



Application Assessment Panel

Tuesday 12 November 2024
3.00pm

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.

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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

4 November 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 – 12 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 12 November 2024 at 3.00pm**.

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 5 November 2024 - 24/204026	7
D2	DA121/2024/1 - 4 & 6 Fisher Avenue & 27 Vaocluse Road, Vaocluse - 24/202513.....	9
*See Recommendation Page 47		

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 5 NOVEMBER 2024**
Author: Sue O'Connor, Governance Officer
File No: 24/204026
Purpose of the Report: The Minutes of the Application Assessment Panel of 5 November 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 5 November 2024 be taken as read and confirmed.

Executive Summary:

This report presents the Application Assessment Panel Minutes of 5 November 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.

Attachments

Nil

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA121/2024/1
ADDRESS	4 & 6 Fisher Avenue & 27 Vaucluse Road Vaucluse
SITE AREA	2711.6m ²
ZONING	R2 Low Density Residential
PROPOSAL	The demolition of 3 dwelling houses and ancillary structures, the amalgamation of 4 & 6 Fisher Avenue and a portion of 27 Vaucluse Road to form 4-6 Fisher Avenue, the construction of a dwelling house and swimming pool and landscaping works thereto
TYPE OF CONSENT	Local development
COST OF WORKS	\$20,501,857
DATE LODGED	23/04/2024 original lodgement 22/05/2024 first amended application 15/10/2024 second amended application 23/10/2024 third amended application
APPLICANT	Bruce Stafford & Associates Pty Ltd
OWNER	D M Contos & G A Moore
AUTHOR	Mr D Booth
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	3
RECOMMENDATION	Conditional approval

1. REASONS FOR RECOMMENDATION

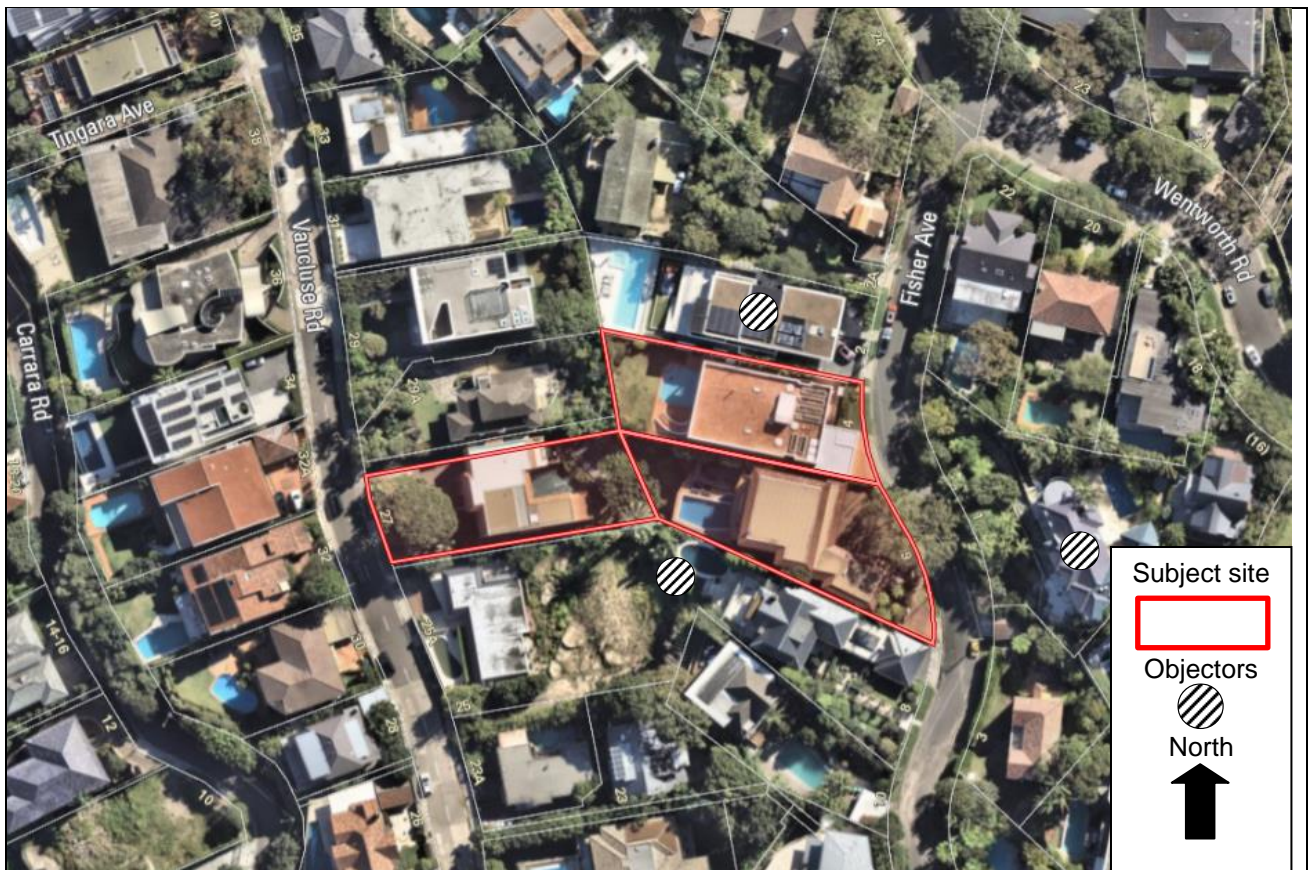
The application has been assessed within the framework of the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is recommended for approval because it is considered that:

- it is satisfactory with regard to all relevant planning policies including the provisions of WLEP 2014 and WDCP 2015 subject to conditions;
- it does not have the potential for significant adverse impacts upon the local built and natural environment including streetscape and residential amenity subject to conditions;
- it will not have any significant adverse social and economic impacts upon the locality;
- the site is suitable for the proposed development, as conditioned; and
- the proposal is not contrary to the public interest.

2. LEVEL OF DELEGATION

The application is to be determined by the Application Assessment Panel as it involves a cost of works in excess of \$2 million.

3. LOCALITY PLAN



4. RELEVANT DEVELOPMENT APPLICATION HISTORY

27 Vaucluse Road, Vaucluse

DA142/2023/1 for the demolition of existing buildings, the construction of a 3 storey dwelling house, swimming pool and landscaping works at 27 Vaucluse Road, Vaucluse was approved on 31 January 2024.

On the basis that the subject development application involves the subdivision of the rear 241m² of 27 Vaucluse Road with such to be incorporated into the proposed consolidated allotment and notations on the subject architectural drawings that the residual 729m² of 27 Vaucluse Road is to be the subject of a *separate development application*, **Condition D.2** has been recommended requiring the surrender of development consent DA142/2023/1.

6 Fisher Avenue Vaucluse

DA340/2022/1 for substantial alterations and additions to the existing dwelling, a new swimming pool, detached outbuilding and landscaping works at 6 Fisher Avenue Vaucluse was approved on 8 August 2023.

On the basis that this development consent would be rendered superfluous by the approval of the subject application, a requirement for it to be surrendered has also been included in recommended **Condition D.2**.

4 Fisher Avenue Vacluse

DA119/2012 for alterations and additions incorporating an additional storey to the flat roof of an existing dwelling-house at 4 Fisher Avenue Vacluse was refused by Council on 27 August 2012 for the following reason:

Due to the substantial floor space ratio non-compliance and the associated number of storeys non-compliance, the following adverse residential amenity impacts that the proposal is envisaged to impart upon adjoining/surrounding properties are considered to be unreasonable:

- *Significant (moderate) adverse view impacts upon the adjoining properties to the east, 1 Fisher Ave and 22 Wentworth Rd; and*
- *Significant potential adverse visual and acoustic privacy impacts upon the adjoining property to the south, 6 Fisher Ave.*

In this regard, the proposal is considered to be inconsistent with the following planning provisions:

- *Objectives 2 (2) (h) (iv) & 12AA (a) & (c) of Woollahra LEP 1995; and*
- *Performance criteria C4.13.5.3, C5.2.9, C5.5.6 & C5.8.6 and objectives O5.2.2, O5.5.2, O5.8.1 & O5.8.2 of Woollahra RDCP 2003.*

A subsequent appeal to the Land and Environment Court was dismissed on 17 May 2013 in part due to the view impact upon the primary area of open space of 1 Fisher Avenue, a heritage item under Woollahra LEP 2015. Paragraph 41 of the judgement states:

The impact is greatest from 1 Fisher Avenue, which has its primary area of open space with its outdoor dining area, lawn and swimming pool to its north and directly opposite the proposal. The views to the harbour are framed through a narrow corridor and while the distant views to the Harbour Bridge, the Opera House, North Sydney and the City are maintained the near ground views to the Harbour and Bradleys Head land water interface are lost from both a seated and standing position from the eating area and the lawn. I accept that a two storey form of development is consistent with the existing and desired future character for the area. However, the loss of views is not reasonable given the size of the addition, and the dwellings non compliance with the FSR control. 1 Fisher Avenue is a heritage item, and consequently the views from its garden setting gain extra importance.

The above is relevant as an objection was received on behalf of the owner of 1 Fisher Avenue to the original development application on the basis of view impacts upon the primary area of open space of the heritage listed property.

DA120/2014/1 for alterations and additions including a new roof level addition was refused by Council on 14 December 2015 for the following reasons:

1. *Whilst the proposal accords with the maximum 9.5m height development standard set out under Clause 12 of the Woollahra Local Environmental Plan 1995 (WLEP 1995), the maximum permissible height is not “as of right”. To achieve the maximum permissible building height, development must satisfy other relevant controls applicable to the land concerned. The proposal exceeds the FSR and storey controls contained within the Woollahra Residential Development Control Plan 2003 (WRDCP 2003), and fails to accord with objective a) of the Clause 12AA of the WLEP 1995, which aims to minimise the impact of new development on existing views.*

2. *The proposal does not constitute adequate view sharing and fails to accord with the case law established by Tenacity Consulting v Warringah (2004) NSWLEC 140 (paragraphs 23-33) in relation to view sharing. Specifically, the proposal would result in a loss of land water interface views to No. 1 Fisher Avenue Vaucluse. It is noted that the impacted view is afforded to a Heritage Item across the front boundary of the property and is to the primary area of open space. The near ground views to the Harbour and the Bradleys Head land water interface are lost from both a seated and standing position. The loss of views is not reasonable given the non-compliance with the FSR control (C.5.2.9) and storey control (C 4.13.5.3) contained within the WRDCP 2003.*
3. *The proposal is non-compliant with the with the FSR control (C.5.2.9) and storey control (C 4.13.5.3) contained within the WRDCP 2003. These non-compliances result in excessive bulk and scale.*

A subsequent appeal to the Land and Environment Court was upheld on 11 October 2016 following the parties reaching a s34 agreement.

The maximum height of the approved roof level addition was RL56.42. The applicant was requested to lower the height of the proposal from RL56.6 as proposed to accord with the approved height. Amended plans have been submitted to Council complying with this request.

It should be noted that the subject proposal achieves compliance with Council's floor space ratio control and that the non-compliance with Council's 9.5m height of buildings development standard pertains to the southern section of the roof which does not have the potential to impact upon the view from the primary area of open space of 1 Fisher Avenue or to impact significantly upon the views from the dwelling house at 1 Fisher Avenue.

5. DESCRIPTION OF THE PROPOSAL

On 22 May 2024, the proposal was amended to incorporate vehicular/pedestrian sight splays adjacent to both sides of the driveway entrance/exit.

On 15 October 2024, the proposal was further amended as follows:

- The correction of an erroneous BASIX note that the proposed photovoltaic panels were located on the northern section of the roof (the roof plan documents that they are proposed to be located on the southern and central sections of the roof).
- The lowering of the overall height of the development from RL56.6 to RL 56.42 to accord with the height of the Land and Environment Court determined DA120/2014/1 and associated floor level adjustments in order to address view loss concerns raised on behalf of the owner of 1 Fisher Avenue.
- Amendments to garden levels.
- The deletion of a portion of front garden concrete path and commensurate additional deep soil landscaped area provided.
- The demolition of entire existing southern side boundary wall/fence.
- An increase to the southern side boundary setback to the driveway and southern front garden wall and the associated reduction to the driveway width to address concerns raised by the owner of the adjoining property to the south (8 Fisher Avenue).
- Amendments to the garaging including the addition of a green roof and a solid wall to the outer alignment of the driveway to mitigate vehicular noise concerns raised by the owner of the adjoining property to the south (8 Fisher Avenue).
- The inclusion of a solid acoustic southern side boundary wall to mitigate vehicular noise concerns raised by the owner of the adjoining property to the south (8 Fisher Avenue).
- Amendments to landscaping adjacent to the southern side boundary to address concerns raised by the owner of the adjoining property to the south (8 Fisher Avenue).
- The inclusion of a 3m maximum height limit to landscaping adjacent to northern side boundary.

- The inclusion of a side access path and gate adjacent to the southern side boundary.
- A reduction to the width of the northern side access path.
- The raising of the northern side boundary planter level so as to be flush with existing ground level.
- Amended entry door location to the pool plant room.
- The addition of privacy screening to the southern opening to the Guest Bed Garden to address concerns raised by the owner of the adjoining property to the south (8 Fisher Avenue).
- The relocation of the air-conditioning plant room from the southern side to the northern side of the lower ground floor level with sound attenuated louvres provided to the re-aligned corresponding section of the northern side elevation.
- Internal amendments.
- The amendment of the privacy screening to the southern side of the rear ground floor level terrace to be solid.

On 23 October 2024, the proposal was further amended as follows:

- The deletion of external stair adjacent to the southern side boundary.
- The documentation of a *grey ballast* finish to roof.
- The addition of a delineated zone to the northern section of the roof plan stating that no building elements are to exceed RL 56.42 in order to address view loss concerns raised on behalf of the owner of 1 Fisher Avenue.
- The extension of the photovoltaic panel zone towards the centre of the roof.
- The addition of a note on the eastern (front) elevation stating that the maximum height of planting to the level 1 parapet planter is not to exceed RL 55.0 in order to address view loss concerns raised on behalf of the owner of 1 Fisher Avenue.

The proposal, as amended, involves the following:

- The demolition of 3 dwelling houses and ancillary structures.
- The amalgamation of 4 & 6 Fisher Avenue and the rear section (241m²) of 27 Vacluse Road to form a new consolidated allotment to be known as 4-6 Fisher Avenue with a site area of 2711.6m². The residual allotment 27 Vacluse Road will have a site area of 729m² and the redevelopment of this site is to be the subject of a separate (future) development application.
- The construction of a new 4 level, flat roofed dwelling house on the proposed consolidated allotment 4-6 Fisher Avenue. The proposed dwelling house will present as 2 storeys to Fisher Avenue and 4 terraced storeys to the rear.
- An above-ground swimming pool and spa with a pergola above the northern end is proposed to the rear of the lower ground floor level.
- Another spa is proposed to the north-western corner of the ground floor level.
- Below the lower ground floor level, a *cellar and wellness floor* is proposed which includes another spa.
- A double garage is proposed to be incorporated within the lower ground floor level accessed via a driveway adjacent to the southern side boundary and a proposed new driveway crossover.
- An internal lift providing access to all 4 levels is proposed.
- Solar panels, skylights and a roof access hatch for maintenance purposes are proposed to the flat roof.
- A garden wall with stone breeze block privacy screens is proposed to extend from the south-eastern corner of the ground floor level to within close proximity to the street alignment.
- New timber and stone clad front fencing and an arched pedestrian entrance canopy.
- Landscaping works including to the rear section of 27 Vacluse Road.

Below is a photomontage of the proposal from Fisher Avenue.



6. ISSUES

6.1. Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
4.3	Height of buildings	330mm or 3.5% departure from Councils 9.5m development standard.	Satisfactory on the basis that the height non-compliant southern section of the roof is 230mm lower than the existing existing dwelling house and is considered to be satisfactory with regard to environmental impacts.

6.2. Other issues

Issue	Conclusion	Section
Objectors' concerns	Addressed by amendments to the application or by recommended conditions of consent	8.1
Boundary setback non-compliances	Satisfactory, as the objectives of the controls are considered to be upheld in this instance.	14.2
External wall height/inclined plane non-compliances	Satisfactory, as the objectives of the control are considered to be upheld in this instance.	14.2
Volume of excavation and basement wall setback non-compliances	Satisfactory, subject to conditions ensuring the proposed use of excavated material as fill on-site and excavation related environmental impacts.	14.2
Front fence height non-compliances	Satisfactory, as the objectives of the controls are considered to be upheld in this instance.	14.2
Height of swimming pool above existing ground level non-compliance	Satisfactory, as the objectives of the controls are considered to be upheld in this instance.	14.2

7. SITE AND LOCALITY

The proposed consolidated site has a 55.6m curved eastern front boundary, a 71.7m staggered northern side boundary, a 40.4m staggered rear western rear boundary, an 84m staggered southern side boundary and an area of 2711.6m².

The proposed consolidated site falls approximately 10m from the street frontage to the rear.

The proposed consolidated site is occupied by 3 dwelling houses; a 2 storey dwelling house at 4 Fisher Avenue, a 3 storey dwelling house at 6 Fisher Avenue and a 2 storey dwelling house at 27 Vacluse Road.

The adjoining property to the north (2 Fisher Avenue) is occupied by a 2 storey dwelling house.

The adjoining property to the south (8 Fisher Avenue) is occupied by 2 x 2 storey dwelling houses.

The locality is characterised by 2-3 storey dwelling houses.

8. REFERRALS

Referral	Summary of Comment	Attachment
Development Engineer	Satisfactory, subject to conditions	3
Tree Management Officer	Satisfactory, subject to conditions	4
Heritage Officer	Satisfactory, subject to conditions	5

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 include the following:

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

9. ADVERTISING AND NOTIFICATION

9.1. Submissions

The original development application was advertised during the period 15-30 May 2024. Objections were received from:

1. **George Penklis – 8 Fisher Avenue Vacluse.**
2. **Paul Lalich & Madeleine Ryan of HWL Ebsworth Lawyers on behalf of the owner of 1 Fisher Avenue Vacluse.**
3. **Sunny Sui Kei Ngai – 2 Fisher Avenue Vacluse.**

Amendments made to the application have predominantly addressed concerns raised by/on behalf of the owners of 1 & 8 Fisher Avenue. The development application as amended has been considered by the owners of 1 & 8 Fisher Avenue and their representatives who have advised in writing of requested conditions of consent to address any residual concerns. Whilst the applicant raises no objection to the requested conditions, it has been verbally conveyed that the amended plans document the majority of the requests. These residual issues together with the concerns raised by the owner of the adjoining property to the north (2 Fisher Avenue) following the notification of the original development application are discussed as follows:

8 Fisher Avenue

- *We ask that Council note in the conditions of consent that the top of the fence between points A and B on the architectural plans on the southern boundary shall be an RL of 47.850.*

The amended southern elevation and lower ground floor plan document the above.

- *We ask that Council note in the conditions of consent that there is to be low level planting in the backyard (of 6 Fisher Avenue) with planting not to exceed 1.5m.*

The amended lower ground floor plan documents the above.

- *We ask Council note in the conditions of consent that trees in the back yard area of the 25 Vaocluse Road property are not to exceed a height limit of RL 47.55.*

The level of the proposed *sunken garden* occupying the rear portion of 27 Vaocluse Road that is proposed to be subdivided and amalgamated with 4 & 6 Fisher Avenue is RL39.75-41.29 meaning that the requested landscape planting mature height limit of RL47.55 (RL46.05 + 1.5m) is 6.26-7.8m which is considered to be adequate, qualifying for inclusion in Council's calculation of tree canopy area (minimum height of 3m).

The above request has not documented on the amended architectural drawings but has been agreed to by the applicant in writing. It is assumed that the above request is aimed at mitigating landscaped based overshadowing of 8 Fisher Avenue and has been addressed by recommended **Condition D.1a**.

- *We ask Council to note in the conditions of consent that all outdoor lighting is to be solar ground lights and to be directed away from our house at 8 Fisher Avenue.*

This request has not been documented on the amended architectural drawings and is considered to be unreasonable as it is more onerous than Council's standard condition controlling outdoor lighting (see recommended **Condition H.3**).

- *We ask Council to note this request as a condition of consent that all plant and equipment is located in acoustically treated rooms so that the noise levels shall not exceed the ambient background noise levels at the common boundary.*

Whilst the amended lower ground floor plan has relocated the air-conditioning plant room from the southern side to the northern side of the lower ground floor level with sound attenuated louvres provided to the re-aligned corresponding section of the northern side elevation, **Conditions D.22 & H.1** have been recommended ensuring the adequate sound attenuation of all mechanical plant.

- *We ask Council include a condition of consent requiring the removal of the staircase on the driveway which accesses the garden bed.*

The subject external stairs adjacent to the driveway/ southern side boundary have been deleted from the ground floor plan.

1 Fisher Avenue

- *We confirm that the planter box height of RL55.00 is acceptable, with strict provision for cascading landscaping not exceeding this height. We confirm that the Applicant will agree to a condition of consent to this effect. We request that the Applicant provide a copy of correspondence to Council proposing a condition of consent concerning the height of landscaping consistent with the above.*

In response to the above request, the applicant provided the following correspondence to Council:

It has been requested that Council condition the height of the planting to the first-floor planter box to the northern (2 Fisher) and eastern (street) facades of our proposal at RL 55.00. Would it be possible to include this as a condition of approval for certainty for the owner of 1 Fisher Ave.

The above request is designed to address residual view loss concerns. Whilst the amended eastern (front) elevation contains such a notation in relation to the front planter, it is ambiguous as to whether the commitment applies to the entire planter which returns along the front section of the northern side elevation.

Accordingly, the above request has been addressed by recommended **Condition D.1b**.

1 & 2 Fisher Avenue

- *Landscaping based view loss upon 1 & 2 Fisher Avenue*

The amendments made to the application on 15 October 2024 include the inclusion of a 3m maximum height limit to landscaping adjacent to northern side boundary which will mitigate potential view impacts upon 1 & 2 Fisher Avenue.

However, concern is raised that proposed tree plantings to the front setback with stated mature heights of up to 8-10m have the potential to impact significantly upon views from 1 Fisher Avenue. Recommended **Condition D.1c** addresses this condition by requiring alternative plantings that will not grow higher than the roof level.

2 Fisher Avenue

- *Potential visual privacy concerns in relation to 2 Fisher Avenue (the adjoining property to the north)*

Whilst the window to the northern side elevation at Level 1 are documented as being fluted glass, it is specified as being of a casement/fixed design and so is partially openable. Recommended **Condition D.1d** requires compliance with the visual privacy requirements of Woollahra DCP 2015.

- *Construction -related traffic congestion*

This issue is addressed as far as is practicable by recommended conditions of consent including the requirement for a Construction Management Plan and a Works (Construction) zone.

- *Construction related noise and dust*

These issues are addressed by Council's standard conditions stipulating the permitted hours of work and requiring dust mitigation measures.

9.2. Statutory declaration

The applicant has completed a statutory declaration declaring that the site notice was erected and maintained during the notification period.

9.3. Decision not to re-notify the amendments to the application

The amendments made to the application described under section 5 were not re-notified on the basis that it is considered that they did not involve any potential amenity impacts upon the locality.

10. SEPP (SUSTAINABLE BUILDINGS) 2022

Chapter 2 Standards for residential development—BASIX

Chapter 2 applies to the subject application in terms of commitments in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The subject application was accompanied by BASIX Certificate 1742448S demonstrating compliance with the relevant provisions of Chapter 2 of the SEPP. These requirements are addressed by recommended conditions of development consent.

11. SEPP (RESILIENCE AND HAZARDS) 2021

11.1 Chapter 4 Remediation of land

The provisions of Chapter 4 Remediation of Land requires consideration to be given as to whether the subject land is contaminated. In the absence of any information indicating the potential contamination of the site, further consideration of this issue is not considered warranted in this instance.

The proposal is considered to be satisfactory with regard to the relevant provisions of Chapter 4 Remediation of land.

12. SEPP (BIODIVERSITY AND CONSERVATION) 2021

12.1 Chapter 2 Vegetation in non-rural areas

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

Council's Tree Management Officer has provided the following tree impact assessment:

The most significant tree within the three subject properties is an Angophora costata (Sydney Pink Gum) located along the front boundary of 6 Fisher Avenue, Vaucluse identified as Tree 1 in the submitted documentation for this development application.

Tree 1 Sydney Pink Gum is a heritage listed item in Schedule 5 of the Woollahra Local Environmental Plan 2014. Additionally the Sydney Pink Gum is listed as a Significant Tree in Council's Register of Significant Trees – Volume 2 Significant Trees under Private Ownership.

The submitted Arboricultural Impact Assessment and Tree Protection Plan has identified a major encroachment into the Tree Protection Zone (TPZ) of Tree 1 however has also demonstrated how Tree 1 can be retained successfully. In summary the calculated area of encroachment mostly includes existing structures within the TPZ of Tree 1. A contiguous area to the north of the TPZ has been included to provide an extension of the TPZ area. A large area of the TPZ that is currently paved will be returned to open deep soil area improving growing conditions. Tree sensitive construction techniques will be used within the TPZ of Tree 1 to minimise any impacts from the proposed development. Lastly the proposed works within the Structural Root Zone of Tree 1 will be limited to replacing the existing front fence using the existing front fence footings or new pier footings placed to avoid the severing of woody roots.

Other existing trees proposed to be retained or transplanted are Tree 12 Phoenix canariensis (Canary Island Date palm) located in the rear south eastern corner of 27 Vacluse Road, Vacluse and Trees 2 and 21 Howea forsteriana (Kentia palm) proposed to be transplanted to the front boundaries of 4 and 6 Fisher Avenue, Vacluse. A Transplant Feasibility and Method Statement has not been submitted with regard to the transplanting of Trees 2 and 21. Should approval be given for the subject development application a Transplant Feasibility and Method Statement could be provided prior to the issue of a construction certificate.

The submitted architectural plans indicate proposed demolition and tree retention of the remaining portion of 27 Vacluse Road, Vacluse however no proposed structures or landscaping to be constructed. The submitted Arboricultural Impact Assessment and Tree Protection Plan incorrectly tables Trees 25 and 26 as trees where approval was given for their removal as part of a previous DA 142/2023/1. To clarify Trees 25 and 26 were conditioned to be retained as part of the approval for DA142/2023/1. The submitted Arboricultural Impact Assessment and Tree Protection Plan does however provide recommendations for tree protection measures to ensure their successful retention. The submitted Arboricultural Impact Assessment and Tree Protection Plan should be amended to delete any reference to the removal of Trees 25 and 26.

All other trees proposed for removal as part of this subject development application have been given approval for removal as part of previous development applications. The trees proposed for removal as part of this subject development application are either exempt from the Woollahra Development Control Plan (WDCCP) or are of low to moderate landscape significance.

The proposal is considered to be satisfactory in terms of tree impacts subject to conditions.

12.2 Chapter 6 Water catchments

The land is located within the Sydney Harbour Catchment, outside the Foreshores and Waterways Area of the Catchment.

The proposal is considered to be satisfactory in terms of the *Division 2 Controls on development generally* subject to conditions addressing stormwater run-off and sedimentation control.

The proposal as conditioned is considered to be satisfactory with regard to the relevant provisions of SEPP (Biodiversity and Conservation) 2021.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Clause 1.2: Aims of Plan

The proposal as conditioned is considered to be consistent with the aims in Part 1.2(2) of Woollahra LEP 2014.

13.2 Land Use Table

The proposed works are associated with a dwelling house use which is permissible within the R2 Low Density Residential zone.

13.3 The objectives of the zone

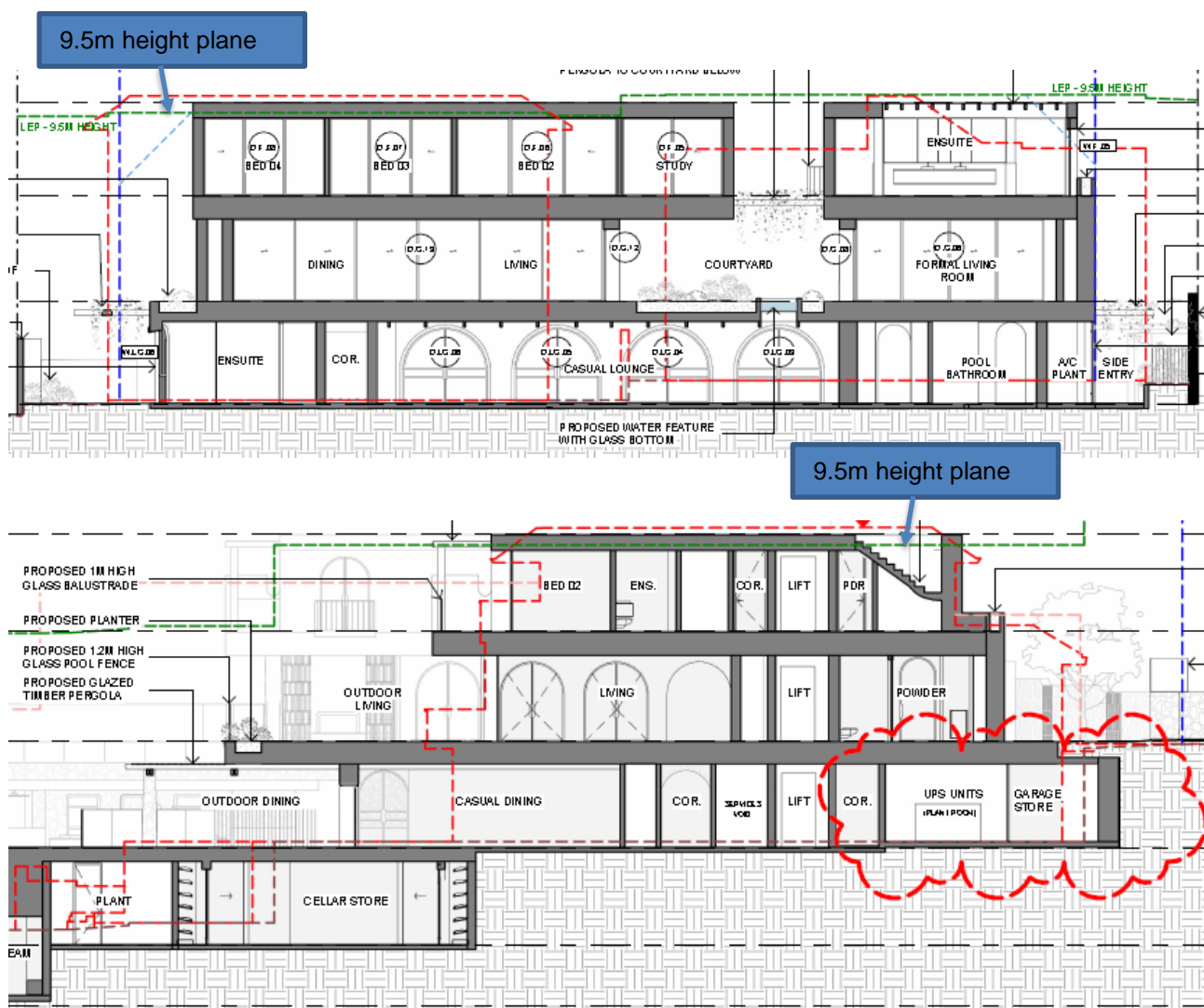
The proposed works are considered to be consistent with the objectives of the R2 Low Density Residential zone.

13.4 Clause 4.1: Minimum subdivision lot size

Clause 4.1 limits subdivision related lot size to 675m² in this instance. The proposal involves the amalgamation of 4 & 6 Fisher Avenue and the rear section (241m²) of 27 Vacluse Road to form a new consolidated allotment to be known as 4-6 Fisher Avenue with a site area of 2711.6m². The residual allotment 27 Vacluse Road will have a site area of 729m² which is compliant.

13.5 Clause 4.3: Height of Buildings

Clause 4.3 limits development to a maximum height of 9.5m. The proposal documents a maximum height of approximately 9.83m, a non-compliance of 330mm or 3.5%. The non-compliance relates to the southern section of the roof as indicated in the images below. Council's 9.5 height plane is documented by the broken green lines.



A Clause 4.6 assessment of the non-compliance is provided below under section 13.6.

13.6 Clause 4.4: Floor Space Ratio

Clause 4.4 limits the development to a maximum floor space ratio of 0.5:1. The application documents a floor space ratio of 0.48:1 which is compliant.

13.7 Clause 4.6: Exception to Council's Height Development Standard

Departure

With a height of 9.83m, the proposal involves a 330mm (3.5%) non-compliance with the 9.5m height of buildings development standard prescribed under Clause 4.3 of the Woollahra LEP 2014, as detailed in Section 12.4.

Purpose

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

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

Justification Requirements

Section 4.6(3) states that:

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

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

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

Applicant's Written Request

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

The applicant has provided a written request in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*, which is attached at **Attachment 6**.

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?

Yes.

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)?

Yes.

Is the correct LEP or SEPP section (and objectives if relevant) referenced?

Yes.

Is the extent of the variation correctly identified?

Yes.

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

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

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

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

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

Assessment:

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

Has the applicant adopted one or more of the Wehbe tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances?

Yes.

Has the applicant used another method to justify that the variation is unreasonable or unnecessary?

No.

Are the arguments put forward by the applicant, to demonstrate compliance is unreasonable or unnecessary in the circumstances, supported and why?

The arguments put forward by the consultant planner acting for the applicant that the proposed height non-compliance is unreasonable or unnecessary are summarised as follows:

- The proposal will present 2 storeys to the street which is consistent with Council's desired future character of the neighbourhood.
- On the basis that the non-compliant southern section of the roof is 230mm lower than the corresponding existing roof (6 Fisher Avenue), it will not result in amenity impacts upon adjoining properties or upon public views beyond that associated with the existing development.

The above-mentioned arguments are considered to be factual and the non-compliance is considered to uphold the following objectives of the height of buildings development standard:

- (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.*

Accordingly, compliance is considered to be unreasonable/unnecessary.

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?

Topography and Previous Excavation

The height non-compliance is a function of the topography of the site, which has been previously modified to accommodate the existing dwelling at No. 6 Fisher Avenue. As stated, when the height is measured from the pre-excavated ground levels, the proposal would comply with the 9.5m height plane. Prior excavation was identified as an environmental planning ground in the recent judgment in Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582 where Commissioner O'Neill stated at [83]:

*The grounds relied on by the applicant in the written request under cl 4.6 must be environmental planning grounds by their nature, and environmental planning grounds is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (Initial Action at [23]). **I am satisfied that the prior excavation of the site and the consequent distortion of the height of buildings plane over the site, when compared to the topography of the hill, is an environmental planning ground sufficient to justify contravening the development standard. I am satisfied that the focus is on the aspect of the development that contravenes the development standard, being the areas of the building envelope that are directly above the former excavation of the site, and not the development as a whole...***

This conclusion is also relevant here as the subject site has an existing excavated area which creates an artificial drop in the height limit. The area of exceedance is confined only to an area above existing excavation, with the remainder of the dwelling being compliant with the height plane.

Lowering the building height would require additional excavation, to drop the upper floor level to achieve appropriate floor to floor heights. In our opinion, the minor variation in height facilitates a more appropriate response to the site's topographic constraints, compared to a fully compliant building height which would require considerable additional excavation and would not be an appropriate response to the site's underlying topography.

Structural Engineering

The proposed height variation accommodates sufficient floor to floor heights for the structural zone required to support the span of the building. The proposal has consistent floor levels and roof levels. Due to the step down in the existing ground line at the southern part of the site, this creates a partial variation in height, which is inevitable to support the structure. The engineer concludes, inter alia:

Description

The concrete roof slab requires a minimum structural depth of 250mm to support the imposed loading (pebble finish, falls, etc) and span between the load bearing walls. On top of this, a minimum 1:100 fall is required to allow for surface flow and drainage of the roof slab, assuming a minimum grade of 1%, this equates to an additional 50 to 100mm above the concrete slab thickness. Similarly, a perimeter hob to achieve a compliant waterproofing termination will require a minimum 70mm of height above the falls. If a modest ceiling void of 80mm is adopted to facilitate lighting etc, then the overall roof zone allowance should be 500mm.

The first-floor concrete slab system requires reinforced concrete beam framing to span over the living and dining areas, as there are large, cantilevered sections that could not be supported by a flat slab system. The concrete floor slab itself requires a minimum depth of 300mm with an 85mm topping slab to allow for finishes.

A series of 600mm deep beams with a perimeter 750mm min deep cantilevered reinforced concrete beams have been provided along the western perimeter of the first floor to support the cantilevered slab sections. Refer to Appendix A for the partial concept structural design sketches.

Conclusion

Based on our partial structural concept design, it is our opinion that the floor and roof zones allowed for in the proposed Development Application drawings are appropriate to for the structure to achieve the proposed architectural design.

Minor Nature of Non-Compliance

As stated, the area of non-compliance is limited to a portion of the roof form only. The proposal represents only a 0.33m or 3.47% variation from the development standard, attributed to a technical breach arising from an artificially altered existing ground line.

Existing Non-Compliance

The existing building is already above the LEP building height limit, with a maximum height of 10.06m. This is a variation of 0.56m or 5.89% from the development standard. The proposal seeks to replace the existing buildings of lesser architectural merit with a high-quality, contemporary new dwelling. The proposed roof height is less than the existing maximum roof height. The proposal achieves a better planning response to the site's sloping terrain, compared to what currently exists on the site and therefore demonstrates greater compatibility with the desired future character of the area.

Contextual Compatibility and Better Planning Outcome

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).

The proposed dwelling house will be compatible with the existing and desired future character of the area. The additional height is a technical non-compliance, is similar to the existing breach, is not visible from the street and does not affect the amenity of neighbouring properties or the public domain. The location of the additional height is solely the result of measuring building height from an existing excavated area beneath the proposed building. If the roof form were artificially altered to comply with the height plane, the resulting design would be disjointed and would not complement the architecture of the dwelling or surrounding streetscape context.

The overall building height is consistent with the character of surrounding developments. The proposal will present as two storeys with a flat roof form to the street. At the rear, the building has a three storey presentation. Therefore, the variation facilitates an overall building height and presentation that is contextually appropriate.

The proposal provides a more stepped built form that relates to the underlying topography. It brings the development into compliance with Council's setbacks, landscaping and tree canopy coverage controls, which is not currently achieved by the existing development.

The proposal offers compliant and in many areas, more than compliant building setbacks. This facilitates a far better interface with adjacent residences and allows for improved privacy, solar access gains and a lesser perceived bulk, demonstrating a better planning outcome.

The older dwellings on the site will be replaced by a well-articulated, architecturally designed contemporary residence that will significantly improve the appearance of the site, as viewed from the street, surrounding properties and the Harbour. The proposal also removes the existing, obtrusive parking structures and high fencing built to the front boundary. The dwelling will be surrounded by expansive areas of open space and landscaping. Overall, the height variation facilitates the provision of a sophisticated, contemporary dwelling that aligns better with the bulk, scale and character of development in the locality, in comparison to the existing buildings on the site (see the below images of the existing and proposed developments respectively).



Good Design and Amenity

The additional height facilitates good internal amenity. It ensures that consistent internal floor levels and adequate floor to ceiling heights are provided at all levels. The proposed floor to ceiling heights are relatively modest, at 2.71m for the lower ground, 2.75m for the ground floor level, and 2.6m for the first floor level. As indicated, if compliance with the height standard were enforced, the roof would need to be lowered. This would impact the internal amenity and functionality of the dwelling. Additional excavation would be required to lower the building, in order to achieve appropriate, compliant floor to floor heights. The proposed variation will improve internal amenity for the future residents, without any noticeable effect on neighbouring properties.

The additional height will promote good design and amenity of the built environment, consistent with Object (g) of the Environmental Planning and Assessment Act 1979 (EPA Act). It will provide consistent floor levels and compliant floor to ceiling heights. If strict compliance with the height limit were enforced, the portion of the roof above the height plane would need to be artificially stepped down. This would create a disjointed external appearance. This would serve no planning benefit, as the height does not give rise to adverse amenity impacts. The proposed height variation ensures the dwelling has a consistent roof design and overall height, which responds to the topography.

Sustainability

The variation allows for the provision of skylights and flat-mounted solar panels on the roof. This improves natural light and ventilation and the usage of renewable energy sources. This promotes sustainability and passive design, good design and amenity, which is consistent with objects (b) and (g) of the EPA Act

Accordingly, in our opinion, the proposed development achieves compatibility with the existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

Are the environmental planning grounds specific to the proposed variation?

Yes.

Are there sufficient environmental planning grounds to justify the proposed variation to the development standard?

Yes.

Conclusion

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

13.8 Clause 5.10: Heritage Conservation

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

Council's Heritage Officer considers the proposal to be satisfactory subject to conditions of consent requiring the salvaging of building materials and the protection of Aboriginal cultural heritage.

Subject to conditions recommended by Council's Heritage Officer, the proposal is considered to be satisfactory with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

13.9 Clause 5.21: Flood Planning

Clause 5.21 seeks to minimise the flood risk to life and property development, allow development on land that is compatible, consider projected changes as a result of climate change and avoid significant adverse impacts on flood behaviour and the environment in flood prone areas.

The subject site is not located within Council's flood planning area and the proposal is considered to be satisfactory with regard to the provisions of Clause 5.21 of Woollahra LEP 2014.

13.10 Clause 6.1: Acid Sulfate Soils

Clause 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 located within a Class 5 area as specified on the Acid Sulfate Soils Map. The proposed works will not lower the water table below 1m AHD on any land within 500m of a Class 1, 2 and 3 land classifications and are considered to be satisfactory with regard to the provisions of Clause 6.1 of Woollahra LEP 2014.

The proposed works are considered to be satisfactory with regard to the provisions of Clause 6.1 of Woollahra LEP 2014.

13.11 Clause 6.2: Earthworks

Clause 6.2(1) requires Council to ensure that any earthworks and associated groundwater dewatering will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. In deciding whether to grant consent for earthworks and associated groundwater dewatering, 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 surrounding properties.*
- (e) *The source of any fill material and the destination of any excavated material.*
- (f) *The likelihood of disturbing relics.*
- (g) *The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.*
- (h) *Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposal involves substantial earthworks.

Council's Development Engineer has raised no objection to the extent of the proposed earthworks in terms of geotechnical and hydrogeological issues subject to recommended conditions of consent.

Council's Tree Management Officer considers the proposed earthworks to be satisfactory in terms of tree impacts, subject to conditions.

Council's Heritage Officer considers the proposed earthworks to be satisfactory subject to conditions of consent relating to the protection of Aboriginal cultural heritage.

Additional conditions of consent have been recommended limiting the times and duration of machine excavation and requiring adequate dust mitigation.

The proposal as conditioned are considered to be acceptable with regard to the provisions of Clause 6.2 of the Woollahra LEP 2014 subject to conditions.

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

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

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

Council's Tree Management Officer has provided the following tree canopy cover assessment:

The submitted landscape plan proposes replacement tree planting exceeding the number of existing trees proposed for removal. The landscape plan also satisfies Chapter B3 of the WDCP requirements of achieving 35% canopy cover over the proposed site.

Accordingly, the proposal is considered to be satisfactory with regard to the provisions of Part 6.9 of the Woollahra LEP 2014.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

With regard to the implications of whether or not a development application is compliant with the provisions of a development control plan, Section 4.15 (3A) of the Environmental Planning and Assessment Act 1979 states:

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development. In this subsection, standards include performance criteria.*
- b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- c) may consider those provisions only in connection with the assessment of that development application.*

In this subsection, standards include performance criteria.

Accordingly, Council is required to apply flexibility in the application of Woollahra DCP 2015 controls if the objectives of the control are achieved.

14.1 Chapter B1.10: Vaucluse West Residential Precinct

The desired future character objectives of the Vaucluse West Precinct are as follows:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To retain the scenic qualities provided by the dramatic topography and natural vegetation that provide an attractive setting on Sydney Harbour.*
- O3 To maintain the evolution of residential building styles through the introduction of good contemporary buildings incorporating modulation and a varied palette of materials.*
- O4 To minimise building bulk and scale of three storey development by designing development to generally present as a two storey form to the street.*
- O5 To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 To protect important views from the public spaces of the precinct to the harbour and the city skyline including view corridors between buildings.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy.*
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

Streetscape character and key elements of the Vacluse West Precinct:

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

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

The proposal presents a 2 storey, adequately articulated form to Fisher Avenue.

A sufficiently varied palette of external materials is proposed including cement render, timber, glass and stone.

The proposal is considered to be contextually appropriate and satisfactory in terms streetscape visual impacts.

The proposed cut and fill is not considered to be excessive.

No significant loss of public views are envisaged.

Council's Tree Management Officer considers the proposal to be satisfactory in terms of tree impacts, subject to conditions.

The proposal as conditioned is considered to be consistent with the desired future character objectives for the Vacluse West precinct.

14.2 Chapter B3: General Development Controls

B3.2.2: Front boundary setback

C1 The front setback of the building envelope is determined by averaging the three most typical setbacks of the four closest residential buildings that face the same side of the street. Note: The setback is determined by the distance between the primary street boundary and the outside face of the front building wall, or any protruding balcony deck or the like (excluding car parking structures).

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

Council's minimum front setback requirement (C1) is 5.25m in this instance.

A garden wall with stone breeze block privacy screens is proposed to extend from the south-eastern corner of the ground floor level to within approximately 3.7m of the street alignment which is non-compliant with C1.

Otherwise, with a minimum front setback of 7.2m, the proposal is compliant with C1. The proposal is compliant with C2.

The objectives of Council's front setback control are as follows:

- O1 To reinforce the existing streetscape and character of the location.*
- O2 To provide consistent front setbacks in each street.*
- O3 To provide for landscaped area and deep soil planting forward of the building.*

It is considered that the non-compliant garden wall would not have a significant adverse visual impact upon the streetscape due to the presence of the adjoining garage at 8 Fisher Avenue which extends to within close proximity of the Fisher Avenue alignment. Further, the non-compliance will not significantly impact upon deep soil landscaped area provision to the front setback which is compliant.

The proposal is considered to be satisfactory with regard to the provisions of B3.2.2 of Woollahra DCP 2015.

B3.2.3: Side boundary setbacks

C1 The minimum side setback for dwelling houses, semi-detached dwellings and dual occupancies is determined by the table in Figure 5A.

C4 The building has a maximum unarticulated wall length of 12m to the side elevation.

The side boundary setbacks required by C1 are 3.4m in this instance.

Pergola structures to both side elevations at lower ground floor level involve a 1.4m setback from the northern side boundary and a 1.8m setback from the southern side boundary and so are non-compliant with C.1.

Otherwise, with a minimum setback from the northern side boundary of 3.4m and a minimum setback from the southern side boundary of 4.3m, the proposal is compliant.

The proposal is compliant with C4.

The objectives of the side boundary setback control are:

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

The non-compliant pergolas are considered to be consistent with the above-mentioned objectives with no significant amenity impacts upon the adjoining properties envisaged and with sufficient landscaping and access provided to the side setbacks.

The proposal is considered to be satisfactory with regard to the provisions of B3.2.3 of Woollahra DCP 2015.

B3.2.4: Rear boundary setback

C1 The minimum rear setback control is 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary (see Figure 6). The building must not encroach on the minimum rear setback.

Rear setbacks of 13.225m and 17.653m apply in this instance.

With a rear setback of 12.4m, the proposed *sunken outdoor lounge* is non-compliant with the 13.225m requirement.

Otherwise, the proposal is compliant.

The objectives of the rear boundary setback requirement are:

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

The non-compliance is considered to be minor in extent and consistent with the above-mentioned objectives with no significant amenity impacts upon the adjoining properties envisaged with solar access, privacy and visual amenity adequately maintained.

Council's Tree Management Officer considers the application to be satisfactory with regard to the proposed landscaping works adjacent to the western rear boundary.

The proposal is considered to be satisfactory with regard to the provisions of B3.2.4 of Woollahra DCP 2015.

B3.2.5: Wall height and inclined plane

- C1 On land zoned R2 Low Density Residential and for a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone:*
 - a) the wall height is 7.2m above existing ground level; and*
 - b) an inclined plane is taken from a point 7.2m above existing ground level at each of the setbacks (the inclined plane is at 45 degrees from horizontal); and*
 - c) roof eaves may protrude into the setback if below the inclined plane.*

The proposal is non-compliant with Council's wall height and inclined plane control predominantly on the basis of the above-mentioned boundary setback and height of building non-compliances. Additionally, the upper sections of both side elevations to the rear of the front section of the development are non-compliant.

The objectives of Council's wall height and inclined plane control are as follows:

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

The non-compliances are considered to be satisfactory in terms of amenity impacts upon adjoining properties for reasons outlined under the consideration of the setback non-compliances and the 9.5m height non-compliance with the residual non-compliances being minor in extent and considered to be satisfactory with regard to the above-mentioned objectives. In this regard, it is considered that the non-compliances will not result in any significant visual impacts upon the streetscape or amenity impacts upon adjoining properties.

The proposal is considered to be satisfactory with regard to the provisions of B3.2.5 of Woollahra DCP 2015.

B3.4: Excavation

C1 For a dwelling house, dual occupancy or semi-detached dwelling (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 13A.

C6 Basement walls are no closer to the boundary than permitted by the setback controls.

The proposal involves approximately 1180m³ of excavation which exceeds Council's 592m³ maximum permissible volume of excavation by 588m³.

The siting of the proposed walls of the dwelling house adjacent to the proposed excavation are compliant with Council's boundary setback requirements.

The objectives underlying the excavation controls are:

O1 To set maximum acceptable volumes of excavation which:

- a) require buildings to be designed and sited to relate to the existing topography of the site;*
- b) ensure excavation, including the cumulative impacts of excavation, does not adversely impact land stabilisation, ground water flows and vegetation;*
- c) avoid structural risks to surrounding structures;*
- d) ensure noise, vibration, dust and other amenity impacts to surrounding properties during construction are reasonable;*
- e) enable deep soil planting in required setbacks;*
- f) ensure traffic impacts and impacts on local infrastructure arising from the transfer of excavated material from the development site by heavy vehicles are reasonable; and*
- g) satisfy the principles of ecologically sustainable development (including the energy expended in excavation and transport of material and the relative energy intensity of subterranean areas in dwellings).*

Council's Development Engineer has raised no objection to the extent of the proposed earthworks in terms of geotechnical and hydrogeological issues subject to recommended conditions of consent.

Council's Tree Management Officer considers the proposed earthworks to be satisfactory in terms of tree impacts, subject to conditions.

Council's Heritage Officer considers the proposed earthworks to be satisfactory subject to conditions of consent relating to the protection of Aboriginal cultural heritage.

Council's standard conditions addressing dust and noise impacts have been recommended.

It is proposed to utilise 786m³ of the excavated material as fill which will partially reduce energy expenditure and traffic impacts from transporting that material off the site. This commitment is reinforced by recommended **Condition D.1e**.

The proposed excavation as conditioned is considered to satisfactorily accord with the above-mentioned objectives and to be satisfactory with regard to the provisions of B3.4 of Woollahra DCP 2015.

B3.5.1: Streetscape and local character

C1 The building is consistent with the desired future character of the area set out in the precinct controls in Parts B1 and B2 of this DCP.

C2 Development retains vegetation of landscape value.

- C3 Development steps down sloping sites and follows the topography of the land.*
- C4 External building materials and colours do not detract from the streetscape. Bright or obtrusive colour schemes are avoided.*
- C5 Roof forms and roof structures (including roof terraces, lifts, lift overruns, stairwells, access hatches, and other like structures) are well-designed, contribute positively to the streetscape, and are well-integrated with the architecture of the building.*
- C6 The use of reflective materials is minimal (including windows, access hatches, skylights and balustrades).*
- C7 In heritage conservation areas or where the existing the immediate streetscape is predominantly characterised by pitched roof forms, new development incorporates pitched roof forms.*
- C8 Roof materials are non-reflective and do not cause excessive glare to adjacent properties.*
- C9 The building addresses the street and provides opportunities for casual surveillance. At least one habitable room window overlooks the street.*

The proposed flat roof form is considered to be contextually compatible within the locality.

The proposed external materials and finishes consisting of a rendered masonry, timber, glass and stone are considered to be acceptably unobtrusive and a high level of articulation will be provided to the front elevation thereby adequately mitigating visual impacts upon the streetscape.

Council's Tree Management Officer considers the proposal to be satisfactory with regard to tree impacts subject to conditions.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of B3.5.1 of Woollahra DCP 2015.

B3.5.2: Overshadowing

- C1 The development is designed so that:*
 - a) sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; and*
 - b) north-facing windows to upper level habitable rooms of adjacent dwellings receive at least all 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface.*
- C2 Lot orientation may make C1 above difficult to achieve so a reduced amount of solar access may be considered, provided the proposed building complies with all setback controls.*

Shadow diagrams submitted to Council demonstrate compliance with the overshadowing provisions of B3.5.2 of Woollahra DCP 2015.

B3.5.3: Public and Private Views

Public views

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

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

Public views

No significant loss of public views are envisaged as a result of the proposed works.

Private views

The controls applicable to private views are as follows:

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

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

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

No significant loss of private views to adjoining properties are envisaged as a result of the proposed works. As outlined in the following view analysis.

Landscaping based private view loss

- C9 *The location and species of new tree planting frames and preserves public and private views. Planting must not be used to moderately, severely or devastatingly block views in accordance with the Tenacity Land and Environment Court Principle.*
- O4 *To ensure that views are not unreasonably compromised by landscaping.*

The original development application was objected to by the legal representatives of the owner of 1 Fisher Avenue on the basis that the RL56.6 height of the proposal exceeded the approved RL56.42 height of the Land and Environment Court determined DA120/2014/1 pertaining to 4 Fisher Avenue.

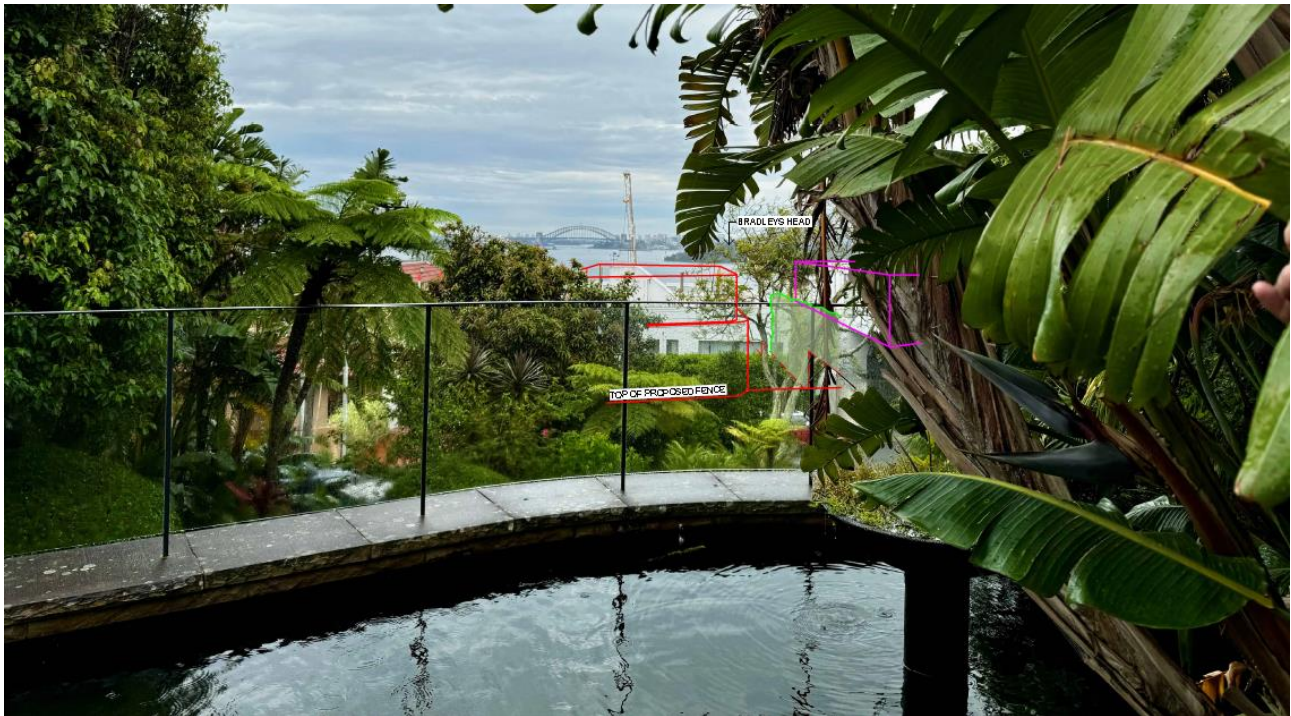
As discussed under section 5, amendments made to the proposal on 15 October 2024 included the lowering of the overall height of the development from RL56.6 to RL 56.42.

The amended proposal has been the subject of the below view analysis from the primary area of open space pertaining to the heritage listed 1 Fisher Avenue which was the subject of the view assessment associated with the previous two Land and Environment Court determined development applications described under section 4. The outline of the amended proposal is documented in red. The purple outline relates to the adjoining property to the north (2 Fisher Avenue).

The section of the proposed development outlined in red relates to the northern component sited on 4 Fisher Avenue which is fully compliant with Council's height development standard. The non-compliance with Council's height development standard assessed previously under sections 13.5 & 13.7 pertains to the southern component sited on 6 Fisher Avenue which does not have the potential to impact upon views from 1 Fisher Avenue as it is 230mm lower than the existing height and is obscured by vegetation as indicated in the images below.

It should be noted that view impacts upon the heritage listed dwelling house itself were not considered to be significant with regard to the previous two Land and Environment Court determined development applications pertaining to 4 Fisher Avenue.





The above images indicate that views of the land-water interface of Bradleys Head are maintained which was the key view impact consideration in the Land and Environment Court determinations of the previous development applications pertaining to 4 Fisher Avenue.

As discussed above under section 9.1, the legal representatives of the owner of 1 Fisher Avenue have advised in writing that the amended proposal is considered to be satisfactory in terms of view impacts subject to landscaping based view impacts being adequately addressed. In this regard, recommended **Conditions D.1b & c** are designed to mitigate landscaping based view impacts.

Otherwise, the amendments made to the application on 15 October 2024 include the inclusion of a 3m maximum height limit to landscaping adjacent to the northern side boundary which will mitigate potential view impacts upon 1 & 2 Fisher Avenue.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.5.3 of Woollahra DCP 2015.

B3.5.4: Acoustic and Visual Privacy

- C1 Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.*
- C2 Dwellings located close to high noise sources, such as a busy road or railway line are to:*
 - a) be designed to locate habitable rooms and private open space away from the noise source; and*
 - b) include sound attenuation measures, such as acoustic glazing and insulation.*
- 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.*

This may be achieved by options including, but not limited to (in order of preference):

- a) *Window location—primary windows to habitable rooms are located and designed to provide an outlook to the front and rear setbacks, not the side boundaries.*
- b) *Layout and separation—offsetting windows from the windows/private open spaces of the adjoining dwelling to limit views between the windows/private open space.*
- c) *Architectural design solutions and devices—redirecting and limiting sightlines using deep sills with planter boxes, fixed horizontal or vertical louvres, or other screening devices set off the windows internally or externally.*
- d) *Glazed opening windows—using windows with translucent glazing to a height of 1.5m above floor level and fitted with a winder mechanism to control the maximum angle of the opening to limit views.*
- e) *Glazed fixed windows or high sills—using fixed windows with translucent glazing in any part of the window below 1.5m above floor level, or window sill heights of 1.5m above floor level.*

Note: Applicants may be required to demonstrate how privacy impacts are resolved by way of view line diagrams, photographs and other suitable means.

C5 *Windows to bathrooms and toilet areas have translucent glazing where these have a direct view to, and from, habitable rooms and private open space on adjoining and adjacent properties.*

C6 *Architectural design solutions and screening devices referred to in C4 (c) above are integrated with the overall design and contribute to the architectural merit of the building, having particular regard to:*

- a) *aesthetics of the building including impacts on visual bulk;*
- b) *compliance with minimum boundary setback controls;*
- c) *appearance from adjoining properties; and*
- d) *views from adjoining or adjacent properties.*

C7 *Private open spaces and the trafficable area of roof terraces (at or below the second storey) are to be suitably located and screened to prevent direct views to neighbouring:*

- a) *habitable rooms (including bedrooms) within 9m; and*
- b) *private open space within 9m.*

Note: Private open space includes an area external to a building including land, terrace, balcony or deck.

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

Note: Refer to Super Studio vs Waverley Council, (2004) NSWLEC 91

C9 *Windows and balconies of an upper-level dwelling are designed to prevent overlooking of the private open space of a dwelling below within the same development.*

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

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

C11 Lighting installations on a roof terrace or upper level deck are:

- a) contained within the roof terrace area and located at a low level; or*
- b) appropriately shaded and fixed in a position so light is projected downwards onto the floor surface of the terrace.*

Note: Lightinng of roof terraces must be designed in compliance with Australian Standards 4282-1997 Control of obtrusive effects of outdoor lighting.

In order to achieve compliance with the above-mentioned controls, the following visual privacy mitigation measure is required by recommended **Condition D.1b**:

- The provision of fixed translucent glazing or alternatively privacy louvres to a minimum height of 1.65m above the first floor level to window W.F.05.

Otherwise, the proposal is considered to be satisfactory with the above-mentioned controls with compliant lines of sight distances to privacy sensitive areas of adjoining properties achieved.

Council's standard condition pertaining to the control of outdoor lighting has been recommended (see **Condition H.3**).

It is considered that the proposal will not result in any significant acoustic privacy impacts upon adjoining properties subject to the imposition of Council's standard condition relating to the control of offensive noise (see **Condition H.4**).

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.5.4 of Woollahra DCP 2015.

B3.5.5: Internal amenity

C1 All habitable rooms in a dwelling must have at least one external wall primarily above the existing ground level which provides an unobstructed window opening.

C2 All habitable rooms and sanitary compartments in a dwelling must have direct natural light and direct natural ventilation.

C3 The area of unobstructed window openings should be equal to at least 20% of the room floor area for habitable rooms.

C4 Light wells must not be the primary air source for habitable rooms.

C5 Any room of a dwelling either partially or fully below existing ground level (excluding basement parking and storage areas) is limited to a maximum room depth of twice the ceiling height.

Several proposed sanitary compartments at Cellar and Wellness Floor and Lower Ground Floor levels are non-compliant with C2.

The objectives of the above-mentioned controls are as follows:

O1 To encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation.

O2 To encourage buildings that are designed to maximise natural light provision in habitable rooms.

On the basis that artificial light and ventilation are permitted to be provided to sanitary compartments under the health and amenity provisions of the Building Code of Australia, no objection is raised in relation to the non-compliance with C2. Compliance with the provisions of the Building Code of Australia is addressed by recommended **Conditions E.1 & F.1**.

The proposal as conditioned are considered to be satisfactory with regard to Council's internal amenity requirements stipulated under B3.5.5 of Woollahra DCP 2015.

B3.6: On-Site Parking

- C1 On-site parking is designed and located so that it:*
- a) does not dominate the street frontage;*
 - b) preserves significant trees and vegetation of landscape value; and*
 - c) is located within the buildable area.*
- C2 For garages facing the street frontage, the maximum garage width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.*
- C3 Where possible on-site parking is to be accessed from the rear.*
- C4 Where there is no rear lane access, on-site parking is located within the building envelope.*
- C6 Notwithstanding C4, car parking structures may be located in the front setback (i.e. outside the building envelope) where:*
- a) the rise or fall measured to a distance of 7m from the street frontage is greater than 1 in 3 (refer to Figure 20A); and*
 - b) the car parking structures is incorporated into a podium or street wall; and*
 - c) the car parking structures is not more than 40m² in area.*
- C7 For garages located in the front setback, the maximum height of the garage structure is 2.7m above the footpath level.*
- C9 For separate structures, the roof form, materials and detailing complement the principal building.*
- C10 Garage doors are designed to complement the building design and any important character elements within the street.*
- C11 The width of driveways is minimised. Generally the width is no more than the minimum width required to comply with the relevant Australian Standards (see Section E1).*
- C12 Only one driveway entrance is provided. For example, development involving more than one dwelling shares the driveway access.*

The proposed garaging located within the Lower Ground Floor level is compliant with the above-mentioned requirements and is considered to be satisfactory with regard to the provisions of Part B3.6 of Woollahra DCP 2015.

B3.7.1: Landscaped Areas and Private Open Space

	Proposed	Control	Complies
C1 Tree canopy area	35.7% (969m ²)	35% (949m ²)	Yes
C2 Deep soil landscaped area	36.4% (989m ²)	35% (949m ²)	Yes
C3 Deep soil landscaped area to front setback	78.6% (238.5m ²)	40% (116m ²)	Yes

These controls apply to development in the R2 and R3 residential zones that alter the existing building footprint and/or building envelope and/or impacts upon existing landscapes.

C1 Tree canopy area is at least:

- a) 35% of the site area for dwelling houses, dual occupancies, semidetached development and attached dwellings.*

And at least half of the total tree canopy area on the site is contributed by canopy tree/s.

C2 35% of the site area is deep soil landscaped area.

C3 At least 40% of the front setback comprises deep soil landscaped area.

C4 For a dwelling house—a primary open space area of at least 35m² is provided.

C6 The primary open space area in C4 above has a gradient of no more than 1 in 10.

C7 Excavation or fill is permitted to achieve the required level area of primary open space up to 1.2m from existing ground level.

C8 Part of the primary open space area is directly accessible from a habitable room.

C10 Development takes advantage of opportunities to provide north-facing private open space to achieve comfortable year round use.

C11 Private open space is clearly defined for private use through planting, fencing or landscape features.

C12 The location of private open space:

- a) takes advantage of the outlook and natural features of the site;*
- b) reduces the adverse privacy and overshadowing impacts; and*
- c) addresses surveillance and privacy where private open space abuts public space.*

C14 Existing canopy trees and vegetation of landscape value are incorporated into the landscape area and treatment.

C15 Native species are preferred and landscape designs are encouraged to provide at least 50% of the plants as native species.

C16 Landscaping provides for a diversity of native species and a complexity of habitat through vertical layering. Note: Vertical layering, by planting a variety of vegetation in different sizes and heights provides more cover and feeding opportunities for wildlife species.

C17 Landscaping facilitates the linking of open space reserves through wildlife corridors and reduces habitat fragmentation and loss.

C18 The landscape design:

- a) uses vegetation types and landscaping styles which contribute to the streetscape and desired future character objectives for the locality;*
- b) uses vegetation types that will not moderately, severely or devastatingly block views in accordance with the Tenacity Land and Environment Court Principle;*
- c) does not adversely affect the structure of the proposed building or buildings on neighbouring properties;*
- d) considers personal safety by ensuring good visibility along paths and driveways and avoiding shrubby landscaping near thoroughfares;*
- e) contributes to energy efficiency and amenity by providing substantial shade in summer, especially to west facing windows and open car park areas and admitting winter sunlight to outdoor and living areas and other habitable rooms;*
- f) improves privacy between dwellings;*
- g) minimises risk of damage to overhead power lines and other services; and*
- h) provides adequate sight lines for vehicles and pedestrians, especially near street corners and intersections.*

The proposal is compliant with Council's tree canopy area and deep soil landscaped area requirements.

Council's Tree Management Officer considers the proposal to be satisfactory in terms of the proposed landscaping.

Council's Tree Management Officer considers the proposal to be satisfactory in terms of tree impacts subject to conditions.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.7.1 of Woollahra DCP 2015.

B3.7.2: Fences

- C1 Fencing is designed and located to protect the inhabitants of the property, and allows for casual surveillance from the building to the street.*
- C2 The arrangement of built form, fences, landscaping and other features clearly defines any public, common, and private space.*
- C3 Front fences and walls assist in defining building entrances.*
- C4 The height of front fences does not exceed:*
 - a) 1.2m if solid; or*
 - b) 1.5m if 50% transparent or open;*
- C8 Where a vehicular entrance is proposed in conjunction with a fence of height greater than 1.2m—a 45° splay or its equivalent is provided either side (as applicable) of the entrance to ensure driver and pedestrian vision. The splay is to have minimum dimensions of 2m x 2m.*
- C9 The rear and side fences:*
 - a) are located behind the building front setback; and*
 - b) do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary.*

- C10 Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side.*
- C15 The design and materials of front fences and walls are compatible with those fences and walls that contribute positively to the streetscape.*

Front fencing

The proposed 1.2-1.43m high solid front fence and approximately 2.4m high entry canopy are predominantly non-compliant/non-compliant with C4.

The objectives of the front fence height control are as follows:

- O1 To ensure fences and walls improve amenity for existing and new residents and contribute positively to streetscape and adjacent buildings.*
- O2 To ensure that fences and walls are not visually intrusive in the streetscape and to enhance pedestrian safety.*
- O3 To ensure that fences and walls do not unreasonably restrict views and vistas from streets and other public spaces.*
- O4 To ensure that development creates well defined areas of public and private space.*

The proposed non-compliant front fencing and entry canopy are considered to be satisfactory in terms of being contextually compatible within the local streetscape, will not unreasonably restrict public views and are considered to satisfactorily uphold the above-mentioned objectives.

The proposal is considered to be satisfactory with regard to the provisions of Part B3.7.2 of Woollahra DCP 2015.

B3.7.3: Site Facilities

- C1 Lockable mail boxes are provided close to the street and are integrated with front fences or building entries.*
- C3 Development that includes a residential component provides opportunity for at least one external clothes drying area.*
- C4 External clothes drying areas have access to sunlight, and are located in a secure place away from public spaces and screened from public view. Note: External drying areas may be located in the deep soil landscaped area.*
- C7 Mechanical plant equipment (including lift overruns) are not be visible from the streetscape or public domain.*
- C8 Mechanical plant equipment (including lift overruns) do not unreasonably impact on the visual or acoustic amenity of adjoining properties. The impact on neighbours is less than the impact on the occupants of the site where the air-conditioning unit is located. *
- C9 Mechanical plant equipment (including lift overruns) are suitably enclosed or screened to minimise noise impacts to adjoining properties. Note: Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the Protection of the Environment Operations Act 1997 apply.*

- C10 New fireplaces burn non-solid fuels, e.g. gas or electricity.*
- C12 Site services are suitably integrated with the development including the landscape design and are not visually intrusive within the streetscape.*
- C13 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be:*
- a) enclosed with doors if located in the building façade, or*
 - b) housed in a cabinet or enclosure if located external to the building.*
- The location, design, colour and material of the doors, cabinet or enclosure are visually unobtrusive and suitably integrated with the development, including fencing and landscaping.*

The proposal is considered to be compliant with the above-mentioned provisions, subject to Council's standard conditions requiring the adequate sound attenuation of the proposed mechanical plant and letterbox provision.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.7.3 of Woollahra DCP 2015.

B3.7.4: Ancillary Development - Swimming pools

- C1 The swimming pool does not occupy the deep soil landscaped area.*
- C2 Excavation beyond the controls in Section B3.4 is permitted to accommodate a backyard swimming pool, where the pool is outside the building envelope.*
- C3 The swimming pool (measured from the water edge) is at least 1.8m from property boundaries.*
- C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.*
- C5 The swimming pool is no deeper than 2m from the pool surround level.*
- C6 The location and design of the swimming pool and associated works do not adversely impact on prescribed trees.*

The proposed spa at the *Cellar and Wellness* floor level, the proposed swimming pool/spa to the rear of the lower ground floor level and the proposed spa to the north-western corner of the ground floor level are compliant with the above-mentioned controls with the exception of the proposed swimming pool/spa to the rear of the lower ground floor level being elevated as much as approximately 5.2m above existing ground level and the proposed spa to the north-western corner of the ground floor level being elevated as much as approximately 4.7m above existing ground level which are non-compliant with the maximum permissible of 1.2m (C4).

The objectives of the control are as follows:

- O1 To provide for recreational opportunities for swimming without compromising the amenity of the neighbouring properties.*
- O2 To limit excavation.*
- O3 To retain trees and vegetation of landscape value.*

The non-compliances are considered to satisfactorily uphold the above-mentioned objectives for the following reasons:

- It is considered that the amenity of adjoining properties will not be significantly affected by the non-compliances.
- The non-compliances do not involve excavation or tree impacts.

The proposal is considered to be satisfactory with regard to the provisions of Part B3.7.4 of Woollahra DCP 2015.

14.3 Chapter E1: Parking and Access

Part E1.4: Residential parking

The proposal provides 2 off-street car parking which complies with the maximum requirement of 2 car parking spaces for a dwelling house development as per E1.4.2.

Part E1.10: Parking and access design standards

Council's Development Engineer considers the proposal to be satisfactory in terms of parking and access design subject to recommended **Condition D.12**.

14.4 Chapter E2: Stormwater and Flood Risk Management

The provisions of this chapter require the adequate provision of sustainable stormwater management, the controlled release of stormwater to prevent flooding downstream and the prevention of stormwater pollution to Sydney Harbour and waterways and to protect land and property from flooding.

Council's Development Engineer considers the proposal to be satisfactory in terms of stormwater management subject to **Conditions D.13 & D.14**.

The subject site is not located within Council's flood planning area.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part E2 of Woollahra DCP 2015.

14.5 Chapter E5: Waste Management

The provisions of this chapter aim to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

Council's standard conditions in order to adequately address the provisions of Chapter E5 of Woollahra DCP 2015 have been recommended.

15. CONTRIBUTION PLAN

The Section 7.12 Contributions Plan is applicable. A 1% levy (of the total cost of works) applies. The contribution is required by **Condition D.4** which will be used for a variety of works as outlined in the Section 7.12 Contributions Plan.

16. APPLICABLE ACTS/REGULATIONS

16.1 Clause 61(1) of the EPA Regulation 2021

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-1991: The demolition of structures. This requirement is addressed by Council's standard condition.

16.2 Swimming Pools Act 1992

A swimming pool is at all times to be surrounded by a child-resistant barrier that separates the swimming pool from any residential building and that is designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations. Additional provisions relate to:

- a) The swimming pool must be registered in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance issued pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash must be discharged to the sewer

These requirements are addressed by recommended conditions.

16.3 National Parks and Wildlife Act 1974

Council's Heritage Officer considers the proposal to be satisfactory with regard to potential impacts upon Aboriginal heritage subject to recommended conditions.

17. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report.

18. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposal as conditioned.

19. THE PUBLIC INTEREST

It is considered that the proposal is not contrary to the public interest.

20. CONCLUSION

This assessment has considered the application in terms of the relevant matters under Section 4.15(1) of the Environmental Planning and Assessment Act and other relevant considerations and the proposal is considered to be satisfactory in this regard, subject to conditions.

21. DISCLOSURE STATEMENTS

Under Section 10.4 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

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

THAT the Council, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been adequately demonstrated and that consent may be granted to the development application, which contravenes the height of buildings development standard prescribed under Clause 4.3 of Woollahra LEP 2014.

AND

THAT the Council, as the consent authority, grant development consent to Development Application No. 121/2024/1 for the demolition of 3 dwelling houses and ancillary structures at 4 & 6 Fisher Avenue & 27 Vaucluse Road Vaucluse, the amalgamation of 4 & 6 Fisher Avenue and a portion of 27 Vaucluse Road to form 4-6 Fisher Avenue, the construction of a dwelling house and swimming pool and landscaping works thereto, subject to the following conditions:

A. GENERAL CONDITIONS

A.1 Conditions

A. 1.	<p>Conditions</p> <p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 (“the Act”), and the provisions of the Environmental Planning and Assessment Regulation 2021 (“the Regulations”) and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (“the Development Certification and Fire Safety Regulations”), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence. • Where there is any breach Council may without any further warning: <ul style="list-style-type: none"> a) Issue Penalty Infringement Notices (On-the-spot fines); b) Issue notices and orders; c) Prosecute any person breaching this consent; and/or d) Seek injunctions/orders before the courts to restrain and remedy any breach. • Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences. • Should Council have to take any action to enforced compliance with this consent or other environmental laws Council’s policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. • This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action. • The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the Crimes (Sentencing Procedure) Act 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. <p>Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.</p>
A. 2.	<p>Definitions</p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p>Applicant means the applicant for this consent.</p> <p>Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p>Local native plants means species of native plant endemic to Sydney’s eastern suburbs.</p>

	<p>Owner-builder has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p>PC means the Principal Certifier under the <i>Act</i>.</p> <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. <p>Condition Reason: To ensure all parties are aware of the relevant definitions.</p>
<p>A. 3.</p>	<p>Approved Plans and Supporting Documents</p>
	<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>

Reference	Description	Author	Dates
DA000 Rev 3	Architectural drawings	Stafford Architecture	21/10/2024
DA101 Rev 3			21/10/2024
DA110 Rev 2			15/10/2024
DA120 Rev 2			15/10/2024
DA121 Rev 2			21/10/2024
DA124 Rev 2			21/10/2024
DA201 Rev 1			15/10/2024
DA202 Rev 2			21/10/2024
DA203 Rev 3			21/10/2024
DA204 Rev 3			21/10/2024
DA205 Rev 3			21/10/2024
DA302 Rev 3			21/10/2024
DA303 Rev 3			21/10/2024
DA305 Rev 1			15/10/2024
DA321 Rev 2			21/10/2024
DA322 Rev 1			15/10/2024
DA323 Rev 1			15/10/2024
DA331 Rev -			04/04/2024
DA332 Rev -			04/04/2024
19329-21 PS V1	Plan of proposed subdivision	Trent James Vella	07/03/2024
DA-00 Rev 01 DA-01 Rev 01 DA-02 Rev 01 DA-03 Rev 01 DA-04 Rev 01 DA-05 Rev 01 DA-06 Rev 01	Landscape Plan	Wyer & CO.	28/03/2024
AIA4-6Fis,27Vau/24	Arboricultural Impact Assessment and Tree Protection Plan	Lisa Durland – Green Spaces Consultancy	04/04/2024
Job No. 21/197, Revision B	Stormwater Management Plan	ITM Design	03/04/2024
19329-21 PS V1	DRAFT Deposited Plan	Trent James Vella	7/03/2024
34861PHrpt Rev3	Geotechnical and Hydrogeological Investigation Report	JK Geotechnics	03/04/2024

Notes:

- Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.
- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

A. 4. Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

	<p>Notes:</p> <ul style="list-style-type: none">This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs. <p>Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.</p>																								
A. 5.	<p>No Underpinning works</p> <p>This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.</p> <p>Condition Reason: To ensure all works are located within the boundaries of the site and to confirm that no consent is granted for underpinning works to any structures on adjoining properties.</p>																								
A. 6.	<p>Tree Preservation and Landscaping Works</p> <p>While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.</p> <p>a) The following trees must be retained:</p> <ul style="list-style-type: none">Trees on private land: <table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Dimension (metres)</th></tr><tr><td>1</td><td><i>Angophora costata</i> (Sydney Pink Gum)</td><td>Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024</td><td>15 x 18</td></tr><tr><td>12</td><td><i>Phoenix canariensis</i> (Canary Island Date palm)</td><td>Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024</td><td>10 x 4</td></tr><tr><td>25</td><td><i>Camellia sasanqua</i> (Camellia)</td><td>Southern side boundary of front garden of 27 Vaucluse Road, Vaucluse</td><td>6 x 3.5</td></tr><tr><td>26</td><td><i>Castanospermum australe</i> (Black Bean)</td><td>Front garden of 27 Vaucluse Road, Vaucluse</td><td>9 x 6</td></tr><tr><td>27</td><td><i>Ficus rubiginosa</i> (Port Jackson Fig)</td><td>Front garden of 27 Vaucluse Road, Vaucluse</td><td>13 x 11</td></tr></table> <p>The tree/s required to be retained must appear coloured green on the Construction Certificate plans.</p> <p>b) The following trees must be transplanted and successfully established in the locations indicated on the approved landscape plan:</p>	Council Ref No	Species	Location	Dimension (metres)	1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15 x 18	12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	10 x 4	25	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary of front garden of 27 Vaucluse Road, Vaucluse	6 x 3.5	26	<i>Castanospermum australe</i> (Black Bean)	Front garden of 27 Vaucluse Road, Vaucluse	9 x 6	27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	13 x 11
Council Ref No	Species	Location	Dimension (metres)																						
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27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	13 x 11																						

Council Ref No	Species	Location (current)	Dimension (metres)
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	6 x 3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	6 x 3

Arboricultural contractors experienced in palm relocation must engaged to prepare the palms for moving, prepare the locations where they are to be planted, install trunk protection and rootball protection for the moving, use the correct machinery to mitigate damage, guy the trunk or install rootball anchors as required and undertake all necessary maintenance (minimum 12 months) to ensure robust establishment.

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

d) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
3, 4, 5, 6	<i>Cyathea cooperi</i> (Scaly tree fern)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	~5 x 3 each
7, 8, 9	<i>X Cupressocyparis leylandii</i> (Leyland Cypress)*	Southern side of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	7 x 5 metres
13, 14, 15	<i>Harpephyllum caffrum</i> (Kaffir Plum)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	8 x 7 each
17, 18, 19, 20	<i>X Cupressocyparis leylandii</i> (Leyland Cypress)*	Northern side of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	~5-3.5 metres height
22	<i>Phoenix robellini</i> (Dwarf Date palm)	Rear garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	~2 x 3

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

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

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.	<p>Construction Certificate Required Prior to Any Demolition</p> <p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> • Before issue of a construction certificate • Before building work commences <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p> <p>Note:</p> <ul style="list-style-type: none"> • See <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>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. 3.	<p>Erosion and Sediment Controls – Installation</p> <p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> 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 b) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book).

	<p>Where there is any conflict The Blue Book takes precedence.</p> <p>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. 4.	<p>Public Road Assets Prior to Any Work/Demolition</p> <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> • road pavement, • street signage including street lights, • kerb and gutter, • footway including pedestrian crossings, footpath, and driveways, • retaining walls, or other significant structures, • Heritage Items, including street name inlays, • utility service items including historical utility covers, and • drainage structures/pits/pipes (CCTV footage). <p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p> <p>If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.</p> <p>Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.</p>
B. 5.	<p>Payment of Security and Fees</p> <p>Prior to any site works, the following security and fees must be paid in full:</p>

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	\$531,236	No	T115
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Security Administration Fee	\$225	No	T16
TOTAL SECURITY AND FEES	\$531,461		

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:

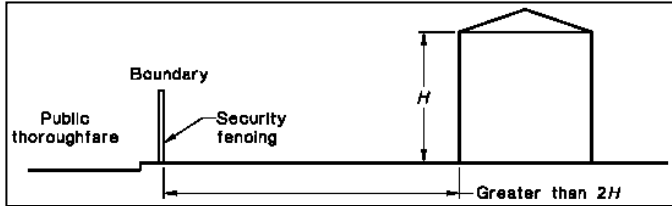
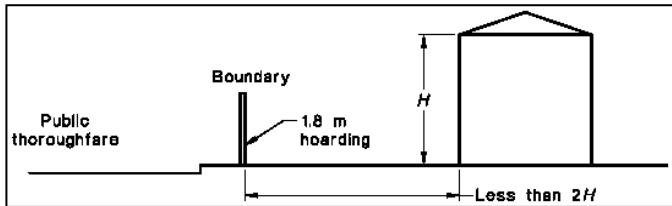
- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever 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.

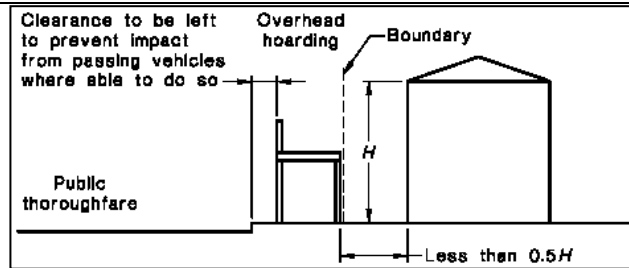
Notes:

- 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.	<p>Dilapidation Reports for Existing Buildings</p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but are not limited to):</p> <ul style="list-style-type: none"> a) No.2 Fisher Avenue b) No.8 Fisher Avenue c) 29A Vaocluse 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. 7.	<p>Public Road Assets Prior to Any Work/Demolition</p> <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> • road pavement, • street signage including street lights, • kerb and gutter, • footway including pedestrian crossings, footpath, and driveways, • retaining walls, or other significant structures, • Heritage Items, including street name inlays,

	<ul style="list-style-type: none"> • utility service items including historical utility covers, and • drainage structures/pits/pipes (CCTV footage). <p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p> <p>If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.</p> <p>Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.</p>
B. 8.	<p>Adjoining Buildings Founded on Loose Foundation Materials</p> <p>Before any site work commences, a professional engineer must determine the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis, and any reasonable direction of the professional engineer must be complied with.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A failure to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. • The person with the benefit of this consent is likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919. <p>Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>
B. 9.	<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. 10.	<p>Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection</p> <p>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.</p>  <p>Type A Hoarding</p> <p>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.</p>  <p>Type B Hoarding</p> <p>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:</p> <ol style="list-style-type: none"> the vertical height above footpath level of the structure being demolished is less than 4.0m; or the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure. <p>The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:</p> <ol style="list-style-type: none"> extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary, have a clear height above the footpath of not less than 2.1m, terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



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

All Hoardings

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

Hoardings on Public Land including 'Creative Hoardings'

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

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

Notes:

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

	Condition Reason: To ensure public safety.
B. 11.	<p>Site Signs</p> <p>Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.</p> <p>Clause 70 of the Regulation provides:</p> <p>Erection of signs</p> <ul style="list-style-type: none"> For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: <ul style="list-style-type: none"> a) showing the name, address and telephone number of the principal certifier for the work, and b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and c) stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building. This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia. <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p>Signs on development sites</p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out. <p>Notes:</p> <ul style="list-style-type: none"> Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with. If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation. <p>Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>

B. 12.	<p>Toilet Facilities</p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ol style="list-style-type: none"> must be a standard flushing toilet, and must be connected to a public sewer, or if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council. <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p>Notes:</p> <ul style="list-style-type: none"> In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999. This condition does not set aside the requirement to comply with SafeWork NSW requirements. <p>Condition Reason: To ensure toilet facilities are provided for workers at the work site.</p>
B. 13.	<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. 14.	<p>Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)</p> <p>Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;</p>

a) Tree Protection Fencing:

Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
25	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary of front garden of 27 Vaucluse Road, Vaucluse	2.7
26	<i>Castanospermum australe</i> (Black Bean)	Front garden of 27 Vaucluse Road, Vaucluse	5.8
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	10.8

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 or existing paving be left in situ. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.

- c) Trunk protection must be installed around the trunks of the following trees:

Council Ref No	Species
1	<i>Angophora costata</i> (Sydney Pink Gum)
2	<i>Howea forsteriana</i> (Kentia palm)
12	<i>Phoenix canariensis</i> (Canary Island Date palm)
21	<i>Howea forsteriana</i> (Kentia palm)
26	<i>Castanospermum australe</i> (Black Bean)
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)

Trunk protection must consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) must be placed over the padding and around the trunk of the tree at 150mm centres. The planks must be secured with 8 gauge wire at 300mm spacing. Trunk protection must extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.
- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- f) Existing paving as ground protection within the TPZ of Tree 1 and Tree 27 must remain in situ during the demolition and construction of the proposed development to protect the roots underneath from compaction and damage. The existing paving can only be removed for turfing and soft landscaping. The TPZ of Tree 1 is specified in the table below:

Council Ref No	Species	Tree Location	TPZ radius from Centre of Trunk (Metres)
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	10.8

- g) 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)
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2

Ground protection must consist of (geotextile fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface. No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within the ground protection area unless specified in this consent.

	<p>h) Height Control Beam - The proximity of the low portion of the canopy of Tree 1 must be protected in relation to movement of vehicles and plant to ensure that branches are not damaged. A height control beam must be installed at the edge of the lowest portions of the canopy of Tree 1 to prevent vehicles and plant exceeding the height of the lowest portions of the canopy driving under the canopy of the tree and causing damage. A corridor for vehicular movement must be approved by the Project Arborist prior to any work commencing.</p> <p>i) 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>j) 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>k) 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 Standard Condition B.5 (Autotext 5B)</p>
B. 15.	<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>
B. 16.	<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>

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

All compliance certification documents must be kept on site.

As a minimum the following intervals of site inspections must be made:

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.

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

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

Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.

B. 17. Permissible work within Tree Protection Zones

Prior to any site works, the following works are permissible within the Tree Protection Zone:

Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works
1	<i>Angophora costata</i> (Sydney Pink Gum)	15	Proposed demolition works. Proposed dwelling and driveway. Proposed pedestrian ramp and path constructed above existing ground levels on piers or cantilevered. Proposed front fence constructed using existing front fence footings or pier footings to avoid the severing of woody roots and to provide a minimum 150mm clearance from the trunk of Tree 1. Proposed soft landscaping.
2	<i>Howea forsteriana</i> (Kentia palm)	2	Proposed demolition works. Proposed driveway and breeze block privacy screen. Proposed front fence. Proposed soft landscaping.

	12	<i>Phoenix canariensis</i> (Canary Island Date palm)	3	Proposed demolition works. Proposed soft landscaping and stairs.
	21	<i>Howea forsteriana</i> (Kentia palm)	2	Proposed demolition works. Proposed soft landscaping and front fence.
	25	<i>Camellia sasanqua</i> (Camellia)	2.7	Proposed demolition. Recommended tree and ground protection.
	26	<i>Castanospermum australe</i> (Black Bean)	5.8	Proposed demolition. Recommended tree and ground protection.
	27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	10.8	Proposed demolition. Recommended tree and ground protection.
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)				
B. 18. Exposure of features indicating Aboriginal heritage during demolition or excavation				
Demolition and excavation contractors must receive a heritage induction by a Heritage Officer from La Perouse Local Aboriginal Land Council. If any of the following features are exposed, a La Perouse LALC Heritage Officer must be invited to inspect the feature and recommend whether harm is unlikely or, alternatively, if further investigation or monitoring is required. <ul style="list-style-type: none"> Any large flat sandstone exposure. Any sandstone overhang. Any shell, bone, concentrated areas of charcoal, flaked stone or ground edge artefacts. If there is any doubt, a La Perouse LALC Heritage Officer must be engaged.				
Condition Reason: Conservation of any potential Aboriginal heritage as per Woollahra LEP 2014 s5.10(1)(d).				
B. 19. Aboriginal Heritage Due Diligence Responsibilities				
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>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>
<p>B. 20.</p>	<p>Aboriginal Heritage Induction</p> <p>Prior to any site works:</p> <ul style="list-style-type: none"> a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974; b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier. <p>Condition Reason: To protect Aboriginal heritage.</p>

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

<p>D. 1.</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> <ul style="list-style-type: none"> a) Landscaping to the proposed <i>sunken garden</i> occupying the rear portion of 27 Vacluse Road must consist of species with maximum mature heights not exceeding RL47.55. b) Planting to the first-floor planter to the front elevation and returning to the front section of the northern side elevation shall not exceed RL55.00. c) The proposed Tuckeroo and European Olive tree plantings to the front setback with stated mature heights of up to 8-10m must be substituted for species with a maximum mature height no greater than the roof level RL56.42. d) Window W.F.05 must consist of fixed translucent glazing or alternatively privacy louvres to a minimum height of 1.65m above the first floor level. e) 786m³ of the excavated material must be used on-site as fill in accordance with architectural drawing DA003 Rev 1 dated 15/10/2024. f) In accordance with Attachment 4 of Council's DA Guide a Transplant Feasibility and Method Statement must be prepared by Arboricultural contractors experienced in palm relocation. The document must detail preparation of palms T2 and T21 for moving, prepare the locations where they are to be planted, install trunk protection and rootball protection for the moving, use the correct machinery to mitigate damage, guy the trunk or install rootball anchors as required and undertake all necessary maintenance (minimum 12 months) to ensure robust establishment. This document must be submitted to Council's Tree Officer for approval prior to the issue of any construction certificate.
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	<p>g) The submitted Amended Arboricultural Impact Assessment and Tree Protection Plan, written by Lisa Durland – Green Spaces Consultancy, dated 04/04/2024 must be amended to delete any reference stating Trees 25 and 26 were approved for removal as part of DA142/2023/1. Trees 25 and 26 were conditioned to be retained as part of DA142/2023/1.</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. <p>Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.</p>												
D. 2.	<p>Surrender of Consent (section 4.17(1)(b) and section 4.17(5) of the Act)</p> <p>Before the issue of any construction certificate, notices of surrender of development consents DA340/2022 dated 8 August 2023 and DA 142/2023 dated 31 January 2024 must be provided to Council in writing by the Owners of the land in compliance with clauses 67 and 68 of the Regulations.</p> <p>No construction certificate must be issued until Council has acknowledged in writing that this condition has been satisfied.</p> <p>Condition Reason: To ensure an existing development consent/consents is/are surrendered.</p>												
D. 3.	<p>Payment of Long Service Levy</p> <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> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i></td></tr><tr><td>Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</td><td>Contact LSL Corporation or use online calculator</td><td>No</td><td></td></tr></table> <p>Building and Construction Industry Long Service Payment The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.</p> <p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none">• cash deposit with Council.	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	
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	<ul style="list-style-type: none"> • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. 										
	Condition Reason: To ensure any relevant levy is paid.										
D. 4.	Payment of S7.12 Contributions Levy <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. <p>The applicable levy rate is to be calculated using the summary schedule below.</p> <table border="1"> <thead> <tr> <th colspan="2">Summary Schedule</th></tr> <tr> <th>Development Cost</th><th>Levy Rate</th></tr> </thead> <tbody> <tr> <td>• Up to and including \$100,000</td><td>Nil</td></tr> <tr> <td>• More than \$100,000 and up to and including \$200,000</td><td>0.5% of the cost</td></tr> <tr> <td>• More than \$200,000</td><td>1% of the cost</td></tr> </tbody> </table> <p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none"> • Cash deposit with Council, • Credit card payment with Council, or • Bank cheque made payable to Woollahra Municipal Council. <p>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:</p> <ul style="list-style-type: none"> • 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. <p>Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, 	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
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										

	<ul style="list-style-type: none"> 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. <p>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.</p> <p>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).</p> <p>Condition Reason: To ensure any relevant contributions are paid.</p>
D. 5.	<p>BASIX Commitments</p> <p>Before the issue of any construction certificate, BASIX Certificate No. 1742448S 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>
D. 6.	<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>

Encroachments:

- a) All existing encroachments over Council's road reserve on Fisher Avenue, including pavers and strip drains, must be removed and the area restored to Council's Asset's Engineer's satisfaction.

Drainage Works:

- a) The discharge of stormwater, through inter-allotment drainage easement over proposed Lot 2 (No.27 Vaocluse Road), by direct connection to Council's belowground drainage system, through a new Kerb Inlet Pit (KIP) fronting No. 27 Vaocluse Road. Council's existing belowground drainage system, fronting No. 23A Vaocluse Road, must then be extended, to connect to the new KIP fronting the site. An additional second new KIP must also be placed between the two end connections and to the satisfaction of Council's Asset Engineer.

Note: the 2 new KIPs must be standard double grated gully pits with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 with a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate.

Longitudinal sections must be submitted. Design details and location of all existing public utility services must be included in the longitudinal sections.

Road and Footpath Works:

- a) The removal of the 2 redundant vehicular crossings on Fisher Avenue (4 and 6 Fisher Avenue) 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 on Fisher Avenue, in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineer.

Note: The existing shared vehicular crossing with the neighbouring property at No.8 Fisher Avenue, must be saw cut along property boundary with the approximate 3.2m wide space in between the proposed crossing and the neighbouring crossing converted to natures strip and kerb and gutter to the satisfaction of Council's Asset Engineer. The layback for the neighbouring property (No.8 Fisher Avenue) must be reconstructed.

- c) 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.

Note: The gradient of the vehicular crossing must be in accordance with the AS/NZS 2890.1:2004 and Council's Specifications. The existing footpath levels are to be maintained wherever possible and cannot be altered without Council's approval.

- d) The removal and replacement of all cracked/damaged kerb and gutter for the full frontage of the site on Fisher Avenue, in accordance with Council's Specification, Council's standard drawing RF3 and to the satisfaction of Council's Assets Engineers.
- e) The reinstatement of the existing, kerb and gutter and road pavement on Fisher Avenue and Vaocluse Road, to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- f) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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.	\$113,300	No	T113
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$0	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	\$113,974		

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.

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.
- 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>
D. 7.	<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. 8.	<p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation. In particular, the geotechnical report must be certified by a Chartered Geotechnical Engineer with NER credentials. 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. 9.</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. 10.</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 by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2 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><u>Note:</u> the Geotechnical & Hydrogeological Investigation Report referenced within this consent, must be revised to be in accordance with the approved Architectural Plans and the site investigation to extend to at least the likely depth of influence of construction. The report must comply with all requirements within Council's DCP <u>Section E2.2.10</u> and <u>Attachment 6</u> - Guidelines for Geotechnical and Hydrogeological Reports.</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 foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. 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),

	<ul style="list-style-type: none"> • 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. <p>Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>
D. 11.	<p>Ground Anchors</p> <p>This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths.</p> <p>Before the issue of any construction certificate, if ground anchors are proposed:</p> <ol style="list-style-type: none"> 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. 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. 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>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>

D. 12.	<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 and including the following:</p> <ul style="list-style-type: none"> a) Driveway splays must be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1:2004. Alternatively a fence/gate/landscaping to a maximum height of 0.9m is permitted in the splay area. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area. b) The gradients of the domestic driveway must be in accordance with the AS/NZS 2890.1:2004 requirements. <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>
D. 13.	<p>Stormwater Management Plan</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared 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 the Stormwater Management Plan, Job No. 21/197, Revision B, prepared by ITM Design, dated 03/04/2024, other than amended by this and other conditions; b) The discharge of stormwater, through inter-allotment drainage easement over proposed Lot 2 (No.27 Vacluse Road), by direct connection to Council's belowground drainage system, through a <u>new</u> Kerb Inlet Pit (KIP) fronting No. 27 Vacluse Road. Council's existing belowground drainage system, fronting No. 23A Vacluse Road, must then be extended, to connect to the new KIP fronting the site. An <u>additional</u> second <u>new</u> KIP must also be placed between the two end connections and to the satisfaction of Council's Asset Engineer. Note: the 2 new KIPs must be standard double grated gully pits with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 with a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate. Longitudinal sections must be submitted. Design details and location of all existing public utility services must be included in the longitudinal sections. c) Creation of an Easement to Drain Water (0.9m wide) over the proposed LOT 2, proposed Lot 1 is to be annotated as the benefiting lot and proposed Lot 2 as the burdening lot, as demonstrated on the DRAFT Deposited Plan, referenced 19329-21 PS V1, prepared by Trent James Vella, dated 7/03/2024.

- d) Subsoil drainage/seepage water is NOT to be collected and discharged to the kerb and gutter, to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings.
- e) Dimensions of all drainage pits and access grates must comply with AS3500.3.
- f) Compliance the objectives and performance requirements of the BCA.
- g) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- i) Provision of an Onsite Stormwater Detention (OSD) System, having a minimum volume of 67.8m³.
 - 1. Additional access grates for the OSD System must be provided for easy maintenance.
 - 2. A 900mm x 900mm overflow pit must be provided adjacent to the Discharge Control Pit of the OSD System.

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

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the 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 Tank and OSD System.
- c) All invert levels reduced to Australian Height Datum (AHD).
- d) Location and dimensions of all drainage pits.
- e) Point and method of connection to Councils drainage infrastructure.
- f) Overland flow paths over impervious areas.

On-site Stormwater Detention (OSD) System Details:

- a) Any potential conflict between existing and proposed trees and vegetation.
- b) Internal dimensions and volume of the proposed detention storage.
- c) Diameter of the outlet to the proposed detention storage basin.
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures.
- e) Details of access and maintenance facilities.
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system.
- h) Non-removable fixing details for orifice plates where used.

Rainwater Reuse System Details:

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

	<p>For Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.</p> <p>All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>Notes: The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".</p>
	<p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
D. 14.	<p>Private Drainage Easement</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, a) Creation of an Easement to Drain Water (0.9m wide) over the proposed LOT 2, proposed Lot 1 is to be annotated as the benefiting lot and proposed Lot 2 as the burdening lot, as demonstrated on the DRAFT Deposited Plan, referenced 19329-21 PS V1, prepared by Trent James Vella, dated 7/03/2024 and the Stormwater Management Plan, Job No. 21/197, Revision B, prepared by ITM Design, dated 03/04/2024.</p> <p>The easement must be created on the certificate of title of all burdened and benefited properties with the terms of the easements specified.</p> <p>The applicant must engage a registered surveyor to prepare a plan of survey and the application must be lodged with the NSW Land Registry Services with any necessary fees. Woollahra Council must be annotated as the Prescribed Authority on the Section 88B Instrument. A copy of the lodgement details must be provided to Council prior to the issue of any Construction Certificate in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP.</p> <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
D. 15.	<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.

	<ul style="list-style-type: none"> 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>
D. 16.	<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. 17.	<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.

	Condition Reason: To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.
D. 18.	<p>Waste Storage – Single Dwelling</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 make provision for:</p> <p>a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling.</p> <p>b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.</p> <p>Condition Reason: To ensure a waste and recycling storage area is provided.</p>
D. 19.	<p>Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water</p> <p>Before the issue of any construction certificate, the approved plans must be submitted to Sydney Water Tap In TM online service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met.</p> <p>The Tap In™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • building plan approvals • connection and disconnection approvals • diagrams • trade waste approvals • pressure information • water meter installations • pressure boosting and pump approvals • changes to an existing service or asset, e.g. relocating or moving an asset. <p>Notes:</p> <ul style="list-style-type: none"> • For more information go to Sydney Water www.sydneywater.com.au/tapin/index.htm and www.sydneywater.com.au/SW/plumbing-building-developing/building/building-over-or-next-to-assets/index.htm or call 1300 082 746. <p>Condition Reason: To ensure the development meets the requirements of Sydney Water, and protects existing assets owned by Sydney Water.</p>

D. 20.	Light and Ventilation
	<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 all lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1.</p> <p>If an alternate solution is proposed then the construction certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability.</p> <p>This condition does not set aside the mandatory requirements for 'Legionella Control' under the Public Health Act 2010 and Public Health Regulation 2022 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Clause 69 of the Regulation requires compliance with the BCA. Clause 19 of the Development Certification and Fire Safety Regulation prevents the issue of a construction certificate unless the Principal Certifier is satisfied that compliance has been achieved. • Part 3, Division 1 of the Development Certification and Fire Safety Regulation details what information must be submitted with any construction certificate. It is the Applicant's responsibility to demonstrate compliance through the construction certificate application process. • Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have overriding effect if offensive noise or odour arises from the use. • Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2. <p>Condition Reason: To ensure the development is provided with adequate light and ventilation.</p>
D. 21.	<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 of all off-street car parking spaces, prepared by a suitably qualified person, which includes details and specifications to illustrate how the off-street car parking spaces will be constructed with the capacity to install at a minimum, a 'Level 2' (single phase, 7Kw power) electric vehicle charger point.</p> <p>Condition Reason: To ensure the provision of electric vehicle circuitry to enable the future installation of electric vehicle charging point(s).</p>

D. 22.	Acoustic Certification of Mechanical Plant and Equipment
	<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 be accompanied by a certificate from a professional acoustic engineer certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level, at any time.</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> <p>Where sound attenuation is required this must be detailed.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Further information including lists of Acoustic Engineers can be obtained from: <ul style="list-style-type: none"> - Australian Acoustical Society - professional society of noise-related professional www.acoustics.asn.au - Association of Australian Acoustical Consultant - professional society of noise related professionals www.aaac.org.au
	Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.

E. BEFORE BUILDING WORK COMMENCES

E. 1.	Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
	<p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> a) that the work must be carried out in accordance with the requirements of the Building Code of Australia, b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences. <p>This condition does not apply:</p> <ol style="list-style-type: none"> a) to the extent to which an exemption is in force under the Home Building Regulation 2014, or b) 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>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. • 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. <p>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.</p>

<p>E. 3.</p>	<p>Notification of Home Building Act 1989 requirements</p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:</p> <p>a) In the case of work for which a Principal Contractor is required to be appointed:</p> <ul style="list-style-type: none"> the name and licence number of the Principal Contractor, and the name of the insurer by which the work is insured under Part 6 of that Act, <p>b) In the case of work to be done by an Owner-builder:</p> <ul style="list-style-type: none"> the name of the Owner-builder, and if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit. <p>If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.</p> <p>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> <p>For the purposes of section 4.17(11) of the Act, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.</p> <p>Condition Reason: To ensure Council is notified of the Home Building Acts 1989 requirements.</p>
<p>E. 4.</p>	<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> <p>a) The Soil and Water Management Plan if required under this consent;</p> <p>b) “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>c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia. The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

- Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.
- Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being.

Condition Reason: To prevent potential water pollution and dust nuisance.

F. DURING BUILDING WORK

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.	<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> <ul 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.

	<p>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.</p> <p>h) Provide a clear safe pedestrian route a minimum of 1.5m wide.</p> <p>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> <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <p>a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.</p> <p>b) Australian Road Rules.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. • Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> - erect a structure or carry out a work in, on or over a public road, or - dig up or disturb the surface of a public road, or - remove or interfere with a structure, work or tree on a public road, or - pump water into a public road from any land adjoining the road, or - connect a road (whether public or private) to a classified road, - otherwise than with the consent of the appropriate roads authority. • Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including: <ul style="list-style-type: none"> - Part C Management of waste: <ul style="list-style-type: none"> a) For fee or reward, transport waste over or under a public place b) Place waste in a public place c) Place a waste storage container in a public place. - Part E Public roads: <ul style="list-style-type: none"> a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road. <p>Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.</p> <p>Condition Reason: To ensure that the support of adjoining land is not removed.</p> <p>Condition Reason: To monitor and manage vibration impacts from development.</p>
<p>F. 3.</p>	<p>Critical Stage Inspections</p> <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p>

	<p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent. • The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development. <p>Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p>
<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.

	<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>
F. 5.	<p>Maintenance of Environmental Controls</p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ol style="list-style-type: none"> erosion and sediment controls, dust controls, dewatering discharges, noise controls, vibration monitoring and controls, and ablutions. <p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
F. 6.	<p>Compliance with Geotechnical / Hydrogeological Monitoring Program</p> <p>While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.</p> <p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ol style="list-style-type: none"> the location and type of monitoring systems to be utilised, recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and the contingency plan. <p>Notes:</p> <ul style="list-style-type: none"> The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage. <p>Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p>
F. 7.	<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. 8.</p>	<p>Vibration Monitoring</p> <p>While site work is being carried out, vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.</p> <p>If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.</p> <p>Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.</p>

	<p>Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.</p> <p>The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.</p> <p>A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.</p> <p>Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Professional engineer has the same mean as in Schedule 1 of the BCA. • Building has the same meaning as in section 1.4 of the Act i.e. "building includes part of a building and any structure or part of a structure...." • Supported land has the same meaning as in the Conveyancing Act 1919. <p>Condition Reason: To monitor and manage vibration impacts from development.</p>
<p>F. 9.</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". • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>

F. 10.	<p>Disposal of Site Water During Construction</p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993. b) Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water. c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas. <p>Condition Reason: To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution.</p>
F. 11.	<p>Filling of Site</p> <p>While site work is being carried out, to the extent that this consent permits filling of the site, such fill must be virgin excavated natural material ("VENM").</p> <p>Notes:</p> <ul style="list-style-type: none"> • Under Schedule 1 of the Protection of the Environment Operations Act 1997 "virgin excavated natural material" means natural material (such as clay, gravel, sand, soil or rock fines): <ul style="list-style-type: none"> - that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and - that does not contain any sulfidic ores or soils or any other waste, and includes excavated natural material that meets such criteria for virgin excavated natural material as may be approved for the time being under an EPA Gazettal notice. • Sulfidic ores and soils are commonly known as acid sulfate soils. • If a person transports waste to a place (the site) that cannot lawfully be used as a waste facility for that waste: (a) the person, and, (b) if the person is not the owner of the waste, the owner, are each guilty of an offence under section 143 of the Protection of the Environment Operations Act 1997. • A person who is the owner or occupier (principal contractor) of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an offence under section 144 of the Protection of the Environment Operations Act 1997. • Additional information is available from the NSW Environment Protection Authority website. <p>Condition Reason: To ensure that waste material is not used as fill.</p>
F. 12.	<p>Site Cranes</p> <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. <p>Condition Reason: To ensure site cranes are used safely with the relevant approvals.</p>
F. 13.	<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: 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> <p>Condition Reason: To ensure that any road, drainage, or miscellaneous works comply with Council's specifications.</p>
<p>F. 15.</p>	<p>Placement and Use of Skip Bins</p> <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <p>a) Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.</p> <p>Notes:</p> <ul style="list-style-type: none"> Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards. <p>Condition Reason: To ensure waste storage containers are appropriately located.</p>
<p>F. 16.</p>	<p>Prohibition of Burning</p> <p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p> <p>Notes:</p> <ul style="list-style-type: none"> Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning. <p>Condition Reason: To ensure no burning of waste occurs.</p>

<p>F. 17.</p>	<p>Dust Mitigation</p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <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. 18.</p>	<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. 19.	<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"> 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. <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"> 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,

	<p>i) all waste must be transported to a place that can lawfully be used as a waste facility, and</p> <p>j) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.</p>
	<p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>
F. 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> <p>a) Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal.</p> <p>b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.</p> <p>c) No asbestos products may be reused on the site.</p> <p>d) No asbestos laden skip or bins must be left in any public place.</p> <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>
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>Archaeological Features – Unexpected Findings</p> <p>While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.</p> <p>Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.</p> <p>Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. • Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. • During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

	Condition Reason: To protect archaeological features.
F. 27.	<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> <ol style="list-style-type: none"> 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>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>
F. 28.	<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>
F. 29.	<p>Salvaging of building materials</p> <p>Stone, brick, timber weatherboards, joinery and decorative architectural elements to be demolished must be catalogued, labelled, salvaged and where possible reused on the project.</p>

	<p>Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.</p> <p>Condition Reason: To promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).</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> <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>
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> <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. <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>

	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 or specified distances of nominated trees listed in this consent. • The project arborist must supervise the demolition of the existing boundary walls within the TPZ of trees A, B and C. The condition of exposed roots must be managed and documented. • The project arborist must supervise the installation of the new boundary walls within the TPZ of trees A, B and C, documenting the condition of roots and soil. • The project arborist must ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter. • The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees. • 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. • Regular inspections as indicated in the Tree Management Plan.
	<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>	
	Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.	
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 tree/s must be planted and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the criteria outlined below.</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>3 x <i>Banksia integrifolia</i> (Coastal Banksia)</td><td rowspan="6">In accordance with Landscape Plans DA-00/01, DA01/01, DA02/01, DA03/01, DA04/01, DA05/01, DA06/01, designed by Wyer & CO., dated 28/03/2024</td><td>75 Litre each</td><td>7 x 4</td></tr><tr><td>8 x <i>Cupaniopsis anacardioides</i> (Tuckeroo)</td><td>75 Litre each</td><td>8 x 8</td></tr><tr><td>5 x <i>Olea europea</i> var. <i>europea</i> (European Olive)</td><td>Minimum 200 litre each</td><td>5 x 3 each</td></tr><tr><td>1 x <i>Waterhousia floribunda</i> (Weeping Lillypilly)</td><td>75 litre</td><td>10 x 11</td></tr><tr><td>1 x <i>Howea forsteriana</i> (Kentia palm)</td><td>Minimum 200 litre</td><td>7 x 3</td></tr><tr><td>13 x <i>Trachycarpus fortunei</i> (Chinese Windmill palm)</td><td>Minimum 200 litre each</td><td>6 x 3 each</td></tr></table>	Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)	3 x <i>Banksia integrifolia</i> (Coastal Banksia)	In accordance with Landscape Plans DA-00/01, DA01/01, DA02/01, DA03/01, DA04/01, DA05/01, DA06/01, designed by Wyer & CO., dated 28/03/2024	75 Litre each	7 x 4	8 x <i>Cupaniopsis anacardioides</i> (Tuckeroo)	75 Litre each	8 x 8	5 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	Minimum 200 litre each	5 x 3 each	1 x <i>Waterhousia floribunda</i> (Weeping Lillypilly)	75 litre	10 x 11	1 x <i>Howea forsteriana</i> (Kentia palm)	Minimum 200 litre	7 x 3	13 x <i>Trachycarpus fortunei</i> (Chinese Windmill palm)	Minimum 200 litre each	6 x 3 each
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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. 33.	Front fence in the vicinity of trees While site work is being carried out, the construction of the proposed front fence must ensure sufficient clearance of the trunk of Tree 1 <i>Angophora costata</i> (Sydney Pink Gum) located in the front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024. The proposed front fence must maintain a minimum 150mm clearance of the trunk of Tree No. 1 <i>Angophora costata</i> (Sydney Pink Gum). The project arborist must document compliance with the above condition. Condition Reason: To ensure the proposed footings would not adversely impact upon the health of existing trees.																							
F. 34.	Demolition works in the vicinity of trees While site work is being carried out, demolition works within the specified radius from the trunks of the following trees must be carried out under the direct supervision of the Project Arborist. The Project Arborist must have a minimum qualification AQF 5. <table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Radius from centre of trunk (metres)</th></tr><tr><td>1</td><td><i>Angophora costata</i> (Sydney Pink Gum)</td><td>Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024</td><td>15</td></tr><tr><td>2</td><td><i>Howea forsteriana</i> (Kentia palm)</td><td>Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024</td><td>2</td></tr></table>			Council Ref No	Species	Location	Radius from centre of trunk (metres)	1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15	2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2									
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12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
25	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary of front garden of 27 Vaucluse Road, Vaucluse	2.7
26	<i>Castanospermum australe</i> (Black Bean)	Front garden of 27 Vaucluse Road, Vaucluse	5.8
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	10.8

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 radius from the trunks of the following trees, excluding approved structures.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
25	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary of front garden of 27 Vaucluse Road, Vaucluse	2.7
26	<i>Castanospermum australe</i> (Black Bean)	Front garden of 27 Vaucluse Road, Vaucluse	5.8
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	10.8

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)

F. 36.	Hand excavation within tree root zones												
	While site work is being carried out, demolition of underground structures such as existing footings and approved excavation undertaken within the specified radius from the trunks of the following trees must be carried out by hand.												
	<table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Radius from centre of trunk (metres)</th></tr><tr><td>1</td><td><i>Angophora costata</i> (Sydney Pink Gum)</td><td>Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024</td><td>15</td></tr><tr><td>12</td><td><i>Phoenix canariensis</i> (Canary Island Date palm)</td><td>Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024</td><td>3</td></tr></table>	Council Ref No	Species	Location	Radius from centre of trunk (metres)	1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15	12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3
	Council Ref No	Species	Location	Radius from centre of trunk (metres)									
	1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15									
	12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3									
	Small hand tools such as mattocks or using compressed air or water jetting only must be used. Roots with a diameter equal to or in excess of 50mm must not be severed or damaged unless approved in writing and documented by the project arborist.												
	Mechanical excavation is permitted beyond this radius when root pruning by hand along the hand excavated perimeter line is completed. Exposed roots to be retained must be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.												
	All root pruning must be undertaken in accordance with the Australian Standard 4373 “Pruning of Amenity Trees” and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).												
	The project arborist must document compliance with the above condition.												
Condition Reason: To ensure demolition and excavation works would not adversely impact upon the health of existing trees.													
Standard Condition F.50 (Autotext 50F)													
F. 37.	Footings in the vicinity of trees												
	While site work is being carried out, footings for any structure within the specified radius from the trunks of the following trees must be supported using an isolated pier and beam system.												
	<table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Radius from centre of trunk (metres)</th></tr><tr><td>1</td><td><i>Angophora costata</i> (Sydney Pink Gum)</td><td>Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024</td><td>15</td></tr></table>	Council Ref No	Species	Location	Radius from centre of trunk (metres)	1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15				
Council Ref No	Species	Location	Radius from centre of trunk (metres)										
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15										

	<p>Excavations for the installation of piers must be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area must be excavated which allows construction of the pier. In consultation with the project engineer the piers must be offset a minimum 100mm from any root equal to or in excess of 50mm to accommodate future growth. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.</p> <p>The project arborist must document compliance with the above condition.</p>
	<p>Condition Reason: To ensure the proposed footings would not adversely impact upon the health of existing trees.</p> <p>Standard Condition F.51 (Autotext 51F)</p>

G. BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

<p>G. 1.</p>	<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>
<p>G. 2.</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> <ol 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). 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> <p>Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p>
<p>G. 3.</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> <ol style="list-style-type: none"> closed circuit television/video inspection (in DVD format) of public stormwater drainage system fronting the site on Cranbrook Road, 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 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. 4.</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> <ol style="list-style-type: none"> Compliance with conditions of development consent relating to stormwater, The structural adequacy of the Onsite Stormwater Detention (OSD) System and Rainwater Tank. That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations, Pipe invert levels and surface levels to Australian Height Datum, and 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>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 OSD System and Rainwater Tank incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant</p> <p>Notes:</p> <ul style="list-style-type: none"> The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate. The occupation certificate for the whole of the building must not be issued until this condition has been satisfied. <p>Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>
<p>G. 5.</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> <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. <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.

	Condition Reason: To ensure the certification and ongoing maintenance of the mechanical parking installations and to indemnify Council from any claims or actions.
G. 6.	Removal of Ancillary Works and Structures
	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: a) the site sign, b) ablutions, c) hoarding, d) scaffolding, and e) waste materials, matter, article or thing.
	Condition Reason: To ensure that all ancillary matter is removed prior to occupation.
	Condition Reason: To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.
G. 7.	Letter Box
	Before the issue of any occupation certificate, all letter boxes must be constructed and located in accordance with AS/NZS 4253: Mailboxes and to Australia Post's satisfaction.
	Notes: <ul style="list-style-type: none"> Council has been alerted to an increase in mailbox theft, and as such, all new development, being new dwelling houses and residential flat buildings, are encouraged to have lockable mail boxes.
	Condition Reason: To ensure that mail can be delivered to occupiers of the site.
G. 8.	Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters
	Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992: a) Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia. b) The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register. c) The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool. d) Public pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable. e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3: Swimming pool safety - Water recirculation systems. Backwash must be discharged to the sewer in compliance with AS/NZS 3500. 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>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>
G. 9.	<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>
G. 10.	<p>Certification of Electric Vehicle Charging System</p>
	<p>Before the issue of any occupation certificate, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition D.21 must be submitted to the satisfaction of the Principal Certifier.</p>
	<p>Condition Reason: To ensure the certification of the electric vehicle charging system.</p>
G. 11.	<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. 1742448S.</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. 12.	<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. 13.	Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building				
	<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.</p> <p>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="284 752 1401 1066"> <thead> <tr> <th data-bbox="284 752 627 846">Stage of arboricultural inspection and supervision</th><th data-bbox="635 752 1401 790">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="284 880 627 974">Before the issue of any occupation certificate for the whole of the building</td><td data-bbox="635 846 1401 1066"> <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> <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 are implemented.</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.
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H. OCCUPATION AND ONGOING USE

H. 1.	Noise from Mechanical Plant and Equipment
	<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>







	<p>Notes:</p> <ul style="list-style-type: none"> 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) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
	<p>Condition Reason: To protect the amenity of the neighbourhood.</p>
H. 2.	<p>Swimming and Spa Pools – Maintenance</p> <p>During the occupation and ongoing use, swimming and spa pools must be maintained:</p> <ol style="list-style-type: none"> 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, 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, in compliance with AS 1926 Swimming pool safety - Water recirculation and filtration systems, with backwash being discharged to the sewer in compliance with AS/NZS 3500, and 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): <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>
H. 3.	<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. 4.	<p>Noise Control</p> <p>During the occupation and ongoing use, the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997.</p>

	<p>Notes:</p> <ul style="list-style-type: none"> • Council will generally enforce this condition in accordance with the Noise Guide for Local Government (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the NSW Industrial Noise Policy (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997. • Useful links: <ul style="list-style-type: none"> - Community Justice Centres—free mediation service provided by the NSW Government www.cjc.nsw.gov.au. - NSW Environment Protection Authority— see “noise” section www.environment.nsw.gov.au/noise. - NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at www.legislation.nsw.gov.au. - Australian Acoustical Society—professional society of noise related professionals www.acoustics.asn.au. - Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au. - Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.
	<p>Condition Reason: To protect the amenity of the neighbourhood.</p>
<p>H. 5.</p>	<p>Maintenance of Landscaping</p> <p>During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.</p> <p>This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. • Owners must have regard to the amenity impact of trees upon the site and neighbouring land. <p>Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.</p>
<p>H. 6.</p>	<p>Maintenance of BASIX Commitments</p> <p>During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No 1742448S.</p> <p>This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.</p> <p>Condition Reason: To ensure the approved environmental sustainability measures are maintained for the life of development.</p>
<p>H. 7.</p>	<p>Ongoing Maintenance of the On-site Stormwater Detention System and Rainwater Tank</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 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> <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>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> <p>a) keep the system clean and free of silt rubbish and debris;</p> <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>
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Attachments

1. Architectural drawings, control diagrams, material board, photomontage and view analysis [↓](#) 
2. Proposed plan of subdivision, shadow diagrams, landscape plans and survey plans [↓](#) 
3. Development Engineer's referral response [↓](#) 
4. Tree Management Officer's referral response [↓](#) 
5. Heritage Officer's referral response [↓](#) 
6. Clause 4.6 written statement [↓](#) 

DRAWING LIST

NO. REV NAME

DA000	3	TITLE PAGE
DA001	2	SETBACK DIAGRAM
DA002	2	DEEP SOIL PLAN
DA003	1	EXCAVATION
DA004	-	FSR DIAGRAM - EXISTING
DA005	2	FSR DIAGRAM - PROPOSED
DA101	3	SITE PLAN
DA102	-	INDICATIVE COMPLIANT FOOTPRINT OF 27 VAUCLUSE RD
DA103	3	SITE ANALYSIS PLAN
DA110	2	DEMOLITION
DA120	2	DRIVEWAY SECTION DETAIL
DA121	2	MATERIAL BOARD
DA122	-	PHOTO MONTAGE
DA123	1	HEIGHT BLANKET
DA124	2	PROPOSED DRIVEWAY DIAGRAM
DA125	2	STREET PARKING DIAGRAM
DA130	-	VIEW ANALYSIS - VIEW LOCATION MAP
DA131	-	VIEW ANALYSIS - VIEW 01 - EXISTING
DA132	-	VIEW ANALYSIS - VIEW 01 - PROPOSED
DA133	-	VIEW ANALYSIS - VIEW 01 - VIEW LOSS/GAIN
DA134	-	VIEW ANALYSIS - VIEW 01 - VIEW LOSS/GAIN
DA135	-	VIEW ANALYSIS - VIEW 02 - EXISTING
DA136	-	VIEW ANALYSIS - VIEW 02 - PROPOSED
DA137	-	VIEW ANALYSIS - VIEW 02 - VIEW LOSS/GAIN
DA138	-	VIEW ANALYSIS - VIEW 02 - VIEW LOSS/GAIN
DA201	1	CELLAR & WELLNESS FLOOR PLAN
DA202	2	LOWER GROUND FLOOR PLAN
DA203	3	GROUND FLOOR PLAN
DA204	3	FIRST FLOOR PLAN
DA205	3	ROOF PLAN
DA302	3	EAST ELEVATION
DA303	3	SOUTH ELEVATION
DA305	1	NORTH & WEST ELEVATIONS
DA321	2	SECTION - AA & BB
DA322	1	SECTION - CC & DD
DA323	1	SECTION - EE & FF
DA331	-	DOOR ELEVATIONS
DA332	-	WINDOW ELEVATIONS

LIST OF AMENDMENTS

- Deletion of service stair along southern side boundary.
- Amended material board showing proposed grey ballast to entire roof.
- Added note on roof plan stating the material will be grey ballast.
- Inclusion of a view analysis from two view points from No.1 Fisher Avenue, overlooking the proposed building envelope.
- Delineated zone added to roof plan where no building elements are to exceed RL 56.42 on the north end of the roof as agreed with No.1 Fisher Avenue.
- Amended solar panel zone on south end of roof plan.
- Inclusion of note nominating the maximum height of planting to the level 1 parapet planter is not to exceed RL 55.0.

BASIX COMMITMENTS

INSULATION

- All insulations listed are product only values.
- All insulation and vapour membranes must be installed in accordance with Part 10.8 Condensation Management and NSW H6P1 (Part 13.2) Building Fabric, NSW H6P2 (Part 13.4) Building Sealing, NSW H6P3 (Part 13.7) Services.

EXTERNAL FLOORS

- Concrete slab on ground, with R1.3 slab insulation and R1.0 slab edge insulation
- Suspended concrete floors, R2.5 rigid board insulation to open and/or enclosed subfloors

INTERNAL FLOORS

- Concrete structure between levels;
- No insulation required where habitable rooms are below
- R2.5 rigid board insulation where subfloors and unconditioned zones are below

EXTERNAL WALLS

- Rendered Concrete block walls, 90mm air gap with R2.7 insulation with rendered brick internal lining

EXTERNAL COLOURS, WALLS, ROOF, WINDOW FRAMES, FLOOR COVERINGS

- Light (SA < 0.475) to walls, roof and floor coverings
- Medium (SA 0.475 - 0.7) to window frames

WALLS WITHIN DWELLINGS

- Plasterboard on single brick walls, R1.75 rigid board insulation throughout

GLAZING DOORS/WINDOWS

- Group A: Casement windows + hinged glazed doors
- U-value: 4.10 (equal to or lower than)
- SHGC: 0.47 (±5% in NSW)
- Group B: sliding doors/windows + fixed glazing + double hung windows
- U-value: 4.10 (equal to or lower than)
- SHGC: 0.52 (±5% in NSW)
- Given values are AFRC total window system values (glass and frame)

WINDOW RESTRICTORS

- Window restrictors are modelled in the first-floor bedrooms to all windows with a sill height under 1.7m and a fall height over 2m from the floor level of the room.

ROOF WINDOWS/SKYLIGHTS

- Skylights are fixed
- U-value: 2.58 and SHGC: 0.24
- Given values are AFRC total window system values (glass and frame)

ROOF

- Concrete slab roof with 75mm XPS

CEILINGS

- Plasterboard ceiling with R3.0 insulation where roof or balcony is above, the insulation must extend to the external wall
- No insulation to garage where roof is above.

CEILING PENETRATIONS

- IC rated LED downlights, maximum one every 4.0m2

FLOOR COVERINGS

- Timber to first floor, exposed to garage, tile elsewhere

EXTERNAL SHADING

- As per plans

VENTILATION

- Weather seals and draft protection to all external windows and doors
- Dampers to all exhaust fans and chimneys

BASIX WATER COMMITMENTS

FIXTURES

- Showerheads 4 stars (medium flow >6.0 and <= 7.5 litres/min)
- Toilet flushing system 4 stars in each toilet
- Kitchen taps 5 stars rating
- Bathroom taps (bath excluded) minimum 5 stars rating

ALTERNATIVE WATER

- 452.01m2 of harvested roof area connected to rainwater tank, minimum capacity, 15,000L.
- Rain tank connected to at least one outdoor tap, laundry, pool and spa.

BASIX ENERGY COMMITMENTS

HOT WATER SYSTEM

- Solar electric boosted

COOLING SYSTEM

- Single phase air-conditioning to living areas and bedrooms: EER 3.0-3.5

HEATING SYSTEM

- Gas fixed flued heater to living
- Single phase air-conditioning to bedrooms: EER 3.0-3.5

VENTILATION

- Bathrooms: individual fan, externally ducted interlocked to light with timer off (to at least one bathroom)
- Kitchen: individual fan, externally ducted manual on/off switch
- Laundry room: individual fan, externally ducted manual on/off switch

OTHER

- Induction cooktop, electric oven
- Outdoor clothes drying line

ALTERNATIVE ENERGY

- 30kW Solar Photovoltaic system
- Positioned on roof at >0 to <=10-degree pitch facing north

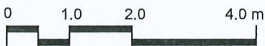


4-6 FISHER AVENUE, VAUCLUSE

DEVELOPMENT APPLICATION

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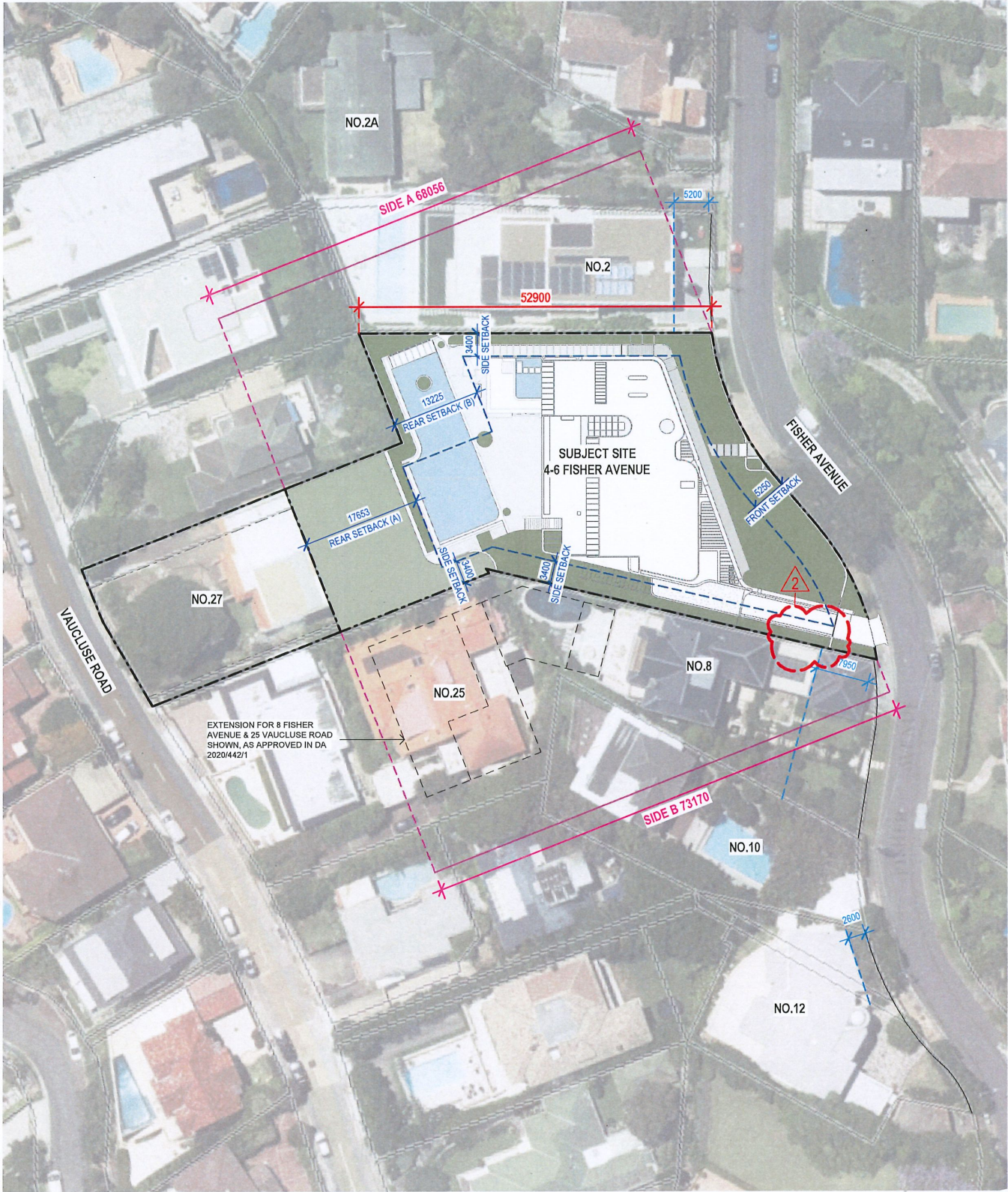
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04/04/2024	-	DEVELOPMENT APPLICATION
22/05/2024	1	DA - ADDITIONAL INFORMATION
15/10/2024	2	DA - AMENDMENTS
21/10/2024	3	DA - AMENDMENTS

PROJECT
4-6 FISHER AVENUE, VAUCLUSE

PROJECT NO. 221
DWG NO. DA000
REV 3

DRAWING
TITLE PAGE

Drawn: CS/MP
Checked: BS
Scale: @A3
Date: 21/10/2024



LEGEND:

- BOUNDARY LINE
- BUILDING ENVELOPE

SETBACK CALCULATION

4-6 FISHER AVE, VAUCLUSE

FRONT SETBACK
WOOLLAHRA DCP - B3.2.3

- = 2 Fisher Avenue 5.2M
- = 8 Fisher Avenue 7.95M
- = 12 Fisher Avenue 2.6M
- = 5.2 + 7.95 + 2.6 / 3
- = 5.25M

NOTE: No.2A HAS BEEN EXCLUDED FROM CALCULATIONS AS IT DOES NOT FACE FISHER AVENUE, AS ADVISED BY GSA PLANNING.

SIDE SETBACK
WOOLLAHRA DCP - B3.2.2 FIG.5A

- = SITE WIDTH = 52.445M
- = 3.4M

REAR SETBACK (A)

WOOLLAHRA DCP - B3.2.4

- = SIDE A 68.056
- = SIDE B 73.170
- = A + B / 2
- = 70.613 x 0.25
- = 17.653M

REAR SETBACK (B)

WOOLLAHRA DCP - B3.2.4

- = SIDE A 52.9
- = 52.9 x 0.25
- = 13.225M

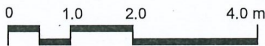
NOTE: SETBACK CALCULATION METHODOLOGY AS ADVISED BY GSA PLANNING.

BUILDABLE AREA

AREA = 1455.8M²

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DESIGN DEVELOPMENT - DRAFT

DATE	REV	AMENDMENT
04/04/2024	-	DEVELOPMENT APPLICATION
15/10/2024	1	DA - AMENDMENTS
21/10/2024	2	DA - AMENDMENTS

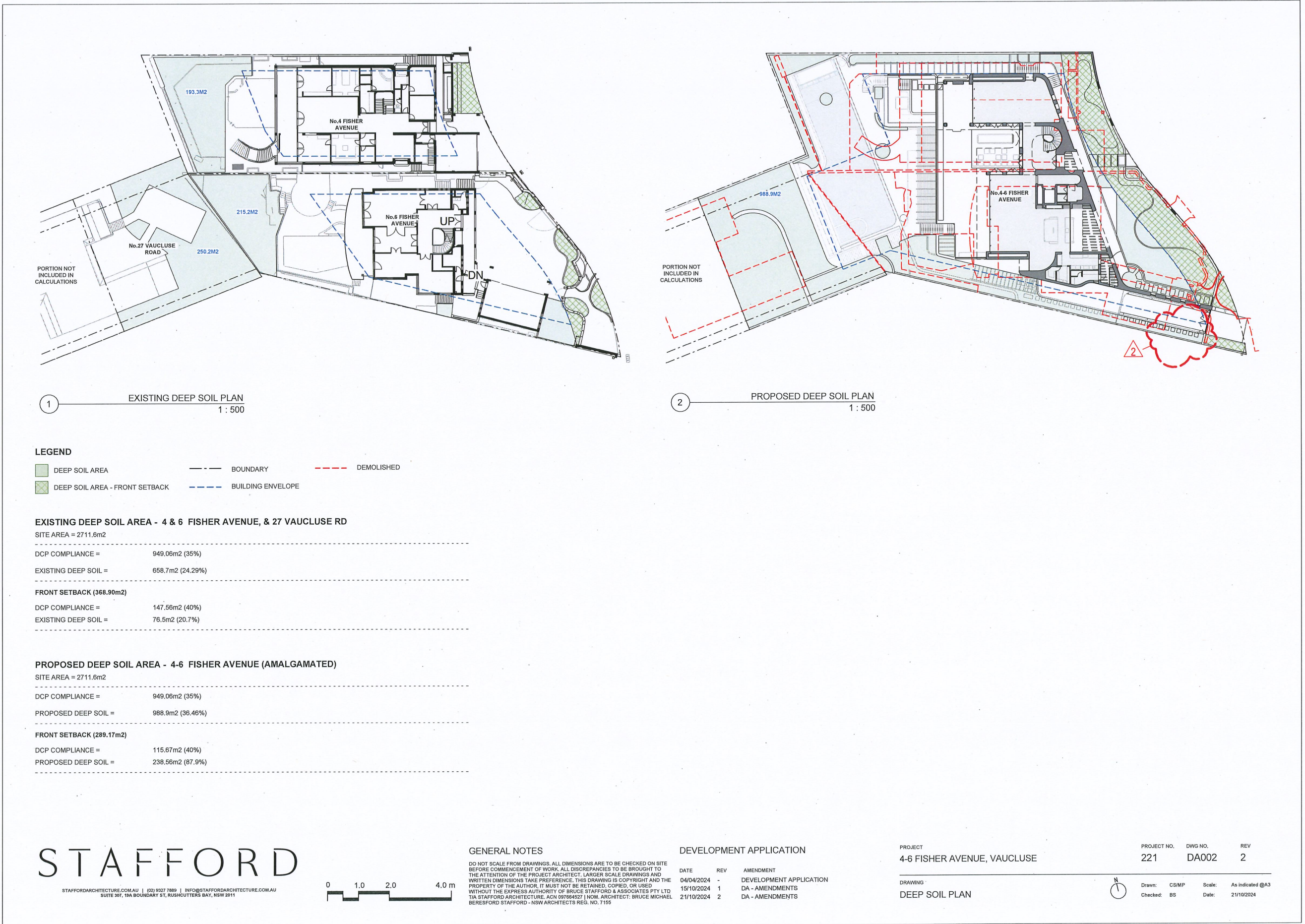
PROJECT
4-6 FISHER AVENUE, VAUCLUSE

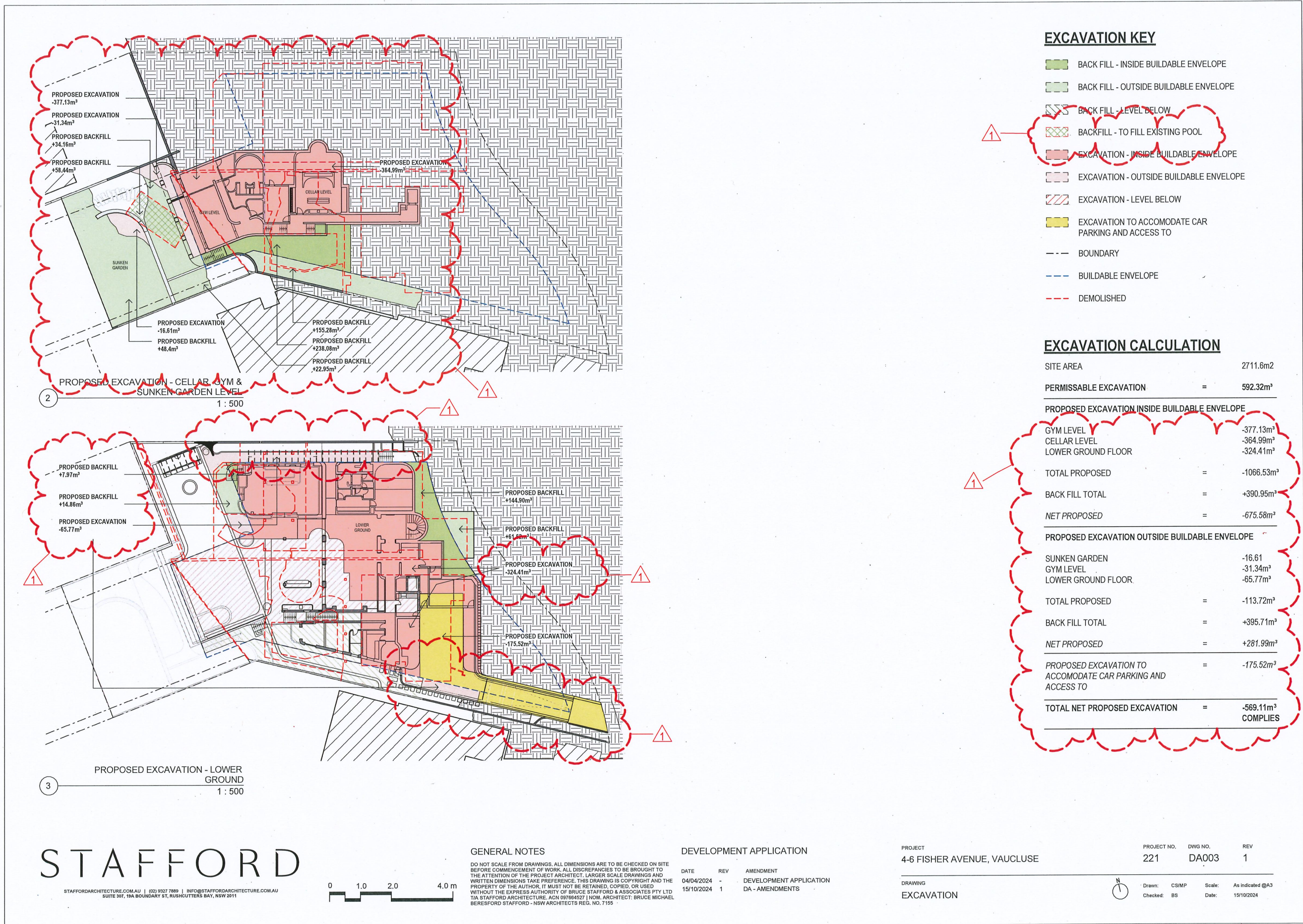
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DWG NO. DA001

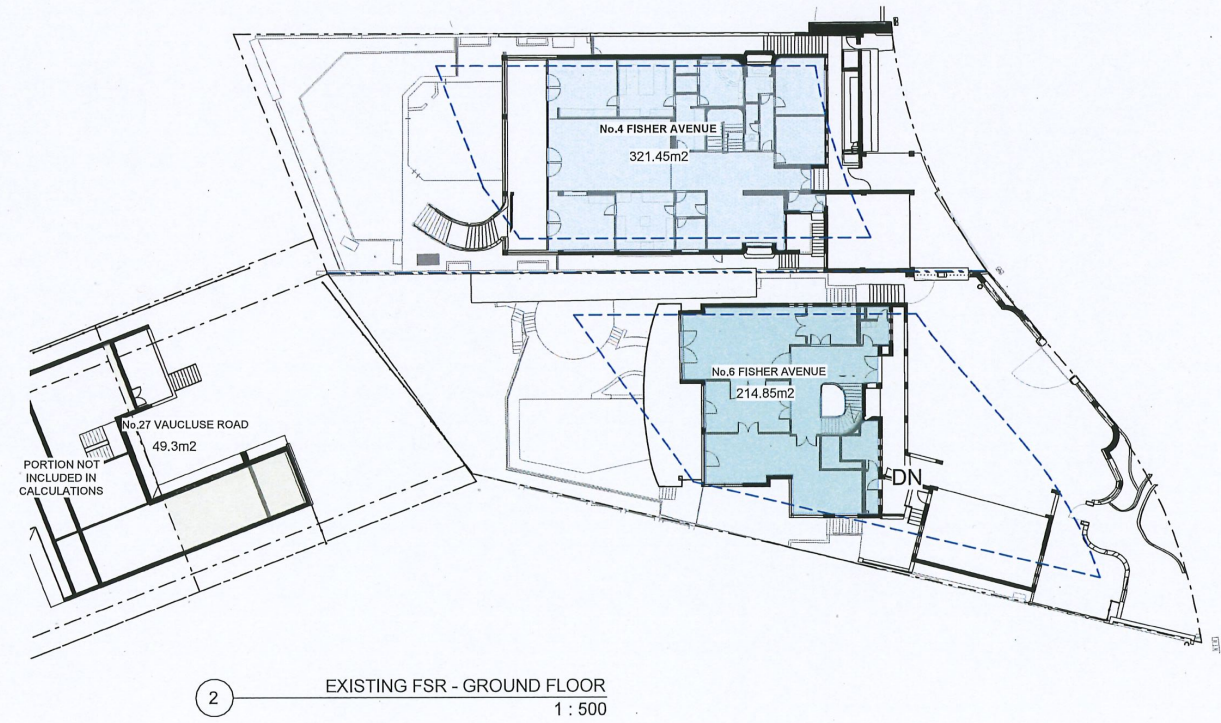
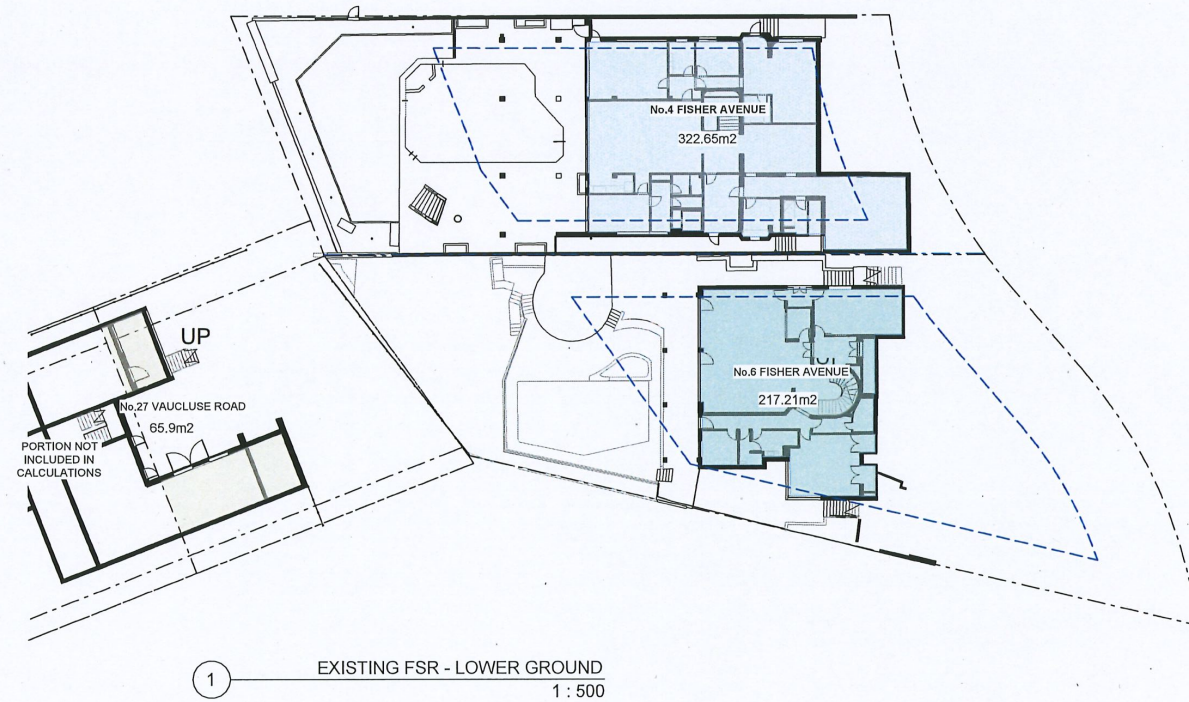
REV
2

DRAWING
SETBACK DIAGRAM

Drawn: CS/MP
Checked: BS
Scale: As indicated @A3
Date: 21/10/2024







LEGEND

- NO. 4 FISHER FLOOR AREA
 NO. 27 VAUCLUSE FLOOR AREA
 BOUNDARY
 BUILDING ENVELOPE

FSR - 4 FISHER AVE		FSR - 6 FISHER AVE		FSR - 27 VAUCLUSE ROAD	
SITE AREA - 992.7m2		SITE AREA - 1230m2		SITE AREA - 479m2	
PERMISSABLE FSR = 0.5:1		PERMISSABLE FSR = 0.5:1		PERMISSABLE FSR = 0.5:1	
PERMISSABLE GFA = 496.35m2		PERMISSABLE GFA = 615m2		PERMISSABLE GFA = 239.5m2	
EXISTING GFA		EXISTING GFA		EXISTING GFA	
FIRST FLOOR =	4.02m2	FIRST FLOOR	156.8m2	GROUND FLOOR =	49.30m2
GROUND FLOOR =	321.45m2	GROUND FLOOR =	214.85m2	LOWER GROUND FLOOR =	65.90m2
LOWER GROUND FLOOR =	322.65m2	LOWER GROUND FLOOR =	217.21m2		
TOTAL EX. GFA = 648.12m2 (FSR 0.65:1)		TOTAL EX. GFA = 588.86m2 (FSR 0.478:1)		TOTAL EX. GFA = 115.20m2 (FSR 0.24:1)	

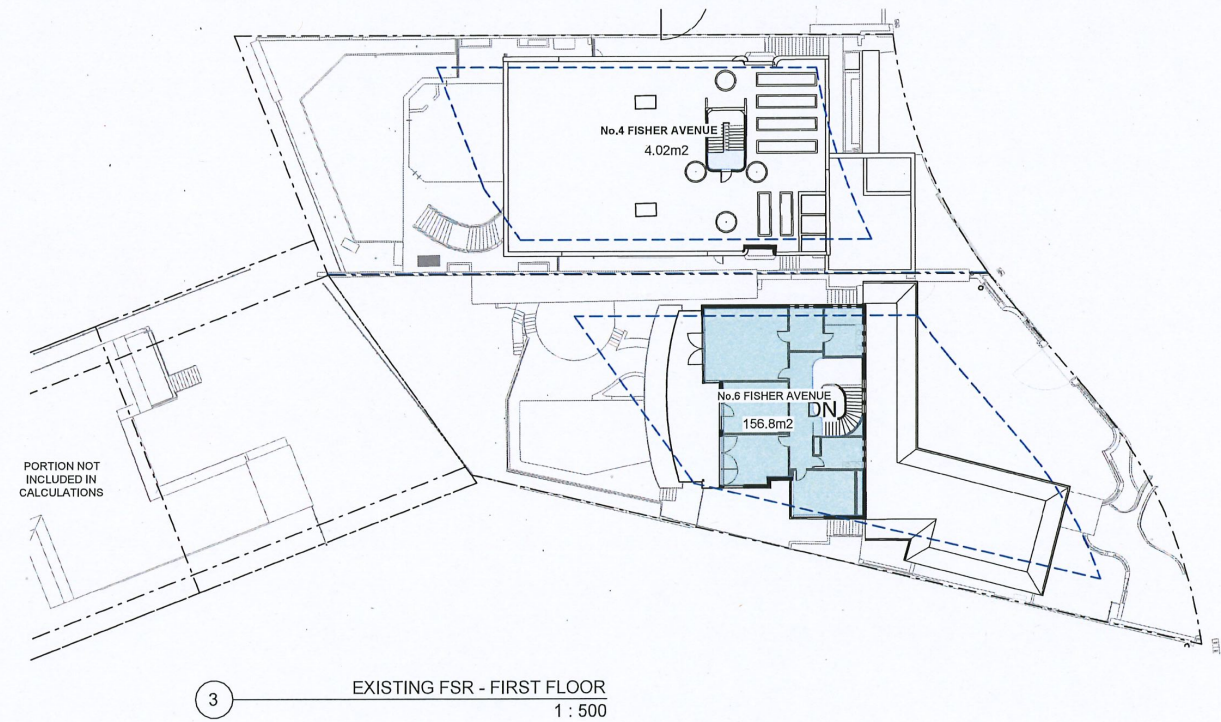
FSR - 4-6 FISHER AVE (AMALGAMATED)

SITE AREA - 2711.6m²

PERMISSABLE FSR = 0.5:1

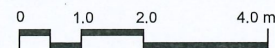
PERMISSABLE GFA = 1355.8m²

TOTAL EX. GFA = 1352.18m² (FSR 0.499:1)



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DEVELOPMENT APPLICATION

DATE	REV	AMENDMENT
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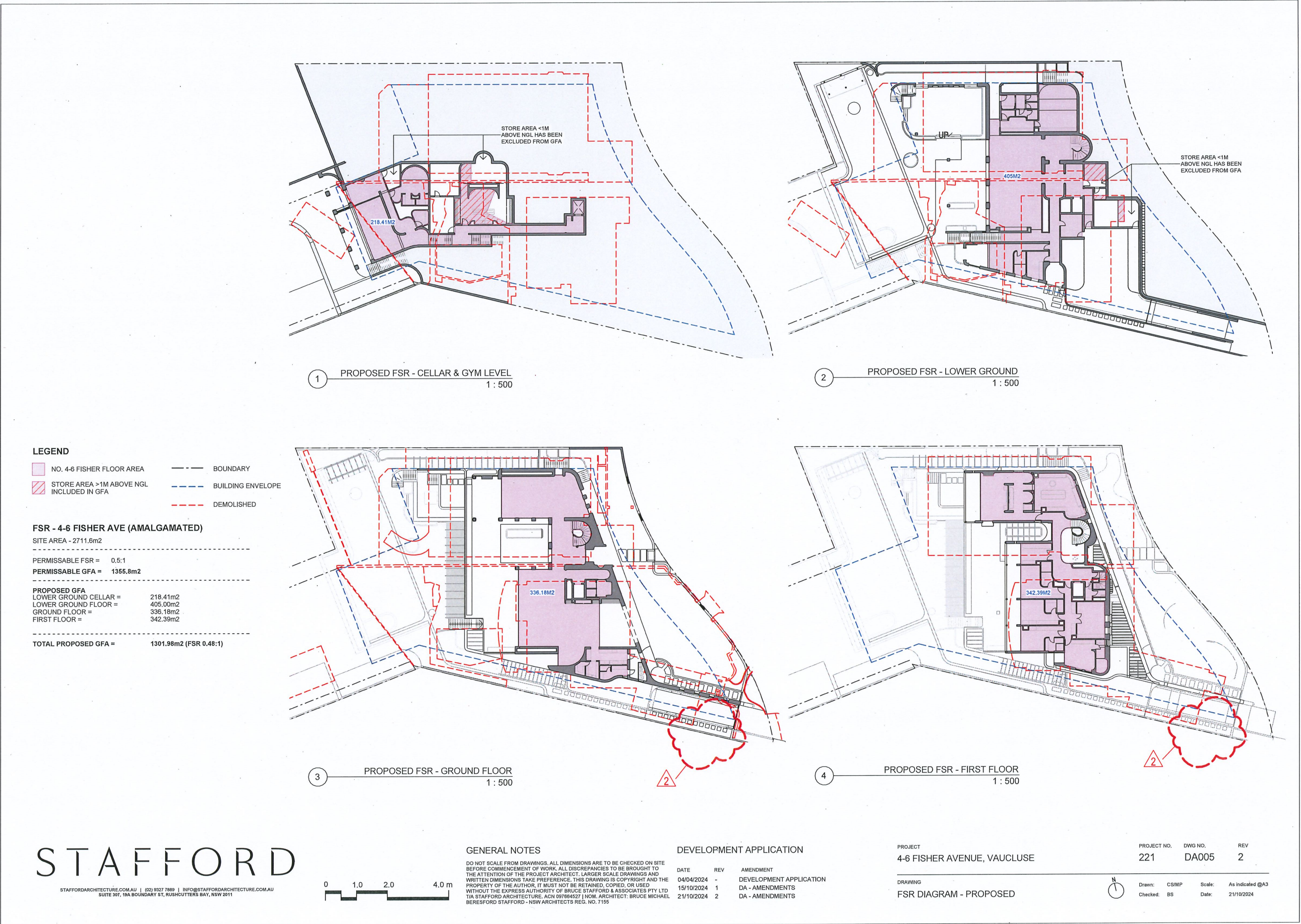
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4-6 FISHER AVENUE, VAUCLUSE

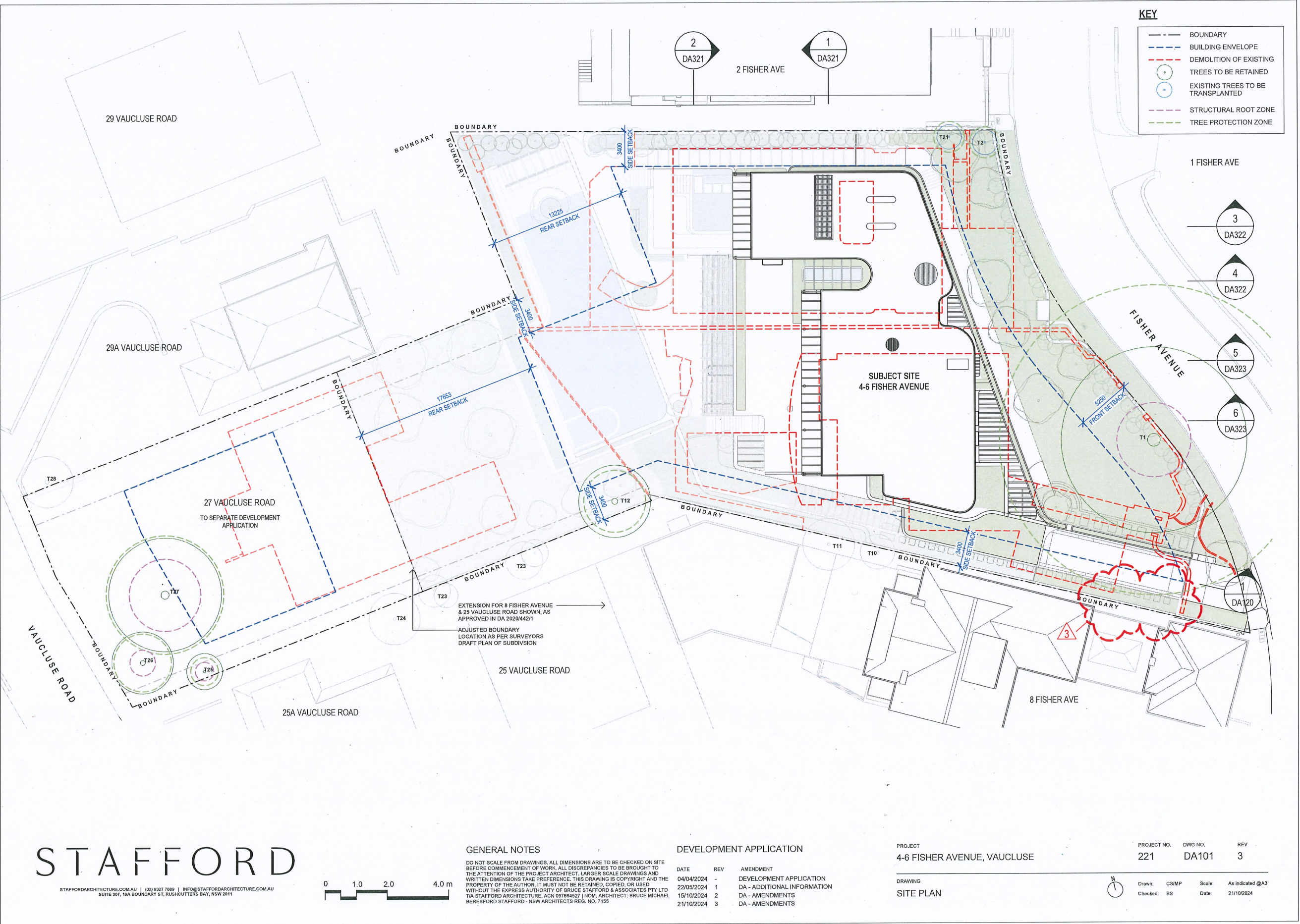
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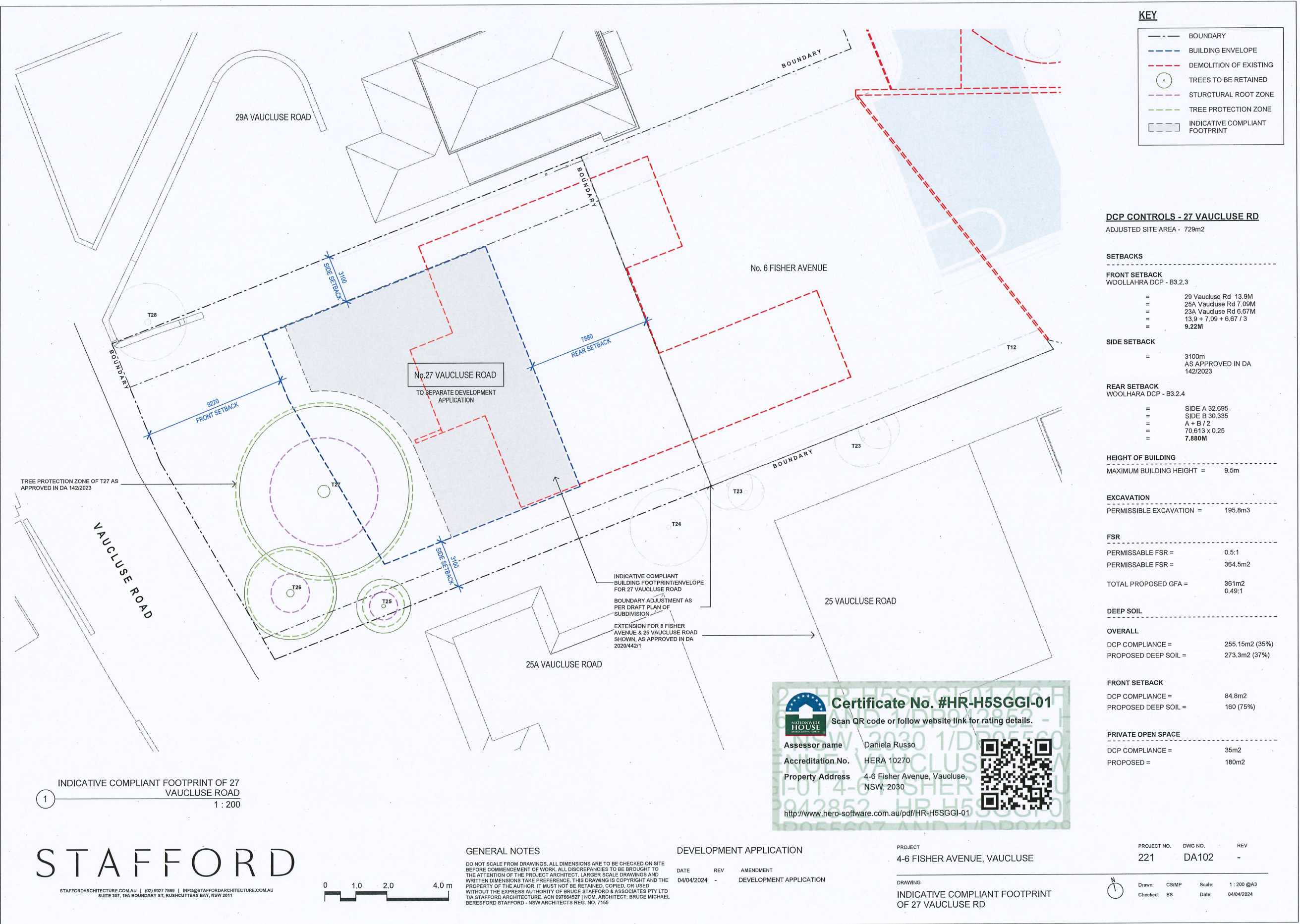
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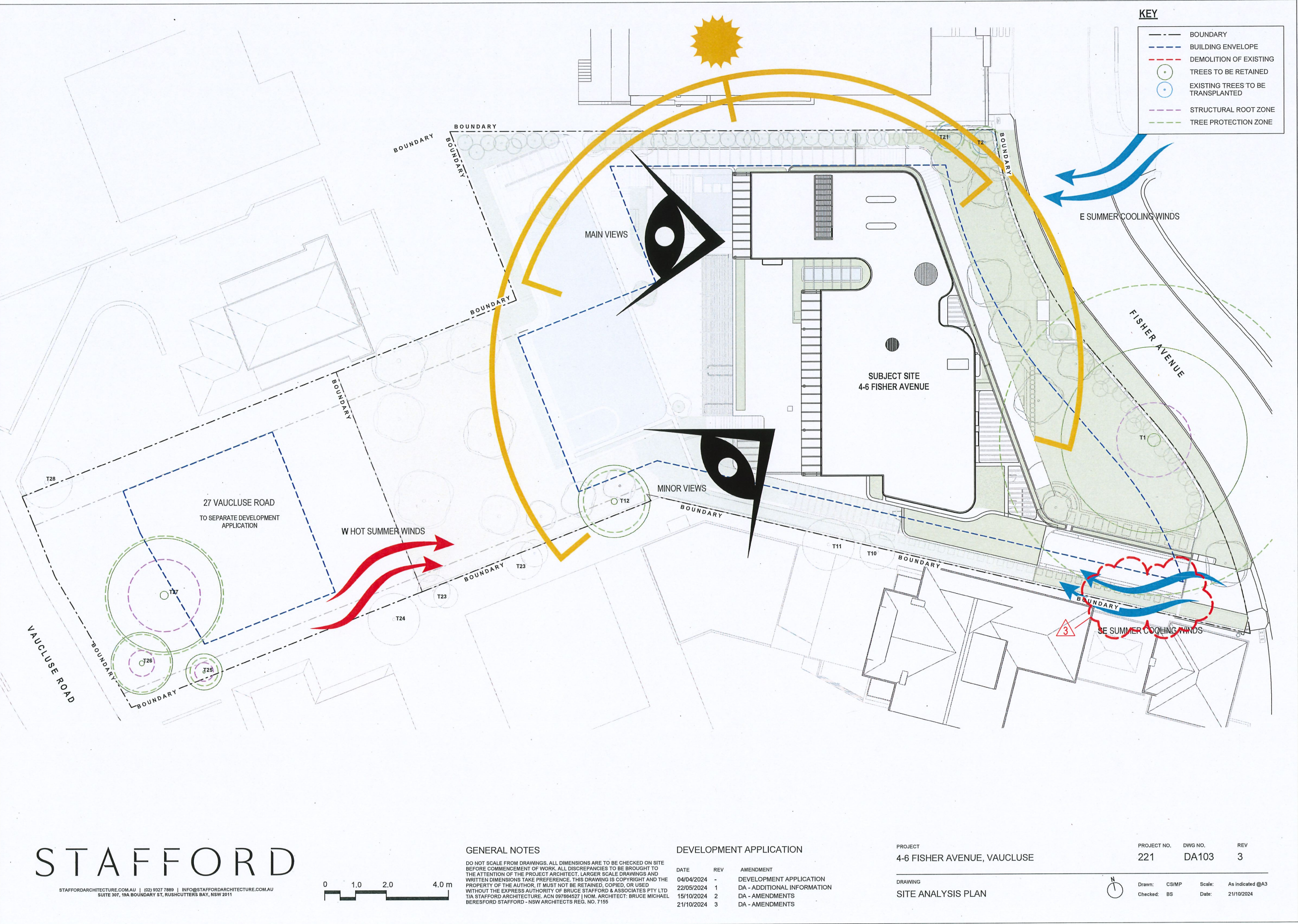
PROJECT NO.	DWG NO.	REV
221	DA004	-

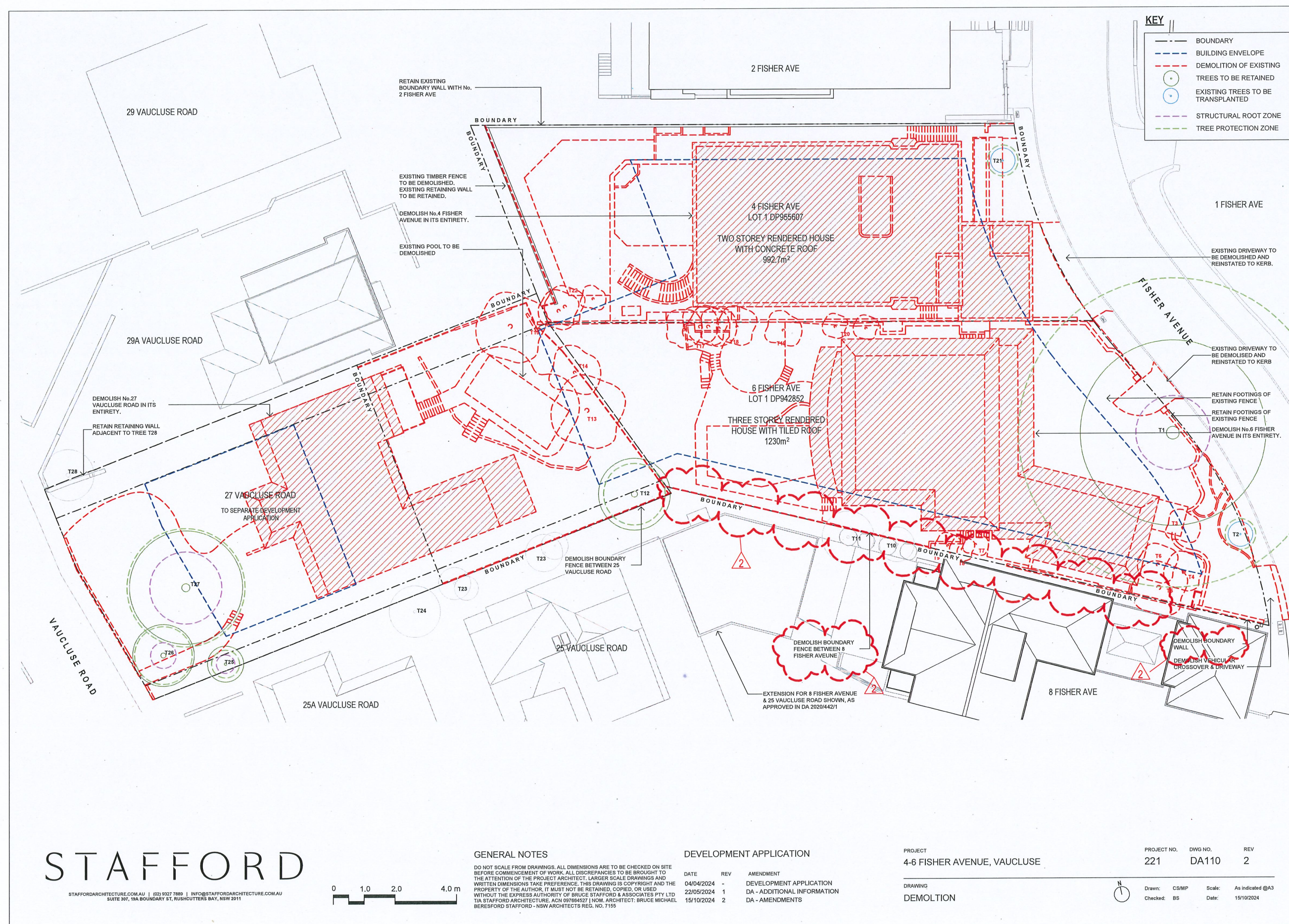
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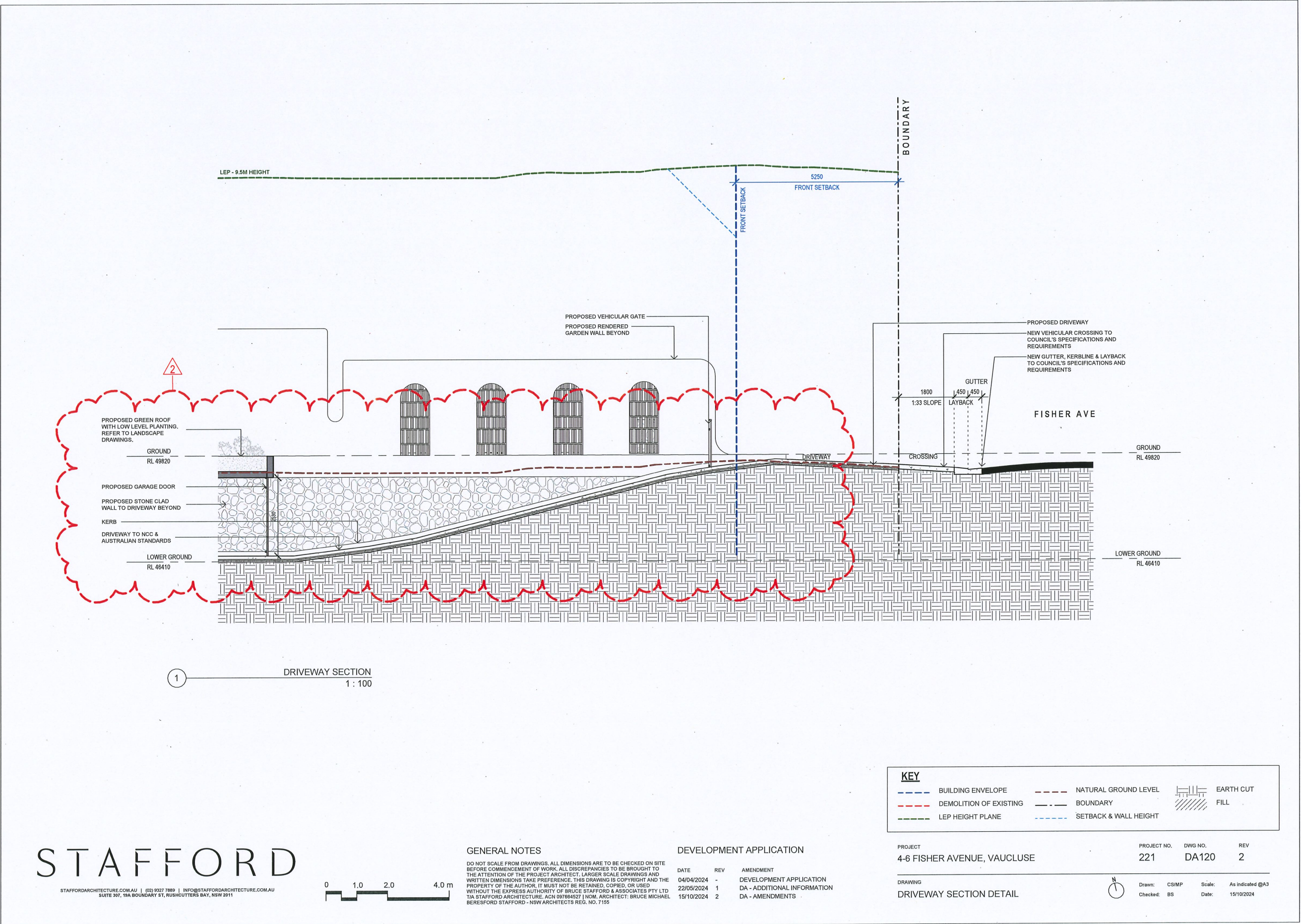


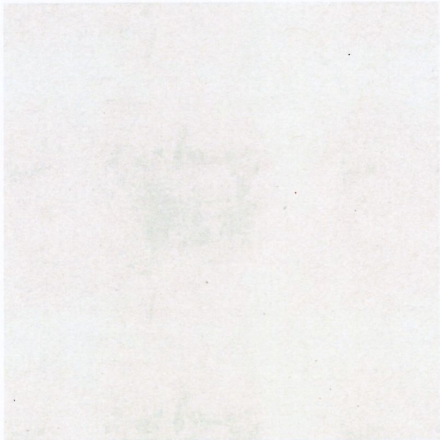




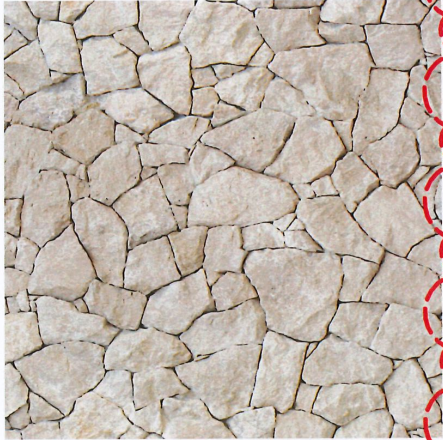




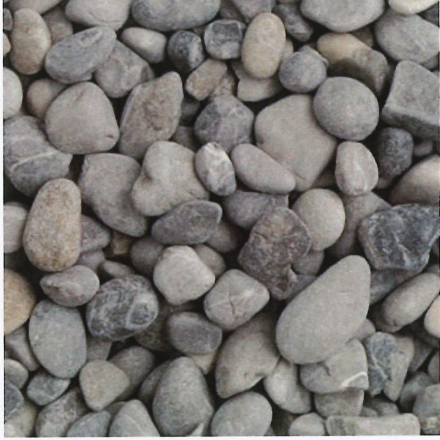





CR - LIGHT RENDER



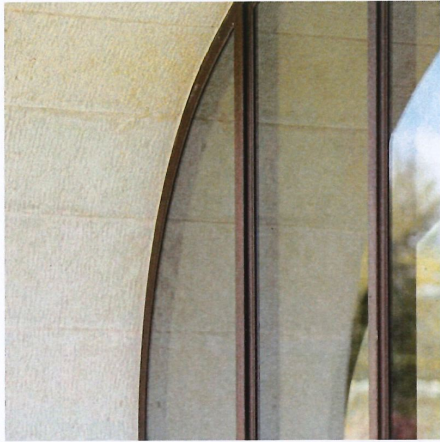
ST - LIGHT STONE CLADDING



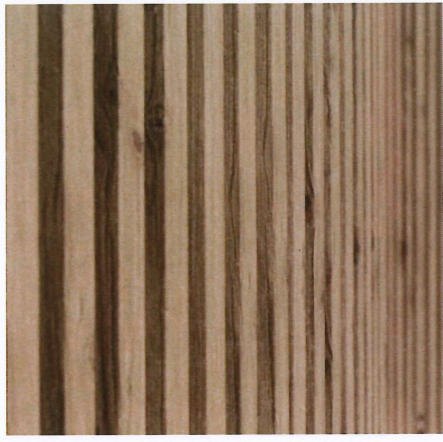
GREY BALLAST



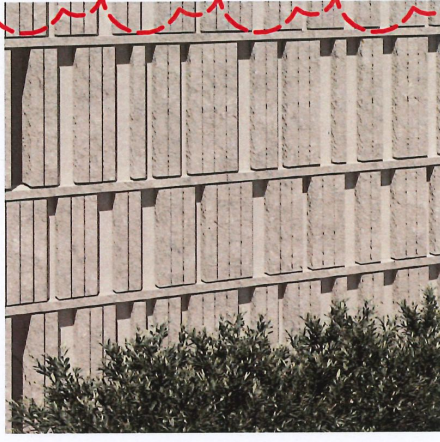
CASCADING GREENERY



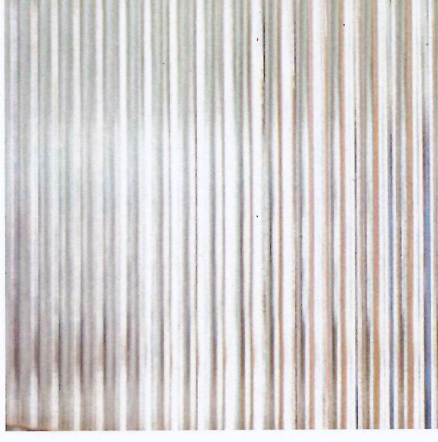
MEDIUM COLOURED FRAMES




TIMBER LOOK SCREEN




LIGHT STONE BREEZE BLOCK SCREEN




FLUTED PRIVACY GLASS




LIGHT COLOUR POOL



LIGHT STONE TILE



GRASS



TIMBER PERGOLA

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0 1.0 2.0 4.0 m

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DEVELOPMENT APPLICATION

DATE	REV	AMENDMENT
04/04/2024	-	DEVELOPMENT APPLICATION
15/10/2024	1	DA - AMENDMENTS
21/10/2024	2	DA - AMENDMENTS

PROJECT
4-6 FISHER AVENUE, VAUCLUSE

DRAWING
MATERIAL BOARD

PROJECT NO. 221

DWG NO. DA121


REV 2

Drawn: CS/MP

Checked: BS

Scale: @A3

Date: 21/10/2024





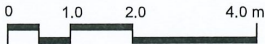
4 & 6 FISHER AVENUE - BEFORE



4-6 FISHER AVENUE - AFTER

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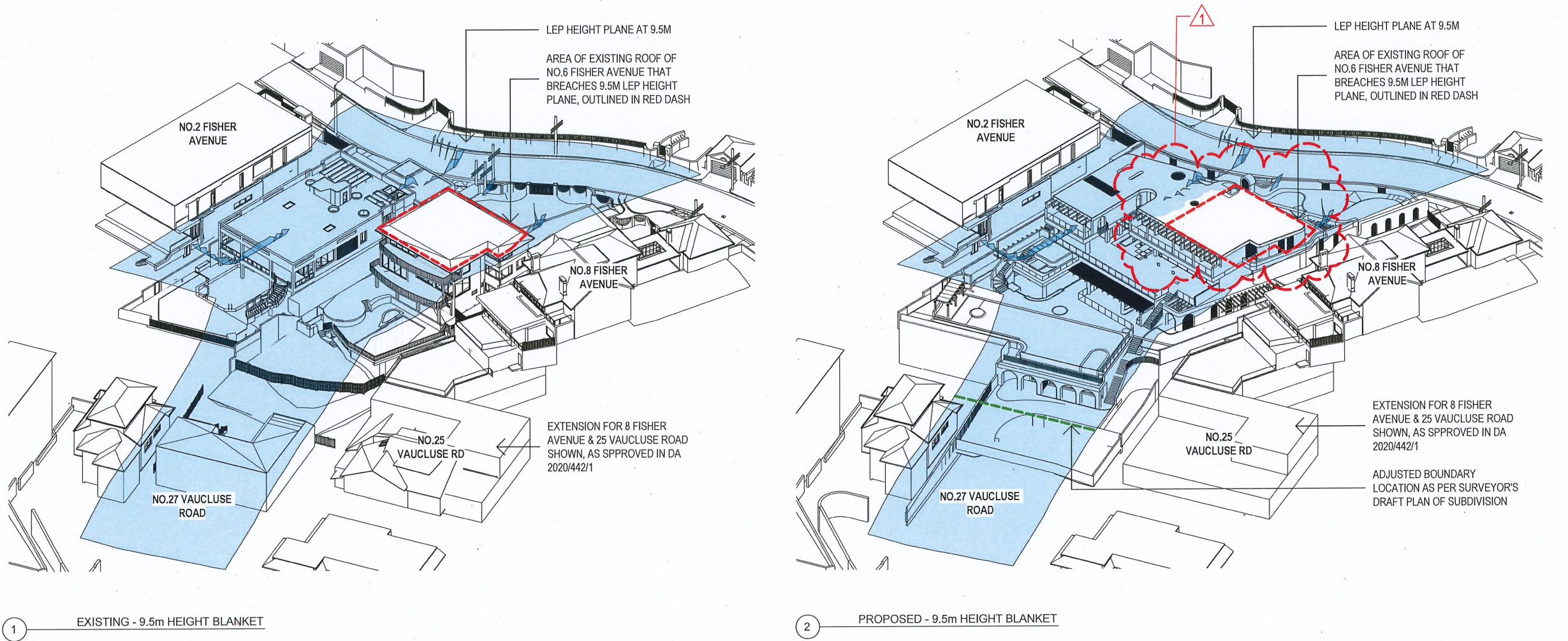
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DEVELOPMENT APPLICATION		
DATE	REV	AMENDMENT
04/04/2024	-	DEVELOPMENT APPLICATION

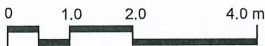


PROJECT	PROJECT NO.	DWG NO.	REV
4-6 FISHER AVENUE, VAUCLUSE	221	DA122	-
DRAWING	Drawn:	Checked:	Scale:
PHOTO MONTAGE	CS/MP	BS	@A3
			Date: 04/04/2024



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DEVELOPMENT APPLICATION

DATE	REV	AMENDMENT
04/04/2024	-	DEVELOPMENT APPLICATION
15/10/2024	1	DA - AMENDMENTS

PROJECT
4-6 FISHER AVENUE, VAUCLUSE

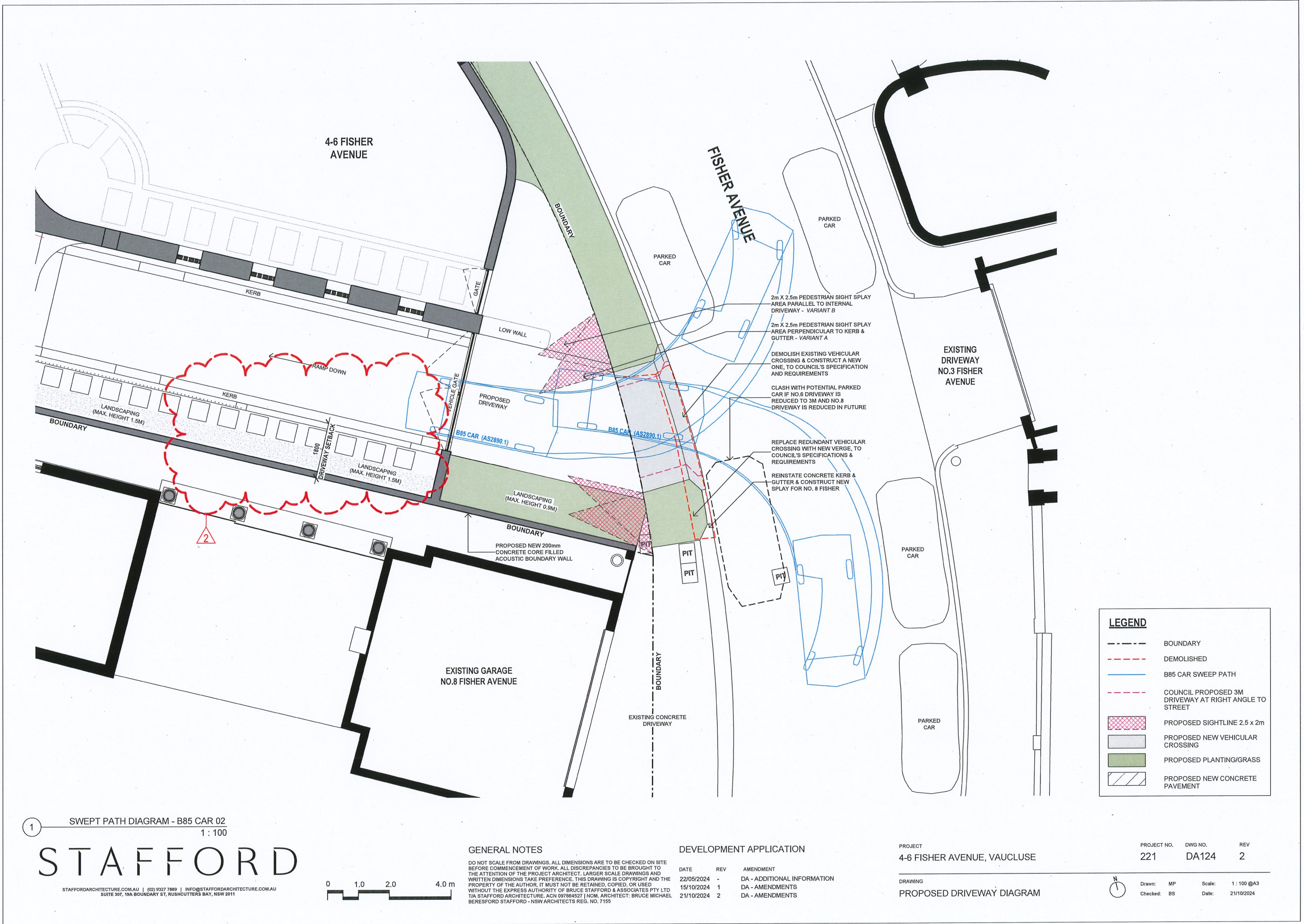
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HEIGHT BLANKET

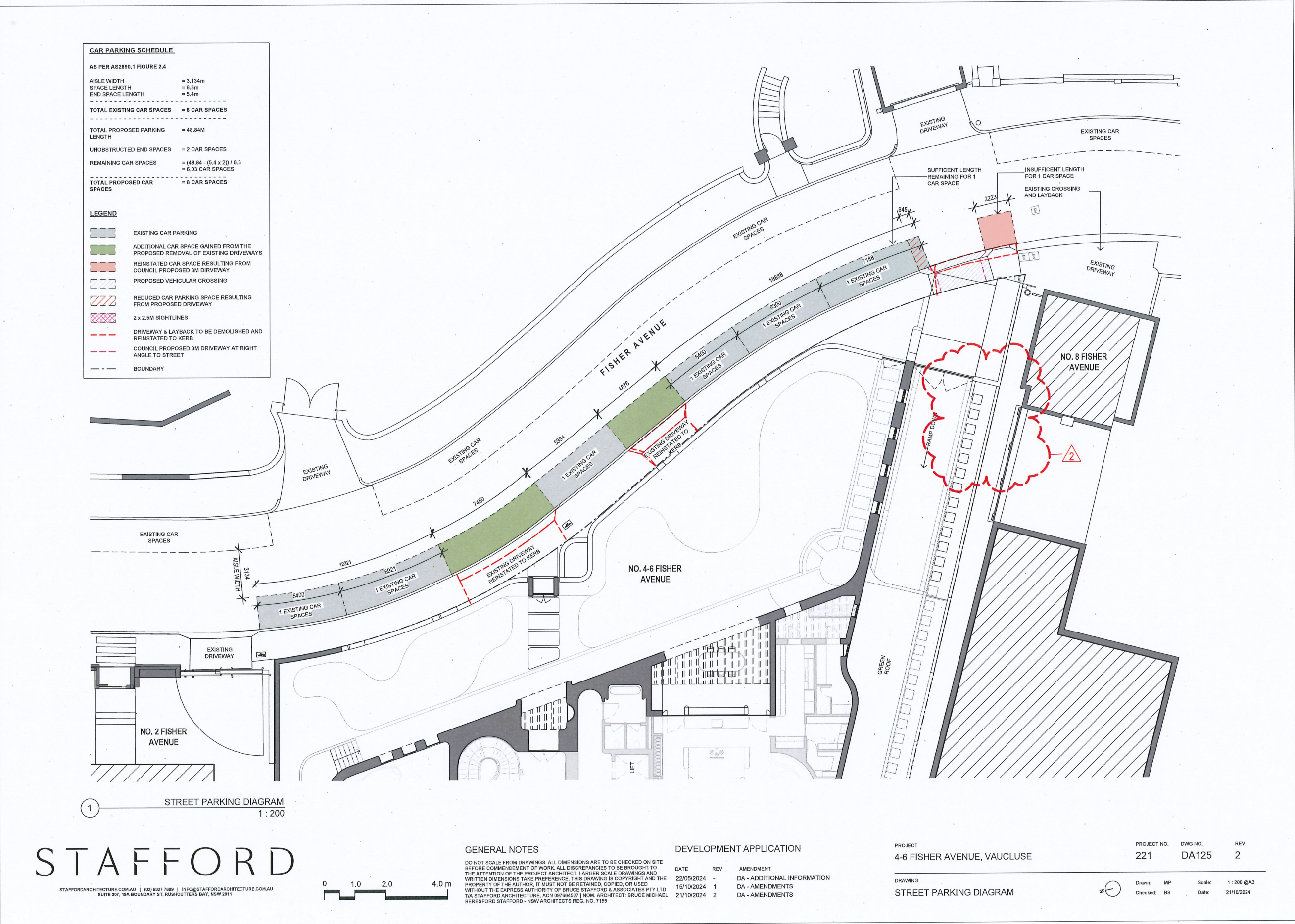
PROJECT NO.	DWG NO.	REV
221	DA123	1

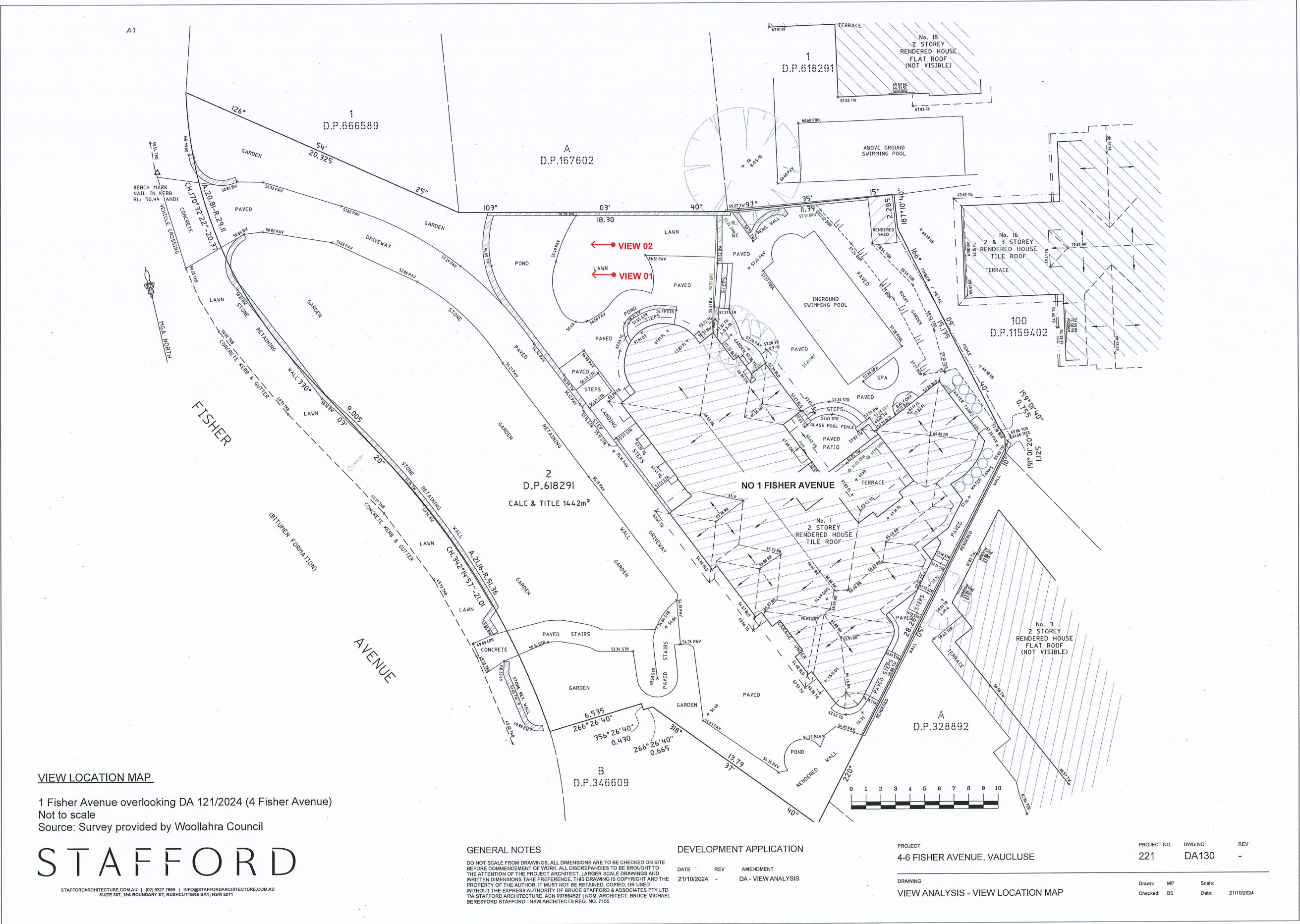
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Date: 15/10/2024

KEY

- LEP HEIGHT PLANE AT 9.5M
- OUTLINE OF EXISTING HEIGHT BREACH
- ADJUSTED BOUNDARY LOCATION AS PER SURVEYOR'S DRAFT PLAN OF SUBDIVISION









VIEW 01: Existing view of 4 Fisher Avenue from 1 Fisher Avenue garden from standing position
NOT TO SCALE

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DEVELOPMENT APPLICATION

DATE	REV	AMENDMENT
21/10/2024	-	DA - VIEW ANALYSIS

PROJECT
4-6 FISHER AVENUE, VAUCLUSE

DRAWING
VIEW ANALYSIS - VIEW 01 - EXISTING

PROJECT NO.	DWG NO.	REV
221	DA131	-

Drawn:	MP	Scale:
Checked:	BS	Date: 21/10/2024



VIEW 01: Proposed view of DA121/2024 from 1 Fisher Avenue garden from standing position
NOT TO SCALE

LEGEND

- PROPOSED ENVELOPE OF DA 121/2024
- EXISTING SIDE BOUNDARY FENCE
- EXISTING ENVELOPE OF 2 FISHER AVENUE
- OUTLINE OF EXISTING BAMBOO HEDGE
- PROPOSED VIEW LOSS
- PROPOSED VIEW GAIN

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DEVELOPMENT APPLICATION

DATE	REV	AMENDMENT
21/10/2024	-	DA - VIEW ANALYSIS

PROJECT	PROJECT NO.	DWG NO.	REV
4-6 FISHER AVENUE, VAUCLUSE	221	DA132	-

DRAWING

VIEW ANALYSIS - VIEW 01 - PROPOSED

Drawn:	MP	Scale:
Checked:	BS	Date: 21/10/2024



VIEW 01. Analysis of view loss/gain from DA121/2024 from 1 Fisher Avenue garden from standing position
NOT TO SCALE

ANALYSIS

Water view loss = 4.72 units²
Water view gain = 5.75 units²

Total = + 1.03 units² water view gain

LEGEND

- PROPOSED ENVELOPE OF DA 121/2024
- EXISTING SIDE BOUNDARY FENCE
- EXISTING ENVELOPE OF 2 FISHER AVENUE
- OUTLINE OF EXISTING BAMBOO HEDGE
- PROPOSED VIEW LOSS
- PROPOSED VIEW GAIN

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DEVELOPMENT APPLICATION

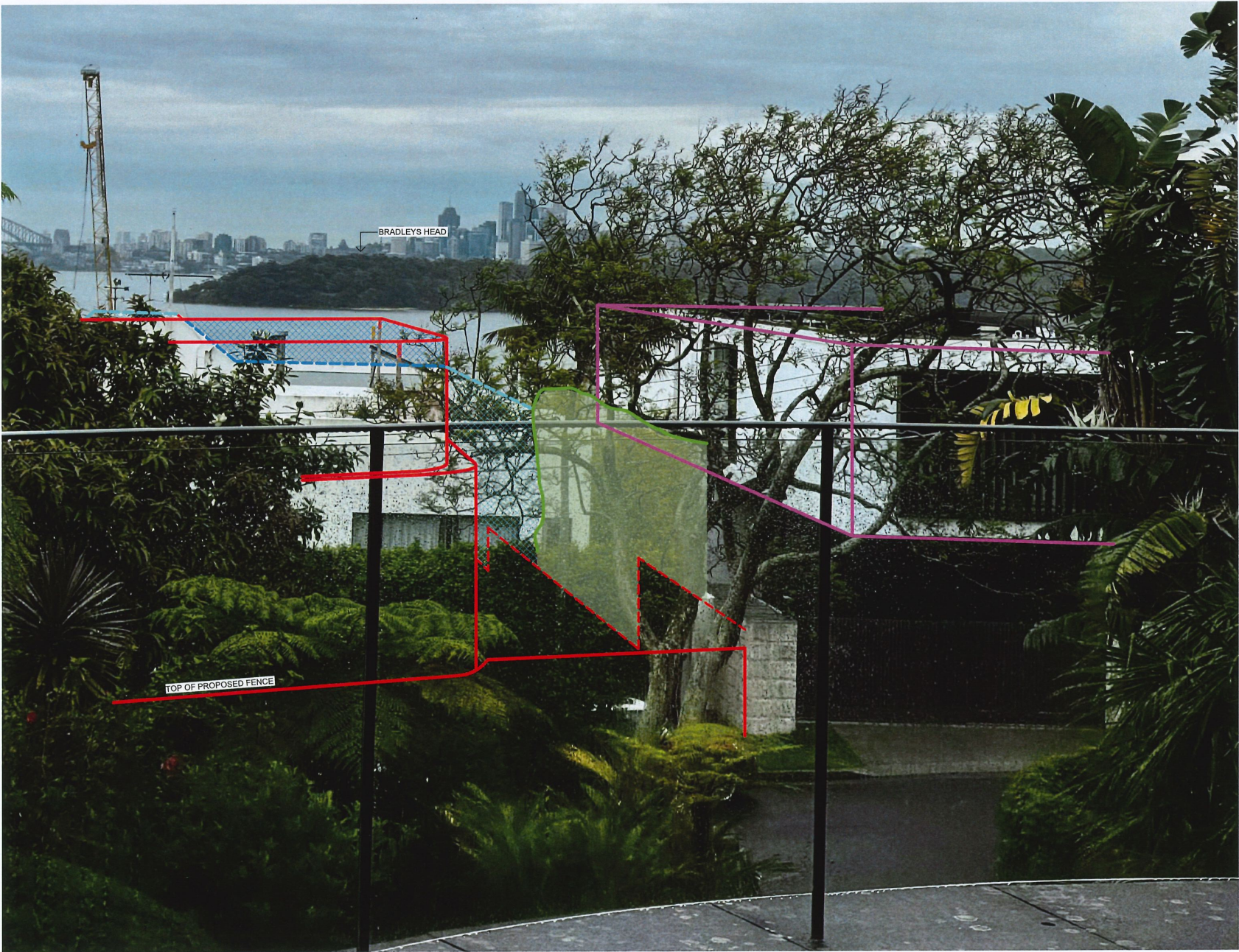
DATE REV AMENDMENT
21/10/2024 - DA - VIEW ANALYSIS

PROJECT
4-6 FISHER AVENUE, VAUCLUSE

PROJECT NO. DWG NO. REV
221 DA133 -

DRAWING
VIEW ANALYSIS - VIEW 01 - VIEW LOSS/GAIN

Drawn: MP Scale: 1:100
Checked: BS Date: 21/10/2024



VIEW 01. Analysis of view loss/gain from DA121/2024 from 1 Fisher Avenue garden from standing position
NOT TO SCALE

ANALYSIS

Water view loss = 4.72 units²
Water view gain = 5.75 units²

Total = + 1.03 units² water view gain

LEGEND

- PROPOSED ENVELOPE OF DA 121/2024
- EXISTING SIDE BOUNDARY FENCE
- EXISTING ENVELOPE OF 2 FISHER AVENUE
- OUTLINE OF EXISTING BAMBOO HEDGE
- PROPOSED VIEW LOSS
- PROPOSED VIEW GAIN

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DEVELOPMENT APPLICATION

DATE REV AMENDMENT
21/10/2024 - DA - VIEW ANALYSIS

PROJECT
4-6 FISHER AVENUE, VAUCLUSE

PROJECT NO. DWG NO. REV
221 DA134 -

DRAWING
VIEW ANALYSIS - VIEW 01 - VIEW LOSS/GAIN

Drawn: MP Scale:
Checked: BS Date: 21/10/2024



VIEW 02. Existing view of 4 Fisher Avenue from 1 Fisher Avenue garden from standing position.
NOT TO SCALE

LEGEND

PROPOSED ENVELOPE OF DA 121/2024

EXISTING SIDE BOUNDARY FENCE

EXISTING ENVELOPE OF 2 FISHER AVENUE

OUTLINE OF EXISTING BAMBOO HEDGE

PROPOSED VIEW LOSS

PROPOSED VIEW GAIN

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DEVELOPMENT APPLICATION		
DATE	REV	AMENDMENT
21/10/2024	-	DA - VIEW ANALYSIS

PROJECT	
4-6 FISHER AVENUE, VAUCLUSE	
DRAWING	
VIEW ANALYSIS - VIEW 02 - EXISTING	

PROJECT NO.	DWG NO.	REV
221	DA135	-
Drawn:	MP	Scale:
Checked:	BS	Date: 21/10/2024



VIEW 02. Proposed view of DA121/2024 from 1 Fisher Avenue garden from standing position
NOT TO SCALE

LEGEND

—

PROPOSED ENVELOPE OF DA 121/2024

- - -

EXISTING SIDE BOUNDARY FENCE

—

EXISTING ENVELOPE OF 2 FISHER AVENUE

OUTLINE OF EXISTING BAMBOO HEDGE

PROPOSED VIEW LOSS

PROPOSED VIEW GAIN

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		21/10/2024	-	DA - VIEW ANALYSIS

PROJECT	PROJECT NO.	DWG NO.	REV
4-6 FISHER AVENUE, VAUCLUSE	221	DA136	-
DRAWING	Drawn:	MP	Scale:
VIEW ANALYSIS - VIEW 02 - PROPOSED	Checked:	BS	Date: 21/10/2024



VIEW 02. Analysis of view loss/gain from DA121/2024 from 1 Fisher Avenue garden from standing position
NOT TO SCALE

ANALYSIS	
Water view loss	= 2.76 units ²
Water view gain	= 2.70 units ²
Total	= - 0.06 units ² water view loss

LEGEND	
	PROPOSED ENVELOPE OF DA 121/2024
	EXISTING SIDE BOUNDARY FENCE
	EXISTING ENVELOPE OF 2 FISHER AVENUE
	OUTLINE OF EXISTING BAMBOO HEDGE
	PROPOSED VIEW LOSS
	PROPOSED VIEW GAIN

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DEVELOPMENT APPLICATION

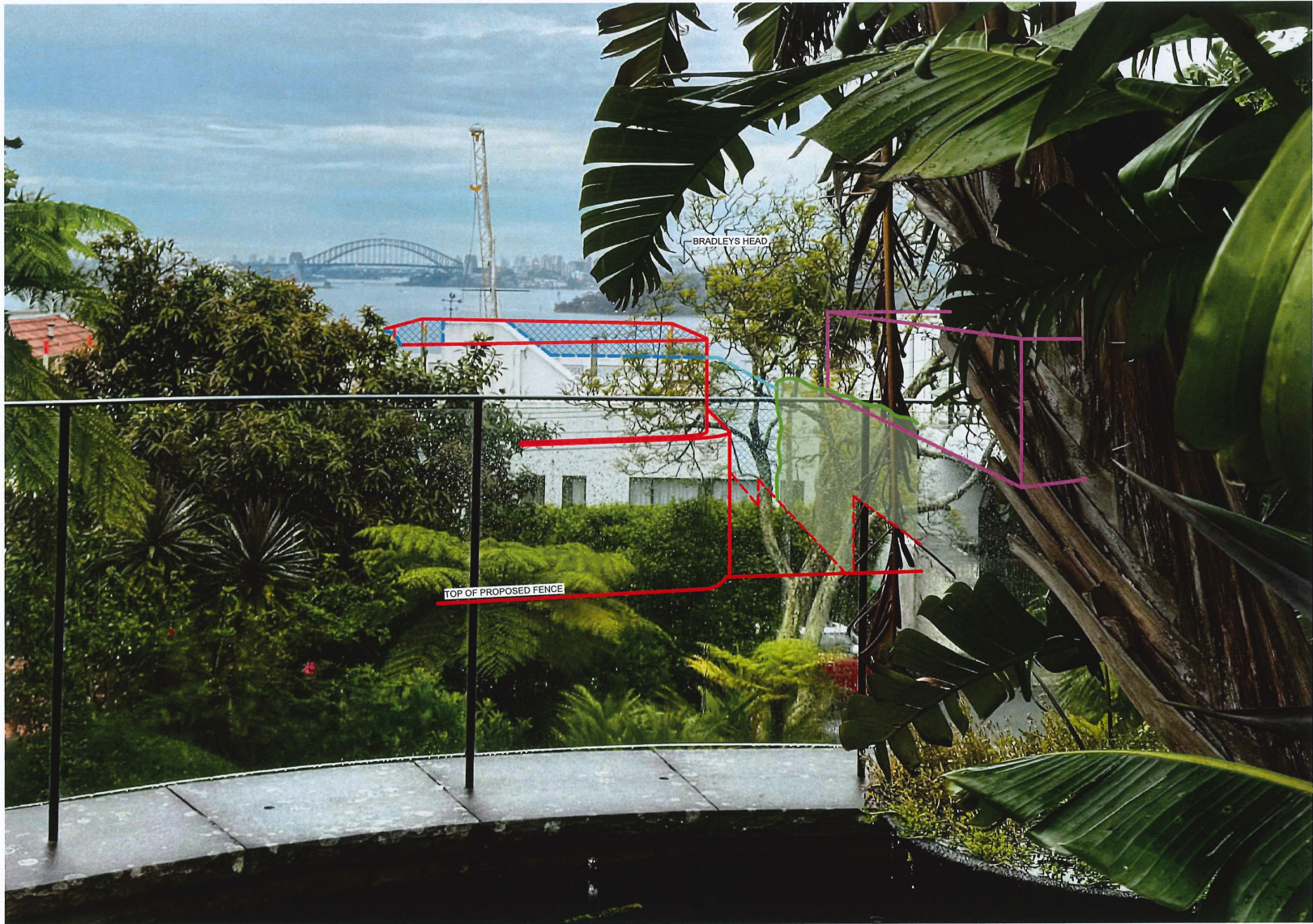
DATE	REV	AMENDMENT
21/10/2024	-	DA - VIEW ANALYSIS

PROJECT
4-6 FISHER AVENUE, VAUCLUSE

PROJECT NO.	DWG NO.	REV
221	DA137	-

DRAWING
VIEW ANALYSIS - VIEW 02 - VIEW LOSS/GAIN

Drawn: MP	Scale:
Checked: BS	Date: 21/10/2024



VIEW 02. Analysis of view loss/gain from DA121/2024 from 1 Fisher Avenue garden from standing position
NOT TO SCALE

ANALYSIS

Water view loss	= 2.76 units ²
Water view gain	= 2.70 units ²
Total	= - 0.06 units ² water view loss

LEGEND

- PROPOSED ENVELOPE OF DA 121/2024
- EXISTING SIDE BOUNDARY FENCE
- EXISTING ENVELOPE OF 2 FISHER AVENUE
- OUTLINE OF EXISTING BAMBOO HEDGE
- PROPOSED VIEW LOSS
- PROPOSED VIEW GAIN

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DEVELOPMENT APPLICATION

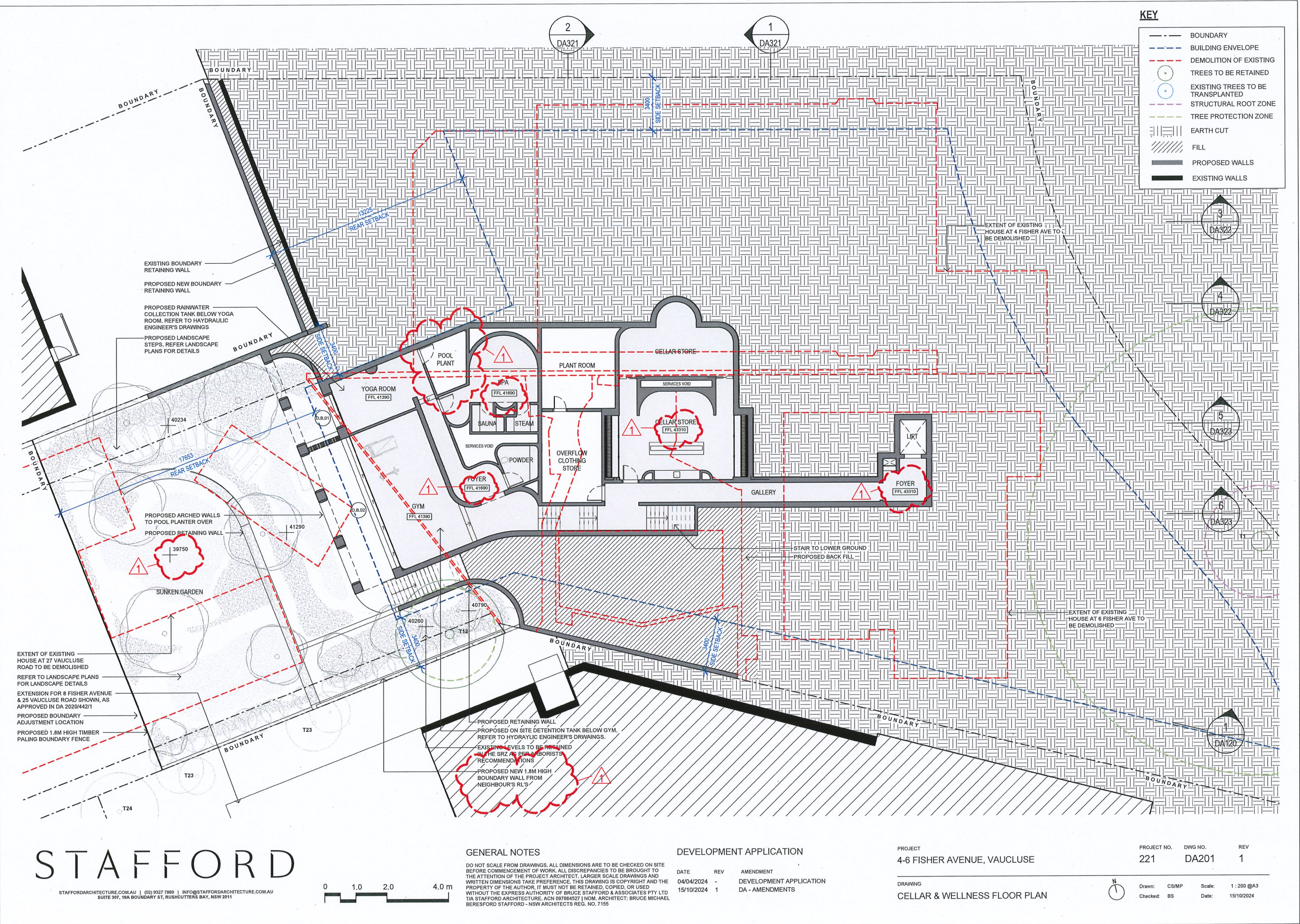
DATE	REV	AMENDMENT
21/10/2024	-	DA - VIEW ANALYSIS

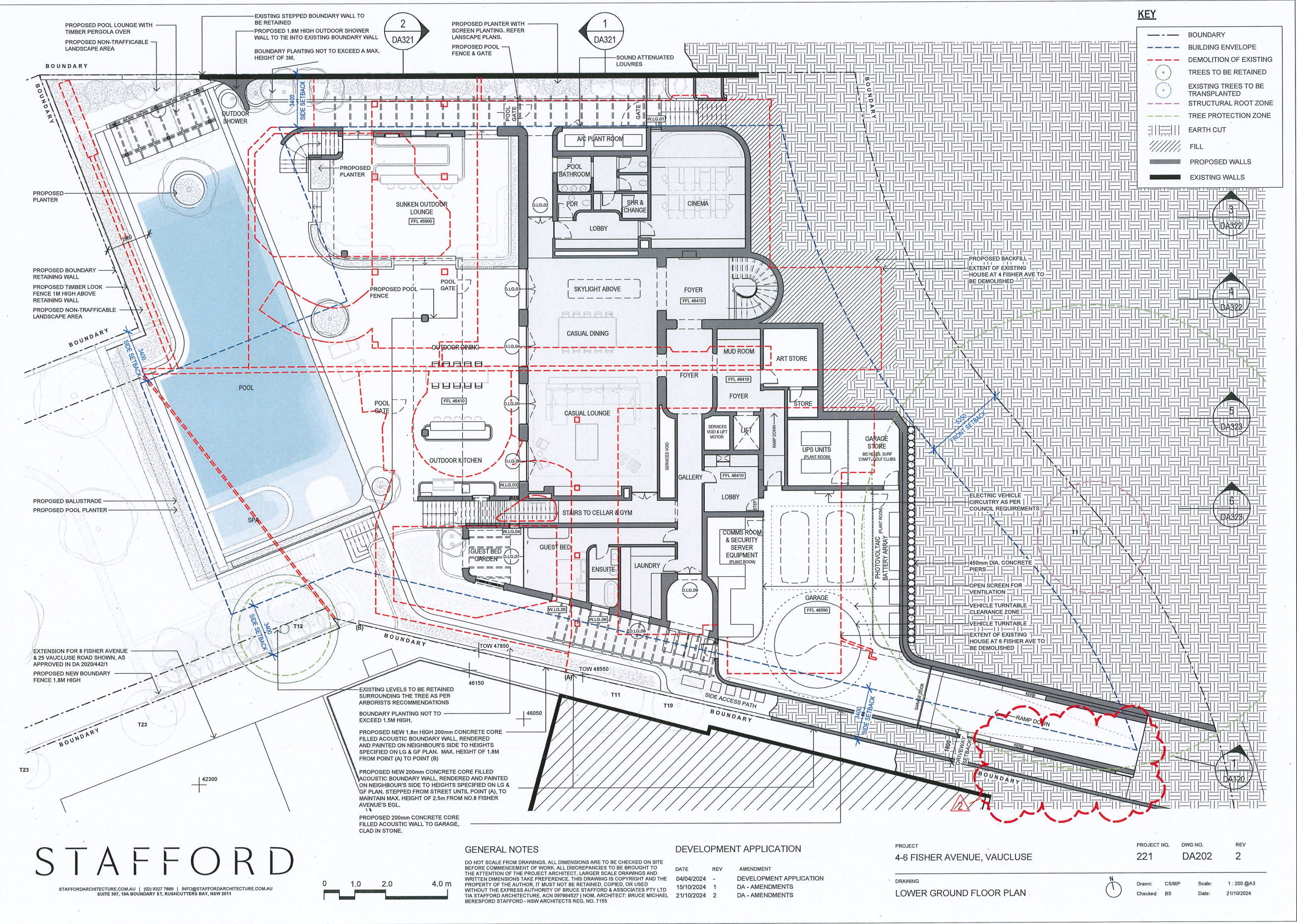
PROJECT
4-6 FISHER AVENUE, VAUCLUSE

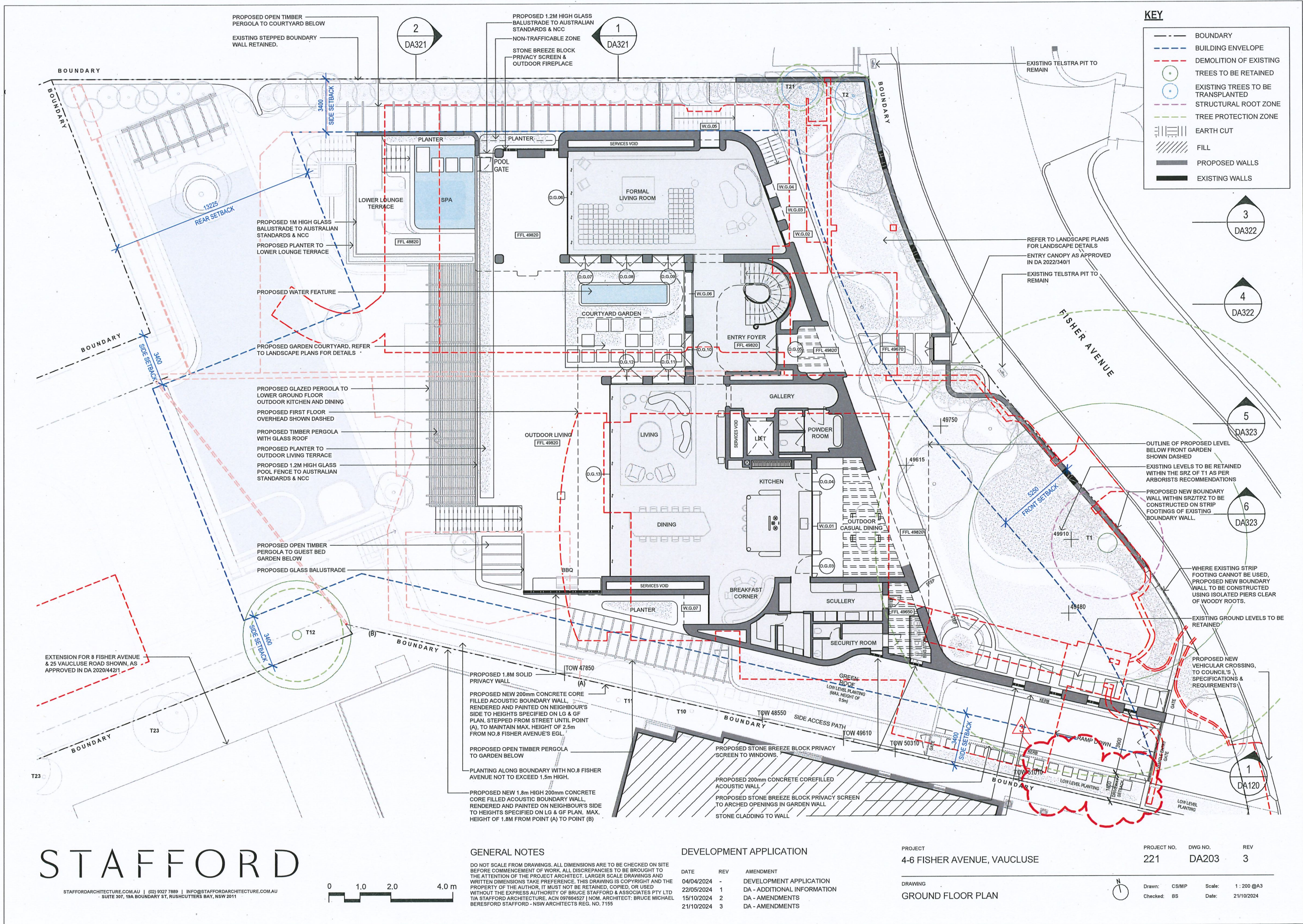
PROJECT NO.	DWG NO.	REV
221	DA138	-

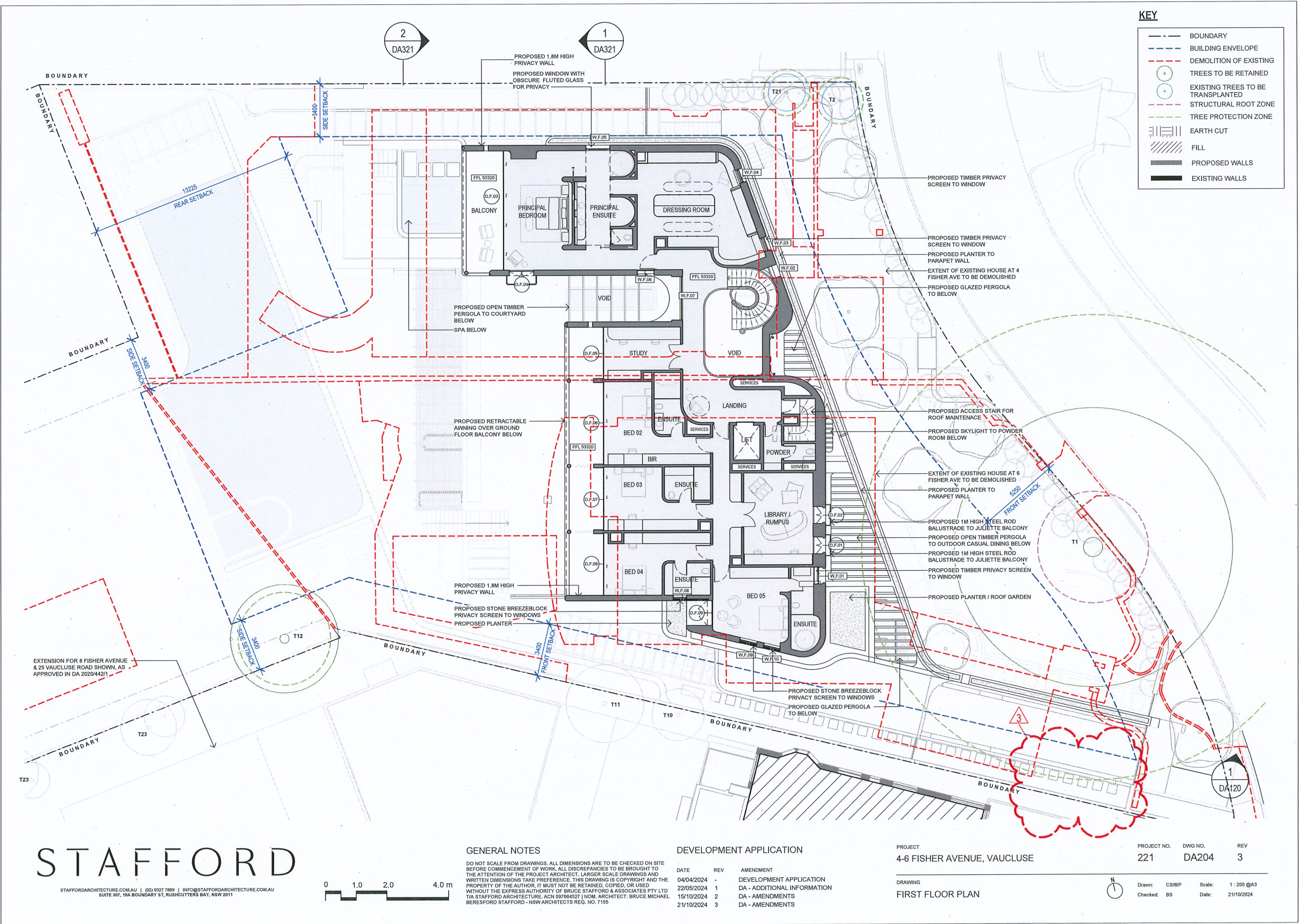
DRAWING
VIEW ANALYSIS - VIEW 02 - VIEW LOSS/GAIN

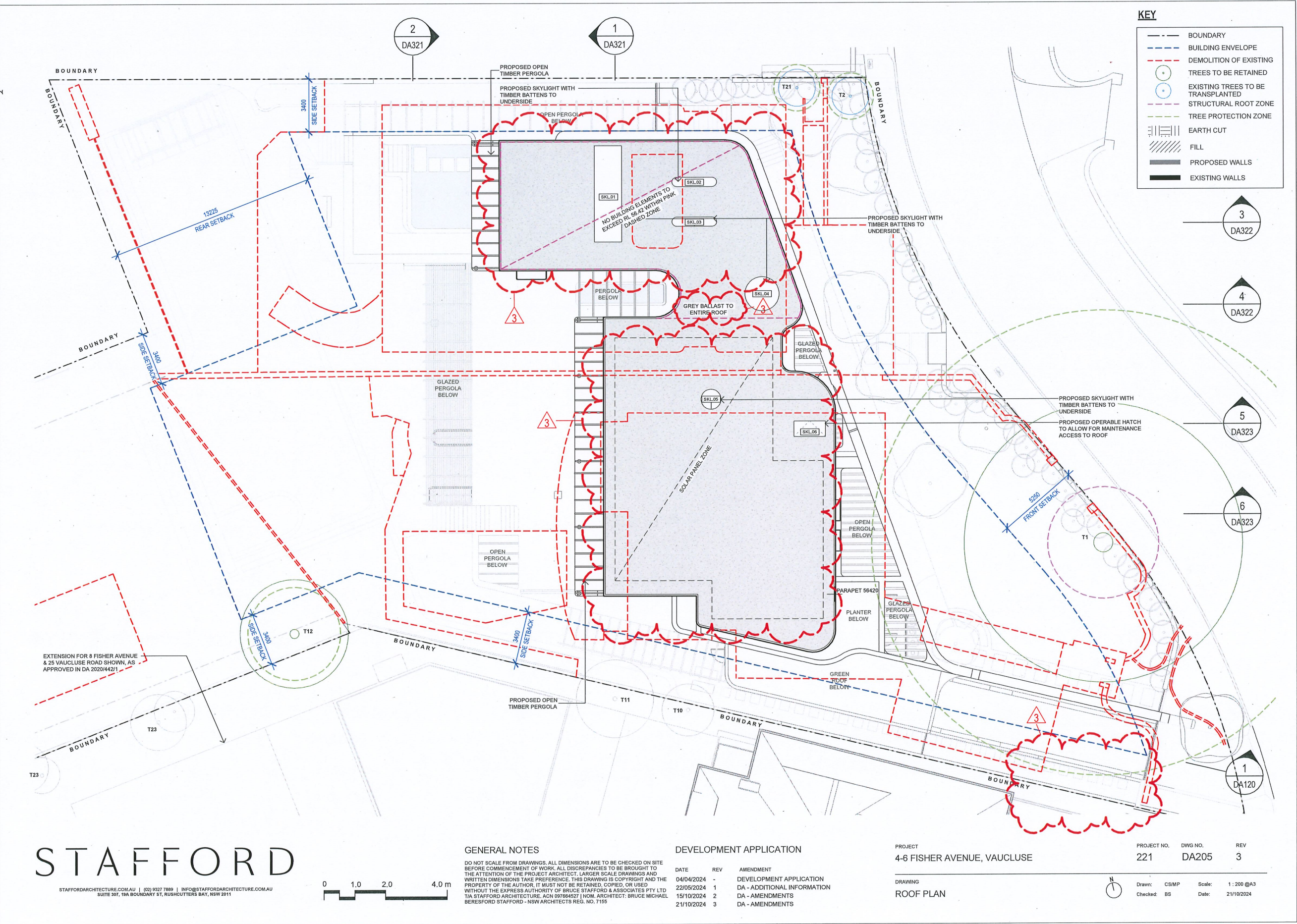
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Checked:	BS	Date:	21/10/2024

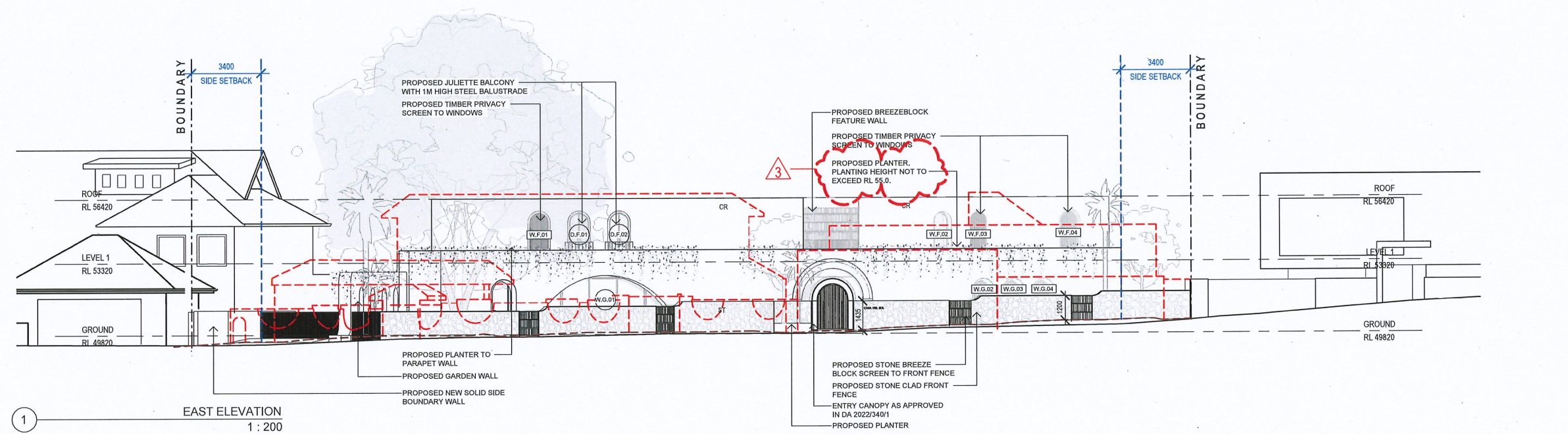








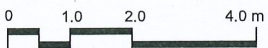




1 EAST ELEVATION
1 : 200

KEY			
	BUILDING ENVELOPE		NATURAL GROUND LEVEL
	DEMOLITION OF EXISTING		BOUNDARY
	LEP HEIGHT PLANE		SETBACK & WALL HEIGHT
	BOUNDARY WALL/FENCE BEHIND		NEIGHBOUR'S EGL BEHIND

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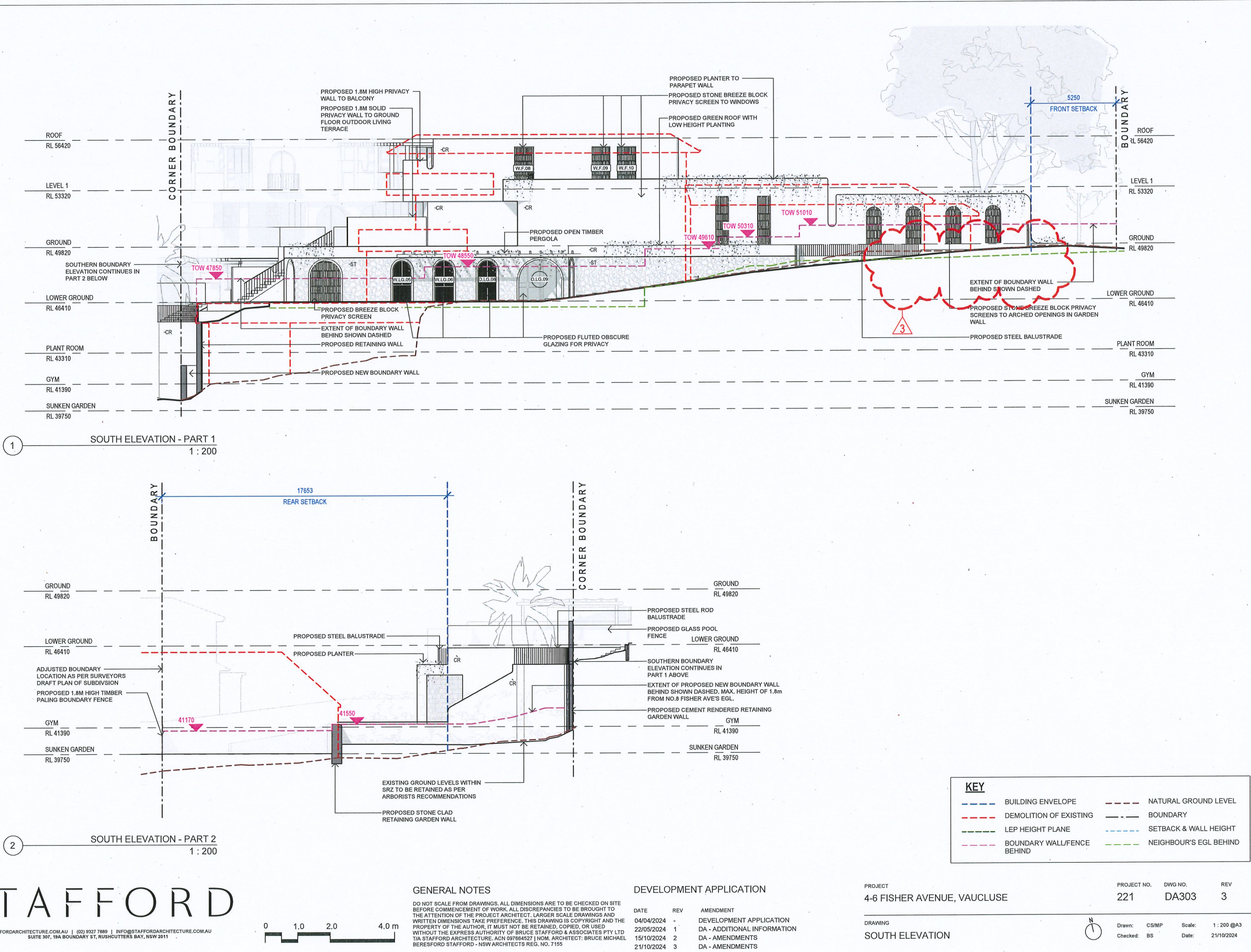


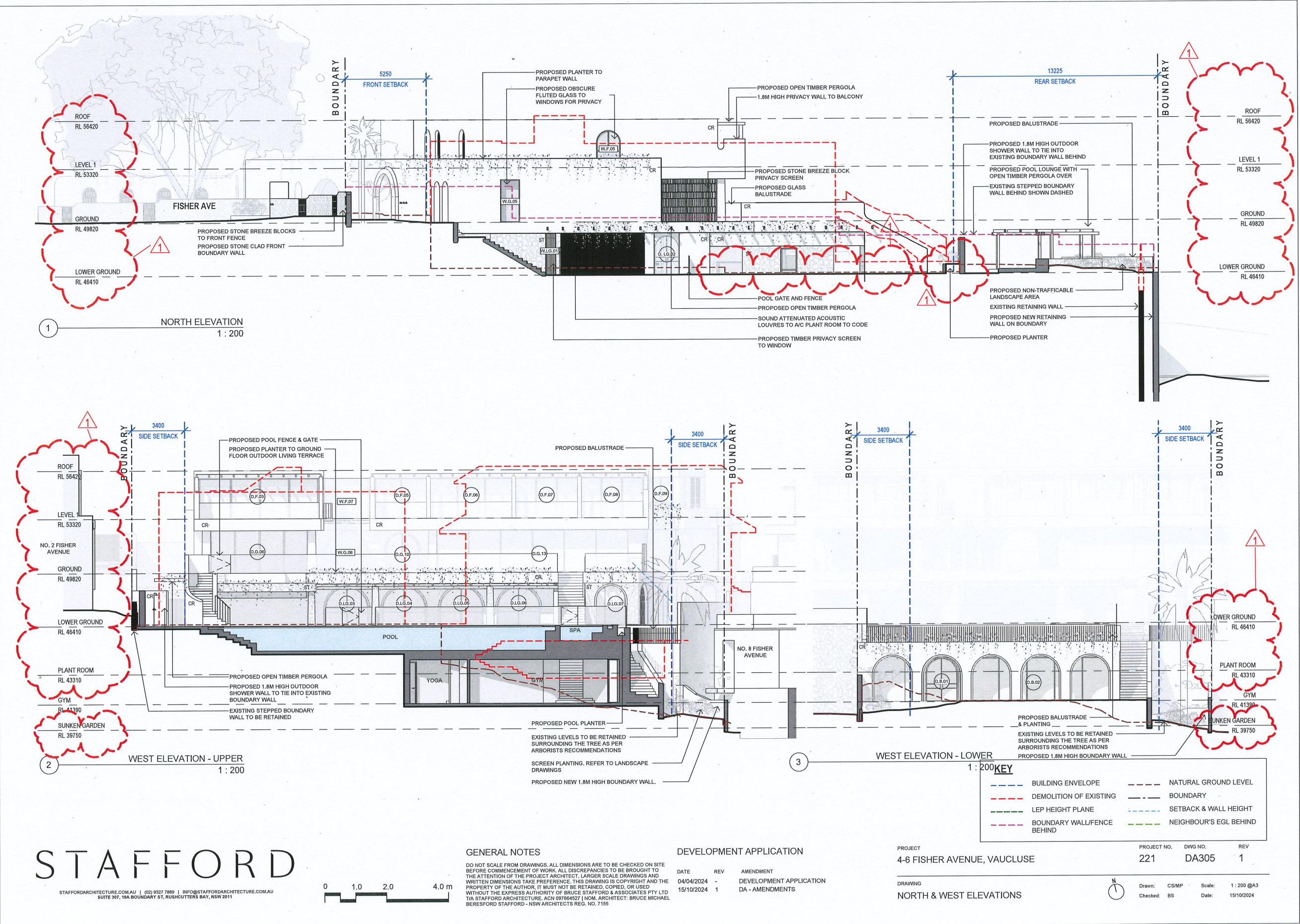
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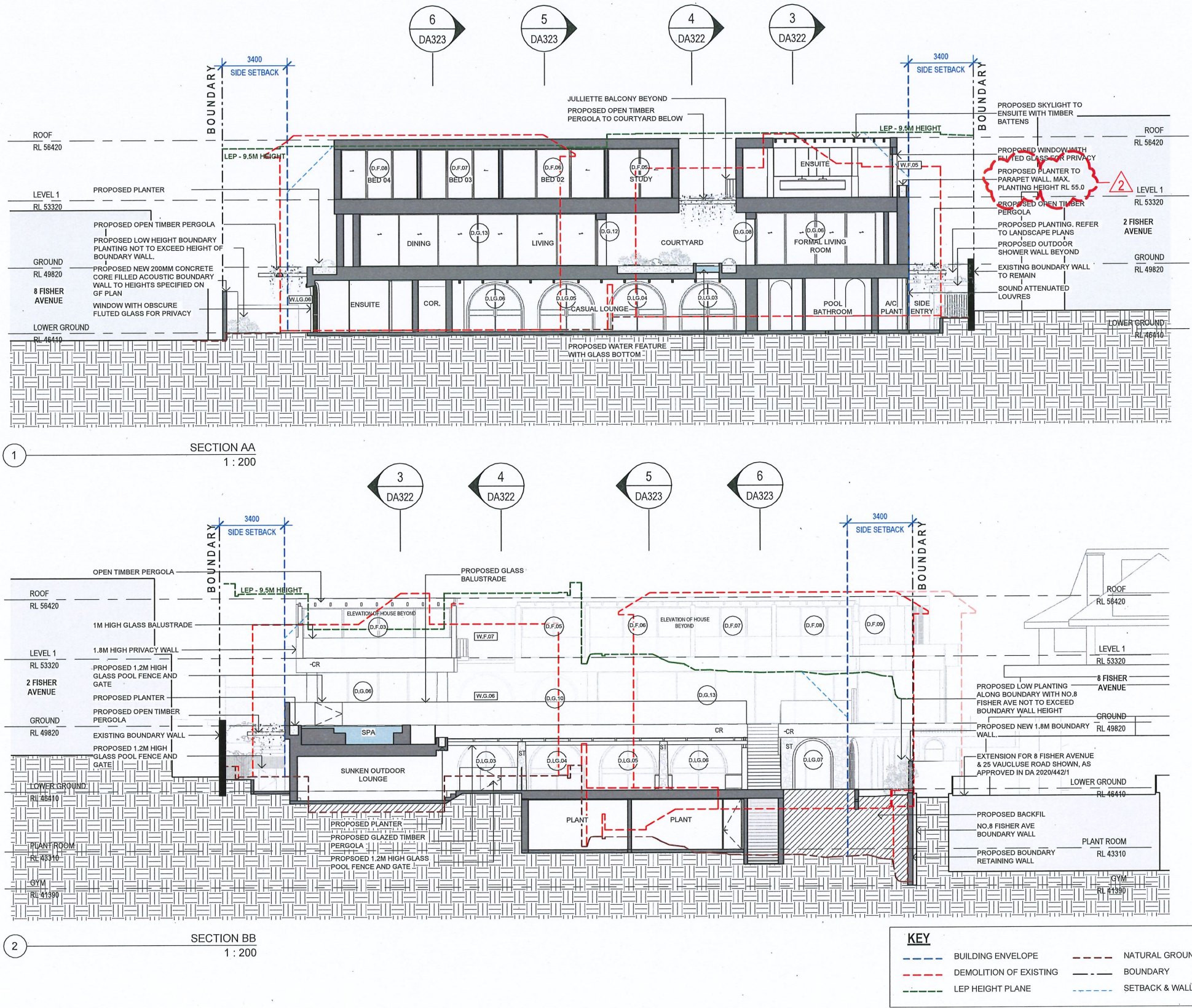
DEVELOPMENT APPLICATION		
DATE	REV	AMENDMENT
04/04/2024	-	DEVELOPMENT APPLICATION
22/05/2024	1	DA - ADDITIONAL INFORMATION
15/10/2024	2	DA - AMENDMENTS
21/10/2024	3	DA - AMENDMENTS

PROJECT
4-6 FISHER AVENUE, VAUCLUSE
DRAWING
EAST ELEVATION

PROJECT NO.	DWG NO.	REV
221	DA302	3
Drawn:	CS/MP	Scale: 1 : 200 @A3
Checked:	BS	Date: 21/10/2024

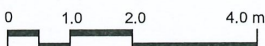






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DEVELOPMENT APPLICATION

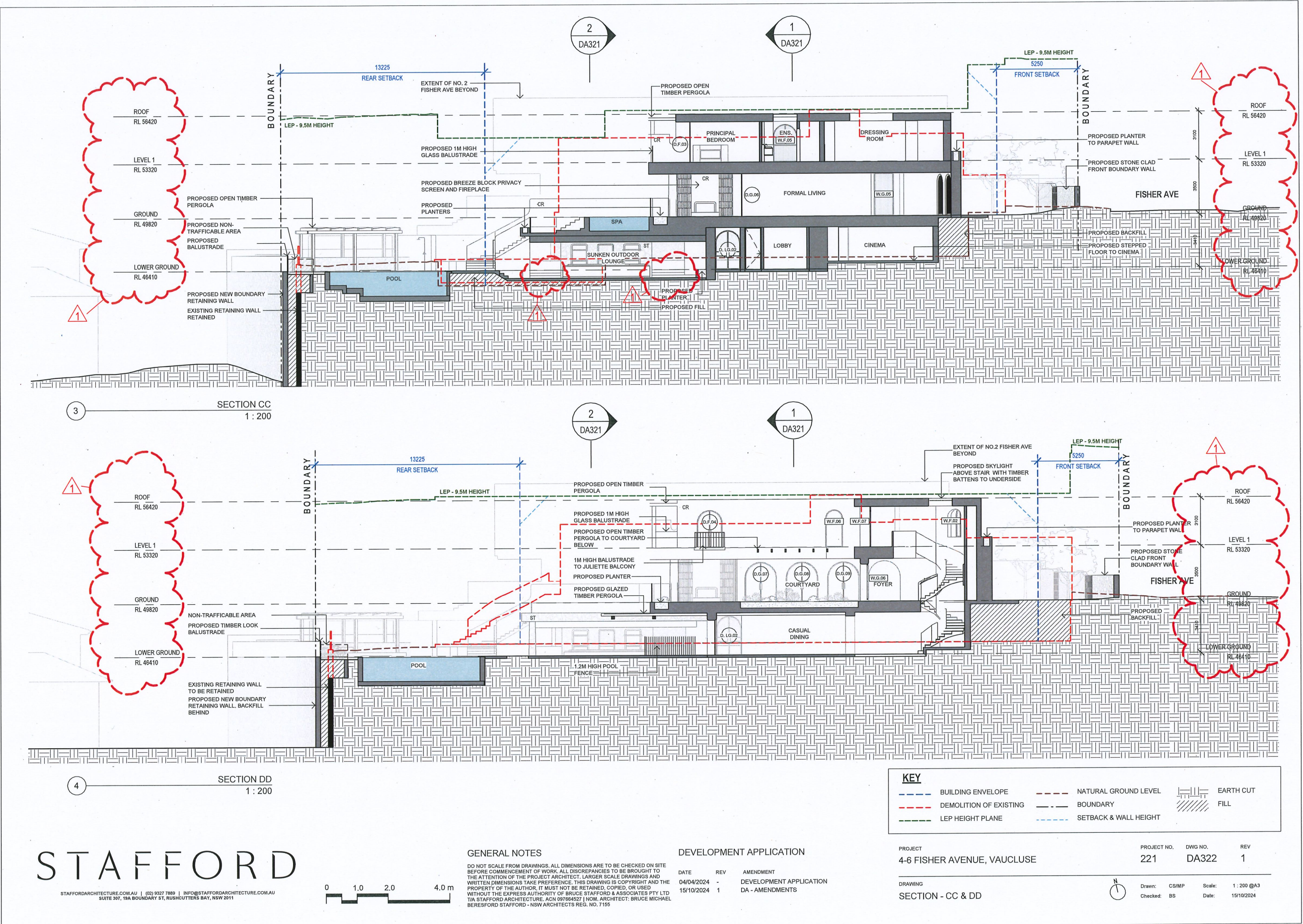
DATE	REV	AMENDMENT
04/04/2024	-	DEVELOPMENT APPLICATION
15/10/2024	1	DA - AMENDMENTS
21/10/2024	2	DA - AMENDMENTS

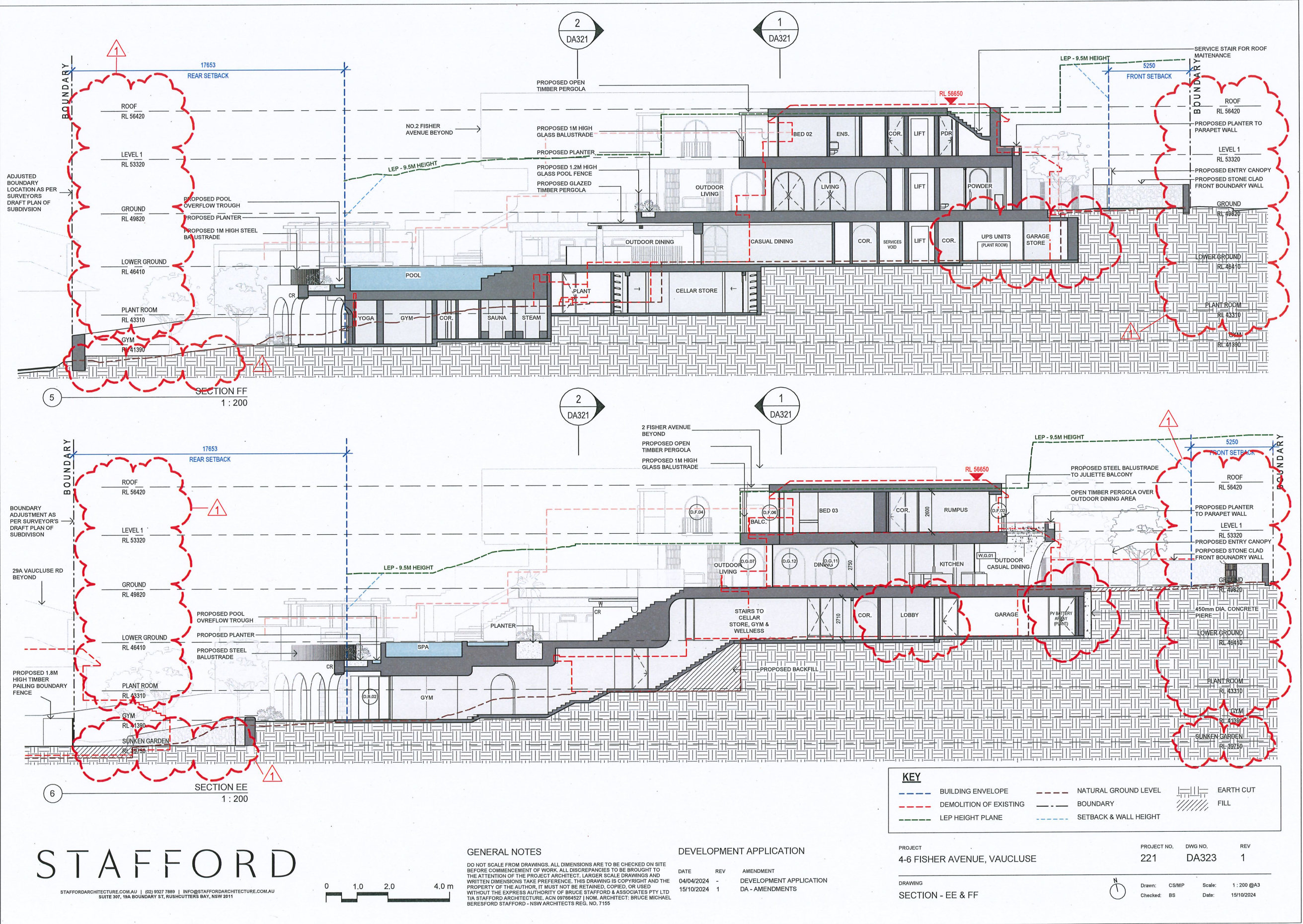
PROJECT
4-6 FISHER AVENUE, VAUCLUSE

PROJECT NO. 221
DWG NO. DA321
REV 2

DRAWING
SECTION - AA & BB

Drawn: CS/MP
Checked: BS
Scale: 1:200 @A3
Date: 21/10/2024





Architectural drawing showing door elevations for a project at 4-6 Fisher Avenue, Vacluse. The drawing includes a central section with a certificate and QR code, and two rows of door elevation details.

Central Section:

- Certificate No. #HR-H5SGGI-01**
- Assessor name:** Daniela Russo
- Accreditation No.:** HERA 10270
- Property Address:** 4-6 Fisher Avenue, Vacluse, NSW 2030
- URL:** <http://www.hero-software.com.au/pdf/HR-H5SGGI-01>

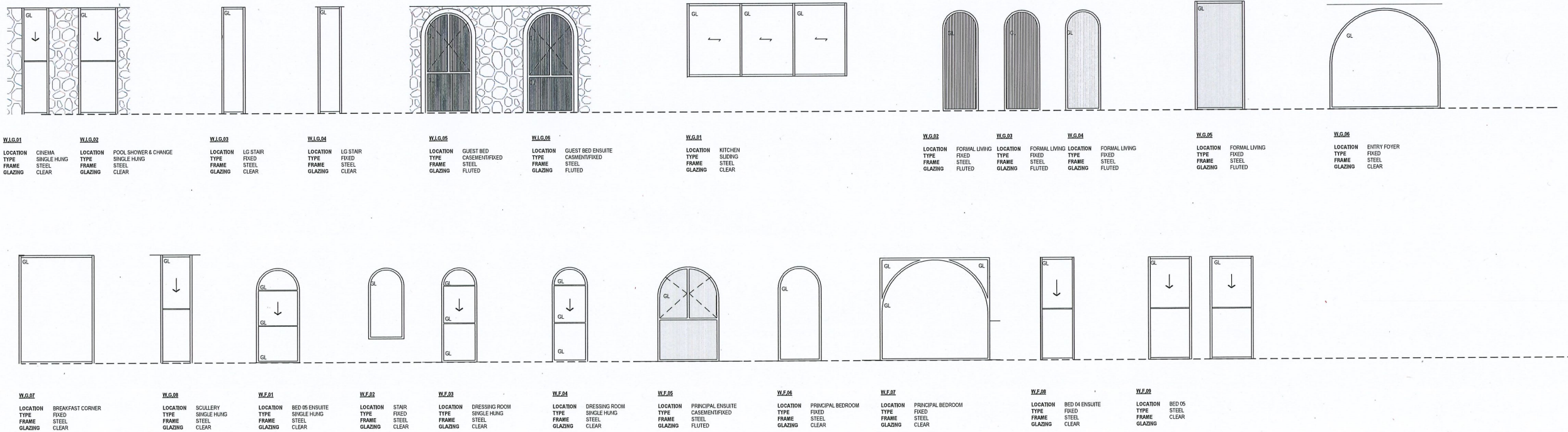
Door Elevation Details:

Top Row:

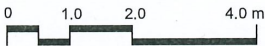
- D.G.01:** YOGA ROOM, DOUBLE SWING, STEEL, CLEAR
- D.G.02:** GYM, SLIDING, STEEL, CLEAR
- D.G.03:** POOL BATHROOM, PIVOT, NA
- D.G.04:** LG ENTRY, DOUBLE SWING, STEEL, CLEAR
- D.G.05:** CASUAL DINING, DOUBLE SWING, STEEL, CLEAR
- D.G.06:** CASUAL DINING, DOUBLE SWING, STEEL, CLEAR
- D.G.07:** CASUAL LOUNGE, DOUBLE SWING, STEEL, CLEAR
- D.G.08:** CASUAL LOUNGE, DOUBLE SWING, STEEL, CLEAR
- D.G.09:** GUEST BED, SLIDING, STEEL, CLEAR

Bottom Row:

- D.G.10:** LAUNDRY, DOUBLE SWING, STEEL, FLUTED
- D.G.11:** LOWER GROUND ENTRY, DOUBLE SWING, STEEL, CLEAR
- D.G.12:** GARAGE, SLIDING, STEEL, NA
- D.G.13:** SCULLERY, SWING, STEEL, CLEAR
- D.G.14:** SECURITY ROOM, SWING, STEEL, CLEAR
- D.G.15:** KITCHEN, PIVOT, STEEL, CLEAR
- D.G.16:** KITCHEN, PIVOT, STEEL, CLEAR
- D.G.17:** GF ENTRY, DOUBLE SWING, NA
- D.G.18:** FORMAL LIVING, SLIDING, STEEL, CLEAR
- D.G.19:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.20:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.21:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.22:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.23:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.24:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.25:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.26:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.27:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.28:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
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- D.G.99:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR
- D.G.100:** FORMAL LIVING, DOUBLE SWING, STEEL, CLEAR



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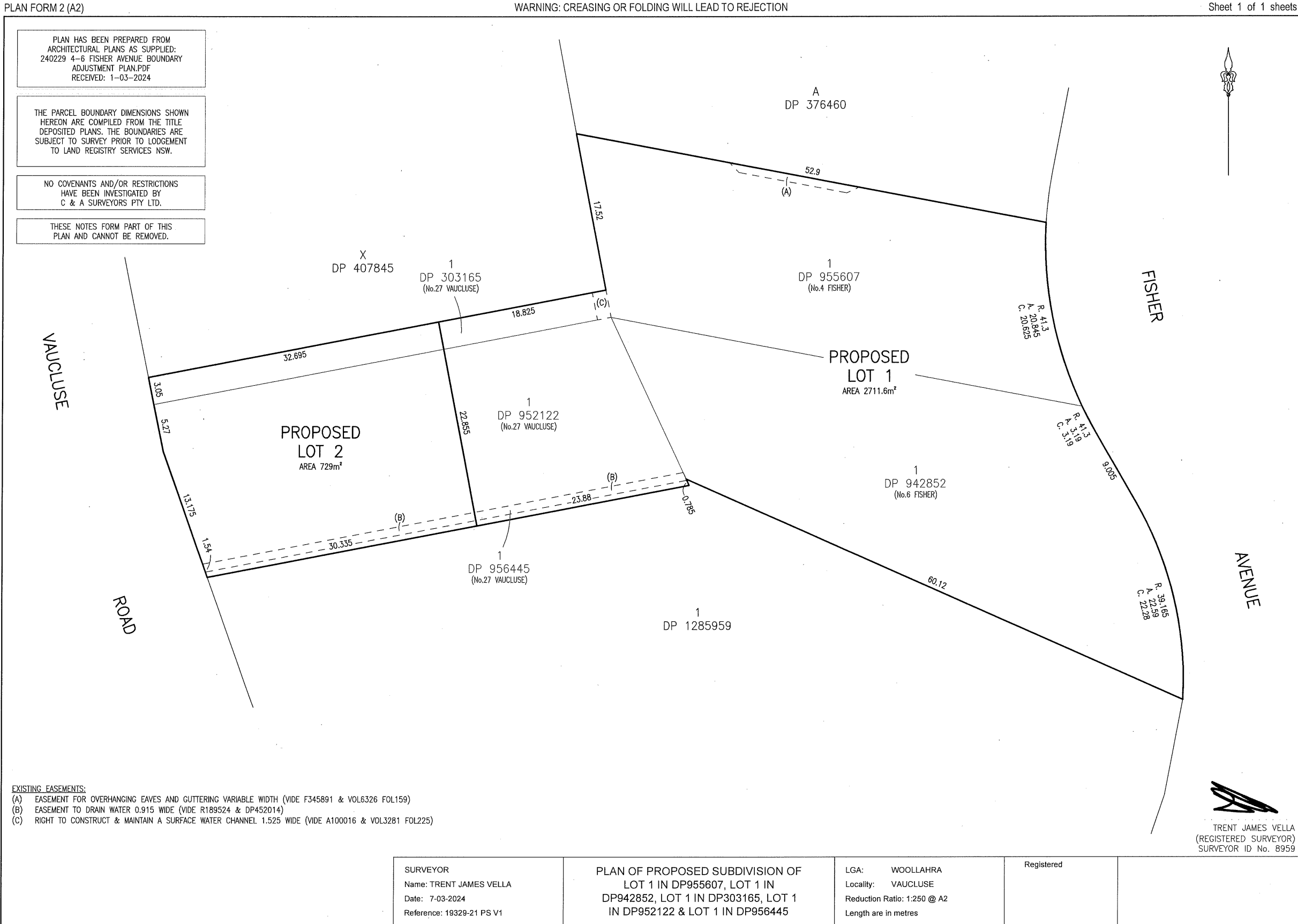
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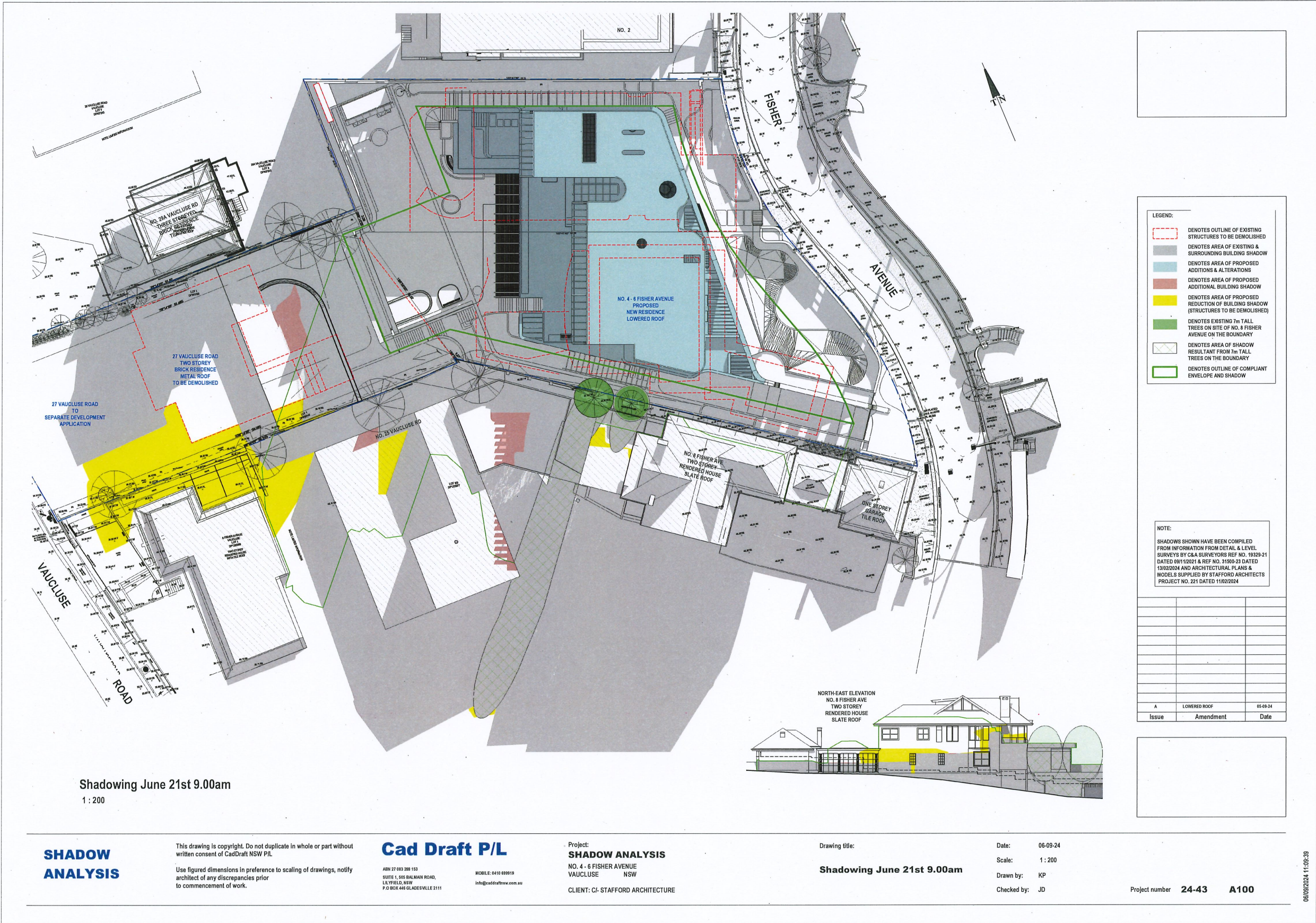
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4-6 FISHER AVENUE, VAUCLUSE
DRAWING
WINDOW ELEVATIONS

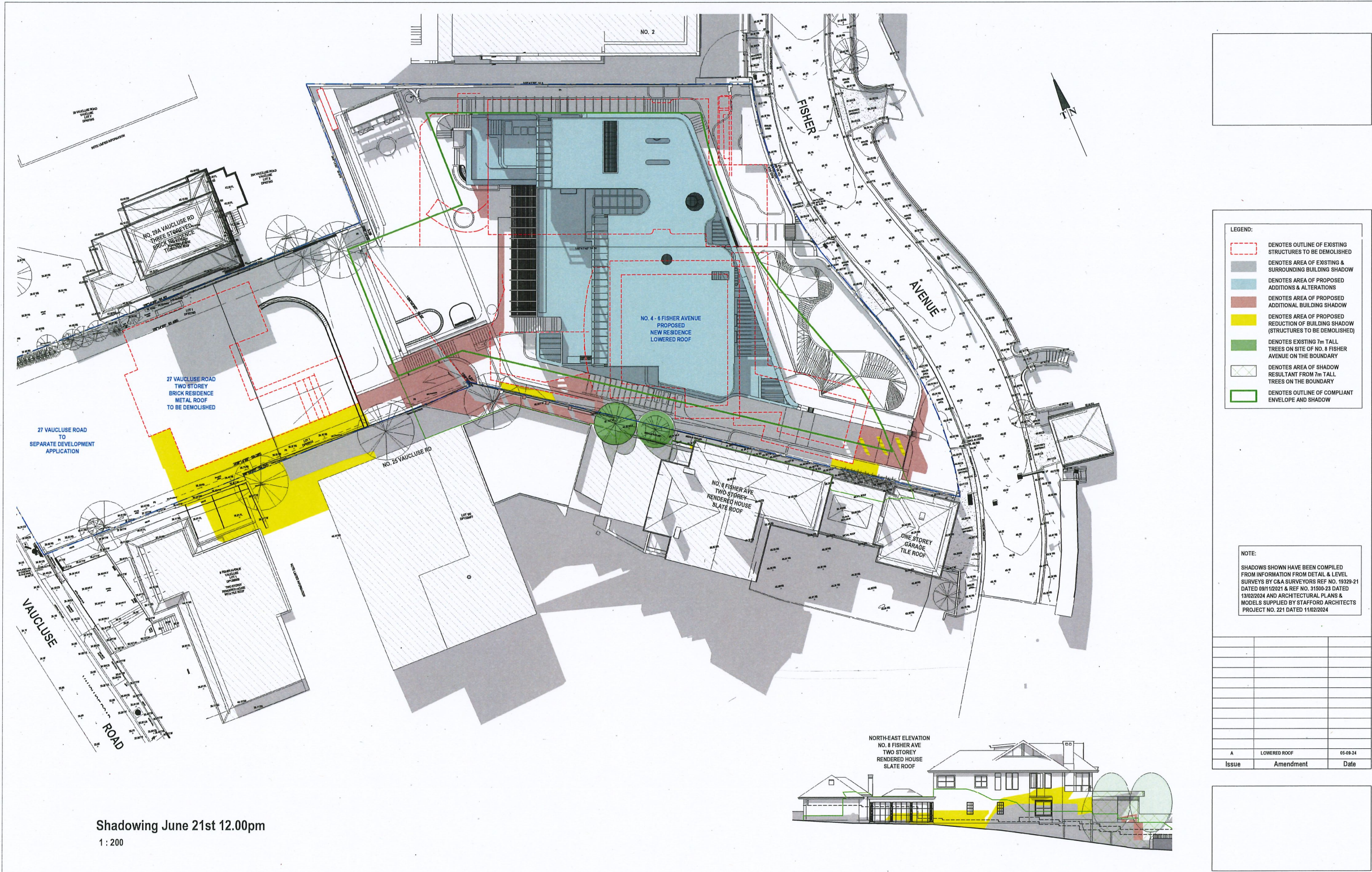
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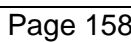
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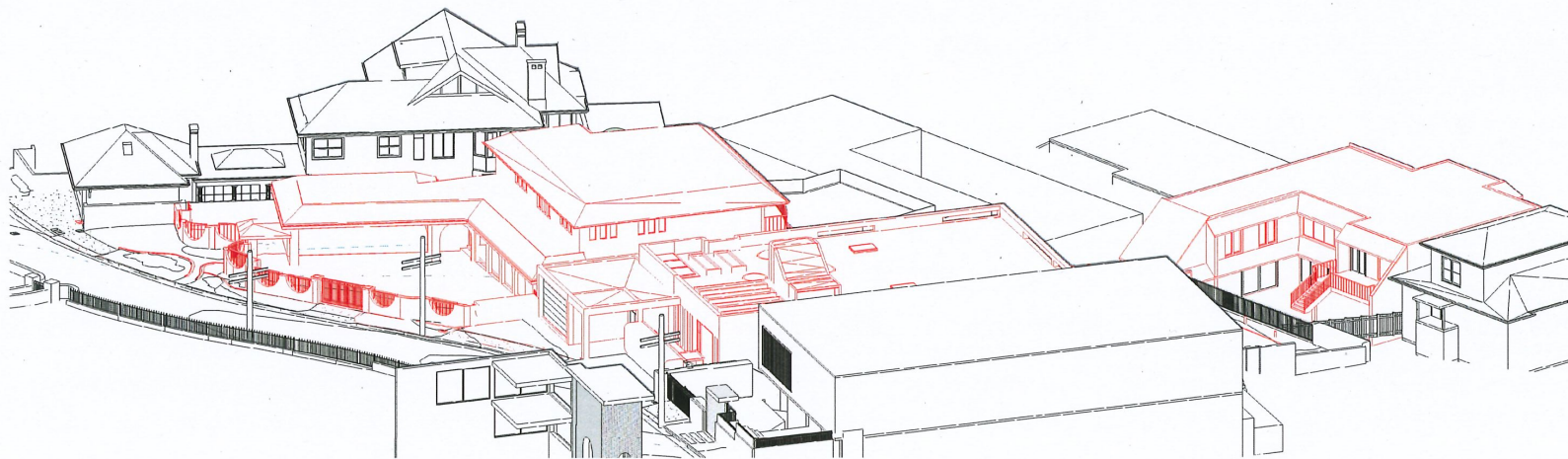
Assessor name Daniela Russo
Accreditation No. HERA 10270
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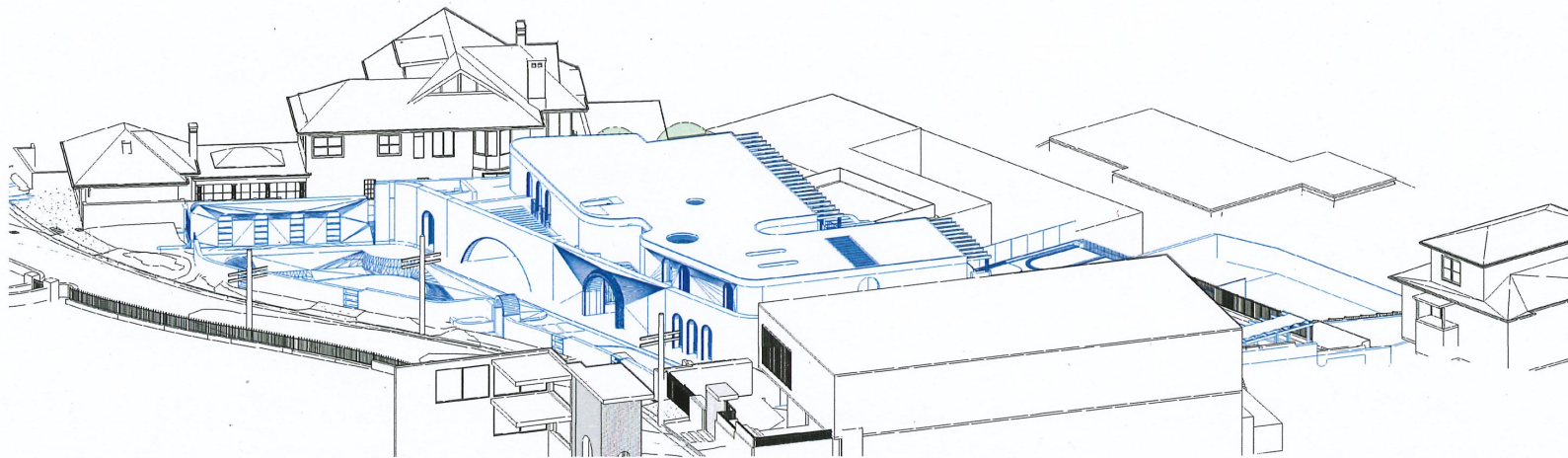








June 21st 9.00am Existing



June 21st 9.00am Proposed

**SHADOW
ANALYSIS**

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Project:
SHADOW ANALYSIS
NO. 4 - 6 FISHER AVENUE
VAUCLUSE NSW

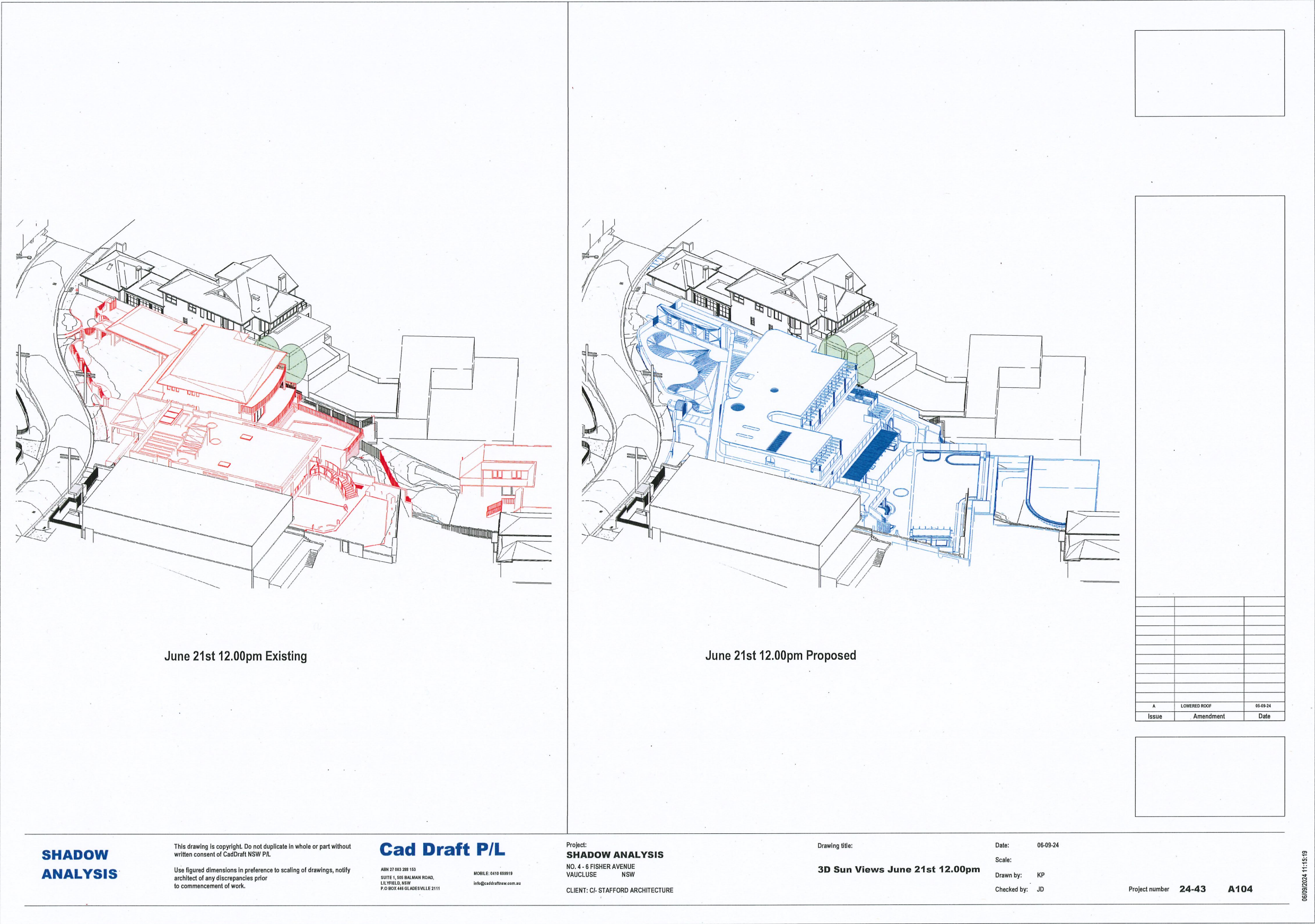
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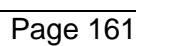
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Date: 06-09-24
Scale:
Drawn by: KP
Checked by: JD

Project number **24-43 A103**

06/09/2024 11:14:47





LANDSCAPE DEVELOPMENT APPLICATION PLANS

COUNCIL REQUIREMENTS - WOOLLAHRA RESIDENTIAL DEVELOPMENT APPLICATION

THE LANDSCAPE PLAN IS IN GENERAL ACCORDANCE WITH COUNCIL PLANNING CONTROLS:
• DCP (WOOLLAHRA RESIDENTIAL DEVELOPMENT CONTROL PLAN 2015) CHAPTER B3 – GENERAL DEVELOPMENT CONTROLS & CHAPTER E3 - TREE MANAGEMENT.

LANDSCAPE AREA - FOR LANDSCAPE AREA CALCULATIONS REFER TO ARCHITECTUAL PLANS

TREE CANOPY COVERAGE - FOR TREE CANOPY COVERAGE CALCULATIONS REFER TO DA_06

LANDSCAPE INSTALLATION SPECIFICATION

TREE REMOVAL

- Tree surgery, pruning or tree removal works are to be overseen by a qualified arborist, if specified by arborists report.
- Tree protection to be installed for trees to be retained as per arborist / council's specifications.

TREES TO BE RETAINED

- Refer to arborist report for recommended tree protection.

PLANTER BEDS

- Soil for plantings over slab or contained areas. Minimum soil depths for planting on any slab:
- Trees: Min 800mm excluding 75mm mulch
- Shrubs: Min 600mm excluding 75mm mulch
- Groundcovers & Turf: Min 300mm
- Suitable drainage implemented through use of ag lines, drainage flow cell and geotech fabric.
- Soil to be ANL Planter Box Mix, or equivalent. Blend of soil, coarse sand, graded ash, nepean sand, composted sawdust, botany humus and composted pine bark.
- Soil to be between 20-50mm below top of retaining wall height, to allow for dropping.

TURFING

- Turf to be laid on minimum 100mm turf underlay.
- Turf underlay to be ANL Sand / Soil Blend, or equivalent.
- Turf to be Sir Walter Turf – Premium Buffalo Grass (Registered PBR), supplied by President Turf, or equivalent.

MULCHING

- Place mulch to minimum depth of 75mm, clear of plant stems, and rake to an even surface flush with the surrounding finished levels and consistent in depth.
- Trees in lawn areas to have 750mm diameter of mulch surrounding.
- Mulch for general garden areas, pots, and planters to be Australian Native Landscapes (ANL) Greenlife Mulch and Compost', or equivalent.

TREE PLANTING

- Excavate holes in accordance with dimension of container. The depth of the holes is to be equivalent to the container height plus 100mm and the width of the hole is to be twice that of the container.
- Locate tree to centre of hole and backfill with soil. Firm about root ball.
- All plant material, 45 Litres or over, to be staked.

IRRIGATION

- Automated irrigation system to be implemented. Reputable irrigation brands are to be sourced.
- Use drip lines with emitters at 300mm spacing's for all garden beds.
- Use pop-up spray heads for all lawn areas. Pop-up spray heads are to be spaced according to product specification.
- Conceal irrigation below the mulch layer in planting areas and 150mm below the surface of turf areas. Conceal all components including pipework, fittings, valves, and control equipment.

EXISTING TREE SCHEDULE						
TREE NO.	GENUS SPECIES	COMMON NAME	HEIGHT	CANOPY	CALLIPER	ACTION/COMMENT
E01	Angophora costata	Smooth-barked Apple	15000	18000	1250	Retain
E02	Howea forsteriana	Kentia Palm	6000	2400	200	Transplant - Original location
E03	Cyathea cooperi	Tree Fern	5000	2500	150	Remove
E04	Cyathea cooperi	Tree Fern	6000	2000	200	Remove
E05	Cyathea cooperi	Tree Fern	7000	2500	250	Remove
E06	Cyathea cooperi	Tree Fern	6500	2500	200	Remove
E07	Cupressus leylandii	Leyland Green Cypress	8000	5000	250	Remove
E08	Cupressus leylandii	Leyland Green Cypress	9000	4000	200	Remove
E09	Cupressus leylandii	Leyland Green Cypress	8500	4000	200	Remove
E10	Cupressus torulosa	Bhutan Cypress	7000	2000	200	Retain
E11 x 4	Cupressus torulosa	Bhutan Cypress	8000	3000	250	Retain
E12	Phoenix canariensis	Phoenix Palm	13000	7000	750	Retain
E13	Harpephyllum caffrum	Kaffir Plum	10000	11000	550	Remove
E14	Harpephyllum caffrum	Kaffir Plum	10000	8000	650	Remove
E15	Harpephyllum caffrum	Kaffir Plum	10000	11000	600	Remove
E17 x 3	Cupressus leylandii	Leyland Green Cypress	5000	3000	250	Remove
E18	Cupressus leylandii	Leyland Green Cypress	3500	4000	300	Remove
E19 x 2	Cupressus leylandii	Leyland Green Cypress	3500	2000	250	Remove
E20 x 2	Cupressus leylandii	Leyland Green Cypress	3500	2000	250	Remove
E21	Howea forsteriana	Kentia Palm	6000	2400	300	Transplant - Original location
E22	Phoenix roebelenii	Pygmy Date Palm	2500	2200	300	Remove

ARBORICULTURAL ASSESSMENT - REFER TO ARBORICULTURAL ASSESSMENT AS REQUIRED

PLANT SCHEDULE							
ID	QTY	BOTANICAL NAME	COMMON NAME	SCHEDULED SIZE	MATURE SPREAD	MATURE HEIGHT	REMARKS
Trees							
Bn	3	Banksia integrifolia	Coastal Banksia	75 Ltr	3.5 - 6m	5 - 10m	Australian Native
Can	8	Cupaniopsis anacardioides	Tuckeroo	75 Ltr	8 - 10 m	6 - 8 m	Australian Native
Clt	11	Citrus limon 'Eureka' & 'Lisbon'	Lemon Tree	500 mm	Maintained	4 m	Espaller
Oe	5	Olea europaea	European Olive	Advanced	3.5 - 6m	5 - 10m	
WF	1	Waterhousea floribunda	Weeping Lilly Pilly	75 Ltr	6 - 10 m	5 - 11 m	Australian Native
Palms - Cycads							
Ch	4	Chamaerops humilis	European Fan Palm	Advanced	1 - 1.5m	1.5 - 2m	
HF	1	Howea forsteriana	Kentia Palm	Advanced	2 - 4m	6m	Australian Native
Tif	13	Trachycarpus fortunei	Windmill Palm	Advanced	2 - 4m	4 - 10m	
Shrubs							
CaC	57	Correa alba 'Coastal Pink'	Correa	200 mm	1.5 - 2.0 m	1.5 - 2.0 m	Australian Native
Fs	114	Feijoa sellowiana	Feijoa	300 mm	1 - 2m	2 - 4m	
Ro	313	Rosmarinus officinalis 'Prostratus	Rosemary	140 mm	1 - 2 m	0.3 - 0.6m	In trough planters to side passage
Rof	7	Rosmarinus officinalis	Rosemary	140 mm	1 - 2m	2 - 4m	
Perennials							
Bm	149	Brachycome multifida	Native Daisy	140mm	0.3 - 0.6m	0.3m	Australian Native
BmA	1871	Brachycome multifida 'Alba'	Cut-Leaf Daisy	140 mm	0.3 - 0.6m	0.3m	Australian Native
De	11	Doranthus excelsa	Gymea Lily	300 mm	1.2 - 2.0m	1.5 - 3m	Australian Native
HH	9	Heliconia 'Hot Rio Nights'	Giant Claw	300 mm	1 - 2m	2 - 4m	
Grasses							
LI	359	Lomandra longifolia	Spiny-headed Mat Rush	140 mm	0.6 - 0.9m	0.45 - 0.6m	Australian Native
PlaE	85	Poa labillardieri 'Eskdale'	Tussock Grass	140 mm	0.5 - 0.6 m	0.6 - 0.9 m	Australian Native
Groundcovers							
Ca	545	Chryscephalum apiculatum	Yellow Buttons	140 mm	0.6 - 1.0m	0.3 - 0.6m	Australian Native
Dr	333	Dichondra repens	Kidney Weed	100 mm	0.9 - 1.2m	0.0 - 0.3m	Australian Native
Egg	301	Eremphila glabra 'Prostrate'	Emu Bush	140 mm	1.0 - 2.0m	0.0 - 0.3m	Australian Native
Ek	65	Eriogon karwinskianus	Seaside Daisy	140 mm	0.3 - 0.6m	0.6 - 1m	
Mpy	62	Myoporum parvifolium 'Varrens'	White flowered Boobialla	140 mm	0.9 - 1.2m	0.45 - 0.6m	Australian Native
Vh	45	Viola hederacea	Native Violet	100mm	1.2 - 2.0m	0.0 - 0.3m	Australian Native
Succulents							
Agw	6	Agave weberi	Weber Agave	300 mm	1 - 1.5m	1 - 1.5m	
Fm	202	Pachycereus marginatus	Mexican Fence Post Cactus	500 mm	1 - 2m	4 - 5m	
Yur	6	Yucca rostrata	Blue Yucca	500 mm	1 - 2m	4 - 10m	Multi-stemmed
Climbers							
BgS	138	Bougainvillea 'Scarlet O'Hara'	Bougainvillea	140 mm	2 - 3m	2 - 5m	Groundcover
Hsc	55	Hibbertia scandens	Golden Guinea Flower, Snake	140mm	3.5 - 6m	0.0 - 0.3m	Australian Native
PJ	14	Pandorea jasminoides	Bower of Beauty	140 mm	2.0 - 3.5m	3 - 5m	Australian Native
Total:	4793						

Minimum % required of native species of the plant schedule: 50%

Proposed % of native species of the plant schedule: 57% (16)

ACHIEVED

Minimum % required of native plants of the plant schedule: 50%

Proposed % of native plants of the plant schedule: 82.7% (3986)

ACHIEVED

PROJECT

4-6 FISHER AVENUE,
VAUCLUSE NSW

DRAWING TITLE

DEVELOPMENT APPLICATION
COVER PAGE

DRAWN BY

AD

REVISION

01

DATE

28.03.24

SCALE

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JOB NUMBER

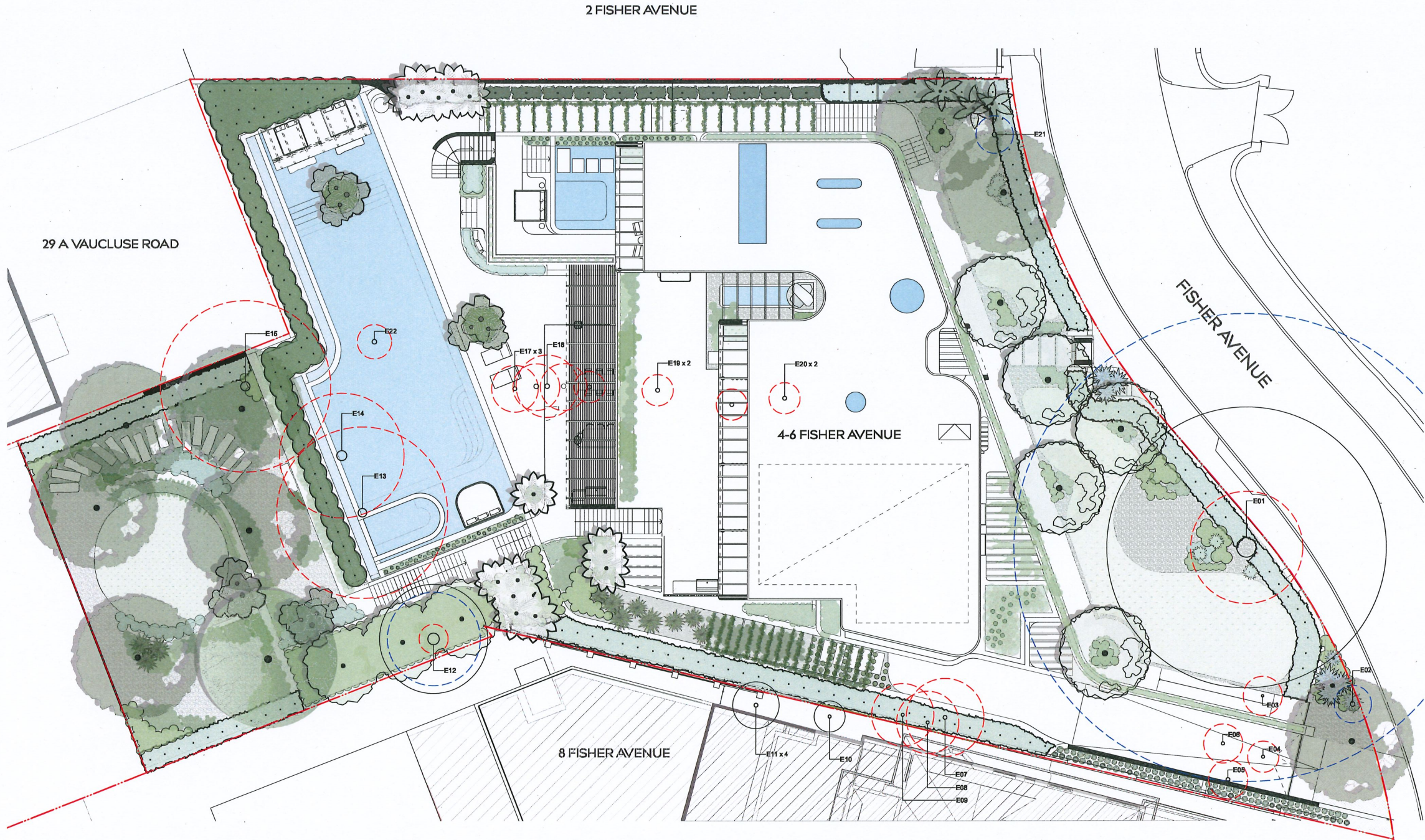
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PROJECT
**4-6 FISHER AVENUE,
VAUCLUSE NSW**

DRAWING TITLE
**DEVELOPMENT APPLICATION
MASTER PLAN**

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01

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28.03.24

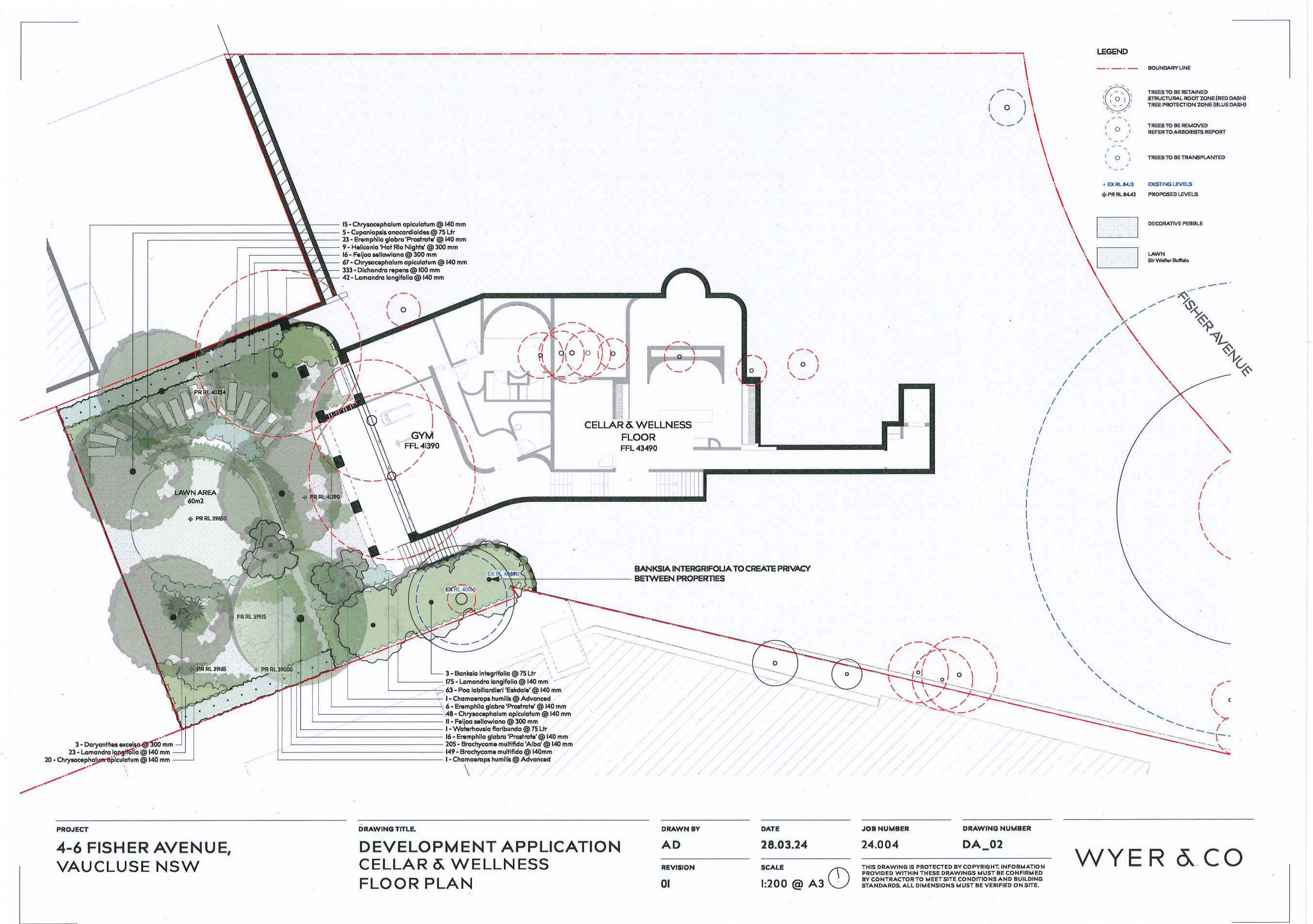
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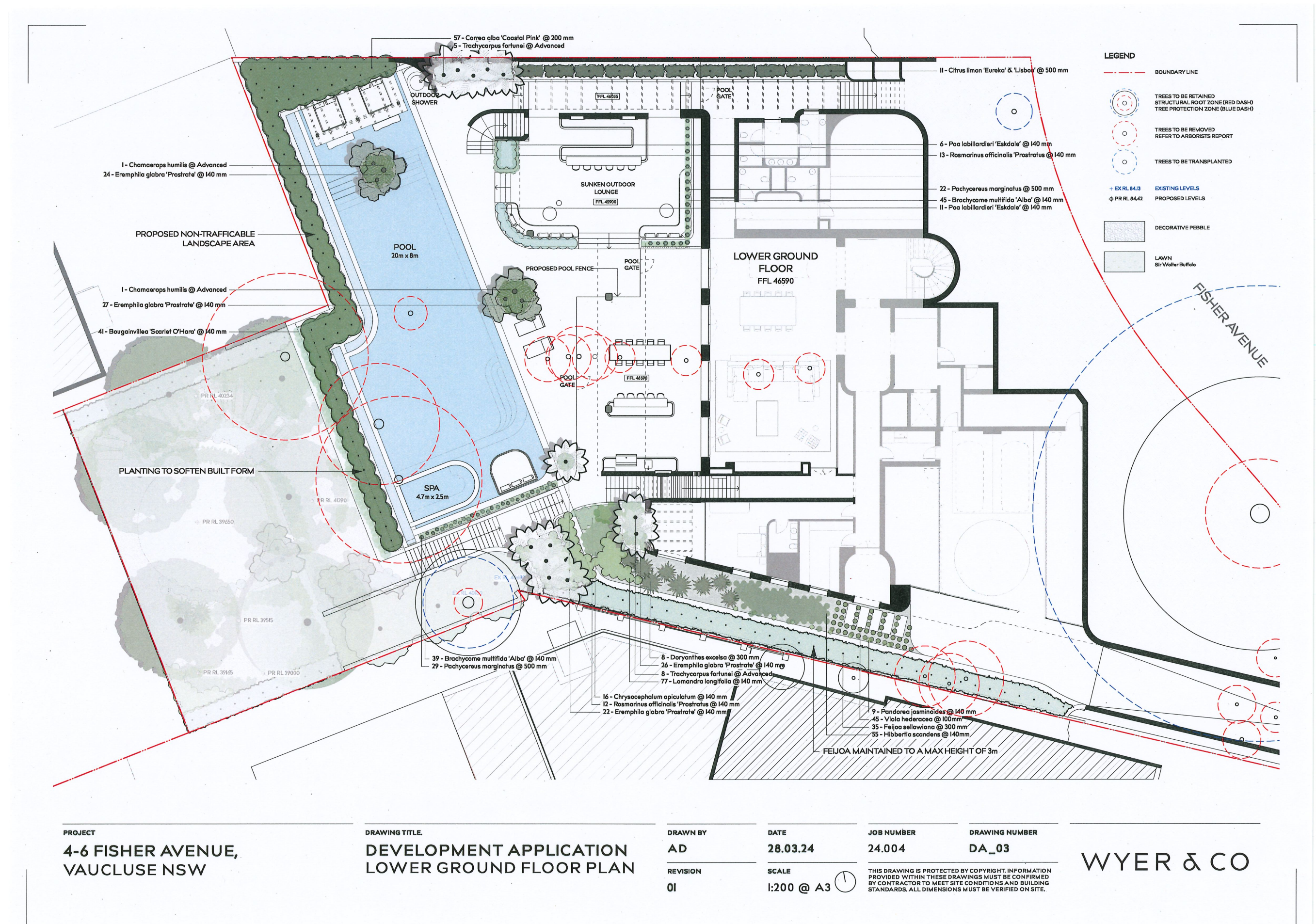
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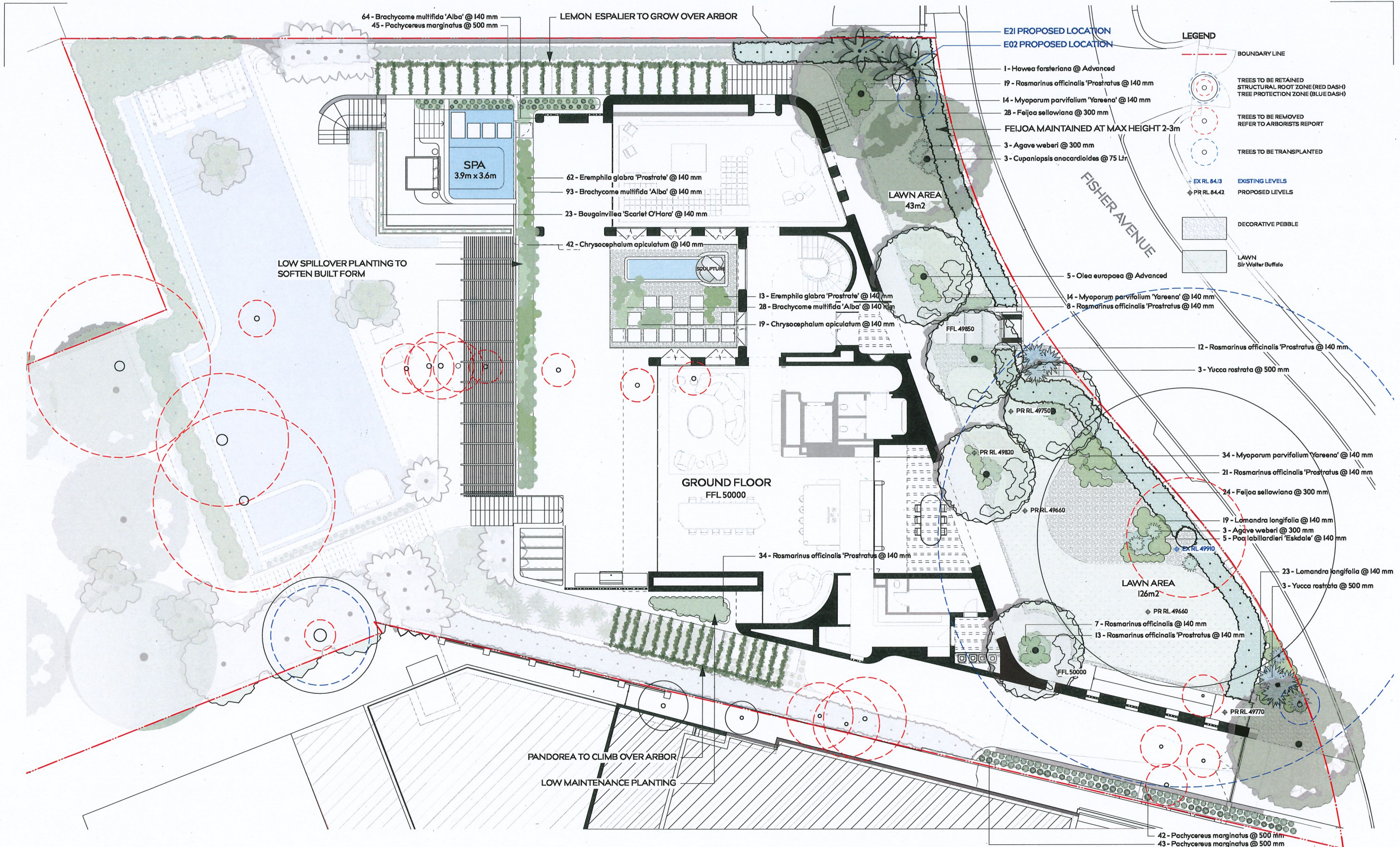
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PROJECT
4-6 FISHER AVENUE,
VAUCLUSE NSW

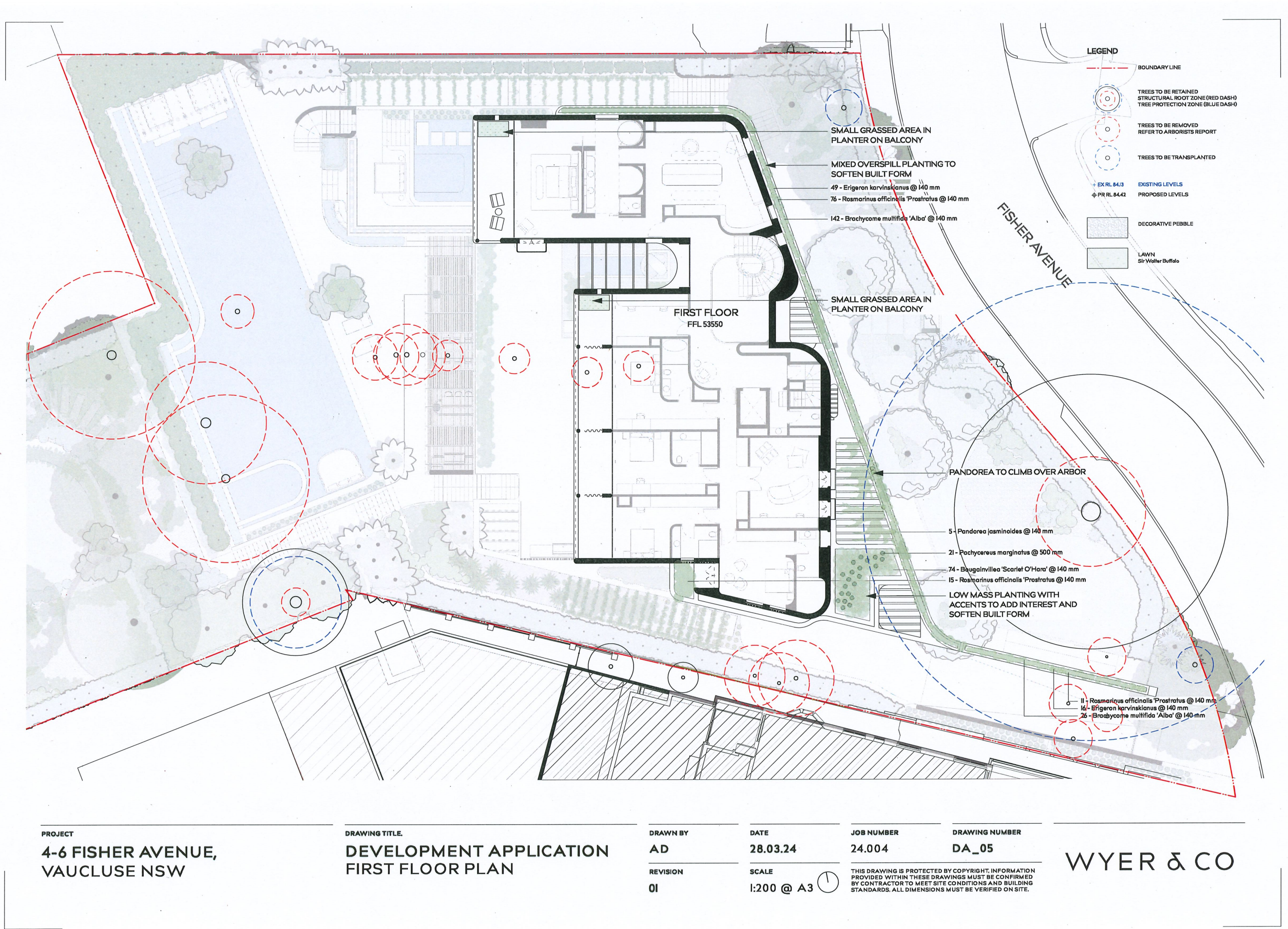
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DEVELOPMENT APPLICATION
GROUND FLOOR PLAN

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01 | TREE CANOPY COVER

SITE AREA = 2711.6 m²

SUMMARY OF CONTROL
WOOLLAHRA DCP CHAPTER B3 - GENERAL DEVELOPMENT CONTROLS

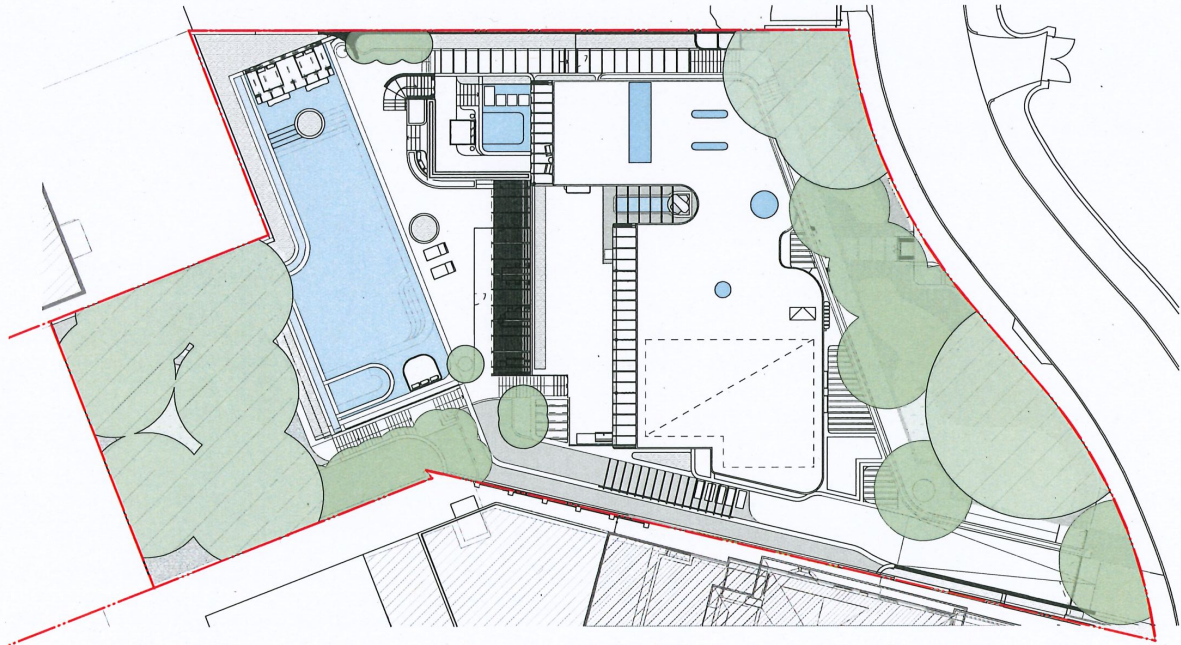
REQUIRED TREE CANOPY AREA OF SITE = 35%
MINIMUM TREE CANOPY AREA = 949.06 m²

EXISTING TREE CANOPY AREA = 429.78 m² (16%)

PROPOSED TREE CANOPY AREA = 968.57 m² (35.7%) ACHIEVED

PROPOSED % OF "CANOPY TREES" INCLUDED IN CANOPY AREA: 64% ACHIEVED

THE PROPOSED LANDSCAPE IMPROVES TREE CANOPY COVER ON SITE BY 538.79 m²



/// "CANOPY TREE" AS DEFINED IN WOOLLAHRA DCP 2015

■ PROPOSED TREE CANOPY COVER



■ EXISTING TREE CANOPY COVER

PROJECT
4-6 FISHER AVENUE,
VAUCLUSE NSW

DRAWING TITLE
DEVELOPMENT APPLICATION
CANOPY COVERAGE PLAN

DRAWN BY
AD

REVISION
01

DATE
28.03.24

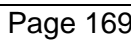
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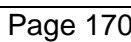
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Municipal
Council

27 September 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 121/2024/1

ADDRESS: 6 Fisher Avenue VAUCLUSE 2030

PROPOSAL: The demolition of 3 dwelling houses and ancillary structures, the amalgamation of 4 & 6 Fisher Avenue and a portion of 27 Vacluse Road to form 4-6 Fisher Avenue, the construction of a dwelling house and swimming pool and landscaping works thereto

FROM: Mehrnaz Jamali - Development Engineer

TO: Mr D Booth

1. ISSUES

- None. Please refer to comments and conditions.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, Job No. 23343, prepared by GSA Planning, dated April 2024.
- Architectural Plans, Project No. 221, Rev 1, prepared by Stafford, dated 22/05/2024.
- Survey Plan, referenced 31500-23, Revision 01, prepared by C&A Surveyors, dated 13/02/2024.
- Survey Plan, referenced 19329-21, Revision 01, prepared by C&A Surveyors, dated 09/11/2021.
- Survey Plan, referenced 25658-23, Revision 01, prepared by C&A Surveyors, dated 10/08/2023.
- Stormwater Management Plan, Job No. 21/197, Revision B, prepared by ITM Design, dated 03/04/2024.
- DRAFT Deposited Plan, referenced 19329-21 PS V1, prepared by Trent James Vella, dated 7/03/2024.
- Geotechnical and Hydrogeological Investigation Report, referenced 34861PHrpt Rev3, prepared by JK Geotechnics, dated 3 April 2024.
- Structural Report, referenced 2024S0032, prepared by Partridge, dated 27/03/2024. **Not added to the consent's supporting documents as it is not relevant to this assessment.**
- Response to Council RFI Letter, referenced L2024H0001, prepared by Partridge, dated 22/05/2024. – **Not added to the consent's supporting documents as it is not satisfactory.**

3. ASSESSMENT



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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

A= 2711.6m², this is for proposed Lot 1 only. (Proposed Lot 2 is not included in this DA).

Required: OSD 67.8m³

Provided: OSD 67.8m³ + RWT 15m³

There are no objections to the Stormwater Management Plan, Job No. 21/197, Revision B, prepared by ITM Design, dated 03/04/2024 subject to the following conditions and amendments;

- The discharge of stormwater, through inter-allotment drainage easement over proposed Lot 2 (No.27 Vaucluse Road), by direct connection to Council's belowground drainage system, through a new Kerb Inlet Pit (KIP) fronting No. 27 Vaucluse Road. Council's existing belowground drainage system, fronting No. 23A Vaucluse Road, must then be extended, to connect to the new KIP fronting the site. An additional second new KIP must also be placed between the two end connections and to the satisfaction of Council's Asset Engineer. Note: the 2 new KIPs must be standard double grated gully pits with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 with a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate. Longitudinal sections must be submitted. Design details and location of all existing public utility services must be included in the longitudinal sections.*
- Additional access grates for the Onsite Stormwater Detention (OSD) System must be provided for easy maintenance.*
- A 900mm x 900mm overflow pit must be provided adjacent to the Discharge Control Pit of the OSD System.*
- Creation of an Easement to Drain Water (0.9m wide) over the proposed LOT 2, proposed Lot 1 is to be annotated as the benefiting lot and proposed Lot 2 as the burdening lot.*

The concept plan is subject to the submission and approval of Stormwater Management Plan for the site prior to release of the Construction Certificate. Details are to be in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP and Local Approvals Policy. This is to ensure that site stormwater is disposed in a controlled and sustainable manner.

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

b. Flooding & Overland Flow comments

Not affected.

c. Impacts on Council Infrastructure comments

Encroachments:

- All existing encroachments over Council's road reserve, including pavers and strip drains, must be removed and the area restored.*

Drainage Works:



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- *The discharge of stormwater, through inter-allotment drainage easement over proposed Lot 2 (No.27 Vacluse Road), by direct connection to Council's belowground drainage system, through a new Kerb Inlet Pit (KIP) fronting No. 27 Vacluse Road. Council's existing belowground drainage system, fronting No. 23A Vacluse Road, must then be extended, to connect to the new KIP fronting the site. An additional second new KIP must also be placed between the two end connections and to the satisfaction of Council's Asset Engineer.*

Note: the 2 new KIPs must be standard double grated gully pits with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 with a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate. Longitudinal sections must be submitted. Design details and location of all existing public utility services must be included in the longitudinal sections.

Road and Footpath Works:

- *The proposed 4m vehicular crossing must be reduced to 3m. Widening the crossing for 'safe entry and exist' as put by the applicant's engineer, in this case is not required. The existing share vehicular crossing with the neighbouring property at No.8 Fisher Avenue, must be saw cut along property boundary with the 3.2m wide space in between the proposed crossing and the neighbouring crossing converted to nature strip and kerb and gutter. The layback for the neighbouring property (No.8 Fisher Avenue) must be reconstructed.*
- *Construction of a new vehicular crossing on Fisher Avenue, having a width of 3m at property boundary and perpendicular to the road carriageway. Other than amended by Council's Asset engineer.*
- *Removal of the 2 redundant vehicular crossings on Fisher Avenue and restoration of the area with turf and standard kerb and gutter.*

The remainder of Council's assets are in serviceable condition - conditions applied.

d. Traffic comments

The expected traffic generation from the proposed development is typical for the zoning of the site.

e. Vehicle Access & Accommodation comments

The access and parking layout is generally satisfactory subject to the following condition:

- *Driveway splays must be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1:2004. Alternatively a fence/gate/landscaping to a maximum height of 0.9m is permitted in the splay area. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area.*

f. Geotechnical, Hydrogeological and/or Structural comments

The following document has been submitted in support of the application;

- *Geotechnical and Hydrogeological Investigation Report, referenced 34861PHrpt Rev3, prepared by JK Geotechnics, dated 3 April 2024..*

The proposal involves excavation for a basement parking area and swimming pool, to a depth of about 10.8m as stated in the Geotechnical Report. f



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The report identified that;

- a) *Fill – sand and clay fill – to depths of about 0.8m to 4m.*
- b) *Residual soils – clayed sand – very loose to medium dense.*
- c) *Sandstone bedrock – from about 0.23m to 4m.*
- d) *Groundwater appeared not to be an issue.*
- e) *Ground anchors and underpinning may be utilised. Too far for anchors to reach the road reserve however conditions have imposed regardless.*

Note: the Geotechnical Investigation Report referenced within this consent, must be revised to be in accordance with the approved Architectural Plans and the site investigation to extend to at least the likely depth of influence of construction. The report must comply with all requirements within Council's DCP Section E2.2.10 and Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.

Conditions covering these matters as well as others identified by Council have been added to the Referral.

Council's Infrastructure and Sustainability has no objection 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 RDCP.

Note: Use of any Ground Anchors or any retention system extending beyond site boundaries requires the approval of neighbouring properties in writing.

g. Other matters

None.

4. RECOMMENDATION

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

Conditions of Consent

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

A. GENERAL CONDITIONS

A.5 Approved Plans and Supporting Documents

Reference	Description	Author	Date
Job No. 21/197, Revision B	Stormwater Management Plan	ITM Design	03/04/2024
19329-21 PS V1	DRAFT Deposited Plan	Trent James Vella	7/03/2024
34861PHrpt Rev3	Geotechnical and Hydrogeological Investigation Report	JK Geotechnics	3 April 2024



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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

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	\$531,236	No	T115

B.16 Dilapidation Reports for Existing Buildings

B. 16.	<p>Dilapidation Reports for Existing Buildings</p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ul style="list-style-type: none"> a) No.2 Fisher Avenue b) No.8 Fisher Avenue c) 29A Vaucluse 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>
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	<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

B.18 Adjoining Buildings Founded on Loose Foundation Materials

B.21 Works (Construction) Zone – Approval and Implementation

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D.13 Road and Public Domain Works

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> <p><u>Encroachments:</u></p> <p>a) All existing encroachments over Council's road reserve on Fisher Avenue, including pavers and strip drains, must be removed and the area restored to Council's Asset's Engineer's satisfaction.</p> <p><u>Drainage Works:</u></p> <p>a) The discharge of stormwater, through inter-allotment drainage easement over proposed Lot 2 (No.27 Vacluse Road), by direct connection to Council's belowground drainage system, through a <u>new</u> Kerb Inlet Pit (KIP) fronting No. 27 Vacluse Road. Council's existing belowground drainage system, fronting No. 23A Vacluse Road, must then be extended, to connect to the new KIP fronting the site. An <u>additional</u> second <u>new</u> KIP must also be placed between the two end connections and to the satisfaction of Council's Asset Engineer.</p> <p>Note: the 2 new KIPs must be standard double grated gully pits with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 with a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate.</p>

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Longitudinal sections must be submitted. Design details and location of all existing public utility services must be included in the longitudinal sections.

Road and Footpath Works:

- a) The removal of the 2 redundant vehicular crossings on Fisher Avenue (4 and 6 Fisher Avenue) 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 on Fisher Avenue, in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineer.

Note: The existing shared vehicular crossing with the neighbouring property at No.8 Fisher Avenue, must be saw cut along property boundary with the approximate 3.2m wide space in between the proposed crossing and the neighbouring crossing converted to nature strip and kerb and gutter to the satisfaction of Council's Asset Engineer. The layback for the neighbouring property (No.8 Fisher Avenue) must be reconstructed.

- c) 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.

Note: The gradient of the vehicular crossing must be in accordance with the AS/NZS 2890.1:2004 and Council's Specifications. The existing footpath levels are to be maintained wherever possible and cannot be altered without Council's approval.

- d) The removal and replacement of all cracked/damaged kerb and gutter for the full frontage of the site on Fisher Avenue, in accordance with Council's Specification, Council's standard drawing RF3 and to the satisfaction of Council's Assets Engineers.
- e) The reinstatement of the existing, kerb and gutter and road pavement on Fisher Avenue and Vacluse Road, to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- f) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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>			



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Infrastructure Works Bond - completing any public work required in connection with the consent.	\$113,300	No	T113
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$0	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	\$113,974		

How must the payments be made?

Payments must be made by:

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

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

- j) the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- k) 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],
- l) 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,
- m) the bank guarantee is lodged with the Council prior to any site works being undertaken, and
- n) 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:

- o) **Road** has the same meaning as in the Roads Act 1993.
- p) 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.
- q) 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:
- r) Construction of driveways and/or new or alterations to footpath paving
- s) Alteration and/or extension to Council drainage infrastructure
- t) Alteration and/or addition of retaining walls
- u) Pumping of water to Council's below ground stormwater system
- v) Installation of soil/rock anchors under the roadway
- w) Installation of Stormwater outlet pipes across the nature strip
- x) 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,



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	<p>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.</p> <p>y) Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:</p> <p>z) 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.</p> <p>aa) Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.</p> <p>bb) 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.</p> <p>cc) 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.</p> <p>dd) Any adjustments required from the garage slab and the street levels are to be carried out internally on private property</p> <p>ee) Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</p> <p>ff) Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".</p> <p>gg) 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.</p> <p>hh) 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.</p> <p>ii) When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.</p> <p>jj) 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.</p> <p>kk) 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.</p> <p>ll) 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.</p> <p>mm) 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.</p> <p>nn) 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>
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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.

D.25 Erosion and Sediment Control Plan – Submission and Approval

D.36 Professional Engineering Details

D.37 Engineer Certification

D.40 Geotechnical and Hydrogeological Design, Certification and Monitoring

D 40.	Geotechnical and Hydrogeological Design, Certification and Monitoring
	<p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2 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><u>Note:</u> the Geotechnical & Hydrogeological Investigation Report referenced within this consent, must be revised to be in accordance with the approved Architectural Plans and the site investigation to extend to at least the likely depth of influence of construction. The report must comply with all requirements within Council's DCP Section E2.2.10 and Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.</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 foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. 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:



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	<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, • details the location and type of monitoring systems to be utilised, • details the pre-set acceptable limits for peak particle velocity and ground water fluctuations, • details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and • details a contingency plan.
	<p>Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>

D.41 Ground Anchors

D.45 Parking Facilities

D	45. 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, 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 and including the following:</p> <p>a) Driveway splays must be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1:2004. Alternatively a fence/gate/landscaping to a maximum height of 0.9m is permitted in the splay area. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area.</p> <p>b) The gradients of the domestic driveway must be in accordance with the AS/NZS 2890.1:2004 requirements.</p> <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p>
	<p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p>



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D.51 Stormwater Management Plan

D 51.	Stormwater Management Plan
	<p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared 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 the Stormwater Management Plan, Job No. 21/197, Revision B, prepared by ITM Design, dated 03/04/2024, other than amended by this and other conditions; b) The discharge of stormwater, through inter-allotment drainage easement over proposed Lot 2 (No.27 Vacluse Road), by direct connection to Council's belowground drainage system, through a <u>new</u> Kerb Inlet Pit (KIP) fronting No. 27 Vacluse Road. Council's existing belowground drainage system, fronting No. 23A Vacluse Road, must then be extended, to connect to the new KIP fronting the site. An <u>additional</u> second <u>new</u> KIP must also be placed between the two end connections and to the satisfaction of Council's Asset Engineer. Note: the 2 new KIPs must be standard double grated gully pits with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 with a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate. Longitudinal sections must be submitted. Design details and location of all existing public utility services must be included in the longitudinal sections. c) Creation of an Easement to Drain Water (0.9m wide) over the proposed LOT 2, proposed Lot 1 is to be annotated as the benefiting lot and proposed Lot 2 as the burdening lot, as demonstrated on the DRAFT Deposited Plan, referenced 19329-21 PS V1, prepared by Trent James Vella, dated 7/03/2024. d) Subsoil drainage/seepage water is NOT to be collected and discharged to the kerb and gutter, to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings. e) Dimensions of all drainage pits and access grates must comply with AS3500.3. f) Compliance the objectives and performance requirements of the BCA. g) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. i) Provision of an Onsite Stormwater Detention (OSD) System, having a minimum volume of 67.8m³. <ul style="list-style-type: none"> i. Additional access grates for the OSD System must be provided for easy maintenance. ii. A 900mm x 900mm overflow pit must be provided adjacent to the Discharge Control Pit of the OSD System. <p>The Stormwater Management Plan must also include the following specific requirements:</p>



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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:

- j) All pipe layouts, dimensions, grades, lengths and material specification.
- k) Location of proposed Rainwater Tank and OSD System.
- l) All invert levels reduced to Australian Height Datum (AHD).
- m) Location and dimensions of all drainage pits.
- n) Point and method of connection to Councils drainage infrastructure.
- o) Overland flow paths over impervious areas.

On-site Stormwater Detention (OSD) System Details:

- p) Any potential conflict between existing and proposed trees and vegetation.
- q) Internal dimensions and volume of the proposed detention storage.
- r) Diameter of the outlet to the proposed detention storage basin.
- s) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures.
- t) Details of access and maintenance facilities.
- u) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.
- v) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system.
- w) Non-removable fixing details for orifice plates where used.

Rainwater Reuse System Details:

- x) Any potential conflict between existing and proposed trees and vegetation.
- y) Internal dimensions and volume of the proposed rainwater storage.
- z) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.
- aa) Details of access and maintenance facilities.
- bb) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.
- cc) 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:

- dd) 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.60 Private Drainage Easement (Special Condition)

D 60.	Private Drainage Easement
	<p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, a) Creation of an Easement to Drain Water (0.9m wide) over the proposed LOT 2, proposed Lot 1 is to be annotated as the benefiting lot and proposed Lot 2 as the burdening lot, as demonstrated on the DRAFT Deposited Plan, referenced 19329-21 PS V1, prepared by Trent James Vella, dated 7/03/2024 and the Stormwater Management Plan, Job No. 21/197, Revision B, prepared by ITM Design, dated 03/04/2024.</p> <p>The easement must be created on the certificate of title of all burdened and benefited properties with the terms of the easements specified.</p> <p>The applicant must engage a registered surveyor to prepare a plan of survey and the application must be lodged with the NSW Land Registry Services with any necessary fees. Woollahra Council must be annotated as the Prescribed Authority on the Section 88B Instrument. A copy of the lodgement details must be provided to Council prior to the issue of any Construction Certificate in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP.</p>
	<p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>

E. BEFORE BUILDING WORK COMMENCES

E.14 Erosion and Sediment Controls – Installation

F. DURING BUILDING WORK

F.7 Public Footpaths – Safety, Access and Maintenance

F.11 Maintenance of Environmental Controls

F.12 Compliance with Geotechnical / Hydrogeological Monitoring Program

F.13 Support of Adjoining Land and Buildings

F.14 Vibration Monitoring

F.15 Erosion and Sediment Controls – Maintenance

F.17 Disposal of Site Water During Construction

F.19 Site Cranes

F.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum



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

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G.7 Commissioning and Certification of Systems and Works

G.30 Dilapidation Report for Public Infrastructure Works

G.32 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

G 32.	Positive Covenant and Works-As-Executed Certification of Stormwater Systems
	<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 Onsite Stormwater Detention (OSD) System and Rainwater Tank. c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations, d) Pipe invert levels and surface levels to Australian Height Datum, and e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits. <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 OSD System and Rainwater Tank incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant</p> <p>Notes:</p> <ul style="list-style-type: none"> • The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate. • The occupation certificate for the whole of the building must not be issued until this condition has been satisfied. <p>Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>

G.36 Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems

H. OCCUPATION AND ONGOING USE



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H.29 Ongoing Maintenance of the On-site Stormwater Detention System and Rainwater Tank (Special Heading)

<p>H 29.</p>	<p>Ongoing Maintenance of the On-site Stormwater Detention System and Rainwater Tank</p> <p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <ol style="list-style-type: none"> Permit stormwater to be temporarily detained by the System. Keep the system clean and free of silt rubbish and debris, Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner. Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense. Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly. Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant. Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice. Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations. <p>The owner:</p> <ol style="list-style-type: none"> Indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default. <p>Notes:</p> <ul style="list-style-type: none"> This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.</p>
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H.62 On-going Maintenance of the Mechanical Parking Installations



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29 May 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 121/2024/1

ADDRESS: 6 Fisher Avenue VAUCLUSE 2030

PROPOSAL: The demolition of 3 dwelling houses and ancillary structures, the amalgamation of 4 & 6 Fisher Avenue and a portion of 27 Vaucluse Road to form 4-6 Fisher Avenue and the construction of a dwelling house and swimming pool and landscaping works thereto

FROM: Simone Woodman - Tree Management Officer

TO: Mr D Booth

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, drafted by C & A Surveyors NSW P/L, Plan No.
 - 19329 – 21/01 – dated 09/11/2021
 - 31500 – 23/01 – dated 13/02/2024
 - 25658 – 23/01 – dated 10/08/2023
- Architectural Drawing No.s DA000/1, DA101/1, DA103/1, DA110/1, DA120/1, DA124/1, DA125/1, DA203/1, DA204/1, DA205/1, DA302/1, DA303/1, drawn by Stafford, dated 22/05/2024
- Architectural Drawing No.s DA101, drawn by Stafford, dated 04/04/2024
- Stormwater drainage Plan No.s << Plan identification >>, drawn by <<Name of who prepared the plan >>, dated <<Date of plans >>
- Arboricultural Impact Assessment and Tree Protection Plan, Reference: AIA4-6Fis,27Vau/24, written by Lisa Durland – Green Spaces Consultancy, dated 04/04/2024
- Landscape Plan No.s DA-00/01, DA01/01, DA02/01, DA03/01, DA04/01, DA05/01, DA06/01, designed by Wyer & CO., dated 28/03/2024



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3. RELEVANT CONTROLS

- Woollahra Local Environmental Plan 2014
- Woollahra Development Control Plan 2015
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

4. SUMMARY

- Retention of a Heritage listed tree.
- Proposed tree retention, transplanting and removal similar to previous development approvals for each individual property.
- Proposed landscaping with replacement trees.

5. COMMENTS

The most significant tree within the three subject properties is an *Angophora costata* (Sydney Pink Gum) located along the front boundary of 6 Fisher Avenue, Vaucluse identified as Tree 1 in the submitted documentation for this development application.

Tree 1 Sydney Pink Gum is a heritage listed item in Schedule 5 of the Woollahra Local Environmental Plan 2014. Additionally the Sydney Pink Gum is listed as a Significant Tree in Council's Register of Significant Trees – Volume 2 *Significant Trees under Private Ownership*.

The submitted Arboricultural Impact Assessment and Tree Protection Plan has identified a major encroachment into the Tree Protection Zone (TPZ) of Tree 1 however has also demonstrated how Tree 1 can be retained successfully. In summary the calculated area of encroachment mostly includes existing structures within the TPZ of Tree 1. A contiguous area to the north of the TPZ has been included to provide an extension of the TPZ area. A large area of the TPZ that is currently paved will be returned to open deep soil area improving growing conditions. Tree sensitive construction techniques will be used within the TPZ of Tree 1 to minimise any impacts from the proposed development. Lastly the proposed works within the Structural Root Zone of Tree 1 will be limited to replacing the existing front fence using the existing front fence footings or new pier footings placed to avoid the severing of woody roots.

Other existing trees proposed to be retained or transplanted are Tree 12 *Phoenix canariensis* (Canary Island Date palm) located in the rear south eastern corner of 27 Vaucluse Road, Vaucluse and Trees 2 and 21 *Howea forsteriana* (Kentia palm) proposed to be transplanted to the front boundaries of 4 and 6 Fisher Avenue, Vaucluse. A Transplant Feasibility and Method Statement has not been submitted with regard to the transplanting of Trees 2 and 21. Should approval be given for the subject development application a Transplant Feasibility and Method Statement could be provided prior to the issue of a construction certificate.

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The submitted architectural plans indicate proposed demolition and tree retention of the remaining portion of 27 Vacluse Road, Vacluse however no proposed structures or landscaping to be constructed. The submitted Arboricultural Impact Assessment and Tree Protection Plan incorrectly tables Trees 25 and 26 as trees where approval was given for their removal as part of a previous DA 142/2023/1. To clarify Trees 25 and 26 were conditioned to be retained as part of the approval for DA142/2023/1. The submitted Arboricultural Impact Assessment and Tree Protection Plan does however provide recommendations for tree protection measures to ensure their successful retention. The submitted Arboricultural Impact Assessment and Tree Protection Plan should be amended to delete any reference to the removal of Trees 25 and 26.

All other trees proposed for removal as part of this subject development application have been given approval for removal as part of previous development applications. The trees proposed for removal as part of this subject development application are either exempt from the Woollahra Development Control Plan (WDCP) or are of low to moderate landscape significance.

The submitted landscape plan proposes replacement tree planting exceeding the number of existing trees proposed for removal. The landscape plan also satisfies Chapter B3 of the WDCP requirements of achieving 35% canopy cover over the proposed site.

6. RECOMMENDATIONS

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

A. GENERAL CONDITIONS

A. 1.	Approved Plans and Supporting Documents													
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.													
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.													
	<table><thead><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr></thead><tbody><tr><td>Plan No.s DA-00/01, DA01/01, DA02/01, DA03/01, DA04/01, DA05/01, DA06/01</td><td>Landscape Plan</td><td>Wyer & CO.</td><td>28/03/2024</td></tr><tr><td>Reference: AIA4- 6Fis,27Vau/ 24</td><td>Arboricultural Impact Assessment and Tree Protection Plan</td><td>Lisa Durland – Green Spaces Consultancy</td><td>04/04/2024</td></tr></tbody></table>	Reference	Description	Author	Date	Plan No.s DA-00/01, DA01/01, DA02/01, DA03/01, DA04/01, DA05/01, DA06/01	Landscape Plan	Wyer & CO.	28/03/2024	Reference: AIA4- 6Fis,27Vau/ 24	Arboricultural Impact Assessment and Tree Protection Plan	Lisa Durland – Green Spaces Consultancy	04/04/2024	Notes:
Reference	Description	Author	Date											
Plan No.s DA-00/01, DA01/01, DA02/01, DA03/01, DA04/01, DA05/01, DA06/01	Landscape Plan	Wyer & CO.	28/03/2024											
Reference: AIA4- 6Fis,27Vau/ 24	Arboricultural Impact Assessment and Tree Protection Plan	Lisa Durland – Green Spaces Consultancy	04/04/2024											



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- Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.
- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

Standard Condition A.2 (Autotext 2A)

A. 2.

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, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees must be retained:

- Trees on private land:

Council Ref No	Species	Location	Dimension (metres)
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15 x 18
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	10 x 4
25	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary of front garden of 27 Vaucluse Road, Vaucluse	6 x 3.5
26	<i>Castanospermum australe</i> (Black Bean)	Front garden of 27 Vaucluse Road, Vaucluse	9 x 6
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	13 x 11

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

b) The following trees must be transplanted and successfully established in the locations indicated on the approved landscape plan:



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Council Ref No	Species	Location (current)	Dimension (metres)
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	6 x 3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	6 x 3

Arboricultural contractors experienced in palm relocation must engaged to prepare the palms for moving, prepare the locations where they are to be planted, install trunk protection and rootball protection for the moving, use the correct machinery to mitigate damage, guy the trunk or install rootball anchors as required and undertake all necessary maintenance (minimum 12 months) to ensure robust establishment.

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

c) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
3, 4, 5, 6	<i>Cyathea cooperi</i> (Scaly tree fern)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	~5 x 3 each
7, 8, 9	X <i>Cupressocyparis leylandii</i> (Leyland Cypress)*	Southern side of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	7 x 5 metres
13, 14, 15	<i>Harpephyllum caffrum</i> (Kaffir Plum)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	8 x 7 each
17, 18, 19, 20	X <i>Cupressocyparis leylandii</i> (Leyland Cypress)*	Northern side of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No.	~5-3.5 metres height



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		DA01/01, dated 28/03/2024	
22	<i>Phoenix robellini</i> (Dwarf Date palm)	Rear garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	~2 x 3
<p>The tree/s that may be removed must appear coloured red on the Construction Certificate plans.</p> <p>The species marked (*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.</p> <p>Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.</p> <p>Standard Condition A.22 (Autotext 22A)</p>			

B. BEFORE DEMOLITION WORK COMMENCES

B.	1.	Payment of Security and Fees
		Nil

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 of Trunk (Metres)*
1	Angophora costata (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No.	15



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		DA01/01, dated 28/03/2024	
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
25	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary of front garden of 27 Vaucluse Road, Vaucluse	2.7
26	<i>Castanospermum australe</i> (Black Bean)	Front garden of 27 Vaucluse Road, Vaucluse	5.8
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	10.8

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 or existing paving be left in situ. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.

c) Trunk protection must be installed around the trunks of the following trees:

Council Ref No	Species
1	<i>Angophora costata</i> (Sydney Pink Gum)
2	<i>Howea forsteriana</i> (Kentia palm)
12	<i>Phoenix canariensis</i> (Canary Island Date palm)
21	<i>Howea forsteriana</i> (Kentia palm)



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26	<i>Castanospermum australe</i> (Black Bean)
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)

Trunk protection must consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) must be placed over the padding and around the trunk of the tree at 150mm centres. The planks must be secured with 8 gauge wire at 300mm spacing. Trunk protection must extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.
- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- f) Existing paving as ground protection within the TPZ of Tree 1 and Tree 27 must remain in situ during the demolition and construction of the proposed development to protect the roots underneath from compaction and damage. The existing paving can only be removed for turfing and soft landscaping. The TPZ of Tree 1 is specified in the table below:

Council Ref No	Species	Tree Location	TPZ radius from Centre of Trunk (Metres)
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vacluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vacluse Road, Vacluse	10.8

- g) 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)
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vacluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vacluse Road, Vacluse as plotted on	3



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			the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	
21	<i>Howea forsteriana</i> (Kentia palm)		Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
<p>Ground protection must consist of (geotextile fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface. No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within the ground protection area unless specified in this consent.</p> <p>h) Height Control Beam - The proximity of the low portion of the canopy of Tree 1 must be protected in relation to movement of vehicles and plant to ensure that branches are not damaged. A height control beam must be installed at the edge of the lowest portions of the canopy of Tree 1 to prevent vehicles and plant exceeding the height of the lowest portions of the canopy driving under the canopy of the tree and causing damage. A corridor for vehicular movement must be approved by the Project Arborist prior to any work commencing.</p> <p>i) 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>j) 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>k) 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>				

B. 3.	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.



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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
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.

Standard Condition B.28 (Autotext 28B)

B. 4.

Arborists Documentation and Compliance Checklist

Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction/demolition techniques relevant to this consent are implemented. Documentation for each site visit must include:

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

All compliance certification documents must be kept on site.

As a minimum the following intervals of site inspections must be made:

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.



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<ul style="list-style-type: none"> The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. The proximity of the low portion of the canopy of T1 must be protected in relation to movement of vehicles and plant to ensure that branches are not damaged. A corridor for vehicular movement is to be approved by the Project Arborist prior to any work commencing. 	<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>
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B. 5.

Permissible work within Tree Protection Zones			
Prior to any site works, the following works are permissible within the Tree Protection Zone:			
Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works
1	<i>Angophora costata</i> (Sydney Pink Gum)	15	Proposed demolition works. Proposed dwelling and driveway. Proposed pedestrian ramp and path constructed above existing ground levels on piers or cantilevered. Proposed front fence constructed using existing front fence footings or pier footings to avoid the severing of woody roots and to provide a minimum 150mm clearance from the trunk of Tree 1. Proposed soft landscaping.
2	<i>Howea forsteriana</i> (Kentia palm)	2	Proposed demolition works. Proposed driveway and breeze block privacy screen. Proposed front fence. Proposed soft landscaping.
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	3	Proposed demolition works. Proposed soft landscaping and stairs.



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21	<i>Howea forsteriana</i> (Kentia palm)	2	Proposed demolition works. Proposed soft landscaping and front fence.
25	<i>Camellia sasanqua</i> (Camellia)	2.7	Proposed demolition. Recommended tree and ground protection.
26	<i>Castanospermum australe</i> (Black Bean)	5.8	Proposed demolition. Recommended tree and ground protection.
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	10.8	Proposed demolition. Recommended tree and ground protection.

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.



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	<ul style="list-style-type: none"> 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>

D 2.	<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) Transplant Feasibility and Method Statement. In accordance with Attachment 4 of Council's DA Guide a Transplant Feasibility and Method Statement must be prepared by Arboricultural contractors experienced in palm relocation. The document must detail preparation of palms T2 and T21 for moving, prepare the locations where they are to be planted, install trunk protection and rootball protection for the moving, use the correct machinery to mitigate damage, guy the trunk or install rootball anchors as required and undertake all necessary maintenance (minimum 12 months) to ensure robust establishment. This document must be submitted to Council's Tree Officer for approval prior to the issue of any construction certificate.</p> <p>b) Amended Arboricultural Impact Assessment and Tree Protection Plan. The submitted Amended Arboricultural Impact Assessment and Tree Protection Plan, written by Lisa Durland – Green Spaces Consultancy, dated 04/04/2024 must be amended to delete any reference stating Trees 25 and 26 were approved for removal as part of DA142/2023/1. Trees 25 and 26 were conditioned to be retained as part of DA142/2023/1.</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.
	<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>



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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. <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>



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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"> • In relation to Tree 1 the existing driveway pavement in the TPZ of Tree 1 must be left insitu during the demolition and construction of the development and only be removed for turfing and soft landscaping. This will protect the roots underneath from compaction and damage. The area is to be marked out under the supervision of the Project Arborist prior to work commencing. • The demolition of the existing pavement within the TPZ of Tree 1 must be undertaken as directed by, and under the direct supervision of, the Project Arborist. The pavement must be demolished starting at the area closest to the trunk and working outwards. • Prior to excavation being undertaken for the new driveway or basement garage area within the TPZ of Tree 1 a trench must be excavated along the alignment of the structure closest to the tree and to a minimum depth of 600mm using tree sensitive methods (hand digging or an Airknife or similar). This is to avoid woody roots (if encountered) being damaged and torn by machinery and will allow for the Arborist to undertake pruning of the roots with a sharp and 'fit for purpose tool'. • Demolition of the front fence within the TPZ of Tree 1 must be undertaken as directed by the Project Arborist. • The new front boundary fence within the TPZ of Tree 1 must be constructed in a way that will not cause damage to tree roots. Where possible the existing footing is to be left in place. Where the use of the existing strip footing is not possible, or where a footing does not exist, the fence will be constructed using isolated piers with a spanning beam above grade. The piers must be located to avoid woody tree roots equal to or greater than 50mm diameter that are not approved for pruning. The construction of the footings must be undertaken as directed by, and under the direct supervision of the Project Arborist. It may be recommended by the Project Arborist that the existing subterranean footing be left insitu in any case to avoid damaging woody tree roots during removal. • Excavation for the wall footing within the TPZ of Tree 12 that is located on the northern edge of the nominated 3 metre root protection zone must be undertaken under the supervision of the Project Arborist. Any roots encountered must be pruned using a sharp and 'fit for purpose' tool. • Existing soil levels within the TPZ of Tree 12 must remain unchanged. A minor amount of friable fill may be approved by the Project Arborist at the periphery of the TPZ. • The existing pathway and front wall within the TPZ of Tree 25 must be removed as directed by, and under the supervision of, the Project Arborist • The existing pathway and front wall within the TPZ of Tree 26 must be removed as directed by, and under the supervision of, the Project Arborist. • All existing pavements within the TPZ (15 metre radius) of Tree 27 must be left in place for as long as possible to protect tree roots



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	<p>from compaction during demolition. When the pavements are removed the work must be undertaken as directed by the Project Arborist. The pavement must be removed, starting from the area closest to the tree and working away from the tree so that the machinery can be moving across, or sitting on, pavement at all times.</p> <ul style="list-style-type: none"> Any movement of vehicles over the TPZ of Tree 27 after the demolition of the existing pavement, ground protection must be installed under as directed by the Project Arborist prior to vehicular movement. The existing retaining wall adjacent Tree 28 must be left in place. The site fencing will protect the tree trunks that are located on the adjacent site. 	
	<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>	
	Standard Condition F.45 (Autotext 45F)	

F 3.

Replacement/Supplementary trees which must be planted

While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The following replacement tree/s must be planted in deep soil landscaped area <delete this if planted in a planter box on a structure> and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the criteria outlined below.

Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
3 x <i>Banksia integrifolia</i> (Coastal Banksia)	In accordance with Landscape Plan No.s DA-00/01, DA01/01, DA02/01, DA03/01, DA04/01, DA05/01, DA06/01, designed by Wyer & CO., dated 28/03/2024	75 Litre each	7 x 4
8 x <i>Cupaniopsis anacardioides</i> (Tuckeroo)		75 Litre each	8 x 8
5 x <i>Olea europea</i> var. <i>europea</i> (European Olive)		Minimum 200 litre each	5 x 3 each
1 x <i>Waterhousia floribunda</i> (Weeping Lillypilly)		75 litre	10 x 11
1 x <i>Howea forsteriana</i> (Kentia palm)		Minimum 200 litre	7 x 3

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13 x <i>Trachycarpus fortunei</i> (Chinese Windmill palm)	Minimum 200 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.	Front fence in the vicinity of trees
While site work is being carried out, the construction of the proposed front fence must ensure sufficient clearance of the trunk of Tree 1 <i>Angophora costata</i> (Sydney Pink Gum) located in the front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024. The proposed front fence must maintain a minimum 150mm clearance of the trunk of Tree No. 1 <i>Angophora costata</i> (Sydney Pink Gum).	
The project arborist must document compliance with the above condition.	
Condition Reason: To ensure the proposed footings would not adversely impact upon the health of existing trees.	

F 5.

Demolition works in the vicinity of trees

While site work is being carried out, demolition works within the specified radius from the trunks of the following trees must be carried out under the direct supervision of the Project Arborist. The Project Arborist must have a minimum qualification AQF 5.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO.	2



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		Landscape Plan No. DA01/01, dated 28/03/2024	
25	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary of front garden of 27 Vacluse Road, Vacluse	2.7
26	<i>Castanospermum australe</i> (Black Bean)	Front garden of 27 Vacluse Road, Vacluse	5.8
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vacluse Road, Vacluse	10.8

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 radius from the trunks of the following trees, excluding approved structures.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15
2	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3
21	<i>Howea forsteriana</i> (Kentia palm)	Front garden of 4 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	2
25	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary of front garden of 27 Vaucluse Road, Vaucluse	2.7
26	<i>Castanospermum australe</i> (Black Bean)	Front garden of 27 Vaucluse Road, Vaucluse	5.8
27	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Front garden of 27 Vaucluse Road, Vaucluse	10.8



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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)			

F7.

Hand excavation within tree root zones

While site work is being carried out, demolition of underground structures such as existing footings and approved excavation undertaken within the specified radius from the trunks of the following trees must be carried out by hand.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	15
12	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear garden of 27 Vaucluse Road, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024	3

Small hand tools such as mattocks or using compressed air or water jetting only must be used. Roots with a diameter equal to or in excess of 50mm must not be severed or damaged unless approved in writing and documented by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the hand excavated perimeter line is completed. Exposed roots to be retained must be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist must document compliance with the above condition.

Condition Reason: To ensure demolition and excavation works would not adversely impact upon the health of existing trees.

Standard Condition F.50 (Autotext 50F)



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F	8.	Footings in the vicinity of trees		
		While site work is being carried out, footings for any structure within the specified radius from the trunks of the following trees must be supported using an isolated pier and beam system.		
		Council Ref No	Species	Location
				Radius from centre of trunk (metres)
		1	<i>Angophora costata</i> (Sydney Pink Gum)	Front garden of 6 Fisher Avenue, Vaucluse as plotted on the Wyer & CO. Landscape Plan No. DA01/01, dated 28/03/2024
		Excavations for the installation of piers must be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area must be excavated which allows construction of the pier. In consultation with the project engineer the piers must be offset a minimum 100mm from any root equal to or in excess of 50mm to accommodate future growth. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.		
		The project arborist must document compliance with the above condition.		
		Condition Reason: To ensure the proposed footings would not adversely impact upon the health of existing trees.		
		Standard Condition F.51 (Autotext 51F)		

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G	1.	Amenity Landscaping
		Nil
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.



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	Standard Condition G.26 (Autotext 26G)
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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				
	<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"> <thead> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> </thead> <tbody> <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 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> <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 are implemented.</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. 				
	Standard Condition G.35 (Autotext 34G)				

H. OCCUPATION AND ONGOING USE

H 1.	Maintenance of Landscaping
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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:

- 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)

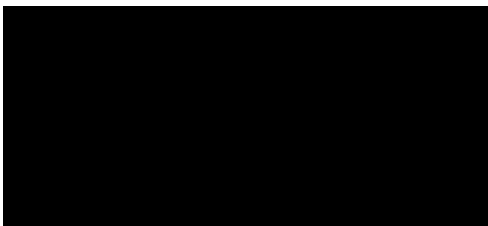
Nil.

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.



Simone Woodman
Tree Management Officer

03/06/2024
Completion Date



Woollahra
Municipal
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9 August 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 121/2024/1

ADDRESS: 6 Fisher Avenue VAUCLUSE 2030

PROPOSAL: The demolition of 3 dwelling houses and ancillary structures, the amalgamation of 4 & 6 Fisher Avenue and a portion of 27 Vaucluse Road to form 4-6 Fisher Avenue and the construction of a dwelling house and swimming pool and landscaping works thereto

FROM: Tristan Ryan – Senior Strategic Heritage Officer

TO: Mr D Booth

1. DOCUMENTATION

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

- Drawing set by Stafford Architects, dated 22 May 2024, and numbered DA 001 – DA332.
- Demolition Reports for 4 & 6 Fisher Avenue by Ruth Daniell, dated May 2024 and March 2024 respectively.
- Statement of Environmental Effects by GSA Planning, dated April 2024.
- Survey plan by Chris Hill, dated 31 July 2023.
- Aboriginal Heritage Impact Assessment by Oliver Brown of Associates Archaeology & Heritage, dated March 2024.
- Arboricultural Impact Assessment and Tree Protection Plan by Green Spaces Consultancy dated April 2024.

2. SITE INSPECTION / RESEARCH

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

- The site was inspected on 31 July 2024, including the interior and the general locality. The interior of 27 Vaucluse Road could not be accessed, and real estate photos were reviewed instead. The demolition of the building at 27 Vaucluse Road was the subject of a previous development application, and has been approved by Council.

Review of the following documents and photographic evidence:

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

3. STATUTORY AND POLICY DOCUMENTS

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

- National Parks & Wildlife Act 1974

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- Woollahra LEP 2014

4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

5. SIGNIFICANCE OF SUBJECT PROPERTY

National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was required as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 9 August 2024 from the Office of Environment & Heritage NSW (OEH) website has revealed that there is 1 recorded Aboriginal site recorded within a 200m buffer in or near the above location and 0 Aboriginal sites within a 50m buffer in or near the above location.

The site contains landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

I am inclined to agree with the recommendations of the AHIA prepared by Oliver Brown. Greater than usual caution is required, but is sufficient to mitigate the risk to any potential Aboriginal heritage.

Woollahra LEP 2014

4 Fisher Avenue and 27 Vacluse Road, Vacluse are not heritage items in Woollahra Local Environment Plan 2014 'the LEP'.

6 Fisher Avenue is a heritage item – Sydney Pink Gum I346. This listing refers only to the *Angophora costata* on the site, though it covers the entire property.

Clause 1.2 Aims of Plan

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

Clause 5.10 Heritage Conservation

4 Fisher Avenue, Vacluse

4 Fisher Avenue has some significance as a work by Gergely & Pinter Architects – a prolific practice that designed some significant buildings in the Woollahra LGA and beyond. Apart from the rear arrangement of pool, verandah and sweeping staircase, which remains intact, the building is of little architectural interest and could not be described as demonstrating either the characteristics of an aesthetic type, or a high degree of creative or technical achievement. There is no reason to think that the association with Gergely & Pinter is important, or that the house had any prominent



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owners for whom there was an important association.

I agree with the report by Ruth Daniell that the place does not reach the threshold for listing under any of the seven criteria.

6 Fisher Avenue, Vacluse

The dwelling at 6 Fisher Avenue is a work by E G Nemes and is an example of the 'Immigrants' Nostalgic' style. It has little architectural interest and is not an outstanding example of either the style or the architect's work.

I agree with the report by Ruth Daniell that the building does not reach the threshold for listing under any of the seven criteria.

The site is already listed for the *Angophora costata*. It is proposed to retain this tree and the referral response by Council's Tree Management Officer suggests that the growing conditions of the tree are likely to be improved by the proposed works. However, given that the tree is leaning on and has been damaged by the existing fence, considerable care must be taken in the works adjacent to it. The new proposed fence is lower than the existing, hopefully giving the tree more space and allowing it to heal, but it may also have been relying on the fence for support. The project arborist must monitor carefully the works around this tree in particular.

Significance of items in the vicinity

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

- 'House and interiors, stone works, gardens' at 1 Fisher Avenue, Vacluse. Is across the road from the proposed works. The works will not impact this item.

6. CONCLUSION

National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage Aboriginal heritage will be provided below.

Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 4 This referral constitutes an assessment under this clause.

7. RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions is recommended.

I consider that the existing reports provided by the applicant are sufficient to serve as recordings of the buildings proposed for demolition.

I consider that the recommendations of Council's tree officer are sufficient for the protection of the heritage listed Sydney Pink Gum.



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Standard Conditions

B8 Archaeological Features - Unexpected Findings
B9 Skeletal Remains
B10 Aboriginal Objects – Unexpected Findings
B12 Aboriginal Heritage Due Diligence Responsibilities
B13 Aboriginal Heritage Induction

Special Conditions

1.	<p>Exposure of features indicating Aboriginal heritage during demolition or excavation</p> <p>Demolition and excavation contractors must receive a heritage induction by a Heritage Officer from La Perouse Local Aboriginal Land Council.</p> <p>If any of the following features are exposed, a La Perouse LALC Heritage Officer must be invited to inspect the feature and recommend whether harm is unlikely or, alternatively, if further investigation or monitoring is required.</p> <ul style="list-style-type: none"> Any large flat sandstone exposure. Any sandstone overhang. Any shell, bone, concentrated areas of charcoal, flaked stone or ground edge artefacts. <p>If there is any doubt, a La Perouse LALC Heritage Officer must be engaged.</p> <p>Condition Reason: Conservation of any potential Aboriginal heritage as per Woollahra LEP 2014 s5.10(1)(d).</p>
2.	<p>Salvage</p> <p>Stone, brick, timber weatherboards, joinery and decorative architectural elements to be demolished must be catalogued, labelled, salvaged and where possible reused on the project.</p> <p>Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.</p> <p>Condition Reason: To promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).</p>

Tristan Ryan
Senior Strategic Heritage Officer

13 August 2024
Completion Date



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

Proposed Boundary Adjustment to No. 27 Vaucluse Road and
Amalgamation of Nos. 4 & 6 Fisher Avenue;

Demolition of the Three (3) Existing Dwelling Houses and
Associated Structures; and

Construction of a New Single Dwelling House, Pool,
Landscaping and Associated Works at the Amalgamated
Site of No. 4-6 Fisher Avenue

Nos. 4 – 6 Fisher Avenue & 27 Vaucluse Road, Vaucluse

Prepared for:

Stafford Architecture
Suite 307, 19A Boundary Street
Rushcutters Bay NSW 2011

Prepared by:

GSA PLANNING
Urban Design, Environmental & Traffic Planners
(A.B.N 89 643 660 628)
95 Paddington Street, Paddington NSW 2021
p: 02 9362 3364
e: info@gsaplanning.com.au

JOB NO. 23343 (Rev C)
October 2024

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

APPLICANT'S NAME: Stafford Architecture

SITE ADDRESS: Nos. 4-6 Fisher Avenue & 27 Vaucluse Road, Vaucluse

PROPOSAL: Boundary Adjustment to No. 27 Vaucluse Road and Amalgamation of Nos. 4 & 6 Fisher Avenue; Demolition of the Three (3) Existing Dwelling Houses and Associated Structures; and Construction of a New Single Dwelling House, Pool, Landscaping and Associated Works at the Amalgamated Site of No. 4-6 Fisher Avenue

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

R2 Low Density Residential Zone. The objectives of the Zone are as stated, inter alia:

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

(iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings, which is stated, inter alia:

- (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 building height of 9.5m applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The Existing Dwelling

The existing dwelling at No. 6 Fisher Avenue has a maximum building height of 10.06m, measured from the ridge at RL 56.65. This represents an existing variation of 0.56m or 5.89% from the development standard. The non-compliance occurs in the area of the existing roof form.

The Proposal

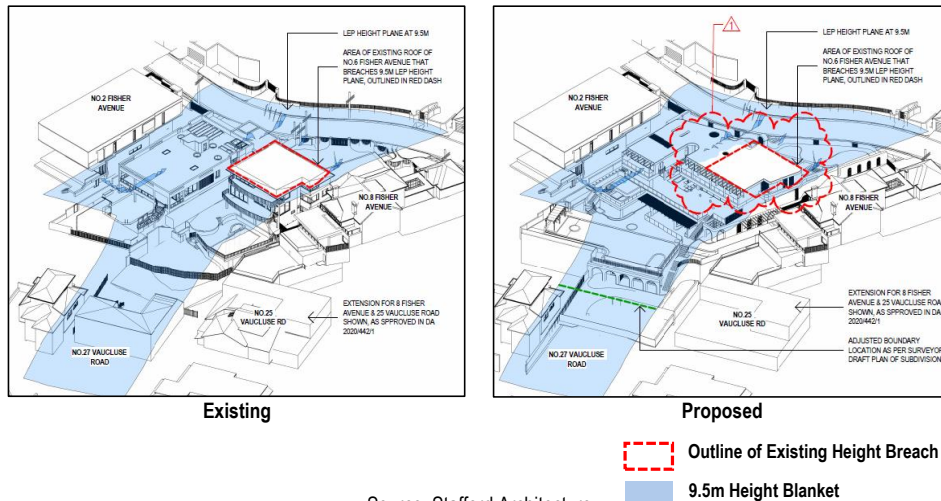
The proposal seeks to demolish all existing structures and construct a new dwelling on the amalgamated site of Nos. 4-6 Fisher Avenue. The proposed dwelling has a maximum building height of 9.83m measured from the ridge at RL 56.42. This departs the standard by 0.33m or 3.47% (see **Figure 1**).



Source: Stafford Architecture

Figure 1: Sections Showing Existing and Proposed Building Height

The additional height is in a similar location to the existing height variation and is a consequence of the topography and prior excavation on the site. It should be noted that the area of additional height is 230mm less than the existing building height. The proposal therefore demonstrates an improvement in terms of height. The area of additional height is confined to the roof form at the southern part of the dwelling (see Figure 2).



Source: Stafford Architecture
Figure 2: Existing vs Proposed Against 9.5m Height Blanket

The variation is considered a technical departure. This is because it is a result of measuring the building height to an artificially altered existing ground line, where previous excavation has occurred at No. 6 Fisher Avenue. The proposal complies with the height limit if it is measured against what would be considered the natural (pre-excavated) ground line in this location. This is discussed in light of *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 (*Bettar*), where the interpretation of height was considered. In *Bettar* the Court dealt with a site with similar characteristic to the subject site, in that excavated areas existing on some parts of the site and not others. The Court took the approach of measuring height with the intent, in part, of relating the development proposal to its context. The following pertinent comments were made:

*It is relevant to consider the objectives of the building height development standard in considering how best to determine the maximum height of the building using the dictionary definitions in LEP 2012. As one of the purposes of the development standard is to relate the proposal to its context, it follows that **the determination of the existing ground level should bear some relationship to the overall topography** that includes the site... [emphasis added].*

Prior excavation was identified as an environmental planning ground in the recent judgment in *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 where Commissioner O'Neill stated at [83]:

*The grounds relied on by the applicant in the written request under cl 4.6 must be environmental planning grounds by their nature, and environmental planning grounds is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (Initial Action at [23]). **I am satisfied that the prior excavation of the site and the consequent distortion of the height of buildings plane over the site, when compared to the topography of the hill, is an environmental planning ground sufficient to justify contravening the development standard. I am satisfied that the focus is on the aspect of the development that contravenes the development standard, being the areas of the building envelope that are directly above the former excavation of the site, and not the development as a whole...** [emphasis added]*

A similar approach can be taken in relation to the subject site. The site has previously been excavated and the existing dwelling has a basement area and swimming pool which artificially exacerbates the effects of the steep site on the 9.5m building height plane. The proposed dwelling would comply with the 9.5m height standard if measured against what would be considered the natural ground line.

The step down in the existing ground line represents the existing basement as well as pool and surrounds of the existing buildings, which artificially alters the height line. **Figure 2** demonstrates that the proposed dwelling are largely compliant with the 9.5m height standard, the height variation is limited to a portion of the roof form. Importantly, irrespective of the numerical variation, the proposed building height will be consistent with the existing character of the streetscape and the desired future character of the area.

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (Initial Action), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

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

Flexibility is sought in the application of the height development standard to the proposal in the circumstance of this particular case. It is our opinion that the proposed building height is appropriate, irrespective of the extent of the variation. The proposed dwelling is two storeys when viewed from Fisher Avenue and three storeys when viewed from the rear. This is entirely consistent with the height and scale of the existing buildings and surrounding development in the streetscape.

The proposed built form has been designed to respond to the site constraints, particularly the steep topography that has been exacerbated by prior excavation. Flexibility in this circumstance will provide a better outcome for and from the development. The proposed height variation accommodates the structural zone required to support the span of the building, as detailed in the Structural Engineering Statement (separately submitted).

The proposal significantly enhances the site's contribution to the scenic significance of the Vaucluse locality, through its introduction of an elegant, architecturally designed new dwelling. This is particularly beneficial given the site's proximity to the Sydney Harbour.

Importantly, the highest roof of the proposal will be 230mm less than the existing roof of No. 6 Fisher Avenue and will not extend any higher than the maximum ridge height currently at site. Furthermore, the existing built form exceeds Council's side setback controls, while the proposal complies and has further recesses and modulation. This improves the interface with neighbouring properties and ensures the bulk, scale and character of the development is appropriate for the site.

Strict compliance with the height standard would require reduced floor-to-ceiling heights for the ground floor and first floor level of the dwelling, which consist of living and bedroom areas. The proposed heights of those levels are already modest, so a further reduction would greatly reduce the amenity of the dwelling. Strict compliance would not serve any benefit to neighbours or the public domain, as there are no amenity impacts arising from the height variation and regardless of the numerical departure, the built form is consistent with the character of the streetscape.

Accordingly, a degree of flexibility with the building height development standard is considered appropriate in this circumstance and will achieve a better outcome, both for and from the development.

5. Justification of Variation to Development Standard

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

- (3) Development consent must not be granted 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 variation with the applicable height development standard, the proposal achieves the desired low-density residential character of the area. The proposal has a compliant FSR and achieves a bulk and scale that is 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 4.1 Minimum Subdivision Lot Size and Lot Size Map which prescribes a minimum lot size of 675m².
 - ii. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 9.5m.
 - iii. Clause 4.4E Exceptions to Floor Space Ratio—Dwelling Houses, Dual Occupancies and Semi-Detached Dwellings in Zones R2 and R3 which prescribes a maximum floor space ratio of 0.5:1.

The R2 Low Density Residential zoning permits dwelling houses with development consent. The dwelling house use is both existing and proposed on the site. The proposed new dwelling will significantly upgrade the residential amenity and appearance of the existing site. The development is consistent with the relevant zone objectives, as addressed below:

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

Response: The proposal provides a single dwelling on the site with substantially improved internal and external amenity. This provides for the housing needs of the future residents and the community within the low-density residential environment.

Objective: *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*

Response: The proposed new dwelling house is compatible with the character of the existing surrounding dwellings and maintains the amenity of the surrounding neighbourhood. The proposed dwelling and lot configuration is consistent with the established character of the area, which includes larger houses on irregularly shaped parcels of land.

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

Response: The development presents as two storeys from the street and three storeys from the rear, which is consistent with the surrounding context. The building has a compliant FSR and well-articulated facades, with recesses and modulation to break up the form. This ensures the height and scale achieves the desired future character of the neighbourhood.

Objective: *To ensure development conserves and enhances tree canopy coverage*

Response: The proposed conserves existing significant trees and enhances the tree canopy coverage by a significant 538.79m² from the existing situation.

The proposed dwelling will present as two storeys from the street and three storeys from the rear, with a flat roof form. The proposed height variation facilitates an overall height that is consistent with surrounding contemporary developments in the locality, which are characterised by two to three storey built forms with flat or pitched roofs (see **Figures 3 & 4** on the following page).



Source: Google Earth

Figure 3: 3D Aerial View of the Site and Surrounding Context, Looking West



Source: Google Earth

Figure 4: 3D Aerial View of the Site and Surrounding Context, Looking East

The proposed variation allows for consistent floor levels across the dwelling, accommodates the structure zone required to support the span of the building, and provides sufficient modest floor to ceiling heights. Therefore, it provides for good design and amenity. The additional height is primarily a function of measuring height to the artificial existing ground line, resulting from previous excavation to accommodate the existing dwelling at No. 6 Fisher Avenue. The non-compliance is confined to the proposed roof form, which is the same as the existing situation.

The proposal will be compatible with the character of development in the Vaucluse neighbourhood. According to Council's Clause 4.6 Register and DA tracker, there are a number of recent approvals which have had departures from the building height development standard. While it is acknowledged that each development is assessed on its own merits, it is still relevant to consider nearby approvals which have been approved by Council for similar reasons as this application. Such examples include:

- 9 Kings Road, Vaucluse (DA 376/2022) – Variation of 6.3%, with the primary justification including the previously excavation and measurement of height from existing ground level, consistency with surrounding development and no unreasonable amenity impacts. Approved 13 June 2023.
- 16 Gilliver Avenue, Vaucluse (DA 26/2021) – Variation of 50.2%, with the primary justification including the previously excavation and measurement of height from existing ground level and no unreasonable amenity impacts. Approved on 21 April 2022.
- 1 Chapel Road, Vaucluse (DA 393/2021) – Variation of 54.08%, with the primary justification including the pre-existing non-compliance, measurement of height from existing ground level and no unreasonable amenity impacts. Approved on 21 April 2022.
- 40 The Crescent, Vaucluse (DA 140/2021) – Variation of 56%, with the primary justification including consistency with surrounding development, measurement of height from existing ground level and no unreasonable amenity impacts. Approved on 22 November 2021.

All of the above examples relating to dwelling houses in Vaucluse have comparable or even greater building height breaches which were supported by Council staff and the panel on similar arguments as those made in our submission. In particular, that the variations were a result of prior excavation and there were no unreasonable amenity impacts.

For the above reasons, the proposed building height is considered to be consistent with the desired future character of the neighbourhood, as per the Court judgement of *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112. This achieves objective (a).

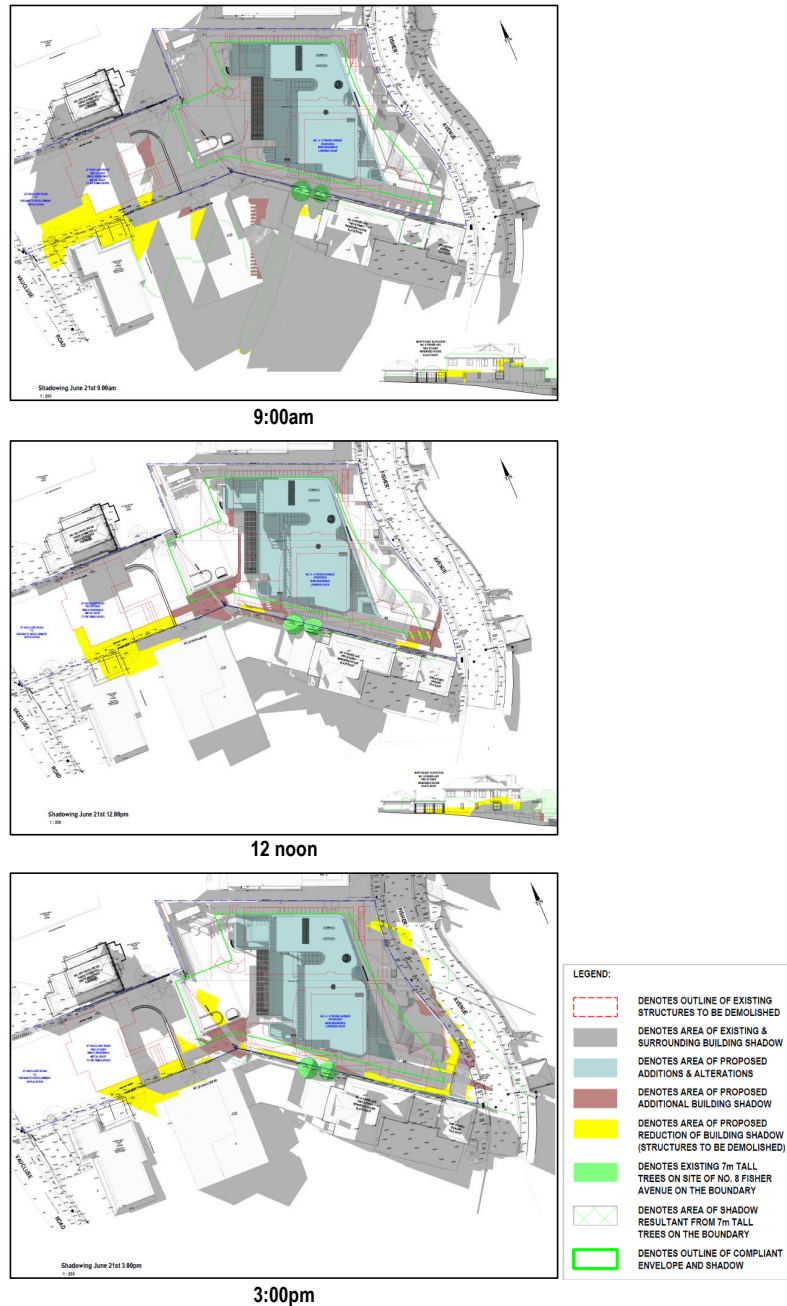
(b) to establish a transition in scale between zones to protect local amenity,

The site is not near a LEP zone boundary. Accordingly, this objective is less relevant. Nonetheless, when neighbouring developments are considered, the proposal will maintain the established transition in building height, which responds to the sloping topography of the area. Only a portion of the roof will be above the LEP height plane, and this is a consequence of prior excavation on the site. There are no significant amenity effects arising from the variation. The proposal has consistent floor and roof levels and the extent of the variation is minor. Thus, the height variation will not be readily noticeable. On this basis, this objective is achieved as local amenity will be protected.

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

Shadow diagrams submitted with the DA demonstrate the proposal minimises the loss of solar access to existing buildings and open space. The area of the height variation does not result in any additional shadowing impacts to the upper level north-facing windows or private open space of adjacent properties. In fact, there are substantial areas of solar access gained for adjacent properties, achieved through the increased, more than compliant setbacks of the proposed building compared to the existing

The proposal also achieves compliance with the DCP controls for solar access to neighbouring north-facing windows and private open space, and additional shadowing is negligible to minor in nature (see **Figure 5**). Therefore, objective (c) is achieved.



- (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,

Views

Our assessment is on the basis of an inspection of the subject site, survey information, real estate images and aerial photography. In addition, our assessment relies on the view analysis diagrams prepared by Stafford Architecture dated 21 October 2024, which show views from No. 1 Fisher Avenue, Vaucluse.

In the assessment of development applications relating to view issues, the NSW Land and Environment Court rely on the principle of the *Tenacity v Warringah Council* [2004] NSWLEC 140. Our assessment of the proposal against this planning principle is included below. The four steps in assessing view affectation are considered as follows:

- Assessment of the Views Affected
- From What Part of the Property are the Views Obtained?
- The Extent of the Impact
- The Reasonableness of the Proposal

The subject site enjoys water and land water interface views of Sydney Harbour, Bradley's Head, Point Piper and Rose Bay. It also has access to views of the city skyline and Sydney Harbour Bridge and Opera House. These views are obtained from the rear of the subject site, towards the west. Views are accessible from the lower ground and upper floor levels and are partly obscured by the existing vegetation and built form in the area. It is inferred that surrounding properties have access to similar views, to varying degrees. The DCP maps do not identify significant public views or vistas across the subject site.

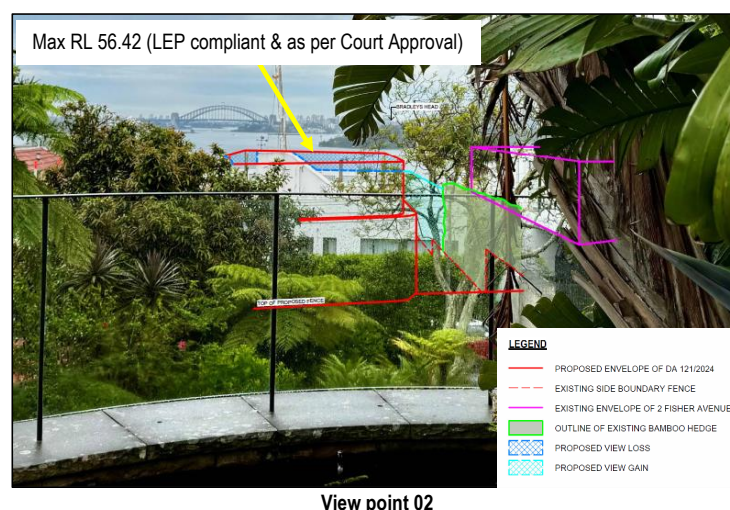
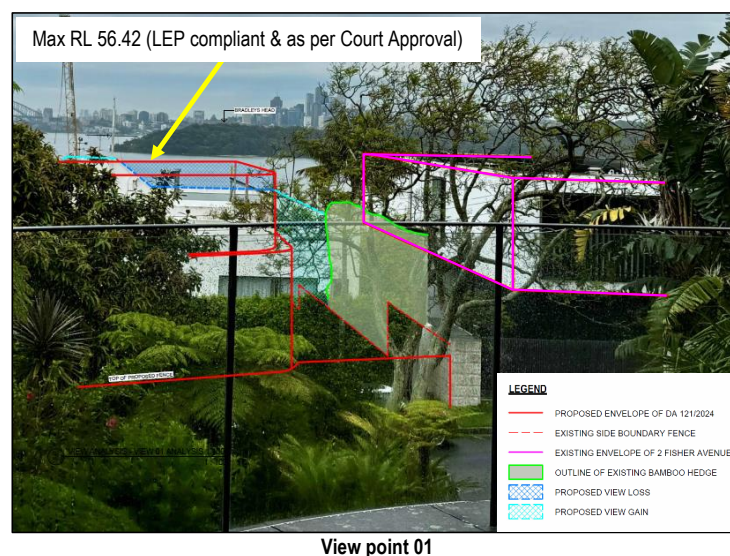
The area of additional height is not expected to result in additional view impacts to neighbouring properties. The variation is in the same area as the existing height breach (in the area of the existing No. 6 Fisher Avenue), and the proposed roof line is 230mm less than the existing roof line. The proposed built form is compliant with the building height development standard in the area of the existing No. 4 Fisher Avenue, which is where No. 1 Fisher obtains views across the subject site. In other words, when viewed from No. 1 Fisher Avenue, the proposal has a compliant building height, the area of the variation is not visible and thus does not generate view impacts. This is demonstrated in the view analysis, shown in **Figure 6** and separately submitted.

Furthermore, when compared to the previous approval on the subject site (DA-120/2014), the approved maximum RL (being RL 56.42) is retained by the proposal with no material change to the approved view impact. The land water interface views of Bradleys Head is retained and on balance, the extent of water view is largely the same as existing. The view impact was deemed acceptable by Council, by way of the agreement reached in the approval of *Morton vs Woollahra Municipal Council* (2016) NSWLEC 1476. In light of this, the proposal maintains view sharing with No. 1 Fisher Avenue as per the previous approval, and therefore remains acceptable. Importantly, the height breach does not contribute to additional view impacts from No. 1 Fisher Avenue.

Properties to the east are at a higher elevation from the subject site and obtain some of their views across the subject site. Given the proposed dwelling is below the existing maximum ridge line, or otherwise within a compliant building height and setbacks, views from properties to the east at Nos. 1 and 3 Fisher Avenue are anticipated to be maintained to a similar degree as existing.

The primary views from Nos. 2 and 8 Fisher Avenue appear to be across their rear boundaries. The proposal will have no effect on those primary views. Any views across the subject site would be across a side boundary, which the *Tenacity* Planning Principle acknowledges are more difficult to protect. Nonetheless, the proposed residence has a similar siting to the existing buildings, with compliant side and rear setbacks. This approach minimises affectation of side views.

In light of the above, the proposal is considered appropriate in terms of the *Tenacity* Planning Principle and is likely to maintain reasonable views and outlooks from neighbours. Any potential affectation on views would likely be from a compliant building envelope and is not likely to be from the height variation. The proposal demonstrates a skilful design by being lower than the existing maximum ridge line and providing generous, more than compliant building setbacks. This facilitates view sharing.



Source: Stafford Architecture

Figure 6: View Analysis from No. 1 Fisher Avenue Garden

Privacy

The additional height is limited to the roof form and with the exception of skylights, no openings above the height plane are proposed. Therefore, the departure from the height standard will not result in any privacy impacts.

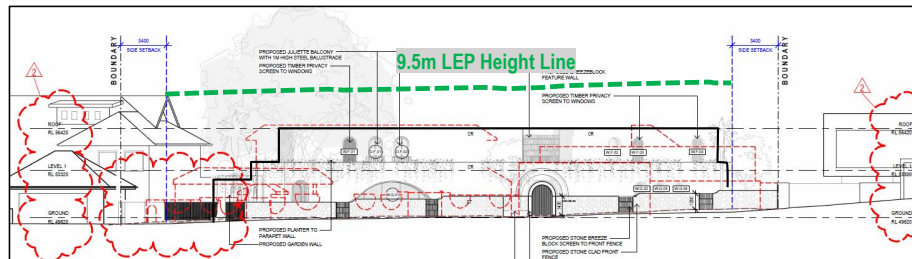
Overshadowing

As discussed in the response to Objective (c) above, the proposal complies with Council's solar access controls. The area of the height variation does not result in any additional shadowing impacts to the upper level north-facing windows or private open space of adjacent properties. In fact, there are substantial areas of solar access gained for adjacent properties, achieved through the increased, more than compliant setbacks of the proposed building compared to the existing

Visual Intrusion

The departure is a result of measuring building height from an artificial existing ground line, due to previous excavation on the site. Irrespective of the numerical variation, the proposed development has a two to three storey height that is consistent with the character of surrounding developments. Furthermore, it remains 230mm lower than the existing highest roof line on the site. Therefore, when viewed from surrounding properties the additional height will not be readily perceivable or visually intrusive.

As indicated, the height variation is confined to the rear, southern part of the proposed roof form. The proposal has a compliant building height when viewed from the eastern (street) elevation (see **Figure 7**) and the northern side elevation. Development to the west of the subject site is at a much lower elevation to the proposed dwelling, which limits view lines to the area of additional height. The topography of the land, together with the proposed building separation and landscaping treatment, will reduce the visibility of the height breach. This ensures that the proposal minimises visual intrusion.



Source: Stafford Architecture

Figure 7: Eastern Street Elevations Showing Compliant Height

At the south elevation, the proposal is located within a similar profile to the existing building, but has substantially greater side setbacks (see **Figure 8**). The proposed building is setback a minimum of 4.2m from the southern boundary to No. 8 Fisher Avenue, whereas the existing building and garage is only setback a minimum of 0.8-2.2m (see **Figure 9**). Therefore, when viewed from the south, the proposal will present a slightly lower height to the existing building and will be substantially less visually intrusive than the existing building. This will be a major improvement from the existing situation.

At all elevations, the proposal presents a well-articulated built form. The design has carefully considered the external treatment of the facades, to provide a visually recessive form. This is achieved through the compliant setbacks; the varied palette of materials in muted, natural tones; use of screening; hanging planting; and modulation. Overall, the skilful design and location of the proposed development minimises visual intrusion.

Figure 8: Southern Elevation Demonstrating Proposal is Within a Similar Profile to the Existing Dwelling at No. 6 Fisher Avenue

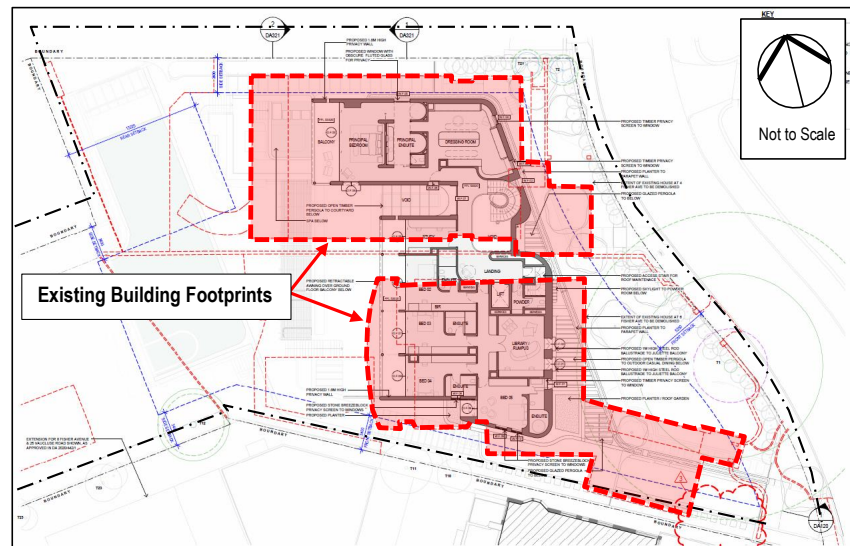


Figure 9: First Floor Plan Demonstrating Improved Interface and Increased Building Separation with Adjacent Properties

The DCP does not identify significant public views across the site. The proposal has a compliant building height and more than compliant side setbacks when viewed from Fisher Avenue. It also removes the large, obtrusive garage structures and high fencing fronting Fisher Avenue and replaces this with lush landscaping, open space and a compliant 1.5m high front fence. On this basis, the proposal protects the amenity of the public domain by improving opportunities for public views of the harbour and surrounding areas.

Accordingly, despite the height variation, the proposal is consistent with the surrounding context, achieves the desired future character of the area, and maintains the amenity of neighbouring properties and the public domain, and provides an improved interface with both the streetscape and adjacent residents in comparison to the existing building.

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

The proposal is permissible in the R2 Low Density Residential Zone, is consistent with the relevant zone objectives and satisfies an 'unreasonable and unnecessary' test established by the court in *Wehbe*. The technical non-compliance is due to the existing excavation into the sloping terrain. There are sufficient environmental planning grounds to justify the building height contravention, which will now be discussed.

Topography and Previous Excavation

The height non-compliance is a function of the topography of the site, which has been previously modified to accommodate the existing dwelling at No. 6 Fisher Avenue. As stated, when the height is measured from the pre-excavated ground levels, the proposal would comply with the 9.5m height plane. Prior excavation was identified as an environmental planning ground in the recent judgment in *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 where Commissioner O'Neill stated at [83]:

The grounds relied on by the applicant in the written request under cl 4.6 must be environmental planning grounds by their nature, and environmental planning grounds is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (Initial Action at [23]). I am satisfied that the prior excavation of the site and the consequent distortion of the height of buildings plane over the site, when compared to the topography of the hill, is an environmental planning ground sufficient to justify contravening the development standard. I am satisfied that the focus is on the aspect of the development that contravenes the development standard, being the areas of the building envelope that are directly above the former excavation of the site, and not the development as a whole...
(emphasis added)

This conclusion is also relevant here as the subject site has an existing excavated area which creates an artificial drop in the height limit. The area of exceedance is confined only to an area above existing excavation, with the remainder of the dwelling being compliant with the height plane.

Lowering the building height would require additional excavation, to drop the upper floor level to achieve appropriate floor to floor heights. In our opinion, the minor variation in height facilitates a more appropriate response to the site's topographic constraints, compared to a fully compliant building height which would require considerable additional excavation and would not be an appropriate response to the site's underlying topography.

Structural Engineering

The proposed height variation accommodates sufficient floor to floor heights for the structural zone required to support the span of the building. The proposal has consistent floor levels and roof levels. Due to the step down in the existing ground line at the southern part of the site, this creates a partial variation in height, which is inevitable to support the structure. This is discussed in detail in the Structural Engineering Report (separately submitted). The engineer concludes, inter alia:

Description

The concrete roof slab requires a minimum structural depth of 250mm to support the imposed loading (pebble finish, falls, etc) and span between the load bearing walls. On top of this, a minimum 1:100 fall is required to allow for surface flow and drainage of the roof slab, assuming a minimum grade of 1%, this equates to an additional 50 to 100mm above the concrete slab thickness. Similarly, a perimeter hob to achieve a compliant waterproofing termination will require a minimum 70mm of height above the falls. If a modest ceiling void of 80mm is adopted to facilitate lighting etc, then the overall roof zone allowance should be 500mm.

The first-floor concrete slab system requires reinforced concrete beam framing to span over the living and dining areas, as there are large, cantilevered sections that could not be supported by a flat slab system. The concrete floor slab itself requires a minimum depth of 300mm with an 85mm topping slab to allow for finishes.

A series of 600mm deep beams with a perimeter 750mm min deep cantilevered reinforced concrete beams have been provided along the western perimeter of the first floor to support the cantilevered slab sections. Refer to Appendix A for the partial concept structural design sketches.

Conclusion

Based on our partial structural concept design, it is our opinion that the floor and roof zones allowed for in the proposed Development Application drawings (refer figure 1 below) are appropriate to for the structure to achieve the proposed architectural design.

Minor Nature of Non-Compliance

As stated, the area of non-compliance is limited to a portion of the roof form only. The proposal represents only a 0.33m or 3.47% variation from the development standard, attributed to a technical breach arising from an artificially altered existing ground line.

Existing Non-Compliance

The existing building is already above the LEP building height limit, with a maximum height of 10.06m. This is a variation of 0.56m or 5.89% from the development standard. The proposal seeks to replace the existing buildings of lesser architectural merit with a high-quality, contemporary new dwelling. The proposed roof height is less than the existing maximum roof height. The proposal achieves a better planning response to the site's sloping terrain, compared to what currently exists on the site and therefore demonstrates greater compatibility with the desired future character of the area.

Contextual Compatibility and Better Planning Outcome

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).

This report demonstrates that the proposed dwelling house will be compatible with the existing and desired future character of the area. The additional height is a technical non-compliance, is similar to the existing breach, is not visible from the street and does not affect the amenity of neighbouring properties or the public domain. The location of the additional height is solely the result of measuring building height from an existing excavated area beneath the proposed building. If the roof form were artificially altered to comply with the height plane, the resulting design would be disjointed and would not complement the architecture of the dwelling or surrounding streetscape context.

The overall building height is consistent with the character of surrounding developments. The proposal as two storeys with a flat roof form to the street, that presents a compliant 6.6m height. At the rear, the building has a three storey presentation. Therefore, the variation facilitates an overall building height and presentation that is contextually appropriate.

The proposal provides a more stepped built form that relates to the underlying topography. It brings the development into compliance with Council's setbacks, landscaping and tree canopy coverage controls, which is not currently achieved by the existing development.

The proposal offers compliant and in many areas, more than compliant building setbacks. This facilitates a far better interface with adjacent residences and allows for improved privacy, solar access gains and a lesser perceived bulk, demonstrating a better planning outcome.

The older dwellings on the site will be replaced by a well-articulated, architecturally designed contemporary residence that will significantly improve the appearance of the site, as viewed from the street, surrounding properties and the Harbour. The proposal also removes the existing, obtrusive parking structures and high fencing built to the front boundary. The dwelling will be surrounded by expansive areas of open space and landscaping. Overall, the height variation facilitates the provision of a sophisticated, contemporary dwelling that aligns better with the bulk, scale and character of development in the locality, in comparison to the existing buildings on the site (see **Figure 10**).



Existing



Proposed

Source: Stafford Architecture

Figure 10: The Existing vs Proposed Development in the Streetscape

Good Design and Amenity

The additional height facilitates good internal amenity. It ensures that consistent internal floor levels and adequate floor to ceiling heights are provided at all levels. The proposed floor to ceiling heights are relatively modest, at 2.71m for the lower ground, 2.75m for the ground floor level, and 2.6m for the first floor level. As indicated, if compliance with the height standard were enforced, the roof would need to be lowered. This would impact the internal amenity and functionality of the dwelling. Additional excavation would be required to lower the building, in order to achieve appropriate, compliant floor to floor heights. The proposed variation will improve internal amenity for the future residents, without any noticeable effect on neighbouring properties.

The additional height will promote good design and amenity of the built environment, consistent with Object (g) of the Environmental Planning and Assessment Act 1979 (EPA Act). It will provide consistent floor levels and compliant floor to ceiling heights. If strict compliance with the height limit were enforced, the portion of the roof above the height plane would need to be artificially stepped down. This would create a disjointed external appearance. This would serve no planning benefit, as the height breach is not visible from the street and does not give rise to adverse amenity impacts. The proposed height variation ensures the dwelling has a consistent roof design and overall height, which responds to the topography.

Sustainability

The variation allows for the provision skylights and flat-mounted solar panels on the roof. This improves natural light and ventilation, and the usage of renewable energy sources. This promotes sustainability and passive design, good design and amenity, which is consistent with objects (b) and (g) of the EPA Act

Accordingly, in our opinion, the proposed development achieves compatibility with the existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the 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 objectives of the R2 Low Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

Table 1: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of Buildings	
12	What is the control	1 & 2	9.5m	
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies 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 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 variation is a function of a measuring building height to an artificial existing ground line, where previous excavation was undertaken for the pool and surrounds. Prior excavation is identified as an environmental planning ground, as per the Court judgement in <i>Merman Investments Pty Ltd v Woollahra Municipal Council</i> [2021] NSWLEC 1582; The proposed height variation accommodates the structural zone required to support the span of the building, as detailed in the Structural Engineering Statement (separately submitted). The proposed variation allows for sufficient, modest floor to ceiling heights, which provide good design and amenity, consistent with the objects of the EPA Act; The extent of the height variation is minor (0.33m or 3.47%); The existing dwelling at No. 6 Fisher Avenue has an existing height variation. The proposed new dwelling represents an improvement to the existing situation with a lesser height variation and lower maximum roof line than existing; 	YES

			<ul style="list-style-type: none"> The proposed variation facilitates a building that is two storeys from the street and three storeys from the rear. This demonstrates an overall height, bulk and scale that is contextually compatible; The height variation facilitates a better planning outcome for the site compared to the existing situation, as it provides a more stepped built form that relates to the underlying topography and greater separation to adjacent residences; The variation allows for provision skylights and flat-mounted solar panels which promotes sustainability and passive design, good design and amenity, which is consistent with objects (b) and (g) of the EPA Act; The proposed height of the building facilitates a low density development achieves the planning objectives of the area. 	
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 R2 Low Density Residential Zone.	YES
28-29	Second Precondition to Enlivening the Power – That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.	7	As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, the Council can grant development consent.	YES

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