Chapter E3 of the WDCP 2015:

- *To promote, maintain and conserve the leafy character of the Woollahra Municipality.*
- *To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.*
- *To sustain and enhance Woollahra's tree canopy cover whilst providing opportunities for development on private land.*

10.11 Infrastructure and Servicing

IGS has undertaken a desktop review of the existing utilities of the site and their capability in accommodating the proposal (refer to **Appendix O**). It also makes recommendations for any utility upgrades which would be required to accommodate the proposal. The following is of note from the IGS review:

- In order to accommodate the proposal either two new kiosks, two mini chamber substations or a single chamber substation will likely be required.
- Two natural gas mains are located in the vicinity of the site. These are estimated to have adequate capacity to support the proposal (subject to assessment and approval from the gas provider Jemena).
- Multiple telecommunications conduits are located along New South Head Road and McLean Street, and these are anticipated to have the carrying capacity to support the proposal.
- No major existing water services will need to be decommissioned or diverted. The existing reticulation tee of the trunk main in New South Head Road will likely need upgrading to supply the proposal.
- An existing gravity sewer (225mm) extends from the southern boundary of the site, across McLean Street and connecting to a sewer main at New McLean Street. It is considered to have enough existing capacity to serve the proposal.

10.12 Ecologically Sustainable Development

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs, in accordance with the EP&A Regulation. The proponent is targeting to redevelop the site in accordance with the following sustainability commitments and targets identified in the ESD Strategy prepared by Arup (refer to **Appendix P**). This includes:

- Aspirational 5 Star NABERS energy rating for commercial office space.
- 40% reduction in water use and 25% reduction in energy use as per BASIX.
- Compliance with Section J of the BCA for the retail component.

These commitments will be achieved across the delivery of the development. These comprise initiatives to address the management and maintenance of the building, the selection of construction materials, demand for resources such as water and power, the use of sustainable modes of transport, impacts to the local ecosystem, emissions, and general community wellbeing. It demonstrates that there are opportunities to implement best-practice sustainable building principles and improve the environmental performance of the development.

10.12.1 Precautionary Principle

The precautionary principle is utilised when uncertainty exists about potential environmental impacts. It provides that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. The precautionary principle requires careful evaluation of potential environmental impacts in order to avoid, wherever practicable, serious or irreversible damage to the environment.

This Planning Proposal has not identified any direct serious threat of irreversible damage to the environment and therefore the precautionary principle is not required to be applied in this instance.

10.12.2 Intergenerational Equity

Inter-generational equity is concerned with ensuring that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations. The proposal has been designed to benefit both the existing and future generations through:

- Encouraging sustainable transport options as a Transit Orientated Development.
- Reducing carbon emissions and the demand on resources.
- Reducing waste that goes to landfill via the choice of materials and a centralised waste strategy.
- Monitoring and tuning the performance and operation of the building across the range of land uses.
- Social benefits of the proposal – ageing in place, wellness, homes to families and singles.
- Provision of housing (shelter being a fundamental human right) during a national housing crisis.

The proposal has integrated both short and long-term social, financial and environmental considerations so that any foreseeable impacts are not left to be addressed by future generations. Issues with potential long-term implications such as waste disposal would be avoided and/or minimised through construction planning and the application of safeguards and management measures.

10.12.3 Conservation of Biological Diversity and Ecological Integrity

This principal upholds that the conservation of biological diversity and ecological integrity should be a fundamental consideration in development. The proposal would have no significant impact on biological diversity and ecological integrity.

10.12.4 Improved Valuation, Pricing, and Incentive Mechanisms

The principles of improved valuation and pricing of environmental resources requires consideration of all resources which may be affected by a proposal, including air, water, land and living things. The cost of infrastructure, biodiversity offsets, design measures, and other sustainability initiatives for the renewal of Edgecliff Centre have been incorporated into the cost of development and will be delivered in the most cost-effective way via a life cycle cost approach that provides best return on investment. Mitigation measures for avoiding, reusing, recycling and managing waste during construction and operation would also be implemented to ensure resources are used responsibly in the first instance.

11.0 Project Timeline

Table 11 provides the project timeline anticipated for the Planning Proposal which is predicated on the nature and scale of the Planning Proposal.

Table 11 – Anticipated Project Timeline

Action	Timeframe
Stage 1 – Pre-lodgement	Complete
Lodgement	March 2024
Stage 2 – Planning Proposal	May 2024
Stage 3 – Gateway Determination	June 2023
Stage 4 – Post-Gateway	August 2024
Stage 5 – Public Exhibition and Assessment	October 2024
Stage 6 – Finalisation	November 2024

12.0 Conclusion

This Planning Proposal seeks amendments to the WLEP 2014 to facilitate the redevelopment of the Edgecliff Centre at 203–233 New South Head Road and part of the adjoining Council-Owned Road Reserve fronting New McLean Street.

It is justified for the following reasons:

- The proposal is consistent with the objects of the EP&A Act, in that it promotes the orderly and economic use and development of land; promotes good design and amenity; provides housing and a component of affordable housing; and provides a project with high sustainability benchmarking.
- The proposal is consistent with the strategic planning framework for the site.
- The development concept will facilitate the:
 - Rejuvenation of Edgecliff creating a vibrant mixed use town centre as the gateway to the Eastern City District.
 - Provision of a mixed-use development to accommodate a variety of uses including specialty retail and community space, leisure facilities, commercial office and residential (including affordable housing);
 - Creation of additional employment opportunities to contribute towards the jobs target for the Eastern City District.
 - Improved connectivity between the Edgecliff Transport Interchange with the site and surrounding areas through the provision of pedestrian connections.
 - Provision of diverse housing choice within immediately adjacent to the Edgecliff Railway Station and in close proximity to the largest employment area being the Sydney CBD.
- The height, bulk and scale of the proposal is supported by environmental testing that concludes that the proposal is sympathetic to the surrounding development, especially in relation to overshadowing, view sharing, visual impact and heritage.
- The proposal will deliver significant social and economic benefits including through creating additional employment opportunities in the construction and operational phases and through revitalising an underutilised site with much needed housing (including a component of affordable housing), employment generating uses and publicly accessible open space and community facilities. The proposal also provides developer contributions towards and (part) land dedication for a multi-purpose community facility of up to 3,000 sqm (pending further design development with Council).
- The proposal is consistent with the applicable SEPPs and Ministerial Directions.

The proposed amended planning controls will allow the site to reach its strategic potential and provide an effective transit orientated development and contribution to the Edgecliff town centre. The site benefits from immediate and direct connectivity to Edgecliff Railway Station and bus interchange which offers significant uplift in transport capacity in the local area.

To this end, the Planning Proposal and indicative development concept for the site fosters the principles of transit orientated development, with a complete rethink of how developments are arranged and function, offering significant benefits and opportunities for Woollahra LGA and Edgecliff.


Accordingly, considering the proposal and the overall strategic nature of the site and justification provided in addressing key planning issues, the Planning Proposal is considered to have sufficient Strategic Merit. This Planning Proposal also demonstrates that the density proposed can be appropriately accommodated on the site while also minimising environmental impacts and not compromising the amenity of surrounding residential receivers, heritage and valued public spaces. This supports the site-specific merit of the Planning Proposal.

For these reasons, we have no hesitation in recommending this Planning Proposal for Gateway Determination.

Planning Proposal Request

203-233 New South Head Road

Edgecliff



Staff Assessment



Version Date:	October 2024
Division/Department:	Strategic Planning/Planning & Place
Responsible Officer:	Chinmayi Holla, Strategic Planner and Louise Menday, Consultant Strategic Planner
HPE CM Record Number:	24/132468

Acknowledgement of Country

Woollahra Council acknowledges that we are on the land of the Gadigal and Birrabirragal people, the Traditional Custodians of the land. We pay our respects to Elders past, present and emerging.

TABLE OF CONTENTS

1.	Introduction.....	2
1.1.	Rezoning review	4
2.	Background.....	7
2.1.	Recent proposals in vicinity	8
3.	Assessment of strategic merit.....	9
3.1.	Greater Sydney Region Plan and Eastern City District Plan	9
3.2.	Community Strategic Plan 2032 (Woollahra 2032)	11
3.3.	Woollahra Local Strategic Planning Statement 2020 (the Woollahra LSPS 2020) ...	11
3.4.	<i>Woollahra Local Housing Strategy 2021</i> (the Woollahra LHS 2021)	12
3.5.	<i>Edgecliff Commercial Centre Planning and Urban Design Strategy (ECC Strategy)</i>	13
4.	Assessment of site-specific merit	15
4.1.	<i>Woollahra Local Environmental Plan 2014</i>	15
4.2.	Woollahra Development Control Plan 2015 (Woollahra DCP 2015).....	21
4.3.	Community infrastructure	22
4.4.	Urban design	23
4.5.	Trees	25
4.6.	Traffic and parking	25
4.7.	Solar access	26
4.8.	Views.....	27
4.9.	Heritage.....	28
4.10.	Sustainability	28
4.11.	Parks and open space	29
4.12.	Site-specific DCP (amendment to the Woollahra DCP 2015).....	30
5.	Justification for the planning proposal.....	30
6.	Summary of Recommendations	32
6.1.	Strategic merit	32
6.2.	Site-specific merit	32
6.3.	The Housing SEPP bonus	33
6.4.	Exceptions clause.....	33
6.5.	Site-specific DCP.....	35
7.	Conclusion.....	35

1. Introduction

This report presents the staff assessment of the planning proposal request made by Longhurst Group (the proponent) for 203-233 New South Head Road, Edgecliff (the proponent’s land) and adjacent land in the road reserve on New McLean Street, Edgecliff (the Council land). In this staff assessment, the proponent’s land and the Council land together are referred to as the site. Refer **Figure 1**.



Figure 1: Aerial image showing the site (red) and the Council land (yellow)

Lodged on 8 April 2024, the planning proposal (PP-2024-540) seeks building height and floor space ratio (FSR) amendments to the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) as shown in **Table 1**.

Table 1: Requested amendments the Woollahra LEP 2014

	Existing standards	Requested Standards
Building height	Part 6m and 26m on the proponent’s land	Part 60m and 124-128m (max. RL 156.8m) on both the proponent’s land and the Council land*.
	No controls on the Council land	*We note that the height on Council land has not been formally requested under <i>Section 6.1 Height of Buildings</i> of the Planning Proposal Report, hence the maximum building height request is assumed to be applicable to the whole site.
Floor space ratio	2.5:1 on the proponent’s land	9:1 on the proponent’s land (with 2:1 minimum non-residential)
	No controls on the Council land	3.5:1 on the Council land

The proponent submitted the following documents to support their planning proposal request:

- Planning Proposal Report - Edgecliff Centre;
- Benchmarking Analysis;
- Questions to Consider when Demonstrating Merit;
- Urban Design Report - Parts 1-5;
- Social Impact Assessment;
- Economic Impact Assessment;
- Visual Impact Assessment
- Transport and Accessibility Assessment;
- Heritage Impact Assessment;
- Environmental Wind Assessment;
- Acoustic Assessment;
- Preliminary Site Investigation;
- Geotechnical and Structural Engineering Statement;
- Preliminary Aeronautical Assessment;
- Arboricultural Impact Assessment;
- Utilities Desktop Review;
- Ecologically Sustainable Development Strategy (ESD Strategy);
- Scoping Proposal Council Advice;
- Response Matrix to Scoping Proposal Council Advice; and
- Voluntary Planning Agreement draft letter of offer (26 June 2024).

The planning proposal request is accompanied by an offer to enter into a voluntary planning agreement (VPA). Council's Director Infrastructure and Sustainability is managing these negotiations for reasons of probity per the *Woollahra Voluntary Planning Agreements Policy* (2010). The result of the negotiations will be reported to Council independently of the planning proposal. Staff note that the delivery of multi-purpose community facility on Council land is not included in the draft VPA offer. At the time of preparing this report, negotiations are ongoing and no agreement on the terms of a draft VPA has been reached.

Should the planning proposal proceed, provisions to secure a contribution towards improved community infrastructure, public open space, public domain and community facilities should be included to ensure public benefit is achieved in tandem with any future development.

The proponent has provided an indicative development concept, which is an expression of the built form that could be achieved under the requested development standards. It shows a mixed-use development comprising a:

- 2-3 storey retail podium;
- 13 storey commercial building over the podium, fronting New South Head Road;
- 11 storey residential tower over the podium, fronting New McLean Street;
- 35 storey residential tower over the podium, abutting the Council land;
- Central podium top plaza and 'grand stairway' entrance from New South Head Road;
- Parking in 8 basement levels, commercial loading, entry from New McLean Street; and
- Three level multi-purpose community facility on the Council land (equivalent to four storeys in height).

At its highest, the residential tower will be equivalent to 37 storeys, the lower residential tower equivalent to 13 storeys, and the commercial building equivalent to 15 storeys.

Figures 2 and 3 show the potential distribution of land uses, a 3D model and typical floor plans from the indicative development concept. **Figures 4 and 5** show artist's impressions of the indicative development concept.

While the Council land is zoned E1 Local Centre, the planning proposal request indicates excising approximately 1000m² from the road reserve in New McLean Street, creating a lot with legal description, and applying development standards to it.

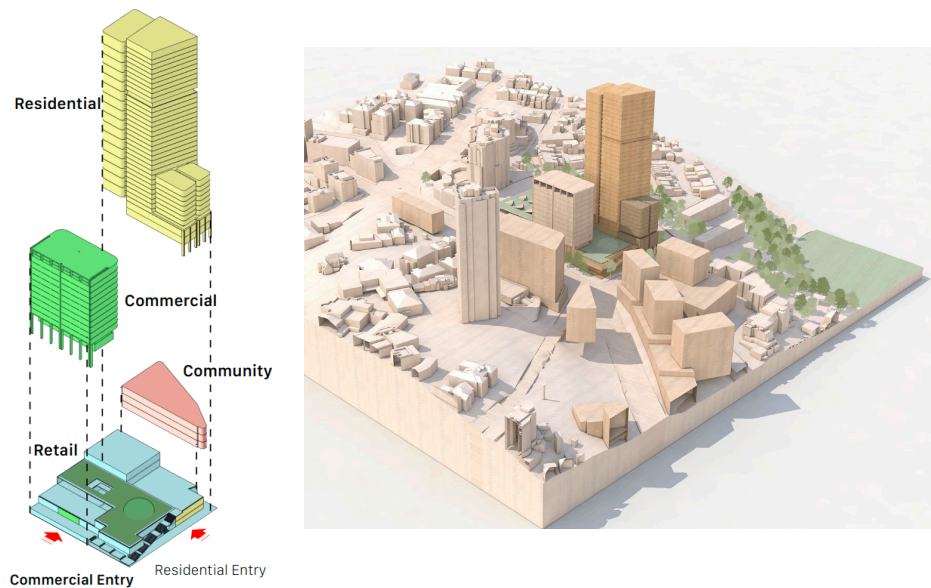


Figure 2: Indicative development concept - land use distribution and model (Source: FJC, 2024)

1.1. Rezoning review

On 6 September 2024, the proponent lodged a rezoning review (RR-2024-32) with the Department of Planning, Housing and Infrastructure (DPHI) as Council did not make a decision on the planning proposal within 115 calendar days. Staff subsequently received a letter from the DPHI on 24 September 2024 to notify Council of the rezoning review and to request a written response by 15 October 2024 with the following:

- Any comments on the planning proposal; and
- Confirmation that the proposal is consistent with the version submitted to Council.

Consequently, the DPHI will hold a briefing for a rezoning review and make a decision on whether the proposal should proceed to Gateway.



Figure 3: Indicative development concept - typical layout on the site, lower and upper levels
(Source: FJC, 2024)



Figure 4: Indicative development concept – New South Head Road context looking east
(Source: FJC, 2024)



Figure 5: Indicative development concept – view on New Mclean Street (Source: FJC, 2024)

Staff have assessed the planning proposal request in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Local Environmental Plan Making Guideline* (August 2023). The planning proposal is classified as a “complex planning proposal” based on the categories in the LEP Guideline.

A strategic merit assessment considers how the planning proposal would give effect to the NSW Government’s regional and district planning framework, and whether it demonstrates consistency with the objectives of Council’s local strategic planning framework.

A site-specific merit assessment considers the planning proposal request and indicative development concept against the relevant Woollahra LEP 2014 and *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) objectives and controls.

Throughout this staff assessment, staff refer to the proponent’s planning proposal request (PP-2024-540) as the ‘planning proposal request’.

This staff assessment finds that the planning proposal request does not exhibit strategic or site specific merit due primarily to the bulk and scale of the potential built form, and inadequate transition between that built form and nearby lower density development.

It is recommended that the planning proposal request does not proceed in its current form.

Notwithstanding, the coordinated redevelopment of the site would contribute to housing numbers, modern employment space and identified community infrastructure, and would assist in revitalisation of the Edgecliff Commercial Centre (the ECC).

If the planning proposal request were to be amended in accordance with the staff recommendations (refer to summary in Section 6), it would facilitate development of a scale, type and intensity that is compatible with the ECC, and its desired future character as expressed in the *Edgecliff Commercial Centre Planning and Urban Design Strategy* (ECC Strategy).

2. Background

The proponent's land was subject to a previous planning proposal request that sought to amend Woollahra LEP 2014 and increase the building height to 167m (45 storeys) and maximum FSR to 9:1 (with a minimum non-residential FSR of 3:1). That previous planning proposal request was lodged on 8 December 2020 and on 22 February 2021 Council resolved to not support its progression.

On 9 September 2021, the Sydney Eastern City Planning Panel (SECPP) considered a rezoning review of the planning proposal request and determined that the planning proposal should not be submitted for Gateway determination as it did not demonstrate strategic merit. The SECPP's reasons for the decision included the bulk and scale of the potential built form, the lack of transition between that built form and lower density residential precincts, and the lack of certainty with respect to the public benefit.

The proponent continued to liaise with Council staff and on 1 May 2023, lodged a scoping report (including an indicative development concept). The proponent's scoping report sought the changes shown in **Table 2**. Table 2 also shows the amendments sought in the current planning proposal request.

Table 2: Comparison of planning proposal request with scoping report

	Planning proposal request	Pre-application scoping report
Building height	Part 60m and 124-128m (max RL 156.8m) for both the proponent's land and Council land RL47.5m for the Council land	132-136m over the whole site
Floor space ratio	9:1 on the proponent's land (with 2:1 minimum non-residential) 3.5:1 on the Council land	9:1 on proponent's land (with 3:1 minimum non-residential) 3.5:1 on the Council land

On 6 June 2023, staff held a pre-application meeting with the proponent. On 3 August 2023, staff provided a written response to the proponent, summarising the matters discussed at the pre-application meeting and identifying issues to be addressed before any request for a planning proposal was submitted.

The written staff advice expressed general support for redevelopment of the Edgecliff Centre, noting it occupies a prominent site in the commercial heart of the ECC. However, staff did not support the scale of the proponent's request, stating the building envelope would be excessive in height and bulk, and would not be justified on strategic or site-specific merit.

In summary, the staff written advice referred to a potential built form outcome that would:

- Be inconsistent with the ECC's desired future character;
- Result in a building significantly higher and bulkier than others in the vicinity;
- Not allow for a transition to the lower scale built form in and around the ECC;
- Not be an appropriate scale for a local centre and be more typical of a larger strategic centre that has a role beyond that of serving the local community;
- Contain open space areas within the site to the detriment of the public domain and have potential to privatise that open space;
- Not activate the New McLean Street frontage;
- Have an unacceptable impact on the amenity of nearby residential areas, and in particular the Paddington Heritage Conservation Area;

- Result in the loss of trees on the Council land and the unnecessary removal of street trees; and
- Not integrate the community centre with the development to ensure its delivery.

The planning proposal request for building height is lower than the scoping version by 8m, and proposes a lower non-residential FSR. Otherwise, the bulk, scale and layout of the building envelope enabled by the planning proposal request is substantially similar to the scoping version.

2.1. Recent proposals in vicinity

The area surrounding the site has been subject to several planning proposals seeking greater heights and FSRs. These include:

- 252-254 New South Head Road – seeking an increase in height from 13.5m to 22m (5 storeys from New South Head Road and up to 8 storeys at the rear) and a maximum FSR of 2.6:1. The LEP amendment was finalised and gazetted on 16 December 2022.
- 136-148 New South Head Road – seeking an increase in building height from 14.5m to 46m (12 storeys) and a maximum FSR of 5:1. The LEP amendment was finalised and gazetted on 17 May 2024.
- 8-10 New McLean Street – seeking a maximum building height of approximately 87.9m (25 storeys) and a maximum FSR of 4.5:1. On 28 February 2024, the SECPP determined that the planning proposal should be submitted for Gateway determination subject to amendments. The planning proposal is currently at the pre-Gateway stage.

The height, scale and merit of the recent planning proposal requests in the area have been considered in this staff assessment.

3. Assessment of strategic merit

This strategic merit assessment considers how the planning proposal would give effect to the NSW Government's regional and district strategic planning framework, and whether it demonstrates consistency with the Council's local strategic planning framework objectives.

The staff assessment finds that the planning proposal request does not exhibit strategic merit due to the bulk and scale of the potential built form. The discussion below indicates where these aspects of the planning proposal request would not meet State and local strategic planning framework objectives.

3.1. Greater Sydney Region Plan and Eastern City District Plan

The NSW Government's strategic planning framework supports increased local employment and increased dwelling numbers in places where growth can be aligned with infrastructure capacity. For the ECC, regional infrastructure includes the existing rail, bus and regional road network, and planned investment in the Eastern Economic Corridor in transport, health, education and cultural facilities.

3.1.1. Greater Sydney Region Plan: A Metropolis Three Cities (the Region Plan)

The redevelopment of the site would be integrated with the ECC's significant public transport that connects to the Sydney CBD and the wider Eastern Suburbs. The site is in a walkable neighbourhood with transport, shops and services, and green spaces. The site's central location would encourage use of active transport, including direct access to the separated cycleway along New South Head Road (proposed in the *Woollahra Active Transport Plan 2023*).

Intensified use of the site would deliver new housing and modern employment space in a location that leverages existing infrastructure.

However, the planning proposal request does not support the Region Plan's objectives for housing growth given the significant amount of residential yield anticipated is not ensured by the requested development standards. Specifically, the planning proposal request does not include an upper limit on the non-residential FSR and includes a definition of 'non-residential' that excludes serviced apartments. The planning proposal request would, therefore, enable a substantially or fully commercial development, and if this were the outcome the crucial provision of a significant increase in housing numbers would not be achieved.

Notwithstanding, a reviewed and amended planning proposal that addresses the staff recommendations summarised in Section 6 would support the Region Plan's objectives. To align with the Region Plan's objectives, staff recommend any planning proposal include a maximum non-residential FSR to ensure delivery of the residential floor space as proposed in the planning proposal request. Staff do not support the exclusion of serviced apartments from the definition of non-residential development, as proposed.

A planning proposal request amended in accordance with staff recommendations would align with:

Objective 10. *Greater housing supply*

Objective 11. *Housing is more diverse and affordable*

Objective 14 *A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities.*

3.1.2. Eastern City District Plan 2018 (the District Plan)

Given the excessive scale of the planning proposal request (discussed in detail in Section 4), the planning proposal request is consistent with the principles of the centres hierarchy as outlined in the District Plan, and inconsistent with some of the District Plan's planning priorities, particularly:

Planning Priority E3 *Providing services and social infrastructure to meet people's changing needs*

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

The planning proposal request suggests the ECC exhibits characteristics of a strategic centre and can therefore accommodate the taller built form requested. Staff do not support this approach as discussed below.

The District Plan identifies the ECC as a local centre, capable of accommodating moderate growth to meet the needs of the local community. The ECC has, and will continue to have, a moderate amount of retail and employment space. It is not a major employment hub, nor does it have the extensive range of retail, commercial, and services that are characteristic of most strategic centres. The ECC does not have major educational or health facilities, or tourism or cultural precinct which can be distinguishing features of a strategic centre.

Staff agree the ECC benefits from established public transport and is on the regional road network. However, the ECC is constrained by the capacity of New South Head Road (the regional network) and by local road network connections into it. Being a narrow corridor, the ECC is also constrained by surrounding land uses that are much lower in scale, including within the ECC, in the Paddington Heritage Conservation Area (Paddington HCA) and Trumper Park and Oval. These constraints control the ECC's footprint and scale, and contribute to its local centre status.

The ECC Strategy takes the abovementioned factors into consideration and is based on urban design principles, environmental and amenity outcomes and the ECC's capacity to accommodate growth. The ECC Strategy confirms the ECC's status as a local centre and any building on the site needs to be appropriate for a local centre. The ECC recommends development of a reduced scale (specifically height and FSR) to ensure future development is consistent with the centre's hierarchy and appropriate to the ECC as a local centre. The ECC Strategy is further discussed in subsequent sections.

The District Plan emphasises the need to provide appropriate infrastructure to support growth, including delivery of new or improved public open spaces and community facilities and services. Incorporating the Council land with the proponent's land will facilitate the development of the community facility in a location where it is needed. The *Woollahra Community Facilities Study 2019* identifies the need for a multi-purpose community centre in the western precinct catchment within ten years and the site is uniquely placed to accommodate this. Staff support incorporation of the Council land and uplift of the site, but only if the strategic public benefit of a new community facility is achieved. Staff note that the delivery of the multi-purpose community facility on Council land is not included in the draft VPA letter of offer. At the time of preparing the staff assessment, these negotiations are ongoing and no agreement on the terms of a draft VPA has been reached.

A planning proposal request reviewed and amended in accordance with the staff recommendations summarised in Section 6 would align with the principles of the centres hierarchy and support the District Plan's objectives and planning priorities, specifically:

Planning Priority E3 *Providing services and social infrastructure to meet people's changing needs*

Planning Priority E5. *Providing housing supply, choice and affordability, with access to jobs, services and public transport*

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

Planning Priority E10: *Delivering integrated land use and transport planning and a 30-minute city*

3.2. Community Strategic Plan 2032 (Woollahra 2032)

Woollahra 2032 identifies a strategic direction and integrated planning framework for the Woollahra Local Government Area (LGA) and specific goals regarding urban growth.

Given the scale and design of the potential built form (refer to Section 4 for detail), the planning proposal request would not provide a high quality urban design outcome and does not align with Woollahra 2032, specifically:

Goal 4: Well-planned neighbourhoods of Woollahra 2032, and specifically:

4.1 Encourage and plan for sustainable, high quality planning and urban design outcomes

4.3 Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes.

4.4 Facilitate safe and active local centres which increase local activity, balance tourism demands with the impact on the community and are in line with local character.

Woollahra 2032 identifies the ECC as a local centre that can accommodate moderate growth to meet the needs of the local community. The bulk and scale of built form enabled by the planning proposal request is considered too high for a local centre and is incompatible with the local context and character.

A planning proposal request reviewed and amended in accordance with the staff recommendations summarised in Section 6 would facilitate additional living, employment, and community space and be consistent with the role identified for the ECC in Woollahra 2032, including Goal 4.

3.3. Woollahra Local Strategic Planning Statement 2020 (the Woollahra LSPS 2020)

The Woollahra LSPS 2020 establishes a 20-year land use vision and planning priorities for infrastructure, liveability, productivity and sustainability.

Given the scale and design of the indicative development concept is inappropriate in the context and not consistent with the existing and desired future character, the planning proposal request would not support the strategic objectives of the Woollahra LSPS 2020, particularly:

- **Planning Priority 4:** *Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes.*

Action 25(e): *Promotes design excellence that preserves village and neighbourhood character, integrates sustainability principles, and supports the role of business centres.*

- **Planning Priority 6:** *Placemaking supports and maintains the local character of our neighbourhoods and villages whilst creating great places for people.*

Action 34: *Promote design excellence and best practice construction for public and private buildings, urban design and the public domain.*

Notwithstanding, future development on the site consistent with the staff recommendation outlined in this report would assist with achieving the following priorities and actions:

- **Planning Priority 1:** *Planning for integrated land use and transport for a healthy, sustainable, connected community and a 30-minute city.*
 - Action 6:** *Work with our community and government agencies to increase the role of Edgecliff as a key transport interchange in our area.*
 - Action 9:** *Ensure all new development along transport corridors has suitable access and facilities for deliveries, servicing and local freight activities.*
- **Planning Priority 7:** *Supporting access to a range of employment opportunities and partnerships.*
 - Action 41:** *Introduce planning controls into the Woollahra Local Environmental Plan 2014 and Woollahra Development Control Plan 2015 to protect and enhance floor space for commercial, retail, business, health and community uses in centres, particularly in Double Bay and Edgecliff.*
- **Planning Priority 13:** *Improving the sustainability of our built environment, businesses, transport and lifestyles by using resources more efficiently and reducing emissions, pollution and waste generation.*
 - Action 68:** *Promote sustainable development outcomes (noting that a site-specific DCP would include a requirement to achieving a minimum 5-Star Green Star Building rating).*

The staff recommendations summarised in Section 6 provide direction on how the planning proposal request can be reviewed and amended to improve its consistency with Planning Priorities 4 and 6 outlined above. A planning proposal reviewed and amended in accordance with these staff recommendations would better support the strategic objectives of the Woollahra LSPS 2020.

3.4. **Woollahra Local Housing Strategy 2021 (the Woollahra LHS 2021)**

The Woollahra LHS 2021 is a strategic plan for housing and residential development in the Woollahra LGA. The Woollahra LHS 2021 resulted from an evidence-based assessment of the LGA and provides for housing growth in planned locations where it will be consistent with local character and infrastructure capacity.

The planning proposal request does not support the Woollahra LHS 2021 objectives (primarily because the indicative significant amount of residential yield is not ensured). Staff emphasise that consistency with the LHS 2021 objectives is contingent on delivery of a substantial residential component on the site and the issues regarding scale and adverse character impacts need to be addressed.

Notwithstanding, residential uplift on the site would support key Woollahra LHS 2021 strategic objectives, and a planning proposal reviewed and amended in accordance with the staff recommendations summarised in Section 6 would align with the following Woollahra LHS 2021 objectives:

- **Objective 1:** *Sustain a diverse range of housing types and protect low density neighbourhoods and villages.*
- **Objective 2:** *Facilitate opportunities for housing growth in locations identified in the Woollahra Local Housing Strategy.*

3.5. Edgecliff Commercial Centre Planning and Urban Design Strategy (ECC Strategy)

Adopted on 29 April 2024, the ECC Strategy provides direction for growth in the ECC (**Figure 6**). The strategy is the result of an extensive community consultation process. Significant amendments and additional heritage and urban design investigations were undertaken in response to issues raised in submissions. The adopted ECC Strategy is a clear reflection of the community and Council's position on desired future character of the ECC.

The adopted ECC Strategy establishes a more focused approach to planning for the ECC, with the uplift sites concentrated between Edgecliff Station and Mona Road. The ECC Strategy identifies the precinct around the site as a local commercial core that can accommodate a moderate level of employment and residential growth to enhance employment and living opportunities for the local community. It is envisaged that growth will revitalise the ECC and improve its economic viability, particularly through enhanced public domain and community infrastructure.

The site is one of nine sites identified for uplift in the ECC Strategy, nominally up to 86m with two towers of 14 and 26 storeys on a four storey podium. **Figure 7** shows the indicative massing of the built form in the ECC Strategy. The planning proposal request indicates a 128m (37 storey) residential tower on the site, which is inconsistent with the ECC Strategy. As discussed in Section 4, staff consider the requested height is excessive and is not of a scale that is appropriate to the ECC's status as local centre.

Notwithstanding, staff support redevelopment on the site and acknowledge its potential to contribute to public domain enhancements and fill the identified need for community infrastructure in the heart of the ECC. Accordingly staff support an increase in scale on the site consistent with the ECC Strategy.

Council's recommended approach to the development of this part of the ECC outlines treating the proponent's land and the Council land as one (the site), with the heights and FSRs applied to the whole site. This approach would facilitate a coordinated built form outcome that secures public benefit and delivers improved urban design outcomes along New McLean Street.



Figure 6: Extent of the Edgecliff Commercial Centre (Source: Woollahra Council, 2024)

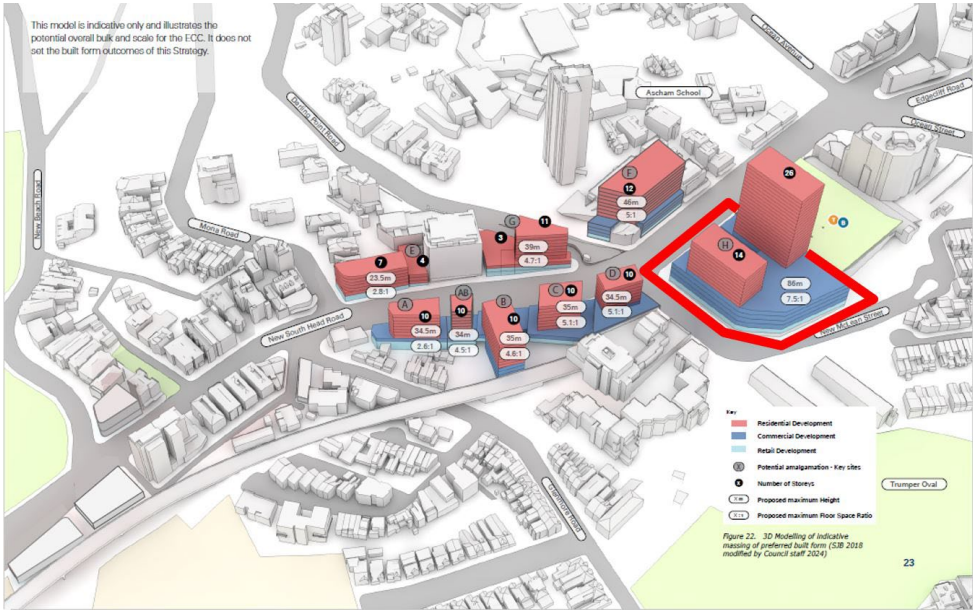


Figure 7: ECC Strategy Indicative Massing with site highlighted in red (Source: Woollahra Council, 2024)

4. Assessment of site-specific merit

This site-specific merit assessment reviews the planning proposal against relevant Woollahra LEP 2014 and Woollahra DCP 2015 objectives and controls, with specific reference to the indicative development concept. The site-specific assessment finds that the planning proposal request does not demonstrate site-specific merit. The reasons for the staff finding are outlined in Points 4 and 5 below and summarised in the Summary of Recommendations in Section 6.

4.1. Woollahra Local Environmental Plan 2014

4.1.1. E1 Local Centre Zone Objectives

The planning proposal request would have unacceptable impacts resulting from the scale of the built form and does not comply with the following objectives:

- *To encourage development that is compatible with the local centre's position in the centres hierarchy.*
- *To ensure development is of a height and scale that achieves the desired future character of the local centre.*

Notwithstanding, uplift on the site would contribute to additional housing and modern retail and commercial space. A planning proposal reviewed and amended in accordance with the staff recommendation would align with the above and following E1 Zone objectives.

- *Provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *Encourage investment in local commercial development that generates employment opportunities and economic growth.*

4.1.2. Maximum building height

Under Woollahra LEP 2014, the maximum building heights are:

- 6m for the southern portion of the site (accommodating the two storey building);
- 26m for the northern portion of the site (accommodating the seven storey building); and
- No height for the Council land.

The proponent has requested part 60m and part 124-128m (max RL 156.8m) for both the proponent's land and Council land.

The 128m height triggers air space protection rules (a breach of approximately 0.75 AHD). The proponent states this is not expected to prevent development to the height requested. Further comment may be sought from the relevant authority should the planning proposal progress to public exhibition.

Figure 8 shows the approximate distribution of heights (in RLs) across the site. At its highest point, the indicative development concept shows a 35 storey residential tower above a two-storey non-residential podium, a total of 37 storeys (maximum height of RL 156.75m).

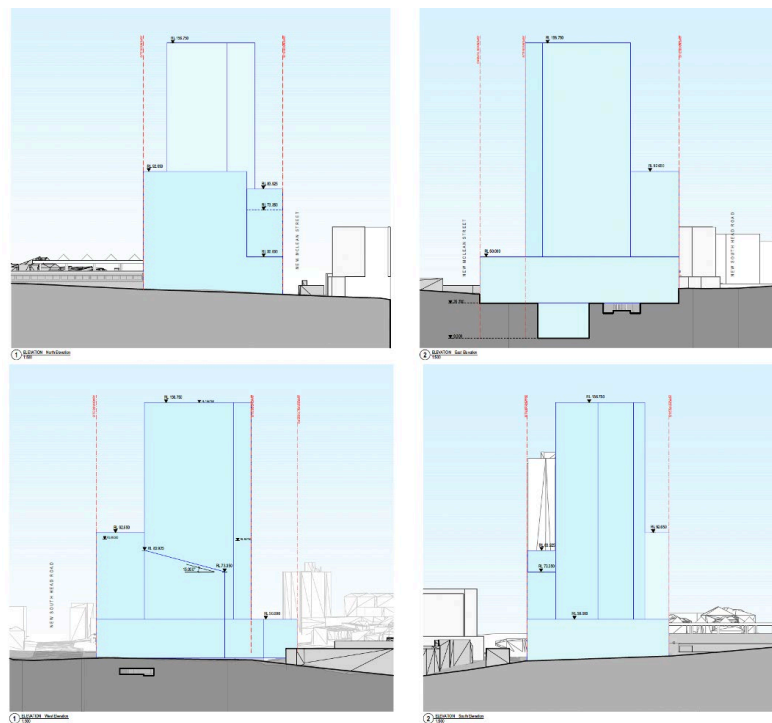


Figure 8: Requested heights maximum envelope (Source: FJC, 2024)

In assessing the requested building height, staff had regard to the following:

- Existing building height controls;
- The ECC Strategy that shows towers of 14 and 26 storeys (maximum 86m) on the site, acknowledging the highest building should be in the heart of the ECC;
- The ECC Strategy that shows nearby uplift sites of 10-11 storeys (34-39m);
- The 37 storeys proposed on the proponent's land being 30m taller than the tallest building nearby, Ranelagh (that the Woollahra DCP 2015 identifies as an intrusive building); and
- The recent planning proposal for 136-148 New South Head Road that would enable 46m (12 storeys) via an exceptions clause.

As discussed in the following sections, 128m (37 storeys) is excessive and if the planning proposal request were to be amended in accordance with the staff recommendations (refer to summary in Section 6), it would facilitate development of a scale, type and intensity consistent with the ECC Strategy.

Staff consider the following aspects in the indicative development concept acceptable, given they are within the ECC Strategy's indicative heights and their impacts can be managed:

- 13 storey commercial building over the two storey podium (approximately 60m) - noting this contributes to maintaining commercial floor space in the heart of the ECC;
- 11 storey part of the residential tower over the two storey podium – noting this lower height maintains solar access to Trumper Oval from 10am onwards mid-winter; and
- Height up to RL 47.5m (approximately 20m) on the Council land – noting three to four storey podium height on New McLean Street is consistent with the ECC Strategy.

4.1.2.1. Urban design review and height

An internal urban design review indicates that the site and adjacent land (Eastpoint) will continue to be the focus of higher density commercial, retail, community and residential uses, and can absorb considerable height above existing controls, due to:

- Accessibility, centrality and the New South Head Road address
- Large, comparatively un-fragmented sites and ownership
- Edgecliff Station and bus interchange that will attract pedestrians
- Ownership and railway easements, that add complexity and requires a comparatively higher density for viability
- Scope to improve the presentation and usability of the primary public domain; and
- Separation from sensitive land uses by wide roads, neighbouring precincts, and existing non-sensitive uses that would enable minimisation of potential impacts such as overshadowing, solar access, privacy, outlook and views.

Tall buildings can be positive where appropriately located, such as on the site that benefits from the:

- Ridge location that reinforces the site's visual significance and would 'place-mark' the presence of urban activity and transport; and
- The inner-Sydney character of tall buildings along ridgelines, which ensures tall buildings on the site would not be unique and would not be unreasonably visually prominent within the wider cityscape and skyline.

Notwithstanding, the urban design review recommends a lower height than the 128m (RL 156.75m), as the role of Edgecliff as a local centre does not warrant an overtly prominent landmark tower. Staff propose a height consistent with the ECC Strategy is appropriate for the site.

Additional survey data is required to address the lack of clarity in the lodged documentation and includes:

- Detailed sections to clearly show floor to floor heights in metres, and number of storeys; and
- A detailed and readable survey to establish the existing ground levels and assist in completing the first point¹.

4.1.2.2. State Environmental Planning Policy (Housing) 2021 (the Housing SEPP)

On 14 December 2023, the NSW Government implemented in-fill affordable housing reform to encourage affordable housing and market housing in accessible areas (within 800m of Greater Sydney train stations and other relevant locations). The reform incorporated into the Housing SEPP include:

- A height and FSR bonus of up to 30% for projects that include up to 15% of their gross floor area (GFA) as affordable housing.
- A requirement for the affordable housing to be managed by a registered community housing provider and remain affordable for a minimum of 15 years.
- Non-discretionary development standards for lot size, dwelling sizes, landscaped area, deep soil zones, car parking and others.
- Requirements for the consent authority to consider the character of the local area, or the desired future character for areas under transition.

¹ The only available ground level is the spot height of RL 27.57m that is the lowest height in the external loading dock and would establish an RL of 156.75m (27.57m + 128 m).

The site could include 15% of its GFA as affordable housing and could obtain a 30% bonus on the maximum FSR and building height. Under the ECC Strategy, the indicative maximum FSR for the site is 7.5:1. A 30% FSR bonus on 7.5:1 is 9.75:1. The proponent's request for a 9:1 FSR is close to the maximum FSR that could be achieved under the Housing SEPP.

The ECC Strategy's indicative maximum height for the site is 86m. A 30% bonus on 86m is 112m (about 34 storeys). The proponent's requested 37 storeys could increase to 48 storeys using the 30% bonus and would further exceed an acceptable scale of development for the site.

The proponent has not considered the Housing SEPP bonus in their review of whether the planning proposal is the best means of achieving the desired outcome. Accordingly, any proposed uplift on the site would need to be supported by a provision that prevents the Housing SEPP bonus being available on the site.

4.1.2.3. Height – summary and recommendation

In summary, staff consider the height of 128m excessive and it would:

- Be inconsistent with the ECC's desired future character;
- Produce a building significantly higher than others in the vicinity and not allow for a transition to lower scale built form in and around the ECC (existing and potential);
- Not be appropriate in scale to the Edgecliff local centre as it would be more typical of a larger strategic centre; and
- Be liable to extend even higher through a Housing SEPP bonus.

While the height is reduced from the pre-application version by 8m in the planning proposal request, the urban design review and staff analysis indicates the reduction is not enough to achieve an acceptable outcome. At 128m and 37 storeys, the residential tower on the site would be three or more times the height of nearby development.

4.1.3. Maximum floor space ratio

Under the Woollahra LEP 2014, the maximum FSR is 2.5:1 for the proponent's land and there is no FSR control applying to the Council land. The proponent has requested a maximum FSR of 9:1 for the proponent's land and 3.5:1 for the Council land.

In assessing the requested FSR, staff had regard to the following:

- The ECC Strategy that indicates an FSR of 7.5:1 for the site (the proponent's site and the Council land), a four storey podium and a minimum non-residential FSR of 3:1; and
- The recommended FSR of nearby uplift sites in the ECC Strategy that are 4.5-5:1.

The planning proposal request would result in a disparity in FSRs between the two parcels. In effect, the planning proposal would relocate the development potential of the Council land onto the proponent's land, and restricts the long term development opportunities of the Council land.

Staff do not support the requested FSR for the site as it could result in a built form with excessive bulk that does not respond to the local context.

Given the recommended height of 86m and the need for setbacks, building separation and articulation (refer to Section 4 for detail), the FSR should be reduced and confirmed in a subsequent detailed design.

The urban design review supports the positioning of the residential tower behind the commercial and community buildings, stating this will bring visual relief within the streetscape due to the stepping of the building mass into the centre of the site. However, the following staff concerns about the planning proposal request and the indicative development concept need to be addressed, and may affect the achievable FSR on the site:

- No setback above podium of the 12 storey commercial building on the northern boundary;
- No setback above podium of the nine storey residential tower on the western boundary;
- An 18m internal building separation that may need to increase to 24m (for *Apartment Design Guide*, or ADG compliance) if windows are placed in the southern façade of the commercial building; and
- The lower residential floorplate (from Level 3 to 11) shows 11 apartments per level and exceeds the ADG design criteria maximum of eight apartments.

Setbacks above the podium are considered appropriate to visually distinguish and separate the different parts of the built form, and bring visual relief in the streetscape. Setbacks would improve microclimates at pedestrian levels, especially by reducing wind impact and enabling better solar access. Setbacks would also provide useable outdoor space for the towers' occupants. Staff note that the proposed podium of two storeys in the indicative development concept is lower than the four storey podium recommended in the ECC Strategy. Staff consider this variation to be acceptable as the design accommodates the entire commercial floor space within the commercial tower, and the two-storey retail podium helps to create a consistent street wall with adjacent buildings along New South Head Road.

Based on the urban design review, staff recommend the following to address the concerns raised above:

- Setback to tower at a minimum of 6m above the podium;
- Podium no taller than two storeys with retail/commercial addressing the streets;
- Podium articulated to maintain a human scale building wall to the street;
- Podium level setbacks landscaped and directly accessible from the tower lifts; and
- Residential tower footprint to comply with the ADG (building separation and number of units off corridors).

Addressing the matters outlined above and lowering the height of the built form will assist in the modelling of an appropriate FSR.

4.1.4. Maximum non-residential floor space

For the reasons discussed at Point 3.1.1, the requested development standards do not ensure a significant amount of residential yield anticipated in the indicative development concept. Staff emphasise that strategic and site-specific merit are contingent, among other things, on the delivery of a substantial residential component on the site. The residential yield is a key reason staff support (in principle) uplift on the site.

To ensure a substantial residential component is achieved on the site, staff recommend a maximum 3:1 non-residential FSR. Staff do not support the exclusion of serviced apartments from the definition of non-residential development.

This recommendation is based on the indicative development concept that shows approximately one third of proposed GFA as commercial floor space (including retail) and the remaining two thirds of proposed GFA as residential floor space.

4.1.5. Arrangement of height and floor space

The indicative development concept proposes an alternative built form to that shown in the ECC Strategy (refer to **Figure 9**). The arrangement of built form reflects constraints on the site caused by the rail corridor beneath (refer to **Figure 10**).

The indicative development concept presents a logical layout and enables the internal plaza that would provide open space for development on the site. Urban design analysis indicates the distribution shown in the indicative development concept has minimal additional impact in terms of amenity, particularly overshadowing and views. Staff, therefore, have no objection to the indicative spatial arrangement of built form, subject to the recommended reduction in its height (and corresponding amendment to FSR). However, the bulk and scale of the tower compromises the amenity of the public domain, creates inadequate transition between that built form and nearby lower density development and is inconsistent with the desired future character of the ECC as identified within the ECC Strategy.

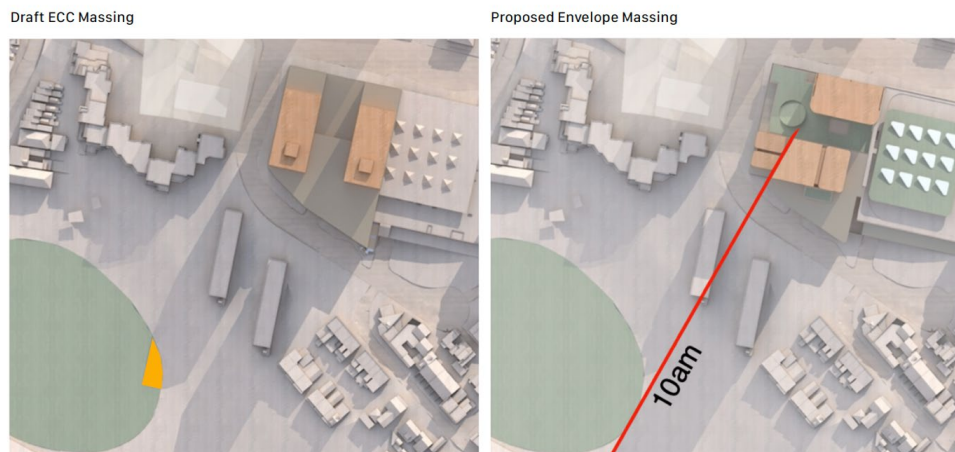


Figure 9: Comparison of massing under the ECC Strategy and the planning proposal (Source: FJC 2024)

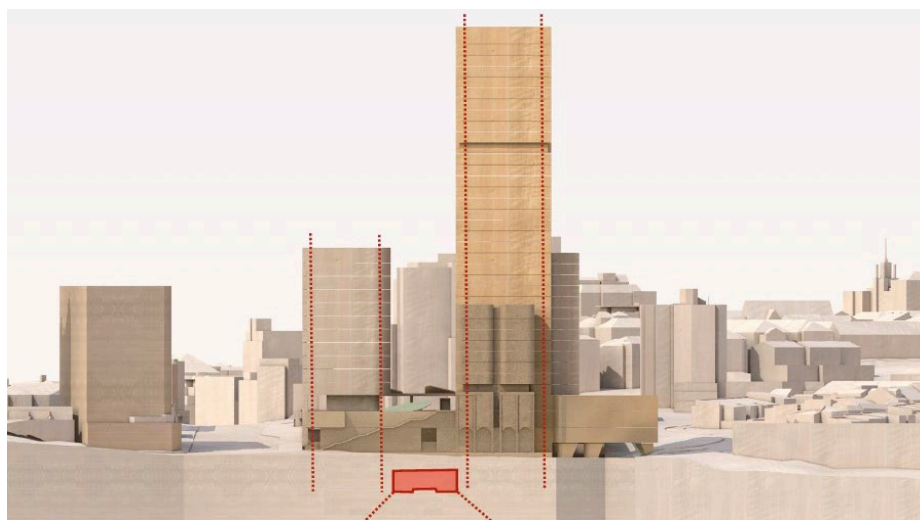


Figure 10: Indicative development concept – tower positioning around rail corridor (Source: FJC 2024)

4.1.6. Part 6 Additional Local Provisions

Staff do not support amendment to the height of buildings and FSR maps. A simple map amendment may not provide adequate control to achieve the intended outcome of the recommended planning proposal. A map amendment would potentially enable the increased maximum heights and FSRs to be realised on the site whether or not key built form principles were achieved.

Staff recommend the use of *Part 6 Additional local provisions* to enable exceptions to the applicable maximum building heights and FSRs if specified requirements are met. An exceptions clause would provide certainty to the intended built form outcome for the whole site.

An exceptions clause for the planning proposal has been recommended under Section 6.2 Exceptions clause. The exemplar clause provided is modelled on similar clauses in the Woollahra LEP 2014 for 136-148 New South Head Road, Edgecliff and 488-492 Old South Head Road/30 Albemarle Avenue, Rose Bay (yet to be finalised).

4.2. Woollahra Development Control Plan 2015 (Woollahra DCP 2015)

4.2.1. Desired future character

The Woollahra DCP 2015, *Part D: Business Centres and Chapter D2.2 Mixed Use Centres – Edgecliff Road Corridor* describe the desired future character for the ECC. Key objectives are:

- Reinforcing the ECC as a focus of retail and business activity, and as a convenient place for people to meet, work, shop and use services; and
- Creating a high quality urban environment and pedestrian amenity, including human scale and active frontages on New South Head Road and New McLean Street.

Chapter D4 Edgecliff Centre provides specific controls for the Edgecliff Centre (that includes the site, the adjacent Eastpoint Food Fair and Eastpoint residential tower) to ensure development has regard to its context and is compatible with the desired future character.

Key objectives of the desired future character for the Edgecliff Centre are:

- High standard of architectural and landscape design, contribution to sense of place;
- Protecting the amenity of residential, pedestrian and commercial areas; and
- Improving connections and active frontages (particularly on New McLean Street).

The planning proposal request is inconsistent with the above-mentioned business centre and Edgecliff Centre objectives and desired future character because of the scale of the built form that is out of context, and would lead to poor local character, amenity and urban design outcomes (refer to Section 4.4 Urban design for detail).

However, a planning proposal reviewed and amended in accordance with the staff recommendations summarised in Section 6 would contribute to achieving the desired future character objectives while enabling modern employment and residential space adjacent to Edgecliff Station and bus interchange. An amended planning proposal could also contribute to public domain enhancements and provide community infrastructure.

4.2.2. General controls

The Woollahra DCP 2015, *Part D: Business Centres, Chapter D3 General Controls for Neighbourhood and Mixed Use Centres* also applies and establishes objectives and controls for centres. Some of the key objectives for mixed use centres are to:

- D3.2 O2 *Maintain continuous retail or commercial uses at street level.*
- D3.3 O2 *Create or activate an interface between ground level retail or commercial properties and the street.*
- D3.4 O1 *Achieve a built form of a scale and character in keeping with the desired future character of each centre.*
- D3.4 O5 *Encourage building massing and articulation that creates strong corner buildings.*
- D3.5 O2 *Encourage good building design and limit building bulk through articulation.*
- D3.8 O6 *Increase opportunity for landscaped areas at ground level to improve amenity for building occupants and neighbours.*
- D3.9 O4 *Ensure that on-site car parking and driveways do not dominate or detract from the appearance of the development and the local streetscape.*
- D3.10 O3 *Ensure that site facilities are thoughtfully integrated into the development and are unobtrusive.*
- D3.10 O8 *Discourage the provision of mechanical plant equipment on the roofs of buildings to minimise visual impact of these services.*

As discussed in *Sections 4.1.2 Height, 4.1.3 FSR and 4.4 Urban design*, the planning proposal request and indicative development concept are inconsistent with some of these objectives, particularly regarding:

- Active frontages and ground level interface on New McLean Street;
- Strong corner at the intersection of New South Head Road and New McLean Street;
- Articulation, building height and bulk, podium setbacks; and
- Dominance of the vehicular entrance on New McLean Street.

These design matters would need to be addressed in the recommended detailed design development and incorporated in the site-specific provisions.

4.3. Community infrastructure

The planning proposal request refers to “*a contribution of funding towards community infrastructure in the form of a multi-purpose community facility, with green roof, fronting New McLean Street*”.

A multipurpose community facility on Council land does not form of the VPA draft letter of offer. At the time of preparing this report, negotiations are ongoing and no agreement on the terms of a draft VPA have been reached.

The Urban Design Report shows the concept for a multi-purpose community facility on Council land with two full levels (one with a multi-purpose court and void above, one with a function centre), a mezzanine overlooking the court, and a small lower ground level entrance on New McLean Street. The amount of floor space is quoted at 2390m² in the Planning Proposal Report that also references potential to be as much as 3000m² through design collaboration with Council. Staff note both these figures are inconsistent with the 3.5:1 control requested for the Council land (a 3.5:1 FSR on a 1000m² lot would result in 3500m² of gross floor area).

While the design and location of the community space are subject to negotiation between the proponent and appropriate Council teams, staff note the current design does not provide

an ideal planning outcome. In the indicative development concept, the multi-purpose community facility on Council land is located above vehicular entrances on New McLean Street and would have poor legibility. Further, the floor plans are irregular in shape and would result in inefficient internal spaces. The spaces would be subject to limited solar access and have no direct access to parking or loading facilities.

4.4. Urban design

Aspects of the indicative development concept such as height and bulk and the multi-purpose community facility on Council land have an impact on the public domain and desired future character and are discussed previously (that discussion is not repeated here).

The urban design review analyses the remaining public domain and character aspects of the indicative development concept and makes recommendations on retail, open space, activation, permeability, legibility and 'laneways' as discussed below.

4.4.1. Green space

The planning proposal request refers to 3000m² of green space that includes 'a village green', podium top plaza, grand staircase, and seating areas. This green space is wholly within the site and staff consider it could be perceived as private space, rather than public open space. The green space will primarily benefit development on the site by providing internal separation, solar access, natural ventilation and outdoor space for users of the development. The plaza is behind the towers and the 'village green' is above street level (see **Figure 10**). To have better impact on public amenity, the green space on the site should ideally be at street level, preferably with exposure to New McLean Street, and receive mid-winter solar access.



Figure 10: Indicative development concept – New South Head Road frontage (Source: FJC 2024)

4.4.2. Activation and pedestrian connections

The proponent cites the following activation and pedestrian connection initiatives regarding the indicative development concept:

- Forecourt on New McLean Street adjacent to through site links, multi-purpose community facility and residential entry with visual connectivity to the Trumper Park pathway;

- Activating the streetscape with retail, and inclusion of landscaping throughout the site;
- Network of pedestrian laneways, through site links, colonnades and central plazas interconnecting the surrounding area;
- Public staircase off the corner at New South Head Road and New McLean Street; and
- Activated and landscaped frontages to New McLean Street and New South Head Road within an integrated civic ground floor retail precinct.

However, the New McLean Street frontage shown in the indicative development concept lacks activation and visual interest (see **Figure 11**). Staff recommend enhancement of the role of New McLean Street as an activated public space.



Figure 11: Indicative development concept – streetscape in New McLean Street (Source: FJC 2024)

4.4.3. Laneways

The proponent cites the introduction of a network of pedestrian laneways, through site links, colonnades and central plazas interconnecting the surrounding area with transport. However, the proposed 'laneways' are internal and do not constitute true laneways. It is not clear there would be increased connectivity to Edgecliff Station or the bus interchange.

Levels between the site and Eastpoint do not match, and the interconnecting laneways shown in the indicative development concept may not be achievable. There is no indication in the planning proposal request of support or desire from the owners of Eastpoint or TfNSW regarding new access points from the site.

4.4.4. Public domain summary

Appropriate public domain enhancements are integral to enabling uplift on the site and to making a positive contribution to the ECC's revitalisation. As discussed above, some aspects of the proponent's indicative development concept are considered to have negative impact on the public domain and to be of no public benefit. Staff consider that the urban design impacts of the indicative development concept need thorough review, and recommend this be required as part of the detailed design development referred to above.

4.5. Trees

Council's Tree Management Officer reviewed the planning proposal request and provided comments, which are reflected in the following discussion. Accordingly, Council staff do not support the tree management outcomes that would result if the indicative development concept were to be developed.

The site includes 30 native trees. Some of these are on the Council land and would need to be removed to accommodate the multi-purpose community facility. The eleven street trees along the New South Head Road frontage could be retained and protected but could be impacted by re-paving and re-servicing, rather than any building footprint and potential impacts are manageable.

Two large mature *Eucalyptus* in the road reserve to the west of the site, proposed to be pruned (trees 15 and 17 in the Arboricultural Report) are assessed as in good health and condition. These trees are prominent in the local landscape, and they are a priority to be retained. Modifications to the building envelope will be required to negate the need for pruning of these trees.

Should the planning proposal proceed, appropriate controls for tree retention and replacement planting should form part of new Woollahra DCP 2015 provisions.

4.6. Traffic and parking

In assessing the impact of the planning proposal request to traffic and transport, staff had regard to the following:

- The *Woollahra Active Transport Plan*, adopted in December 2023, proposes a dedicated cycleway along New South Head Road adjacent to the site; and
- New South Head Road and its intersection at Darling Point Road/New McLean Street are identified in the *Draft Woollahra Integrated Transport Strategy 2021* as experiencing high traffic congestion during weekday peak periods.

Council's Traffic Engineer reviewed the planning proposal request and provided comments that have informed the following discussion.

The transport impact assessment supporting the planning proposal request indicates that the indicative scheme will not result in any additional trip generation during peak hours and will not have any detrimental impact on the performance of the surrounding intersections. Staff have also considered traffic generation and parking requirements on the site in context of the ECC Strategy. The ECC Transport Study (SCT 2024, updated to support finalisation of the ECC Strategy) indicates the ECC Strategy projected growth can be accommodated within the existing road network. SCT Consulting recommend that Council investigate the introduction of strategies to restrict trip generation, such as limiting additional parking, reducing rates for residential uses, improving active transport infrastructure, and liaising with TfNSW on traffic signal phasing at the new South Head Road and New McLean Street intersection. These options could be explored for the site.

In accordance with the Woollahra DCP 2015 *Chapter E1 Parking and Access*, a maximum of 337 car spaces could be provided for the residential component of the indicative development concept (that shows 216 parking spaces for the residential component), and 254 would be required for the commercial component (117 spaces are shown). It is noted that the proposed provision for residential parking is substantially below the maximum, which has raised concerns for the increase of parking pressures on the surrounding road network.

In principle, staff support the residential parking amount, given the site's direct access to public transport, and consider reduced parking on the site would discourage car ownership. Staff consider the retail/commercial parking, and the service arrangements shown in the indicative development concept generally acceptable and detail regarding this aspect of development on the site can be included in the recommended DCP.

TfNSW concurrence would be required at development application (DA) stage for any increase in vehicular, pedestrian and cycle traffic around the intersection of New McLean Street and New South Head Road.

Notwithstanding the above, it is noted that the planning proposal request does not include parking for the multi-purpose community facility. Nor does it assess traffic generation from the multi-purpose community facility provided on Council land, and this would need to be addressed in the recommended detailed design development and may affect the potential maximum FSR.

4.7. Solar access

Regarding nearby dwellings, Chapter D4, C28 of the Woollahra DCP 2015 requires two hours of solar access between 9am and 3pm on 21 June to north facing windows of habitable rooms, and at least two hours to at least 50% of the private open space. Where existing overshadowing is greater than this, sunlight is not to be further reduced.

The Planning Proposal Report provides a high level solar analysis (**Figure 15**) that indicates these solar access requirements can be met by the planning proposal request envelope and as demonstrated in the indicative development concept. The proponent's analysis also indicates the ADG solar access requirements can be met for units on the site.

The proponent's solar analysis indicates Trumper Oval would not be overshadowed by a development to the scale enabled by the planning proposal request between 10am and 2pm mid-winter and would, thus, comply with the DCP requirement.

The Planning Proposal Report states the proposal would result in a marginal variance in solar impacts compared to the ECC Strategy, and that the different massing would redistribute shadows at different times throughout the day and not cause significant increase in overall shadows.

The internal urban design analysis indicates the solar access diagrams are adequate for the purpose of assessing the planning proposal request and staff note more detailed solar access assessment would be undertaken at DA stage to confirm compliance of the detailed design of the built form.

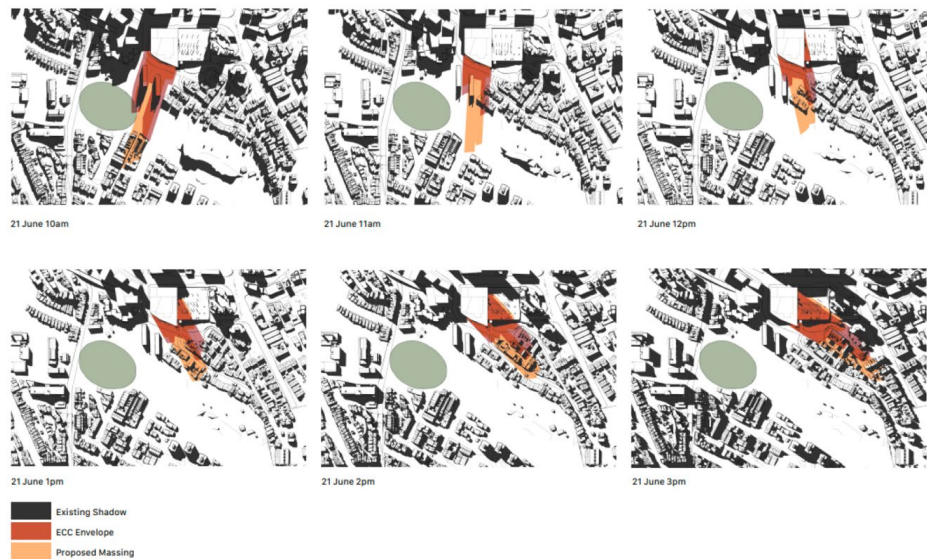


Figure 15: Comparative shadow diagrams - ECC Strategy and indicative development concept
(Source: FJC 2024)

4.8. Views

The proponent's visual impact assessment (VIA) prepared by Richard Lamb considers the Tenacity principles in relation to impacts on private views. The VIA concludes that at the strategic level, the level of visual impact varies from low to moderate and is acceptable on balance.

The VIA states that private view loss is no greater than that which would be caused by a built form consistent within the ECC Strategy, and in many instances an improved outcome. In Summary the VIA concludes:

- Primary views for East Point and Ocean Point (the main buildings affected) are north and east with secondary views west overlooking the site.
- None of the towers in the proposed envelope above the height of podiums cause any additional view loss compared to the ECC Strategy envelope.
- Primary views for Ranelagh are north-east and north-west with limited windows such as bathroom and kitchen southward facing over the site. The views at the lower RLs are affected by the envelope of the endorsed planning proposal for 136-148 New South Head Road which obstructs views of the site.

In relation to visual impacts on views from the public domain, the VIA concludes there is no discernible impact between the planning proposal and the ECC Strategy massing. The VIA considers the effective visual catchment of the site, which is the area within which there is sufficient detail to perceive the nature and quality of a development. In summary the VIA concludes:

- Minor to moderate change would occur to the visual catchment, character, scenic quality, and public domain sensitivity of the site
- The level of visual effects is rated as moderate for most views in the visual catchment. High levels of visual effects were found for some close views with unimpeded foregrounds and low levels of visual effects for the small number of distant views.

It is apparent a development in accordance with the planning proposal will be highly visible, particularly when viewed along New South Head Road, from Trumper Park and from the Paddington HCA/New McLean Street. While staff recommend a reduction in height, development on the site would still be highly visible, but its impact may be reduced.

The exact extent and reasonableness of private loss would be assessed at DA stage, and that view impact is unlikely to be affected by the staff recommended reduction in height. In assessing the planning proposal, the view loss needs to be weighed against the strategic objectives of enhancing the ECC's role as a local centre and optimising use of Edgecliff Station and the bus interchange (as envisaged in the ECC Strategy).

Views of the ECC skyline, and views from dwellings and public places, are considered in the background study² to inform the ECC Strategy. The ECC Strategy states that the preferred option was chosen as the towers can be located to negotiate view sharing and create a recognisable skyline that can be easily identified from surrounding areas. This objective is achievable with the proposed reorientation of the towers under the planning proposal.

4.9. Heritage

Council's Heritage Office reviewed the planning proposal request and provided comments. Primary concerns raised are related to the bulk of a development enabled through the proposed development standards and the impacts this could have on places of heritage significance, as outlined below:

the proposal is unacceptable due to the excessive building height and bulk ...which would very likely give rise to an unacceptable heritage impact over a broad visual catchment...with potential to set an undesirable precedent for high-rise development in the Edgecliff commercial precinct, which would have a cumulative negative impact on the nearby conservation areas in terms of heritage and other amenity impacts... suggested street level design improvements do not outweigh adverse impacts and are themselves not necessarily desirable urban design

The Heritage Officer raised concerns regarding the planning matters that are discussed in other sections of this staff assessment (such as bulk and scale, transition to lower scale development, solar access, view impact, urban design, and desired future character). That staff discussion is not repeated here, noting that the staff assessment recommendations include reduction in height and improved urban design outcomes.

Should the planning proposal proceed, heritage protection and design excellence will be considered further. Any requirements beyond those contained in the Woollahra LEP 2014 and existing Woollahra DCP 2015 would be included in the recommended site-specific DCP.

4.10. Sustainability

The following matters in relation to environment and sustainability need to be further considered should the planning proposal proceed:

- Depending on the actual extent of tree removal, a Flora and Fauna Assessment may be required at a later stage to assess the impact of vegetation removal on biodiversity, given Trumper Park is within 100m and is a large bushland reserve that provides habitat for many native and threatened species.
- Proximity to Trumper Park needs to be considered in landscaping (including green walls/roofs) and should include the planting of local native species and canopy species where possible.

² Edgecliff Commercial Centre Study, SJB Architects, September 2018

- The provided ESD Report makes no commitment to implement any sustainability measures, and only states that certain initiatives will be 'considered'. Should the planning proposal proceed, Council would require best practice sustainability standards.

Staff consider that the above matters can be addressed in a site-specific DCP and/or via conditions in any future consent.

4.11. Parks and open space

Council's Open Space and Recreation Planning Team Leader reviewed the indicative development concept and provided the following comments.

Staff emphasise that overshadowing of Trumper Park and Oval should be minimised, with no increase in overshadowing between 10am and 4pm on 21 June. The planning proposal request and indicative development concept would achieve the solar access requirement regarding Trumper Oval. However, to avoid additional overshadowing to the rest of Trumper Park, the proposed development (as illustrated in the indicative concept) would require significant redesign. Staff note that the indicative massing in the ECC Strategy would also result in some increased overshadowing of Trumper Park and is considered acceptable. Given the shadows cast would be fast moving, solar access to the park would be maintained at various times throughout the day.

4.12. Site-specific DCP (amendment to the Woollahra DCP 2015)

Staff recommend the preparation of a site-specific DCP to support the exceptions to the maximum building height and FSR standards that would be enabled by the recommended planning proposal.

The site-specific DCP would provide guidance on the intended built form outcome and cover matters such as housing yield and diversity, articulation and setbacks, heritage impact, street activation, tree preservation, public open space and urban greening, vehicle access and parking, and sustainability.

In this regard, the proposed draft exceptions clause requires that development consent must not be granted unless a DCP has been prepared for the site (see below). The clause then lists a range of matters that are to be addressed in the DCP.

Should Gateway determination be received, staff would prepare a draft site-specific DCP.

5. Justification for the planning proposal

The *Local Environmental Plan Making Guideline* (LEP Guideline) prescribes the content to be contained in a planning proposal and acts to supplement the LEP making process outlined under Division 3.4 of the EP&A Act 1979.

The LEP Guideline outlines the matters for consideration when justifying the need for a planning proposal. These are posed as questions for the proponent to answer. Council staff are of the opinion that the key question which asks whether a planning proposal is needed has been sufficiently addressed by the proponent, as discussed below.

Question 2 of the LEP Guidelines asks:

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proponent presents the following five options in response to this question:

- Option 1 – Do nothing
- Option 2 – Redevelop the site under the current Woollahra LEP 2014 controls
- Option 3 – Request for variation of a development standard pursuant to clause 4.6 of the WLEP 2014.
- Option 4 – Completion of the Draft ECC Strategy
- Option 5 – Prepare a site-specific planning proposal to amend the height of buildings and floor space ratio development standards (the subject of this planning proposal).

Staff assessment of each option is provided below.

Option 1 – Do nothing

The site is developed to the scale permitted under the existing development standards and this option involves the operation of the existing commercial building on the site in its current form. The proponent states the building is outdated and nearing the end of its optimal life and economic viability. Further, it would not be possible to build on the Council land under this option as there are no development standards applying to the land.

This option presents a lost opportunity to provide additional residential, employment and community infrastructure in modern buildings, in an accessible location, providing density where it is most appropriate.

This option would not assist Council in achieving its housing targets, or the outcomes identified in the ECC Strategy.

Notably, this option would not achieve the affordable housing contribution and significant community infrastructure improvements that are a key element of the intended outcome.

Option 2: Redevelop under the current controls of the Woollahra LEP 2014

Redevelopment under the current controls would not support the intended outcomes of the planning proposal that looks to intensify activity adjacent to transport infrastructure and to revitalise the heart of the ECC.

The proponent states that demolition of the existing building on the proponent's land to redevelop up to 26m would not be feasible and this would be exacerbated given the constraints associated with the below ground rail easement.

This option also presents a lost opportunity to provide additional employment space, housing and public benefits summarised under Option 5.

Option 3 – Clause 4.6 Variation Request

This option would rely on a development assessment under the existing controls and would not include a strategic merit assessment.

To achieve the intended outcome, additional height and floor space is required for the site. While there is no test for the maximum extent of variation, the variation to height and FSR needed to achieve the intended outcome of this planning proposal is considered too significant for a clause 4.6 variation.

Option 4: Finalisation of the draft ECC Strategy

The proponent lodged their request for a planning proposal prior to Council adopting the final ECC Strategy on 24 April 2024. Discussion of this option is no longer relevant.

Notwithstanding, the ECC Strategy was considered, where appropriate, in the strategic merit and site-specific merit assessment of this planning proposal. Staff consider that a consolidated planning proposal prepared to enact the ECC Strategy would be the most efficient means of achieving the intended outcomes of this planning proposal as it would provide assessment of the cumulative impact of redevelopment on all sites identified for uplift and enable growth in a coordinated manner.

Option 5: This planning proposal

Staff consider that the intended outcome warrants a new planning framework via site-specific Woollahra LEP 2014 provisions and a supporting site-specific DCP. The planning proposal option also triggers Council's endorsed VPA process and negotiations for a contribution towards affordable housing and other community infrastructure as discussed in this planning proposal.

Through this option staff have assessed the merits of the planning proposal and found that it needs to be amended in accordance with the staff recommendations to have strategic and site-specific merit.

6. Summary of Recommendations

As discussed throughout this staff assessment, the planning proposal request does not exhibit strategic or site-specific merit due primarily to the bulk and scale of the potential built form, and inadequate transition between that built form and nearby lower density development (and associated negative amenity impact).

Given the findings of this staff assessment, staff recommend the Council ask the proponent to review and amend the planning proposal request to ensure consistency with the ECC Strategy. Staff recommend the review is undertaken primarily through detailed design development that is based on accurate survey information.

If the planning proposal request were to be amended in accordance with the following staff recommendations, it would facilitate development of a scale, type and intensity that is compatible with the ECC, and its desired future character as expressed in the ECC Strategy.

6.1. Strategic merit

To ensure consistency with regional, district and local strategic planning frameworks, staff recommend review and amendment of the planning proposal request regarding the scale of the potential built form being reduced to ensure it is more compatible with the ECC's status as a local centre (as outlined in the centres hierarchy).

6.2. Site-specific merit

To improve compatibility with the local context and consistency with the ECC Strategy, and the Woollahra LEP 2014 and Woollahra DCP 2015 objectives, staff recommend:

1. The maximum height of the potential built form be reduced to ensure it is more compatible with the context and does not negatively impact on the amenity in the vicinity of the site. Staff recommend the maximum height be based on the benchmark height identified in the ECC Strategy of 86m (RL 113m), that a review of maximum height be undertaken through a detailed design review based on accurate survey information and focus on the heights within the local context.
2. The maximum FSR be reduced to be consistent with the FSR identified in the ECC Strategy of 7.5:1 across the whole site.
3. A minimum 2:1 non-residential FSR and maximum 3:1 non-residential FSR to maintain the existing amount of employment floor space while ensuring delivery of a significant amount of residential floor space
4. That the built form be reviewed to improve amenity on and around the site, including articulation, setbacks (minimum of 6m) above podium on all frontages, ADG compliance and transition to lower scale buildings.
5. The location and configuration of the multi-purpose community facility on Council land be reviewed in line with Council's operational requirements, to meet community needs, and to improve its functionality, legibility, and public presence. **Note:** the multi-purpose community facility is not included as part of the draft letter of offer and VPA negotiations are ongoing.

6. The public domain impact be reviewed, including activation on all street frontages, enhanced public amenity, legibility and permeability into and through the site, street tree protection and urban greening.
7. Levels and built form between the site and the adjacent Eastpoint be reviewed and supplemented with additional information to demonstrate that improved integration can be achieved.

6.3. The Housing SEPP bonus

Staff recommend any uplift on the site be supported by a provision that prevents the Housing SEPP bonus being applied to ensure there is no opportunity to extend the bulk and scale of development on the site beyond what is considered appropriate in the context. In accordance with these staff recommendations, the appropriate maximum height and maximum FSR for the site will be determined as part of the recommended detailed design review and included in the recommended exceptions clause (see below).

6.4. Exceptions clause

Staff recommend the use of *Part 6 Additional local provisions* to enable exceptions to the applicable maximum building heights and FSRs (rather than amendment to the maximum building height and maximum FSR maps). The exceptions clause would describe specific criteria to be met in redevelopment of the site and provide certainty to the built form outcome. The following text is indicative of what could be included in the LEP as a site-specific clause for the site. The exceptions clause would be finalised following the recommended detailed design review, and would include the final maximum heights and FSRs achievable as exceptions.

6.13 Development on land at 203-233 New South Head Road, Edgecliff

- (1) *The objectives of this clause are as follows—*
 - (a) *to allow higher density development on certain land in Edgecliff,*
 - (b) *to ensure the development reflects the desired character of the area and exhibits design excellence,*
 - (c) *to provide for non-residential floor space and diverse housing.*
- (2) *This clause applies to land identified as “Area 4” on the Key Sites Map.*
- (3) *A building resulting from development on land to which this clause applies may have a floor space ratio up to that specified in subclause (4) and a building height up to that specified in subclause (5) if the consent authority is satisfied of the following—*
 - (a) *there will be no vehicular access between New South Head Road and the consolidated lot,*
 - (b) *the non-residential floor space ratio of the building will be at least 2:1 and no more than 3:1.*
- (4) *The maximum FSR on the land must not be more than 7.5:1*
- (5) *The height of a building on the land must not be more than:*
 - (a) *60m between the northern boundary and 15m from the northern boundary,*
 - (b) *86m between 40m from the northern boundary and 65m from the northern boundary,*
 - (c) *20m between the southern boundary and 35m measured along the eastern boundary,*
 - (d) *Despite sub-clauses (a)-(c) the height of a building on the land must not exceed the height required to ensure there will be no overshadowing of Trumper Oval between the hours of 10am and 2pm on 21 June,*
 - (e) *Despite sub-clauses (a)-(c) building on the land will comprise a 10m podium with towers setback from above the podium.*

- (6) *Subclause (3) applies only if a development control plan that provides for the following matters has been prepared for the land—*
 - (a) *building envelopes and built form controls, including storeys and setbacks and provision for a podium and tower,*
 - (b) *a mix of apartment types, including the number of bedrooms in each apartment,*
 - (c) *urban design,*
 - (d) *appropriate car parking and vehicle access arrangements.*
- (7) *Despite subclause (6), a development control plan is not required if the consent authority is satisfied that—*
 - (a) *the preparation of a plan is unreasonable or unnecessary in the circumstances, or*
 - (b) *the development—*
 - (i) *involves only alterations or additions to an existing building, and*
 - (ii) *does not significantly increase the height or gross floor area of the building, and*
 - (iii) *does not have significant adverse impacts on an adjoining building or the public domain, and*
 - (iv) *does not significantly alter an aspect of the building when viewed from a public place.*
- (8) *Development consent must not be granted under this clause unless the consent authority is satisfied that the development will include an area that will be used for the purpose of a community facility.*
- (9) *Development consent must not be granted to development on land to which this clause applies unless—*
 - (a) *a design review panel has reviewed the development, and*
 - (b) *the consent authority considers the advice of the design review panel, and*
 - (c) *the consent authority is satisfied the development exhibits design excellence.*
- (10) *In deciding whether the development exhibits design excellence, the consent authority must consider the following—*
 - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - (b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
 - (c) *the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (d) *whether the building resulting from the development will incorporate sustainable design principles, including in relation to the following—*
 - (i) *sunlight,*
 - (ii) *natural ventilation,*
 - (iii) *wind,*
 - (iv) *reflectivity,*
 - (v) *visual and acoustic privacy,*
 - (vi) *safety and security,*
 - (vii) *resource, energy and water efficiency,*
 - (e) *whether the proposed development will detrimentally impact the following—*
 - (i) *view corridors and landmarks,*
 - (ii) *pedestrian, cycle, vehicular and service access,*
 - (iii) *circulation requirements, including the permeability of the pedestrian network,*
 - (f) *the impact of the development on the public domain,*
 - (g) *whether there are appropriate interfaces at ground level between the buildings and the public domain,*

(h) *whether the development will include a mix of retail, commercial and residential uses.*

(11) *In this clause—*

design review panel means a panel of 2 or more persons established by the consent authority.

non-residential floor space means the total gross floor area of all buildings on the consolidated lot used for purposes other than residential accommodation or community facilities.

6.5. Site-specific DCP

Staff recommend the preparation of a site-specific DCP to support an exceptions clause and the additional height and FSR that the recommended planning proposal would enable.

The site-specific DCP would provide guidance on the intended built form outcome and cover matters such as housing yield and diversity, articulation and setbacks, heritage impact, street activation, tree preservation, public open space and urban greening, vehicle access and parking, and sustainability.

7. Conclusion

This report provides a staff assessment of the planning proposal request for 203-233 New South Head Road, Edgecliff and the Council land against the relevant strategic planning framework and site-specific matters.

This staff assessment found that, while intensified use of the site has strategic and site-specific merit, the bulk and scale of the planning proposal request is excessive and not supportable. Staff consider that the planning proposal in the manner requested by the proponent should not proceed. However, staff recommend that an amended planning proposal be prepared, incorporating the recommendations of this staff assessment to ensure consistency with the endorsed ECC Strategy.

Should the planning proposal (with recommended amendments) proceed, staff suggest the use of an exceptions clause rather than an amendment to the maximum height of buildings and floor space ratio maps, and that staff prepare an associated DCP to ensure the intended outcome is achieved.

The planning proposal amended in accordance with the staff recommendations would establish strategic merit for the following reasons:

1. The planning proposal would enhance housing and employment close to services, public transport, and green space, consistent with the objectives and planning priorities in the Region Plan and District Plan.
2. The planning proposal would support the centres hierarchy principles, and the Woollahra LGA structure plan identified in the Woollahra LSPS 2020.
3. The planning proposal would facilitate development that is of the type and intensity that would be consistent with the objectives of the ECC Strategy.

The planning proposal amended in accordance with the staff recommendations would achieve site-specific merit for the following reasons:

1. The amendments to the Woollahra LEP 2014 would facilitate a building envelope that is suitable in terms of height, bulk and scale for the site and appropriate to the ECC.
2. The proposed mix-use development comprising retail, commercial, residential and community use would be compatible with the desired future character of the ECC.

3. The proposed development would activate a prominent corner location in the Edgecliff Commercial Centre and enhance the streetscape of New South Head Road and New McLean Street.

Redevelopment and intensification of the site is encouraged as it would deliver new housing and modern employment space in a location that leverages existing infrastructure. If amended in the manner staff recommend, the planning proposal would ensure consistency with the ECC Strategy and demonstrate strategic and site-specific merit.

Woollahra
Municipal
Council



Council Ref: Pre-application consultation 1/2023 [23/108133]

02 August 2023

Paolo Razza
Longhurst Property Group
Level 6
203-233 New South Head Road
Edgecliff NSW 2000

Dear Mr Razza

Re: Pre-application consultation response

Meeting No: 1/2023
Meeting date: 06 June 2023
Property: Edgecliff Centre site - 203-233 New South Head Road,
Edgecliff
Applicant: Longhurst Property Group

Thank you for attending the meeting on 6 June 2023 to discuss your potential request for a planning proposal at 203-233 New South Head Road and part of the adjoining Council-owned road reserve fronting New McLean Street (collectively referred to as the 'site').

Attached is our response to the information you submitted prior to the meeting and key issues discussed at the meeting and your further correspondence. We hope this response will assist in deciding how to progress your project.

The comments provided in this letter and the attached response are made in regard to a pre-application for a planning proposal request. The comments do not represent a notification under clause 9 of the *Environmental Planning and Assessment Regulation 2021*.

The pre-application consultation aims to identify issues that need to be addressed prior to requesting Council to prepare a planning proposal. However, it is only after a detailed assessment of a request that all issues can be identified and fully considered. Please note the disclaimer at the end of the response.

In summary, the pre-application submission seeks the following changes to the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014):

- Amendment to the maximum building height standard from 0m, 6m and 26m to between 132m - 136m;
- Amendment to the maximum floor space ratio (FSR) standard on 203-233 New South Head Road, Edgecliff from 2.5:1 to 9:1;
- Amendment to the maximum floor space ratio (FSR) standard on the Council-owned part of the site from 0:1 to 3.5:1; and
- Introduction of a site-specific provision to provide a minimum 3:1 FSR for non-residential uses.

Given the site's strategically important location in the Edgecliff Commercial Centre, Council staff support reviewing the planning controls for this site. However, the proposed increase in both the maximum building height and FSR controls is significant in the context of the site. In summary, it would create a building envelope which is excessive in height and bulk. Council staff consider that the extent of the proposed increase is not currently justified on either strategic or site-specific merits. Therefore, Council staff do not support the proposal in its current form. These key issues, as well as other matters, are detailed in the attached advice for your consideration.

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028

Correspondence to:
PO Box 61
Double Bay NSW 1360

t: (02) 9391 7000
f: (02) 9391 7044
e: records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au

DX 3607 Double Bay
ABN 32 218 483 245

Further information on planning proposal requests is available on Council's website at: www.woollahra.nsw.gov.au/building_and_development/development_rules/requests_for_planning_proposals. If you lodge a planning proposal, please indicate on the form that you had a pre-application meeting and include the reference provided at the top of this letter.

I hope this service has been of use to you. Please contact Chinmayi Holla if you require any further assistance on (02) 9391 7140.

Yours sincerely



Anne White
Manager, Strategic Planning and Place

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

PRE -APPLICATION CONSULTATION RESPONSE

Reference no.	Pre-application 1/2023
Address	Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Meeting date	6 June 2023
Pre-application officer	Chinmayi Holla, Strategic Planner and Lyle Tamlyn, A/ Team Leader Strategic Planning
Applicant	Longhurst Property Group
Present at meeting	Woollahra Council Scott Pedder – Director Planning and Place Anne White – Manager Strategic Planning and Place Maya Jankovic – Coordinator, Community & Culture Lyle Tamlyn – A/ Team Leader Strategic Planning Chinmayi Holla – Strategic Planner Diana Griffiths – Director, Studio GL Applicant Paolo Razza – Longhurst Group Dimitri Roussakis – Longhurst Group Sean McPeake– FJC Studio Arcangelo Antoniazzi – Ethos Urban

1 Information submitted

The following documents were provided to Council:

- Completed pre-application consultation form with owners consent;
- Urban design report;
- Pre-lodgement scoping report; and
- Updated shadow diagrams and view analysis submitted on 30 June 2023.

2 The site and context

2.1 The site

The site comprises 203-233 New South Head Road and part of the adjoining Council-owned road reserve fronting New McLean Street. It is located on the south-eastern side of the intersection of New South Head Road and New McLean Street, Edgecliff.

The site contains a commercial building commonly known as the 'Edgecliff Centre'. The site is located in a business centre referred to as the Edgecliff Centre under Chapter D4 of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015), which aligns to the E1 Local Centre zone under the Woollahra LEP 2014, and borders land zoned MU1 Mixed Use zone under the Woollahra LEP 2014.

To avoid confusion between references to the building and the land use centres the following terms are used in this document:

- Edgecliff Centre refers to the existing building on the site;
- Edgecliff Local Centre refers to the land zoned E1 Local Centre under the Woollahra LEP 2014;
- Edgecliff Mixed Use Centre refers to the land zoned MU1 Mixed Use under the Woollahra LEP 2014; and

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

- Edgecliff Commercial Centre (ECC) refers to the combined land zoned E1 Local Centre and MU1 Mixed Use Centre under the Woollahra LEP 2014.

The site is legally described as:

- Lot 203 in DP 1113922 and Lot 5 in DP 243380, owned by Longhurst Investments No 1 Pty Ltd; and
- Lot 2 in DP 553702, owned by Rail Corporation New South Wales. This lot runs in an east-west direction across the site and applies to land below RL 27.51 (approximately the existing ground level) to an unlimited depth below. This lot lies below and beside the subterranean sections of Lot 203 in DP1113922 and services the Eastern Suburbs railway line.
- An unregistered piece of land which forms part of the road reserve.

The site is irregular in shape with a total area of 4,910sqm on the Edgecliff Centre parcel and approximately 1000sqm on the Council-owned road reserve. The site has a moderate slope of approximately 1 in 12 from its north-east corner (RL 33.69m) to its southern boundary (approx. RL 28m). The site is located on a visually prominent location at the top of the rise of New South Head Road from Rushcutters Bay, and near the top of the Edgecliff ridge line.

2.2 Existing development

The Edgecliff Centre currently comprises a seven storey building dating from the 1970s and contains a range of commercial premises including retail at the ground level and office premises above.

The Council-owned road reserve comprises access to a number of loading docks, an exit ramp from the Level 1 public carpark of the Edgecliff Centre to New McLean Street, and access to the lower level car park of the Edgecliff Centre and the Eastpoint Tower car park.

2.3 Surrounding development

The site is part of the wider ECC along New South Head Road. The ECC contains a mix of commercial and residential uses with a mix of heights, scales and building typologies. More specifically, the site is surrounded by the development outlined below.

East

Directly adjoining the site to the east is a large mixed use development at 235-285 New South Head Road and 180 Ocean Street. The development incorporates:

- Eastpoint Shopping Centre, with a one to three storey frontage along New South Head Road;
- Edgecliff Station below ground;
- A bus interchange on the roof of the shopping centre; and
- 'Eastpoint Tower', a 16 storey residential tower on the south-western corner of the New South Head Road and Ocean Street, with heavily landscaped, mature vegetation along both street frontages.

South

Development on the southern side of New McLean Street, opposite the site, consists of:

- The 'Cameron Court' residential flat buildings at 8-10 New McLean Street. The buildings are set amongst heavily landscaped, mature vegetation. The buildings are three storeys fronting New McLean Street and five storeys at the rear of the site;
- Heavily vegetated slopes, further south of 'Cameron Court', which form the northern boundary of Trumper Park.; and
- Two storey terraces that are located along Cameron Street and Bowes Avenue.

North

Development on the northern side of New South Head Road, opposite the site, consists of:

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

- A number of mixed use and residential buildings ranging from two to four storeys;
- The Ascham School and grounds; and
- Further north, the 'Ranelagh' residential tower at 3 Darling Point Rd, Darling Point. It is located on a large landscaped lot and the tower is approximately 91m (32 storeys).

West

Development on the western side of New McLean Street, opposite the site, consists of:

- Commercial development at 1 New McLean Street known as 'Edgecliff Mews' and mixed use commercial and residential development at 2 New McLean Street called 'Edgecliff Court'. Both buildings are built to the street frontage and are approximately two to four storeys to the street, and up to eight storeys at the rear; and
- The 'Wimbledon' residential flat building at 4 New McLean Street. The building is approximately four storeys to New McLean Street and up to six storeys at the rear, where the site fronts Glenmore Road.

2.4 Transport and access

The site benefits from excellent public transport access, being located adjacent to the Edgecliff station and bus interchange. Trains and buses from this location connect to various locations in the Woollahra Local Government Area (LGA), the wider Eastern suburbs, Bondi Junction, the Sydney CBD and the Greater Sydney metropolitan area.

A taxi rank is located on New South Head directly to the northern frontage. A kiss and ride stand is located on New McLean Street directly to the south frontage.

The site is located on New South Head Road, which is a major arterial route connecting the Sydney CBD to the Woollahra LGA and more broadly to the eastern suburbs. The surrounding intersections at Darling Point Road, New McLean Street, New South Head Road and Ocean Street have been identified in the *Draft Woollahra Integrated Transport Strategy 2021* (Draft Woollahra ITS 2021) as experiencing high traffic congestion during weekday peak periods.

The Draft Woollahra ITS 2021 identifies the local area as having no dedicated cycle lanes, largely due to the unavailability of space in road reserves and the high speed of traffic in the New South Head Road corridor.

The main pedestrian access to the site is from New South Head Road. Vehicular access to a single level public car park within the site is available from a driveway on the western street frontage on New McLean Street. Egress from this car park is to the south on New McLean Street. Vehicular access to a tenant car park and loading docks is also available from the south on New McLean Street.

2.5 Heritage

The site is not listed as a heritage item in the Woollahra LEP 2014, nor is it located within a heritage conservation area (HCA). However, the site is close to a number of heritage items and HCAs listed in Woollahra LEP 2014, including:

- Item 238: 136 New South Head Road (opposite the site to the north) – building and interiors;
- Item 239: 188 New South Head Road (opposite the site to the north-east) – Ascham school precinct;
- Item 114: Concrete balustrade on Darling Point Road, near intersection with New South Head Road (opposite the site to the north);
- HCA C8: Paddington HCA (opposite the site on New McLean Street to the south);
- HCA C6: Mona Road HCA (approximately 200m to the north-west); and
- HCA C15: Woollahra HCA (approximately 250m to the south-east).

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

The site is located above the subterranean Eastern Suburbs Railway and Edgecliff Station, both listed on the Sydney Trains Section 170* register.

**Note: Under Section 170 of the NSW Heritage Act 1977, all state government agencies must keep and administer a database of heritage assets called a Section 170 Heritage and Conservation Register.*

3 Description of the planning proposal request

A request for a planning proposal would involve the following changes to the Woollahra LEP 2014:

- Amendment to the maximum building height standard from 0m, 6m and 26m to between 132m - 136m;
- Amendment to the maximum floor space ratio (FSR) standard on 203-233 New South Head Road from 2.5:1 to 9:1;
- Amendment to the maximum floor space ratio (FSR) standard on the Council-owned parcel from 0:1 to 3.5:1; and
- Introduction of a site-specific provision to provide a minimum 3:1 FSR for non-residential uses.

The indicative concept to be facilitated by these controls comprises a 36 storey (plus plant) mixed use development, constructed over a basement of seven levels with 301 car spaces.

An urban design report has been prepared by *ficstudio*, with three-dimensional sketches and an indicative floorplate layouts for some levels.

4 State legislation

4.1 Environmental Planning and Assessment Act 1979

Section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) sets out what information a planning proposal must include when submitted for a Gateway determination. The *Department of Planning and Environment* (DPE) has published the *Local Environmental Plan Making Guideline December 2021* (the guideline) (updated September 2022) to help applicants meet the requirements of the Act. The guideline stipulates a planning proposal must demonstrate the strategic merit and the site-specific merit of the proposed LEP amendments.

4.2 Greater Sydney Regional Plan: A Metropolis of Three Cities

The Greater Sydney Region Plan: A Metropolis of Three Cities (the Region Plan) establishes a vision of three cities: the Western Parkland City, the Central River City and the Eastern Harbour City. Edgecliff is located in the Eastern Harbour City, which is envisioned to become a more innovative and globally competitive city.

Ten directions are set out within the Region Plan, which establish the aspirations for the region over the next 40 years. These directions are a core component of the vision and a measure for the Region Plan's performance.

The Region Plan also establishes a three-level hierarchy of centres – metropolitan, strategic and local centres – reflecting their role in the overall economic geography of Greater Sydney. Objectives to create and support local employment opportunities in these centres are included in the Region Plan.

Any future request for a planning proposal must demonstrate full compliance with relevant directions and actions of the Region Plan.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

4.3 Eastern City District Plan (2018)

The *Eastern City District Plan* (2018) (the District Plan) is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney. It contains the planning priorities and actions for implementing the Regional Plan at a district level and is a bridge between regional and local planning.

Edgecliff is identified as a local centre in the District Plan. Its role is to provide local jobs and services for the local catchment in contrast to strategic or metropolitan centres which service much larger catchments. We note that the District Plan encourages urban renewal in centres with frequent high capacity public transport to allow more people to live in areas with access to jobs and services. The Region Plan also contains principles to ensure development and renewal in centres is undertaken through a place-based approach.

The District Plan identifies that there is an unmet need for diverse housing. It recommends providing a range of dwellings comprising different types, sizes and price points to help improve affordability and suggests that 5-10% of new residential floor space is affordable rental housing.

A request for a planning proposal must demonstrate full compliance with the vision and relevant priorities and actions of the District Plan.

4.4 Future Transport Strategy and the Greater Sydney Services and Infrastructure Plan

The *Future Transport Strategy* (which replaces the *Future Transport 2056*) contains strategic directions for transport across NSW, which are aligned with the Six Cities Region vision and *Infrastructure NSW's State Infrastructure Strategy*. It provides an integrated vision for the state.

The *Greater Sydney Services and Infrastructure Plan* is the 40-year plan for transport in Sydney, and supports *Future Transport 2056* (now replaced by *Future Transport Strategy*) and the Region Plan. The *Greater Sydney Services and Infrastructure Plan* establishes the specific outcomes transport customers in Greater Sydney can expect, and identifies the policy, services and infrastructure initiatives to achieve these.

The plan focuses on enabling people and goods to move safely, efficiently and reliably around Greater Sydney, including having access to their nearest centre within 30 minutes by public transport, seven days a week. It also envisages that the transport system will support the liveability, productivity and sustainability of places on our transport networks. Achieving this will require more efficient modes of transport (i.e. public transport, shared transport, walking and cycling) to play a greater role.

A request for a planning proposal must address the relevant issues in the *Future Transport Strategy* and the *Greater Sydney Services and Infrastructure Plan*.

4.5 State Environmental Planning Policy 65: Design Quality of Residential Apartment Development (SEPP 65)

A request for a planning proposal must address the relevant matters in SEPP 65 and the associated *Apartment Design Guide* (ADG). Sections particularly relevant to the indicative concept include:

- Section 2E – Building depth;
- Section 3E – Deep soil zones;
- Section 3F – Visual privacy;
- Section 3J – Bicycle and car parking;
- Section 4K – Apartment mix; and
- Section 4S – Mixed use

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

5 Council's strategic plans and studies

5.1 Woollahra 2032

Woollahra 2032, Council's community strategic plan (CSP), identifies the strategic direction and integrated planning framework for the LGA. Council is committed to revitalising its centres, to deliver vibrant villages that provide local access to a range of employment, shops and services.

Any request for a planning proposal must demonstrate compliance with relevant CSP goals.

5.2 Woollahra Local Strategic Planning Statement

The *Woollahra Local Strategic Planning Statement 2020* (Woollahra LSPS 2020) sets out a 20-year land use vision and planning priorities that will support and guide Council's planning controls to help ensure the Woollahra LGA continues to be a great place to live, work, play and visit.

The Woollahra LSPS 2020 describes the ECC as providing employment, local businesses and services. The LSPS identifies Edgecliff as a key local centre (along with Double Bay, Rose Bay and Rose Bay North) for its employment component and significant transport infrastructure.

The Woollahra LSPS 2020 indicates that the Edgecliff and Double Bay local centres will be the focus of employment and housing growth, and it is envisaged Edgecliff will comprise a range of business, employment, community facilities and housing.

The Woollahra LSPS 2020 also notes the importance of protecting the character and amenity of Woollahra's residential precincts, open spaces and natural areas and the need to protect these from the impacts of higher density development.

Any request for a planning proposal must demonstrate full compliance with all relevant planning priorities of the Woollahra LSPS 2020, and not rely solely on those relating directly to the ECC for justification.

5.3 Draft Woollahra Integrated Transport Strategy

The Draft Woollahra ITS 2021 sets out a vision for a more accessible LGA where active, sustainable and efficient modes of transport are the most convenient choice for most trips. Council recognises the importance of a transport strategy that reduces dependence on private vehicles by developing a system of viable, public and active transport alternatives.

The Draft Woollahra ITS 2021 sets out the objectives, background analysis, challenges, opportunities, policies and actions with regard to four themes:

- Access, Mobility and Liveable Places: Supporting people in Woollahra to get around, regardless of age or ability.
- Public Transport: Working with the State Government to make public transport a more competitive alternative to car use.
- Active Transport: Making walking and cycling the most convenient option for most trips.
- Roads and Parking: Managing the road network to support all users and reducing traffic congestion, noise and speeding.

We note that the site is located within the ECC, which is a transport node for train, bus, vehicular and pedestrian movement.

Any request for a planning proposal must address the relevant objectives and themes in the draft Woollahra ITS 2021. A copy of the draft is available at <https://yoursay.woollahra.nsw.gov.au/its>.

5.4 Draft Woollahra Active Transport Plan

The *Draft Woollahra Active Transport Plan* sets out Council's commitment to making active transport a safe, easy and enjoyable option for as many people as possible, while also helping to

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

meet our emission reduction targets. The goal of this 10-year plan is to create a high quality connected walking and cycling networks. The plan includes an action list with 10 priority projects, including some in Edgecliff.

Any request for a planning proposal must address the relevant actions in the *Draft Woollahra Active Transport Plan*. A copy of the draft is available at <https://yoursay.woollahra.nsw.gov.au/active>

5.5 Woollahra Local Housing Strategy 2021

The Woollahra Local Housing Strategy 2021 (Woollahra LHS 2021) sets out objectives and actions for housing across the Woollahra LGA.

The Woollahra LHS 2021 identifies that any request for a planning proposal must demonstrate:

- How it will substantially contribute to the delivery of public benefits, including publicly accessible open space, public domain improvements, and affordable housing
- A sensitive response to heritage and local character
- Compliance with the objectives of the Woollahra LHS 2021, and planning priorities of the Woollahra LSPS 2020.

Any request for a planning proposal must address the relevant objectives and actions in the Woollahra LHS 2021. A copy of the Woollahra LHS 2021 is available at: https://www.woollahra.nsw.gov.au/data/assets/pdf_file/0007/252457/Woollahra-Local-Housing-Strategy-2021.pdf

5.6 Draft Edgecliff Commercial Centre Planning and Urban Design Strategy

The *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy* (Draft ECC Strategy) sets a new vision for Edgecliff and makes recommendations on key built form outcomes including land uses, heritage conservation, maximum building heights, active street frontages, affordable housing, design excellence, community infrastructure and transport. Its aim is to provide a clear and coordinated approach to planning that will prevent ad-hoc development.

The subject site lies within the study area for the Draft ECC strategy. The Draft ECC Strategy recommends a maximum of 26 storeys (86m) on the site with a maximum FSR of 7.5:1. Staff recommend that the Draft ECC Strategy is considered in any request for a planning proposal on the site. A future planning proposal should refer to the relevant objectives and actions in the Draft ECC Strategy and supporting documents. A copy of the Draft ECC Strategy and supporting documents is available at: <https://yoursay.woollahra.nsw.gov.au/edgecliff>

Edgecliff is strategically targeted for housing and employment growth under the Draft ECC Strategy. In addition to addressing housing targets, the Draft ECC Strategy aims to revitalise Edgecliff and facilitate transport-oriented development that has a mix of residential and non-residential uses, and that is supported by enhanced community infrastructure.

A future planning proposal should provide an appropriate mix of uses, including additional housing and employment space, and supporting community infrastructure (including community centre, public open space and affordable housing).

6 Woollahra Local Environmental Plan 2014

6.1 Clause 2.1 Land use zones

The site is currently zoned E1 Local Centre under the Woollahra LEP 2014. The zone objectives include:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*
- *To ensure development is of a height and scale that achieves the desired future character of the local centre.*
- *To encourage development that is compatible with the local centre's position in the centres hierarchy.*
- *To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.*
- *To maximise public transport patronage and encourage walking and cycling.*

While the proposed uses are consistent with the objectives of the zone, the resulting development on the subject site would not be of a scale that aligns with the desired future character of the neighbourhood. This is further elaborated under Section 8.1.

However, if a request for a planning proposal is submitted, it must be fully justified through an assessment against the zone objectives, particularly with regard to the height, bulk and scale, and their effect on the desired future character of the neighbourhood. This includes the character of the HCA, Trumper Park and Oval, and the tree canopy cover along the southern side of New McLean Street.

6.2 Part 4.3: Height of buildings

The existing controls permit a split maximum building height of 6m and 26m. The pre-application submission seeks a maximum building height of 136m, which is an increase of over 400%.

The building height objectives of clause 4.3 of Woollahra LEP 2014 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.*

In considering the proposed building height, staff note the following:

- The proximity of the site to the zone boundaries between the B2 Local Centre, B4 Mixed use, R2 Low Density Residential and R3 Medium Density Residential zones;
- The prominent location of the site near the top of the Edgecliff ridge line; and
- The surrounding built form context generally ranging from two to fourteen storeys.

Development permitted under the proposed controls would be inconsistent with the objectives identified above. In particular the controls would not:

- Establish a transition in scale between zones to protect local amenity;
- Minimise the loss of solar access to existing buildings and open space (including the dwellings in the Paddington HCA and the open space of Trumper Park); and
- Minimise the impacts of new development on adjoining or nearby properties from overshadowing or visual intrusion.

Whilst staff are supportive of uplift on the site, we do not support an increased height limit of 136m, which is greater than what is recommended by the Draft ECC Strategy. The height is considered to be unsuitable for a local centre and does not reflect the desired future character envisaged for Edgecliff. This is further explained under *Section 8.1*.

Any request for a future planning proposal must respond to the objectives above, and provide appropriate justification with regard to matters such as the effect on bulk and scale, solar access,

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

views, loss of privacy, overshadowing, visual intrusion and public amenity. Additional information about some of these issues is detailed later in this response.

6.2.1 Prescribed airspace

A prescribed airspace control applies to the site. Under the Commonwealth *Airports Act 1996* and *Airports (Protection of Airspace) Regulations 1996*, the prescribed airspace for Sydney (Kingsford-Smith) Airport is defined by the 'Obstacle Limitation Surface' (OLS) (building height contour) map published by the Sydney Airport Corporation limited (SACL). The OLS map imposes a height contour of 156m AHD (RL) for the site. The proposed amendment to the building height control above the OLS height is considered a 'controlled activity' and is subject to Commonwealth Government approval.

Accordingly, Commonwealth Government consultation and approval is required by the Ministerial direction (section 9.1) - *3.5 Development near regulated airports and defence airfields*.

6.3 Part 4.4: Floor space ratio

The existing controls permit a maximum FSR of 2.5:1. The pre-application submission seeks a maximum FSR of 9:1. This represents an increase of more than 260% of the existing control.

The relevant objectives of clause 4.4 of Woollahra LEP 2014 include:

- (b) *for buildings in Zone E1 Local Centre, and Zone MU1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.*

Having considered the site and its context, the proposed FSR would permit development which would be inconsistent with the objectives identified above and the desired future character outlined by the Draft ECC Strategy. The proposed amendment would facilitate development of excessive bulk and scale that is incompatible with the character of surrounding land. This would also impact on the environmental amenity of the surrounding properties.

Any request for a planning proposal must fully justify the requested FSR control for the site. This must include analysis of the impacts of increasing FSR from the existing control to the requested control. The request must also address whether a change in maximum FSR may require associated changes to the Woollahra DCP 2015.

6.3.1 Non-residential FSR

In general, staff are supportive of a minimum non-residential FSR as part of a future planning proposal as this will facilitate retention of employment opportunities within the ECC.

At a minimum, this means development should facilitate:

- Employment generating land uses;
- Active ground floor retail and business uses such as cafes, shops, hairdressers and restaurants; and
- Non-residential uses, such as business, office, medical services and community uses.

Please note that for the purposes of this approach car parking and serviced apartments are not included as non-residential floor space.

7 Woollahra Development Control Plan 2015

7.1 Chapters D4: Edgecliff Centre

The site is subject to *Part D: Business Centres, Chapter D4 Edgecliff Centre* of the Woollahra DCP 2015. Any request for a planning proposal must have regard to the desired future character and objectives of the centre, which envision reinforcing the ECC's role as a focus of retail and business activity.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

7.2 Chapter E1: Parking and Access

Any request for a planning proposal must be accompanied by a traffic and transport report based on the *maximum* permitted development under the requested planning controls. The report must address access, parking, traffic generation, and public and active transport.

7.3 Chapter E3: Tree Management

Any request for a planning proposal, regardless of the scale, must have regard to Council's desired future character objectives and controls relating to trees, specifically *Chapter E3 Tree Management* of Woollahra DCP 2015.

7.4 Chapter E4: Contaminated Land

Any request for a planning proposal must be accompanied by a contamination report to demonstrate that the site is suitable for the proposed development under *State Environmental Planning Policy (Resilience and Hazards) 2021*.

7.5 Chapter E5: Waste Management

Any request for a planning proposal must be accompanied by a waste management strategy to demonstrate how waste will be serviced within the site.

8 Referral officers comments

8.1 Strategic Planning

8.1.1 Role of a local centre

As outlined previously, the strategic plans identify Edgecliff to have a local centre status. The building height of the indicative concept and resulting scale of built form would not reflect the role and character of Edgecliff as a local centre as identified in the District Plan and Woollahra LSPS 2020.

Staff note that the pre-application scoping report compares the site to strategic and metropolitan centres such as St Leonards, Kings Cross (included in the metropolitan centre of Sydney CBD) and Green Square. To date, all buildings constructed of similar heights in Greater Sydney are located in metropolitan and strategic centres, including the Sydney CBD, Parramatta CBD, Chatswood, North Sydney, and St Leonards. These centres have much larger catchments and a greater number of existing high-density development compared to Edgecliff, which is identified as a local centre. Whilst it is noted that the applicant identifies that the ECC is an emerging strategic centre, there is no existing evidence in the pattern of surrounding development, or strategic intent that has been identified by the regional, district, and local strategies to support this.

The context of Edgecliff is different to the examples given as it is surrounded by HCAs in Edgecliff, Darling Point and Paddington. If the justification for additional density relies on a comparison to other centres, it should focus on centres with similar hierarchy status, heritage and character.

Due to the significant potential uplift on this site, it is important that the site is considered from the immediate and district-wide. A future planning proposal should be supported by an urban design analysis of the proposed height that demonstrates:

- An analysis of the proposed height control when compared to the CBD skyline silhouette along the Eastern Suburbs Railway corridor. The analysis should consider the centre hierarchy from the Sydney CBD (Hyde Park) to Kings Cross (in a strategic location), Edgecliff and the Double Bay Centre; and
- The response of the proposed height control to the role of the ECC as a local centre, including a comparative height analysis of local centres with a similar urban structure to Edgecliff.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

8.1.2 Building height

Located adjacent to the Edgecliff Station, the Draft ECC Strategy site identifies the site as an appropriate location for the tallest height in the ECC. However, the indicative concept would set an undesirable precedent for neighbouring sites in terms of its bulk and height. At 136m tall, the proposal exceeds the height limit proposed in the Draft ECC Strategy by 50m, and indicates a much wider envelope. We note that the proposed maximum building height of 136m is also significantly greater than the maximum building height of:

- 39m (11 storey) proposed for some of the surrounding sites in the ECC as identified in the Draft ECC Strategy; and
- 60m permitted under *Waverley Local Environmental Plan 2012* at Bondi Junction, which is designated as a strategic centre.

The site has a prominent location near the top of the Edgecliff ridgeline. This means that any tall building will be highly visible throughout much of the wider area, as is the case for the already existing Ranelagh to the north, the top of which is at RL 127.200, compared with RL 159.350 of the subject proposal.

Without being too specific, any height proposed on the site should demonstrate:

- Appropriateness to the local centre status of the ECC (rather than a strategic centre such as Bondi Junction) and consistency with the strategic intent set by the regional and district plans;
- A sympathetic transition in scale from the surrounding development;
- An appropriate interface with the Paddington HCA, Trumper Park and the residential development to the south and of the site; and
- Minimise the impacts of new development on adjoining or nearby properties relating to disruption of views, loss of privacy, overshadowing or visual intrusion (further outlined below).

8.1.3 Floor space ratio

The Draft ECC Strategy recommends a maximum FSR of 7.5:1 be applied, achieving an overall GFA of approximately 44,000sqm. The indicative concept proposes to locate its GFA entirely on the Edgecliff Centre site which, as it is smaller, would require an FSR of 9:1. We note that the requested FSR of 9:1 is greater than the maximum FSR of:

- 8:1 permitted under *Waverley Local Environmental Plan 2012* in the centre of Bondi Junction, which is designated as a strategic centre; and
- 4.5:1 recommended for land in the vicinity of the site in the Draft ECC Strategy.

As outlined previously, the indicative concept presents a bulk and scale that is inconsistent with the desired future character of the ECC (as envisaged in the Draft ECC Strategy) and would result in adverse amenity impacts and potentially unacceptable traffic generation.

The development of a single identifiable commercial building, as shown in the indicative concept, is supported. This would result in a higher quality floorplate than commercial uses located in a deep floorplate podium. Previous studies have indicated that a balanced mixed use approach to this site is needed. High quality, well located commercial floor space is rare in the Woollahra LGA and plays a critical role in ensuring the long term viability of centres.

The recommendation in the scoping report to require a minimum FSR for non-residential purposes is supported. However, the Draft ECC Strategy recommends that 3:1 or 40% of the total FSR should be non-residential. The pre-application submission proposes to increase the FSR to 9:1 but maintains the FSR of the non-residential component at 3:1, reducing the overall proportion of the non-residential floor area to 30% of the total FSR.

The residential tower in the indicative concept proposes no setback from the Council-owned site, with windows and balconies located on the boundary. The roof of the community building on the Council-owned site is proposed to be an outdoor space for residents of the apartments. In effect,

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

the indicative concept proposes to relocate the development potential of the Council-owned site onto its site, and restricts the long term development opportunities of the Council-owned site. The acquired value created by these assumptions should be factored into any future planning proposal on the site.

We note that the maximum building envelope proposed (indicated as 'PP envelope' in the overshadowing and view analysis diagrams) is much wider than the indicative concept. The indicative concept is impacted by overshadowing, impact on views, and setbacks from boundaries. This would be further exacerbated by the extent of the maximum building envelope. In establishing building envelopes, Part 2D of the ADG outlines that FSR should not reflect the maximum capacity of the building envelope and the allowable GFA should only 'fill' approximately 70% of the building envelope. This allows for flexibility in design excellence or building articulation.

It is recommended that a future planning proposal on the site:

- Should clearly identify not only a maximum overall FSR but also a minimum non-residential FSR;
- Increase the percentage of non-residential FSR to 40% (or 3.6:1) of the FSR, as proposed in the Draft ECC Strategy. At a minimum, the proposed non-residential FSR should be fully justified; and
- Allows sufficient flexibility for design excellence in the proposed building envelope.

8.1.4 Forecast

For reporting purposes to the DPE, a future planning proposal must include a statement which, based on the maximum potential development as well as the indicative concept, identifies the:

- Number and size of existing and proposed dwellings;
- Number of potential new residents;
- Size of existing and new non-residential gross floor area in square metres;
- Number of existing and new jobs that will be accommodated in the non-residential area; and
- Number and type of existing and proposed car parking spaces.

8.2 Urban Design

8.2.1 Bulk and Scale

Generally, the scale of the proposal and the distribution of bulk on the site needs to be reconsidered. The applicant should be required to demonstrate, through the development of options, the best outcome for the site and its context. The analysis should address all of the issues raised below in relation to maximum building height, bulk and scale, view sharing, solar access and overshadowing, streetscape, public domain, heritage, tree preservation and sustainability.

The analysis should be based on the maximum building envelope enabled by the requested planning controls, rather than the building envelope shown in the indicative concept (although this may be included in addition to the maximum building envelope analysis).

8.2.2 Views

The vision to enhance and maintain key views into and from the site is supported as is the approach to break the built form into a series of distinct and well composed parts. The proposed arrangement of built form into two buildings either side of the railway corridor is logical and allows the southern building to have direct lift access into a basement for loading and servicing. Further justification is needed as to why the taller of the two buildings is not located on New South Head Road and is closer to the Paddington HCA. However, it is understood that a commercial building with an address and frontage to New South Head Road and a residential building with an address off New McLean Street is a logical approach.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

The indicative concept provides a detailed assessment of the impact of the proposed development on views, especially the high value views to the city, Harbour Bridge and the harbour from private apartment buildings around the site. Staff note that while the indicative concept allows for views between the buildings, the residential tower developed to the extent of the maximum building envelope sought (referred to as 'as 'PP envelope' in the overshadowing and view analysis diagrams) would have a significant impact on the private views from surrounding buildings.

Any request for a planning proposal should recognise that as one of the tallest buildings in the area it will become a local landmark and a building that will be viewed "in the round". As outlined previously, it is recommended that a future planning proposal consider the impact on local and regional skyline views from key streets and open spaces such as New South Head Road heading east and from Trumper Oval as well as the impact on views from private apartment buildings around the site. An assessment of these impacts must be based on the *maximum* building envelope created by the requested planning controls, not the building envelope of the indicative concept (although this may be included in addition to the maximum building envelope, for example, shown as "wire frame" superimposed on a photograph).

8.2.3 Solar Access and Overshadowing

Any request for a planning proposal must address solar access impacts on surrounding properties and open space, and provide an accurate and comprehensive shadow analysis. In particular, ensuring solar access is maintained to Trumper Park Oval at 10.00am in mid-winter should be a requirement of any development on this site. The Oval requires natural sunlight to ensure turf management is maintained. Any overshadowing would have a significant effect for the community who utilise the oval for sports and recreation. It is noted that the overshadowing impacts of the indicative concept is much larger when compared to the Draft ECC Strategy, which will need to be justified by a future planning proposal.

Achieving ADG solar compliance is a requirement of the ADG and the SEPP 65. It is noted that the indicative concept is capable of meeting the requirements of the SEPP.

8.2.4 Streetscape

The vision to create a welcoming and accessible space for the public that blurs the boundary between the indoors and outdoors is strongly supported. However, the indicative concept appears to prioritise publicly accessible areas within the development to the detriment of the overall accessibility of the public domain. Further opportunities should be explored to enhance the quality of public domain and streetscape interface along New South Head Road and New McLean Street.

The ground level retail spaces and commercial lobby facing New South Head Road in the indicative concept appears to provide good activation. Further opportunities to continue this around the corner to New McLean Street should be investigated. In particular, the following elements need to be reconsidered to activate the public domain along New McLean Street:

- The community space on the "ground floor" is described as "hovering over the carpark access below". As this carpark access provides all vehicle and servicing for the proposed development and the Eastpoint residential tower it is likely to result in a vehicular dominated environment with little activation or surveillance;
- The proposed community space is shown extending to the edge of New McLean Street. This creates narrow pinch points along the street, especially around the existing Kiss and Ride shelter and pull in bay;
- The indicative concept indicates no ground level retail spaces to the west (New McLean Street) or activation along New McLean Street; and
- The location of the proposed residential entry off New McLean Street is supported however the indicative concept shows a deeply recessed colonnade, well back from the

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

street with no surrounding retail or community activation. This entry should be smaller and brought closer to the edge of the street.

At a minimum, it is recommended that a future planning proposal on the site should:

- Extend the Design Principles beyond the boundaries of the site and focus on how the proposed development will be successfully integrated into its location;
- Aim to expand and enhance the public domain and increase the tree canopy of the area;
- Encourage the use of publicly accessible links and open spaces;
- Include a detailed design of the adjoining footpath along New South Head Road and New McLean Street and clearly show extent and design of footpath crossings, the width of all footpaths and the possible location of street trees and any proposed level changes;
- Maintain an active frontage along New South Head Road and maximise active frontage along New McLean Street with retail shop fronts that have direct access from the street and large operable windows that allow activity to spill on to the footpath; and
- Facilitate active retail frontages that step down the slope. This may require higher floor to floor heights and the removal of a section of the carpark shown in the indicative concept.

8.2.5 Design Excellence

Given the high visibility of the site, and its important status as a gateway site, it is important that a future planning proposal delivers on design excellence. This will not only require that it is responsive to Country but also responsive to the local context and heritage of the area.

A design advisory panel will be established by Woollahra Municipal Council to provide Woollahra Municipal Council officers with independent expert advice and expertise on urban design, architecture, landscape architecture, art, and sustainability; to inform the assessment of the development application for the development. A future planning proposal should include a site-specific provision that requires development consent from a design advisory panel on the design excellence.

It is recommended that the following factors be considered in a design excellence provision:

- Standard of architectural design, materials and detailing;
- Form and external appearance of the development;
- Improvements to the quality and amenity of the public domain;
- Response to the environmental and built characteristics of the site, and relationship with other buildings;
- Sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency;
- View sharing principles;
- Heritage issues and streetscape constraints, including principles for responding to the significance of Rushcutters Bay Park and the neighbouring HCAs;
- Bulk, massing and modulation of buildings;
- Principles of ecologically sustainable development; and
- Improvements to pedestrian, cycle, vehicular and service access, circulation and requirements.

Public Art would be expected to be part of any request for a future planning proposal of this scale and especially around the publicly accessible spaces. While a detailed public art plan would not be required at the planning proposal stage, a strategy for how public art will be commissioned and an indication of the type of art and how it will respond to the Country, context and heritage of the area would be useful. In particular, the proposed level of commitment to public art should be reflected in the future planning proposal.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

8.2.6 Sustainability

A site-specific DCP should be submitted as part of a future planning proposal, which includes provisions for best practice sustainability standards and environmental mitigation measures for any development on the site. It is recommended that the site-specific DCP include minimum standards for:

- Urban greening e.g. green walls and roofs, tree canopy target, diversity of vegetation planted, planting of local natives;
- Impact to native and threatened species e.g. flying-fox friendly design, stop work provisions etc;
- Mandatory Green Star rating for all buildings which covers impacts from construction e.g. embodied emissions;
- Water efficiency e.g. rainwater/stormwater harvesting;
- EV chargers, e-bike chargers and end of trip facilities;
- Solar panels/renewables and all electric buildings (no gas); and
- Design specifications for passive heating/cooling, ventilation, and lighting

8.3 Transport Planning

8.3.1 Traffic generation

The intersection of New McLean Street and New South Head Road is approaching or at capacity. Any planning proposal request for this site should address the traffic impacts on this intersection with measures to address how it resolves the existing traffic issues at this location.

To ensure the adequate provision of car parking, servicing facilities on the site and to minimise the impact on adjoining traffic and parking generated by proposed development, the applicant must submit a Traffic and Parking Report.

The report is to assess the implications of the proposal on existing traffic, parking and transport conditions surrounding and within site. The report must be produced by a suitably qualified and experienced traffic engineer and must include (but not be limited to) the following:

- Expected traffic generation rates and their impact on the surrounding road networks;
- Intersection SIDRA modelling surrounding the site, and consideration should be referred to Transport for NSW (TfNSW), noting New South Head Road is a State Road;
- Impact on existing parking conditions and transport requirements in the surrounding area.
- Consideration referred to the *Draft Woollahra Active Transport Plan* to include all existing and proposed walking and cycling links surrounding the area;
- Assessment of any vehicle access and accommodation proposed; and
- Compliance with Council's off-street parking requirements (Council's DCP).

8.3.2 Accessibility

The vision to create an easily accessible multi-level building that provides connections to the elevated bus interchange and public spaces is welcomed. This principle should be expanded to include connections between surrounding streets, the retail and commercial spaces and the train station.

Any request for a planning proposal on the site needs to consider the constraints created by the existing rights of access, including those that support access to the Eastpoint residential tower car park. The indicative concept consolidates all vehicular access to one location off New McLean Street. While consolidation is supported this would create a very complex intertwining of servicing, private vehicles and access to Eastpoint residential tower car park. Successful resolution of this challenge will be critical to the success of this proposal. It may be necessary to split access for loading from private vehicles. To minimise impacts on the street and car park layout, loading and servicing may need to have a mechanised turntable. Any carpark or loading access needs to be carefully designed to ensure pedestrian access is prioritised along the footpath. A future planning proposal must also provide evidence to ensure that car park access dimensions can adequately accommodate the movement of a sufficiently-sized loading vehicle.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

In general, a future planning proposal would benefit from an approach that considers the lower levels of the building as an expansion of the transport interchange. Useful principles to follow include providing clear intuitive wayfinding, using daylighting to help guide people through the building and locating and orienting pedestrian entries where they respond to pedestrian desire lines.

8.4 Heritage

As outlined previously, the site is located within the vicinity of a number of heritage items and HCAs listed in Woollahra LEP 2014.

A request for a planning proposal must include a robust analysis of the heritage impacts of the requested controls and potential development. This must be submitted to allow a complete heritage assessment.

The size and height of the indicative concept is such that its visual impacts will extend well beyond the site and the Edgecliff Local Centre. This extended impact of the proposal would alter views to, from and within local and State heritage items particularly Rushcutters Bay Park, and the Paddington, Mona Road and Woollahra HCAs. This extended impact must be fully considered in the heritage impact statement submitted with a planning proposal request.

Shade across the adjacent HCAs should be as limited as possible, and may require alterations in form as well as height to achieve a satisfactory outcome. Excessive shadow from a development on this site would have an aesthetic impact, but it also risks impacts on the continued use of these areas and buildings as residences, and the viability of their existing street trees. If a condition arises where they are shaded for much of the day, there is a risk that some homes within the area could become disused.

The indicative concept achieves an inadequate transition between the proposed 136m envelope and the neighbouring HCA, save for the proposed community centre on Council land. It is understood that it would be difficult to achieve a satisfactory transition from the height proposed across this one site, however the dramatically increased height compared with that of the Draft ECC Strategy exacerbates this issue considerably.

8.5 Open space and Tree Management

8.5.1 Public domain

The provision of a public open space, as shown in the indicative concept, would help revitalise the ECC and is fully supported. However, a future planning proposal should ensure that the open space meet the needs of the community and is highly accessible. Future design needs to ensure the spaces are not semi-privatised but have full public access. Parameters around this can be included in a site-specific DCP. However, staff recommend that further information on this aspect should be included in a future planning proposal, noting that open space is of key importance to our Council and the community.

The location of the public open space, being visible from New South Head Road, is supported as it contributes to its visual accessibility. Further opportunities to integrate the public spaces with the surrounding pedestrian network should be explored. These include providing additional and improved through-site links that run north-south, providing pedestrian access from New McLean Street (extending from Trumper Park) to the first level open space, and further integrating the public open space with the community centre.

The vision and plan outlined for open space in a future planning proposal should be further refined to include possible recreational facilities and play elements. This should be consistent with Council's *Draft Play Space Strategy* which can be found at <https://yoursay.woollahra.nsw.gov.au/playspace-strategy>.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

8.5.2 Urban Greening

We recommend that urban greening improvements and its integration into the new development be an important aspect of a future planning proposal on this site. These could include landscaping elements such as modular planters, façade greening, and green walls that soften the impact of existing hardscape surfaces and improve visual aesthetics. Some of the green character along New McLean Street will be impacted by a future development on the Council owned land, so initiatives to provide greenery on and adjoining this land should be explored. Plans for further greening opportunities along New McLean Street and New South Head Road can be made in consultation with Council's Open space and Trees team and should refer to Council's *Draft Urban Forest Strategy* which can be found at <https://yoursay.woollahra.nsw.gov.au/ufs>.

8.5.3 Street and Private Trees

The indicative concept would necessitate the removal of existing trees from the Council-owned land along New McLean Street that contribute to the landscaped character and canopy. The applicant must engage an arboricultural consultant early in the planning phase to determine the retention value of all of the existing trees and vegetation, especially along New South Head Road.

A future planning proposal should provide opportunities to replace this canopy or provide deep soil on the site that could accommodate canopy trees. It is important that medium to large trees are planted in regular spacing to offset the bulk of the development (both on public and private land). Setbacks for tree planting and landscape should be identified and used to guide the constraints and opportunities analysis of the site and inform building envelope controls.

8.6 Community Services

The community infrastructure indicated in the indicative concept would make a valuable contribution to the revitalisation of the ECC and would be needed to support any uplift on the site. An appropriate mechanism is needed to ensure any proposed community infrastructure is achieved. Staff recommend exploring further opportunities to integrate the community centre with the rest of the development to ensure it is delivered.

It is recommended that any request for a planning proposal:

- Ensure that the development meets Child Safe design principles;
- Is designed to be active, inviting, safe and inclusive for all members of the community and all ages;
- Outline the parking provisions for the attendees of the community facility, including easy drop off / pick up for parents / carers;
- Improve access to the community facilities and provide connections to the public open space; and
- Consider the ongoing management of the community facility, including office space.

Relevant Council staff would welcome discussions with the applicant to discuss opportunities for the community facility including identifying potential uses.

8.7 Affordable Housing

The indicative concept indicates the provision of affordable housing, which is supported. Whilst we note that a community facility is being proposed as part of the future planning proposal, a development of the scale proposed should include affordable housing as a minimum of 10% of the new residential GFA achieved in accordance with Council's adopted Affordable Housing Policy that sets an aspirational target of 10%.

9 Voluntary planning agreement

The *Woollahra Voluntary Planning Agreement Policy 2020* (VPA Policy) was adopted by Council on 10 February 2020. Under this policy, Council would consider entering into a VPA where there

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

is an opportunity to secure public benefits alongside changes to controls that substantially increase the development potential of a site (some of which may be addressed earlier in this response).

However, we emphasise that the strategic merit of a future planning proposal would need to be fully justified and Council would need to support the requested changes. Furthermore, the VPA Policy seeks to separate the role of Council as an asset manager and planning authority to ensure probity. In this regard, please contact the Director – Infrastructure & Sustainability to discuss any requirements for a VPA, noting that no information is to be provided to Strategic Planning staff.

10 Information required with a request to prepare a planning proposal

Should you submit a request for a planning proposal, the core documents listed in 10.1 below, are required. Additional documents may be required at the time a request to prepare a planning proposal is lodged.

10.1 Documents

- Completed application form;
- Land owner's consent;
- Request to prepare a planning proposal addressing the matters in the *Local Environmental Plan Making Guideline 2022*; In particular, "Section 2: The Planning Proposal" and "Attachment C: Supporting Technical Information";
- Concept plans, including elevations and sections illustrating the distribution of land uses and building bulk;
- Results of any consultation with surrounding property owners;
- Disclosure statement (relating to political donations and gifts);
- Survey plan; and
- Studies, investigations and reports supporting the requested changes and relating to the *maximum* requested building height / FSR envelope, as well as the concept plan envelope, including:
 - Planning report justifying the requested amendments to the height and FSR controls, including the following information:
 - Number and size of existing and proposed dwellings
 - Number of potential new residents
 - Size of existing and new commercial gross floor area
 - Number of existing and new jobs that will be accommodated in the commercial area
 - Number and type of existing and proposed car parking spaces.
 - Photomontage and site photographs
 - 3D Model in the format required by Attachment 9: 3D Digital Model Technical Requirement of Council's DA Guide.
 - View analysis (including local and regional skyline views)
 - Shadow diagrams in plan and elevation
 - Traffic and parking assessment
 - Urban design analysis (including streetscape study and figure-ground study)
 - Heritage impact statement
 - Arboricultural report
 - Geotechnical investigation
 - Acoustic assessment
 - Wind impact assessment
 - A statement addressing the issues of 'controlled activity' and 'prescribed airspace' under the Commonwealth *Airports Act 1996* and *Airports (Protection of Airspace) Regulations 1996* and Ministerial direction (section 9.1) - 3.5 Development near regulated airports and defence airfields.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

Notes:

- *Images must show the maximum building height / FSR envelope of the proposal, as well as the concept plan envelope may include, for example, a "wire frame" superimposed on a photograph or another image; and*
- *Further reports, studies or documentation may be required once the request has been submitted.*

11 Fees

As a consequence of the proposed amendments to the development standards, a planning proposal of the nature discussed at the meeting is considered to be a complex planning proposal. Consistent with Council's adopted [2023/24 Fees and Charges](#) the cost for this request is outlined below. Please note that an additional charge will be applied to allocate Council's resources to customise/ modify the site-specific DCP to be consistent with Council's standard approach and format.

Complex planning proposal

More complex zone amendments and/or variations to development standards of greater than 20%.	\$107,000* (GST exempt)
--	----------------------------

Note: An hourly rate of \$324.00 applies to any additional unforeseen tasks and functions.
• Should the planning proposal not proceed to public exhibition, 30% of the fee (including any additional fees charged to draft a site-specific DCP) will be refunded.

The above fees are relevant for the 2023/24 financial year only. Any fees payable outside this period will be subject to the adopted fees and charges for the relevant financial year.

12 Next steps

Should you choose to lodge a planning proposal, fees are not payable on submission. Council staff would first review the planning proposal and supporting documentation to ensure all the required information had been provided to allow a full assessment.

Once we were satisfied that all the required information had been provided, an invoice would be issued to the applicant. Lodgement is recorded from the date payment is received by Council.

Once all required documentation and payments were received, we would commence the detailed assessment of the request. Further information could be required once this process commences. The planning proposal would then be reported to the Woollahra LPP for advice. This would then be reported to Council's Environmental Planning Committee for consideration, before being heard at a full meeting of Council.

13 Conclusion

The pre-application submission seeks the following changes to the Woollahra LEP 2014:

- Amendment to the maximum building height standard from 0m, 6m and 26m to between 132m - 136m;
- Amendment to the maximum floor space ratio (FSR) standard on 203-233 New South Head Road from 2.5:1 to 9:1;
- Amendment to the maximum floor space ratio (FSR) standard on the Council-owned parcel from 0:1 to 3.5:1; and
- Introduction of a site-specific provision to provide a minimum 3:1 FSR for non-residential uses.

Edgecliff Centre site - 203-233 New South Head Road, Edgecliff
Pre-application consultation - Response to applicant [23/108133]

August 2023

As identified above, Council staff support reviewing the planning controls for this site. However, the proposed increase in both maximum building height and FSR controls are significant in relation to the site and its context and would create a building envelope which would permit development of an excessive height and bulk. Additionally, issues surrounding transport planning, and public domain treatments require further consideration to mitigate against adverse planning outcomes.

We would welcome the opportunity to further assist you with this project, and would be pleased to arrange a further meeting once you have had the opportunity to consider this advice.

However, if a request for a planning proposal is lodged with Council, it must fully justify the changes being sought to the building height and FSR controls and include an appropriate associated minimum non-residential FSR control. The request must also be accompanied by all the documentation identified under *Section 10* of this response.

14 Disclaimer

The aim of a pre-application meeting is to provide a service to applicant who wish to obtain the comments of Council staff prior to lodging an application. The advice can then be addressed or at least known, prior to lodging an application.

This has the following benefits:

- It allows a more informed decision about whether to proceed with a request for a planning proposal; and
- It allows issues to be addressed, especially issues of concern, prior to requesting Council to prepare a planning proposal. This could then save time and money once the request for a planning proposal is lodged.

All efforts are made to identify issues of relevance and likely concern with the preliminary request. However, the comments in this response are based on the information submitted for preliminary assessment and our discussion at the pre-application meeting.

You are advised that:

- The comments expressed may vary once detailed information is submitted and formally assessed, or as a result of issues contained in submissions by interested parties if a planning proposal is exhibited;
- Statements contained in this report must not be taken to represent Council staff's support for the indicative concept in its current or altered form; and
- If a request to prepare a planning proposal is received by Council, nothing contained in a pre-application response binds Council staff, the elected Council members, or other bodies beyond Council in any way.

The comments provided in this response are made in regard to a pre-application for a request for a planning proposal. The comments do not represent a notification under clause 9 of the *Environmental Planning and Assessment Regulation 2021*.

We hope this service has been of use to you. Please contact Chinmayi Holla if you require any further assistance on (02) 9391 7140.




Chinmayi Holla
Strategic Planner



Anne White
Manager - Strategic Planning and Place

LOCAL PLANNING PANEL SECTION 4.56 APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA436/2020/2
ADDRESS	18 Olphert Avenue Vaocluse
COUNCIL WARD	Vaocluse
ZONING	R2 Low Density Residential
EXISTING CONSENT	The demolition of an existing dwelling house and the construction of a new dwelling house and swimming pool and associated works
DATE OF CONSENT	29/11/2022
TYPE OF CONSENT	Local development
CONSENT AUTHORITY	Land and Environment Court
PROPOSED MODIFICATION	Modifications to the levels of the approved rear yard area/ swimming pool, landscaping and fencing modifications
TYPE OF MODIFICATION	Section 4.56
DATE S4.55 LODGED	02/01/2024 - original lodgement 18/07/2024 - amended application
APPLICANT	Ms S J Curtis
OWNER	Mr C D Taylor & Ms S J Curtis
AUTHOR	Mr M Moratelli
TEAM LEADER	Mr N Economou
SUBMISSIONS	7 to the original application 5 to the amended application
RECOMMENDATION	Conditional approval

1. PREAMBLE

On 5 September 2024, the subject application DA 436/2020/2 was tabled to the Woollahra Local Planning Panel (LPP) with a recommendation for approval.

Following the receipt of late correspondence, the Panel resolved to:

‘defer determination of Development Application No. 436/2020 for the demolition of an existing dwelling house and the construction of a new dwelling house and swimming pool and associated works on land at 18 Olphert Avenue Vaocluse in order for Council to undertake a further review of the application and the matters raised in late correspondence.’

The purpose of this addendum report is to consider and discuss the matters raised in the late correspondence. This report should be read in conjunction with the previous assessment report, which is attached as Annexure 2 and includes a comprehensive assessment of the relevant matters for consideration under Section 4.15 of the EP&A Act 1979.

2. ISSUES RAISED IN LATE CORRESPONDENCE

The issues raised in the late correspondence pertaining to the processing of the application and legal issues are discussed below. Issues relating to the merits of the application are assessed in the original assessment report which is attached as Annexure 1.

2.1 Referrals

The application was reviewed by Council's referral officers upon lodgement in relation to trees and landscaping, heritage and development engineering. Formal referrals were not requested from Council's Development Engineer or Tree Management Officer as the proposed modifications were considered to be acceptable on those grounds.

2.2 Notification and Advertising

The application was initially notified and advertised between 24 January 2024 and 8 February 2024, by way of notification letter, site notice and on Council's website.

The re-notification of the application between 26 July 2024 and 10 August 2024 was undertaken by way of notification letter to nearby properties and previous objectors.

The re-exhibition was not required according to Schedule 1, Clause 23 of the Environmental Planning & Assessment Regulation 2021 as the amendments made to the application did not increase the environmental impact of the development, but instead provided clarification to the submitted documentation.

In accordance with Section 6.4 of the *Woollahra Community Participation Plan*, it is at the discretion of Council as to how notification of a planning matter may occur.

In accordance with Clause 107 of the *Regulation*, the Land and Environment Court has also been notified of the way in which the application was notified, the period for submissions and the period during which the application was notified.

2.3 Clause 100 of the Environmental Planning & Assessment Regulation 2021

The late correspondence states that the Clause 100 statement prepared by the applicant's planner Brett Daintry does not strictly comply with the requirements under Clause 100.

However, Clause 100 requires the *modification information* to contain the relevant information, not that a statement must be prepared which includes all points of information. The application documents have been reviewed to ensure that all information is contained therein and the relevant items under Clause 100 are detailed below:

- (1) *A modification application must contain the following information—*
(a) *the name and address of the applicant,*

Contained within the submitted DA form.

- (b) *a description of the development that will be carried out under the development consent,*

Contained within the submitted DA form and the Clause 100 statement.

- (c) *the address and folio identifier of the land on which the development will be carried out,*

Contained within the submitted DA form, the architectural drawings and site survey.

(d) a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved,

Contained within the submitted DA form, the Clause 100 statement and the architectural drawings.

*(e) whether the modification is intended to—
(i) merely correct a minor error, misdescription or miscalculation, or
(ii) have another effect specified in the modification application,*

Contained within the Clause 100 statement.

(f) a description of the expected impacts of the modification,

Contained within the Clause 100 statement.

(g) an undertaking that the modified development will remain substantially the same as the development originally approved,

Contained within the Clause 100 statement.

(h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information,

Not relevant.

i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,

The applicant is the owner of the land. Owner's consent is also submitted separately.

*(j) whether the modification application is being made to—
(i) the Court under the Act, section 4.55, or
(ii) the consent authority under the Act, section 4.56.*

Contained within the DA form which specifies that the application is being made to the consent authority under Section 4.56 of the Act.

(2) Subsection (1)(i) does not apply if the consent of the owner is not required under section 98.

(3) If a modification application under the Act, section 4.55(1A) or (2) relates to BASIX development, or BASIX optional development if the development application was accompanied by a BASIX certificate, the application must be accompanied by—

*(a) the BASIX certificate, or
(b) a new BASIX certificate if the current BASIX certificate is no longer consistent with the development.*

The Applicant has submitted the BASIX Certificate 1052152S_05 with this application. No changes were made to the proposal as modified which rendered the originally approved BASIX Certificate inconsistent with the modified proposal.

2.4 Consideration of the Reasons for the Grant of the Original Consent

Section 4.56 (1A) requires that the consent authority take into consideration the matters referred to in Section 4.15(1) as are of relevance. This has been done in the assessment report which is attached as Annexure 1.

The consent authority must also take into consideration the reasons given by the consent authority for the grant of consent that is sought to be modified. The reasons are set out in the Court's decision in *Taylor v Council of the Municipality of Woollahra* [2022] NSWLEC 1658, which is attached as Annexure 2.

Firstly, it is important to note that the Court granted consent pursuant to Section 34 of the LEC Act and did not make any merit assessment of the issues that were originally in dispute between the Council and the Applicant.

The Court considered jurisdictional prerequisites including:

- The Clause 4.6 request for the contravention of the height of buildings development standard;
- Earthworks - Clause 6.2 of the Woollahra LEP 2014
- Other Environmental Planning Instruments including the SEPP (Biodiversity and Conservation) 2021, SEPP (Resilience and Hazards) and SEPP (BASIX);
- Draft amendments to Clause 1.2 – Aims of Plan and Clause 6.2 – Earthworks of the Woollahra LEP 2014.

These matters have been addressed in the assessment of the modification to the extent that they are relevant, noting that there is no Clause 4.6 variation required for a modification and the height is not varied when compared to the approved development.

The conclusions of the Commissioner in relation to Clause 6.2 - Earthworks at [41] – [45] remain applicable and the proposed modification involves a reduced total volume of excavation when compared to the approved development. Furthermore, all conditions referred to in [41] of the judgment are retained in the recommended conditions for the modified proposal, except for Condition C.1(b).

Overall it is concluded that the proposed modification is acceptable having regard to the reasons given by the Commissioner of the Court in determining the original application.

3. CONCLUSION

The modification application is considered to be acceptable against the relevant considerations under S.4.15 and S.4.55/56 of the Environmental Planning and Assessment Act, 1979.

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

That the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, modify the development consent to DA436/2020 for the demolition of an existing dwelling house and the construction of a new dwelling house and swimming pool and associated works on land at 18 Olphert Avenue Vaucluse in the following terms:

Modification Summary

DA Application Number (PAN Number)	Determination Date	Modification Description
DA436/2020/2 PAN 398386	05/09/2024	Addition of Conditions A.3a, A.7, A.8, B.4, B.5, C.19 & E.30 Amendment of Condition C.1

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 18 Olphert Avenue, Vaucluse

The conditions of consent are as follows:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* (“the *Act*”) and the provisions of the *Environmental Planning and Assessment Regulation 2021* (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney’s eastern suburbs (see the brochure titled “Local Native Plants for Sydney’s Eastern Suburbs” published by the Southern Sydney Regional Organisation of Councils).

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the BCA.

Public place has the same meaning as in the *Local Government Act 1993*.

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

Site means the land being developed subject to this consent.

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans to which is affixed a Council stamp “**Approved Plans**” and supporting documents listed below as submitted by the Applicant **unless modified by any following condition**. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Dates
DA 1.2 Rev J DA 2 Rev J DA 2.1 Rev J DA 3 Rev J DA 3.1 Rev J DA 4 Rev J DA 4.1 Rev J	Boundary fences Plan Living and Bedroom Plan Garden and Roof Elevations (North and south) Elevations East and West Cross sections Longitudinal sections	Louise St John Kennedy	03/11/2022

DA 6 Rev J	Landscape Plan	Louise St John Kennedy	3/11/2022
	Arboricultural Impact Assessment Report	David Shrimpton	5/5/2020
32829SCrptRev2	Geotechnical Report	JK Geotechnics	7 Feb 2020
201199 D01-C D02-E D03-C	Stormwater Management Plan	NB Consulting Engineers	29/06/2022

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.

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

A.3a Approved Amended (section 4.55) Plans and Supporting Documents

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

Only the modifications documented with **red clouding** are approved.

Reference	Description	Author/Drawn	Date(s)
4.56 1.2 Rev 2	Boundary fences	Cottee Parker Architects P/L	03/07/2024
4.56 2.1 Rev 2	Plan Garden and Roof		
4.56 3 Rev 2	Elevations North		
4.56 3.1 Rev 2	Elevations East and West		
4.56 4 Rev 2	Cross sections		
4.56 4.1 Rev 2	Longitudinal sections		
4.56 6 Rev 2	Landscape plan		

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

(Added on 3/10/2024 under DA436/2020/2 (PAN 398386))

A.4 Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

A.5 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
4	<i>Ceratopetalum gummiferum</i> (NSW Christmas Bush)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	6 x 4 metres

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

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location	Dimensions
1	<i>Plumeria rubra</i> (Frangipani)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	6 x 4 metres

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

c) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
2	<i>Michelia figo</i> (Port-wine Magnolia)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	5 x 3 metres
3	<i>Cupressus torulosa</i> (Bhutan Cypress)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	8 x 4 metres
5	<i>Acmena smithii</i> (Lillypilly)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	7 x 3 metres

6	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	7 x 4 metres
7	<i>Pittosporum undulatum</i> (Native Daphne)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	6 x 4 metres
8	<i>Cupressus torulosa</i> (Bhutan Cypress)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	8 x 3 metres
9	<i>Pittosporum undulatum</i> (Native Daphne)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	5 x 4 metres

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

*This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

A.6 Prevention of boundary encroachments

In order to prevent boundary encroachments, all works are to be located wholly within the boundaries of the subject site. All new retaining walls and fencing are to be located within the boundaries of the subject site.

A.7 Development Consent is Not Granted in Relation to these Matters

Due to inadequate/inconsistent documentation, the reductions to the planter depths/heights to the northern elevation at Bedroom Floor and Living Floor levels and the addition of a *post and wire support for creepers* to the western side boundary are excluded from the scope of the subject development consent.

(Added on 3/10/2024 under DA436/2020/2 (PAN 398386))

A.8 No Underpinning works (Special Condition)

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

(Added on 3/10/2024 under DA436/2020/2 (PAN 398386))

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

B.1 Identification of Hazardous Material

In accordance with Australian Standard AS2601- '*The Demolition of Structures*' the owner shall identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing;

- all hazardous materials identified on the site;
- the specific location of all hazardous materials identified;
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken; and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

B.2 Public Road Assets prior to any work/demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the *Applicant* or *Owner* must submit to Council a full record of the condition of the Public Road infrastructure adjacent to the development site.

The report must be submitted to Council prior to the commencement of any work and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

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

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

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

B.3 Establishment of Tree Protection Zone (TPZ) Fence

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk
4	<i>Ceratopetalum gummiferum</i> (NSW Christmas Bush)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	2 metres in accordance with Condition B.3 (g) below.

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) There shall be no trench footing along the eastern boundary within the tree protection zone of the retained Australian Christmas Bush. Any footing within this area is to be pier and beam and subject to the supervision of a suitably qualified arborist. The project arborist shall provide written certification of compliance with the above condition.

B.4 Aboriginal Heritage Due Diligence Responsibilities

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the *National Parks & Wildlife Act 1974*. Under the *National Parks & Wildlife Act 1974*, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

(Added on 3/10/2024 under DA436/2020/2 (PAN 398386))

B.5 Aboriginal Heritage Induction

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

(Added on 3/10/2024 under DA436/2020/2 (PAN 398386))

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

C.1A Modification of landscape plans and details

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 to the landscape plans, prepared by a suitably qualified Landscape Architect:

- a) The overall plant height at maturity for plants in the redesigned planters on the northern boundary with 77 Hopetoun Avenue, Vaucluse and the north-eastern boundary with 20 Olphert Avenue, Vaucluse must not exceed 1200mm above approved height of the swimming pool concourse;
- b) Protection measures identified in Condition B3(b) for the existing hedge on the boundary at the road frontage on 20 Olphert Avenue, Vaucluse during excavation and construction of the garage on the side boundary, such measures to be contained wholly within the site;
- c) Two (2) trees with a maximum height at maturity of 3 metres are to be planted either side of the retained Australian Christmas Bush tree on eastern side boundary;
- d) No clumping bamboo or other forms of bamboo to be planted on site;
- e) The submitted Landscape Plan must illustrate the 2 x *Jacaranda mimosifolia* trees proposed to be planted within the front deep soil area of the property to be planted in a minimum container size of 150 litres at the time of planting;
- f) In addition to the proposed plantings already illustrated on the submitted Landscape Plan the following additional tree species must also be depicted and specified on the Landscape plan within the rear deep soil area of the property:

2 x *Banksia integrifolia* (Coastal Banksia); or
2 x *Eucalyptus ficifolia* (Red Flowering Gum); or
2 x *Banksia serrata* (Old-man Banksia).

Trees must be planted in a minimum container size of 150 litres at the time of planting.

A total of 2 trees but a combination of the above species is acceptable.

Trees must be planted in a minimum container size of 100 litres at the time of planting.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

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

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

- a) In order to prevent boundary encroachments, the retaining wall and fencing adjacent to the rear boundary and the fencing proposed adjacent to the eastern side boundary are to be located wholly within the boundaries of the subject site.
- b) Deleted
- c) In order to minimise smoke related impacts upon adjoining properties, the tops of both proposed chimneys shall be at least 1m metre higher than any other building within a 15m radius.
- d) Due to inadequate/ inconsistent documentation, the reductions to the planter depths/heights to the northern elevation at Bedroom Floor and Living Floor levels and the addition of a *post and wire support for creepers* to the western side boundary must be deleted.
- e) Where the north-south dimension of the proposed pool plant room is inconsistently documented on drawing 4.56 1.2 compared with drawing 4.56 2.1, the lesser dimension documented on drawing 4.56 2.1 prevails.
- f) Where the eastern boundary pool wall/ fence is inconsistently documented on drawings 4.56 2.1 & 3.1 compared with drawing 4.56 3 Section L, the documentation on drawings 4.56 2.1 & 3.1 prevail.
- g) Where the deletion of the approved spa/ addition of an infiltration system is inconsistently documented on drawing 4.56_2.1 Garden Floor plan compared with drawing 4.56_4.1 Section CC, the documentation on drawing 4.56_2.1 Garden Floor plan prevails.

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.

(Amended on 3/10/2024 under DA436/2020/2 (PAN 398386))

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit - making good any damage caused to any property of the <i>Council</i> (S138)	\$86,702	No	T115
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$48,545 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$480	No	T45
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$135,727 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],

- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

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

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

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

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2011

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

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

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

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

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

C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority* *BASIX Certificate* No. 1052152S_05 with any application for a *Construction Certificate*.

Note: Where there is any proposed change in the BASIX commitments the applicant must submit of a new *BASIX Certificate* to the *Certifying Authority* and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (See: Clauses 145 and 146 of the *Regulation*) the applicant will be required to submit an amended development application to *Council* pursuant to section 96 of the Act.

All commitments in the *BASIX Certificate* must be shown on the *Construction Certificate* plans and specifications prior to the issue of any *Construction Certificate*.

Note: Clause 145(1)(a1) of the *Environmental Planning & Assessment Regulation 2000* provides: "A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires,"

C.4 Road and Public Domain Works

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

- a) The construction of a new 4.5 metres wide vehicular crossing including the replacement of the existing gutter in accordance with Council's standard driveway drawing RF2_D. The new crossing shall be constructed at right angle to the street kerb in plain concrete and the centreline of the new crossing shall be aligned with the centreline of the garage door. The vehicular crossing must have a minimum crossfall of 1% graded from the property boundary towards the layback. Design longitudinal profiles along each edge/side of the proposed driveway must be submitted for assessment.
- b) The relocation of the existing Ausgrid power light pole – The construction of the new 4.5 metres wide vehicular crossing will require the relocation of an existing street light/power pole. The new power pole must be located at least 1 metre away from the proposed vehicular crossing to comply with Council's Specification for Roadworks, Drainage and Miscellaneous Works and Standard Drawing RF2_D. The applicant must provide written confirmation from Austgrid that payment of the relocation of the power pole has been made. All costs associated with the relocation of the street lighting must be borne by the applicant.
- c) Reinstatement of all damaged footpath, kerb and gutter and road pavement to match existing.
- 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: Refer to the *Roads Act Application advising under section K Advising of this consent*.

C.5 Utility Services Generally

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the *Act* to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any Construction Certificate application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the Construction Certificate plans and/or detailed within the Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the Construction Certificate plans.

Note: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Water's sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

C.6 Soil and Water Management Plan – Submission & Approval

The *principal contractor* or *owner builder* must submit to the *Certifying Authority* a soil and water management plan complying with:

- a) *"Do it Right On Site, Soil and Water Management for the Construction Industry"* published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) *"Managing Urban Stormwater - Soils and Construction"* published by the NSW Department of Housing 4th Edition" (*'The Blue Book'*).

Where there is any conflict *The Blue Book* takes precedence. The *Certifying Authority* must be satisfied that the soil and water management plan complies with the publications above prior to issuing any *Construction Certificate*.

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

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

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publications can be down loaded free of charge from <http://www.woollahra.nsw.gov.au/>.

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

C.7 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include detailed *professional engineering* plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation. Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

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

C.8 Geotechnical and Hydrogeological Design, Certification and Monitoring

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must be accompanied by 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, if deemed necessary by the geotechnical engineer upon detailed investigation, such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water, if deemed necessary by the geotechnical engineer upon detailed investigation, such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),

- will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
- will detect groundwater changes calibrated against natural groundwater variations,
- details the location and type of monitoring systems to be utilised,
- details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
- details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- details a contingency plan.

C.9 Ground Anchors

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

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

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

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

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

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

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

C.10 Stormwater Management Plan

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

- a) General design in accordance with stormwater management plans, referenced 201199-D01 Rev C, D02 Rev E and D03 Rev C, prepared by NB Consulting Engineers, dated 29/06/2022, other than amended by this and other conditions;
- b) The installation of rainwater tank with minimum storage of 40.2m³ which is to be connected for non-potable uses such as all toilet flushing and laundry device, garden irrigations and car washing; Minimum two 900x600 sealed lid must be provided for the rainwater tank for future maintenance. These access lid shall be clearly depicted on the site plan.
- c) The discharge of rainwater tank's overflow to the street kerb by gravity. The outlet pipe including the kerb outlet must be located within the frontage of the site.

- d) The installation of absorption trench system with minimum storage capacity of 12m³. The absorption trench system must be placed parallel to the contour, at least 3 metres from any property boundary and footing of any structure;
- e) All drainage pit must have minimum dimensions of 350x350 to comply with Clause 7.5.2.1 of AS3500.3:2018.
- f) Compliance the objectives and performance requirements of the BCA;
- g) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management; and
- h) The installation of on-site rainwater retention and reuse system.

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

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

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

Rainwater Tank details:

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

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"*.

C.11 Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water

The approved plans must be submitted to Sydney Water Tap In™ online service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met.

The Tap In™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Note: For more information go to Sydney Water www.sydneywater.com.au/tapin/index.htm and www.sydneywater.com.au/SW/plumbing-building-developing/building/building-over-or-next-to-assets/index.htm or call 1300 082 746.

C.12 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

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

C.13 Swimming and Spa Pools – Child Resistant Barriers

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

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

C.14 Swimming and Spa Pools – Backwash

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

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

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

C.15 Tree Management Plan

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

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

C.16 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
 - Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
- b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power

C.17 Waste Storage – Single Dwelling

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

- a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling.
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

C.18 Acoustic Certification of Mechanical Plant and Equipment

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

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

Where sound attenuation is required this must be detailed.

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

1. Australian Acoustical Society—professional society of noise-related professionals

www.acoustics.asn.au

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

C.19 Engineer Certification

Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.

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

(Added on 3/10/2024 under DA436/2020/2 (PAN 398386))

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

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

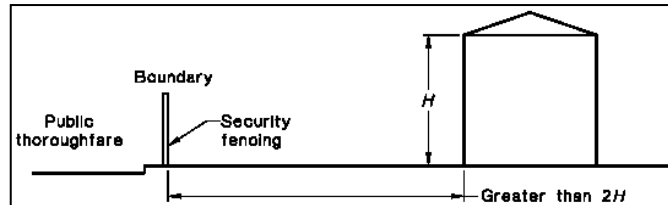
In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

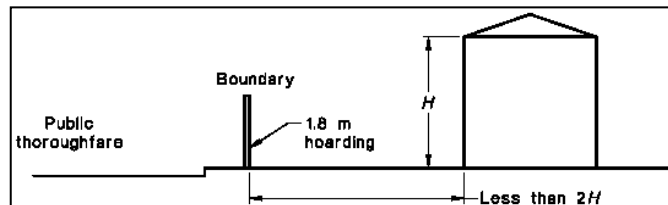
Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

D.2 Security Fencing, Hoarding and Overhead Protection

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



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

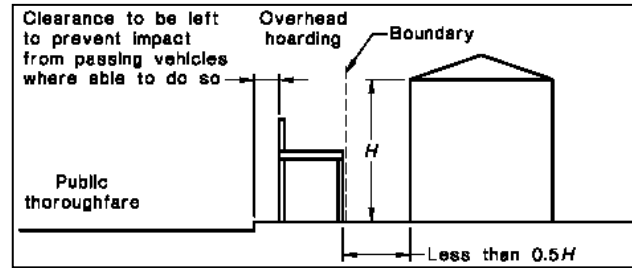


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



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

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

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

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

D.3 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifying authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the *Act*, to comply with the technical provisions of the State’s building laws.”

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the PCA or the principal contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If *Council* is appointed as the *PCA* it will provide the sign to the *principal contractor* or *owner builder* who must ensure that the sign is erected and maintained as required by Clause 98A and Clause 227A of the *Regulation*.

D.4 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with Workcover NSW requirements.

D.5 Establishment of Boundary Location, Building Location and Datum

Prior to the commencement of any work the Principal Contractor or Owner-builder must ensure that a surveyor registered under the *Surveying and Spatial Information Act 2002* sets out:

- a) the boundaries of the site by permanent marks (including permanent recovery points),
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,
- c) establishes a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and

- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the Principal Certifier.

Note: Where the Principal Contractor or Owner-builder notes any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the Principal Contractor or Owner-builder should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

D.6 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

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

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
- appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
- notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
- appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.

D.7 Dilapidation Reports for Existing Buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the Structural Engineer.

These properties must include (but are not limited to):

- 16 Olphert Avenue.
- 20 Olphert Avenue.

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

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by Section 6.6(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out.
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land.

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition

D.8 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

D.9 Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

D.10 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

D.11 Erosion and Sediment Controls – Installation

The *principal contractor* or *owner builder* must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The *Soil and Water Management Plan* if required under this consent;
- b) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) "*Managing Urban Stormwater - Soils and Construction*" published by the NSW Department of Housing 4th Edition" ('The Blue Book').

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The "Do it Right On Site, Soil and Water Management for the Construction Industry" publications can be down loaded free of charge from www.woollahra.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

D.12 Notification of [Home Building Act 1989](#) requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the [Home Building Act 1989](#).

- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the Home Building Act 1989

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

E.2 Public Footpaths – Safety, Access and Maintenance

The *principal contractor* or *owner builder* and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.

- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 73 of the *Road Transport (Safety and Traffic Management) Act 1999*, section 138 of the *Roads Act 1993* or section 94 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

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

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the council including:

- Part C Management of Waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place."
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road."
 - c. Any work in, on or over the Road or Footway requires *Council* Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.

E.3 Maintenance of Environmental Controls

The *principal contractor* or *owner builder* must ensure that the following monitoring, measures and controls are maintained:

- a) Erosion and sediment controls,
- b) Dust controls,
- c) Dewatering discharges,
- d) Noise controls;
- e) Vibration monitoring and controls;
- f) Ablutions.

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

E.4 Compliance with Geotechnical / Hydrogeological Monitoring Program

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

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

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

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

E.5 Support of Adjoining Land and Buildings

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

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

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

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: **"Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

E.6 Vibration Monitoring

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

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

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

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

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

Note: *building* has the same meaning as in section 1.4 of the *Act* i.e. “*building* includes part of a building and any structure or part of a structure....”

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.

E.7 Erosion and Sediment Controls – Maintenance

The *principal contractor* or *owner builder* must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition (“*The Blue Book*”).

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

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

E.8 Disposal of site water during construction

The principal contractor or owner builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from *Council* under section 138(1)(d) of the *Roads Act 1993*;
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

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

E.9 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The *Principal Contractor* or *Owner Builder* must ensure that a surveyor registered under the *Surveying Act 2002* carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The *Principal Contractor* or *Owner Builder* must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the *PCA's* satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level;
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey;
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof;
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like;
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.;
- f) Stormwater Drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

E.10 Site Cranes

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

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

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

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

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

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

E.11 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,
- d) The following *work must not* take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - i) Piling;
 - ii) Piering;
 - iii) Rock or concrete cutting, boring or drilling;
 - iv) Rock breaking;
 - v) Rock sawing;
 - vi) Jack hammering; or
 - vii) Machine excavation,
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

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

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

E.12 Dust Mitigation

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

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed in bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “*Dust Control - Do it right on site*” can be downloaded free of charge from Council’s web site www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

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

E.13 Critical Stage Inspections

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

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the PCA and any PCA Service Agreement.

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

Note: The PCA may, in addition to inspections, require the submission of *Compliance Certificates*, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

E.14 Placement and use of Skip Bins

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

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act 1993* to place the waste storage container in a public place, and
- b) Where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

E.15 Prohibition of burning

There must be no burning of any waste or other materials. The burning of CCA (copper chrome arsenate) or PCP (pentachlorophenol) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Control of Burning) Regulation 2000* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

E.16 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures, published by Standards Australia, and as in force at 13 September 2001.

E.17 Salvaging of building materials

Timber joinery and decorative architectural elements that are to be demolished, including leaded glass windows, original doors and timber architraves, fretwork and picture rails, should be salvaged where possible and transferred to an established second building material dealer for recycling.

E.18 Site waste minimisation and management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- b) Provide separate collection bins and/or areas for the storage of residual waste
- c) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- d) Implement measures to prevent damage by the elements, odour, health risks and windborne litter

- e) Minimise site disturbance, limiting unnecessary excavation

The applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility
- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

E.19 Site waste minimisation and management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- b) Consider organising to return excess materials to the supplier or manufacturer
- c) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- d) Clearly 'signpost' the purpose and content of the storage areas
- e) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- f) Promote separate collection bins or areas for the storage of residual waste
- g) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- h) Minimise site disturbance and limit unnecessary excavation
- i) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- j) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW.

E.20 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW DECC *Waste Classification Guidelines, Part 1: Classifying Waste* (April 2008).

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an Asbestos Licensed contractor can definitively determine where the waste may be legally taken for disposal.

E.21 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other Hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant EPA requirements.

E.22 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

E.23 Notification of Asbestos Removal

All adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

E.24 Disposal of soils and waste materials

Any disposal of soils and waste materials from the site shall be assessed against the NSW Department of Environment & Climate Change (DECC) 'Waste Classification Guidelines 2008, Revision 2009'; the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations Amendment (Scheduled Activities and Waste) Regulation 2008.

E.25 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

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

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

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

E.26 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management 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.27 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 a *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 is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity
2 x <i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden deep soil area, as plotted on the submitted Landscape Plan	150 litre	8 x 6 metres
2 x <i>Eucalyptus ficifolia</i> (Red Flowering Gum) OR; 2 x <i>Banksia integrifolia</i> (Coastal Banksia) OR; 2 x <i>Banksia serrata</i> (Old-man Banksia).	Rear deep soil area	150 litre	6 x 5 metres
2 x <i>Cupaniopsis anacardioides</i> (Tuckeroo)	Front of property on Council nature strip (Located a minimum of 2m from any driveway crossing)	100 litre	6 x 4 metres
2 x Dwarf 20 th Century Westwood Nashi Pear	Adjacent to the retained <i>Ceratopetalum gummiferum</i> (NSW Christmas Bush) on the eastern side boundary		3 metres (maximum height)

The project arborist shall document compliance with the above condition.

E.28 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects are found during the works covered by this approval, all work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

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

E.29 Archaeological Features – Unexpected Findings

If unexpected archaeological features are discovered during the works covered by this approval, work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

E.30 Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

(Added on 3/10/2024 under DA436/2020/2 (PAN 398386))

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

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.

F.2 Commissioning and Certification of Systems and Works

The *principal contractor* or *owner builder* must submit to the satisfaction of the PCA works-as-executed ("WAE") plans, *Compliance Certificates* and evidence of suitability in accordance with the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant *construction certificate*, the BCA and relevant *Australian Standards*. Works-as-executed ("WAE") plans, *Compliance Certificates* and evidence of suitability in accordance with the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – “Off-Street car parking.”
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifying Authority may require.

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

Note: The *PCA* may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, *Development Standards*, *BCA*, and relevant *Australia Standards*. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

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

F.3 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

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

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register.
- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued pursuant to section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public pools must comply with the *NSW Health Public Swimming Pool and Spa Pool Guidelines* in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2010: *Swimming pool safety - Water recirculation systems*.

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

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

Note: NSW Health guidelines and fact sheets are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx

F.4 Swimming Pool Fencing

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

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

F.5 Amenity Landscaping

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

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

F.6 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition C.16.

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 (S6.4(c))

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

All BASIX commitments must be effected in accordance with the BASIX Certificate 1052152S.

Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A *certifying authority* must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

H.2 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions;
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

H.3 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

H.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

H.5 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

On completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted to the Principal Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site retention system,
- c) that the works have been constructed in accordance with the approved design and will provide minimum 40.2m³ retention storage volume in accordance with the approved drawings,
- d) that the works have been constructed in accordance with the approved design and will provide minimum 12m³ absorption trench system in accordance with the approved drawings,
- e) pipe invert levels and surface levels to Australian Height Datum, and
- f) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

Note: The Final Occupation Certificate must not be issued until this condition has been satisfied.

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate 1052152S.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

I.2 Noise from mechanical plant and equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time. The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

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

Note: Words in this condition have the same meaning as in the:
NSW Industrial Noise Policy (http://www.environment.nsw.gov.au/resources/ind_noise.pdf)
ISBN 0 7313 2715 2, dated January 2000, and
Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>)
ISBN 1741370671, dated December 2004.

I.3 Outdoor lighting – Residential

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminare must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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

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

I.4 Noise Control

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

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the *NSW Industrial Noise Policy* (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

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

NSW Environment Protection Authority— see “noise” section
www.environment.nsw.gov.au/noise.

NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

Australian Acoustical Society—professional society of noise related professionals
www.acoustics.asn.au.

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

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

I.5 Swimming and Spa Pools – Maintenance

Swimming and spa pools must be maintained:

- a) in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,
- b) in compliance with the NSW Health “Public Swimming Pools and Spa Pools Advisory Document” in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,
- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

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

Note: The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx

I.6 Ongoing Maintenance of the On-Site-Retention System

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

- a) Permit stormwater to be temporarily retained by the system.
- b) Keep the system clean and free of silt rubbish and debris.

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

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

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

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Criminal Offences – Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence. Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. his consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites: <http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.

K.2 Dial before you dig

The *principal contractor*, *owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit www.dialbeforeyoudig.com.au. When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

K.3 Builders Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a *principal contractor* for residential building work who must be the holder of a contractor licence. Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html>. The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

K.4 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8 are achieved. The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role. The NSW Office of Fair Trading have published a "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124. The Guide can be down loaded from: <http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf> Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

K.5 Workcover requirements

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

Note: Further information can be obtained from Workcover NSW's website: <http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office: Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

K.6 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995, Guide to Lead Paint Management—Industrial Applications, or AS 4361.2–1998, Guide to Lead Paint Management—Residential and Commercial Buildings. Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings. Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

K.7 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*. The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from
<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

K.8 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's *Tree Preservation Order* 2006 (TPO) may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment. Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the TPO from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

K.9 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with:

- a) The Occupational Health and Safety Act 2000;
- b) The Occupational Health and Safety Regulation 2001;
- c) The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];

- d) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>;
- e) The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

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

K.10 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on requested and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

K.11 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

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

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





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

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

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

Attachments

1. Annexure 1 - Late Correspondence to WLPP [↓](#) 
2. Annexure 2 - WLPP Report from 5 September 2024 [↓](#) 
3. Annexure 3 - S4.56 Architectural Drawings [↓](#) 
4. Annexure 4 - Approved Architectural Drawings [↓](#) 

4 September 2024

Dear Woollahra Local Planning Panel

Thank you for taking to the time to consider the impact of Assessment of DA436/2020/2 on my property. I reside directly west at 16 Olphert Avenue.

Late correspondence is separated into the following sections:

- Background, relevant property history excluded from the Assessment Report
- Consent validity
- Referrals not formally requested in the Assessment Report
- Notification was not advertised, only notified

Other issues with the Modification Application have been raised in correspondence with two submissions being provided, the latest being 12 August 2024. If you deem this relevant Council could provide the documents.

Background

The Assessment Report provided in the Woollahra LPP agenda 5 September 2024 does not include a section of Relevant Property History, including the details of the Land and Environmental Court Appeal. A brief summary is provided below to assist.

The original development application was lodged by the Applicants on 30 October 2020 with plans dated 14 September 2020. The Assessing Officer was David Booth and Team Leader was Max Moratelli. The Assessment Report deemed Refusal dated 3 March 2022 was based upon Revision D plans dated 23 June 2021.

This Assessment Report recommended Refusal, for the following four reasons:

The replacement application has been assessed within the framework of the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is recommended for refusal because:

- the application involves works that encroach beyond the boundaries of the subject site;
- the application involves flaws in the documentation such that there exists insufficient certainty as to the exact nature of the proposal and associated environmental impacts;
- a proposed street tree is located too close to the proposed driveway and the driveway of an adjoining property such that future damage to the driveways may result; and
- the height of the rear section of the eastern side boundary fence is unnecessarily excessive.

The Woollahra Local Planning Panel (LPP) in meeting minutes of 3 March 2022 added three additional reasons for the Refusal and further wording than the Assessment Report. As per below:

Resolved Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979

THAT Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, refuse to grant development consent to Development Application No. 436/2020/1 for the demolition of an existing dwelling house and the construction of a new dwelling house and swimming pool on land at 18 Olphert Avenue Vaucluse, for the following reasons:

1. The application involves proposed retaining wall/fencing structures that encroach beyond the rear and eastern side boundaries of the subject site without landowners' consent. In addition, the height of the proposed retaining walls and boundary walls/fences is excessive and contrary to the objectives set out under Part 3.7.2 (Fences) of WDCP 2015.
2. The drawings submitted with the replacement development application involve inconsistencies/ inaccuracies such that there exists insufficient certainty as to the exact nature of the proposal and associated environmental impacts.
3. The proposed eastern street tree is located too close to the proposed driveway and the driveway of the adjoining property 20 Olphert Avenue such that future damage could occur to the driveways.
4. The level of excavation including fill is excessive and inconsistent with Part 6.2 (Earthworks) of WLEP 2014 and Part 3.4 (Excavation) of WDCP 2015.
5. The elevation of the swimming pool and its surrounds (including associated retaining walls) is inconsistent with C9 and O4 of Part 3.7.1 (External Areas) of WDCP 2015.
6. The proposed trellis at the rear of the site is not justified given it would adversely impact on the views from the adjoining property at 20 Olphert Avenue, Vaucluse and contrary to O1 of Part 3.7.4 (Ancillary Development – Out Buildings).

The key point at this junction is to note that the original Assessment report had no issues with excessive fence heights or fill on the site.

The Development Application proceeded to the Land and Environment Court, the filed Statement of Facts and Contentions aligned with the 7 points above from the WLPP and was signed by Max Moratelli on behalf of Woollahra Council.

As there was a conflict between the Assessment Report and Local Planning Panel, an Independent Expert was engaged to act on behalf of Woollahra Council during the LEC case. Mr Kerry Nash and the Commissioner attended my property during the course of the LEC proceedings and were supplied with detailed submissions from Colin Biggers & Pasley lawyers.

Taylor v Council of the Municipality of Woollahra [2022] NSWLEC 1658 consent was granted on 29 November 2022. Commissioner Espinosa specifically dealt with the issues pertaining to this Modification Application in both the report and Annexure – A Determination of Development Application by Grant of Consent which included specific Conditions to development.

The Assessment Report dated 5 September 2024 the Assessing Officer was David Booth and Team Leader Max Moratelli. This Modification Application is reverting to a very similar scheme where the Assessment Report did not raise an issue with key elements, the Woollahra LPP added reasons for Refusal and a compromise through the Land and Environmental Court Conciliation process.

If we consider one key element to my property for overlooking is the original development excess fill at 53.75 for the pool surround, the Land and Environmental Court process reduced this to upper pool surround 52.65 and lower pool surround between 52.02 – 52.20, with Commissioner Espinosa Decision 22 November 2022 Paragraph 47 Earthworks, cl 6.2 of the WLEP Paragraph 47

- 47 The Revision J plans and the associated cut and fill calculations provided to Council and filed with the Court, demonstrate a further reduction in the volume of fill on the Site. The depth of fill is now in the order of 1.2 m. The volume of fill is also expressly addressed in Condition C.1 "*Modification of Details of the Development*".

For convenience relevant Condition C.1 b) is below:

- b) In order to reduce the extent of the non-compliance with Council's excavation volumetric control (B3.4 C1) to an acceptable level consistent with the objectives underlying the control, the volume of fill will be reduced to a maximum of 1200mm above existing ground level. 128.95 m3 of excavated material shall be used as fill within the subject site. This condition does not permit any changes to the approved ground levels.

The Assessment Report 5 September 2024 on page 43 notes C.1 b) deleted. However, there is no reference at all in the Assessment Report to Commissioner Espinosa, the Land and Environment Court nor the Land and Environment Court Conditions that were imposed by Granting of Consent in November 2022.

Consent validity

As such, legal implications arise with this Modification Application. Please refer to letter of Colin Biggers & Paisley Lawyers 3 September 2024, attached below. It concludes that the grant of consent would be susceptible to being declared invalid by the Land and Environment Court.

Referrals in the Assessment Report

The Assessment report refers to referrals, although none are attached. The Woollahra Council Application Stages and Status also does not note referral to the following, notably:

1. **Tree management** noting no consideration has been given to the removal of the spa. The spa was being built and required Tree 3 to be removed to allow for building works. Part 6.9 of the WLEP 2014 item (1) states "The objective of this clause is to conserve and enhance tree canopy cover". As such, the retention of Tree 3 in the Arborist report by David Shrimpton 5 May 2020 V2 should have been considered. This tree is 10.8 metres height and is Category B (moderate quality). Part 6.9 of the WLEP 2014 Item (3) is also relevant in relation to mitigate adverse impacts on the existing tree canopy. Tree 3 was rated TreeABC as B. retained with limited intervention, high construction tolerance with a tree canopy of 57m2. The report identified likely impact was tree inside footprint of spa, recommendation proposed design requires tree to be removed. In 5 September 2024 Condition C.1 g notes that the spa is to be removed, which should result in Tree 3 retention being considered under the WLEP 2014. Tree 3 removal is contrary to the Woollahra DCP 2015 Chapter B1.11 Objective 7 and 8, also B3.7.4 Objective 3.
2. **Heritage Officer** states additional condition to protect aboriginal heritage / archaeological remains. This appears contrary to other modifications in the street that have required Aboriginal Council report as per WLEP Clause 5.10 and given the property is contained within the "Potential Aboriginal Heritage Sensitivity" area as per map at <https://www.woollahra.nsw.gov.au/Building-and-development/Development-rules>. The Woollahra DCP Attachment 10 Aboriginal Heritage Impact Assessment states in certain circumstances an assessment is required. Noting this Modification does involve

excavation associated with the pool plant room and the north-western section of the site and there is sandstone exposed on the current site. Further, there is significant excavation within the original DA which has not commenced.

3. **Development Engineering Team Leader** recommended additional conditions for the Modification. Daintry Associates Clause 100 dated 6 July 2024 states the Revision 2 Modification addresses two key areas and the second of these is Stormwater. Further, plans 4.56_2.1 have included absorption tanks and the DA tracker – Application Documents included four documents pertaining to Stormwater, uploaded on 18 July 2024.

Re-notification Application

The Assessment Report in Section 9.4 Re-notification of amended application states “The amended application was notified and advertised during the period 26/07 – 10/08 2024.”

A letter was received from Woollahra Council dated 26 July 2024 noting the Re-Notification of Section 4.56 Application for the period Friday 26 July to Saturday 10 August 2024.

However, It was not advertised on the Woollahra Council website - Notification of DAs – Application to Modify Consent. Further, 18 Olphert Ave Vacluse DA436/2020/2 does not appear in any of the weeks commencing 17, 24 or 31 July 2024. No signage was displayed at 18 Olphert Ave Vacluse during the notification period as per the letter.

It is also unclear from the Assessment Report if EPA Act Section 107 Paragraphs 4(a) – (c) has been complied with. My understanding is that this Section requires the Consent Authority to notify the Court of when the application was notified or advertised, period required by the community participation plan and the period of time. I believe if this has not been complied with then consent may not be granted.

Regards
Julie-Anne McMillan

Our Ref: TAN.BCB.2306694

3 September 2024

COLIN
BIGGERS
& PAISLEY
LAWYERS

Privileged & Confidential

Julie-Anne McMillan
16 Olphert Avenue
Vaucluse
2030

Dear Julie-Anne

18 Olphert Avenue Modification Application, DA 436/2020/2

1. The purpose of this letter is to advise you about the upcoming Panel Meeting to take place on Thursday, 5 September 2024, concerning your neighbour's proposed modification application DA436/2020/2 at 18 Olphert Avenue, Vaucluse (**Modification Application**).
2. You have asked the following questions about legal issues associated with this Modification Application if consent is granted to it:
 - (a) Does the failure to comply with section 100 of *Environmental Planning and Assessment Regulation 2021* (**EP&A Regulation**) result in the Modification Application being rendered invalid?
 - (b) Has the Applicant or Council failed to consider the reasons for the grant of the original consent pursuant to [section 4.56](#) of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**)?
 - (c) What are the implications of the Applicant or Council failing to comply with one of the above obligations?
3. In short, the failure to comply with these requirements could lead to any consent being granted being declared void in the Land and Environment Court.

Compliance with section 100 of *Environmental Planning and Assessment Regulation 2021*

4. As you are aware, section 100 of EP&A Regulation sets out mandatory requirements for the content of a modification application:
 - (1) A modification application **must contain** the following information—
 - (a) **the name and address of the applicant,**
 - (b) *a description of the development that will be carried out under the development consent,*
 - (c) **the address and folio identifier of the land on which the development will be carried out,**
 - (d) *a description of the modification to the development consent, including the **name, number and date of plans** that have changed, to enable the consent authority to compare the development with the development originally approved,*

COLIN BIGGERS
& PAISLEY PTY LTD
ABN 28 166 080 682
T +61 2 8281 4555
F +61 2 8281 4567

Level 42
2 Park Street
Sydney NSW 2000
Australia

GPO Box 214
Sydney NSW 2001
Australia

BRISBANE MELBOURNE SYDNEY

33895744_2

3 September 2024

- (e) whether the modification is intended to—
 - (i) merely correct a minor error, misdescription or miscalculation, or
 - (ii) have another effect specified in the modification application,
 - (f) a description of the expected impacts of the modification,
 - (g) **an undertaking that the modified development will remain substantially the same as the development originally approved,**
 - (h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information,
 - (i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,
 - (j) whether the modification application is being made to—
 - (i) the Court under the Act, section 4.55, or
 - (ii) the consent authority under the Act, section 4.56.
- (emphasis added).

5. The clause 100 statement dated 6 July 2024 prepared by Brett Daintry does not strictly comply with the requirements emphasised above, despite the mandatory language used in the Regulation. Council's assessment report acknowledges this itself:

"Whilst the Section 100 statement submitted with the amended application is in part erroneous /deficient, it is considered that the statement together with the amended architectural plans submitted with the amended application are collectively adequate to facilitate an assessment against the relevant provisions of Sections 4.15 & 4.56 of the Environmental Planning and Assessment Act and that nothing turns on the errors/ deficiencies."

6. Whilst we have not found any cases that specifically deal with whether each requirement set out in clause 100 must be strictly complied with in the statement, in *Hinkler Ave 1 Pty Limited v Sutherland Shire Council* [2023] NSWCA 264, Preston CJ made the following comment in relation to an incomplete development application where the mandatory requirements of former clause 256 of the EP&A Regulation 2000 were not complied with:

*[100] The consequence of the applicant's development application not meeting these **two form requirements** that the development application be accompanied by the A4 plan of the building and the payment of the fee was that the **development application was incomplete** as at 26 November 2021.*

*[101] **An incomplete development application is not invalid.** As Spigelman CJ observed in *Currey v Sutherland Shire Council* (2003) 129 LGERA 223; [2003] NSWCA 300 at [35], there is "very little, if any, scope in this legislative scheme [for applying to a consent authority for consent to carry out development] for the concept of a 'valid' application."*

*[102] Similarly, in *Botany Bay City Council v Remath Investments No 6 Pty Ltd* (2000) 50 NSWLR 312; [2000] NSWCA 364, Stein JA observed that a development application that is not accompanied by the information and documents required by the EPA Act and regulations is not "**invalid or void**" (at [14]), but it is "**ineffective and incomplete**" (at [18]). Equally, Fitzgerald JA described a development application, in respect of which there has not been substantial compliance with the statutory requirements for the development application to be accompanied by specified information and documents, to be "**incomplete and ineffective**" until there is substantial compliance with the requirements: at [47].*

*[103] **An incomplete development application is ineffective in that it does not have the "legal effect" of being a development application** for the purposes of this statutory scheme: see *Currey v Sutherland Shire Council* at [34]. An incomplete development application does not have the legal effect to **engage the statutory power of the consent authority to determine a development***

3 September 2024

application by granting consent to the application. That power is currently in s 4.16(1) of the EPA Act.

*[104] This lack of legal effect of an incomplete development application explains the various decisions of this Court holding that a **consent authority has no power to grant consent to a development application** that does not comply with the statutory requirements for making a development application.*

(emphasis added).

7. By parity of reasoning, an incomplete modification application that does not provide mandatory content required by clause 100 would also be ineffective and not have the legal effect to engage the statutory power of the consent authority to modify the consent.
8. The deficient Modification Application therefore leaves any consent granted susceptible to Class 4 proceedings in the Land and Environment Court.

Has the Applicant failed to consider the reasons for the grant of the original consent per s4.56? Is the Council required to consider the reasons for the grant of the original consent?

9. In determining a proposed modification application, the consent authority is required to consider the reasons the Court gave when originally granting the Consent. If consent is granted to the Modification Application based on what has been lodged, and based on Council's assessment report, there will have been a failure to take into consideration the reasons given, rendering any approval again susceptible to being set aside as invalid.
10. To explain why it is instructive to first set out the source of the requirement. [Section 4.56\(1A\)](#) of the *Environment Planning and Assessment Act 1979* states:

*"The consent authority **must also** take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified."*

(emphasis added)

11. The reasons were set out in the Court's decision in *Taylor v Council of the Municipality of Woollahra* [2022] NSWLEC 1658 (Taylor). The Court's reasons are deemed to be the final decision of the consent authority and are to be implemented to that effect pursuant to [section 39\(5\)](#) of the *Land and Environment Court Act* (NSW).
12. The reasons set out in the judgment of Commissioner Espinosa lists the clause 6.2 matters from the Local Environment Plan, and addresses each of these in turn to justify the grant of consent - see paragraph 41 of the judgment.
13. The Commissioner's reasons refer to the requirement to consider "*the effect of the development on the existing and likely amenity of adjoining properties*". Commissioner Espinosa states that "**By reason of the amended plans Revision H and the Joint Expert Report, the parties have agreed that the development will not have an adverse impact on the existing and likely future amenity of neighbouring properties.**" (emphasis added)
14. It is important to note that the Joint Report called up in this reasoning process carefully analysed the reasons for the levels.
15. The judgment goes on to state at [46-47] that:

"I am satisfied that the Proposed Development will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land."

3 September 2024

The Revision J plans and the associated cut and fill calculations provided to Council and filed with the Court, demonstrate a further reduction in the volume of fill on the Site. The depth of fill is now in the order of 1.2 m. The volume of fill is also expressly addressed in Condition C.1 "Modification of Details of the Development".

16. When the reasoning process above is properly engaged with it is clear that the reduction of fill achieved through the dialectical conciliation process contributed to the Court's reasons for granting the original consent. It was because the reduced fill and associated reduced levels would not have the impact to the neighbours that the modification that is now being assessed will have.
17. Despite this, Mr Daintry's section 100 statement dismissively considers the proposed additional levels of between 750mm and 1.2m in the rear yard and pool deck area to be "negligible". By oversimplifying the issue in this way, the section 100 statement omits any reference to Commissioner Espinosa's reasoning as it relates to the levels of the pool and surrounds, as required by [section 4.56\(1A\)](#).
18. Council too has not considered the Court's reasons. Despite purporting to comply with [section 4.55\(3\)](#),¹ the Council Assessment Report has not at all considered the reasons of the original grant of consent. Instead, Council has only considered the heads of consideration [section 4.15\(1\)](#) (formerly section 79C).
19. The purpose of this relatively new requirement to consider the original reasons given for the grant of a consent is to ensure that applications to modify consents are not considered in isolation, divorced from its roots. Instead the purpose is to ensure that departures from the original reasons for the granting of consents are robustly justified, rather than glossed over or ignored.
20. There has been one recent appeal where the failure to consider the consent authority's reasons was raised as a ground to invalidate the approval to a modification application. In this appeal, Robson J commented on the purpose behind these requirements in *Feldkirchen Pty Ltd v Development Implementation Pty Ltd and Anor* [\[2021\] NSWLEC 116 at \[69\]](#):

"With this in mind, I find that it is clear that the purpose of the second sentence of s 4.55(3) of the EPA Act, requiring that the consent authority take into consideration the reasons given by the consent authority for the grant of the original consent that is sought to be modified (in addition to consideration of the matters referred to in s 4.15(1) of the EPA Act which are relevant to the development which is the subject of the modification application), is to require the consent authority to keep in mind the results of the previous assessment and determination process that was undertaken when granting the original consent, when assessing and determining an application to modify that consent." (emphasis added)

21. This was not disturbed on appeal in the Court of Appeal (*Feldkirchen Pty Ltd v Development Implementation Pty Ltd* [\[2022\] NSWCA 227](#)).
22. Whilst the appeal ultimately failed, this was because the consent authority that granted the base consent elected not to provide any reasons. If no reasons were given by the consent authority for the grant of the consent, there can be no reasons to be ascertained,

¹ Indeed, section 4.55(3) is not the relevant section to this Modification Application, rather it is [section 4.56\(1A\)](#), as the Modification Application is subject to a court-granted consent. Nevertheless, the substance of the obligation is the same.

3 September 2024

and a consent authority cannot breach the statutory obligation to take into consideration reasons that have not been given for the grant of the consent.

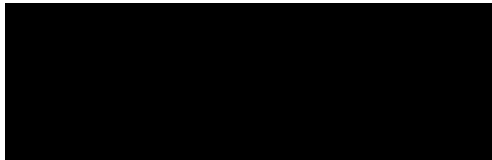
23. Unlike the facts in *Feldkirchen*, here there are reasons that have been provided by the Court which at this time have not been engaged with.
24. Assuming the Panel does not itself consider the reasons in the judgment in assessing the Modification Application, the consent to that application will be susceptible to being set aside in Class 4 proceedings due to the failure to comply with [section 4.56\(1A\)](#).

Conclusion

25. Whilst these matters are capable of being cured at any time before a consent is granted, if the Panel proceeds to determine the application based on the Council Officer's Assessment Report, and the Applicant's Modification Application, in our view, the grant of consent would be susceptible to being declared invalid by the Land and Environment Court, if challenged.

Please do not hesitate to contact us if you have any further queries.

Yours sincerely



Todd Neal
Partner
Email: todd.neal@cbp.com.au
Direct Line: 02 8281 4522

Contact: Bethany Burke
Solicitor
Email: bethany.burke@cbp.com.au
Direct Line: 02 8281 4925

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

**LOCAL PLANNING PANEL
SECTION 4.56 APPLICATION ASSESSMENT REPORT**

ITEM No.	D2
FILE No.	DA436/2020/2
ADDRESS	18 Olphert Avenue Vacluse
COUNCIL WARD	Vacluse
ZONING	R2 Low Density Residential
EXISTING CONSENT	The demolition of an existing dwelling house and the construction of a new dwelling house and swimming pool and associated works
	29/11/2022
DATE OF CONSENT	Local development
TYPE OF CONSENT	Land and Environment Court
CONSENT AUTHORITY	Modifications to the levels of the approved rear yard area/ swimming pool, landscaping and fencing modifications
PROPOSED MODIFICATION	Section 4.56
TYPE OF MODIFICATION	02/01/2024 - original lodgement
DATE S4.55 LODGED	18/07/2024 - amended application
APPLICANT	Ms S J Curtis
OWNER	Mr C D Taylor & Ms S J Curtis
AUTHOR	Mr D Booth
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	7 to the original application
	5 to the amended application
RECOMMENDATION	Conditional approval

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

The application is to be determined by the Woollahra Local Planning Panel as it falls under the category of *Contentious Development* i.e. the subject application is the subject of 10 or more unique submissions by way of objection.

2. REASONS FOR RECOMMENDATION

The amended application has been assessed within the framework of the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- the development consent as proposed to be modified is considered to be substantially the same as the approved development;
- the proposed modifications are considered to be satisfactory with regard to all relevant planning policies;
- it is considered that the proposed modifications will not have any significant adverse impacts upon the local environment including residential amenity;

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- it is considered that the proposed modifications will not have any social or economic impacts;
- the site is considered to be suitable for the proposed modified development; and
- the proposed modifications are considered to not be contrary to the public interest.

3. LOCALITY PLAN



Note: The map above does not account for multiple objections from the one property.

4. SITE AND LOCALITY

The subject site is located on the northern side of Olphert Avenue, has a street frontage (southern boundary) and rear (northern) boundary 18.3m in length, western and eastern side boundaries 51.8m in length and a site area of 947.5m². A below ground sewer line extends across the rear of the site.

The site falls approximately 10m from the site frontage to the rear boundary. The subject site is currently occupied by a single storey dwelling house and does not contain any off-street car parking.

The adjoining property to the west (16 Olphert Avenue) is currently undergoing re-development for alterations and additions to a 1-3 storey dwelling house, new swimming pool and cabana.

The adjoining property to the east (20 Olphert Avenue) is also occupied by a 1-3 storey dwelling house.

The rear section of the adjoining property to the rear 77 Hopetoun Avenue is approximately 0.8-1.55m lower than the adjoining rear section of the subject site. This property is undergoing redevelopment for alterations and additions to a 2 storey dwelling house.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The other adjoining property to the rear 77A Hopetoun Avenue is approximately 600mm lower than the adjoining rear section of the subject site. This property is occupied by a 2 storey dwelling house which abuts the common boundary.

The locality is characterised by 1-3 storey detached dwelling houses.

5. APPROVED DEVELOPMENT

- The demolition of an existing single storey dwelling house and the construction of a 2-3 storey dwelling house with a flat roof form containing a roof terrace presenting 1 storey to Olphert Avenue and 3 storeys to the rear.
- A double garage with rainwater tank under attached to the south-eastern corner of the new dwelling house and associated crossover.
- A swimming pool, extensive landscaping and site works to the rear section of the site and associated fencing and retaining walls.
- Landscaping to the front and side sections of the site.

6. PROPOSED MODIFICATIONS

The application was amended on 18 July 2024 in terms of correcting errors in the documentation.

The proposed modifications are as follows:

- The raising of the swimming pool and the southern, upper landscaped pool concourse level by 750mm from RL52.65 to RL53.4 and the northern, lower landscaped pool concourse by 1.2m from RL52.2 to RL53.4 and the raising of the base to the pool in order to facilitate a minimum 600mm clearance to a sewer line that extends under the pool whilst accommodating a consistent maximum pool depth of 1.8m and a level pool concourse that is more consistent with the adjacent levels of both adjoining side properties (16 and 20 Olphert Avenue).
- The raising of the pond and surround adjacent to the southern pool concourse by 750mm from RL51.45 to RL52.2.
- The addition of a 370-800mm high section of glass pool fencing to the top of the approved solid pool fencing to the eastern side boundary to a total height of 1.8m above the proposed raised swimming pool/pool concourse level in order to comply with the relevant provisions of the Swimming Pool Act 1992.
- The demolition of the rear boundary retaining wall, the consolidation of the 2 planters adjacent to the rear boundary into one, additional fill to the western section of the rear planter, the construction of a new, higher rear boundary retaining wall to the rear boundary with 1.8m high fencing above.
- Level changes and the addition of a retaining wall adjacent to the western boundary.
- The substitution of the approved pool balustrade to the rear and western side of the pool for glass pool fencing to a height of 1.3m above the proposed raised swimming pool/pool concourse level.
- The relocation of the pool filter/heat pump from the lower terrace adjacent to the rear boundary to a pool plant room under the north-eastern corner of the pool concourse.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- The deletion of the approved spa/ addition of an infiltration system.
- Landscaping modifications.

7. ISSUES

Issue	Conclusion	Section
Objectors' concerns.	Addressed by amendments to the application and otherwise are not considered sufficient grounds to warrant the refusal of the application.	9.2 & 9.4
Raised level of the rear section of the site non-compliance	Satisfactory, as the objective of the controls is considered to be upheld in this instance.	13.7
Eastern side and rear boundary fence height non-compliances	Satisfactory, as the objectives of the controls are considered to be adequately upheld in this instance.	13.8
Height of swimming pool above existing ground level non-compliance	Satisfactory, as the objectives of the controls are considered to be upheld in this instance.	13.9
Height and eastern side setback outbuilding non-compliances	Satisfactory, as the objective of the controls is considered to be upheld in this instance.	13.10

8. REFERRALS

Council's Heritage Officer has recommended additional conditions pertaining to the protection of aboriginal heritage/archaeological remains via DARC.

9. ASSESSMENT UNDER SECTION 4.56 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 4.56 of the Environmental Planning and Assessment Act 1979 (the Act) confers on a consent authority the power and discretion to modify a consent granted by the Court under the Act. Section 4.56(1) states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations modify the development consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, and*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
 - (iii) it has notified, or made reasonable attempts to notify, each who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- (c) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsection 4.56 (1A) states:

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

9.1 Substantially the same development

The qualitative and quantitative aspects of the approved development have been compared to the proposed modifications and the following comments are made:

- The proposed modifications do not radically change the approved development.
- The approved development as proposed to be modified is considered to be essentially and materially the same development.
- The proposed modifications would not substantially change how the development is to be carried out.
- The proposed modifications do not alter any aspect of the approved development which was essential to the development when it was originally approved with the proposed modifications considered to be satisfactory in terms of amenity impacts upon adjoining properties as discussed under subsequent sections of this report.

Accordingly, the development consent as proposed to be modified is considered to be substantially the same as the approved development.

9.2 Notification/Advertising

The original application was notified and advertised during the period 24/01-08/02 2024. Objections were received from:

1. **Fran & Jack Ezra - 20 Olphert Avenue, Vacluse (2 unique submissions);**
2. **Sally Flannery of Orbit Planning PO Box 517, Broadway NSW 2007 on behalf of Fran & Jack Ezra - 20 Olphert Avenue, Vacluse (2 unique submissions);**
3. **Bethany Burke of Colin Biggers & Paisley Lawyers, GPO Box 214 Sydney NSW 2001 on behalf of Fran & Jack Ezra - 20 Olphert Avenue, Vacluse;**
4. **John Rutter & Lisa Stephens 77a Hopetoun Avenue, Vacluse; and**
5. **Julie-Anne McMillan & Misha de Moyer - 16 Olphert Avenue, Vacluse.**

The objections raised the following concerns:

- *Inadequate/erroneous documentation*

The amended application is considered to be generally satisfactory in terms of documentation subject to conditions.

The notated reductions to the planter depths/heights to the northern elevation at bedroom floor and living floor levels and the addition of a *post and wire support for creepers* to the western side boundary are considered to be inadequately documented as they have been clouded in black rather

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

than red as is the case with the remainder of the modifications, a western side elevation of the *post and wire support for creepers* has not been provided and they are not addressed in the Section 100 statement (statement of environmental effects) accompanying the application including an analysis of visual privacy implications for the reductions to the planter depths/heights.

Accordingly, it is recommended that they be excluded from the terms of any approval (see recommended **Conditions A.3a, A.7 & C.1d**). No further assessment of these modifications is provided.

Further, the inconsistent documentation of the north-south dimension of the pool plant room, the eastern boundary wall/ pool fencing and the deletion of the approved spa/ addition of an infiltration system as discussed below under section 9.4 are addressed by recommended **Conditions C.1e, f & g**.

The validity of the approved BASIX certification is questioned in light of the proposed modifications to the pool. In this regard, the architect has provided the following advice in relation to the proposed modifications to the pool volume:

It is advised that the volume is 88m³ (88 KL). This volume is within the maximum specified within the approved BASIX Certificate, which notes – ‘not to have a volume greater than 100.2Kilolitres’.

Given that the pool volume is within the requirements of the existing BASIX Assessment, then there is no requirement for the BASIX to be reviewed.

Accordingly, an updated BASIX certificate is not required for the proposed modifications.

- *Excessive fill associated with the proposed raising of the swimming pool/ landscaped pool concourse and associated view and privacy impacts upon adjoining properties/ the volume of fill has not been specified and is inconsistent with Condition C.1b of the development consent/ there is no technical information provided in relation to the sewer to justify the proposed increased height of the swimming pool/ landscaped pool concourse/ the pool fence height to the eastern side boundary is rendered non-compliant by the proposed raising of the pool/ pool concourse level and a compliant pool fence of 1.8m would result in a fence height of 4.2m above existing ground level with associated amenity impacts*

Condition C.1b) of the development consent states.

In order to reduce the extent of the non-compliance with Council’s excavation volumetric control (B3.4 C1) to an acceptable level consistent with the objectives underlying the control, the volume of fill will be reduced to a maximum of 1200mm above existing ground level. 128.95 m³ of excavated material shall be used as fill within the subject site. This condition does not permit any changes to the approved ground levels.

A maximum permitted volume of fill is not specified by Council’s DCP controls.

The application claims that the proposed raising of the pond and surround adjacent to the southern pool concourse by 750mm from RL51.45 to RL52.2, the swimming pool and the southern, upper landscaped pool concourse level by 750mm from RL52.65 to RL53.4 and the northern, lower landscaped pool concourse by 1.2m from RL52.2 to RL53.4 is necessary in order to facilitate a minimum 600mm clearance of the sewer line that extends under the pool whilst accommodating a pool of a reasonable maximum depth (1.8m) and to provide a level pool concourse that is more consistent with the adjacent levels of both adjoining side properties (16 and 20 Olphert Avenue).

Whilst the 600mm clearance is more than the 450mm minimum requirement specified by Sydney Water, the architect has provided the following justification for the additional 150mm of clearance:

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

We have used a clearance of 600mm over the sewer line to give a margin of 'safety' over and above the 450mm minimum requirement by Sydney Water. This allows some flexibility in the design of the pool concrete structural thickness.

The proposed raised pool/ landscaped pool concourse level RL53.4 is lower than the pool/ pool surround levels of both adjacent side properties; RL53.43 at 20 Olphert Avenue and RL54 at 16 Olphert Avenue and accordingly it is considered to be reasonable with regard to potential amenity impacts upon adjoining properties.

The amended plans document a compliant swimming pool fence height to the eastern boundary via the proposed addition of a 370-800mm high section of clear glass pool fencing to the top of the approved solid pool fencing to the eastern side boundary to a total height of 1.8m above the proposed raised swimming pool/pool concourse level in order to comply with the relevant provisions of the Swimming Pool Act 1992.

The proposed section of clear glass pool fencing to the top of the approved solid pool fence to the eastern boundary is designed to mitigate view loss from the adjoining property to the east 20 Olphert Avenue but would permit lines of sight over the approved solid pool fencing to the rear section of the adjoining property including the pool area.

Accordingly, any requirement that the proposed clear glass pool fence section be required to be translucent to screen lines of sight between the subject pool and the rear area of 20 Olphert Avenue would result in additional view loss.

On balance, mutual overlooking of the rear areas of the subject site and the adjoining property is considered to be reasonable on the basis that the existing properties overlook one another.

Compliant solar access will be maintained to the adjoining property 20 Olphert Avenue.

View impacts upon the adjoining property 20 Olphert Avenue are considered to be reasonable.

These issues are discussed in greater depth under subsequent sections of this report.

On the basis of the above, the proposed raising of the swimming pool/ landscaped concourse and pool fence heights are considered to be reasonable and accordingly it is recommended that the above-mentioned Condition C.1b) of the development consent be deleted.

- *Does the northern undercroft storage area involve retaining walls adjacent to the common boundary with 20 Olphert Avenue and does it comply with Council's 1.5m side setback requirement for ancillary structures/ the proposed paved section of the pool concourse above the plant room with table and chairs will impart loss of privacy impacts upon 20 Olphert Avenue*

Whilst the proposed relocation of the pool filter/heat pump from the lower terrace adjacent to the rear boundary to a pool plant room under the north-eastern corner of the pool concourse does involve the modification to the approved retaining wall to the north-eastern section of the pool concourse that extends to the common boundary with 20 Olphert Avenue, no additional retaining walls are proposed.

Council's development engineering section have raised no objection to this proposed modification and it is considered that existing conditions of consent adequately address potential impacts associated with the proposed modified retaining wall.

The proposed modification to the approved retaining wall to the north-eastern section of the pool concourse does not impart any significant amenity impacts upon the adjoining property 20 Olphert Avenue.

18 Olphert Avenue Vaucluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The paving notation to the north-eastern corner of the pool concourse has been removed from the amended plans but the outdoor table and chairs remain which are indicated as being closer to the eastern side boundary than that as approved. As discussed above, whilst overlooking of the adjoining property will be possible from the north-eastern corner of the pool concourse, such is considered to be reasonable on the basis that the existing properties overlook one another.

- *Excessive height of proposed landscaping to the north-eastern section of the site*

The northern and eastern elevations state *north-east trees to max 1.2m above pool surround/deck*.

Condition C.1Aa) of the development consent states:

The overall plant height at maturity for plants in the redesigned planters on the northern boundary with 77 Hopetoun Avenue, Vaucluse and the north-eastern boundary with 20 Olphert Avenue, Vaucluse must not exceed 1200mm above approved height of the swimming pool concourse.

Due to the proposed raising of the approved height of the the northern, lower landscaped pool concourse by 1.2m, the above-mentioned note means that the height of the landscaping to the north-eastern section of the site would increase commensurately (1.2m) from that as approved.

The eastern side elevation documents that the raised mature plant height would be 200mm higher than the approved eastern side boundary wall which is not considered to be significant in terms of imparting amenity impacts upon the adjoining property including view impacts.

The issue of view loss is discussed in greater depth under section 13.5 of this report.

- *A Nashi Pear tree planting adjacent to the to the south-eastern section of the pool concourse will not pass a pool safety inspection and will be raised in height by 750mm due to the proposed raising of the southern section of the landscaped pool surround thereby causing view loss*

The pool safety implication of the subject tree approved under the original development application is not considered to be relevant to the scope of the proposed modifications.

The impact of the raising of the subject tree approved under the original development application by 750mm due to the raising of the southern section of the landscaped pool concourse upon views from the adjoining property 20 Olphert Avenue is not considered to be significant.

- *Absence of modified stormwater management plans*

Stormwater Management details have been submitted with the amended application certifying that Condition C.10 Stormwater Management Plan of the development consent can be complied with. In this regard Council's Development Engineering Team Leader has advised that:

I have reviewed the amended documentation as mentioned below. Please be advised that no referral is required. There are no additional engineering conditions required.

- *Reduced deep soil landscaped area due to the proposed pool plant room*

Whilst the proposed pool plant room under the north-eastern corner of the pool concourse will reduce deep soil landscaped area provision by approximately 12m², it is considered that the subject application maintains adequate deep soil landscaped area to the site.

This issue is discussed in greater depth under section 13.7 of the report.

18 Olphert Avenue Vaucluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- *The proposed modifications do not satisfy the provisions of section 4.56(1)(a) of the Environmental Planning and Assessment Act 1979*

As discussed under section 9.1, the development consent as proposed to be modified is considered to be substantially the same as the approved development.

- *The notification plan indicates 2 relocated 4m high Frangipani trees to the north-eastern corner of the site which would result in loss of views from 20 Olphert Avenue*

These have been removed from the amended application.

- *It is requested that the approved outdoor shower at Living Level be deleted*

This was approved as part of the original development application and does not form part of the proposed modifications.

9.3 Statutory Declaration

The applicant has completed a statutory declaration declaring that the site notice was erected and maintained during the notification period.

9.4 Re-notification of amended application

The amended application was notified and advertised during the period 26/07-10/08 2024. Objections were received from:

1. **Fran & Jack Ezra - 20 Olphert Avenue, Vaucluse;**
2. **Sally Flannery of Orbit Planning PO Box 517, Broadway NSW 2007 on behalf of Fran & Jack Ezra - 20 Olphert Avenue, Vaucluse;**
3. **Bethany Burke of Colin Biggers & Paisley Lawyers, GPO Box 214 Sydney NSW 2001 on behalf of Fran & Jack Ezra - 20 Olphert Avenue, Vaucluse;**
4. **Julie-Anne McMillan & Misha de Moyer - 16 Olphert Avenue, Vaucluse; and**
5. **Lisa Stephens & John Rutter - 77a Hopetoun Avenue, Vaucluse**

The objections raised the following concerns that were not raised in relation to the advertising/notification of the original application:

- *The Section 100 statement submitted with the amended application erroneously refers to a "1.8m high transparent (clear glass) swimming pool fence".*

The proposed modifications include the addition of a 370-800mm high section of glass pool fencing to the top of the approved solid pool fencing to the eastern side boundary to a total height of 1.8m above the proposed raised swimming pool/pool concourse level in order to comply with the relevant provisions of the Swimming Pool Act 1992.

Whilst the reference to the 1.8m high transparent (clear glass) swimming pool fence in the Section 100 statement is erroneous, it is considered that nothing turns on this.

- *Drawing 4.56 2.1 references "No. 20 masonry retaining wall" and such is also documented on drawing 4.56 3 Section L with the subject eastern boundary pool fence butting up against it and is relied upon to retain the proposed additional fill to the swimming pool surround. The retaining wall does not exist and landowners' consent is not granted for the construction of a retaining wall on 20 Olphert Avenue.*

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The approved eastern boundary masonry wall as documented on drawings 4.56 2.1 & 3.1 is located within the boundaries of the subject site and will independently retain the proposed additional fill to the pool surround.

The incorrect documentation of the approved eastern boundary masonry wall and the retaining wall on the 20 Olphert Avenue side of the common boundary incorrectly documented drawing 4.56 3 Section L is addressed by recommended **Condition C.1f**.

Further, Condition A.6 of the development consent states:

A.6 Prevention of boundary encroachments

In order to prevent boundary encroachments, all works are to be located wholly within the boundaries of the subject site. All new retaining walls and fencing are to be located within the boundaries of the subject site.

- *The Section 100 statement submitted with the amended application does not make reference to the raising of the rear yard by 1.2m, only referencing an increase to the pool height and does not reference the proposed 1.8m high timber paling fence on top of a low masonry retaining wall documented on the rear section of the eastern elevation*

The Section 100 statement submitted with the amended application describes the proposed modifications as:

"Increase the swimming pool level by 750mm, demolish rear retaining wall and construction of new retaining wall, and associated landscaping, boundary and swimming pool fencing".

Whilst the proposed raising of the northern, lower pool concourse level by 1.2m and the proposed 1.8m high timber paling fence/low retaining wall are not specifically described, these modifications are considered to fall within the scope of *associated landscaping and boundary... fencing*.

- *The proposed 600mm clearance to the sewer main only necessitates the raising of the pool level to RL53.25 and not RL53.4.*

The Section 100 statement submitted with the amended application justifies the proposed 750mm increase to the pool level on the following basis:

The avoidance of conflict with the existing sewer main. The pool as approved had to step over the sewer main, this amendment would eliminate that step and provide a swimming pool of reasonable depth.... the pool depth proposed by this section 4.55 is 1.8m.

The primary change would result in a pool level at RL53.4m AHD remaining 30mm below the pool deck level at No.20 and lower than 600mm lower than the existing tennis court and approved pool at No.16.

The above-mentioned justifications are considered to be acceptable.

- *Stormwater management related concerns/ the stormwater management plan SWCC 1.5 B erroneously references the approved roof height as RL64.678 whereas the approved roof height is RL64.619/ the stormwater management related documentation contains other inconsistencies with the approved architectural drawings*

Whilst stormwater management details have been submitted with the amended application certifying that Condition C.10 *Stormwater Management Plan* of the development consent can be complied with, they do not form part of the proposed modifications.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The proposed modifications do not seek to increase the roof height from that as approved and the submitted stormwater management documentation submitted with the amended application is not included in the recommended approved documents.

With regard to the submitted stormwater management details, Council's Development Engineering Team Leader has advised that:

I have reviewed the amended documentation as mentioned below. Please be advised that no referral is required. There are no additional engineering conditions required.

- *Geotechnical/ excavation related concerns with regard to the approved excavation to the south-eastern corner of the site*

This issue is not relevant to the scope of the proposed modifications. The approved excavation works to the south-eastern corner of the site were adequately assessed and conditioned in terms of geotechnical related impacts.

- *Excessive height of landscaping adjacent to the rear boundary with the amended landscape plan documenting 10 x 11.5m high trees and associated view loss*

The 11.5m reference appears to be erroneous as the tree species has not changed from the approved landscape plan which documents a height of 1-1.5m. The amended landscape plan documents *Max height 1.2m above pool surround* with regard to landscaping to the north-eastern corner of the site. The plant species associated with this note (*Raphiolepis Indica*), has been independently checked and it is confirmed that it would not attain a height of 11.5m.

Regardless, Condition C.1Aa) of the development consent restricts the height of landscaping adjacent to the rear boundary to 1.2m above the pool concourse. The impact of the raising of the pool concourse by 1.2m and consequently the permissible height of the subject landscaping adjacent to the rear boundary with regard to view impacts upon 20 Olphert Avenue is discussed above under section 9.2 and below under section 13.5.

- *Whilst the amended Landscape Plan has replaced the approved spa with a transplanted frangipani tree and the Garden Floor plan has replaced the approved spa with an infiltration system, the spa remains documented on Section CC.*

The replacement of the approved spa with a transplanted frangipani tree spa on the Landscape Plan is not contained within the red clouded area formally documenting the scope of the proposed modifications. However, the approved spa has been removed from within the red clouded area on drawing 4.56_2.1 Garden Floor plan and an infiltration system added.

The inconsistent documentation of the spa on drawing 4.56_4.1 Section CC is addressed by recommended **Condition C.1g**.

- *The Section 100 statement does not discuss the environmental impact of the proposed pool plant room*

Whilst this is correct, an independent assessment of the environmental impact of the proposed pool plant room is discussed above under section 9.2 and below under section 13.11.

- *The Section 100 statement states that privacy landscaping adjacent to the rear boundary of 77 Hopetoun Avenue will maintain the privacy of 77 Hopetoun Avenue from the proposed raised pool/ concourse which is inconsistent with the terms of Condition D.1h of the development consent pertaining to 77 Hopetoun Avenue/ inadequate height of proposed landscaping adjacent to the rear boundary of the subject site and associated privacy impacts upon 77 & 77a Hopetoun Avenue*

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Landscaping cannot be relied upon for privacy screening. The potential visual privacy impacts of raising the northern pool concourse by 1.2m upon privacy sensitive areas of 77 Hopetoun Avenue (an adjoining property to the rear) has been undertaken independently of landscaping. In this regard, whilst the sightline distance of separation from the northern extremity of the northern pool concourse to the southern section of the rear lawn area of 77 Hopetoun Avenue is less than 9m, compliant sightline distances of separation will be achieved to the majority of the rear lawn area and to the main private open space areas occupying the western section of this adjoining property.

It is considered that the proposed modifications will not have any significant visual privacy impacts upon the adjoining property 77A Hopetoun Avenue.

Potential additional acoustic impacts upon adjoining properties are addressed by **Condition I.4** of the development consent requiring the control of offensive noise.

The issue of privacy is discussed in greater depth under section 13.6 of this report.

- *The amended Section 100 statement states that 20 Olphert Avenue was approved under the same numeric DCP controls. It was approved by the Land and Environment Court prior to the current DCP being adopted.*

Assuming this claim is correct, nothing turns on it. The subject application is assessed under current controls.

- *Drawing 4.56 3 Section L does not accurately document the approved swimming pool as it has a hump in the middle to avoid the sewer line/ the cross sections inaccurately document base of the approved pool*

Whilst drawing 4.56 3 Section L and the cross sections incorrectly document the approved pool base, it is considered that nothing turns on this. It is the documentation of the proposed pool base and the 600mm sewer clearance that is of significance.

- *The proposed glass pool fencing addition can be changed to solid as exempt development*

The view loss assessment of the proposed glass pool fencing has taken into consideration the compromised views through glass as affected views.

- *The north-south dimension of the pool plant room is inconsistently documented on drawing 4.56 1.2 compared with drawing 4.56 2.1.*

This concern is correct and is addressed by recommended **Condition C.1e**.

- *The Section 100 statement submitted with the application is inadequate meaning no valid application has been lodged*

Whilst the Section 100 statement submitted with the amended application is in part erroneous /deficient, it is considered that the statement together with the amended architectural plans submitted with the amended application are collectively adequate to facilitate an assessment against the relevant provisions of Sections 4.15 & 4.56 of the Environmental Planning and Assessment Act and that nothing turns on the errors/ deficiencies.

- *The proposed 1.8m high eastern boundary pool fencing extends beyond the pool area*

The proposed additional glazed pool fencing to the eastern boundary does not extend beyond the pool/ pool concourse area.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- *Potential view loss to 20 Olphert Avenue due to future landscaping of the site exceeding the conditioned height*

It is considered that Condition C.1Aa) of the development consent will adequately facilitate the control of the height of landscaping that has the potential to affect the views of the adjoining property 20 Olphert Avenue.

- *The list of the proposed modifications provided by the architect contained spelling errors and is contained in a Word document again suggesting it is incomplete and lacks finality*

Whilst the list of the proposed modifications provided by the architect with the original application contained spelling errors, no such document has been submitted with the amended application. The erroneous document has not been relied upon in the assessment of the application.

- *Removal of the approved terraced fencing to the rear boundary/ excessive height of fencing to the rear boundary/ the Section 100 statement does not discuss the environmental impact of the proposed additional height of fencing to the rear boundary*

The proposal includes the demolition of the rear boundary retaining wall, the consolidation of the 2 terraced planters adjacent to the rear boundary into one, additional fill to the western section of the rear planter and the construction of a new, higher rear boundary retaining wall to the rear boundary with 1.8m high fencing above.

Whilst non-compliant with Council's rear boundary fence height control, it is considered that the proposed fencing to the rear boundary adequately upholds the underlying objective of the control.

Whilst the Section 100 statement does not specifically address the environment impacts associated with the proposed modifications to the rear boundary fencing, it is considered to fall within the ambit of *boundary and swimming pool fencing* included in the description of the proposed modifications.

An environmental assessment of the non-compliant rear boundary fencing is provided under section 13.8 of this report.

- *The raising of the approved landscaping heights to the rear section of the site by 1.2m from that as approved will result in an excessive sense of enclosure to adjoining properties*

It is considered that the proposed raising of the approved height of landscaping to the rear section of the site by 1.2m will not result in any significant visual impacts upon adjoining properties.

- *The proposed retaining wall and level changes adjacent to the western boundary have not been adequately documented and should be the subject of geotechnical and structural reports and Council's underpinning condition.*

The proposed retaining wall and level changes adjacent to the western boundary are considered to be adequately documented.

This issue was discussed with Council's Development Engineering Team Leader who has recommended additional conditions of development consent that prevent underpinning works to any structures on adjoining properties (see recommended **Conditions A.8 & C.19**).

- *The proposal involves additional fill adjacent to the rear boundary and this is not been described in the Section 100 statement*

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The proposal involves approximately 700mm of additional fill to the western section of the rear planter. Whilst this is not being specifically described in the Section 100 statement, it is considered to fall within the ambit of *landscaping* included in the description of the proposed modifications. The extent of fill proposed adjacent to the rear boundary is considered to be satisfactory in terms of environmental impacts.

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15(1)

The relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* as required by Section 4.55(3) of the Act are assessed under the following headings:

10. SEPP (RESILIENCE AND HAZARDS) 2021

Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, requires consideration to be given as to whether the subject land is contaminated. The assessment of the original development application concluded that there was not a site contamination issue and it is considered that the proposed modifications do not have the potential to alter that conclusion.

11. SEPP (BIODIVERSITY AND CONSERVATION) 2021

11.1 Chapter 2 Vegetation in non-rural areas

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

The proposed modifications to the development consent do not involve the potential for any significant tree impacts.

11.2 Chapter 6 Water catchments

The land is located within the Sydney Harbour Catchment, outside the Foreshores and Waterways Area of the Catchment.

The proposed modifications to the development consent are considered to be satisfactory in terms of the *Division 2 Controls on development generally* with existing conditions of consent adequately addressing stormwater run-off and sedimentation control.

The proposed modifications to the development consent are considered to be satisfactory with regard to the relevant provisions of SEPP (Biodiversity and Conservation) 2021.

12. WOOLLAHRA LEP 2014

12.1 Clause 1.2: Aims of Plan

The proposed modifications to the development consent are considered to be consistent with the aims stipulated under Clause 1.2(2) of Woollahra LEP 2014.

12.2 Land Use Table

The proposed modifications to the development consent relate to structures that are ancillary to a dwelling house use which is permissible within the R2 Low Density Residential zone.

12.3 Objectives of the zone

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The proposed modifications to the development consent are considered to be consistent with the objectives of the R2 Low Density Residential zone.

12.4 Clause 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m. The proposed modifications are compliant.

12.5 Clause 4.4: Floor Space Ratio

Clause 4.4E limits the proposed modifications to the dwelling house to a maximum floor space ratio of 0.5:1.

The proposed modifications do not involve any additional gross floor area from that as approved with the proposed plant room excluded from the definition of *gross floor area*.

12.6 Clause 5.10: Heritage Conservation

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

Council's Heritage Officer who reviewed the application upon lodgement (DARC) has recommended additional conditions with regard to protecting Aboriginal archaeological objects/ skeletal remains.

The subject site is not heritage affected and the proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

12.7 Clause 5.21: Flood Planning

Clause 5.21 seeks to minimise the flood risk to life and property development, allow development on land that is compatible, consider projected changes as a result of climate change and avoid significant adverse impacts on flood behaviour and the environment in flood prone areas.

The subject site is not located within Council's Flood Planning Area and the proposed modifications are considered to be satisfactory with regard to the provisions of Part 5.21 of Woollahra LEP 2014.

12.8 Clause 6.1: Acid Sulfate Soils

Clause 6.1 requires Council to consider any potential acid sulphate soil affectation where excavation is proposed within the site.

The subject site is located within a Class 5 Acid Sulphate soil area and the proposed modifications are considered to be satisfactory with regard to the provisions of Clause 6.1 of Woollahra LEP 2014.

12.9 Clause 6.2: Earthworks

Clause 6.2 requires Council to consider the impacts of earthworks upon the local environment.

The proposed modifications to the swimming pool and landscaped pool concourse involve reduced excavation but additional fill from that as approved.

The proposal involves approximately 700mm of additional fill to the western section of the rear planter.

Minor additional excavation works associated with the pool plant room and the north-western section of the site are proposed.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Council's Development Engineering Team Leader has recommended additional conditions of development consent that prevent underpinning works to any structures on adjoining properties (see recommended **Conditions A.8 & C.19**).

Otherwise, Council's development engineering, tree management and heritage sections have raised no objection to the proposed modified earthworks and it is considered that existing conditions of consent adequately address potential environmental impacts associated with the proposed modifications.

The proposed modifications are considered to be satisfactory in terms of the matters for consideration stipulated under Clause 6.2 of Woollahra LEP 2014.

12.10 Part 6.9: Tree canopy cover in Zones R2 and R3

Part 6.9 aims to conserve and enhance tree canopy cover in the R2 Low Density Residential and R3 Medium Density Residential zones.

Part 6.9(3) requires Council to consider whether the development incorporates planning and design measures to enable the retention and planting of trees to minimise the urban heat island effect and to avoid, minimise or mitigate adverse impacts upon the existing tree canopy.

The proposed modifications do not reduce canopy cover from that as approved and accordingly are considered to be satisfactory with regard to the provisions of Part 6.9 of the Woollahra LEP 2014.

13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

13.1 Chapter B1.11 Vacluse East Residential Precinct

The desired future character objectives for the Vacluse East precinct are 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 within the precinct.*
- O3 *To maintain the evolution of low rise 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 Vacluse East precinct:

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

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The proposed modifications do not involve the potential for any visual impacts upon the streetscape, public view impacts or significant tree impacts.

With regard to the proposed additional fill, the application claims that the proposed raising of the pond and surround adjacent to the southern pool concourse by 750mm from RL51.45 to RL52.2, the swimming pool and the southern, upper landscaped pool concourse level by 750mm from RL52.65 to RL53.4, and the northern, lower landscaped pool concourse by 1.2m from RL52.2 to RL53.4 is necessary in order to facilitate a minimum 600mm clearance of the sewer line that extends under the pool whilst accommodating a pool of a reasonable maximum depth (1.8m) and to provide a rear open space area at levels that are more consistent with that of both adjacent side properties (16 and 20 Olphert Avenue).

Whilst the 600mm clearance is more than the 450mm minimum requirement specified by Sydney Water, the architect has provided the following justification for the additional 150mm of clearance:

We have used a clearance of 600mm over the sewer line to give a margin of 'safety' over and above the 450mm minimum requirement by Sydney Water. This allows some flexibility in the design of the pool concrete structural thickness.

The proposed raised pool/landscaped pool concourse level RL53.4 is lower than the pool/ pool surround levels of both adjacent side properties; RL53.43 at 20 Olphert Avenue and RL54 at 16 Olphert Avenue and accordingly it is considered to be reasonable potential and amenity impacts upon adjoining properties.

The proposed modifications to the development consent are considered to be satisfactory with regard to the desired future character objectives for the Vacluse East precinct.

13.2 B3.4 Excavation

The proposed raising of the swimming pool, the landscape concourse and pond reduces the extent of excavation from that as approved.

Minor additional excavation works associated with the pool plant room and the north-western section of the site are proposed. This excavation is not associated with the dwelling house and therefore does not alter the volume of excavation from that as approved.

Council's Development Engineering Team Leader has recommended additional conditions of development consent that prevent underpinning works to any structures on adjoining properties (see recommended **Conditions A.8 & C.19**).

Otherwise, Council's development engineering, tree management and heritage sections have raised no objection to the proposed modified earthworks and it is considered that existing conditions of consent adequately address potential environmental impacts associated with the proposed modifications.

The proposed modifications are considered to be satisfactory with the provisions of B3.4 of Woollahra DCP 2015.

13.3 B3.5.1 Streetscape and local character

The proposed modifications do not involve the potential for any visual impacts upon the streetscape and are considered to be satisfactory with regard to the provisions of Part B.3.5.1 of Woollahra DCP 2015.

13.4 B3.5.2 Overshadowing

The owner of the adjoining property to the east (20 Olphert Avenue) has objected to the proposed addition of a 370-800mm high section of glass pool fencing to the top of the approved solid pool fencing to

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

the eastern side boundary to a total height of 1.8m above the proposed raised swimming pool/ pool concourse level in order to comply with the relevant provisions of the Swimming Pool Act 1992 on the basis of overshadowing.

The adjoining property is orientated towards the north and solar access will be maintained in accordance with the following provisions of B3.5.2 of Woollahra DCP 2015.

C1 The development is designed so that:

- a) sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; and*
- b) north facing windows to upper level habitable rooms of adjacent dwellings receive at least 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface.*

C2 Lot orientation may make C1 above difficult to achieve so a reduced amount of solar access may be considered, provided the proposed building complies with all setback controls.

The proposed modifications maintain solar access to adjoining properties in accordance with the above-mentioned provisions.

13.5 B3.5.3 Public and Private Views

Public views

No loss of public views as a result of the proposed modifications are envisaged.

Private views

The owner of the adjoining property to the east (20 Olphert Avenue) has objected to the proposed addition of a 370-800mm high section of glass pool fencing to the top of the approved solid pool fencing to the eastern side boundary to a total height of 1.8m above the proposed raised swimming pool/pool concourse level and to the proposed 1.2m raising of the approved maximum height of landscaping to the north-eastern section of the site on the basis of loss of views from the pool area, rear yard and lower ground floor level of the three level dwelling house.

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:

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

Landscaping based private view loss

- C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to moderately, severely or devastatingly block views in accordance with the Tenacity Land and Environment Court Principle.

- O4 To ensure that views are not unreasonably compromised by landscaping.

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

1. The assessment of the views affected

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

2. Consideration from what part of the property the views are obtained

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

3. The extent of the impact

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

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

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The following view impact analysis images have been prepared and provided by John Aspinall of Urbaine Architectural, a consultant acting for the owners of 20 Olphert Avenue. The view impact analysis images include the proposed additional height of landscaping to the north-eastern section of the site (shown in red).

The image below indicates where the photographs are taken from.



The image below is taken from location 01 (the swimming pool surround). The northern section of the approved boundary wall is 200mm below the top of the palisade fence and the proposed 800mm glass addition extends 600mm above.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024



The image below is taken from location 02 (lower ground floor level-living areas).



18 Olphert Avenue Vaucluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The photograph below is taken from location 07 (ground floor level-main living areas). Views are not affected from this location.



The photograph below is taken from location 08 (ground floor level-main living areas). Views are not affected from this location.



The photograph below is taken from location 10 (first floor level-bedrooms). Views are not affected from this location.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024



The photograph below is taken from location 11 (first floor level-bedrooms). Views are not affected from this location.



Whilst the proposed clear glass pool fence addition will substantially affect harbour and foreshore views from the pool, rear yard and lower ground floor area, the affected views are across a side boundary and expansive harbour and foreshore views will be maintained from the main living areas at ground floor level including the rear balcony and from bedrooms at first floor level including the rear balcony.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The overall view impact is considered to be minor-moderate in extent and reasonable on the basis that the proposed raising of the pool and adjacent areas to RL53.4 are lower, albeit marginally, than the pool surround level RL53.43 at 20 Olphert Avenue and the proposed addition of a 370-800mm high section of glass pool fencing to the top of the approved solid pool fencing to the eastern side boundary to a total height of 1.8m above the proposed raised swimming pool/pool concourse level is necessary in order to comply with the relevant provisions of the Swimming Pool Act 1992.

The use of clear glass with the proposed additional fence height to the eastern boundary in an effort to mitigate view loss is considered a more skilful design than other types of less transparent pool fencing.

The landscaping view impacts are considered to be minor and reasonable.

The proposed modifications are therefore considered to be satisfactory with regard to the provisions of Part B3.5.3 of Woollahra DCP 2015.

13.6 B3.5.4 Visual and acoustic privacy

The owner of the adjoining property to the east (20 Olphert Avenue) has objected to the proposed raising of the pool/pool concourse level by 750mm-1.2m on the basis of loss of privacy.

The proposed addition of a 370-800mm high section of clear glass pool fencing to the top of the approved solid pool fence to the eastern boundary is designed to mitigate view loss from the adjoining property to the east 20 Olphert Avenue but would permit lines of sight over the approved solid pool fencing to the rear section of the adjoining property including the pool area which is non-compliant with the following control:

C7 Private open spaces and the trafficable area of roof terraces (at or below the second storey) are to be suitably located and screened to prevent direct views to neighbouring:

- a) habitable rooms (including bedrooms) within 9m; and*
- b) private open space within 9m.*

Note: Private open space includes an area external to a building including land, terrace, balcony or deck.

Any requirement that the proposed clear glass pool fence addition be required to be translucent to screen lines of sight between the subject pool and the rear area of 20 Olphert Avenue would result in additional view loss.

On balance, mutual overlooking of the rear areas of the subject site and the adjoining property is considered to be reasonable on the basis that the existing properties overlook one another.

Whilst the sightline distance of separation from the northern extremity of the northern pool concourse to the southern section of the rear lawn area of 77 Hopetoun Avenue is less than 9m, compliant sightline distances of separation will be achieved to the majority of the rear lawn area and to the main private open space areas occupying the western section of this adjoining property.

With regard to other adjoining properties, it is considered that the proposed raising the pool and adjacent areas will not result in any significant additional lines of sight to privacy sensitive areas of adjoining properties within 9m.

Potential additional acoustic impacts upon adjoining properties are addressed by **Condition I.4** of the development consent requiring the control of offensive noise.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The proposed modifications are considered to be satisfactory with regard to the provisions of B3.5.4 of Woollahra DCP 2015.

13.7 B3.7.1 Landscaped Areas and Private Open Space

	Approved	Proposed	Control	Complies
C1 Deep Soil External to Buildable Area	Approximately 344m ²	Approximately 332m ²	35% (332m ²)	Yes

The proposed pool plant room under the north-eastern corner of the pool concourse will reduce deep soil landscaped area provision by approximately 12m².

It is estimated that compliance will be maintained with Council's deep soil landscaped area requirement of approximately 332m² with approximately that amount provided with any non-compliance minor in extent and considered to be satisfactory with the following underlying objectives of the control.

- O1 *To ensure that the areas outside the building contribute to the desired future character of the location.*
- O2 *To provide sufficient deep soil landscaped area to encourage urban greening and maintain and enhance tree canopy cover which in turn contributes positively to the existing and desired future character of the locality.*
- O3 *To provide for on-site stormwater absorption.*

The proposed modifications do not result in any reduction to the approved tree canopy coverage.

The proposed raising of the northern, lower landscaped pool concourse by 1.2m increases the height of fill above existing ground level to 2-2.4m which is non-compliant with 1.2m maximum specified by C7.

The underlying objective of the control states:

- O1 *To ensure the adequate provision of accessible and usable primary open space.*

The proposed raised pool/landscaped pool concourse level RL53.4 is lower than the pool/ pool surround levels of both adjacent side properties; RL53.43 at 20 Olphert Avenue and RL54 at 16 Olphert Avenue and accordingly it is considered to be reasonable with regard to potential amenity impacts upon adjoining properties.

On the basis that the proposed additional fill creates a level pool concourse lower than the levels of adjoining properties, the non-compliance is supported in this instance.

The proposed modifications do not result in any reduction to the approved tree canopy area.

Council's Tree Management Team Leader has raised no objection to the proposed modifications in terms of tree impacts and tree canopy provision.

The proposed modifications are considered to be satisfactory with regard to the provisions of Part B3.7.1 of Woollahra DCP 2015.

13.8 B3.7.2: Fences

C9 *The rear and side fences:*

- a) *are located behind the building front setback; and*

18 Olphert Avenue Vaucluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- b) do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary.*

C10 Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side.

Rear boundary fencing

The proposal includes the demolition of the rear boundary retaining wall, the consolidation of the 2 planters adjacent to the rear boundary into one, additional fill to the western section of the rear planter, the construction of a new, higher rear boundary retaining wall to the rear boundary with 1.8m high fencing above.

The ground level on the subject property side of the rear boundary is 0.6-1.55m above the adjacent ground levels of the adjoining properties to the rear. C10 applies to the western half of the proposed rear boundary fencing which involves a new retaining wall and 1.8m high fencing above collectively extending approximately 3.5-4m above the ground level on the low side of the boundary. Accordingly, the proposed rear boundary fencing is non-compliant with C9 & C10.

The objective of the above-mentioned controls is:

- O5 To ensure boundary fences between sites provide visual privacy without affecting the amenity of those sites in terms of views and sunlight.*

The height of the proposed rear boundary fencing will provide visual privacy screening from the proposed raised pool concourse without affecting views and sunlight of adjoining properties. Accordingly, the proposed rear boundary fencing is supported in this instance.

Side boundary fencing

The proposed addition of a 370-800mm section of high glass pool fencing to the top of the approved solid pool fencing to the eastern side boundary to a total height of 1.8m above the proposed raised swimming pool/pool concourse level in order to comply with the relevant provisions of the Swimming Pool Act 1992 results in a collective height of approximately 2.4-3.8m above the existing ground level at the eastern boundary.

An approximately 1m long section of the ground level on the adjoining property (20 Olphert Avenue) side of the eastern side boundary is more than 1.2m above the adjacent ground level of the subject site and C10 applies to this section. The proposed 1.8m fence height to this section is non-compliant with the 1.2m height above the high side control.

The remainder of the proposed modified eastern side boundary fencing involves a height of approximately 2.4-3.8m which is non-compliant with C9.

The height of the proposed fencing above the adjacent pool deck at 20 Olphert Avenue is approximately 1.8m.

The proposed section of clear glass pool fencing to the top of the approved solid pool fence to the eastern boundary is designed to mitigate view loss from the adjoining property to the east 20 Olphert Avenue but would permit lines of sight over the approved solid pool fencing to the rear section of the adjoining property including the pool area.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Accordingly, any requirement that the proposed clear glass pool fence section be required to be translucent to screen lines of sight between the subject pool and the rear area of 20 Olphert Avenue would result in additional view loss.

On balance, mutual overlooking of the rear areas of the subject site and the adjoining property is considered to be reasonable on the basis that the existing properties overlook one another.

As discussed previously, compliant solar access will be maintained to the adjoining property and view impacts upon the adjoining property are considered to be reasonable.

The proposed glass pool fencing to a height of 1.3m above the western side of the proposed raised swimming pool/pool concourse is setback a minimum of 1.6m from the western side boundary and therefore is considered to not constitute side boundary fencing.

The proposed modifications are considered to be satisfactory with regard to the provisions of Part B3.7.2 of Woollahra DCP 2015.

13.9 B3.7.3 Site facilities

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

C8 Mechanical plant equipment (including lift overruns and air conditioners) must be wholly contained within the permissible building envelope and must not be located externally or on the roof.

The proposed relocation of the pool filter/heat pump from the lower terrace adjacent to the rear boundary to a pool plant room under the north-eastern corner of the pool concourse does not accord with the above-mentioned controls as it is located outside the permissible building envelope and not within the principal building.

The relevant objectives of the controls state:

O6 To ensure that mechanical plant equipment including lift overruns, air conditioning units and external condensers, do not have adverse streetscape or amenity impacts.

O7 To discourage the provision of mechanical plant equipment on the roofs of buildings to minimise clutter and visual impacts created by intrusive site facilities.

O8 To minimise visual and acoustic impacts on adjoining properties.

The proposed location of the pool plant room is considered to be consistent with the above-mentioned objectives being not visually discernible from adjoining properties and with acoustic impacts addressed by existing conditions of consent.

It is considered impractical to locate swimming pool plant within the dwelling house due to the size of the site and distance between the pool and the house.

The proposed modifications are considered to be satisfactory with regard to the provisions of B3.7.3 of Woollahra DCP 2015.

13.10 B3.7.4: Ancillary Development - Swimming pools

C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.

C5 The swimming pool is no deeper than 2m from the pool surround level.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

The proposed raising of the swimming pool/ pool concourse level by 750mm-1.2m results in heights above existing ground level of 400mm-2.4m which is partially non-compliant with C4. The extent of non-compliance relates to the rear two thirds of the swimming pool and the northern pool concourse.

The objectives of the controls state:

- O1 *To provide for recreational opportunities for swimming without compromising the amenity of the adjoining properties.*
- O2 *To limit excavation.*
- O3 *To retain trees and vegetation of landscape value.*

The application claims that the proposed raising of the pool and pool surround is necessary in order to facilitate a minimum 600mm clearance of the sewer line that extends under the pool whilst accommodating a pool of a reasonable consistent maximum depth (1.8m) and to provide a rear open space area at levels that are more consistent with that of both adjacent side properties (16 and 20 Olphert Avenue).

Whilst the 600mm clearance is more than the 450mm minimum requirement specified by Sydney Water, the architect has provided the following justification for the additional 150mm of clearance:

We have used a clearance of 600mm over the sewer line to give a margin of 'safety' over and above the 450mm minimum requirement by Sydney Water. This allows some flexibility in the design of the pool concrete structural thickness.

The proposed raised pool/landscaped pool concourse level RL53.4 is lower than the pool/ pool surround levels of both adjacent side properties; RL53.43 at 20 Olphert Avenue and RL54 at 16 Olphert Avenue and accordingly it is considered to be reasonable with regard to potential amenity impacts upon both adjacent side properties.

Whilst the sightline distance of separation from the northern extremity of the northern pool concourse to the southern section of the rear lawn area of 77 Hopetoun Avenue is less than 9m, compliant sightline distances of separation will be achieved to the majority of the rear lawn area and to the main private open space areas occupying the western section of this adjoining property.

With regard to the other adjoining property (77A Hopetoun Avenue), it is considered that the proposed raising the pool and adjacent areas will not result in any significant additional lines of sight to privacy sensitive areas within 9m.

Council's Tree Management section has raised no objection to the proposed raising of the pool and pool concourse levels in terms of tree impacts.

No additional excavation associated with the swimming pool is proposed.

The proposed modifications to the approved swimming pool are otherwise compliant.

The proposed modifications are considered to be satisfactory with regard to the provisions of B3.7.4 of Woollahra DCP 2015.

13.11 Part 3.7.4: Ancillary Development - Outbuildings

- C1 *The outbuilding is located within the building envelope or the rear setback.*
- C2 *Maximum height of the outbuilding is 3.6m and the outbuilding is to be sited a minimum of 1.5m from the side and rear boundaries.*

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

C3 The outbuilding, if located outside the building envelope, does not reduce the deep soil landscaped area and the private open space areas below the minimum required for development, as specified in Section 3.7.1 Landscaped areas and private open space.

The objective of the control is:

O1 To ensure that outbuildings do not unreasonably compromise the amenity of the occupants or the adjoining properties.

The proposed relocation of the pool filter/heat pump from the lower terrace adjacent to the rear boundary to a pool plant room under the north-eastern corner of the pool concourse extends to the alignment of the eastern side boundary which does not accord with C2.

The proposed location of the pool plant room is considered to be consistent with the above-mentioned objective being not visually discernible from adjoining properties and with acoustic impacts addressed by existing conditions of consent.

The proposed modifications are considered to be satisfactory with regard to the provisions of B3.7.4 of Woollahra DCP 2015.

13.12 Chapter E.2 Stormwater and Flood Risk Management

Council's Team Leader-Development Engineering has raised no objection to the proposed modifications in terms of stormwater and flood risk management.

The proposed modifications are considered to be satisfactory with regard to the provisions of Chapter E2 of the Woollahra DCP 2015.

14. SWIMMING POOLS ACT 1992

A swimming pool is at all times to be surrounded by a child-resistant barrier that separates the swimming pool from any residential building and that is designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations. Additional provisions relate to:

- a) The swimming pool must be registered in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance issued pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash must be discharged to the sewer

These requirements are addressed by existing conditions of consent.

15. NATIONAL PARKS AND WILDLIFE ACT 1974

Council's Heritage Officer who reviewed the application upon lodgement (DARC) has recommended additional conditions with regard to protecting Aboriginal archaeological objects/ skeletal remains.

16. THE LIKELY IMPACTS OF THE PROPOSED MODIFICATIONS

All likely impacts have been addressed elsewhere in the report.

17. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposed modified development as conditioned.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

18. CONCLUSION

The proposed modifications are considered to be acceptable against the relevant considerations under S.4.15 and S.4.55 of the Environmental Planning and Assessment Act, 1979.

19. DISCLOSURE STATEMENTS

Under Section 10.4 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

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

That the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, modify the development consent to DA436/2020 for the demolition of an existing dwelling house and the construction of a new dwelling house and swimming pool and associated works on land at 18 Olphert Avenue Vacluse in the following terms:

Modification Summary

DA Application Number (PAN Number)	Determination Date	Modification Description
DA436/2020/2 PAN 398386	05/09/2024	Addition of Conditions A.3a, A.7, A.8, B.4, B.5, C.19 & E.30 Amendment of Condition C.1

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the "applicant" means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the "site", means the land known as 18 Olphert Avenue, Vacluse

The conditions of consent are as follows:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2021* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the *BCA*.

Public place has the same meaning as in the *Local Government Act 1993*.

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

Site means the land being developed subject to this consent.

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans to which is affixed a Council stamp “**Approved Plans**” and supporting documents listed below as submitted by the Applicant **unless modified by any following condition**. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Dates
DA 1.2 Rev J DA 2 Rev J DA 2.1 Rev J DA 3 Rev J DA 3.1 Rev J DA 4 Rev J DA 4.1 Rev J	Boundary fences Plan Living and Bedroom Plan Garden and Roof Elevations (North and south) Elevations East and West Cross sections Longitudinal sections	Louise St John Kennedy	03/11/2022
DA 6 Rev J	Landscape Plan	Louise St John Kennedy	3/11/2022
	Arboricultural Impact Assessment Report	David Shrimpton	5/5/2020
32829SCrptRev2	Geotechnical Report	JK Geotechnics	7 Feb 2020
201199 D01-C D02-E D03-C	Stormwater Management Plan	NB Consulting Engineers	29/06/2022

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.

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

A.3a Approved Amended (section 4.55) Plans and Supporting Documents

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

Only the modifications documented with **red clouding** are approved.

Reference	Description	Author/Drawn	Date(s)
-----------	-------------	--------------	---------

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

4.56 1.2 Rev 2 4.56 2.1 Rev 2 4.56 3 Rev 2 4.56 3.1 Rev 2 4.56 4 Rev 2 4.56 4.1 Rev 2 4.56 6 Rev 2	Boundary fences Plan Garden and Roof Elevations North Elevations East and West Cross sections Longitudinal sections Landscape plan	Cottee Parker Architects P/L	03/07/2024
--	--	---------------------------------	------------

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

(Added on 05/09/2024 under DA436/2020/2 (PAN 398386))

A.4 Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

A.5 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
4	<i>Ceratopetalum gummiferum</i> (NSW Christmas Bush)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	6 x 4 metres

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

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location	Dimensions
1	<i>Plumeria rubra</i> (Frangipani)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	6 x 4 metres

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

c) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
2	<i>Michelia figo</i> (Port-wine Magnolia)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	5 x 3 metres
3	<i>Cupressus torulosa</i> (Bhutan Cypress)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	8 x 4 metres
5	<i>Acmena smithii</i> (Lillypilly)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	7 x 3 metres
6	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	7 x 4 metres
7	<i>Pittosporum undulatum</i> (Native Daphne)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	6 x 4 metres
8	<i>Cupressus torulosa</i> (Bhutan Cypress)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	8 x 3 metres
9	<i>Pittosporum undulatum</i> (Native Daphne)	Front garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	5 x 4 metres

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

*This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

A.6 Prevention of boundary encroachments

In order to prevent boundary encroachments, all works are to be located wholly within the boundaries of the subject site. All new retaining walls and fencing are to be located within the boundaries of the subject site.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

A.7 Development Consent is Not Granted in Relation to these Matters

Due to inadequate/inconsistent documentation, the reductions to the planter depths/heights to the northern elevation at Bedroom Floor and Living Floor levels and the addition of a *post and wire support for creepers* to the western side boundary are excluded from the scope of the subject development consent.

(Added on 05/09/2024 under DA436/2020/2 (PAN 398386))

A.8 No Underpinning works (Special Condition)

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

(Added on 05/09/2024 under DA436/2020/2 (PAN 398386))

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

B.1 Identification of Hazardous Material

In accordance with Australian Standard AS2601- 'The Demolition of Structures' the owner shall identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing;

- all hazardous materials identified on the site;
- the specific location of all hazardous materials identified;
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken; and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

B.2 Public Road Assets prior to any work/demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the *Applicant* or *Owner* must submit to Council a full record of the condition of the Public Road infrastructure adjacent to the development site.

The report must be submitted to Council prior to the commencement of any work and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

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

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

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

B.3 Establishment of Tree Protection Zone (TPZ) Fence

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk
4	<i>Ceratopetalum gummiferum</i> (NSW Christmas Bush)	Rear garden. Refer to Section 7 of the submitted David Shrimpton Arboricultural Impact Assessment <i>Tree Location Map</i>	2 metres in accordance with Condition B.3 (g) below.

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) There shall be no trench footing along the eastern boundary within the tree protection zone of the retained Australian Christmas Bush. Any footing within this area is to be

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

pier and beam and subject to the supervision of a suitably qualified arborist. The project arborist shall provide written certification of compliance with the above condition.

B.4 Aboriginal Heritage Due Diligence Responsibilities

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the *National Parks & Wildlife Act 1974*. Under the *National Parks & Wildlife Act 1974*, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

(Added on 05/09/2024 under DA436/2020/2 (PAN 398386))

B.5 Aboriginal Heritage Induction

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

(Added on 05/09/2024 under DA436/2020/2 (PAN 398386))

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

C.1A Modification of landscape plans and details

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 to the landscape plans, prepared by a suitably qualified Landscape Architect:

- a) The overall plant height at maturity for plants in the redesigned planters on the northern boundary with 77 Hopetoun Avenue, Vacluse and the north-eastern boundary with 20 Olphert Avenue, Vacluse must not exceed 1200mm above approved height of the swimming pool concourse;
- b) Protection measures identified in Condition B3(b) for the existing hedge on the boundary at the road frontage on 20 Olphert Avenue, Vacluse during excavation and construction of the garage on the side boundary, such measures to be contained wholly within the site;
- c) Two (2) trees with a maximum height at maturity of 3 metres are to be planted either side of the retained Australian Christmas Bush tree on eastern side boundary;
- d) No clumping bamboo or other forms of bamboo to be planted on site;
- e) The submitted Landscape Plan must illustrate the 2 x *Jacaranda mimosifolia* trees proposed to be planted within the front deep soil area of the property to be planted in a minimum container size of 150 litres at the time of planting;

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- f) In addition to the proposed plantings already illustrated on the submitted Landscape Plan the following additional tree species must also be depicted and specified on the Landscape plan within the rear deep soil area of the property:

2 x *Banksia integrifolia* (Coastal Banksia); or
2 x *Eucalyptus ficifolia* (Red Flowering Gum); or
2 x *Banksia serrata* (Old-man Banksia).

Trees must be planted in a minimum container size of 150 litres at the time of planting.

A total of 2 trees but a combination of the above species is acceptable.

Trees must be planted in a minimum container size of 100 litres at the time of planting.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

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

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

- a) In order to prevent boundary encroachments, the retaining wall and fencing adjacent to the rear boundary and the fencing proposed adjacent to the eastern side boundary are to be located wholly within the boundaries of the subject site.
- b) Deleted
- c) In order to minimise smoke related impacts upon adjoining properties, the tops of both proposed chimneys shall be at least 1m metre higher than any other building within a 15m radius.
- d) Due to inadequate/ inconsistent documentation, the reductions to the planter depths/heights to the northern elevation at Bedroom Floor and Living Floor levels and the addition of a *post and wire support for creepers* to the western side boundary must be deleted.
- e) Where the north-south dimension of the proposed pool plant room is inconsistently documented on drawing 4.56 1.2 compared with drawing 4.56 2.1, the lesser dimension documented on drawing 4.56 2.1 prevails.
- f) Where the eastern boundary pool wall/ fence is inconsistently documented on drawings 4.56 2.1 & 3.1 compared with drawing 4.56 3 Section L, the documentation on drawings 4.56 2.1 & 3.1 prevail.
- g) Where the deletion of the approved spa/ addition of an infiltration system is inconsistently documented on drawing 4.56_2.1 Garden Floor plan compared with drawing 4.56_4.1 Section CC, the documentation on drawing 4.56_2.1 Garden Floor plan prevails.

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*.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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.

(Amended on 05/09/2024 under DA436/2020/2 (PAN 398386))

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit - making good any damage caused to any property of the <i>Council</i> (S138)	\$86,702	No	T115
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$48,545 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$480	No	T45
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$135,727 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

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

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

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

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

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2011

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

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

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

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

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority* BASIX Certificate No. 1052152S_05 with any application for a *Construction Certificate*.

Note: Where there is any proposed change in the BASIX commitments the applicant must submit of a new *BASIX Certificate* to the *Certifying Authority* and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (See: Clauses 145 and 146 of the *Regulation*) the applicant will be required to submit an amended development application to *Council* pursuant to section 96 of the Act.

All commitments in the *BASIX Certificate* must be shown on the *Construction Certificate* plans and specifications prior to the issue of any *Construction Certificate*.

Note: Clause 145(1)(a1) of the *Environmental Planning & Assessment Regulation 2000* provides: "A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires,"

C.4 Road and Public Domain Works

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

- a) The construction of a new 4.5 metres wide vehicular crossing including the replacement of the existing gutter in accordance with Council's standard driveway drawing RF2_D. The new crossing shall be constructed at right angle to the street kerb in plain concrete and the centreline of the new crossing shall be aligned with the centreline of the garage door. The vehicular crossing must have a minimum crossfall of 1% graded from the property boundary towards the layback. Design longitudinal profiles along each edge/side of the proposed driveway must be submitted for assessment.
- b) The relocation of the existing Ausgrid power light pole – The construction of the new 4.5 metres wide vehicular crossing will require the relocation of an existing street light/power pole. The new power pole must be located at least 1 metre away from the proposed vehicular crossing to comply with Council's Specification for Roadworks, Drainage and Miscellaneous Works and Standard Drawing RF2_D. The applicant must provide written confirmation from Austgrid that payment of the relocation of the power pole has been made. All costs associated with the relocation of the street lighting must be borne by the applicant.
- c) Reinstatement of all damaged footpath, kerb and gutter and road pavement to match existing.
- 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,

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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: Refer to the *Roads Act Application advising under section K Advise of this consent*.

C.5 Utility Services Generally

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the *Act* to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any Construction Certificate application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the Construction Certificate plans and/or detailed within the Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the Construction Certificate plans.

Note: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Water's sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

C.6 Soil and Water Management Plan – Submission & Approval

The *principal contractor* or *owner builder* must submit to the *Certifying Authority* a soil and water management plan complying with:

- a) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) "*Managing Urban Stormwater - Soils and Construction*" published by the NSW Department of Housing 4th Edition" (*'The Blue Book'*).

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Where there is any conflict *The Blue Book* takes precedence. The *Certifying Authority* must be satisfied that the soil and water management plan complies with the publications above prior to issuing any *Construction Certificate*.

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

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

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publications can be down loaded free of charge from <http://www.woollahra.nsw.gov.au/> .

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

C.7 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include detailed *professional engineering* plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation. Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

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

C.8 Geotechnical and Hydrogeological Design, Certification and Monitoring

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must be accompanied by 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, if deemed necessary by the geotechnical engineer upon detailed investigation, such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water, if deemed necessary by the geotechnical engineer upon detailed investigation, such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- 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.

C.9 Ground Anchors

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

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

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

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

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

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

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

C.10 Stormwater Management Plan

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

- a) General design in accordance with stormwater management plans, referenced 201199-D01 Rev C, D02 Rev E and D03 Rev C, prepared by NB Consulting Engineers, dated 29/06/2022, other than amended by this and other conditions;
- b) The installation of rainwater tank with minimum storage of 40.2m³ which is to be connected for non-potable uses such as all toilet flushing and laundry device, garden irrigations and car washing; Minimum two 900x600 sealed lid must be provided for the rainwater tank for future maintenance. These access lid shall be clearly depicted on the site plan.
- c) The discharge of rainwater tank's overflow to the street kerb by gravity. The outlet pipe including the kerb outlet must be located within the frontage of the site.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- d) The installation of absorption trench system with minimum storage capacity of 12m³. The absorption trench system must be placed parallel to the contour, at least 3 metres from any property boundary and footing of any structure;
- e) All drainage pit must have minimum dimensions of 350x350 to comply with Clause 7.5.2.1 of AS3500.3:2018.
- f) Compliance the objectives and performance requirements of the BCA;
- g) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management; and
- h) The installation of on-site rainwater retention and reuse system.

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

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

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

Rainwater Tank details:

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

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"*.

C.11 Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water

The approved plans must be submitted to Sydney Water Tap In™ online service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met.

The Tap In™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

18 Olphert Avenue Vaucluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Note: For more information go to Sydney Water www.sydneywater.com.au/tapin/index.htm and www.sydneywater.com.au/SW/plumbing-building-developing/building-over-or-next-to-assets/index.htm or call 1300 082 746.

C.12 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

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

C.13 Swimming and Spa Pools – Child Resistant Barriers

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

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

C.14 Swimming and Spa Pools – Backwash

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

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

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

C.15 Tree Management Plan

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

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- 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.16 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
- Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
- b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power

C.17 Waste Storage – Single Dwelling

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

- a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling.
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

C.18 Acoustic Certification of Mechanical Plant and Equipment

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

Where sound attenuation is required this must be detailed.

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

1. **Australian Acoustical Society**—professional society of noise-related professionals
www.acoustics.asn.au
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals www.aaac.org.au.

C.19 Engineer Certification

Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.

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

(Added on 05/09/2024 under DA436/2020/2 (PAN 398386))

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

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

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

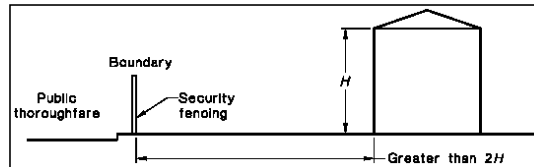
Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

D.2 Security Fencing, Hoarding and Overhead Protection

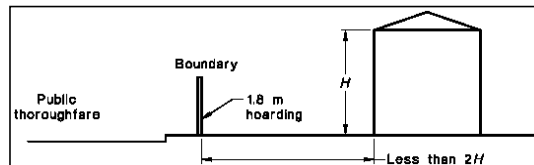
18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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



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

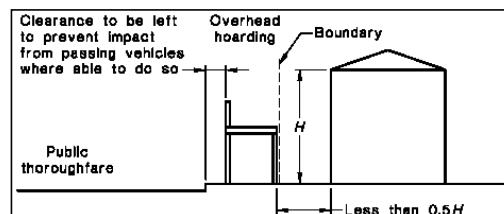


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

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

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

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

D.3 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifying authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the *Act*, to comply with the technical provisions of the State's building laws."

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the PCA or the principal contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Note: If *Council* is appointed as the *PCA* it will provide the sign to the *principal contractor* or *owner builder* who must ensure that the sign is erected and maintained as required by Clause 98A and Clause 227A of the *Regulation*.

D.4 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with Workcover NSW requirements.

D.5 Establishment of Boundary Location, Building Location and Datum

Prior to the commencement of any work the Principal Contractor or Owner-builder must ensure that a surveyor registered under the *Surveying and Spatial Information Act 2002* sets out:

- a) the boundaries of the site by permanent marks (including permanent recovery points),
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,
- c) establishes a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and
- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the Principal Certifier.

Note: Where the Principal Contractor or Owner-builder notes any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the Principal Contractor or Owner-builder should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

D.6 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

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

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.

D.7 Dilapidation Reports for Existing Buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the Structural Engineer.

These properties must include (but are not limited to):

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- 16 Olphert Avenue.
- 20 Olphert Avenue.

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

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by Section 6.6(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out.
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land.

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition

D.8 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

D.9 Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

D.10 Works (Construction) Zone – Approval and Implementation

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

D.11 Erosion and Sediment Controls – Installation

The *principal contractor* or *owner builder* must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The *Soil and Water Management Plan* if required under this consent;
- b) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) "*Managing Urban Stormwater - Soils and Construction*" published by the NSW Department of Housing 4th Edition" ('The Blue Book').

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The "Do it Right On Site, Soil and Water Management for the Construction Industry" publications can be down loaded free of charge from www.woollahra.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

D.12 Notification of [Home Building Act 1989](#) requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the [Home Building Act 1989](#).
- b) Residential building work within the meaning of the [Home Building Act 1989](#) must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- the name of the insurer by which the work is insured under Part 6 of that Act,
- In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

E.2 Public Footpaths – Safety, Access and Maintenance

The *principal contractor* or *owner builder* and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 73 of the *Road Transport (Safety and Traffic Management) Act 1999*, section 138 of the

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Roads Act 1993 or section 94 of the *Local Government Act* 1993 except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation* 1999.

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

Note: Section 138 of the *Roads Act* 1993 provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act* 1993 provides that a person may carry out certain activities only with the prior approval of the council including:

- Part C Management of Waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place."
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road."
 - c. Any work in, on or over the Road or Footway requires *Council* Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.

E.3 Maintenance of Environmental Controls

The *principal contractor* or *owner builder* must ensure that the following monitoring, measures and controls are maintained:

- a) Erosion and sediment controls,
- b) Dust controls,
- c) Dewatering discharges,
- d) Noise controls;
- e) Vibration monitoring and controls;
- f) Ablutions.

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

E.4 Compliance with Geotechnical / Hydrogeological Monitoring Program

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

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

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

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- c) the contingency plan.

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

E.5 Support of Adjoining Land and Buildings

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

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

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

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

E.6 Vibration Monitoring

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

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

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

Note: *building* has the same meaning as in section 1.4 of the *Act* i.e. "*building* includes part of a building and any structure or part of a structure...."

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.

E.7 Erosion and Sediment Controls – Maintenance

The *principal contractor* or *owner builder* must maintain water pollution, erosion and sedimentation controls in accordance with:

- The Soil and Water Management Plan required under this consent;
- "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- "*Managing Urban Stormwater - Soils and Construction*" published by the NSW Department of Housing 4th Edition ("*The Blue Book*").

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

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution".

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

E.8 Disposal of site water during construction

The principal contractor or owner builder must ensure:

- Prior to pumping any water into the road or public stormwater system that approval is obtained from *Council* under section 138(1)(d) of the *Roads Act 1993*;

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

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

E.9 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The *Principal Contractor* or *Owner Builder* must ensure that a surveyor registered under the *Surveying Act 2002* carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The *Principal Contractor* or *Owner Builder* must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the *PCA's* satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level;
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey;
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof;
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like;
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.;
- f) Stormwater Drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

E.10 Site Cranes

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

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

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

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

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

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

E.11 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - i) Piling;
 - ii) Piering;
 - iii) Rock or concrete cutting, boring or drilling;
 - iv) Rock breaking;
 - v) Rock sawing;
 - vi) Jack hammering; or
 - vii) Machine excavation,
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement out side the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Note: EPA Guidelines can be down loaded from <http://www.epa.nsw.gov.au/noise/nglg.htm> .
Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf

E.12 Dust Mitigation

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

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “*Dust Control - Do it right on site*” can be down loaded free of charge from Council's web site www.woollahra.nsw.gov.au or obtained from Council's office.

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

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

E.13 Critical Stage Inspections

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

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the PCA and any PCA Service Agreement.

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

Note: The PCA may, in addition to inspections, require the submission of *Compliance Certificates*, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

E.14 Placement and use of Skip Bins

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

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act* 1993 to place the waste storage container in a public place, and
- b) Where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation* 1999.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

E.15 Prohibition of burning

There must be no burning of any waste or other materials. The burning of CCA (copper chrome arsenate) or PCP (pentachlorophenol) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Control of Burning) Regulation 2000* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

E.16 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures, published by Standards Australia, and as in force at 13 September 2001.

E.17 Salvaging of building materials

Timber joinery and decorative architectural elements that are to be demolished, including leaded glass windows, original doors and timber architraves, fretwork and picture rails, should be salvaged where possible and transferred to an established second building material dealer for recycling.

E.18 Site waste minimisation and management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- b) Provide separate collection bins and/or areas for the storage of residual waste
- c) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- d) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- e) Minimise site disturbance, limiting unnecessary excavation

The applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility
- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

Note: Materials that have an existing reuse or recycling market should not be disposed of in a

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

E.19 Site waste minimisation and management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- b) Consider organising to return excess materials to the supplier or manufacturer
- c) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- d) Clearly 'signpost' the purpose and content of the storage areas
- e) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- f) Promote separate collection bins or areas for the storage of residual waste
- g) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- h) Minimise site disturbance and limit unnecessary excavation
- i) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- j) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW.

E.20 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW DECC *Waste Classification Guidelines, Part1: Classifying Waste* (April 2008).

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an Asbestos Licensed contractor can definitively determine where the waste may be legally taken for disposal.

E.21 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other Hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant EPA requirements.

E.22 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

E.23 Notification of Asbestos Removal

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

All adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

E.24 Disposal of soils and waste materials

Any disposal of soils and waste materials from the site shall be assessed against the NSW Department of Environment & Climate Change (DECC) 'Waste Classification Guidelines 2008, Revision 2009'; the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations Amendment (Scheduled Activities and Waste) Regulation 2008.

E.25 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

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

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

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

E.26 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management 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.27 Replacement/Supplementary trees which must be planted

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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 a *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 is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity
2 x <i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden deep soil area, as plotted on the submitted Landscape Plan	150 litre	8 x 6 metres
2 x <i>Eucalyptus ficifolia</i> (Red Flowering Gum) OR; 2 x <i>Banksia integrifolia</i> (Coastal Banksia) OR; 2 x <i>Banksia serrata</i> (Old-man Banksia).	Rear deep soil area	150 litre	6 x 5 metres
2 x <i>Cupaniopsis anacardioides</i> (Tuckeroo)	Front of property on Council nature strip (Located a minimum of 2m from any driveway crossing)	100 litre	6 x 4 metres
2 x Dwarf 20 th Century Westwood Nashi Pear	Adjacent to the retained <i>Ceratopetalum gummiferum</i> (NSW Christmas Bush) on the eastern side boundary		3 metres (maximum height)

The project arborist shall document compliance with the above condition.

E.28 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects are found during the works covered by this approval, all work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

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

E.29 Archaeological Features – Unexpected Findings

If unexpected archaeological features are discovered during the works covered by this approval, work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Note: Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

E.30 Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

(Added on 05/09/2024 under DA436/2020/2 (PAN 398386))

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

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.

F.2 Commissioning and Certification of Systems and Works

The *principal contractor* or *owner builder* must submit to the satisfaction of the PCA works-as-executed ("WAE") plans, *Compliance Certificates* and evidence of suitability in accordance with the BCA confirming that the *works*, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant *construction certificate*, the BCA and relevant *Australian Standards*. Works-as-executed ("WAE") plans, *Compliance Certificates* and evidence of suitability in accordance with the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – "Off-Street car parking."
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifying Authority may require.

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

Note: The PCA may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, Development Standards, BCA, and relevant *Australia Standards*. As a minimum WAE plans and certification is required for

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

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

F.3 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

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

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register.
- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued pursuant to section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public pools must comply with the *NSW Health Public Swimming Pool and Spa Pool Guidelines* in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2010: *Swimming pool safety - Water recirculation systems*.

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

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

Note: NSW Health guidelines and fact sheets are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx

F.4 Swimming Pool Fencing

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

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

F.5 Amenity Landscaping

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

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

F.6 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition C.16.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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 (S6.4(c))

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

All BASIX commitments must be effected in accordance with the BASIX Certificate 1052152S.

Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A *certifying authority* must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

H.2 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions;
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

H.3 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the *Final Occupation Certificate*.

H.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,

- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

H.5 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

On completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted to the Principal Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site retention system,
- c) that the works have been constructed in accordance with the approved design and will provide minimum 40.2m³ retention storage volume in accordance with the approved drawings,
- d) that the works have been constructed in accordance with the approved design and will provide minimum 12m³ absorption trench system in accordance with the approved drawings,
- e) pipe invert levels and surface levels to Australian Height Datum, and
- f) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

Note: The Final Occupation Certificate must not be issued until this condition has been satisfied.

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate 1052152S.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

I.2 Noise from mechanical plant and equipment

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

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

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

Note: Words in this condition have the same meaning as in the:
NSW Industrial Noise Policy (http://www.environment.nsw.gov.au/resources/ind_noise.pdf)
ISBN 0 7313 2715 2, dated January 2000, and
Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nlg.htm>)
ISBN 1741370671, dated December 2004.

I.3 Outdoor lighting – Residential

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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

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

I.4 Noise Control

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

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the *NSW Industrial Noise Policy* (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

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

NSW Environment Protection Authority— see “noise” section
www.environment.nsw.gov.au/noise.

NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

Australian Acoustical Society—professional society of noise related professionals
www.acoustics.asn.au.

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

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

I.5 Swimming and Spa Pools – Maintenance

Swimming and spa pools must be maintained:

- a) in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

- b) in compliance with the NSW Health "Public Swimming Pools and Spa Pools Advisory Document" in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,
- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

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

Note: The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx

I.6 Ongoing Maintenance of the On-Site-Retention System

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

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

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

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

J. Miscellaneous Conditions

Nil

K. Advisings

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

K.1 Criminal Offences – Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence. Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. his consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites: <http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.

K.2 Dial before you dig

The *principal contractor, owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit www.dialbeforeyoudig.com.au. When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

K.3 Builders Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appointed a *principal contractor* for residential building work who must be the holder of a contractor licence. Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html>. The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

K.4 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8 are achieved. The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role. The NSW Office of Fair Trading have published a "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124. The Guide can be down loaded from: <http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf> Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

K.5 Workcover requirements

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

Note: Further information can be obtained from Workcover NSW's website: <http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office: Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

K.6 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1-1995, Guide to Lead Paint Management—Industrial Applications, or AS 4361.2-1998, Guide to Lead Paint Management—Residential and Commercial Buildings. Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings. Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

K.7 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*. The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

Note: The Application for Refund of Security form can be downloaded from
<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

K.8 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's *Tree Preservation Order* 2006 (TPO) may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment. Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the TPO from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

K.9 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with:

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

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

K.10 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

K.11 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

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

18 Olphert Avenue Vacluse
DA 436/2020/2

Local Planning Panel
5 September 2024

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

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

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

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

ATTACHMENTS

1. Architectural drawings
2. Approved architectural drawings

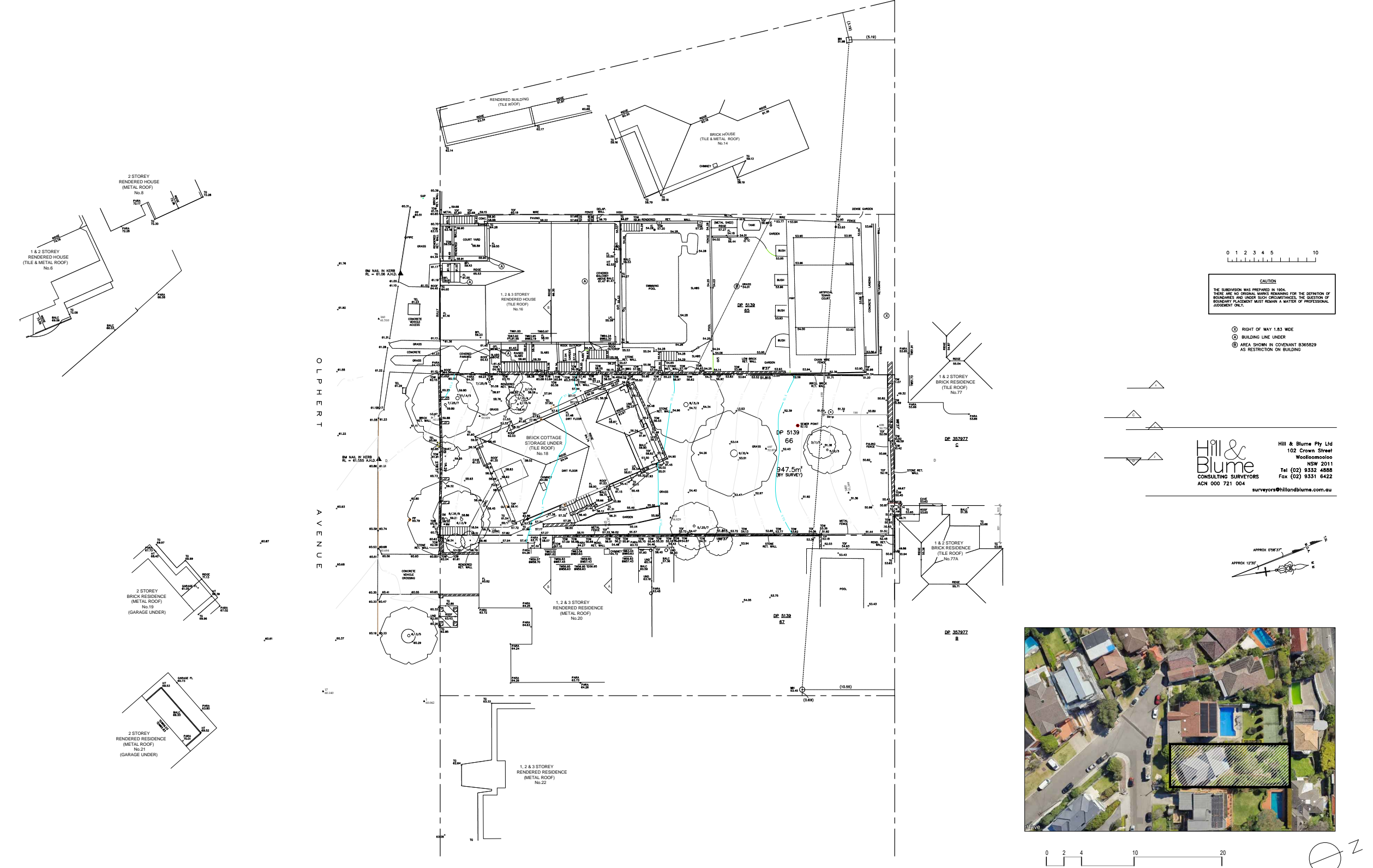
RAISED POOL 4.56 APPLICATION 25.01.2024			
DRAWING INDEX		SCALE	ISSUE DATE
			REVISION
4.56_0	COVER SHEET		03 Jul 24
4.56_1	SITE SURVEY	1:100@A1	25 Jan 24
4.56_1.1	SITE ANALYSIS	1:100@A1	25 Jan 24
4.56_1.2	BOUNDARY FENCES	1:100@A1	03 Jul 24
4.56_1.4	NOTIFICATION PLAN	1:200@A1	25 Jan 24
4.56_2.1	PLAN_GARDEN + ROOF	1:100@A1	03 Jul 24
4.56_3	ELEVATION_NORTH	1:100@A1	03 Jul 24
4.56_3.1	ELEVATION_EAST WEST	1:100@A1	03 Jul 24
4.56_4	SECTIONS_CROSS	1:100@A1	03 Jul 24
4.56_4.1	SECTIONS_LONGITUDINAL	1:100@A1	03 Jul 24
4.56_6	LANDSCAPE PLAN	1:100@A1	03 Jul 24

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030

DATE 03.07.2024

LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN ■ INTERIOR DESIGN ■ LANDSCAPE DESIGN
REGISTERED LANDSCAPE ARCHITECT. REGISTRATION NO 20115
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266

UPDATED DOCUMENTATION PREPARED BY COTTEE PARKER
ARCHITECTS P/L FOR SECTION 4.56 APPLICATION

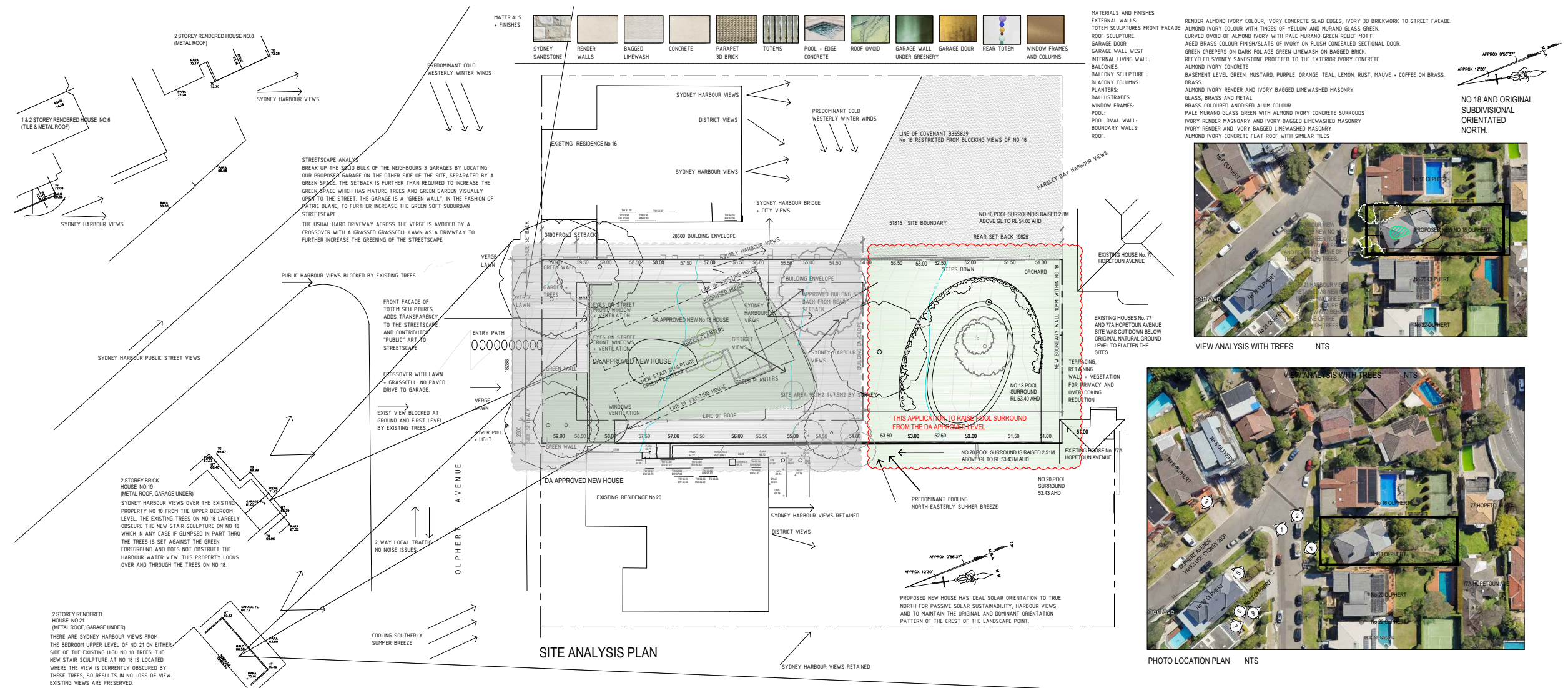


LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN | INTERIOR DESIGN | LANDSCAPE
REGISTERED LANDSCAPE ARCHITECT
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266 Copyright Louise St John Kennedy

REVISIONS
REV 1 INITIAL 4.56 16.08.2023

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 25.01.2024 PLOT 29.01.2024 SCALE 1:200 @ A1

4.56_1
RAISED POOL REV 2
SITE SURVEY

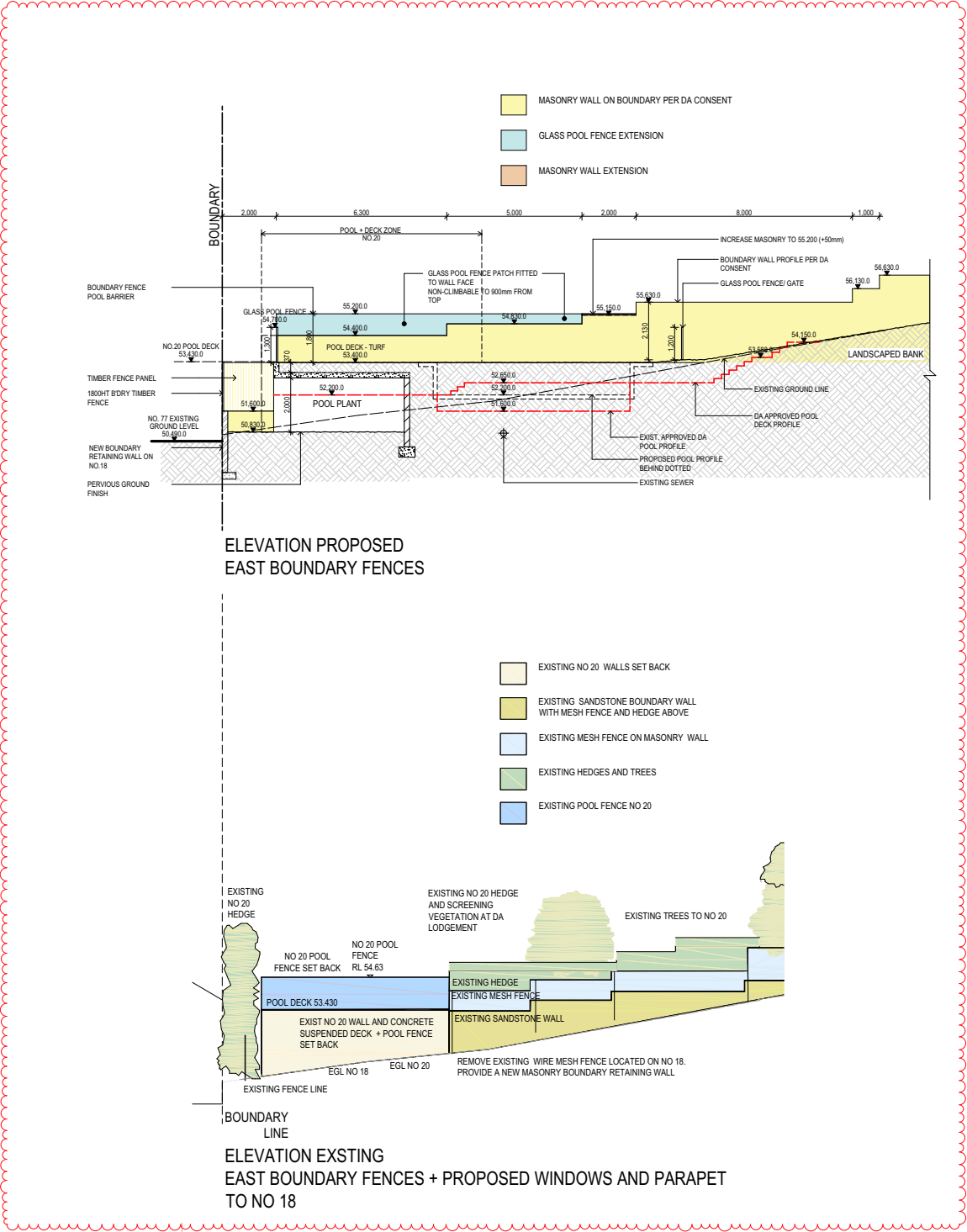


LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN | INTERIOR DESIGN | LANDSCAPE
REGISTERED LANDSCAPE ARCHITECT
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266 Copyright Louise St John Kennedy

REVISIONS
REV 1 INITIAL 4.56 16.08.2023
REV 2 25.01.2024 New Boundary
wall note added

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 25.01.2024 PLOT 29.01.2024 SCALE 1:200 @ A1

4.56_1.1
RAISED POOL REV 2
SITE ANALYSIS PLAN



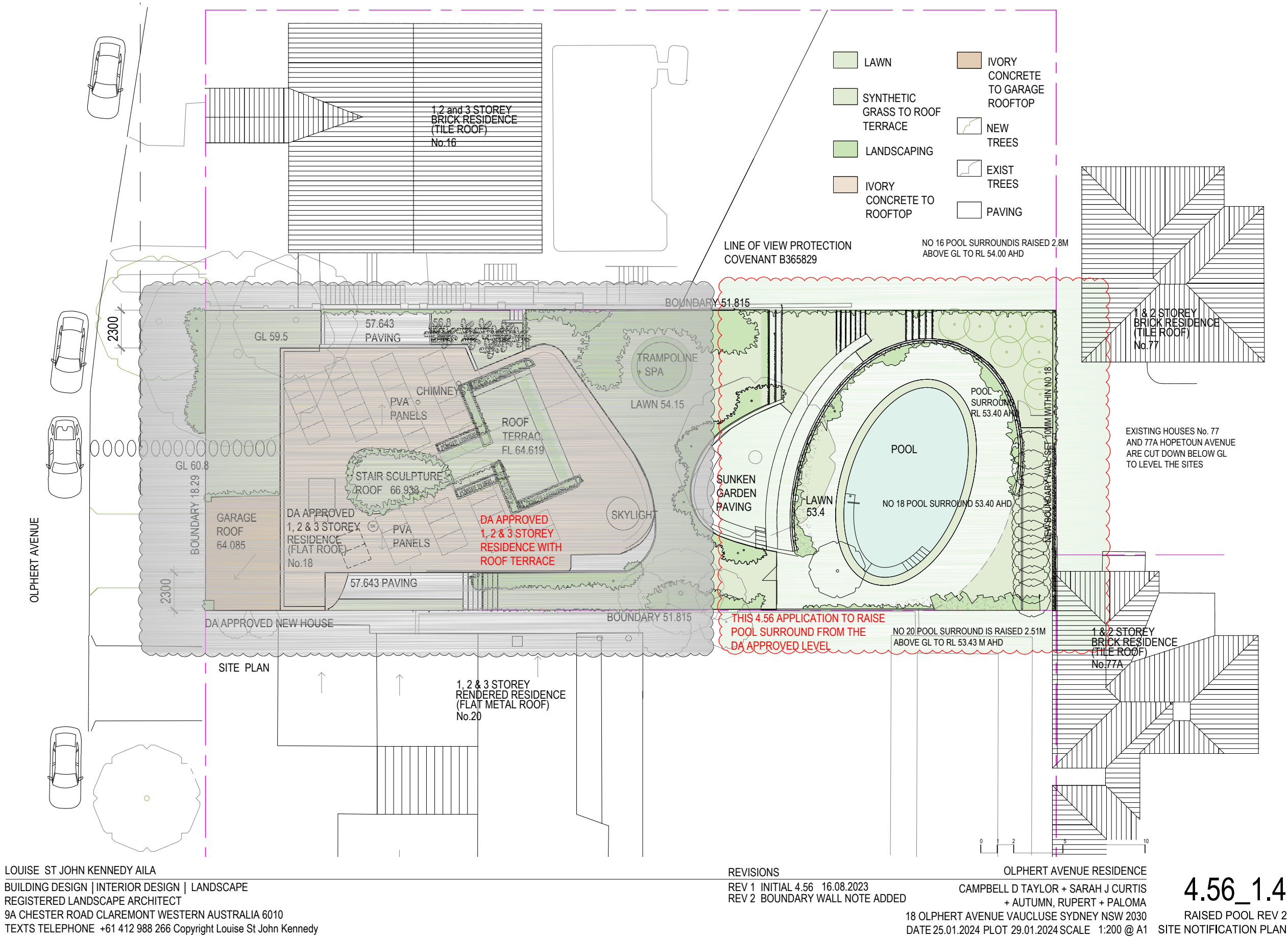
LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN ■ INTERIOR DESIGN ■ LANDSCAPE
REGISTERED LANDSCAPE ARCHITECT
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266 Copyright Louise St John Kennedy

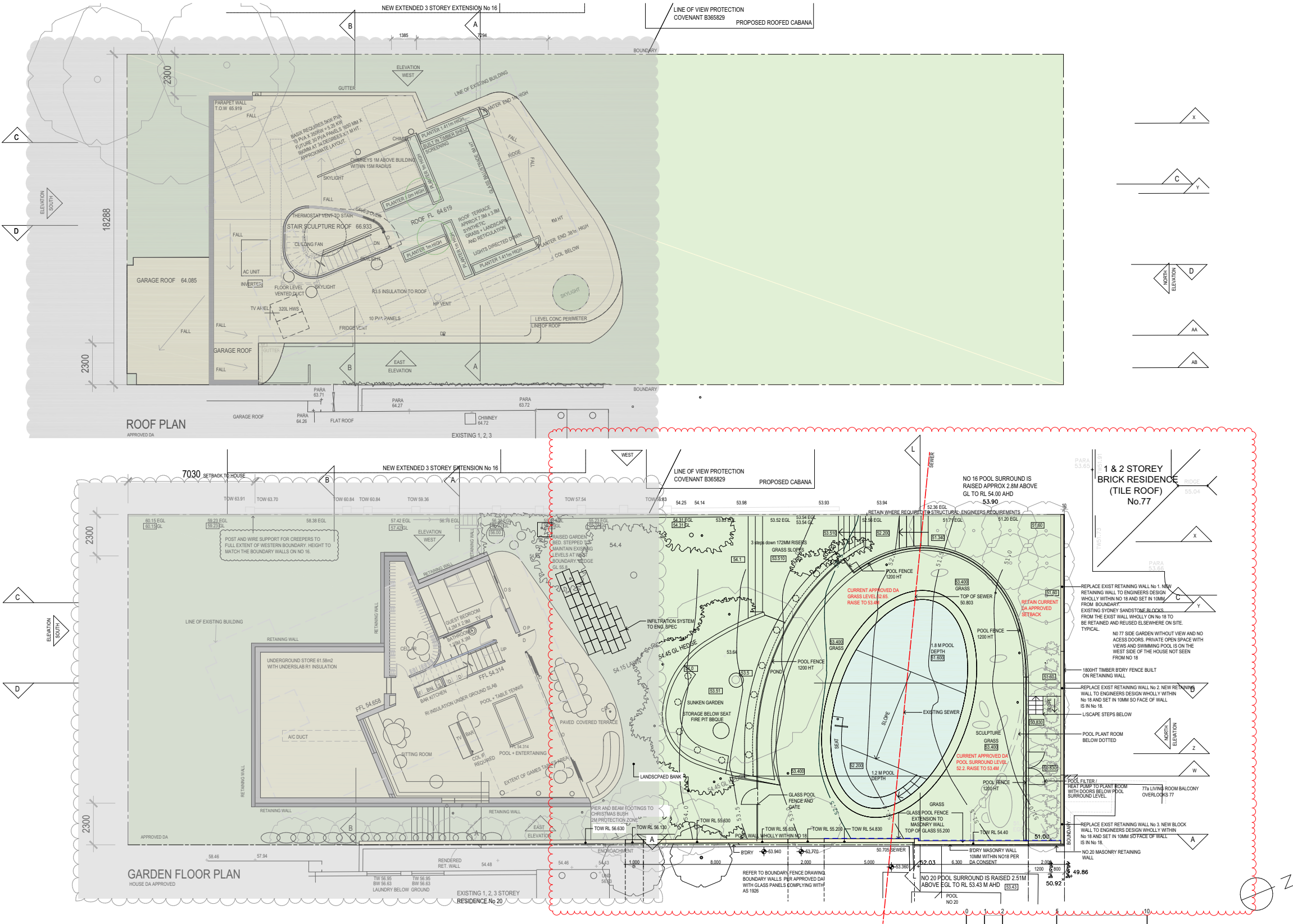
UPDATED DOCUMENTATION PREPARED BY COTTEE
PARKER ARCHITECTS P/L FOR SECTION 4.56 APPLICATION

REVISIONS
REV 1 INITIAL 4.56 16.08.2023
REV 2 S4.56 APPLICATION UPDATE 03.07.2024

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 03.07.2024 PLOT 03.07.2024 SCALE 1:100 @ A1

4.56_1.2
RAISED POOL REV 2
BOUNDARY FENCES





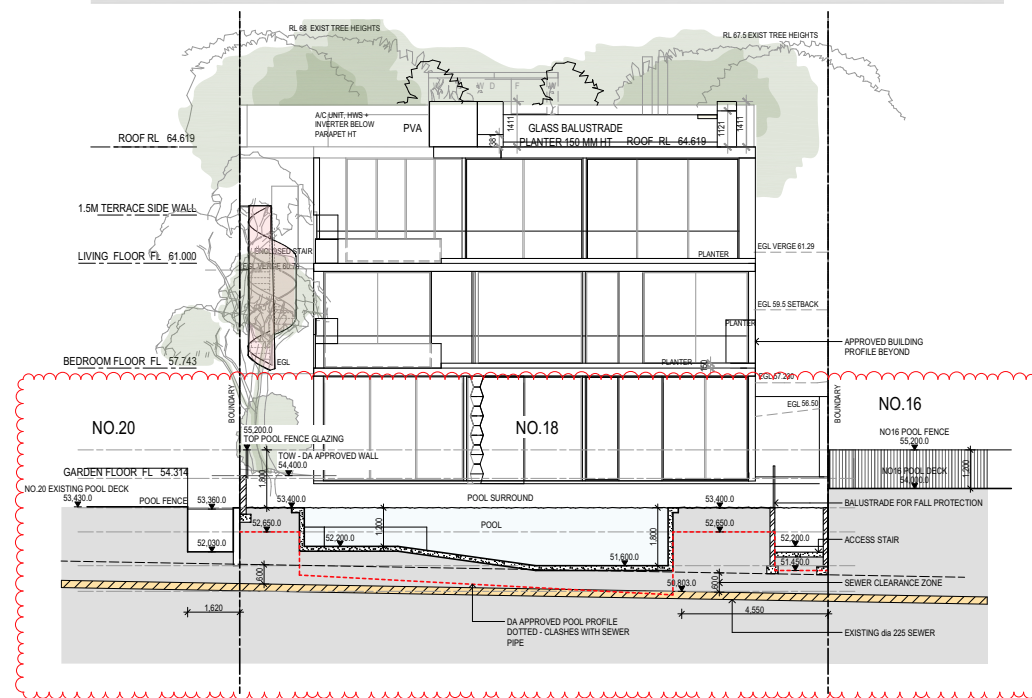
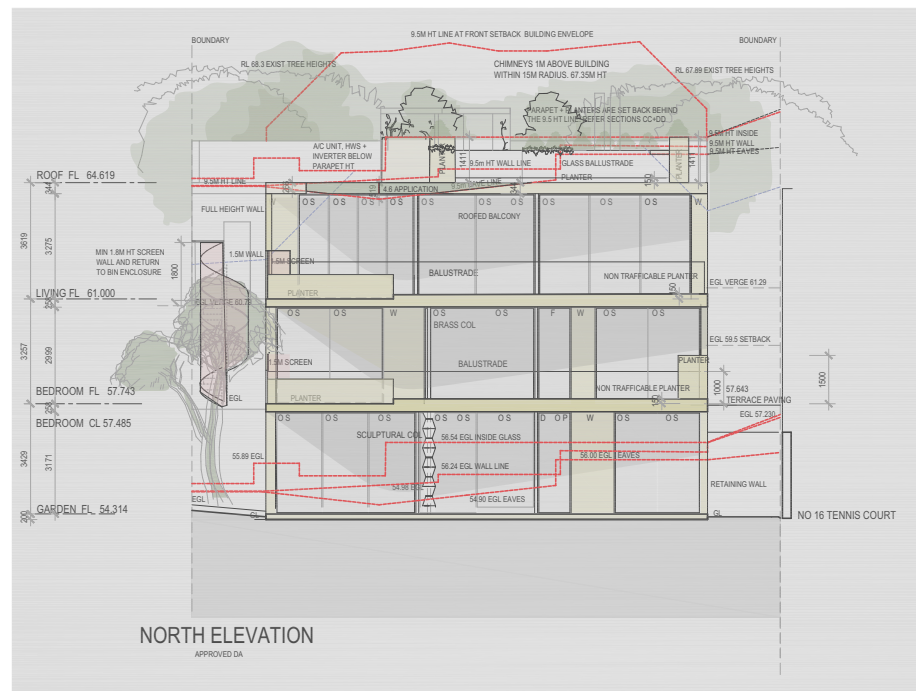
LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN ■ INTERIOR DESIGN ■ LANDSCAPE
REGISTERED LANDSCAPE ARCHITECT
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266 Copyright Louise St J Kennedy

UPDATED DOCUMENTATION PREPARED BY COTTEE
PARKER ARCHITECTS P/L FOR SECTION 4.56 APPLICATION

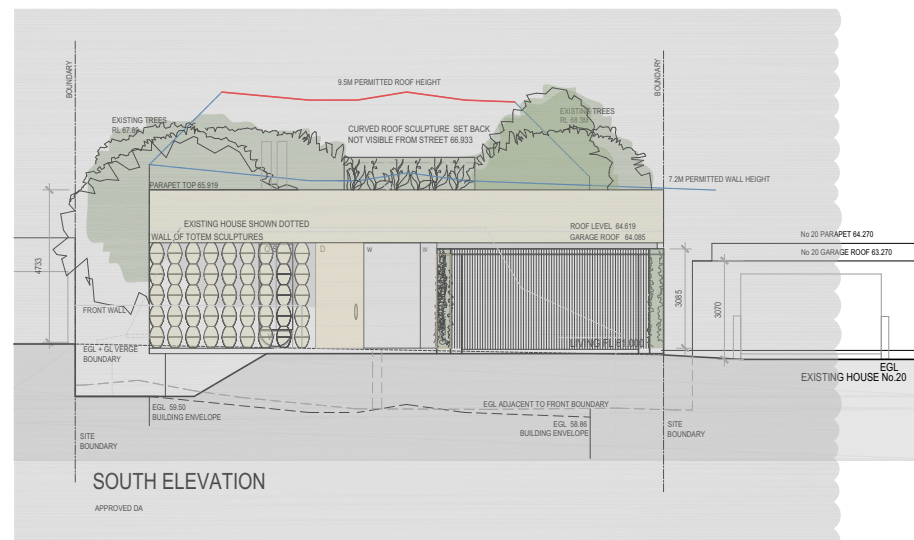
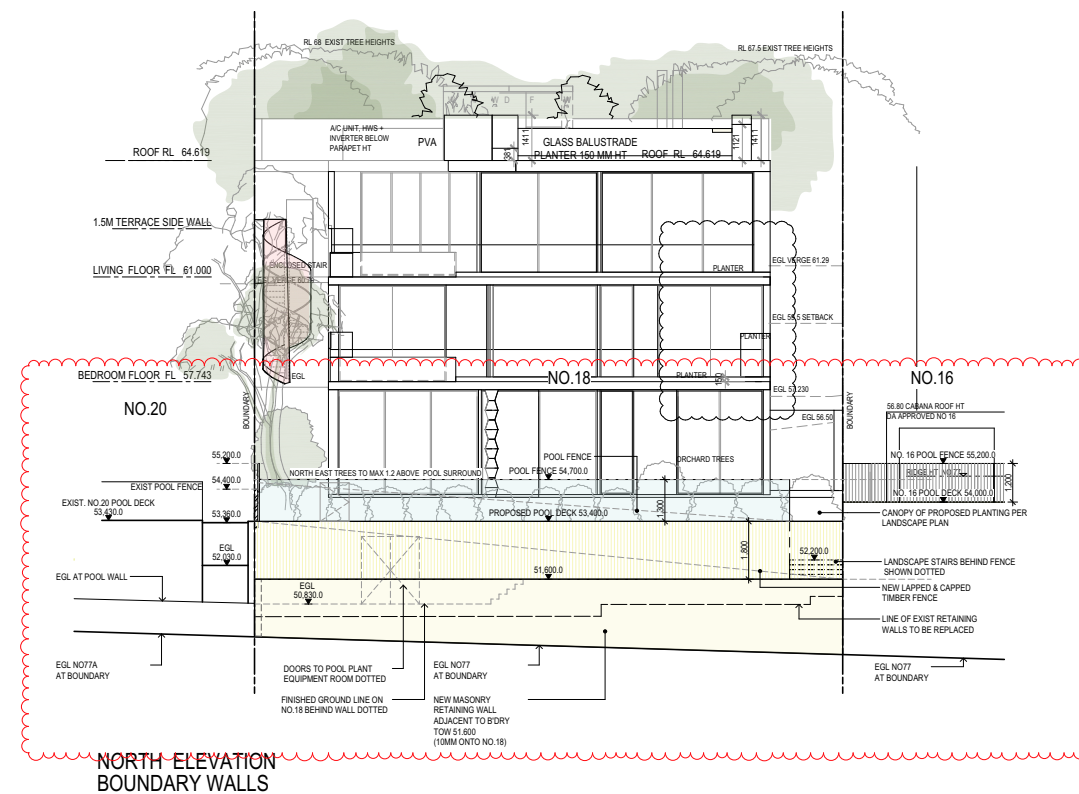
REVISIONS
INITIAL 4.56 REV 1 16.08.2023
REV 2 S4.56 APPLICATION UPDATE 03.07.2024

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 03.07.2024 PLOT 03.07.2024 SCALE 1:100 @ A1

4.56_2.1
RAISED POOL REV 2
PLAN GARDEN + ROOF



POOL + SEWER SECTION L
SET BACK FROM NORTH BOUNDARY



SOUTH ELEVATION

LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN ▯ INTERIOR DESIGN ▯ LANDSCAPE
REGISTERED LANDSCAPE ARCHITECT
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266 Copyright Louise St J Kennedy

UPDATED DOCUMENTATION PREPARED BY COTTEE
PARKER ARCHITECTS P/L FOR SECTION 4.56 APPLICATION

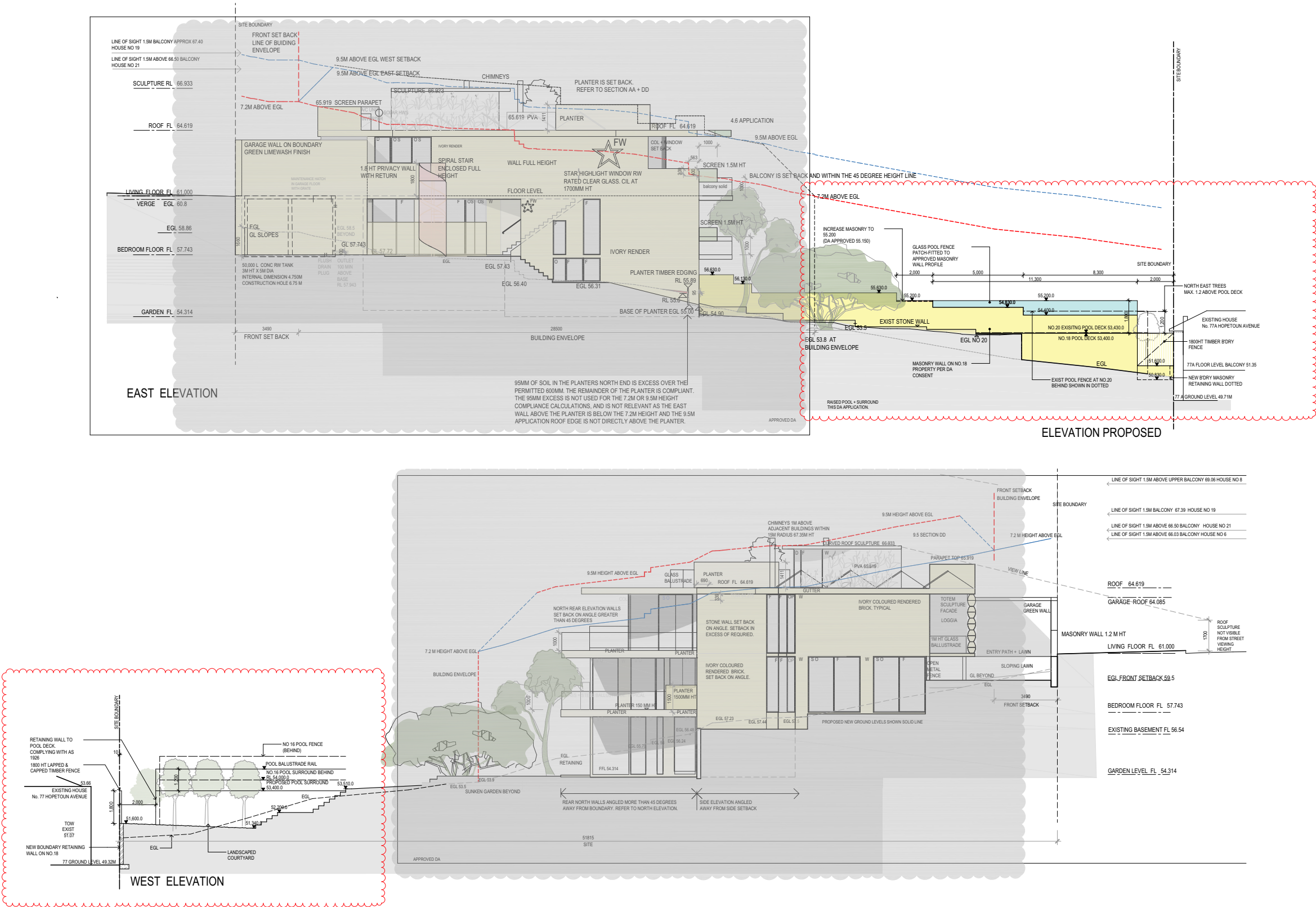
REVISIONS

REV 1 INITIAL 4.56 16.08.2023
REV 2 S4.56 APPLICATION UPDATE 03.07.2024

OLPHERT AVENUE RESIDENCE

CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 03.07.2024 PLOT 03.07.2024 SCALE 1:100 @ A1

4.56_3
RAISED POOL REV 2
ELEVATIONS NORTH



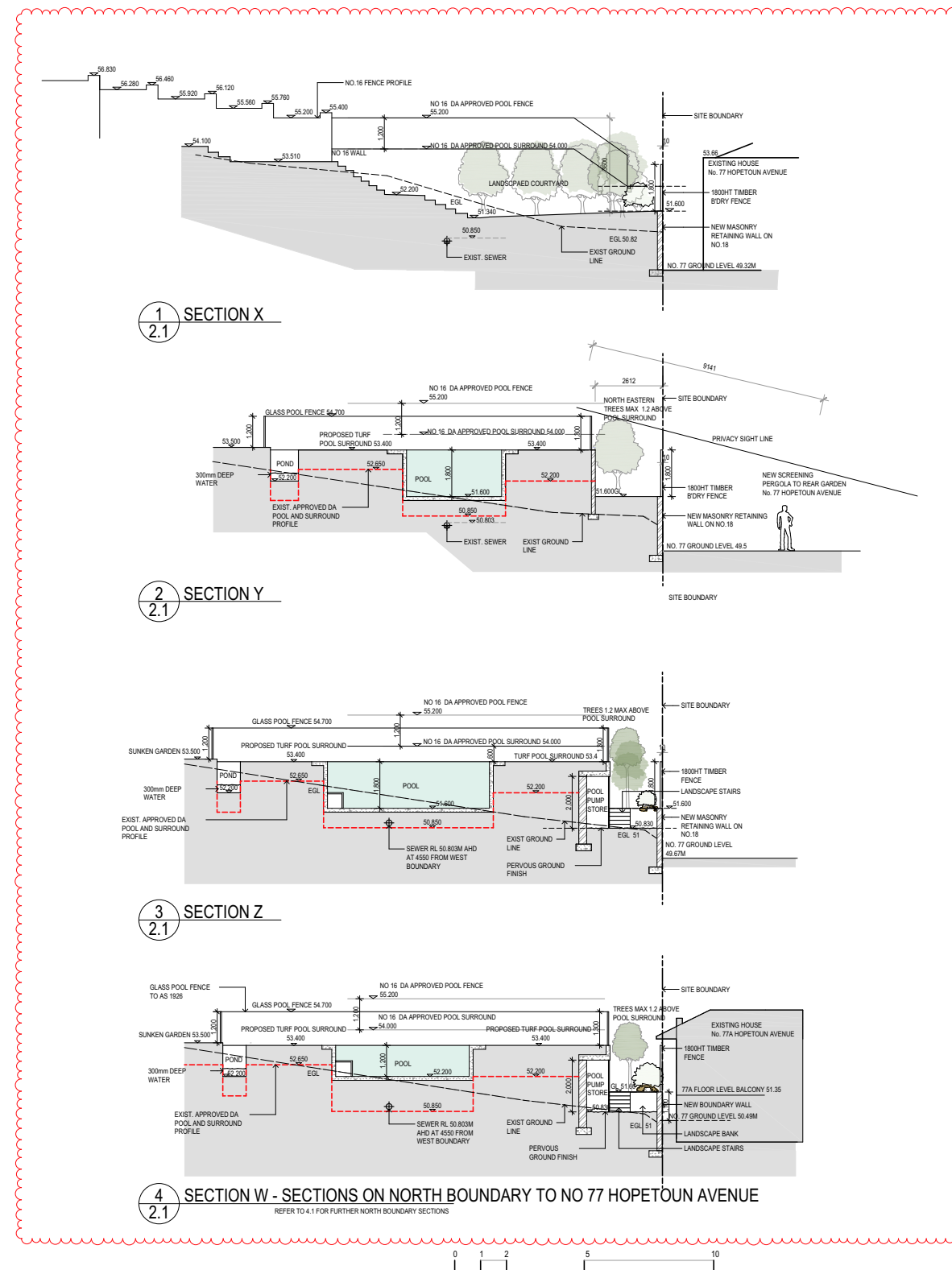
LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN ■ INTERIOR DESIGN ■ LANDSCAPE
REGISTERED LANDSCAPE ARCHITECT
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266 Copyright Louise St J Kennedy

UPDATED DOCUMENTATION PREPARED BY COTTEE
PARKER ARCHITECTS P/L FOR SECTION 4.56 APPLICATION

REVISIONS
REV 1 INITIAL 4.56 16.08.2023
REV 2 S4.56 APPLICATION UPDATE 03.07.2024

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 03.07.2024 PLOT 03.07.2024 SCALE 1:100 @ A1

4.56_3.1
RAISED POOL REV 2
ELEVATIONS
EAST WEST



LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN • INTERIOR DESIGN • LANDSCAPE
REGISTERED LANDSCAPE ARCHITECT
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266 Copyright Louise St John Kennedy

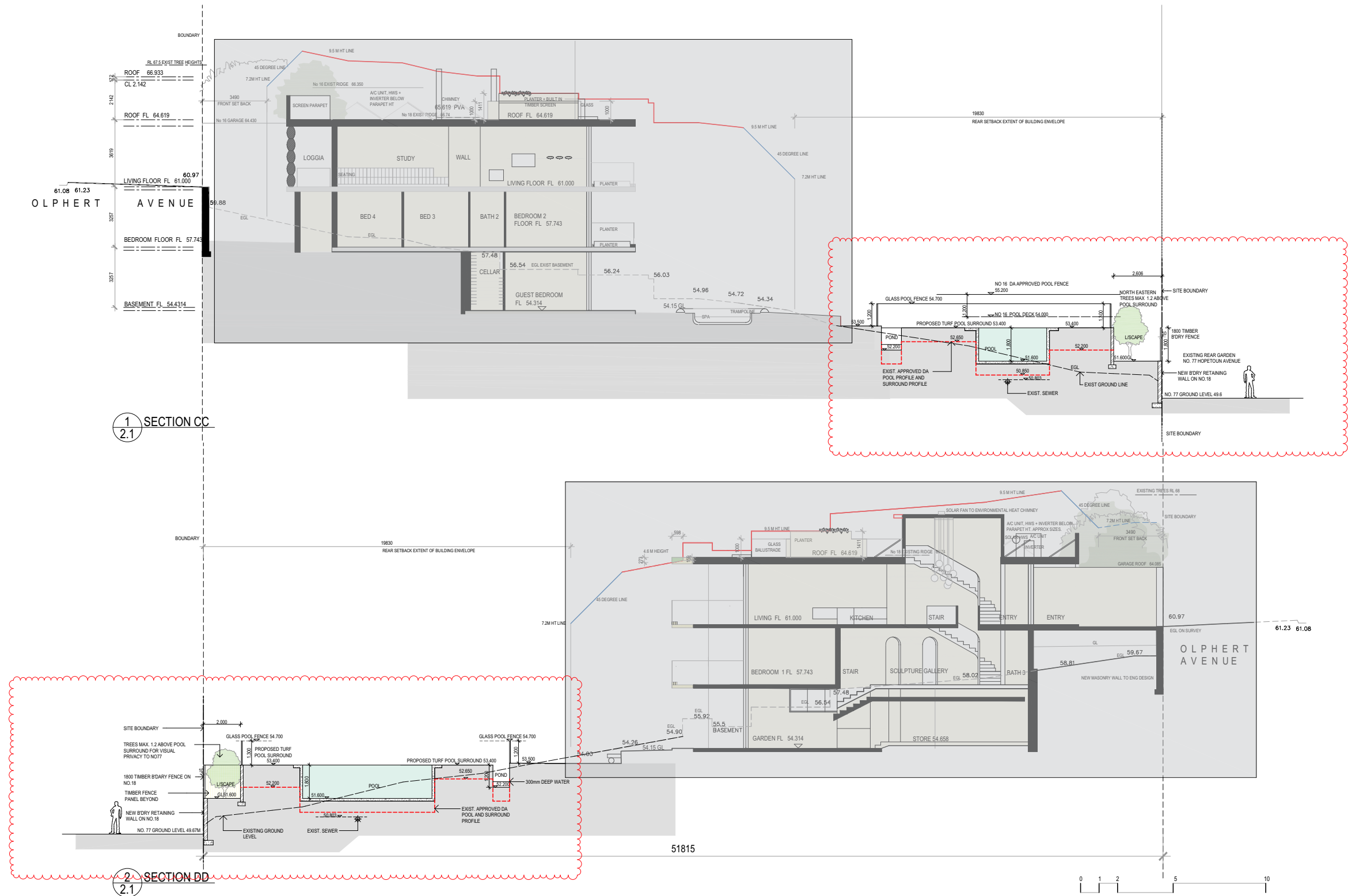
UPDATED DOCUMENTATION PREPARED BY COTTEE
PARKER ARCHITECTS P/L FOR SECTION 4.56 APPLICATION

REVISIONS

REV 1	INITIAL 4.56	16.08.2023
REV 2	S4.56 APPLICATION UPDATE	03.07.2024

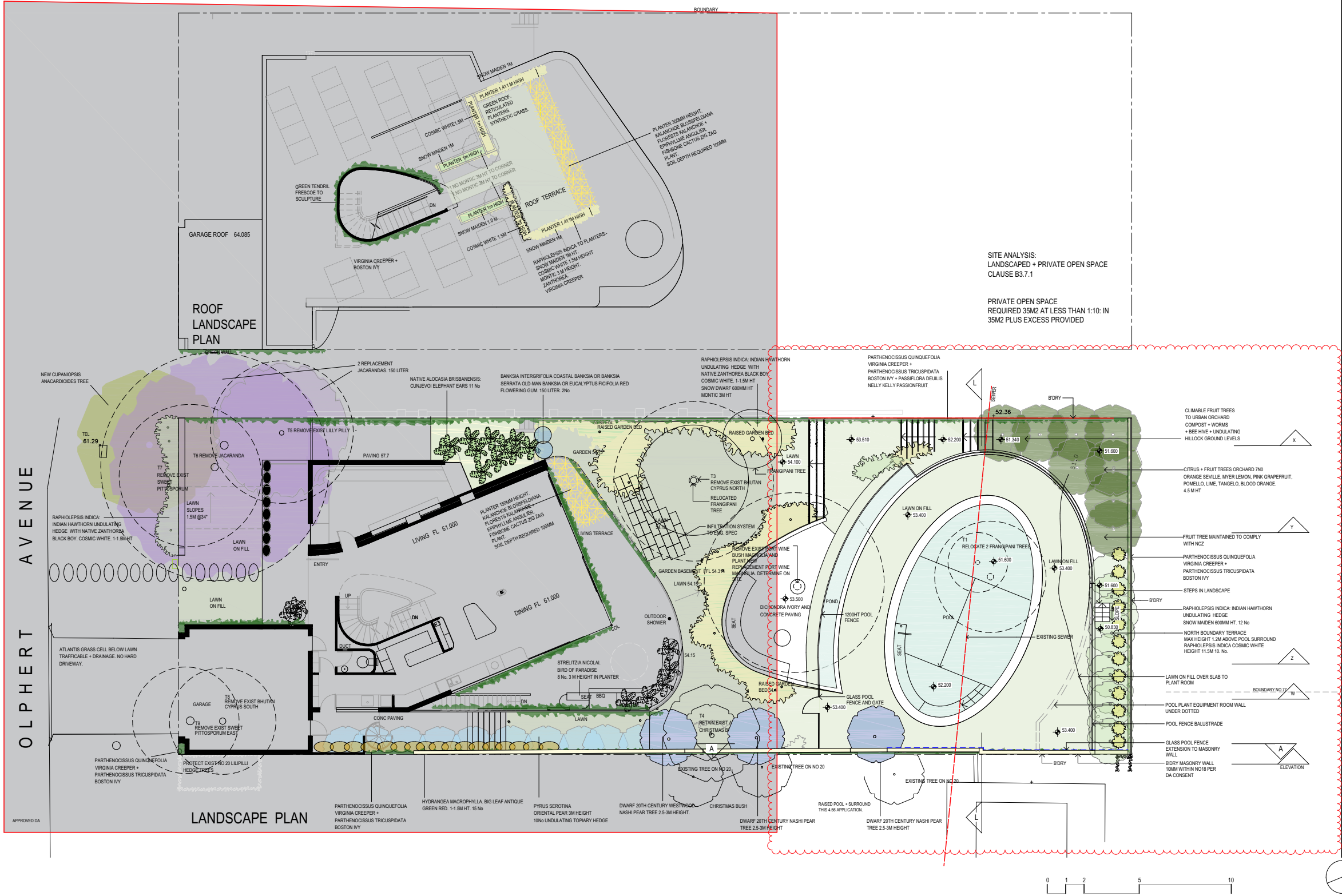
OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 03.07.2024 PLOT 03.07.2024 SCALE 1:100 @ A1

4.56_4
RAISED POOL REV 2
CROSS SECTIONS



LOUISE ST JOHN KENNEDY AILA
BUILDING DESIGN ■ INTERIOR DESIGN ■ LANDSCAPE
REGISTERED LANDSCAPE ARCHITECT
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266 Copyright Louise St John Kennedy

UPDATED DOCUMENTATION PREPARED BY COTTEE
PARKER ARCHITECTS P/L FOR SECTION 4.56 APPLICATION

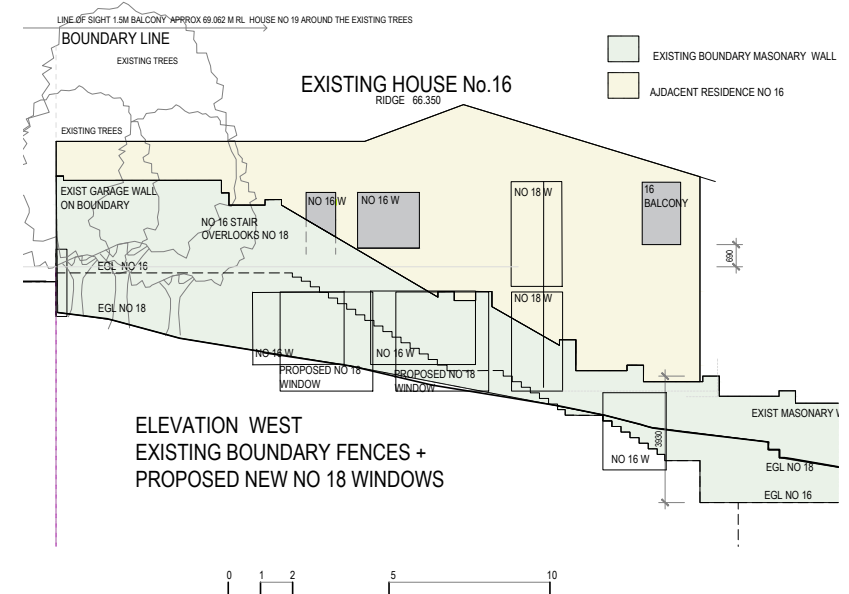
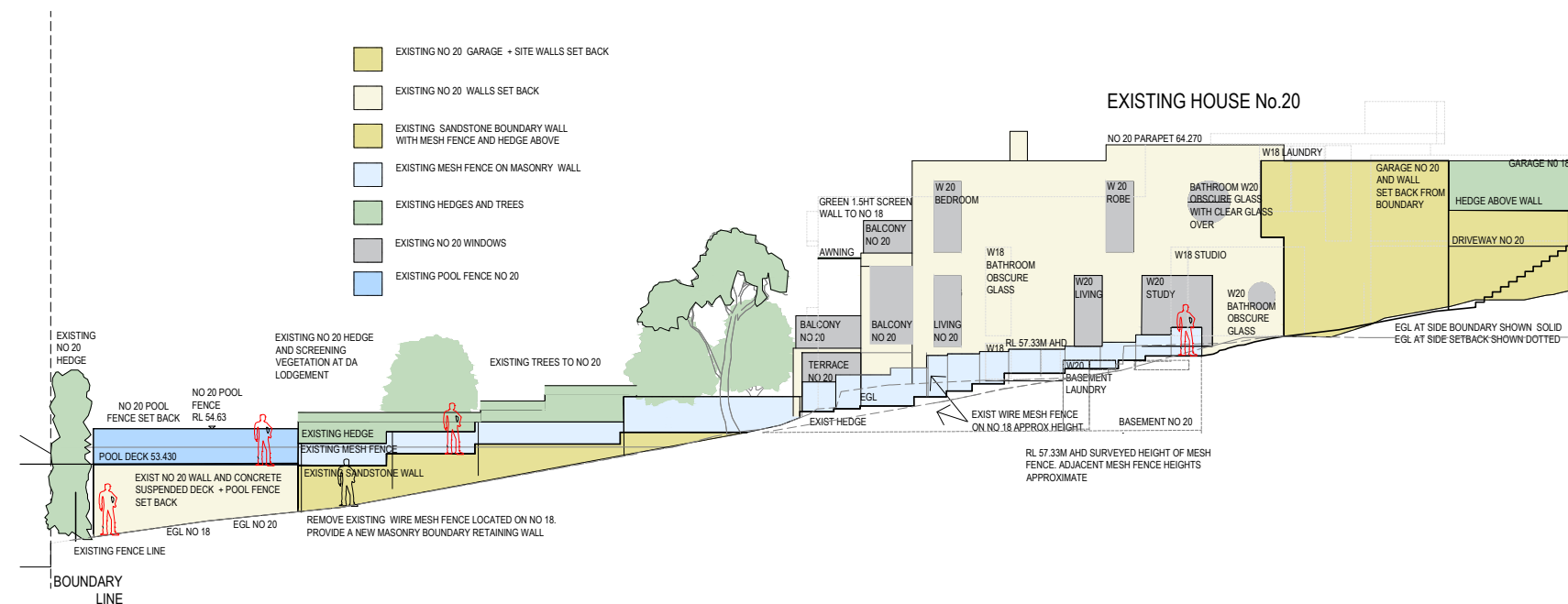
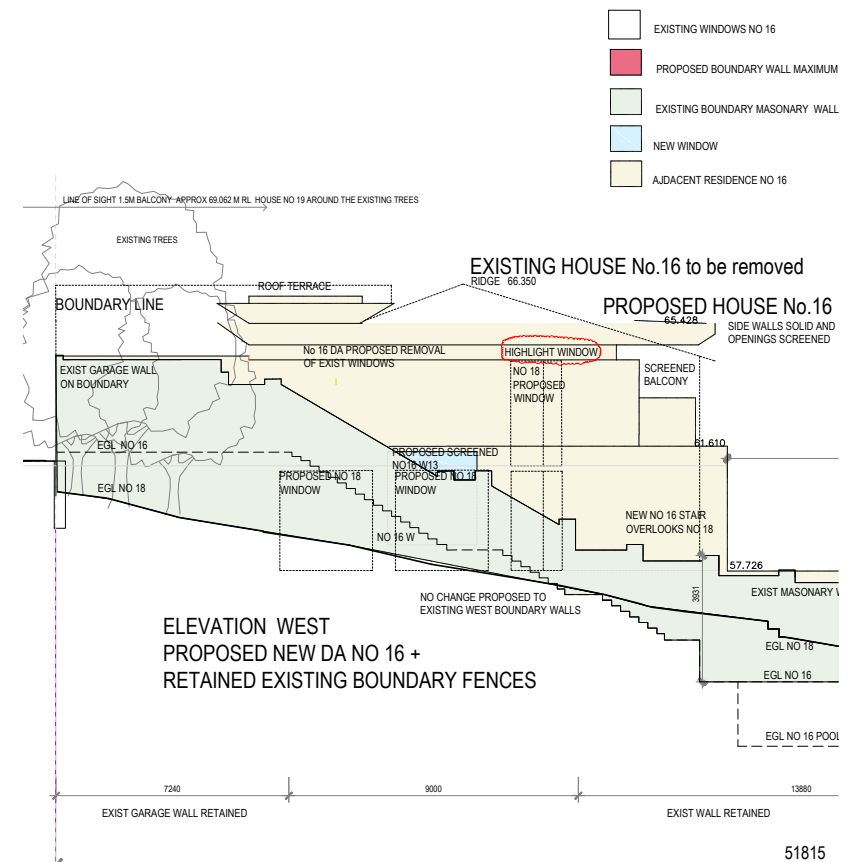
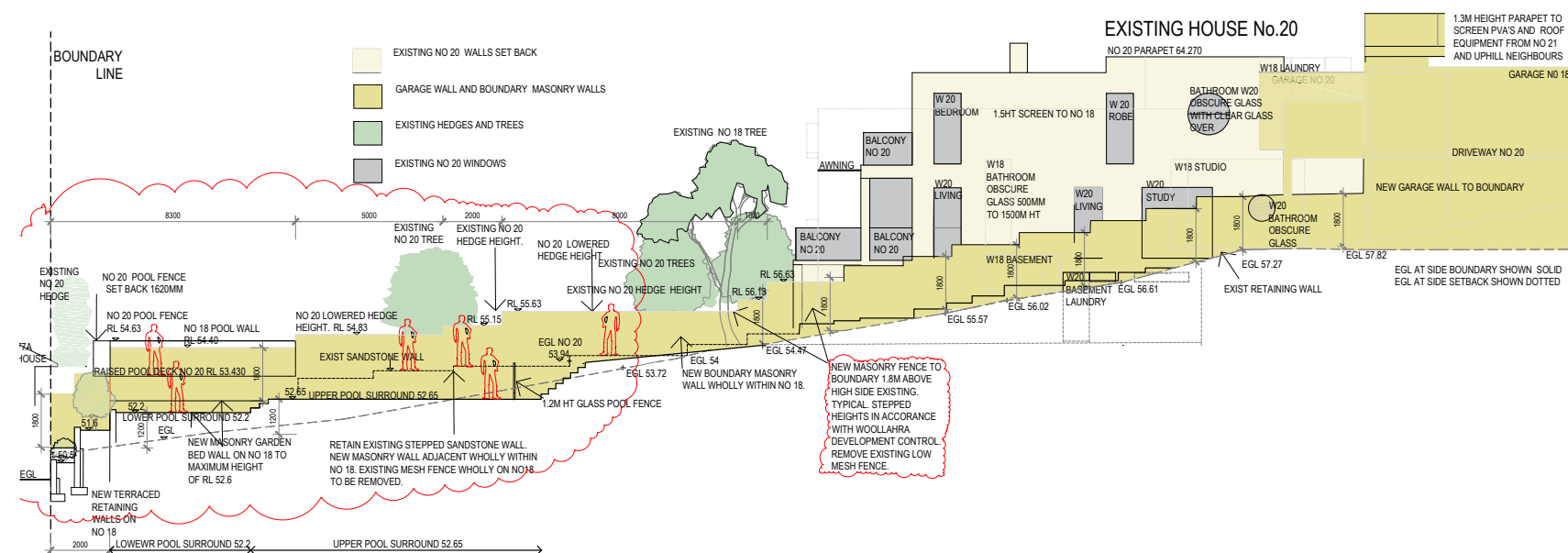


DRAWING INDEX		SCALE	ISSUE DATE	REVISION
DA 0	COVER SHEET		3 Nov 22	J
DA 1.2	SITE BOUNDARY FENCES	1:100@A1	3 Nov 22	J
DA 2	PLAN_LIVING + BEDROOM	1:100@A1	3 Nov 22	J
DA 2.1	PLAN_GARDEN + ROOF	1:100@A1	3 Nov 22	J
DA 3	ELEVATION_NORTH SOUTH	1:100@A1	3 Nov 22	J
DA 3.1	ELEVATION_EAST WEST	1:100@A1	3 Nov 22	J
DA 4	SECTIONS_CROSS	1:100@A1	3 Nov 22	J
DA 4.1	SECTIONS_LONGITUDINAL	1:100@A1	3 Nov 22	J
DA 6	LANDSCAPE PLAN	1:100@A1	3 Nov 22	J

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030

DATE 3.11.2022

LOUISE ST JOHN KENNEDY
BUILDING DESIGN | INTERIOR ARCHITECTURE | LANDSCAPE
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266



ELEVATION EXISTING
EAST BOUNDARY FENCES + PROPOSED WINDOWS AND PARAPET
TO NO. 18

LOUISE ST JOHN KENNEDY

REVISIONS

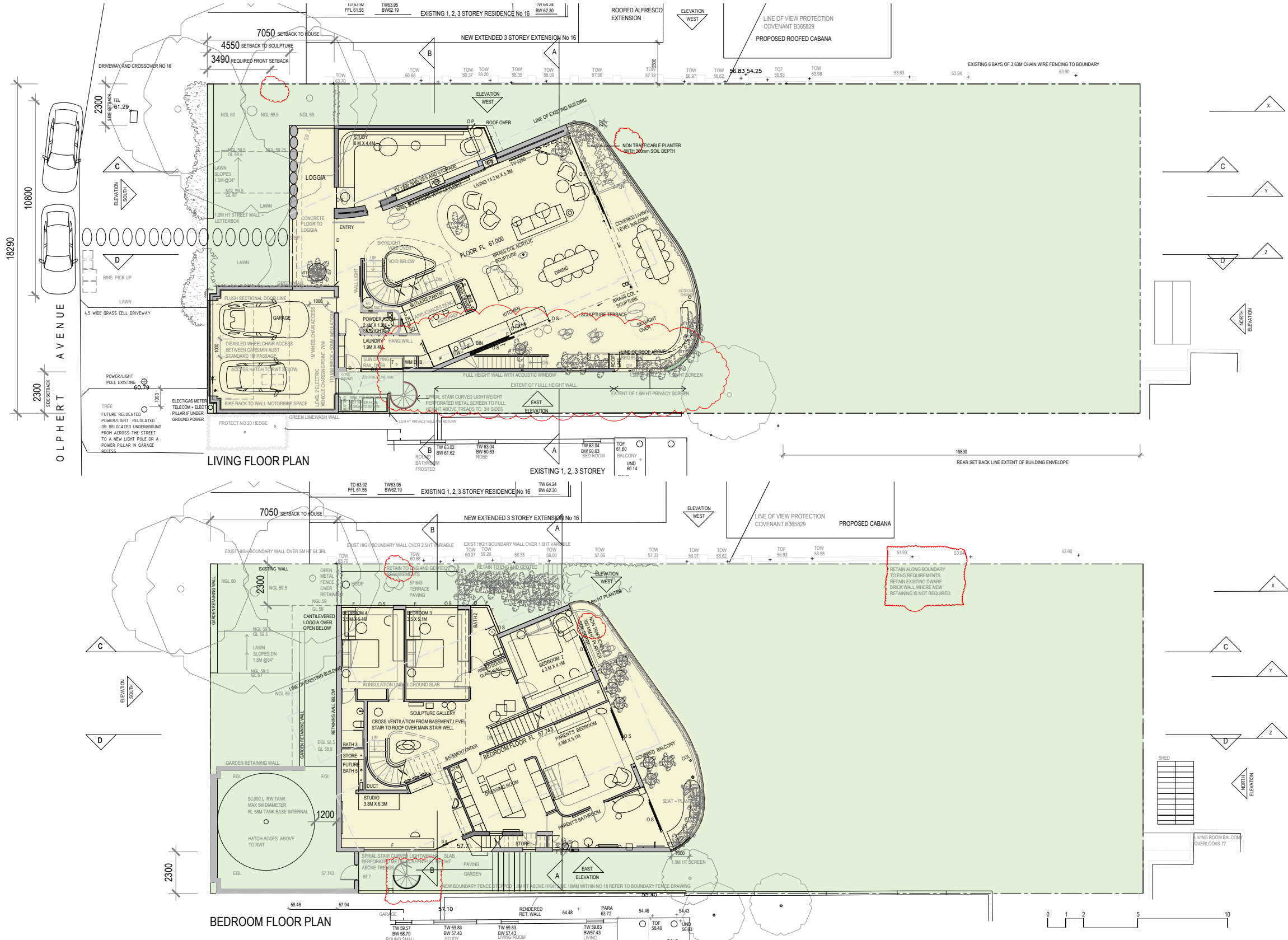
BUILDING DESIGN | INTERIOR ARCHITECTURE | LANDSCAPE
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266

REV A	5.11.20	INITIAL DA	REV F	18.03.22	Elevation West Proposed notes amended No 16.
REV D	23.6.21	Retaining + boundary fences to No 20 Boundary Parapet added south end Finish to east boundary wall added Exist windows No 16 added			Elevation East Proposed notes amended No 20 boundary 1.2m wall and pool fence removed.

REV H	17.06.22	Proposed East Boundary Walls Existing south boundary wall Highlight window
REV I	11.08.22	Proposed East Boundary Walls
REV J	3.11.22	Proposed East Boundary Walls

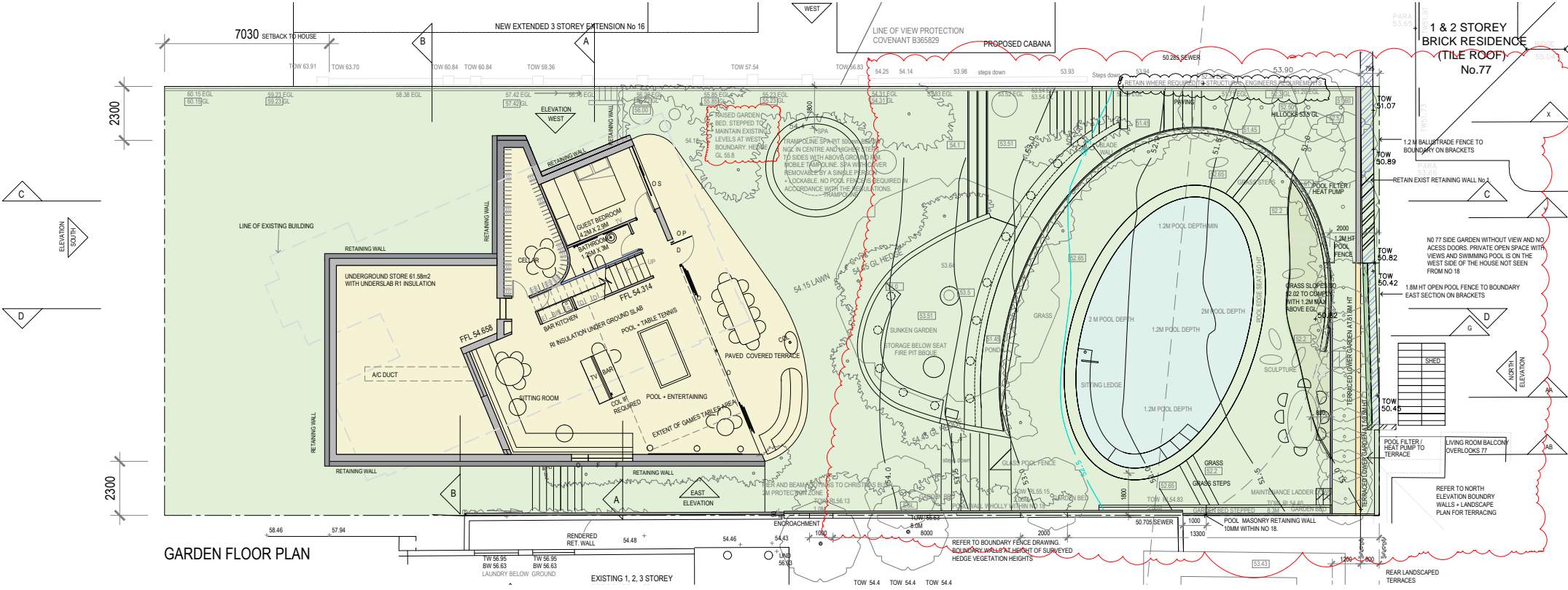
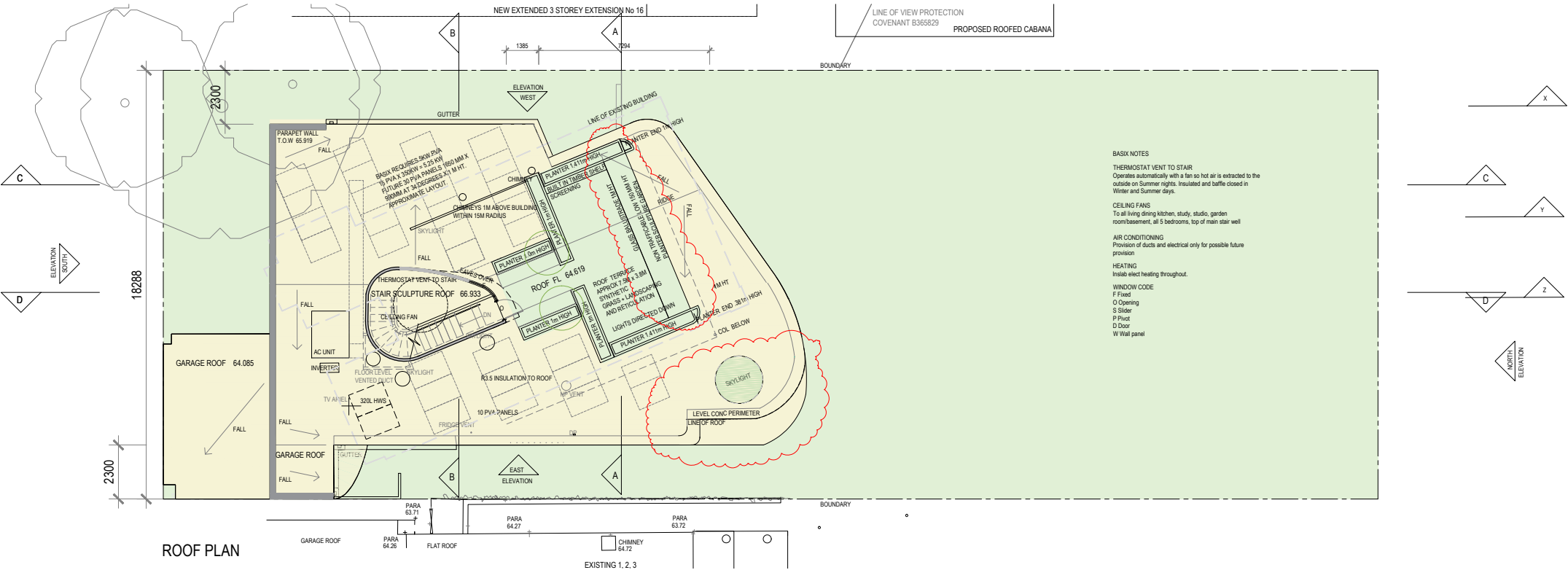
OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHER AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 3.11.2022 PLOT 08.11.2022 SCALE 1:100 @ A1

DA 1.2
REV J
BOUNDARY FENCES



LOUISE ST JOHN KENNEDY		REVISIONS		OLPHERT AVENUE RESIDENCE	
BUILDING DESIGN INTERIOR ARCHITECTURE LANDSCAPE		REV A 5.11.20 INITIAL DA		CAMPBELL D TAYLOR + SARAH J CURTIS	
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010		REV D 23.6.21 Boundary fences north and east		+ AUTUMN, RUPERT + PALOMA	
TEXTS TELEPHONE +61 412 988 266		Balcony planters to living + bedroom balcony		18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030	
		Bathroom and dressing room internal layouts		DATE 3.11.2022 PLOT 04.11.2022 SCALE 1:100 @ A1	
		REV F 18.03.22 EGL Added to RWT		REV J 3.11.22 West eaves	
		North boundary wall			
		Fences north east boundary			
		North east pool fence 1.8m ht			
		Electrical vehicle charging point to garage			
		REV I 11.08.22			

DA 2
REV J
PLAN
LIVING + BEDROOM



LOUISE ST JOHN KENNEDY

BUILDING DESIGN | INTERIOR ARCHITECTURE | LANDSCAPE

9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010

TEXTS TELEPHONE +61 412 988 266

REVISIONS

REV A 5.11.20	INITIAL DA	REV F 18.03.22	Basement retaining
REV D 23.6.21	Roof Terrace reduced		North boundary wall. Pergola Trellis.
	Garden level and pool surrounds levels reduced.		Garden levels added
	No 77 Hoppeloun details		Spa details added
	Trellis set back north and east		Retaining on east boundary
	Boundary walls north and east		Roof eave west

OLPHERT AVENUE RESIDENCE

CAMPBELL D TAYLOR + SARAH J CURTIS

+ AUTUMN, RUPERT + PALOMA

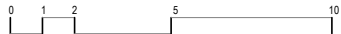
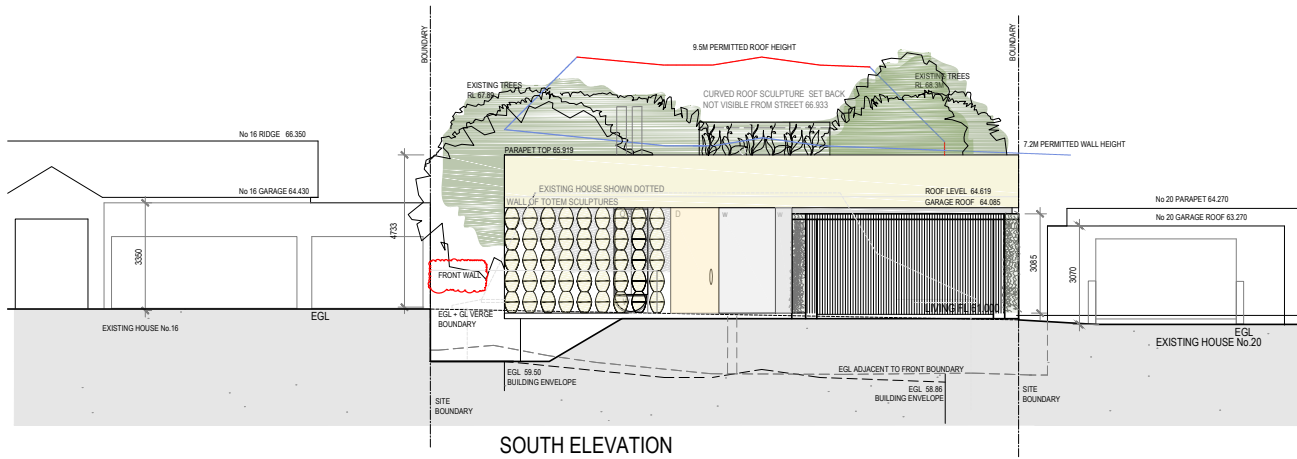
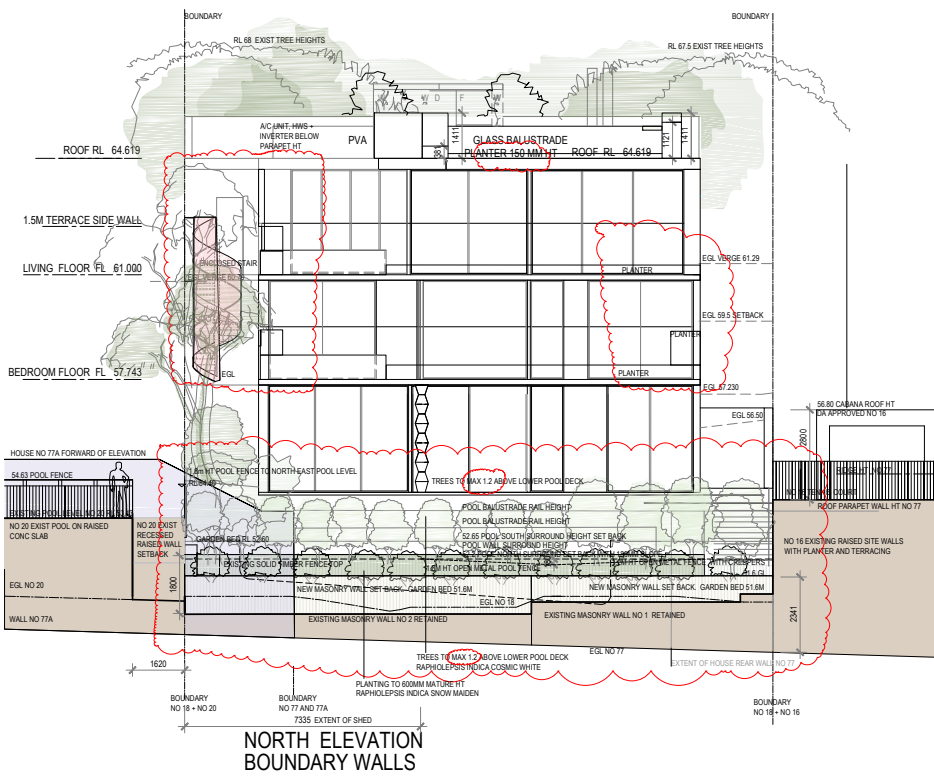
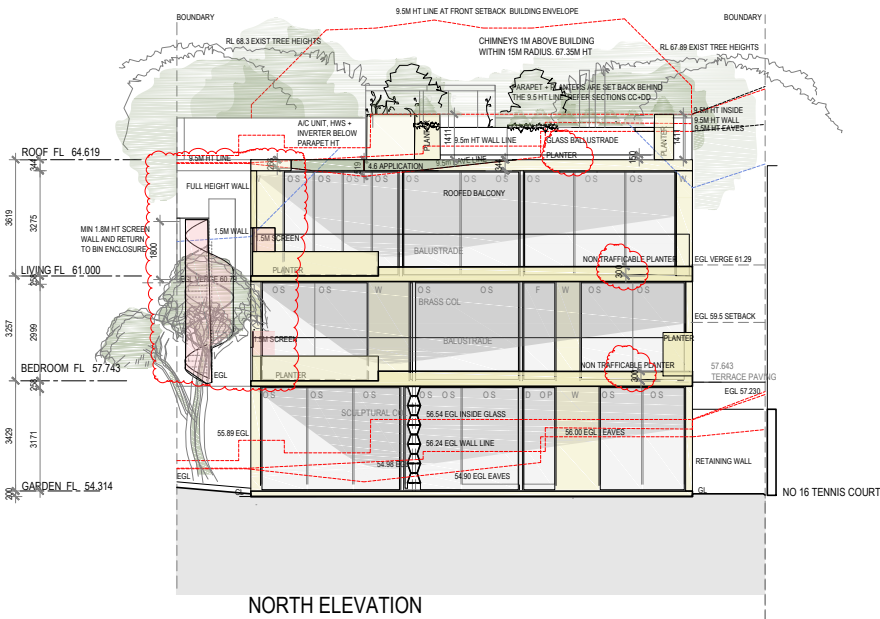
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030

DATE 3.11.2022 PLOT 04.11.2022 SCALE 1:100 @ A1

DA 2.1

REV J

PLAN GARDEN + ROOF



LOUISE ST JOHN KENNEDY

BUILDING DESIGN | INTERIOR ARCHITECTURE | LANDSCAPE
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266

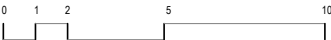
REVISIONS

REV A 5.11.20 INITIAL DA	REV F 18.03.22	Chimneys and RL added.
REV D 23.6.21 Roof Terrace reduced		A/c, Inverter + HWS added.
Spiral stair enclosed + chimneys.		Notes added to South Elevation.
Boundary walls north		Pergola Trellis.
Garden levels + pool surround lowered		Trees added to roof terrace. Roof Planters reduced 10mm ht

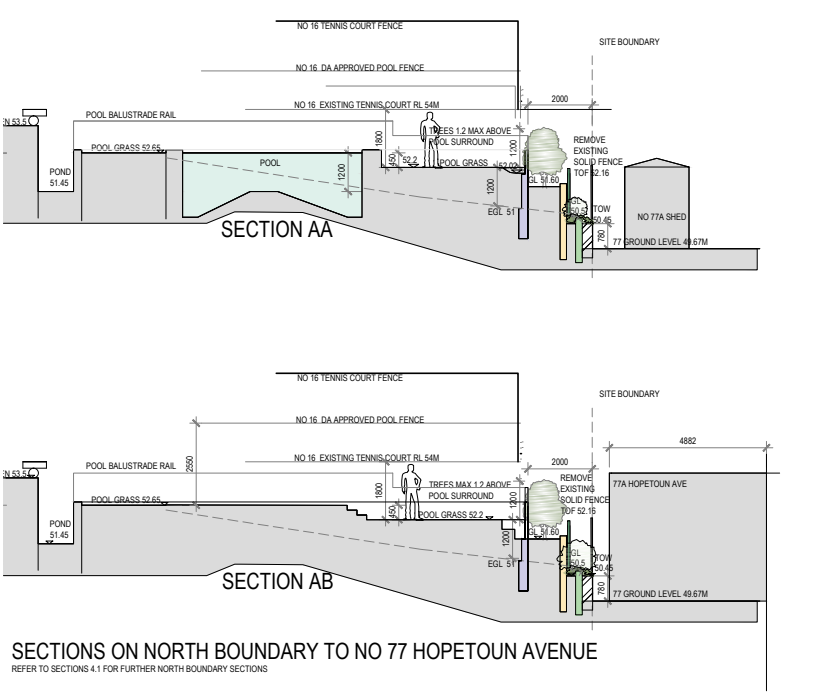
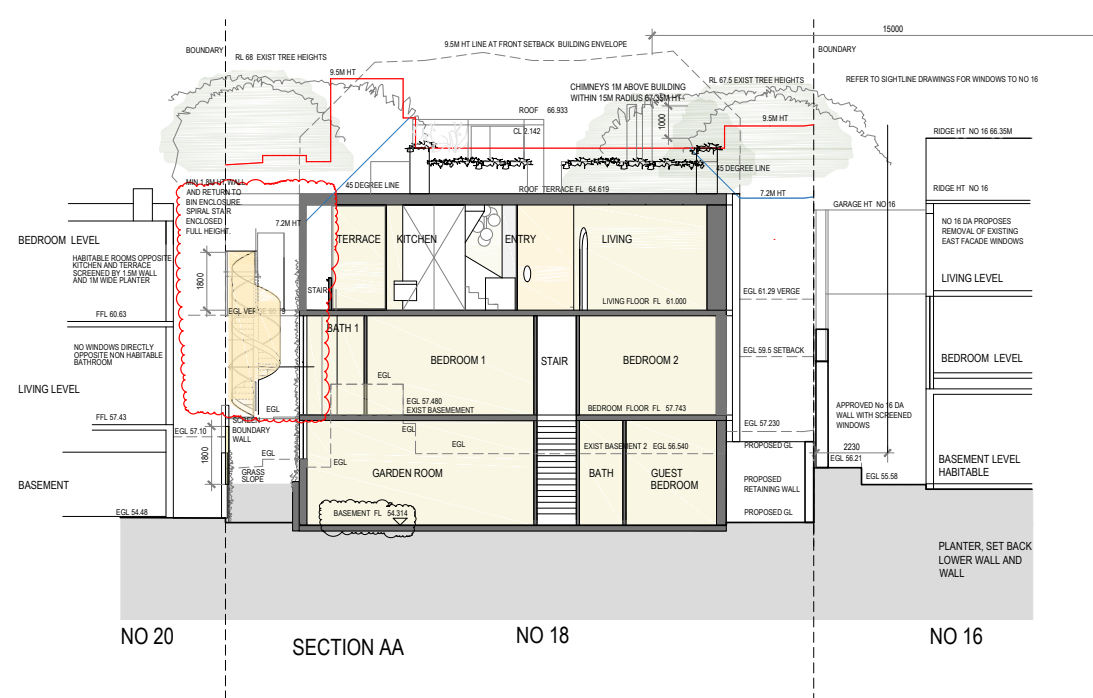
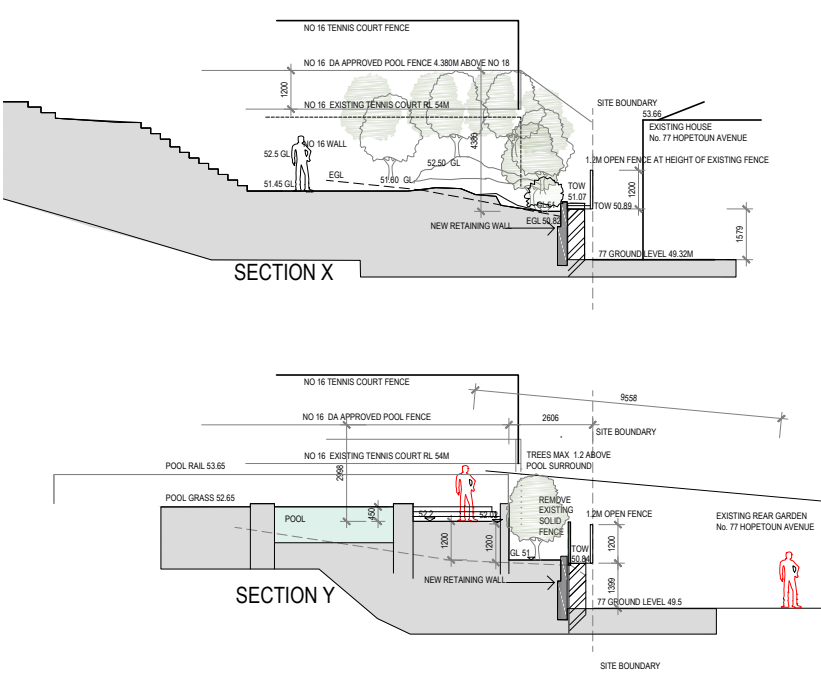
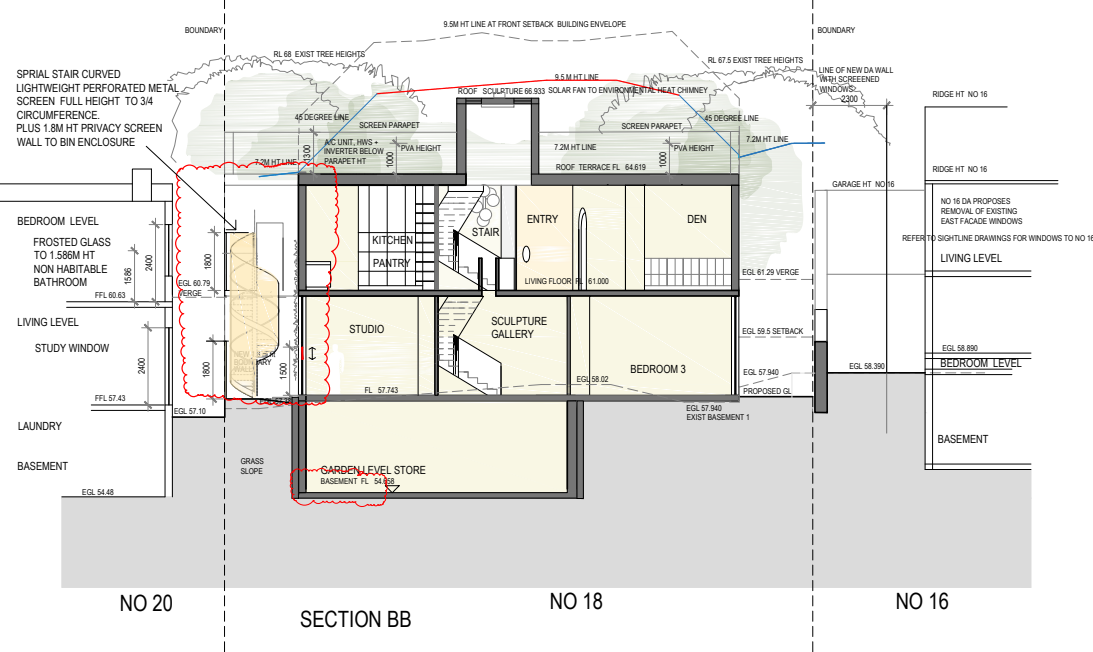
REV H 17.06.22	North Boundary Walls Elevation. Front wall.
	Living + Bedroom Terrace planters. Frangipani
	Roof Terrace balustrade + planter
REV I 11.08.22	East Living Terrace Wall + roof
REV J 3.11.22	Pool balustrade rail
	No change

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 3.11.2022 PLOT 08.11.2022 SCALE 1:100 @ A1 ELEVATIONS NORTH SOUTH

DA 3
REV J



DA 3.1
REV J
ELEVATIONS EAST WEST



SECTIONS ON NORTH BOUNDARY TO NO 77 HOPETOUN AVENUE
REFER TO SECTIONS 4.1 FOR FURTHER NORTH BOUNDARY SECTIONS

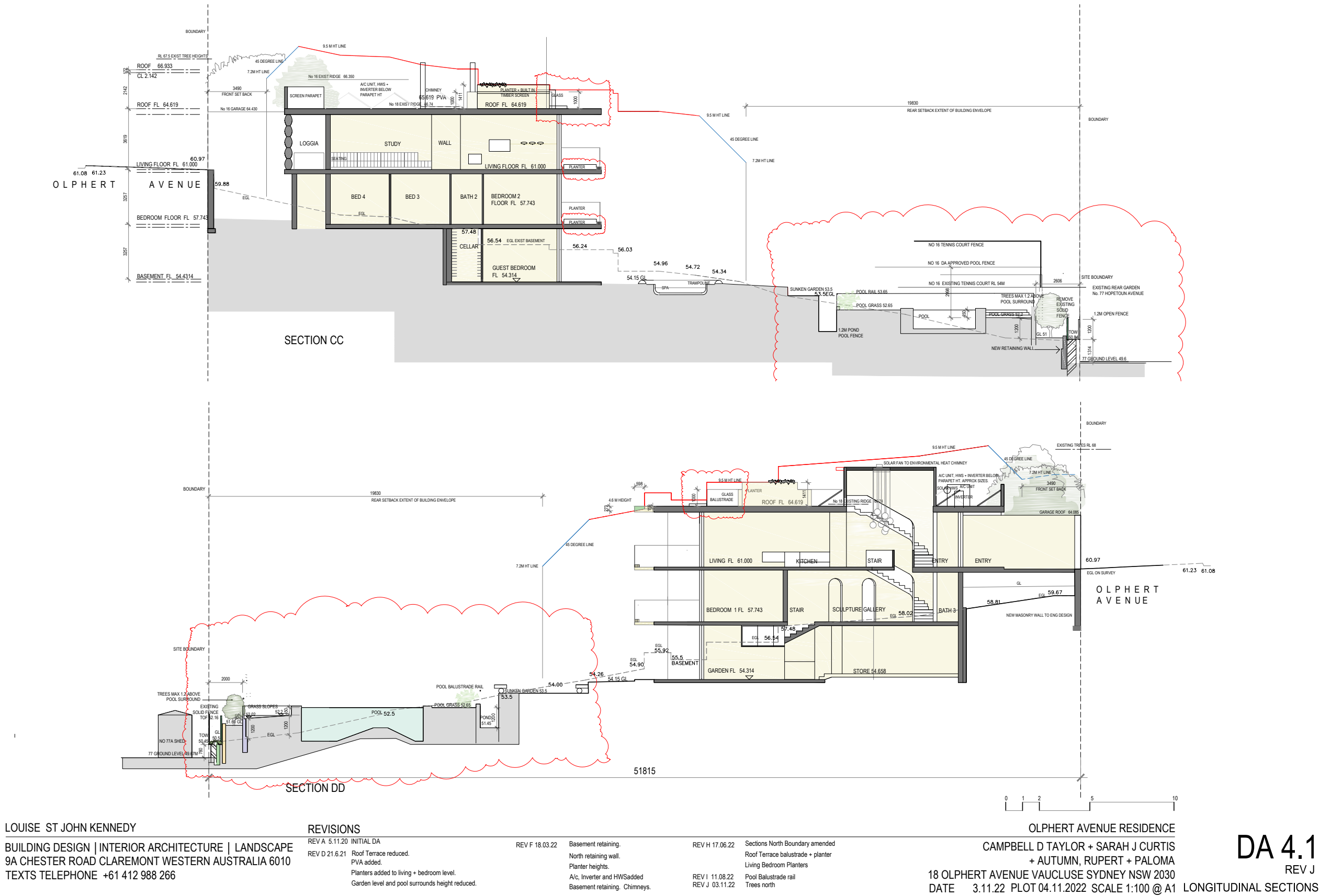
LOUISE ST JOHN KENNEDY
BUILDING DESIGN | INTERIOR ARCHITECTURE | LANDSCAPE
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266

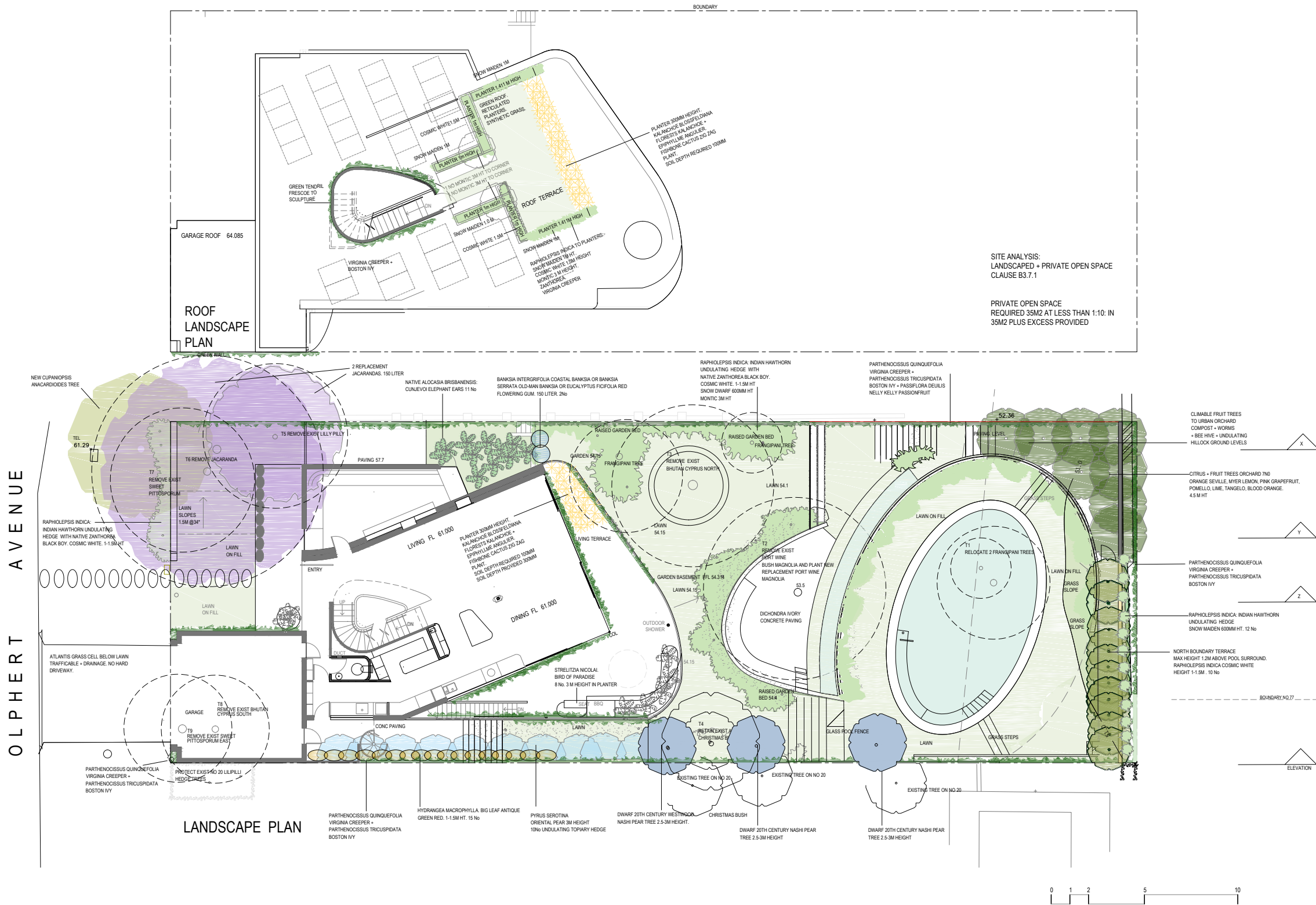
REVISIONS		
REV A 5.11.20	INITIAL DA	Basement retaining
REV D 21.6.21	Roof Terrace reduced.	North retaining wall.
	Spiral stair enclosed.	A/c Inverter + hws added
		Chimney note and RL added
		Section X,Y+ Z amended. Wall and fence notes to No 16 added.

REV F 18.03.22	Basement retaining
REV H 17.06.22	Sections North Boundary amended. Storeroom floor
	Roof Terrace balustrade + planter
	Living Bedroom Planters. Ceiling levels
	Spiral stair. East Wall Living Terrace
REV I 11.08.22	Pool balustrade rail
REV J 3.11.22	North trees

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 3.11.22 PLOT 04.11.2022 SCALE 1:100 @ A1

DA 4
REV J
CROSS SECTIONS





LOUISE ST JOHN KENNEDY
BUILDING DESIGN | INTERIOR ARCHITECTURE | LANDSCAPE
9A CHESTER ROAD CLAREMONT WESTERN AUSTRALIA 6010
TEXTS TELEPHONE +61 412 988 266

REVISIONS			
REV A	5.12.20	REV F	18.03.22
REV D	23.06.21		
North boundary wall, Trellis, Bamboo			
Planters to bed + living balcony			
Verge trees, 2 new trees to rear of site east.			
Pool fence to north eastern corner			
1.2m ht pool fence to north eastern corner			
Landscaping east boundary			
Strelitzia to balcony, Pond to trench, Frangipanni max ht			
Terracing and landscape to north boundary			
1.2m ht pool fence to north eastern corner			
Landscaping			
Pool levels + walls.			
Trellis removed.			
Trees added 2No Natives + 2No Nashi Pears adjacent to Christmas bush.			
Pyrus + Hydrangea replace Slender Weavers Bamboo.			
Frangipani + East stairs			

OLPHERT AVENUE RESIDENCE
CAMPBELL D TAYLOR + SARAH J CURTIS
+ AUTUMN, RUPERT + PALOMA
18 OLPHERT AVENUE VAUCLUSE SYDNEY NSW 2030
DATE 3.11.22 PLOT 04.11.2022 SCALE 1:100 @ A1

DA 6
REV J
LANDSCAPE PLAN

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA534/2022/1
ADDRESS	3 Fairfax Road BELLEVUE HILL (AKA 'Grenoville')
COUNCIL WARD	Bellevue Hill
SITE AREA	1036.2m ²
ZONING	R2 Low Density Residential
PROPOSAL	Demolition of existing building and construction of a new residential flat building with basement garage, swimming pools and associated landscaping
TYPE OF CONSENT	Local development
COST OF WORKS	\$5,540,000.00
DATE LODGED	01/12/2022 - Lodgement 20/12/2023 – Amended Plans
APPLICANT	Mr D Gorgievsk
OWNER	The Owners - Strata Plan No. 2122
AUTHOR	Mr B McIntyre
TEAM LEADER	Mr T Wong
SUBMISSIONS	Fourteen (14)
RECOMMENDATION	Conditional Approval

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

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

- Contentious development
Development that:
(a) is the subject of 10 or more unique submissions by way of objection

AND

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

AND

- Sensitive development
(a) Development to which State Environmental Planning Policy Housing (2021) – Chapter 4: Design of Residential Apartment Development.

2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory.
- The site is suitable for the proposed development
- The proposal, as amended and conditioned, is in the public interest

3. LOCALITY PLAN



Notes: Five objectors are outside the catchment of the map above, have not provided an address in their submission or are a previous resident of Tarrant Avenue

4. PROPOSAL

The development application (DA) was amended on 20/12/2023 to address an Unsatisfactory Development Proposal email (dated 03/11/2023) which outlined issues raised by Council's Development Engineer and external Urban Design Consultant. The amendments included the following works:

Lower Ground Floor Level

- Pedestrian entry and gate added which aligns with lift and lobby entry
- Reconfiguration of the planters and landscaping within the front setback area to include a useable communal open space area
- Rainwater tank relocated to below storage area.
- Vehicular driveway reconfigured and straightened to street

- Planter added to southern section
- Hydrant booster/meters recessed from street

Ground Floor Level

- Privacy screens added to northern elevation
- Retaining wall in front setback reduced in height
- Swimming pools reconfigured and reduced in size
- Services riser increased adjacent to fire stair

First Floor Level

- Privacy screens added to northern elevation.
- Services riser increased adjacent to fire stair.

Second Floor Level

- Primary terrace relocated to front (western) side of building
- Minor reconfiguration to apartment layouts
- Services riser increased adjacent to fire stair.

The following additional supporting documentation was provided:

- Amended Stormwater Drawings
- Amended Geotech Report
- Amended Landscape Plans

The proposal, as amended, involves the demolition of all of the existing structures, excavation to accommodate a basement parking level, the construction of a three storey residential flat building comprising five (5) units and associated landscaping. The configuration of the new residential flat building is as follows:

Lower Ground Floor Level

- Excavation to accommodate the new lower ground floor level
- Ten (10) car spaces and one (1) visitors parking space
- Bicycle parking area for five (5) bicycles and one (1) motorcycle parking space
- Storage areas for individual units
- Lift lobby and common stairs
- Refuse area, fire pump room and comms room
- Communal Open Space within the front setback
- Pedestrian entry
- Vehicle access ramp
- Water meter and hydrant boosters at the street front
- Associated landscaping

Ground Floor Level

- Two (2) apartments comprising three (3) bedrooms, three (3) bathrooms, kitchen, living areas and laundry
- Private open space areas to the rear, covered terraces at the front and a swimming pool for each apartment within the front setback
- Lift lobby and common stairs
- Associated landscaping

First Floor Level

- Two (2) apartments comprising three (3) bedrooms, three (3) bathrooms, kitchen, living areas and laundry
- Private open space areas in the form of a covered terrace at the front
- Lift lobby and common stairs

Second Floor Level

- One (1) apartment comprising four (4) bedrooms (all en-suite), kitchen, living areas, powder room and laundry
- Private open space areas to the front and rear of the living area and a terrace off the main bedroom
- Direct lift entry and common stairs
- Non-trafficable perimeter roof garden

Roof level

- Flat roof
- Lift over run
- Four (4) skylights and mechanical installations associated with the exhausts

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	1.11m or 11.7% departure from the 9.5m control	Satisfactory*

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

5.2 Primary Issues

Issue	Conclusion	Section
Existing use rights	Satisfactory. The proposal has been assessed with regards to Clauses 4.65 and 4.66 of the Environmental Planning and Assessment Act 1979. The documentation submitted with the development application and Council's records have adequately established that the site has the benefit of existing use rights, being used as a "residential flat building"; and there is no evidence that the existing use rights pertaining to the site have been abandoned.	10
Height of buildings development standard	Satisfactory. While non-compliant, the submitted written request pursuant to Clause 4.6 of the WLEP 2014 is considered to be well founded.	11.1.2
Bulk and scale	Satisfactory. The proposal, as amended, is considered to be acceptable as the proposal satisfies the relevant objectives of the control.	Throughout the report
Streetscape character	Satisfactory. The proposal, as amended, is considered to be acceptable as the proposal satisfies the relevant objectives of the control.	Throughout the report
Excavation	Satisfactory. The proposal, as amended and conditioned, is considered to be acceptable as the proposal satisfies the relevant objectives of the control.	11.3.1 & 16.5

Issue	Conclusion	Section
Front, side and rear setbacks	Satisfactory, the minor numerical non-compliances are considered to be acceptable as the proposal satisfies the relevant objectives of the control.	11.1.4
Visual privacy	Satisfactory. Subject to Condition C.1(a) & (b) , the proposal, as amended, is considered to be acceptable as the proposal satisfies the relevant objectives of the controls.	11.3.5
Swimming pools	Satisfactory, the numerical non-compliances are considered to be acceptable as the proposal satisfies the relevant objectives of the control.	17.1.1

5.3 Summary of Submissions

Issue	Conclusion	Section/s
Reliance on Existing Use Rights	The Applicant has sufficiently demonstrated that the Site benefits from existing use rights as a residential flat building. Refer to Section 10 of this report for detailed discussion in this regard.	10
Integrated Development	Amended plans were submitted which included tanking the basement. The amended proposal was referred to Water NSW who advised that the proposal, as amended, was satisfactory, subject to General Terms of Approval.	Condition A.8
Floor area	<p>The site is zoned R2 Low Density Residential Zone, whereby no FSR control is applicable to RFB.</p> <p>Given that the DA seeks to rely on existing use rights, and the purpose of Council's consideration of the above control and development standard is to ascertain the relationship of the proposal with its existing residential flat building use and likely future context, it is considered reasonable to assess the DA against the FSR that applies to land adjoining and in close proximity to the subject site.</p> <p>The proposal would achieve an appropriate built form transition between the neighbouring medium density residential developments located along Bellevue Road and lower scale developments to the north, west, east and south-east of the subject site.</p> <p>The proposal represents a development which is compatible with the bulk and scale of development in close proximity to the subject site.</p>	11.1.3
Bulk and scale	The proposal, as amended, would achieve a bulk and scale which is compatible with properties in the immediate locality. The proposal is considered to be satisfactory, achieving the relevant objectives of the Woollahra LEP 2014 and the Woollahra DCP 2015.	Throughout the report
Streetscape character	The proposal, as amended, would achieve compatibility with the streetscape character in this locality. The proposal is considered to be satisfactory, achieving the relevant objectives of the Woollahra LEP 2014 and the Woollahra DCP 2015.	Throughout the report
Excavation - Concerns were raised with regards to potential impacts on adjoining properties and the cliff located along the rear (north-eastern) section of the site	<p>Whilst the proposal results in non-compliances with the volumetric controls, relevant conditions have been recommended to ensure the proposed excavation does not give rise to concerns relating to safety, impact and structural risks on adjoining properties.</p> <p>A Geotechnical Report was submitted with the application and reviewed by Council's Development Engineer who</p>	11.3.1 & 16.4

Issue	Conclusion	Section/s
	<p>raised no issues on engineering grounds with regard to the proposed excavation, subject to conditions.</p> <p>The proposal, as conditioned, achieves the relevant objectives of the Woollahra LEP 2014 and the Woollahra DCP 2015.</p>	
Acoustic privacy (Mechanical Plant associated with the development)	<p>The proposal is not expected to generate any unreasonable acoustic impacts having regard to the immediate residential context.</p> <p>It is further noted that the proposed setbacks, coupled with the existing setbacks of existing development on neighbouring properties, will ensure adequate separation is achieved between buildings.</p> <p>In addition, relevant conditions of consent are imposed requiring all mechanical plant equipment associated with the development be acoustically treated so that noise from any plant and equipment shall not exceed ambient background noise levels measured at the common boundaries.</p>	11.3.4
Visual privacy	<p>Overlooking concerns have been addressed by amended plans which incorporate privacy screens to the north-facing windows.</p> <p>The proposal, as amended, achieves the relevant objectives of Part B3.5.4 of the Woollahra DCP 2015 and ADG.</p>	11.3.5
Tree removal	The proposal has been considered to be satisfactory by Councils Tree and Landscaping Officer subject to relevant recommended conditions.	Throughout the report
Heritage significance	Councils Heritage Officer has advised that the existing building does not meet the threshold for listing as an item on the Woollahra Local Environmental Plan 2014 or on the State Heritage Register, under any of the possible criteria and therefore does not need to be protected in accordance with Part 5.10(1)(b).	16.1
Traffic impacts - Safety risks - Traffic congestion - Construction vehicles	<p>Any potential impacts from the development during construction with regards to traffic, working hours, noise, dust, storage of materials and waste removal have been appropriately mitigated by relevant recommended conditions.</p> <p>It is acknowledged that temporary amenity impacts will occur during construction. However this issue does not warrant refusal of the application. In addition, the proposal has been considered to be satisfactory by Councils Traffic Engineer, subject to relevant recommended conditions including the requirement of a Construction Management Plan in order to ensure that any amenity impacts are minimised during the construction period.</p>	11.3.6
Cost of works understated	A revised QS Report was provided which was considered to be acceptable with regards to the cost of works.	-
Flooding impacts Water issues (elaborate)	The proposal has been considered to be satisfactory by Councils Development and Drainage Engineers subject to relevant recommended conditions.	17.2
Potential roof terrace	The proposal does not include a roof terrace.	-

Timing of notification	The application was advertised and notified from 18 January 2023 to 2 February 2023 and again from 29 March 2023 to 28 April 2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.	9.1
Location of site notice during notification period	The applicant provided a Statutory Declaration declaring the site notice was erected and maintained in accordance with the Woollahra Community Participation Plan.	9.3
Inadequate information – potential geotechnical and water table issues	<p>The documentation provided with the application is considered adequate to enable an informed assessment of the proposal to be carried out against the relevant considerations pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979.</p> <p>In addition, the proposal has been reviewed by Council's Development Engineer who raised no issues on engineering grounds with regard to the proposed excavation, subject to conditions.</p>	-

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
<p>The site is located at 3 Fairfax Road, Bellevue Hill and comprises a single allotment legally described as Strata Plan 2122. The site has a northern boundary to New South Head Road and a southern boundary to Edgecliff Road.</p> <p>The site is generally a trapezoidal shape, with a northern (side) boundary of 30.48 metres, a combined eastern (rear) boundary of 26.40 metres, a southern (side) boundary of 36.56 metres, and a western frontage to Fairfax Road of 38.835 metres. The site measures 1036.2m² in area.</p>
Topography
<p>The site is elevated above Fairfax Road with a cliff along the rear (eastern) boundary. The cliff to the rear measures between approximately 10-12 metres higher than the rear lawn, which has a retained garden adjacent to the cliff. The front garden is elevated above four single garages and is approximately about 2-3.5 metres above the footpath of Fairfax Road. Excluding the cliff located at the rear, the site has an east to west fall of approximately 5.5m along the southern boundary towards street level. The level on which the existing flat building is constructed, is generally level with a fall of approximately a metre from the rear to the front gardens. The subject site has a north to south fall along the Fairfax Road frontage of approximately 2m.</p>
Existing buildings and structures
<p>The site is currently occupied by a three (3) storey residential flat building comprising of three (3) flats (generally located in the middle of the site), a high stone retaining wall to the Fairfax Road boundary, a driveway to the main entrance of the Residential Flat Building, four (4) single garages set into the stone retaining wall at street level and associated landscaping.</p>
Surrounding Environment
<p>The development surrounding the subject site is characterised by a mix of dwelling houses and multi storey residential flat buildings and includes a mix of building forms, heights, densities and architectural types.</p> <ul style="list-style-type: none"> To the north: Immediately to the north of the subject site is No. 5 Fairfax Road, which is occupied by a two-storey dwelling house with hipped roof and basement parking at street level. To the east and north-east: Immediately to the east and north-east of the subject site, at the top of the cliff to the rear of the subject site, is No. 2A Tarrant Road, which is occupied by a part two part three-storey dwelling house with pitched roof. To the south: Immediately to the south is a sliver of land which forms part of No. 2A Tarrant Road and separates the subject site from 2B Tarrant Avenue. The development at No. 2B Tarrant Road comprises a two-storey dwelling with pitched roof and an elevated swimming pool adjacent to Bellevue Road.

- **To the west:** To the south-west, on the opposite side of Fairfax Road, is No. 2 Fairfax Road which is occupied by a two storey dwelling with a pitched roof and double garage at Fairfax Road. Adjacent to the pedestrian entry No. 2 Fairfax Road is a driveway which provides access to No. 175 Bellevue Road, which contains a residential flat building comprising of ten (10) dwellings. On the opposite side of Bellevue Road, to the south-west, is No. 154-156 Bellevue Road which contains a medium density residential complex comprising of eighteen (18) dwellings.



Aerial view of the subject site



View of the subject site from Fairfax Road (Source: SEE prepared by GSA Planning)



View of the subject site from Fairfax Road



View of the subject site from the intersection of Bellevue Road and Fairfax Road



View of the parking structure on the subject site from the intersection of Bellevue Road and Fairfax Road



View of the subject site and driveway access to the site from Fairfax Road



View of the parking area located within the front setback above the existing garages (located at street level)



View of the garden located within the rear (north-eastern) setback

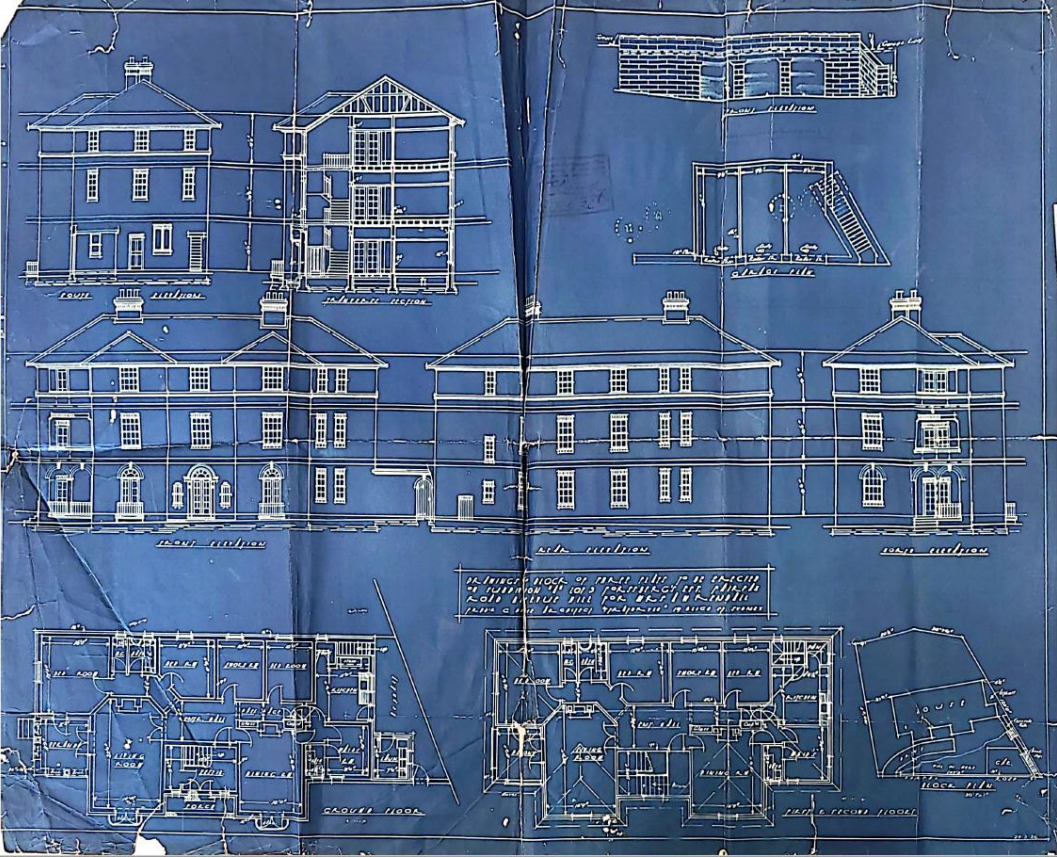


View of the garden located within the rear (north-eastern) setback, bounded by the sandstone cliff located along the north-eastern boundary between the subject site and No. 2A Tarrant Avenue



View of the garden located within the side (north-western) setback between the subject site and the adjoining property at No. 5 Fairfax Road

7. RELEVANT PROPERTY HISTORY

Current use
Residential Flat Building
Relevant Application History
<ul style="list-style-type: none">BA 148/1926 approved on 27 April 1926 for the construction of three residential flats and garages.
<div></div>
Architectural Plans approved under BA 148/1926
<ul style="list-style-type: none">Strata Plan 2122 was registered on 7 June 1966, as three lots.BA90/1975 was approved on 7 March 1975 for minor alterations to Flat 3.



Nil.

Nil.

14/12/2022 – A Stop the Clock Letter was sent to the applicant identifying the following deficiencies / lack of information:

- 03/11/2023 – An Unsatisfactory Development Proposal email was sent to the applicant identifying the following deficiencies / lack of information:

- Responses to the Stop the Clock Letter were received on 14th, 19th, 20th, 21st December 2023 and 19th January 2024 addressing the deficiencies / lack of information.

Land and Environment Court Appeal(s)

Land and Environment Court Appeal(s)

Nil.

8. REFERRALS

Referral	Summary of Referral Response	Annexure/s
Development Engineering	Satisfactory, subject to conditions.	3
Trees and Landscaping	Satisfactory, subject to conditions.	4
Heritage	Satisfactory, subject to conditions.	5
Urban Design	Satisfactory.	6
Fire Safety	Satisfactory, subject to conditions.	7
Traffic	Satisfactory, subject to conditions.	8
Drainage	Satisfactory, subject to conditions.	9
Water NSW	Satisfactory, subject to General Terms of Approval	10
Sydney Water - Concurrence	Satisfactory, subject to conditions.	11

ENVIRONMENTAL ASSESSMENT

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

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

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from **18 January 2023 to 2 February 2023** in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. **Jennifer & Brian Hansen**, 4 Fairfax Road, Bellevue Hill
2. **Koula Notaras**, 4/29 Fairfax Road, Bellevue Hill
3. **James Stevens**, 1 Fairfax Road/2A Tarrant Avenue, Bellevue Hill
4. **Liz St George**, Former resident of Tarrant Avenue, Bellevue Hill
5. **Sinclair & Lara Gray**, 7 Fairfax Road, Bellevue Hill
6. **Anna Solomon & Ronnie Kessler (2 submissions)**, 5 Fairfax Rd, Bellevue Hill
7. **Ian Hardy**, 2 Fairfax Road, Bellevue Hill
8. **Madeleine & Duncan Fairweather**, no address provided
9. **Stephanie Hardy**, 2 Fairfax Road, Bellevue Hill
10. **Bruce Solomon**, 60A Wunulla Road, Point Piper
11. **Douglas & Caroline Isles**, 2B Tarrant Avenue, Bellevue Hill
12. **Brett Daintry on behalf of the owners** at 5 Fairfax Road, Bellevue Hill
13. **Michael Berger**, 29 Fairfax Road, Bellevue Hill

The DA was re-advertised and re-notified from **29 March 2023 to 28 April 2023** as an Integrated Development as it was incorrectly advertised and notified.

All submissions raised under the original notification, and re-notification, are acknowledged and have been summarized in Section 5.3 of this report.

9.2 Amended Plans

The amended plans noted in Section 4 were not re-notified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 21 August 2024 declaring that the site notice for DA534/2022/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

EXISTING USE RIGHTS

The use of the subject land as a residential flat building is prohibited under the R2 Low Density Residential Zone. The application therefore relies upon the site benefiting from existing use rights (EUR) as regulated under Section 4.11 of the Environmental Planning and Assessment Act 1979 (EPA Act 1979) and Part 7 of the Environmental Planning and Assessment Regulation 2021 (EPA Regulations 2021). As such, it must be established that the subject land benefits from EUR for development consent to be granted.

The relevant matters for consideration under the EPA Act and EPA Regulations are assessed under the following headings:

10. DIVISION 4.11 OF THE EPA ACT 1979 AND PART 7 OF THE EPA REGULATION 2021

10.1. Clause 4.65 of the EPA Act 1979: Definition of Existing Use and Clause 4.66 of the EPA Act 1979: Continuance of and limitations on existing use

Does the existing use satisfy the definition of "existing use" under the Act?

4.65 Definition of "existing use"

*In this Division, **existing use** means:*

- (a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land:*
 - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

4.66 Continuance of and limitations on existing use

- (1) *Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) *Nothing in subsection (1) authorises:*

- (a) *any alteration or extension to or rebuilding of a building or work, or*
 - (b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
 - (c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
 - (d) *the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17 (1) (b), or*
 - (e) *the continuance of the use therein mentioned where that use is abandoned.*
- (3) *Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*
- (4) *During the period commencing on 25 March 2020 and ending on 25 March 2022, the reference to 12 months in subsection (3) is taken to be a reference to 3 years.*

The above requires the following questions to be answered:

1. **The use was lawfully commenced**

Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?

2. **The use was made prohibited by a subsequent LEP**

Was the use of the building, work or land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

3. **The use has been continuous and not been abandoned for more than 12 months**

Has the use of the building, work or land been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

Assessment:

The Woollahra LEP 2014 defines a residential flat building as '*a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing*' and it prohibits a residential flat building on land within a R2 Low Density Residential Zone.

The current building on site contains 3 dwellings which is prohibited within the R2 zone. The Applicant has opted to rely on existing use rights, maintaining its existing use as a 'residential flat building'.

Accordingly, Council must consider whether the Site benefits from existing use rights.

In addition to the relevant property history provided in Section 7 of this report, the documentation submitted with the DA, coupled with Council records, indicates the Site has been subject to a number of building and development applications, which establish existing use rights.

The Applicant provided, in part, the following justification with regards to Exiting Use Rights:

“The 1995 LEP was the relevant instrument which first prohibited development of the site for a residential flat building. Existing use is defined under Section 4.65 of the EP&A Act, which states, inter alia:

In this Division, existing use means:

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use; and*
- (b) the use of a building, work or land:*
 - (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

However, within the meaning of Section 4.65, the 1926 approval, and the subsequent strata subdivision approval in 1965, provides the lawful basis for use of the Site as a residential flat building as at the commencement of the 1995 LEP and, again, as at the commencement of the 2015 LEP. Residential flat buildings were first prohibited on the sites by the Woollahra LEP 1995.

Existing use rights applies to the site as the original residential flat building was approved and has continued to operate since that time. Therefore, the land use has not been ‘abandoned’.

Section 4.66 of the EP&A Act provides for the lawful continuance of ‘existing uses.’ As per Section 4.66 (2), this does not of itself authorise, inter alia:

- (a) any alteration or extension to or rebuilding of a building or work, or*
- (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
- (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use,*
- (d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17 (1) (b), or (c) the continuance of the use therein mentioned where that use is abandoned.*

From the material that we have reviewed as part of our investigations, there is no evidence that there has been any abandonment of the use, and therefore the use has continued.

Section 4.67 of the EP&A Act includes provisions for “carrying out of... the rebuilding of a building...being used for an existing use”. To this end, Clause 41 of the EP&A Regulation states that an existing use may “be enlarged, expanded or intensified” or “be altered or extended” or “be rebuilt”. Clauses 42 to 44 provide limitations on the reliance on Clause 41. For ‘rebuilding’ an existing use, Clause 44 requires the rebuilding must be the subject of a development consent and:

- (a) must be for the existing use of the building or work and for no other use, and*
- (b) must be carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.*

The proposal satisfies these requirements as it has a long history of use as a residential flat building. The residential flat building reconstruction will be carried out on the parcel of land where the building was erected."

The granting of consents detailed in Section 7 of this report indicates Council is satisfied that the existing building was not unlawfully erected and its continual use has not been abandoned.

It is considered that the documentation submitted with the development application and Council's records have adequately established existing use rights as a "residential flat building" and there is no evidence that the use as a "residential flat building" have ever been abandoned.

The proposal is therefore satisfactory with regards to Clauses 4.65 and 4.66 and the relevant existing use rights assessment is provided below.

10.2. Clause 4.67 of the EPA Act 1979: Regulations respecting existing use

4.67 Regulations respecting existing use

- (1) *The regulations may make provision for or with respect to **existing use** and, in particular, for or with respect to:*
 - (a) *the carrying out of **alterations or extensions to or the rebuilding of a building or work being used for an existing use**, and*
 - (b) *the **change of an existing use to another use**, and*
 - (c) *the **enlargement or expansion or intensification of an existing use**.*
- (2) *The provisions (in this section referred to as **the incorporated provisions**) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*
- (3) *An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*

The proposal satisfies the abovementioned provisions.

10.3. Clause 163 of the EPA Regulations 2021: Certain development allowed

Clause 163 of the *Environmental Planning and Assessment Regulation 2021* stipulates the following restrictions in relation to existing use rights applications:

- (1) *An existing use may, subject to this Division:*
 - (a) *be enlarged, expanded or intensified, or*
 - (b) *be altered or extended, or*
 - (c) *be rebuilt, or*
 - (d) *be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act,*
 - (e) *if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or...*

The proposal satisfies the abovementioned provisions.

10.4. Clause 164 of the EPA Regulations 2021: Enlargement, expansion and intensification of existing uses

Clause 164 of the Environmental Planning and Assessment Regulation 2021 (EP&A) stipulates the following in relation to existing use rights applications:

- (1) *Development consent is required for any enlargement, expansion or intensification of an existing use.*
- (2) *The enlargement, expansion or intensification must be—*
 - (a) for the existing use and for no other use, and*
 - (b) carried out only on the land on which the existing use was carried out immediately before the relevant day.*

Council has the power to determine the subject DA by operation of section 4.67 of the EP&A Act 1979, and clauses 163(1), 164 and 165(1) of the EP&A Regulation 2021.

The effect of these clauses is that no provision of the current Woollahra LEP 2014 operates to prevent the continuance of that use ('existing use') and that it may be enlarged, expanded or rebuilt.

In assessing the DA, it must be determined what is "the land on which the building or work was erected or carried out" for the purposes of cl 165(2)(b) of the EP&A Regulation 2021.

Meagher JA in Steedman v Baulkham Hills Shire Council [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "that if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose".

Having regard to the above case law, it is considered that the existing building, structures and uses on the subject site is currently characterised as a 'residential flat building. Therefore, 'existing use rights' applies to the whole of the subject site.

The proposal is for a new residential flat building resulting in the existing use being rebuilt. The proposal is therefore permissible with consent and satisfies the abovementioned provisions.

10.5. Clause 166 of the EPA Regulations 2021: Rebuilding of buildings and works

1. *Development consent is required for any rebuilding of a building or work used for an existing use.*
2. *The rebuilding must be—*
 - a) for the existing use of the building or work and for no other use, and*
 - b) carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.*

The proposal is for the rebuilding of the building.

10.6. Clause 167 of the EPA Regulations 2021: Change of existing uses

1. *Development consent is required for—*
 - a) a change of an existing use to another use, and*
 - b) for a building, work or land that is used for different existing uses—a change in the proportions in which the various parts of the building, work or land are used for the different existing uses.*

2. *This Part does not prevent the granting of a development consent referred to in another provision of this Part at the same time as the granting of a development consent referred to in subsection (1).*

The proposal does not result in a change to the existing use.

ENVIRONMENTAL IMPACTS

11. PLANNING PRINCIPLES AND LEGAL ADVICE RELATING TO CLAUSE 4.67(3) OF THE EPA ACT 1979

- (3) *An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*

The judgement in *Fodor Investments v Hornsby Shire Council* (2005) NSWLEC 71, sets out the planning principles which should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights. The four principles adopted by the court in this case have general application in dealing with DAs that rely on existing use rights.

The four principles are:

1. ***How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?***

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.

2. ***What is the relevance of the building in which the existing use takes place?***

Where the change of use is proposed within an existing building, the bulk and scale of that building is likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

3. ***What are the impacts on adjoining land?***

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

4. ***What is the internal amenity?***

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Current NSW Land and Environment Court advice, which outlines the relevant planning principles relating to existing use rights and merit assessment, states:

The principles to be considered when undertaking a merits assessment of a proposed redevelopment of a site with existing use rights were dealt with by Roseth SC in Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71.

In Stromness Pty Ltd v Woollahra Municipal Council [2006] NSWLEC 587 the planning principles in Fodor were considered and confirmed by Pain J at pars 83-89.

Principle 2 was specifically supported in paragraph 87 and principles 1, 3 and 4 were specifically supported in paragraph 89.

Her Honour states, in para 89, that care must be exercised in the application of the principles to ensure that there is not a de facto application of standards in environmental planning instruments as that is prohibited by s 108(3) of the Environmental Planning and Assessment Act.

Recent legal advice provided to Council qualifies the above stating:

In Saffioti v Kiama Municipal Council [2017] NSWLEC 65 the LEC considered the issue of whether the controls in a DCP could be considered in assessing the merits of an application for development consent for development with existing use rights. The LEC decided that the relevant controls in the DCP could be considered notwithstanding section 4.67(3) of the Environmental Planning and Assessment Act 1979. That section provides that any provisions of an environmental planning instrument which would derogate from the provisions in the Environmental Planning & Assessment Regulation 2000 regarding existing uses (the incorporated provisions), have no effect.

The LEC found that as a DCP is not an environmental planning instrument, s4.67(3) does not apply. DCP provisions can therefore continue to apply and be considered in assessing an application relying on existing use rights.

The LEC also considered provisions of the applicable local environmental plan (LEP) and found that a number of provisions, such as those dealing with biodiversity, applied to the development and did not derogate from the incorporated provisions. The LEC considered that only those provisions of the LEP which could have the effect of prohibiting the development derogated from the incorporated provisions and could not be taken into account.

Notwithstanding the above, a further judgement *Modog Pty Limited v North Sydney Council [2018] NSWLEC 120*, has established that any DCP objectives or controls that mirror controls of an environmental planning instrument would not apply where they would derogate from the existing use right provisions. However, in the instance where the DCP controls do not derogate from the EUR provisions, they can factor into the merit assessment of the application under section 4.15.

The following environmental assessment of the proposal takes into consideration the above-mentioned principles established under *Fodor* and all of the relevant provisions of relevant statutory planning policies which do have the effect of prohibiting the development and all of the provisions of the Woollahra DCP 2015 that are relevant to the scope of the proposed development.

11.1. Assessment against Principle 1: Bulk and scale relative to surrounding properties

11.1.1 Streetscape Character, Bulk and Scale



Figure: 3D Aerial View illustrating the topography and development typology in this locality in comparison to the subject site (Source: Woollahra Council 3D Imagery)



Photomontage of the proposed development (Source: MHN Design Union)



Photomontage of the proposed development (Source: MHN Design Union)

The subject site is located within the Bellevue Hill North Residential Precinct.

Part B1.8.2 Desired future character statement reads, in part, as follows:

“The Bellevue Hill North precinct is an established residential area with a rich mixture of architectural styles and forms. Development is to be compatible with the existing built fabric, subdivision pattern and other prevailing characteristics in the street, such as setbacks and roof forms.

On sloping sites, development should step down the site to maintain views, protect the privacy and solar access of adjoining and adjacent properties, and minimise cut and fill. The design of roofs and fences should also facilitate view sharing opportunities, and carports and other parking structures must not to dominate the streetscape.

....Development is to retain views of the harbour from public spaces and provide for view sharing from private properties.”

The relevant desired future character objectives read as follows:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*
- O3 To maintain a transition of development scale from the residential flat buildings that address New South Head Road, to the dwelling houses that dominate the majority of the precinct.*
- O4 To reinforce a consistent building scale with streets.*
- O5 To ensure that development responds in form and siting to the street and subdivision pattern.*
- O6 To design and site buildings to respond to the topography and minimise cut and fill.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.*
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.*
- O9 To protect important views from the public spaces of the precinct to the harbour and city skyline, including view corridors between buildings.*
- O10 To ensure that development facilitates view sharing to adjoining and adjacent private properties.*
- O11 To ensure on-site parking does not dominate the streetscape.*
- O12 To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.*

The proposal meets the desired future character objectives of the Bellevue Hill North Residential Precinct, as noted in Part B1.8.2 of the Woollahra DCP 2015, in the following manner:

- The proposal, as amended, respects and enhances the streetscape character and key elements of the precinct.

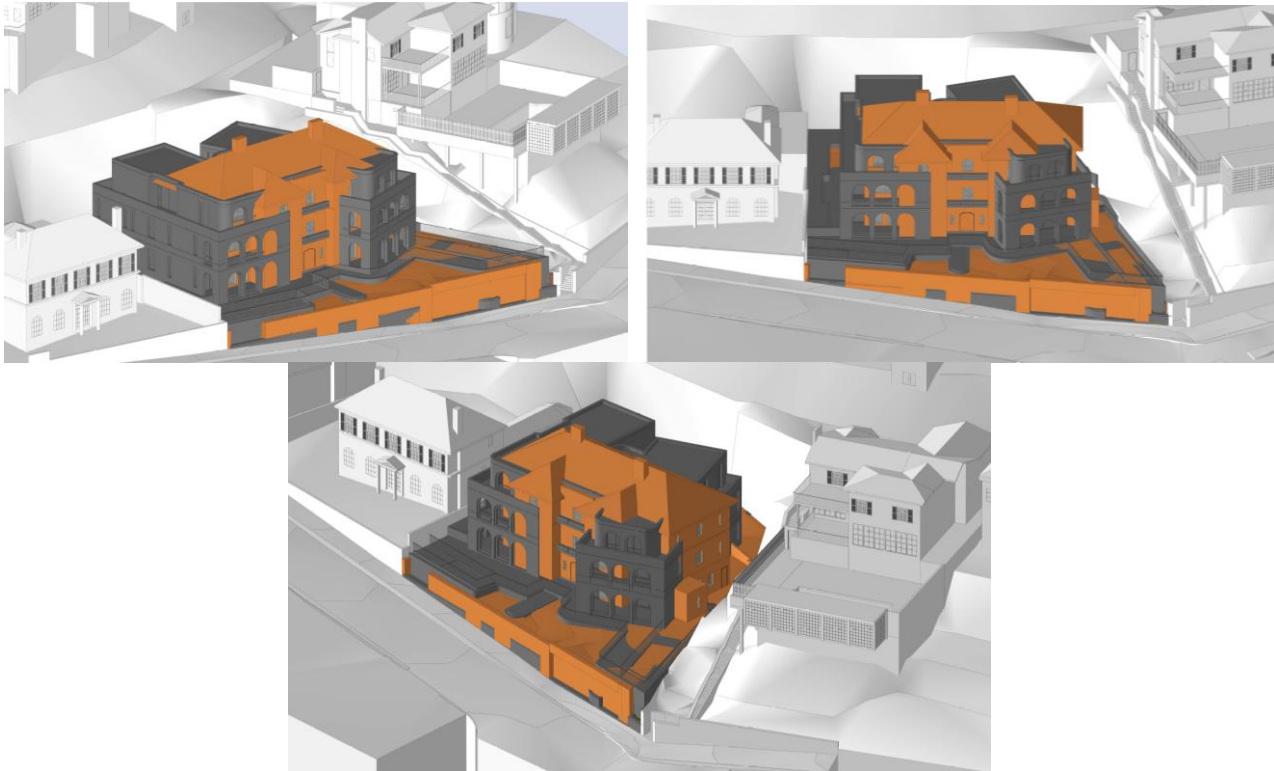
- The proposal comprises two wings which break down the bulk and scale of the building resulting in the development representing a contemporary architectural style, with appropriate modulation and a varied palette of materials in accordance with Objective O2.
- The landscaped terrace and configuration of the retaining wall serves to soften its visual impact within the streetscape.
- The proposal results in a significant decrease in the overall building height and will achieve a height which is consistent with the prevailing built form scale and character defining the immediate surrounds, thereby achieving objective O4.
- The proposed new building continues to respond to the street frontage and respects the site's topography in accordance with Objectives O5 and O6.
- Adequate vegetation, including tree canopy coverage, will be provided on site, subject to conditions, in accordance with Objectives O7 and O8.
- The proposed development will not obstruct any private or public views thereby achieving Objective O10.
- The proposed parking is skilfully integrated within the development and does not dominate the streetscape thereby achieving Objective O11.

In addition, Councils Urban Design Consultant has provided the following relevant commentary:

“Overall, the proposed approach to the redevelopment of the site presents a new building that will offer an improved standard of amenity and greater choice for households in the locality.

The architectural design is commendable and will add interest and memorability to the streetscape, while respecting and acknowledging the history of the site and locality.”

Given the commentary provided above, the proposal is considered to achieve an appropriate built form that is compatible with the existing character of the area.



3D Photomontage illustrating the existing built form (orange) in comparison to the proposed built form (grey)
(Source: MHN Design Union)

11.1.2. Building Height and Exceptions to Development Standards (Part 4.3: Height of Buildings)

The subject site is subject to a statutory height control of 9.5metres. The proposed works will result in an overall building height of 10.61m, which does not comply with the maximum Height of Buildings development standard.

Part 4.6: Exceptions to Development Standards

Whilst Part 4.6 of the WLEP 2014 has no force with regards to the proposal in so far that it derogates (detracts) from the existing use rights provisions. The applicant provides the following statement with regards to applicability of Clause 4.6:

“The subject site enjoys the benefits of existing use rights and the provisions of Council’s LEP cannot derogate from the existing use rights. The planning principles established by the NSW Land and Environment Court in Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71 at [17] and Stromness v Woollahra Municipal Council [2006] NSWLEC 587 at [83-84] have been assessed and satisfied in the DA. Notwithstanding this, under the recent case in Saffioti v Kiama Municipal Council [2018] NSWLEC 1426, it was recognised that the LEP and DCP should still be considered. Accordingly, this Clause 4.6 Variation has been prepared for the additional height proposed.”

Based on the above, it is concurred that whilst planning controls do not apply, a Clause 4.6 written request is still required to be prepared and considered, as if it were applicable to existing use rights applications.

The following is an assessment under the relevant heads of consideration of Clause 4.6:

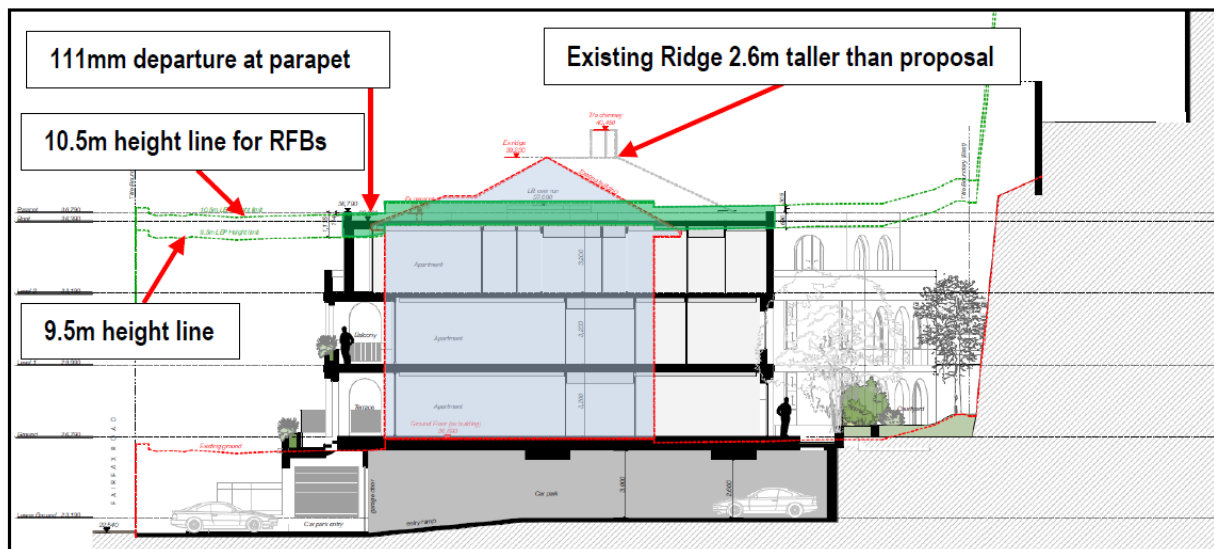
Departure

The proposal involves non-compliance with the maximum height of buildings development standard under Clause 4.3 of the Woollahra LEP 2014.

The proposal exceeds the 9.5m maximum Height of Buildings development standard under Clause 4.3 of the Woollahra LEP 2014. The proposed building height of up to 10.61m represents a 1.11m, or 11.7% non-compliance with the development standard.

The proposal results in a significant reduction in the height of the building when compared to the existing residential flat building which has a maximum ridge height of 12.74m, representing a breach of 3.24m (or 34.1%).

The proposed works above the 9.5m development standard consists of the lift overrun, the flat roof slab, skylights and parapet walls to the roof. (refer to the extract section below)



*Section showing the non-compliant elements with the 9.5m Height of buildings development standard
(Source: Amended CI 4.6 written request prepared by GSA Planning)*

Purpose

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

Written Request

Part 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided a revised written request in relation to the departure. Refer to **Attachment 2**.

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

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

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

Comment: The applicant's written request has adequately demonstrated that the objectives of the *Height of Buildings* development standard are achieved, notwithstanding the numerical non-compliance.

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

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

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

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

S1.3 of the EPA Act reads as follows:

1.3 Objects of Act

(cf previous s 5)

The objects of this Act are as follows:

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

The applicant's written request, which supports the proposed non-compliance with the height of buildings development standard, has adequately demonstrated that the proposed development promotes good design and local amenity of the built environment, in accordance with object 1.3(g) of the EPA Act.

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

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

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

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

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the *Height of Buildings* development standard, and the zone objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Clause 4.3 – Height of Buildings

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

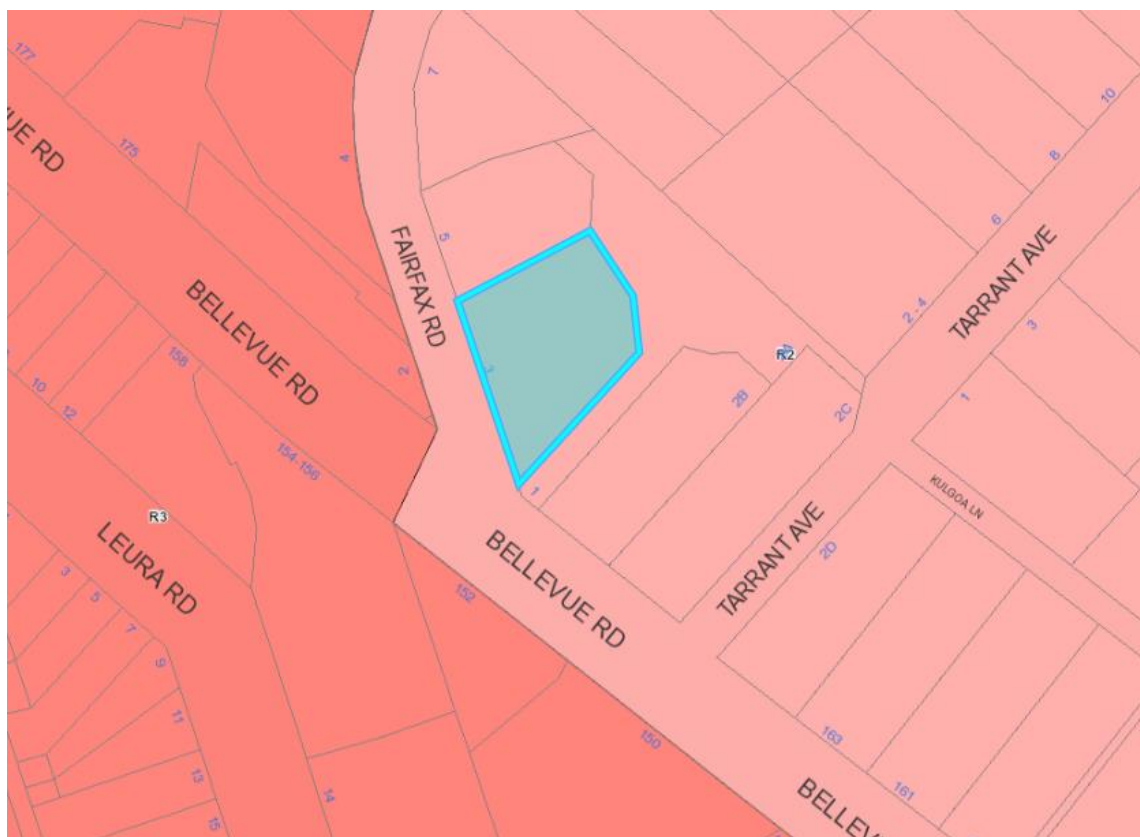
- (a) *To establish building heights that are consistent with the desired future character of the neighbourhood*

Comment: The proposed development results in a significant reduction in the height when compared to the existing development and is considered to achieve consistency with the desired future character of the Bellevue Hill North Residential Precinct, for reasons already discussed in the report.

The proposal satisfies the intent of sub-clause (a).

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

Comment: The site is located within a R2 Low Density Residential zone context in general. However, on the opposite side of Fairfax Road (to the west) and Bellevue Road (to the south and south-west) the properties are zoned R3 Medium Density Residential zone.



Extract of Zoning Map (Source: Council)

For reasons discussed throughout this report, it is considered that the proposal will achieve a development which is of a bulk and scale that provides a suitable transition in scale between the zones.

The proposal satisfies the intent of sub-clause (b).

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

Comment: The proposal is satisfactory with regards to maintaining adequate solar access to the private open space areas and north-facing habitable room windows of adjoining properties, as per the solar access requirements of the Woollahra DCP 2015.

The proposal satisfies the intent of sub-clause (c).

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

Comment: The proposal, as amended and conditioned, is satisfactory with regards to privacy, disruption of views, overshadowing or visual intrusion.

The proposal satisfies the intent of sub-clause (d).

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

Comment: The proposal would not result in any loss of public views.

The proposal satisfies the intent of sub-clause (e).

Objectives of the R2 Low Density Residential zone

The proposal is assessed against the Objectives of the R2 Low Density Residential zone which specify the following objectives:

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

Comment: For reasons discussed throughout this report, the proposal is satisfactory with the intent of the aforementioned zone objectives and there are sufficient environmental planning grounds to justify the contravention, as follows:

- The proposal results in a significant reduction in the height when compared to the height of the existing Residential Flat building.
- The breach is considered minor and is limited to a small portion at the western edge of the building's parapet (due to the topography), the slab of the flat roof and the lift overrun and carpark exhaust (centrally located) associated with the development.
- The areas of non-compliance are largely attributed to the topography of the subject site which has a significant east to west cross fall from the rear (eastern) boundary down to the Fairfax Road frontage.
- The main non-compliance will occur to the central part of the flat roof which is not readily visible from the street.

- The exceedance of the applicable standard would not result in any adverse overshadowing, view loss impacts nor any adverse acoustic and visual privacy impacts to the adjoining properties.
- The proposal, as amended, achieves the desired future character of the Bellevue Hill North Residential Precinct despite the numerical non-compliance with the Height of Buildings development standard.
- The proposed development is contextually appropriate and sympathetic to the existing development and surrounding development, as viewed from Fairfax Road and Bellevue Road.

Assessment - Clause 4.6(4)(b)

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

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

The Department issued a Planning Circular No.PS18-003 (dated 21 February 2018) which notified Councils of arrangements “...where the Director General's concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...” Clause 64 of the EPA Regulations provides that Council may assume the Director-General's [Secretary's] concurrence for exceptions to development standard, thus satisfying the terms of this clause.

Conclusion

The written submission from the applicant has adequately demonstrated that the contravention of the *Height of Buildings* development standard prescribed by *Part 4.3* of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by this Clause. Departure from the control can therefore be supported.

The written submission from the applicant has adequately demonstrated that the contravention of the *Height of Buildings* development standard prescribed by *Part 4.3* of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

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

The consent authority is satisfied that the proposal is in the public interest as it is consistent with the objectives of the development standard and those applicable to development within the zone.

Accordingly, departure from the Height of buildings development standard can therefore be supported.

11.1.3. Floor Space Ratio (FSR) & Floorplate

Council's floorplate control only applies to dwelling houses, semi-detached dwellings or dual occupancies. Therefore, this control is irrelevant to the assessment of a residential flat building.

(Note: floorplate control was applicable to dwelling houses, semi-detached dwellings or dual occupancies at the time the DA was lodged)

Whilst the proposal is for a residential flat building, it is located within an R2 Low Density Residential Zone, whereby the FSR development standard is not applicable.

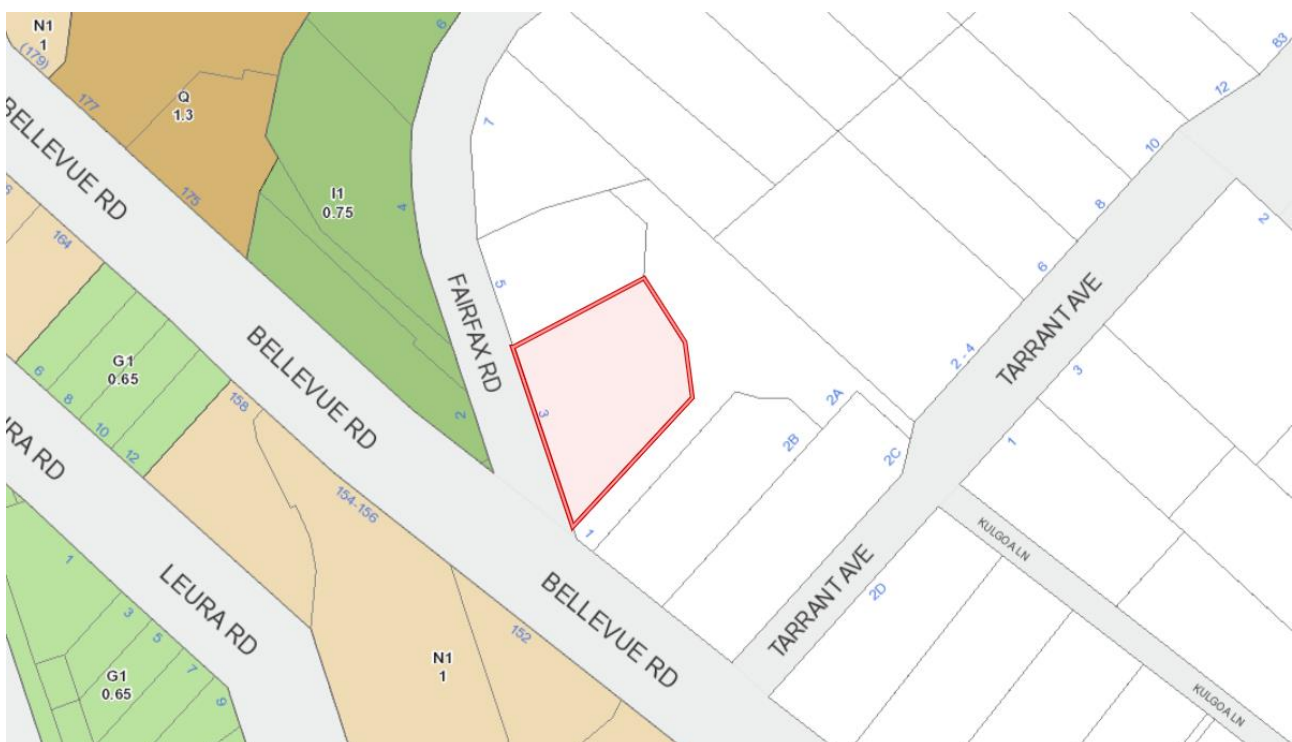
In this instance, given the DA seeks to rely on existing use rights, and the purpose of Council's consideration of the above control and development standard is to ascertain the relationship of the proposal with its existing residential flat building use and likely future context, it is considered reasonable to assess the DA against the FSR that applies to land adjoining and in close proximity to the subject site.

As illustrated in the figure below, whilst the properties immediately adjoining the subject site to the north, east and south-east benefit from an FSR of 0.5:1, the properties to the west (on the opposite side of Fairfax Road) benefit from an FSR of 0.75:1 and the properties to the south (on the opposite side of Bellevue Road) benefit from an FSR of 1:1.

The proposal will result in an FSR of 0.83:1 (864.63m²), which is not significantly more than the FSR control (0.75:1) applicable to the properties zoned R3 directly opposite the site, to the west and significantly less than the FSR control (1:1) applicable to the neighbouring medium density residential complex of 18 dwellings, located opposite the subject site at No. 154-156 Bellevue Road.

It is considered, that the proposal achieves an appropriate built form transition between the neighbouring medium density residential developments located along Bellevue Road and lower scale developments to the north, west, east and south-east of the subject site.

For reasons discussed throughout this report, the proposal represents a development which is compatible with the bulk and scale of development in close proximity to the subject site.



FSR Controls applicable to surrounding properties (Source: Council's Maps - 2024)

11.1.4. Building Envelope

An assessment has been undertaken against Parts B3.2.2, B3.2.3 and B3.2.4 of the Woollahra DCP 2015. A summary of Council's building envelope requirements have been summarised as follows:

Site Area: 1299m ²	Proposed	Control	Complies
Front Setback	4m at Basement Level	6.3m	No

Site Area: 1299m ²	Proposed	Control	Complies
	6.1m at Ground Floor Level, Level 1 and Level 2		
Rear Setback	5.525m/2.6m at Basement Level 7.32m/3.65m (at Ground and Level 1) 6.385m/3.65m (at Level 2)	7.4m/10m	No
Side Boundary Setback (N)	0.785-3.5m (at Basement level) 3.0m-3.5m (at Ground and Level 1) 5.1m (at Level 2)	3.5m	No No Yes
Side Boundary Setbacks (S)	1.5-2.2m (at Basement level) 3.5m (at Ground and Level 1) 5.1m (at Level 2)	3.5m	No Yes Yes
Maximum Unarticulated Length to Street	>6.0m - Articulated via a combination of recessed areas and window openings.	6.0m	Yes
Maximum Unarticulated Wall Length	>12.0m - Articulated via a combination of recessed areas and window openings.	12m	Yes

Front Setback

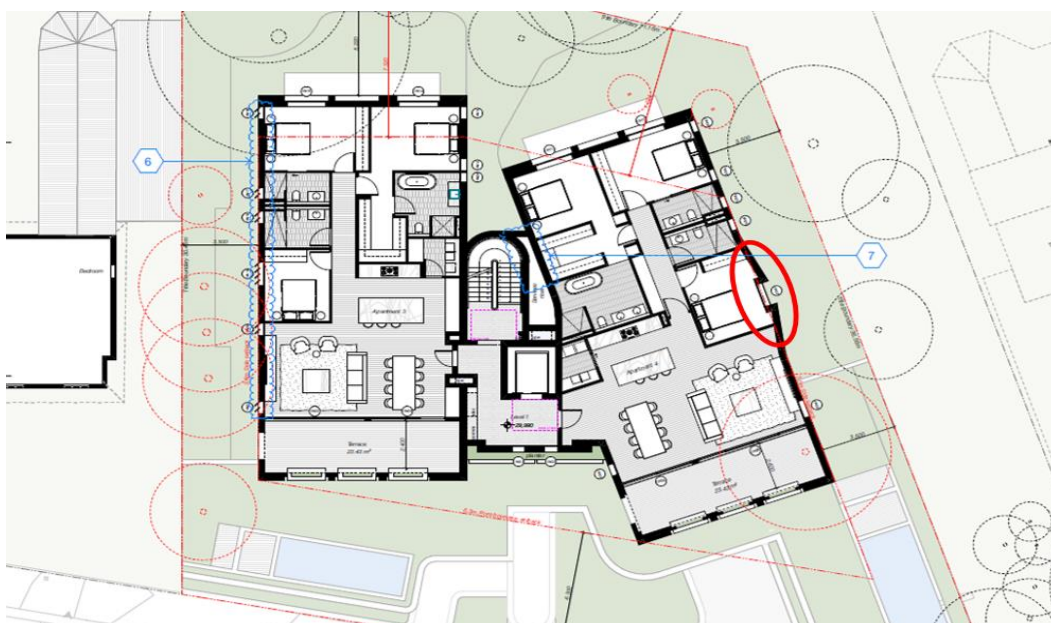
Control C1 of Section B3.2.2 requires the development to be set back the average distance of the three most typical setbacks of the four closest residential buildings that face the street. Based on the neighbouring front setbacks, the proposal requires a front setback of 6.3m. As illustrated in the compliance table above, the proposal results in non-compliances with Controls C1 and C2.

Notwithstanding, the proposal achieves the relevant objectives in the following manner:

The encroachment within the front setback is largely limited to the basement level with the non-compliance above ground only resulting in a 200mm non-compliance with the control thereby generally achieving consistency with the established front setbacks of development in the street. The proposal, as amended, will achieve a built form which is compatible with development in the immediate locality.

The proposal, as amended, ensures a development which is well articulated and contributes positively to the streetscape.

Side Setback



Floor plans showing the minor encroachment into the side (southern) setback (Note: The encroachment is located at the Ground Floor Level and Level 1)



Aerial view illustrating the separation between the subject site and adjoining development to the south-east, as a result of the undeveloped battle-axe section of the adjoining property at No. 2A Tarrant Avenue

Control C1 of Part B3.2.3 requires side setbacks of 3.5m based on a site width of more than 35m. As illustrated in the compliance table above, the proposal results in a non-compliance with Control C1.

Notwithstanding, the proposal achieves the relevant objectives in the following manner:

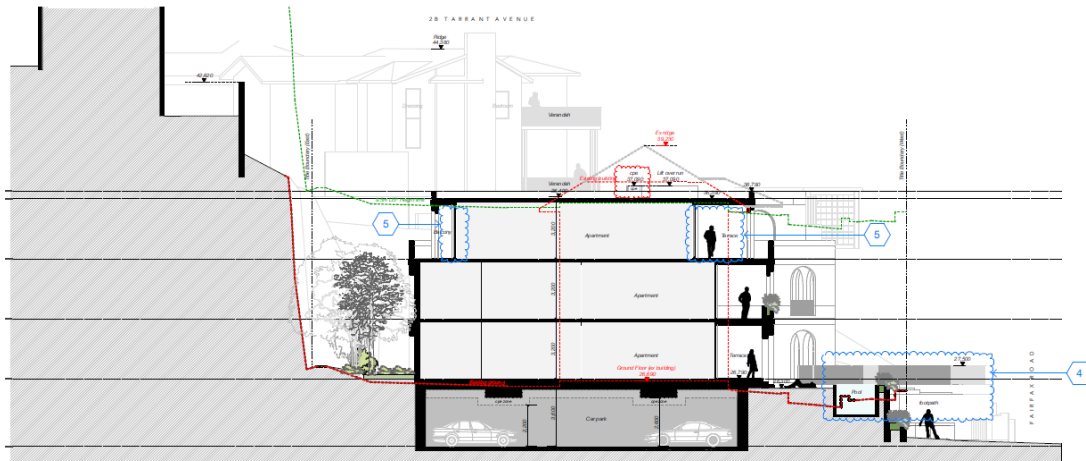
- The encroachment within the side setbacks is largely limited to the basement level with the non-compliance above ground only resulting in minor non-compliances, thereby generally complying with the side setbacks. It is noted that the remaining northern setback is compliant with the control.
- The minor encroachments within the side setback are limited to a small protrusion of the bedrooms at Levels 1 and 2 along the southern boundary to create articulation to the side elevations.
- The proposal, as amended, will not result in an unreasonable sense of enclosure and will facilitate an appropriate separation between buildings. In this regard, it is noted that additional separation between the subject site and adjoining properties is created by the undeveloped battle-axe section of the adjoining property at No. 2A Tarrant Avenue.
- The proposal, as amended, ensures a development which is well articulated.
- The proposal does not result in any significant unreasonable overshadowing impacts upon adjoining north-facing windows or private open space areas.
- The proposal does not result in any view loss currently afforded adjoining properties.
- The proposal includes substantial replacement screen planting along the northern boundary in order to mitigate amenity impacts upon the adjoining property at No. 5 Fairfax Road.
- The proposal provides for adequate external access between the front and rear of the site.

Rear Setback

Control C1 of Part B3.2.3 requires a rear setback of 7.4m/10m. As illustrated in the compliance table above, the proposal results in non-compliances with Control C1.

Notwithstanding, the proposal achieves the relevant objectives in the following manner:

- Located along the rear (eastern) boundary is a substantial cliff face resulting in the proposed development being located well below the adjoining development to the east (see images below).
- As noted by Councils Urban Design Consultant, the proposal incorporates generous front and rear setbacks thereby avoiding an unreasonable sense of enclosure between the subject site and development on adjoining properties.



Section showing the proposed building envelope located substantially below the level of the adjoining property at No. 2A Tarrant Avenue



Views of the cliff face located along the rear (eastern) boundary separating the subject site from the adjoining property at No. 2A Tarrant Avenue

- The proposal ensures adequate open space and landscaped areas are achieved at the rear of the development.
- The proposal, as amended and conditioned, ensures acoustic and visual privacy to adjoining and adjacent buildings is minimised.
- The proposal does not result in any significant unreasonable overshadowing impacts upon adjoining north-facing windows or private open space areas of adjoining properties

11.1.5. On-Site Parking

The proposal is acceptable with regards to the relevant objectives of Part B3.6 of the Woollahra DCP in the following manner:

- The proposed parking will be skilfully integrated within the proposal and will be largely located within the building envelope, at basement level.

- The location of the new parking arrangement will minimise the visual impacts of the parking structure on the streetscape and will not detract from the streetscape character and amenity.
- The proposal will not result in the loss of any
- The proposed parking arrangement is considered to be a substantial improvement on the existing parking structure (see image below) which is considered to be an intrusive element in the streetscape.



View of the existing garages located within the front setback

- Councils Traffic Engineer has undertaken an assessment of the proposal and considers the proposal acceptable subject to conditions.
- The design of the new garage will complement the proposed development, in accordance with Control C9 and C10.

11.2. Assessment against Principle 2: Relevance of the building in which the existing use takes place

The proposal is for the demolition of the existing residential flat building for the purposes of continuance of the existing use of the subject site as a “residential flat building”. The proposal will maintain the existing use and character of the site. It has also been established that ‘existing use rights’ applies to the whole of the subject site and that the existing use may be enlarged, expanded or rebuilt.

In this circumstance, whilst there is no automatic entitlement to another building of the same floor space ratio, height or parking provision, these matters have been considered throughout the report and are considered to be acceptable.

11.3. Assessment against Principle 3: Impacts on adjoining land

11.3.1. Excavation

The proposal involves excavation to a depth of approximately 4m below ground level to accommodate the construction of a basement level for car parking (11 spaces), bicycle and motorcycle parking, storage areas, refuse areas, comms room, fire pump room, AC plant room, lobby, lift and internal stairs.

Control C1 of Section B3.4 of the WDCP 2015 requires residential flat buildings to have a maximum volume of excavation to be no more than the volume specified within Figure 14B of Part B3.4 of the WDCP 2015. Based on Figure 14B and a site area of 1036.2m², excavation works should not exceed approximately 1030m³.

The proposal results in a maximum level of excavation of approximately 1845m³, resulting in a non-compliance with Control C1.

Control C4 allows a variation to the volume shown in Figures 14A and 14B, however the maximum volume of excavation permitted will only be the amount needed to accommodate: car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto, if the maximum car parking rates are required by the Council; and storage at a rate of 8m³ (cubic metres) per dwelling if for a residential flat building development.

The applicant provided, in part, the following justification and detailed breakdown of the excavation required to achieve the proposed development.

The DCP nominates an excavation volume of 477.47m³ for the lobby, lift and stairs, plant and service, bin room and additional storage. A further 1367.06m³ is for required maximum parking, access to the parking, and the minimum storage at a rate of 8m³ per apartment. The total volume proposed is 1844.53m³.

In our opinion, permitting the additional volume in this instance is applicable. The proposal includes visitor parking and two spaces per dwelling, which is important when no parking is permitted on-street in front of the site. The access area includes circulation as required under Australian Standard AS 2890.1, which has been reviewed by Varga Traffic Planning.

The existing parking is inadequate and reversing into the street is no longer appropriate. The garage manoeuvring areas allow every vehicle to enter and depart in a forward direction.

*The breakdown of the excavation at the lower ground level, is shown in **Figure 16**, and as follows:*

- 713.37m³ for eleven parking spaces, bicycle parking and a motorcycle parking required by Council;
- 613.69m³ for access thereto;
- 156.24m³ as the required storage for each unit;
- 88.1m³ for a bin room;
- 46.8m³ for the core (lift and stairs) noting, this area is included in the GFA;
- 77.58m³ for the entry lobby and circulation
- 148.75m³ for plant and services.

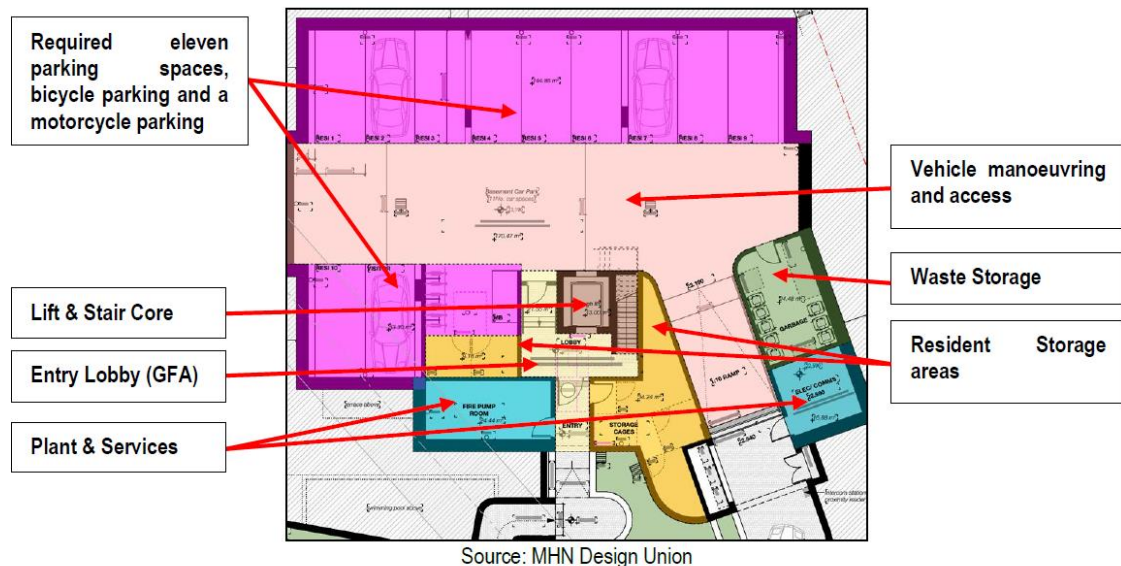


Figure 16: Excavation Volumes by Use

Accordingly, the proposed excavation is necessary to provide the car parking required by Council and to accommodate other essential facilities, such as the lift which will connect the lower ground floor garage to each level, providing access from the garage to all levels of the building. In our opinion, the additional excavation provides a better streetscape outcome.

In our opinion, the variation offered by Control 4 of Clause B3.4 is justified, and the excavation proposed is appropriate in these circumstances.

Excavation setbacks are compliant at 1500mm and 2200mm on the northern side, 5525mm on the eastern side, and up to 3500mm on the southern side. However, the setbacks are reduced at the south-western corner to 785mm in order to provide parking and a blind aisle. Achieving compliant parking spaces and manoeuvrability are more challenging when the angles of the site boundaries and required excavation setbacks are constraints. We note that the area of non-compliance is adjacent to the access handle and not in the vicinity of a dwelling. A geotechnical report has been provided, in support of the excavation proposed."

The justification provided by GSA Planning for the non-compliance with the relevant DCP controls with regards to excavation is concurred with.

The proposed excavation will accommodate a compliant number of car parking spaces (11), bicycle and motorcycle parking, storage areas, refuse areas, comms room, fire pump room, AC plant room, lobby, lift and internal stairs and will not include any superfluous areas.

The proposed excavation volume will ensure a parking arrangement, and other services associated with the development are skilfully integrated within the development and will ensure practical and safe access to the site when compared to the existing arrangement.

Councils Development Engineer has reviewed the Geotechnical Investigation Report, prepared by Alliance Geotechnical & Environmental Solutions (submitted with the application) and considers the proposal acceptable subject to the recommended standard **conditions** requiring mitigating measures to ensure the maintenance of amenity on the surrounding neighbourhood and structural integrity of any existing and supporting structures during the excavation and construction phase of the development.

Council's Heritage Officer has raised no concerns relating to the potential for disturbing relics. Appropriate conditions are recommended to be imposed requiring the protection of Aboriginal Objects and procedures to be followed in the unlikely event such objects are found during site works.

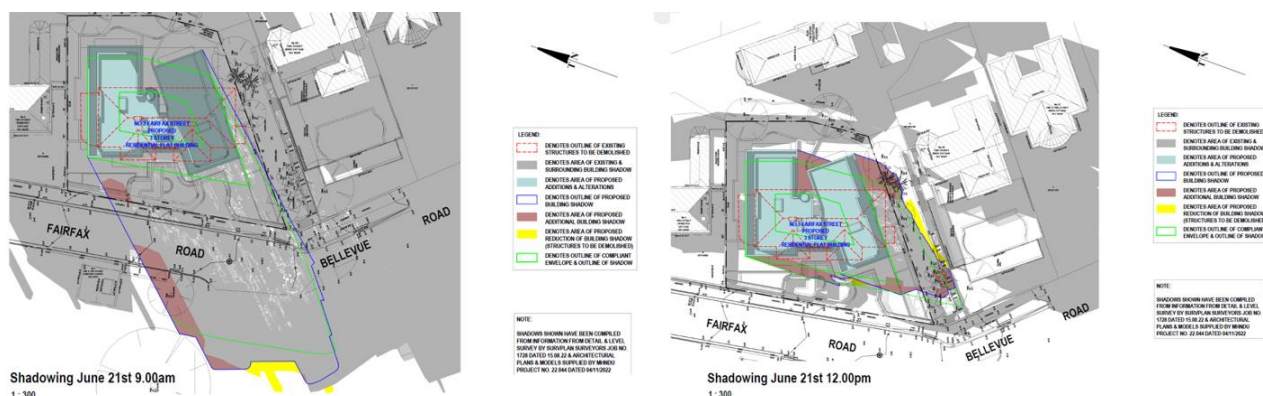
In this instance, and on merit, the non-compliance with the controls is considered acceptable as the proposal achieves the relevant objectives of the controls, subject to conditions.

11.3.2. Overshadowing

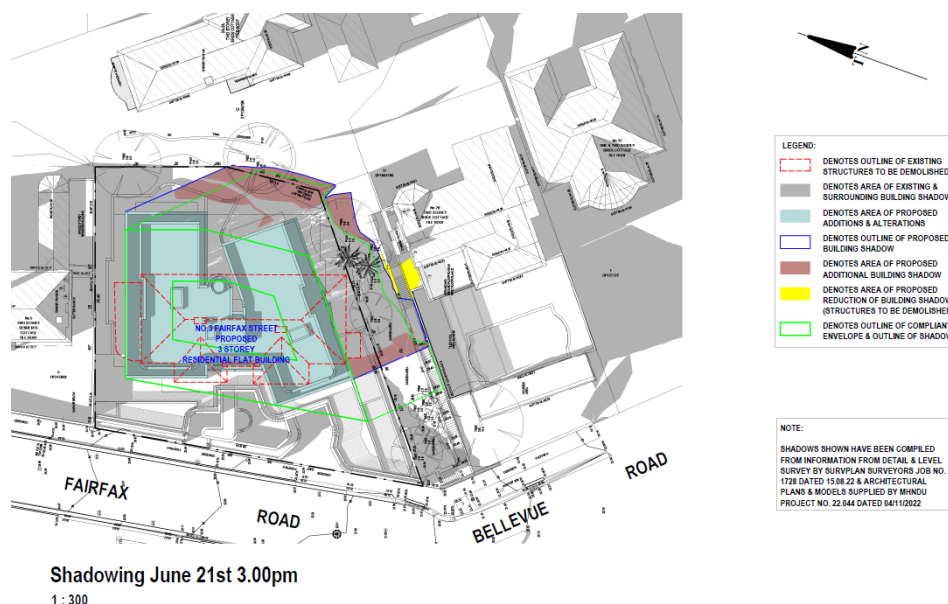
The relevant controls applicable to Part B3.5.2 of the WDCP 2015 with regards to overshadowing require development to ensure that:

- sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; and*
- north facing windows to upper level habitable rooms of adjacent dwellings receive at least 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface.*

As illustrated in the shadow diagrams below the proposal will not result in any significant additional overshadowing of private open space areas of adjoining properties and will not impact any north facing windows of adjoining buildings.



Shadow diagrams illustrating the existing shadows in comparison to the proposed shadows as a result of the proposal on June 21st (Source: Cad Draft P/L)



Shadow diagrams illustrating the existing shadows in comparison to the proposed shadows as a result of the proposal on June 21st (Source: Cad Draft P/L)

11.3.3. Public & Private Views

The proposed development will not obstruct any private or public views.

It is noted that the no submissions were received with regards to loss of views.

11.3.4. Acoustic Privacy

The relevant objective and control read as follows:

O1 To ensure adequate acoustic privacy for occupants and neighbours.

C1 Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.

Whilst the proposal will increase the number of dwelling units from three (3) to five (5) it is not considered that significant additional acoustic impacts will occur as a result of the proposed development.

The private open space areas to the units are largely orientated towards Fairfax Road (west and south-west) and the rear of the site, with two (2) swimming pools proposed for use by the ground floor level units. Swimming pools are considered to be a common ancillary use associated with residential development and would not give rise to any unreasonable acoustic impacts.

The location of mechanical plant associated with the development are mostly located within the basement area, with the exception of the lift overrun and car parking exhaust which are located on the roof of the building. These are expected locations for such site facilities related to a Residential Flat Building.

The proposed development also generally complies with the side setbacks and ensures adequate separation between plant equipment and neighbouring dwellings to avoid any unreasonable acoustic impacts.

In addition, relevant conditions of consent are imposed requiring all mechanical plant equipment associated with the development be acoustically treated so that noise from any plant and equipment shall not exceed ambient background noise levels measured at the common boundaries.

The proposal, as amended and conditioned, would satisfy the relevant objectives of Part B3.5.4 of the Woollahra DCP 2015.

11.3.5. Visual Privacy

The relevant objectives and controls read as follows:

O2 To ensure adequate visual privacy for occupants and neighbours while balancing the need to provide for reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes.

O3 To minimise the impacts of private open space.

C4 New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.

C7 Private open spaces and the trafficable area of roof terraces (at or below the second storey) are to be suitably located and screened to prevent direct views to neighbouring: a) habitable rooms (including bedrooms) within 9m; and b) private open space within 9m.

Concerns were raised by the adjoining property at No. 5 Fairfax Road with regards to potential visual privacy impacts as a result of the north-facing windows and terraces. Amended plans were provided which incorporated fixed angled louvres to the north-facing habitable windows of the ground floor level and Level 1 apartments to mitigate potential overlooking opportunities. The balance of the window openings are either recessed or have no direct sightlines to adjoining private open space areas or habitable windows and will therefore offer no overlooking opportunities of adjoining properties.



View of the front setback of the adjoining property at No. 5 Fairfax Road looking in a southerly towards the subject site (largely obscured)



View of the front setback of the adjoining property at No. 5 Fairfax Road looking in an easterly towards the subject site (largely obscured)



View of the side (south-eastern) setback of the adjoining property at No. 5 Fairfax Road. Subject site is largely obscured by existing vegetation along the boundary.



View of the rear setback of the adjoining property at No. 5 Fairfax Road looking in an easterly direction towards the subject site (largely obscured) by existing vegetation



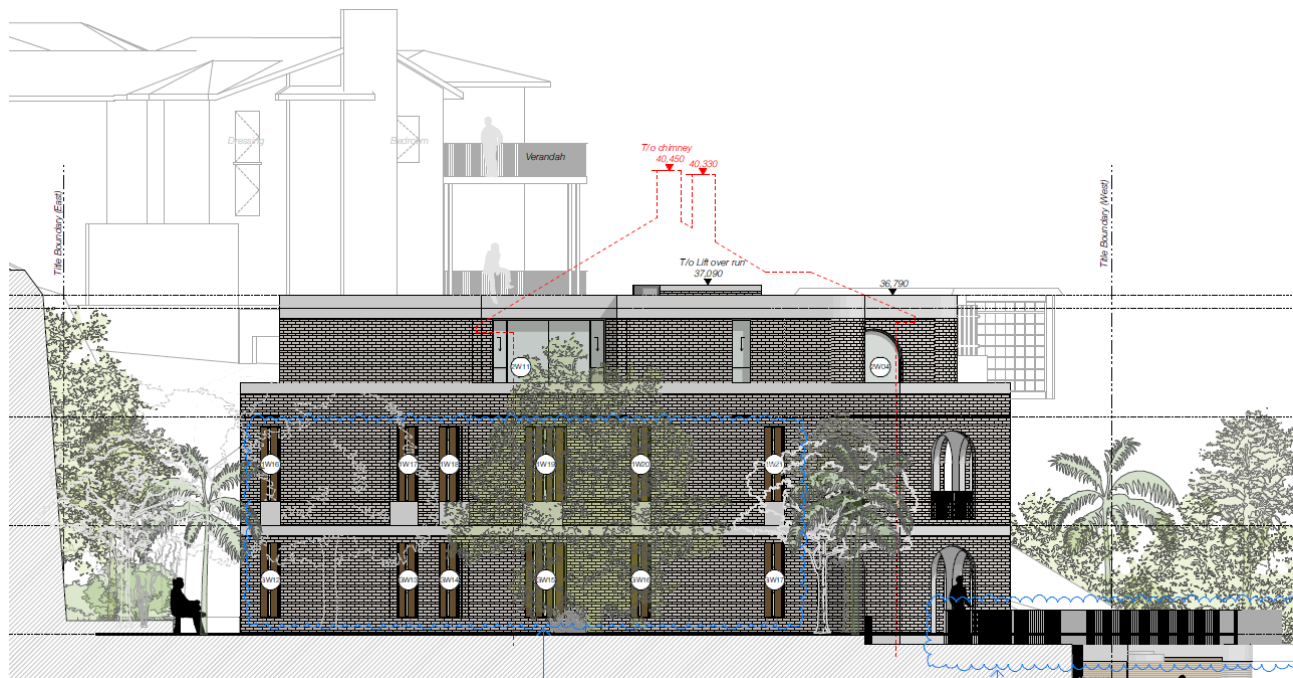
Views of the rear setback of the adjoining property at No. 5 Fairfax Road looking in an easterly direction towards the subject site (largely obscured) by existing vegetation



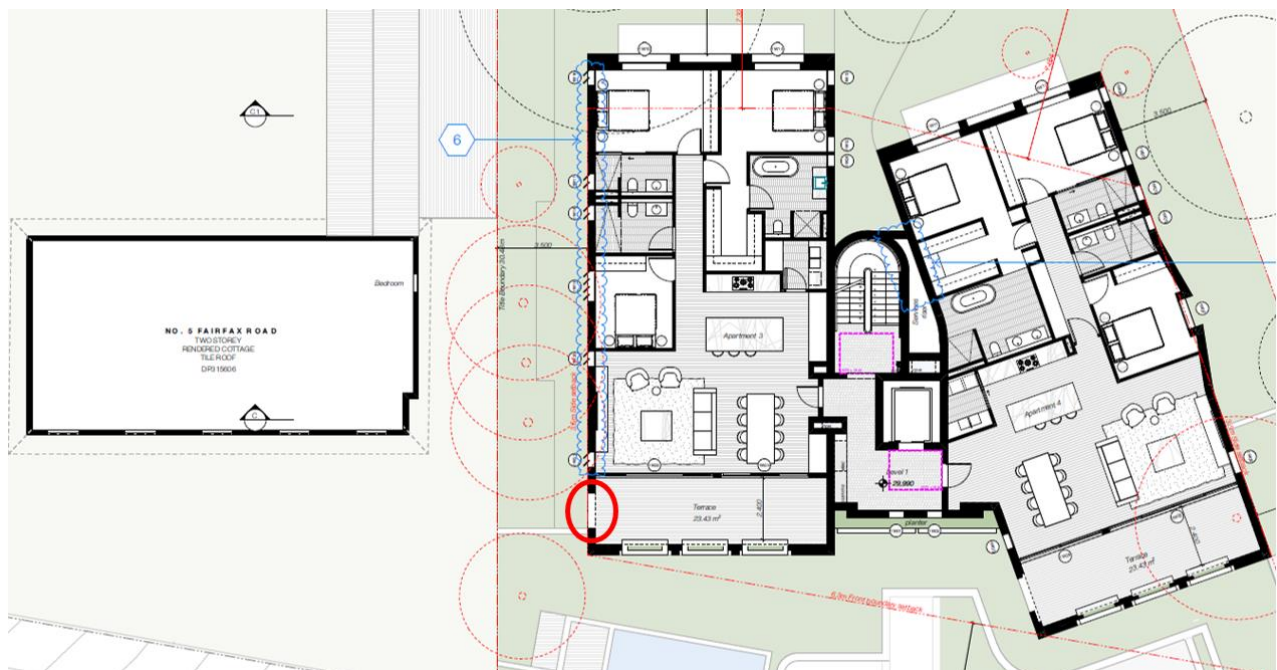
Views of the side (north-western) setback of the subject site looking in a westerly direction (left) and northerly direction (right) towards the adjoining property at No. 5 Fairfax Road (largely obscured by existing vegetation)

Privacy Screen to Northern edge of the west-facing terrace to Level 1

As illustrated in the figures below, all the ground and first floor level habitable north-facing windows are treated with privacy screening to limit overlooking opportunities of the adjoining property at No. 5 Fairfax Road, from said levels. However, the northern edge of the west-facing terrace to Level 1 has direct sight lines to the private open space area located at the front of the adjoining property at No. 5 Fairfax Road. In order to mitigate visual privacy impacts from the northern side of the west-facing terrace to Level 1, **Condition C.1(a)** is recommended requiring a privacy screen be fitted along the northern edge of said terrace, to a minimum height of 1.5m, measured from the finished floor level (RL 33.190).



Proposed Northern Elevation

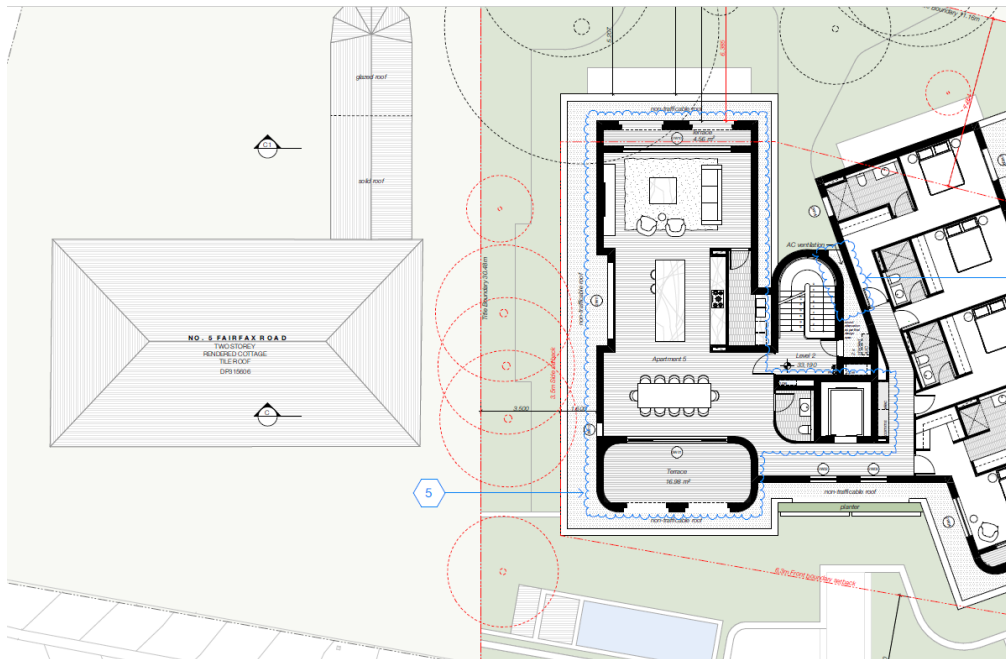


Floor Plan of the first floor level showing the opening (north elevation) to the terrace

North-facing windows to Level 2 Apartment

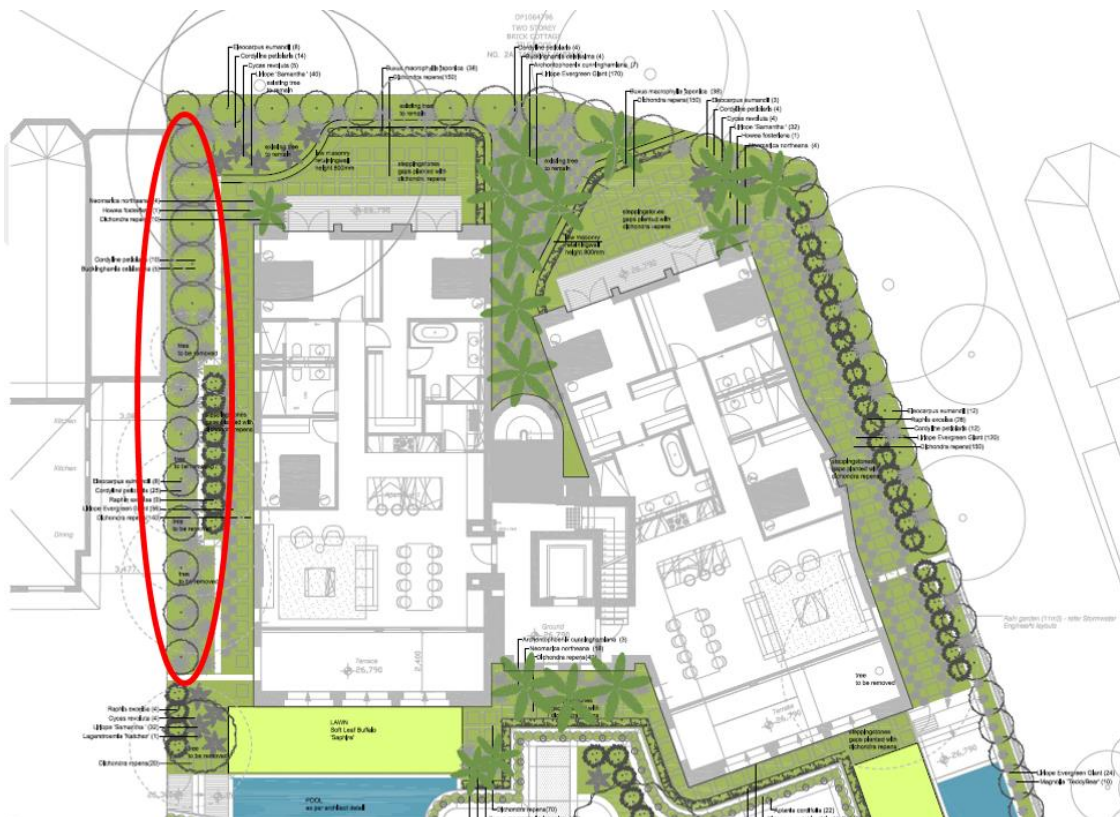
Whilst it is acknowledged that the north-facing window openings to the dining room and kitchen of the Level 2 apartment are either narrow in width or recessed, it is considered that potential overlooking opportunities of the adjoining property at No. 5 Fairfax Road from these windows could occur. In this regard, **Condition C.1(b)** is recommended requiring the north-facing window openings to the dining room and kitchen of the Level 2 apartment must be fitted with fixed translucent glazing up to a minimum height of 1.5m, measured from the finished floor level RL 33.190).

Alternatively, architectural design solutions and devices could include window sill heights of 1.5m above floor level or screening devices similar to those provided to the windows at the lower levels of the development.



Floor Plan of the second floor level showing the window openings to the living areas to the north elevation

The proposal also includes replacement trees along the northern boundary which provides a secondary layer of screening (see Landscape Plan below), thereby further mitigating potential visual privacy impacts upon the adjoining property at No. 5 Fairfax Road.



Landscape Plan showing the tree plantings along the north-western boundary

The proposal, as amended and conditioned, would satisfy the relevant objectives of Part B3.5.4 of the Woollahra DCP 2015.

11.3.6. Traffic and Parking Impacts

Part E1.4: Residential Parking

Residential Component	Quantity	DCP Maximum Requirement per Apartment	DCP Maximum Required Parking	Complies
3 or more bedrooms	5	2	10	Yes
Visitor	5	0.25	1.25 (1)	Yes
Total allowed			11	Yes

The proposed provision of eleven (11) car parking spaces, including ten (10) for residents and one (1) for visitors, complies with DCP's requirement and is considered acceptable.

Parts E1.6 and 1.7: Bicycle and Motorbike Parking Provision

BICYCLE				
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	Complies
Residential Residents	5 dwellings	1 per dwelling	5	Yes
Residential Visitors	5 dwellings	1 per 10 dwellings	0.5 (1)	Yes
Total required			6	Yes
MOTORBIKE				
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	Complies
Car Spaces	11	1 per 10 car spaces	1.1 (1)	Yes
Total required			1	Yes

The proposed provision of six (6) bicycle parking spaces and one (1) motorcycle parking space complies with DCP's minimum requirement and is considered satisfactory.

Part E1.10: Parking and Access Design Standards

Council's Traffic Engineer has undertaken an assessment of the proposal and considers the proposed works acceptable, subject to the imposition of conditions.

Part E1.11: Electric Vehicle Charging Points

Control C.1 requires *evidence of electric circuitry to accommodate 'Level 2' electric vehicle charging points to be integrated into all off-street car parking of new residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future.*

Insufficient details of the electric circuitry have been provided. Notwithstanding this, the proposal is considered to be acceptable with regard to the objectives and controls in Part E1.11: Electric Vehicle Charging Points of the Woollahra DCP 2015, subject to the imposition of **Conditions C.18** and **F.6** requiring provision for electric vehicle circuitry within the development.

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

11.3.7. External Areas

An assessment of the proposal against the relevant controls outlined in Part B3.7 of the Woollahra DCP 2015 is detailed as follows:

Control	Assessment	Complies
C1 For development in the R2 and R3 residential zones—at least 50% of the site area outside the buildable area is deep soil landscaped area.	Based on a site area of 1036.2m ² and a buildable area of 415m ² , the area outside of the buildable area equates to 621.m ² , 50% of which should be set aside for deep soil landscaping (i.e. 310.5m ²). The proposal includes approximately 320m ² of deep soil landscaping outside the buildable area and is therefore compliant with the control.	Yes
C2 At least 40% of the front setback comprises deep soil landscaped area, and: a) for a residential flat building, manor houses, multi dwelling housing or multi dwelling housing (terraces) in the Wallaroy, Manning Road, Darling Point, Bellevue Hill South, Bellevue Hill North or Rose Bay precinct—at least one consolidated area of the deep soil area is at least 20m ² ;	The front setback equates to 237m ² , 40% of which should be set aside as deep soil planting (ie. 94.8m ²). The proposal includes approximately 107m ² of deep soil landscaping within the front setback and is therefore compliant with the control.	Yes
C4 At least 50% of the rear setback comprises deep soil landscaped area.	The rear setback equates to 257m ² , 50% of which should be set aside as deep soil planting (i.e. 128.5m ²). The proposal includes approximately 137m ² of deep soil landscaping within the rear setback and is therefore compliant with the control.	Yes
C10 Part of the primary open space area is directly accessible from a habitable room.	All primary open space areas will be directly accessible from a habitable room.	Yes

As illustrated in the compliance table above, the proposal is compliant with the relevant controls relating to deep soil landscaping.

11.4. Assessment against Principle 4: Internal Amenity

The proposed development has been appropriately designed to ensure all apartments at all levels are dual aspect and also benefit from window openings to the sides. All the apartments will achieve more than adequate solar access and natural ventilation.

OTHER MATTERS

The other provisions of WLEP 2014, WDCP 2015 and relevant Acts and/or Regulations that do not derogate (detract) from the existing use rights provisions applicable to the site, aim to mitigate adverse environmental impacts including upon the natural foreshore processes, heritage related impacts, earthworks related impacts, potential acid sulphate soil affectation, traffic and parking impacts, landscaping impacts, stormwater drainage impacts, flood protection and amenity impacts upon the public domain. Additionally, issues of access for persons with disabilities, swimming pools, demolition of structures and waste minimisation.

Where relevant, an assessment of the abovementioned provisions of the LEP, DCP and relevant acts and/or regulations is provided below:

12 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021: CHAPTER 4 - DESIGN OF RESIDENTIAL APARTMENT DEVELOPMENT

Chapter 4 of the SEPP Housing (2021) applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings. In this instance, the proposed residential flat building comprises three (3) storeys and five (5) self-contained dwellings.

12.1 Clause 2: Aims and Objectives

The aim of the SEPP is to improve the design quality of residential apartment development:

- a) *To ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *By providing sustainable housing in social and environmental terms, and*
 - (ii) *By being a long-term asset to its neighbourhood, and*
 - (iii) *By achieving the urban planning policies for its regional and local contexts*
- b) *To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- c) *To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- d) *To maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- e) *To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions*
- f) *To contribute to the provision of a variety of dwelling types to meet population growth*
- g) *To support housing affordability*
- h) *To facilitate the timely and efficient assessment of applications for development to which this Policy applies*

The development was accompanied by a design verification statement prepared by Brian Meyerson of MHN Design Union Pty Ltd, Registered Architect NSW, No. 4907 as required by the EPA Regulations Clause 29.

Council's Urban Design Consultant assessed the development against Chapter 4 of the SEPP Housing (2021) and the Apartment Design Guide (ADG) and concluded that the proposal could be supported subject to several design amendments being undertaken. The original Referral Response is provided at **Attachment 6**.

In response to the Urban Design Referral Response, amended plans were submitted which were re-assessed by Council's Urban Design Consultant who concluded that the proposal generally complied with the requirements (refer to **Attachment 6**) and did not require any further design amendments.

The proposal, as amended and conditioned, is considered to adhere to the aims and objectives as listed under Chapter 4 of the SEPP Housing (2021) and ADG.

13 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

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

Chapter 2: Coastal Management

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

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

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

Chapter 4: Remediation of Land

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

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

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

14 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

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

Chapter 2: Vegetation in non-rural areas

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

The DA was accompanied by an Arboricultural Impact Assessment Report, prepared by Dr Treegood (dated November 2022) and an amended Landscape Plan, prepared by Volker Klemm Landscape Design (dated 1 December 2023).

Council's Tree and Landscape Officer has undertaken a review of the proposal and considers the proposal, as amended, to be acceptable, subject to conditions. The Tree and Landscaping referral response is provided at **Attachment 4**).

Accordingly, the proposal is satisfactory with regard to Chapter 2 of SEPP (Biodiversity and Conservation) 2021.

Chapter 6: Water Catchments

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

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

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

The proposal is satisfactory with regard to the requirements of Chapter 6 of SEPP (Biodiversity and Conservation) 2021.

15 STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

This policy generally applies to all residential developments (excluding alterations and additions less than \$50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

Chapter 2 Standards for Residential Development—BASIX

Chapter 2 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by a BASIX Certificate No. 1353940M demonstrating compliance with the SEPP.

16 WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

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

Part 4.1A(2) specifies a minimum lot size of 700m² for a residential flat building on land zoned R3 only. The subject site is zoned R2 and, therefore, this clause is not applicable.

Notwithstanding, the 'existing use rights' provisions apply in this case, the subject site measures 1036.2m² in extent and therefore the proposal is considered to be satisfactory in terms of the objective of the Woollahra LEP 2014.

16.2 Part 5.10: Heritage Conservation

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

The property is not a listed heritage item and is not located within a Heritage Conservation Area.

However, the following listed heritage item is located in close proximity to the site:

'Tudor Lodge – house and interiors, garage, flagged driveway, paths and stone wall to Fairfax Road', at 6 Fairfax Road, Bellevue Hill (No. 23) as listed in Schedule 5 - Environmental Heritage of the WLEP 2014.

Council's Heritage Officer has undertaken a review of the application and has provided the following relevant commentary:

'Grenoville' or "Granville Flats" 3 Fairfax Road, Bellevue Hill, is an example of a Georgian Revival inter-war flat building. It is not a fine example of this style or typology, nor does it have any particular strong association with a significant person, nor does it have any identified historical significance.

A Demolition Report prepared by Zoltan Kovacs, Architect, dated November 2022 accompanied the DA and informed Council's assessment of the DA against Part 5.10 of the Woollahra LEP 2014.

The proposal is acceptable with regard to Part 5.10 in that:

- The subject site is sufficiently removed from 'Tudor Lodge' that there is unlikely to be any impact on the significance of the place arising from the proposal.
- The proposed development represents a sympathetic and appropriate built form response, ensuring the conservation of the environmental heritage of Woollahra, thereby achieving Part 5.10(1)(a).
- Council's Heritage Officer has advised that the existing building does not meet the threshold for listing as an item on the Woollahra Local Environmental Plan 2014 or on the State Heritage Register, under any of the possible criteria and therefore does not need to be protected in accordance with Part 5.10(1)(b).
- The proposal incorporates a variety of sympathetic materials and will not adversely affect the setting or views in accordance with Part 5.10(1)(b).
- The site is not known as being an archaeological site, which would otherwise warrant protection in accordance with Part 5.10(1)(c).
- The site is in an area of Potential Aboriginal Heritage Sensitivity. As such, Council's Heritage Officer has provided the following referral Advice:

'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.'

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

Artefact is a qualified Aboriginal heritage consultant who has inspected the property on 8 November 2022, on foot. A member of La Perouse LALC was in attendance for the site visit. No consultation with the La Perouse Local Aboriginal Land Council is referred to beyond this.

There has been consideration of relevant previous Aboriginal heritage investigations, as detailed in section 4.4 of Artefact's report.

The AHIMS was consulted by Artefact on 2 November 2022 and the extensive search is at Section 4.5 of the report. None of these sites are within the study area.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 17 May 2023 confirmed that there are 0 recorded Aboriginal sites recorded within a 200m buffer in or near the above location.

The report identifies the following potential for unexpected findings within the area: nil – low.

In terms of the site's disturbance, the report states that it is extensive, and includes landform modification (Section 5.2). The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The site does contain landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The report's recommendations concluded that

- *In accordance with the Due Diligence Code of Practice the proposed works can proceed with caution and will not require further archaeological investigation*
- *The proposed works would be managed under an unexpected finds procedure*
- *Unexpected Aboriginal objects remain protected by the NPW Act. If any such objects, or potential objects, are uncovered in the course of the proposed works, work in the vicinity must cease and Heritage NSW, Department of Environment and Planning (DPIE), La Perouse LALC, and a qualified archaeologist must be contacted for advice. Further assessment and permits may be required before works can recommence*
- *If human remains are found, work must cease, the site must be secured, and the NSW Police and Heritage NSW, DPIE must be notified*
- *A heritage induction should be provided to all contractors prior to works commencing. The heritage induction would identify the relevant legislative requirements and the unexpected finds procedure.*

The completed Aboriginal Heritage Due Diligence study satisfies most of the required criteria for an Aboriginal Heritage Impact Assessment, though the report does not make a recommendation as to whether the Woollahra Aboriginal Heritage Sensitivity Map should be updated in accordance with its findings. It is unknown whether the report has been submitted to La Perouse LALC.

Given the above, it is concluded that an unexpected findings condition of consent will need to be imposed as part of the DA consent.

It is emphasised that these precautions must also apply to any rock art as well as objects in the ordinary sense.'

Council's Heritage Officer concluded that the proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would not have an undue heritage impact.

Conclusion:

Given the commentary provided above, the proposal, as conditioned, is acceptable with regard to Part 5.10 of the Woollahra LEP 2014.

16.3 Part 5.21: Flood Planning

The objectives of Part 5.21 are:

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

The subject site is located within a flood planning area which demonstrates that the site and surrounding area may be subject to flooding.

Having regard to location of the site and the extent of works being carried out, the proposal was considered by Council's Drainage Engineer who raised no objections to the proposal, subject to conditions. The detailed referral provided by Council's Drainage Engineer is attached at **Attachment 9.**

Conclusion:

The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part 5.21 of the Woollahra LEP 2014.

16.4 Part 6.1: Acid Sulfate Soils

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

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications.

Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1 of the Woollahra LEP 2014.

16.5 Part 6.2: Earthworks

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

The proposal involves excavation to a depth of approximately 4m below ground level to accommodate the construction of a basement level for car parking (11 spaces), bicycle and motorcycle parking, storage areas, refuse areas, comms room, fire pump room, AC plant room, lobby, lift and internal stairs.

In determining whether to grant consent for the proposed earthworks Clause 6.2(3) requires Council to be satisfied that the extent and siting of excavation has had regard to the following relevant matters:

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

For reasons discussed in Section 11.3.1 of this report, the proposal, as conditioned, is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

Conclusion:

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

17 WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

The provisions of WDCP 2015, that do not derogate from the existing use rights applicable to the site aim to mitigate adverse environmental impacts under the following headings:

17.1 Chapter B3: General Development Controls

17.1.1. Part B3.7: External Areas

Part B3.7.4: Ancillary development – swimming pools

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

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

O2 To limit excavation.

O3 To retain trees and vegetation of landscape value.

C1 The swimming pool does not occupy the deep soil landscaped area.

C3 The swimming pool (measured from the water edge) is at least 1.8m from property boundaries.

C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.

C5 The swimming pool is no deeper than 2m from the pool surround level.

C6 The location and design of the swimming pool and associated works do not adversely impact on prescribed trees.

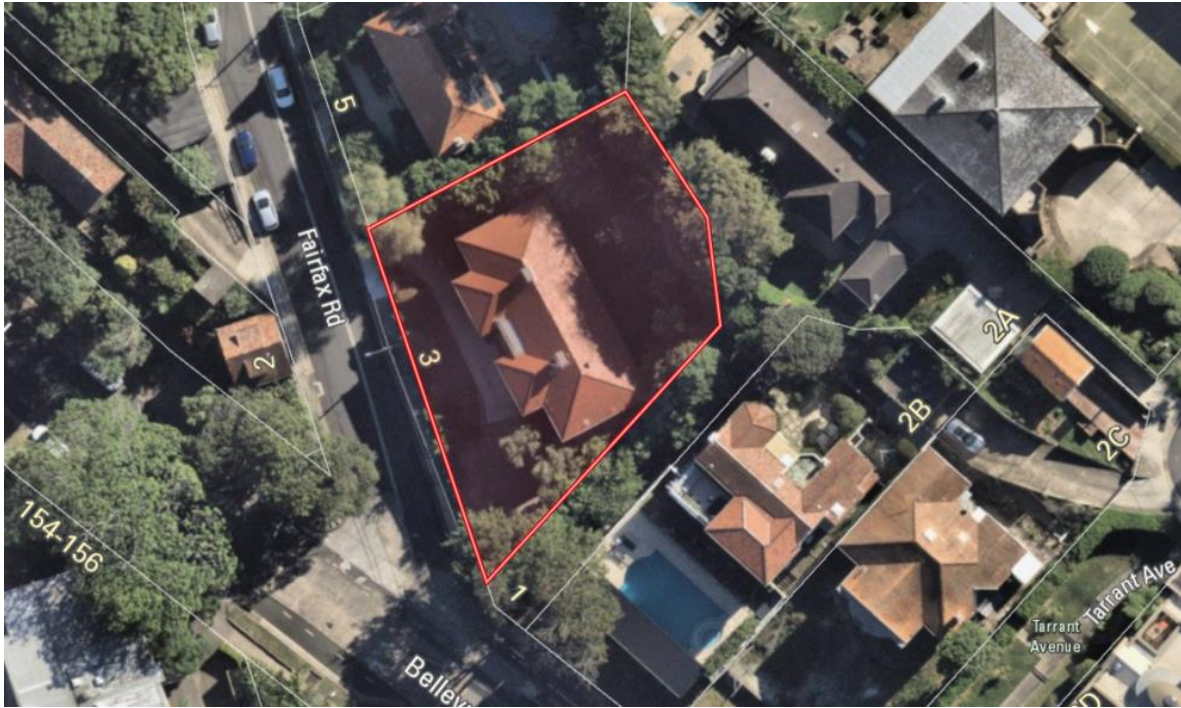
The proposal includes the construction of two (2) new swimming pools to the Ground Floor apartments (Apartments 1 and 2) located within the front (western) and side (southern) setbacks (see image below).

The proposal results in non-compliances with Control C3 as the swimming pools (measured from the water edge) are located closer than 1.8m from property boundaries.



Ground floor plan showing the proposed swimming pools to Apartments 1 and 2

Notwithstanding this, the proposal achieves consistency with Objective O1 in that the proposal results in an outcome which provides for recreational opportunities without compromising the amenity of the adjoining properties. In this regard, it is noted that swimming pool proposed along the southern boundary, is located adjoining an undeveloped battle-axe section of the adjoining property at No. 2A Tarrant Avenue and in close proximity to the swimming pool located at No. 2B Tarrant Avenue (see aerial view below).



Aerial view illustrating the separation between the subject site and adjoining development to the south-east, as a result of the undeveloped battle-axe section of the adjoining property at No. 2A Tarrant Avenue

In addition, the recommended conditions of consent will also ensure that all plant and equipment associated with the proposed swimming pools are acoustically treated.

On merit, and in this instance, strict compliance with the control is considered unreasonable.

Conclusion

The proposal, as conditioned, is acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

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

	Existing	Proposed	Control	Complies
Minimum Lot Width (RFB)	>21m	>21m*	Min 21m	Yes

**if Part B3.8 of the WDCP 2015 were applicable.*

While the provisions of Part B3.8 have no force with regard to the proposal, in so far as they derogate (detract) from the 'existing use rights' the proposal is consistent with the relevant objectives and controls in Part B3.8 of the Woollahra DCP 2015 for the following reasons:

- The proposal would comply with the Minimum Lot Width applicable for a Residential Flat Building of 4 or more dwelling units.
- The proposed dwelling units are multi-aspect layouts and provide good levels of internal amenity in terms of solar access and cross-ventilation.

- Each dwelling has access to its own area of private open space and also access to a communal area.

The proposal satisfies the relevant objectives of this part.

Conclusion:

The proposal is acceptable with regard to Part B3.8 of the Woollahra DCP 2015.

17.2 Chapter E2: Stormwater and Flood Risk Management

Council's Development and Drainage Engineers have determined that the proposal is satisfactory, subject to Conditions.

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

17.3 Chapter E3: Tree Management

Council's Tree and Landscaping Officer has raised no objections to the proposal, subject to the imposition of suitable conditions to ensure the planting of additional trees and the protection of trees to be retained on the site.

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

17.4 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.

E5.2 – Demolition and Construction Phase

The proposal is considered to be acceptable with regard to the relevant controls and objectives in Part E5.2 of the WDCP 2015, subject to conditions.

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

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

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

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

The proposed residential flat building will comprise of five (5) units. As illustrated below and on the basement plan, 8 bin receptacles are proposed within the bin room at the Lower Ground Floor Level, exceeding the requirements of Control C4.

TABLE 3 – PROPOSED RESIDENTIAL SERVICING ARRANGEMENTS

SERVICE	NUMBER OF CONTAINERS	COLLECTION FREQUENCY
Waste Service	3 x 240-litre mobile containers	Weekly
Recycling Service	2 x 240-litre mobile containers	Weekly
Recycling Service	2 x 240-litre mobile containers	Weekly
FOGO Service	1 x 240-litre mobile container	Fortnightly

Extract from the SWMMP prepared by Dickens Solutions (Ref – 22307 and dated November 2022)

The proposal satisfies the relevant objectives and controls of this part.

Conclusion:

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

18 DRAFT AMENDMENTS TO POLICIES AND PLANS

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

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

These amendment can be summarised as follows:

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

Savings and transitional arrangements apply. As such, any DA under assessment, but not finally determined on 01 November 2023, will be determined using the previous clause 4.6 requirements. This DA was lodged on 1 December 2022, prior to the introduction of these amendments.

18.2. WLEP 2014 – Amendment 33

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

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

Amendment 33 includes a saving provision under Clause 1.8A(2), which permits DAs submitted prior to 14 July 2023, but not determined, to be assessed under the previous provisions. This DA was lodged on 1 December 2022, prior to the introduction of this amendment.

19. CONTRIBUTION PLANS

19.1. Section 7.12 Contributions Plan

A levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan 2022. This requirement is addressed by Council's standard condition. Refer to **Condition C.20**.

20. APPLICABLE ACTS/REGULATIONS

20.1. Environmental Planning and Assessment Regulation 2021

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

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

Clause 64: Consent authority may require upgrade of buildings

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

Given the proposal is a new building, BCA compliance is to be assessed at Construction Certificate stage. Nevertheless, Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Attachment 7**, and **conditions** have been recommended relating to a final fire safety certificate (including in the case of an interim occupation or final occupation) and an annual fire safety statement.

Swimming Pools Act 1992

The Swimming Pools Act 1992, requires swimming pools to be surrounded by a child-resistant barrier, which separates the swimming pool from any residential building. The barrier must be designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Additional provisions relate to:

- a) Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash discharge to the sewer

These requirements are imposed by standard condition.

21. 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.

22. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development for the following reasons:

23. THE PUBLIC INTEREST

The proposal, as amended and conditioned, is considered to be in the public interest.

24. CONCLUSION

The proposal, as amended and conditioned, is acceptable against the relevant considerations under Section 4.15.

25. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development which contravenes the Height of Buildings development standard under Clause 4.3 of the Woollahra Local Environmental Plan 2014. The Panel assumes the concurrence of the Secretary, Department of Planning, Industry and Environment.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 534/2022/1 for the demolition of the existing building and construction of a new residential flat building with basement garage, swimming pools and associated landscaping on land at 3 Fairfax Road BELLEVUE HILL, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the Act") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the Regulation") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the Act.

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the *BCA*.

Public place has the same meaning as in the *Local Government Act 1993*.

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

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

Standard Condition: A2 (Autotext AA2)

A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

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

Reference	Description	Author/Drawn	Date(s)
DA 0000 Rev B DA 2000 Rev B DA 2001 Rev B DA 2002 Rev B DA 2003 Rev B DA 2004 Rev B DA 3000 Rev B DA 3001 Rev B DA 3100 Rev B	Cover Page Lower Ground Floor Plan Ground Floor Plan Level 1 Plan Level 2 Plan Roof Plan East & West Elevations North & South Elevations Sections A & B	All by MHND Union	All dated 20/12/2023
DA 6000 Rev A	External Finishes Schedule		22/11/2022
1353940M	BASIX Certificate	NSW Department of Planning, Industry and Environment	18/11/2022
16041-GR-1-1-Rev 2	Geotechnical Report	Alliance	19/12/2023
SYD22649 SW000-Issue P3 SW001-Issue P3 SW101-Issue P3 SW102-Issue P3 SW103-Issue P3 SW104-Issue P3 SW201-Issue P3 SW202-Issue P3 SW203-Issue P3	Stormwater Management Plans	ERBAS	18/12/2023 18/12/2023 18/12/2023 18/12/2023 18/12/2023 18/12/2023 18/12/2023 18/12/2023 18/12/2023
DA01 Revision D	Landscape Plan	Volker Klemm Landscape Design	01/11/2022
22563	Traffic and Parking Assessment Report	Varga Traffic	21/11/2022

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

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

Standard Condition: A5 (Autotext AA5)

A.4 Ancillary Aspects of Development (section 4.17(2) of the *Act*)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

Standard Condition: A8 (Autotext AA8)

A.5 No Underpinning works

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

A.6 Vehicular Access and Garaging

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

A.7 Tree Preservation & Approved Landscaping Works

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

a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
1	<i>Alnus jorullensis</i>	Refer to the Arborist Report prepared by Dr Treegood dated November 2022 for tree numbers and locations.	9 x 6
2	<i>Syzygium spp</i>		7 x 4
3	<i>Syzygium spp</i>		8 x 4
4	<i>Syzygium spp</i>		7 x 5
5	<i>Jacaranda mimosifolia</i>		8 x 10
6	<i>Howea forsteriana</i>		5 x 2
7	<i>Archontophoenix cunninghamiana</i>		10 x 2
8	<i>Banksia integrifolia</i>		10 x 3
9	<i>Howea forsteriana</i>		4 x 2
10	<i>Dracaena marginata</i>		4 x 3
11	<i>Dypsis lutescens</i>		4 x 2
12	<i>Cyathea cooperi</i>		9 x 2
13	<i>Phoenix roebelenii</i>		4 x 2

14	<i>Cyathea cooperi</i>	7 x 2
26	<i>Olea europaea</i>	9 x 5

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

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

A.8 General Terms of Approval – *Water Management Act 2000* (WaterNSW)

The following general terms of approval have been imposed by WaterNSW:

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number Details

Dewatering

GT0115-00001 Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.

GT0116-00001 Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the *Water Management Act 2000* or *Water Act 1912*, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the *Water Management Act 2000* is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

GT0117-00001 A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the *Water Management (General) Regulation 2018*.

GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
GT0119-00001	All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0121-00001	Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements:

GT0123-00001	<p>The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)</p> <p>(a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering</p>
GT0150-00001	<p>The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual</p>

GT0151-00001	Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0152-00001	This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0155-00001	The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report
<p>SCHEDULE 1</p> <p>The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with CNR-53323 DA 534-22 as provided by Council:</p> <ul style="list-style-type: none"> • Response to RFI confirming tanked Basement • Geotechnical Report prepared by Alliance and Environmental Solutions dated 25 Nov 2022 • SEE prepared gsa planning dated Nov 2022 • Floor plans prepared by MHNDUnion - Dated Nv 2022 	

Note: These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

A.9 Conditions of Concurrence – *Sydney Water*

The following conditions of approval have been imposed by Sydney Water:

Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

Building Plan Approval

The approved plans must be submitted to the Sydney Water **Tap in™** online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The **Tap in™** service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

Out of Scope Building Plan Approval

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:

- Wastewater pipes larger than 300mm in size
- Pressure wastewater pipes
- Drinking water or recycled water pipes
- Our property boundary
- An easement in our favour
- Stormwater infrastructure within 10m of the property boundary.

2. Where the building plan includes:

- Construction of a retaining wall over, or within the zone of influence of our assets
- Excavation of a basement or building over, or adjacent to, one of our assets
- Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance

- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

Tree Planting

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and *Diagram 5 – Planting Trees* within our [Technical guidelines – Building over and adjacent to pipe assets](#). Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

Note: These conditions have not been imposed by Council but are required to be incorporated as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent these conditions prevail.

Standard Condition: A25 (Autotext AA25)

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

B.1 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

Standard Condition: B6

B.2 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

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

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

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

B.3 Recording of Buildings with Little or No Heritage Significance that are to be Demolished

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature, and
 - views to the subject property from each street and laneway or public space.

One digital set is to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

Note: Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf
Standard Condition: B3 (Autotext BB3)

B.4 Archaeological Features – Unexpected Findings

If unexpected archaeological features are discovered during the works covered by this approval, work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).
Standard Condition: B8 (Autotext BB8)

B.5 Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

Standard Condition: B9 (Autotext BB9)

B.6 Aboriginal Objects – Unexpected Findings

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

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

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

Standard Condition: B10 (Autotext BB10)

B.7 Aboriginal Heritage Due Diligence Responsibilities

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the *National Parks & Wildlife Act 1974*. Under the *National Parks & Wildlife Act 1974*, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

Standard Condition: B12 (Autotext BB12)

B.8 Aboriginal Heritage Induction

- a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the *National Parks and Wildlife Act 1974*;

- b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council or by a heritage consultant with Aboriginal heritage expertise, if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
 - c) Documentary evidence demonstrating compliance with a. and b. above being submitted to Council and the Principal Certifier.
- Standard Condition: B13 (Autotext BB13)

B.9 Demolition and Construction Management Plan

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

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

B.10 Arborists Documentation and Compliance Checklist

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

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

All compliance certification documents shall be kept on site by the Site Foreman.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to any occupation or use of the building	<ul style="list-style-type: none">• Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.

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

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

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

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

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

a) Privacy Screen to Northern edge of the West-facing terrace to Level 1

In order to mitigate visual privacy impacts to the habitable room windows and the private open space areas of the adjoining property at No. 5 Fairfax Road, a privacy screen must be fitted along the northern edge of the west-facing terrace to Level 1, to a minimum height of 1.5m, measured from the finished floor level (RL 33.190).

b) Window Treatments to the Level 2 North-facing Windows

In order to mitigate visual privacy impacts to the habitable room windows and rear private open space area of the adjoining property at No. 5 Fairfax Road, the window openings to the northern elevation (2W11 and 2W12) of the Level 2 kitchen and dining room must incorporate one of the following window treatments:

- i) fixed vertical louvres or screening devices similar to those provided to the north-facing windows at the Ground Floor Level and Level 1 of the development;
- ii) fixed translucent glazing to a minimum height of 1.5m measured from the finished floor level (RL33.19); or
- iii) minimum window sill heights of 1.5m above the finished floor level (RL33.19).

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

Standard Condition: C4 (Autotext CC4)

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

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

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

SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit - making good any damage caused to any property of the Council	\$134,450.00	No	T115
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$28,250.00	No	T113
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$645.00	No	
Security Administration Fee	\$235.00	No	T16
TOTAL SECURITY, LEVIES AND FEES	\$163,580.00 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

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

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1353940M with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides:
"A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".
Standard Condition: C7

C.4 Road and Public Domain Works – Council Approval Required

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

- a) The removal of all redundant vehicular crossings including layback and gutter and reinstated into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,
- b) The removal of the existing kerb and gutter and the construction of a new 3.5 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 vehicular crossing and driveway, starting from the road centreline to the parking slab must be submitted for assessment,
- c) The applicant is to liaise with Council's Traffic Team to relocate the existing parking sign/s to accommodate the new driveway. All costs associated with the relocation must be borne by the applicant,
- d) The reconstruction of the existing 1.8m wide footpath for the full frontage of the site in Fairfax Road in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Council's Standard Drawing RF3 and to the satisfaction of Council's Assets Engineers. Detailed long section and cross sections at every 5 metres intervals shall be provided for assessment. The footpath must have a maximum crossfall of 3% graded towards the top of kerb,
- e) The installation of stormwater outlet pipe across the nature strip 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 kerb inlet pit must be submitted for assessment,
- f) The reinstatement of all damaged kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers,
- g) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf,
- h) The developer shall be responsible for carrying out all service investigations to allow a gravity connection,
- i) A bond of \$28,250 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date,

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

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

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

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

Note: See condition K24 in *Section K. Advising*s of this Consent titled *Roads Act Application*.

Standard Condition: C13 (Autotext CC13)

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

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

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

Standard Condition: C17 (Autotext CC17)

C.6 Provision for Energy Supplies

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

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

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

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

- a) A setback not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the electricity pillar and/or substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.

- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established, if required. The size and location of the electricity pillar and/or substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

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

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

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

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

C.7 Soil and Water Management Plan – Submission and Approval

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

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

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

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

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

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

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

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

Standard Condition: C25

C.8 Professional Engineering Details

The Construction Certificate plans and specifications, clause 7 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation. 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.

C.9 Engineer Certification

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

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

C.10 Geotechnical and Hydrogeological Design, Certification and Monitoring

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

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide details of cut-off walls and/or other similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking to all below ground structures to prevent the entry of ground water/seepage water such that subsoil drainage/ seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of Council's DCP.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,

- will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
- will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
- will detect groundwater changes calibrated against natural groundwater variations,
- details the location and type of monitoring systems to be utilised,
- details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
- details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.11 Ground Anchors

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

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

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

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

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

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

Standard Condition: C41 (Autotext: CC41)

C.12 Parking Facilities

The *Construction Certificate* plans and specifications must include detailed plans and specifications for all bicycle and car parking in compliance with AS2890.3 and AS2890.1 respectively. The detailed construction plans must satisfy the following requirements:

- a) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1. In this regard, a 2m x 2.5m sight splay, clear of any obstructions to visibility, must be provided on both sides of the driveway exit. Any structures within these splay areas must be relocated to ensure visibility,
- b) All parking spaces must have minimum dimensions of 2.4m x 5.4m, clear of any obstructions, to comply with AS2890.1. If the side boundary of a parking space is a wall, or if there are obstructions such as columns restricting door opening, 300mm shall be added to the width of the space,

- c) Driveway and vehicular access ramp must be designed to provide adequate ground clearance to the underside of B99 vehicles.

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

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

Standard Condition: C45 (Autotext: CC45)

C.13 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 SYD22649-Issue P3, prepared by ERBAS, dated 18/12/2023, other than amended by this and other conditions;
- b) The discharge of stormwater from the site, by direct connection, to the Council's existing kerb inlet pit located within the frontage of the site on Fairfax Road. The stormwater outlet pipe must be located within the frontage of the site. Only one stormwater outlet will be permitted,
- c) A minimum 600mm x 600mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3,
- d) The total site discharge for the proposed development, must not exceed the permissible site discharge of 35 l/s for the 1% AEP storm event,
- e) In order to prevent any backwater effects, invert level of the overflow pipe from the rainwater tank must be designed so that it is set above the HGL of the downstream drainage system where the top of kerb level at the connecting kerb inlet pit is to be used as the tailwater level. The tailwater level must be higher than the top of kerb where the point of connection is affected by mainstream or overland flooding,
- f) All below ground structures are to be fully tanked such that subsoil drainage / seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- g) The provision of a stormwater treatment system including the installation of a rainwater tank (RWT) with a minimum storage volume of 31m³, a rain garden with minimum area of 11m² and SPEL Ecoceptor GPT1500 must be provided to achieve the water quality targets stipulated in Chapter E2.2.3 of Council's DCP. Overflow from the RWT must be directed to the proposed rain garden by gravity prior to discharging stormwater to the street drainage system,
- h) The level of the rain garden emergency overflow weir must correspond with the level depicted on the architectural drawings,
- i) Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans,
- j) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- k) Dimensions of all drainage pits and access grates must comply with AS3500.3 and the Council's DCP,

- l) Compliance with the objectives and performance requirements of the BCA, and
- m) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout plan

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

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

Rainwater Reuse System details:

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

For the proposed stormwater connection to the Council's underground drainage infrastructure, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to the issue of any Construction Certificate.

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

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

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

C.14 Flood Protection

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

- a) A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b) The proposed below ground car park shall be protected by a physical threshold set at or above the flood planning level of 22.83m AHD.
- c) The pedestrian entry off Fairfax Road shall be protected from flooding to the flood planning level of 23.73m AHD.
- d) Flood compatible materials shall be used for all flood exposed construction.
- e) All flood exposed electrical wiring and equipment shall be waterproofed.

- f) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
Standard Condition C.54 (autotext CC54)

C.15 Swimming and Spa Pools – Child Resistant Barriers

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

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' pursuant to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note: A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.
Standard Condition: C55 (Autotext CC55)

C.16 Swimming and Spa Pools – Backwash

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

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

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

Standard Condition: C56 (Autotext CC56)

C.17 Acoustic Certification of Mechanical Plant and Equipment

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

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

Where sound attenuation is required this must be detailed.

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

1. Australian Acoustical Society—professional society of noise-related professionals

www.acoustics.asn.au

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

Standard Condition: C62 (Autotext CC62)

C.18 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
 - Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
- b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power

Standard Condition: C57 (Autotext CC57)

C.19 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.20 Payment of S7.12 Contributions Levy

A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.

A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.

The cost estimate report must be in the form of:

- A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or
- A quantity surveyor's report, for development over \$750,000.

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

Summary Schedule	
Development Cost	Levy Rate
• Up to and including \$100,000	Nil
• More than \$100,000 and up to and including \$200,000	0.5% of the cost
• More than \$200,000	1% of the cost

How must the payments be made?

Payments must be made by:

- Cash deposit with Council,
- Credit card payment with Council, or
- Bank cheque made payable to Woollahra Municipal Council.

Deferred or periodic payment of section 7.12 levy

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 2.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

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

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

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,
- a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable,
- the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on 02 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (e.g. construction certificate, subdivision certificate, or occupation certificate).

C.21 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

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

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

C.22 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to section 7 of the *Development Certification Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Section 19 of the *Development Certification Regulation* requires compliance with the *BCA*. Section 19 of the *Development Certification Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Section 8 of the *Development Certification Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

C.23 Ventilation - Internal Sanitary Rooms

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

C.24 Utility Services Generally

Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

A customer's electrical supply connection and point of connection must comply with the NSW Service and Installation Rules: https://www.energy.nsw.gov.au/sites/default/files/2022-08/2018_07_NSW_ServiceAndInstallationRulesOfNSW_underlined.pdf and comply with Ausgrid's relevant Networks Standards relating to customer connections and the type of connection.

Where adequate provision has not been made for an electrical substation within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the Act to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The applicant shall provide to the Principal Certifier a true copy of the plans developed by the applicant's Accredited Service Provider outlining the design and requirements for network modification and customer connection for the proposed development. The plans must have been reviewed and certified by Ausgrid to be deemed compliant of meeting this requirement.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the construction certificate plans and/or detailed within the construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the construction certificate plans.

The construction certificate plans and specifications, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Notes:

- This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main.
- Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

Condition Reason: To ensure the adequate provision of utility services, and to ensure that any proposed cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like does not compromise the design quality of the development.

C.25 Provision for Energy Supplies

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

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

The Construction Certificate plans and specifications, required to be submitted pursuant to section 7 of the Development Certification Regulation, must detail provisions to meet the requirements of Austgrid.

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

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

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

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

Note: Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 19 of the Development Certification Regulation. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the Act to allow assessment under section 4.15 of the Act.

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

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

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1 (Autotext DD1)

D.2 Dilapidation Reports for Existing Buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties must include (but is not limited to):

- No. 1 Fairfax Road
- No. 5 Fairfax Road
- No. 2B Tarrant 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.3 Dilapidation Reports for Public Infrastructure

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

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

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site, and
- d) photographs showing any existing damage to retaining walls within the footway or road.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.
Standard Condition: D5 (Autotext DD5)

D.4 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.
Standard Condition: D6 (Autotext DD6)

D.5 Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must provide 2 piezometer within the excavation area and a further 2 piezometer around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

Standard Condition: D7 (Autotext DD7)

D.6 Construction Management Plan

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

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

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

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

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

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.
Standard Condition: D9 (Autotext: DD9)

D.7 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10 (Autotext DD10)

D.8 Erosion and Sediment Controls – Installation

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

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

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

Note: The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

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

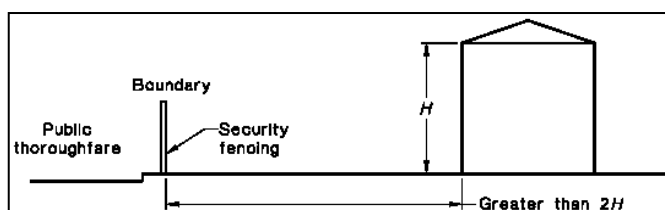
Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
Standard Condition: D14 (Autotext DD14)

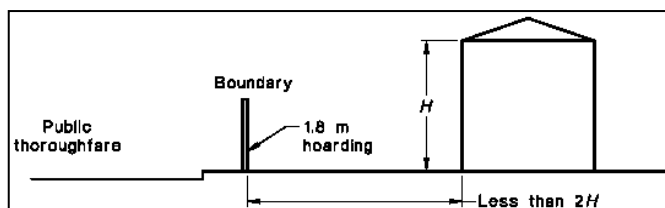
D.9 Security Fencing, Hoarding (including ‘Creative Hoardings’) and Overhead Protection

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



Type A Hoarding

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



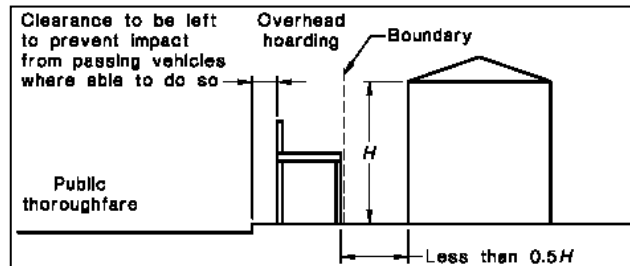
Type B Hoarding

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

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

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

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



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

All Hoardings

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

Hoardings on Public Land including ‘Creative Hoardings’

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

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

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

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

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:

- i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
- ii. the land is zoned R2 Low Density Residential
OR
- iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

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

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council's Cultural Development Team.

Standard Condition: D11 (Autotext DD11)

D.10 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

D.11 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.
sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.
Standard Condition: D13 (Autotext DD13)

D.12 Erosion and Sediment Controls – Installation

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

- d) The Soil and Water Management Plan if required under this consent;
- e) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- f) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

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

Note: The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

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

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
Standard Condition: D14 (Autotext DD14)

D.13 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

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

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.
Standard Condition: D15 (Autotext DD15)

D.14 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- b) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
- In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.
Standard Condition: D17 (Autotext DD17)

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the Home Building Act 1989

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1 (Autotext EE1)

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

Standard Condition: E2 (Autotext EE2)

E.3 Compliance with Construction Management Plan

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

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.
Standard Condition: E3 (Autotext EE3)

E.4 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

Standard Condition: E4 (Autotext EE4)

E.5 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

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

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5 (Autotext EE5)

E.6 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - (i) piling,
 - (ii) piercing,
 - (iii) rock or concrete cutting, boring or drilling,
 - (iv) rock breaking,
 - (v) rock sawing,
 - (vi) jack hammering, or
 - (vii) machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm
Standard Condition: E6 (Autotext EE6)

E.7 Public Footpaths – Safety, Access and Maintenance

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

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): *Manual of uniform traffic control devices* and all relevant parts of this set of standards.
- b) Australian Road Rules.

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

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

- b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.
Standard Condition: E7 (Autotext EE7)

E.8 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.9 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 approved Landscape Plan.

The project arborist shall document compliance with the above condition.

E.10 Maintenance of Environmental Controls

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

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

Standard Condition: E11

E.11 Compliance with Geotechnical / Hydrogeological Monitoring Program

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

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

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

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

Standard Condition: E12 (Autotext EE12)

E.12 Support of Adjoining Land and Buildings

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

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

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

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: **"Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

Standard Condition: E13 (Autotext EE13)

E.13 Vibration Monitoring

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

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

Where any such alarm triggers all excavation works must cease immediately.
Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

Note: *building* has the same meaning as in section 1.4 of the *Act* i.e. "*building* includes part of a building and any structure or part of a structure...."

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.
Standard Condition: E14 (Autotext EE14)

E.14 Erosion and Sediment Controls – Maintenance

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

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

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



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15 (Autotext EE15)

E.15 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

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

Standard Condition: E17 (Autotext EE17)

E.16 Site Cranes

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

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

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

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

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

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

Standard Condition: E19 (Autotext EE19)

E.17 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The Principal Contractor or Owner-builder must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

E.18 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

Standard Condition: E21 (Autotext EE21)

E.19 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
Standard Condition: E22 (Autotext EE22)

E.20 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “*Dust Control - Do it right on site*” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

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

Standard Condition: E23 (Autotext EE23)

E.21 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Road Works

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

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

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

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

Standard Condition: E24 (Autotext EE24)

E.22 Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

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

Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

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

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

E.23 Site Waste Minimisation and Management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly 'signpost' the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and
- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.
Standard Condition: E31 (Autotext EE31)

E.24 Site Waste Minimisation and Management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,

- c) consider organising to return excess materials to the supplier or manufacturer,
- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

E.25 Shoring and Adequacy of Adjoining Property

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

The person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

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

Standard condition: E33 (Autotext: EE33)

E.26 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current SafeWork NSW "demolition licence" and a current SafeWork NSW "Class A licence" for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public

Standard Condition: E39

E.27 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part 1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

Standard Condition: E40

E.28 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.

Standard Condition: E41

E.29 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

Standard Condition: E42

E.30 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

Standard Condition: E43

E.31 Salvage

Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling. This is in accordance with Chapter E5.2 of the Woollahra DCP 2015.

E.32 Aboriginal Heritage Impact Assessment – update of heritage sensitivity mapping

The Aboriginal Heritage Due Diligence prepared by Artefact, dated 9 November 2022 must be provided to the La Perouse LALC and the NSW Aboriginal Heritage Information Management System, if it has not been already. After the completion of excavation, carried out in accordance with the standard conditions, a recommendation is to be made to Council in writing by the report authors, with the evidenced agreement of the La Perouse LALC, stating whether Council's Aboriginal heritage sensitivity mapping should be updated. This recommendation is required in accordance with Attachment 10 to the Woollahra Council DA Guide 'A guide for preparing an Aboriginal Heritage Impact Assessment' and to enable Council to protect Aboriginal heritage.

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

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.

Standard Condition: F1 (Autotext FF1)

F.2 Fire Safety Certificates

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

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

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

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

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

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

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

Note: In this condition:

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

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

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

Standard Condition: F4 (Autotext FF4)

F.3 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

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

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.
Standard Condition: F7 (Autotext FF7)

F.4 Commissioning and Certification of Public Infrastructure Works

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

The certification must be supported with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

Standard Condition F9 (Autotext FF9)

F.5 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

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

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register.
- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued pursuant to section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.

- d) Public pools must comply with the *NSW Health Public Swimming Pool and Spa Pool Guidelines* in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2010: *Swimming pool safety - Water recirculation systems*.

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

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

Note: NSW Health guidelines and fact sheets are available at
www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx
Standard Condition: F13 (Autotext FF13)

F.6 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition C.18.

Standard Condition: F22 (Autotext FF22)

F.7 Vehicle Access and Manoeuvring – Construction & Certification

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

- a) That the as-constructed carpark complies with the approved Construction Certificate drawings,
- b) That a maximum driveway gradient of 5% has been provided for the first 6 metres from the property boundary to the basement,
- c) That finished driveway gradients and transitions will not result in scraping to the underside of B99 vehicles,
- d) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1 in terms of minimum dimensions provided,
- e) That the headroom clearance of minimum 2.2 metres has been provided between the basement floor and any overhead obstruction to comply with Clause 5.3.1 of AS2890.1,
- f) That aisle widths throughout the basement have been constructed to comply with minimum dimensions set in AS2890.1,
- g) A 2m x 2.5m sight splay, clear of obstruction to visibility, has been provided on both sides of the driveway exit to comply with Fig 3.3 and Clause 3.2.4 of AS2890.1.

F.8 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.

F.9 Design Principles for Residential Apartment Development – Design Verification Statement

Before the issue of any occupation certificate, as required under clause 43 of the Development Certification and Fire Safety Regulation, the Principal Certifier must have received a design statement from a qualified designer.

A design statement means a statement by a qualified designer verifying that the development achieves the design quality shown in the plans and specifications for which the construction certificate was issued, having regard to the design quality principles in State Environmental Planning Policy (Housing) 2021 —Design Principles for Residential Apartment Development.

Notes:

- Although a Principal Certifier may under clause 73 of the Development Certification and Fire Safety Regulation be satisfied to any matter that relates to the external finish of a building, clause 43 of the Development Certification and Fire Safety Regulation overrides the Principal Certifier's powers under clause 73.
- **Qualified designer** means a person registered as an architect in accordance with the Architects Act 2003.

Condition Reason: To ensure residential flat building development achieves the required quality of design.

F.10 3D Digital Model

Prior to the issue of an Occupation Certificate an accurate “as built” 3D digital model of the building must be submitted to Council for use in the Woollahra 3D digital model.

A 3D digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:

- a) a building envelope which includes all elements affecting shadow analysis,
- b) accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external features, and
- c) a ground level terrain showing accurate RLs extending to site boundaries.

All models must be generated in accordance with Council's guidelines for submitting 3D digital models outlined in “Attachment 9 - 3D Digital Model Requirements” of the DA guide.

Note: This model will update previous version(s) submitted at Development Application stage.

Any future modifications under section 4.55 of the *Act* that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.
Standard Condition: F21 (Autotext FF21)

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

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

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

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

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

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

Standard Condition: G4 (Autotext GG4)

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1353940M

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Standard Condition: H7 (Autotext HH7)

H.2 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.

Standard Condition: H12 (Autotext HH12)

H.3 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,

- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

Standard Condition: H13 (Autotext HH13)

H.4 Dilapidation Report for Public Infrastructure Works

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

The Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the Principal Certifier has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site, and
- d) photographs showing any existing damage to retaining walls within the footway or road.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and Owner carrying out work under this consent.

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

Standard Condition: H14 (AutotextHH14)

H.5 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

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

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site detention system (OSD),

- c) that the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations,
- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

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

H.6 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

I.1 Provision of Off-street Public and Visitor Parking

The owner and occupier, in compliance with AS 2890.1:2004 *Parking facilities - Off-street car parking*, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car parking (residents)	10
Car parking (visitors)	1
Bicycle parking	6
Motor bike parking	1

This condition has been imposed to ensure adequate on-site parking is maintained.
Standard Condition: I21

I.2 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1353940M.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
Standard Condition: I24

I.3 Ongoing Maintenance of the On-Site-Detention System

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

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

The Owner

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

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

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

Standard Condition: I29

I.4 Parking Permits

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

I.5 Swimming and Spa Pools – Maintenance

Swimming and spa pools must be maintained:

- a) in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,
- b) in compliance with the NSW Health "Public Swimming Pools and Spa Pools Advisory Document" in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,

- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

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

Note: The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx
Standard Condition: I30

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

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

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety
www.woollahra.nsw.gov.au.
Standard Condition: I35

I.7 Outdoor Lighting – Residential

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

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

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

I.8 Noise from Mechanical Plant and Equipment

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

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

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

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
Standard Condition: I59

J. Miscellaneous Conditions

Nil.

K. Advisings

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.

Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.
Standard Advising: K2 (Autotext KK2)

K.3 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website
www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating
Standard Condition: K5 (Autotext KK5)

K.4 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.
Standard Condition: K6 (Autotext KK6)

K.5 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.
Standard Condition: K7 (Autotext KK7)

K.6 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal

www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.

Standard Advising: K10 (Autotext KK10)

K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Brett McIntyre, Senior Assessment Officer, on (02) 9391 7157.

However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

K.8 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the *Act*.

The securities will not be released until a Final Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Refund of Security Bond Application form can be downloaded from
www.woollahra.nsw.gov.au
Standard Condition: K15 (Autotext KK15)

K.9 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

K.10 Owner-builders

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au or call 133 220.

Standard Condition: K18 (Autotext KK18)

K.11 Pruning or Removing a Tree Growing on Private Property

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.

K.12 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on requested and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

K.13 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

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

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

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

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

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

Standard Advising: K24 (Autotext KK24)

Attachments

1. Plans, Elevations, Sections and Landscape Plans [↓](#) 
2. Clause 4.6 Written Request - Height (Updated) [↓](#) 
3. Referral Response – Development Engineering [↓](#) 
4. Referral Response – Trees and Landscaping [↓](#) 
5. Referral Response – Heritage [↓](#) 
6. Referral Responses – Urban Design (dated 12 April 2024 and 23 January 2023) [↓](#) 
7. Referral Response – Fire Safety [↓](#) 
8. Referral Response – Traffic [↓](#) 
9. Referral Response – Drainage [↓](#) 
10. Water NSW – Covering Letter and General Terms of Approval [↓](#) 
11. Sydney Water - Concurrence and conditions [↓](#) 

PROJECT

NEW THREE (3) STOREY RESIDENTIAL FLAT BUILDING INCLUDING ONE (1)
LEVEL OF UNDERGROUND CAR PARKING

3 FAIRFAX STREET, BELLEVUE HILL, NSW

DWG No.	DRAWING LIST
DA 0000	COVER PAGE
DA 1000	SITE CONTEXT
DA 1001	SITE ANALYSIS PLAN
DA 1002	SITE & ROOF PLAN
DA 1003	BASIX COMMITMENTS (SHEET 1)
DA 1004	BASIX COMMITMENTS (SHEET 2)
DA 1005	BASIX COMMITMENTS (SHEET 3)
DA 1006	BASIX COMMITMENTS (SHEET 4)
DA 2000	LOWER GROUND FLOOR PLAN
DA 2001	GROUND FLOOR PLAN
DA 2002	LEVEL 1 PLAN
DA 2003	LEVEL 2 PLAN
DA 2004	ROOF PLAN
DA 3000	EAST & WEST ELEVATION
DA 3001	NORTH & SOUTH ELEVATION
DA 3002	STREET ELEVATION - FAIRFAX ROAD
DA 3100	SECTION A & B
DA 3101	SECTION C
DA 6000	EXTERNAL FINISHES SCHEDULE
DA 6001	PHOTOMONTAGE - FAIRFAX ROAD
DA 6002	PHOTOMONTAGE - FAIRFAX ROAD
DA 6003	AERIAL PERSPECTIVE
DA 9000	DESIGN VERIFICATION
DA 9001	SEPP 65 - PRINCIPLE 1 & 2
DA 9002	SEPP 65 - PRINCIPLE 3 & 4
DA 9003	SEPP 65 - PRINCIPLE 5 & 6
DA 9004	SEPP 65 - PRINCIPLE 7 & 8
DA 9005	SEPP 65 - PRINCIPLE 9 & 10
DA 9006	SEPP 65 - COMPLIANCE DIAGRAMS
DA 9100	GFA DIAGRAMS
DA 9105	WASTE MANAGEMENT
DA 9110	LANDSCAPE AREA CALCULATIONS
DA 9111	DEEP SOIL CALCULATIONS
DA 9200	VIEWS FROM THE SUN 9am - 21 June (Existing Conditions & Proposal)
DA 9201	VIEWS FROM THE SUN 10am - 21 June (Existing Conditions & Proposal)
DA 9202	VIEWS FROM THE SUN 11am - 21 June (Existing Conditions & Proposal)
DA 9203	VIEWS FROM THE SUN 12pm - 21 June (Existing Conditions & Proposal)
DA 9204	VIEWS FROM THE SUN 1pm - 21 June (Existing Conditions & Proposal)
DA 9205	VIEWS FROM THE SUN 2pm - 21 June (Existing Conditions & Proposal)
DA 9206	VIEWS FROM THE SUN 3pm - 21 June (Existing Conditions & Proposal)
DA 9300	VIEW ANALYSIS (SHEET 1)
DA 9301	VIEW ANALYSIS (SHEET 2)
DA 9500	NOTIFICATION PLANS
DA 9501	NOTIFICATION ELEVATIONS

SPECIFIC CHANGES TO THIS REVISION

LOWER GROUND FLOOR:

1. Pedestrian entry and gate added; aligned to lift and lobby entry, amended planter and landscaped zone, rainwater tank relocated to below storage area.
2. Vehicular driveway reshaped and straightened to street.
3. Planter added to southern section, hydrant booster / meters recessed from street.

GROUND FLOOR:

4. Retaining wall in front setback reduced in height, pools reshaped and reduced in size.

LEVEL 2:

5. Primary terrace relocated to front (Western) side of building, minor changes to apartment layout.

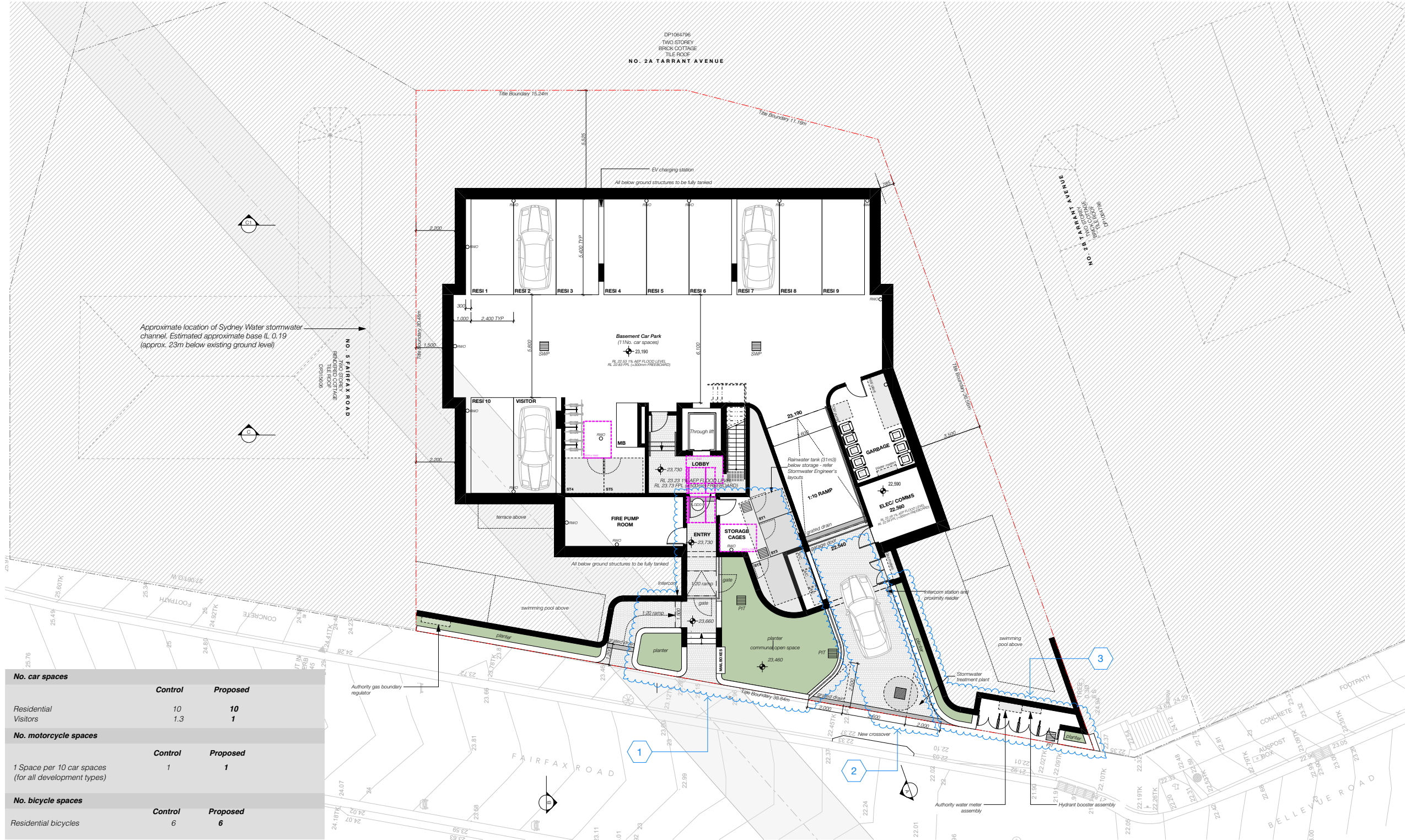
MULTIPLE LEVELS:

6. Ground Floor and Level 1 - Privacy screens (metal to match EF6) added to northern elevation.
7. Ground Floor to Level 2 - Services riser increased adjacent to fire stair.

DEVELOPMENT APPLICATION

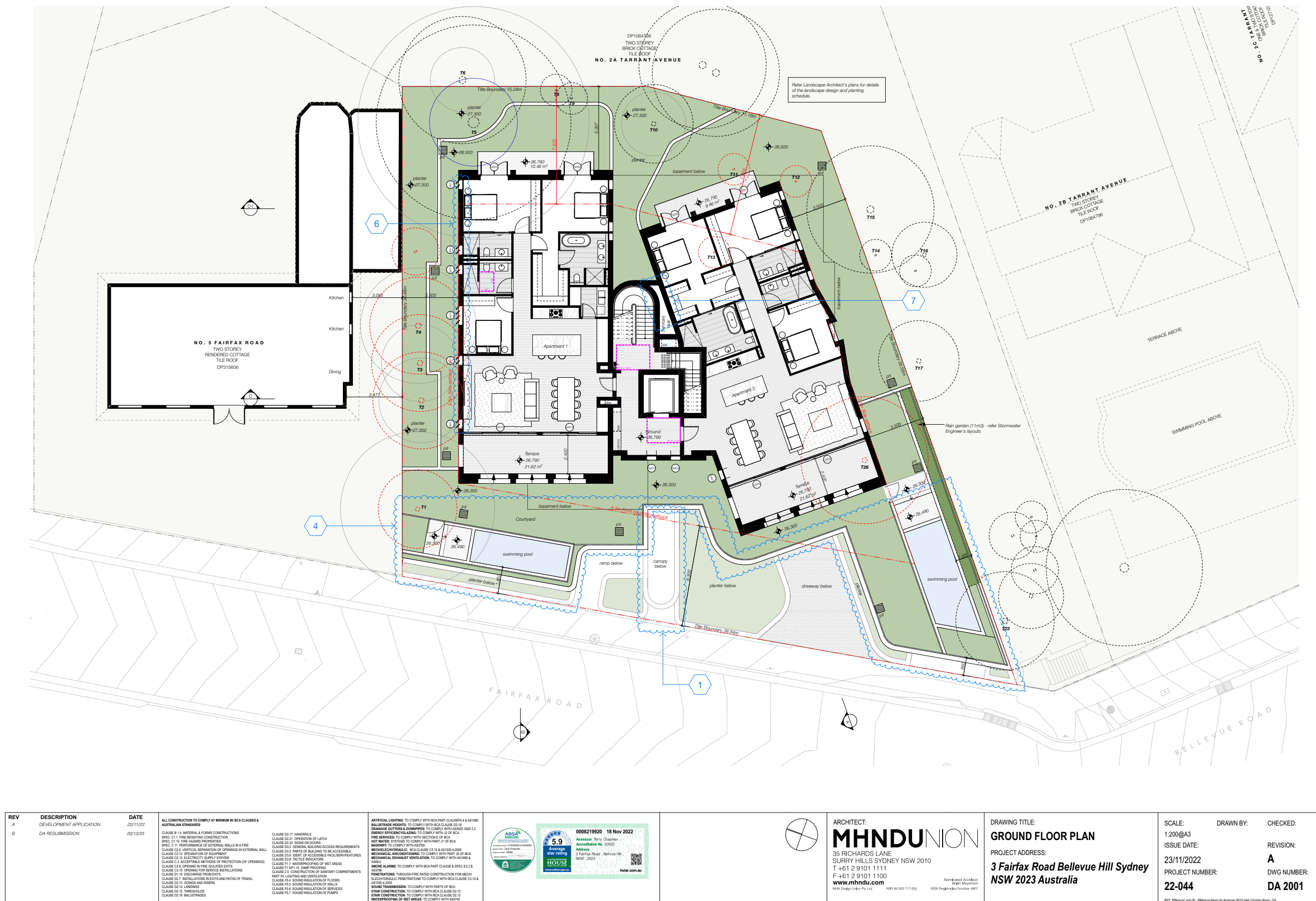
DESCRIPTION DEVELOPMENT APPLICATION		DATE 21/11/22	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS		ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.4 & AS1680 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.16 GARAGE GUTTERS & DOWNPIPS: TO COMPLY WITH AS/NZS 3003.12 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 2.2 OF BCA FIRE SERVICES: TO COMPLY WITH SECTIONS 9 OF BCA HOT WATER SYSTEMS: TO COMPLY WITH 2.2 OF BCA MASONRY: TO COMPLY WITH AS1252 MECHANICAL AIRCONDITIONING: TO COMPLY WITH PART 4.6 OF BCA MECHANICAL EXHAUST SYSTEMS: TO COMPLY WITH AS1252 AIRS: AS/NZS 1530.3 FIRE ALARMS: TO COMPLY WITH BCA PART CLAUSES 5.3.2 & 5.3.2.2 KITCHEN: AS/NZS 4536.2-2005 PENETRATIONS: THROUGH FLOOR RATED CONSTRUCTION FOR MECH ELECTRICAL PENETRATIONS TO COMPLY WITH BCA CLAUSE D2.15 4536.2-2005 SOUND TRANSMISSION: TO COMPLY WITH PART OF BCA STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 INTERPENETRATING OF RET AREAS: TO COMPLY WITH AS1252		ARCHITECT: MHNDU 35 RICHARDS LANE SURREY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd ABN 94 053 717 662 NSW Registration Number 4907		DRAWING TITLE: COVERPAGE PROJECT ADDRESS: 3 Fairfax Road Bellevue Hill Sydney NSW 2023 Australia		SCALE: @3 @ ISSUE DATE: 23/11/2022 PROJECT NUMBER: 22-044	DRAWN BY:	CHECKED:
A	DA RESUBMISSION	20/12/23	CLAUSE 9.1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC C1.1 FIRE RESISTANT CONSTRUCTION SPEC C1.19 FIRE HAZARD PROPERTIES CLAUSE C2.1 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.4 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.12 SPECIFICATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C2.3 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C2.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C2.15 OPENING FOR SERVICE INSTALLATIONS CLAUSE C2.16 DISCHARGE FROM EXITS CLAUSE C2.17 INSTALLATION IN EXITS AND PATHS OF TRAVEL CLAUSE C2.14 LANDINGS CLAUSE C2.15 THRESHOLDS CLAUSE C2.16 BALUSTRADES	CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.23 HAND ON DOORS CLAUSE D2.2 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D2.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D2.12 IDENTIFY ACCESSIBLE TROLSEY FEATURES CLAUSE D2.8 TACTILE INDICATORS CLAUSE P1.9P1.10 DAMP PROOFING CLAUSE P1.7 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE D2.7 INSULATION OF FLOORS CLAUSE P5.5 SOUND INSULATION OF WALLS CLAUSE P5.6 SOUND INSULATION OF SERVICES CLAUSE P5.7 SOUND INSULATION OF PUMPS	 	0008219920 16 Nov 2022 Assessor Terry Chapman Accreditation No. 20520 Address 3 Fairfax Road, Bellevue Hill NSW 2023 www.mhndu.com			REVISION: A DWG NUMBER: DA 0000				

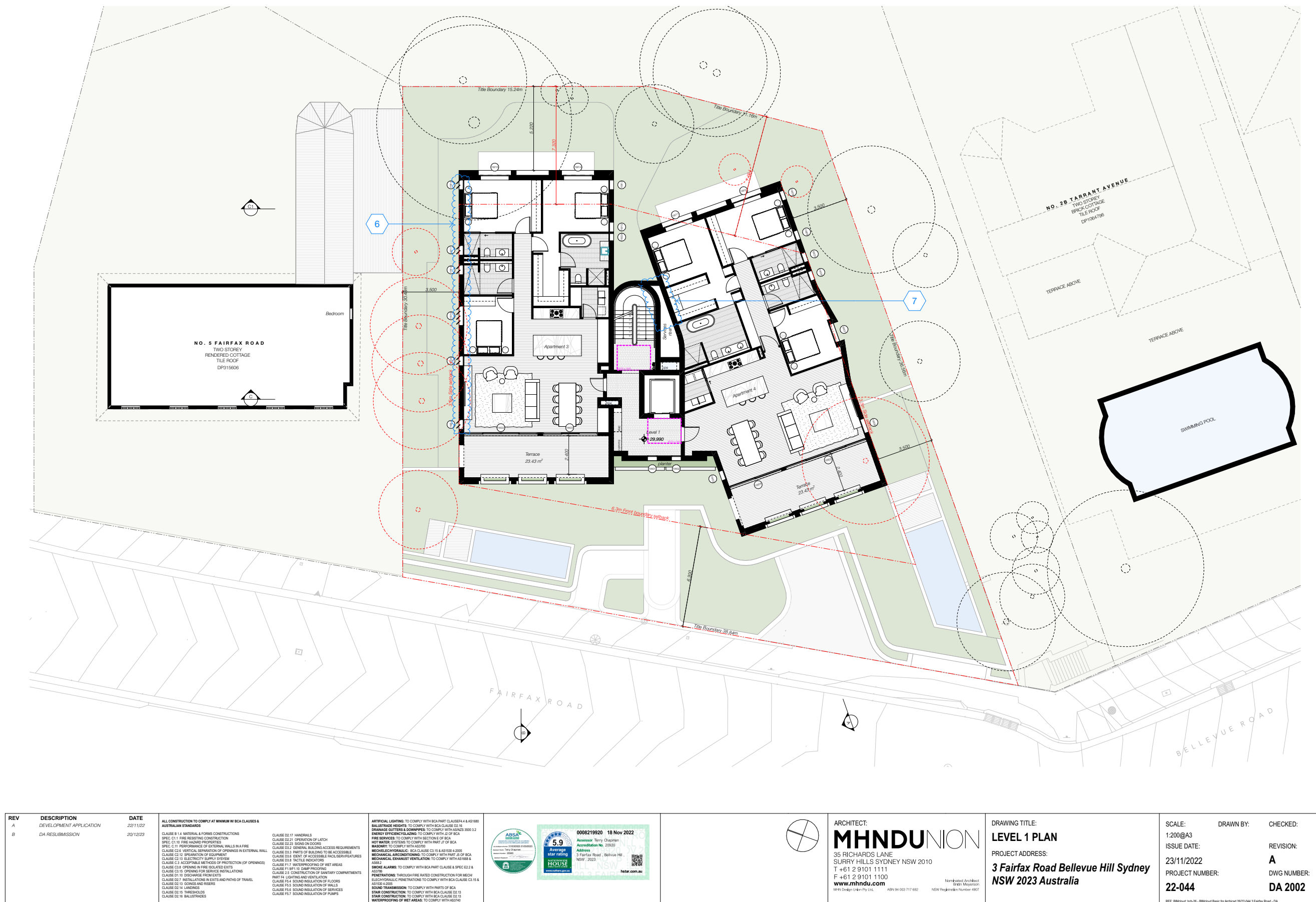
REF: MHNDuot-20-26, MHNDuot Basis for Architect 2022-044 3 Fairfax Road, DA

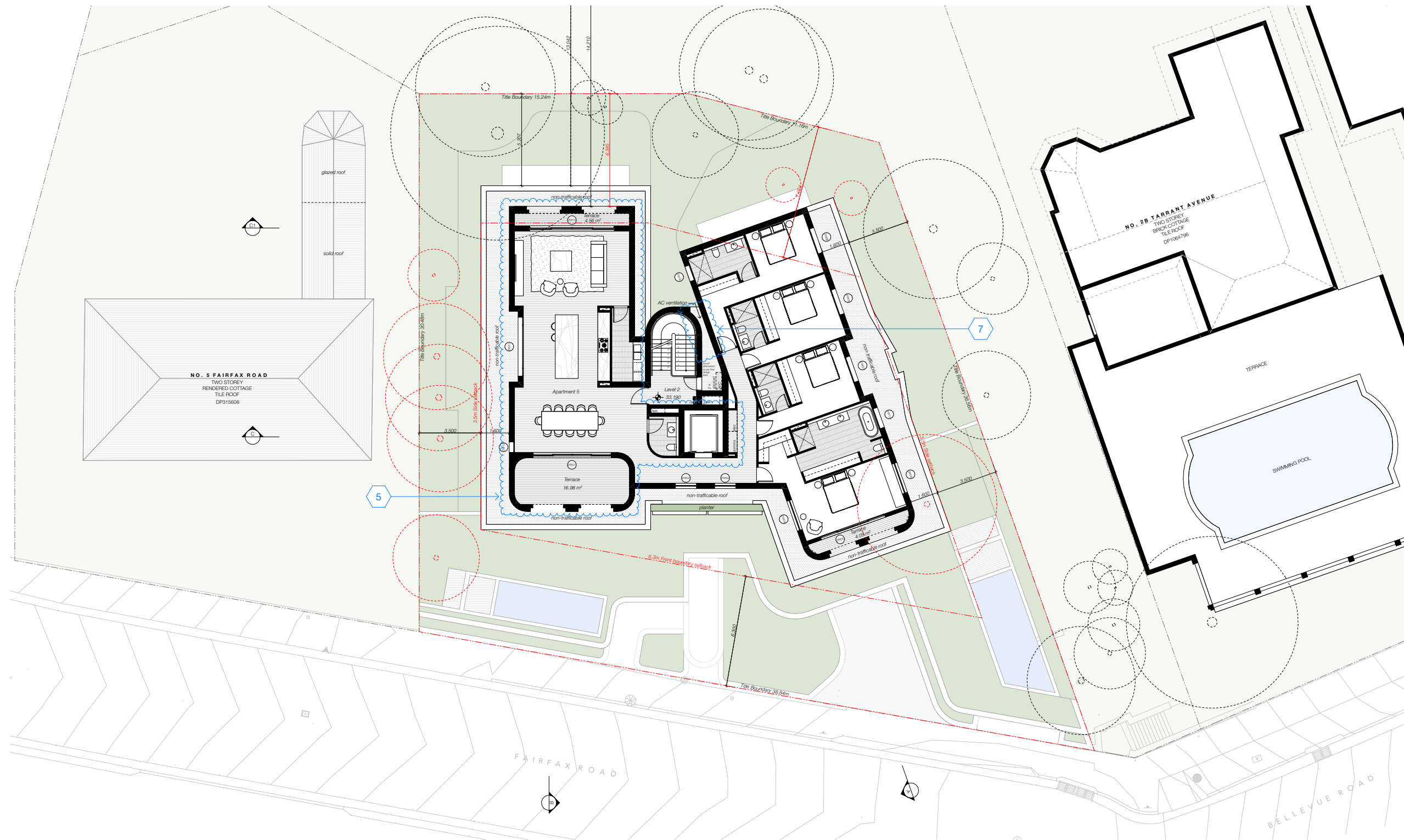


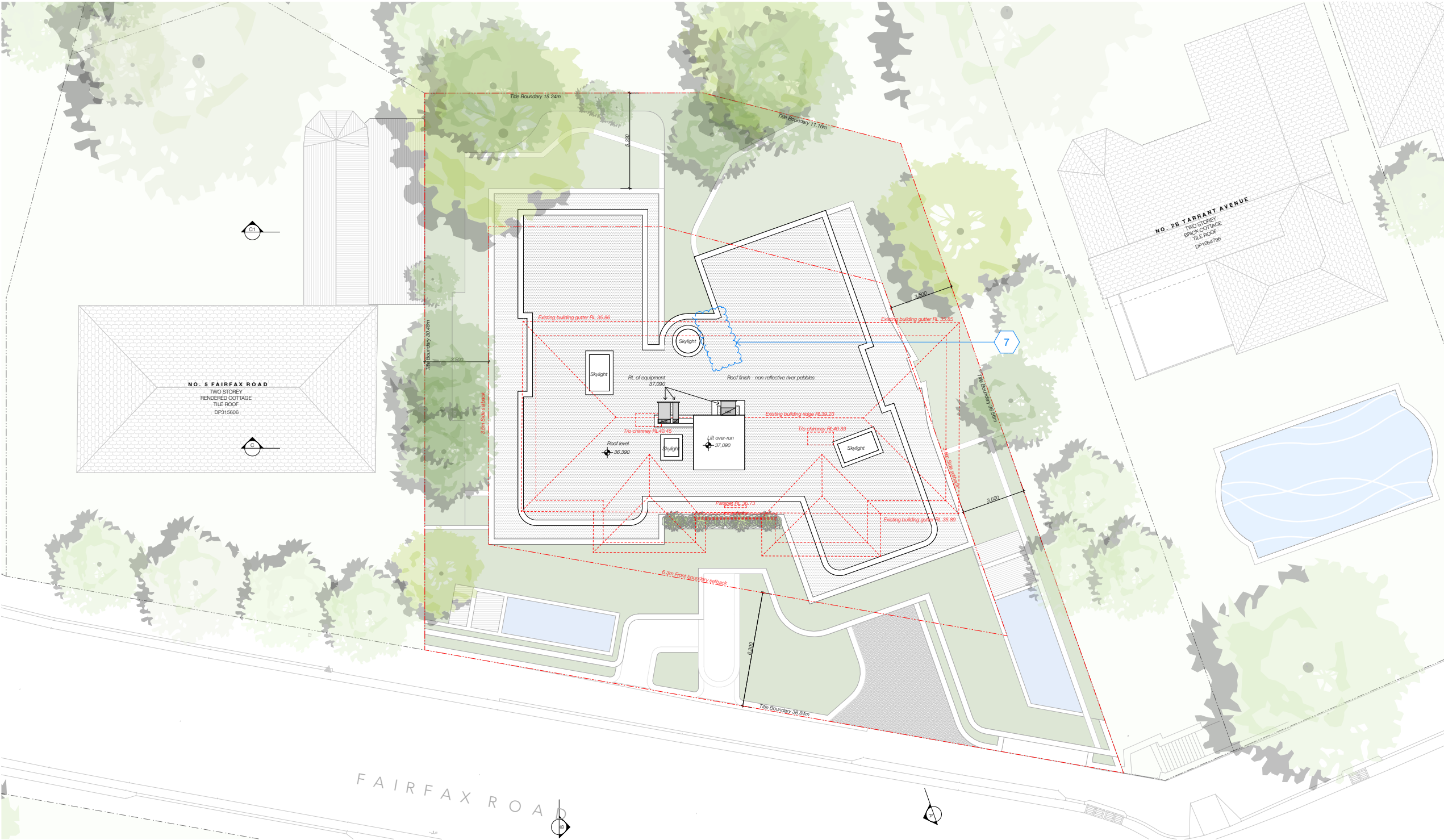
No. car spaces		
	Control	Proposed
Residential	10	10
Visitors	1.3	1
No. motorcycle spaces		
	Control	Proposed
1 Space per 10 car spaces (for all development types)	1	1
No. bicycle spaces		
	Control	Proposed
Residential bicycles	6	6

REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY WITH MINIMUM W BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4 CLAUSES 4.1 & 4.1B(1) BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 4.2.16	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	22/11/22	CLAUSE 9.1.4 MATERIAL & FORM CONSTRUCTIONS SPEC C1.1 FIRE RESISTANT CONSTRUCTION SPEC C1.19 FIRE HAZARD PROPERTIES SPEC C1.1 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.4 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.5 SEPARATION OF EQUIPMENT CLAUSE C2.6 ELECTRICAL SYSTEM CLAUSE C3.1 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C3.15 OPENING FOR SERVICE INSTALLATIONS CLAUSE C4.10 DISCHARGE FROM EXITS CLAUSE C2.7 INSTALLATION IN EXITS AND PATHS OF TRAVEL CLAUSE C2.14 LANDINGS CLAUSE C2.15 THRESHOLDS CLAUSE C2.16 BALUSTRADES	CLAUSE 4.2.17 HANDRAILS CLAUSE 4.2.21 OPERATION OF LATCH CLAUSE 4.2.22 SOUND ON DOORS CLAUSE 4.2.23 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE 4.2.24 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE 4.2.25 SEVERITY OF ACCESSIBLE TROLSEY FEATURES CLAUSE 4.2.26 TACTILE INDICATORS CLAUSE 4.2.27 CONTRASTING OF WET AREAS PART 4.1 LIGHTING AND VENTILATION CLAUSE 4.2.28 SOUND INSULATION OF FLOORS CLAUSE 4.2.29 SOUND INSULATION OF WALLS CLAUSE 4.2.30 SOUND INSULATION OF SERVICES CLAUSE 4.2.31 SOUND INSULATION OF PUMPS	ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 2.2 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION 5 OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 2.7 OF BCA MECHANICAL AND HYDRAULIC: BCA CLAUSE C3.15 & 4.1B(1) & 4.2.20 MECHANICAL AND HYDRAULIC: TO COMPLY WITH PART 4.1 OF BCA MECHANICAL AND HYDRAULIC: TO COMPLY WITH PART 4.1 OF BCA SMOKE ALARMS: TO COMPLY WITH BCA PART 4 CLAUSE 4.1B(1) & 4.2.20 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELECTRONICALLY PENETRATIONS TO COMPLY WITH BCA CLAUSE C3.15 & 4.1B(1) & 4.2.20 STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 4.2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH 4.2.13(4)	ARCHITECT: MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd ABN 94 003 717 662 NSW Registration Number: 4907	LOWER GROUND FLOOR PLAN PROJECT ADDRESS: 3 Fairfax Road Bellevue Hill Sydney NSW 2023 Australia	1:200@A3 ISSUE DATE: 23/11/2022 PROJECT NUMBER: 22-044	DRAWN BY: CHECKED: REVISION: A DWG NUMBER: DA 2000

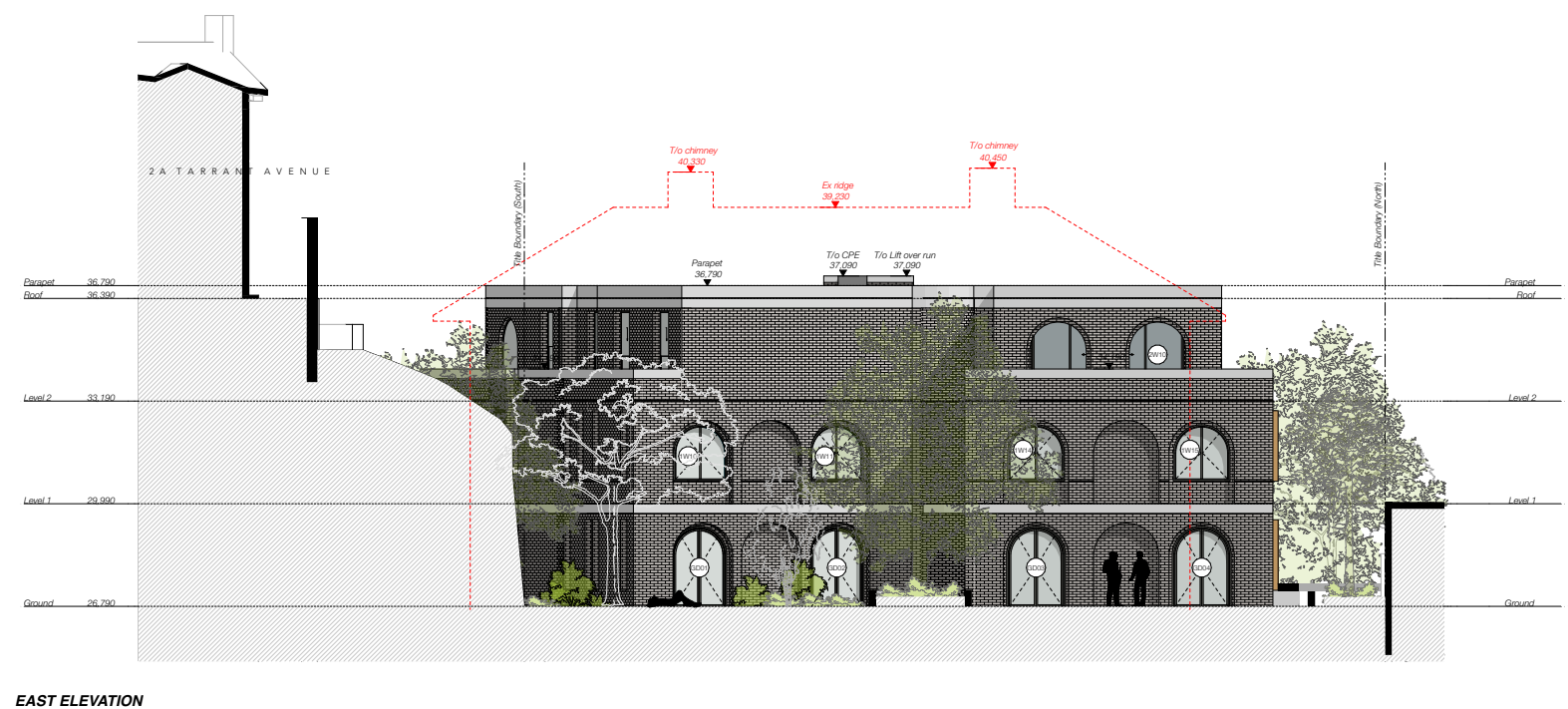
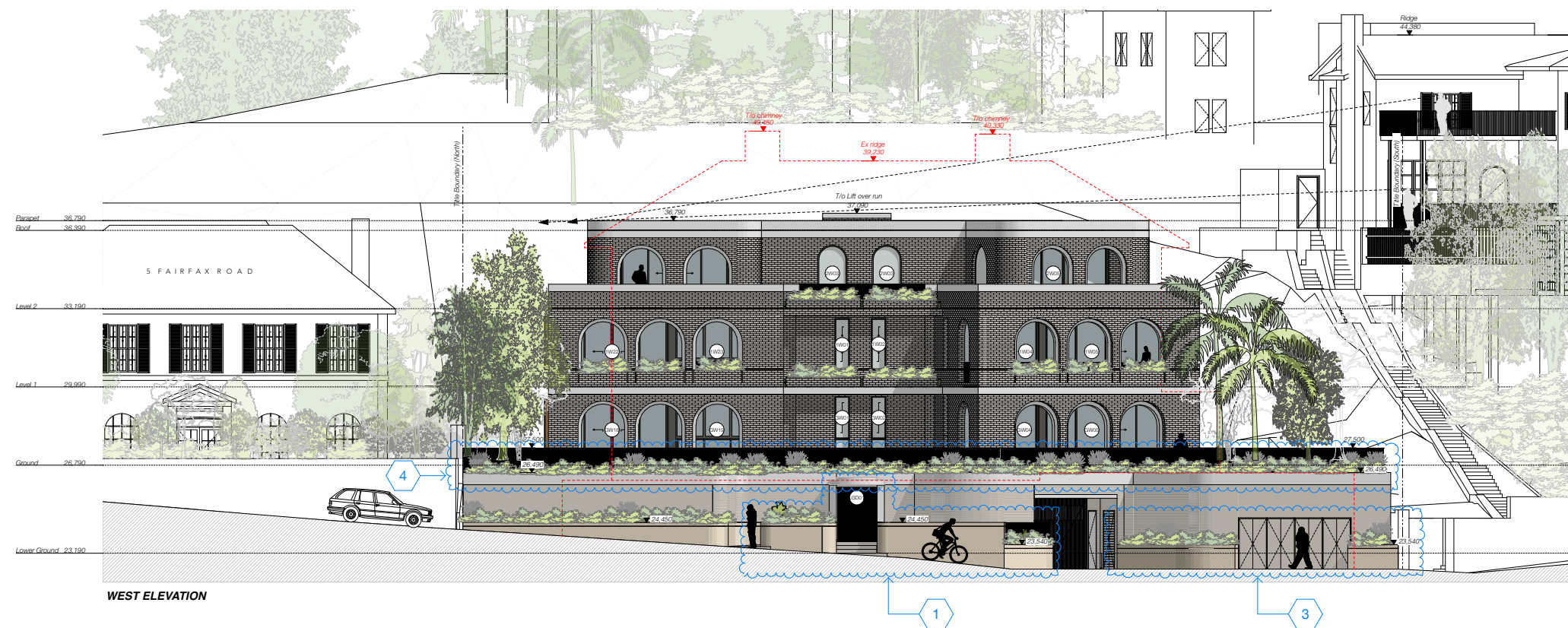




[illegible]

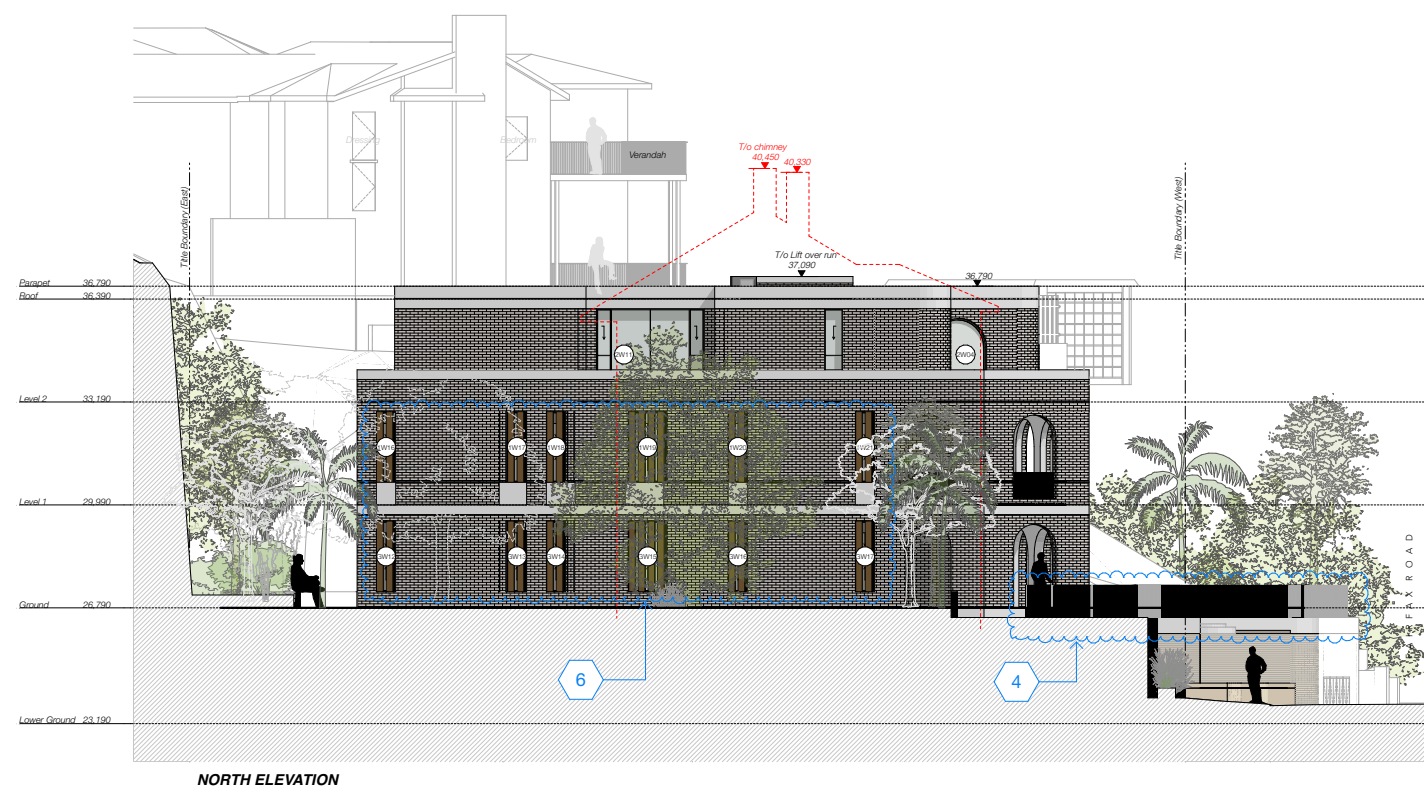


REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY WITH MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.1 & AS1680	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	22/11/22	CLAUSE 9.1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC C1.1 FIRE RESISTING CONSTRUCTION SPEC C1.15 FIRE HAZARD PROPERTIES SPEC C1.16 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.4 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.12 SPECIFICATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C3.1 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C3.15 OPENING FOR SERVICE PENETRATIONS CLAUSE C4.10 DISCHARGE FROM EXITS CLAUSE C2.7 INSTALLATION IN EXITS AND PATHS OF TRAVEL CLAUSE C2.13 SOUND AND RISERS CLAUSE C2.14 LANDINGS CLAUSE C2.15 THRESHOLDS CLAUSE C2.16 BALUSTRADES	CLAUSE 11.17 HANDRAILS CLAUSE 11.21 OPERATION OF LATCH CLAUSE 11.22 SOUND ON DOORS CLAUSE 11.23 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE 11.24 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE 11.25 IDENTIFICATION OF ACCESSIBLE FACILITIES CLAUSE 11.26 TACTILE INDICATORS CLAUSE 11.27 CONTRASTING OF SURF AREAS PART 14 LIGHTING AND VENTILATION CLAUSE 14.1 CONSTRUCTION OF BATHROOM COMPARTMENTS CLAUSE 14.2 SOUND INSULATION OF FLOORS CLAUSE 14.3 SOUND INSULATION OF WALLS CLAUSE 14.4 SOUND INSULATION OF SERVICES CLAUSE 14.5 SOUND INSULATION OF PUMPS	BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE C2.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS200 3.2 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 2.2 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION 6 OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 27 OF BCA MECHANICAL: TO COMPLY WITH AS1550 MECHANICAL/MECHANICAL: BCA CLAUSE C3.15 & AS1550 4.2005 MECHANICAL/MECHANICAL: TO COMPLY WITH PART 26 OF BCA MECHANICAL/MECHANICAL: TO COMPLY WITH AS1680 & AS1550 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS1550 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELECTRICAL PENETRATIONS: TO COMPLY WITH BCA CLAUSE C3.15 & AS1550 4.2005 SOUND TRANSMISSION: TO COMPLY WITH PARTS OF BCA STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE C2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS1680	0006219920 16 Nov 2022 Assessor Terry Chapman Accreditation No. 20020 Address 3 Fairfax Road, Bellevue Hill NSW 2023 www.mhndu.com MHNDU Design Urban Pty Ltd ABN 94 003 717 662 NSW Registration Number 4907	Roof Plan PROJECT ADDRESS: 3 Fairfax Road Bellevue Hill Sydney NSW 2023 Australia	1:200@A3 ISSUE DATE: 23/11/2022 PROJECT NUMBER: 22-044	REVISION: A DWG NUMBER: DA 2004



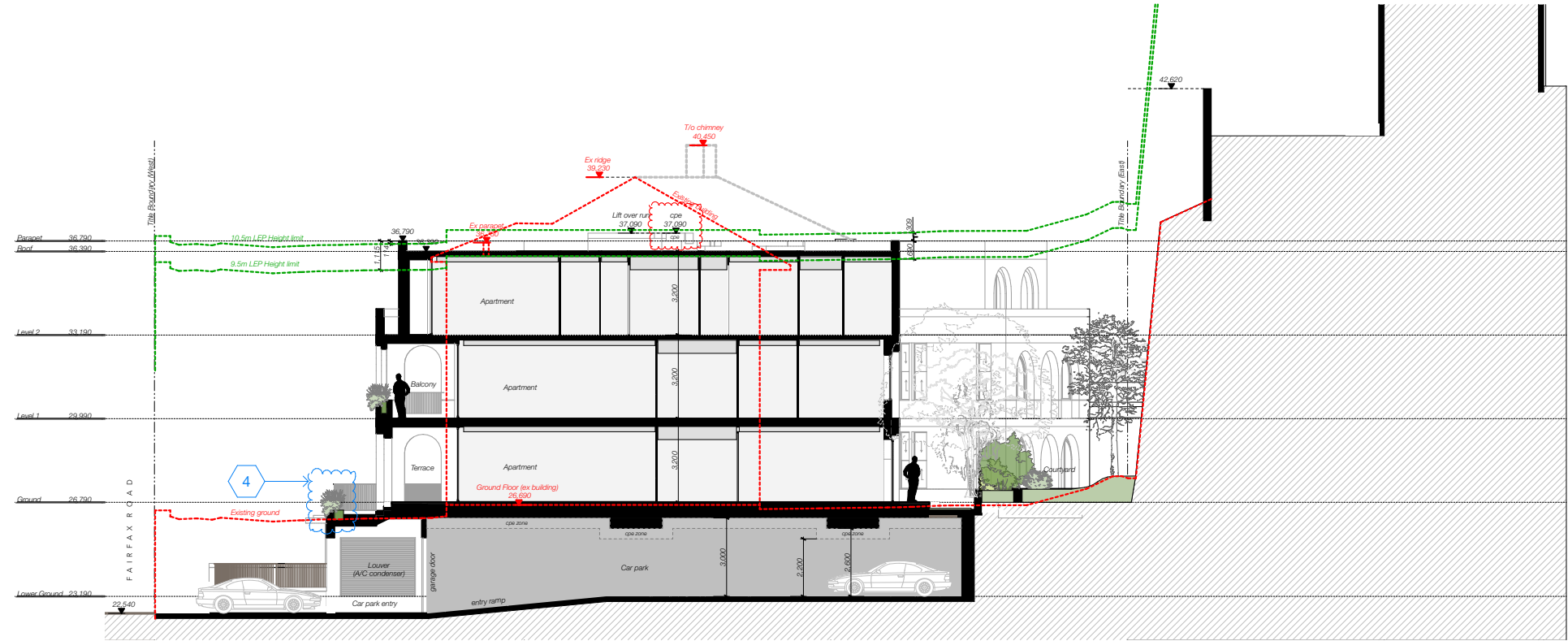
WINDOW SCHEDULE		
ID	W x H	Product Description (Window)
1W01	600x2,100	Double Hung Sashless Window
1W02	600x2,100	Double Hung Sashless Window
1W03	600x2,100	Double Hung Sashless Window
1W04	3,400x2,900	2 Panel, Sliding Door
1W05	5,300x2,900	4 Panel, Sliding Door
1W06	900x2,200	Double Hung Sashless Window
1W07	1,200x2,200	Double Hung Sashless Window
1W08	600x2,200	Double Hung Sashless Window
1W09	600x2,200	Double Hung Sashless Window
1W10	1,765x1,765	Casement Window
1W11	1,765x1,765	Casement Window
1W12	600x2,200	Double Hung Sashless Window
1W13	600x2,200	Double Hung Sashless Window
1W14	1,765x1,765	Casement Window
1W15	1,765x1,765	Casement Window
1W16	600x2,200	Double Hung Sashless Window
1W17	600x2,200	Double Hung Sashless Window
1W18	600x2,200	Double Hung Sashless Window
1W19	1,200x2,200	Double Hung Sashless Window
1W20	600x2,200	Double Hung Sashless Window
1W21	600x2,200	Double Hung Sashless Window
1W22	4,600x2,900	4 Panel, Sliding Door
1W23	3,400x2,900	2 Panel, Sliding Door
1W24	450x2,200	Double Hung Sashless Window
1W25	600x2,200	Double Hung Sashless Window
1W26	600x2,200	Double Hung Sashless Window
2W01	4,435x2,900	4 Panel, Sliding Door
2W01	4,435x2,900	4 Panel, Sliding Door
2W02	1,200x2,600	Fixed Window
2W02	1,200x2,600	Fixed Window
2W03	1,200x2,600	Fixed Window
2W03	1,200x2,600	Fixed Window
2W04	1,800x2,600	Fixed Window
2W05	3,860x2,900	4 Panel, Sliding Door
2W06	1,800x2,600	Fixed Window
2W07	1,500x2,800	Double Hung Sashless Window with 1 x Fixed Side Panel
2W08	1,500x2,800	Double Hung Sashless Window with 1 x Fixed Side Panel
2W09	1,500x2,800	Double Hung Sashless Window with 1 x Fixed Side Panel
2W10	4,800x2,900	4 Panel, Sliding Door
2W10	4,800x2,900	4 Panel, Sliding Door
2W11	3,350x2,900	Fixed Window with 2 x Double Hung Side Panels
2W11	3,600x2,900	Fixed Window with 2 x Double Hung Side Panels
2W12	600x2,900	Double Hung Sashless Window
2W12	600x2,900	Double Hung Sashless Window
2W13	1,200x2,200	Double Hung Sashless Window
2W14	900x2,200	Double Hung Sashless Window
GD01	1,765x2,465	Double Swing Door
GD02	1,765x2,465	Double Swing Door
GD03	1,765x2,465	Double Swing Door
GD04	1,765x2,465	Double Swing Door
GW01	600x1,735	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW01	600x1,735	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW01	600x900	Fixed lower panel to double hung window
GW01	600x900	Fixed lower panel to double hung window
GW02	600x1,735	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW02	600x1,735	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW02	600x900	Fixed lower panel to double hung window
GW02	600x900	Fixed lower panel to double hung window
GW03	600x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW03	600x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW03	600x900	Fixed lower panel to double hung window
GW03	600x900	Fixed lower panel to double hung window
GW04	3,400x2,900	2 Panel, Sliding Door
GW05	5,300x2,900	4 Panel, Sliding Door
GW06	900x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW07	1,200x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW08	2,874x2,250	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW08	2,874x2,250	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW08	2,874x2,250	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW08	600x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW09	600x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW10	450x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW10	600x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW11	600x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW11	600x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW12	600x2,200	Double Hung Sashless Window
GW12	600x900	Fixed lower panel to double hung window
GW13	600x2,200	Double Hung Sashless Window
GW13	900x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW13	900x900	Fixed lower panel to double hung window
GW14	600x2,200	Double Hung Sashless Window
GW14	900x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW14	900x900	Fixed lower panel to double hung window
GW15	1,200x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW15	1,200x2,200	Double Hung Sashless Window
GW15	1,200x900	Fixed lower panel to double hung window

[illegible]

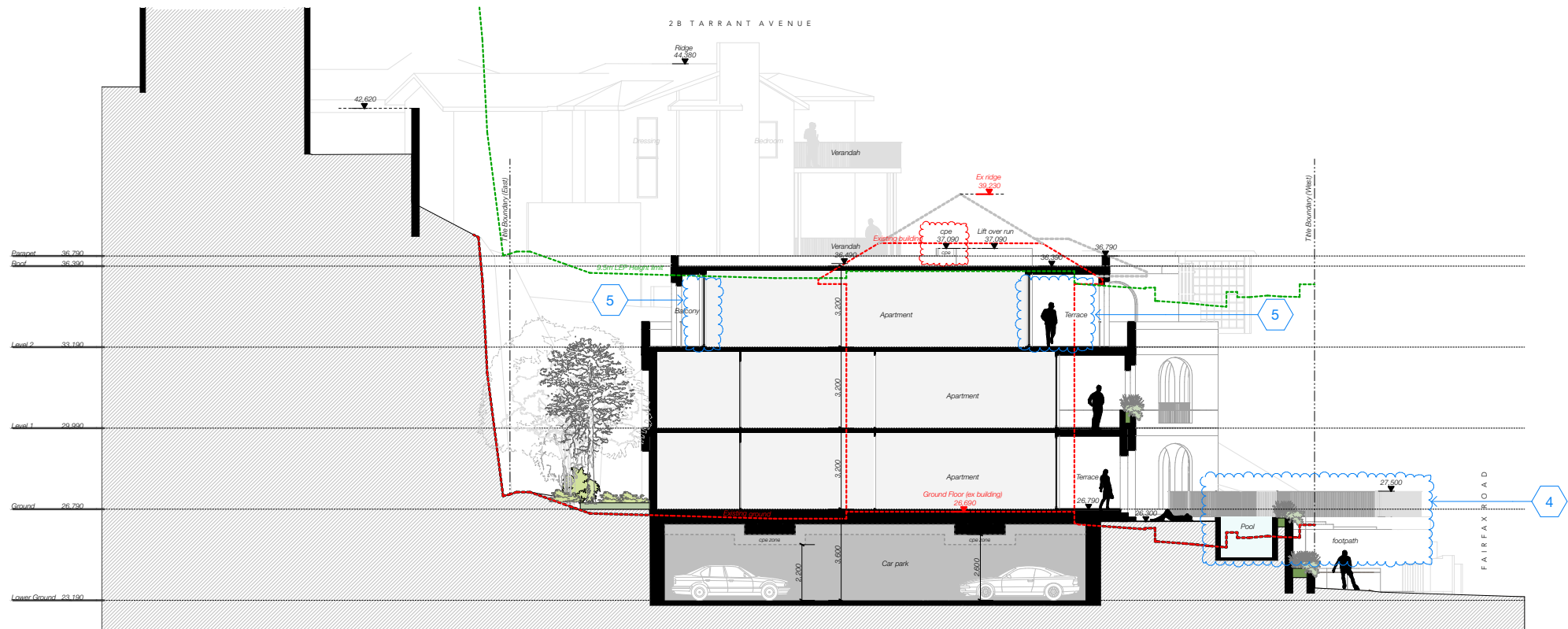


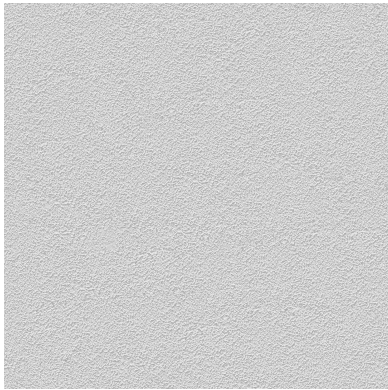
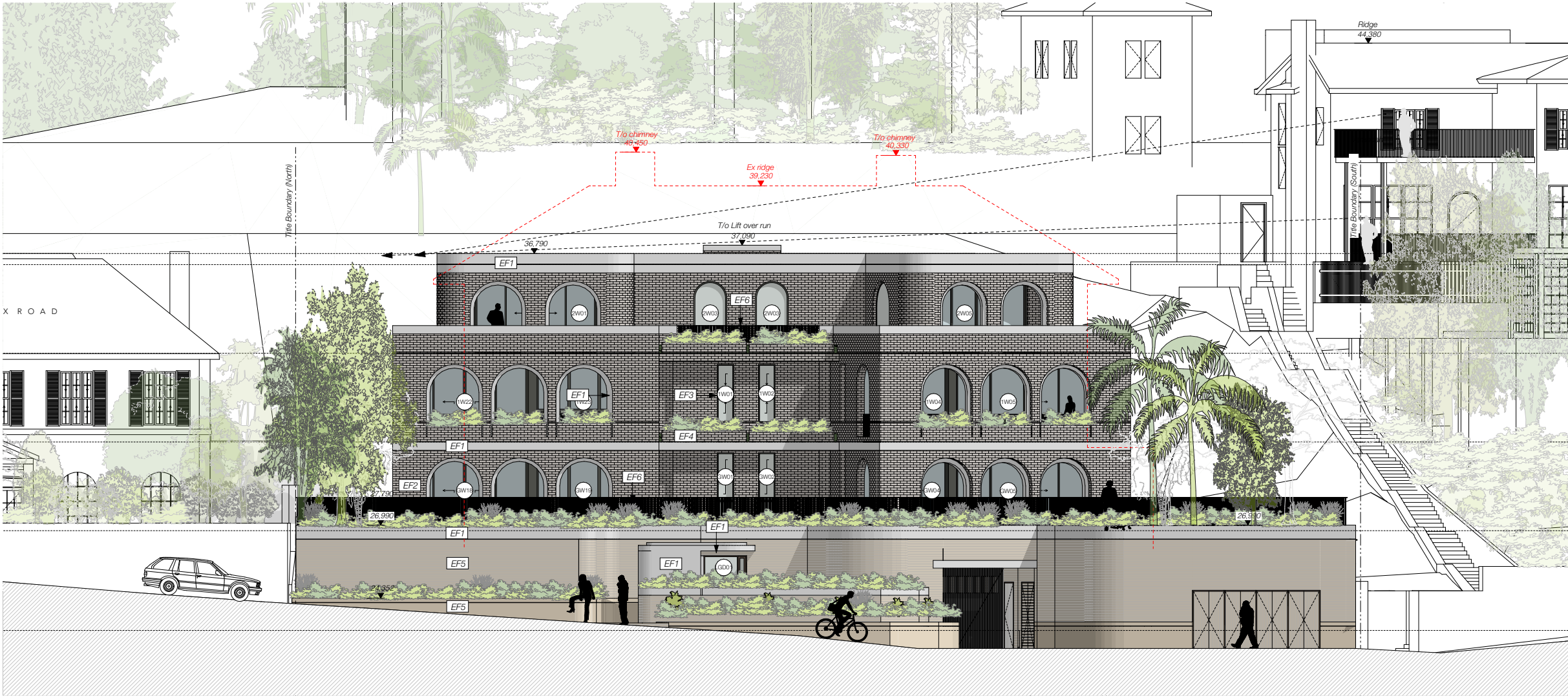
Window Schedule		
ID	W x H	Product Description (Window)
1W01	600x2.100	Double Hung Sashless Window
1W02	600x2.100	Double Hung Sashless Window
1W03	600x2.100	Double Hung Sashless Window
1W04	3,400x2,900	2 Panel, Sliding Door
1W05	5,300x2,900	Double Hung Sashless Window
1W06	900x2,200	Double Hung Sashless Window
1W07	1,200x2,200	Double Hung Sashless Window
1W08	600x2,200	Double Hung Sashless Window
1W09	600x2,200	Double Hung Sashless Window
1W10	1,765x1,765	Casement Window
1W11	1,765x1,765	Casement Window
1W12	600x2,200	Double Hung Sashless Window
1W13	600x2,200	Double Hung Sashless Window
1W14	1,765x1,765	Casement Window
1W15	1,765x1,765	Casement Window
1W16	600x2,200	Double Hung Sashless Window
1W17	600x2,200	Double Hung Sashless Window
1W18	600x2,200	Double Hung Sashless Window
1W19	1,200x2,200	Double Hung Sashless Window
1W20	600x2,200	Double Hung Sashless Window
1W21	600x2,200	Double Hung Sashless Window
1W22	4,600x2,900	4 Panel, Sliding Door
1W23	3,400x2,900	2 Panel, Sliding Door
1W24	450x2,200	Double Hung Sashless Window
1W25	600x2,200	Double Hung Sashless Window
1W26	600x2,200	Double Hung Sashless Window
2W01	4,435x2,900	4 Panel, Sliding Door
2W01	4,435x2,900	4 Panel, Sliding Door
2W02	1,200x2,600	Fixed Window
2W02	1,200x2,600	Fixed Window
2W03	1,200x2,600	Fixed Window
2W03	1,200x2,600	Fixed Window
2W04	1,800x2,600	Fixed Window
2W05	3,860x2,900	4 Panel, Sliding Door
2W06	1,800x2,600	Fixed Window
2W07	1,500x2,800	Double Hung Sashless Window with 1 x Fixed Side Panel
2W08	1,500x2,800	Double Hung Sashless Window with 1 x Fixed Side Panel
2W09	1,500x2,800	Double Hung Sashless Window with 1 x Fixed Side Panel
2W10	4,800x2,900	4 Panel, Sliding Door
2W10	4,800x2,900	4 Panel, Sliding Door
2W11	3,350x2,900	Fixed Window with 2 x Double Hung Side Panels
2W11	3,600x2,900	Fixed Window with 2 x Double Hung Side Panels
2W12	600x2,900	Double Hung Sashless Window
2W12	600x2,900	Double Hung Sashless Window
2W13	1,200x2,200	Double Hung Sashless Window
2W14	900x2,200	Double Hung Sashless Window
GD01	1,765x2,465	Double Swing Door
GD02	1,765x2,465	Double Swing Door
GD03	1,765x2,465	Double Swing Door
GD04	1,765x2,465	Double Swing Door
GW01	600x1,735	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW01	600x1,735	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW01	600x900	Fixed lower panel to double hung window
GW01	600x900	Fixed lower panel to double hung window
GW02	600x1,735	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW02	600x1,735	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW02	600x900	Fixed lower panel to double hung window
GW02	600x900	Fixed lower panel to double hung window
GW03	600x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW03	600x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW03	600x900	Fixed lower panel to double hung window
GW03	600x900	Fixed lower panel to double hung window
GW04	3,400x2,900	2 Panel, Sliding Door
GW05	5,300x2,900	4 Panel, Sliding Door
GW06	900x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW07	1,200x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW08	2,874x2,250	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW08	2,874x2,250	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW08	2,874x2,250	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW08	600x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW09	600x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW10	450x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW10	450x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW11	600x2,200	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW12	600x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW12	600x2,200	Double Hung Sashless Window
GW12	600x900	Fixed lower panel to double hung window
GW13	600x2,200	Double Hung Sashless Window
GW13	900x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW13	900x900	Fixed lower panel to double hung window
GW14	600x2,200	Double Hung Sashless Window
GW14	900x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW14	900x900	Fixed lower panel to double hung window
GW15	1,200x1,700	Double Hung Sashless Window with 1 x Fixed Lower Panel
GW15	1,200x2,200	Double Hung Sashless Window
GW15	1,200x900	Fixed lower panel to double hung window

[illegible]



SECTION A

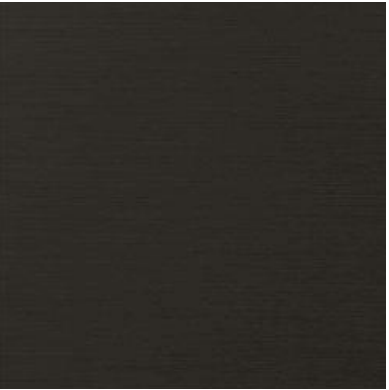
**SECTION B**[illegible]



EF1 - White textured render
Application: Facades (generally)



EF2 - Light colour face brick
Application: Facades (generally)



EF3 - Dark bronze metallic finish
Application: Door & window frames



EF4 - Building-integrated landscaping
Application: Balconies and west-facing facade



EF5 - Sandstone cladding
Application: Retaining wall



EF6 - Dark bronze steel rod balustrade
Application: Balconies

REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY WITH MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4 & A5180	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	22/11/22	CLAUSE 9.1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC C1.1 FIRE RESISTENT CONSTRUCTION SPEC C1.15 FIRE HAZARD PROPERTIES SPEC C1.16 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.17 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.18 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.19 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.20 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.21 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.22 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.23 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.24 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.25 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.26 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.27 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.28 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.29 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.30 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.31 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.32 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.33 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.34 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.35 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.36 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.37 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.38 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.39 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.40 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.41 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.42 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.43 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.44 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.45 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.46 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.47 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.48 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.49 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.50 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.51 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.52 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.53 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.54 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.55 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.56 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.57 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.58 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.59 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.60 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.61 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.62 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.63 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.64 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.65 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.66 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.67 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.68 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.69 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.70 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.71 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.72 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.73 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.74 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.75 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.76 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.77 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.78 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.79 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.80 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.81 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.82 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.83 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.84 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.85 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.86 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.87 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.88 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.89 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.90 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.91 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.92 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.93 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.94 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.95 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.96 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.97 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.98 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.99 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.100 PERFORMANCE OF EXTERNAL WALLS IN A FIRE	CLAUSE 9.1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC C1.1 FIRE RESISTENT CONSTRUCTION SPEC C1.15 FIRE HAZARD PROPERTIES SPEC C1.16 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.17 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.18 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.19 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.20 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.21 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.22 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.23 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.24 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.25 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.26 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.27 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.28 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.29 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.30 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.31 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.32 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.33 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.34 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.35 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.36 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.37 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.38 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.39 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.40 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.41 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.42 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.43 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.44 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.45 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.46 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.47 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.48 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.49 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.50 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.51 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.52 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.53 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.54 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.55 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.56 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.57 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.58 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.59 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.60 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.61 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.62 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.63 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.64 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.65 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.66 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.67 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.68 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.69 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.70 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.71 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.72 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.73 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.74 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.75 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.76 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.77 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.78 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.79 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.80 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.81 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.82 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.83 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.84 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.85 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.86 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.87 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.88 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.89 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.90 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.91 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.92 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.93 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.94 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.95 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.96 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.97 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.98 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.99 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC C1.100 PERFORMANCE OF EXTERNAL WALLS IN A FIRE	0006219920 18 Nov 2022 Assessor: Terry Chapman Accreditation No. 20020 Address: 3 Fairfax Road, Bellevue Hill, NSW 2023 www.mhndu.com.au	35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com.au ABN 94 003 717 662 NSW Registration Number: 4907	EXTERNAL FINISHES SCHEDULE PROJECT ADDRESS: 3 Fairfax Road Bellevue Hill Sydney NSW 2023 Australia	1:150@A3 ISSUE DATE: 22/11/22 PROJECT NUMBER: 22-044	DRAWN BY: CHECKED: REVISION: A DWG NUMBER: DA 6000

NOTES

ALL DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ARCHITECT & ENGINEER DRAWINGS.

BEFORE FILLING WITH PLANTER BOX MIX, ALL PLANTER BOXES ARE TO BE PAINTED WITH WATER PROOFING MEMBRANE AND BE LINED WITH 30MM THICK DRAINAGE CELL COVERED WITH GEOTECH FILTER FABRIC.

ALL PLANTERBOXES ARE TO HAVE DRAINAGE CONNECTED TO STORM WATER SYSTEMS.

ALL GARDEN AREAS ARE TO BE CLEARED OF WEEDS & UNWANTED VEGETATION

ALL EXISTING TREES SHOWN ON THIS PLAN ARE TO REMAIN & BE PROTECTED.

ALL GARDEN & LAWN AREAS ARE TO HAVE 50MM COMPOST INSTALLED AND BE CULTIVATED TO A DEPTH OF 250MM .

ALL GARDEN AREAS ARE TO BE EVENLY GRADED AND RAKED AFTER PLANTING

ALL GARDEN AREAS ARE TO BE MULCHED AFTER PLANTING WITH 70MM OF COMPOSTED HORTICULTURAL FINE MULCH.

ALL PLANTS ARE TO BE SUPPLIED AS PER PLANTLIST AND INSPECTED BY LANDSCAPE DESIGNER AFTER SET OUT, PRIOR TO PLANTING.

ALL LAWN AREAS ARE TO BE CULTIVATED,RAKED & SCREEDED TO AN EVEN GRADE.

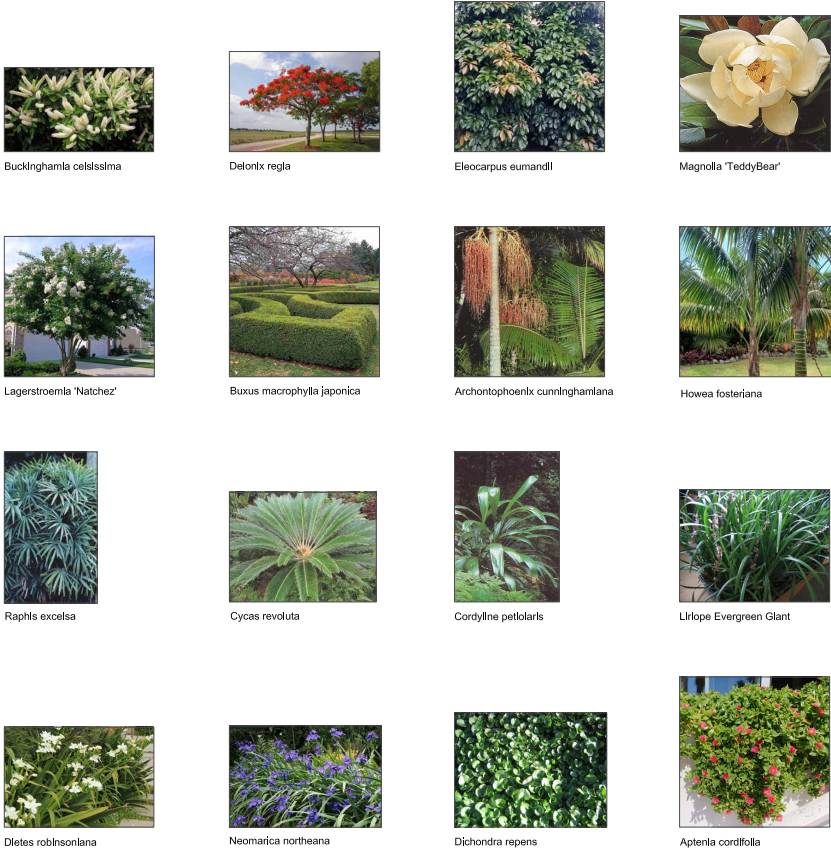
TURF IS TO BE ROLLED AND THOROUGHLY WATERED AFTER LAYING

PAVING- GROUT COLOUR TO MATCH PAVER COLOUR, GROUT JOINTS MAXIMUM 5MM WIDTH.

IT IS EXPECTED THAT ALL WORKS WILL BE EXECUTED AS PER BEST INDUSTRY PRACTICE AND AUSTRALIAN STANDARDS

PLANT LIST

botanical name	common name	quantity	pot size
TREES			
Buckinghamia celisissima	ivory curl flower	9	45l
Delonix regia	poINCIANA	1	400l
Elaeocarpus eumundii	eumundii quandong	31	45l
Lagerstroemia 'Natchez'	crape myrtle	3	200l
Magnolia grandiflora 'Teddy Bear'	dwarf evergreen magnolia	10	45l
SHRUBS			
Buxus macrophylla japonica	japanese box	259	200mm
PALMS & CYCADS			
Archontophoenix cunninghamiana	bangalow palm,	9	45l
Cycas revoluta	japanese sago palm	38	25l
Howea fosteriana	kentia palm	2	45l
Rhapis excelsa	miniature fan palm	76	25l
PERENNIALS			
Cordylne petiolata	broadleaf palm lily	63	200mm
Liriope muscari 'Evergreen Giant'	glant lily-turf	370	150mm
Liriope muscari 'Samantha'	liriope	250	150mm
Neomarica northana	walking iris	71	200mm
GROUNDCOVERS			
Aptenia cordifolia	baby sun rose white	98	150mm
Dichondra repens	native kidney weed	530	100mm

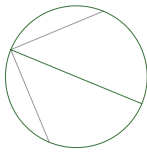


Notes:
This Drawing is for design guidance only.
Final details must meet site conditions,
relevant authorities and applicable building
standards. Verify all dimensions on site and
with detailed site survey prior to off site
fabrication

VOLKER KLEMM LANDSCAPE DESIGN

PO BOX 760 AVALON NSW 2107 TEL/FAX 02 9973 3797 MOBILE 0403 193 337

project
3 FAIRFAX ROAD
BELLEVUE HILL



drawn
VK
Scale
DA LANDSCAPE PLAN

Scale
1 : 100 @ A1 12/23



WARNING
BEWARE OF UNDERGROUND SERVICES
THE LOCATION OF UNDERGROUND SERVICES SHOWN ARE
APPROXIMATE ONLY AND THEIR EXACT POSITION SHOULD
BE PROVEN ON SITE. NO GUARANTEE IS GIVEN THAT ALL
SERVICES ARE SHOWN. THE CONTRACTOR MUST VERIFY
ALL SERVICES ON SITE PRIOR TO ANY EXCAVATION WORKS.

Drawing No
DA 01

Revision
D



WOOLLAHRA LEP 2014 Amended Clause 4.6 Exceptions to Development Standards – Height of Building

Demolition of existing residential flat building and construction of a new residential flat building, swimming pools and landscaping works at

**No. 3 Fairfax Road,
Bellevue Hill**

Prepared for:

Fairfax Road SPV Pty Ltd

c/- MHN Design Union

35 Richards Lane

Surry Hills NSW 2012

Prepared by:

GSA PLANNING

Urban Design, Environmental & Traffic Planners

(A.B.N 89 643 660 628)

95 Paddington Street, Paddington NSW 2021

p: 02 9362 3364

e: info@gsaplanning.com.au

JOB NO. 22330

November 2022

May 2024

© GSA PLANNING 2022



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

APPLICANT'S NAME: Fairfax Road SPV Pty Ltd

SITE ADDRESS: No.3 Fairfax Road, Bellevue Hill

PROPOSAL: Demolition of existing residential flat building and construction of a new residential flat building, swimming pools and landscaping works.

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

R2 Low Density Residential Zoning. The objectives of the R2 Zone are as stated:

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

(iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings which is stated as follows:

- (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.*

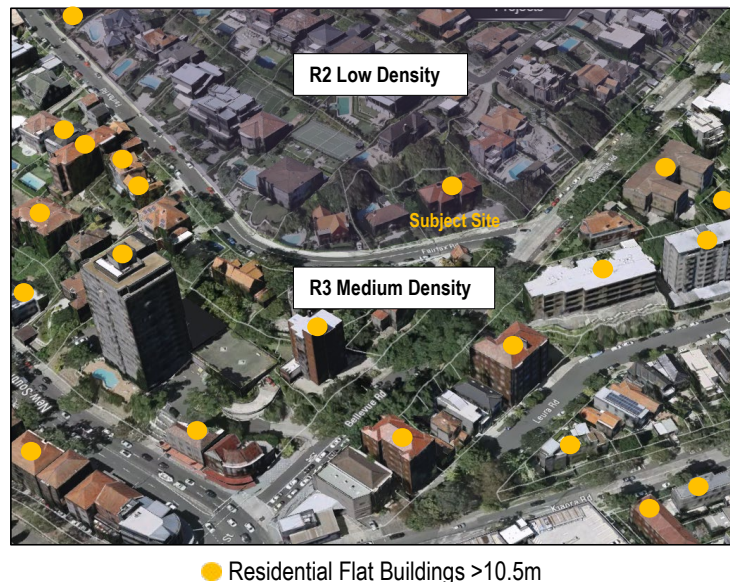
This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation is consistent with the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

3. Background

The site benefits from Existing Use Rights, and was constructed as a residential flat building of three apartments, c 1926. It has continued its use as three apartments to the present day. On the opposite side of both Fairfax Road and Bellevue Road, the land is zoned R3 Medium Density Residential, with higher building heights permitted, as is appropriate for residential flat buildings (see **Figure 1**). The area opposite the site could be described as 'being in transition' as there are still single dwellings, interspersed with residential flat buildings (indicated in **Figure 1** with ●). The location is close to New South Head Road, public transport, and the Double Bay Town Centre.



Source: Woollahra Council 3D Modelling Portal

Figure 1: The Proposal is in context with nearby Medium Density Housing

In terms of terrain, the site itself is approximately 15 metres' lower than its neighbours to the east and south, Nos. 2A & 2B Tarrant Road (see **Photograph 1** on the following page). For the purposes of this report, 'north' is described as the common boundary with No. 5 Fairfax Road. This unusual situation means additional height, as proposed, has no appreciable effect on the neighbours. Solar access, views and privacy are maintained.

Furthermore, the proposal is approximately 2.6 metres lower than the existing building, and set further from the southern boundary.



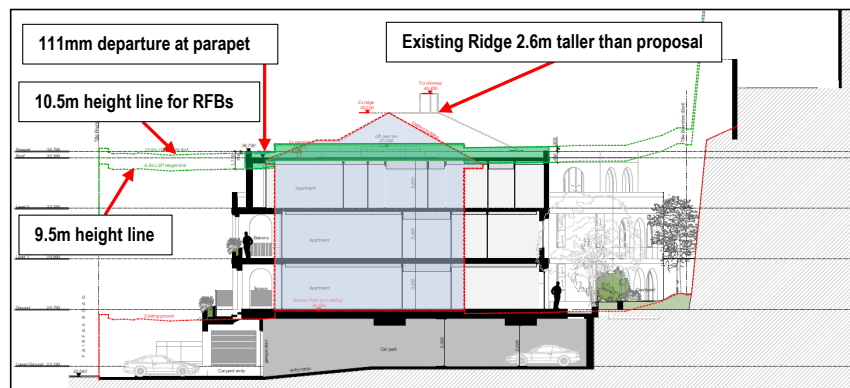
Photograph 1: The Existing Building in Relation to the Neighbouring Dwellings

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

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the height Map which indicates a maximum height of 9.5 metres applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act). As the site benefits from existing use rights, the Woollahra LEP only applies to the extent that it does not derogate from existing use rights provisions.

The existing residential flat building has a maximum building height of 12.74m to the top of the ridge, a variation of 3.24m (34.1%). The proposed residential flat building will have a maximum building height of 10.61m, a variation of 1.11m (11.7%) from the 9.5m height plane, which is a substantial reduction from the existing.

Furthermore, we note the proposal is generally compliant with a 10.5m high plane that is usually applicable to residential flat buildings within the locality. The exception is a small portion at the western edge of the building's parapet due to a step in the existing ground line (see **Figure 2** on the following page), which would be the equivalent to a 1% variation from the 10.5m height control.



Source: MHN Design Union

Figure 2: Section Demonstrating Maximum Height & Indicating Terrain

4. Applicability of Clause 4.6

The subject site enjoys the benefits of existing use rights and the provisions of Council's LEP cannot derogate from the existing use rights. The planning principles established by the NSW Land and Environment Court in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71 at [17] and *Stromness v Woollahra Municipal Council* [2006] NSWLEC 587 at [83-84] have been assessed and satisfied in the DA. Notwithstanding this, under the recent case in *Saffioti v Kiama Municipal Council* [2018] NSWLEC 1426, it was recognised that the LEP and DCP should still be considered. Accordingly, this Clause 4.6 Variation has been prepared for the additional height proposed.

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development ... In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

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

Flexibility is sought in the application of the height development standard for a contemporary residential flat building on a site in an R2 Low Density Residential Zone that benefits from existing use rights.

The building has been well-designed with consideration of the site's context and has a recessive second floor that is setback from all edges. Additionally, the proposal has a lower maximum ridge height than the existing RFB and is similar to the existing building's eaves line.

The height above the 9.5m height line is a function of the continuing residential flat building use. The minor departure from the adopted 10.5m height line is attributed to the site's varied topography and the fall in the land.

The proposal will provide improved amenity for residents and will maintain amenity for neighbouring properties, to achieve a better outcome. The existing site terrain, which is considerably lower than the adjoining neighbours to the east and south, ensure the neighbours' amenity is maintained.

On this basis, the height of the proposal is consistent with the objectives of Clause 4.6. In our opinion, the proposal's height is appropriate in the setting, irrespective of the additional height. Achieving compliance would unnecessarily require the removal of the upper level or additional excavation, and effectively inhibit the orderly and economic use of the land. As demonstrated in the Statement of Environmental Effects, views from the southern neighbour are improved by the proposal, which has a flat roof, instead of a pitched, tiled roof. Accordingly, in our opinion, the proposal achieves a better planning outcome both for and from the development.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

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

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

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

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies one of the five tests established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

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

It is noted that under Clause 4.6(4)(a)ii, 'achieved' has been replaced by the lesser test of 'consistent'. Despite the departure, this application demonstrates the proposal is consistent with the density and character of the area. The proposal has a height, bulk and scale that is generally consistent with that envisaged by Council's controls in the adjacent R3 Zone and is appropriate in the current R2 Zone, particularly as existing use rights apply.

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

The subject site is in the R2 Low Density Residential Zone of the Woollahra LEP 2014 and in an area of mixed densities, including dwelling houses and multi-storey residential flat buildings. The proposed RFB is compliant with both the minimum lot size and RFB minimum lot size Development Standards; and many DCP controls including front and side setbacks; landscaping; and parking.

Strict compliance with the 9.5m height standard would effectively remove the third floor or require increased excavation to lower the building. The proposed height allows for compliant floor to ceiling heights for occupant amenity, in accordance with the Apartment Design Guide (ADG). The ADG is not technically required in this instance but provides guidance.

We note that the subject site is directly opposite R3 Medium Density Residential zoned land which has increased permissible height and to which an FSR standard applies (see **Figure 3**). While the adjacent standards do not apply to the subject site, the proposal has been designed to relate to local context.

We note all R3 Medium Density lands opposite the site have an FSR of between 0.75:1 to 1.3:1 and a building height of 10.5m to 15m. The proposal's FSR-equivalent is compatible with those permissible of the nearby R3 zoned land and the building height is generally compliant with the 10.5m control other than a negligible area of the parapet, affected by a step in the existing ground level. We note, the minor departure would not be discernible.

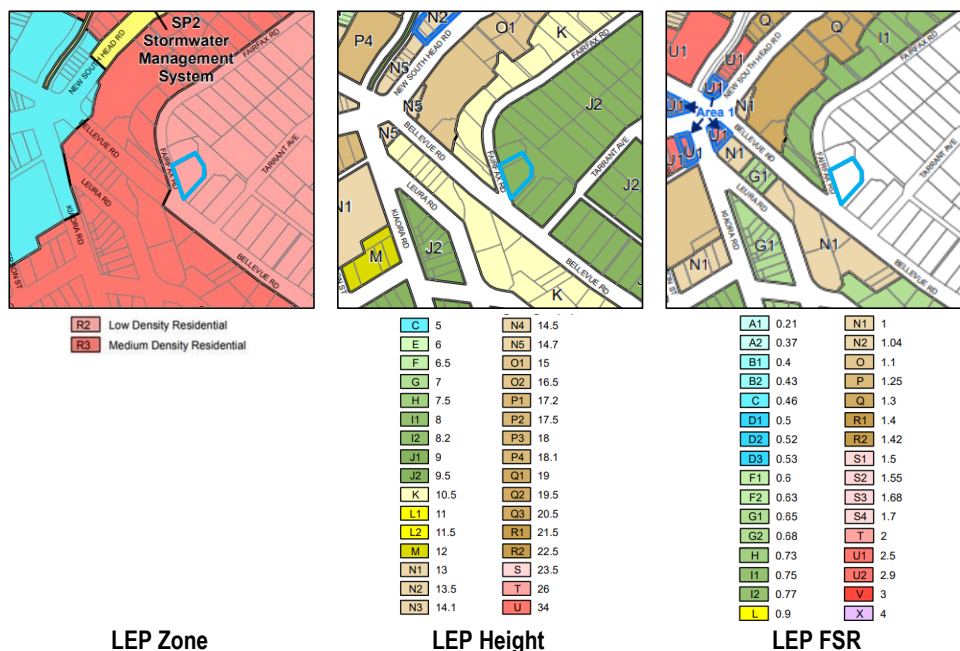


Figure 3: The Site in Relation to Adjacent LEP Development Standards

Strict compliance would effectively limit any development to two storeys, which is not consistent with the existing three storey residential flat building, without significant benefit to neighbours or the streetscape. The additional height will result in a three storey contemporary form that is consistent in scale with the existing building and desired future character of the neighbourhood. As noted, the proposal is below the ridge line of the existing building. By providing a recessed second level and a flat roof, the proposal has minimised any effects of streetscape.

The proposal is a thoughtfully designed contemporary residential flat building that utilises varying materials, finishes and landscaping to create visual interest. Accordingly, the proposal will contribute to the evolution of residential building styles in the locality and is consistent with the desired future character of the area.

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

The proposal is opposite land in the R3 Medium Density Residential Zone, however as noted, is within the R2 Low Density Residential Zone. As the proposal is below the ridge line of the existing building and generally complies with setback requirements in the DCP, it presents an appropriate scale and form that complements surrounding development. It maintains an existing transition from the nearby residential flat buildings, to dwelling houses.

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

Shadow diagrams have been prepared at 9:00am, 12 noon and 3:00pm for the winter solstice (June 21) to demonstrate the proposal has no additional effects (see **Figure 4**). As the proposal generally complies with setback requirements in the DCP and the lot is considerably lower than adjacent properties to the east and south, the proposal will only redistribute some existing overshadowing to the access handle and lower garden areas of neighbours or cast some additional shadows onto Fairfax Road. All private open space and habitable room windows of adjoining properties will maintain existing levels of solar access between 9:00am-3:00pm.

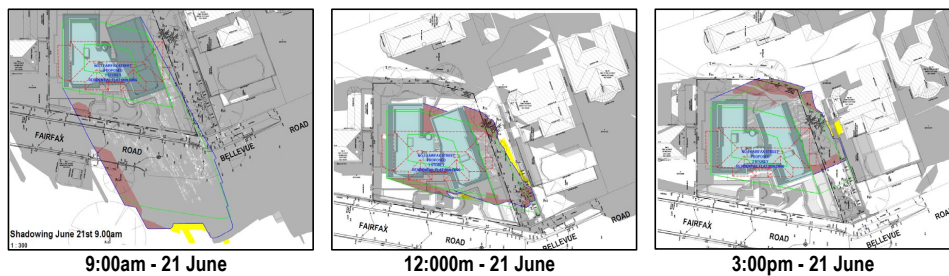
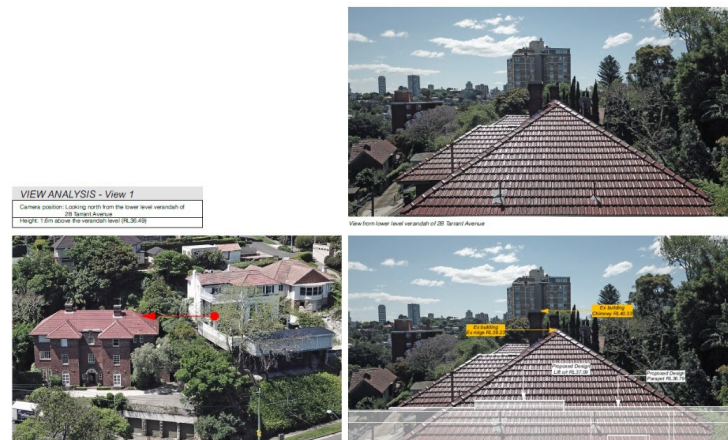


Figure 4: Shadow Diagrams

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

From our assessment, due to the subject site's lower levels, the proposal's height is expected to significantly improve the situation for adjacent neighbours as the height is 2.6 metres lower than the ridge of the existing residential flat building. The proposed flat roof and increased side setbacks, removes the current dominance of the existing roof in the foreground of views from No. 2B Tarrant Road. **Figure 5** (on the following page) shows the predicted improvements from the Ground Floor level of No. 2B Tarrant Road.



Source: MHN Design Union

Figure 5: Views Improved from No. 2B Tarrant Road

Accordingly, the proposal is very unlikely to have any discernible effects on adjoining or nearby properties in respect of views, privacy, overshadowing or visual intrusion, as the height is less than the existing, the front setbacks are similar, and the setbacks are increased.

As previously noted, the areas of additional height will not affect solar access to adjoining and nearby properties and will only result in some additional shadow over Fairfax Road between 9:00am-3:00pm on 21 June.

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

There are no significant views identified for the location in the DCP's map for the Bellevue North Precinct, and therefore the proposal would have no effect on the public views of the harbour and surrounding areas in the public domain.

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

The proposal is based on existing use rights applicable to the site and has been carefully designed to be consistent with the relevant zone objectives and satisfies one of the tests established by the Court in *Wehbe*.

In our opinion, the underlying purpose of the development standard is to present a building that is compatible with the height, context and character of the locality whilst preserving the amenity of adjoining properties. The height limit is designed to create a consistent streetscape.

The proposal will replace an aging residential flat building with a contemporary form which has a lower overall maximum height than the existing and will have a recessed upper level. As demonstrated, the additional height has no effect on privacy, views, and solar access to neighbouring properties, and sits between the adjacent buildings (see **Figure 6** on the following page).

Furthermore, we note that residential flat buildings generally have a higher building height limit than dwellings, and as discussed, the site benefits from existing use rights. A height limit of 10.5m would therefore be appropriate. There is a minor departure at the western elevation of 111mm, but since this forms part of the parapet, which in itself is an important element of the design, it is considered insignificant, and unlikely to be discernible.

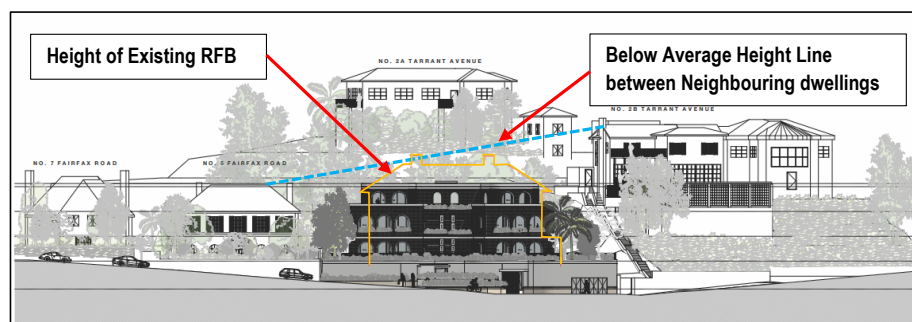
As indicated, the proposal is below the ridge line of the existing building and the additional height will not unreasonably affect amenity and does not constitute an over-development of the site. This is particularly so, because the subject site has significantly lower site terrain, than the adjoining properties to the east and south. Thus, the additional height, which is still lower than the existing building, is extremely unlikely to affect views, and does not have significant effects on overshadowing, as changes to the built form result in redistribution of shadow, rather than additional shadows, with none affecting either dwelling or private open space.

Importantly, we consider the scale is consistent with the existing situation and neighbouring development. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

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

Figure 6 demonstrates the height of the proposal maintains a similar scale to the existing. The proposal is lower than the existing residential flat building but the additional height would not be readily discernible as greater height than the existing, because it is similar to the eaves' height of the existing residential flat building. Accordingly, the proposal is in keeping with the desired density and character for the area, and which will sit comfortably on the site and in the context of the locality. Furthermore, the additional height is at the second floor level which is setback from the building line along all facades. Therefore, it does not add significantly to the visual bulk to the building when viewed from the street.

In our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).



Source: MHN Design Union

Figure 6: The Proposal is Consistent in the Streetscape

The proposed height will improve amenity for residents and their guests by providing suitable ceiling heights compliant with ADG requirements and the contemporary design will contribute to the evolving streetscape of residential buildings. As discussed, the additional height will maintain the amenity of the adjoining properties and the streetscape. The proposal will be a positive contribution to the character of development in the area.

The proposed height facilitates the orderly and economic use of the site by providing a contemporary infill development. The proposal is a significant improvement for future occupants' amenity when compared to the existing building; and is in accordance with Object (c) of the EPA Act, to "promote the orderly and economic use and development of land".

The proposal satisfies the relevant objectives of the Height of Buildings development standard and the desired future character objectives of the Bellevue North Precinct (as outlined in **Section 6.0** of this report). Strict compliance would require the removal of the upper level or increasing excavation to set down the building. Additionally, requiring compliance would limit the architectural expression of the building by changing the proposed form to the detriment of future residents, importantly, without increasing amenity of nearby residents or to the benefit of the streetscape.

The residential flat building has been thoughtfully designed, with a high level of amenity for future residents. Notwithstanding the additional height, the proposal maintains neighbours' and streetscape amenity. Accordingly, in our opinion, the additional height will be consistent with the existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the variation to the development standard, as required in Clause 4.6(3)(b).

6. Clause 4.6(4)(a) Requirements

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

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

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request, and having regard to the site and locality.

In our opinion, while the proposal relates to an existing use, it achieves the objectives of the Development Standard as already demonstrated; and the objectives for development within the R2 Low Density Residential Zone, as stated as follows, inter alia:

- Objective:** *To provide for the housing needs of the community within a low density residential environment.*
- Response:** The proposal is to replace an existing residential flat building, within the existing low-density residential environment. It retains the medium density residential use, provides upgraded accommodation within a residential zone and is not likely to result in adverse impacts on amenity or character.
- Objective:** *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- Response:** Not applicable.
- Objective:** *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- Response:** The design has carefully considered the amenity of the nearby residents and maintains privacy and solar access to adjoining properties, which is discussed in Section 5.0 of this report. The site's much lower levels than properties to the east and south ensure that any effects are negligible. It will be an elegant and recessive building in the local area.

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

Response: The proposal will be below the ridge line of the existing residential flat building and complies with front and side setback controls on the ground floor and above. This creates an appropriate scale and built form, when viewed from the street. Elevations demonstrate the appropriate nature of the proposed height. The recessed uppermost level further reduces the scale, when viewed from Fairfax Road.

Therefore, the proposal is consistent with the relevant zone objectives, and so this report demonstrates the proposed new RFB will be compatible with nearby development. In our view, the additional height is appropriate and maintains the Fairfax Road streetscape amenity and is consistent with nearby RFB development heights. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42], inter alia:

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

Additionally, in our opinion, the proposal maintains the desired future character of the Bellevue North Precinct which is outlined in the objectives as follows:

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

Response: The proposal provides a well-designed residential flat building that contributes to the varied character of the area and complements the built form of neighbouring buildings.

Objective O2: *To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings incorporating modulation and a varied palette of materials.*

Response: The proposal has been carefully designed using a light-coloured palette of materials that references the existing building with face brick, sandstone cladding and render. Metal finishes will be dark bronze to windows and balustrades.

Objective O3: *To maintain a transition of development scale from the residential flat buildings that address New South Head Road, to the dwelling houses that dominate the majority of the precinct.*

Response: The proposal is lower than the existing building and is similar to the adjacent building at No. 5 Fairfax Road. The scale is modest, as evident by the lower height and an FSR which is less than nearby medium density. Therefore, it provides the transition of development scale sought by the objective.

Objective O4: *To reinforce a consistent building scale with streets.*

Response: As shown in streetscape elevations, the proposal's built height is compatible with nearby development. Due to differing levels in the steep terrain, the proposal does not dominate or detrimentally affect nearby dwellings.

Objective O5: *To ensure that development responds in form and siting to the street and subdivision pattern.*

Response: The front and side setbacks are consistent in the street. The lot size is unchanged.

Objective O6: *To design and site buildings to respond to the topography and minimise cut and fill.*

Response: The proposal maintains the existing 'building platform' level but provides an excavated lower ground level car park, by continuing similar levels to the existing garaging.

Objective O7: *To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.*

Response: The landscaping proposal will provide a lush, landscaped setting to the new development. New trees are proposed.

Objective O8	<i>To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.</i>
Response:	While there are no street trees adjacent to the site, the new pedestrian entrance and garage entry will have a landscaped garden and planters to the podium level above. This will enhance the streetscape, replacing a current high sandstone wall and garage doors.

In our opinion, the proposal achieves the zone objectives and the precinct objectives, in addition to the development standard objectives. Accordingly, we consider the proposal is in the public interest and should be supported.

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

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

Under Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice.

Where the proposal exceeds the development standard by over 10%, the Planning Circular provides for the Local Planning Panel to assume concurrence.

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

In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The height non-compliance will enhance the amenity and functionality of the proposed residential flat building without significantly impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the additional height, the proposal will appear consistent in the streetscape. In any event, the development standard is considered to derogate from the established existing use rights and therefore is not applicable.

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

8. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the development objectives of the R2 Low Density Residential Zone pursuant to the LEP, notwithstanding the existing use rights which apply on this instance. On that basis, the request to vary Clause 4.3 should be upheld.

Table 1: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of Buildings	
12	What is the control	1 & 2	9.5m	
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Test 1 <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard; 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development. 	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The height standard derogates from the existing use rights which apply to the site and the proposal; The proposed height is below the ridge line of the existing building and facilitates a development that is consistent with the planning objectives of the area; The general height is equivalent to the permitted building height for nearby medium density development of 10.5m; The site levels readily accommodate the additional height due to the adjoining sites to the east and south being at a considerably higher level; The perceived height of the building is similar to the existing eaves height and therefore, would not be readily discernible as a greater height; and The proposed height maintains solar access, privacy and views of adjoining properties. 	YES

26-27	2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development is consistent with the objectives of the height standard as addressed under Test 1 of <i>Webb</i> . The proposal is also consistent with the objectives of the R2 Zone.	YES
28-29	Second Precondition to Enlivening the Power – That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.	7	As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, the Council can grant development consent.	YES

© GSA PLANNING 2024

This document is and shall remain the property George Karavanas Planning Pty Ltd (trading as GSA Planning). The document may only be used for the purposes for which it was commissioned and in accordance with the Letter of Instruction. Unauthorised use of this document in any form whatsoever is prohibited

Completion Date: 14 February 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 534/2022/1
ADDRESS: 3 Fairfax Road BELLEVUE HILL 2023
PROPOSAL: Demolition of existing building and construction of a new residential flat building with basement garage, swimming pools and associated landscaping
FROM: Mr W Huynh
TO: Mr B McIntyre

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, prepared by GSA Planning, referenced 2230, issue D, dated 28 Nov 2022.
- Architectural Plans, prepared by MHN Design Union, referenced 22-044, drawing numbered DA000, DA1000 – DA1002, DA2000 – DA2004, DA3000 – DA 3002, DA3100 – DA3101, rev A, dated Dec 2023.
- Survey, prepared by Survplan, referenced 1728, drawing numbered 1728CO_MHN, Sheet 1 – Sheet 4, dated 15 Aug 2022.
- Stormwater Management Plans, prepared by ERBAS, referenced SYD22649, drawing numbered SW000 – SW001, SW100 – SW104, SW201 – SW203, issue P3, dated 18 Dec 2023.
- Flood Risk Management Assessment, prepared by Catchment Simulation Solutions, unreferenced, dated 21 Nov 2022.
- Geotechnical Investigation Report, prepared by Alliance Geotechnical & Environmental Solutions, referenced 16041-GR-1-1, rev 2, dated 19 Dec 2023.
- Traffic and Parking Assessment Report, prepared by Varga Traffic Planning, referenced 22563, dated 21 Nov 2022.
- Response to Submissions, 22330-RtS, prepared by GSA Planning, dated 20 Dec 2023.
- Response to Council, 22330, prepared by GSA Planning, dated 20 Dec 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 500 m², in which case the installation of on-site stormwater detention (OSD) system including rain garden is required. It

is noted from the submitted stormwater plans that a rainwater tank will be installed in lieu of the OSD system. It is further noted that the storage capacity has been increased to 1.5 times of the OSD storage which is considered acceptable. The proposed capacity of the rain garden is satisfactory. Conditions will be imposed to ensure that the level of the rain garden emergency overflow weir corresponds with the level depicted on the architectural drawings and that the rainwater tank is located in common areas.

The submitted MUSIC modelling demonstrates that the proposed stormwater runoff water quality measures meet Council's environmental targets.

It is noted from the submitted stormwater management plan that stormwater runoff will be discharged to the Council's underground street drainage system. Council's Infrastructure Assets Team Leader has no objections regarding the discharge of subsoil drainage/seepage water to Council's underground stormwater system. Conditions will be imposed to ensure that details of backflow prevention devices/measures are provided.

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

In response to the Flood Risk Management Assessment, prepared by Catchment Simulation Solutions, unreferenced, dated 21 Nov 2022, Council's Drainage Engineer has provided the following comments on 20 Dec 2022:

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

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

- a) A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.*
- b) The proposed below ground car park shall be protected by a physical threshold set at or above the flood planning level of 22.83m AHD.*
- c) The pedestrian entry off Fairfax Road shall be protected from flooding to the flood planning level of 23.73m AHD.*
- d) Flood compatible materials shall be used for all flood exposed construction.*
- e) All flood exposed electrical wiring and equipment shall be waterproofed.*
- f) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.*

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

c. Impacts on Council Infrastructure comments

The applicant seeks to construct a new basement parking as part of this application. It is noted from the submitted architectural plans that the new crossing will be situated in a different location, in which case the existing crossing is to be replaced with kerb and gutter and a new 3.5 metres wide crossing constructed to suit the new arrangement which will be

conditioned accordingly. The applicant is required to reconstruct the existing footpath for the full frontage of the development.

These infrastructure works will be subject to detailed assessment under S138 application which will be conditioned accordingly.

d. Traffic comments

Council's Traffic Engineer has determined that the proposal is satisfactory, subject to the included conditions. Council's Traffic Engineer has prepared the following comments on 3 Nov 2023:

Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council's DCP 2015 Chapter E1 Parking and Access:

Table 1: Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Apartment	DCP Maximum Required Parking
3 or more bedrooms	5	2	10
Visitor	5	0.25	1.25 (1)
Total allowed			11

The proposed provision of eleven (11) car parking spaces, including ten (10) for residents and one (1) for visitors, complies with DCP's requirement and is considered acceptable.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	5 dwellings	1 per dwelling	5
Residential Visitors	5 dwellings	1 per 10 dwellings	0.5 (1)
Total required			6
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	11	1 per 10 car spaces	1.1 (1)
Total required			1

The proposed provision of six (6) bicycle parking spaces and one (1) motorcycle parking space complies with DCP's minimum requirement and is considered satisfactory.

Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with RMS Guide to Traffic Generating Developments 2002, and RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a.

Existing Development

Medium Density Residential – Larger Units

- *Weekday peak hour vehicle trips: 3 dwellings x 0.5-0.65 per dwelling = 1.5-1.95 trips*
- *Daily vehicle trips: 3 dwellings x 5.0-6.5 per dwelling = 15-19.5 trips*

Proposed Development

Medium Density Residential – Larger Units

- *Weekday peak hour vehicle trips: 5 dwellings x 0.5-0.65 per dwelling = 2.5-3.25 trips*
- *Daily vehicle trips: 5 dwellings x 5.0-6.5 per dwelling = 25-32.5 trips*

Net Increase

- *Weekday peak hour vehicle trips = 1-1.3 trips*
- *Daily vehicle trips = 10-13 trips*

Based on the above calculation, the proposed development will not create unacceptable adverse impacts on the surrounding road network in terms of traffic flow efficiency and road safety considerations.

Access Driveway, Sight Splay & Parking Signs

The grade of the access driveway is not provided in the traffic report or the architectural drawings. The applicant is to clearly depict the maximum gradient for the first 6m of access driveway into the car park, noting the maximum gradient should be 1 in 20 as per Cl 3.3 of AS/NZS2890.1:2004.

The width of the vehicular crossing is not provided either however it is measured to be 3.5m which complies with the width requirement for a Category 1 access facility.

It is noted that 2m x 2.5m pedestrian sight splay has been provided along both sides of the driveway, which is considered acceptable. Any structure within the splay area should be relocated to ensure visibility.

The existing 'No Stopping' sign next to the existing garage should be relocated to accommodate the new driveway. Should the development be approved, the applicant is to liaise with Council's Traffic Team for the relocation of the parking sign/s.

e. Vehicle Access & Accommodation comments

Vehicular access and parking arrangements are considered satisfactory. Please also refer to comments prepared by Council's Traffic Engineer.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Alliance Geotechnical & Environmental Solutions, Ref: 16041-GR-1-1-Rev 2, dated 19 December 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 4 metres from the existing ground surface for the proposed basement.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 0.3m and 1m in BH01 and BH02 respectively.
- b) Sandstone bedrock was inferred beneath the natural sand at depth ranging between 0.3m and 1m.
- c) Groundwater was observed during the investigation. Longer term groundwater monitoring is in progress.

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)
16041-GR-1-1-Rev 2	Geotechnical Report	Alliance	19/12/2023
SYD22649	Stormwater Management Plans	ERBAS	
SW000-Issue P3			18/12/2023
SW001-Issue P3			18/12/2023
SW101-Issue P3			18/12/2023
SW102-Issue P3			18/12/2023
SW103-Issue P3			18/12/2023
SW104-Issue P3			18/12/2023
SW201-Issue P3			18/12/2023
SW202-Issue P3			18/12/2023
SW203-Issue P3			18/12/2023

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.

A.32 Vehicular Access and Garaging

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

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

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

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

C.5 Payment of Security, Levies and Fees

Property Damage Security Deposit (S138)	\$134,450	No	T115
Infrastructure Works bond (S138)	\$28,250	No	T113
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 all redundant vehicular crossings including layback and gutter and reinstated into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,
- The removal of the existing kerb and gutter and the construction of a new 3.5 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 vehicular crossing and driveway, starting from the road centreline to the parking slab must be submitted for assessment,
- The applicant is to liaise with Council's Traffic Team to relocate the existing parking sign/s to accommodate the new driveway. All costs associated with the relocation must be borne by the applicant,
- The reconstruction of the existing 1.8m wide footpath for the full frontage of the site in Fairfax Road in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Council's Standard Drawing RF3 and to the satisfaction of Council's Assets Engineers. Detailed long section and cross

sections at every 5 metres intervals shall be provided for assessment. The footpath must have a maximum crossfall of 3% graded towards the top of kerb,

- e) The installation of stormwater outlet pipe across the nature strip 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 kerb inlet pit must be submitted for assessment,
- f) The reinstatement of all damaged kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers,
- g) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf,
- h) The developer shall be responsible for carrying out all service investigations to allow a gravity connection,
- i) A bond of \$28,250 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date,
- j) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements, and
- k) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

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

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

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

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

C.21 Provision for Energy Supplies

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.

C.37 Engineer Certification

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

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

C.40 Geotechnical and Hydrogeological Design, Certification and Monitoring

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

These details must be certified by the professional engineer to:

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

- details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
- details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.41 Ground Anchors

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

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

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

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

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

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

Standard Condition: C41 (Autotext: CC41)

C.45 Parking Facilities

The *Construction Certificate* plans and specifications must include detailed plans and specifications for all bicycle and car parking in compliance with AS2890.3 and AS2890.1 respectively. The detailed construction plans must satisfy the following requirements:

- a) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1. In this regard, a 2m x 2.5m sight splay, clear of any obstructions to visibility, must be provided on both sides of the driveway exit. Any structures within these splay areas must be relocated to ensure visibility,
- b) All parking spaces must have minimum dimensions of 2.4m x 5.4m, clear of any obstructions, to comply with AS2890.1. If the side boundary of a parking space is a wall, or if there are obstructions such as columns restricting door opening, 300mm shall be added to the width of the space,
- c) Driveway and vehicular access ramp must be designed to provide adequate ground clearance to the underside of B99 vehicles.

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

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

Standard Condition: C45 (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 SYD22649-Issue P3, prepared by ERBAS, dated 18/12/2023, other than amended by this and other conditions;
- b) The discharge of stormwater from the site, by direct connection, to the Council's existing kerb inlet pit located within the frontage of the site on Fairfax Road. The stormwater outlet pipe must be located within the frontage of the site. Only one stormwater outlet will be permitted,
- c) A minimum 600mm x 600mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3,
- d) The total site discharge for the proposed development, must not exceed the permissible site discharge of 35 l/s for the 1% AEP storm event,
- e) In order to prevent any backwater effects, invert level of the overflow pipe from the rainwater tank must be designed so that it is set above the HGL of the downstream drainage system where the top of kerb level at the connecting kerb inlet pit is to be used as the tailwater level. The tailwater level must be higher than the top of kerb where the point of connection is affected by mainstream or overland flooding,
- f) All below ground structures are to be fully tanked such that subsoil drainage / seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- g) The provision of a stormwater treatment system including the installation of a rainwater tank (RWT) with a minimum storage volume of 31m³, a rain garden with minimum area of 11m² and SPEL Ecoceptor GPT1500 must be provided to achieve the water quality targets stipulated in Chapter E2.2.3 of Council's DCP. Overflow from the RWT must be directed to the proposed rain garden by gravity prior to discharging stormwater to the street drainage system,
- h) The level of the rain garden emergency overflow weir must correspond with the level depicted on the architectural drawings,
- i) Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans,
- j) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- k) Dimensions of all drainage pits and access grates must comply with AS3500.3 and the Council's DCP,

- l) Compliance with the objectives and performance requirements of the BCA, and
- m) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout plan

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

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

Rainwater Reuse System details:

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

For the proposed stormwater connection to the Council's underground drainage infrastructure, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to the issue of any Construction Certificate.

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

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

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

C.54 Flood Protection

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

- a) A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b) The proposed below ground car park shall be protected by a physical threshold set at or above the flood planning level of 22.83m AHD.
- c) The pedestrian entry off Fairfax Road shall be protected from flooding to the flood planning level of 23.73m AHD.

- d) Flood compatible materials shall be used for all flood exposed construction.
- e) All flood exposed electrical wiring and equipment shall be waterproofed.
- f) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
Standard Condition C.54 (autotext CC54)

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

D.4 Dilapidation Reports for Existing Structures

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties must include (but is not limited to):

No. 1 Fairfax Road
No. 5 Fairfax Road
No. 2B Tarrant 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.5 Dilapidation Reports for public infrastructure

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

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

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site, and
- d) photographs showing any existing damage to retaining walls within the footway or road.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.
Standard Condition: D5 (Autotext DD5)

D.6 Adjoining buildings founded on loose foundation materials

D.7 Piezometers for the monitoring of Ground water Levels

The Principal Contractor must provide 2 piezometer within the excavation area and a further 2 piezometer around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).
Standard Condition: D7 (Autotext DD7)

D.9 Construction Management Plan

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.3 Compliance with Construction Management Plan

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 and Buildings
- E.14 Vibration Monitoring
- E.15 Erosion and Sediment Controls – Maintenance
- E.17 Disposal of Site Water during Construction
- E.19 Site Cranes
- E.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
- E.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Road Works
- 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

F.9 Commissioning and Certification of Public Infrastructure Works

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

The certification must be supported with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

Standard Condition F9 (Autotext FF9)

F.24 Vehicle Access and Manoeuvring – Construction & Certification

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

- a) That the as-constructed carpark complies with the approved Construction Certificate drawings,
- b) That a maximum driveway gradient of 5% has been provided for the first 6 metres from the property boundary to the basement,
- c) That finished driveway gradients and transitions will not result in scraping to the underside of B99 vehicles,
- d) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1 in terms of minimum dimensions provided,
- e) That the headroom clearance of minimum 2.2 metres has been provided between the basement floor and any overhead obstruction to comply with Clause 5.3.1 of AS2890.1,
- f) That aisle widths throughout the basement have been constructed to comply with minimum dimensions set in AS2890.1,

- g) A 2m x 2.5m sight splay, clear of obstruction to visibility, has been provided on both sides of the driveway exit to comply with Fig 3.3 and Clause 3.2.4 of AS2890.1.

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

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

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.14 Dilapidation Report for Public Infrastructure Works

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

The Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the Principal Certifier has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site, and
- d) photographs showing any existing damage to retaining walls within the footway or road.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and Owner carrying out work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.
Standard Condition: H14 (AutotextHH14)

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 rainwater tank and the stormwater treatment system,
- c) that a stormwater treatment system including rainwater tank with minimum storage of 31m³, a rain garden with minimum area of 11m² SPEL Ecoceptor GPT1500 have been constructed in accordance with the approved construction stormwater plans,
- d) that the invert level of the discharge pipe at the boundary junction pit has been constructed higher than the finished level of the receiving kerb inlet pit,
- e) that the invert level of the rainwater tank overflow has been constructed so that it is set above the HGL of the downstream drainage system where the top of kerb level at the connecting kerb inlet pit is to be used as the tailwater level. The tailwater level must be higher than the top of kerb where the point of connection is affected by mainstream or overland flooding.
- f) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,
- g) that all below ground structures are fully tanked and subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- h) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- i) pipe invert levels and surface levels to Australian Height Datum, and
- j) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

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

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

I.21 Provision of Off-street Public and Visitor Parking

The owner and occupier, in compliance with AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car parking (residents)	10
Car parking (visitors)	1
Bicycle parking	6
Motor bike parking	1

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

I.29 Ongoing Maintenance of the Rainwater Retention and Reuse System and Stormwater Treatment System

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

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

The Owner

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

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

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

Standard Condition: I29

I.31 Parking Permits

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation Report

K.24 Roads Act Application

18 March 2024

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 534/2022/1

ADDRESS: 3 Fairfax Road BELLEVUE HILL 2023

PROPOSAL: Demolition of existing building and construction of a new residential flat building with basement garage, swimming pools and associated landscaping

FROM: Sam Knight

TO: Mr B McIntyre

I refer to the following documents received for this report:

- Survey Plan, drafted by SurveyPlan, dated 15 August 2022
- Amended Architectural Drawings, drawn by MHND Union, dated 20 December 2023
- Arboricultural Impact Assessment Report, written by Dr Treegood, dated November 2022
- Amended Landscape Plan, designed by Volker Klemm Landscape Design, dated 1 December 2023

A site inspection was carried out on 17 May 2023.

Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites
- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

SUMMARY

The proposal is supported subject the below tree condition being included into the DA consent.

COMMENTS

The Tree and Landscape team provided details comments in relation to tree removal and retention for the proposed development at the subject site on the 29 May 2023.

It is noted that the design has since been amended in response to Council's Request for Further Information. A review of the amended design has revealed that all previous comments remain unchanged.

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

RECOMMENDATIONS

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

CONDITIONS OF CONSENT

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

A. General Conditions

A.1 Tree Preservation & Approved Landscaping Works

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

- a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
1	<i>Alnus jorullensis</i>	Refer to the Arborist Report prepared by Dr Treegood dated November 2022 for tree numbers and locations.	9 x 6
2	<i>Syzygium spp</i>		7 x 4
3	<i>Syzygium spp</i>		8 x 4
4	<i>Syzygium spp</i>		7 x 5
5	<i>Jacaranda mimosifolia</i>		8 x 10
6	<i>Howea forsteriana</i>		5 x 2
7	<i>Archontophoenix cunninghamiana</i>		10 x 2
8	<i>Banksia integrifolia</i>		10 x 3
9	<i>Howea forsteriana</i>		4 x 2
10	<i>Dracaena marginata</i>		4 x 3
11	<i>Dyopsis lutescens</i>		4 x 2
12	<i>Cyathea cooperi</i>		9 x 2
13	<i>Phoenix roebelenii</i>		4 x 2
14	<i>Cyathea cooperi</i>		7 x 2
26	<i>Olea europaea</i>		9 x 5

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

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

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

B.1 Demolition and Construction Management Plan

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

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

B.2 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 any occupation or use of the building	• Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.

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

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

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

C.1 Tree Management Plan

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

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

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

General Protection Requirements

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

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

E.2 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 approved Landscape Plan.

The project arborist shall document compliance with the above condition.

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

F.1 Amenity Landscaping

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

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

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

Nil

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

H.1 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Pruning or Removing a Tree Growing on Private Property

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.





Woollahra
Municipal
Council

31 May 2023

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 534/2022/1

ADDRESS: 3 Fairfax Road BELLEVUE HILL 2023

PROPOSAL: Demolition of existing building and construction of a new residential flat building with basement garage, swimming pools and associated landscaping

FROM: Tristan Ryan – Senior Strategic Heritage Officer

TO: Mr B McIntyre

DOCUMENTATION

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

- Drawing set by MHN Design Union, dated 23 November 2022, and numbered DA 1000 – DA 9121, Rev A.
- Demolition Report and Heritage Impact Assessment by Zoltan Kovacs, Architect, dated November 2022.
- Statement of Environmental Effects by GSA Planning, dated November 2022.
- Survey plan by Survplan, dated August 2022.
- Aboriginal Heritage Due Diligence by Artefact, dated 9 November 2022.

SITE INSPECTION / RESEARCH

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

- The site was inspected on 17 May 2023, including the interior of the common areas and the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties. The original plans for the subject place.
- The original plans for the subject place prepared by architect Frederick George Deane, dated 1926, as well as all other archival records available for the property (listed below).
- Council's aerial photography and mapping database

STATUTORY AND POLICY DOCUMENTS

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

- National Parks & Wildlife Act 1974
- Heritage Act 1977 (as amended)
- Woollahra LEP 2014
- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

National Parks and Wildlife Act 1974



Woollahra
Municipal
Council

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.

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

Artefact is a qualified Aboriginal heritage consultant who has inspected the property on 8 November 2022, on foot. A member of La Perouse LALC was in attendance for the site visit. No consultation with the La Perouse Local Aboriginal Land Council is referred to beyond this.

There has been consideration of relevant previous Aboriginal heritage investigations, as detailed in section 4.4 of Artefact's report.

The AHIMS was consulted by Artefact on 2 November 2022 and the extensive search is at Section 4.5 of the report. None of these sites are within the study area.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 17 May 2023 confirmed that there are 0 recorded Aboriginal sites recorded within a 200m buffer in or near the above location.

The report identifies the following potential for unexpected findings within the area: nil – low.

In terms of the site's disturbance, the report states that it is extensive, and includes landform modification (Section 5.2). The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The site does contain landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The report's recommendations conclude that

- In accordance with the Due Diligence Code of Practice the proposed works can proceed with caution and will not require further archaeological investigation
- The proposed works would be managed under an unexpected finds procedure
- Unexpected Aboriginal objects remain protected by the NPW Act. If any such objects, or potential objects, are uncovered in the course of the proposed works, work in the vicinity must cease and Heritage NSW, Department of Environment and Planning (DPIE), La Perouse LALC, and a qualified archaeologist must be contacted for advice. Further assessment and permits may be required before works can recommence
- If human remains are found, work must cease, the site must be secured, and the NSW Police and Heritage NSW, DPIE must be notified



Woollahra
Municipal
Council

- A heritage induction should be provided to all contractors prior to works commencing. The heritage induction would identify the relevant legislative requirements and the unexpected finds procedure.

The completed Aboriginal Heritage Due Diligence study satisfies most of the required criteria for an Aboriginal Heritage Impact Assessment, though the report does not make a recommendation as to whether the Woollahra Aboriginal Heritage Sensitivity Map should be updated in accordance with its findings. It is unknown whether the report has been submitted to La Perouse LALC.

Given the above, it is concluded that an unexpected findings condition of consent will need to be imposed as part of the DA consent.

It is emphasised that these precautions must also apply to any rock art as well as objects in the ordinary sense.

Heritage Act 1977

The subject site is not listed as a heritage item on the State Heritage Register.

The subject site is not listed as a heritage item on a Section 170 Heritage and Conservation Register.

The subject site is not listed on the Woollahra LEP 2014 as an Archaeological Site.

The subject site is not likely to contain relics as per the Heritage Act 1977 definition.

Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area.

Clause 1.2 Aims of Plan

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

- 3 Fairfax Road, Bellevue Hill, also known as *Grenoville* or *Granville Flats* is an inter-war Georgian Revival apartment building designed by Frederick George Deane, also known as Deric Deane, interior designer and architect, in 1926.
- Deane is the architect of Tudor House, listed as an item on the Woollahra LEP. He was an interior designer of some note with a range of high profile private and institutional clients.

History

3 Fairfax Road, Bellevue Hill is located on the land of the Gadigal, though the harbour clans were bound together by women, and the people who lived in the Woollahra area prior to colonisation were from a mixture of clans. They had a spiritual obligation to care for the lands and waters, which held deep cultural significance for them.¹ Aboriginal people are recorded occupying the coastal areas nearby until at least the late 19th century, when growing pressure from police and the restriction of government assistance exclusively to the mission at La Perouse forced many to move away. Throughout much of the twentieth century, Aboriginal people (especially women) were

¹ *Woollahra Aboriginal Heritage Study* p. 50-51.



Woollahra
Municipal
Council

hidden away in private houses in Woollahra, working as domestic servants.² A more fulsome history of the Aboriginal occupation of the area can be found in the *Woollahra Aboriginal Heritage Study*.

The ridgeline takes the name Bellevue Hill from the naming of a lookout point to the southern end as Belle-Vue by Governor Macquarie in 1820. The site was part of 190 acres granted to Capt. John Piper by Governor Macquarie in 1820. Piper's near 1500 acre estate was conveyed to Solomon Levey and Daniel Cooper in 1826 following Piper's insolvency.

Establishment of gentlemen's villas in the area commenced along the route of the South Head Road in the 1840's (notably Waverley House). With completion of the New South Head Road in the early 1840's and the survey of cross routes to Old South Head Road in 1846, villas were constructed along the northern slopes of Bellevue Hill during the late 1850's, beginning with James Fairfax's Ginagulla in 1858 and Edwin Tooth's Cranbrook. In 1847 Daniel Cooper became sole owner of the Cooper Estate. Daniel Cooper willed his estate to a nephew Daniel Cooper, a resident of London with little interest in development. Cooper in turn left the still largely undeveloped lands to his sons Daniel and William. The proviso that the lands be held until the sons turned twenty-one, saw large areas released on 99-year leases at low rental.

Under Daniel Cooper III's instructions, sales of his Bellevue Hill holdings commenced in 1883. Sales did not accelerate until the Bellevue Hill tram service of the 1890's facilitated regular commuting. The first residences in the immediate vicinity of the subject site were John Fairfax's Ghinagulla, constructed to the south east of the current site, and Colebrook, constructed in the 1860's for William Augustine Duncan and previously incorporating the current site of 2 Fairfax Road within its grounds.

Fairfax Road was established after 1893.³

In 1913 the last of Daniel Cooper's holding are subdivided, with the subject land forming part of the third subdivision. In 1924 the subject land formed part of a transfer to the Forssberg family and in 1926 subdivided into a number of lots. The subject land is Lot A in DP 12722, purchased by Stella Eileen Kendall, wife of Alfred William Kendall, electrical engineer in February of 1926. The building is commissioned and the designs completed in the same year by F G Deane.⁴

The building works available from Woollahra's records are as follows:

1926 BA 148/26 W. Kendall F. G. Deane New building
1961 BA 37/61 N. S. Beebe New garage
1965 BA 881/65 Parkhill, Portus & Beebe 317A Certificate
BA 1015/65 R. J. Parkhill 317A Certificate
1972 BA 478/72 - Plan Perusal
1975 BA 90/75 B. & S. Benges Alterations
1985 BA 602/85
1993 BA 550/93

The original drawings and those pertaining to the 1975 alterations are reproduced below.

² *Woollahra Aboriginal Heritage Study* p. 60-62.

³ Heritage Inventory, 10 Fairfax Road, Bellevue Hill.

⁴ Kovacs, Z., 'Demolition Report – 3 Fairfax Road, Bellevue Hill', p. 6.



Woollahra
Municipal
Council



Figure 1 Original plans for 3 Fairfax Road, by F G Deane, 1926

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council

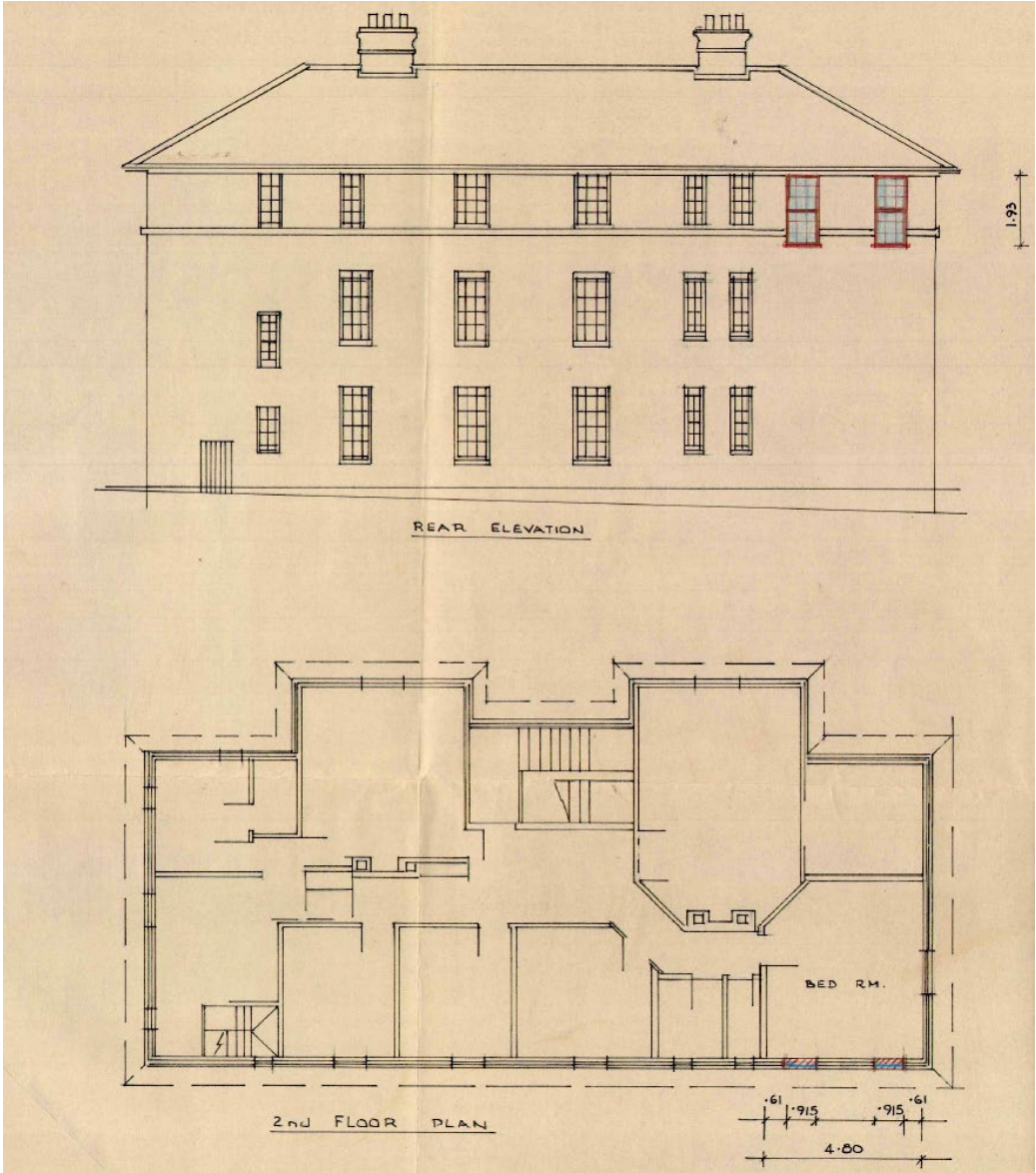


Figure 2 Excerpt from plans for alteration at rear, designer unknown, 1975.



Woollahra
Municipal
Council

Site analysis



Figure 3 3 Fairfax Road as viewed from the street. The set back and orientation of the building diminishes its modest landmark qualities. The altered garages have lost any former architectural sophistication.

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council



Figure 4 The front face of the facade displays characteristics of the Georgian Revival style, notably in its fenestration, symmetrical presentation and restrained detailing. However, it is not an especially fine example.

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council



Figure 5 Entrance.

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council



Figure 6 The rear facade is not well-resolved, and new window openings have been added at the upper floor.

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council



Figure 7 The original windows and matching doors, while still restrained, are the only interior common area details of note. The resolution with the stair shown here is very awkward.



Woollahra
Municipal
Council



Figure 8 The stairwell, viewed from the top floor. The tiling is ordinary and the balustrades unrefined.

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council



Figure 9 The door to the main switch room, likely original, with a small flourish in the cornice above.

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council



Figure 10 The garden, bounded by the sandstone cliff, is the site's most impressive feature. Constructed stone walls define the edges of the landscaped areas.



23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council



Figure 11 A close-up of a constructed stone wall.

Access to the interiors of apartments was not provided but real estate photos were reviewed online.

Aesthetically, the building has a modestly executed Georgian Revival front façade, with more modest interiors and other faces. It appears broadly intact from its construction, with some minor alterations to the rear and interior. There are noticeable areas requiring maintenance and repair, but on the whole the building appears to be largely in good condition.


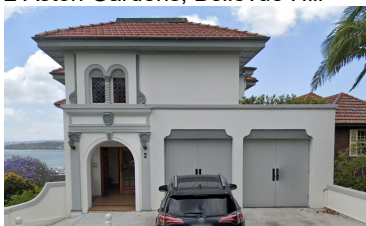


The garden at the rear of the property is striking largely due to its relationship with the sandstone cliff face. The moss-covered low stone walls also provide some interest. However, there is no strong evidence of a clear encompassing landscape design.



Woollahra
Municipal
Council

Comparative analysis

The following is a comparative analysis with other inter-war flat buildings in the Woollahra LGA.

Building name and address	Listing (if any)	Notes
<p>2a Queen Street, Woollahra</p> 	Not listed, within the Woollahra Heritage Conservation Area	A fine example of a Georgian Revival flat building, departing from traditional Georgian austerity in its portico and pediment (which is not dissimilar to that of 3 Fairfax Road, though much more grand). A landmark building.
<p>2 Aston Gardens, Bellevue Hill</p> 	Not listed, within the Aston Gardens Heritage Conservation Area	Designed by Scott, Green & Scott, notable for the striking asymmetrical street frontage.
<p>Lyndhurst Gardens, 3 Rosemont Avenue, Woollahra</p> 	Listed, Item 602, Woollahra LEP 2014	Excellent Inter-War Mediterranean, displaying both the Georgian and Mediterranean influence of that style.
<p>21 Balfour Road, Rose Bay</p> 	Listed, Item 305, Woollahra LEP 2014	Inter-war Mediterranean, again displaying Georgian characteristics.
<p>"Stradbroke" 4 Gladswood Gardens, Double Bay</p>	Not listed.	Powerful Georgian Revival, though the balconies are more associated with Mediterranean. Substantial massing, symmetrical fenestration, grand entryway from the street.

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council

		
<p>"Maranoa" 1 Gladswood Gardens, Doubly Bay</p> 	<p>Not listed.</p>	<p>Mediterranean with strong Georgian elements, apparently by Sodersten.</p>

There are relatively few Inter-War Georgian Revival flat buildings listed on the Woollahra LEP, with a greater focus on the similar Mediterranean style pioneered by Leslie Wilkinson. Therefore it was helpful to examine buildings that are not listed. Each of the non-listed buildings is quite outstanding in aesthetic achievement, and greatly exceed 3 Fairfax Road as accomplished works of architecture. In particular, Maranoa, which appears to be a relatively early work by prominent architect E L Sodersten, is a very strong example in its eclectic detailing combined with symmetry. The listed Mediterranean buildings, which reference heavily the Georgian Revival, are similarly outstanding.

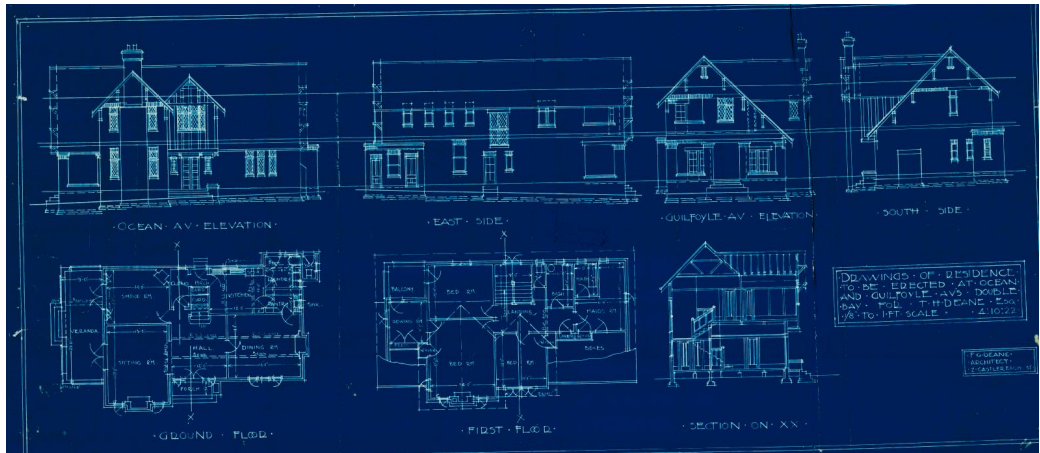


Figure 12 32 Ocean Avenue, Double Bay by F G Deane, still extant, not listed, designed 1922.



Woollahra
Municipal
Council

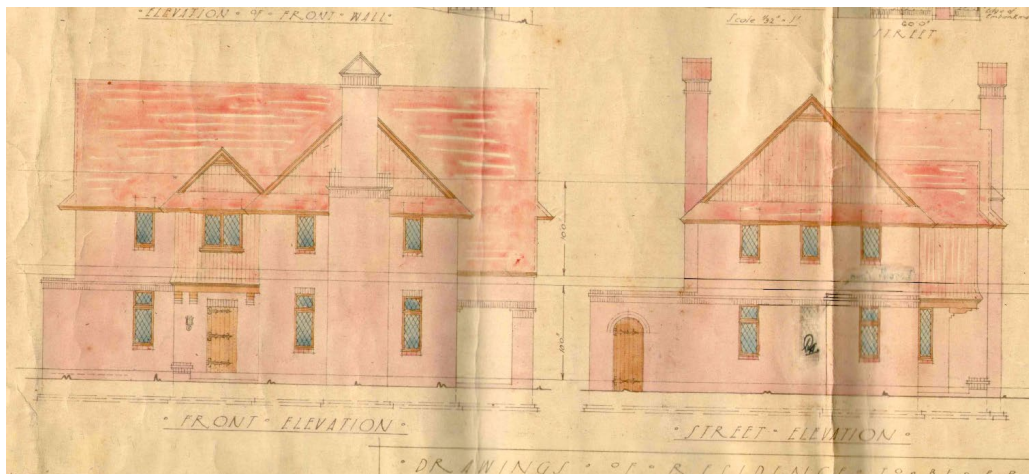


Figure 13 Principle elevations of 8 Pine Hill Avenue, Double Bay, 1925, not listed.

Compared with other works by Frederick George Deane, 3 Fairfax Road is a less accomplished design. Most of Deane's notable architectural work ordinarily designed detached houses in the Old English style, including:

- *Tudor Lodge*, 6 Fairfax Road, 1926, listed
- *Lowther*, 7 Fairfax Road, 1930, not listed
- 8 Pine Hill Avenue, 1925, not listed
- 32 Ocean Avenue, 1922, not listed

Each of these is detailed and quite complex, playing with convention and individual elements to produce a distinctive result. 3 Fairfax Road and 5 Fairfax Road may be Deane's sole forays into the more restrained Georgian Revival style and, at least in the case of 3 Fairfax Road, the result is underwhelming.



Woollahra
Municipal
Council

Assessment of potential heritage significance against the NSW Heritage Criteria

The following assessment assesses the significance of the place against the standard criteria. The guidelines for inclusion and exclusion are included, and those that have been highlighted with bold text are considered relevant to the place.

Criterion (a) Historical

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

- *Grenoville* is an inter-war Georgian Revival flat building. It is representative of the course of development in the Woollahra LGA in the inter-war period, being an example of the widespread development of apartments in Eastern Sydney at this time. It is one of a large number of inter-war flat buildings in the LGA and is not in itself important in this regard.

Guidelines for INCLUSION	Guidelines for EXCLUSION
shows evidence of a significant human activity	has incidental or unsubstantiated connections with historically important activities or processes
is associated with a significant activity or historical phase	provides evidence of activities or processes that are of dubious historical importance
maintains or shows the continuity of a historical process or activity	has been so altered that it can no longer provide evidence of a particular association

The place does not meet the threshold for listing under this criterion.

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)

- *Grenoville* has an association with the works of its architect Frederick 'Deric' George Deane. However, it does not appear to be a strong or special association, and it is not an outstanding example of his work.

Guidelines for INCLUSION	Guidelines for EXCLUSION
shows evidence of a significant human occupation	has incidental or unsubstantiated connections with historically important people or events
is associated with a significant event, person, or group of persons	provides evidence of people or events that are of dubious historical importance
	has been so altered that it can no longer provide evidence of a particular association

The place does not meet the threshold for listing under this criterion.

Criterion (c) Aesthetic

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

- *Grenoville* is a Georgian Revival apartment building, and demonstrates many of the aesthetic characteristics of the style, including in its massing, symmetry, fenestration, and detailing. The front elevation is nicely resolved, but not exhibiting a high degree of achievement, while the side and rear elevations are less accomplished. The garages fronting the street, often a feature in buildings of the period, do not display any architectural sophistication, likely due in



Woollahra
Municipal
Council

part to later alterations. It is not a particularly fine example of the style, with far better examples existing in the local area (refer to the comparative analysis, above).

- The edifice has some potential for modest landmark qualities due to its siting, elevated position, striking symmetrical façade, and solid massing. However, any landmark qualities are diminished by the planning of the site, with the building being set back too far from the street to make its presence felt, and addressing the more minor Fairfax Road, rather than the corner.
- The architect, Frederick George Deane, was a noted interior designer and the interior of the building therefore merits careful attention and assessment. Access to the common areas was provided to Council and the interiors of apartments were examined through real estate photos. The lobby and main stair areas are sparsely detailed, and lacking the refinement that is often found in buildings of the period within the LGA. The flooring and joinery is ordinary, and some elements are haphazard, particularly the connection of stairs and window on the first floor. The rear staircase is entirely utilitarian, dark and extremely narrow. The apartment interiors appear to be broadly intact, and display fine original mouldings, cornices, architraves, picture rails, and possibly floors. It is in these details and finishes that Deane's architectural and interior design prowess shines through, but they alone do not comprise a high degree of creative or technical achievement, particularly when paired with the far less successful common areas.
- The rear garden is attractive in its relationship with the sandstone cliff, but does not show any obvious indication of being the work of an accomplished landscape designer.

Guidelines for INCLUSION	Guidelines for EXCLUSION
shows or is associated with, creative or technical innovation or achievement	is not a major work by an important designer or artist
is the inspiration for a creative or technical innovation or achievement	has lost its design or technical integrity
is aesthetically distinctive	has been so altered that it can no longer provide evidence of a particular association
has landmark qualities	its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded
exemplifies a particular taste, style or technology	has only a loose association with a creative or technical achievement

The place does not meet the threshold for listing under this criterion.

Criterion (d) Social

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

- As far as is known there is no strong or special association with a particular community of cultural group. Given that it is a small private apartment building, any such association is unlikely.

Guidelines for INCLUSION	Guidelines for EXCLUSION
is important for its associations with an identifiable group	is only important to the community for amenity reasons
is important to a community's sense of place	is retained only in preference to a proposed alternative

The place does not meet the threshold for listing under this criterion.

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council

23 87888 Referral Response - Heritage - DA2022 534 1 - 3 Fairfax Road BELLEVUE HILL(2)



Woollahra
Municipal
Council

Criterion (e) Technical/Research

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

- 3 Fairfax Road has nil to low archaeological potential, according to the Aboriginal Heritage assessment by Artefact.
- Given the disturbance of the ground, it is unlikely that there will be any relics or Aboriginal heritage items uncovered. Given the location and presence of the cliff face, however, there remains some possibility for the place to yield information.
- The building itself is unlikely to yield information.

Guidelines for INCLUSION	Guidelines for EXCLUSION
has the potential to yield new or further substantial scientific and/or archaeological information	the knowledge gained would be irrelevant to research on science, human history or culture
is an important benchmark or reference site or type	has little archaeological or research potential
provides evidence of past human cultures that is unavailable elsewhere	only contains information that is readily available from other resources or archaeological sites

The place does not meet the threshold for listing under this criterion.

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)

- Grenoville is an inter-war Georgian Revival flat building, of which there are numerous examples in the local area.

Guidelines for INCLUSION	Guidelines for EXCLUSION
provides evidence of a defunct custom, way of life or process	Is not rare
demonstrates a process, custom or other human activity that is in danger of being lost	Is numerous but under threat
shows unusually accurate evidence of a significant human activity	

It does not meet the threshold for listing under this criterion.

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.)*
- Grenoville is an inter-war Georgian Revival flat building, of which there are numerous examples in the local area. It is neither an outstanding or unusual example of the type, nor highly representative.

Guidelines for INCLUSION	Guidelines for EXCLUSION
is a fine example of its type	is a poor example of its type
has the principal characteristics of an important class or group of items	does not include or has lost the range of characteristics of a type



Woollahra
Municipal
Council

has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity	does not represent well the characteristics that make up a significant variation of a type
is a significant variation to a class of items	
is part of a group which collectively illustrates a representative type	
is outstanding because of its setting, condition or size	
is outstanding because of its integrity or the esteem in which it is held	

It does not meet the threshold for listing under this criterion

Integrity and intactness

- The design integrity of the building as a whole appears to be largely retained, despite some later alterations, and the place is in generally good condition though requiring some maintenance and repair.

Discussion of demolition report prepared by Zoltan Kovacs

The demolition report provided by the applicant was prepared by Zoltan Kovacs, architect. The report refers to the subject building throughout as "Granville Flats", based on the Sands Directory, (my use of *Grenoville* is based on a sign in the lobby).

The report is thorough in its research, except with regard to Aboriginal heritage where it wrongly asserts that Aboriginal people had disappeared from the local area by the mid-19th Century. It employs a wide ranging if somewhat surface level comparative analysis with other Georgian Revival flat buildings in the LGA and surrounds to support its conclusion that the building is not significant under any of the criteria. It focuses too much in my view on the condition of the building, which from my survey and available interior photographs seemed to be relatively good, though certainly requiring some moderate maintenance and repair.

In terms of criteria A, B, and D, there is no basis in the historical record for thinking the building is significant, and I concur with the author's findings in this regard.

Further, while I do not wholly agree with the description of the building as "austere and clumsy with undersized openings", I generally concur with the author that the creative achievement represented in the design is, as a whole, not to a high degree and therefore that the building is not significant under criterion C.

The report's assessment of criterion E does not address the findings of the Artefact report, but is otherwise accurate that the research potential of the site is low, and that the place is not significant under criterion E.

Not being a high quality example of a style, typology or class of places, I concur with the report that the building does not merit listing under criteria F or G.

In general, I concur with the findings of the demolition report.



Woollahra
Municipal
Council

Conclusion of significance assessment

'Grenoville' 3 Fairfax Road, Bellevue Hill, is an example of a Georgian Revival inter-war flat building. It is not a fine example of this style or typology, nor does it have any particular strong association with a significant person, nor does it have any identified historical significance. It does not meet the threshold for listing as an item on the Woollahra Local Environmental Plan 2014 or on the State Heritage Register, under any of the possible criteria.

Significance of items in the vicinity

The following listed heritage items/heritage conservation areas are located in proximity of the site:

- 'Tudor Lodge – house and interiors, garage, flagged driveway, paths and stone wall to Fairfax Road', at 6 Fairfax Road, Bellevue Hill (No. 23)
Tudor Lodge, built for and to the design of F.G.Deane c1926, has historic significance for its association with a number of important Australians including most notably Sir Percy Claude Spender; politician, diplomat and jurist, Charles Kenneth Landell-Jones, company director, and Archibald Wentworth Morton, Anglican clergyman.
The house has historic significance, exhibiting the separation of servant's spaces from the public part of the house at a time when separate servants' spaces were becoming less common.
Tudor Lodge is an austere example of an Inter-war Old English style residence situated on its original block of land. The house is in good condition and retains much of its original fabric and character, particularly the steeply sloping roofs, leadlight windows, chimney pots, garage and flagged driveway, paths and stone wall to Fairfax Road.

The site is sufficiently removed from 'Tudor Lodge' that there is unlikely to be any impact on the significance of the place arising from the proposal.

Woollahra DCP 2015

The subject site is not within a Heritage Conservation Area, and is not considered a significant item.

Part B – General Residential – B3 General Development Controls

CLAUSE B3.8 ADDITIONAL CONTROLS FOR DEVELOPMENT OTHER THAN DWELLING HOUSES

B3.8.7 Inter-War flat buildings

Objectives

O1 To ensure that the significant characteristics of Inter-War flat buildings that contribute to the character of the area are retained and protected.

O2 To conserve the principal street elevations of the Inter-War flat buildings that contribute to the character of the area are retained and protected.

Controls

C2 For Inter-War flat buildings that contribute to the character of the area, are not heritage items or located in a HCA—Alterations or additions to the significant forms, details, materials or finishes of the principal building elevations are sympathetic to the style and period of the building, and do not dominate the building.



Woollahra
Municipal
Council

Despite the lack of significance of the place, as discussed above, the building does contribute in a general sense to the 'character of the area' as an example of an inter-war Georgian Revival flat building that displays the many of the principal characteristics of that style and typology. As the proposal is to demolish the inter-war flat building, the proposal does not comply with these objectives or controls. However, in consideration of the lack of significance of the place, these controls should not be considered determinative.

CONCLUSION

National Parks & Wildlife Service Act, 1979

The standard conditions regarding unexpected findings to manage Aboriginal heritage will be provided below.

Heritage Act, 1977

The place is not significant at either the state or local level.

Woollahra LEP 2014

Clause 1.2 (2) (f) The development does not impact upon 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 not have an undue heritage impact.

Standard Conditions

Recording of Buildings with Little or No Heritage Significance that are to be Demolished

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature, and
 - views to the subject property from each street and laneway or public space.

One digital set is to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

Note: Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at



Woollahra
Municipal
Council

www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf

Standard Condition: B3 (Autotext BB3)

Archaeological Features – Unexpected Findings

If unexpected archaeological features are discovered during the works covered by this approval, work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

Standard Condition: B8 (Autotext BB8)

Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

Standard Condition: B9 (Autotext BB9)

Aboriginal Objects – Unexpected Findings

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

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

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

Standard Condition: B10 (Autotext BB10)

Aboriginal Heritage Due Diligence Responsibilities

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the *National Parks & Wildlife Act 1974*. Under the *National Parks & Wildlife Act 1974*, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of



Woollahra
Municipal
Council

the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

Standard Condition: B12 (Autotext BB12)

Aboriginal Heritage Induction

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

Standard Condition: B13 (Autotext BB13)

Special Conditions

1. Salvage

Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling. This is in accordance with Chapter E5.2 of the Woollahra DCP 2015.

2. Aboriginal Heritage Impact Assessment – update of heritage sensitivity mapping

The Aboriginal Heritage Due Diligence prepared by Artefact, dated 9 November 2022 must be provided to the La Perouse LALC and the NSW Aboriginal Heritage Information Management System, if it has not been already. After the completion of excavation, carried out in accordance with the standard conditions, a recommendation is to be made to Council in writing by the report authors, with the evidenced agreement of the La Perouse LALC, stating whether Council's Aboriginal heritage sensitivity mapping should be updated. This recommendation is required in accordance with Attachment 10 to the Woollahra Council DA Guide 'A guide for preparing an Aboriginal Heritage Impact Assessment' and to enable Council to protect Aboriginal heritage.

Completion Date: Version 1, 12 February 2024

ADDENDUM REFERRAL RESPONSE URBAN DESIGN

FILE NO: **Development Application: 534/2022/1**

ADDRESS: 3 Fairfax Road, Bellevue Hill 2023

PROPOSAL: Demolition of existing building and construction of a new three storey residential flat building with basement garage, swimming pools and associated landscaping

FROM: Stephen McMahon, Director, Inspire Planning

TO: Mr B McIntyre

Primary Information

Amended Architectural drawings: MHNDU Architects Job No. 22-044, DA 1000 – 9501 Issue A, Date 23.11.22.
No change in date or Issue letter.

Amended Landscape Plan: Volker Klemm Landscape Design, DA01, Revision D, Date 1.12.23 and notes on tree selection 15 December 2023.

Amended Stormwater Plans: Erbas, Project SYD22649, Drawing SW000- 203, Version P3, Date 18.12.23.

1.0 Previous Comments

The previous comments can be summarised as follows:

1. The architectural design will add interest and memorability to the streetscape, while respecting and acknowledging the history of the site and locality.
2. The proposal was supported with the following design amendments recommended:
 - (i) Replace the proposed trees in the three locations in the front setback area immediately behind the retaining wall with species more appropriate to establish a tree canopy that contributes to the distinctive green streetscape character of the locality. For example *Lophostemon confertus* found in many other streets in similar situations in Woollahra may be suitable (acknowledging the presence of proposed swimming pools, (the locations of which may need to be amended) and existing power lines (which may need consideration in tree siting));
 - (ii) Modify the retaining wall design in the mid and southern sections by removal of the terracing in the mid-section and reduction in the height in the southern section, while simultaneously taking every opportunity to increase the extent of deep soil planting area in these locations. The height in the southern section should seek to match the height of the retaining wall immediately to the south;

Page 1 of 3

- (iii) Review to reduce the width and truncations of the driveway at the property frontage;
- (iv) Redesign the pedestrian entry to remove the number of turns, to reduce the size of the unnecessarily large landing (the excess area of which can become deep soil planting area for a new communal space above) and to improve line of sight (acknowledging accessibility requirements). This could involve lowering the building floor level into the site (which may also reduce the height exceedance). A gate and intercom should be located at the front boundary;
- (v) Remove unnecessary windows to habitable rooms and balcony / terraces in the north elevation and where necessary provide with privacy screens;
- (vi) Clarify by the provision of more detail how the species selection coupled with the deep soil planting above the basement in the northern setback area can achieve the objectives in the ADG in this location, particularly the ability to facilitate healthy root systems and a useful tree canopy. If it cannot be demonstrated to Council's satisfaction, that the basement footprint, setback area design and species selection be amended to ensure the objective is achieved;
- (vii) Provide a communal open space area comprising the newly created deep soil area in the front setback area noted above accessible from the ground floor lift lobby area (acknowledging the role this area plays as a rain garden in the Stormwater Plan);
- (viii) Relocate the primary balcony on level 3 to the front (west) of the development to improve its amenity;
- (ix) Clarify by the provision of more detail the possible placement of roof plant that may exceed the proposed height of the development post an approval; and
- (x) Remove the inaccessible and impractical triangular /wedge shaped planting area at the rear of the building between the southern wing and common stairway.

2.0 Summary of Amendments

2.1 Architectural Plan

Lower Ground Floor (Basement)

1. Internally, generally no change to car park basement;
2. Driveway straightened and direct pathway connection established with canopy over. Ideally the indirect pathway should be removed, as it encroaches into the front landscape area. However, it is assumed that this is required for accessibility purposes;
3. Retaining walls and terraces removed from front garden in setback between path and driveway. A level communal open space area (RL 23.45) replaces the planter area. This improves deep soil and functionality of garden area;
4. Hydrant booster recessed from street further into site and larger area allocation; and
5. Stormwater tank relocated to position under building.

Ground Level

1. Internally, no change to floor plan;
2. Triangular /wedge shaped planting area at the rear of the building between the southern wing and common stairway enclosed;
3. Stepped retaining walls removed to establish wider garden terrace area;
4. Height of top of wall at frontage lowered from 26.99 to 26.49;

5. Privacy screens added to windows in northern elevation addressing side boundary; and
6. Swimming pool configurations amended and sizes reduced. This potentially increases landscaped deep soil area.

Level 1

1. Minor amendments to internal layout including additional shower to third bathroom in Apartment 2 (drafting corrections);
2. Triangular /wedge shaped planting area at the rear of the building between the southern wing and common stairway enclosed;
3. Privacy screens added to windows in northern elevation addressing side boundary.

Level 2

1. Area of west facing enclosed terrace to dining area of apartment 5 increased in size with corresponding reduction in size of east facing terrace;
2. Minor reconfiguration of walls addressing side boundary to the north as a result of above amendment;
3. Triangular /wedge shaped planting area at the rear of the building between the southern wing and common stairway enclosed.

Roof

1. RL of rooftop AC plant noted (37.090, matches lift over run).

2.2 Landscape Plan

1. The three Bangalow Palms proposed in the front setback area at the ground floor have been deleted and replaced with a crepe myrtle; and
2. Additional advice has been provided that confirms that the width of the deep soil area at the northern side boundary (minimum 1.5 metres increasing to 2.2 metres) is sufficient to accommodate the proposed Quandong and Ivory Curl Trees proposed in the Landscape Plan. Council's Tree Officer should confirm this advice.

3.0 Comments on Amendments

The comments raised in the original urban design review have been addressed in the amended plans and there are no new matters of note in the amendments.

The amended proposed development is supported.

Stephen McMahon
Director, Inspire Urban Design and Planning Pty Ltd

Completion Date: Version 1, 23 January 2023

REFERRAL RESPONSE URBAN DESIGN

FILE NO: **Development Application: 534/2022/1**

ADDRESS: 3 Fairfax Road BELLEVUE HILL 2023

PROPOSAL: Demolition of existing building and construction of a new three storey residential flat building with basement garage, swimming pools and associated landscaping

FROM: Stephen McMahon, Director, Inspire Planning

TO: Mr B McIntyre

Primary Information

Architectural drawings: MHNDU Architects Job No. 22-044, DA 1000 – 9501 Issue A, Date 23.11.22

Landscape Plan: Volker Klemm Landscape Design, DA01, Revision B, Date 11.22

Statement of Environmental Effects: GSA Planning – Project No. 2230 – Issue E 30.11.22

Survey: SurvPlan, Job No. 1728, Issue -, Date 15.08.22

Background

Council has received a development application for the demolition of an existing three storey residential flat building comprising 3 x (formal) bedroom units constructed circa 1926 and construction of a “replacement” 3 storey residential flat building comprising 5 x 3 bedroom units, basement car parking and associated swimming pools and landscaping. It is described as a ‘replacement’ of the existing building as the proposal relies on existing use rights for its permissibility and approach to built form, scale, density and design character and impacts.

At the time of the preparation of this urban design assessment the application was undergoing assessment and awaiting responses from internal and external referral agencies / departments.

Site and Context

The site comprises a trapezoid shaped lot (SP 2122) with a surveyed area of 1036.2 sqm. It enjoys a frontage of 38.83 metres to Fairfax Road and generally has a depth of circa 30 metres.

In the lower ground floor plan of the proposed development (DA Drawing No. 2000) I note the presence of a deep Sydney Water Stormwater Culvert approximately 23 metres below ground level. This is absent from the survey plan. I further note that the bar scale in Sheet 1 of the survey plan may also be inaccurate.

The site is located in a part of Bellevue Hill that was subdivided and established in the 1920s. Many of the lots subdivided at that time (and since) have undergone periodic redevelopment such that the locality is, today, distinguished by a mix of building forms, heights, densities and architectural styles (refer to **Figure 1** below).

Immediately surrounding the site, particularly on the east side of Fairfax Road (north, east and south of the site), the prevailing character comprises large detached homes on generally large lots incorporating attractive landscaped grounds incorporating swimming pools, tennis courts and terraces often sited in expansive setbacks. Some dwellings show evidence of recent high quality development or major renovation, alterations / additions. Further afield within the locality, particularly to the west and north west of Fairfax Road, there are a small number of apartment buildings displaying a 1950s – 1960s era of design and development. They range on height from six to sixteen storeys and enjoy, and take advantage of, (in terms of amenity) close proximity to the Double Bay Centre and its services and facilities.

The current zoning of the area supports this pattern of built forms, and particularly the demarcation of the different densities by Fairfax Road which is the boundary between an *R3 Medium Density Residential* zone to the north and north west and an *R2 Low Density Residential* zone to the east. The density and built form character of the apartment building within the site was established prior to the implementation of the current zoning regime within the Woollahra LEP.

In this context, within the immediate vicinity of the site, the existing apartment building within the site is somewhat unusual. However, when viewed from a broader setting and timeframe perspective, it is accompanied by similar, and somewhat larger and taller scaled apartment buildings within the locality. Some of these apartment buildings are visually evident within the streetscape of Fairfax Road when observed to the north and their visual presence influences the built form character of the area.

The apartment building within the site is, on the other hand, less visually obtrusive due to its setback from the street, the presence of a tall (circa 1.8 – 4 metre) sandstone retaining wall at its front boundary, adjoining buildings / vegetation and the uphill sloping terrain within which the site resides.

Fairfax Road is a local road that exhibits an attractive streetscape dominated by large established trees in front property setbacks predominantly on the west side of the road. Properties on the eastern side of the road, particularly the subject site, contribute less to the green character of the streetscape and offer less tree canopy for streetscape enhancement and pedestrian protection.

However, the subject site includes a visually prominent tree ("Tree No.1 *Alnus jorallensia*," described as "dominant" in the "Arborist Report, Dr. Treegood November 2022). The presence of overhead powerlines on the eastern side of the road could obstruct the establishment of an overarching contributory tree canopy into the street. However, the careful placement of trees may prevent canopy and powerline conflicts as demonstrated by existing tree No.1 in the site and existing trees on neighbouring properties.

Fairfax Road provides convenient pedestrian access to the Double Bay Centre which is approximately 230 metres walking distance away via Bellevue Road. The centre offers convenient bus access to the Sydney CBD and Edgecliff Railway Station (the nearest station) via a number of bus routes.

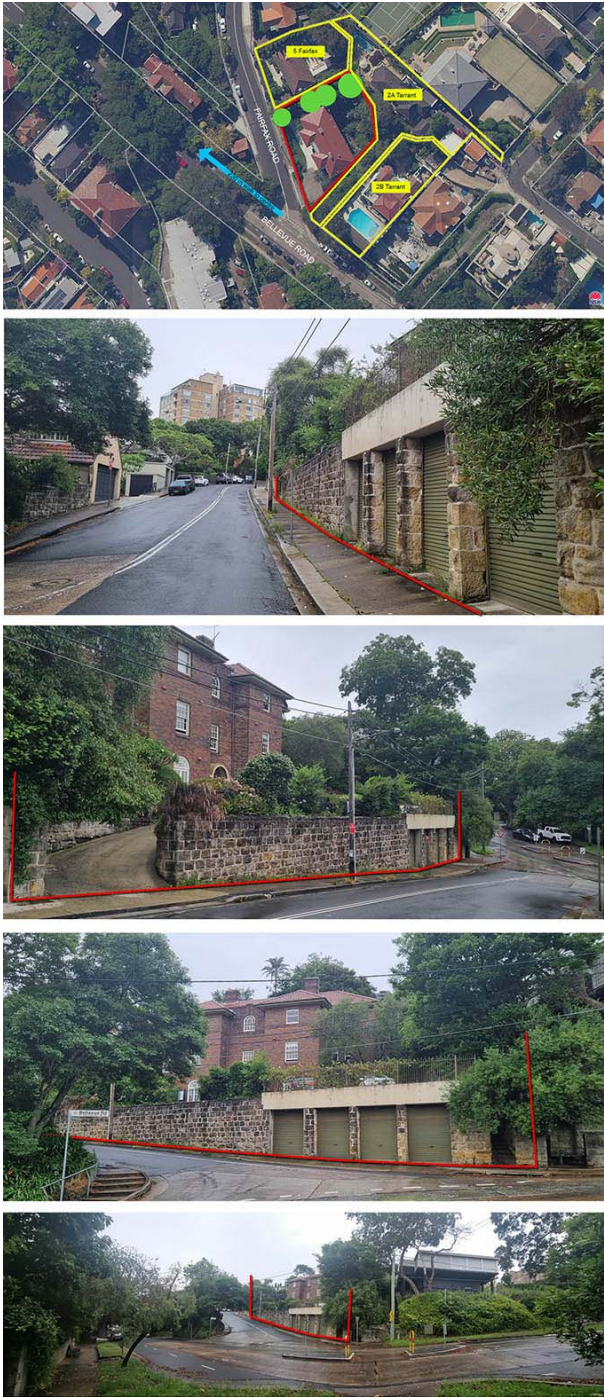


Figure 1: Aerial Photograph of site and neighbours (source www.SIX.nsw.gov.au) and panoramic views of site from Fairfax Road illustrating site analysis elements discussed in this part.

The subject site accommodates a simple three-storey Inter-War building of limited Georgian Revival style constructed in 1927 that has been deemed to be “austere” in style, in poor condition and has no heritage significance (Zoltan Kovacs Architect, November 2022, “Demolition Report and Heritage Impact Assessment”).

The building is located on a steep site that has been heavily modified. The site falls approximately 5+ metres from the rear (eastern boundary) to the front boundary at Fairfax Road. To the rear of the property, in the neighbouring lots, is a substantial cliff face of approximately 13 metres in height. The building is situated on the site on a platform of height 25.8 – 26.6 (generally) metres that is established the sandstone retaining wall located at the front boundary. Four single garages are recessed into the retaining wall. They maintain a zero front setback to Fairfax Road and are visually dominant in the streetscape.

The tall sandstone retaining wall at the frontage to properties is a common streetscape feature in this part of the east side of Fairfax Road that also extends into Bellevue Road.

A small number of established trees exist within the site at the north and rear of the property. Along the southern boundary of the site is a densely treed battle axe handle (6 m wide approx.) that extends to the lot to the rear of the site. It includes a pedestrian path to the dwelling to the rear (No. 2A Tarrant Avenue).

No 2A Tarrant Avenue is a two detached dwelling that extends along the rear of the site. However, it is set back from the site boundary via a 6 + metre setback incorporating the cliff-face noted above.

To the (south) of the subject site, beyond the battle-axe handle, is a two story dwelling (No. 2B Tarrant Avenue) with access to Tarrant Avenue. The dwelling is elevated some 10 metres above the ground level of the subject site and setback from the site by approximately 8.0 metres (include the battle-axe handle). The frontage of the property to Bellevue Road includes an elevated swimming pool that is visually prominent within that road’s streetscape.

To the west of the subject site, properties on the opposite side of Fairfax Road predominantly comprise two-storey detached dwellings and an access driveway to one of the apartment buildings noted above. Relevantly, the dwellings are obscured from Fairfax Road by sandstone and masonry walls, large garages and vegetation.

The dwelling immediately adjoining the site to the north (No.5 Fairfax Road) is setback from the common side boundary by 3.47 metres and the plan of survey indicates a number of windows to habitable rooms on the southern side of the dwelling overlooking the subject site. The setback area also accommodates a single storey outbuilding built to the boundary at the rear.

Proposal

The proposed development comprises the demolition of the existing apartment building and construction of a three storey residential flat building comprising 4 x 3 bedroom units, 1 x four bedroom unit and one basement car parking level.

Of relevance to this assessment:

- The height of the new building envelope is lower than that of the existing building. However the proposed site cover established by the proposed building footprint (comprising two joined building “wings”) is larger and extends further into the rear of the site and the existing northern setback area. Further, the basement footprint extends to a larger area than the ground floor;
- The two wings create an irregular building line that breaks down the apparent mass and scale of the building. At the rear (east) there is proposed to be a narrow triangle of common landscaped area wedged between the wall of the southern wing and the common stairwell that will be difficult to access and maintain and will offer no amenity to building occupants;
- The proposed setbacks of the building from the street are generally consistent with those that exist; while the side setbacks generally maintain 3.5 metres and the minimum rear setback is 5.2 metres. The northern side setback (to No. 5 Fairfax Road) decreases from approximately 6.0 metres currently;
- Demolition includes removal of all of the existing sandstone wall to Fairfax Road and trees along the northern boundary, including “Tree No.1.” The arborist report notes that Tree No.1 needs to be removed as it conflicts with the proposed basement excavation;
- In the front setback area the Landscape Plan proposes the planting of a Crepe Myrtle (*Lagerstroemia Natchez*) in place of Tree 1, a Poinciana (*Delonix Regia*) and three palm trees (*Howea fosteriana*). The Poinciana is located in a proposed rain garden in the stormwater service plans (Erbas, November 2022).
- Side setbacks are proposed to be planted with a mix of shrubs and perennials. Notably, the north elevation in Drawing DA 3001 indicates a series of screening trees along the northern boundary. However it is unclear how the screening will be implemented given the proposed species selection and 1.5 metre wide deep soil planting area (at the narrowest point to the basement). Much of the significant planting at ground level will be in elevated planter boxes sited above the basement;
- The proposal replaces the existing sandstone wall with a masonry/ concrete wall clad in with sandstone face tiles. The proposal adopts a ‘landscaped terrace’ approach to the configuration of the retaining wall as a means to soften its visual impact and presence within the streetscape;
- However it seeks to capitalise on, and maintain, the height of the existing southern part of the sandstone wall and garages through the siting of the proposed building’s fire equipment and utility metres in the wall and introduce two new openings in the wall; a pedestrian access to the building lobby in the basement of the building and a single width driveway (7.0 metres approx. at the property frontage) to the basement car park and bin store;
- The pedestrian entry is indirect and includes a series of turns and a large landing to arrive at the building lobby. I assume that this approach is required to meet disability access and floor level requirements and I note that the submitted Access Report (BCA Access, 17 November 2022) suggests minor redesign and refinements to the entry;

- The building comprises excavation to create the basement car parking level and a ground floor level with a similar RL to the ground floor of the existing dwelling (26.79m proposed versus 26.68m existing);
- Accommodation consists of 5 generously sized apartments consisting of 2 x 3 bedroom dual aspect apartments in two building wings oriented northeast to southwest on levels 1 and 2 of the building. The third (top) level comprises one 4 bedroom apartment with its own individual lift access and lobby;
- Level 2 living areas have access to useable balconies at the front of the building; while the top floor apartment has access to a rear balcony / terrace facing the cliff face and two small 'Juliet' type balconies at the front of the building. The two ground level apartments have exclusive access to external areas and their own swimming pool in the front setback of the building. There is no ground floor outdoor common area;
- Building siting comprises generous front and rear setbacks and maintains minimum setbacks that I note are generally consistent with the controls in the Woollahra Development Control Plan 2015 (with some minor encroachments);
- New window openings are present in the northern elevation and the top floor includes a non trafficable terrace. There are a greater number of larger windows in the northern elevation compared to the existing building and they are closer to the side (northern) boundary. No privacy screening is shown in the plans of proposed development;
- Building placement capitalises on the existing landform platform within the site and is recessed into the site at the rear (east);
- The proposed colours and materials are muted with the dominant visual elements being the sandstone tiled front wall and light coloured face brick to the building facades; and
- The application includes a request for a height variation (maximum 1.15 metres) on account of the non trafficable rooftop encroaching into the 9.5 metre height limit that applies to the site. The application notes that the proposed height will be some 2.13 metres below that of the existing building. However, the plans of the proposed development provide minimal roof detail. No Air conditioning plant is shown (though an allowance for "A/C" is indicated in the basement driveway entry) and there are two additional features show on the roof plan (abbreviations "HCP" and "ACP") which are not clarified.

Controls

- State Environmental Planning Policy No 65 —Design Quality of Residential Apartment Development (SEPP 65) Apartment Design Guide (ADG)

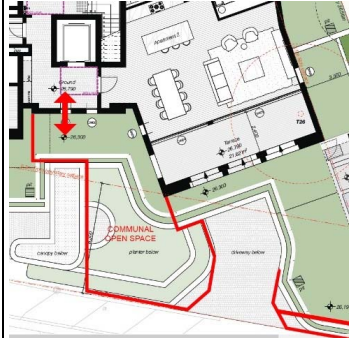
Compliance

The following is an assessment of the proposal against the relevant controls above.

Apartment Design Guide (ADG) Assessment

Part 2: Developing the controls			
Standard	Required	Proposed	Complies
2E – Building depth	<ul style="list-style-type: none"> - Ensure building depth support apartment layouts that meet the objectives, design criteria and design guidance within the apartment design guide. - Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. 	<p>The deepest part of the building, being front to rear, is approximately 16m.</p> <p>Furthermore, all apartments at all levels are dual aspect and also enjoy windows on their third side. Thus they receive good access to daylight and natural ventilation.</p>	Yes
2F – Building separation	<p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> - 12m between habitable rooms/balconies - 9m between habitable and non-habitable rooms - 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> - 24m between habitable rooms/balconies - 18m between habitable and non-habitable rooms - 12m between non-habitable rooms 	<p>The building has a height of 3 storeys.</p> <p>The minimum separation distance of note is that between the proposed building and adjoining dwelling in No. 5 Fairfax Road. The separation is approximately 3.5 m (being the side setback within the subject site at ground and levels 1 and 2) plus 3.47 metres approx. to the existing detached dwelling in No 5. The setback within the subject site increases to 5.1 metres at level 3.</p> <p>However, none of the windows or balconies / terraces in the wall of the proposed development adjoining No. 5 are screened. Thus it would be appropriate to ensure that all necessary windows to habitable rooms and balconies / terraces at the northern elevation are provided with privacy screens.</p>	No. Windows to habitable rooms and balcony / terraces in north elevation should to be removed where not necessary and where necessary provided with privacy screens.
2G – Street Setbacks	<ul style="list-style-type: none"> - Establish the desired spatial proportions of the street and define the street edge - Provide space that can contribute to the landscape character of the street where desired - Create a threshold by providing a clear transition between the public and private realms - Assist in achieving visual privacy to apartments from the street - Create good quality entries to lobbies, foyers or individual dwellings - Promote passive surveillance and outlook to the street 	The development provides a front setback of generally 6.3 metres which is generally consistent with those within the streetscape.	Yes
2H – Side and rear setbacks	<ul style="list-style-type: none"> - provide access to light, air and outlook for neighbouring properties 	Minimum side setbacks to the north to No. 5 Fairfax Road are 3.5 m	Yes, subject to privacy

	<p><i>and future buildings</i></p> <ul style="list-style-type: none"> - <i>provide for adequate privacy between neighbouring apartments</i> - <i>retain or create a rhythm or pattern of spaces between buildings that define and add character to the streetscape</i> - <i>achieve setbacks that maximise deep soil areas, retain existing landscaping and support mature vegetation consolidated across sites</i> - <i>manage a transition between sites or areas with different development controls such as height and land use</i> 	<p>increasing to 5.1 m on level 3, and 3.5 m increasing to 5.1 m on Level 3 to the boundary of the battle axe handle to No. 2A Tarrant Avenue to the south.</p> <p>Side setbacks generally comply with the controls in WDCP2015. and provide appropriate levels of solar access, ventilation and outlook. However, as noted above, setbacks to windows do not provide sufficient privacy to No.5 Fairfax Road that may not, in my view, be addressed by planting in the limited deep soil area at this boundary as currently proposed.</p>	<p>treatment to windows and openings in the northern elevation noted above.</p>
Part 3: Siting the development			
Standard	Required	Proposed	Complies
3A – Site analysis	<ul style="list-style-type: none"> - <i>Responsive to opportunities and constraints of site conditions and streetscape</i> 	<p>Generally, the proposal responds to the characteristics of the site and surrounds.</p> <p>There are some potential improvements that may be gained at the pedestrian interface with Fairfax Road and privacy to No. 5 Fairfax Road that are described elsewhere in this report.</p> <p>It is noted that no existing trees within the northern setback have been retained. However, I support tree removal with improvements to tree replacements that are described elsewhere in this report.</p>	<p>Yes subject to conditions.</p>
3B – Orientation	<ul style="list-style-type: none"> - <i>Responsive to streetscape character while optimising solar access within the development</i> - <i>Overshadowing of neighbouring properties is minimised during mid-winter</i> - <i>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%</i> 	<p>The approximate east-west orientation of the proposed development responds to the adjacent existing buildings as well as the streetscape, existing site conditions and solar access.</p> <p>Shadow impact, both within the site and externally to adjoining developments is not unreasonable and is minimised by the configuration and siting of the built form within the site.</p>	<p>Yes</p>
3C – Public domain	<ul style="list-style-type: none"> - <i>Transition between private and public domain is achieved without compromising safety and security</i> - <i>Amenity of the public domain is retained and enhanced</i> - <i>Length of solid walls should be limited along street frontages</i> - <i>Terraces, balconies and courtyard apartments should have direct street entry, where appropriate</i> 	<p>The transition between private and public domain is influenced by the replacement of the tall sandstone retaining wall that is a prominent and defining characteristic of the streetscape in this part of Fairfax Road. The site's redevelopment achieves clearly defined pedestrian and vehicular entrances to the building.</p> <p>Plant rooms, fire equipment and bin storage areas are located in the basement car park and out of view.</p> <p>There are some minor opportunities to improve the relationship in terms of the</p>	<p>Yes with conditions</p>

		pedestrian entrance gate location and replacement of street canopy trees. This is described elsewhere in the report.																
3D – Communal and public open space	<ul style="list-style-type: none">- Minimum communal space area 25% of site area- Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter)- Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions	<p>No communal open space is proposed and no allowance is made in the plans of proposed development for access to any external communal open space for residents of apartments in levels 2 and 3.</p> <p>This can be simply addressed by the provision of ground floor access to a new communal open space area at the front of the building as indicated in the sketch below.</p> <p>This does not represent 25% of the site. However, I consider it acceptable given the small number of apartments in the development and the amenity that the space offers. This suggestion should be read in conjunction with further suggestions below regarding the retaining wall and pedestrian access.</p> 	No. Ground floor open space to be amended to include area for communal access in front setback.															
3E – Deep soil zones	<ul style="list-style-type: none">- Deep soil zones that allow for and support healthy plant and tree growth <table><tr><th>Site area</th><th>Minimum dimension</th><th>Deep soil zone (% of the site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td>7%</td></tr><tr><td>650 m² – 1,500m²</td><td>3m</td><td></td></tr><tr><td>Greater than 1,500m²</td><td>6m</td><td></td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td><td></td></tr></table>	Site area	Minimum dimension	Deep soil zone (% of the site area)	Less than 650m ²	-	7%	650 m ² – 1,500m ²	3m		Greater than 1,500m ²	6m		Greater than 1,500m ² with significant existing tree cover	6m		<p>The site area is 1,036 sqm and the extent of deep soil planting, advised in the application is 330.9 sqm (31.9%).</p> <p>However the minimum dimension of 3 metres is not achieved in the northern and southern setback areas due to the presence of the basement. As noted above, I am concerned about the ability of the proposed landscaping, coupled with species selection to achieve an appropriate and sustainable density and height of planting in the northern setback.</p> <p>The application should provide more detail to demonstrate how the species selection coupled with the deep soil planting above basement can achieve the objectives in the ADG in this location, particularly the ability to</p>	No, subject to further information and assessment.
Site area	Minimum dimension	Deep soil zone (% of the site area)																
Less than 650m ²	-	7%																
650 m ² – 1,500m ²	3m																	
Greater than 1,500m ²	6m																	
Greater than 1,500m ² with significant existing tree cover	6m																	

		facilitate healthy root systems and a useful tree canopy. If it cannot be demonstrated to Council's satisfaction, that the basement footprint, setback area design and species selection be amended to ensure the objective is achieved.										
3F – Visual privacy	<ul style="list-style-type: none">- Adequate building separation between neighbours to achieve reasonable external and internal visual privacy- Minimum separation distances from buildings to side and rear boundaries:<table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table>- Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance- Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Minimum separation distances are not met. However as discussed above, amendments can be made that achieve the required external and internal visual privacy criteria.	No. Windows to habitable rooms and balcony / terraces in north elevation should to be removed where not necessary and where necessary provided with privacy screens.
Building height	Habitable rooms and balconies	Non-habitable rooms										
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	9m	4.5m										
3G – Pedestrian access and entries	<ul style="list-style-type: none">- Building entries and pedestrian access connects to and addresses the public domain- Access areas clearly visible from public domain- Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge	<p>The pedestrian entry is circuitous and creates safety and security issues due to opportunities for personal concealment and no direct line of site to the property entry from the road.</p> <p>As a minimum, the pedestrian entry should include a locked gate at the front boundary with intercom.</p> <p>Generally, however, the entry should be redesigned to remove the number of turns, to reduce the size of the unnecessarily large landing (the excess area of which can become deep soil planting area for a new communal space above) and improve line of sight. A slight lowering of the development floor level into the site may also assist the achievement of accessibility requirements.</p>	No. The entry should be redesigned to remove the number of turns, to reduce the size of the unnecessarily large landing (the excess area of which can become deep soil planting area for a new communal space above) and to improve line of sight. A gate and intercom should									

			be located at the front boundary.								
3H – Vehicle access	<ul style="list-style-type: none">- Vehicle access points designed and located to achieve safety- Car park access should be integrated with the building's overall facade.- The width and number of vehicle access points should be limited to the minimum- Designed to minimise conflict with pedestrians and vehicles- Create high quality streetscapes	The proposed development comprises a single driveway but with an increased width at the frontage to assist surveillance of pedestrians for exiting vehicles (which can exit in forward gear). The increased width assists pedestrian safety. However this comes at the expense of the interface of the development with the footpath. The driveway could be reduced in length where possible. The sketch in Part 3D above illustrates a potential opportunity.	Yes, subject to review to reduce the width and truncations of the driveway at the property frontage.								
3J – Bicycle and car parking	<ul style="list-style-type: none">- Car parking needs of the development provided off-street- Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites	The proposed development provides an undercover bicycle and bike storage for 6 bicycles. It is hidden from view conveniently located in the basement car park.	Yes								
Part 4: Designing the Building											
Standard	Required	Proposed	Complies								
Amenity											
4A – Solar and daylight access	<ul style="list-style-type: none">- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area- A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid -winter	The proposed orientation of all apartments (generally to the east and west) ensures that living rooms and principal private opens spaces of apartments meet the solar and daylight criteria.	Yes								
4B – Natural ventilation	<ul style="list-style-type: none">- At least 60% of apartments are naturally cross ventilated in the first 9 storeys- Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	All apartments are dual aspect and offer good opportunities for cross ventilation.	Yes								
4C – Ceiling heights	<ul style="list-style-type: none">- Measured from finished floor level to finished ceiling level, minimum ceiling heights are:<table><tr><td>Apartment</td><td>Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Attic spaces</td><td>1.8m with 30° minimum ceiling slope</td></tr></table>- Minimum floor to floor height 3.1m (4C.5)	Apartment	Minimum ceiling height	Habitable rooms	2.7m	Non-habitable	2.4m	Attic spaces	1.8m with 30° minimum ceiling slope	All habitable areas have a consistent minimum 2.7 metre clear floor to underside of the ceiling height.	Yes
Apartment	Minimum ceiling height										
Habitable rooms	2.7m										
Non-habitable	2.4m										
Attic spaces	1.8m with 30° minimum ceiling slope										
4D – Apartment size and layout	<ul style="list-style-type: none">- Apartments are required to have the following minimum internal areas:	Apartment sizes are generous and exceed the minimum internal area, window and dimension requirements	Yes								

	<table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>Note: minimal areas include only one (1) bathroom. Additional bathrooms increase the minimum internal area by 5m².</p> <ul style="list-style-type: none">- Every habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room.- Habitable room depths are limited to a maximum of 2.5 x the ceiling height- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)- A window should be visible from any point in a habitable room- Bedrooms have a minimum dimension of 3m (excluding wardrobe space)- Living rooms or combined living/dining rooms have a minimum width of: <table><tr><th>Apartment type</th><th>Minimum width</th></tr><tr><td>1 bedroom</td><td>3.6m</td></tr><tr><td>2 bedroom</td><td>4m</td></tr><tr><td>3 bedroom</td><td>4m</td></tr></table> <ul style="list-style-type: none">- The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Apartment type	Minimum width	1 bedroom	3.6m	2 bedroom	4m	3 bedroom	4m	
Apartment type	Minimum internal area																			
Studio	35m ²																			
1 bedroom	50m ²																			
2 bedroom	70m ²																			
3 bedroom	90m ²																			
Apartment type	Minimum width																			
1 bedroom	3.6m																			
2 bedroom	4m																			
3 bedroom	4m																			
4E – Private open space and balconies	<ul style="list-style-type: none">- All apartments are required to have primary balconies as follows: <table><tr><th>Apartment type</th><th>Minimum width</th><th>Minimum depth</th></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table> <ul style="list-style-type: none">- For apartments at ground level, a private open space area shall be provided instead of a balcony with minimum area of 15m² and minimum depth of 3m	Apartment type	Minimum width	Minimum depth	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	<p>Apartment balcony / terrace sizes are generous and exceed the minimum area dimension requirements.</p> <p>The ground floor apartments enjoy access to external to ground floor private open space that exceeds requirements.</p> <p>The balcony / terrace to the level 3 apartment, however, faces the rear of the site overlooking the cliff face. I see no reason why it cannot face the front of the development so that the occupants of the level 3 apartment can enjoy the same amenity (aspect and solar access) that the occupants elsewhere in the development can enjoy. This will require a redesign of the top floor and perhaps elevations</p>	<p>Yes, subject to relocation of the top floor balcony / terrace to the front (west) of the building.</p>					
Apartment type	Minimum width	Minimum depth																		
1 bedroom	8m ²	2m																		
2 bedroom	10m ²	2m																		
3+ bedroom	12m ²	2.4m																		

4F – Common circulation and spaces	<ul style="list-style-type: none">- Maximum number of apartments off a circulation core on a single level is eight (8)- Daylight and natural ventilation should be provided to all common circulation spaces that are above ground- Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:<ul style="list-style-type: none">- a series of foyer areas with windows and spaces for seating- wider areas at apartment entry doors and varied ceiling heights	The circulation core (essentially the lift lobby area) on each floor provides access to only 1 or 2 apartments.	Yes										
4G – Storage	<ul style="list-style-type: none">- In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedrooms</td><td>10m³</td></tr></table> <p>Note: At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedrooms	10m ³	All apartments offer internal and external (car park) storage that meets the requirement.	Yes
Dwelling type	Storage size volume												
Studio	4m ³												
1 bedroom	6m ³												
2 bedroom	8m ³												
3+ bedrooms	10m ³												
4H – Acoustic Privacy	<ul style="list-style-type: none">- Noise transfer is minimised through the siting of buildings and building layout- Noise impacts are mitigated within apartments through layout and acoustic treatments- Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy)	<p>No acoustic assessment is provided.</p> <p>However the proposal, being a residential use, is not expected to generate any unreasonable or unexpected noise. The activities that often cause noise concerns (communal areas, swimming pool, carparking and driveways/ roller doors are generally undercover, distant from neighbours and / or obscured by screening, thus limiting any potential acoustic concerns for residents in both the site and the neighbouring sites.</p> <p>Apartment sizes are large and, with the exception of level 3 each building level comprises 2 apartment only.</p> <p>Thus separation between apartments is high and there are minimal common walls. The proposal meets setback requirements.</p>	Yes										
4J – Noise and Pollution	<ul style="list-style-type: none">- The impacts of external noise and pollution are minimised through careful siting and layout of buildings- Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission	<p>No air quality assessment is provided. The potential source of any air quality and external noise issues would most likely be from the traffic using Fairfax Road.</p> <p>Given the local road status and the observed use of Fairfax Road, together with the setback of the proposed building from the road, no air quality</p>	Yes										

		concerns are apparent.	
Configuration			
4K – Apartment mix	- A range of apartment types and sizes is provided	While the proposal offers a narrow and limited mix of housing sizes, it suits the small scale of the proposed development and the prevailing socio economic and demographic character of Bellevue Hill. It presents opportunities for downsizers and families who seek an alternative form of living to a large detached dwelling, but with access to similar amenities.	No, but acceptable.
4L – Ground floor apartments	- Street frontage activity is maximised where ground floor apartments are located - Apartments deliver amenity and safety for residents - Direct street access should be provided to ground floor apartments	The two ground floor apartments address and enjoy access to the ground level of the site which includes terrace areas and a private swimming pool for each unit and thus a high level of amenity is achieved. Topography limits direct access to the street.	Yes
4M – Facades	- Building facades provide visual interest along the street while respecting the character of the local area - Entries are clearly defined - Building services should be integrated within the overall facade	The Photomontages and Schedule of Colours and Finishes enable an indicative appreciation of the presentation of the building to Fairfax Road and neighbouring properties. The approach to the architectural design is commendable. The use of archways in the façade in particular takes its cues from the historic development in the site and the locality and offers an intriguing and memorable built form within the streetscape. Building facades are wrapped in light coloured bricks and the front retaining wall in sandstone tiles. The bronze steel rod balustrades at the balcony edges provide a contemporary interpretation of the styles of adjoining buildings and the colours within the townscape and streetscape. The architectural approach creates visual interest for the public domain while respecting the character of the local area. Entrances could be improved as described elsewhere in this report. Building services are not visible from the public domain.	Yes
4N – Roof design	- Roof treatments are integrated into the building design and positively respond to the street	The roof is not trafficable and its flat character responds, I suspect, to a desire to minimise the height exceedance. The lack of detail on possible roof plant requires clarification as described elsewhere in the report	Yes, subject to clarification on possible placement of roof plant.
4O – Landscape design	- Landscape design is viable and sustainable	The Landscape Plan recognises the context of the site, and particularly its challenging topography. However the	Yes, subject to conditions.

	<ul style="list-style-type: none"> - <i>Landscape design contributes to the streetscape and amenity</i> 	<p>plan could give more attention to the potential role that the site plays in the streetscape character of Fairfax Road.</p> <p>Deep soil planting areas should be increased at the frontage (described elsewhere) and the proposed frontage tree selection should replace the Crepe Myrtle, Poinciana and palm trees with more suitable street canopy trees (for example Lophostemon confertus found in many other streets in similar situations in Woollahra).</p> <p>Careful pruning of the trees as they become established should minimise conflict with the existing power lines in the road.</p> <p>Careful siting of the trees and appropriate tree species selection should also minimise conflicts with the proposed swimming pools at the front boundary.</p>	
4P – Planting on structure	<ul style="list-style-type: none"> - <i>Appropriate soil profiles are provided</i> - <i>Plant growth is optimised with appropriate selection and maintenance</i> - <i>Planting on structures contributes to the quality and amenity of communal and public open spaces</i> 	<p>The plan proposes a mix of hard and soft surfaces and Landscape responds to this.</p> <p>However, as noted above, improvements can be made to species selection and the extent of deep soil area in places</p>	Yes subject to conditions
4Q – Universal design	<ul style="list-style-type: none"> - <i>Universal design features are included in apartment design to promote flexible housing for all community members</i> - <i>A variety of apartments with adaptable designs are provided</i> - <i>Apartment layouts are flexible and accommodate a range of lifestyle needs</i> - <i>Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features</i> 	<p>Vertical access, generous apartment sizes and layout and amenity of each unit provide a high level of flexibility to evolve as households evolve.</p>	Yes
4R – Adaptive reuse	<ul style="list-style-type: none"> - <i>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place</i> - <i>Adapted buildings provide residential amenity while not precluding future adaptive reuse</i> 	<p>The application is for a new development</p>	n/a
4S – Mixed use	<ul style="list-style-type: none"> - <i>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement</i> - <i>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents</i> 	<p>The application is for a residential use.</p>	n/a

4T – Awnings and signage	<ul style="list-style-type: none"> - Awnings are well located and complement and integrate with the building design - Signage responds to the context and desired streetscape character 	No awnings at street level are proposed.	n/a
4U – Energy efficiency	<ul style="list-style-type: none"> - Development incorporates passive environmental design - Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer - Adequate natural ventilation minimises the need for mechanical ventilation 	The proposed development offers high levels of solar access and natural ventilation.	Yes
4V – Water management and conservation	<ul style="list-style-type: none"> - Potable water use is minimised - Urban stormwater is treated on site before being discharged to receiving waters - Flood management systems are integrated into site design 	The Stormwater Plan (Erbas November 2022) provides information to demonstrate appropriate rainwater collection and reuse and stormwater management and water quality protection.	Yes
4W – Waste management	<ul style="list-style-type: none"> - Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents - Domestic waste is minimised by providing safe and convenient source separation and recycling 	The Waste Management Plan (Dickens Solutions 2022) addresses and describes ongoing waste management, storage and collection.	Yes
4X – Building maintenance	<ul style="list-style-type: none"> - Building design detail provides protection from weathering - Systems and access enable ease of maintenance - Material selection reduces ongoing maintenance costs 	While no information has been provided with regards to the building maintenance, the selection of materials, the accessibility to windows and other areas that require periodic regular maintenance and the weather protection incorporated into the design will support ease of maintenance.	Yes

Urban Design Review

Overall, the proposed approach to the redevelopment of the site presents a new building that will offer an improved standard of amenity and greater choice for households in the locality.

The architectural design is commendable and will add interest and memorability to the streetscape, while respecting and acknowledging the history of the site and locality.

Ideally, I would expect a proposed development that relies on existing use rights to develop an R3 zoned built form (scale, height, siting and character) in an R2 zoned area to offer full compliance with the ADG. However this is not the case.

While I am happy to support the proposed building siting and envelope (including the minor exceedance in the height limit and setbacks), I have a number of observations that, while not determinative on their own to the proposal, suggest some design changes and clarifications or submission of further information. Individually these requests are not significant. However, collectively, and with possible inter-relationships, it suggests the need for the submission of amended plans, rather than their addressing by conditions of consent.

In summary and conclusion, I have six principal observations:

1. **Retaining Wall and Street Tree Canopy Contribution.** While I appreciate the architectural approach to minimising the visual scale and softening the impact of the retaining wall on the Fairfax Road streetscape, the presence of retaining walls along

the frontage is an accepted and notable characteristic of the streetscapes in the locality. Furthermore, while the site currently offers a limited contribution to the green canopy character of Fairfax Road, its redevelopment could improve this contribution. I would prefer the proposed terracing to be removed from the mid-section of the wall in favour of increasing the deep soil planting above and potential for communal open space and the planting of an eventually large street canopy tree (acknowledging the constraints imposed by the powerline).

Conversely it would be appropriate to lower wall at its southern end by the use of a terrace in front of the proposed swimming pool so that the top of the wall height is more compatible with the wall in the battle-axe handle immediately to the south and not so dominant in the streetscape. Replacement of the proposed palm trees and other propose trees with more suitable canopy tree species would also be appropriate in this location (acknowledging the presence of the swimming pools and potential conflicts this may generate).

2. **No. 5 Fairfax Road.** Privacy to No. 5 Fairfax Road from proposed windows to habitable rooms needs to be improved, including treatment of the northern setback areas in terms of available deep soil and species selection.
3. **Communal and Private Open Space.** The lack of communal open space at ground level should be addressed by reconfiguration of the outdoor area in the front setback, particularly as part of a redesign of the pedestrian entrance (discussed below).

Further, level 3 should be reconfigured to relocate the primary balcony / terrace on that level to the western side (front) of the development to improve its amenity.
4. **Pedestrian and Vehicle Entry.** The design of the pedestrian entry should be amended to improve line of sight and safety and security (acknowledging the need to address accessibility requirements). This could involve lowering the development (which may also reduce the height exceedance). Similarly the driveway entry could be amended to reduce its width at the frontage in a manner that preserves pedestrian safety. Both of these actions should be undertaken with a view to increasing the extent of deep soil planting at the property boundary to improve opportunities for, and the viability of, planting large street canopy trees.
5. **Roof top.** I support the proposed height exceedance, noting that the variation is minor and will not generally be visually apparent particularly compared to the height established by the existing building. However, clarification is required to ensure that no additional roof top plant eventuates post approval that may increase the height exceedance at construction certificate stage.
6. **Building configuration.** The building footprint should be amended to remove the inaccessible and impractical triangular /wedge shaped planting area at the rear of the building between the southern wing and common stairway.

Recommendation

The proposal is supported with the following recommended design amendments that should be addressed by submission of amended plans to:

- Replace the proposed trees in the three locations in the front setback area immediately behind the retaining wall with species more appropriate to establish a tree canopy that contributes to the distinctive green streetscape character of the locality. For example *Lophostemon confertus* found in many other streets in similar situations in Woollahra may be suitable (acknowledging the presence of proposed swimming pools, (the locations of which may need to be amended) and existing power lines (which may need consideration in tree siting));

- Modify the retaining wall design in the mid and southern sections by removal of the terracing in the mid-section and reduction in the height in the southern section, while simultaneously taking every opportunity to increase the extent of deep soil planting area in these locations. The height in the southern section should seek to match the height of the retaining wall immediately to the south;
- As part of the above:
 - > review to reduce the width and truncations of the driveway at the property frontage; and
 - > Redesign the pedestrian entry to remove the number of turns, to reduce the size of the unnecessarily large landing (the excess area of which can become deep soil planting area for a new communal space above) and to improve line of sight (acknowledging accessibility requirements). This could involve lowering the building floor level into the site (which may also reduce the height exceedance). A gate and intercom should be located at the front boundary;
- Remove unnecessary windows to habitable rooms and balcony / terraces in the north elevation and where necessary provide with privacy screens;
- Clarify by the provision of more detail how the species selection coupled with the deep soil planting above the basement in the northern setback area can achieve the objectives in the ADG in this location, particularly the ability to facilitate healthy root systems and a useful tree canopy. If it cannot be demonstrated to Council's satisfaction, that the basement footprint, setback area design and species selection be amended to ensure the objective is achieved;
- Provide a communal open space area comprising the newly created deep soil area in the front setback area noted above accessible from the ground floor lift lobby area (acknowledging the role this area plays as a rain garden in the Stormwater Plan);
- Relocate the primary balcony on level 3 to the front (west) of the development to improve its amenity;
- Clarify by the provision of more detail the possible placement of roof plant that may exceed the proposed height of the development post an approval; and
- Remove the inaccessible and impractical triangular /wedge shaped planting area at the rear of the building between the southern wing and common stairway.

Stephen McMahon
Director, Inspire Urban Design and planning Pty Ltd

Completion Date: 30 March 2023

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 534/2022/1
ADDRESS: 3 Fairfax Road BELLEVUE HILL 2023
PROPOSAL: Demolition of existing building and construction of a new residential flat building with basement garage, swimming pools and associated landscaping
FROM: Ashley Wang - Fire Safety Officer
TO: Mr B McIntyre

1. ISSUES

- *The proposal is a new building so BCA compliance is assessed at Construction Certificate stage.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 2230 prepared by GSA Planning, dated 30 November 2022.
- Architectural Plans, referenced DA 1002, DA 2000 – DA 2004, DA 3000 – DA 3001 & DA 3100 – DA 3101, prepared by MHN Design Union, dated 23/11/22,
- BCA Assessment Report, referenced 117036-BCA-r1, prepared by BCA Logic, dated 17 November 2022.

3. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2021*.

- ☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’
 - *Category 1 fire safety provisions required*
- ☐ Clause 64 – ‘Consent authority may require buildings to be upgraded’
 - Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
 - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
- ☐ Clause 63 – ‘Fire safety and other considerations applying to erection of temporary structures’
 - fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which

the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

4. BUILDING DESCRIPTION

Type of Construction: A

Class: 2 & 7

Number of Storeys: 4

Rise in Storeys: 4

Effective Height: < 12 metres

5. ASSESSMENT

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

6. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

- A. **General Conditions**
- B. **Conditions which must be satisfied prior to the demolition of any building or construction**
- C. **Conditions which must be satisfied prior to the issue of any construction certificate**
- D. **Conditions which must be satisfied prior to the commencement of any development work**
- E. **Conditions which must be satisfied during any development work**
- F. **Conditions which must be satisfied prior to any occupation or use of the building**
- F.1 **Fire Safety Certificates**

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

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

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

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

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

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

- G. **Conditions which must be satisfied prior to the issue of any Subdivision Certificate**
- H. **Conditions which must be satisfied prior to the issue of a Final Occupation Certificate**
- I. **Conditions which must be satisfied during the ongoing use of the development**
- I.1 **Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)**

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to *Council* and the

Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Standard Condition: I22

J. Miscellaneous Conditions

K. Advisings

Date: 30 March 2023

Memorandum – Traffic

Date 3 November, 2023

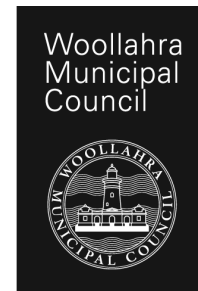
File No. Development Applications: 534/2022/1

To Mr B McIntyre

CC

From Ms E Fang

Address 3 FAIRFAX ROAD BELLEVUE HILL 2023



ABN 32 218 483 245

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
PO Box 61
Double Bay NSW 1360
DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 14 December 2022 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Statement of Environmental Effects, referenced 2230, prepared by GSA Planning, dated November 2022;
2. Traffic and Parking Assessment Report, referenced 22563, prepared by Varga Traffic, dated 21 November 2022;
3. Architectural Drawings, Rev A, referenced 22-044, prepared by MHN Design Union, dated 23 November 2022, including:

DWG No.	DRAWING LIST
DA 0000	COVER PAGE
DA 1000	SITE CONTEXT
DA 1001	SITE ANALYSIS PLAN
DA 1002	SITE & ROOF PLAN
DA 1003	BASIX COMMITMENTS (SHEET 1)
DA 1004	BASIX COMMITMENTS (SHEET 2)
DA 1005	BASIX COMMITMENTS (SHEET 3)
DA 1006	BASIX COMMITMENTS (SHEET 4)
DA 2000	LOWER GROUND FLOOR PLAN
DA 2001	GROUND FLOOR PLAN
DA 2002	LEVEL 1 PLAN
DA 2003	LEVEL 2 PLAN
DA 2004	ROOF PLAN
DA 3000	EAST & WEST ELEVATION
DA 3001	NORTH & SOUTH ELEVATION
DA 3002	STREET ELEVATION - FAIRFAX ROAD
DA 3100	SECTION A & B
DA 3101	SECTION C
DA 6000	EXTERNAL FINISHES SCHEDULE
DA 6001	PHOTOMONTAGE - FAIRFAX ROAD
DA 6002	PHOTOMONTAGE - FAIRFAX ROAD
DA 6003	AERIAL PERSPECTIVE
DA 9000	DESIGN VERIFICATION
DA 9001	SEPP 65 - PRINCIPLE 1 & 2
DA 9002	SEPP 65 - PRINCIPLE 3 & 4
DA 9003	SEPP 65 - PRINCIPLE 5 & 6
DA 9004	SEPP 65 - PRINCIPLE 7 & 8
DA 9005	SEPP 65 - PRINCIPLE 9 & 10
DA 9006	SEPP 65 - COMPLIANCE DIAGRAMS
DA 9100	GFA DIAGRAMS
DA 9105	WASTE MANAGEMENT
DA 9110	LANDSCAPE AREA CALCULATIONS
DA 9111	DEEP SOIL CALCULATIONS
DA 9200	VEWS FROM THE SUN Item - 21 June (Existing Conditions & Proposal)
DA 9201	VEWS FROM THE SUN 10am - 21 June (Existing Conditions & Proposal)
DA 9202	VEWS FROM THE SUN 11am - 21 June (Existing Conditions & Proposal)
DA 9203	VEWS FROM THE SUN 12pm - 21 June (Existing Conditions & Proposal)
DA 9204	VEWS FROM THE SUN 1pm - 21 June (Existing Conditions & Proposal)
DA 9205	VEWS FROM THE SUN 3pm - 21 June (Existing Conditions & Proposal)
DA 9206	VEWS FROM THE SUN 5pm - 21 June (Existing Conditions & Proposal)
DA 9300	VIEW ANALYSIS (SHEET 1)
DA 9301	VIEW ANALYSIS (SHEET 2)
DA 9500	NOTIFICATION PLANS
DA 9501	NOTIFICATION ELEVATIONS

23 203020 Referral Response - TS Traffic - DA2022 534 1 - 3 Fairfax Road BELLVUE HILL

Proposal

Demolition of existing building and construction of a new residential flat building with basement garage, swimming pools and associated landscaping

COMMENTS

Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter E1 Parking and Access*:

Table 1: Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Apartment	DCP Maximum Required Parking
3 or more bedrooms	5	2	10
Visitor	5	0.25	1.25 (1)
Total allowed			11

The proposed provision of eleven (11) car parking spaces, including ten (10) for residents and one (1) for visitors, complies with DCP's requirement and is considered acceptable.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	5 dwellings	1 per dwelling	5
Residential Visitors	5 dwellings	1 per 10 dwellings	0.5 (1)
Total required			6
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	11	1 per 10 car spaces	1.1 (1)
Total required			1

The proposed provision of six (6) bicycle parking spaces and one (1) motorcycle parking space complies with DCP's minimum requirement and is considered satisfactory.

Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with *RMS Guide to Traffic Generating Developments 2002*, and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

Existing Development

Medium Density Residential – Larger Units

- Weekday peak hour vehicle trips: 3 dwellings x 0.5-0.65 per dwelling = 1.5-1.95 trips
- Daily vehicle trips: 3 dwellings x 5.0-6.5 per dwelling = 15-19.5 trips

23 203020 Referral Response - TS Traffic - DA2022 534 1 - 3 Fairfax Road BELLVUE HILL

Proposed Development

Medium Density Residential – Larger Units

- Weekday peak hour vehicle trips: 5 dwellings x 0.5-0.65 per dwelling = 2.5-3.25 trips
- Daily vehicle trips: 5 dwellings x 5.0-6.5 per dwelling = 25-32.5 trips

Net Increase

- Weekday peak hour vehicle trips = 1-1.3 trips
- Daily vehicle trips = 10-13 trips

Based on the above calculation, the proposed development will not create unacceptable adverse impacts on the surrounding road network in terms of traffic flow efficiency and road safety considerations.

Access Driveway, Sight Splay & Parking Signs

The grade of the access driveway is not provided in the traffic report or the architectural drawings. The applicant is to clearly depict the maximum gradient for the first 6m of access driveway into the car park, noting the maximum gradient should be 1 in 20 as per Cl 3.3 of AS/NZS2890.1:2004.

The width of the vehicular crossing is not provided either however it is measured to be 3.5m which complies with the width requirement for a Category 1 access facility.

It is noted that 2m x 2.5m pedestrian sight splay has been provided along both sides of the driveway, which is considered acceptable. Any structure within the splay area should be relocated to ensure visibility.

The existing 'No Stopping' sign next to the existing garage should be relocated to accommodate the new driveway. Should the development be approved, the applicant is to liaise with Council's Traffic Team for the relocation of the parking sign/s.

RECOMMENDATION

Should the development be approved, it is recommended that the following conditions be included as part of the DA consent:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
22563	Traffic and Parking Assessment Report	Varga Traffic	21 November 2022

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

C.13 Road and Public Domain Works

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

23 203020 Referral Response - TS Traffic - DA2022 534 1 - 3 Fairfax Road BELLVUE HILL

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3.5m wide vehicular crossing in accordance with Council's Crossing Specification, Standard Driveway Drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new crossing shall be constructed at right angle to the street kerb in plain concrete and the centreline of the new crossing shall be aligned with the centreline of the internal driveway at the property boundary.
- b) Design longitudinal profiles along each edge/side of the proposed crossing must be submitted for assessment. A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- c) The applicant is to liaise with Council's Traffic Team to relocate the existing parking sign/s to accommodate the new driveway. All costs associated with the relocation must be borne by the applicant.

d) Other conditions imposed by Council's Development Engineers.

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

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

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

Note: See section K. *Advisings* of this consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

C.45 Parking Facilities

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

The plans must satisfy the following requirement(s):

- a) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1:2004;
- b) A 2m x 2.5m driveway sightline splay be provided, clear of obstruction, along both sides of the access driveway wholly within the property boundary. Any structure within the splay area shall be relocated to ensure visibility;
- c) Other conditions imposed by Development Engineer.**

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

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

Standard Condition: C45 (Autotext: CC45)

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

D.9 Construction Management Plan

D.10 Works (Construction) Zone – Approval & Implementation

E. Conditions which must be satisfied during any development work

23 203020 Referral Response - TS Traffic - DA2022 534 1 - 3 Fairfax Road BELLVUE HILL

E.3 Compliance with Construction Management Plan

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

I.21 Provision of Off-Street Parking

The owner and occupier, in compliance with AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car parking (residents)	10
Car parking (visitors)	1
Bicycle parking	6
Motor bike parking	1

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

I.31 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

Memorandum - Drainage

Date 16/03/2023 (amended)
File No. Development Applications: DA2022/543/1
To Mr Robert Lam
CC
From Michael Casteleyn
Address DA2022/534/1 - 3 Fairfax Road BELLEVUE HILL

I refer to the following documents received for this report:

22/240556 Document - Flood Risk Management - DA2022/534/1 - 3 Fairfax Road
BELLEVUE HILL

RECOMMENDATION

Council's drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following conditions;

C.54 Flood Protection

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

- a. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b. The proposed below ground car park shall be protected by a physical threshold set at or above the flood planning level of 22.83m AHD.
- c. The pedestrian entry off Fairfax Road shall be protected from flooding to the flood planning level of 23.73m AHD.
- d. Flood compatible materials shall be used for all flood exposed construction.
- e. All flood exposed electrical wiring and equipment shall be waterproofed.
- f. All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.



Contact: Simone Tonkin
Email: simone.tonkin@waternsw.com.au

Woollahra Municipal Council

Our ref: IDAS1148940
Your ref: DA534/22

brett.mcintyre@woollahra.nsw.gov.au

25 September 2024

Dear Applicant,

**RE: Integrated Development Referral – General Terms of Approval
Proposed Development DA534/22
SP2122
ADDRESS 3 Fairfax Road Bellevue Hill NSW 2023**

I refer to your recent request regarding an integrated Development Application (DA) proposed for the above location. Please find attached the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.47(3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council's development consent. Please also note WaterNSW requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities that relate to any excavation which interferes with an aquifer. WaterNSW will ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.
- if Council receives an application under s4.55 of the EP&A Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:

The attached GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for a Water Supply Work approval **after consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO Box 398, Parramatta, NSW 2124
customer.helpdesk@waternsw.com.au | www.waternsw.com.au



Application forms are available from the WaterNSW website which can be found [here](#).

WaterNSW requests that Council provides a copy of this letter to the development consent holder.

WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) of the EP&A Act.

Information to the proponent:

- An extraction limit will be determined by the Department of Planning and Environment (DPE) following a further hydrogeological assessment and included on the conditions applied to the approval authorisation for the dewatering activity.
- Detailed information required to permit the hydrogeological assessment to be carried out is to be provided by the applicant otherwise the issue of the authorisation will be subject to delay. The [Minimum requirements for building site groundwater investigations and reporting](#) (DPE Oct 2022) identify what data needs to be collected and supplied.
- The authorisation will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of approval for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.

Yours sincerely



SIMONE.TONKIN
Water Regulation Specialist
WaterNSW



General Terms of Approval
for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1148940
Issue date of GTA: 25 September 2024
Type of Approval: Water Supply Work
Description: 80mm submersible pump
Location of work/activity: 3 Fairfax Road Bellevue Hill 2023
DA Number: CNR-53323 DA 534-22
LGA: Woollahra Municipal Council
Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Dewatering	
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity. Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@watnsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of

Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO BOX 398, Parramatta, NSW 2124
water.enquiries@watnsw.com.au | www.watnsw.com.au

Template Ref: WLS 004A, Version 1.0 – May 2016

Page 1



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1148940
Issue date of GTA:	25 September 2024
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	3 Fairfax Road Bellevue Hill 2023
DA Number:	CNR-53323 DA 534-22
LGA:	Woollahra Municipal Council
Water Sharing Plan Area:	Greater Metropolitan Region Groundwater Sources 2023
	the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
GT0119-00001	All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0121-00001	Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
GT0123-00001	(a) Prior to the issuing of the occupation certificate, and following the completion
Level 14, 169 Macquarie Street, Parramatta, NSW 2150 PO BOX 398, Parramatta, NSW 2124 water.enquiries@waternsw.com.au www.waternsw.com.au	



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1148940
Issue date of GTA: 25 September 2024
Type of Approval: Water Supply Work
Description: 80mm submersible pump
Location of work/activity: 3 Fairfax Road Bellevue Hill 2023
DA Number: CNR-53323 DA 534-22
LGA: Woollahra Municipal Council
Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.watarnsw.com.au/customer-service/water-licensing/dewatering

- GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
- GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO BOX 398, Parramatta, NSW 2124
water.enquiries@watarnsw.com.au | www.watarnsw.com.au

Template Ref: WLS 004A, Version 1.0 – May 2016

Page 3

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with CNR-53323 DA 534-22 as provided by Council:

- Response to RFI confirming tanked Basement
- Geotechnical Report prepared by Alliance and Environmental Solutions dated 25 Nov 2022
- SEE prepared gsa planning dated Nov 2022
- Floor plans prepared by MHNDUnion - Dated Nv 2022



11 April 2023

Our Ref: 205921

Brett McIntyre

Woollahra Municipal Council

brett.mcintyre@woollahra.nsw.gov.au

RE: Development Application DA534/22 at 3 Fairfax Road, Bellevue Hill.

Thank you for notifying Sydney Water of DA534/22 at 3 Fairfax Road, Bellevue Hill, which proposes the demolition of an existing three (3) storey residential flat building and construction of a new three (3) storey residential flat building with basement parking. In addition to two swimming pools.

Sydney Water has reviewed the application based on the information supplied and provides the following Sydney Water requirements to assist in planning the servicing needs of the proposed development.

Sydney Water position:	No objection – Condition of Consent applies.
Condition of Consent which applies:	Building Plan Approval required
Requirement:	Attached information sheet detailing Sydney Water next steps should be provided to Proponent.
Additional comments:	Critical Asset – Stormwater <ul style="list-style-type: none">• A critical stormwater main is located within a tunnel under the site.• Requirements for Sydney Water's stormwater assets (for certain types of development) may apply to this site. The proponent should ensure that satisfactory steps/measures will be taken to protect existing stormwater assets, such as avoiding building over and/or adjacent to stormwater assets including building bridges over stormwater assets. More information regarding Sydney Water's stormwater policy is available via the following web page Building over or adjacent to Sydney Water stormwater assets• The proponent should also consider taking measures to minimise or eliminate potential flooding and degradation of water quality.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application where required. More information about the Section 73 application process is available on our web page in the [Land Development Manual](#).

Appendix 1 is included for Council reference. The information sheet should be provided to all proponents as part of their condition of consent and will be uploaded onto the NSW Planning Portal as part of Sydney Water's referral advice.

If you require any further information, please contact the Growth Planning Team at urbangrowth@sydneywater.com.au.

Yours sincerely,

Growth Planning Team

City Growth and Development, Business Development Group

Sydney Water, 1 Smith Street, Parramatta NSW 2150

The advice in this letter has been prepared under Section 78 of the *Sydney Water Act 1994*. This advice is not formal approval of our servicing requirements and is to be forwarded from Council to the Applicant as part of the development application referral process.

Sydney Water Corporation ABN 49 776 225 038

1 Smith St Parramatta 2150 | PO Box 399 Parramatta 2124 | DX 14 Sydney | T 13 20 92 | www.sydneywater.com.au

Delivering essential and sustainable water services for the benefit of the community



Appendix 1

Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

Building Plan Approval

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's [Tap in™](#) online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

The advice in this letter has been prepared under Section 78 of the *Sydney Water Act 1994*. This advice is not formal approval of our servicing requirements and is to be forwarded from Council to the Applicant as part of the development application referral process.

Sydney Water Corporation ABN 49 776 225 038

1 Smith St Parramatta 2150 | PO Box 399 Parramatta 2124 | DX 14 Sydney | T 13 20 92 | www.sydneywater.com.au

Delivering essential and sustainable water services for the benefit of the community



Out of Scope Building Plan Approval

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
 - Wastewater pipes larger than 300mm in size
 - Pressure wastewater pipes
 - Drinking water or recycled water pipes
 - Our property boundary
 - An easement in our favour
 - Stormwater infrastructure within 10m of the property boundary.
2. Where the building plan includes:
 - Construction of a retaining wall over, or within the zone of influence of our assets
 - Excavation of a basement or building over, or adjacent to, one of our assets
 - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

Tree Planting

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and *Diagram 5 – Planting Trees* within our [Technical guidelines – Building over and adjacent to pipe assets](#). Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

The advice in this letter has been prepared under Section 78 of the *Sydney Water Act 1994*. This advice is not formal approval of our servicing requirements and is to be forwarded from Council to the Applicant as part of the development application referral process.

Sydney Water Corporation ABN 49 776 225 038

1 Smith St Parramatta 2150 | PO Box 399 Parramatta 2124 | DX 14 Sydney | T 13 20 92 | www.sydneywater.com.au

[Delivering essential and sustainable water services for the benefit of the community](#)



Sydney Water has provided advice to Council on your development application. Further steps are required before Sydney Water connections and final approvals can be issued. Without relevant Sydney Water approval, your Construction Certificate may not be issued. Please read the information below to assist with your development. Further information can also be found on our website: sydneywater.com.au

Building Plan Approval

Why have I been advised a Building Plan Approval?

Building, excavation, and landscaping projects all have the potential to damage or limit access to our water, wastewater or stormwater services. That's why we need to assess and approve your building plans before you start any work.

How do I apply for a Building Plan Approval?

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's [Tap in™](#) online service is available at: [Sydney Water Tap in](#)

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required. This will result in Sydney Water undertaking a detailed review of your building plans.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

Section 73

Why have I been advised a Section 73 application?

If you are developing or subdividing land, you may need to apply for a Section 73 Compliance Certificate.

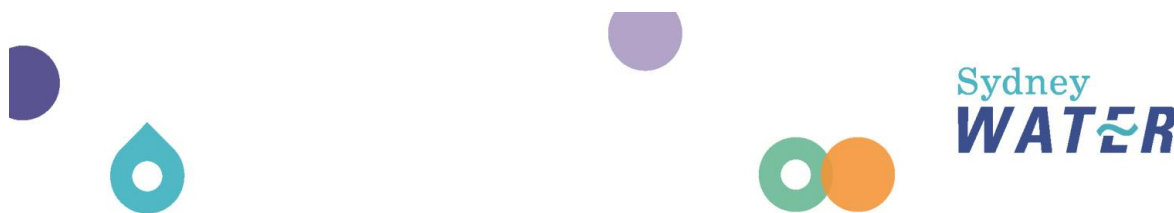
If we have noted a requirement for a Section 73 Compliance Certificate in our advice to Council, one must be obtained from Sydney Water under the Sydney Water Act 1994. These include secondary dwellings with a GFA greater than 60m².

For further information on Section 73 requirements for secondary dwellings, refer to the Quick Links at the end of this fact sheet.

How do I apply for a Section 73 Compliance Certificate?

You can choose to use a water servicing coordinator for works of any size. If you only have minor works, you can apply directly through Sydney Water Developer Direct.

We suggest you lodge an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services, buildings, driveways, or landscape designs.



Feasibility

Why have I been advised to carry out a Feasibility enquiry?

If the development presents potentially large water servicing demands or impacts are anticipated, further investigation may be required to determine the servicing requirements for the site. It is recommended that a Water Servicing Coordinator is engaged, and a Feasibility application is lodged with Sydney Water prior to a Section 73 application being made. We advise you do this as soon as possible to prevent potential delays to your development approvals or servicing.

How do I apply for a Feasibility?

To apply for a Feasibility, you will need to contact a Water Servicing Coordinator. Tell them you have been advised to lodge a Feasibility as part of your DA application.

Quick Links

Quick Links

[Building plan approvals](#)

[Section 73 Compliance Certificates](#)

[Water servicing coordinators](#)

[Steps for first time developers](#)

[Section 73 requirements for secondary dwellings](#)

Trade Waste

My development will generate trade waste. What do I do?

If your development is going to generate trade wastewater, the property owner must request permission to discharge trade wastewater to Sydney Water's sewerage system. You must obtain Sydney Water approval for this permit before any business activities can commence. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

Contact

businesscustomers@sydneywater.com.au for further information.

Water Servicing Coordinator

What is a Water Servicing Coordinator?

Water Servicing Coordinators are accredited providers who can manage your Sydney Water applications for you.

They can design new pipes, manage applications for Section 73 Compliance Certificates and Feasibilities, applications for approval to move or extend our pipes, design and construction of new pipes, and applications for approval to build over or next to assets.

All Water Servicing Coordinators have designer accreditation and can provide design services.

How do I find a Water Servicing Coordinator?

Please follow this link to find a list of Water Servicing Coordinators: [Water servicing coordinators \(sydneywater.com.au\)](https://www.sydneywater.com.au/water-servicing-coordinators)

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D4
FILE No.	DA335/2023/1
ADDRESS	555 New South Head Road BELLEVUE HILL – Cranbrook School
COUNCIL WARD	Double Bay
SITE AREA	43,000m ²
ZONING	SP2 Infrastructure
PROPOSAL	Increase in the student enrolment capacity at Cranbrook School to 1600 students and associated adjustment to school hours.
TYPE OF CONSENT	Local development
COST OF WORKS	\$0.00
DATE LODGED	14/09/2023
APPLICANT	Cranbrook School
OWNER	Cranbrook School
AUTHOR	Mr M Moratelli
MANAGER	Mr N Economou
SUBMISSIONS	10
RECOMMENDATION	Approval subject to deferred commencement condition

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

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

- Contentious development
Development that:
(a) is the subject of 10 or more unique submissions by way of objection

2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for refusal because:

- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015
- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified
- The site is not suitable for the proposed development
- The proposal is not in the public interest

The map shows the Cranbrook School site, which is highlighted in red. The site is located on the corner of New South Head Rd and Victoria Rd. Surrounding the site are various streets, including New South Head Rd, Victoria Rd, Rose Bay Ave, and Rose Bay St. The map also shows the location of Backlum Cove, Rose Bay Park, and several other streets like Ruckwurst Ave, Wattle St, and Wattle Rd. A legend in the bottom right corner indicates that the red outline represents the 'Subject site' and the hatched circles represent 'Objects'. A north arrow is also present in the legend.

Issue	Conclusion	Section
Traffic	Council's Traffic Engineer has advised that the proposal is acceptable subject to the applicant undertaking footpath upgrade works in Victoria Road to accommodate the increased number of students and greater intensity of trips to the site.	12 and 14

5.3 Summary of Submissions

Issue	Conclusion	Section
Traffic and on-street parking impacts of increased student numbers	It is acknowledged that the proposed increase in student numbers could increase parking and traffic pressures within the locality. Council's Traffic Engineer has undertaken a review of the detailed Traffic Impact Assessment Report submitted by the applicant and has advised that the traffic impact is acceptable subject to conditions of consent, including infrastructure upgrades to Victoria Road.	12 and 14
Traffic impacts resulting from adjusted school hours	Council's Traffic Engineer has undertaken a review of the detailed Traffic Report submitted by the applicant and has advised that the projected traffic impacts would be acceptable.	12 and 14
Road safety impacts of increased traffic	Council's Traffic Engineer has undertaken a review of the detailed Traffic Report submitted by the applicant and has advised that the projected traffic impacts would be acceptable.	12 and 14
Existing cap is 1,339 students, however current enrolments are 1,172. The proposed traffic impact over the existing scenario would therefore be greater than the 261 student increase as proposed.	The submitted Traffic Impact Assessment Report has acknowledged that the school is currently operating with fewer students than would be permitted by the enrolment cap of 1,339 students. This has been accounted for in the modelling and analysis in that report.	12 and 14
Existing noise and garbage impacts exacerbated by additional student numbers	<p>Garbage is a matter that can be appropriately managed by Cranbrook School along with their contracted waste services provider.</p> <p>The application was accompanied by an Acoustic Report prepared by Acoustic Logic, which has been reviewed by Council's Environmental Health Officer.</p> <p>The report anticipates that the proposed increase of students from the current approved capacity of 1,339 to 1600 will have an increase in noise impact of 1-2dB(A), which is considered to be imperceptible to surrounding properties.</p>	14
Lack of enforcement of existing parking and traffic management measures	<p>Whilst the submitted Green Travel Plan noted that the Travel Access Guide is provided to new students and staff as part of an orientation process, this assessment found that the Guide was not readily available on the school's website. Condition H.4 requires that the Travel Access Guide be made publicly available on Cranbrook School's website and be updated as appropriate from time to time.</p> <p>Enforcement of existing traffic and parking measures is a matter that can be appropriately addressed by Council Regulatory staff and NSW Police who are responsible for enforcing compliance with the <i>NSW Road Rules 2014</i>.</p>	19

Issue	Conclusion	Section
Lack of appropriate sign posting for parking and traffic management	Based on a review of the streets surrounding the school including Victoria Road and Rose Bay Avenue there is appropriate signage installed, indicating pick up and drop off areas, school entrances and bus stops.	N/A

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The site contains the Cranbrook School Senior Campus, which is located on the southern side of New South Head Road and is bounded by Victoria Road and Rose Bay Avenue. It is divided into two distinct parts which comprise the northern end consisting of sports fields within the Hordern Oval and the southern end which is occupied by an assortment of school buildings of varying architectural style, age and height.
Topography
The northern end of the site is relatively flat and devoid of vegetation except along the boundaries of the sporting fields. The southern end is characterised by a fall away from Victoria Road and Rose Bay Avenue to the north and by many significant mature trees, some of which are of heritage significance.
Existing buildings and structures
There are numerous items of heritage significance on the site, including Cranbrook, Harvey (Street) House, the Perkins Building, Health Centre, Headmaster's Residence and John Saunders Pavilion. A number of landscaping structures on the site are of heritage significance, including a sandstone retaining wall, balustrade and stairway to Cranbrook, the gates, gateposts, bollards and stone retaining wall to Victoria Road, the sandstone fence, gateposts, gates and retaining wall to New South Head Road.
Surrounding Environment
Cranbrook School is located within the surrounding established residential suburb of Bellevue Hill and is adjacent to the suburbs of Point Piper and Rose Bay.

7. RELEVANT PROPERTY HISTORY

Current use
Educational establishment
Relevant Application History
<ul style="list-style-type: none"> • DA 280/1988 was approved on 15 May 1990 for a range of works within the school, including <ul style="list-style-type: none"> ○ A landscape masterplan with retention of all major trees, additional planting, paved areas and stabilisation of embankments ○ Demolition, refurbishment and the erection of new buildings, increase the gross floor area to 18,948m² to provide adequate area for classroom sizes, theatre and music teaching facilities and dormitories <p>Condition of consent 17 was imposed as follows:</p> <p><i>17. The total number of students enrolled at the school [Cranbrook] is not to exceed the level of enrolment as at the date of consent.</i></p> <p>The maximum student cap at the time of consent was 1,339 students, as confirmed by Council in written correspondence to Cranbrook School dated 14/03/2022.</p> • SSD-8812 was approved by the Department of Planning, Industry and Environment (DPIE) on 13/09/2019, granting consent for: <ul style="list-style-type: none"> ○ Redevelopment of the northern portion of the campus through the demolition of the exiting Mansfield Building and War Memorial Hall to facilitate the construction of the New Centenary Building and associated landscaping;

- Construction of a new Aquatic and Fitness Centre containing a 50m swimming pool, a 25m Learn to Swim pool, a multipurpose sports court, gym and ancillary functions;
 - Construction of a new 124 space car park to ease pressure on the surrounding road network for parking servicing the school;
 - Excavation and reconstruction of Hordern Oval above the Aquatic centre and carpark.
- S4.55 (1A) modification **SSD-8812-Mod-4** was approved by DPIE on 16/08/2022 granting consent to increase the hours of operation associated with weekend sports competitions on Hordern Oval and the use of the Aquatic centre and Centenary Building. The approved hours of operation are detailed below:

Use	Approved Hours	
Senior school hours for students	8.15am – 3.20pm – Monday to Friday Extracurricular activities occur outside core school hours on weekdays, weekends and public holidays.	
School reception	8.00am – 6.00pm – Monday to Friday	
Sports training on Hordern Oval	6.30am – 8.00pm – Monday to Friday	
Sports competition on Hordern Oval	<u>Summer sports season</u> 7.00am – 6.30pm Saturday	<u>Winter sports season</u> 7.00am – 6.00pm Saturday
Aquatic and Fitness Centre	5.00am – 9.30pm – Monday to Sunday	
Centenary building	Typical school hours and for special events and occasions	

Requests for Additional Information and Replacement Applications

On 5 March 2024 the Applicant was provided with a written response which detailed concerns from Council's Traffic and Transport Engineer. A response was received on 19 April 2024.

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Traffic Engineering	Satisfactory, subject to conditions.	1
Environmental Health	Satisfactory, subject to conditions.	2

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 4/10/2023 to 19/10/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Jill Sailer – 4/2 Aston Gardens, Bellevue Hill
2. George Farkas – 10 Dunara Gardens, Point Piper (2 submissions)
3. Jackie Baron – 9 Rose Bay Avenue, Bellevue Hill
4. Ross Youngman – 12 Victoria Road, Bellevue Hill
5. Ann Howarth – 2/10 Wolseley Road, Point Piper
6. Sarah Gibson – 2/10 Wolseley Road, Point Piper
7. James Hastie – 3/10 Wolseley Road, Point Piper
8. Braven Howarth – 7/10 Wolseley Road, Point Piper
9. Talia Zucker – 7/10 Wolseley Road, Point Piper

The submissions raised issues as outlined at Section 5.3.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 11/03/2024 declaring that the site notice for DA335/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

10.1 Part 3.36 Schools – development permitted with consent

Clause 3.36(1) of the SEPP allows for development for the purpose of a school to be carried out within a prescribed zone which includes Zone SP2 Infrastructure.

Clause 3.36(6) requires that before determining a development application for development of a kind referred to in subclause (1),(3) or (5) the consent authority must take into consideration:

- (a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and
- (b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

In this case, as there are no physical works proposed, the development is consistent with the design quality principles set out under Schedule 8 as it would maintain the existing design of the school.

The proposal does not comprise any change to the use of school facilities as approved under SSD-8812, although it does involve an extension in core school hours, which would reduce the available times for community use of the school facilities. Notwithstanding this, the approved arrangement already gives precedence to the use of the facilities by school students and this will not be fundamentally altered by the proposal.

The proposal satisfies the relevant provisions under Section 3.36 in relation to schools.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

11.1 Part 1.2: Aims of Plan

The proposal is satisfactory with regard to the Aims in Part 1.2(2) of the Woollahra LEP 2014.

11.2 Land Use Table

The proposed increase to the student numbers at the existing educational establishment is permissible and is consistent with the objectives of the SP2 Infrastructure zone.

11.3 Part 4.3: Height of Buildings

The proposal does not include any physical works, and assessment against Part 4.3 of the LEP is therefore not required.

11.4 Part 4.4: Floor Space Ratio

No physical works are proposed as part of this application, and assessment of the proposal against Part 4.4 of the LEP is therefore not required.

11.5 Part 5.10: Heritage Conservation

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

The subject site is an item of heritage significance under the LEP known as:

Cranbrook School—the buildings, including interiors, known as “Cranbrook”; “Harvey House”; “Perkins Building” (junior school); sick bay; Headmaster’s House; Rotunda (sports pavilion); the 2-storey sandstone building (formerly gatehouse); sandstone retaining wall with balustrade and stairway on north-west terrace of Cranbrook; gates, gateposts, bollards and stone retaining wall to Victoria Road; sandstone fence and retaining wall to New South Head Road; 4 sets of sandstone gateposts with iron gates to New South Head Road; 2 Hoop Pines, 3 Norfolk Island Pines, Kauri Pine, Black Booyong, Port Jackson Fig, Chilean Wine Palm

The proposal involves changes to the number of students permitted to attend the school. No physical works are proposed as part of this application.

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

11.6 Part 5.21: Flood Planning

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

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

The proposal involves no physical works that raise implications for flooding and is therefore acceptable with regard to Part 5.21 of Woollahra LEP 2014.

11.7 Part 6.1: Acid Sulfate Soils

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

No physical works are proposed as part of this application. It is therefore acceptable with regard to Part 6.1 of the Woollahra LEP 2014.

11.8 Part 6.2: Earthworks

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

No physical works are proposed as part of this application. It is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

12. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

12.1 Chapter E1: Parking and Access and Chapter F2: Educational Establishments

Section E1.2.1 Development Applications and Required Information

The applicant has provided a traffic and parking report which has been reviewed by Council's Traffic and Transport Engineer in accordance with Section E1.2.1.

Section E1.5 Non-Residential Parking

The parking generation rates for non-residential uses are calculated based on gross floor areas. As this is not proposed to change under the application, no change in parking generation rates is applicable.

Notwithstanding this, Council's Traffic and Transport Engineer reviewed the application and provided the following comments in relation to parking:

Student Parking

Travel survey reveals that 6%-6.5% of students will drive to and from school, however the on-site underground parking facility does not accommodate student parking. As a result, students have been parking on surrounding streets which predominantly provide access to residential properties, including apartment blocks that do not possess on-site parking. Council's Traffic Engineers note that these streets generally permit parking and are not covered by resident parking scheme.

It is noted that only Year 12 and a portion of Year 11 students have reached legal driving age and with the proposed increase of student cap, each year group is anticipated to have additional 71 students. The increased number of students driving to school is therefore calculated to range between 4.3 and 9.2 (71 x 6% - 142 x 6.5%). It is also noted that the School has been discouraging senior students from driving and parking on surrounding streets, the measures include:

- *Request students to not drive to school at school assembly and via email communication to senior students and newsletter to the school community;*

- Advise via Student Diary that 'Permission is required by School for students to drive to school';
- Engage security guards to monitor parking in nearby streets with number plates reporting back to school.

It is indicated that the above measures have observed a reduction in the number of students parking close to the School. It is also proposed to continue with these measures to keep monitoring the areas which is considered acceptable.

Staff Parking

It is noted that the traffic report indicates that travel modes and staff parking demand have remained relatively static for many years and the recently introduced Murray Rose Aquatic and Fitness Centre has increased onsite parking provision by 124 spaces which is anticipated to reduce reliance on kerbside parking and improve parking conditions in this area.

It should however be noted that, the school consists of 210.33 FTE staff for the currently enrolled 1172 students and is anticipated to increase to 239.45 FTE staff for the capped 1339 students and further increase to 294.95 staff for the proposed 1600 students. The travel survey reveals 70% staff drive to school, which requires 147.2 car parking spaces and already exceeds the total parking provision of Murray Rose Aquatic and Fitness Centre. When the proposed capacity of students is reached, future staff parking demand is calculated to increase to 206.5 parking spaces, resulting in an additional parking demand of 58.7 spaces than the current conditions.

Green Travel Plan

Council's Traffic Section agree that the implementation of Green Travel Plan has the potential to further facilitate alternative travel modes and reduce adverse impacts on the on-street parking. Other measures including establishing 'Walk to Work' groups and provision of e-bike parking and other cycling facilities to increase uptake are also anticipated to encourage active transport modes.

In light of the shortfall of onsite parking provision, it is requested that the target for future alternative transport modes be reviewed and increased to reduce reliance on private car usage and parking demand. Measures to achieve such targets should be reviewed and adjusted accordingly.

Onsite parking conditions, travel modes and Green Travel Plan should therefore be reviewed annually and submit to Council to assess the implementation of the Plan. More details will be discussed in the following part for Green Travel Plan.

As such, the proposal satisfies the relevant provision under Section E1.5 subject to the recommended conditions of consent.

Section 1.6 Bicycle Parking and End-of-Trip Facilities

The Green Travel Plan submitted by the Applicant notes that the school accommodates 20 bicycle spaces in the car park and 158 elsewhere on campus.

	Existing	Proposed	Control	Compliance
Bicycle Parking Rates	203 spaces provided	203 spaces provided	1 per 10 staff: 28.5	Total Required: 188.5
			1 per 10 students: 160	

				Proposal achieves compliance.
--	--	--	--	-------------------------------

As detailed above, based on the student cap of 1600 and assumed staff numbers of 285 as specified in the submitted Statement of Environmental Effects, the school already provides bicycle parking in excess of the requirements under the DCP.

12.2 Chapter F2: Educational Establishments

As discussed elsewhere in the report, no physical works are proposed under the DA and as such, the only relevant section of Chapter F2 is *F2.6: Traffic, Parking and Access*.

The relevant controls are detailed below:

C1 The educational establishment does not unreasonably impact on the surrounding road network, specifically in relation to pedestrian safety and vehicle traffic.

C7 Development complies with the parking requirements in Part E of the DCP.

C9 Bicycle Parking is provided.

C10 For secondary and tertiary establishments – dedicated secure bicycle parking is provided at the following rates:

- a) 5% of staff numbers;*
- b) 10% of full time student numbers;*

At a central location and with associated change rooms and showers.

As detailed in the assessment under Section E1.6 of the DCP, no additional car parking is required and the school already provides bicycle parking. It is noted that the bicycle parking rates under Control C10 would be lower than those under Section E1.6, but as the proposal would comply with either rate, this is immaterial to the merits of the application.

13. CONTRIBUTION PLANS

13.1 Section 7.12 Contributions Plan

There is no cost of works associated with the application. As such Section 7.12 Contributions are not applicable.

14. THE LIKELY IMPACTS OF THE PROPOSAL

Traffic and Parking Impacts

Traffic impacts and parking impacts have been considered throughout this report and within the Referral Response prepared by Council's Traffic and Transport Engineer. Whilst it is noted that the referral response recommended that the applicant contribute \$960,000 to Council in order to undertake the recommended infrastructure works, this is not considered to be reasonable as it would not give the applicant any ability to determine when the works may commence and therefore, when the student cap may be increased. As an alternative, it is recommended that the applicant lodge a Section 138 Application with the Council to undertake these works prior to the commencement of the new student cap. This is detailed in the deferred commencement condition.

Acoustic Impacts

The application was accompanied by an Acoustic Assessment Report prepared by Acoustic Logic.

The acoustic report finds that the increased noise generation from students using outdoor and indoor areas would be less than 1dB(A), whilst the noise generated from additional traffic will be similarly less than 1dB(A).

The acoustic report states that an increase of 1-2dB(A) is imperceptible and on this basis, the acoustic impact on any nearby properties that would arise as a result of the increased student cap is acceptable.

Conclusion

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

15. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

16. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

17. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15.

18. DISCLOSURE STATEMENTS

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

19. 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, grant development consent to DA335/2023/1 for an increase in the student enrolment capacity at Cranbrook School to 1600 students and associated adjustment to school hours on land at 555 New South Head Road BELLEVUE HILL, subject to the following conditions:

1. Deferred Commencement Condition

1.	Deferred Commencement - (section 4.16(3) of the Act, clause 76 of the Regulation)
	<p>Development consent is granted subject that this consent is not to operate until the Applicant satisfies the Council, in accordance with the Regulations, as to all matters specified in this condition:</p> <p>a) A separate application under Section 138 of the <i>Roads Act 1993</i> is to be made to and approved by Council as the road authority, for infrastructure works along the southern side of Victoria Road within the vicinity of the pedestrian crossing and opposite the entrance to Cranbrook School. Subject to any design amendments made by Council's Engineering Division, the works are to be generally as follows:</p>

- Tree removal, cutting of rock face and retaining wall construction;
- Widening the footpath to a minimum width of 2m and average width of 2.5m;
- Construction of contiguous pile wall;
- Drainage works, concreting works, landscaping and AC re-sheet and line marking.

The holder of this consent must liaise with Council's Engineering Services division for the design and approval of the above works. All works are to be carried out at full cost to the applicant. The works are not to proceed prior to the grant of approval under the *Roads Act 1993*.

The Applicant must produce evidence to Council that these works have been carried out to the satisfaction of Council within 730 days of the date of determination.

Clause 76(3) of the Regulation:

"A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters".

If the evidence is not produced within 730 days of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no Construction Certificate can be issued. No development can lawfully occur under this consent unless it operates.

This consent does not operate until Council has acknowledged compliance with this condition in writing.

Notes:

- Nothing in the Act prevents a person from doing such things as may be necessary to comply with this condition. (See section 4.16(3) of the Act).
- Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No Construction Certificate can be issued until all conditions including this condition required to be satisfied prior to the issue of any Construction Certificate have been satisfied.

Condition Reason: To ensure all parties are aware this consent does not operate until the Council is satisfied all relevant matters specified in this condition are addressed.

A. GENERAL CONDITIONS

A. 1.	<p>Conditions</p> <p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 (“the Act”), and the provisions of the Environmental Planning and Assessment Regulation 2021 (“the Regulations”) and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (“the Development Certification and Fire Safety Regulations”), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence. • Where there is any breach Council may without any further warning: <ul style="list-style-type: none"> a) Issue Penalty Infringement Notices (On-the-spot fines); b) Issue notices and orders; c) Prosecute any person breaching this consent; and/or d) Seek injunctions/orders before the courts to restrain and remedy any breach. • Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences. • Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. • This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action. • The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the Crimes (Sentencing Procedure) Act 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. <p>Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.</p>
A. 2.	<p>Definitions</p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p>Applicant means the applicant for this consent.</p> <p>Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p>Local native plants means species of native plant endemic to Sydney's eastern suburbs.</p> <p>Owner-builder has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p>PC means the Principal Certifier under the <i>Act</i>.</p>

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the BCA.

Public place has the same meaning as in the *Local Government Act 1993*.

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

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Condition Reason: To ensure all parties are aware of the relevant definitions.

A. 3. Approved Supporting Documents

Those with the benefit of this consent must maintain the use in accordance with the supporting documents listed below unless modified by any following condition.

Reference	Description	Author	Date
Unreferenced	Transport Impact Assessment, Issue 4	PTC	16 August 2023
Unreferenced	Traffic Response to Council	PTC	19 April 2024
Unreferenced	Further Traffic Response to Council	PTC	31 May 2024

Unreferenced	Green Travel Plan (Issue 6)	PTC	28 July 2023
Unreferenced	Community Use Management Plan	Cranbrook School	July 2023
Notes: <ul style="list-style-type: none"> Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans. These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. 			
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			

DEMOLITION WORK

B. BEFORE DEMOLITION WORK COMMENCES

Nil.

REMEDIATION WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil.

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil.

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

Nil.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Nil.

H. OCCUPATION AND ONGOING USE

H. 1.	Maximum Student Capacity for Cranbrook Senior Campus
	During the occupation and ongoing use of Cranbrook Senior Campus, the total number of students on the premises at any time must not exceed 1600 students.

		Condition Reason: To limit student numbers and minimise impacts on local amenity.
H.	2.	<p>Hours of Use</p> <p>During the occupation and ongoing use, the core hours for students are limited to the following: a) Monday to Friday: 8.15am – 4.15pm</p> <p>Notes:</p> <ul style="list-style-type: none"> Extra-curricular activities may still occur outside core school hours on weekdays, weekends and public holidays. <p>Condition Reason: This is to mitigate amenity impacts upon the neighbourhood</p>
H.	3.	<p>Operation in Accordance with Community Use Management Plan</p> <p>During the occupation and ongoing use, the operation and management of the premises must be in accordance with the Community Use Management Plan for Cranbrook School as approved under Condition A.3.</p> <p>The POM cannot be altered without the written consent of Council.</p> <p>Condition Reason: To mitigate amenity impacts upon the neighbourhood.</p>
H.	4.	<p>Operation in Accordance with Green Travel Plan (GTP)/Traffic Management Plan (TMP)/Operational Traffic Management Plan (OTMP)</p> <p>During the occupation and ongoing use:</p> <ol style="list-style-type: none"> Measures described in the Traffic Response to Council, prepared by PTC and dated 19 April 2024, and Further Traffic Response to Council, prepared by PTC and dated 31 May 2024 must be undertaken to ensure that senior students do not drive to and from school and do not use the surrounding road network for parking. Security guards should be engaged to monitor parking in nearby streets with number plates reporting back to school and a copy of the records should be sent to Council monthly for review; Pick-up/Drop-off of students must be undertaken onsite using the internal driveway and must not impede traffic in the surrounding road network; Vehicles accessing the school via Victoria Road, Bellevue Hill, must adopt a left-in/left-out movement to minimise disruptions to the traffic in frontage road and improve traffic safety; The operation and management of the premises shall be in accordance with the GTP prepared by PTC; The GTP cannot be altered without the written consent of Council; Monitoring annual reports must be submitted for a minimum of 5 years from the date of this consent. Traffic report with updated mode surveys, parking and traffic conditions must be submitted to Council 1 year after the maximum capacity is reached. The Travel Access Guide, which is included as Attachment 2 of the GTP is to be made publicly available on the website of Cranbrook School. The Travel Access Guide is to be updated from time to time so as to reflect current public transport routes. <p>Condition Reason: To maximise road safety and performance.</p>

SUBDIVISION WORK

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil.

LAND SUBDIVISION

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE




Nil.

STRATA SUBDIVISION

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Attachments

1. Annexure 1 - Traffic Engineering Referral [↓](#) 
2. Annexure 2 - Environmental Health Referral [↓](#) 
3. Annexure 3 - Statement of Environmental Effects [↓](#) 

Completion Date: 21 September 2024

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 335/2023/1
ADDRESS: 555 New South Head Road BELLEVUE HILL
PROPOSAL: Increase in the student enrolment capacity at Cranbrook School to 1600 students and associated adjustment to school hours.
FROM: Ms E Fang
TO: Mr S Grevler-Sacks

I refer to the memo from the Planning Department dated 31 May 2024 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Traffic Response to Council, unreferenced, prepared by PTC, dated 19 April 2024
- Further Traffic Response to Council, unreferenced, prepared by PTC, dated 31 May 2024.

2. ISSUES

Infrastructure upgrades in Victoria Road near the main gate to enhance pedestrian safety and facilitate travel via public transport

3. ASSESSMENT

Parking and traffic implications for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter F2 Educational Establishments* and *Chapter E1 Parking and Access*, as well as *RMS Guide to Traffic Generating Developments 2002* and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

Whilst car parking requirements for educational establishments in Council's DCP are GFA-based, it is also required that all parking and pick-up/drop-off should be provided on-site to ensure the ongoing operations have minimal impacts on the amenity of the surrounding community. The proposed additional students and staff, albeit no increase of GFA, are anticipated to increase parking demand and traffic flow on the surrounding streets.

1. On-site Parking

Student Parking

Travel survey reveals that 6%-6.5% of students will drive to and from school, however the on-site underground parking facility does not accommodate student parking. As a result, students have been parking on surrounding streets which predominantly provide access to residential properties, including apartment blocks that do not possess on-site parking. Council's Traffic Engineers note that these streets generally permit parking and are not covered by resident parking scheme.

It is noted that only Year 12 and a portion of Year 11 students have reached legal driving age and with the proposed increase of student cap, each year group is anticipated to have

additional 71 students. The increased number of students driving to school is therefore calculated to range between 4.3 and 9.2 (71 x 6% - 142 x 6.5%). It is also noted that the School has been discouraging senior students from driving and parking on surrounding streets, the measures include:

- Request student to not drive to school at school assembly and via email communication to senior students and newsletter to the school community;
- Advise via Student Diary that '*Permission is required by School for students to drive to school*';
- Engage security guards to monitor parking in nearby streets with number plates reporting back to school.

It is indicated that the above measures have observed a reduction in the number of students parking close to the School. It is also proposed to continue with these measures to keep monitoring the areas which is considered acceptable.

Staff Parking

It is noted that traffic report indicates that travel modes and staff parking demand have remained relatively static for many years and the recently introduced Murray Rose Aquatic and Fitness Centre has increased onsite parking provision by 124 spaces which is anticipated to reduce reliance on kerbside parking and improve parking conditions in this area.

It should however be noted that, the school consists of 210.33 FTE staff for the currently enrolled 1172 students and is anticipated to increase to 239.45 FTE staff for the capped 1339 students and further increase to 294.95 staff for the proposed 1600 students. The travel survey reveals 70% staff drive to school, which requires 147.2 car parking spaces and already exceeds the total parking provision of Murray Rose Aquatic and Fitness Centre. When the proposed capacity of students is reached, future staff parking demand is calculated to increase to 206.5 parking spaces, resulting in an additional parking demand of 58.7 spaces than the current conditions.

Green Travel Plan

Council's Traffic Section agree that the implementation of Green Travel Plan has the potential to further facilitate alternative travel modes and reduce adverse impacts on the on-street parking. Other measures including establishing 'Walk to Work' groups and provision of e-bike parking and other cycling facilities to increase uptake are also anticipated to encourage active transport modes.

In light of the shortfall of onsite parking provision, it is requested that the target for future alternative transport modes be reviewed and increased to reduce reliance on private car usage and parking demand. Measures to achieve such targets should be reviewed and adjusted accordingly.

Onsite parking conditions, travel modes and Green Travel Plan should therefore be reviewed annually and submit to Council to assess the implementation of the Plan. More details will be discussed in the following part for Green Travel Plan.

2. Pick-up/drop-off management

The existing internal driveway allows parents to enter via Victoria Road and exit off Rose Bay Avenue and consists of 18 spaces for pick-up/drop-off. Traffic report suggests that the

proposed 1600 students require nine (9) spaces for morning drop-offs and nineteen (19) spaces for afternoon pick-ups, which results in a marginal shortfall by one (1) space.

It is noted the internal driveway was only recently vacated from staff parking to allow PUDO with the introduction of Murray Rose Aquatic & Fitness Centre. Survey undertaken on a typical school day in April 2024 demonstrates parents are growing to use this established PUDO area instead of surrounding streets. Continuing to use this area to accommodate PUDO for the proposed increased student numbers is considered acceptable.

Whilst it is appreciated that future PUDO will be formalised and will be managed onsite, Traffic Team raises concern on its adverse impacts on traffic performance on the surrounding road network. It should be noted that the existing concrete median island in Victoria Road, near the entry of the PUDO was installed to discourage right turn movements from vehicles travelling westbound along Victoria Road. This is considered essential to maintain traffic efficiency and avoid vehicles from queuing near the crossing and wait to turn into the School. Anecdotal evidences have shown Victoria Road severely congested to a 'grid lock' during school peak hours, noting there are cumulative impacts from another school in close vicinity.

As such, the proposed removal of concrete median islands for the existing pedestrian crossing in Victoria Road cannot be supported. The traffic report in relation to Pick-up/Drop-off should be updated to include that the School takes measures to ensure all pick-up/drop-off should occur onsite using the internal driveway and that all traffic entering the School via Victoria Road should only adopt a Left-in/Left-out movement to minimise adverse traffic impact in terms of traffic safety and efficiency.

3. Infrastructure Upgrades

It is noticed that the existing footpath on the southern side of Victoria Road, near the pedestrian crossing in Victoria Road and the bus stop is too narrow and does not comply with Austroads' Guide to Road Design for pedestrian paths, which requires a minimum of 1.2m for streets with general low volume and a minimum of 2.4m where high pedestrian volumes are anticipated to occur. The footpath in its current form cannot accommodate pedestrians due to its narrow width and the adjacent retaining wall with landscape encroaching the air space which requires pedestrians to walk on the road to access the crossing or the bus stop.

As discussed in the part for Green Travel Plan, future targets for alternative transport modes should be increased to minimise the adverse impacts on parking and traffic in surrounding road network. To improve pedestrian safety and further facilitate use of public transport, it is requested that the School liaise with Council's Department of Engineering Services to fund the implementation of the infrastructure upgrades, including relocating the existing retaining wall and widen the footpath with associated drainage works and landscaping. Estimated cost of works is \$960,000 and a breakdown of the costs are provided below:

- \$120K – Concrete works
- \$180K – Tree removal, cutting rock face & retaining wall construction
- \$280K – Drainage works
- \$250K – Contiguous pile wall
- \$30K – Landscaping
- \$100K – AC re-sheet & line marking

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A.

5.

Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.

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

Reference	Description	Author	Date
unreferenced	Transport Impact Assessment, Issue 4	PTC	16 August 2023
Unreferenced	Traffic Response to Council	PTC	19 April 2024
unreferenced	Further Traffic Response to Council	PTC	31 May 2024

Notes:

Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.

These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason:

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. BEFORE DEMOLITION WORK COMMENCES

Nil.

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	13.	Road and Public Domain Works
		To improve traffic safety and facilitate use of the public transport, the applicant must make a contribution of \$960,000 to Council to fund the infrastructure upgrades for the existing footpath near the main entry in Victoria Road, Bellevue Hill, to relocate the existing retaining wall and widen the footpath with associated drainage and landscaping works.
		Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

Nil.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Nil.

H. OCCUPATION AND ONGOING USE

H	63.	Operation in Accordance with Green Travel Plan (GTP)
		During the occupation and ongoing use: a) Measures described in the Traffic Response to Council, prepared by PTC and dated 19 April 2024, and Further Traffic Response to Council, prepared by PTC and dated 31 May 2024 must be undertaken to ensure that senior students do not drive to and from school and do not use the surrounding road network for parking. Security guards should be engaged to monitor parking in nearby streets with number plates reporting back to school and a copy of the records should be sent to Council monthly for review; b) Pick-up/Drop-off of students must be undertaken onsite using the internal driveway and must not impede traffic in the surrounding road network; c) Vehicles access the school via Victoria Road, Bellevue Hill, must adopt a left-in/left-out movement to minimise disruptions to the traffic in frontage road and improve traffic safety; d) The operation and management of the premises shall be in accordance with the GTP prepared by PTC; e) The GTP cannot be altered without the written consent of Council; f) Monitoring annual reports must be submitted for a minimum of 5 years from the date of this consent. Traffic report with updated mode surveys, parking and traffic conditions must be submitted to Council 1 year after the maximum capacity is reached.
		Condition Reason: To maximise road safety and performance.

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)

Nil.

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Ever Fang
Traffic & Transport Team Leader

21/9/2024
Completion Date



Woollahra
Municipal
Council

17 October 2023

REFERRAL RESPONSE – ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 335/2023/1

ADDRESS: 555 New South Head Road BELLEVUE HILL 2023

PROPOSAL: Increase in the student enrolment capacity at Cranbrook School to 1600 students and associated adjustment to school hours.

FROM: Louie Salvatore

TO: Mr S Grevler-Sacks

1. ISSUES

- Acoustics – Impact of increased student capacity.

2. DOCUMENTION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by Urbis Pty Ltd. Project Code SA6890-Final. 17 August 2023.
- Acoustic Report: prepared by Acoustic Logic Pty Ltd. Document Reference No. 20211232.2/1708A/R3/PF – 17 August 2023.

3. RESEARCH

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

- A site inspection was carried out on the following date: *#Insert/delete as appropriate*

4. SUMMARY OF PROPOSAL

The proposal seeks to increase the student enrolment capacity at Cranbrook Senior Campus to 1,600 students, which will result in an increase of 261 students on campus. This increase is anticipated to be staggered to support Cranbrook's transition to becoming co-educational starting in 2026 with placement interviews for boys and girls starting in late 2023.

The application does not seek consent for any physical works within the campus. To alleviate impacts associated with additional students entering and leaving the site, Cranbrook will be implementing changes to the bell times for senior students. Year 11 and 12 students will now start at 9:10am and finish at 4:15pm.

As such, this application seeks consent for updated operational hours currently approved as part of SSD-8812 to reflect new core hours for students from Monday to Friday between 8:15am to 4:15pm.

Extracurricular activities will still occur outside core school hours on weekdays, weekends and public holidays. To reflect these changes, the Community Use Management Plan currently

Page 1 of 4



Woollahra
Municipal
Council

approved as part of SSD-8812 has been updated by Cranbrook and is appended to this application.

The proposed development will not result in:

- Any additional vehicular access points or changes to pick-up and drop-off arrangements from that approved under SSD-8812.
- Any changes to existing loading arrangements.

5. ASSESSMENT

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

a) Acoustics

Environmental Health - Review

Review of **Acoustic Report: prepared by Acoustic Logic Pty Ltd. Document Reference No. 20211232.2/1708A/R3/PF – 17 August 2023.**

The Report has identified the sources of noise generation from the school to be from indoor classrooms, outdoor playing areas and traffic noise due to vehicles entering/exiting the site or parents picking up/dropping off students.

The Report anticipates that the proposal of increasing the number of students from current capacity of 1339 to 1600 students, the long-term noise increase from *indoor activities and outdoor playing areas will be less than 1dB(A).*

In referencing the Traffic Report (PTC Issue 4-16/08/2023), the total vehicle movements with the increased capacity is predicted to change from 353 to 293 (including students cap and future staff) during morning peak. The variation is due to proposed before school activity, which will potentially mitigate traffic generation during morning peak. The traffic generation during afternoon peak is smaller due to at least 22% of students attending after school activities. The predicted traffic generation during afternoon peak hour is 74 (including 23 from students cap and 51 from future staff) and *noise generated from additional traffic be less than 1dB(A).*

The Report notes that the proposal will generate an increase of *1-2dB(A), which is imperceptible and is considered negligible* and consistent with NSW EPA Noise Policy for Industry. *The predicted noise increases will be less than 1 dB(A) and will occur of the long term, so will not be noticeable.*

In addition, the new proposed bell time for Year 11 and 12 are still during daytime (7:00am – 6:00pm, as defined by *EPA Noise Policy for Industry*) and *will not generate additional noise impact to surrounding receivers.*

Environmental Health – Comments

The acoustic assessment indicates that the proposed increase of current student capacity of 1339 to 1600 students will have no adverse impact on neighbouring properties. No acoustic treatments and/or mitigation strategies are required to prevent any adverse noise impact on adjacent residential developments.

6. RECOMMENDATION



Woollahra
Municipal
Council

Council's Environmental Health Officer has determined that the proposal is satisfactory.

A. GENERAL CONDITIONS

A.

1.

Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.

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

Reference	Description	Author	Date
	Acid Sulphate Soil Management Plan		
20211232.2/1708A/R3/P F	Acoustic Report	Acoustic Logic Pty Ltd	17 August 2023
	Architectural Plans		
	Contaminated Land - Initial Site Investigation Report (Stage 1)		
	Contaminated Land - Detailed Site Investigation Report (Stage 2)		
	Contaminated Land - Remedial Action Plan (Stage 3)		
	Plan of Management		
	Noise Management Plan		

Notes:

- Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.
- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	

C. ON COMPLETION OF REMEDIATION WORK

C. 1.	



Woollahra
Municipal
Council

--	--

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

E. BEFORE BUILDING WORK COMMENCES

E 1.	

F. DURING BUILDING WORK

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

H. OCCUPATION AND ONGOING USE

Louie Salvatore
Senior Environmental Health Officer

17 October 2023
Completion Date



STATEMENT OF ENVIRONMENTAL EFFECTS

Cranbrook School
Student Cap DA

Prepared for
CRANBROOK SCHOOL
17 August 2023



URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

Director	Jacqueline Parker
Senior Consultant	Brigitte Bradley
Project Code	SA6890
Report Number	FINAL

Urbis acknowledges the important contribution that Aboriginal and Torres Strait Islander people make in creating a strong and vibrant Australian society.

We acknowledge, in each of our offices, the Traditional Owners on whose land we stand.

All information supplied to Urbis in order to conduct this research has been treated in the strictest confidence. It shall only be used in this context and shall not be made available to third parties without client authorisation. Confidential information has been stored securely and data provided by respondents, as well as their identity, has been treated in the strictest confidence and all assurance given to respondents have been and shall be fulfilled.

© Urbis Pty Ltd
50 105 256 228

All Rights Reserved. No material may be reproduced without prior permission.

You must read the important disclaimer appearing within the body of this report.

urbis.com.au

CONTENTS

1.	Introduction	1
1.1.	Report Structure.....	1
2.	Site and Planning Context.....	2
2.1.	Site Description.....	2
2.2.	Site Context and Surrounding Development	2
2.3.	Heritage	3
2.4.	Access and Parking	3
2.4.1.	Pedestrian and Cycle Access.....	3
2.4.2.	Public Transport Network	4
2.4.3.	Vehicle Access	4
2.4.4.	Parking	5
2.4.5.	Loading and Servicing.....	5
2.5.	Relevant Planning History	6
2.5.1.	DA88/280.....	6
2.5.2.	SSD-8812	6
2.5.3.	Other Consents	7
2.6.	Pre-Lodgement Consultation	7
2.6.1.	Engagement Carried Out	7
2.6.2.	Community Views.....	8
2.6.3.	Future Engagement.....	9
3.	Development Description	10
4.	Statutory Context	1
4.1.	State Environmental Planning Policy (Transport and Infrastructure) 2021	1
4.2.	Woollahra Local Environmental Plan 2014.....	1
4.3.	Development Control Plan	1
4.4.	Infrastructure Contributions	3
5.	Assessment of Key Issues	4
5.1.	Current Facilities	4
5.1.1.	Open Space.....	4
5.1.2.	Sanitary Facilities	4
5.2.	Traffic	5
5.2.1.	Current Travel Characteristics.....	5
5.2.2.	Traffic Generation.....	5
	Morning Peak Hour.....	5
	Afternoon Peak Hour	6
5.3.	Noise.....	7
6.	Section 4.15 Assessment	9
6.1.	Environmental Planning Instruments.....	9
6.2.	Draft Environmental Planning Instruments	9
6.3.	Development Control Plan	9
6.4.	Planning Agreement	9
6.5.	Regulations	9
6.6.	Likely Impacts of the Proposal	9
6.7.	Suitability of the Site	10
6.8.	Submissions.....	10
6.9.	Public Interest	10
7.	Conclusion.....	11
	Disclaimer.....	12

Appendix A	Acoustic Assessment
Appendix B	BCA Amenities Review
Appendix C	Community Use Management Plan
Appendix D	Engagement Outcomes Report
Appendix E	Traffic Impact Assessment Report
Appendix F	Green Travel Plan
Appendix G	Open Space Analysis

FIGURES

Figure 1 Site Aerial	2
Figure 2 Extract from WLEP 2014 Heritage Map	3
Figure 3 Pedestrian and Cycle Network	4
Figure 4 Existing loading arrangements	5
Figure 5 Key Stakeholders	7

PICTURES

Picture 1 Footpaths and Pedestrian Crossings	4
Picture 2 Local Bicycle Network	4

TABLES

Table 1 Supporting documentation.....	1
Table 2 Approved hours of operation in accordance with SSD-8812	7
Table 3 DCP Compliance Table	2
Table 4 Open Space Calculations	4
Table 5 Morning Peak Hour vehicle movements.....	6
Table 6 Afternoon Peak Hour vehicle movements	6

1. INTRODUCTION

This Statement of Environmental Effects (**SEE**) has been prepared by Urbis on behalf of Cranbrook School (**Cranbrook, the Applicant**) in support of a Development Application (**DA**) to increase the current student cap of 1,339 to a new base of 1,600 students on the Cranbrook Senior Campus, located at 5 Victoria Road, Bellevue Hill.

Cranbrook has been located on its Bellevue Hill campus since 1918. During recent years, Cranbrook has significantly invested in the redevelopment of its campus to provide flexible and inspirational teaching and learning facilities as well as forward planning infrastructure to accommodate future growth.

Cranbrook is continuing to plan for its future by seeking an increase to the student capacity limit on its Bellevue Hill campus to a new total of 1,600 – which is an increase of 261 students. The current student cap has been in place for over 30 years and was set by Woollahra Municipal Council in May 1990. Across Greater Sydney, there is an ever-increasing demand for high-quality co-education particularly for secondary students. This proposal will support Cranbrook’s transition to becoming co-educational starting in 2026 with placement interviews for boys and girls starting in late 2023.

In addition, Cranbrook is reviewing its operational model to include staggered bell times and additional before and after school offerings.

There are no physical works associated with this proposal. Development consent is sought in accordance with Part 4 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

1.1. REPORT STRUCTURE

This SEE is structured as follows:

- **Section 2 – Site Context:** provides a description of the site, existing development and the local and regional context.
- **Section 3 – Development Description:** describes the proposal, including the operational changes.
- **Section 4 – Statutory Context:** provides a detailed assessment of the State and local environmental planning controls relevant to the site and proposed development.
- **Section 5 – Assessment of Key Issues:** provides an assessment of the proposal against key issues.
- **Section 6 – Section 4.15 Assessment:** provides an assessment of the proposal against the matters of consideration listed in section 4.15 of the EP&A Act.
- **Section 7 – Conclusion:** provides an overview of the development assessment outcomes and recommended determination of the DA.

This report should be read in conjunction with the supporting documentation outlined in **Table 1**.

Table 1 Supporting documentation

Document	Consultant
Acoustic Assessment	Acoustic Logic
BCA Amenities Review	Jensen Hughes
Community Use Management Plan	Cranbrook
Engagement Outcomes Report	Urbis
Traffic Impact Assessment Report	ptc
Green Travel Plan	ptc
Open Space Analysis	Architectus

2. SITE AND PLANNING CONTEXT

2.1. SITE DESCRIPTION

The subject site is located at 5 Victoria Road, Bellevue Hill and is legally described as Lot 1 DP663630; Lots 9-18 DP9005; and Lots B and C DP186768. A location plan is provided at **Figure 1**. The site is located within the Woollahra Local Government Area (LGA) and is located on Gadigal land within the Eora Nation.

The campus is located to the south east of New South Head Road and covers an area of approximately 4.342 hectares. The site is a prominent feature along New South Head Road due to the scale of the school buildings, the open space and fencing and landscaping associated with the Hordern Oval.

Figure 1 Site Aerial



Source: Urbis

2.2. SITE CONTEXT AND SURROUNDING DEVELOPMENT

The site is bounded to the north and north-west by New South Head Road and is generally surrounded by low density residential development with small pockets of medium density residential development. The site is located in the established residential suburb of Bellevue Hill opposite Point Piper. The context of the site is characterised by:

- **North:** The site is bounded to the north and north-east by New South Head Road, beyond which is medium and low density residential development, and Sydney Harbour.
- **East:** The site is bordered to the east by Rose Bay Avenue, beyond which is low density residential development, and pockets of medium density residential development.
- **South:** The site is bounded to the south by Victoria Road, beyond which is low density residential development.
- **West:** The site is bordered to the west by low density residential development comprising of three adjoining houses to the south west.

2.3. HERITAGE

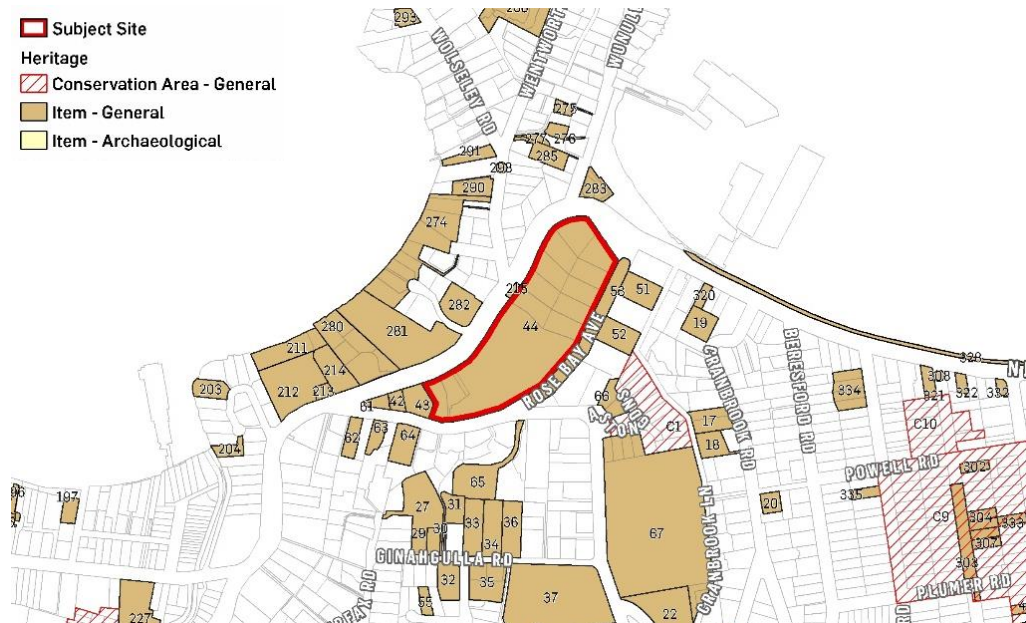
Cranbrook School is a locally listed heritage item 44 under the *Woollahra Local Environmental Plan 2014*. The item is identified as:

Cranbrook School—the buildings, including their interiors, known as “Cranbrook”; “Harvey House”; “Perkins Building” (junior school); Sick Bay; Headmaster’s House; Rotunda (sports pavilion); the 2 storey sandstone building (formerly gatehouse); sandstone retaining wall with balustrade and stairway on north-west terrace of Cranbrook; gates, gateposts, bollards and stone retaining wall to Victoria Road; sandstone fence and retaining wall to New South Head Road; 4 sets of sandstone gateposts with iron gates to New South Head Road; 2 Hoop Pines, 3 Norfolk Island Pines, Kauri Pine, Black Booyong, Port Jackson Fig, Chilean Wine Palm

Other locally listed items adjacent to the Cranbrook School grounds which are not impacted by this proposal include:

- Item 43 – *Wirian—house and interiors, stone fences, retaining walls and gateposts* (3 Victoria Road, Bellevue Hill)
- Item 53 – *7 Canary Island Date Palms, 2 Washington Palms* (Rose Bay Avenue, within road reserve)

Figure 2 Extract from WLEP 2014 Heritage Map



Source: Urbis

2.4. ACCESS AND PARKING

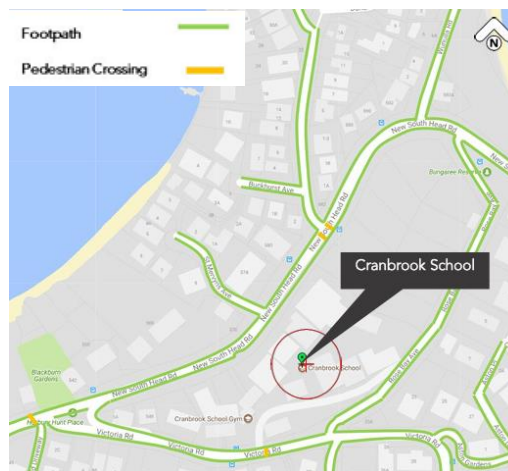
2.4.1. Pedestrian and Cycle Access

The Cranbrook Senior Campus is located in a low density residential area which provides excellent pedestrian and cycle access to the site. Footpaths are provided on both sides of all the roads bordering the school (New South Head Road, Victoria Road and Rose Bay Avenue). The school is also serviced by an existing on-road cycle route along Victoria Road and a proposed off-road route along New South Head Road. These routes provide access to the local cycle network and links to the Greater Sydney cycle network. A total of 203 bicycles spaces are currently provided within the campus with another 8 proposed to be installed following completion of minor works to the Perkins Building, which is due for completion late August 2023.

Four pedestrian access points are currently available to the site for students (two on New South Head Road, one on both Victoria Road and Rose Bay Avenue). There are a number of safe crossing points that allow access to the surrounding areas of the site including:

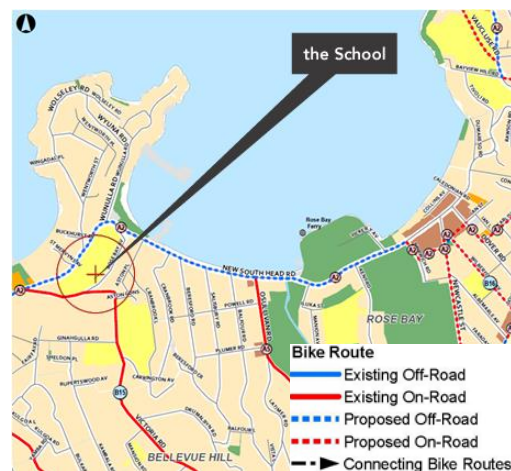
- To the north, there are two signalised pedestrian crossings on either side of the intersection between Wolseley Road and New South Head Road.
- To the west, there is a signalised pedestrian crossing at the intersection of Victoria Road and New South Head Road.
- To the south, near the main Cranbrook entrance, there is a pedestrian crossing on Victoria Road. Whilst there is a pedestrian access into the School from Rose Bay Avenue to the south east, there are no pedestrian crossing facilities on this road.

Figure 3 Pedestrian and Cycle Network



Picture 1 Footpaths and Pedestrian Crossings

Source: ptc



Picture 2 Local Bicycle Network

Source: ptc

Cranbrook encourages use of active and public transport with further incentives to encourage active and public transport use identified in the Green Travel Plan prepared by ptc.

2.4.2. Public Transport Network

A range of buses are accessible from New South Head Road and Victoria Road within a 400 metre walking catchment of key entrances to Cranbrook. Public bus routes including 323, 324, 325, 326 and L24 run between 04:30 and 00:30 and provide access from the local area to the city at approximately 30 minute intervals, with additional services at peak times.

In addition to public bus services, Cranbrook also runs three private bus services to the Eastern Suburbs, Inner West and North Shore. These buses drop off and pick up students at the STA bus stop located on New South Head Road at the corner of Wolseley Road, New South Head Road opposite Wolseley Road north side and Victoria Road opposite Rose Bay Avenue.

Cranbrook is also located 1,200m west of the Double Bay Ferry Wharf. The Wharf is serviced by the F7 Double Bay ferries, which provide connections to Circular Quay. These services travel with a frequency of up to two services in peak times.

2.4.3. Vehicle Access

Key roads which provide access to the site are New South Head Road (State Road); and Victoria Road and Rose Bay Avenue (Local Roads).

- New South Head Road is a State road with a four-lane undivided carriageway that runs in an east/west alignment. It has a speed limit of 60k/hr outside of school zone times and has various parking restrictions.
- Victoria Road is a local road with a two-lane undivided carriageway that runs in an east/west alignment. It has a speed limit of 50k/hr outside of school zone times and has unrestricted parking on each side.
- Rose Bay Avenue is a local road with a two-lane undivided carriageway that runs in a north/south alignment. It has a speed limit of 50k/hr outside of school zone times and has un-restricted parking on each side with a small designated school drop off zone at peak times

Six vehicle access points are located within the site, three off New South Head Road, one off Victoria Road and two off Rose Bay Avenue.

2.4.4. Parking and Student Drop Off

An on-site car park is provided within the basement of the Murray Rose Aquatic and Fitness Centre with access via Rose Bay Avenue. The car park has a provision of 124 car spaces including 3 accessible car spaces. Staff parking is controlled through the app based platform called Parkable which is overseen by the facilities team.

18 drop-off / pick-up spaces are provided within the school site and access to this facility is via the existing Victoria Road Gate, with egress via the existing Rose Bay Avenue Gate. The internal driveway is open for use between 6:30am – 9:00am and 3:00pm – 6:30pm to accommodate students who attend before and after school activities. Outside of pick up and drop off times, the internal driveway is limited to pedestrian access only. No parking spaces are provided within the internal driveway.

2.4.5. Loading and Servicing

Due to site limitations, heritage and trees of significant importance, servicing is undertaken on-street in two designated loading bays in accordance with the approved SSDA (**SSD-8812**) for the site.

As shown in **Figure 4**, the bays are 15m in length to accommodate Medium Rigid Vehicles (**MRVs**). The loading bays operate between 9.30am and 2pm. Outside of these times the bays revert to on street parking spaces. Additionally, a 15 minute 'School Bus Zone' is provided on Rose Bay Avenue, adjacent to the driveway, for use by two mini-buses or a school bus.

Figure 4 Existing loading arrangements



Source: ptc

2.5. RELEVANT PLANNING HISTORY

A review of relevant consents for the site has been undertaken by Urbis and Cranbrook to determine the current student cap for the Cranbrook Senior Campus. A summary of relevant consents is provided below.

2.5.1. DA88/280

A development application (**DA88/280**) was approved by Council on 15 May 1990 for a range of works within the Senior Campus including:

- A landscape masterplan with the retention of all major trees, additional planting, paved areas and stabilisation of embankments
- Demolition, refurbishment and the erection of new buildings, increase the gross floor area by 4,802m², from 12,128 m² to 18,948 m² so as to provide adequate areas for classroom sizes, theatre and music teaching facilities and dormitories

As part of the proposed works, a condition of consent was introduced which states:

17. The total number of students enrolled at the school [Cranbrook] is not to exceed the level of enrolment as at the date of consent.

The reasons for the imposition of the conditions are set out as follows:-

To safeguard the present and future amenity of the neighbourhood.

Based on Council records, this consent set a maximum cap of **1,339 students** on the Cranbrook Senior Campus. This number was confirmed by Council in written correspondence to Cranbrook dated 14 March 2022.

2.5.2. SSD-8812

Approval was granted by the Department of Planning on 13 September 2019 for the alterations and additions of Cranbrook School as part of SSD-8812. Specifically, consent was granted for:

- Redevelopment of the northern portion of the campus through the demolition of the existing Mansfield Building and War Memorial Hall to facilitate the construction of the New Centenary Building and associated landscaping.
- Construction of a new Aquatic & Fitness Centre (**AFC**) containing a 50m swimming pool, a 25m Learn to Swim pool, a multipurpose sports court, gym and ancillary functions.
- Construction of a new 124 space car park to ease pressure on the surrounding road network for parking servicing the school.
- Excavation and reconstruction of Hordern Oval above the AFC and car park.

As part of this major refurbishment of the campus, no variation to the student cap was sought.

It is also acknowledged that a Section 4.55(1A) Modification (**SSD-8812-Mod-4**) was approved by the Department of Planning, Industry and Environment on 16 August 2022 to increase the hours of operation associated with weekend sports competitions on Hordern Oval and the use of the Aquatic Fitness Centre (**AFC**) and Centenary Building.

A summary of the current hours of operation which apply to the Cranbrook Senior Campus is provided in **Table 2**.

Table 2 Approved hours of operation in accordance with SSD-8812

Use	Approved Hours
Senior School hours for students	Monday to Friday: 8:15am to 3:20pm Extracurricular activities occur outside core school hours on weekdays, weekends and public holidays.
School reception	Monday to Friday: 8:00am to 6:00pm
Sports training on Hordern Oval	Monday to Friday: 6:30am to 8:00pm
Sports Competition on Hordern Oval	<div><u>Summer Sports Season</u> Saturday: 7.00am to 6:30pm</div> <div><u>Winter Sports Season</u> Saturday: 7.00am to 6:00pm</div>
Aquatic and Fitness Centre (AFC)	Monday to Sunday: 5:00am to 9:30pm
Centenary Building	Typical school hours and for special events and occasions

2.5.3. Other Consents

There is no other evidence of applications relating to school enrolment numbers.

2.6. PRE-LODGE MENT CONSULTATION

Cranbrook has engaged with a range of key stakeholders and the public to provide opportunities for feedback prior to lodgement of the DA. The strategy and outcomes of consultation undertaken to date is further described in the Consultation Report prepared by Urbis.

All consultation was adapted from the International Association of Public Participation’s (IAP2) Public Participation spectrum. A summary of engagement activities and outcomes is provided below.

2.6.1. Engagement Carried Out

Community and stakeholder engagement has been undertaken with the following stakeholders identified in Figure 5.

Figure 5 Key Stakeholders

COUNCIL	SCHOOL COMMUNITY	SURROUNDING COMMUNITY
Woollahra Municipal Council, specifically: <ul style="list-style-type: none">– Mayor– Councillors– Planning and Assessment Team	<ul style="list-style-type: none">– Current students– Future students– Former students– Parents– Faculty	<ul style="list-style-type: none">– Residents and Businesses– Rose Bay Police Station– The Scots College– Scots Concerned Residents Group

The following actions were taken to inform the community regarding the project and seek feedback regarding the proposal:

- **Stakeholder briefings**

Cranbrook provided written project information and offered briefings to Woollahra Municipal Council officers. A briefing session with Council officers was held on Wednesday 19 April 2023. During the briefing, Cranbrook's Chief Operating Officer (COO) noted the school's intention to submit this DA to increase enrolment numbers on the Bellevue Hill campus, in September 2023.

Cranbrook also outlined its approach to start community consultation in early Term 2 2023.

- **Community Newsletter**

A community newsletter was distributed to the surrounding community. It was distributed by letterbox drop to approximately 2,835 residents and businesses on Thursday 27 April 2023. The newsletter and the distribution are both included in the Consultation Report prepared by Urbis.

The newsletter outlined key features of the proposal and invited feedback. It also included details of the project email, phone number and website managed by Cranbrook to answer questions and collect feedback.

- **Website**

A new link on the Cranbrook website went live on 27 April 2023, which provided information about the proposal, the planning process and contact details for enquires. A link to the website was included on all communications collateral to ensure the community has access to the most up to date information.

- **Cranbrook school newsletter**

The newsletter content was distributed to the entire school community via the Junior School and Senior School weekly newsletters. These newsletters were issued to all families and staff in Weeks One, Two, Three, Four, Eight and Nine of Term 2 2023.

- **Engagement email and phone number**

The community newsletter and website provided a dedicated phone number and email address managed by Urbis to enable people to provide feedback on the project and ask questions. Four enquiries have been received at the time of writing this report. A summary of these enquiries and project responses is provided below.

2.6.2. Community Views

As noted above, four enquiries were received via the dedicated communication lines for the project. All four enquiries related directly to the traffic impacts associated with additional students on site. In response to these queries, it has been noted:

- Cranbrook has shared the feedback received directly with traffic consultants to ensure that comments by the public are adequately considered throughout the analysis.
- The Traffic Impact Assessment Report prepared by ptc will provide cumulative analysis including nearby schools and apartment buildings.
- Cranbrook has not increased its student cap for its Senior School campus in more than 34 years, despite the school-aged population in Woollahra LGA increasing by 12% since 2001 and the increasing demand for high-quality education in the area.
- Cranbrook are reviewing the School's operations to mitigate any impacts caused by an increase in student numbers. This includes considering longer school days, staggered start times and improvements to the operation of its pickup and drop-off.
- Cranbrook acknowledges that a key part of improving traffic flow is reducing the use of private vehicles. Cranbrook is proactively implementing a Green Travel Plan to reduce the use of private cars at the site by senior students, staff, and parents dropping off and picking up students. The Green Travel Plan will encourage the use of public transport, car-sharing and walking. To further support this, the school is also encouraging the use of cycling by students to school and has plans to increase the onsite bicycle rack storage options.

- Cranbrook will continue to engage with parents about the use of private transport and continue to provide alternative options for travelling to and from school.

2.6.3. Future Engagement

Cranbrook will continue to keep stakeholders and the community informed of the project approval process through the exhibition and determination phases by:

- Continuing to engage with the community about the project, its impacts, and the approval process.
- Providing information on how the community's views have been addressed on the project website and through a letterbox drop.
- Enabling the community to seek clarification about the project through the two-way communication channels, including the project 1800 number and email address.

3. DEVELOPMENT DESCRIPTION

3.1. STUDENT ENROLMENT NUMBERS

The proposal seeks to increase the student enrolment capacity at Cranbrook Senior Campus to 1,600 students which will result in an increase of 261 students on campus. This increase is anticipated to be staggered to support Cranbrook's transition to becoming co-educational starting in 2026 with placement interviews for boys and girls starting in late 2023.

A summary of recent enrolments as well as anticipated student numbers to 2029 is provided below:

Recent enrolment history:	Anticipated enrolments:
<ul style="list-style-type: none">2017: 950 students2022: 1,172 students	<ul style="list-style-type: none">2023 to 2025: 1,220 anticipated students2026: 1,339 anticipated students2027: 1,480 anticipated students2028: 1,540 anticipated students2029: 1,600 anticipated students

3.2. OPERATIONAL DETAILS

While this application does not seek consent for any physical works within the campus, to alleviate impacts associated with additional students entering and leaving the site, Cranbrook will be implementing changes to the bell times for senior students. Year 11 and 12 students will now start at 9:10am and finish at 4:15pm.

As such, this application seeks consent for updated operational hours currently approved as part of SSD-8812 to reflect new core hours for students from **Monday to Friday between 8:15am to 4:15pm**.

Extracurricular activities will still occur outside core school hours on weekdays, weekends and public holidays. To reflect these changes, the Community Use Management Plan currently approved as part of SSD-8812 has been updated by Cranbrook and is appended to this application.

The proposed development will not result in:

- Any additional vehicular access points or changes to pick-up and drop-off arrangements from that approved under SSD-8812.
- Any changes to existing loading arrangements.

4. STATUTORY CONTEXT

4.1. STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Chapter 3 of *State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP)* provides the legislative planning framework for the effective delivery of educational establishments and early education and care facilities across the State. Part 3.4 of the SEPP seeks to simplify planning approval pathways for schools by enabling development for the purpose of a school to be carried out by any person with development consent on land in a prescribed zone (Section 3.36).

The SP2 (Educational Establishment) zone is considered a prescribed zone for the purposes of the T&I SEPP (Section 3.34) and development for the purpose of a school is therefore permissible with consent on the site.

In accordance with Section 3.58, development for the purpose of an educational establishment on a site that has direct vehicular or pedestrian access to any road that will result in: (emphasis added)

- *the educational establishment being able to accommodate 50 or more additional students, and*
- *an enlargement or extension of existing premises, or new premises*

requires written notice of the application to TfNSW within 7 days after the application is made. The proposal does not meet the requirements of this clause as there is no enlargement or extension of the existing premises proposed.

Also, given there are no physical works associated with the proposal, an assessment against the Design Quality Principles outlined in Schedule 8 of the T&I SEPP is not considered relevant to the proposal.

4.2. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

Woollahra Local Environmental Plan 2014 (the LEP) is the primary environmental planning instrument applying to the site and the proposed development. The site is zoned SP2 Educational Establishment in accordance with the LEP.

The proposed development is defined as an 'educational establishment' in accordance with the LEP. Educational establishments are permissible within the SP2 zone under the LEP.

Noting there are no physical works associated with the proposal, it is considered that the proposal complies with the relevant provisions within the LEP.

4.3. DEVELOPMENT CONTROL PLAN

Woollahra Development Control Plan 2015 (the DCP) provides the design guidelines for future developments in the Woollahra LGA. Overall, the proposal achieves a high level of compliance with the DCP, as outlined below. The key provisions pertaining to the proposal are within:

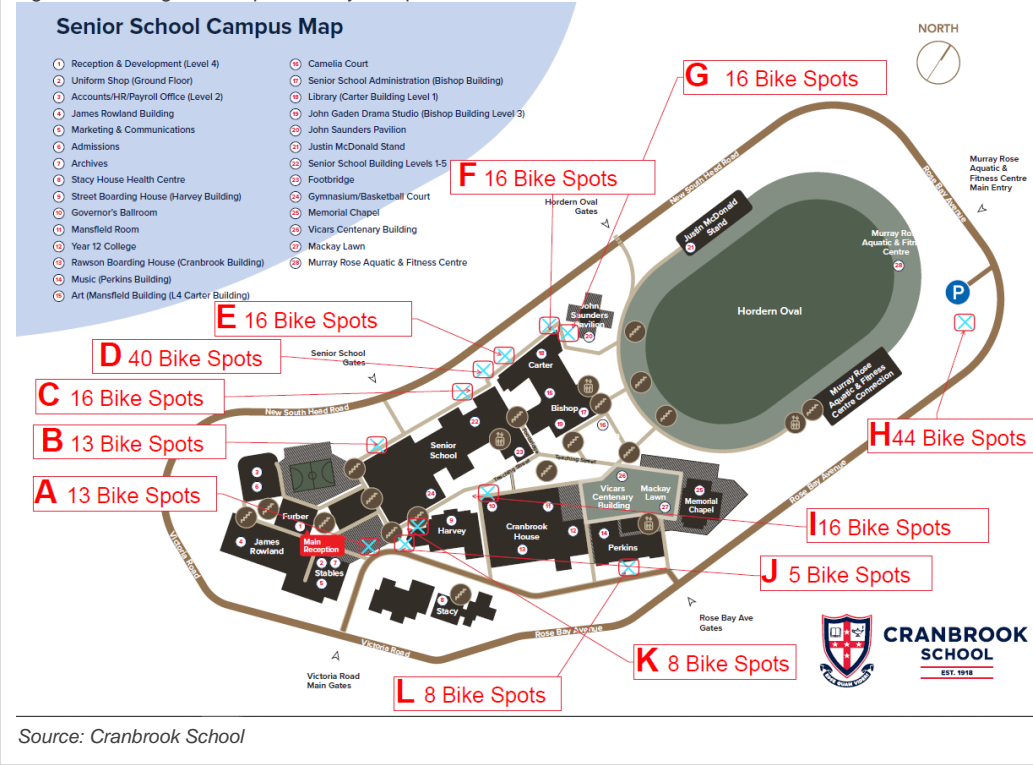
- *Chapter E1 – Parking and Access*
- *Chapter F2 – Education Establishments*

Table 3 contains an assessment of the proposal against the relevant provisions.

Table 3 DCP Compliance Table

Provision	Proposal
<p><u>E1.5.2 Non-residential parking generation rates</u></p> <p>Educational establishments:</p> <ul style="list-style-type: none">1 space per 100m²On-site parking for disabled persons is to be provided at a minimum rate of 1 car space per 50 car spaces or part thereof.	<p>No changes to the overall GFA are proposed as part of this application. Therefore, no additional parking is required as per the DCP and is not proposed.</p> <p>It is noted that 124 car spaces (including 3 accessible spaces) are provided on site in accordance with SSD-8812.</p>
<p><u>E1.6.2 Bicycle parking rates</u></p> <p>Educational establishments:</p> <ul style="list-style-type: none">1 per 10 staff1 per 20 students <p><u>F2.6 Traffic, parking and access</u> also notes:</p> <p>For secondary establishments—dedicated secure bicycle parking is provided at the following rates:</p> <p>a) 5% of staff numbers;</p> <p>b) 10% of full time student numbers</p>	<p>Based on the proposed student capacity of 1,600 students, Cranbrook is required to provide a total of 160 bicycle spaces for students and 15 spaces for staff.</p> <p>Cranbrook currently provides 203 bike spaces. An additional 8 spaces are proposed to be introduced within the site. As such, the school exceeds the current requirements. An indicative location of the spaces is provided in Figure 6. This number can be added as a condition of consent if required.</p>

Figure 6 Existing and Proposed Bicycle Spaces



Provision	Proposal
<u>E1.7 Motorcycle parking rates</u> <i>Developers shall provide a minimum of 1 motorcycle parking space per 10 car spaces for all types of development.</i>	<p>It is not proposed to increase the car parking provision as part of this development application. Therefore, no additional motorbike parking is required as per the DCP and is not proposed.</p>
<u>E1.12.1 Green travel plan thresholds</u> <i>A green travel plan for educational establishments allowing an additional 100 students.</i>	<p>A Green Travel Plan has been prepared by ptc to meet this requirement.</p>
<u>F2.4 Heritage Conservation</u> <ul style="list-style-type: none"> <i>To protect buildings, fences, works, relics, or places of heritage significance which form part of, or which are in the vicinity of an educational establishment</i> <i>To ensure that new development is sympathetic to the heritage significance of heritage items and, where applicable, is sensitive to the streetscape qualities of heritage conservation areas.</i> 	<p>Given there are no physical works associated with the proposal, the proposal will have no impact on the existing heritage fabric within the campus. As such, no further assessment against F2.4 is considered necessary.</p>
<u>F2.5 Open Spaces</u> <ul style="list-style-type: none"> <i>To protect and retain existing open spaces</i> <i>To ensure that educational establishments provide adequate open spaces to cater for the active and passive needs of students.</i> 	<p>The proposal does not result in any changes to the existing open space on site including a range of playgrounds, sports fields and passive spaces. Further assessment of the current open space is provided in Section 5.1.1 of this report.</p>
<u>F2.6 Traffic, parking and access</u> <ul style="list-style-type: none"> <i>To require efficient and effective road and pedestrian circulation networks</i> <i>To minimise conflict between vehicles and pedestrians, particularly at entrances.</i> <i>To minimise the impact on the surrounding community due to the arrival and departure of students</i> 	<p>A range of mitigation measures including introducing staggered bell times and additional before and after school activities have been proposed by Cranbrook to mitigate any impacts on the existing road and pedestrian circulation networks surrounding Cranbrook.</p> <p>Further assessment of traffic impacts associated with the proposal are included in Section 5.2 of this report.</p>

Based on the above, it is considered that the proposal complies with the relevant provisions within the DCP.

4.4. INFRASTRUCTURE CONTRIBUTIONS

The *Woollahra Section 94A Development Contributions Plan 2011 (Contributions Plan)* came into effect on 31 August 2011 and levies developer contributions for new development to fund the provision of public infrastructure, facilities and services. The levy requires the applicant to pay the Council a level of 1% of the proposed cost of carrying out the development.

Given the proposal does not seek consent for physical works, there is no scope to require payment of contributions in accordance with the Contributions Plan.

5. ASSESSMENT OF KEY ISSUES

5.1. CURRENT FACILITIES

While no physical works are proposed, to ensure that the site currently provides sufficient services for the increased number of students on site, the following assessment of site capacity has been undertaken.

5.1.1. Open Space

Section F2.1.7 of the Woollahra DCP provides the following definitions for calculating open space:

- **Open space** - The area on the establishment which is used for playgrounds, sport fields or for green or landscaped areas and may include associated structures and vegetation.
- **Playground** - External spaces used by students during play and break times, and may be partly covered by shade structures.
- **Sports field or court** - Any open spaces, open to the air, used for sport and physical education and includes outdoor courts such as tennis or netball courts.

Based on these definitions, a summary of open space currently available within the Senior Campus has been prepared by Architectus which is summarised in **Table 4** below.

Table 4 Open Space Calculations

Open Space	Area (sqm)
Sports fields	13,832
Sports courts/social areas	2,490
Landscaped areas	8,589
TOTAL	24,911

Source: Architectus

The open space provided within the Cranbrook campus provides a range of high-quality facilities for students including Hordern Oval and the AFC.

Schools Infrastructure NSW has prepared *Guidelines for School Site Selection and Development* (**SINSW Guidelines**, October 2020) which identify metrics which are used by the State government in identifying school sizes and capacity. The SINSW Guidelines identify that any school site should provide a minimum 10sqm of open space per student.

Based on the existing student capacity of the Senior School, the site currently provides approximately 18.6sqm of open space per student. Based on the proposed student capacity of 1,600 students, the site provides approximately 15.5sqm of open space per student.

Given the exceedance of the SINSW Guidelines and high quality of facilities on site, the current provision of open space is considered acceptable for the increased student capacity.

5.1.2. Sanitary Facilities

To ensure that adequate bathrooms are provided for all students, a BCA Assessment has been undertaken by Jensen Hughes to assess the current sanitary facilities within the campus. This assessment has assumed a future student split of 60% males (960) and 40% females (640). A total of 285 employees will be provided on an equal gender basis (143 males and females).

The assessment has confirmed that the number of facilities currently distributed throughout the campus well exceeds the minimum requirements of the *Building Code of Australia 2022 (BCA) Volume 1 (BCA 2022)*. Whilst Cranbrook is currently only supporting male students, it is considered that the existing facilities could be readily configured to accommodate the proposed female intake and meet the relevant BCA 2022

requirements. Where necessary, facilities can be updated by the installation of statutory signage identifying their allocation for either male or female students and staff and minor works including partitions and wall alterations. It is anticipated that any future physical works required will be undertaken as exempt development or via a Review of Environmental Factors in accordance with Part 5 of the EP&A Act.

5.2. TRAFFIC

A Traffic Impact Assessment has been prepared by ptc which assesses the potential impacts likely to be generated by the proposed increase in student population and refinements to the current operational hours.

5.2.1. Current Travel Characteristics

An online survey was conducted in September/October 2022 to determine the travel characteristics as well as the utilisation of pickup/ drop-off and parking areas within Cranbrook. In summary:

- A high proportion of students use public transport to and from school (47% in the morning and 56% in the afternoon). This is considered to be highly favourable compared to other schools, and Cranbrook will continue to promote this transport mode.
- There is a higher proportion of students being driven to school (33%) in the morning compared to the population being picked up in the afternoon (20%). This trend is commonly seen, as often the morning school trip is part of a parent's journey to work. However, the car use is on the lower end of the scale compared with other schools.
- There is a small proportion (6%) of students who drive to/from school. The average car occupancy in the morning and afternoon is 1.24 and 1.27 respectively.
- In regard to staff, 69% drive to and from school, 13% use public transport and 8% use active transport. The main reasons for high car usage include increased travel time by public transport.

5.2.2. Traffic Generation

In order to assess the traffic conditions within the surrounding road network serving the School, traffic impacts on following key intersections have been analysed.

- Intersection 1: New South Head Road / Victoria Road (Signalised 3-arm intersection);
- Intersection 2: New South Head Road / Rose Bay Avenue (Priority controlled 3-arm intersection)
- Intersection 3: Victoria Road / Rose Bay Avenue (Priority controlled 4-arm intersection).
- Intersection 4: Victoria Road / Site Driveway (Priority controlled 3-arm intersection).

Traffic count surveys were undertaken by ptc at the key intersections on Tuesday 6 September 2022 (outside of school holiday period) between 6:00am – 9:00am and 2:00pm – 7:00pm. The survey data indicates the following network peak periods:

- School AM Peak Hour (Morning Peak): 7:30am – 8:30am.
- School PM Peak Hour (Afternoon Peak): 2:45pm – 3:45pm.

Traffic generation for the morning and afternoon peaks have been assessed for current enrolments (1,172), current student cap (1,339) and the proposed student cap (1,600).

The traffic volume for the proposed staff population has been calculated based on the existing vehicular utilisation derived from the online surveys. Staff are anticipated to arrive before the student arrival time with 51 additional vehicles anticipated in both morning and afternoon peak hours based on the proposed student cap.

Morning Peak Hour

The following assumptions have been made to assess the additional traffic volumes associated with increased students for the morning peak hour as described in **Table 5**:

- Based on the 2022 survey, approximately 16% of students arrive at the school prior to the bell time to attend before school activities. Cranbrook is proposing to increase the current before school activity offerings and attendance to accommodate approximately 300 students (18%).

- Staggered bell times are proposed for the future school operation, with Year 11 and 12 students anticipated to arrive around 9:10am, which is outside of the morning peak.

Table 5 Morning Peak Hour vehicle movements

Student Number	# attending before morning peak	# attending during morning peak	# attending after morning peak	# of Drivers	# of Passengers	Total Vehicles
1,172 <i>Current enrolment</i>	184	998	N/A	48	263	311
1,339 <i>Current student cap</i>	214	1,125	N/A	54	299	353
1,600 <i>Proposed student cap</i>	300	770	530	37	205	242

In summary, based on the staggered bell times and increased opportunities for before school activities, the total vehicle traffic generation for the future student cap is comparable with the existing student traffic during the morning peak. Therefore, vehicular traffic in the surrounding intersections is anticipated to largely remain at the current level in the morning. As no significant increase in vehicular movements is expected, no traffic modelling for the future scenario is seen as necessary for the morning peak hour.

Afternoon Peak Hour

The following assumptions have been made to assess the additional traffic volumes associated with increased students for the afternoon peak hour as described in **Table 6**:

- Based on the 2022 survey, approximately 15% of students stay on campus to attend after school activities. Cranbrook is proposing to increase the current after school activity offerings and attendance to accommodate approximately 350 students (22%).
- Staggered bell times are proposed for the future school operation, with Year 11 and 12 students anticipated to finish at 4:15pm, which is outside of the afternoon peak.

Table 6 Afternoon Peak Hour vehicle movements

Student Number	# leaving during afternoon peak	# attending after school activities	# of Drivers	# of Passengers	Total Vehicles
1,172 <i>Current enrolment</i>	985	186	47	155	202
1,339 <i>Current student cap</i>	1,138	201	54	179	233
1,600 <i>Proposed student cap</i>	1,250	350	59	197	256

Based on the proposed student cap and staggered bell times, there is anticipated to be a minor increase in vehicular trips in the afternoon by 54 based on the existing student enrolment and 23 based on maximum numbers in accordance with the current student cap. To further assess the impacts, analysis of the performance of the surrounding intersections has been undertaken using the SIDRA modelling software to determine if there are any impacts on the Level of Service (LoS) of the surrounding street network.

New South Head Road / Victoria Road

The LoS of this intersection is currently B and A for the AM and PM peak hour respectively.

- During the AM peak hour, with the approved student cap volumes the intersection will operate at minimum 12% spare capacity, and no significant changes noted to other performance measures. The implementation of additional before school activities is seen as a positive outcome to assist in the distribution of the arrival of students outside the morning peak.
- During the PM peak hour, both the approved and future student cap volumes result in a LoS from A to B. However, the intersection still operates with minimum 21% spare capacity and only marginal changes are noted to other performance measures.

New South Head Road / Rose Bay Avenue

The intersection operates with LoS A with at least 54% spare capacity during the morning and afternoon peak hours. The approved and future student cap volumes retain the existing LoS and result in only marginal changes to other performance measures.

Victoria Road / Rose Bay Avenue

The intersection operates with LoS A and at least 77% spare capacity during the morning and afternoon peak hours. The approved and future student cap volumes retain the existing LoS and result in only marginal changes to other performance measures.

Victoria Road / Site Driveway

The intersection operates with LoS A and at least 59% spare capacity during the morning and afternoon peak hours. The approved and future student cap volumes retain the existing LoS and result in only marginal changes to other performance measures.

In summary, while the increase in student numbers results in the reduction of the New South Head Road/Victoria Road intersection to a LoS of B, this intersection operates with sufficient spare capacity and only marginal changes are noted to other key intersections. The positive benefits of staggering bell times and introducing additional before and after school activities minimises impacts on the surrounding road network associated with additional students on site.

To ensure that sustainable measures of travel are continued to be encouraged by Cranbrook, the approved Green Travel Plan has also been updated by ptc. The following actions have been implemented as part of the Green Travel Plan to encourage use of active and public transport options:

- A Travel Access Guide has been prepared and is available on the School's website. The TAG will be updated on an "as needed" basis and identifies:
 - the walking catchment and pedestrian access points has been prepared. It.
 - the cycle catchment, cycle paths and bike rack
 - a comprehensive map of the available public transport network, private bus services and bus stops in the surroundings of the School
- Cycling in particular is promoted through newsletters and school communication portals
- Students and staff are encouraged to car share though promotion in newsletters, brochures and other communication tools used by the school. It is also communicated at school assemblies, house meetings and staff briefings.

5.3. NOISE

An Acoustic Assessment has been prepared by Acoustic Logic to assess potential impacts associated with both the operation of the school and vehicular movements associated with the increased number of students on site. The current background noise levels on site have been based on noise monitoring from previous assessments undertaken which identified a background noise level of 44dB(A) for both the daytime and evening periods.

Given the existing use of the site as an educational establishment:

- Noise generation from indoor activities and outdoor playing areas associated with additional students is anticipated to result in less than 1dB(A).
- Noise generation from additional vehicles during morning pick up and afternoon drop off is anticipated to result in less than 1dB(A).
- Noise generation from new bell times for senior students remain within the day time period criteria in accordance with the EPA Industrial Noise Policy.

In summary, Acoustic Logic notes that an increase of 1-2db(A) is imperceptible and is considered negligible in accordance with the EPA Industrial Noise Policy and EPA Road Noise Policy. As such, no additional acoustic treatments are required to prevent any adverse acoustic impacts on surrounding residential noise receivers.

6. SECTION 4.15 ASSESSMENT

The proposed development has been assessed in accordance with the relevant matters for consideration listed in section 4.15 of the EP&A Act.

6.1. ENVIRONMENTAL PLANNING INSTRUMENTS

The proposed development has been assessed in accordance with the relevant State and local environmental planning instruments in **Section 4**.

The assessment concludes that the proposal complies with the relevant provisions within the relevant instruments.

6.2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

No draft environmental planning instruments are relevant to this proposal.

6.3. DEVELOPMENT CONTROL PLAN

Woollahra Development Control Plan 2015 provides detailed planning controls relevant to the site and the proposal. An assessment against the relevant controls is provided in **Section 4.3**.

The assessment concludes the proposal complies with the relevant provisions within the DCP.

6.4. PLANNING AGREEMENT

No planning agreements are relevant to this proposal.

6.5. REGULATIONS

This application has been prepared in accordance with the relevant provisions of the *Environmental Planning and Assessment Regulations 2021*.

6.6. LIKELY IMPACTS OF THE PROPOSAL

The proposed development has been assessed considering the potential environmental, economic and social impacts as outlined below:

- **Built Environment:** The proposal does not result in any changes to the approved built form on site. While Cranbrook is listed as a local heritage item (Item 44) under the WLEP 2014, the proposal does not result in any physical works. As such, the proposal has no impact on the overall heritage significance of Cranbrook School or the nominated buildings contained within the WLEP heritage listing. An assessment of both open space and sanitary facilities has also been undertaken to ensure that the campus provides adequate facilities for the proposed number of students.
- **Traffic:** Traffic modelling undertaken by ptc indicates that the proposed student cap will result in some impacts on the surrounding road network compared to the existing enrolment numbers. However, all intersections still operate with sufficient spare capacity and only marginal changes are noted to other performance measures. Cranbrook is also implementing strategies to reduce the numbers of students being dropped off and picked up by car during peak hours by increasing before and after school activities and staggering bell times.
- **Acoustic:** Noise associated with additional students is considered negligible in accordance with the EPA Industrial Noise Policy and EPA Road Noise Policy. As such, no additional acoustic treatments are required to prevent any adverse acoustic impacts on surrounding residential noise receivers.
- **Social and Economic:** The increase to the existing student capacity will contribute towards meeting the growing need for school places, particularly at co-educational establishments in the Woollahra LGA. Cranbrook will accommodate these places within existing high quality, fit for purpose spaces and facilities. The proposal will also generate additional FTE staff jobs, therefore contributing to the employment opportunities in the Woollahra LGA.

6.7. SUITABILITY OF THE SITE

The site is considered highly suitable for the proposed development for the following reasons:

- The site is entirely suitable for the development of the proposal as it continues the use of the site as an educational establishment.
- Cranbrook has a historical association with the site having been located on the current campus since 1918. The proposal is therefore highly suitable for the site to maintain the ongoing presence of the school in the area.
- The site is capable of accommodating additional students and staff with no undue impacts on surrounding residential properties or the surrounding road network.
- The proposal maintains existing car parking numbers within the campus and is well serviced by public transport.
- The current traffic modelling indicates that the local road network can accommodate the additional traffic volumes associated with the proposed works and increase in students and staff. The implementation of the Green Travel Plan and other proposed changes to the school operation will assist in the ongoing management of traffic associated with Cranbrook.

6.8. SUBMISSIONS

It is acknowledged that submissions arising from the public notification of this application will need to be assessed by Council.

6.9. PUBLIC INTEREST

The proposed development is considered in the public interest for the following reasons:

- The proposal is consistent with relevant State and local strategic plans complies with the relevant State and local planning controls.
- The proposal will allow Cranbrook to provide high quality education within their existing senior campus for a new generation of co-education learning.
- As noted in **Section 2.6**, members of the community raised concerns regarding the traffic impacts associated with additional students. The proposed operational changes on site including staggered bell times and additional before and after school activities aim to reduce vehicles during the morning and afternoon peak hours. Other measures to reduce traffic are to be implemented via the Green Travel Plan including encourage active and public transport options which will also reduce traffic impacts on the surrounding road network.

7. CONCLUSION

The proposal to increase the Cranbrook School Senior Campus student cap to 1,600 students has been assessed in accordance with section 4.15 of the EP&A Act and is considered appropriate for the site and the locality:

- **The proposal satisfies the applicable planning controls and policies:** the proposal satisfies the objectives of all relevant planning controls and maintains an existing educational establishment on its current campus.
- **The proposal will not result in any adverse environmental impacts:** it has been demonstrated that the proposal will not result in any negative impacts on the surrounding locality. Additional traffic associated with the increase in students will be mitigated via staggered bell times and more opportunities for students to stay on campus outside of peak hours. Noise associated with the additional students is also considered negligible.
- **The proposal will result in positive social and economic impacts:** the proposal will provide opportunities for co-educational secondary students within the Woollahra LGA to meet the increasing demand for co-education.
- **The proposal is highly suitable for the site:** the proposal is permitted within the SP2 zone, is consistent with the zone objectives and compatible with the heritage significance of the Cranbrook campus.
- **The proposal is in the public interest:** the proposal is in the public interest as has considered the relevant planning policies as well as feedback received during preliminary community consultation.

Having considered all relevant matters, we conclude that the proposed development is appropriate for the site and approval is recommended, subject to appropriate conditions of consent.

DISCLAIMER

This report is dated 17 August 2023 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Cranbrook School (**Instructing Party**) for the purpose of Statement of Environmental Effects (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.