



Application Assessment Panel

Tuesday 5 November 2024
10.00am

Agenda

Application Assessment Panel (AAP) Meetings:

Woollahra Council will be holding Application Assessment Panel (AAP) 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 are able to participate in the meeting by audio-visual link instead of attending in person.

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 listen to the meeting live at 3.00pm**
Visit Council's website at 3.00pm 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 - 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.

If you are experiencing any issues in joining the meeting please contact Council's Governance Team on (02) 9391 7001.

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Panel/Staff to present apologies and/or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Panel.
- If person(s) wish to address the Panel, they are allowed three (3) minutes in which to do so. 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 Chairperson 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), and arrive at a resolution.

Disclaimer:

By speaking at the Application Assessment Panel (AAP) 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.

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

Application Assessment Panel Membership: 1 Chair and 2 Panel Members

Quorum: 3 Panel members

Woollahra Municipal Council

Notice of Meeting

28 October 2024

To: Scott Pedder (Director Planning & Place) (Chair)
Rosemary Bullmore (Manager Legal, Compliance & Enforcement)
Tom O'Hanlon (Director Infrastructure & Sustainability)
Craig Swift-McNair (General Manager)
Anne White (Manager Strategic Planning & Place)

CC: The Mayor
All Councillors

Application Assessment Panel – 5 November 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Application Assessment Panel** meeting to be held in the **Thornton Room (Committee Room)**, 536 New South Head Road, Double Bay, on **Tuesday 5 November 2024 at 10.00am**.

Members of the public are advised that we will be holding Application Assessment Panel meetings remotely using conferencing technology (until further notice).

- Register to address the meeting (via Zoom) by completing the relevant form available on Council's website:
<https://www.woollahra.nsw.gov.au/files/assets/public/v/3/forms/registration-form-to-address-planning-panels.pdf> and email the completed form to records@woollahra.nsw.gov.au **by 12 noon day before the meeting**.
- Submit late correspondence for consideration by the Panel by emailing records@woollahra.nsw.gov.au **by 12 noon day before the meeting**.

Information on how to listen and/or address the Panel will be available on Council's website https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/aap.

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

Regards,

Craig Swift-McNair
General Manager

Application Assessment Panel
Agenda

| Item | Subject | Page |
|--|---|-------------|
| 1. | Opening | |
| 2. | Acknowledgement of Country (Gadigal People and Birrabirragal People) | |
| 3. | Leave of Absence and Apologies | |
| 4. | Declarations of Interest | |
| Items to be Decided by this Committee using its Delegated Authority | | |
| D1 | Confirmation of Minutes of Meeting held on 29 October 2024 - 24/196765..... | 7 |
| D2 | DA84/2024/1 - 30 Wolseley Road, Point Piper - 24/198435..... | 9 |
| | *See Recommendation Page 64 | |

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 29 OCTOBER 2024**
Author: Sue O'Connor, Governance Officer
File No: 24/196765
Purpose of the Report: The Minutes of the Application Assessment Panel of 29 October 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Recommendation:

THAT the Minutes of the Application Assessment Panel Meeting of 29 October 2024 be taken as read and confirmed.

Executive Summary:

This report presents the Application Assessment Panel Minutes of 29 October 2024 for confirmation.

Discussion:

The Application Assessment Panel Minutes are presented as a procedural matter. Any matter arising from the Minutes can be discussed.

Options:

Submission of Minutes to the Application Assessment Panel is a procedural matter for the adoption of the Minutes.

Community Engagement and / or Internal Consultation:

No internal or external consultation has taken place in the preparation of this report.

Policy Implications:

There are no direct policy implications as a result of this report.

Financial Implications:

There are no direct financial implications as a result of this report.

Resourcing Implications:

There are no direct resourcing implications as a result of this report.

Conclusion:

The Minutes are presented for confirmation by the Application Assessment Panel.

Attachments

Nil

DEVELOPMENT APPLICATION ASSESSMENT REPORT

| | |
|------------------------|---|
| ITEM No. | D2 |
| FILE No. | DA84/2024/1 |
| ADDRESS | 30 Wolseley Road POINT PIPER |
| SITE AREA | 651.5m ² |
| ZONING | R3 Medium Density Residential |
| PROPOSAL | Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping |
| TYPE OF CONSENT | Local development |
| COST OF WORKS | \$6,145,438.00 |
| DATE LODGED | 20/03/2024 |
| APPLICANT | M J Suttie Architects Pty Ltd |
| OWNER | The Owners - Strata Plan No. 17447 |
| AUTHOR | C Hartas |
| TEAM LEADER | T Wong |
| SUBMISSIONS | Four (4) |
| RECOMMENDATION | Conditional Approval |

1. REASONS FOR RECOMMENDATION

This application under DA84/2021/1 (**Subject Application**) has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 (**the Act**) and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of the Woollahra Local Environmental Plan 2014 (**WLEP 2014**) and the Woollahra Development Control Plan 2015 (**WDCP 2015**);
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory;
- The site is suitable for the proposed development; and
- The proposal is in the public interest

2. LOCALITY PLAN



3. LEVEL OF DELEGATION

The application is to be determined by the Application Assessment Panel (**AAP**) as:

- The estimated cost of works is between \$5M and \$30M

4. PROPOSAL



Image 1. Photomontage of the Proposal. *Source:* Submitted Architectural Plans

The Subject Application at 30 Wolseley Road, Point Piper (**the Site**) was amended on 24 May 2024 and a replacement application was lodged under Clause 37 of the Environmental Planning and Assessment Regulation 2021. It involved the following changes:

1. Basement floor plan amended to show the 450mm thick retaining wall recessed by 250mm and an additional wall proposed.
2. Site Plan, Basement and Level 1 floor plans amended to a more detailed layout of No.32-34 Wolseley Road as per the existing condition adjacent to the Western boundary of the Site.
3. Site Plan, Basement and Level 1 floor plans amended to include a proposed privacy screen (1.7m total height) mounted on top of the Western boundary wall to improve the visual privacy for the No.32-34 Wolseley Road.
4. Site Plan and Level 1 floor plan amended to show the proposed swimming pool's setback from the Western Boundary.
5. Level 1 floor plan amended to include a battered wall for the infinity pool overflow to mitigate any risk of noise pollution from falling water.
6. Western elevation revised to show Western facade with amended pool edge design to improve the acoustic amenity for the No.32-34 Wolseley Road.
7. North elevation and Sections A, C and E revised to show sightline diagrams with proposed hedging and plantation, existing 9m high existing hedging along the western boundary, proposed privacy screen (total 1.7m) high mounted on top of the boundary wall, battered wall around the pool's western edge, more detailed representation of No.32-34 Wolseley Road's existing conditions.

The Subject Application, as amended, seeks approval for the demolition of the existing building and associated structures on the Site and the construction of a 3 storey residential flat building, comprising: three (3) units; basement car parking including 5 vehicle parking spaces, motorbike and scooter parking, a turntable, storage areas, internal lift, car lift, and a wash bay; a swimming pool and associated structures within the rear setback area; and associated landscaping works (**the Proposal**).

The Proposal's key elements, as outlined in the submitted Architectural Plans, include:

Demolition & Tree Removal

- All existing structures on the Site are proposed to be demolished, including:
 - i. The existing strata titled attached dual occupancy building;
 - ii. The existing brick garage in the south-east corner of the Site; and,
 - iii. The existing landscaping and associated structures throughout the Site (existing Jacaranda in the front setback area to be retained).
- Outside of the Site, an existing Water Gum on the Council verge is proposed to be removed for the proposed driveway crossing.

Proposed Works

Basement

- Car lift.
- Motorbike and scooter parking.
- Vehicle turntable.
- Wash bay.
- Internal lift.
- 5 x car parking spaces.
- Storage 1, 2 & 3.
- Body Corporate storage/maintenance and equipment storage.
- Boat equipment storage.
- Loggia.

- A/C plant room.
- 1.7m privacy screen above rear boundary wall.
- Contiguous piling around the majority of the proposed basement perimeter.

Level 1 – 3 Bedroom Unit (Unit 1)

- Car lift.
- Common stairs and associated hall
- 1 x 3 Bedroom Unit comprising:
 - i. Bedroom 1 with associated dressing room and ensuite;
 - ii. Bedroom 2 with associated ensuite;
 - iii. Bedroom 3 with associated ensuite;
 - iv. Laundry;
 - v. Powder room;
 - vi. Open plan kitchen, living & dining;
 - vii. Rear verandah;
 - viii. Rear private open space (grassed area), and
 - ix. Swimming pool.

Level 2 – 3 Bedroom Unit (Unit 2)

- Car lift.
- Open air bin enclosure.
- Front boundary wall and pedestrian entry gate.
- Front setback area landscaped area, including cantilevered front courtyard stairs.
- Common stairs and associated hall
- 1 x 3 Bedroom Unit comprising:
 - i. Bedroom 1 with associated dressing room and ensuite;
 - ii. Bedroom 2 with associated ensuite;
 - iii. Bedroom 3;
 - iv. Bar;
 - v. Powder room;
 - vi. Open plan kitchen, living & dining, and
 - vii. Rear verandah

Level 3 – 3 Bedroom Unit (Unit 3)

- 1 x 3 Bedroom Unit comprising:
 - i. Bedroom 1 with associated dressing room and ensuite;
 - ii. Bedroom 2
 - iii. Bedroom 3;
 - iv. Bathroom
 - v. Laundry;
 - vi. Open plan kitchen, living & dining, and
 - vii. Rear verandah, including motorised screens.

Landscaping Front Setback Area

- Retain existing Jacaranda;
- Cantilevered entry stairs;
- Pedestrian footpath (pavers)
- Garden plantings comprising a variety of ground cover and shrubs; and
- 3 x ornamental pear trees within the proposed bin store area (pot size 100L).

Landscaping Side Setback Areas

- Northern pebble pathway;
- Northern deep soil garden to accommodate hedge planting;
- Southern pathway (stepping pavers);
- Southern Ground cover planting; and,

- Southern hedge planting.

Landscaping Rear Setback Area

- Lawn;
- Planters;
- Southern low hedge planting;
- Basement level deep soil area topped with pebbles;
- Rear boundary planting to include 5 x Crepe Myrtle capable of a mature height of 8m.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

| Clause | Development Standard | Departure from Control | Conclusion |
|-----------|----------------------|---|--------------|
| Part 4.1A | Minimum Lot Size | 48.5m ² or 6.9% departure from the 700m ² control | Satisfactory |
| Part 4.3 | Height of Buildings | 0.41m or 3.9% departure from the 10.5m control | Satisfactory |

5.2 Primary Issues

| Issue | Conclusion | Section |
|--|---|------------|
| View Loss | Satisfactory. The Proposal would result in an acceptable view sharing outcome | 16.2.3 |
| Non-compliance with the Minimum Lot Size development standard under cl.4.1A of WLEP 2014. | Satisfactory. The submitted Section 4.6 written request to vary the Minimum Lot Size development standard under cl. 4.1A is considered to be well founded. | 15.6 |
| Non-compliance with the Height of Buildings development standard under cl.4.3 of WLEP 2014 | Satisfactory. The submitted Section 4.6 written request to vary the Height of Buildings development standard under cl. 4.3 is considered to be well founded. | 15.6 |
| Overlooking from raised swimming pool and garden. | Satisfactory. Condition D.2a) has been recommended requiring the level of the rear yard, swimming pool and associated trafficable areas to be no higher than the existing level. | Conditions |
| Objector Concerns | Acknowledged. Assessed as acceptable or addressed by way of Conditions of Consent. | Throughout |

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

| Physical features |
|--|
| The Site is legally described as SP 17447 and comprises two (2) strata lots. The Site is irregular shaped allotment, with a frontage upon Wolseley Road to the east. The north-western side boundary measures 37.035m; the south-eastern side boundary measures 38.71m; the north-eastern boundary fronting Wolseley Road measures 20.42m; and the south-western (rear) boundary measures 14.18m. The Site measures 651.5m ² in extent. |
| Topography |
| The Site generally slopes from the front boundary down to the rear boundary by approximately 8.8m. Historic excavation accommodating the existing building has resulted in irregular elevation changes throughout the Site, most notably below the existing garage structure and extending along southern portion of the Site. Subsequently, the existing front setback area has an elevation change from the north-western boundary to the south-eastern boundary of approximately 4m. From the existing vehicle crossing at the Site to the intersection with Wingadal Place, Wolseley Road slopes gradually down from south to north by approximately 4m. More broadly, the highest and centrally located areas of the Point Piper peninsula provide limited flat areas, with relatively steep topography descending to the Harbour on most sides. The western side of the Point Piper peninsula slopes steeply down towards the Harbour, providing |

the opportunity for stepped design to compliment the sloping land and allow for view sharing across the Harbour.

Existing buildings and structures

The Site is currently occupied by a two (2) storey attached dual occupancy development, with a elevated double garage structure in the south-east corner of the Site, fronting Wolseley Road. Sandstone retaining walls support the adjoining land along part of the eastern and southern boundaries, whilst stone and timber retaining walls provide for tiered landscaped areas in the rear setback area.

Surrounding Environment

The adjoining locality is characterised by multi-storey dwelling houses, dual occupancies and residential flat buildings, which reflects the R3 zoning along the western slope of the precinct. The subdivision pattern along the western slope of the precinct comprises a mix of large irregular and battle-axe allotments ranging in area from approximately 550m² to 2,600m². Development for the purposes of residential flat buildings and multi dwelling housing is encouraged and forms part of the desired future character for the Point Piper Precinct more broadly.

Immediately to the south, No. 26-28 Wolseley Road accommodates a 2 and 3 storey dwelling house, identified as a Local Heritage Item (I291) and described as “Building and interiors” under the WLEP 2014. The allotment fronts Wolseley Road and extends down the western slope to the waterfront. It also benefits from a recent Land and Environment Court (**Court**) approval for the “*Construction of a second dwelling on the lower part of 26-28 Wolseley Road, Point Piper (in the form of an attached dual occupancy with connectivity via the existing dwelling), landscaping, drainage, and other associated works*”.

Immediately to the northwest, the Site adjoins the access handle associated with No. 38 Wolseley Road, which accommodates an approved car lift providing vehicle access to basement parking associated with the approved residential flat buildings.

To the west and downslope, the battle axe allotment No. 32-34 Wolseley Road accommodates an approved 4 storey attached dual occupancy, accessed from Wolseley Road by way of a pedestrian access handle extending the length of the northern boundary of the Site.

On the north-eastern side of Wolseley Road across the Site, No. 2B Wentworth Street accommodates a multi-storey residential flat building, with raised open space sited above garage structures adjoining Wolseley Road.

The road reserve is approximately 20m wide and accommodates pedestrian footpaths on the eastern and western sides, dispersed landscaped verges with mature street trees, and on-street parking on both sides.

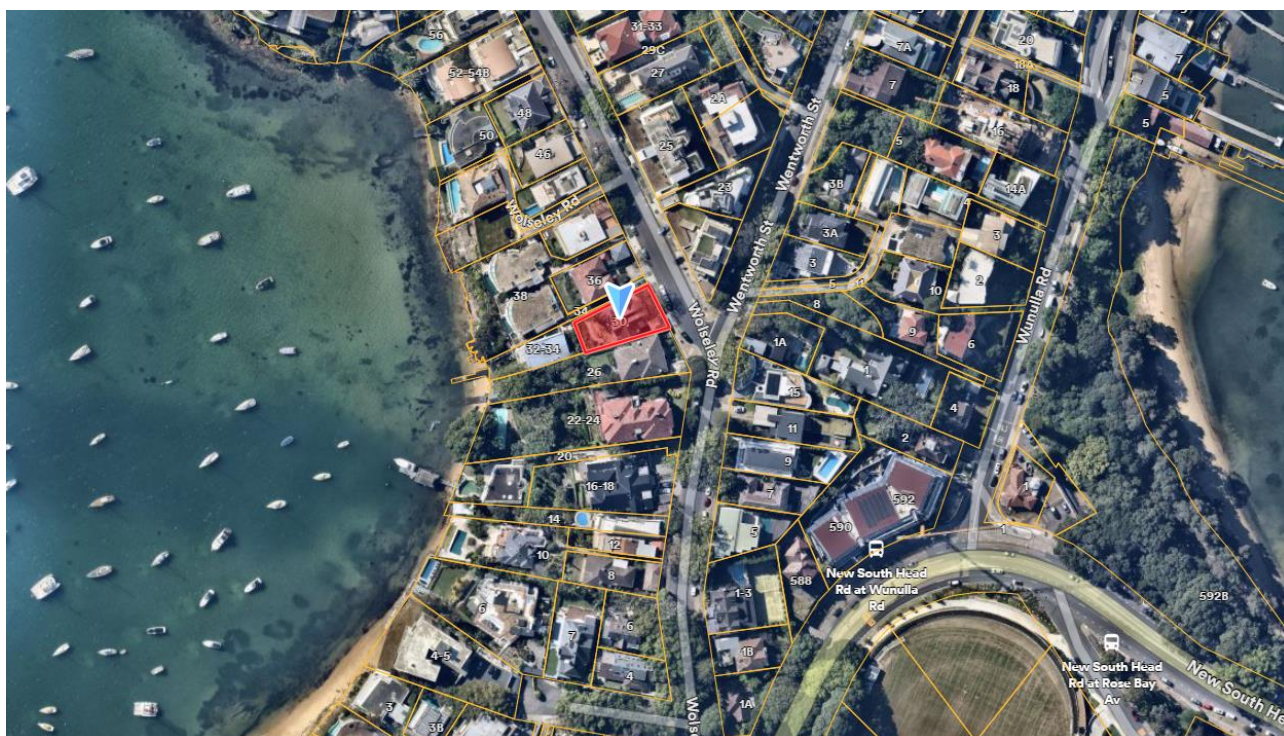


Image 2. Aerial view with the Site highlighted red. Source: Nearmap



The Site viewed from the eastern side of Wolseley Road.



Front setback area viewed from both the northern and southern pedestrian entrances



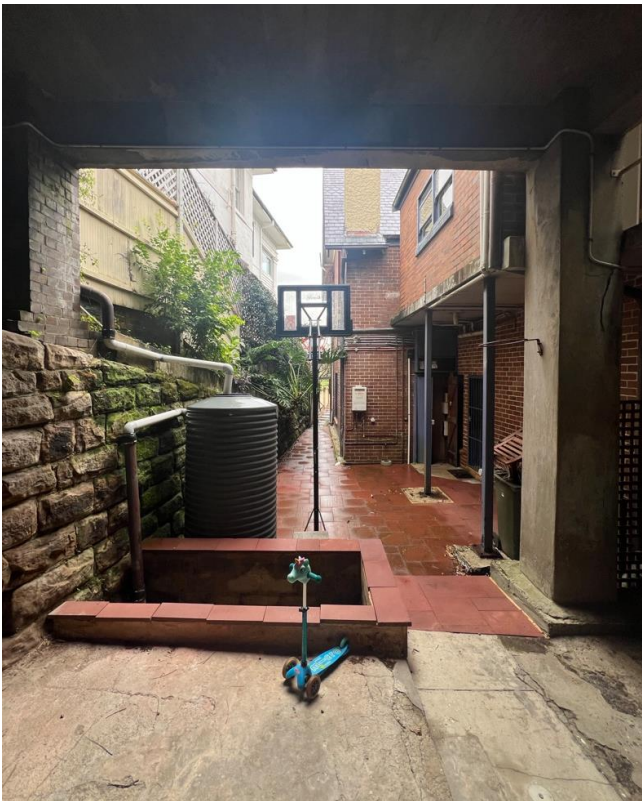
Southern pedestrian stair and existing garage structure.



Northern side setback area.



Area below existing raised garage structure with existing sandstone retaining walls



Existing southern side setback area



Existing relationship with southern adjoining property at 26-28 Wolseley Road.



Existing rear setback area looking west and north-north.





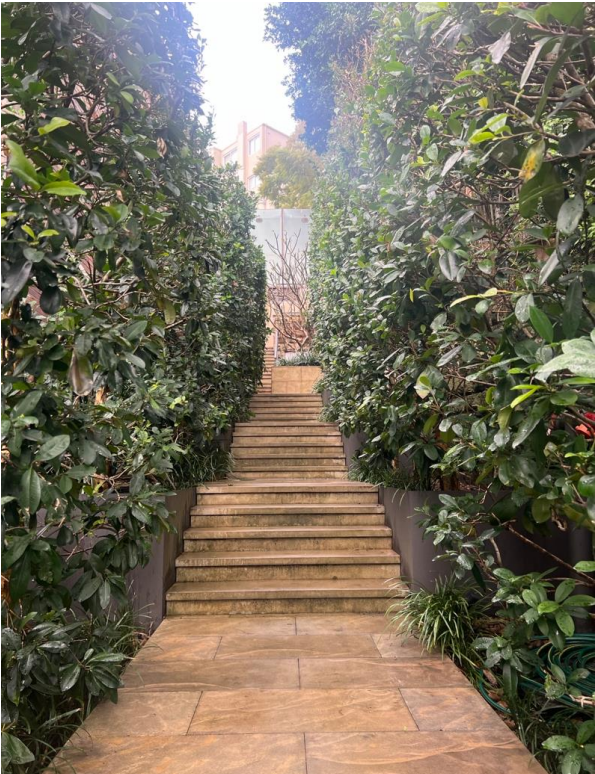
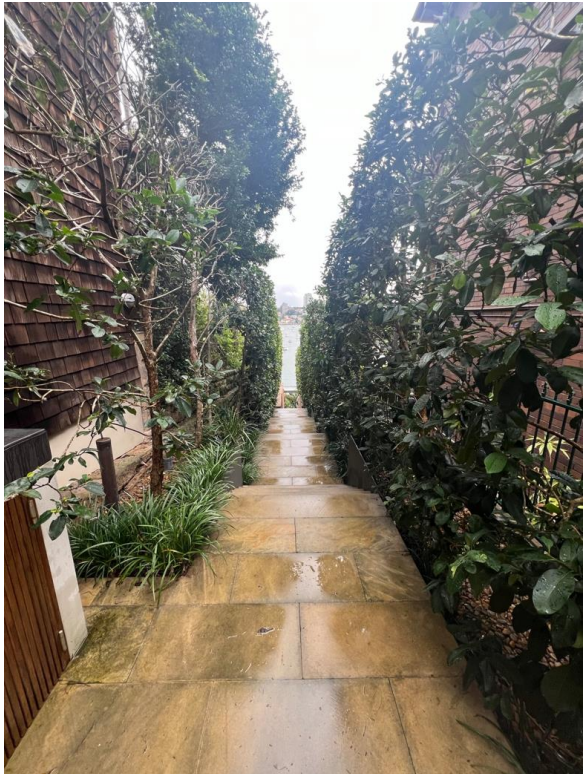
Looking north-west and south-west from existing rear setback area.



Existing rear elevation.



Existing relationship with northern adjoining property.



Pedestrian access to 32-34 Wolseley Road adjacent to the northern boundary of the Site

7. RELEVANT PROPERTY HISTORY

| |
|--|
| Current use |
| Residential – Attached dual occupancy. |
| Relevant Application History |
| <ul style="list-style-type: none"> On 10 June 2008 DA2008/11/1 was approved for “<i>Alterations and additions including new drainage system with rainwater tanks, new concrete slab to courtyard and new footpath</i>”. On 29 September 2006 DA2006/470/1 was approved for “<i>Alterations and additions</i>” |
| Relevant Compliance History |
| Nil |
| Pre-DA |
| Nil |
| Requests for Additional Information and Replacement Applications |
| <ul style="list-style-type: none"> On 3 April 2024, a Stop the Clock letter (STC) was issued requesting the following items: <ol style="list-style-type: none"> Mechanical Ventilation Exhaust for the Basement Parking. Section 4.6 written request to address the proposed non-compliance with the Height of Buildings (HoB) development standard under WLEP 2014. Updated Traffic Assessment Report and Architectural Plans Details regarding the requirement for an Electricity Substation. On 30 April 2024, the Applicant provided a response to Items 1-4 above, including: <ol style="list-style-type: none"> Ausgrid Response. Electrical Engineer Letter. Traffic Engineer’s Response to RFI. Mechanical Ventilation Drawings. Updated Statement of Environmental Effects (SEE). |
| Land and Environment Court Appeal(s) |
| Nil |

8. REFERRALS

| Referral | Summary of Referral Response | Attachment |
|-------------------------|--|------------|
| Development Engineering | Satisfactory – Subject to Conditions. | 4 |
| Drainage | Satisfactory – No Conditions. | 5 |
| Traffic | Satisfactory – Subject to Conditions. | 6 |
| Trees and Landscaping | Satisfactory – Subject to modification of the Proposal, requiring: Amended Sediment and Erosion Control Plan; Amended Stormwater Drainage Plan; and, Amended Landscape Plan (Street Tree Planting). | 7 |
| Heritage | Satisfactory – Demolition of the existing building is supported. The Proposal would not have adverse impacts on the cultural significance of the adjoining Heritage Item. | 8 |

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

- The provisions of any environmental planning instrument
- The provisions of any proposed instrument that is/has been the subject of public consultation
- The provisions of any development control plan
- Any planning agreement that has been entered into
- Any draft planning agreement that a developer has offered to enter into
- The regulations
- Any coastal zone management plan
- The likely impacts of that development:
 - Environmental impacts on the natural and built environments
 - Social and economic impacts

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 **10 April 2024** to **25 April 2024** in accordance with Chapter 6 of the Woollahra Community Participation Plan. Submissions were received from:

1. Lawrence Lau of 32 Wolseley Road, Point Piper.
2. David Trew of 26-28 Wolseley Road, Point Piper.
3. Daniel Joel on behalf of Helen and Diana Hutton-Potts of 4/36 Wolseley Road, Point Piper
4. Bob Chambers on behalf of Collette Potter of 26-28 Wolseley Road, Point Piper.

9.2 Summary of Submissions

| Issue | Conclusion | Section |
|---|---|-----------------------------|
| View Loss | Satisfactory. The Proposal is considered to result in an acceptable view sharing outcome to the adjoining property at 26-28 Wolseley Road. | 16.2.3 |
| Visual Privacy (Overlooking) | Satisfactory. Appropriate privacy measures have been proposed. Condition D.2 ensures adequate privacy to adjoining properties. | 16.2.3 |
| Acoustic Privacy | Satisfactory. | 16.2.3 |
| Ventilation | Satisfactory. The Proposal would provide a 13m separation to 36 Wolseley Road. It is separated by an access handle and also increases the northern side setback compared to existing. Adequate opportunities for ventilation would be provided. | 16.2.1 |
| Overshadowing | Satisfactory. The Proposal would have no impact upon the property to the north at 36 Wolseley Road. Additional overshadowing to the adjoining property to the south at 26-28 Wolseley Road is considered acceptable in the context of the locality. | 16.2.3 |
| Impacts During Construction | Satisfactory. A Site Waste Minimisation and Management Plan and Construction Management Plan have been submitted and found to be satisfactory. Conditions of Consent are also recommended with regard to noise, dust, vibration and traffic impacts. | 16.6 & Conditions |
| Insufficient detail provided on the submitted Survey Plan | Satisfactory. The submitted survey plan meets the requirements of the Woollahra Council DA Guide and is considered sufficient for the purposes of this assessment. | NA |
| Excessive excavation along the southern side boundary of the Site | Satisfactory. The proposed excavation is assessed as acceptable. Council's Development Engineer has recommended relevant Conditions of Consent to minimise potential impacts of the proposed excavation. | 15.10, 16.2.2 & Conditions. |
| Adverse Heritage Impact to adjoining Heritage Item | Satisfactory. Council's Heritage Officer has determined that the Proposal would not adversely impact the significance of the adjoining Heritage Item. | 15.7. |

9.3 Replacement Application

The replacement application noted in Section 4 was not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.4 Statutory Declaration

The applicant has completed the statutory declaration dated **29 April 2024** declaring that the site notice for DA84/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan.

10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

This policy generally applies to all residential developments (excluding alterations and additions less than \$50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

Chapter 2 - Standards for residential development—BASIX

Chapter 2 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by a BASIX Certificate No. 1378009M_02 demonstrating compliance with the SEPP. These requirements are imposed by standard condition.

11. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

11.1 Chapter 4 - Design of Residential Apartment Development

Chapter 4 of the Housing SEPP applies to development for the purposes of a residential flat building, but only if the building is at least 3 storeys **and** contains at least 4 dwellings (s144 (3)(b)(c)).

The Proposal involves the erection of a new residential flat building comprising 3 storeys (not including the proposed basement level) and only 3 dwellings.

Accordingly, the provisions under Chapter 4 are not applicable and the Proposal will be assessed under Part B3.8.6 of Chapter B3 of the WDCP 2015.

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

12.1 Chapter 2 – Coastal Management

Chapter 2 of the Resilience and Hazards SEPP applies to the Site as it is located within the Coastal Zone, by virtue of its location within the Coastal Environment Area and Coastal Use Area.

Part 2.10 precludes the grant of development consent to development on land in the Coastal Environment Area unless Council is satisfied that impacts will be managed, including to: environmental integrity and resilience; coastal processes; marine water quality; biodiversity protection; preservation of undeveloped coastal features; public access to coastal areas; Aboriginal cultural heritage; and surf zone usage.

The Proposal is unlikely to adversely impact the Coastal Environment Area, because:

- The submitted Stormwater Plans include stormwater treatment measures at the point of discharge, ensuring a neutral or, most likely, a beneficial effect on water entering the Coastal Environment Area (2.10(a)).
- The Site does not directly adjoin the foreshore and is outside any mapped ecologically sensitive areas (2.10(b), (d) & (g)).

- The Site is not in proximity to any sensitive coastal lakes. Moreover, the Subject Application is accompanied by an Erosion and Sediment Control Plan, which aims to minimise adverse impacts on the marine estate throughout the construction stage (2.10(c)).
- There is no existing public open space or access thereto that will be impacted by the Proposal (2.10(e)).
- The Subject Application is accompanied by an Aboriginal Heritage Impact Assessment (AHIA), which has been reviewed by Council's Heritage Officer and found to be satisfactory, subject to Conditions of Consent (2.10(f)).

12.2 Chapter 4 – Remediation of Land

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

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

Consideration with respect to Clause 4.6(a) of Chapter 4 has been given as to whether the Site is contaminated. As the Site has a long history of residential use, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 of the Resilience and Hazards SEPP 2021.

Accordingly, the proposal is considered to be acceptable with regard to the relevant matters for consideration under Section 4.6, Chapter 4 of the Resilience and Hazards SEPP 2021.

13. SEPP (BIODIVERSITY AND CONSERVATION) 2021

13.1 Chapter 2 – Vegetation in Non-rural Areas

Chapter 2 of the Biodiversity and Conservation SEPP applies to the Site. Furthermore, Clause 2.9(1) defers assessment to the appropriate development control plan in determining vegetation to which Chapter 2 applies. Accordingly, *Chapter E3 Tree Management* under WDCP 2015 is applicable.

The Proposal involves the removal of one (1) public tree located on the Council verge in the area of the proposed driveway crossing. Additionally, the submitted Landscape Plan shows a number of tree plantings, demonstrating compliance with Part B3.7.1 under Chapter B3 of WDCP 2015.

In order to compensate for the removal of the existing Water Gum on the Council verge, Council's Trees and Landscape Officer has recommended a Condition of Consent, which requires an amended Landscape Plan to include a replacement Sydney Pink Gum.

Subject to relevant Conditions of Consent, Council's Tree Officer has determined that the Proposal is satisfactory in terms of tree preservation and landscaping. On this basis, it is considered to be acceptable pursuant to Chapter 2 of the Biodiversity and Conservation SEPP.

13.2 Chapter 6 – Water Catchments

Chapter 6 (Water Catchments) of the Biodiversity and Conservation SEPP (BC SEPP) applies to the Site, which is located within the Sydney Harbour Catchment.

The Site is also located within the Foreshores and Waterways Area, therefore, the provisions in Part 6.2 and 6.3 of the BC SEPP apply.

Part 6.2 precludes the grant of development consent to development on land in a regulated catchment unless Council is satisfied as to various matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.

The Proposal is unlikely to adversely impact upon the Sydney Harbour Catchment, because:

- The submitted Stormwater Plans include stormwater treatment measures at the point of discharge. Council's Development Engineer notes that:

the submitted MUSIC Modelling submitted in support of the DA does not demonstrate that the proposed stormwater runoff water quality measures meet Council's environmental targets. However, as the modelled water quality targets are marginally insufficient, it is considered acceptable for this to be addressed at the CC stage, which is conditioned accordingly.

Subject to relevant Conditions of Consent a neutral effect on water entering the Harbour is anticipated and the Proposal is unlikely to impact upon water flow within the Harbour (s6.6(2)).

- Terrestrial, aquatic or migratory animals or vegetation (s6.7(2))
- It is unlikely to adversely impact upon flood function (s6.8); is unlikely to adversely impact upon public access or public use of the Harbour (s6.9)
- It is unlikely to adversely impact upon downstream local government areas (s6.10)
- It does not abut, nor is it a water dependent use and it is unlikely to generate conflicts between adjoining land uses (6.11).

Part 6.3 precludes the grant of development consent to development on land within the Foreshores and Waterways area unless Council is satisfied that the character and functions of the working Harbour will be retained; for industrial or commercial maritime purposes, development will be compatible with adjoining land uses and public access is provided and maintained; for development on the foreshore, excessive traffic in the waterway zoned areas is minimised; and the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from the Foreshores and Waterways Area and public places, landmarks and heritage items.

The Proposal is unlikely to adversely impact upon the Foreshores and Waterways area, because:

- It is unlikely to impact upon the working Harbour; is not for industrial or commercial maritime purposes and is not within a zoned area within the Foreshores and waterways area. Further to this, the Proposal would not unreasonably impact views and vistas to and from any Heritage Items identified on the *Sydney Harbour Heritage Map Sheet HER_001* under the BC SEPP (s6.28).
- It is unlikely to adversely impact areas of outstanding biodiversity value (s6.29)
- It is not identified within a rocky foreshores and significant seagrass area (s6.32).
- It does not involve works to any land owned by TfNSW (s6.40, s6.41).

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

14. SYDNEY HARBOUR FORESHORES & WATERWAYS AREA DEVELOPMENT CONTROL PLAN (SHDCP)

The SHDCP applies to the proposed development as it applies to all development within the Foreshores and Waterways Area as identified in Part 6.3 of the Biodiversity and Conservation SEPP.

The SHDCP contains provisions for assessing the impact of developments on the landscape (part 3), and also contains general design guidelines for land-based development (part 5).

An assessment against the relevant controls under this DCP is as follows:

| Relevant Parts | Assessment |
|--|--|
| PART 2. ECOLOGICAL ASSESSMENT | |
| Ecological communities (Terrestrial) - Urban Development with Scattered Trees | <ul style="list-style-type: none"> Conservation value – Low Table 4. Performance Criteria – Satisfactory |
| PART 3. LANDSCAPE ASSESSMENT | |
| 3.2 General aims | |
| <p>All development should aim to:</p> <ul style="list-style-type: none"> Minimise any significant impact on views and vistas from and to: <ul style="list-style-type: none"> Public places Landmarks identified on the maps accompanying the DCP, and Heritage items Ensure it complements the scenic character of the area Protect the integrity of foreshores with rock outcrops, dramatic topography or distinctive visual features Provide a high quality of built and landscape design Contribute to the diverse character of the landscape | <ul style="list-style-type: none"> Satisfactory Satisfactory Satisfactory Satisfactory Satisfactory |
| 3.4 LANDSCAPE CHARACTER TYPE 10 PERFORMANCE CRITERIA | <ul style="list-style-type: none"> Satisfactory |
| PART 5 DESIGN GUIDELINES FOR LAND-BASED DEVELOPMENTS | |
| PART 5.2 FORESHORE ACCESS | |
| <p>Foreshore access is to be encouraged and promoted. Wherever possible, public access to and along the foreshore including the inter-tidal zone should be secured or improved. Foreshore links joining public open spaces or access points are most desirable. These can be obtained by right of way or dedicated or acquired strips of land and may link with tracks across beaches and rock platforms. Where foreshore links are not available, a link through adjacent streets is usually possible.</p> | <p>Satisfactory – The proposal will not alter public access to Harbour foreshore areas. Currently, there is no public access available through the Site to the Harbour foreshore area and this will be maintained under the Proposal.</p> |
| PART 5.3: SITING OF BUILDINGS AND STRUCTURES | |
| <p>The following criteria should be observed when siting buildings and structures:</p> <ul style="list-style-type: none"> where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbing it; buildings should address the waterway; buildings should not obstruct views and vistas from public places to the waterway; buildings should not obstruct views of landmarks and features identified on the maps accompanying this DCP; and where there are cliffs or steep slopes, buildings should be sited on the top of the cliff or rise rather than on the flat land at the foreshore. | <ul style="list-style-type: none"> Satisfactory Satisfactory Satisfactory Satisfactory Satisfactory |
| PART 5.4: BUILT FORM | |
| <p>The following guidelines are designed to reinforce the local requirements:</p> <ul style="list-style-type: none"> where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting; where undeveloped ridgelines occur, buildings should not break these unless they have a backdrop of trees; while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their | <ul style="list-style-type: none"> Satisfactory Satisfactory Satisfactory |

| Relevant Parts | Assessment |
|---|---|
| <p>surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs;</p> <ul style="list-style-type: none"> walls and fences should be kept low enough to allow views of private gardens from the waterway; bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. Australian Standards AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting should be observed; use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied; colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP; | <ul style="list-style-type: none"> Satisfactory Satisfactory Satisfactory Satisfactory |
| PART 5.10: MULTI-UNIT RESIDENTIAL DEVELOPMENTS | |
| <p>The following criteria, in addition to controls contained in council environmental planning instruments, should be met:</p> <ul style="list-style-type: none"> in areas where public access is to be extended, buildings should be set back from the foreshore boundary a minimum of 12 metres to allow public foreshore access of 6 metres and private open space of 6 metres. Open space should be of a suitable dimension and grade to enable efficient use of these areas with minimal disturbance to the foreshore; detailing and planting of the public access is to appear as the public domain and be distinct from the private areas of the development; floor levels of ground floor units should be 1 metre above the adjoining public access to minimise loss of privacy; car parking should be located away from the waterfront and setback a minimum of 3 metres from the public access to allow adequate screening; car parking should not be visible from the waterway. No roof top parking is allowed and parking beneath buildings should be screened by vegetation or integrated into the building form as a base to the building; and developments proposed near existing maritime or boating industries, must recognise that these industries are legitimate uses of waterfront land. Accordingly, new developments that may be sensitive to noise, odours, light or other effects associated with industries, should be sited and designed to minimise disturbance to their future occupants. See Figures 16 and 17. | <ul style="list-style-type: none"> Satisfactory (No works proposed to any public access to the foreshore). Satisfactory (No works proposed to any public access to the foreshore). Satisfactory (No works proposed to any public access to the foreshore). Satisfactory Satisfactory Satisfactory |

15. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

15.1 Part 1.2: Aims of Plan

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

15.2 Land Use Table

The Proposal involves the demolition of the existing attached dual occupancy and the construction of a new residential flat building. Development for the purposes of a residential flat building is permissible with consent in the R3 Medium-Density Residential zone.

Clause 2.3(2) requires Council to have regard to the R3 zone objectives when determining the DA.

It is considered that the Proposal is consistent with the objectives of the R3 zone, because:

- The Proposal would provide one (1) additional dwelling in the locality, thereby providing for the housing needs of the community (Objective dot point 1).
- The Proposal would contribute to the variety of housing types in the immediate locality, by providing three (3) new residential units in an area characterised by large single dwelling houses, dual occupancies and residential flat buildings (Objective dot point 2)
- The *Desired Future Character Statement* for the Point Piper Precinct under WDCP 2015 specifically encourages development for residential flat buildings on the western side of the peninsula. The Proposal generally complies with the relevant built form controls, with the exception of minor non-compliances with the HoB and Minimum Lot Size development standards. It is considered to achieve the desired future character objectives of the precinct (Objective dot point 4).
- Council's Trees and Landscape Officer has determined that the Proposal is satisfactory with regard to tree canopy (Objective dot point 5).

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

Part 4.1A(2) specifies that the Site is subject to a minimum lot size of 700m² to accommodate development for the purpose of a residential flat building.

| Site Area: 651.5m ² | Proposed | Control | Complies |
|--|---------------------|-------------------|----------|
| Minimum Lot Size – Multi-Unit/Residential Flat Building | 651.5m ² | 700m ² | No |

The proposal does not comply with 4.1A(2) of Woollahra LEP 2014 as detailed and assessed in Part 15.6 of this assessment report.

15.4 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m.

| | Existing | Proposed | Control | Complies |
|-------------------------|-------------------------------------|------------------------------------|---------|----------|
| Maximum Building Height | Approx 10.62m (to existing chimney) | 10.816m (to proposed lift overrun) | 10.5m | No |

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Part 15.6 of this assessment report.

15.5 Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio of 1:1 for a residential flat building.

| Site Area: 651.5m ² | Existing | Proposed | Control | Complies |
|--------------------------------|--------------|-----------------------------------|-------------------------------|----------|
| Floor Space Ratio | Not provided | 0.98:1 (639.97m ²) | 1:1 (651.5m ²) | Yes |

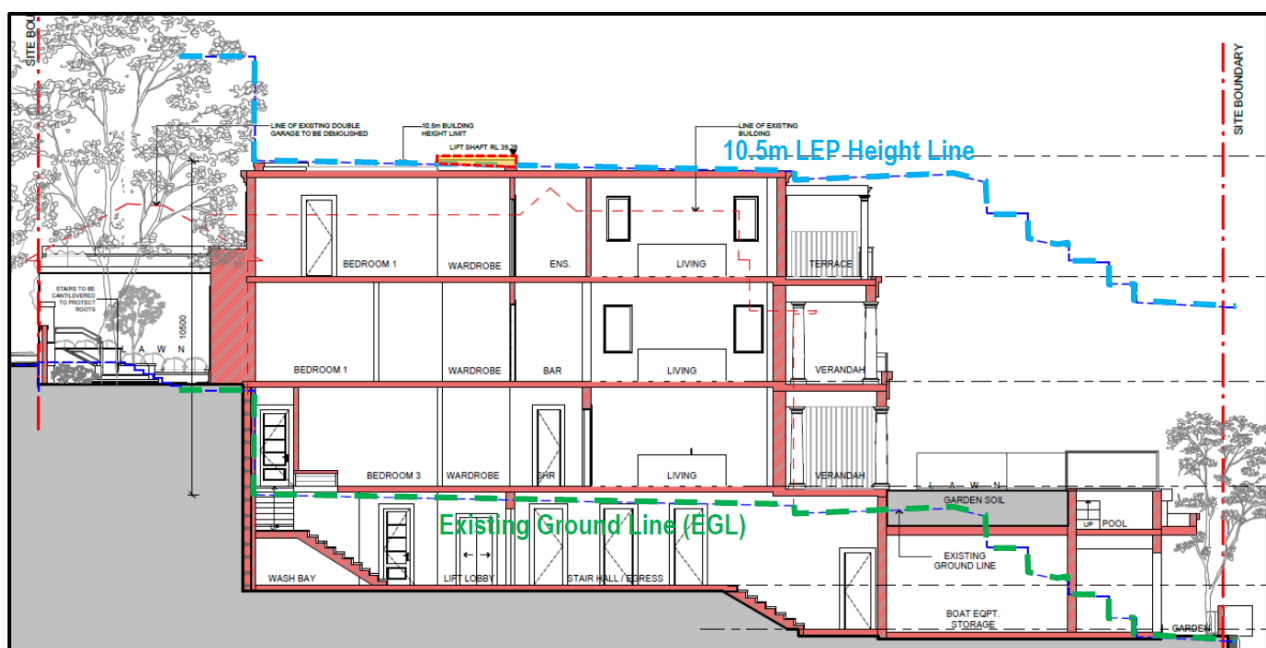
The Proposal complies with the maximum floor space ratio prescribed by Part 4.4(2) of WLEP 2014. It is also acceptable with regard to the relevant objectives under Part 4.4(1) of Woollahra LEP 2014, because:

- The Desired Future Character Statement for the Point Piper Precinct under WDCP 2015 specifically encourages development for residential flat buildings on the western side of the peninsula. The Proposal generally complies with the relevant built form development controls, with the exception of minor non-compliances with the HoB and Minimum Lot Size development standards. It is considered to achieve the desired future character objectives of the precinct (Objective (i)).
- It would not result in unreasonable impacts to adjoining and surrounding properties or the public domain (Objective (ii)).
- It would provide deep soil landscaped area, tree canopy and private open space in accordance with the requirements of the WLEP 2014 and WDCP 2015 (Objective (iii)).

15.6 Section 4.6: Exceptions to Development Standards

Departures

1. With a lot size of 651.5m², the proposal involves a **48.5m² (7%) non-compliance** with the 700m² Minimum Lot Size development standard for a residential flat building under section 4.1A of the WLEP 2014.
2. With a height of 10.816m, the proposal involves a **0.316m (3%) non-compliance** with the 10.5m HoB development standard under section 4.3 of the WLEP 2014.



Source: M.J. Suttie Architects and Michael Suttor Architects


 Non-compliance

Figure 1. Section demonstrating non-compliant lift overrun. Source: Submitted Written Request
Purpose

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

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

Justification Requirements

Section 4.6(3) states that:

Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Section 4.6(3) does not require the applicant to demonstrate those matters solely in the written request.

Applicant's Written Request

Section 35B of the *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document [the written request] setting out the grounds on which the applicant seeks to demonstrate the matters in section 4.6(3) paragraphs (a) and (b).

The applicant has provided two (2) written requests in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*. The first seeks to vary the Minimum Lot Size development standard (**Lot Size Written Request**); the second seeks to vary the Height of Buildings development standard (**HOB Written Request**). These are attached at **Attachments 2 and 3**.

Council's Assessment

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

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

Step 1: Are the planning instrument, development standard and proposed variation identified in the written request accurate?

In determining whether the information contained within the written request is accurate, the following questions have been considered:

- Is the provision proposed to be varied a development standard?
- Is the development standard proposed to be varied one that can be varied, and not excluded from the operation of section 4.6 by section 4.6(8)?
- Is the correct LEP or SEPP section (and objectives if relevant) referenced?
- Is the extent of the variation correctly identified?

Assessment:

The Proposal contravenes the Minimum Lot Size (cl4.1A) and HoB (cl4.3) development standards under WLEP 2014. Both development standards can be varied in accordance with s4.6 of WLEP 2014.

The extent of the variations requested have been correctly identified in both written requests, and are consistent with the assessment contained in this report.

Step 2: Section 4.6(3)(a): Is compliance unreasonable or unnecessary?

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

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

However, the five tests set out in *Wehbe* above are not the only ways that an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (**Initial Action**), Preston CJ stated at paragraph 22:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

To determine whether the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, the following questions have been considered:

- Has the applicant adopted one or more of the Wehbe tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances?
- Has the applicant used another method to justify that the variation is unreasonable or unnecessary?
- Are the arguments put forward by the applicant, to demonstrate compliance is unreasonable or unnecessary in the circumstances, supported and why?

Assessment:

In both instances, the Applicant's Written Requests adopt Test 1, asserting that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standards are achieved notwithstanding non-compliance with the standards.

The Applicant has adequately demonstrated that compliance with the Minimum Lot Size and HoB development standards is unreasonable or unnecessary in this instance, because:

Objective (1) under cl. 4.1A Minimum Lot Sizes for...residential flat buildings

(1). *The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.*

- The Objective of this clause is informed by the desired future character of the neighbourhood.
- The Applicant submits that the Proposal is consistent with the desired future character objectives of the Point Piper Precinct, which is supported for the reasons provided at part 16.1 of this assessment report and additionally:
 - a. The Proposal is considered to be consistent with the R3 zone objectives, as assessed at Part 15.2 of this assessment report.
 - b. Part B1.6.2 Desired Future Character of the Point Piper Precinct under WDCP 2015 encourages development for the purpose of a residential flat building along the western side of the peninsula.
 - c. The Proposal generally complies with the building envelope controls under the WLEP 2014 and WDCP 2015. Proposed non-compliance with the HoB development standard and the side setback controls would not generate unreasonable impacts to adjoining properties. In particular, adequate view sharing outcomes will be achieved.
 - d. The Proposal will be consistent with development along the western side of the peninsula, which is characterised by a mix of development, including large dwelling houses, dual occupancies and residential flat buildings. To illustrate this point, the Applicant has provided the following analysis using an aerial image:



Figure 2. Visual analysis identifying surrounding residential flat buildings. *Source:* Submitted Lot Size Written Request.

Objectives (a) through (e) under cl 4.3 Height of Buildings

- (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.*
- The Applicant submits that the Proposal will be consistent with the desired future character of the locality despite the non-compliance with the HoB standard, which is supported for the reasons provided above and at Part 16.1 of this assessment report (a).
 - The Applicant submits that the Proposal will provide an appropriate transition in scale from the nearby R2 zone, by way of its two storey presentation to Wolseley Road, which is supported because:
 - a. The proposed two storey presentation to Wolseley Road will remain consistent with adjoining and surrounding buildings and will appear compliant with the HoB standard when viewed from the street.
 - b. The proposed non-compliant lift overrun will not be visually intrusive, due to its central location within the proposed building envelope (b).
 - The Applicant submits that the proposed non-compliant lift overrun will not give rise to any overshadowing impacts to adjoining north facing windows or private open space areas. This assertion is based on the central location of the lift overrun within the proposed building envelope. Further, the Applicant argues that any overshadowing occurring from the non-compliant element would be indistinguishable from that of a fully compliant development. Upon review of the submitted Shadow Diagrams, this reasoning is supported (c).
 - With respect to objectives (d) and (e), the Applicant submits, similarly to above, that the minor degree of non-compliance and the central location of the proposed lift overrun will not give rise to *“any noticeable adverse impact on the neighbouring properties, in terms of views, privacy and solar access. It will not form the leading edge for any view impact and will also not obstruct public views of the harbour and surrounding areas”*. Upon review of the submitted Architectural Plans, this reasoning is supported (d) & (e).

Step 3: Section 4.6(3)(b) Are there sufficient environmental planning grounds to justify the contravention?

In *Initial Action* Preston CJ provided the following guidance (at paragraphs 23 and 24) concerning whether there will be sufficient environmental planning grounds to justify a contravention of the development standard:

- 23 *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be ‘environmental planning grounds’ by their nature: See Four2Five Pty Ltd. v Ashfield Council. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act.*
- 24 *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. ... the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15].*

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act

The objects of this Act are as follows:

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

Assessment:

To determine whether the applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of the development standard, the following questions have been considered:

- What environmental planning grounds have been put forward to justify the variation?
- Are the environmental planning grounds specific to the proposed variation?
- Are there sufficient environmental planning grounds to justify the proposed variation to the development standard?

Assessment:

The Written Requests rely on the following environmental planning grounds:

Lot Size Written Request:

The Applicant submits that the proposed non-compliance with the Minimum Lot Size development standard is justified on the basis of the following environmental planning grounds:

Ground 1: Compliance with key built form controls is achieved.

Ground 2: Consistency with surrounding development

Ground 3: Consistency with Desired Future Character

Ground 4: Lack of amalgamation opportunities

Ground 5: Consistency with Objectives of Precinct

Ground 6: Prominent Location

Ground 7: Minimal Environmental Impacts

HoB Written Request:

The Applicant submits that the proposed non-compliance with the HoB development standard is justified on the basis of the following environmental planning grounds:

Ground 1: Minor Nature of Non-compliance

Ground 2: Good Design and Amenity

Ground 3: Consequences of Compliance

Ground 4: Consistency in the Context

The Written Requests provide reasoning relating to each environmental planning ground, which are attached at **Attachments 2 and 3**.

For the reasons that follow, Grounds 1, 2, 3 and 7 under the Lot Size Written Request, and Grounds 1 and 4 under the HoB Written Request are considered sufficient to justify the proposed non-compliances, in this instance. The remaining Grounds advanced in the Written Requests are considered supplementary to the primary Grounds and are not specifically addressed.

The Proposal exhibits a number of similar built form characteristics of adjoining and surrounding developments, being maximum height, number of storeys, setbacks, flat roof design, and level rear private open space. From a streetscape perspective, the Proposal also exhibits a similar streetscape presentation to adjoining and surrounding development, presenting 2 storeys to the street with a garage/car lift structure forward of the front building line and landscaped front setback area with a front boundary fence delineating the private and public domain. It is also consistent with current uses on nearby allotments of similar area to the Site, particularly noting the following:

- 36 Wolseley Road currently accommodates a 3 storey RFB comprising 4 units, with an area of approximately 680m².
- 40 Wolseley Road currently accommodates a 3 storey RFB comprising 3 units, with an area of approximately 560m².
- 48 Wolseley Road currently accommodates a 3 storey RFB comprising 3 units, with an area of approximately 645m².

With respect to the proposed building envelope, the Proposal exhibits non-compliance with the side setback control and HoB development standard. Notwithstanding this, the Proposal provides adequate opportunity for compliant deep soil landscaped area, tree canopy and private open space and would not result in unreasonable environmental impacts to adjoining properties or the public domain in terms of views, privacy, overshadowing or visual intrusion.

The proposed contravention with the Minimum Lot Size development standard for a residential flat building would not result in a built form dissimilar to that of single dwelling house, in terms of general building footprint, siting and landscaped area. The provision of a RFB on the Site would maintain consistency with the existing and desired future character of the area. The environmental planning grounds advanced by the Applicant in the Lot Size Written Request are considered sufficient on this basis.

The minor nature of the proposed contravention of the HoB development standard and the central location of the proposed lift overrun ensure that impacts to adjoining properties and the public domain are minimised, and that the scale of the Proposal remains consistent with desired future character of the area. The environmental planning grounds advanced by the Applicant in the HoB Written Request are considered sufficient on this basis.

Conclusion

Council is satisfied that the Applicant has demonstrated that compliance with the development standards is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contraventions.

15.7 Part 5.10: Heritage Conservation

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

The Proposal is not located in a Heritage Conservation Area, nor are there any items of Heritage significance located on the Site.

Items of Heritage significance in close proximity to the subject site include:

1. Item I291 "Building and interiors," adjoins the Site to the south at 26-28 Wolseley Road.

The Site is also identified as being within an area of Potential Aboriginal Heritage Sensitivity. An AHIA has been submitted in support of the Proposal.

Council's Heritage Officer has reviewed the submitted documentation and determined that the Proposal is satisfactory, subject to Conditions of Consent. The following conclusion has been provided:

- 1 (a) The development would conserve the environmental heritage of Woollahra,*
- 1 (b) The development would conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

15.8 Part 5.21: Flood Planning

The objectives of Part 5.21 are:

- a) to minimise the flood risk to life and property associated with the use of land,*
- b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- a) is compatible with the flood function and behaviour on the land, and*
- b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

In deciding whether to grant development consent on land to which Part 5.21 applies, the consent authority must consider the following matters:

- a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- b) *the intended design and scale of buildings resulting from the development,*
- c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion*

Council's Drainage Engineer has determined that the Proposal is generally satisfactory and does not require any flood specific Conditions of Consent.

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

15.9 Part 6.1: Acid Sulfate Soils

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

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

15.10 Part 6.2: Earthworks

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

The Proposal involves excavation to accommodate a proposed basement level and associated works. The excavation extends to a maximum depth of approximately 8.25m and would require a nil setback from approximately 21.5m or 55% of the length of the southern side boundary. The supporting documentation identifies that the proposal involves a total volume of excavation of 1362.56m³, 1324.6m³ of which is required for compliant parking and access thereto, and storage.

The geotechnical report indicates that the subsurface conditions consists of:

- a) *Fill comprising silty sand to a depth of 0.5m, 0.2m and 0.2 in BH1, BH2 and BH3 respectively.*
- b) *Depth of natural sand with various density from a depth beneath the fill to a depth of 1.5m, 4.1m and 1.2m in BH1, BH2 and BH3 respectively.*
- c) *Sandstone bedrock was inferred beneath the natural sand at depths ranging between 1.2m and 4.1m.*
- d) *Groundwater was observed 1.6m below the lowest proposed bulk excavation level.*

Council's Development Engineer has no objection to the proposed excavation on technical grounds, subject to the recommended conditions of consent, which require:

- Professional engineering details
- Geotechnical and hydrogeological design, certification and monitoring
- Stormwater Management Plans
- No ground anchors
- Dilapidation Reports for existing buildings and public infrastructure
- Measures to protect adjoining buildings founded on loose foundation materials
- The approval and implementation of a Works (Construction) Zone
- Erosion and sediment control measures
- Measures to ensure safety, access and maintenance to public footpaths

- Maintenance of environmental controls
- Compliance with the geotechnical / hydrogeological monitoring program
- Support of adjoining land and buildings
- Vibration monitoring
- Requirements in relation to site cranes
- Measures for the disposal of site water during construction
- The commissioning and certification of systems and works

Notwithstanding this, the following provides an assessment of the proposed excavation against the relevant objective set out under Part 6.2(1) of the Woollahra LEP 2014, and the matters of consideration set out under Part 6.2(3) of the Woollahra LEP 2014.

Part 6.2(1) states:

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Part 6.2(3) states:

In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The following comments are made in this regard:

- The following documents have been submitted in support of the application:
 - i. Statement of Environment Effects, referenced 22441-Issue F, prepared by GSA Planning, dated 22/04/2024.
 - ii. Architectural Plans, unreferenced, prepared by M.J. Suttie Architects, dated 11/03/2024.
 - iii. Survey Plan, referenced 21845-Issue 1, prepared by CMS Surveyors, dated 04/10/2022.
 - iv. Stormwater Management Plan, referenced SW23270-Rev B, prepared by Capital Engineering Consultants, dated 31/01/2024.
 - v. Geotechnical Report, referenced 223450.00, prepared by Douglas Partners, dated 09/10/2023.
 - vi. Geotechnical Letter, referenced R.002.Rev0, prepared by Douglas Partners, date 02/02/2024.
 - vii. Traffic Report, referenced 23.501r01v03, prepared by Traffix, dated 13/12/2023.
 - viii. Traffic Response to RFI, referenced 23.501r02v01, prepared by Traffix, dated 29/04/2024.
 - ix. Title Documents, unreferenced, various dates.

Council's Development Engineers have reviewed these documents and are satisfied that the proposal would not have a detrimental effect on drainage patterns or soil stability in the locality. Council's Development Engineer's determination is subject to recommended Conditions of Consent requiring structural certification and the like prior to issuing of a construction certificate, ensuring structural risk/s to adjoining property, and impacts are minimised (a).

- The proposed excavation is not considered to effect the likely future use or redevelopment of the land (b).
- Subsurface conditions have been assessed in Part 12.2 Remediation of Land (Chapter 4 in Resilience and Hazards SEPP 2021) and Part 15.9 Acid Sulfate Soils (Part 6.1 Acid Sulfate Soils of the WLEP 2014) of the report. Relevant Conditions of Consent are recommended to ensure the recommendations outlined in the submitted Geotechnical Report are adhered to prior to and during development work (c).
- Excavation works are considered to be temporary in nature, thereby minimising associated noise, vibration, dust and other amenity impacts arising from jackhammering, rock breaking, truck movements, and the like to the short-term. Standard Conditions of Consent requiring noise and dust mitigation measures are recommended in order to ensure impacts on amenity are minimised (d).
- The submitted Geotechnical Report recommends consultation with a relevant specialist to advise on the appropriateness of the excavated materials for re-use on the subject site. Council cannot be satisfied that excavated material will be re-used on-site, therefore, the destination of all excavated material will need to be in accordance with relevant guidelines, relating to management of any soils that are Acid Sulfate Soils and/or Contaminated Land. The application is accompanied by a Site Waste Minimisation and Management Plan that specifies approximately 1350m³ of excavated material is to be recycled. Noting this cannot be confirmed until an appropriate specialist has inspected the excavated material, relevant Conditions of Consent are recommended requiring the submission of a new SWMMP detailing methods to dispose of all excavated materials (1350m³ outlined in the submitted SWMMP) (e).
- Council's Heritage Officer has not raised any concerns relating to the potential for disturbing relics, subject to relevant Conditions of Consent requiring the protection of Aboriginal Objects and procedure to be followed in the unlikely event such objects are found during work (f).
- The Site is not located proximate to any drinking water catchments and de-watering is not required. Council's Development Engineer has recommended relevant Conditions of Consent ensuring the Proposal is acceptable with regards to Part E2.2 of the WDCP 2015, which considers water sensitive urban design and stormwater treatment. The site is not identified as being located within an environmentally sensitive area (g).
- Standard Conditions of Consent are recommended requiring structural certification prior to issuing of a construction certificate and vibration monitoring to be in place during work would be required. These would ensure structural risk/s to adjoining property and impacts are minimised (h).

The detailed commentary provided by Council's Development Engineer is provided at **Attachment 4**.

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

15.11 Part 6.9: Tree canopy cover in Zones R2 and R3

Part 6.9 aims to conserve and enhance tree canopy cover in the R2 Low Density Residential zone and R3 Medium Density Residential zone.

Part 6.9(3) requires Council to consider whether the development incorporates planning and design measures to enable the retention and planting of trees to minimise the urban heat island effect, and will avoid, minimise or mitigate adverse impacts on the existing tree canopy.

Council's Tree and Landscape Officer reviewed the submitted documentation and notes that:

- The most significant site tree, being a Jacaranda is located within the front setback area. The proposed design incorporates measures to ensure retention of this tree.
- The required removal of an existing street tree to accommodate the relocated vehicle crossing. In order to offset this, one (1) additional street tree is recommended to be planted.

Subject to relevant Conditions of Consent, the proposal is acceptable with regard to Part 6.9 of Woollahra LEP 2014.

16. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

16.1 Chapter B1: Point Piper Precinct

The proposal satisfies the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015.

The proposal meets the streetscape character and key elements of the precinct and the relevant desired future character objectives of the Point Piper Precinct, as noted in Part B1.6.2 of the Woollahra DCP 2015, because:

- The Proposal involves a new RFB which is an encouraged form of development on the western side of the peninsula. It would be compatible with adjoining and surrounding development, in terms of use and height, bulk and scale. It aligns with nearby existing RFBs on similar sized allotments and would maintain consistency with the established, emerging and desired future character of the Point Piper Precinct (**O1**)
- The Proposal would replace an existing building (circa 1907), which has undergone substantial modifications, with a contemporary style RFB. The Proposal features articulation and enhances both the streetscape and landscaping (**O2**)
- The Proposal generally complies with the front setback control, with the exception of the proposed car lift and waste and recycling enclosure. The Proposal provides compliant deep soil landscaping within the front setback area and would maintain consistency with adjoining development (**O3**)
- The Proposal would be consistent with the scale of surrounding development and responds appropriately to the topography of the western side of the peninsula (**O4**)
- The Proposal would not impact upon any significant views and vistas identified under WDCP 2015 (**O5**)
- As assessed at Part 16.2.3 of this report, the Proposal would result in an acceptable view sharing outcome to adjoining properties (**O6**)

16.2 Chapter B3: General Development Controls

16.2.1. Part B3.2: Building Envelope

| Site Area: 651.5m ² | Existing | Proposed | Control | Complies |
|--------------------------------|-----------------------------|--|---------|-----------|
| Front Setback | Nil (to garage structure) | Nil (to garage structure/car lift) | 6.33m | No |
| | 5.55m (front building line) | 6.3m (front building line) | | Yes |
| Rear Setback | 13.6m | 1.9m (to Loggia) | 9.46m | No |
| | | 10.4m (to balconies) | | Yes |
| Side Boundary Setbacks (North) | Nil | 1.1m (to basement wall) 1.5m (to proposed building) | 2m | No |
| Side Boundary Setbacks (South) | Nil – 1.3m | Nil – 1.35m | 2m | No |

| Site Area: 651.5m ² | Existing | Proposed | Control | Complies |
|--|----------|------------------------------|---------|----------|
| Maximum Unarticulated Length to Street | 5.7m | 4.8m | 6.0m | Yes |
| Maximum Unarticulated Wall Length | 7m | 17.655m (northern elevation) | 12m | No |

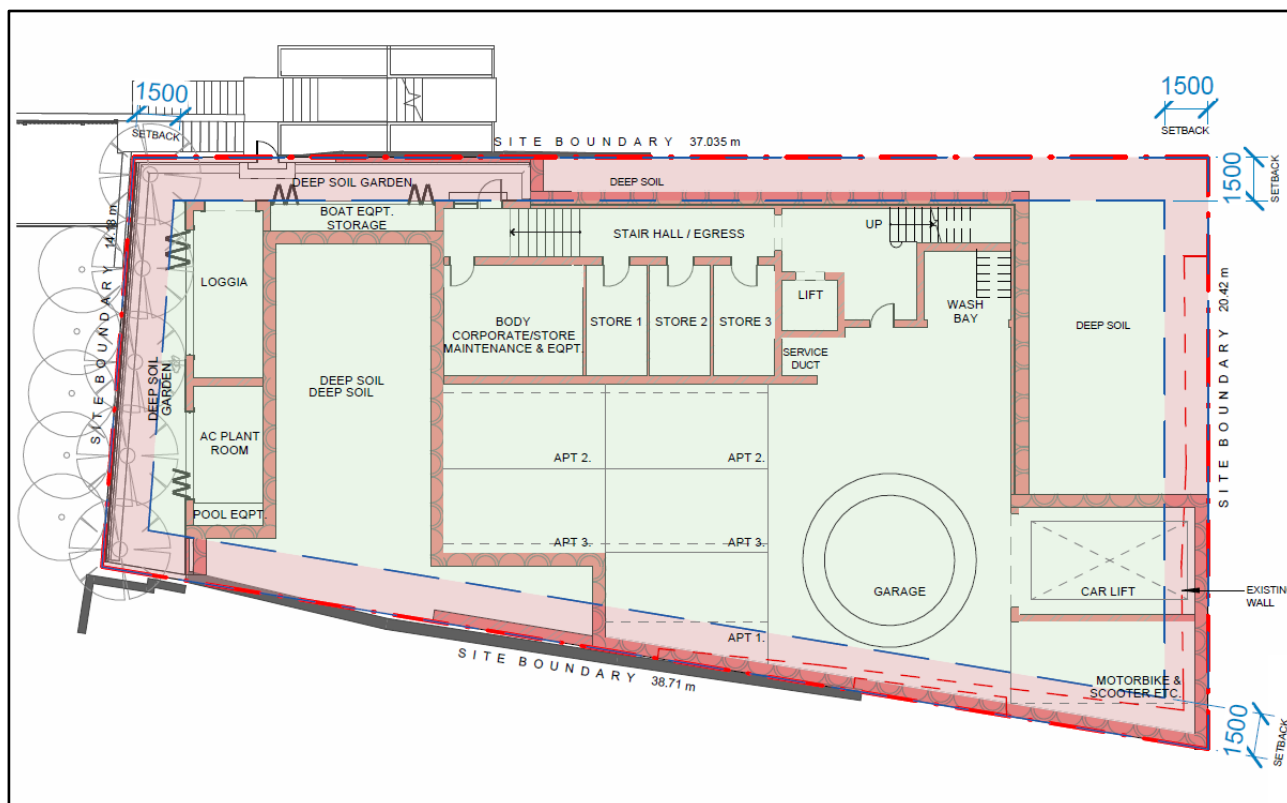


Figure 3. Basement setback diagram. *Source:* Submitted Architectural Plans

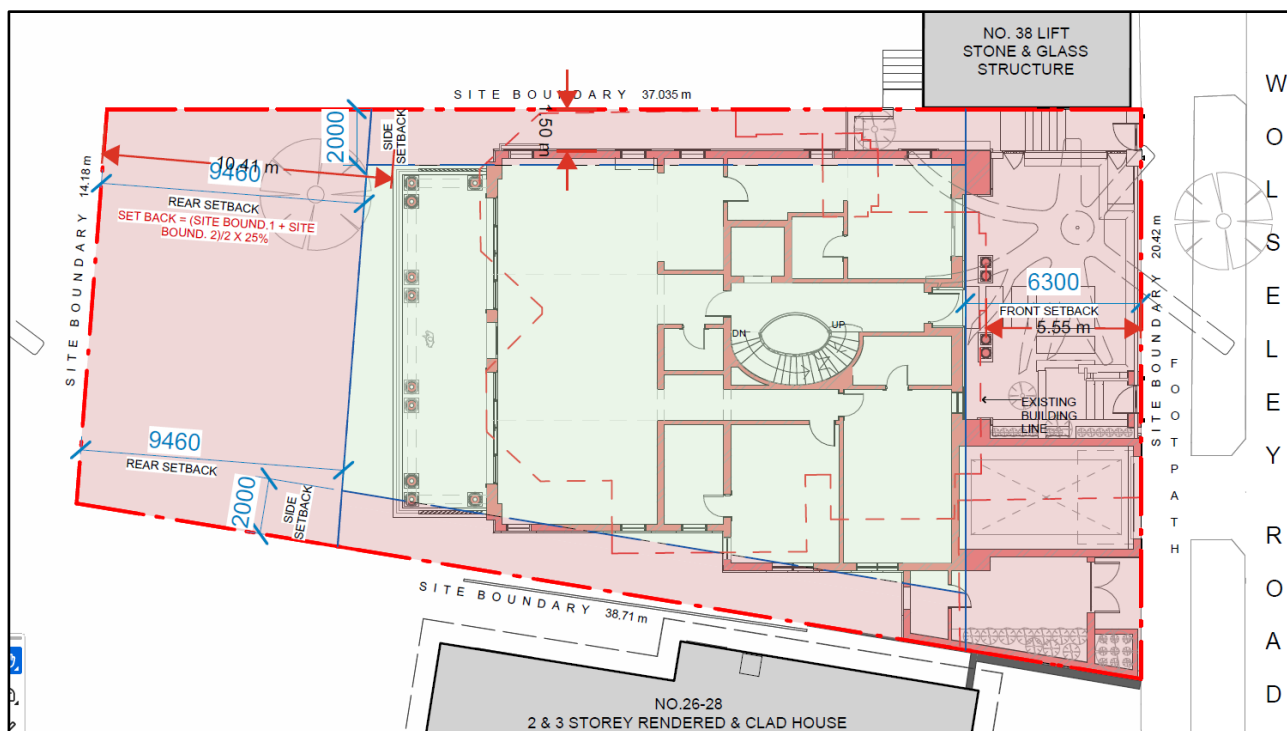


Figure 4. Proposed building setback diagram. *Source:* Submitted Architectural Plans

Part 3.2.2: Front Setback

C1 states that the front setback is the average of the three most typical setbacks of the four closest residential properties.

C2 requires a maximum unarticulated building width of 6m to the street frontage.

Assessment:

The Applicant submits that the applicable Front Setback Control is 6.33m, based on the analysis provided in the submitted Architectural Plans (Refer to Figure 5 below).

This analysis is concurred with and the Proposal would achieve the relevant objectives, because:

- It would achieve consistency with the Desired Future Character objectives of the Point Piper Precinct (**O1, O4**).
- It would provide a front setback consistent with adjoining buildings (**O2**).
- It would provide compliant deep soil landscaped area and planting within the front setback area (**O3**).



Figure 5. Applicant's determination of the applicable front setback. Source: Submitted Architectural Plans

Part 3.2.3: Side Setbacks

The Site has a width of 19.4m at the front setback line.

*C2 requires a minimum side setback of **2m** for a residential flat building.*

C4 notes a maximum unarticulated wall length of 12m to the side elevation.

Assessment:

The Proposal would result in non-compliance with C2 and C4 of this part. Notwithstanding this, it would achieve the relevant objectives, because:

- The non-compliant elements at the proposed basement level would be generally below ground level existing and would not contribute to any substantive visual bulk and scale of the proposed building (**O1**)
- **At the proposed northern elevation**, the Proposal would:
 - i. Improve upon the existing nil setback (**O1**)
 - ii. Ensure a building separation of approximately 13m to the adjoining property to the north, at 36 Wolseley Road (**O2**)
 - iii. Provide obscure glazing to a height of 1.5m above finished floor to north facing windows (**O3**).
 - iv. Provide privacy screens to a height of 1.5m above finished floor at the northern end of the proposed rear balconies (**O3**)
- **At the proposed southern elevation**, the Proposal would:
 - i. Replace the existing garage structure in the south-eastern corner of the Site with a proposed open air bin enclosure with an associated boundary wall at a reduced maximum height compared to the existing garage structure. Further, this structure would not directly adjoin habitable rooms or principle private open space areas of the adjoining property at 26-28 Wolseley Road (**O1**).
 - ii. Limit the non-compliant elements of the proposed southern façade to minor portions. Refer to Figure 4 on page 31 (**O1**).
 - iii. Provide adequate façade articulation that would generally follow the angled boundary alignment and minimise the visual impact of the Proposal when viewed from the adjoining property at 26-28 Wolseley Road (**O2**).
 - iv. Provide obscure glazing to a height of 1.5m above finished floor to south facing windows (**O3**).
 - v. Provide privacy screens to a height of 1.5m above finished floor at the southern end of the proposed rear balconies (**O3**)
 - vi. Provide adequate solar access to the adjoining property to the south (**O4**).
- The Proposal would not impact upon public views toward the Harbour (**O5**).
- Deep soil landscaped area and further landscaped area above the basement level are provided within the southern side setback area, which provides the opportunity for screen planting (**O6**).
- Access to the rear of the Site will be provided along the side setback areas (**O7**).

Part 3.2.4: Rear Setback

C1 requires a minimum rear setback of 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary. The building must not encroach on the minimum rear setback.

Assessment:

The proposed loggia and A/C plant room result in non-compliance with C1 of this part. Notwithstanding this, the Proposal would achieve the relevant objectives, because:

- The proposed principle building on the Site would exceed Council's rear setback requirement under C1. Refer to Figures 3 and 4 at page 31 of this report.
- The Proposal provides adequate private open space and deep soil landscaped areas within the rear setback area (**O1**, **O5**).
- The Proposal provides acoustic and visual privacy measures along the rear boundary, in order to ameliorate the privacy concerns raised by the objector downslope at 32 Wolseley Road (**O2**).

- As previously noted, the proposed principle building exceeds the requirements of C1 and would not result in an unreasonable sense of enclosure to adjoining properties (**O3**).
- The Proposal would not unreasonably impact upon solar access to adjoining private open space areas (**O4**).
- The proposed rear setback area would maintain consistency with adjoining open space areas and would provide adequate opportunities for stormwater absorption (**O6**)

Conclusion

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

16.2.2. Part B3.4: Excavation

| Site Area: 651.5m ² | Existing | Proposed | Control | Complies |
|--|----------|------------------------|-----------------------|-----------|
| Maximum Volume of Excavation | NA | 1,362.56m ³ | 651.5m ³ | No |
| Excavation, Piling and Subsurface Wall Setback | NA | Nil | 0.9m | No |
| Geotechnical Report | N/A | Provided | Required Where > 2.0m | Yes |

C2 limits the volume of excavation to 651.5m³.

C4 provides for an exception relating to compliant car parking and storage at 8m³ (cubic metres) per dwelling.

C6 requires a minimum setback of excavation of 1.5m.

Assessment:

The Proposal would result in non-compliance with C2 of this part. However, it involves a proposed RFB in which case the exception under C4 applies.

The Applicant has provided volume of excavation calculations indicating that the proposed compliant car parking and storage areas require 1,324.6m³ of excavation. Subsequently, the remaining volume of excavation is equal to approximately 38m³.

Notwithstanding the technical non-compliance, the Proposal would achieve the relevant objectives, because:

- The proposed height, bulk and scale is consistent with adjoining and surrounding development and responds appropriately to the exiting topography on the Site and the locality more broadly (**O1a**).
- Subject to Conditions of Consent, Council's Development Engineer and Trees and Landscape Officer have determined that the Proposal is acceptable in terms of land stabilisation, ground water flows, vegetation and structural risk to adjoining properties (**O1b and c**).
- Council's Traffic Engineer has recommended a Condition of Consent requiring the submission of a Construction Management Plan (**CMP**) prior to the commencement of demolition works, ensuring amenity impacts during construction are minimised and energy expended throughout construction is managed to ensure no unnecessary truck and earthmoving equipment movements (**O1d, g**).
- Deep soil landscaped areas are provided in both the northern and southern setback areas (**O1e**).

- The proposed excavation will be managed by way of the required CMP, whilst the 7 star NaTHERS rating demonstrates a commitment to reducing the operational energy of the Proposal overtime, offsetting the initial energy expenditure required during the excavation and construction phase (**O1f**).

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

16.2.3. Part B3.5: Built Form and Context

| Site Area: 651.5m ² | Existing | Proposed | Control | Complies |
|--|----------------------------|-----------------------------|-----------------------------|-----------|
| Significant Trees | Front setback area | Retained | Retained | Yes |
| Siting of Development | Not stepped | Not stepped | Stepped Down with the Slope | No |
| Casual Surveillance – Windows Facing Street/Public Area | >One | >One | One | Yes |
| Solar Access to Open Space of Neighbouring Properties | 50% for 2 hours on 21 June | >50% for 2 hours on 21 June | 50% for 2 hours on 21 June | Yes |
| Solar Access to Nth Facing Living Areas of Neighbouring Properties | 3 hours on 21 June | <3 hours on 21 June | 3 hours on 21 June | No |
| Setback of Bedroom Windows from Streets/Parking of Other Dwellings | >3m | >3m | 3.0m | Yes |
| Distance of Habitable Room Windows to Neighbouring Dwellings | <9m | <9m | 9.0m | No |

Part B3.5.1: Streetscape and Local Character

- C1 requires consistency with the desired future character of the Point Piper Precinct*
C2 requires the retention of significant vegetation
C3 requires development to step down sloping sites
C5 seeks to avoid the use of bright or obtrusive colour schemes
C6 relates to the incorporation of appropriate roof forms and associated elements, including lift overruns, roof terraces, access hatches and other like structures
C7 limits the use of reflective materials, including windows, access hatches, skylights and balustrades.
C10 seeks to provide opportunities for passive surveillance of the street

Assessment:

The Proposal would result in non-compliance with C3 of this part. Notwithstanding this, the Proposal would achieve the relevant objectives, because:

- The proposed built form and colour scheme depicted in the submitted photomontage (Image 1 on page 2) will be consistent with development along Wolseley Road, the western side of the Point Piper peninsula and the desired future character of the precinct (**O1**).
- The proposed RFB is considered skilfully designed and would provide for a contemporary new building on the Site (**O2, O4**).
- The Proposal complies with Council's tree canopy requirements (**O3**).
- The Proposal will provide a number of windows and one level 1 balcony facing Wolseley Road, thereby providing improved opportunities for passive surveillance of the street (**O6**).

Part B3.5.2: Overshadowing

C1 requires solar access to at least:

- a) 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June.
- b) North facing 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.

Assessment:

The Proposal would result in non-compliance with C1 as it relates to the adjoining level 1 north facing habitable room windows associated with 26-28 Wolseley Road.

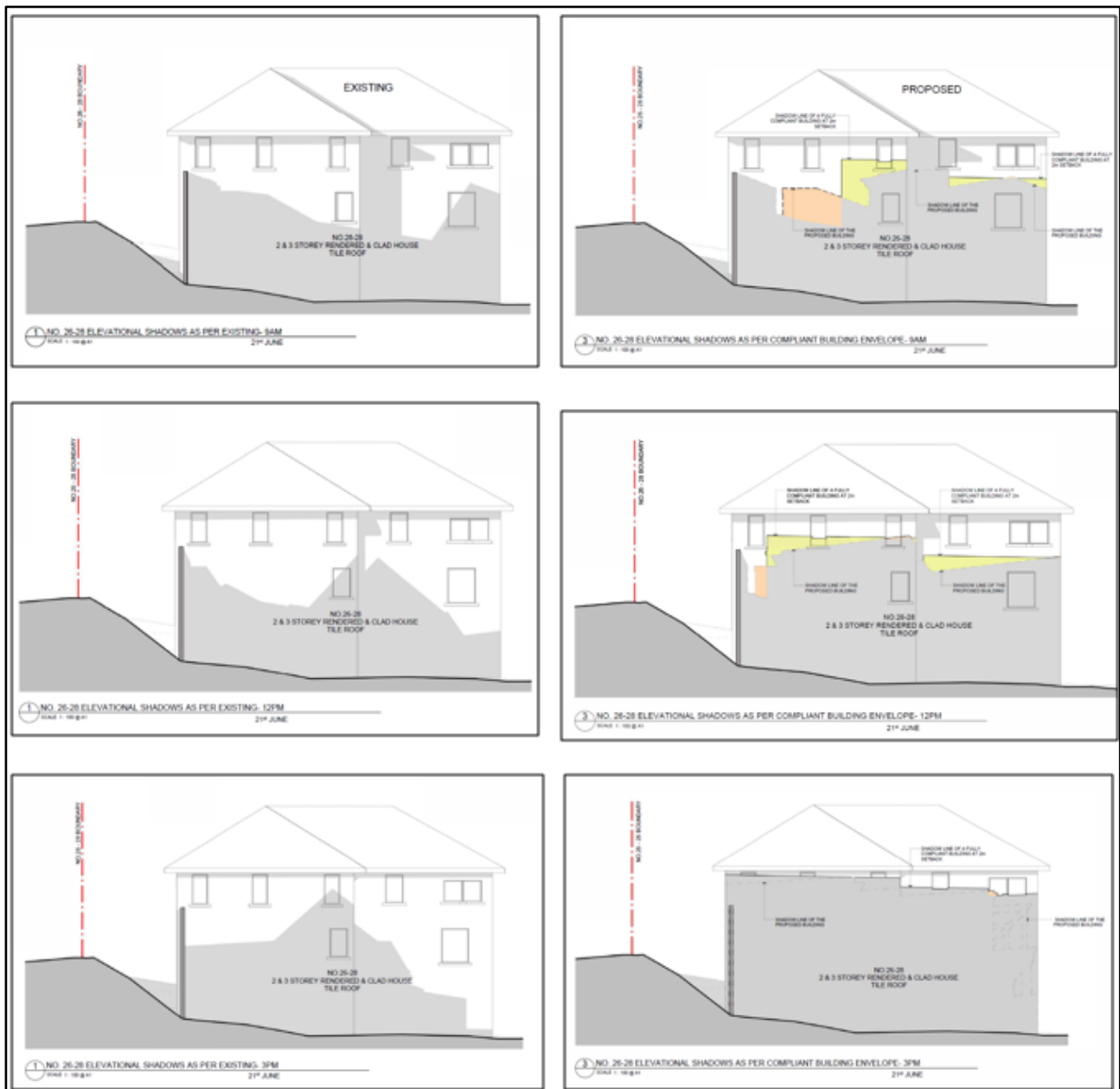


Figure 6. Existing (left) and proposed (right) shadow diagrams between 9am-3pm on 21 June. *Source:* Submitted Architectural Plans. **Note:** the area identified in green indicates a fully compliant envelope. The Proposal is identified in orange and/or grey with a dashed outline. Please refer to **Attachment 1**.

Objections were raised by the adjoining owner to the south at 26-28 Wolseley Road with regard to overshadowing. “Views from the sun” diagrams at hourly intervals were provided in support of the objection. The views from the sun assessment identifies affected windows as:

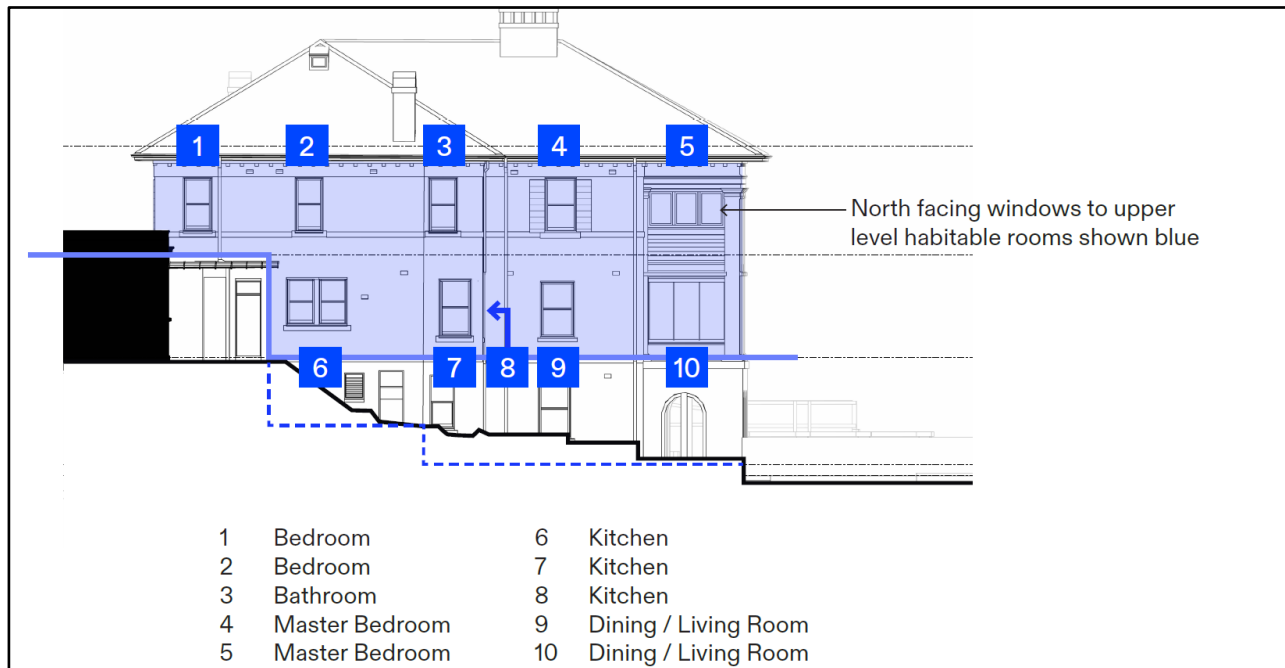


Figure 7. Affected north facing windows at 26-28 Wolseley Road. *Source:* Objection

Notwithstanding non-compliance, the Proposal would achieve the relevant objective, because:

- The immediate locality is zoned R3 Medium Density Residential, where buildings of 3 storeys or more are common and solar access is more difficult to protect to level 1 north facing windows. Refer to Image 1 below.
- The southern edge of the Proposal complies with the HoB development standard
- Compliant solar access is retained to all level 2 north facing windows and main ground level private open space at the adjoining property to the south.



Image 1. 3D oblique image of the locality. *Source:* Google Maps

- Windows 6 and 7 in Figure 7 above are closer to the common side boundary than the required side setback under WDCP 2015, further increasing their vulnerability to overshadowing.

- Strict compliance with the side setback control at the southern side setback is unlikely to significantly improve solar access to the adjoining property to the south.
- A compliant building, taking full advantage of the rear setback control, would likely result in a greater impact upon solar access to the property to the south, including on its main ground level private open space.
- The Proposal is considered to be skilfully designed, providing articulation to the southern elevation and limiting building bulk to the rear, by exceeding the rear setback control.

Part B3.5.3: Public and Private Views

With respect to views, an objection was received from the owner of 26-28 Wolseley Road in relation to view loss. The objection was accompanied by a Visual Impact Assessment (**VIA**) prepared by John Aspinall of Urbaine Design Group. It provides five (5) viewpoints, each showing only a single aspect across the northern side boundary, as indicated in Figure 8 below. The VIA describes the Proposal as being within a “low-density rural context” and also refers to the City of Sydney DCP throughout. These minor errors do not undermine the VIA’s validity. The contents of the VIA includes appendices at section 5, noting “Appendix A: Assessment Images – panoramic”. However, Appendix A appears to have been omitted from the VIA submitted to Council. To provide broader context, this assessment includes photographs from a site inspection of 26-28 Wolseley Road.

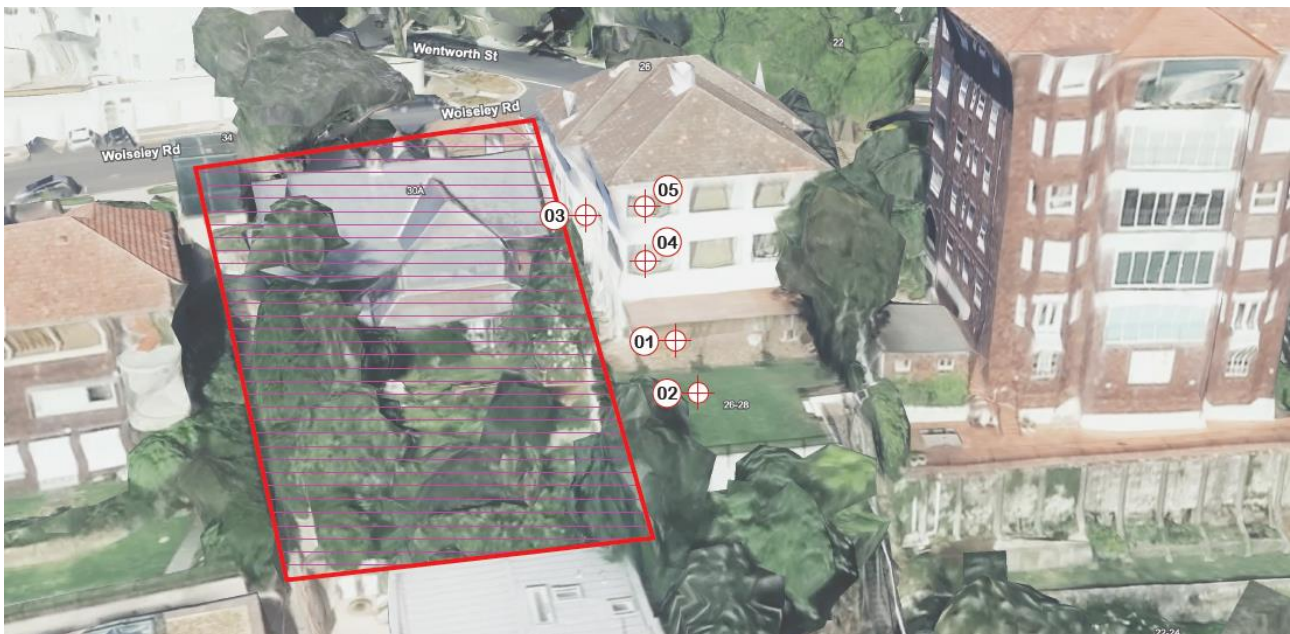


Figure 8. Viewpoint locations. Source: Submitted VIA objection

In assessing the reasonableness of view loss, this report applies the four step view sharing assessment established in *Tenacity Consulting v Warringah* (2004) NSWLEC 140 (paragraphs 23-33). These steps are:

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.

The VIA identifies the views to be affected as:

From Viewpoint 1

- Towards the Sydney Harbour and to HMAS Kuttabel and maintenance areas along Potts Point with the Rocks, Opera House and Sydney Harbour Bridge then across to the northern shore with North Sydney CBD, Kirribilli and Clark Island in the foreground.

From Viewpoint 2

- To the Sydney Harbour and to HMAS Kuttabel and maintenance areas along Potts Point with the Rocks, Opera House and Sydney Harbour Bridge then across to the northern shore with North Sydney CBD, Kirribilli and Clark Island floating centrally in the harbour. As the view flows more to the north Kurraba and Cremorne Point can be seen just before the view terminates with the neighbouring residences mix of palm trees foliage and beyond

From Viewpoint 3

- To the boats in Double Bay, foreshore and dwelling of Darling Point with the Sydney CDB rising up behind. As the view moves north over the Sydney Harbour to HMAS Kuttabel and maintenance areas along Potts Point with the Rocks, Opera House and across to the Sydney Harbour Bridge where the view terminates half way across with the neighbouring residence.

From Viewpoint 4

- To the harbour and Darling Point with CDB rising up behind them north over Sydney Harbour and to HMAS Kuttabel and maintenance areas along Potts Point with the Rocks, Opera House and Sydney Harbour Bridge then across to the northern shore with North Sydney CBD, Kirribilli and Clark Island floating centrally in the harbour.

From Viewpoint 5

- to the harbour and Darling Point with CDB rising up behind them north over Sydney Harbour and to HMAS Kuttabel and maintenance areas along Potts Point with the Rocks, Opera House and Sydney Harbour Bridge then across to the northern shore with North Sydney CBD, Kirribilli and Clark Island floating centrally in the harbour.

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.

Viewpoints 1 through 5 in the VIA are all obtained across the northern side boundary from the following areas within the property at 26-28 Wolseley Road:

Viewpoint 1 – Lower ground level living area doorway



Image 2. Viewpoint 1 including photomontage. *Source:* Submitted VIA objection

Viewpoint 2 – Outdoor dining area



Image 3. Viewpoint 2 including photomontage: *Source:* Submitted VIA objection



Outdoor dining – Standing



Outdoor dining - seated

Viewpoint 3 - Kitchen



Image 4. Viewpoint 3 including photomontage with cyan overlay. *Source:* Submitted VIA objection



Kitchen island bench – Seated



Kitchen island bench looking west - Seated



Kitchen looking west - Standing

Viewpoint 4 – Living Room



Image 5. Viewpoint 4 including photomontage with cyan overlay. Source: Submitted VIA objection



Living looking west - Standing



Living looking north-west - seated



Living looking north-west – Standing



Living looking west - Standing

Viewpoint 5 – Master bedroom



Image 6. Viewpoint 5 including photomontage with cyan overlay. *Source:* Submitted VIA objection



Master bedroom looking west – Standing



Master bedroom looking south-west - Standing



Master bedroom looking west – Standing



Master bedroom looking north-west - Seated



Southern end of master bedroom looking north-west



Southern end of Master bedroom/secondary living - Seated



Southern end of master bedroom looking north-west - Standing

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.

Viewpoint 1

The VIA assesses the extent of the impact from this viewpoint to be devastating.

Image 2 shows what is assumed to be the proposed glass pool fencing, which would provide the opportunity to retain views beyond the fence. However, at times, the pool fencing may cause reflection which will likely obscure these views. In this instance, all valued views would be lost and the view impact is considered to be **severe**.

However, the proposal involves raising the existing ground level of the rear yard by approximately 0.7-0.75m, with a minimum height pool fence measuring at approximately RL29.95. Retaining the existing level of the rear yard on the Site would result in a pool fence equivalent to the height of the boundary wall, which would retain views obtained from the Viewpoint 1. Accordingly, **Condition D.2a)** is recommended requiring the level of the rear lawn, swimming pool surrounds and associated trafficable surfaces to be retained at ground level existing, being RL28.05. The resultant view impact is considered to be **minor**.

Viewpoint 2

The VIA assesses the extent of the impact from this viewpoint to be severe.

Condition D.2a) will also resolve view loss from this viewpoint. The resultant view impact is considered to be **minor**.

Viewpoint 3

The VIA assesses the extent of the impact from this viewpoint to be devastating.

Image 4 depicts the Proposal with an outline and cyan overlay looking across the side common boundary. When considered in isolation, the view loss appears to be devastating. However, the elements of the Proposal causing the view loss are compliant with the HoB development standard, FSR development standard and the rear setback control. The minor non-compliance with the side setback control at this point would have no material impact on the retention of views from this viewpoint. Looking west from this viewpoint, views towards the moored boats in Double Bay, water, land/water interface and district beyond would remain unaffected by the Proposal.

Retention of views from this viewpoint, across a side boundary is considered unrealistic in this instance, given the elements causing the view loss are compliant with the relevant controls, some valuable views to the west remain unaffected, and the views that will be lost are available from numerous areas within the property at 26-28 Wolseley Road.

On this basis, the view impact is considered to be **moderate** and acceptable.

Viewpoint 4

The VIA assesses the extent of the impact from this viewpoint to be severe.

Image 5 depicts the Proposal with an outline and cyan overlay looking across the side common boundary.

Whilst some views toward north Sydney and Clark Island will be lost from this viewpoint, panoramic views will remain unaffected by the Proposal, which include, the Harbour Bridge, Opera House, City Skyline, water, land/water interface, moored boats in Double Bay and the district beyond. Moreover, when standing or sitting further to the south within the living room, views toward North Sydney and Clark Island will be retained.

On this basis, the view impact is considered to be **minor**.

Viewpoint 5

The VIA assesses the extent of the impact from this viewpoint to be severe.

For the reasons outlined for Viewpoint 4, the view impact from this viewpoint is considered to be **minor**.

4. The reasonableness of the proposal that is causing the impact

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

For the reasons referred to throughout this report, the Proposal is considered acceptable in the context of the western side of Wolseley Road and the desired future character of the precinct. The Proposal has skilfully adopted a greater rear setback to reduce the impact upon views. It distributes a minor portion of building bulk within the required southern side setback, which would have no additional impact on views compared to a compliant side setback.

On this basis, the Proposal is considered to result in an acceptable view sharing outcome.

Part B3.5.4: Acoustic and Visual Privacy

C1 Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.

C3 Electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 either within or at the boundaries of any property at any time of the day.

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) (refer to Figure 18) 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*

C10 The trafficable area of a roof terrace (above the second storey) (refer to Figure 18) is setback so that there is no direct line of sight, from that part of the building where the terrace or deck is, to:

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

Assessment:

The Proposal would result in non-compliance with C4 of this part. Notwithstanding this, the Proposal would achieve the relevant objectives of this part, because:

- Mechanical plant and equipment, including pool plant, is to be located within a designated plant room toward the rear of the Subject Site, at basement level (**01**)

- The Proposal includes obscure glazing to all upper floor north and south elevation windows up to a height of 1.5m above FFL. To ensure effectiveness of the proposed obscure glazing, **Condition D.2b)** is recommended requiring fixed glazing to a height of 1.5m above FFL to all upper floor north and south facing windows (**O2**)
- The Proposal provides a 1.7m privacy screen along the rear western boundary, adjacent to the proposed loggia, to ensure privacy to the adjoining property to the west at 32 Wolseley Road (**O2**)
- The proposed balconies are appropriately screened and, subject to Condition D.2a), overlooking from the proposed rear private open space area will be no greater than existing (**O3**)

Part B3.5.5: Internal Amenity

The Proposal is acceptable with regard to Part B3.5.5 of WDCP 2015.

Conclusion:

The proposal is acceptable with regard to the built form and context controls in Part B3.5 of the Woollahra DCP 2015.

16.2.4. Part B3.6: On-Site Parking

| Site Frontage: 20.42m | Existing | Proposed | Control | Complies |
|---|---|---|---|-----------------|
| Location of Parking | Outside building Envelope | Within the Building Envelope | Within the Building Envelope | Yes |
| Location of Parking (Car Lift Structure) | Outside Building Envelope Consistent with Streetscape | Outside Building Envelope Consistent with Streetscape (proposed car lift structure) | Outside Building Envelope Consistent with Streetscape | Yes |
| Parking Structures Outside Building Envelope | Minimum Deep Soil Landscaping and Private Open Space Requirements met | Minimum Deep Soil Landscaping and Private Open Space Requirements met | Minimum Deep Soil Landscaping and Private Open Space Requirements met | Yes |
| Width of Parking Structure | 6.5mm | 4.3m (proposed car lift structure) | 40% of Frontage /6m | Yes |
| Basement Parking | NA | Basement parking for 5 vehicles | Required for 3 or More Dwellings | Yes |
| Max Height of Car Parking Structures in Front Setback | Approx. 4.7m | 2.7m | 2.7m | Yes |
| Maximum Number of Driveways | One | One | One | Yes |

The proposal is acceptable with regard to the on-site parking controls in Part B3.6 of the Woollahra DCP 2015.

16.2.5. Part B3.7: External Areas

| Site Area: 651.5m ² | Existing | Proposed | Control | Complies |
|---|--------------------------------|----------------------------------|---|------------|
| Tree Canopy Area | Not Provided | 31.2% (203.8m ²) | 25% | Yes |
| Deep Soil Landscaping – | Not Provided | 30.03% (195.7m ²) | 30% of Site Area (195.39m ²) | Yes |
| Deep Soil Landscaping – Front Setback | Not Provided | 40.03% (50.2m ²) | 40% (50.15m ²) | Yes |
| Private Open Space (Upper Floor Units) Total Area Minimum dimension | NA | >8m ² >2m | 8m ² 2m | Yes Yes |
| Existing Canopy Trees | Incorporated Into Landscaping | Incorporated Into Landscaping | Incorporated Into Landscaping | Yes |
| Maximum Height of Fencing | >1.5m | 1.2m | 1.2m 1.5m and 50% open | Yes |
| Gate Swing | Opens Inwards | Opens Inwards | Opens Inwards | Yes |
| Vehicle Splay | NA | 45° splay 2.0m x 2.5m | 45° splay 2.0m x 2.0m | Yes |
| Side and Rear Fence Height | Not provided | 1.7m (rear) | 1.8m | Yes |
| Lockable Storage Spaces – RFB | NA | >8m ³ per Dwelling | 8m ³ per Dwelling | Yes |
| Air Conditioning Units | Not Visible from Public Domain | Not Visible from Public Domain | Not Visible from Public Domain | Yes |
| Swimming Pool Water Edge Setback | NA | >1.8m | 1.8m | Yes |
| Level of Swimming Pool Above or Below Ground Level | NA | >1.2m | Maximum 1.2m Change | No |
| Maximum Depth of Swimming Pool | NA | <2mm | 2.0m | Yes |

Part 3.7.1: Landscaped Areas and Private Open Space

C1 requires that 25% of the site area is to comprise tree canopy area, and at least half of the total tree canopy area on the site is contributed by canopy tree/s.

C2 requires that 30% of the site area is deep soil landscaping.

C3 requires at least 40% of the front setback area is to comprise deep soil landscaping.

C9 stipulates that for residential flat buildings, manor houses, or multi dwelling housing, each dwelling located above ground level is provided with private open space in the form of a balcony, verandah or uncovered roof terrace which has a minimum area of 8m² and a minimum dimension of 2m.

Assessment:

The Proposal complies with the relevant controls of this part. However, the north elevation (sheet DA-201) shows proposed white crepe myrtle trees along the rear boundary, reaching a height of 8m. At this height (RL32.2), the trees would extend approximately 2.3m beyond the southern common boundary wall and likely cause severe to devastating view loss from the rear private open space area at 26-28 Wolseley Road. Refer to Image 7.

Accordingly, **Condition D.2c)** is recommended requiring replacement tree species limited to a maximum mature height of 5m.



Image 7. Southern common boundary wall viewed from 26-28 Wolseley Road. Source: WMC

Part 3.7.2: Fences

C4 limits fencing to 1.2m if solid, or 1.5m if 50% transparent or open.

C7 requires gates to open inwards.

C8 stipulates that where a vehicular entrance is proposed, a 45° splay or its equivalent is provided either side with minimum dimensions of 2m by 2m.

C9 and C10 stipulate that side and rear boundary fences are no higher than 1.8m, as measured from the low side (if applicable). Where there is an increase in ground level in excess of 1.2m, the height may increase by 1.2m.

Assessment:

The Proposal would result in non-compliance with C9 and C10 along the rear boundary.

Privacy concerns (both visual and acoustic) were raised by the owner of 32 Wolseley Road downslope and to the west. In response, the amended Proposal includes a privacy screen along the rear boundary. This privacy screen sits 1.7m above the Site's proposed ground level and sits atop the existing retaining wall, reaching 5.74m above the adjoining courtyard.

On this basis, the non-compliance is justified and considered acceptable.

Part 3.7.3: Site Facilities

C2 requires lockable storage space of 8m³ per dwelling.

C5-C6 require that there is to be a common television aerial where there are three or more dwellings, and the design and location of aerials, antennae, and communication dishes is not to be visually intrusive, impact on neighbouring amenity or affect the character of the building. C7-C8 states that air conditioning units must be located internally and wholly contained within the permissible building envelope. They must not be located externally or on the roof unless Council is satisfied that they:

- cannot be reasonably located elsewhere,*
- are thoughtfully located, sized, enclosed, concealed and integrated into the building design, so they are not visible from the public domain, are consistent with the overall building design, are visually discreet, and will minimise acoustic impacts to adjoining properties.*

Assessment:

The Proposal is generally acceptable with this part. However, insufficient detail has been provided with regard to C5 and C6. Therefore, **Condition A.4** is recommended which outlines that consent is not granted to any rooftop aerials, antennae communication dishes or the like.

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

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

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

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

Assessment:

The Proposal would result in non-compliance with C4 of this part. Notwithstanding this, it would achieve the relevant objectives, because:

- Amenity concerns raised by the adjoining owners have been addressed by the amended Proposal and Conditions D.2a) and c). (O1)
- No excavation is required to accommodate the proposed swimming pool (O2)
- The location of the proposed swimming pool would not impact any existing significant trees on the Site. Furthermore, Council's Trees and Landscape Officer has not raised any issues regarding the proposed swimming pool (O3)

Conclusion

The proposal is acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

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

| Site Area: 651.5m ² | Existing | Proposed | Control | Complies |
|---|----------|-------------------------|----------------------------|----------|
| Minimum Lot Width | 20.42m | No Change | 15m | Yes |
| RFB Ventilation – Kitchen in RFB | NA | No more than 8m | Maximum 8.0m from a Window | Yes |
| RFB Ventilation – Width of Cross Through Units Over 15m | NA | >4m | Minimum 4.0m | Yes |
| Lightwells Used for Light and Ventilation | NA | Not Used as Main Source | Not Used as Main Source | Yes |

Minimum Lot Width

C1 requires a minimum lot width of 15m.

Residential Flat Buildings and Multi Dwelling Housing

C1 requires window and room layout to ensure good natural ventilation.

C3 requires the back of a kitchen should be no more than 8.0m from a window

C4 requires the minimum width of a cross-through dwelling over 15m deep is 4.0m

C5 states that where practical, habitable windows are to be orientated to the north.

C6 does not permit light wells to be used as the main source of light and ventilation.

C7 requires that each dwelling has access to its own private open space.

C8 states that private open space must not be overlooked by neighbouring dwellings.

Assessment:

The Proposal achieves compliance with the relevant controls of this part and is considered to achieve the relevant objectives, because:

- The Proposal would provide high levels of amenity to future occupants **(O1)**
- The proposed private open space areas exceed Council's minimum area requirements, are directly accessed from living and dining areas and would provide panoramic views of Sydney Harbour, including iconic views to each proposed dwelling **(O2)**

Conclusion

The proposal is acceptable with regard to the additional controls in Part B3.8 of the Woollahra DCP 2015.

16.3 Chapter E1: Parking and Access

Council's Traffic Engineer has reviewed the Proposal and considers it to be satisfactory, because:

- The proposed provision of five (5) parking spaces, comply with DCP's maximum requirement and is considered acceptable.
- The Proposal includes 3 bicycle parking spaces and 1 motor bike parking space, which complies with DCP's minimum requirement and is deemed satisfactory.
- Based on the calculations of Council's Traffic Engineer, the difference in traffic generated by the Proposal is minor and is unlikely to generate unacceptable adverse impact on the surrounding road network in terms of safety and efficiency.
- A turntable and car lift is proposed to assist with access and vehicular manoeuvrability. Swept path diagrams have been provided and demonstrate successful movements and are considered acceptable.
- Council's Traffic Engineer has recommended relevant Conditions of Consent to minimise traffic disruption should queueing extend beyond the property boundary due to the operation of the proposed mechanical car lift.
- Council's Traffic Engineer has recommended relevant Conditions of Consent to address the proposed driveway width and on-street parking requirements.
- The provision of adequate sight splays along both sides of the proposed driveway would ensure sufficient visibility.

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

16.3.1. 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.*

The Subject Application was accompanied by an Electrical Supply Letter prepared by Shelmerdines Consulting Engineers. This letter outlines that an electrical substation is unlikely to be required to accommodate EV charging points. However, no details have been provided of electric circuitry. Notwithstanding this, the proposal is considered to be acceptable with regard to the objectives and controls in Part E1.11: Electric Vehicle Charging Points of the Woollahra DCP 2015, subject to the imposition of **Conditions D.11** and **G.15** requiring provision for electric vehicle circuitry within the development.

Conclusion:

The proposal, as conditioned is acceptable with regard to the objectives and controls of Chapter E1 of the Woollahra Development Control Plan 2015.

16.4 Chapter E2: Stormwater and Flood Risk Management

Council's Drainage and Development Engineers have determined that the Proposal is satisfactory with regard to stormwater and flood risk management. Flood specific Conditions of Consent are not required in this instance.

The proposed water quality of stormwater runoff does not meet Council's environmental targets. However, the modelled water quality targets for the Proposal are marginally insufficient and, on this basis, Council's Development Engineer has recommended relevant Conditions of Consent prior to the issue of a Construction Certificate.

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

16.5 Chapter E3: Tree Management

Council's Trees and Landscape Officer has determined that the Proposal is satisfactory with regard to Tree Management, because:

- The most significant tree (Jacaranda) on the Site is proposed for retention.
- The Proposal is skilfully designed and provides additional deep soil landscaped area and design considerations to ensure the future root growth of the Jacaranda.
- Conditions of Consent are recommended requiring amended Sediment and Erosion Control, Stormwater and Landscape plans to ensure adverse impacts to existing and proposed trees are minimised.

The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

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

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

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

| | Existing | Proposed | Control | Complies |
|---|---------------------|---------------------|---|----------|
| Garbage and Recycling Areas | Separated | Separated | Separated | Yes |
| Location of Garbage and Recycling Areas | Non-habitable areas | Non-habitable areas | Behind Building Line or Non-Habitable Areas | Yes |

Concerns were raised by the owner of 26-28 Wolseley Road regarding the location of the proposed waste enclosure, particularly in relation to acoustic impacts.

The proposed bin enclosure is considered to achieve the relevant objectives of this part, because:

- The Subject Application is accompanied by a SWMMP, which details adequate provision of waste storage, separation and methods of disposal (**O1**)
- The proposed waste storage area would be appropriately integrated with the design of the proposed building and would provide adequate security and access to collection points (**O3**)
- The bin enclosure is unlikely to be used for extended periods and its use would not generate unreasonable acoustic impacts to adjoining properties. Furthermore, the proposed 3.32m southern wall of the waste enclosure would provide a physical barrier to the property to the south, further reducing any acoustic impacts (**O3**)
- The submitted SWMMP proposes the use of sealed bins, adequate waste separation and waste collection frequencies, ensuring olfactory impacts are minimised. Furthermore, the proposed southern wall would provide a physical barrier for initial containment of odors (**O3**)
- The proposed 3.32m southern wall would be lower than the existing garage structure in the same location, thereby reducing visual bulk and scale to the property to the south (**O3**)
- The proposed waste enclosure is suitably located and integrated with the design the proposed building. It would not result in unreasonable impacts upon the streetscape, or pedestrian safety (**O4**)

The proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

17. CONTRIBUTION PLANS

17.1 Section 7.12 Contributions Plan

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 for works outlined in Schedule 1 of the Woollahra Section 7.12 Development Contributions Plan 2022. Refer to **Condition D.4**

17.2 Subdivision 4 Housing and Productivity Contributions

Section 7.24 of the Environmental Planning and Assessment Act 1979 identifies that the object of this subdivision is to facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a housing and productivity contribution to be required.

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2023 sets out the classes of development, which require a housing and productivity contribution.

The proposal does not require a housing and productivity contribution.

17.3 Application of Contributions

The consent authority cannot impose conditions under both Section 7.11 and Section 7.12 on the same development consent.

In this instance, Section 7.12 contributions have been applied. Accordingly, Section 7.11 contributions are not applicable.

18. APPLICABLE ACTS/REGULATIONS

18.1 Environmental Planning and Assessment Regulation 2021

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

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

18.2 Swimming Pools Act 1992

The Swimming Pools Act 1992, requires swimming pools to be surrounded by a child-resistant barrier, which separates the swimming pool from any residential building. The barrier must be designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Additional provisions relate to:

- a) Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash discharge to the sewer

These requirements are imposed by standard condition.

19. THE LIKELY IMPACTS OF THE PROPOSAL

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

20. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development

21. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

22. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15 of the Act.

23. DISCLOSURE STATEMENTS

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

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

THAT the Council, as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the Minimum Lot Size and Height of Buildings development standards under Clauses 4.1A and 4.3 of Woollahra LEP 2014. The Council assumes the concurrence of the Secretary, Department of Planning, Industry and Environment.

AND

THAT the Council, as the consent authority, grant development consent to Development Application No. 84/2024/1 for demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping on land at 30 Wolseley Road Point Piper, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

| | |
|--------------|---|
| A. 1. | Conditions |
| | <p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 (“the Act”), and the provisions of the Environmental Planning and Assessment Regulation 2021 (“the Regulations”) and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (“the Development Certification and Fire Safety Regulations”), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p>Notes:</p> <ul style="list-style-type: none">• Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence.• Where there is any breach Council may without any further warning:<ul style="list-style-type: none">a) Issue Penalty Infringement Notices (On-the-spot fines);b) Issue notices and orders;c) Prosecute any person breaching this consent; and/ord) Seek injunctions/orders before the courts to restrain and remedy any breach.• Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.• Should Council have to take any action to enforced compliance with this consent or other environmental laws Council’s policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.• This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.• The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the Crimes (Sentencing Procedure) Act 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. |
| | <p>Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.</p> |

| | |
|---------------------|--|
| <p>A. 2.</p> | <p>Definitions</p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p>Applicant means the applicant for this consent.</p> <p>Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p>Local native plants means species of native plant endemic to Sydney's eastern suburbs.</p> <p>Owner-builder has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p>PC means the Principal Certifier under the <i>Act</i>.</p> <p>Principal Contractor has the same meaning as in the <i>Act</i>, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.</p> <p>Professional engineer has the same meaning as in the BCA.</p> <p>Public place has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p>Road has the same meaning as in the <i>Roads Act 1993</i>.</p> <p>SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p>Site means the land being developed subject to this consent.</p> <p>Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.</p> <p>Woollahra LEP means <i>Woollahra Local Environmental Plan 2014</i></p> <p>Woollahra DCP means <i>Woollahra Development Control Plan 2015</i></p> <p>Work for the purposes of this consent means:</p> <ul style="list-style-type: none"> • the use of land in connection with development, • the subdivision of land, • the erection of a building, • the carrying out of any work, • the use of any site crane, machine, article, material, or thing, • the storage of waste, materials, site crane, machine, article, material, or thing, • the demolition of a building, • the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land, • the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or • the occupation of the <i>site</i> by any person unless authorised by an occupation certificate. |
|---------------------|--|

| | Condition Reason: To ensure all parties are aware of the relevant definitions. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|--|--|--------|------|---|--|---|-------------------------|-------------|-------------------|--|-------------|--|--|------------------|-------------|-------|---------------------------|---------|-------------|-----------|---------------------|------------------|------------|---|-----------------------------|---------------------------------------|--|----------|--|-------------------------|----------|--|--|
| A. 3. | Approved Plans and Supporting Documents | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <table border="1"> <thead> <tr> <th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr> </thead> <tbody> <tr> <td>DA-103 Rev 02 DA-105 Rev 02 DA-106 Rev 02 DA-107 Rev 02 DA-108 Rev 02 DA-200 Rev 02 DA-201 Rev 02 DA-202 Rev 02 DA-203 Rev 02 LP-700 Rev 02 LP-701 Rev 02</td><td>Site/Roof Plan Basement Plan Level 1 Floor Plan Level 2 Floor Plan Level 3 Floor Plan West and East Elevations North and South Elevations Section A and B Sections C, D and E Landscape Plan Landscape Plan – Basement</td><td>All drawn by MJ Suttie Architects</td><td>All dated 11/03/2024</td></tr> <tr> <td>1378009M_02</td><td>BASIX Certificate</td><td>NSW Department of Planning and Environment</td><td>15 Mar 2024</td></tr> <tr> <td></td><td>Site Waste Minimisation and Management Plan</td><td>Michael J Suttie</td><td>14 Dec 2023</td></tr> <tr> <td>53391</td><td>Traffic Impact Assessment</td><td>TRAFFIX</td><td>13 Dec 2023</td></tr> <tr> <td>223450.00</td><td>Geotechnical Report</td><td>Douglas Partners</td><td>09/10/2023</td></tr> <tr> <td>SW23780 SW001-Rev B SW010-Rev B SW011-Rev B SW020-Rev B SW021-Rev B SW022-Rev B SW030-Rev B SW040-Rev B</td><td>Stormwater Management Plans</td><td>Capital Engineering Consultants</td><td>31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024</td></tr> <tr> <td>5499/AIA</td><td>Arboricultural Impact Assessment Report</td><td>Sue Wylie - TreeTalk</td><td>Dec 2023</td></tr> </tbody> </table> | Reference | Description | Author | Date | DA-103 Rev 02 DA-105 Rev 02 DA-106 Rev 02 DA-107 Rev 02 DA-108 Rev 02 DA-200 Rev 02 DA-201 Rev 02 DA-202 Rev 02 DA-203 Rev 02 LP-700 Rev 02 LP-701 Rev 02 | Site/Roof Plan Basement Plan Level 1 Floor Plan Level 2 Floor Plan Level 3 Floor Plan West and East Elevations North and South Elevations Section A and B Sections C, D and E Landscape Plan Landscape Plan – Basement | All drawn by MJ Suttie Architects | All dated 11/03/2024 | 1378009M_02 | BASIX Certificate | NSW Department of Planning and Environment | 15 Mar 2024 | | Site Waste Minimisation and Management Plan | Michael J Suttie | 14 Dec 2023 | 53391 | Traffic Impact Assessment | TRAFFIX | 13 Dec 2023 | 223450.00 | Geotechnical Report | Douglas Partners | 09/10/2023 | SW23780 SW001-Rev B SW010-Rev B SW011-Rev B SW020-Rev B SW021-Rev B SW022-Rev B SW030-Rev B SW040-Rev B | Stormwater Management Plans | Capital Engineering Consultants | 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 | 5499/AIA | Arboricultural Impact Assessment Report | Sue Wylie - TreeTalk | Dec 2023 | | |
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| | Site Waste Minimisation and Management Plan | Michael J Suttie | 14 Dec 2023 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 53391 | Traffic Impact Assessment | TRAFFIX | 13 Dec 2023 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 223450.00 | Geotechnical Report | Douglas Partners | 09/10/2023 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SW23780 SW001-Rev B SW010-Rev B SW011-Rev B SW020-Rev B SW021-Rev B SW022-Rev B SW030-Rev B SW040-Rev B | Stormwater Management Plans | Capital Engineering Consultants | 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5499/AIA | Arboricultural Impact Assessment Report | Sue Wylie - TreeTalk | Dec 2023 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>Notes:</p> <ul style="list-style-type: none"> Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans. These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| A. 4. | Development Consent is Not Granted in Relation to these Matters | | | | | | | | | |
|----------------|---|--------------|--------------------|----------------|---------|----------|--------------------|---|--|--------------|
| | This approval does not give consent to any rooftop aerials, antennae communication dishes or the like. | | | | | | | | | |
| | Condition Reason: To ensure all parties are aware of works that have not been granted consent. | | | | | | | | | |
| A. 5. | 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. | | | | | | | | | |
| | Notes: <ul style="list-style-type: none"> This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs. | | | | | | | | | |
| A. 6. | 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. | | | | | | | | | |
| | Condition Reason: To ensure all works are located within the boundaries of the site and to confirm that no consent is granted for underpinning works to any structures on adjoining properties. | | | | | | | | | |
| A. 7. | Tree Preservation and Landscaping Works | | | | | | | | | |
| | While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan and arborist report as applicable. | | | | | | | | | |
| | a) The following trees must be retained: <ul style="list-style-type: none"> Trees on private land: <table border="1"> <thead> <tr> <th>Council Ref No</th><th>Species</th><th>Location</th><th>Dimension (metres)</th></tr> </thead> <tbody> <tr> <td>1</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td><td>Front garden</td><td>12 x 16</td></tr> </tbody> </table> | | | Council Ref No | Species | Location | Dimension (metres) | 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden |
| Council Ref No | Species | Location | Dimension (metres) | | | | | | | |
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | 12 x 16 | | | | | | | |

- Trees on Council land:

| Council Ref No | Species | Location | Dimension (metres) | Tree value |
|----------------|--|---------------|--------------------|------------|
| A | <i>Angophora costata</i> (Sydney Pink Gum) | Council verge | 7 x 6 | \$2000.00 |

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

- b) The following trees may be removed:

| Council Ref No | Species | Location | Dimension (metres) |
|----------------|---|----------------------------------|--------------------|
| B | <i>Tristaniopsis laurina</i> (Water gum) | Council verge | 3 x 3 |
| 1a | <i>Hibiscus rosa-sinensis</i> (Rose of China) | Front garden | 4 x 3 |
| 1b | <i>Camellia japonica</i> (Camellia) | Front garden | 4 x 3 |
| 2 | 3 x <i>Howea forsteriana</i> (Kentia palm) | Rear yard northern side boundary | ~6 x 3 each |
| 2a | 2 x <i>Murraya paniculata</i> (Mock Orange) | Rear yard northern side boundary | ~5 x 3 each |
| 3 | <i>Olea europea var. europea</i> (European Olive) | Rear yard southern side | 3 x 3 |

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

Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.
Standard Condition A.22 (Autotext 22A)

DEMOLITION WORK

B. BEFORE DEMOLITION WORK COMMENCES

| | |
|--------------|--|
| B. 1. | Construction Certificate Required Prior to Any Demolition |
| | <p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> • Before issue of a construction certificate • Before building work commences <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p> <p>Note:</p> <ul style="list-style-type: none"> • See <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [2001] NSWLEC 125. |

| | |
|--------------|--|
| | <p>Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.</p> |
| B. 2. | <p>Erosion and Sediment Controls – Installation</p> <p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <p>a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</p> <p>b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p> |
| B. 3. | <p>Identification of Hazardous Material</p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> • all hazardous materials identified on the site, • the specific location of all hazardous materials identified, • whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and • safety measures to be put in place. <p>Condition Reason: To protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.</p> |

| B. 4. | Public Road Assets Prior to Any Work/Demolition | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|--------------|---------|------------------|------------------|---|--|--|--|--|--------------|----|------|--|------------|----|------|---|--|--|--|---------------------------------------|----------|----|-----|--|------------|----|--|-------------------------------------|----------|----|-----|--------------------------------|--------------|--|--|
| | <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none">• road pavement,• street signage including street lights,• kerb and gutter,• footway including pedestrian crossings, footpath, and driveways,• retaining walls, or other significant structures,• Heritage Items, including street name inlays,• utility service items including historical utility covers, and• drainage structures/pits/pipes (CCTV footage). <p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p> <p>If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B. 5. | Payment of Security and Fees | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>Prior to any site works, the following security and fees must be paid in full:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i></td></tr><tr><td>Property Damage Security Deposit - making good any damage caused to any property of the Council</td><td>\$155,580.00</td><td>No</td><td>T115</td></tr><tr><td>Tree Damage Security Deposit – making good any damage caused to any public tree</td><td>\$2,000.00</td><td>No</td><td>T114</td></tr><tr><td colspan="4">INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i></td></tr><tr><td>Public Tree Management Inspection Fee</td><td>\$231.30</td><td>No</td><td>T95</td></tr><tr><td>Street Tree Planting and Maintenance Fee</td><td>\$2,062.50</td><td>No</td><td></td></tr><tr><td>Security Deposit Administration Fee</td><td>\$235.00</td><td>No</td><td>T16</td></tr><tr><td>TOTAL SECURITY AND FEES</td><td>\$160,108.80</td><td></td><td></td></tr></table> | Description | Amount | Indexed | Council Fee Code | SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i> | | | | Property Damage Security Deposit - making good any damage caused to any property of the Council | \$155,580.00 | No | T115 | Tree Damage Security Deposit – making good any damage caused to any public tree | \$2,000.00 | No | T114 | INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i> | | | | Public Tree Management Inspection Fee | \$231.30 | No | T95 | Street Tree Planting and Maintenance Fee | \$2,062.50 | No | | Security Deposit Administration Fee | \$235.00 | No | T16 | TOTAL SECURITY AND FEES | \$160,108.80 | | |
| | Description | Amount | Indexed | Council Fee Code | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Property Damage Security Deposit - making good any damage caused to any property of the Council | \$155,580.00 | No | T115 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Tree Damage Security Deposit – making good any damage caused to any public tree | \$2,000.00 | No | T114 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Public Tree Management Inspection Fee | \$231.30 | No | T95 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Street Tree Planting and Maintenance Fee | \$2,062.50 | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Security Deposit Administration Fee | \$235.00 | No | T16 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL SECURITY AND FEES | \$160,108.80 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| How must the payments be made? | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Payments must be made by: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <ul style="list-style-type: none">• cash deposit with Council. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

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

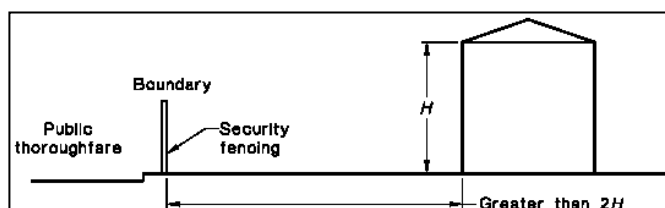
Notes:

- An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.
- The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.
- Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.
- Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.
- Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.
- The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au

Condition Reason: To ensure any relevant security and fees are paid.

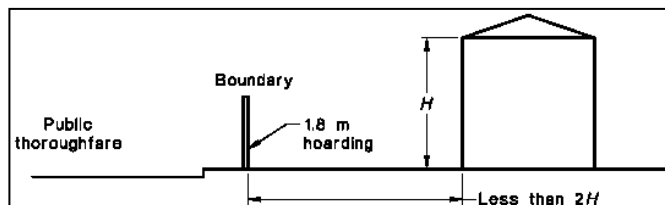
B. 6. Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



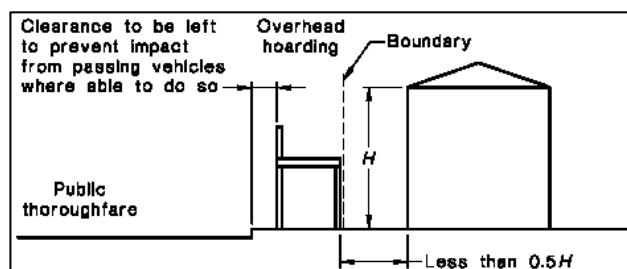
Type B Hoarding

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

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

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

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



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

All Hoardings

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

Hoardings on Public Land including 'Creative Hoardings'

All fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection must be paid in full.

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

Notes:

- A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.
- Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:
 - A. Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
 - B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
 - C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - 1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or
 - 2. the land is zoned R2 Low Density Residential, or
 - 3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road).
- Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding". The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au

Condition Reason: To ensure public safety.

B. 7. Site Signs

Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.

Clause 70 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:

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| | <p>a) showing the name, address and telephone number of the principal certifier for the work, and</p> <p>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</p> <p>c) stating that unauthorised entry to the work site is prohibited.</p> <ul style="list-style-type: none"> Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building. This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia. <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p>Signs on development sites</p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out. <p>Notes:</p> <ul style="list-style-type: none"> Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with. If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation. <p>Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p> |
| <p>B. 8.</p> | <p>Toilet Facilities</p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ul style="list-style-type: none"> 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. <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> |

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| | <p>Notes:</p> <ul style="list-style-type: none"> In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999. This condition does not set aside the requirement to comply with SafeWork NSW requirements. <p>Condition Reason: To ensure toilet facilities are provided for workers at the work site.</p> |
| B. 9. | <p>Establishment of Boundary Location, Building Location and Datum</p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <ol style="list-style-type: none"> set out the boundaries of the site by permanent marks (including permanent recovery points), set out 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, establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier. <p>Notes:</p> <ul style="list-style-type: none"> Where there is 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 site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent. On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor. <p>Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.</p> |
| B. 10. | <p>Compliance with Australian Standard for Demolition</p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p>Condition Reason To control the risks of demolition work.</p> |
| B. 11. | <p>Compliance with Australian Standard for Demolition</p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p>Condition Reason To control the risks of demolition work.</p> |
| B. 12. | <p>Construction Management Plan</p> <p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for</p> |

approval. Also, due to lack of on-street parking a Work Zone may be required during construction.

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

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

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- 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 must only be

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| | <p>undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.</p> <p>q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p> |
| B. 13. | <p>Works (Construction) Zone – Approval and Implementation</p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988. • The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service. <p>Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p> |
| B. 14. | <p>Dilapidation Reports for Existing Buildings</p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> |

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| | <p>These properties must include (but is not limited to):</p> <ol style="list-style-type: none"> No. 26-28 Wolseley Road No. 32-34 Wolseley Road No. 36 Wolseley Road No. 38 Wolseley Road <p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p> <p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p> <p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p> <p>Notes:</p> <ul style="list-style-type: none"> The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly caused by the carrying out of the development. This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development. Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings. <p>Condition Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p> |
| <p>B. 15.</p> | <p>Dilapidation Reports for Public Infrastructure</p> <p>Before any site work commences, to clarify the existing state of public infrastructure prior to the commencement of the development (including prior to any demolition), a dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site must be prepared.</p> <p>The dilapidation report must be submitted to Council prior to the commencement of any site work and include:</p> <ol style="list-style-type: none"> photographs showing any existing damage to the road pavement fronting the site, photographs showing any existing damage to the kerb and gutter fronting the site, photographs showing any existing damage to the footway including footpath pavement fronting the site, photographs showing any existing damage to retaining walls within the footway or road, photographs showing any existing damage to street signs, heritage name plates, and historical items, and the full name and signature of the Chartered Professional Engineer. <p>The report is to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital, and date stamped.</p> |

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| | | <p>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 site work. If the required report is not submitted, Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site work under this consent.</p> <p>Notes:</p> <ul style="list-style-type: none"> • If a dilapidation report is not submitted as required by this condition, and damage is occasioned to public assets, which adjoin 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. <p>Condition Reason: To establish and document the structural condition of public land for comparison as site work progresses and is completed and ensure Council is provided with the dilapidation report.</p> |
| B. 16. | Adjoining Buildings Founded on Loose Foundation Materials | <p>Before any site work commences, a professional engineer must determine the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis, and any reasonable direction of the professional engineer must be complied with.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A failure to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. • The person with the benefit of this consent is likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919. <p>Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p> |
| B. 17. | Piezometers for the Monitoring of Ground Water Levels | <p>Before any site work commences, 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall must be provided. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.</p> <p>The GWL monitoring wells and monitoring program must be maintained until the issue of the occupation certificate.</p> <p>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.</p> <p>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).</p> |

| | | Condition Reason: To ensure that piezometers are provided to monitor ground water levels. | | | | | | | | | | | | | |
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| B. 18. | Establishment Tree Protection Measures within the Tree Protection Zones (TPZ) | | | | | | | | | | | | | | |
| | <p>Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;</p> <p>a) Tree Protection Fencing:</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Tree Location</th><th>Fence Radius from Centre of Trunk (Metres)*</th></tr><tr><td>A</td><td><i>Angophora costata</i> (Sydney Pink Gum)</td><td>Council verge</td><td>Nature strip up to proposed new driveway</td></tr><tr><td>1</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td><td>Front garden</td><td>Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023</td></tr></table> <p>Where this condition relates to street trees, and the fence cannot be placed at the specified radius, the fencing is to be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways and footpaths, and bus stops is protected.</p> <p>Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.</p> <p>b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.</p> <p>c) Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.</p> <p>d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.</p> | | | Council Ref No | Species | Tree Location | Fence Radius from Centre of Trunk (Metres)* | A | <i>Angophora costata</i> (Sydney Pink Gum) | Council verge | Nature strip up to proposed new driveway | 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 |
| Council Ref No | Species | Tree Location | Fence Radius from Centre of Trunk (Metres)* | | | | | | | | | | | | |
| A | <i>Angophora costata</i> (Sydney Pink Gum) | Council verge | Nature strip up to proposed new driveway | | | | | | | | | | | | |
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 | | | | | | | | | | | | |

- e) Ground protection must be established within the specified radius from the trunks of the following trees.

| Council Ref No | Species | Tree Location | Radius from Centre of Trunk (Metres) |
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| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 |

Ground protection must consist of a permeable membrane such as geotextile fabric placed directly over the ground surface underneath one of the following:

- rumble boards strapped over 100mm mulch/aggregate
- f) Temporary access within the TPZ area for pedestrian and machinery movements must only be permitted with the approval of the site arborist or unless specified in this consent.
- g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- h) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.

Condition Reason: To ensure the protection of existing trees

Standard Condition B.5 (Autotext 5B)

B. 19. Construction Management Plan Arborist Review

Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.

The plan must address:

- 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

| | <p>j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.</p> <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees. Standard Condition B.28 (Autotext 28B)</p> | | | | |
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| B. 20. | <p>Arborists Documentation and Compliance Checklist</p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> • A record of the condition of trees to be retained prior to and throughout development. • Recommended actions to improve site conditions and rectification of non-compliance. • Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1"> <thead> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td>Prior to any site works</td><td> <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. </td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Standard Condition B.29 (Autotext 29B)</p> | Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | Prior to any site works | <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. |
| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | | | | |
| Prior to any site works | <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. | | | | |
| B. 21. | <p>Permissible work within Tree Protection Zones</p> <p>Prior to any site works, the following works are permissible within the Tree Protection Zone:</p> | | | | |

| | <table><tr><th>Council Ref No</th><th>Species</th><th>Radius from Centre of Trunk (Metres)</th><th>Approved works</th></tr><tr><td>1</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td><td>Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023</td><td>Demolition of existing building. Proposed soft landscaping. Proposed main entrance stairs cantilevered above existing ground levels or positioned in piers to avoid the severing of roots equal to or greater than 50mm diameter.</td></tr></table> <p>The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.</p> <p>Condition Reason To establish the works which are permissible within the Tree Protection Zones. Standard Condition B.30 (Autotext 30B)</p> | Council Ref No | Species | Radius from Centre of Trunk (Metres) | Approved works | 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 | Demolition of existing building. Proposed soft landscaping. Proposed main entrance stairs cantilevered above existing ground levels or positioned in piers to avoid the severing of roots equal to or greater than 50mm diameter. |
|----------------|---|--|---|--------------------------------------|----------------|---|--|--|---|
| Council Ref No | Species | Radius from Centre of Trunk (Metres) | Approved works | | | | | | |
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 | Demolition of existing building. Proposed soft landscaping. Proposed main entrance stairs cantilevered above existing ground levels or positioned in piers to avoid the severing of roots equal to or greater than 50mm diameter. | | | | | | |
| B. 22. | <p>Recording of Buildings with Little or No Heritage Significance that are to be Demolished</p> <p>Prior to any site works and prior to the issue of any Construction Certificate, a photographic archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council’s heritage officer.</p> <p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p> <p>a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.</p> <p>b) Coloured photographs of:</p> <ul style="list-style-type: none">• each elevation,• each structure and landscape feature, and• views to the subject property from each street and laneway or public space. <p>Notes:</p> <ul style="list-style-type: none">• Refer to the NSW Office of Environment and Heritage website for the free publication ‘Photographic Recording of Heritage Items using Film or Digital Capture’ available at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf <p>Condition Reason: To ensure existing building and landscape elements are recorded.</p> | | | | | | | | |
| B. 23. | <p>Skeletal Remains</p> <p>While site work is being carried out, if any skeletal remains suspected of being human are found, work must cease immediately and no further disturbance of the site must occur. The following must be notified:</p> <p>a) NSW Police, and</p> | | | | | | | | |

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| | <p>b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Details of the remains and their precise location are to be provided.</p> <p>Site work may recommence at a time confirmed in writing by the NSW Police and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</p> |
| | <p>Condition Reason: To ensure the appropriate management of skeletal remains.</p> |
| B. 24. | <p>Aboriginal Objects – Unexpected Findings</p> |
| | <p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p> <ol style="list-style-type: none"> Not further disturb or move these objects or bones. Immediately cease all work at the particular location. In the case of suspected human remains, notify NSW Police. Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. <p>Notes:</p> <ul style="list-style-type: none"> The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. |
| | <p>Condition Reason: To protect Aboriginal objects</p> |
| B. 25. | <p>Aboriginal Heritage Due Diligence Responsibilities</p> |
| | <p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p> <p>It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p> |
| | <p>Condition Reason: To protect Aboriginal heritage.</p> |

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| B. | 26. | Aboriginal Heritage Induction |
| | | <p>Prior to any site works:</p> <ul style="list-style-type: none"> a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974; b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier. |
| | | Condition Reason: To protect Aboriginal heritage. |
| B. | 27. | Protection of Aboriginal Heritage |
| | | <p>Archaeological Monitoring of the removal of soil immediately above sandstone bedrock should be undertaken by a La Perouse LALC Site Officer. This could occur during or immediately after demolition works, depending on the staging of the project. Once overlying soil is removed and sandstone bedrock is exposed, this will be inspected to determine if engravings or grinding grooves are present. After inspection, the La Perouse LALC will determine if any further monitoring of the excavations around the sandstone will be required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol.</p> |
| | | Condition Reason: To protect Aboriginal heritage as recommended in the AHIA. |
| B. | 28. | Salvage Building Materials |
| | | <p>Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows 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.</p> |
| | | Condition Reason: To maximise reuse of existing fabric. |

REMEDIATION WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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| D. | 1. | Payment of Long Service Levy |
| | | <p>Before the issue of any construction certificate, the original receipt(s) for the payment of the following levy must be provided to the Principal Certifier:</p> |

| 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 | |
| <p>Building and Construction Industry Long Service Payment</p> <p>The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.</p> <p>How must the payments be made?</p> <p>Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. | | | |
| Condition Reason: To ensure any relevant levy is paid. | | | |
| Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development. | | | |
| D. 2. | | | |
| Modification of Details of the Development (section 4.17(1)(g) of the Act) | | | |
| <p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p>a) Ground Level Rear Setback Area</p> <p>The existing ground level (RL28.05) within the rear setback area must be maintained for the proposed lawn, swimming pool and surrounds and all associated trafficable surfaces</p> <p>Reason: To achieve adequate view sharing and visual privacy to adjoining properties and to achieve consistency with Parts B3.5.3 and B3.5.4 of WDCP 2015.</p> <p>b) Fixed Glazing to Proposed Levels 1, 2 and 3 Northern and Southern Elevation Windows</p> <p>All proposed windows with obscure glazing at the northern and southern elevations of Level 1 (RL28.9), Level 2 (RL32.2) and Level 3 (RL35.5) must be fixed to a minimum height of 1.5m measured from the respective finished floor level.</p> | | | |

Reason: To provide adequate visual privacy to habitable rooms and private open space of adjoining dwellings, consistent with Control C1 and Objective O2 under Part B3.5.4 of WDCP 2015.

c) Replacement Tree Species Along the Rear Boundary

The five (5) proposed “White Crepe Myrtle (To 8m at maturity)” along the rear western boundary must be replaced with a species with a mature height limited to 5m.

Reason: To achieve adequate view sharing to adjoining properties and to achieve consistency with Part B3.5.3 of WDCP 2015.

d) Amended Sediment and Erosion Control plan.

To reduce negative impacts on Tree 1 *Jacaranda mimosifolia* (Jacaranda) and to comply with tree protection measures recommended the submitted Sediment and Erosion Control plan ER001/B, drawn by Capital Engineering Consultants, dated 31/01/2023 must be amended to delete any indication of a stock pile area or any other storage area within the Tree Protection Zone of Tree 1 *Jacaranda mimosifolia* (Jacaranda). This plan must be amended prior to the preparation of construction plans and the issuing of any construction certificate.

e) Amended Stormwater Drainage Plan.

The submitted Stormwater drainage Plan No. SW010/B, drawn by Capital Engineering Consultants, dated 31/01/2023 shows a proposed rainwater tank in the position where landscaping, including a replacement tree, is proposed. To ensure the long term viability of the proposed replacement tree the proposed rain water tank must be positioned no closer than 2 metres from the trunk of the replacement tree. The stormwater drainage plan must be amended to provide a minimum 2 metre clearance around the proposed tree planting in the rear yard indicated on the submitted landscape plan.

f) Amended Landscape Plan.

To compensate for the proposed removal of Tree B *Tristanopsis laurina* (Water gum) located on the Council verge at the front of the subject property the landscape plan must be amended to include the planting of 1 x *Angophora costata* (Sydney Pink Gum) on the Council verge on the southern side of the proposed new driveway. The container size and planting of the Sydney Pink Gum shall be in accordance with the F Condition - **Street tree planting** in this consent.

g) Inward Opening Door (D10)

To ensure no encroachment upon any adjoining property, the proposed access door (D10) at the north boundary toward the rear of the site must be an inward opening door.

Notes:

- Clause 20 of the Development Certification and Fire Safety Regulations prohibits **the** issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with.
- Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.

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| | <p>Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.</p> <p>Standard Condition D.4 (Autotext 4D)</p> |
| D. 3. | <p>Erosion and Sediment Control Plan – Submission and Approval</p> <p>Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:</p> <p>a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils; and</p> <p>b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans. • The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au, and The Blue Book is available at www.environment.nsw.gov.au • Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p> |
| D. 4. | <p>Payment of S7.12 Contributions Levy</p> <p>A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.</p> <p>A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.</p> <p>The cost estimate report must be in the form of:</p> <ul style="list-style-type: none"> • A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or • A quantity surveyor’s report, for development over \$750,000. |

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:


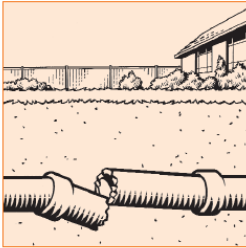
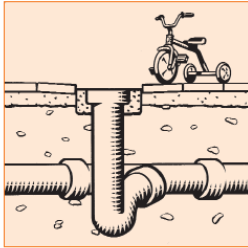
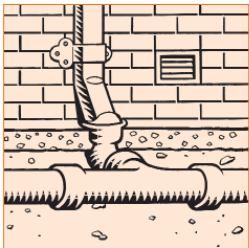

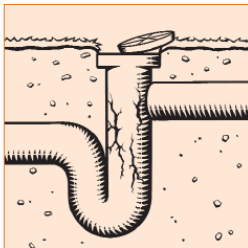
- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,
- a time limited bank guarantee or a 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).

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| <p>D. 5.</p> | <p>BASIX Commitments</p> <p>Before the issue of any construction certificate, BASIX Certificate No. 1378009M_02 must be submitted to the Principal Certifier with any application for a construction certificate.</p> <p>All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act. Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any. <p>Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development.</p> |
| | <p>Condition Reason: To ensure any relevant contributions are paid.</p> |
| <p>D. 6.</p> | <p>Structural Adequacy of Existing Supporting Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p>Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.</p> |
| <p>D. 7.</p> | <p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.</p> <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> This does not affect the right of the developer to seek staged construction certificates. <p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p> |

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| <p>D. 8.</p> | <p>Water and Waste Water - section 73 Developers Certificate and Upgrading of Existing System</p> <p>Prior to the issue of any construction certificate, a Compliance Certificate must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains.</p> <p>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 sewer grade UPVC or copper with continuously welded joints.</p> <div style="display: flex; flex-wrap: wrap; justify-content: space-around;"> <div style="text-align: center;">  <p><i>Cracked pipes</i></p> </div> <div style="text-align: center;">  <p><i>Broken pipes</i></p> </div> <div style="text-align: center;">  <p><i>Damaged or low-lying gullies</i></p> </div> <div style="text-align: center;">  <p><i>Direct stormwater connections</i></p> </div> <div style="text-align: center;">  <p><i>Hidden or damaged maintenance holes</i></p> </div> <div style="text-align: center;">  <p><i>Hidden or damaged inspection points</i></p> </div> </div> <p>Notes:</p> <ul style="list-style-type: none"> • Sydney Water will assess the development and if required will issue a 'Notice of Requirements' letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC). Please make early contact with Sydney Water or a WSC, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. • For more information go to www.sydneypwater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water. • 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 systems are replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main as part of the development. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest. <p>Condition Reason: To ensure that private sewer pipes are upgraded where required to prevent water pollution, and unsafe and unhealthy conditions.</p> |
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| D. 9. | <p>Swimming and Spa Pools – Child Resistant Barriers</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must 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.</p> <p>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' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure child-resistant swimming and spa pool barriers are provided.</p> |
| D. 10. | <p>Swimming and Spa Pools – Backwash</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. 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. <p>Condition Reason: To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.</p> |
| D. 11. | <p>Electric vehicle circuitry and electric vehicle charging point requirements</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include an accurate electrical plan and specifications for all off-street car parking, prepared by a suitably qualified person, demonstrating the following;</p> <p>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:</p> <ul style="list-style-type: none"> 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 |

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| | <p>system must allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).</p> <p>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.</p> <p>c) The Principal Certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are: <ul style="list-style-type: none"> Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power. <p>Condition Reason: To ensure the provision of electric vehicle circuitry to enable the future installation of electric vehicle charging point(s), and electric charging points if 10 or more car parking spaces are provided.</p> |
| <p>D. 12.</p> | <p>Waste Storage – Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)</p> <p>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 detail provisions for waste management in accordance with the approved SWMMP.</p> <p>Waste storage areas must meet the following requirements:</p> <ol style="list-style-type: none"> Bins must be stored with lids down to prevent vermin from entering the waste containers. The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water. Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter. The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use. Odour problems must be minimised by good exhaust ventilation. Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room. Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay. <p>Condition Reason: To ensure a waste and recycling storage area is provided.</p> |

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| D. 13. | <p>Road and Public Domain Works</p> <p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p> <ul style="list-style-type: none"> a) The removal of 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 vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment. <p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p> |
| D. 14. | <p>Road and Public Domain Works</p> <p>1</p> <p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p> <ul style="list-style-type: none"> a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification and standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at right angle to the street kerb in plain concrete where the new crossing must align with the centreline of the proposed car lift. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the car lift must be submitted for assessment. b) The reconstruction of the concrete footpath for the full frontage of the site in accordance with Council's Specification, Council's standard drawing RF3 and to the satisfaction of Council's Assets Engineers. A maximum cross-fall of 3% must be provided for the footpath, graded from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres interval must be submitted for assessment. c) The reinstatement of all damaged footpath, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf. |

- e) A bond of \$20,600 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- f) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- g) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

| Description | Amount | Indexed | Council Fee Code |
|--|------------------|---------|------------------|
| SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i> | | | |
| Infrastructure Works Bond - completing any public work required in connection with the consent. | \$ 20,600 | No | T113 |
| Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed | \$ Nil | No | T113 |
| INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i> | | | |
| Public Road and Footpath Infrastructure Inspection Fee | \$ 674 | No | T45 |
| TOTAL SECURITY AND FEES | \$ 21,274 | | |

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

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

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| | <p>Notes:</p> <ul style="list-style-type: none"> • Road has the same meaning as in the Roads Act 1993. • Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent. • Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically: <ul style="list-style-type: none"> • Construction of driveways and/or new or alterations to footpath paving • Alteration and/or extension to Council drainage infrastructure • Alteration and/or addition of retaining walls • Pumping of water to Council's below ground stormwater system • Installation of soil/rock anchors under the roadway • Installation of Stormwater outlet pipes across the nature strip • An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate. • Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following: <ul style="list-style-type: none"> • Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment. • Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services. • All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances. • The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations. • Any adjustments required from the garage slab and the street levels are to be carried out internally on private property • Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. • Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy". • Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents. • All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au. • When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment. • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. |
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| | <ul style="list-style-type: none"> • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. <p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p> |
| D. 15. | <p>Provision for Energy Supplies</p> <p>Before the issue of any construction certificate:</p> <ol style="list-style-type: none"> a) A survey is to be carried out of all utility services within and adjacent to the site. If necessary, this shall include relevant information from utility authorities and excavation, to determine the position and level of services. b) The applicant is to obtain written approval from Ausgrid for the relocation, adjustment or installation of new services, or existing services affected by, or required for the development. c) 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. <p>Any required substation must be located within the boundaries of the site. Where an electricity substation is required, 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.</p> <p>The design and location of any substation should have regard to the electrical substation provisions within the Woollahra Development Control Plan 2015, which require substations to be located and/or concealed so they are not visible from the street. The design and placement of electrical substations shall comply with Ausgrid's relevant Network Standards and will prioritise the placement of the substation at the front of the property.</p> <p>Where an electrical pillar is required, the electrical designer must consider the impact of all existing and proposed work when preparing their connection or relocation design. Site specific conditions such as existing/proposed property boundaries, building setbacks, other street furniture, street trees and pedestrian pathways will all be taken into account when specifying the final location of the pillar. The design should be compliant with Ausgrid's Network Standards and satisfy Council's objective to maintain a safe and accessible public domain for pedestrians:</p> |

- a) The design and location of underground and aboveground utility infrastructure shall consider the finished streetscape and not adversely impact existing pedestrian footpath, or, where the only permissible location for aboveground infrastructure will impact the footpath, the applicant shall widen the footpath to meet minimum accessibility requirements.

The construction certificate plans and specifications, required to be submitted under clause 7 of the Development Certification and Fire Safety Regulation, must detail provisions to meet the requirements of Ausgrid.

Where an electricity pillar and/or substation is required, the construction certificate plans and specifications must provide:

- a) The substation shall be located or concealed so not visible from the street.
- b) A setback not less than 3m from any side or rear site boundary (or fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility under clause 3.2.4 of AS2890.1 (See: Figures 3.2 and 3.3).
- c) That vegetation does not overhang or encroach within the substation site.
- d) That the substation is installed outside of the mature growth root zone of any trees to be retained, or proposed to be planted, to prevent root damage to underground cables. 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 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 under clause 5.6.3(c)(ii) of AS 2419.1, and
- e) The Owner must dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable a substation to be established, if required. The size and location of the 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.

Notes:

- If the substation is not located within the building its location, 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 Principal Certifier prior to issue of the construction certificate. The Principal Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the construction certificate.
- Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation under clause 5.6.3(c)(ii) of AS 2419.1 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 under clause 19 of the Development Certification and Fire Safety Regulation. The Applicant must lodge with Council details for any such construction under section 4.55 of the Act to allow assessment under section 4.15 of the Act.
- Electricity pillar and/or Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set) Parking Facilities Set whether such driveways service the site or any adjoining land.

Condition Reason: To ensure the adequate provision of energy supply, and to ensure that any proposed electricity substation or the like does not compromise the design quality of the development.

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| <p>D. 16.</p> <p>3</p> | <p>Structural Adequacy of Existing Supporting and Retaining Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting and retaining structures to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p>Condition Reason: To ensure that the existing structures are able to support the additional loads proposed.</p> |
| <p>D. 17.</p> <p>3</p> | <p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation. 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.</p> <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> This does not affect the right of the developer to seek staged construction certificates. <p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p> |
| <p>D. 18.</p> | <p>Engineer Certification</p> <p>Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.</p> <p>This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.</p> <p>Condition Reason: To ensure certification is provided that demonstrates all structural works are located within the boundaries of the site and do not include underpinning works to any structures on adjoining properties.</p> |
| <p>D. 19.</p> | <p>Geotechnical and Hydrogeological Design, Certification and Monitoring</p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports".</p> |

The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter.
- 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 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.

Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.

D. 20. Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths.

Before the issue of any construction certificate, if ground anchors are proposed:

- a) 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.

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| | <p>b) The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.</p> <p>c) 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. A minimum of four weeks should be allowed for assessment.</p> <p>Notes:</p> <ul style="list-style-type: none"> To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds. Road has the same meaning as in the Roads Act 1993. Clause 17 of the Roads (General) Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. <p>Condition Reason: To ensure the relevant approval is gained for any temporary ground anchors.</p> |
| <p>D. 21.</p> | <p>Parking Facilities</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6 Parking facilities - Off-street parking for people with disabilities, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking and AS 2890.2: Off-Street Parking: Commercial Vehicle Facilities respectively.</p> <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p> <p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p> |
| <p>D. 22.</p> | <p>Certification / Design of Interallotment Drainage Easement</p> <p>Before the issue of any construction certificate, the applicant shall submit, for approval by the Certifying Authority, design drawings and certification from a suitably qualified and experienced civil engineer certifying the following:</p> <ul style="list-style-type: none"> a) Longitudinal section showing the size and capacity of the existing drainage pipeline including the point of discharge. b) The stormwater pipe exists within the drainage easement, is in good repair. |

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| | <p>c) The engineer must demonstrate by way of supporting calculations that the existing interallotment drainage pipeline has sufficient capacity to convey the uncontrolled runoff from the subject site for the 1% AEP storm event, and</p> <p>d) The new works can be readily connected to this system without adverse impacts to the downstream property(s).</p> <p>If such certificate cannot be provided, the applicant is to submit design documentation for a new interallotment drainage system from the subject property to the approved point of discharge to Sydney Harbour. Plans are to be prepared by a suitably qualified and experienced civil engineer in accordance with Chapter E2 of Council's DCP and AS3500.3 Plumbing and Drainage Code.</p> <p>The following engineering details are to be included:</p> <ul style="list-style-type: none"> a) Plan view of interallotment system to scale (1:100) showing dimensions, location and reduced/inverted levels of all pits, grates, pipe inverts and the exact point of discharge, b) The contributing catchment calculations and supporting pipe sizing information, c) Scaled Longitudinal section (1:100) showing existing ground levels and proposed pipe invert levels, grades and flow capacities, d) Surrounding survey details including all trees within seven (7) metres of the proposed interallotment drainage system, e) Details of the stormwater discharge point to Sydney Harbour. f) The proposed interallotment drainage system must be designed so that it has adequate capacity to carry uncontrolled runoff for the 1% AEP storm event from the subject property. <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p> |
| <p>D. 23.</p> | <p>Stormwater Management Plan</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> a) General design in accordance with stormwater management plans, referenced SW23270-Rev B, prepared by Capital Engineering Consultants, dated 31/01/2024, other than amended by this and other conditions. b) Subsoil drainage/seepage water must NOT be 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 must be clearly depicted on the drawings. c) The discharge of stormwater from the site, by direct connection, to Sydney Harbour via the interallotment drainage system. Only one stormwater outlet will be permitted. d) The modification of the proposed proprietary stormwater treatment system including but not limited to 15m³ rainwater tank (RWT) and 2 x OceanGuard Enviropod 200 to meet the water quality targets stipulated in Chapter E2.2.3 of Council's DCP. In particular, Council's water quality targets for the removal of suspended solids and phosphorus must be met. Stormwater runoff from all roof areas must be directed to the 15m³ RWT for reuse purposes to comply with the MUSIC model. e) A pump out system with a minimum storage volume of 4m³ must be installed to collect any runoff which cannot drain to the stormwater treatment system by gravity. The pump out system must pump to the stormwater treatment system prior to discharging to the interallotment drainage system by gravity. The pump out system must be designed in accordance with AS3500.3. |

- f) The installation of rainwater tank (RWT) to comply with BASIX certificate. Overflow from the RWT must be directed to the proprietary stormwater treatment system by gravity.
- g) Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans.
- h) The dimensions of all drainage pits and access grates must comply with AS3500.3.
- i) Compliance with the objectives and performance requirements of the BCA.
- j) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout Plan

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

- a) All pipe layouts, dimensions, grades, lengths and material specification.
- b) Location of proposed rainwater tanks.
- c) All invert levels reduced to Australian Height Datum (AHD).
- d) Location and dimensions of all drainage pits.
- e) Point and method of connection to Council's drainage infrastructure.
- 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 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 Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.

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).

Notes:

- The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".

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

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| D. 24. | <p>Non-Gravity Drainage Systems</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Stormwater Management Plan for the site.</p> <p>The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</p> <p>Notes:</p> <ul style="list-style-type: none"> The Woollahra DCP is available from Council's website www.woollahra.nsw.gov.au <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p> |
| D. 25. | <p>Tree Protection Plan and Specification</p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> shaded green where required to be retained and protected shaded red where authorised to be removed shaded yellow where required to be transplanted shaded blue where required to be pruned <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> <p>Standard Condition D.30 (Autotext 30D)</p> |

E. BEFORE BUILDING WORK COMMENCES

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| E. 1. | <p>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</p> <p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> that the work must be carried out in accordance with the requirements of the Building Code of Australia, in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences. <p>This condition does not apply:</p> <ol style="list-style-type: none"> to the extent to which an exemption is in force under the Home Building Regulation 2014, or to the erection of a temporary building. <p>In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the Home Building Act 1989. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia. All new guttering is to comply with the provisions of AS3500. <p>Condition Reason: To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.</p> |
| E. 2. | <p>Erosion and Sediment Controls – Installation</p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> The Soil and Water Management Plan if required under this consent; “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia. The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au |

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| | <ul style="list-style-type: none"> • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being. |
| | <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p> |
| E. 3. | <p>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> a) A construction certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and b) The person having the benefit of the development consent has: <ul style="list-style-type: none"> • appointed a Principal Certifier for the building work, and • notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and c) The Principal Certifier has, no later than 2 days before the building work commences: <ul style="list-style-type: none"> • notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and • notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has: <ul style="list-style-type: none"> • appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and • notified the Principal Certifier of any such appointment, and • unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and • given at least 2 days’ notice to the Council of the person’s intention to commence the erection of the building. <p>Notes:</p> <ul style="list-style-type: none"> • Building has the same meaning as in section 1.4 of the Act and includes part of a building and any structure or part of a structure. • New building has the same meaning as in section 6.1 of the Act and includes an altered portion of, or an extension to, an existing building. • The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the Act (including the need for a Construction Certificate) prior to any demolition work. See: <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [2001] NSWLEC 125. • Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council’s website www.woollahra.nsw.gov.au • It is an offence for any person to carry out the erection of a building in breach of this condition and in breach of section 6.6(2) of the Act. |

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| <ul style="list-style-type: none"> Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading. |
| Condition Reason: To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted. |

F. DURING BUILDING WORK

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| F. 1. | Compliance with BCA and Insurance Requirements under the Home Building Act 1989 |
| | <p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA), b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences. <p>This condition does not apply:</p> <ul style="list-style-type: none"> a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or b) to the erection of a temporary building. <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p>Notes:</p> <ul style="list-style-type: none"> All new guttering is to comply with the provisions of AS 3500. |
| | Condition Reason: To ensure compliance with the BCA and Home building Act 1989. |
| F. 2. | Requirement to Notify about New Evidence |
| | <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> |
| | Condition Reason: To ensure Council and the Principal Certifier are made aware of new information. |
| F. 3. | Critical Stage Inspections |
| | <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p> |

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| | <p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent. • The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development. <p>Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p> |
| <p>F. 4.</p> | <p>Hours of Work –Amenity of the Neighbourhood</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> No work must take place on any Sunday or public holiday. No work must take place before 7am or after 5pm any weekday. No work must take place before 7am or after 1pm any Saturday. The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday: <ol style="list-style-type: none"> piling, piering, rock or concrete cutting, boring or drilling, rock breaking, rock sawing, jack hammering, or machine excavation. No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday. No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday. No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour. <p>Notes:</p> <ul style="list-style-type: none"> • The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council. • Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution. |

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| | <ul style="list-style-type: none"> • The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis. • Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the Protection of the Environment Operations Act 1997, the Protection of the Environment Operations (Noise Control) Regulation 2017. • NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm <p>Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.</p> |
| <p>F. 5.</p> | <p>Public Footpaths – Safety, Access and Maintenance</p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ol style="list-style-type: none"> a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway. b) Not use the road or footway for the storage of any article, material, matter, waste or thing. c) Not use the road or footway for any work. d) Keep the road and footway in good repair free of any trip hazard or obstruction. e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council. f) Not stand any plant and equipment upon the road or footway. g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand. h) Provide a clear safe pedestrian route a minimum of 1.5m wide. i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development. <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <ol style="list-style-type: none"> a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards. b) Australian Road Rules. <p>Notes:</p> <ul style="list-style-type: none"> • Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. • Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> - erect a structure or carry out a work in, on or over a public road, or - dig up or disturb the surface of a public road, or - remove or interfere with a structure, work or tree on a public road, or - pump water into a public road from any land adjoining the road, or - connect a road (whether public or private) to a classified road, |

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| | <ul style="list-style-type: none"> - otherwise than with the consent of the appropriate roads authority. • Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including: <ul style="list-style-type: none"> - Part C Management of waste: <ul style="list-style-type: none"> a) For fee or reward, transport waste over or under a public place b) Place waste in a public place c) Place a waste storage container in a public place. - Part E Public roads: <ul style="list-style-type: none"> a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road. |
| | <p>Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.</p> |
| F. 6. | <p>Maintenance of Environmental Controls</p> |
| | <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ul style="list-style-type: none"> a) erosion and sediment controls, b) dust controls, c) dewatering discharges, d) noise controls, e) vibration monitoring and controls, and f) ablutions. |
| | <p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p> |
| F. 7. | <p>Compliance with Geotechnical / Hydrogeological Monitoring Program</p> |
| | <p>While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.</p> <p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ul style="list-style-type: none"> 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. <p>Notes:</p> <ul style="list-style-type: none"> • The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage. |
| | <p>Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p> |

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| <p>F. 8.</p> | <p>Support of Adjoining Land and Buildings</p> <p>While site work is being carried out, a person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).</p> <p>For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain: <ul style="list-style-type: none"> - the consent of the owners of such adjoining or supported land to trespass or encroach, or - an access order under the Access to Neighbouring Land Act 2000, or - an easement under section 88K of the Conveyancing Act 1919, or - an easement under section 40 of the Land and Environment Court Act 1979 as appropriate. • Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land). • Clause 17 of the Roads Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. • The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the Local Government Act 1993. |
| | <p>Condition Reason: To ensure that the support of adjoining land is not removed.</p> |
| <p>F. 9.</p> | <p>Vibration Monitoring</p> <p>While site work is being carried out, vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.</p> <p>If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.</p> |

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| | <p>Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.</p> <p>Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.</p> <p>The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.</p> <p>A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.</p> <p>Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Professional engineer has the same mean as in Schedule 1 of the BCA. • Building has the same meaning as in section 1.4 of the Act i.e. “building includes part of a building and any structure or part of a structure....” • Supported land has the same meaning as in the Conveyancing Act 1919. <p>Condition Reason: To monitor and manage vibration impacts from development.</p> |
| <p>F. 10.</p> | <p>Erosion and Sediment Controls – Maintenance</p> <p>While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:</p> <ol style="list-style-type: none"> 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” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution” |

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| | <ul style="list-style-type: none"> 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. |
| | Condition Reason: To prevent potential water pollution and dust nuisance. |
| F. 11. | Disposal of Site Water During Construction |
| | <p>While site work is being carried out:</p> <ol style="list-style-type: none"> Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993. Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water. That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas. |
| | Condition Reason: To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution. |
| F. 12. | Site Cranes |
| | <p>While site work is being carried out, site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.</p> <p>Cranes must not swing or hoist over any public place unless the relevant approvals have been obtained under the Local Government Act 1993, Crown Lands Act 1989 or Roads Act 1993.</p> <p>The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the Civil Aviation Act 1988 (Cth).</p> <p>No illuminated sign(s) must be erected upon or displayed upon any site crane.</p> <p>Notes:</p> <ul style="list-style-type: none"> Where it is proposed to swing a crane over a public place a separate application to Council must be made under section 68 of the Local Government Act 1993 and obtain activity approval from Council prior to swinging or hoisting over the public place. Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, an access order under the Access to Neighbouring Land Act 2000 or easement under section 88K of the Conveyancing Act 1919 or section 40 of the Land and Environment Court Act 1979 as appropriate must be obtained. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments. |
| | Condition Reason: To ensure site cranes are used safely with the relevant approvals. |

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| <p>F. 13.</p> | <p>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</p> <p>While site work is being carried out, a registered surveyor must carry out check surveys and provide survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:</p> <ol style="list-style-type: none"> Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level. Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey. Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof. Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like. Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels. Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works. Flood protection measures are in place confirming location, height and capacity. <p>Condition Reason: To ensure that development occurs in the location and at the height approved under this consent, which is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.</p> |
| <p>F. 14.</p> | <p>Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway</p> <p>While site work is being carried out, all work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the development to which this consent relates must comply with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>The person with the benefit of this consent must meet all costs associated with such works.</p> <p>This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within roads and other public places.</p> <p>Notes:</p> <ul style="list-style-type: none"> A copy of Council's Specification for Roadworks, Drainage and Miscellaneous Works can be downloaded from Council's website www.woollahra.nsw.gov.au <p>Condition Reason: To ensure that any road, drainage, or miscellaneous works comply with Council's specifications.</p> |

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| F. | 15. | Shoring and Adequacy of Adjoining Property |
| | | <p>While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:</p> <p>a) protect and support the adjoining premises from possible damage from the excavation.</p> <p>For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. |
| | | Condition Reason: To protect and support the adjoining premises from possible damage from the excavation. |
| F. | 16. | Placement and Use of Skip Bins |
| | | <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <p>a) Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and</p> <p>b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.</p> <p>Notes:</p> <ul style="list-style-type: none"> Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards. |
| | | Condition Reason: To ensure waste storage containers are appropriately located. |
| F. | 17. | Prohibition of Burning |
| | | <p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p> <p>Notes:</p> <ul style="list-style-type: none"> Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning. |
| | | Condition Reason: To ensure no burning of waste occurs. |
| F. | 18. | Dust Mitigation |
| | | <p>While site work is being carried out, dust mitigation must be implemented in accordance with "Dust Control - Do it right on site" and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> |

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| | <p>This generally requires:</p> <ol style="list-style-type: none"> Dust screens to all hoardings and site fences. All stockpiles or loose materials to be covered when not being used. All equipment, where capable, being fitted with dust catchers. All loose materials being placed bags before placing into waste or skip bins. All waste and skip bins being kept covered when not being filled or emptied. The surface of excavation work being kept wet to minimise dust. Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust. <p>Notes:</p> <ul style="list-style-type: none"> “Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website www.woollahra.nsw.gov.au Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply. Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution. <p>Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p> |
| <p>F. 19.</p> | <p>Site Waste Minimisation and Management – Demolition</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, 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), separate collection bins and/or areas for the storage of residual waste are to be provided, the purpose and content of the bins and/or storage areas are to be clearly ‘signposted’, measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and site disturbance must be minimised, and unnecessary excavation limited. <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval, any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997, waste is only transported to a place that can lawfully be used as a waste facility, 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 evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained. |

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| | <p>Notes:</p> <ul style="list-style-type: none"> Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams. |
| | <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p> |
| F. 20. | <p>Site Waste Minimisation and Management – Construction</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage, consideration must be given to returning excess materials to the supplier or manufacturer, an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), the purpose and content of the storage areas must be clearly ‘signposted’, contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste, separate collection bins or areas for the storage of residual waste must be promoted, measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented, site disturbance must be minimised and unnecessary excavation limited, all waste must be transported to a place that can lawfully be used as a waste facility, and records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW. <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p> |
| F. 21. | <p>Asbestos Removal</p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:</p> <ol style="list-style-type: none"> Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal. Be carried out in accordance with the relevant SafeWork NSW codes of practice. No asbestos products may be reused on the site. No asbestos laden skip or bins must be left in any public place. |

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| | <p>Notes:</p> <ul style="list-style-type: none"> • Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence. • All removal, repair or disturbance of or to asbestos material must comply with: <ul style="list-style-type: none"> - Work Health and Safety Act 2011, - Work Health and Safety Regulation 2017, - SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and - SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016). • For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050 <p>Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.</p> |
| F. 22. | <p>Classification of Hazardous Waste</p> <p>While site work is being carried out, and prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part1: Classifying Waste, 2014.</p> <p>Condition Reason: To ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.</p> |
| F. 23. | <p>Disposal of Asbestos and Hazardous Waste</p> <p>While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.</p> <p>Condition Reason: To ensure that asbestos and other hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant NSW EPA requirements.</p> |
| F. 24. | <p>Asbestos Removal Signage</p> <p>While site work is being carried out and when asbestos is being removed, standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.</p> <p>Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.</p> |

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| F. 25. | <p>Notification of Asbestos Removal</p> <p>While site work is being carried out, in addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW, all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.</p> <p>The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.</p> <p>Condition Reason: To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.</p> |
| F. 26. | <p>Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters</p> <p>While site work is being carried out, 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.</p> <p>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.</p> <p>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.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not prevent Council from issuing an order under 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. <p>Condition Reason: To ensure access to swimming pools is effectively restricted to maintain child safety.</p> |
| F. 27. | <p>Site Waste Minimisation and Management – Demolition</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, 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), separate collection bins and/or areas for the storage of residual waste are to be provided, the purpose and content of the bins and/or storage areas are to be clearly 'signposted', measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and site disturbance must be minimised, and unnecessary excavation limited. |

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| | <p>When implementing the SWMMP the Applicant must ensure:</p> <ul style="list-style-type: none"> 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. <p>Notes:</p> <ul style="list-style-type: none"> • Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams. <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p> |
| <p>F. 28.</p> | <p>Site Waste Minimisation and Management – Construction</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ul style="list-style-type: none"> a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, b) deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage, c) consideration must be given to returning excess materials to the supplier or manufacturer, d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), e) the purpose and content of the storage areas must be clearly ‘signposted’, f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste, g) separate collection bins or areas for the storage of residual waste must be promoted, h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented, i) site disturbance must be minimised and unnecessary excavation limited, j) all waste must be transported to a place that can lawfully be used as a waste facility, and k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW. <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p> |

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| F. 29. | <p>Compliance with Construction Management Plan</p> <p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier on request.</p> <p>Notes:</p> <ul style="list-style-type: none"> Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails. <p>Condition Reason: To ensure compliance with the Construction Management Plan.</p> |
| F. 30. | <p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council’s Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ol style="list-style-type: none"> The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent. Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist. Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier. <p>Trees must be pruned in accordance with Australian Standard AS 4373 “Pruning of Amenity Trees” and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework. Standard Condition F.8 (Autotext 8F)</p> |
| F. 31. | <p>Arborists Documentation and Compliance Checklist</p> <p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ol style="list-style-type: none"> a record of the condition of trees to be retained prior to and throughout development, recommended actions to improve site conditions and rectification of non-compliance, and recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p> |

| | <table><tr><th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr><tr><td>While site work is carried out</td><td><ul style="list-style-type: none">The project arborist must supervise all demolition and excavation works within the Tree Protection Zones of nominated trees listed in this consent.Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.</td></tr></table> | Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | While site work is carried out | <ul style="list-style-type: none">The project arborist must supervise all demolition and excavation works within the Tree Protection Zones of nominated trees listed in this consent.Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees. | | | | | | | | | | | | |
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| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | | | | | | | | | | | | | | | | |
| While site work is carried out | <ul style="list-style-type: none">The project arborist must supervise all demolition and excavation works within the Tree Protection Zones of nominated trees listed in this consent.Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees. | | | | | | | | | | | | | | | | |
| <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> | | | | | | | | | | | | | | | | | |
| <p>Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.</p> <p>Standard Condition F.45 (Autotext 45F)</p> | | | | | | | | | | | | | | | | | |
| F. 32. | <p>Replacement/Supplementary trees which must be planted</p> <p>While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The following replacement trees must be maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the criteria outlined below.</p> <table><tr><th>Species/Type</th><th>Planting Location</th><th>Container Size/ Size of Tree (at planting)</th><th>Minimum Dimensions at Maturity (metres)</th></tr><tr><td>5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez')</td><td>Rear boundary</td><td>100 litre each</td><td>6 x 4 each</td></tr><tr><td>1 x <i>Olea europea</i> var. <i>europea</i> (European Olive)</td><td>Rear yard – northern side</td><td>200 litre</td><td>5 x 3</td></tr><tr><td>3 x <i>Pyrus calleryana</i> 'Chanticleer' (Callery Pear)</td><td>Front southern side</td><td>100 litre each</td><td>6 x 3 each</td></tr></table> <p>The project arborist must document compliance with the above condition.</p> <p>Condition Reason: To ensure the provision of appropriate replacement planting.</p> <p>Standard Condition F.46 (Autotext 46F)</p> | Species/Type | Planting Location | Container Size/ Size of Tree (at planting) | Minimum Dimensions at Maturity (metres) | 5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez') | Rear boundary | 100 litre each | 6 x 4 each | 1 x <i>Olea europea</i> var. <i>europea</i> (European Olive) | Rear yard – northern side | 200 litre | 5 x 3 | 3 x <i>Pyrus calleryana</i> 'Chanticleer' (Callery Pear) | Front southern side | 100 litre each | 6 x 3 each |
| Species/Type | Planting Location | Container Size/ Size of Tree (at planting) | Minimum Dimensions at Maturity (metres) | | | | | | | | | | | | | | |
| 5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez') | Rear boundary | 100 litre each | 6 x 4 each | | | | | | | | | | | | | | |
| 1 x <i>Olea europea</i> var. <i>europea</i> (European Olive) | Rear yard – northern side | 200 litre | 5 x 3 | | | | | | | | | | | | | | |
| 3 x <i>Pyrus calleryana</i> 'Chanticleer' (Callery Pear) | Front southern side | 100 litre each | 6 x 3 each | | | | | | | | | | | | | | |
| F. 33. | <p>Street tree planting</p> <p>While site work is being carried out, the street tree as indicated in the table below must be planted prior to the completion of works.</p> <p>The fees outlined in the table below associated with the planting and 12 months maintenance must be paid by the applicant to Council in full prior to the issue of a construction certificate, subdivision certificate or occupation certificate, as applicable, in accordance with the Street Tree Planting and Maintenance scheduled fee.</p> | | | | | | | | | | | | | | | | |

Council's Arboricultural Technical Officer (9391-7980) must be contacted a minimum of 2 months prior to the completion of works to procure tree stock and schedule the planting works.

The cost as indicated in the table below includes:

- a) Species selection (by Council) in line with the Woollahra Council Street Tree Master Plan (2014).
- b) Tree stock procured by Council compliant with Australian Standard 2303: Tree stock for landscape use.
- c) Installation by Council or a Council-approved contractor in a location determined by Council.
- d) Twelve months maintenance by Council or a Council approved contractor.

| Species/Type | Planting Location | Container Size/Size of Tree (at planting) | Cost/Fees |
|--|---|---|-----------|
| 1 x <i>Angophora costata</i> (Sydney Pink Gum) | Council verge – southern side of the proposed new driveway, positioned a minimum 2.5 metres from the southern edge of the proposed new driveway | 100 litre | \$2062.50 |

Condition Reason: To ensure the provision of appropriate street tree planting.
Standard Condition F.47 (Autotext 47F)

F. 34. Stairs in the vicinity of trees

While site work is being carried out, the main entrance stairs within the specified radius from the trunk of the following tree must be constructed so they are cantilevered over the root zone to protect existing roots.

| Council Ref No | Species | Location | Radius from centre of trunk (metres) |
|----------------|--|--------------|--------------------------------------|
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | 7 |

The project arborist must document compliance with the above condition.

Condition Reason: To ensure that paving works would not adversely impact upon the health of existing trees.
Standard Condition F.48 (Autotext 48F)

F. 35. Level changes in the vicinity of trees

While site work is being carried out, no level changes must occur within the specified area from the trunk of the following tree.

| Council Ref No | Species | Location | Radius from centre of trunk (metres) |
|----------------|--|--------------|--|
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 |

The project arborist must document compliance with the above condition.

Condition Reason: To ensure level changes would not adversely impact upon the health of existing trees.

Standard Condition F.49 (Autotext 49F)

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

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| G. 1. | <p>Occupation Certificate (section 6.9 of the Act)</p> <p>A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.</p> <p>Notes:</p> <ul style="list-style-type: none"> New building includes an altered portion of, or an extension to, an existing building. <p>Condition Reason: To ensure the building is suitable to occupy.</p> |
| G. 2. | <p>Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation</p> <p>Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. 1378009M_02</p> <p>Notes:</p> <ul style="list-style-type: none"> Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled. <p>Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.</p> |
| G. 3. | <p>Landscaping</p> <p>Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.</p> <p>Condition Reason: To ensure that all landscaping work is completed prior to occupation.</p> |
| G. 4. | <p>Amenity Landscaping</p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p>Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.</p> <p>Standard Condition G.6 (Autotext 6G)</p> |

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| <p>G. 5.</p> | <p>Removal of Ancillary Works and Structures</p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ol style="list-style-type: none"> the site sign, ablutions, hoarding, scaffolding, and waste materials, matter, article or thing. <p>Condition Reason: To ensure that all ancillary matter is removed prior to occupation.</p> |
| <p>G. 6.</p> | <p>Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters</p> <p>Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:</p> <ol style="list-style-type: none"> Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia. The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register. The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool. 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. Water recirculation and filtration systems must be installed in compliance with AS 1926.3: Swimming pool safety - Water recirculation systems. <p>Backwash must be discharged to the sewer in compliance with AS/NZS 3500.</p> <p>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.</p> <p>Notes:</p> <ul style="list-style-type: none"> NSW Health guidelines and fact sheets are available at www.health.nsw.gov.au <p>Condition Reason: To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.</p> |
| <p>G. 7.</p> | <p>Swimming Pool Fencing</p> <p>Before the issue of any occupation certificate, swimming pool fencing is to be constructed in accordance with AS1926: Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools.</p> <p>Notes:</p> <ul style="list-style-type: none"> Pools commenced or completed after May 2013 must meet the BCA and AS1926. <p>Condition Reason: To ensure swimming pool safety.</p> |

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| <p>G. 8.</p> | <p>Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems</p> <p>Before the issue of any occupation certificate for the whole of the building, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ul style="list-style-type: none"> a) Compliance with conditions of development consent relating to mechanical parking installation including turntable, car lift, car stacker and traffic light system; b) That the works have been constructed in accordance with the approved design; c) A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the turntable, car lift, car stacker and traffic signal system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW. <p>Notes:</p> <ul style="list-style-type: none"> • The PCA must supply a copy of the WAE Plans to Council together with the occupation certificate for the whole of the building. • The occupation certificate for the whole of the building must not be issued until this condition has been satisfied. <p>Condition Reason: To ensure the certification and ongoing maintenance of the mechanical parking installations and to indemnify Council from any claims or actions.</p> |
| <p>G. 9.</p> | <p>Commissioning and Certification of Systems and Works</p> <p>Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.</p> <p>Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:</p> <ul style="list-style-type: none"> a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work. b) All flood protection measures. c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking. d) All stormwater drainage and storage systems. e) All mechanical ventilation systems. f) All hydraulic systems. g) All structural work. h) All acoustic attenuation work. i) All waterproofing. j) Such further matters as the Principal Certifier may require. <p>Notes:</p> <ul style="list-style-type: none"> • The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services). |

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| | <ul style="list-style-type: none"> The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate. |
| | <p>Condition Reason: To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.</p> |
| G. 10. | <p>Commissioning and Certification of Public Infrastructure Works</p> <p>Before the issue of any occupation certificate, 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) must be submitted to the satisfaction of Council, and the Principal Certifier must be provided with correspondence from Council to this effect.</p> <p>The certification must be supported with works-as-executed engineering plans and a survey report detailing all finished reduced levels.</p> <p>Condition Reason: To ensure that any road, drainage, or miscellaneous works have been completed in accordance with Council's specifications to the satisfaction of Council.</p> |
| G. 11. | <p>Works within Public Land (including Council, State or Federal owned land or property)</p> <p>Before the issue of any occupation certificate, the following works within public land, whether new/existing/renewed must be completed to the satisfaction of Council, in compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the person with the benefit of this consents expense:</p> <ol style="list-style-type: none"> stormwater pipes, pits, structures and connections to public stormwater systems within the road, driveways and vehicular crossings, renew/new retaining structures, overhang structures, encroachments or occupation or alienation of public land or property, removal of redundant driveways and any other structure, new footpaths, pathways, walkways, or dunny lanes, relocation of existing power/light pole, if applicable, relocation/provision of street signs, if applicable, new or replacement street trees, if applicable, verge landscape items, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street, new or reinstated kerb and guttering within the road, and new or reinstated road surface pavement within the road. <p>Notes:</p> <ul style="list-style-type: none"> When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s. |

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| | <ul style="list-style-type: none"> Security held by Council under section 4.17(6) of the Act will not be released until compliance has been achieved with this condition. An application for the refund of security must be submitted with the occupation certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre. |
| | <p>Condition Reason: To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.</p> |
| G. 12. | Dilapidation Report for Public Infrastructure Works |
| 3 | <p>Before the issue of an occupation certificate for the whole of the building, a follow up dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site upon completion of the work must be submitted to Council.</p> <p>The dilapidation report must include:</p> <ol style="list-style-type: none"> photographs showing any existing damage to the road pavement fronting the site, photographs showing any existing damage to the kerb and gutter fronting the site, photographs showing any existing damage to the footway including footpath pavement fronting the site, photographs showing any existing damage to retaining walls within the footway or road, photographs showing any existing damage to street signs, heritage name plates, and historical items, and the full name and signature of the Chartered Professional Engineer. <p>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.</p> <p>Before the issue of an occupation certificate for the whole building, written correspondence must be obtained from Council attesting to this condition being appropriately satisfied, and be provided to the Principal Certifier.</p> <p>Notes:</p> <ul style="list-style-type: none"> If the dilapidation report required by this condition is not provided 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. <p>Condition Reason: To ensure that any damage to public infrastructure is identified and rectified prior to the occupation of the whole building.</p> |
| G. 13. | Positive Covenant and Works-As-Executed Certification of Stormwater Systems |
| 3 | <p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ol style="list-style-type: none"> compliance with conditions of development consent relating to stormwater, the structural adequacy of the pump out system, that subsoil drainage/seepage water is NOT discharged to the kerb and gutter, that any required stormwater treatment systems have been constructed in accordance with the approved construction stormwater plans and that the system meets the water quality targets stipulated in the Council's DCP, |

| | <p>e) that a pump out system with minimum storage capacity of 4m³ has been installed to comply with AS3500.3,</p> <p>f) that the works have been constructed in accordance with the approved design,</p> <p>g) pipe invert levels and surface levels to Australian Height Datum, and</p> <p>h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.</p> <p>A positive covenant under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the stormwater treatment system and pump out system. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant</p> <p>Notes:</p> <ul style="list-style-type: none"> The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate. The occupation certificate for the whole of the building must not be issued until this condition has been satisfied. <p>Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p> | | | | |
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| <p>G. 14.</p> | <p>Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building</p> <p>Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ol style="list-style-type: none"> A record of the condition of trees to be retained prior to and throughout development. Recommended actions to improve site conditions and rectification of non-compliance. Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="284 1615 1385 1962"> <thead> <tr> <th data-bbox="284 1615 627 1709">Stage of arboricultural inspection and supervision</th><th data-bbox="627 1615 1385 1709">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="284 1709 627 1962">Before the issue of any occupation certificate for the whole of the building</td><td data-bbox="627 1709 1385 1962"> <ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. </td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> | Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | Before the issue of any occupation certificate for the whole of the building | <ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. |
| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | | | | |
| Before the issue of any occupation certificate for the whole of the building | <ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. | | | | |

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| | Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work. |
| | Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented. Standard Condition G.35 (Autotext 34G) |
| G. 15. | Certification of Electric Vehicle Charging System |
| | Before the issue of any occupation certificate, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by in Part D. must be submitted to the satisfaction of the Principal Certifier. |
| | Condition Reason: To ensure the certification of the electric vehicle charging system. |

H. OCCUPATION AND ONGOING USE

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| H. 1. | Maintenance of BASIX Commitments |
| | During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1378009M_02 |
| | This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent. |
| | Condition Reason: To ensure the approved environmental sustainability measures are maintained for the life of development. |
| H. 2. | Maintenance of Landscaping |
| | During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent. |
| | This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality. |
| | Notes: <ul style="list-style-type: none"> This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners must have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils. |
| | Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting. |
| H. 3. | Swimming and Spa Pools – Maintenance |
| | During the occupation and ongoing use, swimming and spa pools must be maintained: |

| | <p>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,</p> <p>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,</p> <p>c) in compliance with AS 1926 Swimming pool safety - Water recirculation and filtration systems,</p> <p>d) with backwash being discharged to the sewer in compliance with AS/NZS 3500, and</p> <p>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):</p> <ul style="list-style-type: none"> • 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. <p>Notes:</p> <ul style="list-style-type: none"> • 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. • The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au <p>Condition Reason: To ensure public health and safety.</p> | | | | | | | | |
|-------------------------|---|-----|------------------|-------------------------|---|-----------------|---|-------------------|---|
| <p>H. 4.</p> | <p>Provision of Off-street Public and Visitor Parking</p> <p>During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, and AS 2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:</p> <table border="1" data-bbox="279 1321 1254 1462"> <thead> <tr> <th>Use</th><th>Number of spaces</th></tr> </thead> <tbody> <tr> <td>Car Parking (residents)</td><td>5</td></tr> <tr> <td>Bicycle Parking</td><td>3</td></tr> <tr> <td>Motorbike Parking</td><td>1</td></tr> </tbody> </table> <p>Notes:</p> <ul style="list-style-type: none"> • Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993. • Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100. <p>Condition Reason: To ensure adequate on-site parking is maintained.</p> | Use | Number of spaces | Car Parking (residents) | 5 | Bicycle Parking | 3 | Motorbike Parking | 1 |
| Use | Number of spaces | | | | | | | | |
| Car Parking (residents) | 5 | | | | | | | | |
| Bicycle Parking | 3 | | | | | | | | |
| Motorbike Parking | 1 | | | | | | | | |
| <p>H. 5.</p> | <p>Parking Permits</p> <p>During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.</p> <p>Condition Reason: To minimise the impact of the development upon on street car parking.</p> | | | | | | | | |

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| <p>H. 6.</p> | <p>On-going Maintenance of the Mechanical Parking Installations</p> <p>During the occupation and ongoing use, the Owner must ensure the ongoing maintenance of the mechanical parking installations in accordance with this condition and any positive covenant. The Owner must:</p> <ul style="list-style-type: none"> a) keep the system clean and free of silt rubbish and debris; b) maintain renew and repair as reasonably required from time to time the whole of the system so that it functions in a safe and efficient manner; c) carry out the matters referred to in paragraphs (a) and (b) at the Owners expense; d) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly; e) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant; f) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and g) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations. <p>The Owner</p> <ul style="list-style-type: none"> a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant; and b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant. <p>Notes:</p> <ul style="list-style-type: none"> • This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure the ongoing maintenance of the mechanical parking installations.</p> |
| <p>H. 7.</p> | <p>Ongoing Maintenance of the Stormwater Treatment System and Pump Out System</p> <p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <ul style="list-style-type: none"> a) Permit stormwater to be temporarily detained and treated by the System; b) Keep the system clean and free of silt rubbish and debris, c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner. d) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense. |

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| | <p>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.</p> <p>f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.</p> <p>g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.</p> <p>h) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.</p> <p>The owner:</p> <p>a) Indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and</p> <p>b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.</p> |
| H. 8. | <p>Outdoor Lighting – Residential</p> <p>During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.</p> <p>Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.</p> |
| H. 9. | <p>Noise from Mechanical Plant and Equipment</p> <p>During the occupation and ongoing use, 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.</p> <p>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 LA90, 15 minute level measured by a sound level meter.</p> |

Notes:

- 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

Condition Reason: To protect the amenity of the neighbourhood.

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. Plans, elevations and sections including shadow diagrams and landscape plans [↓](#) 
2. Clause 4.6 Written Request - Minimum Lot Size [↓](#) 
3. Clause 4.6 Written Request - Height of Buildings [↓](#) 
4. Referral Response - Development Engineering [↓](#) 
5. Referral Response - Drainage [↓](#) 
6. Referral Response - Traffic [↓](#) 
7. Referral Response - Trees & Landscaping [↓](#) 
8. Referral Response - Heritage [↓](#) 

DA SUBMISSION -
NEW RESIDENTIAL FLAT BUILDING AT
"30 WOLSELEY ROAD"



30 WOLSELEY ROAD,
POINT PIPER, NEW SOUTH WALES, 2027

FOR Mr. AND Mrs. FLETCHER

| DRAWING REGISTER | | | |
|------------------|--|----------|--------------|
| Sheet Number | Description | Drawn By | Scale |
| DA-001 | COVER SHEET | AP | NTS |
| DA-002 | SCHEDULE OF EXTERNAL FINISHES AND COLOUR | AP | NTS |
| DA-101 | LOCALITY & CONTEXT PLANS | AP | NTS |
| DA-102 | NEIGHBOUR NOTIFICATION PLAN | AP | NTS |
| DA-103 | SITE / ROOF PLAN | AP | 1:100 @ A1 |
| DA-104 | SITE ANALYSIS | AD | 1:100 @ A1 |
| DA-105 | BASEMENT PLAN | AP | 1:100 @ A1 |
| DA-106 | LEVEL 1 FLOOR PLAN | AP | 1:100 @ A1 |
| DA-107 | LEVEL 2 FLOOR PLAN | AP | 1:100 @ A1 |
| DA-108 | LEVEL 3 FLOOR PLAN | AP | 1:100 @ A1 |
| DA-200 | WEST AND EAST ELEVATIONS | AP | 1:100 @ A1 |
| DA-201 | NORTH AND SOUTH ELEVATIONS | AP | 1:100 @ A1 |
| DA-202 | SECTION A AND B | AP | 1:100 @ A1 |
| DA-203 | SECTIONS C, D AND E | AP | 1:100 @ A1 |
| DA-500 | PHOTOMONTAGE | AP | AS INDICATED |
| DA-501 | AREA CALCULATIONS-1 | AP | AS INDICATED |
| DA-502 | AREA CALCULATIONS-2 | AP | AS INDICATED |
| DA-503 | AREA CALCULATIONS-3 | AP | AS INDICATED |
| DA-600 | SHADOW DIAGRAMS - 9 AM | AP | 1:200 @ A1 |
| DA-601 | SHADOW DIAGRAMS - 12 PM | AP | 1:200 @ A1 |
| DA-602 | SHADOW DIAGRAMS - 3 PM | AP | 1:200 @ A1 |
| DA-603 | ELEVATIONAL SHADOW DIAGRAMS - 9AM | AP | 1:100 @ A1 |
| DA-604 | ELEVATIONAL SHADOW DIAGRAMS - 12 PM | AP | 1:100 @ A1 |
| DA-605 | ELEVATIONAL SHADOW DIAGRAMS - 3 PM | AP | 1:100 @ A1 |
| LP-700 | LANDSCAPE PLAN | AP | 1:100 @ A1 |
| LP-701 | LANDSCAPE PLAN - BASEMENT | AP | 1:100 @ A1 |

DA SUBMISSION

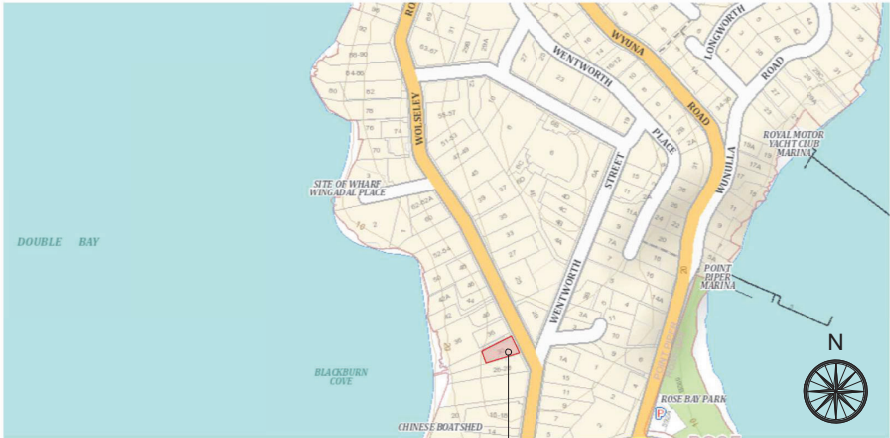
| AMENDMENTS | | | North Point and Scale | <div>Architect</div> <div><div>M. J. S. A</div><div>M. J. SUTTIE</div><div>ARCHITECTS</div></div> <div>Suite 205, 24 Baywater Road, Pyrmont Point Sydney, NSW 2011</div> <div>ph: +61 422 742 373</div> <div>w: www.mjsuttiearchitects.com.au</div> <div>Registered Architect - Michael J. Suttie</div> <div>NSW Architect's Registration No. 9936</div> <th rowspan="6">In association with</th> <th rowspan="6"><div><div>MS</div><div>MICHAEL SUTTOR</div><div>ARCHITECTS</div></div><div>252 BRONTE ROAD</div><div>WAVERLEY 2024 NSW AUSTRALIA</div><th rowspan="6">Notes</th><th colspan="4">Project</th><th colspan="2">Drawing Title</th></th> | In association with | <div><div>MS</div><div>MICHAEL SUTTOR</div><div>ARCHITECTS</div></div> <div>252 BRONTE ROAD</div> <div>WAVERLEY 2024 NSW AUSTRALIA</div> <th rowspan="6">Notes</th> <th colspan="4">Project</th> <th colspan="2">Drawing Title</th> | Notes | Project | | | | Drawing Title | |
|--|----------|--|-----------------------|---|---------------------|---|-------|-----------------------|----------|----------------|-----------|---------------|--|
| RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER | | | | | | | | COVER SHEET | | | | | |
| Address 30 WOLSELEY ROAD, POINT PIPER, NSW 2027 | | | | | | | | Date 11/03/2024 | Scale@A1 | Drawn By AP | Rev 02 | | |
| Drawing Stage DEVELOPMENT APPLICATION | | | | | | | | Drawing No. DA-001 | | | | | |
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| Rev | Date | Description | | | | | | | | | | | |
| 01 | 22/04/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" | | | | | | | | | | | |
| 02 | 14/05/24 | ISSUE POST THE NEIGHBOUR'S OBJECTION LETTERS | | | | | | | | | | | |
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1 LOCALITY PLAN
- N.T.S.

PROPOSED SITE
30 WOLSELEY ROAD
POINT PIPER



2 CONTEXT PLAN
- N.T.S.

PROPOSED SITE
30 WOLSELEY ROAD
POINT PIPER

DA SUBMISSION

| AMENDMENTS | | |
|------------|----------|--|
| Rev | Date | Description |
| 01 | 22/04/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" |
| 02 | 14/05/24 | ISSUE POST THE NEIGHBOURS OBJECTION LETTERS |
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| NORTH POINT |
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NSW Architect's Registration No. 9936

In association with

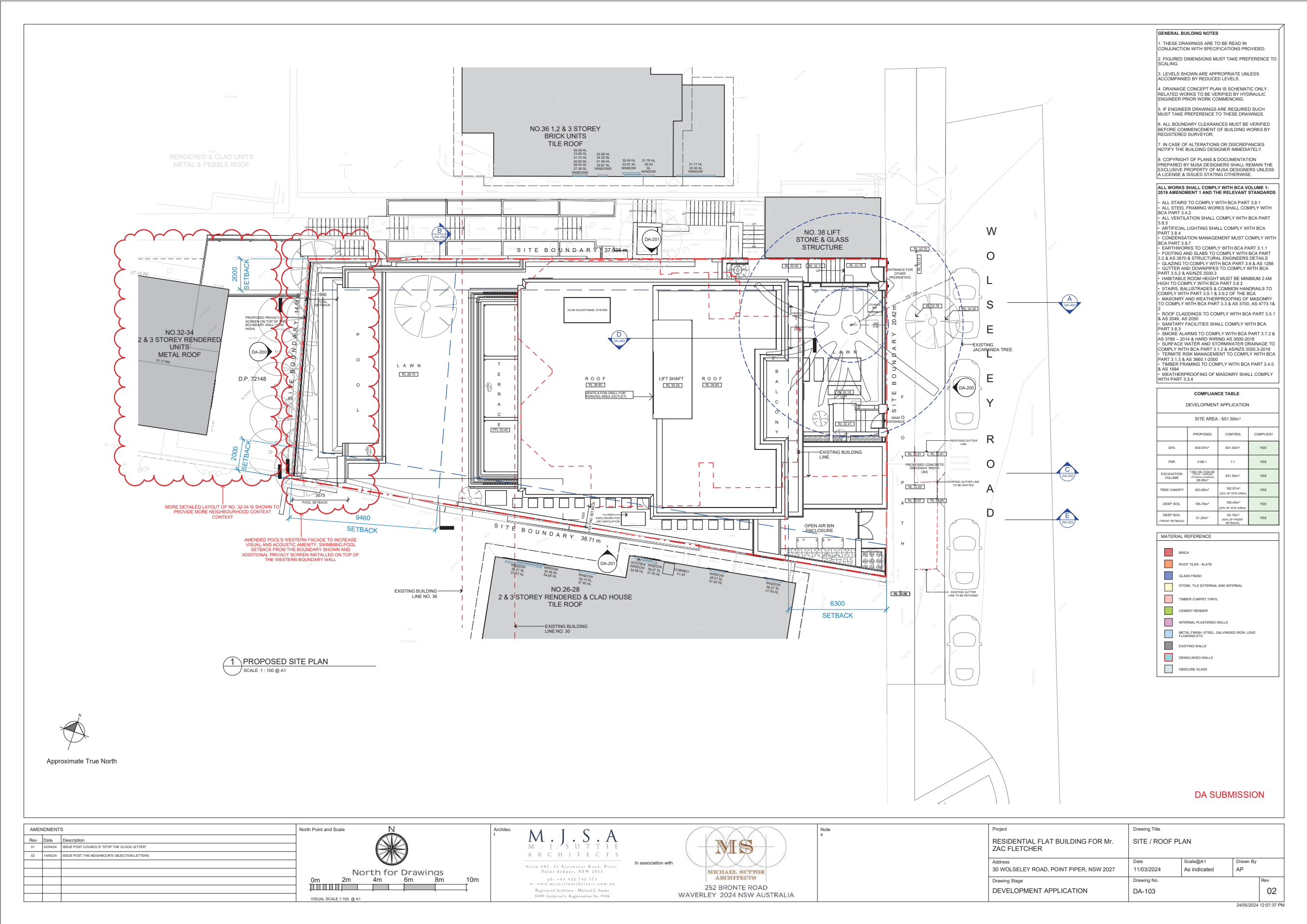
MS
MICHAEL SUTTOR
ARCHITECTS

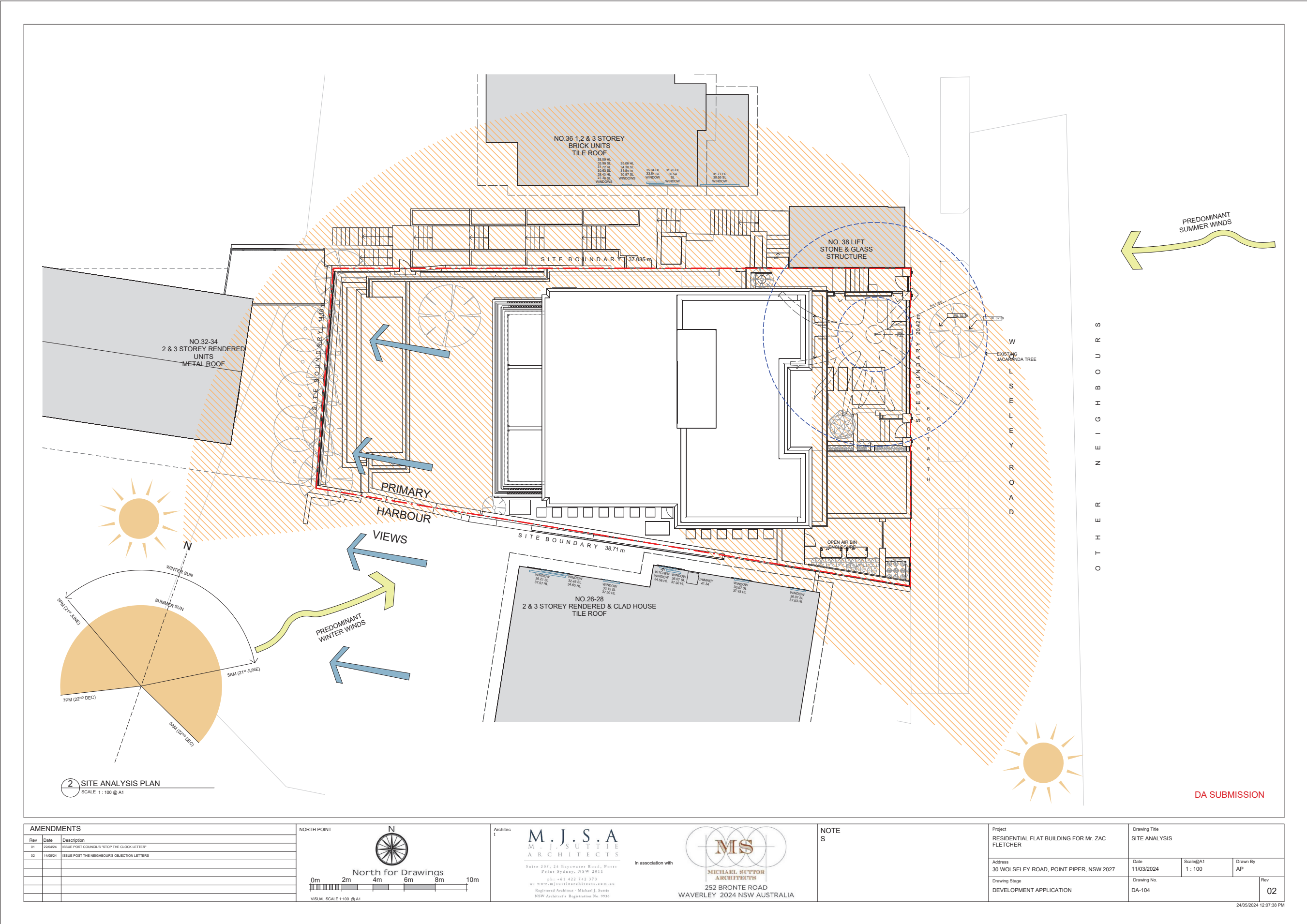
252 BRONTE ROAD
WAVERLEY 2024 NSW AUSTRALIA

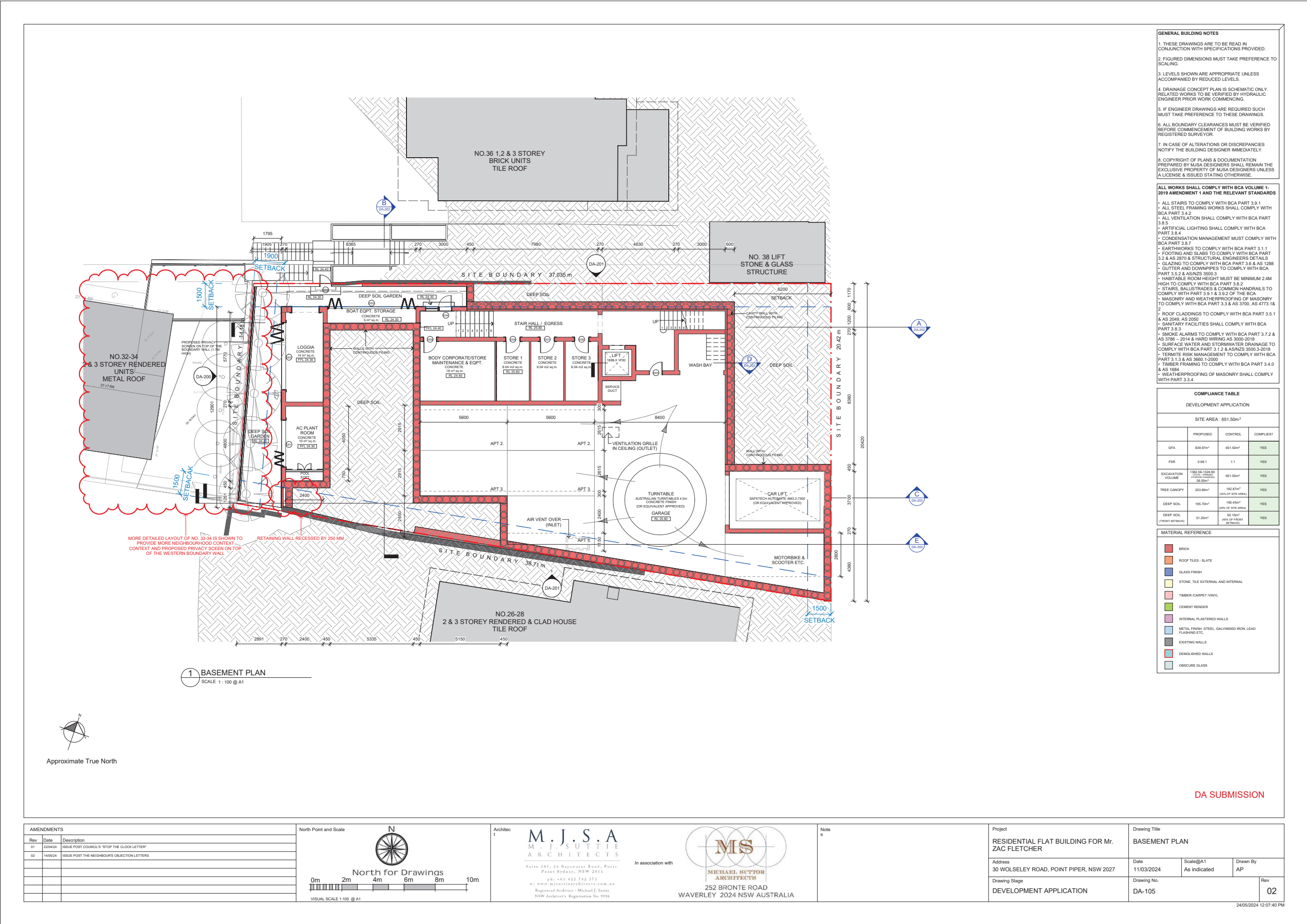
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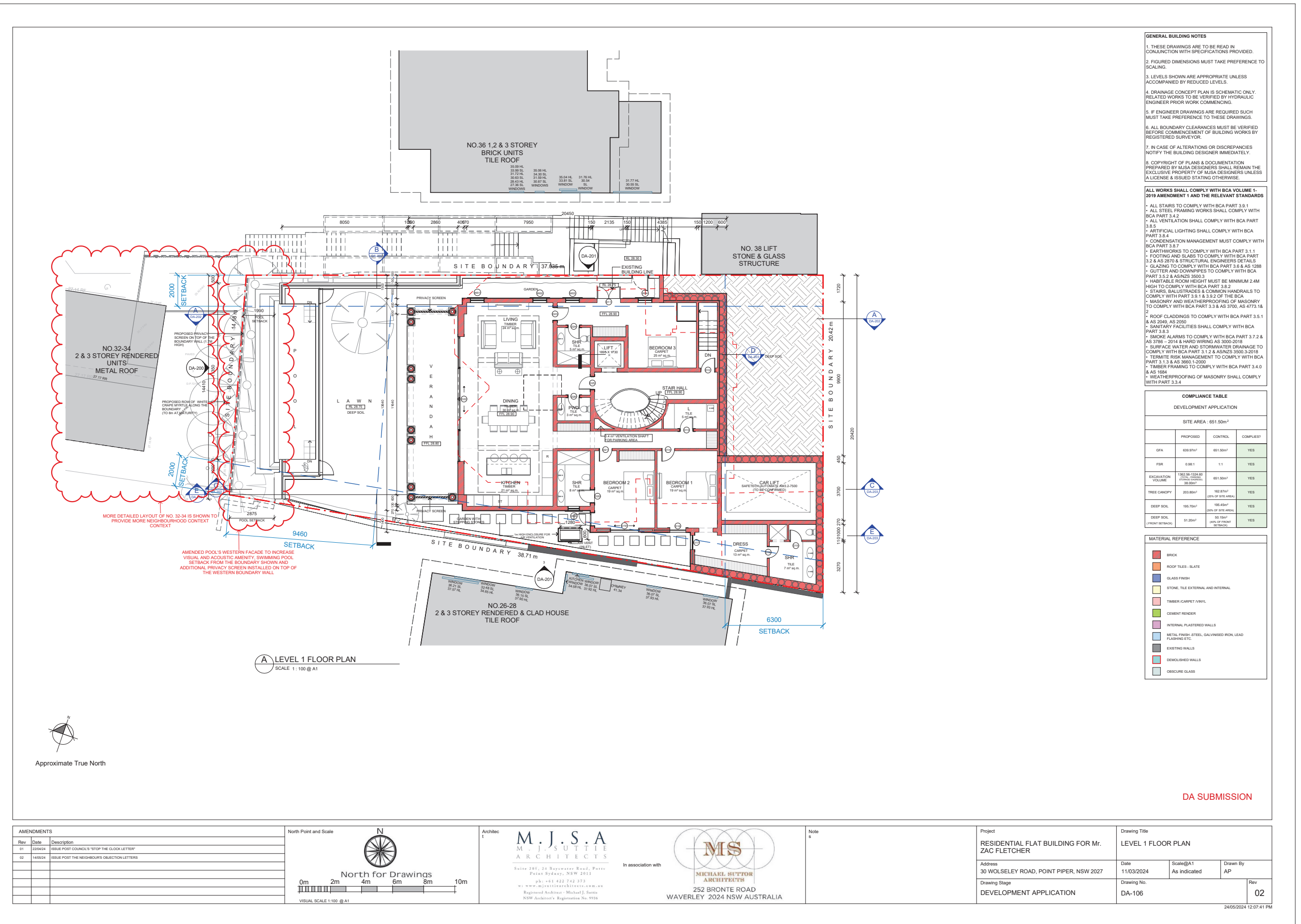
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|---|---|-----------------|----------------|
| Project RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER | Drawing Title LOCALITY & CONTEXT PLANS | | |
| Address 30 WOLSELEY ROAD, POINT PIPER, NSW 2027 | Date 11/03/2024 | Scale@A1 NTS | Drawn By AP |
| Drawing Stage DEVELOPMENT APPLICATION | Drawing No. DA-101 | Rev 02 | |

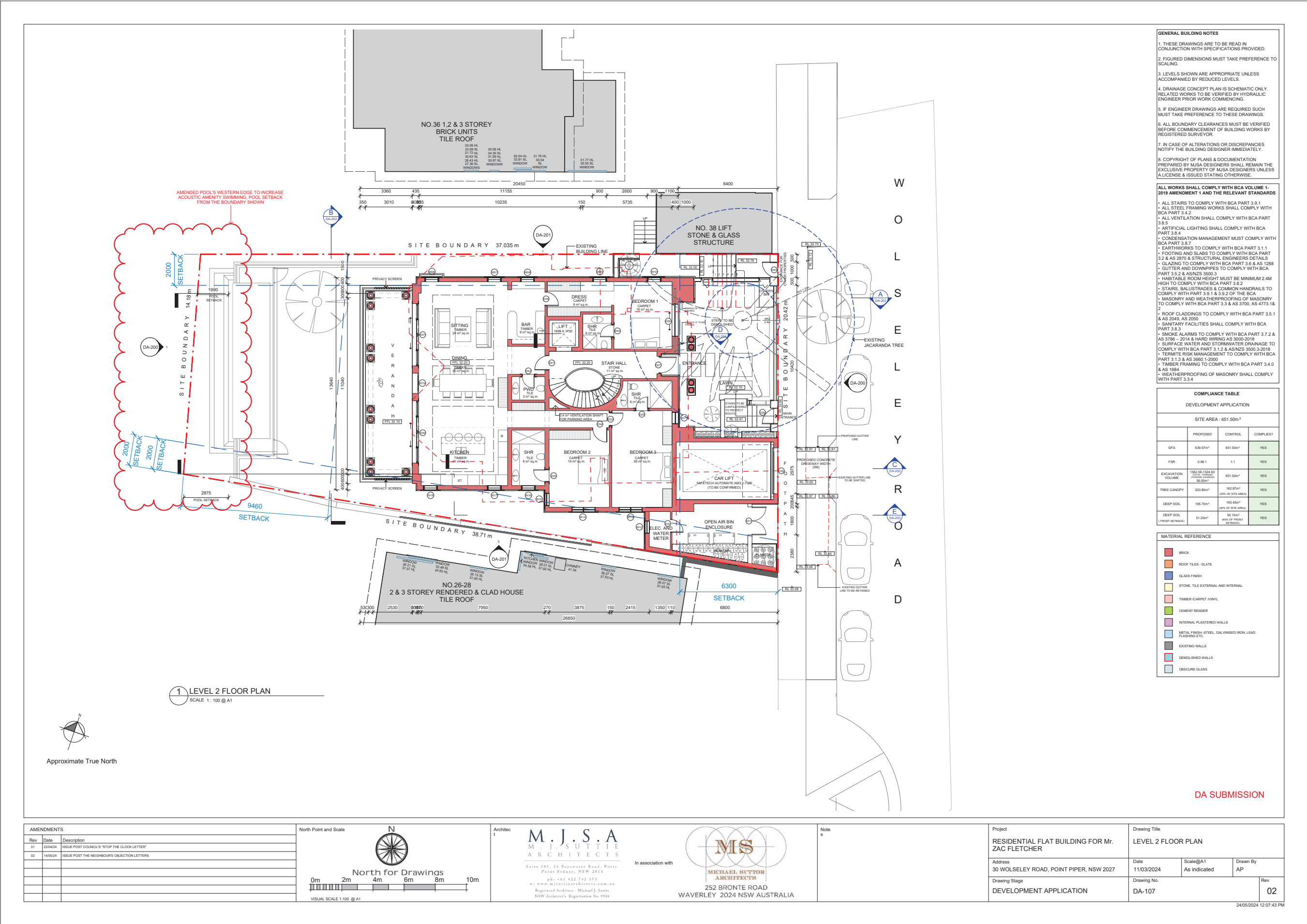
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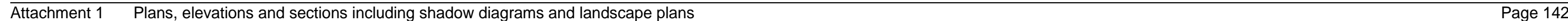






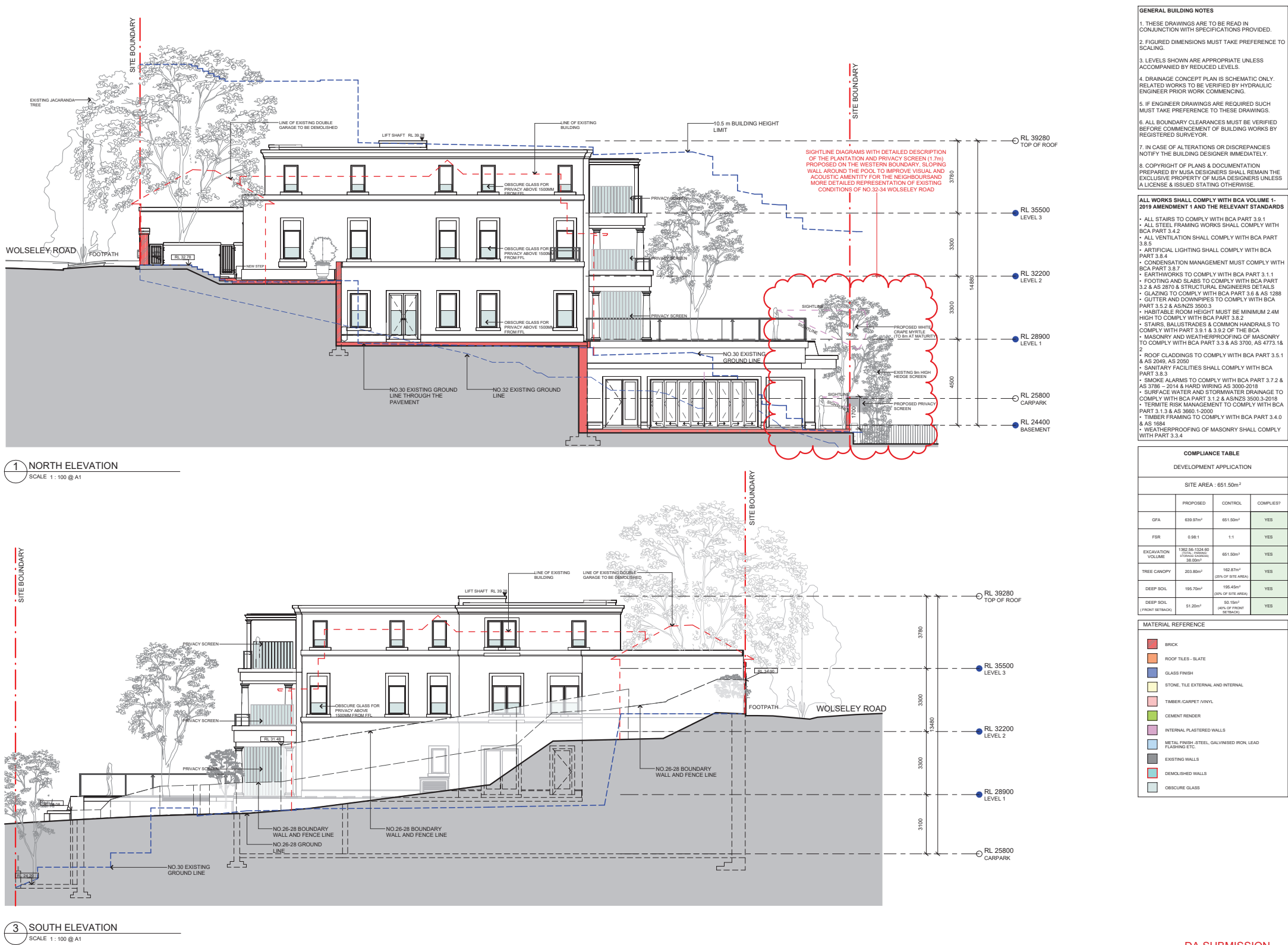




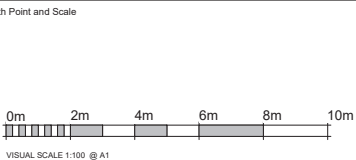




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| AMENDMENTS | | |
|------------|----------|--|
| Rev | Date | Description |
| 01 | 22/04/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" |
| 02 | 14/05/24 | ISSUE POST THE NEIGHBOURS OBJECTION LETTERS |
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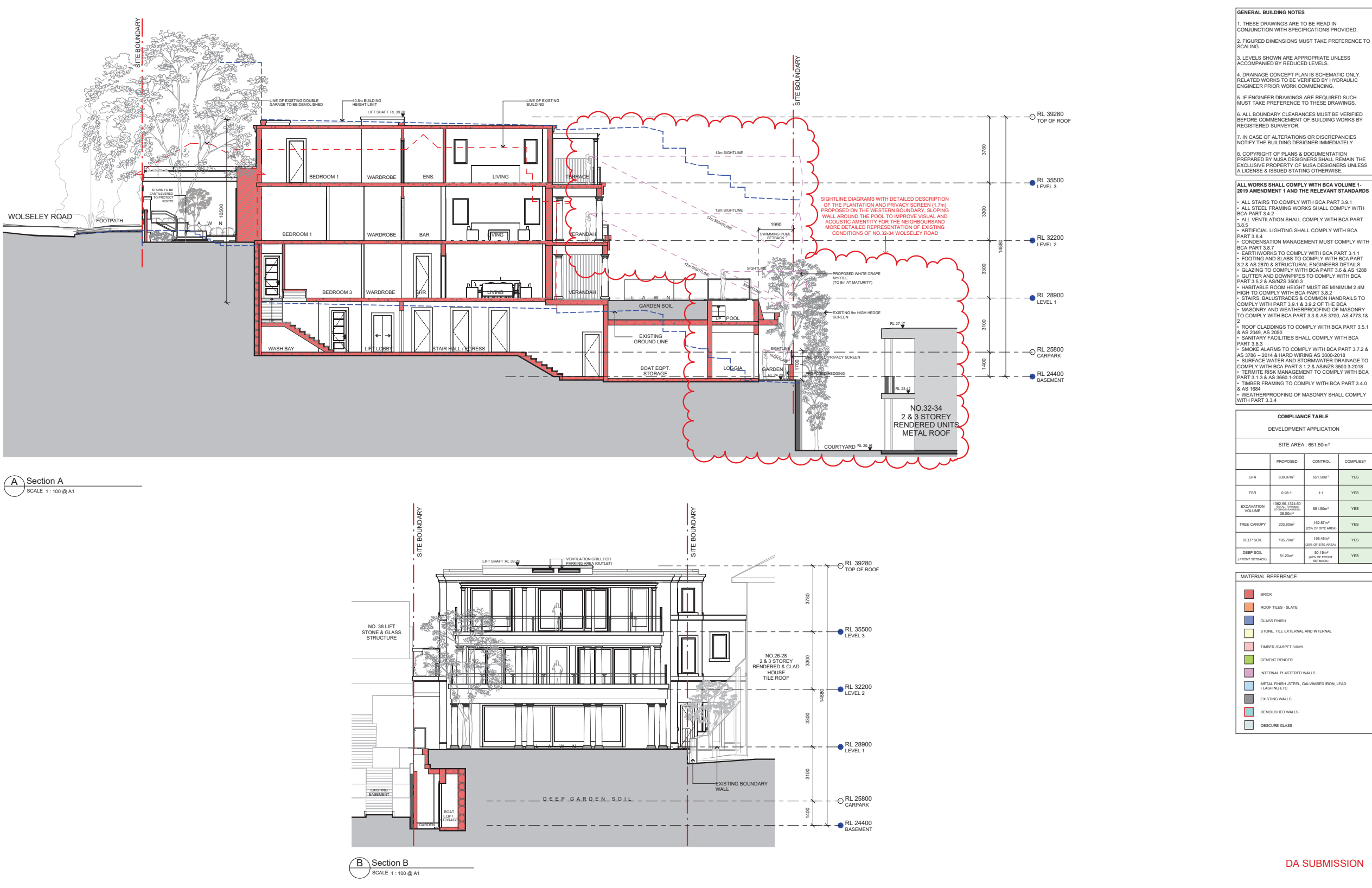
MS
MICHAEL SUTTON
ARCHITECTS

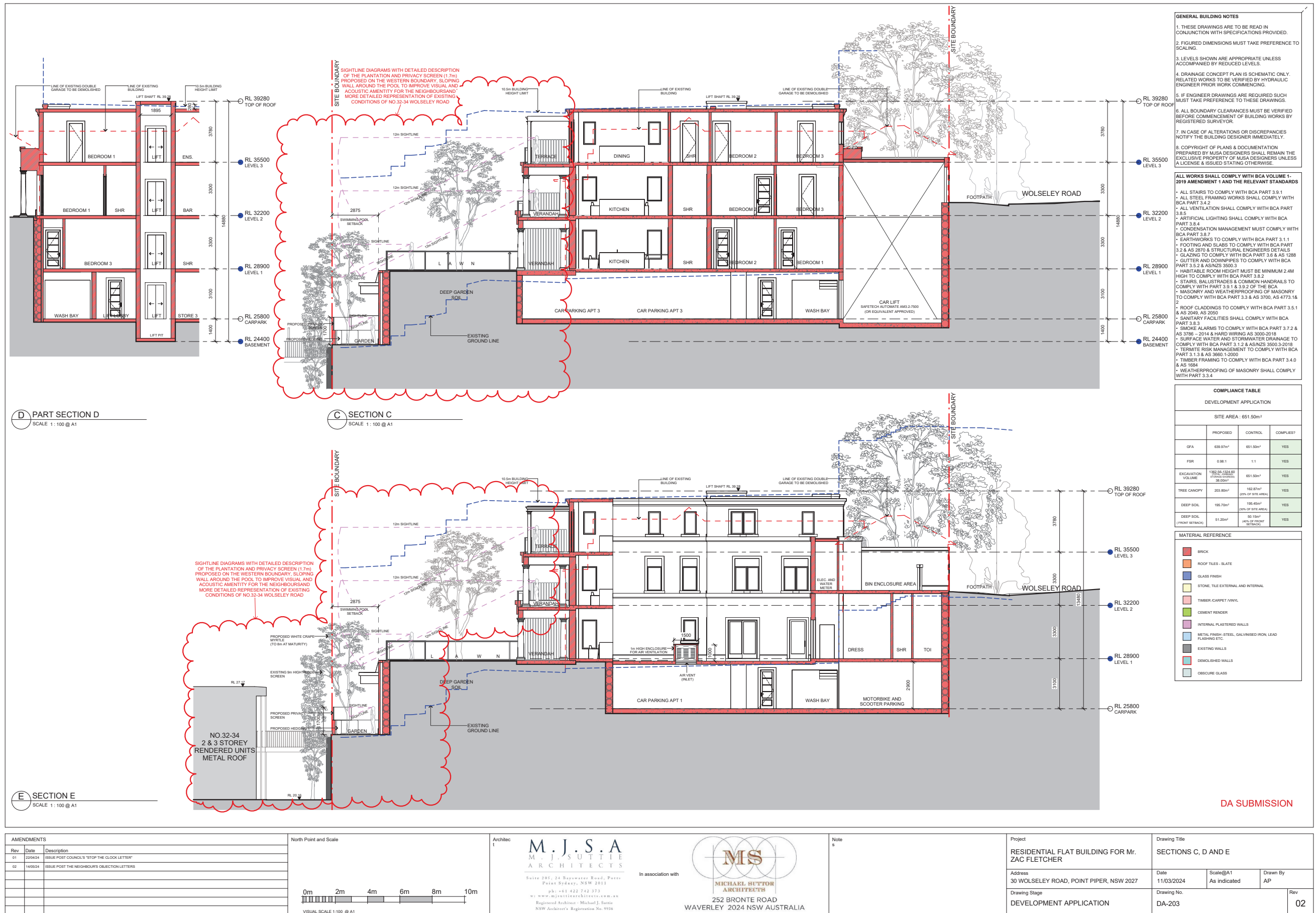
252 BRONTE ROAD
WAVERLEY 2024 NSW AUSTRALIA

| Note | |
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| Project | | Drawing Title | |
|--|---|----------------------------|--------------|
| RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER | | NORTH AND SOUTH ELEVATIONS | |
| Address | 30 WOLSELEY ROAD, POINT PIPER, NSW 2027 | Date | 11/03/2024 |
| Drawing Stage | DEVELOPMENT APPLICATION | Scale@A1 | As indicated |
| | | Drawn By | AP |
| | | Drawing No. | DA-201 |
| | | Rev | 02 |

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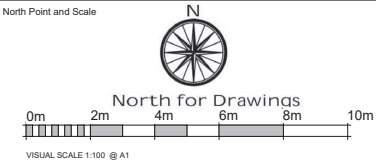
EXISTING BUILDING ENVELOPE



PROPOSED BUILDING ENVELOPE

DA SUBMISSION

| AMENDMENTS | | |
|------------|----------|--|
| Rev | Date | Description |
| 01 | 22/04/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" |
| 02 | 14/05/24 | ISSUE POST THE NEIGHBOURS OBJECTION LETTERS |
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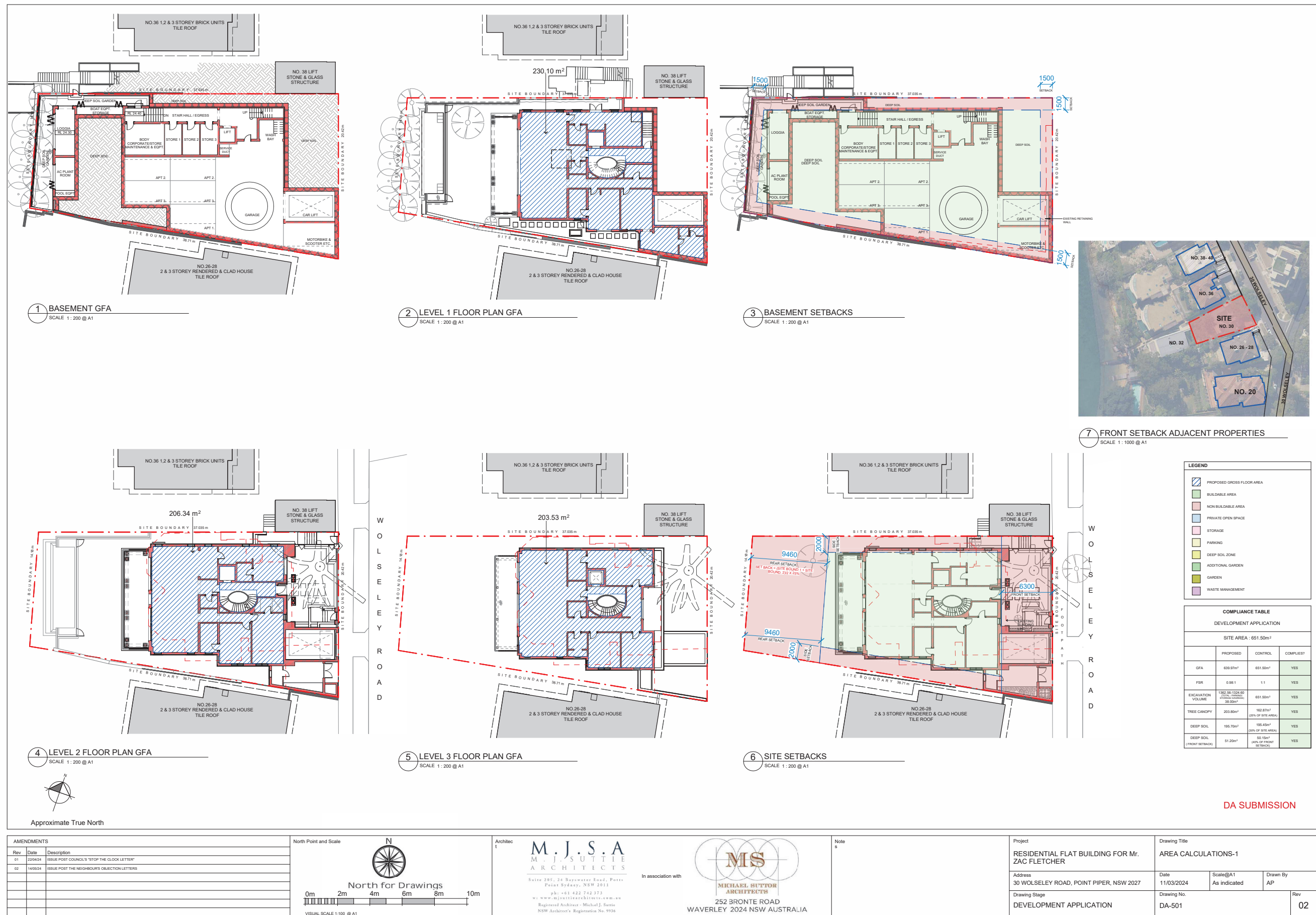
MSA
MICHAEL SUTTOR
ARCHITECTS

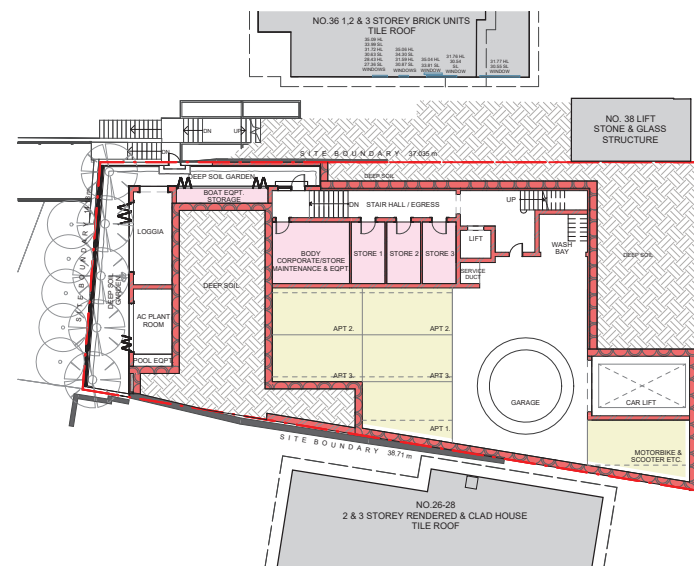
252 BRONTE ROAD
WAVERLEY 2024 NSW AUSTRALIA

| Notes | |
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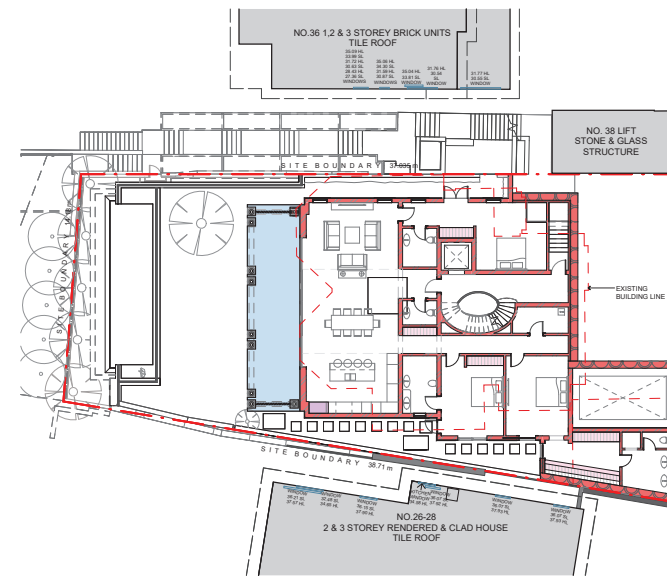
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| Project RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER | | Drawing Title PHOTOMONTAGE | |
| Address 30 WOLSELEY ROAD, POINT PIPER, NSW 2027 | Date 11/03/2024 | Scale@A1 NTS | Drawn By AP |
| Drawing Stage DEVELOPMENT APPLICATION | Drawing No. DA-500 | Rev 02 | |

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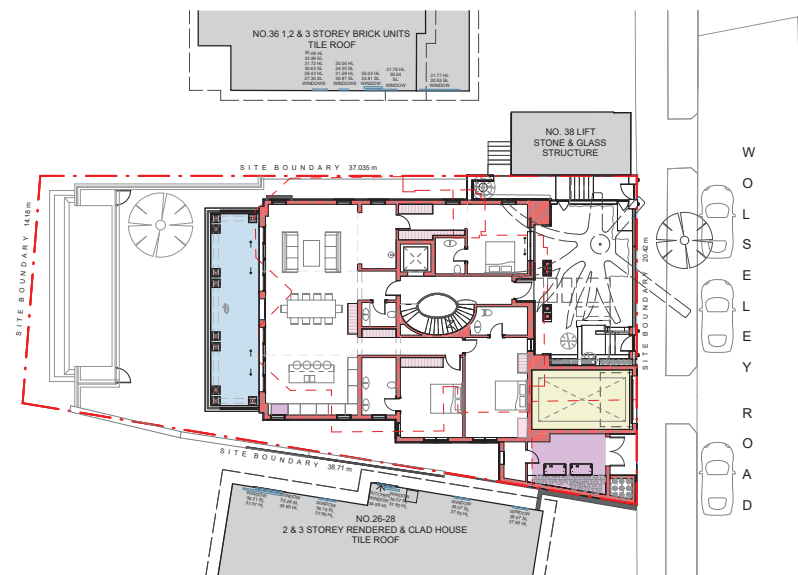
1 BASEMENT PLAN FOR CALCULATIONS
SCALE 1:200 @ A1



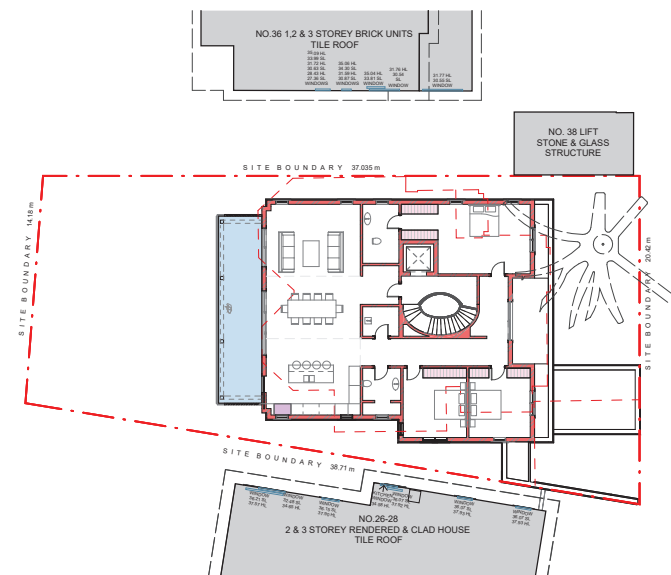
2 LEVEL 1 FLOOR PLAN FOR CALCULATIONS
SCALE 1:200 @ A1

| LEGEND | |
|---|---------------------------|
|  | PROPOSED GROSS FLOOR AREA |
|  | BUILDABLE AREA |
|  | NON BUILDABLE AREA |
|  | PRIVATE OPEN SPACE |
|  | STORAGE |
|  | PARKING |
|  | DEEP SOIL ZONE |
|  | ADDITIONAL GARDEN |
|  | GARDEN |
|  | WASTE MANAGEMENT |

| COMPLIANCE TABLE | | | |
|----------------------------------|--|---|-----------|
| DEVELOPMENT APPLICATION | | | |
| SITE AREA : 651.50m ² | | | |
| | PROPOSED | CONTROL | COMPLIES? |
| GFA | 639.87m ² | 651.50m ² | YES |
| FSR | 0.98:1 | 1:1 | YES |
| EXCAVATION VOLUME | 1362.56 -1324.60 (UNDER -OVERSILL) 38.00m ³ | 651.50m ³ | YES |
| TREE CANOPY | 203.80m ² | 162.87m ² (20% OF SITE AREA) | YES |
| DEEP SOIL | 195.70m ² | 195.45m ² (20% OF SITE AREA) | YES |
| DEEP SOIL (FRONT SETBACK) | 51.20m ² | 50.15m ² (NETWORK OF SETBACK) | YES |



3 LEVEL 2 PLAN FOR CALCULATIONS
SCALE 1 : 200 @ A1

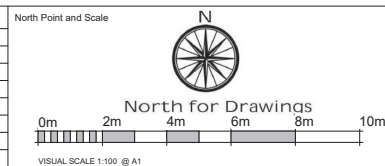


4 LEVEL 3 FLOOR PLAN FOR CALCULATIONS
SCALE 1:200 @ A1



Approximate True North

| AMENDMENTS | | |
|------------|----------|--|
| Rev | Date | Description |
| 01 | 22/04/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" |
| 02 | 14/05/24 | ISSUE POST THE NEIGHBOUR'S OBJECTION LETTERS |
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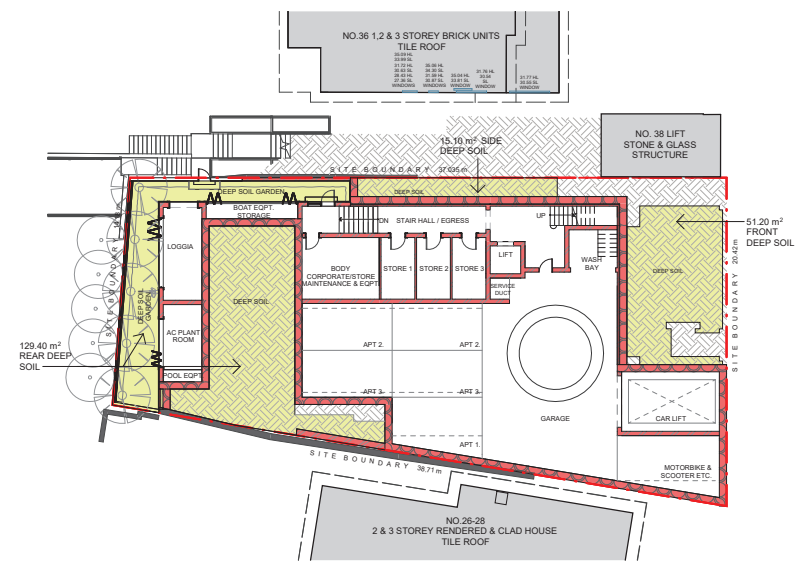
Registered Architect - Michael J. Suttie
NSW Architect's Registration No. 9936

In association with

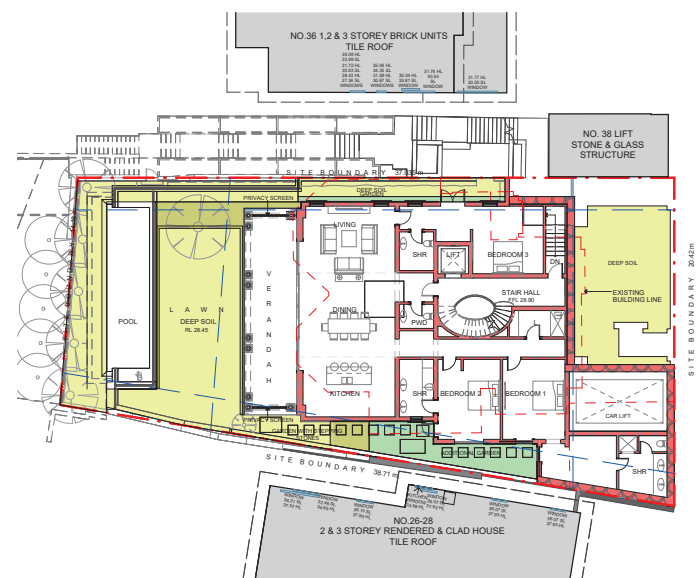


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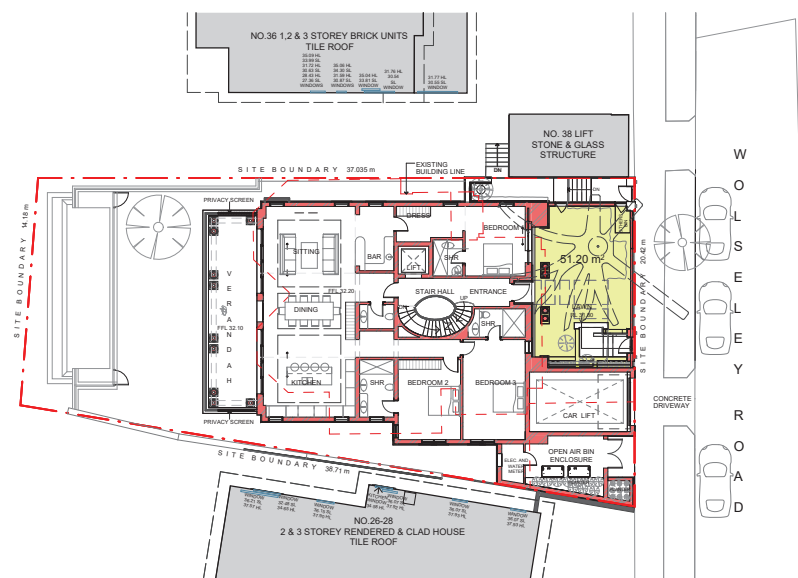
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| Project | Drawing Title | | |
| RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER | AREA CALCULATIONS-2 | | |
| Address | Date | Scale | Drawn By |
| 30 WOLSELEY ROAD, POINT PIPER, NSW 2027 | 11/03/2024 | As indicated | AP |
| Drawing Stage | Drawing No. | Rev | |
| DEVELOPMENT APPLICATION | DA-502 | 02 | |



1 BASEMENT DEEP SOIL AND GARDEN AREA
SCALE 1 : 200 @ A1



2 LEVEL 1 DEEP SOIL AND GARDEN AREA
SCALE 1:200 @ A1



3 LEVEL 2 DEEP SOIL AND ADDITIONAL GARDEN
SCALE 1 : 200 @ A1



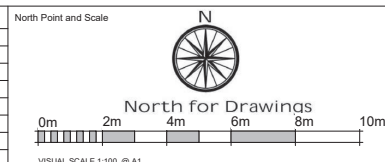
Approximate True North

| LEGEND | |
|---|---------------------------|
|  | PROPOSED GROSS FLOOR AREA |
|  | BUILDABLE AREA |
|  | NON BUILDABLE AREA |
|  | PRIVATE OPEN SPACE |
|  | STORAGE |
|  | PARKING |
|  | DEEP SOIL ZONE |
|  | ADDITIONAL GARDEN |
|  | GARDEN |
|  | WASTE MANAGEMENT |

| COMPLIANCE TABLE | | | |
|----------------------------------|--|---|-----------|
| DEVELOPMENT APPLICATION | | | |
| SITE AREA : 651 50m ² | | | |
| | PROPOSED | CONTROL | COMPLETE? |
| GFA | 639 87m ² | 651 50m ² | YES |
| FSR | 0.961 | 1.1 | YES |
| EXCAVATION VOLUME | 1362.25-1324.60 (47.65m ³ EXCESS) | 651 50m ² | YES |
| TREE CANOPY | 203.85m ² | 162 87m ² (25% OF SITE AREA) | YES |
| DEEP SOIL | 195.70m ² | 195.43m ² (30% OF SITE AREA) | YES |
| DEEP SOIL (FRONT SETBACK) | 51.20m ² | 50.59m ² (40% OF FRONT SETBACK) | YES |

DA SUBMISSION

| AMENDMENTS | | |
|------------|----------|--|
| Rev | Date | Description |
| 01 | 22/04/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" |
| 02 | 14/05/24 | ISSUE POST THE NEIGHBOURS OBJECTION LETTERS |
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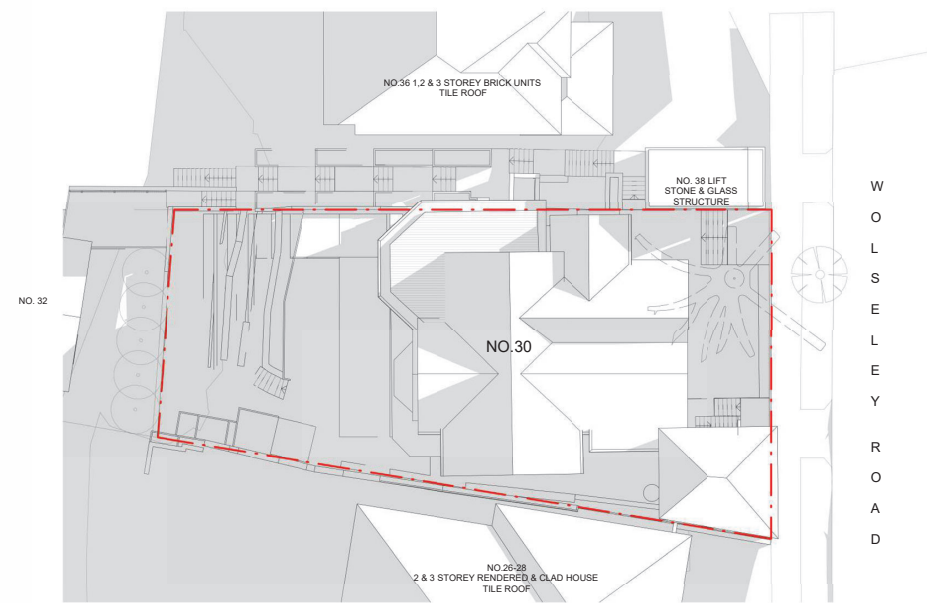
Registered Architect - Michael J. Suttie
NSW Architect's Registration No. 9936

In association with

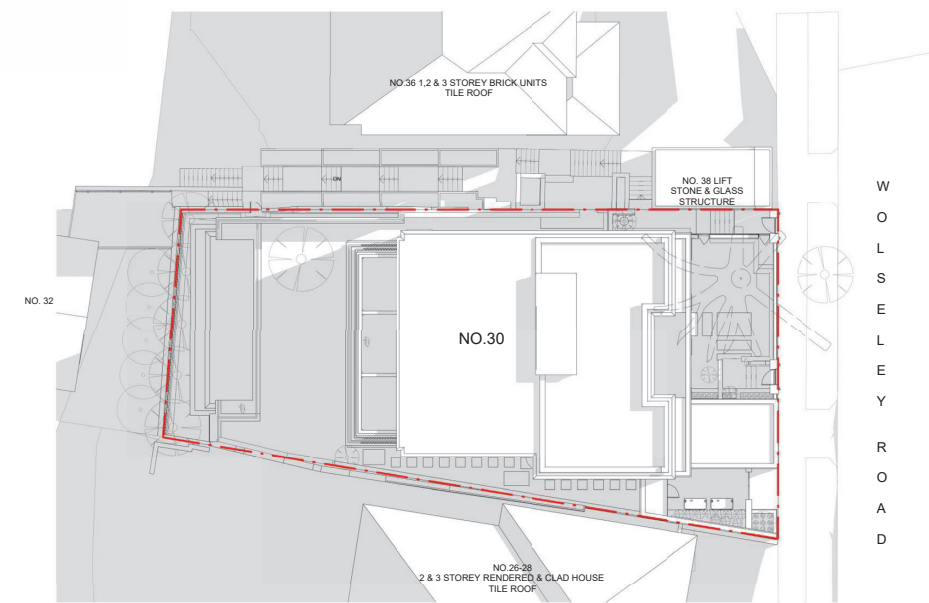


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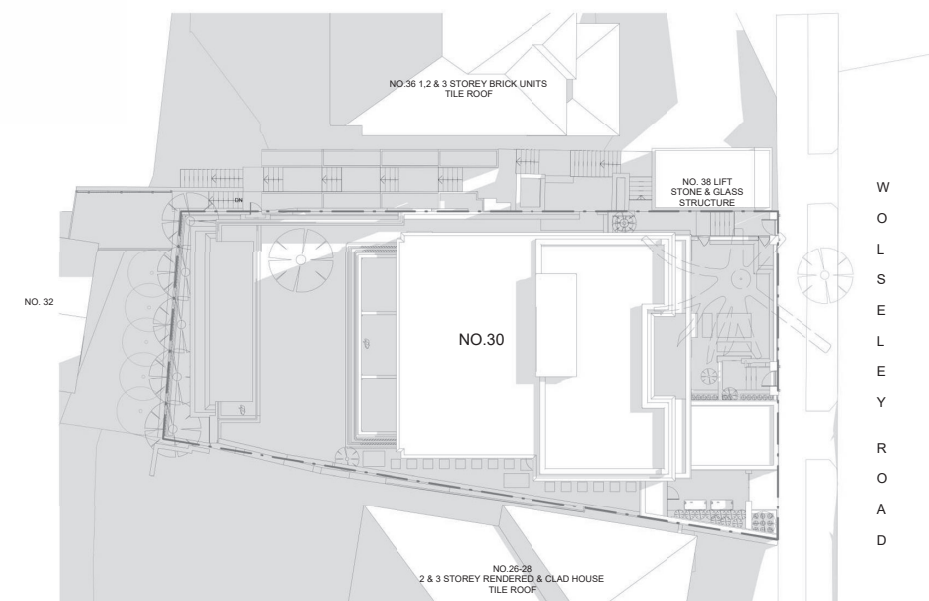
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| Project | Drawing Title | | |
| RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER | AREA CALCULATIONS-3 | | |
| Address | Date | Scale@A1 | Drawn By |
| 30 WOJSELEY ROAD, POINT PIPER, NSW 2027 | 11/03/2024 | As indicated | AP |
| Drawing Stage | Drawing No. | | Rev |
| DEVELOPMENT APPLICATION | DA-503 | | 02 |



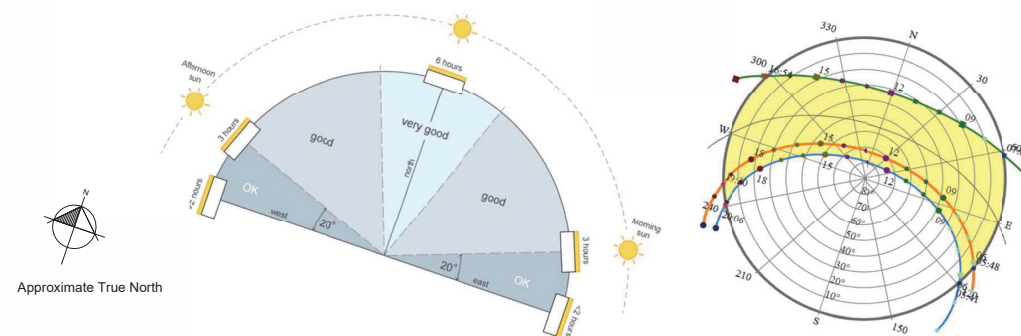
1 SHADOW DIAGRAM EXISTING - 9 AM WINTER SOLSTICE
SCALE 1 : 200 @ A1 21st JUNE



2 SHADOW DIAGRAM PROPOSED - 9 AM WINTER SOLSTICE
SCALE 1:200 @ A1 21st JUNE

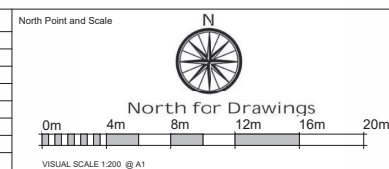


3 SUPERIMPOSED SHADOW DIAGRAMS- 9 AM
SCALE 1 : 200 @ A1
21st JUNE



DA SUBMISSION

| AMENDMENTS | | |
|------------|----------|--|
| Rev | Date | Description |
| 01 | 22/09/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" |
| 02 | 14/09/24 | ISSUE POST THE NEIGHBOUR'S OBJECTION LETTERS |
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| | Notes |
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| Project | RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER |
|---------|---|

Address
30 WOLSELEY ROAD, POINT PIPER, NSW 2027

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| Drawing Stage |
| DEVELOPMENT APPLICATION |

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|------------------------|
| Drawing Title |
| SHADOW DIAGRAMS - 9 AM |

| | |
|------|------------|
| Date | 11/03/2024 |
|------|------------|

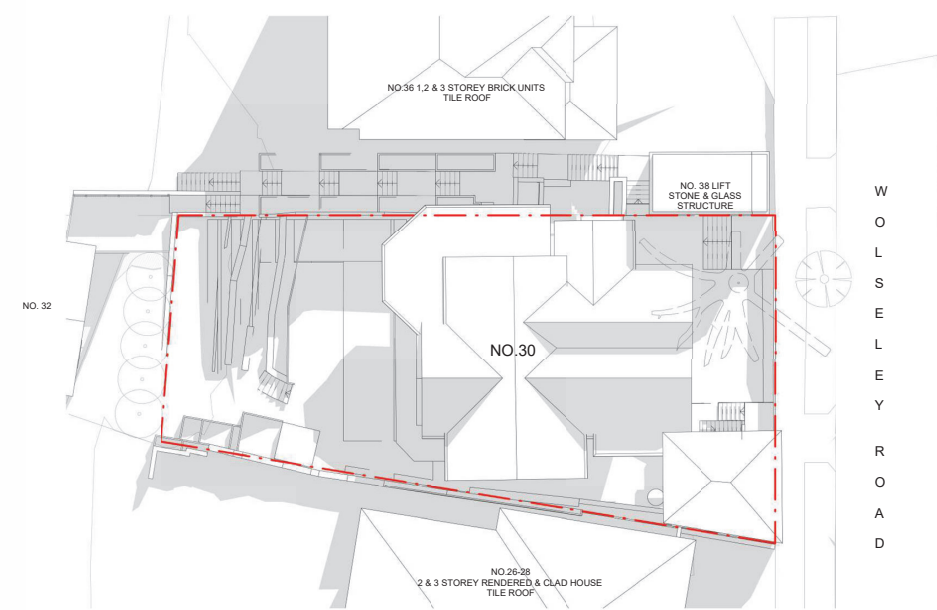
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| Scale@A1 |
| As indicated |

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| Drawn By |
| AP |

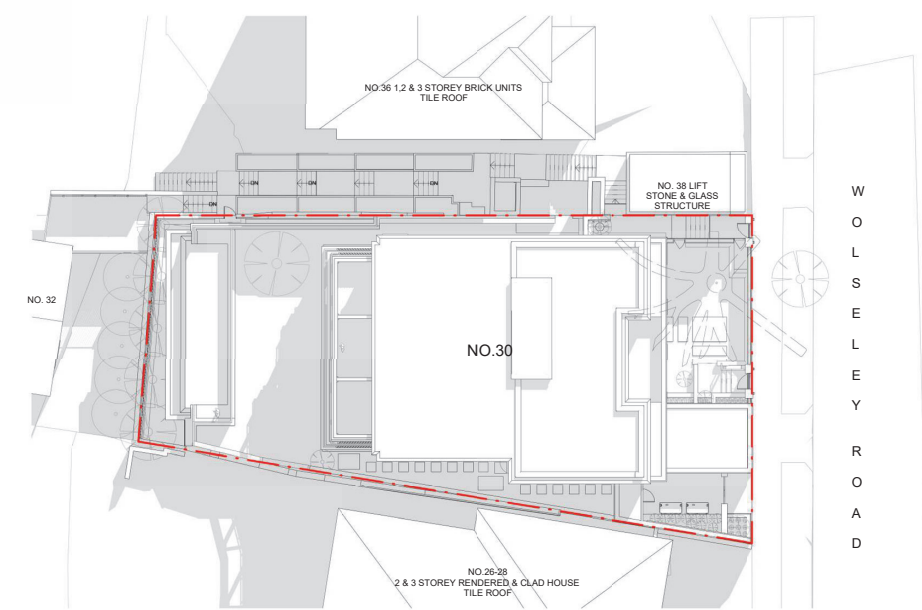
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| Drawing No. | DA-600 |
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| Rev | 02 |
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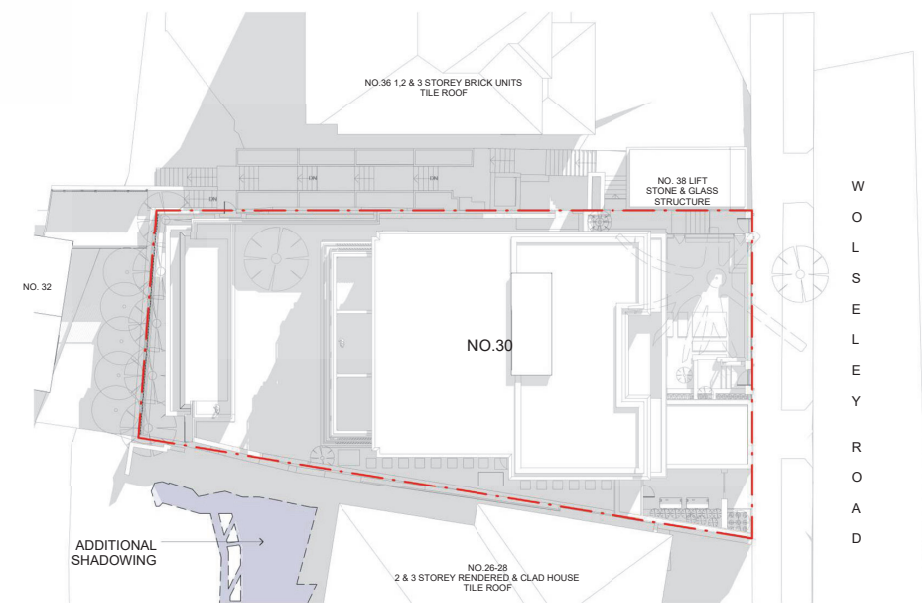
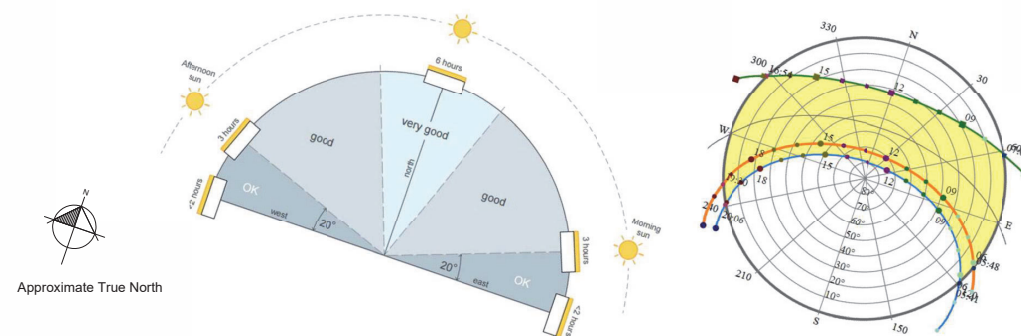
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1 SHADOW DIAGRAM EXISTING - 12 PM WINTER SOLSTICE
SCALE 1:200 @ A1 21st JUNE

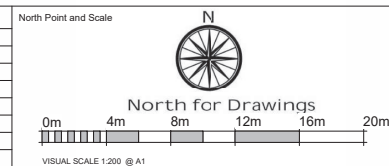


2 SHADOW DIAGRAM PROPOSED - 12 PM WINTER SOLSTICE
SCALE 1 : 200 @ A1 21st JUNE



3 SUPERIMPOSED SHADOW DIAGRAMS- 12 PM
SCALE 1: 200 @ A1 21st JUNE

DA SUBMISSION

[illegible]

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NSW Architect's Registration No. 9596

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Project
RESIDENTIAL FLAT BUILDING FOR Mr.
ZAC FLETCHER

Address
30 WOLSELEY ROAD, POINT PIPER, NSW 2027

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| Drawing Stage | |
| DEVELOPMENT APPLICATION | |

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| Drawing Title |
| SHADOW DIAGRAMS - 12 PM |

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|------|------------|
| Date | 11/03/2024 |
|------|------------|

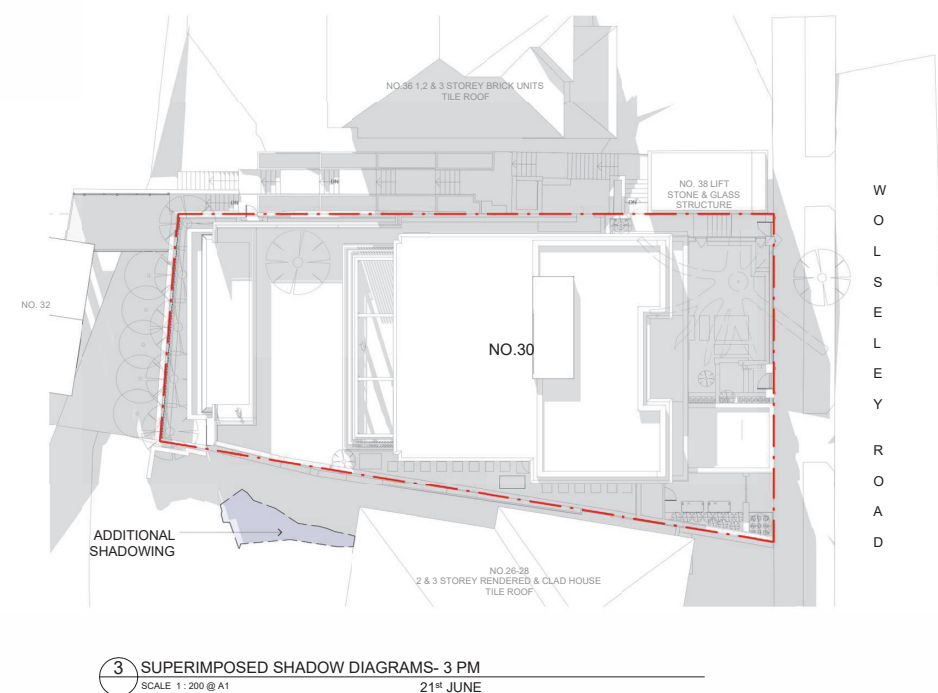
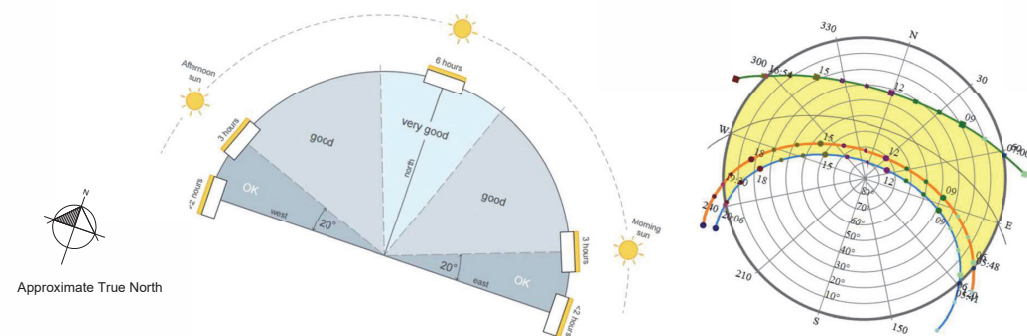
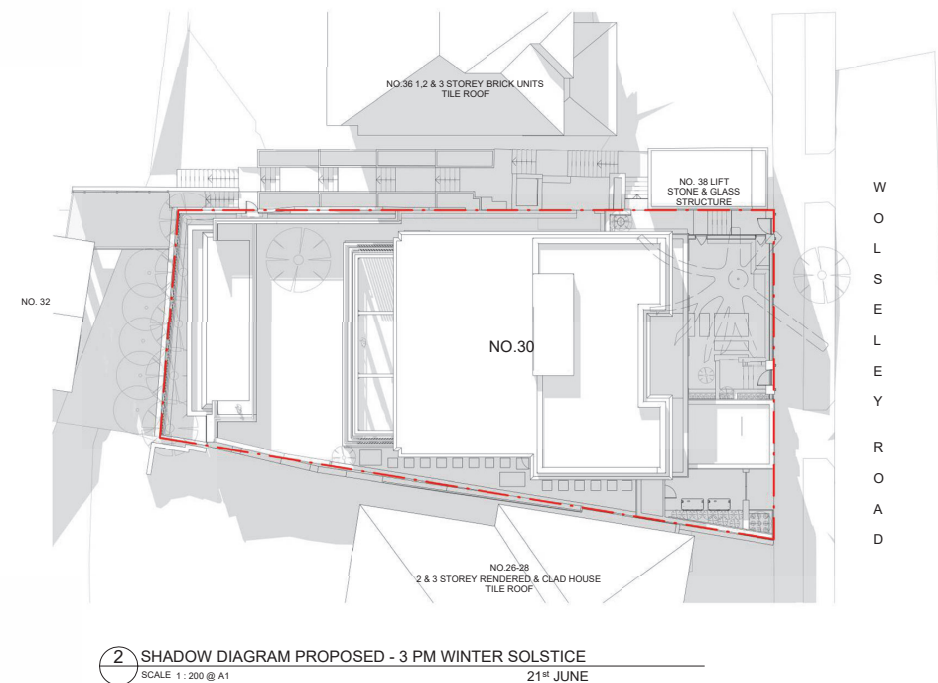
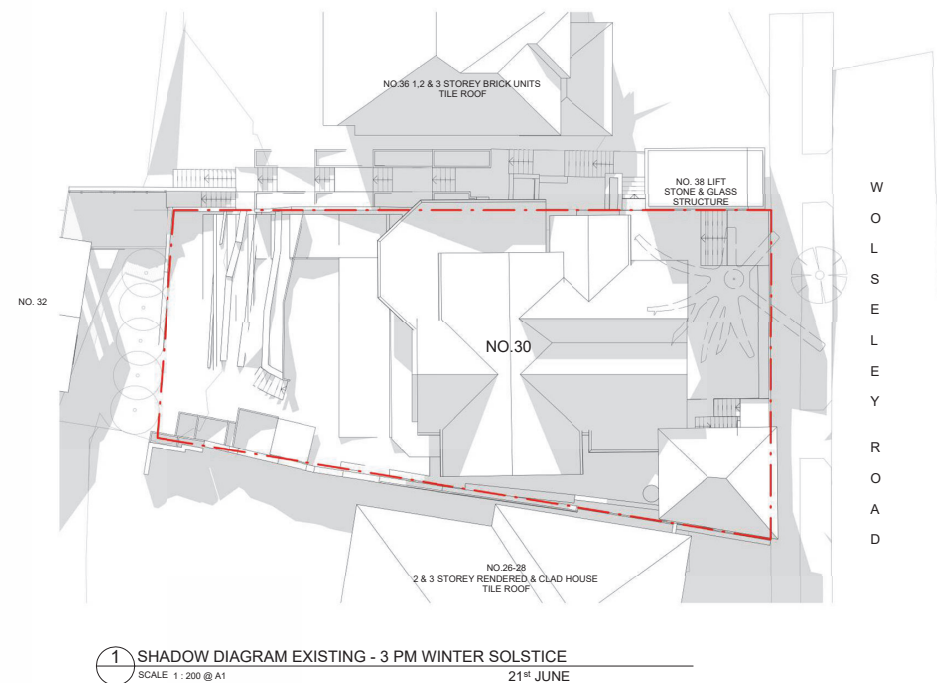
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| Scale@A1 |
| As indicated |

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| Drawn By |
| AP |

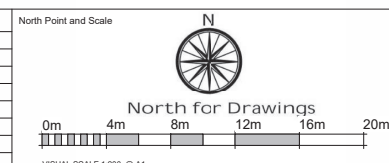
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| Drawing No. | DA-601 |
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| Rev | 02 |
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24/05/2024 12:08:55 PM



| AMENDMENTS | | |
|------------|----------|--|
| Rev | Date | Description |
| 01 | 22/09/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" |
| 02 | 14/09/24 | ISSUE POST THE NEIGHBOUR'S OBJECTION LETTERS |
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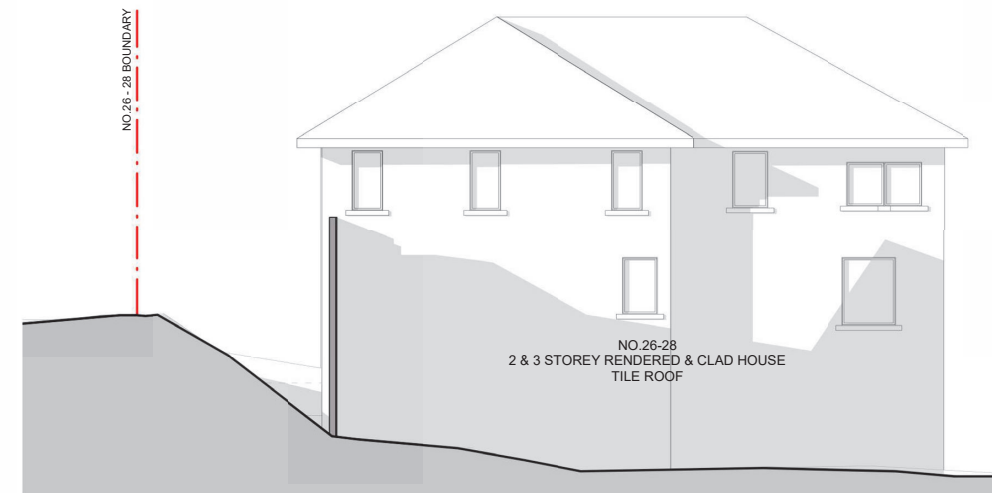


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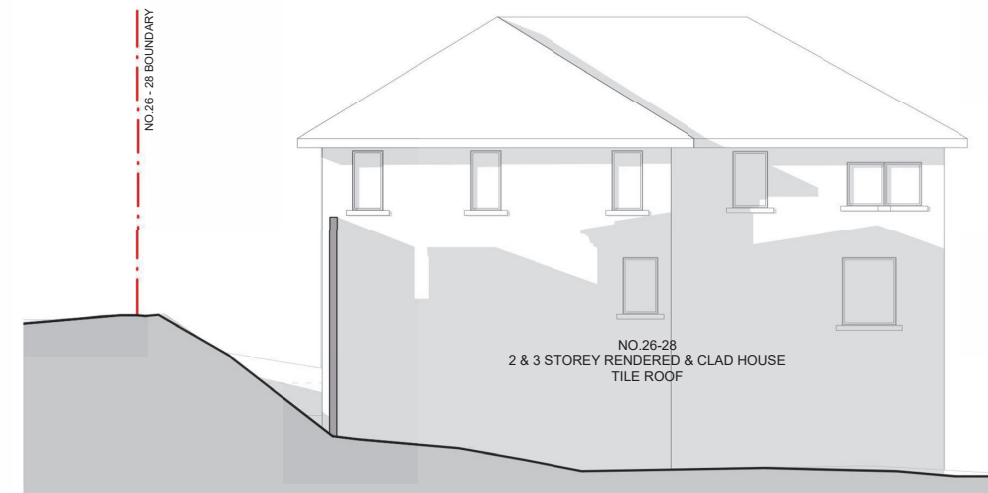
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| Address |
| 30 WOLSELEY ROAD, POINT PIPER, NSW 2027 |
| Drawing Stage |
| DEVELOPMENT APPLICATION |

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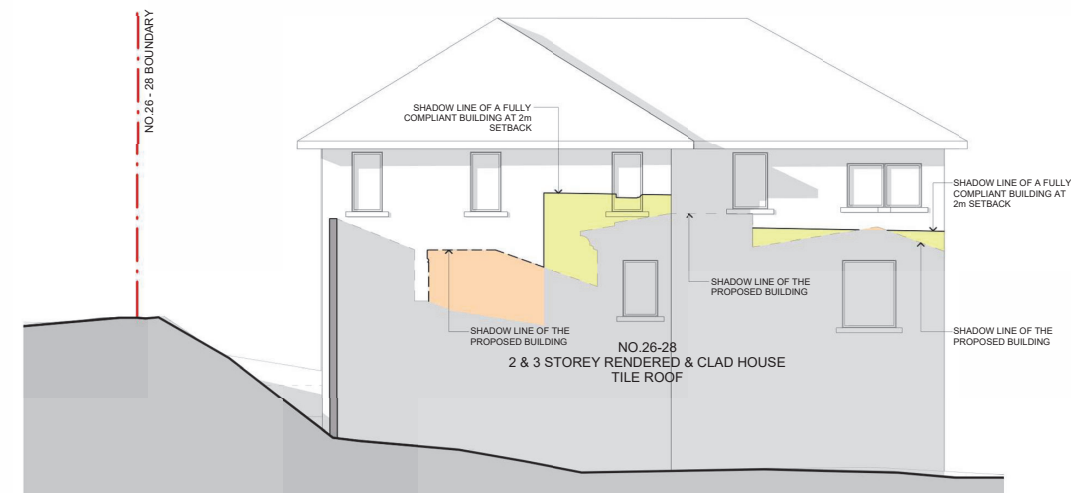
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1 NO. 26-28 ELEVATIONAL SHADOWS AS PER EXISTING- 9AM
SCALE 1:100 @ A1 21st JUNE



2 NO. 26-28 ELEVATIONAL SHADOWS AS PER PROPOSAL- 9AM
SCALE 1:100 @ A1
21ST JUNE




3 NO. 26-28 ELEVATIONAL SHADOWS AS PER COMPLIANT BUILDING ENVELOPE- 9AM
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North Point and Scale



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WAVERLEY 2024 NSW AUSTRALIA

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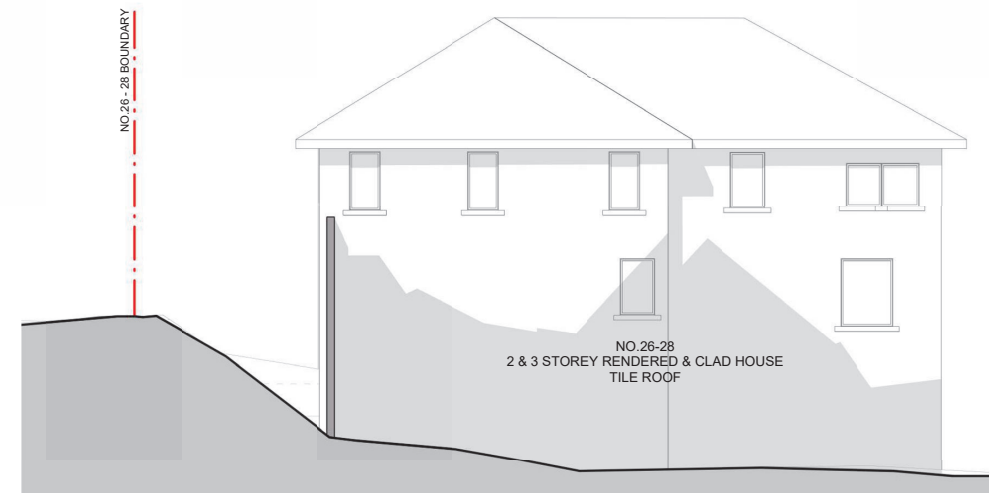
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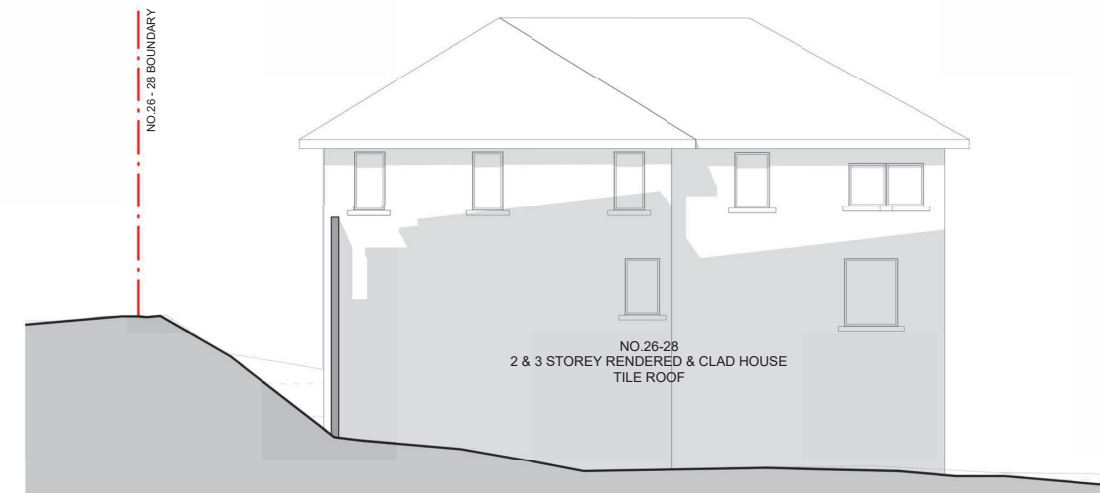
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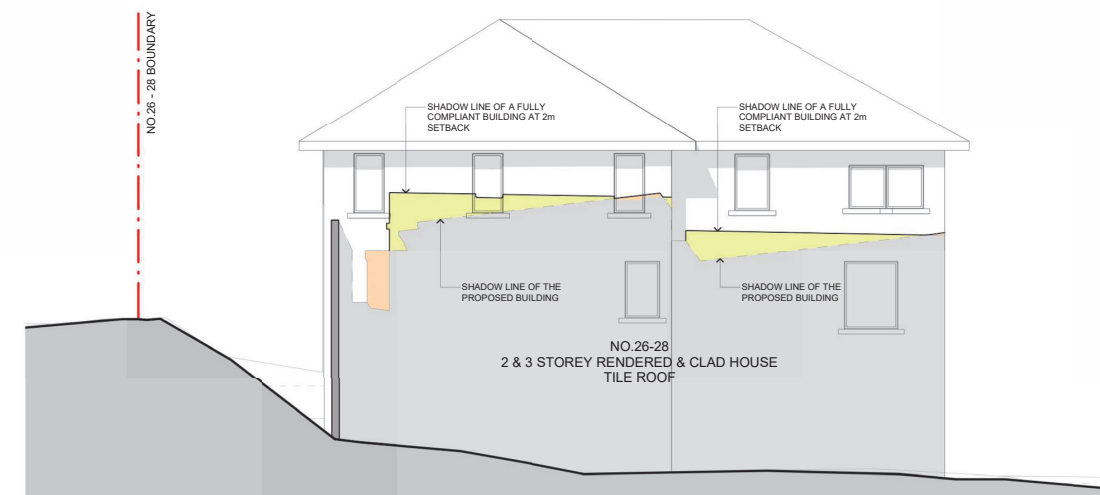
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2 NO. 26-28 ELEVATIONAL SHADOWS AS PER PROPOSAL- 12PM
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3 NO. 26-28 ELEVATIONAL SHADOWS AS PER COMPLIANT BUILDING ENVELOPE- 12PM
SCALE 1:100 @ A1 21st JUNE

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North Point and Scale



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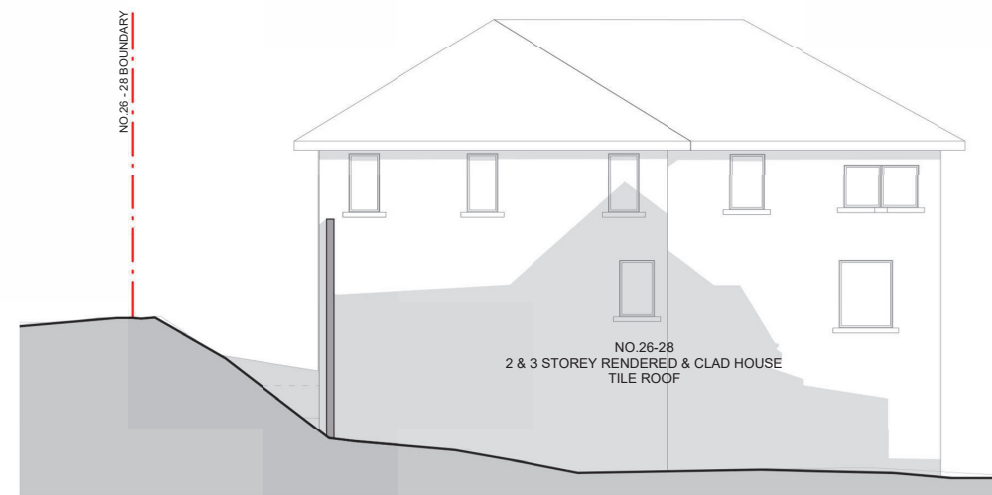
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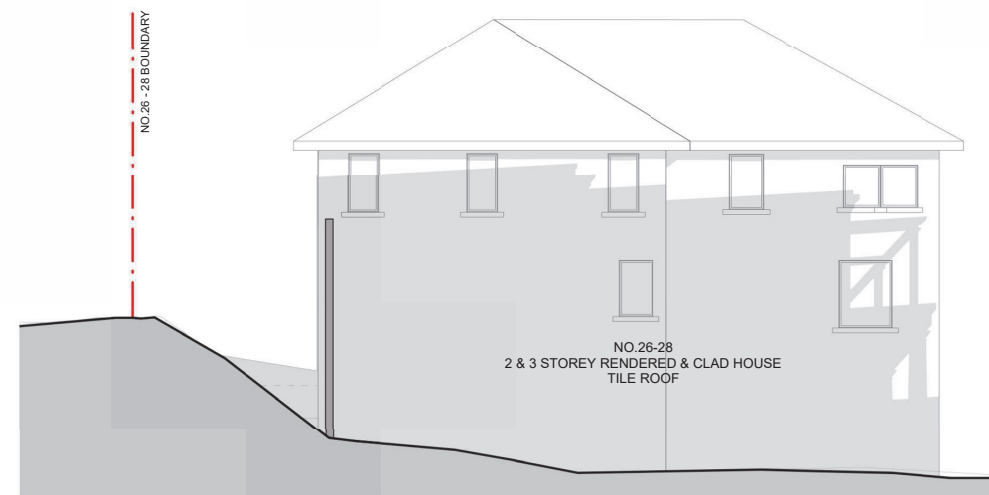
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| DEVELOPMENT APPLICATION |

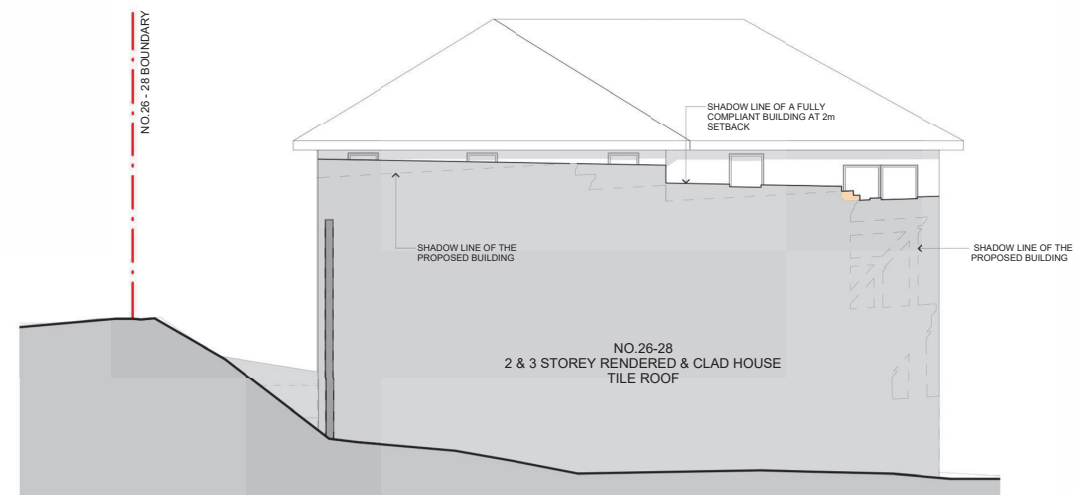
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SCALE 1 : 100 @ A1 21ST JUNE



2 NO. 26-28 ELEVATIONAL SHADOWS AS PER PROPOSAL- 3PM
SCALE 1:100 @ A1 21st JUNE




3 NO. 26-28 ELEVATIONAL SHADOWS AS PER COMPLIANT BUILDING ENVELOPE- 3PM
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DA SUBMISSION

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North Point and Scale



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WAVERLEY 2024 NSW AUSTRALIA

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| Project | RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER |
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Address
30 WOLSELEY ROAD, POINT PIPER, NSW 2027

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| Drawing Stage | |
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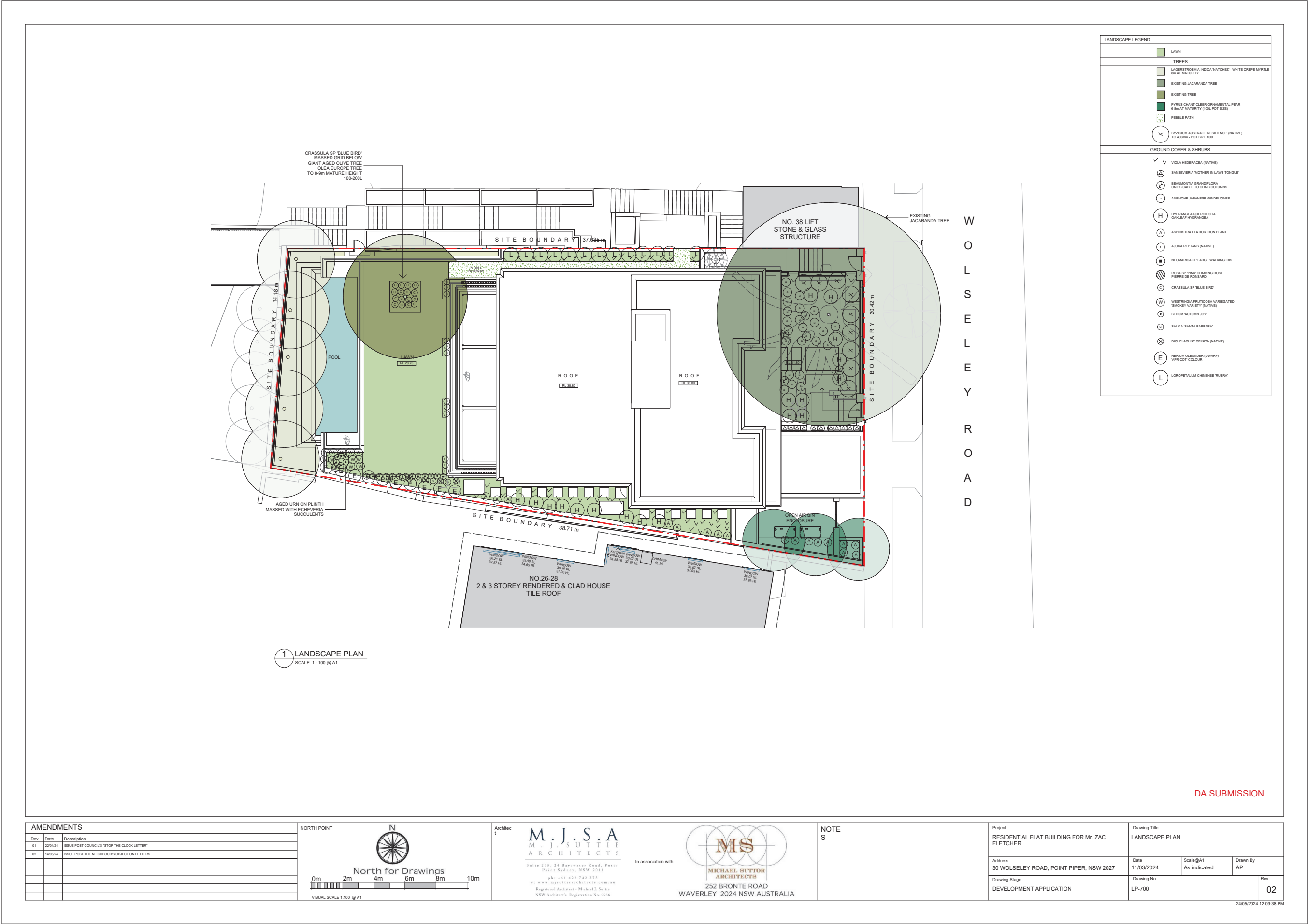
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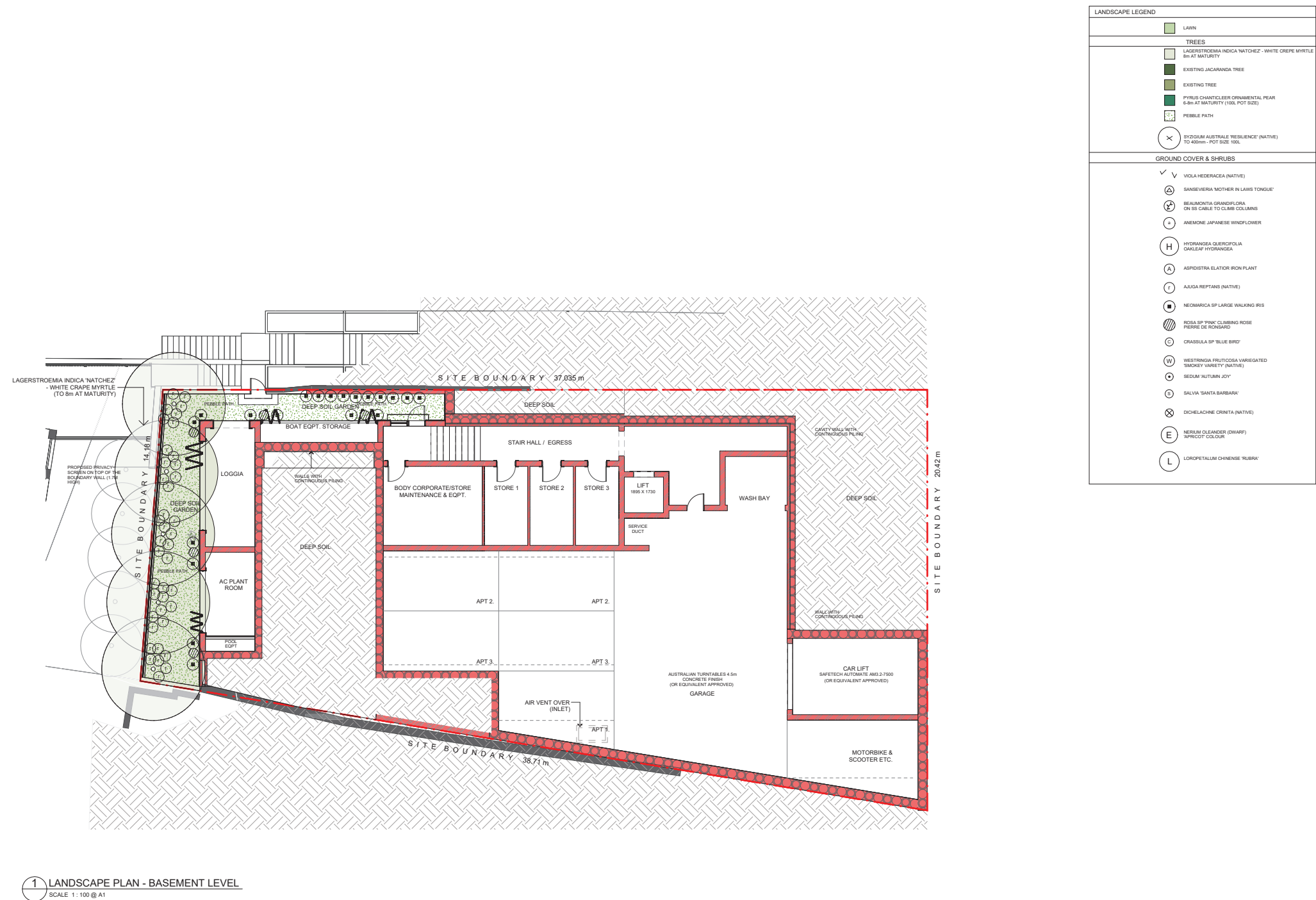
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| 01 | 22/04/24 | ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER" | | | | | | | | | Address | | Date | | Scale | | Drawn By | |
| 02 | 14/05/24 | ISSUE POST THE NEIGHBOUR'S OBJECTION LETTERS | | | | | | | | | 30 WOLSELEY ROAD, POINT PIPER, NSW 2027 | | 11/03/2024 | | As indicated | | AP | |
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Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Minimum Lot Size

Proposed Demolition of Existing Strata-Titled Two-Flat
Building and Construction of a New Residential Flat
Building at

**No. 30 Wolseley Road,
Point Piper**

Prepared for:

Zac Fletcher

Email: zac.fletcher@gs.com

Prepared by:

GSA PLANNING

Urban Design, Environmental & Traffic Planners

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JOB NO. 22441

March 2024

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

APPLICANT'S NAME: Zac Fletcher

SITE ADDRESS: No. 30 Wolseley Road, Point Piper

PROPOSAL: Demolition of Existing Strata-Titled Two-Flat Building and Construction of a New Residential Flat Building

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

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

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

(iii) The number of the relevant clause therein:

Clause 4.1A – Minimum Lot Sizes for Dual Occupancies, Manor Houses, Multi Dwelling Housing and Residential Flat Buildings, which states:

- (1) The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.
- (2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.

| Column 1 | Column 2 | Column 3 |
|-----------------------------------|------------------------------------|-------------------|
| Dual occupancy (attached) | Zone R2 Low Density Residential | 460 square metres |
| Dual occupancy (detached) | Zone R2 Low Density Residential | 930 square metres |
| Dual occupancy (attached) | Zone R3 Medium Density Residential | 460 square metres |
| Dual occupancy (detached) | Zone R3 Medium Density Residential | 460 square metres |
| Manor house | Zone R3 Medium Density Residential | 700 square metres |
| Multi dwelling housing | Zone R3 Medium Density Residential | 700 square metres |
| Multi dwelling housing (terraces) | Zone R3 Medium Density Residential | 700 square metres |
| Residential flat building | Zone R3 Medium Density Residential | 700 square metres |

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

2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

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

The development standard to which this request for variation relates is Clause 4.1A of the LEP – Minimum lot sizes for dual occupancies, manor houses, multi-dwelling housing and residential flat buildings. This Clause indicates a minimum 700m² lot size applies to a residential flat building in the R3 Zone. Clause 4.1A is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The proposed residential flat building is in the R3 with a lot size of 651.50m², which falls short of the development standard of 700m² by 48.50m² (7%). Notwithstanding the shortfall, the proposal complies with Council's development standards of building height and floor space ratio (FSR) under the LEP as well as the majority of provisions relating to amenity, car parking rates, landscaping, minimum lot width, and residential flat buildings under the DCP.

It is important to note that the site is currently occupied by a strata-titled two-flat building as existing. Therefore, the proposed residential flat building will not only retain the existing medium-density use of the site, but also improve resident amenity through high-quality housing within a highly sought-after area. It is noted that as the proposal only comprises three units, SEPP 65 does not apply.

In addition, several sites in the locality contain medium density development on similarly sized lots. The site is considered appropriate as the proposal meets the majority of Council's controls and is consistent with the objectives of the R3 Medium Density Residential Zone and the desired future character of the Point Piper Precinct.

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:

| | |
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| 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 minimum lot size development standard to the proposed development in the circumstances of this case, especially considering the lot contains two existing flats.

In our opinion, the lot size remains appropriate, and the proposal is consistent with Council's desired medium density character for the area.

The proposal replaces the existing ageing strata-titled two-flat building with a contemporary residential flat building that better responds to the existing and emerging character of the area, making a positive contribution to the streetscape. Additionally, the proposal is more consistent with the desired future character objectives of the Point Piper Precinct, which includes the evolution of residential building styles through the introduction of well-designed contemporary buildings incorporating modulation and a varied palette of materials.

The proposal demonstrates that the lot is suitable for the proposed development, incorporating a well-designed residential flat building that complies with Council's controls relating to building height, FSR, landscaping and POS, minimum lot width, and residential flat buildings. It should be noted that there are other medium density developments in the area which appear to be located on similarly sized lots, below the current standard. In particular, these include:

- No. 6 Wolseley Road, a four-unit residential flat building with a lot size of approximately 679m²;
- No. 36 Wolseley Road, a four-unit residential flat building with a lot size of approximately 689m²;
- No. 40 Wolseley Road, a three-unit residential flat building with a lot size of approximately 560m²; and
- No. 48 Wolseley Road, a three-unit residential flat building with a lot size of approximately 649m².

Flexibility with the control will provide a better outcome for and from the development in this circumstance, as the site can readily accommodate a residential flat building with a built form generally envisaged by Council. The proposal will facilitate the replacement of an ageing two-flat building with a sophisticated residential flat building that is consistent with the objectives of the R3 Medium Density Residential Zone. Strict compliance with this control would prevent the orderly and economic use and development of the land.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

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

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

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

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is

unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

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

Despite the non-compliance, the proposal is consistent with the medium density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Consistency with the objective of the minimum lot size standard will now be discussed.

Clause 4.1A of the LEP states,

The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.

A similar objective can be found in the City of Sydney LEP 2012. In a recent appeal on a Commissioner's decision regarding the applicability of the objectives of the standard (*Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61), Preston CJ found at [57]:

The Commissioner sought to ask whether the written request under cl 4.6 demonstrated that objective (b) of the development standard in cl 4.4.(2) is achieved, notwithstanding the development's noncompliance with the development standard. But the Commissioner did this by asking whether the written request demonstrated that the regulation or strategic management of the density of development, built form and land use intensity is maintained, notwithstanding the noncompliance. This was to ask the wrong question. It was a question that could never be answered in the affirmative. As Baron submitted, a written request seeking to justify the contravention of the floor space ratio development standard by one building could never establish that the regulation or strategic management of the density of development, built form and land use intensity of all buildings in the local area has been maintained.

This reasoning can also be applied to the objective for minimum lot size in the Woollahra LEP 2014. The focus should be on achieving the desired future character, not achieving 'planned residential density'. That part of the objective, read in isolation, goes to regulation and cannot be satisfied.

'Desired future character' is not defined in the LEP. The meaning of 'desired future character' is derived from the text and context of the provisions of the LEP in which it is used and the other provisions of the LEP that form the urban character and built form of the area. The relevant clauses in the LEP which relate to urban character and built form are:

- a. The zoning of the land (Clause 2.2 and the Land Zoning Map);
- b. The zone objectives (Clause 2.3);
- c. The land use table (at the end of Part 2); and

- d. The development standards in Part 4:
 - i. Clause 4.1A Minimum Lot Sizes for Dual Occupancies, Manor Houses, Multi Dwelling Housing and Residential Flat Buildings Map which prescribes a minimum lot size of 700m²;
 - ii. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 10.5m; and
 - iii. Clause 4.4 Floor Space Ratio and Floor Space Ratio Map which provides a maximum FSR of 1:1.

The R3 Medium Density Zoning permits a wide range of uses and built form on the site, which promotes the eclectic desired future character. The permissible uses are:

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business premises; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Group homes; Home occupations (sex services); Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Office premises; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; **Residential flat buildings**; Respite day care centres; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shops; Tank-based aquaculture*

The new residential flat building will contribute to the eclectic mix of permissible uses in the R3 Zone. It is consistent with the envelope of neighbouring medium density developments on Wolseley Road and recently approved developments in the Woollahra LGA. This demonstrates that the proposal is contextually compatible. The area is characterised by a mix of detached and semi-detached dwelling houses and residential flat buildings. Older buildings are being refurbished or replaced by medium-density buildings as part of the emerging contemporary character. As the lot size shortfall is existing, accommodating an existing a strata-titled two-flat building, it will remain appropriate for the development.

The desired future character is articulated in Section B1.6 of the DCP – Point Piper Precinct. The objectives are:

Objective: To respect and enhance the streetscape character and key elements of the precinct.

Response: The careful design within a compliant building height and FSR respects the streetscape character and contributes to the mixed architectural styles, identified as the precinct's key elements. There have been numerous recently approved residential flat buildings that shape the area's future character, which the proposal is consistent with as well.

Objective: To maintain the evolution of residential flat building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.

Response: The elegant building incorporates varied materials of a sympathetic colour scheme, which provide texture and remain compatible with adjoining buildings through a largely compliant envelope. The proposal is a sophisticated contribution to building styles along Wolseley Road.

Objective: To ensure that development on the low side of the street maintains a consistent front setback.

Response: The proposal is generally consistent with the average of the three most typical front setbacks of the four closest residential buildings that face the same side of the street.

Objective: To design and site buildings to respond to the topography and minimise cut and fill.

Response: The proposal has been carefully designed to appear as part two and part three storeys to respond the existing topography, with excavation mostly limited to parking, access and services.

Objective: To protect iconic and harbour views from the street and other public spaces in the precinct, including vies between buildings and over or through front fences.

Response: No significant public views are identified across the site.

Objective: To ensure that development facilitates view sharing to adjoining and adjacent private properties.

Response: The proposed new residential flat building is contained within the maximum FSR and below the maximum building height. It is better than compliant with the rear setback to facilitate view sharing.

The proposal is in the R3 Medium Density Residential zone, with the subject site currently accommodating a strata-titled two-flat building. A number of multi-unit residential flat buildings nearby also do not comply with the current lot size development standard (see **Figure 1**). If development on the site were to be restricted to one or two dwellings, it would significantly and unreasonably limit development potential.



Source: SIX Maps

● Sites with Lot Sizes Less than Standard

Figure 1: Development in the Vicinity of the Subject Site

In addition to the above, it is noted that there have been numerous other applications in the LGA for residential flat buildings on land with non-compliant lot sizes which have been supported by Council. We note that each development application is assessed on its own merits and the context of the individual site. However, it is relevant to consider similar breaches to the development standard that were acceptable by Council, these include the following:

- No. 54 Streatfield Road, Bellevue Hill (DA No. 538/2022)
- No. 41 Salsbury Road, Rose Bay (DA No. 61/2020)
- No. 20 Boronia Road, Bellevue Hill (DA No. 44/2020)
- Nos. 8-10 Norwich Road, Rose Bay (DA No. 406/2019)
- No. 41 Birriga Road, Bellevue Hill (DA No. 304/2019)
- No. 7 Carlisle Street, Rose Bay (DA No. 422/2018)
- No. 142C Bellevue Road, Bellevue Hill (DA No. 290/2018)
- No. 588 Old South Head Road, Rose Bay (DA No. 228/2017)
- No. 20A Benelong Crescent, Bellevue Hill (DA No. 510/2016)
- No. 22 Yarranabbe Road, Darling Point (DA No. 448/2016)
- No. 47 Birriga Road, Bellevue Hill (DA No. 491/2016)

Importantly, the extent of non-compliance does not affect the site's ability to accommodate a residential flat building. As mentioned, the proposal complies with the majority of building envelope controls contained within Council's LEP and DCP. The proposal will also provide a higher level of amenity for future residents through predominant compliance.

Accordingly, the proposal will not have significant adverse impacts as the design is largely within a compliant building envelope. The proposal is also more consistent with the desired medium density character of the area, compared to the existing building. The proposed height, bulk and scale is generally consistent with that envisaged by Council's controls. It is therefore consistent with the desired future character of the neighbourhood and hence consistent with the sole objective of the standard.

Accordingly, the existing lot size shortfall will provide the required resident amenity and maintain visual amenity in the streetscape through the proposal. The existing extent of variation remains appropriate in this instance as the proposal is a sensibly design, well-articulated residential flat building providing three dwellings, compatible with local developments' character. It is also noted that as the proposal only comprises three units, SEPP 65 does not apply.

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

There are a number of environmental planning grounds that justify the lot size in this circumstance. In addition to consistency with the objectives of the zone and the development standard; the environmental planning grounds include compliance with the key built form controls, consistency with surrounding development, consistency with desired future character, lack of amalgamation opportunities, consistency with the objectives of the precinct, prominent location and minimal environmental impacts. These will now be addressed.

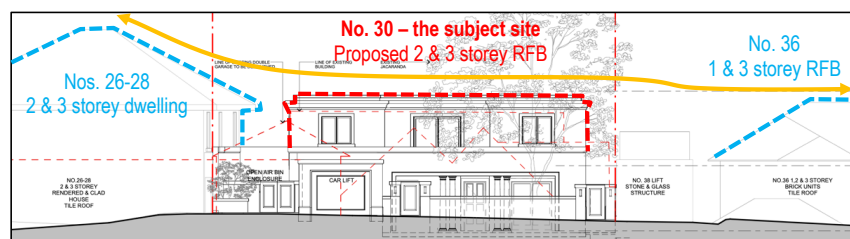
Compliance with Key Built Form Controls

The proposal has been carefully designed in consideration of the statutory and non-statutory controls for the site. The proposal satisfies the relevant objectives of the zone under the LEP and complies with the building height and FSR development standards. The proposal also complies with the majority of built form provisions contained in the DCP. While a variation to the side setback control is proposed, these variations are minor in nature. In fact, when compared to the existing situation, the existing residential building is partially constructed to the northern boundary, whereas the proposal will provide an increased northern side setback. It also will not extend beyond the existing southern side setback (except for the electricity/water meter). Importantly, the site is well beyond the DCP's minimum lot width control for a residential flat building.

The proposal will not only retain the existing use on the site, but also replace the ageing two-flat building with a contemporary residential flat building of three apartments, which is predominantly within a compliant envelope. It also noted that as the proposal only comprises three units, SEPP 65 does not apply.

Consistency with Surrounding Development

The proposal will retain the existing medium density residential use of the site, and present as a contemporary two-storey development, which is consistent with the context of Wolseley Road (see **Figure 2**). As such, enforcing strict compliance would sterilise the site and prevent any residential flat building development, which is unreasonable given the site already contains a strata-titled two-flat building. This scenario would be inconsistent with nearby development and the emerging character of the area. Strict compliance would also prohibit the site from providing high quality apartments in the highly sought-after area.



Source: M.J. Suttie Architects and Michael Suttor Architects

Figure 2: East (Street) Elevation Showing Height Transition

Consistency with Desired Future Character

The proposal is in the R3 Medium Density Residential zone, with the subject site currently accommodating a strata-titled two-flat building. A number of multi-unit residential flat buildings nearby also do not comply with the current lot size development standard (see **Figure 1** on Page 7). If development on the site were to be restricted to one or two dwellings, it would significantly and unreasonably limit development potential and would not contribute to the desired future character.

In addition to the above, it is noted that there have been numerous other applications in the LGA for residential flat buildings on land with non-compliant lot sizes which have been supported by Council. The proposal is consistent with the desired future character exemplified by recent approvals nearby.

Lack of Amalgamation Opportunities

Although the site is appropriate for the proposal, it is important to note that the site adjoins multiple access handles to the north, a recently renovated residential flat building to the west and a heritage building to the south. As such, there is a lack of site amalgamation opportunities to increase the lot size. Since the site already contains a strata-titled two-flat residential building, the best option for redevelopment is an improved residential flat building on the site to ensure a compatible future use.

Consistency with the Objectives of Precinct

The proposal is consistent with the objectives of the Point Piper Precinct, by contributing to the evolution of residential building styles through the introduction of well-designed contemporary buildings. The proposal provides a contemporary part-two part-three storey residential flat building with basement parking, which constitutes a high-quality architectural design that will replace the existing ageing residential building on the site.

The proposal will result in a built form which is consistent with the surrounding and desired density of the area. 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).

Not only is the site occupied by an existing strata-titled two-flat residential building, but the lot size is also proportionally consistent with the surrounding lot size non-compliances. Accordingly, the design of the proposal will contribute to the evolving character of the Point Piper Precinct.

Prominent Location

The site is near an intersection of Wentworth Street and Wolseley Road, where there are existing medium density developments which also fall short of the lot size development standard. The proposal capitalises on the site's ideal location to provide high-quality housing in keeping with the desired future character of the area.

Minimal Environmental Impacts

Regardless of the lot size non-compliance, the proposal will retain the current use of the site and will not result in unacceptable environmental impacts in regard to views, privacy or solar access. The proposal is oriented towards the harbour and has a largely compliant or improved built form in respect to building height, FSR and DCP envelope provisions, as discussed above. As such, the proposal will not result in unreasonable environmental impacts for future occupants of the subject site or adjoining development and will not constitute an overdevelopment of the site.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

6. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the R3 Medium Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.1A 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 4.1A: Minimum Lot Sizes for Dual Occupancies, Manor Houses, Multi Dwelling Housing and Residential Flat Buildings | |
| 12 | What is the control | 1 & 2 | 700m ² | |
| 14 | Precondition to Enlivening the Power – Consent authority must form 2 positive opinions: | | Both positive opinions can be formed as detailed below. | YES |
| 15, 25 | 1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement. | 5 | The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations. | YES |
| 16-22 | First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> . | 5.1 | The proposal satisfies Test 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard. | YES |
| 23-24 | Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. | 5.2 | Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> It is demonstrated that the site can contain a residential flat building; The proposal will retain the existing flat building use of the site; The proposed lot size facilitates a contemporary residential flat building consistent with the planning objectives for the area; The context of surrounding development does not readily enable the site to be amalgamated with adjoining properties; Apart from the side setback variations which are improved on the existing, the proposal is within a generally compliant building envelope; The site complies with the minimum lot size control for a residential flat building; There are other examples of lots less than the standard in the vicinity which comprise residential flat buildings; The variation is consistent with the desired future character; and Strict compliance would inhibit the orderly and economic use and development of the site. | YES |

| | | | | |
|-------|--|---|---|-----|
| 26-27 | 2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. | 6 | The proposed development achieves the objectives of the minimum lot size standard standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the R3 Medium Density Residential Zone. | YES |
|-------|--|---|---|-----|

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Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Height of Buildings

Proposed Demolition of Existing Strata-Titled Two-Flat
Building and Construction of a New Residential Flat
Building at

**No. 30 Wolseley Road,
Point Piper**

Prepared for:

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Prepared by:

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

APPLICANT'S NAME: Zac Fletcher

SITE ADDRESS: No. 30 Wolseley Road, Point Piper

PROPOSAL: Demolition of Existing Strata-Titled Two-Flat Building and Construction of a New Residential Flat Building

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

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

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

(iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings which is stated as follows:

- (1) The objectives of this clause are as follows—
- (a) to establish building heights that are consistent with the desired future character of the neighbourhood,
 - (b) to establish a transition in scale between zones to protect local amenity,
 - (c) to minimise the loss of solar access to existing buildings and open space,
 - (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
 - (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- (2A) Despite subclause (2) and clause 4.3A, the maximum height of a dwelling house, dual occupancy or semi-detached dwelling on land in Zone R3 Medium Density Residential is 9.5 metres.
- (2B) Despite subclause (2) and clause 4.3A, the maximum height of a building on a battle-axe lot on land in Zone R3 Medium Density Residential is 9.5 metres.

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

2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

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

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the height Map which indicates a maximum 10.5m applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The main building envelope of the proposed new residential flat building is lower than 10.5m. The exceedance of the height is limited to the proposed centrally located lift overrun and ventilation grills. When measured from the highest point of the proposed lift overrun at RL 39.28 AHD to the existing ground level immediately below, the proposal has a maximum building height of 10.816m which is 0.316m (3%) over the standard (see **Figure 1**).

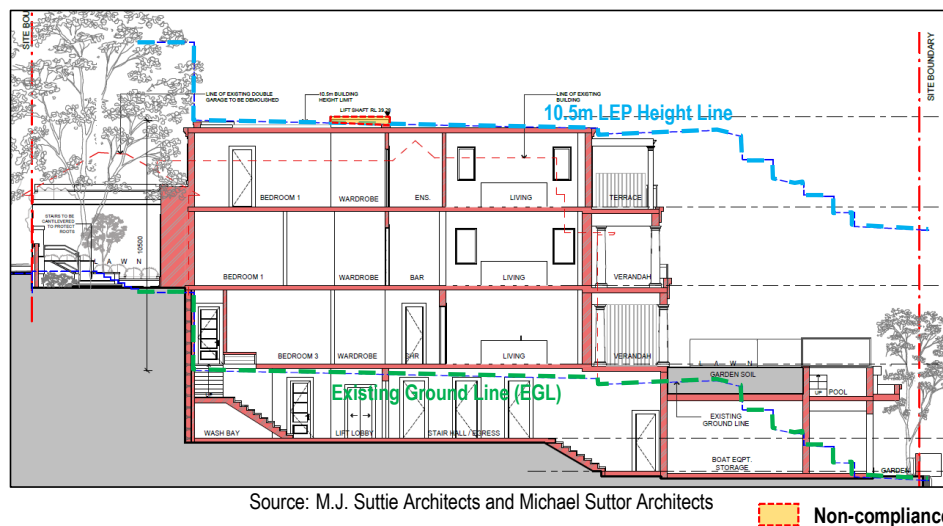


Figure 1: Section Demonstrating Maximum Height

While the proposed building slightly exceeds the height limit due to the lift overrun and the ventilation grills, this minor breach is unlikely to be noticeable from public or private domain due to its form and location. Notwithstanding this exceedance, the proposal complies with Council's development standards of floor space ratio (FSR) under the LEP as well as the majority of provisions under the DCP, relating to amenity, car parking rates, landscaping, minimum lot width and residential flat building controls. Given the location and minor nature of the non-compliance, the amenity of neighbouring properties and the streetscape will be preserved and enforcing strict compliance would unreasonably impact the design integrity of the building.

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 building height development standard to the proposed development in the circumstance of this particular case. It is our opinion, the proposed building height is appropriate, irrespective of the extent of the height variation, particularly given the minor extent of the non-compliance.

The proposal has been designed to ensure neighbouring buildings' amenity is preserved. The built form will positively contribute to the public domain when viewed from Wolseley Road, with an articulated façade and an interface with the street that is in compliance with the development standard.

As discussed, the non-compliance occurs to the lift overrun with ventilation grills only, which is further recessed from the main building edges (nearly centrally located on the roof level). It is not readily visible from the streetscape and it allows for a well-designed contemporary medium density housing development to contribute to the evolving character of Wolseley Road and Point Piper area.

The extent of the height non-compliance is a result of a building that otherwise complies with the height standard at the upper level. Stepping the building down to comply with the lift overrun is not a desirable outcome as this would have implications for internal headroom space. On this basis, the non-compliance is consistent with the objectives of Clause 4.6.

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 to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

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

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

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

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

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

'Desired future character' is not defined in the LEP. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63] ('*SJD*'), Preston CJ states, inter alia:

...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.

Accordingly, the desired future character is shaped by the text and context of the LEP and recent approvals in the vicinity. Each of these will now be discussed. The relevant clauses in the LEP which relate to urban character and built form are:

- a. The zoning of the land (Clause 2.2 and the Land Zoning Map);
- b. The zone objectives (Clause 2.3);
- c. The land use table (at the end of Part 2); and
- d. The development standards in Part 4:
 - i. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 10.5m.
 - ii. Clause 4.4 FSR and FSR Map which prescribes a maximum FSR of 1:1.

The R3 Medium Density zoning permits a wide range of uses and built form on the site, which promotes the eclectic desired future character. The permissible uses include residential flat buildings with consent. The proposal is compatible with existing development and comprises an envelope that complies with other LEP and DCP controls. In addition, the proposal is compatible with existing development that has been approved in the locality.

In other words, the height and envelope of the proposal is consistent with these buildings and compatible with the area's desired future character as per the Court judgement of *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112. In this judgement, Clay AC notes at [69]:

The desired future character in my opinion must take into account the form of the buildings to the east which the Council approved under effectively the same controls as present. Those buildings exceed the height and floor space ratio controls. As the Applicant pointed out in submissions, this is not a case where there is an adjacent development approved and constructed many years ago which sits as an anomaly in the street. The developments under construction represent the recently expressed attitude of the Respondent to the controls and what is desired in this part of Cross Street.

This approach was confirmed in the appeal of this case by Preston CJ that the desired future character should be informed by the nearby and future development and not limited by the development standards.

The proposal complies with the maximum Floor Space Ratio (FSR) for the site and does not represent an overdevelopment of the site. The proposed built form also sympathetically responds to the built form character of emerging development in the surrounding area. There are a number of recent new developments which have been approved on its own merits and each site has different characteristics. However, it is relevant consideration to understand if Council or the Land and Environment Court (LEC) has accepted breaches to the height standard in the past, under what circumstances these were supported and if indeed there are any comparable principles to the subject DA. Based on Council's DA Tracker and Clause 4.6 Register, these approved variation within R3 zone include the following:

- No. 34-36 Ocean Avenue, Double Bay (DA No. 119/2021) for demolition of the existing residential flat building and construction of a new four storey residential flat building with basement parking and associated landscaping works, with a 27.6% height variation. The primary justification was that the exceeded entire upper level storey has no unreasonable impacts on the neighbours' amenity, consistent with the surrounding development and sufficient environmental planning grounds (complies with FSR standard/more skilful design), and consistent with objectives of the standard.
- Nos. 5-13 Spencer Street, Rose Bay (DA No. 300/2021) for demolition and construction of a new residential flat building, with a 6.6% height variation. The main justification was that the variation was limited to the **lift overrun**. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds. The variation was consistent with the objectives of the standard.
- No. 201 O'Sullivan Road, Bellevue Hill (DA No. 515/2020) for demolition and construction of a new residential flat building, with an 8.8% height variation (and a 5.8% FSR variation). The main justification was that the variation was limited to the **lift overrun** only, which would not result in any excessive scale and bulk being presented to the streetscape nor in any adverse impacts on the amenity of adjoining properties. There were sufficient environmental planning grounds. The variation was consistent with the objectives of the standard.
- No. 132 Bellevue Road, Bellevue Hill (DA No. 177/2020) for demolition and construction of a new residential flat building, with a 20% height variation. The main justification was that the variation was limited to the **lift overrun** and privacy screening and balustrading to the upper most level unit, which can be attributed to the sloping topography of the site. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds. The variation was consistent with the objectives of the standard.

All of the above proposals relating to new residential flat buildings in the same R3 Zone in the Woollahra LGA had a comparable or even greater building height breach which was supported by Council staff and the Panel on similar arguments as those made in our submission (being limited to the lift overrun, being compatible with the surrounding development, and no adverse amenity impacts on neighbours).

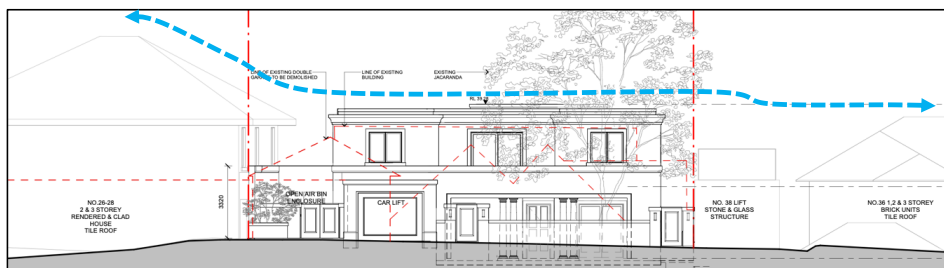
The limited height variation will not add to the dwelling's bulk or scale from the street or foreshore. This is because the area above the 9.5m height is only the lift overrun, with the rest of the building under the maximum building height, ensuring that the bulk and scale remains compatible with neighbouring developments.

Therefore, the proposal is compatible with the neighbourhood's desired future character and the heights of surrounding development. We therefore consider contravening the development standard to provide a lift to a new flat building on this site is justified.

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

The site is located within the R3 Medium Density Residential Zone where the adjoining sites are classified as the same. However, the zone changes to R2 Low Density Residential for some properties across Wolseley Street on the east side. This zoning distinction is reflected in the building height standards. The maximum building height for the site and its neighbours on the west side of Wolseley Road is 10.5 meters. On the opposite side of the street, a maximum 13.5m building height applies for properties within R3 zone, and a 9.5m building height for sites within R2 zone.

As the proposed roof RL is similar to the existing situation and lower than the existing building at No. 26-28 Wolseley Road, the proposal is consistent with the existing height of the subject and surrounding development. When viewed from Wolseley Road, the proposal has a compliant, two storey street appearance, which provides a height transition from the part one and part two storey building at No. 36 Wolseley Road (adjacent to the north) to the part two and part three storey building at No. 26-28 Wolseley Road (adjacent to the south) (see **Figure 2**). Given the central location, the marginal variation of the lift overrun will not be observable from the street.



Source: M.J. Suttie Architects and Michael Suttor Architects

Figure 2: Elevation Showing Height Transition along Wolseley Road

Accordingly, the proposed building height satisfies Objective (b).

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

The shadow cast by the area of non-compliance will not result in any impact to neighbouring windows or private open space or public areas, between 9:00am and 3:00pm beyond a compliant building

envelope. This is due to the central location and minor nature of the height non-compliance, limited to the lift overrun. As such solar access of the neighbours will be preserved, despite the non-compliance.

- (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.*

As discussed, given the height non-compliance is limited to a sliver of the lift overrun, centrally located on the roof level, it will not result in any noticeable adverse impact on the neighbouring properties, in terms of views, privacy and solar access. It will not form the leading edge for any view impact and will also not obstruct public views of the harbour and surrounding areas.

Accordingly, despite the height exceedance due to the lift overrun, the proposal will preserve neighbours' amenity and complement the streetscape. The extent of variation is appropriate in this instance as the proposal provides a well-articulated residential flat building that is compatible with the desired future character. Full compliance is likely to substantially compromise the consistent internal floor levels and equitable access between floor levels with the proposed lift.

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

There are a number of environmental planning grounds specific to the site and the height non-compliance which justify contravening the development standard in this instance. These will now be discussed.

Minor Nature of Non-compliance

As indicated, the non-compliance relates to the lift overrun only. The remainder of the building fully complies with the height standard. Indeed, the proposal also complies with the LEP FSR standard.

Given the minor nature of the non-compliance and its location, it will not result in any adverse effects on the amenity of the neighbourhood or any impact on the streetscape or character of the area.

Good Design and Amenity

To achieve a fully compliant building height would limit vertical circulation for future occupants and impact internal accessibility in the built form. Removing the internal lift would negatively impact accessibility, particularly for occupants of the upper floor. The proposed design is considered a well-designed outcome, with no impact to the amenity of adjoining properties as a result of the section of non-compliance.

Consequences of Compliance

Strict compliance would unreasonably impact the design integrity of the building and internal amenity for the future occupants of the site, without noticeably benefitting surrounding properties or the public domain. To achieve a fully compliant building height would require either reducing the compliant floor-to-ceiling heights and floor-to-floor heights which will result in a worse planning outcome.

Removing the internal lift would negatively impact accessibility, particularly for occupants of the upper floor. Furthermore, it would limit vertical circulation for future occupants and impact internal accessibility in the built form. This would not serve benefit to the pedestrians or neighbours and would in fact have detrimental amenity impact.

Consistency in the Context

Consistency in the context is recognised as an environmental planning ground in *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097 where Commissioner O'Neill states at [42] that:

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

This report demonstrates the proposed development will remain compatible with the desired future character as it complies with the height standard for the entirety of the building envelope with the exception of the minor portion of the lift overrun. This will not have any impact on the character of the area.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

6. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the R3 Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

Table 1: Compliance Matrix

| Para (Initial Action) | Requirement | Section of this Report | Summary | Satisfied |
|-----------------------------|--|------------------------------|--|-----------|
| 10 | Is it a development standard (s.1.4) | 1 | Yes | |
| 11 | What is the development standard | 1 | Clause 4.3: Height of Buildings | |
| 12 | What is the control | 1 & 2 | 10.5m | |
| 14 | Precondition to Enlivening the Power – Consent authority must form 2 positive opinions: | | Both positive opinions can be formed as detailed below. | YES |
| 15, 25 | 1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement. | 5 | The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations. | YES |
| 16-22 | First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> . | 5.1 | The proposal satisfies Tests 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard; | YES |
| 23-24 | Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied 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 as a whole. | 5.2 | Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed height facilitates a medium density development consistent with the planning objectives of the area; The variation is minor and merely for a sliver of the lift overrun and ventilation grills; The exceedance is not readily discernible as the rest of the building is within the maximum height; To ensure full compliance would necessitate reducing the compliant floor-to-ceiling heights, removing the necessary lift or increasing excavation, which would significantly impact the building's internal amenities and would be unlikely to benefit neighbours; The proposed area of height non-compliance preserves neighbours' privacy, solar access and views; The proposed height allows for new dwellings to contribute to a desirable housing mix; and The non-compliance contributes to the good design and amenity of the development. This is consistent with Object (G) of the EPA Act. | YES |

gsa planning

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| 26-27 | 2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. | 6 | The proposed development achieves the objectives of the height standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the R3 Zone. | YES |
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Clause 4.6 Exceptions to Development Standards –Height of Buildings
No. 30 Wolseley Road, Point Piper - Job No. 22441

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21 August 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 84/2024/1

ADDRESS: 30 Wolseley Road POINT PIPER 2027

PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping

FROM: W Huynh

TO: C Hartas

1. ISSUES

- Please refer to comments and/or conditions from Council's Traffic Engineer separately.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 22441-Issue F, prepared by GSA Planning, dated 22/04/2024.
- Architectural Plans, unreferenced, prepared by M.J. Suttie Architects, dated 11/03/2024.
- Survey Plan, referenced 21845-Issue 1, prepared by CMS Surveyors, dated 04/10/2022.
- Stormwater Management Plan, referenced SW23270-Rev B, prepared by Capital Engineering Consultants, dated 31/01/2024.
- Geotechnical Report, referenced 223450.00, prepared by Douglas Partners, dated 09/10/2023.
- Geotechnical Letter, referenced R.002.Rev0, prepared by Douglas Partners, date 02/02/2024.
- Traffic Report, referenced 23.501r01v03, prepared by Traffix, dated 13/12/2023.
- Traffic Response to RFI, referenced 23.501r02v01, prepared by Traffix, dated 29/04/2024.
- Title Documents, unreferenced, various dates.

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 located within Council's On-site Stormwater Detention (OSD) exemption area, in which case the installation of OSD system is not required as per Chapter E2.2.4 of the Council's DCP. It is noted from the submitted stormwater management plan that stormwater runoff will be discharged to Sydney Harbour, in which case stormwater treatment is required. The submitted



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MUSIC modelling does not demonstrate that the proposed stormwater runoff water quality measures meet Council's environmental targets. However, as the modelled water quality targets are marginally insufficient, it is considered acceptable for this to be addressed at the CC stage, which will be conditioned accordingly.

The submitted title documents and survey plan demonstrate that the subject property benefits from the existing drainage easement.

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

b. Flooding & Overland Flow comments

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

c. Impacts on Council Infrastructure comments

The applicant seeks to construct a new basement carpark with mechanical car lift as part of this application. It is noted from the submitted architectural plans that the new crossing will be situated in a similar location, however the existing vehicular crossing will not be suitable, in which case the existing crossing is to be replaced with kerb and gutter and a new 3 metres wide crossing constructed to suit the new arrangement which will be conditioned accordingly. Conditions have been imposed to ensure that the new crossing is centred on the proposed garage to maximise on-street parking as required by Council's Traffic Engineer. The applicant is also 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.

Please note that Council's Traffic Engineer may have additional comments regarding this area. Please refer to comments from Council's Traffic Engineer separately.

d. Traffic comments

Please refer to comments from Council's Traffic Engineer separately.

e. Vehicle Access & Accommodation comments

The proposed vehicular access and parking arrangements are considered acceptable.

Please note that Council's Traffic Engineer may have additional comments regarding this area. Please refer to comments from Council's Traffic Engineer separately.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Douglas Partners, Ref: 223450.00, dated 9 October 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 8.25 metres from the existing ground surface for the proposed basement car park.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 0.5m, 0.2m and 0.2 in BH1, BH2 and BH3 respectively.*



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- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 1.5m, 4.1m and 1.2m in BH1, BH2 and BH3 respectively.
- c) Sandstone bedrock was inferred beneath the natural sand at depths ranging between 1.2m and 4.1m.
- d) Groundwater was observed 1.6m below the lowest proposed bulk excavation level.

The report made comments and recommendations on the following:

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

With regard to shoring and support, it is noted within the submitted geotechnical letter that underpinning of the existing boundary wall supporting the road reserve may be required. Conditions will be imposed to ensure the relevant dilapidation reports are provided.

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

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A.5 Approved Plans and Supporting documents

| Reference | Description | Author | Date |
|-------------|-----------------------------|---------------------------------|------------|
| 223450.00 | Geotechnical Report | Douglas Partners | 09/10/2023 |
| SW23780 | Stormwater Management Plans | Capital Engineering Consultants | |
| SW001-Rev B | | | 31/01/2024 |
| SW010-Rev B | | | 31/01/2024 |
| SW011-Rev B | | | 31/01/2024 |
| SW020-Rev B | | | 31/01/2024 |
| SW021-Rev B | | | 31/01/2024 |
| SW022-Rev B | | | 31/01/2024 |
| SW030-Rev B | | | 31/01/2024 |
| SW040-Rev B | | | 31/01/2024 |

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

A.31 No Underpinning Works

B. BEFORE DEMOLITION WORK COMMENCES

B.4 Erosion and Sediment Controls - Installation

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

B.14 Payment of Security and Fees

| | | | |
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| Property Damage Security Deposit (S138) | \$155,580 | No | T115 |
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| B. 16. | Dilapidation Reports for Existing Buildings |
| | <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> |
| | <p>These properties must include (but is not limited to):</p> <ul style="list-style-type: none"> a) No. 26-28 Wolseley Road b) No. 32-34 Wolseley Road c) No. 36 Wolseley Road d) No. 38 Wolseley Road |
| | <p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p> |
| | <p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p> |
| | <p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p> |
| | <p>Notes:</p> <ul style="list-style-type: none"> • The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly caused by the carrying out of the development. • This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development. • Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out. • Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings. |
| | <p>Condition Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p> |
| B. 17. | Dilapidation Reports for Public Infrastructure |
| | <p>Before any site work commences, to clarify the existing state of public infrastructure prior to the commencement of the development (including prior to any demolition), a dilapidation report, prepared by a chartered professional engineer, on Council’s infrastructure within and near the development site must be prepared.</p> |



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| | <p>The dilapidation report must be submitted to Council prior to the commencement of any site work and include:</p> <ol style="list-style-type: none"> photographs showing any existing damage to the road pavement fronting the site, photographs showing any existing damage to the kerb and gutter fronting the site, photographs showing any existing damage to the footway including footpath pavement fronting the site, photographs showing any existing damage to retaining walls within the footway or road, photographs showing any existing damage to street signs, heritage name plates, and historical items, and the full name and signature of the Chartered Professional Engineer. <p>The report is to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital, and date stamped.</p> <p>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 site work. If the required report is not submitted, Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site work under this consent.</p> <p>Notes:</p> <ul style="list-style-type: none"> If a dilapidation report is not submitted as required by this condition, and damage is occasioned to public assets, which adjoin 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. <p>Condition Reason: To establish and document the structural condition of public land for comparison as site work progresses and is completed and ensure Council is provided with the dilapidation report.</p> |
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B.18 Adjoining buildings founded on loose foundation materials

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| <p>B. 19.</p> | <p>Piezometers for the Monitoring of Ground Water Levels</p> <p>Before any site work commences, 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall must be provided. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.</p> <p>The GWL monitoring wells and monitoring program must be maintained until the issue of the occupation certificate.</p> <p>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.</p> |
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| | 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). |
| | Condition Reason: To ensure that piezometers are provided to monitor ground water levels. |

B.21 Work (Construction) Zone – Approval & Implementation

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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| D | 13. Road and Public Domain Works |
| | <p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p> <ul style="list-style-type: none"> a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification and standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at right angle to the street kerb in plain concrete where the new crossing must align with the centreline of the proposed car lift. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the car lift must be submitted for assessment. b) The reconstruction of the concrete footpath for the full frontage of the site in accordance with Council's Specification, Council's standard drawing RF3 and to the satisfaction of Council's Assets Engineers. A maximum cross-fall of 3% must be provided for the footpath, graded from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres interval must be submitted for assessment. c) The reinstatement of all damaged footpath, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf. e) A bond of \$20,600 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. |



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

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

| Description | Amount | Indexed | Council Fee Code |
|--|------------------|---------|------------------|
| SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i> | | | |
| Infrastructure Works Bond - completing any public work required in connection with the consent. | \$ 20,600 | No | T113 |
| Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed | \$ Nil | No | T113 |
| INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i> | | | |
| Public Road and Footpath Infrastructure Inspection Fee | \$ 674 | No | T45 |
| TOTAL SECURITY AND FEES | \$ 21,274 | | |

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

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



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Notes:

- **Road** has the same meaning as in the Roads Act 1993.
- Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
- Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically:
 - Construction of driveways and/or new or alterations to footpath paving
 - Alteration and/or extension to Council drainage infrastructure
 - Alteration and/or addition of retaining walls
 - Pumping of water to Council's below ground stormwater system
 - Installation of soil/rock anchors under the roadway
 - Installation of Stormwater outlet pipes across the nature strip
- An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate.
- Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:
 - Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
 - Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.
 - All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.
 - The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.
 - Any adjustments required from the garage slab and the street levels are to be carried out internally on private property
 - Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
 - Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".
 - Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.
 - All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.



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| | <ul style="list-style-type: none"> • When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment. • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. <p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p> |
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D.21 Provision for Energy Supplies

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

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| D 35. | <p>Structural Adequacy of Existing Supporting and Retaining Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting and retaining structures to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p>Condition Reason: To ensure that the existing structures are able to support the additional loads proposed.</p> |
| D 36. | <p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation. 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.</p> |



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| | <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> This does not affect the right of the developer to seek staged construction certificates. <p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p> |
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D.37 Engineer Certification

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| <p>D 40.</p> | <p>Geotechnical and Hydrogeological Design, Certification and Monitoring</p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter. Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> will detect any settlement associated with temporary and permanent works and structures, will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like), will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity), will detect groundwater changes calibrated against natural groundwater variations, |
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| | <ul style="list-style-type: none"> • 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. |
| | Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed. |

D.41 Ground Anchors
D.45 Parking Facilities

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| D 50. | <p>Certification / Design of Interallotment Drainage Easement</p> <p>Before the issue of any construction certificate, the applicant shall submit, for approval by the Certifying Authority, design drawings and certification from a suitably qualified and experienced civil engineer certifying the following:</p> <ol style="list-style-type: none"> Longitudinal section showing the size and capacity of the existing drainage pipeline including the point of discharge. The stormwater pipe exists within the drainage easement, is in good repair. The engineer must demonstrate by way of supporting calculations that the existing interallotment drainage pipeline has sufficient capacity to convey the uncontrolled runoff from the subject site for the 1% AEP storm event, and The new works can be readily connected to this system without adverse impacts to the downstream property(s). <p>If such certificate cannot be provided, the applicant is to submit design documentation for a new interallotment drainage system from the subject property to the approved point of discharge to Sydney Harbour. Plans are to be prepared by a suitably qualified and experienced civil engineer in accordance with Chapter E2 of Council's DCP and AS3500.3 Plumbing and Drainage Code.</p> <p>The following engineering details are to be included:</p> <ol style="list-style-type: none"> Plan view of interallotment system to scale (1:100) showing dimensions, location and reduced/inverted levels of all pits, grates, pipe inverts and the exact point of discharge, The contributing catchment calculations and supporting pipe sizing information, Scaled Longitudinal section (1:100) showing existing ground levels and proposed pipe invert levels, grades and flow capacities, Surrounding survey details including all trees within seven (7) metres of the proposed interallotment drainage system, Details of the stormwater discharge point to Sydney Harbour. The proposed interallotment drainage system must be designed so that it has adequate capacity to carry uncontrolled runoff for the 1% AEP storm event from the subject property. |
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| | <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p> |
| <p>D 51.</p> | <p>Stormwater Management Plan</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> a) General design in accordance with stormwater management plans, referenced SW23270-Rev B, prepared by Capital Engineering Consultants, dated 31/01/2024, other than amended by this and other conditions. b) Subsoil drainage/seepage water must NOT be 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 must be clearly depicted on the drawings. c) The discharge of stormwater from the site, by direct connection, to Sydney Harbour via the interallotment drainage system. Only one stormwater outlet will be permitted. d) The modification of the proposed proprietary stormwater treatment system including but not limited to 15m³ rainwater tank (RWT) and 2 x OceanGuard Enviropod 200 to meet the water quality targets stipulated in Chapter E2.2.3 of Council's DCP. In particular, Council's water quality targets for the removal of suspended solids and phosphorus must be met. Stormwater runoff from all roof areas must be directed to the 15m³ RWT for reuse purposes to comply with the MUSIC model. e) A pump out system with a minimum storage volume of 4m³ must be installed to collect any runoff which cannot drain to the stormwater treatment system by gravity. The pump out system must pump to the stormwater treatment system prior to discharging to the interallotment drainage system by gravity. The pump out system must be designed in accordance with AS3500.3. f) The installation of rainwater tank (RWT) to comply with BASIX certificate. Overflow from the RWT must be directed to the proprietary stormwater treatment system by gravity. g) Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans. h) The dimensions of all drainage pits and access grates must comply with AS3500.3. i) Compliance with the objectives and performance requirements of the BCA. j) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p>Layout Plan</p> |



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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.
- 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 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 Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.

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).

Notes:

- The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".

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

D.52 Non-gravity Drainage Systems

E. BEFORE BUILDING WORK COMMENCES

E.14 Erosion and Sediment Controls – Installation

F. DURING BUILDING WORK

F.7 Public Footpaths – Safety, Access and Maintenance

F.11 Maintenance of Environmental Controls

F.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

F.13 Support of Adjoining Land and Buildings



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- F.14 Vibration Monitoring**
F.15 Erosion and Sediment Controls – Maintenance
F.17 Disposal of Site Water during Construction
F.19 Site Cranes
F.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
F.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

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| F 33. | Shoring and Adequacy of Adjoining Property |
| | <p>While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:</p> <p>a) protect and support the adjoining premises from possible damage from the excavation.</p> <p>For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. <p>Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.</p> |

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G.7 Commissioning and Certification of Systems and Works

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| G 9. | Commissioning and Certification of Public Infrastructure Works |
| | <p>Before the issue of any occupation certificate, 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) must be submitted to the satisfaction of Council, and the Principal Certifier must be provided with correspondence from Council to this effect.</p> <p>The certification must be supported with works-as-executed engineering plans and a survey report detailing all finished reduced levels.</p> <p>Condition Reason: To ensure that any road, drainage, or miscellaneous works have been completed in accordance with Council's specifications to the satisfaction of Council.</p> |



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

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| <p>G 30.</p> | <p>Dilapidation Report for Public Infrastructure Works</p> |
| | <p>Before the issue of an occupation certificate for the whole of the building, a follow up dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site upon completion of the work must be submitted to Council.</p> <p>The dilapidation report must include:</p> <ul style="list-style-type: none"> 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, d) photographs showing any existing damage to retaining walls within the footway or road, e) photographs showing any existing damage to street signs, heritage name plates, and historical items, and f) the full name and signature of the Chartered Professional Engineer. <p>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.</p> <p>Before the issue of an occupation certificate for the whole building, written correspondence must be obtained from Council attesting to this condition being appropriately satisfied, and be provided to the Principal Certifier.</p> <p>Notes:</p> <ul style="list-style-type: none"> • If the dilapidation report required by this condition is not provided 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. <p>Condition Reason: To ensure that any damage to public infrastructure is identified and rectified prior to the occupation of the whole building.</p> |
| <p>G 32.</p> | <p>Positive Covenant and Works-As-Executed Certification of Stormwater Systems</p> |
| | <p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ul style="list-style-type: none"> a) compliance with conditions of development consent relating to stormwater, b) the structural adequacy of the pump out system, c) that subsoil drainage/seepage water is NOT discharged to the kerb and gutter, |



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| | <p>d) that any required stormwater treatment systems have been constructed in accordance with the approved construction stormwater plans and that the system meets the water quality targets stipulated in the Council's DCP,</p> <p>e) that a pump out system with minimum storage capacity of 4m³ has been installed to comply with AS3500.3,</p> <p>f) that the works have been constructed in accordance with the approved design,</p> <p>g) pipe invert levels and surface levels to Australian Height Datum, and</p> <p>h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.</p> <p>A positive covenant under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the stormwater treatment system and pump out system. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant</p> <p>Notes:</p> <ul style="list-style-type: none"> The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate. The occupation certificate for the whole of the building must not be issued until this condition has been satisfied. <p>Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p> |
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H. OCCUPATION AND ONGOING USE

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| H 29. | <p>Ongoing Maintenance of the Stormwater Treatment System and Pump Out System</p> <p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <p>a) Permit stormwater to be temporarily detained and treated by the System;</p> <p>b) Keep the system clean and free of silt rubbish and debris,</p> <p>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.</p> <p>d) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense.</p> <p>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.</p> |
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- f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.
- h) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The owner:

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

Notes:

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

Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil



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9 April 2024

REFERRAL RESPONSE – DRAINAGE

FILE NO: Development Applications: 84/2024/1

ADDRESS: 30 Wolseley Road POINT PIPER 2027

PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping

FROM: Michael Casteleyn

TO: C Hartas

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- 24/53392 Plan - Architectural Drawings - DA2024/84/1 - 30 Wolseley Road POINT PIPER

3. ASSESSMENT

The DA submission has been reviewed.

4. RECOMMENDATION

Council's Drainage Engineer has determined that the proposal is satisfactory.

Michael Casteleyn
Drainage Engineer

9 April 2024
Completion Date

Completion Date: 5 August 2024

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 84/2024/1
ADDRESS: 30 Wolseley Road POINT PIPER
PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping
FROM: Mr C O'Shannessy
TO: C Hartas

I refer to the memo from the Planning Department dated 1 May 2024 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Transport Impact Assessment, referenced 53391, prepared by TRAFFIX, dated 13 December 2023;
- Revised Architectural Plans, referenced 90505, prepared by Michael Suttor Architects, dated 11 March 2024.

2. ISSUES

Nil.

3. ASSESSMENT

3.1 Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter E1 Parking and Access*:

Table 1: Car Parking Provision

| Residential Component | Quantity | DCP Maximum Requirement per Dwelling | DCP Maximum Permitted Parking |
|-----------------------|----------|--------------------------------------|-------------------------------|
| 3 bedrooms | 3 | 2 | 6 |
| Visitors | 3 | 0.25 | 0.75 |
| Total permitted | | | 7 |
| Proposed provision | | | 5 |

The proposed provision of five (5) parking spaces, comply with DCP's maximum requirement and is considered acceptable.

Table 2: Bicycle and Motorbike Parking Provision

| BICYCLE | | | |
|-----------------------|-----------------|--------------------------------|-------------------------------------|
| | Quantity | DCP Minimum Requirement | DCP Minimum Required Parking |
| Residential Residents | 3 dwellings | 1 per dwelling | 3 |
| Residential Visitors | 3 dwellings | 1 per 10 dwellings | 0.3 (0) |
| Total required | | | 3 |
| MOTORBIKE | | | |
| | Quantity | DCP Minimum Requirement | DCP Minimum Required Parking |
| Car Spaces | 5 | 1 per 10 car spaces | 0.6 (1) |
| Total required | | | 1 |

In response, the proposal includes 3 bicycle parking spaces and 1 motor bike parking space, which complies with DCP's minimum requirement and is deemed satisfactory.

3.2 Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with *RMS Guide to Traffic Generating Developments 2002*, and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

Existing Development

Low Density Residential

- Weekday peak hour vehicle trips: 1 dwellings x 0.95-0.99 per dwelling = 0.95-0.99 trips
- Daily vehicle trips: 1 dwellings x 10.7 per unit = 10.7 trips

Proposed 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

Based on the above calculations, the difference in traffic generated by the proposal is minor and is unlikely to generate unacceptable adverse impact on the surrounding road network in terms of safety and efficiency.

3.3 Mechanical Parking Installations

A turntable and car lift is proposed to assist with access and vehicular manoeuvrability. Swept path diagrams have been provided and demonstrate successful movements and are considered acceptable.

Queuing analysis is provided in the traffic report and demonstrates that the 98th percentile traffic is highly unlikely to exceed the capacity of one (1) waiting bay and queue beyond the property boundary. Should the development be approved, conditions will be imposed to ensure priorities be given to vehicles entering the site to minimise disruptions to traffic along the frontage road.

3.4 Access Driveway

The revised architectural plans submitted do not clearly demonstrate the width of the proposed driveway.

The distance north of the subject driveway and the driveway immediately north is approximately 13m and is sufficient for two (2) on-street parking spaces. The proposal to extend the existing driveway 1.9m north will not result in the loss of on-street parking.

The distance immediately south of the existing driveway to the existing No Stopping sign is approximately 9.3m which is sufficient for one (1) on-street parking space.

Should the development be approved, conditions will be imposed to limit the driveway to 3m in width centred on the proposed garage, and extend the available on-street parking space south of the drive way to accommodate two (2) parking spaces.

The height of the entrance to the garage is shown to be 2.2m which meets the minimum requirement of 2.2m as per AS/NZS 2890.1 and is deemed satisfactory.

3.5 Sight Splay

A 2m x 2.5m sight splay is provided along both sides of the driveway, which is considered acceptable. Any structure within the splay area including landscape should be below 600m to ensure sufficient visibility.

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

| A. 1. | Approved Plans and Supporting Documents | | | | | | | | | | | | | |
|-----------|---|---------------------------|------------------|-----------|-------------|--------|------|-------|---------------------------|---------|------------------|-------|-----------------------------|---------------------------|
| | Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition. | | | | | | | | | | | | | |
| | Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved. | | | | | | | | | | | | | |
| | <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>53391</td><td>Traffic Impact Assessment</td><td>TRAFFIX</td><td>13 December 2023</td></tr><tr><td>90505</td><td>Revised Architectural Plans</td><td>Michael Suttor Architects</td><td>11 March 2024</td></tr></table> | | | Reference | Description | Author | Date | 53391 | Traffic Impact Assessment | TRAFFIX | 13 December 2023 | 90505 | Revised Architectural Plans | Michael Suttor Architects |
| Reference | Description | Author | Date | | | | | | | | | | | |
| 53391 | Traffic Impact Assessment | TRAFFIX | 13 December 2023 | | | | | | | | | | | |
| 90505 | Revised Architectural Plans | Michael Suttor Architects | 11 March 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.

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| | 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

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| B. 1. | Construction Management Plan |
| | <p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CMP must be submitted for approval, and all associated application fees must be paid.</p> <p>The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:</p> <ul style="list-style-type: none"> a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage. b) Identify local traffic routes to be used by construction vehicles. c) Identify ways to manage construction works to address impacts on local traffic routes. 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 |

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| | <p>and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.</p> <p>m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.</p> <p>n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.</p> <p>q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p> |
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| B. 2. | <p>Works (Construction) Zone – Approval and Implementation</p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) |
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| | <p>Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.</p> <ul style="list-style-type: none"> The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service. |
| | <p>Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p> |

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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| D | 1. | Road and Public Domain Works |
| | | <p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p> <p>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.</p> <p>b) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment.</p> |
| | | <p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p> |

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| D | 2. | Parking Facilities |
| | | <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities and AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking</p> |

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| | <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p> <p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p> |
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E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

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|----------|-----------|--|
| F | 1. | Compliance with Construction Management Plan |
| | | <p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier on request.</p> <p>Notes:</p> <ul style="list-style-type: none"> Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails. <p>Condition Reason: To ensure compliance with the Construction Management Plan.</p> |

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

| | | |
|----------|-----------|---|
| G | 1. | Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems |
| | | <p>Before the issue of any occupation certificate for the whole of the building, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ol style="list-style-type: none"> Compliance with conditions of development consent relating to mechanical parking installation including turntable, car lift, car stacker and traffic light system; That the works have been constructed in accordance with the approved design; A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the turntable, car lift, car stacker and traffic signal system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW. |

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| | Notes: <ul style="list-style-type: none"> The PCA must supply a copy of the WAE Plans to Council together with the occupation certificate for the whole of the building. The occupation certificate for the whole of the building must not be issued until this condition has been satisfied. |
| | Condition Reason: To ensure the certification and ongoing maintenance of the mechanical parking installations and to indemnify Council from any claims or actions. |

H. OCCUPATION AND ONGOING USE

| H | 1. | Provision of Off-street Public and Visitor Parking | | | | | | | | |
|--|----|---|------------------|------------------|-------------------------|---|-----------------|---|-------------------|---|
| | | During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, and AS 2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows: | | | | | | | | |
| | | <table><tr><th>Use</th><th>Number of spaces</th></tr><tr><td>Car Parking (residents)</td><td>5</td></tr><tr><td>Bicycle Parking</td><td>3</td></tr><tr><td>Motorbike Parking</td><td>1</td></tr></table> | Use | Number of spaces | Car Parking (residents) | 5 | Bicycle Parking | 3 | Motorbike Parking | 1 |
| | | Use | Number of spaces | | | | | | | |
| Car Parking (residents) | 5 | | | | | | | | | |
| Bicycle Parking | 3 | | | | | | | | | |
| Motorbike Parking | 1 | | | | | | | | | |
| <p>Notes:</p> <ul style="list-style-type: none">• Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.• Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100. | | | | | | | | | | |
| | | Condition Reason: To ensure adequate on-site parking is maintained. | | | | | | | | |
| H | 2. | Parking Permits | | | | | | | | |
| | | During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits. | | | | | | | | |
| | | Condition Reason: To minimise the impact of the development upon on street car parking. | | | | | | | | |
| H | 3. | On-going Maintenance of the Mechanical Parking Installations | | | | | | | | |
| | | During the occupation and ongoing use, the Owner must ensure the ongoing maintenance of the mechanical parking installations in accordance with this condition and any positive covenant. The Owner must: a) keep the system clean and free of silt rubbish and debris: | | | | | | | | |

| | |
|--|---|
| | <p>b) maintain renew and repair as reasonably required from time to time the whole of the system so that it functions in a safe and efficient manner;</p> <p>c) carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;</p> <p>d) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;</p> <p>e) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;</p> <p>f) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and</p> <p>g) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.</p> <p>The Owner</p> <p>a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant; and</p> <p>b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure the ongoing maintenance of the mechanical parking installations.</p> |
|--|---|

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



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5 June 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 84/2024/1

ADDRESS: 30 Wolseley Road POINT PIPER 2027

PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping

FROM: Simone Woodman - Tree Management Officer

TO: C Hartas

1. ISSUES

- None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA Planning, dated April 2024
- Survey Plan No. 21845detail/issue 1, drafted by C.M.S Surveyors Pty Limited, dated 14/10/2022
- Architectural Drawing No.s DA001/02, DA101/02, DA103/02 – DA108/02, DA200/02 – DA203/02, drawn by M.J.Suttie Architects, dated 14/05/2024
- Stormwater drainage Plan No.s SW001/B, SW010/B, SW001/B, SW020/B, SW021/B, SW022/B, SW030/B, SW040/B, ER011/B, drawn by Capital Engineering Consultants, dated 31/01/2023
- Erosion and Sediment Control Plan No. ER001/B, drawn by Capital Engineering Consultants, dated 31/01/2023
- Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023
- Landscape Plan No.s LP-700, LP-701, designed by M.J.Suttie Architects, dated 11/03/2024

A site inspection was carried out on 30 May, 2024.

3. RELEVANT CONTROLS



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- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

4. SUMMARY

- Amended plans required to ensure compliance with recommended tree protection measures and replacement tree planting.

5. COMMENTS

Located in the front of the subject property is the sites most significant tree, a *Jacaranda mimosifolia* (Jacaranda). The subject development application proposes to retain the Jacaranda. Proposed works within the Tree Protection Zone of the Jacaranda include a proposed car lift to the south and main entrance stairs. The proposed works also show a widening the area of garden where the Jacaranda is currently located. The proposed widening would compensate for any loss of deep soil from the proposed car lift. The increase in garden area would accommodate for future root growth from the Jacaranda. Additionally the submitted architectural plans indicate the proposed main entrance stairs to be cantilevered over the Tree Protection Zone of the Jacaranda which would minimise root disturbance.

The submitted architectural plans show the existing driveway relocated for a proposed car lift. Located within the footprint of the relocated driveway, on the Council verge, is a *Tristaniopsis laurina* (Water gum) that would require removal to allow for the proposed driveway. The plans also show the existing driveway to be reinstated as verge. Accordingly a replacement tree could be planted on the reinstated verge area on the southern side of the proposed driveway. In accordance with Council's Street Tree Master Plan an *Angophora costata* (Sydney Pink Gum) could be planted as a replacement tree. This would add to the existing *Angophora costata* (Sydney Pink Gum) located on the Council verge adjacent the northern side of the front of the subject property.

The submitted Sediment and Erosion Control plan ER001/B, drawn by Capital Engineering Consultants, dated 31/01/2023 shows a suggested stock pile area within the Tree Protection Zone of the Jacaranda. To reduce negative impacts on the Jacaranda and to comply with tree protection measures recommended the Erosion Sediment Control plan should be amended to relocate the suggested stockpile area outside of the Tree Protection Zone of the existing Jacaranda. The Sediment and Erosion Control plan should be amended prior to the preparation of construction plans and the issuing of a construction certificate.

The submitted Stormwater drainage Plan No. SW010/B, drawn by Capital Engineering Consultants, dated 31/01/2023 shows a proposed rainwater tank in the position where landscaping, including a replacement tree, is proposed. To ensure the long term viability of the proposed replacement tree the proposed rain water tank should be positioned no closer than 2 metres from the trunk of the replacement tree. Accordingly the stormwater drainage plan should be amended to provide sufficient clearance around the proposed tree planting indicated on the submitted landscape plan.



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The submitted landscape plan shows replacement tree planting throughout the subject property and is able to demonstrate a 25% canopy cover to the subject property in accordance with B3.7.1 - Landscaped areas and private open space of Council's DCP. To address the proposed removal of the Water Gum on the Council verge however the landscape plan should be amended to include a Sydney Pink Gum as a replacement tree for the removal of the Water Gum on the Council verge.

6. RECOMMENDATIONS

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

A. GENERAL CONDITIONS

| A. 1. | Approved Plans and Supporting Documents | | | | | | | | | | | | |
|--|---|-----------------------|---------------|--------|------|--------------------------|----------------|-----------------------|------------|----------|---|----------------------|---------------|
| | Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition. | | | | | | | | | | | | |
| | Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved. | | | | | | | | | | | | |
| | <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>Plan No.s LP-700, LP-701</td><td>Landscape Plan</td><td>M.J.Suttie Architects</td><td>11/03/2024</td></tr><tr><td>5499/AIA</td><td>Arboricultural Impact Assessment Report</td><td>Sue Wylie - TreeTalk</td><td>December 2023</td></tr></table> | Reference | Description | Author | Date | Plan No.s LP-700, LP-701 | Landscape Plan | M.J.Suttie Architects | 11/03/2024 | 5499/AIA | Arboricultural Impact Assessment Report | Sue Wylie - TreeTalk | December 2023 |
| | Reference | Description | Author | Date | | | | | | | | | |
| Plan No.s LP-700, LP-701 | Landscape Plan | M.J.Suttie Architects | 11/03/2024 | | | | | | | | | | |
| 5499/AIA | Arboricultural Impact Assessment Report | Sue Wylie - TreeTalk | December 2023 | | | | | | | | | | |
| <p>Notes:</p> <ul style="list-style-type: none">Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. | | | | | | | | | | | | | |
| <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p> <p>Standard Condition A.2 (Autotext 2A)</p> | | | | | | | | | | | | | |
| A. 2. | Tree Preservation and Landscaping Works | | | | | | | | | | | | |
| | <p>While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan and arborist report as applicable.</p> <p>a) The following trees must be retained:</p> <ul style="list-style-type: none">Trees on private land: | | | | | | | | | | | | |



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| Council Ref No | Species | Location | Dimension (metres) |
|----------------|--|--------------|--------------------|
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | 12 x 16 |

- Trees on Council land:

| Council Ref No | Species | Location | Dimension (metres) | Tree value |
|----------------|--|---------------|--------------------|------------|
| A | <i>Angophora costata</i> (Sydney Pink Gum) | Council verge | 7 x 6 | \$2000.00 |

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

b) The following trees may be removed:

| Council Ref No | Species | Location | Dimension (metres) |
|----------------|---|----------------------------------|--------------------|
| B | <i>Tristanopsis laurina</i> (Water gum) | Council verge | 3 x 3 |
| 1a | <i>Hibiscus rosa-sinensis</i> (Rose of China) | Front garden | 4 x 3 |
| 1b | <i>Camellia japonica</i> (Camellia) | Front garden | 4 x 3 |
| 2 | 3 x <i>Howea forsteriana</i> (Kentia palm) | Rear yard northern side boundary | ~6 x 3 each |
| 2a | 2 x <i>Murraya paniculata</i> (Mock Orange) | Rear yard northern side boundary | ~5 x 3 each |
| 3 | <i>Olea europea var. europea</i> (European Olive) | Rear yard southern side | 3 x 3 |

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

Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.

Standard Condition A.22 (Autotext 22A)

B. BEFORE DEMOLITION WORK COMMENCES

| | | |
|----|--|-------------------------------------|
| B. | 1. | Payment of Security and Fees |
| | Prior to any site works, the following security and fees must be paid in full: | |



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| Description | Amount | Indexed | Council Fee Code |
|---|------------|---------|------------------|
| SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i> | | | |
| Property Damage Security Deposit -making good any damage caused to any property of the Council | \$<INSERT> | No | T115 |
| Tree Damage Security Deposit – making good any damage caused to any public tree | \$2000.00 | No | T114 |
| INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i> | | | |
| Public Tree Management Inspection Fee | \$231.30 | No | T95 |
| Street Tree Planting and Maintenance Fee | \$2062.50 | No | T95 |
| Security Deposit Administration Fee | \$225.00 | No | T16 |
| TOTAL SECURITY AND FEES | \$<INSERT> | | |

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 <-- ### Invalid Field Definition ###,
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to any site works being undertaken, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Notes:

- An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.
- The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all



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| | <p>of the security to complete the works to its satisfaction if the works do not meet Council's requirements.</p> <ul style="list-style-type: none"> • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. • The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au |
| | <p>Condition Reason: To ensure any relevant security and fees are paid.</p> |
| | <p>Standard Condition B14 (Autotext 14B)</p> |

B. 2.

Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)

Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

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

a) Tree Protection Fencing:

| Council Ref No | Species | Tree Location | Fence Radius from Centre of Trunk (Metres)* |
|----------------|--|---------------|--|
| A | <i>Angophora costata</i> (Sydney Pink Gum) | Council verge | Nature strip up to proposed new driveway |
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 |



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

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

- b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.
- c) Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Ground protection must be established within the specified radius from the trunks of the following trees.

| Council Ref No | Species | Tree Location | Radius from Centre of Trunk (Metres) |
|----------------|---|---------------|--|
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 |

Ground protection must consist of a permeable membrane such as geotextile fabric placed directly over the ground surface underneath one of the following:



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| | <ul style="list-style-type: none"> • rumble boards strapped over 100mm mulch/aggregate <p>f) Temporary access within the TPZ area for pedestrian and machinery movements must only be permitted with the approval of the site arborist or unless specified in this consent.</p> <p>g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.</p> <p>h) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.</p> <p>Condition Reason: To ensure the protection of existing trees</p> <p>Standard Condition B.5 (Autotext 5B)</p> |
|--|---|

| | |
|---------------------|--|
| <p>B. 3.</p> | <p>Construction Management Plan Arborist Review</p> <p>Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.</p> <p>The plan must address:</p> <ul style="list-style-type: none"> a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding; b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.; c) Site construction access, temporary crossings and movement corridors on the site defined; d) Contractors car parking; e) Phasing of construction works; f) The space needed for all foundation excavations and construction works; g) All changes in ground level; h) Space for site sheds and other temporary structures such as toilets; i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas. <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p> <p>Standard Condition B.28 (Autotext 28B)</p> |
|---------------------|--|



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| B. 4. | <p>Arborists Documentation and Compliance Checklist</p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> • A record of the condition of trees to be retained prior to and throughout development. • Recommended actions to improve site conditions and rectification of non-compliance. • Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="430 846 1209 1205"> <thead> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td>Prior to any site works</td><td> <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. </td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.</p> <p>Standard Condition B.29 (Autotext 29B)</p> | Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | Prior to any site works | <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. |
|--|---|--|--|-------------------------|--|
| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | | | | |
| Prior to any site works | <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. | | | | |

| B. 5. | Permissible work within Tree Protection Zones | | | | | | | |
|----------------|--|--|---|--------------------------------------|----------------|---|--|--|
| | Prior to any site works, the following works are permissible within the Tree Protection Zone: | | | | | | | |
| | <table><tr><th>Council Ref No</th><th>Species</th><th>Radius from Centre of Trunk (Metres)</th><th>Approved works</th></tr><tr><td>1</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td><td>Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact</td><td>Demolition of existing building. Proposed soft landscaping. Proposed main</td></tr></table> | Council Ref No | Species | Radius from Centre of Trunk (Metres) | Approved works | 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact |
| Council Ref No | Species | Radius from Centre of Trunk (Metres) | Approved works | | | | | |
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact | Demolition of existing building. Proposed soft landscaping. Proposed main | | | | | |



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| | | Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 | entrance stairs cantilevered above existing ground levels or positioned in piers to avoid the severing of roots equal to or greater than 50mm diameter. |
| The project arborist must provide written certification of compliance to the Principal Certifier with the above condition. | | | |
| Condition Reason To establish the works which are permissible within the Tree Protection Zones. | | | |
| Standard Condition B.30 (Autotext 30B) | | | |

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

| | | |
|--|-----------|---|
| D | 1. | Tree Protection Plan and Specification |
| <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> shaded green where required to be retained and protected shaded red where authorised to be removed shaded yellow where required to be transplanted shaded blue where required to be pruned <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. | | |



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|--------------------|---|
| | <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> <p>Standard Condition D.30 (Autotext 30D)</p> |
| <p>D 2.</p> | <p>Modification of Details of the Development (section 4.17(1)(g) of the Act</p> <p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p>a) Amended Sediment and Erosion Control plan. To reduce negative impacts on Tree 1 <i>Jacaranda mimosifolia</i> (Jacaranda) and to comply with tree protection measures recommended the submitted Sediment and Erosion Control plan ER001/B, drawn by Capital Engineering Consultants, dated 31/01/2023 must be amended to delete any indication of a stock pile area or any other storage area within the Tree Protection Zone of Tree 1 <i>Jacaranda mimosifolia</i> (Jacaranda). This plan must be amended prior to the preparation of construction plans and the issuing of any construction certificate.</p> <p>b) Amended Stormwater Drainage Plan. The submitted Stormwater drainage Plan No. SW010/B, drawn by Capital Engineering Consultants, dated 31/01/2023 shows a proposed rainwater tank in the position where landscaping, including a replacement tree, is proposed. To ensure the long term viability of the proposed replacement tree the proposed rain water tank must be positioned no closer than 2 metres from the trunk of the replacement tree. The stormwater drainage plan must be amended to provide a minimum 2 metre clearance around the proposed tree planting in the rear yard indicated on the submitted landscape plan.</p> <p>c) Amended Landscape Plan. To compensate for the proposed removal of Tree B <i>Tristaniaopsis laurina</i> (Water gum) located on the Council verge at the front of the subject property the landscape plan must be amended to include the planting of 1 x <i>Angophora costata</i> (Sydney Pink Gum) on the Council verge on the southern side of the proposed new driveway. The container size and planting of the Sydney Pink Gum shall be in accordance with the F Condition - Street tree planting in this consent.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Clause 20 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with. • Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent. |



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Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.

Standard Condition D.4 (Autotext 4D)

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

| | |
|--------------------|---|
| <p>F 1.</p> | <p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ul style="list-style-type: none"> a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent. b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist. c) Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier. <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework.</p> <p>Standard Condition F.8 (Autotext 8F)</p> |
| <p>F 2.</p> | <p>Arborists Documentation and Compliance Checklist</p> <p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> a) a record of the condition of trees to be retained prior to and throughout development, b) recommended actions to improve site conditions and rectification of non-compliance, and c) recommendations for future works which may impact the trees. |



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All compliance certification documents must be kept on site by the site Supervisor.

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

| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include |
|--|--|
| While site work is carried out | <ul style="list-style-type: none"> The project arborist must supervise all demolition and excavation works within the Tree Protection Zones of nominated trees listed in this consent. Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees. |

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

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

Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.

Standard Condition F.45 (Autotext 45F)

| F 3. | Replacement/Supplementary trees which must be planted | | | | | | | | | | | | | |
|---|--|---|---|---|---|---|---------------|----------------|------------|--|---------------------------|-----------|-------|--|
| | <p>While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The following replacement trees must be maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the criteria outlined below.</p> | | | | | | | | | | | | | |
| | <table border="1"> <thead> <tr> <th>Species/Type</th><th>Planting Location</th><th>Container Size/Size of Tree (at planting)</th><th>Minimum Dimensions at Maturity (metres)</th></tr> </thead> <tbody> <tr> <td>5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez')</td><td>Rear boundary</td><td>100 litre each</td><td>6 x 4 each</td></tr> <tr> <td>1 x <i>Olea europea</i> var. <i>europea</i> (European Olive)</td><td>Rear yard – northern side</td><td>200 litre</td><td>5 x 3</td></tr> </tbody> </table> | Species/Type | Planting Location | Container Size/Size of Tree (at planting) | Minimum Dimensions at Maturity (metres) | 5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez') | Rear boundary | 100 litre each | 6 x 4 each | 1 x <i>Olea europea</i> var. <i>europea</i> (European Olive) | Rear yard – northern side | 200 litre | 5 x 3 | |
| Species/Type | Planting Location | Container Size/Size of Tree (at planting) | Minimum Dimensions at Maturity (metres) | | | | | | | | | | | |
| 5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez') | Rear boundary | 100 litre each | 6 x 4 each | | | | | | | | | | | |
| 1 x <i>Olea europea</i> var. <i>europea</i> (European Olive) | Rear yard – northern side | 200 litre | 5 x 3 | | | | | | | | | | | |



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| | | | |
|---|---------------------|----------------|------------|
| 3 x <i>Pyrus calleryana</i> 'Chanticleer' (Callery Pear) | Front southern side | 100 litre each | 6 x 3 each |
| The project arborist must document compliance with the above condition. | | | |
| Condition Reason: To ensure the provision of appropriate replacement planting. | | | |
| Standard Condition F.46 (Autotext 46F) | | | |

F 4.

Street tree planting

While site work is being carried out, the street tree as indicated in the table below must be planted prior to the completion of works.

The fees outlined in the table below associated with the planting and 12 months maintenance must be paid by the applicant to Council in full prior to the issue of a construction certificate, subdivision certificate or occupation certificate, as applicable, in accordance with the Street Tree Planting and Maintenance scheduled fee. Council's Arboricultural Technical Officer (9391-7980) must be contacted a minimum of 2 months prior to the completion of works to procure tree stock and schedule the planting works.

The cost as indicated in the table below includes:

a) Species selection (by Council) in line with the Woollahra Council Street Tree Master Plan (2014).

b) Tree stock procured by Council compliant with Australian Standard 2303: Tree stock for landscape use.

c) Installation by Council or a Council-approved contractor in a location determined by Council.

d) Twelve months maintenance by Council or a Council approved contractor.

| Species/Type | Planting Location | Container Size/Size of Tree (at planting) | Cost/Fees |
|--|---|---|-----------|
| 1 x <i>Angophora costata</i> (Sydney Pink Gum) | Council verge – southern side of the proposed new driveway, positioned a minimum 2.5 metres from the southern edge of the proposed new driveway | 100 litre | \$2062.50 |

Condition Reason: To ensure the provision of appropriate street tree planting.

Standard Condition F.47 (Autotext 47F)

| | |
|-------------|---|
| F 5. | <p>Stairs in the vicinity of trees</p> <p>While site work is being carried out, the main entrance stairs within the specified radius from the trunk of the following tree must be constructed so they are cantilevered over the root zone to protect existing roots.</p> |
|-------------|---|



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| Council Ref No | Species | Location | Radius from centre of trunk (metres) |
|----------------|--|--------------|--------------------------------------|
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | 7 |

The project arborist must document compliance with the above condition.

Condition Reason: To ensure that paving works would not adversely impact upon the health of existing trees.

Standard Condition F.48 (Autotext 48F)

F 6.

Level changes in the vicinity of trees

While site work is being carried out, no level changes must occur within the specified area from the trunk of the following tree.

| Council Ref No | Species | Location | Radius from centre of trunk (metres) |
|----------------|--|--------------|--|
| 1 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Front garden | Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023 |

The project arborist must document compliance with the above condition.

Condition Reason: To ensure level changes would not adversely impact upon the health of existing trees.

Standard Condition F.49 (Autotext 49F)

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

| | |
|---|----------------------------|
| G 1. | Amenity Landscaping |
| Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent. | |
| Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development. | |
| Standard Condition G.6 (Autotext 6G) | |



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| G | 2. | Landscaping | | | |
|--|--|--|--|--|--|
| | | Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent. | | | |
| | | Condition Reason: To ensure that all landscaping work is completed prior to occupation. Standard Condition G.26 (Autotext 26G) | | | |
| G | 3. | Arborists Documentation and Compliance Checklist – Prior to any occupation certificate | | | |
| | | Nil | | | |
| | | | | | |
| G | 4. | Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building | | | |
| | | Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include: a) A record of the condition of trees to be retained prior to and throughout development. b) Recommended actions to improve site conditions and rectification of non-compliance. c) Recommendations for future works which may impact the trees. All compliance certification documents must be kept on site. As a minimum the following intervals of site inspections must be made: | | | |
| | | <table><tr><th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr><tr><td>Before the issue of any occupation certificate for the whole of the building</td><td><ul style="list-style-type: none">The project arborist must supervise the dismantling of tree protection measuresAfter all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.</td></tr></table> Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications. | Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | Before the issue of any occupation certificate for the whole of the building |
| Stage of arboricultural inspection and supervision | Compliance documentation and photos must include | | | | |
| Before the issue of any occupation certificate for the whole of the building | <ul style="list-style-type: none">The project arborist must supervise the dismantling of tree protection measuresAfter all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. | | | | |



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| | |
|--|--|
| | Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work. |
| | Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented. |
| | Standard Condition G.35 (Autotext 34G) |

H. OCCUPATION AND ONGOING USE

| | | |
|---|----|--|
| H | 1. | Maintenance of Landscaping |
| | | During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent. |
| | | This condition does not prohibit the planting of additional trees or shrubs. |
| | | Notes: <ul style="list-style-type: none"> This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners must have regard to the amenity impact of trees upon the site and neighbouring land. |
| | | Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting. |
| | | Standard Condition H.25 (Autotext 25H) |

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)

Nil.

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

From: [Sagar Chauhan](#)
To: [Chris Hartas](#)
Subject: Referral Response - Heritage - DA2024/84/1 - 30 Wolseley Road POINT PIPER
Date: Thursday, 11 April 2024 2:51:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)

Hi Chris

I provide the following comments in relation to the proposed development with regards to cultural heritage:

DOCUMENTATION

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

- Drawing set by M.J. Suttie Architects and Michael Suttor Architects, dated 11/03/2024
- Demolition Report by Weir Philips Heritage and Planning, dated November 2023
- Statement of Environmental Effects by GSA Planning, dated March 2024
- Aboriginal Heritage Impact Assessment by Coast History & Heritage, dated 16/11/2023

WOOLLAHRA LEP 2014

Clause 1.2 Aims of Plan

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

Clause 5.10 Heritage Conservation

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

- The subject site is not a heritage item, and is not within a conservation area.

The Demolition Report provides the following consideration of the site:

No. 30 Wolseley Road is a c. 1907 dwelling that was later converted into flats in c. 1923. This conversion, as well as later alterations, resulted in substantial modification to the exterior, as well as the irrevocable loss of original fabric such as decorative plaster ceilings, fireplaces and joinery including the internal staircase. Listed examples of dwellings constructed in the Municipality of Woollahra display a greater degree of external and internal integrity and are, overall, better examples of the Federation style.

No. 30 Wolseley Road has thus failed to meet any of the criteria for listing provided by Heritage NSW. It is further noted that the fact there are heritage items in the vicinity, including adjacent, suggest that the site has been included in past heritage reviews and previously discounted by Council.

The report concludes:

The building is a representative example of a Federation period dwelling that was later converted into flats with many subsequent alterations and additions concealing the original fabric. There are other better examples of the period, as demonstrated by the Comparative Analysis. The building has failed to meet any of the criteria for listing provided by Heritage NSW. Its demolition is thus acceptable as the site is not subject to any statutory heritage

controls, nor does it warrant heritage listing. If required, an archival recording can be carried out to make a record of the building.

This assessment is concurred with and the proposed complete demolition of the dwelling is supported, subject to archival recording and salvage conditions.

The dwelling at 30 Wolseley Road adjoins the heritage item, item i291 "Building and interiors," at 26-28 Wolseley Road. The NSW Government State Heritage Inventory listing includes the following statement of significance for the heritage item:

Initially built as a house, this Inter-War Georgian Revival building has historic and aesthetic significance as evidence of the Inter-War development of Point Piper after the demolition and land subdivision of Woollahra house.

The dwelling is a representative example of the Inter- War Georgian Revival style, and is associated with prominent architectural firm of Wilson, Neave and Berry, who were the principal exponents of the style.

It also has associative significance for Antoine D'Apice, a prominent Sydney lawyer who owned and initially developed the subject land.

The proposed works at 30 Wolseley Road would not have an adverse impacts on the cultural significance of the adjoining heritage item.

NATIONAL PARKS & WILDLIFE ACT 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) of Heritage NSW on 11/04/2024 has revealed that there are 0 recorded Aboriginal sites within a 50m buffer in or near the above location and no Aboriginal sites within a 50m buffer in or near the above location.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The AHIA concludes:

1. The draft report be submitted to the La Perouse LALC for their review. Any comments received from the La Perouse LALC are incorporated in the final version of the report.
2. All workers involved in excavation works should be subject to and Aboriginal Heritage Induction to be delivered by a representative of the La Perouse LALC and/or an appropriately qualified heritage consultant. This will explain the nature of the study area and the types of features that may be uncovered, the legislative requirements associated with Aboriginal heritage under the *National Parks and Wildlife Act 1974*, and the procedures for archaeological management that are to be followed in the event that any identified or suspected Aboriginal objects, sandstone bedrock, or Aboriginal human remains are encountered.
3. An *Unexpected Finds protocol* should be implemented for the life of the project. If any Aboriginal objects or culturally modified sandstone bedrock or bones suspected of being human are identified during construction, site workers must:
 - a. Not further disturb or move these remains.
 - b. Immediately cease all work at the location.

- c. In the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, contact the Department of Planning and Environment (DPE) on 1300 361 967 as soon as practicable and provide available details of the objects or remains and their location. La Perouse LALC should also be notified to assist in the determination of appropriate management for the objects or remains.
 - d. Not recommence any work at the location unless authorised in writing by Heritage NSW.
4. Archaeological Monitoring of the removal of soil immediately above sandstone bedrock should be undertaken by a La Perouse LALC Site Officer. This could occur during or immediately after demolition works, depending on the staging of the project. Once overlying soil is removed and sandstone bedrock is exposed, this will be inspected to determine if engravings or grinding grooves are present. After inspection, the La Perouse LALC will determine if any further monitoring of the excavations around the sandstone will be required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol. In the event that engravings or axe grinding grooves are identified, the works in that location should cease and further investigation would be required as per the unexpected finds protocol.
 5. During any other works, if sandstone bedrock is exposed, it should be inspected by the La Perouse LALC.
 6. On completion of the works the Woollahra Municipal Council Aboriginal Heritage Sensitivity Map should be updated to either acknowledge a newly identified site, or conclude that part or all of the study area is not sensitive.
 7. Once finalised, copies of this report should be forwarded to the La Perouse Local Aboriginal Land Council, and to:

The Registrar
Aboriginal Heritage Information Management System
Heritage NSW
Locked Bag 5020
Parramatta NSW 2220

Based on these recommendations, relevant conditions of consent are provided below.

CONCLUSION

Woollahra LEP 2014

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – The development would conserve built and natural environmental heritage

Clause 5.10 Heritage Conservation

1 (a) The development would conserve the environmental heritage of Woollahra,

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

National Park & Wildlife Act 1974

Relevant conditions are provided below.

RECOMMENDATION

The proposal is supported, subject to following conditions:

Standard conditions

1. B.3 Recording of Buildings with Little or No Heritage Significance that are to be Demolished (Autotext 3B)
2. B.9 Skeletal Remains (Autotext 9B)
3. B.10 Aboriginal Objects – Unexpected Findings (Autotext 10B)
4. B.12 Aboriginal Heritage Due Diligence Responsibilities (Autotext 12B)
5. B.13 Aboriginal Heritage Induction (Autotext 13B)

Special conditions

6. Protection of Aboriginal Heritage

Archaeological Monitoring of the removal of soil immediately above sandstone bedrock should be undertaken by a La Perouse LALC Site Officer. This could occur during or immediately after demolition works, depending on the staging of the project. Once overlying soil is removed and sandstone bedrock is exposed, this will be inspected to determine if engravings or grinding grooves are present. After inspection, the La Perouse LALC will determine if any further monitoring of the excavations around the sandstone will be required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol.

Condition Reason: To protect Aboriginal heritage as recommended in the AHIA.

7. Salvage Building Materials

Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows 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.

Condition Reason: To maximise reuse of existing fabric.

Many Thanks
Kind Regards

Sagar Chauhan
Temporary Heritage Officer
Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028

